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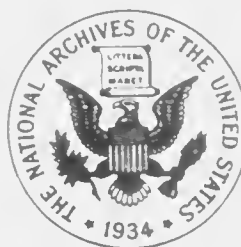
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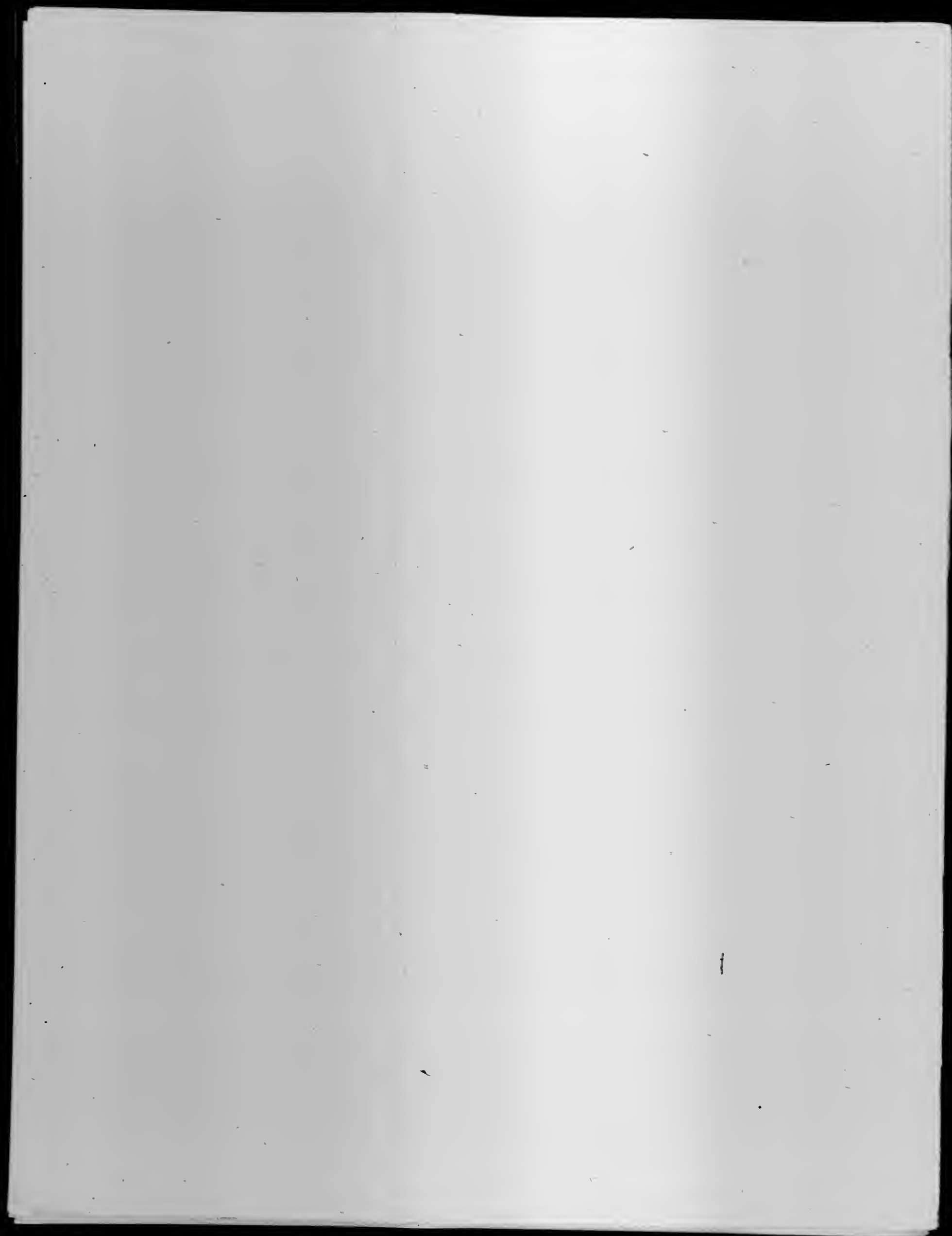
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The LIST OF CFR SECTIONS AFFECTED is designed to lead users of the Code of Federal Regulations (CFR) to amendatory actions published in the Federal Register (FR). It should be shelved with current CFR volumes. Entries are by CFR title, chapter, part, and section. Proposed rules are listed at the end of appropriate titles, except for Title 41, in which proposed rules follow each chapter.

HOW TO USE THIS FINDING AID

The CFR is revised annually according to the following schedule:

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To bring these regulations up to date, consult this LIST OF CFR SECTIONS AFFECTED for any changes, additions, or deletions published after the revision date of the volume you are using. Then check the CUMULATIVE LIST OF PARTS AFFECTED appearing at the front of the latest Federal Register for less detailed but timely changes published after the final date included in this publication.

Cite a page reference from this publication as 41 FR for 1976 page numbers and 42 FR for 1977 page numbers. Example: Page 5678 cite as 42 FR 5678 if it is a 1977 page number.

ISSUES TO BE SAVED

There is no single annual issue of the LIST OF CFR SECTIONS AFFECTED. Four ANNUAL ISSUES must be saved: the DECEMBER issue is the ANNUAL for Titles 1-10; the MARCH issue is the ANNUAL for Titles 17-27; the JUNE issue is the ANNUAL for Titles 28-41; the SEPTEMBER issue is the ANNUAL for Titles 42-50. ANNUAL ISSUES to be saved are clearly designated on the cover.

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INQUIRIES AND SUGGESTIONS

This publication was prepared under the editorial direction of Rose Steinman, with Carol Blanchard as Chief Editor assisted by Loren Myers. INQUIRIES, telephone 202-523-5227.

SUGGESTIONS concerning this and other publications of the Office will be welcomed by Fred J. Emery, Director, Office of the Federal Register, National Archives and Records Service, Washington, D.C. 20408.

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19	5.75	April 1, 1977
20 (Parts 1-399)	3.25	April 1, 1977
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Order from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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*No amendments to this volume were promulgated in the FEDERAL REGISTER in the 1975-1976 revision period. The CFR volume issued in 1974 should be retained.

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(a) (4) added	6793	
(c) (2) added	9175	
(a) (26) and (h) (4) added	16613	
(u) (1) revised	17414	
(a) (11) revised	22355	
(a) (27) added	26409	
(a) (5) added	27206	
(h) (5) added	27207	
(a) (21) revised; (c) (5) added	30831	
(a) (28) added	29845	
(a) (28) revised	32252	
(j) (2) added	32252	
(a) (27) and (h) (2) revised; (a) (29) and (y) (2) added	33713	
(a) (30) added	36447	
(s) (3) added	36989	
(a) (29) revised; (a) (30) removed	37963	
(d) (2) and (i) added	40173	
(a) (30) added	42301	
(a) (31) added	46505	
(a) (21) revised	53901	
(aa) (1) added	55189	
213.3305 (a) (26) added	15053	
(a) (18) revised	27207	
(a) (66) revised	32252	
(a) (70) added	30355	
(a) (71) and (72) added	35827	
(a) (18) revised	38551	
(a) (73) added	39657	
(a) (65) and (67) revised	40173	
(a) (74) added	41267	
(a) (25) revised; (a) (34) and (69) removed	43051	
(a) (31) added	46505	
(a) (51) revised	45283	
(a) (75) added	44541	
(a) (76) added	48323	
213.3306 (a) (81) added	5967	
(a) (19) removed	6793	
(a) (82) Added	9990	
(a) (8) revised	15406	
(a) (2) revised	21760	
(a) (83) revised	23131	
(a) (2) revised; (a) (59) removed; (a) (84) added	27599	
(e) (2) removed; (e) (3) added; (a) (18) revised	32251	
(a) (25) and (61) removed; (a) (85) and (86) added	29879	
(e) (4) added	33712	
(a) (1) revised; (e) (5) added	35825	
(a) (87) added	36447	
(a) (88) and (89) added	37529	
(a) (90) and (91), and (c) (3) added	38551	
(a) (92) added	43052	
(a) (93) added	45893	
(a) (94) added; (e) (5) revised	46505	
(a) (12) revised; (a) (95) added	48323	
213.3307 (b) added	6793	
(a) (5) added	16127	
(b) (2) added	25313	
(a) (6), (b) (3) and (4) added	43051	
(c) added	56107	
213.3308 (a) (2) revised	28515	
(a) (14) added	38551	
213.3310 (a) (9) revised	19853	
(q) (2) added	27208	
(a) (12) added	31456	
(j) (2) added	35826	
(j) (2) revised; (j) (4) added	36447	
(a) (13) and (b) (7) added	37530	
(j) (2) correctly designated (j) (3) and added	37963	
(j) (3) revised	48323	
(d) (3) added	53901	
(j) (4) revised; (v) (2) added	56713	
213.3311 Added	20809	
213.3312 (a) (46) added	25314	
(a) (8) revised	27207	
(a) (8) revised	35826	
(i) (4) added	37529	
(n) added	37530	
(a) (5) revised	40173	
(a) (31) revised	40174	
(a) (47) and (48) added	41267	
(a) (30) revised	41813	
(n) (2) added	43052	
(a) (5) revised	46506	
(a) (47) revised	48324	
(i) and (k) removed	52372	
(a) (49) and (50) added	56315	
213.3313 (h) (9) added	10317	
(n) (1) revised	15406	
(n) (1) corrected	16613	
(u) (1) added	20809	
(a) (37) and (38) added; (h) (8) removed	25313	
(a) (39) added	27207	
(a) (9) and (32) and (c) heading (1) and (10) revised	28515	
(c) (9) revised	32251	
(c) (14) added	33712	
(n) (4) added	34275	
(v) added	38551	
(l) (5) added	37529	

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(a) (5) amended	40866		213.3327 (a) (1) and (6) through (8) revised	3827	
(c) (6), (11), (12) and (14) revised; (u) (2) added	41265		(y), (z), and (aa) added	34308	
(v) (2) added	41266		(e) revised; (bb) added	38552	
(n) (4) revised	41813		(a) (1), (7), and (8) revised; (a) (11) added	43051	
(n) heading revised	43052		213.3328 (n) added	55189	
(a) (40) added	44541		213.3329 Removed	52372	
(a) (8), (n) (4), and (v) (2) revised; (c) (15) added	46505		213.3331 Added	52372	
(a) (41) added	53901		(a) (5) added	54295	
(m) (3) added	55595		(a) (5) revised	54554	
213.3314 (l) (5) added	37529		213.3332 (y) (2) and (aa) added	34308	
(a) (34) added	40174		(e) revised; (bb) added	38552	
(m) (21) added	41266		(cc) added	40867	
(m) (1) revised; (m) (22) added	43051		(dd) added	46506	
(a) (3) revised; (q) (14) added	44541		213.3333 (i) added	28989	
(a) (35) added	45283		(j) added	37793, 37964	
(q) (15) added	48323		(y) added	55595	
213.3315 (a) (1) revised	9989		213.3334 (a) revised	29845	
(a) (1) revised	16127		213.3337 (a) (7) added	13533	
(a) (13) added	19853		(a) (7) revised	36448	
(a) (1) revised	21760		(a) (20) added	38552	
(a) (52), (53), and (54) added	22355		(a) (21) added	41266	
(a) (16) revised	32761		(a) (22) added	45283	
(a) (55) added	28515		(c) (2) revised	48322	
(a) (54) revised; (a) (56) added	31456		213.3339 (e) revised	9989	
(a) (57) added	35142		(a) and (b) revised	20809	
(a) (42) revised; (a) (58) added	35826		(h) added	22356	
(a) (59) added	39657		213.3342 (n) added	37964	
(a) (60), (61) and (62) added	40174		(c) revised	48322	
(a) (63) added	47547		(t) added	53901	
(a) (63) republished	48324		(u) added	56315	
(k) added	56713		213.3344 (a) revised	55596	
213.3316 (a) (7) added	13533		213.3346 (a) added	46505	
(a) (7) revised	18082		213.3348 (e) added	3827	
(s) (1) added	25870		213.3354 (c) revised; (g) added	41266	
(n) (17) added	31456		(a) revised; (d), (f), and (h) added	55595	
(r) (10) added	35625		213.3356 (g) added	55595	
(f) (14) and (t) added	35826		213.3359 (j) added	21759	
(h) (12) added	35827		(t) added	28516	
(r) (10) added	36447		(u) and (v) added	35825	
(k) (11) added	37963		(w) added	40863	
(c) (13) added	38551		(q) and (r) revised; (x) added	48323	
(c) (14) added; (r) (8) revised	40174		(y) added	55595	
(q) (8) added	44541		213.3360 (e) added	9013	
(c) (3) revised; (c) (15) added	45283		(e) revised	9175	
(c) (16) added	46506		(a) revised	15053	
(m) (5) revised	48324		(a) (5), (g), (h), (i), and (j) added	32250	
(n) (18) and (p) (4) added	55189		(a) (5) revised	33711	
(r) (3) added	55596		213.3364 (m) added	55189	
(a) (40) and (41) added	56315		213.3366 Added	40867	
213.3317 (d) added	3827		213.3367 (e) added	43053	
213.3318 (a) (1) revised	31604, 32251		(f) added	53901	
(e) (1) revised	35141		(g) added	56713	
(b) (6) removed; (b) (7) added	42301		213.3368 (a) (5) revised	33711	
(a) (6) added	46506		(j) (2) correctly added	41265, 55596	
213.3320 (a) added	42301				
213.3322 (b) added	27207				

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	Page	Page
213.3368—Continued		(p) (2) and (m) (2) added
(k) added	46505	(a) (3) revised; (m) (3) added
(l) added	56107	(a) (3) revised; (e) (5) added
213.3370 Added	26409	(g), (h), and (k) introductory
213.3373 (g) added	39657	texts and (h) (2) revised
(d) (3) added	40215	(g) (3) and (j) (4) added
(i) (1), (h) (1), and (a) (8)		(l) revised
added	40867	(e) (3) and (k) (3) added; (j)
(d) (4) and (j) added	41813	(2) revised; (k) (1) removed
(j) (2) added	42679, 43053	(d) removed; (q) added
(g) (2) added	44233	(o) (1) revised
(a) (6) revised; (h) (2) and (k)		(q) (2) and (3) revised
added	45326	(b) introductory text, (b) (1)
(e) (3) added	48322	and (3) revised
(g) (2) revised	56713	(q) (4) added
213.3377 (c) revised	31455	Removed
(a) and (c) revised; (d) re-		213.3394 (a) (21) revised
moved	45283	(a) (47) and (f) (1) revised
(k) added	45326	(d) (4) added
213.3382 (e) revised; (i) added	47183	(h) (8) added
213.3384 (a) (61) added	5968	(d) (5) added
(a) (27) revised	16127	(a) (26) revised
(a) (24) revised	18608	(a) (48) added
(a) (9) revised; (a) (62) added	19853	(a) (49) and (i) (6) added
(a) (63) added	20809	213.3396 (a) (2) revised
(j) introductory text amendeded;		(a) (2) revised
(a) (64), (j) (4) and (5)		294.702 Revised
added; (k) (1) removed	22355	295 Added
(b) (18) and (19) added	25313	295.202 (a) (3) corrected
(b) (20) added	25869	295.208 Corrected
(b) (21) added	25870	295.401 (a) corrected
(a) (6), (65), (66) and (b) (22)		430 Revised
added	27207	550.301 (m) added
(a) (19), (i) (5) and (7) re-		550.312 (a) revised
vised	29845	550.371 (b) (3) revised
(b) (23) added	28516	550.381—550.583 Undesignated
(d) revised	30831	center heading and text
(a) (62) revised; (l) added	33712	added
(a) (59), (66) and (f) (3) re-		550.801—550.805 (Subpart H) Re-
vised; (f) (6) removed	35826	vised
(m) added; (f) (3) amended;		591.201—591.213 (Subpart B)
(a) (10), (23), (26), (27),		Appendix A amended
(60) and (f) (5) removed	36448	610.101 Revised
(l) (5) revised	37529	610.201 Revised
(i) (8) added	39657	610.202 Revised
(i) (9) added	41266	713.204 (d) (6) revised
(b) (24) added	41813	713.212 (b) revised
(a) (66) and (b) (20) revised;		713.251 Undersigned heading
(b) (6), (12), and (c) removed	43052	and section revised
(i) (10) added	46506	713.501 (b) (4) revised
213.3388 (p) added	19853	713.512 Revised
(o) (2) added	19854	Corrected
(a) (4) added	21759	713.514 Revised
(j) (3) added	25870	713.601—713.643 (Subpart F)
(a) (5) added	29845	Added
(i) (2) added	32251	713.601 (d) revised
(o) (1) revised	32252	733.124 Amended
(p) introductory text revised;		752.104 (a) revised

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754.105 Revised	28516	2.17 Heading and introductory text, (b) (28) and (29) and (h) revised; (a) (3) (iv), (xviii), (xix), (xx), (xxvi), (xxviii), (b) (18), (19), (20), and (d) removed; (b) (32) and (c) added.....	35627
771 Authority citation revised.....	28516	(b) introductory text revised; (b) (32) redesignated as (b) (31); new (b) (32) added.....	47547
771.103 (b) revised.....	28516	2.18 (d) removed.....	35627
771.110 (b) (3) revised.....	28516	2.19 (a) (26) added.....	32254
831.801—831.803 (Subpart H) Revised; eff. 10-1-76.....	6793	(j) added.....	55083
831.1301—831.1302 (Subpart M) Added.....	29846	2.21 (a) (27), (28), (30) and (d) (1), (2), (3), (7), and (16) amended.....	35627
831.1301—831.1321 (Subpart O) Added.....	52373	2.25 (b) and (g) revised; (i) removed.....	35627
831.1401—831.1404 (Subpart N) Added.....	29847	2.26 (a) through (d) removed.....	35627
890.301 (d) (1) revised.....	52373	2.27 Heading, introductory text, and (f) revised; (a) through (g) redesignated as (b) through (h); new (a) added; (e) amended.....	35627
900.604—900.607 Redesignated as 900.605—900.608.....	36989	2.28 Revised.....	35628
900.604 Redesignated as 900.605; new 900.604 added.....	36989	2.29 Added.....	35628
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1410 Added.....	2299	2.35 (a) revised.....	4395
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302.....	15417	2.46 (a) introductory text revised.....	35629
552.....	19882, 21789	2.47 Removed.....	35629
713.....	46541, 56348	2.49—2.54 (Subpart F) Heading revised.....	35629
733.....	23160	2.49 Heading and (a) revised.....	35629
831.....	29880	2.50 (a) and (b) amended; (a) (3) (iv), (xviii), (xix), (xx), (xxvi), (xxviii), and (xxx) removed.....	35629
890.....	41866	2.51 (a) amended; (a) (18), (19), and (20) removed; (a) (28), (29), and (30) revised; (a) (32) added.....	35629
900.....	8644	(a) introductory text amended; (a) (33) added.....	47547
1705.....	38184	2.53 Revised.....	35629
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1.1—1.16 (Subpart A) Appendix A revised.....	23597	2.60 (b) introductory text and (1) revised.....	2968
1.52 (c) revised.....	10299	(b) (2) revised.....	26645
1.130—1.151 (Subpart H) Added.....	743	2.62 (a) (9) added.....	55083
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1.131 (a) introductory text revised.....	15406	2.66 (a) (6) amended.....	35629
2.4 Revised.....	35626		
2.5 Revised.....	35626		
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2.13—2.29 (Subpart C) Heading revised.....	35626		
2.13 Redesignated from 2.15; heading and introductory text revised; (d) removed.....	35626		
2.14 Redesignated from 2.16.....	35626		
2.15 Redesignated as 2.13; new 2.15 added.....	35626		
2.16 Redesignated as 2.14; new 2.16 added.....	35626		

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2.68 (a) (1), (2), (3), and (7) amended	35630	(d) (3) removed; (e), (f) and (l) amended	54793
2.75 Revised	35630	26.209 Added	30146
2.81 Removed	35630	26.257 Revised	30146
2.83 Added	35630	26.303 (b) amended	9379
2.84 Added	35630	26.307 Revised	30146
2.85—2.88 (Subpart K) Heading revised	35630	26.353 (c) and (d) revised	30146
2.85 (a) introductory text revised	35631	26.402 (c) added	30146
2.86 (a) introductory text revised; (b) amended	35631	26.453 (c) revised; (d) added	30146
2.87 (a) introductory text revised	35631	26.514 Revised	30146
2.88 (a) introductory text and (a) (1) introductory text revised	35631	26.558 Revised	30146
2.91—2.93 (Subpart L) Added	35631	26.603 (c) revised; (d) added	30147
6.15—6.33 (Subpart) Nomenclature change	9377	26.651—26.659 Undesignated center heading and text added	9377
6.16 Revised	22874	26.656 Table and footnotes revised	10996
6.20—6.33 Appendix 1 amended	22874	26.657 Revised	30147
6.21 (j) revised	9377	27.2 (a), (i), and (k) revised	40677
6.23 (b) revised	9377	27.3 Revised	40677
16 Revised	42841	27.4 Amended	40677
17 Nomenclature change	54399	27.5 Amended	40677
17.2 (a) (7) through (10) redesignated as (a) (8) through (11); new (a) (7) and (c) (22) through (26) added; (a) (1) and (6), new (a) (8) and (10), and (c) (12) revised	54399	27.7 Removed	40677
17.6 (a) (4) and (b) revised; (a) (7) added; (c) removed	54399	27.14 Amended	40677
17.8 (c) (1) and (2) revised; (e) added	54400	27.31 Amended	40677
21.108 Amended	55807	27.42 Amended	40677
21.109 (b) amended	55807	27.43 Amended	40677
21.209 Amended	55807	27.44 Amended	40677
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21.306 Revised	55807	27.47 Amended	40677
21.403 (b) revised	55807	27.52 Amended	40677
21.901 (a) (3) removed	55807	27.53 Amended	40677
21.910 (c) amended	55807	27.62 Amended	40677
21.1005 (b) amended	55807	27.63 Amended	40677
21.1101 Text removed; heading revised	55807	27.64 Amended	40677
		27.65 Amended	40677
		27.73 Amended	40677
		27.93 Amended	56949
		27.94 Introductory text revised	40677
		27.95 Revised	40677
		27.99 Revised	40677
		28.2 (l) revised	24711
		28.20—28.24 Undesignated center heading and text revised	24711
		28.25 Introductory text, (h) and (i) amended	24712
		28.31 Revised	24712
		28.906 Revised	24712
		28.907 Revised	24712
		28.908 (e) and (f) revised	24712
		28.911 Revised	24712
		29.1 (e) revised	17097
		29.2 Introductory text and (a) revised	17097
		29.3 (a) revised	17098
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		43 Redesignated as 2843	32514

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26.72 Revised	1021
26.73 Revised	1021

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51 Redesignated as 2851	32514	58 Redesignated as 2858	32514
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52.2341—52.2352 (Subpart) Revised	33259	59.10 Revised	2971
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53 Revised	53902	59.148 Amended	2971
53.20 Amended	36463	59.417 (c) removed; (d) redesignated as (c)	2971
53.29 (a) amended	27208	68.2 (e), (f), and (u) revised	12033
55 Redesignated as 2855	32514	68.5 Revised	12033
55.10 Revised	2969	68.42a Revised	12033
55.80 Amended	2969	68.42c Revised	30599
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55.170 Amended	2969	68.43 Revised	12035
55.330 (c) removed; (d) redesignated as (c)	2969	68.44 Revised	12035
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55.530 Revised	2969	68.46 Revised	12035
55.560 (a) (4) and (b) (3) (v) removed; (a) (5) redesignated as (a) (4); (b) (3) (iv) revised	2969	68.49 Revised	12035
56 Redesignated at 2856	32514	68.201—68.316 Revised	40869
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56.4 (b) removed; (c) redesignated as (b)	2970	70.75 Revised	2971
56.10—56.18 Undesignated center heading revised	2970	70.76 (a) (3) removed; (a) (4) redesignated as (a) (3)	2971
56.11 Revised	2970	70.77 (a) (4) removed; (a) (5) through (7) redesignated as (a) (4) through (6)	2971
56.13 Revised	2970	75 Added	19864
56.15 Revised	2970	102.2 (q) and (r) revised	12143
56.16 Revised	2970	102.65 (b) revised	12143
56.20—56.27 Undesignated center heading revised	2970	102.67 Revised	12143
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56.21 Revised	2970	107.2 (m) and (n) revised	26646
56.24 Amended	2970	107.60 (c) removed; (d), (e), and (f) redesignated as (c), (d), and (e)	26646
56.27 Amended	2970	107.74 Revised	26646
56.30 Revised	2970	171 Redesignated as 2871	32514
56.31 (a) (1) (i) revised	2970	180.2 (c) revised	9157
56.35 (a) revised	2970	180.6 (c) and (d) added	9157
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56.38 Removed	2971	180.11 (b) revised	9157
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56.49 Revised	2971	180.101 (b) removed	9157
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210.2 (n-3) added	2972
210.8 Heading and (e) revised	27565
210.11 (e) and (f) removed; (g) and (h) redesignated as (e)	

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and (f); (b), (c), and (d) revised	2972	Appendix E revised	26005
210.15 Revised	2972	Appendix F revised	26007
210.20 (c) and (d) revised; (g) added	15053	Appendix A table corrected	28516
215.16 (d) and (e) revised; (g) added	15054	Appendix F corrected	30831
220.16 Nomenclature changed	27565	Appendix A amended	35827
220.21 (c) and (d) revised; (g) added	15054	Appendix A technical correction	38574
225 Revised	11813	Appendix B amended	37531
225.18 (d) and (e) revised; (g) added	15054	Appendix B technical correction	38574
226.9 (b) revised	38573	Appendix C amended	37531
226.31 (d) and (e) revised; (g) added	15054	Appendix C technical correction	38574
226 Appendix added	1475	Appendix D amended	37532
Appendix revised	56714	Appendix D technical correction	38574
230.19 (d) and (e) revised; (g) added	15054	Appendix E amended	37532
(d) and (e) correctly designated	18587	Appendix E technical correction	38574
230 Appendix amended	23155, 36464	Appendix F amended	37533
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245.4 Added	20810	272.1 (i) added	20283
246 Revised	43212	(g) removed; (h) redesignated as (g); new (h) added	23599
246.21 (d) (4), (5), (6) and (7) revised	15054	272.2 (e) (8) added	20284
250.11 Amended	15055	272.3 (b) redesignated as (d); new (b), (c) and (e) added	20284
270.2 (ll) and (mm) restored to prior status	6817	272.6 (c), (d), and (e) revised	8629
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270.5 (b) (3) and (4) revised; (b) (7) added	15055	(d) amended	37533
(b) (1) revised	32255	272.7 (f) added	20284
271.1 (n) (2) restored to prior status	6817	272.8 (a) amended	37533
(q) (4) (ii) and (iii) redesignated as (iv) and (v); new (q) (4) (ii) and (iii) and (5) (iii) added; (p), (q) (1) and new (q) (4) (iv) (a) and (s) (2) and (4) amended	37966	273.5 (c) revised	37533
271.3 Restored to prior status	6817	273.7 (a) and (d) revised; (b) amended	8629
(d) (8) removed	26409	273.8 (a) (1) and (f) revised	8629
271.4 Restored to prior status	6817	295.3 Amended	23155
(a) (3) revised	37966	295.7 Revised	23155
271.6 Restored to prior status	6817	295.8 (b) and (c) revised; (g) and (h) added	23155
(d) (2) revised; eff. 10-1-76	14083	295.9 (a) (b), and (d) revised	23155
271.7 Restored to prior status	6817		
271.10 (a) revised	42302		
271 Appendixes A through F restored to prior status	6817		
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301.64-2b Revised	55190
301.80-2a Amended	42303
Technical correction	52373
301.80-2b Revised	56334
301.85-2a Revised	16613
318.13-4b (e) (2) amended	41267
331.5 (Subpart) Added	55804
354.1 (a) amended	1475, 55596

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354.2 Revised	15055	701.69 Heading revised; text designated as (a); (b) added	5971
Corrected	18587	701.70 Revised	5971
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401.101 Appendix amended	9990-9997, 28871, 28872, 28873	718 Revised	2973
401.103 (b) amended	26197	718.4 (c) amended	48325
Amended	28989	718.5 (d) revised	48325
401.104 (a) corrected	4111	718.6 (c) revised; (g) (1) (i) (A) and (B) heading removed	48325
402 Revised	31427	718.10 (a) amended	48325
402.1 Appendix amended	9997	718.11 (b) (5) added	48325
403.40 Appendix amended	9997	722.558-722.561 Revised	55597
404.20 Appendix amended	9997	722.564 (Subpart) Heading and text revised	1476
406 Revised	39953	722.704 (h) added	18055
406.1 Appendix amended	9997	722.709 (a) amended	18055
408.1 Appendix amended	9997	722.805 (b) (1) amended, (b) (2) revised	17414
409 Revised	39956	723.1 Revised	6818
409.30 Appendix amended	9998	723.2 Revised	6818
410 Revised	24713	723.11-723.12 Undesignated center heading and sections revised	681 ^c
410.1 Appendix amended	9998	723.21 Revised	27208
411.1 Appendix added	28873	723.51-723.66 (Subpart) Revised	17414
413 Revised	28142	724.5 Revised	6821
413.20 Appendix amended	9998	724.12-724.17 Undesignated center heading and sections revised	6822
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601.1 (h) added	3845	724.36 Revised	29847
610 Added	38169	724.52 Revised	9158
622.22 Revised	12036	724.57 (b) (1) (ii) removed; (b) (1) (iii) redesignated as (b) (1) (ii)	9158
650.1-650.9 (Subpart A) Revised	40115	724.69 (t) removed; (f) revised	9158
650.20 Added	40118	724.70 (x) removed	9158
656 Revised	36805	724.71 (d) revised	9158
Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture		724.72 (a) (2) (i) removed; (a) (2) (ii), (iii) and (iv) redesignated as (a) (2) (i), (ii), and (iii)	9158
701.2 (f) amended	5970	724.73 Amended	9158
701.4 (b) and (c) removed; (a) designation removed	5970	724.81 (c) (3) (ii) amended; (e) (3) (iii) removed	9158
701.5 Amended	5970	724.88 (h) added	9158
701.6 Text designated as (a); (b) added	5970	725.3 Revised	10996
701.13 (d) added	5970	725.4 Removed	10996
701.16 (h) revised	5970	725.50 Amended	27566
701.21 (a), (b), and (c) (2) amended	5970	725.53 Revised	27566
701.29 Amended	5970	725.61 Removed	27566
701.32 (a) amended	5970	725.66 (b) amended; (c) removed	27566
701.34 (b) amended	5970	725.68 (d) amended	27566
701.35 (b) revised	5971	725.72 (c) (3) (ii) amended; (c)	
701.41 Revised	44213		

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(3) (iv) and (v) added; (l) revised	27566	(a) (6) revised	9663
(c) (3) (ii) amended	40881	(a) (1), (3), (5), (7), (9), and (b) (1), (3), (5), (7), and (9) revised	10833
725.87 (f) amended; (d) revised; (g) added	27566	(a) (7) and (b) (7) revised; eff. 4-1-8-14-77	18271
725.92 (b) revised	40882	(a) (9) and (b) (9) revised	24716
725.95 (b) amended	27567	(a) (9) and (b) (9) revised	27876
725.98 (a) amended	27567	905.565 (a) (2) revised	9663
(d) amended	40882	(a) (4) revised; (a) (5) added	10834
725.99 (a) (4) (v) removed; (a) (4) (xvii) undesignated text amended; (a) (8) and (k) revised	27567	(a) (3) and (4), (b) (3), and (c) revised	14866
725.100 (b) (1) (ii), (c) (3), and (f) (1) revised	27567	(a) (1) and (b) (1) revised; eff. 4-1-8-14-77	18271
725.102 (a) revised	9159	(a) (3) and (b) (3) revised	21469
725.116 Added	9159	(a) (1) and (3) and (b) (1) and (3) revised	24716
726.1 Revised	6824	(a) introductory text, (2) and (4) revised	40882
726.11—726.21 Undesignated center heading revised	6824	Revised	47548
726.11 Revised	6824	905.566 (a) (2) revised	1023
726.21 Revised	27209	(a) (2) revised	8361
726.55 Revised	2300	(a) (1) and (b) (1) revised	10834
726.56 (b) revised	2300	Revised	47549
726.57 Revised	2300	905.567 (a) (2) revised	9663
726.60 Revised	2300	(a) (1) and (b) (1) revised	10834
726.61 Revised	2301	Revised	47549
726.64 (e) amended	2301	905.568 Revised	47549
726.68 (j) removed	2301	906.359 (a) introductory text and (2) revised	6363
726.86 (c) revised	2301	907.102 (a) (1) amended	49437
726.95 (a) revised	2301	907.110 (e) corrected	13803
728.10 Revised	17419	907.112 Amended	49437
728.301 Added	20811	907.113 (a) corrected	44801
728.302 Added	20811	907.117 (e) amended	49437
729.22 (a) through (c) revised	750	907.131 (d) (3) amended	49437
729.43 (b) (5) added	750	907.141 Amended	49437
729.69 (b) revised; (s) removed	750	907.142 (b) amended	49437
729.106 Revised	17419	907.214 Added	13012
730.1—730.32 (Subpart) Undesignated heading and text revised	2301	907.685 Revised; eff. 1-28-2-24-77	6363
730.1502-730.1504 (Subpart) Revised	30356	907.691 Added	3846
731 Removed	13534	Revised; eff. 1-28-2-24-77	6364
775.10 Revised	17420	908.100 (e) revised; (h) added	20473
794.2 (a) and (b) revised	17421	908.102 (a) introductory text revised	20473
794.3 (a) introductory text, (a) (4), and (b) amended	17421	908.108 (a) revised	20473
		908.110 (c), (d), and (e) revised; (f) amended	20474
		908.112 Amended	20474
		908.113 (a) and (c) revised	20474
		908.117 (c) revised	20474
		908.130 Revised	20474
		908.132 Revised	20474
		908.133 Heading, (a), and (c) revised	20475
900.16 Revised	10833		
905.564 (a) (8) and (b) (8) revised	5072		

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders; Fruits, Vegetables, Nuts), Department of Agriculture

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908.141 Amended	20475	918.21 Revised	40885
908.216 Added	20811	918.22 Revised	40885
908.853 Added	17127	918.25 Revised	40884
908.854 Added	21101	918.26 Revised	40884
909.215 Added	42842	918.27 Revised	40885
910.180 (d) (3) added	10680	918.29 (h) amended; (q) removed; (r) redesignated as (q)	40885
910.215 Added	54794	918.32-918.38 Removed	40885
910.392 (b) (1) revised	26410	918.40 Revised	40885
910.411 Added	48869	918.41 Revised	40885
911.216 Added	34275	918.44 Revised	40885
911.339 Added	21786	918.81 Revised	40885
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912.8 Revised	4811	918.319 Added	21268
912.24 (b) redesignated as (c); new (b) added	4812	919.216 Added	45629
912.25 Revised	4812	919.318 Added	38576
912.32 (b) revised	4812	921.216 Added	36232
912.41 (a) revised	4811	921.314 Added	36233
912.50 Revised	4811	922.217 Added	35144
912.124 Added	10299	922.317 Added	30492
915.216 Added	35143	Revised	41268
915.319 Added	27210	923.217 Added	38576
(a) (2) Table I amended	51606	923.315 (a) and (b) introductory texts revised	27568
(a) (2) table amended; (a) (7) revised	54556	923.316 Added	32761
916.110 (b) (5) revised	23157	924.217 Added	36990
916.216 Added	34499	924.315 Added	38577
916.350 Revised	30491	926.217 Added; eff. 4-1-77 to 3-31-78	45325
916.351 Added	24229	926.314 Added	40679
Revised	35143	Revised	49438
917.116 Revised	3625	927.316 Added	39670
917.122 Added	3625	Revised; eff. 8-8-77-6-30-78	53594
917.143 (b) (5) revised	22875	928.152 (a) (3) and (4) revised	3
917.217 Added	37794	Revised	17422
917.218 Added	37794	928.206 Added	2665
917.219 Added	35828	928.307 Added	2
917.419 (a) (4) (ii), (5), and introductory text of (6) revised	23157	929.217 (a) revised	40679
917.442 (b) (3) (i), (ii), and (4) revised; (b) (5) removed; (b) (6) through (8) redesignated as (b) (5) through (7) and revised	23157	929.304 Added	21787
917.443 Added	24230	Suspended	44980
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917.444 Added	26646	930.207 Added	38577
Revised	36232	930.591 Introductory text revised	3626
917.445 Added	35973	931.312 Added	38578
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(a) (2) revised	44214	932.153 Revised	44801
918.1 Revised	40884	932.156 Revised	31762
918.10 Revised	40884	932.212 Added	47550
918.15 Revised	40884	944.17 Added	27214
918.16 Revised	40884	944.113 (a) (1) and (2) revised; (3) added	9664
918.17 Removed	40884	(a) (3) revised; (a) (4) added; eff. 3-11 to 8-14-77	14867
918.18 Revised	40884	(a) (1) revised	18272
918.19 Revised	40885	(a) (3) revised	21469
		(a) (1) and (3) revised	24717
		(a) revised	40886

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944.114 Added	47550	980.212 Added	55192
944.133 (a) (1) through (4) re-		981.48 Removed	19322
vised	10835	981.226 Revised	3847
944.205 Added	21787	981.227 Added	47184
945.230 Added	43053	981.300 Removed	19322
945.335 Superseded by 945.336	35145	981.327 Added	47184
945.336 Added	35145	981.441 (b), (d), (e), and (g) re-	
Revised	40887	vised	5342
946.230 Added	42679	Nomenclature change	5343
946.331 (a) (2) (iii) removed; (a)		981.442 Added	3160
(3), (c), and (d) revised; (e)		(a) (6) amended	5677
(5) added	7923	(a) (4) and (6) revised	56488
946.332 Added	38381	981.450 Revised	19322
(e) (1) (ii) corrected	39671	981.453 Removed	19322
947.335 Removed	41403	981.455 Revised	19322
947.336 Added	41403	981.467 Revised	19322
948.277 Added	38579	981.472 (a) amended; (b) re-	
948.278 Added	39360	vised	19322
948.377 Added	38382	981.473 Revised	19322
948.378 Added	51605	(f) revised	56488
953.214 Added	25720	981.474 Revised	19322
958.221 Added	39360	987.224 Added	9160
958.322 Added	37967	989.2 Revised	37201
959.217 Added	2308	989.6 Removed	37201
(b) revised	22126	989.8 Amended	37201
959.317 Added	4396	989.10 Revised	37201
(c) (3) and (f) (4) revised; (f)		989.13 (f) amended	37201
(5) amended	12412	989.22 Revised	37201
966.214 Added	54935	989.24 Heading and (b) revised;	
966.315 (a) (2) (i) revised	5073	(c) and (d) added	37201
966.316 Added	55191	989.26 Amended	37201
(f) corrected	56487	989.26a Amended	37201
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967.25 Revised	32763	(1) amended	37201
967.26 Revised	32763	989.59 (a) and (b) revised; (f)	
967.27 (f) added	32763	amended	37202
967.31 (m) added	32763	989.60 (b) note removed; (c)	
967.37 (a), (b) and (d) revised;		added	37202
(e) and (f) added	32763	989.61 Revised	37202
967.38 (a), (e) and (f) revised	32764	989.66 (b) (3) amended	37202
967.44 Heading revised; text		989.67 (d) (1), (f), and (j)	
amended	32764	amended	37202
967.63 Added	32764	989.79 Amended	37202
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967.212 Added	45326	989.96 Removed	37202
967.313 Added	39361	989.97 (Exhibit B) and note re-	
971.216 (b) revised	2666	moved	37202
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amended	3626	989.103 Removed	52375
Introductory text amended; eff.		989.110 Removed	52375
2-6 to 2-13-77	8362	989.122 Undesignated center	
980.115 Revised	10300	heading revised; section	
980.116 Added	38384	added	52376
(f) (3) table corrected	40175	989.125 Removed	52376
980.211 (a) (1) revised	5073	989.126 Revised	52376
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989.128 Removed	52376	(a) and revised; new (b)	
989.129 Amended	52376	added	11823
989.138 Removed	52376	(a) (2) and (3) revised; (a) (4)	
989.139 Revised	52376	added	52380
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989.142 Undesignated center		1002.85 Revised	11823
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989.143 Added	52377	1002.88a Added	52381
989.148 Removed	52377	1002.90 Revised	11823
989.152 Removed	52377	1004.7 (a) suspended in part	
989.158 Undesignated center		from May to August 1977	29849
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989.159 (g) undesignated text		amended; (c) redesignated as	
designated as (g) (2); (g) (1)		(d); new (c) added	21603
and (2) amended	52377	1006.50 Introductory text and	
989.166 (c) (2) and (3) revised;		(a) revised	46914
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989.173 (a) and (d) (2) amended	52377	1006.55 Removed	46914
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989.203 Removed	52377	1006.61 (b) removed; introduc-	
989.204 Removed	52377	tory text revised	46914
989.211 Removed	52377	1006.62 Revised	46914
989.212 Removed	52377	1006.71 (a) (2) (i) revised	46914
989.221 Revised	54794	1006.74 Revised	46914
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989.401 (a) (1) amended; (b)		vised	46914
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989.702 Added	52379	amended	40890
991.215 Added	18857	1011.73 (a) (1), (2) introductory	
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993.213 Added	49802	revised	40890
993.328 Added	44802	1011.74 Amended	40890
993.404 Added	49802	1011.75 Revised	40890
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		1011.90—1011.94 Undesignated	
		center heading and sections	
		added	40889
		1012.50 Introductory text and	
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		1012.53 Revised	46914
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		1012.60 (b) revised	46914
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		tory text revised	46914
		1012.62 Revised	46914
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		vised	46915
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1002.22 (m) (3) added	52379
1002.41 (c) (7) and (8) revised;	
(c) (9), (10), and (11) added	52379
1002.45 (a) (12) revised	52380
1002.50a Introductory text and	
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(a) amended	52380
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1002.71 (b-1) added	52380
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ated as (c) through (f); in-	
troductory text designated as	

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1013.73 (a)(3) revised	46915
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1030.7 (b)(4) and (7)(iii) amended	13103
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1030.9 (h) removed; (f) and (g) amended	38582
1030.12 (b)(5) revised	38582
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1030.30 (a) introductory text and (a)(3) revised	38582
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1030.42 (a) revised	38583
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1033.60 (g) amended	11235
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1040.50 (a)(1) amended	38585
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1040.52 (a)(1) amended	41604
1040.75 (a)(3) amended	38585
1040.93 (d)(3) revised	10680
1049.2 Revised	56950
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1063 Removed	17423
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		3.118 Added	31570
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		through (4) redesignated as	
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		72.14 Removed	19854
		73.1a (a) (3) and (g) added	2949
		(c) removed	3298
		(a) (4) added; (g) removed	5343
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2.28 Revised	31026
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2 removed	31026
2.52 Amended; footnote 3 design-	
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2.76 Revised	31027
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(b) revised	32223	(1) and (2), and (d) (1) re-	
(d) added	44215	vised; (e) (3) and (4), (d) (6)	
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78.9 (b) (3) (iii) revised	13536	(d) (5) revised	28520
78.20 Revised	5343	113.3 (b) (2) and (5) revised	1456
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	39658	introductory text and (ii) re-	
(a) introductory text amended:		vised; (d) (1) (iii) added	6795
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(a) (4) added	13537	113.162 (d) (1) revised	43617
(a) (3) (v) and (vi) added	16129	113.163 (d) (2) (i), (ii), and (iii)	
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(a) (1) removed	47185		
91 Revised	28992	Chapter II—Packers and Stockyards	
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(u) added	49441	culture	
92.2 (i) added	45895	201.1 Removed in part	5677
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94.11 (a) amended	23131	307.5 (a) amended	54829
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ated as (c); new (b) added	1455	317.8 (b) (2) amended	3299
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331.2 Table amended	12178, 12416, 13013, 18610	2.206 (c) added	36240
335 Revised	10960	2.600—2.606 (Subpart F) Added	22885
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351.8 Amended	54829	2.786 Revised	22129
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381.38 (a) amended	54829	7.8 (b) amended	12877
381.221 Republished	2949	7.9 (a) and (e) amended	12877
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2.101 (a-1) added; (a) amended	22885
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2.788 Added	22130
2.790 (a) (3) revised	12877
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10.3 Amended	54402
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20.103 (a) (1) footnote amended	20138
20.402 (a) amended	43965
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20.405 (a) introductory text revised	20138
20.601 Note added	25721
20 Appendix D note removed	25721
21 Added	28893
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30.71 Note added	25721
31.2 (a) amended	28896

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(c) (10) amended	28896	50.55 (a) amended	43385
(c) (10) effective date changed to 8-10-77 and 1-6-78	34886	50.55a (c) (3), (d) (3), (e) (3), (f) (3) and (h) amended and footnote added	22887
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(b) effective date changed to 8-10-77 and 1-6-78	34886	50.59 (a) (2) (i) amended	20139
31.8 (c) amended	28896	50.65 Footnote 2 removed	25721
(c) effective date changed to 8-10-77 and 1-6-78	34886	50.110 Note added	25721
31.10 (b) (3) amended	28896	50 Appendixes F and I amended	20139
(b) (3) effective date changed to 8-10-77 and 1-6-78	34886	Appendix Q added	22887
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32.63 Removed	43965	(c) effective date changed to 8-10-77 and 1-6-78	34886
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(b) (7) added; (c) (1) and (e) revised	26987	Footnote 1 removed	25721
32.110 Note added	25721	70.23 (a) (11) added	17126
33.100 Note added	25721	70.31 (e) revised	43821
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36.50 Note added	25721	71.41 Revised	39365
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221.176 (a) and (c) through (g) revised; (h) removed

221.177 Added

(a), (b) and (c) revised

221.178 Added

221.179 Added

221a Effective date corrected to 6-1-77

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1241	31605, 6599, 9184, 15336, 18282, 21487, 26612
1245	25508

TITLE 15—COMMERCE AND FOREIGN TRADE

Subtitle A—Office of the Secretary of Commerce

3	Technical correction	27574
3.3	Existing text designated as (a); (b) added	7137
	(b) and (a) designation removed	37203
4b	Appendix A amended	39976
	Appendix C amended	39977
16	Added	26648
17	Added; eff. 10-1-75	54415

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Chapter I—Bureau of the Census, Department of Commerce

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30.16 Revised	56604
50.10 Revised	22362
70 Revised	38901

Chapter III—Domestic and International Business Administration, Department of Commerce

369.3 (b) amended; (b) (1) (vi) added	2057
370.1 (c) through (f) redesignated as (d) through (g); new (c) added	55808
370.11 Revised	55808
371.2 (c) (9) revised	18397
371.4 (b) revised	36991, 55887
371.9 (b) (1) revised	12852
(a) (1) (i) and (ii) revised; (b) (5) added	18397
(a) (2) revised	55886
371.10 (b) revised	12852
(a) (1) (i) and (ii) revised; (b) redesignated as (b) (1); (b) (2) added	18397
(a) (2) revised	55886
371.12 (d) (1) and (2) revised; (e) added	18398
371.16 Revised; eff. 1-1-77	1223
(a) amended	18398
372.4 (a) revised; (b) amended	46509
373.2 (c) (2) (i) removed	46509
373.3 (a) (2) revised	36992
(d) (2) (i) and (3) (i) removed	46509
373.5 (d) (1) revised	46509
373.6 (b) (1) introductory text revised	46509
373.7 (d) (1) (ii) (a) and (iv) (a) removed	46509
373 Supplement No. 2 revised	36992
375.5 (a) revised	36993
376.3 Added	55887
376.9 (c) (4) revised	12853
(c) (5) amended	18398
376.10 Revised	23796
376.14 (a) revised	36991
377.6 (d) (1) (ii) and (7) revised; (d) (9) and (e) (8) added; eff. 1-1-77	1223
(c) amended; (d) (7) and (e) (2) revised; (d) (9), (e) (9), and (10) added	18398, 34872
377 Supplement No. 2 revised; eff. 1-1-77	1224
Supplement No. 2 revised	18397
Supplement No. 2 amended	34872
379.4 (e) (1) (iii) revised	28999

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379.5 (a) (2) and (c) removed; (a) (3) redesignated as (a) (2)	46509
385.4 (a) revised	36991
386.2 (a) revised	18401
387.1 (a) (1) and (b) (3) revised	54529
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388.1 (a) (4) revised	54529
Effective date corrected to 6-22-77	55810
390.1 (b) introductory text and (6), and (e) revised	54530
Effective date corrected to 6-22-77	55810
399.1 (a) amended	55887

Chapter VIII—Bureau of Economic Analysis, Department of Commerce

807 Added	38574
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Chapter IX—National Oceanic and Atmospheric Administration, Department of Commerce

920 Revised	22041
931 Added	1173
932 Added	19856
933 Added	38740
950 Revised	25852

Chapter XX—Office of the Special Representative for Trade Negotiations

2002.1 (b) (4) and (6) redesignated as (b) (8) and (9)	55611
2002.2 (b) (8) and (9) redesignated as (b) (10) and (11)	55611
2002.3 (a), (b) (3) and (4) amended	55611
2006.0 (b) and (c) amended	55611
2006.4 (a) amended	55611
2006.5 (a) amended	55611
2007 Revised	45532

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70	27255
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803	19888
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Chapter I—Federal Trade Commission		27 Removed	41271
0.5 Removed	13540	Effective date corrected	43058
0.6 Removed	13540	28 Removed	19860
0.18 (b) (9) amended	27218	30 Removed	12171
1.18 (b) revised; (c) added	43974	32 Removed	12171
2.14 (c) revised	13540	35 Removed	39660
(a) revised	42195	39 Removed	12171
2.21 (Subpart B) Removed	42195	42 Removed	31591
2.32 Revised	3300	43 Removed	12171
2.34 Revised	39659	47 Removed	39660
2.35 Removed	39659	48 Removed	12171
3.23 (a) and (b) revised	31591	50 Removed	12171
(b) and authority citation corrected	33025	51 Removed	12171
3.25 (b) through (g) revised	39659	58 Removed	12171
3.40 Added	56500	64 Removed	19860
3.52 (f) amended	13540	66 Removed	39660
(a) revised; (h) added	39977	71 Removed	12171
3.61 (b) revised	13540	88 Removed	12171
4.2 (c) revised	30150	92 Removed	12171
4.3 (b) revised	30150	101 Removed	12171
4.7 Revised	43974	105 Removed	39660
4.8 (a) revised	56727	132 Removed	31591
4.9 (b) (4) revised; (b) (23), (24), and (25) redesignated as (b) (26), (27), and (28); new (b) (23), (24), and (25) added	13540	136 Removed	12171
(b) (10) and (12) revised	42195	138 Removed	39660
4.10 (a) introductory text and (b) revised	13540	144 Removed	12171
4.11 (a) (2) (i) (A) revised	4834	145 Removed	12171
(a) (1) (i) (E), (iii) (D), and (iv) (A), (a) (2) (i) (A), (C), (ii) (A), (iii), (b), (c) revised	13820	149 Removed	19860
4.14 Added	13540	158 Removed	31592
4.15 Added	13541	161 Removed	12171
(a) (3) and (c) (2) corrected	15409	169 Removed	12171
13 Amended	3-5, 3636, 3640, 3833, 4118, 4119, 5347, 5694, 6797-6800, 9015, 9016, 10979, 12028, 12041, 13109, 13820, 17107, 17108, 18057, 19480-19487, 20287-20290, 20816, 21273, 22876, 23799, 26661, 26972-26974, 27218, 27877, 28531, 29012, 29478, 30493, 31164, 32532, 32533, 32766, 32767, 34872, 36449, 37203, 39198, 40681, 42309, 42850, 42832, 48334, 48335, 52391, 56108, 56501	176 Removed	31592
14.10 Removed	13541	177 Removed	39660
18 Removed	39660	181 Removed	12171
21 Removed	12171	182 Removed	31592
22 Removed	39660	185 Removed	12171
25 Removed	31591	186 Removed	31592
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		199 Removed	12171
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		202 Removed	12171
		206 Removed	39660
		207 Removed	31592
		217 Removed	12171
		220 Removed	19860
		222 Removed	12171
		226 Removed	39660
		227 Removed	12171
		433.3 Added	19490
		(a) revised	40426
		(a) and (b) (3) revised	46510
		502.100 (c) and CFR source note corrected	18057
		700 Added	36114
		700.2 Corrected	38341

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702 Interpretation	15679, 39381	1507 Effective date	34874
801 Transitional rule	6365	1511 Added	33279
Chapter II—Consumer Product Safety Commission		Effective date corrected to 2-26-78	36823
1009.8 Revised	53953	1615.32 Added	55891
1012 Cross reference	5040	1616.32 Added	55892
Revised	14684	1700.14 (a) (1) (ii) revised	20291
1012.5 (b) (1) (i) (A) revised	48875	1702 Added	44804
Heading revised; (b) (1) (i) (A) correctly designated	56107	Title 16—Proposed Rules:	
1014.6 (a) amended	22878	1	2980
1014.8 (a), (c), introductory text of (d) and (d) (3) amended	22878	2	22897
1014.12 (a) (1) revised	9161	4	2079, 33041
1015 Added	10490	13	23841, 23843, 23846, 23847, 23849, 24753, 25335, 26661, 27255, 27257, 28550, 29012, 29516, 29915, 30515, 30516, 32258, 32803, 35658, 35858, 35859, 36480, 37829, 38390, 40714, 41297, 41431, 41649, 41874, 42892, 43091, 43864, 49462, 52437, 54573, 56622
1021 Added	25495	23	29916, 31457, 32804, 37212
1025 Added	31432	26	31457, 32804
Comment time extended	39089	34	31457, 32804
1025.31 (e) revised	36818	36	31457, 32804
1025.48 (a) revised	36818	40	31457, 32804
1026 Added	31447	41	31457, 32804
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1028 Added	36819	54	31457, 32804
1145 Added	44192	56	31457, 32804
1201 Added	1441	57	31457, 32804
1201.2 (d) added	31166	60	31457, 32804
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(a) (4) and (13) effective date stayed	42196	62	31457, 32804
1201.7 Revised	31166	67	31457, 32804
1202 Added	22667	74	31457, 32804
1202.6 (d) (2) (i) (A) clarification	35828	103	31457, 32804
1301 Added	30300	114	31457, 32804
1303 Added	44199	117	31457, 32804
1401 Added; eff. 2-20-78	42783	118	31457, 32804
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1401.5 (a) corrected	46285	142	31457, 32804
1500.14 Effective date	34874	146	31457, 32804
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(a) (6) (iii) added	44202	152	31457, 32804
1500.18 (d) added	18853	154	31457, 32804
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(a) (18) added	33279	162	31457, 32804
(d) (3) and (4) added	28064	165	31457, 32804
(a) (8) revised; effective date corrected to 2-26-78	36823	175	31457, 32804
1500.83 (a) (34) corrected	33026	192	31457, 32804
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(a) (6) republished	43391	205	31457, 32804
1500.131 Removed	31773	209	31457, 32804
1505.3 (e) (1) revised	34280	210	31457, 32804
(b) (1) (iii) added; (b) (3) revised; (d) republished	43392	214	31457, 32804
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443	26432, 43868	1116	46720
444	32259	1145	35983, 38782
447	2694	1150	16445, 34892
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801	3181	1401	21807
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802	39040, 39995, 41875	1605	39402
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1.3 (z) revised	42750
1.8 Removed	23993
1.9 Revised	23993
1.10 (a) revised	23993
1.10a Added	23993
1.10b Revised	23993
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1.10d Revised	23994
1.14 Revised	23994
1.47 Added	42751
1.48 Revised	42752
15.03 (a) Revised	25485
140.71 Added	39033
147.3 (b) (5) (ii) correctly designated	42851
155.2 (c) and (e) interpretations	35004

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Commission

200.30-3 (a) (25) added	30835
(a) (4) revised	36250
(a) (26) added	40903
200.30-6 (a) (4) added	54531
200.30-11 (d) redesignated as (e); new (d) added	56727
200.80 (c) (1) and (2); (d) (2), (6) (ii), and (9) (ii) revised	40189
(c) (1) (ii) corrected	44807
(e) (4) revised	56727
200.308 (a) (2) and (b) (1) revised	40190
200.309 (e) (2) amended	40190
200.310 Amended	40190
Revised	56727
200.735-4 (b) (5) revised;	
(b) (7) added	30834
203.7 (a) revised	37809
210.3-16 (t) (1) (i) (C) (v) (a) to (iv) amended; (t) (G) added	27880
(q) revised	44809
210.3-17 (c) corrected	54935
210.5-02 Corrected	54935
210.5-04 Schedule I revised	46513
210.6-03 Corrected	54935
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210.12-08 Footnote 3 corrected	54935
210.12-12 Footnote 1 corrected	54935
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230.264 Added	54531
230.458 Removed	35829
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Effective date at 8-26-77 re-	
moved	46047
Interpretative releases	51570
239.11 Effective date note added	40900
Form S-1 effective date stayed	
to 4-30-78	41406
239.18 Effective date note added	40900
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stayed to 4-30-78	41406
239.26 Amended	22140
240.10b-10 Added	25323
240.13a-13 Revised	24064
(c) (1) revised	27880
(c) (1) revised; eff. 12-25-79	54532
240.13b-1 Removed	24065
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date stayed to 4-30-78	41406
240.13d-1 Effective date note and	
superseded text added	40900
240.13d-2 Effective date note and	
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240.13d-3 Effective date note and	
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Effective date note and super-	
seded text added	40901
240.14a-3 (b) (9) revised	24064
(d) text revised; (d) Note 1 re-	
vised; (d) Note 3 added	35955
240.14a-101 Effective date note	
and superseded text added	40901
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240.14d-100 Added	38348	240.17a-13 (b)(5) revised	23790
240.14d-102 Effective date note added	40901	240.17a-19 Revised	23790
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240.15c2-11 (f)(4)(T) republished; effective date extended to 7-31-77	27881	(b)(1)(i), (2), and (4) revised; (f) added	40903
(f)(4)(T) revised; extension of time to 1-31-78	39090	Revised	41025
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(c)(2)(iv)(C) and (f) revised; (c)(2)(vi)(M) and (f)(3)(iii) amended	23800	240.17Ad-1—240.17Ad-7 Added	32411
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(a)(6)(ii) and (c)(2)(x)(a)(7) and (B)(1) revised; (a)(6)(v) and (7) added	31776	240.19d-2 Added	36416
(c)(2)(vi)(E) revised	31780	240.19d-3 Added	36417
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240.15c3-1d (b)(11) added	31778	249.210 Effective date note added	40902
240.15c3-3 (d)(4) added	23790	Form 10 effective date stayed to 4-30-78	41406
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(c)(1) revised; eff. 12-25-79	54532	249.617 Revised	23790
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240.17a-4 (b)(8) introductory text revised; (b)(9) added	23787	249.1200 Amended	40904, 41027
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239	21815, 26010, 27603, 29012, 29716, 33348, 41139, 44964, 54573	Revised	38560
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		35.22 (a) revised; (b) redesignated as (e) and amended; new (b) through (d) added	30155
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522.542 Added	37543	544.173b (a) (1) amended; (a) (4) (ii) (b) and (iii) (b), and (b) revised	21277
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522.1235 (c) (1) amended	20817	544.370a Revised	21279
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3.261 (a) (20) revised	43834
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30 Authority citation revised	56051	(15); new (9), (10), (11), and (13) added	46926
30.101 (c) revised	56051	52.125 (d) through (g) removed; (h) added	36999
30.305-2 (a) (3), (4), and (14) revised; (a) (15) and (16) added	56051	52.126 (b) introductory text and (a) revised	46926
30.305-5 (a) revised	56051	52.130 (d) added	46926
30.515 Existing text designated as (a); new (b) added	56051	52.220 (c) (24) (iii) (B) and (ix) (A), (27) (iv) (A), (29) (ii) through (v), (30) (vi) (C) and (ix), (31) (v) (B) (vi) through (xii), (32) (iii), and (35) (i) through (iv) added	37977
33 Interim regulations; effective date extended to 3-1-78	53600	(c) (35) (viii) (A) added	39664
35.300-35.340 Text and undesignated center heading removed	56051	(c) (19) removed	40695
35.400-35.425 (Subpart B) Revised	56051	(c) (21) (xiii) (A), (24) (x) (A), (25) (v) (A), (29) (vi) (A), (31) (xiii) (A), and (35) (iii) (B) added	41121
35.700-35.744 Text and undesignated center heading added	56052	(c) (20), (21) (xxvii), (23) (ii) and (iii) removed	42224
40.110 (d) revised	56056	(c) (21) (i) through (v) and (vii) through (xii), (22) (i), (23) (i) (A), (24) (iv) through (viii), (20) (iii) through (v), (27) (i) and (iii), (28) (iii), (iv), and (ix), (c) (39) (iii) and (viii) and (32) (ii) revised	42224
40.115 Revised	56056	(c) (25) introductory text and (i) through (iv), (20) (vi) through (xiii), (28) (v) through (viii), (29) introductory text and (i) and (ii) (B), (30) (iv), (v), (vi) (A) and (vii), (31) (i) (C), (D), and (E), and (v) (A) added	42224
40.115-2 (b) revised	56056	(c) (35) (vi) revised	47556
40.115-3 (c) revised	56056	(c) (35) (v) (A) added	53962
40.115-4 (b) revised	56056	(c) (35) (i) (A) added	53963
40.115-5 Existing text designated as (a); (b) added	56057	(c) (35) (x) (A) and (37) (ii) (A) added	56113
40.115-6 Revised	56057	(c) (25) (vii), (26) (xiv) (A), and (35) (xi) (A) added	56606
40.115-7 Removed	56057	52.224 (a) (8) added	41122
40.115-8 Removed	56057	(a) (1) (ii), (2) (v), (4) (ii) and (5) (ii) and (iv) through (ix), and (6) added	42225
40.115-9 Removed	56057	(a) (9) (i) added	56606
40.115-10 Removed	56057	52.225 (b) (i) through (x), (c) (3) (v), (d) (1), (2), (4), and (5) revised; (c) (3) (vi) and (vii) removed	37977
40.120 Revised	56057	52.226 (b) added	42225
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52.269 (b) (1) (i) and (ii) added	42226	52.2489 (i) added	38355
52.272 Added	42226	55.570 (a) (1) (iii), (iv), (vi), and (vii) revised	56608
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52.276 Added	56606	(b) (BB) revised	44545
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52.470 (c) (7) revised	49812	60.7 Authority citation added	41424
52.720 (c) (12) added	39665	60.8 Authority citation added	41424
52.770 (c) (12) revised; (c) (16) added	34518	60.9 Authority citation added	41424
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52.795 (b) added	34519	60.11 Authority citation added	41424
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60.133 Authority citation added	41424	61.14 Authority citation added	41424
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60.154 Authority citation added	41424	61.34 Authority citation added	41424
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60.170 Revised	37937	61.54 Authority citation added	41424
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Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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4528. 53591	240 (2 documents) 53633, 53635	45 CFR
	249. 53633	100a. 53828
7 CFR		100b. 53828
908. 53593	18 CFR	100c. 53828
910. 53593	2. 53599	104. 53822
927. 53594		105. 53822
1133. 53595	24 CFR	1068. 53600
PROPOSED RULES:	1920 (26 documents) 53742-53752	47 CFR
1487. 53628	PROPOSED RULES:	PROPOSED RULES:
10 CFR	1917 (51 documents) 53753-53780	67. 53647
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791. 53630	26 CFR	1033. 53601
	PROPOSED RULES:	1091. 53601
14 CFR	1. 53637	1102. 53602
39 (3 documents) 53595-53597	33 CFR	1207. 53622
71 (2 documents) 53598	PROPOSED RULES:	1249. 53622
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71. 53632		
91. 53632		

FEDERAL REGISTER PAGES AND DATES—OCTOBER

Pages	Date
53591-53891	Oct. 3

Table of Effective Dates and Time Periods—October 1977

This table is for use in computing dates certain in connection with documents which are published in the FEDERAL REGISTER subject to advance notice requirements or which impose time limits on public response. Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month. All January dates are in 1978.

Dates of FR publication	15 days after publication	30 days after publication	45 days after publication	60 days after publication	90 days after publication
October 3	October 18	November 2	November 17	December 2	January 3
October 4	October 19	November 3	November 18	December 5	January 3
October 5	October 20	November 4	November 21	December 5	January 3
October 6	October 21	November 7	November 21	December 5	January 4
October 7	October 25	November 7	November 21	December 6	January 5
October 11	October 26	November 10	November 25	December 12	January 9
October 12	October 27	November 11	November 28	December 12	January 10
October 13	October 28	November 14	November 28	December 12	January 11
October 14	October 31	November 14	November 28	December 13	January 12
October 17	November 1	November 16	December 1	December 16	January 16
October 18	November 2	November 17	December 2	December 19	January 16
October 19	November 3	November 18	December 5	December 19	January 17
October 20	November 4	November 21	December 5	December 19	January 18
October 21	November 7	November 21	December 5	December 20	January 19
October 25	November 9	November 25	December 9	December 27	January 23
October 26	November 10	November 25	December 12	December 27	January 24
October 27	November 11	November 28	December 12	December 27	January 25
October 28	November 14	November 28	December 12	December 27	January 26
October 31	November 15	November 30	December 15	December 30	January 30

AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service

FSQS—Food Safety and Quality Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
DIBA—Domestic and International Business Administration
EDA—Economic Development Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office

NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DIA—Defense Intelligence Agency
DLA—Defense Logistics Agency

Engineers—Engineers Corps
Navy—Navy Department

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals
Reclamation—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board
DOT—TRANSPORTATION DEPARTMENT
CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration
TREASURY—TREASURY DEPARTMENT
ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration

CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADCC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

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FCC—FM stations in Arkansas; assignation and deletion of channels.... 42858; 8-25-77
HEW/FDA—Chloroform as an ingredient of drugs for animal use; final order establishing new animal drug status. 44225; 9-2-77
Exemptions from performance standards for electronic products intended for U.S. government use..... 44228; 9-2-77

Packaging of antibiotic drugs for parenteral use..... 44225; 9-2-77
SSA—Procedures for the replacement of lost, stolen, or forged Medicare checks..... 44219; 9-2-77
SEC—Lost and stolen securities; filing with a registered transfer agent. 40902; 8-12-77, 42851; 8-25-77
Lost and stolen securities; reporting and recordkeeping requirements. 41022; 8-12-77
Lost and Stolen Securities program; effective date postponement. 32534; 6-27-77

Transfer agents; performance regulations..... 32404; 6-24-77
Special Representative for Trade Negotiations Office—Reviews pertaining to eligibility of articles for generalized system of preferences..... 45532; 9-9-77
DOT/MTB—Longitudinal seams in pipe bends..... 42865; 8-25-77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of PUBLIC LAWS

presidential documents

[3195-01]

Title 3—The President

PROCLAMATION 4528

White Cane Safety Day, 1977

By the President of the United States of America

A Proclamation

The white cane, an ingeniously simple device in an age of complex technology, helps assure that those with impaired or lost vision can lead rich and useful lives.

Remarkable progress in public attitudes toward blindness has been made in recent years. It is now widely understood that blindness need not be a barrier to full participation in social and economic life, and the white cane is responsible for some of this progress.

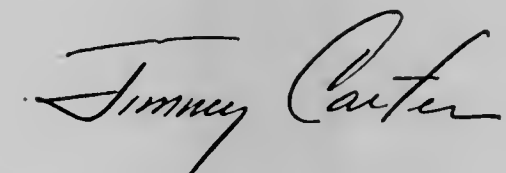
Nevertheless, in certain situations—on a busy street, near construction sites, or wherever there are unusual obstacles or hazards—a white cane user may still need help. Yet some people may be reluctant to offer it, for fear of saying or doing the wrong thing. Most blind people understand this hesitancy and are glad to explain their needs if they are asked.

The white cane also signals to motorists and cyclists that the user is blind—but it cannot signal the user that a vehicle is approaching. Thus it is the driver's responsibility to exercise extra caution.

To heighten public awareness of the importance of the white cane to the independence and safety of thousands of blind and visually handicapped Americans, the Congress, by a joint resolution approved October 6, 1964 (78 Stat. 1003; 36 U.S.C. 169d), has authorized the President to proclaim October 15 of each year as White Cane Safety Day.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby proclaim October 15, 1977, as White Cane Safety Day.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-ninth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.



[FR Doc.77-29202 Filed 9-30-77; 11:32 am]

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER CFR CHECKLIST

1976/1977 Issuances

NOTE: The CFR checklist appears at page 53627 of this issue.

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKET- ING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 574; Amdt. 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period September 23-29, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period September 23-29, 1977.

FOR FURTHER INFORMATION CONTACT: Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of

Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 75,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(a) *Order, as amended.* The provisions in paragraph (a) (1) (i), and (ii) of § 908.874. Valencia Orange Regulation 574 (42 FR 47819) are hereby amended to read as follows:

§ 908.874 Valencia Orange Regulation 574.

(a) * * *

(1) * * *

(i) District 1: 330,000 cartons;

(ii) District 2: 495,000 cartons.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674).

Dated: September 28, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and
Vegetable Division, Agricultural
Marketing Service.

[FR Doc. 77-29010 Filed 9-30-77; 8:45 am]

[Lemon Reg. 113]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period October 2-8, 1977. This regulation is needed to provide for orderly marketing of fresh lemons for the regulation period because of the production and marketing situation confronting the lemon industry.

EFFECTIVE DATE: October 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

ment of Agriculture, Washington, D.C. 20250, telephone 202-447-3545.

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendation and information submitted by the Lemon Administrative Committee established under the amended marketing agreement and order, and upon other available information, it is found that the limitation of handling of such lemons, as provided in this regulation, will tend to effectuate the declared policy of the act.

(2) The need for this regulation to limit the quantity of lemons that may be marketed during the specified week stems from the production and marketing situation confronting the lemon industry.

(i) The committee has submitted its recommendation for the quantity of lemons it considers advisable to be handled during the specified week. The recommendation resulted from consideration of the factors covered in the order. The committee further reports the demand for lemons continues good. Average f.o.b. price was \$7.45 per carton the week ended September 24, 1977, compared to \$7.34 per carton the previous week. Track and rolling supplies at 115 cars were down 5 cars from last week.

(ii) Having considered the recommendation and information submitted by the committee, and other available information, the Secretary finds that the quantity of lemons which may be handled should be established as provided in this regulation.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rule-making procedure, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this regulation is based became available and the time when it must become effective to effectuate the declared policy of the act is insufficient. A reasonable time is permitted, for preparation for the effective time; and good cause exists for making the regulation effective as specified. The committee held an open meeting during the current week, after giving due notice, to consider supply and market conditions for lemons and the need for regulation. Interested persons were afforded an opportunity to submit information and views at the meeting. The recommendation

tion and supporting information for regulation during the period specified were promptly submitted to the Secretary after the meeting was held, and information concerning the provisions and effective time has been provided to handlers of lemons. It is necessary, to effectuate the declared policy of the act, to make this regulation effective as specified. The committee meeting was held on September 27, 1977.

§ 910.113 Lemon Regulation 113.

(a) Order. (1) The quantity of lemons grown in California and Arizona which may be handled during the period October 2, 1977, through October 8, 1977, is established at 205,000 cartons.

(2) As used in this section, "handled" and "carton(s)" have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: September 28, 1977.

CHARLES R. BRADER,
Director, Fruit and Vegetable
Division, Agricultural Market-
ing Service.

[FR Doc.77-28985 Filed 9-29-77; 11:26 am]

[3410-02]

[Pear Reg. 16, Amdt. 1]

PART 927—BEURRE D'ANJOU, BEURRE BOSC, WINTER NELIS, DOYENNE DU COMICE, BEURRE EASTER, AND BEURRE CLAIRGEAU VARIETIES OF PEARS GROWN IN OREGON, WASHINGTON, AND CALIFORNIA

Minimum Grade, Quality and Size Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This regulation sets minimum grade and size requirements for fresh shipment of Beurre D'Anjou variety winter pears shipped from Oregon (except the Medford District), Washington, and California, and certain quality requirements for shipments from designated areas of Oregon and Washington, during the period August 8, 1977, through June 30, 1978. This action is necessary to assure that the pears shipped will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATE: August 8, 1977, through June 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: Findings. Notice was published in the FEDERAL REGISTER issue of August 18, 1977 (42 FR 41644), that the Department was giving consideration to a proposal sub-

mitted by the Control Committee to amend § 927.316 by changing the expiration date thereof from September 30, 1977, to June 30, 1978. The notice invited interested persons to submit written data, views, or arguments on the proposal not later than September 9, 1977. No such material was received.

However, subsequent to the notice period the committee recommended that the limitation specified in the regulation with respect to 180 size pears should not apply to pears of such size shipped in export markets. This recommendation is based on the current and prospective demand for such pears by export market outlets.

This amendment to Pear Regulation 16 is to be issued under the applicable provisions of the amended marketing agreement and Order No. 927 (7 CFR Part 927), regulating the handling of Beurre D'Anjou, Beurre Bosc, Winter Nelis, Doyenne du Comice, Beurre Easter, and Beurre Clairgeau varieties of pears grown in Oregon, Washington, and California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matters presented, including the recommendations made by the committee and other available information, it is hereby found that the regulation, as hereinafter set forth, is in accordance with the said amended marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this regulation until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) Shipments of D'Anjou Pears are currently in progress and to effectuate the declared policy of the act, the regulation, as hereinafter amended, should be extended without interruption for the remainder of the season; (2) compliance with the regulation will not require any special preparation on the part of handlers which cannot be completed by the effective time hereof; and (3) except for less restrictive size requirements on export shipments the provisions of this amendment are identical with the recommendation of the committee which was published in the aforesaid notice.

The provisions of § 927.316 (Pear Regulation 16; 42 FR 39670) are hereby amended to read as follows:

§ 927.316 Pear Regulation 16.

(a) During the period August 8, 1977, through June 30, 1978, no handler shall ship any Beurre D'Anjou variety of pears, except such variety grown in the Medford District, unless such pears meet the following requirements or are handled in accordance with paragraph (b) of this section: *Provided*, That, any Beurre D'Anjou pears shipped from the Medford District shall meet the requirements of subparagraph (2) of this paragraph.

(1) Beurre D'Anjou pears shall be of a size not smaller than 165 size and shall grade at least U.S. No. 2 except that any

handler may ship a quantity of Beurre D'Anjou pears that are not smaller than 180 size and not less than U.S. No. 1 grade which quantity shall not exceed 2 percent of the total U.S. No. 1 or better grades of such variety shipped by the handler, during the aforesaid period: *Provided*, That such limitation with respect to 180 size pears shall not apply to pears of such size shipped to export markets: *Provided further*, That, pears of such variety which bear unhealed skin punctures not exceeding 3/16 of an inch in diameter may be shipped if they otherwise grade at least U.S. No. 1 and are of a size not smaller than 135 size: *Provided, Further*, That, pears of such variety which fail to meet the U.S. No. 2 grade requirements only because of serious damage but not very serious damage caused by healed hail marks or by frost, may be shipped if the shape of the pear is such that it will cut at least one good half;

(2) Buerre D'Anjou pears shipped from the Medford, Hood River-White Salmon-Underwood, Wenatchee, and Yakima Districts through November 1, 1977, shall have an appropriate certification by the Federal-State Inspection Service, issued prior to shipment, showing that the core temperature of such pears has been lowered to 35 degrees Fahrenheit or less and any such pears for domestic shipment shall have an average pressure test of 14 pounds or less.

(b) During the aforesaid period, each handler may ship on any one conveyance up to, but not to exceed, 200 standard western pear boxes of Beurre D'Anjou variety of pears, or an equivalent quantity of pears in other containers computed by weight to the nearest 5 pounds, without regard to the inspection requirements of § 927.60(a), under the following conditions:

(1) Each handler desiring to make shipments of Beurre D'Anjou variety of pears pursuant to this paragraph shall first apply to the committee, on forms furnished by the committee, for permission to make such shipments. At the time of any such shipment the handler shall report to the committee on forms furnished by the committee, the car or truck number and the destination of the shipment.

(2) On the basis of such individual reports the committee shall require spot check inspection of such shipments.

(c) When used herein, "U.S. No. 1" and "U.S. No. 2" shall have the same meaning as when used in the United States Standards for Winter Pears (7 CFR 51.1300-51.1323); "135 size," "165 size," and "180 size," shall mean that the pears of such designated sizes will pack, in accordance with the sizing and packing specifications of a standard pack as specified in said United States Standards, 135, 165, or 180 pears, respectively, in a standard western pear box (inside dimensions 18 inches long by 11½ inches wide by 8½ inches deep); and, except as otherwise specified, all other terms shall have the same meaning as when used in the amended marketing agreement and order.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 28, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable
Division, Agricultural
Marketing Service.

[FR Doc.77-29011 Filed 9-30-77; 8:45 am]

[3410-02]

CHAPTER X—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; MILK) DEPARTMENT OF AGRICULTURE

[Milk order No. 133]

PART 1133—MILK IN THE INLAND EMPIRE MARKETING AREA

Order Suspending Certain Provisions and Termination of Proceeding

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules and termination of proceeding.

SUMMARY: This action relaxes for September, October and November 1977 the limits on the amount of milk not needed for fluid (bottling) use that may be moved directly from farms to manufacturing plants and still be priced under the order. The suspension is based on a cooperative association's proposal considered at a public hearing held for this order on September 15, 1977, in Spokane, Wash. This action will aid in the continued association of milk of producers under the order.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Maurice M. Martin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-7183).

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Hearing—Issued August 29, 1977; published September 2, 1977 (42 FR 44243).

This order of suspension and termination of proceeding is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the order regulating the handling of milk in the Inland Empire marketing area.

It is hereby found and determined that for the months of September, October and November 1977 the following provisions of the order do not tend to effectuate the declared policy of the Act and are hereby suspended.

1. In § 1133.13(c) (1) and (2), the words "50 percent in any of the months of September through March, and", and the words "in any of the months of April through August,".

STATEMENT OF CONSIDERATION

This action increases the limit on the amount of producer milk that a coopera-

tive association or other handlers may divert from pool plants to nonpool plants during the months of September, October and November 1977. In the case of a cooperative, the limit is increased from 50 percent to 70 percent of its total member milk received at all pool plants or diverted therefrom. For the operator of a pool plant, the higher 70 percent limit would apply to the milk received at or diverted from such pool plant from producers who are not members of a cooperative that has diverted milk. The order now permits diversions of up to 50 percent of such receipts for the months of September through March and 70 percent for all other months.

Such action is based upon a public hearing held for this order on September 15, 1977, at Spokane, Washington. A cooperative association that supplies the market with a substantial part of its fluid milk needs and handles most of the market's reserve milk supplies proposed that emergency action be taken to provide for the months of September, October and November 1977 the same diversion limits (a maximum of 70 percent) that apply during the heavy milk production months of April through August. The proposal was unopposed at the hearing.

Reserve milk supplies in this market, most of which are diverted from pool plants to nonpool manufacturing plants by the proponent cooperative, usually decline during the fall months. However, beginning in September this year reserve milk supplies are expected to exceed the quantity of milk that could be diverted to nonpool manufacturing plants under the present diversion limitations and still maintain producer status for all such milk.

At the hearing, the cooperative indicated that the present build up in the market's reserve milk supplies is largely due to a substantial increase in milk production by producers regularly supplying the market. Deliveries by producers are above year earlier levels (up over 10 percent for the first seven months of 1977 compared to the same months in 1976). At the same time, fluid milk sales have declined (down 2.4 percent during the first seven months of 1977 from the comparable period in 1976). Consequently, the need to divert additional reserve milk to manufacturing outlets, as indicated by the cooperative, will be necessary beginning in September. The cooperative also indicated that without immediate action, it expects that some of the milk of its member producers, who have regularly supplied the fluid milk needs of the market, and whose milk is expected to be needed when the supply-demand situation improves, will be excluded from the pool beginning in September. Immediate action is thus necessary to assure that producers who are regular suppliers of milk for the fluid market will continue to have their milk pooled and priced under the order.

Any delay in relaxing the limits on diversions could deprive certain dairy farmers producer status under the order beginning in September. Therefore, this suspension order is the only practicable

means of assuring continued producer status of certain dairy farmers associated with the market for September, October and November 1977. There is insufficient time to resolve the diversion problem for September and October 1977 on an amendatory basis, and amendatory action for November could be accomplished only through emergency procedures, which would entail the omission of a recommended decision and the opportunity to file exceptions thereto. It is concluded, therefore, that the requested relief for all three months should be resolved by this suspension and that the hearing proceeding be terminated.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the fluid market otherwise would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Producers requested this suspension at a public hearing held on September 15, 1977, and such action was not opposed.

Therefore, good cause exists for making this order effective upon publication in the FEDERAL REGISTER.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended with respect to fluid milk marketings during the months of September, October and November 1977, and that the proceeding which began August 29, 1977 (Docket No. AO-275-A29; 42 FR 44244) is hereby terminated.

(Secs. 1-19, 48 Stat. 31, as amended; U.S.C. 601-674.)

Effective date: October 3, 1977.

Signed at Washington, D.C. on September 27, 1977.

JERRY C. HILL,
Deputy Assistant Secretary.

[FR Doc.77-29016 Filed 9-30-77; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-NW-25-AD; Amdt. 39-3048]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 727 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment revises Airworthiness Directive (AD) 77-18-06 which requires inspections of the horizontal stabilizer center section front spar

junction fitting on Boeing Model 727 series airplanes. The amendment is necessary to relieve an unnecessary burden by clarifying the repetitive inspection requirements of that AD.

DATES: Effective date: October 3, 1977.
FOR FURTHER INFORMATION CONTACT:

Gerald R. Mack, Airframe Section, ANW-212, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108, telephone 206-767-2516.

SUPPLEMENTARY INFORMATION: Amendment 39-3034 (42 FR 45629), AD 77-18-06, was issued on September 1, 1977, to require inspections for cracks of the horizontal stabilizer center section front spar junction fittings, which were made from 7079-T6 aluminum alloy material, on Boeing Model 727 series airplanes. Due to adverse service experience, this AD superseded AD 77-10-08, which required a one-time visual inspection within 750 flight hours and a one-time eddy current or dye penetrant inspection within 3,000 flight hours.

After issuing Amendment 39-3034, the FAA became aware that the first repetitive inspection for airplanes inspected prior to the effective date of the amendment (September 12, 1977), may be required far earlier than intended. The repetitive inspections would unintentionally penalize operators.

Accordingly, paragraph C of the AD is being revised to clarify the intended compliance time for the initial repetitive inspection of previously eddy current or dye penetrant inspected airplanes.

Since this amendment is relieving in nature and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are Gerald R. Mack, Engineering and Manufacturing Branch, FAA Northwest Region, and Jonathan Howe, Regional Counsel, Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13), Amendment 39-3034, AD 77-18-06, is amended by amending paragraph C to read as follows:

C. 1. Except as provided for in paragraph C.2 below, repeat the inspections per paragraph B of this AD at intervals of either a or b below:

a. 1,500 flight hours time-in-service or nine (9) months from the last inspection, whichever occurs first, or

b. 3,000 flight hours time-in-service or eighteen (18) months from the last inspection, whichever occurs first, if the fittings are reworked in accordance with Boeing Alert Service Bulletin No. 727-55-A69, Revision 1, or later FAA approved revisions, or in a manner approved by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region.

2. Airplanes which were inspected prior to the effective date of this AD (September 12, 1977), and since April 20, 1977 (by eddy current or dye penetrant methods equivalent to those specified in paragraph B of AD 77-10-08), may be reinspected in accordance with a or b below but are subject to the limitations set out in c below:

a. Within 1,500 flight hours time-in-service from the last inspection.

b. Within 750 flight hours time-in-service from the effective date of this AD (September 12, 1977).

c. Notwithstanding the provisions of paragraph a and b above, the repeat inspection must be accomplished no later than nine (9) months from the effective date of this AD and thereafter at the intervals specified in c.1.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof pursuant to U.S.C. 552(a)(1).

All persons affected by this directive who have not already received these documents from the manufacturer, may obtain copies upon request to Boeing Commercial Airplane Co., P.O. Box 3707, Seattle, Wash. 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Wash. 98108.

This amendment becomes effective October 3, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); and Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Seattle, Wash., on September 23, 1977.

J. H. TANNER,
Acting Director,
Northwest Region.

(The incorporation by reference provisions in the document were approved by the Director of the Federal Register on June 19, 1967.)

[FR Doc. 77-28992 Filed 9-30-77; 8:45 am]

[4910-13]

[Docket No. 14806; Amdt. 39-3050]

PART 39—AIRWORTHINESS DIRECTIVES

Pilatus Aircraft, Ltd., and Fairchild Hiller Model PC-6 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires repetitive inspections and anticorrosive treatment or replacement, if necessary, of the wing struts on all Pilatus Aircraft, Ltd., and certain Fairchild Hiller Model PC-6 airplanes and of wing strut brackets on Pilatus Aircraft, Ltd., Model PC-6 airplanes. This AD is required to prevent degradation of wing

strut and wing strut bracket structural strength beyond safe limits which could result in wing structural failure.

DATES: Effective November 3, 1977. Compliance schedule, as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletins may be obtained from Pilatus Aircraft, Ltd., 6370 Stans, Switzerland and Fairchild Republic Division, Hagerstown, Md. 21740. Copies of the service bulletins are contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium. Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring repetitive inspections and anticorrosive treatment of the wing struts and the wing strut attachment brackets on Pilatus Model PC-6 airplanes manufactured by Pilatus Aircraft, Ltd., was published in the FEDERAL REGISTER at 40 FR 30980. The proposal was prompted by reports of corrosion developing inside the wing struts and on the wing strut attachment brackets of Pilatus PC-6 airplanes that could result in weakening and eventual failure of the struts and brackets with consequent wing structural failure.

Interested persons were afforded an opportunity to participate in the making of this amendment. No comments were received. However, the FAA has determined that certain Model PC-6 airplanes manufactured by Fairchild Hiller are subject to the same wing strut corrosion problem as the Model PC-6 airplanes manufactured by Pilatus Aircraft, Ltd. Therefore, the applicability statement of the proposal has been revised to cover specified Fairchild Hiller Model PC-6 airplanes. In addition, several clarifying changes have been made to the proposal. These include the addition of the words "certificated in all categories" to the proposal's applicability statement and the reorganization of the proposal to more clearly state the requirement for replacing struts or brackets. Since this AD is needed to prevent wing structural failures in service, it is found that additional notice and public procedure hereon are impracticable.

DRAFTING INFORMATION

The principal authors of this document are D. C. Jacobsen, Europe, Africa, and Middle East Region, J. J. Presba, Flight Standards Service, and R. Lane, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

PILATUS AIRCRAFT, LTD. AND FAIRCHILD HILLER. Applies to Model PC-6 airplanes (all variants) manufactured by Pilatus Aircraft, Ltd., up through S/N 724 and to Model PC-6 airplanes (all variants) manufactured by Fairchild Hiller, S/N's 2001 through 2047, certificated in all categories.

Compliance is required within the next 25 hours time in service after the effective date of this AD, unless already accomplished within the last 75 hours time in service, and thereafter at intervals not to exceed 100 hours time in service from the last inspection, until the conditions of paragraph (c) are met.

(a) To prevent a hazardous degree of corrosion from developing inside the wing struts, accomplish the following:

(1) Visually inspect the internal surface of each wing strut for corrosion in accordance with paragraph 2.1 of Pilatus Aircraft Ltd., Service Bulletin No. 105, dated May 1971, (hereinafter S.B. No. 105) for Pilatus manufactured airplanes or paragraph 2A of Fairchild Hiller Service Bulletin PC6-57-3, dated July 15, 1971 (hereinafter S.B. PC6-57-3), for Fairchild Hiller airplanes, or an FAA-approved equivalent.

(2) If only light corrosion (corrosion which has not caused surface blistering) is found during an inspection required by paragraph (a) (1) of this AD, within the next 100 hours time in service or within the next 60 days after finding the corrosion, whichever occurs sooner, remove the corrosion from, and apply an anticorrosive treatment to, the inside of the wing strut in accordance with paragraph 2.3 of S.B. No. 105 or paragraph 2D of S.B. PC6-57-3, as applicable, or an FAA-approved equivalent.

(3) If corrosion is found during an inspection required by paragraph (a) (1) of this AD which has resulted in exceeding the limits prescribed in paragraph (a) (2), within the next 100 hours time in service or within the next 60 days after finding the corrosion, whichever occurs sooner, replace the wing strut with a serviceable strut of the same part number that has had anticorrosive treatment applied to the inside surface in accordance with paragraph 2.3 of S.B. No. 105 or paragraph 2D of S.B. PC6-57-3, as applicable, or an FAA-approved equivalent.

(b) For Pilatus Aircraft, Ltd., Model PC-6 airplanes, S/N's 338 through 701, to prevent a hazardous degree of corrosion from developing on the wing strut attachment brackets, accomplish the following:

(1) Visually inspect each wing strut attachment bracket for corrosion in accordance with paragraph 2.1 of Pilatus Aircraft, Ltd., Service Bulletin No. 93, dated June 1969, (hereinafter S.B. No. 93) or an FAA-approved equivalent.

(2) If only light corrosion (corrosion which has caused 2 percent to 10 percent reduction in cross-section per paragraph 2.2 of S.B. No. 93) is found during an inspection required by paragraph (b) (1) of this AD, within the next 100 hours time in service or within the next 60 days after finding the corrosion, whichever occurs sooner, remove the corrosion and apply an anti-corrosive treatment to the wing strut attachment bracket in accordance with paragraph 2.4 of S.B. No. 93, and reinstall the bracket in accordance with paragraph 2.5.1 of S.B. No. 93 or an FAA-approved equivalent.

(3) If corrosion is found during an inspection required by paragraph (b) (1) of this AD which has resulted in exceeding the limits prescribed in paragraph (b) (2) of this AD, within the next 100 hours time in service or within the next 60 days after finding the corrosion, whichever occurs sooner, replace the wing strut attachment bracket with a new wing strut attachment bracket [P/N 111.35.06.055 (left) or 111.35.06.056

(right)] in accordance with paragraph 2.5.2 of S.B. No. 93 or an FAA-approved equivalent.

(c) The inspections required by paragraph (a) (1) or (b) (1) of this AD may be discounted, in accordance with the following:

(1) Inspection of the wing strut when the strut has had light corrosion removed and has had the anticorrosive treatment in accordance with paragraph (a) (2) or when the strut has been replaced in accordance with paragraph (a) (3) of this AD.

(2) Inspection of the wing strut attachment bracket when the bracket has had light corrosion removed and has had the anticorrosive treatment in accordance with paragraph (b) (2), or when the bracket has been replaced in accordance with paragraph (b) (3) of this AD.

This amendment becomes effective November 3, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 23, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 77-28993 Filed 9-30-77; 8:45 am]

[4910-13]

[Docket No. 17053; Amdt. 39-3049]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Dart Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an inspection of the "Aeroquip" fuel burner feed and manifold pipes and reworking or replacement, if necessary, of the pipes on certain Rolls Royce Dart engines to prevent the failure of the pipes which could result in fuel leaks and a fire.

DATES: Effective November 3, 1977. Compliance required within the next 2,000 hours engine time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from: Rolls Royce, Ltd., P.O. Box 31, Derby, DE 8 BJ, England.

A copy of the applicable service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa,

and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring an inspection of the "Aeroquip" fuel burner feed and manifold pipes and reworking or replacement, if necessary, of the pipes on certain Rolls Royce Dart engines, was published in the FEDERAL REGISTER at 42 FR 38387 on July 28, 1977. The proposal was prompted by reports of failures of the fuel burner feed and manifold pipes on certain Rolls Royce Dart engines that could result in fuel leakage and a fire.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

The principal authors of this document are R. E. Follensbee, Western Region, R. F. Nugent and F. H. Kelley, Flight Standards Service, and K. May and R. Burton, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

ROLLS ROYCE AERO, LTD. Applies to Dart engines Series 506, 510, 511, 514, 526, 528, 529, 532 and variants, installed on, but not necessarily limited to, BAC Viscount 744 and 745D; Fokker F-27 Mk. 100, 200, 300, 400, 600, 700; Fairchild F-27, 27A, 27B, 27F, 27G, 27J, 27M; Fairchild-Hiller FH-227, 227B, 227C, 227D, 227E; Armstrong Whitworth Argosy 650, Series 101; Grumman G-159; and Hawker Siddeley HS-748 Series 2A aircraft.

Compliance is required within the next 2,000 hours engine time in service after the effective date of this AD, unless already accomplished.

To prevent the failure of the fuel burner feed and manifold pipes that could result in fuel leakage and a fire, accomplish the following:

(a) Inspect the fuel burner feed and manifold pipes and determine if any of the pipes meet both of the following specifications:

(1) The pipe is an "Aeroquip" pipe incorporating Dart Modification 1587 and having one of the following part numbers:

RK. 38457A Pipe Assembly—Fuel Feed to No. 4 Burner.

RK. 38458A Pipe Assembly—Fuel Feed to Nos. 1, 2 and 7 Burners.

RK. 38456A Pipe Assembly—Fuel Feed to Nos. 3 and 6 Burners.

RK. 38458A Pipe Assembly—Fuel Feed to No. 5 Burner.

RK. 45363A Fuel Manifold—Assembly No. 5 to F.C.U. Bulkhead Connection.

(2) The pipe was manufactured prior to March 1, 1974, and the metal identity tag located around the fireproof sleeve of the pipe (which contains the date of manufacture) has not been marked with (i) the marking "DRS.685"; (ii) an engine number or a running time; (iii) a second date marking in brackets which is later than March 1, 1974; or (iv) the marking "ZERO".

(b) If, during the inspection required by paragraph (a) of this AD, a pipe is found that meets the specifications contained in

paragraph (a) of this AD, before returning the engine to service, inspect the pipe for the presence of corroded, cracked, or broken wires using 5X or 10X magnification in accordance with the instructions contained in paragraphs 4A and 4B of Rolls Royce Dart Service Bulletin Da 73-73, dated August 29, 1975 (hereinafter SB Da 73-73), or an FAA-approved equivalent, and comply with paragraph (c) or (d) of this AD, as applicable.

(c) If, during the inspection required by paragraph (b) of this AD, the pipe wires are found to be corroded, cracked or broken, before returning the engine to service, replace the pipe with a serviceable pipe or rework in accordance with paragraph 4B(7) of SB Da 73-73, or an FAA-approved equivalent.

(d) If, during the inspection required by paragraph (b) of this AD, the pipe is found to be serviceable, before returning the engine to service, clean and identify the pipe in accordance with paragraphs 4B(4) and 4B(6) of SB Da 73-73, or an FAA-approved equivalent.

(e) The FAA-approved equivalent means of compliance specified in paragraphs (b), (c), and (d) of this AD must be approved by the Chief, Aircraft Certification Staff, FAA, Europe, Africa, and Middle East Region, c/o American Embassy, APO New York, N.Y. 09667.

This amendment becomes effective November 3, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 23, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 77-28994 Filed 9-30-77; 8:45 am]

[4910-13]

[Airspace Docket No. 76-AL-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Reporting Points

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment redesignates the FRIED and MOCHA reporting points for high and low air traffic use and rescinds the MUZON reporting point. This action will assist in the control of air traffic in the area southwest of Annette Island, Alaska.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AT-230), Airspace and Air Traffic Rules Division,

Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

HISTORY

On August 15, 1977, the FAA published for comment a proposal to designate and alter two reporting points southwest of Annette Island, Alaska, and to rescind the MUZON reporting point which is collocated with the MOCHA reporting point (42 FR 41136). Interested persons were invited to participate in the rule making proceeding by submitting written comments on the proposal to the FAA. No comments were received.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) redesignates two reporting points, one at FRIED and one at MOCHA intersections for use in both high and low flight operations. It also rescinds the MUZON reporting point to avoid having a single reporting point with two different names.

DRAFTING INFORMATION

This principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart I of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 626) is amended, effective 0901 GMT, December 1, 1977, as follows:

In § 71.211 (42 FR 638) FRIED: "(INT Nichols, Alaska, NDB 236°; Sandspit, British Columbia, Canada, NDB 314° bearings)." is deleted and "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 313° radials)." is substituted therefor.

In § 71.211 (42 FR 638) MOCHA: "(INT Nichols, Alaska, NDB 236°; Sandspit, British Columbia, Canada, 331° bearing)." is deleted and "(INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials)." is substituted therefor.

In § 71.211 (42 FR 638) MUZON: title and text is deleted.

In § 71.213 (42 FR 640) "FRIED: Lat. 54°14'23" N., Long. 133°39'49" W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 313° radi-

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a), and 1510); Executive Order 10854 (24 FR 9565); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal

requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 26, 1977.

EDWARD J. MALO,
Acting Chief, Airspace and
Air Traffic Rules Division.

[FR Doc. 77-28988 Filed 9-30-77; 8:45 am]

[4910-13]

[Airspace Docket No. 76-WA-13]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 73—SPECIAL USE AIRSPACE

Alteration of Federal Airway and Restricted Area—Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Correction to final rule.

SUMMARY: In a rule published in the Federal Register of August 15, 1977, Volume 42, page 41110, a set of geographic coordinates were inadvertently omitted. This correction includes the geographic coordinates of "Lat. 20°36'20" N., Long. 156°34'50" W.," which should have been included.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: FR Doc. 77-23324 was published on August 15, 1977 (42 FR 41110), with an effective date of October 6, 1977, and realigned a segment of VOR Federal Airways identified as V-2 and V-21 Hawaii and redefined Restricted Area R3104 Island of Kahoolawe, Hawaii. In the description of R-3104 a set of geographic coordinates were inadvertently omitted. Action is taken herein to correct this error.

ADOPTION OF THE CORRECTION

Accordingly, pursuant to the authority delegated to me by the Administrator, FR Doc. 77-23324, appearing on page 41110 in the Federal Register of August 15, 1977, the amendatory language to § 73.31 is corrected to read as follows:

In R-3104A, R-3104B, and R-3104C Island of Kahoolawe, Hawaii, "20°37'00" N., Longitude 156°35'15" W.," is deleted and "20°36'20" N., Longitude 156°36'30" W.," to Latitude 20°36'20" N., Longitude 156°34'50" W.," is substituted therefor.

(Sec. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) of 1354(a); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)) and 14 CFR 11.69.)

Issued in Washington, D.C., on September 27, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 77-28989 Filed 9-30-77; 8:45 am]

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-121, Amdt. 63]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NON-HEARING MATTERS

Amendment of Delegation of Authority to the Bureau of Operating Rights

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule grants the Bureau of Operating Rights delegated authority to dismiss, when technically inadequate, certain applications for removing or modifying restrictions in a certificate of public convenience and necessity. Since dismissal of such applications does not involve policy decisions, the Board initiated this rule to remove an administrative burden.

DATES: Effective: September 27, 1977. Adopted: September 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Barry S. Spector, Bureau of Operating Rights, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5334).

SUPPLEMENTARY INFORMATION: The Board's regulations set forth special rules applicable to proceedings on certain applications for removal or modification of restrictions in certificates of public convenience and necessity. These rules are contained in Subparts M (§§ 302, 1301-1315) and N (§§ 302.1401-1405) of the Board's Procedural Regulations. They generally provide for a more limited evidentiary hearing and certain expedited procedures following the hearing.

Each subpart contains a provision that upon consideration of an application and responses filed under that subpart, the Board may dismiss the application, without prejudice to refile in amended form or under the normal certificate procedure, if the Board finds that the application is not in compliance with the provisions of the subpart sections 302.1305 and 302.1405. Such dismissals are based solely on technical compliance with the special rules set forth in Subparts M and N. No policy determinations are made by the Board.

In view of the above, the Board has determined that the administration and operation of its regulations will be improved by delegating to the Bureau of Operating Rights authority to dismiss Subpart M and N applications when they do not comply with the provisions of

those subparts. By delegating this authority to the Bureau, the Board can relieve itself of an administrative burden in an area that does not require any policy decisions from the Board.

Since this amendment is administrative in nature, affecting a rule of agency organization and procedure, it is found that notice and public procedure are unnecessary, and that the rule may become effective immediately.

Accordingly, the Board hereby amends Part 385 of its Organization Regulations (14 CFR Part 385) as follows:

In § 385.13, a new paragraph (j) is added to read as follows:

§ 385.13 Delegation to the Director, Bureau of Operating Rights.

(j) Dismiss applications filed under §§ 302.1301-1315 and §§ 302.1401-1415, without prejudice to refile in amended form or under the normal certificate procedure, if the application is not in compliance with the provisions of these sections.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324; Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; 49 U.S.C. 1324 (note).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-29044 Filed 9-30-77; 8:45 am]

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER B—REGULATIONS UNDER THE NATURAL GAS ACT

[Docket No. RM77-6; Order No. 558-G]

PART 2—STATEMENT OF PROCEDURE PRESCRIBED FOR THE IMPLEMENTATION OF THE ALASKA NATURAL GAS TRANSPORTATION ACT OF 1976, 15 U.S.C. 719, ET SEQ.

Order

AGENCY: Federal Power Commission.

ACTION: Final rule.

SUMMARY: This order amends the Commission's regulations implementing the Alaska Natural Gas Transportation Act of 1976. The Commission is required to submit a Report to the Congress commenting upon the President's selection. The Report is due twenty days after the President's transmittal. This order provides for designation of a group to prepare the Commission's Report. It also provides that designated members are not bound by certain ex parte restrictions imposed previously.

EFFECTIVE DATE: September 23, 1977.

FOR FURTHER INFORMATION CONTACT:

Brian J. Heisler, Office of the General Counsel, 202-275-4286.

SUPPLEMENTARY INFORMATION:

ORDER PRESCRIBING FURTHER PROCEDURES AND AMENDING SECTION 2.100 OF THE COMMISSION'S GENERAL POLICY AND INTERPRETATIONS

Pursuant to Section 16 of the Natural Gas Act (52 Stat. 830, 15 U.S.C. 717o) and Sections 3, 5 and 8 of the Alaska Natural Gas Transportation Act of 1976 (90 Stat. 2904, et seq., 15 U.S.C. 719c), the Commission is hereby amending § 2.100 of its General Policy and Interpretations (13 CFR 2.100) to prescribe procedures for preparation of a report to the Congress commenting upon the President's decision which is scheduled for September 1, 1977. In preparation of its Report the Commission is directed to submit its comment within 20 days of the President's transmittal and to include any information with regard to the President's decision which the Commission considers appropriate. This order expands the procedural schedule set out in Order No. 558, issued December 14, 1976, which culminated in the Recommendation to the President issued May 1, 1977.

In order to permit preparation of this report to the Congress in the 20 days allotted, it will be necessary to utilize all Commission employees without regard to their previous roles in the development of the record. In this regard an exception must be provided to the procedures previously adopted in Paragraph (e) of § 2.100, Part 2, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations, which presently provides as follows:

§ 2.100 Statement of procedures prescribed for the implementation of the Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719, et seq.

(e) The ex parte rule of the Commission, as set forth in 18 CFR 1.4(c), shall not apply hereunder except that the Commission or a delegate shall not receive communications regarding matters of substance from any of the following persons:

- (1) Any applicant, or affiliate thereof, or any witness for an applicant;
- (2) Counsel for any applicant or party to the proceeding; and
- (3) Any party or any witness for such party, if such person has advocated on the record the approval or rejection of any project proposed by any applicant.

The restrictions in this subsection shall not apply to written communications for presentation of or analysis of supplemental information or data that are filed or received pursuant to the terms of Order 558-C.

The restrictions imposed in this section were designed in part to insure impartiality in the process through which the exceptions of the parties were considered and to allow a continued advocacy role for the Staff members who participated as a party throughout the hearings and in the oral argument. The consideration of the exceptions raised by the parties was concluded by the Recommendation to the President issued May 1, 1977,¹ and Staff's advocacy role

¹ We rejected El Paso Alaska Company's petition for reconsideration on June 10, 1977.

was completed in oral argument. The rationale of subsection (e) with respect to Staff communication thus no longer applies and should not remain in effect for the comment prepared pursuant to this order. Of course, the Commission in evaluating materials presented by Staff members will be cognizant of any position previously taken by such person.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Alaska Natural Gas Transportation Act of 1976 that § 2.100 of the Commission's General Policy and Interpretations be amended to provide for preparation of a report commenting on the President's decision as provided herein.

(2) In view of the purpose, intent and effect of the amendment, good cause exists for making it effective upon receipt of the report from the President.

The Commission, acting pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976, (90 Stat. 830, 15 U.S.C. 719 et seq.) particularly Sections 3, 5 and 8 thereof, and pursuant to the Natural Gas Act, particularly Section 16 thereof (52 Stat. 830, 15 U.S.C. 7170) orders:

Section 2.100, Part 2, Subchapter A, Chapter I, Title 18 of the Code of Federal Regulations is amended by adding a new paragraph (f) to read as follows:

§ 2.100 Statement of procedures prescribed for the implementation of the Alaska Natural Gas Transportation Act of 1976, 15 U.S.C. 719 et seq.

(f) Notwithstanding the provisions of paragraph (d) of this section, the Chairman shall designate by letter persons to assist the Commission in preparation of its report to the Congress commenting upon the President's decision. Ex parte restrictions imposed by paragraphs (d) and (e) of this section shall not apply to communications from such persons to the Commission in concerning this report.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29008 Filed 9-30-77; 8:45 am]

[6560-01]

Title 40—Protection of Environment CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER B—GRANTS AND OTHER FEDERAL ASSISTANCE [FRL 797-1]

PART 33—SUBAGREEMENTS

Minimum Standards for Procurement Under EPA Grants

AGENCY: Environmental Protection Agency.

ACTION: Interim rule.

SUMMARY: This amendment changes the effective date of the interim sub-

agreement regulations to allow additional time to consider alternatives.

EFFECTIVE DATE: March 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Alexander J. Greene, Director, Grants Administration Division (PM-216), Environmental Protection Agency, Washington, D.C. 20460 (202-755-0850).

SUPPLEMENTARY INFORMATION: Interim subagreement regulations were promulgated by the Environmental Protection Agency on February 8, 1977 (42 FR 8089) with an effective date of March 31, 1977, which was subsequently extended to October 1, 1977 (42 FR 33033). By this action, the effective date is changed as follows:

EFFECTIVE DATE. These interim Part 33 subagreement regulations shall become effective on March 1, 1978, and shall govern all procurement actions under grants awarded on or after that date. Procurement actions taken under grants awarded prior to March 1, 1978, are subject to these regulations if the grant (1) includes a special condition requiring compliance with 40 CFR Part 33, or (2) is a Section 208 FWPCA grant subject to EPA Program Guidance Memorandum SAM-14 (published April 27, 1976, at 41 FR 17702).

Dated: September 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 77-28922 Filed 9-28-77; 4:06 pm]

[6315-01]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6802-8]

PART 1068—GRANTEE FINANCIAL MANAGEMENT

Subpart—Waiver of Non-Federal Share; Reprogrammed Special Crisis Intervention Program Funds

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The Community Services Administration is waiving the non-Federal share requirement for those funds which are converted from Program Account No. 22 in the Special Crisis Intervention Program to Program Account No. 21 in support of Weatherization. CSA had previously stated that those funds would be subject to existing CSA non-Federal share requirements. This rule will relieve grantees of the burden of mobilizing additional matching resources for which they had no opportunity to plan due to circumstances beyond their control.

DATE: This rule becomes effective October 3, 1977, since it benefits all grantees involved.

FOR FURTHER INFORMATION CONTACT:

Mr. Walter Lumpkin, Community Services Administration, Office of Operations, Emergency Energy Conservation Program, 1200 19th Street NW., Washington, D.C. 20506. Telephone: 202-254-5240.

SUPPLEMENTARY INFORMATION: On June 29, 1977 CSA published in the FEDERAL REGISTER a letter and a memorandum dated May 25, 1977, by which the Governor of each State, Puerto Rico, and the Virgin Islands and the Mayor of the District of Columbia had been notified that funds for the Special Crisis Intervention Program were available and which detailed the conditions under which the program would be operated. The memorandum also noted that the funds granted to each State which could not be obligated effectively for crisis intervention by the expiration date of the program would be reprogrammed for support of weatherization activities and that those funds would be subject to existing CSA non-Federal share requirements.

However, grantees had no way of knowing about the extent of this additional funding, or whether in fact funds would be available at all for conversion to weatherization, and therefore have had no opportunity to plan for additional matching resources. Moreover, these funds came at the same time as grantees received a three hundred percent increase in energy funding which itself has all but exhausted the sources of such non-Federal assistance. Under these circumstances and inasmuch as these funds were originally appropriated by the Congress for a program with no non-Federal share requirement, CSA has determined that it is programmatically logical to waive the non-Federal share requirement for those funds which are converted from Program Account No. 22 in the Special Crisis Intervention Program, to Program Account No. 21 in support of Weatherization.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR Part 1068 is amended by adding a new subpart as follows:

Subpart—Waiver of Non-Federal Share; Reprogrammed Special Crisis Intervention Program Funds

Sec.
1068.25-1 Applicability.
1068.25-2 Policy.

AUTHORITY: Sec. 802, 78 Stat. 530; (42 U.S.C. 2942).

Subpart—Waiver of Non-Federal Share; Reprogrammed Special Crisis Intervention Program Funds

§ 1068.25-1 Applicability.

This subpart applies to grants made under section 222(a)(12) of the Economic Opportunity Act of 1964, as amended, for the Special Crisis Intervention Program funds which were part of the fiscal year 1977 Supplemental Appropriation.

§ 1068.25-2 Policy.

A waiver of the non-Federal share requirement is granted for those Special Crisis Intervention Program funds which were a part of the fiscal year 1977 Supplemental Appropriation, which could not be effectively spent under that program, and which, in accordance with the language of the Senate Appropriations Committee Report, are being converted from Program Account No. 22 to Program Account No. 21 to support weatherization activities.

[FR Doc. 77-28912 Filed 9-30-77; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1276]

PART 1033—CAR SERVICE

Michigan Interstate Railway Company Authorized To Operate Portion of Former Ann Arbor

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Service Order No. 1276).

SUMMARY: Service Order No. 1276 authorizes the Michigan Interstate Railway Company (MI) to operate over the former Ann Arbor (AA) line between Ann Arbor, Michigan, and Toledo, Ohio. Present operation of the entire line of the former AA between Toledo and Frankfort, Michigan, passing through Ann Arbor, is being terminated September 30, 1977, because of the cancellation of the operating agreement between the State of Michigan and ConRail. The portion of the railroad west of Ann Arbor will be operated by the MI as Designated Operator for the State of Michigan. The State owns the portion of the AA between Ann Arbor and Toledo, Ohio, and this portion is being leased to the MI. Operation by the MI over these tracks of the former AA between Ann Arbor and Toledo is necessary to continue essential rail service to shippers served by the line, and to maintain through connections with that portion between Ann Arbor and Frankfort.

DATES: Effective 12:01 a.m., October 1, 1977. Expires 11:59 p.m., January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service

Board, held in Washington, D.C. on the 28th day of September, 1977.

The Michigan Department of State Highways and Transportation (State), the owner of those portions of the former Ann Arbor (AA) extending between Toledo, Ohio, and Ann Arbor, Michigan, and between East Pittsfield, Michigan, and Saline, Michigan, has terminated its agreement with the Consolidated Rail Corporation (ConRail) for operation of these lines on its behalf, effective at 12:01 a.m., October 1, 1977. These lines have been leased by the State to the Michigan Interstate Railway Company (MI), which will also become the designated operator for the State of the remaining lines of the former AA between Ann Arbor and Frankfort, Michigan, thence via car ferries between Frankfort and certain ports in Wisconsin on the west shore of Lake Michigan. Operation by the MI of the lines it has leased from the State and of the additional lines as designated operator for the State must commence at 12:01 a.m., October 1, 1977, in order to provide uninterrupted rail service to shippers using these lines. In the opinion of the Commission, operation by the MI over these tracks of the former AA is necessary in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1276 Service Order No. 1276.

(a) Michigan Interstate Railway Company authorized to operate portions of former Ann Arbor. The Michigan Interstate Railway Company (MI) is authorized to operate over tracks of the former Ann Arbor (AA) between:

(1) Toledo, Ohio, and Ann Arbor, Michigan, a distance of 47.54 miles, and between;

(2) East Pittsfield, Michigan, and Saline, Michigan, a distance of 5.6 miles.

(b) Application. The provisions of this order shall apply to intrastate, interstate and foreign traffic.

(c) Rates applicable. Inasmuch as this operation by the MI over tracks previously operated by the Consolidated Rail Corporation (ConRail) and over tracks of the AA is deemed to be due to carrier's disability, the rates applicable to traffic moved over these lines shall be the rates applicable to traffic routed to, from, or via these lines which were formerly in effect on such traffic when routed via ConRail, until tariffs naming rates and routes specifically applicable via the MI become effective.

(d) In transporting traffic over these lines, the MI, and all other common carriers shall proceed even though no interchange agreements or contracts, agreements, or arrangements with reference to the divisions of the rates of transportation applicable to that traffic now exist between them. Interchange arrange-

ments and divisions shall be those in effect March 31, 1976, when operation of these lines by the former AA ceased, unless other interchange or divisional agreements have been voluntarily agreed upon between the carriers, or unless other bases for interchange or division of revenues have been established by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(e) Effective date. This order shall become effective at 12:01 a.m., October 1, 1977.

(f) Expiration date. The provisions of this order shall expire at 11:59 p.m., January 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1, 12, 15, and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29017 Filed 9-30-77; 8:45 am]

[7035-01]

[Ex Parte No. 325]

PART 1091—PRACTICES OF FOR-HIRE MOTOR COMMON CARRIERS OF PROPERTY PARTICIPATING IN ALASKAN MOTOR-OCEAN-MOTOR (AMOM) SUBSTITUTED SERVICE

Substituted Service—Water-For-Motor Service (Fishyback Service)—Alaskan Trade

AGENCY: Interstate Commerce Commission.

ACTION: Rulemaking.

SUMMARY: In response to the June 28, 1976, notice of proposed rulemaking and order, the Administrative Law Judge to whom the rulemaking proceeding was assigned, after submission of pleadings in the matter, would impose rules and regulations to govern the use of substituted water-for-motor service in the Alaskan trade. The rules applicable to motor common carriers which hold operating rights between points in Alaska, on the one hand, and, on the other points in all or part of the 48 contiguous States, but which do not hold authority to serve the port points at which substitution by maritime water carrier would be effected.

EFFECTIVE DATE: February 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, phone No. 202-275-7693.

SUPPLEMENTARY INFORMATION: Background: The Interstate Commerce Commission in rendering decisions concerned with substituted service generally has held that in order for the motor common carrier under Part II of the Interstate Commerce Act to tender freight to and be retendered freight from another carrier mode in substituted service, the points at which the motor carrier effects the exchange of freight must be points which it is specifically authorized to serve. It has been held that mere possession of authority from ultimate origin to ultimate destination (so-called overhead authority) was insufficient to allow substitution at points not specifically authorized. Certain motor common carriers holding such overhead rights had been operating between their respective territories in the United States and Alaska by operating over the Alcan highway. Such carriers by tariff rule sought in early 1976 to be allowed in addition to their Alcan operations to use Seattle and Tacoma, Wash., as points where they would substitute the services of a maritime water carrier for movement between Seattle and Tacoma and Anchorage, Alaska. Objections were raised and the matter was subsequently placed in a rulemaking posture to ascertain the need for possible departure from prior Commission holdings regarding the need to have specific rights at the points where substituted service would be effected. The concerned motor carriers desiring to have rules promulgated in their favor would also be willing to publish tariffs which hold out the substituted service year round and at lower rates than the Alcan route, with the shipper always having the benefit of the less costly substituted service route unless it specifically directed movement over the Alcan.

The report of the Administrative Law Judge finds there are exceptions to the general rule noted above and that same should be recognized here by way of specific rules which also would provide for a dual rate structure to insure the shipping public would always have the benefit of the less costly substituted service route unless otherwise directed by a shipper.

The new rules set out the definition of the motor-ocean-motor substituted service, who can participate in same, and what each irregular route motor common carrier's tariff publication must set forth, particularly the dual rate structure. While the motor carriers in favor of rules would hold allowance of the service of the port of Anchorage, Alaska, the rules set out in the report of the Judge would run to all Alaskan seaports.

Parties to the pleadings have 30 days

from the date of service of the Judge's report to file exceptions to his findings.

Issued at Washington, D.C., September 23, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

Subchapter A of Chapter X of Title 49 of the Code of Federal Regulations is amended by adding a new part 1091, as follows:

- Sec.
1091.1 Definition of AMOM Service.
1091.2 Motor carrier operating rights requirement for participation.
1091.3 Rate division arrangements with ocean carriers.
1091.4 Tariff notice for AMOM Service and shipper designation feature.
1091.5 Motor carrier bill of lading designation.
1091.6 Motor carrier tariff inclusions for AMOM Service.
1091.7 Motor carrier two-tier rate structure—conditions for use.
1091.8 Nonapplicability of AMOM Service to exempt commodities.

AUTHORITY: Secs. 553 and 559 of the Administrative Procedure Act (5 U.S.C.), the national transportation policy (49 U.S.C. preceding section 1) and Parts I, II, III, and IV of the Interstate Commerce Act, and particularly sections 2, 3, 15(3), 15(10), 15(12), 17(3), 204(a)(6), 206(a)(1), 208(b), 210a, 216(c), 218(d), 218(e), 217, 222, 304, 305, 307, 402, 403(a), 404, 406, and 410(a) of the Interstate Commerce Act (49 U.S.C.).

§ 1091.1 Definition of AMOM Service.

Alaskan Motor-Ocean-Motor (AMOM) Service means the use of a common carrier by water subject to the Shipping Act, 1916, as amended, (hereafter referred to as the ocean carrier) by an irregular route motor common carrier authorized to transport property in interstate or foreign commerce under authority granted by the Interstate Commerce Commission between points in Alaska, on the one hand, and, on the other, any points in the continental 48 States (hereafter referred to as the motor carrier) for the movement of its loaded or empty equipment between a seaport in Alaska, on the one hand, and Seattle or Tacoma, Wash., on the other.

§ 1091.2 Motor carrier operating rights requirement for participation.

All motor carriers authorized under irregular route authority to provide service between any point in Alaska, on the one hand, and, on the other, any point in the continental 48 states may tender empty or loaded equipment to and receive their previously tendered empty or loaded equipment in AMOM Service from ocean carriers at a seaport in Alaska and Seattle or Tacoma, Wash.

§ 1091.3 Rate division arrangements with ocean carriers.

Motor common carriers may enter into arrangements with ocean carriers for the division of revenue derived by motor carriers when AMOM Service is utilized.

§ 1091.4 Tariff notice for AMOM Service and shipper designation feature.

Motor carriers may participate in AMOM Service only if their tariff publi-

cations give notice that such service will be utilized, and that the shipper has the right to elect with regard to any particular shipment that AMOM Service not be provided.

§ 1091.5 Motor carrier bill of lading designation.

Bills of lading of motor carriers using AMOM Service must include the following designation:

"☐ Transportation by all-highway service requested.

Notice.—Unless the above box is checked, shipment will be transported by carrier over a substituted water route between Seattle or Tacoma, Washington, and a seaport in Alaska."

§ 1091.6 Motor carrier tariff inclusions for AMOM Service.

Tariffs embracing AMOM Service rates or charges, including substituted service directories, if used, shall set forth the underlying operating rights (overhead) relied upon, the service covered by the published rates or charges, the points of substitution between modes of transportation, and the names of the carriers participating therein.

§ 1091.7 Motor carrier two-tier rate structure—conditions for use.

Motor carriers utilizing AMOM Service may publish tariffs setting forth different rates or charges for AMOM Service and for all-highway service if the AMOM Service is available throughout the year and charges and cost incurred are less than the charges and costs incurred for all-highway service.

§ 1091.8 Nonapplicability of AMOM Service to exempt commodities.

Tariffs setting forth charges for AMOM Service may be published only with respect to commodities the transportation of which is subject to economic regulation throughout the entire movement provided for in such tariffs.

[FR Doc. 77-28916 Filed 9-30-77; 8:45 am]

[7035-01]

SUBCHAPTER B—PRACTICE AND PROCEDURES
[Ex Parte No. 290]

PART 1102—PROCEDURES GOVERNING RAIL CARRIER GENERAL INCREASE PROCEEDINGS

Procedures Governing Rail General Increase Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Final amended rule.

SUMMARY: In the Commission's report and order in this proceeding, regarding procedures governing rail general increase, served March 10, 1976, as modified by order served February 8, 1977, certain rules and regulations were adopted which require the submission of data and information in support of the proposed rail carrier general increases. Petitions for leave to reopen and for reconsideration were filed by respondent railroads on the grounds that changed circumstances and technical errors in the regulations and schedules justified

their request. The Commission granted the petition to reopen. Technical changes in the regulations were made as set forth below, to eliminate any discrepancies in the data which might arise because of the new Uniform System of Accounts. Schedules D, E, and F were simplified, instructions were clarified where warranted in all schedules, and errors in computations were corrected. Otherwise, no substantial changes were made in the rules and regulations.

EFFECTIVE DATE: Service date of order, September 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423, phone No. 202-275-7693.

SUPPLEMENTARY INFORMATION: In the report and order in the above-entitled proceeding (351 I.C.C. 544 (1976)), as modified by order served February 8, 1977, certain regulations were prescribed setting forth the filing and serving requirements of rail carrier submissions in a general freight increase proceeding. The respondent railroads, in petitions for leave to reopen and for reconsideration, filed April 28, 1977, showed that changed circumstances warranted the reopening of the proceeding. The Commission upon reopening the proceeding in its order served September 28, 1977, disposed of the arguments presented in respondents' petition. Changes in the schedules were warranted in light of Docket No. 36367, "Revision to the Uniform System of Accounts for Railroads," served June 24, 1977, to eliminate incompatible expense data which would arise from data based on two different accounting systems. The information to be submitted in some of the schedules was also simplified or clarified. Technical errors in mathematical computations or references to wrong lines, were also corrected. Recyclable commodities not included in the list of commodities to be reported in Schedules C and H were also added in light of our investigation in Ex Parte No. 319, "Investigation of Freight Rates for the Transportation of Recyclable or Recycled Materials," served February 4, 1977. Respondents' request for major changes in the schedules, for example, the elimination of interterritorial district data in Schedule C, the elimination of Schedules G and H, the filing of some schedules on an annual basis etc., were denied, since these changes would deny the Commission and the parties of information needed to determine the justifiability of a general increase. Respondents' request that this proceeding be held in abeyance pending a decision in Ex Parte No. 338, "Standards and Procedures for the Establishment of Adequate Railroad Levels," or in the alternative, incorporation of this proceeding into Ex Parte No. 338, was also denied since that would unduly burden the record in that proceeding and in the interim, deny the Commission and the par-

ties of evidence necessary to consider the merits of the general increase proposal. The modified instructions and schedules which have been prescribed are set forth below. The changes are effective as of September 28, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

- Sec.
1102.1 Application.
1102.2 Data and information related to the last prior general increase.
1102.3 Financial and revenue need data.
1102.4 Cost and revenue data.
1102.5 Employment, wage, productivity, rate data.
1102.6 Affiliate data.
1102.7 Official notice.
1102.8 Service.
1102.9 Availability of underlying data.

49 CFR 1102.1 through 1102.9 shall be revised as follows:

§ 1102.1 Application.

Upon the filing of tariff schedules containing proposed general increases in freight rates or charges for the account of substantially all common carriers by railroad in the United States or in any of the three primary ratemaking territories, namely, eastern, western, or southern, or of a petition seeking authority to file such schedules by relief from outstanding orders of the Commission, or other relief related thereto, the carriers on whose behalf such schedules or petitions are filed shall, concurrently herewith, file and serve as provided hereinafter, verified statements presenting and comprising the entire evidential case which is relied upon to support the proposed increases. Carriers subject to this rule are hereby notified that special permission to file general increase schedules shall be conditioned upon the publishing of an effective date at least 30 days later than the date of filing, to enable proper evaluation of the evidence presented. Data to be submitted in accordance with these regulations represent the minimum data required to be filed and served, and in no way shall be considered as limiting the type of evidence that may be presented. If a formal proceeding is instituted, the carriers are not precluded from updating the evidence previously submitted to reflect the contemporary situation. Nothing stated in this part shall relieve the carriers of their burden of proof imposed under the Interstate Commerce Act. An increase in freight rates or charges, by the carriers indicated, applying to a substantial number of commodities or services, for which the justification is revenue need, shall be deemed a general increase under this rule. Included within the verified statements required herewith will be copies of a news release and a summary of the increase proposal as hereinafter described:

(a) **News release.**—A news release regarding the increase proposal will be prepared so that the public in general may be apprised of the proposal, and pursuant to this purpose will contain as a minimum essentially the following:

(1) A statement directed to the editor of a newspaper indicating that the news release has been prepared in accordance with regulations of the Interstate Commerce Commission and requesting that the information being forwarded be given prominent placement in the newspaper so that as large a segment as possible of the public in general may be apprised of the increase proposal.

(2) A description in language sufficient to apprise a reader who is not an expert in transportation matters, of the nature of the proposal including the amount of increase, the proponent(s), its geographic scope, and in general terms any holddowns, flagouts, or exceptions.

(3) A statement summarizing the supporting rationale for the increase including why it is needed, what it will accomplish, and in general terms accounting for the presence of the holddowns, flagouts, and exceptions.

(4) A statement indicating that copies of the proposal and supporting evidentiary material have been forwarded to regional and district offices of the Commission and State regulatory agencies responsible for such matters in all States served by the carrier and affected by the proposal; and indicating that the public may obtain copies of these documents by writing to "(Here the name and address of the carrier of publishing agent will be inserted)."

(b) **Summary.** A summary of the increase proposal, drafted in language directed at a reader who is not an expert in transportation matters, will be prepared in sufficient detail to apprise such a reader of the nature of the increase proposal. Pursuant to this purpose, included within the contents of the summary will be the following:

(1) A general description of the essentials of the increase proposal including its proponent(s), effective date, geographic scope, the amount of the increase, and a general description of holddowns, flagouts, and exceptions.

(2) A summary of the supporting rationale for the increase including why it is needed, what it will accomplish and an explanation in general terms for the presence of the holddowns, flagouts, and exceptions.

(3) A statement indicating that copies of the proposal and the entire evidentiary case in support thereof have been forwarded to regional and district offices of the Commission and to the State regulatory agencies responsible for such matters in all States served by the carrier and affected by the proposal; and

(4) A statement as follows: "The proposed tariff contents the only legal terms of the increase binding on the parties" ["(A) nd/or petition" if applicable].

¹ The prescribed procedures also incorporate changes recently adopted in Ex Parte No. 290 (Sub-No. 1), Procedures—Rail Car. General Increase Proceedings, 349 I.C.C. 22 (1974), and Ex Parte No. 286, Notice of Increases in Frt. Rates and Pass. Fares, 349 I.C.C. 741 (1975).

§ 1102.2 Data and information related to the last prior general increase.

Upon the filing of a petition for authority to publish a general rate increase, the following data and information shall be provided by individual class I line-haul railroads and summarized for each district and all districts combined for the period, beginning with the first calendar quarter after the effective date of the last general increase to and including the last complete calendar quarter ending at least 31 days prior to the filing of a petition for a new general rate increase (hereinafter referred to as the study period); *Provided*, That in the event the study period so determined fails to cover a minimum of one calendar quarter, then the study period shall begin with the effective date of the last general increase and run to and including the last complete month ending at least 31 days prior to the filing of a petition for a new general rate increase; *And further provided*, That in the event that the study period exceeds 18 months, the Commission may, at its discretion, shorten such period to the extent deemed by it to be necessary, either upon its own motion or upon petition filed by the railroads.

(a) *General data.* The following shall be submitted for line-haul traffic:

(1) Total estimated revenues for the study period if the last authorized increase had been fully applied.

(2) Total actual revenues, ton-miles, and revenue per ton-mile based on rates actually applied during the study period.

(3) Total actual revenue, ton-miles, and revenue per ton-mile for the corresponding period (calendar quarters) in the year preceding the study period.

(4) Explanation of any significant differences between items (2) and (3), such as changes in traffic levels, average length of haul, traffic mix, rate changes, and other relevant factors.

(5) Total increase in revenues obtained by application of the last authorized general increase (item (2) less item (3)).

(b) *Accessorial services data.* The following shall be submitted for those special and accessorial services such as collection on delivery and wharfage charges listed on page 13 of Tariff of Increased Rates and Charges, X-281-A:

(1) Total estimated revenues for the study period if the last authorized increase had been fully applied.

(2) Total actual revenues based on charges actually applied during the study period.

(3) Total actual revenues for the corresponding period (calendar quarters) in the year preceding the study period.

(4) Total increase in revenues obtained by application of the last authorized general increase (item (2) less item (3)).

(c) *Availability of underlying data.* All underlying data used in preparation of the material outlined above shall be made available for inspection upon reasonable request in writing, and shall be furnished by the railroads to the Commission upon request. The underlying data shall be made available also at the

hearing, but only if and to the extent specifically requested in writing and required by any party for the purpose of cross-examination.

§ 1102.3 Financial and revenue need data.

The railroads shall submit the data required in Schedules A, B, and I. The purpose of these schedules is to obtain such financial data as will facilitate an analysis of the financial posture and revenue needs of individual petitioning railroads, as well as groups of railroad by district (Eastern, Southern, and Western), and all groups combined, as appropriate. Petitioning railroads shall also submit such evidence as will permit a determination of the cost of debt and equity capital, and the respective amounts of this capital which they need to attract in order to insure their financial stability and their capacity to render service.

§ 1102.4 Cost and revenue data.

(a) The railroads shall submit the cost and revenue data required in Schedule C (in four parts). The purpose of Schedule C is to obtain, for the time periods therein provided, cost and revenue data as appropriate for specified commodities transported by individual railroads in Eastern, Southern, and Western districts, by district totals and for districts combined.

(b) To develop these data, traffic and cost studies will be required. The traffic studies should, among other things, (1) develop the number and kind of traffic service units to which the appropriate service unit costs should be applied, and (2) develop the actual revenues associated with the transportation of the specific commodities. The cost study should develop the appropriate service unit costs referred to in subparagraph (1) of this paragraph.

(c) Both the traffic and the cost study should be developed for the same year. The study year shall be referred to as the "Base Period (Year)-Actual." That year shall be the four-quarter period ending no later than 4 months prior to the filing date of the proposed rate increase.*

(d) The traffic study shall include a probability sampling of the actual traffic handled during identical time periods for each study carrier (each class I line-haul

railroad) and shall be statistically valid at the individual study carrier level. The sample shall be taken according to acceptable standards of probability sampling principles and practices. The carriers shall explain and evaluate the probability sample from the standpoint of purpose, sample design (including explanation of estimation procedure and disclosure of sampling errors for derived characteristics), quality control aspects involved in processing and tabulating data, and any statistical analysis performed on the sampled data.²

(e) The cost study shall be based on service unit costs developed for each individual study carrier through the use of Rail Form A costing procedures. These service unit costs shall be appropriately adjusted, if necessary, to reflect the transportation characteristics of the specified commodities and shall be applied to the respective individual carrier's traffic service units as determined from its traffic study. Since the determination of relative revenue/cost relationships among the various commodity movements is important, the Rail Form A costing technique is required. However, this requirement does not preclude the use of other uniform costing procedures the result of which may be submitted in addition to the Rail Form A costs. In this event appropriate explanation of the principles and procedures must be furnished.

(f) The carriers shall be allowed to use appropriate mileage or per diem rates, or both, increased for general overhead for the car(s) being sampled, as an alternative to Rail Form A car costs.

(g) The cost study shall be based on two levels of cost, namely, (1) the variable, as computed in Rail Form A costing procedures, and (2) the fully allocated expense level (F.A.E.). The latter level is similar to the "fully allocated costs" described by the Commission in Docket No. 34013, *Rules to Govern Assembling and Presenting Cost Evidence*, 337 I.C.C. 298, but excludes return on investment. The F.A.E. level is identical to the so-called T.O.E. level, i.e., total operating expenses, rents, and taxes (other than Federal income taxes).

(h) Traffic and cost study data shall be developed for the following time periods; (1) the "Base Period (year)-

*The following illustrates the base period (year)-actual depending on when the proposal is filed. These dates would apply in all schedules where the term base period (year)-actual is used unless specified otherwise.

Filing date of proposed increase	Base period (year)-actual (four quarter period ending)
January	June 30, preceding year.
February	September 30, preceding year.
March	Do.
April	Do.
May	December 31, preceding year.
June	Do.
July	Do.
August	March 31, filing-month year.
September	Do.
October	Do.
November	June 30, filing-month year.
December	Do.

² Although not adopted by the Commission, attention is called to a staff report "Guidelines for the Presentation of the Results of Sample Studies," February 1, 1971, available from the Superintendent of Documents, Washington, D.C.

Actual" as defined in paragraph (c) of this section and (2) the "Present Proforma Year" which shall be the "Base Period (Year)-Actual" restated to reflect the wage, price, traffic, productivity, and rate (present and proposed) conditions prevailing on or near the effective date of the proposed general increase. The time periods identified above are identical to those in Schedule B, Part I and Schedules D through G.

§ 1102.5 Employment, wage, productivity, and rate data.

(a) The class I railroads shall submit the wage, operations, productivity and other statistical data required in Schedules D through G. A major purpose for the supporting data required in these schedules is to measure the validity of the total increases in railway operating expenses shown in Schedule B, pro forma year over the base year-actual. Since Schedules E and F represent only the major segments of railway operating expenses, it is realized that the totals of those schedules will not reconcile to Schedule B, line 2. Data required in Schedules D through G are required only by district groupings of carriers in the Eastern, Southern, and Western districts, and for all districts combined. The time periods required to be used are the base year-actual, the pro forma period (the "base year-actual" restated to reflect conditions prevailing on or near the effective date of the proposed rate increase).

(b) The class I railroads shall also submit the data required by Schedule H which develops specific rate and revenue information to measure the revenue impact of holddowns and other exceptions proposed by the carriers.

§ 1102.6 Affiliate data.

Each railroad shall submit details of transactions with its parent, subsidiary, or affiliated companies in each of the last 3 calendar years as follows: (a) Advances whether in cash or property; (b) encumbrances of railroad assets or the assets of a parent, and affiliate, or subsidiary for noncarrier purposes; and (c) any other monetary or property transactions, including the payment and receipt of dividends. Normal transactions, such as interline settlements, and any other considered necessary to and normally considered in the course of railroad business, need not be reported for the purpose of this particular section. In addition to these data, Schedule J shall be submitted as a composite district and nationwide basis. The purpose of this schedule is to facilitate an assessment of the effect on the carriers' profits of transactions with affiliates.

§ 1102.7 Official notice.

Official notice will be taken of all the railroads' annual and quarterly reports on file with the Commission.

§ 1102.8 Service.

(a) The detailed information called for herein shall be in writing and shall be verified by a person or persons having knowledge thereof. The original and 24 copies of each verified statement for the use of the Commission shall be filed with the Secretary, Interstate Commerce Commission, Washington, D.C. 20423. One copy of each statement shall be sent by first-class mail to each of the regional offices of the Commission in the area affected by the proposed increase, where it will be open to public inspection.

(b) A copy of each statement shall be mailed by first-class mail to each party of record in the last formal proceeding concerning a general rate increase nationally or in the affected area or territory, and to regional and district offices of the Commission and State regulatory agencies responsible for such matters in all States served by the carrier and affected by the proposal, and that fact shall be evidenced by a certificate of service filed with the petitions. Where service is made by mail, the statements shall be mailed in time to be received on the date the original is filed with the Commission. A copy of such statement shall be furnished to any interested person upon request.

(c) A copy of the news release, whose contents are described in § 1102.1 above, will be transmitted to the major news wire services and the principal newspaper of general circulation in the capitol and four largest cities of all States served by the carrier and affected by the proposal. For the purpose of this requirement, the principal newspaper of general circulation is that newspaper of general circulation published in a city having the largest average daily circulation. Where service is made by mail, the news release shall be mailed in time to be received on the date the original is filed with the Commission.

(d) The fact of service as herein required shall be evidenced by a certificate of service filed with the petition.

§ 1102.9 Availability of underlying data.

All underlying data used in preparation of the material outlined above shall be made available in the office of the party serving such verified matter during usual office hours for inspection by any party of record desiring to do so, before hearing, or when no hearing is held, and shall be made available to the Commission upon request therefore. The underlying data shall also be made available at the hearing, but only if and to the extent specifically requested in writing and required by any party for the purpose of cross-examination.

Carrier: _____
 District: _____
 Nationwide: ☐ Ex Parte
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 Appendix

SCHEDULE A

Selected financial data (dollars in thousands)

Line No.	Item (c)	Source/ (b)	Calendar Yr. 19 (3)	Calendar Yr. 20 (4)	Base Year-Actual 20 (e)
1.	Net income	A.R. Sch. 300			
2.	Depreciation & retirements—road	A.P. Sch. 300, Total Depr. & Retire. (cols. 1 & 2)			
3.	Depreciation & retirements—equipment	A.R. Sch. 300, Total Depr. & Retire. (cols. 1 & 2)			
4.	Long-term debt due within one year	A.R. Sch. 200, Acct. 764			
5.	Long-term debt due after one year	A.R. Sch. 200, Total of Accts. 765, 767, 768, 769, 770, 771 & 770.2			
6.	Long-term debt due after one year ^{2/}	See L. 5			
7.	Income available for fixed charges	A.P. Sch. 300			
8.	Fixed and contingent charges	A.P. Sch. 300, Acct. 531			
9.	Railway operating expenses	A.P. Sch. 300, Acct. 531			
10.	Net railway operating income	A.R. Sch. 300, footnote			
11.	Provision for deferred taxes	A.R. Sch. 300, Acct. 557			
12.	Equity in earnings (losses) of affiliated companies	A.P. Sch. 300, Income from affiliated Cos.			
13.	Total current assets	A.P. Sch. 200, Total current assets			
14.	Total current liabilities	A.P. Sch. 200, Total current liabilities			
15.	Shareholders' equity	A.P. Sch. 200, Total (net) stockholders' equity			
16.	Shareholders' equity ^{2/}	See L. 5			
17.	Cash dividends paid	A.R. Sch. 305, Acct. 623			
18.	Interest expense, amortization of discount on funded debt, contingent interest and release of premiums on funded debt	A.R. Sch. 300, Accts. 546 (int. exp.) + 547 + 548 + 549 (contingent interest) = 517			
19.	Net investment in railroad property	(A.P. Sch. 200, Accts. 701 + 712) + (Sch. 211 Net, line 39, col. (d) minus col. (e))			
20.	Net investment in railroad property ^{3/}	See L. 20			
21.	Current ratio	L. 14 ÷ L. 15			
22.	Dividend pay-out ratio	L. 18 ÷ L. 1			
23.	Rate of return on net investment in railroad property	L. 11 ÷ L. 21			
24.	Rate of return on shareholders' equity	L. 1 ÷ L. 17			
25.	Cash flow	LS. 1 thru 3 + 12 - L. 13			
26.	Throw-off to debt ratio; current maturities	L. 26 ÷ L. 4			
27.	Capital structure ratio	L. 5 + L. 5 + L. 16			
28.	Rate of return on total capitalization	L. 1 ÷ L. 19 ÷ L. 6 + L. 17			
29.	Fixed and contingent charge coverage (times)	L. 7 ÷ L. 8			
30.	Ratio ry. operating expenses (includes net rents) to ry. operating revenue	L. 9 ÷ L. 10			

- 1/ Annual report sources refer to 1978 proposed Annual Report Form R-1. For years subsequent to 1978, use the comparable annual report sources. For years prior to 1978, see Conversion Table for Schedule A.
- 2/ Show average of beginning and end-of-year figure.
- 3/ Show average of beginning and end-of-year figure.

Annual Report Sch. 211 provides year-end data only. Refer to prior annual reports for comparable beginning-of-year data.

SCHEDULE A CONVERSION TABLE
for comparable data for 1977 and prior years to 1978

Ex Parte No. 290
 Appendix

Line No.	PROPOSED SCHEDULE A Item	System of Accounts Effective 1/1/78 Source: Proposed 1978 A.R. Form R-1	System of Accounts Prior to 1/1/78 Comparable Data from 1977 Annual Report, R-1
1.	Net income	A.R. Sch. 300	A.R. Sch. 300, L. 69, Col. (b)
2.	Depreciation & retirements—road	A.R. Sch. 322, Total Depr. & Retire. Cols.	A.P. Sch. 320, L. 47 + L. 48, Col. (b)
3.	Depreciation & retirements—equipment	A.R. Sch. 330, Total Depr. & Retire. Cols.	A.R. Sch. 320, L. 81 + L. 82, Col. (b)
4.	Long-term debt due within one year	A.R. Sch. 200, Acct. 764	A.R. Sch. 200, L. 65
5.	Long-term debt due after one year	A.R. Sch. 209, Total of Accts. 765, 767, 768, 769, 770, 771 & 770.2	A.R. Sch. 200, L. 74
6.	Long-term debt due after one year (avn. beg. and end-of-year)	See L. 5	See L. 5, above
7.	Income available for fixed charges	A.R. Sch. 300	A.R. Sch. 300, L. 48 - L. 49 + L. 5 (Acct. 533) + Sch. 350, total income taxes, L. 59
8.	Fixed and contingent charges	A.R. Sch. 300 add Accts. 546, 547 and 548	A.R. Sch. 300, add Accts 546, 547, and 548
9.	Railway operating expenses	A.R. Sch. 300, Acct. 531	A.R. Sch. 300, L. 2 - L. 13 + L. 20 - L. 24 + L. 49 + (Sch. 350 L. 64 - L. 59)
10.	Railway operating revenues	A.R. Sch. 300, Acct. 501	A.R. Sch. 300, Acct. 501, L. 1, Col. (b)
11.	Net railway operating income	A.R. Sch. 300, footnote	A.R. Sch. 300, L. 22 minus taxes applicable to Accts. 560 & 562 (footnote)
12.	Provision for deferred taxes	A.P. Sch. 300, Acct. 557	A.R. Sch. 300, Acct. 533, L. 5
13.	Equity in earnings (losses) of affiliated companies	A.P. Sch. 300, Income from affiliated cos.; Dividends/Equity in undistributed earnings (losses)	A.R. Sch. 300, L. 36

SCHEDULE A CONVERSION TABLE
for comparable data for 1977 and prior years to 1978,
Ex Parte No. 290
Appendix

Line No.	PROPOSED SCHEDULE A Item	System of Accounts Effective 1/1/78 Source: Proposed 1978 A.R. Form R-1	System of Accounts Prior to 1/1/78 Comparable Data from 1977 Annual Report, R-1
14.	Total current assets	A.P. Sch. 200, Total current assets	A.R. Sch. 200, L. 15
15.	Total current liabilities	A.R. Sch. 200, Total current liabilities	A.P. Sch. 200, L. 64 + Acct. 764, L. 65
16.	Shareholders' equity	A.R. Sch. 200, Total (Net) stockholders' equity	A.R. Sch. 200, L. 99
17.	Shareholders' equity (avg. beg. and end-of-year)	See L. 15	See L. 16, above
18.	Cash dividends paid	A.R. Sch. 305, Acct. 623	A.R. Sch. 308, Acct. 623
19.	Interest expense, amortization of discount on funded debt, contingent interest and release of premiums on funded debt	A.R. Sch. 300, Accts. 546 (int. exp.) + 547 + 548 + 546 (contingent int.) - 517	A.R. Sch. 300, L. 50 + 51 + 52 + 53 + 86 - L. 31
20.	Net investment in railroad property	(A.R. Sch. 200, Accts. 701 + 712) + (Sch. 211 N-1, Line 39, col. (d) minus col. (e))	(A.R. Sch. 200, L. 1 + L. 12) + (A.R. Sch. 211 N-1, Line 39, col. (d) minus col. (e))
21.	Net investment in railroad property (avg. beg. and end-of-year)	See L. 20	See L. 20, above

District: _____
Nationwide: ☐ Ex Parte No. 290
Appendix

SCHEDULE B (PART I)
Income statement (dollars in thousands)

Line No.	Item (a)	Source (b)	Base Year-Actual to		Present Pro Forma Year-Freight Service		Forecast Year- Freight Service to	
			Total all Services (c)	Total Freight Passenger Service (d)	Based on Present Exps. & Revs. (f)	Based on Present Exps. & Revs. (g)	Based on Present Exps. & Revs. (h)	Based on Present Exps. & Revs. (i)
1.	Railway operating revenues	A.R. Sch. 300, Acct. 501						
2.	Railway operating expenses	A.R. Sch. 300, Acct. 531						
3.	Net revenue from railway operations	A.R. Sch. 300						
4.	Total other income	A.R. Sch. 300						
5.	Total miscellaneous deductions	A.R. Sch. 300						
6.	Net other income & deductions (dr.)/cr.	L. 4 - L. 5						
7.	Income available for fixed charges	A.R. Sch. 300						
8.	Total fixed charges	A.R. Sch. 300						
9.	Income after fixed charges	A.R. Sch. 300						
10.	Contingent interest	A.R. Sch. 300						
11.	Unusual or infrequent items (dr.)/cr.	A.R. Sch. 300						
12.	Income (loss) from continuing operations (before income taxes)	A.R. Sch. 300, Acct. 555						
13.	Income taxes on ordinary income	A.R. Sch. 300, Acct. 556						
14.	Provision for deferred income taxes	A.R. Sch. 300, Acct. 557						
15.	Income (loss) from discontinued operations	A.R. Sch. 300, Accts. 560 + 562						
16.	Ordinary income	L. 12 - L. 13 - L. 14 + L. 15						
17.	Total extraordinary items and accounting changes (debit)/credit	A.R. Sch. 300, Accts. 570 + 590 + 591 + 592						
18.	Net income	A.R. Sch. 300						
19.	Net railway operating income	L. 8 of footnote 1/						

1/ Computation of net railway operating income:

1. Net revenue from ry. operations
Sch. B, L. 3
2. Income taxes on ordinary income
Sch. B, L. 13
3. Provision for deferred income taxes
Sch. B, L. 14
4. Taxes applicable to income (loss) from operations of discontinued segment
A.R. Sch. 300, footnote
5. Taxes applicable to gain (loss) on disposal of discontinued segment
A.R. Sch. 300, footnote
6. Income from lease of road & equip.
A.R. Sch. 300, footnote
7. Rent for leased roads & equip.
L. 1 - L. 2 - L. 3 - L. 4
8. Net railway operating income
- L. 5 + L. 6 - L. 7 (footnote 1/)

2/ Annual report sources refer to 1978 proposed Annual Report Form R-1. For years subsequent to 1978, use the comparable annual report sources. For years prior to 1978, see Conversion Table for Schedule B.

Ex Parte No. 290
Appendix

SCHEDULE P CONVERSION TABLE
for comparable data for 1977 and prior years to 1978

Line No.	PROPOSED SCHEDULE B Item	System of Accounts Effective 1/1/78	Source: Proposed 1978 A.P. Form, R-1	Comparable Data from 1977 A.P. R-1 Prior to 1/1/78
1.	Railway operating revenues	A.P. Sch. 200, Acct. 501		See Conversion Table, Sch. 4, L. 10
2.	Railway operating expenses	A.P. Sch. 300, Acct. 531		See Conversion Table, Sch. 4, L. 9
3.	Net revenue from railway operations	A.P. Sch. 300		L. 1 - L. 2 above
4.	Total other income	A.P. Sch. 300		A.P. Sch. 200, L. 37 - L. 24
5.	Total miscellaneous deductions	A.P. Sch. 300		A.P. Sch. 300, L. 47
6.	Net other income & deductions (debit)/credit	L. 4 - L. 5		L. 4 - L. 5, above
7.	Income available for fixed charges	A.P. Sch. 300		See Conversion Table, Sch. 4, L. 7
8.	Total fixed charges	A.P. Sch. 300		A.P. Sch. 300, L. 54 - L. 49
9.	Income after fixed charges	A.P. Sch. 300		L. 7 - L. 8, above
10.	Contingent interest	A.P. Sch. 300		A.P. Sch. 300, L. 56
11.	Unusual or infrequent items (debit)/credit	A.P. Sch. 300, Acct. 555		A.P. Sch. 300, L. 57
12.	Income (loss) from continuing operations (before income taxes)	A.P. Sch. 300		L. 9 - L. 10 + L. 11
13.	Income taxes on ordinary income	A.P. Sch. 300, Acct. 556		A.P. Sch. 350, L. 59
14.	Provision for deferred income taxes	A.P. Sch. 300, Acct. 557		A.P. Sch. 300, L. 5

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Appendix

SCHEDULE B CONVERSION TABLE
for comparable data for 1977 and prior years to 1978

Line No.	PROPOSED SCHEDULE B	System of Accounts Effective 1/1/78	System of Accounts Prior to 1/1/78
15.	Income (loss) from discontinued operations	A.P. Sch. 200, Accts. 560 + 562	A.P. Sch. 300, L. 61
16.	Ordinary income	L. 12 - L. 13 - L. 14 + L. 15	L. 12 - L. 13 - L. 14 + L. 15, above
17.	Total extraordinary items and accounting charges (debit)/credit	A.P. Sch. 300, Accts. 570 + 590 + 591 + 592	A.P. Sch. 300, L. 68
18.	Net income	A.P. Sch. 300	A.P. Sch. 300, L. 69
19.	Net railway operating income	L. 8 of footnote 1/	L. 8 of footnote 1/

- 1/ 1. Net revenue from ry. ops.
2. Income taxes on ord. income
3. Provision for deferred income taxes
4. Taxes applicable to income (loss) from operations of discontinued segment
5. Taxes applicable to gain (loss) on disposal of discontinued segment
6. Income from lease of road & equip.
7. Rent for leased roads & equip.
8. Net railway operating income
- Sch. B, L. 3
Sch. B, L. 13
Sch. B, L. 14
A.P. Sch. 300, footnote
- A.P. Sch. 300, footnote
A.P. Sch. 300, Acct. 509, L. 24
A.P. Sch. 300, Acct. 542, L. 49
Footnote 1/ L. 1 - L. 2 - L. 3 - L. 4
- L. 5 + L. 6 - L. 7

RULES AND REGULATIONS

Schedule B (part I)

Purpose: Schedule B (part I) is designed to provide the Commission with an indication of the carriers' past, present, and forecasted income statement data which will facilitate an analysis of their financial stability and revenue need position.

Instructions:

Schedule B (part I) should report income statement data for class I carriers only. A separate Schedule B (part I) should be prepared for each of the following:

- (1) composite district class I carriers, if appropriate.
- (2) composite nationwide class I carriers, if appropriate.

Time frame requirements:

Columns c, d, and e—Data reported in columns c, d, and e should be based on the most recent four-quarter period ending 4 months prior to the filing month of the proposed increase. "Quarter period" is defined as a calendar year quarter (e.g., January-March, October-December, et cetera). The data reported in these columns will always be based on a 12-month period ended either on March 31, June 30, September 30, or Decem-

ber 31. If, for example, the proposed increase is filed during the month of November 1975, data reported in columns c through e should be based on the 12 months ended June 30, 1975. It is possible that the data reported in these columns will correspond to a calendar year. If, for example, the proposed increase is filed during the month of May 1975, data in these columns should be based on the 12 months ended December 31, 1974 or calendar year 1974.

The data reported in column c of Schedule B should tie in with the data reported in column e of Schedule A.

Columns f and g—Columns f and g should report pro forma year income statement data for the carriers' freight service only.

It should be kept in mind that the pro forma year data does not represent a forecast. It represents the results of 12 months of operation at cost and rate levels existing at a specific time.

The data reported in column f should be the base year actual (column d) restated to reflect conditions (wage, price, productivity, et cetera) prevailing on or near the effective date of the proposed rate increase. Revenues

in column f should be based on rates and charges which are currently in effect.

The data reported in column g should also be the base year actual (column d) restated to reflect conditions (wage, price, productivity, et cetera) prevailing on or near the effective date of the proposed rate increase. Unlike column f, however, revenues in column g should be based on the proposed rates.

The sum of money reflected in column g should be supported by evidence that it is a just and reasonable amount. This evidence should enable the Commission to find that the proposed rate increase:

(a) is cost justified and does not reflect future inflationary expectations.

(b) takes into account expected and reasonable productivity gains.

(c) is not excessive in terms of the carriers' ability to provide adequate and safe service or to provide for necessary expansion to meet future requirements for transportation services.

(d) is not excessive in terms of the rate of return needed by the carriers to attract debt and equity capital at reasonable costs.

Ex Parte No. 290 Appendix

Carrier: _____

SCHEDULE B (PART II)

Analysis of total rents payable (dollars in thousands)

	Respondents percent common stock ownership in lessor	Nature of lessor's business (if affiliated)	Percent respondents rentals to lessor's total sales (if affiliated)
State			

RULES AND REGULATIONS

Schedule B (part II)

Purpose: Schedule B (part II) is designed to identify the various enterprises from whom the railroads lease equipment and the nature of their relationship with the carriers.

Instructions: Schedule B (part II) should report rents payable data for class I carriers only. A separate Schedule B (part II) should be submitted for each individual class I carrier.

Schedule B (part II) will be restricted to only those lessors in which the respondent has some affiliation. Transactions aggregating less than \$30,000 need not be reported in this Schedule.

Time frame requirements: The data reported in this schedule should be based on the most recent calendar year available.

COMMODITY LIST FOR SCHEDULE C

The commodity list herein is derived from the exhibits and verified statements submitted by the Special Projects Counsel (SPC) to the Interstate Commerce Commission, in Ex Parte No. 270, Investigation of Railroad Freight Rate Structure. Commodity groups selected for the traffic study herein (Schedule C) are noted by asterisks.

The commodity list prepared effective with the Standard Transportation Commodity

Code (STCC) classification on January 1, 1972, has been updated to reflect STCC No. 1-C, effective January 1, 1975, including Supplement No. 3.

In addition, the recyclable commodities investigated in Ex Parte No. 319, Investigation of Freight Rates for the Transportation of Recyclable or Recycled Materials, served February 4, 1977, have also been included.

Where competitive relationships were established with virgin and recyclable materials, the virgin materials have also been included.

Ex Parte No. 290 Appendix

Additional Commodities to be Included in Attachment I to Appendix II of the Report and Order in Ex Parte 290

SPC Commodity Group No.	Description	STCC Code Conversions 1975
16	Nonferrous concentrate (excl. copper concentrate)	
*** 16.1	Copper concentrate	10 212
*** 31.1	Bakery refuse	20 511 18
*** 48.1	Shavings or sawdust	24 293
*** 89.1	Reclaimed rubber	30 3
*** 89.2	Rubber or plastic scrap or waste	40 26
*** 91.1	Cullet	32 299 24
*** 118.1	Blast furnace products	33 119
*** 119.0	Copper matte	33 312
*** 119.1	Lead matte	33 322
*** 119.2	Zinc dross and residue	33 332
*** 119.3	Aluminum residue	33 342
*** 119.4	Misc. nonferrous metal residue	33 398
*** 119.5	Ashes	40 1
*** 119.6	Brass, bronze, copper or alloy scrap	40 212
*** 119.7	Lead, zinc or alloy scrap	40 213
*** 119.8	Aluminum or alloy scrap	40 214
*** 119.9	Tin scrap	40 219 60
*** 120	Textile waste	22 941, 22 973, 22 994, and 40 22
*** 122.5	Municipal garbage	40 291 14
*** 121	Paper waste or scrap	40 214, 40 23
*** 123	Shipping containers or devices returned empty	42 1, 34 912
*** 123.1	Beverage containers returned empty	42 111 42
*** 123.2	Bags, old	41 114 34 and 41 115 80

Variable costs (dollars) for base period (year)—actual, by commodity and by district*

Line No.	District	Total Single Line and Interline (1)	Single Line (2)	Interline Intra-district (3)	INTERLINE			INTERDISTRICT			
					Total (5)	East-Sou (6)	East-West (7)	Sou-East (8)	Sou-West (9)	West-East (10)	West-Sou (11)
1.	Eastern district										
2.	Southern district										
3.	Western district										
4.	Total all Districts										

*See explanation following Schedule C-1.

Fully allocated expenses (dollars) for base period (year)—actual by commodity and by districts*

Commodity: STCC _____

1. Eastern district
2. Southern district
3. Western district
4. Total all districts

*See explanation following Schedule C-1.

Revenues (dollars) for base period (year)—actual by commodity and by district*

Commodity: STCC _____

1. Eastern district
2. Southern district
3. Western district
4. Total all districts

*See explanation following Schedule C-1.

SCHEDULE C-2

Variable costs (dollars) for present proforma year, by commodity and by district*

Commodity: STCC _____

Line No.	District	Total single line and interline (2)	Single line (3)	Interline intra-district (4)	INTERLINE		INTERDISTRICT				
					Total (5)	East-Sou (6)	East-West (7)	Sou-East (8)	Sou-West (9)	West-East (10)	West-Sou (11)
1.	Eastern district										
2.	Southern district										
3.	Western district										
4.	Total all districts										

*See explanation following Schedule C-1.

Fully allocated expenses (dollars) for present proforma year, by commodity and by district*

Commodity: STCC _____

1. Eastern district
2. Southern district
3. Western district
4. Total all districts

*See explanation following Schedule C-1.

Present revenues (dollars) for present proforma year, by commodity and by district*

Commodity: STCC _____

1. Eastern district
2. Southern district
3. Western district
4. Total all districts

*See explanation following Schedule C-1.

Proposed revenues (dollars) for present proforma year, by commodity and by district*

Commodity: STCC _____

1. Eastern district
2. Southern district
3. Western district
4. Total all districts

*See explanation following Schedule C-1.

SCHEDULE C-2

Revenue/variable cost ratios for base period (year)-actual, by commodity and by district*

(In percent to 1 decimal)

Commodity: STCC _____

Line No.	District	Single line and Interline (1)	Single line (2)	Interline-intra-district (3)	INTERLINE				INTERDISTRICT	
					East-West (4)	East-South (5)	East-West (6)	South-West (7)	East-West (8)	West-South (9)
1.	Eastern district									
2.	Southern district									
3.	Western district									
4.	Total all districts									

*See explanation following Schedule C-1.
Ratios based on data in Schedule C-1.

SCHEDULE C-4

Revenue/variable cost ratios for present pro forma year by commodity and by district—revenues at present and proposed levels*

(In percent to 1 decimal)

Commodity: STCC _____

Part I. Ratios based on present revenues				
1.	Eastern district			
2.	Southern district			
3.	Western district			
4.	Total all districts			
Part II. Ratios based on proposed revenues				
5.	Eastern district			
6.	Southern district			
7.	Western district			
8.	Total all districts			

*See explanation following Schedule C-1.
Ratios based on data in Schedule C-2.

Purpose and explanation of Schedule C. The purpose of Schedules C-1 through C-4 is to obtain cost and revenue data for specified commodities, separated between single line and interline, transported by railroads in Eastern, Southern, and Western districts, by district totals and for all districts combined, as appropriate. Costs and revenues should be provided for two time periods, namely, (1) base period (year)-actual (Schedule C-1), and (2) present pro forma year, reflecting present costs and both present and proposed revenues (Schedule C-2). Schedules C-3 and C-4 require revenue/variable cost ratios, by commodity and by districts. These ratios are developed from data provided in Schedules C-1 and C-2, respectively.

(a) **Time periods: Base period (year)-actual and present pro forma period.** The study year shall be referred to as the "Base Period (Year)-Actual." That year (except as noted below) shall be the four-quarter period ending no later than 4 months prior to the filing date of the proposed general increase.

Traffic and cost study data for the base period (year)-actual shall be updated to reflect wage, price, traffic, productivity, and rate (present and proposed) conditions prevailing on or near the effective date of the proposed increase. The time period reflecting these data, stated on an annual basis, shall be referred to as the "Present Pro forma Year."

If an increase is filed during the period from August 1, 1978 through April 30, 1979, however, the base period (year)-actual should be based on 1977 calendar year results (cost and traffic) updated to reflect the required present pro forma year.

(b) **Cost levels: Variable and fully allocated expenses.** Costs, for Schedule C purposes, shall be based on two levels, namely, (1) the variable, as computed in Rail Form A costing procedures, and (2) the fully allocated expense level (F.A.E.). This level of costs is similar to the "fully allocated costs" described by the Commission in Docket No. 34013, Rules to Govern Assembling and Presenting of Cost Evidence, but excludes return on investment. The F.A.E. level is identical to the so-called T.O.E. level, i.e., total operating expenses, rents, and taxes (other than Federal income taxes). Both levels of cost must be furnished.

(c) **Revenues.** Freight revenues for the base period (year)-actual, and the present pro forma year, including both present and proposed revenues, shall include revenues obtained from all rates and charges and not only that associated with the line-haul traffic.

(d) **Commodity: STCC No.** The commodities or commodity classes to be used shall be at least those set forth in Attachment I, hereto. The sample may be expanded to include other commodities if it is so desired. In addition, all other commodities or commodity classes not shown individually shall be grouped and shown in a "Total Carload Traffic" category.

(e) **Interline intradistrict.** This is interline traffic in which the entire through movement is handled only by carriers assigned to the same district (Eastern, Southern, or Western) as the reporting carrier.

(f) **Interline interdistrict.** This is interline traffic in which a portion of the entire through movement is handled by a carrier or carriers assigned to a district other than the one to which the reporting carrier is assigned. The revenue and cost data required in this schedule, should be based on the actual divisional interchange point regardless of the territorial border point.

RULES AND REGULATIONS

Ex Parte No. 290
Appendix

SCHEDULE D*

Selected employment statistics
District (U.S., East, South, West)

Line No.	Item	Source ¹	Base Period ⁴ (year-actual)	Pro forma year ^{3/5}
1.	Total number of employees-----	Form B, col. 2, line 909		
2.	Total service hours-----	Form A, col. 7, line 907 & Form B, col. 8, line 908		
3.	Straight time paid for-----	" A, " 4, " 907 & Form B, col. 5, line 908		
4.	Overtime paid for-----	" A, " 5, " 907 & Form B, col. 6, line 908		
5.	Vacations and other allowances-----	" A, " 6, " 907 & Form B, col. 7, line 908		
6.	Total "Freight" employees-----	" B, " 2, " 909 ²		
7.	Total "Freight" service hours-----	" A, " 7, " 907 & Form B, col. 8, line 908 ²		

¹ICC Wage Statistics, Form A or B, unless otherwise indicated.²"Freight" in Schedules E, F, and G refers to total Form A and Form B, less the following lines: 12, 67, 84, 85, 86, 87, 95, 96, 97, 99, 100, 101, 104, 111, 112, 115, 116, 121, 125.³Show annualized number of service hours or employees based on prevailing employment levels at or near the filing date of the proposed increase.⁴Base period-(year actual)-shall be that four quarter period ending no later than four months prior to the filing date of the proposed rate increase.⁵Pro forma year-shall be the "base period-actual" restated to reflect conditions prevailing on or near the effective date of the proposed rate increase.

*Purpose and explanation follows Schedule G.

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Appendix

SCHEDULE E*

Selected compensation and wage statistics
District (U.S., East, South, West)

Line No.	Item	Source ¹	Base Period ⁴ (year actual)	Pro forma year ³
1.	Total compensation-----	Form A, col. 11, line 907 & Form B, col. 12, line 908		
2.	Average compensation per hr-----	Line 1 ÷ Sched. D, line 2		
3.	Straight time paid for-----	Form A, col. 8, line 907 & Form B, col. 9, line 908		
4.	Overtime compensation-----	Form A, col. 9, line 907 & Form B, col. 10, line 908		
5.	Vacation & other allowances-----	Form A, col. 10, line 907 & Form B, col. 11, line 908		
6.	Total Freight compensation-----	Form A, col. 11, line 907 & Form B, col. 12, line 908 ²		
7.	Wage increases (percent or cents per hr.) paid or due during period, date from which due, and total service hours affected--by labor contract. ³	Estimated from labor awards and Forms A and B service hours by reporting division or job classification.		
8.	Cost of wage increase during period-----	(4)		
9.	Employee compensation chargeable to operating expense.	AR Sched. 320, line 183		

¹ICC Wage Statistics Forms A and B unless otherwise indicated. Base all compensation estimates on respective employment levels and service hours in Schedule D taking into account relative changes among employee groups affected by the various labor contracts; underlying work papers should be available for inspection by Commission if necessary.²See Schedule D, footnote 3.³Use additional pages if necessary.⁴Line 7 wage increases x respective service hours affected in year in question. For periods less than 1 year estimate applicable service hours during period in question represent of the total for the year.

*See explanation following Schedule G.

RULES AND REGULATIONS

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Appendix

Schedule F*

Nonwage employment costs district (U.S., East, South, West)

Line No.	Item	Source	Base period ¹ (year-actual)	Pro forma year ¹
1.	Health and welfare contribution (general health and welfare, dental plan, other)	Sum of Annual Report Form, R-1, Sch. 320, col. (b), Accounts 277, 335, 359, 409, 449, 456		
2.	Increased cost of health and welfare benefits per employee paid or due during period under labor contracts.	Labor contract awards		
3.	Increase in health and welfare cost over previous period.	Line 2 x Schedule D, line 1 previous year ¹		
4.	Health and welfare contribution attributable to freight service.	Ratio of "Freight" to total employees, line 1 x (Schedule D, line 6 ÷ line 1)		
5.	Payroll taxes-----	Annual Report Form R-1, schedule 350, line 60 + 61, Old Age Retirement (including Medicare and supplemental annuities) and Unemployment Insurance only. Appropriate tax law provisions		
6.	Increased payroll tax rates applicable to the period.	(2) (3)		
7.	Increase in payroll taxes over previous year-----	Ratio of "Freight" to total compensation, line 8 x (Schedule E, line 6 ÷ 1)		
8.	Payroll taxes attributable to freight service-----	Annual Report Form R-1, Schedule 320, Acct. No. 457		
9.	Cost of pension-----	(2) (3)		
10.	Increase in pension costs over previous period-----	Ratio of "Freight" to total compensation, line 11 x (Schedule E, line 6 ÷ 1)		
11.	Pension costs attributable to freight service.	Lines 1 + 5 + 9		
12.	Total nonwage employment costs-----	Line 12, Schedule D, line 1		
13.	Average nonwage employment costs per employee -- previous period.	Line 3 + 7 + 10		
14.	Increase in nonwage employment costs over previous period.	Lines 4 + 8 + 11		
15.	"Freight" nonwage employment costs-----			

¹ Same periods as for Schedule D.² Compute the cost of increases effective after the first 15 days of the period on the basis of employment levels (service hours) for the number of months the increase is in effect.³ Take into account employment levels from Schedule D and increased compensation rates in Schedule E. Show methods of computation.

* See explanation following Schedule G.

SCHEDULE G*

Labor costs and productivity data district (U.S., East, South, West)

Line No.	Item	Source	Base period ¹ (year-actual)	Pro forma year ¹
1.	Net revenue ton-miles-----	Annual Report Form R-1, Schedule 531, line No. 36, 2		
2.	Total labor cost-----	Schedule E line 1 + Schedule F line 12		
3.	Freight labor cost-----	Schedule E line 6 + Schedule F line 15		
4.	Freight labor cost per net revenue ton-mile-----	Line 3 ÷ line 1		
5.	Freight service hours-----	Schedule D line 7		
6.	Net revenue ton-miles per freight service hour-----	Line 1 ÷ line 5		
7.	Percent charge from previous year-----			
8.	Net revenue tons-----	AR Schedule 531, line 31		
9.	Fuel freight service cost-----	AR Schedule 320, lines 115 + 121 column (c)		
10.	Materials and supplies expenses-----	(3)		

¹ Same periods as for Schedule D.

For projected periods, take into consideration expected levels of economic activity, anticipated sources of traffic losses or gains, effect of proposed rate increase intermodal and intramodal competition, et cetera.

² Total operating expenses, less employee compensation chargeable to operating expenses, health and welfare benefits, fuel and power, loss and damages, personal injuries, insurance and pensions, and depreciation and retirements.

* See explanation following.

Purpose and explanation of schedules D-G.—Schedules D through G require data on recent, present, and projected levels of employment, wages and fringe benefit costs, and productivity. This information was initially required to effectively implement the regulations promulgated by the Commission in its report and order in Ex Parte No. 280, *Special Procedures for Tariff Filings under the Wage and Price Stabilization Program*, on July 13, 1972. These regulations, particularly, sec. 1311.0(c), required that expected and obtainable productivity be taken into account, as well as labor cost increases.

Schedule D provides data and estimates on present and expected employment levels based on present and past employment and productivity experience, and anticipated traffic and productivity levels. Schedule E provides data on present and expected wage and salary costs, based on provisions of existing labor contracts and projected employment levels. Schedule F provides like information on health and welfare costs, payroll taxes for old age benefits and unemployment insur-

ance, and pension plans. Schedule G summarizes direct and indirect labor costs, and provides a measure of past, present, and projected productivity of freight employees (net revenue ton-miles per service hour) and unit labor costs (total freight labor costs per ton-mile). Productivity change must be measured in terms of material as well as labor. Materials and supply data are needed to measure the increase in these costs which constitutes sound and proper justification for a rate change to reflect unit changes in material costs as well as labor costs.

Estimates based on actual and projected traffic levels are required because of the decline in railroad employment and increases in productivity in recent years, both of which appear to be strongly influenced by the level of freight traffic.

Schedule H

Purpose and Explanation of Schedule H. Essentially the purpose of this schedule is to require data on holdowns and other excep-

tions¹ for specific commodity groups from the proposed general rate increase.

Specifically the schedule provides (1) for data to identify the specific holdowns and other exceptions proposed in the master tariff and the revenue effect of such variances; (2) justification and demonstration of the need for the exceptions in the rates charged (whether greater or less than the proposed general increase); and (3) the cumulative impact by district on carrier revenues resultant of the holdowns exceptions or other variances.

Summarily, these data which determine the overall revenue yield generated by the proposed general rate increase are considered essential in assessing railroad revenue needs.

¹Due to the added emphasis on selective rate increases, such exceptions could include variances in the rates charged on specific commodity groups greater than the proposed general rate increase.

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Appendix

SCHEDULE I

Statement of changes in financial position (dollars in thousands)

Carrier: _____

District: _____

Nationwide: ☐

Line No.	Schedule 1/ (a)	Line (b)	Column (c)	Description (d)	Calendar Yr. 19 (e)	Calendar Yr. 19 (f)	Calendar Yr. 19 (g)
SOURCES OF WORKING CAPITAL							
1	300	22	(b)	Working capital provided by operations:			
				Net income (loss) before extraordinary items			
				Add expenses not requiring outlay of working capital; (subtract) credits not generating working capital:			
2	324	17	(b)	Retirement of nondepreciable property			
3	395	-	-	Loss (gain) on sale or disposal of tangible property			
4	300	-	-	Add depreciation and amortization expenses			
5	300	5	(b)	Net increase (decrease) in deferred income taxes			
6	300	35	(a)	Net decrease (increase) in parent's share of subsidiary's undistributed income for the year			
7	200	74, 77	(b)-(c)	Net increase (decrease) in noncurrent portion of estimated liabilities			
				Other (Specify):			
8							
9							
10							
11							
12							
13							
14							
15							
16							
17							
18				Total working capital from operations before extraordinary items			

Statement of changes in financial position (dollars in thousands)-Continued

Carrier: _____

District: _____

Nationwide: ☐

Line No.	Schedule (a)	Line (b)	Column (c)	Description (d)	Calendar Yr. 19 (e)	Calendar Yr. 19 (f)	Calendar Yr. 19 (g)
19	200	62	(b)	Working capital provided by operations (Continued):			
				Extraordinary items and accounting changes			
				Add expenses not requiring outlay of working capital; (subtract) credits not generating working capital:			
20	200	63	(b)	Loss (gain) on extraordinary items			
21	200	65	(b)	Net increase (decrease) in deferred income taxes			
22	200	67	(b)	Cumulative effect of changes in accounting principles			
				Other (Specify):			
23							
24							
25							
26							
27							
28							
29				Total working capital from extraordinary items and accounting changes			
				Total working capital from operations (lines 18 and 29)			
30				Working capital from sources other than operating:			
31				Proceeds from issuance of long-term liabilities			
32				Proceeds from sale/disposition of carrier operating property			
33				Proceeds from sale/disposition of other tangible property			
34	205	99	(i)	Proceeds from sale/renegotiation of investments and advances			
35	206	99	(i)				
36	204	41	(f)	Net decrease in sinking and other special funds			
37	225	15	(e)-(f)	Proceeds from issue of capital stock			
				Other (Specify):			
38							
39							
40							
41				Total working capital from sources other than operating			
42				Total sources of working capital (lines 29 and 41)			

Ex Parte No. 290
Appendix

Statement of changes in financial position (dollars in thousands)-Continued

Carrier: _____

District: _____

Nationwide: ☐

Line No.	Schedule (a)	Line (b)	Column (c)	Description (d)	Calendar Yr. 19 (e)	Calendar Yr. 19 (f)	Calendar Yr. 19 (g)
APPLICATION OF WORKING CAPITAL							
43	-	-	-	Amount paid to acquire/retire long-term liabilities			
44	305	10	(b)	Cash dividends			
45	211	52	(e)	Purchase price of carrier operating property			
46	-	-	-	Purchase price of other tangible property			
47	205	59	(i)	Purchase price of long-term investments and advances			
48	206	99	(i)				
49	204	41	(e)	Net increase in sinking or other special funds			
50	225	15	(j)	Purchase price of acquiring treasury stock			
				Other (Specify):			
51							
52							
53							
54							
55				Total application of working capital			
56				Net increase(decrease) in working capital (line 42 less line 55)			
				(show computations in Schedule 309S)			

NOTE A: Furnish the actual amount of depreciation and amortization expenses taken during the year. The following can be used as references:

Schedule	Line	Column
322	26	(b)
326	3	(b)
330	9	(b)
214	22	(j)
200	72	(b)-(c)
200	73	(b)-(c)

1/ Annual report sources refer to the 1977 Annual Report R-1. For years subsequent or prior to 1977, use comparable annual report sources.

Schedule I

Purpose: Schedule I is designed to provide the Commission with an indication of the carriers' sources and uses of funds over the recent past.

Instructions: Schedule I should report funds flow data for class I carriers only. A separate Schedule I must be prepared for the following:

- (1) Each individual class I carrier.
- (2) Composite district class I carriers.
- (3) Composite nationwide class I carriers, if appropriate.

The term "funds" for the purpose of this Schedule shall include all assets or financial resources even though a transaction may

not directly affect cash or working capital. For example, the purchase of property in exchange for bonds or shares of stock would be an application of funds for investment in property provided by the issue of securities. Sources and uses of funds should be individually disclosed. For example, outlays for fixed assets should not be reported net of retirements.

Time frame requirements:

Column b.—Data reported in column b should be based on the 3d calendar year preceding the effective year of the proposed rate increase.

Column c.—Data reported in column c should be based on the 2d calendar year pre-

ceding the effective year of the proposed rate increase.

Column d.—Data reported in column d should be based on the 1st calendar year preceding the effective year of the proposed rate increase.

The time frame requirements outlined above apply only if the proposed rate increase is effective during the last 6 months of the calendar year. If the proposed rate increase is effective during the first 6 months of the calendar year, the data in columns b, c, and d should be based on the fourth, third, and second calendar years, respectively, preceding the effective year of the proposed rate increase.

Ex Parte No. 290
AppendixDistrict: _____
Nationwide: ☐

SCHEDULE J

Composite affiliate charges to respondents for services rendered

Line No.	Nature of service (a)	Calendar Year 19 (b)	Calendar Year 19 (c)	Base year-Actual To (d)
1	Management Services			
2	Legal Services			
3	Accounting Services			
4	Procurement of materials, supplies, and equipment			
5	Leasing of Land and Structures			
6	Leasing of equipment			
7	Miscellaneous services			
8	Total charges to respondents			
9	Affiliate revenues derived from services to parties other than respondents			
10	Total affiliate revenues (line 8 & line 9)			
11	Total affiliate income from operations before income taxes			

Schedule J

Purpose: Schedule J is designed to facilitate an assessment of the effect on the carriers' profits of transactions with affiliates. Instructions: Schedule J should report affiliate data for Class I carriers only. A separate Schedule J must be prepared for the following:

- (1) Composite district class I carriers.
 - (2) Composite nationwide class I carriers, if appropriate.
- Affiliate transactions aggregating less than \$30,000 need not be reported in this Schedule. Time frame requirements (same as Schedule A):

Column b—If the rate increase is filed during the first 6 months of the calendar year, the data reported in column b should be based on the 3d calendar year preceding the filing year. If the rate increase is filed during the last 6 months of the calendar year the data reported in column b should be based on 2d calendar year preceding the filing year.

Column c—If the rate increase is filed during the first 6 months of the calendar year the data reported in column c should be based on the 2d calendar year preceding the filing year. If the rate increase is filed during the last 6 months of the calendar year the data reported in column c should be based on the 1st calendar year preceding the filing year.

Column d—Data reported in column d should be based on the most recent four-quarter period ending 4 months prior to the filing month of the proposed increase.

Schedule K

Data concerning uneven effects of the increase (including information on commodities, localities, types of traffic, and where necessary individual carriers) and suggestions on the avoidance of possible detrimental effects.

[FR Doc.77-28735 Filed 9-30-77;8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER C—ACCOUNTS, RECORDS, AND REPORTS

[No. 36556]

PART 1207—CLASS I AND CLASS II COMMON AND CONTRACT MOTOR CARRIERS OF PROPERTY

PART 1249—REPORTS OF MOTOR CARRIERS

Annual Reports and Uniform System of Accounts for Class I and Class II Motor Carriers of Property

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission has adopted certain revisions to the 1977 annual reports and uniform system of accounts prescribed for Class I and Class II common and contract motor carriers of property. These changes are necessary to obtain consolidated data, reduce the reporting burden on carriers, improve data disclosure, provide a single combined annual report for household goods carriers and revise the system of accounts to accommodate reporting. Revised reporting will be a significant improvement for the motor carrier industry. It includes provisions for substantial reduction in reporting requirements as well as a provision for consolidated reporting that is very desirable from a ratemaking viewpoint and beneficial to the carriers. The general public will not be affected.

EFFECTIVE DATE: January 1, 1977.

FOR FURTHER INFORMATION CONTACT:

James H. Bayne, Chief, Section of Reports, Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423. Phone No. (202-275-7331).

SUPPLEMENTARY INFORMATION:

By Notice of Proposed Rulemaking and Order dated June 14, 1977, served July 5, 1977, and published in the FEDERAL REGISTER on June 28, 1977 (42 FR 32814), the Commission made public that it had under consideration major revisions to the 1977 annual reports prescribed for Class I and Class II motor carriers of property 49 CFR 1249 and attendant modification to the Uniform System of Accounts (49 CFR 1207). Revisions provide for (1) "respondent" and "consolidated" reporting, (2) reduction in reporting burden and other modifications to improve data disclosure, (3) separate annual report form for household goods carriers, and (4) revisions to the Uniform System of Accounts prescribed for Class I and Class II common and contract motor carriers of property. Interested parties were given the opportunity to submit their written views and comments by August 5, 1977. This date was subsequently extended to August 22, 1977.

The public notification of proposed rulemaking in the FEDERAL REGISTER provided that any person desiring to participate could do so by filing written statement of facts, views, or arguments by August 22, 1977. Comments were received from 10 motor carriers, 5 industry associations and 2 Certified Public Ac-

countants. Discussions and conclusions reached on specific issues are set forth in the Report and Order of the Commission in Docket No. 36556.

Upon investigation and consideration of views, arguments, and representations of the parties the Commission finds that Parts 1207 and 1249 of Chapter X of Title 49 of the Code of Federal Regulations should be amended as detailed in the Notice of Proposed Rulemaking and Order except for the revisions set forth in the Report of the Commission; and that such rules are reasonable and necessary to the effective enforcement of the provision of Part II of the Interstate Commerce Act, as amended; that such rules are otherwise lawful and, to the extent so found in this report, consistent with the public interest and the national transportation policy; and that this decision is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

It is ordered that: (1) Effective January 1, 1977, the regulations prescribed in Parts 1207 and 1249, of Chapter X, Subchapter C of Title 49 of the Code of Federal Regulations be, and they are hereby, revised to read as shown below upon advice from the Comptroller General of the United States that they comply with the Federal Reports Act.

(2) That service of this order shall be made on all affected carriers; and to the Governor of every State and to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation; and that notice of this order shall be given to the general public by depositing a copy in the office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

(49 U.S.C. 12 and 20.)

Issued at Washington, D.C. September 28, 1977.

H. G. HOMME, Jr.,
Acting Secretary.

Parts 1207 and 1249 of Chapter X, Title 49, Code of Federal Regulations, are amended as set forth below.

A. Part 1207, Uniform System of Accounts for Class I and Class II Common and Contract Motor Carriers of Property, is amended as follows:

CLASS I AND CLASS II MOTOR CARRIERS INSTRUCTIONS

1. In the list of instructions line item 32 is revised to read "Reserved."

2. Instruction 10 is amended to read as follows:

10. Clearing accounts.

(a) * * * as subdivisions of Account 1512—Deferred Debits or 2412—Deferred Credits (classes I and II) or * * *

(b) * * * included in Account 1512 or 2412 (classes I and II) or Account 1551 (classes I and II) * * *

3. Instruction 12(d) is revised by deleting the parenthetical phrase, "(class

I carriers)" and the last sentence.

4. Instruction 13 is amended to read as follows:

13. Current assets.

(a) In the group of accounts designated as current assets, there shall not be * * *

5. Instruction 16 is amended to read as follows:

16. Capital stock.

(d) When an issue of capital stock or any part thereof is reacquired, either by purchase or donation, and is retired or cancelled the par value shall be charged to account 2611—Capital Stock—Preferred or 2612—Capital Stock—Common if cancelled. Any Excess * * *

6. Instruction 19 is amended to read as follows:

19. Carrier operating property.

(a) (1) * * * coded 1211 through 1252, are classified as carrier operating property.

(f) (1) * * * operating accounts (accounts 1211 through 1252) to * * * The related accumulated depreciation (recorded in accounts 1214 through 1252) shall * * *

(2) * * * operating accounts the book cost of the property * * *

(h) * * * shall be charged to Account 1241—Improvements to Leasehold Property. Amortization * * *

7. Instruction 20 is amended to read as follows:

20. Acquisition of a distinct operating unit.

(a) Purchase (1) * * * the amounts includible in accounts 1211 through 1341 for * * *

(c) * * * included in accounts 2632, 2641, and 2652 (class II) and accounts 1211 through 1341 (classes I and II), 2632, 2641, and 2652 (class I) * * *

8. Instruction 21, paragraph (a), is amended to read as follows:

21. Retirement of property.

(a) * * *

(1) * * *

(iii) * * *

(a) * * * shall be charged to Account 1245—Unfinished Construction with contra credit to the clearing Account. * * *

(c) * * * or transferred to the deferred credits accounts (2412), as appropriate. * * * (or less the amount in account 2412). If the property * * *

9. Instruction 22 is amended to read as follows:

22. Insurance.

(g) * * * charged to Account 1142—

Prepaid Insurance and * * * refund shall be retained in Account 1142 and the balance * * * estimated dividend shall be charged to account 1142, and the * * *

NOTE.— * * * and the remainder of the premium shall be charged to Account 1142 and prorated * * *

10. Instruction 23 is amended to read as follows:

23. Depreciation and amortization.

(b) * * * depreciable property included in accounts 1211 through 1251, amounts * * * accumulated depreciation and amortization (accounts 1214 through 1252).

(1) Depreciation charges on property included in accounts:

1213 Structures.
1221 Revenue Equipment.
1223 Service Cars and Equipment.

(2) Depreciation charges on property included in accounts:

1233 Shop and Garage Equipment.
1235 Furniture and Office Equipment.
1237 Miscellaneous Equipment.

(c) Amortization and depreciation charges on property included in Account 1241—Improvements to Leasehold Property (see instruction 21) shall be * * *

11. Instruction 24 is amended by deleting "Account 1140—Prepayments (class II)" and the parenthetical phrase "(class I)".

12. The title and text of instruction 32 is deleted and marked "Reserved."

CLASS I & CLASS II MOTOR CARRIERS CHART OF ACCOUNTS—BALANCE SHEET

The Class I and Class II Motor Carrier Chart of Accounts—Balance Sheet is amended in the Class II column to read as follows:

Current Assets

Sec.
1030 Temporary Cash Investments.
Notes Receivable:
1111 Notes Receivable; Officers, Stockholders, and Employees.
1112 Notes Receivable; Others.
Receivables from Affiliated Companies:
1121 Loans and Notes Receivable from Affiliated Companies.
1122 Interest and Dividends Receivable from Affiliated Companies.
1123 Accounts Receivable from Affiliated Companies.

Prepayments:
1141 Prepaid Taxes and Licenses.
1142 Prepaid Insurance.
1143 Prepaid Interest.
1144 Prepaid Rents.
1145 Prepaid Stationery and Printed Matter.
1146 Prepaid Tires and Tubes.
1147 Miscellaneous Prepayments.

Tangible Property

Land and Structures.
1211 Land.
1213 Structures.

Other Carrier Property

1233 Shop and Garage Equipment.
1234 Accumulated Depreciation—Shop and Garage Equipment.

Sec.	Furniture and Office Equipment.
1235	Accumulated Depreciation—Furniture and Office Equipment.
1237	Miscellaneous Equipment.
1238	Accumulated Depreciation—Miscellaneous Equipment.
1241	Improvements to Leasehold Property.
1242	Accumulated Amortization—Improvements to Leasehold Property.
1243	Undistributed Property.
1244	Accumulated Depreciation—Undistributed Property.
1245	Unfinished Construction.
1251	Carrier Operating Property Leased to Others.
1252	Accumulated Depreciation—Carrier Operating Property Leased to Others.
	Investment Securities and Advances:
1410	Investments and Advances—Affiliated Companies.
1417	Notes; Affiliated Companies.
	Current Liabilities
2010	Notes Payable and Matured Obligations.
	Payables to Affiliated Companies:
2021	Loans and Notes Payable to Affiliated Companies.
2022	Interest and Dividends payable to Affiliated Companies.
2023	Accounts Payable to Affiliated Companies.
	Accounts Payable:
2130	Other Current and Accrued Liabilities.
2161	Current Equipment Obligations and Other Debt.
2190	***
	Stockholders' Equity
	Capital Stock:
2611	Capital Stock—Preferred.
2612	Capital Stock—Common.
2613	Subscribed Capital Stock.

CLASS I AND CLASS II MOTOR CARRIERS BALANCE SHEET ACCOUNT EXPLANATIONS

1. Note B to the text of Account 1011—Cash (class I) is amended to read as follows:

1011—Cash (class I).

NOTE B.—*** Deposits which are not available for withdrawal within 1 year shall be included in Account 1512—Deferred Debits.

2. Note A to the text of Account 1012—Working Funds (class I) is amended to read as follows:

1012—Working Funds (class I).

NOTE A.—*** shall be charged to a subdivision of Account 1512—Deferred Debits.

3. Note B to the text of Account 1023—Miscellaneous Special Deposits (class I) is amended to read as follows:

1023—Miscellaneous Special Deposits (class I).

NOTE B.—*** shall be included in Account 1512—Deferred Debits.

4. The title and text of Account 1110—Notes Receivable (class II) are deleted.

5. The title and text of Account 1111—Notes Receivable—Officers, Stockholders,

and Employees (class I) are amended to read as follows:

1111—Notes Receivable—Officers, Stockholders, and Employees (classes I and II).

NOTE A.—Notes receivable from affiliated companies shall be included in Account 1121—Loans and Notes Receivable from Affiliated Companies (classes I and II) or Account 1410—Investments and Advances—Affiliated Companies (class II) and Accounts 1411–1421, inclusive (class I), as appropriate.

6. The title of Account 1112 is amended to read "1112—Notes Receivable—Other (classes I and II)."

7. The title and text of Account 1120—Receivables from Affiliated Companies (class II) are deleted. The parenthetical phrase "(class I)" in the titles of subaccounts 1121, 1122, and 1123 is amended to read "(classes I and II)."

8. The text of Account 1135—Accounts Receivable; Other (classes I and II) is amended to read as follows:

1135—Accounts Receivable; Other (class and II).

This account shall include amounts due from others (except items provided for in accounts 1121, 1122, 1123, 1131 and 1133) that are ***

9. The title and text of Account 1140—Prepayments (class II) is deleted. The parenthetical phrase "(class I)" in the titles of accounts 1141–1147, inclusive, is amended to read "(classes I and II)."

10. Note D to the text of Account 1151—Material and Supplies (class I and II) is amended to read as follows:

Account 1151 Material and Supplies (class I and II).

NOTE D.—Stationery and printed matter should be charged to Account 1145.

11. The text of Account 1161—Subscribers to Capital Stock (class I) is amended to read as follows:

Account 1161 Subscribers to Capital Stock (class I).

(b) *** Concurrently, there shall be credited to Account 2613—Subscribed Capital Stock, the par ***

Account 1162 Interest and Dividends Receivable (class I).

12. The text of Note A to Account 1162—Interest and Dividends Receivable (class I) is amended to read as follows:

NOTE A.—*** shall be included in Account 1122—Interest and Dividends Receivable From Affiliated Companies.

13. The title and text of Account 1210—Land and Structures (class II) are deleted and the parenthetical phrase "(class I)" in the titles of subaccounts 1211 and 1213 is amended to read "(classes I and II)." The text of Account 1213, Note D, is amended to read as follows:

1213—Structures (classes I and II).

NOTE D.—*** carried in Account 1245—Unfinished Construction, until ready for service.

14. The text of Account 1214—Accumulated Depreciation—Structures (Classes I and II) is amended to read as follows:

1214—Accumulated Depreciation—Structures (classes I and II).

(a) ***
(3) *** to the preceding asset account, or account 1251—Carrier Operating Property Leased to Others.

15. The titles and texts of Accounts 1230—Other Carrier Property (class II) and 1232—Accumulated Depreciation and Amortization—Other Carrier Property (class II) are deleted.

16. The parenthetical phrase "(class I)" in the titles of Accounts 1233 through 1252 is amended to read "(classes I and II)."

17. Notes A and B to the text of Account 1245—Unfinished Construction (class I) is amended to read as follows:

1245—Unfinished Construction (class I).

NOTE A.—*** and Account 1512—Deferred Debits.)

NOTE B.—*** shall be carried in Account 1512—Deferred Debits. ***

18. The text of Account 1410—Investments and Advances—Affiliated Companies (class II) is amended to read as follows:

1410—Investments and Advances—Affiliated Companies (class II).

This account shall include the book cost (see definition 8) of the carrier's investments in securities issued or assumed by affiliated companies and the amount of advances ***

NOTE A.—*** shall be included in accounts 1121, 1122, or 1123, as appropriate.

19. The parenthetical phrase in the title of Account 1417—Notes; Affiliated Companies (class I) is amended to read "(classes I and II)."

20. The text of Account 1428—Adjustments—Investments and Advances; Affiliated Companies (classes I and II) is amended to read as follows:

1428—Adjustments Investments and Advances; Affiliated Companies (classes I and II).

*** securities included in accounts 1410, 1411, 1413, 1415, 1417, 1419 or 1421, as appropriate (see instruction 18(b)).

21. Note A in the text of Account 2011—Notes Payable (class I) is amended to read as follows:

2011—Notes Payable (class I).

NOTE A.—*** included in Account 2021—Loans and Notes Payable to Affiliated Companies (see also Account ***).

22. The title and text of Account 2020—Payables to Affiliated Companies (class II) are deleted and the parenthetical phrase "(class I)" in the titles of subaccounts 2021, 2022 and 2023 is amended to read "(classes I and II)."

23. Note A in the text of Account 2112—Vehicle Licenses and Registration Fees; Accrued (classes I and II) is amended to read as follows:

2112—Vehicle Licenses and Registration Fees; Accrued (classes I and II).

NOTE A.—*** included in Account 1141—Prepaid Taxes and Licenses.

24. The text of Note A to the following accounts is deleted and marked "Reserved."

4240—Salaries and Wages—Vehicle Repair and Service

4530—Vehicle Parts

4540—Vehicle Maintenance by Outside Vendors

4540—Vehicle Maintenance by Outside Vendors

4550—Tires and Tubes

5320—Depreciation Expense—Revenue Equipment

5410—Vehicle Rents With Drivers

5430—Vehicle Rents Without Drivers

25. The text of Note B to Account 5420—Vehicle Rents With Driver—Vehicle Portion Only is deleted and marked "Reserved."

26. The text of Note D to Accounts 4510—Fuel for Motor Vehicle and 4520—Oil Lubricants, and Coolants for Motor Vehicles is deleted and marked "Reserved."

27. The text of Note F to Account 5490—Equipment Rents—Credit is deleted and marked "Reserved."

28. The text of Account 2130—Other Current and Accrued Liabilities (class II) is amended by adding "except 2161" at the end of the sentence.

29. The text of Account 2131 (Note A)—Dividends Payable (class I) is amended to read as follows:

2131 Dividends Payable (class I).

NOTE A.—*** shall be included in Account 2022—Interest and Dividends Payable to Affiliated Companies.

30. The text of Account 2141—Notes and Advances Payable (Interest accrued) (class I) is amended to read as follows:

2141 Notes and Advances Payable (interest accrued) (class I).

(b) *** credited to Account 2022—Interest and Dividends Payable to Affiliated Companies, ***

31. The text of Account 2151—Notes and Advances Payable (matured interest) (class I) is amended to read as follows:

2151 Notes and Advances Payable (matured interest) (class I).

*** included in Account 2022—Interest and Dividends Payable to Affiliated Companies.

32. The title of Account 2161 is amended to read "Current Equipment Obligations and Other Debt (classes I and II)."

33. The texts of subaccounts 2311, 2312 and 2313 are amended to read as follows:

2311 Notes Payable (affiliated companies) (class I).

(b) *** included in Account 2021—Loans and Notes Payable to Affiliated Companies.

2312 Open Accounts, Not Subject to Current Settlement (affiliated companies) (class I).

(b) *** included in Account 2023—Accounts Payable to Affiliated Companies.

2313 Interest Accrued, Not Subject to Current Settlement (affiliated companies) (class I).

(b) *** included in Account 2022—Interest and Dividends Payable to Affiliated Companies.

34. The texts of Accounts 2331, 2332, 2333, and 2334 are amended to read as follows:

2331 Equipment Obligations (classes I and II).

(a) *** is includible in Account 2161—Current Equipment Obligations and Other Debt (see Note A).

2332 Bonds and Debentures (classes I and II).

(a) *** is includible in Account 2161—Current Equipment Obligations and Other Debt (see Note A).

2333 Capitalized Lease Obligations (classes I and II).

NOTE A.—*** includible in Account 2161—Current Equipment Obligations and Other Debt.

2334 Other Long-Term Obligations (classes I and II).

(a) *** is includible in Account 2161—Current Equipment Obligations and Other Debt (see Note A).

35. The title and text of Accounts 2410—Deferred Credits (class II) and 2411—Unamortized Premium on debt are deleted.

36. The title and text of Account 2610—Capital Stock (class II) are deleted and the parenthetical phrase "(class I)" in the titles of Accounts 2611, 2612 and 2613 is amended to read "(classes I and II)."

REVENUE ACCOUNT, EXPLANATIONS

Instruction 27, 28A and 28C Carriers

The text of Account 3100—Freight Revenue—Intercity Common Carrier (Classes I and II) is amended to read as follows:

3100 Freight Revenue—Intercity Common Carrier (classes I and II).

NOTE C.—*** included in Account 2023—Accounts Payable to Affiliated Companies or Account 2032. ***

OPERATING EXPENSE ACCOUNT EXPLANATIONS

Instruction 27, 28A and 28C Carriers

Instruction 27, 28A and 28C Carriers

Instruction 27, 28A and 28C Carriers

Instruction 27, 28A and 28C Carriers

The operating expense account explanations for Instruction 27, 28A, and 28C carriers are amended as follows:

1. Account 4550—Tires and Tubes is amended by deleting the words "Account 1140—Prepayments (class II) or" and "(class I)" in the first paragraph.

2. Account 4700—Operating Taxes and Licenses is amended by deleting Note A.

3. Account 5310—Depreciation Expense—Buildings and Structures is amended by deleting the words "Account 1210—Land and Structures (class II) or" and "(class I)" from the first paragraph.

4. Account 5340—Depreciation Expense—Shop and Garage Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)".

5. Account 5350—Depreciation Expense—Furniture and Office Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

6. Account 5360—Depreciation Expense—Miscellaneous Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

7. Account 5370—Amortization Expense—Improvements to Leasehold Property is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

8. Account 5380—Depreciation Expense—Undistributed Property is amended by deleting the words "Account 1230—Other Carrier Property (class II) or" and "(class I)" from the first paragraph.

9. Account 5710—Gains on Disposition of Operating Assets is amended by deleting the words "1221 through 1232 (class II) and accounts" and "(class I)" from the first paragraph.

10. Account 5930—Professional Services—Debit is amended to read as follows:

5930 Professional Services—Debit.

NOTE C.—*** law expenses and expenditures incident to securing authorization for issuance of long-term debt or capital stock shall be charged to Account 2338—Unamortized Discount in Debt or Account 2339—Unamortized Premium or Debt or Account 2633 ***

NOTE D.—*** shall be charged to Account 1512 Deferred Debits and amortized by charges to this account.

CLASS I AND CLASS II CARRIERS OF HOUSEHOLD GOODS (INSTRUCTION 28B CARRIERS)

REVENUE ACCOUNT EXPLANATIONS

1. Account 3100—Moving Revenue—Intercity Common Carriers, Own Rights (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

2. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

3. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

4. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

5. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

6. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

7. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

8. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

9. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

10. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

11. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

12. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

13. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

14. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

15. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

16. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

17. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

18. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

19. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

20. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

21. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

22. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

23. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

24. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

25. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

26. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

27. Account 3500—Containers, Packing, and Unpacking Services (classes I and II) is amended by deleting the words "Account 2020—Payables to Affiliated Companies (class II); and" and "(class I)" from Note A.

panies (class II); and "and" and "(class I)" from Note A.

3. Account 3600—Supplementary Transportation Services (classes I and II) is amended by deleting the words "Account 2020—Payable to Affiliated Companies (class II); and" and "(class I)" from Note A.

4. Account 3900—Other Operating Revenue (classes I and II) is amended changing the reference to Account 1210 to read "1211."

ACCOUNT EXPLANATIONS—OPERATING EXPENSES

The operating expense account explanations for household goods carriers are amended as follows:

1. Account 6200—Tires and Tubes is amended by deleting the words "Account 1140—Prepayments (class II) or" and "(class I only)" in the first paragraph.

2. Account 7330—Other Outside Services—Professional Services is amended to read as follows:

7330 Other Outside Services—Professional Services.

NOTE C. . . . law expenses and expenditures incident to securing authorization for issuance of long-term debt or capital stock shall be charged to Account 2338—Unamortized Discount in Debt or Account 2339—Unamortized Premium or Debt or Account 2633

NOTE D. . . . shall be charged to Account 1512 Deferred Debits and amortized by charges to this account.

3. Account 8120—Depreciation—Revenue Equipment is amended by deleting the words "Account 1230—Other Carrier Property (class II), or" and "(class I)."

4. Account 8140—Depreciation—Buildings and Structures is amended by deleting the words "Account 1210—Land and Structures (class II) or" and "(class I)."

5. Account 8150—Depreciation—Furniture and Office Equipment is amended by deleting "Account 1230—Other Carrier Property (class II) or" and "(class I)."

6. Account 8170—Depreciation—Undistributed Property is amended by deleting the words "(class I)."

7. Account 8210—Amortization of Leasehold Improvements is amended by deleting the words "Account 1230—Other Carrier Property (class II), or" and "(class I)" in the first paragraph.

8. Account 8400—Taxes and Licenses is amended by deleting the second paragraph.

9. Account 8910—Gains on Disposition of Operating Assets is amended by deleting the words "Accounts 1221 through 1232" (class II) and" and "(class I)" in paragraph (a).

CLASS I AND CLASS II MOTOR CARRIER CHART OF ACCOUNTS

OTHER INCOME AND EXPENSES

The Class I and Class II Motor Carrier Chart of Accounts is amended, under Class II, to read as follows:

CLASS II ACCOUNTS*

8700/9700	Income taxes on income from continuing operations.
8710/9710	Federal Income Taxes.
8720/9720	State Income Taxes.
8730/9730	Other Income Taxes.

OTHER INCOME AND EXPENSE ACCOUNT EXPLANATIONS

The Other Income and Expense Account Explanations are amended as follows:

1. Account 8320/9320—Lease of Distinct Operating Units—Credit is amended by deleting the words "Account 1232—Accumulated Depreciation and Amortization, Other Carrier Property (class II) or" and "(class I)" in Note A.

2. Account 8700/9700—Income Taxes on Income from Continuing Operations is amended by deleting "class I" in paragraph (a); and deleting paragraph (b) and classifying (b) as "Reserved."

3. The title of Account 8710/9710 is amended to read: Federal Income Taxes (classes I and II).

4. The title of Account 8720/9720 is amended to read: State Income Taxes (classes I and II).

5. The title of Account 8730/9730 is amended to read: Other Income Taxes (classes I and II).

6. Account 8800/9800—Extraordinary Items (classes I and II) is amended by deleting "class I" in paragraphs (a) and (f); and by deleting the texts of paragraphs (b) and (c) and classifying them as "Reserved."

7. The title of Account 8810/9810 is amended to read: Extraordinary item (net) (classes I and II).

8. The title of Account 8850/9850 is amended to read: Income taxes on extraordinary items (classes I and II).

9. The title of Account 8851/9851 is amended to read: Provision for deferred taxes—extraordinary items (classes I and II).

B. Part 1249, Reports of Motor Carriers, Chapter X, Title 49 of the Code of Federal Regulations is revised as follows:

Sec.	
1249.1	Annual reports of Class I and Class II carriers of property.
1249.2	Annual reports of Class I and Class II carriers of household goods and dual authority carriers.
1249.3	Annual reports of motor carrier holding companies.

AUTHORITY: 49 U.S.C. 12 and 20.

§ 1219.1 Annual reports of Class I and Class II carriers of property.

(a) Commencing with reports for the accounting year 1977, as described in part 1207 instruction 3 of this chapter, and thereafter, until further order, all class I and class II motor carriers of property, as described in § 1240.5 of this chapter, are required to file annual reports in accordance with Motor Carrier Annual Report Form M. Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1249.2 Annual reports of Class I and Class II carriers of household goods and dual authority carriers.

Commencing with reports for the accounting year 1977, as described in part 1207 instruction 3 of this chapter, and thereafter, until further order all class I and class II motor carriers of household goods and dual authority carriers, as described in § 1240.5 of this chapter, are required to file annual reports in accordance with Motor Carrier Annual Report Form M-H. Such annual report shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates.

§ 1249.3 Annual report of motor carrier holding companies.

(a) Each person which is not a motor carrier, but which shall be considered a motor carrier subject to provisions of section 220 of the Interstate Commerce Act by reason of effective control over one or more motor carriers through ownership of securities issued or assumed by such controlled motor carrier or carriers, shall file a report of its financial transactions in accordance with Motor Carrier Annual Report Form M as prescribed in § 1249.1. Such reports hereby required to be filed shall be complete as to all schedules, declarations, replies, attachments, and other requirements of Motor Carrier Annual Report Form M, other than those which relate solely to the direct ownership and operation of highway equipment, and shall be filed in duplicate in the Bureau of Accounts, Interstate Commerce Commission, Washington, D.C. 20423, on or before March 31 of the year following the year to which it relates. Such persons shall also file similar reports annually, prepared in accordance with requirements for compiling Motor Carrier Annual Report Form M, as those requirements are now in effect or may in the future be modified, for each succeeding calendar year, or accounting year of thirteen 4-week periods, such annual reports to be filed in duplicate with the Commission on or before March 31 of the year following the year to which the report relates.

(b) Commencing with reports for the accounting year 1977, as described in part 1207 instruction 3 of this chapter, and thereafter, until further order, each company subject to this section is hereby required to file with this Commission, in addition to said Annual Report Form M, a supplemental consolidated report, Form M-4, setting forth the complete financial condition of such company and its subsidiaries in the scope and form indicated in the instructions to the supplemental consolidated report Form M-4 for the accounting year 1977 and each succeeding year thereafter. Such supplemental financial reports shall be attached to and considered an integral part of Motor Carrier Annual Report Form M filed by each company.

[FR Doc.77-29164 Filed 9-30-77; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—U.S. FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER 8—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Emergency Amendment Regarding the Use of Steel Shot for Waterfowl Hunting in Portions of Minnesota in 1977

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule delays implementation of the regulation requiring use of non-toxic shot for waterfowl hunting in designated zones in Minnesota. This delay has been caused by a lack of availability of non-toxic shot shells in the State. This rule will permit hunters to hunt waterfowl with toxic shot between October 1 and October 14, 1977. The non-toxic shot regulations become effective October 15, 1977.

EFFECTIVE DATE: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert I. Smith, Special Projects Coordinator, Office of Migratory Bird Management, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-8827).

SUPPLEMENTARY INFORMATION: On April 28, 1977, the Service published in the FEDERAL REGISTER (42 FR 21618) descriptions of certain areas in the State of Minnesota in which non-toxic shot regulations would be applicable for waterfowl hunting in seasons commencing in 1977. Since these seasons commence on October 1, 1977, the regulations were applicable to Minnesota beginning on that date. During the last week of August 1977 a survey of stores that sell ammunition in the State of Minnesota indicated that supplies of shotshells loaded with steel shot were available at only a few locations. The State was notified that a potential problem existed with regard to the availability of steel-shot ammunition. Efforts were made by the State to correct this problem during September. Surveys of stores conducted in mid-September indicated that the problem had been partially corrected, but many stores had placed orders too late to receive shipments prior to October 1. Therefore, the Service in consultation with the State has decided to delay the implementation of steel shot requirements for waterfowl hunting in those portions of Minnesota described in 42 FR 21618 to allow shipments of steel shotshells which are now on order to arrive at the stores. Since it was found that immediate corrective action was required, notice and public procedure was impractical and contrary to the public interest, therefore this shall become effective September 30, 1977.

This final rulemaking was authored by Robert I. Smith, Office of Migratory Bird Management, U.S. Fish and Wildlife

Service, Department of the Interior, Washington, D.C. 20240 (202-343-8827).

Accordingly, the Service amends 50 CFR, Chapter 1, Subchapter B, Subpart K by adding the following to that portion of § 20.108 which describes the non-toxic shot zones for Minnesota.

3. In the areas described above in the State of Minnesota use of non-toxic shot for waterfowl hunting will not be required prior to October 15, 1977.

NOTE.—The Fish and Wildlife Service has determined that this ruling does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 28, 1977

LYNN A. GREENWALT,
Director,
U.S. Fish and Wildlife Service.

[FR Doc.77-29084 Filed 9-30-77; 8:45 am]

Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976/1977 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976 and 1977. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the Cumulative List of CFR Sections Affected, which is revised monthly.

The rate for subscription service to all revised volumes issued for 1977 is \$350 domestic, \$75 additional for foreign mailing.

Order from Superintendent of Documents, Government Printing Office, Washington, D.C. 20402.

CFR Unit (Rev. as of Jan. 1, 1977):

Title	Price
1	\$1.65
2 [Reserved]	
3	3.00
4	3.25
5	4.70
7 Parts:	
0-45	5.30
46-51	4.20
52	5.20
53-209	5.80
210-699	6.10
700-749	4.10
750-899	1.80
900-944	4.25
945-980	2.40
981-999	2.50
1000-1059	4.25
1060-1119	4.40
1120-1199	3.20
1200-1499	4.20
1500-end	7.25
8	2.60
9	6.80
10 Parts:	
0-199	4.40
200-end	4.60
11 (Rev. 5/1/77)	2.30

Title	Price
12 Parts:	
1-299	7.40
300-end	7.30
13	4.20

14 Parts:	
1-59	6.00
60-199	5.10
200-1199	6.20
1200-end	2.20
15	5.35

16 Parts:	
0-149	\$5.50
150-999	4.25
1000-end	3.00

CFR Unit (Rev. as of April 1, 1977):

17	6.75
18 Parts:	
1-149	4.25
150-end	4.00
19	5.75

20 Parts:	
01-399	3.25
400-499	5.00
500-end	4.00

21 Parts:	
1-99	3.25
100-199	4.75
200-299	2.10
300-499	5.00
500-599	4.00
600-1299	3.50
1300-end	4.25
23	5.50

24 Parts:	
0-499	5.00
500-end	5.25

26 Parts:	
1 (§§ 1.170-1.300)	\$4.00
1 (§§ 1.301-1.400)	3.75
1 (§§ 1.401-1.500)	4.00
1 (§§ 1.501-1.640)	4.00
1 (§§ 1.641-1.850)	4.35
2-29	4.50
30-39	4.35
300-499	4.35
600-end	2.40

CFR Unit (Rev. as of July 1, 1977):

Title	
34	\$1.70

CFR Unit (Rev. as of Oct. 1, 1976):

Title	
42	5.95

43 Parts:	
1-999	3.10
1000-end	6.00

44 [Reserved]	
45 Parts:	
1-99	3.45
100-199	10.00
200-499	3.15
500-end	6.40

46 Parts:	
1-29	2.15
30-40	2.20
41-69	4.00
70-89	2.10
90-109	1.95
110-139	1.90
140-165	4.00
166-199	2.65
200-end	7.25

47 Parts:	
0-19	3.80
20-69	5.00
70-79	4.90
80-end	6.20

48 [Reserved]	
49 Parts:	
1-99	2.05
100-199 (Rev. 12/31/76)	6.50
200-999	7.55
1000-1199	3.95
1200-1299	7.40
1300-end	3.60

50	4.20
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proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1487]

CCC NON-COMMERCIAL RISK ASSURANCE PROGRAM (GSM-101)

AGENCY: Commodity Credit Corporation, Department of Agriculture.

ACTION: Proposed rule.

SUMMARY: Certain segments of the U.S. agricultural commodity export trade, particularly exporters of cotton, have experienced increasing difficulty in obtaining adequate financing for their sales to foreign buyers on private credit terms. Private banking institutions currently financing export credit sales of agricultural commodities have indicated they would be disposed towards making additional financing available if they could be protected against certain type of non-commercial risk occurrences which prevent remittances pursuant to a foreign bank letter of credit. Among these risks are acts of government which prevent conversion of local currency to U.S. dollars. To provide this kind of protection, Commodity Credit Corporation (CCC) is proposing a non-Commercial Risk Assurance Program (GSM-101) under which CCC would enter into assurance agreements with U.S. exporters who sell U.S. agricultural commodities on deferred payment terms. Under the assurance agreements, CCC would pay the exporter the assured amount of any default under a foreign bank letter of credit arising from certain specified non-commercial risks.

DATE: Comments must be received by November 2, 1977.

FOR FURTHER INFORMATION CONTACT:

L.T. McElvain or Francis A. Woodling, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, 14th Street and Independence Avenue SW., Washington, D.C. 20250, telephone 202-447-3224 or 447-3573.

The public is invited to submit written comments regarding the proposed rule to the Office of the General Sales Manager, Commercial Export Programs, U.S. Department of Agriculture, Washington, D.C. 20250, no later than November 2, 1977, to be sure of consideration. Each person submitting comments regarding the proposed rule shall include his name and address and give reasons for any suggested change in the proposed rule. Copies of all written communications re-

ceived will be available for examination by interested persons in room 4079, South Agriculture Building, 14th Street and Independence Avenue SW., Washington, D.C. 20250, during regular business hours. Accordingly, it is proposed to amend Chapter XIV of Title 7 of the CFR by adding a new Part 1487—Non-Commercial Risk Assurance Program (GSM-101) to read as follows:

PART 1487—CCC NON-COMMERCIAL RISK ASSURANCE PROGRAM (GSM-101)

GENERAL

- Sec.
1487.1 General statement.
1487.2 Definition of terms.

ASSURANCE AGAINST NON-COMMERCIAL RISK DEFAULTS

- 1487.3 Application for assurance agreement.
1487.4 Assurance agreement.
1487.5 Assurance rates.
1487.6 Assurance fees.

DOCUMENTS REQUIRED AFTER EXPORT

- 1487.7 Evidence of export.

LOSSES CAUSED BY NON-COMMERCIAL RISK DEFAULTS

- 1487.8 Notice of default.
1487.9 Payment of losses.
1487.10 Recovery of losses.

MISCELLANEOUS PROVISIONS

- 1487.11 Assignment.
1487.12 Covenant against contingent fees.
1487.13 Shipment of commodities on vessels calling at north Vietnamese ports.
1487.14 Officials not to benefit.
1487.15 Exporter's records and accounts.
1487.16 Communications.

AUTHORITY: Sec. 5(f), 62 Stat. 1072 (7 U.S.C. 714c(f)).

GENERAL

§ 1487.1 General statement.

(a) This part contains the regulations governing the Commodity Credit Corporation Non-Commercial Risk Assurance Program, also referred to as "GSM-101." Exporters of U.S. agricultural commodities usually require importers to guarantee payment of the selling price of commodities sold on a deferred payment basis. Generally, the guarantee is in the form of an irrevocable bank letter of credit issued in favor of the exporter who draws drafts for the deferred payments as they fall due on the bank issuing such letter of credit. GSM-101 is designed to protect the exporter from losses should a draft be dishonored as the result of a non-commercial risk occurrence. By transferring the non-commercial risk of loss of deferred payments from exporters and their financing institutions to CCC, GSM-101 is intended to (1) facilitate exportation, (2) forestall

or limit declines in exports, (3) permit exporters to meet competition from other countries, and (4) increase commercial exports of U.S. agricultural commodities.

(b) GSM-101 will be administered by the Office of General Sales Manager, U.S. Department of Agriculture.

(c) The provisions of Pub. L. 83-664 (Cargo Preference Act) are not applicable to shipment of commodities assured as to non-commercial risk under GSM-101.

(d) GSM-101 will be supplemented by USDA announcements.

§ 1487.2 Definition of terms.

(a) "Assistant Sales Manager" means the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager.

(b) "Assured Value" means the maximum amount CCC agrees to pay the exporter under the assurance agreement. The assured value shall not exceed the unpaid balance of the port value of the commodity prior to shipment plus interest of not more than six percent per annum on such unpaid balance.

(c) "Assurance Agreement" means the written agreement under which CCC undertakes to reimburse the exporter for losses resulting from defaults in remittances due to non-commercial risk under a foreign bank letter of credit securing the exporter's export credit sale.

(d) "CCC" means the Commodity Credit Corporation, U.S. Department of Agriculture.

(e) "Date of Export" means the on-board date of an ocean bill of lading or onboard ocean carrier date of an intermodal bill of lading.

(f) "Date of Sale" means the earliest date the exporter has knowledge that a contractual obligation exists with the importer under which a firm dollar and cent price has been established or a mechanism to establish the price has been agreed upon.

(g) "Export Credit Sales" means an agreement by an exporter to sell eligible agricultural commodities for U.S. dollars to an importer. The agreement shall provide for export of the commodities to eligible countries within 12 months from the contract date and for payment by the importer on a deferred payment basis not exceeding 36 months from the date(s) of export.

(h) "Exporter" means an individual, group of individuals, partnership, corporation, association, cooperative, or any other entity (1) that is financially responsible, (2) engaged in the business of buying or selling commodities for export and for this purpose maintains a bona fide business office in the United States, its territories or possessions, and has

someone on whom service of judicial process may be had within the United States, and (3) not suspended or debarred from contracting with or participating in any program administered by CCC on the date of issuance of the assurance agreement.

(i) "Foreign Bank Letter of Credit" means an irrevocable commercial letter of credit issued in favor of the exporter by a banking institution in the destination country pursuant to an export credit sale, which provides for deferred payments in U.S. dollars.

(j) "Importer" means a foreign buyer who enters into an export credit sale contract on a deferred payment basis with a U.S. exporter.

(k) "Non-Commercial Risk" means the risk of loss as a result of failure by the foreign bank, through no fault of its own, to make remittances pursuant to the bank letter of credit issued by it because of (1) war, hostilities, civil war, rebellion, insurrection or civil commotion; or (2) expropriation, confiscation, or like action by government; or (3) the imposition by governmental authority of any order, decree, or regulation of general applicability having the force of law; or (4) the failure of the central exchange authority to transfer local currency into dollars.

(l) "OGSM" means the Office of the General Sales Manager, U.S. Department of Agriculture.

(m) "Port value" means the total value of the export credit sale, less any discounts or allowances, basis f.a.s. or f.o.b. at U.S. ports. Such value shall include, the value of the upward loading tolerances, if any, as provided for by the export credit sales contract.

(n) "USDA Announcement" means an announcement issued by the U.S. Department of Agriculture supplementing these regulations. An announcement may include identification of eligible agricultural commodities and countries, dollar limitation of CCC exposure in a country and other information.

(o) "Vice President, CCC" means the Vice President who is the General Sales Manager, OGSM.

ASSURANCE AGAINST NON-COMMERCIAL RISK DEFAULTS

§ 1487.3 Application for assurance agreement.

(a) An exporter shall submit a written application for an assurance agreement to the office specified in § 1487.16. An application may be made by telephone, but it must be confirmed in writing. An application shall include the following:

- (1) Name of the destination country.
- (2) Name and address of importer.
- (3) Date of sale.
- (4) Exporter's sale number.
- (5) Delivery period.
- (6) Kind and description of the commodity.
- (7) Quantity.
- (8) Port value.
- (9) Assured value.
- (10) Estimated payment schedule(s) for each shipment to be made under the

assurance agreement showing the estimated payment due dates and estimated amounts due separately for both principal and interest.

(b) An application for an assurance agreement may be rejected, approved with modifications, or approved as submitted by the Assistant Sales Manager. In the event the application is approved, the Assistant Sales Manager shall cause an assurance agreement to be issued in favor of the U.S. exporter.

§ 1487.4 Assurance agreement.

(a) The assurance agreement shall provide that CCC shall pay the U.S. exporter in U.S. dollars for losses resulting from the failure of the foreign bank, which issues the bank letter of credit securing the export credit sale, to honor drafts drawn upon it or otherwise remit amounts properly due when such defaults are caused by the occurrence of non-commercial risks arising after export.

(b) The assurance coverage shall become effective on the date(s) of export(s) and continue in force for the period covered by the payment schedule for such export(s). Exports made prior to receipt by CCC of a telephonic or written application for an assurance agreement are ineligible for assurance coverage.

(c) The assurance agreement may contain such terms, conditions, and limitations not inconsistent with GSM-101 as are deemed necessary or desirable by the Assistant Sales Manager.

(d) The assurance agreement may be amended provided such amendment is in conformity with GSM-101 at the time of amendment and is approved by the Assistant Sales Manager. Amendments may include a change in the credit period and an extension of time to export. Any amendments of the assurance agreement may be subject to an increase in the assurance fee. Any amendment shall indicate its effective date and shall apply only to exports made on or after that date.

ASSURANCE RATES AND FEES

§ 1487.5 Assurance rates.

The assurance rates will be based upon the length of the payment terms provided by the export credit sale contract, the degree of risk that CCC assumes, and any other factors which CCC believes should be considered. Assurance rates charged by CCC under GSM-101 will be available upon request from the office specified in § 1487.16.

§ 1487.6 Assurance fees.

(a) The assurance fee will be computed on the basis of the portion of the port value, plus interest not to exceed 6 percent, which is assured under the assurance agreement.

(b) The exporter shall remit, with his written application, the full amount of the fee based on an applicable rate. If the application is submitted by telephone, telex, or TWX, final approval of the application will not be given until the fee has been received by CCC. Ap-

proval of the application will be final and refunds of the assurance fee will not be made after approval unless the Assistant Sales Manager determines that such a refund would be in the interest of GSM-101.

(c) If the application for an assurance agreement is not approved or is approved only for a part of the coverage requested, a full or pro rata refund of the remittance will be made. The assurance fee shall be made payable to CCC and mailed to the office specified in § 1487.16.

DOCUMENTS REQUIRED AFTER EXPORT

§ 1487.7 Evidence of export.

(a) The exporter shall provide a written report to the office specified in § 1487.16 within 20 days following each export covered under the assurance agreement. This report shall include the following:

- (1) Assurance agreement number.
- (2) Date of export.
- (3) Exporter's sale number.
- (4) Port value exported.
- (5) Kind, quantity and description of the commodity exported.

(6) Statement that the agricultural commodities of the grade, quality and quantity called for in his sales contract with the foreign importer have been exported.

(7) A statement that he has in his files documents evidencing the obligation of the foreign importer and that he will retain such documents in his files until three years after maturity of the related assurance agreement.

(8) A statement that a letter of credit has been opened in favor of the exporter to cover the port value of the commodity exported.

(9) A payment schedule showing the payment due dates and amounts due separately for both principal and interest for which credit has been extended to the importer.

(b) If the report required by paragraph (a) of this section is not received by CCC within 20 days after the date of the export, the assurance agreement shall become null and void with respect to defaults in payments applicable to such export. This provision may be waived by the Assistant Sales Manager for good cause shown.

LOSSES CAUSED BY NON-COMMERCIAL RISK DEFAULTS

§ 1487.8 Notice of default.

(a) If the foreign bank issuing the letter of credit fails to honor a draft in full conformity with the terms of the letter of credit and such default appears to be attributable to the occurrence of a non-commercial risk, the exporter or the assignee shall promptly furnish a written notice of default to the Treasurer, CCC. The notice shall include the assurance agreement number, the amount due, the date of refusal to pay, and reason for the default.

(b) Within 30 days after the notice of default, the exporter or the assignee shall furnish the following:

- (1) Assurance agreement number.
- (2) A certification that the scheduled payment has not been received.
- (3) A copy, certified as true and correct by the exporter, of each of the following:
 - (i) Foreign bank letter of credit securing the export credit sale.
 - (ii) Export credit sales contract.
 - (iii) Ocean carrier or intermodal bill(s) of lading with onboard ocean carrier date for each shipment.
 - (iv) Invoice(s) showing the port value of the commodities exported.
 - (v) A claim for a loss shall not be honored if it is not made in writing prior to the expiration of six months from the date of default of the scheduled payment.

§ 1487.9 Payment of loss.

- (a) Upon receipt of the information required under § 1487.8, and such evidence as CCC may deem necessary for the purpose of establishing that the loss was occasioned by the occurrence of a non-commercial risk default, CCC shall promptly determine whether or not a loss has occurred for which CCC is liable under the applicable assurance agreement and these regulations. CCC will promptly notify the exporter of its determination.
- (b) CCC's maximum liability will be limited to the assured value as shown in the assurance agreement. The liability of CCC shall be reduced to the extent that the exporter has obtained other valid and collectible coverage compensation for such loss. If the assured value covers only a percentage of the port value of an export credit sale, the liability of CCC shall be limited to such percentage of the loss.
- (c) CCC shall only honor claims for losses on amounts not paid as scheduled. CCC shall not honor claim for amounts due under an accelerated payment clause in the export credit sales contract or the letter of credit unless it is determined to be in the interest of GSM-101 by the Assistant Sales Manager.
- (d) If CCC determines that it is liable to the exporter and/or his assignee, the exporter and/or his assignee shall execute and submit to CCC an instrument, in form and substance satisfactory to CCC, subrogating to CCC, their respective rights for the amount of payment in default under the bank letter of credit and the applicable export credit sale. After receipt of an instrument of subrogation, CCC will remit the amount of the loss plus interest, at the Federal Reserve Bank of New York discount rate in effect on the date of default, beginning with the 31st day after notice of default was received by CCC and continuing to the date payment is made by CCC.
- (e) Upon payment of a claim to the exporter or his assignee, the exporter or his assignee shall cooperate with CCC to effect recoveries from the foreign bank and/or the importer.

- (f) Upon payment of loss to the exporter of his assignee, CCC will notify or the importer and/or the foreign bank of its rights under the subrogation agreement to recover all monies in default under the foreign bank letter of credit.
- (g) In the event monies for the defaulted payment are received by the exporter or the assignee from the importer, foreign bank, or any other source whatsoever, such monies shall be immediately paid to the Treasurer, CCC.
- (h) Recoveries made by CCC from the importer or foreign bank and recoveries received by CCC from the exporter or assignee or any other source shall be allocated by CCC to the exporter or assignee and CCC on a pro rata basis as their respective interest may appear.
- (i) Notwithstanding any other terms of the assurance agreement, the exporter shall be liable to CCC for any amounts paid by CCC under the assurance agreement when, and if it is determined by CCC that the exporter has been or is in breach of any contractual obligation, certification or warranty made by him for the purpose of obtaining the assurance agreement.

MISCELLANEOUS PROVISIONS

§ 1487.11 Assignment.

- (a) The exporter may make an assignment of proceeds payable by CCC under the assurance agreement to only a bank or other financing institutions in the United States. The assignment shall cover all amounts payable under the assurance agreement not already paid and shall not be made to more than one party.
- (b) An original and two copies of the written notice of each assignment of monies that may be due or come due from CCC together with one signed copy of the instrument of assignment, which shall be a true copy of the original, must be filed by the assignee with the Treasurer, CCC, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.
- (c) Receipt of the notice of assignment shall be acknowledged by an official of CCC.

§ 1487.12 Covenant against contingent fees.

The exporter warrants that no person or selling agency has been employed or retained to solicit or secure the assurance agreement, or that there is any agreement or understanding for commission, percentage, brokerage, or contingent fee except in the case of bona fide employees or bona fide established commercial or selling agencies maintained by the exporter for the purpose of securing business. For breach or violation of his warranty, CCC shall have the right, without limitation of any other rights it may have, to annul the assurance agreement without liability to CCC.

§ 1487.13 Shipment of Commodities on Vessels Calling at North Vietnamese Ports.

Any commodity exported under an assurance agreement shall not be shipped from the United States, or transshipped through Canada via the Great Lakes, at port on the St. Lawrence River, on a

vessel which has called at a North Vietnamese port on or after January 25, 1966, unless a special waiver is granted by the Maritime Administration. Commodities shipped on such vessel shall not be considered to have been covered by the assurance agreement.

§ 1487.14 Officials not to benefit.

No member of or delegate to Congress, or Resident Commissioner, shall be admitted to any share or part of the assurance agreement or to any benefit that may arise therefrom, but this provision shall not be construed to extend to the assurance agreement if made with a corporation for its general benefit.

§ 1487.15 Exporter's records and accounts.

Authorized officials of USDA shall have access to and the right to examine any pertinent books, documents, papers and records of the exporter and/or the financing institution involving transactions related to the export credit sale covered by the assurance agreement until three years after expiration of the coverage of the related assurance agreement.

§ 1487.16 Communications.

Unless otherwise provided, written requests, notifications, or communications concerning the assurance agreement shall be addressed to the Assistant Sales Manager, Commercial Export Programs, Office of the General Sales Manager, U.S. Department of Agriculture, Washington, D.C. 20250.

NOTE.—The recordkeeping and reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

Signed at Washington, D.C., on September 28, 1977.

KELLY HARRISON,
Vice President, Commodity
Credit Corporation and, General
Sales Manager, Office of
the General Sales Manager.

[FR Doc.77-28957 Filed 9-28-77;12:27 pm]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION [10 CFR Part 791]

ELECTRIC HYBRID VEHICLE RESEARCH DEVELOPMENT AND DEMONSTRATION PROJECT

Performance Standards

AGENCY: U.S. Energy Research and Development Administration.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Administrator of the U.S. Energy Research and Development Administration is directed in Pub. L. 94-413 (Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976) to promulgate rules establishing performance standards representing the minimum level of performance required of electric or hybrid ve-

hicles to be purchased or leased under provisions of Pub. L. 94-413. This notice is intended to encourage timely public comment for consideration in preparing these performance standards.

DATES: Comments must be received on or before November 18, 1977.

ADDRESS: Send comments to Electric and Hybrid Vehicle Systems, Division of Transportation Energy Conservation, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

FOR FURTHER INFORMATION CONTACT:

Paul J. Brown, 202-376-4681.

SUPPLEMENTARY INFORMATION: The Administrator of the U.S. Energy Research and Development Administration is directed in Pub. L. 94-413 (Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976) to promulgate rules establishing performance standards representing the minimum level of performance required of electric or hybrid vehicles to be purchased or leased under provisions of Pub. L. 94-413.

These standards are being developed taking into account factors of energy conservation, urban traffic characteristics, patterns of use for "second" vehicles, consumer preferences, maintenance needs, battery recharging characteristics, agricultural requirements, materials demand and their ability to be recycled, vehicle safety and insurability, cost, and other relevant considerations. In developing supporting material to form a basis for establishing such standards, the Energy Research and Development Administration has contracted by competitive procurement for studies by General Research Corp. of Santa Barbara, Calif., and also by Arthur D. Little, Inc., of Cambridge, Mass. These studies are to develop and document recommendations for the electric and hybrid vehicle minimum performance standards. Interim reports on this work were presented at the Fourth International Symposium on Automotive Propulsion Systems in Washington, D.C., during April 1977. The final report on the General Research Corp. contract is currently available and the Arthur D. Little, Inc., report is scheduled to be available in several weeks. A copy of the contract reports may be obtained from the Office of Electric and Hybrid Vehicle Systems, Transportation Energy Conservation Division, Energy Research and Development Administration, 20 Massachusetts Avenue NW., Washington, D.C. 20545. These reports will also soon be available from the National Technical Information Service, U.S. Department of Commerce, 5282 Port Royal Road, Springfield, Va. 22161.

The Society of Automotive Engineers has been engaged by contract to provide critical comment on the specifications recommended by General Research Corp. and Arthur D. Little, Inc. A copy of this report, when available, may also be obtained from the above sources.

Written public comments and recommendations with respect to the proposed standards are invited from interested individuals and organizations, and will be considered by the Energy Research and Development Administration prior to the required promulgation of minimum performance standards by December 17, 1977. It is requested that all comments and recommendations be mailed to the Office of Electric and Hybrid Vehicle Systems by November 18, 1977, to provide sufficient time for such consideration.

Dated at Washington, D.C., this 26th day of September 1977.

MAXINE SAVITZ,
Director, Division of Buildings
and Community Systems.

[FR Doc.77-29133 Filed 9-30-77;8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-WE-31-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC-10 Series Airplanes
AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes an airworthiness directive (AD) that would require both of the following to be accomplished on DC-10 series airplanes: (1) The modification of the stall warning installation and (2) the addition of a preflight stall warning check to the FAA Approved Airplane Flight Manual. The proposed AD is needed to prevent aborted takeoffs at speeds above the designated speed for an aborted takeoff, due to a false stall warning which could result in the airplane running off the runway.

DATES: Comments must be received on or before November 3, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rules Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009.

The applicable service bulletin may be obtained from: McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, Calif. 90846, Attention: L. A. Eisenberg, CI-750, 54-60. Also, a copy of this service bulletin may be reviewed at, or a copy obtained from: Rules Docket, in Room 916, FAA 800 Independence Ave., SW., Washington, D.C. 20591, or Rules Docket, in Room 6W14, FAA Western Region, 15000 Aviation Blvd., Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Interested persons are also invited to comment on the economic, environmental and energy impact that might result because of adoption of the proposed rule. Communications should identify the regulatory docket number and be submitted in duplicate to the Federal Aviation Administration, at the address given in the opening section of this AD. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of the comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD will be filed in the Rules Docket.

During the past two years, 58 reported false stall warning annunciations have occurred during takeoff roll at rotation on DC-10 series airplanes. Although the false stall warnings have occurred above the normal abort speed, this condition has resulted in five aborted takeoffs. To alleviate aborted takeoffs induced by false stall warnings, the McDonnell Douglas Corporation has prepared a modification to add a time delay to the stall warning circuitry.

The proposed delay provides a greater time interval between the designated abort speed and any possible false stall warning. The additional delay time will normally result in the airplane becoming airborne before a false stall warning can occur. This should decrease the possibility of an aborted takeoff.

The five second time delay is effected immediately after takeoff only. During the time from nose gear lift off plus five seconds, throughout the flight regime to touchdown, an approach to stall will have a normal undelayed stall warning annunciation.

Since false stall warnings are likely to occur in other airplanes of the same type design, the proposed AD would require accomplishment of the following on DC-10 airplanes: (1) the installation of necessary hardware which will add a normal five second time delay to the stall warning initiation circuitry; and (2) the incorporation in the FAA Approved Airplane Flight Manual of a preflight test procedure that verifies operation of the five second time delay.

NOTE.—In separate but related action, the FAA is proposing the mandatory modification of the angle of attack sensor used on DC-10

and other airplanes, to minimize the probability of false stall warnings.

DRAFTING INFORMATION

The principal authors of this document are Herbert G. Peters, Aircraft Engineering Division, and Dewitte T. Lawson Jr., Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDONNELL DOUGLAS: Applies to DC-10-10, -10F, -30, -30F and -40 series airplanes, certificated in all categories.

Compliance required as indicated.

To minimize the probability of an aborted takeoff following a false stall warning, add a five second time delay between nose gear lift off and the initiation of a stall warning, by accomplishing the following:

a. Within 2,500 additional hours time in service, or 250 days from the effective date of this AD, whichever occurs earlier, unless already accomplished, or unless incorporated in production, modify the airplanes in accordance with McDonnell Douglas DC-10 Service Bulletin 22-94 dated August 4, 1977, or later FAA approved revisions.

b. Incorporate revisions in the FAA Approved Airplane Flight Manual, Documents MDC-J1010, MDC-J1030, MDC-J5830, MDC-J1040 and MDC-J2140, by adding the following new heading and text in Section III Procedures:

Stall warning preflight check

Rotate "Stall Test" switch to "L (MOM)." Note five second delay before stick shaker activation. Rotate "Stall Test" switch to "R (MOM)." Again note five second delay before stick shaker activation.

c. Equivalent modifications, procedures, or revisions may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

d. Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for accomplishment of the modification required by this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, California on September 20, 1977.

WILLIAM R. KRIEGER,
Acting Director, Federal Aviation Administration, Western Region.

Secretary.

[FR Doc.77-28991 Filed 9-30-77; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Docket No. 77-80-38]

DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Proposed Designation of Transition Area, Mocksville, North Carolina

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: A public use instrument approach procedure is being developed for the Twin Lakes Airport, Mocksville, N.C., and additional controlled airspace is required for containment of IFR operations. This proposed rule will designate the Mocksville, N.C., transition area and will lower the base of controlled airspace in the vicinity of the airport from 1,200 to 700 feet to accommodate the anticipated IFR operations.

DATES: Comments must be received on or before November 14, 1977.

ADDRESS: Send comments on the proposal to: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

C. Herman Thompson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320; telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Federal Aviation Administration, Attention: Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before November 14, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rulemaking will be filed in the public, regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being

placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to designate the Mocksville, N.C., 700-foot transition area. This action will provide additional controlled airspace to accommodate aircraft performing IFR operations at Twin Lakes Airport, Mocksville, N.C.

DRAFTING INFORMATION

The principal authors of this document are C. Herman Thompson, Airspace and Procedures Branch, Air Traffic Division, and Richard L. Faber, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 71.181 of Part 71 of the Federal Aviation Administration Regulations (14 CFR 71) by adding the following:

Mocksville, N.C.

That airspace extending upward from 700 feet above the surface within a 6-mile radius of Twin Lakes Airport (Lat. 35°54'50"N., Long. 80°27'20"W.); within 3 miles each side of the 278° bearing from the Davis RBN (Lat. 35°54'48"N., Long. 80°27'23"W.); extending from the 6-mile radius area to 8.5 miles west of the RBN.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on September 23, 1977.

GEORGE R. LACAILLE,
Acting Director, Southern Region.

[FR Doc.77-28990 Filed 9-30-77; 8:45 am]

[4910-13]

[14 CFR Part 91]

[Docket No. 17235; Notice No. 77-21]

GENERAL OPERATING AND FLIGHT RULES

Proposed Elimination of Certain Flight Plan Requirements for Civil Aircraft Operating Between the United States and Canada or Mexico

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to revoke the regulation prohibiting operation of civil aircraft between the United States and Canada or Mexico without

prior Air Traffic Control (ATC) authorization or filing of an IFR or VFR flight plan. The FAA believes that this requirement works a hardship upon a significant number of private operators who, to comply, may have to fly a considerable distance out of their way and expend additional flight time and fuel. The FAA believes that this proposal will eliminate the hardship without unduly interfering with efforts by law enforcement agencies to curtail the illicit carriage of narcotic and similar substances in civil aircraft operated between the United States and Canada or Mexico.

DATES: Comments must be received on or before: January 3, 1978.

ADDRESS: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24) Docket No. 17235, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Walter J. Moylette, Air Traffic Rules Branch (AAT-220), Airspace and Air Traffic Rules Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3128.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue SW., Washington, D.C. 20591. All communications received on or before January 3, 1978, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments in the Rules Docket, for examination by interested persons. A report summarizing each public contact with FAA personnel concerned with this rule making will be filed in the public regulatory docket.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to: Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, Telephone: 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

DISCUSSION OF PROPOSED RULE

In 1973, the FAA adopted § 91.84 as a part of its concerted effort to assist law enforcement agencies in prohibiting the carriage of illicit narcotics, marijuana, and depressant and stimulant drugs or substances in civil aircraft operated between the United States and Canada or Mexico, and to minimize the operational hazards associated with this illegal use of aircraft. Simultaneously, the FAA adopted a number of amendments that were designed to accomplish this purpose. Section 91.84 of Part 91 currently states:

Unless otherwise authorized by ATC, no person may operate a civil aircraft between Mexico or Canada and the United States without filing an IFR or VFR flight plan, as appropriate.

Based on experience under the rule, the FAA believes that the regulation imposes a substantial burden on many affected flights. The hardship is particularly significant on commercial charter flights and some private operations to remote hunting, fishing, or similar camps located in Canada. Since communications in such areas are limited or nonexistent, compliance with § 91.84 frequently requires pilots to fly many miles out of their way to establish communications in order to file or close flight plans. Consequently, compliance with the rule not only causes inconvenience but frequently imposes additional economic burdens on the affected persons in terms of both fuel consumption and flight time.

Many requests for authorizations for waiver of the requirements of the rule have been received. At least one petition for permanent exemption has also been filed. Because of the undue burden found in some cases, the FAA, in the public interest, has granted numerous authorizations to aircraft operators to deviate from the provisions of the rule. Due to the substantial number of requests for authorization to operate without filing a flight plan, the FAA has reviewed the continued need for § 91.84 and discussed the matter with other Federal agencies. Based on that review, the FAA believes that it can revoke § 91.84 and yet continue to maintain the current level of safety and assistance to other agencies in the elimination of the illicit carriage of narcotics, marijuana, and depressant and stimulant drugs and substances in civil aircraft.

This same level of control would continue to be maintained by the Federal Aviation Administration through its enforcement of several other provisions of the FARs in conjunction with several other Federal agencies (e.g., the Drug Enforcement Administration; the Immigration and Naturalization Service; and the Treasury Department) that are actively engaged in combating the illicit drug traffic.

It should be noted that the adoption of this proposal will not eliminate the necessity for a pilot of civil aircraft to comply with the flight plan requirements

of § 91.11 when he operates his aircraft in or penetrates a coastal or domestic air defense identification zone (ADIZ). It also would not affect the flight plan and ATC clearance requirements that § 91.115 imposes upon a pilot operating an aircraft in controlled airspace under IFR.

DRAFTING INFORMATION

The principal authors of this document are Walter J. Moylette, Air Traffic Service, and Gloria J. Willingham, Office of the Chief Counsel.

THE PROPOSED RULE

§ 91.84 [Reserved]

Accordingly, the Federal Aviation Administration proposes to amend Part 91 of the Federal Aviation Regulations (14 CFR Part 91) by revoking § 91.84 and designating it "[Reserved]."

(Secs. 307(c), and 313(a), Federal Aviation Act of 1958, as amended, 49 U.S.C. 1348(c), 1354(a); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)), and 14 CFR 11.45.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 19, 1977.

CHARLES H. NEWFOL,
Acting Director,
Air Traffic Service.

[FR Doc.77-28995 Filed 9-30-77; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Parts 240, 249]

[Release Nos. 33-5868, 34-13989, 35-20188, IC-9944]

AUDITOR CHANGES

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rules.

SUMMARY: The Commission is proposing to amend its rules regarding the reporting of changes of a registrant's independent accountants to require disclosure of (1) the reasons for such changes and (2) whether the decision to change independent accountants was approved by the registrant's Board of Directors or its audit committee. Currently, the reporting of reasons for changing independent accountants is limited to situations involving disagreements between the registrant and its independent accountants on matters of accounting principles or practices, financial statement disclosure, or auditing scope or procedure. The increased disclosure of facts surrounding a change of auditors should aid investors in better understanding and evaluating the registrant's relationship with its independent accountants.

DATE: Comments should be submitted on or before November 30, 1977.

ADDRESS: Comments should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. All comments will be available for public inspection (File No. S7-720).

FOR FURTHER INFORMATION CONTACT:

Edward R. Cheramy, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-376-8020).

SUPPLEMENTARY INFORMATION: Beginning in 1971,¹ the Commission has required specific disclosure in a timely Form 8-K filing of any change in the principal independent accountants of the registrant, including disclosure of any disagreements between the registrant and its independent accountants on matters of accounting principles or practices, financial statement disclosure, or auditing scope or procedure. In 1974, in Accounting Series Release No. 165 (40 FR 1010), the Commission modified the Form 8-K rules and added a section to proxy statement rules entitled, "Relationship with Independent Public Accountants."² The current proxy statement requirements call for disclosure of auditor changes and the disagreements described in Form 8-K.

As stated in Accounting Series Release No. 165:

One of the underpinnings of the Commission's administration of the disclosure requirements of the federal securities laws is its reliance on the reports of independent public accountants on the financial statements of registrants. These reports provide the assurance of an outside expert's examination and opinion, thereby substantially increasing the reliability of financial statements.

Since that time, the role of the independent accountant as an outside expert has expanded. Auditors now perform limited reviews of interim financial information and, on occasion, report the results of such reviews in Form 10-Q. Generally accepted auditing standards now require auditors to report material weaknesses in internal ac-

counting controls to their clients.³ In addition, the Commission on Auditors' Responsibilities recommended the following:

The audit function can and should expand from being oriented to periodic financial statements to include information of an accounting and financial nature that management has a responsibility to report, provided that it is produced by the accounting system and the auditor is competent to verify the information.

The audit should be considered as a function to be performed during a period of time rather than an audit of a particular set of financial statements. The audit function should gradually expand to include all important elements of an entity's financial reporting process.⁴

This increased participation by the independent accountant in the financial reporting process will make it even more important that this relationship be fully understood and appreciated by the investors and other users of financial information. To sustain confidence by the users of the auditors' work product, the Commission and the accounting profession have required that auditors remain independent, both in fact and appearance, of the companies they audit. To assure this independence the Commission has encouraged the formation of audit committees comprised of independent members of the Board of Directors.⁵ Such committees can serve as links between the independent accountants and the shareholders and give auditors a level of authority higher than management for the discussion of controversial matters. In furtherance of these objectives, the Commission believes that one of the principal responsibilities of an independent audit committee should be that of recommending the engagement or discharge of the company's independent accountants to the full Board of Directors.

In view of the increased significance of the role of the independent accountant, the Commission believes that investors should be fully informed about the relationship between a company and its auditors. In a concurrent release the Commission is soliciting comment on a rule proposal to require public companies to disclose, in their proxy materials, the services provided by their independent accountants and the related fees.⁶

In this release, rules are proposed to more adequately inform investors and others of the circumstances relating to a change of auditors. Because the continu-

ing relationship between the company and its independent accountants is important, the Commission believes that investors should be informed on a timely basis of the reasons for a change in independent accounts. In addition, because of the significance of the decision, the Commission believes that investors should be advised whether the decision to change independent accountants was considered by the company's Board of Directors or its audit committee. The Commission therefore proposes to amend its Form 8-K and proxy rules to require disclosure of these matters.

EFFECTIVE DATE

If adopted, such rules are expected to be effective for all Form 8-Ks and proxy materials filed with the Commission thirty days after the adoption and publication in the Federal Register of final rules.

COMMISSION ACTION

The Commission hereby proposes (1) to amend § 240.14a-101 of 17 CFR Part 240 by revising Item 8 thereunder by revising paragraph (c) and adding new paragraph (f); and (2) to amend § 249.308 of 17 CFR Part 249 by adding to Item 4 thereunder new paragraphs (b) and (f) and redesignating existing paragraphs (b), (c), and (d) as (c), (d), and (e) respectively, as given below.

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.14a-101 Schedule 14A. Information required in proxy statement.¹

Item 8. Relationship with independent public accountants. . . .

(c) If a change has or changes in accountants have taken place since the date of the proxy statement for the most recent annual meeting of shareholders, describe the reasons for such change(s) and any disagreement(s) between the accountant and the issuer as previously reported or required to be reported on Form 8-K or in the accountant's letter filed as an exhibit thereto. Prior to submitting the preliminary proxy material to the Commission which contains or amends such description, the issuer shall furnish to any such accountant(s) the reason(s) for the change and a description of any disagreement(s). If such accountant(s) believe that the asserted reason(s) for the change and the description of any disagreement(s) are incorrect or incomplete, he may include a brief statement, ordinarily expected not to exceed 200 words, in the proxy statement presenting his view of the reasons for the change or the description of any disagreement(s). This statement shall be submitted to the issuer within ten business days of the date such accountant(s) received the issuer's reason(s) and description.

(f) If a change has or changes in accountants have taken place since the date of the proxy statement for the most recent annual meeting of shareholders, state whether such change(s) were considered, recommended or approved by the Board of Directors or an audit or similar committee thereof.

PART 249—FORMS, SECURITIES EXCHANGE ACT OF 1934

§ 249.308 Form 8-K, for current reports. . . .

Item 4. Changes in Registrant's Certifying Accountant. . . .

(b) State the reason(s) for the change in certifying accountant.

(c) was (b) . . .

(d) was (c) . . .

(e) was (d) . . .

(f) State whether such change(s) in certifying accountant were considered, recommended or approved by the Board of Directors or an audit or similar committee thereof.

These amendments are proposed to be adopted pursuant to authority in Sections 12, 13, 15(d), and 23(a) (15 U.S.C. 78l, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934. Pursuant to Section 23(a) (2) of the Securities Exchange Act of 1934 the Commission has considered the impact of these proposals on competition and is not aware, at this time, of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 26, 1977.

[FR Doc.77-28913 Filed 9-30-77;8:45 am]

[8010-01]

[17 CFR Part 240]

[Release Nos. 33-5869, 34-13990, 35-20189, IC-9945]

DISCLOSURE OF RELATIONSHIPS WITH INDEPENDENT PUBLIC ACCOUNTANTS

AGENCY: Securities and Exchange Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to adopt rules which would require disclosure in a company's proxy materials of (1) the services provided during the last fiscal year by the company's independent auditors and the related fees, (2) whether the board of directors or audit committee has approved all services, and (3) the company's revenues derived from the independent auditors. The proposed disclosures would provide objective evidence for helping investors to formulate an opinion as to the independence of the auditors. The Commission is also soliciting information and comments on the nature of services auditors provide their audits clients.

DATE: Comments should be submitted on or before November 30, 1977.

ADDRESS: Comments should refer to File S7-721 and should be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol St., Washing-

ton, D.C. 20549. All comments will be available for public inspection.

FOR FURTHER INFORMATION CONTACT:

Gary A. Zell, (202-376-8019), Office of the Chief Accountant or J. Rowland Cook, (202-755-1750), Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: Rule 2-01 (Qualifications of Accountants) of Regulation S-X (17 CFR 210.2-01) requires auditors to be in fact independent in order to be recognized as independent by the Commission.

This rule states in part:

In determining whether an accountant may in fact be not independent with respect to a particular person, the Commission will give appropriate consideration to all relevant circumstances, including evidence bearing on all relationships between the accountant and that person or any affiliate thereof, and will not confine itself to the relationships existing in connection with the filing of reports with the Commission.

The reports of auditors provide assurance of the reliability of financial statements filed with the Commission and are relied upon by the Commission in administering the securities laws. The independence of auditors is a critical element of the system that has been in effect since the Securities Acts were enacted over 40 years ago.

PRIOR COMMISSION ACTIONS

The Commission has taken several steps in past years to assist auditors in strengthening their independence. These include Accounting Series Releases (ASR) Nos. 47 (11 FR 10930), 81 (23 FR 9777), and 126 (37 FR 14294) which provide guidelines and examples of relationships between registrants and auditors which the Commission or its staff concluded resulted in a lack of necessary independence.

Since 1971 the Commission has required disclosure of disagreements between registrants and displaced auditors which could have required or did require mention in the auditor's report. In 1975 the Commission strengthened this rule and in addition required disclosure in proxy statements of whether the auditors would be present at the stockholders' meeting with the opportunity to make a statement and whether they are expected to be available to answer stockholders' questions with respect to the audited financial statements.

In a concurrent release the Commission has issued for comment a proposed rule, No. 33-5868 (42 FR 53633), which would require that the reasons for a company changing its auditors be disclosed in a public report filed with the Commission and in its next proxy statement.

The Commission continues to seek ways to further strengthen the independence of auditors. It is desirable for all public companies to have audit committees composed of independent directors

and ways are being considered by which such committees might be encouraged or required.

The Commission is continuing to gather evidence of the types of services auditors provide their clients. Specific input on the range of services auditors provide their clients is solicited through this release. Interested persons are specifically requested to respond to the questions raised and supply any other information on this issue they believe may be useful to the Commission.

BACKGROUND

Various services provided by public accounting firms to their audit clients have been asserted to result in a lessening of the independence or appearance of independence of auditors.

The Commission on Auditors' Responsibilities (CAR) recently stated:

There is no evidence that provision of services other than auditing has actually impaired the independence of auditors. However, the belief of a significant minority of users that independence is impaired creates a major problem for the profession. Decisions on the other services offered and used should be made by individual public accounting firms and boards of directors of clients.¹

The CAR summarizes "The Management Services Controversy" as follows:

A pronounced concern with providing management services to audit clients developed in the early 1960s when those services grew at a rapid rate. Since then, the AICPA has had two special committees study the problem. The first, the Ad hoc Committee on Independence (1969), considered only management services and the second, the Committee on Scope and Structure (1974), considered all other services. The AICPA's Ethics Division and Management Advisory Services Division have issued a number of pronouncements limiting the services that can be provided to audit clients.

Many others—primarily college professors—have surveyed user groups, independent auditors, and corporate executives to determine the extent of concern with the effect of management services on independence. The surveys have produced mixed and conflicting results, but generally they have shown that a significant minority of users are concerned about the potential conflict between management services and the audit function. The concern of users decreases as their familiarity with the nature of services offered by public accounting firms increases, and it diminishes substantially when the services are provided by different staff, such as a separate management services division. In general, corporate executives and auditors are less concerned than users. All three groups generally believe management services cause a less serious conflict than other factors such as "flexible" accounting principles or payment of the audit fee by the client.

That any large, although minority, segment of financial statement users views

¹ "Report of Tentative Conclusions," The Commission on Auditors' Responsibilities, 1977, p. 92. (The Commission on Auditors' Responsibilities was established in October 1974 by the American Institute of Certified Public Accountants to study the role and responsibilities of independent auditors.)

management services as potentially reducing the auditor's independence must be a cause for concern. If the views of the minority were supported by empirical evidence of loss of independence, prohibition of management services would be essential.²

This concern has also been reflected in other forums.³

Some people believe that auditors should not provide any services other than auditing to their clients. Professors Mautz and Sharaf stated:

For the good of the profession, auditing must be recognized as a specialty separate from the remaining functions of public accountants. Accountants who serve as auditors should perform no other functions for their clients, and those who perform other functions should not engage in opinion audits. Our reason for so contending is the incompatibility of auditing with other services. We see auditing as something more than a skilled craft. Auditing is a quasi-judicial function and requires a type of independence entirely different from that required for the performance of any other public accounting type of service.⁴

It has also been observed that it is difficult to separate the functions of auditing from providing advice to management. A natural result of the audit process is suggestions to management for improvements in the company's accounting methods, procedures and controls. The auditor thus extends his role to advising management. This advice is generally considered desirable since the auditors' training and experience bring knowledge and expertise not necessarily available within many organizations. Accordingly, some believe that any lessening of independence as a result of such advice to management is more than offset by the benefits resulting from the auditors' expertise.

It has been argued that it is desirable for public accounting firms to provide certain services that result in employing persons with specialized skills who may also contribute to innovation and improvement in auditing methods and procedures. For instance, as a result of providing computerized accounting systems design, firms have had available the specialized skills of the employees providing such services to develop audit tools to be used in auditing computerizing accounting systems. If such services were not offered by the audit firm, it has been argued that audit quality might suffer. Accordingly, the public interest may be better served by permitting auditors to provide certain services even if it results in some lessening of the appearance of independence. Similarly,

certain services (i.e., preparation of income tax returns) may best be provided by accountants who also perform audits since they possess the necessary skills, expertise, and knowledge of the client's financial transactions to most effectively fulfill the responsibilities attendant to the service. The auditors' expertise in certain areas may not be replaceable by practical means and the benefits to independence from prohibiting certain services might be more than offset by the resultant costs.

Various specific services have been suggested as lessening the auditors' independence when such services are rendered to audit clients. Some of these are actuarial services, tax advice and preparation of tax returns, recruiting of executives and placing former partners and employees with clients, plant layout and engineering, market research, and appraisal services.

REQUESTS FOR OTHER COMMENTS AND INFORMATION

The Commission is continuing to gather evidence of the types of services auditors provide. Accordingly, specific responses are solicited from companies, auditors and other interested persons to the following items:

1. A description of each specific kind of service provided by public accounting firms.
2. Information indicating the extent of each such service. Public accounting firms are requested to furnish information as to the amount of fees from each service and the relationship to the audit function.
3. Information as to the reasons any previously provided service has been discontinued, any new service has been initiated, or any service that has been considered is not provided.
4. Should auditors be prohibited from providing their audit clients any non-audit services? If not, which particular services should be permitted? Should any permitted services be limited to a percentage of the audit fee? What is an appropriate limitation?
5. What attributes should be used to evaluate the effect on independence and the desirability of the service being offered by auditors?
6. What services are desirable for auditors to continue in order to maintain employees with specialized skills to contribute to improvements in auditing methods and procedures?
7. Should auditors be permitted to appear before regulatory bodies as experts on matters which affect their clients?

The responses to these matters will provide the Commission with important information in considering proposed rule-making relating to auditors' independence. Respondents are encouraged to supply any other information they believe useful to this issue.

DISCLOSURE OF AUDITOR SERVICES, FEES AND RELATIONSHIPS

The Commission on Auditors' Responsibilities has included a recommen-

dation in its "Report of Tentative Conclusions" that "the nature and extent of other services provided by the auditor should be disclosed in proxy statements."⁵ It further stated that:

As noted earlier, the concern of users that provision of other services impairs the auditor's independence decreases as their knowledge about the services increases. The best way to dispel concerns of any potential conflicts of interest is to disclose the facts. The proxy rules for publicly owned companies already require disclosure of the interests of management and others in certain transactions. The Commission (CAR) recommends that public companies also disclose, in the proxy statements issued to shareholders that include selection or ratification of the election of independent auditors, information on the nature of other services provided to the companies by their independent auditors.⁶

Disclosure in proxy statements of all services provided to public companies by their auditors and the related fees will provide objective evidence of the types and amounts of services being provided by auditors and rules to require this are proposed. Fees earned from affiliates are also proposed to be disclosed.

The case for disclosing audit fees when no other services were rendered is not as strong. However, arguments can be made that the absolute amount of the fees paid may be significant in that they can be compared to fees paid by similar companies. While the relationships may vary for a variety of reasons (e.g., poor internal control, centralization of accounting, number of operating divisions, etc.), the amount may serve as the basis for questions by shareholders. In addition the relative importance of the audit fee to the auditor may provide information as to the auditors' economic dependence on the company.⁷ Further, the Commission believes it is appropriate for all of the relationships of the auditor and the company to be disclosed to shareholders and this includes the amount of audit fees paid.

The Commission believes that objectivity and independence are enhanced if the auditor deals with an audit committee of independent directors or the board of directors in determining services and fees. In order to provide investors with knowledge of whether the board of directors or audit committee has approved all services provided by the auditors, the Commission proposes to require disclosure of whether such approval has taken place.

The Commission is also concerned about the possible effect on the auditors'

⁵ "Report of Tentative Conclusions," The Commission on Auditors' Responsibilities, 1977, p. xxi.

⁶ Ibid., p. 101.

⁷ The American Institute of Certified Public Accountants (AICPA) has adopted a resolution providing that, among other things, firms file with the AICPA, available for public inspection, the number of SEC audit clients each of whose total domestic fees exceed 5 percent of total domestic firm fees and the percentage which each of these clients' fees represent to total domestic firm fees.

independence and objectivity of any understanding or agreement limiting the auditors' fee to an absolute amount. Accordingly, the proposed rule would require disclosure of any such agreement.

Services and products acquired from clients by auditors, if of a sufficient magnitude, may also be perceived as lessening independence. In order to provide investors with objective evidence of the relevant relationships between auditors and their clients, the Commission is also proposing that significant revenues of the company derived from its auditors be disclosed in the proxy statement.

Transactions between the company and its auditors that are on terms not customary in the industry or which differ from those offered other customers may also provide evidence that there has been a lessening of independence. Accordingly, the Commission proposes disclosure of such transactions.

The Commission has not defined its use of the word "customary." As it relates to the fees of the auditors, the Commission is interested in disclosure of situations where the auditor agrees to a fee significantly less than is normal in order to obtain the client or in response to criticism of prior services. The commission specifically requests comments on a better term or an improved definition of the term "customary."

An illustration of the proposed disclosure might be as follows:

Fees to A, B & C, the Company's independent accountants, for the audits for 1977 and 1976 and other services in 1977 were as follows (all of which have been approved by the Board's Audit Committee):

	Dollars
Examination of financial statements for year ended December 31, 1977 (\$95 for 1976).....	100
Limited review of quarterly reports.....	6
Preparation of corporate tax returns.....	20
Conferences with company's staff and tax examiners in connection with IRS examinations.....	20
Design of data processing system for factory payroll.....	25
Other *	15

* Includes items which are in the aggregate under 10 percent of total fees paid during year to A, B & C.

COMMISSION ACTION

Section 240.14a-101 of 17 CFR Part 240 is proposed to be amended by the addition of new subparagraphs (g) and (h) under Item 8 of Schedule 14A as given below:

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

§ 240.14a-101 Schedule 14A. Information required in proxy statement.¹

Item 8. Relationship with independent public accountants. * * *

(g) The fee, or estimate, for examination of financial statements of the issuer and its affiliates for the two fiscal years most recently completed and the services, other than audit, provided to the issuer and its

affiliates, officers and directors by the issuer's principal accountant during the issuer's last fiscal year together with the fee for each such service. Indicate also whether the issuer's Board of Directors or its audit committee has specifically approved all such audit and other services provided to the issuer.

Instructions. 1. Broad general categories such as "SEC matters," "tax matters" or "management advisory services" will not be deemed sufficiently specific.

2. Individual services which in the aggregate result in fees of less than 10 percent of the total fees incurred to the principal accountant during the last fiscal year may be combined and disclosed as "other."

3. Describe the circumstances and give details of any services provided by the issuer's independent accountant during the latest fiscal year that were billed at rates or terms that were not customary.

4. Describe any existing understanding or direct or indirect agreement that places a limit on current or future years' audit fees.

(h) The revenues of the issuer during the past fiscal year that are derived from the issuer's principal accountant (and from the partners or owners if the principal accountant is other than an individual practitioner).

Instructions. 1. Activities that result in revenues of less than 20 percent of the total fees disclosed in (g) need not be disclosed.

2. Include a description of each activity resulting in revenue and the amount from each.

3. Notwithstanding the above exemption, describe the terms of any transactions not in the ordinary course of business or if not at trade terms customary in the industry and with other customers.

These amendments are proposed to be adopted pursuant to authority in Sections 12, 13, 15(d), and 23(a) (15 U.S.C. 78i, 78m, 78o(d), 78w) of the Securities Exchange Act of 1934. Pursuant to Section 23(a)(2) of the Exchange Act the Commission has considered the impact of these proposals on competition and is not aware, at this time, of any burden that such rule amendments, if adopted, would impose on competition. However, the Commission specifically invites comments as to the competitive impact of these proposals, if adopted.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 26, 1977.

[FR Doc. 77-28914 Filed 9-30-77; 8:45 am]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 1]

[CC:LR-175-76]

INCOME TAX

Livestock Sold on Account of Drought

Correction

In FR Doc. 77-27291 appearing at page 47221 in the issue for Tuesday, September 20, 1977, the following correction should be made.

On page 47221, third column, line 21, the figure, "500 head", should read, "550 head".

[3710]

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

[33 CFR Part 208]

USE OF STORAGE ALLOCATED FOR FLOOD CONTROL AND NAVIGATION PURPOSES

Proposed Revision of Regulations

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Proposed rule.

SUMMARY: This revision of 33 CFR 208.11 regulations prescribes the policy and procedure for regulating reservoir projects capable of regulation for flood control or navigation and the use of storage allocated for such purposes and provided on the basis of flood control and navigation. The revised regulations are applicable to dam and reservoir projects licensed, maintained and operated under provisions of the Federal Power Act (41 Stat. 1063 (16 U.S.C. 791(A)), Pub. L. 83-436, and other similar authorizing legislation; as well as to reservoir projects constructed wholly or in part with Federal funds as directed by Section 7 of the Flood Control Act of 1944. These proposed regulations are intended to establish an understanding between project owners, operating agencies and the Corps of Engineers with regard to certain activities and responsibilities concerning water control management throughout the nation in the interest of flood control and navigation.

DATES: Comments must be received on or before October 31, 1977.

ADDRESSES: Comments to HQDA (DAEN-CWE-HY) Washington, D.C. 20314.

FOR FURTHER INFORMATION CONTACT:

Mr. Edgar P. Story, Engineering Division, Civil Works Directorate, Office of the Chief of Engineers, Washington, D.C. 20314 (202-693-7330).

SUPPLEMENTARY INFORMATION: Some special Acts of the Congress provide for construction and licensing of dam and reservoir projects by non-Federal agencies or private firms with the stipulation that the operation and maintenance of the dams shall be subject to reasonable rules and regulations of the Secretary of the Army in the interest of flood control and/or navigation. Frequently, no Federal funds are involved so that Section 7 of the 1944 Flood Control Act does not apply. However, if issuance of regulations by the Secretary of the Army is required by the authority under which flood control or navigation provisions are included as functions of the specific project, procedures similar to those followed in establishing regulations under Section 7 of the 1944 Flood Control Act will usually be followed for administrative purposes.

The proposed revisions to the § 208.11 Regulations, published in the FEDERAL

REGISTER Vol. 41, No. 97 on May 18, 1976, (41 FR 20401) include the following changes:

(a) The title of § 208.11 will be changed to "Regulations for Use of Storage Allocated for Flood Control or Navigation, and/or Project Operation at Reservoirs Subject to Prescription of Rules and Regulations by the Secretary of the Army in the Interest of Flood Control and Navigation."

(b) The Federal Power Act, 41 Stat. 1063 (16 U.S.C. 791(A)) and Section 9 of Pub. L. 83-436, 68 Stat. 303 are being added at Authority.

(c) At the second sentence of § 208.11 (a), PURPOSE, the phrase "constructed wholly or in part with Federal funds" is being deleted.

(d) Two new paragraphs are being added at § 208.11(b) as follows:

(1) "Section 18 of the Federal Power Act (41 Stat. 1063 (16 U.S.C. 791(A))), directs the operation of any navigation facilities built under the provision of that Act, be controlled by rules and regulations prescribed by the Secretary of the Army as follows:

The operation of any navigation facilities which may be constructed as part of or in connection with any dam or diversion structure built under the provisions of this Act, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation; including the control of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of the Army. . . .

(2) Various numbered articles of certain Federal Power Commission licenses require the licensee to operate the project in accordance with an agreement to be entered into by the licensee and the Corps of Engineers for the purpose of determining detailed operating procedures for use during flood periods, such as Article 33 of FPC license No. 2009 which states:

"The Licensee shall operate its project in such manner as the Chief of Engineers, Department of the Army, or his authorized representative may prescribe in order that the flood control and/or other benefits from present and future improvements under the jurisdiction of the Corps of Engineers as authorized by Congress in the . . . River Basin will not be nullified or substantially impaired by operation of the Licensee's project.

(e) A new paragraph is being added at § 208.11(b)(3) as follows: "Section 9 of Pub. L. 436-83d Congress (68 Stat. 303) provides for the development of the Coosa River, Alabama and Georgia, and directs the Secretary of the Army to prescribe rules and regulations for project operation in the interest of flood control and navigation as follows: The operation and maintenance of the dams shall be subject to reasonable rules and regulations of the Secretary of the Army in the interest of flood control and navigation."

(f) The present § 208.11(b)(2) is being renumbered § 208.11(b)(4). A new sentence is being added at the beginning of § 208.11(b)(4) as follows: "This regulation will also be applicable to dam and

reservoir projects, operated under provisions of other existing and future legislative acts wherein the Secretary of the Army is directed to prescribe rules and regulations in the interest of flood control and navigation and not specifically excluded by other sections of this regulation."

(g) Numerous minor grammatical changes are being made throughout the Regulation commensurate with the broadened authority of the added Congressional Acts.

(h) Pertinent project data for the following projects are being added to the list of projects in § 208.11(d)(11).

(1) Corps of Engineers South Pacific Division area:

- (i) Del Valle Dam and Reservoir
- (ii) Wanship Dam & Rockport Lake.
- (iii) Echo Dam & Reservoir.
- (iv) Lost Creek Dam & Reservoir.
- (v) East Canyon Dam & Reservoir.
- (vi) Pineview Dam & Reservoir.

(2) Corps of Engineers Missouri River Division area: Canyon Ferry Dam & Reservoir.

(3) Corps of Engineers South Atlantic Division area:

- (i) Gaston and Roanoke Rapids Dam & Reservoir Projects.
- (ii) Smith Mountain and Leesville Dam & Reservoir Projects.
- (iii) H. Neely Henry Dam & Reservoir.

NOTE.—The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107 (Statutory Authority Pub. L. 90-483).

Dated: September 20, 1977.

CHARLES I. MCGINNIS,
Major General, USA,
Director of Civil Works.

PART 208—FLOOD CONTROL REGULATIONS

§ 208.11 Regulations for Use of Storage Allocated for Flood Control or Navigation and/or Project Operation at Reservoirs subject to Prescription of Rules and Regulations by the Secretary of the Army in the Interest of Flood Control and Navigation.

(a) Purpose. Revision of policy and procedures. This regulation prescribes the policy and procedure for regulating reservoir projects capable of regulation for flood control or navigation and the use of storage allocated for such purposes and provided on the basis of flood control and navigation, except projects owned and operated by the Corps of Engineers; the International Boundary and Water Commission, United States and Mexico; and those under the jurisdiction of the Columbia River Treaty. The intent of this regulation is to establish an understanding between project owners, operating agencies, and the Corps of Engineers.

(b) Policy. The basic policy of the Corps of Engineers for carrying out the Congressional mandate of the cited authority is set forth below:

(1) Section 7 of the Flood Control Act of 1944 (58 Stat. 890, 33 U.S.C. 709) directs the Secretary of the Army to prescribe regulations for flood control and navigation in the following manner:

Hereafter, it shall be the duty of the Secretary of War to prescribe regulations for the use of storage allocated for flood control or navigation at all reservoirs constructed wholly or in part with Federal funds provided on the basis of such purposes, and the operation of any such project shall be in accordance with such regulations: *Provided*, That this section shall not apply to the Tennessee Valley Authority, except that in case of danger from floods on the lower Ohio and Mississippi Rivers the Tennessee Valley Authority is directed to regulate the release of water from the Tennessee River into the Ohio River in accordance with such instructions as may be issued by the War Department.

(2) Federal Power Commission Licenses.

(i) Section 18 of the Federal Power Act (41 Stat. 1063 (16 U.S.C. 791(A))) directs the operation of any navigation facilities built under the provision of that Act be controlled by rules and regulations prescribed by the Secretary of the Army as follows:

The operation of any navigation facilities which may be constructed as part of or in connection with any dam or diversion structure built under the provisions of this Act, whether at the expense of a licensee hereunder or of the United States, shall at all times be controlled by such reasonable rules and regulations in the interest of navigation; including the control of the pool caused by such dam or diversion structure as may be made from time to time by the Secretary of the Army. . . .

(ii) Various numbered articles of certain Federal Power Commission licenses require the licensee to operate the project in accordance with an agreement to be entered into by the licensee and the Corps of Engineers for the purpose of determining detailed operating procedures for use during flood periods, such as Article 33 of FPC license No. 2009 which states:

The Licensee shall operate its project in such manner as the Chief of Engineers, Department of the Army, or his authorized representative may prescribe in order that the flood control and/or other benefits from present and future improvements under the jurisdiction of the Corps of Engineers as authorized by Congress in the . . . River Basin will not be nullified or substantially impaired by operation of the Licensee's project.

(3) Section 9 of Pub. L. 436-83d Congress (68 Stat. 303) provides for the development of the Coosa River, Alabama and Georgia, and directs the Secretary of the Army to prescribe rules and regulations for project operation in the interest of flood control and navigation as follows:

The operation and maintenance of the dams shall be subject to reasonable rules and regulations of the Secretary of the Army in the interest of flood control and navigation.

(4) This Regulation will also be applicable to dam and reservoir projects operated under provisions of other existing and future legislative acts wherein the

Secretary of the Army is directed to prescribe rules and regulations in the interest of flood control and navigation and not specifically excluded by other sections of this regulation. The Chief of Engineers, U.S. Army Corps of Engineers, is designated the duly authorized representative of the Secretary of the Army to exercise the authority set out in the Congressional Acts. This regulation will normally be implemented by letters of understanding between the Corps of Engineers and project owner and will incorporate the provisions of such letters of understanding prior to the time construction renders the project capable of significant impoundment of water. A water control agreement signed by both parties will follow when deliberate impoundment first begins or . . . at such time as the responsibilities of any Corps-owned projects may be transferred to another entity. Promulgation of this regulation for a given project will occur at such time as the name of the project appears in the FEDERAL REGISTER in accordance with § 208.11(d)(11). When agreement on a water control plan cannot be reached between the Corps and the project owner after coordination with all interested parties, the project name will be entered in the FEDERAL REGISTER and the Corps of Engineers plan will be the official water control plan until such time as differences can be resolved.

(c) Scope and terminology. This regulation applies to Federal authorized flood control and/or navigation storage projects, and to non-Federal projects which require the Secretary of the Army to prescribe regulations as a condition of the license, permit or legislation, during the planning, design and construction phases, and throughout the life of the project. In compliance with the authority cited above, this regulation defines certain activities and responsibilities concerning water control management throughout the nation in the interest of flood control and navigation. In carrying out the conditions of this regulation, the owner and/or operating agency will comply with applicable provisions of Pub. L. 85-624, the Fish and Wildlife Coordination Act of 1958, and Pub. L. 92-500, the Federal Water Pollution Control Act Amendment of 1972. This regulation does not apply to local flood protection works governed by § 208.10, Title 33 of the Code and excludes small reservoirs containing flood control or navigation storage of less than 12,500 acre-feet, unless required by specific law or conditions of a license or permit.

(1) The terms "reservoir" and "project" as used herein include all water resource impoundment projects constructed or modified, including natural lakes, that are subject to this regulation.

(2) The term "project owner" refers to the entity responsible for maintenance, physical operation, and safety of the project, and for carrying out the water control plan in the interest of flood control and/or navigation as prescribed by the Corps of Engineers. Special arrangements may be made by the project

owner for "operating agencies" to perform these tasks.

(3) The term "letter of understanding" as used herein includes statements which consummate this regulation for any given project and define the general provisions or conditions of the local sponsor, or owner, cooperation agreed to in the authorizing legislative document, and the requirements for compliance with Section 7 of the 1944 Flood Control Act, Section 18 of the Federal Power Act or other special Congressional Act. This information will be specified in the water control plan and manual. The letter of understanding will be signed by a duly authorized representative of the Chief of Engineers and the project owner. A "field working agreement" may be substituted for a letter of understanding, provided that the specified minimum requirements of the latter, as stated above, are met.

(4) The term "water control agreement" refers to a compilation of water control criteria, guidelines, diagrams, release schedules, rule curves and specifications that basically govern the use of reservoir storage space allocated for flood control or navigation and/or release functions of a water control project for these purposes. In general, they indicate controlling or limiting rates of discharge and storage space required for flood control and/or navigation, based on the runoff potential during various seasons of the year.

(5) For the purpose of this regulation, the term "water control plan" is limited to the plan of regulation for a water resources project in the interest of flood control and/or navigation. The water control plan must conform with proposed allocations of storage capacity and downstream conditions or other requirements to meet all functional objectives of the particular project, acting separately or in combination with other projects in a system.

(6) The term "real-time" denotes the processing of current information or data in a sufficiently timely manner to influence a physical response in the system being monitored and controlled. As used herein the term connotes . . . the analyses for an execution of water control decisions for both minor and major flood events and for navigation, based on prevailing hydrometeorological and other conditions and constraints, to achieve efficient management of water resource systems.

(d) Procedures.—(1) Conditions during project formulation. During the planning and design phases, the project owner should consult with the Corps of Engineers regarding the quantity and value of space to reserve in the reservoir for flood control and/or navigation purposes, and for utilization of the space, and other requirements of the license, permit or conditions of the law. Relevant matters that bear upon flood control and navigation accomplishment include: runoff potential, reservoir discharge capability, downstream channel characteristics, hydrometeorological data

collection, flood hazard, flood damage characteristics, real estate acquisition for flowage requirements (fee and easement), and resources required to carry out the water control plan. Advice may also be sought on determination of and regulation for the probable maximum or other design flood under consideration by the project owner to establish the quantity of surcharge storage space, and freeboard elevation of top of dam or embankment for safety of the project.

(2) Corps of Engineers involvement. If the project owner is responsible for real-time implementation of the water control plan, consultation and assistance will be provided by the Corps of Engineers when appropriate and to the extent possible. During any emergency that affects flood control and/or navigation, the Corps of Engineers may temporarily prescribe regulation of flood control or navigation storage space on a day-to-day (real-time) basis without request of the project owner. Appropriate consideration will be given for other authorized project functions. Upon refusal of the project owner to comply with regulations prescribed by the Corps of Engineers, a letter will be sent to the project owner by the Chief of Engineers or his duly authorized representative describing the reason for the regulations prescribed, events that have transpired, and notification that the project owner is in violation of the Code of Federal Regulations. Should an impasse arise, in that the project owner or the designated operating entity persists in noncompliance with regulations prescribed by the Corps of Engineers, measures may be taken to assure compliance.

(3) Corps of Engineers Implementation of Real-Time Water Control Decisions. The Corps of Engineers may prescribe the continuing regulation of flood control storage space for any project subject to this regulation on a day-to-day (real-time) basis. When this is the case, consultation and assistance from the project owner to the extent possible will be expected. Special requests by the project owner, or appropriate operating entity, are preferred before the Corps of Engineers offers advice on real-time regulation during surcharge storage utilization.

(5) Water control agreement. (i) A water control diagram (graphical) will be prepared by the Corps of Engineers for each project having variable space reservation for flood control and/or navigation during the year; e.g., variable seasonal storage, joint-use space, or other rule curve designation. Reservoir inflow parameters will be included on the diagrams when appropriate. Concise notes will be included on the diagrams prescribing the use of storage space in terms of release schedules, runoff, non-damaging or other controlling flow rates downstream of the damsite, and other major factors as appropriate. A water control release schedule will be prepared in tabular form for projects that do not have variable space reservation for flood control and/or naviga-

tion. The water control diagram or release schedule will be signed by a duly authorized representative of the Chief of Engineers, the project owner, and the designated operating agency, and will be used as the basis for carrying out this regulation. Each diagram or schedule will contain a reference to this regulation.

(ii) When deemed necessary by the Corps of Engineers, information given on the water control diagram or release schedule will be supplemented by appropriate text to assure mutual understanding on certain details or other important aspects of the water control plan not covered in this regulation, on the water control diagram or in the release schedule. This material will include clarification of any aspects that might otherwise result in unsatisfactory project performance in the interest of flood control and/or navigation. Supplementation of the agreement will be necessary for each project where the Corps of Engineers exercises the discretionary authority to prescribe the flood control regulation on a day-to-day (real-time) basis. The agreement will include delegation of the responsibility. The document should also cite, as appropriate, Section 7 of the 1944 Flood Control Act, Section 18 of the Federal Power Act and/or other Congressional legislation authorizing construction and/or directing operation of the project.

(iii) All flood control regulations published in the FEDERAL REGISTER under this section (Part 208) of the Code prior to the date of this publication which are listed in § 208.11(e) are hereby superseded.

(iv) Nothing in this Regulation prohibits the promulgation of specific regulations for a project in compliance with the authorizing Acts, when agreement on acceptable regulations cannot be reached between the Corps of Engineers and the owner.

(6) *Hydrometeorological instrumentation.* The project owner will provide instrumentation in the vicinity of the damsite and will provide communication equipment necessary to record and transmit hydrometeorological and reservoir data to all appropriate Federal authorities on a real-time basis. For those projects where the owner retains responsibility for real-time implementation of the water control plan, the owner will also provide or arrange for the measurement and reporting of hydrometeorological parameters required within and adjacent to the watershed and downstream of the damsite, sufficient to regulate the project for flood control and/or navigation in an efficient manner. When data collection stations outside the immediate vicinity of the damsite are required, and funds for installation, observation, and maintenance are not available from other sources, the Corps of Engineers may agree to share the costs for such stations with the

project owner. Availability of funds and urgency of data needs are factors which will be considered in reaching decisions on cost sharing.

(7) *Project safety.* The project owner is responsible for the safety of the dam and appurtenant facilities and for regulation of the project during surcharge storage utilization. Emphasis upon the safety of the dam is especially important in the event surcharge storage is utilized, which results when the total storage space reserved for flood control is exceeded. Any assistance provided by the Corps of Engineers concerning surcharge regulation is to be utilized at the discretion of the project owner, and does not relieve the owner of the responsibility for safety of the project.

(8) *Notification of the general public.* The Corps of Engineers and other interested Federal and State agencies, and the project owner will jointly sponsor public involvement activities, as appropriate, to fully apprise the general public of the water control plan. Public meetings or other effective means of notification and involvement will be held, with the initial meeting being conducted as early as practicable but not later than the time the project first becomes operational. Notice of the initial public meeting shall be published once a week for three consecutive weeks in one or more newspapers of general circulation published in each county covered by the water control plan. Such notice shall also be used when appropriate to inform the public of modifications in the water control plan. If no newspaper is published in a county, the notice shall be published in one or more newspapers of general circulation within that county. For the purposes of this section a newspaper is one qualified to publish public notices under applicable state law. Notice shall be given in the event significant problems are anticipated or experienced that will prevent carrying out the approved water control plan or in the event that an extreme water condition is expected that could produce severe damage to property or loss of life. The means for conveying this information shall be commensurate with the urgency of the situation. The water control manual will be made available for examination by the general public upon request at the appropriate office of the Corps of Engineers, project owner or designated operating agency.

(9) *Other generalized requirements for flood control and navigation.* (i) Storage space in the reservoirs allocated for flood control and navigation purposes shall be kept available for those purposes in accordance with the water control agreement, and the plan of regulation in the water control manual.

(ii) Any water impounded in the flood control space defined by the water control agreement shall be evacuated as rapidly as can be safely accomplished without causing downstream flows to ex-

ceed the controlling rates; i.e., releases from reservoirs shall be restricted insofar as practicable to quantities which, in conjunction with uncontrolled runoff downstream of the dam, will not cause water levels to exceed the controlling stages currently in force. Although conflicts may arise with other purposes, such as hydro-power, the plan or regulation may require releases to be completely curtailed in the interest of flood control or safety of the project.

(iii) Nothing in the plan of regulation for flood control shall be construed to require or allow dangerously rapid changes in magnitudes of releases. Releases will be made in a manner consistent with requirements for protecting the dam and reservoir from major damage during passage of the maximum design flood for the project.

(iv) The project owner shall monitor current reservoir and hydrometeorological conditions in and adjacent to the watershed and downstream of the damsite, as necessary. This and any other pertinent information shall be reported to the Corps of Engineers on a timely basis, in accordance with standing instructions to the damtender or other means requested by the Corps of Engineers.

(v) In all cases where the project owner retains responsibility for real-time implementation of the water control plan, he shall make current determinations of: Reservoir inflow, flood control storage utilized, and scheduled releases. He shall also determine storage space and releases required to comply with the water control plan prescribed by the Corps of Engineers. The owner shall report this information on a timely basis as requested by the Corps of Engineers.

(vi) The water control plan is subject to temporary modification by the Corps of Engineers if found necessary in time of emergency. Requests for and action on such modifications may be made by the fastest means of communication available. The action taken shall be confirmed in writing the same day to the project owner and shall include justification for the action.

(vii) The project owner may temporarily deviate from the water control plan in the event an immediate short-term departure is deemed necessary for emergency reasons to protect the safety of the dam, or to avoid other serious hazards. Such actions shall be immediately reported by the fastest means of communication available. Actions shall be confirmed in writing the same day to the Corps of Engineers and shall include justification for the action. Continuation of the deviation will require the express approval of the Chief of Engineers, or his duly authorized representative.

(viii) Advance approval of the Chief of Engineers, or his duly authorized representative, is required prior to any deviation from the plan of regulation pre-

scribed or approved by the Corps of Engineers in the interest of flood control and/or navigation, except in emergency situations provided for in paragraph (d) (9) (vii) of this section. When conditions appear to warrant a prolonged deviation from the approved plan, the project owner and the Corps of Engineers will jointly investigate and evaluate the proposed deviation to insure that the overall integrity of the plan would not be unduly compromised. Approval of prolonged deviations will not be granted unless such investigations and evaluations have been conducted to the extent deemed necessary by the Chief of Engineers, or his designated representatives, to fully substantiate the deviation.

(10) *Revisions.* The water control plan and all associated documents will be revised by the Corps of Engineers, as necessary, to reflect changed conditions that come to bear upon flood control and navigation, e.g., reallocation of reservoir storage space due to sedimentation or transfer of storage space to a neighboring project. Revision of the water control plan, water control agreement, water control diagram, or release schedule requires approval of the Chief of Engineers or his duly authorized representative. Each such revision shall be effective upon the date specified in the approval. The original (signed document) water control agreement shall be kept on file in the Office, Chief of Engineers, Department of the Army, Washington, D.C. Copies of the agreement shall be kept on file and may be obtained from the office of the project owner, or from the office of the appropriate Division Engineer, Corps of Engineers.

(11) *Federal Register.* The following information for each project subject to Section 7 of the 1944 Flood Control Act and other applicable Congressional acts shall be published in the FEDERAL REGISTER prior to the time the projects become operational and prior to any significant impoundment before project completion or at such time as the responsibility for physical operation and maintenance of the Corps of Engineers owned projects is transferred to another entity: (i) Reservoir, dam, and lake names, (ii) stream, county and state corresponding to the damsite location, (iii) the maximum current storage space in acre-feet to be reserved exclusively for flood control and/or navigation purposes, or any multiple-use space (intermingled) when flood control or navigation is one of the purposes, with corresponding elevations in feet above mean sea level, and area in acres, at the upper and lower limits of said space, (iv) the name of the project owner, and (v) Congressional legislation authorizing the project for Federal participation.

(e) *List of projects.* The following tables, "Pertinent Project Data—§ 208.11 Regulation," show the pertinent data for projects which are subject to this regulation.

PERTINENT PROJECT DATA - SECTION 208.11 REGULATIONS									
NAME	COUNTY & STATE	STREAM	EXCLUSIVE			MULTIPLE-USE			
			FLOOD CONTROL/NAVIGATION		FLOOD CONTROL/NAVIGATION	ELEV. LIMITS		AREA	AUTH. LEGIS.
			STORAGE 1000 ac-ft.	ac-ft. UPPER LOWER		1000 ac-ft.	UPPER LOWER		
Alpine Dam	Winnebago, WI	Keith Creek	0.585	796.0	764.0	51.88	0	-	PWA Proj.
Agency Valley Dam & Res.	Malheur, Or.	N. Fork Malheur River	-	-	-	-	60.0	3340.0 3263.21 1900 0	PL 68-292
Bear Creek Dam	Marion & Ralls, Mo.	Bear Creek	8.7	546.5	520.0	540	0	-	PL 83-780
Big Dry Creek and Diverston	Fresno, Ca.	Big Dry Creek and Dog Creek	16.25	425.0	393.0	1530	0	-	PL 77-228
Bonny Dam & Res.	Yuma, Co.	S. Fork Republican River	129.0	3710.0	3672.0	5,036	2042	-	PL 78-534
Boysen Dam & Res.	Fremont, Wyo.	Wind River	150.0	4732.2	4725.0	22116	19560	150 4725.0 4717.0 19560 16955	PL 78-534
Bully Creek Dam & Reservoir	Malheur, Or.	Bully Creek	-	-	-	-	31.65	2523.0 2456.8 1082 140	PL 86-248
Gamancha Dam & Reservoir	San Joaquin, Ca.	Mokelumne	-	-	-	-	200.0	235.5 205.1 7600 5507	PL 96-645
Canyon Ferry Dam & Lake	Lewis & Clark	Missouri River	104,276	3800.0	3797.0	35,181	34,435	799,124 3797.0 3700.0 34,435 24,126	PL 78-534
Causey Dam & Reservoir	Weber, UT	SF Ogden River	-	-	-	-	6.9	5692.0 5607.7 136 35	PL 81-273
Cedar Bluff Dam & Reservoir	Trego, Ka.	Smoky Hill River	192.0	2166.0	2144.0	10790	6869	-	PL 78-534
Clark Canyon Dam & Reservoir	Beaverhead, Mt.	Beaverhead River	79.1	5560.4	5546.1	5903	5160	50.5 5546.1 5535.7 5160 4496	PL 78-534
Del Valle Dam & Reservoir	Alameda, CA	Alameda, Creek	37.0	745.0	703.1	1060	710	1.0 703.1 702.2 710 700	PL 87-874

PERTINENT PROJECT DATA - SECTION 208.11 REGULATION									
NAME	STATE	STREAM	EXCLUSIVE			MULTIPLE-USE			
			FLOOD CONTROL/NAVIGATION		FLOOD CONTROL/NAVIGATION	ELEV. LIMITS		AREA	AUTH. LEGIS.
			STORAGE 1000 ac-ft.	ac-ft. UPPER LOWER		1000 ac-ft.	UPPER LOWER		
Devil Creek Dam & Reservoir	Oneida, Id.	Devil Creek, Malad River	-	-	-	-	2.0	5172.4 5156.1 140 100	PL 84-984
East Canyon Dam & Reservoir	Morgan, UT	East Canyon, Creek	-	-	-	-	48.0	5705.5 5577.0 684 127	PL 81-273
Echo Dam & Reservoir	Summit, UT	Weber, River	-	-	-	-	74.0	5560.0 5450.0 1455 0	PL 81-273
Emigrant Dam & Reservoir	Jackson, Or.	Emigrant Creek	39.0	2241.0	2131.5	801	80	-	PL 83-606
Enders Dam & Reservoir	Chase, Nb.	Emigrant Creek	30.0	3127.0	3112.3	2405	1707	-	PL 78-534
Folsom Dam & Reservoir	Sacramento, Ca.	American River	-	-	-	-	400.0	466.0 427.0 11450 9040	PL 81-356
Friant Dam & Reservoir	Fresno, Ca.	San Joaquin River	-	-	-	-	390.0	578.0 466.3 4850 2101	PL 75-392 & PL 76-868
Gaston-Roanoke Rapids Dam & Reservoir	Northampton & Halifax, N.C.	Roanoke River	63,000	203.0	200.0	22,500	20,300	-	Virginia Elec. & Power Co. Act
Glan Elder Dam & Reservoir	Mitchell, Ka.	Solomon River	722.0	1488.3	1455.6	33682	12602	-	PL 78-534 & PL 79-526
Glendo Dam & Reservoir	Platte, Wyo.	North Platte River	271.9	4653.0	4635.0	17986	12365	-	PL 78-534
H. Neely Dam & Reservoir	St. Clair & Calhoun, Al.	Coosa River	-	-	-	-	52,000	508 502.5 11,200 7,500	PL 83-436
Heart Butte Dam & Lake Tachida	Grant, N.D.	Heart River	150.0	2094.5	2064.5	6625	3400	-	PL 78-534
Hoover Dam & Reservoir	Clark NV & Mohave, Az.	Colorado River	1500.0	1229.0	1219.6	162700	156500	15853.0 1219.6 1083.0 156500 83500	PL 78-642
Lake Mead Dam & Reservoir	Flathead, Mt.	S. Fork Flathead River	2982.0	3560.0	3336.0	23800	5400	-	PL 78-329

PROPOSED RULES

PERTINENT PROJECT DATA - SECTION 208.11 REGULATION														
PROJECT NAME	COUNTY & STATE	STREAM	EXCLUSIVE			MULTIPLE-USE							PROJECT OWNER	AUTH. LEGIS.
			FLOOD CONTROL/NAVIGATION			FLOOD CONTROL/NAVIGATION								
			STORAGE 1000 ac-ft.	ELEV. LIMITS feet m.s.l.	AREA acres	STORAGE 1000 ac-ft.	ELEV. LIMITS feet m.s.l.	AREA acres	LOWER	UPPER	LOWER	UPPER		
Jamestown Dam & Reservoir	Stuteman, N.D.	James River	185.4	1454.0	1432.67	1306	2555	6.6	143.67	1429.0	2555	2085	Bureau of Rec.	PL 78-534
Keyhole Dam & Reservoir	Crook, Wv.	Belle Fourche	140.2	4111.5	4099.3	13686	9394	-	-	-	-	-	Bureau of Rec.	PL 78-534
Kirwin Dam	Phillips, Ks.	N. Fork Solomon River	215.115	1757.3	1729.25	10640	5080	-	-	-	-	-	Bureau of Rec.	PL 78-534
Lewis M. Smith Dam & Reservoir	Cullman & Walker, Al.	Sipsey Fork Black Warrior River	280,600	522	510	25,700	21,200	-	-	-	-	-	Alabama Power Co.	Fed. Power Act
Little Wood River Dam & Reservoir	Blain, Id.	Little Wood River	30.0	5237.3	5127.8	574	0	-	-	-	-	-	Bureau of Rec.	PL 84-993
Logan Martin Dam & Reservoir	Talladega, Al	Coosa River	245.3	477	465	26310	15260	-	-	-	-	-	Alabama Power Co.	PL 83-636
Los Banos Dam & Detention Res.	Merced, Ca.	Los Banos Creek	-	-	-	-	-	14.0	353.5	327.8	619	467	Bureau of Rec.	PL 86-488
Lost Creek Dam & Res.	Morgan, UT	Lost Creek	-	-	-	-	-	20.0	6005.0	5912.0	365	93	Bureau of Rec.	PL 81-273
Lovewell Dam & Reservoir	Jewell, Ka.	White Rock Creek	50.0	1595.3	1587.6	5025	2986	-	-	-	-	-	Bureau of Rec.	PL 78-534
Markham Ferry Dam & Lake	Mayes, Ok.	Grand (Neosho) River	244.2	636.0	619.0	18800	10900	-	-	-	-	-	Grand River Dam Authority	PL 76-476
Wash E. Hudson	Frontier, Nb.	Medicine Creek	52.0	2386.2	2366.1	3465	1850	-	-	-	-	-	Bureau of Rec.	PL 78-534
Harry Strunk Lake	Tuolumne, Ca.	Merced River	-	-	-	-	-	400.0	867.0	799.7	7110	4849	Merced Irrigation District	PL 86-645
Norton Dam & Reservoir	Norton, Ks.	Prairie Dog Creek	100.0	2331.4	2304.3	5316	2181	-	-	-	-	-	Bureau of Rec.	PL 78-534

PROPOSED RULES

PERTINENT PROJECT DATA - SECTION 208.11 REGULATION														
PROJECT NAME	COUNTY & STATE	STREAM	EXCLUSIVE				MULTIPLE-USE						PROJECT OWNER	AUTH. LEGIS.
			FLOOD CONTROL/NAVIGATION			FLOOD CONTROL/NAVIGATION			PROJECT OWNER	AUTH. LEGIS.				
			STORAGE 1000 ac-ft.	ELEV. LIMITS feet m.s.l.	AREA acres	STORAGE 1000 ac-ft.	ELEV. LIMITS feet m.s.l.	AREA acres						
Ochoco Dam & Reservoir Oroville Dam & Lake	Crook, Or.	Ochoco Creek	51.4	3136.2	3048.1	1150	120	-	-	-	-	-	Bureau of Rec. Calif. Dept of Water Resources	PL 84-992 PL 85-500
Pactola Dam & Reservoir Palisades Dam & Reservoir	Butte, Ca.	Feather River	-	-	-	-	-	750.0	900.0	848.5	15800	13346	Bureau of Rec.	PL 78-534 PL 81-864
Pineview Dam & Reservoir Platora Dam & Reservoir Prineville Dam & Reservoir	Pennington, S.D. Bonneville, Id. Weber, UT	Rapid Creek Snake River Ogden River	43.0	4621.5	4580.2	1232	860	1202.0	5620.0	5452.43	16100	2170	Bureau of Rec.	PL 81-273
Prosser Dam & Reservoir Red Willow Dam & Hugh Butler Lake Savage River Dam & Reservoir	Conejos, Co. Crook, Or. Nevada, Ca.	Conejos River Crooked Creek Prosser Creek	6.0	10034.0	10027.5	947	920	153.0	3234.8	3112.0	2990	120	Bureau of Rec.	PL 76-640 PL 84-992 PL 84-858
Shadehill Dam & Reservoir Shasta Dam & Lake Smith Mtn & Leesville Dam & Res.	Frontier, Nb. Garrett, Md. Perkins, S.D. Shasta, Ca. Bedford, Campbell & Pittsylvania, Va.	Red Willow Creek Savage River Grand River Sacramento River Roanoke River	50.0	2604.9	2581.8	2682	1629	217.7	2302.2	2272.0	9900	4800	Bureau of Rec. Upper Potomac River Commission Bureau of Rec. Bureau of Rec. Appalachian Power Co.	PL 78-534 & PL 85-588 PL 79-526 PL 78-534 PL 75-392 & PL 76-868 Fed. Power Act.

PERTINENT PROJECT DATA - SECTION 208.11 REGULATION EXCLUSIVE									
PROJECT NAME	STREAM	COUNTY & STATE	FLOOD CONTROL/NAVIGATION				FLOOD CONTROL/NAVIGATION		
			STORAGE 1000 ac-ft.	ELEV. feet m.s.l.	LIMITS UPPER LOWER	AREA acres	STORAGE 1000 ac-ft.	ELEV. feet m.s.l.	AREA acres
Trenton Dam & Reservoir	Republican River	Hitchcock, Neb.	134.0	2773.0	2752.0	7975	4974		
Twitchell Dam & Reservoir	Cuyama River	Santa Barbara, Ca.	89.0	651.5	623.0	3690	2650		
Wanship Dam & Reservoir	Weber River	Summit, UT	-	-	-	-	-	61.0	6037.0
Rockport Lake			-	-	-	-	-	5930.0	1077
Warm Springs Dam & Res.	Middle Fork Malheur River	Malheur, Or.	-	-	-	-	-	191.0	3406.0
			-	-	-	-	-	3327.0	4600
Waterbury Dam & Reservoir	Little River	Washington, Vt.	27.7	617.5	592.0	1330	890	-	-
Weiss Dam & Reservoir	Coosa River	Cherokee, Al.	397.0	574	546	50000	30200	-	-
Yellowtail Dam & Res.	Big Horn River	Big Horn, Mt.	259.0	3657.0	3640.0	17298	12685	250.0	3640.0
			-	-	-	-	-	3614.0	12685
			-	-	-	-	-	7410	

(Sec. 7, Pub. L. 78-534, 58 Stat. 890 (33 U.S.C. 709); the Federal Power Act, 41 Stat. 1063 (16 U.S.C. 791(A)); sec. 9, Pub. L. 83-436, 68 Stat. 303.)

[FR Doc.77-28666 Filed 9-30-77;8:45 am]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 205]

[FRL 796-3]

BUSES

Noise Emission Standards for Transportation Equipment

Correction

In FR Doc. 77-26375 appearing at page 45776 in the issue for Monday, September 12, 1977, in the first column of page 45776, in the "Dates" paragraph, in the 5th line, the words, "90 days from date of publication" should read "December 12, 1977."

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 67]

[Docket No. 21264; FCC 77-659]

COMMON CARRIERS BETWEEN UNITED STATES MAINLAND AND HAWAII, ALASKA, AND PUERTO RICO/VIRGIN ISLANDS

Integration of Rates and Services for Provision of Communications

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order, Docket 21264.

SUMMARY: The Federal-State Joint Board has set a pleading schedule for comments and replies on the question of what separations formula should be applied for Puerto Rico and the Virgin Islands. The Joint Board also adopted procedures it would follow at this stage of its efforts.

DATES: Comments due on or before December 1, 1977, replies due on or before January 16, 1978. Notice of Intent to file and be filed on due October 25, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Francis L. Young, Common Carrier Bureau, 202-632-5550.

MEMORANDUM OPINION AND ORDER

Adopted: September 22, 1977.

Released: September 28, 1977.

In the matter of integration of rates and services for the provision of communications by authorized common carriers between the United States Mainland and Hawaii, Alaska, and Puerto Rico/Virgin Islands, Docket No. 21264.

1. By "Notice of Inquiry, Proposed Rule Making and Creation of Federal-State Joint Board," FCC 77-366, released June

7, 1977,¹ the Commission convened this Joint Board to prepare a recommended decision for its consideration for the purpose of establishing the separations procedure(s) applicable to Puerto Rico and the Virgin Islands. The Joint Board having convened is now in a position to establish the procedures under which it will operate and will establish the pleading schedule for the development of information leading to the preparation of a recommended decision.

2. This proceeding is a result of the Commission's rate integration policy which is designed to eliminate the distinctions in levels of charges and rate patterns between the mainland and Puerto Rico and the Virgin Islands. The Commission has stated that it anticipates that full implementation of rate integration will result in the affected carriers participating in the division of revenues in the interstate revenue pool on the same basis as mainland companies, e.g., the recovery of their costs associated with the provision of interstate service and a rate of return. "Reconsideration of Integration of Rates and Services", FCC 77-364, released June 6, 1977. To accomplish this goal the carriers must separate their interstate costs on the basis of a prescribed methodology. Since no such methodology exists for Puerto Rico and the Virgin Islands, this Joint Board was convened pursuant to Section 410(c) of the Communications Act of 1934, as amended.

3. The notice creating this Joint Board clearly pointed out the Commission's initial impression that the jurisdictional separations procedures applicable on the mainland should also pertain to the carriers providing message telephone service to Puerto Rico and the Virgin Islands. (FCC 77-366, para. 4). The Commission did, however, point out that some of the affected carriers and governments expressed concerns that the existing NARUC-FCC Manual, which incorporate the "Ozark Plan" may require modification. While the Joint Board does not presently have a record of which to draw any impressions at this time, it would appear that a notice and comment procedure would be the most appropriate method to develop an adequate record. Upon completion of such a process the Joint Board will be in a posture to determine what further proceedings, if any, would be appropriate. The base line for this notice and comment procedure shall be the existing NARUC-FCC Separations Manual. All interested persons are invited to file comments on the question as to whether the existing manual should be applied to the provision of service to Puerto Rico and the Virgin Islands in the same manner as it is applied on the mainland. Necessarily included within this question is what changes, if any, should be made to the existing manual.

4. The specific procedures applicable to this notice and comment process are those that apply to any other Commission rule making proceeding except as modified herein. A service list will be

prepared. Parties who desire to file and be filed on are requested to file with the Commission a notice of intent to file and be filed on October 25, 1977. The notice should contain the address to which service should be executed. Failure to file such a notice will not preclude any person from filing comments or replies, however, other parties who have filed such notice will not be required to file copies of their comments and replies on such persons. An original and 6 copies of all documents filed shall be filed in the Commission's offices, and an additional copy shall be filed with each of the State Commissioners serving as participants on this Joint Board. The service list will contain addresses for each of these Commissioners.

5. Inquiries have been addressed to the Joint Board concerning how the routine matters that develop in rulemaking proceedings will be dealt with and whether ex parte rules apply to the Joint Board proceeding. This Joint Board was convened to prepare a recommended decision in a restricted rulemaking proceeding of the Commission. Since the Chief, Common Carrier Bureau is delegated broad authority in rulemaking proceedings before the Commission, we believe he is authorized to conduct the routine matters of this Joint Board including ruling on requests for extensions of time. In the event matters are raised requiring full Joint Board action, the Chief, Common Carrier Bureau is authorized to record the votes of the Joint Board members by means of telephone inquiry. As we previously noted, this proceeding is one phase of a restricted rulemaking. See § 1.1207 of the Commission's rules and regulations. Therefore the Commission's ex parte rules apply to this Joint Board proceeding. While the Commission's rules only identify decision-making Commission personnel, the State Commissioners appointed to the Joint Board fully participate in the decision making process. Therefore, they and their designated staffs are to be considered decision-making personnel fully subject to the provisions of the Commission's ex parte rules. To avoid the possibility of an inadvertent ex parte presentation being made to the staffs of the State Commission members of this Joint Board, the State Commissioners will designate and make part of the docket file maintained at the Commission, names of those staff personnel they will utilize to assist them in this Joint Board effort. All parties are strongly encouraged to review the rules, 47 CFR 1.1201-1.1251.

6. The pleading schedule we will adopt is designed to give all interested parties adequate time to prepare their comments and replies. The normal reply period has been extended since a 30 day period would require preparation of replies in the midst of a major holiday season. We must however emphasize our concern that this proceeding be concluded in a most expeditious manner, since the final phase of rate integration for Puerto Rico and the Virgin Islands is dependent on the development of cost related settlements. Such settlements cannot be developed

¹ See 42 FR 45937, September 13, 1977.

until the separations methodology is prescribed in this docket. In addition, we reemphasize that comments are to be limited to what changes, if any, should be made to the existing NARUC-FCC Separations Manual so as to make it applicable to Puerto Rico and the Virgin Islands. It is imperative that if changes are proposed, that the proposed modifications be supported in the record in such a manner that this Joint Board has a record on which to make its decision.

7. *Accordingly, it is ordered*, That a notice and comment procedure is instituted into the issues specified in paragraph 3 of this Memorandum Opinion and Order:

8. *It is further ordered*, That any interested party may file, on or before October 25, 1977, a notice of intention to participate. The Joint Board shall then issue a Public Notice stating the names of parties intending to participate herein. All comments, replies, and other submissions in this proceeding shall be served on all parties listed in the Public Notice:

9. *It is further ordered*, That any interested person participating in this proceeding shall file comments on or before December 1, 1977, and replies shall be filed on or before January 16, 1978:

10. *It is further ordered*, That all participants shall file an original and six copies of all comments, replies, or other submissions with the Secretary, Federal Communications Commission and one copy with each of the State Commission

members at addresses specified by them. Copies of all filings in this proceeding shall be available for public inspection during regular business hours in the Commission's Reference Room at its headquarters at 1919 M Street NW., Washington, D.C.; and

11. *It is further ordered*, That the routine matters concerning this proceeding will be dealt with by the Chief, Common Carrier Bureau. The Chief, Common Carrier Bureau is authorized to solicit and record the votes of the Joint Board via telecommunications for matters requiring Joint Board action.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc. 77-2303 Filed 9-30-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1030]

[No. 36572]

CONTRACTS, FORWARDERS—MOTOR COMMON CARRIERS

Petition Seeking Institution of Rulemaking
Proceeding

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rule-making; Clarification.

SUMMARY. This is to make clear that the proposed rule, published in the FEDERAL REGISTER of September 22, 1977, volume 42, at page 47853, would apply only to motor common carriers and freight forwarders of household goods. The words "of household goods" should be inserted in the text of the proposed rule and in the supplementary information section of the notice after the words "freight forwarder(s)" wherever found.

EFFECTIVE DATE: September 27, 1977.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak, Deputy Director or Harvey Gobetz, Assistant Deputy Director, Section of Rates, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, (202-275-7693).

Accordingly, in the Supplementary Information section and in the proposed amendment to § 1080.2(c) published at 42 FR 47853, September 22, 1977, insert the words "of household goods" after the words "freight forwarder(s)" wherever they appear.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29012 Filed 9-30-77; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-01]

DEPARTMENT OF AGRICULTURE

Office of the Secretary MEAT IMPORT LIMITATIONS Fourth Quarterly Estimates

Pub. L. 88-482, approved August 22, 1964 (hereinafter referred to as the Act), provides for limiting the quantity of fresh, chilled, or frozen cattle meat (TSUS 106.10) and fresh, chilled, or frozen meat of goats and sheep except lamb (TSUS 106.20), which may be imported into the United States in any calendar year. Such limitations are to be imposed when it is estimated by the Secretary of Agriculture that imports of such articles, in the absence of limitations during such calendar year, would equal or exceed 110 percent of the estimated quantity of such articles, prescribed by Section 2(a) of the Act.

In accordance with the requirements of the Act, the following fourth quarterly estimates for 1977 are published.

1. The estimated quantity of such articles prescribed by Section 2(a) of the Act during the calendar year is 1,165.4 million pounds.

2. The estimated aggregate quantity of such articles which would, in the absence of limitations under the Act, be imported during calendar year 1977 is less than 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Since the estimated quantity of imports does not equal or exceed 110 percent of the estimated quantity prescribed by Section 2(a) of the Act, limitations for the calendar year 1977 on the importation of fresh, chilled, frozen cattle meat (TSUS 106.10) and fresh, chilled or frozen meat of goats and sheep (TSUS 106.20), are not authorized to be imposed pursuant to Public Law 88-482 at this time.

This estimate is based upon information provided by the Department of State that agreements have been concluded with major supplying countries to limit meat imports into the United States in 1977. Were it not for these voluntary arrangements with supplying countries, the estimate of imports would have exceeded 110 percent of the estimated quantity prescribed by Section 2(a) of the Act.

Done at Washington, D.C. this 27th day of September, 1977.

BOB BERGLAND,
Secretary.

[FR Doc. 77-28982 Filed 9-30-77; 8:45 am]

CIVIL AERONAUTICS BOARD

ASPEN AIRWAYS, INC., ET AL.

Order Instituting an Investigation

Correction

In FR Doc. 77-27464 appearing at page 47575 in the issue for Wednesday, September 21, 1977, in the bracketed material below the first paragraph of the third column of page 47575, "Order No. 77-52" should have read "Order No. 77-9-52".

[6320-01]

AIR CHARTER TOUR OPERATORS OF AMERICA

Cancellation of Meeting

Notice is hereby given that a briefing to be given by the Air Charter Tour Operators of America on September 30, 1977, at 10 a.m., in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., has been cancelled and will be rescheduled at a later date.

Dated at Washington, D.C., September 28, 1977.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-28932 Filed 9-30-77; 8:45 am]

[6320-01]

WICHITA CASE, ET AL.

Addition of Case for Oral Argument

Improved authority to Wichita case. Docket 28848; additional Dallas/Fort Worth-Kansas City nonstop service case, Docket 28778; Phoenix-Des Moines/Milwaukee route proceeding, Docket 28800; Sacramento-Denver Nonstop case, Docket 28961; Memphis-Twin Cities/Milwaukee case, Docket 29186; Greenville/Spartanburg - Washington/New York subpart M case, Dockets 24778 and 28308.

The Board has decided to include the Greenville/Spartanburg - Washington/New York Subpart M Case, Dockets 24778 and 28308, with the other above-described cases on which oral argument on limited issues heretofore has been scheduled to be held on October 12, 1977 (42 F.R. 52452, September 30, 1977). The

argument will be heard on the issues (a) with respect to the subsidy condition to be imposed on authority granted a local service carrier and (b) whether the authority should be permissive or not, which are being considered in the above-entitled cases. These issues are more fully described on page 3 of Order 77-8-146. The time and place of the oral argument before the Board are October 12, 1977, at 10 a.m. (local time), in Room 1027, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as previously established.

The respective views of the local service carriers, the trunkline carriers, the civic parties, and any other groups of parties which may wish to appear shall be presented by a common spokesman for each group of interests. Each of these groups which wishes to participate in the oral argument shall provide the name of the person selected, in writing, to be received in this office on or before October 4, 1977.

Dated at Washington, D.C., September 27, 1977.

HENRY M. SWITKAY,
Acting Chief
Administrative Law Judge

[FR Doc. 77-28931 Filed 9-30-77; 8:45 am]

[6320-01]

[Order 77-9-85; Docket 30332; Appendix C.A.B. 26882]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order; Currency Matters

Issued under delegated authority September 21, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement was adopted at the Composite Cargo Traffic Conference held in Vancouver in May 1977.

The agreement would establish currency adjustment factors for application with cargo rates and minimum charges between points within TC2 (Europe/Middle East/Africa), and is intended to relate local currency selling rates more closely to fluctuating foreign exchange values. We will approve the agreement insofar as it affects rates which are combinable with rates to/from the

United States and thus has indirect application in air transportation as defined by the Act.

Pursuant to authority duly delegated by the Board's regulations, 14 CFR 385.17, it is not found that Resolution 275/1977, incorporated in Agreement C.A.B. 26862, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That Agreement C.A.B. 26862 is approved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc 77-29033 Filed 9-30-77; 8:45 am]

Agreement	Specific commodity item No.	Description and rate
CAB 26869	1126	Electronic data storage-processing machines, \$1.99 per kilogram, minimum weight 2,000 kg, from New York to Tokyo; \$1.67 per kilogram, minimum weight 2,000 kg, from Los Angeles to Tokyo.

¹ Expires Mar. 31, 1978.

Pursuant to authority duly delegated by the Board in the Board's regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act provided that approval is subject to the conditions ordered.

Accordingly, it is ordered, That:

Agreement C.A.B. 26869 be approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained there for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board unless within such period a peti-

[6320-01]

[Order 77-9-87; Docket 27573, Agreement C.A.B. 26869]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order; Specific Commodity Rates

Issued under delegated authority September 21, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement would extend specific commodity rates under an existing commodity description as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unopposed notice to the carriers and promulgated in an IATA letter dated July 28, 1977.

tion for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc 77-29034 Filed 9-30-77; 8:45 am]

[6335-01]

COMMISSION ON CIVIL RIGHTS WISCONSIN ADVISORY COMMITTEE Meeting Date Change

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wisconsin Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER Tuesday, September 27, 1977, (FR Doc. 77-28137) on page 49493 is hereby amended. The meeting will be held on October 18, 1977 instead of October 17, 1977. The time and place remains the same.

Dated at Washington, D.C., September 28, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc 77-29037 Filed 9-30-77; 8:45 am]

[6335-01]

PENNSYLVANIA ADVISORY COMMITTEE

Agenda; Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Pennsylvania Advisory Committee (SAC) of the Commission will convene at 10:00 a.m. and will end at 12:00 noon on October 25, 1977 at the Federal Building, 10th Floor, 600 Arch Street, Room 10320, Philadelphia, Pa. 19126.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is to discuss civil rights issues within the state. This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., September 27, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc 77-29014 Filed 9-30-77; 8:45 am]

[3510]

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 9-77]

FOREIGN-TRADE ZONE—ORANGE COUNTY, NEW YORK

Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the County of Orange, N.Y., requesting authority to establish two general-purpose foreign-trade zone sites in Orange County, adjacent to the New York City Customs port of entry. Site No. 1 would be located in the Sage Building at Stewart Airport, a former military facility currently owned by the Metropolitan Transportation Authority, a New York State agency. Site No. 2, a 4.9-acre site located on State Route 207, approximately one mile from Stewart Airport, is to be within a proposed 65-acre industrial park. Both sites are within the Town of New Windsor. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81), and the regulations of the Board (15 CFR Part 400). It was formally filed on September 19, 1977. The County is authorized to make application under Chapter 585 of the New York Laws of 1975, effective August 1, 1975.

The proposal was developed under the aegis of the Foreign Trade Zone Management Board of Orange County, consisting of members of the State Legislature and community leaders. This body publicly invited proposals for the devel-

opment and operation of the two sites. A not-for-profit corporation known as the Foreign Trade Development Co., of Orange County, Inc. was selected.

Site No. 1 is a concrete, windowless building containing 84,970 square feet of industrial space on four floors. Site No. 2 will be developed according to the operator's needs and made available on a leasehold basis. Both sites have access to the New York Thruway and Interstate Route 84.

The application includes economic data and information concerning the need for zone services in the area. Several firms have indicated their intention to use the zone for storage, assembly and distribution. Among the products involved are milking machines, centrifugal devices, color control lamps, control systems, analytical instruments, cosmetics, and components for diesel electric generators.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report thereon to the Board. The committee consists of Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C.; Francis O'Rourke, Deputy Assistant Area Director, New York Seaport, U.S. Customs Service, 435 East 14th Street, New York, N.Y. 10009; and Colonel Clark H. Benn, District Engineer, U.S. Army Engineer District New York, 26 Federal Plaza, New York, N.Y. 10007.

In connection with its investigation of the proposal, the examiners committee will hold a public hearing on October 27, 1977, beginning at 9:00 a.m., in Building 105 (Administration Building), Metropolitan Transportation Authority, Stewart Airport, Newburgh, N.Y. The purpose of the hearing is to help inform interested persons about the proposal, to provide them with an opportunity to express their views, and to obtain information useful to the committee.

Interested persons or their representatives will be given the opportunity to present their views at the hearing. Such persons should by October 21 notify the Board's Executive Secretary in writing at the address below of their desire to be heard. In lieu of an oral presentation, written statements may be submitted to the examiners committee, care of the Executive Secretary, at any time from the date of this notice through November 25, 1977. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Customs Service, International Arrival Building, Stewart Airport, Newburgh, N.Y. 12550.

Office of the Executive Secretary, Foreign Trade Zones Board, U.S. Department of Commerce, Room 6886-B, Washington, D.C. 20230.

Dated: September 27, 1977.

JOHN J. DA PONTE, Jr.,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc 77-28939 Filed 9-30-77; 8:45 am]

[3510-13]

National Bureau of Standards COMMERCIAL STANDARD

Intent To Withdraw

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the intent to withdraw Commercial Standard CS 243-62, "Stainless Steel Plumbing Fixtures (Designed for Residential Use)."

It has been determined that this standard is technically inadequate and that revision would serve no useful purpose because the subject matter of CS 243-62 is adequately covered by the American National Standards Institute's standard ANSI A112.19.3, "Stainless Steel Plumbing Fixtures (Designed for Residential Use)."

Any comments or objections concerning this intended withdrawal of this standard should be made in writing to the Standards Development Services Section, National Bureau of Standards, Washington, D.C. 20234, within 30 days after publication of this notice. The effective date of withdrawal will be not less than 60 days after the final notice of withdrawal. Withdrawal action terminates the authority to refer to a published standard as a voluntary standard developed under the Department of Commerce procedures from the effective date of withdrawal.

Dated: September 27, 1977.

ERNEST AMBLER,
Acting Director.

[FR Doc 77-28938 Filed 9-30-77; 8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL AND ITS SCIENTIFIC AND STATISTICAL COMMITTEE AND ADVISORY PANEL AND GULF OF MEXICO FISHERY MANAGEMENT COUNCIL

Public Meeting

The South Atlantic Fishery Management Council and the Gulf of Mexico Fishery Management Council (both established by section 302 of the Fishery Conservation and Management Act of 1976, Pub. L. 94-265) will meet both jointly and separately, at the Hyatt Re-

gency House, 6375 Space Coast Parkway, Kissimmee, Fla. The joint meeting starts at 1:30 p.m., November 15, and adjourns about noon, November 16, 1977.

Proposed agenda. Discussion of mutual matters of interest and concern to both Councils.

The South Atlantic Fishery Management Council, the Scientific and Statistical Committee and its Advisory Panel will meet in separate session November 16-17, 1977, in Kissimmee, Fla. Meeting starts at 1:30 p.m. on November 16 and adjourns about 5 p.m. on November 17.

Proposed agenda. Fishery management plans being developed.

The Gulf of Mexico Fishery Management Council will meet separately November 16-17, 1977, in Kissimmee, Fla. This meeting starts at 1:30 p.m. on November 16 and adjourns about 5 p.m. on November 17.

Proposed agenda. (1) Management plans; (2) personnel and administration matters; (3) review of foreign fishing applications, if any; (4) other fishery management business.

These three meetings are open to the public. For more information on seating, changes to the agenda, or written comments, contact either Mr. Ernest D. Premetz, Executive Director, South Atlantic Fishery Management Council, Southpark Building, Suite 306, 1 Southpark Circle, Charleston, S.C. 29407, telephone 803-571-4366; or Mr. Wayne Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 W. Kennedy Boulevard, Tampa, Fla. 33607, telephone 813-228-2815.

Dated: September 27, 1977.

WINFRED H. MEIBOHM,
Associate Director, National
Marine Fisheries Service.

[FR Doc 77-28915 Filed 9-30-77; 8:45 am]

[3510-17]

Office of the Secretary

ADVISORY PANEL FOR THE WESTERN PACIFIC FISHERY MANAGEMENT COUNCIL Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. V., 1975)) and the Office of Management and Budget Circular A-63 of March 1974, and after consultation with OMB, the Department of Commerce has determined that the establishment of the Advisory Panel for the Western Pacific Fishery Management Council is in the public interest in connection with the performance of duties imposed on the Department by the Fishery Conservation and Management Act of 1976, Pub. L. 94-265 (16 U.S.C. 1852).

The Panel will provide the parent Council with pragmatic advice in counsel of the people most affected by the Council's management activities on matters of fishery management policy, on the

preparation of fishery management plans, on their views prior to submission to the Secretary, and on their effectiveness in operation.

The Panel will consist of approximately 50 members who are either actually engaged in the harvest, process, or consumption of, or who are knowledgeable and interested in the conservation and management of fishery resources. Members of the Panel will be appointed by the Council.

The Panel will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Copies of the Panel's Charter will be filed under the Act with the concerned Congressional committees. Inquiries regarding this notice may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Md. 20852.

Dated: September 26, 1977.

ELSA A. PORTER,
Assistant Secretary
for Administration.

[FR Doc 77-28941 Filed 9-30-77; 8:45 am]

[3510-17]

ADVISORY COMMITTEE TO THE WHITE HOUSE CONFERENCE ON BALANCED NATIONAL GROWTH AND ECONOMIC DEVELOPMENT

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. V, 1975)) and Office of Management and Budget Circular A-63 of March 1974, the Advisory Committee to the White House Conference on Balanced National Growth and Economic Development is established as directed by section 204 of the Public Works and Development Act of 1976, Pub. L. 94-487, and in accord with the President's delegation of authority to the Secretary of Commerce.

The Committee will advise the Secretary of Commerce, through the Director of the White House Conference on Balanced National Growth and Economic Development, on the planning of the Conference and the preparation of the interim and final reports of the Conference.

The Committee will consist of 15 or more members appointed by the President, of whom not less than five shall represent business in the private sector, and also includes representatives of State and local government, labor, institutions, and consumer, environmental and other interests. In addition, the Secretaries of Agriculture, Commerce, and Housing and Urban Development, and other relevant Federal program managers designated by the President shall be members.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Advisory Committee Act. Its charter will be filed under the Act concurrent with the publication of this notice.

Interested persons are invited to submit comments regarding the establishment of the Advisory Committee. Those comments, as well as any inquiries, may be addressed to Mr. Clark Tyler, Deputy Director, White House Conference on Balanced National Growth and Economic Development, 2001 S Street NW., Washington, D.C. 20009.

Dated: September 26, 1977.

ELSA A. PORTER,
Assistant Secretary
for Administration.

[FR Doc 77-28949 Filed 9-30-77; 8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

EXTENDING THE COTTON, WOOL AND MAN-MADE FIBER TEXTILE AGREEMENT WITH THE REPUBLIC OF KOREA

SEPTEMBER 28, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Extending the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea.

SUMMARY: Notes have been exchanged between the Governments of the United States and the Republic of Korea extending the third year of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, for three-months, through December 31, 1977. Accordingly, the specific levels of restraint previously established for the twelve-month period which began on October 1, 1976, for cotton, wool and man-made fiber textile products, produced or manufactured in the Republic of Korea, are being increased to reflect the extended agreement period.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert C. Woods, International Trade Specialist, Office of Textile, U.S. Department of Commerce, Washington, D.C. 20230, (202-377-5423).

SUPPLEMENTARY INFORMATION: On October 1, 1976, there was published in the FEDERAL REGISTER (41 FR 43440) a letter dated September 29, 1976 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs, which established the levels of restraint applica-

ble to certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Korea and exported to the United States during the twelve-month period which began on October 1, 1976 and extends through September 30, 1977. A correction in certain of the levels of restraint was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48765).

In the letter of September 28, 1977, published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to limit entry into the United States for consumption or withdrawal from warehouse for consumption of the designated categories of cotton, wool and man-made fiber textile products to the indicated 15-month levels of restraint.

ROBERT E. SHEPHERD,
Chairman, Committee for the
Implementation of Textile
Agreements, and Deputy As-
sistant Secretary for Re-
sources and Trade Assistance,
U.S. Department of Com-
merce.

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS,

September 28, 1977.

COMMISSIONER OF CUSTOMS,
DEPARTMENT OF THE TREASURY,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive amends, but does not cancel, the directive issued to you on September 29, 1976 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain specified categories of cotton, wool and man-made fiber textile products, produced or manufactured in Korea.

Paragraph 1 of the directive of September 29, 1976 is further amended, effective on October 1, 1977, to read as follows:

"Under the terms of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of June 26, 1975, as amended, between the Governments of the United States and the Republic of Korea, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed to prohibit, effective on October 1, 1977 and for the fifteen-month period extending from October 1, 1976 through December 31, 1977, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Categories 9/10, 18/19/26 (printcloth), 22/23, 26 (duck), 39, 42/43 and part of 62, 45/46/47, 48, 49, 50/51, 52, part of 62, and 63; wool textile products in Categories 104, 116/117, 120, 121, and 124; and man-made fiber textile products in Categories 208, 210, 218, 219, 221, 222, 224, 228, 229, 234, 210, 218, 219, 221, 222, 224, 228, 229, 234, 235, 237, and 238 in excess of the following levels of restraint:

Category	Fifteen Month Level of Restraint ¹
9/10	8,339,860 square yards
18/19/26 (printcloth) ²	6,632,884 square yards
22/23	4,560,235 square yards
26 (duck) ³	27,799,546 square yards
39	389,850 dozen pairs
42/43 and part of 62 ⁴	4,000,004 square yards equivalent
45/46/47	4,011,381 square yards equivalent
48	28,445 dozen
49	64,660 dozen
50/51	214,273 dozen (of which not more than 129,454 dozen shall be in Category 50 and not more than 175,220 dozen shall be in Category 51)
52	89,602 dozen
pt. 62 ⁴	214,565 pounds
pt. 63 (T.S.U.S.A. Nos. 380,390 and 382,380)	1,358,696 pounds
pt. 63 ⁴	1,358,696 pounds
104	2,750,000 square yards
116/117	589,696 pounds
120	400,560 numbers
121	242,885 numbers
124	1,265,025 numbers
208	22,500,000 square yards (of which not more than 10 million square yards shall be in T.S.U.S.A. Nos. 338,307 and 338,308)
210	2,187,500 square yards
218	1,122,238 dozen
219	5,153,570 dozen
221	3,530,379 dozen
222	1,298,674 dozen
pt. 224 (only T.S.U.S.A. Nos. 380,042 and 380,813)	51,666 dozen
pt. 224 (only T.S.U.S.A. Nos. 380,042 and 380,813)	60,606 dozen
pt. 224 ⁵	5,448,718 pounds
228	1,116,772 dozen
229	953,266 dozen
234	4,854,826 dozen
235	1,796,336 dozen
237	194,444 numbers
238	276,195 dozen

¹ The levels of restraint have not been adjusted to reflect any imports after September 30, 1976.

² In Category 26 the T.S.U.S.A. numbers for printcloth are:

330...34 326...31

321...34 327...31

322...34 328...31

323...34 329...31

324...34 330...31

325...34 331...31

326...34 332...31

327...34 333...31

328...34 334...31

329...34 335...31

330...34 336...31

331...34 337...31

332...34 338...31

333...34 339...31

334...34 340...31

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463...34 469...31

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465...34 471...31

466...34 472...31

467...34 473...31

468...34 474...31

469...34 475...31

470...34

States for consumption and withdrawal from warehouse for consumption of the indicated categories and groups of categories, produced or manufactured in India, to the designated thirteen month-levels of restraint.

ROBERT E. SHEPHERD,
Chairman, Committee for the
Implementation of Textile
Agreements, and Deputy As-
sistant Secretary for Re-
sources and Trade Assistance
U.S. Department of Com-
merce.

U.S. DEPARTMENT OF COMMERCE,
Washington, D.C., September 29, 1977.

COMMITTEE FOR THE IMPLEMENTATION OF
TEXTILE AGREEMENTS

COMMISSIONER OF CUSTOMS,
Department of the Treasury,
Washington, D.C. 20229.

DEAR MR. COMMISSIONER: This directive
amends, but does not cancel, the directive

Thirteen Month Level of Restraint	
1-10	110,917,730 square yards equivalent
11-20	50,700,996 square yards
21-30	10,673,882 square yards
31-40	16,698,231 square yards
41-50	11,153,737 square yards equivalent
51-60	8,615,911 units
61-70	21,067,661 units of which not more than 20,301,755 units shall be in T.S. U.S.A. 366-180, 366-186, 366-186S, 366-210, 366-216, 366-216S, 366-240
71-80	17,174 units
81-90	20,118,806 square yards equivalent

NOTE: The above levels have not been adjusted to reflect any changes in the U.S. T.S.A. numbers for duck fabric and
 1-10 through 01, 06, 08 328-01 through 04, 06, 08
 11-20 through 01, 06, 08 327-01 through 04, 06, 08
 21-30 through 01, 06, 08 328-01 through 04, 06, 08

Paragraph 2 of the directive of September 29, 1976, is amended by substituting October 31, 1977, for September 30, 1977.

The actions taken with respect to the Government of India and with respect to imports of cotton textiles and cotton textile products from India have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the
Implementation of Textile
Agreements, and Deputy As-
sistant Secretary for Re-
sources and Trade Assistance,
U.S. Department of Com-
merce.

[FR Doc. 77-29175 Filed 9-30-77; 9:46 am]

[6330-01]

COMMISSION OF FINE ARTS

Meeting

The Commission of Fine Arts will meet in open session to discuss various projects affecting the appearance of Washington, D.C. on Tuesday, October 25, 1977, at 10

issued to you on September 29, 1976 by the Chairman of the Committee for the Implementation of Textile Agreements concerning imports into the United States of certain specified categories of cotton textiles and cotton textile products, produced or manufactured in India.

Paragraph 1 of the directive of September 29, 1976 is amended, effective on October 1, 1977, to read as follows:

"Under the terms of the Arrangement Regarding International Trade in Textiles, done at Geneva on December 20, 1973, pursuant to the Bilateral Cotton Textile Agreement of August 6, 1974, as amended, between the Governments of the United States and India, and in accordance with the provisions of Executive Order 11651 of March 3, 1972, you are directed, effective on October 1, 1977, and for the thirteen month period beginning on October 1, 1976 and extending through October 31, 1977, to prohibit entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textiles and cotton textile products in Categories 1 through 64 in excess of the levels of restraint listed below. These goods shall be accompanied by an export visa.

Thirteen Month Level of Restraint	
1-10	110,917,730 square yards equivalent
11-20	50,700,996 square yards
21-30	10,673,882 square yards
31-40	16,698,231 square yards
41-50	11,153,737 square yards equivalent
51-60	8,615,911 units
61-70	21,067,661 units of which not more than 20,301,755 units shall be in T.S. U.S.A. 366-180, 366-186, 366-186S, 366-210, 366-216, 366-216S, 366-240
71-80	17,174 units
81-90	20,118,806 square yards equivalent

NOTE: The above levels have not been adjusted to reflect any changes in the U.S. T.S.A. numbers for duck fabric and

1-10 through 01, 06, 08 328-01 through 04, 06, 08
 11-20 through 01, 06, 08 327-01 through 04, 06, 08
 21-30 through 01, 06, 08 328-01 through 04, 06, 08

a.m. in the Commission offices at 708 Jackson Place, NW., Washington, D.C. 20006.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

This notice confirms notice of January 11, 1977, published at 42 FR 2337.

Dated in Washington, D.C., September 27, 1977.

CHARLES H. ATHERTON,
Secretary.

[FR Doc. 77-28984 Filed 9-30-77; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE SCIENCE BOARD TASK FORCE ON COUNTER-COMMUNICATIONS, COMMAND AND CONTROL (C)

Advisory Committee Meeting

The Defense Science Board Task Force on Counter-Communications, Command and Control (Counter-C) will meet in closed session on 15 October 1977 in the Pentagon, Washington, D.C.

The mission of the Defense Science Board Task Force is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the communications, command and control (C) employed by potentially hostile forces and identify countermeasures that might be of significant help if the Department of Defense were required to counter those forces.

In accordance with section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in section 552b(c) of Title 5 of the United States Code, specifically Subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and
Directives, OASD (Comptrol-
ler).

SEPTEMBER 28, 1977.

[FR Doc. 77-28056 Filed 9-30-77; 8:45 am]

[3810-70]

ARMED FORCES EPIDEMIOLOGICAL BOARD

Open Meeting

1. In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following committee meeting:

NAME OF COMMITTEE: Subcommittee on Health Maintenance Systems of the Armed Forces Epidemiological Board.

DATE OF MEETING: October 20-21, 1977.

PLACE: Officers' Club Conference Room, School of Aerospace Medicine, Brooks Air Force Base, San Antonio, Tex.

TIME: 0830-1630, October 20, 1977; 0830-1300, October 21, 1977.

PROPOSED AGENDA: The proposed agenda will include a briefing on the U.S. Air Force School of Aerospace Medicine, a briefing on the USAF Health Maintenance Program "HEART", briefings on the hearing conservation program of the three military departments, a discussion of the "Women in the Army Study", a briefing on the development of physical fitness tests for various military occupations, a discussion of data on physical capabilities and limitations of women in the Armed Forces and Committee discussions for the development of recommendations.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: September 22, 1977.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc. 77-29003 Filed 9-30-77; 8:45 am]

[3810-70]

ARMED FORCES EPIDEMIOLOGICAL BOARD

Open Meeting

1. In accordance with section 10(a) (2) of the Federal Advisory Committee Act (P.L. 92-463) announcement is made of the following committee meeting:

NAME OF COMMITTEE: Armed Forces Epidemiological Board ad hoc subcommittee on detection of wartime chemical contamination in the field water supplies.

DATE OF MEETING: October 26, 1977.

PLACE: Room 5E069 Forrestal Building, 1000 Independence Avenue SW., Washington, D.C.

TIME: 0900-1600.

PROPOSED AGENDA: The proposed agenda will include the discussion of problems related to detection of chemical contaminants in field water supplies in the combat environment and means available or under development to remove them.

2. This meeting will be open to the public, but limited by space accommodations. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Interested persons wishing to participate should advise the Executive Secretary, DASG-AFEB, Room 1B472 Pentagon, Washington, D.C. 20310.

Dated: September 22, 1977.

DUANE G. ERICKSON,
LTC, MSC, USA,
Executive Secretary.

[FR Doc. 77-29004 Filed 9-30-77; 8:45 am]

[6170-01]

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

SOLAR WORKING GROUP

Determination To Establish

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), I hereby certify that the establishment of a Solar Working Group as hereinafter identified, is in the public interest in connection with the performance of duties imposed upon the Energy Research and Development Administration by the Energy Reorganization Act of 1974 and other applicable law. This determination follows consultation with the Office of Management Secretariat of OMB concurs in the simultaneous publication of this Notice and the filing of the Charter.

Name of Advisory Committee: Solar Working Group.

Purpose: The Committee's objectives and scope of activities and duties are to provide guidance and evaluation by making an assessment of ERDA's solar programs.

Effective date of establishment and duration: The advisory committee is es-

tablished effective October 1, 1977. The advisory committee's termination date will be with the submission of its report but not later than April 1, 1978.

Membership: The membership of the advisory committee shall be balanced fairly in terms of the points of view represented and the functions to be performed by the advisory committee. Approximately 12 members from the fields of science, academia, utilities, and other sectors of the general public will serve on the committee. There will be no discrimination based on race, color, creed, national origin, religion, or sex.

Operation: The Solar Working Group will operate in accordance with the provisions of the Federal Advisory Committee Act (Pub. L. 92-463), ERDA policy and procedures (10 CFR Part 707), OMB Circular A-63 (Revised), and other directives and instructions issued in accordance with the implementation of the Act. The Solar Working Group will meet approximately five times. An agenda for each meeting will be developed. The staff of the former General Advisory Committee (GAC) will provide on a continuous basis all information on solar energy programs, issues, and policies reasonably required by the committee to perform its functions. Staff support will be provided to the committee by the staff of the GAC.

HARRY L. PEEBLES,
Deputy Advisory Committee
Management Officer.

SEPTEMBER 29, 1977.

[FR Doc. 77-29132 Filed 9-30-77; 8:45 am]

[6170-01]

COAL RESEARCH, DEVELOPMENT AND DEMONSTRATION PROGRAM

Availability of Draft Environmental Impact Statement

Notice is hereby given that a Draft Environmental Impact Statement, ERDA 1557-D, Coal Research, Development and Demonstration Program (September 1977) was issued pursuant to the Energy Research and Development Administration's (ERDA) implementation of the National Environmental Policy Act of 1969. The statement was prepared in support of ERDA's Coal Research, Development and Demonstration Program, and assesses the potential impacts of the development of a commercial coal conversion and combustion industry resulting from this program. The statement also assesses the impacts associated with conjunctive developments such as mining and transportation of the coal need to support the industry. In addition, the socioeconomic impacts associated with community development and/or expansion caused by the industry are assessed. The statement also assesses alternatives to the program.

Copies of the draft environmental impact statement have been distributed for review and comment to appropriate Federal agencies, Clearinghouses of all fifty States, public and other organizations

and individuals that may have an interest in this program.

Copies of the statement are available for public inspection at the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
 Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.
 Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.
 Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
 Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
 Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
 Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
 Richland Operations Office, Federal Building, Richland, Wash.
 San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
 Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

In addition, a copy will be placed in the:

Regional Energy Environmental Information Center, Denver Public Library, 1357 Broadway, Denver, Colo.

Comments and views concerning the draft environmental impact statement are requested from other interested agencies, organizations and individuals. Single copies of the statement will be furnished for review and comment upon request addressed to W. H. Pennington, Director, Office of NEPA Coordination, Mail Station E-201, Energy Research and Development Administration, Washington, D.C. 20545 (301-353-4241). Comments should be sent to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the draft environmental impact statement should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of form in the impact statement. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the draft environmental impact statement. Emphasis should be placed specifically on the assessment of the environmental impacts of the proposed project, and the acceptability of those impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the proposed action. Commenting entities may recommend modifications and/or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the draft environmental impact statement will be placed in the above referenced locations for inspection and will be considered in the preparation of the final environmental impact statement, if received within 90 days of this notice.

Dated at Germantown, Md., this 29th day of September 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator,
for Environment and Safety.

[FR Doc. 77-29240 Filed 9-30-77; 11:34 am]

[6170-01]

LONG-TERM MANAGEMENT OF DEFENSE HIGH-LEVEL RADIOACTIVE WASTES (IDAHO CHEMICAL PROCESSING PLANT, IDAHO NATIONAL ENGINEERING LABORATORY, IDAHO FALLS, IDAHO)

Preparation of Environmental Impact Statement and Availability of Technical Alternatives Defense Waste Document

Notice is hereby given that in accordance with the National Environmental Policy Act, the Energy Research and Development Administration (ERDA) intends to prepare a programmatic environmental impact statement (EIS) concerning the long-term management of the high-level radioactive wastes that are generated as part of the national defense effort at the Idaho Chemical Processing Plant (ICPP) located near Idaho Falls, Idaho. Currently, these radioactive wastes are stored at the Idaho site.

The environmental impacts of the continuing waste management operations at the plant were assessed in ERDA-1536, a draft environmental impact statement issued in June 1976 (41 FR 27778, July 6, 1976). This new programmatic statement will assess the environmental impacts associated with the reasonably available alternatives for ultimate disposition of the wastes in an environmentally acceptable manner for periods of time required for the radioactivity to decay to safe levels, i.e., hundreds to thousands of years. Research and development programs are being performed at the Idaho Chemical Processing Plant on alternative modes for the long-term management of these defense wastes.

The purpose of this Notice is to present pertinent background information regarding the proposed scope and content of the statement and to solicit comments and suggestions for consideration in its preparation. In order to provide background regarding the state-of-the-art of various technologies to be considered for use in disposal of the wastes, ERDA has prepared a Defense Waste Document (DWD), "Alternatives for Long-Term Management of Defense High-Level Waste" (ERDA-77-43). The preparation of this DWD was announced October 18, 1976, (41 FR 45901). This DWD describes the alternative technologies with respect to their probable relative costs, risks, and uncertainties. Three basic alternatives and several variations are included in the DWD. These alternatives range from continuing the storage of high-level waste as a granular solid (calcine) in stainless steel bins within concrete vaults at the ICPP (which is the "no action" alternative), to conversion of the waste

to a glass form and shipment to an off-site Federal repository.

The EIS will assess the environmental impact of the main candidate plans using the DWD as a reference source of technology input. The EIS will provide environmental input into decisions related to the research, development, demonstration activities and engineering design studies required to establish an environmentally acceptable mode of disposal for these high-level radioactive wastes.

Interested agencies, organizations or persons desiring to submit comments or suggestions on the DWD or the scope or content of the EIS should submit them to W. H. Pennington, Director, Office of NEPA Coordination, Mail Station E-201, U.S. Energy Research and Development Administration, Washington, D.C. 20545, telephone 301-353-4241, on or before November 1, 1977. These comments will be considered in the preparation of the draft EIS. Those desiring a copy of the DWD for use in preparing comments or suggestions, or a copy of the draft EIS when it is issued, should notify Mr. Pennington.

Copies of the DWD, the Idaho waste management EIS (ERDA-1536), and other documentation to be used in the preparation of the new EIS are available for public inspection at the public document room located at the Idaho Operations Office at Idaho Falls. Copies of ERDA-1536; the Savannah River DWD, ERDA 77-42; the ID DWD, ERDA 77-43 are available for public inspection at ERDA's public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C. 20545.
Albuquerque Operations Office, Kirtland Air Force Base East, Albuquerque, N. Mex. 87115.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill. 60439.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn. 37830.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev. 89114.
Richland Operations Office, Federal Building, Richland, Wash. 99352.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif. 94612.
Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29801.

Dated at Germantown, Md., this 27th day of September 1977, for the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator
for Environment and Safety.

[FR Doc. 77-29197 Filed 9-30-77; 11:34 am]

[6170-01]

[ERDA-1551]

NEVADA TEST SITE, NYE COUNTY, NEV. Availability of Final Environmental Impact Statement

Notice is hereby given that a Final Environmental Impact Statement, ERDA-1551, Nevada Test Site, Nye County, Nev. (September 1977), was issued pursuant to the Energy Research and Development

Administration's (ERDA) implementation of the National Environmental Policy Act of 1969. The statement was prepared to assess the environmental impact of continuing ERDA's underground nuclear testing program and other activities at the Nevada Test Site for Fiscal Year 1978 and beyond.

The cumulative impact on the environment from underground nuclear detonations with yields of one megaton or less and the preparation necessary for such detonations are assessed. The statement also assesses the testing activities of other continuing and intermittent activities, both nuclear and nonnuclear, which can best be conducted in the remote and controlled area of the NTS.

No significant adverse effects on the NTS or surrounding environment are anticipated to result from the continuation of existing programs or initiation of the proposed programs.

Copies of the final environmental impact statement are available for public inspection at the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
Richland Operations Office, Federal Building, Richland, Wash.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

In addition, a copy will be placed in the:

Regional Energy, Environmental Information Center, Denver Public Library, 1357 Broadway, Denver, Colo.

Copies of the final statement have been furnished to those who commented on the draft statement that was issued by the Energy Research and Development Administration on January 18, 1977. Copies are also available for public inspection at designated Federal Depository Libraries.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830 (615-483-8611), extension 34672. The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

Dated at Germantown, Md., this 29th day of September 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator
for Environment and Safety.

[FR Doc. 77-29199 Filed 9-30-77; 11:34 am]

[6170-01]

[ERDA-1549]

PORTSMOUTH GASEOUS DIFFUSION PLANT EXPANSION PIKE COUNTY, PIKETON, OHIO

Availability of Final Environmental Statement

Notice is hereby given that a Final Environmental Statement, ERDA-1549, Portsmouth Gaseous Diffusion Plant Expansion, Pike County, Piketon, Ohio (September 1977), was issued pursuant to the Energy Research and Development Administration's (ERDA) implementation of the National Environmental Policy Act of 1969. At the time the draft statement was issued, it was thought that the demand for additional enrichment capacity required that it be available by 1985. The gaseous diffusion process was the only technology thought to be able to provide the needed additional enrichment capacity in that time frame. Therefore, the draft environmental statement focused on the environmental effects of expanding the capacity at Portsmouth via this process. Upon further review, it was determined that the expansion of uranium enrichment capacity could be delayed from 1 to 2 years permitting the gas centrifuge process to be developed as a reasonable alternative in the new time frame. The President subsequently announced in his April 1977 energy message that the gas centrifuge process will be used in place of the gaseous diffusion process in the next addition to uranium enrichment capacity. Accordingly, Section 5.1.3 on a gas centrifuge plant at Portsmouth has been expanded in the final statement.

Copies of the final environmental impact statement are available for public inspection at the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base—East, Albuquerque, N. Mex.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
Richland Operations Office, Federal Building, Richland, Wash.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

Copies of the final statement have been furnished to those who commented on the draft statement that was issued by the Energy Research and Development Administration on October 15, 1976. Copies are also available for public in-

spection at designated Federal Depository Libraries.

A limited number of single copies of the final statement are available for distribution by the Technical Information Center, P.O. Box 62, Oak Ridge, Tenn. 37830 (615-483-8611), extension 34672. The statement is also available from the National Technical Information Service, Springfield, Va. 22161.

Dated at Germantown, Md., this 29th day of September 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator
for Environment and Safety.

[FR Doc. 77-29198 Filed 9-30-77; 8:45 am]

[6506-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 777-6]

AIR POLLUTION PREVENTION AND CONTROL

Addition to the List of Categories of Stationary Sources

Section 111 of the Clean Air Act (42 U.S.C. 1857c-6) directs the Administrator of the Environmental Protection Agency to publish, and from time to time revise, a list of categories of stationary sources which he determines may contribute significantly to air pollution which causes or contributes to the endangerment of public health or welfare. Within 120 days after the inclusion of a category of stationary sources in such list, the Administrator is required to propose regulations establishing standards of performance for new and modified sources within such category. At present standards of performance for 24 categories of sources have been promulgated.

The Administrator, after evaluating available information, has determined that stationary gas turbines are an additional category of stationary sources which meets the above requirements. The basis for this determination is discussed in the preamble to the proposed regulation that is published elsewhere in this issue of the FEDERAL REGISTER (see FR Doc. 77-28721). Evaluation of other stationary source categories is in progress, and the list will be revised from time to time as the Administrator deems appropriate. Accordingly, notice is given that the Administrator, pursuant to section 111(b)(1)(A) of the Act, and after consultation with appropriate advisory committees, experts and Federal departments and agencies in accordance with section 117(f) of the Act, effective October 3, 1977, amends the list of categories of stationary sources to read as follows:

LIST OF CATEGORIES OF STATIONARY SOURCES AND CORRESPONDING AFFECTED FACILITIES

SOURCE CATEGORY

1. STATIONARY GAS TURBINES

AFFECTED FACILITIES GAS TURBINES

Proposed standards of performance applicable to the above source category appear elsewhere in this issue of the FEDERAL REGISTER.

Dated: September 21, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 77-28747 Filed 9-30-77; 8:45 am]

[6560-01]

OPP-42050; FRL 800-4]

ILLINOIS

Submission of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and 40 CFR 171, the Honorable James R. Thompson, Governor of the State of Illinois, submitted a State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis.

Contingent approval is being requested pending the Governor's signature to the Illinois Structural Pest Control Act, and promulgation of implementing regulations. Copies of pertinent laws, regulations, proposed legislative amendments and regulations, and other related documents are attached to the plan.

Notice is hereby given of the intention of the Regional Administrator, EPA, Region V, to approve this plan on a contingency basis.

A summary of the plan follows. The entire plan, together with all attachments (except written examinations), may be examined during normal business hours at the following locations:

1. Emmerson Building, State Fairgrounds, Springfield, Ill., 62706 (Illinois Department of Agriculture, Division of Agricultural Industry Regulation), telephone 217-782-3817.
2. Room 1147, 230 South Dearborn Street, Chicago, Ill. 60604 (Pesticide Branch, Air and Hazardous Materials Division, EPA, Region V), telephone 312-353-2192.
3. Room 401, East Tower, Waterside Mall, 401 M Street, SW., Washington, D.C. 20460, (Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA), telephone 202-755-4854.

SUMMARY OF STATE PLAN

The Illinois Department of Agriculture (IDA) has been designated as the

State lead agency for the administration of the pesticide applicator certification program including enforcement activities. The Division of Agricultural Industry Regulation, IDA, will be responsible for the implementation and maintenance of state plan provisions, except for certification and enforcement activities relating to pesticide applicators in Industrial, Institutional, Structural, and Health Related Pest Control (category 7). Other responsibilities of IDA include State registration of all EPA registered pesticides sold in Illinois and coordination of field, laboratory, and office activities relating to pesticide regulation under State laws administered by IDA.

Cooperating agencies include the Illinois Department of Public Health (IDPH) and the University of Illinois Cooperative Extension Service (ICES).

The IDPH will be responsible for certifying commercial applicators engaged in Industrial, Institutional, Structural, and Health Related Pest Control (Category 7), under authority found in the Illinois Structural Pest Control Act of 1975. Preparation and administration of training programs and written examinations in Category 7 will be the responsibility of IDPH. Other responsibilities of IDPH include enforcement activities relating to structural pest control and cooperation with IDA in providing training for persons seeking IDA certification in mosquito pest control.

The ICES will have the lead role, pursuant to an Intrastate Service Agreement with the IDA, for the state-wide pesticide applicator certification training program, excluding trainings in Category 7 and mosquito control.

This responsibility includes preparation and administration of training courses, preparation of training materials, and distribution of training manuals.

In order to assure program coordination and uniformity in applicator training, certification, and restricted use pesticide enforcement, the lead agency will coordinate and direct activities with the various cooperating agencies. This will be carried out directly through cooperative agreements, the State Pesticide Planning Committee, and the Interagency Committee on Pesticide Use.

Legal authority for the certification program is contained in The Illinois Custom or Public Application of Pesticides Act (II. Rev. St., Chapter 5, Paragraph 87(d) (1) et seq.); Pesticides Control Law (II. Rev. St., Chapter 5, Paragraph 256 et seq.) and regulations; The Structural Pest Control Act (II. Rev. St., Chapter 111, Paragraph 2201 et seq.); and proposed regulations attached to the plan.

The plan indicates that the State lead agency and cooperating agencies have sufficient qualified personnel and funds necessary to conduct the programs described in the State Plan. Certain EPA funds have been provided to the lead agency to support the certification program. An EPA grant of \$212,019 has been awarded to the IDA for this purpose. Additionally, the University of Illinois Cooperative Extension Service has received from EPA pesticide applicator training monies during FY 1976 and FY 1977.

An estimated 22,000 commercial applicators and 80,000 private applicators will require certification. Wallet size credentials will be issued to pesticide applicators upon successful completion of certification requirements. All credentials will contain name, address and classification of the applicator. For commercial applicators, the credential will also identify the category(ies) or subcategory(ies) of pest control in which the applicator is certified. Credentials issued private applicators unable to read will restrict purchase and use to specific pesticide products for which the applicator has demonstrated competency.

The State lead agency will submit an annual report to EPA not later than March 31 of each year to include the information specified in 40 CFR 171.7. The IDPH will submit specific information on Category 7 certification and enforcement activities to the IDA for inclusion in the annual report.

The IDA plans to continue the commercial applicator categorization scheme previously established under the State applicator licensing program. Categories described in the State Plan are those found in 40 CFR 171.3(b), except for the Category "Public Health Pest Control", which is identified as a subcategory under the State Category "Industrial, Institutional, Structural and Health Related Pest Control", 7(g). Two new categories are proposed: Mosquito control and Grain Facility Pest Control. Subcategories of commercial applicators proposed in the State Plan are as follows:

1. Agricultural Pest Control: (a) Plant: (1) Field Crop Pest Control. (2) Vegetable Crop Pest Control. (3) Fruit Crop Pest Control. 7. Industrial, Institutional, Structural and Health Related Pest Control. (a) Insects, Rodents, and Other Pests Including Those Pests in Food Manufacturing, Food Processing, Food Storage and Grain Handling. (b) Termites and Other Wood Destroying Organisms. (c) Bird Control. (d) Fumigation. (e) Food Manufacturing, Food Processing and Food Storage Facilities. (f) Institution and Multi-Unit Residential Housing Pest Control. (g) Public Health Pest Control.

Standards of competency utilized for commercial applicators conform to 40 CFR 171.4 and 171.6. All commercial applicators will be determined competent based upon passage of a written, closed book examination.

The State Plan identifies and describes four classes of commercial applicators Illinois intends to utilize for certification and licensing purposes. They are (a) Commercial Pesticide Applicator For Hire, (b) Public Pesticide Applicator, (c) Commercial Pesticide Applicator Not For Hire, and (d) Certified Pest Control Technician. The Commercial Pesticide Applicator For Hire classification covers all pest control categories except Category 7, Industrial, Institutional, Structural, and Health Related Pest Control. The State defines such persons as those who own or operate a custom application business and in so doing, purchase and use or supervise the use of pesticides on the property of another person for hire. Public Pesticide Applicators are employees of a state agency, municipality or other governmental agency who use or supervise the use of restricted use pesticides in any pest control category other than Category 7. The Commercial Pesticide Applicator Not For Hire classification includes commercial applicators who use or supervise the use of restricted use pesticides on their own property or property of their employer but are not Public Pesticide Applicators. Commercial Pesticide Applicators Not For Hire encompass all areas of pest control except Category 7. The Certified Pest Control Technician is a commercial applicator with respect to the amended FIFRA and is engaged in Category 7 pest control activities identified in the State Plan. Certification of this class of commercial applicator is the responsibility of the IDPH. For purposes of this notice, and unless otherwise noted, the term "commercial applicator" shall mean and include the above four State defined classes of applicator.

All Certified Pest Control Technicians will be required to either participate in an IDPH approved training course or take a written examination at least once every 3 years to ensure that they continue to meet requirements of changing technology and maintain a continuing level of competency and ability to use pesticides safely and properly. All other commercial applicators will be required to renew their certification at 5 year intervals by taking and passing the appropriate written examination(s).

In accordance with 40 CFR 171.7(e) (3), the State of Illinois has requested that commercial applicators who have been previously licensed by passing written examinations in the following pest control categories and subcategories be certified without further examination:

Field Crop Pest Control (1972-present) Ornamental and Turf Pest Control (1972-present). Right-of-Way Pest Control (1972-present) Aquatic Pest Control (1972-present) Mosquito Pest Control (1972-present). Industrial, Institutional, and Structural Pest Control (1975-1977).

The Agency has determined that persons who passed written examinations in these categories and subcategories within the time frame identified above, will have satisfied the requirements for certification, 40 CFR 171.1-171.6, and may be certified without additional examination.

The standards of competency for private applicators are the same as those listed in 40 CFR 171.5 and 171.6. Private applicator certification will be accomplished by one of the following procedures: (1) Successful completion of a training session conducted by the ICES, (2) passage of a written examination,

or (3) special training/oral interview for private applicators unable to read.

1. Successful completion of an ICES training session. An applicant may participate in a training program conducted by County Extension Advisers throughout Illinois. The Illinois Pesticide Applicator Study Guide, and supportive reference material on current pest control methods for specific use situations, will be utilized. During the training session, a representative of the IDA will be present to discuss applicable pesticide laws and regulations, and provide information concerning supervisory requirements of private applicators. Completion of training will be determined on the basis of successful completion of a pre-training and post-training evaluation form administered by an IDA representative. Additionally, each applicant will complete an application for certification, attached to the evaluation form, which assures the IDA that pesticides will be used in a competent, safe manner, in accordance with existing laws and regulations. Evaluation forms and applications for certification will be processed by the IDA.

2. Passage of a written examination. An applicant may take a written examination covering the competency standards listed in 40 CFR 171.5 and 171.6. These examinations will consist of 100 multiple choice questions and will be offered on a walk-in basis at local county adviser offices and local IDA offices. The examination may be completed at the applicant's residence as well; however, in this situation, the applicant will be required to attest that the examination was completed without unauthorized assistance. All examinations will be returned to the lead agency in Springfield for grading. A minimum passing grade of 70 percent is required before a private applicator certification is issued.

3. Nonreader certification. For private applicators unable to read, the lead agency intends to establish a certification system which allows competent applicators to use specific pesticide products. An applicator who can not read may attend the same training courses available to other applicators. However, the nonreader will be tested orally on the training course material and specific pesticide product labels by an IDA representative. Certification will be limited to those products in which the nonreader has demonstrated competency and the credentials will identify those products covered by the applicator's certification.

To renew a certificate, all private applicators will be required to complete one of the original certification procedures described above at five year intervals.

Examinations for new categories and subcategories of commercial applicators, the private applicator examination, and existing commercial applicator licensing examinations are attached to the plan. In view of the need to preserve confidentiality of the examinations, they have been removed from the public inspection copies of the plan.

The Illinois State Plan indicates that within sixty (60) days of the approval

of the Government Agency Plan (GAP) by EPA, Illinois will submit a statement in accordance with 40 CFR 171.7(e) (4) (1). Illinois has no Indian Governing Body subject to jurisdiction of the United States.

The IDA and IDPH have authority to consider reciprocity with other states and copies of such agreements will be furnished EPA. No recognized formal agreement on reciprocity with other states involving pesticide applicator certification is indicated in the plan.

Other regulatory authorities useful to implementation of the plan include further restriction or limitation on pesticide uses, requirement that pesticide dealers keep and maintain sales records of restricted use pesticides for a period of two years, licensing of commercial and public operators (persons working under the direct supervision of commercial applicators and public applicators, respectively), monitoring, inspection, and sampling activities.

PUBLIC COMMENTS

Interested persons are invited to submit written comments on the proposed State Plan for the State of Illinois to the Regional Administrator, Region V, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. The comments must be received within 30 days of date of publication of this notice, and should bear the identifying notation (OPP-42050). All written comments filed pursuant to this notice will be available for public inspection at the above mentioned locations from 8:30 a.m. to 3:30 p.m. Monday through Friday.

Dated: September 20, 1977.

GEORGE R. ALEXANDER, JR.,
Regional Administrator,
Region V.

[FR Doc. 77-28919 Filed 9-30-77; 8:45 am]

[6560-01]

[FRL 800-1]

NATIONAL DRINKING WATER ADVISORY COUNCIL Open Meeting

Under Section 10(a) (2) of Public Law 92-423, "The Federal Advisory Committee Act", notice is hereby given that a meeting of the National Drinking Water Advisory Council established under Public Law 93-523, the "Safe Drinking Water Act", will be held at 9 a.m. on October 20, 1977, and at 8:30 a.m., October 21, 1977, in Conference Room 2117, Mall Area, Waterside Mall, 401 M Street, SW., Washington D.C. 20460.

The purpose of this meeting will be to discuss the health aspects of constituents found in drinking water, the rationale for standard setting, EPA's programs for protecting underground drinking water sources and plans for regulating underground injection practices.

Both days of the meeting will be open to the public. The Council encourages

the hearing of outside statements and allocates a portion of time for public participation. Any outside parties interested in presenting an oral statement should petition the Council in writing. The petition should include the general topic of the proposed statement and the petitioner's telephone number.

Any person who wishes to file a written statement can do so before or after a Council meeting. Accepted written statements will be recognized at Council meetings.

Any members of the public wishing to attend the Council meeting, present an oral statement, or submit a written statement should contact Patrick Tobin, Executive Secretary for the National Drinking Water Advisory Council, Office of Water Supply (WH-550), Environmental Protection Agency, 401 M Street, SW., Washington D.C. 20460.

The telephone number is: Area Code 202-426-8877.

THOMAS C. JORLING,
Assistant Administrator for
Water and Hazardous Materials.

SEPTEMBER 26, 1977.

[FR Doc. 77-28923 Filed 9-30-77; 8:45 am]

[6560-01]

[FRL 799-8]

ENVIRONMENTAL HEALTH ADVISORY COMMITTEE; SCIENCE ADVISORY BOARD Meeting

Under Public Law 92-463, notice is hereby given that a meeting of the Environmental Health Advisory Committee of the Science Advisory Board will be held at 9 a.m. on October 19, 1977 in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

The purpose of the meeting will be (1) to consider a draft document entitled, "Criteria for Evaluating the Mutagenicity of Chemicals", dated September 9, 1977, prepared by EPA's Office of Pesticide Programs, which discusses Agency approaches to the evaluation of test data relating to mutagenicity in the context of section 3, Registration of Pesticides, of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended; (2) to consider a report entitled, "Critique of the Biological and Climate Effects Research (BACER)—Effects of Stratospheric Modification", prepared by an Ad Hoc Study Group of the Science Advisory Board's Ecology Committee and the Environmental Health Advisory Committee, which evaluates certain aspects of a Federal interagency research program on the biological and climatic effects of stratospheric ozone reduction; and (3) to hear and discuss a report of the Committee's Study Group on Pentachlorophenol Contaminants which, i.e. is examining the potential hazard to humans attributable to registered uses of pentachlorophenol. The Agenda will also include (4) brief reports and informational items of current interest to the members.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b. October 13, 1977. Please call Ms. Barbara Robinson on (703) 557-7720.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

SEPTEMBER 26, 1977.

[FR Doc.77-28924 Filed 9-30-77; 8:45 am]

[6560-01]

[FRL 800-3; OPP-30019]

PESTICIDE PROGRAMS

Withdrawal of Denial of Application to Register Pesticide Product Containing Heptachlor

On November 26, 1974, notice of intent to cancel certain uses of heptachlor and chlordane was published in the *FEDERAL REGISTER* (39 FR 41298) in accordance with section 6 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (7 U.S.C. 136 et seq.). On April 14, 1977, the Environmental Protection Agency (EPA) denied an application received from the Florida Department of Agriculture and Consumer Services to register the pesticide product HEPTACHLOR 5-G (EPA) File Symbol 40185-R) for use in controlling the West Indian sugarcane rootstalk borer weevil larvae, *Diagrepes abbreviatus*. The notice of denial was published April 22, 1977 (42 FR 20850).

This notice of denial was withdrawn by a letter dated May 13, 1977, to the applicant, because the stated basis for issuing that notice was in error; the use of heptachlor for which the application was made was not subject to the provisions of the November 26 *FEDERAL REGISTER* notice.

The applicant has been advised that certain additional hazard data which were omitted from the application can be submitted, and thereafter the application will be processed and reviewed in accordance with the criteria for determinations of unreasonable adverse effects specified in 40 CFR 162.11 of the EPA registration regulations.

Dated September 27, 1977.

JAMES M. CONLON,
Deputy Assistant Administrator
for Pesticide Programs

[FR Doc. 77-28920 Filed 9-30-77; 8:45 am]

[6560-01]

[FRL 800-2; OPP-210010]

PESTICIDE PROGRAMS

Public Hearings on Toxicology Data Auditing Program

The Office of Pesticide Programs (OPP), Environmental Protection Agency

(EPA), has initiated a Toxicology Data Auditing Program (TDAP), which provides for audits of laboratory records and raw data associated with studies and test reports submitted to the Agency in support of applications for pesticide registrations, petitions for the establishment of tolerances for pesticide residues, and experimental use permits.

While some pesticide companies have their own laboratories and testing facilities, many companies contract with independent testing laboratories to conduct these tests on their behalf. The reports ultimately submitted to EPA by applicants and petitioners are usually prepared by the independent laboratories, which often retain the raw data and laboratory records underlying these reports in their own archives.

EPA does not currently have jurisdiction to enter independent testing laboratories to inspect these records without the consent of the laboratory. However, because EPA as well as private industry has become aware of the fact that the data currently supporting pesticide registrations and tolerances may be inaccurate, incomplete, or otherwise inadequate to support a regulatory decision as to a pesticide's safety, a cooperative effort with applicants and registrants is being initiated with regard to the audit of research records maintained at independent laboratories.

These audits will be designed to: (1) Determine whether the raw data is internally consistent as well as consistent with test reports submitted to EPA by the applicant or registrant; (2) obtain information that may not have been provided in test reports; and (3) identify whether test protocols were followed, whether errors were made or practices employed which may have materially affected the validity of the test results, and whether test reports fully and accurately disclosed all material facts regarding the actual test procedures and results. The scope of such audits will be limited to review of the records pertaining to particular studies and will not extend to overall "good laboratory practice" inspections of the laboratories themselves. The success and effectiveness of this cooperative effort will determine whether legislative changes to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) are needed to authorize EPA to enter independent laboratories for the purpose of conducting such audits.

This assessment of the validity and quality of data produced by pesticide-testing institutions for currently registered pesticide products will eventually be coordinated with the reregistration effort. Data audits will be triggered by data deficiencies identified during the review and validation of the data bases for human hazard assessment. It is also expected that after the reregistration effort is complete, the auditing program will concern itself more with recent or on-going studies sponsored by registrants or applicants to assure the continued quality of data.

Responsibility for managing TDAP rests with the Office of Special Pesticide Reviews, which is scheduled to audit records held at 60 laboratories in fiscal year 1978. Hearings are being held at this time to provide an open forum for the presentation of views concerning the merit of conducting such audits as part of a cooperative effort with applicants, registrants, and independent testing laboratories. The hearings will provide an opportunity to discuss such subjects as: (1) The necessity and appropriateness of the cooperative effort as a means of assuring the quality and integrity of data submitted to the Federal government, (2) the elements of the monitoring/surveillance mode, (3) interagency coordination of audits, (4) international implications of TDAP and (5) record retention.

Both written and oral remarks are solicited. Oral presentations will be limited to thirty (30) minutes. Any person who desires to make an oral presentation at any of the hearings must provide a written copy of remarks for inclusion in the record. Those who wish to attend the hearings and/or participate in the proceedings are requested to make a reservation in advance of the scheduled hearing. Hearing coordinators, locations, and dates are as follows:

Location: Travel Lodge at the Wharf, 250 Beach Street, The Golden Gate Room, San Francisco, Calif. 94133.

Date: November 2, 1977, 9 a.m.-5 p.m.
Hearing Coordinator: Nancy Frost, phone 415-556-3352.

Location: Midland Hotel, 172 West Adams, Chicago, Ill. 60603.

Date: November 4, 1977, 9 a.m.-5 p.m.
Hearing Coordinator: Bernadette Hughes, phone 312-353-2193.

Location: Environmental Protection Agency, 401 N Street SW., Room 3305-3307 of the Mall, Washington, D.C. 20460.

Date: November 9 and 10, 1977, 9:00 a.m.-5 p.m.
Hearing Coordinator: Jan B. Wine, phone 202-755-5637.

Written comments should not be submitted to hearing coordinators. Such comments should be addressed to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Rm. 491, East Tower, 401 M Street SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before November 30, 1977, and must bear a notation indicating both the subject matter and the document control number "OPP-210010". All written comments filed in response to this notice and hearing records will be available for public inspection in the office of the Federal Register Section from 2:30 a.m. to 4 p.m. Monday through Friday.

Dated: September 27, 1977.

JAMES M. CONLON,
Acting Deputy Assistant Administrator for Pesticide Programs.

[FR Doc. 77-28921 Filed 9-30-77; 8:45 am]

[6560-01]

[FRL 800-6]

LOUISIANA-PACIFIC CORP. AND CROWN SIMPSON PULP CO.

Requests for Variances From BPCTCA—Final Decision of the Administrator

AGENCY: Environmental Protection Agency.

ACTION: Notice of final decision of Administrator.

SUMMARY: On March 17, 1977 the California State Water Resources Control Board adopted orders finding that variances from EPA's BPCTCA effluent limitations guidelines for the Pulp, Paper and Paperboard Point Source Category (40 CFR Part 430) would be appropriate for the Louisiana-Pacific Corporation (NPDES NO. CA 0005894) and the Crown Simpson Pulp Company (NPDES NO. CA 0005882). In essence, the State Board found that the two pulp and paper mills in question discharge their wastes to the Pacific Ocean and that treatment of these discharges to the degree required by applicable EPA regulations would result in little (if any) water quality improvement while at the same time creating non-water quality environmental impacts. The EPA regulations in question are national standards which are to be met by all point sources of pollution within the bleached kraft sector of the pulp, paper and paperboard category by July 1, 1977 pursuant to sections 301(b)(1)(A) and 304(b)(1) of the Federal Water Pollution Control Act, as amended (Pub. L. 92-500). Each of these regulations, known as best practicable control technology currently available (BPCTCA) effluent limitation guidelines, contain a variance provision which provides that upon a finding that one or more factors pertaining to a particular discharger are fundamentally different from the factors considered by EPA in establishing the BPCTCA regulations, alternative requirements may be established for that discharger. The Administrator must approve any such variance.

On March 29, 1977 the State Board forwarded its orders to EPA and requested the Administrator's approval of variances for the two mills. The State Board orders also adopted discharge requirements for the two mills which would be applied if the variance requests are approved. These requirements are substantially less stringent than the requirements based upon the national standards.

On June 2, 1977 notice was given in the *FEDERAL REGISTER* that the General Counsel had issued a Recommended Decision of the Administrator which recommended denial of the variance requests. 42 FR 28167-72. The notice provided opportunity for public comment on the Recommended Decision, which was published as an Appendix. Comments were received from Crown Simpson Pulp Co. and Louisiana-Pacific Corp. (joint submission), the law firm of Hunton & Williams (on behalf of the Utilities Water Act Group and other petitioners

in *Appalachian Power Co. v. Train*), Southern California Edison Co., East Bay Utility District, and the National Wildlife Federation. All comments were carefully considered prior to issuance of the Administrator's Decision and responses to major comments are included in the decision.

The Decision of the Administrator denies the variances requests. The Federal Water Pollution Control Act forbids consideration of the nature or quality of particular receiving waters in adopting BPCTCA effluent limitations guidelines and in applying them to individual point sources. Under the Act water quality standards may require a discharger to meet more stringent requirements than BPCTCA, but water quality considerations may not be the basis for less stringent requirements. BPCTCA effluent limitations are nationally uniform technology based regulations which are to be imposed "regardless of (the) location (of point sources) or the nature of the water into which the discharge is made . . ." Conference Report at 126, A Legislative History of the Water Pollution Control Act Amendments of 1972 at 309.

Copies of the Administrator's Decision are available from the Office of General Counsel, Water Quality Division.

ADDRESS: Copies of the Final Decision of the Administrator may be obtained by writing to: Environmental Protection Agency, Office of General Counsel, Water Quality Division (A-131), 401 M St. SW., Washington, D.C. 20460. ATTN: Bruce Diamond.

FOR FURTHER INFORMATION CONTACT:

Bruce Diamond, 202-755-0760.

Dated: September 28, 1977.

JOAN Z. BERNSTEIN,
Acting General Counsel.

[FR Doc. 77-29078 Filed 9-30-77; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

PUBLIC TELEPHONE NETWORK

Use of Automated Dialing Devices to Present Unsolicited Recorded Messages; Order Extending Time for Filing Replies to Petition for Issuance of Notice of Inquiry and Notice of Proposed Rulemaking

Adopted: September 27, 1977.

Released: September 28, 1977.

In the matter of the use of automated dialing devices to present unsolicited recorded messages over the public telephone network, RM-2955.

1. A Public Notice released September 13, 1977 (Report No. 1074), listed a petition for rulemaking filed by Walter Baer and the Citizens Communications

¹NOTE.—This notice was not published in the *FEDERAL REGISTER*.

Center, in which the Commission was requested to issue a Notice of Inquiry and Notice of Proposed Rulemaking "to consider protecting telephone subscribers from nuisance, annoyance, and invasion of privacy resulting from the use of automated dialing devices to present unsolicited recorded messages over the public telephone network."

2. The petition suggested that the rulemaking:

(a) Consider restrictions on the use of automated dialing devices for presenting unsolicited recorded messages to telephone subscribers;

(b) Designate means by which telephone subscribers can indicate that they do not wish to receive unsolicited advertising messages, and specify penalties to advertisers who violate such subscribers' desires for privacy;

(c) Designate special tariffs for telephone sales campaigns to fully reflect their cost of service; and

(d) Require users of automated dialing devices to precede each recorded message with an announcement identifying it as coming from an automated dialing device.

3. In consideration of the fact that the wording of the Public Notice might be misconstrued as to the nature of the Petition, and in further consideration of interest already shown in this matter, it is ordered, That the time for filing responses to the petition for rulemaking, RM-2955, is extended to and including November 14, 1977.

4. This action is taken pursuant to authority delegated in §§ 0.291 and 0.303 of the Commission's Rules.

FEDERAL COMMUNICATIONS
COMMISSION,
WALTER R. HENCHMAN,
Chief, Common
Carrier Bureau.

[FR Doc. 77-29013; Filed 9-30-77; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Docket No. 77-47]

Order to Show Cause

FAR EAST CONFERENCE AMENDED TARIFF RULE REGARDING THE ASSESSMENT OF WHARFAGE AND OTHER ACCESSORIAL CHARGES

The Far East Conference (FEC), operating under Agreement No. 17, as amended, is a conference of common carriers providing liner service from the United States Atlantic and Gulf ports to ports in the Far East.

On May 24, 1977, the FEC filed an amendment (Rule 1(a)(1) to its Tariff FMC No. 10) modifying its tariff rules to provide that wharfage and other charges which are assessed by the terminal operators against the vessel will be rebilled by the carrier for the account of the cargo. This tariff amendment, originally scheduled to become effective on August 23, 1977, was subsequently postponed until October 1, 1977.

Wharfage charges are assessed against the vessel at the majority of the North and South Atlantic ports. The carriers presently absorb the costs of wharfage at these ports except at New York where wharfage is included in the stevedoring contracts. FEC's revised tariff will reverse that practice except at New York where no charge called "wharfage" exists. The basic freight rates charged by the conference carriers are the same at all the involved ports.

The assessment of different warpage charges at each port (except New York), and the absence of any such charge at New York results in the assessment of different rates to shippers at these ports. Section 205, Merchant Marine Act of 1936, provides that it shall be unlawful for:

• • • any common carrier by water, either directly or indirectly, through the medium of an agreement, conference, association, understanding, or otherwise, to prevent or attempt to prevent any other such carrier from serving any port designed for the accommodation of ocean-going vessels located on any improvement project authorized by the Congress or through it by any other agency of the Federal Government, lying within the continental limits of the United States, at the same rates which it charges at the nearest port already regularly served by it.

Conference tariff modifications which in effect result in varying costs at ports in the U.S. Atlantic and Gulf range have been found to contravene section 205 of the Merchant Marine Act, 1936. *Associated Latin American Freight Conferences and the Association of West Coast Steamship Companies, Amended Tariff Rules Regarding Wharfage and Handling Charges*, 15 F.M.C. 151 (1972). In that proceeding, the Commission concluded that section 205 removes from the Commission's jurisdiction all authority to approve under section 15 of the Shipping Act, 1916 any activity proscribed by section 205 and requires the Commission to disapprove such activity.

The members of FEC have treated the assessment of wharfage differently at the ports on the U.S. Atlantic and Gulf range in the past and the proposed tariff modifications represent a drastic change affecting numerous parties in the shipping community. By assessing varying rates and charges among federally improved continental U.S. ports, the FEC's actions appear to contravene section 205 of the Merchant Marine Act, 1936, and to be contrary to the public interest in violation of section 15, Shipping Act, 1916.

In addition, it is possible that FEC's proposed rule would give an undue preference or advantage to certain ports and persons shipping through such ports while subjecting other ports and persons to undue or unreasonable prejudice or disadvantage in violation of section 16, First, and that the collection of charges by FEC under its proposed rule would also result in unjust discrimination and constitute an unreasonable practice or regulation in violation of section 17, Shipping Act, 1916.

It appears that a proceeding is necessary to permit FEC to show cause why its proposed tariff rule relating to the assessment of wharfage and other charges prescribed by its tariff rule herein at issue should not be cancelled and stricken from its tariff as being in violation of the aforementioned statutes.

Now, therefore, it is ordered, That pursuant to sections 15, 16, First, 17 and 22 of the Shipping Act, 1916, the Far East Conference and its member lines as listed in Appendix "A" be named respondents in this proceeding and that such respondents be ordered to show cause why the Commission should not find the provisions of its proposed tariff rule relating to the assessment of wharfage to be contrary to the public interest in violation of section 15; to result in the giving of an undue or unreasonable preference or advantage to certain ports and persons shipping through such ports while subjecting other ports and persons to unreasonable prejudice or disadvantage in violation of section 16, First; to result in the assessment of varying rates and charges which are unjustly discriminatory and constitute an unreasonable practice or regulation in violation of section 17; and to be in contravention of section 205, Merchant Marine Act, 1936; and, accordingly, why the Far East Conference should not be ordered to modify its tariff rules to correct such violations.

It is further ordered, That this proceeding be limited to submission of affidavits of fact and memoranda of law, and replies thereto. Should any party feel that an evidentiary hearing is required, that party must accompany any request for such hearing with a statement setting forth in detail the facts to be proven, their relevance to the issues in this proceeding, a description of the evidence which would be adduced to prove these facts, and why such proof cannot be submitted through affidavit. Requests for hearing shall be filed on or before November 25, 1977. Affidavits of fact and memoranda of law shall be filed by respondents and served upon all parties no later than the close of business October 28, 1977. Reply affidavits and memoranda shall be filed by the Commission's Bureau of Hearing Counsel and intervenors, if any, no later than close of business November 18, 1977.

It is further ordered, That a notice of this order be published in the FEDERAL REGISTER and that a copy thereof be served upon the respondents.

It is further ordered, That persons other than those already party to this proceeding who desire to become parties and participate herein shall file a petition to intervene pursuant to Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) no later than close of business October 14, 1977.

It is further ordered, That all documents submitted by any party of record in this proceeding shall be directed to the Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, in an original and 15 copies,

as well as being mailed directly to all parties of record.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

APPENDIX A

Far East Conference, Gerald J. Flynn, Chairman, 40 Rector Street, New York, N.Y. 10006.
American Export Lines, Inc., 17 Battery Place, New York, N.Y. 10004.
American President Lines, Ltd., 1950 Franklin Street, Oakland, Calif. 94612.
Barber Blue Sea Line, 17 Battery Place, New York, N.Y. 10004.
Japan Line, Ltd., c/o Japan Line (U.S.A.), Ltd., One California Street, San Francisco, Calif. 94111.
Kawasaki Kisen Kaisha, Ltd., c/o "K" Line-Kerr Corp., 90 Washington Street, New York, N.Y. 10006.
Maritime Company of the Philippines, Inc., c/o Pacific Coast Tariff Bureau, 450 Mission Street, San Francisco, Calif. 94105.
Mitsui, O.S.K. Lines, One World Trade Center, Suite 2211, New York, N.Y. 10048.
A. P. Moller-Maersk Line, One World Trade Center, Suite 3527, New York, N.Y. 10048.
Nippon Yusen Kaisha Line, 100 Mission Street, San Francisco, Calif. 94105.
United States Lines, Inc., One Broadway, New York, N.Y. 10004.
Waterman Steamship Corp., 120 Wall Street, New York, N.Y. 10005.
Yamashita-Shinnihon Steamship Co., Inc., c/o Texas Transport & Terminal Co., Inc., 21 West Street, New York, N.Y. 10006.

[FR Doc 77 29042 Filed 9-30-77;8:45 am]

[6730-01]

INDIANA PORT COMMISSION AND MID-CONTINENT COAL AND COKE CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for review and approval, if required, pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. William E. Dally, Assistant Attorney General, State of Indiana, 219 State House, Indianapolis, Ind. 46204.

Agreement No. T-3511, between Indiana Port Commission and Mid-Continent Coal & Coke Co. (Mid-Continent), provides for the renewable five-year lease of approximately 7.7 acres of land. The premises will be used in the installation and operation of a coke screening and processing facility and the transportation of the material. As compensation, Mid-Continent will pay, as ground rental, \$3.154 per acre per annum plus annual administrative and maintenance fees of \$3.360. Mid-Continent will pay tariff charges and guarantee a minimum annual charge as set forth in the agreement.

By order of the Federal Maritime Commission.

Dated: September 28, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc 77-29040 Filed 9-30-77;8:45 am]

[6730-01]

MATSON NAVIGATION CO. AND SAIPAN STEVEDORE CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Peter P. Wilson, Senior Counsel, Matson Navigation Co., P.O. Box 3933, San Francisco, Calif. 94119.

Agreement No. 10313 would authorize Matson Navigation Co. (Matson) to deliver tandem axle semi-trailers to Saipan Stevedore Company on the pier alongside Matson's transporting ocean vessel at Saipan, Northern Mariana Islands in order that Saipan Stevedore Company can use the trailers or permit the trailers to be used by others to haul Matson's containers in Saipan in accordance with the terms and conditions set forth in the agreement.

By order of the Federal Maritime Commission.

Dated: September 28, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc 77-29041 Filed 9-30-77;8:45 am]

[6730-01]

PORT AUTHORITY OF GUAM AND UNITED STATES LINES, INC.

Notice of Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Mr. Stuart R. Bredbart, Corporate Counsel, United States Lines, Inc., One Broadway, New York, N.Y. 10004.

Agreement No. T-3515, between the Port Authority of Guam (Port) and United States Lines, Inc. (USL), provides

for the nonexclusive preferential assignment of one berth and one container gantry crane for each mainland liner service vessel owned or under the control of USL, upon its arrival at the Port of Guam, Apra Harbor, Agaña, Guam, for purposes of discharging or loading containers. In addition, the Port grants to USL as a secondary right of assignment, one additional container gantry crane as available during such periods. These assignments shall be for one USL vessel at any one time.

As compensation, the Port is to receive all tariff charges applicable to the use of the berth and cranes. In addition, USL shall continue to assist the Port in technical and administrative matters related to the second gantry crane, and shall continue to make certain reasonable representations and guarantees to lending institutions to assist and insure that the Port obtains the necessary financing to enable it to purchase said crane.

By Order of the Federal Maritime Commission.

Dated: September 27, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc 77-29039 Filed 9-30-77;8:45 am]

[6740-02]

FEDERAL POWER COMMISSION

[Docket No. ER 77-521]

ARIZONA PUBLIC SERVICE CO.

Order Denying in Part and Granting in Part Motions for Reconsideration and Establishing Procedures

SEPTEMBER 26, 1977.

On July 21, 1977, Arizona Public Service Co. (Company) submitted for filing proposed increased rates and charges for jurisdictional sales to seven of its customers.¹ By order issued August 1, 1977, the Commission accepted the filing and suspended the effectiveness of the proposed rates and charges for 5 months, after which they are to become effective subject to refund.

On August 2, 1977, Maricopa County Municipal Water Conservation District No. 1 (Maricopa) filed a petition to intervene in the proceeding. Notice Granting Intervention to Maricopa was issued on August 19, 1977. On August 17, 1977, Maricopa filed a Protest and Motion for Reconstruction of the August 1 order.

The Company filed an Answer to Maricopa's Motion for Reconsideration on September 2, 1977. The other six jurisdictional customers (6 customers) subject to the Company's filing tendered for filing a Protest and Motion for Reconsideration of the August 1 order on August 30, 1977. The Company filed an Answer

¹ Maricopa County Municipal Water Conservation District No. 1, Electrical District No. 1, Electrical District No. 3, Electrical District No. 6, Electrical District No. 7, Roosevelt Irrigation District and Buckeye Water Conservation and Drainage District.

² The six customers were granted intervention by Notice issued August 24, 1977.

swer to the Motion of the 6 customers on September 12, 1977.

Maricopa's motion requests rejection of the Company's filing on essentially grounds. First, Maricopa notes that the Company submitted Period I data for the twelve month period ending December 31, 1976, the same time period as the Company's Period II Test Period in Docket No. ER76-530.³ Maricopa complains that the company used actual data for its Period I, which increases the cost of service figures, even though it utilized estimated figures for its Period II data in the ER76-530 docket. There is nothing improper in this approach. In fact, the Commission's Regulations⁴ require actual data to be used in compiling Period I figures⁵ (and estimated data for Period II).

Maricopa's other argument concerns a cost of service issue: the contention that the proposed rates are discriminatory because only a portion of the total jurisdictional sales is involved in this filing and the Company has grouped the other jurisdictional customers with its retail customers into a single category for cost of service purposes. Whatever the merit of this contention, it is appropriate that it be handled as an issue in the public hearing called for in the August 1 order. The initial conference date shall be set in an ordering paragraph below.

In its Motion, Maricopa complains that our August 1 order in this docket was issued prior to the issuance of notice of the filing, thereby preventing Maricopa from presenting arguments opposing the filing prior to the issuance of the suspension order. In its answer to Maricopa's Motion, the Company points out that Maricopa lost no substantive right in having its arguments considered on reconsideration rather than prior to the issuance of the August 1 order. The Commission agrees. We have fully reviewed Maricopa's pleading in preparation of this order and have discovered no viable argument raised therein which requires changing the August 1 order.

The Motion for Reconsideration of the 6 customers points out that the August 1 order neglected to mention that the rates to four of the customers, Electrical District No. 3, Electrical District No. 6, Roosevelt Irrigation District and Maricopa cannot become effective pending final Commission determination of the just and reasonable rate level in accordance with the order issued March 31, 1976 in Docket No. ER76-530. The March 31 order held that the agreements with these 4 customers provided only for a prospective application of the rates. The Commission agrees with the position taken in the Motion of the 6 customers.

³ An earlier docket involving the jurisdictional customers in the above-captioned docket. The decision in the Docket No. ER 76-530 rate case is still pending.

⁴ See Section 35.13(b)(4)(iii).

⁵ The Company did not provide Period II figures. Since the Company's proposed increase was less than \$1 million, Period II figures were not mandatory.

The Motion of the 6 customers also asserts that the contract between the Company and Buckeye Water Conservation and Drainage District (Buckeye) contains the same clause which caused the Commission to require prospective application only of rates to the four customers in Docket No. ER76-530. A review by the Commission of all the contracts reveals that the contracts between the Company and Buckeye, and between the Company and Electrical District No. 7 contain, in the pertinent contract section, language which is substantially the same as that of the four customers. Therefore, we shall revise our August 1 order to eliminate the suspension period for all customers except for Electrical District No. 1 and to prohibit the effectiveness of their proposed rates until just and reasonable rates are approved by the Commission after investigation under Section 206 of the Federal Power Act.⁶

The Motion of the 6 customers additionally states that it incorporates by reference the Protest and Motion for Reconsideration of Maricopa. To the extent that the Maricopa Motion and arguments raised therein are part of the Motion of the 6 customers, the Motion for reconsideration is denied.

The Commission finds: (1) Good cause does not exist to grant Maricopa's Motion for Reconsideration of the August 1, 1977 order.

(2) Good cause exists to grant in part and to deny in part the Motion for Reconsideration of Electrical District No. 1, Electrical District No. 3, Electrical District No. 6, Electrical District No. 7, Roosevelt Irrigation District and Buckeye Water Conservation and Drainage District.

(3) Good cause exists to set an initial conference date in this docket.

The Commission orders: (A) The Motion for Reconsideration of Maricopa is hereby denied.

(B) The Motion for Reconsideration of Electrical District No. 1, Electrical District No. 3, Electrical District No. 6, Electrical District No. 7, Roosevelt Irrigation District, and Buckeye Water Conservation and Drainage District is hereby granted in part and denied in part.

(C) The February 1, 1978 effective date as set forth in the August 1, 1977, order in this docket is hereby withdrawn as to all customers except Electrical District No. 1. The rates proposed by the Company shall not become effective pending final Commission determination of the just and reasonable rate level, with the exception of those rates applicable to Electrical District No. 1, which shall become effective February 1, 1978, subject to refund.

⁶ The Company's Answer to the Motion of the 6 customers points out that the Commission, in Docket No. ER76-530, held that the Company's contract with Electrical District No. 1 did not preclude a Section 205 filing. This determination is on appeal to the District of Columbia Circuit Court of Appeals.

(D) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before November 22, 1977.

(E) A Presiding Administrative Law Judge to be determined by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held on December 2, 1977, at 10 a.m. (ET) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. The Law Judge is authorized to establish all procedural dates and to rule upon all motions (except petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28965 Filed 9-30-77;8:45 am]

[6740-02]

[Docket Nos. CS71-697, 49 and 455]

BURK ROYALTY CO. ET AL.

Notice of Petition for Declaratory Order

SEPTEMBER 26, 1977.

Take notice that on July 29, 1977, Burk Royalty Co., Tom Darling, Jon H. Bear, and Oleum, Inc. (Petitioners) filed a petition for a declaratory order pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure.

Petitioners are small producers and were granted small producer certificates in the above-captioned dockets. On January 1, 1973, Petitioners acquired the Shaw "A" Lease located in Iberia Parish, La. on which two wells had been drilled, the Shaw No. 1 and the Shaw No. 2 Wells. The No. 1 Well was completed as a gas well at a depth of 9915-9919 feet in the Lower Siphonion Davis "B" Sand. The No. 2 Well was completed as a gas well at a depth of 10,104-10,110 feet in the Lower Siphonion Davis "B" Sand. The subject lease has never produced from any reservoir except the Lower Siphonion Davis "B" Sand. The interests of Burk Royalty, Darling, and Bear were acquired from Cities Service Oil Co. (Cities Service), a large producer. The interest of Oleum was acquired from Falcon Seaboard, Inc., a small producer.

In March, 1973, production ceased and between May 15, 1973, and January 1, 1974, Petitioners performed extensive workover and remedial operations on the No. 1 and No. 2 Wells attempting to obtain commercial gas production in the previously produced reservoir and in seeking gas production in a new and different reservoir, being the Upper Siphonion Davis "B" Sand, which had never produced or been developed on Petitioners' Shaw "A" Lease. These operations were not successful on the No. 2 Well.

In the No. 1 Well, when production could not be restored in the previously

produced formation, Petitioners set a bridge plug at 9890 feet and reperforated the well from 9845 feet to 9872 feet, being in the Upper Siphonion Davis "B" Sand. Although problems developed and the well has not yet been recompleted, Petitioners believe that with additional work and expenditures, commercial gas production can be obtained from said new perforations in said No. 1 Well. Accordingly, Petitioners desire to re-enter the No. 1 Well and attempt to complete same as a producer of gas from the new perforations in the Upper Siphonion Davis "B" Sand.

Production from the Shaw "A" lease is dedicated to a December 9, 1959 gas purchase contract between Cities Service and Southern Natural Gas Company (Southern Natural) which provides for a price of approximately 30.09 cents per Mcf. By letter agreement dated December 2, 1976, Southern Natural has agreed to pay Petitioners whatever rate this Commission finds to be just and reasonable.

Petitioners are of the opinion that they are entitled, pursuant to the provisions of Opinion No. 770-A, to a rate of 130% of 52 cents per Mcf, exclusive of production, severance or similar taxes, and subject to the adjustments and escalations provided in that opinion. Therefore, Petitioners request that the Commission issue a declaratory order stating that the gas reserves produced from the Upper Siphonion Davis "B" Sand in the Shaw "A" No. 1 Well (a) were not acquired by the purchase of developed reserves in place from a large producer, (b) are the result of a completion operation into a different formerly nonproductive reservoir commenced after January 1, 1973, and (c) are small producer reserves developed by a natural gas company while in the status of a small producer.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 12, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28966 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ES77-58]

CENTRAL TELEPHONE & UTILITIES
CORP.

Notice of Application for Authority To Issue
Securities

SEPTEMBER 23, 1977.

Take notice that on September 13, 1977, Central Telephone & Utilities Corp. (Applicant) filed an application pursuant to Section 204 of the Federal Power Act seeking authority to extend to not later than December 31, 1980, the final maturity date of short-term unsecured promissory notes to be authorized to be issued not later than December 31, 1978, in an aggregate principal amount at any one time outstanding of \$85,000,000.

Applicant is incorporated under the laws of the State of Kansas, with its principal business office in Chicago, Ill. It is engaged in electric utility operations in the southeastern part of Colorado and the central and western portions of the State of Kansas.

The proceeds from the issuance of short-term notes are to provide temporary funds for the construction, completion, extension or improvement of facilities of Applicant and for advances to and investment in subsidiaries of Applicant to be used for the construction and improvement of facilities of such subsidiaries pending permanent financing. The estimated construction programs for the above purposes for 1978, 1979, and 1980 are \$175,000,000, \$187,000,000, and \$179,000,000, respectively.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 4, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a proceeding. Any person wishing to become a party must file a petition to intervene. The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28958 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. ER77-589]

DUKE POWER CO.

Notice of Supplement to Electric Power
Contract

SEPTEMBER 26, 1977.

Take notice that Duke Power Co. (Duke Power) tendered for filing on September 19, 1977, a supplement to the Company's Electric Power Contract with Blue Ridge Electric Membership Corp. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Co. Rate Schedule FPC No. 131.

Duke Power further states that the Company's contract supplement, made at the request of the customer, provides for increases in the designated KW at Delivery Points Nos. 2, 3 and 4. Duke Power indicates that these increases are from 8,500 to 12,000, from 11,000 to 15,000 and from 90,000 to 110,000 kilowatts, respectively. Duke Power further indicates that the supplement also includes an estimate of sales and revenue for the twelve months immediately preceding and for the twelve months immediately succeeding the effective date. Duke Power proposes an effective date of October 19, 1977.

Duke Power indicates that a copy of this filing was mailed to Blue Ridge Electric Membership Corp. and the North Carolina Utilities Commission.

Any person desiring to be heard or to protect said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 3, 1977. Protests will be considered by the Commissioner in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-28967 Filed 9-30-77;8:45 am]

[6740-02]

[Docket No. RP77-17]

EASTERN SHORE NATURAL GAS CO.

Notice of Filing of Revised Tariff Sheets

SEPTEMBER 23, 1977.

Take notice that on September 15, 1977, Eastern Shore Natural Gas Co.

(Eastern Shore) tendered for filing revised tariff sheets which Eastern Shore states will provide: (1) for crediting the jurisdictional portion of demand-charge credits in accordance with a settlement agreement in its rate case in Docket No. RP77-17, and (2) for the addition of an unrecovered purchased gas cost account to the purchased gas cost adjustment clause of its FPC Gas Tariff.

Eastern Shore states that copies of these tariff sheets have been mailed to its jurisdictional customers and interested state commissions.

Any party desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.8, 1.10). All such petitions or protests should be filed on or before October 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-28959 Filed 9-30-77; 8:45 am]

[6740-02]

[Project No. 2640]

FLAMBEAU PAPER CO. AND CAPITOL CITIES MEDIA, INC.

Notice of Application for Transfer of License

SEPTEMBER 23, 1977.

Public notice is hereby given that an application was filed on July 25, 1977, under the Federal Power Act, 16 U.S.C. §§ 791a-825r by the Flambeau Paper Co. and Capitol Cities Media, Inc. (Correspondence to: Norman C. Hoefferle, President, Flambeau Paper Co., Park Falls, Wis. 54552; and Danny R. Carpenter, Esq., Watson, Ess, Marshall & Enggas, 1500 Home Savings Building, 1006 Grand Avenue, Kansas City, Mo. 64106) for transfer of license for the Upper Hydro-Electric Project No. 2640 located on the North Fork of the Flambeau River in the City of Park Falls, Price County, Wis. The Flambeau Paper Co. merged into Capitol Cities Media, Inc. which is the surviving entity. The Flambeau Paper Co. proposes to transfer its license for Project No. 2640 to Capitol Cities Media, Inc.

The Upper Hydro-Electric Project consists of:

(1) A reinforced concrete gravity dam approximately 100 feet long and 15 feet high; (2) four steel tainter gates, each 20.5 feet long; (3) a needle dam approximately 44 feet long; (4) a reservoir with a maximum operating head of 19.3 feet at elevation 1487.4 feet (U.S. G.S.); (5)

a 1,300-foot long power canal; (6) three short, open reinforced concrete flumes with steel headgates; (7) a powerhouse containing three 650 horsepower turbines and two 450 kW generators (one turbine is not in use); and (8) appurtenant facilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1977, file with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 C.F.R. § 1.8 or § 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-28960 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket No. ER77-531]

ILLINOIS POWER CO.

Order Accepting for Filing and Suspending Proposed Increased Rates, Providing for Hearing and Establishing Procedures

SEPTEMBER 23, 1977.

On July 29, 1977, Illinois Power Co. (Illinois) tendered for filing a proposed rate increase of \$176,479 (32%) for a 12 month test period ending on September 30, 1978. The proposed increase is applicable to the Village of Ladd, the City of Oglesby and Cedar Point Light and Water Co. (Municipalities), all located in Illinois. The designation of the rate schedules is set forth in the Appendix to this order. Illinois requests an effective date of September 26, 1977, which is 5 days before the beginning date of the Period II future test year study submitted.

In support of its filing, Illinois states that expanded construction and capital costs, and operating expenses incurred since its last effective rate increase¹ have necessitated the proposed increase.

Public notice of the filing was issued on August 5, 1977, with comments, protests or petitions to intervene due on or before August 19, 1977.

On August 19, 1977, the Municipalities filed a joint petition for an extension of time within which to file a petition to intervene. On September 2, 1977, the Commission's Secretary issued a notice extending the time to file petitions to intervene to September 9, 1977.

¹ 18 CFR § 35.13(b) (4) (III) (1977).

² Illinois' previous rate increase was allowed to become effective, subject to refund, on January 1, 1976, in Docket No. E-9520. On August 1, 1977, the Commission issued its Opinion No. 816 in Docket No. E-9520.

On September 9, 1977, the Municipalities filed a joint document, moving to reject, summarily dispose and protesting Illinois' filing, and requesting leave to intervene. Since the Municipalities have substantial interests which may be affected by the subject matter of this proceeding, the Commission will permit intervention.

In support of its combined motions, the Municipalities argue that:

1. Illinois' unilateral rate increase to the Village of Ladd is precluded by the contract provisions falling within the *Sierra-Mobile* doctrine.³

2. Illinois' demand allocation method, rate of return and assignment of 69 kV lines should be summarily rejected based on the Commission's August 1, 1977, Opinion No. 816, in Docket No. E-9520.

3. The rate increase to the City of Oglesby and Cedar Point Light and Water Co. would be discriminatory since these two customers will be served at higher rates than other customers of the same class.

4. The allocation of rate case expense is improper.

5. The filing should be summarily rejected since the terms and conditions of service are anti-competitive.

The argument that the Village of Ladd's contract with Illinois protects it from the company's unilateral rate filing, is unpersuasive. The Commission decided by order issued May 7, 1976, in Docket No. E-9520,⁴ that the contract with Ladd is not of the *Sierra-Mobile* fixed rate variety. The Village of Ladd has not presented any arguments that require amendment of that prior determination.

The Municipalities request the Commission to require Illinois to amend its filing to conform to the Commission's determination on three issues in its Opinion No. 816, i.e., demand allocation, rate of return and assignment of 69 kV lines. Our decision in Opinion No. 816 was issued on August 1, 1977, and was based on a 1974 test period. Petitions for rehearing of that Opinion have been filed and are presently pending Commission action. The instant filing was tendered July 29, 1977, three days before the issuance of Opinion No. 816 and was based on a test period ending September 30, 1978. Thus, since the facts underlying the three issues may differ sufficiently to warrant different determinations, we are precluded from summarily disposing of those three issues in the instant proceeding. However, since the merits of those issues have recently been litigated and decided by us in Opinion No. 816, we shall consider our opinion there controlling on these issues and, if Illinois elects to pursue its position on those issues, it shall have the burden of showing significant new facts or changed circumstances that warrant modification of those decisions. Illinois may, however, determine that the facts and circumstances do not warrant

³ *United Gas Co. v. Mobile Gas Corp.*, 350 U.S. 332 (1956); *F.P.C. v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

⁴ The Village of Ladd has sought review of this order in *City of Oglesby, et al. v. F.P.C.*, CADC No. 76-1585.

relitigation of the three issues. In that event, Illinois is encouraged to refile its rate increase proposal to reflect our determination of the three issues in Opinion No. 816.⁵

The other issues raised by the Municipalities, whether the rates proposed are discriminatory or anti-competitive and whether rate case expenses have been properly allocated, present factual questions which should be resolved through the Commission's hearing procedure.⁶

Illinois requests an effective date of September 26, 1977 for its proposed rates. In essence, Illinois is requesting waiver of our Regulation that requires the utility's Period II future test year study to begin no later than the proposed effective date⁷ since Illinois' Period II begins on October 1, 1977. However, Illinois has not shown any justification for waiver. Thus, we will deny its request for a September 26, 1977, effective date and will accept the tender for filing, effective October 1, 1977, pursuant to Illinois' Period II test year study.

Our review of Illinois' filing indicates that the proposed increase in rates and charges have not been shown to be just and reasonable, and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. Based on this review of the filing, we will accept the proposed rates for filing, suspend their effectiveness for 5 months from October 1, 1977, and establish hearing procedures.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges tendered by Illinois Power Co. on July 29, 1977, establishing procedures for the hearing, and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

(2) Participation of the Village of Ladd, the City of Oglesby and Cedar Point Light and Water Co. in this proceeding may be in the public interest.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly Sections 205, 206, 301, 307, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and rea-

⁵ *United Gas Pipeline Co.*, 51 FPC 1014, 1020, 1021 (1974); *Panhandle Eastern Pipeline Co.*, 13 FPC 1570, *aff'd.*, 236 F.2d 606 (3rd Cir. 1956).

⁶ *Municipal Light Boards v. F.P.C.*, 450 F.2d 1341 (D.C. Cir. 1971).

⁷ 18 CFR § 35.13(b) (4) (III) (1977).

sonableness of the rates proposed by Illinois Power Co. in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by Illinois Power Co. on July 29, 1977, and identified in the Appendix to this order are hereby accepted for filing as of October 1, 1977, suspended and the use thereof deferred until March 1, 1978, when they shall become effective, subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before January 6, 1978. (See, Administrative Order No. 157.)

(D) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (See, Delegation of Authority, 18 CFR § 3.5(d)), shall preside at an initial conference in this proceeding to be held on a date certain within 10 days after the service of top sheets by the Staff, in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426. Said Presiding Administrative Law Judge is hereby authorized to establish all procedural dates and to rule upon all motions (with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss), as provided for in the Commission's Rules of Practice and Procedure.

(E) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to Section 1.18 of the Commission's Rules of Practice and Procedure.

(F) Petitioners are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however*, That participation of such intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further*, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding.

(G) Within 60 days Illinois may file substitute rate schedules consistent with Opinion No. 816 as to the determination of the issues of demand allocation, rate of return, and assignment of 69 kV lines.

(H) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX

ILLINOIS POWER CO.

Dated: July 29, 1977.

Filed: July 29, 1977.

Wholesale Electric Service for Resale

Designation	Other party
Supplement No. 4 to Rate Schedule FPC No. 26 (Supersedes Supplement No. 3).	Village of Ladd.
Supplement No. 4 to Rate Schedule FPC No. 28 (Supersedes Supplement No. 3).	Village of Oglesby.
Supplement No. 4 to Rate Schedule FPC No. 30 (Supersedes Supplement No. 3).	Cedar Point Light & Water Co.

[FR Doc 77-28961 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket Nos. ER77-411, 412, 413, 414, 415, 416, and ER77-23, 24, 25, 26, 28, 29]

ILLINOIS POWER CO.

Order Denying Reconsideration Rejecting Filing, Accepting for Filing Under § 206, Refunding Monies Collected Under New Rates, Denying Request for Declaratory Order, and Consolidating Proceedings.

SEPTEMBER 23, 1977.

On October 20, 1976, the Illinois Power Co. (Company) tendered for filing proposed Modification No. 2 to its Interconnection Agreements with the city of Mascoutah (ER77-23), the cities of Breese and Carlyle (ER77-24), the village of Freeburg (ER77-25), and the city of Highland (ER77-26). The Company filed identical proposed amendments to the Interconnection Agreements with the city of Peru (ER77-28) and the city of Princeton (ER77-29) on October 22, 1976. The proposed Modification No. 2 provided for an increase in the demand charges for short-term firm and maintenance power transactions. The Company requested an effective date of November 20, 1976 for all six dockets.

Public notice of each of Illinois Power's filings was issued on November 1, 1976, with all protests and petitions to intervene due on or before November 15, 1976. On November 11, 1976, the municipalities of Mascoutah, Breese, Carlyle, Freeburg, Highland, Waterloo, Peru, and Princeton (Cities) filed in one pleading, a petition to intervene, motion for consolidation, and motion to reject. In support of the motion to reject, municipalities alleged that Illinois' filing did not comply with the Federal Power Commission's regulations under section 35.13(b) (4) (I) and (b) (5) (I).

By order issued November 19, 1976, we accepted the proposed Modification, suspended it for one day, and established procedures. We denied the Cities' motion to reject the filing.

On June 30, 1977, the Company tendered for filing proposed increases in its demand charges for short-term firm capacity and for Maintenance Power

Capacity for service to the same seven municipalities.¹ The filing was initially submitted on May 31, 1977, but was found to be deficient in its omission to notify its State commission. This deficiency was corrected on June 30, 1977. This filing would increase the Company's revenues for this service by \$151,148 or 16.67 percent based on the 12-month period ending April 30, 1977.

Public notice of Illinois' filings was given with all protests and petitions to intervene due on or before August 1, 1977. By order issued July 26, 1977, we accepted the filing, waived the notice requirements, and suspended it for one day. The increase became effective July 2, 1977, subject to refund.

On August 1, 1977, the Illinois Municipalities of Highland Mascoutah, Freeburg, Princeton, Peru, Breese, and Carlyle tendered for filing a Petition for Reconsideration of Rehearing, Motion to Reject, Motion to Intervene, Complaint, and Motion to Consolidate.² The Cities state that they are customers of the Company and are served under the Interconnection Agreements that are the subject of these proceedings. They allege that they have a direct interest in these proceedings which cannot adequately be protected by any other party.

On August 18, 1977, Illinois Power filed an answer to the Cities' filing. The Company states that it does not oppose consolidation, but the filing argues against Cities' Motion to Reject and answers Cities' Complaint.

The Cities replied to the Company's Answer on August 29, 1977. In their reply, the Cities reiterate their argument and respond to certain statements made by the Company in its answer.

By order issued August 31, 1977, we granted the Cities' motions for intervention and reconsideration. Reconsideration granted was for the limited purpose of further consideration in light of the complex arguments raised by the parties' pleadings. We address these arguments now.

The Cities request that we reconsider our Order waiving notice requirements and allowing the increased rates to become effective subject to refund on July 2, 1977. They base their request upon the Company's failure to submit cost of service data. We waive the case-in-chief filing requirement in that the proposed rates have been previously accepted for filing for other Illinois Power customers receiving similar service³ and the cost support filed by Illinois Power was sufficient for the Commission's initial determination as to whether the filing should be accepted or suspended. Of course, Illi-

nois Power will have the burden of proof in the hearing to justify its proposed increase and will be required to submit the case-in-chief upon which it is going to rely to support the increase. Cities' motion for reconsideration of the suspension order of July 26, 1977, presents no new facts or principles of law that were not considered by the Commission when it issued that order or, now having been considered, warrant any change or modification of said order.

Cities further argues that the Company's filing must be rejected as violative of the *Mobile-Sierra*⁴ doctrine. The salient contract provision relied on by Cities reads as follows:

The rates and charges provided for by this Agreement shall be reviewed at least annually by the parties and shall be revised if such review reveals that rates, charges, or conditions are not consistent with the then prevailing costs, practices, or other pertinent conditions or do not adequately reflect the net benefits derived from or the costs associated with the transactions under this Agreement or do not adequately take into account the respective generation and transmission investments of the parties. Either party may unilaterally take action to implement the results of such review, or if a party shall "fall in good faith to participate in such review" the other party may unilaterally take action with respect to any of such matters before any regulatory authority having jurisdiction with respect thereto. In such event the rates, charges and conditions shall be those provided for in this Agreement as modified or otherwise authorized by such regulatory authority. (Article XIII, Section 4.)

Upon careful reconsideration of the relevant contractual language and the arguments of the parties, we conclude that section 205 rate increase filings were not contemplated by the parties and, so, are impermissible. We are aware that the Commission has in the past permitted section 205 filings by the Company, but in those instances the contract interpretation issue was not clearly raised. Upon reflection we are now persuaded that the correct result—the one required by the intentions of the parties—is to preclude any rate increase until after a section 206 proceeding.

This result is compelled by an analysis of the last sentence of section 4. When it is read in conjunction with the other language, its proper interpretation becomes evident. Moreover, the language "as modified or otherwise authorized by such regulatory authority" is comparable to the language recently interpreted by the Commission in *Kansas Power & Light Company*, Docket No. ER76-39. In that case, as Cities point out, the Commission interpreted similar language to preclude a section 205 filing.

Section 4 as a whole reveals the parties' intention that rate changes should ideally be the product of mutual discussion and agreement. However, in the event that their discussions do not result in agreement, the contract permits

either party to place the entire rate change issue before the Commission for resolution. In speaking of "such event", in the last sentence of section 4, the parties are referring to the possibility that their discussions would not result in agreement. In that event, they intended that any new rate, charge or condition could only be that which the Commission specifically "authorized" following its consideration of the issues. The language of the last sentence of section 4 is in our view unmistakably prospective. It assures the parties, in the event agreement has not been reached, that there will be no change until after they have had an opportunity to express their differing views to the Commission and the Commission has made its final determination in the matter.

This interpretation fully comports with our interpretation of similar "authorizing" language in other contracts. We are, of course, fully aware that language referring to "unilateral" action in other instances has been interpreted by the Commission as permitting section 205 rate filings. This case, therefore, is difficult because of the parties' use of contradictory language. In such instances it becomes necessary to consider all the relevant contractual language and to interpret the contradictory terms in the most reasonable manner. We believe we have done that here in determining that the parties' intentions preclude unilateral rate change by the Company. The Company's filing under section 205 of the Act must, therefore, be rejected. The type of Commission proceeding intended by the parties is that provided for by section 206.⁵

We shall accept the Company's filings in Docket Nos. ER77-411-416 under § 206 of the Federal Power Act and Institute a section 206(a) proceeding to determine the just and reasonable rate for the Company's service to the Cities, all changes prospective in application. The Company shall be required to refund all monies collected under the increased rates.

Cities also filed a complaint for investigation and a request for a declaratory order to determine if the Company has overcharged the Cities for short-term firm energy under the interconnection agreements during the past two years. The Cities allege that the Company has been overcharging them for firm energy deliveries during the past two years.

Cities contend that the overcharge is a result of the Company's method of calculating the energy charge. Cities read the contract to require that the Company must calculate the firm energy charge based on the cost of the entire mix of the company's generation utilized in scheduling the firm power deliveries to the Cities. The pertinent contract provision

⁵ See *Appalachian Power Company*, Docket Nos. ER76-799, 800, order issued November 8, 1976, rehearing denied February 25, 1977, appeal pending, *sub nom. Appalachian Power Co. v. FPC*, D.C. Cir. No. 77-1232.

⁴ *United Gas Pipeline v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956) and *F.P.C. v. Sierra Pacific Power Co.*, 350 U.S. 346 (1956).

¹ Docket Nos. ER77-411, ER77-412, ER77-413, ER77-414, ER77-415, and ER77-416.

² The Cities' petition is in part styled for "reconsideration or rehearing". Since our order of July 26, 1977, is interlocutory no application for rehearing is permitted (18 CFR § 1.134). However, the Commission treated the Application as a Motion for Reconsideration.

³ Illinois Power Co., FPC Rate Schedule Nos. 9 11 48 50, 63 and 64.

is section 3. The energy charge provision provides that the charge per Kwh delivered shall be the supplying party's out-of-pocket costs, plus 10 per cent of such costs. It further states that "out-of-pocket costs shall be based on the costs of fuel, labor, maintenance and operating supplies (including startup costs if any), purchased energy and losses in transmission and transformation, including all other factors that are a part of incremental costs."

The Company contends in its answer that this provision provides that the basis for the energy charge is the incremental cost to the supplier at the time the energy is furnished.

Cities further allege that the short-term energy cost billed to them has been higher than the energy cost billed to wholesale customers under Illinois Power's Wholesale Service Classification 40. The Cities also claim that because they elected not to purchase short-term energy on certain occasions, the reservation charges paid by them to the Company on those occasions should be refunded to them. The Company in its answer disagrees with each of these allegations.

The Company requests that the Complaint for investigation and declaratory order to determine alleged overcharges for short-term energy under interconnection agreements either be dismissed or, alternatively, assigned a separate docket number and considered in a separate proceeding.

The issues raised by Cities' Complaint should be addressed during the course of the hearing in this proceeding. We are setting those issues for review under sections 205 and 206 of the Federal Power Act. Cities' request for a separate investigation and declaratory order is denied.

Finally, since there are similar questions of law and fact in all of the captioned dockets, public interest requires that these dockets be consolidated for purposes of hearing but not for the purpose of decision.

(1) Good cause does not exist to grant the Cities' Motion for reconsideration.

(2) Good cause exists to reject the Company's filing under section 205 of the Federal Power Act and to terminate the proceeding heretofore initiated under that section of the Act, as hereinafter ordered.

(3) Good cause has been shown to accept the Company's filing of June 30, 1977 under section 206 of the Federal Power Act.

(4) Good cause exists to institute an investigation under section 206 of the Act to determine just and reasonable rates to be charged to the Cities.

(5) Good cause does exist to address during the hearing those issues raised in the Cities' Complaint pursuant to sections 205 and 206 of the Federal Power Act.

(6) Good cause does not exist to grant the Cities' request for a separate investigation and declaratory order.

(7) Good cause exists to consolidate the above captioned dockets for purposes of hearing only.

The Commission orders: (A) The Cities' Motion for Reconsideration is hereby denied.

(B) The Company's rate filing pursuant to section 205 of the Federal Power Act is hereby rejected.

(C) Ordering paragraph (C) of our order issued July 26, 1977 is hereby stricken and ordering paragraph (B) of that order is hereby amended to replace the words "particularly sections 205 and 206 thereof" with the words "particularly section 206."

(D) The proposed increased rates and charges tendered by the Company on June 30, 1977, are hereby accepted for filing under section 206 of the Federal Power Act.

(E) Pursuant to the authority of the Federal Power Act, particularly section 206 thereof, and the Commission's rules and regulations, and the regulations under the Federal Power Act, an investigation is ordered to determine the just and reasonable rates to be charged to the Cities.

(F) All rate increases to the Cities which we may approve shall be effective only from the date of such approval. All amounts collected, subject to refund, related to the proposed increases to the Cities since July 2, 1977, shall be refunded forthwith.

(G) The Cities' request for separate investigation and declaratory order is hereby denied.

(H) The issues relating to short term firm energy are hereby set for hearing pursuant to sections 205 and 206 of the Federal Power Act.

(I) The proceedings in the above-captioned dockets are hereby consolidated for purposes of hearing.

(J) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission,

KENNETH F. PLUME,
Secretary.

[F.R. Doc. 77-28962 Filed 9/30/77; 8:45 am]

[6740-02]

[Docket No. ER77-606]

NORTHERN STATES POWER CO.

Notice of Interconnection and
Interchange Agreement

SEPTEMBER 26, 1977.

Take notice that Northern States Power Company (NSPC), on September 21, 1977, tendered for filing an Interchange Agreement, dated September 16, 1977, with the City of New Ulm, Minn.

NSPC indicates that the Interconnection and Interchange Agreement includes service schedules, which provide for transactions between the parties, similar to the service schedules contained in the Mid-Continent Area Power Pool Agreement.

NSPC requests waiver of the Commission's notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the

Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUME,
Secretary.

[F.R. Doc. 77-28962 Filed 9/30/77; 8:45 am]

[6740-02]

[Docket No. ER77-606]

NORTHERN STATES POWER CO.

Notice of Interconnection and
Interchange Agreement

SEPTEMBER 26, 1977.

Take notice that Northern States Power Company (NSPC), on September 21, 1977, tendered for filing an Interconnection and Interchange Agreement, dated September 16, 1977, with the City of Medelia, Minn.

NSPC indicates that the Interconnection and Interchange Agreement includes service schedules which provide for transactions between the parties, similar to the service schedules contained in the Mid-Continent Area Power Pool Agreement.

NSPC requests waiver of the Commission's notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol St., NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUME,
Secretary.

[F.R. Doc. 77-28962 Filed 9/30/77; 8:45 am]

[6740-02]

[Docket No. ER77-606]

PACIFIC GAS AND ELECTRIC CO.

Notice of Further Extension of Time

SEPTEMBER 26, 1977.

On August 19, 1977, the Secretary of the Interior filed a motion for reached-

uling of the procedural dates in the above captioned proceeding. The filing and hearing dates were previously extended by notices issued February 28, 1977, June 2, 1977, August 23, 1977, and August 26, 1977.

The instant motion states that the Commission is still considering the Motion for Approval of Settlement Agreement, filed January 31, 1977, by Pacific Gas and Electric Company (PG&E), and that further filings and a hearing on the issues in this proceeding will be necessary only if PG&E's Motion is denied. The motion states that all parties to the proceeding and Staff Counsel do not object to the requested relief.

Upon consideration, notice is hereby given that the procedural dates in the above designated matter are extended as follows in order to allow the Commission to complete consideration of PG&E's Motion for Approval of Settlement Agreement:

Filing of evidence in answer to PG&E's case-in-chief, November 2, 1977.

Filing of trial briefs by parties answering evidence, November 16, 1977.

Filing of PG&E's rebuttal evidence, November 30, 1977.

Filing of PG&E's trial brief, December 14, 1977.

Hearings: January 24, 1978.

KENNETH F. PLUMB,
Secretary.

[ER Doc 77-28071 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket No. RP71-119]

PANHANDLE EASTERN PIPELINE CO. Notice of Petition for Relief

SEPTEMBER 23, 1977.

Take Notice that on September 2, 1977, Quanex Corporation (Petitioner), formerly known in this proceeding as Michigan Seamless Tube Company, filed a petition for relief from the Commission's order of August 31, 1976, dismissing its petition for extraordinary relief and ordering payback. It seeks a reversal of the payback order, all as more fully set forth in the petition which is on file with the Commission and open to public inspection.

Petitioner indicates that it uses natural gas in the manufacture of cold-drawn seamless steel tubing at its Michigan Seamless Tube Division. According to Petitioner, policy guidelines issued by the Commission on March 2, 1973, in Commission Order 467-B, Docket No. R-469 (49 FPC 583) would have subjected Petitioner to 100 percent curtailment of natural gas on or about October 31, 1973. In order to prevent this, Petitioner filed with the Commission a petition for extraordinary relief on August 24, 1973, requesting permission to obtain a minimum of 1,061 Mcf per day of natural gas from Panhandle Eastern Pipeline Company (Panhandle) from October 1, 1973, to August 1, 1974, and 679 Mcf per day thereafter. In addition, Petitioner filed request for temporary emergency relief on December 28, 1973.

By its order of January 14, 1974, in Docket No. RP71-119 (51 FPC 230), the Commission granted Petitioner's request for temporary relief pending a decision on the merits of the petition for extraordinary relief. On August 31, 1976, the Commission issued an order dismissing the petition for extraordinary relief as moot and ordering Petitioner to pay back temporary relief volumes. Petitioner asserts that the petition for extraordinary relief was dismissed as moot, because the interruptible nature of Petitioner's supply contract was afforded a higher priority by Opinion No. 754, issued on February 27, 1976. Opinion No. 754 abolished the distinction between firm and interruptible contracts in assigning service priorities on the Panhandle system.

In support of its request for relief with respect to payback, Petitioner cites the Opinion of the United States Court of Appeals for the Third Circuit in *Hercules, Inc. v. FPC*, 552 F.2d 74 (3rd Cir. 1977). In that case, says Petitioner, the court set aside the payback requirement that had been imposed on Hercules, Inc. by the Commission. The requirement was set aside because it was based on the distinction between firm and interruptible contracts and this distinction had been eliminated by Opinion No. 754. Petitioner also cites two Commission orders issued on March 8, 1974. In an order on that date granting a rehearing to Hercules, Inc. in Docket Nos. RP71-119 and RP74-31-22, says Petitioner, the Commission declared that petitioners who received extraordinary relief under the plan of Order No. 467-B would not be required to pay back gas. Moreover, in another order on that date in Docket Nos. RP71-119, et al., the Commission, according to Petitioner, relieved other petitioners of their payback obligations for any emergency gas received while the plan of Order No. 467-B was in effect.

Petitioner asserts that it received extraordinary relief from the curtailment plan of Order 467-B in the same manner as petitioners subject to the Commission orders of March 8, 1977, and that these orders should therefore relieve Petitioner of its payback obligations. Accordingly, Petitioner requests that the Commission: (1) Order that Petitioner's payback obligations be suspended and direct Panhandle to increase deliveries to Petitioner in an amount sufficient to compensate for those volumes subjected to the improper payback order; (2) order that Petitioner receive the amount of natural gas from Panhandle as is in Petitioner's contract with Panhandle, "subject to the provisions of the revised 754 interim curtailment plan," without reduction; and (3) grant such other relief as is appropriate.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 1.8 or 1.10). The notice and petitions for intervention previously filed in Docket No. RP71-119 will not operate to make those parties interveners or protestants with respect to the instant petitions. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[ER Doc 77-28963 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket No. ER76-739]

PUBLIC SERVICE COMPANY OF INDIANA

Notice on Motion

SEPTEMBER 23, 1977.

On August 23, 1977, Public Service Company of Indiana (PSI) filed a motion to correct an order issued August 1, 1977, in Docket No. ER76-739.¹ In its motion, PSI requests that the order be amended to show that Chairman Dunham dissented from the adoption of the order insofar as it instituted an investigation pursuant to Sections 202, 206, 307 and 311 of the Federal Power Act of the circumstances surrounding the termination of the joint planning function of the Kentucky-Indiana Pool Planning and Operating (KIP) Agreement.

On August 5, 1977, Chairman Dunham rescinded his approval of the order issued August 1, 1977 in this proceeding, and directed the Secretary of the Commission to include in the Commission minutes a statement that he had originally voted for the order inadvertently. A majority of the Commission had, however, voted for the order; accordingly, Chairman Dunham's action did not affect adoption of the order, and the order remains in effect.

To reflect the above described occurrence, the Secretary was directed by Chairman Dunham to include in the Commission minutes the following statement:

On August 5, 1977, Chairman Dunham advised the Secretary that he had voted for the order issued August 1, 1977, inadvertently and wanted the minutes to so show.

As directed, that language was placed in the official minutes of the subject meeting. That action does not effect, in any manner, the validity of the order issued herein on August 1, 1977. PSI's

¹ Order Accepting Notice of Termination of Pooling Agreement for Filing, Granting Waiver of Notice Requirements, Instituting Investigation, Denying Motion to Suspend or to Reject and Granting Intervention.

motion filed August 23, 1977, is hereby denied.

By Direction of the Commissioner.

KENNETH F. PLUMB,
Secretary.

[ER Doc 77-28964 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket No. ER77-524]

PUGET SOUND POWER AND LIGHT CO.

Order Granting in Part Motion for Reconsideration

SEPTEMBER 26, 1977.

On August 1, 1977, the Commission issued an order in this docket which accepted for filing the application of Puget Sound Power and Light Company (PSPL) for rate increases to eleven of its wholesale customers.¹ In that order, we suspend the proposed rate increases until March 1, 1978, when they are to become effective subject to refund.

On August 31, 1977, PSPL filed an "Application for Rehearing" of the August 1, 1977 order. Since the order is interlocutory, no application for rehearing is permitted.² However, the Commission will treat the application as a Motion For Reconsideration of the order.

Applicant requests that we reduce the five month suspension imposed in this docket, asserting that the order of August 1, 1977 is unlawful, discriminatory, arbitrary and an abuse of discretion. It is PSPL's contention that the maximum suspension period has been imposed "only when large amounts were involved, where a problem is apparent from the face of the application or where the application is consolidated with an application for a large rate increase."

In its July 22, 1977, filing, PSPL proposed to raise its rates, increasing revenues by \$391,045, or 64 percent, based on the 12-month period ending October 1, 1978. Our preliminary review indicated that the proposed increase in rates was not shown to be justified, and we suspended accordingly.

It is well established that decisions regarding the necessity and length of rate increase suspensions lie within the sound discretion of the Federal Power Commission. *Municipal Light Boards v. FPC*, 450 F.2d 1349-1352 (D.C. Cir. 1971), cert. denied, 405 U.S. 989 (1972). The Commission's discretionary decision to suspend is based on a number of factors, including, inter alia, the possibly excessive nature of the proposed rate increase, the financial condition of the utility, the financial impact on the wholesale customers and the percentage of a utility's overall revenues derived from wholesale customer accounts. These same factors

Protests to the proposed rate increase were filed by the Port of Bremerton on August 8, 1977, and by the City of Dupont on August 29, 1977.

² See Section 1.34 of the Commission's Rules of Practice and Procedure, which requires a final decision or order before an application for rehearing can lie.

are appropriate considerations in determining the length of any suspension as well.

These factors were taken into account by the Commission prior to the issuance of its August 1, 1977 order. PSPL's assertion that we have departed from past Commission policy on suspensions under Section 205 of the Federal Power Act is unfounded. We have, however, reconsidered the appropriate length of suspension in this docket and have found that a reduction in the suspension period from five months to one month is warranted.

The Commission finds: PSPL's Motion for Reconsideration of August 31, 1977, should be granted in part.

The Commission orders: (A) PSPL's Motion for Reconsideration is hereby granted, in part.

(B) PSPL's proposed rate increases are hereby suspended for one month, or until November 1, 1977, when they are to become effective subject to refund.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[ER Doc 77-28966 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket Nos. AR67-2 and AR69-1, et al.]

AREA RATE PROCEEDING, ET AL., (SOUTHERN LOUISIANA AREA)

Order Directing Disbursement and Flow-Through of Refunds

SEPTEMBER 23, 1977.

On July 16, 1977, the Commission issued its Opinion No. 598 and order establishing just and reasonable rates for jurisdictional sales of natural gas produced in the Southern Louisiana Area. Pursuant to Ordering Paragraph (G) of Opinion No. 598, each producer was given the alternative of discharging its refund obligation through credits for dedication of new gas reserves for sale to interstate pipelines, after August 1, 1971, and prior to October 1, 1977, in addition to those new gas reserves already dedicated to interstate commerce as of October 1, 1970. The producers electing this option were required to refund in cash plus 7 percent interest effective from August 1, 1971, the outstanding refund obligation remaining as of October 1, 1977.

We now require those producers who elected to discharge their refund obligations through credits and who have an outstanding refund obligation remaining to disburse their refund monies on or before October 31, 1977.¹ The producers shall pay interest at the rate of 7 percent per annum from and after August 1, 1971, the effective date of Opinion No. 598, to the first day of the month in which payment is made.

¹ The producers are also required to file their reserve dedication reports on or before October 1, 1977.

In order to insure the orderly administration and review of the refunds to be made pursuant to this order, we shall require that all refunds made by working interest owners whose gas was sold under the rate schedule of another producer be coordinated with and reported by the producer under whose rate schedule the sale was made.

Once the refunds have been allocated to the respective purchasers, the purchasers shall flow the refund through to their jurisdictional customers. Provided, however, that purchasers shall not be required to flow-through the refunds, if any, as to which they may assert a claim of entitlement under terms of prior rate settlement agreements approved by the Commission.

The Commission finds: It is proper and proper in the public interest and carrying out the provisions of the Natural Gas Act that the refund due to this order be disbursed and flow-through as hereinafter ordered.

The Commission orders: (A) On or before October 31, 1977, each producer who elected to discharge its refund obligations under Commission Opinion No. 598 through credits to be reserved for the dedication of new reserves and who has an outstanding refund obligation remaining on October 1, 1977, shall file three copies of a final refund report showing for each rate schedule and each docket separately the amounts required to be refunded under Ordering Paragraph (E) of Opinion No. 598, as amended, and the 7 percent interest thereon from August 1, 1971, to the first day of the month in which payment is made. (2) disburse all of the refunds to the purchaser; and (3) file three copies of a release from the purchaser. In the alternative, a producer may advise the Commission and the purchaser on or before October 31, 1977, that it will exercise the option or options provided in sections 8.2.5 and or 8.2.6 of the UDC settlement proposal approved in Opinion No. 598.

(B) All refunds and reports made pursuant to Ordering Paragraph (A) above shall be coordinated with and reported by the producer under whose rate schedule the sale was made.

(C) On or before November 1, 1977, each purchaser shall submit to the Commission a plan for the flow-through of the funds ordered to be disbursed by the Southern Louisiana producers and producers being retained by the purchaser, applicable to jurisdictional sales, indicating the amount payable to each jurisdictional customer, the basis used to compute the amount payable, the parties involved, and the applicable docket numbers. Copies of the flow-through plans shall be served on each of the purchaser's jurisdictional customers and upon interested state regulatory commissions.

(D) Upon notification by the Secretary, and to the extent directed thereby, purchasers shall proceed with the distribution of refunds to their jurisdictional customers.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-28972 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket No. R177-13 et al.]

MESA OFFSHORE CO., ET AL.

Amended Petition for Special Relief

SEPTEMBER 26, 1977

Take notice that on September 12, and 22, 1977, Mesa Offshore Co. (Mesa), Amarillo, Tex., filed in the captioned docket, an amended petition for special relief pursuant to section 2.56a(g) of the Commission's General Policy and Interpretations (18 CFR § 2.56a(g)). Mesa in its original petition, filed November 22, 1976, noticed March 29, 1977, requested a special relief rate of \$3.07 Mcf for sales of its gas interests from Vermilion 228 and Eugene Island 256, offshore Louisiana to Sea Robin Pipeline Co. (Sea Robin).

In its present petition, Mesa asks an initial rate of \$3.8869 Mcf for the sale of its gas. Mesa states that production experience since the date of its November 1976 filing has necessitated the revision of certain of the cost estimates under its petition.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-28973 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket No. ER77-588]

THE WASHINGTON WATER POWER CO.

Proposed Tariff Change

SEPTEMBER 26, 1977

Take notice that the Washington Power Co. of Spokane, Wash. (Water Power), on September 19, 1977, pursuant to section 205 of the Federal Power Act and Part 35 of the Commission's Regulations thereunder, tenders for filing a change in electric rates applicable to service being rendered to its wholesale

customers under electric tariff Schedule 61. Water Power states that the proposed rate change is submitted for the purpose of compensating Water Power for increases in its cost of capital, labor, materials and supplies, and taxes.

Water Power further states that its current wholesale contract rates are deficient by some \$514,000 annually based on sales volumes set forth in the statements accompanying its notice of change in rates. Water Power proposes an effective date of November 18, 1977.

Water Power indicates that copies of the filing have been served upon the five Water Power wholesale customers affected by the filing.

Any person desiring to be heard or to protest said notice should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protest should be filed on or before October 3, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Water Power's proposed tariff and rate filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-28974 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket No. ER77-548]

SOUTHERN CALIFORNIA EDISON CO.

Order Permitting Late Intervention

SEPTEMBER 27, 1977

On August 10, 1977, Southern California Edison Co. (Edison) tendered for filing a Transmission Service Agreement with Pacific Gas & Electric Co. (PG&E) providing for the transmission by Edison on an interruptible basis of power purchased by PG&E from the Department of Water and Power of the City of Los Angeles. Notice of this filing was issued on August 17, 1977, with responses due on or before August 31, 1977.

On September 1, 1977, the People of the State of California and Public Utilities Commission of the State of California (California) filed a Notice of Intervention in support of the application in the docket herein.

The Commission finds: Since participation by California will not delay the instant proceedings, good cause exists for accepting its late request to intervene as hereinafter ordered and conditioned.

On August 24, 1977, PG&E filed a statement in support of application and conditional petition for leave to intervene.

The Commission orders: (A) California is hereby permitted to intervene in these proceedings subject to the rules and regulations of the Commission: *Provided, however*, That participation of such intervenor shall be limited to the matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further*, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The late intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of these proceedings.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-28976 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket No. ER76-543]

SOUTHWESTERN PUBLIC SERVICE CO.

Order Granting Intervention

SEPTEMBER 27, 1977

The New Mexico Electric Service Co. of Hobbs, N. Mex., filed on August 29, 1977, a Petition to Intervene in the above-docketed proceeding now set for formal hearing.

Public notices of the original filing and its amendment in this proceeding were issued on March 8, 1976, and on March 23, 1977, respectively. New Mexico Electric's Petition to Intervene was filed decidedly out of time.

New Mexico Electric supports its Petition by stating that it is a party to the interconnection agreement entered into between Southwestern Public Service and itself. The filing here pertains to firm capacity sales made by Southwestern Public Service to New Mexico Electric, and unit capacity sales from New Mexico back to Southwestern.

Our order of July 25, 1977, in this docket accepted for filing and suspended for one day Southwestern's filing. A formal hearing was ordered with an initial conference to convene before a Presiding Administrative Law Judge on September 13, 1977, for further disposition of the case.

Since New Mexico Electric Service Co. is involved in the proceeding before us and is vitally concerned with its outcome, we believe it to be in the public interest to allow intervention notwithstanding that the Petition to Intervene was filed after the prescribed time.

The Commission finds: The participation by the New Mexico Electric Service

Co. in this proceeding may be in the public interest.

The Commission orders: (A) The New Mexico Electric Service Co. is hereby permitted to intervene in these proceedings subject to the Rules and Regulations of the Commission: *Provided, however*, That participation by New Mexico Electric shall be limited to matters affecting certain rights and interests concerning the interconnection agreement which is involved in this above-docketed proceeding; and *Provided, further*, That the admission of New Mexico Electric shall not be construed as recognition by the Commission that the intervenor might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The late intervention granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of these proceedings.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-28977 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket No. CP76-138]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Petition To Amend

SEPTEMBER 27, 1977

Take notice that on September 19, 1977, Transcontinental Gas Pipe Line Corp. (Petitioner), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP 76-138, a petition to amend the Commission's order of December 22, 1975 (54 FPC —), as amended February 7, 1977 (57 FPC —) issued in the instant docket pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79), so as to provide for the transportation of natural gas for Cannon Mills Co. (Cannon) for an extended 2-year period, or through December 31, 1979, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order of December 22, 1975, in this proceeding, Petitioner was authorized to transport, on an interruptible basis, for 2 years, up to 1,500 Mcf of natural gas per day at 15.025 psia to Public Service Company of North Carolina, Inc. (Public Service) for the account of Cannon Mills Co. (Cannon) for redelivery by Public Service for use by Cannon in its textile plants located at Kannapolis and Concord, N.C. It is stated that Cannon had arranged to purchase the gas to be transported from Franks Petroleum, Inc. (Franks) which would be produced in the

Midland Field, Acadia Parish, La., and delivered to Petitioner at the tailgate of Continental Oil Co.'s Acadia Gas Processing Plant in Acadia Parish, La. It is indicated that pursuant to the Commission's order of February 7, 1977, in the instant docket, the order of December 22, 1975, was amended by authorizing Petitioner to add deliveries to an additional facility located in Maiden, N.C., which plant is owned by a subsidiary of Cannon, Maiden Knitting Mills, Inc., and is served from the total 1,500 Mcf per day previously authorized. It is stated that Petitioner was authorized to deliver 73 Mcf of natural gas per average day and 135 Mcf of natural gas per peak day to Piedmont Natural Gas Company (Piedmont) for redelivery to Cannon's Maiden facility.

Petitioner states that the transportation service for Cannon has been rendered pursuant to Rate Schedule X-81, on file with the Commission in Petitioner's FPC Gas Tariff, Original Volume No. 2, and that the transportation service is currently rendered at a rate of 29.8 cents per dekatherm. Petitioner also retains 3.8 percent of the volume transported for fuel and line loss, it is said.

Petitioner indicates that present authorization to transport gas for Cannon's account would expire December 31, 1977, and that Cannon's requirements for continuing deliveries of the transportation gas for Priority 2 process uses in its three plants would continue beyond the expiration date of the existing authorization. Petitioner further indicates that Cannon projects reduced level of service from its local supplier, Public Service and Piedmont for its three plants, and that this would result in economic hardships on employees and the communities in which the plants are located if there are layoffs and plant shutdowns because of curtailed gas service.

Cannon has continued assurance of a gas supply for its transportation service from the same supplier, Franks, which has been providing the gas for the presently authorized service, it is said. It is stated that the primary term of Cannon's gas purchase contract extends until December 31, 1977, with an additional year to take make-up gas.

Accordingly, Petitioner requests its authorization to transport gas for Cannon's account to be extended 2 years, or through December 31, 1979. No change in the quantity of transportation gas to be delivered, the end uses of such gas or delivery points is proposed, it is indicated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 11, 1977 file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the

protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing there in must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-28978 Filed 9-30-77; 8:45 am]

[6740-02]

[Docket Nos. ER76-303 and ER76-304]

WISCONSIN ELECTRIC POWER CO. AND WISCONSIN MICHIGAN POWER CO.

Order Granting in Part and Denying in Part Application for Rehearing and Granting Stay

SEPTEMBER 26, 1977

On July 26, 1977, the Commission issued an Order Denying in Part and Granting in Part Petitions for Rehearing. In our order we affirmed our April 29, 1977 Order on Reconsideration, in this proceeding, which determined that Wisconsin Michigan Power Co. (the Company's) service contracts with the Town of Florence, the City of New London and the City of Shawano (the Cities), all of Wisconsin, permit the Company to file unilateral rate increases, but that such increases may not surpass the rate level of the Company's large user (industrial) retail rate. The July 26 Order did however modify the ordering paragraph directing refunds, and on August 25, 1977, the Company filed an application for rehearing of the modification, together with a motion for stay of its refund obligation pending action thereon.

The rates at issue were filed by Wisconsin Michigan on November 28, 1975 in Docket No. ER76-303 and became effective March 1, 1976. Our April 29, 1977 Order on Reconsideration (April 29 Order) required the Company to refund (with interest) any amounts collected after March 1, 1976, which were above the level of the Company's "most recently approved large industrial retail rate on file with the Public Service Commission of Wisconsin" (mimeo p. 19).

In their application for rehearing of the April 29 Order, the Cities pointed out that the refund order was ambiguous as to which retail rate level was meant: That in effect when the wholesale rates were filed or that in effect as of the April 29 Order. The effective large user retail rate as of April 29, 1977 was one which had been approved by the Wisconsin Commission on August 16, 1976. This superseded the previous rate which had been in effect since November 25, 1975. In our rehearing order of July 26, 1977 (July 26 Order), we stated (mimeo p. 12):

The application in Docket No. ER76-303, filed December 29, 1975, proposed revised rates for service to the Cities of Kaukauna and Menasha, Wis. The proceeding in Docket No. ER76-303 was consolidated with that in Docket No. ER76-303 by Commission order issued March 22, 1976.

As we held in our previous order, state approval of Wisconsin Michigan's industrial retail rate is the triggering event for the filing of a corresponding wholesale rate. We shall therefore amend finding paragraph (2) and ordering paragraph (B) of our Order on Reconsideration, issued April 29, 1977, to direct Wisconsin Michigan to file revised tariff sheets reflecting rates reduced to the level of the Company's industrial retail rate in effect as of November 28, 1975, and to make appropriate refunds (at 9 per cent per annum interest) of any amounts in excess thereof collected after March 1, 1976.

In its current application the Company argues that, assuming the large user retail rate does impose a ceiling on the wholesale rate (a holding which the Company disputes), then, by the terms of the Cities' contracts, whenever an increased large industrial rate goes into effect, the wholesale customers' "automatic acceptance" of the higher industrial retail rate is triggered. The Company accordingly submits that it should be allowed to "apply both the industrial rate and the large industrial rate, as it is modified from time to time, to the Cities' billing determinants and to charge whichever produces the lesser amount" (Application, mimeo p. 5). In other words, Wisconsin Michigan wants the ceiling on its wholesale rates collected from the Cities after August 16, 1976, to be automatically raised to the level established by the industrial retail rate which went into effect on August 16, 1976.

The Company's request ignores entirely the exhaustive discussions underlying our findings in the April 29 and July 26 Orders.³ In these Orders we clearly showed that, regardless of the contract language providing for "automatic acceptance" by the wholesale customers of increased large user retail rates, Wisconsin Michigan is required to file the proposed rates with this Commission for approval of such increase. We shall therefore deny the Company's request

³The contracts for the three Cities vary somewhat but effectuate the same result. Article III, Section 2 of the contract between the Company and New London, signed on June 21, 1949, states: "It is hereby agreed and understood that should there be any revision and or change in said Rate VII approved by the Wisconsin Public Service Commission, at any time during the life of this contract, then the Distributor shall under this contract automatically receive and accept such revised rates." The comparable sections of the contracts with Florence and Shawano are set forth in the Order on Reconsideration, issued April 29, 1977, mimeo page 7.

⁴See mimeo pp. 8-10, 13-15 of our April 29 Order, wherein we stated, *inter alia* (mimeo p. 9): "The Examiner (and ultimately the Commission in Opinion No. 432, 31 FPC 1449) thus concluded that, under the terms of the subject contracts, state approval of the Company's large retail user rate is the triggering event for the filing of a corresponding wholesale rate. But although such wholesale filing obtains the automatic contractual acceptance of the customer, the filed wholesale rate must be found to be just and reasonable by the Federal Power Commission." See also mimeo pp. 2-5 of our July 26 Order.

for an automatic adjustment of its wholesale rates to track changes in its large user retail trade.

Wisconsin Michigan objects to the refund provision of our July 26 order whereby a retail rate level which was superseded as of August 16, 1976, was imposed as the ceiling on the Company's wholesale rates collected not only between March 1 and August 16, 1976, but also after August 16, 1976. The Company points out that the Cities did not correctly press their contract rights until some seven months after the rates in Docket No. ER76-303 had been filed. The Commission ruling on the Cities' claims was moreover not forthcoming until April 1977. The Company argues that it could not know that it was foregoing just and reasonable wholesale revenues by failing to file a wholesale rate increase triggered by the Wisconsin Commission's subsequent retail rate order. Wisconsin Michigan believes the Commission should consider these facts in fashioning an equitable refund order and should not permit the Cities to reap greater refunds through tardy prosecution of their case.

We are persuaded that the Company's argument on rehearing has merit. Although it is true that all future wholesale rate increases must be preceded by a State-approved retail industrial rate as well as by a filing with this Commission, we believe it equitable to waive the latter requirement in this single instance. In view of the Cities' tardy prosecution of their contract rights, we shall not require Wisconsin Michigan to have made a second wholesale filing to track the August 16, 1976, increase in the industrial rate, which increase the filing in Docket No. ER76303 already covers.⁴ An order granting refunds to bring the rate down to the effective parity rate will give the Cities all they bargained for under the contract.

For the above reasons, we shall grant that part of Wisconsin Michigan's application for rehearing of our July 26 Order which requests modification of the refund order. We shall amend the order to require the Company to refund that portion of its rates collected from New London and Shawano in Docket No. ER76-303 between March 1, 1976 and August 18, 1976, which is above the level of the Company's approved large user retail rate in effect on November 28, 1975, together with that portion of its rates collected after August 18, 1976, which is above the level of the Company's approved large user retail rate in effect as of August 16, 1976. We shall also grant the Company's motion for a stay of its refiling and refund obligation, but the

⁴On May 25, 1977, we issued an order approving the settlement of Docket Nos. ER76-303 and ER76-399. The agreement did not resolve the contract interpretation issues, but rather reserved them for decision by the Commission and the courts. The settlement rates for New London and Shawano are above the rate levels, both before and after August 16, 1976, ordered herein.

period for refiling and making refunds will only be extended until 30 days from the date of issuance of this order.

The Commission finds: (1) Good cause exists to deny that part of Wisconsin Michigan Power Co.'s application for rehearing, filed August 25, 1977, which requests the ceiling on wholesale rates to track changes in the effective large industrial retail rate without filing the change with this Commission.

(2) Good cause exists to grant that part of Wisconsin Michigan Power Co.'s application for rehearing, filed August 25, 1977, which requests modification of the refund provision in our Order issued July 26, 1977, in this proceeding. Finding Paragraph (3) of the Order issued July 26, 1977, should be amended to read:

(3) It is proper and appropriate in the public interest that Wisconsin Michigan Power Co. be directed to: (1) eliminate from the rates which were collected from March 1, 1976 to August 18, 1976, in Docket No. ER76-303, with respect to the Cities of New London and Shawano, that portion which is above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect on November 28, 1975; and to (2) eliminate from the rates which were collected after August 18, 1976, in Docket No. ER76-303, with respect to the Cities of New London and Shawano, that portion which is above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect as of August 16, 1976.

(3) Good cause exists to grant Wisconsin Michigan Power Co.'s motion for stay pending action on its application for rehearing, but only for 30 days beyond the issuance of this order.

The Commission orders: (A) That part of Wisconsin Michigan Power Co.'s application for rehearing which is described in Finding Paragraph (1), supra, is hereby denied.

(B) That part of Wisconsin Michigan Power Co.'s application for rehearing which requests modification of the refund provision is hereby granted, and Finding Paragraph (3) of the Order issued July 26, 1977, in this proceeding is hereby amended as set forth in Finding Paragraph (2), supra.

(C) Within 30 days of the date of issuance of this order, Wisconsin Michigan Power Co. shall file revised tariff sheets reflecting reduced rates to the Cities of New London and Shawano consistent with our findings herein and shall make appropriate refunds at 9 percent per annum interest of: (1) any amounts collected from March 1, 1976, to August 18, 1976, which are above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect on November 28, 1975; and (2) any amounts collected after August 18, 1976, which are above the level of Wisconsin Michigan's approved industrial retail rate on file with the Public Service Commission of Wisconsin which was in effect as of August 16, 1976.

(D) Wisconsin Michigan Power Co. shall file a report with this Commission

attesting to its compliance with the refund obligations imposed in Ordering Paragraph (C), supra, within 15 days of such compliance. A copy of such report shall also be furnished to each state commission within whose jurisdiction the wholesale customer distributes and sells electric energy at retail.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-28975 Filed 9-30-77; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

304 CORPORATION

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by 304 Corp., Omaha, Nebr. ("304"), which has transferred 100 per cent of the outstanding voting shares of Industrial Loan & Investment Co., Omaha, Nebr., to Industrial Loan Co., Omaha, Nebr. ("Industrial"), for a determination that 304 is not nor will be in fact capable of controlling Industrial or its president, Frank C. Mayo, notwithstanding the fact that both Industrial and Mr. Mayo are indebted to 304, which indebtedness resulted from the financing of the purchase of said shares.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than October 17, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, his reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place

for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, September 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-29195 Filed 9-30-77; 11:32 am]

[6820-14]

GENERAL SERVICES ADMINISTRATION

COST OF TRAVEL AND OPERATION OF PRIVATELY OWNED VEHICLES

Report; Correction

In FR Doc. 77-26942 appearing at page 46087 in the issue of Wednesday, September 14, 1977, the first sentence of paragraph 1 under the heading Addendum to the Report on the Cost of Travel and the Operation of Privately Owned Vehicles is corrected in the third line of that paragraph by replacing the word "beginning" with the word "performed." The revised sentence reads as follows:

The changes to mileage and travel allowances reflected in the preceding report are effective for travel performed on or after September 18, 1977.

Dated: September 28, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc. 77-29062 Filed 9-30-77; 8:45 am]

[4110-16]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

SCHEDULE OF LIMITS UNDER THE HEALTH INSURANCE PROGRAM FOR COST-REPORTING PERIODS BEGIN- NING ON OR AFTER OCTOBER 1, 1977

On August 12, 1977, the Department published in the FEDERAL REGISTER (42 FR 40948) a Notice of Proposed Schedule of Limits on Hospital Inpatient General Routine Service Costs for Hospitals with Cost Reporting Periods Beginning on or After October 1, 1977. Section 1861(v)(1) of the Social Security Act, as amended, 42 U.S.C. 1395x(v)(1) authorizes the Secretary of Health, Education, and Welfare to set prospective limits on costs recognized as reasonable and applied to direct or indirect overall incurred costs of specific items or services or groups of items or services furnished by a provider. Such limits are based on estimates of the costs necessary in the efficient delivery of needed health services. This Schedule of Limits, initially proposed by publication in the FEDERAL REGISTER on August 12, 1977 (42 FR 40948), provides a new Schedule of

Limits on Hospital Inpatient General Routine Service Costs to succeed the Schedule in effect for cost reporting periods beginning on or after July 1, 1977, as published in the FEDERAL REGISTER of July 8, 1977 (42 FR 35496) and is applicable to cost reporting periods beginning on or after October 1, 1977, until such Schedule is revised.

The Schedule applies to the total of the cost of hospital inpatient general routine service costs. These limits do not apply to the cost of special care or ancillary services.

The Secretary of Health, Education, and Welfare is strongly committed to a national policy of containing the rapidly escalating health care costs. Therefore, the Secretary hereby serves notice of his intention to review these limits from time to time and make such changes in the limits as circumstances may warrant to assure that costs which are reimbursed are reasonable. Any such changes will be prospective in nature and will apply to all hospital inpatient general routine service costs incurred after the effective date of the changes. In addition, the limits contained in this schedule will be revised to conform with any Federal cost containment legislation enacted subsequent to the effective date of this schedule.

The initial classification system, which is described in the FEDERAL REGISTER of FR 20168) published June 6, 1974, was developed to provide for comparison of hospitals of similar size and in similar economic environments. Several refinements of the initial classification system were made effective July 1, 1975, and are described in the FEDERAL REGISTER of FR 23622) published May 30, 1975.

An additional refinement was made to the revised schedule of limits effective July 1, 1976. The refinement was the result of changes in the size of units of economic environment, and is described in the FEDERAL REGISTER (41 FR 26992) published June 30, 1976.

A refinement was made in the revised schedule of limits published in the FEDERAL REGISTER (42 FR 35496) on July 1, 1977. This limited refinement arose from the definition of metropolitan environments in the New England area. Under the Office of Management and Budget (OMB) definition, which has been used to distinguish between metropolitan and nonmetropolitan areas, Standard Metropolitan Statistical Areas (SMSA's) and Standard Consolidated Statistical Areas (SCSA's) in New England are based on cities and towns rather than on counties as is the case in the rest of the United States. Because towns and cities are used to delineate SMSA's and SCSA's in New England, a county may be part of more than one SMSA or only a part of a county may be in an SMSA. However, income data supplied by the Department of Commerce, Bureau of Economic Analysis (BEA), which are used to group various areas according to economic environment, are available only on a county basis. In order to use the available data, BEA has slightly changed SMSA defini-

tions in New England so that the SMSA's follow county lines.

Therefore, a hospital located in the part of the county not included by OMB in the SMSA/SCSA would be subject to a nonmetropolitan limit even though the per capita income of the hospital's location had been used for SMSA/SCSA classification grouping purposes. This situation is limited to New England and is inconsistent with the classification grouping for the rest of the United States where the OMB and BEA definitions of SMSA's consistently follow county lines.

In order to rectify this inconsistency, there is a change in the description of metropolitan environment used in the classification system. The change would alter the requirements for metropolitan status and would deem an entire county to be within an SMSA/SCSA if any part of such county was included by OMB in the SMSA/SCSA. Where a county contains the major city of an SMSA and is considered by OMB to be part of two or more SMSA's, the entire county would be deemed to be part of the SMSA whose major city it encompasses. Where a county is considered by OMB to be part of two or more SMSA's and does not contain the major city of any SMSA, the county would be included in the SMSA having the highest per capita income. An SMSA's major city is defined as the city from which the SMSA takes its name. Where the application of this provision results in a provider being placed in a group with a limit lower than the limit to which it would have been subject without the change, the higher limit may be applied in the cost reporting period to which this schedule applies.

An additional refinement made in the revised schedule of limits effective July 1, 1977, for nonmetropolitan areas is incorporated in the revised schedule set forth below.

In nonmetropolitan areas, which are frequently single industry areas, per capita income levels are extremely sensitive to changes in economic conditions from one year to the next. This is especially true where the primary source of income is from agriculture. In these cases, hospital costs usually reflect the trend of the area's economy rather than year to year fluctuations. In order to provide more equitable treatment to nonmetropolitan areas, a change has been made that would base the classification of State nonmetropolitan areas on a 5-year per capita average income instead of a one year base period. In these areas the longer base would be more reflective of the economic environment than a single year's income.

The same change was considered for the metropolitan (SMSA/SCSA) areas. However, these areas do not exhibit the same volatility of per capita income from one year to the next as do the non-SMSA areas. This may be attributed to diversity in economic activity in the SMSA areas plus the additional benefits, such as supplemental unemployment compensation, which are available to the mostly union-

ized workers in these areas. Therefore no change was made in the classification system for SMSA/SCSA areas.

The revised Schedule of Limits retains the provision to protect metropolitan area providers for the period in which this schedule is in effect from the effects of lower limits that might result from circumstances that result in a lower per capita income for the provider's area. Thus if a metropolitan area's per capita income in a year or a change in SMSA/SCSA designation during the year, places the area in a group lower than in the previous year, the limit to be applied for that year will be the higher of the current period group or the immediately preceding year group. This provision will lessen the effect of unusual short-term fluctuations in area per capita income on reimbursement to individual providers.

For the period in which this schedule is in effect the same provision will be applied to nonmetropolitan providers which have been placed in a lower group as a result of the new classification methodology. SMSA and non-SMSA areas that are affected by this provision are indicated in the list of groups by a footnote after the area name.

Example. Hospital A, Bed size: 150. Per capita income in the providers' SMSA during the period on which the classification is based was reduced because of the effects of a natural disaster. Provider A had been classified in Group II effective October 1, 1976, and is now classified in Group III beginning October 1, 1977. The limit to be applied to Provider A beginning October 1, 1977, is the higher of the Group II limit or the Group III limit.

Interested parties were given 30 days from the date of publication of the proposed schedule of limits within which to submit data, views, and arguments. Comments and suggestions received with regard to that notice of proposed Schedule of Limits, responses thereto, and changes made in the proposed schedule of limits are summarized below.

5-YEAR PER CAPITA INCOME AVERAGING

1. Some comments questioned the use of a 5-year per capita average income for nonmetropolitan areas only. In nonmetropolitan areas, which are frequently single industry areas, per capita income levels are extremely sensitive to changes in economic conditions from 1 year to the next. This is especially true where the primary source of income is from agriculture. In these cases, hospital costs usually reflect the trend of the area's economy rather than year to year fluctuations. Therefore, in order to provide a more equitable treatment to nonmetropolitan areas, the classification of State nonmetropolitan areas is based on a 5-year per capita average income instead of a 1 year base period. The same concept was considered for metropolitan areas. However, SMSA per capita income does not exhibit the same relative fluctuations as non-SMSA income. Therefore, it was not necessary to make the same changes for metropolitan areas.

COUNTY BASIS FOR CLASSIFYING NEW ENGLAND AREA HOSPITALS

2. Several comments centered upon the use of counties rather than SMSA/SCSAs in the New England area and why the provision was not made retroactive. Careful consideration was given to the impact of such a provision prior to its inclusion in the proposed schedule. Because the SMSA/SCSA definition did not match each hospital's location in the New England area with the income data used to classify areas, the county basis was chosen for classifying hospitals in the New England area as county location coincides with income data. We carefully considered the possibility of retroactive application of this refinement and have determined that such retroactive application would be inappropriate since some providers could be adversely affected by this change.

SOURCE OF PER CAPITA INCOME DATA

3. In response to comments concerning the source of per capita income data, used to group SMSA/SCSAs and Non-SMSA, SCSAs, the data utilized are from Local Area Personal Income 1969-1974, June 1976, Volume 1, Summary, Published by the United States Department of Commerce, Bureau of Economic Analysis.

SOURCE OF SMSA/SCSA AREAS

4. Inquiry was made about the source of the definitions of Standard Metropolitan Statistical Areas and Standard Consolidated Statistical Areas. Except as modified by this notice for the New England area, the SMSA/SCSA titles conform to the definitions used by the Office of Management and Budget in its publication Standard Metropolitan Statistical Areas 1975, revised edition.

DUPLICATIVE COMMENTS

5. A number of comments which were received duplicated comments made prior to publication of the previous sets of limits. A discussion of these items can be found in the FEDERAL REGISTER (41 FR 26992) published June 30, 1976, the FEDERAL REGISTER (40 FR 23622) published May 30, 1975, and the FEDERAL REGISTER (39 FR 20168) published June 6, 1974.

6. Various editorial changes have been made in the interest of clarity. All SMSA's and SCSA's have been divided into the following five groups based on per capita income. Counties, rather than SMSA/SCSA areas, are listed for New England States.

SMSA/SCSA GROUP I

ALASKA
Anchorage.

CALIFORNIA
Los Angeles-Long Beach-Anaheim (SCSA).
Los Angeles-Long Beach, Anaheim-Santa Ana-Garden Grove, Oxnard-Simi Valley-Ventura, Riverside-San Bernardino-Ontario, Salinas-Seaside-Monterey.

San Francisco-Oakland-San Jose (SCSA).
San Francisco-Oakland, San Jose, Vallejo-Fairfield-Napa.

COLORADO
Denver-Boulder.

CONNECTICUT
Fairfield County, Hartford County, Litchfield County, Middlesex County, Tolland County.

DISTRICT OF COLUMBIA
Washington, DC, DC-MD-VA.

FLORIDA
Miami-Fort Lauderdale (SCSA).
Fort Lauderdale-Hollywood, Miami, Sarasota, West Palm Beach-Boca Raton.

ILLINOIS
Chicago-Gary, IL-IN (SCSA).
Chicago, IL, Gary-Hammond-East Chicago, IN, Peoria, Springfield.

IOWA
Davenport-Rock Island-Moline, IA-IL.

MICHIGAN
Detroit-Ann Arbor (SCSA).
Detroit, Ann Arbor.

MINNESOTA
Minneapolis-St. Paul, MN-WI.

NEVADA
Reno.

NEW JERSEY
See New York SCSA.

NEW YORK
New York-Newark-Jersey City, NY-NJ-CT (SCSA).

New York, NY-NJ, Newark, NJ, Jersey City, NJ, Paterson-Clifton-Passaic, NJ, Nassau-Suffolk, NY, Long Branch-Asbury Park, NJ, New Brunswick-Perth Amboy-Sayerville, NJ, Rochester.

OHIO
Cleveland-Akron-Lorain, (SCSA).
Cleveland, Akron, Lorain-Elyria.

VIRGINIA
Richmond.

WASHINGTON
Richard-Kennewick.

WISCONSIN
Milwaukee-Racine (SCSA).

Milwaukee, Racine, Kenosha.

SMSA/SCSA GROUP II
ARIZONA
Phoenix.

CALIFORNIA
Bakersfield, Santa Barbara-Santa Maria-Lompoc, San Diego, Stockton.

CONNECTICUT
New Haven County, New London County.

DELAWARE
See Philadelphia SCSA.

GEORGIA
Atlanta.

HAWAII
Honolulu.

IDAHO
Boise City.

ILLINOIS
Bloomington-Normal, Decatur, Kankakee, Rockford.

INDIANA
Fort Wayne Indianapolis.

IOWA
Cedar Rapids, Des Moines, Waterloo-Cedar Falls.

KANSAS
Topeka, Wichita.

KENTUCKY
Louisville.

MARYLAND
Baltimore.

MASSACHUSETTS
Berkshire County, Essex County, Middlesex County, Norfolk County, Plymouth County, Suffolk County, Worcester County.

MICHIGAN
Flint, Grand Rapids, Jackson, Kalamazoo-Portage-Saginaw.

MISSOURI
Kansas City, MO-KS, St. Louis, MO-IL.

NEBRASKA
Lincoln.

NEW HAMPSHIRE
Rockingham County.

NEW JERSEY
See Philadelphia SCSA.

NEVADA
Las Vegas.

NEW YORK
Albany-Schenectady-Troy, Buffalo, Poughkeepsie.

NORTH CAROLINA
Charlotte-Winston-Salem-High Point.

NORTH DAKOTA
Fargo-Mandan-Bismarck.

OHIO
Dayton, Lima, Toledo, OH-MI, Youngstown-Warren.

OREGON
Portland.

PENNSYLVANIA
Philadelphia-Philadelphia-Trenton, PA-DE-MD-NJ (SCSA).

Philadelphia, PA-NJ, Trenton, NJ, Wilmington, DE-NJ-MD, Allentown, Bethlehem-Easton, PA-NJ, Harrisburg, Lancaster, Pittsburgh, Reading.

EDGE ISLAND
Washington County.

TEXAS
Houston-Galveston (SCSA).

Houston, Galveston-Texas City, Dallas-Fort Worth Midland.

WASHINGTON
Seattle-Tacoma (SCSA).

Seattle-Everett, Tacoma.

WISCONSIN
Madison.

SMSA/SCSA GROUP III
ALABAMA
Birmingham.

ARIZONA
Tucson.

ARKANSAS
Little Rock-North Little Rock.

CALIFORNIA
Fresno, Modesto, Sacramento-San Joaquin.

COLORADO
Greeley.

FLORIDA
Jacksonville, Orlando-Tampa-St. Petersburg.

ILLINOIS
Champaign-Urbana-Rantoul.

INDIANA
Anderson, Ellettsville, IN-KY.

IOWA
Dubuque, Sioux City, IA-NE.

KENTUCKY
Lexington-Fayette.

LOUISIANA
New Orleans.

MAINE
Cumberland County, York County.

MASSACHUSETTS
Hampden County, Hampshire County.

MICHIGAN
Battle Creek, Bay City, Lansing-East Lansing.

MINNESOTA
Rochester.

MISSISSIPPI
Jackson.

MONTANA
Billings.

NEBRASKA
Omaha, NE-IA.

NEW HAMPSHIRE
Hillsborough County, Merrimack County.

NEW JERSEY
Atlantic City, Vineland-Millsboro-Lewes.

NEW YORK
Binghamton, NY-PA Elmira-Syracuse.

NORTH CAROLINA
Charlotte-Gastonia-Raleigh-Durham.

OHIO
Cincinnati-Hartinton OH-KY-IN (SCSA).

Cincinnati, OH-KY-IN, Hamilton-Middletown, OH, Coleridge, Columbus, Marion, Springfield.

Staubenville-Warren OH-WV.

OKLAHOMA
Tulsa.

OREGON
Salem.

PENNSYLVANIA
Erie York.

RHODE ISLAND
Bristol County, Kent County, No. County, Providence County.

SOUTH DAKOTA
Sioux Falls.

TENNESSEE
Memphis, TN-AR-MS Nashville.

TEXAS
Amarillo, Beaumont-Port Arthur, El Paso, Wichita Falls.

VIRGINIA
Newport News-Hampton, Norfolk-Virginia Beach-Portsmouth, VA-NC, Petersburg-Colonial Heights-Hopewell, Roanoke.

NOTICES

WASHINGTON		SMSA/SCSA Group V	
Spokane, Yakima.		ALABAMA	Anniston, Florence, Gadsden, Huntsville, Mobile, Tuscaloosa.
WEST VIRGINIA		ARKANSAS	Fayetteville-Springdale, Fort Smith, AR-OK, Pine Bluff.
Charleston.		FLORIDA	Pensacola.
WISCONSIN		GEORGIA	Albany.
Appleton-Oshkosh.		INDIANA	Bloomington, Terra Haute. ¹
SMSA/SCSA Group IV		LOUISIANA	Alexandria, Lafayette, Lake Charles, Monroe.
ALABAMA		MAINE	Androscoggin County.
Montgomery.		MINNESOTA	St. Cloud.
COLORADO		MISSOURI	Columbia, Springfield. ¹
Colorado Springs, Fort Collins, Pueblo.		MISSISSIPPI	Biloxi-Gulfport, Pascagoula-Moss Point.
FLORIDA		NORTH CAROLINA	Fayetteville, Wilmington.
Daytona Beach, Fort Meyers, Gainesville, Lakeland-Winter Haven, Melbourne-Titusville-Cocoa, Tallahassee.		OKLAHOMA	Lawton.
GEORGIA		PENNSYLVANIA	Altoona.
Augusta, GA-SC, Columbus, GA-ALA, Macon, Savannah.		PUERTO RICO	Caguas, Mayaguez, Ponce, San Juan.
INDIANA		SOUTH CAROLINA	Charleston-North Charleston.
Lafayette-West Lafayette, ¹ Muncie.		TENNESSEE	Johnson City-Kingsport-Bristol, TN-VA.
KENTUCKY		TEXAS	Brownsville-Harlingen-San Benito, Bryan-College Station, Corpus Christi, El Paso, Laredo, McAllen-Pharr-Edinburg, Texarkana, TX-AR.
Owensboro.		UTAH	Provo-Orem.
LOUISIANA		WEST VIRGINIA	Huntington-Ashland, WV-KY-OH.
Baton Rouge, Shreveport.		WISCONSIN	Eau Claire.
MASSACHUSETTS			
Bristol County.			
MICHIGAN			
Muskegon Norton Shores, Muskegon Heights.			
MINNESOTA			
Duluth-Superior, MN-WI.			
MISSOURI			
St. Joseph. ¹			
MONTANA			
Great Falls. ¹			
NEW MEXICO			
Albuquerque.			
NEW YORK			
Utica-Rome.			
NORTH CAROLINA			
Asheville, Burlington.			
OKLAHOMA			
Oklahoma City.			
OREGON			
Eugene-Springfield.			
PENNSYLVANIA			
Johnstown, Wilkes Barre-Scranton-Hazleton (Northeast PA), Williamsport.			
SOUTH CAROLINA			
Columbia, Greenville-Spartanburg.			
TENNESSEE			
Chattanooga, TN-GA, Clarksville-Hopkinsville, TN-KY, Knoxville.			
TEXAS			
Abilene, Austin, Killeen-Temple, Longview, Lubbock, Odessa, San Angelo, San Antonio-Sherman-Denison, Tyler Waco.			
UTAH			
Salt Lake City-Ogden.			
VIRGINIA			
Lynchburg.			
WEST VIRGINIA			
Parkersburg-Marletta, WV-OH, Wheeling, WV-OH.			
WISCONSIN			
Green Bay, La Crosse.			

¹Hospitals in areas (SCSA or SMSA) identified by a figure one will receive the higher of the limit published herein for the group in which the hospital is actually classified or the limit published herein for the group in which the hospital was classified in the immediately preceding cost reporting period.

GROUP III		GROUP IV	
Colorado	New York	North Carolina	
Florida	Ohio	Oklahoma ²	
Idaho	Oregon	Texas	
Michigan	Pennsylvania		
Minnesota ¹	South Dakota ¹		
Montana	Vermont		
New Hampshire	Wisconsin		
GROUP V		GROUP VI	
Alabama	Puerto Rico		
Arkansas ¹	South Carolina		
Georgia	Tennessee		
Kentucky	Utah		
Louisiana	Virginia ²		
Mississippi	Virgin Islands		
New Mexico	West Virginia		

With respect to the Standard Consolidated Statistical Area/Standard Metropolitan Statistical Area groupings, the groupings were developed by combining those SCSA/SMSA's which reflect a similar economic environment as expressed by per capita income data. The SCSA/SMSA's were arrayed in order of the size of their per capita income and groupings were established. The same procedure was followed for grouping the non-SCSA/SMSA areas to arrive at State groups.

The following bed-size categories are used to classify hospitals:

STANDARD METROPOLITAN STATISTICAL AREAS	
GROUPS I AND II	
Less than 100.	
100-404.	
405-684.	
685 and above.	
GROUPS III, IV, AND V	
Less than 100.	
100-404.	
405 and above.	
NON-STANDARD METROPOLITAN STATISTICAL AREAS	
Less than 100.	
100-169.	
170 and above.	

The limits were developed in the following manner:

1. Inpatient general routine service cost data for each participating hospital were obtained from the fiscal intermediaries.
2. The data for hospitals in each class were arrayed in descending order of inpatient general routine service cost.
3. The 80th percentile and the median were computed for each class.
4. For each class, an amount equal to 10 percent of the median was added to the 80th percentile amount.
5. This sum was adjusted to reflect the 14 percent annual rate of estimated cost increases in per diem routine service costs following the date of data collection.
6. The amounts calculated in step 5 are rounded to the next highest dollar.

²Hospitals in States identified by a figure two will receive the higher of the limit published herein for the group in which the hospital is actually classified or the limit published herein for the group in which the hospital was classified in the immediately preceding cost reporting period.

NOTICES

which establishes the limit for each class, subject to adjustment for hospitals reporting on other than a reporting period beginning July 1, 1977.

Under the authority of section 1861(v) of the Social Security Act, the following cost limitations apply to the total of the hospital inpatient general routine service costs (excluding costs incurred for special care units and ancillary services), adjusted upward as provided for below. The limits are applicable to cost reporting periods beginning on or after October 1, 1977, and will remain in effect until the effective date of a revised schedule.

The limits are applicable to any hospital with a cost reporting period beginning on or after October 1, 1977. Where a hospital has a cost reporting period beginning after July 1, 1977, the published limit will be adjusted upward by a factor of 1.17 percent for each elapsed month between July 1, 1977, and the month in which the hospital's reporting period begins. The result of this calculation is not rounded and is to be given in dollars and cents.

Example.—Hospital A's cost reporting period starting in 1977 begins October 1, 1977, and ends September 30, 1978. The cost factor for Hospital A's group from the table below is \$100.

COMPUTATION OF ADJUSTED COST LIMIT	
Cost factor	100
Plus: Adjustment for 3-month period (July 1, 1977, to Sept. 30, 1977), 3 months × 1.17 pct.	3.51 pct; 3.52 pct. X cost factor
Adjusted cost limit applicable to Hospital A for the Oct. 1, 1977, to Sept. 30, 1978, reporting period	\$103.52

SCHEDULE OF LIMITS ON HOSPITAL INPATIENT GENERAL ROUTINE SERVICE COSTS FOR HOSPITALS WITH COST-REPORTING PERIODS BEGINNING ON OR AFTER JULY 1, 1977 (A)

(A) The schedule of limits and adjustment factor are only for a 12-month cost reporting period. For providers with other than 12-month cost reporting periods, intermediaries must contact the Health Care Financing Administration for adjustment factor.

Hospitals located within SMSA's (nonmetropolitan) bed size					
SMSA group	Less than 100	100 to 169	170 to 404	405 to 684	685 and above
I	\$129	\$141	\$160	\$211	
II	131	143	162	213	
III	133	145	164	215	
IV	135	147	166	217	
V	137	149	168	219	

¹Limits apply to all SMSA's except Anchorage, Alaska, and Honolulu, Hawaii, where cost-of-living adjustment (25 pct. Anchorage, Alaska; 17.5 pct. Honolulu, Hawaii) was made. The limits for these areas are as follows:

	Less than 100	100 to 404	405 to 684	685 and above
Anchorage.....	\$174	\$180	\$200	\$264
Honolulu.....	164	170	188	248

Hospitals located within SMSA's (nonmetropolitan) bed size

SMSA group	Less than 100	100 to 169	170 to 404	405 to 684	685 and above
I	\$129	\$141	\$160	\$211	
II	131	143	162	213	
III	133	145	164	215	
IV	135	147	166	217	
V	137	149	168	219	

FOR FURTHER INFORMATION, CONTACT:

Mrs. Virginia K. Gray, Health Care Financing Administration, Medicare Bureau, 6401 Security Boulevard, Baltimore, Md. 21235, Director, Division of Provider Reimbursement and Accounting Policy (301-594-9690).

Sec. 1162, 1861(v), 1866(a), and 1871 of the Social Security Act; 49 Stat. 647, as amended; 79 Stat. 322, as amended; 79 Stat. 27, as amended; 79 Stat. 331; 42 U.S.C. 1302, 1395a, 1395b, and 1395hh.

Effective date. The Schedule of Limits will be effective for cost reporting periods beginning on or after October 1, 1977, and will remain in effect until the effective date of any revised schedule which may be published.

The Health Care Financing Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11621 as amended by Executive Order 11941 and OMB Circular A-167.

Dated: Sept. 27, 1977.
ROBERT A. DERZON,
Director, Health Care Financing Administration.

Approved: September 29, 1977.
JOSEPH A. CALIFANO, JR.,
Secretary of Health,
Education, and Welfare.
FR Doc. 77-29159 Filed 9-29-77; 4-33 pm]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

Release No. 20187; 70-4537]

Public Utility Holding Company Act of 1935
NORTHEAST UTILITIES, ET AL.

Post-Effective Amendment Requesting Extension of Time for the Issuance and Sale of Notes to Holding Company

SEPTEMBER 23, 1977.

Notice is hereby given that Northeast Utilities ("Northeast"), a registered

holding company, the Rocky River Realty Co. ("Rocky River"), its nonutility subsidiary, and the Connecticut Light & Power Co., an electric utility subsidiary company of Northeast, have filed with this Commission a fourth post-effective amendment to the application-declaration in this proceeding pursuant to sections 6(a), 7, 9(a), and 10 of the Public Utility Holding Company Act of 1935 ("Act") regarding the following proposed transaction: All interested persons are referred to said post-effective amendment, which is summarized below in a complete statement of the proposed transactions.

By order in the pre-reading dated October 24, 1967, 44 FR 15,001, the Rocky River was authorized to engage in the business of acquiring, maintaining, and disposing of real property in connection with the utility operations of the Northeast holding-company system. Said order of October 24, 1967, as amended by supplemental orders of the Commission dated December 21, 1970, and October 27, 1972, HCAR Nos. 16941 and 17740, also authorized Rocky River to issue and sell to Northeast until October 24, 1977, and Northeast was authorized to acquire up to \$10,000,000 aggregate principal amount of Rocky River's long-term unsecured notes ("Notes") to finance such real estate activities. It was provided that, since Rocky River's capital requirements vary from time to time, Rocky River could in its discretion pay out of capital Notes theretofore issued and thereafter issue and sell to Northeast, and Northeast could acquire, additional Notes in adjusting the amount of Notes outstanding to Rocky River's capital requirements.

By post-effective amendment, it is now proposed that the authorization regarding said Notes be extended for a five-year period expiring October 24, 1982.

The fees and expenses to be incurred in connection with the proposed extension are estimated to be \$2,500. It is stated that no State or Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 20, 1977, request in writing that a hearing be held with respect to the post-effective amendment to the application-declaration, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as now amended or as it may be further

amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary

[FR Doc. 77-28904 Filed 9-30-77; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Bureau Order No. 701, Amdt. No. 26
LAND AND RESOURCES
Redelegation of Authority

Bureau Order No. 701 dated July 23, 1964, is further amended as follows:

PART I—REDELEGATIONS OF AUTHORITY TO
STATE DIRECTORS

1. Section 1.7(f) is amended to read:
Section 1.7 Range Management.

(f) Protection of wild free-roaming horses and burros.

Take all actions under the Act of December 15, 1971 (65 Stat. 649; 16 U.S.C. 1331-1340) as amended by the Federal Land Policy and Management Act of 1976 except (1) the designation and maintenance of specific ranges on public lands as provided in section 3(a), and (2) the arrest provisions in section 8(b).

2. A new subparagraph (8) is added to section 1.9(t) as follows:

Section 1.9 Land Use.

(8) Matters pertaining to Alaska

(8) National Petroleum Reserve in Alaska. Take all actions under the Naval Petroleum Reserve Protection Act of 1976 (90 Stat. 303; 43 U.S.C. 6501) involving surface management of the National Petroleum Reserve in Alaska, including the protection of surface values from environmental degradation, except (1) submission of plans to the Committees on Interior and Insular Affairs of the Senate and House of Representatives or annual reports required by section 104(d) of the Act, (2) establishment of a task force or the submission of a report pursuant to section 105(c) of the Act, and (3) enforcement of regulations and stipulations which relate to the exploration of petroleum resources.

GEORGE L. TURCOTT,
Acting Director.

SEPTEMBER 23, 1977.


[FR Doc. 77-29036 Filed 9-30-77; 8:45 am]

[4310-55]

Fish and Wildlife Service
THREATENED SPECIES PERMIT
Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Arlan R. Vaughn, 375 Midnight, Pueblo, Colo. 81005

 DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION		DVB NO. 42-1615 <input type="checkbox"/> IMPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT	
3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested) Arlan R. Vaughn 375 Midnight Pueblo, Colorado 81005 303-561-1569		2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED To ship and receive CSSP pheasants in interstate commerce in the course of a commercial activity for propagation purposes to enhance the survival of these species.	
4. IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: NAME: [X] MR. [] MRS. [] MISS [] MS. [] DATE OF BIRTH: 7-1-38 COLOR HAIR: Blond COLOR EYES: Brown PHONE NUMBER WHERE EMPLOYED: 544-5147 SOCIAL SECURITY NUMBER: 521-48-7703 OCCUPATION: Railroad Trainman		5. IF APPLICANT IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: NAME: [] TYPE OF BUSINESS, AGENCY, OR INSTITUTION: [] NOT APPLICABLE	
6. LOCATION WHERE ACTIVITY WILL BE CONDUCTED Interstate shipments to and from 375 Midnight, Pueblo, Colorado 81005		7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? YES [] NO [X]	
8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? YES [] NO [X]		9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF \$ []	
10. DESIRED EFFECTIVE DATE: 10-1-77		11. DURATION NEEDED: 2 years	
12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 12.12) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST ATTACHMENTS OF 50 OR MORE ATTACHMENTS ARE PROVIDED: 50 CFR 17.53			
CERTIFICATION I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001. SIGNATURE (In ink): [Signature] DATE: 9-24-77			

1. Pheasant: Brown-eared, *Crossoptilon* has a thermostat controlled wall heater. The perimeter is fenced with a 6' high solid wood fence buried at least 1' for greater protection. See enclosed pictures of pens and shelters.
2. All pens are at least 8' x 24' long and 7' high. All have shelters at least 8' x 8' constructed of galvanized iron and bottoms of runs also with galvanized iron buried 8 to 9 inches. Wire is 1" poultry netting. Each pen is equipped with good perches, hanging self-feeders and water dishes. Tropical species are housed in pens of the same above dimensions and have an insulated shelter with two windows and a door of which each shelter.

3. Arlan R. Vaughn and Loretta J. Vaughn have both successfully propagated and raised over 25 species of pheasants in the past 9 years, including all of the CSSP species listed under attachment No. 1.
4. I am willing to participate in a co-operative breeding program and maintain or contribute data on a stud book.
5. Boxes are constructed of light weight panelling approximately 5' wide by 15" high by 20" long. Each box top is padded with foam rubber and contains a bed of alfalfa leaves with grain, fruit and lettuce leaves. Tied into place in a corner is a can which contains water. Each box has sufficient air holes on all sides. Each box is constructed

for each bird so size can vary depending on the size of the bird to be shipped.

6. No Mortalities in the last 5 years.

7. This applicant should be justified because: (1) To help Establish & Preserve these species in Captivity, and in Their Pure Forms. For proper propagation methods new birds are needed from time to time so as not to become inbred.

(1) Excess stock will be sold to other established breeders and zoos that meet the requirements for their propagation. Termination of this activity is not planned at any time but birds to be disposed of would go only to established breeders of zoos for propagation thereof.


Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street, NW., Washington, D.C.

[4310-55]

THREATENED SPECIES PERMIT
Receipt of Application

Notice is hereby given that the following application for a permit is deemed to have been received under Section 4(d), 16 U.S.C. 1533(d), of the Endangered Species Act of 1973 (Pub. L. 93-205).

Applicant: Lee W. Wolcott, 24 North Pearl Street, Oakfield, N.Y. 14125

 DEPARTMENT OF THE INTERIOR U.S. FISH AND WILDLIFE SERVICE FEDERAL FISH AND WILDLIFE LICENSE/PERMIT APPLICATION		DVB NO. 42-1615 <input type="checkbox"/> IMPORT OR EXPORT LICENSE <input checked="" type="checkbox"/> PERMIT	
3. APPLICANT (Name, complete address and phone number of individual, business, agency, or institution for which permit is requested) Lee W. Wolcott 24 N. Pearl Street Oakfield, New York 14125		2. BRIEF DESCRIPTION OF ACTIVITY FOR WHICH REQUESTED LICENSE OR PERMIT IS NEEDED Propagating certain species of avian wildlife, classified as endangered or threatened wildlife and to sell or trade and also bring such birds further purpose of enhancing the survival of the species.	
4. IF APPLICANT IS AN INDIVIDUAL, COMPLETE THE FOLLOWING: NAME: [X] MR. [] MRS. [] MISS [] MS. [] DATE OF BIRTH: March 30, 1941 COLOR HAIR: Brown COLOR EYES: Blue PHONE NUMBER WHERE EMPLOYED: 218-5111 OCCUPATION: Farming		5. IF APPLICANT IS A BUSINESS CORPORATION, PUBLIC AGENCY, OR INSTITUTION, COMPLETE THE FOLLOWING: NAME: [] TYPE OF BUSINESS, AGENCY, OR INSTITUTION: [] NOT APPLICABLE	
6. LOCATION WHERE ACTIVITY WILL BE CONDUCTED 42 North Pearl Street Oakfield, New York 14125		7. DO YOU HOLD ANY CURRENTLY VALID FEDERAL FISH AND WILDLIFE LICENSE OR PERMIT? YES [] NO [X]	
8. IF REQUIRED BY ANY STATE OR FOREIGN GOVERNMENT, DO YOU HAVE THEIR APPROVAL TO CONDUCT THE ACTIVITY YOU PROPOSE? YES [] NO [X]		9. CERTIFIED CHECK OR MONEY ORDER (If applicable) PAYABLE TO THE U.S. FISH AND WILDLIFE SERVICE ENCLOSED IN AMOUNT OF \$ []	
10. DESIRED EFFECTIVE DATE: 10-1-77		11. DURATION NEEDED: 2 Years	
12. ATTACHMENTS: THE SPECIFIC INFORMATION REQUIRED FOR THE TYPE OF LICENSE/PERMIT REQUESTED (See 50 CFR 12.12) MUST BE ATTACHED. IT CONSTITUTES AN INTEGRAL PART OF THIS APPLICATION. LIST ATTACHMENTS OF 50 OR MORE ATTACHMENTS ARE PROVIDED: 50 CFR 17.53			
CERTIFICATION I HEREBY CERTIFY THAT I HAVE READ AND AM FAMILIAR WITH THE REGULATIONS CONTAINED IN TITLE 50, PART 13, OF THE CODE OF FEDERAL REGULATIONS AND THE OTHER APPLICABLE PARTS IN SUBCHAPTER B OF CHAPTER I OF TITLE 50, AND I FURTHER CERTIFY THAT THE INFORMATION SUBMITTED IN THIS APPLICATION FOR A LICENSE/PERMIT IS COMPLETE AND ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF. I UNDERSTAND THAT ANY FALSE STATEMENT HEREIN MAY SUBJECT ME TO THE CRIMINAL PENALTIES OF 18 U.S.C. 1001. SIGNATURE (In ink): [Signature] DATE: 9/6/77			

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1398-25; please refer to this number when submitting comments. All relevant comments received on or before November 2, 1977 will be considered.

Dated: September 27, 1977.

LARRY LA ROCHELLE,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office,
Fish and Wildlife Service.

[FR Doc. 77-28917 Filed 9-30-77; 8:45 am]

ATTACHMENTS FOR QUESTION 12 ON
FORM 3-200

1. Species—Brown Eared *Crossoptilon* Mantchuricum, Elliotts *Symmeticus ellioti*, Humes Bar tailed *Symmeticus humi*, mid-humiae, Mikado *Symmeticus mikado*, Swinhoe *Lophura swinhoe*.

Be able to sell or buy the above breeds within the United States.

2. Pens consist of welded wire 16 ft. wide 10 ft. long 6 ft. high with plenty of shade trees.

3. I have raised pheasants for the past 12 years and do most of the caring myself, but when leave for certain reasons a college graduate cares for them.
4. I as applicant will keep and maintain a breeding program and stud book.
5. Transportation and temporary storage are boxes made from orange crates (wood) 308 in. long, 12 in. high, two plastic cups put in crates when birds are shipped one in each corner for water feed.
6. Mortalities are very low, in past five years, two birds, Brown eared pheasant with hardware disease and Elliott died when flew into fence and broke neck. Use best medicine on the market for prevention.

7. (1) The activities sought by the applicant is to enhance the survival of the endangered or threatened species and that these species always are available.
(2) Disposition, at present have no plans for disposing, but upon demand would dispose birds to other breeders with permit, so that their survival will be continued

Documents and other information submitted in connection with this application are available for public inspection during normal business hours at the Service's office in Room 512, 1717 H Street NW., Washington, D.C.

Interested persons may comment on this application by submitting written data, views, or arguments, preferably in triplicate, to the Director (FWS/WPO), U.S. Fish and Wildlife Service, Washington, D.C. 20240. This application has been assigned File Number PRT 2-1093-25; please refer to this number when submitting comments. All relevant comments received on or before November 2, 1977 will be considered.

Dated: September 27, 1977.

LARRY LA ROCHELLE,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office,
U.S. Fish and Wildlife Service.

[FR Doc. 77-28918 Filed 9-30-77; 8:45 am]

[4310-70]
National Park Service
CLARIFICATION OF APPEALS
PROCEDURES
In a recent rulemaking notice (42 FR 30501, June 15, 1977), the National Park

Service briefly discussed appeal procedures for administrative decisions made by its officials. This rulemaking dealt with permit requirements for the sale or distribution of printed matter in park areas. One commenter had, in response to the proposed regulation, requested that an appeals procedure be included in the regulation. In response to this comment, the National Park Service stated that appeals from all administrative decisions of park Superintendents could be made to the Regional Director, the Director, and the Secretary of the Interior, successively.

Upon a review of this discussion, the National Park Service has determined that the information which was given is misleading and partially incorrect. It is the purpose of this notice, therefore, to clarify the general appeals procedures of the National Park Service.

The discussion mentioned above confused complaint procedures, wherein a person or other entity who is concerned with a governmental action will normally contact successively higher levels of an agency, with formal appeals procedures established to deal with specific processes. Except for those matters in which a right of appeal is stated in a regulation or law, there is no general right of appeal from decisions which a National Park Service official has been granted discretionary authority to make. This position is compatible with Department of the Interior regulations on appeals procedures, which specifically exempt from Departmental appeal those situations when:

"... the action of the Departmental official was based solely upon administrative or discretionary authority of such official." (43 CFR § 4.700).

Notwithstanding this limitation on formal appeals, decisions made by park Superintendents may be reviewed by appropriate Regional Directors, just as the Director may review the decisions of Regional Directors. Such reviews are discretionary with the reviewing officials and are not mandatory. Any decision made by the Director is final and may not be appealed, except as specifically provided by law or regulation.

IRA J. HUTCHISON,
Deputy Director,
National Park Service.

SEPTEMBER 21, 1977.

[FR Doc.77-29002 Filed 9-30-77;8:45 am]

[4310-10]

Office of the Secretary TRANS-ALASKA PIPELINE LIABILITY FUND

Notification of Oil Discharge Incidents

1. Purpose. To provide instructions for the reporting of oil discharge incidents by persons in charge of vessels engaged in transporting Trans-Alaska Pipeline Oil.

2. Information. The Secretary of the Interior is responsible for certain func-

tions related to the Trans-Alaska Pipeline Liability Fund, established by Congress under the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1653 (c)). The purpose of the Fund is to provide compensation for certain damages resulting from oil spills from vessels transporting Trans-Alaska Pipeline Oil from the Pipeline Terminal, Valdez, Alaska, to ports of United States jurisdiction.

Section 29.8(a) of the Trans-Alaska Pipeline Liability Fund Regulation (42 FR 31792) requires the person in charge of a vessel transporting Trans-Alaska Pipeline Oil to immediately notify the Fund if an oil discharge incident occurs between the Terminal in Valdez, Alaska and a termination port of United States jurisdiction.

3. Notification Instructions. Notification of an oil discharge incident, under the provisions of § 29.8(a) of the Trans-Alaska Pipeline Liability Fund Regulation, shall be reported to the Fund through the Duty Desk, National Response Center, U.S. Coast Guard, by calling (800-426-8802). The Duty Desk is continuously manned 24 hours a day. The person notifying the Duty Desk at the National Response Center, U.S. Coast Guard, pursuant to this notice, should indicate that the oil discharge incident involves a vessel carrying oil which has been transported through the Trans-Alaska Pipeline System.

Signed at Washington, D.C., this 23rd day of September, 1977.

LARRY E. MEIEROTTO,
Deputy Assistant Secretary of
the Interior and Secretary to
the Board of Trustees.

SEPTEMBER 23, 1977.

[FR Doc.77-28949 Filed 9-30-77;8:45 am]

[4310-10]

[Order No. 3010]

ESTABLISHMENT OF ASSISTANT SECRETARY—INDIAN AFFAIRS

SEPTEMBER 26, 1977.

Sec. 1 Purpose. This order provides for the establishment of the position of Assistant Secretary—Indian Affairs in the Secretariat of the Department of the Interior. This action is being taken in accordance with the authority provided by 43 U.S.C. 1453 and 1454, and Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Sec. 2 Establishment of Position. An Assistant Secretary—Indian Affairs is hereby established to administer the laws, functions, responsibilities, and authorities related in Indian affairs matters. In addition to serving as an Assistant Secretary of the Department, the Assistant Secretary—Indian Affairs will assume all the authorities and responsibilities of the Commissioner of Indian Affairs pending subsequent organization and position realignments.

Sec. 3 Authority. (a) The Assistant Secretary—Indian Affairs will have the authority of Assistant Secretaries of the Interior as described in 210 DM 1.2.

(b) The Assistant Secretary—Indian Affairs may redelegate the authority delegated in 210 DM 1.2A, except where prohibited by statute, Executive Order, or limitations established by other competent authority. Such delegations will be restricted to authorities currently published in Parts 205 and 230 of the Departmental Manual and to any authorities which were delegated to the Commissioner of Indian Affairs or the Bureau of Indian Affairs prior to the effective date of Reorganization Plan 3 of 1950 and which are not now specifically delegated to some other official.

(c) All authority delegated to the Commissioner of Indian Affairs is hereby revoked. Redelegations of authority within the Bureau of Indian Affairs which are based on 205 DM, 230 DM, and any authorities that were delegated to the Commissioner of Indian Affairs or the Bureau of Indian Affairs prior to the effective date of Reorganization Plan No. 3 of 1950, are hereby temporarily reinstated pending a general review of the activities of the bureau. Such reinstated authority will be subject to amendment and/or revocation by the Assistant Secretary—Indian Affairs.

Sec. 4 Effective Date. This order will become effective on the day the Assistant Secretary—Indian Affairs assumes office. It will remain in effect until its provisions are incorporated in the Departmental Manual, or until it is superseded or revoked. In the absence of the foregoing actions, this order will be considered obsolete one year after date of signature.

Dated: September 26, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc.77-29005 Filed 9-30-77;8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration CONTROLLED SUBSTANCES IN SCHEDULE II

Proposed 1977 Revised Aggregate Production Quota—Mixed Alkaloids of Opium

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On June 27, 1977, a notice of the final revised aggregate production quota for Mixed Alkaloids of Opium was published in the FEDERAL REGISTER (42 FR 32590-32591). Since the finalization of this quota, DEA has been made aware of increased export demands placed on the domestic manufacturer of dosage forms containing this substance.

One of the factors which the Administrator of the Drug Enforcement Ad-

ministration is required to consider, pursuant to § 1303.11 of Title 21 Code of Federal Regulations, when establishing quotas, is export requirements. Considering this factor as well as the other factors listed in § 1303.11 of Title 21 Code of Federal Regulations, the Administrator has deemed that it is necessary to allow the production during 1977 of additional amounts of Mixed Alkaloids of Opium. Therefore, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations does hereby propose the following change of the aggregate production quota for 1977 for Mixed Alkaloids of Opium expressed in grams in terms of anhydrous base:

Base Quota	Aggregate production quota	
	Previously authorized	Proposed revised
Mixed Alkaloids of opium	0.000	30,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. The comments or objections should state with particularity the issues concerning which the person desires to be heard. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by October 26, 1977. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in his sole discretion, warrants a full adversary-type hearing, the Administrator shall order a public hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing.

Dated: September 27, 1977.

PETER B. BENSINGER,
Administrator.

[FR Doc.77-28909 Filed 9-30-77;8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION RESOURCE CENTER FOR SCIENCE AND ENGINEERING PROGRAM

Draft Guidelines

The National Science Foundation plans to publish guidelines for the preparation of proposals for the Resource Center for Science and Engineering Program for FY 1978 on or about December 1, 1977. Draft guidelines for the Program follows.

Persons wishing to comment on these guidelines should write:

Dr. Shirley McBay, Resource Center for Science and Engineering Program, Division of Science Education Resource Improvement, National Science Foundation, Washington, D.C. 20550.

All comments must be received by October 12, 1977. Final guidelines will be published in the FEDERAL REGISTER on or about December 1, 1977.

WALTER L. GILLESPIE,

Division Director, Science Education Resource Improvement.

DRAFT GUIDELINES FOR PREPARATION OF PROPOSALS

RESOURCE CENTER FOR SCIENCE AND ENGINEERING PROGRAM

Stage One Proposal Dates

Receipt Date: February 17, 1978

Notification Date: Mid-March, 1978

Stage Two Proposal Dates

Receipt Date: May 19, 1977

Announcement of Selection of Resource Center Site

Early September, 1978

National Science Foundation Division of Science Education Resource Improvement
Washington, D.C. 20550

INSIDE FRONT COVER

1. EXCERPT FROM FY 1978 NSF AUTHORIZATION LAW

The FY 1978 Budget for the Resource Center for Science and Engineering Program is approximately \$2.6 million.

The following is an excerpt from the FY 1978 NSF Authorization Law (Pub. L. 95-99) regarding the Resource Center for Science and Engineering Program, Section 6(a), (b): "Sec. 6(a) The National Science Foundation shall establish a Resource Center for Science and Engineering to be located at an educational institution which—

(1) Enrolls substantial numbers of minority students, students from low-income families, or both;

(2) Is geographically located near one or more population centers of low-income families or minority groups;

(3) Demonstrates a commitment to encouraging and assisting minority students or students from low-income families or both; and

(4) Has an existing or developing capacity to offer doctoral programs in science and engineering.

(b) The Center established under this section shall—

(1) Support basic research and acquisition of necessary research facilities and equipment;

(2) Serve as a regional resource in science and engineering for the community which the Center serves; and

(3) Develop joint educational programs with nearby pre-college and undergraduate institutions which enroll a substantial number of minority students or students from low-income families."

TABLE OF CONTENTS—RCSE GUIDE

I. Excerpt from FY 1978 NSF authorization Law.

II. Graphic Description of Proposal and Selection process.

III. Program Description. General Purpose and Objectives, Description of Center Concept, Types of Support, Eligibility and Limitations, Types of Proposals.

IV. Preparation and Submission of Initial Proposals—Stage One. Proposal Format and Content, Local Review Statement, Materials Required, Receipt Date and Projected Notification Date.

V. Preparation and Submission of Final Proposals—Stage Two. Proposal Format and Content, Information on Current and Proposed Projects, Summary Information on Previous NSF Awards, Local Review Statement, Materials Required, Receipt Date, Projected Award Date.

VI. Evaluation Criteria and Procedures for Award Site Visits.

*VII. General Requirements and Information. Access to Peer Review Information, Confidential Aspects of Proposals, Awards, Assurance of Compliance with Civil Rights Act, NSF Monitoring and Evaluation of Resource Center Award Indicators, Costs, General Fiscal Information.

*VIII. Guide for Operation of Project Conditions of the Grant, NSF Grants, Project Director, Project Reports.

*IX. Appendix. Forms Required for Proposals, Acknowledgement Card, Intent to Submit Card.

III. PROGRAM DESCRIPTION

STAGE ONE

FEB. 17	RECEIPT OF PROPOSALS AT FOUNDATION
FEB. 23-24	PANEL REVIEW
MID-MARCH	NOTIFICATION DATE OF RESULTS OF PANEL AND STAFF REVIEW

STAGE TWO

MAY 19	RECEIPT OF FINAL PROPOSALS FROM SELECTED STAGE ONE APPLICANTS
MAY 24-26	PANEL REVIEW
JUNE 5-14	SITE VISITS TO TOP 2 RANKING INSTITUTIONS

STAGE THREE

EARLY SEPTEMBER ANNOUNCEMENT OF SELECTION OF RESOURCE CENTER
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III. PROGRAM DESCRIPTION

Introduction

The Resource Center for Science and Engineering (RCSE) Program is a successor to the Fiscal Year 1977 Minority Centers for Graduate Education in Science and Engineering Program. In Fiscal Year 1978, the Foundation is authorized and directed to support the establishment in one Resource Center as characterized in the legislative excerpt on the Inside Front Cover of this Guide. Subject to the availability of funds, it is the Foundation's intent to establish additional centers over a period of time.

General Purpose and Objectives

The Resource Center for Science and Engineering Program is designed to promote increased participation in science and engineering by minorities* and persons from low-income families*.

*Segments omitted in this FEDERAL REGISTER Draft are substantially similar to standard NSF descriptions.

*See page 3 for definitions.

The Program seeks to expand the options in science and engineering of minority students and students from low-income families by assisting eligible institutions in their efforts.

To increase the application of such students.

To increase the number of doctorates in science received by these students.

To provide such students with role models in science and research opportunities with established scientists.

To provide faculty associated with the Resource Center with academic research career options and to increase their scholarly productivity.

In Fiscal Year 1978 support will be provided for the establishment of a single center geographically located near one or more population centers of minority groups or low-income families which will (1) support basic research, (2) serve as a regional resource in science and engineering, and (3) develop joint educational programs with nearby pre-college and under graduate institutions enrolling substantial numbers of minority students or students from low-income families.

Science as defined for the purposes of this Program includes the biological, engineering, mathematical, physical, and social sciences, the history and philosophy of science, and interdisciplinary fields which are comprised of overlapping areas among two or more sciences (e.g., biophysics, geochemistry, biochemistry).

Description of the Center Concept

Applicant institutions are expected to develop proposals based upon this Guide for the establishment of a Resource Center that is regional in function with activities appropriate to the institutional and community context in which the Center would exist.

A Resource Center must serve a variety of functions for the various constituents of the region in which it is located. For the minority student or the student from a low-income family, a Resource Center should:

Provide access to established scientists on its faculty.

Offer a variety of quality science programs.

Have faculty and programs reflecting sensitivity to the needs of ethnic minority students or students from low-income families.

Have demonstrated strength in the performance of basic research.

Possess a demonstrable history for the admission and retention through graduation of minority students or students from low-income families.

Have visible and functional faculty to serve as role models for these students.

Possess substantial support programs including counseling, guidance, financial and tutorial assistance.

Provide a favorable student atmosphere for developing self interests and for learning.

For the minority faculty member at the grantee institution, a Resource Center should:

Have a demonstrated commitment to minority faculty as evidenced by its past, present and projected future record with respect to their hiring, promotion, and tenure.

Provide optimum conditions for research by and the professional development of its faculty.

For the academic community at the grantee institution, a Resource Center should:

Facilitate information exchange between its various science departments.

Coordinate activities among its departments and university administration as they relate to the specific needs and benefit of minority students or students from low-income families.

For the nearby community, a Resource Center should:

Enhance information exchange between academia and the lay community.

Function as a forum through which local scientific needs and interests can be expressed.

Serve as a medium for on-going, long-term inquiry and monitoring of research activities relevant to the scientific needs and priorities of the community.

Encourage the most talented students in the local community to consider choosing careers in science and engineering.

Types of Support

In general, support may be provided in this Program for a variety of activities in science research or science education, not excluded elsewhere in this Guide, which will aid the grantee in developing its capacity to function as a Resource Center as described in previous sections.

Supportable activities may include, but are not limited to, the purchase of scientific instructional or research equipment and supplies, research assistantships for students, library additions; strengthening of existing curricula; addition of graduate level science faculty; visiting scientists; student attendance at professional meetings; minor renovation of physical facilities; efforts to increase communication and facilitate scientific interchange between the Resource Center and neighboring undergraduate institutions with substantial enrollments of minority students or students from low-income families; development of outreach and educational programs for the community(ies) which it serves and for nearby pre-college institutions which enroll a substantial number of minority students or students from low-income families; and the use of consultants in planning and evaluation efforts.

Activities may also include cooperative programs with industry, faculty and student exchange programs, workshops, institutes, and programs to increase the awareness by students, their parents and teachers concerning the diversity of science careers. These examples should be considered as illustrative and not as limiting or required components of projects.

Eligibility and Limitations

Institutions eligible to submit proposals in Fiscal Year 1978 to the Resource Center Program are graduate degree granting institutions, or groups of institutions of higher education involving at least one graduate degree granting institution, which meet all of the criteria listed below:

Enroll substantial numbers of minority students, students from low-income families, or both.

Are geographically located in or near one or more population centers of low-income families or minority groups.

Substantial—at least 800 full-time minority students and/or students from low-income families, including undergraduate, and graduate, at least 50 of which must be enrolled beyond the junior level in the natural or physical sciences or engineering and at least 50 of which must be enrolled beyond the junior level in the social sciences.

Minority—includes Alaskan Natives, American Indians, Blacks, Mexican-Americans, Puerto Ricans and/or other disadvantaged ethnic minorities who are under-represented in science and engineering. A proposing institution's minority enrollment may be predominantly a single minority group or a combination of the minority groups described above.

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Encourage the most talented students in the local community to consider choosing careers in science and engineering.

Low-Income Family—A family whose adjusted family income is less than \$7,500.

Have a demonstrated commitment to encouraging and assisting minority students or students from low-income families, or both;

Have an existing or developing capacity to offer doctoral programs in science and engineering and currently offer at least the master's degree in three or more areas of science.

Are willing to support basic research and the acquisition of necessary research facilities and equipment.

Are willing to serve as a regional resource in science and engineering for the nearby community of minority groups or low-income families.

Are willing to develop joint educational programs with nearby pre-college and undergraduate institutions which enroll a substantial number of minority students or students from low-income families.

A group of institutions submitting a cooperative or consortium proposal to the program must, when considered as a single entity, satisfy the criteria listed above.

A proposal for the establishment of the Center is expected to involve several science disciplines as opposed, for example, to only involving mathematics or only involving engineering.

The grant request should be for approximately \$2.6 million to be expended over a three to five year period.

Assurance of renewal support of the Center to be established in this Program is not possible. Therefore, any proposed achievements primarily dependent upon Foundation support should be attainable within the grant period. This does not exclude, of course, the inclusion of proposed achievements dependent upon institutional or other external support which may be attainable during or following the grant period. Proposals should describe long range plans for the Resource Center, including how the institution proposes to maintain the Center after NSF funding ceases.

A proposal must address the needs of the principal minority or low-income groups in the region that the Center would be serving, for it is unlikely that, within the foreseeable future, more than one Center will be established within a given region.

An institution, whether submitting a proposal on its own behalf or as a part of a group of institutions, is eligible to submit or participate in only one proposal. Participation in the Resource Center Program does not in any way affect an institution's eligibility to submit proposals or receive support from other Foundation programs.

Types of Proposals

Proposals may be submitted by any eligible institution or eligible group of institutions in Stage One of the Resource Center selection process. Final proposals will be accepted in Stage Two from institutions represented in the six ranking proposals of Stage One. These proposals are expected to contain revisions of the original proposals, based upon reviewer and staff comments. Only proposals from these six institutions will be reviewed in Stage Two.

Final proposals are generally expected to differ in content from initial proposals in the following ways:

Extent of Narrative and Budget details;

Extent of supportive documents;

Curriculum Vitae for consultants;

Information on other areas identified in reviewer and staff comments;

Information on Current and Proposed Projects and on Previous NSF Awards.

The preparation and submission of each type of proposal is discussed in subsequent sections of this Guide.

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Final proposals are generally expected to differ in content from initial proposals in the following ways:

Institutions planning to submit Stage One proposals should complete and mail the Intent to Submit Card found on the Back Cover of this Guide by January 6, 1978.

IV. PREPARATION AND SUBMISSION OF INITIAL PROPOSALS—STAGE ONE

Proposal Format and Content

Proposals must contain the following in the order listed:

Cover Sheet;

Estimated Budget Sheet;

Institutional Data Sheet;

Narrative;

Curriculum Vitae of Key Project Personnel;

Local Review Statement.

Forms for the Cover Sheet, Estimated Budget Sheet, and the Institutional Data Sheet are exhibited in the Appendix. These forms should be reproduced and used in the preparation of proposals.

Budget

Estimated budget figures are permissible in Stage One. Budget guidelines and exclusions are discussed under General Fiscal Information on page 13.

Narrative

The Narrative should not exceed twenty (20) double spaced pages, typed on one side only. It should set forth the proposed plan for the establishment of a Resource Center designed to accomplish Program objectives as reflected in this Guide and in the Program's authorizing legislation which is reproduced on the Inside Front Cover.

Specific topics which should be discussed in the Narrative include the following:

Appropriateness/Eligibility of Institution as a Resource Center. Describe how applicant meets each of the eligibility criteria outlined on page 3. Summarize evidence of past, present, and future commitment to encouraging minority students and/or students from low-income families. Give a brief description of how the proposed plan was developed. Provide justification for this institution as the appropriate site for the Center.

Project Objectives, Strategy, and Activities. Describe project objectives, their relevance to stated Program objectives, and the proposed strategy for accomplishing them. Discuss the activities which collectively comprise the project plan. For each activity, indicate (a) the appropriateness for undertaking it, (b) how it contributes to attaining project objectives, and (c) how it complements other components of the plan.

Organization/Management and Work/Monitoring/Evaluation Plan. Describe briefly how the project will be organized and managed including a summary description of relevant skills of key personnel involved in the project. Present a timetable giving major milestones envisioned for the project as well as a procedure for monitoring project progress. Outline an evaluation plan for determining whether project objectives are being accomplished.

Expected Outcomes. Describe the overall expected outcomes of the project and its potential impact upon the institution, the student groups to be served, and the nearby community.

Plan for Continuation. Discuss a general plan for integrating project activities of a continuing nature into the institution(s)' educational program and budget after Foundation support ceases.

Curriculum Vitae for Key Project Personnel should be appended to the Narrative.

V. LOCAL REVIEW STATEMENT

A local review statement signed by the chief executive officer of the institution

must be appended to the proposal. This statement should indicate how the proposed project relates to overall institutional goals, the institution's general support for the proposed effort and its willingness to provide the necessary institutional resources for successful project implementation. This statement must clearly indicate the institution's willingness to cooperate in special monitoring requirements necessary in a project from which regular feedback must be obtained for future program planning. See page 13 for discussion of NSF monitoring and evaluation of the project.

In the case of a proposal submitted by a group of institutions, a local review statement must be included from each of the participating institutions.

Materials Required

Fifteen (15) copies of the proposal (including the Signature Copy) along with three (3) copies of the catalog of the graduate institution(s) involved in the proposal are required.

Proposals and catalogs should be mailed in a single package to:

Central Processing Section for Resource Center in Science and Engineering Program, Division of Science Education Resources Improvement, National Science Foundation, Washington, D.C. 20550.

Each copy of a proposal should be on standard (8½" by 11") paper, printed on one side only, and stapled only in the upper left hand corner with no covering or binding material.

To facilitate prompt acknowledgment of the arrival of the package at its destination, the proposer should cut out the two postcards for Stage One initial proposals from the Back Cover of this Guide, fill them in to identify the proposal, address one card to the project director and the other to the official authorized to sign the Cover Sheet, and attach them firmly to the Signature Copy of the Cover Sheet.

Receipt Date and Projected Notification Date

All proposals must be received in the Foundation by close of business on February 17, 1978. No exceptions will be made to this requirement. Proposers will be notified of the outcome of the proposal review process about mid-March, 1978. Prior to this notification, no information can be given on the probable outcome of any proposal.

V. PREPARATION AND SUBMISSION OF FINAL PROPOSALS—STAGE TWO

Final proposals will be accepted from the institutions submitting the six ranking proposals in Stage One. They are expected to be revisions of the proposals originally submitted, based upon reviewer and staff comments. General differences between initial proposals and final proposals are discussed on page 5.

While final proposals are revisions, they must be self-contained since they will be the subjects of a separate review.

Proposal Format and Content

Final proposals must contain the following in the order listed:

Cover Sheet for Final Proposals;

Proposal Budget Sheet, NSF Form 1030;

Budget Details and Justification;

Institutional Data Sheet;

Information on Current or Proposed Projects;

Summary Information on Previous NSF Awards;

Abstract;

Narrative;

Curriculum Vitae of Key Project Personnel and Consultants;

Local Review Statement.

Forms for the Cover Sheet, Proposal Budget Sheet (NSF Form 1030) and the Institutional Data Sheet are exhibited in the Appendix. These forms should be reproduced and used in the preparation of final proposals.

Budget Details and Justification

Immediately following the Budget Sheet, details and justification must be provided for each major budget category.

Information on Current or Proposed Projects

Each proposal must list all current projects, in addition to the proposed project to which the senior personnel have committed a portion of their time, whether or not salary for the person involved is included in the budgets of the various projects. This information should include the titles and dates of current grants or contracts, the source of funds, annual budget levels, and the person-months devoted to each project by each of the senior personnel.

The proposal must also provide analogous information for all other proposed projects which are being considered by, or which will be submitted in the near future to, other possible sponsors including other Foundation programs. Concurrent submission of a proposal to other organizations will not prejudice its review by the Foundation.

Summary Information on Previous NSF Awards

An institution, whether submitting an individual proposal or participating in a proposal submitted by a group of institutions, that has received any previous grant of more than \$100,000 from the National Science Foundation within the last three years must prepare a brief summary statement containing the following information for each such grant:

A. Grant number, title, date, and amount.

B. Summary of objectives and activities.

If any of these awards relate specifically to minority students or students from low-income families, then evidence of success in attaining the objectives of each such award should be given.

Abstract

The Abstract, of no more than two pages in length, should present a synopsis of the proposed plan for the establishment of the Resource Center. If the proposed project is funded, the Abstract will be available to the public. The Abstract should therefore be written in language which can be understood by the general public.

Narrative

The Narrative should be no more than 50 pages in length. Specifically, each of the topics discussed in the Narrative of initial proposals from Stage One and described on page 5 should be addressed in detail. Major questions or deficiencies of the initial proposal which were identified in the review process should be addressed under the appropriate Narrative topic.

Summary Information on Previous NSF Awards

Abstract;

Narrative;

Information on Current or Proposed Projects;

Summary Information on Previous NSF Awards;

Abstract;

Narrative;

Information on Current or Proposed Projects;

Summary Information on Previous NSF Awards;

Abstract;

Narrative;

Information on Current or Proposed Projects;

Summary Information on Previous NSF Awards;

Abstract;

Narrative;

Information on Current or Proposed Projects;

Summary Information on Previous NSF Awards;

Abstract;

Narrative;

Information on Current or Proposed Projects;

Summary Information on Previous NSF Awards;

Abstract;

Narrative;

Information on Current or Proposed Projects;

Summary Information on Previous NSF Awards;

Abstract;

Narrative;

Information on Current or Proposed Projects;

Summary Information on Previous NSF Awards;

Abstract;

Narrative;

Information on Current or Proposed Projects;

Summary Information on Previous NSF Awards;

Abstract;

Narrative;

Curriculum Vitae

Curriculum Vitae of Key Personnel and Consultants should be appended to the Narrative.

Local Review Statement

A Local Review Statement is described on page 6 and must be included in the final proposal.

Material Required

Fifteen (15) copies of the final proposal (including the Signature Copy) are required. Proposals should be mailed in a single package.

General Processing Section of Resource Center for Science and Education Program, Division of Science Education Resources Improvement, National Science Foundation, Washington, D.C. 20550.

Each copy of a proposal should be on standard (8 1/2 by 11 1/2) paper printed on one side only, and stapled only in the upper left hand corner with no gluing or binding material.

To facilitate prompt processing of the arrival of the package at its destination, the proposer should cut out the two postcards for Stage Two final proposal, from the Back Cover of this Guide, fill them in to identify the proposal, address one card to the project director and the other to the official authorized to sign the Cover Sheet, and attach them firmly to the Cover Sheet of the Signature Copy. When the packages arrives, the date of receipt and an assigned proposal number will be stamped on the card before it is returned so that thereafter the proposer and the Foundation may refer to this proposal number in correspondence about the proposal.

Receipt Date and Project Award Date

All final proposals must be received in the Foundation by close of business on May 19, 1978. No exceptions will be made to this requirement. The projected Award Date will be in early September, 1978.

Proposers should submit written notification of any developments, following submission of the proposal, that might significantly affect the proposed plan. The Program staff will contact proposers if additional information is required. All final decisions will be announced by written notification to the project director and to officials of the proposing institution. Prior to this notification, no information can be given on the probability of support for any proposal.

VI. EVALUATION CRITERIA AND PROCEDURE

The excellence of Foundation supported activities is heavily dependent upon advice received from the scientific and educational communities. Proposals will be reviewed competitively at each stage by panels which include representation of minority scientists and educators and other persons knowledgeable of minority or low-income communities to be served as well as by Foundation Staff. All proposals will be examined to determine the applicant's eligibility for participation in the Program on the basis of the criteria listed on Page 3.

At each stage, proposals will be evaluated according to the following criteria:

Congruence with Program Goals: How relevant are the objectives of the proposed project to stated program goals?

Demonstrated Commitment to Encouraging and Assisting Minority Students of Students from Low-Income Families, or Both: What is the institution's past record (recruitment, retention, number of graduates) regarding such students? Provision of role models as reflected in past record (hiring, retention, promotion, tenure, with respect to minority faculty? Support facilities (counseling, financial aid, tutorial assistance)? Funding of institutional funding vs. external funding of programs for minority students from low-income families? What are its future plans with respect to all of the above?

Institution's Potential as the Center Location: Has the proposing institution identified significant ways in which it would be able to serve as a resource in science and engineering to nearby population centers of minority groups or low-income families and to nearby pre-college and undergraduate institutions with substantial enrollments of students from minority groups of low-income families? Has the institution made a compelling case for why it would be best suited to serve as the Center site? Is there a significant indication of institutional commitment for the proposed plan?

Appropriateness and Adequacy of the Plan for the Proposed Objectives: How appropriate are the proposed activities to the proposed objectives? Is the proposed plan likely to achieve the stated objectives?

Adequacy of Organization Management and Work Monitoring/Evaluation Plan: Are the skills and experience of key project personnel appropriate for the implementation of the proposed project? Do the teaching and administrative arrangements made for project personnel provide them with adequate time to devote to the project? Is the time schedule described in the proposal appropriate? Are the milestones listed realistic? Is the described monitoring/evaluation plan acceptable?

Impact Potential of Project on the Institution or Nearby Minority and/or Low-Income Community: Is the likely gain by the institution and the nearby minority community or community of low-income families from the implementation of the proposed project substantial?

Overall Scientific and Educational Value of the Project: Do the techniques and approaches proposed reasonably reflect what is known to be effective in science education? Are the approaches proposed appropriate to the needs of the student populations to be served? Is there potential transferability of the various aspects of the project to other institutions? Are the proposed activities in basic research reasonable and appropriate to the institutional setting?

Panelists will be instructed to place greater emphasis upon the following:

The Proposed Objectives and Activities of the Plan.

Demonstrated Commitment (past, present, and projected) to Encouraging and Assisting Minority Students or Students From Low-Income Families, or Both.

Institution's Potential as the Resource Center Location.

Impact Potential of Project on the Institution and the Nearby Minority and/or Low-Income Community:

Six applicants will be invited to submit revised proposals for review in the second stage of the Resource Center selection process. In determining which proposers will participate in the second stage, selection will be made in merit order. In cases of proposals with substantially equal merit, as determined by the merit review process, use may be made of other criteria such as geographical or disciplinary distribution of funds, distribution of awards among appropriate types of institutions, or other criteria determined to be consistent with Foundation policy and legislative intent.

Pre-Award Site Visits

It is expected that a five member team composed of recognized scientists and educators and others knowledgeable of institutional planning/budgeting, and Foundation Staff will make two-day site visits to each of the three top applicants resulting from the Stage Two review process. These visits will be primarily for the purpose of consulting with proposed key project personnel, institutional officials, faculty, and other appropriate persons to resolve, to the extent possible, any major questions regarding the applicant's proposed plan and its appropriateness as the site of the Resource Center.

Applicants will receive written notification of the status of their proposals at the various stages.

FROM SECTION VII**General Fiscal Information—Budget Guidelines**

See page 4 for limitations on grant duration and size. Proposals are expected to involve a diversity of activities, as opposed to being one-dimensional, therefore no single budgetary request (e.g., equipment, faculty and staff salaries, renovation, etc.) should comprise more than 35 percent of the total support requested.

Specific exclusions exist for requesting Foundation support. NSF funds will not be provided for:

Student scholarships or fellowships (but student wages for special activities in the project are permitted as are student research assistantships).

Augmenting the salary rate for faculty members pursuing regularly assigned duties, or to support any other ongoing regular activity at the institution; or

The construction of major new buildings. This does not preclude Foundation support for such remodeling or renovation of existing facilities as may be required to carry out activities which are a part of the proposed Resource Center.

NSF Monitoring and Evaluation of Resource Center Award

Proposers should be aware that the Foundation shall monitor and evaluate the Resource Center project. Thus proposers should be prepared to cooperate with evaluators eventually retained by the Foundation as well as to cooperate in any special monitoring requirements which might be established.

INSTITUTIONAL DATA (Required of Initial and Final Proposals)

DATA ** ON STUDENTS FROM LOW-INCOME FAMILIES NOT INCLUDED IN MINORITY DATA

NAME OF INSTITUTION

	Total for Inst.	Total for Nat. & Phys. Sci.	Total for Soc. Sci.	Total for Eng.	MINORITY DATA			
					Total for Inst.	Total for Nat. & Phys. Sci.	Total for Soc. Sci.	Total for Eng.
1. Faculty (F.T.E.)								
2. Undergraduate Student Body (F.T.E.)								
3. Graduate Student Body (F.T.E.)								
4. Undergraduate Degrees Awarded Last AY								
5. Graduate Degrees Awarded Last AY—Master's Level Only								
6. Graduate Degrees Awarded Last AY—Doctorate Level Only								
7. Educational and General Budget								
8. Average Faculty Salary								
9. No. of Library Volumes								

* See Footnote on Page 3 for definition of "Minority." (This section should be completed only if student group to be served consists primarily of minority students)

** See Footnote on Page 3 for definition of low-income families (This section should be completed only if student group to be served consists primarily of non-minority students from low-income families)

[FR Doc. 77-28902 Filed 9-30-77; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-314]

ARKANSAS POWER AND LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR-51, issued to Arkansas Power and Light Co. (the licensee), which revised the Technical Specifications for operation of Arkansas Nuclear One—Unit No. 1 (the facility) located in Pope County, Ark. The amendment is effective as of its date of issuance.

The amendment modified the Technical Specification pressure-temperature limit curves for hydrostatic test, normal heatup, and normal cooldown, as required by Technical Specification 3.1.2.7 and as based upon analysis of surveillance capsule ANI-E, which was withdrawn from the Arkansas Nuclear One—Unit 1 reactor vessel in Spring 1976.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated July 8, 1977, (2) Amendment No. 28 to Facility Operating License No. DPR-51, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Arkansas 72801. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 14th day of September, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc 77-28791 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket No. 70-1308]

GENERAL ELECTRIC CO.

Establishment of Atomic Safety and Licensing Board To Rule on Petitions

Pursuant to delegation by the Commission dated December 29, 1972, published in the FEDERAL REGISTER (37 FR 28710) and Sections 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.721 of the Commission's Regulations, all as amended, an Atomic Safety and Licensing Board is being established to rule on petitions and/or requests for leave to intervene in the following proceeding:

GENERAL ELECTRIC CO.

(GE MORRIS OPERATION)

[Material License No. SNM-1265]

This action is in reference to a notice published by the Commission on August 18, 1977, in the FEDERAL REGISTER (42 FR 41675) entitled "Consideration of Proposed Modification to GE Morris Operation Fuel Storage Facility".

The members of the Board and their addresses are as follows:

Andrew C. Goodhope, Esq., Chairman, 3320 Estelle Terrace, Wheaton, Md. 20906.
Dr. Linda W. Little, Member, Research Triangle Institute, P.O. Box 12194, Research Triangle Park, N.C. 27709.
Dr. Forrest J. Remick, Member, 305 E. Hamilton Avenue, State College, Pa. 16801.

Dated at Bethesda, Md., this 26th day of September 1977.

JAMES R. YORE,
Chairman, Atomic Safety and Licensing Board Panel.

[FR Doc 77-28792 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket No. 50-298]

NEBRASKA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Operating License No. DPR-46, issued to the Nebraska Public Power District (the licensee), which revised Technical Specifications for operation of the Cooper Nuclear Station (the facility) located in Nemaha County, Nebr. The amendment is effective as of its date of issuance.

The amendment consists of Technical Specification changes to incorporate approved exemptions from certain requirements of 10 CFR Part 50 Appendix J regarding main steam isolation valve leak rate testing, main steam line and feedwater line bellows leak rate testing, and extension of the test interval for Type C leak rate testing for the Cooper Nuclear Station.

The applications for amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings

as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the requests for exemption dated September 10, 1975 and January 4, 1977, as supplemented by letter dated April 4, 1977, (2) Amendment No. 38 to License No. DPR-46, and (3) the Commission's concurrently issued Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305. A single copy of items (2) and (3) may be obtained upon request addressed to the United States Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of September, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc 77-28788 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket No. 50-285]

OMAHA PUBLIC POWER DISTRICT

Issuance of Amendment to Facility Operating License and Negative Declaration

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR-40, issued to Omaha Public Power District, which revised Technical Specifications for operation of the Fort Calhoun Station, Unit No. 1 located in Washington County, Nebr. The amendment is effective as of its date of issuance.

The amendment amends section 1-1 of the Environmental Technical Specifications to allow: (1) an increase in the allowable condenser cooling water temperature rise during winter months and (2) the limits on condenser cooling water temperature rise to be exceeded for brief periods when required by facility operation.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Com-

mission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated August 1972.

For further details with respect to this action, see (1) the application for amendment dated August 13, 1976, as superseded in its entirety by letter dated March 14, 1977, (2) Amendment No. 30 to License No. DPR-40, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Blair Public Library, 1665 Lincoln Street, Blair, Nebr. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 23rd day of September 23, 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc 77-28793 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket Nos. 50-275 OL; 50-323 OL]

PACIFIC GAS & ELECTRIC CO.; (DIABLO CANYON NUCLEAR POWER PLANT, UNITS 1 & 2)

Order Relative to an Evidentiary Hearing on Nonseismic Issues

The evidentiary hearing on the adequacy of the Emergency Plan will begin at 10:00 a.m. (local time) on October 18, 1977 in the Cavalier Room, San Luis Bay Inn, Marre Ranch, Avila Beach, Calif. The Board will also expect the NRC Staff to furnish a witness to sponsor the Revised Table S-3 values on the Diablo Canyon cost/benefit balance.

The public is invited to attend. Limited appearance statements will be invited at this proceeding from those persons who have not previously given a statement. Oral statements will be limited to five (5) minutes but written statements without limitation on length may be submitted.

Be it so ordered.

Issued at Bethesda, Md., this 23rd of September, 1977.

For the Atomic Safety and Licensing Board.

ELIZABETH S. BOWERS,
Chairman.

[FR Doc 77-28787 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket No. 50-333]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-59, issued to the Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. Fitzpatrick Nuclear Power Plant (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

The amendment revises the Technical Specification provisions with respect to the schedule for installation and removal of a neutron flux monitor.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment submitted by letter dated August 31, 1977, (2) Amendment No. 29 to License No. DPR-59, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Oswego County Office Building, 46 E. Bridge Street, Oswego, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of September 1977.

For the Nuclear Regulatory Commission.

GERALD B. ZWETZIG,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc 77-28789 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket No. 50-343]

POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 30 to Facility Operating License No. DPR-59, issued to Power Authority of the State of New York (the licensee), which revised Technical Specifications for operation of the James A. Fitzpatrick Nuclear Power Plant (the facility) located in Oswego County, N.Y. The amendment is effective as of its date of issuance.

The amendment authorizes operation of the facility with: (1) 8 x 8 reload fuel bundles with 100 mil channels, (2) holes drilled in the lower tie plate of all reload fuel bundles and all first cycle fuel remaining in the core after refueling, (3) independent power supplies for the Low Pressure Coolant Injection System Motor Operated Valves, (4) the valve of the control rod drive hydraulic return line placed in the closed position, and (5) limiting Maximum Average Planar Linear Heat Generation Rates as determined by a reevaluation of the Emergency Core Cooling System (ECCS) cooling performance. Effective upon issuance of this amendment, the Commission's Order for Modification of License dated March 11, 1977, relative to Facility Operating License No. DPR-59, is terminated.

The applications for the amendment comply with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with Items 1 and 2 of this action was published in the FEDERAL REGISTER on June 23, 1977 (42 FR 31847). A similar Notice in connection with Item 5 of this action was published in the FEDERAL REGISTER on July 22, 1977 (42 FR 37608). No requests for a hearing or petition for leave to intervene were filed following these notices of the proposed action. Prior public notice of Items 3 and 4 was not required since they do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment submitted by letters dated May 16 and July 23, 1977, as supplemented, (2) the licensee's request dated July 7, 1977, as revised July 29, 1977, and supplemented, (3) Amendment No. 30 to License No. DPR-59, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the Oswego County Office Building, 46 East Bridge Street, Oswego, N.Y.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 16th day of September 1977.

For the Nuclear Regulatory Commission.

GERALD B. ZWETENI,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 77-28794 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket No. 50-3-3, 70-304]

TENNESSEE VALLEY AUTHORITY; (PHIPPS BEND NUCLEAR PLANT, UNITS 1 AND 2)

Oral Argument

Notice is hereby given that, in accordance with the Appeal Board's order of September 22, 1977, oral argument on the ruling referred by the Licensing Board's order of April 20, 1977, is calendared for 10 a.m., Wednesday, October 26, 1977, in the Nuclear Regulatory Commission's Public Hearing Room, 5th floor, East-West Towers, 4350 East West Highway, Bethesda, Md.

Dated: September 23, 1977.

For the Atomic Safety and Licensing Appeal Board.

ROMAYNE M. SMITH,
Secretary to the Appeal Board.

[FR Doc. 77-28730 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket No. 50-247]

CONSOLIDATED EDISON CO. OF NEW YORK, INC.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 33 to Facility Operating

License No. DPR-26, issued to Consolidated Edison Co. of New York, Inc., which revised the license for operation of the Indian Point Nuclear Generating Station, Unit No. 2 located in Westchester County, N.Y. The amendment is effective as of its date of issuance.

The amendment revises the provisions of the license to conform to the decision of the Atomic Safety and Licensing Appeal Board dated May 20, 1977 (ALAB-205 NRC 1156). The license now states that environmental approvals required to proceed with construction of the closed cycle cooling system have not been received, pending further proceedings with respect to the Village of Buchanan Zoning Ordinance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that since the issuance of this amendment reflects the legal status of governmental approvals, it does not require an analysis of environmental impacts. Pursuant to 10 CFR § 51.5(d)(4), an environmental impact statement, negative declaration or environmental impact appraisal need not, therefore, be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 23, 1977, and (2) Amendment No. 33 to License No. DPR-26. Both of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C., and at the White Plains Public Library, 100 Maritime Avenue, White Plains, N.Y. 10601.

A copy of item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of September 1977.

For the Nuclear Regulatory Commission.

MORTON B. FAIRFAX,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 77-28520 Filed 9-30-77; 8:15 am]

[7590-01]

[Docket No. 50-10]

COMMONWEALTH EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued

Amendment No. 21 to Facility Operating License No. DPR-2, issued to the Commonwealth Edison Co. (the licensee), which revised Technical Specifications for operation of Unit 1 of Dresden Nuclear Power Station (the facility) located in Grundy County, Ill. The license amendment is effective as of its date of issuance.

The amendment (1) authorized operation of the facility with additional 6 x 6 fuel assemblies as replacement for some of the existing fuel assemblies, (2) incorporated revised Minimum Critical Heat Flux Ratio limits that assure conservative operation with respect to thermal hydraulics during Cycle 11, and (3) incorporated new Maximum Average Planar Linear Heat Generation Rate limits to assure that the reactor is operated so as to continue to meet the emergency core cooling system performance criteria.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on June 23, 1977 (42 FR 31045). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated April 11, 1977, and supplements thereto dated May 23, August 3, and September 8 and 15, 1977, (2) Amendment No. 21 to License No. DPR-2, and (3) the Commission's concurrently issued related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 20th day of September 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 77-28952 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.; (VERMONT YANKEE NUCLEAR POWER STATION) (SPENT FUEL PROCESSING)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this (spent fuel) proceeding:

Alan S. Rosenthal, Chairman; Dr. John H. Buck, Dr. W. Reed Johnson.

Dated: September 26, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc. 77-28954 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket 70-25]

ATOMICS INTERNATIONAL NUCLEAR FUEL FABRICATION FACILITIES

Negative Declaration Regarding Renewal of License No. SNM-21

The U.S. Nuclear Regulatory Commission (the Commission) has issued a renewal of Special Nuclear Material License No. SNM-21 for the continued operation of the Atomics International Nuclear Fuel Fabrication Facilities at Los Angeles, Calif.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the renewal of License No. SNM-21. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this particular license renewal is not warranted because there will be no significant environmental impact attributable to the action. The environmental impact appraisal is available for public inspection and copying at the Commission's Public Document at 1717 H Street NW., Washington, D.C.

Dated at Silver Spring, Md., this 15th day of September, 1977.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 77-28954 Filed 9-30-77; 8:45 am]

[7590-01]

[Docket No. 40-8102]

EXXON CO., U.S.A.; HIGHLAND URANIUM MILL

Availability of Applicant's Environmental Report

Pursuant to the National Environmental Policy Act of 1969 and the regu-

lations of the Commission in 10 CFR Part 51, Exxon Co., U.S.A. has filed an environmental report in support of their application for a source material license for the solution mining of uranium at the Highland uranium milling and mining operation site located in Converse County, Wyo. The report, which discusses environmental considerations related to the proposed solution mining operation is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies of the report are also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyo. 82001.

After the environmental report has been analyzed by the staff, a draft environmental statement will be prepared. Upon preparation of the draft environmental statement, the Commission will, among other things, cause to be published in the FEDERAL REGISTER a summary notice of availability of the draft statement, with a request for comments from interested persons on the draft statement. The summary notice will also contain a statement to the effect that comments of federal agencies and state and local officials will be made available when received. Upon consideration of comments submitted with respect to the draft environmental statement, the staff will prepare a final environmental statement, the availability of which will be published in the FEDERAL REGISTER.

Dated at Silver Spring, Maryland, this 23d day of September, 1977.

For the Nuclear Regulatory Commission.

W. T. Crow,
Fuel Processing and Fabrication Branch Division of Fuel Cycle and Material Safety.

[FR Doc. 77-28951 Filed 9-30-77; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS ENVIRONMENTAL SUBCOMMITTEE

Meeting

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Environmental Subcommittee will hold an open meeting on October 20, 1977 in Room 1162, 1717 H St. NW., Washington, D.C. 20555. The purpose of this meeting is to review the concepts of Regulatory Guides 1.52 and 1.22, and Radiological Assessment Branch Technical Position (BTP) on Radiological Environmental Monitoring.

The agenda for subject meeting shall be as follows:

Thursday, October 20, 1977.

8:30 a.m. until conclusion of business. The Subcommittee may meet in Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Subcommittee will meet to hear presen-

tations and hold discussions with representatives of the NRC Staff pertinent to this review.

At the conclusion of this session, the Subcommittee will caucus in order to determine whether the matters identified in the initial session have been adequately covered, and to formulate any recommendations the Subcommittee may wish to make to the full committee.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety and Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than October 13, 1977 to Mr. Ragnwald Muller, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on October 19, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1413. Attn: Mr. Ragnwald Muller) between 8:15 a.m. and 5:00 p.m. EDT.

(d) Questions may be asked only by members of the Subcommittee, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Records will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after October 27, 1977 and January 20, 1978, respectively, at the NRC Public Document Room, 1717 H Street NW, Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: September 29, 1977.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

FR Doc. 77-29007 Filed 9-30-77; 9:45 am

[3110-01]

OFFICE OF MANAGEMENT AND
BUDGET
FEDERAL AUTOMATED INFORMATION
SYSTEM

On September 23, 1977, the Office of Management and Budget sent a Memorandum to the Heads of Executive Departments and Establishments concerning proposed policy for the security of Federal automated information systems (Circular No. A-71).

The purpose of this notice is to solicit comments from the public on this proposed policy. Comments should be forwarded to the Information Systems Policy Division, Office of Management and Budget, Washington D.C. 20503, on or before November 2, 1977.

VELMA N. BALDWIN,
Assistant to the Director
for Administration.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington D.C. September 23, 1977.

To the Heads of Executive Departments and Establishments:

Subject: Proposed policy for the security of Federal automated information systems.

The attached draft memorandum supplements OMB Circular No. A-71 and provides policy guidance for developing and implementing a computer security program. Comments on the proposed policy should be forwarded to this office within 30 days. It is also requested that you provide estimates of both one-time and annually recurring resources required to implement the policy.

Questions should be addressed to the Information Systems Policy Division (202-395-4814).

WAYNE G. GRANQUIST,
Associate Director for Management
and Regulatory Policy.

Attachment.

EXECUTIVE OFFICE OF THE PRESIDENT,
OFFICE OF MANAGEMENT AND BUDGET,
Washington, D.C.

Circular No. A-71—TRANSMITTAL
MEMORANDUM No. 1

To: The heads of executive departments and establishments

Subject: Security of Federal automated information systems

1. Purpose. This Transmittal Memorandum promulgates policy and responsibilities for the development and implementation of computer security programs by executive branch departments and agencies.

2. Background. Increasing use of computer and communications technology to improve the effectiveness of governmental programs has introduced a variety of new management problems. Many public concerns have been raised in regard to the risks associated with automated processing of personal, proprietary or other sensitive data. Problems have been encountered in the misuse of computer and communications technology to perpetrate crime. In other cases, inadequate administrative practices along with poorly designed computer systems have resulted in improper payments, unnecessary purchases or other improper actions. The policies and responsibilities for computer security established by this Transmittal Memorandum supplement those currently contained in OMB Circular No. A-71.

3. Responsibility of the heads of executive agencies. The head of each executive branch department and agency is responsible for assuring an adequate level of security for all agency data whether processed in-house or commercially. This includes responsibility for the establishment of physical, administrative and technical safeguards required to adequately protect personal, proprietary or other sensitive data not subject to national security regulations, as well as national security data. It also includes responsibility for assuring that automated processes operate effectively and accurately. In fulfilling this responsibility each agency head shall establish policies and procedures and assign responsibility for the development, implementation, and operation of an agency computer security program. The agency's computer security program shall be consistent with all Federal policies, procedures, standards and guidelines issued by the Office of Management and Budget, the General Services Administration, the Department of Commerce, and the Civil Service Commission. In consideration of problems which have been identified in relation to existing practices, each agency's computer security program shall at a minimum:

a. Assign responsibility for the security of each computer installation operated by the agency, including installations operated directly by or on behalf of the agency (e.g., government-owned contractor operated facilities), to a management official knowledgeable in data processing and security matters.

b. Establish personnel security policies for screening all individuals participating in the

design, operation or maintenance of Federal computer systems or having access to data in Federal computer systems. These policies should include, as appropriate, requirements for background investigations of both government and contractor personnel. Personnel security policies for Federal employees shall be consistent with policies issued by the Civil Service Commission.

c. Establish a management control process to assure that appropriate administrative, physical and technical safeguards are established for all new computer applications. While this control process should apply to all new computer applications, particular emphasis should be placed on computer applications intended to be used to issue checks, requisition supplies or perform similar functions based on programmed criteria with little or no human intervention (so-called automated decisionmaking systems). The management control process shall, at a minimum, include policies and responsibilities for:

(1) Defining and approving security specifications for all new computer applications and modifications to existing applications prior to programming such applications or changes. The views and recommendations of the computer user organization, the computer installation and the individual responsible for the security of the computer installation shall be sought and considered prior to the approval of the security specifications for the application.

(2) Conducting and approving design reviews and systems tests of new or changed computer applications prior to using them operationally. The objective of the design reviews should be to ascertain that the proposed design meets the approved security specifications. The objective of the system tests should be to verify that the planned administrative, physical and technical security requirements are operationally adequate prior to the use of the system. The results of the design review and system test shall be fully documented and maintained as a part of the official records of the agency. Upon completion of the system test, an official of the agency shall certify that the system meets the documented and approved system security specifications, meets all applicable Federal policies, regulations and standards, and that the results of the test demonstrate that the security provisions are adequate for the application.

d. Establish and agency program for conducting periodic audits and recertifying the adequacy of the security of each operational computer application which processes personal, proprietary or other sensitive data, or which issues checks, requisitions supplies or performs similar functions with little or no human intervention (automated decision-making applications). This audit and recertification process is to be conducted by technically qualified professionals in an organization independent of the user organization and computer facility manager. Periodic audits and recertification shall be performed at time intervals determined by the agency, commensurate with the sensitivity of information processed and the risk and magnitude of loss or harm that could result from the application operating improperly, but shall be conducted at least every three years.

e. Establish policies and responsibilities to assure that appropriate security requirements are included in specifications for the acquisition or operation of computer facilities, equipment, software, or related services,

whether produced by the agency or by the General Services Administration. These requirements shall be reviewed and approved by the management official assigned responsibility for security of the computer installation to be used. This individual must certify that the security requirements specified are adequate for the intended application and that they comply with current Federal computer security policies, procedures, standards and guidelines.

f. Assign responsibility for the conduct of periodic risk analyses for each computer installation operated by the agency, including installations operated directly by or on behalf of the agency. A risk analysis shall be performed:

(1) Prior to the approval of design specifications for new computer installations.

(2) Whenever there is a significant change to the physical facility, hardware or software at a computer installation. Agency criteria for defining significant changes shall be commensurate with the sensitivity of the information processed by the installation.

(3) At periodic intervals of time established by the agency, commensurate with the sensitivity of the information processed by the installation, but not to exceed three years, if no risk analysis has been performed during that time.

4. Responsibility of the Department of Commerce. The Secretary of Commerce shall develop and issue standards and guidelines for assuring security of automated information. Each standard shall, at a minimum, identify:

a. Whether the standard is mandatory or voluntary.

b. Specific implementation actions which agencies are required to take.

c. The time at which implementation is required.

d. A process for monitoring implementation of each standard and evaluating whether the standard is meeting its intended objectives.

e. Requirements for use of the standard in specifications for computer hardware, software or related services issued by the agency and the General Services Administration.

f. Requirements for use of the standard in specifications for the acquisition or construction of computer facilities.

g. The conditions or criteria under which waivers to the standards may be granted.

h. The procedures for granting waivers.

5. Responsibility of the General Services Administration. The Administrator of General Services shall:

a. Issue policies and regulations for the physical security of computer rooms in Federal buildings consistent with standards and guidelines issued by the Department of Commerce.

b. Assure that agency procurement requests for computers, software, and related services include security requirements which have been certified by a responsible agency official. Delegations of procurement authority to agencies by the General Services Administration under mandatory programs, dollar threshold delegations, certification programs or other so-called blanket delegations shall include requirements for agency specifications and certification of security requirements. Other delegations of procurement authority shall require specific agency certification of security requirements as a part of the agency request for delegation of procurement authority.

c. Assure that computer equipment, software, computer room construction, guard or custodial services, telecommunications services, and any other related services procured

by the General Services Administration meet the security requirements established by the user agency and are consistent with other applicable policies and standards issued by OMB, the Civil Service Commission and the Department of Commerce. Computer equipment, software, or related ADP services acquired by the General Services Administration in anticipation of future agency requirements shall include security safeguards which are consistent with mandatory standards established by the Secretary of Commerce.

6. Responsibility of the Civil Service Commission. The Chairman of the Civil Service Commission shall establish personnel security policies for Federal personnel associated with the design, operation or maintenance of Federal computer systems, or having access to data in Federal computer systems. These policies should emphasize personnel requirements to adequately protect personal, proprietary or other sensitive data not subject to national security regulations, as well as applications which issue checks, requisition supplies or perform similar functions based on programmed criteria with little or no human intervention. Background investigations of Federal personnel should be required, as appropriate, commensurate with the sensitivity of the data to be handled and the risk and magnitude of loss or harm that could be caused by the individual.

7. Reports. Within 60 days of the issuance of this Transmittal Memorandum, the Department of Commerce, General Services Administration and Civil Service Commission shall submit to OMB plans for fulfilling the responsibilities specifically assigned in this memorandum. Within 120 days of the issuance of this Transmittal Memorandum, each executive branch department and agency shall submit to OMB its plans, for implementing a security program consistent with the policies specified herein.

8. Inquiries. Questions regarding this memorandum should be addressed to the Information Systems Policy Division, 202-395-4814.

[FR Doc. 77-29001 Filed 9-30-77; 8:45 am]

[8025-01]

SMALL BUSINESS
ADMINISTRATION
MAXIMUM INTEREST RATES

Notice is given that the Small Business Administration ("SBA") has established the maximum rates of interest that lending institutions participating with SBA may charge on loans approved by SBA on and after October 1, 1977, under Section 7 of the Small Business Act, as amended, and Section 502 of the Small Business Investment Act, as amended.

Effective October 1, 1977, the maximum rate of interest acceptable to SBA on a guaranteed loan or a guaranteed revolving line of credit shall be nine and one-half percent (9½%) per year, and the maximum rate on an immediate participation loan shall be eight and one-half percent (8½%) per year. These maximum interest rates are the same as the rates published in the FEDERAL REGISTER on July 15, 1977 (42 FR 36586), and shall remain in effect until notification of a change is issued by SBA.

The "SBA Optional Peg Rate" for the October-December 1977 quarter will be

seven and one-eighth percent (7⅛%) per year.

This is an optional "peg" rate for use in connection with fluctuating-interest rate loans made in participation with SBA.

This Notice is issued under 13 CFR 120.3(b) (2) (iv).

Catalog of Federal Domestic Assistance Programs:

No. 59.002 Economic Injury Disaster Loans (E, F)
No. 59.012 Small Business Loans (E, F)
No. 59.013 State and Local Development Company Loans (E, F)
No. 59.014 Coal Mine Health and Safety Loans (E, F)
No. 59.017 Meat and Poultry Inspection Loans (Consumer Protection Loans)
No. 59.018 Occupational Safety Health Loans (E, F)
No. 59.001 Displaced Business Loans (E, F)
No. 59.003 Economic Opportunity Loans for Small Businesses (E, F)
No. 59.010 Product Disaster Loans (E)
No. 59.020 Base Closing Economic Injury Loans (E, F)
No. 59.021 Handicapped Assistance Loans (E, F)
No. 59.022 Emergency Energy Shortage Economic Injury Loans (E, F)
No. 59.023 Strategic Arms Economic Injury Loans (E, F)
No. 59.024 Water Pollution Control Loans (E, F)
No. 59.025 Air Pollution Control Loans (E, F)

Dated: September 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc. 77-29136 Filed 9-30-77; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

Office of the Secretary
[Public Notice 570]

BUREAU OF OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS

Extension of Comment Period

The period for comments on the Draft Environmental Impact Statement for the new Panama Canal Treaty has been extended until October 13. The availability of the draft statement was announced in the FEDERAL REGISTER on August 29, 1977 (Public Notice No. 563, 42 FR 43466).

Copies of the draft environmental impact statement may be obtained from and comments should be submitted to William H. Mansfield III, Office of Environmental Affairs, Department of State, Room 7820, Washington, D.C. 20520.

For the Secretary of State.

LINDSEY GRANT,
Deputy Assistant Secretary, Environmental and Population Affairs.

SEPTEMBER 28, 1977.

[FR Doc. 77-28983 Filed 9-28-77; 1:23 pm]

[4910-22]

DEPARTMENT OF
TRANSPORTATION

Federal Highway Administration

MEMORANDUM OF UNDERSTANDING BE-
TWEEN THE ECONOMIC DEVELOPMENT
ADMINISTRATION, DEPARTMENT OF
COMMERCE AND THE FEDERAL HIGH-
WAY ADMINISTRATION, DEPARTMENT
OF TRANSPORTATIONAGENCY: Federal Highway Adminis-
tration, DOT.ACTION: Notice of Memorandum of Un-
derstanding.

SUMMARY: This agreement is intended to facilitate the processing of direct or supplemental grant applications for road or highway projects under the Local Public Works Capital Development and Investment Act of 1976, 42 U.S.C. 6701 et seq., as amended. While the responsibilities of the Federal Highway Administration, Department of Transportation, with respect to this processing are delineated in the agreement, State and local governments must submit applications to the Economic Development Administration, Department of Commerce.

FOR FURTHER INFORMATION CON-
TACT:

Lawrence J. Roth, Office of the Chief Counsel (202-426-0754), Federal Highway Administration. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday-Friday.

The Memorandum of Understanding as set forth below between the Economic Development Administration, Department of Commerce, and the Federal Highway Administration, Department of Transportation, is published as a matter of public record.

I. INTRODUCTION.

The Local Public Works and Capital Development and Investment Act of 1976 (Act) 42 U.S.C. 6701 et seq., as amended by the Public Works Employment Act of 1977 (Pub. L. 95-28), authorizes the Secretary of Commerce, acting through the Economic Development Administration (EDA), to make direct grants to State or local governments (Eligible Applicant) and also to make grants supplementing other grant assistance received by an Eligible Applicant under any other Federal, State, or local law for local public works projects.

The Federal Highway Administration (FHWA), Department of Transportation, has authority to make grants for certain types of local public works projects, which projects could also be wholly funded or supplemented under the Act.

The FHWA and EDA wish to cooperate in order to facilitate the prompt and efficient delivery of the benefits conferred by the Act, and in furtherance of the intention, the parties hereby formalize this Memorandum of Understanding, which will establish certain procedures and agreements of the parties.

II. SUPPLEMENTAL GRANTS

A. In the event that FHWA allocates funds to a project as part of its grant approval process for the construction of the type of project contemplated by the Act, which project is apparently otherwise eligible for funding under the Act, the Eligible Applicant may request supplemental grant funds from EDA.

B. On request of the Eligible Applicant through the State highway agency, FHWA shall, within a period of 15 days from the receipt of the request, provide the Eligible Applicant with a Certificate, substantially in the form attached hereto and marked Exhibit A*, which attests to compliance with certain FHWA and EDA requirements.

III. GENERAL PROCEDURES FOR SUPPLEMENTAL GRANTS

A. EDA will, upon acceptance of the Supplemental Grant by the Eligible Applicant, transfer the funds to the FHWA by Form SF-1151 in accordance with the requirements of EDA Directive No. 4.06-1 (Accounting Systems Manual), a copy of which is attached hereto and marked Exhibit B*.

B. Within a reasonable period of time after final inspection and acceptance of the project, FHWA will advise EDA of project completion.

C. After the Supplemental Grant has been accepted, FHWA will assume full responsibility for the supervision of the project and disbursement of the grant funds.

D. The FHWA will comply with the reporting requirements for transferred funds as outlined in Exhibit B.

E. Disbursement of the Supplemental Grant will be in proportion to disbursements of all other funds available for the project and adequate safeguards will be established to eliminate the possibility of the Supplemental Grant exceeding the authorized percentage relationship to the total cost of the project.

F. If final eligible project costs are less than the estimated costs at the time of project approval, proportionate reductions will be made in the amount of the Supplemental Grant under this Act. However, any available supplemental grant funds resulting from such a shortfall in construction costs may be utilized for additional project construction, if approved by EDA. If no further construction is requested or if a request is not approved by EDA, such funds shall be promptly returned to EDA for deobligation, or such other action which EDA considers appropriate.

IV. DIRECT EDA GRANTS

In the case of a request for a direct grant, FHWA will cooperate with EDA by providing advisory assistance upon request from EDA.

In those cases where EDA and FHWA determine that it is in the Federal interest to administer a supplemental and direct grant as a combined project, the FHWA will administer such project in accordance with the supplemental grant provision of this memorandum.

V. PENDING APPLICATIONS WITH FEDERAL
HIGHWAY ADMINISTRATION (FHWA)

A. In the event that an Eligible Applicant requests authorization, through the State highway agency, from FHWA for the construction of the type of project contemplated by the Act, and FHWA lacks available funding for such project, yet the project is otherwise eligible for funding under the Act, the Eligible Applicant may apply for assistance from EDA under the Act.

B. On request of the Eligible Applicant, FHWA shall within a period of 30 days of receipt of the request, provide the Eligible Applicant with a Certificate, substantially in the form of Exhibit C*, which will certify to EDA regarding the following matters:

(1) That the proposed project is in conformity with FHWA general design, program, technical, statutory and regulatory standards.

(2) That there are no unusual aspects of the project, other than those noted in the Certificate, in connection with (1) above, that should be specifically considered by EDA in approving a grant to the Eligible Applicant;

(3) That there will be provided with the Certificate a copy of any environmental analysis or environmental impact statement that has been prepared in connection with this proposed project, and

(4) That the pending application of the Eligible Applicant has been withdrawn, without prejudice, and will not be further processed while it is under consideration by EDA.

VI. ADDITIONAL FUNDING PROGRAMS

In the event that there are future programs providing funding of facilities for which applications have already been received by EDA, but which applications either inadvertently did not include FHWA certification or such certification is not presently adequate in the opinion of EDA, FHWA agrees to provide the appropriate Regional Office of EDA with a Certificate pursuant to Section II or V hereof within 20 days of receipt of the Local Public Works Capital Development and Investment Program application by the FHWA Regional Office, if issuance of such a Certificate is appropriate. If a Certificate cannot be issued, FHWA will state the reasons for not issuing the Certificate.

*While the exhibits referred to are not being published they are available for inspection in the Office of Chief Counsel, FHWA.

EFFECTIVE DATE

The effective date of this Memorandum of Understanding shall be September 26, 1977.

For the Economic Development Administration, Department of Commerce.

ROBERT T. HALL,
Assistant Secretary for
Economic Development

For the Federal Highway Administration,
Department of Transportation.

WILLIAM M. COX,
Federal Highway Administrator.

Issued on: September 21, 1977.

[FR Doc.77-29006 Filed 9-30-77;8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

United States Customs Service

COLUMBUS, N. MEX., CUSTOMS PORT
OF ENTRYDelay in Effective Date of Change in Hours
of ServiceAGENCY: United States Customs Service,
Department of the Treasury.

ACTION: Notice of delay in effective date.

SUMMARY: This notice delays from September 30, 1977, to October 17, 1977, the effective date of the reduction in the hours of service at the Customs port of entry at Columbus, N. Mex., from the current 24 hours a day to 16 hours a day. This delay is being made in order to reduce the impact the change in hours of service may cause.

DATES: The new hours will become effective October 17, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Robert Schenarts, Operations Officer,
Inspection and Control Division, U.S.
Customs Service, 1301 Constitution
Avenue NW., Washington, D.C. 20229
(202-566-8151).

SUPPLEMENTAL INFORMATION: On September 15, 1977, the Customs Service published a notice in the FEDERAL REGISTER (42 FR 46452), announcing a reduction in the hours of service at the Customs port of entry at Columbus, N. Mex., from the current 24 hours a day to 16 hours a day. The reduction in regular hours of service is being taken because the volume of traffic at the port between the hours of Midnight and 8 a.m. does not warrant providing regular service during those hours. The reduced hours of service will permit better utilization of Customs manpower and will reduce the cost of Customs operations at the port. The new hours of service, from 8 a.m. to Midnight, were to have become effective on September 30, 1977.

In order to reduce the impact the change in hours of service may cause, the Customs Service is delaying the effective date of the change until October 17, 1977.

ROBERT E. CHASEN,
Commissioner of Customs.

[FR Doc.77-29123 Filed 9-30-77;8:45 am]

[4810-35]

Fiscal Service

[Dept. Circ. 570, 1977; Rev., Supp. No. 3]

SURETY COMPANIES ACCEPTABLE ON
FEDERAL BONDS

A certificate of authority as an acceptable surety on Federal bonds is here-

by issued by the Secretary of the Treasury to the following company under Sections 6 to 13 of Title 6 of the United States Code. An underwriting limitation of \$298,000 has been established for the company.

Name of Company, Business Address,
and State in Which Incorporated

Republic-Franklin Insurance Company
P.O. Box 1438
Columbus, Ohio 43216
Ohio

Certificates of authority expire on June 30 each year, unless sooner revoked, and new certificates are issued on July 1 so long as the companies remain qualified (31 CFR Part 223). A list of qualified companies is published annually as of July 1 in Department Circular 570, with details as to underwriting limitations, areas in which licensed to transact surety business and other information. Copies of the circular, when issued, may be obtained from the Audit Staff, Bureau of Government Financial Operations, Department of the Treasury, Washington, D.C. 20226.

Dated: September 27, 1977.

D. A. PAGLIAI,
Commissioner, Bureau of
Government Financial Operations.
[FR Doc.77-29009 Filed 9-30-77;8:45 am]

[4810-40]

Office of the Secretary

[Department circular; Public Debt Series—
No. 23-77]TREASURY NOTES OF NOVEMBER 15,
1982

Series F-1982

SEPTEMBER 28, 1977.

1. INVITATION FOR TENDERS

1.1. The Secretary of the Treasury, under the authority of the Second Liberty Bond Act, as amended, invites tenders for approximately \$2,500,000,000 of United States securities, designated Treasury Notes of November 15, 1982, Series F-1982 (CUSIP No. 912827 HB 1). The securities will be sold at auction with bidding on the basis of yield. Payment will be required at the prime equivalent of the bid yield of each accepted tender. The interest rate on the securities and the price equivalent of each accepted bid will be determined in the manner described below. Additional amounts of these securities may be issued for cash to Federal Reserve Banks as agents of foreign and international monetary authorities.

1.2. If the interest rate determined in accordance with this circular is identical to the rate on an outstanding issue of United States notes, and the terms and conditions of such outstanding issue are otherwise identical to terms and conditions of the securities offered by this circular, this shall be considered an invitation for an additional amount of the outstanding securities and this circular will be amended accordingly. Payment for the securities in that event will be calculated on the basis of the auction price determined in accordance with this circular plus accrued interest from the last preceding interest payment date on the outstanding securities.

2. DESCRIPTION OF SECURITIES

2.1. The securities will be dated October 17, 1977, and will bear interest from that date, payable on a semiannual basis on May 15, 1978, and each subsequent 6 months on November 15 and May 15 until the principal becomes payable. They will mature November 15, 1982, and will not be subject to call for redemption prior to maturity.

2.2. The income derived from the securities is subject to all taxes imposed under the Internal Revenue Code of 1954. The securities are subject to estate, inheritance, gift or other excise taxes, whether Federal or State, but are exempt from all taxation now or hereafter imposed on the principal or interest thereof by any State, any possession of the United States, or any local taxing authority.

2.3. The securities will be acceptable to secure deposits of public monies. They will not be acceptable in payment of taxes.

2.4. Bearer securities with interest coupons attached, and securities registered as to principal and interest, will be issued in denominations of \$1,000, \$5,000, \$10,000, \$100,000, and \$1,000,000. Book-entry securities will be available to eligible bidders in multiples of those amounts. Interchanges of securities of different denominations and of coupon, registered and book-entry securities, and the transfer of registered securities will be permitted.

2.5. The Department of the Treasury's general regulations governing United States securities apply to the securities offered in this circular. These general regulations include those currently in effect, as well as those that may be issued at a later date.

3. SALE PROCEDURES

3.1. Tenders will be received at Federal Reserve Banks and Branches and at the Bureau of the Public Debt, Washington, D.C. 20226, up to 1:30 p.m., Eastern Daylight Saving time, Wednesday, October 5, 1977. Noncompetitive tenders as defined below will be considered timely if postmarked no later than Tuesday, October 4, 1977.

3.2. Each tender must state the face amount of securities bid for. The minimum bid is \$1,000 and larger bids must be in multiples of that amount. Competitive tenders must also show the yield desired, expressed in terms of an annual yield with two decimals, e.g., 7.11%. Common fractions may not be used. Noncompetitive tenders must show the term "noncompetitive" on the tender form in lieu of a specified yield. No bidder may submit more than one noncompetitive tender and the amount may not exceed \$1,000,000.

3.3. All bidders must certify that they have not made and will not make any agreements for the sale or purchase of any securities of this issue prior to the

deadline established in Section 3.1. for receipt of tenders. Those authorized to submit tenders for the account of customers will be required to certify that such tenders are submitted under the same conditions, agreements, and certifications as tenders submitted directly by bidders for their own account.

3.4. Commercial banks, which for this purpose are defined as banks accepting demand deposits, and primary dealers, which for this purpose are defined as lenders who make primary markets in Government securities and report daily to the Federal Reserve Bank of New York their positions in and borrowing on such securities, may submit tenders for account of customers if the names of the customers and the amount for each customer are furnished. Others are only permitted to submit tenders for their own account.

3.5. Tenders will be received without deposit for their own account from commercial banks and other banking institutions; primary dealers, as defined above; Federally-insured savings and loan associations; States, and their political subdivisions or instrumentalities; public pension and retirement and other public funds; international organizations in which the United States holds membership; foreign central banks and foreign states; Federal Reserve Banks; and Government accounts. Tenders from others must be accompanied by a deposit of 5% of the face amount of securities applied for (in the form of cash, maturing Treasury securities or readily collectible checks), or by a guarantee of such deposit by a commercial bank or a primary dealer.

3.6. Immediately after the closing hour, tenders will be opened, followed by a public announcement of the amount and yield range of accepted bids. Subject to the reservations expressed in Section 4, noncompetitive tenders will be accepted in full at the weighted average price (in three decimals) of accepted competitive tenders, and competitive tenders with the lowest yields will be accepted to the extent required to attain the amount offered. Tenders at the highest accepted yield will be prorated if necessary. After the determination is made as to which tenders are accepted, a coupon rate will be established, on the basis of a $\frac{1}{8}$ of one percent increment, which results in an equivalent average accepted price close to 100.000 and a lowest accepted price above the original issue discount limit of 98.750. That rate of interest will be paid on all of the securities. Based on such interest rate, the price on each competitive tender allotted will be determined and each successful competitive bidder will be required to pay the price equivalent to the yield bid. Price calculations will be carried to three decimal places on the basis of price per hundred, e.g., 99.923, and the determinations of the Secretary of the Treasury shall be final. If the amount of noncompetitive tenders received would absorb all or most of the offering, competitive tenders will be accepted in an amount sufficient to provide a fair determination

of the yield. Tenders received from Government accounts and Federal Reserve Banks will be accepted at the weighted average price of accepted competitive tenders.

3.7. Competitive bidders will be advised of the acceptance or rejection of their tenders. Those submitting noncompetitive tenders will only be notified if the tender is not accepted in full or when the price is over par.

4. RESERVATIONS

4.1. The Secretary of the Treasury expressly reserves the right to accept or reject any or all tenders in whole or in part, to allot more or less than the amount of securities specified in Section 1, and to make different percentage allotments to various classes of applicants when the Secretary considers it in the public interest. The Secretary's action under this Section is final.

5. PAYMENT AND DELIVERY

5.1. Settlement for allotted securities must be made or completed on or before Monday, October 17, 1977, at the Federal Reserve Bank or Branch or at the Bureau of the Public Debt, wherever the tender was submitted. Payment must be in cash; in other funds immediately available to the Treasury; in Treasury bills, notes or bonds (with all coupons detached) maturing on or before the settlement date but which are not overdue as defined in the general regulations governing United States securities; or by check drawn to the order of the institution to which the tender was submitted, which must be received at such institution no later than:

(a) Thursday, October 13, 1977, if the check is drawn on a bank in the Federal Reserve District of the institution to which the check is submitted (the Fifth Federal Reserve District in case of the Bureau of the Public Debt), or

(b) Wednesday, October 12, 1977, if the check is drawn on a bank in another Federal Reserve District.

Checks received after the dates set forth in the preceding sentence will not be accepted unless they are payable at the applicable Federal Reserve Bank. Payment will not be considered complete where registered securities are requested if the appropriate identifying number as required on tax returns and other documents submitted to the Internal Revenue Service (an individual's social security number or an employer identification number) is not furnished. When payment is made in securities, a cash adjustment will be made to or required of the bidder for any difference between the face amount of securities presented and the amount payable on the securities allotted.

5.2. In every case where full payment is not completed on time, the deposit submitted with the tender, up to 5 percent of the face amount of securities allotted, shall, at the discretion of the Secretary of the Treasury, be forfeited to the United States.

5.3. Registered securities tendered as deposits and in payment for allotted se-

curities are not required to be assigned. If the new securities are to be registered in the same names and forms as appear in the registrations or assignments of the securities surrendered. When the new securities are to be registered in names and forms different from those in the descriptions or assignments of the securities presented, the assignment should be to "The Secretary of the Treasury for securities offered by this circular" in the name of (name and taxpayer identifying number). If new securities in coupon form are desired, the assignment should be to "The Secretary of the Treasury for coupon (securities offered by this circular) to be delivered to (name and address)." Specific instructions for the issuance and delivery of the new securities, signed by the owner or authorized representative, must accompany the securities presented. Securities tendered in payment should be surrendered to the Federal Reserve Bank or Branch or to the Bureau of the Public Debt, Washington, D.C. 20226. The securities must be delivered at the expense and risk of the holder.

5.4. If bearer securities are not ready for delivery on the settlement date, purchasers may elect to receive interim certificates. These certificates shall be issued in bearer form and shall be exchangeable for definitive securities of this issue when such securities are available, at any Federal Reserve Bank or Branch or at the Bureau of the Public Debt, Washington, D.C. 20226. The interim certificates must be returned at the risk and expense of the holder.

5.5. Delivery of securities in registered form will be made after the requested form of registration has been validated, the registered interest account has been established, and the securities have been inscribed.

6. GENERAL PROVISIONS

6.1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive tenders, to make allotments as directed by the Secretary of the Treasury, to issue such notices as may be necessary, to receive payment for and make delivery of securities on full-paid allotments, and to issue interim certificates pending delivery of the definitive securities.

6.2. The Secretary of the Treasury may at any time issue supplemental or amendatory rules and regulations governing the offering. Public announcement of such changes will be promptly provided.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc. 77-29063 Filed 9-29-77; 10:41 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 123TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

The following are notices of filing of applications for temporary authority

under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six(6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 720 (Sub-No. 34TA), filed September 13, 1977. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, Wis. 53968. Applicant's representative: Wayne Wilson, 329 W. Madison, Wis. 53708. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned vegetables, from Clintonville, Antigo, Cambria, and Markesan, Wis., to Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, Virginia, Mississippi, Texas, Massachusetts, New York, and Connecticut, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Fall River Canning Co., P.O. Box 68, Fall River, Wis. 53932, (Ruby S. Yohn). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 12078 (Sub-No. 744TA), filed August 29, 1977. Applicant: SCHWERTMAN TRUCKING CO., 611 South 28th St., Milwaukee, Wis. 53246. Applicant's representative: Mr. Richard H. Prevette (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Fertilizer and fertilizer materials, in bulk, from the facilities of CF Industries, Inc. at or near Albany,

Ill., to points in Illinois, Iowa, Minnesota, and Wisconsin, for 180 days. Supporting shipper: There are approximately 5 statements of support attached to the application which may be examined at Interstate Commerce Commission in Washington, D.C., or copies thereof may be examined at the field office below. Send protest to: Gail Daugherty, Transportation Asst. Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Rm. 619, Milwaukee, Wis. 53202.

No. MC 19553 (Sub-No. 38TA), filed August 31, 1977. Applicant: KNOX MOTOR SERVICES, INC., 5680 Eleventh Street, P.O. Box 359, Rockford, Ill. 61105. Applicant's representative: Eugene L. Cohn, One North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). Applicant requests authority to operate from, to and between the following points, over regular routes: Between Milwaukee, Racine, and Kenosha, Wis., to the following Illinois points, as intermediate or off-route points: Bondville, Champaign, Charleston, Chrisman, Danville, Fairbury, Gibson City, Hoopeston, Mahomet, Mattoon, Milford, Monticello, Paris, Paxton, Pontiac, Rantoul, Tilton, Tolono, Tuscola, Urbana and Watseka; (1) over presently authorized regular routes to junction U.S. Highway 30; (2) from junction U.S. Highway 30 and Illinois Highway 1, via Illinois Highway 1 to junction Illinois Highway 16; thence via Illinois Highway 16 to junction Illinois Highway 45; thence via Illinois Highway 45 to junction Illinois Highway 121; thence via Illinois Highway 121 to junction Illinois Highway 32; (3) from junction U.S. Highway 30 and Illinois Highway 1, via Illinois Highway 1 to junction U.S. Highway 36; thence via U.S. Highway 36 to junction Illinois Highway 32; (also via Illinois Highway 1 to junction U.S. Highway 1-74; thence via U.S. Highway 1-74 to junction U.S. Highway 136; thence via U.S. Highway 136 to junction U.S. Highway 51);

(4) From junction U.S. Highway 30 and U.S. Highway I-57, via U.S. Highway I-57 to junction Illinois Highway 16; thence via Illinois Highway 16 to junction Illinois Highway 32; (5) from junction U.S. Highway 30 and U.S. Highway I-57; thence via U.S. Highway I-57 to junction U.S. Highway I-72; thence via U.S. Highway I-72 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136; (13) from junction U.S. Highway 30 and Illinois Highway 47; thence via Illinois Highway 47 to junction U.S. Highway I-72; thence via U.S. Highway I-72 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136; (14) from junction U.S. Highway 30 and Illinois Highway 47 via Illinois Highway 47 to junction U.S. Highway 24; thence via U.S. Highway 24 to U.S. Highway I-55; thence via U.S. Highway I-55 to U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136; (15) from junction of Illinois Highway 1 and U.S. Highway 24; thence along U.S. Highway 24 to junction with U.S. Highway I-57; (16) from the junction of Illinois Highway 1 and Illinois Highway 9; thence along U.S. Highway 9 to junction with Illinois Highway 47; (17) from junction of Illinois Highway 1 and U.S. Highway 52; thence along U.S. Highway 52 to junction U.S. Highway 45. Return over the same routes with tacking at all points of joinder with each other and with authorized regular and irregular routes and serving the points of Milwaukee, Racine, and Kenosha, Wis., and all of the above-named Illinois points and the commercial zones of all of the aforesaid Wisconsin and Illinois points as intermediate and off-route points, for 180 days. Applicant has also filed an underlying ETA seeking up to

Illinois Highway 16 to junction Illinois Highway 32 (also via U.S. Highway I-57 to junction U.S. Highway 24; thence via U.S. Highway 24 to junction U.S. Highway I-55; thence via U.S. Highway I-55 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136); (8) from junction U.S. Highway 30 and U.S. Highway 45; thence via U.S. Highway 45 to junction Illinois Highway 121; thence via Illinois Highway 121 to Illinois Highway 32; (9) from U.S. Highway 30 and U.S. Highway 45 via U.S. Highway 45 to junction Illinois Highway 116; thence via Illinois Highway 116 to junction U.S. Highway I-55; thence via U.S. Highway I-55 to junction U.S. Highway 136; (10) from junction U.S. Highway 30 and U.S. Highway 45 via U.S. Highway 45 to junction Illinois Highway 10; thence via Illinois Highway 10 to junction U.S. Highway I-72; thence via Illinois Highway I-72 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136; (11) from junction U.S. Highway 30 and U.S. Highway I-55; thence via U.S. Highway I-55 to junction Illinois Highway 23; thence via Illinois Highway 23 to junction Illinois Highway 116; thence via Illinois Highway 116 to junction U.S. Highway I-55; thence via U.S. Highway I-55 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136;

(12) From junction U.S. Highway 30 and Illinois Highway 59; thence via U.S. Highway 59 to junction U.S. Highway I-55; thence via U.S. Highway I-55 to junction Illinois Highway 47; thence via Illinois Highway 47 to junction Illinois Highway 9; thence via Illinois Highway 9 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136; (13) from junction U.S. Highway 30 and Illinois Highway 47; thence via Illinois Highway 47 to junction U.S. Highway I-72; thence via U.S. Highway I-72 to junction U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136; (14) from junction U.S. Highway 30 and Illinois Highway 47 via Illinois Highway 47 to junction U.S. Highway 24; thence via U.S. Highway 24 to U.S. Highway I-55; thence via U.S. Highway I-55 to U.S. Highway 51; thence via U.S. Highway 51 to junction U.S. Highway 136; (15) from junction of Illinois Highway 1 and U.S. Highway 24; thence along U.S. Highway 24 to junction with U.S. Highway I-57; (16) from the junction of Illinois Highway 1 and Illinois Highway 9; thence along U.S. Highway 9 to junction with Illinois Highway 47; (17) from junction of Illinois Highway 1 and U.S. Highway 52; thence along U.S. Highway 52 to junction U.S. Highway 45. Return over the same routes with tacking at all points of joinder with each other and with authorized regular and irregular routes and serving the points of Milwaukee, Racine, and Kenosha, Wis., and all of the above-named Illinois points and the commercial zones of all of the aforesaid Wisconsin and Illinois points as intermediate and off-route points, for 180 days. Applicant has also filed an underlying ETA seeking up to

90 days of operating authority. Supporting shippers: There are approximately fifty-two (52) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 43028 (Sub-No. 40TA), filed September 12, 1977. Applicant: COMMERCIAL CARRIERS, INC., 19701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shacket Avenue, Madison Heights, Mich. 48071, and E. Phillips M. Jones, 3803 Frederick Street, Orensboro, Ky. 42201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Motor vehicles, except trailers, in initial movements, in truckway service, from the plant sites or storage facilities of General Motors Corp. located at Kansas City, Mo., to points in the States of Illinois, Indiana, Michigan, and Ohio, for 180 days. Supporting shippers: General Motors Corporation, 30907 Van Dyke Avenue, Warren, Mich. 48090. E. R. Whisenand, Director, Transportation Economics, Send protests to: Erna W. Gray, Secretary of Detroit Office, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 78276 (Sub-No. 10TA), filed September 9, 1977. Applicant: MAZZEO AND SONS EXPRESS, 311 South River Street, Hackensack, N.J. 07601. Applicant's representative: George A. Olsen, 69 Tonnelle Avenue, Jersey City, N.J. 07306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wearing apparel, loose, on hangers*, when moving loaded loads with wearing apparel, in cars, between Atlanta, Ga.; Charlotte, N.C.; Hialeah and Orlando, Fla.; Memphis, Tenn.; and Spartanburg, S.C., on the one hand, and, on the other, points and places in the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shippers: There are approximately eleven (11) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below.

No. MC 119493 (Sub-No. 161TA), filed September 2, 1977. Applicant: MONK-EM CO., INC., West 20th Street, P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: Lawrence P. Kloeppel (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Paper and paper products* (except in bulk) and products produced

and/or distributed by manufacturers and converters of paper and paper products, from the plant and storage facilities of Bancroft Bag Co., located at or near West Monroe, La., to Chicago, Henry, Lexington, Jacksonville, Piper City, Bushnell, East St. Louis, and their respective commercial zones in Illinois; Greenville, Jeffersonville, South Bend and their respective commercial zones and all points in Indiana, within the Chicago, Ill. commercial zone in Indiana; DeWitt, Belmond, Conrad and their commercial zone in Iowa and St. Louis and St. Louis County, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Bancroft Bag Corp., P.O. Box 307, West Monroe, La. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, - BOP, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 120618 (Sub-No. 2TA), filed August 25, 1977. Applicant: SCHALLER TRUCKING CORP., 5700 West Minnesota Street, Indianapolis, Ind. 46241. Applicant's representative: John R. Bagileo, 700 World Center Bldg., 918 Sixteenth Street NW, Washington, D.C. 20006. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (a) *Aluminum castings*, from the plantsite of Central Foundry, a Division of General Motors Corp., located at or near Bedford, Ind., to Detroit, Mich., and the plantsite of General Motors Corporation and its subsidiaries, located at or near Detroit, Flint, Lansing, Pontiac, Saginaw, and Willow Run, Mich.; and Cleveland, Dayton, and Moraine, Ohio; (b) *scrap aluminum*, from the plantsite of General Motors Corporation and its subsidiaries, located at or near Detroit, Flint, Lansing, Pontiac, Saginaw, and Willow Run, Mich.; Lockport, N.Y.; and Cleveland, Dayton, and Moraine, Ohio, and the plantsite of Harry Davis & Son, Inc., located at or near Toledo, Ohio, and Detroit, Mich., to the plantsite of Central Foundry, located at or near Bedford, Ind.; the plantsite of Barmet of Needmore, Inc., located at or near Needmore, Ind., and the plantsite of Wabash Alloys Co., located at or near Wabash, Ind.; (c) *brake drums, in the rough*, between the plantsite of Central Foundry, located at or near Bedford, Ind., and the plantsites of Buck Motor Division, located at or near Flint, Mich., and Chevrolet Motor Division, located at or near Buffalo, N.Y.; and (d) *reusable containers*, between the plantsite of General Motors Corp. and its subsidiaries, located at or near Detroit, Flint, Lansing, Pontiac, Saginaw, and Willow Run, Mich.; Lockport and Buffalo, N.Y.; and Cleveland, Dayton, and Moraine, Ohio, and the plantsite of Central Foundry located at or near Bedford, Ind., for 180 days. Supporting shippers: Central Foundry Division, General Motors Corp., Bedford, Ind. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Com-

mission, Federal Bldg. and U.S. Court-house, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 124078 (Sub-No. 745TA), filed September 13, 1977. Applicant: SCHWERMANN TRUCKING CO., 611 South 28 St., Milwaukee, Wis. 53246. Applicant's representative: Richard H. Provette (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cement*, from Memphis, Tenn., to points in Alabama, Arkansas, Georgia, Kentucky, Louisiana, Mississippi and Missouri, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Missouri Portland Cement Company, 7711 Carondelet Ave., St. Louis, Mo. 63105. (J. A. Lynch). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 134094 (Sub-No. 7TA), filed September 12, 1977. Applicant: HEIGHT'S SERVICE, INC., 521 E. Nevada Ave., St. Paul, Minn. 55101. Applicant's representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages, and related advertising materials, premiums, and malt beverage dispensing equipment* when moving in mixed loads with malt beverages, from St. Paul, Minn., to Lansing, Ill., under a continuing contract or contracts with the Vierk Corp., for 180 days. Applicant has also filed an underlying LTA seeking up to 90 days of operating authority. Supporting shipper: Vierk Corporation, 16750 Chicago Ave., Lansing, Ill. 60438. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 134686 (Sub-No. 1TA), filed September 12, 1977. Applicant: AMRAM ENTERPRISES, INC., 4823 Penn Avenue, Pittsburgh, Pa. 15224. Applicant's representative: Dr. Amram Onyundo (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Packages and parcels* (not exceeding 100 lbs. in weight) of general commodities, between Pittsburgh, Pa., and points in Ohio, under a continuing contract or contracts with Cinemette Corp. of America and Kaufmann's Dept. Store, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Cinemette Corp. of America, 107 Sixth Street, Pittsburgh, Pa. 15229. Kaufmann's Dept. Store, 955 Reedsdale Street, Pittsburgh, Pa. 15212. Send protests to: John J. England, District Su-

pervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 134979 (Sub-No. 11TA), filed August 30, 1977. Applicant: DAGGETT TRUCK LINE, INC., Frazee, Minn. 56544. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58102. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (A) (1) *Factory built fireplaces, factory built chimneys*, (2) *materials, parts and supplies* used in the manufacture of the commodities named in part (1) above (except commodities in bulk, in tank vehicles), and (3) *parts and accessories* for the commodities named in part (1) above, between the facilities of Hugert Manufacturing Co., at or near Medina, Ohio and Dura-Vent Corp. at or near Redwood City, Calif., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); and (b) *pipe, duct, fittings and accessories* for air distribution systems and materials and supplies used in the manufacture and/or distribution thereof (except commodities in bulk, in tank vehicles), between the facilities of Hugert Manufacturing Co., at or near Medina, Ohio, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted to transportation of shipments to be performed under a continuing contract, or contracts, with Manufacturers Systems, Inc. of Detroit Lakes, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Manufacturers Systems, Inc., 620 West Main Ave., Detroit Lakes, Minn. 56501. Send protests to: Interstate Commerce Commission, 12th and Constitution Avenue NW, Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 136989 (Sub-No. 17TA), filed September 9, 1977. Applicant: R. F. BOX, INC., 500 Kinley Ave., N.E., Albuquerque, N. Mex. 87107. Applicant's representative: Edwin E. Piper, Jr., 1115 Sandia Savings Building, Albuquerque, N.Mex. 87101. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Floor covering* (except carpeting and rugs), from ports of entry on the International Boundary line between the United States and Canada at or near Champlain, N.Y., to points in California, Oregon, Washington, Montana, Idaho, Nevada, Arizona, New Mexico, Utah, Wyoming, Colorado, Texas, Oklahoma, Nebraska, and Kansas, for the account of Domco Industries, Ltd., Montreal, Quebec, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Domco Industries, Ltd., 1001 Yamaska Street, East Farnham, Province of Quebec, Canada, c/o E. Pat Naef, Supervisor of Traffic and Customs, Send protests to: Darrell W. Hammons, District Supervisor, Interstate Commerce Commission, Bureau of

Operations, 1106 Federal Office Building, 517 Gold Avenue, S. W. Albuquerque, N. Mex. 87101.

No. MC 138036 (Sub-No. 10TA), filed August 25, 1977. Applicant: J & S, Inc., P.O. Box 288, Indianola, Pa. 15051. Applicant's representative: William A. Gray, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by retail drug and variety stores, and equipment, materials, and supplies* used in the conduct of such business (except commodities in bulk), between the facilities of Thrift Drug Division of J. C. Penney Co., Inc., in Atlanta Southern Industrial Park, Morrow (Clayton County), Ga., on the one hand, and, on the other, points in Oklahoma, under a continuing contract or contracts with Thrift Drug Division of J. C. Penney Company, Inc., at New York, N.Y., for 180 days. Supporting shipper(s): Thrift Drug Division of J. C. Penney Company, Inc., 615 Alpha Drive, Pittsburgh, Pa. 15238. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 138741 (Sub-No. 36TA), filed September 8, 1977. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, Ill. 60435. Applicant's representative: Tom B. Kretzinger, 910 Brookfield Bldg., 101 W. 11th St., Kansas City, Mo. 64105. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building materials* from Broadview, Ill., to points and places in Mo., for 180 days. Supporting shipper: The Ceco Corp., 5601 W. 26th St., Chicago, Ill. 60650. Send protests to: Patricia Roscoe, Interstate Commerce Commission, Rm. 1386, 219 S. Dearborn St., Chicago, Ill. 60604.

No. MC 139091 (Sub-No. 22TA), filed September 12, 1977. Applicant: LOGAN MOTOR LINES, INC., 2829 Mays Street, P.O. Box 4265, Amarillo, Tex. 79105. Applicant's representative: Gailyn Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Frozen prepared foodstuffs*, NOI, (1) from the plantsite and storage facilities of Kitchens of Sara Lee at or near Deerfield, Ill., to points in Texas and (2) from the plantsite and storage facilities of Kitchens of Sara Lee at or near Deerfield, Ill., and Chicago, Ill., to points in Oklahoma, for 180 days. Supporting shipper: The Kitchens of Sara Lee, Deerfield, Ill. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 139579 (Sub-No. 5TA), filed September 12, 1977. Applicant: GEORGE H. GOLDING, INC., 5879 Marlon Drive, Lockport, N.Y. 14094. Applicant's repre-

sentative: S. Michael Richards/Raymond A. Richards, P.O. Box 225, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Clay*, in bags, from McIntyre, Ga., and Attapulugus, Ga., to North Tonawanda and Buffalo, N.Y., under a continuing contract or contracts with Meyers Chemicals, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Meyers Chemicals, Inc., 4245 Union Rd., Buffalo, N.Y. 14225. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 142205 (Sub-No. 6TA), filed August 30, 1977. Applicant: LOUDOUN TRANSFER, INC., P.O. Box 703, Leesburg, Va. 22075. Applicant's representative: Steven L. Weiman, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Custom upholstered furniture*, from Sterling, Va., to points in the United States in and east of Minnesota, Iowa, Nebraska, Kansas, Oklahoma and Texas; and (2) *returned or rejected upholstered furniture, and equipment, materials and supplies* used in the manufacture of custom upholstered furniture, from the destination states listed above in (1) to Sterling, Va., under a continuing contract, or contracts, with Metrol Manufacturing Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Metro Manufacturing Co., P.O. Box 274, Herndon, Va. 22070. Send protests to: W. C. Hersman, District Supervisor, Room 1413, Interstate Commerce Commission, 12th and Constitution Avenue NW, Washington, D.C. 20423.

No. MC 142495 (Sub-No. 1TA), filed August 15, 1977. Applicant: TERBAX CORP., P.O. Box 495, Hawthorne, N.J. 07507. Applicant's representative: George A. Olsen, 69 Tonnelle Ave., Jersey City, N.J. 07306. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Foam Packaging Materials*, from the facilities of Ampco Packaging, Inc., Jersey City, N.J. to points in the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont and the District of Columbia, under a continuing contract or contracts with Ampco Packaging, Inc., Jersey City, N.J. (2) *plastic, packaging materials, winding boards, twine, paper articles, and machinery* (3) *materials, equipment and supplies*, used or useful in the manufacture and sale of the commodities named in (2), between the warehousing, distribution and manufacturing facilities of the Baxter Corp., Hawthorne, N.J. on the one hand, and, on the other, points in the States of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New

Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont and the District of Columbia (3), between the warehousing, distribution and manufacturing facilities of the Baxter Corp., Chicago, Ill., on the one hand, and, on the other, points in the States of Minnesota, Wisconsin, Iowa, Missouri, Ohio, Indiana, (4) between the warehousing, distribution and manufacturing facilities of the Baxter Corp., Hayward, Calif., on the one hand, and, on the other, points in the State of Washington, Oregon, Arizona, Utah (5) between the warehousing, distribution and manufacturing facilities of the Baxter Corp., Shelby, N.C., on the one hand, and, on the other, points in the States of Florida, South Carolina, Georgia, Louisiana and Tennessee under a continuing contract or contracts with the Baxter Corp., Hawthorne, N.J. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): the Baxter Corp., P.O. Box 495, Hawthorne, N.J. 07507. Ampco Packing, Inc., 225 New York Avenue, Jersey City, N.J. 07307. Send protests to: District Supervisor Joel Morrow, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 142715 (Sub-No. 6TA), filed September 9, 1977. Applicant: LANERTZ, INC., 411 Northwestern National Bank Building, South St. Paul, Minn. 55075. Applicant's representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and articles* distributed by meat packing plants (except hides and commodities in bulk), from the plantsites of Geo. A. Hormel & Co., at Austin, Minn.; Scottsbluff, Nebr.; Fort Dodge, Iowa; and Fremont, Nebr., to points in Georgia, North Carolina, South Carolina, and Tennessee, restricted to product originating at the named origins and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 142808 (Sub-No. 1TA), filed August 23, 1977. Applicant: SOUTH BAY TRUCK LINE, INC., 1040 Hermosa Avenue, Hermosa Beach, Calif. 90254. Applicant's representative: Fred H. Mackensen, 9454 Wilshire Boulevard, Suite 400, Beverly Hills, Calif. 90212. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel fence posts, scrap, and steel building materials*, between McMinnville, Oreg., on the one hand, and, on the other, points in that part of the United States on and west of a line beginning with the mouth of the Missis-

issippi River at the Gulf of Mexico and continuing north along the Mississippi River to the southern boundary of Itasca County, Minn., thence along the southern boundary of Itasca County to the eastern boundary line of Itasca County to the eastern boundary line of Koochiching County, Minn., and thence northward along the eastern boundary line of Koochiching County to ports of entry on the international boundary line between the United States and Canada, under a continuing contract with Cascade Steel, Rolling Mills, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cascade Steel, Rolling Mills, Inc., 3200 North Highway 99 West, P.O. Box 687, McMinnville, Oreg. 97128. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 142910 (Sub-No. 3TA), filed August 31, 1977. Applicant: NORMAN G. DAY, doing business as Day Express, 38299 Camelot Lane, Columbus, Ind. 47201. Applicant's representative: Stephen M. Gentry, 1500 Main Street, Speedway, Ind. 46224. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Window shades and parts* related to the manufacture and installation of window shades, between the plantsite of Breneman, Inc., located at or near Madison, Ind., on the one hand, and, on the other, Muskegon, Mich., under a continuing contract or contracts with Breneman, Inc., for 180 days. Supporting shipper(s): Breneman, Inc., 1133 Sycamore Street, Cincinnati, Ohio 45210. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, Ind. 46204.

No. MC 143094 (Sub-No. 1TA), filed September 13, 1977. Applicant: ADS TRANSPORTATION, INC., 4 Kent Road, York, Pa. 17402. Applicant's representative: Jay L. Rosenbluth, 10th Floor, 1201 Chestnut Street, Philadelphia, Pa. 19107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum slabs, ingots, billets, and sows*, to transport as a *contract carrier*, from Eastco Aluminum Co., Route 9, Frederick, Md., on the one hand, over irregular routes to Mill Products Division of Howmet Corp., Mannheim Pike, Lancaster, Lancaster County, Pa., on the other hand, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Howmet Aluminum Corp., 475 Steamboat Road, Greenwich, Conn. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 143646 (Sub-No. 1TA), filed September 1, 1977. Applicant: KEITH

BOTKINS TRUCKING, INC., 112 West Rollins Street Moberly, Mo. 65270. Applicant's representative: Thomas P. Rose, Jefferson Building, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from Randolph County, Mo., to points in Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mid-Missouri Coal Co., Huntsville, Mo. 67259; Coal Creek Fuel Co., Inc., R.R. No. 1, Higbee, Mo. 65257. Send protests to: Vernon V. Cagle, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 241 Walnut Street, Kansas City, Mo. 64108.

No. MC 143670TA, filed September 1, 1977. Applicant: HAPPY HAULERS, LTD., 315 A Avenue East, Oskaloosa, Iowa 52577. Applicant's representative: Kenneth F. Dudley, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Illinois, Iowa, Minnesota, and Wisconsin, for 180 days. Supporting shipper(s): There are approximately five statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines Iowa 50309.

No. MC 143715TA, filed September 13, 1977. Applicant: TERRENS POLESHUCK, 1601 Highland Avenue, Cinnaminson, N.J. 08077. Applicant's representative: John B. Mathews, Professional Building, 313 East Broad Street, Palmyra, N.J. 08065. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchant seamen*, together with their baggage, in vehicle limited to not more than eight (8) persons, excluding driver, between Eagle Point, Westville, N.J.; Philadelphia, Pa.; Big Stone Beach, Milford, Del.; and points along the Delaware River in New Jersey, Pennsylvania, and Delaware, under a continuing contract or contracts with B. H. Sobelman & Co., Inc., 248 Bourse Building, Philadelphia, Pa. 19106. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08603.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-29021 Filed 9-30-77; 8:45 am]

[7035-01]

[Notice No. 124TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATION

SEPTEMBER 26, 1977.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than October 18, 1977. One copy of the protest must be served on the applicant, or its authorized representatives, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 2900 (Sub-No. 312TA), filed September 7, 1977. Applicant: RYDER TRUCK LINES, INC., 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. 32209. Applicant's representative: John Carter, 2050 Kings Road, P.O. Box 2408, Jacksonville, Fla. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Savannah, Ga., to points in Florida, Georgia, South Carolina, North Carolina, Kentucky, Tennessee, Alabama, and Mississippi, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately seven statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 19105 (Sub-No. 46TA), filed September 1, 1977. Applicant: FORBES

TRANSFER CO., INC., P.O. Box 3544, Wilson, N.C. 27893. Applicant's representative: Vaughan S. Winborne, 1108 Capital Club Building, Raleigh, N.C. 27601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiber mulch* from Nash County, N.C., to points in the states of South Carolina, Georgia, Tennessee, Kentucky, West Virginia, and Virginia, for 180 days. Supporting shipper(s): Southern Seeds, Inc., P.O. Box 309, Middlesex, N.C. 27557. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 43038 (Sub-No. 468TA), filed September 12, 1977. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shackel Avenue, Madison, Heights, Mich. 48071; E. Phillips Malone, 3800 Frederica Street, Owensboro, Ky. 42301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, except trailers, in initial movements, in truckaway service, from the plant sites or storage facilities of General Motors Corp. located at Detroit, Mich., to points in the State of Nebraska, for 180 days. Supporting shipper(s): General Motors Corporation, 30007 Van Dyke Avenue, Warren, Mich. 48090; E. R. Wiseman, Director, Transportation Economics. Send protests to: Erma W. Gray, Secretary of the Detroit ICC Office, Bureau of Operations, Interstate Commerce Commission, 604 Federal Building and U.S. Courthouse, 231 West Lafayette, Detroit, Mich. 48226.

No. MC 51146 (Sub-No. 517TA), filed September 2, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin, P.O. Box 2298, Green Bay, Wis. 54306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gift cheese paks*, from Marshfield, Wis., to points in Arizona, California, Colorado, New Mexico, Nevada, Oregon, and Washington, for 180 days. Supporting shipper(s): Figi's, Inc., 630 South Central Avenue, Marshfield, Wis. 54449 (James E. Coleman). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, -517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 59117 (Sub-No. 57TA), filed September 9, 1977. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, 101 East Excelsior, Vinita, Okla., 74301. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 Northwest 58th, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transport-

ing: *Spent catalyst*, in bulk, from Coffeyville, Kans., to points in Arkansas, Colorado, Illinois, Indiana, Louisiana, Minnesota, Mississippi, Nebraska, New Mexico, Oklahoma, Texas, and Wisconsin, for 180 days. Supporting shipper(s): Easttown Technical Co., 46 Darby Road, Paoli, Pa. 19301. Send protests to: Joe Green, District Supervisor, Room 249, Old Post Office and Court House Building, 215 Northwest 3rd, Oklahoma City, Okla. 73102.

No. MC 85970 (Sub-No. 10TA), filed September 7, 1977. Applicant: SARTAIN TRUCK LINE, INC., 1354 North 2nd Street, P.O. Box 7237, Memphis, Tenn. 38107. Applicant's representative: Robert L. Baker, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers and materials, equipment and supplies* used in the manufacture of containers, between the plantsite and storage facilities of Tote Systems, Division of Hoover Ball & Bearing Co., in Dyer County, Tenn., on the one hand, and, points in the United States (except Alaska and Hawaii), on the other, for 180 days. Supporting shipper(s): Tote Systems, Division of Hoover Ball & Bearing Co., P.O. Box 456, 1910 Sylvan Road, Dyersburg, Tenn. 38024. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 206, 160 North Main Street, Memphis, Tenn. 38103.

No. MC 107403 (Sub-No. 1033TA), filed September 6, 1977. Applicant: MATELACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr., Vice President—Traffic (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bisphenol*, in bulk, in tank or hopper type vehicles from the facilities of United States Steel Corp., at Haverhill, Scioto County, Ohio, to all points in the United States (except Alaska and Hawaii), and returned and rejected shipments from the above-named destination territory to the above-named origin point, for 180 days. Supporting shipper(s): United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: Monica A. Elodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 107403 (Sub-No. 1035 TA), filed September 9, 1977. Applicant: MATELACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Gasoline*, in bulk, in tank vehicles, from Louisville, Ky., to Riverside, Calif., for 180 days. Applicant has also filed an underlying ETA seeking up

to 90 days of operating authority. Supporting shipper(s): Chevron U.S.A., Inc., 575 Market Street, Room 2510, San Francisco, Calif. 94120. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 111045 (Sub-No. 147TA), filed September 8, 1977. Applicant: RED-WING CARRIERS, INC., P.O. Box 426, 2009 Palm River Road, Tampa, Fla. 33601. Applicant's representative: L. W. Fincher, P.O. Box 426, Tampa, Fla. 33601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Sulphuric acid*, in bulk, in tank vehicles, from Pascagoula, Miss.; to Alabama and Louisiana, restricted against traffic originating at First Chemical Co., Pascagoula, Miss., for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): American Cyanamid Co., Berdan Avenue, Wayne, N.J. 07470. Send protests to: Donna M. Jones Transportation Assistant, Interstate Commerce Commission, Monterey Bldg., Suite 101, 8410 Northwest 53d Terrace, Miami, Fla. 33166.

No. MC 111941 (Sub-No. 25TA), filed September 9, 1977. Applicant: PIERCE-TON TRUCKING COMPANY, INC., P.O. Box 233, Laketon, Ind. 46943. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, from Indianapolis, Ind., to Columbus, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Anheuser-Busch, Inc., 721 Pestalozzi Street, St. Louis, Mo. 63118. Send protests to: J. G. Gray District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 112298 (Sub-No. 3TA), filed September 7, 1977. Applicant: RAY'S GARAGE, INC., 14429 W. Highway 24, Hales Corners, Wis. 53130. Applicant's representative: Michael J. Wyngaard, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Self-propelled aerial work platforms*, on drop-deck trailer equipment equipped with a hydraulic operated winch and a hydraulic unloading platform, from the plant and warehouse facilities of Krause Mfg. Co., Inc., at Milwaukee, Wis., to points in the United States, except Alaska and Hawaii, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Krause Mfg. Co., Inc., 3465 West Mill Road, Milwaukee, Wis. (David W. Brandt). Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of

Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 114045 (Sub-No. 477TA), filed September 12, 1977. Applicant: TRANSCOLD EXPRESS, INC., P.O. Box 61228, DFW Airport, Tex. 75261. Applicant's representative: J. B. Stuart, P.O. Box 61228, DFW Airport, Tex. 75261. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alumina, magnesium hydroxide and calcium carbonate* (except in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from Millsboro, Del., to San Leandro, Calif., and points in Texas, for 180 days. Supporting shipper(s): William H. Rorer, Inc., Barcroft Co., 500 Cirginia Drive, Fort Washington, Pa., 19034. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 116254 (Sub-No. 186 TA), filed September 8, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Gulfport, Miss., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Mississippi, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Plastifax, Inc., P.O. Box 1056, Gulfport, Miss. 39501. Send protests to: Mabel E. Holston Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616-2121 Bldg., Birmingham, Ala. 35203.

No. MC 117613 (Sub-No. 20TA), filed September 6, 1977. Applicant: D. M. BOWMAN, INC., Route 9, Box 26, 15 East Oak Ridge Drive, Hagerstown, Md. 21740. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fuel oils* from Washington, D.C., and its commercial zones to Hagerstown, Md., and its commercial zones, under a continuing contract, or contracts, with Basore Oil Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Basore Oil Co., Inc., 11 Edgewood Drive, Hagerstown, Md. 21740. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue NW., Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 117883 (Sub-No. 221TA), filed September 12, 1977. Applicant: SUBLER

TRANSFER, INC., 100 Vista Drive, P.O. Box 62, Versailles, Ohio 45380. Applicant's representative: Thomas R. Stone (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen pretzels*, from the plantsite and/or storage facilities of United Products Co. at or near Smithsburg, Md., to Bonner Springs, Kans., and Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Vincent E. Petti, president, United Products Co., 2254 Gulf Gate Drive, Sarasota, Fla. 33581. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio. 45202.

No. MC 123788 (Sub-No. 3TA), filed September 12, 1977. Applicant: AMERICAN-WESTERN COMPANY, INC., P.O. Box 430, Dallas, Ore. 97338. Applicant's representative: Earle V. White, White & Southwell, 2400SS. West Fourth Avenue, Portland, Ore. 97201. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Cranes, and crane parts and accessories*, between points in all States and the District of Columbia, excluding Alaska and Hawaii; and to and from Canada through ports of entry on the U.S.-Canada boundary, under a continuing contract, or contracts, with Morrow Crante Co., for 180 days. Supporting shipper(s): Morrow Crant Co., P.O. Box 3306, Salem, Ore. 97302. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, Ore. 97204.

No. MC 124887 (Sub-No. 37 TA), filed September 7, 1977. Applicant: SHELTON TRUCKING SERVICE, INC., Route 1, Box 230, Altha, Fla. 32421. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from Chatham County, Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and Tennessee, for 180 days. Supporting shipper(s): Anderson Shipping Co., P.O. Box 9805, Savannah, Ga. 31402; D. J. Powers Co., Inc., P.O. Box 9239, Savannah, Ga. 31402; Georgia Ports Authority, 235 Peachtree Street NE., Atlanta, Ga. 30303; John S. James Co., P.O. Box 2166, Savannah, Ga. 31402. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 124896 (Sub-No. 25 TA), filed September 8, 1977. Applicant: WILLIAMSON TRUCK LINE, INC., Thome & Ralston Streets, P.O. Box 3485, Wilson, N.C. 27893. Applicant's representative: Daniel O. Hands, Suite 200, 205 West Touhy Avenue, Park Ridge, Ill. 60068. Authority

sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Banquet Foods Corp., located at Carrollton, Macon, and Marshall, Mo., to points in North Carolina and Charleston, Columbia, Florence, Greenville, Orangeburg, Spartansburg, and Sumter, S.C., and points in the commercial zones of the above specified destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Banquet Foods Corp., 100 N. Broadway, St. Louis, Mo. 63102. Send protests to: Archie W. Andrews, Interstate Commerce Commission, 624 Federal Building, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 126118 (Sub-No. 51 TA), filed September 9, 1977. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from St. Paul, Minn., and its commercial zone to Knoxville, Tenn., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Houston Ball Manager, Raymonds' Distributing Co., Inc., 5502 R. Middlebrook Drive, Knoxville, Tenn. Send protests to: Max H. Johnston District Supervisor, 285 Federal Building & Court House 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 127187 (Sub-No. 27 TA), filed September 9, 1977. Applicant: FLOYD DUENOW, INC., 1728 Industrial Park Boulevard, Fergus Falls, Minn. 56537. Applicant's representative: Greg C. Johnson, 1728 Industrial Park Boulevard, Fergus Falls, Minn. 56537. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal and poultry feeds, and animal and poultry feed ingredients*, from Culbertson, Mont., to points in North Dakota, South Dakota, Wyoming, Minnesota, Wisconsin, Iowa, Nebraska, Illinois, Kansas, Missouri, and Indiana, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Continental Grain Co., 277 Park Avenue, New York, N.Y. 10017. Send protests to: Ronald R. Mau District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 127303 (Sub-No. 27 TA), filed September 8, 1977. Applicant: ZELLMER TRUCK LINES, P.O. Box 996, Granville, Ill. 61326. Applicant's representative: Dwight L. Koerber, Jr., 666 11th Street NW., No. 805, Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Insulation, application machines, parts and supplies therefor*, between Minonk, Ill., on the one hand, and, on the other, points in

the United States (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Cellulose Manufacturing, Inc., Route 1, Box 162, Minonk, Ill. 61760. Send protests to: Patricia Roscoe, Transportation Assistant, Interstate Commerce Commission, Room 1386, 219 South Dearborn Street, Chicago, Ill. 60604.

No. MC 133095 (Sub-No. 173 TA), filed September 7, 1977. Applicant: TEXAS-CONTINENTAL EXPRESS, INC. P.O. Box 434, 2603 W. Euless Blvd., Euless, Tex. 76039. Applicant's representative: Rocky Moore, P.O. Box 434, Euless, Tex. 76039. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Auto parts*, from the facilities of Questor Corporation at or near Goldsboro, N.C., to points in that part of the United States in and west of Arkansas, Iowa, Louisiana, Minnesota, and Missouri (except Alaska and Hawaii), for 180 days. Supporting shipper(s): Questor Corp., AP Parts Company Division, P.O. Box 1040, Toledo, Ohio 43697. Send protests to: Robert J. Kirspe, District Supervisor, Room 9A27, Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. MC 135072 (Sub-No. 9TA), September 8, 1977. Applicant: HEATER TRUCKING, INC., 6887 Versailles Road, North Evans, N.Y. 14112. Applicant's representative: William J. Hirsch, Suite 1125, 43 Court Street, Buffalo, N.Y. 14202. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail establishments, and materials and supplies used in conducting such business*, (1) from the storage facilities of Century Housewares, Inc., at Hamburg, N.Y., to Pittsfield, Mass., and (2) from points in Massachusetts, to the storage facilities of Century Housewares, Inc., at Hamburg, N.Y., under a continuing contract, or contracts, with Century Housewares, Inc., for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Century Housewares, Inc., S-5225 Southwestern Boulevard, Hamburg, N.Y. 14075. Send protests to: Interstate Commerce Commission, Bureau of Operations, 910 Federal Building, 111 West Huron Street, Buffalo, N.Y. 14202.

No. MC 135874 (Sub-No. 92 TA), filed September 9, 1977. Applicant: LTL PERISHABLES, INC., 550 E. 5th Street South, South St. Paul, Minn. 55075. Applicant's representative: K. O. Petrick, 550 E. 5th Street South, South St. Paul, Minn. 55075. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Pinckneyville, Ill., to Ortonville, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Sup-

porting shipper(s): RJR Foods, Inc., P.O. Box 3037, Winston-Salem, N.C. 27102. Send protests to: Marion L. Cheney Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 136342 (Sub-No. 12 TA), filed September 8, 1977. Applicant: JACKSON & JOHNSON, INC., Route 31, Box 327, Savannah, N.Y. 13146. Applicant's representative: S. Michael Richards, Raymond A. Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fresh and frozen beef*, between Rochester, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and the District of Columbia, under a continuing contract, or contracts, with Double B Packing Corp., for 180 days. Supporting shipper(s): Double B Packing Corp., 571 Colfax Street, Rochester, N.Y. 14606. Send protests to: Morris H. Gross, District Supervisor, Interstate Commerce Commission, U.S. Courthouse & Federal Building, 100 South Clinton Street, Room 1259, Syracuse, N.Y. 13202.

No. MC 140484 (Sub-No. 22 TA), filed September 9, 1977. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Avenue, P.O. Box 69, Fort Myers, Fla. 33901. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1036 15th St. NW., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Clay tile, glazed*, from Lawrenceburg, Ky., to points in California, Oregon, Washington, Nevada, Arizona, New Mexico, Colorado, Utah, Idaho, Montana, and Wyoming, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Florida Tile, Sikes Corp., P.O. Box 81, Lawrenceburg, Ky. 40342. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 301, 8410 Northwest 53d Terrace, Miami, Fla. 33166.

No. MC 140484 (Sub-No. 23 TA), filed September 9, 1977. Applicant: LESTER COGGINS TRUCKING, INC., 2671 E. Edison Avenue, P.O. Box 69, Fort Myers, Fla. 33901. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1036 15th Street, NW., Washington, D.C. 20005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Clay tile, glazed*, from Lakeland, Fla., to points in California, Oregon, Washington, Nevada, Arizona, New Mexico, Colorado, Utah, Idaho, Montana, and Wyoming, for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA

seeking up to 90 days of operating authority. Supporting shipper(s): Florida Tile—Sikes Corp., P.O. Box 81, Lawrenceburg, Ky. 40342. Send protests to: Donna M. Jones Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 Northwest 53d Terrace, Miami, Fla. 33166.

No. MC 143636 (Sub-No. 1 TA), filed September 9, 1977. Applicant: RON SMITH TRUCKING, INC., R.R. No. 3, Arcola, Ill. 61910. Applicant's representative: John L. Jenkins, R.R. No. 3, Arcola, Ill. 61910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Coal, in bulk, in dump vehicles, from points in Douglas, Edgar and Vermillion Counties, Ill., to the facilities of The Public Service Company of Indiana Inc., in Vermillion and Vigo Counties, Ind., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. P. Masselink Fuel Manager, Public Service Co. of Indiana, Inc., 1000 E. Main Street, Plainfield, Ind. 46168. Send protests to: District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 143669TA, filed September 1, 1977. Applicant: TOWPICH EXPRESS LINES, LTD., 2840 58th Avenue SE., Calgary, Alberta, Can. T2C 0B8. Applicant's representative: George Robert Crotty, Jr., 400 First National Bank Bldg., Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Agricultural fertilizers, herbicides, fungicides, pesticides, insecticides and ingredients thereof*, in ocean going containers on specially designed wheeled under-carriages, having a prior water-rail move in foreign commerce from the port of entry at the United States-Canada International Boundary line at or near Sweetgrass, Mont., to points in Montana, Idaho, Washington, and Utah, for 180 days. Applicant intends to tack with its Canadian authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geoff Hogan, Manager Western Region, Manchester Liners Limited, No. 406, 131-9 Avenue SW., Calgary, Alberta, Canada. Geoff Hogan, Manager Western Region, Canadian Pacific Ships, No. 406, 131-9 Avenue SW., Calgary, Alberta, Canada. Send protests to: District Supervisor Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 143694TA, filed September 12, 1977. Applicant: PRESTON W. ALBERT, d.b.a. TIGATOR TRUCKING SERVICE, Rt. 1, Box 18, Talbot Road, Plaquemine, La. 70764. Applicant's representative: J. H. Campbell, Jr., P.O. Box 1748 (8686 Anselmo Lane), Baton Rouge, La. 70821. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beef*, from

Amarillo, Tex., to Baton Rouge, La., restricted to a transportation service performed under a continuing contract, or contracts, with Associated Grocers, Inc., for 180 days. Supporting shipper(s): Associated Grocers, Inc. P.O. Box 1748, Baton Rouge, La. 70821. Send protests to: Ray C. Armstrong, Jr., District Supervisor, 701 Loyola Avenue, 9038 Federal Building, New Orleans, La. 70113.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

FR Dkt 77-29022 Filed 9-30-77; 8:45 am]

[7035-01]

IRREGULAR-ROUTE COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

SEPTEMBER 23, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before October 13, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 60014 (Sub-No. E33) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitates the special equipment, is performed by the consignor or consignee, or both, between points in New Jersey, on the one hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the gateway of points in New York within 10 miles of Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway to be eliminated.

No. MC 60014 (Sub-No. E37) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitates the special equipment, is performed by the consignor or consignee, or both, between those points in New Jersey on and east of a line beginning at the Pennsylvania-New Jersey State line and extending along New Jersey Highway 94 to junction New Jersey Highway 521, thence along New Jersey Highway 521 to junction New Jersey Highway 519, thence along New Jersey Highway 519 to junction New Jersey Highway 23, thence along New Jersey Highway 23 to junction New Jersey Highway 284, thence along New Jersey Highway 284 to the New Jersey-New York State line, on the one hand, and, on the other, those points in Vermont on and east of a line beginning at the United States-Canada International Boundary line, and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 15/15A, thence along Vermont Highway 15/15A to junction Vermont Highway 15, thence along Vermont Highway 15 to junction U.S. Highway 2, thence along U.S. Highway 2 to junction U.S. Highway 302, thence along U.S. Highway 302 to junction Vermont Highway 110, thence along Vermont Highway 110 to junction Vermont Highway 14, thence along Vermont Highway 14 to junction Vermont Highway 107, thence along Vermont Highway 107 to junction Vermont Highway 12, thence along Vermont Highway 12 to junction Vermont Highway 106, thence along Vermont Highway 106 to junction Vermont Highway 131, thence along Vermont Highway 131 to the Vermont-New Hampshire State line, those in New Hampshire on and northeast of a line beginning at the Vermont-New Hampshire State line, and extending along New Hampshire Highway 12/103, thence along New Hampshire Highway 12/103 to junction New Hampshire Highway 11/103, thence along New Hampshire Highway 11/103 to junction New Hampshire Highway 31, thence along New Hampshire Highway 31 to junction New Hampshire Highway 10, thence along New Hampshire Highway 10 to junction New Hampshire Highway 12, thence along New Hampshire Highway 12 to the New Hampshire-Massachusetts State line, and those in Rhode Island on and north of Interstate Highway 6. The purpose of this filing is to eliminate the gateways of New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and

points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this filing is to correct the territorial description and the gateway elimination territory.

No. MC 60014 (Sub-No. E40) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Maryland, on the one hand, and, on the other, points in Maine, New Hampshire, those in Vermont on and east of a line beginning at the United States-Canada International Boundary line and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 30, thence along Vermont Highway 30 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line, those in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line and extending along Rhode Island Highway 165 to junction Rhode Island Highway 102, thence along Rhode Island Highway 102 to junction U.S. Highway 1-A, thence along U.S. Highway 1-A to Rhode Island Sound, and those in Massachusetts on and east of U.S. Highway 5. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this filing is to correct the gateway territorial description.

No. MC 60014 (Sub-No. E45) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Delaware, on the one hand, and, on the other, points in Maine. The purpose of this filing is to eliminate the

gateways of points in New York within ten miles of Greenwich, Conn., Greenwich, Conn., and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E46) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 24, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Delaware, on the one hand, and, on the other, points in New Hampshire, Rhode Island, and those in Vermont on and east of a line beginning at Champlain, and extending along U.S. Highway 7 to junction Vermont Highway 103, thence along Vermont Highway 103 to junction Vermont Highway 155, thence along Vermont Highway 155 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 30, thence along Vermont Highway 30 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E49) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, which by reason of size or weight require the use of special equipment, from points in New York to points in Kentucky, Mississippi, Alabama, those in Tennessee on and west of a line beginning at the Virginia-Tennessee State line, and extending along Tennessee Highway 33 to junction Tennessee Highway 31, thence along Tennessee Highway 31 to junction U.S. Highway 11W, thence along U.S. Highway 11W to junction U.S. Highway 25E, thence along U.S. Highway 25E to junction Tennessee Highway 32, thence along Tennessee Highway 32 to junction U.S. Highway 11W, thence along U.S. Highway 11W to junction Interstate Highway 40, thence along Interstate Highway 40 to the Tennessee-North Carolina State line. The

purpose of this filing is to eliminate the gateways of Wheeling and Beechbottom, W. Va.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 60014 (Sub-No. E52) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from those points in New York on and south of a line beginning at Lake Erie and extending along U.S. Highway 20 to junction New York Highway 12, thence along New York Highway 12 to junction New York Highway 23, thence along New York Highway 23 to junction New York Highway 8, thence along New York Highway 8 to junction New York Highway 206, thence along New York Highway 206 to junction New York Highway 30, thence along New York Highway 30 to junction New York Highway 28, thence along New York Highway 28 to junction New York Highway 199, thence along New York Highway 199 to junction U.S. Highway 44, thence along U.S. Highway 44 to the New York-Connecticut State line, to those points in Maine on and east of a line beginning at the United States-Canada international boundary line and extending along Maine Highway 11 to junction Interstate Highway 95, thence along Interstate Highway 95 to junction U.S. Alternate Highway 1, thence along U.S. Alternate Highway 1 to junction U.S. Highway 1, thence along U.S. Highway 1 to Penobscot Bay. The purpose of this filing is to eliminate the gateways of points in New York within ten miles of Greenwich, Conn., Greenwich, Conn., and points in Massachusetts on and east of U.S. Highway 5, and points in Massachusetts within 35 miles of Boston.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E68) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 15, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitates the special equipment, is performed by the consignor or consignee, or both, between those points in Michigan on and north of a line beginning at Lake Huron line and extend-

ing along Michigan Highway 21 to junction Michigan Highway 78, thence along Michigan Highway 78 to junction U.S. Highway 127, thence along U.S. Highway 127 to junction Michigan Highway 12, thence along Michigan Highway 12 to junction Michigan Highway 66, thence along Michigan Highway 66 to the Michigan-Indiana State line, on the one hand, and, on the other, those points in Vermont on and east of a line beginning at the United States-Canada International boundary line and extending along U.S. Highway 5, to junction U.S. Highway 302, thence along U.S. Highway 302 to the Vermont-New Hampshire State line. The purpose of this filing is to eliminate the gateway of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; Pennsylvania; points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E69) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of September 8, 1975, and republished as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Virginia, on the one hand, and, on the other, points in Maine, New Hampshire, those in Vermont on and east of a line beginning at the Canada-United States international boundary line and extending along Vermont Highway 105 to junction Vermont Highway 101, thence along Vermont Highway 101 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction Vermont Highway 100, thence along Vermont Highway 100 to the junction Vermont Highway 30, thence along Vermont Highway 30 to junction U.S. Highway 5, thence along U.S. Highway 5 to the Vermont-Massachusetts State line, those in Massachusetts on and east of a line beginning at the Massachusetts-Connecticut State line and extending along Massachusetts Highway 8 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Massachusetts Highway 9/8A, thence along Massachusetts Highway 9/8A to junction Massachusetts Highway 116, thence along Massachusetts Highway 116 to junction Massachusetts Highway 8A, thence along Massachusetts Highway 8A to the Massachusetts-Vermont State line, and those in Rhode Island on and north of a line beginning at the Connecticut-Rhode Island State line and extending along

Rhode Island Highway 165 to junction Rhode Island Highway 102, thence along Rhode Island Highway 102 to junction U.S. Highway 1A, thence along U.S. Highway 1A to Narragansett Bay. The purpose of this filing is to eliminate the gateways of points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E81) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of October 21, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, by reason of their size or weight, requires the use of special equipment, between those points in West Virginia on, north and east of a line beginning at the Ohio-West Virginia State line and extending along U.S. Highway Alternate Highway 50 to junction West Virginia Highway 16, thence along West Virginia Highway 16 to junction West Virginia Highway 5, thence along West Virginia Highway 5 to junction U.S. Highway 19, thence along U.S. Highway 19 to junction U.S. Highway 60, thence along U.S. Highway 60 to the West Virginia-Virginia State line, on the one hand, and, on the other, those points in Michigan, and between points in West Virginia, on the one hand, and, on the other, those points in the Upper Peninsula of Michigan on and north of a line beginning at the United States-Canada international boundary line and extending along Interstate Highway 75 to junction U.S. Highway 2, thence along U.S. Highway 2 to the Michigan-Wisconsin State line. The purpose of this filing is to eliminate the gateways of Brooke, Hancock, Marshall, and Ohio Counties, W. Va.; Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; and points in that part of Ohio on and east of a line extending from Mansfield to Pomeroy, Ohio, along Ohio Highway 13 to junction thereof with U.S. Highway 33, thence along U.S. Highway 33 to Pomeroy, and, on and south of U.S. Highway 30 extending from Mansfield to the Ohio-West Virginia State line.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 60014 (Sub-No. E84) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of September 8, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular

routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from points in Rhode Island, to those points in Alabama on and west of a line beginning at the Tennessee-Alabama State line and extending along U.S. Highway 231 to junction Alabama Highway 79, thence along Alabama Highway 79 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Alabama Highway 5, thence along Alabama Highway 5 to junction Alabama Highway 219, thence along Alabama Highway 219 to junction Alabama Highway 41, thence along Alabama Highway 41 to the Alabama-Florida State line. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; points in New York within 10 miles of Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E85) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from those points in Rhode Island on and east of a line beginning at the Atlantic Ocean and extending along Rhode Island Highway 2/112 to junction Rhode Island Highway 112, thence along Rhode Island Highway 112 to junction Rhode Island Highway 3, thence along Rhode Island Highway 3 to junction Rhode Island Highway 102, thence along Rhode Island Highway 102 to the Rhode Island-Massachusetts State line, to points in Alabama. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; points in New York within 10 miles of Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E86) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier,

by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from points in Rhode Island to those in Tennessee on and west of a line beginning at the Kentucky-Tennessee State line and extending along Tennessee Highway 216 to junction Tennessee Highway 52, thence along Tennessee Highway 52 to junction Tennessee Highway 136 to junction Tennessee Highway 136 to junction Tennessee Highway 42, thence along Tennessee Highway 42 to junction Highway 70S, thence along U.S. Highway 70S to the junction Tennessee Highway 55, thence along Tennessee Highway 55 to junction U.S. Highway Alt. 41, thence along U.S. Highway Alt. 41 to junction U.S. Highway 64, thence along U.S. Highway 64 to junction Tennessee Highway 97, thence along Tennessee Highway 97 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateways of Boston, Mass.; and points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; points in New York within 10 miles of Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and point in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E87) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from those points in Rhode Island on and east of a line beginning at the Massachusetts-Rhode Island State line and extending along Rhode Island Highway 24 to junction Rhode Island Highway 114, thence along Rhode Island Highway 114 to junction Rhode Island Highway 103, thence along Rhode Island Highway 103 to junction U.S. Highway 1, thence along U.S. Highway 1 to junction Rhode Island Highway 146, thence along Rhode Island Highway 146 to the Rhode Island-Massachusetts State line, to points in Tennessee. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and points in Massachusetts on the east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E88) (correction), filed June 4, 1974, published in the

FEDERAL REGISTER issue of July 21, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from points in Rhode Island to those points in Kentucky on and west of a line beginning at the West Virginia-Kentucky State line and extending along U.S. Highway 119 to junction Kentucky Highway 80, thence along Kentucky Highway 80 to junction Interstate Highway 75, thence along Interstate Highway 75 to the Kentucky-Tennessee State line. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; points in New York within 10 miles of Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this filing is to state the correct gateway territory.

No. MC 60014 (Sub-No. E89) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from those points in Rhode Island on and east of a line beginning at the Connecticut-Rhode Island State line and extending along Rhode Island Highway 101 to junction Rhode Island Highway 102, thence along Rhode Island Highway 102 to junction U.S. Highway 6, thence along U.S. Highway 6 to junction Interstate Highway 295, thence along Interstate Highway 295 to junction Rhode Island Highway 2, thence along Rhode Island Highway 2 to junction Rhode Island Highway 4, thence along Rhode Island Highway 4 to junction Rhode Island Highway 138, thence along Rhode Island Highway 138 to the Rhode Island-Massachusetts State line, to points in Kentucky. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston; Greenwich, Conn.; points in New York within 10 miles of Greenwich, Conn.; and Wheeling and Beechbottom, W. Va.; and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this filing is to state the correct gateway territory.

No. MC 60014 (Sub-No. E114) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, and republished as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Machinery, materials, supplies, and equipment*, incidental to, or used in the construction, development, and production of natural gas, and petroleum, the transportation of which, by reason of their size or weight, requires the use of special equipment, between points in Fulton, Hickman, Carlisle, Ballard, McCracken, Graves, Marshall, Lyon, Livingston, Crittenden, Hopkins, Union, Henderson, Daviess, McLean, Muhlenberg, Butler, Ohio, Hancock, Breckinridge, Grayson, Edmonson, Warren, Hardin, Meads, Nelson, Bullitt, Jefferson, Caldwell, Spencer, Anderson, Shelby, Oldham, Trimble, Henry, Carroll, Gallatin, Owen, Franklin, Woodford, Fayette, Scott, Grant, Boone, Kenton, Campbell, Pendleton, Harrison, Bourbon, Clark, Nicholas, Robertson, Bracken, Mason, Fleming, Bath, Morgan, Johnson, Pike, Martin, Lawrence, Elliott, Carter, Boyd, Greenup, and Lewis County, Ky., on the one hand, and, on the other, points in Delaware, District of Columbia, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, points in Massachusetts within 35 miles of Boston, and points in Virginia east of a line beginning at the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateways of (1) West Virginia; (2) Pennsylvania; (3) New York; and (4) points in Massachusetts within 35 miles of Boston; (5) points in Massachusetts east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway.

No. MC 60014 (Sub-No. E118) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of August 25, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, which by reason of size or weight require the use of special equipment, from points in Pennsylvania to points in Mississippi, Kentucky, Alabama, and those in Tennessee on and west of a line beginning at the Tennessee-Virginia State line and extending along Tennessee Highway 63 to junction U.S. Highway 25W, thence along U.S. Highway 25W to junction Tennessee Highway 55, thence along Tennessee Highway 55 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Tennessee Highway 30, thence along Tennessee Highway 30 to junction U.S. Highway 411, thence

along U.S. Highway 411 to the Tennessee-Georgia State line. The purpose of this filing is to eliminate the gateway of Wheeling, W. Va.

NOTE.—The purpose of this filing is to correct the E number to read E118 instead of E24 and correct the territorial description.

No. MC 60014 (Sub-No. E120) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 9, 1975, and August 25, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in Pennsylvania on and south of Interstate Highway 80 on the one hand, and, on the other, those points in Vermont on and east of U.S. Highway 5. The purpose of this filing is to eliminate the gateway of points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, Mass.; and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E122) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of August 25, 1975 as (Sub-No. E20), and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitate the special equipment, is performed by the consignor or consignee, or both, between those points in Pennsylvania on and west of a line beginning at the New York-Pennsylvania State line and extending along Pennsylvania Highway 171 to junction Pennsylvania Highway 247, thence along Pennsylvania Highway 247, to junction Pennsylvania Highway 348, thence along Pennsylvania Highway 348 to junction Pennsylvania Highway 191, thence along Pennsylvania Highway 191 to the Pennsylvania-New Jersey State line, on the one hand, and, on the other, those points in Rhode Island on and east of Interstate Highway 95. The purpose of this filing is to eliminate the gateways of points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E125) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of October 1, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William R. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building, roofing and insulating material*, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitate the special equipment, is performed by the consignor, or consignee, or both (except in bulk), from the plantsite of Johns Manville Perlite Corp., Rockdale, Ill., to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Rhode Island, Vermont, Virginia, and the District of Columbia (Pennsylvania); points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn., and points in Massachusetts within 35 miles of Boston); *Cement pipe* containing asbestos fibre, requiring special equipment, restricted so that, or provided that the loading or unloading, which necessitates the special equipment, is performed by the consignor or consignee or both, from Waukegan, Ill., to points in Virginia (West Virginia)*, Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, those in Massachusetts on and east of a line beginning at the Vermont-Massachusetts state line and extending along Massachusetts Highway 8 to junction Massachusetts Highway 2, thence along Massachusetts Highway 2 to junction Massachusetts Highway 8A, thence along Massachusetts Highway 8A to junction Massachusetts Highway 116, thence along Massachusetts Highway 116 to junction Massachusetts Highway 8A, thence along Massachusetts Highway 8A to junction Massachusetts Highway 9, thence along Massachusetts Highway 9 to junction Massachusetts Highway 112, thence along Massachusetts Highway 112 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction Massachusetts Highway 8, thence along Massachusetts Highway 8 to the Massachusetts-Connecticut State line; and those in Vermont on and east of a line beginning at the United States-Canada International Boundary line and extending along Vermont Highway 5 to junction Vermont Highway 14, thence along Vermont Highway 14 to junction Vermont Highway 15, thence along Vermont Highway 15 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 12, thence along Vermont Highway 12 to junction Vermont Highway 4, thence along Vermont Highway 4 to junction Vermont Highway 100, thence along Vermont Highway 100 to junction Vermont Highway 8A, thence along Vermont Highway 8A to the Vermont-Massachusetts State line, and the District of Columbia. (points in Pennsylvania on and west of

U.S. Highway 15; and points in New York within 10 miles of Greenwich, Conn.; Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5)*. The purpose of this filing is to eliminate the gateways as indicated by asterisks above.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E136) (Correction), filed June 3, 1974, published in the FEDERAL REGISTER issue of September 19, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William R. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, by reason of size or weight, require the use of special equipment, between those points in Ohio on and west of a line beginning at Lake Erie and extending along Ohio Highway 91 to junction U.S. Highway 422, thence along U.S. Highway 422 to junction Ohio Highway 88, thence along Ohio Highway 88 to the Ohio-Pennsylvania State line, on the one hand, and, on the other, points in Rhode Island, those in Massachusetts within 35 miles of Boston, Mass., those in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line and extending along U.S. Highway 5 to junction Interstate Highway 91, thence along Interstate Highway 91 to junction Connecticut Highway 2, thence along Connecticut Highway 2 to junction Connecticut Highway 85, thence along Connecticut Highway 85 to the Rock Island Sound, those in New Hampshire on and east of a line beginning at the Vermont-New Hampshire State line and extending along U.S. Highway 302 to junction New Hampshire Highway 112, thence along New Hampshire Highway 112 to junction New Hampshire Highway 118, thence along New Hampshire Highway 118 to junction U.S. Highway 3, thence along U.S. Highway 3 to junction New Hampshire Highway 3A/25, thence along New Hampshire Highway 3A/25 to junction New Hampshire Highway 3A, thence along New Hampshire Highway 3A to junction New Hampshire Highway 104, thence along New Hampshire Highway 104 to junction U.S. Highway 4, thence along U.S. Highway 4 to junction New Hampshire Highway 11, thence along New Hampshire Highway 11 to junction New Hampshire Highway 10, thence along New Hampshire Highway 10 to junction New Hampshire Highway 123A, thence along New Hampshire Highway 123A to junction New Hampshire Highway 123, thence along New Hampshire Highway 123 to the Vermont-New Hampshire State line. The purpose of this filing is to eliminate the gateways of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, Pennsylvania, New York, and points in Massachusetts within 35 miles of Boston.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 60014 (Sub-No. E146) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 21, 1975, as E83, and republished as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, requiring special equipment, restricted so that or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, from points in Rhode Island to points in Mississippi. The purpose of this filing is to eliminate the gateways of points in Massachusetts within 35 miles of Boston, Greenwich, Conn., points in New York within 10 miles of Greenwich, Conn., and Wheeling and Beechbottom, W. Va., and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct gateway territory.

No. MC 60014 (Sub-No. E311) (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 17, 1975, and republished as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, by reason of their size or weight require the use of special equipment or handling, between points in Indiana on the one hand, and, on the other, points in New Hampshire, Rhode Island, those points in Massachusetts within 35 miles of Boston, and those points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut Highway 83 to junction Connecticut Highway 190, thence along Connecticut Highway 190 to junction Connecticut Highway 32, thence along Connecticut Highway 32 to Long Island Sound. The purpose of this filing is to eliminate the gateway of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pa., thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, thence along north Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 15; thence along U.S. Highway 15 to Trout Run, thence along U.S. Highway 15 to the Pennsylvania-New York State line; New York; and points in Massachusetts within 35 miles of Boston.

NOTE.—The purpose of this correction is to state the correct Sub-No. E311 previously published as E23.

No. MC 60014 (Sub-No. E312), (correction), filed June 4, 1974, published in the FEDERAL REGISTER issue of July 23, 1975, and republished, as corrected, this issue. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 E. Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading, which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Indiana, on the one hand, and, on the other, those points in New Hampshire, Rhode Island, Connecticut, Maine, Vermont on and east of a line beginning at the United States-Canada International Boundary line extending along U.S. Highway 5 to junction U.S. Highway 302, thence along U.S. Highway 302 to the Vermont-New Hampshire State line, and Massachusetts on and east of a line beginning at the Vermont-Massachusetts State line extending along Massachusetts Highway 8A to the junction of Massachusetts Highway 9, thence along Massachusetts Highway 9 to junction Massachusetts Highway 112, thence along Massachusetts Highway 112 to junction U.S. Highway 20, thence along U.S. Highway 20 to junction U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-Connecticut State line. The purpose of this filing is to eliminate the gateways of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio; Pennsylvania; points in New York within ten miles of Greenwich, Conn.; and points in Massachusetts within 35 miles of Boston, and points in Massachusetts on and east of U.S. Highway 5.

NOTE.—The purpose of this correction is to state the correct Sub number E312 instead of E28.

No. MC 61825 (Sub-No. E1066), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Texas on and south of a line beginning at the Louisiana-Texas State line and extending along Texas Highway 125, thence west along Texas Highway 125 to junction Texas Highway 11, to junction U.S. Highway 380, to junction Texas Highway 199, to junction U.S. Highway 82, to junction Texas Highway 116 to the New Mexico-Texas State line, to points in Pennsylvania on and east of a line beginning at the Pennsylvania-West Virginia State line, and extending along Pennsylvania Highway 166 to junction Pennsylvania Highway 51, to junction Pennsylvania Highway 8, to junction Pennsylvania Highway 68, to junction U.S. Highway 322, to junction Pennsylvania Highway 36, to

junction U.S. Highway 62 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Smyth County, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1067), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Arizona, California, Nevada, New Mexico, and Texas, and points in Arkansas on and west and south of a line and beginning at the Arkansas-Tennessee State line and extending along Arkansas Highway 137, thence west along Arkansas Highway 137 to junction Arkansas Highway 18, to junction Arkansas Highway 39, to junction Arkansas Highway 14, to junction Arkansas Highway 9, to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line; those points in Oklahoma on and south and west of a line beginning at the Oklahoma-Arkansas State line and extending along Interstate Highway 40 to junction U.S. Highway 283, to junction U.S. Highway 270, to junction U.S. Highway 64, thence along U.S. Highway 64 to the Oklahoma-Colorado State line; points in Colorado on and south and west of a line beginning at the Colorado-Oklahoma State line, and extending along U.S. Highway 385 to junction U.S. Highway 160, to junction Colorado Highway 101; to junction U.S. Highway 50, to junction U.S. Highway 85, to junction U.S. Highway 24, to junction Colorado Highway 13, to junction Colorado Highway 64, thence along Colorado Highway 64 to the Colorado-Utah State line; points in Utah on and south and west of a line beginning at the Utah-Colorado State line, and extending along U.S. Highway 40, to junction Interstate Highway 15 to the Utah-Idaho State line, to points in Pennsylvania on and east of a line beginning at the Pennsylvania-Maryland State line and extending along U.S. Highway 220, thence north along U.S. Highway 220 to junction U.S. Highway 15 to the New York-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Smyth County, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1068), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP. P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Arizona, Arkansas, California, Idaho, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and those points in Kansas on and west of a line beginning at the Kansas-Oklahoma State line, and extending along U.S. Highway 169, thence north along U.S. Highway 169 to junction

tion U.S. Highway 160, to junction Kansas Highway 99, to junction U.S. Highway 54, to junction U.S. Highway 77, to junction Kansas Highway 4, to junction Kansas Highway 15, to junction U.S. Highway 40, to junction U.S. Highway 183, to junction U.S. Highway 24, to junction U.S. Highway 33, to junction U.S. Highway 36, thence along U.S. Highway 36 to the Kansas-Colorado State line; those points in Colorado on and west of a line beginning at the Colorado-Kansas State line, and extending along U.S. Highway 36 to junction Colorado Highway 71, to junction U.S. Highway 34, to junction U.S. Highway 287, to junction Colorado Highway 14, to junction Colorado Highway 125, thence along Colorado Highway 125 to the Colorado-Wyoming State line; points in Wyoming on and west of a line beginning at the Wyoming-Colorado State line, and extending along Wyoming Highway 230, to junction Wyoming Highway 130, to junction Interstate Highway 80, to junction Wyoming Highway 789, to junction Wyoming Highway 120, to junction U.S. Highway 310, thence along U.S. Highway 310 to the Wyoming-Montana State line; points in Montana on and west of a line beginning at the Montana-Wyoming State line, and extending along U.S. Highway 310 to junction U.S. Highway 10, to junction U.S. Highway 87, to junction U.S. Highway 191 to the Canadian-United States International Boundary line, to points in Pennsylvania on and east of a line beginning at the New York-Pennsylvania State line and extending south along Interstate Highway 81 to junction U.S. Highway 15 to the Pennsylvania-Maryland State line. The purpose of this filing is to eliminate the gateway of Smyth County, Va. and Martinsville, Va.

No. MC 61825 (Sub-No. E1069), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, from points in Arkansas, Kansas, Oklahoma, and Texas to New York, N.Y. The purpose of this filing is to eliminate the gateway of Smyth County, Va., Lynchburg, Va. and Baltimore, Md.

No. MC 61825 (Sub-No. E1070), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Arizona, Arkansas, California, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington and those points in Kansas on and south and west of a line beginning at the

Kansas-Missouri State line and extending along U.S. Highway 66, to junction Kansas Highway 26, to junction Kansas Highway 96, to junction Kansas Highway 99, to junction U.S. Highway 54, to junction U.S. Highway 77, to junction Kansas Highway 4, to junction U.S. Highway 81, to junction U.S. Highway 40, to junction U.S. Highway 183, to junction U.S. Highway 24, to junction Kansas Highway 27, to junction U.S. Highway 36, thence along U.S. Highway 36 to the Kansas-Colorado State line; points in Colorado on and south and west of a line beginning at the Colorado-Kansas State line and extending along U.S. Highway 36 to junction U.S. Highway 34, to junction U.S. Highway 40, to junction Colorado Highway 789, thence along Colorado Highway 789 to the Colorado-Wyoming State line; points in Wyoming on and west of a line beginning at the Wyoming-Colorado State line, and extending along Wyoming Highway 789 to junction Interstate Highway 80, to junction U.S. Highway 187, to junction U.S. Highway 26, thence along U.S. Highway 26 to the Wyoming-Idaho State line; points in Idaho on and west of a line beginning at the Idaho-Wyoming State line, and extending along U.S. Highway 26 to junction U.S. Highway 91, thence along U.S. Highway 91 to the Idaho-Montana State line; points in Montana on and west of a line beginning at the Montana-Wyoming State line, and extending along U.S. Highway 91, thence along U.S. Highway 91 to the Canadian-United States International Boundary line, to points in New York on and east of a line beginning at the Pennsylvania-New York State line, and extending along New York Highway 79 to junction New York Highway 7, to junction New York Highway 50, to junction U.S. Highway 4 to the New York-Vermont State line. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1071), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in the states of Arizona, California, on, south and west of a line beginning at the Arkansas-Missouri State line, and extending along Arkansas Highway 25 and extending west along Arkansas Highway 25 to junction Interstate Highway 40, thence along Interstate Highway 40 to the Arkansas-Oklahoma State line; those points in Oklahoma on and south and west of a line beginning at the Oklahoma-Arkansas State line, and extending along Interstate Highway 40, thence along Interstate Highway 40 to the Oklahoma-Texas State line; points in Texas on and south and west of a line beginning at the Texas-Oklahoma State line, and extending

along Interstate Highway 40 to junction U.S. Highway 83, to junction Texas Highway 281, thence along Texas Highway 281 to junction U.S. Highway 87, thence along U.S. Highway 87 to the Texas-New Mexico State line; points in New Mexico on and south and west of a line beginning at the New Mexico-Texas State line, and extending along U.S. Highway 87, thence along U.S. Highway 87 to the New Mexico-Colorado State line; points in Colorado on and south and west of a line beginning at the Colorado-New Mexico State line, and extending along U.S. Highway 87 to junction Colorado Highway 69, to junction U.S. Highway 50, thence along U.S. Highway 50 to the Colorado-Utah State line; points in Utah on and south and west of a line beginning at the Utah-Colorado State line and extending along U.S. Highway 50, to junction Utah Highway 36, to junction Utah Highway 199, to junction unnumbered highway, to junction Interstate Highway 80, thence along Interstate Highway 80 to the Utah-Nevada State line; points in Nevada on and south and west of a line beginning at the Nevada-Utah State line, and extending along Interstate Highway 80 to junction U.S. Highway 93, thence along U.S. Highway 93 to the Nevada-Idaho State line; points in Idaho on and south and west of a line beginning at the Idaho-Nevada State line, and extending along U.S. Highway 93 to junction U.S. Highway 30, to junction U.S. Highway 20, to junction Interstate Highway 80-N, thence along Interstate Highway 80-N to the Idaho-Oregon State line; points in Oregon on and south and west of a line beginning at the Oregon-Idaho State line, and extending along Interstate Highway 80-N to junction Oregon Highway 11, to junction U.S. Highway 12, to junction U.S. Highway 395, to junction Washington Highway 17, to junction U.S. Highway 97 to the Canadian-United States International Boundary line to points in New York on and east of a line beginning at Lake Ontario and extending along New York Highway 13 to junction Interstate Highway 81, to junction New York Highway 13, to junction New York Highway 14 to the Pennsylvania-New York State line. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1072), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in New Mexico on and south of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 82, to junction U.S. Highway 85, to junction New Mexico Highway 52, to junction New Mexico Highway 59, to junction New Mexico Highway 61, to junction New Mexico Highway 78, to junction New Mexico Highway 32, to

junction Interstate Highway 40, thence along Interstate Highway 40 to the New Mexico-Arizona State line; those points in Arizona on and south of a line beginning at the Arizona-New Mexico State line, and extending along Interstate Highway 40 to junction U.S. Highway 93, thence along U.S. Highway 93 to the Arizona-Nevada State line; points in Nevada on and south and west of a line beginning at the Nevada-Arizona State line, and extending along U.S. Highway 93 to junction U.S. Highway 95, to junction Nevada Highway 58, thence along Nevada Highway 58; to the Nevada-California State line; points in California on and south and west of a line beginning at the California-Nevada State line and extending along unnumbered California Highway near Daylight Pass, Calif., to junction California Highway 190, to junction U.S. Highway 395, to junction California Highway 178, to junction California Highway 99, to junction California Highway 65, to junction California Highway 69, to junction California Highway 180, to junction California Highway 99, to junction California Highway J17, to junction California Highway 130, to junction U.S. Highway 101, to the Pacific Ocean, to points in New York on and east of a line beginning at the Pennsylvania-New York State line and extending north along U.S. Highway 62 to Lake Erie, thence north along Canadian-United States International Boundary line to Lake Ontario. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1073), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Texas on and south of a line beginning at the Louisiana-Texas State line and extending along U.S. Highway 80, thence along U.S. Highway 80 to junction U.S. Highway 69, to junction U.S. Highway 380 to the New Mexico-Texas State line, to points in New York on and east of a line beginning at the Pennsylvania-New York State line, and extending north along U.S. Highway 62 to Lake Erie, thence north along the United States-Canadian International Boundary line to Lake Ontario. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC-106603 (Sub-No. E53), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such roofing and roofing materials, as are building contractor's materials*, from those points in Illinois on, north, and west of a line beginning at the Illinois-

Missouri State line at Chester, Ill., and extending southeast along Illinois Highway 3 to junction Illinois Highway 149, thence east on Illinois Highway 149 to junction Illinois Highway 13, thence east on Illinois Highway 13 to junction Interstate Highway 57, thence north on Interstate Highway 57 to junction U.S. Highway 50, thence west on U.S. Highway 50 to junction U.S. Highway 51, thence east on U.S. Highway 51 to junction Illinois Highway 16, thence east on Illinois Highway 16 to junction Interstate Highway 57, thence north on Interstate Highway 57 to junction Interstate Highway 74, thence east on Interstate Highway 74 to the Illinois-Indiana State line, and those points in Illinois on and south of a line beginning at the Illinois-Indiana State line and extending along Illinois Highway 17 and extending west to junction Illinois Highway 29, thence south on Illinois Highway 29 to junction Illinois Highway 116, thence west on Illinois Highway 116 to junction U.S. Highway 67, thence south on U.S. Highway 67 to junction Illinois Highway 9, thence west on Illinois Highway 9 to the Illinois-Iowa State line, to points in Delaware, Maryland (except points on and northwest of U.S. Highway 220), to points in New Jersey on and southwest of a line beginning at the Pennsylvania-New Jersey State line and extending east along Interstate Highway 276 to junction Interstate Highway 295, thence on Interstate Highway 295 to junction U.S. Highway 206, thence south on U.S. Highway 206 to junction New Jersey Highway 70, thence east on New Jersey Highway 70 to junction New Jersey Highway 72, thence east on New Jersey Highway 72 to the Atlantic Ocean, those points in Pennsylvania on and northeast of a line beginning at the Pennsylvania-Maryland State line and extending north along U.S. Highway 219 to junction Pennsylvania Highway 31, thence west on Pennsylvania Highway 31 to junction Pennsylvania Highway 136, thence west on Pennsylvania Highway 136 to junction Pennsylvania Highway 51, thence north on Pennsylvania Highway 51 to the Pennsylvania-Ohio State line, and those points in Pennsylvania on and south of a line beginning at the Pennsylvania-Ohio State line and extending east along Interstate Highway 80 to junction Pennsylvania Highway 147, thence south on Pennsylvania Highway 147 to junction Pennsylvania Highway 61, thence south on Pennsylvania Highway 61 to junction U.S. Highway 422, thence southeast on U.S. Highway 422 to junction Interstate Highway 276, thence along Interstate Highway 276 to the Pennsylvania-New Jersey State line, Washington, D.C., points in Virginia on and north of U.S. Highway 50 and points in West Virginia on and north of U.S. Highway 50 beginning at the Virginia-West Virginia State line and extending west to junction U.S. Highway 220 at the West Virginia-Maryland State line. The purpose of this filing is to eliminate the gateways of Whiting, Ind., and the plant site of Certain-teed Products Corp. at Avery, Ohio.

No. MC 106603 (Sub-No. E56), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Facing tile and flooring tile*, from Kankakee, Ill., to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Washington, D.C., points in Virginia on and north of U.S. Highway 50 and West Virginia on and east of a line beginning at the Ohio-West Virginia State line and extending south along U.S. Highway 33 to junction Interstate Highway 77, thence south on Interstate Highway 77 to junction U.S. Highway 21, thence southwest on U.S. Highway 21 to the West Virginia-Virginia State line. The purpose of this filing is to eliminate the gateways of points in Indiana and the plant site of Certain-teed Products Corp. at Avery, Ohio.

No. MC 107012 (Sub-No. E10), filed May 16, 1974. Applicant: NORTH AMERICAN VAN LINES, INC., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: David D. Bishop and Gary M. Crist, P.O. Box 988, Fort Wayne, Ind. 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New commercial and institutional fixtures, uncrated*, (1) from points in Alabama, to points in California, Colorado, Idaho, Kansas, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming; (2) from points in Autauga, Bibb, Blount, Calhoun, Chambers, Cherokee, Chilton, Clay, Cleburne, Coosa, Cullman, Elmore, Etowah, Jefferson, Lee, Randolph, St. Clair, Shelby, Talladega, and Tallapoosa Counties, Ala., to points in Arizona; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, and Washington Counties, Ark.; points in Iowa, New Mexico, Oklahoma; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Foyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Haskell, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward, and Winkler Counties, Tex.; (3) from points in Barbour, Bullock, Coffee, Covington, Crenshaw, Dale, Geneva, Henry, Houston, Macon, Montgomery, Pike, and Russell Counties, Ala., to points in Arizona; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, and Washington Counties, Ark., to points in Iowa; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Catron, Dona Ana, Grant, Hidalgo, Luna, Otero,

Sierra, Socorro, Colfax, Harding, Mora, Taos, and Union Counties, N. Mex.; Alfalfa, Beckham, Blaine, Caddo, Comanche, Cotton, Custer, Dewey, Ellis, Greer, Harmon, Harper, Jackson, Kiowa, Major, Roger Mills, Tillman, Washita, Woods, Woodward, Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron, Texas, Canadian, Carter, Cleveland, Creek, Garfield, Grady, Grant, Hughes, Jefferson, Johnston, Kay, Kingfisher, Lincoln, Logan, Love, McClain, Marshall, Murray, Noble, Okfuskee, Oklahoma, Osage, Pawnee, Payne, Pontotoc, Pottawatomie, Seminole, and Stephens Counties, Okla.; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Cottle, Dallam, Deaf Smith, Donley, Floyd, Foard, Gray, Hale, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, Wilbarger, Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, Tex.

(4) From points in Colbert, Fayette, Franklin, Lamar, Lauderdale, Lawrence, Marion, Pickens, Tuscaloosa, Walker and Winston Counties, Ala., to points in Arizona; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, and Washington Counties, Ark.; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Hanks, Howard, Mitchell, Winnebago, Winneshiek, Worth, and Wright Counties, Iowa; Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, Webster, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, and Union Counties, Iowa; Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, and Sioux Counties, Iowa; points in New Mexico, Oklahoma; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasa, Llano, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young Counties, Texas; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, and Wilbarger Counties, Tex.; Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kennedy, Kinney, Kleberg, La Salle, Live Oak, McMullen, Maverick, Mediana, Nueces, Real, Regugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, and Zavala Counties, Tex.; Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, Tex.; Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties, Tex.

(5) From points in DeKalb, Jackson, Limestone, Madison, Marshall and Morgan Counties, Ala., to points in Arizona; Clark, Hempstead, Howard, Lafayette, Little River, Miller, Montgomery, Ne-

vada, Pike, Polk, Scott, Sevier, Yell, Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, and Washington Counties, Ark.; Allamakee, Black Hawk, Bremer, Buchanan, Butler, Cerro Gordo, Chickasaw, Clayton, Delaware, Fayette, Floyd, Franklin, Hancock, Howard, Mitchell, Winnebago, Winneshiek, Worth, and Wright Counties, Iowa; Appanoose, Boone, Clarke, Dallas, Decatur, Greene, Grundy, Hamilton, Hardin, Jasper, Lucas, Madison, Mahaska, Marion, Marshall, Monroe, Polk, Poweshiek, Story, Tama, Warren, Wayne, and Webster Counties, Iowa; Adair, Adams, Audubon, Cass, Fremont, Guthrie, Harrison, Mills, Montgomery, Page, Pottawattamie, Ringgold, Shelby, Taylor, and Union Counties, Iowa; Buena Vista, Calhoun, Carroll, Cherokee, Clay, Crawford, Dickinson, Emmet, Humboldt, Ida, Kossuth, Lyon, Monona, O'Brien, Osceola, Palo Alto, Plymouth, Pocahontas, Sac, and Sioux Counties, Iowa; points in New Mexico, Oklahoma; Andrews, Archer, Baylor, Blanco, Borden, Bosque, Brown, Burnet, Callahan, Clay, Coke, Coleman, Comanche, Concho, Cooke, Coryell, Crane, Crockett, Crosby, Dawson, Denton, Dickens, Eastland, Ector, Edwards, Erath, Fisher, Gaines, Garza, Gillespie, Glasscock, Hamilton, Haskell, Hill, Hood, Howard, Irion, Jack, Johnson, Jones, Kendall, Kent, Kerr, Kimble, King, Knox, Lampasa, Llano, Lubbock, Lynn, McCulloch, McLennan, Martin, Mason, Menard, Midland, Mills, Mitchell, Montague, Nolan, Palo Pinto, Parker, Reagan, Runnels, San Saba, Schleicher, Scurry, Shackelford, Somervell, Stephens, Sterling, Stonewall, Sutton, Tarrant, Taylor, Terry, Throckmorton, Tom Green, Upton, Val Verde, Wise, Yoakum, Young Counties, Texas; Armstrong, Bailey, Briscoe, Carson, Castro, Childress, Cochran, Collingsworth, Hall, Hansford, Hardeman, Hartley, Hemphill, Hockley, Hutchinson, Lamb, Lipscomb, Moore, Motley, Ochiltree, Oldham, Parmer, Potter, Randall, Roberts, Sherman, Swisher, Wheeler, Wichita, and Wilbarger Counties, Tex.; Aransas, Atascosa, Bandera, Bee, Bexar, Brooks, Cameron, Dimmit, Duval, Frio, Goliad, Hidalgo, Jim Hogg, Jim Wells, Kaines, Kennedy, Kinney, Kleberg, La Salle, Live Oak, McMullen, Maverick, Mediana, Nueces, Real, Regugio, San Patricio, Starr, Uvalde, Webb, Willacy, Wilson, Zapata, and Zavala Counties, Tex.; Brewster, Culberson, El Paso, Hudspeth, Jeff Davis, Loving, Pecos, Presidio, Reeves, Terrell, Ward and Winkler Counties, Tex.; Anderson, Angelina, Bowie, Camp, Cass, Cherokee, Collin, Dallas, Delta, Ellis, Fannin, Franklin, Freestone, Grayson, Gregg, Harrison, Henderson, Hopkins, Hunt, Kaufman, Lamar, Marion, Morris, Nacogdoches, Navarro, Panola, Rains, Red River, Rockwall, Rusk, Sabine, San Augustine, Shelby, Smith, Titus, Upshur, Van Zandt, and Wood Counties, Tex.

(6) From points in Baldwin, Butler, Choctaw, Clarke, Conecuh, Dallas, Escambia, Greene, Hale, Lawndes, Maren-

go, Mobile, Monroe, Perry, Sumter, Washington, and Wilcox Counties, Ala., to points in Apache, Coconino, Mohave, Navajo, Yavapai, Maricopa, Pima, Pinal, Santa Cruz and Yuma Counties, Ariz.; Benton, Boone, Carroll, Crawford, Franklin, Johnson, Logan, Madison, Marion, Newton, Pope, Searcy, Sebastian, Van Buren, and Washington Counties, Ark.; points in Iowa; Bernalillo, Guadalupe, Los Alamos, Sandoval, San Miguel, Santa Fe, Torrance, Valencia, McKinley, Rio Arriba, San Juan, Colfax, Harding, Mora, Taos and Union Counties, N. Mex.; Adair, Cherokee, Craig, Delaware, McIntosh, Mayes, Muskogee, Nowata, Okmulgee, Osage, Ottawa, Rogers, Sequoyah, Tulsa, Wagoner, Washington, Beaver, Cimarron and Texas Counties, Okla. The purpose of this filing is to eliminate the gateway of Greene County, Ark.

No. MC 114868 (Sub-No. E33), filed August 1, 1975. Applicant: NEWLON'S TRANSFER & STORAGE, 1511 N. Nelson St., Arlington, Va. 22201. Applicants representative: H. E. Newlon, Jr. (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, (1) between points in New Jersey, on the one hand, and, on the other, points in Illinois. The purpose of this filing is to eliminate the gateways of Washington, D.C. or points in Kentucky within 125 miles of Nashville. (2) Between points in New Jersey, on the one hand, and, on the other, points in Indiana. The purpose of this filing is to eliminate the gateways of Washington, D.C. and points in Kentucky within 125 miles of Nashville. (3) Between points in New Jersey, on the one hand, and, on the other, points in Maryland within 125 miles of Washington, D.C. The purpose of this filing is to eliminate the gateway of Washington, D.C. (4) Between points in New Jersey, on the one hand, and, on the other, points in Kentucky. The purpose of this filing is to eliminate the gateway of Washington, D.C. or points in Kentucky within 125 miles of Nashville. (5) (a) Between points in New Jersey (except Hunterdon and Warren Counties), on the one hand, and, on the other, points in Ohio on and south of Interstate Highway 70. The purpose of this filing is to eliminate the gateway of Washington, D.C. (5) (b) Between points in New Jersey, on, east, and south of U.S. Highway 202, on the one hand, and, on the other, points in Ohio on and west of Interstate Highway 77, and on and north of Interstate Highway 70. The purpose of this filing is to eliminate the gateway of Washington, D.C. (5) (c) Between points in New Jersey on and south of New Jersey Highway 33, on the one hand, and, on the other, points in Ohio. The purpose of this filing is to eliminate the gateway of Washington, D.C. (6) Between points in New Jersey, on the one hand, and, on the other, points in Missouri. The purpose of this filing is to eliminate the gateways of Washington, D.C. and points in Kentucky within

125 miles of Nashville. (7) Between points in New Jersey, on the one hand, and, on the other, points in North Carolina. The purpose of this filing is to eliminate the gateways of Washington, D.C., points in Kentucky, and points in Tennessee within 125 miles of Nashville.

No. MC 115840 (Sub-No. E111), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heasley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel pipe, iron castings encompassed by iron and steel articles, and contractors' equipment, material, and supplies consisting of fittings, valves, hydrants, and gaskets used in the agricultural, water treatment, food processing, wholesale groceries, and institutional supply industries* (except commodities in bulk), (1) Between points in North Carolina, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Idaho, Kansas, Louisiana, Mississippi, Montana, Nevada, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. (2) Between points in South Carolina, on the one hand, and, on the other, points in Arizona, Arkansas, California, Colorado, Idaho, Iowa, Kansas, Louisiana, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. The purpose of this filing is to eliminate the gateways of Holt and Birmingham, Ala.

No. MC 115840 (Sub-No. E112), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heasley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Valves, hydrants, fittings, and accessories* (except commodities in bulk), from Anniston, Ala., to points in Connecticut, Illinois, Maine, Massachusetts, New Hampshire, Ohio, Rhode Island, and Vermont. The purpose of this filing is to eliminate the gateway of Holt, Ala.

No. MC 115840 (Sub-No. E114), filed September 12, 1977. Applicant: COLONIAL FAST FREIGHT LINES, INC., P.O. Box 10327, Birmingham, Ala. 35202. Applicant's representative: E. Stephen Heasley, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, pipe fittings, pipe valves, and fire hydrants* (except commodities in bulk), from Coshocton, Ohio, to points in Arizona, New Mexico and Texas. The purpose of this filing is to eliminate the gateway of Holt, Ala.

No. MC 124004 (Sub-No. E1), filed May 15, 1974. Applicant: RICHARD DAHN, INC., 620 W. Mountain Road, Sparta,

N.J. 07871. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Quarried magnetite Ore*, (1) from Albany and Tahawus, N.Y., to points in Kentucky, Pennsylvania, Virginia and West Virginia; (2) from Albany and Tahawus, N.Y., to points in Pennsylvania on and south of a line beginning at the Pennsylvania-New Jersey State line, and extending along Interstate Highway 80 to junction U.S. Highway 322, to junction U.S. Highway 62, to junction Pennsylvania Highway 358, thence along Pennsylvania Highway 358 to the Pennsylvania-Ohio State line. The purpose of this filing is to eliminate the gateway of Mt. Hope, N.J.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[PR Doc 77-29023 Filed 9-30-77; 8:45 am]

[7035-01]

[Notice No. W-ITA]

WATER CARRIER TEMPORARY AUTHORITY APPLICATION

SEPTEMBER 30, 1977.

The following is notice of filing of application for temporary authority under section 311(a) of the Interstate Commerce Act. One copy of a petition, if any, must be served on the applicant, or its authorized representative, if any, and the petitioner must certify that such service has been made. The petition must identify the operating authority upon which it is predicated, specifying the "W" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the petitioner shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a petition shall be governed by the completeness and pertinence of the petitioner's information.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office.

No. W-5 (Sub-No. 7TA), by order entered September 27, 1977, the Motor Carrier Board granted Igert, Paducah, Ky., 180-day temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation of iron and steel articles (bridge girders), and miscellaneous construction, equipment, between points on Yellow Creek in Tishomingo County, Miss., from the mouth of the Tennessee River Mile 215 and Mississippi Highway 25 Bridge across Yellow Creek, with the privilege to tack with its existing authority and to interline with other water common carriers, John C. Lovett, Lovett, Johnson, and Shapiro, P.O. Box 165, Benton, Ky. 42045, representatives for applicant. Any interested person may file a petition for reconsideration on or before October 26, 1977. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

fore October 26, 1977. Within 20 days after the filing of such petition with the Commission, any interested person may file and serve a reply thereto.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[PR Doc 77-29024 Filed 9-30-77; 8:45 am]

[7035-01]

[Amtd. No. 5; Exemption No. 131, Rule 13; Ex Parte No. 21]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

SEPTEMBER 28, 1977.

To: All Railroads.
Upon further consideration of Exemption No. 131 issued February 8, 1977.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 131 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire November 30, 1977.

This amendment shall become effective September 30, 1977.

Issued at Washington, D.C., September 22, 1977.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[PR Doc 77-29031 Filed 9-30-77; 8:45 am]

[7035-01]

[Amtd. No. 4; Revised Exemption 121 Rule 19; Ex Parte No. 241]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

To: The Baltimore & Ohio Railroad Co., the Chesapeake & Ohio Railway Co., Norfolk & Western Railway Co., and Western Maryland Railway Co.

Upon further consideration of Revised Exemption No. 121 issued November 23, 1976.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 121 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire December 31, 1977.

This amendment shall become effective September 30, 1977.

Issued at Washington, D.C., September 22, 1977.

INTERSTATE COMMERCE,
COMMISSION,
JOEL E. BURNS,
Agent.

[PR Doc 77-29025 Filed 9-30-77; 8:45 am]

[7035-01]

[Amtd. No. 11; Exemption No. 95; Rule 19; Ex Parte No. 241]

EXEMPTION UNDER PROVISION OF THE MANDATORY CAR SERVICE RULES

SEPTEMBER 28, 1977.

To: Bessemer & Lake Erie Railroad Co., and Norfolk & Western Railway Co.

Upon further consideration of Exemption No. 96 issued February 5, 1975.

It is ordered, That, under the authority vested in me by Car Service Rule 19, Exemption No. 95 to the Mandatory Car Service Rules ordered in Ex Parte No. 241, be, and it is hereby amended to expire December 31, 1977.

This amendment shall become effective September 30, 1977.

Issued at Washington, D.C., September 22, 1977.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc.77-29026 Filed 9-30-77;8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 28, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER. FSA No. 43437—Barley and Oats to North Pacific Coast Points. Filed by North Pacific Coast Freight Bureau, Agent (No. 77-4), for and on behalf of Chicago, Milwaukee, St. Paul & Pacific Railroad Co. Rates on barley and oats, feed grade, in carloads, as described in the application, from specified points in Montana, to North Pacific Coast points. Grounds for relief—Rate relationship and market competition. Tariff—Supplement 23 to North Pacific Coast Freight Bureau, Agent, tariff 13-I, I.C.C. No. 1302. Rates are published to become effective on October 29, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-29027 Filed 9-30-77;8:45 am]

[7035-01]

[No. 36574]

PETITION OF RAILROADS SEEKING AUTHORIZATION TO WAIVE DEMURRAGE CHARGES CAUSED BY SEVERE WINTER WEATHER

SEPTEMBER 27, 1977.

In an order served August 12, 1977, the Commission granted specified rail carriers the right to waive a portion of demurrage charges caused by severe winter weather. Published at 42 FR P. 41,948 on August 19, 1977. In that order, the Commission stated that other carriers

who want to participate in the proposal could, upon notifying the Commission in writing of their intent to do so. The following carriers should also be added to those who intend to participate in the proposal: Johnstown and Stoney Creek Railroad Co., The Newburgh and South Shore Railway Co., and The Pittsburgh and Lake Erie Railroad Co.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29028 Filed 9-30-77;8:45 am]

[7035-01]

[No. 36634]

MONTANA INTRASTATE FREIGHT RATES AND CHARGES—1977

SEPTEMBER 28, 1977.

In the matter of petition for investigation of intrastate freight rates and charges within the state of Montana.

By joint petition authorized under section 13(3) of the Interstate Commerce Act, filed July 14, 1977, petitioners, three common carriers by railroad¹ subject to Part I of the Interstate Commerce Act, and also operating in intrastate commerce in the State of Montana, and on behalf of all other railroads engaged in the same or similar transportation services, request that this Commission institute an investigation of their Montana intrastate freight rates and charges, under section 13 and 15a of the Interstate Commerce Act; wherein they will seek an order authorizing them to increase such rates and charges in the same amounts approved for interstate application by this Commission in Ex Parte Nos. 305-RE,² 318, 330, and 336.

By tariff filed with the Montana Public Service Commission, petitioners sought to make the general increases granted in the above ex parte proceedings applicable on Montana intrastate traffic. Said Commission ordered cancelled the tariff supplements which would have implemented the increases.

Petitioners contend that present interstate freight rates from, to, and within Montana are just and reasonable and that the proposed intrastate rates will not exceed a just and reasonable level; that transportation conditions for intrastate traffic in Montana are not more favorable than for interstate traffic; that disparity in favor of Montana intrastate freight rates and charges generally exists in relation to interstate rates and charges; that the present Montana intrastate rail freight rates and charges create undue, unreasonable, and unjust discrimination against and an undue burden on interstate commerce in violation of sections 13 and 15a of the Interstate Commerce Act, to the extent that

¹ Chicago, Milwaukee, St. Paul & Pacific R.R. Co.; Union Pacific Railroad Co.; and Burlington Northern Inc.

² Since the filing of their petition, an order has been decided in Ex Parte No. 305-RE, August 22, 1977, further explicating the effect of the increases authorized therein.

they do not include the increases authorized in Ex Parte Nos. 305-RE, 318, 330, and 336; and that failure of the Montana Public Service Commission to authorize petitioners to increase Montana intrastate freight rates and charges corresponding to the aforesaid interstate increases has resulted in depriving petitioners of additional revenues required by them to enable them under honest, economical and efficient management to provide adequate and efficient railroad transportation and services consistent with the public interest and the National Transportation Policy.

Petitioners also contend that upon entering the order prayed for it may become necessary to make readjustments for the purpose of retaining rail traffic and maintaining market relationships, which adjustments have no relation to interstate rates and charges on like traffic as to the provisions of the act. They therefore request that provision be made in said Order for subsequent rate adjustments by petitioners on a self-executing basis without further proceedings or orders of this Commission so that excessive delays of supplemental orders may be avoided. They suggest that the order contain a self-operative provision permitting such adjustment in rates, and charges upon 30 days' notice given to the Commission and to the general public, or upon such a lesser period as may be authorized by special permission application, and where no protest to such adjustment is received by the Commission, on or before 12 days prior to the expiration of the 30 day notice, said adjustments may become effective automatically, unless otherwise ordered by the Commission.

Under section 13 of the Interstate Commerce Act, this Commission may institute an investigation, into the lawfulness of intrastate rail freight rates and charges for the purpose of adjusting such rates and charges to those charged on similar traffic moving in interstate or foreign commerce. This Commission may act not withstanding the laws or constitution of any State.

Therefore, *It is ordered*, That the petition is granted. An investigation, under section 13 and 15a of the Interstate Commerce Act, is instituted to determine whether the Montana intrastate rail freight rates in any respect cause any unjust discrimination against or any undue burden on interstate or foreign commerce, or are otherwise unlawful, by reason of the failure of such rates and charges to include the full increases authorized for interstate application by this Commission in Ex Parte Nos. 305-RE, 318, 330, and 336. It will also determine if any rates or charges, or maximum or minimum charges, or both, shall be prescribed to remove any unlawful advantage, preference, discrimination, undue burden, or other violation of law, found to exist. The investigation will also determine whether the requested self-operative provision permitting self-executing rate readjustments is properly within the scope of an investigation such

as this one, and, if so, whether the pleadings submitted in this investigation show reason sufficient to warrant such a provision.

It is further ordered, That all common carriers by railroad operating in the State of Montana, subject to the jurisdiction of this Commission are made respondents in this proceeding.

It is further ordered, That all persons who wish to actively participate in this proceeding and to file and receive copies of pleadings shall make known that fact by notifying the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before 15 days from the FEDERAL REGISTER publication date. Although individual participation is not precluded, to conserve time and to avoid unnecessary expense, persons having common interests should endeavor to consolidate their presentations to the greatest extent possible. The Commission desires participation of only those who intend to take an active part in the proceeding.

It is further ordered, That as soon as practicable after the date of indicating a desire to participate in the proceeding has passed, the Commission will serve a list of names and addresses of all persons upon whom service of all pleadings must be made and that thereafter this proceeding will be assigned for oral hearing or handling under modified procedure.

And it is further ordered, That a copy of this order shall be served upon each of the petitioners and respondents herein. The State of Montana shall be notified of the proceeding by sending copies of this order of the instant petition by certified mail to the Governor of the State of Montana and to the Public Service Commission of Montana. Further notice of this proceeding shall be given to the public by depositing a copy of this order in the Office of the Secretary of the Interstate Commerce Commission, at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Dated at Washington, D.C., this 12th day of September, 1977.

By the Commission, Commissioner Murphy.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29029 Filed 9-30-77;8:45 am]

[7035-01]

[Notice No. 231]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211,

312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before November 2, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-77118 filed September 14, 1977. Transferee: Robert Airport Harris, doing business as R. A. Harris & Sons, 3501 22d Street, Menominee, Mich. 49858. Transferor: Service Ice Company, a corporation, 1013 N. 14th Street, Sheboygan, Wis. 53081. Applicant's representative: Robert A. Harris, (address same as transferee). Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 119704 issued February 17, 1961, as follows: Ice cream and frozen milk products, from Sheboygan, Wis., to points in Iowa, Minnesota, Illinois, Indiana, and Michigan and nuts and fruit flavors for use as ingredients in the manufacture of ice cream and frozen milk products, returned shipments of ice cream and frozen milk products, and empty cases and containers used in packing ice cream and frozen products, from points in Iowa, Minnesota, Illinois, Indiana, and Michigan, to Sheboygan, Wis. The operations authorized are limited to a transportation service to be performed under a continuing contract, or contracts, with Verifine Dairy Products Co., of Sheboygan, Wis. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77262, filed September 20, 1977. Transferee: Ronald B. Pearson, doing business as Pearson's Express, 132 Vale Street, Fall River, Mass. 02724. Transferor: Link Transportation Company, Inc., 70 Christine Terrace, Milford,

Conn. 06460. Applicant's representative: Ronald B. Pearson, 132 Vale Street, Fall River, Mass. 02724. Authority sought for purchase by transferee of a portion of the operating rights of transferor as set forth in Certificate No. MC 100825 (Sub-No. 1), issued March 20, 1975 as follows: General commodities, except those of unusual value, and except automobiles, dangerous explosives, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over regular routes between Jewett City, Conn., and Providence, R.I., serving all intermediate points, and serving the off-route points of Voluntown, Griswold, Norwich, Hanover, Baltic, Versailles, Taftville, Oneco, Sterling Moosup, Canterbury, Brooklyn, Attawaugan, Goodyear, and East Killingly, Conn., and Foster Center, R.I.; from Jewett City over Connecticut Highway 12 to Danielson, Conn., thence over U.S. Highway 6 to Providence, and return over the same route. Between Danielson, Conn., and Providence, R.I., serving all intermediate points, and serving the off-route points of Canterbury, Wauregan, Brooklyn, East Killingly, Goodyear, Balloville, Pomfret, Grosvenor Dale, North Grosvenor Dale, and Mechanicsville, Conn.; from Danielson over Connecticut Highway 12 to Putnam, Conn., thence over U.S. Highway 44 to Providence, and return over the same route. Transferee holds Certificate of Registration No. MC 120880 authorizing service to all points in Massachusetts. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77299, filed September 5, 1977. Transferee: S.R.T. MOTOR FREIGHT, INC., 1801 South Pennsylvania Ave., Morrisville, Pa. 19067. Transferor: Benjamin Brothers, Inc., 1729 West Allegheny Ave., Philadelphia, Pa. 19132. Applicant's representative: Alan Kahn, Suite 1920, Two Penn Center Plaza, Philadelphia, Pa. 19102. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 84450, issued August 8, 1960, as follows: Green salted hides, from points in New Jersey, except points within 20 miles of New York, N.Y., to Philadelphia, Pa.; tanning materials, from Newark, N.J., to Philadelphia, Pa., and fish oil, in barrels, from Newark, N.J., to Philadelphia, Pa.; uncrated machinery, and articles requiring specialized handling or rigging because of size or weight, between Philadelphia, Pa., and points in New Jersey, Delaware, and Pennsylvania within 30 miles of Philadelphia, on the one hand, and, on the other points in New York, except New York, N.Y., and points within 75 miles thereof; machinery, and articles requiring specialized handling or rigging because of size or weight, between Philadelphia, Pa., points in New Jersey, Delaware, and Pennsylvania, within 30 miles of Philadelphia, on the one hand, and, on the other, points in New Jersey, Delaware, Maryland, Pennsylvania, Connecticut, and the District of Columbia, and

those in New York within 75 miles of New York, N.Y., including New York, N.Y.; hides and tallow, between Philadelphia, Pa., on the one hand, and, on the other, points in New York and New Jersey within 20 miles of New York, N.Y., including New York, N.Y.; and general commodities, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special handling or rigging because of size or weight, and those injurious or contaminating to other lading, between points in Philadelphia, Pa. Transferee presently holds no authority from this Commission. Application has

not been filed for temporary authority under section 210a(b).

No. MC 77304, filed September 13, 1977. Transferee: Ray Holland, 13101 El Road, Little Rock, Ark. 72206. Transferor: William R. Pinkerton, doing business as Bill Pinkerton, 13801 Ironton Cutoff, Little Rock, Ark. 72206. Applicants' representative: THOMAS J. PRESSON, Lot 27 River Bend Estates, Redfield, Ark. 72132. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit Nos. MC 117834 (Sub-No. 1); MC 117834 (Sub-No. 4); and MC 117834 (Sub-No. 5); issued May 7, 1963, August 12, 1963, February 2, 1967,

and January 23, 1970, as follows: Bananas, from New Orleans, La., to Little Rock, Ark.; bananas from Gulfport, Miss., Mobile, Ala., and Houston and Galveston, Tex., to North Little Rock, Ark.; fruit and vegetable shipping containers, from Little Rock, Ark., to points in Louisiana; bananas, from New Orleans, La., Gulfport, Miss., Mobile, Ala., and Houston and Galveston, Tex., to Little Rock, Ark.; Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Dec.77-29030 Filed 9-30-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

1

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10:00 a.m., September 27, 1977; 2:00 p.m., September 29, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Scheduled Meetings for September 27 as announced by M-60 as amended by MA-52 and MA-53; and for September 29 as announced by MA-61.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Notice of change of time for the September 27, and September 29 Meetings.

Chairman Kahn and Member West will be at the State Department the afternoon of September 27, and thus it is necessary to change the time of the scheduled meeting from 2:00 p.m. to 10:00 a.m.

Chairman Kahn will appear at a Congressional meeting the morning of September 29, and thus it is necessary to change the time of that scheduled meeting from 10:00 a.m. to 2:00 p.m.

[S-1490-77 Filed 9-29-77;9:31 am]

2

[8010-01]

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: To be printed on September 29, 1977.

CHANGES IN THE MEETING SCHEDULE: Additional items to be considered by the Commission.

OPEN MEETING AGENDA: At the open meeting scheduled for Wednesday, October 5, 1977, at 10 a.m., the Commission

will consider the following additional item: Publication for comment of a proposed rule and schedule relating to going private transactions by public companies or their affiliates. (This item was previously scheduled for September 28, 1977.)

CLOSED MEETING AGENDA: At a closed meeting scheduled for Wednesday, October 5, 1977, at 1:30 p.m., the Commission will consider the following matter: Discussion of regulatory matters bearing enforcement implications.

At a closed meeting scheduled for Thursday, October 6, 1977, at 1:30 p.m., the Commission will consider the following matter: Discussion of regulatory matters bearing enforcement implications.

Chairman Williams, Commissioners Loomis, Evans, and Pollack voted to close the above captioned meetings and determined that no earlier notice thereof was possible.

SEPTEMBER 27, 1977.

[S-1487-77 Filed 9-28-77;1:55 pm]

[8010-01]

3

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 47942, September 22, 1977.

TIME AND DATE: September 29, 1977, 5 p.m.

PLACE: 500 North Capitol Street, Washington, D.C.

STATUS: Closed meeting.

SUBJECT MATTER: Discussion of litigation matters.

Chairman Williams, Commissioners Evans and Pollack voted to close the meeting and determined that no earlier notice thereof was possible.

SEPTEMBER 29, 1977.

[S-1491-77 Filed 9-29-77;10:52 am]

[7020-02]

4

UNITED STATES INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 13, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Petitions and complaints (if necessary).
5. Discussion of possible section 332 investigation on steel.
6. Consideration of overall research plan (to be submitted by the Acting Director of Operations).
7. Investigations AA1921-169-172 (Animal Glue and Inedible Gelatin)—briefing.
8. Proposed changes to the Commission's rules—see documents GC-A-19 and GC-A-20.
9. Discussion of the status of the report to the Ways and Means Committee—see action jacket 004-77-6.
10. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1488-77 Filed 9-28-77;4:07 pm]

[7020-02]

5

UNITED STATES INTERNATIONAL TRADE COMMISSION. USITC SE-77-57B.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: September 28, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 2 p.m., Tuesday, October 11, 1977.

CHANGES IN THE MEETING: Additional item added to the agenda as follows: 2. Investigation AA1921-Inq.-7 (Methyl Alcohol)—briefing (if necessary) and vote.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1489 Filed 9-28-77;4:07 pm]

Registered
Property

MONDAY, OCTOBER 3, 1977

PART II



DEPARTMENT OF
HOUSING AND
URBAN
DEVELOPMENT

Federal Insurance
Administration



NATIONAL FLOOD
INSURANCE PROGRAM

Procedure for Map Correction

[4210-01]

Title 24—National Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-297]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Boulder, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On June 27, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Boulder, Colo. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the City of Boulder, Colo., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirements to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of Letter of Map Amendment.

Map No. H 080024A Panels 03 and 05, published on June 27, 1974 in 39 FR 23264, indicates that Lot 19, Block 3, Keewaydin Meadows Filing No. Three,

Boulder, Colo., as recorded on Plan File R-2-3, No. 6, in the office of the Clerk and Recorder of Boulder County, Colo., is within the Special Flood Hazard Area.

Map No. H 080024A Panels 03 and 05 is hereby corrected to reflect the entire area bounded by U.S. Route 36 on the south, Pawnee Drive on the west, Baseline Road on the north, and the City of Boulder corporate limits on the east, which includes Lot 19, Block 3, is not within the Special Flood Hazard Area identified on June 14, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28324 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 29, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Anne Arundel County, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Anne Arundel, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from main-

taining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240008 Panel 25, published on November 29, 1974, in 39 FR 41504, indicates that Lot 35, Section 4, The Highlands, Anne Arundel County, Md., as recorded in Liber Number 33, Folio 20 of Plats, in the Office of the Clerk of the Circuit Court, Anne Arundel County, Md., is within the Special Flood Hazard Area.

Map No. H 240008 Panel 25 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28325 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 24, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Anne Arundel County, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Anne Arundel, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

[4210-01]

[Docket No. FI-384]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Calvert County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On October 23, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Calvert County, Md. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Calvert, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

Map No. H 240011 Panel 03, published on October 23, 1974, in 39 FR 37641, indicates that Lots 7 and 8, Block M, Neeld Estates, Calvert County, Md., as recorded in Book 188, Pages 357 and 358 of Deeds, in the Office of Land Records, Calvert County, Md., are within the Special Flood Hazard Area.

§ 1920.7 Notice of letter of map amendments.

Map No. H 240011 Panel 03 is hereby corrected to reflect that the above prop-

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240008 Panel 45, published on November 24, 1974, in 39 FR 28255, indicates that Lot 93, Section 5, Ulmstead Estates, also being 662 Quail Run Court, Anne Arundel County, Md., as recorded in Platbook 51, Page 14, in the Office of the Clerk of the Circuit Court, Anne Arundel County, Md., is within the Special Flood Hazard Area.

Map No. H 240008 Panel 45 is hereby corrected to reflect that the structure on the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28326 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-410]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Anne Arundel County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On November 29, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Anne

Arundel County. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the County of Anne Arundel, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, that no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 240008 Panel 55, published on November 29, 1974, in 39 FR 41504, indicates that Lots 42 and 43, Crofton Commons, Anne Arundel County, Md., as recorded in Plat Number 2654, Platbook 49, Folio 29, in the Office of the Clerk of the Circuit Court of Anne Arundel County, Md., are within the Special Flood Hazard Area.

Map No. H 240008 Panel 55 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on November 15, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28327 Filed 9-30-77;8:45 am]

erty is not within the Special Flood Hazard Area identified on October 18, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-26285 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-2000]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Prince Georges County, Md.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Prince Georges County, Md. It has been determined by FIA, after further technical review of the Flood Insurance Rate map for the County of Prince Georges, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association

(NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H&I 245208A Panel 33, published on February 14, 1977, in 42 FR 9113, indicates that Lot 17, Block E, Section 3, Rambling Hills, Prince Georges County, Md., as recorded in Book 64, Plat 23 in the Office of Land Records of Prince Georges County, Md., is within the Special Flood Hazard Area.

Map No. H&I 245208A Panel 33 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 28, 1976. The structure is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-26229 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-326]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Marlborough, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the City of Marlborough, Mass. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Hazard Boundary Map for the City of Marlborough, Mass., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H 250203 Panel 02, published on August 7, 1974, in 39 FR 28426, indicates that Lot 6, Section C, Indian Lake Shores, at 291 Lake Shore Drive, Marlborough, Mass., as recorded in Book 6985, Page End, in the office of the Registry of Deeds of Middlesex County, Mass., is within the Special Flood Hazard Area.

Map No. H 250203 Panel 02 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on July 26, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-26230 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-314]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Blaine, Minn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 6, 1974, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the city of Blaine, Minn. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the city of Blaine, Minn., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

ance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 270007A Panel 10, published on August 6, 1974 in 39 FR 28236, indicates that Lots 10 through 12, Block 5: Lots 7 through 20, Block 6; Lots 1 through 22, 25 and 26, Block 7; and Lot 4, Block 9, Rice Creek Park, Blaine, Minn., as recorded in Book 23 of Plats, Page 1, in the office of the Recorder of Anoka County, Minn., are within the Special Flood Hazard Area.

Map No. H 270007A Panel 10 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on June 28, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28331 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-279]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Upper Saddle River, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 16, 1974, the Federal Insurance Administrator pub-

lished a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Borough of Upper Saddle River, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Borough of Upper Saddle River, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the existing structure on the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340077 Panel 02, published on January 16, 1974, in 39 FR 1986, indicates that the westerly portion of Lot 19, at 111 Lake Street, Upper Saddle River, N.J., as recorded in Book 5693, Pages 29 through 31, in the Office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340077 Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on January 4, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28332 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-73-4551]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Borough of Allendale, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the borough of Allendale, N.J. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Hazard Boundary Map for the borough of Allendale, N.J., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year; *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H 340019 Panel 02, published on March 12, 1973 in 38 FR 6679, indicates that Lot 1, Block 1705, located at 210 Mallinson Street, Allendale, N.J., as shown on the Allendale Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 10 on Map No. 160, in Book 5665, Page 125, in the office of the Clerk of Bergen County, N.J.

Map No. H 340019 Panel 02 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on March 16, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28336 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: The Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after acquiring additional flood information and after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., that certain property is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The map amendments listed below are in accordance with § 1920.7(b):

Map No. H 340067 Panel 04, published on August 24, 1973, in 38 FR 22776, indicates that Lot 9, Block 3311, at 245 Solas Court, Ridgewood, N.J., as shown on the Village Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 26, Block 3311, in Book 5715, Page 415, in the Office of the Clerk of Bergen County, N.J.

Map No. H 340067 Panel 04 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28334 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh St., SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 03, published on August 24, 1973 in 38 FR 22776, indicates that Lot 32, Block 3104, at 453 George Street, Ridgewood, New Jersey, as shown on the Village Tax Map, is not within the Special Flood Hazard Area. This property is recorded as Lot 32, Block 180-A, in Book 3886, Page 134, in the office of the Clerk of Bergen County, New Jersey.

Map No. H 340067 Panel 03 is hereby corrected to reflect the above property is within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28335 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association

(NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 01, published on August 24, 1973 in 38 FR 22776, indicates that Lot 31, Block 2905, as shown on the City Tax Assessor's Map, at 545 Barnett Place, Ridgewood, New Jersey, is within the Special Flood Hazard Area. This lot is recorded at Lot 14D, Block 165, in Book 5382, Page 346, in the office of the Clerk of Bergen County, New Jersey.

Map No. H 340067 Panel 01 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28336 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 04, published on August 24, 1973 in 38 FR 22776, indicates that Lot 27, Block 4205, located at 131 Bergen Court, Ridgewood, New Jersey, as shown on the County Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lot 5, Block "A", in Book 3484, Page 79, in the office of the Clerk of Bergen County.

Map No. H 340067 Panel 04 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28337 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the Village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the Village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 03, published on August 24, 1973 in 38 FR 22776, indicates that property located at 379 South Irving Street, Ridgewood, N.J., as recorded in Book 5774, Page 270, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340067 Panel 03 is hereby corrected to reflect that the existing structure on the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28338 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 03, published on August 24, 1973 in 38 FR 22776, indicates that Lot 8, Block 3604, at 391 Colonial Road, Ridgewood, N.J., as recorded in Book 4812, Page 426, in the office of the Clerk of Bergen County, N.J., is within the Special Flood Hazard Area.

Map No. H 340067 Panel 03 is hereby corrected to reflect the existing structure on the above property is not within the Special Flood Hazard Area.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Adminis-

trator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28339 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-196]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Village of Ridgewood, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On August 24, 1973, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included the village of Ridgewood, N.J. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for the village of Ridgewood, N.J., in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 340067 Panel 04, published on August 24, 1973 in 38 FR 22776, indicates that Lot 8, Block 4317, located at 249 Lockwood Road, Ridgewood, N.J., as shown on the County Tax Map, is within the Special Flood Hazard Area. This property is recorded as Lots 33 and 34, Block 285, in Book 3534, Page 333, in the office of the Clerk of Bergen County, N.J. Map No. H 340067 Panel 04 is hereby corrected to reflect the above property is not within the Special Flood Hazard Area identified on August 31, 1973.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28340 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-991]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Grove City, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On March 30, 1976, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Grove City, Ohio. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the city of Grove City, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to pur-

chase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 390173A Panel 04, published on March 30, 1976, in 41 FR 13344, indicates that Lots 22 and 26, Brook Park Section 2, Grove City Ohio, as recorded in Platbook 50, Page 4 in the Office of the Recorder, Franklin County, Ohio, are within the Special Flood Hazard Area.

Map No. H 390173A Panel 04 is hereby corrected to reflect that the existing structures on the above property are not within the Special Flood Hazard Area identified on March 26, 1976, and May 17, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28341 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-455]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Washington County, Oregon.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 27, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Washington County, Oregon. It has been determined by FIA, after further technical review of the Flood Hazard Boundary Map for Washington County, Oregon, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood in-

surance for that property as a condition of Federal or federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

If a property owner was required to purchase flood insurance as a condition of Federal or federally related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year, *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 410238 Panel 14, published on January 27, 1975 in 40 FR 3989, indicates that Lot 10, Forestway No. 2, Washington, County, Oregon, as recorded in Book 36, Page 37, in the office of the Clerk of Records and Elections of Washington County, Oregon, is within the Special Flood Hazard Area.

Map No. H 410238 Panel 14 is hereby corrected to reflect the existing structure on the above property is not within the Special Flood Hazard Area identified on January 24, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28343 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-239]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Bensalem Township, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On April 11, 1974, the Federal Insurance Administrator published

a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Bensalem Township, Pa. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the Township of Bensalem, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 420181A Panel 02, published on April 11, 1974, in 39 FR 13152, indicates that Valley Meadows, Bensalem Township, Pa., as recorded in Planbook 148, Page 18A, in the Office of the Recorder of Deeds of Bucks County, Doylestown, Pa., is within the Special Flood Hazard Area.

Map No. H 420181A Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on April 18, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28344 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-552]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Claremont, S. Dak.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On April 16, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Claremont, S. Dak. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the Town of Claremont, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 460105 Panel 01, published on April 16, 1975, in 40 FR 17020, indicates that Lots 1 and 2, Block 5 of the Original Plat of the Town of Claremont, S. Dak., as recorded in Quit Claim Deed, Book 170, Page 397, in the office of the Register of Deeds, Brown County, South Dakota, are within the Special Flood Hazard Area.

Map No. H 460105 Panel 01 is hereby corrected to reflect the above property is

not within the Special Flood Hazard Area identified on April 25, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; (42 U.S.C. 4001-4128) and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28345 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-454]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Dallas, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 28, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Dallas, Tex. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Dallas, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area. This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 480171A Panel 21, published on January 28, 1975, in 40 FR 4133, indicates that the tract of land in the Ell Merrell Survey, Abstract Number 930 being in City Block 6491, Dallas, Tex., as recorded in Volume 75004, Pages 1617 through 1623 of Warranty Deeds, in the Office of the Clerk of Dallas County, Texas is within the Special Flood Hazard Area.

Map No. H 480171A Panel 21 is hereby corrected to reflect that a portion of the above property, which can be described as follows:

A tract of land located in the Ell Merrell Survey, Abstract Number 930, and being in City Block 6491 of the City of Dallas, Tex., and being part of a 40-acre tract conveyed to Gifford-Hill and Company, Incorporated, by deed recorded in Volume 3793, Page 127, of the Deed Records of Dallas County, Texas, and being more particularly described as follows:

Commencing at a point in the north right-of-way line of Lombardy Lane (a 50-foot right-of-way) and in the west line of said 40-acre tract, said point also being the Southeast corner of Lot 1, Block A/6490 of Northwest Acres Addition as recorded in Volume 4, Page 429, of the Map Records of Dallas County, Tex.; thence N. 55°30' E., approximately 60 feet to the top of bank as shown on the topographic Map of Gilco Business Park as prepared by Donald C. Moreau, revised April 25, 1977, also being the actual point of beginning; thence continuing along said top of bank in northerly direction approximately 2,468 feet to a point; thence N. 13°30' E., approximately 55 feet to a point; thence S. 63°20' E., approximately 105 feet to a point; thence N. 49°00' E., approximately 140 feet to a point; thence N. 89°30'03" E., approximately 392 feet to a point; thence S. 53°00' E., approximately 45 feet to a point; thence S. 0°03'50" W., along the eastern line of said property 1,551 feet to a point; thence S. 6°15'47" W., approximately 426.94 feet to a point; thence S. 15°16'50" W., approximately 80 feet to a point; thence S. 18°30' W., along the said designated top of bank approximately 510 feet to a point; thence in a westerly direction along said top of bank approximately 392 feet to the actual point of beginning.

is not within the Special Flood Hazard Area identified on January 10, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77 28346 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-450]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for City of Missouri City, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 24, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Missouri City, Tex. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Missouri City, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 480304 Panel 02, published on January 24, 1975, in 40 FR 3781, indicates that Lots 1 through 17, Block 1; Lots 1 through 19, Block 2; Lots 1 through 37, Block 3; Lots 1 through 22, Block 4; and Reserve B; Quail Valley Subdivision Replat Thunderbird Patio Homes, Section 1, as recorded in Volume 19, Page 6 of Plats in the Office of Map Records, Fort Bend County, Tex., are within the Special Flood Hazard Area.

Map No. H 480304 Panel 02 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on January 17, 1975.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969,

as amended by 39 FR 2787, January 24, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28347 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-440]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Houston, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On January 10, 1975, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Houston, Tex. It has been determined by FIA, after further technical review of the Flood Hazard Boundary map for the City of Houston, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H 480296A Panel 138, published on January 10, 1975, in 49 FR 2190, indicates that Fondren Place Townhomes, Houston, Tex., as recorded in Volume 230, Page Number 55 of Plats, in the Office of the Clerk of Court, Har-

ris County, Tex., is within the Special Flood Hazard Area.

Map No. H 480296A Panel 138 is hereby corrected to reflect that the structures on the above property are not within the Special Flood Hazard Area identified on December 27, 1974.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28348 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-2600]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for Harris County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Harris County, Tex. It has been determined by FIA, after further technical review of the Flood Insurance Rate map for the County of Harris, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally-related financial assistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from

the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H & I 480287B Panel 41, published on February 14, 1977, in 42 FR 1118, indicates that Owen Tract, Harris County, Tex., as recorded in Volume 8321, Page 12, of General Warranty Deeds in the Office of the Clerk of Court of Harris County, Tex., is within the Special Flood Hazard Area.

Map No. H & I 480287B Panel 41 is hereby corrected to reflect that a portion of the above property, which can be described as follows:

Beginning at an iron pipe at a fence corner marking the northeast corner of the Mandred Wood Survey, Abstract No. 869, Harris County, Tex., and the northwest corner of the P. MacNaughton Survey; thence S. 2°24'11" E., approximately 598 feet to a point; thence S. 87° W., approximately 1,075 feet to a point; thence S. 60° 30' W., approximately 1,736 feet to a point; thence S. 77°15' W., approximately 1,570 feet to a point on the western line of said tract; thence N. 2°34'28" W., approximately 1,751 feet to a point being the northwest corner of said tract; thence N. 87°57'02" E., approximately 4,145.86 feet to a point, being the point of beginning.

is not within the Special Flood Hazard Area, but is within Zone C as identified on July 30, 1976.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28349 Filed 9-30-77; 8:45 am]

[4210-01]

[Docket No. FI-2600]

PART 1920—PROCEDURE FOR MAP CORRECTION

Letter of Map Amendment for
Fairfax County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Final rule.

SUMMARY: On February 14, 1977, the Federal Insurance Administrator published a list of communities for which the Federal Insurance Administration (FIA) published maps identifying Special Flood Hazard Areas. This list included Fairfax County, Va. It has been determined by FIA, after further technical review of the Flood Insurance Rate map for the County of Fairfax, in light of additional, recently acquired flood information, that certain property (described below) is not within the Special Flood Hazard Area.

This map amendment, by establishing that the subject property is not within the Special Flood Hazard Area, removes the requirement to purchase flood insurance for that property as a condition of Federal or Federally related financial assistance for construction or acquisition purposes.

EFFECTIVE DATE: Date of this notice.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: If a property owner was required to purchase flood insurance as a condition of Federal or Federally related financial as-

sistance for construction or acquisition purposes, and the lender now agrees to waive the property owner from maintaining flood insurance coverage on the basis of this map amendment, the property owner may obtain a full refund of the premium paid for the current policy year: *Provided*, That no claim is pending or has been paid on the policy in question during the same policy year. The premium refund may be obtained from the National Flood Insurers Association (NFIA) through the agent or broker who sold the policy.

The text reads as follows:

§ 1920.7 Notice of letter of map amendment.

Map No. H & I 515525C Panel 13, published on February 14, 1977, in 42 FR 9119, indicates that Lot 26, Block K, Section 2, Resubdivision Merrifield View, Fairfax County, Va., as recorded in Deed-book 3525, Page 611 of Plats in the Office of the Clerk of the Circuit Court for Fairfax County, Va., is within the Special Flood Hazard Area.

Map No. H & I 515525C Panel 13 is hereby corrected to reflect that the above property is not within the Special Flood Hazard Area identified on May 7, 1976. The property is in Zone C.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January, 1974.)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28350 Filed 9-30-77; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3428]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Unity, Westmoreland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the township of Unity, Westmoreland County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the bulletin board at the Township Municipal Building, R.D. 3, Latrobe, Pa. 15650.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Paul R. Watkins, Chairman of the Board of Supervisors of Unity, Box 526, Latrobe, Pa. 15650.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Unity, Westmoreland County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any

existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet above mean sea level
Loyalhanna Creek	State Route 981	982
	Mission Rd.	998
	Route 982	1,004
	U.S. 30	1,017
	Route 217	1,029
	Spillway	1,036
	Confluence with tributary No. 1	1,150
Tributary No. 1	Mouth of tributary	1,150
	U.S. 30	1,179
	Township R.D. 689	1,243
Crabtree Creek	Abandoned railroad bridge	993
	Route 119	995
	LR 64031	996
Little Crabtree Creek	Mouth of Little Crabtree Creek	996
	Route 119	1,003
	Route 119	1,003
Nine Mile Run	T-890	1,048
	Karns St.	1,062
	State Route 982	1,064
	Confluence with 9-Mile Run	1,104
Tributary No. 2	LR 64151	1,110
	Route 130	1,036
	T-583	1,044

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77 28428 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3429]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Walker, Juniata County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Walker, Juniata County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or

remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Township Building, R.D. 1, Thompsontown, Pa. 17094.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John E. Wagner, R.D. 2, Mifflintown, Pa. 17094.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581) or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Walker, Juniata County, Pennsylvania, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents, and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Juniata River	Confluence tributary No. 7	423
	Confluence of Doe Run	432
	State Route 75/LR45	438
Laurel Run	Johnstown Rd./LR 34025	452
	Route 322/LR31	474
	Church Rd.	498

PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary No. 7.....	Farmer's Rd. downstream.	514
	Locust Rd.....	629
	Confluence with Jun-lata River.	423
	Amish Rd.....	427
	U.S. Route 22/U.S. 322.	466
Doe Run	U.S. 22.....	480
	Township Rd./L.R. 34023.	530
	Confluence with Jun-lata River.	432
	Farmer's Rd.....	413
	Helltown Rd./L.R. 34006.	457
Cedar Spring Run..	Confluence with Doe Run.	432
	Confluence with tributary No. 1.	435
	Route 22 and U.S. 322.	442
	Church Rd.....	444
	Cedar Grove Rd./T-388.	446
Tributary No. 1....	Confluence with Cedar Spring Run.	435
	U.S. Routes 22 and 322.	435
	Swamp Rd./L.R. 34030.	445
	U.S. Routes 22 and 322 upstream.	472

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969), as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28429 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3430]

NATIONAL FLOOD INSURANCE PROGRAM **Proposed Flood Elevation Determinations** **for the City of Aiken, Aiken County, S.C.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Aiken, Aiken County, S.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the

flood-prone areas and the proposed base flood elevations are available for review at the City Clerk's Office, Aiken, S.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable H. O. Weeks, Mayor of Aiken, P.O. Box 1177, Aiken, S.C. 29801.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581, or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Aiken, Aiken County, S.C. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917).

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (national geodetic vertical datum)
Sand River	Upstream limit of detailed study.	375
	Downstream corporate limits.	314
Tributary C.....	Limit of detailed study.	443
	Tributary C1.....	361
Tributary C1	Downstream limit of detailed study.	399
	do.....	312
Sand River tributary I-branch 1.....	Upstream corporate limits.	407
	Downstream corporate limits.	367
Redds Branch.....	Brentwood Pl.....	484
	2-Notch Rd.....	461

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28430 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3431]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations **for the Town of Lawrenceville, Brunswick** **County, Va.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Lawrenceville, Brunswick County, Va. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 101 East Church Street, Lawrenceville, Va. 23868.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Hon. E. N. Doyle, Mayor of Lawrenceville, Va. 23868.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Lawrenceville, Brunswick County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program

regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Great Creek.....	Confluence w/Sandy Branch.	176
	Confluence w/Roses Creek.	178
	Virginia Route 713....	180
	U.S. 58 bypass.....	181
	U.S. 58 business route.	182
	Downstream corporate limits.	182
	Upstream corporate limits.	182
	Norfolk, Franklin, and Danville R.R. (1st crossing).	187
	Norfolk, Franklin, and Danville R.R. (2d crossing).	190
	Norfolk, Franklin, and Danville R.R. (3d crossing).	192
Roses Creek.....	Confluence w/Great Creek.	178
	U.S. 58 bypass.....	180
	Virginia Route 678....	182
	Norfolk, Franklin, and Danville R.R.	185
	U.S. 58 business route.	186
	Corporate limits.....	186
	Confluence w/Rocky Run.	186

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28431 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations **for Douglas County, Wash.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Douglas County, Wash. These base flood

elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board in the Courthouse, Douglas County, Washington.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. William E. Bechtol, Chairman of the Douglas County Commissioners, Douglas County, Wash.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Douglas County, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Douglas Creek	Burlington Northern R.R. at Palisades.	970.8
	U.S. Route 2 bridge at Douglas.	2,369.6
Krummer Draw	Douglas Ave.	2,374.2

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28432 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3433]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations **for the Town of Rosalia, Whitman County,** **Wash.**

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Rosalia, Whitman County, Wash. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Rosalia, Wash.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Hon. Joe Freeze, Mayor of Rosalia, Rosalia, Wash. 99170.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Rosalia, Whitman County, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Mud Lake	Upstream corporate limits, right bank	2,220
	Upstream corporate limits, left bank	2,218
	7th Street Bridge	2,217
	Railroad bridge	2,215
	Downstream corporate limits	2,210

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28433 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3433]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Village of McFarland, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of McFarland, Wis.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, 5915 Milwaukee Street, McFarland, Wis.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Frank Dresen, Village President, Village of McFarland, Village Hall, 5915 Milwaukee Street, McFarland, Wis. 53558.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of McFarland, Wis., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mud Lake, Yahara River, Lake Waubesa	U.S. Highway 51 bridge	817
	Exchange Street Bridge	817
	Inlet of Mud Lake	816
	Outlet of Mud Lake	816

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28434 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3434]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the City of Monona, Wis.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Monona, Wis.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 5211 Schluter Road, Monona, Wis.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor B. Dean Bowles, City Hall, 5211 Schluter Road, Monona, Wis. 53716.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Monona, Wis., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate

flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Monona-Yahara River	Bridge Rd. U.S. Highways 12 and 18	848 848

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28435 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3008]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the City of Oak Creek, Wis.

AGENCY: Federal Insurance Administration.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on July 5, 1977 at 42 FR 34465 in the FEDERAL REGISTER, and in The Oak Creek Pictorial on June 22, 1977 and June 24, 1977, showing the flood elevation in Oak Creek, as National Geodetic Vertical Datum, should be corrected to read Oak Creek Datum. To obtain National Geodetic Vertical Datum, add 560.56 feet to the Oak Creek elevations.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28436 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3435]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Town of Diamondville, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Diamondville, Wyo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Diamondville, Wyo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Phil Ferentchak, Town Hall, Diamondville, Wyo. 83116.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Diamondville, Wyo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate

lished by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hams Fork	Railroad bridge	6,880
	do.	6,879
	East 4th Street Bridge	6,875

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28437 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3436]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Town of Hudson, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Hudson, Wyo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Hudson, Wyo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Red D. Svilar, Town Hall, Hudson, Wyo. 82515.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Hudson, Wyo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Popo Agie River	Highway 780 bridge	5,081

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28438 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3437]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for Lincoln County, Wyo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed

base flood elevations (100-year flood) listed below for selected locations in Lincoln County, Wyo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Lincoln County Courthouse, Kemmerer, Wyo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Judge C. Stuart Brown, Box 1, Kemmerer, Wyo. 83101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 7th St. SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Lincoln County, Wyoming, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hams Fork	Frontier Highway Bridge	6,916

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28439 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3438]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for Clatsop County, Ore.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Clatsop County, Ore. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Astoria, Ore. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Albert W. Palmer, Chairman, Board of Commissioners for Clatsop County, P.O. Box 179, Astoria, Ore. 97103.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Clatsop County, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lewis and Clark River	Fort Clatsop Road Bridge	12
	Klekikot Creek Bridge	32
Little Walluski River	Little Walluski Rd. (culvert)	7
Big Creek	Old Highway 30 bridge	18
	U.S. Highway 30 bridge	32
Little Creek	Old Highway 30 bridge	13
	U.S. Highway 30 bridge	34
Bear Creek	Old U.S. Highway 30 bridge	21
Plympton Creek	Westport Dock Road Bridge	15
	Bridge	16
	Burlington Northern bridge	18
	Columbia River highway bridge	22
Neawanna Creek	Broadway Street Bridge	13
	Avenue S Bridge	13
Necanicum River	Sunset Highway U.S. 26 bridge	150
	Reservoir Road Bridge	101
North Fork Nehalem River at Hamlet	Private bridge	506
	Steel bridge, Hamlet Rd.	514
	Private bridge	535
	Log bridge, Hamlet Rd.	511
Nehalem River	Nehalem Road Bridge	380
	U.S. Highway 26 bridge	412
	Jewell-Elise Road Bridge	435
	Nehalem Highway bridge	470
	do	478
	do	490
	do	506
	Private bridge	383
Humburg River	Lower Nehalem Road Bridge	400
Cow Creek	Fishhawk Falls Highway bridge	482
	Private bridge	522
Fishhawk Creek at Jewell	Bridge at Jewell	409
Northrup Creek	Nehalem Highway bridge	403
Fishhawk Creek at Birkenfold	Bridge	519
	do	527
	Greasy Spoon Road Bridge	529

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28440 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3439]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for Douglas County, Ore.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Douglas County, Ore. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Douglas Avenue, Roseburg, Ore. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John Truett, Chairman, County Board of Commissioners, Douglas County, County Courthouse, Douglas Avenue, Roseburg, Ore. 97470.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Douglas County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures re-

quired by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Umpqua River	Scottsburg Bridge (Highway 38)	40
	Beckley Bridge	120
	Smith Bridge	114
	Kellogg Bridge	208
	Bullock Bridge	208
	Tyce Access Bridge	207
	County Bridge	355
Cou Creek	Glendale Bridge	1,399
	Quines Creek Rd.	1,547
	Bureau of Land Management Bridge	1,491
Deer Creek	Pearce Road Bridge	171
South Umpqua River	Highway 1-5 bridge	171
	Happy Valley Rd.	481
	Dillard Bridge	526
	Mary Moore Bridge	534
	Southern Pacific RR	613
	Pruner Bridge	667
North Umpqua River	Browns Bridge	408
	Highway 1-5 bridge	417
	Floyd Fear Bridge	572
	Lone Rock Bridge	710
Smith River	County Bridge	12
	Log dumb	21
Schofield Creek	Highway 101	11
	County Bridge	20

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28441 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3440]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for Tillamook County, Ore.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood)

PROPOSED RULES

listed below for selected locations in Tillamook County, Ore. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, 911 Williams Street, Tillamook, Ore. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Charles Bud Bailey, Chairman, Board of Commissioners, County Courthouse, 911 Williams Street, Tillamook, Ore. 97141.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Tillamook County, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Nebalem River	Oregon Coast Highway bridge (Highway 101)	10
	Necanum Highway bridge	14
	Southern Pacific RR. bridge	17
	Foley Creek Road bridge	26
North Fork Nebalem River	Camp Four Road bridge	12
	Scovel Road Bridge	15
Miami River	Southern Pacific RR. bridge	9
	Miami River Bridge	9
	Moss Creek Road bridge	22
	Longview Fibre Road bridge	46
Killebis River	Southern Pacific RR. bridge	9
	Killebis River Bridge	11
	Boquist Road Bridge	15
	Curz Road Bridge	27
	Bridge	30
Wilson River	Wilson River Bridge (Highway 101)	17
	Southern Pacific RR. bridge	20
	Sollie Smith Bridge	26
	Wilson River Highway bridge	54
Hogwarton Slough	Hogwarton Slough Bridge (Highway 101)	11
Trask River	Stillwell Bridge (Netarts Highway)	40
	Tone Bridge	16
	Trask River Bridge (Highway 101)	25
	Southern Pacific RR. bridge	28
	Johnson Bridge (Market Rd. No. 13)	35
Tillamook River	Tillamook River Bridge (Netarts Highway)	10
	Burton Bridge	11
Three Rivers	Highway 101 bridge	54
	Bridge	110
	do.	187
Nestucca River	Pacific City Bridge	14
	Woods Bridge	18
	Cloverdale Bridge	25
	Condor Bridge	42

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28442 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3410]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the City of Kansas City, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Kansas City, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 414 East 12th, 29th Floor, Kansas City, Mo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John B. Wheeler, City Hall, 414 East 12th, 29th Floor, Kansas City, Mo. 64108.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 7 Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Kansas City, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Little Shoal Creek	76th St.	791
Mill Creek	Brighton Rd.	822
	Cypress Rd.	811
	Jackson St.	815
	Indiana St.	870
	Northeast 56th St.	890
Missouri River	1-435 bridge	742
	1-435 Highway bridge	747
	1-435 bridge	719
	1-435 bridge	719
Old Maids Creek	Linden Rd.	796
Rock Creek (Avalon)	Antioch Bridge	780
	Winn Rd.	785
	Parvin Rd. culvert	806
	1-35	810
	North Parvin Rd.	819
Rock Creek	Brighton Ave.	821
Rocky Branch	Northeast 132d St.	889
Searcy Branch	Birmingham Rd.	738
	Highway 210	743
	New St.	749
	Russel Rd.	778
	Parvin Rd.	789
2d Creek	Culvert Northwest	928
	108th St. (downstream)	902
	Culvert Northwest	965
	108th St. (upstream)	961
2d Creek West Branch	108th St.	961
Shoal Creek	Birmingham Rd.	713
	Hughes Rd.	716
	Brighton Ave.	804
	Northwest 68th St.	829
Line Creek	Northwest 68th St. and County Rd. AA	804
Fishing River	North Stark Ave.	971
First Creek	Bonham Rd.	821
East Fork Shoal Creek	Missouri Highway 152	830
East Fork of Line Creek	Northwest 68th St.	830
East Creek	Old Wood Bridge	796
Burlington Creek	Northwest 53d St.	813
	Northwest 30th St.	836
Wildcat Branch	Northwest 28th St.	806
	Missouri Highway 29	914
Wankomis Lako tributary	Bryan Ave.	843
Unnamed creek at Randolph, Mo. (north branch)	1-435	762
Unnamed creek at Randolph, Mo. (east branch)	Birmingham Rd.	711
Todd Creek	Northwest Interurban Rd.	860
	1-29	909
Blue River	Interstate 435	741
	U.S. 40	765
	South B U.S. 71	795
	Holmes Rd.	860
Round Grove Creek	Kansas City Southern RR.	769
	Raytown Rd.	784
	Blue Ridge Cutoff	813
	Raytown Rd.	836
Little Blue River	Little Blue Rd.	797
	Noland Rd.	806
	View High Dr.	821
Little Cedar Creek	High Grove Rd.	888
Brush Creek	Rhinehart Rd.	802
Unnamed creek No. 1	North Childress Ave.	883
	Blue Ridge Cutoff	818
Unnamed creek No. 2	43d St.	979
	Chicago, Rock Island and Pacific RR. (upstream)	860
	Pittman Rd.	883
	Sterling Ave. (downstream)	936
	Sterling Ave. (upstream)	941
Brush Creek	Kernum	970
	Cleveland Ave.	771
	Prospect Ave.	779
	Troast Ave.	796
	Wornall Rd.	817
	State Line Rd.	837
Town Fork Creek	51st St.	833
	57th St.	791
	Park Ave.	811
White Oak Creek	Military Club Rd.	816
Lampkins Fork	Raytown Rd.	810
Indian Creek	Missouri Pacific RR.	941
	Wornall Rd.	899
		810

PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dyke Branch	Holmes Rd.	797
	Wornall Rd.	822
Buckeye Creek	Culvert Brighton Rd	748
	Culvert Highway 210	751
	Access Rd.	
	Culvert 88th St.	789

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28443 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3411]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the City of Pagedale, St. Louis County, Mo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Pagedale, St. Louis County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, 1404 Ferguson Avenue, Pagedale, Mo. 63133.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable William D. Speiser, Mayor, City of Pagedale, City Hall, 1404 Ferguson Avenue, Pagedale, Mo. 63133.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Pagedale, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Northeast Branch River Des Peres	250 feet upstream from Pennsylvania Ave.	529
	Upstream side, St. Louis belt and terminal railway.	513
Engelholm Creek	Norfolk and Western RR.	523
	210 feet upstream from Kingsland Ave.	533
	130 feet downstream from North Market Bridge.	513

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28444 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3412]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Township of Lyndhurst, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

PROPOSED RULES

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Lyndhurst, N.J. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, Valley Brook Avenue, Lyndhurst, N.J.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph A. Carrucci, Township Hall, Valley Brook Avenue, Lyndhurst, N.J. 07071.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Lyndhurst, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Passaic River	Downstream of Kingsland Avenue Bridge	12
	Upstream of Kingsland Ave. Bridge	13
	ConRail	13

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28445 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3413]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Town of Brutus, Cayuga County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Brutus, Cayuga County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board, in the Supervisor's office, 2686 East Brutus Street, Weedsport.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. David Coyle, Town Supervisor, 2686 West Brutus Street, Weedsport, N.Y. 13166.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Brutus, Cayuga County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Fulton River	Bonta Bridge	382
	State Route 34	383
	Upstream corporate limits	384
Franklin Creek	Upstream of farm bridge	384
	Upstream corporate limits	385
Cold Spring Brook	Upstream of Stein Rd.	388
	Interstate 90 (upstream)	391
	Con Rail	392
	West Brutus Rd.	396
	Erie Canal Aqueduct	397
North Brook	Hamilton Rd.	401
	Upstream corporate limit	417
North Brook	Hamilton Rd.	405
Putnam Brook	Con Rail spur line (downstream)	395
	Con Rail spur line (upstream)	399
	Con Rail	405
	State Route 31	409
	State Route 31B	427
	Shepherd Rd.	438
	Jencho Rd. north	482
	Cooper Rd.	510
	Stevens Rd.	506
	Upstream corporate limits	576
Putnam Brook tributary No. 1	Shepherd Rd.	460
Putnam Brook tributary No. 2	Bibb's Rd. ford	480
Putnam Brook tributary No. 3	State Route 31B	522
	Jencho Rd.	526
	Upstream corporate limits	550
Putnam Brook tributary No. 4	State Route 5	509
	Upstream corporate limits	579

PROPOSED RULES

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28446 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3414]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Village of Ellicottville, Cattaraugus County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Ellicottville, Cattaraugus County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 1 West Washington Street, Ellicottville, N.Y. 14731.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Paul Stokes, Mayor of Ellicottville, N.Y. 14731.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Ellicottville, Cattaraugus County, N.Y. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234),

87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gates Creek	Upstream corporate limits	1,575
	Route 98	1,569
Iselma Creek	North corporate limits	1,590
	Con Rail	1,589
	Northwest corporate limits	1,588
	West corporate limits	1,580
	Route 98	1,570
	Con Rail	1,569
	Confluence of Gates Creek	1,569
	Con Rail and Clutes Rd.	1,556
	Pierce Hill Rd.	1,552
	5-Mile Rd.	1,449
	Downstream corporate limits	1,444

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28447 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3415]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Town of Franklinville, Cattaraugus County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Franklinville, Cattaraugus County, N.Y.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board in the Clerk's Office at the Franklinville Town Hall.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Charles J. Morton, Town Supervisor of Franklinville, Town Hall, Franklinville, N.Y. 14737.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Franklinville, Cattaraugus County, N.Y. 14737 in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Great Valley Creek	Mourne St.	1,533
	Martha St.	1,535
	Confluence with Elk Creek	1,536
Elk Creek	Miles St.	1,536
	Confluence with Great Valley Creek	1,536
	Private Rd.	1,537
	Washington St.	1,539
	Elizabeth St.	1,539
	Park Dr.	1,544
Flam Creek	Confluence with Great Valley Creek	1,530
	Jefferson St.	1,532
	Village boundary	1,640

National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28448 Filed 9-30-77 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3416]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Village of Fort Edward, Wash- ington County, N.Y.

AGENCY: Federal Insurance Adminis-
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Fort Edward, Washington County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Clerk's Office, 118 Broadway, Fort Edward, N.Y. 12828.

Any person having knowledge, information, or wishing to make a comment on these proposed elevation should immediately notify the Honorable Edith M. Amorosi, Mayor, Village of Fort Edward, P.O. Box 345, Fort Edward, N.Y. 12828.

FOR FURTHER INFORMATION CON- TACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Fort Edward, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in the flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Long Island Sound	Cold Spring Harbor	12
	Eastons Neck	12
	Centerport Harbor	12
	Northport Harbor	12
	Crab Meadow	11
	Huntington Harbor	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28449 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3417]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Town of Huntington, Suffolk County, N.Y.

AGENCY: Federal Insurance Adminis-
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Huntington, Suffolk County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Huntington Town Hall, in the lobby, 227 Main Street, Huntington, N.Y. 11743.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Kenneth C. Butterfield, Supervisor of Huntington, 227 Main Street, Huntington, N.Y. 11743.

FOR FURTHER INFORMATION CON- TACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Huntington, Suffolk County, New York, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hudson River (east and west channel)	At south corporate limits.	128
Hudson River	At Brightwood St. extended.	130
	At north corporate limit.	131
Bond Creek	At Baldwin Ave.	123

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28450 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3418]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the City of Oneonta, Otsego County, N.Y.

AGENCY: Federal Insurance Adminis-
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Oneonta, Otsego County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Municipal Building, Oneonta, N.Y. 13820.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable James F. Lettis, Mayor, City of Oneonta, Municipal Building, Oneonta, N.Y. 13820.

FOR FURTHER INFORMATION CON- TACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-

424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Oneonta, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Susquehanna River	2,300 ft downstream of State Highway 205	1,061
	100 ft downstream of Main St.	1,079
	Grand St.	1,081
	Downstream of dam above Glenwood Creek	1,084
	500 ft upstream of dam above Glenwood Creek	1,089
	120 ft upstream of abandoned railroad bridge	1,097
	2,150 ft upstream of abandoned railroad bridge	1,099
Oneonta Creek	50 ft upstream of confluence with Mill Race	1,087
	35 ft downstream of Main St.	1,111
	375 ft upstream of Main St.	1,115
	55 ft upstream of Center St.	1,128
	Downstream of Spruce St.	1,131
	150 ft upstream of Spruce St.	1,138
	625 ft upstream of Spruce St.	1,143
	Upstream of Wilber Park Rd.	1,180
	Upstream of High School Dr.	1,191
	475 ft upstream of High School Dr.	1,195
	1,100 ft upstream of High School Dr.	1,209
	City limit (1,300 ft upstream of High School Dr.)	1,211
Mill Race	River St.	1,079
	Downstream of Gas Ave.	1,084
	150 ft upstream of Gas Ave.	1,085

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Silver Creek	25 ft upstream from Delaware and Hudson RR.	1,081
	125 ft upstream from Ford Ave.	1,122
	Upstream of Dietz St.	1,131
	Church St.	1,155
	500 ft upstream of Center St.	1,175
	480 ft upstream of Clinton St.	1,200
	At dam, 625 ft upstream from Clinton St.	1,215
	750 ft downstream from Ravine Parkway.	1,220
	45 ft upstream from Ravine Parkway.	1,255
	415 ft upstream from Ravine Parkway.	1,267
	1,700 ft upstream of Ravine Parkway.	1,330
	City limit (1,975 ft upstream from Ravine Parkway).	1,337
Glenwood Creek	30 ft downstream from I-88	1,054
	120 ft downstream from Susquehanna St.	1,090
	Upstream from Susquehanna St.	1,097
	230 ft upstream from Delaware and Hudson RR.	1,107
	Rose Ave.	1,133
	Downstream from Main St.	1,161
	Upstream from Main St.	1,172
	40 ft downstream from private dam located 900 ft upstream of Main St.	1,216
	50 ft upstream from private dam located 900 ft upstream of Main St.	1,224
	City limit (1,650 ft upstream of Main St.).	1,270

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28451 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3419]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Town of Van Buren, Onondaga County, N.Y.

AGENCY: Federal Insurance Adminis-
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Van Buren, Onondaga County, N.Y. These base flood elevations are the

PROPOSED RULES

basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board in the Town Clerk's Office, 7575 Van Buren Road, Baldwinsville, N.Y. 13027.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Lloyd Crandon, Town Supervisor of Van Buren, 7575 Van Buren Road, Baldwinsville, N.Y. 13027.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Van Buren, Onondaga County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, (national geodetic vertical datum)
Seneca River.....	ConRail.....	371
	County Route 600....	378
	Upstream corporate limits.	381
Dead Creek.....	Kingdom Rd.....	379
	Conners Rd.....	382
	Hoag Rd.....	388
	Dead Creek Rd.....	390
	Warners Rd.....	392
	Elderberry St.....	405
	Interstate 90.....	409
	ConRail.....	410
	Upstream corporate limits.	411

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28452 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3420]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of East Spencer, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of East Spencer, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Henderson Street, East Spencer, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Thomas J. Poate, Town Hall, Henderson Street, P.O. Box 338, East Spencer, N.C. 28039.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of East Spencer, N.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Jackson Branch.....	Shaver St. 1.....	699
	do 2.....	704
East Spencer High Creek.....	Geord St. 1.....	687
	do 2.....	688
	Grant St. 1.....	690
	do 2.....	697
Ice Plant Creek.....	Boundary St. 1.....	672
	do 2.....	680
	Grant St. 1.....	688
	do 2.....	690
Railroad Branch.....	Pine Tree Dr. 1.....	674
	do 2.....	678
	Shaver St. 1.....	698
	do 2.....	704

¹ Downstream side.
² Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28453 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3421]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Landis, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Landis, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 136 North Central Avenue, Landis, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Gene R. Beaver, P.O. Drawer 165, Landis, N.C. 28088.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Landis, N.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures re-

quired by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Mill Creek.....	Ryder Ave. 1.....	823
	do 2.....	823
Beaver Creek.....	Beaver St. 1.....	777
	do 2.....	782
	Chapel St. 1.....	780
	do 2.....	792
Correll Creek.....	East Mills Dr. 1.....	813
	do 2.....	825
Town Branch.....	Town St. 1.....	792
	do 2.....	802
Grant's Creek.....	Meriah St. 1.....	811
	do 2.....	819

¹ Downstream side.
² Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28454 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3422]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Nash County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Nash County, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of

local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Courthouse, Main Street, Nashville, N.C. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. L. R. Holloman, Jr., County Manager, County Courthouse, Main Street, Nashville, N.C. 27856.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Nash County, N.C., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Swift Creek.....	Seaboard Coast Line R.R.	93
	U.S. Route 301.....	96
	North Carolina Route 48.....	110
	Interstate 95.....	117
	North Carolina Route 1003.....	131
Compass Creek.....	North Carolina Route 1324.....	135
	do 2.....	138
Pig Basket Creek.....	North Carolina Route 1609.....	123
	North Carolina Route 1003.....	128
	do 2.....	129
Stoney Creek.....	North Carolina Route 1544.....	117
	do 2.....	118
	North Carolina Route 1603.....	123

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Carolina	Route 1400	132
	Route 1400	137
	Route 1400	141
	Route 1400	142
	Route 1400	143
	Route 1400	144
	Route 1400	146
	Route 1400	147
	Route 1400	150
	Route 1400	151
Maple Creek	Route 1400	132
	Route 1400	137
	Route 1400	141
	Route 1400	142
	Route 1400	143
	Route 1400	144
	Route 1400	146
	Route 1400	147
	Route 1400	150
	Route 1400	151
Sagey Creek	Route 1400	132
	Route 1400	137
	Route 1400	141
	Route 1400	142
	Route 1400	143
	Route 1400	144
	Route 1400	146
	Route 1400	147
	Route 1400	150
	Route 1400	151
Tar River	Route 1400	132
	Route 1400	137
	Route 1400	141
	Route 1400	142
	Route 1400	143
	Route 1400	144
	Route 1400	146
	Route 1400	147
	Route 1400	150
	Route 1400	151
Turkey Creek	Route 1400	132
	Route 1400	137
	Route 1400	141
	Route 1400	142
	Route 1400	143
	Route 1400	144
	Route 1400	146
	Route 1400	147
	Route 1400	150
	Route 1400	151

¹ Downstream side.
² Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-26155 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3423]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Lorain, Lorain County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Lorain, Lorain County, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the first floor, on the Bulletin Board, outside the Clerk of the Council's Office, City Hall, 200 West Erie Avenue, Lorain.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph J. Rochoric, City Hall 200 West Erie Avenue, Lorain, Ohio 44052.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Lorain, Lorain County, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black River	Henderson Dr.	577
	Confluence of French Creek	587
Martin's Run	31st St.	591
	Sherwood Dr.	585
Beaver Creek	Leavitt Rd.	601
	Oberlin Ave.	602
36th St. ditch	Cooper Foster Rd.	600
	Broadway St.	608
Clinton Ave. ditch	U.S. Route 6	578
	Longbrook Rd.	590
Clinton Ave. ditch	Palm Ave.	604
	Clinton Ave.	608
Clinton Ave. ditch	Park Ave.	639
	Homewood Dr.	629
Clinton Ave. ditch	(upstream)	647
	42d St. (upstream)	647
Clinton Ave. ditch	North Ridge Rd.	678
		678

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28456 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3424]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Niles, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Niles, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 34 West State Street, Niles, Ohio. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Arthur M. Doult, City Hall, 34 West State Street, Niles, Ohio 44446.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Niles, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mahoning River	South Main St.	861
	Con Rail	861
Mahoning River	Belmont Ave.	860
	McDonald Highway (Olive St.)	859
Meander Creek	Chessie system	861
	Route 46	861
Mosquito Creek	Route 422	868
	Federal St.	866
Mosquito Creek	Robbins Ave.	863
	Con Rail	863
Mosquito Creek	Private bridge	863
	Chessie system	861
Mosquito Creek	East Park Ave.	861
	Con Rail	861

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28457 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3425]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Township of Durham, Bucks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Durham, Bucks County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Post Office, Durham, Pa. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. David Rau, Secretary of the Board of Supervisors of Durham, Pa. 18039.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Township of Durham, Bucks County, Pa. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on

its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware River	Cooks Creek	155
	Downstream corporate limit	152
Cooks Creek	Coon Hollow Run	102
	Tributary No. 1	106
Cooks Creek	Private road	155
	U.S. Route 61	155
Cooks Creek	Pennsylvania Canal aqueduct	155
	Delaware River	155

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28458 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3426]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of New Castle, Lawrence County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of New Castle, Lawrence County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base

flood elevations are available for review at the First Floor, New Castle City Hall, North Jefferson Street, New Castle, Pa. 16101.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Francis J. Rogan, Mayor of New Castle, New Castle City Hall, North Jefferson Street, New Castle, Pa. 16101.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of New Castle, Lawrence County, Pa. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Mahoning River	Upstream corporate limit	786
	Con Rail bridge	782
	Confluence of Sheango River	777
Sheango River	Upstream corporate limit	845
	Confluence of Nesbanhook Creek	800
	Mahoning Ave., Route 422	793
Nesbanhook Creek	Confluence of Mahoning River	777
	Upstream corporate limit	840
	Paper Mill Rd.	831
Big Run	Washington St.	800
	Confluence of Sheango River	800
	Upstream corporate limit	822
	Moravia St.	794

PROPOSED RULES

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-26459 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3427]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Borough of Port Allegany, McKean County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Borough of Port Allegany, McKean County, Pa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board at the Borough Office Building.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Mark O. Griffith, Borough Manager, Borough Office Building, Port Allegany, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Borough of Port Allegany, McKean County, Pa. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of

1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Allegheny River	U.S. Route 6	1,474
	Mill St.	1,477
Littlefield Creek	Con Rail bridge	1,480
	Mill St.	1,484
	Arnold Ave.	1,506
	Upstream corporate limits	1,543

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28460 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3393]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Reform, Ala.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Reform, Ala. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publi-

cation of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Reform, Ala. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor L. D. Vail, Town Hall, P.O. Box 431, Reform, Ala. 35481.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Reform, Ala., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Lubbub Creek tributary 1	2d St.	238
	4th Ave.	239
	8d Ave.	230
Lubbub Creek	Illinois Central Gulf RR	225
	U.S. Highway 82	226

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Adminis-

PROPOSED RULES

trator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28461 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3394]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for the City of West Helena, Phillips County, Ark.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed based flood elevations (100-year flood) listed below for selected locations in the City of West Helena, Phillips County, Ark. Due to recent engineering analysis, this notice revises the proposed determinations of base flood elevations published in 42 FR 36089 on July 13, 1977, and in the Twin City Tribune published on April 27 and May 4, 1977, and hence supersedes those notices.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the City Clerk's Office, Municipal Building, West Helena, Ark. Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mayor Jesse E. Porter, 98 Plaza, West Helena, Ark. 72390.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed flood elevations (100-year flood) are listed below for selected locations in the City of West Helena, Phillips County, Arkansas, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (Section 1917.4(a)).

These base flood elevations are the basis for the flood plain management measures that the community is required

to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year Flood Elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cauey Creek	Corporate limits downstream of Little Rock Rd.	209
	Upstream of Oakland Ave.	212
	Northernmost corporate limits	260
Cauey Creek, lateral A.	Upstream of southern corporate limits	231
	Downstream of of Anderson Ave.	261
	Corporate limits, lateral B.	210
Cauey Creek, lateral D.	Upstream of Ashlar St.	223
	Corporate limits	241
Crooked Creek	Upstream of Kentue y. St.	248
	Upstream of Anderson Ave.	255
	Upstream of North 6th St.	259
Crooked Creek, lateral A.	Downstream of North 6th St.	271
	Downstream of Hill Rd.	276
	Corporate limits	238
Crooked Creek, lateral B.	Upstream of of Anderson Ave.	236
	Upstream of Substation	242
Crooked Creek, lateral C.	Downstream of Plaza Ave.	253

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28462 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3395]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Costa Mesa, Calif.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the

City of Costa Mesa, Calif. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 77 Fair Drive, Costa Mesa, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Fred Sorsabal, City Manager, City of Costa Mesa, City Hall, 77 Fair Drive, Costa Mesa, Calif. 92626.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Costa Mesa, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet (national geodetic vertical datum)
Greenville-Hanning Channel	San Diego Freeway	32
	New Hampshire Dr.	30
	California St.	30
	Adams St.	20
	Victoria St.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28463 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3396]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations Mesa County, Colo.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Mesa County, Colo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Courthouse, Third and Road Avenue, Grand Junction, Colo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Howard Roland, Chairman, Board of County Commissioners, Mesa County, P.O. Box 897, Grand Junction, Colo. 81501.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Mesa County, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Horizon Drive Channel	G Rd.	4,703
	Horizon Dr.	4,661
	Upstream 7th St.	4,635
	(20 1/2 Rd.)	
	Downstream 7th St.	4,621
	(26 1/2 Rd.)	
Leach Creek	25 Rd.	4,563
	Upstream Interstate Highway 70	4,650
	Downstream Interstate Highway 70	4,642
	G and 21 1/2 Rd.	4,574
	U.S. Highways 6 and 50	4,544
Colorado River	32 Rd.	4,627
	State Highway 340	4,555
	Appleton drain	4,524

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28464 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3045]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for the Town of Trumbull, Fairfield County, Conn.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Trumbull, Fairfield County, Conn. Due to recent engineering analysis, this notice revises the proposed determinations of base flood elevations published in 42 FR 34462 on July 5, 1977, and in the Trumbull Times published on June

30, 1977, and July 7, 1977, and hence supersedes those notices.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Town Clerk's Office and the Town Engineers Office, Trumbull Town Hall, 5866 Main Street, Trumbull, Conn. 06611.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify Mr. James A. Butler, First Selectman, Town of Trumbull, Trumbull Town Hall, 5866 Main Street, Trumbull, Conn. 06611.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed flood elevations (100-year flood) are listed below for selected locations in the Town of Trumbull, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (section 1917.4(a)).

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year Flood Elevations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Tributary A	Downstream of Colony Ave. culvert, 50 ft downstream of Pondview Ave. Park Lane culvert	291
	Cart Rd.	347
	Confluence with Canoe Brook Lake	374
	Helena Rd.	395
	Upstream side, Old Village Lane	363
	Upstream side, Madison Ave.	374
	Upstream side, Village Lane	400
Tributary B	Upstream side, Village Lane	426
Tributary C	Vicinity of Sally Ann Rd.	374
	Dayton Rd.	386

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary D	Cart Rd.	312
	Vicinity of Velvet St.	327
	Cold Springs Rd.	450
	Essex Lane	457
Island Brook	Oldtown Rd.	193
	Upstream side of Merritt Parkway	245
	Melrose Ave.	314
	Upstream side, Chestnut St.	345
Pegunonock River	Oldtown Rd.	59
	White Plains Rd.	98
	Daniel's Farm Rd.	110
	Whitney Ave.	233
	Monroe Turnpike	240
	Spring Hill Rd.	290
Tributary E	Barberry Lane	90
	Cart road	59
Tributary F	Upstream side, Norwood Ter.	172
	Upstream side, Church Hill Rd.	272
	Upstream side, Lillian Dr.	288
Belden Brook	1st St.	163
	Upstream side, Daniel's Farm Rd.	243
	Harvest Hill Dr.	312
Tributary G	Upstream side, Broadway	359
	Newtown Turnpike	362
Tributary H	Woodland Dr. (Cart Rd.)	364
	Vicinity of Davis St.	431
Tributary I	Newtown Turnpike	397
Tributary J	Springhill Rd.	315
North Farar Brook	Railroad	298
	Newtown Turnpike	321
	Field Rd.	335
	Route 8	335
Tributary K	Sheldon Rd.	238
	Golden Hill Rd.	237
Tributary L	Huntington Rd.	135
	Merritt Blvd.	143
Tributary M	Pinewood Trail	174
	Booth Hill Rd.	265
Tributary N	West Mische Rd.	174
	Booth Hill Rd.	203
Booth Hill Brook	Booth Hill Rd.	181
	Old Dike Rd.	203
Tributary O	Intervale Rd.	181
	Old Dike Rd.	91
	Nichols Ave.	141
Horse Tavern Brook	Corporate limit	237
	Downstream side of Merritt Parkway culvert	237
	Chestnut Hill Rd.	296
	Black House Rd.	292

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28465 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3397]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Newport, Del.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Newport, Del. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 205 North Marshall Street, Newport, Del.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John S. Hanna, Jr. Town Hall 205 North Marshall Street, P.O. Box 3053, Newport Del. 19804.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Newport, Del., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

PROPOSED RULES

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Christina River....	State Routes 11 and 111 (upstream side)	15
	State Routes 11 and 111 (downstream side)	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28466 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3398]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the County of Kankakee, Ill.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the county of Kankakee, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Kankakee County Regional Planning Office, 435 Oak, Kankakee, Ill.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Roy M. West, Chairman of the Board of Supervisors of Kankakee County, Kankakee County Courthouse, Kankakee, Illinois 60901.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance,

202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the county of Kankakee, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Kankakee River....	Kankakee County line	556
	Rock Creek.....	569
	Wilbey Creek.....	585
	Davis Creek.....	592
	Interstate 57.....	607
	Conrail RR.....	608
	Fair Creek.....	611
	Maple Island.....	612
	Momence corporate limit east.....	617
	Trim Creek.....	623
	Conrail.....	625
	Shadow Lawn.....	626
	Lilliana Heights.....	628
	Kankakee County and Indiana State line.....	630
Iroquois River....	Confluence with Kankakee River.....	608
	Minimie Creek.....	612
	Sugar Island.....	616
	Deer Creek.....	617

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28467 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3399]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Peoria County, Illinois

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in Peoria County, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board at the Courthouse, Peoria County Courthouse, 300 Main Street, Peoria, Ill.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Ray A. Neumann, Chairman of Peoria County Board, 300 Main Street, Peoria County Courthouse, Peoria, Ill. 61602.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Peoria County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any

existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Illinois River.....	Downstream County boundary	455
	City of Kingston Mines	457
	Chicago and North-western Railway (M151.2)	458
	Peoria lock and dam..	459
	Upstream county boundary	461
Kickapoo Creek....	Downstream of Adams St.	460
	Adams St.....	464
	Illinois Highway 116..	478
	Farmington Rd.....	484
	Johnson Rd.....	486
	Main St. (extended)...	490
	Confluence of Big Hollow Creek.....	493
	U.S. Interstate 474....	494
	Koerner Rd. (extended)...	495
	Confluence of Deer Lick Run.....	505
	New County Rd. 18..	507
	Illinois Highway 8....	510
	Confluence of Warsaw Run.....	513
	Confluence of Rupp Run.....	516
	Kramm Rd.....	519
	Confluence of Nixon Run.....	520
	Confluence of west fork, Kickapoo Creek.....	528
	U.S. Interstate 74....	531
	U.S. Interstate 150....	535
	Confluence of Jubilee Creek.....	540
	County Rd. No. 5....	546
	Confluence of Fargo Run.....	549
Spoon River.....	County Rd. No. 21... boundary	560
	Downstream county boundary	608
	County Rd. No. 6....	610
	White Rd.....	614
	Illinois Highway 78... boundary	618
	Laura Rd.....	621
	Maher Rd.....	625
	Upstream county boundary	626

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28468 Filed 9-30-77; 8:45 am]

PROPOSED RULES

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3400]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Lindsborg, McPherson County, Kans.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Lindsborg, McPherson County, Kans. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Lindsborg, Kan.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Alden Shields, City Administrator of Lindsborg, City Hall, Lindsborg, Kans. 67450.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, Southwest, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Lindsborg, McPherson County, Kans., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Cow Creek.....	North corporate limit	1,321
	Columbus St.....	1,324
	Swenson St.....	1,327
	Madison St.....	1,328
	3d St.....	1,330
	Grant St.....	1,331
	West corporate limit..	1,334
Smoky Hill River..	East corporate limit..	1,325
	2d St. (extended)....	1,326
	South corporate limit..	1,326
West fork, Cow Creek.	North corporate limit..	1,324
	West corporate limit..	1,325

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28469 Filed 9-30-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3401]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Beattyville, Lee County, Ky.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Beattyville, Lee County, Ky. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Judge's Office in the basement of the County Jail, Main Street, Beattyville, Ky.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Charles Beach III, Peoples Exchange Bank, Beattyville, Ky. 41311.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Beattyville, Lee County, Ky. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Kentucky River....	Confluence of Mirey Creek.	668
	Confluence of Silver Creek.	669
North fork, Kentucky River.	State Route 11.....	670
	Upstream corporate limits (extended).	672
Mirey Creek.....	Confluence with Kentucky River.	668
	0.33 mi above mouth...	668
	0.4 mi above mouth...	673
	Upstream of State Route 52.	683
Crystal Creek.....	Mirey Creek Rd.....	696
	Main St.....	699
	Locust St.....	699
	1.14 mi above mouth...	671
Silver Creek.....	Main St.....	679
	Silver Creek Rd. at 0.36 mi above mouth.	679
	Silver Creek Rd. 0.72 mi above mouth.	680
	0.93 mi above mouth...	696

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28470 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3402]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Village of Clayton, Concordia Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Clayton, Concordia Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Clayton, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert L. Wells, P.O. Box 123, Clayton, La. 71326.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Clayton, Concordia Parish, La. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448),

42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tensas River.....	Upstream of Louisiana Highway 15.	63
Ditch No. 1.....	Upstream of Marlett Lane.	60
	Downstream of U.S. Highway 65.	60
Ditch No. 2.....	Downstream of McAdams St.	58
	Downstream of U.S. Highway 65.	58

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28471 Filed 9-30-77;8:45 am]

[4210-01]

[Docket No. FI-3403]

[24 CFR Part 1917]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Columbia, Caldwell Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Columbia, Caldwell Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will

be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Columbia, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor James G. Sherman, P.O. Box 101, Columbia, La. 71418.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Columbia, Caldwell Parish, La., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ouachita River.....	Intersection of Kentucky (U.S. Highway 165) and the northeastern corporate limits.	73
Lower sump.....	East Pearl St.....	57
Upper sump.....	West Pearl St.....	65
	Intersection of Boyd and Wall St.	65

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Ad-

ministrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28472 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3404]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Unincorporated Areas of Iberville Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the unincorporated areas of Iberville Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comments will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Police Jury Office, Iberville Parish, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify President of the Police Jury Salvador Cardinal, P.O. Box 326, White Castle, La. 70788.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the unincorporated areas of Iberville Parish, La., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures re-

quired by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River....	Eastern parish limits..	38
	Upstream of the town of White Castle.	38
	Upstream of the city of Maquimine.	42
Bayou Paul.....	Upstream of Bayou Paul Lane.	17
	Downstream of Route 327.	23
Bayou Maringouin.	Upstream of Sparks St.	19
	Downstream of Maringouin.	19
Lower Grand River.	Pigeon.....	6
Mound ditch.....	Bayou Sarrel locks....	7
	Confluence with Lower Grand River.	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28473 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3405]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the Town of Melville, St. Landry Parish, La.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Melville, St. Landry Parish, La. These base flood elevations are the basis for the flood plain management meas-

ures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Melville, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph Artall, P.O. Box 268, Melville, La. 71353.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Melville, St. Landry Parish, La., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atchafalaya River..	4th St. (extended to corporate limits).	46
	Intersection of the Texas and Pacific R.R. with the eastern corporate limits.	46
Ponding.....	Melville ring levee sump area.	26

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28474 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3406]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for the City of Brewer, Penobscot County, Maine

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Brewer, Penobscot County, Maine. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Clerk's Office, City Hall, 80 North Main Street, Brewer, Maine 04401.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Earle D. Stevens, City Manager, City of Brewer, City Hall, 80 North Main Street, Brewer, Maine 04412.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581), or Toll Free Line (800-424-8872), Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Brewer, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and

Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Penobscot River....	Downstream corporate limits.	14
	Downstream of State Route 1A.	17
	Downstream of State Route 9.	18
	Downstream of Bangor waterworks dam.	21
	Upstream of Bangor waterworks dam.	30
	At the upstream corporate limits.	32
Felts Brook.....	317 ft upstream from confluence with Penobscot River.	21
	At State Route 9.....	32
	2,720 ft upstream from State Route 9.	38
	50 ft downstream of Eastern Ave.	76
	200 ft upstream from Eastern Ave.	79
	5,300 ft upstream from Eastern Ave.	82
	Downstream of State Route 1A.	83
	Downstream of Maine Central R.R.	84
Sedgeunkedunk Stream.	At State Route 15 culvert.	14
	55 ft downstream from Maine Central R.R.	17
	50 ft upstream from Maine Central R.R.	23
	Upstream of Elm St.	24
	Downstream of Concrete Dam.	27
	Upstream of Concrete Dam.	40
	At the upstream corporate limits.	41
Eaton Brook.....	At the confluence with Penobscot River.	31
	At State Route 9.....	31
	2,244 ft upstream of State Route 9.	33

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28475 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3407]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Town of Acton, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Acton, Mass. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Main Street, Acton, Mass. Any person having knowledge, information, or wishing to make a comment on those proposed elevations should immediately notify Mr. Christopher J. Farrell, Town Manager, Town of Acton, P.O. Box 236, Acton, Mass. 01720.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Acton, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the

appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet (national geodetic vertical datum)
Conant Brook	Masket Dr.....	203
	Newton Rd.....	196
	Nagog Hill Rd.....	196
	Main St.....	148
Nashoba Brook.....	Main St.....	172
	Carlisle Rd.....	170
	Wheeler Lane Dam.....	168
	Dam.....	153
	Con Rail.....	147
	Great Rd.....	144
	Brook Street Dam.....	141
	Brook St.....	139
	Con Rail.....	139
	Concord Rd.....	138
	Concord Road Dam.....	137
	Con Rail.....	128
	Wetherbee St.....	128
	Acorn structures.....	127
Tributary 2.....	Fernwood Rd.....	151
Tributary 1.....	Arborwood Rd.....	151
	Briarwood Rd.....	151
Cole's Brook.....	Sandalwood Rd.....	150
	Robbinwood Rd.....	147
	Hosmer St.....	143
	School Street Dam.....	133
	School St.....	133
Pratt's Brook.....	Boston and Maine R.R.....	143
Fert Pond Brook.....	do.....	206
	Arlington St.....	204
	Route 111.....	203
	Boston and Maine R.R.....	202
	Central St.....	201
	Martin St.....	199
	Flow St.....	196
	Boston and Maine R.R.....	195
	Route 27.....	195
	Ericksen Dam.....	194
	Boston and Maine R.R.....	181
	Cement Dam.....	176
	River St.....	156
	do.....	151
	Memram Dam.....	151
	River St.....	139
	Parker St.....	135
Assabet River.....	Laws Brook Rd.....	128
	Old High St.....	146
	Fowler Mill Dam.....	146
	Route 62.....	134

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28476 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3408]

NATIONAL FLOOD INSURANCE PROGRAM Proposed Flood Elevation Determinations for the Town of Lincoln, Middlesex County, Mass.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Lincoln, Middlesex County, Mass. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Lincoln, Mass. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Chairman of the Board of Selectmen Harold A. Levey, Jr., Bedford Road, Lincoln, Mass. 01773.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, Southwest., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Lincoln, Middlesex County, Mass., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sudbury River.....	Upstream of Leo Bridge.	122
Farrar Pond Brook.	Downstream of South Great Rd.	125
	Downstream of the wooden foot bridge.	138
Pole Brook.....	Upstream of Concord Rd. (Route 126).	158
	Upstream of Lincoln Rd.	168
Hobbs Brook.....	Upstream of Mill St...	174
Stony Brook.....	Upstream of Tower Rd.	172
	Upstream of Pierce Hill Rd.	199
	Upstream of Sandy Pond Rd.	230
Valley Pond.....	Southern corporate limit, just west of Conant Rd.	176

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28477 Filed 9-30-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3409]

NATIONAL FLOOD INSURANCE PROGRAM
Proposed Flood Elevation Determinations
for the Township of Wisner, Mich.

AGENCY: Federal Insurance Adminis-
tration, HUD.

ACTION: Proposed Rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the township of Wisner. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Office, 9384 West Bay City-Forestville Road, Fairgrove, Mich. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Edward Duke, Supervisor, Township of Wisner, Township Office, 9384, West Bay City-Forestville Road, Fairgrove, Michigan 48733.

FOR FURTHER INFORMATION CON-
TACT:

Mr. Richard Krimm, Assistant Ad-
ministrator, Office of Flood Insurance,
202-755-5581 or toll free line 800-424-
8872, Room 5270, 451 Seventh Street,
Southwest, Washington, D.C. 20410

SUPPLEMENTARY INFORMATION:
The Federal Insurance Administrator
gives notice of the proposed determina-
tions of base flood elevations (100-year
flood) for the township of Wisner, in ac-
cordance with section 110 of the Flood
Disaster Protection Act of 1973 (Pub. L.
93-234), 87 Stat. 980, which added sec-

tion 1363 to the National Flood Insurance
Act of 1968 (Title XIII of the Housing
and Urban Development Act of 1968 Pub.
L. 90-448), 42 U.S.C. 4001-4128, and 24
CFR Part 1917.

These elevations together with the
flood plain management measures re-
quired by section 1910.3 of the program
regulations are the minimum that are
required. They should not be construed
to mean the community must change any
existing ordinances that are more strin-
gent in their flood plain management re-
quirements. The community may at any
time enact stricter requirements on its
own, or pursuant to policies established
by other Federal, State, or regional en-
tities. These proposed elevations will also
be used to calculate the appropriate flood
insurance premium rates for new build-
ings and their contents and for the sec-
ond layer of insurance on existing build-
ings and contents.

The proposed 100-year flood elevations
for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Saginaw Bay.....	Shore end—Allen Rd./ Manke Rd.....	585 585

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Adminis-
trator, 34 FR 2680, February 27, 1969, as
amended (39 FR 2787, January 24, 1974).)

Issued: August 30, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28478 Filed 9-30-77;8:45 am]

MONDAY, OCTOBER 3, 1977
PART III



ENVIRONMENTAL
PROTECTION
AGENCY

STATIONARY GAS
TURBINES

Standards of Performance for New
Stationary Sources

[6506-01]

ENVIRONMENTAL PROTECTION
AGENCY

[40 CFR Part 60]

[FRL 777-8]

STATIONARY GAS TURBINES

Standards of Performance for New
Stationary SourcesAGENCY: Environmental Protection
Agency.

ACTION: Proposed rule.

SUMMARY: The proposed standards would limit emissions of nitrogen oxides and sulfur dioxide from new, modified and reconstructed stationary gas turbines to 75 ppm and 150 ppm, respectively. A new reference method for determining the concentration of nitrogen oxides, sulfur dioxide and oxygen in the exhaust gases from stationary gas turbines is also proposed. The standards implement the Clean Air Act and are based on the Administrator's determination that stationary gas turbine emissions contribute significantly to air pollution. The intended effect is to require new, modified and reconstructed stationary gas turbines to use the best demonstrated system of emission reduction.

DATES: Comments must be received on or before December 2, 1977.

ADDRESSES: Comments should be submitted, preferably in triplicate, to the Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711. Attention: Mr. Don R. Goodwin.

The Standards Support and Environmental Impact Statement (SSEIS) containing the data and information upon which the proposed standards are based may be obtained from the Public Information Center (PM-215), U.S. Environmental Protection Agency, Washington, D.C. 20460 (specify "Standards Support and Environmental Impact Statement, Volume 1: Proposed Standards of Performance for Stationary Gas Turbines").

The SSEIS and all public comments received may be inspected and copied at the Public Information Reference Unit (EPA Library), Room 2922, 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division, Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone No. 919-541-5271

SUPPLEMENTARY INFORMATION:

PROPOSED STANDARDS

The proposed standards would apply to all new, modified and reconstructed stationary gas turbines with a heat input at peak load equal to or greater than 10.7 gigajoules per hour (about 1,000 horsepower). The standards would apply to simple and regenerative cycle gas turbines and to the gas turbine portion of a

combined cycle steam/electric generating system.

The proposed standards would limit the concentration of nitrogen oxides (NO_x) in the exhaust gases from stationary gas turbines to 0.0075 percent by volume (75 ppm) at 15 percent oxygen on a dry basis. This emission limit would be adjusted upward for turbines with thermal efficiencies greater than 25 percent and upward for turbines burning fuels with a nitrogen content greater than 0.015 percent by weight.

The proposed standard would be referenced to International Standard Organization (ISO) standard day conditions of 288 degrees Kelvin, 60 percent relative humidity, and 101.3 kilopascals (1 atmosphere) pressure. Measured NO_x emission levels, therefore, would be adjusted to ISO reference conditions by use of an ambient condition correction factor included in the standard or by a custom ambient condition correction factor developed by the gas turbine manufacturer, owner, or operator and approved for use by EPA. Manufacturers, owners, or operators electing to develop custom ambient condition correction factors, however, would be required to develop such factors in terms of the following variables: combustor inlet pressure, ambient air pressure, ambient air humidity, and ambient air temperature. All correction factors would have to be substantiated with data and approved for use by the Administrator before they could be used for determining compliance with the proposed standard.

Stationary gas turbines with a heat input at peak load from 10.7 to, and including, 107.2 gigajoules per hour would be exempt from the NO_x emission limit for five years from the date of this proposal. Emergency-standby gas turbines, military gas turbines and firefighting gas turbines would be exempt permanently from the NO_x emission limit. In addition, stationary gas turbines using wet controls would be exempt temporarily from the NO_x emission limit during those periods when ice fog created by the gas turbine was deemed by the owner or operator of the gas turbine to present a traffic hazard. None of the exemptions mentioned in this paragraph would apply to the SO₂ emission limit.

The proposed standards would limit the SO₂ concentration in the exhaust gases from stationary gas turbines to 0.015 percent by volume (150 ppm) corrected to 15 percent oxygen on a dry basis, or would limit the sulfur content of the fuel used by any stationary gas turbine to 0.8 percent by weight.

SUMMARY OF ENVIRONMENTAL AND
ECONOMIC IMPACTS

The proposed standards would reduce NO_x emissions from stationary gas turbines by about 70 percent. Based on industry growth projections, by 1982 a reduction in national NO_x emissions of about 190,000 tons per year would be realized. By 1987, the reduction in national NO_x emissions would reach about 400,000 tons per year.

The adverse water pollution impact of the proposed standards would be minimal. The quantity of water or steam required for injection into the gas turbines to reduce NO_x emission would be small, less than 5 percent of the water consumed by a comparable size steam/electric power plant using cooling towers.

The solid waste impact of the proposed standards would be negligible. There would also be no adverse noise impact resulting from the proposed standards.

The energy impact of the proposed standards would be small. Gas turbine fuel consumption would be increased from 0 to 5 percent, depending largely on the rate of water injection required to comply with the proposed NO_x standard. There would be no energy impact associated with the proposed SO₂ standard. Few turbines will require the high water injection rates (about 1:1 water-to-fuel ratios) which result in a 5 percent fuel penalty. Assuming that all stationary gas turbines subject to the proposed NO_x standard would require a 1:1 water-to-fuel ratio, the fifth year (1982) energy impact of the standard on large stationary gas turbines would be an increase in fuel consumption of about 5,500 barrels of fuel oil per day. The fifth-year (1987) energy impact of the NO_x standard on small stationary gas turbines would be an increase in fuel consumption of about 7,000 barrels of fuel oil per day. This is equivalent to an increase in projected 1982 and 1987 national crude oil consumption of less than 0.03 percent. These estimates are based on assumptions which yield the greatest energy impacts and actual impacts are expected to be much lower.

The economic impact of the proposed standards is considered to be reasonable. The proposed standards would increase the capital costs or purchase price of a gas turbine for most installations by about 1 to 4 percent. For offshore applications, however, such as oil and gas drilling platforms, the increase could be as much as 7 percent. The annualized costs for a gas turbine in all applications would be increased by about 1 to 4 percent, with the largest application, utilities, realizing less than a 2 percent increase.

The proposed standards would increase the total capital investment requirements for all users of large stationary gas turbines by about 36 million dollars by 1982. For the period 1982 through 1987, the standards would increase the capital investment requirements for all users of both large and small stationary gas turbines by about 67 million dollars. Total annualized costs would be increased by about 11 million dollars in 1982 and by about 30 million dollars in 1987. These impacts would result in price increases for the end products or services provided by industrial and commercial users of stationary gas turbines ranging from less than 0.01 percent in the petroleum refining industry to about 0.1 percent in the electric utility industry.

The criteria for an action to be considered major, thereby requiring development of an Economic Impact Analysis (EIA) are: (1) an increase in the fifth-year annualized costs of 100 million dollars, (2) a major product price increase of 5 percent, or (3) an increase in national energy consumption of 25,000 barrels of fuel oil per day. The impacts resulting from the proposed standards would not exceed these criteria, except possibly for offshore applications, where the proposed standards could increase the price of a gas turbine by about 7 percent. Most gas turbines used on offshore oil and gas drilling platforms, however, are likely to have a heat input at peak capacity of less than 107.2 gigajoules per hour (about 10,000 horsepower). Consequently, they would be considered small gas turbines and would be exempt from the standards for five years. In any event, stationary gas turbines sold for offshore applications constitute such a small percentage (estimated at less than 3 percent) of the overall market for gas turbines that they are not considered a major product within the intent of the 5 percent major product price increase criteria for preparation of an EIA. Consequently, the proposed standards would not constitute a major action and no EIA has been prepared.

RATIONALE

SELECTION OF SOURCE FOR CONTROL

Assuming existing levels of emission controls, national NO_x emissions from stationary sources are projected to increase by about 65 percent by 1985. Applying best technology to all new sources would reduce this increase to about 25 percent, but would not prevent it from occurring. This unavoidable increase in NO_x emissions is attributable largely to the fact that few of the NO_x emission control techniques currently available can achieve large reductions in NO_x emissions. Consequently, EPA has assigned a high priority to the development of standards of performance for major NO_x emission sources wherever significant reductions in NO_x emissions can be achieved.

Several studies sponsored by EPA have ranked stationary gas turbines as major controllable sources of NO_x emissions. One study conducted by the Aero-therm Division of Acurex Corporation estimated that oil-fired and gas-fired stationary gas turbines accounted for 2.5 percent of the total NO_x emissions from stationary sources in the U.S. in 1972. This same study ranked gas-fired turbines as sixteenth and oil-fired gas turbines as twenty-third in a priority listing of 137 controllable stationary sources of NO_x emissions.

In another study the Research Corp. of New England (TRC) determined the impact which standards of performance would have on nationwide emissions of particulates, NO_x, SO₂, HC (hydrocarbons), and CO (carbon monoxide) from stationary sources. Sources were then ranked according to the impact a stand-

ard promulgated in 1975 would have on emissions in 1985. This ranking placed gas turbines first on a list of 40 stationary NO_x emission sources and eighth on a list of 41 stationary SO₂ emission sources.

In 1974, 90 percent of all domestic stationary gas turbine capacity was sold to the electric utility market, primarily for use as peaking units. It is expected that this large percentage of sales to utilities will continue in the future due to the many advantages of gas turbines as peaking units. In addition, gas turbine peaking units are often located in large urban centers where power demands are greatest and pollution problems are often most severe.

Stationary gas turbines, therefore, are significant contributors to total nationwide emissions of NO_x. They are ranked high on the various listings of sources for which standards of performance should be developed. In addition, the turbines coupled with the probability that many gas turbines will be installed near large urban centers underscores the need for standards of performance for stationary gas turbines. Consequently, stationary gas turbines were selected for development of standards of performance.

SELECTION OF POLLUTANTS

The pollutants emitted from stationary gas turbines are particulates, NO_x, SO₂, CO and HC. Combustor modifications (dry control) and water injection (wet control) are demonstrated techniques for reducing NO_x emissions at reasonable cost and depending on specific emission level selected, could reduce NO_x emissions by up to 190,000 tons per year in 1982. This is a significant decrease in total nationwide NO_x emissions. For these reasons, NO_x emissions from stationary gas turbines were selected for control by standards of performance.

SO₂ emissions from stationary gas turbines depend on the sulfur content of the fuel since nearly 100 percent of the fuel sulfur is converted to SO₂ during the combustion process. Due to the high volumes of exhaust gases, the cost of flue gas desulfurization (FGD) to control SO₂ emissions from stationary gas turbines is considered unreasonable. Control of SO₂ emissions, therefore, would require combustion of low sulfur fuels rather than the application of FGD. Selection of low sulfur fuels, however, is considered reasonable. Since gas turbines are a major source of SO₂ emissions and firing low sulfur fuels is considered an economically feasible control technique, SO₂ emissions from stationary gas turbines were selected for control by standards of performance.

HC and CO emissions from stationary gas turbines operating at peak load are relatively low because the higher the percentage of peak load at which a turbine operates, the more efficient the combustion of the fuel. Gas turbines normally operate at 80 to 100 percent of peak load with HC emissions averaging less than 50 ppm and CO emissions averaging less than 500 ppm at 15 percent oxygen. HC

and CO emissions from stationary gas turbines, therefore, were not selected for control by standards of performance.

Particulate emissions from stationary gas turbines depend on the ash content of the fuel and are minimal. Consequently, particulate emissions from stationary gas turbines were not selected for control by standards of performance.

SELECTION OF AFFECTED FACILITIES

Stationary gas turbines can be used in three different configurations: simple cycle, regenerative cycle, and combined cycle. All of these configurations emit NO_x and SO₂, and all can be controlled for NO_x emissions by water injection or dry controls and for SO₂ by the firing of low sulfur fuels. Consequently, simple cycle gas turbines, regenerative cycle gas turbines and the gas turbine portion of combined cycle steam/electric generating systems were selected as the affected facilities for standards of performance limiting NO_x and SO₂ emissions.

Gas turbines can burn either liquid or gaseous fuels. Dry and wet control techniques for the control of NO_x can be applied to gas turbines regardless of the type of fuel burned. Similarly, the firing of low sulfur fuel for the control of SO₂ emissions can be applied to gas turbines regardless of the type of fuel burned. EPA recognizes the fact that at the present time gas turbines firing coal-derived fuels probably could not meet the standards of performance. Coal-derived fuels, however, will not be available in commercial quantities to gas turbines for at least ten years and EPA feels that by that time the emission control technology for clean firing of these fuels could be developed. Consequently, gas turbines burning all types of fuels are selected as affected facilities for standards of performance.

For many applications up to about 10,000 hp stationary gas turbines compete with internal combustion engines. A standard of performance on one of these industries and not the other would tend to give the non-regulated industry a competitive advantage to some extent.

Currently, standards of performance are being developed for stationary internal combustion engines. Although relatively few internal combustion engines of greater than 1,000 hp are produced, these engines are responsible for 75 percent of the total NO_x emissions from stationary internal combustion engines. Under 1,000 hp, however, the number of internal combustion engines produced increases tremendously and enforcement of standards of performance would not be feasible in the absence of a certification program similar to that for automobiles. Since the Clean Air Act does not permit standards of performance to be enforced by a certification program, a lower size cutoff of 1,000 hp for standards of performance for stationary internal combustion engines is considered appropriate. Consequently, to be consistent a lower size cutoff of 10.7 gigajoules per hour heat input (about 1,000 hp) is selected for standards of performance for

stationary gas turbines. Gas turbines less than 10.7 gigajoules per hour heat input (about 1,000 hp) account for less than 10 percent of the total NO_x emissions from stationary gas turbines. Below this cutoff the standards limiting NO_x and SO₂ emissions would not apply.

Some stationary gas turbines are operated as a mechanical or electrical power source only when the primary power source for a facility has been rendered inoperable by an emergency situation. This type of gas turbine operates infrequently, usually only for checkout and maintenance; therefore, it contributes only a very small amount to total nationwide NO_x emissions. There also could be operational problems with the water injection system due to the long periods of non-operation. Consequently, emergency-standby stationary gas turbines were exempted from standards of performance limiting NO_x emissions.

Stationary gas turbines could contribute to the creation of ice fog, which consists of small ice crystals which are nucleated by airborne particulate. Ice fog occurs at temperatures below -28° C and is a serious problem in only a small portion of the United States, primarily Alaska. Ice fog severely restricts visibility and, since the crystals are long-lived, can plague auto and air traffic for extended periods. The actual impact of water or steam injection into gas turbines on the formation of ice fog is unknown; however, water or steam injection will increase the moisture content of the exhaust gas discharged by gas turbines. Since ice fog occurs only in a small portion of the United States and only under special weather conditions, the impact on air quality due to increased NO_x caused by exempting gas turbines creating ice fog would be minimal. Therefore, gas turbines using water or steam injection for control of NO_x emissions would be exempt from the standards limiting NO_x emissions when ice fog created by the gas turbine is deemed by the owner or operator of the gas turbine to be a traffic hazard.

Stationary gas turbines are sometimes used by the military in combat-type situations. The main advantage of these turbines is their mobility, which would be considerably restricted by a water injection system consisting of either water treatment equipment or a water storage vessel. Restriction of the mobility of these gas turbines could have an adverse effect on national defense; therefore, any military combat-type gas turbine for use in other than a garrison facility is exempt from the standards limiting NO_x emissions.

The possibility of exempting some gas turbines from the standard limiting SO₂ emissions was also examined. Except for exempting all turbines of less than 10.7 gigajoules per hour heat input (about 1,000 hp), no exemptions were considered necessary.

SELECTION OF THE BEST SYSTEM OF EMISSION REDUCTION

There are three possible control techniques for reducing NO_x emissions from

stationary gas turbines: wet controls, dry controls, and catalytic exhaust cleanup. Wet controls involve the injection of water or steam into the combustion reaction to reduce peak flame temperatures, thereby reducing NO_x formation. Wet control techniques have been demonstrated on a few large gas turbines (greater than 10,000 hp) used in utility and industrial applications. These installations have had good reliability over long periods of operation. Wet controls, however, have not been applied to small production gas turbines (less than 10,000 hp), although the effectiveness of these techniques for small gas turbines has been demonstrated in laboratory and combustor rig tests. Thus, wet controls can be applied immediately to large stationary gas turbines, but manufacturers estimate that at least three years would be required to incorporate and test wet control techniques on small production gas turbines.

Dry controls consist of operational or design modifications which govern combustion conditions to reduce NO_x formation. Although dry controls have been demonstrated in laboratory and combustor rig tests, manufacturers estimate that up to five years is required for further development, design, test, and incorporation of dry controls on large and small stationary gas turbines.

Catalytic exhaust gas cleanup consists of NO_x reduction by ammonia in the presence of a catalyst. While laboratory tests are very promising, this technique is not demonstrated for stationary gas turbines.

The NO_x emission reduction achievable with wet and dry control techniques clearly favors the development of standards of performance based on wet controls. Reductions in NO_x emissions of more than 70 percent have been demonstrated using wet controls. Dry controls, however, have demonstrated NO_x emission reductions of only about 30 percent.

Standards of performance based on wet controls would reduce national NO_x emissions by about 190,000 tons per year in 1982. In contrast, standards of performance based on dry controls would have no impact on national NO_x emissions in 1982, due to the necessity of allowing a five-year delay to incorporate dry controls on gas turbines. By 1987, standards based on wet controls would reduce national NO_x emissions by about 400,000 tons per year, whereas standards based on dry controls would reduce NO_x emissions by only about 90,000 tons per year. Thus, standards of performance based on wet controls would have a much greater impact on national NO_x emissions than standards based on dry controls.

The water pollution impact of standards based on wet controls would be minimal. Water needed for wet controls may be treated by the same processes used to treat steam boiler make-up water. The quality of the wastewater from this treatment is essentially the same as the influent water except that the concentration of total dissolved solids in the effluent stream is 3 to 4

times that of the influent. In most cases, the effluent may be sewerage directly or returned to the river supplying the water. Where this is not possible, the effluent may be discharged to an evaporation pond. Consequently, the water pollution impact of standards based on wet controls would be minimal.

The quantity of water required by a stationary gas turbine using wet controls is relatively small. The upper limit water-to-fuel ratio of about 1:1 requires only about 5 percent of the quantity of water consumed by a comparable size steam boiler using cooling towers. A water treatment system for five 28 MW stationary gas turbines operating 10 hours per day using a water-to-fuel ratio of 1:1, for example, would treat 125,000 gallons of water and reject about 25,000 gallons of wastewater per day. A steam boiler of comparable size with cooling towers would consume 20 times as much water. In fact, the usage rate of water for wet controls is small enough that the unlikely prospect of having to truck water 50 miles was determined to be economically reasonable as discussed below. Standards based on dry controls, however, would have no impact on water pollution or water supplies.

Standards based on wet controls would have a negligible solid waste impact. Also, there would be no adverse noise impact resulting from standards based on either wet or dry controls.

The potential energy impact of standards based on wet controls is small. Standards based on wet controls could increase the fuel consumption of a gas turbine from 0 to 5 percent, depending on the rate of water injection required to comply with the standard. Few turbines will require the high water injection rates (about 1:1 water-to-fuel ratios) which result in a 5 percent fuel penalty. Assuming, however, that all stationary gas turbines subject to compliance with standards would require a 1:1 water-to-fuel ratio, the energy impact on large stationary gas turbines would be an increase in fuel consumption of about 5500 barrels of fuel oil per day in 1982. The energy impact on small stationary gas turbines would be an increase in fuel consumption of about 7,000 barrels per day of fuel oil in 1987, as a result of the delayed effective date of the proposed standards on small turbines. Each increase represents less than a 0.03 percent increase in projected crude oil consumption in the United States in 1982 and 1987. It should also be recognized that these estimates are based on assumptions which yield the greatest energy impacts. Actual energy impacts are expected to be much lower. The energy impact of standards based on wet controls, therefore, would be minimal. Standards based on dry controls, however, would have no energy impact.

Although wet controls would result in a small adverse impact on gas turbine efficiency, the costs associated with this increased fuel consumption for some applications may be partially offset by an increase in the gas turbine's rated power output capability. Based on manufacturer's estimates, gas turbine baseload

capacity will be increased by 3 to 4 percent as a result of water injection. In applications where turbines are operated at maximum capacity, such as utility power generation and pipeline compressor stations, this increased baseload capacity essentially reduces the installed costs per kilowatt by the percentage increase in the capacity of the unit, thus slightly reducing the cost impact of standards based on wet controls.

The economic impacts associated with standards based on either wet or dry controls would be small and are considered reasonable. Dry control costs are difficult to quantify. Many manufacturers, however, have indicated that the cost of dry controls would not exceed the cost of wet controls. Consequently, the analysis of the economic impact of standards of performance was based on the costs of wet controls and assumes that the costs of dry controls, and hence the economic impact of standards based on dry controls, would be comparable. Standards of performance, therefore, based on either wet or dry controls would increase the capital cost of a gas turbine for most applications by about 1 to 4 percent. For offshore industrial applications where desalinization equipment is required to provide water for wet controls, standards would result in a 7 percent increase in the capital cost of a gas turbine. The annualized costs for a stationary gas turbine in all applications would be increased by about 1 to 4 percent, with utility applications realizing less than a 2 percent increase.

In this situation and in the absence of regulations requiring stationary gas turbines to fire specific fuels, the choice between firing either premium distillate fuel oils or heavy fuel oils will likely be decided on the basis of the relative convenience and availability of these fuels. Premium distillate fuel oils are more convenient to burn than heavy fuel oils because they have a lower viscosity and are easier to handle. Heavy fuel oils frequently require heating, for example, to reduce their viscosity to the point where they can be readily pumped from one location to another. Even if the price differential between premium distillate fuel oils and heavy fuel oils were to increase to the point where the firing of heavy fuel oils was marginally attractive, the greater inconvenience of scheduling and performing the additional maintenance would probably cause a gas turbine owner or operator to choose to fire the premium distillate fuel oil. On the basis of convenience, therefore, stationary gas turbines are likely to continue firing premium distillate fuel oils even if the economic incentive to do so becomes marginal.

The impact on ambient air quality of standards of performance based on the firing of low sulfur premium distillate fuel oils in gas turbines, therefore, would be negligible. The economic impact would also be negligible for the same reason and there would be no water, energy, solid waste or noise impact associated with standards based on the firing of low sulfur premium distillate fuel oils. Standards of performance based on dry controls would have no economic impact by 1982. Following 1982, however, the economic impact of standards based on dry controls would be comparable to that of standards based on wet controls. Based on this assessment of the impacts of standards of performance based on the firing of low sulfur fuel oils, this control technique is selected as "the best system of emission reduction (considering costs)" for the reduction of SO₂ emissions.

Standards of performance based on dry controls would have no economic impact by 1982. Following 1982, however, the economic impact of standards based on dry controls would be comparable to that of standards based on wet controls.

Based on this assessment of the impacts of standards of performance based on wet controls and dry controls, wet controls were selected as the "best system of emission reduction (considering cost)" for reduction of NO_x.

There are two possible control techniques for reducing SO₂ emissions from stationary gas turbines: flue gas desulfurization (FGD) and the firing of low sulfur fuels. FGD, however, would cost about two to three times as much as the gas turbine. The economic impact of standards of performance for stationary gas turbines based on FGD, therefore, is not considered reasonable.

Low sulfur fuels, such as premium distillate oils or natural gas, are now being burned by nearly all stationary gas turbines. These premium fuels are being burned primarily because the increased maintenance costs associated with firing heavy fuel oils are greater than the savings that would be realized by buying these cheaper heavy or residual fuel oils. Over the next five to ten years, however, as oil prices continue to escalate, the price differential between premium distillate fuel oils and heavy fuel oils will probably increase and the economic incentive to burn the premium fuels will probably become marginal.

In this situation and in the absence of regulations requiring stationary gas turbines to fire specific fuels, the choice between firing either premium distillate fuel oils or heavy fuel oils will likely be decided on the basis of the relative convenience and availability of these fuels. Premium distillate fuel oils are more convenient to burn than heavy fuel oils because they have a lower viscosity and are easier to handle. Heavy fuel oils frequently require heating, for example, to reduce their viscosity to the point where they can be readily pumped from one location to another. Even if the price differential between premium distillate fuel oils and heavy fuel oils were to increase to the point where the firing of heavy fuel oils was marginally attractive, the greater inconvenience of scheduling and performing the additional maintenance would probably cause a gas turbine owner or operator to choose to fire the premium distillate fuel oil. On the basis of convenience, therefore, stationary gas turbines are likely to continue firing premium distillate fuel oils even if the economic incentive to do so becomes marginal.

The impact on ambient air quality of standards of performance based on the firing of low sulfur premium distillate fuel oils in gas turbines, therefore, would be negligible. The economic impact would also be negligible for the same reason and there would be no water, energy, solid waste or noise impact associated

with standards based on the firing of low sulfur premium distillate fuel oils.

Based on this assessment of the impacts of standards of performance based on the firing of low sulfur fuel oils, this control technique is selected as "the best system of emission reduction (considering costs)" for the reduction of SO₂ emissions.

SELECTION OF FORMAT FOR THE STANDARDS

A number of different formats could be selected to limit NO_x emissions from stationary gas turbines. Mass standards limiting emissions in terms of power output (i.e., mass of emissions per unit of power output) or concentration standards limiting the concentration of emissions in the exhaust gases discharged into the atmosphere could be developed.

While mass standards may appear more meaningful in the sense that they relate directly to the quantity of emissions discharged into the atmosphere, enforcement of mass standards is more costly and the results more subject to error than enforcement of concentration standards.

Concentration standards, however, must be written to insure that the standards are not met merely by addition of dilution air. For combustion processes, this can be accomplished by correcting measured concentration to a reference concentration of O₂ (oxygen). The O₂ concentration in the exhaust gases is related to the excess (or dilution) air. Typical O₂ concentrations in gas turbine exhaust gases are about 15 percent. Thus, referencing standards to 15 percent oxygen effectively precludes circumvention by dilution. Consequently, concentration standards referenced to 15 percent oxygen were selected as the format for standards of performance for stationary gas turbines.

Selection of a concentration format, however, could penalize high efficiency gas turbines. Higher efficiencies are normally achieved by increasing combustor operating pressures and temperatures and NO_x formation generally increases exponentially with increased pressure and temperature. High efficiency turbines, therefore, generally discharge gases with higher NO_x concentrations than low efficiency turbines. A concentration standard based on low efficiency turbines could restrict the use of some high efficiency turbines. Conversely, a concentration standard based on high efficiency turbines could allow such high NO_x concentrations that low efficiency turbines would require no controls. Consequently, having selected a concentration format for standards of performance, an efficiency adjustment factor needed to be selected to permit higher NO_x emissions from high efficiency gas turbines.

NO_x emissions tend to increase exponentially with increased efficiency. It is not reasonable from an emission control viewpoint, however, to select an exponential efficiency adjustment factor. Such an adjustment would at some point allow very large increases in emissions for very small increases in effi-

ciency. The objective of an efficiency adjustment factor should be to give an emission credit for the lower fuel consumption of high efficiency gas turbines. Since the relative fuel consumption of gas turbines varies linearly with efficiency, a linear efficiency adjustment factor is selected to permit increased NO_x emissions from high efficiency gas turbines. A linear efficiency adjustment factor also effectively limits NO_x emissions to a constant mass emission rate per unit of power output.

The efficiency adjustment factor must be referenced to a baseline efficiency. Since most existing simple cycle gas turbines fall in the range of 20 to 30 percent efficiency, 25 percent was selected as the baseline efficiency. The efficiency of stationary gas turbines is usually expressed in terms of heat rate which is the ratio of heat input, based on lower heating value (LHV) of the fuel, to the mechanical power output. The heat rate of a gas turbine operating at 25 percent efficiency is 14.4 kilojoules per watt-hr (10,180 Btu per hp-hr). Thus, the linear adjustment factor as presented in the regulation was selected to permit increased NO_x emissions from high efficiency stationary gas turbines.

The intent of the efficiency adjustment factor is to permit a linear increase in NO_x emissions with increased efficiencies above 25 percent. Consequently, the adjustment factor would not be used to adjust the emission limit downward for gas turbines with efficiencies of less than 25 percent.

The rationale for selection of the format for SO₂ emissions is much the same as that discussed above for NO_x emissions. Thus, to be consistent with the format selected for standards limiting NO_x emissions, a concentration standard is chosen as the format for the SO₂ standard. An emission limit in terms of percent fuel sulfur content has also been included in the SO₂ standard to give the owner or operator the flexibility of either measuring the SO₂ concentration of the exhaust gas or analyzing the fuel being fired in the turbine. Either format for the SO₂ standard can be used since nearly all of the sulfur in the fuel is converted to SO₂.

The efficiency factor associated with the NO_x emission limit would not apply to the SO₂ emission limit, however, because SO₂ emissions do not vary with turbine efficiency.

SELECTION OF THE EMISSION LIMITS

The available data on emission from stationary gas turbines using wet controls come primarily from simple cycle gas turbine and combustor rig tests. No reliable data was available concerning NO_x emissions from regenerative cycle gas turbines using wet controls, although some dry control data was obtained. Careful consideration, therefore, was given to the question of whether regenerative cycle gas turbines could be controlled to the same emission levels as simple cycle gas turbines.

There is general agreement that wet controls will give essentially the same

percentage reduction in NO_x emissions from regenerative cycle gas turbines as from simple cycle gas turbines. Thus, the question becomes whether uncontrolled NO_x emissions from regenerative cycle gas turbines are higher than those from simple cycle gas turbines. On first comparison, NO_x emissions from regenerative cycle gas turbines appear higher than those from simple cycle gas turbines. Regenerative cycle gas turbines, however, frequently operate at higher thermal efficiencies than simple cycle gas turbines, and when NO_x emissions are plotted against gas turbine thermal efficiency, emissions from regenerative and simple cycle gas turbines do not appear significantly different. As a result, the application of wet controls to either regenerative or simple cycle gas turbines of comparable thermal efficiencies should reduce NO_x emissions to essentially the same level. Consequently, regenerative cycle gas turbines would be subject to the same emission limit as simple cycle gas turbines.

The data also indicate that gas turbines firing gaseous fuels typically have slightly lower controlled NO_x emission levels than gas turbines firing distillate fuels. Again, considering only the data representing major NO_x control efforts, controlled emissions from gas turbines firing gaseous fuels range from about 15 to 50 ppmv, while controlled emissions from gas turbines firing distillate fuels range from about 25 to 60 ppmv. This slight difference in controlled emission levels does not warrant the selection of a separate emission limit for each type of fuel. Only one emission limit, therefore, was selected which applies to gas turbines burning all types of fuel.

Based on this emission data and allowing for some uncertainty in the limited data base, 75 ppmv NO_x corrected to 15 percent oxygen was selected as the numerical emission limit for stationary gas turbines.

The gaseous and premium distillate fuels which have traditionally been burned in stationary gas turbines contain little or no "fuel-bound" or "organic" nitrogen. However, heavy residual fuel oils and crude oils can contain high levels of fuel-bound nitrogen. Total NO_x emissions from any combustion source, including stationary gas turbines, are a function of both thermal NO_x and organic NO_x formation. Thermal NO_x is formed in a well defined high temperature reaction between nitrogen and oxygen from the combustion air. Organic NO_x, however, is formed by the combination of fuel-bound nitrogen with oxygen during combustion. The reaction mechanism is not fully understood. Wet controls are effective for reducing thermal NO_x, but are not effective for reducing organic NO_x.

Three alternatives were considered to address the fuel-bound nitrogen contribution to total NO_x emissions from stationary gas turbines. The first alternative would have exempted heavy or residual fuel oils from standards of performance. This approach would have al-

lowed gas turbines firing heavy residual fuel oils to operate with no emission controls. In addition to the difficulties of distinguishing between premium and residual fuel oils in the standards, this approach would have encouraged owners or operators to burn heavy or residual fuel oils as a means of evading standards of performance.

The second alternative would have been to base standards of performance on the firing of low nitrogen fuels. This approach would have required emission controls on all new, modified, and reconstructed stationary gas turbines, but would have effectively precluded the firing of fuels other than those premium gaseous and distillate fuels which turbines are now using. Firing of heavy or residual fuel oils would have required major breakthroughs in controlling organic NO_x formation, or additional refining of these fuels to reduce their nitrogen content (as well as their sulfur content) to a level equivalent to that of premium distillate fuels.

The third alternative would include an adjustment to the NO_x emission limit as a function of the fuel-bound nitrogen level in the fuel fired. This approach would require NO_x controls on all new stationary gas turbines, but would not restrict new, modified or reconstructed gas turbines to firing premium gaseous and distillate fuels. Thus, stationary gas turbines would not be penalized for firing heavy fuel oils, nor would there be any added impetus toward the firing of heavy or residual fuel oils in order to evade standards of performance.

As discussed earlier, low sulfur fuels, such as premium distillate fuel oils or natural gas are now being fired by nearly all stationary gas turbines. These premium fuels are being fired primarily because the increased maintenance costs associated with firing heavy fuel oils are greater than the savings that would be realized by buying these less expensive heavy or residual fuel oils. Over the next five to ten years, however, as oil prices continue to escalate, the price differential between premium distillate fuel oils and heavy fuel oils will probably increase and economic incentive to fire the premium fuel oils will probably become marginal. It is also possible that there could be limited supplies of premium distillate fuel oils over the next five to ten years due to declining production of oil and natural gas in the United States, increased demands for these premium fuels by users other than gas turbines which cannot utilize heavy or residual fuel oils, and the uncertainty of additional crude oil supplies in the world energy markets. In fact, in anticipation of the possibility of limited supplies of premium distillate fuel oils, approximately 50 percent of the new gas turbines on order are being designed to allow the owner or operator the flexibility of firing either premium distillate fuel oils, or residual or heavy fuel oils. Consequently, in order to provide gas turbine owners and operators the flexibility to fire either premium or heavy and residual fuels, but to ensure that standards

of performance add no impetus toward the firing of heavy fuel oils as a means of evading standards, alternative three is selected for standards of performance limiting NO_x emissions from stationary gas turbines.

An allowance in the NO_x emission limit dependent on fuel-bound nitrogen level with no upper limit on emissions, however, could permit extremely high NO_x emissions when fuels with very high nitrogen contents are fired. Thus, it is essential that restraints be placed on such an emission allowance. Therefore, a fuel-bound nitrogen allowance was developed that allows approximately 50 percent availability of the heavy fuel oils. This corresponds to a fuel-bound nitrogen content of 0.25 percent. Firing a fuel with 0.25 percent nitrogen content increases controlled NO_x emissions by about 50 ppm.

The effect of ambient atmospheric conditions on NO_x emissions from stationary gas turbines is substantial. Large changes in relative humidity, for example, can cause NO_x emissions to vary by a factor of 2 or more. In order to insure that standards of performance are enforced uniformly, therefore, the effect of ambient atmospheric conditions was derived by extracting the common elements from several ambient condition correction factors proposed by gas turbine manufacturers. This correction factor, therefore, represents the general effect of ambient atmospheric conditions on NO_x emissions. Consequently, the ambient condition correction factor, as presented in the regulation, or an alternative correction factor as discussed below, will be used to adjust measured NO_x emissions during any performance test to determine compliance with the numerical emission limit.

As an alternative, gas turbine manufacturers, owners, or operators may elect to develop custom ambient condition correction factors for adjusting measured NO_x emissions from particular gas turbine models to ISO standard ambient conditions of pressure (101.3 kilopascals), humidity (60 percent relative humidity), and temperature (288 degrees Kelvin). Some gas turbine manufacturers have proposed ambient condition correction factors which include variables such as fuel-to-air ratios and combustor temperatures. These variables are difficult to measure and are operating parameters which may vary widely due to factors other than ambient conditions. For this reason, any custom ambient condition correction factor must be developed in terms of the following variables only: combustor inlet pressure, ambient air pressure, ambient air humidity, and ambient air temperature. All ambient condition correction factors must be substantiated with data and then approved for use by EPA before they can be used in determining compliance with the NO_x emission limit. Ambient condition correction factors will be applied to all performance tests, not only those in which the use of such factors would reduce measured emission levels.

Some delay is required before the NO_x standard of performance can be applied to small stationary gas turbines. A delay is necessary to provide time for manufacturers to incorporate NO_x controls on their small production stationary gas turbine models. It is estimated that about three years delay in the effective date of the standard for small stationary gas turbines would be required to allow manufacturers time to incorporate and test wet controls on these gas turbines. Some manufacturers have expressed optimism at being able to meet the NO_x standards using dry controls if given about five years delay. Since small gas turbines represent only about 10 to 15 percent of the total NO_x emissions from stationary gas turbines, the difference in environmental impact of a three-year versus five-year delay would be small. Additionally, a three-year delay would essentially force these manufacturers to incorporate wet controls, whereas a five-year delay would provide the flexibility to use wet controls or to develop and use dry controls. Consequently, five years was selected as the delay period for implementation of the NO_x emission limit on small stationary gas turbines.

In selecting the size cutoff to differentiate between large and small stationary gas turbines, consideration was given to the purpose for the cutoff and the effect on competitive markets. The purpose of the cutoff is to differentiate between large gas turbines where wet controls have been commercially demonstrated and small gas turbines where wet controls although effective, have not been generally applied on a commercial basis. Consideration of the market data reveals that there are two major competitive markets for stationary gas turbines which can be generally described as small gas turbines and large gas turbines. The size range of 5000 to 10,000 horsepower essentially separates these two markets. All gas turbines above this range are manufactured by companies which have developed wet control systems for their stationary gas turbines. The size cutoff, therefore, between small and large gas turbines was selected as the upper end of this range. Thus, large stationary gas turbines are defined as those with heat input at peak load of greater than 107.2 gigajoules per hour (approximately 10,000 horsepower for a 25 percent efficient gas turbine).

The best system of emission reduction, considering costs, selected for SO₂ emissions was the firing of low sulfur fuel oils. To be consistent with the objective of the fuel-bound nitrogen allowance NO_x emission limit and allow for approximately 50 percent availability of the residual and heavy fuel oils, the SO₂ emission limit is selected as 150 ppm referenced to 15 percent O₂ which corresponds to a fuel sulfur content of 0.8 percent by weight.

The five-year delay of the NO_x emission limit applied to small gas turbines (less than 10,000) to provide manufacturers time to incorporate wet controls onto their turbines would not apply to the SO₂ emission limit since the control tech-

nique of burning low sulfur fuels is now available to all turbines.

It should be noted that standards of performance for new sources established under Section 111 of the Clean Air Act reflect emission limits achievable with the best adequately demonstrated systems of emission reduction considering the cost of such systems. State implementation plans (SIPs) approved or promulgated under Section 110 of the Act, on the other hand, must provide for the attainment and maintenance of National Ambient Air Quality Standards (NAAQS) designed to protect public health and welfare. For that purpose SIPs must in some cases require greater emission reductions than those required by standards of performance for new sources. For example, EPA's Interpretative Ruling (41 FR 55524, December 21, 1976) on the construction of a new or modified source in an area that exceeds a NAAQS requires, among other things, that the new source must meet an emission limitation which reflects the "lowest achievable emission rate" for such type of source. At a minimum, the lowest rate achieved in practice would have to be specified unless the applicant can demonstrate that it cannot achieve such a rate. In no event could the rate exceed any applicable standard of performance for new sources.

This stringent requirement reflects EPA's judgment that a new source should be allowed to emit pollutants into an area violating a NAAQS only if its contribution to the violation is reduced to the greatest degree possible. While the cost of achievement may be an important factor in selecting a standard of performance for new sources applicable to all areas of the country, the cost factor must be accorded far less weight in determining an appropriate emission limitation for a source locating in an area violating statutorily-mandated health and welfare standards. Thus, while there may be technology available for new sources which have been determined not to be appropriate for standards of performance because of the consideration given to costs, this technology would be considered for purposes of determining the "lowest achievable emission rate" for such type of sources. Consequently, standards of performance for new sources should not be viewed as the ultimate in achievable control and should not limit the imposition of a more stringent standard, where appropriate.

States are free under Section 116 of the Act to establish even more stringent emission limits than those established under Section 111, or those necessary to attain or maintain the NAAQS under Section 110. Thus, new sources may in some cases be subject to limitations more stringent than EPA's standards of performance under Section 111, and prospective owners and operators of new sources should be aware of this possibility in planning for such facilities.

SELECTION OF MONITORING REQUIREMENTS

To provide a convenient means for enforcement personnel to insure that an

emission control system installed to comply with standards of performance is properly operated and maintained, monitoring requirements are generally included in standards of performance. For stationary gas turbines, the most straightforward means of insuring proper operation and maintenance is to monitor emissions released to the atmosphere.

EPA has established NO_x monitoring performance specifications in Appendix B of 40 CFR Part 60 for large industrial sources with well developed velocity and temperature profiles. Stationary gas turbines, however, do not have well developed velocity and temperature profiles in all cases. Gas stratification of the turbine exhaust, for example, makes the location of the sample point critical. Also, since some gas turbines are started remotely from a central location, special systems and data reporting procedures would be necessary to start and maintain continuous monitors.

Currently there are no NO_x continuous monitors operating on gas turbines, and resolution of these sampling problems and development of performance specifications for continuous monitoring systems would entail a major development program. For these reasons, continuous monitoring of NO_x emission from gas turbines would not be required by the proposed standards.

An effective means of ensuring operation of the water injection system used to control NO_x emissions from gas turbines is to monitor the water-to-fuel ratio being fed to the turbine. Both water and fuel monitors are readily available and are demonstrated technology for use on gas turbines. Consequently, to ensure operation of water injection systems, the proposed standards for stationary gas turbines would require continuous monitoring of the water-to-fuel ratio where water injection is employed to comply with NO_x standard.

Also, an effective means of ensuring the firing of fuels with the proper nitrogen content to control NO_x emissions caused by fuel bound nitrogen is to monitor the nitrogen content of the fuel being fired. Consequently, any owner or operator that uses the fuel-bound nitrogen allowance to comply with NO_x emission limit will be required by the standard to monitor the nitrogen content of the fuel.

The continuous monitoring of SO₂ emissions would not be required by the proposed standards for the same reasons continuous monitoring of NO_x emissions would not be required. A means of ensuring the firing of low sulfur fuels to control SO₂ emissions, however, is to monitor the sulfur content of the fuel being burned. This is already a common practice among gas turbine users. Consequently, to ensure the use of low sulfur fuels by stationary gas turbines to comply with the SO₂ emission limit, the standard would require monitoring the sulfur content of the fuel.

SELECTION OF PERFORMANCE TEST METHODS

Reference Method 20, "Determination of Nitrogen Oxides, Sulfur Dioxide, and

Oxygen Emissions from Stationary Gas Turbines," was selected as the performance test method to determine compliance with the standards of performance limiting NO_x emissions for stationary gas turbines. This test method is based on the EPA gas turbine field tests and on background data for continuous monitoring system specifications (FEDERAL REGISTER, October 6, 1975). Reference Method 20 includes (1) measurement system design criteria, (2) measurement system performance specifications and performance test procedures, and (3) procedures for emission sampling. The performance specifications include the span drift, zero drift, linearity check, response time of the system, and interference checks. This method allows a choice of instruments and will provide reliable data if the performance specifications are met.

Both the Society of Automotive Engineers (SAE) and Mobile Source test methods are acceptable alternative methods, if the selected instrument models are capable of meeting the performance specifications of Reference Method 20.

NO_x emission measured by Reference Method 20 will be affected by ambient atmospheric conditions. Consequently, measured NO_x emissions would be adjusted during any performance test by the ambient condition correction factor discussed earlier, or by custom correction factors approved for use by the Administrator.

In order to apply the fuel-bound nitrogen allowance included as part of the NO_x emission limit, the nitrogen content of the fuel must be determined. The analytical methods and procedures employed to determine the nitrogen content of the fuel would be approved by the Administrator and would be accurate to within plus or minus five percent.

In lieu of determining the SO₂ concentration of the exhaust gas from a gas turbine by using Method 20, compliance with the standard may be demonstrated by determining the sulfur content of the fuels being used by the gas turbine. Sulfur content of the fuel will be determined using ASTM D2880-71 for liquid fuels and ASTM D1072-70 for gaseous fuels.

MISCELLANEOUS

As prescribed by Section 111 of the Act, this proposal of standards has been preceded by the Administrator's determination that emissions from stationary gas turbines contribute to air pollution which causes or contributes to the endangerment of public health or welfare, and by his publication of this determination in this issue of the FEDERAL REGISTER. In accordance with Section 117 of the Act, publication of these proposed standards was preceded by consultation with appropriate advisory committees, independent experts and Federal departments and agencies. The Administrator will welcome comments on all aspects of the proposed regulations, including the designation of stationary gas turbines as a significant contributor to air pollution which causes or contributes to the en-

dangerment of public health or welfare, economic and technological issues, and on the proposed test methods.

Comments are also specifically invited on the severity of the economic impact of the proposed standards on stationary gas turbines located offshore, since a number of interested parties have expressed objection to not exempting the offshore turbine from compliance with the standard. Any comments submitted to the Administrator on this issue, however, should contain specific information and data pertinent to an evaluation of the magnitude of this impact and its severity.

Economic impact analysis: The criteria for an action to be considered major, thereby requiring development of an Economic Impact Analysis (EIA) are: (1) an increase in the fifth-year annualized costs of 100 million dollars, (2) a major product price increase of 5 percent, or (3) an increase in national energy consumption of 25,000 barrels of fuel oil per day. The impacts resulting from the proposed standards would not exceed these criteria, except possibly for those stationary gas turbines sold for offshore oil and gas drilling platforms, where the proposed standards could increase the price of a gas turbine by about 7 percent. Most gas turbines used in the application, however, are likely to have a heat input at peak capacity of less than 107.2 gigajoules per hour (about 10,000 horsepower). Consequently, they would be considered small gas turbines and would be exempt from the standards for five years following proposal of the standards. In any event, however, stationary gas turbines sold for offshore applications constitute such a small percentage (estimated at less than 3 percent) of the overall market for stationary gas turbines that they are not considered a major product within the meaning of the 5 percent major product price increase criteria for an action to be considered major, thereby requiring preparation of an EIA. The Environmental Protection Agency has determined, therefore, that his proposed action does not constitute a major action requiring preparation of an Economic Impact Analysis under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: September 21, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed to amend Part 60 of Chapter I, Title 40 of the Code of Federal Regulations as follows:

1. By adding subpart GG as follows:

Subpart GG—Standards of Performance for Stationary Gas Turbines	
Sec. 60.330	Applicability and designation of affected facility.
60.331	Definitions.
60.332	Standard for nitrogen oxides.
60.333	Standard for sulfur dioxide.
60.334	Monitoring of operations.
60.335	Test methods and procedures.

AUTHORITY: Sections 111 and 301(a) of the Clean Air Act, as amended, [42 U.S.C. 1857c-7, 1857g(a)], and additional authority as noted below.

Subpart GG—Standards of Performance for Stationary Gas Turbines

§ 60.330 Applicability and designation of affected facility.

The provisions of this subpart are applicable to the following affected facilities: all stationary gas turbines with a heat input at peak load equal to or greater than 10.7 gigajoules per hour, based on the lower heating value of the fuel fired.

§ 60.331 Definitions.

As used in this subpart, all terms not defined herein shall have the meaning given them in the Act and in subpart A of this part.

(a) "Stationary gas turbine" means any simple cycle gas turbine, regenerative cycle gas turbine or any gas turbine portion of a combined cycle steam/electric generating system that is not self-propelled. It may, however, be mounted on a vehicle for portability.

(b) "Simple cycle gas turbine" means any stationary gas turbine which does not recover heat from the gas turbine exhaust gases to preheat the inlet combustion air to the gas turbine, or which does not recover heat from the gas turbine exhaust gases to heat water or generate steam.

(c) "Regenerative cycle gas turbine" means any stationary gas turbine which recovers heat from the gas turbine exhaust gases to preheat the inlet combustion air to the gas turbine.

(d) "Combined cycle gas turbine" means any stationary gas turbine which recovers heat from the gas turbine exhaust gases to heat water or generate steam.

(e) "Emergency gas turbine" means any stationary gas turbine which operates as a mechanical or electrical power source only when the primary power source for a facility has been rendered inoperable by an emergency situation.

(f) "Ice fog" means an atmospheric suspension of highly reflective ice crystals.

(g) "ISO standard day conditions" means 288 degrees Kelvin, 60 percent relative humidity and 101.3 kilopascals pressure.

(h) "Efficiency" means the gas turbine manufacturer's rated heat rate at peak load in terms of heat input per unit of power output based on the lower heating value of the fuel.

(i) "Peak load" means 100 percent of the manufacturer's design capacity of the gas turbine.

(j) "Base load" means the load level at which a gas turbine is normally operated.

(k) "Fire-fighting turbine" means any stationary gas turbine that is used primarily to pump water for extinguishing fires.

§ 60.332 Standard for nitrogen oxides.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner

or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere, except as provided in paragraphs (b), (c), and (d) of this section.

(1) From any gas turbine with a heat rate at peak load of more than or equal to 14.4 kilojoules per watt hour, based on the lower heating value of the fuel fired, any gases which contain nitrogen oxides in excess of:

$$STD = 0.0075 + F$$

where:
STD = allowable NO_x emissions (percent by volume at 15 percent oxygen and on a dry basis).
F = NO_x emission allowance for fuel-bound nitrogen as defined in part (3) of this paragraph.

(2) From any gas turbine with a heat rate at peak load of less than or equal to 14.4 kilojoules per watt hour, based on the lower heating value of the fuel fired, any gases which contain nitrogen oxides in excess of:

$$STD = 0.0075 \left(\frac{14.4}{Y} \right) + F$$

where:
STD = allowable NO_x emissions (percent by volume at 15 percent oxygen and on a dry basis).
Y = manufacturer's rated heat rate at peak load (kilojoules per watt hour).
F = NO_x emission allowance for fuel-bound nitrogen as defined in part (3) of this paragraph.

(3) F shall be defined according to the nitrogen content of the fuel as follows:

Fuel-bound nitrogen (percent by weight)	F (NO _x percent by volume)
N < 0.015	0
0.015 < N ≤ 0.1	0.04(N)
0.1 < N ≤ 0.25	0.004 + 0.007(N - 0.1)
N > 0.25	0.005

where:
N = the nitrogen content of the fuel (percent by weight).

(b) Stationary gas turbines with a heat input at peak load of 107.2 gigajoules per hour (100 million Btu/hour) or less, based on the lower heating value of the fuel fired, are exempt from paragraph (a) of this section for a period not to exceed five years from (date of proposal).

(c) Stationary gas turbines using water or steam injection for control of NO_x emissions are exempt from paragraph (a) when ice fog is deemed a traffic hazard by the owner or operator of the gas turbine.

(d) Emergency standby gas turbines, military gas turbines for use in other than a garrison facility, and fire-fighting gas turbines are exempt from paragraph (a) of this section.

§ 60.333 Standard for sulfur dioxide.

(a) On and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall cause to be discharged into the atmosphere from any stationary gas turbine any gases which contain sulfur dioxide in excess of 0.015 percent by volume at 15 percent oxygen and on a dry basis.

(b) The sulfur content of the fuel fired by the gas turbine may be used to determine compliance with paragraph (a) of this section. Under such circumstances,

on and after the date on which the performance test required to be conducted by § 60.8 is completed, no owner or operator subject to the provisions of this subpart shall burn in any stationary gas turbine any fuel which contains sulfur in excess of 0.8 percent by weight.

§ 60.334 Monitoring of operations.

(a) The owner or operator of any stationary gas turbine subject to the provisions of this subpart and using water injection to control NO_x emissions shall install and operate a continuous monitoring system to monitor and record the fuel consumption and the ratio of water to fuel being fired in the turbine. This system shall be accurate to within ±5.0 percent and shall be approved by the Administrator.

(b) The owner or operator of any stationary gas turbine subject to the provisions of this subpart shall record daily the sulfur content, nitrogen content, and lower heating value of the fuel being fired in the gas turbine.

(c) For the purpose of reports required under § 60.7(c), periods of excess emissions that shall be reported are defined as follows:

(1) Nitrogen oxides. Any one-hour period during which the average water-to-fuel ratio, as measured by the continuous monitoring system, falls below the water-to-fuel ratio determined to demonstrate compliance with § 60.332 by the performance test required in § 60.8. Each report shall include the average water-to-fuel ratio, average fuel consumption, ambient conditions and nitrogen content of the fuel during the period of excess emissions, and the graphs or figures developed under § 60.335(a).

(2) Sulfur dioxide. Any daily period during which the sulfur content of the fuel being fired in the gas turbine exceeds 0.8 percent.

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9)).

§ 60.335 Test methods and procedures.

(a) The reference methods in Appendix A to this part, except as provided in § 60.8(b), shall be used to determine compliance with the standards prescribed in § 60.332 as follows:

(1) Reference Method 20 for the concentration of nitrogen oxides and oxygen.

(1) The nitrogen oxides emission level measured by Reference Method 20 shall be adjusted to ISO standard day conditions by the following ambient condition correction factor:

$$NO_x = (NO_{x,obs}) \left(\frac{P_{ref}}{P_{obs}} \right)^{0.5} e^{19(H_{obs} - 0.00633)}$$

where:
NO_x = emissions of NO_x at 15 percent oxygen and ISO standard ambient conditions.
NO_{x,obs} = measured NO_x emissions at 15 percent oxygen, ppmv.
P_{ref} = reference combustor inlet absolute pressure at 101.3 kilopascals ambient pressure.
P_{obs} = measured combustor inlet absolute pressure at test ambient pressure.
H_{obs} = specific humidity of ambient air at test.
e = transcendental constant (2.718).

The adjusted NO_x emission level shall be used to determine compliance with § 60.332.

(ii) Manufacturers, owners or operators may develop custom ambient condition correction factors in terms of combustor inlet pressure, ambient air pressure, ambient air humidity and ambient air temperature to adjust the nitrogen oxides emission level measured by the performance test as provided for in § 60.8 to ISO standard day conditions. These ambient condition correction factors shall be substantiated with data and must be approved for use by the Administrator before they can be used to determine compliance with paragraph (a) of this subpart. Notices of approval of custom ambient condition correction factors will be published in the FEDERAL REGISTER.

(iii) The water-to-fuel ratio necessary to comply with § 60.332 will be determined during the initial performance test by measuring NO_x emissions using Reference Method 20 and the water-to-fuel ratio necessary to comply with § 60.332 at 30, 50, 75, and 100 percent of peak load.

(2) ASTM D-2382 for the lower heating value of liquid fuels and ASTM D-1826 for the lower heating value of gaseous fuels. These methods shall also be used to comply with § 60.334(b).

(3) The analytical methods and procedures employed to determine the nitrogen content of the fuel being fired shall

be approved by the Administrator and shall be accurate to within plus or minus five percent.

(b) The method for determining compliance with § 60.333, except as provided in § 60.8(b), shall be as follows:

(1) Reference Method 20 for the concentration of sulfur dioxide and oxygen.

(2) ASTM D2880-71 for the sulfur content of liquid fuels and ASTM D1072-70 for the sulfur content of gaseous fuels. These methods shall also be used to comply with § 60.334(b).

(Sec. 114 of the Clean Air Act as amended (42 U.S.C. 1857c-9).)

APPENDIX A—REFERENCE METHODS

2. Part 60 is amended by adding Reference Method 20 to Appendix A as follows:

METHOD 20—DETERMINATION OF NITROGEN OXIDES, SULFUR DIOXIDE, AND OXYGEN EMISSIONS FROM STATIONARY GAS TURBINES

1. Principle and Applicability.

1.1 Principle. A gas sample is continuously extracted from the exhaust stream of a stationary gas turbine; a portion of the sample stream is conveyed to instrumental analyzers for determination of nitrogen oxides (NO_x) and oxygen (O₂) content. During each NO_x and O₂ determination, a separate measurement of sulfur dioxide (SO₂) emissions is made, using Method 6, or its equivalent. The O₂ determination is used to adjust the NO_x and SO₂ to a reference condition.

1.2 Applicability. This method is applicable for the determination of nitrogen oxide, sulfur dioxide, and oxygen emissions from stationary gas turbines. For the NO_x and O₂ determinations, this method includes: (1) Measurement system design criteria; (2) analyzer performance specifications and performance test procedures; and (3) procedures for emission testing.

2. Apparatus and Reagents

2.1 Measurement System. The equipment required to extract, transport, and analyze the gas sample constitutes the "measurement system." A schematic of the measurement system is shown in Figure 20-1. (Measurement system performance specifications are described in detail in Section 3.) The essential components of the measurement system are described below.

2.1.1 Probe. Stainless steel type 316 or equivalent, to transport gas from stack.

2.1.2 Particulate Filter. A filter is used to remove particulates ahead of the calibration valve assembly. In most cases, either in-stack or out-stack filter location is acceptable; however, out-stack filtration is required when the sample gas temperature is above 500°C (930°F). The filtration temperature shall be at least 120°C (250°F) to prevent moisture condensation. Glass fiber filters, of the type specified in EPA Method 5, or equivalent, are recommended.

2.1.3 Calibration Valve Assembly. A three-way valve assembly is used to direct the zero and span calibration gases to the analyzers. This assembly shall be located directly behind the probe and filter and shall be capable of blocking the sample gas flow and introducing the span and zero gases when the system is in the calibration mode.

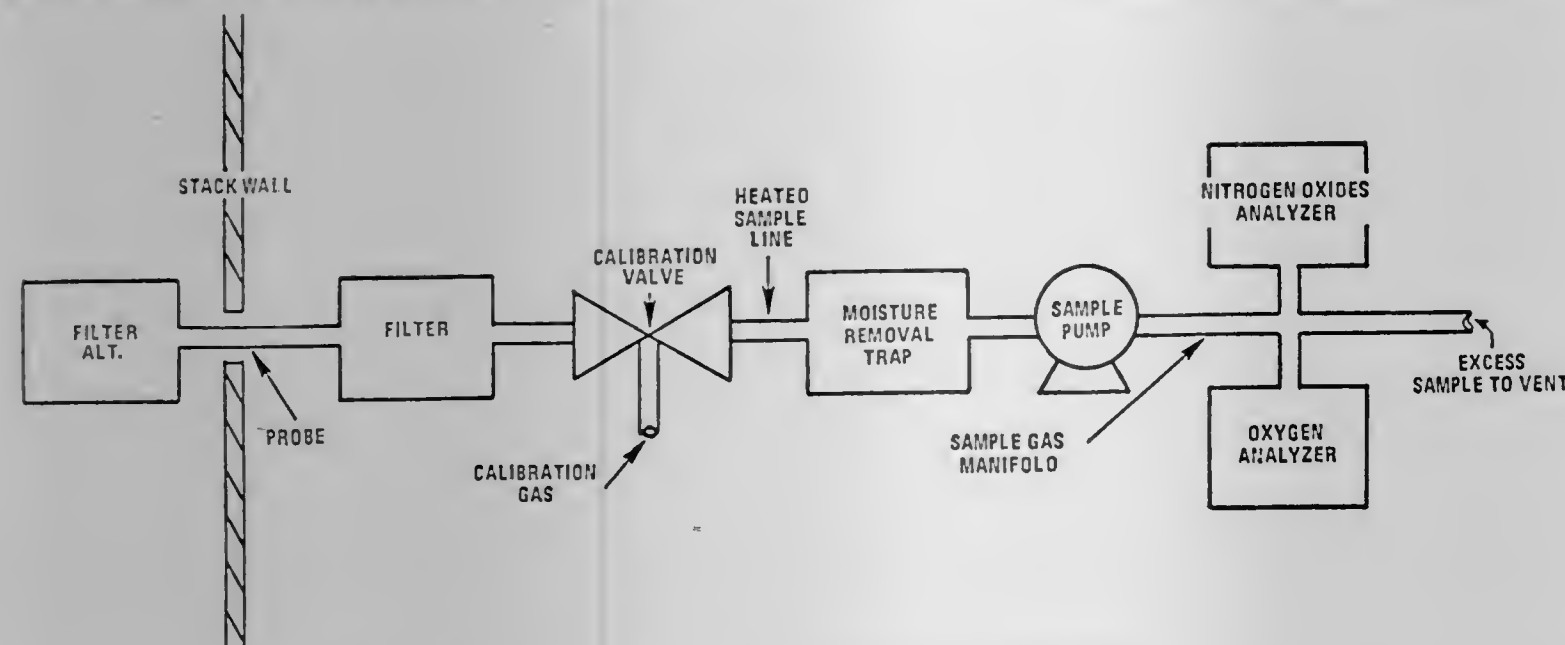


Figure 20.1 Measurement system design for stationary gas turbine tests.

2.1.4 Calibration Gases. Calibration gases are used to perform zero, span and calibration checks of the analyzers during each test run. The concentrations and specifications of these gases are described in detail in Sections 2.2 and 6.2.

2.1.5 Heated Sample Line. A FEP fluorocarbon or stainless steel (type 316 or equivalent) sample line is used to transport the gases to the sample conditioner and analyzers. The sample gas shall be maintained at least 5°C (10°F) above the stack gas dew point to prevent moisture condensation.

2.1.6 Moisture Trap. A moisture trap, designed to reduce the dew point of the sample gas to 3°C (37°F) or less, is used. For instruments not affected by water vapor, this device is not required; however, the moisture

content shall be determined using methods subject to the approval of the Administrator and the NO_x and O₂ concentrations shall be corrected to a dry gas basis.

2.1.7 Pump. A nonreactive leak-free sample pump is used to pull the sample gas through the system at a flow rate sufficient to minimize transport delay. The pump shall be made from or coated with nonreactive material (FEP fluorocarbon or type 316 stainless steel).

2.1.8 Sample Gas Manifold. A sample gas manifold is recommended for diverting portions of the sample gas stream to the analyzers. The manifold may be constructed of glass, FEP fluorocarbon, or stainless steel (type 316 or equivalent). Instead of using

the manifold, separate sample lines may be connected to each analyzer.

2.1.9 Oxygen Analyzer. An oxygen analyzer is used to determine the oxygen concentration (percent O₂) of the sample gas stream.

2.1.10 Nitrogen Oxides Analyzer. A NO_x analyzer is used to determine the ppm concentration of nitrogen oxides in the sample gas stream.

2.1.11 Sulfur Dioxide Analysis. Method 6 apparatus, or equivalent, is required for sulfur dioxide determination.

2.2 Calibration Gas Specifications.

2.2.1 Zero Gas. Prepurified nitrogen is used.

2.2.2 Nitrogen Oxide Calibration Gases. Mixtures of known concentrations of NO in

nitrogen are required. Nominal NO concentrations of 25, 50, and 90 percent of the instrument full scale range are needed. The 90 percent gas mixture is used to set and check the instrument span and is referred to as span gas. The 25 and 50 percent gas mixtures shall be used to validate the analyzer calibration, prior to each test.

2.2.3 Oxygen Calibration Gases. Ambient air at 20.9 percent oxygen shall be used as the span gas (high range concentration gas). A midscale calibration gas (approximately 13 percent O₂ in nitrogen) shall be used to validate the analyzer calibration prior to each test.

2.2.4 Concentration Validation. Within one month prior test use, calibration gases shall be analyzed, by the appropriate test method specified in Section 6.2, to determine their true concentration levels. Gas concentrations that are traceable to the National Bureau of Standards and which can be demonstrated to be stable are exempted from the analysis requirements.

3. Measurement System Performance Specifications and Performance Test Procedures.

3.1 Analyzer. "Span" is defined as the concentration range (specified by manufacturer) over which an analyzer will give valid readings. The spans for the analyzers used in this method shall be as follows:

TABLE 20.1 INTERFERENCE TEST GAS CONCENTRATIONS

CO	500 ppm
SO ₂	200 ppm
NO/NO ₂	200 ppm
CO ₂	10%
O ₂	20.9% (Air)

FIGURE 20.2 INTERFERENCE RESPONSE

Date of Test: _____			
Analyzer Type: _____ S/N _____			
Test Gas Type	Conc.	Analyzer Output Response	% of Span

$$\% \text{ of Span} = \frac{\text{Analyzer Output Response}}{\text{Instrument Span}} \times 100$$

3.1.1 Oxygen Analyzer: 0 to 25% O₂.

3.1.2 NO_x Analyzer: 0 to 120 ppm.

3.2 Analyzer Interferences and Interference Response. The "interference response" of an analyzer is defined as the output response to a component in the sample gas stream, other than the gas component being analyzed; the analyzers used in this method shall not have a total interference response of more than +2 percent of span.

Particulate matter and water vapor are the primary interfering species for most instrumental analyzers, but these may be removed physically by using filters and condensers. Other possible specific interferences found in turbine exhaust streams include carbon monoxide, carbon dioxide, nitrogen oxides, sulfur dioxide and hydrocarbons. Each analyzing instrument may respond to one or more of these interferences in ways that alter the desired measurement.

The interference response of an analyzer is determined by measuring the total analyzer response to the gaseous components (or mixtures) listed in Table 20.1; these gases may either be introduced into the analyzer separately or as a single gas mixture. The total interference output response of the analyzer to these components, if any shall be determined (in concentration units). The values obtained in an interference response test shall be recorded on a form similar to Figure 20.2.

If the sum of the interference responses of the test gases is greater than 2 percent of the instrument span, the analyzer shall not be used in the measurement system of this method.

An interference response test of each analyzer shall be conducted prior to its initial use in the field. Thereafter, if changes are made in the instrumentation which could alter the interference response, e.g., changes in the type of gas detector, the instruments shall be retested.

In lieu of conducting the interference response test, instrument vendor data, which demonstrate that for the test gases of Table 20.1 the interference performance specification is not exceeded, are acceptable. If these data are not available, the tests shall be made.

3.3 Analyzer Response Time. When a change in pollutant concentration occurs at the inlet of the measurement system (i.e., at probe), the change is not immediately registered by the analyzer; "response time" is defined as the amount of time that it takes for the analyzer to register a concentration value within 5 percent of the new inlet concentration. The maximum response time for the analyzers used in this method is three minutes.

To determine response time, first introduce zero gas into the system until all readings are stable; then, introduce span gas into the system. The amount of time that it takes for the analyzer to register 95 percent of the final span gas concentration is the upscale response time. Next, reintroduce zero gas into the system; the length of time that it takes for the analyzer output to come within 5 percent of the final reading is the downscale response time. The upscale and downscale response times shall each be measured three times. The readings shall be averaged, and the average upscale or downscale response time, whichever is greater, shall be reported as the "response time" for the analyzer. Response time data are recorded on a form similar to Figure 20.3. A response time test shall be conducted prior to the initial field use of the measurement system, and shall be repeated if changes are made in the measurement system.

3.4 Zero Drift. "Zero drift" is the change in analyzer output during a turbine performance test, when the input to the measurement system is a pure grade of nitrogen (zero gas). The maximum allowable zero drift for the analyzers used in this method is ±2 percent of the specified instrument span. The zero drift calculation is made for each gas for each turbine test run; this is done by taking the difference of the zero gas concentration values measured at the start and finish of the test (see Section 6.1). The zero drift is recorded as a percentage of the instrument span) on a form similar to Figure 20.4.

3.5 Span Drift. "Span drift" is the change in the analyzer output during a turbine performance test, when the input to the measurement system is span gas. The maximum allowable span drift for the analyzers used in this method is ±2 percent of the specified instrument span. The span drift calculation is to be made for each gas for each turbine test run; this is done by taking the difference between the span gas concentration values measured at the beginning and end of the test. Span drift is recorded (as a percentage of instrument span) on a form similar to Figure 20.4. Span drift must be corrected for any zero drift that occurred during the test period (see Figure 20.4).

4. Procedure for Field Sampling.

4.1 Selection of a Sampling Site and the Minimum Number of Traverse Points.

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RESPONSE TIME

Date of Test _____	
Analyzer Type _____	S/N _____
Span Gas Concentration _____ ppm	
Analyzer Span Setting _____ ppm	
Upscale	1 _____ seconds
	2 _____ seconds
	3 _____ seconds
Average upscale response _____ seconds	
Downscale	1 _____ seconds
	2 _____ seconds
	3 _____ seconds
Average downscale response _____ seconds	
System response time = slower average time = _____ seconds.	

Figure 20.3

TURBINE SAMPLING SYSTEM

Zero and Span Drift Data				
Turbine Type _____ S/N _____				
Date: _____				
Test No.: _____				
Analyzer: Type _____ S/N _____				
	Initial Calibration ppm or %	Final Calibration ppm or %	Difference Initial-Final ppm or %	% of Span
Zero Gas				
High Calibration Gas (Span Gas)			*	
$\% \text{ of Span} = \frac{\text{Absolute Value of Difference}}{\text{Instrument Span}} \times 100$				
*Corrected for zero drift, i.e., if zero drift over test period is +2 ppm then 2 ppm shall be subtracted from the difference between the initial and final readings.				

Figure 20.4

PROPOSED RULES

4.1.1 Select a sampling site as close as practical to the exhaust of the turbine. Turbine geometry, stack configuration, internal baffling, and point of introduction of dilution air will vary for different turbine designs. Thus, each of these factors must be given special consideration in order to obtain a representative sample. Whenever possible, the sampling site shall be located upstream of the point of introduction of dilution air into the duct. Sample ports may be located before or after the upturn elbow, in order to accommodate the configuration of the turning vanes and baffles and to permit a complete, unobstructed traverse of the stack. The sample ports shall not be located within 5 feet or 2 diameters (whichever is less) of the gas discharge to atmosphere. For supplementary-fired, combined-cycle plants, the sampling site shall be located between the gas turbine and the boiler.

4.1.2 The minimum diameter of the sample ports shall be 3-inch nominal pipe size (NPS).

4.1.3 The minimum number of points for the preliminary O₂ sampling (Section 8.3.2) shall be as follows: (1) eight, for stacks having cross-sectional areas less than 1.5 m² (16.1 ft²); (2) one sample point for each 0.2 m² (2.2 ft²) of area, for stacks of 1.5 m² to 10.0 m² (16.1–107.6 ft²) in cross-sectional area; and (3) one sample point for each 0.4 m² (4.4 ft²) of area, for stacks greater than 10.0 m² (107.6 ft²) in cross-sectional area. Note that for circular ducts, the number of sample points must be a multiple of 4, and for rectangular ducts, the number of points must be one of those listed in Table 20.2; therefore, round off the number of points (upward), when appropriate.

TABLE 20.2.—Cross-sectional layout for rectangular stacks

No. of traverse points:	Matrix layout
9	3×3
12	4×3
16	4×4
20	5×4
25	5×5
30	6×5
36	6×6
42	7×6
49	7×7

4.2 Cross-sectional Layout and Location of Traverse Points. After the number of traverse points for the preliminary O₂ sampling has been determined, use Method 1 to locate the traverse points.

4.3 Measurement System Operation.

4.3.1 Preliminaries.

4.3.1.1 Prior to the turbine test, the measurement system shall have been demonstrated to have met the performance specifications for interference response and response time described in Sections 3.2 and 3.3.

4.3.1.2 Turn on the sample pump and instruments; allow the normal warmup time required for stable instrument operation.

4.3.1.3 After the instruments have stabilized, the measurement system shall be calibrated using the procedures detailed in Section 6.1. Transfer the zero and span gas calibration data from Figure 20.5 to a form similar to Figure 20.4.

4.3.1.4 At the beginning of each NO_x test run and, as applicable, during the run, record turbine data as indicated in Figure 20.6. Also, record the location and number of the traverse points on a diagram.

4.3.2 Preliminary Oxygen Sampling.

4.3.2.1 At the start of a 3-run sample sequence, position the probe at the first traverse point and begin sampling. The minimum sampling time at each point shall be 1 minute plus the average system response time. Determine the average steady-state concentration of O₂ at each point and record the data on Figure 20.7.

Figure 20.5

CALIBRATION DATA

Date _____	
Analyzer Type _____	S/N _____
High Range Gas Conc. _____	% Full Scale _____
Mid Range Gas Conc. _____	% Full Scale _____
Low Range Gas Conc. _____	% Full Scale _____
Zero Gas _____	% Full Scale _____

Figure 20.6

STATIONARY GAS TURBINE

TURBINE OPERATION RECORD

Test Operator _____		Date _____	
Turbine ID	Type _____	Ultimate Fuel Analysis	C _____
	S/N _____		H _____
Location	Plant _____	City _____	O _____
Ambient Temperature _____		S _____	
Ambient Humidity _____		Ash _____	
		H ₂ O _____	
Test Time Start _____		Trace Metals	
Test Time Finish _____		Na _____	
Fuel Flow Rate _____ *		Va _____	
		K _____	
Water or Steam Flow Rate _____ *		etc.**	
Ambient Pressure _____		Operating Load _____	
*Describe measurement method, i.e., continuous flow meter, start finish volumes, etc.			
**i.e., Additional elements added for smoke suppression.			

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FIGURE 20.7

[illegible]

4.3.2.2 Select the eight sample points at which the lowest oxygen concentrations were obtained. These same points shall be used for all three runs which comprise the emission test. More points may be used, if desired.

4.3.3 Emission Sampling.

4.3.3.1 Position the probe at the first point determined in the preceding section and begin sampling. The minimum sampling time at each point shall be 3 minutes plus the average system response time. Determine the average steady-state concentration of O_2 and NO_x at each point and record the data on Figure 20.8.

4.3.2.2 After sampling the last point, conclude the test run by recording the final turbine operating parameters and by determining the zero and span drift, as described in Sections 3.4 and 3.5. If the zero and/or span drift exceed ± 2.0 percent the run may be considered invalid, or may be accepted provided the calibration data which results

in the highest corrected emission concentration is used.

4.3.2.3 If additional turbine runs are conducted within 4 hours of the previous run, an initial calibration of the measurement system is not required. If more than 4 hours have elapsed between runs, the pretest calibration shall be done.

4.4 An SO_2 determination shall be made (using Method 6, or equivalent) during the test. A minimum of six total points, selected from those required for the NO_x measurement, shall be sampled; two points shall be used for each sample run. The sample time at each point shall be at least 10 minutes. The oxygen readings taken during the NO_x test runs corresponding to the SO_2 traverse points (see Section 4.3.3.1) shall be averaged, and this average oxygen concentration shall be used to correct the integrated SO_2 concentration obtained by Method 6 to 15 percent O_2 (see Equation 20-1).

Figure 20.8
STATIONARY GAS TURBINE
GAS SAMPLE POINT RECORD

Turbine ID _____ Mfg. _____
Model & S/N _____
Plant _____
Location _____
City _____
State _____
Ambient Temp. _____
Ambient Press _____
Ambient Humidity _____
Date _____
Test Time Start _____
Test Time Finish _____

Test Operator Name _____
O₂ Instrument Type _____ S/N _____
NO_x Instrument Type _____ S/N _____

Sample Point	Time (Min)	O ₂ [*] (%)	NO _x (ppm)
1	0		

*Average steady state value from recorder or instrument readout.

5. Emission Calculations.

5.1 Correction to 15 Percent Oxygen. Using Equation 20-1, calculate the NO_x and SO_2 concentrations (adjusted to 15 percent O_2). The correction to 15 percent oxygen is sensitive to the accuracy of the oxygen measurement. At the level of analyzer drift specified in the method (± 2 percent of full scale), the change in the oxygen concentration correction can exceed 10 percent when the oxygen content of the exhaust is above 16 percent O_2 . Therefore O_2 analyzer stability and careful calibration are necessary.

Actual pollutant concentration (NO_x or SO_2)

$$\times \frac{5.9\%}{20.9\% - 0.5\% \text{ actual}} =$$

where:
5.9% is 20.9% - 15% (the defined concentration basis)

O_2 actual is the sample point oxygen-concentration for ΔO_2 calculation, and the average O_2 concentration for SO_2 calculation.

5.2 Calculate the average adjusted NO_x concentration by summing the point values and dividing by the number of sample points.

6. Calibration.

6.1 Measurement System. Prior to each turbine test, the measurement system shall be calibrated according to the procedures described below. The manufacturer's operation and calibration instructions are also to be followed as required for each specific analyzer.

6.1.1 Turn on all measurement system components and allow them to warm up until stable conditions are achieved. Next, introduce zero gas and each of the calibration gases described in Section 6.2, one at a

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time, into the inlet of the probe. The responses of the analyzer to these gases shall be used to establish a calibration curve or to verify the manufacturer's calibration curve. The data obtained in these procedures shall be recorded on a form similar to Figure 20.4. If, for the mid-scale gases, the accuracy of the manufacturer's calibration curve or the expected response curve cannot be shown to be ± 2 percent of full scale (or better), the calibration shall be considered invalid and corrective measures on the instrument shall be taken. The calibration procedure shall be repeated, using only zero gas and span gas, at the conclusion of test; this

allows calculation of zero and span drift (Sections 3.2 and 3.3).

6.2 Calibration Gas Mixtures.

6.2.1 Within one month prior to the turbine test, the NO_x calibration gas mixtures shall be analyzed, using the phenoldisulfonic acid procedure (Method 7) for nitrogen oxides. A minimum of three analyses shall be done, and the average concentration of each gas shall be reported as the true calibration gas value (see Figure 20.9). Alternate procedures may be employed, subject to the approval of the Administrator, to determine the calibration gas concentration.

Figure 20.9

ANALYSIS OF CALIBRATION GAS MIXTURES

CYLINDER GAS COMPOSITION	Reference Method Used _____
Date _____	
<u>Low Range Calibration Gas Mixture</u>	
Sample 1 _____ ppm	
Sample 2 _____ ppm	
Sample 3 _____ ppm	
Average _____ ppm	
<u>Mid Range Calibration Gas Mixture</u>	
Sample 1 _____ ppm	
Sample 2 _____ ppm	
Sample 3 _____ ppm	
Average _____ ppm	
<u>High Range (span) Calibration Gas Mixture</u>	
Sample 1 _____ ppm	
Sample 2 _____ ppm	
Sample 3 _____ ppm	
Average _____ ppm	

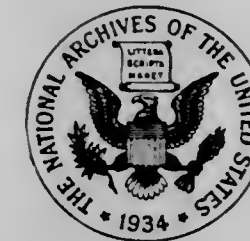
NOTE.—The NO_x calibration gas mixtures shall contain nitric oxide (NO) in nitrogen. Instruments which require conversion of one nitrogen oxide component to another for total NO_x measurement shall be checked to ensure that this conversion is complete and reproducible, as specified by the manufacturer.

6.2.2 Ambient air may be used as the oxygen span gas. The mid-scale calibration gas concentration shall be certified (by vendor) as being within ± 2 percent of the indicated concentration.

[FR Doc.77-28721 Filed 9-30-77;8:45 am]

MONDAY, OCTOBER 3, 1977

PART IV



CONSUMER PRODUCT SAFETY COMMISSION

ARCHITECTURAL GLAZING MATERIALS

Proposed Safety Standard and Denial
of Petitions

Federal Register

[6355-01]

CONSUMER PRODUCT SAFETY
COMMISSION

[16 CFR Part 1201]

ARCHITECTURAL GLAZING MATERIALS

Proposed Amendments to Safety Standard

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed amendments to standard.

SUMMARY: In this document the Commission proposes amendments to the Safety Standard for Architectural Glazing Materials (16 CFR 1201) to clarify the definition of certain glazed panels in nonresidential buildings which are subject to the standard, and to modify the description of certain items of test apparatus and certain test procedures specified by the standard.

DATE: Comments concerning this proposal must be received by November 2, 1977.

ADDRESS: Comments should be sent to: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Allen F. Brauninger, Attorney, Division of Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207 (301-492-6629)

SUPPLEMENTARY INFORMATION:

In the FEDERAL REGISTER of January 6, 1977 (42 FR 1427), the Consumer Product Safety Commission issued the Safety Standard for Architectural Glazing Materials (16 CFR 1201) with an effective date of July 6, 1977. This standard was issued under provisions of the Consumer Product Safety Act to reduce or eliminate risks of injuries associated with walking, running, or falling through or against glazing materials in storm doors, doors (both exterior and interior), shower and bathtub doors and enclosures, certain glazed panels, and sliding or patio-type doors.

The standard prescribes safety requirements for glazing materials manufactured on or after July 6, 1977, for use in storm doors, doors (both exterior and interior), shower and bathtub doors and enclosures, certain glazed panels, and sliding or patio-type doors. The standard also requires that the architectural products enumerated above which are manufactured on or after July 6, 1977, must be constructed or assembled using glazing materials that meet the requirements of the standard.

In the FEDERAL REGISTER of June 20, 1977 (42 FR 31164), the Commission amended the standard to exempt from its requirements any architectural product which would otherwise be subject to the standard if that product is manufactured between July 6, 1977, and July 5, 1978, using glazing materials, manufactured before July 6, 1977, which

are marked or certified to comply with ANSI Standard Z97.1-1972 or -1975, "Performance Specifications and Methods of Test for Safety Glazing Material Used in Buildings," published by American National Standards Institute, Inc., 1430 Broadway, New York, N.Y. 10018.

The Standard issued by the Commission is designed to reduce or eliminate unreasonable risks of injury associated with architectural glazing materials by ensuring that the glazing materials used in the products enumerated above either will not break when impacted with a certain energy, or will break so that they are less likely than other glazing materials to present the unreasonable risks of injury detailed above.

To determine the breakage characteristics of glazing materials used or intended for use in the products which are subject to the standard, an impact test is prescribed by the standard. The impact test consists of striking the glazing material to be tested with a punching bag filled with lead shot by dropping the bag from a height of 18 or 48 inches, depending on the architectural products in which the glazing material is used.

Additionally, the standard prescribes accelerated environmental durability tests for laminated glass, organic-coated glass, and plastics which are subject to the standard to demonstrate that those glazing materials will withstand exposure to sunlight, heat, water, and other factors which, over an extended period of time, may affect their breakage characteristics.

GLAZED PANELS

One risk of injury which the standard is intended to eliminate or reduce is the type resulting from accidents which occur when a person walks or runs into a glazed panel because the accident victim misperceives the glazed panel as open space rather than solid material.

To address this risk of injury, the products subject to the standard include glazed panels in nonresidential buildings which have the lower edge of the glazing material within 18 inches of a walking surface; an exposed surface of glazing material in excess of nine square feet; and a walking surface on both sides of the glazing material. The type of panel described above is defined as a glazed panel which is subject to the standard by § 1201.2(a)(10)(11)(iii) of the standard.

In the definition of "glazed panel" set forth in § 1201.2(a)(10)(iii), the following language is used to describe the location of the walking surfaces next to the glazing material:

(C) There is a walking surface on both sides, either of which is within 36 inches (92 centimeters) of such panel and the horizontal planes of such walking surfaces are within 12 inches (31 centimeters) of each other. [Emphasis added.]

The Commission has received several inquiries about the meaning of the language quoted above. Given a literal reading, that sentence states that if walking surfaces are present on both sides of a glazed panel, and if one of

those walking surfaces is within 36 inches of the glazing material, the glazing material is subject to the standard no matter how far away from the glazing material the other walking surface may be located (assuming that the panel falls within all other conditions set forth in § 1201.2(a)(10)(iii)).

After careful consideration of these questions and the language of § 1201.2(a)(10)(iii), the Commission believes that the language of that section may be overly broad. The present language may include some glazed panels which have walking surfaces on both sides, but which do not present an unreasonable risk of injury by reason of being misperceived as open space, because one of those walking surfaces is sufficiently far away from the glazing material to provide a visual signal that glazing material is present.

For this reason, in the amendments proposed below, the definition of glazed panel which appears at § 1201.2(a)(10)(iii) has been modified to restrict its coverage to glazed panels which have walking surfaces on both sides of the glazing material, each of which is within 36 inches of the glazing material.

TEST FRAME

As stated above, the standard prescribes an impact test in which a specimen of glazing material is struck by an impactor to determine whether it will break, and if so, if its breakage characteristics are acceptable. The glazing material to be tested is clamped inside a subframe which is held in position by an upright steel frame. This equipment is illustrated in figures 1, 2, 3, and 4 of the standard, and is described in § 1201.4(b)(1).

Section 1201.4(b)(1)(iii) states: "The subframe . . . shall be reinforced at each corner." The illustration of the subframe in figure 4 of the standard depicts a subframe with reinforcement located at each corner of the inner members of the subframe.

To improve the clarity of § 1201.4(b)(1)(iii) and its consistency with figure 4, the Commission proposes to amend that section to state that the "inner subframe . . . shall be reinforced at each corner."

As described in § 1201.4(b)(1) and illustrated in figure 3, the subframe is constructed with neoprene strips at all points where the test specimen contacts the subframe. Figure 3 states that the neoprene strips shall have a Shore A, durometer hardness ranging from 30 to 45.

An inquiry from one manufacturer of glazing materials asks whether neoprene with a durometer hardness of 50 may be used in the subframe. The Commission has no information that the use of neoprene having a durometer hardness as great as 50 will improperly affect the outcome of the impact test specified in the standard. Further, the Commission is aware that neoprene having a durometer hardness as great as 50 has been utilized for several years in equipment used to test materials for compliance with ANSI standard Z97.1. For this reason, the Commission purposes to

amend the standard by revising figure 3 to specify neoprene of a Shore A, durometer hardness of 30 to 50 for use in the subframe.

IMPACTOR

As stated above, the impact test is performed by striking the test specimen with a leather bag which has been filled with lead shot and covered with tape. The impactor is dropped from a height of either 18 or 48 inches (depending on the intended use of the glazing material) in order to subject the test specimen to an energy of either 150 or 400 foot pounds.

The impactor is described in § 1201.4(b)(2)(i) of the standard in the following language:

The impactor shall be a leather punching bag as shown in figure 5 of this section. The bag shall be filled with No. 7½ chilled lead shot to a total weight of completed assembly before taping, as shown in figure 5, of 100 pounds ± 4 ounces (45.36 ± 0.11 kilograms). [Emphasis added.]

Because the purpose of the test apparatus and procedure is to generate an energy of 150 or 400 foot pounds, the description of the impactor in § 1201.4(b)(2)(i) is slightly inaccurate in that it states that the punching bag shall weigh 100 pounds after it has been filled with lead shot but before it is taped. To correct this inaccuracy, the Commission proposes to amend this section to provide that the impactor shall weigh 100 pounds ± 4 ounces after taping.

The Commission also believes that the impactor should be supported in such a manner that it descends smoothly without wobbling or wobbling about its center of gravity. If the impactor descends smoothly, there should be greater uniformity in the nature of the impact from one test to the next. If, on the other hand, the impactor is allowed to wobble about its center of gravity as it descends, the involvement of the metal hardware at the top of the impactor might vary from impact to impact. Thus, in one test the metal might contact the test specimen very early in the test sequence, thereby producing an impact more severe than intended. In the next test, the metal hardware might not contact the test specimen at all.

In order to have the impactor descend smoothly without wobbling or oscillating, the present section 1201.4(b)(2)(ii) states:

The impactor shall be supported as shown in figure 2. Provisions shall be made for raising the impactor to drop heights of up to 48 inches (1.22 meters). At its release it shall have been supported so that the pin going through its center was in line with the steel cable. The impactor shall not wobble or oscillate after its release.

The Commission believes that the first sentence of this section may be unduly restrictive because it permits no deviation from the support system depicted in figure 2 of the standard. A support system for the impactor is thought to be sufficient if the resultant of the support forces acting on the impactor passes through the center of gravity of the

impactor, if the resultant is perpendicular to the steel cable supporting the impactor, and if the impactor is supported such that no twisting forces are imparted to it at its release.

The Commission also believes that the fourth sentence of § 1201.4(b)(2)(ii) may present unnecessary difficulty to persons conducting the impact test because it absolutely prohibits the presence of any wobbles or oscillation after the impactor is released. Wobble or oscillation of the impactor could occur, but to such a limited degree that its detection by the unassisted human eye would be difficult or impossible, without affecting the results of the impact test. Accordingly, the Commission proposes to amend the fourth sentence to indicate that the impactor shall be supported in a manner designed to minimize wobble or oscillation after its release.

ENVIRONMENTAL DURABILITY TESTS

In addition to the impact test, the standard also requires that some glazing materials must be subjected to accelerated environmental durability tests. The materials which must be subjected to environmental testing and the tests required for each such material are summarized in § 1201.4(a)(2) and Table 1 of the standard.

Table 1 states that plastics must be subjected to a simulated weathering test. This test requires exposure of specimens in a xenon arc Weather-Ometer for a period of 1200 hours, as specified by § 1201.4(d)(2)(ii) of the standard.

When the Commission issued the final standard on January 6, 1977 (42 FR 1427), it stated that an exposure of 1200 hours in a xenon arc Weather-Ometer had been estimated to represent the equivalent ultraviolet exposure of 2000 hours in the twin carbon arc Weather-Ometer used by many testers, and of 375,000 langley of solar irradiation. The Commission further stated that it would consider amending the exposure required in the xenon arc Weather-Ometer if the results of an interlaboratory testing program sponsored by American National Standards Institute (ANSI) indicated that such a revision is necessary to obtain the equivalent exposures described above (see 42 FR 1437, January 6, 1977).

Preliminary results from this interlaboratory testing program, as well as subsequent communications from experts in the field of accelerated environmental durability testing, have demonstrated that the original estimated exposure period of 1200 hours in the xenon arc Weather-Ometer does not simulate 375,000 langley of solar irradiation or produce the equivalent of 2000 hours in the twin carbon arc Weather-Ometer. Subsequently, the Plastic Safety Glazing Committee petitioned the Commission to amend the standard to require the use of a carbon arc Weather-Ometer or to increase the exposure of specimens in the xenon arc Weather-Ometer to 3480 hours. The Commission, in granting this petition, proposes to amend § 1201.4(d)(2)(ii) of the standard to increase the period of time for exposure of test speci-

mens using the xenon arc Weather-Ometer to 3480 ± 1 hours.

This exposure period is itself an estimate of the equivalent exposure of the glazing materials involved. Nevertheless, according to the best information available to the Commission at this time, the proposed exposure period of 3480 ± 1 hours in the xenon arc Weather-Ometer provides a much closer approximation of the equivalent of 2000 hours in a twin carbon arc Weather-Ometer.

The Commission has considered the possibility that the standard could be amended to specify an exposure of 2000 hours in a carbon arc Weather-Ometer. Because of the differences in spectra of a xenon arc and a carbon arc, the Commission believes that a xenon arc provides a fairer, more universal test for the full range of organic coated glass and plastic glazing materials that now exist or may exist in the future. This belief is based on comparisons of the two spectra with that of the sun, and on the phenomenon of selective spectral absorption by glazing materials.

When the Commission receives the final results of the ANSI interlaboratory testing program, it may again consider amending the requirements for exposure in the xenon arc Weather-Ometer.

The proposed amendment to § 1201.4(d)(2)(ii) which appears below also contains a change in the metric equivalent of the specified radiant flux. In its present form, § 1201.4(d)(2)(ii) states that the radiant flux shall be "50 microwatts per square centimeter (12 calories per second per square centimeter)." The metric equivalent appearing in parentheses in the language quoted above is incorrect and should be 12 microcalories per second per square centimeter. The correction of this error in the amendment proposed below makes no substantive change to the radiant flux required by § 1201.4(d)(2)(ii).

Section 9(c) of the Consumer Product Safety Act, 15 U.S.C. 2058(e) provides that when an amendment to a consumer product safety rule involves a material change the procedures in section 7 and 9 apply. It is the Commission's view that the amendments proposed below do not involve a material change to the Standard because they do not affect the basic purpose and provisions of the Standard. Therefore, the provisions of section 7 and 9 (a)-(d) do not apply. However, the Commission believes the informal rulemaking procedures of the Administrative Procedure Act, 5 U.S.C. 553, do apply.

ENVIRONMENTAL EFFECTS

Because the proposed amendments involve only minor modifications to the standard, the Commission believes there are no potentially significant adverse environmental effects associated with the proposed amendments.

PROPOSAL

Therefore, pursuant to provisions of the Consumer Product Safety Act (sec. 9(e), 15 U.S.C. 2058(e)), and the Admin-

istrative Procedure Act, 5 U.S.C. 553, the Commission proposes to amend the Safety Standard for Architectural Glazing Materials by revising 16 CFR 1201.2 (a) (10) (iii), 1202.4(b) (1) (iii), 1201.4 (b) (2) (i), 1201.4(b) (2) (ii), 1201.4(c) (2), 1201.4(d) (2) (ii), and Figure 3 as follows:

§ 1201.2 Definitions.

(a) As used in this Part 1201:

(10) "Glazed panel" means a glazing material used in any building listed in § 1201.1(b) that is:

(iii) In all buildings other than residential buildings, all panels not described in paragraph (a) (10) (ii) of this section where:

(A) The lowest edge of the glazing material is less than 18 inches (46 centimeters) above any floor or any walking surface; and

(B) The exposed glazing material in such panel exceeds 9 square feet (0.3 square meters); and

(C) There is a walking surface on both sides, each of which is within 36 inches (92 centimeters) of such panel and the horizontal planes of such walking surfaces are within 12 inches (31 centimeters) of each other.

§ 1201.4 Test procedures.

(b) Test equipment—(1) Impact test frame and subframe.

(iii) The inner subframe (see figures 2, 3, and 4) for securing the test specimen on all four edges shall be reinforced at each corner. The material is shown as wood in figure 3, but other materials may be used provided the test specimen will contact only the neoprene strips.

(2) Impactor. (i) The impactor shall be a leather punching bag as shown in figure 5 of this section. The bag shall be filled with No. 7½ chilled lead shot to a total weight of completed assembly as shown in figure 5, of 100 pounds ± 4 ounces (45.36 ± 0.11 kilograms). The rubber bladder shall be left in place and filled through a hole cut into the upper part. After filling the rubber bladder, the top should be either twisted around the threaded metal rod below the metal

sleeve or pulled over the metal sleeve and tied with a cord or leather thong. Note that the hanging strap must be removed. The bag should be laced in the normal manner. The exterior of the bag shall be completely covered by ½ inch 1.3 centimeters wide glass filament reinforced pressure sensitive tape. (Figure 5.)

(ii) Provisions shall be made for raising the impactor to drop heights of up to 48 inches (1.22 meters). At its release it shall have been supported so that the rod going through its center was in line with the steel support cable in a manner designed to minimize wobble or oscillation after its release.

(d) Test procedures.

(2) Environmental durability test procedures.

(ii) Accelerated weathering test. The specimens shall be retained in the Weather-Ometer (paragraph (b) (3) (ii) of this section) for a period of 3480 ± 1 hours, and exposed to a radiant flux of 50 microwatts per square centimeter (12 microcalories per second per square cen-

timeter) while monitoring at a wavelength of 340 nanometers.

Interested parties are invited to submit, on or before November 2, 1977, written comments regarding these proposed amendments to the Safety Standard for Architectural Glazing Materials.

Written submissions and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a supporting memorandum or brief. Any comments that are received and all other material which the Commission has that is relevant to this proceeding may be seen in, or copies obtained from, the Office of the Secretary, 3d Floor, 1111 18th Street NW., Washington, D.C. 20207.

Dated: September 26, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product
Safety Commission.

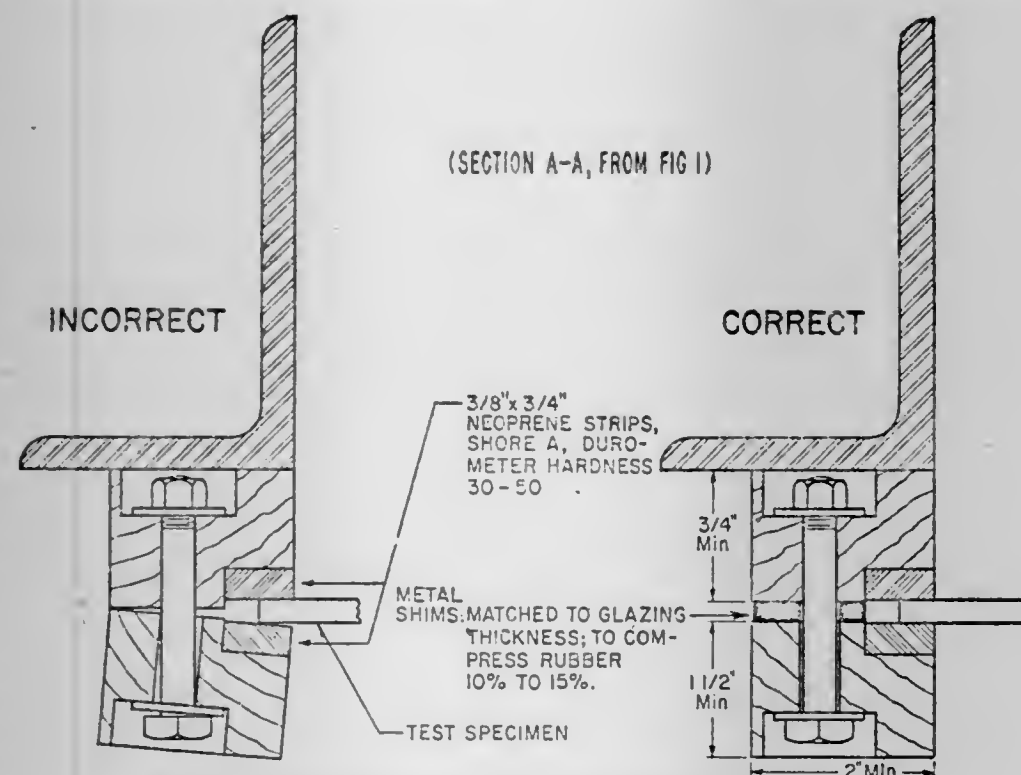


FIG 3—PROPERLY & IMPROPERLY CLAMPED TEST SPECIMEN (>1/8" THICK)

[FR Doc. 77-28820 Filed 9-30-77; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[Petition No. CP-77-8; CP-77-14, CP-77-15]

ARCHITECTURAL GLAZING MATERIAL Denial of Petitions

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petitions.

SUMMARY: The Commission has denied petitions from the National Association of Home Builders, the National Lumber & Building Material Dealers Association, and the Mahoney Sash & Door Co., who petitioned the Commission to exempt certain doors which contain architectural glazing materials from the scope of the Safety Standard for Architectural Glazing Materials.

FOR FURTHER INFORMATION CONTACT:

Harry I. Cohen, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 303-492-6453.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance, amendment, or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies a petition, it shall publish in the FEDERAL REGISTER its reasons for such denial.

On April 1, 1977, the National Association of Home Builders (NAHB) filed a petition to amend the Safety Standard for Architectural Glazing Materials to exempt openings in glazed doors through which a six-inch diameter sphere is unable to pass.

On June 10, 1977, NLBMDA filed a petition requesting an amendment to exempt openings in doors through which an eight-inch diameter sphere is unable to pass. This petition was endorsed by NAHB.

On July 6, 1977, Edward A. Mahoney, Jr., of the Mahoney Sash & Door Co., filed a petition requesting an amendment from the standard to exempt traditional wood stile and rail doors from the standard for architectural glazing materials, if the glazing material begins at least 42 inches off the floor.

In the three petitions, the petitioners allege that doors with small panes of glass, or with panes of glass beginning more than 42 inches off the floor, do not present the risks of injury that the standard was designed to reduce or eliminate. The petitioners also allege that the standard increases the cost for such doors out of proportion to the benefits, and that the utility and availability of substitute glazing materials are inadequate.

After careful consideration of these matters set forth in these petitions, and a review of information currently avail-

able to the Commission on these matters, the Commission has denied these petitions. The Commission has taken this action because it continues to conclude that the products affected by the petitions, if not manufactured in accordance with the Safety Standard for Architectural Glazing Materials, present the unreasonable risks of injury that the standard was designed to reduce or eliminate.

The Commission has reviewed 131 in-depth investigation reports collected during 1975 and 1976 for doors (other than storm doors) with glass panes. Of 126 for which the width of the panes could be determined, 7 of the accidents were associated with panels less than 6 inches wide, and 12 with panes 6.5 to 8 inches wide. Of those reports in which the height of the lowest edge of glazing material was provided, 20 were associated with panes whose lowest edge was 42 inches or more from the floor. Several additional injuries appear to be related to panes whose lowest edge is approximately 42 inches off the floor, although no measurements were provided. All the accidents appear to be of the same type and severity as occur with architectural glazing materials in general, and of the type the standard was designed to reduce or eliminate.

The Commission also determined what body parts could pass through various openings in doors. For adults, a six-inch opening would accept a fist, arm, or leg above the knee. An eight-inch opening could admit a head. A forty-two inch limitation on height could permit upper trunk interaction with the glazing material.

The Commission recognized in issuing the standard that the costs of doors would increase as a result of the standard. However, the Commission has no information, nor have the petitioners provided information, to indicate that there are any significant errors in the cost estimates made at the time of issuance of the standard.

The Commission understands that many doors had been covered by those state safety glazing laws which were in existence prior to the effective date of the standard. Furthermore, various trade organizations have issued voluntary industry standards to require glazing materials complying, first with existing voluntary standards, and now with the Commission's standard. Therefore, complying doors should soon replace non-complying doors in the chain of distribution because of voluntary action and the requirements of the standard.

Finally, the Commission believes on the basis of the information before it that glazing materials that comply with the Commission standard can be obtained for replacing broken glazing material in doors, and that such glazing materials are satisfactory replacements. Replacement materials include prefabricated tempered inserts for standardized doors, laminated glass, and plastic glazing materials.

Accordingly, in accordance with section 10(d) of the Consumer Product Safety Act (15 U.S.C. 2059(d)), the petitions are denied.

Dated: September 26, 1977.

RICHARD E. RAPPS,
Secretary, Consumer
Product Safety Commission.

[FR Doc. 77-28821 Filed 9-30-77; 8:45 am]

[6355-01]

[Petition No. CP 77-5]

ARCHITECTURAL GLAZING MATERIAL Denial of Petition

AGENCY: Consumer Product Safety Commission.

ACTION: Denial of petition.

SUMMARY: The Commission has denied a petition from Robert J. Cunitz, Ph. D., who petitioned the Commission to issue a consumer product safety rule (or an amendment to the Safety Standard for Architectural Glazing Materials, 16 CFR 1201), which would impose requirements for visual barriers on architectural glazing materials used for doors and certain windows, and to modify the design of the impactor used to perform some of the testing required by the standard.

FOR FURTHER INFORMATION CONTACT:

Harry I. Cohen, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, telephone 301-492-6453.

SUPPLEMENTARY INFORMATION: Section 10 of the Consumer Product Safety Act (15 U.S.C. 2059) provides that any interested person may petition the Consumer Product Safety Commission to commence a proceeding for the issuance, amendment or revocation of a consumer product safety rule. Section 10 also provides that if the Commission denies a petition, it shall publish in the FEDERAL REGISTER its reasons for such denial.

By letters dated November 23, 1976, and January 26, 1977, Dr. Cunitz petitioned the Commission to initiate a proceeding under § 7 of the Consumer Product Safety Act to issue a consumer product safety rule which would require the use of a visual barrier such as decals, etchings, or engravings on any glazing materials used in or as doors, and on any glazing material used for windows, if the bottom edge of the glazing material is located within two and one-half feet of any walking surface, if the height of the glazing material exceeds one foot, and if the width of the glazing material exceeds one foot. Alternatively, the petition requested amendment of the Safety Standard for Architectural Glazing Materials to include requirements for visual barriers for the products described above.

Additionally, the petition requested the Commission to amend the Safety Standard for Architectural Glazing Materials

to modify the design of the item of test equipment which is called an impactor in the standard, and which is used to perform the impact test prescribed by the standard.

In assessing the question of whether to begin a standard development proceeding for a consumer product, the Commission considers whether the product presents an unreasonable risk of injury, whether a standard is necessary and whether the petitioner or other consumers would be unreasonably exposed to a risk of injury presented by the product if the Commission failed to commence the proceeding requested. In determining whether a product presents an unreasonable risk of injury and whether a consumer product safety standard or amendment is necessary to address a risk of injury, the Commission weighs the degree, nature, and frequency of injury or injury potential associated with the consumer product against the potential effect of a standard on the cost, utility, and availability of the product. The Commission also considers the relative priority of the risk of injury associated with the product and the Commission's resources available for rulemaking with respect to that risk of injury (see the procedures for petitioning for rulemaking under section 10 of the CPSA, 16 CFR 110.11(b)). The Commission policy on establishing priorities for commission action, 16 CFR 1009.8, sets forth the criteria upon which Commission priorities are based.

After careful consideration of the matters set forth in this petition, and a review of all information now available to the Commission about these matters, the Commission has denied the petition. The Commission has taken this action because it concludes that the information available to it which is relevant to the issues raised by the petition is not an adequate basis to support the action requested by the petition.

With regard to the first issue raised by the petition—risks of injury which may result from human impacts with glazing materials in doors and certain windows and in which the impacts do not cause

those materials to break—the Commission has examined reports of in-depth investigations of injuries associated with glazing materials in doors and glazed panels. Of 250 such reports since January 1974, two reports described injuries associated with glazing materials which did not result from the breakage of those materials. In one of these cases, a visual barrier of the type urged in the petition might have prevented the accident. In the other case, such a barrier probably would not have prevented the accident. However, the lack of injury data does not conclusively show that architectural glazing materials that do not break have no injury potential. Because the Commission's standard for glazing materials requires certain glazing to be impacted with 400 foot pounds of energy and either to break with characteristics such that the glazing is less likely to present an unreasonable risk of injury or not to break, it is possible that injury potential due to contact with glazing that does not break may be increased. There is no information, however, that shows that decals, etchings, or engravings on the glazing will prevent accidents from occurring particularly in those situations where the hazard is due to accidentally falling into or through glazing, or due to installing, replacing, storing, or otherwise manipulating the glazing (16 CFR 1201(d)(1)(ii), (iii)). These risks of injury would not appear to be reduced by visual barriers.

The Commission concludes that the portion of the petition requiring that visual barriers be mandated should be denied because of the lack of available information sufficient to establish that the absence of visual barriers for doors and certain windows presents an unreasonable risk of injury; that a mandatory standard requiring such visual barrier is necessary; or that the failure of the Commission to initiate a standard development proceeding to mandate visual barriers would unreasonably expose consumers to a risk of injury presented by doors and certain windows containing architectural glazing materials which do not break when impacted.

With regard to the second issue raised by the petition—the alleged inadequacy of the design of the impactor specified in the standard—the Commission has no information which would confirm or refute the allegations of the petition. Limited studies performed for the Commission (to compare the effects of impacting glazing materials by the use of an anthropomorphic dummy with the effects of impacting glazing materials by the use of the impactor specified in the standard) are inconclusive. However, the impactor designated in the standard has a long history of use in the voluntary industry standard, ANSI Z97.1. In the absence of some information tending to support the allegations concerning the inadequacy of the impactor, the Commission is unable to conclude that use of the impactor specified in the standard, along with the criteria for "passing" the standard results in glazing materials that present an unreasonable risk of injury. On the contrary, in issuing the standard, the Commission concluded that the standard was reasonably necessary to eliminate or reduce an unreasonable risk of injury. In view of the foregoing, the Commission is unable to find that an amendment to the standard concerning the type impactor is necessary. In addition, the Commission believes that based on presently available information, the failure of the Commission to initiate a standard development proceeding for the purpose of modifying design of the impactor would not unreasonably expose the petitioner or other consumers to a risk of injury presented by products covered by the standard which contain architectural glazing materials.

This notice of the Commission's denial of the above-described petition and its reasons for denial has been issued pursuant to section 10(d) of the Consumer Product Safety Act, 15 U.S.C. 2059(d).

Dated: September 26, 1977.

RICHARD E. RAPPS,
Secretary, Consumer
Product Safety Commission.

[FR Doc. 797-28822 Filed 9-30-77; 8:45 am]

MONDAY, OCTOBER 3, 1977

PART V



ENVIRONMENTAL PROTECTION AGENCY

TOXIC SUBSTANCES CONTROL

Supplemental Notice to Proposed
Inventory Reporting Requirements; Draft
Reporting Forms

[6560-01]

ENVIRONMENTAL PROTECTION
AGENCY

[40 CFR Part 710]

[OTS-081002A; FRL 792-7]

TOXIC SUBSTANCES CONTROL

Supplemental Notice to Proposed Inventory
Reporting Requirements; Draft
Reporting FormsAGENCY: Environmental Protection
Agency.ACTION: Supplemental notice to pro-
posed rules; draft forms.

SUMMARY: This document supplements the inventory reporting regulations re-proposed on August 2, 1977 in the FEDERAL REGISTER (42 FR 39182). Specifically, this notice provides some information that may be useful in understanding the re-proposed regulations and provides draft reporting forms for comment.

DATES: Comments on the draft reporting forms must be received on or before October 13, 1977. Comments on other issues raised in this notice must be received on or before November 2, 1977. These comments may supplement any comments previously submitted with respect to any issue raised by this notice.

ADDRESS: Comments should be addressed to the Federal Register Section, WH-557, Office of Toxic Substances, Attention: Joan Urquhart, Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460. Comments should be filed in triplicate and bear the identifying notation OTS-081002A. All written comments filed pursuant to this notice will be available for public inspection at that office from 8:30 a.m. to 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CON-
TACT:

Mr. John B. Ritch, Jr., Director, Office of Industry Assistance, Office of Toxic Substances (TS-788), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460 (202-755-0535).

SUPPLEMENTARY INFORMATION: This document supplements the regulations proposed on August 2, 1977, in the FEDERAL REGISTER (42 FR 39182) under the authority of subsection 8(a) of the Toxic Substances Control Act (90 Stat. 2003; 15 U.S.C. 2601 et seq.) hereinafter referred to as TSCA.

On March 9, 1977, EPA first published in the FEDERAL REGISTER (42 FR 13130) proposed inventory reporting regulations to govern reporting of chemical substances for inclusion on an inventory of chemical substances required by subsection 8(b) of TSCA. On April 12, 1977, EPA published a supplemental notice of proposed rulemaking in the FEDERAL REGISTER (42 FR 19298) providing additional information pertaining to the proposed inventory regulations. This notice set forth instructions for use of a Candidate

List of Chemical Substances and specified minerals which EPA proposed to include in the inventory of chemical substances. On April 18, 1977, EPA held a public meeting in Washington, D.C., to provide interested persons an opportunity to comment publicly on the proposed regulations. On April 28, 1977, EPA published a notice of availability of the Candidate List of Chemical Substances for use in reporting chemicals for inclusion on the inventory (42 FR 21639). In addition, on July 8, 1977, the Agency published a notice to amend the procedures for securing a copy of the Candidate List on computer-readable tape (42 FR 35183).

On August 2, 1977, EPA re-proposed the inventory reporting regulations to revise the March 9, 1977, proposed regulations. In order to provide interested persons an opportunity to comment publicly on the proposed regulations, EPA held a public meeting in Washington, D.C., on August 24, 1977. A transcript of the public meeting is available for public inspection in the Office of Toxic Substances at the address provided above. At this meeting, EPA distributed copies of draft reporting forms to accompany the re-proposed regulations. Copies of the revised forms are published below for public comment. In addition, EPA presented some introductory comments on the re-proposed regulations. Copies of these remarks are available from the Office of Industry Assistance at the address above.

CLARIFICATION CONCERNING IMPORTERS OF
MIXTURES AND ARTICLES CONTAINING A
CHEMICAL SUBSTANCE

Some have brought to EPA's attention ambiguity in the August 2, 1977, preamble regarding the statutory requirements on importers of mixtures and articles containing a chemical substance.

Section 710.3(a)(2) of these regulations provides that importers would be required to report those chemical substances they have imported into the United States for a commercial purpose since January 1, 1977. Section 710.3(b) of the regulations provides that any person who imported a chemical substance for a commercial purpose since January 1, 1975, may report concerning that substance. In addition, § 710.3(c) provides that during a 120-day period following the first publication of the inventory, any person who has processed or used a chemical substance (including the manufacture of a mixture or article containing that chemical substance) for a commercial purpose since January 1, 1975, may report that substance if it was not included in the inventory. The preamble to these regulations stated at page 39185 that it was EPA's intent that importers would not be required to report the chemical substances which are components of the articles they import.

EPA is proposing that importers of chemical substances be required to report all chemical substances they have imported in bulk into the United States since January 1, 1977 and that they

be permitted to report all chemical substances they have so imported since January 1, 1975. In addition, EPA is proposing that importers of chemical substances be permitted to report each chemical substance which is a component of a mixture or article which has been imported since January 1, 1975. Importers may report chemical substances comprising an imported mixture or article during either the initial reporting period or the 120-day period following publication of the initial inventory. As proposed the August 2, 1977 preamble, chemicals imported "in bulk" includes all chemical substances which are imported in cans, bottles, drums, barrels, packages, tanks, bags, and other devices which are used to contain the substances during importation.

The clarification with respect to chemical substances comprising an imported mixture or article becomes significant in light of EPA's proposed implementation of section 5(a)(1)(A) of TSCA. This section provides that no person may manufacture a new chemical substance (one not included on the inventory compiled in accordance with section 8(b)) unless that person submits premanufacture notification to EPA at least 90 days prior to manufacturing the chemical substance for a commercial purpose. The premanufacture notification requirement of section 5(a)(1)(A) applies to manufacturers and, because the term "manufacture" includes "import", importers of chemical substances. Since an importer of a mixture or article is also importing the component chemical substances in the mixture or article, such an importer would be subject to the premanufacture notification requirements with respect to all new chemical substances in the mixture or article. However, EPA intends to apply the premanufacture notification requirements of section 5(a)(1)(A) only to importers of chemical substances in bulk and importers of chemical substances in mixtures. As is discussed in greater detail below, the premanufacture notification requirements of section 5 will not be applied to the importation of an article containing a new chemical substance.

Accordingly, although importers of chemical substances in mixtures would not be required to report for compilation of the inventory, they should ensure that the chemical substances they import in mixtures are included on the inventory. After compilation of the expanded inventory on the basis of the 120-day reporting period, no person will be permitted to import a mixture containing a new chemical substance except in accordance with TSCA section 5.

The legislative history of TSCA makes clear that Congress intended the premanufacture notification requirements of section 5 to provide the Administrator with an opportunity to review and evaluate information on new chemical substances to determine if any regulatory controls would be necessary to prevent an unreasonable risk of injury to health or the environment. The section reflects Congress' recognition of the

fact that the most desirable time to determine effects of a substance and to take action if necessary, is before full commercial production begins. Congress did not intend that the purposes of this section could be circumvented by importation rather than domestic manufacture of a chemical substance. If EPA did not require importers to report any new chemical substance contained in an imported mixture, persons could manufacture new chemical substances abroad, mix them with water or other solvents, and import them into the United States as a mixture. This practice would not only significantly undermine the intent of Congress that any new chemical substance be subject to review before its introduction and use in commerce, but might also encourage domestic manufacturers to move at least part of their operations abroad. EPA does not believe that Congress intended such a result.

Moreover, Congress intended domestic manufacturers and importers to be treated with parity (H.R. Rep. No. 94-1341, 94th Cong., 2d Sess. 12-13). Premanufacture notification must be given on every new chemical substance manufactured domestically. If the importer of a mixture were not required to give premanufacture notification on any new chemical substance in a mixture, the domestic manufacturers would be put at a distinct disadvantage. An importer could enter domestic markets with a substantial savings of both time and money. The costs in terms of protection of the public health and environment would thereby be significant. Accordingly, importers of mixtures will be required to give premanufacture notification of new chemical substances.

It is the proposed Agency policy that the premanufacture notification requirements of section 5(a)(1)(A) should not be applied to the importation of chemical substances in articles. The March 9, 1977 proposed regulations would have required importers to report chemical substances contained in the articles they import. The August 2, 1977 re-proposed regulations would permit but not require importers of an article to report component chemical substances for the inventory. As was discussed in the preamble to these re-proposed regulations (42 FR 39185), comments from industry and trade associations argued that it would be extremely burdensome for importers to identify the chemical substances contained in the articles they import. According to estimates from the American Importers Association, the total direct costs would range from \$187 million to about \$437 million. The value of the component chemical substance(s) may be small in proportion to the value of the article itself. Accordingly, to require an importer of the article to identify its constituent chemical substances would impose a proportionately greater burden. Moreover, EPA does not believe that domestic manufacturers of articles would move their operations abroad or put at a serious disadvantage if the importer is not required to identify constituent substances in articles. Finally,

because of its form, the health and environmental risk posed by a chemical substance imported in an article may be less than the risk posed by a chemical substance imported in bulk or in a mixture.

Accordingly, the inventory reporting requirements of section 8(a) and the premanufacture notification requirements of section 5(a)(1)(A) will not be applied to importers of chemical substances in articles. However, the Agency will exercise its authority to regulate the import of chemical substances in bulk, in mixtures, and in articles under section 6 of the Act, as necessary to protect against unreasonable risks of injury to health and the environment. This might, for example, include prohibiting, limiting or in other ways restricting the import of such chemical substances.

The Agency encourages importers of chemical substances in mixtures to ensure that the chemical substances they import are included on the inventory. If the importer chooses to report for the inventory in accordance with § 710.5(e) of the proposed regulations, he could authorize the foreign supplier of the chemical substance to report to EPA on his behalf, if both the foreign supplier and the importer sign the declarations provided on the reporting form. EPA, however, encourages importers of chemical substances in mixtures to wait to report until after the initial inventory is published next fall. Many of the imported chemical substances may be contained in the inventory, and importers could thus avoid duplicative reporting.

EPA solicits comment concerning this revision to the earlier proposals. EPA specifically welcomes comment on the distinctions we propose between importers of chemical substances in mixtures and importers of chemical substances in articles, and, in particular, on the relative burdens which would be imposed to these two sectors. The Agency has already received some comments on the broad issues and these need not be resubmitted. Conforming changes will be made to the final inventory reporting regulations.

REPORTING ON MAGNETIC TAPE

EPA is currently working with the Chemical Abstracts Service (CAS) to develop a computer file structure which can be used to allow persons to report chemical substances with CAS registry numbers on magnetic tape. These substances otherwise would be reported on either Form A or B, as discussed below. Instructions concerning how to report by magnetic tape will be included with the final regulations. EPA will probably require that there be a minimum number of substances reported on a tape so that reporting by tape would be at least as efficient as by the forms. In addition, anyone submitting a tape would have to submit at least one form with a signed certification statement and, for tapes containing confidential information, sign and submit appropriate confidentiality statements.

A WORD OF CAUTION

Several manufacturers have complained to EPA that they have spent substantial amounts of time and money compiling inventories in response to the March 9, 1977 and August 2, 1977 proposed regulations. The March 9, 1977 and August 2, 1977 proposed regulations are proposals published for public comment. The regulations will be revised in response to public comment before final promulgation. Accordingly, manufacturers and others are encouraged to keep this in mind as they prepare for compiling information for submittal to EPA.

REPORTING FORMS: FORM A, B, & C

EPA is proposing four forms for reporting under these regulations. Form A is for reporting chemical substances which are included on the Toxic Substances Control Act (TSCA) Candidate List of Chemical Substances, a list of approximately 33,000 chemical substances. This Candidate List was published by EPA last April and is available through the Office of Industry Assistance in EPA's Office of Toxic Substances. It was compiled as a tool for reporting chemical substances that are included on it. Form A provides space for the Chemical Abstracts Service (CAS) registry number and code designation which are provided for each of the chemical substances in the Candidate List. The code designation is a check number to verify that the corresponding CAS registry number was entered correctly. Code designations will not be included in the inventory. For any listed chemical, a manufacturer merely has to report these numbers on Form A rather than the chemical name or description of the chemical substance.

Everything on the Candidate List will not automatically be included on the inventory. Only those substances that are reported will be included. Further, not everything on the List is eligible for inclusion in the inventory. The Candidate List contains some mixtures such as hydrates and some chemical substances, such as those used solely as drugs and pesticides, which are excluded under these proposed regulations. In addition, the Candidate List contains naturally occurring substances which need not be reported as they will automatically be included in the inventory.

Many product trademarks are included in the Candidate List but should not be reported for the inventory. Product trademarks will not be included on the inventory because they may refer to mixtures or, in the case of trademarked chemical substances, the trademark may not always be linked with that specific substance over time. The product trademark may, however, be reported on Form D, as is discussed below. Product trademarks should be distinguished from certain generic names, such as Colour Index names, included on the Candidate List which may be reported. The purpose of the proposed Form D for trademarked products is discussed more fully below.

Form B is for reporting chemical substances which have chemical Abstracts Service Registry Numbers but are not included in the Candidate List. Form C is for reporting either chemical substances which do not have a Chemical Abstracts Service Registry Number or whose identities are confidential.

On each of the forms there will be an opportunity for manufacturers to assert all potential confidentiality claims. If a manufacturer makes a confidentiality claim, he must sign a statement that certifies that certain statements concerning confidentiality printed on the back of the forms are true. EPA welcomes any comments concerning the provisions concerning confidentiality information, the clarity of the instructions, or any other aspect of the forms. These comments must be received on or before (ten days after publication of this notice) so that EPA may make appropriate modifications prior to publication of these forms.

FORM D: PRODUCT TRADEMARKS LIST

EPA has received comments from processors and users of chemical substances that they do not always know the chemical identities of the substances they purchase. Rather, they often know only the product trademarks. Accordingly, during the special 120-day report-

ing period, processors and users may have difficulty identifying whether or not the chemical substance(s) they purchase are in fact on the inventory. Processors could individually request suppliers to certify the substances that they sell are being reported. In order to ease this burden somewhat, we are proposing to provide an opportunity for manufacturers who sell products under product trademarks to certify that the chemical substances have been reported for the inventory and to report those trademarks to EPA on a separate form. A manufacturer would not be required to report his trademarks.

EPA would not require manufacturers who chose to report their trademarks to link the product trademarks with specific chemical substances. We realize that many trademarks refer to mixtures of varying compositions. Thus, linking a trademark to one specific chemical substance would in some instances be inaccurate or misleading. To require product trademarks to be defined in terms of their component chemical substances may be desirable for future requirements, but we feel it would be too burdensome for the limited purpose of compilation of the inventory.

EPA would publish a separate document along with the initial inventory

that would simply list alphabetically those product trademarks which had been reported by manufacturers. As mentioned earlier, a manufacturer would first have to certify that all the chemical substances subject to these regulations contained in the trademarked products have been reported to EPA as required by the inventory regulations. Reporting of any false information would be subject to criminal penalty under 18 USC 1001.

EPA welcomes comment on the usefulness of this approach. In particular, as proposed here, a person may report a trademarked product that is a chemical substance, a mixture, or an article containing a chemical substance. EPA is proposing to permit reporting on Form D of trademarked mixtures and articles to provide a simple mechanism for manufacturers of these mixtures and articles to assure their customers that the chemical substances contained in the mixture and articles have been reported for the inventory. EPA welcomes comment on whether such reporting should be permitted.

Dated: September 26, 1977.

DOUGLAS M. COSTLE,
Administrator.

U.S. Environmental Protection Agency
Chemical Substance Inventory Report
Section 8(a) and (b) -- Toxic Substances Control Act
(15 U.S.C. 2607)

Instructions Form A: TSCA Candidate List Chemical Substances

Form A may only be used to report, for the Toxic Substances Control Act (TSCA) Section 8(a) and Section 8(b) Inventory, chemical substances that are identified in the EPA publication "Toxic Substances Control Act (TSCA), PL 94-469, Candidate List of Chemical Substances," April 1977, GPO Stock Number 055-007-00001-2, or in any addendum to that list published by EPA in the FEDERAL REGISTER. Chemical substances with known Chemical Abstracts Service (CAS) Registry Numbers but which do not appear in the TSCA Candidate List of Chemical Substances should be reported using Form B. A chemical substance which has no known CAS Registry Number and/or whose identity as a commercial chemical substance is claimed confidential, must be reported on Form C.

Before completing this form, carefully read the inventory reporting regulations published in final form in the FEDERAL REGISTER and which also appear in the Code of Federal Regulations, Chapter 40, Part 710 (40 CFR 710). A Guide to the Use of the Candidate List of Chemical Substances appears in Appendix A of the inventory reporting regulations. After completing and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box
Columbus, Ohio 43210

EPA will acknowledge receipt of the forms to the addressee identified in block III of the form.

TYPE OR USE A BLACK BALL POINT PEN (Press Firmly).

BLOCK I. CERTIFICATION STATEMENT AND SIGNATURE:

The certification statement must be signed by a person authorized by the company to sign official documents for the company. If a trade association reports on behalf of one or more persons, a duly authorized official of the trade association must sign the form. If an importer elects to have his foreign supplier/manufacturer complete block V of this form, the importer must, nevertheless, sign the form, and a duly authorized official of the foreign supplier/manufacturer (identified in block IV) must sign in the space below the importer's signature.

DATE: Enter the month, day, and year that the form was signed.

NAME AND TITLE: Enter the name and title of the person who signed the form.

BLOCK II. CORPORATION:

Enter the complete name of the domestic corporation of which the plant site identified in block III is a part or, if that corporation is controlled by another domestic corporation, enter the complete name of the controlling corporation. If the plant site is owned by an unincorporated entity, enter the company name. A trade association should enter its complete name.

BLOCK III. COMPANY NAME AND PLANT SITE ADDRESS

Enter the company name and address of the plant where the chemical substances identified in block V are manufactured or processed. An importer should enter his company name and business address. A trade association should enter its name and headquarters address.

BLOCK IV. PRINCIPAL TECHNICAL CONTACT(S)

Enter the name, address, and telephone number (including area code) of the person(s) whom EPA may contact for clarification of information submitted on this form. An importer who elects to have his foreign supplier/manufacturer complete block V should enter the name and address of his foreign supplier/manufacturer.

BLOCK V. CANDIDATE LIST CHEMICAL SUBSTANCES:

CAUTION: The TSCA Candidate List of Chemical Substances inappropriately includes some mixtures and certain chemical substances which, as explained in the inventory reporting regulations, are excluded from the inventory. Do not report mixtures or excluded chemical substances. Furthermore, the Candidate List includes some trademarks. Do not use Candidate List entries which are trademarks to identify and report chemical substances. Trademarks will not be included on the inventory.

Up to 27 Candidate List chemical substances may be reported on this form. Manufacturers and processors should report on this form only TSCA Candidate List chemical substances which are manufactured or processed at the plant site identified in block III.

For each chemical substance entered in block V:

1. Enter in the column labeled "CAS Registry Number" the Chemical Abstracts Service (CAS) Registry Number as it appears in the Candidate List. Include hyphens.

2. Enter in the column labeled "EPA Code Designation" the code number (including hyphen) which accompanies the CAS Registry Number in the Candidate List.

PROPOSED RULES

3. As specified below, make the appropriate entry in the box under "Production Volume". Quantities should be entered in pounds and be expressed accurate to two (2) significant figures (for example, report 175,411 as 180,000; or 2,550 as 2,600).

- a) **Manufacturers and Importers:** Enter the quantity manufactured and/or imported during calendar year 1976; except that (i) if there was no manufacture or importation during 1976, enter the quantity projected for manufacture and/or for importation during calendar year 1977, or (ii) if there was no manufacture during 1976 or 1977, enter the quantity manufactured or imported during calendar year 1975, or (iii) if you did not manufacture or import the chemical substance since January 1, 1975, enter the average annual quantity distributed in commerce since that date.
- b) **Processors:** If you only processed the chemical substance since January 1, 1975, make no entry.
- c) **Trade Associations:** The estimated aggregate quantity manufactured by your member companies during calendar year 1976 may be entered.

4. Enter a check in the appropriate box(es) under the general heading "Activity" to indicate whether you manufacture, process, and/or import the chemical substance. Check as many boxes as applicable.

5. Enter a check in the box under "Site Limited" if you manufacture the chemical substance within the plant site identified in block III and do not distribute the chemical substance, or any mixture or article containing that substance, for commercial purposes outside that site.

6. **Confidentiality Claims:**

Enter checks in the appropriate boxes to indicate which information is claimed confidential. Trade associations are not permitted to make any confidentiality claims.

- (a) By checking the box under "Manufacture" for a particular chemical substance, you assert that the fact that you manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.
- (b) By checking the box under "Process" for a particular chemical substance, you assert that the fact that you process the chemical substance at the plant site identified in block III for commercial purposes is confidential.
- (c) By checking the box under "Import" for a particular chemical substance, you assert that the fact that you import the chemical substance for commercial purposes is confidential.
- (d) By checking the box under "Site-Limited" for a particular chemical substance, you assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.
- (e) By checking the box under "Production Volume" for a particular chemical substance, you assert that the production volume of the chemical substance for the plant site identified in block III is confidential.
- (f) By checking the box under "Corporation" for a particular chemical substance, you assert that the link of this particular chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.
- (g) By checking the box under "Plant Site" for a particular chemical substance, you assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

PROPOSED RULES

OMB NO. _____

U. S. ENVIRONMENTAL PROTECTION AGENCY CHEMICAL SUBSTANCE INVENTORY REPORT (Section 8 (a) and (b) Toxic Substance Control Act 15 USC 2607)										FORM A						
<p>I. CERTIFICATION STATEMENT: I hereby certify that: (1) each chemical substance identified below has been manufactured, processed, or imported for a commercial purpose since January 1, 1975, and can be reported for the inventory (40 CFR 710); (2) all information provided on this form is complete and accurate; and (3) the confidentiality statements appearing on the back of this form are true as to all information for which I am asserting a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator to document any information here reported.</p>																
SIGNATURE _____				DATE (MO., DAY, YEAR) _____		NAME & TITLE (TYPE OR PRINT) _____										
EPA USE ONLY MID _____				II. CORPORATION _____												
<div style="display: flex; justify-content: space-between;"> <div style="width: 60%;"> <p>III. PLANT SITE NAME & ADDRESS</p> <p>Name _____</p> <p>Address _____</p> <p>City _____ State _____</p> <p>Zip _____</p> </div> <div style="width: 35%;"> <p>IV. PRINCIPAL TECHNICAL CONTACT(S)</p> </div> </div>																
V. TSCA CANDIDATE LIST CHEMICAL SUBSTANCES (LIST ADDITIONAL SUBSTANCES ON SEPARATE FORMS)																
FORM NO. A	NUMBER	CAS REGISTRY NUMBER	EPA CODE DESIGNATION	PRODUCTION VOLUME	ACTIVITY				CONFIDENTIALITY CLAIM							NUMBER
					MANUFACTURE	PROCESS	IMPORT	SITE LIMITED	(a) MANUFACTURE	(b) PROCESS	(c) IMPORT	(d) SITE LIMITED	(e) PRODUCTION VOLUME	(f) CORPORATION	(g) PLANT SITE	
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Do Not Use

EPA NO. _____

PROPOSED RULES

CONFIDENTIALITY STATEMENTS
[For Chemical Substance Inventory Report Forms A and B]

By signing the statement appearing in block I of this form, the person signing the form certifies that the following statements are true for all information on this form that has been claimed as confidential by checking one or more of the boxes under the heading "Confidentiality Claims."

- By checking the box under "Manufacture" for a particular chemical substance, I assert that the fact that we manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.
- By checking the box under "Process" for a particular chemical substance, I assert that the fact that we process the chemical substance at the plant site identified in block III for commercial purposes is confidential.
- By checking the box under "Import" for a particular chemical substance, I assert that the fact that we import the chemical substance for commercial purposes is confidential.
- By checking the box under "Site-Limited" for a particular chemical substance, I assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.
- By checking the box under "Production Volume" for a particular chemical substance, I assert that the production volume of the chemical substance for the plant site identified in block III is confidential.
- By checking the box under "Corporation" for a particular chemical substance, I assert that the link of this chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.
- By checking the box under "Plant Site" for a particular chemical substance, I assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

General Statement

For ALL of the claims I have asserted by checking any of the boxes under "Confidentiality Claims" the following statements are true:

- We have taken reasonable measures to protect the confidentiality of the information, and we intend to continue to take such measures.
- The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).
- The information is not publicly available elsewhere.
- Disclosure of the information would cause substantial harm to our competitive position.

PROPOSED RULES

U.S. ENVIRONMENTAL PROTECTION AGENCY
CHEMICAL SUBSTANCE INVENTORY REPORT
Section 8(a) and (b) -- Toxic Substances Control Act
(15 U.S.C. 2607)-Instructions-
FORM B: Chemical Substances with CAS Registry Numbers

Form B may only be used to report, for the Toxic Substances Control Act (TSCA), Section 8(a) and Section 8(b) Inventory, chemical substances with known Chemical Abstracts Service (CAS) Registry Numbers. Chemical substances which appear in the TSCA Candidate List of Chemical Substances, should be reported using Form A. A chemical substance which has no known CAS Registry Number and/or whose identity as a commercial chemical substance is claimed confidential, must be reported on Form C.

Before completing this form, carefully read the inventory reporting regulations published in final form in the FEDERAL REGISTER and which also appear in the Code of Federal Regulations, Chapter 40, Part 710 (40 CFR 710). After completing and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box
Columbus, Ohio 43210

EPA will acknowledge receipt of the forms to the addressee identified in block III.

TYPE, OR USE A BLACK BALL POINT PEN (Press Firmly).

BLOCK I. CERTIFICATION STATEMENT AND SIGNATURE:

The certification statement must be signed by a person authorized by the company to sign official documents for the company. If a trade association reports on behalf of one or more persons, a duly authorized official of the trade association must sign the form. If an importer elects to have his foreign supplier/manufacturer complete Block V of this form, the importer must, nevertheless, sign the form and a duly authorized official of the foreign supplier/manufacturer (identified in block IV) must sign in the space below the importer's signature.

DATE: Enter the month, day, and year that the form was signed.

NAME and TITLE: Enter the name and title of the person who signed the form.

BLOCK II. CORPORATION:

Enter the complete name of the domestic corporation of which the plant site identified in block III is a part or, if that corporation is controlled by another domestic corporation, enter the complete name of the controlling corporation. If the plant site is owned by an unincorporated entity, enter the company name. A trade association should enter its complete name.

BLOCK III. COMPANY NAME AND PLANT SITE ADDRESS:

Enter the company name and address of the plant where the chemical substances identified in block V are manufactured or processed. An importer should enter his company name and business address. A trade association should enter its name and headquarters address.

BLOCK IV. PRINCIPAL TECHNICAL CONTACT(S)

Enter the name, address, and telephone number (including area code) of the person(s) whom EPA may contact for clarification of information submitted on this form. An importer electing to have his foreign supplier/manufacturer complete block V, should enter the name and address of the foreign supplier/manufacturer.

BLOCK V. CHEMICAL SUBSTANCES WITH CAS REGISTRY NUMBERS

Up to 10 chemical substances may be reported on this form. Manufacturers and processors should report on this form only chemical substances with CAS Registry Numbers which are manufactured or processed at the plant site identified in block III.

For each chemical substance entered in Block V:

- Enter in the column "CAS Registry Number" the Chemical Abstracts Service (CAS) Registry Number. Include hyphens.
- Enter in the column labeled "Specific Chemical Name" the systematically derived or other specific chemical name. Enter only nonconfidential chemical names. All names reported in this column will be published in the inventory with the CAS Registry Number.
- As specified below, make the appropriate entry in the box under "Production Volume". Quantities should be entered in pounds and be expressed accurate to two (2) significant figures (for example, report 175,411 as 180,000; or 2,550 as 2,600).
 - Manufacturers and Importers: Enter the quantity manufactured and/or imported during calendar year 1976; except that (i) if there was no manufacture or importation during 1976, enter the quantity projected for manufacture and/or for importation during calendar year 1977, or (ii) if there was no manufacture during 1976 or 1977, enter the quantity manufactured or imported during calendar year 1975, or (iii) if you did not manufacture or import the chemical substance since January 1, 1975, enter the average annual quantity distributed in commerce since that date.
 - Processors: If you only processed the chemical substance since January 1, 1975, make no entry.
 - Trade Associations: The estimated aggregate quantity manufactured by your member companies during calendar year 1976 may be entered.

PROPOSED RULES

4. Enter a check in the appropriate box(es) under the general heading "Activity" to indicate whether you manufacture, process, and/or import the chemical substance. Check as many boxes as applicable.
5. Enter a check in the box under "Site Limited" if you manufacture and process the chemical substance only within the plant site identified in block III and do not distribute the chemical substance, or any mixture or article containing that substance, for commercial purposes outside that site.
6. **CONFIDENTIALITY CLAIMS**

Enter checks in the appropriate blocks to indicate which information is claimed confidential. Trade associations are not permitted to make any confidentiality claims.

 - (a) By checking the box under "Manufacture" for a particular chemical substance, you assert that the fact that you manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.
 - (b) By checking the box under "Process" for a particular chemical substance, you assert that the fact that you process the chemical substance at the plant site identified in block III for commercial purposes is confidential.
 - (c) By checking the box under "Import" for a particular chemical substance, you assert that the fact that you import the chemical substance for commercial purposes is confidential.
 - (d) By checking the box under "Site-Limited" for a particular chemical substance, you assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.
 - (e) By checking the box under "Production Volume" for a particular chemical substance, you assert that the production volume of the chemical substance for the plant site identified in block III is confidential.
 - (f) By checking the box under "Corporation" for a particular chemical substance, you assert that the link of this particular chemical substance to the corporation identified in block III is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.
 - (g) By checking the box under "Plant Site" for a particular chemical substance, you assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed, for commercial purposes at this particular plant site.

U.S. ENVIRONMENTAL PROTECTION AGENCY CHEMICAL SUBSTANCE INVENTORY REPORT (Section 8(a) and (b) Toxic Substances Control Act 15 USC 2607)		FORM B																																																																																																																																																																																											
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<p>II. CORPORATION</p> <p>III. PLANT SITE: NAME & ADDRESS</p> <p>Name _____</p> <p>Address _____</p> <p>City _____ State _____</p>		<p>IV. PRINCIPAL TECHNICAL CONTACT(S)</p>																																																																																																																																																																																											
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PROPOSED RULES

CONFIDENTIALITY STATEMENTS
[For Chemical Substance Inventory Report Forms A and B]

By signing the statement appearing in block I of this form, the person signing the form certifies that the following statements are true for all information on this form that has been claimed as confidential by checking one or more of the boxes under the heading "Confidentiality Claims."

- By checking the box under "Manufacture" for a particular chemical substance, I assert that the fact that we manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.
- By checking the box under "Process" for a particular chemical substance, I assert that the fact that we process the chemical substance at the plant site identified in block III for commercial purposes is confidential.
- By checking the box under "Import" for a particular chemical substance, I assert that the fact that we import the chemical substance for commercial purposes is confidential.
- By checking the box under "Site-Limited" for a particular chemical substance, I assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.
- By checking the box under "Production Volume" for a particular chemical substance, I assert that the production volume of the chemical substance for the plant site identified in block III is confidential.
- By checking the box under "Corporation" for a particular chemical substance, I assert that the link of this chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.
- By checking the box under "Plant Site" for a particular chemical substance, I assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

General Statement

For ALL of the claims I have asserted by checking any of the boxes under "Confidentiality Claims" the following statements are true:

- We have taken reasonable measures to protect the confidentiality of the information, and we intend to continue to take such measures.
- The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).
- The information is not publicly available elsewhere.
- Disclosure of the information would cause substantial harm to our competitive position.

PROPOSED RULES

U.S. Environmental Protection Agency
Chemical Substance Inventory Report
Section 8(a) and (b) -- Toxic Substances Control Act
(15 U.S.C. 2607)

-Instructions-

Form C: Chemical Substance Whose Identity is Claimed Confidential or Whose CAS Registry Number is Unknown

Form C may only be used to report, for the Toxic Substances Control Act (TSCA), Section 8(a) and Section 8(b) Inventory, a chemical substance whose identity as commercial chemical substance is claimed confidential or whose Chemical Abstract Service (CAS) Registry Number is unknown. Chemical substances which appear in the TSCA Candidate List of Chemical Substances should be reported using Form A. Chemical substances with known CAS Registry Numbers but which do not appear in the TSCA Candidate List of Chemical Substances should be reported using Form B.

Before completing this form, carefully read the inventory reporting regulations published in final form in the FEDERAL REGISTER and which also appear in the Code of Federal Regulations, Chapter 40, Part 710 (40 CFR 710). After completing and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box
Columbus, Ohio 43210

EPA will acknowledge receipt of the forms to the addressee identified in block III.

TYPE, OR USE BLACK BALL POINT PEN (Press Firmly).

BLOCK I. CERTIFICATION STATEMENT AND SIGNATURE:

The certification statement should be signed by a person authorized by the company to sign official documents for the company. If a trade association reports on behalf of one or more persons, a duly authorized official of the trade association should sign the form. If an importer elects to have his foreign supplier/manufacturer complete block V of this form, the importer must, nevertheless, sign the form, and a duly authorized official of the foreign supplier/manufacturer (identified in block IV) must sign in the space below the importer's signature.

DATE: Enter the month, day, and year that the form was signed.

NAME AND TITLE: Enter the name and title of the person who signed the form.

BLOCK II. CORPORATION:

Enter the complete name of the domestic corporation of which the plant site identified in block III is a part or, if that corporation is controlled by another domestic corporation, enter the complete name of the controlling corporation. If the plant site is owned by an unincorporated entity, enter the company name. A trade association should enter its complete name.

BLOCK III. COMPANY NAME AND PLANT SITE ADDRESS:

Enter the company name and address of the plant where the chemical substances identified in block V are manufactured or processed. An importer should enter his company name and business address. A trade association should enter its name and headquarters address.

BLOCK IV. PRINCIPAL TECHNICAL CONTACT(S):

Enter the name, address, and telephone number (including area code), of the person(s) whom EPA may contact for clarification of information submitted on this form. An importer electing to have his foreign supplier/manufacturer complete block V, should enter the name and address of the foreign supplier/manufacturer.

BLOCK V. CHEMICAL SUBSTANCE WHOSE IDENTITY IS CONFIDENTIAL and/or CAS REGISTRY NUMBER IS UNKNOWN

- SPECIFIC CHEMICAL NAME:** Indicate whether the chemical substance proposed for inclusion in the inventory falls within class 1 or 2, described as follows:
Class 1 chemical substances are distinct chemicals which can be represented by definite structural diagrams. For a class 1 chemical substance, propose, if possible, a systematically derived name that uniquely defines the chemical species. Also provide synonyms known to you, other than trademarks, by which the chemical substance is commonly known.

Class 2 chemical substances are those which can not be named by a class 1 description. For a class 2 chemical substance, propose a name which is as descriptive of the substance as possible. Also provide synonyms known.

- ACTIVITY:** Check the appropriate box(es) to indicate whether you import, manufacture, or process the chemical substance at the plant site identified in block III. Check as many boxes as applicable.

PROPOSED RULES

C. PRODUCTION VOLUME: As specified below, make the appropriate entry in the blank provided for "Production Volume". Quantities should be entered in pounds and be expressed accurate to two (2) significant figures (for example, report 175,411 as 180,000; or 2,550 as 2,600).

1. Manufacturers and Importers: Enter the quantity manufactured and/or imported during calendar year 1976; except that (i) if there was no manufacture or importation during 1976, enter the quantity projected for manufacture and/or for importation during calendar year 1977, or (ii) if there was no manufacture during 1976 or 1977, enter the quantity manufactured or imported during calendar year 1975, or (iii) if you did not manufacture or import the chemical substance since January 1, 1975, enter the average annual quantity distributed in commerce since that date.
2. Processors: If you only processed the chemical substance since January 1, 1975, make no entry.
3. Trade Associations: The estimated aggregate quantity manufactured by your member companies during calendar year 1976 may be entered.

D. CONFIDENTIALITY CLAIMS:

Enter checks in the appropriate boxes to indicate which information is claimed confidential. Trade associations are not permitted to make any confidentiality claims.

1. By checking the box under "Chemical Identity" for the substance reported, you assert that the chemical identity of the particular substance on the TSCA inventory is confidential. Enter the CAS Registry Number (including hyphens), if known. Check one or more of the justification statement boxes which refer to statements appearing on the back of this form under Item 1. These statements explain the reasons for asserting the identity to be confidential. EPA must know the reason for asserting the identity to be confidential.

In addition, provide a generic name for inclusion on the Inventory which is only as generic as necessary to protect the confidential identity of the particular chemical substance.

2. By checking the box under "Manufacture" for a particular chemical substance, you assert that the fact that you manufacture the chemical substance at the plant site identified in block III for commercial purposes is confidential.
3. By checking the box under "Process" for a particular chemical substance, you assert that the fact that you process the chemical substance at the plant site identified in block III for commercial purposes is confidential.
4. By checking the box under "Import" for a particular chemical substance, you assert that the fact that you import the chemical substance for commercial purposes is confidential.
5. By checking the box under "Site-Limited" for a particular chemical substance, you assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.
6. By checking the box under "Production Volume" for a particular chemical substance, you assert that the production volume of the chemical substance for the plant site identified in block III is confidential.
7. By checking the box under "Corporation" for a particular chemical substance, you assert that the link of this particular chemical substance to the corporation identified in block II is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.
8. By checking the box under "Plant Site" for a particular chemical substance, you assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

E. STRUCTURAL AND SUPPLEMENTAL INFORMATION

For Class 1 chemical substances, provide a structure diagram indicating the atoms and the nature of the bonds joining the atoms. Stereochemistry, if known, and ionic charges should be shown. In addition, provide a molecular formula which is an inventory of the kinds and numbers of atoms present in the molecule without regard to how the atoms are bonded.

For Class 2 chemical substances, describe, in the form of a reaction scheme, the final reaction sequence used to produce the reported chemical substance. Such description should identify all immediate precursor substance(s) and the nature of the reaction. All reactants should be identified by their CAS Registry Numbers, if known. In addition, provide, to the extent possible, a partial structural diagram.

Supplemental instructions for the proper identification of chemical substances is provided in Appendix A of the inventory reporting regulations (40 CFR 710).

PROPOSED RULES

U.S. ENVIRONMENTAL PROTECTION AGENCY CHEMICAL SUBSTANCE INVENTORY REPORT (Section 8 (a) and (b) Toxic Substance Control Act 15 USC 2607)		OMB NO. _____																		
FORM C																				
I. CERTIFICATION STATEMENT: I hereby certify that (1) the chemical substance identified below has been manufactured, processed, or imported for a commercial purpose since January 1, 1975, and can be reported for the inventory (40 CFR 710); (2) all information provided on this form is complete and accurate, and (3) the confidentiality statements appearing on the back of this form are true as to all information for which I am asserting a confidentiality claim. I agree to permit access to, and the copying of, records by a duly authorized representative of the EPA Administrator to document any information here reported.																				
SIGNATURE _____ DATE (MO., DAY, YEAR) _____ NAME & TITLE (TYPE OR PRINT) _____																				
II. CORPORATE NAME _____																				
III. PLANT SITE NAME & ADDRESS Name _____ Address _____ City _____ State _____ Zip _____		IV. PRINCIPAL TECHNICAL CONTACT(S) Name _____ Address _____ City _____ State _____ Zip _____																		
V. CHEMICAL SUBSTANCE WHOSE IDENTITY IS CONFIDENTIAL AND OR CAS REGISTRY NUMBER IS UNKNOWN																				
A. SPECIFIC CHEMICAL NAME: <input type="checkbox"/> CLASS 1 <input type="checkbox"/> CLASS 2 _____ _____																				
B. ACTIVITY: <input type="checkbox"/> MANUFACTURE <input type="checkbox"/> PROCESS <input type="checkbox"/> IMPORT <input type="checkbox"/> SITE LIMITED																				
C. PRODUCTION VOLUME: _____																				
D. CONFIDENTIALITY CLAIMS: (1) CHEMICAL IDENTITY <input type="checkbox"/> JUSTIFICATION STATEMENTS (OVER) A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> CAS REGISTRY NUMBER (IF KNOWN) _____ PROPOSED GENERIC NAME _____																				
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(7) CORPORATION	<input type="checkbox"/>																			
(8) PLANT SITE	<input type="checkbox"/>																			
E. In the space provided below provide structural & supplemental information to aid in the specific identification of the chemical substance: _____ Molecular Formula (if known) _____ SEE ATTACHED SHEETS (WRITE FORM NO. ON ALL ATTACHMENTS) # OF SHEETS _____																				
DRAFT Do Not Use																				
		EPA NO. _____																		

PROPOSED RULES

CONFIDENTIALITY STATEMENTS
(For Chemical Substance Inventory Report Form C)

By signing the statement appearing in block I of this form, the person signing the form certifies that the following statements are true for all information on this form that has been claimed as confidential by checking one or more of the boxes under the heading "Confidentiality Claims" or the box entitled "Chemical Identity."

1. By checking the box entitled "Chemical Identity," I assert that the chemical identity of this chemical substance is confidential for one or more of the following reasons (as indicated by a check by the appropriate statement or statements):
 - A. ☒ This chemical substance is known to exist; however, no one knows that this chemical substance is being manufactured, imported, or processed for commercial purposes. If our competitors knew that this chemical substance is being manufactured, imported, or processed for commercial purposes, it would show them that the chemical substance has commercial potential and might lead them into research concerning its use. No one knows that this chemical substance has commercial possibilities except us to the best of our knowledge.
 - B. ☒ This chemical substance is known to exist; however, no one knows that this chemical substance is being manufactured, imported, or processed for commercial purposes. If our competitors knew that this substance is being manufactured, imported, or processed for commercial purposes, they would immediately conclude that we had reported it. The fact that we manufacture, import, or process this chemical substance for commercial purposes is confidential.
 - C. ☒ This chemical substance is not known to exist. If our competitors knew that this chemical substance does exist and that it is manufactured, imported, or processed for commercial purposes, it would show them that the chemical substance has commercial potential and might lead them into research concerning its use. No one knows that this chemical substance has commercial possibilities except us to the best of our knowledge.
2. By checking the box under "Manufacture" for a particular chemical substance, I assert that the fact that we manufacture the chemical substance at the plant site identified in block III is confidential for commercial purposes is confidential.
3. By checking the box under "Process" for a particular chemical substance, I assert that the fact that we process the chemical substance at the plant site identified in block III for commercial purposes is confidential.
4. By checking the box under "Import" for a particular chemical substance, I assert that the fact that we import the chemical substance for commercial purposes is confidential.
5. By checking the box under "Site-Limited" for a particular chemical substance, I assert that the fact that the chemical substance is not distributed for commercial purposes outside of the manufacturing site identified in block III is confidential.
6. By checking the box under "Production Volume" for a particular chemical substance, I assert that the production volume of the chemical substance for the plant site identified in block III is confidential.
7. By checking the box under "Corporation" for a particular chemical substance, I assert that the link of this chemical substance to the corporation identified in block III is confidential because the corporation is not known to the public as a manufacturer, importer, or processor of this particular chemical substance for commercial purposes.
8. By checking box under "Plant Site" for a particular chemical substance, I assert that the link of this chemical substance to the plant site identified in block III is confidential because it is not known to the public that the particular chemical substance is manufactured, imported, or processed for commercial purposes at this particular plant site.

General Statement

For ALL of the claims I have asserted by checking any of the boxes under "Confidentiality Claims" or the box entitled "Chemical Identity" the following statements are true:

1. We have taken reasonable measures to protect the confidentiality of the information, and we intend to continue to take such measures.
2. The information is not, and has not been, reasonably obtainable without our consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding).
3. The information is not publicly available elsewhere.
4. Disclosure of the information would cause substantial harm to our competitive position.

PROPOSED RULES

U.S. Environmental Protection Agency
Voluntary Product Trademark Report
(In conjunction with the Toxic Substances Control Act
Chemical Substance Inventory Reporting)Instructions
Form D: Product Trademarks

Form D may be used by manufacturers and importers of trademarked products to report their product trademarks. If such products contain chemical substances which are permitted to be reported for the Toxic Substances Control Act (TSCA), Section 8(a) and Section 8(b) Chemical Substance Inventory by the inventory reporting regulations (40 CFR 710), the manufacturer or importer must certify that those chemical substances have been reported. Form D may not be used to report chemical substances. Chemical substances must be reported using Chemical Substance Inventory Report Forms A, B, or C, whichever is applicable.

From reports voluntarily submitted using Form D, EPA will compile and publish a Product Trademark List in conjunction with the TSCA Chemical Substance Inventory. The list will serve primarily two purposes. First, it will allow manufacturers and importers of trademarked products to assure customers that all reportable chemical substances contained in their products appear in the TSCA Chemical Substance Inventory. Second, processors and users, who may add chemical substances to the inventory during a special 120-day reporting period following its publication, will be able to consult both the Inventory and the Product Trademark List to determine if the chemical substances they process or use have been reported.

Before completing this form, carefully read the inventory reporting regulations as published final in the FEDERAL REGISTER and which also appear in the Code of Federal Regulations, Chapter 40, Part 710 (40 CFR 710). After completing and signing this form, retain the last copy and send the remainder to:

U.S. Environmental Protection Agency
Office of Toxic Substances
P.O. Box
Columbus, Ohio 43210

EPA will acknowledge receipt of the form to the addressee identified in block II of the form.

TYPE OR USE A BLACK BALL POINT PEN (Press Firmly).

BLOCK I. CERTIFICATION STATEMENT AND SIGNATURE:

The certification statement must be signed by a person authorized by the company to sign official documents for the company. By signing the statement, you certify for each product trademark listed in block IV that all chemical substances permitted to be reported under the Toxic Substances Control Act Section 8(b) inventory reporting regulation (40 CFR 710) which comprise that trademarked product have been reported by someone for inclusion on the Chemical Substance Inventory.

BLOCK II. CORPORATE NAME AND ADDRESS:

Enter the complete name and address of the domestic corporation which manufactures or imports the trademarked products. For unincorporated entities, enter the company name and address.

BLOCK III. PRINCIPAL TECHNICAL CONTACT(S):

Enter the name, address, and telephone number (including area code) of the person(s) whom EPA may contact for clarification of information submitted on this form.

BLOCK IV. PRODUCT TRADEMARKS:

List the trademarks for products which you manufacture or import. Trademarks which cover a line of products may be listed in aggregated form if the certification statement is true for all products within that line.

U.S. ENVIRONMENTAL PROTECTION AGENCY
VOLUNTARY PRODUCT TRADEMARK REPORT
(In conjunction with the Toxic Substances Control Act Chemical Substance Inventory reporting)

FORM
D

I. CERTIFICATION STATEMENT: I hereby certify that each trademark listed below identifies a product which I manufacture or import and that all component chemical substances that are permitted to be reported for the inventory (40 CFR 710) have been reported. I agree to permit access to, and the copying of, records, by a duly authorized representative of the EPA Administrator to document any information here reported.

EPA USE ONLY: M/D _____ SIGNATURE _____ DATE (MO., DAY, YEAR) _____ NAME & TITLE (TYPE OR PRINT) _____

II. CORPORATION, NAME & ADDRESS
Name _____
Address _____
City _____ State _____ Zip _____

III. PRINCIPAL TECHNICAL CONTACT(S)

IV. PRODUCT TRADEMARKS

No.	PRODUCT TRADEMARKS	No.	No.	PRODUCT TRADEMARKS	No.
1		1	29		29
2		2	30		30
3		3	31		31
4		4	32		32
5		5	33		33
6		6	34		34
7		7	35		35
8		8	36		36
9		9	37		37
10		10	38		38
11		11	39		39
12		12	40		40
13		13	41		41
14		14	42		42
15		15	43		43
16		16	44		44
17		17	45		45
18		18	46		46
19		19	47		47
20		20	48		48
21		21	49		49
22		22	50		50
23		23	51		51
24		24	52		52
25		25	53		53
26		26	54		54
27		27	55		55
28		28	56		56

EPA NO. _____

[FR Doc. 77-28738 Filed 9-30-77; 8:45 am]

MONDAY, OCTOBER 3, 1977
PART VI



Department of Health, Education, and Welfare

Office of Education

VOCATIONAL
EDUCATION, STATE
PROGRAMS AND
COMMISSIONER'S
DISCRETIONARY
PROGRAMS

For submission to the Federal Register

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION,
DEPARTMENT OF HEALTH, EDUCA-
TION, AND WELFARESTATE ADMINISTERED PROGRAMS AND
COMMISSIONER'S DISCRETIONARY
PROGRAMS

AGENCY: Office of Education, HEW.

ACTION: Final regulations.

SUMMARY: These regulations implement the Vocational Education Act of 1963 as completely revised by the Education Amendments of 1976. The regulations cover both the State administered programs and the Commissioner's discretionary programs. Generally, the regulations are designed to assist States to improve planning in the use of all resources for vocational education and to overcome sex discrimination in vocational education. Also, the regulations permit consolidation of programs to provide greater flexibility to the States in conducting vocational education programs.

EFFECTIVE DATE: Pursuant to section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), these regulations have been transmitted to the Congress concurrently with their publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CON-
TACT:

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SUPPLEMENTARY INFORMATION:

RULEMAKING HISTORY

The Office of Education has been vitally concerned about the need for intensive public participation in the development of these regulations because of the substantial impact Pub. L. 94-482 will have on the administration and operation of vocational education programs throughout the nation. The major steps and activities involved in carrying out these public participation objectives are set forth below.

After the Act was passed the Commissioner published in the FEDERAL REGISTER (41 FR 49742) a Notice of Intent to Issue Regulations (NOI) on November 10, 1976. This NOI contained a comprehensive overview of the Act and set forth fifteen substantive issues needing clarification in the regulations. After publication of the

NOI, a 65-day comment period followed, during which public comment was solicited. Between November 22, 1976 and January 15, 1977, public meetings were held in each State to discuss the issues raised in the NOI and any other relevant issues. Approximately 6,000 people attended these 66 meetings. Also, during this 65-day comment period, over 600 letters and telephone calls were received in response to the NOI from a wide variety of commenters. At the end of this initial comment period, all comments and suggestions received were analyzed and the proposed regulations were drafted to reflect this public participation.

The Notice of Proposed Rulemaking (NPRM) was published in the FEDERAL REGISTER at 42 FR 16542 on April 7, 1977. In addition to the proposed regulations, the NPRM also contained in the preamble an overview of the regulations. A 30-day comment period followed publication of the NPRM. A press release from the Office of Education was sent to approximately 450 local organizations and newspapers announcing the publication of the NPRM and the schedule for the public meetings. Public meetings were conducted in the ten HEW regional cities from April 20 through April 29. Letters of invitation were sent to approximately 10,000 individuals and organizations. Educators, administrators, consumers of the program, and members of the general public attended these meetings and presented formal statements. In addition, almost 700 letters were received containing comments, criticisms, recommendations, and questions on nearly every section of the proposed regulations. These comments came from diverse groups and individuals, including State and local educators and administrators, women's groups, and a large number of vocational students and teachers. This massive amount of public input was analyzed during the development of the final regulations. A summary of the comments received and the responses to these comments are set forth in this preamble.

Although the final regulations have been significantly affected by intense public involvement, the Office of Education sees the development of regulations implementing the Vocational Education Act as being an evolutionary process which will continue over a period of several years. The actual impact and consequences of the statutory provisions and problems which States and local educational agencies may have in implementing these provisions are not known at the present time. Therefore, the public is encouraged to continue to submit their views on these regulations, and the Office of Education will amend and revise the regulations in the future as need and experience dictate.

OVERVIEW OF THE REGULATIONS

PART 104—STATE ADMINISTERED PROGRAMS
STATE ADMINISTRATION

Any State which desires to receive funds under the Act must designate a State board to be the sole State agency

responsible for the administration of programs under the Act (§ 104.31). This board may delegate any of its responsibilities (§ 104.33) except those listed in § 104.32 (a) to (d). The State must also assign full-time personnel to assist in reducing sex discrimination and sex stereotyping in vocational education programs and activities throughout the State (§ 104.72). Each State is to expend \$50,000 from the basic grant for this purpose (§ 104.74).

Each State must establish a State advisory council representing at least 20 designated interests (§ 104.92). There must be an appropriate representation by sex, race, ethnicity, and geography on the council to effectively reflect the diverse interests and needs of the general public (§ 104.92(b)). The functions and responsibilities of the State advisory council are expanded to include identifying manpower as well as vocational needs, commenting on the reports of the State Manpower Services Council, and providing technical assistance to local advisory councils (§ 104.93). The expenditure of funds made available to the council is to be determined solely by the council for carrying out its functions (§ 104.96).

Each local educational agency (LEA) and postsecondary institution receiving Vocational Education Act (VEA) funds through the State board must establish a local advisory council composed of members of the general public to provide advice on job needs and relevancy of courses to those needs (§ 104.111).

Each State must also establish a State Occupational Information Coordinating Committee (SOICC) (§ 104.122). This SOICC must implement an occupational information system in the State which will meet the common needs for the planning for, and operation of, programs of the State board and of the administering agencies under the Comprehensive Employment and Training Act (§ 104.123).

PLANNING

To be eligible to receive funds, a State must maintain on file with the Commissioner a general application containing twelve assurances covering a broad range of administrative and fiscal matters (§ 104.141). This application includes the assurance that the State will give priority, in distributing funds, to (1) economically depressed areas and areas with high unemployment rates which are unable to meet the vocational needs of these areas without Federal assistance, and to (2) programs which are new to the areas to be served and which meet new and emerging manpower needs. The State must also use as the two most important factors in distributing funds to local educational agencies (1) the relative financial ability to provide needed services and (2) the relative concentration of low-income populations within such agencies. In the case of other eligible recipients, the State must use, as the two most important factors, the recipient's relative financial ability to provide needed services and the relative concentration of students it serves who impose

higher than average costs (e.g. handicapped, disadvantaged, those with limited English-speaking ability).

The State must submit to the Commissioner a five-year State plan by July 1, 1977 for fiscal years 1978 through 1982 and a second five-year State plan on July 1, 1982 for fiscal years 1983 through 1987 (§ 104.161).

In formulating the plan, the State board is to involve actively a representative of the State agencies for secondary education, postsecondary vocational education, community and junior colleges, and institutions of higher education. The State board must also involve representatives from local school boards, vocational teachers, local school administrators, the State Manpower Services Council, the State agency for Comprehensive Postsecondary Education Planning, and the State advisory council (§ 104.162). The State board and these designated representatives must meet at least four times during the planning year (§ 104.163). If these representatives are not able to agree on the contents of the State plan, the State board is responsible for reaching a final decision (§ 104.164). In this event, the State board must include in the plan the recommendations rejected by the State board and the reason for each rejection. Any dissatisfied agency may appeal the State board's decision to the Commissioner (§ 104.281). The Commissioner will then decide whether that State plan is supported by substantial evidence, as shown in the State plan, and will best carry out the purposes of the Act (§ 104.288).

The five-year State plan must contain the procedures for carrying out certain assurances of the general application (§ 104.182) and the specific program provisions described in § 104.183 through § 104.188. These provisions include an assessment of employment opportunities in the State (§ 104.183), the goals the State will seek to meet employment needs (§ 104.184), the planned funding to meet employment needs (§ 104.185), the intended uses of funds to meet specific program needs (§ 104.186), the policies adopted by the State to eradicate sex discrimination (§ 104.187), and a description of the mechanism established for coordination between manpower training programs and vocational education programs (§ 104.188).

The planning process also includes the submission of an annual program plan (§ 104.202) and annual accountability report (§ 104.203). The procedural requirements for developing the five-year plan are also applicable to the annual plan and accountability report but the number of required planning meetings is reduced to three (§ 104.205).

Even though the annual plan is essentially an updating of the five-year plan, it must contain the proposed distribution of funds among eligible recipients. The additional requirements of the annual plan are described in §§ 104.221 and 104.222. The content of the annual accountability report is described in § 104.241.

FISCAL REQUIREMENTS

Federal VEA funds must be used to share only in expenditures which are made in accordance with the assurances of the general application, five-year State plan and annual program plan (§ 104.301). The Federal share of expenditures under the five-year State plan and annual program plan may not exceed 50 percent of the cost of carrying out the programs (§ 104.302).

The fiscal requirements for allowable expenditures for the national priority programs are described in § 104.304. At least 10 percent of the State's allotment under section 102(a) of the Act is to be used to pay up to 50 percent of the costs of special programs, services, and activities for the handicapped (§ 104.312); at least 20 percent of the State's allotment under section 102(a) of the Act is to be used to pay up to 50 percent of the costs of special programs, services, and activities for the disadvantaged, for persons with limited English-speaking ability and for stipends for students with acute economic needs which cannot be met under other programs (§ 104.313); and at least 15 percent to pay up to 50 percent of the cost of postsecondary and adult programs, services, and activities (§ 104.314). The percentage of the 20 percent set-aside which goes to persons with limited English-speaking ability is equivalent to the proportion such persons age 15-24 are to the entire population of the State in the same age bracket (§ 104.313).

The Federal share for State administration of the five-year State plan and annual program plan, from funds allotted to the State under section 102(a) of the Act, is up to 50 percent of the cost of administration of the plans (§ 104.306). The Federal share in fiscal year 1978 is up to 80 percent and in fiscal year 1979 the Federal share is up to 60 percent. The Federal share for the cost of local supervision and administration from funds available under section 102(a) must be computed in accordance with either of the two methods set forth in § 104.307.

STATE EVALUATION

Each State must evaluate the effectiveness of each funded program within a five-year period (§ 104.402). These evaluations must be in terms of the planning and operational processes, results of student achievement, results of student employment success and results of additional services that the State provides under the Act of special populations (§ 104.402). Programs which purport to impart entry level job skills are to be evaluated according to the extent to which program completers and leavers find employment in related occupations and are considered well-trained by their employers (§ 104.404).

BASIC GRANT

Each State shall use its basic grant, which is 80 percent of the funds allotted under section 102(a) of the Act, for the purposes described in § 104.502. These purposes include vocational education

programs, work-study programs, cooperative vocational programs, energy education programs, construction of area vocational education facilities, support of full-time personnel to eliminate sex bias, stipends for students who have acute economic needs which cannot be met by other programs, placement services for students whose needs cannot be met by other programs, industrial arts programs, support services for women who enter programs designed to prepare individuals for programs traditionally limited to men, day care services for children of persons enrolled in vocational schools, construction and operation of residential vocational schools, provision of vocational training through arrangements with private vocational training institutions and State and local administration. The scope and specific program requirements of each purpose are set forth in §§ 104.511 through 104.634. This extensive list of programs, activities, and services has been consolidated into a single basic grant to allow the States to determine their own priorities for funding.

PROGRAM IMPROVEMENT AND SUPPORTIVE
SERVICES

The State must use 20 percent of its allotment under section 102(a) of the Act for Subpart 3—program improvement and supportive services (§ 104.701). Under program improvement and supportive services, funds may be used for research programs (§ 104.705), exemplary and innovative programs (§ 104.706), and curriculum development programs (§ 104.708). These programs are to be operated by research coordinating units (RCU) or are to be conducted by contracts awarded by the RCU (§ 104.703). The State must develop a comprehensive plan of program improvement which includes the intended uses of funds and a description of the State's priorities. The pertinent contract requirements for research programs and for curriculum programs are described in § 104.704. Exemplary and innovative programs must give priority to reducing sex bias and sex stereotyping in vocational education (§ 104.706).

Not less than 20 percent of the funds reserved for program improvement and supportive services are to be used for guidance and counseling services which may include initiation and improvement of counseling services, counseling leading to greater understanding of educational and vocational options, provision of placement and follow-up services for vocational students and individuals preparing for occupations requiring a baccalaureate or higher degree, training to help overcome sex-biased counseling, counseling in correctional institutions, counseling for persons of limited English-speaking ability, resource centers for out-of-school individuals, and leadership for guidance and counseling personnel (§ 104.763).

The State may also use part of the funds reserved for program improvement and supportive services for vocational education personnel training (§ 104.771). Training may be provided to

persons serving or preparing to serve in vocational education programs, including teachers, administrators, supervisors, and vocational guidance and counseling personnel (§ 104.773).

Funds under program improvement and supportive services may also be used for grants to overcome sex bias and sex stereotyping (§ 104.791). The purpose of these grants is to support activities which show promise of overcoming sex bias and sex stereotyping in vocational education and may be in the areas of research, curriculum development, or guidance and counseling (§ 104.793).

The State may also use part of the funds reserved for program improvement and support services for State and local administration (§§ 104.306 and 104.307).

SPECIAL PROGRAMS FOR THE DISADVANTAGED

Each State must use the funds allotted to it from the authorization under section 102(b) of the Act for special programs of vocational education for disadvantaged persons in areas of high youth unemployment or school dropouts (§ 104.802). The criteria of need and eligibility for disadvantaged persons are described in § 104.804. These projects for the disadvantaged may receive up to 100 percent Federal support (§ 104.802).

CONSUMER AND HOMEMAKING

The State must also use the funds allotted to it from the authorization under section 102(c) of the Act for programs of consumer and homemaking education (§ 104.901). The Federal share is 50 percent except in economically depressed areas where the Federal share is 90 percent (§ 104.906). One-third of the separate authorization is for economically depressed areas. Grants may be used for (1) educational programs that encourage males and females to prepare for combining homemaking and wage earning roles, develop curriculum materials which encourage elimination of sex stereotyping, give greater consideration to needs in economically depressed areas, encourage outreach programs, prepare persons for the homemaker role, emphasize consumer, nutrition, and parenthood education (§ 104.904) and (2) for ancillary services (§ 104.905).

An appendix containing definitions is added at the end of Part 105.

PART 105—COMMISSIONER'S DISCRETIONARY PROGRAMS PROGRAM IMPROVEMENT

Under this subpart the Commissioner is authorized to support projects of national significance for improvement of vocational education primarily through contracts and, in some cases, through grants (§ 105.101). The Commissioner may fund up to 100 percent of the cost of the following types of activities if they are found to be of national significance: (a) Research projects; (b) exemplary and innovative projects; (c) vocational curriculum development projects; (d) vocational guidance and counseling programs; (e) vocational education personnel training programs; and

(f) grants to assist in overcoming sex bias and sex stereotyping (§ 105.104).

A grant applicant must be able to demonstrate a reasonable probability that the project will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date. Exemplary and innovative projects must provide for appropriate participation by nonprofit private school children (§ 105.109). Activities funded shall include contracts to convert job preparation curriculums prepared for use by the armed services to curriculums usable by the schools (§ 105.103).

CONTRACT PROGRAM FOR INDIAN TRIBES

The Commissioner will enter into contracts with Indian tribal organizations at the request of Indian tribes to plan, conduct, and administer programs which are consistent with the Act and regulations (§ 105.201). The sections of the Indian Self-Determination and Education Assistance Act of 1975 which are applicable are set forth in § 105.202. The criteria for the selection of award recipients are in § 105.211. Additional factors for declining to enter into a contract are listed in § 105.212.

TRAINING AND DEVELOPMENT PROGRAMS FOR VOCATIONAL EDUCATION PROGRAMS FOR VOCATIONAL EDUCATION PERSONNEL

The Commissioner is to provide opportunities for full-time advanced study of vocational education, opportunities for certified teachers in other fields to become vocational education teachers, and opportunities for persons in industry with skills in fields for which there is a need for vocational educators to be so trained (§§ 105.302 and 105.431). Persons having two years of experience in vocational education or in comparable types of situations and who have a baccalaureate degree may receive awards for use at the graduate level, in approved institutions of higher education (§ 105.304). Persons certified to teach in any field who have applicable vocational skills or persons employed in industry with similar skills may receive awards for use in approved teacher-training institutions (§ 105.311). The criteria for approving applications for leadership development awards are in § 105.309. The criteria for approving applications for certification fellowships are in § 105.443.

EMERGENCY ASSISTANCE FOR REMODELING AND RENOVATING OF VOCATIONAL EDUCATION FACILITIES

The Commissioner will make grants to urban and rural local educational agencies which are unable to provide vocational programs to meet existing manpower needs because of the obsolescence of their facilities or equipment (§ 105.501). Grants may be used to support 75 percent of the cost of modernizing such facilities (100 percent in cases of extreme need) and the cost of changes necessary to comply with the Architectural Barriers Act (§ 105.506). The criteria for approving applications are set forth in § 105.505.

BILINGUAL VOCATIONAL TRAINING

The Commissioner will make grants to support bilingual vocational training programs (§ 105.601), bilingual vocational instructor training programs (§ 105.611), and programs for the development of bilingual instructional materials (§ 105.621). The criteria to be used in reviewing applications for these three programs are set forth in §§ 105.606, 105.616, and 105.626 respectively.

TECHNICAL AMENDMENTS

On June 3, 1977, Pub. L. 95-40 was signed into law by the President. This Act makes several technical and miscellaneous amendments to provisions relating to vocational education contained in Title II of the Education Amendments of 1976, Pub. L. 94-482. As a result of the enactment of these Technical Amendments, certain revisions have been made to these final regulations.

In accordance with section 431(b)(2)(A) of the General Education Provisions Act it is the practice of the Office of Education to provide an opportunity for interested parties to take part in its rulemaking process. However, a separate rulemaking procedure on these revisions to the regulations is unnecessary because these revisions to the regulations conform to the language of the Technical Amendments.

Furthermore, a separate rulemaking procedure on the revisions to the regulations would be contrary to the public interest because it would prolong the effective date of the regulations and cause undue delay in the implementation of the vocational education State-administered program. Since the five year State plan and annual program plan are to be effective as of October 1, 1977, it is necessary to have the publication of final regulations at this time.

The amendments contained in Pub. L. 95-40, other than those merely typographical, are briefly summarized in the following paragraphs. (The numbered paragraphs do not correspond to the sequential order of the Technical Amendments.) In each instance in which a conforming change is made in the regulation, a citation to the regulation is given.

1. Use of Federal funds for State administration is deleted from the authorization of section 102(d) and is made an allowable use of funds under the authorization of section 102(a). This amendment has the effect of removing the \$25 million limitation on use of Federal funds for State administration which was contained in section 102(d). Instead, the State now has the flexibility to use whatever amount of Federal funds is necessary for prudent State administration of vocational programs. Federal funds used for State administration, however, must be expended in accordance with the State plan and the matching requirements of section 111(a)(2). In addition, Federal funds used for State administration must be prorated between the amount available for basic grants in subpart 2 (80 percent) and program improvement and support services in sub-

part 3 (20 percent). Although this division will prevent administrative expenses from being disproportionately charged against a single program activity, it is not required that administrative personnel be distributed in an 80/20 ratio between subpart 2 and subpart 3 activities. Rather, the State may distribute its administrative personnel in whatever proportion best meets its needs. Section 104.306 of the NPRM is rewritten to conform to these changes in the Act.

(2) Pub. L. 95-40 permits local administrative and supervisory costs to be paid out of the State's allotment under section 102(a). Federal funds used for local administration must also be prorated between subpart 2 (80 percent) and subpart 3 (20 percent).

Section 111(a)(1)(C) sets forth two methods for computing the Federal share. In the first case, the percentage of Federal funds used by an eligible recipient for the costs of supervision and administration of vocational education programs may be no greater than the percentage of Federal funds used to support the total vocational education program carried out by the eligible recipient. For example, the total cost of the vocational education program of the eligible recipient is \$100,000 and the Federal contribution to this eligible recipient is \$25,000 or 25 percent of the total. If local administrative costs are \$10,000, then up to 25 percent of this amount or \$2,500 may be charged against the Federal funds.

The second method allows up to 50 percent of the costs of supervision and administration to be charged to Federal funds provided that State funds match Federal funds dollar for dollar. State funds used to match Federal funds must be specifically made available for the purpose of local administration. For example, if the total cost of local administration is \$10,000, then up to \$5,000 may be charged to Federal funds as long as the State contributes the same amount from a specific State appropriation.

Both methods for computing local administrative costs are contained in a new regulation, § 104.307.

(3) Section 110 of the Act is amended to allow for the cost of all programs, services, and activities listed in subpart 2 (section 120) and subpart 3 (section 130) to be applied against the minimum percentages for the national priority programs (i.e. handicapped, disadvantaged, and postsecondary). Previously, the cost of vocational education programs as defined in section 195 was the only allowable use of funds to meet the section 110 minimum percentage requirement. In addition, the amendments remove an ambiguity in the Act by applying the three minimum percentages for the national priority programs directly against the section 102(a) authorization. Sections 104.303 and 104.304 are revised to conform to these statutory changes.

(4) Section 120 of the Act is amended to authorize the use of Federal funds

for vocational training through private vocational training institutions. Arrangements may be made with these institutions if they can make a significant contribution to attaining the objectives of the State plan, and can provide substantially equivalent training at a lesser cost, or can provide equipment or services not available in public institutions. The definition of "private vocational training institutions" is added to section 195 of the Act. Sections 104.502 and 104.514 are amended accordingly. The new definition is added to Appendix A to these regulations.

(5) Sections 132 and 133 of the Act are amended to clarify that the State's research coordinating unit shall be responsible for coordinating exemplary and innovative programs (section 132) and curriculum programs (section 133) as well as research programs in section 131.

(6) Substantive changes are made to the section 103(a)(1)(B) responsibilities for the Bureau of Indian Affairs (BIA). First, the amendments require BIA, beginning in fiscal year 1979, to expend an amount which is equal to the amount available to the Commissioner for the Indian contract program for vocational education programs, services, and activities. BIA must expend not less than the amount expended during the prior year on these programs. In addition, the Commissioner of Education and the Commissioner of Indian Affairs will jointly prepare a plan for the expenditure of the funds and for the evaluation of programs assisted under this part. The Commissioner (OE) will assume responsibility for the administration of the program with the assistance and consultation of the Bureau of Indian Affairs. BIA is no longer deemed a State board. Accordingly, the reference in § 105.214 in the NPRM to BIA being deemed a State board is deleted.

(7) The Technical Amendments amend the eligibility provision for Indian tribes to participate in the contract program. Section 103(a)(1)(B) extends the authority of the Commissioner to contract for vocational programs with any Indian tribe which is eligible to contract for administration of programs under the Indian Self-Determination Act, rather than just those tribes which have actually contracted under that Act. The corresponding change is made to § 105.205.

(8) The Amendments include the Northern Mariana Islands as a State for the purpose of the Vocational Education Act and also include the Northern Mariana Islands with the other outlying areas for determination of allotment ratios under the Act.

(9) Section 105(d)(4)(A) is amended to require State advisory councils on vocational education to assess the extent to which special education programs as well as vocational education and manpower programs are meeting the needs of the State. Section 104.93(f) of the regulations is amended to reflect this additional responsibility in relation to special education.

(10) Section 105(f)(1) is amended to require that appropriations for the State advisory councils are to be allocated under the allotment method contained in section 103(a)(2).

(11) The Technical Amendments correct an error in section 111(a)(1)(C) which contains the authority for 100 percent Federal funding. Former references to sections 122(f), 133(b) and 140 are deleted and references to sections 122(f), 132(b) and 140(b)(2) are inserted. The result is that cooperative vocational education programs, exemplary programs, and special programs for the disadvantaged, when they include students from nonprofit private schools, may be supported with up to 100 percent Federal funding. Section 104.305 of the regulations conforms to these amendments.

(12) Section 111(a) of the Act is amended by adding a new subparagraph (3) to clarify the Commissioner's authority to pay, from the amount available to each State under the section 102(d) allotment, an amount up to 100 percent of the cost of planning and evaluation activities authorized under section 102(d).

(13) The section 111(a)(2)(B) provision which allows the Federal share of State administration in fiscal year 1978 to be in excess of 80 percent if the State has over matched the Federal funds by ten to one is amended. The determination year is changed from fiscal year 1977 to the latest fiscal year for which reliable data are available. Section 104.306(c) of the regulations conforms to this amendment.

(14) The noncommingling requirement in the cooperative vocational education program (section 122(g)) is amended in order to clarify that the noncommingling requirement applies only to those funds used for programs involving students in nonprofit private schools. Subsection (e) of the new § 104.533 prohibits the commingling of Federal, State, and local funds for programs which include students enrolled in nonprofit private schools.

(15) The clerical error in the language of section 134(a) concerning the use of funds for the eight guidance and counseling activities is corrected. Whereas the provision previously appeared to require section 134 funds to be used for all eight activities, the correction makes it clear that funding shall be for one or more of these activities.

(16) Section 161(a)(3)(A) is amended by delaying for one year the date the national vocational education data reporting and accounting system is to be in full operation.

(17) The implementation date for the occupational information data system in section 161(b)(1) is delayed for one year to September 30, 1978.

(18) Two changes are made to the section 162 authority governing the National Advisory Council on Vocational Education. First, this section restores the authority to the Council to accept gifts if the acceptance of such gifts will better enable the Council to carry out its func-

tions. Secondly, the section makes clear that the Council is to review special education programs as well as vocational education and manpower programs.

(19) The statutory definition of "handicapped" is amended to conform the definition to that used in the Education of the Handicapped Act. Persons with specific learning disabilities are now included under the definition. Also, the term "orthopedically impaired" is substituted for the term "crippled." Corresponding changes are made to the definition of "handicapped" in Appendix A of the regulations.

(20) Pub. L. 95-40 also amends section 107(b)(4) of the Comprehensive Employment and Training Act of 1973 (CETA). The amendment requires the National Commission on Manpower Policy and the State Manpower Services Councils to review the extent to which special education programs as well as vocational education and manpower programs represent a coordinated approach to the employment and training and vocational education needs of the nation.

(21) Finally, Pub. L. 95-40 makes certain amendments to section 523 of the Education Amendments of 1976. The amendments delay for one year the final submission of the reports by the National Institute of Education and makes the report on consumer and homemaking education submittable on the same date as the report on the regular vocational education program. Also, beginning in fiscal year 1978 the full sum of the reservation of funds in this section will be made available to the National Institute of Education for its studies.

CRITICAL ISSUES

Many comments were submitted on many sections of the proposed regulations. These comments and the responses are set forth following the text of the regulations. Some of the comments raised critical policy issues with respect to the interpretation and implementation of the Act. The critical issues are briefly summarized in the following paragraphs.

1. FUNDING FORMULA FOR THE LIMITED ENGLISH-SPEAKING ABILITY POPULATION

Section 110(b)(2) of the Act requires each State to compute the amount of funds for persons with limited English-speaking ability from the "funds used by a State pursuant to section 110(b)(1)." Section 110(b)(1) directs the State to use at least 20 percent of the allotment under section 102(a) for the cost of vocational education for disadvantaged persons, for persons of limited English-speaking ability and for stipends.

The interpretation contained in the NPRM was for the State to apply the percentage of persons of limited English-speaking ability to the amount of the set-aside. For example, if the limited English-speaking population of the State is 10 percent, then 10 percent of the 20-percent set-aside (2 percent of the section 102(a) allotment) would be earmarked for persons of limited English-speaking ability.

Another legally supportable interpretation which would result in a significant change in the method by which Federal funds are distributed by the States to disadvantaged persons was given serious consideration by the Commissioner during the comment period. Under this interpretation, the State would apply the percentage of persons of limited English-speaking ability to the entire allotment under section 102(a), but such amount could not exceed the total amount reserved for the section 110(b)(1) set-aside. In accordance with this interpretation, if the limited English-speaking population of the State is 10 percent, then 10 percent of the entire allotment (rather than 10 percent of the set-aside) would be earmarked for the limited English-speaking population.

Since the Act is susceptible of two interpretations, the Commissioner has decided to retain the interpretation contained in the NPRM, set forth in § 104.313(c). The Commissioner believes that the adoption of the latter interpretation would place drastic limitations on funds available for other disadvantaged students' needs and would substantially undermine many on-going vocational education programs for disadvantaged persons.

2. EXCESS COSTS OF VOCATIONAL EDUCATION PROGRAMS FOR HANDICAPPED AND DISADVANTAGED PERSONS

Section 110(a) of the Act requires each State to expend at least 10 percent of its allotment under section 102(a) for the "cost of vocational education for handicapped persons." Section 110(b) requires at least 20 percent of the allotment under section 102(a) to be expended for the "cost of vocational education for disadvantaged persons."

The statutory language "cost of vocational education," in sections 110(a) and 110(b) was interpreted in the NPRM to mean "full cost." It was stated in the preamble at 42 FR 18549 that, as long as the State complies with the matching requirements in section 110 of the Act, the State could use the combined Federal, State, and local funds to pay the entire cost of the vocational education program for handicapped and disadvantaged persons. In other words, Federal funds for vocational education programs for handicapped and disadvantaged persons were not limited solely to the cost of special services needed by the handicapped and disadvantaged.

Many commenters believed that the interpretation contained in the NPRM was a serious misreading of Congressional intent. According to these commenters, unless the Federal and matching State and local funds were used to pay the excess costs of necessary program modifications, supplementary services or special programs for handicapped and disadvantaged persons, funds available to accommodate these special populations would be greatly reduced. These commenters suggested that the statutory language "cost of vocational education" must be read in the context of the definitions of "handicapped" and disadvan-

tagged" which emphasize the special services which are needed to enable handicapped and disadvantaged persons to take full advantage of the vocational education program.

The Commissioner agrees that paragraphs (a) and (b) of section 110 are susceptible of the interpretation proffered by these commenters. Since a reduction in services for handicapped and disadvantaged persons might result by charging the full cost of the vocational education program against the required minimum, the comments in support of charging the excess costs are accepted. Accordingly, § 104.303 of the regulations is amended to require the Federal and matching State and local funds to be used to pay only the "excess costs" (that is, the costs of special education and related services above the costs of the regular students) of the programs for the handicapped and disadvantaged. For example, if the cost of providing vocational training to the non-handicapped student is \$600, and the cost of providing vocational training to the handicapped student in the same class is \$750, the State may use the combined Federal, State, and local funds to pay only the incremental cost of \$150 for the vocational education program for the handicapped student.

Alternatively, if the handicapped or disadvantaged student is placed in a separate program, Federal, State and local funds may only be used to pay those costs which exceed the average per pupil cost for vocational education for non-handicapped or non-disadvantaged students.

3. PROVIDING DATA BY "PROGRAMS" RATHER THAN "COURSES"

Section 104.184(a) of the NPRM contained a requirement that the five-year State plan describe the State's goals in terms of the "programs (courses) and other training opportunities to be offered to meet employment needs." "Program" is defined as a "planned sequence of courses, services, or activities designed to meet an occupational objective." Since the Act uses the term "courses," there has been considerable debate during the development of the regulations over which term, "program," or "course" carries the proper interpretation in line with Congressional intent.

The major difficulty in changing from "programs" to "courses" in the final regulations is that it would create an undue reporting burden on the States and would greatly increase paperwork. Another problem is that "course" has no standard definition throughout the States, while "program" is specifically defined by the Office of Education in Handbook VI, entitled "Standard Terminology for Curriculum and Instruction in Local and State School Systems" (1970), which currently provides for reporting on at least 160 designated programs. Educators are familiar with OE's list of "instructional programs." The definitions are used by all States. Data by "courses" would be very difficult to obtain since all reporting presently is in

terms of "programs." Definitions of "courses" vary from State to State and within a particular State. Since "course" is not a standardized term, aggregation of data would be virtually impossible.

In view of these difficulties, reporting data by programs rather than by courses should provide sufficient detail in the five-year State plan to meet the intent of the law adequately. Accordingly, the text of the final regulation has not been changed.

4. DEFINITIONS OF "ADULT PROGRAM" AND "POSTSECONDARY PROGRAM"

A great many comments were received in relation to the definitions of "adult program" and "postsecondary program" as they appeared in the Appendix to Part 104 in the Notice of Proposed Rulemaking. These comments objected to the definitions on three grounds:

(1) The definitions are not contained in the Act;

(2) They would jeopardize the student's eligibility for a Basic Educational Opportunity Grant (BEOG) or a College Work Study (CWS) grant; and

(3) They would "eliminate" post-high school programs in vocational and technical schools.

While it is true that the definitions, labeled as such, are not in the new Act, the language of the two definitions as set forth in Appendix A is taken directly from section 110(c) of the Act, which requires the State to set aside 15 percent of its basic grant for persons in two categories of programs. While these two categories of persons are not labeled in section 110(c) as "adult" or "postsecondary," they are so labeled in the legislative history of the Act (H. Rept. No. 94-1085, pp. 48-49) which indicates strong Congressional intent that the definitions be used to avoid the "enormous confusion" which has existed in reporting adult and postsecondary programs and that "a majority of the States urged Congress to clarify these definitions."

Further study has indicated clearly that the definitions of "adult program" and "postsecondary program" will not affect a student's eligibility for a BEOG or CWS grant. Eligibility for grants under those programs is dependent on the Act and regulations for the particular program; they are not affected by definitions in the new Vocational Education Act or the regulations under the Act.

The definitions are intended, as the legislative history makes clear, for reporting (in the annual program plan and accountability report) and not for allocation purposes. Section 110(c) of the new Act, which uses the definitions, requires a set-aside of 15 percent for both categories; it does not require any specific apportionment between the two categories. Since a State may apportion its 15 percent set-aside between adult and postsecondary programs according to its decision as set forth in its State plan, the definitions as used in the Appendix to Part 104 will not "eliminate" any program at the post-high school level in a vocational and technical school. Nor should the definition in

any way encourage States to favor post-high school level programs in community or junior colleges (which lead to an associate or other degree) over those in vocational and technical schools (which lead to a certificate). While some commenters suggested that post-high school programs leading to a certificate should be added to the definition of "postsecondary program," the legislative history is clear (H. Rept. No. 94-1085, bottom of page 48 and top of page 49), that such programs are to be considered for reporting purposes as adult programs.

5. EQUAL ACCESS FOR MINORITIES AND WOMEN

With respect to the policies and procedures that assure equal access for minorities and women, the question was posed whether the Office of Education will require more than a simple "we will not discriminate" statement in the five-year State plan.

Section 107(b)(4)(A) of the Act and § 104.187(a) of the regulations require the State to set forth a detailed description of the policies and procedures to assure equal access to programs by women and men. This description must include the specific actions taken to overcome sex discrimination and the incentives adopted to encourage enrollment of both women and men in nontraditional courses. A perfunctory statement in the five-year State plan that "we will not discriminate" will not satisfy this requirement in the Act and regulations.

The issue of equal access for minorities is not specifically addressed in the Vocational Education Act. Federal financial assistance under the Act, however, is subject to the regulations in 45 CFR Part 80 which effectuate the provisions of Title VI of the Civil Rights Act of 1964. These civil rights requirements are referenced in 45 CFR 100b.252 of the General Education Provisions Regulations and have a direct application to the vocational education regulations. In this connection, it is expected that the Office of Civil Rights will review the five-year plan and annual program plan for civil rights compliance, particularly in the program areas serving women, minorities, and the handicapped.

EXPLANATION OF THE DOCUMENT

SELF-CONTAINED DOCUMENT

The regulations are designed as a self-contained document, making it unnecessary to refer constantly to the Act. Accordingly, the regulations repeat all essential requirements of the Act so that the States, local educational agencies, and other eligible recipients under the State administered program (45 CFR Part 104) and all eligible applicants under the Commissioner's discretionary programs (45 CFR Part 105) may, in general, rely on the regulations without reference to the Act.

Reference to the General Education Provisions Act (GEPA) and the General Education Provisions Regulations (GEPR) will, however, be necessary. In particular, the civil rights requirements referenced in the General Education

Provisions Regulations (45 CFR 100a.262 and 45 CFR 100b.262) have a direct application to Part 104 and Part 105. In addition, Federal financial assistance under the Vocational Education Act is subject to the regulations in 45 CFR Part 80 (which effectuate the provisions of Title VI of the Civil Rights Act of 1964), the regulation in 45 CFR Part 84 (which effectuate Section 504 of the Rehabilitation Act of 1973), and to the regulations in 45 CFR Part 86 (which effectuate the provisions of Title IX). Title IX provides that no person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. To repeat these civil rights requirements, as well as the requirements of the General Education Provisions Regulations, in Part 104 and Part 105 would defeat the express purpose of the General Education Provisions Regulations, which is to publish in one place regulations which affect the various education programs generally.

TERMINOLOGY

To make reading and understanding of the regulations easier, the new Vocational Education Act is referred to simply as "the Act." Sections of the Act are referred to in the text, for example, as "section 101 of the Act." A section of the regulations is referred to, for example, as "§ 104.101" with use of the section symbol (§). The phrase "of these regulations" is not repeated. Thus a reference to "section 101" should be recognized as a reference to section 101 of the Act; a reference to "§ 104.101" is a reference to § 104.101 of the regulations.

To make the regulations more readable (and at the same time shorter) Acts or regulations which are frequently mentioned are referred to by their acronyms, "CETA," "GEPA," "GEPR," for example. The Department of Health, Education, and Welfare is "HEW." If an acronym is used, it is defined in the definitions or the text.

CITATION TO LEGAL AUTHORITY

As required by section 431(a) of the General Education Provisions Act (20 U.S.C. 1232(a)), a citation to the statutory or other legal authority for each provision of the regulations has been placed in parentheses on the line immediately following the text of the regulation. Each citation applies to the text of the regulations between that citation and the next preceding citation.

Citation is to the Vocational Education Act of 1963, as amended by Title II of the Education Amendments of 1976 (Pub. L. 94-482), as further amended by Pub. L. 95-40, unless otherwise noted. Citation to another act refers to the other act by name or other designation. For example, "section 434 of GEPA" is a citation to section 434 of the General Education Provisions Act. Citation to the United States Code, for example "(20 U.S.C. 2301)," generally follows a citation to a section of the Act.

It is important to note that a citation standing alone means that the regulation closely follows the section of the Act cited, with only minor editorial simplification. Where language is added in the regulation in order to interpret the Act, the citation reads "(Interprets Sec. ----)." Where the regulation implements the Act, such as when criteria are set forth, the citation reads "(Implements Sec. ----)."

INTERNAL FEDERAL MATTERS NOT REGULATED

The requirements of the Act relating to matters of internal Federal administration are not set forth in the regulations. For example, these regulations do not repeat the statutory requirement that the President appoint members of the National Advisory Council on Vocational Education (section 163 of the Act). Likewise, the regulations do not address the following: (a) The establishment and duties of the Bureau of Occupational and Adult Education (section 160 of the Act); (b) the requirement that the Commissioner make findings and suggestions in relation to State plans (section 112(a)(1) of the Act); (c) the requirement that the Bureau of Occupational and Adult Education (BOAE) review and analyze the programs in at least 10 States a year (section 112(a)(2) of the Act); (d) the requirement that the HEW Audit Agency conduct fiscal audits within the same States in which BOAE conducts its reviews (section 112(a)(2) of the Act); (e) the requirement that the Commissioner file an annual report with Congress (section 112(c) of the Act); and (f) the duties of the National Occupational Information Coordinating Committee (section 161(b) of the Act).

To conclude, in general terms, matters of internal Federal administration appearing in the Act under "Federal and State Evaluation" (section 112 of the Act) and "Federal Administration" (sections 160-162 of the Act) are not set forth in the regulations.

The Act provides for appeal to the United States Court of Appeals in several instances, including an appeal from the Commissioner's findings of noncompliance with the State plan (section 109(d)). Since an appeal to the courts is a legal matter to be handled by attorneys, the procedures for appeal set forth in the Act are not repeated in the regulations.

The Commissioner's delegations of authority are not set forth in the regulations. Hence, when the regulations say "the Commissioner" will perform a function, the Commissioner's authority to perform this function may have been delegated to another official in the Office of Education.

Appendix A, containing definitions of terms, is set forth following the text of the regulations for Parts 104 and 105. Appendix B contains questions and answers raised by interested persons with respect to the implementation of the

Act. These questions raised important policy considerations and have legal significance. Following Appendix B, the comments, suggestions, and recommendations received during the rulemaking period and the responses to these comments are set forth as supplementary information.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: August 18, 1977.

JOHN ELLIS,
Acting Commissioner
of Education.

Approved: September 26, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education,
and Welfare.

(Catalog of Federal Domestic Assistance Program Nos. 13.493 Vocational Education—Basic Grants; 13.494 Consumer and Homemaking; 13.495 Program Improvement and Supportive Services; 13.498 Program Improvement Projects; 13.499 Special Needs; 13.500 State Advisory Councils; 13.503 Training and Development Awards for Vocational Education Personnel—Leadership Development Awards; 13.558 Bilingual Vocational Training; 13.566 Bilingual Vocational Instructor Training; 13.587 Bilingual Vocational Instructional Materials, Methods, and Techniques; 13.588 Vocational Education Contract Program for Indian Tribes and Indian Organizations; (to be assigned), Training and Development Awards for Vocational Education Personnel—Vocational Education Certification Fellowships.)

PART 100a—DIRECT PROJECT GRANT AND CONTRACT PROGRAMS

1. In part 100a, § 100a.10(a)(11) and § 100a.10(a)(26) (relating to programs under the Education Professions Development Act) are amended to read as follows:

§ 100a.10 Scope.

(a) *

(11) Programs of contracts with Indian tribal organizations under section 103(A)(1)(B), programs of national significance under sections 171 and 172 of subpart 2 of Part B; programs of bilingual vocational training under sections 181-189B of subpart 3 of Part B; and programs of emergency assistance for remodeling and renovation of vocational education facilities under sections 191-194 of subpart 4 of Part B, of Title I of the Vocational Education Act of 1963, as amended by section 202 of Pub. L. 94-482 (20 U.S.C. 2303(a)(1)(B), 2401, 2402; 2411-2421; 2411-2444).

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(26) Teacher Corps and Teacher Training Programs under Title V of the Higher Education Act of 1965, as amended by sections 151-153 of Pub. L. 94-482 (20 U.S.C. 1102-1104, 1119-1119a-1).

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PART 100b—STATE ADMINISTERED PROGRAMS

2. In Part 100b, § 100b.10(f) is amended to read as follows:

§ 100b.10 Scope.

(f) State vocational education programs under sections 101-150 of Part A of Title I of the Vocational Education Act of 1963, as amended (20 U.S.C. 2301-2380).

PART 100c—INDIRECT COSTS UNDER CERTAIN PROGRAMS

3. In Part 100c, § 100c.1(f) is amended to read as follows:

§ 100c.1 Scope.

(f) State vocational education programs under sections 101-150 of Part A of Title I of the Vocational Education Act of 1963, as amended (20 U.S.C. 2301-2380).

4. New Parts 104 and 105 are added to read as follows:

PART 104—STATE VOCATIONAL EDUCATION PROGRAMS

Subpart 1—State Administration

Sec. 104.1 Scope.
104.2 Purpose.
104.3 Applicability of General Education Provisions Regulations.
104.4 Cross reference to definitions.
104.5 Requirements under Part B of the Education of the Handicapped Act.

STATE BOARD

104.31 Establishment of State board.
104.32 Responsibilities of the State board.
104.33 Delegation of functions.
104.34 State administration and leadership.

FULL-TIME PERSONNEL AND FUNCTIONS TO ELIMINATE SEX DISCRIMINATION AND SEX STEREOTYPING

104.71 Scope.
104.72 Selection of full-time personnel to eliminate sex discrimination and sex stereotyping.
104.73 Definitions.
104.74 Funds for full-time personnel and functions.
104.75 Functions of full-time personnel.
104.76 Studies to carry out functions.

STATE ADVISORY COUNCIL

104.91 Establishment and certification.
104.92 Membership.
104.93 Functions and responsibilities.
104.94 Meetings and rules.
104.95 Staff and services.
104.96 Fiscal control.
104.97 Annual evaluation report.

LOCAL ADVISORY COUNCILS

104.111 Establishment of local advisory councils.
104.112 Duties of local advisory councils.
104.116 Vocational education information data system.

NATIONAL AND STATE OCCUPATIONAL INFORMATION COORDINATING COMMITTEES

104.121 Establishment of National Occupational Information Coordinating Committee.

Sec. 104.122 Requirement to establish State occupational information coordinating committees.
104.123 Duties of the State occupational information coordinating committee.

GENERAL APPLICATION

104.141 Requirement for filing a general application.

DEVELOPMENT OF FIVE-YEAR STATE PLAN

104.161 Submission of five-year State plan.
104.162 Representation required in the development of the five-year State plan.
104.163 Meetings of participating representatives.
104.164 State board adoption of the five-year State plan.
104.165 Public hearings on the five-year State plan.
104.171 Certification of plans.
104.181 Content of five-year State plan.
104.182 Procedures to assure compliance with the general application.
104.183 Assessment of employment opportunities.
104.184 Goals to meet employment needs.
104.185 Funding to meet employment needs.
104.186 Funding to meet program (purpose) needs.
104.187 Policies for eradicating sex discrimination.
104.188 Coordination between manpower training programs and vocational education programs.

DEVELOPMENT OF ANNUAL PROGRAM PLAN AND ACCOUNTABILITY REPORT

104.202 Due date of annual program plan.
104.203 Due date of annual accountability report.
104.204 Representation required in the development of the annual program plan and accountability report.
104.205 Meetings of participating representatives.
104.206 State board adoption of the annual program plan and accountability report.
104.207 Public hearing on the annual program plan and accountability report.
104.221 Content of annual program plan for fiscal year 1978.
104.222 Content of annual program plans for the fiscal years following 1978.
104.241 Content of the accountability report.

APPROVAL OF FIVE-YEAR STATE PLAN AND ANNUAL PROGRAM PLAN AND ACCOUNTABILITY REPORT

104.261 Conditions for approval of five-year State plan.
104.262 Conditions for approval of annual program plan and accountability report.
104.263 Notice of approval or disapproval.

WITHHOLDING OF APPROVAL OF PLAN

104.271 Disapproval of plan.

HEARINGS BEFORE THE COMMISSIONER ON AGENCY OR COUNCIL CHALLENGES TO THE FIVE-YEAR STATE PLAN OR THE ANNUAL PROGRAM PLAN

104.281 Opportunity for a hearing.
104.282 Appeal to the Commissioner.
104.283 Hearing.
104.284 Prehearing.
104.285 Right to counsel, witnesses, cross examination.
104.286 Evidence and standard of evidence.

Sec. 104.287 Determinations to be made by the hearing officer.
104.288 Commissioner's decision.
104.289 Appeals by State board or agency to the court of appeals.

SUSPENSION AND TERMINATION OF PAYMENTS FOR NONCOMPLIANCE

104.291 Suspension and termination of payments for noncompliance.

APPEAL TO THE COURTS

104.292 Appeal by State board on withholding of approval of State plan.
104.293 Appeal by eligible recipients to the court of appeals.

FISCAL REQUIREMENTS FEDERAL SHARE

104.301 Application of Federal requirements.
104.302 Federal share of expenditures—annual program plan.
104.303 Federal share of expenditures—national priority programs.
104.304 Allowable expenditures for vocational education for national priority programs.
104.305 Federal share of expenditures—100 percent payments.
104.306 Federal share of expenditures—State administration.
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MINIMUM PERCENTAGES

104.311 Percentage requirements with respect to State distribution of Federal funds.
104.312 Minimum percentage for the handicapped.
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104.314 Minimum percentage for postsecondary and adult.
104.315 Expenditures for programs in secondary schools.

MAINTENANCE OF EFFORT

104.321 Maintenance of fiscal effort at the State level.
104.322 Withholding of payments.
104.323 Five percent rule.
104.324 Unusual circumstance rule.
104.325 Maintenance of fiscal effort at the local level.
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104.328 Maintenance of fiscal effort by postsecondary educational institutions.
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STATE EVALUATION

104.401 Purpose.
104.402 Evaluation by State board.
104.403 Use of results of evaluation.
104.404 Special data on completers and leavers.

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Subpart 2—Basic Grants

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104.501 Authorization of grants.
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104.511 Use of funds.
104.512 Vocational instruction.
104.513 Activities of vocational education student organizations.
104.514 Vocational instruction under contract.
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WORK STUDY PROGRAMS

Sec. 104.521 Use of funds.
104.522 Policy and procedure for work-study programs.
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COOPERATIVE VOCATIONAL EDUCATION PROGRAMS

104.531 Use of funds.
104.532 Assurances in five-year State plan.
104.533 Students in nonprofit private schools.

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104.541 Use of funds.
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CONSTRUCTION OF AREA VOCATIONAL EDUCATION SCHOOL FACILITIES

104.551 Use of funds.
104.552 Types of facilities.
104.553 Construction requirements.

PROVISION OF STIPENDS

104.571 Use of funds.
104.572 Restrictions on payment of stipends.
104.573 Application for payment of stipends by eligible recipients.
104.574 Rates for stipends.

PLACEMENT SERVICES FOR STUDENTS WHO HAVE SUCCESSFULLY COMPLETED VOCATIONAL EDUCATION PROGRAMS

104.581 Use of funds.
104.582 Restrictions on placement services.
104.583 Application for funds by eligible recipients.

INDUSTRIAL ARTS

104.591 Use of funds.
104.592 Industrial arts programs.

SUPPORT SERVICES FOR WOMEN

104.601 Use of funds.
104.602 Types of support services.
104.603 Support to increase number of women instructors.

DAY CARE SERVICES FOR CHILDREN OF STUDENTS

104.611 Use of funds.
104.612 Day care services.

VOCATIONAL EDUCATION PROGRAMS FOR DISPLACED HOMEMAKERS AND OTHER SPECIAL GROUPS

104.621 Use of funds.
104.622 Scope of programs.

CONSTRUCTION AND OPERATION OF RESIDENTIAL VOCATIONAL SCHOOLS

104.631 Use of funds.
104.632 Residential vocational schools.
104.633 Special considerations for residential vocational schools.
104.634 Construction requirements.

Subpart 3—Program Improvement and Supportive Services

PROGRAM IMPROVEMENT

104.702 Purpose.
104.703 Research coordinating unit.
104.704 Contract requirements.
104.705 Use of funds for research programs.
104.706 Use of funds for exemplary and innovative programs.
104.707 Disposition of exemplary and innovative programs.
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- Sec.
104.761 Purpose.
104.762 Conformity with five-year State plan.
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VOCATIONAL EDUCATION PERSONNEL TRAINING

- 104.771 Purpose.
104.772 Conformity with five-year State plan.
104.773 Eligible participants.
104.774 Types of training.
104.775 Grants or contracts.
104.776 Stipends to trainees.

GRANTS TO OVERCOME SEX BIAS AND SEX STEREOTYPING

- 104.791 Purpose.
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Subpart 4—Special Programs for the Disadvantaged

- 104.801 Grants to States for special programs for the disadvantaged.
104.802 Use of funds.
104.803 Students in nonprofit private schools.
104.804 Criteria of need and eligibility.

Subpart 5—Consumer and Homemaking Education

- 104.901 Grants to States for consumer and homemaking education.
104.902 Use of funds.
104.903 Programs in consumer and homemaking education.
104.904 Purpose of educational programs in consumer and homemaking education.
104.905 Ancillary services.
104.906 Federal share.

AUTHORITY: Secs. 101-195 of Title II of Pub. L. 94-482 as further amended by Pub. L. 95-40 (20 U.S.C. 2301 to 2461), unless otherwise noted.

Subpart 1—State Administration

§ 104.1 Scope.

Part 104 contains regulations interpreting or implementing Part A of Title I of the Vocational Education Act of 1963, as amended by Title II of the Education Amendments of 1976, Pub. L. 94-482 (referred to as "the Act").

(Secs. 101 through 150, 195; 20 U.S.C. 2301.)

§ 104.2 Purpose.

(a) The purpose of Part A of the Act, as stated in section 101 of the Act, the "Declaration of Purpose," is to assist States in improving planning in the use of all resources available to the States for vocational education and manpower training by involving a wide range of agencies and individuals concerned with education and training within the State in the development of the vocational education plans.

It is also the purpose of this part to authorize Federal grants to States to assist them—

- (1) To extend, improve, and, where necessary, maintain existing programs of vocational education,
- (2) To develop new programs of vocational education,

(3) To develop and carry out such programs of vocational education within each State so as to overcome sex discrimination and sex stereotyping in vocational education programs (including programs of homemaking), and thereby furnish equal educational opportunities in vocational education to persons of both sexes, and

(4) To provide part-time employment for youths who need the earnings from such employment to continue their vocational training on a full-time basis, so that persons of all ages in all communities of the State, those in high school, those who have completed or discontinued their formal education and are preparing to enter the labor market, those who have already entered the labor market, but need to upgrade their skills or learn new ones, those with special educational handicaps, and those in postsecondary schools, will have ready access to vocational training or retraining which is of high quality, which is realistic in the light of actual or anticipated opportunities for gainful employment, and which is suited to their needs, interests, and ability to benefit from such training.

(b) The purpose of these regulations is to assist the States, local educational agencies, postsecondary institutions, and other institutions capable of carrying out vocational education programs, to administer the federally assisted State programs of vocational education under the Act.

(Sec. 101; 20 U.S.C. 2301.)

§ 104.3 Applicability of General Education Provisions Regulations.

Provisions in Parts 100, 100b, and 100c of the General Education Provisions Regulations (45 CFR Parts 100, 100b, and 100c), entitled "General Provisions for Office of Education Programs," are applicable to programs under the Act, except for the following sections:

- (a) Section 100b.16—Implementation of application procedures;
- (b) Section 100b.18—General application;
- (c) Section 100b.18—Annual program plan;
- (d) Section 100b.19—State plan requirements;
- (e) Section 100b.35(b)—Effective dates of application, plans, and amendments;
- (f) Section 100b.92(b)—Matching and cost sharing;
- (g) Section 100b.93—Valuation of in-kind contributions from third parties; and
- (h) Section 100b.94—Supporting records for in-kind contributions from third parties.

(20 U.S.C. 2301 et seq.)

§ 104.4 Cross reference to definitions.

Definitions necessary for the understanding of Parts 104 and 105 are set forth in Part C of Title I of the Act (section 195 of the Act) and as Appendix A at the end of Part 105 or these regulations. Some additional definitions necessary for the understanding of Part 105 appear in Part 105.

(Sec. 195; 20 U.S.C. 2461.)

§ 104.5 Requirements under Part B of the Education of the Handicapped Act.

(a) Regulations under Part B of the Education of the Handicapped Act are located in 45 CFR Part 121a.

(20 U.S.C. 1417(b).)

(b) Section 612(6) of the Education of the Handicapped Act requires that the State educational agency be responsible for ensuring that all educational programs for handicapped children within the State, including all of those programs administered by any other State or local agency, are under the general supervision of persons responsible for educational programs for handicapped children in the State educational agency.

(20 U.S.C. 1412(6).)

(c) Section 613(a)(2) of the Education of the Handicapped Act requires each State to insure that funds provided under this part to assist in the education of handicapped children are used only in a manner consistent with a goal of providing a free appropriate public education for all handicapped children.

(d) Paragraph (c) of this section does not limit the requirements of this Part or the statutes under which this part is authorized.

(20 U.S.C. 1413(a)(2).)

(e) Section 612(6) of the Education of the Handicapped Act requires that any activity to assist the education of handicapped children under this Part shall meet the educational standards of the State educational agency.

(20 U.S.C. 1412(6).)

(f) Section 616(a)(2)(B) of the Education of the Handicapped Act provides that the Commissioner may withhold payments available under this Part for assisting the education of handicapped children:

- (1) For failure to comply substantially with any provision of section 612 or 613 of the Education of the Handicapped Act; or
- (2) In the administration of the annual program plan under Part B of the Education of the Handicapped Act for failure to comply with:

- (i) Any provision of Part B of the Education of the Handicapped Act; or
- (ii) Any requirements in the application of a local educational agency or intermediate educational unit approved by the State educational agency under that annual program plan.

(g) The Commissioner will use the notice and hearing procedures in section 616 of the Education of the Handicapped Act before withholding payments under this section.

(20 U.S.C. 1416.)

STATE BOARD

§ 104.31 Establishment of State board.

(a) A State desiring to participate in programs under the Act shall, consistent with State law, designate or establish a

State board or agency which shall be the sole State agency responsible for the administration, or for the supervision of administration, of programs under the Act.

(b) The State board is solely accountable to the Commissioner for the State's expenditure of Federal vocational education funds.

(Sec. 104(a)(1); 20 U.S.C. 2304; Sen. Rept. No. 94-882, p. 72.)

§ 104.32 Responsibilities of the State board.

The responsibilities of the State board include (but are not limited to):

(a) Coordination of the development of policy with respect to programs under the Act (as set forth in §§ 104.162, 104.163, 104.204, and 104.205);

(b) Coordination of the development of the five-year State plan (as set forth in § 104.181), the annual program plan (as set forth in §§ 104.221 and 104.222), and the accountability report (as set forth in § 104.241);

(c) The submission to the Commissioner of the five-year State plan, the annual program plan, and the accountability report; and

(d) Consultation with the State advisory council on vocational education and with other State agencies, councils, and individuals (as set forth in § 104.162).

(Sec. 104(a)(1) (A), (B), and (C); 20 U.S.C. 2304.)

(e) Cooperation with the Administrator of the National Center for Educational Statistics in the development and submission of information required for a national vocational education data reporting and accounting system.

(Sec. 161(a); 20 U.S.C. 2391.)

§ 104.33 Delegation of functions.

The State board may delegate any of its responsibilities (except those responsibilities set forth in § 104.32), in whole or in part, to one or more appropriate agencies.

(Sec. 104(a)(1); 20 U.S.C. 2304.)

§ 104.34 State administration and leadership.

The State board shall provide for a State staff sufficiently qualified by education and experience and in sufficient numbers to enable the State board to carry out its functions under the State plan. The State board staff shall include a full-time State director.

(Implements sec. 104(a)(1) and sec. 106(a)(1).)

FULL-TIME PERSONNEL AND FUNCTIONS TO ELIMINATE SEX DISCRIMINATION AND SEX STEREOTYPING

§ 104.71 Scope.

Sections 104.72 through 104.76 apply only to the fifty States and the District of Columbia. (These sections do not apply to the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, Northern Mariana Islands,

or the Trust Territory of the Pacific Islands.)

(Sec. 104(b)(3); 20 U.S.C. 2304.)

§ 104.72 Selection of full-time personnel to eliminate sex discrimination and sex stereotyping.

(a) A State desiring to participate in the programs authorized by the Act shall select personnel to work full time to assist the State board in fulfilling the purposes of the Act concerned with:

(1) Furnishing equal educational opportunities in vocational education programs to persons of both sexes; and

(2) Eliminating sex discrimination and sex stereotyping from all vocational education programs.

(Secs. 101(3), 104(b)(1); 20 U.S.C. 2301, 2304.)

(b) In selecting the full-time professional personnel, the State shall match the qualifications of the applicants with the responsibilities of the job.

(Implements Sec. 104(b)(1); 20 U.S.C. 2304.)

§ 104.73 Definitions.

The following definitions apply for the purposes of §§ 104.72 through 104.76 and throughout the Act and regulations.

(a) "Sex bias" means behaviors resulting from the assumption that one sex is superior to the other.

(b) "Sex stereotyping" means attributing behaviors, abilities, interests, values, and roles to a person or group of persons on the basis of their sex.

(c) "Sex discrimination" means any action which limits or denies a person or a group of persons opportunities, privileges, roles, or rewards on the basis of their sex.

(Implements Sec. 104(b); 20 U.S.C. 2304.)

§ 104.74 Funds for full-time personnel and functions.

(a) Each State shall expend not less than \$50,000 in each fiscal year from funds available under basic grants (section 120 of the Act) to support the personnel working full time to carry out the functions set forth in § 104.75.

(Secs. 104(b)(2), 120(b)(1)(F); 20 U.S.C. 2304, 2330.)

(b) Funds set aside under paragraph (a) of this section shall be used for:

- (1) Salaries for full-time professional staff;
- (2) Salaries for support staff; and
- (3) Travel and other expenses directly related to the support of personnel in carrying out the functions set forth in § 104.75.

(Implements Sec. 104(b); 20 U.S.C. 2304.)

§ 104.75 Functions of full-time personnel.

Personnel designated under § 104.72 shall work full time to:

(a) Take action necessary to create awareness of programs and activities in vocational education designed to reduce sex bias and sex stereotyping in all voca-

tional education programs, including assisting the State board in publicizing the public hearings on the State plan in accordance with § 104.165(a);

(b) Gather, analyze, and disseminate data on the status of men and women students and employees in vocational education programs of the State;

(c) Develop and support actions to correct problems brought to the attention of this personnel through activities carried out under paragraph (b) and § 104.76, including creating awareness of the Title IX complaint process;

(d) Review the distribution of grants and contracts by the State board to assure that the interests and needs of women are addressed in all projects assisted under this Act;

(e) Review all vocational education programs (including work-study programs, cooperative vocational education programs, apprenticeship programs, and the placement of students who have successfully completed vocational education programs) in the State for sex bias;

(f) Monitor the implementation of laws prohibiting sex discrimination in all hiring, firing, and promotion procedures within the State relating to vocational education;

(g) Assist local educational agencies and other interested parties in the State in improving vocational education opportunities for women; and

(h) Make available to the State board, the State advisory council, the National Advisory Council on Vocational Education, the State Commission on the Status of Women, the Commissioner, and the general public, including individuals and organizations in the State concerned about sex bias in vocational education, information developed under this section;

(Sec. 104(b)(1); 20 U.S.C. 2304.)

(i) Review the self-evaluations required by Title IX; and

(Implements Sec. 104(b)(1); 20 U.S.C. 2304.)

(j) Review and submit recommendations with respect to overcoming sex bias and sex stereotyping in vocational education programs for the five-year State plan and its annual program plan prior to their submission to the Commissioner for approval.

(Secs. 104(b)(1), 109(a)(3)(B); 20 U.S.C. 2304, 2309.)

§ 104.76 Studies to carry out functions.

A State may use funds available under section 130 of the Act to support studies necessary to carry out the functions set forth in § 104.75.

(Implements Sec. 104(b)(1); 20 U.S.C. 2304.)

STATE ADVISORY COUNCIL

§ 104.91 Establishment and certification.

(a) *Establishment.* A State which desires to receive funds under the Act and the regulations in this part for any fiscal year shall establish a State advisory council. The council shall be appointed

by the Governor or, in a State in which the members of the State board are elected, by the State board itself.

(Sec. 105(a); 20 U.S.C. 2305.)

(b) *Appointment by the State board.* In order for the appointment power to be vested in the State board, under the authority of paragraph (a) of this section, a majority of its members must be individuals elected by the State legislature or directly by the eligible voters of the State or of the districts which the individuals represent.

(Interprets Sec. 105(a); 20 U.S.C. 2305.)

(c) *Certification.* The appointing authority, required by paragraph (a) of this section, shall certify to the Commissioner the establishment and membership of its State advisory council not less than 90 calendar days before the beginning of each fiscal year.

(Sec. 105(b); 20 U.S.C. 2305.)

§ 104.92 Membership.

(a) *Required representation.* The membership of the State advisory council shall include one or more individuals who:

(1) Represent, and are familiar with, the vocational needs and problems of management in the State;

(2) Represent, and are familiar with, the vocational needs and problems of labor in the State;

(3) Represent, and are familiar with, the vocational needs and problems of agriculture in the State;

(4) Represent State industrial and economic development agencies;

(5) Represent community and junior colleges;

(6) Represent other institutions of higher education, area vocational schools, technical institutes, and postsecondary agencies or institutions which provide programs of vocational or technical education and training;

(7) Have special knowledge, experience, or qualifications with respect to vocational education but are not involved in the administration of State or local vocational education programs;

(8) Represent, and are familiar with, public programs of vocational education in comprehensive secondary schools;

(9) Represent, and are familiar with, nonprofit private schools;

(10) Represent, and are familiar with, vocational guidance and counseling services;

(11) Represent State correctional institutions;

(12) Are vocational education teachers presently teaching in local educational agencies;

(13) Are currently serving as superintendents or other administrators of the local educational agencies;

(14) Are currently serving on local school boards;

(15) Represent the State Manpower Services Council established pursuant to section 107 of the Comprehensive Employment and Training Act of 1973;

(16) Represent school systems with large concentrations of persons who have special academic, social, economic, and cultural needs and of persons who have limited English-speaking ability;

(17) Are women with backgrounds and experiences in employment and training programs, and who are knowledgeable with respect to the special experiences and problems of sex discrimination in job training, and employment, and of sex stereotyping in vocational education, including women who are members of minority groups having special knowledge of the problems of discrimination in job training and employment against women in minority groups;

(18) Have special knowledge, experience, or qualifications with respect to the special educational needs of physically or mentally handicapped persons;

(19) Represent the general public, including at least one person representing and knowledgeable about the poor and disadvantaged; and

(20) Are vocational education students who are not qualified for membership under any of the preceding clauses of this sentence.

(Sec. 105(a); 20 U.S.C. 2305.)

(b) *Special considerations.* The appointing authority, pursuant to paragraph (a) of this section, shall insure that:

(1) The State advisory council has as a majority of its members persons who are not educators or administrators in the field of education;

(2) Members of the State advisory council do not represent more than one category;

(Sec. 105(a); 20 U.S.C. 2305.)

(3) There is appropriate representation of both sexes, racial and ethnic minorities, and the various geographic regions of the State. The Commissioner considers the term "appropriate representation" to be representation which generally reflects the percentage of women or minorities in the population of the State or the percentage of women or minorities in the work force of the State.

(Implements Sec. 105(a); 20 U.S.C. 2305.)

(4) In order to avoid any conflict of interest, the membership of the State advisory council excludes members of the State board and members of its staff who are directly involved in State administration of vocational education.

(Implements Sec. 105(d), (e); 20 U.S.C. 2305.)

(c) *Term of appointment.* Members of the State advisory council shall be appointed for terms of three years except that:

(1) In the case of the members appointed for fiscal year 1978, one-third of the membership shall be appointed for terms of one year each and one-third shall be appointed for terms of two years each;

(2) An appointment to fill a vacancy shall be for the term that remains unexpired; and

(Sec. 105(a); 20 U.S.C. 2305.)

(3) Members serving on the State advisory council on October 1, 1977, may continue to serve for the terms for which they were appointed, but for not more than two fiscal years unless reappointed.

(Sec. 204(b); 20 U.S.C. 2301 note.)

§ 104.93 Functions and responsibilities.

The State advisory council shall:

(a) Advise the State board in the development of the five-year State plan submitted under the authority of § 104.181, the annual program plan submitted under the authority of §§ 104.221, and 104.222, and the accountability report submitted under the authority of § 104.241. A statement describing its consultation with the State board shall be submitted with the five-year State plan, and the annual program plan and accountability report under § 104.171(f).

(Sec. 105(d)(1); 20 U.S.C. 2305.)

(b) Advise the State board on policy matters arising out of the administration of programs under the approved five-year State plan, the annual program plan, and the accountability report;

(Sec. 105(d)(1); 20 U.S.C. 2305.)

(c) Evaluate vocational education programs (including programs to overcome sex bias), services, and activities under the annual program plan, and publish and distribute the results thereof;

(Sec. 105(d)(2); 20 U.S.C. 2305.)

(d) Assist the State board in developing plans for State board evaluations under the authority of § 104.401 and monitor these evaluations;

(Sec. 112(b)(2); 20 U.S.C. 2312.)

(e) Prepare and submit through the State board to the Commissioner and to the National Advisory Council an annual evaluation report, accompanied by any additional comments of the State board as the State board deems appropriate;

(Sec. 105(d)(3); 20 U.S.C. 2305.)

(f) Identify, after consultation with the State Manpower Services Council, the vocational education and employment and training needs of the State and assess the extent to which vocational education, employment training, vocational rehabilitation, special education, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting these needs;

(Interprets Sec. 105(d)(4)(A); 20 U.S.C. 2305.)

(g) Comment, at least annually, on the reports of the State Manpower Services Council;

(Sec. 105(d)(4)(B); 20 U.S.C. 2305.)

(h) Prepare and submit to the Commissioner within 60 calendar days after the Commissioner's acceptance of certification of establishment and membership, submitted pursuant to § 104.91(c), an annual budget covering the proposed

expenditures of the State advisory council for the following fiscal year; and

(Implements Sec. 105(f); 20 U.S.C. 2305.)

(i) Provide technical assistance to eligible recipients and local advisory councils as may be requested by the recipients to establish and operate local advisory councils.

(Sec. 105(g); 20 U.S.C. 2305.)

§ 104.94 Meetings and rules.

The State advisory council shall meet within 30 calendar days after certification has been accepted by the Commissioner and shall select from among its membership a chairperson. The time, place, manner of meetings, as well as the councils operating procedures and staffing, shall be as provided by the rules of the State advisory council. The rules shall provide for not less than one public meeting each year at which the public is given an opportunity to express views concerning the vocational education program of the State.

(Sec. 105(c); 20 U.S.C. 2305.)

§ 104.95 Staff and services.

(a) The State advisory council is authorized:

(1) To obtain the services of professional, technical, and clerical personnel as may be necessary to enable it to carry out its functions described in § 104.93. Such personnel shall not include staff members of the State board and shall be subject only to the supervision and direction of the State advisory council with respect to all services performed by them.

(2) To contract for such services as may be necessary to carry out its evaluation functions, independent of programmatic and administrative control by other State boards, agencies, and individuals.

(Implements sec. 105(e); 20 U.S.C. 2305.)

(b) Members of the State advisory council and its staff, while serving on the business of the council, may receive subsistence, travel allowances, and compensation in accordance with State law, regulations, and practices applicable to persons performing comparable duties and services.

(Implements Sec. 105(e); 20 U.S.C. 2305.)

§ 104.96 Fiscal control.

(a) The State advisory council shall designate an appropriate State agency or other public agency, eligible to receive funds under the Act, to act as its fiscal agent for purposes of disbursement and accounting and for having its accounts audited at least every two years. The fiscal agent shall send a copy of the audit report to the Commissioner.

(Implements Sec. 105(f)(2); 20 U.S.C. 2305.)

(b) The expenditure of council funds is determined solely by the State advisory council for carrying out its function except as provided in § 104.95(b). Council funds may not be diverted or reprogrammed for any other purpose by any State board, agency, or individual.

(Sec. 105(f)(2); 20 U.S.C. 2305.)

(c) All expenditures of council funds shall be in accordance with the budget approved by the Commissioner under the authority of § 104.93(h).

(Implements Sec. 105(f)(2); 20 U.S.C. 2305.)

(d) The State advisory council shall submit to the Commissioner a financial status report within 90 days after the end of the fiscal year.

(45 CFR 100b.403.)

§ 104.97 Annual evaluation report.

The State advisory council shall prepare and submit to the Commissioner and to the National Advisory Council on Vocational Education, through the State board, within 90 days after the end of the fiscal year an annual evaluation report under the authority of § 104.93(e). This report shall include:

(a) The results of the evaluations by the State advisory council of the effectiveness of programs, services, and activities carried out in the year under review in meeting the program goals set forth in the five-year State plan and the annual program plan.

(Sec. 105(d)(3)(A); 20 U.S.C. 2305.)

(b) A review of the program evaluation results developed by the State under the authority of § 104.401;

(c) A review of the analysis of the distribution of Federal funds within the State submitted by the State according to the annual program plan and the accountability report;

(Sec. 105(d)(3)(A); 20 U.S.C. 2305.)

(d) Recommended changes in programs, services, and activities as may be considered necessary by the State advisory council based on the results of its evaluation;

(Sec. 105(d)(3)(B); 20 U.S.C. 2305.)

(e) Comments on the reports of the State Manpower Services Council; and

(Sec. 105(d)(4)(B); 20 U.S.C. 2305.)

(f) Identification of the vocational education and employment and training needs of the State and the assessment of the extent to which vocational education, employment training, vocational rehabilitation, special education, and other programs assisted under this and related Acts represent a consistent, integrated, and coordinated approach to meeting such needs.

(Sec. 105(d)(4)(A); 20 U.S.C. 2305.)

LOCAL ADVISORY COUNCILS

§ 104.111 Establishment of local advisory councils.

(a) Each eligible recipient (that is, each local educational agency or postsecondary educational institution which receives Federal assistance under the Act) shall establish a local advisory council on vocational education.

(b) The local advisory council may be established for:

(1) Program areas;

(2) Schools;

(3) The community; or

(4) The region in which the eligible recipient is located.

(c) The local advisory council shall be composed of representatives of the general public including at least a representative of:

(1) Business;

(2) Industry; and

(3) Labor.

(Sec. 105(g)(1); 20 U.S.C. 2305.)

(d) Each eligible recipient shall establish a local advisory council which has an appropriate representation of both sexes and an appropriate representation of the racial and ethnic minorities found in the program areas, schools, community, or region which the local advisory council serves.

(e) An eligible recipient may form a local advisory council composed of representatives from several craft committees, or representatives of several school councils, having the requisite representation in paragraph (c) of this section.

(Implements Sec. 105(g)(1); 20 U.S.C. 2305.)

§ 104.112 Duties of local advisory councils.

(a) The local advisory council shall advise the eligible recipient on:

(1) Current job needs; and

(2) The relevance of programs (courses) being offered by the local educational agency or postsecondary educational agency in meeting current job needs.

(Sec. 105(g)(1); 20 U.S.C. 2305.)

(b) The local advisory council shall consult with the eligible recipient in developing its application to the State board.

(Sec. 105(a)(4)(A); 20 U.S.C. 2306.)

VOCATIONAL EDUCATION INFORMATION DATA SYSTEM

§ 104.116 Vocational education data system.

(a) The Commissioner and the Administrator of NCES will jointly develop information elements and uniform definitions for a national vocational education data reporting and accounting system.

(b) This system will include information resulting from the evaluations under section 112(b) of the Act (§§ 104.402 and 104.404) and other information on vocational:

(1) Students (including information on their race and sex);

(2) Programs;

(3) Program completers and leavers;

(4) Staff;

(5) Facilities; and

(6) Expenditures.

(c) This system will be compatible insofar as possible with the occupational information data system developed under section 161(b) of the Act by the National Occupational Information Coordinating Committee and with other in-

formation systems involving data on programs assisted under CETA.

(Interprets 161(a); 20 U.S.C. 2391.)

NATIONAL AND STATE OCCUPATIONAL INFORMATION COORDINATING COMMITTEES

§ 104.121 Establishment of National Occupational Information Coordinating Committee.

Section 161(b) of the Act establishes a National Occupational Information Coordinating Committee composed of the Commissioner of Education and the Administrator of the National Center for Education Statistics, from the Department of Health, Education, and Welfare, and the Assistant Secretary of Labor for Employment and Training and the Commissioner of the Bureau of Labor Statistics, from the Department of Labor.

(Sec. 161(b); 20 U.S.C. 2391(b).)

§ 104.122 Requirement to establish State occupational information coordinating committees.

(a) Each State receiving assistance under the Act is required by section 161(b)(2) of the Act to establish a State occupational information coordinating committee by September 30, 1977.

(Implements Sec. 161(b)(2); 20 U.S.C. 2391.)

(b) The State occupational information coordinating committee shall be composed of a representative of each of the following:

- (1) The State board;
- (2) The State employment security agency;
- (3) The State Manpower Services Council; and
- (4) The agency administering the vocational rehabilitation program.

(Sec. 161(b)(2); 20 U.S.C. 2391.)

(c) The representatives shall be selected by the respective State board, agency, or council.

(Implements Sec. 161(b)(2); 20 U.S.C. 2391.)

(Implements Secs. 103(a)(1)(A), 161(b)(2); 20 U.S.C. 2302, 2391)

§ 104.123 Duties of the State occupational information coordinating committee.

(a) The State occupational information coordinating committee, with funds available to it from the National Occupational Information Coordinating Committee shall implement an occupational information system in the State which will meet the common needs for the planning for, and operation of, programs of the State board assisted under this Act and of the administering agencies under the Comprehensive Employment Training Act.

(Sec. 161(b)(2); 20 U.S.C. 2391.)

(b) A State occupational information coordinating committee shall use funds received from the National Occupational Information Coordinating Committee in accordance with guidance, direction or standards adopted by the National Oc-

cupational Information Coordinating Committee.

(Implements Sec. 161(b)(2); 20 U.S.C. 2391.)

GENERAL APPLICATION

§ 104.141 Requirement for filing a general application.

(a) In order to participate in programs authorized under the Act, the State board for vocational education must submit to, and maintain on file with, the Commissioner a general application.

(Sec. 106(a); 20 U.S.C. 2306.)

(b) This general application must be signed by the executive officer of the State board and submitted by the State board to the Commissioner by July 1, 1977, for eligibility for Federal funds under the Act.

(c) This general application is filed only once with the Commissioner and shall remain in effect until the provisions of section 106 of the Act are changed or expire.

(Implements Sec. 106(a); 20 U.S.C. 2306; Sen. Rept. No. 94-882, pp. 68-72.)

(d) This general application is in lieu of the general application required by section 434(b) of the General Education Provisions Act.

(Sec. 106(b); 20 U.S.C. 2306.)

(e) The procedures to be used by the State board to carry out assurances 4, 5, 9, and 10 in the general application shall be included in the five-year State plan (§ 104.162).

(Implements Sec. 109(a)(1); 20 U.S.C. 2309.)

(f) This general application shall contain the following 12 assurances; of these, ten are set forth in section 106(a) of Act:

(1) that the State will provide for such methods of administration as are necessary for the proper and efficient administration of the Act;

(2) that the State board will cooperate with the State advisory council on vocational education in carrying out its duties pursuant to section 105 and with the agencies, councils, and individuals specified in sections 107 and 108 to be involved in the formulation of the five-year State plan and of the annual program plans and accountability reports;

(3) that the State will comply with any requests of the Commissioner for making such reports as the Commissioner may reasonably require to carry out his functions under this Act;

(4) that funds will be distributed to eligible recipients on the basis of annual applications which—

(A) have been developed in consultation (i) with representatives of the educational and training resources available in the area to be served by the applicant and (ii) with the local advisory council required to be established by this Act to assist such recipients,

(B) (i) describe the vocational education needs of potential students in the area or community served by the applicant and indicate how, and to what extent, the program proposed in the application will meet such needs, and (ii) describe how the findings of any evaluations of programs operated by such applicant during previous years, includ-

ing those required by this Act, have been used to develop the program proposed in the application,

(C) describe how the activities proposed in the application relate to manpower programs conducted in the area by a prime sponsor established under the Comprehensive Employment and Training Act of 1973, if any, to assure a coordinated approach to meeting the vocational education and training needs of the area or community, and

(D) describe the relationship between vocational education programs proposed to be conducted with funds under this Act and other programs in the area or community which are supported by State and local funds;

and that any eligible recipient dissatisfied with final action with respect to any application for funds under this Act shall be given reasonable notice and opportunity for a hearing;

(5) (A) that the State shall, in considering the approval of such applications, give priority to those applicants which—

(i) are located in economically depressed areas and areas with high rates of unemployment, and are unable to provide the resources necessary to meet the vocational education needs of those areas without Federal assistance, and

(ii) propose programs which are new to the area to be served and which are designed to meet new and emerging manpower needs and job opportunities in the area and, where relevant, in the State and the Nation; and

(B) that the State shall, in determining the amount of funds available under this Act which shall be made available to those applicants approved for funding, base such distribution on economic, social and demographic factors relating to the needs for vocational education among the various populations and the various areas of the State, except that—

(i) the State will use as the two most important factors in determining this distribution (I) in the case of local educational agencies, the relative financial ability of such agencies to provide the resources necessary to meet the need for vocational education in the areas they service and the relative number or concentration of low-income families or individuals within such agencies, and (II) in the case of other eligible recipients, the relative financial ability of such recipients to provide the resources necessary to initiate or maintain vocational education programs to meet the needs of their students and the relative number or concentration of students whom they serve whose education imposes higher than average costs, such as handicapped students, students from low-income families, and students from families in which English is not the dominant language; and

(ii) the State will not allocate such funds among eligible recipients within the State on the basis of per capita enrollment or through matching of local expenditures on a uniform percentage basis, or deny funds to any recipient which is making a reasonable tax effort solely because such recipient is unable to pay the non-Federal share of the cost of new programs;

(6) that Federal funds made available under this Act will be so used as to supplement, and to the extent practicable, increase the amount of State and local funds that would in the absence of such Federal funds be made available for the uses specified in the Act, and in no case supplant such State or local funds;

(7) that the State will make provision for such fiscal control and fund accounting procedures as may be necessary to secure proper disbursement of, and accounting for, Federal

funds paid to the State (including such funds paid by the State to eligible recipients under this Act);

(8) that funds received under this Act will not be used for any program of vocational education (except personnel training programs under section 135, renovation programs under subpart 4 of part B, and home-making programs under subpart 5 of this part) which cannot be demonstrated to prepare students for employment, be necessary to prepare individuals for successful completion of such a program, or be of significant assistance to individuals enrolled in making an informed and meaningful occupational choice as an integral part of a program of orientation and preparation;

(9) that the State has instituted policies and procedures to insure that copies of the State plan and annual program plan and accountability report and all statements of general policies, rules, regulations, and procedures issued by the State board and by any State agencies to which any responsibility is delegated by the State board concerning the administration of such plan and report will be made reasonably available to the public; and

(10) that the funds used for purposes of section 110(a) are consistent with the State plan submitted pursuant to section 613(a) of the Education of the Handicapped Act.

(Sec. 106(a); 20 U.S.C. 2306.)

(11) The State board shall also assure that it will cooperate with the Administrator of the National Center for Education Statistics, HEW, in supplying information and complying in its reports with the information elements and definition requirements, as specified in section 161(a) of the Act.

(Implements Sec. 161(a); 20 U.S.C. 2391.)

(12) The State board shall also assure that students served by Indian tribal organizations applying for or receiving funds under the Commissioner's discretionary programs, under authority of section 103(a)(1)(B) of the Act, shall be afforded the opportunity to participate in vocational education programs administered by the State.

(Implements Sec. 103(a)(1)(B); 20 U.S.C. 2303.)

DEVELOPMENT OF FIVE-YEAR STATE PLAN

§ 104.161 Submission of five-year State plan.

Any State desiring to receive funds under the Act shall submit to the Commissioner a five-year State plan by:

- (a) July 1, 1977, for fiscal years 1978 through 1982; and
- (b) July 1, 1982, for fiscal years 1983 through 1987.

(Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.162 Representation required in the development of the five-year State plan.

In formulating its five-year State plan, the State board is required to involve the active participation of a representative of:

(a) The State agency having responsibility for secondary vocational education programs, designated by that agency;

(b) The State agency, if a separate agency exists, having responsibility for postsecondary vocational education programs, designated by that agency;

(c) The State agency, if a separate agency exists, having responsibility for community and junior colleges, designated by that agency;

(d) The State agency, if a separate agency exists, having responsibility for institutions of higher education in the State, designated by that agency;

(Sec. 107(a)(1); 20 U.S.C. 2307.)

(e) A local school board or committee, as designated by the appropriate appointing authority under State law;

(Interprets Sec. 107(a)(1)(E); 20 U.S.C. 2307.)

(f) Vocational education teachers, as designated by the appropriate appointing authority under State law;

(Interprets Sec. 107(a)(1)(F); 20 U.S.C. 2307.)

(g) Local school administrators, as designated by the appropriate appointing authority under State law;

(Interprets Sec. 107(a)(1)(G); 20 U.S.C. 2307.)

(h) The State Manpower Services Council appointed under the authority of section 107(a)(2)(A)(i) of the Comprehensive Employment and Training Act of 1973, designated by that Council;

(i) The State agency or commission responsible for comprehensive planning in postsecondary education, which planning reflects programs offered by public, private nonprofit, and proprietary institutions, and includes occupational programs at a less-than-baccalaureate degree level, if a separate agency or commission exists, designated by that agency or commission; and

(j) The State advisory council on vocational education, designated by that council.

(Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.163 Meetings of participating representatives.

The State board shall convene, as a group, the representatives of the agencies, councils, and individuals specified in § 104.162 for at least four meetings during the development of the five-year State plan. These meetings will be convened to accomplish the following purposes:

(a) First meeting: To plan for the development of the first draft of the five-year State plan;

(b) Second meeting: To consider the first draft of the five-year State plan;

(c) Third meeting: To consider the draft of the five-year State plan after it has been rewritten to reflect the results of the second meeting of the planning group; and

(d) Fourth meeting: To recommend for adoption the final five-year State plan.

(Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.164 State board adoption of the five-year State plan.

(a) If the participating agencies, councils, and individuals are not able to agree upon the provisions of the five-year State plan, the State board will make a final decision.

(b) In accordance with § 104.171(b)(1), the State board shall include in the five-year State plan:

(1) Any recommendation which is rejected by the State board indicating its source (i.e., the name of the individual and agency or council affiliation); and

(2) The reasons of the State board for rejecting the recommendation.

(Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.165 Public hearings on the five-year State plan.

(a) In formulating the five-year State plan, the State board is required to conduct a series of public hearings. This series of public hearings shall be conducted:

(1) During the development, prior State plan;

(2) After giving sufficient public notice; and

(3) Throughout all regions of the State.

(b) The purpose of these public hearings is to provide the opportunity for all segments of the population of the State to give their views on:

(1) The goals which ought to be adopted in the State plan;

(2) The programs to be offered under the State plan;

(3) The allocation of responsibility for programs (courses) among the various levels of education and among the various institutions of the State; and

(4) The allocation of local, State, and Federal resources to meet these goals.

(c) In accordance with § 104.171(d), the State board shall include in the five-year State plan:

(1) The views expressed at the public hearings or comments submitted in writing;

(2) A description of how these views are reflected in the provisions of the five-year State plan; and

(3) The reasons for rejecting any view which is not accepted for inclusion in the five-year State plan.

(Sec. 107(a)(2); 20 U.S.C. 2307.)

§ 104.171 Certification of plans.

As used in this section, the term "plans" refers to the five-year State plan and the annual program plan and accountability report. The plans submitted shall include, as attachments, the following certifications:

(a) *Certification by the State attorney general.* The State attorney general, or other official designated in accordance with State law to advise the State board on legal matters, shall certify that the State board named in the plan is the sole agency which has authority under State law to submit the plan and to administer or supervise the administra-

tion of vocational education, and that all the plan's provisions with respect to the use of funds under the Act can be carried out by the State.

(Implements Sec. 104(a)(1); 20 U.S.C. 2304.)

(b) *Certification of involvement of designated agencies.*

(1) The State board shall certify that each of the agencies, councils, and individuals required in § 104.162 has been afforded the opportunity to be involved. The State board shall include in this certification all recommendations rejected by the Board, complete identification of the agency, council, or individual having made the rejected recommendation and the reasons for rejecting these recommendations, as required by § 104.164(b). This certification shall also indicate the meetings held under the authority of § 104.163.

(2) Each representative required in § 104.162 shall certify that he or she has had the opportunity to participate actively in formulating the plan.

(Implements Secs. 104(a)(3), 107(a)(1); 20 U.S.C. 2304, 2307.)

(c) *Certification of delegation.* The State board shall certify any delegation by the State board of responsibilities for administration, operation, or supervision of vocational education programs to other appropriate State agencies. The statement shall set forth the procedures used for delegation, the specific responsibilities delegated, and the specific agency or agencies involved.

(Implements Sec. 104(a)(2); 20 U.S.C. 2304.)

(d) *Certification of public hearings.* The State board shall certify the method used to provide reasonable notice and opportunity for public hearings throughout all regions of the State in order to permit all segments of the population to give their views on the goals for vocational educational which ought to be adopted in the plan in terms of the elements listed in §§ 104.165(b) and 104.207(b). The statement shall also include the views expressed at the hearings and a description of how those views are reflected in the plan. If any views are not reflected, the statement shall set out the reasons for rejecting them.

(Implements Secs. 107(a)(2), 108(a)(2); 20 U.S.C. 2307, 2308.)

(e) *Certification of local advisory councils.* The State board shall certify that eligible recipients within the State have been notified of their responsibility to establish local advisory councils. The State board shall also certify that eligible recipients receiving assistance under the Act to operate vocational education programs have established these councils.

(Implements Sec. 105(g); 20 U.S.C. 2305.)

(f) *Certification of consultation with State advisory council.* The State advisory council shall certify that the plan was prepared in consultation with the council.

(Implements Sec. 105(d); 20 U.S.C. 2305.)

(g) *Certification by full-time personnel of opportunity to review the plans.*

The personnel assigned full time to review programs within the State to assure equal access to vocational education by both men and women shall certify that the opportunity to review the plan has been afforded.

(Implements Sec. 109(a)(3)(B); 20 U.S.C. 2309.)

(h) *Certification of adoption by State board.* The State board shall certify that development of the plan has been coordinated with the agencies, councils, and individuals as required by § 104.162 and that the final decision has been adopted by the State board, and that the plan constitutes the basis for operation and administration of the State's vocational education program.

(Implements Sec. 104(a)(1); 20 U.S.C. 2304.)

§ 104.181 *Content of five-year State plan.*

The State board shall submit the five-year State plan to the Commissioner, through the appropriate HEW Regional Office, by the July 1st preceding the beginning of the first fiscal year for which the plan is to take effect. The plan shall be composed of the following two parts:

(a) Procedures for carrying out certain assurances of the general application as required in § 104.182; and

(b) Program provisions as required in §§ 104.183 through 104.188.

(Sec. 107(b); 20 U.S.C. 2307.)

§ 104.182 *Procedures to assure compliance with the general application.*

The State board in its five-year State plan shall:

(a) Describe the information which the State board will require in local applications in order to meet the requirements of § 104.141(f)(4);

(Sec. 106(a)(4); 20 U.S.C. 2306.)

(b) Describe the procedures for affording eligible recipients reasonable notice of an opportunity for a hearing, for conducting the hearing, for providing a written record of the hearing, and for informing the recipient in writing of the decisions and reasons therefor;

(Implements Sec. 106(a)(4); 20 U.S.C. 2306.)

(c) Describe how the State board, for purposes of giving priority to applications, determines:

(1) Economically depressed areas and areas with high rates of unemployment which are unable to provide the resources necessary to meet the vocational education needs without Federal assistance; and

(2) Programs new to the area which are designed to meet new and emerging manpower needs and job opportunities in the area (and, where relevant, in the State and Nation);

(Implements Sec. 106(a)(5)(A); 20 U.S.C. 2306.)

(d) Describe the policies and procedures by which the State board determines how the amount of funds available under this Act will be made avail-

able to those applicants approved for funding, using the factors specified in § 104.141(f)(5)(B);

(Sec. 106(a)(5)(B); 20 U.S.C. 2306.)

(e) Set forth the policies and procedures instituted for public disclosure in accordance with § 104.141(f)(9); and

(Sec. 106(a)(9); 20 U.S.C. 2306.)

(f) Describe the procedures for insuring that funds for vocational programs for handicapped persons are used in a manner consistent with § 104.141(f)(10). The statement shall describe how the program provided each handicapped child will be planned and coordinated in conformity with and as a part of the child's individualized educational program as required by the Education of the Handicapped Act.

(Sec. 106(a)(10); 20 U.S.C. 2306.)

§ 104.183 *Assessment of employment opportunities.*

(a) The five-year State plan shall include an assessment of current and future needs for workers (job skills) within the State and, where appropriate, within the pertinent region of the country.

(b) This assessment shall reflect the latest available data of present and projected employment, including the data available from the State occupational information coordinating committee.

(Sec. 107(b)(1); 20 U.S.C. 2307.)

§ 104.184 *Goals to meet employment needs.*

The five-year State plan shall describe clearly the goals the State will seek to achieve with respect to its needs for workers identified in § 104.183 by the end of the five-year period covered by the five-year State plan. This description shall be in terms of the following four elements and shall include the reasons for choosing these elements:

(a) The programs (courses) and other training opportunities to be offered to meet the needs identified in § 104.183; (For the purposes of this part, the term "program" refers to OE instructional programs, as defined by the Office of Education in *Handbook VI, Standard Terminology for Curriculum and Instruction in Local and State School Systems* (1970), and means a planned sequence of courses, services, or activities designed to meet an occupational objective.)

(b) The projected enrollments of these programs and training opportunities;

(c) The allocations of responsibility for the offerings of those programs and training opportunities among the secondary, postsecondary, and adult levels of education and among the various types of institutions of the State; and

(d) The allocations of all local, State, and Federal financial resources available in the State for the programs and training opportunities among the secondary, postsecondary, and adult levels of education and among the various types of institutions of the State.

(Sec. 107(b)(2); 20 U.S.C. 2307.)

§ 104.185 *Funding to meet employment needs.*

(a) The five-year State plan shall set forth precisely the planned uses of Federal, State, and local education funds for each fiscal year of the State plan;

(b) The five-year State plan shall indicate how this allocation of funds will meet the goals identified in § 104.184;

(c) The description of the planned uses of funds shall be in terms of the four elements of § 104.184 (this does not require duplication of § 104.184(d));

(Sec. 107(b)(3)(A); 20 U.S.C. 2307.)

(d) The five-year State plan shall indicate the planned uses of funds under section 120(b)(1)(O) and section 130(b)(7) of this Act for:

(1) State administration;

(2) Local administration; and

(Implements Sec. 107(b)(3)(A); 20 U.S.C. 2307.)

(e) The five-year State plan shall set forth the reasons for choosing these particular uses of funds, except that the State will continue to use approximately the same amount of its State grant under subpart 2 (basic grant) of this part for programs in secondary schools during fiscal years 1978 and 1979 as it used during fiscal years 1975 and 1976, unless the State is able to demonstrate in its five-year State plan the need to shift funds from that use.

(Sec. 107(b)(3)(A); 20 U.S.C. 2307.)

§ 104.186 *Funding to meet program (purpose) needs.*

(a) The five-year State plan shall set forth precisely the intended uses of funds under the Act for:

(1) Basic grant programs in § 104.501;

(2) Program improvement and supportive services in § 104.701;

(3) Special programs for the disadvantaged in § 104.801 (funded under section 102(b) of the Act); and

(4) Consumer and homemaking education in § 104.901 (funded under section 102(c) of the Act).

(b) The five-year State plan shall set out the reasons for choosing the uses described in paragraph (a) of this section.

(c) The five-year State plan shall set forth precisely the intended uses of Federal funds, in accordance with the minimum percentages in §§ 104.312 and 104.313 to meet the special needs of:

(1) Handicapped persons;

(2) Disadvantaged persons; and

(3) Persons of limited English-speaking ability.

(d) The five-year State plan shall also set forth the intended allocation of State and local funds, in accordance with the matching requirements in § 104.303, to meet the special needs of:

(1) Handicapped persons;

(2) Disadvantaged persons; and

(3) Persons of limited English-speaking ability.

(Implements Secs. 107(b)(3)(B), 110(a), (b); 20 U.S.C. 2307, 2310.)

§ 104.187 *Policies for eradicating sex discrimination.*

(a) The five-year State plan shall set forth a detailed description of policies and procedures which the State will follow to assure equal access to vocational education programs by both women and men.

This description shall include:

(1) Actions to be taken to overcome sex discrimination and sex stereotyping in all State and local vocational education programs;

(2) Incentive adopted by the State for eligible recipients to:

(i) Encourage the enrollment of both women and men in nontraditional courses of study; and

(ii) Develop model programs to reduce sex bias and sex stereotyping in training for and placement in all occupations.

(b) The five-year State plan shall set forth a program to assess and meet the needs of persons described in § 104.621. This program shall include:

(1) Special courses for these persons to learn how to seek employment; and

(2) Placement services for these persons once they complete the vocational education program.

(Sec. 107(b)(4); 20 U.S.C. 2307.)

§ 104.188 *Coordination between manpower training programs and vocational education programs.*

The five-year State plan shall describe the mechanism established for coordinating vocational education programs with manpower training programs conducted by prime sponsors under the Comprehensive Employment and Training Act (CETA), Pub. L. 93-203, and vocational education programs assisted under this Act. This description shall include the criteria developed to avoid duplication of programs under this Act and CETA.

(Sec. 107(b)(5); 20 U.S.C. 2307; Sen. Rept. 94-882; p. 68.)

DEVELOPMENT OF ANNUAL PROGRAM PLAN AND ACCOUNTABILITY REPORT

§ 104.202 *Due date of annual program plan.*

For each fiscal year, the annual program plan is due by the July 1st preceding the beginning of the applicable fiscal year. For example, the first annual program plan is required for fiscal year 1978 and is due in the appropriate HEW Regional Office by July 1, 1977.

(Sec. 108(b); 20 U.S.C. 2308.)

§ 104.203 *Due date of annual accountability report.*

For each fiscal year, the annual accountability report is due by the July 1st following the completion of the applicable fiscal year. For example, the first annual accountability report is required for fiscal year 1978 and is due in the appropriate HEW Regional Office by July 1, 1979.

(Sec. 108(b); 20 U.S.C. 2308.)

§ 104.204 *Representation required in the development of the annual program plan and accountability report.*

In formulating the annual program plan and accountability report for any given fiscal year, the State board is required to involve the active participation of a representative of each group set forth in § 104.162 (a) through (j).

(Secs. 107(a)(1), 108(a)(1); 20 U.S.C. 2307, 2308.)

§ 104.205 *Meetings of participating representatives.*

The State board shall convene, as a group, the representatives of the agencies, councils, and individuals specified in § 104.204 for at least three meetings during each fiscal year. These meetings will be convened to accomplish the following purposes:

(a) First meeting: To plan for the development of the first draft of the annual program plan and the accountability report;

(b) Second meeting: To consider the draft of the annual program plan and accountability report;

(c) Third meeting: To recommend for adoption the final annual program plan and accountability report.

(Sec. 108(a)(1); 20 U.S.C. 2308.)

§ 104.206 *State board adoption of the annual program plan and accountability report.*

(a) If the participating agencies, councils, and individuals are not able to agree upon the provisions of the annual program plan or the accountability report, the State board will make a final decision.

(b) The State board shall include in the annual program plan or, as appropriate, in the accountability report:

(1) Any recommendation which is rejected by the State board indicating its source (including the name of the individual and agency or council affiliation); and

(2) The reasons of the State board for rejecting the recommendation.

(Sec. 108(a)(1); 20 U.S.C. 2308.)

§ 104.207 *Public hearing on the annual program plan and accountability report.*

(a) In formulating the annual program plan and accountability report, the State board is required to conduct a public hearing. This public hearing shall be conducted:

(1) During the development, prior to adoption of the annual program plan and accountability report; and

(2) After giving sufficient public notice.

(b) The purpose of this public hearing is to provide an opportunity for all segments of the population of the State to give their views on:

(1) The goals which ought to be adopted in the annual program plan;

(2) The programs to be offered under the annual program plan;

(3) The allocation of responsibility for programs among the various levels of education and among the various institutions of the State; and

(4) The allocation of local, State, and Federal resources to meet these goals. (Interprets Sec. 108(a)(2); 20 U.S.C. 2308.)

(c) The State board shall include in the annual program plan or, as appropriate, in the accountability report:

(1) The views expressed at the public hearing or comments submitted in writing;

(2) A description of how these views are reflected in the provisions of the annual program plan or the accountability report; and

(3) The reasons for rejecting any view which is not accepted for inclusion in the annual program plan or accountability report.

(Sec. 108(a)(2); 20 U.S.C. 2308.)

§ 104.221 Content of annual program plan for fiscal year 1978.

A five-year State plan which includes the program provisions in §§ 104.183 through 104.186 on a year-by-year basis will meet the requirements of the Act for the annual program plan, except that in addition to the planned uses of funds in § 104.186, the plan shall also set out precisely the proposed distribution of such funds among eligible recipients, together with an analysis of the manner in which such distribution complies with the assurance given in the general application and in accordance with the policies and procedures in § 104.182(d).

(Interprets 108(b)(1); 20 U.S.C. 2308.)

§ 104.222 Content of annual program plans for the fiscal years following 1978.

The plan shall contain: (a) Any updating of the five-year State plan, as submitted under §§ 104.183 and 104.184, considered necessary to reflect later or more accurate employment data or a different level of funding than was anticipated;

(b) A description of how the uses of funds proposed for the fiscal year in § 104.185 will be complied with or changed (in light of anticipated appropriations) and the reasons for the changes;

(c) A description of how the uses of funds under the Act proposed for the fiscal year in § 104.186 will be complied with or changed (in light of anticipated appropriations) and the reasons for the changes;

(d) A description of how funds used in (b) and (c) will comply with the minimum percentages, matching, and maintenance of effort requirements in § 104.301;

(e) The additional provisions set forth in § 104.221;

(f) The results of the:

(1) Coordination of programs funded under this Act and manpower training programs;

(2) Compliance of the State plan with the provisions contained in § 104.187 concerning providing equal access to

programs by both men and women; and

(3) Participation of local advisory councils required to be established under § 104.171(e).

(Implements Sec. 108(b)(1); 20 U.S.C. 2308.)

§ 104.241 Content of the accountability report.

(a) The accountability report shall:

(1) Show the extent to which the State, during the fiscal year preceding the submission of the report, has achieved the goals of the approved five-year State plan, including a description in terms of the elements in § 104.184;

(2) Show the degree to which proposed uses of Federal, State, and local funds in § 104.222(b) have been complied with, including a description in terms of the elements in § 104.185;

(3) Show in detail how the funds used in § 104.222(d) complied with the minimum percentage, matching, and maintenance of effort requirements in § 104.301;

(Implements Sec. 108(b)(2)(A).)

(4) Show in detail how funds under the Act allocated for programs in § 104.186 have been used during the fiscal year, including:

(i) A description of uses of funds as set out in §§ 104.222(c);

(ii) A description of the distribution of funds available for these sections among local educational agencies and other eligible recipients in conformity with § 104.222(e); and

(iii) The results achieved by the uses of these funds.

(Sec. 108(b)(2)(B); 20 U.S.C. 2308.)

(b) The accountability report shall contain:

(1) A summary of the evaluation of programs conducted by the State in accordance with §§ 104.402 and 104.404; and

(2) A description of how the evaluation information has been used to improve the State's programs of vocational education, including consideration given to each recommendation in the evaluation report of the State advisory council for vocational education.

(Sec. 108(b)(2)(C); 20 U.S.C. 2308.)

APPROVAL OF FIVE-YEAR STATE PLAN AND ANNUAL PROGRAM PLAN AND ACCOUNTABILITY REPORT

§ 104.261 Conditions for approval of five-year State plan.

The Commissioner will not approve a five-year State plan until the Commissioner:

(a) Makes specific findings in writing as to the compliance of the five-year State plan with the provisions of the Act and applicable regulations;

(b) Makes a determination that adequate procedures are set forth, in accordance with § 104.182, to insure that assurances of the general application will be carried out;

(c) Makes a determination that adequate procedures are set forth in the five-year State plan to insure that the provisions of the plan will be carried out;

(Sec. 109(a)(1); 20 U.S.C. 2309.)

(d) Has received assurances that the full-time personnel assigned to review programs within the State to assure equal access by both men and women have been afforded the opportunity to review the five-year State plan; and

(Sec. 109(a)(3)(B); 20 U.S.C. 2309.)

(e) Makes a determination that the State has complied in preparing the five-year State plan with the nationally uniform definitions and information elements which have been developed under the authority of section 161 of the Act.

(Sec. 109(a)(3)(C); 20 U.S.C. 2309.)

§ 104.262 Conditions for approval of annual program plan and accountability report.

The Commissioner will not approve an annual program plan and accountability report until the Commissioner:

(a) Makes specific findings in writing as to the compliance of the annual program plan and accountability report with the provisions of the Act and applicable regulations;

(b) Makes a determination that adequate procedures are set forth to insure that the assurances of the general application will be carried out;

(c) Makes a determination that adequate procedures are set forth in the annual program plan and accountability report to insure that the provisions of the plan will be carried out;

(d) Makes a determination that the annual program plan and accountability report show progress in achieving the goals set forth in the approved five-year State plan;

(Sec. 109(a)(2); 20 U.S.C. 2309.)

(e) Has received assurances that the full-time personnel assigned to review programs within the State to assure equal access by both men and women have been afforded the opportunity to review the annual program plan and accountability report; and

(Sec. 109(a)(3)(B); 20 U.S.C. 2309.)

(f) Makes a determination that the State has complied in preparing the annual program plan and accountability report with the nationally uniform definitions and information elements which have been developed under the authority of section 161 of the Act.

(Sec. 109(a)(3)(C); 20 U.S.C. 2309.)

§ 104.263 Notice of approval or disapproval.

After reviewing the five-year State plan, the annual program plan, and the accountability report, the Commissioner will notify the State board, in writing, of the granting or withholding of approval.

(Sec. 109(a), (b); 20 U.S.C. 2309.)

WITHHOLDING OF APPROVAL OF PLAN

§ 104.271 Disapproval of plan.

The Commissioner:

(a) Will not finally disapprove a State plan without first affording the State

board reasonable notice and opportunity for a hearing;

(Sec. 109(b)(1); 20 U.S.C. 2309.)

(b) Will not disapprove a State plan solely on the basis of the distribution of State and local expenditures for vocational education;

(Sec. 109(b)(2); 20 U.S.C. 2309.)

(c) Will give at least fifteen (15) work days written notice of the disapproval of a plan or disapproval of the method by which the State is administering the plan; and

(Implements Sec. 109(c); 20 U.S.C. 2309.)

(d) Will hold the hearing within the State.

(Sec. 109(b)(1); 20 U.S.C. 2309.)

HEARINGS BEFORE THE COMMISSIONER ON AGENCY OR COUNCIL CHALLENGES TO THE FIVE-YEAR STATE PLAN OR THE ANNUAL PROGRAM PLAN

§ 104.281 Opportunity for a hearing.

(a) Sections 107 and 108 of the Act require the Commissioner to provide an opportunity for a hearing to certain agencies and councils which may be dissatisfied with any final decision of the State board with respect to the proposed five-year State plan or the annual program plan filed with the Commissioner.

(b) The agencies and councils which may request a hearing are those agencies and councils set forth in § 104.162 (a) through (d), and (h) through (j). A representative of an agency or council may not request a hearing in his or her individual capacity.

(Secs. 107(a), 108(a); 20 U.S.C. 2307; 2308.)

(c) An agency or council may appeal to the Commissioner only:

(1) Matters which the agency or council has recommended to the State board for inclusion in the five-year State plan or annual program plan which the State board has not accepted (§ 104.164); or

(2) The State board's failure to follow the section 107 and section 108 process as to that agency or council.

(Interprets Sec. 107(a), 108(a), 20 U.S.C. 2307, 2308.)

§ 104.282 Appeal to the Commissioner.

(a) If a hearing is to be requested, the notice of appeal shall be in writing, addressed to the Commissioner and to the State board, and mailed by registered mail no later than fifteen (15) work days after the notification in writing has been received by the agency or council that the recommendations of the agency or council have been disapproved by the State board.

(b) Pending resolution of the matter for which a hearing has been requested, the five-year State plan or annual program plan submitted by the State board, if in substantially approvable form, may be conditionally approved by the Commissioner and may be conditionally deemed the operative plan.

(Implements Secs. 107(a), 108(a); 20 U.S.C. 2307, 2308.)

§ 104.283 Hearing.

(a) The Commissioner may delegate authority to an employee of the Office of Education to be the hearing officer. The hearing officer shall take testimony, consider the arguments of the parties, make findings of fact, make conclusions of law, and make recommendations to the Commissioner.

(b) The hearing officer shall give each party at least fifteen (15) work days notice of the time, place, and purpose of the hearing.

(c) The fifteen (15) work days notice of time and place of the hearing may be reduced or waived if all parties agree.

(d) The hearing may take place in Washington, D.C., or within the State whose agency or council is appealing, at the option of the requesting party and with the hearing officer's approval.

(e) The hearing officer may adjourn the hearing to a more satisfactory time or place on the motion of the hearing officer or on motion of a party.

(f) A record shall be kept of the hearing. The record may be taken by shorthand, stenotype, or mechanical or electrical means, and shall be transcribed.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.284 Prehearing.

(a) The hearing officer may require a prehearing conference.

(b) The prehearing conference shall be conducted in an informal manner for the purpose of:

(1) Simplification of the issues;

(2) Exchange of documents;

(3) Stipulation of facts;

(4) Deciding on procedures at the hearing; and

(5) Such other matters as may properly be dealt with to aid in expediting the orderly conduct or disposition of the hearing.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.285 Right to counsel, witnesses, cross examination.

(a) The parties shall have the right to be represented by counsel.

(b) The parties may offer evidence by witnesses appearing in person.

(c) Where a witness appears in person, the other party shall have the right to cross examine the witness.

(d) If a witness is unable to appear in person, documentary evidence or affidavits may be accepted in lieu of personal appearance. Affidavits shall be given only the probative value of a sworn statement which has not been subjected to cross examination.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.286 Evidence and standard of evidence.

(a) Formal rules of evidence do not apply. The hearing officer shall restrict the admission of evidence to that which is material and relevant.

(b) The hearing officer may request additional evidence.

(c) Findings of fact shall be supported by substantial evidence. "Substantial evidence," for the purpose of this hearing, means such relevant evidence as a rea-

sonable mind might accept to support a conclusion. (305 U.S. 197, 229 (1938).)

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.287 Determinations to be made by the hearing officer.

(a) The hearing officer shall determine, with reference to the matters subject to appeal (§ 104.218(c)):

(1) Whether the procedural requirements of the Act have been fulfilled;

(2) Whether the decisions of the State board as set forth in the five-year State plan or the annual program plan are in accordance with the law;

(3) Whether the decisions of the State board in the five-year State plan or the annual program plan are based on substantial evidence; and

(4) Whether the State board's decisions in the five-year State plan or the annual program plan best carry out the purposes of the Act.

(Sec. 107(a)(1); 20 U.S.C. 2307.)

(b) Where the hearing officer decides that the State board has conformed with the provisions of paragraphs (a), (1), (2), and (3) of this section the hearing officer shall issue findings of fact to that effect.

(c) Where the hearing officer decides that the five-year State plan or the annual program plan will best carry out the purposes of the Act, the hearing officer shall recommend a finding for the State board.

(d) Where the hearing officer decides that the State board has not conformed with the provisions of paragraphs (a), (1), (2), and (3) of this Section or that the five-year State plan or the annual program plan will not best carry out the purposes of the Act, the hearing officer shall recommend that the plan not be approved.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

§ 104.288 Commissioner's decision.

(a) The findings of fact and recommendation of the hearing officer shall be conveyed to the parties and to the Commissioner.

(b) The findings and recommendation of the hearing officer shall become the findings and decision of the Commissioner unless the Commissioner reverses the hearing officer's findings or recommendation, in whole or in part, within fifteen (15) work days after the date the hearing officer conveys his or her findings and recommendation to the Commissioner.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307.)

(c) The Commissioner may not unilaterally change a five-year State plan or annual program plan. The Commissioner shall approve a plan or disapprove a plan in its entirety and return it to the State board for revision.

(Implements Sec. 107(a)(1); 20 U.S.C. 2307; Conf. Rept. No. 94-1701, pp. 216, 217.)

§ 104.289 Appeal by State board, or agency to the court of appeals.

A State board, or agency dissatisfied with a final action of the Commissioner

under section 107(a)(1) of the Act may appeal to the United States court of appeals for the circuit in which the State is located in accordance with the procedure specified in section 434(d)(2) of GEPA.

(Implements Sec. 107(a)(1); 20 U.S.C. 1232c.)

SUSPENSION AND TERMINATION OF PAYMENTS FOR NONCOMPLIANCE

§ 104.291 Suspension and termination of payments for noncompliance.

Suspension and termination of payments for noncompliance shall be in accord with section 434(c) of GEPA. Section 434(c) of GEPA reads as follows:

(c) Whenever the Commissioner, after reasonable notice and an opportunity for hearing, finds that there has been failure, by any recipient of funds under any applicable program, to comply substantially with terms to which such recipient has agreed in order to receive such funds, the Commissioner shall notify such recipient that further payments will not be made to such recipient under that program until he is satisfied that such recipient no longer fails to comply with such terms. Until the Commissioner is so satisfied, no further payments shall be made to such recipient. Pending the outcome of any termination proceeding initiated under this paragraph, the Commissioner may suspend payments to such recipient, after such recipient has been given reasonable notice and opportunity to show cause why such action should not be taken.

(Sec. 109(f)(1); 20 U.S.C. 2309, 1232c.)

APPEAL TO THE COURTS

§ 104.292 Appeal by State board on withholding of approval of State plan.

A State board which is dissatisfied with the final action of the Commissioner after an appeal to the Commissioner on withholding of approval of a State plan may appeal to the appropriate United States court of appeals as provided in section 109(d) of the Act.

(Sec. 109(d); 20 U.S.C. 2309.)

§ 104.293 Appeal by eligible recipients to the court of appeals.

An eligible recipient dissatisfied with the final action of the State board (or other appropriate State administrative agency) with respect to approval of an application by such eligible recipient for a grant under this Act may appeal to the appropriate United States court of appeals as provided in section 109(e) of the Act.

(Sec. 109(e); 20 U.S.C. 2309.)

FISCAL REQUIREMENTS

FEDERAL SHARE

§ 104.301 Application of Federal requirements.

(a) Federal vocational education funds shall be used solely to carry out the purposes of the Vocational Education Act and the regulations in this part. All expenditures of Federal funds are subject to the conditions and requirements of the Act and regulations.

(Interprets Sec. 111(a); 20 U.S.C. 2311.)

(b) Federal funds shall be used to share only in expenditures which are made in accordance with: (1) Assurances of the general application; (2) Five-year State plan; and (3) Annual program plan.

(Interprets Sec. 111(a); 20 U.S.C. 2311.)

(c) State and local funds which are applied to the matching requirements and maintenance of efforts requirements of the Act are subject to the conditions and requirements of the Act, regulations, and five-year State plan and annual program plan. This means that every program or activity supported in whole or in part by State or local funds which are used to match Federal funds must meet the same conditions and requirements as those supported by Federal funds.

(Interprets Sec. 111(a); 20 U.S.C. 2311; 20 U.S.C. 19.)

(d) Only actual expenditures of State and local funds shall be accepted as part of the State's matching and maintenance of effort requirements. This means that in-kind contributions shall not be used as part of the State's matching and maintenance of effort requirements. Requirements of 45 CFR 100b.92(b) of GEPR shall not apply to this program.

(Interprets Sec. 111(a); 20 U.S.C. 2311, 20 U.S.C. 19.)

§ 104.302 Federal share of expenditures—annual program plan.

(a) The Commissioner will pay to each State from the funds available under Section 102(a) an amount not to exceed 50 percent of the cost of carrying out its annual program plan.

(b) The State's matching share of expenditures under the annual program plan may be on a state-wide basis.

(c) Except for the fiscal requirements for the national priority programs described in § 104.303, State administration described in § 104.306, and local administration described in § 104.307, it is not necessary that Federal funds be matched by non-Federal funds for each purpose and program under the Act.

(Interprets Sec. 111(a); 20 U.S.C. 2311.)

§ 104.303 Federal share of expenditures—national priority programs.

(a) The Commissioner will pay to each State an amount not to exceed 50 percent of the excess cost (i.e., costs of special educational and related services above the costs for non-handicapped students) of programs, services, and activities under the basic grant in subpart 2 and program improvement and supportive services in subpart 3 for handicapped persons.

(b) The Commissioner will pay to each State an amount not to exceed 50 percent of:

(1) The excess cost (i.e., costs of special educational and related services above the costs for non-disadvantaged persons) of programs, services, and ac-

tivities under the basic grant in subpart 2 and program improvement and supportive services in subpart 3 for disadvantaged persons (other than handicapped persons);

(2) The excess cost (i.e., costs of special education and related services above the costs for persons who are not classified as persons of "limited English-speaking ability") of programs, services, and activities under the basic grant in subpart 2 and program improvement and supportive services in subpart 3 for persons who have limited English-speaking ability; and

(3) Stipends for students entering or already enrolled in vocational education programs who have acute economic needs which cannot be met under work-study programs.

(c) The Commissioner will pay to each State an amount not to exceed 50 percent of the cost of programs, services, and activities under the basic grant in subpart 2 and program improvement and supportive services in subpart 3 for:

(1) Postsecondary programs for: (i) Persons who have completed or left high school; (ii) who are enrolled in organized programs of study for which credit is given toward and associate or other degree; and (iii) who are not enrolled in programs designed as baccalaureate or higher degree programs; and

(2) Adult programs for: (i) Persons who have already entered the labor market; (ii) persons who are unemployed;

or (iii) persons who have completed or left high school and who are enrolled in organized programs of study for which credit is not given toward an associate or other degree.

(Sec. 110; 20 U.S.C. 2310.)

§ 104.304 Allowable expenditures for vocational education for national priority programs.

A State shall use the funds allotted for national priority programs under section 110 of the Act only for expenditures which are attributable to vocational education programs, services, and activities described in § 104.303.

(Section 110; 20 U.S.C. 2310; 45 CFR 100, App. B, Part II.)

§ 104.305 Federal share of expenditures—100 percent payments.

(a) The Commissioner will pay to each State an amount up to 100 percent of the cost of:

(1) Cooperative vocational education programs which include students enrolled in nonprofit private schools pursuant to section 122(f) of the Act;

(2) Exemplary and innovative programs which include students enrolled in nonprofit private schools pursuant to section 132(b) of the Act; and

(3) Special programs for disadvantaged persons in areas of the State which have high concentrations of youth unemployment or school dropouts under section 140 of the Act.

(b) The Commissioner will pay to the Trust Territory of the Pacific Islands, the Northern Mariana Islands, Guam,

§ 104.307 Federal share of expenditures—local administration.

(a) The Commissioner will pay, from the funds allotted pursuant to section 102(a) of the Act, a part of the costs of supervision and administration of vocational education programs carried out by an eligible recipient.

(b) The eligible recipient shall use either the method set forth in subparagraph (1) or subparagraph (2) of this paragraph in determining the payment of local administrative costs.

(1) The percentage of Federal funds used by an eligible recipient for the costs of supervision and administration of vocational education programs may be no greater than the percentage of Federal funds used to support the total vocational education program carried out by the eligible recipient. For example, the total cost of the vocational education program of the eligible recipient is \$100,000 and the Federal contribution to this eligible recipient is \$25,000, or 25 percent of the total. If local administrative costs are \$10,000, then up to 25 percent of this amount, or \$2,500, may be charged against the Federal funds.

(2) Up to 50 percent of the cost of supervision and administration of the vocational education program of the eligible recipient may be charged to the Federal funds: *Provided*, That State funds match the Federal funds dollar for dollar. State funds used to match Federal funds shall be specifically made available for the purpose of local administration. For example, if the total cost of local administration is \$10,000, then up to \$5,000 may be charged to the Federal funds as long as the State contributes the same amount from a specific State appropriation.

(c) The State shall use the following computation in determining the amount of Federal funds available for the costs of local supervision and administration:

(1) Not more than 80 percent of the total amount used for supervision and administration by eligible recipients shall be made from the basic grant in subpart 2.

(2) Not more than 20 percent of the total amount used for supervision and administration by eligible recipients shall be made from program improvement and supportive services in subpart 3.

(d) The computation in paragraph (c) of this section does not require the State to use administrative funds in an 80/20 ratio between subpart 2 and subpart 3 activities. The State may use its administrative funds in whatever proportion best meets its needs.

(Interprets Sec. 111(a); 20 U.S.C. 2311.)

MINIMUM PERCENTAGES

§ 104.311 Percentage requirements with respect to State distribution of Federal funds.

The minimum percentages set forth in §§ 104.312, 104.313, and 104.314 are applicable to each State's allotment under section 102(a) of the Act.

(Interprets Sec. 110(a); 20 U.S.C. 2310.)

§ 104.312 Minimum percentage for the handicapped.

The State shall expend at least 10 percent of the allotment under section 102(a) of the Act for vocational education for handicapped persons as described in § 104.303(a). The State shall use these funds to the maximum extent possible to assist handicapped persons to participate in regular vocational education programs.

(Sec. 110(a); 20 U.S.C. 2310.)

§ 104.313 Minimum percentage for the disadvantaged.

(a) The State shall expend at least 20 percent of the section 102(a) allotment, subject to the conditions of paragraph (b), for the following purposes:

(1) Vocational education for disadvantaged persons (other than handicapped persons) as described in § 104.303(b)(1);

(2) Vocational education for persons who have limited English-speaking ability as described in § 104.303(b)(2); and

(3) Stipends for students entering or already enrolled in vocational education programs who have acute economic needs which cannot be met under work-study programs.

(Sec. 110(b); 20 U.S.C. 2310.)

(b) The State shall use, to the maximum extent possible, the funds expended for disadvantaged persons and persons of limited English-speaking ability to enable these persons to participate in regular vocational education programs.

(Sec. 110(d); 20 U.S.C. 2310.)

(c) The State shall use the following formula in determining its expenditures of funds under paragraph (a) of this section for vocational education for persons who have limited English-speaking ability:

(1) First determine the amount of Federal funds reserved for the purposes of paragraph (a) of this section;

(2) Determine the population having limited English-speaking ability who are between the ages of 15 and 24 inclusively;

(3) Determine the total population of the State aged 15 to 24 inclusively;

(4) Divide step two by step three;

(5) Multiply the quotient from step four by the total amount reserved for paragraph (a) of this section as indicated in step one;

(6) Expend at least this amount for vocational education for persons having limited English-speaking ability. The amount expended for this purpose shall not exceed the total amount reserved for paragraph (a) of this section.

For example, a State reserves \$500,000 for the purposes of paragraph (a) of this section. The State determines its limited English-speaking population between the ages of 15 and 24 is 10,000. The total population of the State aged 15 to 24 is 200,000. 10,000 is divided by 200,000 and the quotient is .05. \$500,000 is multiplied by .05 and the product is \$25,000. Accord-

ingly, the State expends at least \$25,000 for vocational education for persons who have limited-English speaking ability, but no more than \$500,000.

(Implements Sec. 110(b)(2); 20 U.S.C. 2310.)

§ 104.314 Minimum percentage for postsecondary and adult.

The State shall expend at least 15 percent of the section 102(a) allotment for vocational education for:

(a) Postsecondary programs for: (1) Persons who have completed or left high school; (2) Who are enrolled in organized programs of study for which credit is given toward an associate or other degree; and (3) Who are not enrolled in programs designed as baccalaureate or higher degree programs; and

(b) Adult programs for: (1) Persons who have already entered the labor market; (2) Persons who are unemployed; or (3) Persons who have completed or left high school and who are enrolled in organized programs of study for which credit is not given toward an associate or other degree.

(Sec. 110(c); 20 U.S.C. 2310.)

§ 104.315 Expenditures for programs in secondary schools.

(a) The State shall expend from its allotment for the basic grant (subpart 2) approximately the same amount of Federal funds for programs in secondary schools during fiscal years 1978 and 1979 as it had expended during fiscal years 1975 and 1976.

(b) The State shall set forth in the five-year State plan its justification for the need to shift funds in the event the projected Federal expenditures for programs in secondary schools, in either fiscal year 1978 or 1979 are not within 95 percent of the amount of Federal funds expended for programs in secondary schools during fiscal years 1975 and 1976.

(Interprets Sec. 107(b)(3)(A); 20 U.S.C. 2307.)

MAINTENANCE OF EFFORT

§ 104.321 Maintenance of fiscal effort at the State level.

A State shall maintain its fiscal effort on either a per student basis or on an aggregate basis for vocational education compared to the amount expended in the previous year.

(Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.322 Withholding of payments.

The Commissioner will not make any payments to a State in a fiscal year unless the Commissioner finds that the fiscal effort of the State for vocational education on a per student basis or on an aggregate basis in the previous fiscal year was not less than the fiscal effort of the State on a per student basis or on an aggregate basis in the second preceding fiscal year.

(Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.323 Five percent rule.

Total State fiscal effort for vocational education in the preceding fiscal year

shall not be considered reduced from the fiscal year effort of the second preceding fiscal year unless the per student expenditure or aggregate expenditure in the preceding year is less than that in the second preceding fiscal year by more than five percent. For example, a State which expends an aggregate of \$10 million for vocational education in one fiscal year and an aggregate of \$9,600,000 in the succeeding fiscal year will not be considered to have reduced fiscal effort for the purposes of the Vocational Education Act.

(Interprets Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.324 Unusual circumstance rule.

Any reduction in fiscal effort for any fiscal year by more than five percent will disqualify the State from receiving Federal funds unless the State is able to demonstrate to the satisfaction of the Commissioner the following:

(a) In the preceding fiscal year, the reduction was occasioned by unusual circumstances that could not have been fully anticipated or reasonably compensated for by the State. Unusual circumstances may include unforeseen decreases in revenues due to the decline of the tax base;

(b) In the second preceding fiscal year, contributions of large sums of monies from outside sources were made; or

(c) In the second preceding fiscal year, large amounts of funds were expended for long-term purposes such as construction and acquisition of school facilities or the acquisition of capital equipment.

(Interprets Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.325 Maintenance of fiscal effort at the local level.

A local educational agency shall maintain its fiscal effort on either a per student basis or on an aggregate basis for vocational education compared with the amount expended in the previous fiscal year.

(Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.326 Withholding of payments.

A State shall not make payment under this Act to a local educational agency unless the State finds that the combined fiscal effort of the State and local educational agency on a per student basis or on an aggregate basis of the local educational agency and the State, was not less than the combined fiscal effort in the second preceding fiscal year.

(Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.327 Exceptions.

The 5 percent rule applicable to the State in § 104.323 and the unusual circumstances rule in § 104.324 are also applicable to local educational agencies.

(Interprets Sec. 111(b)(1); 20 U.S.C. 2311.)

§ 104.328 Maintenance of fiscal effort by postsecondary educational institutions.

A postsecondary educational institution shall maintain its fiscal effort on

either a per student basis or on an aggregate basis for vocational education compared with the amount expended in the previous fiscal year.

(Sec. 111(b)(2); 20 U.S.C. 2311.)

§ 104.329 Withholding of payments.

A State shall not make any payment under this Act to a postsecondary educational institution unless the State finds that the fiscal effort on a per student basis or on an aggregate basis of that institution, with respect to the provision of vocational education, was not less than the fiscal effort of that institution in the second preceding fiscal year.

(Sec. 111(b)(2); 20 U.S.C. 2311.)

§ 104.330 Exceptions.

The 5 percent rule applicable to the State in § 104.323 and the unusual circumstances rule in § 104.324 are also applicable to postsecondary educational institutions.

(Interprets Sec. 111(b)(2); 20 U.S.C. 2311.)

STATE EVALUATION

§ 104.401 Purpose.

The State evaluations are to be used to assist local educational agencies and other recipients of funds in operating the best possible programs of vocational education and to improve the State's programs of vocational education.

(Sec. 112(b)(1); 20 U.S.C. 2312.)

§ 104.402 Evaluation by State board.

The State board shall, during the five-year period of the State plan, evaluate in quantitative terms the effectiveness of each formally organized program or project supported by Federal, State, and local funds. These evaluations shall be in terms of: (a) Planning and operational processes, such as:

- (1) Quality and availability of instructional offerings;
- (2) Guidance, counseling, and placement and follow-up services;
- (3) Capacity and condition of facilities and equipment;
- (4) Employer participation in cooperative programs of vocational education;
- (5) Teacher/pupil ratios; and
- (6) Teacher qualifications.

(b) Results of student achievement as measured, for example, by:

- (1) Standard occupational proficiency measures;
- (2) Criterion referenced tests; and
- (3) Other examinations of students' skills, knowledge, attitudes, and readiness for entering employment successfully.

(c) Results of student employment success as measured, for example, by:

- (1) Rates of employment and unemployment;
- (2) Wage rates;
- (3) Duration of employment; and
- (4) Employer satisfaction with performance of vocational education students as compared with performance of persons who have not had vocational education.

(d) The results of additional services, as measured by the suggested criteria un-

der paragraphs (a), (b), and (c) of this section, that the State provides under the Act to these special populations:

- (1) Women;
- (2) Members of minority groups;
- (3) Handicapped persons;
- (4) Disadvantaged persons; and
- (5) Persons of limited English-speaking ability.

(Implements Sec. 112(b)(1); 20 U.S.C. 2312.)

§ 104.403 Use of results of evaluation.

(a) The results of the evaluation shall be used as a basis to revise and improve the programs conducted under the approved five-year State plan.

(b) The State board shall make the results of the evaluations readily available to the State advisory council on vocational education.

(Sec. 112(b)(1)(A); 20 U.S.C. 2312.)

§ 104.404 Special data on completers and leavers.

(a) The State shall evaluate, using wherever possible statistically valid sampling techniques, the effectiveness of each program of vocational education which purports to teach entry-level job skills.

(b) The State shall evaluate each of these programs in order to ascertain the extent to which both those students who complete a program and those students who leave before completing a program:

- (1) Find employment in occupations related to their training; and
- (2) Are considered by their employers to be well-trained and prepared for employment.

(Sec. 112(b)(1)(B); 20 U.S.C. 2312.)

(c) The State shall use the following definitions for "program completer" and "program leaver":

(1) "Program completer" means a student who finishes a planned sequence of courses, services, or activities designed to meet an occupational objective and which purports to teach entry-level job skills; and

(2) "Program leaver" means a student who has been enrolled in and has attended a program of vocational education (which is part of a planned sequence of courses, services or activities designed to meet an occupational objective and which purports to teach entry-level job skills) and has left the program without completing it, except that no student shall be counted as a program leaver who is still enrolled in another program of vocational education. The term "program leaver" includes:

- (i) Persons who leave the program voluntarily before its formal completion because they have acquired sufficient entry-level job skills to work in the field, and who have taken a job related to their field of training; and
- (ii) All other leavers.

(d) For the purposes of this section, a State shall report separately on program completers and program leavers in accordance with the survey instructions and sampling standards to be provided by the National Center for Educational Statistics, HEW, as follows:

(1) Those who secure employment in the occupation for which they were trained or in occupations related to their vocational training, including the military;

(2) Those in paragraph (d)(1) of this section considered by their employers to be well trained and prepared for employment;

(Secs. 112(b)(1)(B), 161(a)(3)(B); 20 U.S.C. 2312, 2391.)

(3) Those who are enrolled for additional education and training; and

(4) Those in none of the above categories.

(Implements Secs. 112(b)(1)(B), 161(a)(3)(B); 20 U.S.C. 2312, 2391.)

(e) Persons who are enrolled for additional education and training shall not be counted as "leavers" in the evaluation data.

(Secs. 112(b)(1)(B), 161(a)(3)(B); 20 U.S.C. 2312, 2391.)

(f) The evaluation data on completers and leavers shall be collected at a date to be specified by the National Center for Educational Statistics, HEW.

(Implements Secs. 112(b)(1)(B), 161(a)(3)(B); 20 U.S.C. 2312, 2391.)

§ 104.405 Assurance of compatible data.

In order to assure that the data on program completers and leavers are compatible and can be aggregated and reported for all of the States, each State shall utilize in its data collection and reporting the information elements and uniform definitions which are developed for the national vocational education data reporting and accounting system, as required by section 161 of the Act.

(Sec. 161(a)(3)(B); 20 U.S.C. 2391.)

Subpart 2—Basic Grant

GENERAL PURPOSES

§ 104.501 Authorization of grants.

A State shall use its basic grant, which is equal to 80 percent of the funds allotted pursuant to section 102(a) of the Act, for the purposes set forth in § 104.502.

(Secs. 103(e), 120(a); 20 U.S.C. 2303, 2330.)

§ 104.502 Use of funds under the basic grant.

(a) The State shall expend not less than \$50,000 for each fiscal year from the funds available under the basic grant (section 120 of the Act) for the support of full-time personnel to perform the functions set forth in §§ 104.71 through 104.76.

(Sec. 104(b), 120(b)(1)(F); 20 U.S.C. 2304, 2330.)

(b) The State shall expend not less than an amount of funds it deems necessary for each fiscal year from the funds available under the basic grant (section 120 of the Act) for special programs and placement services which are tailored to meet the needs of the group identified in § 104.621. The scope of these vocational education programs is described in

§ 104.622.
(Sec. 107(b)(4)(B); 20 U.S.C. 2307.)

(c) The State may use the balance of the funds available under the basic grant (section 120 of the Act), in accordance with the approved five-year State plan and annual program plan, for any of the following purposes:

(1) Vocational education programs, described in § 104.511;

(2) Work-study programs, described in § 104.521;

(3) Cooperative vocational education programs, described in § 104.531;

(4) Energy education programs, described in § 104.541;

(5) Construction of area vocational education school facilities, described in § 104.551;

(6) Provision of stipends, described in § 104.571;

(7) Placement services for students who have successfully completed vocational education programs, described in § 104.581;

(8) Industrial arts programs, described in § 104.591;

(9) Support services for women, described in § 104.611;

(10) Day care services for children of students in secondary and postsecondary vocational education programs, described in § 104.611; and

(11) Construction and operation of residential vocational schools, described in § 104.631.

(12) Provision of vocational training through arrangements with private vocational training institutions or other existing institutions capable of carrying out vocational education programs, described in § 104.514;

(13) State administration of the five-year State plan and annual program plan, described in § 104.306; and

(14) Local supervision and administration of vocational education programs, services, and activities, described in § 104.307.

(Sec. 120(b); 20 U.S.C. 2330.)

VOCATIONAL EDUCATION PROGRAMS

§ 104.511 Use of funds.

(a) A State may use funds under its basic grant (section 120 of the Act) for vocational education programs which are described in its approved five-year State plan and annual program plan.

(b) Vocational education programs mean "organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation (upgrading and retraining) for a career requiring other than a baccalaureate or advanced degree, and, for the purpose of this paragraph, the term 'organized educational program' means only instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training, and the acquisition, maintenance, and repair of instructional supplies, teaching aids, and equipment, and the term 'vocational education' does not mean the

construction, acquisition or initial equipment of buildings, or the acquisition of rental of land."

(Secs. 120(b)(1)(A), 195(1); 20 U.S.C. 2330, 2461.)

§ 104.512 Vocational instruction.

(a) For the purposes of these regulations, vocational instruction means instruction which is designed upon its completion to prepare individuals for employment in a specific occupation or a cluster of closely related occupations in an occupational field, and which is especially and particularly suited to the needs of those engaged in or preparing to engage in such occupation or occupations.

(b) Vocational instruction may include:

- (1) Classroom instruction;
- (2) Shop, laboratory, and classroom related field work;

(3) Programs providing occupational work experience, and related instructional aspects of apprenticeship programs subject to the provisions of § 104.515;

(4) Remedial programs which are designed to enable individuals, including persons of limited-English speaking ability, to profit from instruction related to the occupation or occupations for which they are being trained by correcting whatever educational deficiencies or handicaps prevent them from benefiting from such instruction; and

(5) Activities of vocational student organizations which are an integral part of the vocational instruction, subject to the provisions in § 104.513.

(c) Vocational instruction may be provided to either:

(1) Those preparing to enter an occupation upon the completion of the instruction; or

(2) Those who have already entered an occupation but desire to upgrade or update their occupational skills and knowledge in order to achieve stability or advancement in employment.

(Implements Sec. 120(b)(1)(A); 20 U.S.C. 2330.)

§ 104.513 Activities of vocational education student organizations.

(a) A State may use funds under its basic grant to support activities of vocational education student organizations which are described in its approved five-year State plan and annual program plan and which are:

(1) An integral part of the vocational instruction offered;

(2) Supervised by vocational education personnel who are qualified in the occupational area which the student organization represents; and

(3) Available to all students in the instructional program without regard to membership in any student organization.

(b) An integral part of vocational instruction includes:

(1) Training in an organized educational program which is directly related to the preparation of individuals for paid or unpaid employment in a career requiring other than a baccalaureate or higher degree; or

(2) Field or laboratory work incident to the vocational training; or

(3) Development and acquisition of instructional materials, supplies, and equipment for instructional services.

(c) An integral part of vocational instruction does not include:

(1) Lodging, feeding, conveying, or furnishing transportation to conventions or other forms of social assemblage;

(2) Purchase of supplies, jackets, and other effects for students' personal ownership;

(3) Cost of non-instructional activities such as athletic, social, or recreational events;

(4) Printing and disseminating non-instructional newsletters;

(5) Purchase of awards for recognition of students, advisors, and other individuals; or

(6) Payment of membership dues.

(Implements Sec. 120(b)(1); 20 U.S.C. 2330; 31 U.S.C. 551.)

§ 104.514 Vocational instruction under contract.

(a) A State may make provision for any portion of the program of instruction on an individual or group basis by private (for profit or non-profit) vocational training institutions (subject to the requirements of paragraph (c) of this section) or other existing institutions capable of carrying out vocational programs through a written contract with the State board or local educational agency. The contract shall describe the portion of instruction to be provided by the institution and incorporate the standards and requirements of vocational instruction set forth in the regulations in this subpart and the approved five-year State plan.

(b) The contract for instruction shall be entered into only upon a determination by the State board or local educational agency that:

(1) The contract is in accordance with State and local law; and

(2) The instruction to be provided under contract will be conducted as a part of the vocational education program of the State and will constitute a reasonable and prudent use of funds available under the approved five-year State plan.

(c) The State board or local educational agency may make arrangements with private (for profit or non-profit) vocational training institutions for the provision of vocational education where the State board or local educational agency determines:

(1) The private vocational training institution can make a significant contribution to attaining the objectives of the five-year State plan and can provide substantially equivalent training at a lesser cost; or

(2) The private vocational training institution can provide equipment or services not available in public institutions.

(d) The State board or local educational agency shall review the contracts with the institutions at least once a year.

(Implements Sec. 120(b)(1)(A); 20 U.S.C. 2330; Sen. Rept. 94-882, p. 67.)

§ 104.515 Apprenticeship programs.

The five-year State plan may provide for related instruction for apprentices who are employed to learn skilled trades. If such programs of instruction are offered, the plan must set forth the following assurances:

(a) The vocational training is supplemental to the on-the-job training experience of the apprentice.

(b) The worker involved in the apprenticeable occupation must be at least 16 years of age, except where a higher minimum age standard is otherwise fixed by law.

(c) The apprentice training agreement must specify a given length of planned work experience training through employment on the job which is supplemented by related instruction.

(d) The skilled trade must possess all of the following characteristics:

(1) It is customarily learned in a practical way through training and work on the job;

(2) It is clearly identified and commonly recognized throughout an industry;

(3) It involves manual, mechanical, technical skills and knowledge; and

(4) It provides equal access to both sexes.

(e) Apprentices will be classified as follows:

(1) Registered. (i) Where the program or the apprentice, or both, are registered under the apprenticeship law of the State in which the apprentice is employed;

(ii) Where the program or the apprentice, or both, are registered by a State apprenticeship agency operating under powers vested in it by legally responsible State authority; and

(iii) Where the program or the apprentice, or both, are registered by the Bureau of Apprenticeship and Training, U.S. Department of Labor, under "standards" or "fundamentals" approved by the Federal Committee on Apprenticeship. Such registration or recognition exists only where neither conditions in paragraph (e)(1)(i) nor paragraph (e)(1)(ii) of this section exist.

(2) Non-registered. Where the program or the apprentice, or both, are not registered under any of the three conditions in paragraphs (e)(1)(i) (ii) and (iii) of this section, but a noncertifiable apprenticeship program is conducted under an implied or written agreement between the apprentice and an individual employer, a group of employees, employer-employee committees, or a governmental agency.

(3) The standards of apprenticeship programs must adhere to the requirements outlined in 29 CFR Part 29 (Department of Labor Apprenticeship Programs).

(29 U.S.C. 50)

WORK-STUDY PROGRAMS

§ 104.521 Use of funds.

A State may use funds under its basic grant (section 120 of the Act) for approved work-study programs, which are described in its approved five-year State plan and annual program plan.

(Sec. 120(b)(1)(B); 20 U.S.C. 2330.)

§ 104.522 Policy and procedure for work-study programs.

A State conducting work-study programs under § 104.521 shall set forth in the approved five-year State plan:

(a) An assurance that the State will adopt policies and procedures to insure that Federal funds used for this purpose will be expended solely for the payment or compensation of students employed pursuant to work-study programs which meet the requirements of § 104.523; and

(b) The principles for determining the priority to be accorded applications from local educational agencies for work-study programs. These principles shall give preference to applications submitted by local educational agencies serving communities having substantial numbers of youths who have dropped out of school or who are unemployed. Work-study programs shall be funded in the order determined by the application of these principles.

(Sec. 120(b)(1)(B), 121(b); 20 U.S.C. 2330, 2331.)

§ 104.523 Requirements of work-study programs.

(a) Work-study programs shall be administered by the local educational agency and shall be made reasonably available (to the extent of available funds) to all youths in the area served by the agency who are able to meet the requirements of paragraph (b) of this section.

(b) Work-study programs shall be furnished only to a student who:

(1) Has been accepted for enrollment as a full-time student in a vocational education program which meets the standards prescribed by the State board and the local educational agency for vocational education programs assisted under this Act, or in the case of a student already enrolled in such a program, is in good standing and in full-time attendance;

(2) Is in need of the earnings from such employment to commence or continue the student's vocational education program; and

(3) Is at least 15 years of age and less than 21 years of age at the commencement of the student's employment, and is capable, in the opinion of the appropriate school authorities, of maintaining good standing in his or her vocational education program while employed under the work-study program.

(Sec. 121; 20 U.S.C. 2331.)

(c) No student shall be employed under a work-study program for more than 20 hours in any week in which classes in which the student is enrolled are in session.

(Implements Sec. 121(a)(3); 20 U.S.C. 2331.)

(d) No student employed under a work-study program shall be compensated at a rate which exceeds the hourly rate prevailing in the area for persons performing similar duties.

(e) Employment under these work-study programs shall be for the local educational agency or for some other public or nonprofit private agency or institution. Students employed in work-study programs assisted under the authority of this section shall not by reason of this employment be deemed employees of the United States, or their service Federal service, for any reason.

(f) In each fiscal year during which the work study program remains in effect, the local educational agency shall expend (from sources other than payments from Federal funds under this section) for the employment of its students (whether or not the employment is an area eligible for assistance under this section) an amount that is not less than its average annual expenditure for work-study programs of a similar character during the three fiscal years preceding the fiscal year in which its work-study program is approved.

(Sec. 121; 20 U.S.C. 2330, 2331.)

COOPERATIVE VOCATIONAL EDUCATION PROGRAMS

§ 104.531 Use of funds.

(a) A State may use funds under its basic grant (section 120 of the Act) for grants to local educational agencies for establishing or expanding cooperative vocational education programs with the participation of public and private employers, when these programs are generally described in the approved five-year State plan and the annual program plan.

(b) The State, in its review of local applications, shall give priority for funding cooperative vocational education programs to local educational agencies in areas that have high rates of school dropouts or youth unemployment.

(Sec. 122 (a), (e); 20 U.S.C. 2332.)

§ 104.532 Assurances in five-year State plan.

A State conducting cooperative vocational education programs under § 104.531 shall provide assurances in the approved five-year State plan that:

(a) Funds will be used only for developing and operating cooperative vocational education programs as defined in Appendix A and which provide training opportunities that may not otherwise be available and which are designed to serve persons who can benefit from these programs;

(b) Necessary procedures are established for cooperation with employment agencies, labor groups, employers, and other community agencies in identifying suitable jobs for persons who enroll in cooperative vocational education programs;

(c) Provision is made, where necessary, for reimbursement of added costs

to employers for on-the-job training of students enrolled in cooperative programs, provided that the on-the-job training is related to existing career opportunities susceptible of promotion and advancement and which do not displace other workers who perform the work;

(Sec. 122; 20 U.S.C. 2332.)

(d) The program provides cooperative on-the-job training that (1) employs and compensates student-learners in conformity with Federal, State, and local laws and regulations and in a manner not resulting in exploitation of the student-learner for private gain, and (2) is conducted in accordance with written training agreements between local educational agencies and employers;

(Implements Sec. 122(c); 20 U.S.C. 2332.)

(e) Procedures are developed and published for use by local educational agencies for providing ancillary services and activities to assure that quality in cooperative vocational education programs is provided for and may include pre-service and in-service training for teacher coordinators, supervision, curriculum materials, travel for students and coordinators necessary to the success of such programs, and evaluation; and

(f) Policies and procedures will be adopted for accounting, for continuous evaluation of cooperative vocational education programs, and for follow-up of students who have completed or left these programs.

(Sec. 122; 20 U.S.C. 2332.)

§ 104.533 Students in nonprofit private schools.

(a) A State using funds under its basic grant (Section 120 of the Act) for grants to local educational agencies for cooperative vocational education programs shall consult with the appropriate nonprofit private schools.

(b) Each local educational agency receiving funds from the State for cooperative vocational education programs shall:

(1) Identify the students enrolled in nonprofit private schools in the area served by the local educational agency whose educational needs are of the type which the cooperative vocational education programs and services may benefit; and

(2) Assess adequately the needs of the students identified in subparagraph (1) of this paragraph for the cooperative vocational education programs and services being offered; and

(3) Provide the students identified in subparagraph (1) of this paragraph with the opportunity for cooperative vocational education programs and services in a manner which will most effectively meet the needs of these students.

(c) The personnel, materials and equipment necessary to provide cooperative vocational education programs and services to nonprofit private school students shall remain under the administration, direction and control of the local educational agency.

(d) Cooperative vocational education programs carried out by local educational agencies which include students enrolled in nonprofit private schools may be supported up to 100 percent with Federal funds.

(e) Federal funds used to support cooperative vocational education programs which include students enrolled in nonprofit private schools will not be commingled with State or local funds so as to lose their identity. In developing policies and procedures, it shall not be necessary to require separate bank accounts for funds from Federal sources, so long as accounting methods will be established which assure that expenditures of the funds can be separately identified.

(Implements Sec. 122(f); H. Rept. 1085, p. 46; 20 U.S.C. 2332.)

ENERGY EDUCATION

§ 104.511 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in the approved five-year State plan and annual program plan, for grants to postsecondary institutions for energy education.

(Sec. 123; 20 U.S.C. 2333.)

§ 104.512 Applications by postsecondary educational institutions.

(a) A State shall make a grant to a postsecondary educational institution only on application by the postsecondary educational institution to the State.

(b) The application shall describe with particularity a program for the training of miners, supervisors, and technicians (particularly safety personnel), and environmentalists in the field of coal mining and coal mining technology, including provision for supplementary demonstration projects or short-term seminars, which program may include curriculums such as:

- (1) Extraction, preparation, and transportation of coals;
- (2) Reclamation of coal mined land;
- (3) Strengthening of health and safety programs for coal mine employees;
- (4) Disposal of coal mine wastes; and
- (5) Chemical and physical analysis of coal and materials, such as water and soil, that are involved in the coal mining process.

(c) Postsecondary educational institutions may use funds for the acquisition of equipment necessary for the conduct of these programs.

(Sec. 123(a)(1)(2) (A) through (E); 20 U.S.C. 2333.)

§ 104.513 Solar energy.

A State may also use funds under its basic grant (section 120 of the Act) to make grants to postsecondary educational institutions to carry out energy education programs for:

- (a) Training of individuals needed for the installation of solar energy equipment; and
- (b) Training necessary for the installation of: (1) Glass paneled solar collectors; (2) Wind energy generators; and

(3) Other related applications of solar energy.

(Sec. 123(b); 20 U.S.C. 2333.)

CONSTRUCTION OF AREA VOCATIONAL EDUCATION SCHOOL FACILITIES

§ 104.551 Use of funds.

A State may use funds under its basic grant (section 120 of the Act) to pay costs of constructing area vocational education school facilities, in accordance with the approved five-year State plan and annual program plan.

(Sec. 120(b)(1)(E); 20 U.S.C. 2330.)

§ 104.552 Types of facilities.

The State may use funds under the basic grant for construction if the facility meets one of the following requirements:

(a) A specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market; or

(b) The department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market; or

(c) A technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market; or

(d) The department or division of a junior college or community college or university operating under the policies of the State board which provides vocational education in no less than five different occupational fields, leading to immediate employment but not necessarily leading to a baccalaureate degree. These vocational education programs must:

- (1) Be available to all residents of the State or an area of the State designated and approved by the State board; and
- (2) In the case of a school, department, or division described in (c) or (d), admit as regular students both persons who have completed high school and persons who have left high school.

(Sec. 195(2); 20 U.S.C. 2461.)

§ 104.553 Construction requirements.

An area vocational education school facility constructed under provisions of §§ 104.551 and 104.552 must meet the requirements of (a) non-discrimination provisions in 45 CFR Part 80. This includes 45 CFR 80.3(b)(3) which provides that, in determining the site or location of the facility, a recipient may not make selections with the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the grounds of race, color, or national origin, Subpart K—"Construction Requirements" in the General Education Provisions Regulations, 45 CFR 100b.155 through 100b.192, and (c) the Architectural Barriers Act

of 1968, 42 U.S.C. 4151, pertaining to standards for design, construction and alteration of buildings.

(Sec. 120(b)(1)(E); 20 U.S.C. 2330; 45 CFR 100b.157 through 100b.192 42 U.S.C. 4151)

PROVISION OF STIPENDS

§ 104.571 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in the approved five-year State plan and annual program plan, for the provision of stipends for students entering or already enrolled in vocational education programs if these students have acute economic needs which cannot be met under work-study programs, subject to the restrictions in § 104.572.

(Sec. 120(b)(1)(G); 20 U.S.C. 2330.)

§ 104.572 Restrictions on payment of stipends.

No funds shall be used for the payment of stipends to students entering or already enrolled in programs of vocational education unless the State board first makes a specific finding in each instance of funding that the funding of this particular activity is necessary due to:

- (a) Inadequate funding in other programs providing similar activities; or
- (b) Other services in the area that are inadequate to meet the needs.

(Sec. 120(b)(1)(G); 20 U.S.C. 2330.)

§ 104.573 Application for payment of stipends by eligible recipients.

An eligible recipient desiring to provide stipends for eligible students under §§ 104.571 and 104.572 shall include a request for funds in the application submitted to the State board and shall provide in the application an assurance that each applicant to be approved meets the requirements of §§ 104.571 and 104.572.

(Sec. 120(b)(1)(G); 20 U.S.C. 2330.)

§ 104.574 Rates for stipends.

Students entering or already enrolled in vocational education programs may be paid stipends at a rate not to exceed the higher of:

- (a) The minimum wage prescribed by State or local law multiplied by the number of hours per week the student is enrolled in the vocational education program; or
- (b) The minimum hourly wage set out under 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, multiplied by the number of hours per week the student is enrolled in the vocational education program.

(Implements Sec. 120(b)(1)(G); 29 CFR 95.34(c); 20 U.S.C. 2330.)

PLACEMENT SERVICES FOR STUDENTS WHO HAVE SUCCESSFULLY COMPLETED VOCATIONAL EDUCATION PROGRAMS

§ 104.581 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), in accordance with the approved five-year State plan and annual program plan, for providing placement services for students

who have successfully completed vocational education programs, subject to restrictions in § 104.582.

(Sec. 120(b)(1)(H); 20 U.S.C. 2330.)

§ 104.582 Restrictions on placement services.

A State shall not use funds for placement services for students who have successfully completed vocational education programs, unless the State board first makes a specific finding in each instance of funding that the funding of this particular activity is necessary due to:

- (a) Inadequate funding in other programs providing similar activities; or
- (b) Other services in the area that are inadequate to meet the needs. For example, if insufficient funds are available under Section 134(a)(3) for the placement of students successfully completing vocational education programs, the State may use funds under the basic grant for this purpose.

(Sec. 120(b)(2); 20 U.S.C. 2330.)

§ 104.583 Application for funds by eligible recipients.

An eligible recipient desiring to provide placement services to students who have successfully completed vocational education programs under § 104.581 shall:

- (a) Include the request for funds in the local application submitted to the State board; and
- (b) Provide assurances that all placement services to be provided meet the requirements of § 104.582.

(Sec. 120(b)(1)(H); 20 U.S.C. 2330.)

INDUSTRIAL ARTS

§ 104.591 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in the approved five-year State plan and annual program plan, for industrial arts programs which meet the requirements set forth in § 104.592.

(Sec. 120(b)(1)(I); 20 U.S.C. 2330.)

§ 104.592 Industrial arts programs.

Industrial arts education programs which may be funded under § 104.591 are those industrial arts programs which are designed to meet the purposes of this Act (including the elimination of sex stereotyping) and which:

- (a) Pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, including learning experiences involving activities such as experimenting, designating, constructing, evaluating, and using tools, machines, materials, and processes; and
- (b) Assist individuals in making informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs.

(Sec. 195(15); 20 U.S.C. 2461.)

SUPPORT SERVICES FOR WOMEN

§ 104.601 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in its approved five-year State plan and annual program plan, for support services for women who enter vocational education programs designed to prepare individuals for employment in jobs which have been traditionally limited to men.

(Sec. 120(b)(1)(J); 20 U.S.C. 2330.)

§ 104.602 Types of support services.

Support services to be provided under § 104.601 include:

- (a) *Counseling.* Counseling women entering and enrolled in non-traditional programs on the nature of these programs and on the ways of overcoming the difficulties which may be encountered by women in these programs. Counselors may furnish supportive services to assist students in adjusting to the new employment requirements.

(Implements Sec. 120(b)(1)(J); 20 U.S.C. 2330.)

- (b) *Job development.* Programs and activities in the area of job development include the provision of materials and information concerning the world of work which present women students entering, enrolled in, or interested in non-traditional programs the options, opportunities, and range of jobs available in these nontraditional fields. Job development support services may also be carried out through bringing persons employed in these nontraditional fields into the schools, as well as providing opportunities for women students to visit the work place of business and industry so as to afford them a clear understanding of the nature of the work, including an understanding of the work setting in which these jobs are performed.

(Implements Sec. 120(b)(1)(J); 20 U.S.C. 2330; H.R. Rept. No. 94-1085, pp. 23-25.)

- (c) *Job follow-up support.* Support services may be provided to assist women students in finding employment relevant to their training and interests. Follow-up services may be provided to assist students in the work force, and dealing with barriers which women face in working in these nontraditional areas.

(Implements Sec. 120(b)(1)(J); 20 U.S.C. 2330.)

§ 104.603 Support to increase number of women instructors.

In funding programs and activities of support services for women, funds may be used to increase the number of women instructors involved in the training of individuals in programs which have traditionally enrolled mostly males, so as to provide supportive examples for these women who are preparing for jobs

in these nontraditional areas of employment.

(Implements Sec. 120(b)(1)(J); 20 U.S.C. 2330; H.R. Rept. No. 1085, p. 24.)

DAY CARE SERVICES FOR CHILDREN OF STUDENTS

§ 104.611 Use of funds.

A State may use funds under its basic grant (section 120 of the Act), when included in the approved five-year State plan and annual program plan, to provide day care services for children of students (both male and female and including single parents) in secondary and postsecondary vocational education programs.

(Sec. 120(b)(1)(K); 20 U.S.C. 2330.)

§ 104.612 Day care services.

(a) Day care services shall be for the purpose of providing appropriate care and protection of infants, pre-school and school-age children in order to afford students who are parents the opportunity to participate in vocational education programs.

(b) The day care services provided under this section shall be governed by the Federal Interagency Day Care Requirements (45 CFR Part 71).

(Implements Sec. 120(b)(1)(K); 20 U.S.C. 2330.)

VOCATIONAL EDUCATION PROGRAMS FOR DISPLACED HOMEMAKERS AND OTHER SPECIAL GROUPS

§ 104.621 Use of funds.

A State shall use funds under its basic grant (section 120 of the Act) in accordance with its approved five-year State plan and annual program plan to provide vocational education programs for the following special groups:

- (a) Persons who had been homemakers but who now, because of dissolution of marriage, must seek employment;

(b) Persons who are single heads of households and who lack adequate job skills;

(c) Persons who are currently homemakers and part-time workers but who wish to secure a full-time job; and

(d) Women who are now in jobs which have been traditionally considered jobs for females and who wish to seek employment in job areas which have not been traditionally considered as job areas for females, and men who are now in jobs which have been traditionally considered jobs for males and who wish to seek employment in job areas which have not been traditionally considered as job areas for males.

(Secs. 107(b)(4)(B), 120(b)(1)(L); 20 U.S.C. 2307, 2330.)

§ 104.622 Scope of programs.

The State shall fund programs, in accordance with the policies and procedures described in its approved five-year State plan pursuant to § 104.187(b), to

assess and meet the needs of the groups described in § 104.621. These programs shall include:

- (a) Organized educational programs necessary to prepare these special groups for employment, including the acquisition, maintenance and repair of instructional equipment;
 - (b) Special courses preparing these individuals in how to seek employment; and
 - (c) Provision of placement service for the graduate of these programs.
- (Implements Sec. 120(b)(1)(L); 20 U.S.C. 2330.)

CONSTRUCTION AND OPERATION OF RESIDENTIAL VOCATIONAL SCHOOLS

§ 104.631 Use of funds.

A State may use funds under its basic grant (section 120 of the Act) when included in its five-year State plan and annual program plan for the construction equipment, and operation of residential vocational schools, including room, board, and other necessities.

(Sec. 120(b)(1)(M); 20 U.S.C. 2330.)

§ 104.632 Residential vocational schools.

A residential vocational school is an institution which provides vocational education for youths (males and females) who are at least 15 years of age and less than 21 years of age at the time of enrollment, and who need full-time study on a residential basis in order to benefit fully from the education. For the purposes of this section, institutions to which juveniles are assigned as a result of their delinquent conduct are not residential vocational schools. (This does not prohibit States from using funds under section 120 of the Act for the provision of vocational education programs in correctional institutions.)

(Sec. 124; 20 U.S.C. 2334.)

§ 104.633 Special considerations for residential vocational schools.

(a) States shall give special consideration to the needs of large urban areas and isolated rural areas having substantial numbers of youths who have dropped out of school or who are unemployed.

(b) Funds may not be used for schools in which students are segregated because of race.

(Sec. 124(b); 20 U.S.C. 2334.)

§ 104.634 Construction requirements.

When Federal funds are used to pay part of the cost of constructing a residential vocational school, the facility must meet the requirements of § 104.553.

(Sec. 120(b)(1)(M); 20 U.S.C. 2330; 45 CFR 100b.157 through 100b.192.)

Subpart 3—Program Improvement and Supportive Services

§ 104.701 Authorization of grants.

A State shall use 20 percent of the funds allotted pursuant to section 102(a) of the Act for any of the following purposes, except as provided in § 104.762(a):

- (a) Program improvement described in § 104.702;
- (b) Vocational guidance and counseling described in § 104.761;
- (c) Vocational education personnel training described in § 104.771;
- (d) Grants to overcome sex bias and sex stereotyping described in § 104.791;
- (e) State administration of the five-year State plan and annual program plan described in § 104.306; and
- (f) Local supervision and administration of vocational education programs, services, and activities described in § 104.307.

(Secs. 103(e), 130; 20 U.S.C. 2303, 2350.)

PROGRAM IMPROVEMENT

§ 104.702 Purpose.

The purpose of program improvement is to improve vocational education by the support of research programs, exemplary and innovative programs, and curriculum development programs.

(Sec. 130; 20 U.S.C. 2350.)

§ 104.703 Research coordinating unit.

(a) In order to expend funds for program improvement, the State shall establish a research coordinating unit to coordinate the research, exemplary and innovative programs, and curriculum development activities in the State.

(b) The State shall set forth the organizational structure of this research coordinating unit in the five-year State plan.

(c) The State shall develop a comprehensive plan of program improvement which includes:

(1) The intended uses of funds available under section 130 of the Act to support activities of program improvement;

(2) A description of the State's priorities for program improvement; and

(3) The procedures to be used by the research coordinating unit to insure that the findings and results of the program improvement activities in the State are disseminated throughout the State in a coordinated fashion.

(d) The State shall include the comprehensive plan of program improvement in the five-year State plan and annual program plan.

(e) The research coordinating unit shall submit to the Commissioner and to the National Center for Research in Vocational Education the following:

(1) Two copies of an abstract of each approved project for program improvement, within 30 calendar days after approval of the project, containing the source and amount of funds obligated for the project; and

(2) Two copies of the final report resulting from the State project, within three months after the ending date of the project.

(f) The research coordinating unit may use funds available under section 130 of the Act for the purposes set forth in §§ 104.705, 104.706, and 104.708. This unit may contract for the performance of activities described in §§ 104.705, 104.706, and 104.708, or this unit may per-

form the activities set forth in § 104.705, using its own staff. The cost of the professional and support staff of the research coordinating unit is supportable with Federal funds available under section 130 of the Act.

(Implements Secs. 130, 131, 132, 133, 171; 20 U.S.C. 2350 through 2353, 2401; H.R. Rept. 94-1085, p. 44; H.R. Rept. 94-1701, pp. 225-226.)

§ 104.704 Contract requirements.

No contract shall be made pursuant to §§ 104.705, and 104.708 unless the applicant can demonstrate a reasonable probability that the contract will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of such contracts.

(Sec. 131(b), 133(b); 20 U.S.C. 2351, 2353.)

§ 104.705 Use of funds for research programs.

A research coordinating unit may use funds available under section 130 of the Act directly or by contract for:

(a) Applied research and development in vocational education;

(b) Experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings, including programs and projects to overcome problems of sex bias and sex stereotyping;

(c) Improved curriculum materials for presently funded programs in vocational education and new curriculum materials for new and emerging job fields, including a review and revision of any curricula developed under this section to insure that such curricula do not reflect stereotypes based on sex, race, or national origin;

(d) Projects in the development of new careers and occupations, such as:

(1) Research and experimental projects designed to identify new careers in such fields as mental and physical health, crime prevention and correction, welfare, education, municipal services, child care, and recreation, requiring less training than professional positions, and to delineate within such career roles with the potential for advancement from one level to another;

(2) Training and development projects designed to demonstrate improved methods of securing the involvement, cooperation, and commitment of both the public and private sectors toward the end of achieving greater coordination and more effective implementation of programs for the employment of persons in the fields described in subparagraph (1) including programs to prepare professionals (including administrators) to work effectively with aides; and

(3) Projects to evaluate the operation of programs for the training, development, and utilization of public service aides particularly their effectiveness in providing satisfactory work experiences and in meeting public needs; and

(e) Dissemination of the results of the contracts made pursuant to paragraphs

(a) through (d), as well as the results of other research projects, including employment of persons to act as disseminators on a local level, of these results.

(Sec. 131(a); 20 U.S.C. 2351.)

§ 104.706 Use of funds for exemplary and innovative programs.

(a) The research coordinating unit may use funds available under section 130 of the Act directly or by contract for:

(1) Programs to develop high quality vocational education programs for urban centers with high concentrations of:

(i) Economically disadvantaged individuals;

(ii) Unskilled workers; and

(iii) Unemployed individuals.

(2) Programs to develop training opportunities for:

(i) Persons in sparsely populated rural areas; and

(ii) Individuals migrating from farms to urban areas.

(3) Programs of effective vocational education for persons of limited English-speaking ability;

(4) Establishment of cooperative arrangements between public education and manpower agencies, designed to correlate vocational education opportunities with current and projected needs of the labor market; and

(5) Programs designed to broaden occupational aspirations and opportunities for youth, especially for youth who have academic, socioeconomic, or other handicaps. These programs include:

(i) Programs and project to familiarize elementary and secondary students with the broad range of occupations for which special skills are required and the requisites for careers in those occupations; and

(ii) Programs and projects to facilitate the participation of employers and labor organizations in postsecondary vocational education.

(6) Dissemination of the results of these contracts made under the authority of paragraphs (a) through (e), including employment of persons to act as disseminators, on a local level, of these results.

(Sec. 132(a); 20 U.S.C. 2352.)

(b) Every contract made by a research coordinating unit for the purpose of funding exemplary and innovative projects shall:

(1) Give priority to programs and projects designed to reduce sex bias and sex stereotyping in vocational education;

(2) To the extent consistent with the number of students enrolled in private nonprofit schools in the area to be served, whose educational needs are of the type which the program is designed to meet, make provision (in accordance with the requirements set forth in § 104.533) for the participation of these students in the programs; and also

(3) Provide that the Federal funds made available for exemplary and innovative programs to accommodate students in nonprofit private schools will

not be commingled with State or local funds.

(Sec. 132(b); 20 U.S.C. 2352.)

§ 104.707 Disposition of exemplary and innovative programs.

The State shall indicate in the annual program plan and accountability report covering the final year of financial support by the State for any exemplary and innovative program:

(a) The proposed disposition of the program when Federal support ends; and

(b) The means by which successful or promising programs will be continued and expanded within the State.

(Sec. 132(c); 20 U.S.C. 2352.)

§ 104.708 Use of funds for curriculum development programs.

The research coordinating unit may use funds available under section 130 of the Act directly or by contract for:

(a) Development and dissemination of vocational education curriculum materials for new and changing occupational fields;

(b) Development and dissemination of vocational education curriculum materials for:

(1) Handicapped persons;

(2) Disadvantaged persons (other than handicapped persons);

(3) Persons of limited English-speaking ability;

(c) Development and dissemination of curriculum and guidance and testing materials designed to overcome sex bias and sex stereotyping in vocational educational programs;

(d) Support services designed to enable teachers to meet the needs of individuals enrolled in vocational education programs traditionally limited to members of the opposite sex; and

(e) Development and dissemination of other curriculum materials designed to improve the State's vocational education programs.

(Sec. 133(a); 20 U.S.C. 2353.)

VOCATIONAL GUIDANCE AND COUNSELING

§ 104.761 Purpose.

The purpose of vocational guidance and counseling assistance is to improve the State's vocational education programs by providing support for vocational development guidance and counseling programs, services, and activities.

(Secs. 130(b)(4), 134(a); 20 U.S.C. 2350, 2354.)

§ 104.762 Conformity with five-year State plan.

(a) A State shall use not less than 20 percent of the Federal funds available under section 130 of the Act to support vocational development guidance and counseling programs, services, and activities.

(b) The expenditure of funds for this purpose shall be in accordance with the approved five-year State plan and annual program plan.

(Sec. 134; 20 U.S.C. 2354; Sen. Rept. 94-882, p. 80.)

§ 104.763 Kinds of programs, services, and activities.

Funds made available to a State under the vocational guidance and counseling program (section 134 of the Act) shall be used to support one or more of the following activities:

Guidance and counseling.

(a) Initiation, implementation, and improvement of high quality vocational guidance and counseling programs and activities;

(b) Vocational counseling for children, youth, and adults, leading to a greater understanding of educational and vocational options;

(c) Provision of educational and job placement programs and follow-up services for students in vocational education and for individuals preparing for professional occupations or occupations requiring a baccalaureate or higher degree. Follow-up services provided to baccalaureate or higher degree students shall be only for students enrolled on or after October 1, 1977;

(d) Vocational guidance and counseling training designed to acquaint guidance counselors with (1) the changing work patterns of women, (2) ways of effectively overcoming occupational sex stereotyping, and (3) ways of assisting girls and women in selecting careers solely on their occupational needs and interests, and to develop improved career counseling materials which are free;

(e) Vocational and educational counseling for youth offenders and adults in correctional institutions;

(f) Vocational guidance and counseling for persons of limited English-speaking ability;

(g) Establishment of vocational resource centers to meet the special needs of out-of-school individuals, including individuals seeking second careers, individuals entering the job market late in life, handicapped individuals, individuals from economically depressed communities or areas, and early retirees; and

(h) Leadership for vocational guidance and exploration programs at the local level.

(Implements Sec. 134(a); 20 U.S.C. 2354; Sen. Rept. No. 95-142.)

§ 104.764 Special emphasis.

Recipients of funds allocated by the State for programs, services, and activities listed in § 104.763 (a) or (b) shall use those funds, insofar as is practicable:

(a) To bring individuals with experience in business and industry, the professions, and other occupational pursuits into schools as counselors or advisors for students;

(b) To bring students into the work establishments of business and industry, the professions, and other occupations to acquaint students with the nature of work accomplished therein; and

(Sec. 134(b); 20 U.S.C. 2354.)

(c) To enable guidance counselors to obtain experience in business and industry, the professions, and other occupational pursuits which will better enable those counselors to carry out their guidance and counseling duties.

(Sec. 134(b); 20 U.S.C. 2354; Conf. Rept. No. 94-1701, p. 225.)

VOCATIONAL EDUCATION PERSONNEL TRAINING

§ 104.771 Purpose.

The purpose of vocational education personnel training is to improve the State's vocational education programs and the services which support those programs by improving the qualifications of persons serving or preparing to serve in vocational education programs.

(Sec. 135(a); 20 U.S.C. 2355.)

§ 104.772 Conformity with five-year State plan.

(a) The State may use funds available under section 130 of the Act to support vocational education personnel training programs.

(Sec. 135(a); 20 U.S.C. 2355.)

(b) In order to be eligible for support under section 130 of the Act, specific programs and projects of training must be in accord with the general plan for vocational education personnel training as set forth in the approved five-year State plan and annual program plan for vocational education.

(Sec. 130(b); 20 U.S.C. 2350.)

§ 104.773 Eligible participants.

Training may be provided to persons serving or preparing to serve in vocational education programs, including teachers, administrators, supervisors, and vocational guidance and counseling personnel.

(Sec. 135(a); 20 U.S.C. 2355.)

§ 104.774 Types of training.

Funds available to the State under section 130 of the Act may be used to support programs and projects designed to improve the qualifications of persons who are eligible under § 104.773, including (but not limited to) the following:

(a) Training or retraining for teachers, and supervisors and trainers of teachers, in vocational education in new and emerging occupations;

(b) In-service training for vocational education teachers and other staff members, to improve the quality of instruction, supervision, and administration of vocational education programs, and to overcome sex bias and sex stereotyping in vocational education programs;

(c) Provisions for exchange of vocational education teachers and other personnel with skilled workers or supervisors in business, industry, and agriculture (including mutual arrangements for preserving employment and retirement status and other employment benefits during the period of exchange), and the development and operation of coopera-

tive programs involving periods of teaching in schools providing vocational education and of experience in commercial, industrial, or other public or private employment related to the subject matter taught in such schools;

(d) Training to prepare journeymen in the skilled trades or occupations for teaching positions;

(e) Training, including in-service training, for teachers and supervisors and trainers of teachers in vocational education to improve the quality of instruction, supervision and administration of vocational education for persons who are disadvantaged, or handicapped, or who are of limited English-speaking ability, and to train or retrain counseling and guidance personnel to meet the special needs of these persons;

(f) Provision of short-term or regular-session institutes designed to improve the qualifications of persons entering or reentering the field of vocational education in new and emerging occupational areas in which there is a need for such personnel.

(Sec. 135(a); 20 U.S.C. 2355.)

§ 104.775 Grants or contracts.

The State board may make grants or contracts, in accordance with its five-year State plan and annual program plan, in support of both training and retraining programs and projects to provide:

(a) Both pre-service and in-service education; and

(b) Both regular-session (academic year) institutes and short-term institutes.

(Sec. 135(a)(6), (b); 20 U.S.C. 2355.)

§ 104.776 Stipends to trainees.

Within the limits set in paragraphs (c) through (f) of this section, the State board may, at its discretion, authorize payment of:

(a) Stipends to participating trainees in programs or projects supported under section 135 of the Act; and

(b) Allowances for other expenses for such trainees and their dependents.

(Sec. 135(b); 20 U.S.C. 2355.)

(c) *Part-time and short-term training.* For part-time training and for short-term training (for periods not in excess of the equivalent of ten working days), the upper limits of stipends per participant are:

(1) Per hour of actual training, a sum not in excess of the average amount earned per hour of teaching by full-time classroom teachers in the State;

(2) Per full day of training, a sum not in excess of six times the rate per hour set in paragraph (c)(1) of this section; and

(3) Per five-day week of training, a sum not in excess of five times the rate per day set in paragraph (c)(2) of this section.

(d) *Full-time academic year or summer session.* The upper limits for stipends per participant for full-time training are:

(1) Per academic year of approximately nine months, a sum not in excess of \$4500; and

(2) Per summer session of at least six weeks, a sum not in excess of \$900.

(e) *Other periods of full-time training.* For full-time training for periods of more than the equivalent of ten full days and less than six weeks, the stipend is limited to a sum calculated at a rate proportionate to \$500 per calendar month.

(f) *Other allowances.* In addition to the sum allowable under authority of paragraphs (c), (d), and (e) of this section, the State may make payments only as follows:

(1) For the cost of participant travel to and from training sites, a participant is allowed the same per-mile rate for automobile travel as an employee of the State educational agency;

(2) For support of dependents of participants, a sum not in excess of:

(i) \$675 per dependent for each academic year of full-time training; and

(ii) \$170 per dependent for full-time training during a summer session of at least six weeks.

(Implements Sec. 135(b); 20 U.S.C. 2355.)

GRANTS TO OVERCOME SEX BIAS AND SEX STEREOTYPING

§ 104.791 Purpose.

The purpose of grants under § 104.792 is to support activities which show promise of overcoming sex bias and sex stereotyping in vocational education.

(Secs. 130(b)(6), 136; 20 U.S.C. 2350, 2356.)

§ 104.792 Conformity with five-year State plan.

(a) A State may use funds available under section 130 of the Act to support grants to overcome sex bias and sex stereotyping in vocational education programs.

(Sec. 136; 20 U.S.C. 2356.)

(b) The expenditure of funds for this purpose shall be in accordance with the approved five-year State plan and annual program plan. The plans shall describe the types of projects to be funded.

(Sec. 130(b); 20 U.S.C. 2350.)

§ 104.793 Types of projects.

Funds may be used for projects such as:

(a) Research projects on ways to overcome sex bias and sex stereotyping in vocational educational programs;

(b) Development of curriculum materials free of sex stereotyping;

(c) Development of criteria for use in determining whether curriculum materials are free from sex stereotyping.

(d) Examination of current curriculum materials to assure that they are free of sex stereotyping; and

(e) Training to acquaint guidance counselors, administrators, and teachers with ways of effectively overcoming sex bias and sex stereotyping, especially in assisting persons in selecting careers according to their interests and occupational needs rather than according to stereotypes.

(Implements Sec. 136; 20 U.S.C. 2356.)

Subpart 4—Special Programs for the Disadvantaged

§ 104.801 Grants to States for special programs for the disadvantaged.

A State shall use the funds allocated to it from the separate authorization (section 102(b) of the Act) for special programs for the disadvantaged as defined in § 104.804 and Appendix A of these regulations.

(Sec. 140; 20 U.S.C. 2370.)

§ 104.802 Use of funds.

(a) A State shall use the funds available under § 104.801, in accordance with the approved five-year State plan and annual program plan, for special programs of vocational education for disadvantaged persons in areas of high concentration of youth unemployment or school dropouts.

(b) A State shall use the funds under § 104.801 to pay up to 100 percent of the cost of special programs for disadvantaged persons.

(c) Funds available under § 104.801 may be used in addition to funds made available to the State for basic grants (section 120 of the Act): *Provided*, That the funds are used to conduct special programs of vocational education for the disadvantaged to enable them to succeed in vocational education programs.

(Sec. 140; 20 U.S.C. 2370.)

§ 104.803 Students in nonprofit private schools.

A State may grant funds to eligible recipients only if:

(a) Provision (in accordance with the requirements set forth in § 104.533) has been made for the participation of students enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the program or projects involved is to meet, to the extent consistent with the number of such students; and

(b) Effective policies and procedures have been adopted which assure that Federal funds made available under this subpart to accommodate students in nonprofit private schools will not be commingled with State or local funds.

(Sec. 140(b)(2); 20 U.S.C. 2370.)

§ 104.804 Criteria of need and eligibility.

(a) The term "disadvantaged" means persons (other than handicapped persons) who:

(1) Have academic or economic disadvantages; and

(2) Require special services, assistance, or programs in order to enable them to succeed in vocational education programs.

(Sec. 195(16); 20 U.S.C. 2461.)

(b) "Academic disadvantage," for the purposes of this definition of "disadvantaged," means that a person:

(1) Lacks reading and writing skills;

(2) Lacks mathematical skills; or

(3) Performs below grade level.

(c) "Economic disadvantage," for the purposes of this definition of "disadvantaged," means:

(1) Family income is at or below national poverty level;

(2) Participant or parent(s) or guardian of the participant is unemployed;

(3) Participant or parent of participant is recipient of public assistance; or

(4) Participant is institutionalized or under State guardianship.

(Implements Sec. 140; 20 U.S.C. 2370.)

(d) Eligibility for participation in the special programs supported under § 104.801 is limited to persons who (because of academic or economic disadvantage):

(1) Do not have, at the time of entrance into a vocational education program, the prerequisites for success in the program; or who

(2) Are enrolled in a vocational education program but require supportive services or special programs to enable them to meet the requirements for the program that are established by the State or the local educational agency.

(Implements Sec. 140; 20 U.S.C. 2370.)

Subpart 5—Consumer and Homemaking Education

§ 104.901 Grants to States for consumer and homemaking education.

A State shall use the funds allotted to it from the separate authorization (section 102(c) of the Act) for programs of consumer and homemaking education.

(Sec. 150(a); 20 U.S.C. 2380.)

§ 104.902 Use of funds.

A State shall use the funds available under section 150 of the Act, in accordance with its approved five-year State plan and annual program plan, solely for:

(a) Programs in consumer and homemaking; and

(b) Ancillary services in relation to programs under paragraph (a) of this section.

(Sec. 150(b); 20 U.S.C. 2380.)

§ 104.903 Programs in consumer and homemaking education.

(a) Programs in consumer and homemaking education may be conducted at all educational levels (elementary, secondary, postsecondary or adult).

(b) Programs in consumer and homemaking education consist of instructional programs, services, and activities for the occupation of homemaking.

(c) Programs for the occupation of homemaking include (but are not limited to):

(1) Consumer education;

(2) Food and nutrition;

(3) Family living and parenthood education;

(4) Child development and guidance;

(5) Housing and home management (including resource management); and

(6) Clothing and textiles.

(Sec. 150(b); 20 U.S.C. 2380.)

§ 104.904 Purpose of programs in consumer and homemaking education.

A State shall set forth in the five-year State plan and annual program plan the programs in consumer and homemaking education which it intends to support. Funds available under section 150 of the Act shall only be provided to support programs in consumer and homemaking education which:

(a) Encourage participation of both males and females to prepare for combining the roles of homemakers and wage earners;

(b) Encourage elimination of sex stereotyping by promoting the development of curriculum materials which deal with:

(1) Increased numbers of women working outside the home;

(2) Increased numbers of men assuming homemaking responsibilities;

(3) Changing career patterns of men and women; and

(4) Appropriate Federal and State laws relating to equal opportunity in education and employment;

(c) Give greater consideration to economic, social, and cultural conditions and needs, especially in economically depressed areas and, where appropriate, to bilingual instruction;

(d) Encourage eligible recipients to operate outreach programs in communities for youth and adults, giving consideration to their special needs, such as (but not limited to):

(1) The aged;

(2) Young children;

(3) School-age parents;

(4) Single parents;

(5) Handicapped persons;

(6) Educationally disadvantaged persons;

(7) Programs connected with health care delivery systems, such as providing parenthood education, nutrition education and consumer education; and

(8) Programs providing services for courts and correctional institutions, such as providing child development and guidance programs for short term court offenders;

(e) Prepare males and females who have entered or are preparing to enter into the work of the home; and

(f) Emphasize the following areas in order to meet current societal needs:

(1) Consumer education;

(2) Management of resources;

(3) Promotion of nutritional knowledge and food use; and

(4) Promotion of parenthood education.

(Sec. 150(b); 20 U.S.C. 2380.)

§ 104.905 Ancillary services.

A State may use funds available under section 150 of the Act to provide ancillary services, activities, and other means of assuring quality in all consumer and homemaking education programs. These ancillary services may include (but are not limited to): (a) Teacher training; (b) teacher supervision; (c) curriculum development; (d) research; (e) program evaluation; (f) special demonstration

and experimental programs; (g) development of instructional materials; (h) exemplary projects; (i) provision of equipment; (j) State administration and leadership; and (k) guidance and counseling.

(Implements sec. 150(b)(2); 20 U.S.C. 2380.)

§ 104.906 Federal share.

(a) A State shall use funds appropriated under section 102(c) of the Act for section 150 of the Act to pay up to 50 percent of the cost of (1) programs in consumer and homemaking education under §§ 104.903 and 104.904 and (2) ancillary services and activities under § 104.905.

(b) A State shall use at least one-third of the funds available as stated in paragraph (a) to pay up to 90 percent of the cost of programs in economically depressed areas or areas with high rates of unemployment for program designed to: (1) Assist consumers; (2) help improve home environments; and (3) help improve the quality of family life.

(Sec. 150(c), (d); 20 U.S.C. 2380.)

PART 105—COMMISSIONER'S DISCRETIONARY PROGRAMS OF VOCATIONAL EDUCATION

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AUTHORITY: Secs. 101–195 of Title II of Pub. L. 94–482 as further amended by Pub. L. 95–40 (20 U.S.C. 2301 to 2461), unless otherwise noted.

GENERAL

§ 105.1 Scope.

Part 105 contains regulations interpreting or implementing Part B (entitled "National Programs") of Title I of the Vocational Education Act of 1963, as amended by section 202 of Title II of the Education Amendments of 1976, Pub. L. 94–482 (referred to as "the Act"). Part 105 also contains regulations interpreting or implementing the Commissioner's discretionary program of contracts with Indian tribes contained in section 103 (a) (1) (B) of the Act.

(Sec. 103(a)(1)(B); Secs. 171 through 195; 20 U.S.C. 2303, 2401 et seq.)

§ 105.2 Purpose.

The purpose of Part 105 is to set forth the regulations which govern the Commissioner's discretionary programs of grants and contracts for vocational education.

(Secs. 171 through 195; 20 U.S.C. 2401 et seq.)

§ 105.3 Definitions.

The definitions common to all parts of the Act are contained in section 195 of the Act. These definitions and additional definitions necessary for the State vocational education programs are set forth in Appendix A of Part 104. Definitions necessary only for Part 105 are set forth in this Part 105 in the subparts in which they apply.

(Sec. 195; 20 U.S.C. 2461.)

§ 105.4 Applicability of General Education Provisions Regulations.

Provisions in Parts 100 and 100a of the General Education Provisions Regulations (45 CFR Parts 100 and 100a), entitled "General Provisions for Office of Education Programs," are applicable to programs under this Part 105.

(45 CFR Parts 100, 100a.)

§ 105.5 Applicability of technical review criteria.

(a) The technical review criteria in § 105.110 for Program Improvement and in § 105.626 for Bilingual Vocational Instructional Materials, Methods, and Techniques Program apply to the review of applications submitted for grants only.

(b) The evaluation of proposals submitted for procurement contracts for the two programs identified in paragraph (a) of this section are made in accordance with the Federal Procurement Regulations, Title 41, Code of Federal Regulations, Chapters 1 and 3. Technical review criteria that are consistent with the Act will be developed for each procurement contract and will be set forth specifically in the Request for Proposal (RFP) for the particular contract. These criteria will be consistent with the Act and the regulations. The RFP will be announced in the Commerce Business Daily (CBD).

(45 CFR Chapters 1 and 3.)

Subpart 1—Program Improvement

§ 105.101 Purpose.

The purpose of program improvement is to support projects for the improvement of vocational education and a national center for research in vocational education as authorized in section 171 of the Act. Funds available to the Commissioner for program improvement under section 103 of the Act will be used primarily for contracts and in some cases for grants.

(Secs. 103, 171; 20 U.S.C. 2303, 2401.)

§ 105.102 National center for research in vocational education.

(a) The Commissioner will support a national center for research in vocational education. The center (a non-profit agency) will be chosen once every five years. The Commissioner will appoint an advisory committee to assist the center. The center shall have such research locations, including contracts with one or more regional research centers, as shall be determined by the Commissioner after consultation with the national center and its advisory committee taking into consideration the vocational education research resources available, geographical area to be served, and the schools, programs, projects, and students and areas to be served by research activities.

(b) The center shall directly or through other public agencies:

- (1) Conduct applied research and development on problems of national significance in vocational education;
- (2) Provide leadership development through an advanced study center and in-service education activities for State and local leaders in vocational education;
- (3) Disseminate the results of research and development projects funded by the center;
- (4) Develop and provide information to facilitate national planning and policy development in vocational education;
- (5) Act as a clearinghouse for information on projects supported by the States and the Commissioner and compile an annotated bibliography of research, exemplary and innovative projects, and curriculum development projects assisted with funds made available under this Act since July 1, 1970; and
- (6) Work with States, local educational agencies, and other public agencies in developing methods of evaluating programs, including the follow-up studies of program completers and leavers required by section 112 of the Act, so that these agencies can offer job training programs which are more closely related to the types of jobs available in their communities, regions, and States.

(Sec. 171(a)(2); 20 U.S.C. 2401.)

§ 105.103 Armed services curriculum materials.

The Commissioner will make contracts to convert to use in local educational agencies, private nonprofit schools, and other public agencies curriculum materials involving job preparation which have been prepared for use by the armed services of the United States.

(Sec. 171(b)(3); 20 U.S.C. 2401.)

(a) The Commissioner will make a contract for an exemplary and innovative project only if the project provides for the participation of students enrolled in nonprofit private schools consistent with:

(1) The number of such students in the area to be served by the project; and

(2) The educational needs of those students is of the type which the project involved is to meet.

(b) The contract shall provide that the Federal funds will not be commingled with State or local funds.

(Sec. 171(b)(2); 20 U.S.C. 2401.)

§ 105.104 Authorized activities.

(a) The Commissioner will support projects of national significance for improvement of vocational education. The projects include the following activities as authorized in sections 131 through 136 of the Act:

- (1) Research (section 131 of the Act);
- (2) Exemplary and innovative programs (section 132 of the Act);
- (3) Curriculum development (section 133 of the Act);
- (4) Vocational guidance and counseling (section 134 of the Act);
- (5) Vocational education personnel training (section 135 of the Act); and
- (6) Grants to assist in overcoming sex bias and sex stereotyping (section 136 of the Act).

(b) Functions under the above may include: applied research and development; experimental and pilot programs; curriculum revision and development; demonstration, dissemination, and utilization of research and development products; personnel training; and evaluation.

(Secs. 131 through 136, 171(a)(1); 20 U.S.C. 2351–56, 2401.)

§ 105.105 Eligible applicants.

(a) Eligible applicants for project support include:

- (1) Public organizations, institutions, and agencies;
- (2) Nonprofit and profit-making private organizations, institutions, and agencies; and
- (3) Individuals.

(b) Profit-making private organizations, institutions, and agencies, and individuals are eligible for contracts only.

(c) Eligible applicants for the national center for research in vocational education include nonprofit agencies only.

(Interprets Sec. 171; 20 U.S.C. 2401.)

§ 105.106 Cost sharing.

No cost sharing is required. The Commissioner may pay all or part of the cost.

(Interprets Sec. 171(b)(5)(A); 20 U.S.C. 2401.)

§ 105.107 Duration of project support.

The Commissioner will not support a project for a period to exceed three fiscal years.

(Sec. 171(b)(5)(B); 20 U.S.C. 2401.)

§ 105.108 Improved teaching techniques or curriculum materials.

The Commissioner will not make a grant pursuant to § 105.104 unless the applicant can demonstrate a reasonable probability that the grant will result in improved teaching techniques or curriculum materials that will be used in a substantial number of classrooms or other learning situations within five years after the termination date of the grant.

(Sec. 171(b)(1); 20 U.S.C. 2401.)

§ 105.109 Exemplary and innovative projects.

(a) The Commissioner will make a contract for an exemplary and innovative project only if the project provides for the participation of students enrolled in nonprofit private schools consistent with:

- (1) The number of such students in the area to be served by the project; and
- (2) The educational needs of those students is of the type which the project involved is to meet.

(b) The contract shall provide that the Federal funds will not be commingled with State or local funds.

(Sec. 171(b)(2); 20 U.S.C. 2401.)

§ 105.110 Technical review criteria.

The following criteria will be used in reviewing applications. These criteria are consistent with 45 CFR 100a.26, Review of Applications, in the General Provisions for Office of Education Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. Applications that receive less than 50 points will not be funded.

(a) *National need.* (Maximum 15 points.) The need section clearly: (1) Describes the national need in vocational education for the proposed project; (2) Provides specific evidence of the need; (3) Indicates specifically who or what will be helped; and (4) Describes the problem rather than symptoms of the problem.

(b) *Literature review.* (Maximum 5 points.) The literature review is sufficiently comprehensive to:

- (1) Establish the basis for the problem;
- (2) Describe the problem in contrast to the symptoms of the problem;
- (3) Provide a strong conceptual framework for the proposed objectives and proposed plan, including the general design and specific procedures of the proposed plan, along with the management, evaluation, dissemination, and training procedures, when appropriate; and
- (4) Describe what has been done previously to alleviate the problem and point out the gaps that will be alleviated by this specific proposed work.

(c) *Objectives.* (Maximum 10 points.) The objectives are related to the problem and: (1) Are significant for vocational education; (2) Clearly describe proposed project outcomes; (3) Are capable of being attained; and (4) Are measurable.

(d) *Plan.* (Maximum 18 points.) The plan clearly describes: (1) The overall design for the proposed project; and (2) The specific procedures by which each objective will be accomplished. Normally the plan will include:

- (i) Precise definitions of terms; (ii) Description of the characteristics and number of subjects; (iii) Sampling procedures and control groups; (iv) Instru-

mentation; and (c) Statistical and analytical procedures.

(e) *Management plan.* (Maximum 8 points.) The management plan adequately describes the way in which personnel and resources will be used to accomplish each component of the plan developed in criterion (c).

(f) *Evaluation plan.* (Maximum 8 points.) The plan includes valid and reliable instruments and procedures for assessing and documenting the impact of project results and end products or outcomes in terms of the achievement of project goals and objectives.

(g) *Results, end products, outcomes, and dissemination.* (Maximum 10 points.) The application clearly describes:

(1) What will be delivered to the government; (2) The format in which the results, products, or outcomes will be delivered to the government;

(3) The way in which results, products, or outcomes will be developed or provided for dissemination purposes to specified user populations; and

(4) The procedures to be used in disseminating the results, end products, or outcomes at the local, State, and/or national levels.

(h) *Staff competencies and experience.* (Maximum 7 points.) The application clearly describes:

(1) The names and qualifications (including project management qualifications) of the project director; key professional staff, advisory groups, and consultants;

(2) Time commitments planned for the project by the project director, key staff, advisory groups, and consultants;

(3) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects;

(4) Use of professional staff members from minorities or women; and

(5) The competencies that are required for the proposed project.

(i) *Budget and cost effectiveness.* (Maximum 7 points.) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and appears to be cost effective with respect to proposed results, products, or outcomes.

(j) *Institutional capability and commitment.* (Maximum 4 points.) The application provides adequate evidence of:

(1) Institutional or individual's experience and commitment to the proposed work;

(2) Appropriate facilities and equipment; and

(3) Assurance of support from cooperating agencies, local educational agencies, postsecondary institutions, business, industry, and labor, where applicable for successful implementation of the project.

(k) *Sex bias and stereotyping.* (Maximum 4 points.) The application provides appropriate plans to eliminate sex bias and stereotyping in the proposed results, end products, and outcomes, and the proposed dissemination plans.

(Implements Sec. 171; 20 U.S.C. 2401.)

§ 105.111 Additional application review factors.

In addition to the criteria listed in § 105.110, the Commissioner may utilize factors such as the following in making decisions regarding whether to fund applications: (a) Duplication of effort; (b) Duplication of funding; and (c) Evidence that an applicant has not performed satisfactorily on previous projects.

(Implements Sec. 171; 20 U.S.C. 2401.)

Subpart 2—Indian Tribes

CONTRACT PROGRAM FOR INDIAN TRIBES AND INDIAN ORGANIZATIONS

§ 105.201 Purpose.

The purpose of the program for Indian tribes and Indian organizations is for the Commissioner, at the request of an Indian tribe, to make a contract or contracts directly with Indian tribal organizations, with funds available under section 103(a)(1) of the Act, to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the Act, particularly section 103(a)(1)(B)(iii) of the Act.

(Sec. 103(a)(1); 20 U.S.C. 2303.)

§ 105.202 Applicability of the Indian Self-Determination Act of 1975.

(a) Any contract entered into under this subpart is subject to the provisions of sections 4, 5, 6, 7(b) and 102 of the "Indian Self-Determination and Education Assistance Act of 1975," Pub. L. 93-638.

(b) Regulations implementing the above sections of the Indian Self-Determination and Education Assistance Act, Title 25 of the Code of Federal Regulations, §§ 271.44, 271.46, 271.47, and 271.50 are applicable to the extent that they are relevant and practicable.

(c) Whenever the term "Secretary of the Interior" is used, in the Indian Self-Determination and Education Assistance Act, the term means, for the purposes of this subpart, "Commissioner of Education."

(Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303; 25 U.S.C. 450a, et seq.)

§ 105.203 Definitions.

(a) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaskan native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act which is recognized as eligible for special programs and services provided by the United States to Indians because of their status as Indians.

(b) "Tribal organization" means the recognized governing body of any Indian tribe or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by the or-

ganization and which includes the maximum participation of Indians in all phases of its activities.

(25 U.S.C. 450b.)

§ 105.204 Assistance contracts.

Awards will be made competitively through assistance contracts governed by Subchapter A of Title 45, Code of Federal Regulations (entitled "General Provisions for Office of Education Programs"), except to the extent that appropriate sections of the Indian Self-Determination and Education Assistance Act of 1975 apply or to the extent that more specific regulations in this subpart apply. The criteria in 45 CFR 100a.26(b) do not apply to this program.

(Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303; 25 U.S.C. 450e(b).)

§ 105.205 Eligible applicants.

An Indian tribal organization of an Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975 or under the Act of April 16, 1934, is eligible for assistance contracts.

(Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303; 25 U.S.C. 450f.)

§ 105.206 Applications for assistance contracts.

An application from an eligible tribal organization must be submitted to the Commissioner by the Indian tribe and must contain the information that the Commissioner requires. An application which serves more than one Indian tribe shall be approved by each tribe to be served in the application.

(Sec. 103(a)(1)(B)(iii); Pub. L. 93-638; 20 U.S.C. 2303; 25 U.S.C. 450b(c).)

§ 105.207 Review for duplication of effort.

An applicant shall submit a copy of the application directly to the Commissioner of the Bureau of Indian Affairs and the State board at the same time it submits an application to the Office of Education in order to avoid duplication of funding.

(Implements Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303.)

§ 105.208 No cost sharing.

No cost sharing by the applicant is required.

(Implements Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303.)

§ 105.209 Duration of awards.

(a) The total project period of an award may not exceed three years. The Commissioner may make multi-year awards if the nature of the project warrants multi-year funding. Continuation funding is contingent upon satisfactory performance. Application for multi-year awards shall have a detailed budget for the current year and total budget figures for the subsequent years.

(b) A request for continuation of a project beyond the project period will

be considered a new application and will be reviewed competitively with all other applications. In order for the Commissioner to make this determination, an applicant who has had a prior contract under this program shall include an evaluation of the previous project.

(Implements Sec. 103(a)(1)(B)(iii); 45 CFR 100a.432; 20 U.S.C. 2303.)

§ 105.210 Final reports.

The contractor shall submit final financial status and performance reports as the Commissioner shall request.

(45 CFR 100a.403; 45 CFR 100a.432; 20 U.S.C. 2303.)

§ 105.211 Technical review criteria.

The following criteria will be utilized in reviewing applications. These criteria are consistent with 45 CFR 100a.26(b). Review of Applications, in the General Provisions for Office of Education Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum aggregate score for the criteria is 100 points, and the maximum weight for each criterion is listed below in parentheses. Points will be awarded to the extent that evidence in the application satisfies each criterion. The review of these criteria shall constitute the basis for the Commissioner to enter or decline to enter into a contract with an eligible applicant. If the review of any application results in no recommendation to fund (where funds are available), this will mean that it is not satisfactory, as that term is used in the Indian Self-Determination Act (section 102). Applications must receive a minimum of 30 points to be considered for funding.

(a) *Program improvement.* (Maximum 15 points.) The application focuses on the improvement of occupational training opportunities for Indians and delineates the way in which the proposed program will contribute to improved programs for the specific target group.

(b) *Need.* (Maximum 10 points.) The need section clearly: (1) Describes the need for the proposed activity; (2) Provides specific evidence of the need; (3) Indicates specifically how the need will be met; and (4) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

(c) *Objectives.* (Maximum 10 points.) The objectives: (1) Relate to the need; (2) Are significant for vocational education; (3) Clearly describe proposed program outcomes;

(4) Are capable of being attained; and

(5) Are measurable.

(d) *Plan.* (Maximum 15 points.) The plan clearly describes the way in which the objectives will be accomplished by:

(1) The overall design for the proposed program; and

(2) The use of specific procedures to implement activities designed to accomplish each objective of each segment of the proposed program;

(3) A description of: (i) Specific activities to be conducted in the proposed program;

(ii) Instruments to be used in the proposed program;

(iii) Instructional material to be used in the proposed program, if appropriate; and

(iv) Population to be served in the proposed program; and

(4) Statistical and analytical procedures, if appropriate.

(e) *Management plan.* (Maximum 10 points.) The management plan adequately describes the way in which personnel and resources will be utilized to accomplish each objective, the overall design, and each major procedure.

(f) *Evaluation plan.* (Maximum 10 points.) The plan includes valid and reliable instruments and procedures for assessing and documenting the impact of project results in terms of the achievement of project goals and objectives.

(g) *Applicant's staff competencies and experience.* (Maximum 10 points.) Points will be awarded on the extent to which the application clearly describes: (1) The competencies that are required for the proposed project;

(2) The names and qualifications (including project management qualifications) of the project director, key professional staff, advisory groups, and any consultants;

(3) Time commitments planned for the project by the project director, key staff, advisory groups, and any consultants;

(4) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects;

(5) Evidence of commitment to section 7(b) of the Indian Self-Determination and Education Assistance Act.

(h) *Budget and cost effectiveness.* (Maximum 10 points.) Points will be awarded on the extent to which the application provides a justifiable and itemized statement of cost which contains line items in the proposed budget and appears to be cost effective with respect to proposed results.

(i) *Institutional capability and commitment.* (Maximum 10 points.) The application provides adequate evidence of: (1) Institutional experience and commitment to the proposed work;

(2) Appropriate facilities and equipment; and

(3) Documented assurances of support from cooperating local educational agencies, postsecondary institutions, business, industry, or labor, if support from any of these groups is necessary for successful implementation of the project.

(Implements Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303; 25 U.S.C. 450f.)

§ 105.212 Additional factors for declining to contract.

In addition to the weighted technical review criteria listed in § 105.211, the Commissioner may use any of the factors listed below in making a decision whether to decline to enter into a contract with an eligible applicant.

(a) The program duplicates an effort already being made;

(b) Funding the program would create an inequitable distribution among tribes; or

(c) The applicant has not performed satisfactorily under a previous Office of Education award.

(Implements Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303; 25 U.S.C. 450f.)

§ 105.213 Hearing by the Commissioner after declining to enter into a contract.

After receiving notice from the Commissioner that the Office of Education will not award a contract to an eligible applicant, the tribal organization or the tribe shall have 30 calendar days to request a hearing, in writing, to review the Commissioner's decision.

(25 U.S.C. 450f.)

§ 105.214 Remaining funds.

From any remaining funds reserved for this subpart, the Commissioner is authorized to enter into an agreement with the Commissioner of the Bureau of Indian Affairs for the operation of vocational education programs authorized by this Act in institutions serving Indians as described in section 103(a)(B)(i) of the Act. The Secretary of the Interior is authorized to receive funds for that purpose.

(Sec. 103(a)(1)(B)(iii); 20 U.S.C. 2303.)

Subpart 3—Training and Development Programs for Vocational Education Personnel

LEADERSHIP DEVELOPMENT AWARD PROGRAM

§ 105.301 Purpose.

The purpose of the leadership development award program is to provide opportunities for experienced vocational educators to spend full time in advanced study of vocational education.

(Sec. 172(a)(1); 20 U.S.C. 2402.)

§ 105.302 Leadership development awards.

(a) *Awards.* The Commissioner will make leadership development awards to qualified vocational education personnel (such as administrators, supervisors, teacher educators, researchers, guidance and counseling personnel, and instructors in vocational education) for graduate training in an approved vocational education leadership development program of an approved institution of higher education.

(Sec. 172(b)(1), (3); 20 U.S.C. 2402.)

(b) *Award period.* Leadership development awards will be made for a period not to exceed 36 months.

(Sec. 172(b)(2)(A); 20 U.S.C. 2402.)

§ 105.303 Equitable geographical distribution.

In order to meet the needs for qualified vocational educational personnel in all the States, the Commissioner, without using any pre-determined formula for allocation among the States, but after

applications have been reviewed and scored on their merits, will make leadership development awards in an equitable manner among the States. The Commissioner will take into account such factors as:

- (a) The State's vocational education enrollments; and
- (b) The incidence of youth unemployment and school dropouts in the State. (Sec. 172(b)(4); 20 U.S.C. 2402.)

§ 105.304 Eligibility of individuals.

(a) A person is eligible to receive a leadership development award if such person:

- (1) Has had not less than two years of experience in vocational education or in business or industrial training or military technical training, or in the case of researchers, experience in social science research which is applicable to vocational education; and
- (2) Is currently employed or is reasonably assured of employment in vocational education and has successfully completed, as a minimum, a baccalaureate degree program; and
- (3) Is recommended by his or her employer, or others, as having leadership potential in the field of vocational education and is eligible for admission as a graduate student to a program of higher education approved by the Commissioner under § 105.311.

(b) In order to receive a leadership development award the person selected shall enroll for full-time graduate study in a vocational education leadership development program approved under § 105.311.

(Sec. 172(b)(1), (5); 20 U.S.C. 2402.)

§ 105.305 Application procedures.

(a) *Submission of applications.* Any eligible individual who wishes to receive a leadership development award shall submit an application to the Commissioner and send one copy of the application to the State board for vocational education for the State in which the applicant is a resident.

(b) *Role of the State board.* The State board, with advice from the State advisory council, from other agencies involved in State planning and reporting, and from representatives of vocational education programs in institutions of higher education, will:

- (1) Review the application;
- (2) Collect advice as to the merits of each application from the other agencies and the representatives noted in this paragraph;
- (3) Advise the Commissioner as to the merits of each application; and
- (4) Forward all applications and statements of advice to the Commissioner for review and decision by the Commissioner.

(Implements Sec. 172(a)(1), 20 U.S.C. 2402; H.R. Rept. No. 94-1085, pp. 54-55.)

§ 105.306 Stipends to individuals.

(a) *Academic year.* Each person awarded a leadership development award is entitled to receive a stipend of:

- (1) \$4500 for each academic year of full-time study at the institution of higher education; and

- (2) \$675 for each academic year for each dependent.

(b) *Summer session.* An additional stipend may be awarded of:

- (1) \$900 for full-time summer study at the same institution of higher education; and

- (2) \$170 for this period for each dependent.

(Implements Sec. 172(b)(2)(A); 20 U.S.C. 2402.)

§ 105.307 Conditions for continued eligibility.

(a) *Satisfactory participation.* A recipient of an award may continue to receive payments under § 105.306 only during such periods as the Commissioner finds that the recipient:

- (1) Is maintaining satisfactory proficiency in study or research in the field of vocational education in an institution of higher education;
- (2) Is devoting essentially full time to such study or research; and
- (3) Is not engaging in gainful employment, other than part-time employment in teaching, research, or similar activities endorsed by that institution and approved by the Commissioner.

(Sec. 172(b)(5); 20 U.S.C. 2402; H.R. Rept. No. 94-1085, pp. 55-56.)

(b) *Employment limitation.* The limitation with respect to employment set forth in paragraph (a)(3) of this section does not apply to the period of time between an academic year and a summer session (or between academic years if a stipend is not received under § 105.306(b) for full-time study).

(Implements Sec. 172(b)(5); 20 U.S.C. 2402.)

§ 105.308 Payment conditioned on appropriation.

Leadership development award payments under § 105.306 after the first year of the award period (in case of awards made for a period exceeding twelve months) are subject to the continued availability of Federal funds under section 172 of the Act.

(Interprets Sec. 172; 20 U.S.C. 2402.)

§ 105.309 Technical review criteria.

The Commissioner will use the following criteria in reviewing applications. The criteria in 45 CFR 100a.26(b) do not apply to this program. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criteria. The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum of 50 points to be considered for funding.

- (a) *Academic ability.* (Maximum 30 points) The applicant provides evidence of his or her academic ability. This must include: (1) Transcripts of grades earned in college, including graduate courses; and may include (2) Scores

earned on the Graduate Record Examination, Miller Test of Analogies, or similar tests; and (3) Results earned on specific skill aptitude tests.

(b) *Leadership potential.* (Maximum 20 points) The applicant provides evidence of leadership potential. This may include awards or recognition received for: (1) Professional service; (2) Community activities; (3) Work with advisory committees; (4) Volunteer work; (5) Outstanding skill in interpersonal relations; and (6) Other activities as appropriate.

(c) *Managerial skills.* (Maximum 15 points) The applicant provides information concerning his or her experience in a managerial or administrative capacity. This may include evidence of the applicant's ability in: (1) Planning; (2) Problem solving; (3) Decision making; and (4) Other skills, where appropriate.

(d) *Communication skills.* (Maximum 20 points) The applicant provides evidence of experience in activities requiring oral and written language skills. This may include:

- (1) Public speaking experience to professional, community, or other groups;
- (2) Articles published in professional or popular journals; and
- (3) Other written materials such as reports, abstracts, and instructional materials.

(e) *National need.* (Maximum 15 points) The degree to which the applicant's goals, objectives, and aspirations in vocational education relate to national needs in vocational education, including developing expertise to serve: (1) disadvantaged persons; (2) members of minority groups, and (3) handicapped persons.

(H.R. Rept. No. 94-1085, p. 55.)

(g) *Additional criteria.* In addition to the criteria listed above the Commissioner will consider the following factors: (1) Equitable distribution among males and females; (2) Geographical distribution; (3) Membership in minority groups.

(Implements Sec. 172(a)(1); 20 U.S.C. 2402; U.S.C. 2402; H.R. Rept. No. 94-1085, p. 55.)

§ 105.310 Assignment to approved institution.

Each applicant for an award shall identify a first, second, and third choice of institutions (approved under § 105.311) he or she desires to attend. The Commissioner reserves the right to redistribute award recipients among approved institutions in order to assure that each institution will have a sufficient number of awardees to assure the effectiveness of the program of vocational leadership development.

(Implements Sec. 172(a)(1); 20 U.S.C. 2402; H.R. Rept. No. 94-1085, p. 55.)

§ 105.311 Institutional eligibility and approval.

Upon receipt of an application from an institution of higher education requesting approval of its vocational education leadership development program,

the Commissioner will approve the program only upon finding that:

(a) The institution offers a comprehensive program in vocational education with adequate supporting services and disciplines, such as education administration, guidance and counseling, research, and curriculum development, including:

(Sec. 172(b)(3)(A); 20 U.S.C. 2402.)

(1) Training in those leadership skills necessary to increase the participation of disadvantaged and underrepresented persons such as the handicapped, disadvantaged minorities, and women, in vocational education programs at all levels;

(Sec. 101(1); 20 U.S.C. 2301; H.R. Rept. No. 94-1085, p. 55.)

(2) Resources and supporting services for at least five of the generally recognized fields of vocational education, integrated into a comprehensive approach to vocational education;

(3) Practical experience and internship components; and

(Implements Sec. 172(b)(3)(A); 20 U.S.C. 2402.)

(4) A focus on familiarizing the individual with new curriculum materials in vocational education.

(Sec. 172(b)(7); 20 U.S.C. 2402.)

(b) The program under paragraph (a) of this section is designed to further substantially the objective of improving vocational education by providing opportunities for graduate training for vocational education teachers, supervisors, guidance and counseling personnel, and administrators, and of university level vocational education teacher educators and researchers.

(c) The program is conducted by a school of graduate study.

(Interprets Sec. 172(b)(3)(B); 20 U.S.C. 2402.)

§ 105.312 Institutional allowance.

(a) The Commissioner will (in addition to the stipend paid to an award recipient under § 105.306) pay an institutional allowance to the institution of higher education in which the recipient is pursuing a course of study, in the amount of \$3,200 per participant, per academic year, with an additional \$800 per participant for full-time study during the summer session.

(b) The institutional allowance is made in lieu of tuition and all non-refundable fees and deposits that would otherwise be required of the student.

(c) Any portion of the institutional allowance in excess of normal tuition, non-refundable fees, and deposits attributable to the awardee shall be used by the institution to improve the program of vocational education leadership development in that institution.

(Implements Sec. 172(b)(2)(B); 20 U.S.C. 2402.)

VOCATIONAL EDUCATION CERTIFICATION FELLOWSHIP PROGRAM

§ 105.431 Purpose.

The purpose of the vocational education certification fellowships is to provide opportunities for:

(a) Certified teachers who have been trained to teach in other fields to become vocational educators if those teachers have skills and experience in vocational fields for which there is a need for vocational teachers and for which they can be trained to be vocational educators; and

(Sec. 172(a)(2); 20 U.S.C. 2402.)

(b) Persons in industry, business, and agriculture who have skills and experience in vocational fields for which there is need for vocational educators (but who do not necessarily have baccalaureate degrees) to become vocational educators.

(Interprets Sec. 172(a)(3); 20 U.S.C. 2402.)

§ 105.432 Awards to two categories of fellows.

The Commissioner is authorized to award fellowships to two categories of persons for undergraduate study in institutions of higher education:

(a) Persons who are or have been certified by a State as teachers in elementary and secondary schools, community and junior colleges, and other thirteenth and fourteenth year programs within the ten-year period prior to the current closing date for applications under this program and who:

- (1) Have or have had skills and experience in vocational fields for which there is a need for vocational teachers and for which they can be trained to be vocational educators; and
- (2) Are unable to find employment in their field of previous training.

(Sec. 172(c)(1), (c)(1)(A); 20 U.S.C. 2402.)

(b) Persons (not necessarily baccalaureate degree holders) employed in industry, business, or agriculture who:

- (1) Have skills and experience in vocational fields in which there is a need for vocational educators; and
- (2) Have been accepted by a teacher training institution for enrollment in a program which will assist them in becoming vocational educators.

(Sec. 172(c)(1)(B); 20 U.S.C. 2402.)

§ 105.433 Fellowship period.

Fellowships will be made for periods not to exceed 24 months.

(Sec. 172(c)(2)(A); 20 U.S.C. 2402.)

§ 105.434 Application procedures.

(a) *Submission of applications.* Any eligible individual who wishes to receive a vocational education certification fellowship shall submit an application to the Commissioner and send one copy of the application to the State board for vocational education for the State in which the applicant is a resident.

(b) *Role of the State board.* The State board, with advice from the State advisory council, from other agencies involved in State planning and reporting,

and from representatives of vocational education programs in institutions of higher education, will:

- (1) Review the applications;
- (2) Collect advice as to the merits of each application;
- (3) Advise the Commissioner as to the merits of each application; and
- (4) Forward all applications and statements of advice to the Commissioner for review and decision by the Commissioner.

(Implements Sec. 172(c)(1); 20 U.S.C. 2402; H.R. Rept. No. 94-1085, p. 54.)

§ 105.435 Equitable geographical distribution.

In order to meet the needs for qualified vocational education personnel in all the States, the Commissioner, without using any pre-determined formula for allocation among the States, but after applications have been reviewed and scored on their merits will make certification fellowship awards in an equitable manner among the States, taking into account such factors as:

- (a) The State's vocational education enrollment; and
- (b) The incidence of youth unemployment and school dropouts in the State.

(Sec. 172(c)(4); 20 U.S.C. 2402.)

§ 105.436 Stipend to fellows.

(a) *Academic year.* Each person awarded a fellowship is entitled to receive a stipend of:

- (1) \$4500 for each academic year of full-time study at the institution of higher education to which that person is assigned for the fellowship period; and
- (2) \$675 for each academic year for each dependent.

(b) *Summer session.* An additional stipend may be awarded of:

- (1) \$900 for full-time summer study at the same institution of higher education; and
- (2) \$170 for this period for each dependent.

(Implements Sec. 172(c)(2)(A); 20 U.S.C. 2402.)

§ 105.437 Conditions for continued eligibility.

(a) *Satisfactory participation.* A recipient of a fellowship may continue to receive payment under § 105.436 only during such period as the Commissioner finds that the recipient:

- (1) Is maintaining satisfactory proficiency in study or research in the field of vocational education in an institution of higher education;
- (2) Is devoting essentially full time to such study or research; and
- (3) Is not engaging in gainful employment, other than part-time employment in teaching, research, or similar activities endorsed by that institution and approved by the Commissioner.

(Implements Sec. 172(c)(5); 20 U.S.C. 2402; H.R. Rept. No. 94-1085, pp. 55-56.)

(b) *Employment limitations.* The limitation with respect to employment set forth in paragraph (a)(3) of this

section does not apply to the period of time between an academic year and a summer session, or between academic years if a stipend is not received under § 105.436(b) for full-time summer study.

(Interprets Sec. 172(c)(5); 20 U.S.C. 2402.)

§ 105.438 Payment conditioned on appropriation.

Fellowship payments under § 105.436 after the first year of the fellowship period (in case of awards made for a period exceeding twelve months) are subject to the continued availability of Federal funds under section 172 of the Act.

(Interprets Sec. 172; 20 U.S.C. 2402.)

§ 105.439 Institutional allowance.

(a) The Commissioner will (in addition to the stipends paid to a fellowship recipient under § 105.436) pay an institutional allowance to the institution of higher education at which the recipient is pursuing his or her course of study in an amount of \$2,000 per participant per academic year, with an additional \$500 per participant for full-time study during the summer session;

(b) The institutional allowance is made in lieu of tuition and all non-refundable fees and deposits that would otherwise be required of the fellow; and

(c) Any portion of the institutional allowance in excess of the normal tuition, non-refundable fees, and deposits attributable to the fellow shall be used by the institution to improve the program of vocational education in that institution.

(Implements Sec. 172(c)(2)(B); 20 U.S.C. 2402.)

§ 105.440 Institutional eligibility and approval.

The Commissioner will approve the vocational education fellowship program of an institution of higher education only upon finding that:

(a) The program is capable of enabling unemployed certified teachers or persons from business, industry, or agriculture to become certified vocational education teachers;

(Interprets Sec. 172(c)(1)(B); 20 U.S.C. 2402.)

(b) The institution offers a program in vocational education which is sufficiently comprehensive to meet, at the undergraduate level, the requirements for certification of the applicant in the State where the institution is located;

(c) In the case of applicants seeking certification in a particular area of study designated by the Commissioner as being in need of additional personnel, the institution is capable of preparing students for certification in that particular area;

(Implements Sec. 172(c)(7); 20 U.S.C. 2402.)

(d) The fellow will receive education and training of the same type as that offered by the institution to undergraduate students preparing to become vocational education teachers; and

(e) The undergraduate program in vocational education includes adequate

support services and disciplines, such as education administration, guidance and counseling, special education for the handicapped, research, and curriculum development.

(Implements Sec. 172(c)(3); 20 U.S.C. 2402.)

§ 105.441 Teaching fields in need of additional teachers.

The Commissioner will publish, before the beginning of each fiscal year, a listing of the areas of teaching in vocational education where there are or will be shortages of personnel and will, to the maximum degree possible, award fellowships under § 105.432 to applicants seeking to become teachers in the areas identified.

(Sec. 172(c)(7); 20 U.S.C. 2402.)

§ 105.442 Content of applications.

(a) *For certified teachers.* Each certified teacher applicant shall provide in his or her application evidence of:

(1) Certification as a teacher in an elementary or secondary school or junior or community college or other thirteenth and fourteenth grade program within the ten-year period prior to the current closing date for applications under this program; and

(2) Past or current skills and experiences in the vocational field(s) in which there is a need for additional educators and for which he or she seeks training as a vocational educator; and

(3) Inability to find employment in his or her field of previous certification.

(b) *For applicants not certified as teachers.* Each applicant who has not been a certified teacher shall provide in his or her application evidence of:

(1) The nature and duration of his or her employment in business, agriculture, or industry; and

(Interprets Sec. 172(c)(1)(B); 20 U.S.C. 2402.)

(2) Having skills and experiences in one of the vocational areas where vocational educators are needed.

(Sec. 172(c)(1)(B); 20 U.S.C. 2402.)

(c) *Assurance by the institution.* The institution of higher education designated in the application for a fellowship shall provide in that application an assurance that the:

(1) Applicant has been accepted for enrollment in the program of vocational education designated in the application; and the

(2) Institution meets the requirements for institutional eligibility set forth in paragraphs (a) through (e) of § 105.440.

(Implements Sec. 172(c)(3); 20 U.S.C. 2402.)

§ 105.443 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. The criteria in 45 CFR 100a.26(b) do not apply to this program. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criteria.

The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum of 50 points to be considered for funding.

(a) *Academic ability.* (Maximum 25 points.) The applicant provides evidence of his or her level of academic achievement and academic ability. This may include: (1) Transcripts of grades earned in secondary school and, where appropriate, college; (2) Results earned on specific skill aptitude tests; and (3) Results of other tests, where appropriate.

(b) *Vocational skills.* (Maximum 35 points.) The applicant provides evidence of his or her performance in a work situation requiring vocational skills. This may include: (1) Letters of recommendations of previous employers or others, as appropriate; (2) Results of National Occupational Competency Testing Institute, where appropriate; (3) Certificates or diplomas, as appropriate; and (4) Work related experience, including teaching, where appropriate.

(c) *Communication skills.* (Maximum 15 points.) The applicant provides evidence of experience in activities requiring oral and written language skills. This may include:

(1) Public speaking experience to professional, community, or other groups;

(2) Articles published in newspapers, professional or popular journals; and

(3) Other written materials such as reports, abstracts, or other materials, where appropriate.

(d) *Human relations skills.* (Maximum 15 points.) The applicant presents evidence of skills in interpersonal relations. This may include experience with: (1) Professional groups; (2) Community groups; (3) Volunteer groups; (4) Work related organizations; (5) Members of minority groups, the disadvantaged, and handicapped persons; and (6) Other groups, as appropriate.

(e) *National need.* (Maximum 10 points.) The applicant describes in writing his or her goals, objectives, and aspirations in vocational education and their relationship to national needs in vocational education with particular reference to the elimination of sex stereotyping and working with the following populations: (1) Disadvantaged persons; (2) Members of minority groups; and (3) Handicapped persons. (H.R. Rept. No. 94-1085, p. 55.)

(f) *Additional factors.* In addition to the criteria listed above, the Commissioner will consider the following factors: (1) Equitable distribution among males and females; (2) Geographical distribution; (3) Membership in minority groups; and (4) The applicant's intention to become certified in a vocational field not traditionally open to persons of the applicant's sex, or to become certified in a new field or one not commonly taught.

(Implements Sec. 101(3), 172(b)(4); 20 U.S.C. 2301, 2402; H.R. Rept. No. 94-1085, p. 55.)

Subpart 4—Emergency Assistance for Remodeling and Renovating of Vocational Education Facilities

§ 105.501 Purpose.

The purpose of this program is to provide emergency assistance to local educational agencies in urban and rural areas which are unable to provide vocational education designed to meet today's manpower needs due to the age of their vocational education facilities or the obsolete nature of the equipment used for vocational training. The purpose is to assist those local educational agencies in the modernization of facilities or equipment and the conversion of academic facilities necessary to assure that the facilities will be able to offer vocational education programs which give reasonable promise of employment.

(Sec. 191; 20 U.S.C. 2441.)

§ 105.502 Eligible applicants.

(a) Any local educational agency in an urban or rural area is an eligible applicant.

(Sec. 193(a); 20 U.S.C. 2443.)

(b) "Rural area" means an area which is not included within a Standard Metropolitan Area (as defined by the U.S. Bureau of Census) and which is not within or coterminous with, a city, town, borough, or village, or other subcounty political unit, the population of which exceeds 2,500.

(c) "Urban area" means an area within a city, town, or borough with a population of over 100,000.

(Implements Sec. 198(a); 20 U.S.C. 2443.)

§ 105.503 Content of applications.

An application for a grant or assistance contract shall set forth:

(a) A description of the facility to be remodeled or renovated, including:

(1) The date of completion of construction of the facility (or the part of the facility to be remodeled or renovated);

(2) The extent of remodeling or renovation necessary to enable the facility to provide a modern program of vocational education;

(b) A description of the equipment to be replaced or modernized and reference to the particular purpose for which the equipment will be used;

(c) A description of the extent to which the modernization or conversion of facilities and equipment will be consistent with, and further the goals of, the five-year State plan, including the elimination of sex and racial bias and sex stereotyping in vocational education programs;

(d) The financial ability of the local educational agency to undertake the modernization without Federal assistance;

(Implements Sec. 193(a)(1)-(4); 20 U.S.C. 2443.)

(e) Assurance that the facility to be remodeled or renovated will meet standards adopted pursuant to the Architectural Barriers Act;

(Sec. 193(a)(5); 20 U.S.C. 2443; 42 U.S.C. 4151-4156.)

(f) The extent of State and local funds available to match Federal funds together with the sources and amounts of the funds;

(g) Such other information as the State board determines to be appropriate.

(Sec. 193(a)(6), (7); 20 U.S.C. 2443.)

(h) The reasons why renovation or remodeling rather than replacement is planned or why some other facility is not available;

(i) The cost of each major item of renovation or remodeling; and

(j) Facts showing that renovation or remodeling is cost effective.

(Implements Sec. 193(a)(8); 20 U.S.C. 2443.)

§ 105.504 Submission of applications through the State board.

An applicant shall send the application to the Commissioner through the State board.

(Sec. 193(a); 20 U.S.C. 2443.)

§ 105.505 Technical review criteria.

(a) The Commissioner will rank all applicants according to their relative need for assistance.

(Sec. 193(c); 20 U.S.C. 2443.)

(b) The relative need for assistance will be determined by the following criteria (total 100 points):

(1) The age or obsolescence of the facilities and equipment for which assistance is sought (maximum 17 points);

(2) The rate of youth unemployment in the labor market area served by the local educational agency (maximum 12 points);

(3) The number of youth aged seventeen through twenty-one residing in the labor market area served by the local educational agency who are unemployed (maximum 12 points);

(4) The percentage such youth represent, as compared with the vocational education enrollment in the local educational agency (maximum 12 points);

(5) The ability of the facility to comply with the standards adopted pursuant to the Architectural Barriers Act (maximum 5 points);

(Sec. 193(b)(1)(A) through (E); 20 U.S.C. 2443; 42 U.S.C. 4151 through 4156.)

(6) The need for the proposed facilities or equipment in relation to the employment needs of the State or labor market area (maximum 12 points);

(7) Adequacy of the proposed facilities or equipment for the training or educational requirements of the specific vocational training program(s) to be accommodated by the proposed facilities or equipment (in terms of linedrawings and educational specifications) (maximum 10 points);

(8) Evidence that the proposed renovation or remodeling or equipment is economical and is not elaborate or extravagant (maximum 5 points);

(9) Evidence that the planned renovation or remodeling is a more cost-

effective approach than replacement (maximum 5 points); and

(10) Evidence that the local educational agency does not have the financial ability to undertake the proposed project without Federal assistance, and the ability of the State education agency and the local education agency to match proposed Federal funds (maximum 10 points).

(Implements, Sec. 192(b)(1); 20 U.S.C. 2442.)

(c) In approving applications, the Commissioner will consider the degree to which the modernization of facilities and equipment proposed in the application affords promise of achieving the goals set forth in the approved five-year State plan.

(Sec. 193(b)(2); 20 U.S.C. 2443.)

§ 105.506 Payments to local educational agencies.

(a) The Commissioner will pay 75 percent (except as noted in paragraph (b)) of the cost of approved applications in the order they are ranked under § 105.505(b).

(Sec. 193(c); 20 U.S.C. 2443.)

(b) The Commissioner may waive the 75 percent limit and may pay up to the full cost of the project upon the Commissioner's finding, in writing, that a local educational agency with an approved application is suffering from extreme financial need and cannot, because of the 75 percent limit, participate in the program.

(Sec. 193(e); 20 U.S.C. 2443.)

(c) Applications will be funded until the appropriation is exhausted.

(d) The Commissioner will reserve from the appropriation for the fiscal year for which the application is made an amount sufficient to pay the entire Federal share of each approved project and will obligate that amount from the appropriation even though the project may not be completed within the fiscal year.

(Interprets Sec. 194(a); 20 U.S.C. 2444.)

(e) The Commissioner will pay approved applicants in advance or by way of reimbursement, or in installments consistent with HEW practices.

(Sec. 194(b); 20 U.S.C. 2444.)

§ 105.507 Construction requirements.

The Office of Education's regulations for the Commissioner's direct project grant and contract programs (45 CFR Part 100a) shall apply to projects for assistance under this program, particularly the Commissioner's regulations on "Bonding and Insurance" (45 CFR Part 100a, Subpart J, §§ 100a.120-122) and on "Construction Requirements" (Subpart K, §§ 100a.155-192), (45 CFR Part 100a). In addition, the non-discrimination provisions in 45 CFR Part 80 apply. This includes 45 CFR 80.3(b)(3) which provides that, in determining the site or location of the facility, a recipient may not make selections with the effect of excluding individuals from, denying them the bene-

fits of, or subjecting them to discrimination on the grounds of race, color, or national origin.

(Implements Sec. 193; 20 U.S.C. 2443.)

Subpart 5—Bilingual Vocational Education

BILINGUAL VOCATIONAL TRAINING PROGRAM § 105.601 Purpose.

The purpose of the bilingual vocational training program is to prepare persons of limited English-speaking ability to perform adequately in an environment requiring English language skills and to fill the critical need for more and better trained persons in occupational categories vital to both the persons and the economy. Funds available to the Commissioner pursuant to section 183 of the Act may be used for making grants or contracts for bilingual vocational training programs.

(Sec. 181; 20 U.S.C. 2411; Conf. Rept. No. 94-1701, p. 228.)

§ 105.602 Eligible programs.

Sixty-five percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or contracts for the cost of operating programs designed to carry out the purposes set forth in § 105.601 in an amount equal to the total sum expended by the applicant for the purposes set forth in the application. No cost sharing is required. These programs include:

(a) Bilingual vocational training programs for persons who have completed or left elementary or secondary school. Programs for secondary school students are not eligible;

(b) Bilingual vocational training programs for persons who have already entered the labor market and who desire or need training or retraining to achieve year-round employment, adjust to changing employment needs, expand their range of skills, or advance in employment.

Training allowances for participants in bilingual vocational training programs described in paragraphs (a) and (b) of this section are an allowable cost. Allowances are subject to the same conditions and limitations as set forth in the Department of Labor Regulations 29 CFR 95.34. Applicants may waive training allowances in accordance with the waiver procedure in 29 CFR 95.34(j).

(Sec. 185; 20 U.S.C. 2415.)

§ 105.603 Eligible applicants.

The following agencies or institutions are eligible for grants or contracts, except item (f) being eligible only for contracts:

(a) Local educational agencies;
(b) State agencies;
(c) Postsecondary educational institutions;
(d) Private nonprofit vocational training institutions; and
(e) Nonprofit educational or training organizations especially created to serve a group whose language as normally used is other than English; and

(f) Private for profit agencies and organizations.

(Sec. 184; 20 U.S.C. 2414.)

§ 105.604 Applications for grants or contracts.

(a) An applicant shall submit a copy of the application to the State board at the same time it is submitted to the Office of Education. The State board shall submit its comments to the Office of Education within 30 days after the closing date for applications.

(b) An applicant shall provide an assurance that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant.

(c) An applicant shall set forth a bilingual vocational training program of such size, scope, and design as will make a substantial contribution toward carrying out the purposes described in § 105.601.

(d) An applicant shall provide an assurance that the program will include instruction in the English language and in the trainee's dominant language in order to insure that participants in the training will be assisted to pursue occupations in work environments where English is the language normally used.

(e) An applicant shall submit an amendment, if any, to the application in the same manner as the applicant submitted the original application. A request for funding by an applicant who has had a prior award(s) shall include an evaluation of the previous project and will be reviewed competitively with new applications.

(Sec. 184; 20 U.S.C. 2414; Sec. 189A(b); 20 U.S.C. 2420.)

§ 105.605 Review of applications.

(a) The Commissioner may approve an application for assistance under the bilingual vocational training program only if the application:

(1) Meets the requirements set forth in § 105.604;

(2) Is consistent with the criteria set forth in § 105.606; and

(3) Is submitted to the Commissioner at the time, in the manner and containing the information the Commissioner deems necessary, as set forth in the Notice of Closing Date to be published in the FEDERAL REGISTER.

(b) Prior to making awards in a State, the Commissioner will, where feasible, consult with the State board to achieve equitable distribution of assistance among populations of persons of limited English-speaking ability with the most acute need for training within the State.

(Sec. 189A, 189B(a) (3); 20 U.S.C. 2420, 2421.)

§ 105.606 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 45 CFR 100a.26, Review of Applications in the Office of Education, General Provisions for Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum of 30 points to be considered for funding.

(a) *Need.* (Maximum 10 points.) (1) Describes the need for the proposed bilingual vocational training;

(2) Provides specific evidence of the need;

(3) Indicates specifically how the need will be met; and

(4) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

(b) *Objectives.* (Maximum 10 points.)

(1) Are significant and meet clearly identified needs in bilingual vocational training;

(2) Clearly describe the proposed project outcomes; and

(3) Are capable of being measured and attained.

(c) *Plan.* (Maximum 15 points.) The plan clearly describes the way in which the objectives will be accomplished by:

(1) The overall design for the proposed project; and

(2) The specific procedures of each segment of the design. Normally the plan will include a description of:

(i) Proposed trainees;

(ii) Recruiting procedures to be used;

(iii) Training program including a description of both the bilingual vocational training and the language instruction which is designed to assure that trainees will acquire sufficient competency in English to work in environments where English is the language normally used;

(iv) Support services to be offered to trainees;

(v) Instructional materials to be used in the proposed program;

(vi) Anticipated level of skill of the trainees, at the end of the proposed training;

(vii) Activities to be used in aiding trainees to secure employment, if appropriate; and

(viii) Tests to be used in the proposed program components.

(d) *Management plan.* (Maximum 8 points.) The management plan adequately describes the way in which personnel and resources will be used to accomplish each component of the plan developed in criterion (c).

(e) *Evaluation plan.* (Maximum 12 points.) The plan includes valid and reliable procedures for assessing and documenting the bilingual vocational training program and the progress of the trainees.

(f) *Applicant's staff competencies and experience.* (Maximum 25 points.) The application clearly describes:

(1) The names and qualifications (including project management qualifications) of the project director, professional staff, consultants, and advisory groups;

(2) Time commitments planned for the project director, staff, advisory groups, and any consultants;

(3) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects; and

(4) Staff competencies that are essential for the proposed project including proficiency in the language of the trainees.

(g) *Budget and cost effectiveness.* (Maximum 10 points.)

(1) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and is cost effective;

(2) The application includes information concerning the average cost per trainee.

(b) *Institutional capability and commitment.* (Maximum 10 points.) The application provides adequate evidence of:

(1) Institutional experience and commitment to the proposed work;

(2) Appropriate facilities and equipment necessary for the proposed project; and

(3) Documented assurance of support from cooperating agencies, institutions, or community groups where applicable for successful implementation of the project.

(Implements Sec. 189A; 20 U.S.C. 2420.)

§ 105.607 Additional application review factors.

In addition to the criteria listed in § 105.606, the Commissioner may utilize factors such as the following in making decisions regarding whether to fund applications. (a) Duplication of effort; (b) Duplication of funding; and (c) Evidence that an applicant has not performed satisfactorily on previous projects.

(Implements Sec. 181; 20 U.S.C. 2411.)

BILINGUAL VOCATIONAL INSTRUCTOR TRAINING PROGRAM

§ 105.611 Purpose.

The purpose of the bilingual vocational instructor training program is to provide training programs to meet the critical shortage of instructors possessing both the job knowledge and skills and the dual language capabilities required for adequate instruction of persons handicapped by their limited English-speaking ability. Funds available to the Commissioner pursuant to section 183 of the Act may be used for making grants or contracts for bilingual vocational instructor training programs.

(Sec. 186; 20 U.S.C. 2416.)

§ 105.612 Eligible programs.

Twenty-five percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or contracts for the cost of conducting training for instructors of bilingual vocational training programs in an amount equal to the total sum expended by the applicant for the purposes set forth in that application. No cost sharing is required. These programs include:

(a) Pre-service training programs designed to prepare persons to participate in bilingual vocational training or bilingual vocational education as: (1) Instructors; (2) Aides; and (3) Ancillary personnel such as guidance personnel and counselors.

(b) In-service and developmental programs designed to enable instructional and ancillary personnel to continue to improve their qualifications while participating in bilingual vocational training programs; fellowships or traineeships for persons engaged in activities described in (a) and (b) are an allowable cost. A fellowship is an award to an individual student made by a granting agency of the Department. A traineeship is an award to an institution for student support (stipends or allowances) and for institutional support (either in a predetermined amount or based on actual costs).

(Sec. 186; Sec. 187; 20 U.S.C. 2416; 20 U.S.C. 2417.)

§ 105.613 Eligible applicants.

The following categories of agencies or institutions are eligible for grants or contracts, except item (c) being eligible only for contracts: (a) State agencies; (b) Public and private nonprofit educational institutions; and (c) Private-for-profit educational institutions.

(Sec. 186; 20 U.S.C. 2416.)

§ 105.614 Applications for grants or contracts.

(a) An applicant shall provide an assurance that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant.

(b) An applicant shall set forth in the application a bilingual vocational instructor training program of a type described in § 105.612;

(c) An applicant shall describe in the application the capabilities of the applicant institution in terms of:

(1) A listing of the vocational training or vocational education courses offered by that institution;

(2) Appropriate accreditation by regional or national associations, if any;

(3) Approval by appropriate State agencies of the courses offered; and

(4) Qualifications of the principal staff who will be responsible for the training program.

(d) An application shall describe clearly (and in detail) in the application the trainees in terms of the:

(1) Minimum qualifications of the persons to be enrolled in the training program;

(2) Selection process of the trainees; and

(3) Amounts of fellowships or traineeships, if any, to be granted to the persons enrolled.

(e) An applicant shall submit an amendment, if any, to the application in the same manner as the applicant submitted the original application. A request for funding by an applicant who has had a prior award(s) shall include

an evaluation of the previous project and will be reviewed competitively with new applications.

(Sec. 189A; 20 U.S.C. 2420.)

§ 105.615 Review of applications.

(a) The Commissioner may approve an application for assistance under the bilingual vocational instructor training program only if the application:

(1) Meets the requirements set forth in § 105.614;

(2) Is consistent with the criteria set forth in § 105.616;

(3) Is submitted to the Commissioner at the time, in the manner and containing the information the Commissioner deems necessary, as set forth in the Notice of Closing Date to be published in the FEDERAL REGISTER.

(4) The applicant institution actually has an ongoing vocational training program in the field in which persons are being trained; and

(5) The applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual vocational training program for which persons are being trained.

(b) Prior to making awards in a State, the Commissioner will, where feasible, consult with the State board to achieve equitable distribution of assistance among populations of persons of limited English-speaking ability with the most acute need for training within the State.

(Secs. 189A, 189B(a) (3); 20 U.S.C. 2420, 2421.)

§ 105.616 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 45 CFR 100.26, Review of Applications in the Office of Education, General Provisions for Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum score for the criterion is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum of 30 points to be considered for funding.

(a) *Need.* (Maximum 10 points.) The need section clearly: (1) Describes the need for the proposed instructor training; (2) Provides specific evidence of the need; (3) Indicates specifically how the need will be met; and (4) Describes, where appropriate, ongoing and planned activities in the community relative to the need.

(b) *Objectives.* (Maximum 10 points.) The objectives are related to the problem and: (1) Are significant for pre-service or in-service training; (2) Clearly describe the proposed training program; and (3) Are capable of being measured and attained.

(c) *Plan.* (Maximum 15 points.) The plan clearly describes the way in which the objectives will be accomplished by the: (1) Overall design for the proposed

project; (2) Specific procedures of each segment of the design in terms of accomplishing the objectives; (3) Normally the plan will include:

(i) Description of the training program, including all program components;

(ii) Description of the minimum qualifications of the persons to be enrolled in the training program;

(iii) Description of the selection process and the amounts of the fellowships or traineeships, if any, to be granted to persons enrolled in the program;

(iv) Evidence that the applicant institution actually has an ongoing vocational training or vocational education program in the field for which persons are to be trained, including a listing of the vocational courses offered by the institutions;

(v) Evidence that the applicant institution can provide instructors with adequate language capabilities in the language other than English to be used in the bilingual job training program for which the persons are being trained; and

(vi) Evidence that a need exists for instructors who will receive training in the proposed project.

(d) *Management plan.* (Maximum 8 points) The management plan adequately describes the way in which personnel and resources will be used to accomplish each component of the plan developed in criterion (c).

(e) *Evaluation plan.* (Maximum 12 points) The plan includes rigorous procedures for assessing and documenting the instructor training program including both the vocational component and the language component.

(f) *Applicant's staff competencies and experience.* (Maximum 25 points) The application clearly describes:

(1) The names and qualifications (including project management qualifications) of the project director, professional staff, consultants, and advisory groups;

(2) Time commitments planned for the project director, key staff, advisory groups, and any consultants;

(3) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects; and

(4) Staff competencies that are essential for the proposed project, including proficiency in English and in the language other than English.

(g) *Budget and cost effectiveness.* (Maximum 10 points.) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and appears to be cost effective.

(h) *Institutional capability and commitment.* (Maximum 10 points.) The application provides adequate evidence of:

(1) Institutional experience and commitment to the proposed work;

(2) Appropriate facilities and equipment necessary for the proposed project;

(3) Appropriate accreditation of the applicant institution by regional or national associations and approval by ap-

propriate State agencies of the courses offered; and

(4) Documented assurance of support from cooperating agencies, institutions, or community groups where applicable for successful implementation of the project.

(Implements Sec. 189A; 20 U.S.C. 2420.)

§ 105.617 Additional application review factors.

In addition to the criteria listed in § 105.616, the Commissioner may utilize factors such as the following in making decisions regarding whether to fund applications.

(a) Duplication of effort;

(b) Duplication of funding; and

(c) Evidence that an applicant has not performed satisfactorily on previous projects.

(Implements Sec. 181; 20 U.S.C. 2411.)

BILINGUAL VOCATIONAL INSTRUCTIONAL MATERIALS, METHODS, AND TECHNIQUES PROGRAM

§ 105.621 Purpose.

The purpose of the bilingual vocational instructional materials, methods, and techniques program is to develop instructional materials and encourage research programs and demonstration projects to meet the critical shortage of such instructional materials suitable for bilingual vocational training programs. Funds available to the Commissioner pursuant to section 183 of the Act may be used for making grants or contracts for bilingual vocational instructional materials, methods, and techniques.

(Sec. 188; 20 U.S.C. 2418.)

§ 105.622 Eligible programs.

Ten percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or contracts for the cost of developing and testing instructional materials, methods, or techniques for bilingual vocational training in an amount equal to the total sum expended by the application for the purposes set forth in that application. No cost sharing is required. These programs include:

(a) Research in bilingual vocational training;

(b) Development of instructional materials;

(c) Training programs designed to familiarize State agencies and training institutions with research findings and successful pilot and demonstration projects in bilingual vocational training;

(d) Experimental, developmental, and pilot programs and projects designed to test the effectiveness of research findings; and

(e) Other demonstration and dissemination projects in bilingual vocational training.

(Sec. 189; 20 U.S.C. 2419.)

§ 105.623 Eligible applicants.

The following categories of agencies or institutions are eligible for grants or

contracts, except items (e) and (f) being eligible only for contracts: (a) State agencies; (b) Public educational institutions; (c) Private educational institutions; (d) Nonprofit organizations; (e) Private-for-profit organizations; and (f) Individuals.

(Sec. 188; 20 U.S.C. 2418.)

§ 105.624 Applications for grants or contracts.

(a) An applicant shall provide an assurance that the activities and services for which assistance is sought will be administered by or under the supervision of the applicant.

(b) An applicant shall set forth in the application a bilingual vocational instructional materials, methods, and techniques program of a type described in § 105.622.

(c) An applicant shall set forth in the application the qualifications of the staff who will be responsible for the program for which assistance is sought.

(d) An applicant shall submit an amendment, if any, to the application in the same manner as the applicant submitted the original application. A request for funding by an applicant who has had a prior award(s) will be reviewed competitively with new applications.

(Sec. 189A; 20 U.S.C. 2420.)

§ 105.625 Review of applications.

The Commissioner may approve an application for assistance under the bilingual vocational instructional materials, methods, and techniques program only if the application:

(a) Meets the requirements set forth in § 105.624;

(b) Is consistent with the criteria set forth in § 105.626; and

(c) Is submitted to the Commissioner at the time, in the manner and containing the information the Commissioner deems necessary, as set forth in the Notice of Closing Date to be published in the FEDERAL REGISTER.

(Sec. 189A; 20 U.S.C. 2420.)

§ 105.626 Technical review criteria.

The Commissioner will use the following criteria in reviewing formally transmitted applications. These criteria are consistent with 45 CFR 100a.26. Review of Applications in the General Provisions for Office of Education Programs. A segment or segments of an application should address each criterion. Each criterion is weighted and includes the maximum score that can be given to an application in relation to the criterion. The maximum score for the criteria is 100 points, and the maximum weight for each criterion is listed below. An application must receive a minimum score of 50 points to be considered for funding.

(a) *Need.* (Maximum 20 points) The need section clearly:

(1) Describes the national significance and the need in bilingual vocational training for the proposed project;

(2) Provides specific evidence of the need;

(3) Indicates specifically who or what will be helped; and

(4) Describes the problem rather than the symptoms of the problem.

(b) *Literature review.* (Maximum 5 points) The literature review is sufficiently comprehensive to:

(1) Establish the basis for the problem;

(2) Describe the problem in contrast to the symptoms of the problem;

(3) Provide a strong conceptual framework for the proposed objectives and proposed plan, including the general design and specific procedures of the proposed plan, along with the management, evaluation, dissemination, and training procedures (when appropriate); and

(4) Describe what has been done previously to alleviate the problem and point out the gaps that will be alleviated by this specific proposed work.

(c) *Objectives.* (Maximum 10 points) The objectives are related to the problem and: (1) Are significant for bilingual vocational training; (2) Clearly describe proposed project outcomes; (3) Are capable of being attained; and (4) Are measurable.

(d) *Plan.* (Maximum 15 points) The plan clearly describes:

(1) The overall design for the proposed project; and

(2) The specific procedures by which each objective will be accomplished. Normally the plan will include:

(i) Precise definitions of terms; (ii) Description of the characteristics and number of subjects; (iii) Sampling procedures and control groups; (iv) Instrumentation; and (v) Statistical and analytical procedures.

(e) *Management plan.* (Maximum 10 points.) The management plan adequately describe the way in which personnel and resources will be used to accomplish each component of the plan developed in criterion (c).

(f) *Evaluation plan.* (Maximum 10 points.) The plan includes rigorous procedures for assessing and documenting the impact of project results and end products or outcomes in terms of the achievement of project goals and objectives.

(g) *Results, end products, outcomes, and dissemination.* (Maximum 10 points.) The application clearly describe:

(1) What will be delivered to the government;

(2) The format in which the results, products, or outcomes will be delivered to the government;

(3) The way in which results, products, or outcomes will be developed or provided for dissemination purposes to specified user populations; and

(4) The procedures to be used in disseminating the results, and products, or outcomes at the local, State, and/or national levels.

(h) *Applicant's staff competencies and experience.* (Maximum 10 points.) The application clearly describes:

(1) The names and qualifications (including project management qualifica-

tions) of the project director, key professional staff, advisory groups, and consultants;

(2) Time commitments planned for the project by the project director, key staff, advisory groups, and consultants;

(3) Evidence of past and successful experience of the proposed project director and key staff members in similar or related projects; and

(4) The competencies that are required for the proposed project.

(i) *Budget and cost effectiveness.* (Maximum 5 points.) The application provides a justifiable and itemized statement of cost which is substantiated by line items in the proposed budget and appears to be cost effective with respect to proposed results, products, or outcomes.

(j) *Applicant's capability and commitment.* (Maximum 5 points.) The application provides adequate evidence of:

(1) Institutional or individual's experience and commitment to the proposed work;

(2) Appropriate facilities and equipment; and

(3) Documented assurance of support from cooperating agencies, local educational agencies or postsecondary institutions, business, industry, and labor, where applicable for successful implementation of the project.

(Implements Sec. 189A; 20 U.S.C. 2420.)

§ 105.627 Additional application review factors.

In addition to the criteria listed in § 105.626, the Commissioner may utilize factors such as the following in making decisions regarding whether to fund applications.

(a) Duplication of effort;

(b) Duplication of funding; and

(c) Evidence that an applicant has not performed satisfactorily on previous projects.

(Implements Sec. 181; 20 U.S.C. 2411.)

APPENDIX A DEFINITIONS

"Act" means the Vocational Education Act of 1963, Pub. L. 88-210, as amended by Title II of the Education Amendments of 1976, Pub. L. 94-482, 90 Stat. 2168, 20 U.S.C. 2301 et seq.

(Secs. 101-195, 20 U.S.C. 2301 et seq.)

"Administration" means activities of a State or an eligible recipient necessary for the proper and efficient performance of its duties under the Act, including supervision, but not including ancillary services.

(Sec. 195(20); 20 U.S.C. 2461.)

"Adult program" means (for reporting purposes) vocational education for persons who have already entered the labor market or who are unemployed or who have completed or left high school and who are not described in the definition of "postsecondary program."

(Sec. 110(c); 20 U.S.C. 2461.)

"Ancillary services" means activities which contribute to the enhancement of quality in vocational education programs, including activities such as teacher training and curriculum development, but excluding administra-

tion (except in consumer and homemaking education under Section 150 of the Act).

(Implements Sec. 195(20); 20 U.S.C. 2461.)

"Area vocational education school" means:

(a) A specialized high school used exclusively or principally for the provision of vocational education to persons who are available for study in preparation for entering the labor market;

(b) The department of a high school exclusively or principally used for providing vocational education in no less than five different occupational fields to persons who are available for study in preparation for entering the labor market; or

(c) A technical or vocational school used exclusively or principally for the provision of vocational education to persons who have completed or left high school and who are available for study in preparation for entering the labor market; or

(d) The department or division of a junior college or community college or university operating under the policies of the State board which provides vocational education in no less than five different occupational fields, leading to immediate employment but not necessarily leading to a baccalaureate degree, if:

(1) The vocational programs are available to all residents of the State or an area of the State designated and approved by the State board; and

(2) In the case of a school, department, or division described in (c) or (d), it admits as regular students both persons who have completed high school and persons who have left high school.

(Sec. 195(2); 20 U.S.C. 2461.)

"Bilingual vocational training" means training or retraining in which instruction is presented in both the English language and the dominant language of the persons receiving training and which is conducted as part of a program designed to prepare individuals of limited English-speaking ability for gainful employment as semiskilled or skilled workers or technicians or subprofessionals in recognized occupations and in new and emerging occupations, but excluding any program to prepare individuals for employment in occupations which require a baccalaureate or advanced degree; bilingual vocational training includes guidance and counseling (either individually or through group instruction) in connection with such training or for the purpose of facilitating occupational choices; instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; the training of persons engaged as, or preparing to become, instructors in a bilingual vocational training program; and the acquisition, maintenance, and repair of instructional supplies, aids, and equipment, but such term does not include the construction, acquisition, or initial equipment of buildings or the acquisition or rental of land.

(Implements Sec. 181; 20 U.S.C. 2411.)

"CETA" means the Comprehensive Employment and Training Act of 1973, Pub. L. 93-23, 87 Stat. 839, as amended.

"Commissioner" means the U.S. Commissioner of Education or the Commissioner's designee.

(Sec. 195(5); Sec. 421A(a) of GEPA; 20 U.S.C. 2461.)

"Construction" includes:

(a) Construction of new buildings;

(b) Acquisition, expansion, remodeling, and alteration of existing buildings;

(c) Site grading and improvement; and

(d) Architect fees.

(Sec. 195(4); 20 U.S.C. 2461.)

"Cooperative education" means a program of vocational education for persons who, through written cooperative arrangements between the school and employers, receive instruction, including required academic courses and related vocational instruction by alternation of study in school with a job in any occupational field, but these two experiences must be planned and supervised by the school and employers so that each contributes to the student's education and to his or her employability. Work periods and school attendance may be on alternate half-days, full days, weeks, or other periods of time in fulfilling the cooperative program. (Sec. 195(18); 20 U.S.C. 2461.)

"Curriculum materials" means materials: (a) Covering instruction in a course or series of courses in any occupational field; and

(b) Designed to prepare persons for employment at the entry level; or

(c) Designed to upgrade occupational competencies of those previously or presently employed in any occupational field. (Sec. 195(19); 20 U.S.C. 2461.)

"Disadvantaged" means:

(a) Persons (other than handicapped persons) who:

(1) Have academic or economic disadvantages; and

(2) Require special services, assistance, or programs in order to enable them to succeed in vocational education programs. (Sec. 195(16); 20 U.S.C. 2461.)

(b) "Academic disadvantage," for the purposes of this definition of "disadvantaged," means that a person:

(1) Lacks reading and writing skills;

(2) Lacks mathematical skills; or

(3) Performs below grade level.

(c) "Economic disadvantage," for the purposes of this definition of "disadvantaged," means:

(1) Family income is at or below national poverty level;

(2) Participant or parent(s) or guardian of the participant is unemployed;

(3) Participant or parent of participant is recipient of public assistance; or

(4) Participant is institutionalized or under State guardianship. (Interprets Sec. 195(16); 20 U.S.C. 2461.)

"Eligible recipient" means:

(a) A local educational agency, or

(b) A postsecondary educational institution. (Sec. 195(13); 20 U.S.C. 2461.)

"Financial ability," as used in section 106(a)(5)(B)(i) of the Act means the property wealth per capita of local school districts and of other public agencies having a tax base or the total tax effort of the area served by these schools and agencies as that effort is a percentage of the income per capita of those within the taxing body. (Implements Sec. 106(a)(5)(B)(i); 20 U.S.C. 2306; H. Rept. No. 94-1085, p. 34.)

"Handicapped" means:

(a) A person who is:

(1) Mentally retarded;

(2) Hard of hearing;

(3) Deaf;

(4) Speech impaired;

(5) Visually handicapped;

(6) Seriously emotionally disturbed;

(7) Orthopedically impaired; or

(8) Other health impaired person, or persons with specific learning disabilities; and

(b) Who, by reason of the above:

(1) Requires special education and related services, and

(2) Cannot succeed in the regular vocational education program without special educational assistance; or

(3) Requires a modified vocational education program. (Sec. 195(7); Sec. 602(1) of the Education of Handicapped Act; 20 U.S.C. 2461; 20 U.S.C. 4001.)

"HEW" means the Department of Health, Education, and Welfare. (42 U.S.C. 3501.)

"High school program" means vocational education for persons in grades 9 through 12. (Implements Sec. 101; 20 U.S.C. 2461.)

"Industrial arts education programs" means those education programs:

(a) Which pertain to the body of related subject matter, or related courses, organized for the development of understanding about all aspects of industry and technology, including learning experiences involving activities such as experimenting, designing, constructing, evaluating, and using tools, machines, materials, and processes; and

(b) Which assist individuals in making informed and meaningful occupational choices or which prepare them for entry into advanced trade and industrial or technical education programs. (Sec. 195(15); 20 U.S.C. 2461.)

"Institution of higher education" means institution of higher education as defined in section 1201(a) of the Higher Education Act.

(Sec. 1201(a) of the Higher Education Act, 20 U.S.C. 1141(a).)

"Limited English-speaking ability" when used in reference to an individual means:

(a) Individuals who were not born in the United States or whose native tongue is a language other than English; and

(b) Individuals who came from environments where a language other than English is dominant, and by reasons thereof, have difficulties speaking and understanding instruction in the English language. (20 U.S.C. 880b-1.)

"Local educational agency" means:

(a) A board of education (or other legally constituted local school authority) having administrative control and direction of public elementary or secondary schools in a city, county, township, school district, or political subdivision of a State; or

(b) Any other public educational institution or agency having administrative control and direction of a vocational educational program. (Sec. 195(10); 20 U.S.C. 2461.)

"Low-income family or individual" means families or individuals who are determined to be low-income according to the latest available data from the Department of Commerce. (Sec. 195(17); 20 U.S.C. 2461.)

"National Advisory Council" (NACVE) means the previously existing National Advisory Council on Vocational Education which is continued by section 162 of the Act. (Sec. 195(14); 20 U.S.C. 2461.)

"Postsecondary educational institution" means a nonprofit institution legally authorized to provide postsecondary education within a State for persons sixteen years of age or older, who have graduated from or left elementary or secondary school. (Sec. 195(12); 20 U.S.C. 2461.)

"Postsecondary program" means (for reporting purposes) vocational education for persons who have completed or left high school and who are enrolled in organized programs of study for which credit is given toward an associate or other degree, but which programs are not designed as baccalaureate or higher degree programs. (Sec. 110(c); 20 U.S.C. 2310.)

"Private vocational training institution" means a business or trade school, or technical institution or other technical or vocational school, in any State, which (a) admits as regular students only persons who have completed or left elementary or secondary school and who have the ability to benefit from the training offered by such institution; (b) is legally authorized to provide, and provides within that State, a program of postsecondary vocational or technical education designed to fit individuals for useful employment in recognized occupations; (c) has been in existence for two years or has been specially accredited by the Commissioner as an institution meeting the other requirements of this subsection; and (d) is accredited (1) by a nationally recognized accrediting agency or association listed by the Commissioner pursuant to this clause, or (2) if the Commissioner determines that there is no nationally recognized or State agency or association qualified to accredit schools of a particular category, by an advisory committee appointed by him and composed of persons specially qualified to evaluate training provided by schools of that category, which committee shall prescribe the standards of content, scope, and quality which must be met by those schools and shall also determine whether particular schools meet those standards. For the purpose of this paragraph, the Commissioner shall publish a list of nationally recognized accrediting agencies or associations and State agencies which he determines to be reliable authority as to the quality of education or training afforded." (Pub. L. 95-40; 20 U.S.C. 2461(21).)

"School facilities" means:

(a) Classrooms and related facilities (including initial equipment) and interests in lands on which such facilities are constructed.

(b) "School facilities" does not include any facility intended primarily for events for which admission is to be charged to the general public. (Sec. 195(3); 20 U.S.C. 2461.)

"Secondary program" means vocational education for persons in secondary grades as defined by State law. (Implements Sec. 101; 20 U.S.C. 2301.)

"Secretary" means the Secretary of Health, Education, and Welfare. (Sec. 195(6); 20 U.S.C. 2461.)

"State" includes:

(a) The 50 States;

(b) The District of Columbia;

(c) The Commonwealth of Puerto Rico;

(d) The Virgin Islands;

(e) Guam;

(f) American Samoa; and

(g) The Trust Territory of the Pacific Islands. (Sec. 195(8); 20 U.S.C. 2461.)

"State board" means the State board designated or created by State law as the sole State agency responsible for:

(a) The administration of vocational education; or

(b) Supervision of the administration of vocational education in the State. (Sec. 195(9); 20 U.S.C. 2461.)

"State educational agency" (SEA) means:

(a) The State board of education; or

(b) Other agency or office primarily responsible for the State supervision of public elementary and secondary schools; or

(c) If there is no such office or agency, an office or agency designated by the Governor or by State law. (Sec. 195(11); 20 U.S.C. 2461.)

"Vocational education" means organized educational programs which are directly related to the preparation of individuals for paid or unpaid employment, or for additional preparation for a career requiring other than a baccalaureate or advanced degree; for purposes of this paragraph, the term "organized education program" means only:

(a) Instruction related to the occupation or occupations for which the students are in training or instruction necessary for students to benefit from such training; and

(b) The acquisition, maintenance, and repair of instructional supplies, teaching aids and equipment. The term "vocational education" does not mean the construction, acquisition, or initial equipment of buildings, or the acquisition or rental of land. (Sec. 195(1); 20 U.S.C. 2461.)

"Vocational instruction" means instruction which is designed to prepare individuals upon its completion for employment in a specific occupation or cluster of closely related occupations in an occupational field, and which is especially and particularly suited to the needs of those engaged in or preparing to engage in such occupation or occupations. Such instruction may include:

(a) Classroom instruction;

(b) Classroom related field, shop, and laboratory work;

(c) Programs providing occupational work experiences, including cooperative education and related instructional aspects of apprenticeship programs;

(d) Remedial programs which are designed to enable individuals to profit from instruction related to the occupation or occupations for which they are being trained by correcting what ever educational deficiencies or handicaps prevent them from benefiting from such instruction; and

(e) Activities of vocational student organizations which are an integral part of the vocational instruction, subject to the provisions in § 104.513. (Implements Sec. 120(b)(1)(A); 195(1); 20 U.S.C. 2330, 2461.)

150. In addition, certain parts of the Act impose other special funding criteria, priorities, and conditions which must be considered. For example, both the work study program (section 121) and cooperative vocational education program (section 122) require that priority in funding be given to areas of high youth dropouts or youth unemployment. (Sec. 195(9); 20 U.S.C. 2461.)

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(e) Activities of vocational student organizations which are an integral part of the vocational instruction, subject to the provisions in § 104.513. (Implements Sec. 120(b)(1)(A); 195(1); 20 U.S.C. 2330, 2461.)

Answer: Yes. Section 108(b)(1)(B)(ii) of the Act provides that the annual program plan must "set out explicitly the proposed distribution of such funds among eligible recipients."

Question No. 8: Are there any complaint procedures available to parents, students, and other individuals to the State education agency?

Answer: Although the Act does not require the State to adopt a formal grievance procedure for parents, students, and other individuals, the State may wish to develop procedures for resolving these complaints. These procedures might include specific time limits for investigation and resolution of complaints, an opportunity for the complainant to present evidence to the State educational agency, and the dissemination of information concerning these procedures. In addition, the complaint procedure for violations of Title IX are contained in 45 CFR 86.8(b).

Question No. 9: How must the State make the five-year plan and annual program plan reasonably available to the public in accordance with section 106(a)(9)?

Answer: The State should make the plans readily available in places such as libraries, community colleges, and local school districts. With regard to members of the general public requesting copies of the plans, the State may wish to follow the standards and fee schedule of the Department's regulations under the Federal Freedom of Information Act (Pub. L. 90-23, 45 CFR Part 5).

Question No. 10: At what stage must the State make the plans available to the public?

Answer: Since the public must have some familiarity with the content of the planning documents prior to the public hearing the State should make drafts of the plans available prior to the public hearings.

Question No. 11: When will the Commissioner make the State plans available to the public?

Answer: Under the Department's Freedom of Information Regulations (45 CFR Part 5), "State plan material" is specifically listed in the Appendix as "Generally Available." This means that State plans sent or delivered to the Office of Education, or letters relating thereto, will be available. Therefore, both the five-year State plan and annual program plan will be available to members of the public, on request for the document, as soon as the document is received by the Office of Education in a regional office or the central office. The document will be available on receipt, before the Commissioner's review or approval.

Question No. 12: If the State legislature supports the entire cost (other than tuition payments) of operation of postsecondary area vocational schools, how would the relative financial ability of the institution be established pursuant to section 106(a)(5)(B)(i) of the Act?

Answer: An institution with no local tax base for support would have to calculate its relative financial ability on the amount of funds the State legislature makes available to it.

Question No. 13: Two commenters questioned the appropriateness of participants (other than those representatives specified in section 107(a)(1)) being involved in the development of the plan.

Answer: While a State may involve other participants, only one member of each of the designated agencies, councils, and individuals specified in section 107(a)(1) of the Act may be involved in the development of the plan.

Question No. 14: May the State board design the membership of the section 107 planning group in such a way that the State educational agency's personnel constitute a majority of the voting membership?

Answer: The section 106(a)(5) funding formula must be applied to all Federal funds distributed under sections 120, 134, 140 and

Answer: Membership on the planning group is limited to one official representative for each of the agencies, councils, and individual categories specified in section 107(a) (1) of the Act. One person may be the State agency's representative for more than one of the ten categories if that State agency has multi-responsibility. There is, however, no requirement for a vote by each representative.

Question No. 15: Should CETA be included "among the various institutions of the State" under section 107(b) (2) (A)?

Answer: No. CETA is not an institution for purposes of § 107(b) (2) (A). Through the coordination efforts in § 104.188 the State board will have data on programs conducted under CETA and will consider these data in its planning.

Question No. 16: What basis should the State use to determine if a shift in funding for programs in secondary schools has occurred in accordance with § 104.315?

Answer: The State should rely on the 601T forms submitted to the Office of Education for fiscal years 1975 and 1976. These reports should specify the amounts spent at the secondary level. If projected Federal expenditures for programs in secondary schools in either fiscal year 1978 or 1979 are not within 95 percent of the figures reported for fiscal years 1975 or 1976, then a justification must be set forth in the five-year State plan.

Question No. 17: How may a State comply with the section 107(a) (2) and section 108 (a) (2) requirement to provide sufficient public notice for public hearings on the five-year plan and annual program plans?

Answer: The State should mail invitations to organizations and individuals in the State having an interest in vocational education and civil rights, publish notices of the hearings in major newspapers, and place announcements on television and radio as appropriate throughout the State, beginning 30 days prior to the hearings.

Question No. 18: Must the section 110 minimum percentages for the national priority programs (handicapped, disadvantaged, post-secondary) be computed against the allotment under section 102(a) prior to the 80/20 split for subparts 2 and 3?

Answer: No. Regardless of whether the computation is made prior to or after the 80/20 division, the minimum percentages must be based on the total allocation, not just the 80 percent for subpart 2 or the 20 percent for subpart 3.

Question No. 19: Must the State pay exactly 50 percent, at least 50 percent, or up to 50 percent for the three national priority programs in section 110 of the Act?

Answer: The State must pay at least 50 percent of the cost of vocational education programs for the national priority programs in section 110 of the Act (§ 104.303).

Question No. 20: May a State use local funds earmarked for local administration as part of the State's matching share for State administration under section 111(a) (2)?

Answer: No. The State matching share must be earmarked for State administration, not local administration. The non-Federal source of funding for State administration, however, may be generated at either the State or local level.

Question No. 21: May a State use tuition fees to meet the statutory matching requirements?

Answer: No. In accordance with § 100b.58 of the General Education Provisions Regulations, tuition and fees collected may not be included as part of the Federal or non-Federal share of expenditures under any Federal program.

Question No. 22: Does the § 104.321 provision of maintenance of fiscal effort allow the State to use a per student basis one year

and then change and use aggregated cost the next year?

Answer: Yes. The State may annually select either of the two bases. Local educational agencies and postsecondary institutions may also select either of the two bases.

Question No. 23: To determine maintenance of fiscal effort, will the Commissioner compare the amount between the present and previous year or between the preceding and second preceding year?

Answer: In accordance with § 104.322, the Commissioner will determine maintenance of effort by comparing the preceding year to the second preceding year.

Question No. 24: Are the evaluations of programs conducted by the State board available to the general public?

Answer: Yes. The annual accountability report, which is available to the public, must contain a summary of the evaluations of programs conducted by the State.

Question No. 25: What does the requirement in section 120(b) (2) of the Act that the State board make a specific finding in each instance of funding for stipends in section 120(b) (1) (G) of the Act pertain to?

Answer: Each eligible recipient in the State desiring to provide stipends to students shall include an assurance in its local application to the State board that students to receive stipends have acute economic needs which cannot be met due to inadequate funding in other programs (§ 104.573).

Question No. 26: Section 104.402 of the regulation gives the State board wide latitude and discretion in regard to the collection and reporting of data to evaluate the effectiveness of its programs. Will it be possible to aggregate across all States the data thus collected and meet the reporting requirements of section 112(b) of the Act?

Answer: Aggregation of the data on program completers and leavers required by section 112(b) (1) (B) of the Act will be assured by use of the uniform definitions and information elements and the instructions and standards required by §§ 104.404(d) and 104.405 of the regulation. As for the evaluation required by section 112(b) (1) (A) of the Act, it is the Commissioner's preference that, in view of the increased burden of evaluation under the new Act and the as yet undetermined nature of the new national reporting and accounting system mandated by section 161 of the Act, the State board should be given considerable latitude. After a year of experience with the new Act, it may be found desirable to reconsider the reporting requirements.

Question No. 27: What programs are eligible for funding under the assurance which specifies "of significant assistance to individuals enrolled in making an informed and meaningful occupational choice as an integral part of a program of orientation and preparation"? At what grade level may these programs be offered?

Answer: Prevocational or exploratory programs which are designed to be of significant assistance to individuals enrolled in making an informed and meaningful occupational choice may be funded under the Act. Specifically, programs in industrial arts may be supported with funds under section 120 of the Act beginning at the secondary level (as defined by the State). Exemplary and innovative programs under section 132, consumer and homemaking programs under section 150, and vocational guidance under section 134 may be provided at all levels.

Question No. 28: May subpart 3 funds for program improvement and support services be used for the programs for the special populations described in section 120(b) (1) (L)?

Answer: No. The program outlined in section 120(b) (1) (L) is included among the purposes of the subpart 2 basic grant and, therefore, must be funded under subpart 2.

Question No. 29: May a State satisfy the requirement in § 104.502(b) by providing regular vocational education programs without special courses or instruction in how to seek employment for the special populations listed in § 104.621?

Answer: No. The State must provide these special populations with vocational education programs which offer special instruction in how to seek employment and placement services for graduates.

Question No. 30: Is a correctional institution of the State eligible to receive funds?

Answer: Yes. Under section 195(13) only LEA's or post-secondary institutions are "eligible recipients." The State or eligible recipient may, however, enter into an arrangement with the agency administering correctional institutions for the provision of vocational training.

Question No. 31: May funds available for establishing day care centers be used for the establishment of centers in schools? May these centers also be used as a laboratory for training students for employment in child care occupations?

Answer: Yes. The day care centers may be established in the schools and may serve as a learning laboratory for training students for employment in child care occupations.

Question No. 32: May a State use section 130 funds to support research activities in LEA's?

Answer: Yes. Section 130 authorizes the Commissioner to allocate funds to the States for, among others, the purposes of section 131. Section 131(a) authorizes the State to support a research coordinating unit (RCU) for research by the RCU itself or for contracts by the RCU for research. Thus, the RCU may enter into a contract with the LEA for research.

Question No. 33: Does the Act require the State to match funds for research, or for exemplary projects, or curriculum development projects, on a program-by-program basis?

Answer: No. Section 111 of the Act does not require a program-by-program matching by the State in programs under sections 130, 131, 132, or 133. See § 104.302 of the regulation as to matching on a State-wide basis and the exceptions.

Question No. 34: May States use funds under § 104.772 to train and upgrade high school counselors to enable them to serve vocational education students better?

Answer: Yes. If the State chooses to use its funds for this purpose, it must incorporate this type of training in its approved five-year State plan and annual program plan for vocational education. Sections 104.772 and 104.773 of the regulations address this point.

Question No. 35: May a State use its vocational education personnel training funds to train interpreter-tutors to work with deaf students of vocational education?

Answer: This use of the funds would be allowable if it is set forth in the approved five-year State plan and annual program plan for vocational education.

Question No. 36: May an LEA use funds under subpart 4, Part B of the Act, "Emergency Assistance for Remodeling and Renovation of Vocational Education Facilities" for new construction?

Answer: No. Section 191 of the Act is clear that this new program is for "modernization of facilities and equipment and the conversion of academic facilities necessary to assure that such facilities will be able to offer vocational education programs which give rea-

sonable promise of employment." The same section refers to "remodeling and renovation" of facilities. There is no authorization in subpart 4 for construction of new facilities. Use of funds for "construction of area vocational education facilities" is authorized in section 120(b) (1) (E).

Question No. 37: Are private, non-profit rehabilitation centers and workshops eligible for emergency remodeling funds under subpart 4?

Answer: No. Section 191 of the Act states, as eligible, only "local educational agencies in urban and rural areas."

Question No. 38: Are leased premises eligible for emergency assistance for remodeling under subpart 4?

Answer: Yes. The Act does not state whether leased premises are eligible for emergency remodeling assistance. Determinations will have to be made on a case-by-case basis. Facilities leased by an LEA under a 99-year lease should be treated as facilities owned by an LEA. Where facilities are leased on a short-term lease, the LEA might not score points under criterion 9 (§ 105.504(b) (9)), as use of funds to renovate premises on a short-term lease might not be economical.

COMMENTS AND RESPONSES

The following comments, suggestions, and criticisms were submitted in writing in response to the proposed rules. After the summary of each comment, a response is set forth stating the changes which have been made in the regulations or the reasons why no change is deemed necessary or appropriate. The comments are grouped based on the sections affected, arranged in sequence.

PART 104—STATE VOCATIONAL EDUCATION PROGRAMS

SUBPART 1—STATE ADMINISTRATION

§ 104.2 *Purpose:* Meaning of "where necessary maintain."

Comment: A commenter pointed out that one of the purposes of the new Act is to assist the States "in extending, improving, and, where necessary, maintaining existing programs of vocational education"; that the new Act specifically inserted "where necessary" in order to give the maintenance of existing programs a lesser priority than that given to expanding and improving programs; and that the proposed regulation fails to carry out that intention. Another commenter asked for a definition of "where necessary."

Response: In section 101 of the Act, Congress set forth the purposes of the new Vocational Education Act. The regulation, in § 104.2, repeats the language of section 101 exactly, leaving "extending" and "improving" programs of vocational education ahead of "maintaining" existing programs, and leaving in the phrase "where necessary" as modifying "maintaining existing programs." The Conference Report (Report No. 94-1701, p. 214) states: "The determination of necessity is to be made by appropriate State and local officials. The phrase is not intended to authorize the Commissioner of Education to apply a strict litmus test of absolute necessity before an on-going program can be funded. However, it is intended to encourage States to use their limited amount of Federal funds to invest in the often-expensive start-up costs of new programs." The maintaining of existing programs should be the subject of study in the preparation of the five-year State plan and the annual program plan and accountability report. Since the maintaining of existing programs is such a broad subject, no definition of "where necessary" has been attempted. No change is made in the regulation.

§ 104.2 *Purpose:* "Youth with specific learning disabilities."

Comment: A commenter recommended that § 104.2(a) (4) of the statement of "purpose" be amended to change the phrase "those with special educational handicaps" to "youth with specific learning disabilities."

Response: The "purpose" as set forth in § 104.2 is taken verbatim from section 101 of the Act. This statement of purpose was not changed by the Technical Amendments, Pub. L. 95-40. The Technical Amendments, however, include in the definition of handicapped, "persons with specific learning disabilities." A corresponding change is made in the definition of "handicapped" in the Appendix to Part 104 of the regulations.

STATE BOARD

§§ 104.31-104.33 *State board staff.*

Comment: A commenter recommended that the regulation include requirements for an adequate State board to carry out its responsibilities and functions, including, a full-time director.

Response: The recommendation is accepted. A section (§ 104.34) is added to require the State board to provide for a State staff sufficiently qualified and in sufficient number to administer properly the State's program of vocational education. Through oversight this provision was omitted from the NPRM. Section 104(a) of the Act places great responsibility on the State Board for administration and leadership. The requirement for adequate staffing by the State board is entirely appropriate.

§ 104.32 *State board: Definition of the term "coordination."*

Comment: Several commenters suggested that the regulation be amended to define the term "coordination." These comments also inquired: (1) If the responsibilities of the State board for coordination of the development of policy and the development of the State plans were intended to limit the authority of the State board, and (2) if the State board is to limit its coordination activities to the groups identified in clauses (A) through (J) of section 107(a) of the Act.

Response: In requiring the State board to coordinate the development of policy and the development of the State plans with the agencies, councils, and individuals identified in section 107(a) of the Act, it was the intent of Congress to establish a mechanism to strengthen the planning function of the State board, rather than limit its authority. To carry out the mandate of section 104(a) of the Act, the State board convenes the planning group, established by section 107(a) of the Act, for at least three meetings during each fiscal year concerning the development of the annual program plan and accountability report and for at least four meetings concerning the development of the five-year State plan.

Although only representatives of the agencies, councils, and individuals identified in section 107(a) of the Act must participate in the decision-making activities of the planning group, the State board is responsible for coordinating the State plan with any group or individual having an interest in vocational education. Section 107 of the Act requires that the State board hold public hearings to provide every interested person or group the opportunity to participate in the development of the State plan. No change is made in the regulation.

§ 104.32 *Responsibilities of the State board.*

Comment: A commenter suggested that it may be misleading to list only the coordi-

nate responsibilities of the State board in § 104.32 of the regulation. To correct this situation, it was suggested that the regulation be changed to read, "The State board's responsibilities shall include but not be limited to . . ."

Response: This recommendation is accepted. Section 104.32 of the regulation follows very closely the language of section 104 (a) of the Act which sets forth the (non-delegable) responsibilities of the State board. In order to assure that the regulation provides a clear interpretation of the intent of the Act, the first sentence of § 104.32 of the regulation is amended to read, "The responsibilities of the State board include (but are not limited to):"

Comment: A commenter expressed the view that it was the intent of Congress to have the inspiration for the planning of the vocational education programs arise from the local educational level where the needs of the student are "best seen and cared for."

Response: Each local educational agency and postsecondary educational institution that participates in the vocational education program submits an application to the State board. The State plan is formed, in part, from the vocational education programs that are identified in the applications from local educational agencies and postsecondary institutions. Since the planning group is responsible for assuring that the State plan provides a comprehensive and coordinated vocational education program that is responsive to the total vocational education program needs of the State, no change is made in the regulation.

§ 104.32(d) *State board consultation with the State advisory council.*

Comment: In noting that the regulation specifies that members of the State board are responsible for consulting with the State advisory council, a commenter suggested that it is also appropriate for the staff of the State board and the staff of the council to consult frequently on matters of mutual concern.

Response: Section 104.32(d) of the regulation is consistent with section 104(a) (1) of the Act which requires that the State board consult with the State advisory council regarding the planning and reporting of the State's vocational education programs. The regulation reflects the intent of Congress, which was to establish a procedure to ensure the participation of the State advisory council in the development of the State plans and accountability reports. It is not the intent of the Act nor the regulation to preclude, discourage, or hamper in any way the exchange of formal or informal communications between the State board and the State advisory council, or between the staffs of the board and the council. Consultation between the two staffs need not be required in the regulations. No change is made in the regulation.

FULL-TIME PERSONNEL AND FUNCTIONS TO ELIMINATE SEX DISCRIMINATION AND SEX STEREOTYPING

§§ 104.71-76 *More specific guidance on full-time personnel.*

Comment: Many commenters requested more specific language in the regulations on the designation, support, and functions of the full-time personnel to eliminate sex bias. All felt that too many decisions were left up to the individual States and that the States need more guidance, particularly in this area.

Response: Although many decisions (such as placement of the personnel within the

State structure, the number of personnel necessary) will be left to the States to make, changes have been made in §§ 104.71-76 of the regulation in an attempt to strengthen and clarify the activities under these sections. These changes are spelled out in more detail in the following comments and responses.

§ 104.72. "Employment/designation" of full-time personnel.

Comment. A commenter felt that the words "designation" and "assign" in this section convey the impression that the State education agency must utilize personnel already employed by the agency to fill the positions under this section. Suggested instead was the use of the terms "employment/designation" and "employ/assign."

Response. The use of the terms "designation" and "assign" in § 104.72 is not intended to indicate that current State agency personnel must be used to fill the positions under this section. There is no indication in either the Act or legislative history that such an interpretation is valid. In addition, the joint terms suggested by the commenter ("employment/designation" and "employ/assign") are not seen as clarifying the meaning. However, in light of other comments received, further clarification appears necessary, therefore, the terms "designation" and "assign" have been changed to "selection" and "select."

§ 104.72. Full-time personnel personnel working full time.

Comment. A number of commenters noted the difference between the language of the Act requiring "full-time personnel" and the language of the regulation requiring "personnel to work full time" on sex bias issues. Several of these commenters have requested that the language of the regulation be changed. Others, however, have opposed such a change on grounds that it might lead to hiring personnel to perform these functions on a less than full-time basis.

Response. The change of language in the regulation to "personnel to work full time" is intended to clarify the Act. It is apparent from the legislative history that Congress intended that the State have at least one professional working full time on the elimination of sex bias and sex stereotyping in vocational education rather than a person employed full time but working less than full time on the elimination of sex bias. Although personnel may be placed in any unit the State chooses, the professional personnel must work full time on elimination of sex bias and sex stereotyping in vocational education. Thus no change is made in the regulation.

§ 104.72. Placement of full-time personnel.

Comment. One commenter noted that neither the Act nor the regulation mandates the full-time personnel hired under this section to be employed by the State department of education, vocational education division. Therefore, this commenter interpreted this to mean that it is not necessary for personnel filling these positions to be employees of the State vocational division.

Response. The commenter is correct in this interpretation. It appears from the legislative history that Congressional intent was not to limit the State in placing this personnel within the State structure. Page 215 of the Conference Report (No. 94-1701) states that there is no intention "that the State must assign such personnel to the State board." Each State may decide where the personnel will function best. The personnel may operate within the vocational division or may work from another area. However, the personnel must work full time on elimination of sex bias and sex stereotyping in vocational edu-

cation. No change is made in the regulation.

§ 104.72. Criteria for selection of full-time personnel.

Comment. Many commenters expressed the concern that, unless criteria for the selection of the full-time personnel were set forth by the regulation, the positions might be filled with persons who are not qualified or who might compound the bias problems. The criterion most often suggested was that the persons chosen for these positions have demonstrated a commitment to the elimination of sex bias in educational programs. Other qualifications suggested include knowledge of sex bias problems and issues, leadership capability, vocational education background, creativity, patience, and determination. Several commenters felt that the States should be required to advertise the position widely and to assure that it be open to all applicants. One commenter proposed that there be a selection committee to be made up of individuals with knowledge of sex bias issues.

Response. The recommendation is accepted in part. The regulation will not prescribe specific criteria for the States to use in selecting the full-time personnel. As in selection of other State personnel, the criteria will vary from State to State; however, a paragraph has been added requiring that the States match the qualifications of the applicants with the responsibilities of the job.

§ 104.73(a). Definition of sex bias.

Comment. Several commenters expressed concern over the proposed definition of "sex bias." The difficulty stems from the statement that "as used in the Act and the regulations, sex bias . . . includes sex discrimination." One commenter remarked that bias and discrimination are not the same. Others were concerned that "sex stereotyping" had been left out. These commenters suggested that "sex stereotyping" be added wherever "sex bias" is used in the regulations or that "sex stereotyping" be added to the final sentence in the definition on the use of "sex bias" in the Act and regulations. Still others favored discarding the proposed definition for a new one.

Response. The recommendation that the definition of sex bias be modified is accepted. The final sentence of § 104.73(a) is deleted since it is confusing rather than clarifying. In addition, the use of the terms "sex bias," "sex discrimination," and "sex stereotyping" are clarified throughout the regulations.

§ 104.74. \$50,000 Minimum.

Comment. Several persons commented on the \$50,000 set by the regulation as a minimum for support of the full-time personnel. The comments were evenly divided regarding the words "at least \$50,000." Some commenters felt it important to stress that this is a minimum, while others felt that the \$50,000 is a specific amount set by the law to be no more and no less.

Response. There is nothing in the Act to prevent a State from spending more than \$50,000 to support the full-time personnel, but a State may not spend less than that amount. To emphasize this point, the language of the regulation has been amended to read "not less than" \$50,000.

Comment. A few commenters felt that the salary items (§ 104.74(b)(1) and (2)) should be combined to read "salaries for full-time staff," without making a distinction between professional and support staff.

Response. Section 104(b)(1) of the Act is interpreted to mean that the professional staff, but not necessarily the support staff, must work full time on the functions set forth in § 104.75. The regulation does not mandate that clerical and other support staff

work full time in this area. Thus, the question whether support staff must work full time is left to the discretion of the State. No change is made in the regulation.

§ 104.74(b). Allowable activities.

Comment. Many commenters were concerned that § 104.74(b) was too restrictive regarding use of the \$50,000. These commenters requested that items be added to the list of allowable expenditures, such as publications, workshops, and dissemination of information.

Response. The proposed language in § 104.74(b) is reasonable in that it provides sufficient guidance to the States on the use of funds while being broad enough to include the additional list of activities suggested. The measure of a legitimate expense under this section is the degree to which it relates to the support of the personnel in carrying out the functions set forth in § 104.75. No change is made in the regulation.

§ 104.75. Minimum requirements for accomplishing "sex bias" functions.

Comment. A number of commenters felt that the regulation should spell out the minimum requirements to accomplish the functions listed in § 104.75. They felt that the full-time personnel needed specific guidance in fulfilling their responsibilities. Specific suggestions include development of a complaint process, a strengthened public information component, an annual report on the status of women in vocational education programs, and the use of the Title IX self-evaluation.

Response. Although the functions listed in § 104.75 provide a framework within which the full-time personnel will work, some of the above suggestions offer more guidance and have been included. Requirements have been added to emphasize the public information function of the personnel, especially in assisting the State board in publicizing the State plan hearings. Also included are references to the Title IX complaint process and self-evaluation. Other more specific suggestions were not included, since the full-time personnel will develop a plan to implement the functions which will address the needs of the particular State, and further guidance was felt unnecessary.

§ 104.75(a). Reduce sex bias and sex stereotyping.

Comment. One commenter suggested that "sex bias" be added to the language in subsection (a) of § 104.75 in addition to sex stereotyping.

Response. The recommendation is accepted. To clarify the regulation, "sex bias" has been added.

§ 104.75(d). Review of distribution of grants and contracts.

Comment. A number of commenters felt that review of the distribution of contracts as well as grants should be included in this function.

Response. The recommendation is accepted. Since the State's research, exemplary, and curriculum development programs will be conducted through contracts and since these areas also emphasize elimination of sex bias and sex stereotyping, it appears that review of contracts as well as grants would comply with Congressional intent.

§ 104.75(h). Availability of information.

Comment. Several commenters recommended that the language of this subsection be changed to require the full-time personnel to make information developed pursuant to the statutory functions available to the groups listed in § 104.75(h) through the State board rather than supplying the information to the board as well as to the other groups.

Response. The regulation is consistent with the Act which states that the information will be made available to the State board, the National and State Advisory Councils on Vocational Education, the State Commission on the Status of Women, the Commissioner, and the general public. In addition, making information available to the general public through the State board would be difficult. Therefore, no change is made in the regulation.

STATE ADVISORY COUNCIL

§ 104.91. State advisory council establishment.

Comment. Commenters pointed out that the regulation does not conform to the Act regarding the appointment of the State advisory council in the case of States in which the members of the State board are elected. The regulation refers only to the "State board" while section 105(a) of the Act uses the term "State board of education."

Response. While this appears to be an inconsistency, the legislative history supports the reference to the State board designated or created by State law as the sole State agency responsible for the administration of vocational education or for supervision of the administration of vocational education in the State. In a great majority of the States, the State board of education serves also as the State board for vocational education. There appears to be no reason for denying to an elected State board for vocational education the authority to make the appointments to the State advisory council. Therefore, the broader term "State board" is not changed in the regulation.

§ 104.92(a). State advisory council membership.

Comment. Several commenters suggested that additional groups should be represented on the State advisory council. The additional group representatives suggested were: State planning agencies, adult education, homemaking, college career planning and placement services, State's agency on aging, and the planning and coordinating agency for postsecondary education.

Response. Since categories mandated by section 105 of the Act number twenty, many of which imply multiple representation, it appears unwise to require additional appointments, thereby making the councils too large, unwieldy, and costly to operate under existing budget limitations. Councils are urged to obtain input from interested groups, not directly represented by membership, through their evaluation and public hearing process. No change is made in the regulation.

§ 104.92(a). Women on State advisory councils.

Comment. Many commenters suggested that § 104.92(a)(17) include language to the effect that at least two women be required to fulfill the requirement. While the wording of the regulation is taken directly from the Act, it was clear that the Congress intended more than one woman to fill this category. Unless the regulation is so stated, there is danger of misinterpretation at the State level.

A commenter also recommended that the phrase "one or more persons" used in the sentence having reference to minority groups be changed to "women," which is the statutory language.

Response. The recommendation relating to the change in wording of § 104.92(a)(17) from "one or more persons" is accepted.

Although a number of categories listed in this regulation use plural words, the determination of the actual number necessary for each category should be left to the appointing authority rather than have the reg-

ulations specify an exact number. Specifically, in the case of category (17), whether one or two women are appointed may depend on the number of women already appointed to other categories. The Commissioner, however, encourages the States to appoint at least two women to fulfill the requirement in category (17). No further change is made in the regulation.

§ 104.92(b)(3). Appropriate representation.

Comment. A great many commenters pointed out the need to define "appropriate representation," especially as it relates to the representation of women on the council. It was recommended that "appropriateness" be based on such criteria as the proportion of women and minorities in the State's general population, the State's work force, their representation in vocational education programs, or a combination of such factors. Further, it was suggested that the membership must include persons with an understanding about and commitment to remedy the consequences of sex and minority discrimination.

Response. The recommendation is accepted. While specific quotas are not prescribed, the final regulation includes a statement intended to implement § 104.92(b)(3). In order to reflect effectively the diverse interests and needs of the general public served by the Act, the statement makes clear that the appointing authority shall appoint to the council a significant proportion of women, racial and ethnic minorities, and representatives of geographic regions in the State. The Commissioner considers the term "appropriate representation" to be representation which generally reflects the percentage of women or minorities in the population of the State or the percentage of women or minorities in the work force of the State.

§ 104.93. Liaison with State Advisory Panel for Handicapped.

Comment. Two commenters suggested a function of the State advisory council on vocational education be added requiring "appropriate liaison and coordination activities with the State Advisory Panel for the Handicapped."

Response. It is agreed that to insure consistency in planning and program implementation, liaison and coordination between the two agencies are essential. However, as a result of the Technical Amendments, § 104.93(f) has been amended to include "special education" as one of the programs to be assessed for its part in the consistent, integrated, and coordinated approach to meeting the employment and training needs of the State. This provision, along with the required representative of the handicapped on the State advisory council, is intended to assure the necessary coordination. No change is made in the regulation.

§ 104.93(a). Council certification.

Comment. A commenter requested the deletion of the last sentence of § 104.93(a) since this appeared to be a duplication of the certification required by the council representative in § 104.171(b)(2).

Response. In addition to the certification by the council representative relating to the opportunity to participate in the planning process, the council itself must be consulted in the plan development process. Thus, the council has two avenues for involvement in the planning, with the latter being a greater commitment than that afforded other agencies. Since this procedure is statutorily mandated, no change is made in the regulation.

§ 104.93(d). State board evaluation.

Comment. A commenter objected to the word "assist" and stated that the law used the word "consult."

Response. Section 112(b) of the Act says that the State shall "consult" with the council and that the council shall "assist" the State in developing the plans. Since the regulation (§ 104.93(d)) uses the word "assist" in relation to assisting the State board, no change is made in the regulation.

§ 104.93. SACVE function—Evaluation.

Comment. Commenters suggested that the regulation provide additional direction with regard to certain of the council functions including the following: freedom to conduct whatever independent evaluation it chooses, requirement that data requested from the State board not be denied, evaluation by the council be of State board programs and not LEA programs, the time, frequency and use to be made of the "employment needs" assessment, compatibility of council findings with State-wide goals of State board, relationship of councils to State Occupational Information Coordinating Committee and the State Manpower Services Council, kinds of technical assistance to be given local advisory councils and input into the evaluation process by the local councils.

Response. While the comments have merit, the regulation intentionally provides considerable flexibility to councils in dealing with the newly assigned functions and responsibilities. If problems persist, additional technical assistance may be provided by the staff of the National Advisory Council on Vocational Education or the Office of Education. No change is made in the regulation.

§ 104.94. Public meetings.

Comment. A commenter suggested that guidelines be provided for public meetings and that these meetings be held separately from hearings on State plans.

Response. The requirement for public meetings is well established since this procedure was initiated through the Vocational Education Amendments of 1968. Since the council's public meeting is for a different purpose than the public hearings on the State plans, there is no justification for combining meetings. No change is made in the regulation.

§ 104.95(a). Staff.

Comment. A commenter suggested that professional and technical personnel be required to demonstrate a commitment to equal rights and sensitivity to the needs of populations being served. Another commenter requested deletion of the provision that the personnel not include members of the State board staff.

Response. Even though the qualifications for personnel suggested are desirable, the matter of personnel selection and the qualifications desired is a responsibility of the council. The exclusion of State board staff from serving as council staff is consistent with the Congressional intent of maintaining council independence from the administering agency. No change is made in the regulation.

§ 104.95(b). Compatibility with State policies.

Comment. Two commenters suggested that paragraph 104.95(b) be deleted since it is an infringement on the fiscal independence of the council.

Response. While it is agreed that the council should have independence from the program administrative agency, it was not intended that councils act outside the existing framework of State law and regulations on fiscal matters. Accordingly, the regulation is necessary to establish a degree of responsibility in fiscal matters and compatibility with other State agencies. This is intended to fore-

shall excesses which could bring criticism of the council. No change is made in the regulation.

§ 104.96 Fiscal independence.

Comment. Commenters suggested that the regulation make clear that councils are to be solely responsible for the expenditure and use of their funds. Regulations should provide that if the State board is the fiscal agent, the council must certify that its selection was of its own initiative and not subject to influence by the State board. It was also suggested that the phrase "except as provided in § 104.95(b)" be deleted.

Response. Section 105(f)(2) of the Act provides that the expenditure of council funds is to be determined solely by the council for carrying out its functions. However, as noted in the response under § 104.95(b) above, the councils cannot act outside the existing framework of State law and regulations on fiscal matters. The regulation makes it clear though that the responsibility for designating a fiscal agent is assigned directly to the council. No change is made in the regulation.

§ 104.97 Evaluation report.

Comment. Commenters suggested that the regulation require additional procedures related to the council evaluations, including public comment on the council's evaluation report, review of the content, techniques, and validity of the vocational education data system and assessment of the impact of vocational education programs on women and minorities.

Response. While all the suggestions are worthy of consideration by councils in performing their functions, the Congressional intent, as evidenced by the Act and legislative history, was to allow flexibility in the procedures used by councils. Since the Act requires at least one public meeting, a vocational education data system, and no discrimination on the basis of sex or minority groups, it is reasonable to expect that the council's evaluation will give consideration to these items. No change is made in the regulation.

§ 104.97 Evaluation by State advisory council.

Comment. A commenter recommended that the regulation require a written agreement between the State board and the State advisory council as to the role of each in evaluating programs.

Response. The State board and the State advisory council may wish to reduce their working agreement to writing. However, in the interest of keeping regulatory requirements to the minimum, the Commissioner has decided not to require a written agreement between the State board and the State advisory council. No change is made in the regulation.

§ 104.97 State board comment.

Comment. A commenter suggested that the council's evaluation report be accompanied by comments of the State board and that the response in writing to each recommendation accompany the State plan.

Response. The annual evaluation report is required to be submitted through the State board, at which time the board may attach comments if it desires. However, § 104.241(b)(2) requires that the accountability report, which must be submitted by the State board, include the board's consideration of each recommendation in the council evaluation report. Therefore, no change is made in the regulation.

LOCAL ADVISORY COUNCILS

§ 104.111 Local advisory councils—representatives of additional groups.

Comment. Many commenters suggested broadening the categories of membership required on the local advisory council so that the categories would be similar to the categories required of membership on the State advisory councils. Others recommended the addition of representatives of specific categories. Specific categories mentioned were: categories (17), (18), (19), and (20) described in § 104.92(a) in relation to the State advisory council; women; racial, ethnic, or major language minorities; private schools; persons knowledgeable in vocational education (but not administration); manpower services; local prime sponsor councils under the authority of CETA; the State agency responsible for data collection; and community based organization. Commenters particularly recommended that the phrase "shall be composed of members of the general public" be interpreted to include appropriate representation of women and minorities.

Response. The recommendations have been accepted in part. Since one of the main purposes of the Act is "to overcome sex discrimination and sex stereotyping in vocational education" and to "furnish equal educational opportunity" (sec. 101(3)) the Commissioner will require that an appropriate representation of women and minorities be represented on the local advisory council. Therefore, a new paragraph has been added to § 104.111 to read as follows:

(d) Each eligible recipient shall establish a local advisory council which has an appropriate representation of both sexes and an appropriate representation of the racial and ethnic minorities found in the program areas, schools, community, or region which the local advisory council serves.

§ 104.111(b) Local advisory council establishment.

Comment. A few commenters asked whether the regulation governing the establishment of local councils precludes the possibility of LEAs establishing local advisory councils on a regional basis with other LEAs. In the same connection, some commenters asked whether one council may serve more than one eligible recipient.

Response. Section 104.111(b) of the regulation is based on section 105(g)(1) of the Act which provides in part that "local advisory councils may be established for program areas, schools, communities, or regions, whichever the recipient determines best to meet the needs of that recipient." The eligible recipient, therefore, has the option to establish a local council which also serves another eligible recipient in the same geographical region of the State. For example, an LEA and a community college in the same region may decide to establish one local council to advise both recipients. This arrangement may be highly desirable for both recipients in the event they are striving for greater articulation between secondary and postsecondary interests. Accordingly, no change is made in the regulation.

§ 104.111(d) Craft committees.

Comment. A commenter pointed out that the regulation implies that only advisory councils would be required at the local educational agency or postsecondary level, despite the fact that advisory assistance through craft committees to each vocationally-funded teacher is considered essential to insure an effective instructional program.

Response. There is no intent to diminish the importance of craft committees. In fact, by making reference in the regulation to "representatives from several craft committees, . . ." the regulation assumes that craft committees are in existence and will be continued. No change is made in the regulation.

§ 104.111(d) General local advisory council.

Comment. A commenter suggested that paragraph (d) of § 104.111 be eliminated since it appears to be in conflict with paragraph (a) wherein eligible recipients are required to establish local advisory councils. It is contended that this paragraph, by suggesting that existing craft committees "may join together" to form an advisory council, takes away from the eligible recipient the responsibility for determining the make-up and method of establishing its council.

Response. The regulation is considered to be merely suggestive of a method of establishing the mandated local advisory council where craft committees or school councils already exist. It is intended to be supplementary to paragraph (a) rather than in conflict with it. No change is made in the regulation.

§ 104.112 Public meeting.

Comment. A commenter suggested the addition of a requirement for the local advisory council to hold not less than one public meeting each year at which time the public is given an opportunity to express views concerning the programs being offered by the local educational agency and the postsecondary educational agency.

Response. While the recommendation has merit, it is not appropriate to assign additional duties to the local advisory council when there is no authority for funding. No change is made in the regulation.

§ 104.112(b) Local advisory council duties.

Comment. Commenters suggested that mandating local advisory councils to "assist" the eligible recipient in developing its application goes beyond Congressional intent and would exert an undue hardship on local educational agencies. Commenters also suggested that local advisory councils be required to take an active role in the evaluation of local programs.

Response. The first recommendation is accepted. Since the Act in section 106(a)(4) (A) uses the word "consultation," the regulation is rewritten to state "consult with" in place of "assist."

With respect to the issue of whether local councils are to conduct evaluations, section 105(g)(1) provides that the local council advise the eligible recipient on the degree to which the courses being offered by the eligible recipient meet current job needs in the area. Although this activity may be viewed as a minor component of program evaluation, it should not be considered the equivalent of evaluation. Furthermore, since the Act does not provide any funding for the local councils; assigning the costly function of evaluation to the local council does not seem appropriate. However, it is expected that local councils will make extensive use of secondary data sources and any relevant evaluations that are made by other agencies. No change is made in the regulation.

NATIONAL OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

§ 104.121 Establishment of the National Occupational Information Coordinating Committee (NOICC).

Comment. A commenter recommended that a section be added, prior to the state-

ment on the State Occupational Information Committee (SOICC), on the establishment of NOICC.

Response. The recommendation is accepted. Although the regulation does not include rules governing NOICC and SOICC, or other rules governing internal Federal organization, SOICC is described, and for consistency, NOICC is also described. A new § 104.121 on NOICC has been added.

STATE OCCUPATIONAL INFORMATION COORDINATING COMMITTEE

§ 104.121 Fiscal agent for State Occupational Information Coordinating Committee.

Comment. Several commenters recommended that the regulation identify the fiscal agent for the State Occupational Information Coordinating Committee (SOICC). Some of the commenters suggested that the State board for vocational education should be the fiscal agent. One commenter suggested that the Governor should appoint the agent.

Response. The regulation, as written, does not state who the fiscal agent shall be. NOICC, when making funds available to SOICCs, may require the establishment or naming of a fiscal agent. No change is made in the regulation.

§ 104.121 State Advisory Council involvement with State Occupational Information Coordinating Committee.

Comment. A commenter, noting that a representative of the SACVE is not named in section 161(b)(2) of the Act as a member of the SOICC, recommended that the regulation encourage SACVE involvement in the development of the State's occupational information data system which SOICC will develop and SACVE will use.

Response. The Act (section 161(b)(2)) and the regulation (§ 104.121(b)) set forth the required membership of SOICC. SOICC officially will be made up of representatives of only the four agencies named. Additional involvement with individuals and agencies may take place. No change is made in the regulation.

§ 104.121(c) Representatives on State Occupational Information Coordinating Committee.

Comment. A commenter suggested that the Governor, rather than the respective agency, should appoint the agency's representatives on SOICC. Another commenter suggested that staff represent the State Manpower Services Council rather than a member of the Council. Another recommended that the chief executive officer be the representative. Others suggested that the Governor should appoint additional members such as representatives of the CETA prime sponsor, guidance and counseling personnel, and career education personnel.

Response. Section 161(b)(2) of the Act states that SOICC shall be composed of a representative of each of four designated State agencies; § 104.121(b) carefully follows the Act. In paragraph (c) it is stated that the "representatives shall be selected by the respective State board, agency, or council." The Commissioner believes this is the proper interpretation of the word "representative," i.e., a person chosen by the group he or she represents. The Commissioner also believes that the representatives of the four designated groups should make up the entire voting membership of SOICC. The State might, however, appoint other observers or non-voting members. Therefore, no change is made in the regulation.

GENERAL APPLICATION

§ 104.141(c) General application amendment.

Comment. A commenter questioned the provision of § 104.141(c) that amendments to the general application be made only if and when "provisions of section 106 of the Act are changed or expire." For example, it was suggested that if a State changes its fiscal control and accounting procedures under assurance (7), this should be reflected by amending the general application.

Response. The assurances are comprehensive in coverage and obligate the State to adhere to the provisions of the general application in the future. Hence any change in procedures by a State would also be subject to compliance with the assurance on file, and no amendment to the general application is necessary. At such time, however, that a change in procedures violates the assurances of the general application, the State should notify the Commissioner accordingly. No change is made in the regulation.

§ 104.141(e) Procedures to carry out assurances.

Comment. A commenter stated that the procedures to be included in the five-year State plan for assurances 4, 5, 9, and 10 are not mandated in the Act, and that the requirement is inconsistent and arbitrary since procedures are not required for other assurances. The commenter suggested that the requirement be deleted.

Response. Section 109 requires determination by the Commissioner that adequate procedures exist "to insure that the assurances of the general application" will be carried out. Accordingly, it was determined that assurances 4, 5, 9 and 10 require a description of procedures in order for the Commissioner to approve a plan as being in compliance with the law. No change is made in the regulation.

§ 104.141(f)(4)(A) Consultation with Prime Sponsor.

Comment. A commenter recommended revision of § 104.141(f)(4)(A) to include a representative of prime sponsors in those areas where there is a prime sponsor.

Response. Section 104.141(f)(4)(A) provides that the annual application be developed in consultation "with representatives of the educational and training resources available in the area." While prime sponsors are not specifically named, they are certainly recognized as a training resource and should be consulted. No change is made in the regulation.

§ 104.141(f)(5) Consistency with the Handicapped Act.

Comment. A commenter suggested the addition of "(C) have the State vocational education plan be fully consistent with the State plan under the Education for All Handicapped Children Act of 1975 and the Federal regulations under that Act."

Response. Section 104.141(f)(10) restates the Act and requires that funds used for programs for the handicapped be consistent with the State plan under the Education of the Handicapped Act, which includes the Education for All Handicapped Children Act and the regulations under that Act. Therefore, the suggested phrase is a duplication. Also, a new regulation, § 104.5 has been added which cross-references the requirements in Part B of the Education of the Handicapped Act. Each State education agency should read the relevant regulatory provisions in 45 CFR Part 121a since those regulations provide the specific rules which govern the expenditure

of Federal vocational education funds for handicapped children within the State.

§ 104.141(g) (Renumbered § 104.141(f)(11)) Assurance of cooperation with NCES.

Comment. Several commenters suggested that the assurance in § 104.141(g) be deleted since there is an inconsistency with the assurance in § 104.141(f)(3) which requires supplying information to the Commissioner. It was contended that the Administrator of the National Center for Education Statistics (NCES) should get any information needed from the Commissioner. One commenter indicated that this assurance is a duplication and, in fact, may cause great confusion in terms of the report that is collected. Two of the commenters suggested the regulation was more stringent than the Act in using "shall assure" rather than the Act language "shall cooperate."

Response. Section 161(a) places responsibility for operating the national vocational education data reporting and accounting system with the Administrator of NCES, after jointly developing with the Commissioner the information elements and uniform definitions. Accordingly, the Commissioner believes it is essential to require an assurance that the State will cooperate with NCES in supplying the data jointly agreed to be collected under the system. No change is made in the regulation.

§ 104.141(h) (Renumbered § 104.141(f)(12)) Indian participation.

Comment. Several commenters questioned the inclusion of the assurance in § 104.141(h) since this is not contained in the law and suggested it be deleted. Other commenters proposed revised language for clarification that the State board does not allocate funds directly to Indian tribal organizations.

Response. Because of the potential for excluding Indians from the regular vocational programs, the recommendation for revision is accepted and the assurance in § 104.141(f)(12) will now read:

"The State board shall also assure that students served by Indian tribal organizations applying for or receiving funds under the Commissioner's discretionary programs, under the authority of section 103(a)(1)(B) of the Act, shall be afforded the opportunity to participate in vocational education programs administered by the State."

DEVELOPMENT OF FIVE-YEAR STATE PLAN

§ 104.161 Development of five-year State plan.

Comment. A commenter recommended that consideration be given to more appropriate planning and management procedures. The opinion was expressed that the planning process suggested is completely outdated, and that learner-oriented goals for vocational education should be used instead of goals based on employment needs. Further, if the legislation stressed what outcomes are desirable, States could use their own discretion as to how to achieve these outcomes.

The same commenter recommended that every effort be made to secure additional funding for planning and evaluation purposes and also make provision to compensate the representatives involved in the planning group.

Response. The language of the regulation concerning the planning process follows closely the Act. The State may, of course, employ planning procedures beyond those specified so long as the State plan requirements are met. The matter of changing the planning procedures and obtaining additional funding must be resolved through the legislative process. No change is made in the regulation.

§ 104.161 Time for development of a model plan.

Comment. Several commenters indicated that the period of time for development of plans is too short. One commenter suggested that the five-year State plan be revised by July 1, 1978, on a one time basis, since lack of experience and the short deadline for the initial plan will make it difficult for States to prepare a model plan by July 1, 1977.

Response. The Commissioner has no authority to waive the requirement of a complete five-year State plan by July 1, 1977. While States may not be able to develop an exemplary plan initially, the minimum requirement must be met. It is anticipated that States may wish to make amendments to improve the plan during the first year. In addition, the updating procedures in the annual program plan provide a mechanism for change and improvement of the five-year State plan. No change is made in the regulation.

§ 104.162 Local Educational Agency (LEA) input to State plan.

Comment. A commenter suggested that the use of a representative group for planning is a good procedure. Input and data from local educational agencies should be used as one of the key bases for formulating the State plan.

Response. While not specifically so outlined, sections 107 and 108 of the Act rely heavily on input and data from eligible recipients in formulating both the five-year State plan and the annual program plan. The plans in fact constitute an aggregation of the State's total effort in vocational education, and the State must rely on the eligible recipients for this data. No change is made in the regulation.

§ 104.162 Appointing authority for selecting representatives.

Comment. Commenters objected to the requirement that the appointing authority under State law designate the representatives for § 104.162(e), a local school board; § 104.162(f), vocational education teachers; and § 104.162(g), local school administrators. These objections were based on the commenters' interpretation that these appointments might be political appointments by the Governor. These commenters expressed a preference for a requirement that each of the agencies appoint its own representative.

Response. The language of the Act reads: "as determined by State law." This language was subject to interpretation and was construed to mean the appropriate appointing authority in the State. Accordingly, the language "as designated by the appropriate appointing authority" was added to § 104.162(e) through (g) to assign the responsibility for appointing these three representatives to the individual or State agency (i.e., the Governor or the State board) having authority to make appointments under State law. No change is made in the regulation.

§ 104.162 Representation on planning group.

Comment. A number of commenters suggested additional representatives and rationale for their inclusion in the development of the five-year State plan. The list included: Four-year institutions of higher education; State educational agency responsible for education programs for the handicapped; State agency on aging; State agency administering the vocational rehabilitation program; and State Commission on the Status of Women.

Response. The Act is specific relative to membership on the planning group. It is inappropriate for the regulation to require additional representation on the planning

group beyond the representatives of the ten groups specified in Section 107(a)(1) of the Act. States may involve the above groups and other groups it wishes to include in the planning process; however, only those ten groups designated by the Act constitute the decision-making group. Other groups are encouraged to provide input either directly to the planning group or through the public hearing process. No change is made in the regulation.

§ 104.162 Number of representatives on the planning group.

Comment. Two commenters raised the question of whether it would be appropriate for a State to have participants other than the ten representatives specified in section 107(a)(1) of the Act involved in the decision-making process regarding provisions of the State plan.

Response. While representatives of other groups may participate in the planning process, only one designated representative from each of the ten groups specified in section 107(a)(1) of the Act must be involved in the approval of the provisions of the five-year State plan or the annual plan. No change is made in the regulation.

Comment. A commenter asked if it is possible for the State board to design the membership of the planning group in such a way that the State educational agency's personnel constitute a majority of the voting membership. This commenter also wanted to know whether the State board may appoint several persons for each category or if it is limited to only one representative for each.

Response. Although there is no requirement that each representative to the planning group have a vote, the responsibility for decisionmaking regarding approval of the provisions of the State plans is limited to one designated representative for each of the ten categories set forth in section 107(a)(1) of the Act. One person may represent more than one of the ten categories if the agency he or she represents has responsibility in more than one of the designated areas. No change is made in the regulation.

§ 104.162(f) Representatives of vocational teachers.

Comment. A commenter recommended that "including guidance specialist" be added after "vocational education teacher" in § 104.162(f). Another commenter recommended that the regulation preclude supportive staff being included in the vocational teacher category.

Response. While certain guidance personnel may be considered vocational education teachers, the regulation does not go beyond the Act in requiring the inclusion of such personnel. The Commissioner believes the State law will determine which supportive staff, if any, are eligible. No change is made in the regulation.

§ 104.164(b) State plan content relative to rejected recommendations.

Comment. Concerning the inclusion of rejected recommendations in the State plan, a commenter suggested that the regulation should require only a summary of the recommendations rejected and the reasons for rejection rather than the original correspondence and any primary data.

Response. Section 104.164(b) requires only a listing of the rejected recommendations, the individual, agency, or council making the recommendation and the reason for rejection. These items in fact constitute a summary and should not result in a voluminous data requirement. No change is made in the regulation.

§ 104.164(b)(1) State board adoption of State plan.

Comment. One commenter recommended that the language in this paragraph be changed to read, "Any recommendation which is rejected by the State board indicating its source," rather than "and its source." *Response.* The recommendation is accepted. This change in language will clarify the requirement that the State board specify the particular agency making the recommendation.

§ 104.165 Public hearings.

Comment. Several commenters objected to the phrase "Prior to adoption" in § 104.165(a)(1) because it seems to compromise significantly the entire purpose of public hearings on the plan. In their view, the regulation permits a State to conceive, develop, and draft the plan without any significant input from the public. Their further contention is that the plan, once drafted, would not likely be changed. It is suggested that the phrase be changed to read: "Before the plan is written."

Response. The recommendation is accepted in part. The opportune time to hold public hearing is during the period of the plan's development. Accordingly, the regulation is changed to require the hearings "during the development, prior to adoption." If public hearings were held prior to the preparation of an initial draft, it would be difficult for the public to provide any meaningful direction since there would be no framework to initiate public discussion and reaction. Public input can be most important after there is a draft of the plan; however, the State may hold public hearings before there is a first draft or at any stage during the development of the plan when input may be useful.

§ 104.165(a)(3) Public hearings by region.

Comment. Commenters requested a definition of "all regions of the State." A few commenters suggested that several definitions be developed so that the State may choose from among them. Definitions suggested include (1) commonly recognized geographic divisions, (2) quadrants, and (3) areas feeding vocational-technical schools.

Response. Since most States have recognized regional divisions, it would be preferable to leave to the State how to define its regions and how best to serve the populace in the respective regions with regard to holding public hearings. No change is made in the regulations.

§ 104.165(c) Public views included in State plan.

Comment. A commenter suggested that, because of the volume of paperwork involved in including all views expressed at the public hearings in the State plan, only a summary of those views be included along with an explanation of how the State board plans to consider those views.

Response. Provisions of §§ 104.165(c) and 104.171(d) are intended to require inclusion of a summary of the views expressed at the public hearing and written comments submitted rather than letters, statements, and other primary data. Also to be included are the plans to implement those views accepted and the reasons for rejecting those views not included as part of the plan. No change is made in the regulations.

§ 104.165(c)(3) Public hearings.

Comment. A commenter recommended that the phrase "accepted for inclusion" be substituted for the term "included" in line 2 of § 104.165(c)(3).

Response. The recommendation is accepted. The revision will provide greater clarity to the State board's responsibility of setting forth the reason for rejecting any view submitted. The regulation is changed to read: "The reasons for rejecting any view which is not accepted for inclusion in the five-year State plan."

§ 104.171 Certification of plans.

Comment. A commenter recommended that this regulation include a paragraph which states: "The approval of an application under this part does not relieve an applicant agency of the responsibility to carry out its project or projects in accordance with the general application," the statute, and applicable regulations." The commenter felt this paragraph was necessary because the State board might consider compliance with certification requirements tantamount to approval by the Commissioner and write its plans accordingly.

Response. Section 104.171 requires a number of certifications regarding the State plan but does not serve as a guide for preparing the plan. Specific requirements for the content of the five-year State plan are set forth in §§ 104.181 through 188, and these detailed requirements must be adequately described before the Commissioner will approve a plan. No change is made in the regulation.

§ 104.171 Number of certifications required.

Comment. A few commenters suggested that many more certifications are required by the regulation than are mandated by the Act. A further comment was that the signature of each representative on the planning group required in § 104.171(b)(2) goes beyond the law and could be embarrassing to some of the signers.

Response. The inclusion of additional certifications in § 104.171 is intended to clarify statutory requirements necessary for compliance. By signing the certification required in § 104.171(b)(2), each representative on the planning group merely certifies that he or she had the opportunity to take an active part in formulating the plan. No change is made in the regulation.

§ 104.181 Guidelines.

Comment. Several commenters requested that the Office of Education reconsider the issue of promulgating separate guidelines for State plans. The view was expressed that, in fact, the proposed regulations are not precise, particularly with regard to State plans and State administration. They fear that plans will be weak and will not comply with the law. Concern related especially to the need to have State plan sections dealing with elimination of sex bias and sex stereotyping evaluated by persons with special knowledge of those issues.

Response. Public response to the Notice of Intent was divided on the issue of the need for additional guidelines. The Commissioner concluded that it was preferable not to issue separate guidelines, but rather to issue regulations which specify precisely what is required by the Act. With respect to the statutory requirements, the States will have considerable flexibility in determining how to meet the requirements of the Act and the regulations in the development of the State plan. Regarding the review of the plan, particularly in the area of sex bias and sex stereotyping, that review is one of the functions of the full-time personnel to eliminate sex bias listed under § 104.75, and § 104.171(g) requires that this personnel certify that

they have had an opportunity to review the plan. No change is made in the regulation.

§ 104.182 Procedures to assure compliance.

Comment. A commenter felt that the regulations have an inordinate number of very specific requirements which would, in effect, reduce the State's options. As an example, the commenter cited § 104.182 and suggested that this regulation be deleted.

Response. The language of the regulations follows closely the language of the Act. The procedures to assure compliance contained in § 104.182 are deemed necessary by the Commissioner as a minimum to comply with section 109(a)(1) of the Act. No change is made in the regulations.

§ 104.182 Additional procedures.

Comment. A commenter suggested that the State Commission on the Status of Women in each State be designated as the agency to review the compliance procedures and to make a public statement as to the degree of progress relative to the elimination of sex role stereotyping.

Response. Although the State Commission on the Status of Women is encouraged to study the progress being made within a State to eliminate sex bias, there is no legal basis for requiring that Commission to monitor compliance procedures in the State. The personnel working to eliminate sex bias, under § 104.72, must review State plans and State programs, particularly for elimination of sex bias and sex stereotyping. The Commission may work with this personnel in accomplishing the functions under § 104.75. Also, the Commission may provide input annually to the State board through the public hearing process. No change is made in the regulation.

§ 104.182(f) Consistency with Handicapped Act

Comment. Two commenters recommended that the reference in this section to "child" be changed to "student" so that it includes not only children but adults as well.

Response. Section 106(a)(10) requires that the use of funds for the handicapped under section 110(a) of the Act be consistent with section 613 of the Education of the Handicapped Act. Section 613 requires an individualized educational program for handicapped children in certain age ranges and does not apply to any person over 21 years of age. Accordingly, to be completely consistent with the Handicapped Act, and to make clear that the applicability is to children, not adults, it is appropriate to refer to "child" rather than "student." No change is made in the regulation.

§ 104.182(f) Additional citations.

Comment. A commenter suggested that the applicability of Section 504 of the Rehabilitation Act of 1973 be specified. Another commenter suggested that "and the Education for All Handicapped Children Act of 1975" be added to the last sentence of § 104.182(f).

Response. The correct citation is the Education of the Handicapped Act, which was amended by the Education for All Handicapped Children Act of 1975. With respect to the applicability of Section 504 of the Rehabilitation Act of 1973, the Department promulgated final regulations on May 4, 1977, at 42 F.R. 22676. This regulation, which applies to all recipients of Federal assistance from HEW, including State Departments of Education and local educational agencies receiving vocational education funds, is intended to ensure that their federally assisted

programs and activities are operated without discrimination on the basis of handicap.

§ 104.183 Assessment of employment opportunities.

Comment. A commenter requested that the assessment of current and future needs for workers specify workers "of all ages."

Response. While there is some rationale for specifying the need for workers by age, it does not seem appropriate to go beyond the Act in mandating these data. Further, it is doubtful whether the data are readily available. No change is made in the regulation.

§ 104.184 Limitation to four specified elements.

Comment. A commenter suggested that § 104.184 limits unduly the flexibility of the plan and recommended that the words "at least" be added after "of" in the first paragraph. The regulation would then read: "This description shall be in terms of at least the following four elements . . ."

Response. The State may include in the plan any information it desires beyond that specified in the regulation as long as mandated requirements are met. Therefore, the State may describe its goals in terms of additional elements beyond the four elements specified. No change is made in the regulation.

§ 104.184(c) Allocation of funds by institution.

Comment. A commenter recommended that the regulation be changed to read "various types of institutions" instead of "various institutions." Other commenters felt that reporting program allocations by school district would result in too much detail.

Response. The first recommendation is accepted. The added language will clarify the intent of the regulation. In response to the second comment, only the annual program plan includes the proposed distribution of funds listed by eligible recipient and is mandated by section 108(b) of the Act. The five-year State plan includes allocation of funds by various types of institutions.

§ 104.184 (c) and (d) Inclusion of CETA as an institution.

Comment. A commenter suggested including CETA in "among the various institutions of the State."

Response. The provision for coordination with CETA is set forth in § 104.188. Furthermore, CETA is not an institution, and the Act provides no authority for including it with the "various institutions of the State." No change is made in the regulations.

§ 104.185(a) Meaning of "as precisely as possible."

Comment. A commenter asked what the phrase "as precisely as possible" means and asked if each State is to make its own interpretation. Another commenter suggested the deletion of the words "as possible" from the phrase in order to clarify the meaning.

Response. The recommendation to delete "as possible" from the phrase is accepted. Section 104.185(a) and 104.186 (a) and (c) will read: "set forth precisely." In light of this modification, the term does not appear to need further interpretation.

§ 104.186(c) Special needs of older people.

Comment. A commenter suggested that § 104.186(c) specify that the State plan must set forth funding to meet the special needs of older people, including persons over 65 years of age.

Response. The definitions of the handicapped and the disadvantaged do not identify specifically "older persons." The definitions include persons of all ages having special needs which cannot be met in the regular vocational education program without special assistance. While there is nothing to preclude the use of these funds for older persons, provided they meet the specific requirements, there is no statutory basis for including them as a separate category. No change is made in the regulation.

§ 104.186(d) Matching set-aside funds.

Comment. A commenter recommended that paragraph (d) of § 104.186 be deleted, since neither Section 107 nor Section 110 of the Act requires State and local matching funds for this purpose to be included in the five-year State plan. It was suggested that documentation regarding the matching requirements be included in the accountability report.

Response. While the matching of funds for the national priority programs is not specifically required in Section 107 of the Act, nor in the accountability report, it is essential to include this information in order to provide a complete plan of uses of all Federal, State, and local funds. It should be noted that the annual program plan and accountability report constitute an updating and tracking of the five-year State plan. No change is made in the regulation.

§ 104.187 Eradicating sex discrimination.

Comment. Several commenters observed that the mandate to simplify regulations has been carried to the extreme and recommended that this regulation spell out in detail how vocational opportunities, particularly for women, will be expanded. One of the commenters stated that the State plan should include (1) an assessment of the current status of vocational education with respect to equality of access to and equality of use of vocational education programs by both sexes, and (2) goals and timetables for achieving the changes the State intends to make. Another commenter recommended that States establish an incentive system in which priority is given to LEA applications that indicate both strategies and the commitment to overcome sex bias and sex stereotyping. Commenters also charged that public comments on the Notice of Intent issue of incentives were ignored and believe that incentives are necessary. Another commenter suggested that the reference to "both men and women" is not compatible with § 104.75 (d).

Response. The regulation outlines the requirements of the Act but purposely allows the State ample flexibility in meeting these requirements. It is anticipated that the content of the five-year State plan will be improved, particularly in the area of elimination of sex bias and sex discrimination, by updating through the annual program plan as a result of the activities of the personnel under § 104.75. Regarding incentives, the State is required by the Act to provide incentives for eligible recipients but has flexibility in developing a system of priorities for these incentives. The reference to "both men and women" is taken directly from the Act. No change is made in the regulation.

§ 104.187 Eradicating sex discrimination.

Comment. A commenter suggested that the term "eradicate" is a strong mandate for something which vocational education may have little control over and should be changed to a less strongly worded intent.

Response. The term "eradicate" as used in relation to sex discrimination is from the legislative history and appears to be synonymous with the term "overcome" used in the Act. No change is made in the regulation.

§ 104.187(a) Quota for equal access.

Comment. A commenter recommended that the words "but not necessarily quotas" be added in the sentence following "to ensure equal access."

Response. It is not appropriate for the regulations to require quotas for enrollments in vocational education programs. The States are required to set forth in detail their policies and procedures "to ensure equal access." Although some States may apply a system of quotas as part of these procedures, it is not mandated by the Act or regulations. No change is made in the regulation.

§ 104.187(a) Time for planning.

Comment. A commenter objected to including the requirements of § 104.187(a) in the five-year State plan due on July 1, 1977, since funds are not yet available for the persons who will do the work.

Response. The Commissioner is not authorized to waive this requirement for the initial year of the legislation. Although it is probable that, when in place, the full-time personnel to eliminate sex bias will work on this section of the plan, there is no requirement in the Act regarding who will develop this section of the plan. States have been encouraged to develop the best possible State plan in the limited time available and according to the requirements of the Act. The five-year State plan may be improved through the annual program plan updating or by amendment during the year. No change is made in the regulation.

§ 104.187(a) (2) (ii) Sex stereotyping.

Comment. A commenter suggested that § 104.187(a) (2) (ii) be changed to read: "Develop model programs to reduce sex stereotyping in training for all occupations," rather than "to reduce sex stereotyping in all occupations."

Response. The recommendation is accepted. While vocational education programs may not directly influence the reduction of sex stereotyping in all occupations, developing model programs which prepare persons of both sexes for occupations may have a positive impact on reducing sex stereotyping in occupations. Accordingly, inserting "in training for and placement in all occupations" will assure that the program proposed by the eligible recipient will focus on the reduction of sex stereotyping.

§ 104.188 Coordination with CETA.

Comment. Several commenters expressed concern about the implementation of coordination between vocational education and CETA. One commenter suggested that additional agreements may be needed at the national level. Another commenter suggested that the required "description of the mechanism established for coordination" may be reduced to mere observance of form. The recommendation was that more concrete links, such as mutual signature of plans, should be required.

Response. Section 104.188 requires the five-year State plan to describe the mechanism established for coordinating vocational education programs with manpower training programs. While only this description of the working relationship is required in the five-year State plan, the annual program plan in § 104.222(e) requires reporting of the results of the coordination annually in order to assure consistency from year to year. In addition, the statutorily created National Occupational Information Coordinating Committee will provide for coordination between vocational education and CETA at the national level. At the State level, a representative of the State Manpower Services Council is required to be a member of the planning group for the State plan, of the State Ad-

visory Council, and of the State occupational information coordinating committee. Since the regulation repeats the language of the Act, the States are free to include in the plan those concrete links, such as mutual signatures, which they consider desirable. No change is made in the regulation.

DEVELOPMENT OF ANNUAL PROGRAM PLAN AND ACCOUNTABILITY REPORT

§ 104.203 Due date of accountability report.

Comment. A commenter felt that too much time is allowed between the end of the fiscal year and the due date of the accountability report for that fiscal year. The commenter felt that current program information could be provided in less than the nine months the proposed regulation allows.

Response. Some of the data included in the accountability report will be reported earlier in the vocational education data system to the National Center for Education Statistics for use in preparing the annual report to Congress and other purposes. Thus, certain data will be available sooner than the July 1 deadline. Section 108(b) of the Act, however, requires submission of the accountability report with the annual program plan on the July 1 preceding the beginning of the fiscal year for which the plan will be effective. This accountability report will list the accomplishments achieved during the fiscal year preceding the submission of the plan and report. No change is made in the regulation.

§ 104.22 Annual program plan for 1978.

Comment. A commenter recommended that reference to §§ 104.183 and 104.184 be included in § 104.221. The commenter also felt that the requirement to include in the State plan the proposed distribution of funds among eligible recipients is an unreasonable burden and suggested that this requirement be deleted.

Response. The first recommendation is accepted. The reference to §§ 104.183 and 104.184 was inadvertently omitted from the NPRM. Section 104.221 is rewritten to include a reference in the second line to §§ 104.183 and 104.184.

In response to the second suggestion, the regulation follows the language of section 108(b) (1) (B) (ii) of the Act which requires the State plan to show the distribution of funds among eligible recipients. Therefore, this requirement cannot be deleted.

§ 104.222 Five-year State plan update.

Comment. Two commenters requested clarification regarding the yearly update of the five-year State plan. It was suggested that the five-year plan would stand as submitted with the annual program plan reflecting changes anticipated or projected which could affect the outcomes of the five-year plan.

Response. The five-year State plan will stand as it is submitted. The annual program plan will update any obsolete or inaccurate information in the five-year State plan relating to employment needs and goals for meeting these needs. The annual program plan will also include a more detailed description of how the funds projected in the five-year State plan will be used and any changes in funding proposed, along with the reasons for those changes. No change is made in the regulation.

§ 104.261 Review of plans by full-time personnel to eliminate sex bias.

Comment. A few commenters suggested that the full-time personnel to eliminate sex bias certify that they have made comments and recommendations on the State plan in addition to certifying that they have been afforded an opportunity to review the plan.

One commenter felt that it should be stated that the certification did not necessarily constitute an endorsement of the plan. Another commenter stated that the full-time personnel will not be employed until October 1, 1977, and therefore, cannot review the 1978 plan.

Response. In accordance with section 109 (a) (3) (B), the certification in § 104.261 (d) provides evidence to the Commissioner that the opportunity to review the plan was afforded the full-time personnel. This certification does not preclude inclusion of any comments the full-time personnel wish to make. Indeed, one of the functions of personnel under § 104.75 is to make information readily available to the State board and the Commissioner. Comments on the State plan may be submitted with the certification or at any other convenient time. By certifying that an opportunity to review the plan was afforded, the full-time personnel are not necessarily endorsing the content of the plan. It is recognized that all States may not have the full-time personnel employed until October 1, 1977; nevertheless, it is the responsibility of the State to assure that the plan is in compliance with the Act. No change is made in the regulation.

§§ 104.261 and 104.262 Criteria for approval of plans.

Comment. A commenter asked if criteria will be developed to assist the Commissioner in determining that the State has set forth adequate procedures to carry out the general application assurances and the provisions of the plan.

Response. The requirements of §§ 104.182 through 104.188 and §§ 104.221 through 104.241 are detailed enough to provide adequate criteria on the basis of which the Commissioner can determine whether the State is in compliance with the Act. No change is made in the regulation.

§ 104.262 (f) Content of accountability report.

Comment. A commenter recommended that the accountability report include course enrollment by race and by sex. It was contended that the report would be inadequate if it reports race and sex data without cross-tabulating them.

Response. To reduce duplication of reporting, the accountability report is not required to include program enrollment data by race or sex. These types of data will be supplied in the vocational education data system developed under section 161 of the Act. The data, therefore, are available to the State and may be included in the accountability report if desired. No change is made in the regulation.

§ 104.271 Disapproval of plan.

Comment. A commenter requested clarification of § 104.271 (b) providing that the Commissioner will not disapprove a State plan solely on the basis of the distribution of State and local expenditures. The commenter asked which sections of the Act are covered by this provision.

Response. Since there is no legislative history to indicate otherwise, it is assumed that § 104.271 (b) applies to all State and local expenditures for vocational education. Therefore, no change is made in the regulation.

HEARINGS BEFORE THE COMMISSIONER ON AGENCY OR COUNCIL CHALLENGES TO THE FIVE-YEAR STATE PLAN OR ANNUAL PROGRAM PLAN

§ 104.281 Cost of appeal to the Commissioner.

Comment. A commenter suggested that the cost of an appeal to the Commissioner should

be borne by the agency bringing the appeal, particularly the cost of travel of the agency's representative.

Response. The cost principles governing the vocational education State-administered program are contained in Appendix B to 45 CFR Parts 100-100d. In general, these principles provide that a cost of the grant program may be reimbursed with Federal funds if the cost is necessary and reasonable for the proper and efficient administration of the program, unless specifically provided otherwise by Federal law and regulation or State or local law.

With respect to the legal expenses incurred during a section 107 appeal between two State agencies to the Commissioner, item 16 in Appendix B (45 CFR Parts 100-100d) is controlling. In accordance with this provision, if the legal services for the appeal are furnished by the State's Attorney General or staff, the costs would be unallowable because these attorneys would be discharging their general responsibilities. If one of the State agencies, however, retains private counsel because of a conflict of interest situation arising due to the State Attorney General representing two State agencies in an adversarial capacity, the legal expenses are allowable as a bona fide State administrative expense.

The travel costs of the agency representative involved in the appeal proceeding are also allowable in accordance with the principles contained in item 28 of Appendix B (45 CFR Parts 100-100d).

Since these principles are contained in the General Education Provisions Regulations, which are directly applicable to the Vocational Education Act, no change is made in the regulation.

§ 104.283(a) Hearing officer.

Comment. A commenter suggested there should be more than one hearing officer on a panel to hear an appeal to the Commissioner from agencies and council on State plans, as two or more hearing officers could share the responsibilities.

Response. Appeals on State plans should be heard promptly so that the plan may become effective as soon as possible. Although experience has indicated that it is difficult to obtain the services of hearing officers at short notice because of their prior commitments, it should be possible to obtain one experienced hearing officer in the prescribed time. However, if more than one hearing officer were to be used, three would be needed in order to avoid the possibility of a one-to-one tie vote. No change is made in the regulation.

§ 104.286 Criteria for Commissioner's decision on appeal.

Comment. A commenter suggested that the proposed regulations "completely miss the point" in not setting out objective criteria so that interested parties will know in advance by what standards an appeal to the Commissioner will be judged, and so that the criteria can be uniformly applied to all States engaged in appeals to the Commissioner.

Response. The Act (section 107 as to the five-year State plan, section 108 as to the annual program plan) does not require, or authorize, the Commissioner to set criteria for the Commissioner's decision. The Act says that the Commissioner shall afford an opportunity for a hearing and "shall determine whether the State board's decision is supported by substantial evidence, as shown in the State plan, and will best carry out the purposes of the Act." Substantial evidence is a legal term which is used in relation to the standard for judging evidence in administrative hearings and on appeals to the

courts. The regulation (§ 104.286(c)) uses the legal term and gives it the meaning given by the Supreme Court in the case of *Consolidated Edison Co. vs. National Labor Relations Board* at "305 U.S. 197, 229 (1938)." This definition of "substantial evidence" has been cited and followed in numerous administrative hearings and court cases since it was defined by the Supreme Court in the 1938 opinion. The legislative history in relation to the hearing (House Report No. 94-1085; Senate Report No. 94-882, p. 76; Conference Report No. 94-1701, p. 221) makes no reference to separate criteria.

Since it cannot be anticipated what part of the State plan may be the subject of the appeal, it would be very difficult, if not impossible, to set criteria, as recommended by the commenter, in relation to every possible appeal for the source of the evidence, the purposes of the Act, or for determining what the Commissioner believes will best carry out the purposes of the Act. No change is made in the regulation.

§ 104.287 Determinations on appeal.

Comment. The same commenter objected to the requirements in § 104.287(a) (1)-(4) as being "a farce."

Response. These requirements are based on language in section 107(a) (1) of the Act and repeated in § 104.287(a) (1). The Act and the regulation first require the hearing officer to determine whether the procedures of that section (section 107(a) (1)) have been followed. Then § 104.287(a) (2) requires a finding that the State board's plan is legal. Paragraph (a) (3) repeats the "substantial evidence" rule of section 107(a) (1), and paragraph (a) (4) repeats the standard that the hearing examiner determine that the State board's decision (rather than the appealing agency's recommendations) "best carry out the purposes of the Act."

As to purposes, section 101 of the Act entitled "Declaration of Purpose" states the purpose of the Act, and the legislative history should also be reviewed to determine the purposes of the Act. It is the opinion of the Commissioner that any attempt to restate the purposes of the Act as criteria for any appeal to the Commissioner would in effect be limiting and would be substituting the Commissioner's view of the purposes for that expressed by the Congress. No change is made in the regulation.

§ 104.288(c) Commissioner's decision on appeal of the State plan.

Comment. A commenter suggested that if the Commissioner disapproves a State plan, the disapproval must be "based on a review of the entire plan."

Response. The Commissioner (through the hearing officer) will review the recommendations about the State plan made by the appealing agency or council and the State board's reasons for rejecting the recommendations. Depending on the nature of the recommendations, this may not require a review of the entire State plan. The language in § 104.288(c) is based on language on page 216 of the Conference Report which says that, if the Commissioner does not approve the part of the plan in contention, the Commissioner does not rewrite the plan, but disapproves of it "in its entirety" and returns it to the State board for revision. No change is made in the regulation.

§ 104.289 Appeal of the Commissioner's action to the Court of Appeals.

Comment. With respect to the section 107 (a) appeal, a commenter pointed out that § 104.289 of the regulation states that a "State board, agency, or council" may appeal the final action of the Commissioner to the Court of Appeals, whereas section 107(a) of the Act states only that any "agency or State

board" may appeal to the Court of Appeals. *Response.* The regulation is amended to use the exact language of the Act. The right to appeal to the courts must depend on the language of the Act, not upon different language in the regulation. The House Report (H. Rept. No. 94-1085, p. 36) states: "After the Commissioner makes this determination, any dissatisfied agency or State board (but not the State advisory council on vocational education or the State Manpower Services Council) may appeal the Commissioner's decision to the Federal circuit court of appeals."

FISCAL REQUIREMENTS

§ 104.301 Zero-based budgeting.

Comment. A commenter, after pointing out that zero-based budgeting forces programs to analyze periodically their goals and objectives, to evaluate results regularly, and to spotlight duplication of effort, recommended that the regulation require zero-based budgeting by both Federal and State programs.

Response. In keeping with the general practice that the regulations do not regulate internal Federal matters, a statement that the Office of Education shall use zero-based budgeting is not set forth in the regulation. As to the States, a requirement in the regulation that the States adopt zero-based funding would interfere unduly in the States' own administrative matters. Therefore, no change is made in the regulation.

FEDERAL SHARE

§ 104.301(d) Matching in-kind.

Comment. A commenter asked whether the prohibition against using in-kind contributions to meet the matching and maintenance of effort requirements applies to both State and local levels.

Response. Section 104.301(d) provides that only actual expenditures of State and local funds shall be accepted as part of the State's matching and maintenance of effort requirements. This means that the prohibition against the use of in-kind contributions applies to both State and local levels. No change is made in the regulation.

§ 104.302 Distribution of funds for men and women.

Comment. A commenter suggested that the distribution of Federal funds should be controlled so that the availability of funds to men and women is equal.

Response. The Commissioner is prohibited by section 421A(c)(2)(B) of the General Education Provisions Act from imposing a funding distribution method different from that specified in the law authorizing the appropriation. Since the Act contains no authority for distributing funds equally among men and women, the Commissioner is not authorized to require it by regulation. No change is made in the regulation.

§ 104.302(a) Matching requirements.

Comment. A commenter stated that the 50 percent matching provision in § 104.302(a) is in error because some program sections allow 90 percent.

Response. Section 104.302(a) contains the general statutory matching requirement in section 111(a) that the Commissioner will pay to each State an amount not to exceed 50 percent of the cost of carrying out its annual program plan. The exceptions to this general requirement are enumerated in other regulatory sections. Since the fiscal regulations are interdependent and must be read together, it is unnecessary to list all the exceptions to the general 50 percent requirement in one section of the regulation. No change is made in the regulation.

§ 104.303 Matching for national priority programs.

Comment. Many commenters recommended that the 50 percent matching requirements for programs for the handicapped and disadvantaged as set forth in § 104.303 be reconsidered. These commenters have stated that it is inequitable for the State and local school districts to pay 50 percent of the cost of these programs when they are already supporting vocational educational education at such a high percentage. To expect State and local programs to adhere to these matching requirements when the proportion of Federal funding is so small is unrealistic.

Response. Section 110 of the Act provides that Federal funds shall be used to pay up to 50 percent of the excess of programs, services and activities for handicapped and disadvantaged persons. Section 104.303 of the regulation is based directly on this statutory provision. Section 421A(c)(2)(B) of the General Education Provisions Act (the Cranston Amendment) prohibits any funds to be apportioned, allocated, or otherwise distributed in any manner or by any method different from that specified in the law. Accordingly, no change is made in the regulation.

§ 104.303(c) and § 104.314 Postsecondary and adult programs.

Comment. Several commenters have pointed out that the word "and" is omitted between paragraphs (1) and (2) of § 104.303(c) and between paragraphs (a) and (b) of § 104.314 and recommend that it be added.

Response. This recommendation is accepted. The final regulation has added the word "and" between paragraphs (1) and (2) of subsection § 104.303 and between paragraphs (a) and (b) of § 104.314. Accordingly, in § 104.303(c) the Commissioner will pay an amount not to exceed 50 percent of the cost of both postsecondary and adult programs. In § 104.314, the State shall expend 15 percent of the section 102(a) allotment for both postsecondary and adult programs.

§ 104.303 Mainstreaming requirements.

Comment. A commenter suggested a new paragraph (d) be added to § 104.303 to read "Each State shall use, to the maximum extent possible, the funds required to be used for the purposes specified in subsections (a) and (b) to assist individuals described in those subsections to participate in regular vocational education programs."

Response. The mainstreaming requirement for handicapped persons is contained in § 104.312. The mainstreaming requirement for disadvantaged persons and persons of limited English-speaking ability is set forth in § 104.313(b). Since the inclusion of these provisions into § 104.303 would result in a duplication, no change is made in the regulation.

§ 104.305(a)(3) Administrative costs.

Comment. A commenter requested the deletion of the phrase "excluding State administration and ancillary services" in subparagraph (3) of § 104.305(a). The commenter pointed out that the Act has no such limitation.

Response. The comment has been accepted. Section 140(b)(1) of the Act provides that the State shall use Federal funds allocated for the Special Programs for the Disadvantaged to pay the full cost of vocational education for disadvantaged persons. Since State administration and ancillary services may be characterized as part of the full cost of the programs, expenditures for the administration of the program and ancillary services

directly related to the program may be attributed to the section 102(b) allotment.

MINIMUM PERCENTAGES

§ 104.312 Minimum percentage for the handicapped.

Comment. A commenter suggested that because Part B of the Education of the Handicapped Act, as amended by the Education for All Handicapped Children Act of 1975, Pub. L. 94-142, mandates that each individual handicapped person be served in the "least restrictive environment," the regulation should require the States to use section 110(a) funds to the maximum extent possible to assist handicapped persons to participate in vocational education programs provided in the "least restrictive environment."

Response. Section 612(5) of Pub. L. 94-142 requires the State to establish procedures to assure that special classes or other removal of handicapped children from the regular educational environment occurs only when the nature or severity of the handicap is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. Since funds used for the purposes of section 110(a) of the Vocational Education Act must be consistent with the State plan submitted pursuant to section 613(a) of the Education for All Handicapped Children Act, the statutory requirement on least restrictive environments is binding on section 110(a) of the Vocational Education Act. Furthermore, § 104.182(f) of this regulation requires the vocational education programs for handicapped children to be planned and coordinated in conformity with and as a part of the child's individualized education program as required by the handicapped legislation. Therefore, no change is made in the regulation.

§ 104.313 Minimum percentage for the disadvantaged.

Comment. Many commenters expressed concern over the inconsistency in § 104.313(a) and the overview of the regulations in the Notice of Proposed Rulemaking. Section 104.313(a) provides that the State shall expend "at least" 20 percent of the section 102(a) allotment for the disadvantaged. The overview of the regulations at 42 FR 18542 states "up to 20 percent."

Response. The statement contained in the overview concerning the minimum percentage for the disadvantaged is incorrect. The text should read "at least 20 percent to pay up to 50 percent of the costs of programs for the disadvantaged." Since the language in § 104.313(a) is correct, no change is made in the regulation.

§ 104.313 Minimum percentage for the disadvantaged.

Comment. A commenter expressed a view that the proposed rules, which allow the local educational agencies to charge the cost of vocational education programs for the disadvantaged, would result in supplanting of funds. According to this commenter, a strong possibility exists whereby the schools in economically disadvantaged areas will take students who succeed in regular programs, identify them as disadvantaged, and charge the set-aside for complete teacher salaries. In order to avoid supplanting, the commenter suggested that an individualized plan for each disadvantaged student be developed which would indicate that supplemental assistance is essential to enable that student to succeed in the regular program.

Response. The term "disadvantaged" is defined in Appendix A. In accord with this definition, a disadvantaged person must re-

quire special services and assistance in order to succeed in vocational education programs. Students who can succeed in the regular vocational education program are not eligible for funding under the minimum percentage for the disadvantaged.

Furthermore, the dollar for dollar matching provision required by section 110(b) of the Act for programs for the disadvantaged would seem to preclude any possibility of supplanting of funds. The statutory "no-supplant" provision in § 106(a)(6) is designed to assure that the aggregate of State and local funds available for a specific purpose, such as the disadvantaged set-aside, is not reduced because of the receipt of Federal funds under the Act. Therefore, as long as the combined State and local funds match the Federal funds earmarked for the purposes of section 110(b), it is unlikely that a violation of the "no-supplant" requirement would occur.

The suggestion for requiring an individualized plan for the disadvantaged, as required for the handicapped, may be found desirable by some States but it is not mandated by the Act. Since this procedure is not required by the Act, it is not appropriate to be included in the regulation. Thus, no change is made in the regulation.

§ 104.313(b) Minimum percentage for the disadvantaged.

Comment. A commenter stated that because of the history of minorities and the disadvantaged in vocational education, it is critical for the regulation governing the national priority program for the disadvantaged to offer disadvantaged students a genuine opportunity and not the traditional "dumping ground." In order to accomplish this objective, the commenter suggested incorporating into the regulation reporting requirements on criteria for selecting students, the kinds of programs available, needs assessments, evaluation tools, and enrollment data.

Response. The suggestions offered by this commenter are already an integral part of the regulation. The criteria are set forth in Appendix A; the regulations contained in §§ 104.183 through 104.188 govern the various requirements pertaining to kinds of programs, needs assessments, and enrollment data; and §§ 104.401 through 104.405 set forth the program evaluation requirements. Since the commenter's recommendation is incorporated into the regulation, no change is made.

MAINTENANCE OF EFFORT

§ 104.323 Reductions in expenditures.

Comment. A commenter questioned the basis in §§ 104.323 and 104.324 for permitting reductions in expenditures for vocational education. The commenter contends that any reduction would be a violation of section 111(b) of the Act.

Response. The term "fiscal effort" as used in section 111(b) is not defined in the Act or in the legislative history. For the purpose of this regulation, therefore, the term relates to tax effort and takes into account the relationship between tax rate and tax base. If the tax base declines but the tax rate remains constant, fiscal effort is considered to be maintained even though the tax yield declines proportionately. If, on the other hand, section 111(b) was written in terms of absolute spending levels, rather than fiscal effort, then the regulation would not permit any flexibility or deviation from the base year.

Since in the Act the funding requirement is stated in terms of maintenance of fiscal effort, a tolerance of five percent or less, as set forth in § 104.323, can be justified on the grounds that the State's effort can be

said to be sustained although there was a minor decrease in actual spending levels. An allowance of any more than five percent would risk transgressing statutory intent.

Similarly the unusual circumstance rule in § 104.324 is justified because an event which is out of the control of the State does not reflect a diminished fiscal effort. An event warranting such an exception must be unusual in the sense that the grantee clearly could not have anticipated it or compensated for it.

Accordingly, no change is made in the regulation.

STATE EVALUATION

§ 104.402 Evaluation requirements.

Comment. Several commenters were concerned by what they perceived as the excessive burden of performing all of the kinds of evaluation listed in § 104.402 (a), (b), and (c). Some recommended that subsections (a) and (b) be deleted for that reason. Other commenters wanted additional criteria such as "job mobility" and "student satisfaction." Several urged that the States be allowed to choose whether or not to use the suggested criteria. Most of these commenters wanted the State board to be free to determine and use the criteria for program and project evaluation which it considers to be most appropriate.

Response. It should be noted that while the Act requires evaluation during the five-year period of the effectiveness of each program or project, the numbered examples in paragraphs (a), (b), and (c) are only suggestive and the lists are not exhaustive. Therefore, with respect to § 104.402, the States already have the freedom of action described and desired by these commenters. The extent of the burden of evaluation will be determined largely by the State board. No change is made in the regulation.

§ 104.402 Use of sampling for evaluation.

Comment. Several commenters urged that the States be allowed to use sampling techniques in evaluating the effectiveness of their programs and projects of vocational education.

Response. The regulation does not preclude use of reasonable sampling procedures for the purposes of § 104.402. Therefore, the regulation has not been modified.

§ 104.402 Evaluation of State and local programs.

Comment. A commenter objected to the required inclusion of State- and locally-supported programs and projects in the evaluation, on the grounds that the Act does not contain this requirement.

Response. Paragraph (c) of § 104.301 states that "... every program or activity supported in whole or in part by State or local funds which are used to match Federal funds must meet the same conditions and requirements as those supported by Federal funds." Therefore, State and locally supported programs and projects cannot be exempted from the requirement. Thus, no change is made in the regulation.

§ 104.402 Employer satisfaction.

Comment. One commenter urged that the regulation permit and encourage the States to secure data on employer satisfaction and student performance by any means considered appropriate by the State, including surveys conducted by local educational agencies.

Response. Except for the data on program completers and leavers required by § 104.404, the States may perform the evaluations required by § 104.402 by any appropriate procedures. Therefore, the regulation has not been amended in this regard.

§ 104.402 Financial and legislative limitations.

Comment. One commenter urged the inclusion of evaluative criteria related to the financial limitations and other limitations set by the State's legislature.

Response. Since the lists of numbered criteria in § 104.402 (a), (b), (c), and (d) are only suggestive and not exhaustive, the States are already free to use additional criteria in their evaluation of program and project effectiveness. No change is made in the regulation.

§ 104.402 Qualitative versus quantitative.

Comment. A commenter finds confusing the requirement that program effectiveness and other essentially qualitative factors should be evaluated in quantitative terms. The recommendation is that the regulation be amended to read "... evaluate in quantitative and/or qualitative terms as appropriate ..."

Response. The intent of the regulation is that the report of the evaluations be expressed in objective terms that facilitate verification and make possible the aggregation of data within a State and across States, rather than in subjective, impressionistic terms. For example, instead of describing services to women students in qualitative terms of "excellent" and "cooperative" attitudes and efforts of the staff, the regulation means to encourage reporting the facts as the number of women who enrolled in and completed each course traditionally reserved for men, the comparative numbers of men and women in the courses, and the number of each sex who found (or were placed in) employment in the field of training. The same kind of objective reporting would apply to all programs and projects supported under the Act. The recommended change is therefore not accepted because it would seem to encourage less objective and less useful kinds of reporting. No change is made in the regulation.

§ 104.402 Services to special populations.

Comment. A commenter found § 104.402 (d) "particularly inept and confusing" and recommended that services to women, members of minority groups, handicapped persons, and disadvantaged persons be measured by the same criteria used for measuring services to other students.

Response. The criticism is well taken. The intent of the regulation was that service to the named "special populations" should be measured by the same criteria as are used with all other students, and that in addition the State's evaluation would report on any other services provided for those special groups. The proposed regulatory language is not clear, and § 104.402(d) has been amended to read "The results of additional services as measured by the suggested criteria under paragraphs (a), (b), and (c) of this section, that the State provides under the Act to these special populations."

Comment. A commenter recommended that paragraph (d) of § 104.402 be amended to mandate evaluation of the effectiveness of services to the special populations named there instead of making that part of the evaluation optional.

Response. The recommendation is accepted because the law not only requires evaluation of the effectiveness of all programs, projects and activities assisted under the Act, but also gives particular emphasis to those special populations. As amended, paragraph (d) becomes mandatory. In keeping with this rationale, a fifth special population category "persons of limited English-speaking ability" is added to paragraph (d).

§ 104.402 Services to the handicapped.

Comment. A commenter recommended that for each handicapped student, the State be required to include in its evaluation information about the instructional environment of the student, identification of the handicapping condition, and the specific occupational program in which the student is enrolled.

Response. The act provides no basis for requiring these data, and there is provision in other legislation, e.g., the Education of the Handicapped Act, as amended by the Education for All Handicapped Children Act of 1975, for reporting on services to handicapped students. Therefore, no change is made in the regulation.

§ 104.402 Fluctuations of the economy.

Comment. A commenter wanted the State's evaluation of the extent of placement of vocational education students in jobs to take into account changing economic conditions which affect the job market.

Response. Although the intent of such an amendment is meritorious, the recommendation is not accepted, because it would increase without statutory justification the already heavy burden borne by the State boards. The State board is, of course, free to take changing economic conditions into consideration in making the evaluation if it chooses to do so. No change is made in the regulation.

§ 104.404 Follow-up of all students.

Comment. One commenter interpreted § 104.404 to mean that follow-up data should be secured for only those "completers" and "leavers" who find employment, and urged that the follow-up survey both those employed and those unemployed.

Response. No modification of the regulation is required, since § 104.404(b)(1) will show whether or not the completer or the leaver found employment and whether the employment was or was not related to the vocational training.

§ 104.404 Definition of program leaver.

Comment. Two commenters recommended deletion of § 104.404(c)(2)(ii), "all other leavers," on the grounds that the inclusion of that part of the definition would require follow-up of students, for example, who enroll in a single vocational education course and leave two weeks later. This would impose an unreasonable burden if such a leaver must be included in the follow-up survey.

Response. The Commissioner is aware of the problem posed by students whose enrollment is of such limited duration that they should not be counted in any survey of program leavers. However, instead of setting by regulation a maximum duration of enrollments that are not to be counted, the Commissioner prefers that such guidance be furnished as part of the instruction for submission of required reports and data. No change is made in the regulation.

Comment. A commenter recommended changing the definition of "program leaver" to say that the leaver has nevertheless "acquired sufficient entry-level job skills to work in the field for which he or she was trained."

Response. It is the view of the Commissioner that the recommended change would eliminate from consideration in the evaluation and reporting those persons who do not acquire entry-level job skills either because they have not learned satisfactorily or have not been taught satisfactorily. It is believed that failure to include these persons in the report would violate the intent of the Congress. Therefore, no change is made in the regulation.

Comment. A commenter suggested that the definition of "program leaver" should be made parallel to the definition of "program completer" by adding in § 104.404(c)(2) that program leaver means a student who has been enrolled in and has attended a program of vocational education "which purports to teach entry level job skills."

Response. This suggestion has been accepted. It was intended that the definitions of "program completer" and "program leaver" be parallel. It was also intended to include the phrase "which purports to teach entry level job skills" in both definitions. The regulation has been amended accordingly.

§ 104.404 Instructions by National Center for Education Statistics.

Comment. Two commenters asked whether the NCES instructions and standards referred to in § 104.404(d) are mandatory or whether the State may choose to use a different reporting system.

Response. Use of the NCES instructions and standards is mandatory. The Act (sec. 161(a)(3)(B)) emphasizes and mandates reporting on program "completers" and "leavers." Without a uniform data reporting system it would not be possible to aggregate and report the data across States (i.e., nationwide). No change is made in the regulation.

§ 104.404 Exclusion of homemaking job skills.

Comment. Two commenters wanted the reference in § 104.404(a) to "entry-level job skills" to be expanded thus: "which purports to teach entry-level job skills, not to include the occupation of homemaking," on the grounds that it is unreasonable to try to evaluate the adequacy of training for homemaking.

Response. "Entry-level job skills" is interpreted as referring solely to paid employment, which eliminates from consideration homemaking by either spouse or parent. Homemaking by a paid housekeeper, nursemaid, or other such paid employee would be treated in the same way as any other gainful employment. No change is made in the regulation.

§ 104.404 Scrutiny of teaching materials.

Comment. A commenter urged the Office of Education to improve the effectiveness of program evaluation by examining vocational education courses and teaching materials to determine their "pertinency" and "currency," especially for the future needs of the nation.

Response. It is the view of the Commissioner that the effect of the recommendation would be to involve the Federal government in matters which are the prerogative of the States and local schools. No basis was found in the Act to support the recommendation. Therefore, no change is made in the regulation.

SUBPART 2—BASIC GRANTS

§ 104.502(b) Distribution of basic grant funds.

Comment. Many commenters objected to the mandatory reservation of funds under the basic grants in § 104.502(b) for special programs and placement services tailored to meet the need of the special populations described in § 104.621. Some of these commenters were concerned that if funds are reserved for displaced homemakers and other special groups, the remaining funds may be insufficient for vocational education programs described in § 104.511. Other commenters suggested that funding for programs for these special populations be attributed to another section of the law.

Response. Section 107(b)(4)(B) of the Act requires that the State set forth in its five-

year plan a program to assess and meet the needs of persons described in section 120(b)(1)(2). This program will provide for special courses for these persons in learning how to seek employment and placement services for the graduates. Therefore, even though the Act attempted to consolidate numerous programs under section 120 to provide greater flexibility and discretion to the State, funding for programs for displaced homemakers as well as for full-time personnel to perform the functions in § 104.75 is mandatory. Funding for the balance of activities listed in section 120 is permissive. Neither the Act nor the regulation, however, requires a minimum funding level for programs for these special populations. The State must earmark an amount of funds it considers adequate to support the courses and services which are described in its five-year plan to meet the needs of these special populations. Accordingly, no change is made in the regulation.

§ 104.502(c) Support for guidance under the basic grant.

Comment. A commenter recommended that guidance and counseling be added to the list of purposes for which funds under section 120 of the Act may be used. The rationale for the comment is that guidance and counseling services are essential to the successful placement of individuals in careers.

Response. The Commissioner agrees that guidance and counseling are essential for the successful placement of individuals. However, the Act provides funding for this activity in subpart 3—Program Improvement and Support Services. Section 134 requires the State to expend at least 20 percent of the subpart 3 allotment for guidance and counseling services. Thus, no change is made in the regulation.

§ 104.502(c) Consolidation of programs.

Comment. A few commenters perceived the consolidation of the expansive list of programs, services, and activities in § 104.502(c) as a "danger point" because if States can determine their own priorities for funding, low priority may be given to support services for women. These commenters suggested that with respect to programs which may contribute to eliminating sex stereotyping, the regulation should mandate funding.

Response. One of the major purposes of this new Act is the consolidation of numerous programs and activities into a single basic grant. This consolidation allows the State to determine its own priorities for funding. Consequently, there is no legal justification to undo by regulation what Congress specifically directed by statute. Thus, no change is made in the regulation.

§ 104.511(b) Initial equipment.

Comment. Many commenters expressed some confusion with respect to the inclusion of "instructional equipment" and the exclusion of "initial equipment" in the definition of vocational education programs in § 104.511(b). Part of the confusion seems to stem from the fact that the definition of "school facilities" in section 195 includes "initial equipment." Some of these commenters requested that the regulation clearly distinguish these terms.

Response. The language contained in § 104.511(b) is based directly on the statutory definition of vocational education in section 195. This definition provides in part that the term "vocational education" does not mean the construction, acquisition or initial equipment of buildings. "Initial equipment" includes building fixtures, utilities and furnishings or simply the materials which must be placed in a facility to accommodate the type of instruction or other voca-

tional education purpose for which the facility is designed. Although the definition of "vocational education" does not allow for the purchase of initial equipment, States may use funds under the authority of section 120(b)(1)(E) (construction of area vocational education school facilities) for initial equipment. It should also be noted that the definition of vocational education allows for the acquisition of instructional equipment. No change is made in the regulation.

§ 104.512(b)(3) Apprenticeship related instructional programs.

Comment. A commenter expressed the view that, since apprenticeship-related instructional programs are directly tied to the process of job placement, more than a simple reference to them in § 104.512 should be given. This commenter suggested that a more detailed regulation governing the operation of these programs be adopted.

Response. The comment is accepted. In view of the importance of related instruction to apprentices who are employed to learn trade skills, a new regulation, § 104.515, has been added. The language of this provision is adopted from the regulation promulgated in 1975 by the Commissioner at 40 FR 57760 (December 11, 1975) on this same subject matter. This regulation requires the State to include certain assurances in the five-year plan if apprenticeship-related instructional programs are offered.

These assurances will (1) insure that the vocational training is supplemental to on-the-job training experience of the apprentice; (2) set minimum age standards; (3) require an apprentice training agreement; (4) outline the required characteristics of the skilled trade; (5) specify the classifications of registered and non-registered apprentices; and (6) require conformity with Department of Labor regulations on apprenticeship programs.

§ 104.513 Student organizations.

Comment. A great many commenters submitted their views both in writing to the Regulations Task Force and at the public meetings on the subject of vocational education student organizations. Although the vast majority of these commenters expressed their satisfaction with the inclusion of a regulation authorizing the expenditure of funds for activities of vocational education youth organizations which are an integral part of the vocational education programs, many commenters objected to certain aspects of the regulation.

Many commenters objected to paragraph (c) which lists six activities which cannot be considered an integral part of vocational instruction. Some believe that it is entirely unnecessary to regulate on nonreimbursable activities because it is generally assumed that if an activity is not explicitly set forth, it cannot be funded.

A number of commenters expressed disapproval with some of the items listed as nonreimbursable in paragraph (c). Some commenters felt strongly that attendance at conventions, student organization newsletters, and recognition of outstanding performance are all vital elements of the student organization instructional and leadership program. Since these activities are designed to prepare youth to become responsible members of society, these items should be moved into reimbursable activities in paragraph (b). Many members of student organizations either testified at the public meetings or wrote letters explaining that the elements in paragraph (c) represented an important educational function and should be supported financially. One individual testified that students value their awards more than anything.

The one item in paragraph (c) which received the most comment was the prohibition against using funds for lodging, feeding, conveying, or furnishing transportation to conventions or other forms of assemblage. Some commenters pointed out that national and State conventions, culminating the experience of conferences held locally and regionally, provide an excellent educational forum for an exchange of ideas and are an integral part of the instruction. Limiting funds for this purpose will have a negative impact on the future of vocational education.

A few commenters objected to the use of the term "assemblage" in paragraph (c)(1). They felt this term would preclude the furnishing of transportation to any activity in which groups of students come together, including field or laboratory work incidental to the vocational training. Others argued that funds should be available for furnishing transportation to skill competitions which are directly related to the instructional program. Some commenters expressed the view that allowing funds to be used for transportation of students for student organization activities may lead to abuse in the use of funds.

A few commenters stated that the regulations may be fostering a discriminatory policy if the lodging and travel of statewide coordinators are reimbursable, but student costs are not. Others generally questioned whether funds may be used to pay the salaries of statewide coordinators.

One commenter suggested that if Federal funds are to be used to support the cost of instructional supplies and materials for student organizations, then a requirement should be imposed to insure that such materials are free of sex stereotyping. Another commenter recommended that States be required to match dollar for dollar Federal funds used for student organizations.

Many commenters recommended that the regulations be amended to insure explicitly that any activity of an organization funded with Federal dollars be available to all students in the instructional program without regard to membership in the student organization. In this connection, Congressmen Perkins and Quie in the House Committee on Education and Labor stated in a letter to the Commissioner, "We do not believe that any activity can be supported with Federal funds unless all of the students in the instructional program are eligible to participate without regard to membership in any student organization. Otherwise, we feel that the Federal government would be in the untenable position of excluding students from the benefits of a Federally-funded program solely because they do not choose to join a private organization."

A few commenters strongly objected to the use of Federal funds to support any activity of a student organization. They stated that there is no authority in the law or legislative history to support the regulation. In their view, Congress considered and rejected proposals which would have expressly permitted support for such activities.

Still others who expressed strong support for student organizations urged that the Office of Education not control by regulation that which was not deemed necessary to impose by legislation. They argue that the intent of Congress was to leave student organizations out of the law because, "The student organizations are doing fine. It may be doing them a disservice to put them in the Federal law, thus making them part of the system, subject to its structure. Any legislative support is best left to the individual States."

Response. The Office of Education recognizes the educational programs and philoso-

phies embraced by vocational education student organizations as being an integral part of the vocational education system of training. The efforts of these student organizations to improve the quality and relevance of instruction, to develop student leadership and to enhance citizenship responsibilities have equipped and will continue to equip vocational education students with the tools necessary to enter the labor market and to assume successful roles in society. To this end, § 104.513 of the regulations allows that Federal, State, and local funds available under the five-year State plan (subject to the overall matching requirements) may be used to give support to the activities of vocational education student organizations which are directly related to the vocational education instructional programs under the approved five-year State plan. It should be made clear at the outset that, since the activities of student organizations are not explicitly authorized in the Act, the activities can only benefit from the vocational education program to the degree to which the activity is directly integrated into the regular instructional program.

It has been apparent to the Office of Education that this national policy on student organizations has been interpreted differently by the States. Some States have construed the policy in earlier regulations broadly to reimburse all student organization activities. Other States have adopted a very limited view of specific activities which are reimbursable. As a result of this demonstrated ambiguity, the Commissioner has decided to provide the States with uniform guidance on reimbursable activities of student organizations. This guidance was set forth in proposed form in § 104.513 of the Notice of Proposed Rulemaking.

The language of the final regulation closely resembles the proposed regulation with minor amendments to reflect some of the more compelling comments submitted. In the first place, paragraph (b) continues to list supportable activities, and paragraph (c) lists non-supportable activities. These paragraphs are not intended to be exhaustive lists, but merely a framework the State should use in distinguishing between reimbursable and non-reimbursable activities. Despite the comments to the contrary, the Commissioner believes it is essential to list non-reimbursable activities in order to avoid misinterpretation.

The specific items listed in paragraph (b) are extrapolated in large part from the statutory definition of vocational education. (All of the student organizations, of course, are subject to the Title IX provisions on sex discrimination and the section 107(b)(4)(A) requirement to eliminate sex stereotyping. Instructional materials used by the student organizations are subject to the same requirements, which are not repeated in the regulation.) Support is not limited, however, to training, field work, and acquisition of instructional supplies. Instruction oriented activities such as special demonstration projects, lectures and exhibits initiated by vocational education personnel may also be supported. Salaries of State-wide coordinators responsible for the aforementioned activities are also reimbursable as an administrative cost. Vocational counseling in connection with vocational training for the purpose of facilitating occupational choices may be supported with funds available under section 130, not section 120.

The text of paragraph (b) has been amended under subparagraph (2). The final clause "cost of travel thereto" has been deleted because, as some commenters indicated, the generally-accepted prohibition against use of Federal funds for transportation to conventions could too easily be cir-

convened by permitting use of Federal funds for any type of travel of students. This does not mean that funds cannot be used for travel which is part of the instructional program. Funds may be expended on an activity such as travel of class members when such travel is necessary to carry out an otherwise allowable activity such as field work.

Although paragraph (c) lists six items which cannot be funded due to their non-instructional nature, the language in (c) (1) received the most criticism. This subparagraph provides that "an integral part of vocational instruction" does not include lodging, feeding, conveying, or furnishing transportation to conventions or other forms of assemblage. This language, which is taken directly from 31 U.S.C. 551, controls the expenditure of Federal funds and all State and local funds set forth under the plan. The word "assemblage" in this subparagraph, however, was not intended to include field work and laboratory work, but rather social, athletic, or recreational events. Accordingly, the word "social" has been inserted before the word "assemblage."

Finally, paragraph (a) lists the general conditions for funding vocational education student organizations described in the approved five-year State plan. In addition to the activity being an integral part of the instruction and supervised by vocational education personnel, another condition is made explicit in light of the comments received. The activity must be available to all students in the instructional program without regard to membership in any student organization. Students cannot be excluded from the benefits of a program receiving Federal funds because they do not choose to join the student organization.

§ 104.514 Vocational instruction under contract

Comment. Many commenters expressed confusion with respect to the scope of § 104.514. Some questioned whether private vocational training institutions include both private-for-profit and private nonprofit institutions. Others requested clarification on any special requirements pertaining to arrangements with private post-secondary vocational training institutions.

Response. Part of the confusion on the issue of private vocational training institutions was due to the omission of the contracting authority for private vocational training institutions in the Act. The Technical Amendments, however, restore this contracting authority. Accordingly, the regulation has been amended to reflect this revision to the Act. A new paragraph (c) has been added to § 104.514 permitting the State or LEA to make arrangements with private vocational training institutions provided that the institution (1) can make a significant contribution to attaining the objectives of the plan and can provide substantially equivalent training at a lesser cost, or (2) can provide equipment or services not available in public institutions.

In addition, paragraph (a) of § 104.514 has been amended to clarify the fact that contracts with private vocational training institutions include both for profit and nonprofit institutions.

§ 104.514 Discrimination in private education institutions

Comment. A commenter suggested that no Federal funds should be shared with private educational institutions without an active effort to make certain that they do not discriminate.

Response. Title VI of the Civil Rights Act, which prohibits discrimination on the basis

of race, Title IX of the Education Amendments of 1972, which prohibits sex discrimination, and section 504 of the Rehabilitation Act of 1973 which prohibits discrimination on the basis of the handicapped, are applicable to all institutions receiving Federal funds, whether public or private. The State educational agency has the responsibility for assuring that these civil rights provisions are being carried out. Since these non-discriminatory provisions are already binding on private educational institutions, no change is made in the regulation.

§ 104.521 Work study—discrimination

Comment. Several commenters pointed out that some of the most overt discrimination against students takes place in the employment they obtain through their schools. School officials often acquiesce to requests from employers which discriminate on the basis of sex in placement, responsibility, salary, and advancement, and the practice has continued unabated since the implementation of Title IX. These commenters also believe that it would be contrary to the purpose of the Act to prohibit sex discrimination in vocational training but to permit it to occur in employment. They suggest that the regulation should require that no student be recommended for, placed in, or receive benefits under a job which discriminates on the basis of sex and race. Employers seeking to employ students under work study programs or cooperative vocational education programs should be required to sign assurances that they will not discriminate on the basis of sex or race in hiring, placing, or paying students.

Under all employment programs, school officials should be required to reject sex-specific employment requests and to make an affirmative effort to inform employers that the school is prohibited by law from maintaining cooperative arrangements with any employer which discriminates. Furthermore, these commenters contend that officials should bear some responsibility for monitoring employers' compliance. This could be accomplished by maintaining a simple data file indicating the company by which each student is employed; the race and sex of the student and the level in the vocational education program which she or he had completed when employed; a summary of the student's previous work experience, and a job description and the starting salary at which the student was employed. Where a school finds indications of discrimination in the employment of its students, it should be required to conduct a full investigation and withdraw the cooperation of its job referral offices if businesses are engaging in discriminatory hiring practices which they refuse to make an affirmative effort to correct.

Response. The Commissioner concurs with the concern expressed in this comment that overt discrimination against students frequently occurs in the employment the students obtain through their schools. Such discrimination practices are in direct violation of Title IX of the Education Amendments of 1972 which prohibits sex discrimination under any education program or activity receiving Federal financial assistance. This requirement, which is referenced in 45 CFR 100b.262 of GEPR, is binding on the work study program, apprenticeship program, and the cooperative education program where the issue of sex discrimination in student employment is most significant. Since the prohibition against sex discrimination is already in the GEPR, it is unnecessary to repeat the provision in the separate program regulations.

A change has been made, however, in § 104.75(e) of the regulation. Since the func-

tions of the full-time personnel include the review of all vocational education programs in the State for sex bias, an explicit reference is now made to the review of work study programs, apprenticeship programs, and cooperative vocational education programs and the placement of students who have successfully completed vocational education programs.

Although these regulations do not require LEAs to maintain the type of data file on each student participating in work study or cooperative programs as suggested by these commenters, the full-time personnel designated to eliminate sex discrimination may want to consider seriously the adoption of this recommendation.

§ 104.521 Work study—disadvantaged participation

Comment. Many commenters questioned whether work study funds would be a legitimate expenditure under the minimum percentage for the disadvantaged in section 110 (b) of the Act.

Response. In light of the enactment of the Technical Amendments, States may compute work study funds expended for the disadvantaged as a legitimate expenditure for the minimum percentage for the disadvantaged. Section 110(b) now allows for the cost of programs, services and activities under subpart 2 to be applied against the 20 percent set-aside. Since work study is a permissible activity under subpart 2, the funding of work study for the disadvantaged is an allowable cost under section 110(b). A change has been made to § 104.303 to clarify this matter.

§ 104.522(b) Work study—ranking of applications

Comment. A commenter questioned whether the State must fund work study programs for all LEAs or only for some of them.

Response. Under the consolidation imposed by the Act, the State retains the discretion of determining which programs under section 120 will be funded. If work study programs are funded, then the State must give funding preference to applications submitted by LEAs serving communities having substantial numbers of youths who have dropped out of school or who are unemployed in accordance with § 104.522(b). No change is made in the regulation.

§ 104.523(a) Work study administrative costs

Comment. Many commenters suggested that the last sentence of § 104.523(a) requiring work study administrative costs to be supported with non-Federal funds be deleted. Some of these commenters suggested that the following sentence be substituted: "Funds shall be expended solely for payment or compensation to students employed in work study programs."

Response. In view of the fact that the Technical Amendments now authorize the use of Federal funds for local administrative costs, the provision in § 104.523(a) prohibiting such use has been deleted. Nevertheless, section 121(b) (1) of the Act requires that Federal funds for work study be expended solely for the payment of students employed pursuant to work-study programs. As long as all Federal funds distributed under the specific work-study application are earmarked for payment to students, LEAs may use other Federal funds for local administrative costs pursuant to the methods described in § 104.307.

§ 104.523 Work study eligibility

Comment. A commenter asked whether work study programs could be administered by local educational agencies only. This com-

menter stated that it should be permissible for the State board to administer the program if the State board directly operates the school.

Response. Section 121(a) of the Act limits the administration of work study programs to local educational agencies. Section 104.523 of the regulation also limits the eligibility to LEAs. In order for the State board or other eligible recipients to administer work study programs, legislative relief would be necessary. Accordingly, no change is made in the regulation.

§ 104.523(c) Work study—20-hour limit

Comment. A commenter asked whether the 20-hour limit per week in the work study program conforms to Department of Labor standards. Another commenter stated that the 20-hour limit for a student 18-21 years of age may not provide enough earnings to meet the student's needs.

Response. Since section 121(a) (3) requires the Commissioner to determine a reasonable number of hours per week that a student may be employed under a work study program, it is unnecessary to conform the 20-hour limit in § 104.523(c) to Department of Labor standards. With respect to the issue of the 20-hour limit in employment being too low, it is the Commissioner's position that an amount in excess of 20 hours per week would be potentially detrimental to the student's academic efforts. Furthermore, a ceiling of 20 hours should permit the limited resources available for work study to be shared among more students. Accordingly, no change is made in the regulation.

§ 104.531 Cooperative programs—100 percent funding

Comment. Many commenters questioned whether all cooperative vocational education programs may receive 100 percent Federal funding or just those cooperative programs serving students in nonprofit private schools. Some of these commenters indicated that only the cooperative vocational education program described in section 122 of the Act should include nonprofit private school students.

Response. The Vocational Education Act does not provide authority for two types of cooperative vocational education programs. Any basic grant funds used by a State for cooperative vocational education programs must meet all the statutory requirements of section 122 of the Act and §§ 104.531 through 104.533 of this regulation. States may not legally circumvent these requirements by labeling "cooperative vocational education programs" as "vocational education programs" and funding the activity under section 120(b) (1) (A).

With respect to the issue of funding, the State may fund, with up to 100 percent Federal monies, those cooperative vocational education programs being carried out by LEAs which include the participation of students from nonprofit private schools. This does not mean that the program must be designed exclusively for students in nonprofit private schools; but rather, if the program includes such students, it may be funded up to 100 percent. In order to clarify this matter in the regulation, § 104.305(a) (1) is amended to read, "Cooperative vocational education programs which include students enrolled in nonprofit private schools * * *."

§ 104.531(b) Cooperative education priorities

Comment. A few commenters perceived some difficulty in LEAs utilizing the funding priority in § 104.531(b) (areas that have high rates of school dropouts or youth unemployment) because of the consolidation of cooperative vocational education programs under

the grant. The issue raised is whether the LEA, having received a grant from the State, must give priority in funding cooperative education programs to areas that have high rates of school dropouts or youth unemployment.

Response. Even though the cooperative vocational education program has been consolidated under the basic grant, section 122(e) requires the State to give priority to funding cooperative programs to areas that have high rates of school dropouts or youth unemployment. The State must give priority to the applications of local educational agencies on the basis of the statutory criteria. The determination of the amount of funds earmarked for cooperative programs, however, is entirely within the domain of the State. If the State decides to fund cooperative programs, based on the local applications, then any Federal funds encumbered for cooperative programs must be expended by the LEA in accordance with the local application it submitted. In order to clarify the fact that the funding determination for cooperative programs is based on the local application, the language in § 104.531 (b) has been amended.

§ 104.532 Cooperative assurances

Comment. A commenter suggested that the list of assurances in § 104.532 be deleted because the Act does not require these assurances to be contained in the five-year State plan.

Response. Section 122 of the Act requires that cooperative vocational education programs conducted by LEAs include a variety of assurances enumerated in paragraphs (a) through (h). In order to ensure that the State adheres to these provisions when funding proposed cooperative programs described in the local application, the Commissioner believes it is imperative that the assurances be included in the approved five-year State plan. No change is made in the regulation.

§ 104.532 Cooperative programs—reimbursement of added costs

Comment. Many commenters questioned the meaning of the provision in § 104.532(c) for reimbursement of added costs to employers for on-the-job training of students. Some of these commenters cautioned against reimbursing employers for students' mistakes on the job.

Response. This provision relating to the reimbursement of employers for the added costs has been a part of the cooperative program since 1968. The provision entitles the employer to receive the necessary reimbursement in the event the employer is faced with additional costs to his or her business because of such factors as the participating of many students or the participation of disadvantaged or handicapped students. For example, if a number of students are placed in a business establishment and the employer assigns employees to supervise those students while they are on the job then the employer may be entitled to be reimbursed for the added cost of the time the employees supervise those students. No change is made in the regulation.

§ 104.532 Cooperative programs—private non-profit schools

Comment. One commenter pointed out that the proposed regulation governing the participation of students in nonprofit private schools in cooperative vocational education programs is taken almost verbatim from the corresponding statutory language. This commenter stated that the regulation ignores the specific concerns expressed by the House Committee on Education and Labor in H.R. 94-1085 at page 46. In this passage the Committee urged the Office of Education

to take more vigorous steps to implement the statutory provisions for the funding of programs involving students enrolled in nonprofit private schools. Without further elaboration in the regulation to reflect these concerns, this commenter believes that there will not be adequate safeguards to assure that eligible students enrolled in nonprofit private schools will participate in the programs on an equitable basis.

Response. The comment is accepted. A new regulation, § 104.533, is added to the section on cooperative vocational education programs to reflect the language contained in the House Report. In accordance with this regulation, the State must consult with the appropriate nonprofit private school officials at the State and local levels in order to make provision for the participation of students enrolled in nonprofit private schools. In addition, LEAs receiving funds for cooperative programs shall identify the eligible students, assess their needs, and provide them with the type of programs and services which will most effectively meet their needs. The personnel, materials and equipment necessary to provide these cooperative vocational education programs and services shall remain under the administration, direction and control of the LEA.

§ 104.532 Cooperative programs—on-the-job training

Comment. Commenters expressed strong disapproval of the omission in § 104.532 of two important on-the-job training requirements which were included in the regulations (§102.98) implementing the 1968 legislation. These requirements would insure that the cooperative program provide on-the-job training that:

1. "Employs and compensates student-learners in conformity with Federal, State, and local laws and regulations and in a manner not resulting in exploitation of the student-learner for private gain"; and

2. "Is conducted in accordance with written training agreements between local educational agencies and employers". According to these commenters, the cooperative vocational programs may be converted into a job-placement type of program with less emphasis on high quality, bona fide cooperative programs. Without the structure of the training agreement, LEAs may increase the pupil-teacher ratio, increase the class size, and add responsibilities for the teacher-coordinator. Non-compensation of the student-learner may have an adverse effect on liability in case of injury to the student, and there would be no employer-employee relationship under State workmen's compensation laws.

Response. The comments are accepted and the regulation is amended to reflect the requirement for compensation and written training agreements. These requirements were inadvertently omitted from the NPRM. The Commissioner agrees with the point of view expressed by these commenters that the omission of these two requirements may have a detrimental effect on the overall quality of the cooperative vocational education program. It should be noted, however, that whereas the former regulation required the written training agreements to be submitted to the State for filing with the local application, this submission is not required by this regulation. The State shall only provide an assurance of these two requirements along with the other assurances set forth in § 104.532.

§ 104.541 Energy education—secondary level

Comment. Several commenters objected to the language in § 104.541 which provides

that funds may be used for grants to postsecondary institutions for energy education. These commenters raised serious questions as to the exclusion of energy education programs from secondary schools. Some of these commenters stated that students who have no opportunity for postsecondary training deserve, nevertheless, as much chance as possible to get good training. Other commenters pointed out that their States already have successful energy education projects at the secondary level.

Response. The language of the regulation is based directly on section 123 of the Act which provides for grants to postsecondary institutions. Neither this statutory provision nor § 104.511 of the regulation has been viewed as limiting the funding of those energy education programs which may be characterized as vocational education programs exclusively to postsecondary institutions. In the event an LEA has incorporated an energy education program into its regular vocational education curriculum at the secondary level, the LEA may use funds it receives under its local application to support this program. It is imperative, however, that the energy education program at the secondary level be considered a vocational education program under section 120(b)(1)(A) and not under section 120(b)(1)(D) of the Act.

§ 104.543 *Solar energy.*

Comment. A few commenters objected to the fact that the regulation provides for the support of programs for solar energy but makes no mention of other energy areas such as oil shale. Other commenters stated that training limited only to installation of solar energy equipment is too narrow.

Response. Although the regulation follows the Act very closely in this new and emerging area, it was not intended to exclude vocational training in other energy areas such as oil shale, or hydroelectric power. Neither was it intended to exclude training in the operation and maintenance of solar and other energy producing equipment. As long as the training program may be characterized as vocational education under section 120(b)(1)(A), Federal funds may be used to support the program. No change is made in the regulation.

§ 104.552 *Location of vocational facilities*

Comment. One commenter stated that many area vocational schools constructed with Federal funds serve racially identifiable populations and areas, often to the detriment of central city school districts which serve predominantly non-white student populations. This commenter recommended that the regulation be amended to require the State board to act affirmatively to ensure equal educational opportunities for all students.

Response. Since the construction of area vocational schools is an authorized activity under section 120 of the Act, the sites of the schools are chosen at the discretion of the State and LEA. However, the nondiscrimination provisions in 45 CFR Part 80, which effectuate Title VI of the Civil Rights Act of 1964 are binding on the State. Section 45 CFR 80.3(b)(3) provides that in determining the site or location of a facility, a recipient may not make selections with the effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination on the grounds of race, color or national origin. Furthermore, if the State makes Federal funds available to an eligible recipient for construction of a vocational facility, the funds must be distributed on the basis of the funding formula described in Section 106(a)(5) of the Act. Under this formula, priority must be given to eligible recipients located in economically depressed areas and areas

with high rates of unemployment. Accordingly, Federal funds used for construction must be distributed to communities in economically depressed areas such as central city school districts.

With respect to the issue of equal educational opportunities for all students and admission policies, Title VI of the Civil Rights Act and Title IX of the Education Amendments of 1972 prohibit discrimination on the basis of race and sex. Since these provisions are binding on all institutions receiving Federal assistance, vocational facilities constructed with Federal monies may not adopt discriminatory admission policies. Thus, no change is made in the regulation.

§ 104.571 *Provision for stipends.*

Comment. Many commenters suggested that since Federal vocational education resources are so limited, the use of funds to pay stipends to students is highly questionable. These commenters believe that the available dollars should be spent to upgrade and maintain existing programs and provide for expansion.

Response. Although section 120 of the Act allows for the provisions of stipends, the decision to permit funds to be earmarked for stipends lies within the discretion of the individual States. Since the Act provides the State with this option, no change is made in the regulation.

§ 104.581 *Placement services.*

Comment. A commenter suggested that the language of § 104.581 be revised to include guidance and counseling explicitly under the section of the basic grant which permits funding of placement services for students who have successfully completed vocational education programs.

Response. Section 120(b)(1)(H) of the Act permits the expenditure of subpart 2 funds for placement services if there is inadequate funding in other programs providing similar activities, or other services are inadequate to meet the needs of the State. Although placement services are an integral part of guidance and counseling, the Act does not allow section 120 funds to be used for all activities under the general heading of guidance and counseling. Since the regulation conforms to these statutory limitations, no change is made in the regulation.

§ 104.581 *Placement services for completers.*

Comment. A few commenters were critical of the language in § 104.581 which provides placement services for students who have successfully completed the vocational education program. These commenters have urged that the placement services be made to all students who have enrolled in a vocational education program regardless of whether the program is completed or not completed.

Response. The language in § 104.581 is based directly on section 120(b)(1)(H) of the Act which limits the eligibility of this activity to "students who have successfully completed vocational education programs." To expand the eligibility would contravene both the Act and the legislative history. Thus, no change is made in the regulation.

§ 104.591 *Industrial arts—mandatory funding.*

Comment. A few commenters asked whether a State could legally refuse to make Federal funds available for industrial arts programs.

Response. Although industrial arts is an authorized activity under section 120 of the Act, the matter of funding such programs lies within the discretion of the State. There is no requirement in the Act that each spe-

cific program enumerated in section 120 be funded. No change is made in the regulation.

§ 104.591 *Industrial arts for the disadvantaged and handicapped.*

Comment. A commenter asked whether prevocational and exploratory programs of industrial arts programs designed for the handicapped and disadvantaged may be charged against the section 110 minimum percentages.

Response. Prevocational and exploratory programs in industrial arts are permissible expenditures under section 120 of the Act. Since expenditures for all programs, services and activities under section 120 may be applied against the minimum percentage requirements for the handicapped and disadvantaged in section 110, the cost of prevocational and exploratory programs in industrial arts may be charged against the section 110 minimum percentages. No change is made in the regulation.

§ 104.592 *Industrial arts—sex stereotyping.*

Comment. Many commenters stated that industrial arts programs traditionally have discriminated against women by denying them entry into male-intensive fields. According to these commenters, female students encountering discrimination at the introductory vocational level are less likely to develop an interest later in nontraditional vocational courses and are handicapped when they try to enter vocational programs which require prerequisite skills and courses acquired in industrial arts programs. These commenters have recommended that, since participation in industrial arts programs can provide a crucial opportunity for introduction of women to the higher paying industrial and technical occupations, the regulation should require that industrial arts programs contribute to the reduction of sex stereotyping in the overall vocational education programs.

Response. The comment is accepted. Section 120(b)(1)(I) provides for the support of industrial arts programs which will assist in meeting the purposes of the Act. One of the primary purposes set forth in the declaration of purpose, section 101, is the development of programs to overcome sex stereotyping; therefore, the references to the purpose of the Act of overcoming sex stereotyping should be made explicit in the regulation. Accordingly, § 104.592 has been amended to reflect this concern.

§ 104.601 *Support services for women.*

Comment. Many commenters expressed concern with this section of the regulation because it only singles out problems related to women. Some of these commenters believe that, inasmuch as the Federal law is designed to eliminate sex bias, this regulation violates Title IX which provides that no program can discriminate against either sex. Others recommended that the regulation provide support services for men who enter programs designed to prepare persons for employment in jobs which have traditionally been limited to women.

Response. One of the major conclusions reached by Congress during its two years of hearings on the Vocational Education Act is that the inferior position which women now hold in the labor market is reinforced by the type of training programs available to and selected by them. Consequently, the legislation was drafted in a way to attempt to solve this problem. One of the key provisions on this matter incorporated into the Act was the section 120(b)(1)(J) program of support services for women. Section 104.601 of the regulations is based on this statutory provision. It should be noted, how-

ever, that support services for men (e.g., counseling, placement) are reimbursable under other sections of the Act. Thus, no change is made in the regulation.

§ 104.602(a) *Support services for women—counseling.*

Comment. A commenter suggested the language in § 104.602(a) be amended to include counseling on the ways to overcome the difficulties encountered in enrolling in non-traditional programs.

Response. The comment is accepted. Mere counseling on the problems involved in enrolling in non-traditional programs is inadequate if these problems are to be solved. Therefore, § 104.602(a) has been rewritten to provide for counseling on the ways of overcoming the difficulties which may be encountered by women in these programs.

§ 104.602(b) *Support services for women—job development.*

Comment. A commenter questioned whether this type of service was limited only to women who are already enrolled in non-traditional programs.

Response. Since the wording of this regulation may give the impression that the service is available only to women directly enrolled in non-traditional programs, the regulation has been clarified so that the service will be available also to women entering the programs or interested in the programs. This revision is necessary because part of the problem women encounter is overcoming previous socialization and barriers to entry in these programs.

§ 104.612(b) *Standards for day care services.*

Comment. Many commenters objected to the requirement in § 104.612(b) that day care services be governed by applicable standards of State law. Some of these commenters pointed out that certain States presently have no such standards. Some requested that all State standards be certified, and others requested clarification and guidance on the expenditure of these funds.

Response. In order to develop a degree of uniformity in the expenditure of funds for day care services, the standards set forth in the Federal Interagency Day Care Regulations, 45 CFR Part 71, will govern the provision of day care services. Accordingly, the reference in § 104.612(b) to the standards imposed by State law has been deleted.

§ 104.621(a) *Meaning of dissolution of marriage.*

Comment. A commenter asked whether the special programs for persons who had been homemakers but who now, because of dissolution of marriage, must seek employment apply only to divorced individuals.

Response. The term "dissolution of marriage" is not to be interpreted only in the strict sense of divorce. Vocational training is available to the homemaker who has experienced a separation, annulment or any other type of dissolution of marriage. No change is made in the regulation.

§ 104.622(a) *Instructional supplies.*

Comment. A commenter suggested that the language in § 104.622(a) "repair of instructional supplies" be changed to "repair of instructional equipment" because supplies are not normally repaired.

Response. The comment is accepted. The Commissioner agrees that since supplies are not normally repaired, the substitution of the term equipment would be appropriate.

§ 104.633 *Residential schools—discrimination.*

Comment. A commenter requested that the standards of Title VI of the 1964 Civil

Rights Act be substituted for the present language which provides that funds may not be used for schools in which students are segregated because of race. Another commenter suggested that a new paragraph (c) be added to prohibit the use of funds for schools where there are different standards for admission based on sex.

Response. With respect to the matter of race, the regulation repeats the statutory provision that no funds may be used for residential vocational schools in which students are segregated because of race. Title VI provisions, however, are also applicable to the entire program and are referenced in 45 CFR 100b.262 of the General Education Provisions Regulations (GEPR). Also applicable are regulations in 45 CFR Part 84 which effectuate section 504 of the Rehabilitation Act of 1973. In addition, Title IX, also referenced in GEPR, prohibits the adoption of different standards for admission based on sex. Therefore, no change is made in the regulation.

SUBPART 3—PROGRAM IMPROVEMENT AND SUPPORTIVE SERVICES

§ 104.701 *Authorization for program improvement and supportive services.*

Comment. A commenter stated that § 104.701 should read that a State shall use "up to 20 percent" for program improvement and supportive services, and that a State is not required to use the full 20 percent for these activities.

Response. The Act specifically states "20 percent" and not "up to 20 percent." This is not a matter of discretion. The State must expend 20 percent of its funds for activities under Subpart 3. Funds not obligated for Subpart 3 may be carried over under the Tydings Amendment (section 412(b) of GEPA) for one year and, if not obligated during that year, would revert to the government. No change is made in the regulation.

§ 104.703 *Research coordinating unit (RCU).*

Comment. Many commenters stated that the Act permits a State to establish a research coordinating unit, and that it is not mandatory for the State to do so. Commenters recommended that the regulation be clarified.

Response. The Act states that a State "may" (not "shall") use the funds for the establishment of a research-coordinating unit. However, if a State is to use any funds for research, exemplary and innovative programs, or curriculum development, it must establish a research coordinating unit in order to do so is correct as written. No change is made in the regulation.

Comment. A commenter stated that the Act stipulates that the research coordinating unit is to contract for research, exemplary and innovative programs, and curriculum development, and that the research coordinating unit may perform directly the research activities, but not the exemplary and innovative programs nor the curriculum development activities.

Response. The Technical Amendments and the legislative history of the Technical Amendments (Senate Report No. 95-142) make it clear that the RCU may perform all functions, research, exemplary and innovative programs, or curriculum development functions itself or may contract for the functions. Section 104.705, 104.706, and 104.708 are amended accordingly.

Comment. Two commenters recommended that the term "unit to coordinate research" be substituted for "research coordinating unit."

Response. The Act consistently uses the term "research coordinating unit." However, a State could call its research coordination unit by another title if it so desired. No change is made in the regulation.

Comment. A commenter suggested that the research coordinating unit be responsible for the vocational education personnel training activities as well as the research, exemplary and innovative programs, and curriculum development.

Response. There is no legal basis in the Act for requiring the RCU to be responsible for vocational education personnel training. A State may, if it chooses, charge the RCU with responsibility for coordination of vocational education personnel training. No change is made in the regulation.

Comment. Several commenters stated that the program improvement funds are a part of the State grant and must be governed by the State plan, and it is the responsibility of the State board, not the research coordinating unit, to develop the State plan. Commenters recommended that the regulation clarify the roles of the State board and the RCU.

Response. The RCU is not responsible for the development of the State plan or the comprehensive plan of program improvement. The development of these documents is the responsibility of the State board. Section 104.703(c) is amended to clarify the role of the RCU.

Comment. Several commenters were concerned that the regulation did not adequately control possible duplication of efforts in the State, and that abstracts of planned projects should be submitted to the National Center for Research in Vocational Education and the U.S. Office of Education.

Response. Section § 104.703(e)(1) requires that two copies of approved projects be submitted to the National Center and to the Commissioner. It would be an undue burden on the States to have to submit abstracts of planned projects. No change is made in the regulation.

§ 104.704 *Contract requirements.*

Comment. A commenter recommended that "demonstrate a reasonable probability" be defined.

Response. The Act does not define the expression "demonstrate a reasonable probability." The burden is on the applicant to set forth a reasoned probability that the project will result in usable improved teaching techniques or curriculum materials. Since the expression is not defined in the regulation, the State must make the determination of "reasonable probability." No change is made in the regulation.

Comment. Two commenters recommended that the words "instructional programs" be substituted for "teaching techniques or curriculum materials."

Response. "Teaching techniques or curriculum materials" is taken directly from the Act. Substituting "instructional programs" would apparently change the intent of the Act. Thus, no change is made in the regulation.

§ 104.705 *Research programs.*

Comment. One commenter recommended that States should be permitted to use results of projects that were not supported with vocational research funds.

Response. The recommendation is accepted. It is clear that the intent of the legislation is not to restrict the dissemination activities to the results of projects that were supported with vocational education funds. Section 104.705(5) is changed to implement this recommendation.

Comment. A commenter recommended that the following be added to § 104.705(2) "and programs and projects for occupational and vocational guidance which utilizes the services of certified guidance counselors. This should include programs where training and retraining of guidance personnel can be effectively evaluated as well as programs

which directly provide guidance counseling and placement services as part of the vocational education effort."

Response. The research activities listed in this regulation are taken directly from the Act. Under this present authority, the State may evaluate the effectiveness of training and retraining of guidance personnel or other personnel. No change is made in the regulation.

§ 104.706 Exemplary and Innovative Programs.

Comment. A commenter recommended that programs designed to facilitate the employment of older people, including people over 65 years of age be included in the list of possible uses of exemplary and innovative funds.

Response. Although older people are not separately identified as persons who would benefit from exemplary and innovative projects, they clearly are included. No change is made in the regulation.

Comment. One commenter recommended that § 104.706 give special consideration to four-year postsecondary institutions as contractors for the funds for exemplary and innovative programs.

Response. Although there is no legal basis in the Act for giving special consideration to four-year postsecondary institutions as contractors, they are not excluded. No change is made in the regulation.

§ 104.708 Curriculum development.

Comment. Several commenters questioned why the research coordinating units must do the contracting for the curriculum development effort.

Response. Section 133(a) of the Act, as amended by the Technical Amendments, clearly states that the contracts for curriculum development are to be made by the research coordinating units. No change is made in the regulation.

Comment. A commenter recommended the phrase "sex stereotyping" be added after "sex bias" in § 104.708(c).

Response. The recommendation is accepted. It was an oversight in the proposed regulation to have left out "sex stereotyping."

§ 104.761 Qualifications of counselors.

Comment. A commenter recommended that the regulation associated with the administration, supervision, conduct, and design of vocational guidance and counseling programs and services set forth the qualifications of personnel to be supported by available funds. This would include setting minimum professional standards for counselors. Administrators and practitioners should be required to meet the certification standards for practicing counselors.

Response. Since the current law does not set forth specific qualifications for these personnel and the criteria will vary from State to State, the States have discretion to establish their own certification standards. No change is made in the regulation.

§ 104.761 Needed personnel for guidance and counseling.

Comment. A commenter indicated that vocational guidance and counseling are vastly needed to improve vocational education programs. However, guidance and counseling personnel cannot be expected to provide all the vocational education services as outlined in the regulation. Other personnel and funds should be available to coordinate services.

Response. It is expected that the Federal funds earmarked by the State to support vocational development and guidance under this section of the Act will supplement the State's ongoing effort to improve the guidance, counseling, placement and follow-up services offered to their students. No change is made in the regulation.

ance, counseling, placement and follow-up services offered to their students. No change is made in the regulation.

§ 104.763 Activities eligible for funding.

Comment. Several commenters recommended a rephrasing of the statement, "funds made available to a State under the vocational guidance and counseling program (Section 134 of the Act) shall be used to support one or more of the following" Various substitute language was suggested by the commenters for the phrase "to support one or more of the following" In most instances, the commenters offered recommendations that, if put into the regulation, would assure the funding of specific activities and in some cases each of the eight activities listed in the Act.

Response. The Technical Amendments make the intent of Congress clear on this issue. The language of the Technical Amendments is "shall include one or more of the following activities" No change is made in the regulation.

§ 107.763 Organization of vocational guidance activities.

Comment. A substantial number of commenters expressed the opinion that while they agreed that funds allocated under Section 130(a) shall be used to support one or more of the eight activities listed in section 134 of the Act, they questioned the reorganization of the eight activities into five as proposed in the NPRM. The commenters preferred for reason of interpretation that the eight activities be enumerated in the regulation as they appear in the Act.

Response. The major purpose for reorganizing the eight groups of activities listed in the Act into five, with appropriate subgroups, was to simplify and make clearer the meaning of the Act. Judging from the many comments received from the public on this regulation, the purpose for regrouping was not achieved. Therefore, the recommendation of the commenters is accepted, and § 104.763 is changed to conform to the language of the Act.

§ 104.763 Eligibility for placement and follow-up services.

Comment. Several commenters raised questions about the meaning of educational placement and job placement services, and which groups or individuals are eligible to receive funds for this activity under the Act.

Response. The law provides funds for educational and job placement services, including follow-up services, for high school, college, and university students. Educational and job placement services and follow-up is one of the eight vocational guidance and counseling activities included in the Act. The Technical Amendments make it clear that funds shall be used for one or more of these eight activities, and that the one or more activities funded shall be determined by the State. No change is made in the regulation.

§ 104.763 Placement and follow-up services.

Comment. A commenter recommended that the regulation specify that placement and follow-up services are concerned with the occupational programs in secondary schools, area vocational schools, community colleges, and baccalaureate or higher degree-granting institutions.

Response. The current language of § 104.763 (3) makes it clear that all the groups identified by the commenter are eligible for placement and follow-up services. No change is made in the regulation.

§ 104.764(a) Special emphasis.

Comment. A commenter expressed the opinion that the term "counselor" as used in this regulation could be misinterpreted or puzzling and might pose a problem regarding official counselor qualifications. This commenter recommended the deletion of the phrase "into schools as counselors" and the use of the phrase "into schools as vocational career advisors for students."

Response. The language of the Act is "to bring individuals with experience in business and industry, the professions, and other occupational pursuits into schools as counselors or advisors for students." Both the Act and the regulation allow the local schools the flexibility to bring these individuals in as advisors. No change is made in the regulation.

VOCATIONAL EDUCATION PERSONNEL TRAINING

§ 104.774 Other types of training.

Comment. A commenter asked whether funds available under section 130 of the Act could be used to provide training for competency-based programs, teacher certification programs, vocational degree programs, and vocational leadership development programs. This commenter recommended a regulation stipulating that locally-oriented evaluation and needs assessment must be the basis for determining the uses to be made of vocational education personnel training funds.

Response. The State, through its five-year State plan and annual program plan, has the option of providing any kind of training that it believes will improve the quality of instruction, supervision, or administration of vocational education. The State may choose to base its determinations on local evaluation and local needs assessments. The recommendation that the State's options in this matter be limited by regulation is not accepted because there is nothing in the Act on which to base such a limitation. No change is made in the regulation.

Comment. One commenter recommended that § 104.774(b) be amended to read "In-service training . . . to overcome sex bias and sex stereotyping" in vocational education programs."

Response. The recommendation to add "and sex stereotyping" is accepted, because the Congress, in the Act's declaration of purpose (Section 101(3)), emphasized equal opportunity in vocational education for persons of both sexes, and because it is not reasonable to suppose that after the Congress included overcoming both sex discrimination and sex stereotyping in the declaration of purpose, it meant to exclude the latter concern in programs of vocational education personnel training.

Comment. One commenter wanted the regulation to include, specifically, training in curriculum development.

Response. The recommendation is not accepted because such training may be included under the non-exhaustive list in § 104.774 at the option of the State. No change is made in the regulation.

§ 104.774 Handicapped or disadvantaged students.

Comment. A commenter recommended that the regulation include, as an allowable category, training to improve vocational education for handicapped and disadvantaged persons; another commenter similarly wanted to include, as a category, training to deal with "learning disabilities."

Response. Such training may already be included under the non-exhaustive list in § 104.774 at the option of the State. Nevertheless, because of the emphasis in the Act on these categories, the regulation has been amended to include them specifically.

GRANTS TO OVERCOME SEX BIAS

§ 104.792 Overcome sex bias "and sex stereotyping."

Comment. One commenter requested that "sex stereotyping" be added to § 104.792(a).

Response. The recommendation is accepted. Although the title of section 136 in the Act uses only the term "sex bias," the body of that section refers to "sex stereotyping and bias." It appears that "sex stereotyping" was inadvertently omitted from the regulation.

§ 104.793 Types of projects.

Comment. Many commenters felt that the activities listed were too limiting and examples should be deleted altogether. Many others, however, felt that the list was not comprehensive enough. Of these commenters, most wanted to add "programs to overcome sex bias" to the list.

Response. The activities listed in § 104.793 are intended to be examples, and the list is not exhaustive. Section 136 of the Act, which authorizes grants to overcome sex bias and sex stereotyping, falls under subpart 3, Program Improvement and Supportive Services; therefore, funds used under this section must go for support or improvement of vocational education programs. Insofar as programs to overcome sex bias fall into this category, they may be supported by funds under this section. No change is made in the regulation.

§ 104.793(e) "Assisting girls and women" in selecting careers.

Comment. Several commenters felt that § 104.793(e)(2) should not be restricted to women and girls and that the regulation should read: "Assisting persons in selecting careers." The rationale they gave for requesting the change was that males, too, need assistance in selecting careers according to their interests rather than according to stereotypes. They felt that, in leaving males out, the regulation was "sexist."

Response. The recommendation is accepted to include males as well as females. Paragraph (e) is rewritten to include assistance for all persons in selecting careers since sex stereotyping is not limited to females.

SUBPART 4—SPECIAL PROGRAMS FOR THE DISADVANTAGED

§ 104.801 Girls and women as disadvantaged.

Comment. A commenter has recommended that "because girls and women traditionally have been channeled into educational tracks which have not enabled them to acquire the prerequisites to pursue training for a wide range of occupations," "girls and women" should be added as a group who require special services in order for them to succeed in vocational education programs. The same commenter recommended an additional criterion, "those who lack prerequisites as a result of previous discrimination."

Response. Since the criteria for identifying those who are academically disadvantaged already include the lack of reading, writing, or mathematical skills, and failure to perform at the necessary grade level, adding a specific category for "girls and women" as disadvantaged (even those who have the necessary skills and perform at the necessary grade level) would seem unnecessary. Therefore, this recommendation is not accepted. No change is made in the regulation.

§ 104.802(a) Youth unemployment and school dropouts.

Comment. A commenter suggested that although the phrase used in section 140(b)(1) of the Act is "youth unemployment and school dropouts," the word "or" should be

used in the regulation as both criteria need not be met.

Response. The recommendation is accepted. In order to provide a degree of consistency in the regulations for funding those programs which require prioritizing of local applications on the basis of youth unemployment or school dropouts (the work study program, the cooperative vocational education program, and special programs for the disadvantaged), the word "and" in § 104.531(b) and § 104.802(a) has been changed to "or." Funds may be used in areas of either high concentration of youth unemployment or high concentration of school dropouts.

§ 104.804 Academic disadvantage.

Comment. A commenter pointed out that, since academic handicaps are of such a variety, detection of academic handicaps, and symptoms of underachievement could be made earlier by a school counselor than by an instructor. The commenter recommended that qualified counseling be provided at the elementary school level and through the implementation of programs for the disadvantaged.

Response. The regulation for subpart 4, "Special Programs for the Disadvantaged," does not state who shall apply the criteria of "disadvantaged" to a particular individual. By not prescribing who must apply the criteria, the State or the LEA has the full range of options. The student, the student's parents, the student's teacher, and the school's guidance counselor may all be involved in the decision. Individual guidance and counseling for the academically and economically disadvantaged is very important. Elsewhere in the Act (section 130) and in the regulations (§§ 104.761-764) the importance of guidance and counseling activities is stressed; however, the regulation does not require the advice of a guidance counselor in every situation. No change is made in the regulation.

§ 104.804(b)(3) Performance below grade level.

Comment. Another commenter recommended deletion of "performance below grade level" in the definition of "academic disadvantage," considering the criteria of (b)(1) or (b)(2) adequate.

Response. Since the three criteria of paragraph (b) of § 104.804 (that is the criteria in (b)(1), (2) and (3)) are alternatives, criteria (3) need not be applied by those who do not believe performance below grade level to be a valid criterion. These criteria must, of course, be applied in relation to paragraph (d)(1) and (2) in reaching a decision whether special services are necessary. Likewise, the four alternative criteria of paragraph (c) of § 104.804 must be applied in relation to paragraph (b)(1) and (2). No change is made in the regulation.

SUBPART 5—CONSUMER AND HOMEMAKING EDUCATION

§ 104.903 Occupation of consumer and homemaking.

Comment. Many commenters recommended that the regulation use the term "occupation" (singular) of consumer and homemaker even though the Act uses "occupations" (plural).

Response. The recommendation is accepted. The phrase "occupation of consumer and homemaker" has been substituted. Although the regulation follows very closely after the Act, since the persons most closely associated with administration of, or instruction in, consumer and homemaking education feel strongly that the occupation of consumer and homemaker should be

referred to in the singular, the regulation is amended accordingly.

§ 104.903(a) Consumer and homemaking education at the elementary level.

Comment. A commenter questioned the inclusion of "elementary" after the phrase "at all educational levels" because elsewhere vocational education is only for secondary, postsecondary, and adult levels.

Response. The House Report (No. 94-1085, page 50) expressly states that the program of consumer and homemaking education was expanded to include the elementary level. Therefore, no change is made in the regulation.

§ 104.904 Preference to LEAs for creative approaches in eliminating sex stereotyping in consumer and homemaking programs.

Comment. A commenter stated: "The regulations should require that State Plans include criteria for selection of applicants based on the degree to which the applicant places emphasis on the preparation of males and females for combining the roles of homemaker and wage earner. Local education agencies should receive preference for funding if they develop or utilize creative approaches for achieving this objective."

Response. This recommendation goes beyond the terms of the Act. While section 150(b)(1)(B) of the Act requires the State plan "to encourage elimination of sex stereotyping in consumer and homemaking programs by promoting the development of curriculum materials" and to "prepare males and females who have entered or are preparing to enter the work of the home," the Act does not provide for preference in funding LEAs which show a creative approach in eliminating sex stereotyping. The Commissioner urges the States to encourage all LEAs to assure participation of both males and females in consumer and homemaking programs. The Act does not support criteria for competition among LEAs with preference in funding on this basis for some and the non-funding of others. Exemplary projects in consumer and homemaking education may, however, be funded by the State under § 104.706 or by the Commissioner under § 105.104(a)(2). No change is made in the regulation.

§ 104.904 Scheduling for consumer and homemaking courses.

Comment. A commenter stated: "To ensure greater availability of consumer and homemaking education programs to both males and females, the regulations must address the problem of scheduling. To implement the intent of the law there must be much greater flexibility in the scheduling of classes. Most secondary schools schedule consumer and homemaking courses during the same periods as courses which traditionally have catered to boys. Both sexes are thereby prevented from participating in the other course or both courses. The regulations should require scheduling which provides authentic options for students."

Response. I would be inappropriate for the Commissioner's regulation to require a particular scheduling of classes within a school or school system. In fact, section 432 of the General Education Provisions Act prohibits the Commissioner from exercising "any direction, supervision, or control over the . . . administration of any educational institution, school or school system" A scheduling of classes, however, which prevents persons of one sex from participating in courses which have additionally catered to persons of the other sex, would be a violation of Title IX. No change is made in the regulation.

§ 104.904 *Curriculum materials which address sex stereotyping.*

Comment. A commenter recommended: "Regulations should state that no programs will be funded under this section unless they show evidence of using or developing curriculum materials that will address sex stereotyping and sex bias in the area they are addressing, e.g., programs for handicapped persons."

Response. Section 432 of the General Education Provisions Act, described in the previous response, also prohibits the Commissioner from exercising any direction, supervision or control over the "textbooks or other printed or published instructional materials by any education institution."

While the Act and regulation require the elimination of sex bias and sex stereotyping in curriculum materials, it would be inappropriate, and possibly illegal under section 432 of GEPA, for the Commissioner to require all schools to use textbooks or other material which specifically address sex stereotyping. On the other hand, schools must use textbooks and other material which are free from sex bias and sex stereotyping. No change is made in the regulation.

§ 104.904(d) *Definition of "outreach."*

Comment. A commenter recommended that "outreach programs" be defined.

Response. Section 150(b) (1) (D) of the Act and § 104.904(d) of the regulation encourage consumer and homemaking outreach programs for "... aged, young children, school-age parents, single parents, handicapped persons," and many others. It seems evident that consumer and home-making education programs are encouraged to "reach out" for those not normally in formal school settings. Any further definition might be limiting to the broad scope obviously intended. No change is made in the regulation.

§ 104.905 *Consumer and homemaking—guidance and counseling.*

Comment. A commenter recommended that, since the Act makes many references to guidance and counseling activities, these activities are a permissible use of funds, that is, a permissible ancillary service, in consumer and homemaking education and recommends that "guidance and counseling" be added under § 104.905.

Response. The recommendation is accepted. Guidance and counseling is recognized as an ancillary service. Funds under section 150(b) (1) of the Act for the purpose of § 104.903(c) (4) may be used for guidance and counseling of students. Therefore, a new paragraph (k) has been added at the end of § 104.905 to read:

"(k) guidance and counseling."

§ 104.906 *Federal share.*

Comment. A commenter recommended that paragraphs (a) and (b) of § 104.906 should be reversed so that the major rule as to matching (50-50) which may apply to two-thirds of the funds is stated first, and the secondary rule (90-10 matching) which applies to (at least) one third follows.

Response. The recommendation has been accepted. The two paragraphs are reversed and rewritten accordingly.

PART 105—COMMISSIONER'S DISCRETIONARY PROGRAMS OF VOCATIONAL EDUCATION

SUBPART I—PROGRAM IMPROVEMENT

§ 105.5 *Applicability of technical review criteria.*

Comment. Several commenters recommended that it should be made clear that the technical review criteria in Part 105 apply to the review of applications for grants

and assistance contracts and not for procurement contracts.

Response. The recommendation is accepted. The proposed technical review criteria in the Commissioner's discretionary programs were not intended to apply to the review of proposals for procurement contracts because procurement contracts are covered by the Federal Procurement Regulations in Title 41, Code of Federal Regulations. Projects for Program Improvement under section 171 of the Act and for the Bilingual Vocational Instructional Materials, Methods, and Techniques Program under section 188 will be supported primarily through procurement contracts. A new § 105.5 is added to reference the Federal Procurement Regulations. Each Request for Proposal (RFP) will specify the criteria which will be used to select the contractor. These criteria will, of course, be consistent with the Act and the regulation. RFPs are announced in the Commerce Business Daily, not the FEDERAL REGISTER.

§ 105.101 *Elimination of sex bias.*

Comment. Several commenters expressed concern that there was not sufficient emphasis on elimination of sex bias and sex stereotyping in §§ 105.101-111. Two commenters suggested giving more points to projects dealing with this concern.

Response. The comments are accepted. In light of the fact that one of the major purposes of the Act is the elimination of sex bias, the weight given to this criterion in § 105.110 (k) has been increased to eight points. In addition, the concerns of sex bias and sex stereotyping will be dealt with through the setting of priorities.

§ 105.101 *Emphasis on contracts.*

Comment. Two commenters expressed concern that the legislative intent of emphasizing contracts over grants needs to be spelled out more clearly.

Response. The regulation now conforms to the Act with regard to this matter. Section 171(a) states that program funds are to be "used primarily for contracts, and in some cases for grants." It is clear that the program is to be administered primarily through procurement contracts rather than through grants. This mode of program administration will apply to all of the activities listed in § 105.104. No change is made in the regulation.

§ 105.102 *National Center for Research in Vocational Education.*

Comment. Some commenters expressed concern that the regulation did not reflect the language of the Act in terms of the regional research centers. The commenters recommended that § 105.102 be rewritten.

Response. The recommendation is accepted. The regulation is changed to read exactly as it is in the Act in regard to the regional research centers.

Comment. A commenter expressed concern that the section on the national center did not mention elimination of sex bias or sex stereotyping as a special concern.

Response. Section 171 of the Act, which is the section concerned with the national center, does not give special mention to sex bias and sex stereotyping. However, since a major emphasis of the Act is on the elimination of sex bias and sex stereotyping, it will directly affect the administration of programs of the center. No change is made in the regulation.

Comment. A commenter expressed concern that the national center will have an unfair preemptive position in competing for contracts.

Response. Even though the national center will develop planning information for the Commissioner, it will in no way establish

the priorities for the project support program to be administered by the Commissioner. The national center will not assist the Commissioner in the development of individual Requests for Proposals (RFPs). If the national center assisted in the preparation of a particular RFP, then the national center would not be eligible to compete for the contract under the RFP. The Commissioner will secure sole source procurements only in extremely limited circumstances and situations. No change is made in the regulation.

Comment. A commenter expressed concern that the national center could preempt all of the research activities to be funded by the Commissioner and none would be done through individually funded projects.

Response. The Commissioner does not plan to administer the program in a manner that would allow the center to preempt research activities. Greater resources will certainly be allocated to funding individual projects than to funding the national center. No change is made in the regulation.

Comment. A commenter expressed concern that the national center would have access to confidential financial information of competitors.

Response. The national center will not have access to confidential information that is protected by the Privacy Act or that is not included under the Freedom of Information Act. Copies of unfunded proposals would not be available to the national center. Copies of funded proposals, less those items protected by the Privacy Act, would be available to the national center if needed by the national center in order to carry out its clearinghouse functions. No change is made in the regulation.

§ 105.104 *Role of States.*

Comment. A commenter expressed concern that States would have too great a role in the administration of the Commissioner's discretionary projects under this section.

Response. The Act does not require that proposals requesting support from the Commissioner under the terms of section 171 be sent through the States. The Commissioner does not plan to request that proposals be sent through the States in the administration of this program. No change is made in the regulation.

§ 105.105 *Eligibility of individuals.*

Comment. Several commenters suggested that individuals not be included as eligible applicants.

Response. Since the Act does not exclude individuals as eligible applicants, no change is made in the regulation.

§ 105.106 *Cost sharing.*

Comment. A commenter objected to the statement in § 105.106 in relation to grants or contracts for program improvement: "No cost sharing is required." The objection was based on the implication, which the short sentence carries, that cost sharing will not be sought or accepted from any applicant. The commenter recommended that the sentence be reworded.

Response. This recommendation is accepted. While cost sharing is not required by the Act, an applicant may indicate it intends to contribute part of the cost of a project. The heading is changed to "cost sharing," and a new sentence is added as follows: "The Commissioner may pay all or part of the cost."

§ 105.110 *Technical review criteria.*

Comment. A commenter suggested that the requirement in § 105.108—that the grant will result in improved teaching techniques.

etc.—should be reflected in the technical review criteria in § 105.110.

Response. Section 105.108 sets forth a requirement of eligibility for grant applications. All applications for grants will be reviewed for compliance with this requirement, and then, only if the application meets this requirement will it be evaluated in accordance with the technical review criteria in § 105.110. No change is made in the regulation.

§ 105.110(k) *Sex bias.*

Comment. Several commenters recommended that points should be given in the review of applications for exemplary and innovative projects which seek to "eliminate," not "minimize" sex bias; in other words that the word "minimize" in paragraph (k) of the technical review criteria be changed to read "eliminate." Another commenter recommended that "sex stereotyping" be added to the criterion on sex bias.

Response. The recommendation is accepted. The sentence is amended to read: "The application provides appropriate plans to eliminate sex bias and sex stereotyping."

Comment. A commenter recommended that a separate criterion be established to give additional weight to applications for projects employing women and minorities in the planning and implementing of the project.

Response. The technical review criteria do not include a specific weighted criterion for proposed projects on which women or minorities will be employed. Section 105.110(h) does, however, include under "Staff Competencies and Experience" the "use of professional staff members from minorities and who are women." The Commissioner will review the applications in relation to the criteria listed in § 105.110, including paragraph (h) on staffing and paragraph (k) on elimination of sex bias. Therefore, no change is made in the regulation.

SUBPART 2—INDIAN TRIBES

§ 105.202(b) *Applicability of the Indian Self-Determination and Education Assistance Act.*

Comment. A commenter asked who determines the extent to which implementation of the regulation concerning the sections of the Indian Self-Determination and Education Assistance Act are relevant and practicable.

Response. The Commissioner of Education in the first instance is responsible for implementing the applicable sections. In the event that questions arise which might affect Bureau of Indian Affairs (BIA) policy, the Commissioner will consult the Bureau of Indian Affairs for guidance. No change is made in the regulation.

§ 105.203 *Definition of Indian tribe.*

Comment. A commenter stated that the definition of an Indian tribe and the section on eligibility were overly restrictive, and therefore, result in an inequity for an Indian organization comprised of Indians who reside in urban areas or who are not members of federally recognized tribes. The commenter further stated that Indian organizations that are not federally recognized are eligible for assistance.

Response. Section 103(a) (1) (B) (iii) of the Act is restrictively written with regard to the parties eligible to contract with the Office of Education. By reference, a tribe or tribal organization must comply with the definition in the Indian Self-Determination and Education Assistance Act, which requires that the tribe or tribal organization be federally recognized. Moreover, to be eligible, the tribe must be eligible to contract with the Secre-

tary of the Interior under the Indian Self-Determination Act of April 16, 1934.

To the extent that other Federal departments or agencies award grants or enter into contracts with Indian tribes or organizations which are not federally recognized, it is because the definitions of Indian tribe and the standards for eligibility vary. For example, the Indian Education Act defines the term Indian to include "any individual who (1) is a member of a tribe, band, or other organized group of Indians, including those tribes, bands, or groups terminated since 1940 and those recognized now or in the future, by the State in which they reside." Thus, given the less inclusive definition in the Act and the Self-Determination Act, the Commissioner has no authority to fund Indian organizations which are not federally recognized. No change is made in the regulation.

§ 105.205 *Eligible applicants.*

Comment. A commenter asked if the contract program for Indian tribes and Indian organizations would preclude Indians, specifically non-reservation Indians, from participating in non-discretionary State administered programs.

Response. The Indian contract program does not preclude members of Indian tribes from participating in State administered vocational education programs. Conference Report 94-1701 (p. 215) states that the Indian contract program is not intended to relieve the States of their obligation to provide vocational education to urban Indians. No change is made in the regulation.

§ 105.211 *Review of applications.*

Comment. A commenter suggested that applications be reviewed by the National Advisory Council on Indian Education.

Response. While some programs administered under the Indian Education Act, Pub. L. 92-318, as amended, require review by the National Advisory Council on Indian Education (NACIE), the Vocational Education Act does not provide statutory authority for the review of applications by the NACIE. However, the NACIE was afforded an opportunity to review and comment upon the Notice of Proposed Rulemaking thereby allowing for input from the Indian community. It is the statutory responsibility of the Commissioner to provide for the review of applications. No change is made in the regulation.

§ 105.211 *Minimum points received by applications to be considered for funding.*

Comment. A commenter asked if applications should receive a minimum of 50 rather than 30 points to be considered for funding.

Response. The minimum number of points an application must receive to be considered for funding remains 30 points. The Commissioner feels that this lower minimum should result in a larger number of applications which may be considered for funding. No change is made in the regulation.

§ 105.211 *Technical review criteria.*

Comment. A commenter suggested that priority in contracting be accorded to vocational education programs which serve Indians in urban areas.

Response. The Act limits the eligibility of applicants to Indian tribal organizations which are eligible to contract under the Indian Self-Determination and Education Assistance Act. Therefore, urban Indian groups are not a priority group in the regulation because the Act is written so that eligibility turns on whether an Indian organization is federally recognized under the Indian Self-Determination and Education Assistance Act. However, urban Indians are eligible to participate in the regular program. No change is made in the regulation.

Comment. A commenter suggested that the regulation give consideration to the special cultural, legal, and socio-economic status of the Indian population. The commenter further suggested that program design and service delivery include: (a) The provision of basic skills training necessary to facilitate vocational training; (b) the provision of supportive services such as child care and transportation; and (c) the payment of stipends so that Indian people can afford to participate in training.

Response. Section 103(a) (1) (B) (iii) provides broad authority for the Indian contract program. Therefore, an applicant may request support for basic vocational skills training, supportive services, and stipend support. The applicant should respond to each of the technical review criteria. No change is made in the regulation.

Comment. A commenter suggested that the need section of an application should be based upon the tribe's economic development plan, including tribal manpower data.

Response. The need section of the application may include information concerning a tribe's economic development plan. However, this should not be the sole or major criterion in that the overall objectives for an economic development plan may vary significantly from the legislative intent of this Act. No change is made in the regulation.

SUBPART 3—TRAINING AND DEVELOPMENT PROGRAMS FOR VOCATIONAL EDUCATION PERSONNEL

LEADERSHIP DEVELOPMENT AWARD PROGRAM

§ 105.302 *Length of award.*

Comment. A commenter, wishing to assure an award period of adequate length to permit effective education for leadership development, recommended that § 105.302(b) be amended to assure a minimum award period of at least 24 months to each approved applicant.

Response. The recommendation is not accepted because the expressed intent of the Congress eliminated the policy which in the past has sometimes limited the duration of leadership development awards to one year. Emphasis on a minimal commitment of 24 months would tend to weaken the effect of the present regulation which is addressed to an award period of 36 months. Furthermore, it is not believed to be in the best interest of the government or of the awardee to weaken in any way the requirement in § 105.307 that the awardee perform satisfactorily and in accordance with the regulation. No change is made in the regulation.

§ 105.303 *Equitable distribution.*

Comment. Several commenters objected to the language in § 105.303 that "the Commissioner will apportion leadership development awards equitably among the States . . ." for the reason that the word "apportion" gives the impression that the awards will be apportioned, by formula, in advance of receipt of applications. They recommended that the sentence be reworded.

Response. This recommendation has been accepted. Although the proposed regulation follows section 172(b) (4) of the Act closely, the language of § 105.303 of the regulation is changed to make clear that there will not be a formula allocation of awards to the States.

§ 105.304 *Post-doctoral study.*

Comment. A commenter recommended specific prohibition of awards to post-doctoral students.

Response. It is possible that a person with the doctoral degree in engineering, or any other field, might seek to become a professional leader in vocational education. Although the Act and its legislative history do

not address this point, it cannot safely be assumed that the Congress meant to preclude giving an award to such a person. No change is made in the regulation.

§ 105.304 Role of research.

Comment. A commenter recommended deletion of the phrase "or research" from paragraph (b), which would then read, "In order to receive a leadership development award the person selected shall enroll for full-time graduate study in a vocational education leadership . . ."

Response. The recommendation is accepted and the regulation is changed accordingly. Graduate study includes all of the employment categories suggested in the Act (e.g., administrators, supervisors, teacher educators, researchers, guidance and counseling personnel). Nothing in the Act warrants establishing the elements of study and research as mutually exclusive alternatives.

§ 105.305 Graduate-level study.

Comment. A commenter pointed out that although in H.R. Report No. 94-1085, p. 54, the Congress advises the Commissioner to solicit recommendations "from graduate schools offering these programs," the regulation reads "from representatives of vocational education programs in institutions of higher education." The commenter notes that the programs might or might not be at the post-baccalaureate or doctoral level.

Response. The point is well taken. However, the Commissioner prefers not to make the suggested change in order to permit and encourage solicitation of recommendations from all levels of instruction, including the doctoral level. No change is made in the regulation.

§ 105.305 Role of the State board.

Comment. A commenter finds paragraph § 105.305(b) to be "extra-statutory and misrepresentative of H.R. Report No. 94-1085" in that it gives excessive authority to the State board.

Response. The Commissioner was keenly aware of the criticism expressed in H.R. Report No. 94-1085 and it took fully into account in drafting the regulation. In light of the legislative history, the regulation is designed to obtain advice from the State board and to use the board as a conduit for securing advice from the "other agencies." On the other hand, the total role of the State board has been changed because the applications are sent directly to the Commissioner (rather than through the State boards, as in previous years) and will be reviewed independently by the Commissioner's designees in the Office of Education. For these reasons, the recommendation to revise the regulation is not accepted.

§ 105.305 Advice from others.

Comment. Several commenters objected to having the State board forward to the Commissioner only a summary of its own advice and that of the "other agencies" and "representatives," on the grounds that the authority to prepare such a summary increases unduly the role of the State board.

Response. In order to clarify the role of the State board, the regulation is revised to require the State board to forward the complete statement of advice from each such agency and representative.

§ 105.307 Part-time employment.

Comment. A commenter wanted the part-time employment referred to in § 105.307(a) (3) to be limited to 50 percent of the awardee's time, and wanted a regulation to clarify how approval for part-time employment is obtained.

Response. Experience with the leadership development award program in previous years shows that there are many patterns of part-time employment in terms of hours per day or week and number of weeks or months. It has not seemed feasible to attempt to foresee them all and regulate accordingly. Therefore, the matter will be handled as in the past, by individual request from each participating institution to the Commissioner and review of each request on its merits. No change is made in the regulation.

§ 105.309 Application review criteria.

Comment. Many persons took exception to the proposed criteria for judging applications. One wanted the weights of the criteria changed to favor younger, less experienced applicants. Several commenters wanted much more weight given to evidence of intellectual ability as shown by academic achievement. One pointed out the similarity of criteria (b) *Leadership potential and criterion*, and (e) *Human relations skills*, which would tend to favor certain candidates. Several wanted the Commissioner to set minimum levels which must be attained for each criterion. Several perceived that the proposed criteria would result in discrimination against women and racial minorities, and would favor older persons with "stereotyped" accomplishments. One commenter recommended that in paragraph (g) of § 105.309 special consideration be given to women. One commenter urged elimination of the entire section on review criteria.

Response. Since the Commissioner must review all applications and must, of necessity, use criteria for that purpose, it is the policy of the Office of Education to publish the criteria in advance.

Most of the other comments and recommendations relate to the weight assigned to each of the criteria. In view of the comments, a reconsideration of the weighting has resulted in several revisions set forth in the final regulation.

The weight given to evidence of academic ability has been increased, and the weight given to communication skills has been reduced. The criterion (e) *Human relations skills* has been eliminated as such and included under criterion (b) *Leadership potential* as skill in interpersonal relations.

Neither the Act nor its legislative history provides any support for weighting of the criteria to favor either younger or older persons. Consequently, the recommendations in this regard were not accepted.

§ 105.309 Application review criteria—academic ability.

Comment. A commenter recommended changing criterion (a) *Academic ability* to require the applicant to submit transcripts of grades earned in college, including graduate courses, instead of leaving this submission to the option of the applicant. The same commenter suggested that item (3) of the same criterion be deleted, on the grounds that skill aptitude tests are not given at the graduate study level.

Response. The recommendation to require submission of transcripts is accepted and the regulation changed accordingly. A record of the applicant's grades is indispensable for proper review of his or her qualifications. The second recommendation, to delete the item referring to skill aptitude test, is not accepted, because submission of such information is optional, and because the applicant's scores on such tests, irrespective of when the tests were taken, is evidence of the applicant's abilities.

§ 105.310 Number of participating institutions.

Comment. A commenter recommended that the number of approved institutions be limited to twenty. The commenter saw this as a means of helping to assure that only institutions with highest quality doctoral level programs would be assigned leadership development awards. The recommendation was perceived also as a way to assure a "critical mass" of awardees at each participating institution. A commenter with the same concern wanted the number of awardees per institution to be no fewer than ten and no more than twenty.

Response. While these concerns are shared by the Commissioner, § 105.310 was not made more specific because of the need to accommodate possible fluctuations in the level of funding allocated to this program. It is believed that, by judicious use of the right to redistribute award recipients among approved institutions, the effect desired by both commenters will be achieved, whatever the level of funding of the program. No change is made in the regulation.

§ 105.311 Comprehensive graduate programs.

Comment. A commenter recommended that a participating institution should be required to offer at least four doctoral programs in supporting technical disciplines of agriculture, business administration, engineering, health sciences, and home economics, plus doctoral level programs in sociology, psychology, computer science, philosophy, and an area of "communications." The same commenter recommended that the regulation require a much broader, more comprehensive graduate program of vocational education than is now stipulated.

Response. The recommendation is not accepted. Despite the desirability of the recommended program, to require such a program would exclude from participation in the leadership development program many of the institutions which have already demonstrated their capabilities for training leaders. In setting the standards presently required in the proposed regulation, the Commissioner has in mind first the interest of the student awardees, who will legitimately have preferences among institutions, in respect to distance from their present homes, etc. The Commissioner's decision to make no change in the proposed requirements for eligibility of institutions is based also on the grounds that more restrictive criteria for eligibility would tend to enmesh the leadership development program unduly into the specific doctoral requirements of traditional technical fields. No change is made in the regulation.

VOCATIONAL EDUCATION CERTIFICATION FELLOWSHIP PROGRAM

§ 105.431 Source of funding.

Comment. A commenter advised against having the certification fellowship program "compete for funds" with the leadership development program, and recommended that the former program be supported with funds provided to the States through Section 135 (§ 104.771 of the regulation). The commenter reasoned that the need for leadership development awards would so lessen the "critical mass" of awardees as to lose the benefits of group interaction.

Response. Funds for both the State-administered Vocational Education Personnel Training (§§ 104.771-104.776) and the Commissioner's two discretionary programs, *Leadership Development* (§§ 105.301-105.312) and *Certification Fellowships* (§§ 105.431-105.443), are authorized by Section 103 of

the Act. Section 103 requires that a specified portion of the appropriated funds be reserved for use by the Commissioner and that the balance be allotted to the States. The Commissioner's portion and the State's portion cannot be modified without a Congressional amendment. Therefore, funds available for the State-administered part under Section 135 cannot be used to support the Commissioner's Vocational Education Certification Fellowship Program. No change is made in the regulation.

§ 105.431 Teacher or educators.

Comment. Two commenters recommended that in § 105.431 the term "vocational educator" should be changed each time it occurs to "vocational teacher."

Response. Although there is merit in the suggestion for use of the more widely used term, teacher, the recommendation is not accepted. The Congress used "educator" in the statute, and without compelling reasons to the contrary, the Commissioner prefers that the regulation use the terminology of the statute. No change is made in the regulation.

§ 105.431 Emphasis on shortage of teachers.

Comment. A commenter recommended that § 105.431(a) be changed to read " . . . if those teachers have skills and experience in vocational fields for which there is a need for vocational teachers and for which they can be trained . . ." The rationale for adding the clause for which there is a need for vocational teachers is that there are some fields of vocational education which have a surplus of teachers and for which no additional ones should be trained. The commenter wanted the same change in § 105.432 (a) (1), for the same reason.

Response. The recommendation is accepted. Although the statute does not require that there be a need for vocational teachers in reference to applicants for fellowships who are certified teachers, it does contain this requirement with respect to applicants who are employed in industry. That both classes of applicants should be treated alike in this respect is supported at two points in the statute: first, section 172(c) (1) states that the fellowship program exists "in order to meet the need to provide adequate numbers of teachers . . ." and thereby establishes the overall criterion of need; and second, section 172(c) (7) requires the Commissioner to determine, annually, the areas of teaching where there is need of additional teachers and to award the fellowships, preferentially, for study in those areas. The amendments will help to assure that the limited funds available to the fellowship program are used where they are most needed.

§ 105.432 Categories of fellows.

Comment. A commenter advised that in paragraph (a) of § 105.432 the word "including" be changed to "other than" on the grounds that if a person has already been certified to teach vocational education, there is no need for additional training.

Response. There is nothing in the statute or its history to suggest that a person who has been a teacher of vocational education in a field where there is no longer employment could not apply for a certification fellowship in order to be able to work in a field where there is need for teachers. Therefore, no change is made in the regulation.

Comment. Another commenter urged that the parenthetical expression in paragraph (a) of § 105.442 be changed to read "(including other thirteenth and fourteenth year programs)." The rationale was that there are hundreds of educational programs at the thirteenth and fourteenth year levels which

are not in community or junior colleges and where there are teachers in a variety of fields who should be eligible for consideration as applicants for certification fellowships.

Response. The recommendation is accepted. It seems reasonable to include as potential beneficiaries teachers in all programs at the thirteenth and fourteenth grade levels, rather than only those designated as junior or community colleges. The recommendation is particularly valid because many of the "other" programs are in technical and vocational education. The regulation is changed accordingly.

§ 105.434 Role of the State boards.

Comment. A commenter feared that State boards might be inclined to favor certified teachers, and recommended therefore that a more objective procedure be adopted for reviewing applications.

Response. All applications will be objectively reviewed by the Commissioner, who customarily uses teams of persons drawn from both inside and outside the Office of Education for this purpose. The review by the State board (with advice from the State advisory council and other agencies and representative individuals) will provide valuable additional input to the Commissioner's review of the applications. No change is made in the regulation.

§ 105.434 Advice from others.

The recommendation regarding § 105.305 (b), that the State board should transmit to the Commissioner the full statements of advice about applications rather than a mere summary of that advice, was found to be equally applicable to the certification fellowships program. Accordingly, § 105.434 (b) is amended to correspond to the changes made in § 105.305 (b).

§ 105.440 Eligibility of institutions.

Comment. A commenter asked generally about the difference in stringency of criteria for eligibility of institutions to participate in the Leadership Development Program and the Certification Fellowships Program.

Response. The requirements for institutional participation in the Leadership Development Program (§ 105.311) are for work at the level of graduate study and are therefore much more demanding than the requirements for the baccalaureate level fellowships program.

§ 105.441 Priority to areas of need.

Comment. A commenter noted the omission in the regulation of the language in Section 172(c) (7) which requires the Commissioner to give priority in the awarding of fellowships to those which are focused on the designated areas of need for vocational education teachers. The commenter requested that the omission be corrected.

Response. In view of the omission, the recommendation is accepted. Section 105.441(a) is amended by the addition of this language: "and will, to the maximum degree possible, award fellowships under § 105.432 to applicants seeking to become teachers in the areas identified."

§ 105.442 Emphasis on areas of need.

Comment. A commenter wanted § 105.442 (a) (2) amended to recognize the emphasis on areas or fields of vocational education where additional vocational educators are needed (as required by § 105.441). The amended text would read, "Past or current skills and experiences in the vocational field(s) in which there is a need for additional educators and . . ."

The same commenter requested the addition of an item (3) to § 105.442: "inability to

find employment in his or her field of previous certification." The rationale was that Section 172(c) (1) includes that qualification, which must therefore have been omitted by inadvertence.

Response. Both recommendations are accepted. The change in § 105.442(a) (2) serves to emphasize the requirement of § 105.441 of the regulation, and a new subsection (3) under § 105.442(a) has been added which reads "inability to find employment in his or her field of previous certification."

§ 105.443 Emphasis on the handicapped.

Comment. A commenter recommended that the application review criterion related to national need (paragraph (e) of § 105.443) be strengthened by adding special education for the handicapped to paragraph (e) of § 105.440 as a part of the undergraduate program of vocational education.

Response. The Act requires that the undergraduate program of vocational education have adequate support services and disciplines, but does not go beyond suggesting which support services and disciplines shall be included. Since special education for the handicapped is a critical program element, the recommendation is accepted and § 105.440(e) is changed accordingly.

§ 105.443 Additional review criteria.

Comment. A commenter recommended that a fourth category, "women," be added to the list of groups meriting special attention under paragraph (e) of § 105.443, *National need*.

Response. Because of the strong emphasis in the Act on eliminating sex bias and sex stereotyping, the recommendation is accepted. The initial sentence of the paragraph is modified to read " . . . with particular reference to the elimination of sex stereotyping and to working with the following populations." Further support for this change is found in § 105.441, which provides that the Commissioner will identify areas of teaching in vocational education where there are or will be shortages of personnel. Also a reasonable assumption may be made that there is a shortage of women teachers and of persons capable of teaching women in many areas of vocational education.

Comment. A commenter asks that a fourth category be added to paragraph (f) of § 105.443 to favor applicants who desire to be trained in a "nontraditional" teaching field.

Response. The recommendation is accepted. H.R. Report No. 94-1085, p. 55, supports this non-traditional emphasis which may be interpreted to mean women (or men) teaching in fields traditionally reserved to the other sex, and also to mean any person teaching in a new field or a field not commonly taught. The new fourth item has been added to § 105.443(f) which reads as follows: "(4) The applicant's intention to become certified in a vocational field not traditionally open to persons of the applicant's sex, or to become certified in a new field or one not commonly taught."

§ 105.443 Weighting of review criteria.

Comment. Two commenters urged that the weight assigned to criterion (a) *Academic ability* be increased to 30 points and the weights for criterion (b) *Vocational skills* be increased to 40 points, with corresponding reductions in the weights assigned to other criteria. The rationale was that criteria (a) and (b) are by far the most important.

Response. Due to the overall importance of criteria (a) and (b) the regulation is revised to increase criterion (a) to 25 points and criterion (b) to 35 points, and criterion

(c) *Communication skills* is reduced to 15 points.

SUPPORT 4—EMERGENCY ASSISTANCE FOR REMODELING AND RENOVATING OF VOCATIONAL EDUCATION FACILITIES

§ 105.502 Eligible applicants for emergency assistance for remodeling.

Comment. Commenters indicated that the legislative history does not sustain the argument made on page 18549 of the preamble to the NPRM that the bill, as enacted into law, was expanded to include all LEAs as eligible applicants; to the contrary, they maintain that only LEAs "in urban and rural areas" are eligible and recommend that § 105.502 be amended accordingly.

Response. The recommendation is accepted. Congressional intent indicates that only urban and rural LEAs are eligible under this program, and that suburban LEAs are not eligible. Section 105.502 is amended to limit eligibility to LEAs in urban and rural areas and definitions on "urban" and "rural" have been added. Since these definitions apply only to the emergency facilities program, they are not repeated among the definitions of general applicability in Appendix A.

§ 105.504 Functions of the State board in relation to applications for emergency assistance for remodeling.

Comment. A commenter asked what the State board must do in relation to applications by LEAs for emergency assistance for remodeling and renovation. The commenter questioned whether the State board makes the decision on funding in the State and suggested that the State board's functions be specified in the regulation.

Response. Section 193(a) of the Act requires that the LEA send its application to the Commissioner through the State board. This requirement is repeated in § 105.504 of the regulation. Section 193(a) of the Act requires that the application contain "such other information as the State board determines to be appropriate." This requirement is repeated in § 105.503(g) of the regulation. Thus, the Act and the regulation require the application to be sent to the State board and require that when the application is sent on by the State board to the Commissioner, it contain whatever additional information the State board considers necessary. The State board should review the application and ask the applicant to add to its application any information which the Commissioner will need for decision. The decisions on awards must be made by the Commissioner. Since § 105.503(g) follows the Act and gives the State board wide leeway in requesting any additional information it considers appropriate, no change is made in the regulation.

Response. The comment is accepted. The procedure set forth in § 105.604(a) is for the applicant to submit a copy of the application to the State board for comment. Since a copy would be submitted to the board, it was implicit in this regulation that the original application be submitted directly to the Commissioner. The regulation reflects this procedure. In addition, the regulation is amended to require that the State board submit its comments to the Commissioner within 30 days following the closing date for applications.

Response. The comment is accepted. The procedure set forth in § 105.604(a) is for the applicant to submit a copy of the application to the State board for comment. Since a copy would be submitted to the board, it was implicit in this regulation that the original application be submitted directly to the Commissioner. The regulation reflects this procedure. In addition, the regulation is amended to require that the State board submit its comments to the Commissioner within 30 days following the closing date for applications.

§ 105.505 Emergency assistance for remodeling.

Comment. A commenter asked what is meant by "emergency assistance for remodeling" and whether the program is limited to assistance after a natural disaster or to assistance for renovation where local tax efforts have been insufficient.

Response. The program of "emergency assistance" is not limited to assistance for remodeling after a natural disaster. The program is a special four-year program of assistance for remodeling in urban and rural areas which was added after Congress heard testimony of "the inadequacy of facilities in urban and rural areas." (Senate Report No. 94-882, p. 88.) As to assistance where local tax efforts have been insufficient, section 193(b)(1) of the Act stresses as the first criterion the need for Federal assistance. Applications will, under § 105.505,

be ranked according to the relative need for assistance as determined by the criteria in § 105.505(b). No change is made in the regulation.

§ 105.505(b)(8) Criteria for award of emergency assistance for remodeling.

Comment. Commenters suggested that criterion (8) in § 105.505(b) for review of applications submitted to the Commissioner for emergency assistance for remodeling should be deleted; five points should not be given for evidence that the proposed facilities "complied with the law and did not result in sex discrimination or bias against the handicapped."

Response. The recommendation is accepted. Criterion (8) is deleted and the five points are added to criterion (1), giving a maximum of 17 points for evidence of the age or obsolescence of the facilities for which Federal assistance is sought. Since it is a requirement of law that educational facilities not discriminate on the basis of sex or discriminate against the handicapped, it is not reasonable to give five points for evidence in the application that these requirements of law have been met. For that reason, criterion (8) is deleted. Applications will be reviewed, of course, to make sure that the proposed remodeled facilities do not result in discrimination on the basis of sex or handicap.

SUPPORT 5—BILINGUAL VOCATIONAL EDUCATION

§ 105.604(a) Submission of applications.

Comment. A commenter suggested that in order not to delay the submission of applications they should be submitted simultaneously to the Office of Education and to the State Board for Vocational Education, and that the State board be given 30 days following the closing date for applications to submit its comments to the Office of Education.

Response. The comment is accepted. The procedure set forth in § 105.604(a) is for the applicant to submit a copy of the application to the State board for comment. Since a copy would be submitted to the board, it was implicit in this regulation that the original application be submitted directly to the Commissioner. The regulation reflects this procedure. In addition, the regulation is amended to require that the State board submit its comments to the Commissioner within 30 days following the closing date for applications.

§ 105.611 Bilingual Vocational Instructor Training Program.

Comment. A commenter recommended that the Commissioner make an effort to simplify the various teacher training programs within the Vocational Education Act and also to develop an effective means of coordinating these programs with similar teacher training programs administered by the Office of Education. This commenter contended that, without simplification and coordination, American education will be confronted with overlapping and ineffective management.

Response. The Vocational Education Act contains three separate authorities for teacher training programs.

The Vocational Education Personnel Training set forth in § 104.771 is a State-administered program. The Bilingual Vocational Instructor Training Program in § 105.611 addresses a specific need to improve the overall Bilingual Vocational Training Program. The Vocational Education Leadership Development Program in § 105.301 allows experienced vocational educators to spend full time in advanced study of vocational education. In view of the fact that one program lies exclusively within the domain of the State, and the other two discretionary programs address separate objectives in—as a

general rule—separate institutions, it is not feasible to consolidate or simplify the three programs. Therefore, no change is made in the regulation.

**APPENDIX A
DEFINITION**

Comment. One commenter strongly supported a comment recorded in response to the NOI that the definition of vocational education should be broadened to include guidance elements and thus reduce the need for funding guidance as a supportive service.

Response. While there is merit in the comment, the definition of vocational education in the Act (Sec. 195(1)) does not include vocational guidance and counseling. No change is made in the regulation.

APPENDIX—"COOPERATIVE EDUCATION."

Comment. A commenter recommended expanding the definition of "cooperative education" to add two requirements that the program:

- (1) "employs and compensates student-learners in conformity with Federal, State, and local laws and regulations in a manner not resulting in exploitation of the student-learner for private gain, and
- (2) "is conducted in accordance with written training agreements between local educational agencies and employers."

Response. While the recommendation raises two very important points, the definition of "cooperative education" comes directly from section 195(18) of the Act and is not changed. The recommendations are added as requirements in the Cooperative Vocational Education Programs in § 104.531 as new paragraphs (c) and (d).

APPENDIX—"CURRICULUM MATERIALS."

Comment. A commenter suggested as an alternative definition of "curriculum materials" the following:

"Curriculum materials" means instructional resources both print and non-print, used in any teaching and learning process designed to prepare persons for employment or to upgrade the competencies of persons previously or presently employed in any occupational field."

Response. While the proposed definition has much merit, particularly in not limiting curriculum materials to printed materials, the definition in the Appendix comes from section 195(19) of the Act with only slight modification. No change is made in the regulation.

APPENDIX—"FINANCIAL ABILITY."

Comment. A commenter recommended that a definition of "financial ability" be added, to define the term as used in section 106(a)(5)(B)(i) of the Act.

Response. The recommendation is accepted. A definition of "financial ability," taken from the House Report (H. Rept. No. 94-1085, p. 34) is added.

APPENDIX—"HANDICAPPED."

Comment. Many commenters objected to that part of the definition of handicapped which included "learning disabilities to the extent the disability is a health impairment," pointing out that most learning disabilities (LD) are not health-related problems at all, but are learning-related problems (perceptual handicaps, brain injury, dyslexia or developmental aphasia). Commenters recommended that the definition in the Appendix to the Vocational Education Act should conform to the definition in the Education of the Handicapped Act, Pub. L. 94-142 and the regulations thereunder.

Response. The Technical Amendments (Pub. L. 95-40) conformed the definition of "handicapped" in the Vocational Educa-

tion Act to that in the Education of the Handicapped Act. The amended definition includes "specific learning disabilities" as a handicapping condition. The definition of "specific learning disabilities" will be consistent with the definition finally promulgated by the Commissioner under the Education of the Handicapped Act. It will be necessary to look to the regulations under the Education of the Handicapped Act as published in final form for the definition of "specific learning disabilities."

APPENDIX—"HIGH SCHOOL."

Comment. A commenter recommended a definition of "high school" be added to replace that of "secondary programs."

Response. The recommendation has been accepted by adding the definition of "high school program" and revising the definition of "secondary program" as follows:

"High school program" means vocational education for persons in grades 9 through 12. "Secondary program" means vocational education for persons in secondary grades as defined by State law.

APPENDIX—"INSTRUCTIONAL TECHNOLOGY."

Comment. A commenter objected that the definitions do not include a definition of "instructional technology" since instructional technology "is playing an ever increasing role in the armed services, industry, government, medicine and the whole of education." No proposed definition was included in the comment.

Response. While there are many terms which could be defined, the Appendix contains only definitions of terms which must be defined for interpretation of the Act or

APPENDIX—"SECONDARY PROGRAM"

Comment. A commenter urged that the word "usually" be dropped from the definition of "secondary" and that the grades be specified as "beginning with grade 9 and ending with grade 12."

Response. The definition of "secondary program" has been rewritten to leave to determination by State law the span of grades considered as "secondary." A definition of "high school" has also been added to the Appendix.

**APPENDIX—"VOCATIONAL EDUCATION"—
GUIDANCE**

Comment. A commenter strongly urged that the definition of vocational education should be broadened to include guidance elements and thus reduce the need for funding guidance as a supportive service.

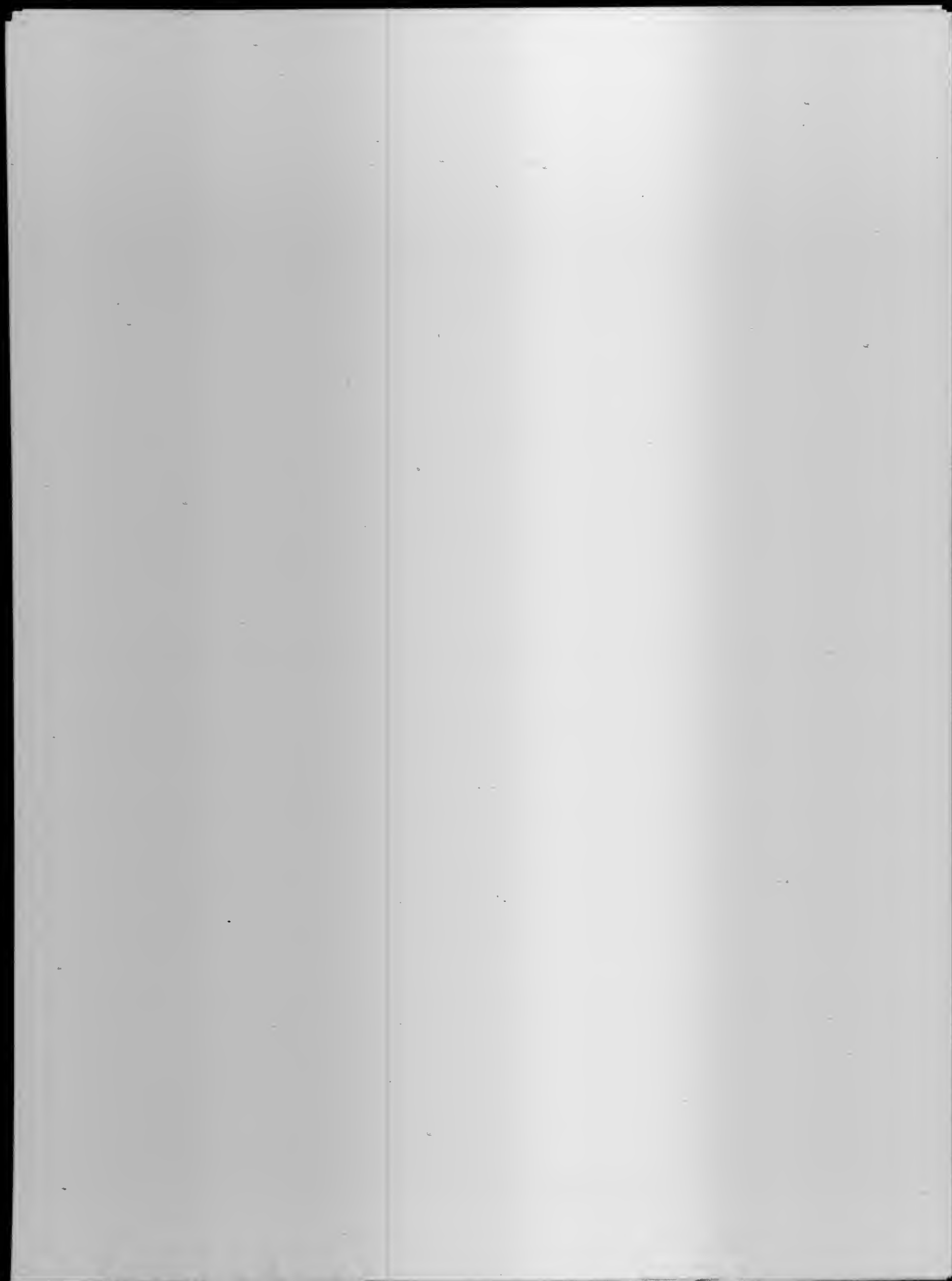
Response. While there is merit in the comment, the definition of vocational education in the Act (Sec. 195(1)) does not include vocational guidance and counseling. No change is made in the regulation.

APPENDIX—"VOCATIONAL INSTRUCTION"

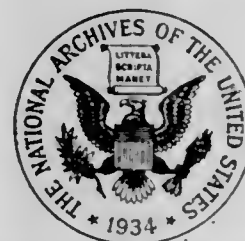
Comment. A commenter objected that the definition of "vocational instruction" does not include planning, assessment, and evaluation.

Response. Planning, assessment, and evaluation are not elements of the statutory definition of "vocational instruction." For that reason they should not be included in the definition of "vocational instruction" in § 104.512 or in the Appendix. No change is made in the regulation.

[FR Doc.77-28843 Filed 9-30-77;8:45 am]



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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
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	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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reminders

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Rules Going Into Effect Today

ICC—Lease and interchange of vehicles; safety inspection of augmenting equipment..... 39666; 8-5-77

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

S. 275..... Pub. L. 95-113
Food and Agriculture Act of 1977. (Sept. 29, 1977; 91 Stat. 913). Price: \$2.20.
S. 1731..... Pub. L. 95-114
Armed Forces, physicians and dentists, etc., special pay provisions, extension. (Sept. 30, 1977; 91 Stat. 1046). Price: \$.50.

53893

presidential documents

[3195-01]

Title 3—The President

PROCLAMATION 4529

American Education Week, 1977

By the President of the United States of America

A Proclamation

At the base of any democracy must lie a commitment to education for all.

Americans, accordingly, have an enormous stake in the vitality of our schools.

Parents, instead of being strangers to the classrooms in which their children spend so much of their lives, must become partners with teachers.

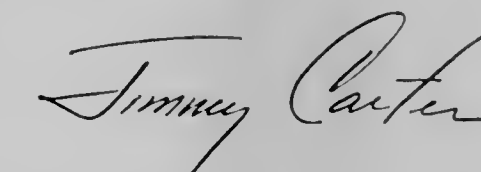
But parents and teachers cannot do the job alone. In our attitudes and our actions, in a hundred different ways, each of us influences young people toward education or away from it. This is the significance of this year's theme for American Education Week: "Working Together for Education".

By sharing our expertise and interests with the schools, we can all enrich educational programs and help determine the course along which our young people will lead America in the years to come.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning November 13, 1977, as American Education Week.

I ask every American to consider how he or she can work with our Nation's educational community to help America prepare its youngsters to meet the responsibilities they will some day assume.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.



[FR Doc.77-29226 Filed 9-30-77;1:02 pm]

FEDERAL REGISTER, VOL. 42, NO. 192—TUESDAY, OCTOBER 4, 1977

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[3195-01]

PROCLAMATION 4530

National Forest Products Week, 1977

By the President of the United States of America

A Proclamation

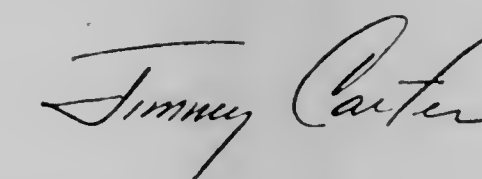
From the time the first explorers and settlers set foot on this land, the abundant products of America's forests have been regarded as a major resource. Today they still provide a significant portion of our materials for construction, furniture and other important industries and create millions of jobs.

Unlike many of our precious natural resources, our forest products can be replenished. The need to make optimum use of these important resources must be balanced with vital environmental concerns, so that we make the best possible use of our forest lands, preserving the irreplaceable, conserving the beauty and ecological balance while providing important raw materials for our Nation's economic well-being. Small, private non-industrial interests own 59 per cent of our commercial forest land. We encourage them to make wise use of this land. As a Nation we must all work together to prevent and control pollution, fires, insects and diseases that damage our forests, while striving to maintain and improve fish and wildlife habitats.

In recognition of the importance of America's forest resources and in the contributions of the forest products industry to our Nation's growth, the Congress has, by joint resolution of September 13, 1960 (74 Stat. 898), designated the week beginning the third Sunday of October in each year as National Forest Products Week and has requested the President to issue an annual proclamation calling for its observance.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby call upon the people of the United States to observe the week beginning October 16, 1977, as National Forest Products Week, with activities and ceremonies designed to direct public attention to, and demonstrate our gratitude for, the forest resources with which we are blessed.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.



[FR Doc. 77-29236 Filed 9-30-77; 1:14 pm]

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[3195-01]

PROCLAMATION 4531

Country Music Month, 1977

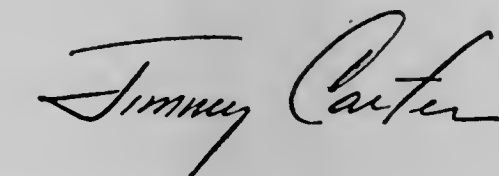
By the President of the United States of America

A Proclamation

Country music, once the simple expression of America's isolated hill country and farms, has spread to our most sophisticated cities. It has always told of the basic human emotions and experiences—of childhood heroes and lost places, forgotten dreams and everyday goodness and disappointments as well as great sadness, love and loneliness, honor and humor. It vibrates with the passions and scenes that make up our common heritage. Country music is as universal as a sunset and as personal as a baby's smile. It is fitting that we acknowledge the importance of a form that reflects so much the lives and hopes of the people who make up our Nation and pay tribute to the talented people who have contributed to its growing popularity.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, ask the people of this Nation to mark the month of October 1977, with suitable observances as Country Music Month.

IN WITNESS WHEREOF, I have hereunto set my hand this thirtieth day of September, in the year of our Lord nineteen hundred seventy-seven, and of the Independence of the United States of America the two hundred and second.



[FR Doc.77-29277 Filed 9-30-77;5:04 pm]

EDITORIAL NOTE: The President's message to the Country Music Association in Nashville, Tenn., on Country Music Month, dated Sept. 28, 1977, is printed in the Weekly Compilation of Presidential Documents (vol. 13, no. 40).

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[3195-01]

Executive Order 12011

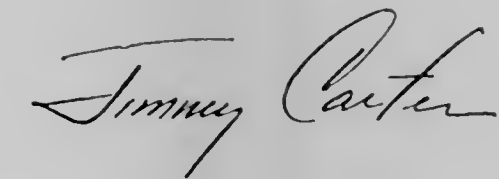
September 30, 1977

Exemption of G. Joseph Minetti from Mandatory Retirement

G. Joseph Minetti, Member, Civil Aeronautics Board, became subject to mandatory retirement for age on July 31, 1977, under the provisions of Section 8335 of Title 5 of the United States Code unless exempted by Executive Order. Mr. Minetti was exempted from mandatory retirement until September 30, 1977, by Executive Order No. 12006 of July 29, 1977.

In my judgment, the public interest requires that G. Joseph Minetti continue to be exempted from such mandatory retirement.

NOW, THEREFORE, by virtue of the authority vested in me by subsection (c) of Section 8335 of Title 5 of the United States Code, I hereby exempt G. Joseph Minetti from mandatory retirement until October 31, 1977.



THE WHITE HOUSE,
September 30, 1977.

[FR Doc.77-29279 Filed 9-30-77;5:09 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Agriculture Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Confidential Assistant to the Executive Assistant to the Secretary is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3313(a)(41) is added as set out below:

§ 213.3313 Department of Agriculture.

(a) *Office of the Secretary.* * * *

(41) One Confidential Assistant to the Executive Assistant to the Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-28042 Filed 10-3-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Export-Import Bank of the United States

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Secretary (Steno) to the Senior Vice President—Director Credits and Financial Guarantees is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3342(t) is added as set out below:

§ 213.3342 Export-Import Bank of the United States.

(t) One Secretary (Steno) to the Senior Vice President—Direct Credits and Financial Guarantees.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-28043 Filed 10-3-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Federal Maritime Commission

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Secretary to the Confidential Assistant to the Chairman is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3367(f) is added as set out below:

§ 213.3367 Federal Maritime Commission.

(f) One Secretary to the Confidential Assistant to the Chairman.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-28044 Filed 10-3-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Justice Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Staff Assistant to the Assistant Attorney General, Antitrust Division, is excepted from the competitive service under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3310(d)(3) is added as set out below:

§ 213.3310 Department of Justice.

(d) *Antitrust Division.* * * *

(3) One Staff Assistant to the Assistant Attorney General.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-28045 Filed 10-3-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

State Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Deputy Secretary is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3304(a)(21) is amended as set out below:

§ 213.3301 Department of State.

(a) *Office of the Secretary.* * * *

(21) One Secretary (Steno) and two Special Assistants to the Deputy Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-28046 Filed 10-3-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Transportation Department

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: One additional position of Secretary (Steno) to the Secretary of Transportation and one position of Policy Advisor to the Admin-

istrator, National Highway Traffic Safety Administration.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3394(a) (49) and (1) (6) are added as set out below:

§ 213.3394 Department of Transportation.

(a) Office of the Secretary. . . .
(49) One Secretary (Steno) to the Secretary.

(i) National Highway Traffic Safety Administration. . . .

(6) One Policy Advisor to the Administrator.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc 77-28047 Filed 10-3-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE

Entire Executive Civil Service

AGENCY: Civil Service Commission.

ACTION: Final Rule.

SUMMARY: This amendment reflects the Conservation Corps name change and the CETA title change applicable to this exception and caused by the enactment of Pub. L. 95-93. The amendment further provides expansion of the period of employment under this authority in order to meet the staffing needs during the period in which examination for the positions is impracticable.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, 202-632-4533.

Accordingly, 5 CFR 213.3102(hh) is amended as set out below:

§ 213.3102 Entire Executive Civil Service.

(hh) Positions as needed not in excess of GS-13, whose incumbents will implement the Young Adult Conservation Corps program and are to be paid out of funds allocated under title VIII of the Comprehensive Employment and Training Act of 1973, as amended. Employment under this exception is not to exceed 36 months from the date that funds are received by heads of Executive agencies for this program under title VIII of CETA. No new appointments may be made under this authority after 18 months from the above referenced date.

RULES AND REGULATIONS

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc 77-20239 Filed 10-3-77; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES), DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—REGULATIONS AND STANDARDS UNDER THE AGRICULTURAL MARKETING ACT OF 1946

PART 53—LIVESTOCK (GRADING, CERTIFICATION, AND STANDARDS)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to revise 7 CFR Part 53 Subpart A, and to delete the grade standards for meats in 7 CFR Part 53 Subpart B. On April 18, 1977, a notice was published in the FEDERAL REGISTER (42 FR 20165) transferring the responsibilities relating to meat grading and standardization from the Agricultural Marketing Service to the Food Safety and Quality Service and to the separation of livestock grading and standardization from meat grading and standardization, the activities were carried out under the same regulations. The revision of Part 53 is necessary so that the livestock grading and standardization programs will continue to have regulations and standards under which to operate.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul M. Fuller, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-6231).

SUPPLEMENTARY INFORMATION: Since former Part 53 Subpart A is applicable to both agencies, former Subpart A will be adopted with editorial changes by Food Safety and Quality Service. Prior will appear in Chapter 7 Part 2853. Part 53, Subpart B will be separated, with the standards relating to livestock being retained in Part 53 Subpart B and the standards relating to meats being adopted by Food Safety and Quality Service and appearing in Part 2853.

This document is a revision of the former Part 53 which deletes meat grading regulations and standards for meat and references to meat grading and products. This document and the document prepared by Food Safety and Quality Service, which appears elsewhere in this issue of the FEDERAL REGISTER and which incorporates the regulations and standards removed from the former Part

53 into the new Part 2853 are being published simultaneously. It has been determined that this document does not substantially affect any member of the public. Under the administrative procedure provisions in 5 U.S.C. 553, it is found to be impracticable, unnecessary, and contrary to public interest to delay the effectiveness of this rule until 30 days after publication in the FEDERAL REGISTER in that (1) no substantive rule or change of rule is involved and (2) revisions are editorial changes only.

Accordingly, the title of 7 CFR Part 53 is hereby revised by deleting the words "meats, prepared meats, and meat products" so that the title of Part 53 reads "Livestock (grading, certification and standards)." Section 53.1 is revised to remove references to meat grading products. Sections 53.18 through 53.28 will be deleted and §§ 53.29 through 53.32 will be renumbered 53.18 through 53.21. Minor editorial revisions of the sections in Part 53 Subpart A will delete references to meat grading and standardization and add references to livestock and standardization. In Subpart B of Part 53 §§ 53.100 through 53.119 and §§ 53.140 through 53.145 will be deleted.

Therefore the title of Part 53 is revised to read as set forth above and the text of Part 53 is revised to read as follows:

(Agricultural Marketing Act of 1946, Sections 203, 205, 60 Stat. 1090, 7 U.S.C. 1622, 1624.)

Done at Washington, D.C., on this 27th day of September 1977.

IRVING W. THOMAS,
Acting Deputy Administrator,
Program Operations.

Subpart A—Regulations DEFINITIONS

Sec.
53.1 Meaning of words.
53.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

ADMINISTRATION

53.3 Authority.
53.4 Kind of service.
53.5 Availability of service.
53.8 How to obtain service.
53.9 Order of furnishing service.
53.10 When request for service deemed made.
53.11 Withdrawal of application or request for service.
53.12 Authority of agent.
53.13 Denial or withdrawal of service.
53.14 Financial interest of official grader.
53.15 Accessibility to livestock.
53.16 Official certificates.
53.17 Advance information concerning service rendered.

CHARGES FOR SERVICE

53.18 Fees and other charges for service.
53.19 Payment of fees and other charges.

MISCELLANEOUS

53.20 Identification.
53.21 Errors in service.

RULES AND REGULATIONS

VEALERS AND SLAUGHTER CALVES

53.120 Differentiation between vealers and calves.
53.121 Classes of vealers and calves.
53.122 Application of standards.
53.123 Specifications for official United States standards for grades of vealers.
53.124 Specifications for official United States standards for grades of slaughter calves.

SLAUGHTER LAMBS, YEARLINGS, AND SHEEP

53.180 Market sheep.
53.181 Slaughter classes and market groups.
53.182 Application of standards.
53.183 Specifications for official United States standards for grades of slaughter lambs (quality).
53.184 Specifications for official United States standards for grades of slaughter yearlings and sheep (quality).
53.185 Specifications for official United States standards for grades of slaughter lambs, yearlings, and sheep (yield).

SWINE

53.160 Swine.
53.161 Slaughter and feeder swine classes.
53.162 Application of standards for grades of slaughter barrows and gilts.
53.163 Specifications for official United States standards for grades of slaughter barrows and gilts.
53.164 Application of standards for grades of slaughter sows.
53.165 Specifications for official United States standards for grades of slaughter sows.
53.166 Application of standards for grades of feeder pigs.
53.169 Specifications for official United States standards for grades of feeder pigs.

CATTLE

53.201 Cattle.
53.202 Classes of slaughter and feeder cattle.
53.203 Application of standards for grades of slaughter cattle.
53.204 Specifications for official United States standards for grades of slaughter steers, heifers, and cows (quality).
53.205 Specifications for official U.S. standards for grades of slaughter bullocks (quality).
53.206 Specifications for official United States standards for grades of slaughter cattle (yields).
53.208 Feeder cattle grades.
53.209 Specifications for official United States standards for grades of feeder cattle (steers, heifers, and cows).

Subpart A—Regulations

DEFINITIONS

§ 53.1 Meaning of words.

Words used in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand. For the purpose of such regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

Acceptance service. The service established and conducted under the regulations for the determination and certification or other identification of the compliance of livestock with specifications.

Act. The Agricultural Marketing Act of 1946 (Title II of the act of Congress

approved August 14, 1946, 60 Stat. 1087, as amended by Pub. Law 272, 84th Congr., 69 Stat. 553, 7 U.S.C. 1621-1627).

Administrator. The Administrator of the Agricultural Marketing Service, or any officer or employee of the Agricultural Marketing Service to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Agricultural Marketing Service. The Agricultural Marketing Service of the Department.

Applicant. Any person who has applied for service under the regulations.

Branch. The Livestock Market News Branch of the Division.

Chief. The Chief of the Branch, or any officer or employee of the Branch to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Class. A subdivision of livestock based on essential physical characteristics that differentiate between major groups of the same kind of species.

Compliance. Conformity of livestock to the specifications under which the livestock was purchased or sold, with particular reference to the weight, quality or other characteristics of livestock.

Cooperative agreement. A cooperative agreement between the Agricultural Marketing Service and another Federal agency or a State agency, or other agency, organization or person as specified in the Agricultural Marketing Act of 1946, as amended, for conducting the service.

Department. The United States Department of Agriculture.

Director. The Director of the Division or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Division. Livestock, Poultry, Grain and Seed Division.

Financially interested person. Any person having a financial interest in the livestock involved, including but not limited to the shipper, receiver, producer, seller, buyer, or carrier of the livestock or products.

Grade. (1) As a noun, this term means an important commercial subdivision of livestock based on certain definite and preference determining factors, such as, but not limited to, conformation, finish, and muscling in livestock.

(2) As a verb, this term means to determine the class, grade, or other quality of livestock according to applicable standards for such livestock in Subpart B of this part.

Grading service. The service established and conducted under the regulations for the determination and certification or other identification of the class, grade, or other quality of livestock under standards.

Legal holiday. Those days designated as legal public holidays in title 5, United States Code, section 6103(a).

Livestock. Cattle, sheep, swine, or goats.

Official grader. An employee of the Department or other person authorized by the Department to determine and certify or otherwise identify the class, grade, other quality, or compliance of livestock under the regulations.

Person. Any individual, partnership, corporation, or other legal entity, or Government agency.

Regulations. The regulations in this subpart.

Service. Grading service or acceptance service.

Specifications. Description with respect to the class, grade, other quality, quantity or condition of livestock approved by the Administrator, and available for use by the industry regardless of the origin of the descriptions.

Standards. The standards of the Department contained in Subpart B of this part.

Supervisor. An official person designated by the Director or Chief to supervise and maintain uniformity and accuracy of service under the regulations.

§ 53.2 Designation of official certificates, memoranda, marks, other identifications for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, including that prescribed in § 53.16, used under the regulations to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of livestock with applicable specifications.

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, determining compliance, or inspecting, pursuant to the regulations, any processing or plant-operation report made by an authorized person in connection with grading, determining compliance, inspecting, or sampling under the regulations, and any report made by an authorized person of services performed pursuant to the regulations.

(c) "Official mark" or "other official identification" means any form of mark or other identification, used under the regulations in marking livestock thereof, to show inspection, class, grade, quality, size, quantity, or condition of the livestock (including the compliance of livestock with applicable specifications), or to maintain the identity of livestock for which service is provided under the regulations.

ADMINISTRATION

§ 53.3 Authority.

The Director is charged with the administration of the regulations and the Act insofar as they relate to livestock.

SERVICE

§ 53.4 Kind of service.

Grading service under the regulations shall consist of the determination and certification and other identification, upon request by the applicant, of the class, grade, or other quality of livestock under applicable standards in Subpart B of this part. Class, grade and other quality may be determined under said standards for livestock. Acceptance service under the regulations shall consist of the determination of the conformity of livestock to specifications approved by the Director or Chief and the certification and other identification of such livestock in accordance with specifications, upon request by the applicant.

§ 53.5 Availability of service.

Service under these regulations may be made available with respect to livestock shipped or received in interstate commerce, and with respect to the livestock not so shipped or received if the Director or Chief determines that the furnishing of service for such livestock would facilitate the marketing, distribution, processing, or utilization of agricultural products through commercial channels. Also, such service may be made available under a cooperative agreement. Service under these regulations shall be provided without discrimination as to race, color, sex, creed, or national origin.

§ 53.8 How to obtain service.

(a) *Application.* Any person may apply to the Director or Chief for service under the regulations with respect to livestock in which the applicant is financially interested. The application shall be made on a form approved by the Director.

(b) *Notice of eligibility for service.* The applicant for service will be notified whether his application is approved.

(c) *Request by applicant for service—*
(1) *Noncommitment.* Upon notification of the approval of an application for service, the applicant may, from time to time as desired, make oral or written requests for service under the regulations with respect to specific livestock for which the service is to be furnished under such application. Such requests shall be made at a market news office either directly or through any employee of the Agricultural Marketing Service who may be designated for such purposes.

§ 53.9 Order of furnishing service.

Service under the regulations shall be furnished to applicants in the order in which requests therefor are received, insofar as consistent with good management, efficiency and economy. Precedence will be given, when necessary, to requests made by any government agency or any regular user of the service.

§ 53.10 When request for service deemed made.

A request for service under the regulations shall be deemed to be made when received by a market news office. Records showing the date and time of the request shall be made and kept in such office.

§ 53.11 Withdrawal of application or request for service.

An application or a request for service under the regulations may be withdrawn by the applicant at any time before the application is approved or prior to performance of service, upon payment, in accordance with §§ 53.18 and 53.19 of any expenses already incurred by the Agricultural Marketing Service in connection therewith.

§ 53.12 Authority of agent.

Proof of the authority of any person making an application or a request for service under the regulations on behalf of any other person may be required at the discretion of the Director or Chief or the official in charge of the market news office or other employee receiving the application or request under § 53.8.

§ 53.13 Denial or withdrawal of service.

(a) *For misconduct—*(1) *Bases for denial or withdrawal.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency, (i) has wilfully made any misrepresentation or has committed any other fraudulent or deceptive practice in connection with any application or request for service under the regulations; (ii) has given or attempted to give, as a loan or for any other purpose, any money, favor, or other thing of value, to any employee of the Department authorized to perform any function under the regulations; (iii) has interfered with or obstructed, or attempted to interfere with or to obstruct, any employee of the Department in the performance of his duties under the regulations by intimidation, threats, assaults, abuse, or any other improper means; (iv) has knowingly falsely made, issued, altered, forged, or counterfeited any official certificate, memorandum, mark, or other identification; (v) has knowingly uttered, published, or used as true any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device; (vi) has knowingly obtained or retained possession of any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device, or of any livestock bearing any such falsely made, issued, altered, forged, or counterfeited mark or identification, or (vii) has in any manner not specified in this paragraph violated subsection 203(h) of the Act: *Provided,* That paragraph (a) (1) (vi) of this section shall not be deemed to be violated if the person in possession of any item mentioned therein notifies the Director or Chief without delay that he has possession of such item and, surrenders it to the Director or Chief or destroys it or brings it into compliance with the regulations by obliterating or removing the violative features under supervision of the Director or Chief: *And provided, further,* That paragraph (a) (1) (ii) through (vi) of this section shall not be deemed to be violated by any act committed by any person prior to the making of an application for service under the regulations by the principal person. An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency, has committed any of the offenses specified in paragraph (a) (1) (i) through (vii) of this section after such application was made. Moreover, an application or a request for service made in the name of a person otherwise eligible for service under the regulations may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, such a person (a) in case the service is or would be performed at an establishment operated (1) by a corporation, partnership, or other person from whom the benefits of the service are currently being withheld under this paragraph, or (2) by a corporation, partnership, or other person having an officer, director, partner, or substantial investor from whom the benefits of the service are currently being withheld and who has any authority with respect to the establishment where service is or would be performed, or (b) in case the service is or would be performed with respect to any livestock in which any corporation, partnership, or other person within paragraph (a) (1) (vii) (a) (1) of this section has a contract or other financial interest.

(2) *Procedure.* All cases arising under this paragraph shall be conducted in accordance with the rules of practice governing withdrawal of inspection and grading service under the Agricultural Marketing Act of 1946 as contained in Part 50 of this chapter.

(b) *For miscellaneous reasons.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person, without a hearing, by the official in charge of the appropriate market news office with the concurrence of the Director or Chief (1) for administrative reasons such as the nonavailability of personnel to perform the service; (2) for the failure to pay for service; (3) for other non-compliance with the conditions on which service is available as provided in the regulations, except matters covered by paragraph (a) of this section; or (4) in case the person is a partnership, corporation, or other person from whom the benefits of the service are currently being withheld under paragraph (a) of this section. Notice of such denial or withdrawal, and the reasons therefor, shall promptly be given to the person involved.

rector or Chief without delay that he has possession of such item and, surrenders it to the Director or Chief or destroys it or brings it into compliance with the regulations by obliterating or removing the violative features under supervision of the Director or Chief: *And provided, further,* That paragraph (a) (1) (ii) through (vi) of this section shall not be deemed to be violated by any act committed by any person prior to the making of an application for service under the regulations by the principal person. An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency, has committed any of the offenses specified in paragraph (a) (1) (i) through (vii) of this section after such application was made. Moreover, an application or a request for service made in the name of a person otherwise eligible for service under the regulations may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, such a person (a) in case the service is or would be performed at an establishment operated (1) by a corporation, partnership, or other person from whom the benefits of the service are currently being withheld under this paragraph, or (2) by a corporation, partnership, or other person having an officer, director, partner, or substantial investor from whom the benefits of the service are currently being withheld and who has any authority with respect to the establishment where service is or would be performed, or (b) in case the service is or would be performed with respect to any livestock in which any corporation, partnership, or other person within paragraph (a) (1) (vii) (a) (1) of this section has a contract or other financial interest.

(2) *Procedure.* All cases arising under this paragraph shall be conducted in accordance with the rules of practice governing withdrawal of inspection and grading service under the Agricultural Marketing Act of 1946 as contained in Part 50 of this chapter.

(b) *For miscellaneous reasons.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person, without a hearing, by the official in charge of the appropriate market news office with the concurrence of the Director or Chief (1) for administrative reasons such as the nonavailability of personnel to perform the service; (2) for the failure to pay for service; (3) for other non-compliance with the conditions on which service is available as provided in the regulations, except matters covered by paragraph (a) of this section; or (4) in case the person is a partnership, corporation, or other person from whom the benefits of the service are currently being withheld under paragraph (a) of this section. Notice of such denial or withdrawal, and the reasons therefor, shall promptly be given to the person involved.

CHARGES FOR SERVICE

§ 53.18 Fees and other charges for service.

Fees and other charges equal as nearly as may be to the cost of the services rendered shall be assessed and collected from applicants in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the services are furnished, or as provided in § 53.8.

(a) *Fees based on hourly rates.* Except as otherwise provided in this section, fees for service shall be based on the time required to render the service, calculated to the nearest 15-minute period, including the time required for the preparation of certificates and travel of the official grader in connection with the performance of the service. A minimum charge for one-half hour shall be made for service pursuant to each request notwithstanding that the time required to perform the service may be less than 30 minutes. The base hourly rate shall be \$19.00 per hour for work performed between the hours of 6 a.m. and 6 p.m. Monday through Friday, except on legal holidays; \$23.00 per hour for work performed before 6 a.m. or after 6 p.m. Monday through Friday, and anytime Saturday or Sunday except on legal holidays; and \$38.00 per hour for all work performed on legal holidays.

(b) *Travel charges.* (1) When service is requested at a place so distant from an official grader's headquarters, or place of prior assignment on a circuit routing, that a total of one-half hour or more is required for the grader to travel to such place and back to the headquarters or to the next place of assignment on a circuitous routing, the charge for such service shall include a mileage charge administratively determined by the Chief, and travel tolls if applicable, for such travel prorated against all the applicants furnished the service involved on an equitable basis, or, where the travel is made by public transportation (including hired vehicle), a fee equal to the actual cost thereof. However, the applicant will not be charged a new mileage rate without notification before the service is rendered.

(c) *Per diem charges.* When service is requested at a place away from the official grader's headquarters, the fee for such service shall include a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations. Per diem charges to applicants will cover the same period of time for which the grader receives per diem reimbursement. The per diem rate will be administratively determined by the Chief. However, the applicant will not be charged a new per diem rate without notification before the service is rendered.

(d) *Fees for extra copies of certificates.* In addition to copies of certificates furnished under § 53.16, any financially interested person may obtain not to exceed three copies of any such certificate within one year from its date of issuance upon payment of a fee of \$1.00, and not to exceed three copies of

any such certificate at any time thereafter, while a copy of such certificate is on file in the Department, upon payment of a fee of \$5.00.

(e) *Other charges.* When costs, other than costs specified in paragraphs (a), (b), (c) and (d) of this section, are involved in providing the services, the applicant will be charged for these costs. The amount of these charges will be determined administratively by the Chief. However, the applicant will not be charged for such cost without notification before the service is rendered of the charge for such item of expense.

§ 53.19 Payment of fees and other charges.

Fees and other charges for service shall be paid in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the service is furnished. Upon receipt of billing for fees and other charges for service the applicant shall remit by check, draft, or money order, made payable to the Agricultural Marketing Service, U.S.D.A., payment for the service in accordance with directions on the billing, and such fees and charges shall be paid in advance if required by the official grader or other authorized official.

MISCELLANEOUS

§ 53.20 Identification.

All official graders and supervisors shall have their Agricultural Marketing Service identification cards in their possession at all times while they are performing any function under the regulations and shall identify themselves by such cards upon request.

§ 53.21 Errors in service.

When an official grader, supervisor, or other responsible employee of the Branch has evidence of misgrading, or of incorrect certification or other incorrect determination or identification as to the class, grade, other quality, or compliance of livestock he shall report the matter to his immediate supervisor. The supervisor will investigate the matter and, if he deems advisable, will report it to the owner or his agent. The supervisor shall take appropriate action to correct errors found in the determination or identification of class, grade or other quality or compliance of livestock if the livestock is still owned by the person who owned them when, and are still located at the establishment where, the incorrect service was rendered and if such service was rendered by a grader under the jurisdiction of such supervisor, and the supervisor shall take adequate measures to prevent the recurrence of such errors.

Subpart B

Standards

VEALERS AND SLAUGHTER CALVES

§ 53.120 Differentiation between vealers and calves.

Young bovine animals are segregated for market purposes as vealers or calves and this differentiation is intended to reflect the kind of carcass (veal or calf)

they will produce. The differentiation between veal and calf carcasses is based very largely on the color of their lean and this is determined almost entirely by the extent to which the animal's diet has consisted of milk or a milk replacer. Therefore, the differentiation between vealers and calves is based primarily on evidences of type of feeding and age. Vealers that have subsisted largely on milk usually are less than 3 months of age. However, animals that have been raised on milk replacer rations frequently will be considerably more mature. In no case, though, may such an animal be considered a vealer if its evidences of maturity indicate that it is too mature to be classed as calf. Since vealers have consumed little, if any, roughages, they have the characteristic trimness of middle associated with limited paunch development. Calves are usually between 3 and 8 months of age, have subsisted partially or entirely on feeds other than milk or milk replacers for a substantial period of time, and have developed the heavier middles and other physical characteristics associated with maturity beyond the vealer stage.

§ 53.121 Classes of vealers and calves.

There are three classes of vealers and calves, based on sex condition—steers, heifers, and bulls. While recognition may sometimes be given to these different classes on the market, especially bull calves approaching beef in maturity, the market desirability of all three classes is sufficiently similar to permit them to be graded on the same standards.

§ 53.122 Application of standards.

(a) The grade of a vealer or slaughter calf is determined by a composite evaluation of two general considerations which influence carcass excellence, (1) conformation and (2) fatness, maturity, and other factors responsible for differences in quality of the lean flesh.

(b) Conformation refers to the general body proportions of the animal and to the ratio of meat to bone. Although primarily determined by the inherent muscular and skeletal systems, it is also influenced by the degree of fatness. Excellent conformation in vealers and slaughter calves is denoted by a wide-topped, straight-lined, thick-fleshed individual that is deep and full in the twist.

(c) In grading vealers and slaughter calves, quality of the lean flesh must necessarily be evaluated indirectly from consideration, primarily, of the quantity, distribution, and type of fat or finish. Limited consideration is also given to such factors as the refinement of hair, hide, and bone and the smoothness and symmetry of the body. Finish is evaluated by noting variations in fullness in the brisket, flanks, and cod or udder and the apparent thickness of the fat covering over the back, loin, ribs, and legs.

(d) Since relatively few vealers or calves have an identical development of conformation and quality, it is obvious

that each grade will include animals having various combinations of these two characteristics. Examples of how conformation and quality are combined into the final quality grade are included in each of the grade descriptions. However, the principles governing the compensation of variations in development of quality and conformation are as follows: In each of the grades superior quality is permitted to compensate for deficient conformation, without limit. The reverse type of compensation—superior conformation for inferior quality—is not permitted in the Prime and Choice grades. To qualify for one of these grades, a slaughter animal must have the minimum requirements specified for quality regardless of how much the conformation may exceed the minimum specified. In all other grades, such compensation is permitted but only to the extent of one-third of a grade of deficient quality. For both types of compensation, the rate of compensation is equal—a given degree of superior quality compensates for the same degree of deficient conformation and vice versa.

(e) Other factors—such as heredity and management—also may affect the development of grade-determining characteristics in vealers and calves. Although these factors do not lend themselves to descriptions in the standards, the use of factual information of this nature is justified in determining the grade of vealers and slaughter calves.

(f) Vealers or calves qualifying for any particular grade may vary with respect to the relative development of the individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more nearly typical of animals of another grade. Because it is impractical to describe the nearly infinite number of such recognizable combinations of characteristics, the standards describe only vealers and calves which have a relatively similar development of individual conformation and quality factors and which are also representative of the lower limits of each grade.

§ 53.123 Specifications for official United States standards for grades of vealers.

(a) *Prime.* (1) Vealers possessing minimum qualifications for the Prime grade tend to be moderately thick muscled throughout. They are moderately wide over the back and loin, and shoulders and hips are usually moderately neat and smoothly laid in, with only a slight tendency toward prominence. The loin, rump, and rounds appear almost flat, with little evidence of fullness. Prime grade vealers tend to have a very thin fat covering over the back, loin, and upper ribs. The brisket, rear flanks, and cod or udder are slightly full. Prime grade vealers usually present a moderately refined appearance.

(2) To qualify for the Prime grade, vealers must possess the minimum evidences of quality specified regardless of

the extent to which their conformation may exceed the minimum requirements for Prime. However, quality superior to that specified as the minimum for the Prime grade may compensate, without limit, for conformation inferior to that specified as the minimum for Prime at the rate indicated in the following example: Vealers which have quality equivalent to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime.

(b) *Choice.* (1) Vealers possessing minimum qualifications for Choice tend to be slightly thick muscled throughout. They are slightly wide over the back and loin, the shoulders and hips are slightly prominent, and the neck is slightly long and thin. The loin, rump, and rounds have a very slightly sunken or hollowed-out appearance. The fat covering is very limited and is discernible only over portions of the back and loin. The brisket, rear flanks, and cod or udder have small fat deposits but have no apparent fullness. Choice grade vealers are usually moderately smooth and slightly refined in appearance.

(2) To qualify for the Choice grade, vealers must possess the minimum evidences of quality specified regardless of the extent to which their conformation may exceed the minimum requirements for Choice. However, quality which is superior to that specified as the minimum for the Choice grade may compensate, without limit, for conformation which is inferior to that specified as the minimum for Choice at the rate indicated in the following example: Vealers which have quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice.

(c) *Good.* (1) Vealers possessing minimum requirements for the Good grade tend to be thinly muscled throughout. They are narrow over the back, loin, and rump and shallow in the twist. They have a distinctly sunken or hollowed-out appearance over the back, loin, and rounds. Hips and shoulders appear moderately prominent. There is practically no fat covering on any part of the animal's body. Such vealers may show the heavy bones, thick hide, prominent hips and shoulders associated with coarseness, or they may show the small bones, tight hide, and angularity denoting overrefinement.

(2) Quality superior to that specified as the minimum for the Good grade may compensate, without limit, for conformation inferior to that specified as the minimum for Good at the rate indicated in the following example: Vealers with quality equivalent to the midpoint of the Good grade may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, vealers with conformation at least one-third of a grade superior to that specified as minimum for the Good grade may have quality equal to the lower limit of the upper third of the Standard grade and remain eligible for Good.

(d) *Standard.* (1) Vealers possessing minimum requirements for the Standard grade tend to be very thinly muscled throughout and tend to be very narrow over the back, loin, and rump and very shallow in the twist. Hips and shoulders are very prominent, and the crops, back, loin, rump, and rounds present a very sunken or hollowed-out appearance. They show no evidence of any fat covering. Standard vealers tend to be of low quality. The bones and joints are usually disproportionately large and the hide is either thick or tight and inelastic.

(2) Quality superior to that specified as minimum for the Standard grade may compensate, without limit, for conformation inferior to that specified as minimum for the Standard grade at the rate indicated in the following example: Vealers with quality equivalent to the midpoint of the Standard grade may have conformation equivalent to the midpoint of the Utility grade and remain eligible for Standard. Also, vealers with conformation at least one-third of a grade superior to that specified as minimum for the Standard grade may have quality equal to the lower limit of the upper third of the Utility grade and remain eligible for Standard.

(e) *Utility.* The Utility grade includes vealers whose characteristics are inferior to those specified as minimum for the Standard grade.

§ 53.124 Specifications for official United States standards for grades of slaughter calves.

(a) *Prime.* (1) Calves possessing minimum qualifications for the Prime grade tend to be moderately thick muscled throughout. They are moderately wide over the back and loin, and shoulders and hips are usually moderately neat and smoothly laid in. There is a slight fullness or plumpness over the crops, loin, rump, and rounds which contributes to a rather well-rounded appearance. Prime grade calves tend to have a slightly thick fat covering over the back, loin, rump, and upper ribs. The brisket, rear flanks, and cod or udder are moderately full. Prime grade calves usually present a moderately refined appearance.

(2) To qualify for the Prime grade, slaughter calves must possess the minimum evidences of quality specified regardless of the extent to which their conformation may exceed the minimum requirements for Prime. However, quality superior to that specified as the minimum for the Prime grade may compensate, without limit, for conformation inferior to that specified as the minimum for Prime at the rate indicated in the following example: Slaughter calves which have quality equivalent to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime.

(b) *Choice.* (1) Calves possessing minimum qualifications for the Choice grade tend to be slightly thick muscled throughout. They are slightly wide over the back and loin. The neck is slightly long and thin. The loin, rump, and

rounds are almost flat and have little or no evidence of fullness. The shoulders and hips are moderately neat and smoothly laid in but may appear slightly prominent. There is a thin fat covering over the back, loin, and upper ribs. The brisket, rear flanks, and cod or udder tend to be slightly full. Choice grade calves are usually moderately smooth and slightly refined in appearance.

(2) To qualify for the Choice grade, slaughter calves must possess the minimum evidences of quality specified regardless of the extent to which their conformation may exceed the minimum requirements for Choice. However, quality which is superior to that specified as the minimum for the Choice grade may compensate, without limit, for conformation which is inferior to that specified as the minimum for Choice at the rate indicated in the following example: Slaughter calves which have quality equivalent to the midpoint of the Choice grade may have conformation equivalent to the midpoint of the Good grade and remain eligible for Choice.

(c) *Good.* (1) Calves possessing minimum requirements for the Good grade tend to be thinly muscled throughout. They are narrow over the back, loin, and rump and shallow in the twist and have a slightly sunken or hollowed-out appearance over the back, loin, and rounds. Hips and shoulders appear somewhat prominent. There is a very thin fat covering that is discernible only over the back and loin. Such calves may show the heavy bones, thick hide, prominent hips and shoulders associated with coarseness; or they may show the small bones, tight hide, and angularity denoting overrefinement.

(2) Quality superior to that specified as the minimum for the Good grade may compensate, without limit, for conformation inferior to that specified as the minimum for Good at the rate indicated in the following example: Calves with quality equivalent to the midpoint of the Good grade may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, calves with conformation at least one-third of a grade superior to that specified as minimum for the Good grade may have quality equal to the lower limit of the upper third of the Standard grade and remain eligible for Good.

(d) *Standard.* (1) Calves possessing minimum requirements for the Standard grade tend to be very thinly muscled throughout and are very narrow over the back, loin, and rump, and very shallow in the twist. Hips and shoulders are very prominent and the crops, back, loin, rump, and rounds present a very sunken or hollowed-out appearance. There is practically no fat on any part of the animal's body. The bones and joints are usually disproportionately large, and the hide is either thick or tight and inelastic.

(2) Quality superior to that specified as minimum for the Standard grade may compensate, without limit, for conformation inferior to that specified as mini-

mum for the Standard grade at the rate indicated in the following example: Calves with quality equivalent to the midpoint of the Standard grade may have conformation equivalent to the midpoint of the Utility grade and remain eligible for Standard. Also, calves with conformation at least one-third of a grade superior to that specified as minimum for the Standard grade may have quality equal to the lower limit of the upper third of the Utility grade and remain eligible for Standard.

(e) *Utility.* The Utility grade includes slaughter calves whose characteristics are inferior to those specified as minimum for the Standard grade.

SLAUGHTER LAMBS, YEARLINGS, AND SHEEP § 53.130 Market sheep.

The official standards for market sheep, developed by the United States Department of Agriculture, provide for segregation according to (a) use as slaughter animals or feeders; (b) class or sex conditions; (c) age group; and (d) grade, which is determined by the apparent relative excellence and desirability of the individual animal for a particular use.

§ 53.131 Slaughter classes and market groups.

The classes of slaughter sheep are ram, ewe, and wether; the age groups are lambs, yearlings, and sheep. Definitions of the respective classes and age groups are as follows:

(a) *Ram.* A ram is an uncastrated male ovine.

(b) *Ewe.* A ewe is a female ovine.

(c) *Wether.* A male ovine castrated when young and prior to developing the secondary physical characteristics of a ram.

(d) *Lamb.* A lamb is an immature ovine, usually under 14 months of age, that has not cut its first pair of permanent incisor teeth.

(e) *Yearling.* A yearling is an ovine usually between one and two years of age, that has cut its first pair of permanent incisor teeth but has not cut the second pair.

(f) *Sheep.* A sheep is an ovine, usually over 24 months of age, that has cut its second pair of permanent incisor teeth.

§ 53.132 Application of standards.

(a) *Grade factors.* Grades of slaughter ovines are intended to be directly related to the grades of the carcasses they produce. To accomplish this, these slaughter ovine grade standards are based on factors which are directly related to the quality grades and the yield grades of ovine carcasses. The standards are written so that the quality and yield grade standards are contained in separate sections. The quality grade standards are divided into two sections applicable to slaughter lambs and slaughter yearlings and sheep. There are five quality grades—Prime, Choice, Good, Utility,

Cull—applicable to slaughter lambs, yearlings, and sheep, except that sheep are not eligible for Prime. Also, there are five yield grades applicable to all classes of slaughter ovines, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(b) *General principles.* (1) The determination of the carcass grade that the slaughter animal will produce requires the exercise of well-regulated judgment. Each animal presents a different combination of the grade-determining factors. Animals frequently have characteristics associated with two or more grades. Therefore, a composite evaluation of all inherent physical characteristics is essential for accuracy in determining grade.

(2) The accurate determination of the grade of a slaughter lamb or sheep requires handling in addition to visual observation. The length and density of the fleece varies greatly with individuals and the thickness and firmness of the flesh covering of woolled lambs and sheep can only be roughly estimated without handling. The technique used in handling usually varies with the degree of precision in mind as well as the experience of the grader. Experienced graders may find one quick handling satisfactory. This usually consists of placing one open hand over the back and ribs in simultaneous motion. The thumb extends just over the backbone, while the fingers, which are held close together, cover the rib section and pressure is applied very lightly with a slight lateral and forward and backward motion. The generally accepted technique of handling sheep where time permits, and especially when noting slight differences between individuals, is to handle forward from the dock to neck with the open hand, fingers together, laid flat and with a slight lateral motion. Both hands may then be used, one on each side, in a similar manner to determine the fleshing over the shoulders, ribs, and hips. Regardless of the method, considerable experience is necessary in handling lambs or sheep to accurately determine the grade.

(c) *Quality grades.* (1) The quality grade of a slaughter lamb or sheep is determined by a composite evaluation of two general considerations which influence carcass excellence: Conformation and quality—fatness, maturity, and other indicators of differences in palatability of the lean flesh.

(2) Conformation refers to the general body proportions of the animal and to the ratio of meat to bone. Although primarily determined by the inherent muscular and skeletal systems, it is also influenced by the degree of fatness. Excellent conformation in slaughter lambs and sheep is denoted by a compact, wide-topped, thick-fleshed individual that has a large plump leg. Fullness and thickness should be especially evident in the portions of the body producing the more desirable cuts of meat—loin, hotel rack, and leg.

(3) In grading slaughter lamb and sheep, quality of the lean flesh must necessarily be evaluated indirectly from consideration primarily of the quantity, distribution, and type of fat or finish in relation to the maturity of the animal being graded. Limited consideration is also given to such factors as character of bone and smoothness and symmetry of body. Finish is evaluated by noting variations in the fullness and apparent thickness of the fat covering over the back, loin, ribs, and legs. A high degree of desirable finish is evidenced by a firm, smooth layer of fat which is uniformly distributed over the body.

(4) Although the market designation of slaughter lambs and sheep is usually made by classes, the quality standards are intended to apply to all classes without regard to sex condition. However, male animals which have thick heavy necks and shoulders typical of uncastrated males are discounted in grade in proportion to the extent to which these characteristics are developed. Such discounts may vary from less than half a grade in young lambs in which such characteristics are barely noticeable to as much as two full grades in mature rams in which such characteristics are very pronounced.

(d) *Yield grades.* (1) The yield grades for slaughter lambs, yearlings, and sheep are based on the same factors used in the official yield grade standards for ovine carcasses. These factors are as follows:

(i) *Thickness of fat over ribeye.* As the amount of external fat increases, the percent of retail cuts decreases and the numerical yield grade increases. Assuming no change in the other factors, each 0.15 inch change in adjusted fat thickness over the ribeye changes the yield grade by a full grade.

(ii) *Percent of kidney and pelvic fat.* As the amount of these fats increases, the percent of retail cuts decreases. A change of 4 percent of the carcass weight in kidney and pelvic fat changes the yield grade by a full grade.

(iii) *Leg conformation grade.* An increase in the conformation grade of the legs increases the percent of retail cuts. A change of two full grades in conformation of the legs changes the yield grade by approximately one-third of a yield grade.

(2) When evaluating slaughter ovines for yield grade, each of these factors can be estimated and the yield grade determined therefrom by using the equation contained in the official standards for yield grades of lamb, yearling mutton, and mutton carcasses. However, a more practical method of appraising slaughter ovines for yield grade is to use only two factors normally considered in evaluating live ovines—leg conformation and degree of fatness. In this approach, the degree of fatness largely accounts for the effects of thickness of fat over the ribeye and the percent of kidney and pelvic fat.

(3) The overall fatness of an animal can be determined best by giving particular attention to those parts on which fat is deposited at a faster-than-average rate. These include the back, loin, rump, flank, brisket, cod or udder. As ovines increase in fatness, these parts become progressively fuller, thicker, and more distended in relation to the thickness and fullness of the other parts, particularly the legs. However, since an animal's thickness of muscling also affects the development of its various parts, this also needs to be considered when evaluating the degree of fatness. In thinly muscled ovines with a low degree of finish, the width of the back usually will be greater than the width through the center of the legs. Conversely, in thickly muscled ovines with a low degree of finish, the thickness through the legs will be greater than through the back and the back will be full and rounded. At an intermediate degree of fatness, ovines which are thinly muscled will be considerably wider through the back than through the leg and will be nearly flat across the back. Thickly muscled ovines that have an intermediate degree of fatness will be about the same width through the legs as through the back and the back will appear only slightly rounded. Very fat ovines will be wider through the back than through the legs, but this difference will be greater in thinly muscled ovines than in those that are thickly muscled. As ovines increase in fatness, they also become deeper bodied because of large deposits of fat in the flanks and brisket and along the underline. In determining yield grade, variations in fatness are very much more important than variations in conformation of the leg.

(e) *Other considerations.* (1) Other factors such as sex, heredity, and management also may affect the development of grade-determining characteristics in slaughter ovines. Although these factors do not lend themselves to descriptions in the standards, the use of factual information of this nature is justified in determining the grade of slaughter ovines. The ability to make proper allowances for the effects of genetic and management factors on the appearance of grade-determining characteristics must be developed through experience.

(2) Slaughter ovines qualifying for any particular grade may vary with respect to the relative development of their individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more typical of ovines of another grade. Because it is impractical to describe the nearly infinite number of such recognizable combinations of characteristics, the standards describe only ovines which have a relatively similar development of the various quality and yield grade-determining factors and which are near the lower limits of quality or yield for the grade. However, examples of the extent to which superiority in quality-indicating characteristics may compensate for defi-

ciencies in conformation, and vice versa, are indicated for each quality grade. In the quality grade standards, the requirements are given for two maturity groups. In the yield grade standards ovines with two levels of muscling are described and specific examples in terms of carcass characteristics also are included.

§ 53.133 Specifications for official U.S. standards for grades of slaughter lambs (quality).¹

(a) *Prime.* (1) Lambs possessing the minimum requirements for the Prime grade are moderately lowset and blocky and thick-fleshed. They are moderately wide over the back, loin, and rump. Shoulders and hips are usually moderately smooth. The twist is moderately deep and full and the legs are moderately large and plump. They generally present a well-rounded appearance due to a slight fullness or plumpness over the crops, loin, and rump. Relatively young lambs, under seven months of age, tend to have a moderately thin fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are readily discernible. Older, more mature lambs have a slightly thin fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are slightly discernible. Prime lambs exhibit evidences of rather high quality. The bones tend to be proportionately small, the joints tend to be smooth, and the body tends to be trim, smooth, and symmetrical.

(2) To qualify for the Prime grade, a lamb must possess the minimum qualifications for finish regardless of the extent that its conformation may exceed the minimum requirements for Prime. However, a development of finish which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified for Prime as indicated in the following example: A lamb which has evidences of finish equivalent to the midpoint of the Prime grade may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a lamb be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade.

(b) *Choice.* (1) Lambs possessing the minimum requirements for the Choice grade tend to be slightly lowset and blocky and thick-fleshed. They tend to be slightly wide over the back, loin, and rump. The shoulders and hips are usually slightly smooth but may exhibit a slight tendency toward prominence. The twist tends to be slightly deep and full, and the legs tend to be slightly thick and plump. Relatively young lambs, under seven months of age, have a thin fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are moderately prominent. Older, more mature lambs have a moderately thin fat covering over the back, ribs, loin,

¹ 34 F.R. 243, Jan. 8, 1969.

and rump. In handling, the backbone and ribs are slightly prominent. Choice lambs usually present a moderately refined appearance.

(2) A lamb which has conformation equivalent to at least the mid-point of the Choice grade may have a development of finish equivalent to the minimum for the upper one-third of the Good grade and remain eligible for Choice. Also, a development of finish which is superior to that specified as minimum for the Choice grade may compensate on an equal basis, for a development of conformation which is inferior to that specified for Choice as indicated in the following example: A lamb which has a development of finish equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a lamb be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade.

(c) *Good.* (1) Lambs possessing the minimum requirements for the Good grade are moderately rangy and upstanding and thin-fleshed. They are slightly narrow over the back, loin, and rump. Hips and shoulders are moderately prominent. The twist is slightly shallow and the legs are slightly small and thin. Relatively young lambs, under seven months of age, have slightly more than a very thin, uneven fat covering over the back, loin, and upper ribs. In handling, the shoulders, backbone, hips, and ribs are prominent. Older, more mature lambs have slightly more than a thin fat covering over the back, ribs, and loin. In handling, the bones of the shoulders, backbone, hips, and ribs are rather prominent. Lambs of this grade may present evidences of slightly low quality. The bones and joints are usually moderately large, and the body is somewhat lacking in symmetry and smoothness.

(2) A lamb which has conformation equivalent to at least the midpoint of the Good grade may have a development of finish equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. Also, a development of finish which is superior to that specified as minimum for the Good grade may compensate for a development of conformation which is inferior to that specified for Good on the basis of one-half grade of superior finish for one-third grade of deficient conformation as indicated in the following example: A lamb which has a development of finish equivalent to the midpoint of the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a lamb be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade.

(d) *Utility.* (1) Lambs meeting the minimum requirements for the Utility grade are very rangy and angular. They are very thin-fleshed, very narrow over

the back, loin, and rump, and very shallow in the twist. The hips are very prominent and the shoulders are usually open, rough, and prominent. The legs are very small and thin, and present a slightly concave appearance. Regardless of age, Utility lambs show no visible evidence of fat covering. In handling, bones of the shoulders, backbone, hips, and ribs are very prominent. Utility grade lambs are of rather low quality. The bones and joints are proportionately large and the body is very rough and unsymmetrical.

(2) A lamb which has conformation equivalent to at least the midpoint of the Utility grade may have a development of finish equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility. Also, a development of finish which is superior to that specified as minimum for the Utility grade may compensate for a development of conformation which is inferior to that specified for Utility on the basis of one-half grade of superior finish for one-third grade of deficient conformation as indicated in the following example: A lamb which has a development of finish equivalent to the midpoint of the Utility grade may have conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility.

(e) *Cull.* (1) Typical Cull grade lambs are extremely rangy, angular, and thin-fleshed and extremely narrow and shallow bodied. Shoulders and hips are very prominent. The legs are extremely small and thin and present a very concave appearance. In handling, the bones of the shoulders, backbone, hips, and ribs are extremely prominent and the entire bony framework is very evident. The general appearance is that of low quality. The relative proportion of meat to bone is quite low, joints appear large, and the body is very unsymmetrical.

§ 53.134 Specifications for official U.S. standards for grades of slaughter yearlings and sheep (quality).¹

(a) *Prime.* (1) Slaughter sheep older than yearlings are not eligible for the Prime grade.

(2) Yearling sheep possessing the minimum requirements for the Prime grade are moderately lowset and blocky and thick-fleshed. They are moderately wide over the back, loin, and rump. Shoulders and hips are usually moderately smooth. The twist is moderately deep and full, and the legs are moderately large and plump. There is a rather distinct fullness or plumpness evident over the crops, loins, and rump which contributes to a well-rounded appearance. There is a slightly thick fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are hardly discernible. Prime slaughter yearling sheep exhibit evidences of rather high quality. The bones tend to be proportionately small, the joints tend to be smooth, and the body tends to be trim, smooth, and symmetrical.

¹ 34 F.R. 243, Jan. 8, 1969.

(3) To qualify for the Prime grade, a yearling must possess the minimum qualifications for finish regardless of the extent that its conformation may exceed the minimum requirements for Prime. However, a development of finish which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified for Prime as indicated in the following example: A yearling which has a development of finish equivalent to the mid-point of the Prime grade may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a yearling be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade.

(4) Yearlings which are otherwise eligible for the Prime grade but which have excessive external fat are not eligible for Prime.

(b) *Choice.* (1) Slaughter sheep possessing the minimum requirements for the Choice grade tend to be slightly low-set and blocky and thick-fleshed. They tend to be slightly wide over the back, loin, and rump. The shoulders and hips are usually slightly smooth but may show a slight tendency toward prominence. The twist tends to be slightly deep and full and the legs tend to be slightly thick and plump. Yearling sheep have a slightly thin fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are readily discernible. Mature sheep have a slightly thick fat covering over the back, ribs, loin, and rump. In handling, the backbone and ribs are slightly discernible. Choice slaughter sheep usually present a moderately refined appearance.

(2) A sheep which has conformation equivalent to at least the midpoint of the Choice grade may have a development of finish equivalent to the minimum for the upper one-third of the Good grade and remain eligible for Choice. Also, a development of finish which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified for Choice as indicated in the following example: A sheep which has a development of finish equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a sheep be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade.

(3) Yearlings which are otherwise eligible for the Prime grade but which have excessive external fat are included in the Choice grade. Sheep which are otherwise eligible for the Choice grade but which have excessive external fat are not eligible for Choice.

(c) *Good.* (1) Slaughter sheep possessing the minimum requirements for

the Good grade are slightly rangy and upstanding and thin-fleshed. They are slightly narrow over the back, loin, and rump. Hips and shoulders are moderately prominent. The twist is slightly shallow and the legs slightly small and thin. Yearling sheep have slightly more than a moderately thin fat covering over the back, loin, and upper ribs. In handling, the shoulders, backbone, hips, and ribs are rather prominent. Mature sheep have a slightly thin fat covering over the back, ribs, and loin. In handling, the bones of the shoulders, backbone, hips, and ribs are slightly prominent. Sheep of this grade may present evidences of slightly low quality. The body is somewhat lacking in symmetry and smoothness.

(2) A sheep which has conformation equivalent to at least the mid-point of the Good grade may have a development of finish equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. Also, a development of finish which is superior to that specified as minimum for the Good grade may compensate for a development of conformation which is inferior to that specified for Good on the basis of one-half grade of superior finish for one-third grade of deficient conformation as indicated in the following example: A sheep which has evidences of finish equivalent to the mid-point of the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a sheep be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade.

(d) *Utility.* (1) Slaughter sheep meeting the minimum requirements for the Utility grade are very rangy and angular. They are very thin-fleshed, very narrow over the back, loin, and rump, and very shallow in the twist. The hips are very prominent and the shoulders are usually open, rough, and prominent. The legs are very small and thin and present a slightly concave appearance. Regardless of age, Utility grade slaughter sheep show no visible evidences of fat covering. In handling, the bones of the shoulders, backbone, hips, and ribs are so thinly covered that they are very prominent. Utility grade slaughter sheep are of rather low quality. The bones and joints are proportionately large and the body is very rough and unsymmetrical.

(2) A sheep which has conformation equivalent to at least the mid-point of the Utility grade may have a development of finish equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility. Also, a development of finish which is superior to that specified as minimum for the Utility grade may compensate for a development of conformation which is inferior to that specified for Utility on the basis of one-half grade of superior finish for one-third grade of deficient conformation as indicated in the following example: A sheep which has a devel-

opment of finish equivalent to the mid-point of the Utility grade may have conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility.

(e) *Cull.* (1) Typical Cull grade sheep are extremely rangy, angular, and thin-fleshed and extremely narrow and shallow bodied. Shoulders and hips are very prominent. The legs are extremely small and thin and present a very concave appearance. In handling, the bones of the shoulders, backbone, hips, and ribs are extremely prominent and the entire bony framework is very evident. The general appearance is that of low quality. The relative proportion of meat to bone is quite low, joints appear large, and the body is very unsymmetrical.

§ 53.135 Specifications for official U.S. standards for grades of slaughter lambs, yearlings, and sheep (yield).

(a) *Yield Grade 1.* (1) Yield Grade 1 slaughter lambs, yearlings, and sheep produce carcasses which have very high yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 1 (near the borderline between Yield Grade 1 and Yield Grade 2) will differ considerably because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled ovines typical of the minimum of this grade have a high proportion of lean to bone. They are moderately wide and usually the width through the shoulders and legs is greater than through the back. The top is well-rounded with no evidence of flatness and the back and loin are moderately full and plump. The legs are moderately large and plump and the width through the middle part of the legs is greater than through the back. The shoulders and hips are slightly prominent. These ovines have only a thin covering of external fat over the back and loin and a slightly thick covering of fat over the rump and down over the ribs. They are shallow through the flanks and the brisket and cod or udder have little evidence of fullness. In handling, the backbone, ribs, and ends of bones at the loin edge are moderately prominent. A carcass produced from slaughter ovines of this description might have 0.1 inch of fat over the ribeye and a low Prime leg conformation grade.

(b) *Yield Grade 2.* (1) Yield Grade 2 slaughter lambs, yearlings, and sheep produce carcasses with high yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 2 (near the borderline between Yield Grade 2 and Yield Grade 3) will differ considerably because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled ovines typical of the minimum of this grade have a high proportion of lean to bone. They are wide through the back and loin and have slightly greater width through the shoulders and legs than through the back. The top is well-rounded with little evidence of flatness and the back and

loin are full and plump. The legs are large and plump and the width through the middle part of the legs is slightly greater than through the back. The shoulders and hips are slightly smooth. These ovines have a slightly thin layer of external fat over the back and loin and a thick covering of fat over the rump and down over the ribs. They are slightly shallow through the flanks and the brisket and cod or udder are slightly full. In handling, the backbone, ribs, and ends of bones at the loin edge are readily discernible. A carcass produced from slaughter ovines of this description might have 0.2 inch of fat over the ribeye and an average Prime Leg conformation grade.

(3) Thinly muscled ovines typical of the minimum of this grade have a relatively low proportion of lean to bone. They tend to be slightly narrow over the back, loin, and rump. The legs tend to be slightly small and thin and the width over the back is slightly greater than through the legs. The shoulders and hips tend to be moderately prominent. These ovines have a thin covering of external fat over the back and loin and a moderately thick covering of fat over the rump and down over the ribs. They tend to be slightly shallow through the flanks. The brisket and cod or udder have little evidence of fullness. In handling, the backbone, ribs, and ends of the bones at the loin edge are moderately prominent. A carcass produced from slaughter ovines of this description might have 0.15 inch of fat over the ribeye and high Good leg conformation grade.

(c) *Yield Grade 3.* (1) Yield Grade 3 slaughter lambs, yearlings, and sheep produce carcasses with intermediate yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 3 (near the borderline between Yield Grade 3 and Yield Grade 4) will differ considerably because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled ovines typical of the minimum of this grade have a high proportion of lean to bone. They are very wide through the back and loin and are uniform in width from front to rear. The top is nearly flat with only a slight tendency toward roundness. The back and loin are very full and plump. The legs are very large and plump. The shoulders and hips are moderately smooth. These ovines have a slightly thick covering of fat over the back and loin and a very thick covering of fat over the rump and down over the ribs. The flanks are slightly deep and full and the brisket and cod or udder are moderately full. In handling, the backbone, ribs, and ends of bones at the loin edge are moderately discernible. A carcass produced from slaughter ovines of this description might have 0.3 inch of fat over the ribeye and a high Prime leg conformation grade.

(3) Thinly muscled ovines typical of the minimum of this grade have a relatively low proportion of lean to bone. They tend to be slightly wide over the

back, loin and rump. The legs tend to be slightly thick and plump. The width over the back is moderately greater than through the legs. The shoulders and hips are slightly prominent. These ovines have a slightly thin covering of external fat over the back and loin and a thick covering of fat over the rump and down over the ribs. The flanks tend to be slightly deep and full. The brisket and cod or udder are slightly full. In handling, the backbone, ribs, and ends of bones at the loin edge tend to be moderately discernible. A carcass produced from slaughter ovines of this description might have 0.25 inch of fat over the ribeye and a low Choice leg conformation grade.

(d) *Yield Grade 4.* (1) Yield Grade 4 slaughter lambs, yearlings, and sheep produce carcasses with moderately low yields of boneless retail cuts. Ovines with characteristics qualifying them for the lower limits of Yield Grade 4 (near the borderline between Yield Grade 4 and Yield Grade 5) will differ considerably because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled ovines typical of the minimum of this grade have a high proportion of lean to bone. They are extremely wide through the back and loin and are slightly wider over the top than through the shoulders and legs. The back and loin are extremely full and plump. The legs are extremely large and plump. The shoulders and hips are smooth. These ovines have a moderately thick covering of fat over the back and loin, and an extremely thick covering of fat over the rump and down over the ribs. The flanks are moderately deep and full and the brisket and cod or udder are full. In handling, the backbone, ribs, and ends of bones at the loin edge are slightly discernible. A carcass produced from slaughter ovines of this description might have 0.4 inch of fat over the ribeye and a high Prime leg conformation grade.

(3) Thinly muscled ovines typical of the minimum of this grade have a relatively low proportion of lean to bone. They tend to be moderately wide over the back, loin, and rump. The legs tend to be moderately thick and plump. They are wider over the back than through the legs. The shoulders and hips are slightly smooth. These ovines have a slightly thick covering of external fat over the back and loin and a very thick covering of fat over the rump and down over the ribs. The flanks are slightly deep and full. The brisket and cod or udder are moderately full. In handling, the backbone, ribs, and ends of bones at the loin edge tend to be slightly discernible. A carcass produced from slaughter ovines of this description might have 0.35 inch of fat over the ribeye and an average Choice leg conformation grade.

(e) *Yield Grade 5.* Yield Grade 5 slaughter lambs, yearlings, and sheep produce carcasses with low yields of boneless retail cuts. Ovines of this grade consist of those not meeting the minimum requirements of Yield Grade 4 be-

cause of either more fat or a lower leg conformation grade or a combination of these characteristics.

SWINE

§ 53.150 Swine.

The official standards for swine developed by the U.S. Department of Agriculture provide for segregation first according to intended use—slaughter or feeder—then as to class, as determined by sex condition, and then as to grade, which is determined by the apparent relative excellence and desirability of the animal for a particular use. Differentiation between slaughter and feeder swine is based solely on their intended use rather than on specific identifiable characteristics of the swine. Slaughter swine are those which are intended for slaughter immediately or in the near future. Feeder swine are those which are intended for slaughter after a period of feeding.

§ 53.151 Slaughter and feeder swine classes.

There are five classes of slaughter and feeder swine. Definitions of the respective classes are as follows:

(a) *Barrow.* A barrow is a male swine castrated when young and before development of the secondary physical characteristics of a boar.

(b) *Gilt.* A gilt is a young female swine that has not produced young and has not reached an advanced stage of pregnancy.

(c) *Sow.* A sow is a mature female swine that usually shows evidence of having reproduced or having reached an advanced stage of pregnancy.

(d) *Boar.* A boar is an uncastrated male swine.

(e) *Stag.* A stag is a male swine castrated after development or beginning of development of the secondary physical characteristics of a boar. Typical stags are somewhat coarse and lack balance—the head and shoulders are more fully developed than the hindquarter parts, bones and joints are large, the skin is thick and rough, and the hair is coarse.

§ 53.152 Application of standards for grades of slaughter barrows and gilts.

(a) Grades of slaughter barrows and gilts are intended to be directly related to the grades of the carcasses they produce. To accomplish this, the slaughter barrow and gilt grades are predicated on the same two general considerations that provide the basis for the grades of barrow and gilt carcasses: (1) Quality of the lean, and (2) expected combined carcass yields of the four lean cuts (ham, loin, picnic shoulder, and Boston butt).

(b) With respect to quality, two general levels are considered: One for barrows and gilts with characteristics which indicate that the carcasses lean will have acceptable quality and acceptable belly

thickness and one for barrows and gilts with characteristics which indicate that the carcass lean will have unacceptable quality and/or the belly will be of unacceptable thickness. Since carcass indices of lean quality are not directly evident in barrows and gilts, some other factors in which differences can be noted must be used to evaluate quality. Therefore, the amount and distribution of external finish, firmness of fat, and firmness of lean are used as quality-indicating factors.

(c) Barrows and gilts with characteristics which indicate that the carcass lean will have an unacceptable level of quality and/or the belly will be of unacceptable thickness are graded U.S. Utility. Also graded U.S. Utility—regardless of their development of other quality-indicating characteristics—are slaughter barrows and gilts with indications that their carcasses will be soft and oily.

(d) Four grades—U.S. No. 1, U.S. No. 2, U.S. No. 3, and U.S. No. 4—are provided for barrows and gilts with characteristics which indicate that the carcass lean will have an acceptable level of quality. These grades are based entirely on the expected combined carcass yields of the four lean cuts.

(e) Average backfat thickness in relation to carcass length or live weight is used as a guide to expected yields of the four lean cuts in these standards. In grading barrows and gilts, these factors normally are appraised visually; live weight is the only one that can be readily determined in the live animal. The average backfat thickness appraisal includes consideration of the distribution of fat on other parts of the animal in addition to those points on the back where it is measured on the carcass.

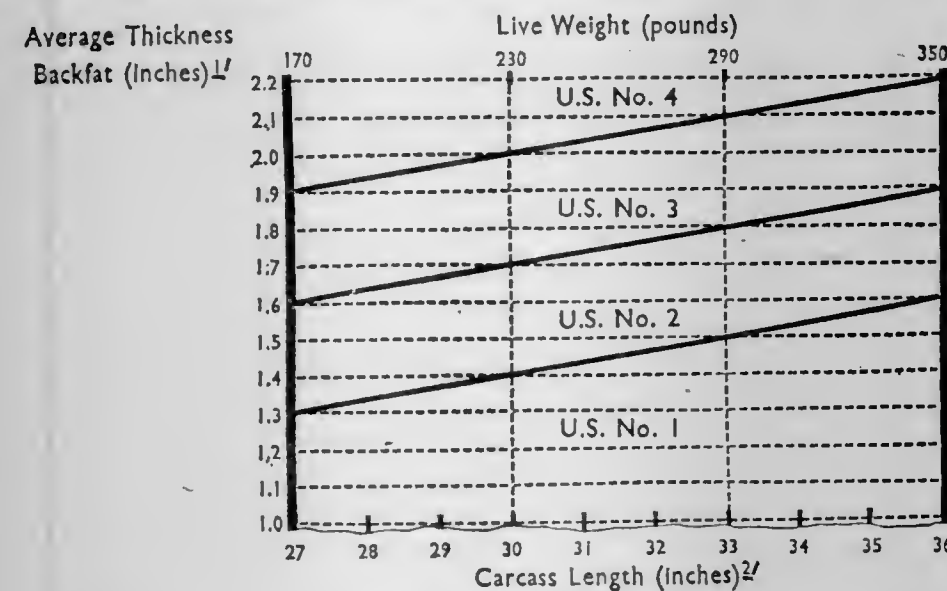
(f) Barrows and gilts will produce carcasses that vary in yields of four lean cuts because of variations in their degree of fatness (expressed as average thickness of backfat), and in their degree of muscling (thickness of muscling in relation to skeletal size). Since many slaughter swine have a normal development of muscling for their degree of fatness, in determining their grade the average thickness of backfat and carcass length or live weight are the only factors considered. These relationships are illustrated in Figure I for barrows and gilts weighing 170 to 350 pounds that will produce carcasses 27 to 36 inches long. For slaughter swine of other lengths or weights, average backfat thickness requirements for the various grades can be determined by an extension of the lines in this figure. The degree of muscling specified for each of the four grades decreases progressively from the U.S. No. 1 grade through the U.S. No. 4 grade. This reflects the fact that among barrows and gilts of the same weight, the fatter animals normally have a lesser degree of muscling. For purposes of these standards six degrees of muscling are

recognized: Very thick, thick, moderately thick, slightly thin, thin, and very thin. These degrees are intended to cover the entire range of muscling present among slaughter swine. The degrees specified as typical for barrows and gilts at the minimum of the U.S. No. 1, U.S. No. 2, U.S. No. 3, and U.S. No. 4 grades are, respectively: Thick, moderately thick, slightly thin, and thin. For animals having a development of muscling which is different from that normally associated with their degree of fatness, the average backfat thickness-carcass length or average backfat thickness-live weight relationships for the various grades are different from those shown in Figure I. Consideration is given such unusual de-

velopments of muscling as follows: In each grade, superior muscling is permitted to compensate for greater fatness of the rate of one full degree of superior muscling for a one-tenth inch increase in average backfat. Except for the U.S. No. 1 grade, the reverse type of compensation is also permitted and at the same rate; one-tenth inch less fat compensates for a full degree of inferior muscling. In the U.S. No. 1 grade, this type of compensation is limited to one full degree of inferior muscling; barrows and gilts which have less than moderately thick muscling but which otherwise qualify for the U.S. No. 1 grade are graded U.S. No. 2.

(g) In no case, however, may variations from normal muscling alter the final grade more than one full grade.

RELATIONSHIP BETWEEN AVERAGE THICKNESS OF BACKFAT, WEIGHT OR CARCASS LENGTH, AND GRADE FOR BARROWS AND GILTS WITH MUSCLING TYPICAL OF THEIR DEGREE OF FATNESS.



- 1/ An average of three measurements including the skin made opposite the first and last ribs and the last lumbar vertebra. It also reflects adjustment, as appropriate, to compensate for variations from normal fat distribution.
- 2/ Carcass length is measured from the anterior point of the sixth bone to the anterior edge of the first rib.

Figure I

(h) In evaluating barrows and gilts for fatness and muscling, variations in the degree of fatness have a greater effect on the yield of the lean cuts than do variations in muscling. The fatness and muscling evaluations can best be made simultaneously. This is accomplished by considering the development of the various parts based on an understanding of how the appearance of each part is affected by variations in muscling and fatness. While the muscling of most swine develops uniformly, fat is normally deposited at a considerably faster rate on some parts than on others. Therefore, muscling can be appraised best by giving primary consideration to the parts least affected by fatness, such as the ham. Differences in thickness and fullness of the ham—with appropriate adjustments for the effects of variations in fatness—are the best indicators of the overall degree of muscling in slaughter

barrows and gilts. Conversely, the overall fatness of barrows and gilts can be determined best by observing those parts on which fat is deposited at a faster-than-average rate. These include the edge of the loin, the rear flank, the shoulder, the jowls, and the belly. As swine increase in fatness, these parts appear progressively fuller, thicker, and more distended in relation to the thickness and fullness of the other parts, especially the thickness through the hams. In thinly muscled swine with a low degree of fatness, the width of the back usually will be greater than the width through the center of the hams. The back on either side of the backbone will appear sloping and flat. Conversely, in thickly muscled swine with a similar degree of fatness, the thickness through the hams will be greater than through the back and the back will appear full and well rounded. Very fat swine will be wider through the

back than through the hams, but this difference will be greater in thinly muscled swine than in those that are thickly muscled. Such swine with thin muscling also will have a distinct break from the back into the sides, while those with thick muscling will be nearly flat on top but will have a less distinct break into the sides. As slaughter swine increase in fatness, they also become deeper bodied because of deposits of fat in the flanks and along the underline. The bulge of the flanks, best observed when the animal walks, and the thickness and fullness of the jowls are other indications of fatness.

(i) Barrows and gilts qualifying for the U.S. No. 1, U.S. No. 2, U.S. No. 3, or U.S. No. 4 grades may vary with respect to the relative development of the individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more nearly typical of another grade. Because it is impractical to describe the nearly infinite number of such recognizable combinations of characteristics, the standards for each grade describe only barrows and gilts whose expected carcass yield of the four lean cuts is at the lower limit of each grade and which have a development of muscling that is normal for such swine.

(j) Other factors such as heredity and management also may affect the development of the grade-determining characteristics in slaughter swine. Although these factors do not lend themselves to description in the standards, the use of factual information of this nature is justifiable in determining the grade of barrows and gilts. The ability to make proper allowances for the effects of genetic and management factors on the appearance of grade-determining characteristics must be developed through experience.

[33 F.R. 9249, June 22, 1968]

§ 53.153 Specifications for official U.S. standards for grades of slaughter barrows and gilts.

(a) U.S. No. 1. Barrows and gilts in this grade will produce carcasses with acceptable lean quality and acceptable belly thickness and a high percentage of lean cuts. Swine near the borderline between the U.S. No. 1 and U.S. No. 2 grades are thickly muscled in the hams, loins, and shoulders. The width through the hams is nearly equal to the width through the shoulders and both are wider than the back. The back is slightly full, is well rounded, and blends smoothly into the sides. The sides are moderately long and smooth. The rear flank is slightly full and its depth is less than the depth of the fore flank. The jowls are firm and slightly thick and full. A development of muscling superior to that specified as minimum for the U.S. No. 1 grade may compensate for a development of fatness which is greater than that indicated in Figure I as maximum for the U.S. No. 1 grade at

the rate of one full degree of muscling for one-tenth of an inch greater thickness of backfat. For example, a barrow or gilt with very thick muscling may have one-tenth of an inch more backfat than that indicated in Figure I as maximum for this grade and remain eligible for the U.S. No. 1 grade. The reverse type of compensation is also permitted at the same rate—except that in no case may a barrow or gilt be graded U.S. No. 1 with less than moderately thick muscling.

(b) U.S. No. 2. Slaughter barrows and gilts in this grade will produce carcasses with acceptable lean quality, acceptable belly thickness, and a slightly high percentage of lean cuts. Swine near the borderline between the U.S. No. 2 and U.S. No. 3 grades are moderately thickly muscled in the hams, loins, and shoulders. The width through the shoulders is slightly more than the width through the hams. The back is moderately full and is slightly rounded but with a slight break into the sides. The sides are slightly short and smooth. The rear flank is moderately full and its depth is slightly less than the depth of the fore flank. The jowls are moderately thick and full. A development of muscling superior to that specified as minimum for the U.S. No. 2 grade may compensate for a development of fatness which is greater than that indicated in Figure I as maximum for the U.S. No. 2 grade at the rate of one full degree of muscling for one-tenth of an inch greater thickness of backfat. For example, a barrow or gilt with thick muscling may have one-tenth of an inch more backfat than that indicated in Figure I as maximum for this grade and remain eligible for the U.S. No. 2 grade. The reverse type of compensation is also permitted at the same rate. For example, a barrow or gilt with slightly thin muscling may have one-tenth of an inch less backfat than that indicated in Figure I as maximum for this grade and remain eligible for the U.S. No. 2 grade.

(c) U.S. No. 3. Slaughter barrows and gilts in this grade will produce carcasses with acceptable lean quality and acceptable belly thickness and a slightly low percentage of four lean cuts. Swine near the borderline between the U.S. No. 3 and U.S. No. 4 grades are slightly thinly muscled in the hams, loins, and shoulders. The width through the shoulders is definitely greater than the width through the hams. The back is full and nearly flat with a pronounced break into the sides. The sides are short and smooth. The rear flank is full and its depth is equal to the depth of the fore flank. The jowls are thick and full. A development of muscling superior to that specified as minimum for the U.S. No. 3 grade may compensate for a development of fatness which is greater than that indicated in Figure I as maximum for the U.S. No. 3 grade at the rate of one full degree of muscling for one-tenth of an inch greater thickness of backfat. For ex-

ample, a barrow or gilt with moderately thick muscling may have one-tenth of an inch more backfat than that indicated in Figure I as maximum for this grade and remain eligible for the U.S. No. 3 grade. The reverse type of compensation is also permitted at the same rate. For example, a barrow or gilt with thin muscling may have one-tenth of an inch less backfat than that indicated in Figure I as maximum for this grade and remain eligible for the U.S. No. 3 grade.

(d) U.S. No. 4. Barrows and gilts in this grade will produce carcasses with acceptable lean quality and acceptable belly thickness. However, they are fatter and less muscular and will have a lower carcass yield of the four lean cuts than those in the U.S. No. 3 grade.

(e) U.S. Utility. Barrows and gilts typical of this grade will have a thin covering of fat. The sides are wrinkled and the flanks are shallow and thin. Barrows and gilts in this grade will produce carcasses with unacceptable lean quality and/or unacceptable belly thickness.

§ 53.154 Application of standards for grades of slaughter sows.

(a) The standards for grades of slaughter sows are based on (1) differences in yields of lean cuts and of fat cuts and (2) differences in quality of cuts. These characteristics vary rather consistently from one grade to another. The U.S. No. 1 grade has about the minimum degree of finish necessary to produce pork carcasses with quality characteristics indicative of acceptable palatability in the cuts. The U.S. No. 2 grade is overfinished and the U.S. No. 3 grade is decidedly overfinished in relation to the minimum finish associated with acceptable palatability. Yields of lean cuts are lower and yields of fat cuts are higher, in proportion to the degree of overfinish, in these grades than in the U.S. No. 1 grade. Medium grade sows are underfinished and produce carcasses which are soft and have indications of insufficient quality for acceptably palatable cuts. Cull grade sows are decidedly underfinished and the pork is soft and watery with little or no marbling and low palatability.

(b) The grades for slaughter sows are closely related to the grades for sow carcasses, and the desired objective in grading sows is the accurate prediction of the carcass grade that will be produced. Degree of finish is an important factor in grading, and the expected average back fat thickness of carcasses produced by each grade of slaughter sows forms a part of the standards. The results of study of carcass measurement and cutting data show that carcasses equal in fat thickness are approximately equal in yields of cuts regardless of differences in weight. Therefore, the expected back fat thickness of carcasses from each grade of slaughter sows is the same at all weights. The following

table outlines the carcass fat thickness guides for each grade of slaughter sows.

Grade:	Average back fat thickness
U. S. No. 1	1.5 to 1.9 inches.
U. S. No. 2	1.9 to 2.3 inches.
U. S. No. 3	2.3 or more inches.
Medium	1.1 to 1.5 inches.
Cull	Less than 1.1 inches.

(c) The standards for grades also include descriptive specifications of the characteristics of slaughter sows with the minimum degree of finish for each grade. Application of the standards requires an accurate appraisal of these live animal characteristics indicative of carcass finish and grade. No attempt is made to describe in the standards the many combinations of characteristics which may qualify an animal for a particular grade, and sound judgment is required to appropriately analyze varying combinations.

(d) Slaughter sows that have produced several litters of pigs may show considerable roughness along the underline due to extensive development of mammary tissue. In addition, sows from which pigs were weaned only a short time prior to grading may show evidence that the mammary tissue is still active in milk production and not completely dry. Since smoothness and dryness of the underline have little effect on the basic grade determining factors, no provision is made in the standards for altering the grade of slaughter sows due to differences in these characteristics. It is recognized that the value determining factors to be considered in marketing sows include dryness and smoothness as well as such other factors as weight, degree of finish, quality, and fill. However, consideration of all such factors in determining grade would require a complicated system with a great number of grades in order to make each grade sufficiently restrictive to be practical and useful. Therefore, the grades outlined in these standards identify differences in slaughter sows with respect to yields of cuts and quality. They were designed as practical aids in evaluating slaughter sows when used in conjunction with other factors such as weight, fill, smoothness, and dryness.

§ 53.155 Specifications for official United States standards for grades of slaughter sows.

(a) **U. S. No. 1 grade.** U. S. No. 1 grade slaughter sows have an intermediate degree of finish near the minimum required to produce pork cuts of acceptable palatability. Sows with the minimum finish for U. S. No. 1 grade are moderately long and slightly wide in relation to weight. Width of body is rather uniform from top to bottom and from front to rear. The back, from side to side, is moderately full and thick with a well-rounded appearance and blends

smoothly into the sides. The sides are moderately long and slightly thick; the flanks are slightly thick and full. Depth at the rear flank may be slightly less than depth at the fore flank. Hams are usually moderately thick and full with a slightly thick covering of fat. Jowls are usually moderately thick and full but appear trim. Sows in this grade produce U. S. No. 1 grade carcasses.

(b) **U. S. No. 2 grade.** U. S. No. 2 grade slaughter sows have a moderately high degree of finish that is somewhat greater than the minimum required to produce pork cuts of acceptable palatability. Sows with the minimum finish for the U. S. No. 2 grade are slightly short and moderately wide in relation to weight. Width of body is often greater over the top than at the underline and tends to be slightly greater through the shoulders than through the hams. The back, from side to side, is full and thick and appears slightly flat with a noticeable break into the sides. The sides are slightly short and moderately thick; the flanks are moderately thick and full. Depth at the rear flank is nearly equal to depth at the fore flank. Hams are usually thick and full with a moderately thick covering of fat, especially over the lower part. Jowls are usually full and thick, and the neck appears rather short. Sows in this grade produce U. S. No. 2 grade carcasses.

(c) **U. S. No. 3 grade.** U. S. No. 3 grade slaughter sows have a high degree of finish that is considerably greater than the minimum required to produce pork cuts of acceptable palatability. Sows with the minimum finish for U. S. No. 3 grade are short and wide in relation to weight. Width of body is often somewhat greater over the top than at the underline and tends to be greater through the shoulders than through the hams. The back, from side to side, is very full and thick and appears nearly flat with a pronounced break into the sides. The sides are short and thick; the flanks are thick and full. Depth at the rear flank is equal to depth at the fore flank. Hams are usually very thick and full with a thick covering of fat especially over the lower part. Jowls are usually very full and thick, and the neck appears short. Sows of this grade produce U. S. No. 3 grade carcasses.

(d) **Medium grade.** Medium grade slaughter sows have a low degree of finish which is somewhat less than the minimum required to produce pork cuts of acceptable palatability. Sows with the minimum finish for Medium grade are long and moderately narrow in relation to weight. Width of body is often less over the top than at the underline and tends to be slightly less through the shoulders than through the hams. The back, from side to side, is moderately thin and appears rather peaked at the center with a distinct slope toward the sides. The hips are moderately prominent. The sides are long and moderately thin; the

flanks are thin. Depth at the rear flank is less than depth at the fore flank. Hams are usually moderately thin and flat and taper toward the shank. Jowls are usually slightly thin and flat, and the neck appears rather long. Sows in this grade produce Medium grade carcasses.

(e) **Cull grade.** Cull grade slaughter sows have a very low degree of finish which is considerably lower than that required to produce pork cuts of acceptable palatability. Sows with the finish typical of the Cull grade are long and narrow in relation to weight. Width of body is often somewhat less over the top than at the underline and tends to be less through the shoulders than through the hams. The back, from side to side, is thin and lacks fullness and is peaked at the center with a decided slope toward the sides. The hips are prominent. The sides are very long and thin; the flanks are very thin. Depth at the rear flank is considerably less than depth at the fore flank. Hams are usually thin and flat with a definite taper toward the shank. Jowls are usually thin and flat, and the neck appears long. Sows in this grade produce Cull grade carcasses.

§ 53.158 Application of standards for grades of feeder pigs.

(a) The grade of a feeder pig is determined by evaluating two general value-determining characteristics—its logical slaughter potential and its thriftiness.

(b) The logical slaughter potential of a thrifty feeder pig is its expected slaughter grade at a market weight of 220 pounds after a normal feeding period. In these feeder pig standards, logical slaughter potential is determined by a composite appraisal of the development of the muscular system and the skeletal system. Both of these factors have an important effect on the development of lean and fat as the animal grows and fattens, and therefore, on the expected slaughter and carcass grade.

(c) Thriftiness in a feeder pig is its apparent ability to gain weight rapidly and efficiently. Size for age, health, and other general indications of thriftiness are considered in appraising the thriftiness of feeder pigs.

(d) The standards provide for six grades of feeder pigs—U. S. No. 1, U. S. No. 2, U. S. No. 3, U. S. No. 4, U. S. Utility, and U. S. Cull. Except for the U. S. Cull grade, these names correspond to the five grade names for slaughter swine and pork carcasses. The U. S. No. 1, U. S. No. 2, U. S. No. 3, and U. S. No. 4 grades include all pigs which are thrifty. Differentiation between the U. S. No. 1, U. S. No. 2, U. S. No. 3, and U. S. No. 4 grades is based entirely on differences in logical slaughter potential. Feeder pigs in the U. S. No. 1 grade have sufficient muscling and frame to reach a market weight of 220 pounds with a minimum degree of finish. Feeder pigs in the U. S. No. 2, U. S. No. 3, and U. S. No. 4 grades usually have

progressively less muscling and less frame and are expected to have progressively more finish when marketed at 220 pounds. The U. S. Utility and U. S. Cull grades include only pigs which lack thriftiness. Differentiation between the U. S. Utility and U. S. Cull grades is based entirely on differences in thriftiness.

(e) Most feeder pigs are marketed when relatively young and before reaching a weight of 125 pounds. At this age, sex condition exerts little influence on the basic factors determining the feeder grade. Therefore, these standards are equally applicable for grading barrow, gilt, and boar pigs, although it is recognized that sex condition may influence the market price in some instances. It is assumed that boar pigs will be castrated prior to developing the secondary physical characteristics of a boar. Sows, stags, and mature boars are seldom used as feeder animals, and these standards do not apply to those classes.

(f) Only one combination of muscling and skeletal characteristics is described in the standards for the U. S. No. 1, U. S. No. 2, U. S. No. 3, and U. S. No. 4 grades. However, feeder pigs qualifying for the U. S. No. 1, U. S. No. 2, U. S. No. 3 or U. S. No. 4 grades may vary with respect to the relative development of the individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more nearly typical of another grade, except that feeder pigs in the U. S. No. 1 grade must have at least moderately thick muscling. Feeder pigs with other characteristics of the U. S. No. 1 grade, but with less than moderately thick muscling would be in the U. S. No. 2 grade. Since no attempt is made to describe the numerous combinations of characteristics that may qualify a feeder pig for a specific grade, making appropriate compensations for varying combinations of characteristics requires the use of sound judgment.

§ 53.159 Specifications for official United States standards for grades of feeder pigs.

(a) **U. S. No. 1.** Feeder pigs in this grade near the borderline of the U. S. No. 2 grade are long and have thick muscling throughout. Thickness of muscling is particularly evident in thick and full hams and shoulders. The hams and shoulders are thicker than the back, which is well rounded. They usually present a well-balanced appearance. In no case may a feeder pig be graded U. S. No. 1 with less than moderately thick muscling. Feeder pigs in this grade are expected to produce U. S. No. 1 grade carcasses when slaughtered at 220 pounds.

(b) **U. S. No. 2.** Feeder pigs in this grade near the borderline of the U. S. No. 3 grade are moderately long and have moderately thick muscling throughout. Thickness of muscling is particularly evident in moderately thick and full hams and shoulders. The back usually appears slightly full and well-rounded. They usually present a well-balanced appearance. This grade also includes feeder pigs which otherwise qualify for

the U. S. No. 1 grade but have less than moderately thick muscling. Feeder pigs in this grade are expected to produce U. S. No. 3 grade carcasses when slaughtered at 220 pounds.

(c) **U. S. No. 3.** Feeder pigs in this grade near the borderline of the U. S. No. 4 grade are slightly short and have slightly thin muscling throughout. The hams and shoulders are slightly thin and flat and the back usually appears moderately full and thick. Feeder pigs in this grade are expected to produce U. S. No. 3 grade carcasses when slaughtered at 220 pounds.

(d) **U. S. No. 4.** Feeder pigs typical of the U. S. No. 4 grade are short and have thin muscling throughout. The hams are thin and rather flat, particularly in the lower parts toward the shanks. The back usually appears slightly flat and the width at the topline usually is greater than at the underline. Feeder pigs in this grade are expected to produce U. S. No. 4 grade carcasses when slaughtered at 220 pounds.

(e) **U. S. Utility.** Feeder pigs typical of this grade are small for their age and appear unthrifty. They often have a rough, unkempt appearance indicating the effects of disease or poor care. The hams and shoulders usually are thin and flat and taper toward the shanks. The back is thin and lacks fullness. Pigs in this grade near the borderline of the U. S. No. 1, U. S. No. 2, U. S. No. 3, and U. S. No. 4 grades are slightly small for their age and appear slightly unthrifty. It is recognized that U. S. Utility grade feeder pigs will produce U. S. No. 1, U. S. No. 2, U. S. No. 3, or U. S. No. 4 grade carcasses when slaughtered at 220 pounds provided their unthrifty condition is corrected. U. S. Utility grade feeder pigs whose unthrifty condition is not corrected will produce U. S. Utility grade carcasses.

(f) **U. S. Cull.** Feeder pigs typical of this grade are very deficient in thriftiness because of poor care or disease. They can be expected to reach a normal market weight only after an extremely long and costly feeding period, if at all.

CATTLE

§ 53.201 Cattle.

The official standards for live cattle developed by the United States Department of Agriculture provide for segregation first according to use—slaughter and feeder—then as to class, which is determined by sex condition, and then as to grade, which is determined by the apparent relative excellence and desirability of the animal for its particular use. Differentiation between slaughter and feeder cattle is based solely on their intended use rather than on specific identifiable characteristics of the cattle. Slaughter cattle are those which are intended use rather than on specific in the very near future. Feeder cattle are those which are intended for slaughter after a period of feeding. However, under some economic conditions specific kinds of cattle may be considered as feeders whereas under other economic conditions they might be considered as slaughter cattle.

§ 53.202 Classes of slaughter and feeder cattle.

The classes of slaughter and feeder cattle are steers, bullocks, bulls, heifers, and cows. Definitions of the respective classes are as follows:

(a) **Steer.** A steer is a male bovine castrated when young and which has not begun to develop the secondary physical characteristics of a bull.

(b) **Bullock.** A bullock is a young (under approximately 24 months of age) male bovine (castrated or uncastrated) that has developed or begun to develop the secondary physical characteristics of a bull.

(c) **Bull.** A bull is a mature (approximately 24 months of age or older) uncastrated, male bovine. However, for the purpose of these standards, any mature, castrated, male bovine which has developed or begun to develop the secondary physical characteristics of an uncastrated male also will be considered a bull.

(d) **Cow.** A cow is a female bovine that has developed through reproduction or with age, the relatively prominent hips, large middle, and other physical characteristics typical of mature females.

(e) **Heifer.** A heifer is an immature female bovine that has not developed the physical characteristics typical of cows.

§ 53.203 Application of Standards for Grades of Slaughter Cattle.

(a) **General.** Grades of slaughter cattle are intended to be directly related to the grades of the carcasses they produce. To accomplish this, these slaughter cattle grade standards are based on factors which are related to the grades of beef carcasses. The quality and yield grade standards are contained in separate sections of the standards. The quality grade standards are further divided into two sections applicable to (1) steers, heifers, and cows and (2) bullocks. Eight quality designations—Prime, Choice, Good, Standard, Commercial, Utility, Cutter, and Canner—are applicable to steers and heifers. Except for Prime, the same designations also apply to cows. The quality designations for bullocks are Prime, Choice, Good, Standard, and Utility. There are five yield grades, which are applicable to all classes of slaughter cattle and are designated by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability. The grades of slaughter cattle shall be a combination of both their quality and yield grades, except that slaughter bulls are yield graded only.

(b) (1) **Quality Grades.** Slaughter cattle quality grades are based on an evaluation of factors related to the palatability of the lean, herein referred to as "quality." Quality in slaughter cattle is evaluated primarily by the amount and distribution of finish, the firmness of muscling, and the physical characteristics of the animal associated with maturity. Progressive changes in maturity past 30 months of age and in the amount and distribution of finish and firmness of muscling have opposite effects on

quality. Therefore, for cattle over 30 months of age in each grade, the standards require a progressively greater development of the other quality-indicating factors. In cattle under about 30 months of age, a progressively greater development of the other quality-indicating characteristics is not required.

(2) Since carcass indices of quality are not directly evident in slaughter cattle, some other factors in which differences can be noted must be used to evaluate their quality. Therefore, the amount of external finish is included as a major grade factor herein, even though cattle with a specific degree of fatness may have widely varying degrees of quality. Identification of differences in quality among cattle with the same degree of fatness is based on distribution of finish and firmness of muscling. Descriptions of these factors are included in the specifications. For example, cattle which have more fullness of the brisket, flank, twist, and cod or udder and which have firmer muscling than that indicated by any particular degree of fatness are considered to have higher quality than indicated by that degree of fatness.

(3) The approximate maximum age limitation for the Prime, Choice, Good, and Standard grades of steers, heifers, and cows is 42 months. The Commercial grade for steers, heifers, and cows includes only cattle over approximately 42 months. There are no age limitations for the Utility, Cutter, and Canner grades of steers, heifers, and cows. The maximum age limitation for all grades of bullocks is approximately 24 months.¹

(c) **Yield Grades.** (1) The yield grades for slaughter cattle are based on the same factors as used in the official yield grade standards for beef carcasses. Those factors and the change in each which is required to make a full yield grade change are as follows:

(2) When evaluating slaughter cattle for yield grade, each of these factors can

Factor	Effect of increase on yield grade ¹	Approximate change in each factor required to make a full yield grade change ²
Thickness of fat over ribs	Decreases...	4/10 in.
Percent of kidney, pelvic, and heart fat	.....do.....	5%
Carcass weight	.....do.....	260 lb.
Area of ribeye	Increases....	3 in. ²

¹ The yield grades are denoted by numbers 1 through 5 with Yield Grade 1 representing the highest cutability (or yield of closely trimmed retail cuts). Thus, an "increase" in cutability means a smaller yield grade number while a "decrease" in cutability means a larger yield grade number.

² This assumes no change in the other factors.

³ Maximum maturity limits for bullock carcasses are the same as those described in the beef carcass grade standards for steers, heifers, and cows at about 30 months of age. However, bullocks develop carcass indicators of maturity at younger chronological ages than steers. Therefore, the approximate age at which bullocks develop carcass indicators of maximum maturity is shown herein as 24 months rather than 30 months.

be estimated and the yield grade determined therefrom by using the equation contained in the official standards for grades of carcass beef. However, a more practical method of appraising slaughter cattle for yield grade is to use only two factors normally considered in evaluating live cattle—muscling and fatness.

(3) In the latter approach to determining yield grade, evaluation of the thickness and fullness of muscling in relation to skeletal size largely accounts for the effects of two of the factors—area of ribeye and carcass weight. By the same token, an appraisal of the degree of external fatness largely accounts for the effects of thickness of fat over the ribeye and the percent of kidney, pelvic, and heart fat.

(4) These fatness and muscling evaluations can best be made simultaneously. This is accomplished by considering the development of the various parts based on an understanding of how each part is affected by variations in muscling and fatness. While muscling of most cattle develops uniformly, fat is normally deposited at a considerably faster rate on some parts than on others. Therefore, muscling can be appraised best by giving primary consideration to the parts least affected by fatness, such as the round and the forearm. Differences in thickness and fullness of these parts—with appropriate adjustments for the effects of variations in fatness—are the best indicators of the overall degree of muscling in live cattle.

(5) On the other hand, the overall fatness of an animal can be determined best by observing those parts on which fat is deposited at a faster-than-average rate. These include the back, loin, rump, flank, cod or udder, twist, and brisket. As cattle increase in fatness, these parts appear progressively fuller, thicker, and more distended in relation to the thickness and fullness of the other parts, particularly the round. In thinly muscled cattle with a low degree of finish, the width of the back usually will be greater than the width through the center of the round. The back on either side of the backbone also will be flat or slightly sunken. Conversely, in thickly muscled cattle with a similar degree of finish, the thickness through the rounds will be greater than through the back and the back will appear full and rounded. At an intermediate degree of fatness, cattle which are thickly muscled will be about the same width through the round and back and the back will appear only slightly rounded. Thinly muscled cattle with an intermediate degree of finish will be considerably wider through the back than through the round and will be nearly flat across the back. Very fat cattle will be wider through the back than through the round, but this difference will be greater in thinly muscled cattle than in those that are thickly muscled. Such cattle with thin muscling also will have a distinct break from the back into the sides, while those with thick muscling will be nearly flat on top but will have a less distinct break into the sides. As

cattle increase in fatness, they also become deeper bodied because of large deposits of fat in the flanks and brisket and along the underline. Fullness of the twist and cod or udder and the bulge of the flanks, best observed when an animal walks, are other indications of fatness.

(6) In determining yield grade, variations in fatness are much more important than variations in muscling.

(d) **Other considerations.** (1) Other factors such as heredity and management also may affect the development of the grade-determining characteristics in slaughter cattle. Although these factors do not lend themselves to description in the standards, the use of factual information of this nature is justifiable in determining the grade of slaughter cattle.

(2) Slaughter cattle qualifying for any particular grade may vary with respect to the relative development of the individual grade factors. In fact, some will qualify for a particular grade although they have some characteristics more nearly typical of cattle of another grade. Because it is impractical to describe the nearly infinite number of recognizable combinations of characteristics, quality and yield grade standards describe only cattle which have a relatively similar development of the various quality and yield grade determining factors and which are near the lower limits of these grades. The requirements are given for two maturity groups in the quality grade standards for steers, heifers, and cows—but for only one maturity group for bullocks. In the yield grade standards, cattle with two levels of muscling are described and specific examples in terms of carcass characteristics also are included.

§ 53.204 Specifications for Official United States Standards for Grades of Slaughter Steers, Heifers, and Cows (Quality).

(a) **Prime.** (1) Slaughter steers and heifers 30 to 42 months of age possessing the minimum qualifications for Prime have a fat covering over the crops, back, ribs, loin, and rump that tends to be thick. The brisket, flanks, and cod or udder appear full and distended and the muscling is very firm. The fat covering tends to be smooth with only slight indications of patchiness. Steers and heifers under 30 months of age have a moderately thick but smooth covering of fat which extends over the back, ribs, loin, and rump. The brisket, flanks, and cod or udder show a marked fullness and the muscling is firm.

(2) Cattle qualifying for the minimum of the Prime grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Prime grade. Such cattle have less width of back and loin and are less uniform in width than normal for the Prime grade. The thick, full muscling gives the back and loin a well-

rounded appearance with very little evidence of flatness. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Although such cattle have a lower degree of fatness over the back and loin than described as typical, evidence of more fatness than described is noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described for the Prime grade. The distribution of fat is not typical, for it is thicker over the crops, back, loin, and rump than described while the brisket, flanks, twist, and cod or udder indicate less fatness. Such cattle are wide and nearly flat over the back and loin and there is a sharp break from these parts into the sides. The width over the back is much greater than through the rounds and shoulders.

(3) Cows are not eligible for the Prime grade.

(b) **Choice.** (1) Slaughter steers, heifers, and cows 30 to 42 months of age possessing the minimum qualifications for Choice have a fat covering over the crops, back, loin, rump, and ribs that tends to be moderately thick. The brisket, flanks, and cod or udder show a marked fullness and the muscling is firm. Cattle under 30 months of age carry a slightly thick fat covering over the top. The brisket, flanks, and cod or udder appear moderately full and the muscling is moderately firm.

(2) Cattle qualifying for the minimum of the Choice grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Choice grade. Such cattle are less uniform in width than normal for the Choice grade. The thick, full muscling over the top results in a rounded appearance with little evidence of flatness. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Although such cattle have a lower degree of fatness over the back and loin than described as typical, evidence of more fatness than described is especially noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described for the Choice grade. The distribution of fat is not typical, for it is thicker over the crops, back, loin, and rump than described but with evidence of less fatness in the brisket, flanks, twist, and cod or udder. The back and loin break sharply into the sides and the width over the back is much greater than through the rounds and shoulders.

(c) **Good.** (1) Slaughter steers, heifers, and cows 30 to 42 months of age possessing the minimum qualifications for Good

have a fat covering that tends to be slightly thin with some fullness evident in the brisket, flanks, twist, and cod or udder and the muscling is firm. Cattle under 30 months of age have a thin fat covering which is largely restricted to the back and loin. The brisket, flanks, twist, and cod or udder are slightly full and the muscling is slightly firm.

(2) Cattle qualifying for the minimum of the Good grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for the grade are thickly muscled and have a lower degree of fatness than described for the Good grade. Such cattle are less uniform in width than normal for the grade. The thick, full muscling through the back gives the back and loin a well-rounded appearance. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be prominent. Evidence of more fatness than described is especially noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for the grade are thinly muscled and have a higher degree of fatness than described for the Good grade. The distribution of fat is not typical, for it is thicker over the crops, back, loin, and rump than described while the brisket, flanks, twist, and cod or udder indicate less fatness. Such cattle are nearly flat over the back and loin and the width over the back is greater than through the rounds and shoulders.

(d) **Standard.** (1) Slaughter steers, heifers, and cows 30 to 42 months of age possessing the minimum qualifications for Standard have a fat covering primarily over the back, loin, and ribs which tends to be very thin. Cattle under 30 months of age have a very thin covering of fat which is largely restricted to the back, loin, and upper ribs.

(2) Cattle qualifying for the minimum of this grade vary relatively little in their degree of fatness. Therefore, the range in cutability among cattle that qualify for this grade is somewhat less than in the higher grades. Most of the cutability differences among cattle qualifying for this grade are due to a wide range in muscling. Cattle with higher cutability than normal for this grade may have a slightly lower degree of fatness than described but will have thick, well-rounded backs, wide loins, and prominent, thickly muscled shoulders. The width through the rounds will be greater than over the back. Cattle with lower cutability than normal for this grade may have slightly more finish than described and will be upstanding and narrow. The loin, rump, and rounds will appear slightly sunken.

(e) **Commercial.** (1) The Commercial grade is limited to steers, heifers, and cows over approximately 42 months of age. Slaughter cattle possessing the minimum qualifications for Commercial and which slightly exceed the minimum maturity for the Commercial grade have a slightly thick fat covering over the

back, ribs, loin, and rump and the muscling is moderately firm. Very mature cattle usually have at least a moderately thick fat covering over the back, ribs, loin, and rump and considerable patchiness frequently is evident about the tailhead. The brisket, flanks, and cod or udder appear to be moderately full and the muscling is firm.

(2) Cattle qualifying for the minimum of the Commercial grade will differ considerably in cutability because of widely varying combinations of muscling and degree of fatness. Cattle with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described for the Commercial grade. The thick, full muscling over the top results in a rounded appearance with little evidence of flatness. The thickness through the middle part of the rounds is greater than over the top and the thick muscling through the shoulders causes them to be slightly prominent. Although such cattle have less thickness of fat over the back and loin than described as typical, evidence of more fatness than described is especially noticeable in the brisket, flanks, twist, and cod or udder and the muscling is firmer than described. Conversely, cattle with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described for the Commercial grade. The distribution of fat is not typical, being thicker over the crops, back, loin, and rump than described while the brisket, flanks, twist, and cod or udder indicate less fatness. The back and loin break sharply into the sides and the width over the back is much greater than through the rounds and shoulders.

(f) **Utility.** (1) The minimum degree of finish required for slaughter steers, heifers, and cows to qualify for the Utility grade varies throughout the range of maturity permitted in this grade from a very thin covering of fat for cattle under 30 months of age to a slightly thick fat covering, generally restricted to the back, loin, and rump for the very mature cattle in this grade. In such mature cattle, the crops are slightly thin and the brisket, flanks, and cod or udder indicate very slight fullness.

(2) Cattle qualifying for the minimum of the Utility grade vary somewhat in cutability especially among older animals. Those under 42 months of age are required to have very little fatness to qualify for the minimum of the grade; thus most of the variation in cutability of such cattle is due to differences in muscling. Cattle over 42 months of age will vary in their degree of fatness as well as muscling. Thus, cattle with thicker muscling than normal and less external fat than specified for this grade will have higher cutability than cattle with thinner muscling and more fatness.

(g) **Cutter.** (1) In slaughter cattle in the Cutter grade, the degree of finish ranges from practically none in cattle under 30 months of age to very mature cattle which have only a very thin covering of fat.

(2) The range in cutability among cattle that qualify for the minimum of this grade will be narrow because of

very small variations in fatness and muscling.

(b) **Canner.** Canner grade cattle are those which are inferior to the minimum specified for the Cutter grade.

§ 53.205 Specifications for Official United States Standards for Grades of Slaughter Bullocks (Quality).

(a) **Prime.** (1) Slaughter bullocks possessing the minimum qualifications for the Prime grade have a moderately thick but smooth covering of fat which extends over the back, ribs, loin, and rump. The brisket and flanks show a marked fullness and the muscling is firm.

(2) Bullocks qualifying for the minimum of the Prime grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Bullocks with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described as minimum for the Prime grade. Such bullocks have less width of back and loin and are less uniform in width than described as typical for the Prime grade but the muscling is firmer than described. Conversely, bullocks with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described as minimum for the Prime grade.

(b) **Choice.** (1) Slaughter bullocks possessing minimum qualifications for the Choice grade carry a slightly thick fat covering over the top. The brisket and flanks appear moderately full and the muscling is moderately firm.

(2) Bullocks qualifying for the minimum of the Choice grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Bullocks with higher cutability than normal for this grade are thickly muscled and have a lower degree of fatness than described as minimum for the Choice grade but the muscling is firmer than described. Conversely, bullocks with lower cutability than normal for this grade are thinly muscled and have a higher degree of fatness than described as minimum for the Choice grade.

(c) **Good.** (1) Bullocks possessing minimum qualifications for the Good grade have a thin fat covering which is largely restricted to the back and loin. The brisket and flanks are slightly full and the muscling is slightly firm.

(2) Bullocks qualifying for the minimum of the Good grade will differ considerably in cutability because of varying combinations of muscling and degree of fatness. Bullocks with higher cutability than normal for the grade are thickly muscled and have a lower degree of fatness than described as minimum for the Good grade. Such bullocks are less uniform in width than described as typical of the grade but the muscling is firmer than described. Conversely, bullocks with lower cutability than normal for this grade have thinner muscling and a higher degree of fatness than described as minimum for the Good grade.

(d) **Standard.** (1) Slaughter bullocks possessing minimum qualifications for

the Standard grade have only a very thin covering of fat which is largely restricted to the back, loin, and upper rib.

(2) Bullocks qualifying for the minimum of this grade vary relatively little in their degree of fatness. Therefore, the range in cutability among bullocks that qualify for this grade is somewhat less than in the higher grades. Most of the cutability differences among bullocks qualifying for this grade are due to a wide range in muscling. Bullocks with higher cutability than normal for this grade may have a slightly lower degree of fatness than described but will have thick, well-rounded backs, wide loins, and prominent, thickly muscled shoulders. The width through the rounds will be greater than over the back. Bullocks with lower cutability than normal for this grade may have slightly more finish than described and will be upstanding and narrow. The loin, rump, and rounds will appear slightly sunken.

(e) **Utility.** The Utility grade includes only those bullocks that do not meet the minimum requirements specified for the Standard grade.

§ 53.206 Specifications for Official United States Standards for Grades of Slaughter Cattle (Yield).

(a) **Yield Grade 1.** (1) Yield Grade 1 slaughter cattle produce carcasses with very high yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 1 (near the borderline between Yield Grade 1 and Yield Grade 2) will differ considerably in appearance because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They are moderately wide and the width through the shoulders and rounds is greater than through the back. The top is well-rounded with no evidence of flatness, and the back and loin are thick and full. The rounds are deep, thick, and full and the width through the middle part of the rounds is greater than through the back. The shoulders are slightly prominent and the forearms are thick and full. These cattle have only a thin covering of fat over the back and rump. The flanks are slightly shallow and the brisket and cod or udder have little evidence of fullness. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.3 of an inch of fat over the ribeye and about 13.0 square inches of ribeye area.

(3) Because of the relatively low proportion of lean to bone, practically no thinly muscled cattle produce carcasses with an exceptionally high yield of boneless retail cuts. Therefore, it is unlikely that thinly muscled cattle will qualify for Yield Grade 1.

(4) Cattle qualifying for the minimum of Yield Grade 1 will differ widely in quality grade as a result of variations in distribution of finish and firmness of muscling. For example, young cattle which have considerable firmness of

muscling and considerably greater deposits of fat in the brisket, flanks, twist, and cod or udder than described for Yield Grade 1 ordinarily will qualify for the Good or Choice grade. However, such cattle with typical or less than typical deposits of fat in the brisket, flanks, twist, and cod or udder usually will qualify for the Standard or Utility grade.

(b) **Yield Grade 2.** (1) Yield Grade 2 slaughter cattle produce carcasses with high yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 2 (near the borderline between Yield Grade 2 and Yield Grade 3) will differ considerably in appearance because of differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They are wide through the back and loin and have slightly greater width through the shoulders and rounds than through the back. The top is well-rounded with little evidence of flatness and the back and loin are thick and full. The rounds are thick, full, and deep and the thickness through the middle part of the rounds is greater than that over the top. The shoulders are slightly prominent and the forearms are thick and full. There is a slightly thick covering of fat over the back and rump and the flanks are slightly deep. The brisket and cod or udder are slightly full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.6 of an inch of fat over the ribeye and about 12.5 square inches of ribeye area.

(3) Thinly muscled cattle typical of the minimum of this grade have a relatively low proportion of lean to bone. They tend to be flat and slightly narrow over the back and have slightly long, flat rounds. They are slightly wider over the back than through the rounds. The shoulders are slightly prominent and the forearms are only slightly thick. These cattle have a thin covering of fat over the back and rump. The flanks are slightly shallow and thin and the brisket and cod or udder have little evidence of fullness. Slaughter cattle of this description producing 600 pound carcasses usually have 0.3 of an inch of fat over the ribeye and about 10.0 square inches of ribeye area.

(4) Cattle qualifying for the minimum of Yield Grade 2 will differ greatly in quality grade as a result of variations in distribution of finish and firmness of muscling. For example, young cattle which have considerable firmness of muscling and typical or greater deposits of fat in the brisket, flanks, twist, and cod or udder than described for Yield Grade 2 ordinarily will qualify for Prime or Choice. Conversely, such cattle with less than typical deposits of fat in the brisket, flanks, twist, and cod or udder usually will qualify for the Good or Standard grade.

(c) **Yield Grade 3.** (1) Yield Grade 3 slaughter cattle produce carcasses with intermediate yields of boneless retail

cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 3 (near the borderline between Yield Grade 3 and 4) will differ considerably in appearance because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They are very wide through the back and loin and are uniform in width from front to rear. The back or top is nearly flat with only a slight tendency toward roundness and there is a slight break into the sides. The back and loin are very full and thick. The rounds are deep, thick, and full. The shoulders are smooth and the forearms are thick and full. There is a moderately thick covering of fat over the back and rump. The flanks are deep and full and the brisket and cod or udder are full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.9 of an inch of fat over the ribeye and about 12.0 square inches of ribeye area.

(3) Thinly muscled cattle typical of the minimum of this grade have a relatively low proportion of lean to bone. They are flat and slightly wide over the back and loin and are wider over the back than through the rounds. The shoulders are slightly smooth and the forearms are only slightly thick. These cattle tend to have a slightly thick covering of fat over the back and rump. The flanks are slightly deep and full and the brisket and cod or udder are slightly full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.6 of an inch of fat over the ribeye and about 9.5 square inches of ribeye area.

(4) Cattle qualifying for the minimum of Yield Grade 3 will differ greatly in quality grade as a result of wide variations in distribution of finish and firmness of muscling. Cattle with higher quality than normal for the minimum of this grade will have very firm muscling and will have greater deposits of fat in the brisket, flanks, twist, and cod or udder than described for Yield Grade 3 and will normally qualify for the Prime or Choice grade. Conversely, cattle with lower quality than normal for the minimum of this grade will have less deposits of fat in the brisket, flanks, twist, and cod or udder than described herein, and may only qualify for the Good grade.

(d) **Yield Grade 4.** (1) Yield Grade 4 slaughter cattle produce carcasses with moderately low yields of boneless retail cuts. Cattle with characteristics qualifying them for the lower limits of Yield Grade 4 (near the borderline between Yield Grades 4 and 5) will differ considerably in appearance because of inherent differences in the development of their muscling and skeletal systems and related differences in fatness.

(2) Very thickly muscled cattle typical of the minimum of this grade have a high proportion of lean to bone. They appear wider over the top than through the shoulders or rounds. The back and loin

are very thick and full, nearly flat, and break sharply into the sides. The rounds are deep, thick, and full. The shoulders are smooth and the forearms are thick and full. These cattle have a thick covering of fat over the back and rump. The flanks are very deep and full and the brisket and cod or udder are very full. Slaughter cattle of this description producing 600-pound carcasses usually have about 1.1 inches of fat over the ribeye and about 11.5 square inches of ribeye area.

(3) Thinly muscled cattle typical of the minimum of this grade have a relatively low ratio of lean to bone. They are flat over the back and loin and much wider through the back than through the shoulders or rounds. The rounds tend to be long and flat. The shoulders are smooth and the forearms are slightly thick. The cattle have a moderately thick covering of fat over the back and rump and the back breaks sharply into the sides. The flanks are deep and full and the brisket and cod or udder are full. Slaughter cattle of this description producing 600-pound carcasses usually have about 0.9 of an inch of fat over the ribeye and about 9.0 square inches of ribeye area.

(4) Cattle qualifying for the minimum of Yield Grade 4 will differ somewhat in quality grade as a result of variations in distribution of the finish and firmness of muscling. Most cattle at the minimum of this grade will qualify for the Prime or Choice grade. However, some cattle at the minimum of Yield Grade 4 with less deposits of fat in the brisket, flanks, twist, and cod or udder than described as typical may only qualify for the Good grade.

(e) **Yield Grade 5.** (1) Yield Grade 5 slaughter cattle produce carcasses with low yields of boneless retail cuts. Cattle of this grade consist of those not meeting the minimum requirements for Yield Grade 4 because of either more fat or less muscle or a combination of these characteristics.

(2) Because of the high degree of finish required for cattle of this grade, the range in quality grades will be somewhat small. Practically all cattle of this grade will qualify for either the Prime or Choice grade.

§ 53.208 Feeder cattle grades.

(a) **Grade factors.** (1) The term "cattle" as used in these standards includes bovines of all ages.

(2) The grade of a feeder animal is determined from a composite evaluation of two general value-determining characteristics—its logical slaughter potential (as beef) and its thriftiness.

(3) The logical slaughter potential of an animal is its slaughter grade at that stage of its development as beef—not as veal or calf—when its carcass quality grade and its carcass conformation grade would be equal.

(4) Animals expected to produce superior slaughter conformation—and therefore have a superior logical slaughter potential—have very thick muscling

in relation to their height and length. They also have wide, deep, rugged frames; short, wide heads; moderately large bones and smooth, refined joints; and practically always have a very high proportion of beef breeding. Animals expected to produce inferior slaughter conformation—and an inferior logical slaughter potential—have very thin muscling in relation to their height and length. They also are lacking in ruggedness; have long, narrow heads; have either very small or large, coarse bones; and practically always have little or no beef breeding.

(5) **Thriftiness** refers to the ability of a feeder animal to gain weight and fatten rapidly and efficiently. Extremely thrifty cattle are healthy, have wide, roomy middles with well-sprung ribs, are large for their age, and have an alert manner.

(b) **General principles.** (1) While the grade of a feeder animal is determined from a composite evaluation of its logical slaughter potential and its thriftiness, the logical slaughter potential is given primary consideration. Thus, conformation, or inherent muscular development, is the most important single factor affecting the grade of a feeder animal.

(2) In these feeder cattle standards conformation is determined by appraising the development of the muscular system in relation to the development of the skeletal system. Degree of fatness is not a factor. However, since the grade standards include detailed descriptions of the various parts of the animal and since this appearance may be influenced to a considerable extent by variations in fatness, the standards for all of the grades describe animals that have a slightly thin covering of fat. When grading animals which have either a greater or lesser degree of fatness than that on which the standards are based, proper allowances must be made for the effect of these differences on the appearance of the various parts.

(3) Cattle deposit fat at a relatively faster rate over the loin and back, and in the flank, cod, twist, and brisket than they do on other parts of their bodies. Therefore, as cattle increase in fatness, these parts appear progressively fuller, thicker, and more distended in relation to the thickness through the rear quarter and to the fullness of the forearm and gaskin. Since relatively little fat is deposited over these latter parts, their appearance is affected relatively little by variations in fatness. In evaluating the conformation of feeder cattle, it is important to properly evaluate the muscling in all parts of the animal. However, since variations in fatness and variations in the spring of the ribs make it especially difficult to precisely evaluate the muscling in the loin and back, major emphasis should be placed on the development of muscling in the rear quarter as an indicator of overall muscling. Unless proper allowance is made for variations in fatness, animals carrying considerable finish may be assumed to have greater thickness of muscling

throughout their loins and backs than actually is the case, whereas those which are very thin may be more muscular in these parts than their appearance might indicate.

(4) Thriftiness is a factor affecting the grade of a feeder animal only when the animal is relatively less thrifty than normally associated with a particular development as described for the various grades. In such a case, the final grade of the feeder animal may be lowered from that indicated by other grade factors. The amount of this reduction in grade will vary from practically none to one full grade, dependent upon the degree of unthriftiness and the grade involved. For example, a feeder animal otherwise eligible for the Utility grade would have its final grade lowered little, if any, due to a lack of thriftiness as compared with that specified for that grade. However, since Prime grade feeders are expected to have a high degree of thriftiness, the final grade of a feeder animal otherwise eligible for that grade might be lowered one full grade if its thriftiness were considerably less than that indicated for Prime. On the other hand, superior thriftiness as compared with that described for each of the grades cannot compensate for a relatively lower slaughter potential, i.e., the final grade of a feeder may be no higher than its logical slaughter potential.

(5) Maturity is not normally a factor in determining the grade of a feeder animal. However, the animal's likely maturity at the time it reaches its logical slaughter potential must be considered in relation to certain approximate maximum and minimum maturity limits for various grades of slaughter cattle. These are as follows: Prime, 36 months maximum; Choice, 42 months maximum; Good and Standard, 48 months maximum; Commercial, 48 months minimum. There are no maturity limits for the Utility, Cutter, and Canner grades.

(6) The standards for grades of feeder cattle—like those for slaughter cattle—are designed to cover the full range of variability in cattle. This being the case, at any stage in their development, cattle may be graded either as feeder or slaughter animals. The slaughter grade of most feeder cattle generally would be lower than their grade as feeders. For example, many Prime or Choice grade feeder cattle would grade only Standard as slaughter cattle. However, this situation does not always prevail. Some feeder cattle, particularly in the lower grades, may have characteristics which indicate that their carcass quality would have a relatively higher degree of development than their conformation. Since the carcass quality of such an animal would be relatively higher than its logical slaughter potential, its grade as a slaughter animal could be higher than its feeder grade. For example, an animal might have had a logical slaughter potential of the upper part of the Utility grade and, therefore, its feeder grade would be Utility. However, if such an animal had a carcass quality equal

to the upper part of the Standard grade, its slaughter grade would be Standard.

(7) Because it is impractical to describe the nearly limitless number of recognizable combinations of characteristics which feeder animals might have and qualify for a particular grade, the standards for each grade describe only animals which have a similar development of the various grade factors which are generally representative of the lower limits of each grade. The following standards for grades of feeder cattle apply only to steers, heifers, and cows. Stags and bulls are used as feeders only infrequently; therefore, standards for grades of those classes are not included herein.

§ 53.209 Specifications for official United States standards for grades of feeder cattle (steers, heifers, and cows).

(a) *Prime.* Feeder cattle which possess typical minimum qualifications for the Prime grade are extremely thrifty and are very large for their age, breed considered. They are very thickly muscled throughout. They are wide through the chest with well sprung ribs and are moderately wide and thick through the crops, back, and loin. The rounds tend to be thick and the twist is moderately deep. They usually have straight top and bottom lines and usually are moderately deep in the fore and rear flanks. The legs tend to be short, are set wide apart, and usually are straight. The head is usually short and wide and the neck usually is short and thick. They have large, rugged frames with moderately large but refined bone. They have a high degree of symmetry and smoothness throughout, and usually show no evidence of nonbeef breeding. They have a logical slaughter potential of Prime. Only steers and heifers are eligible for the Prime grade.

(b) *Choice.* Feeder cattle which possess typical minimum qualifications for the Choice grade are very thrifty and are large for their age, breed considered. They are thickly muscled throughout. They are moderately wide through the chest with a moderate spring of ribs and are slightly wide and thick through the crops, back, and loin. The rounds are slightly thick and the twist is slightly deep. They usually have straight top lines and usually are moderately deep in the fore and rear flanks. The legs are slightly short, and are set moderately wide apart and usually are straight. The head usually is moderately short and wide and the neck usually is slightly short and thick. They have moderately large, rugged frames, and the bone usually is moderately large, but may be slightly fine or slightly large and coarse. They have a moderate degree of symmetry and smoothness throughout and usually show a very high proportion of beef breeding. They have a logical slaughter potential of Choice.

(c) *Good.* Feeder cattle which possess typical minimum qualifications for the Good grade are thrifty but may be

slightly small for their age, breed considered. They are slightly thick muscled throughout. They are slightly narrow through the chest and may be slightly deficient in spring of rib. They are slightly narrow through the crops, back, and loin. The muscles of the rump are slightly sunken and the hips and shoulder joints are slightly prominent. The rounds are slightly thin and the twist is slightly shallow. They usually have moderately straight top lines but may lack depth in the rear flank. The legs tend to be slightly long, are set slightly wide apart, and frequently are crooked. The head is usually slightly short and wide and the neck usually is slightly long and thin. They have a slightly large frame and the bone usually is slightly fine, although it may also be slightly large and coarse. They are slightly irregular and rough in appearance and usually are predominantly of beef breeding. They have a logical slaughter potential of Good.

(d) *Standard.* Feeder cattle which possess typical minimum qualifications for the Standard grade are only moderately thrifty and are moderately small for their age, breed considered. They are slightly thin muscled and are angular, rough, and irregular in appearance throughout. They tend to be narrow through the chest and through the crops, and the muscles of the back, loin, and rump tend to be slightly sunken. Hips and shoulder joints are prominent. The rounds are thin and slightly concave and the twist is shallow. They usually have an uneven top line and may lack depth in the rear flank. The legs are long, set close together, and are usually crooked. The head usually is long and narrow and the neck usually long and thin. They have a slightly small frame and the bone is usually moderately fine, although it also may be moderately large and coarse. They are usually predominantly of nonbeef breeding and have a logical slaughter potential of Standard.

(e) *Commercial.* The Commercial grade for feeder cattle is restricted to cattle that will be too mature for the Good or Standard grade when they reach their logical slaughter potential. These will usually be cows. Cattle possessing typical minimum qualifications for the Commercial grade are moderately thrifty but are slightly thin muscled and are angular, rough, and irregular in appearance throughout. They tend to be narrow through the chest and crops, and the muscles of the back, loin, and rump tend to be slightly sunken. Hips and shoulder joints are prominent. The rounds are thin and slightly concave and the twist is shallow. They usually have an uneven top line and may lack depth in the rear flank. The legs are long and set close together. The head usually is long and narrow and the neck usually long and thin. Although cattle near the lower limits of the grade may be predominantly of nonbeef breeding, the majority of feeder cattle in this grade are predominantly of beef breeding. They have a logical slaughter potential of Commercial.

(f) *Utility.* Feeder cattle which possess typical minimum qualifications for the Utility grade are slightly unthrifty and are small for their age, breed considered. They are thinly muscled throughout and are very angular, rough, and irregular in appearance. They are very narrow through the chest and the crops and the muscles of the back, loin, and rump are sunken. Hips and shoulder joints are very prominent. The rounds are very thin and concave and the twist is very shallow. They usually have an irregular top line and are cut up in the rear flank. The legs are very long, are set very close together, and are usually rooked. The head usually is very long and narrow and the neck usually is decidedly long and thin. They have a very small frame and the bone usually is very fine, although it also may be large and coarse. They usually have little or no evidence of beef breeding and have a logical slaughter potential of Utility.

(g) *Inferior.* Feeder cattle inferior to those described for Utility are graded Inferior.

[FR Doc.77-28999 Filed 10-3-77; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg., 112, Amdt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final Rule.

SUMMARY: This amendment increases the quantity of California-Arizona lemons that may be shipped to fresh market during the weekly regulation period September 25–October 1, 1977. The amendment recognizes that demand for lemons has improved, since the regulation was issued. This action will increase the supply of lemons available to consumers.

DATES: Weekly regulation period September 25–October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION:

(a) *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and upon the basis of recommendations and information submitted by the Lemon Administrative

Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of lemons, as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the lemon markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit lemon handlers to ship a larger quantity of lemons to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped by 20,000 cartons, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information upon which this amendment is based became available and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of lemons.

§ 910.412 [Amended]

(b) *Order, as amended.* Paragraph (a) (1) of § 910.412 Lemon Regulation 112 (42 FR 48325) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period September 25, 1977, through October 1, 1977, is established at 225,000 cartons."

(Secs. 1–19, 48 Stat. 31, as amended; (7 U.S.C. 601–674).)

Dated: September 28, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-29113 Filed 10-3-77; 8:45 am]

[3410-37]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 2853—MEATS, PREPARED MEATS, AND MEAT PRODUCTS (GRADING, CERTIFICATION, AND STANDARDS)

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to recodify the meat grading regulations and carcass grade standards which were formerly administered by the Livestock Division, Agricultural Marketing Service, USDA, under 7 CFR Part 53, to a new 7 CFR Part 2853, to be administered by the Meat Quality Division, Food Safety and Quality Service, USDA.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

David K. Hallett, U.S. Department of Agriculture, Food Safety and Quality Service, Meat Quality Division, Meat Grading Branch, Washington, D.C. 20250 (202-447-2210).

SUPPLEMENTARY INFORMATION: On April 18, 1977, a notice was published in the FEDERAL REGISTER (42 FR 20165) transferring various responsibilities and functions, including meat grading and standardization, from the Agricultural Marketing Service to the new Food Safety and Quality Service. On June 27, 1977, another notice was published in the FEDERAL REGISTER (42 FR 32514) establishing a new Chapter XXVIII in the Code of Federal Regulations for the purpose of recodification of functions assigned to the Food Safety and Quality Service. Accordingly, the meat grading regulations and carcass grade standards which formerly appeared in 7 CFR Part 53 are being transferred to 7 CFR Part 2853 under the new Chapter XXVIII.

Only incidental narrative changes were made in the regulations during the recodification process to (1) alphabetize definitions, (2) renumber various sections, (3) change references from Agricultural Marketing Service, Livestock Division, to Food Safety and Quality Service, Meat Quality Division, (4) eliminate references to livestock in the regulations, and (5) include reference to the Department's Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary (7 CFR Part 1 Subpart H). Inasmuch as no substantive rule or change of rule is involved and these changes do not substantially affect any member of the public, under the administrative procedure provisions of 5 U.S.C. 553, it is found impracticable, unnecessary, and contrary to the public interest to delay the effectiveness of this rule until 30 days after publication in the FEDERAL REGISTER.

Accordingly, the regulations and standards under the Agricultural Marketing Act of 1946 as they relate to meats, prepared meats, and meat products, are codified under 7 CFR Part 2853 as set forth below.

Done at Washington, D.C., on this 26th day of September 1977.

JOSEPH A. POWERS,
Acting Administrator,
Food Safety and Quality Service.

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2853.137 Specifications for official United States standards for grades of sow carcasses.

Authority: Sec. 203, 60 Stat. 1087, as amended; sec. 205, 60 Stat. 1090, as amended (7 U.S.C. 1622 and 1624); 19 FR 74, as amended.

Subpart A—Regulations

DEFINITIONS

§ 2853.1 **Meaning of words.**

Words used in this subpart in the singular form shall be deemed to import the plural, and vice versa, as the case may demand. For the purposes of such regulations, unless the context otherwise requires, the following terms shall be construed, respectively, to mean:

Acceptance service. The service established and conducted under the regulations for the determination and certification or other identification of the compliance of products with specifications.

Administrator. The Administrator of the Food Safety and Quality Service, or any officer or employee of the Food Safety and Quality Service to whom authority has heretofore been delegated or to whom authority may hereafter be delegated, to act in his stead.

Animals. Cattle, sheep, swine, or goats.

Applicant. Any person who has applied for service under the regulations.

Branch. The Meat Grading Branch of the Division.

Carcass. The commercially prepared or dressed body of any animal intended for human food.

Carcass Data Service. The service established and conducted under the regulations to provide producers and other interested persons with data on carcass characteristics.

Chief. The Chief of the Branch, or any officer or employee of the Branch to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Class. A subdivision of a product based on essential physical characteristics that differentiate between major groups of the same kind of species.

Compliance. Conformity of a product to the specifications under which the

product was purchased or sold, with particular reference to the quality, cleanliness, state of refrigeration, method of processing, and trim of products.

Cooperative agreement. A cooperative agreement between the Food Safety and Quality Service and another Federal agency or a State agency, or other agency, organization or person as specified in the Agricultural Marketing Act of 1946, as amended, for conducting the service.

Department. The United States Department of Agriculture.

Director. The Director of the Division, or any officer or employee of the Division to whom authority has heretofore been delegated, or to whom authority may hereafter be delegated, to act in his stead.

Division. The Meat Quality Division of the Food Safety and Quality Service.

Fabricating. Cutting into wholesale or retail cuts, dicing or grinding.

Federal Meat Inspection. The meat inspection system conducted under the Federal Meat Inspection Act as amended by the Wholesome Meat Act (21 U.S.C. 601 et seq.) and the regulations thereunder (9 CFR Chapter III, Subchapter A).

Financially interested person. Any person having a financial interest in the products involved, including but not limited to the shipper, receiver, producer, seller, buyer, or carrier of the products.

Food Safety and Quality Service. The Food Safety and Quality Service of the Department.

Grade. (1) As a noun, this term means an important commercial subdivision of a product based on certain definite and preference determining factors, such as, but not limited to, conformation, finish, and quality in meats. (2) As a verb, this term means to determine the class, grade, or other quality of a product according to applicable standards for such product in Subpart B of this part.

Grading Service. The service established and conducted under the regulations for the determination and certification or other identification of the class, grade, or other quality of products under standards.

Immediate container. The carton, can, pot, tin, casing, wrapper, or other receptacle or covering constituting the basic unit in which products are directly contained or wrapped when packed in the customary manner for delivery to the meat trade or to consumers.

Legal Holiday. Those days designated as legal public holidays in title 5, United States Code, section 6103(a).

Livestock. Bovine, ovine, porcine.

Meat. The edible part of the muscle of an animal, which is skeletal, or which is found in the tongue, in the diaphragm, in the heart, or in the esophagus, and which is intended for human food, with or without the accompanying and overlying fat, and the portions of bone, skin, sinew, nerve, and blood vessels which normally accompany the muscle tissue and which are not separated from it in the process of dressing. This term does

not include the muscle found in the lips, snout, or ears.

Meat by-products. All edible parts (other than meat and prepared meats) intended for human food, derived from one or more animals, and including but not limited to such organs and parts as livers, kidneys, sweetbreads, brains, lungs, spleens, stomachs, tripe, lips, snouts, and ears.

Meat food products. Any articles intended for human food (other than meat, prepared meats, and meat by-products) which are derived or prepared in whole or in substantial and definite part, from any portion of any animal, except such articles as organotherapeutic substances, meat juice, meat extract, and the like, which are only for medicinal purposes and are advertised only to the medical profession.

Office of grading. The office of an official grader.

Official grader. An employee of the Department or other person authorized by the Department to determine and certify or otherwise identify the class, grade, or other quality, or compliance of products under the regulations.

Person. Any individual, partnership, corporation, or other legal entity, or Government agency.

Prepared meats. The products intended for human food which are obtained by subjecting meat to drying, curing, smoking, cooking, grinding, seasoning, or flavoring, or to any combination of such procedures, and to which no considerable quantity of any substance other than meat or meat byproducts has been added.

Processing. Drying, curing, smoking, cooking, seasoning, or flavoring or any combination of such processes, with or without fabricating.

Products. Meats, prepared meats, meat by-products, or meat food products.

Quality. A combination of the inherent properties of a product which determines its relative degree of excellence.

Quality grade. An important commercial subdivision of meat based on separate evaluations of two general considerations: (1) The quality or the palatability-indicating characteristics of lean and, (2) the conformation of the carcass or primal cut.

Service. Grading service or acceptance service.

Shipping container. The receptacle or covering in which one or more immediate containers of products are packed for transportation.

Specifications. Descriptions with respect to the class, grade, other quality, quantity or condition of products, approved by the Administrator, and available for use by the industry regardless of the origin of the descriptions.

Standards. The standards of the Department contained in Subpart B of this part.

Supervisor of grading. An official grader or other person designated by the Director or Chief to supervise and maintain uniformity and accuracy of service under the regulations.

ADMINISTRATION

§ 2853.3 Authority.

The Chief is charged with the administration, under the general supervision and direction of the Director, of the regulations and the Act insofar as they relate to products.

[30 FR 4157, Mar. 31, 1955]

SERVICE

§ 2853.4 Kind of service.

Grading service under the regulations shall consist of the determination and certification and other identification, upon request by the applicant, of the class, grade, or other quality of products under applicable standards in Subpart B of this part. Class, grade and other quality may be determined under said standards for meat of cattle, sheep, or swine in carcass form or for wholesale cuts of such meat, other than pork wholesale cuts. Acceptance service under the regulations shall consist of the determination of the conformity of products to specifications approved by the Director or Chief and the certification and other identification of such livestock or products in accordance with specifications, upon request by the applicant. Determination as to product compliance with specifications for ingredient content or method of preparation may be based upon information received from the inspection system having jurisdiction over the products involved. The Carcass Data Service, under the regulations, shall consist of the evaluation of carcass characteristics, in accordance with applicable official United States Standards which appear in Subpart B of this part, of carcasses of animals identified with the official cartag as shown in § 2853.17, the recording of such data, and transmittal of the data to, or as directed by, the applicant for the service.

(a) "Official certificate" means any form of certification, either written or printed, used under the regulations to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, determining compliance, inspecting, or sampling pursuant to the regulations, any processing or plant-operation report made by an authorized person in connection with grading, determining compliance, inspecting, or sampling under the regulations, and any report made by an authorized person of services performed pursuant to the regulations.

(c) "Official mark" or "other official identification" means any form of mark or other identification, including those prescribed in § 2853.17; used under the regulations in marking any products, or the immediate or shipping containers thereof, to show inspection, class, grade, quality, size, quantity, or condition of the products (including the compliance of products with applicable specifications), or to maintain the identity of products for which service is provided under the regulations.

(d) "Official device" means any roller, stamp, brand or other device used under the regulations to mark any products, or the immediate or shipping containers, thereof, with any official mark or other official identification.

The Act. The Agricultural Marketing Act of 1946 (Title II of the act of Congress approved August 14, 1946, 60 Stat. 1087, as amended by Pub. L. 272, 84th Cong., 69 Stat. 553, 7 U.S.C. 1621-1627).

The regulations. The regulations in this subpart.

Yield grade. The designation related to the quantity of trimmed, boneless, major retail cuts to be derived from the carcass or wholesale cuts—rounds or legs, loins, ribs, or racks, and chucks or shoulders—referred to as yield grade in Subpart B of this part.

§ 2853.2 Designation of official certificates, memoranda, marks, other identifications, and devices for purposes of the Agricultural Marketing Act.

Subsection 203(h) of the Agricultural Marketing Act of 1946, as amended by Public Law 272, 84th Congress, provides criminal penalties for various specified offenses relating to official certificates, memoranda, marks or other identifications, and devices for making such marks or identifications, issued or authorized under section 203 of said act, and certain misrepresentations concerning the inspection or grading of agricultural products under said section. For the purposes of said subsection and the provisions in this part, the terms listed below shall have the respective meanings specified:

(a) "Official certificate" means any form of certification, either written or printed, used under the regulations to certify with respect to the inspection, class, grade, quality, size, quantity, or condition of products (including the compliance of products with applicable specifications).

(b) "Official memorandum" means any initial record of findings made by an authorized person in the process of grading, determining compliance, inspecting, or sampling pursuant to the regulations, any processing or plant-operation report made by an authorized person in connection with grading, determining compliance, inspecting, or sampling under the regulations, and any report made by an authorized person of services performed pursuant to the regulations.

(c) "Official mark" or "other official identification" means any form of mark or other identification, including those prescribed in § 2853.17; used under the regulations in marking any products, or the immediate or shipping containers thereof, to show inspection, class, grade, quality, size, quantity, or condition of the products (including the compliance of products with applicable specifications), or to maintain the identity of products for which service is provided under the regulations.

(d) "Official device" means any roller, stamp, brand or other device used under the regulations to mark any products, or the immediate or shipping containers, thereof, with any official mark or other official identification.

The mark of foreign origin shall be imprinted by roller brand or handstamp and shall be applied so that the imprint is at least 2 inches from the backbone of lamb, 3 inches from the backbone of veal and calf, and 4 inches from the backbone of beef carcasses. The mark of foreign origin shall be repeated parallel to the backbone of the carcass so as to appear on each round, rump, full loin, rib, and chuck of each bovine and ovine carcass in letters at least one-fourth of an inch high, with no more than three-fourths of an inch space between impressions. Imprints of each such brand shall be submitted to the Chief for the determination of compliance with these regulations prior to use of the brand on meats offered for Federal grading. It shall be the responsibility of the applicant to notify the meat grader performing the service whenever imported meat is offered for grading.

§ 2853.6 How to obtain service.

(a) *Application.* Any person may apply to the Director or Chief for service under the regulations with respect to products in which the applicant is financially interested. The application shall be made on a form approved by the Director. In any case in which the service is intended to be furnished at an establishment not operated by the applicant, the application shall be approved by the operator of such establishment and such approval shall constitute an authorization for any employees of the Department to enter the establishment for the purpose of performing their functions under the regulations. The application shall state: (1) The name and address of the establishment at which service is desired; (2) the name and post office address of the applicant; (3) the financial interest of the applicant in the products, except where application is made by an official of a Government agency in his official capacity; and (4) the signature of the applicant (or the signature and title of his representative). The application shall indicate the legal status of the applicant as an individual, partnership, corporation, or other form of legal entity. Any change in such status, at any time while service is being received, shall be promptly reported to the Director or Chief by the person receiving the service.

(b) *Notice of eligibility for service.* The applicant for service at any establishment will be notified whether his application is approved.

(c) *Request by applicant for service—*

(1) *Noncommitment.* Upon notification of the approval on an application for service, the applicant may, from time to time as desired, make oral or written requests for service under the regulations with respect to specific products for which the service is to be furnished under such application. Such requests shall be made at an office for grading either directly or through any employee of the Food Safety and Quality Service who may be designated for such purposes.

(2) *Commitment.* If desired, the applicant may enter into an agreement with

the Food Safety and Quality Service for the furnishing of service on a weekly commitment basis, whereby the applicant agrees to pay for 8 hours of service per day, 5 days per week, Monday through Friday, as provided in § 2853.27(b), and the Food Safety and Quality Service agrees to make an official grader available to perform such service for the applicant. However, the Food Safety and Quality Service reserves the right to use any grader assigned to a plant under such a commitment to perform service for other applicants, when, in the opinion of the Chief, the grader is not needed to perform service for the applicant. An applicant who terminates a commitment, and within 1 year after cancellation is granted a new commitment at his request, shall pay for the moving costs actually incurred by the Food Safety and Quality Service to cover the transfer of the grader who will service the applicant's new commitment. If more than one applicant is involved in the reapplication for a canceled meat grading commitment requiring the transfer of the grader, the moving costs will be prorated among the applicants according to each applicant's committed portion of the grader's services. However, the moving costs will be charged only to those applicants who were parties to the previously canceled commitment. An applicant may, for periods of 3 months or less, enter into an agreement by memorandum with the Food Safety and Quality Service for the furnishing of service on a weekly basis. In the latter case, transfer of graders would not be involved and charges will be made in accordance with § 2853.27.

§ 2853.7 Order of furnishing service.

Service under the regulations shall be furnished to applicants in the order in which requests therefor are received, insofar as consistent with good management, efficiency and economy. Precedence will be given, when necessary, to requests made by any government agency or any regular user of the service, and to requests for appeal service under § 2853.20.

§ 2853.8 When request for service deemed made.

A request for service under the regulations shall be deemed to be made when received by an office of grading. Records showing the date and time of the request shall be made and kept in such office. However, in the case of the Carcass Data Service, the purchase of official USDA eartags shall constitute a request for such service and the requisition form used to purchase the eartags shall be kept in the designated office of record.

§ 2853.9 Withdrawal of application or request for service.

An application or a request for service under the regulations may be withdrawn by the applicant at any time before the application is approved or prior to performance of service, upon payment, in accordance with §§ 2853.27 and 2853.28, of any expenses already incurred by the

Food Safety and Quality Service in connection therewith.

§ 2853.10 Authority of agent.

Proof of the authority of any person making an application or a request for service under the regulations on behalf of any other person may be required at the discretion of the Director or Chief or the official in charge of the office of grading or other employee receiving the application or request under § 2853.6.

§ 2853.11 Denial or withdrawal of service.

(a) *For misconduct—*(1) *Bases for denial or withdrawal.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person who, or whose employee or agent in the scope of his employment or agency, (i) has wilfully made any misrepresentation or has committed any other fraudulent or deceptive practice in connection with any application or request for service under the regulations; (ii) has given or attempted to give, as a loan or for any other purpose, any money, favor, or other thing of value, to any employee of the Department authorized to perform any function under the regulations; (iii) has interfered with or obstructed, or attempted to interfere with or to obstruct, any employee of the Department in the performance of his duties under the regulations by intimidation, threats, assaults, abuse, or any other improper means; (iv) has knowingly falsely made, issued, altered, forged, or counterfeited any official certificate, memorandum, mark, or other identification, or device for making any such mark or identification; (v) has knowingly uttered, published, or used as true any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device; (vi) has knowingly obtained or retained possession of any such falsely made, issued, altered, forged, or counterfeited certificate, memorandum, mark, identification, or device, or of any such official device, or of any product bearing any such falsely made, issued, altered, forged, or counterfeited mark or identification, or of any carcass or wholesale or retail cut bearing any designation specified in subdivision (vii) of this subparagraph which has not been federally graded or derived from a carcass graded as being of the indicated grade; (vii) has applied the designation "Prime," "Choice," "Good," "Standard," "Commercial," "Utility," "Cutter," "Canner," "Cull," "Medium," "No. 1," "No. 2," "No. 3," "No. 4," "Yield Grade 1," "Yield Grade 2," "Yield Grade 3," "Yield Grade 4," or "Yield Grade 5" by stamp, or brand directly on any carcass, wholesale cut, or retail cut of any carcass, as part of a grade designation; or (viii) has applied to immediate containers or shipping containers of carcasses, wholesale cuts, or retail cuts, grade designations specified in paragraph (a)(1)(vii) of this section, when such carcasses, wholesale cuts, or

retail cuts contained therein have not been federally graded; or (ix) has in any manner not specified in this paragraph violated subsection 203(h) of the Act: *Provided,* That paragraph (a)(1)(vi) of this section shall not be deemed to be violated if the person in possession of any item mentioned therein notifies the Director or Chief without delay that he has possession of such item and, in the case of an official device, surrenders it to the Chief, and, in the case of any other item, surrenders it to the Director or Chief or destroys it or brings it into compliance with the regulations by obliterating or removing the violative features under supervision of the Director or Chief: *And provided, further,* That paragraph (a)(1)(i) through (viii) of this section shall not be deemed to be violated by any act committed by any person prior to the making of an application for service under the regulations by the principal person. An application or a request for service may be rejected or the benefits of the service may be otherwise denied to, or withdrawn from, any person who operates an establishment for which he has made application for service if, with the knowledge of such operator, any other person conducting any operations in such establishment has committed any of the offenses specified in paragraph (a)(1)(i) through (ix) of this section after such application was made. Moreover, an application or a request for service made in the name of a person otherwise eligible for service under the regulations may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, such a person (a) in case the service is or would be performed at an establishment operated (1) by a corporation, partnership, or other person from whom the benefits of the service are currently being withheld under this paragraph, or (2) by a corporation, partnership, or other person having an officer, director, partner, or substantial investor from whom the benefits of the service are currently being withheld and who has any authority with respect to the establishment where service is or would be performed, or (b) in case the service is or would be performed with respect to any product in which any corporation, partnership, or other person within paragraph (a)(1)(ix)(a)(1) of this section has a contract or other financial interest.

(2) *Procedure.* All cases arising under this paragraph shall be conducted in accordance with the rules of practice governing withdrawal of inspection and grading service under the Agricultural Marketing Act of 1946 as contained in Part 2850 of this chapter and/or the Rules of Practice Governing Formal Adjudicatory Administrative Proceedings Instituted by the Secretary as contained in 7 CFR Part 1, Subpart H, as applicable.

(b) *For miscellaneous reasons.* An application or a request for service may be rejected, or the benefits of the service may be otherwise denied to, or withdrawn from, any person, without a hearing by the official in charge of the appro-

priate office of grading, with the concurrence of the Director or Chief (1) for administrative reasons such as the nonavailability of personnel to perform the service; (2) for the failure to pay for service; (3) in case the application or request relates to products which are not eligible for service under § 2853.5 or which are unclean or are in an unclean establishment; (4) for other noncompliance with the conditions on which service is available as provided in the regulations, except matters covered by paragraph (a) of this section; or (5) in case the person is a partnership, corporation, or other person from whom the benefits of the service or currently being withheld under paragraph (a) of this section. Notice of such denial or withdrawal, and the reasons therefor, shall promptly be given to the person involved.

(c) *Filing of records.* The final orders in formal proceedings under paragraph (a) of this section to deny or withdraw the service under the regulations (except orders required for good cause to be held confidential and not cited as precedents) and other records in such proceedings (except those required for good cause to be held confidential) shall be filed with the Hearing Clerk and shall be available for inspection by persons having a proper interest therein.

§ 2853.12 Financial interest of official grader.

No official grader shall grade or determine compliance of any products in which he or any of his relatives by blood or marriage is directly or indirectly financially interested.

§ 2853.13 Accessibility and refrigeration of products; access to establishments.

(a) The applicant shall cause products, with respect to which service is requested, to be made easily accessible for examination and to be so placed, with adequate illuminating facilities, as to disclose their class, grade, other quality, and compliance. Supervisors of grading and other employees of the Department responsible for maintaining uniformity and accuracy of service under the regulations shall have access to all parts of establishments covered by approved applications for service under the regulations, for the purpose of examining all products in the establishments which have been or are to be graded or examined for compliance with specifications or which bear any marks of grade or compliance.

(b) Grading service will be furnished for meat in carcass form or wholesale cuts only if properly chilled. Determination of class, grade, or other quality of carcass meat or wholesale cuts of meat under the standards in Subpart B of this part will not be made if such carcass meat or wholesale cuts are in a frozen state.

§ 2853.14 Official certificates.

(a) *Required; exception.* The official grader shall prepare, sign, and issue either (1) an official Agricultural Prod-

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ucts Grading Certificate for products graded by him, or (2) an official Agricultural Products Acceptance Certificate covering products for which he has determined compliance except in the Beef Carcass Data Service as provided for in

§ 2853.4. In the latter case, complete records of the services shall be furnished to the office of grading.

(b) *Form.* (1) The following forms constitute forms of official certificates for products under the regulations.

[illegible][illegible]

Where weight is certified, the word "Not" shall be deleted from the phrases "Weights Not Verified."

(2) Where determination of ingredient content or method of preparation of products in acceptance service is based on a certification of the facts by the inspection system having jurisdiction of the products, this fact shall be stated on the certificates.

(c) *Distribution.* The original certificate, and not to exceed two copies, shall be delivered or mailed to the applicant or other person designated by him. The remaining copies shall be forwarded as required by agency, division, and branch instructions. Additional copies will be furnished to any person financially interested in the products involved with the

concurrence of the applicant and upon payment of fees, as provided in § 2853.27.

§ 2853.15 Advance information concerning service rendered.

Upon request of any applicant, all or any part of the contents of any certificate issued to him under the regulations, or other notification concerning the determination of class, grade, other quality, or compliance of products for such applicant may be transmitted by telegraph or telephone to him, or to any person designated by him, at his expense.

§ 2853.16 Marking of products.

All products for which class and grade under the standards in Subpart B of this part, or compliance, is determined under

the regulations, or the immediate and shipping containers thereof, shall be stamped, branded, or otherwise marked with an appropriate official identification: *Provided*, That except as otherwise directed by the Chief, such marking will not be required when an applicant only desires official certificates. The marking of products, or their containers, as required by this section shall be done by official graders or under their immediate supervision.

§ 2853.17 Official identifications.

(A) A shield enclosing the letters "USDA" and code identification letters of the grader performing the service, as shown below, constitutes a form of official identification under the regulations for preliminary grade of carcasses and wholesale cuts.



Figure 1

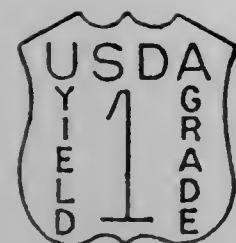
(b) A shield enclosing the letters "USDA" as shown below with the appropriate quality grade designation "Prime," "Choice," "Good," "Standard," "Commercial," "Utility," "Cutter," "Canner," or "Cull," as provided in the standards in Subpart B of this part and accompanied when necessary by the class designation "Bullock," "Veal," "Calf," "Lamb," "Yearling Mutton" or "Mutton," constitutes a form of official identification under the regulations to show the quality grade, and where necessary the class, under said standards, of steer, heifer, and cow beef, bullock beef, veal, calf, lamb, yearling mutton and mutton. The code identification letters of the grader performing the service will appear intermittently outside the shield.



U F

Figure 2.

(c) A shield enclosing the letters "USDA" and the words "Yield Grade," as shown below, with the appropriate yield grade designation ("1," "2," "3," "4," or "5") as provided in the standards in Subpart B of this part constitutes a form of official identification under the regulations to show the yield grade under said standards. When yield graded, bull and bullock carcasses and eligible cuts from bull and bullock carcasses will be identified with the class designation "Bull" and "Bullock," respectively. The code identification letters of the grader performing the service will appear outside the shield.



U F

Figure 1.

(d) The letters "USDA" with the appropriate grade designation "1," "2," "3," "4," "Utility," or "Cull" enclosed in a shield as shown below, as provided in standards in Subpart B of this part, constitutes a form of official identification under the regulations to show the grade under said standards of barrow, gilt, and sow pork carcasses.



Figure 2.

(e) The following constitute forms of official identification under the regulations to show compliance of products:

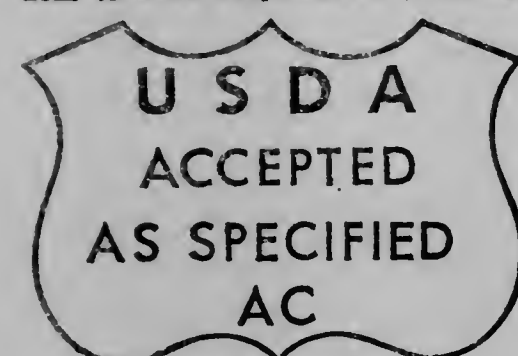
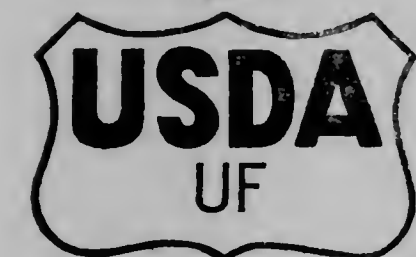


Figure 1



Figure 2



All identification devices used in marking products or the containers thereof under the regulations, including those indicating compliance with specifications approved by the Chief, shall be kept in the custody of the Branch, and accurate records shall be kept by the Branch of all such devices. Each office of grading shall keep a record of the devices assigned to it. Such devices shall be distributed only to persons authorized by the Department, who shall keep the devices in their possession or control at



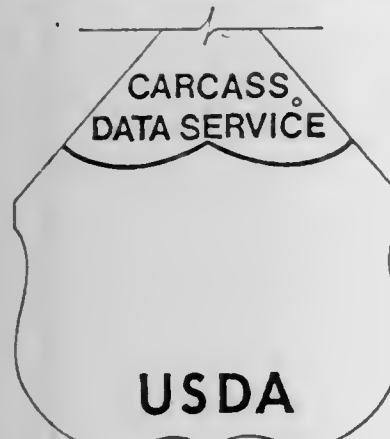
Figure 4



Figure 5

The letters "AC," "XE," and "UF" shown in figures 1, 2, 3, and 4 are examples, respectively, of the code identification letters of the official grader performing the service.

(f) A shield-shaped eartag enclosing the letters "USDA," the words "Carcass Data Service," as shown below, and a serial number constitutes a form of official identification under the regulations for livestock and carcasses. Other information may appear on the backside of the eartag at the option of the purchasers.



§ 2853.18 Custody of identification devices.

all times and maintain complete records of such devices.

* Upon request, applicants shall provide a metal cabinet(s) or locker(s) for the secure storage of official meat grading equipment and identification devices for each Federal meat grader assigned to their establishment. Such cabinet(s) or locker(s) shall be capable of being locked with a special Government-owned lock and shall be placed in an easily accessible and reasonably secure location within the applicant's establishment.

APPEAL SERVICE

§ 2853.19 What is appeal service: marking products on appeal; requirements for appeal; certain determinations not appealable.

(a) Appeal service is a redetermination of the class, grade, other quality, or compliance of product when the applicant for the appeal service formally challenges the correctness of the original determination. Only a person who has title to, or is a party to a contract for the sale of, a product may request appeal service with respect to such product and if the original determination of class, grade, other quality or compliance is found on appeal to have been in error all incorrect marks of class, grade, other quality and compliance will be removed from the product, and if the person having title to the product so requests, correct marks as determined on the appeal will be applied to the product. Examination requested to determine the class, grade, other quality, or compliance of a product which has been altered or has undergone a material change since the original service, or examination of product requested for the purpose of obtaining an up-to-date certificate and not involving any question as to the correctness of the original service for the product involved, shall be considered equivalent to original service and not appeal service.

(b) Grade determinations for the following cannot be appealed: any lot of a product consisting of less than ten similar units; wholesale cuts, or other subdivisions of meat originally graded as larger units; and veal and calf carcasses originally graded with hides on. Moreover, appeal service will not be furnished with respect to product that has been altered or has undergone any material change since the original service.

§ 2853.20 Request for appeal service.

Except as otherwise provided in § 2853.19, a request for appeal service with respect to any product under the regulations may be made by any person who is financially interested in the product when he disagrees with the determination as to class, grade, other quality, or compliance of the product as shown by the markings on the product or its containers, or as stated in the applicable certificate. A request for appeal service shall be filed with the Chief, directly or through the official grader who performed the original service or the official in charge of the office of grading to which such grader was assigned at the

time of the service, or through the nearest office of grading. The request shall state the reasons therefor and may be accompanied by a copy of any previous certificate or report, or any other information which the applicant may have received regarding the product at the time of the original service. Such request may be made orally (including by telephone) or in writing (including by telegram). If made orally, the person receiving the request may require that it be confirmed in writing. Requests for appeal service received through an official grader or an office of grading shall be transmitted promptly to the Chief for instructions.

§ 2853.21 When request for appeal service may be withdrawn.

A request for appeal service may be withdrawn by the applicant at any time before the appeal service has been performed, upon payment of any expenses already incurred under the regulations by the Branch in connection therewith.

§ 2853.22 Denial or withdrawal of appeal service.

A request for appeal service may be rejected or such service may be otherwise denied to or withdrawn from any person, without a hearing, in accordance with the procedure set forth in § 2853.11(b), if it shall appear that the person or product involved is not eligible for appeal service under § 2853.19, or that the identity of the product has been lost; or for any of the causes set forth in § 2853.11(b). Appeal service may also be denied to, or withdrawn from, any person in any case under § 2853.11(a), in accordance with the procedure set forth in said section.

§ 2853.23 Who shall perform appeal service.

Appeal service for products shall be performed by official graders designated by the Chief or by the official in charge of an office of grading when so authorized by the Chief, and shall be conducted jointly by two official graders, or more when practicable. No official grader shall perform appeal service for any product for which he previously performed the service.

§ 2853.24 Appeal certificates.

Immediately after appeal service has been performed for any products, a certificate designated as an "appeal certificate" shall be prepared, signed, and issued referring specifically to the original certificate and stating the class, grade, other quality, or compliance of the products as shown by the appeal service.

§ 2853.25 Superseded certificates.

The appeal certificate shall supersede the original certificate which, thereupon, shall become null and void and shall not thereafter be deemed to show the class, grade, other quality, or compliance of the products described therein. However, the fees charged for the original service shall not be remitted. If the original and all copies of the superseded certificate are not delivered to the official

with whom the request for appeal service is filed, the official graders issuing the appeal certificate shall forward notice of such issuance and of the cancellation of the original certificate to such persons as they may deem necessary to prevent fraudulent use of the superseded certificate.

§ 2853.26 Application of other regulations to appeal service.

The regulations in § 2853.1 through § 2853.18 and § 2853.27 through § 2853.30 shall apply to appeal service except insofar as they are manifestly inapplicable.

CHARGES FOR SERVICE

§ 2853.27 Fees and other charges for service.

Fees and other charges equal as nearly as may be to the cost of the services rendered shall be assessed and collected from applicants in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the services are furnished, or as provided in § 2853.6.

(a) Fees based on hourly rates. Except as otherwise provided in this section, fees for service shall be based on the time required to render the service, calculated to the nearest 15-minute period, including the time required for the preparation of certificates and travel of the official grader in connection with the performance of the service. A minimum charge for one-half hour shall be made for service pursuant to each request notwithstanding that the time required to perform the service may be less than 30 minutes. The base hourly rate shall be \$19.00 per hour for work performed between the hours of 6 a.m. and 6 p.m. Monday through Friday, except on legal holidays; \$23.00 per hour for work performed before 6 a.m. or after 6 p.m. Monday through Friday, and anytime Saturday or Sunday except on legal holidays; and \$38.00 per hour for all work performed on legal holidays.

(b) Fees for service on commitment basis. Minimum fees for service performed under a commitment agreement shall be on the basis of 8 hours per day, Monday through Friday, calculated at the hourly rates in accordance with paragraph (a) of this section. Hours worked on Saturdays, Sundays, legal holidays, and in excess of 8 hours per day will be charged at the appropriate hourly rate in accordance with paragraph (a) of this section. The Food Safety and Quality Service reserves the right under such a commitment to use any grader assigned to the plant on a commitment basis to perform service for other applicants as provided in § 2853.6(c), crediting the commitment applicant with the number of hours charged to the other applicants, provided the allowable credit hours, plus hours actually worked for the applicants, do not exceed 8 hours on any day, Monday through Friday.

(c) Travel Charges. When service is requested at a place so distant from an official grader's headquarters, or place of prior assignment on a circuitous route

ing that a total of one-half hour or more is required for the grader to travel to such place and back to the headquarters, or to the next place of assignment on a circuitous route, the charge for such service shall include a mileage charge administratively determined by the Chief, and travel tolls, if applicable, for such travel prorated against all the applicants furnished the service involved on an equitable basis, or where the travel is made by public transportation (including hired vehicles), a fee equal to the actual cost thereof. However, the applicant will not be charged a new mileage rate without notification before the service is rendered.

(d) Per diem charges. When service is requested at a place away from the official grader's headquarters, the fee for such service shall include a per diem charge if the employee performing the service is paid per diem in accordance with existing travel regulations. Per diem charges to applicants will cover the same period of time for which the grader receives per diem reimbursement. The per diem rate will be administratively determined by the Chief. However, the applicant will not be charged a new per diem rate without notification before the service is rendered.

(e) Fees for appeal service. Fees for appeal service shall be determined on the basis of the time, of two official graders, required to render the service, calculated to the nearest fifteen minute period, including the time required for the preparation of certificates and travel of such graders in connection with the performance of the service, at the applicable hourly rate prescribed in paragraph (a) of this section, plus any travel charges and per diem for such graders ordinarily chargeable under paragraphs (c) and (d) of this section: Provided, That when on appeal it is found that there was error in the original determination equal to or exceeding ten percent of the total number of similar units of the products involved, no charge will be made for the appeal service unless a special agreement therefor was made with the applicant in advance.

(f) Fees for extra copies of certificates. In addition to copies of certificates furnished under § 2853.14, any financially interested person may obtain not to exceed three copies of any such certificate within one year from its date of issuance upon payment of a fee of \$1.00, and not to exceed three copies of any such certificate at any time thereafter, while a copy of such certificate is on file in the Department, upon payment of a fee of \$5.00.

(g) Other charges. When costs, other than costs specified in paragraphs (a), (b), (c), (d), (e), and (f) of this section, are involved in providing the services, the applicant will be charged for these costs. The amount of these charges will be determined administratively by the Chief. However, the applicant will not be charged for such cost without notification before the service is rendered of the charge for such item of expense.

§ 2853.28 Payment of fees and other charges.

Fees and other charges for service shall be paid in accordance with the following provisions unless otherwise provided in the cooperative agreement under which the service is furnished. Upon receipt of billing for fees and other charges for service the applicant shall remit by check, draft, or money order, made payable to the Food Safety and Quality Service, U.S.D.A., payment for the service in accordance with directions on the billing, and such fees and charges shall be paid in advance if required by the official grader or other authorized official.

MISCELLANEOUS

§ 2853.29 Identification.

All official graders and supervisors of grading shall have their Food Safety and Quality Service identification cards in their possession at all times while they are performing any function under the regulations and shall identify themselves by such cards upon request.

§ 2853.30 Errors in service.

When an official grader, supervisor of grading, or other responsible employee of the Branch has evidence of misgrading, or of incorrect certification or other incorrect determination or identification as to the class, grade, other quality, or compliance of a product, he shall report the matter to his immediate supervisor. The supervisor of grading will investigate the matter and, if he deems advisable, will report it to the owner or his agent. The supervisor of grading shall take appropriate action to correct errors found in the determination or identification of class, grade or other quality or compliance of products if the products are still owned by the person who owned them when, and are still located at the establishment where, the incorrect service was rendered and if such service was rendered by a grader under the jurisdiction of such supervisor, and the supervisor of grading shall take adequate measures to prevent the recurrence of such errors.

Subpart B—Standards

CARCASS BEEF

§ 2853.102 Scope.

These standards for grades of beef are written primarily in terms of carcasses. However, they also are applicable to the grading of sides, quarters, and certain other parts of carcasses. To simplify phrasing of the standards, the words "carcass" and "carcasses" are used also to mean all parts of carcasses which are eligible for grading.

§ 2853.103 Classes of beef carcasses.

(a) Class determination of beef carcasses is based on evidences of maturity and apparent sex condition at the time of slaughter. The classes of beef carcasses are steers, bullocks, bulls, heifers, and cows. Carcasses from males—steers, bullocks, and bulls—are distinguished from carcasses from females—heifers and cows—as follows:

(1) Steer, bullock, and bull carcasses have a "pizzle muscle" (attachment of the penis) and related "pizzle eye" adjacent to the posterior end of the aitchbone.

(2) Steer, bullock, and bull carcasses have, if present, rather rough, irregular fat in the region of the cod. In heifer and cow carcasses, the fat in this region—if present—is much smoother.

(3) In steer, bullock, and bull carcasses, the area of lean exposed immediately ventral to the aitchbone is much smaller than in heifer and cow carcasses.

(b) Steer, bullock, and bull carcasses are distinguished by the following:

(1) In steer carcasses, the "pizzle muscle" is relatively small, light red in color, and fine in texture and the related "pizzle eye" is relatively small.

(2) In bullock and bull carcasses, the "pizzle muscle" is relatively large, dark red in color, and coarse in texture and the related "pizzle eye" is relatively large.

(3) Bullock and bull carcasses usually have a noticeable crest.

(4) Bullock and bull carcasses also usually have a noticeably developed small round muscle adjacent to the hipbone commonly referred to as the "jump muscle." However, in carcasses with a considerable amount of external fat, the development of this muscle may be obscured.

(5) Although the development of the secondary sex characteristics is given primary consideration in distinguishing steer carcasses from bullock or bull carcasses, this differentiation is also facilitated by consideration of the color and texture of the lean. In bullock and bull carcasses, the lean is frequently at least dark red in color with a dull, "muddy" appearance—and in some cases it may have an iridescent sheen. Also, it frequently has an "open" texture. In distinguishing between these classes when grading wholesale cuts in which the secondary sex characteristics are absent or normally not well developed—especially ribs and loins—consideration of the color and texture of the lean necessarily must receive the major emphasis.

(6) The distinction between bullock and bull carcasses is based solely on their evidences of skeletal maturity. Carcasses with the maximum maturity permitted in the bullock class have slightly red and slightly soft chine bones, and the cartilages on the ends of the thoracic vertebrae have some evidences of ossification; the sacral vertebrae are completely fused; the cartilages on the ends of the lumbar vertebrae are nearly completely ossified; and the rib bones are slightly wide and slightly flat. Bull carcasses have evidences of more advanced maturity.

(c) Heifer and cow carcasses are distinguished by the following:

(1) Heifer carcasses have a relatively small pelvic cavity and a slightly curved aitchbone. In cow carcasses, the pelvic cavity is relatively large and the aitchbone is nearly straight.

(2) In heifer carcasses, the udder usually will be present. In cow carcasses the

udder usually will have been removed. However, neither of these are requirements.

§ 2853.104 Application of Standards for Grades of Carcass Beef.

(a) The grade of a steer, heifer, cow, or bullock carcass consists of separate evaluations of two general considerations: (1) The indicated percent of trimmed, boneless, major retail cuts to be derived from the carcass, herein referred to as the "yield grade," and (2) the palatability-indicating characteristics of the lean herein referred to as the "quality grade." When officially graded, the grade of a steer, heifer, cow, or bullock carcass consists of both the quality grade and the yield grade. Each of the quality and yield grade designations must remain on grade-identified carcasses, sides, quarters, and untrimmed wholesale cuts unless both such designations are removed. However, for subprimal and retail cuts, and for wholesale cuts which have been substantially trimmed of external fat, the yield grade designation may be removed. For labeling and other related purposes, the grade of such items may consist of the quality designation only. The grade of a bull carcass consists of the yield grade only.

(b) The carcass beef grade standards are written so that the quality grade and yield grade standards are contained in separate sections. The quality grade section is divided further into two separate sections applicable to carcasses from (1) steers, heifers, and cows, and (2) bullocks. Eight quality grade designations—Prime, Choice, Good, Standard, Commercial, Utility, Cutter, and Canner—are applicable to steer and heifer carcasses. Except for Prime, the same designations apply to cow carcasses. The quality grade designations for bullock carcasses are Prime, Choice, Good, Standard, and Utility. There are five yield grades applicable to all classes of beef, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(c) When officially graded, bullock and bull beef will be further identified for its sex condition; steer, heifer, and cow beef will not be so identified. The designated grades of bullock beef are not necessarily comparable in quality or cutability with a similarly designated grade of beef from steers, heifers, or cows. Neither is the cutability of a designated yield grade of bull beef necessarily comparable with a similarly designated yield grade of steer, heifer, cow, or bullock beef.

(d) The Department uses photographs and other objective aids in the correct interpretation and application of the standards.

(e) To determine the grade of a carcass, it must be split down the back into two sides and one or both sides must be partially separated into a hindquarter and forequarter by cutting it with a saw and knife insofar as practicable, as follows: A saw cut perpendicular to both the long axis and split surface of the vertebral column is made across the 12th

thoracic vertebra at a point which leaves not more than one-half of this vertebra on the hindquarters. The knife cut across the ribeye muscle starts—or terminates—opposite the above-described saw cut. From that point it extends across the ribeye muscle perpendicular to the outside skin surface of the carcass at an angle toward the hindquarter which is slightly greater (more nearly horizontal) than the angle made by the 13th rib with the vertebral column of the hindquarter posterior to that point. As a result of this cut, the outer end of the cut surface of the ribeye muscle is closer to the 12th rib than is the end next to the chine bone. Beyond the ribeye, the knife cut shall continue between the 12th and 13th ribs to a point which will adequately expose the distribution of fat and lean in this area. The knife cut may be made prior to or following the saw cut but must be smooth and even, such as would result from a single stroke of a very sharp knife.

(f) Other methods of ribbing may prevent an accurate evaluation of the grade determining characteristics. Therefore, carcasses ribbed by other methods will be eligible for grading only if an accurate grade determination can be made by the official grader under the standards.

(g) Beveling of the fat over the ribeye, application of pressure, or any other influences which alter the characteristics of the ribeye or the thickness of fat over the ribeye may prevent an accurate grade determination. Therefore, carcasses subjected to such influences may not be eligible for a grade determination. Also, carcasses with more than minor amounts of lean removed from the major sections of the round, loin, rib, or chuck will not be eligible for a grade determination.

(h) When both sides of a carcass have been ribbed prior to presentation for grading and the characteristics of the two ribeyes (area, marbling, color, texture, and firmness) would justify different quality and/or yield grades, the final grade of the carcass shall reflect the "highest" of each of these grades as determined from either side.

(i) The quality grade and yield grade descriptions are defined primarily in terms of beef carcasses. However, they also apply to the grading of hindquarters, forequarters, and certain individual primal cuts—loins, short loins, and ribs. A portion of these or other primal cuts as well as plates, flanks, shanks, and briskets likewise can be graded if attached by their natural attachments to a rib, loin, or short loin. Since bull carcasses are eligible for yield grade only, they may be graded only as carcasses, sides, or hindquarters. This is because yield grades for forequarters and forequarter cuts and for trimmed hindquarters and trimmed hindquarter cuts include consideration of standard percentages of kidney, pelvic, and heart fat based on the quality grade. Other special major cuts or carcasses ribbed other than between the 12th and 13th ribs may be approved for grading by the Food Safety and Quality Service provided such devi-

ations are necessary to meet either the demand of export trade or changing trade practices. In such cases, grading shall be based on the requirements specified in these standards and shall be consistent with the normal development of grade characteristics in various parts of a carcass of the quality level involved.

(j) Carcasses qualifying for any particular grade may vary with respect to their relative development of the various grade factors. There will be carcasses which qualify for a particular grade, some of whose characteristics may be more nearly typical of another grade. For example, in comparison with the descriptions of maturity contained in the standards, a particular carcass might have a greater relative degree of ossification of the cartilages on the ends of its lumbar vertebrae than its other evidences of maturity. In such instances, the maturity of the carcass is not determined solely by the ossification of the lumbar vertebrae but neither is this ignored. All of the maturity-indicating factors are considered. In making any composite evaluation of two or more factors, it must be remembered that they seldom are developed to the same degree. Because it is impractical to describe the nearly limitless number of recognizable combinations of characteristics, the standards for each quality grade and yield grade describe only beef which has a relatively similar degree of development of the various factors affecting its quality and yield. Also, the quality grade and yield grade standards each describe beef which is representative of the lower limits of each quality grade and yield grade.

(k) For steer, heifer, and cow beef, quality of the lean is evaluated by considering its marbling and firmness as observed in a cut surface in relation to carcass evidences of maturity. The maturity of the carcass is determined by evaluating the size, shape, and ossification of the bones and cartilages—especially the split chine bones—and the color and texture of the lean flesh. In the split chine bones, ossification changes occur at an earlier stage of maturity in the posterior portion of the vertebral column (sacral vertebrae) and at progressively later stages of maturity in the lumbar and thoracic vertebrae. The ossification changes that occur in the cartilages on the ends of the split thoracic vertebrae are especially useful in evaluating maturity and these vertebrae are referred to frequently in the standards. Unless otherwise specified in the standards, whenever reference is made to the ossification of cartilages on the thoracic vertebrae, this shall be construed to refer to the cartilages attached to the thoracic vertebrae at the posterior end of the forequarter. The size and shape of the rib bones also are important considerations in evaluating differences in maturity. In the very youngest carcasses considered as "beef," the cartilages on the ends of the chine bones show no ossification, cartilage is evident on all of the vertebrae of the spinal column, and the sacral vertebrae show distinct

separation. In addition, the split vertebrae usually are soft and porous and very red in color. In such carcasses, the rib bones have only a slight tendency toward flatness. In progressively more mature carcasses, ossification changes become evident first in the bones and cartilages of the sacral vertebrae, then in the lumbar vertebrae, and still later in the thoracic vertebrae. In beef which is very advanced in maturity, all the split vertebrae will be devoid of red color, very hard and flinty, and the cartilages on the ends of all the vertebrae will be entirely ossified. Likewise, with advancing maturity, the rib bones will become progressively wider and flatter until in very mature beef the ribs will be very wide and flat.

(l) In steer, heifer, and cow beef, the color and texture of the lean flesh also undergo progressive changes with advancing maturity. In the very youngest carcasses considered as "beef," the lean flesh will be very fine in texture and light grayish red in color. In progressively more mature carcasses, the texture of the lean will become progressively coarser and the color of the lean will become progressively darker red. In very mature beef, the lean flesh will be very coarse in texture and very dark red in color. Since color of lean also is affected by variations in quality, references to color of lean in the standards for a given degree of maturity vary slightly with different levels of quality. In determining the maturity of a carcass in which the skeletal evidences of maturity are different from those indicated by the color and texture of the lean, slightly more emphasis is placed on the characteristics of the bones and cartilages than on the characteristics of the lean. In no case can the overall maturity of the carcass be considered more than one full maturity group different from that indicated by its bones and cartilages.

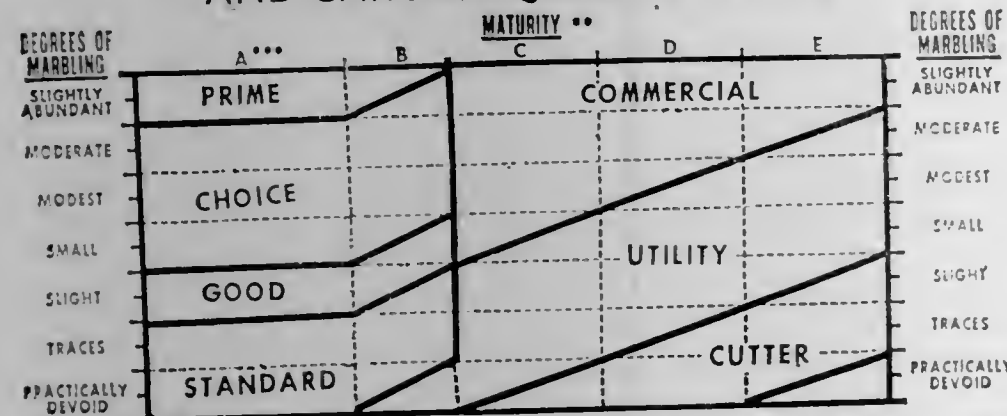
(m) The preceding two paragraphs also are applicable to the determination of quality in bullock beef except for carcasses having darker colors of lean than specified in the standards for the quality level for which they would otherwise qualify. In such carcasses, maturity will be evaluated on the basis of skeletal characteristics only, and the final grade will be determined in accordance with the procedures specified in the standards for grading "dark-cutting beef."

(n) In determining compliance with the maximum maturity limits for the Prime, Choice, Good, and Standard grades for steer, heifer, and cow carcasses, color and texture of the lean are considered only when the maturity-indicating factors other than color and texture of the lean indicate only a slightly more advanced degree of maturity than that specified as maximum for these grades, and provided further that the lean is considerably finer in texture and lighter in color than normal for the grade and maturity involved. The same principle, in reverse, is likewise applicable to determining compliance with the minimum maturity limits of the Commercial grade.

(c) These standards are applicable to the grading of beef throughout the full range of maturity within which cattle are marketed. However, in steer, heifer, and cow carcasses, the range of maturity permitted within each of the grades varies considerably. The Prime, Choice, Good, and Standard grades are restricted to beef from young cattle; the Commercial grade is restricted to beef from cattle too mature for Prime, Choice, Good, and Standard, and the Utility, Cutter, and Canner grades may include beef from animals of all ages. By definition, bullock carcasses are restricted to those whose evidences of maturity do not exceed those specified for the juncture of the two youngest maturity groups referenced in the standards for steer, heifer, and cow carcasses. Except for the youngest maturity group, within any specified grade, the requirements for marbling increase progressively with evidences of advancing maturity. In the youngest maturity group, the marbling requirements do not increase progressively with evidences of advancing maturity. For each grade, the firmness requirements are different for each maturity group, but, within each maturity group, the firmness require-

ments do not increase progressively with evidences of advancing maturity. Also, regardless of the extent to which marbling may exceed the minimum of a grade, a carcass must meet the minimum firmness requirements for its maturity to qualify for that grade. To facilitate the application of these principles, the standards recognize five different maturity groups and seven different degrees of marbling. The five maturity groups are identified in Figure 1 as A, B, C, D, and E in order of increasing maturity. The limits of these five maturity groups are specified in the grade descriptions for steer, heifer, and cow carcasses. The A maturity portion of the figure is the only portion applicable to bullock carcasses. The degrees of marbling referenced in the specifications, in order of descending quantity are: Slightly abundant, moderate, modest, small, slight, traces, and practically devoid. However, for carcass evaluation programs and other purposes, three higher degrees are recognized—moderately abundant, abundant, and very abundant. Illustrations of the lower limits of nine of these ten degrees of marbling are available from the Department of Agriculture.

RELATIONSHIP BETWEEN MARBLING, MATURITY, AND CARCASS QUALITY GRADE*



* Assumes that firmness of lean is comparably developed with the degree of marbling and that the carcass is not a "dark cutter."
 ** Maturity increases from left to right (A through E).
 *** The A maturity portion of the figure is the only portion applicable to bullock carcasses.

Figure 1

(p) The relationship between marbling, maturity, and quality grade is shown in Figure 1. This figure assumes that the firmness of lean is comparably developed with the degree of marbling and that the carcass is not a "dark cutter." From this figure it can be seen, for instance, that the minimum marbling requirement for Choice varies from a minimum small amount for carcasses throughout the youngest maturity group to a maximum small amount for carcasses having the maximum maturity permitted in Choice. Likewise, in the Commercial grade the minimum marbling requirement varies from a minimum small amount in beef with the minimum maturity permitted to a maximum moderate amount in beef from very mature animals. The marbling and other lean flesh characteristics specified for the various grades are based on their appearance in the ribeye muscle of properly

chilled carcasses that are ribbed between the 12th and 13th ribs. For carcass evaluation programs and other purposes, in the Prime and Commercial grades, each additional degree of marbling (up to three) greater than specified as minimum for each of these grades is equal to one-third of a grade of higher quality.

(q) References to color of lean in the standards for steer, heifer, and cow beef involve only colors associated with changes in maturity. They are not intended to apply to colors of lean associated with so-called "dark-cutting beef." Dark-cutting beef is believed to be the result of a reduced sugar content of the lean at the time of slaughter. As a result, this condition does not have the same significance in grading as do the darker shades of red associated with advancing maturity. The dark color of the lean associated with "dark-cutting beef" is present in varying degrees from that

which is barely evident to so-called "black cutters" in which the lean is actually nearly black in color and usually has a "gummy" texture. Although there is little or no evidence which indicates that the "dark cutting" condition has any adverse effect on palatability, it is considered in grading because of its effect on acceptability and value. Depending on the degree to which this characteristic is developed, the final grade of carcasses which otherwise would qualify for the Prime, Choice, or Good grades may be reduced as much as one full grade. In beef otherwise eligible for the Standard or Commercial grade, the final grade may be reduced as much as one-half of a grade. In the Utility, Cutter, and Canner grades, this condition is not considered.

(r) The yield grade of a beef carcass is determined by considering four characteristics: (1) The amount of external fat, (2) the amount of kidney, pelvic, and heart fat, (3) the area of the ribeye muscle, and (4) the carcass weight.

(s) The amount of external fat on a carcass is evaluated in terms of the thickness of this fat over the ribeye muscle, measured perpendicular to the outside surface at a point three-fourths of the length of the ribeye from its chine bone end. This measurement may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the carcass. In determining the amount of this adjustment, if any, particular attention is given to the amount of fat in such areas as the brisket, plate, flank, cod or udder, inside round, rump, and hips in relation to the actual thickness of fat over the ribeye. Thus, in a carcass which is fatter over other areas than is indicated by the fat measurement over the ribeye, the measurement is adjusted upward. Conversely, in a carcass which has less fat over the other areas than is indicated by the fat measurement over the ribeye, the measurement is adjusted downward. In many carcasses no such adjustment is necessary; however, an adjustment in the thickness of fat measurement of one-tenth or two-tenths of an inch is not uncommon. In some carcasses a greater adjustment may be necessary. As the amount of external fat increases, the percent of retail cuts decreases—each one-tenth inch change in adjusted fat thickness over the ribeye changes the yield grade by 25 percent of a yield grade.

(t) The amount of kidney, pelvic, and heart fat considered in determining the yield grade includes the kidney knob (kidney and surrounding fat), the lumbar and pelvic fat in the loin and round, and the heart fat in the chuck and brisket area which are removed in making closely trimmed retail cuts. The amount of these fats is evaluated subjectively and expressed as a percent of the carcass weight. As the amount of kidney, pelvic, and heart fat increases, the percent of retail cuts decreases—a change of 1 percent of the carcass weight in these fats changes the yield grade by 20 percent of a yield grade.

(u) The area of the ribeye is determined where this muscle is exposed by ribbing. This area usually is estimated

subjectively; however, it may be measured. Area of ribeye measurements may be made by means of a grid calibrated in tenths of a square inch or by other devices designated by the Food Safety and Quality Service of the U.S. Department of Agriculture. An increase in the area of ribeye increases the percent of retail cuts—a change of 1 square inch in area of ribeye changes the yield grade by approximately 30 percent of a yield grade.

(v) Hot carcass weight (or chilled carcass weight x 102 percent) is used in determining the yield grade. As carcass weight increases, the percent of retail cuts decreases—a change of 100 pounds in hot carcass weight changes the yield grade by approximately 40 percent of a yield grade.

(w) The standards include a mathematical equation for determining yield grade. This grade is expressed as a whole number; any fractional part of a designation is always dropped. For example, if the computation results in a designation of 3.9, the final grade is 3—it is not rounded to 4.

(x) The yield grade standards for each of the first four yield grades list characteristics of two carcasses of two different weights together with descriptions of the usual fat deposition pattern on various areas of the carcass. These descriptions are not specific requirements—they are included only as illustrations of carcasses which are near the borderlines between groups. For example, the characteristics listed for Yield Grade 1 represent carcasses which are near the borderline of Yield Grades 1 and 2.

These descriptions facilitate the subjective determination of the yield grade without making detailed measurements and computations. The yield grade for most beef carcasses can be determined accurately on the basis of a visual appraisal.

§ 2853.105 Specifications for official United States standards for grades of carcass beef (yield).

(a) The yield grade of a beef carcass is determined on the basis of the following equation: Yield grade = $2.50 + (2.50 \times \text{adjusted fat thickness, inches}) + (0.20 \times \text{percent kidney, pelvic, and heart fat}) + (0.0038 \times \text{hot carcass weight, pounds}) - (0.32 \times \text{area ribeye, square inches})$.

(b) (1). The yield grade of a hindquarter, forequarter, or cut eligible for grading also is determined on the basis of the above equation in which the hot carcass weight is determined by multiplying the chilled weight of the cut by an appropriate factor as applicable to the cut and its style of preparation.

(2) The factors shown below shall be applicable to hindquarters and forequarters produced by ribbing as described herein, and to ribs, trimmed full

¹ Information concerning such devices may be obtained from the Food Safety and Quality Service, Meat Quality Division.

loins, and trimmed short loins which are trimmed as described in Items 103, 172, and 173, respectively, of the Institutional Meat Purchase (IMP) Specifications for Fresh Beef—Series 100, as revised October 1961.

	Factor
Forequarter	3.90
Hindquarter	4.25
Rib	22.50
Loin, full, trimmed	12.75
Short Loin, trimmed	29.10

(3) A slightly larger factor, appropriate to reflect the weight of the cut as a percent of hot carcass weight, shall be used for ribs, full loins, or short loins which are more closely trimmed than described in the referenced IMP Specifications. Similarly, a smaller factor shall be used for determining the yield grade of these cuts when trimmed less closely than specified or when they include portions or all of adjacent cuts.

(4) In addition, for forequarters and forequarter cuts and for trimmed hindquarters and trimmed hindquarter cuts, the following standard percentages of kidney, pelvic, and heart fat, as applicable to the quality grade of the quarter or cut, also shall be used in the equation:

Grade:	Kidney, pelvic, and heart fat percent
Prime	4.5
Choice	8.5
Good	8.0
Standard	2.0
Commercial	4.0
Utility	2.0
Cutter and Canner	1.5

(5) For untrimmed hindquarters and for untrimmed hindquarter cuts, the quantity of kidney and pelvic fat is estimated as a percent of the hot side weight.

(c) The following descriptions provide a guide to the characteristics of carcasses in each yield grade to aid in determining yield grades subjectively.

(1) **Yield Grade 1.** (i) A carcass in yield grade 1 usually has only a thin layer of external fat over the ribs, loins, rumps, and clods and slight deposits of fat in the flanks and cod or udder. There is usually a very thin layer of fat over the outside of the rounds and over the tops of the shoulders and necks. Muscles are usually visible through the fat in many areas of the carcass.

(ii) A 500-pound carcass of this yield grade which is near the borderline of yield grades 1 and 2 might have three-tenths inch of fat over the ribeye, 11.5 square inches of ribeye, and 2.5 percent of its weight in kidney, pelvic, and heart fat.

(iii) An 800-pound carcass of this yield grade which is near the borderline of yield grades 1 and 2 might have four-tenths inch of fat over the ribeye, 16.0 square inches of ribeye, and 2.5 percent of its weight in kidney, pelvic, and heart fat.

(2) **Yield Grade 2.** (i) A carcass in yield grade 2 usually is nearly completely covered with fat but the lean is plainly visible through the fat over

the outside of the rounds, the tops of shoulders, and the necks. There usually is a slightly thin layer of fat over the loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is slightly thick. There are usually small deposits of fat in the flanks and cod or udder.

(ii) A 500-pound carcass of this yield grade which is near the borderline of yield grades 2 and 3 might have five-tenths inch of fat over the ribeye, 10.5 square inches of ribeye, and 3.5 percent of its weight in kidney, pelvic, and heart fat.

(iii) An 800-pound carcass of this yield grade which is near the borderline of yield grades 2 and 3 might have six-tenths inch of fat over the ribeye, 15.0 square inches of ribeye, and 3.5 percent of its weight in kidney, pelvic, and heart fat.

(3) **Yield Grade 3.** (i) A carcass in yield grade 3 usually is completely covered with fat and the lean usually is visible through the fat only on the necks and the lower part of the outside of the rounds. There usually is a slightly thick layer of fat over the loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is moderately thick. There usually are slightly large deposits of fat in the flanks and cod or udder.

(ii) A 500-pound carcass of this yield grade which is near the borderline of yield grades 3 and 4 might have seven-tenths inch of fat over the ribeye, 9.5 square inches of ribeye, and 4.0 percent of its weight in kidney, pelvic, and heart fat.

(iii) An 800-pound carcass of this yield grade which is near the borderline of yield grades 3 and 4 might have eight-tenths inch of fat over the ribeye, 14.0 square inches of ribeye, and 4.5 percent of its weight in kidney, pelvic, and heart fat.

(4) **Yield Grade 4.** (i) A carcass in yield grade 4 usually is completely covered with fat. The only muscles usually visible are those on the shanks and over the outside of the plates and flanks. There usually is a moderately thick layer of fat over the loins, ribs, and inside rounds and the fat over the rumps, hips, and clods usually is thick. There usually are large deposits of fat in the flanks and cod or udder.

(ii) A 500-pound carcass of this yield grade which is near the borderline of yield grades 4 and 5 might have one inch of fat over the ribeye, 9.0 square inches of ribeye, and 4.5 percent of its carcass weight in kidney, pelvic, and heart fat.

(iii) A 800-pound carcass of this yield grade which is near the borderline of yield grades 4 and 5 might have one and one-tenth inch of fat over the ribeye, 13.5 square inches of ribeye, and 5.0 percent of its weight in kidney, pelvic, and heart fat.

(5) **Yield Grade 5.** A carcass in yield grade 5 usually has more fat on all of the various parts, a smaller area of ribeye, and more kidney, pelvic, and heart fat than a carcass in yield grade 4.

§ 2853.106 Specifications for Official United States Standards for Grades of Carcass Beef (Quality—Steer, Heifer, Cow).

(a) *Prime*. (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Prime grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups which cover the entire range of maturity permitted in the Prime grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum slightly abundant amount of marbling is required (see Figure 1) and the ribeye muscle is moderately firm.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Prime grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that are partially ossified. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean tends to be fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum slightly abundant to maximum slightly abundant (see Figure 1) and the ribeye muscle is firm.

(4) Beef produced from cows is not eligible for the Prime grade.

(b) *Choice*. (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Choice grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups which cover the entire range of maturity permitted in the Choice grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is moderately light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group,

a minimum small amount of marbling is required (see Figure 1) and the ribeye muscle may be slightly soft.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Choice grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean tends to be fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum small amount to a maximum small amount (see Figure 1) and the ribeye muscle is slightly firm.

(c) *Good*. (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Good grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups which cover the entire range of maturity permitted in the Good grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is slightly light red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum slight amount of marbling is required (see Figure 1) and the ribeye may be moderately soft.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Good grade which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that are partially ossified. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean tends to be fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount to a maximum slight amount (see Figure 1) and the ribeye muscle may be slightly soft.

(d) *Standard*. (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Standard grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for two maturity groups which cover the entire range of

maturity permitted in the Standard grade.

(2) Carcasses in the younger group range from the youngest that are eligible for the beef class to those at the juncture of the two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is slightly dark red in color and is fine in texture. In carcasses throughout the range of maturity included in this group, a minimum practically devoid amount of marbling is required (see Figure 1) and the ribeye muscle may be soft.

(3) Carcasses in the older group range from those described above as representative of the juncture of the two groups to those at the maximum maturity permitted in the Standard grade, which have chine bones tinged with red and cartilages on the ends of the thoracic vertebrae that are partially ossified. In addition, the sacral vertebrae are completely fused, the cartilages on the ends of the lumbar vertebrae are completely ossified, and the cut surface of the lean is moderately fine in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1) and the ribeye muscle may be moderately soft.

(e) *Commercial*. (1) Commercial grade beef carcasses and wholesale cuts are restricted to those with evidences of more advanced maturity than permitted in the Standard grade. Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Commercial grade vary in their other indications of quality as evidenced in the ribeye muscle. Minimum quality characteristics are described for the youngest and the most mature of these groups. The requirements for the intermediate group are determined by interpolation between the requirements indicated for the two groups described.

(2) Carcasses in the youngest group permitted in the Commercial grade range from those with indications of maturity barely more advanced than described as maximum for the Standard grade to those with moderately hard, rather white chine bones and with cartilages on the ends of the thoracic vertebrae that show considerable ossification but the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat and the ribeye muscle is moderately dark red and slightly coarse in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum small amount to a maximum small amount (see Figure 1) and the ribeye muscle is slightly firm.

(3) The youngest carcasses in the most mature group included in the Commercial grade have hard white chine bones

and the outlines of the cartilages on the ends of the thoracic vertebrae are barely visible, the rib bones are wide and flat, and the ribeye muscle is dark red and coarse in texture. The range in maturity in this group extends to include carcasses from the oldest animals marketed. The minimum degree of marbling required increases with advancing maturity throughout this group from a minimum moderate amount to a maximum moderate amount (see Figure 1) and the ribeye muscle is firm.

(f) *Utility*. (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Utility grade vary in their other indications of quality as evidenced in the ribeye muscle. Carcasses within the full range of maturity classified as beef are included in the Utility grade. Thus, five maturity groups are recognized. Minimum quality requirements are described for three of these groups—the first or youngest, the third or intermediate, and the fifth or the most mature. The requirements for the second and fourth maturity groups are determined by interpolation between the requirements described for their adjoining groups.

(2) Carcasses in the first or youngest maturity group range from the youngest that are eligible for the beef class to those at the juncture of the first two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly flat and the ribeye muscle is slightly dark red in color and fine in texture. In carcasses throughout the range of maturity included in this group, the ribeye muscle is devoid of marbling and may be very soft and watery.

(3) Carcasses in the third or intermediate maturity group range from those with indications of maturity barely more advanced than described as maximum for the Standard grade to those with moderately hard, rather white chine bones and with cartilages on the ends of the thoracic vertebrae that show considerable ossification but the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat and the ribeye muscle is dark red in color and slightly coarse in texture. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1) and the ribeye muscle may be moderately soft.

(4) The youngest carcasses in the fifth or oldest maturity group have hard, white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae are barely visible, the rib bones are wide and flat, and the ribeye muscle is very dark red in color and coarse in texture. The range in maturity in this group extends to include carcasses from the oldest animals produced. The mini-

mum degree of marbling required increases with advancing maturity throughout this group from a minimum slight amount to a maximum slight amount (see Figure 1) and the ribeye muscle is slightly firm.

(g) *Cutter*. (1) Depending on their degree of maturity, beef carcasses possessing the minimum requirements for the Cutter grade vary in their other indications of quality as evidenced in the ribeye muscle. Carcasses within the full range of maturity classified as beef are included in the Cutter grade. Thus, five maturity groups are recognized. Minimum quality requirements are described for three of these groups—the first or youngest, the third or intermediate, and the fifth or the most mature. The requirements for the second and fourth maturity groups are determined by interpolation between the requirements described for their adjoining groups.

(2) Carcasses in the first or youngest maturity group range from the youngest that are eligible for the beef class to those at the juncture of the first two maturity groups, which have slightly red and slightly soft chine bones and cartilages on the ends of the thoracic vertebrae that have some evidence of ossification. In addition, the sacral vertebrae are completely fused and the cartilages on the ends of the lumbar vertebrae are nearly completely ossified. The rib bones are slightly wide and slightly flat and the ribeye muscle is slightly dark red in color and fine in texture. In carcasses throughout the range of maturity included in this group, the ribeye muscle is devoid of marbling and may be very soft and watery.

(3) Carcasses in the third or intermediate maturity group range from those with indications of maturity barely more advanced than described as maximum for the Standard grade to those with moderately hard, rather white chine bones and with cartilages on the ends of the thoracic vertebrae that show considerable ossification but the outlines of the cartilages are still plainly visible. In addition, the rib bones are moderately wide and flat and the ribeye muscle is dark red in color and slightly coarse in texture. In carcasses throughout the range of maturity included in this group, the ribeye muscle is devoid of marbling and may be soft and watery.

(4) Carcasses in the fifth or oldest maturity group have hard white chine bones and the outlines of the cartilages on the ends of the thoracic vertebrae are barely visible, the rib bones are wide and flat, and the ribeye muscle is very dark red in color and coarse in texture. The range in maturity in this group extends to include carcasses from the oldest animals produced. The minimum degree of marbling required increases with advancing maturity throughout this group from minimum practically devoid to maximum practically devoid (see Figure 1) and the ribeye muscle is soft and slightly watery.

(h) *Canner*. The Canner grade includes only those carcasses that are inferior to the minimum requirements specified for the Cutter grade.

§ 2853.107 Specifications for Official United States Standards for Grades of Carcass Beef (Quality—Bullock).

(a) *Prime*. For the Prime grade, the minimum degree of marbling required is a minimum slightly abundant amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle is moderately firm and, in carcasses having the maximum maturity for this class, the ribeye is light red in color.

(b) *Choice*. For the Choice grade, the minimum degree of marbling required is a minimum small amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be slightly soft and, in carcasses having the maximum maturity for this class, the ribeye is moderately light red in color.

(c) *Good*. For the Good grade, the minimum degree of marbling required is a minimum slight amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be moderately soft and, in carcasses having the maximum maturity for this class, the ribeye is slightly light red in color.

(d) *Standard*. For the Standard grade, the minimum degree of marbling required is a minimum practically devoid amount for carcasses throughout the range of maturity permitted in the bullock class. The ribeye muscle may be soft and, in carcasses having the maximum maturity for this class, the ribeye is slightly dark red in color.

(e) *Utility*. The Utility grade includes only those carcasses that do not meet the minimum requirements specified for the Standard grade.

VEAL AND CALF CARCASSES

§ 2853.112 Scope.

These standards for grades of veal and calf are applicable to the grading of carcasses, sides, hindsaddles, hindquarters, foresaddles, and forequarters, and to the following primal wholesale cuts—legs, loins, racks, and shoulders. However, throughout these standards wherever the words "carcass" or "carcasses" are used these are intended to also mean such parts of carcasses and primal wholesale cuts.

§ 2853.113 Differentiation between veal, calf, and beef carcasses.

Differentiation between veal, calf, and beef carcasses is made primarily on the basis of the color of the lean, although such factors as texture of the lean; character of the fat; color, shape, size, and ossification of the bones and cartilages; and the general contour of the carcass are also given consideration. Typical veal carcasses have a grayish pink color of lean that is very smooth and velvety in texture and they also have a slightly soft, pliable character of fat and marrow, and very red rib bones. By contrast, typical calf carcasses have a grayish red color of lean, a flakier type of fat, and somewhat wider rib bones with less pronounced evidences of red color. Calf carcasses with maximum maturity for their

class have lean flesh that is usually not more than moderately red in color, their rib bones usually have a small amount of red and only a slight tendency toward flatness, and such carcasses are not noticeably "spread" or "barrelly" in contour. Such carcasses, when split, have cartilages on the ends of the chine bones that are entirely cartilaginous, there is cartilage in evidence on all vertebrae of the spinal column, and the sacral vertebrae show distinct separation. Carcasses with evidences of more advanced maturity than described in this paragraph are classified as beef. Carcasses not classified as beef but whose color of lean is not comparable with their other evidences of maturity shall be classed as veal or calf in accordance with the following:

(a) Carcasses whose indications of maturity other than color of lean are within the veal class but whose color of lean is darker than dark grayish pink shall be classed as calf.

(b) Carcasses whose evidences of maturity other than color of lean are within the range included in the calf class shall be classed as veal provided they have a correspondingly lighter color of lean within the darker one-half of the range of color included in the veal class. For example, a carcass whose evidences of maturity other than color of lean are midway within the range of the calf class shall be classed as veal if its color of lean is not darker than midway within the darker one-half of the range of color included in the veal class.

(c) Carcasses with color of lean within the lighter one-half of the veal class shall be classed as veal provided their other evidences of maturity do not exceed that associated with the juncture of the calf and beef classes.

§ 2853.114 Classes of veal and calf carcasses.

Class determination is based on the apparent sex condition of the animal at time of slaughter. Hence, there are three classes of veal and calf carcasses—steers, heifers, and bulls. While recognition may sometimes be given to these different classes on the market, especially calf carcasses from bulls that are approaching beef in maturity, the characteristics of such carcasses are not sufficiently different from those of steers and heifers to warrant the development of separate standards for them. Therefore, the grade standards which follow are equally applicable to all classes of veal and calf carcasses.

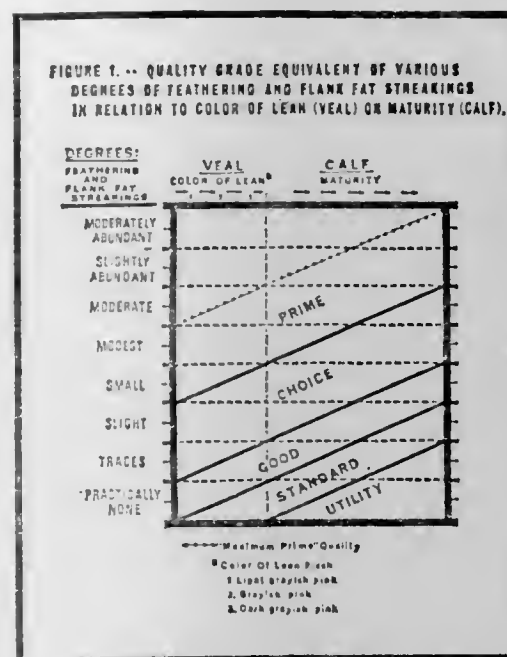
§ 2853.115 Application of standards.

(a) Veal and calf carcasses are graded on a composite evaluation of two general grade factors—conformation and quality. These factors are concerned with the proportions of lean, fat, and bone in the carcass and the quality of the lean.

(b) Conformation is the manner of formation of the carcass. The conformation descriptions included in each of the grade specifications refer to the thickness and fullness of the carcass and its various parts. Conformation is evaluated by averaging the conformation of the various parts of the carcass, considering not only the proportion that each part is of the carcass but also the general value of each part as compared with other parts. Superior conformation implies a high proportion of meat to bone and a high proportion of the weight of the carcass in the more valuable parts. It is reflected in carcasses which are thickly fleshed and full and thick in relation to their length and which have a plump, well-rounded appearance. Inferior conformation implies a low proportion of meat to bone and a low proportion of the weight of the carcass in the more valuable parts. It is reflected in carcasses which are very thinly fleshed, and very narrow in relation to their length, and which have a very angular, thin, sunken appearance.

(c) Quality of lean—in all veal carcasses, all unribbed calf carcasses, and in ribbed calf carcasses in which their degree of marbling is not a consideration—usually can be evaluated with a high degree of accuracy by giving equal consideration to the following factors, as available: (1) The amount of feathering (fat intermingled within the lean between the ribs) and (2) the quantity of fat streakings within and upon the inside flank muscles. (In making these evaluations, the amounts of feathering and flank fat streakings are considered in relation to color (veal) and maturity (calf).) In addition, however, consideration also may be given to other factors if, in the opinion of the grader, this will result in a more accurate quality assessment. Examples of such other factors include firmness of the lean, the distribution of feathering, the amount of fat covering over the diaphragm or "skirt", and the amount and character of the external and kidney and pelvic fat. In making these evaluations, feathering and flank fat streakings are categorized in descending order of quantity as follows: extremely abundant, very abundant, abundant, moderately abundant, slightly abundant, moderate, modest, small, slight, traces, practically none, and none.

Figure 1 depicts the quality grade equivalent of various degrees of feathering and flank fat streakings in relation to color of lean (veal) or maturity (calf). From this figure it can be seen, for example, that the degrees of feathering or fat streakings associated with minimum Choice quality for veal increase from minimum traces for carcasses having the lightest color of lean to maximum traces for carcasses with a dark grayish pink color of lean.



(d) When grading cuts and marbling is not a requirement and when neither feathering nor flank fat streakings are available, quality is based on the firmness of the lean. The requirements relating to firmness of the lean are described in the specifications for each grade and are based on the following degrees in descending order of firmness: extremely firm, very firm, firm, moderately firm, slightly firm, slightly soft, moderately soft, soft, very soft, and extremely soft. However, no credit is given to additional firmness of lean beyond "maximum slightly firm" in veal or beyond "maximum moderately firm" in calf.

(e) When grading ribbed calf carcasses or portions of such carcasses in which their degree of marbling is a consideration, the quality evaluation of the lean is based entirely on the characteristics of the lean as exposed in a cut surface. The official standards for grades of beef recognize nine different degrees of marbling. In descending order of amount these are as follows: Abundant, moderately abundant, slightly abundant, moderate, modest, small, slight, traces, and practically devoid. Illustrations of the lower limits of eight of these nine degrees are available from the Department of Agriculture. These degrees of marbling and their illustrations also are used to describe and evaluate marbling in calf carcasses. Marbling requirements are included in each of the Prime, Choice, and Good grade specifications.

(f) To facilitate the application of the standards, no credit is given to degrees of feathering, flank fat streakings, or marbling beyond those associated with the quality grade equivalent of "Maximum Prime." "Maximum Prime" quality is represented by a development of each of these three factors which is two degrees greater than that specified as minimum for Prime.

(g) The quality indicating requirements referenced in the standards for each grade are based on their development in properly chilled carcasses and, when these relate to a cut surface of the lean, they are based on a cross section of the ribeye muscle between the 12th and 13th ribs. For legs and shoulders, these qualities shall be consistent with their normal development in relation to those specified for the ribeye muscle.

(h) The final grade of a carcass is based on a composite evaluation of its conformation and quality. Conformation and quality often are not developed to the same degree in a carcass and it is obvious that each grade will include various combinations of development of these two characteristics. Examples of how conformation and quality are combined into the final quality grade are included in each of the grade descriptions. However, the principles governing the compensations of variations in development of quality and conformation are as follows: In each of the grades a superior development of quality is permitted to compensate, without limit, for a deficient development of conformation. In this instance the rate of compensation in all grades is on an equal basis—a given degree of superior quality compensates for the same degree of deficient conformation. The reverse type of compensation—a superior development of conformation for an inferior development of quality—is not permitted in the Prime and Choice grades. In all other grades this type of compensation is permitted but only to the extent of one-third of a grade of deficient quality. The rate of this type of compensation is also on an equal basis—a given degree of superior conformation compensates for the same degree of deficient quality.

(i) The colors of lean referenced in the standards reflect only the colors as present in normally developed veal and calf carcasses. They are not intended to apply to colors of lean associated with so-called "dark cutting" veal or calf. This condition does not have the same significance in grading as do the darker shades of pink and red associated with advancing maturity. The dark color of the lean associated with "dark cutting" veal or calf is present in varying degrees from that which is barely evident to so-called "black cutters" in which the lean is actually nearly black in color and usually has a "gummy" texture. Dependent upon the degree to which this characteristic is developed, the final grade of carcasses which otherwise would qualify for the Prime, Choice, or Good grades may be reduced as much as one full grade. In veal or calf otherwise eligible for the Standard grade, the final grade may be reduced as much as one-half grade. In the Utility grade this condition is not considered.

(j) Carcasses qualifying for any particular grade may vary with respect to their relative development of the various grade factors and there will be carcasses which qualify for a particular grade, some of the characteristics of which may

be typical of another grade. Because it is impractical to describe the nearly limitless number of such recognizable combinations of characteristics, the standards for each grade describe only a veal or calf carcass which has a relatively similar development of conformation and quality and which also represents the lower limit of each grade.

§ 2853.116 Specifications for official U.S. standards for grades of veal carcasses.

(a) *Prime.* (1) Veal carcasses with minimum Prime grade conformation tend to be moderately wide and thick in relation to their length. They are slightly thick-fleshed and have a slightly plump appearance. Legs are slightly thick and bulging. Loins and backs tend to be moderately full and plump. Shoulders and breasts tend to be moderately thick.

(2) Figure 1 in § 2853.115 depicts the degree of feathering and flank fat streakings associated with minimum Prime quality for different colors of lean. The lean flesh is slightly firm, regardless of its color.

(3) A development of quality superior to that specified as minimum for the Prime grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Prime at an equal rate as indicated in the following example: A carcass which has midpoint Prime quality may have conformation equal to the midpoint of the Choice grade and remain eligible for Prime. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Prime grade, a carcass must have minimum Prime quality to be eligible for Prime.

(b) *Choice.* (1) Veal carcasses with minimum Choice grade conformation tend to be slightly wide and thick in relation to their length. They tend to be slightly thin-fleshed and have little or no evidence of plumpness. Loins, backs, and legs are slightly thin and nearly flat. Shoulders and breasts tend to be slightly thin.

(2) Figure 1 in § 2853.115 depicts the degree of feathering and flank fat streakings associated with minimum Choice quality for different colors of lean. The lean flesh is slightly soft regardless of its color.

(3) A development of quality superior to that specified as minimum for the Choice grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Choice at an equal rate as indicated in the following example: A carcass which has midpoint Choice quality may have conformation equal to the midpoint of the Good grade and remain eligible for Choice. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Choice grade, a carcass must have minimum Choice quality to be eligible for Choice.

(c) *Good.* (1) Veal carcasses with minimum Good grade conformation are rangy, angular, and narrow in relation

to their length. They are thinly fleshed. Legs are thin and tapering and slightly concave. Loins and back are depressed. Shoulders and breasts are thin.

(2) Figure 1 in § 2853.115 depicts the degree of feathering and flank fat streakings associated with minimum Good quality for different colors of lean. The lean flesh is moderately soft regardless of its color.

(3) A development of quality superior to that specified as minimum for the Good grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Good at an equal rate as indicated in the following example: A carcass which has midpoint Good grade quality may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Standard grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(d) *Standard.* (1) Veal carcasses with minimum Standard grade conformation are very rangy and angular and very narrow in relation to their length. They are very thinly fleshed. Legs are very thin and moderately concave. Loins and backs are very depressed. Shoulders and breasts are very thin.

(2) Figure 1 in § 2853.115 depicts the degree of feathering and flank fat streakings associated with minimum Standard quality for different colors of lean. The lean flesh is soft regardless of its color.

(3) A development of quality superior to that specified as minimum for the Standard grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Standard at an equal rate as indicated in the following example: A carcass which has midpoint Standard quality may have conformation equal to the midpoint of the Utility grade and remain eligible for Standard. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Standard grade may qualify for Standard with a development of quality equal to the minimum of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(e) *Utility.* The Utility grade includes those veal carcasses whose characteristics are inferior to those specified as minimum for the Standard grade.

§ 2853.117 Specifications for official United States standards for grades of calf carcasses.

(a) *Prime.* (1) Calf carcasses with minimum Prime grade conformation tend to be moderately wide and thick in relation to their length. They are moderately thick-fleshed and have a moderately plump appearance. Legs tend to be moderately thick and bulging. Loins

and backs tend to be moderately full and plump. Shoulders and breasts tend to be moderately thick.

(2) Figure 1 in § 2853.115 depicts the degree of feathering and flank fat streakings associated with minimum Prime quality. The degree of marbling required for minimum Prime quality increases from minimum practically devoid for the very youngest carcasses classified as calf to a maximum moderate amount for carcasses with maturity at the juncture of the calf and beef classes. The lean flesh is moderately firm regardless of maturity.

(3) A development of quality superior to that specified as minimum for the Prime grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Prime at an equal rate as indicated in the following example: A carcass which has midpoint Prime quality may have conformation equal to the midpoint of the Choice grade and remain eligible for Prime. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Prime grade, a carcass must have minimum Prime quality to be eligible for Prime.

(b) *Choice.* (1) Calf carcasses with minimum Choice grade conformation tend to be slightly wide and thick in relation to their length. They tend to be slightly thick-fleshed and have a slightly plump appearance. Legs are slightly thick but have little evidence of plumpness. Loins and backs are very slightly full and plump. Shoulders and breasts are slightly thick.

(2) Figure 1 in § 2853.115 depicts the degree of feathering and flank fat streakings associated with minimum Choice quality. The degree of marbling required for minimum Choice quality increases from minimum practically devoid for carcasses at midpoint calf maturity to a maximum slight amount for carcasses with maturity at the juncture of the calf and beef classes. Marbling is not required for Choice quality in carcasses which are less than midpoint calf in maturity. The lean flesh is slightly firm regardless of maturity.

(3) A development of quality superior to that specified as minimum for the Choice grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Choice at an equal rate as indicated in the following example: A carcass which has midpoint Choice quality may have conformation equal to the midpoint of the Good grade and remain eligible for Choice. However, regardless of the extent to which the conformation of a carcass exceeds the minimum of the Choice grade, a carcass must have minimum Choice quality to be eligible for Choice.

(c) *Good.* (1) Calf carcasses with minimum Good grade conformation tend to be rangy, angular, and narrow in relation to their length. They tend to be thinly fleshed. Legs are thin and tapering and very slightly concave. Loins and backs are slightly shallow and depressed. Shoulders and breasts are thin.

(2) Figure 1 in § 2853.115 depicts the degree of feathering and flank fat streak-

ings associated with minimum Good quality. The minimum degree of marbling required for Good quality decreases from typical traces for carcasses with maturity at the juncture of the calf and beef classes to minimum practically devoid for carcasses midway in maturity within the more mature half of the range of maturity included in the calf class. In less mature carcasses, marbling is not required for Good quality. The lean flesh is moderately soft regardless of maturity.

(3) A development of quality superior to that specified as minimum for the Good grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Good at an equal rate as indicated in the following example: A carcass which has midpoint Good grade quality may have conformation equivalent to the midpoint of the Standard grade and remain eligible for Good. Also, a carcass which has conformation at least one-third grade superior to that specified as minimum for the Good grade may qualify for Good with a development of quality equivalent to the lower limit of the upper third of the Standard grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(d) *Standard.* (1) Calf carcasses with minimum Standard grade conformation are rangy, angular, and very narrow in relation to their length. They are very thinly fleshed. Legs are very shallow and depressed. Shoulders and breasts are very thin.

(2) Figure 1 in § 2853.115 depicts the degree of feathering and flank fat streakings associated with minimum Standard quality. The lean flesh is soft regardless of maturity.

(3) A development of quality which is superior to that specified as minimum for the Standard grade may compensate, without limit, for a development of conformation inferior to that specified as minimum for Standard at an equal rate as indicated in the following example: A carcass which has midpoint Standard quality may have conformation equal to the midpoint of the Utility grade and remain eligible for Standard. Also, a carcass which has conformation at least one-third grade superior to that specified for the minimum of the Standard grade may qualify for Standard with a development of quality equal to the lower limit of the upper third of the Utility grade. Compensation of superior conformation for inferior quality is limited to one-third grade of deficient quality.

(e) *Utility.* The Utility grade includes those calf carcasses whose characteristics are inferior to those specified as minimum for the Standard grade.

LAMB, YEARLING MUTTON, AND MUTTON CARCASSES

§ 2853.122 Differentiation between lamb, yearling mutton, and mutton carcasses.

Differentiation between lamb, yearling mutton, and mutton carcasses is made on the basis of differences that occur in the development of their mus-

cular and skeletal systems. Typical lamb carcasses tend to have slightly wide and moderately flat rib bones and a light red color and fine texture of lean. To be classed as lamb, a carcass must have break joints on both its front shanks. By contrast, typical yearling mutton carcasses have moderately wide rib bones which tend to be flat and a slightly dark red color and slightly coarse texture of lean. Yearling mutton carcasses may have either break joints or "spool" joints on their front shanks. Typical mutton carcasses have wide, flat rib bones and a dark red color and coarse texture of lean. They always have spool joints on their front shanks. Regardless of their other characteristics, carcasses from which the front shanks have been removed will be assumed to have had "spool" joints and will be classed as yearling mutton or mutton on the basis of their other characteristics. In determining the maturity class of ovine carcasses, more consideration is given to the characteristics of the flesh than is given to the characteristics of the skeleton.

§ 2853.123 Application of standards.

(a) *Grade factors.* (1) The grade of an ovine carcass is based on separate evaluations of two general considerations: Palatability-indicating characteristics of the lean and conformation, herein referred to as "quality;" and the estimated percent of closely trimmed, boneless, major retail cuts to be derived from the carcass, herein referred to as "yield." (However, the grade of an ovine carcass when applied by Federal meat graders may consist of an identification for the quality grade, the yield grade, or a combination of both the quality and yield grades.) In previous grade standards for ovine carcasses, the Department used the term "quality" to refer only to the palatability-indicating characteristics of the lean without reference to conformation. Its use herein to include consideration of conformation is not intended to imply that variations in conformation are either directly or indirectly related to differences in palatability.

(2) The grade standards are written so that the quality and yield grade standards are contained in separate sections. The quality section is divided further into three separate sections applicable to carcasses from lambs, yearling mutton, and mutton. There are five quality grades—Prime, Choice, Good, Utility, and Cull—applicable to lamb, yearling mutton, and mutton carcasses, except that mutton carcasses are not eligible for Prime. There are five yield grades applicable to all classes of ovine carcasses, denoted by numbers 1 through 5, with Yield Grade 1 representing the highest degree of cutability.

(3) Carcasses qualifying for any particular grade may vary with respect to the relative development of their individual grade factors, and there will be carcasses which qualify for a particular grade in which the development of some

of these individual grade factors will be typical of other grades. Because it is impractical to describe the nearly limitless numbers of such recognizable combinations of characteristics, the standards for each quality and yield grade describe only carcasses which have a relatively similar development of individual factors and which are also representative of the lower limits of each grade. In the quality grade standards, examples of the extent to which superiority in quality may compensate for deficiencies in conformation, and vice versa, are indicated for each grade. In the Prime and Choice grades certain minimum requirements for external fat covering are also indicated.

(b) *Quality grades.* (1) The quality grade of an ovine carcass is based on separate evaluations of two general considerations: The quality or the palatability-indicating characteristics of the lean and the conformation of the carcass.

(2) Conformation is the manner of formation of the carcass with particular reference to the relative development of the muscular and skeletal systems, although it is also influenced to some extent, by the quantity and distribution of external finish. The conformation of a carcass is evaluated by averaging the conformation of its various component parts, giving consideration not only to the proportion that each cut is of the carcass weight but also to the general desirability of each cut as compared with other cuts. Superior conformation implies a high proportion of edible meat to bone and a high proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very wide and thick in relation to their length and which have a very plump and full and well-rounded appearance. Inferior conformation implies a low proportion of edible meat to bone and a low proportion of the weight of the carcass in the more demanded cuts and is reflected in carcasses which are very narrow in relation to their length and which have a very angular, thin and sunken appearance. External fat in excess of that normally left on retail cuts is not considered in evaluating conformation.

(3) The quality of the lean flesh is best evaluated by consideration of its texture, firmness, and marbling, as observed in a cut surface, in relation to the apparent maturity of the animal from which the carcass was produced. However, in grading carcasses direct observation of these characteristics is not possible. Therefore, the quality of the lean is evaluated indirectly by giving equal consideration to: The quantity of fat intermingled within the lean between the ribs called "feathering," the streaking of fat within and upon the inside flank muscles, and the firmness of the fat and lean—all in relation to the apparent evidence of maturity.

(4) The ovine quality standards are intended to cover the full range of maturity within which ovines are marketed. The standards for Prime, Choice, and Good grades of lamb specify two general

levels of development of the quality-indicating characteristics described in this section, dependent upon the apparent evidences of maturity attained by the lamb at the time of slaughter. The quality standards for Utility and Cull grades of lamb and for each grade of yearling mutton and mutton specify only one general level of development of the quality-indicating characteristics described, and these characteristics apply only to carcasses which are typical in maturity for their class. In order to qualify for a specific grade, yearling mutton or mutton carcasses with evidence of more advanced maturity than typical for their class are required to have a slightly greater development of these characteristics than described in the standards. Conversely, such carcasses with evidence of less maturity than typical for their class may qualify for a given grade with a slightly lesser development of these characteristics.

(5) The quality standards are intended to apply to all ovine carcasses without regard to the apparent sex condition of the animal at time of slaughter. However, carcasses from males which have thick, heavy necks and shoulders typical of uncastrated males are discounted in quality grade in accord with the extent to which these characteristics are developed. Such discounts may vary from less than one-half grade in carcasses from young lambs in which such characteristics are barely noticeable to as much as two full grades in carcasses from mature rams in which such characteristics are very pronounced.

(6) The quality standards for lamb, yearling mutton, and mutton carcasses contained in this subpart together provide for grading carcasses within the full range of maturity of the ovine species. Although the grade standards for this full range of maturity are contained in three separate standards, it is the intent that the three standards be considered as a continuous series. Therefore, in determining the grade of a carcass which has a degree of maturity that is not typical of that specified in one of the three standards, it is necessary to interpolate between the standard for the kind of carcass (lamb, yearling mutton, or mutton) being graded and the standard for the kind of carcass which is most closely adjacent to it in maturity.

(c) *Yield grades.* (1) The yield grade of an ovine carcass is determined by considering three characteristics: The amount of external fat, the amount of kidney and pelvic fat, and the conformation grade of the legs.

(2) The amount of external fat for carcasses with a normal distribution of this fat is evaluated in terms of its actual thickness over the center of the ribeye muscle and is measured perpendicular to the outside surface between the 12th and 13th ribs. On intact carcasses fat thickness is measured by probing. This measurement may be adjusted, as necessary, to reflect unusual amounts of fat on other parts of the carcass. In determin-

ing the amount of this adjustment, if any, particular attention is given to the amount of external fat on those parts where fat is deposited at a faster-than-average rate, particularly the rump, outside of the shoulders, breast, flank, and cod or udder. Thus, in a carcass which is fatter over these other parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted upward. Conversely, in a carcass which has less fat over these other parts than is normally associated with the actual fat thickness over the ribeye, the measurement is adjusted downward. In many carcasses no such adjustment is necessary; however, an adjustment in the thickness of fat measurement of 0.05 or 0.10 inch is not uncommon. In some carcasses a greater adjustment may be necessary. As a guide in making these adjustments, the standards for each yield grade include an additional related measurement—body wall thickness, which is measured 5 inches laterally from the middle of the backbone between the 12th and 13th ribs. As the amount of external fat increases, the percent of retail cuts decreases—each 0.05 inch change in adjusted fat thickness over the ribeye changes the yield grade by one-third of a grade.

(3) The amount of kidney and pelvic fat considered in determining the yield grade includes the kidney knob (kidney and surrounding fat) and the lumber and pelvic fat in the loin and leg which are removed in making closely trimmed retail cuts. The amount of these fats is evaluated subjectively and expressed as a percent of the carcass weight. As the amount of kidney and pelvic fat increases, the percent of retail cuts decreases—a change of 1 percent of the carcass weight in kidney and pelvic fat changes the yield grade by one-fourth of a grade.

(4) The conformation grade of the legs is evaluated as described in the quality standards. The evaluation is made in terms of thirds of grades and coded using 15 for high Prime and 1 for low Cull. An increase in the conformation grade of the legs increases the percent of retail cuts—a change of one-third of a grade changes the yield grade by 5 percent of a grade.

(5) The yield grade descriptions are defined primarily in terms of carcasses. However, the yield grade standards also are applicable to the grading of sides, foresaddles, hindsaddles, forequarters, and hindquarters, and hotel racks, loins, and combinations of regular or trimmed wholesale cuts which include either a hotel rack or a loin.

(6) The standards include an equation for determining yield grade. The application of this equation usually results in a fractional grade. However, in normal grading operations any fractional part of a yield grade is dropped. For example, if the computation results in a yield grade of 3.9, the final yield grade is 3—it is not rounded to 4.

(7) The yield grade standards for each of the first four yield grades list characteristics of a carcass with descriptions

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of the amount of external fat normally present on various parts of the carcass. These descriptions are not specific requirements—they are included only as illustrations of carcasses which are near the borderline between grades. For example, the characteristics listed for Yield Grade 1 represent a carcass which is near the borderline of Yield Grade 1 and Yield Grade 2. These descriptions facilitate the subjective determination of the yield grade without making detailed measurements and computations. The yield grade for most ovine carcasses can be determined accurately on the basis of a visual appraisal.

§ 2853.121 Specifications for official U.S. standards for grades of lamb carcasses (quality).

(a) *Prime*. (1) Lamb carcasses possessing minimum qualifications for the Prime grade are moderately wide and thick in relation to their length and have moderately plump and full legs; moderately wide and thick backs; and moderately thick and full shoulders.

(2) Requirements for quantities of interior fats and for firmness of lean and fat vary with changes in maturity. Carcasses from young lambs have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; and a moderately dark pink color of inside flank muscles. Such carcasses have a slight amount of feathering between the ribs and traces of fat streaking within and upon the inside flank muscles. Their lean flesh and exterior finish tend to be moderately firm, and their flanks tend to be moderately full and firm.

(3) Carcasses from more mature lambs have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a light red color of inside flank muscles. Such carcasses have a moderate amount of feathering between the ribs and a modest amount of fat streaking within and upon the inside flank muscles. Their lean flesh and exterior finish are firm, and their flanks are moderately full and firm.

(4) Regardless of the extent to which other grade factors may exceed, the minimum requirements for Prime, to be eligible for Prime a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the upper parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat. In addition, a carcass must have a composite development of quality-indicating factors equivalent to that specified as minimum for Prime to be eligible for that grade. However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidence of quality equivalent

to the midpoint of the Prime grade may have conformation equivalent to the midpoint of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade.

(b) *Choice*. (1) Lamb carcasses possessing minimum qualifications for the Choice grade tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs; slightly wide and thick backs; and slightly thick and full shoulders.

(2) Requirements for quantities of interior fats and for firmness of lean and fat vary with changes in maturity. Carcasses from young lambs have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; and a moderately dark pink color of inside flank muscles. Such carcasses have a slight amount of feathering between the ribs and traces of fat streaking within and upon the inside flank muscles. Their lean flesh and exterior finish tend to be moderately firm, and their flanks tend to be slightly full and firm.

(3) Carcasses from more mature lambs have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a moderately light red color of inside flank muscles. Such carcasses have a small amount of feathering between the ribs and a slight amount of fat streaking within and upon the inside flank muscles. Their lean flesh and exterior finish are moderately firm, and their flanks are slightly full and firm.

(4) Regardless of the extent to which other grade factors may exceed the minimum requirements for Choice, to be eligible for Choice a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the upper parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(5) A carcass which has conformation equivalent to at least the mid-point of the Choice grade may have evidence of quality equivalent to the minimum for the upper one-third of the Good grade and remain eligible for Choice. Also, a development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade.

(c) *Good*. (1) Lamb carcasses possessing minimum qualifications for the Good grade are moderately narrow in

relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders.

(2) Requirements for quantities of interior fats and for firmness of lean and fat vary with changes in maturity. Carcasses from young lambs have moderately narrow, slightly flat rib bones; moderately red and moist and porous break joints; and a dark pink color of inside flank muscles. Such carcasses have traces of feathering between the ribs but practically no fat streaking within and upon the inside flank muscles. Their lean flesh and exterior finish are slightly firm, and their flanks are slightly thin and soft.

(3) Carcasses from more mature lambs have slightly wide, moderately flat rib bones; slightly red but slightly dry and hard break joints; and a slightly dark red color of inside flank muscles. Such carcasses have a slight amount of feathering between the ribs and traces of fat streaking within and upon the inside flank muscles. Their lean flesh and exterior finish tend to be moderately firm, and their flanks tend to be slightly full and firm.

(4) A carcass which has conformation equivalent to at least the mid-point of the Good grade may have evidence of quality equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. Also, a development of quality which is superior to that specified as minimum for the Good grade may compensate for a development of conformation which is inferior to that specified as minimum for Good on the basis of one-half grade of superior quality for one-third grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade.

(d) *Utility*. (1) Lamb carcasses possessing minimum qualifications for the Utility grade are very angular and very narrow in relation to their length and have thin, slightly concave legs; very narrow and sunken backs; and narrow, sharp shoulders. Hips and shoulder joints are plainly visible.

(2) Although evidences of quality vary slightly with changes in maturity the differences are so small as to make their separate descriptions impractical. There is practically no feathering between the ribs and no fat streaking in the inside flank muscles. The lean in the inside flank muscles and between the ribs is a dark red in color. Their lean flesh and exterior finish are soft, and the flanks are soft and slightly watery.

(3) A carcass which has conformation equivalent to at least the mid-point of the Utility grade may have evidence of quality equivalent to the minimum for the upper one-third of the Cull grade

and remain eligible for Utility. Also, a development of quality which is superior to that specified as minimum for the Utility grade may compensate for a development of conformation which is inferior to that specified as minimum for Utility on the basis of one-half grade of superior quality for one-third grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Utility grade may have conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility.

(e) *Cull*. Typical Cull grade lamb carcasses are extremely angular, extremely narrow in relation to their length, and extremely thin-fleshed throughout. Legs are extremely thin and concave, backs are extremely sunken and thin, and shoulders are very thin and sharp. Hips and shoulder joints, as well as ribs and bones of the spinal column, are clearly outlined, and the flesh is soft and watery and a very dark red in color.

§ 2853.125 Specifications for official U.S. standards for grades of yearling mutton carcasses (quality).

(a) *Prime*. (1) Yearling mutton carcasses possessing minimum qualifications for the Prime grade are moderately wide and thick in relation to their length and have moderately plump and full legs; moderately wide and thick backs; and moderately thick and full shoulders. They have slightly abundant feathering between the ribs, a moderate amount of fat streaking within and upon the inside flank muscles, and a slightly dark red color of inside flank muscles. Their lean flesh and exterior finish tend to be very firm, and their flanks tend to be full and firm.

(2) Regardless of the extent to which other grade factors may exceed the minimum requirements for Prime, to be eligible for Prime a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the upper parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat. In addition, a carcass must have a composite development of quality-indicating factors equivalent to that specified as minimum for Prime to be eligible for that grade. However, a development of quality which is superior to that specified as minimum for the Prime grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Prime as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Prime grade may have conformation equivalent to the mid-point of the Choice grade and remain eligible for Prime. However, in no instance may a carcass be graded Prime which has a development of conformation inferior to that specified as minimum for the Choice grade.

(b) *Choice*. (1) Yearling mutton carcasses possessing minimum qualifications for the Choice grade are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders. They have a small amount of feathering between the ribs, a slight amount of fat streaking within and upon the inside flank muscles, and a moderately dark red color of inside flank muscles. Their lean flesh and exterior finish are moderately firm, and their flanks are slightly full and firm.

(2) A carcass which has conformation equivalent to at least the mid-point of the Good grade may have evidence of quality equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. Also, a

(3) Yearling mutton carcasses which are otherwise eligible for the Prime grade

but which have excessive quantities of combined external and kidney and pelvic fat are not eligible for Prime.

(b) *Choice*. (1) Yearling mutton carcasses possessing minimum qualifications for the Choice grade tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs; slightly wide and thick backs; and slightly thick and full shoulders. They have a modest amount of feathering between the ribs, a small amount of fat streaking within and upon the inside flank muscles, and a color of inside flank muscles which tends to be moderately dark red. Their lean flesh and exterior finish tend to be firm, and their flanks tend to be moderately full and firm.

(2) Regardless of the extent to which other grade factors may exceed the minimum requirements for Choice, to be eligible for Choice a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outsides of the upper parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(3) A carcass which has conformation equivalent to at least the mid-point of the Choice grade may have evidence of quality equivalent to the minimum of the upper one-third of the Good grade and remain eligible for Choice. Also, a development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade.

(4) Yearling mutton carcasses which are otherwise eligible for the Prime grade but which have excessive quantities of combined external and kidney and pelvic fat are included in the Choice grade.

(c) *Good*. (1) Yearling mutton carcasses possessing minimum qualifications for the Good grade are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders. They have a small amount of feathering between the ribs, a slight amount of fat streaking within and upon the inside flank muscles, and a moderately dark red color of inside flank muscles. Their lean flesh and exterior finish are moderately firm, and their flanks are slightly full and firm.

(2) A carcass which has conformation equivalent to at least the mid-point of the Good grade may have evidence of quality equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. Also, a

development of quality which is superior to that specified as minimum for the Good grade may compensate for a development of conformation which is inferior to that specified as minimum for Good on the basis of one-half grade of superior quality for one-third grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade.

(d) *Utility*. (1) Yearling mutton carcasses possessing minimum qualifications for the Utility grade are very angular and very narrow in relation to their length and have thin, slightly concave legs, very narrow and sunken backs; and narrow, sharp shoulders. Hips and shoulder joints are plainly visible. They have practically no feathering between the ribs, no fat streaking in the inside flank muscles, and a dark red color of inside flank muscles. Their lean flesh and exterior finish are moderately soft, and the flanks are soft and slightly watery.

(2) A carcass which has conformation equivalent to at least the mid-point of the Utility grade may have evidence of quality equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility. Also, a development of quality which is superior to that specified as minimum for the Utility grade may compensate for a development of conformation which is inferior to that specified as minimum for Utility on the basis of one-half grade of superior quality for one-third grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Utility grade may have conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility.

(e) *Cull*. Typical Cull grade yearling mutton carcasses are extremely angular, extremely narrow in relation to their length, and extremely thin-fleshed throughout. Legs are extremely thin and concave, backs are extremely sunken and thin, and shoulders are very thin and sharp. Hips and shoulder joints, as well as ribs and bones of the spinal column, are clearly outlined, and the flesh is soft and watery and a very dark red in color.

§ 2853.126 Specifications for official U.S. standards for grades of mutton carcasses (quality).

(a) *Choice*. (1) Mutton carcasses possessing minimum qualifications for the Choice grade tend to be slightly wide and thick in relation to their length and tend to have slightly plump and full legs; slightly wide and thick backs; and slightly thick and full shoulders. They have a moderate amount of feathering between the ribs, a modest amount of

fat streaking within and upon the inside flank muscles, and a dark red color of inside flank muscles. Their lean flesh and external finish tend to be firm, and their flanks tend to be moderately full and firm.

(2) Regardless of the extent to which other grade factors may exceed the minimum requirements for Choice, to be eligible for Choice a carcass must have at least a very thin covering of external fat over the top of the shoulders and the outside of the upper parts of the legs, and the back must have at least a thin covering of fat, that is, the muscles of the back may be no more than plainly visible through the fat.

(3) A carcass which has conformation equivalent to at least the mid-point of the Choice grade may have evidence of quality equivalent to the minimum of the upper one-third of the Good grade and remain eligible for Choice. Also, a development of quality which is superior to that specified as minimum for the Choice grade may compensate, on an equal basis, for a development of conformation which is inferior to that specified as minimum for Choice as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Choice grade may have conformation equivalent to the mid-point of the Good grade and remain eligible for Choice. However, in no instance may a carcass be graded Choice which has a development of conformation inferior to that specified as minimum for the Good grade.

(4) Mutton carcasses which are otherwise eligible for the Choice grade but which have excessive quantities of combined external and kidney and pelvic fat are not eligible for Choice.

(b) *Good.* (1) Mutton carcasses possessing minimum qualifications for the Good grade are moderately narrow in relation to their length and have slightly thin, tapering legs, and slightly narrow and thin backs and shoulders. They have a modest amount of feathering between the ribs, a slight amount of fat streaking within and upon the inside flank muscles, and a dark red color of inside flank muscles. Their lean flesh and external finish are moderately firm, and their flanks are slightly full and firm.

(2) A carcass which has conformation equivalent to at least the mid-point of the Good grade may have evidence of quality equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for Good. Also, a development of quality which is superior to that specified as minimum for the Good grade may compensate for a development of conformation which is inferior to that specified as minimum for Good on the basis of one-half grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Good grade may have conformation equivalent to the minimum for the upper one-third of the Utility grade and remain eligible for

Good. However, in no instance may a carcass be graded Good which has a development of conformation inferior to that specified as minimum for the Utility grade.

(3) Mutton carcasses which are otherwise eligible for the Choice grade but which have excessive quantities of combined external and kidney and pelvic fat are included in the Good grade.

(c) *Utility.* (1) Mutton carcasses possessing minimum qualifications for the Utility grade are very angular and very narrow in relation to their length and have thin, slightly concave legs; very narrow and sunken backs; and narrow, sharp shoulders. Hips and shoulder joints are plainly visible. They have traces of feathering between the ribs but practically no fat streaking in the inside flank muscles, and a very dark red color of inside flank muscles. Their lean flesh and external finish are slightly soft, and the flanks are soft and slightly watery.

(2) A carcass which has conformation equivalent to at least the mid-point of the Utility grade may have evidence of quality equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility. Also, a development of quality which is superior to that specified as minimum for the Utility grade may compensate for a development of conformation which is inferior to that specified as minimum for Utility on the basis of one-half grade of superior quality for one-third grade of deficient conformation as indicated in the following example: A carcass which has evidence of quality equivalent to the mid-point of the Utility grade may have conformation equivalent to the minimum for the upper one-third of the Cull grade and remain eligible for Utility.

(d) *Cull.* Typical Cull grade mutton carcasses are extremely angular, extremely narrow in relation to their length, and extremely thin-fleshed throughout. Legs are extremely thin and concave, backs are extremely sunken and thin, and shoulders are very thin and sharp. Hips and shoulder joints, as well as ribs and bones of the spinal column, are clearly outlined, and the flesh is soft and watery and very dark red in color.

§ 2853.127 Specifications for official U.S. standards for grades of carcass lamb, yearling mutton, and mutton (yield).

(a) The yield grade of an ovine carcass or side is determined on the basis of the following equation: Yield Grade = $1.66 - (0.05 \times \text{leg conformation grade code}) + (0.25 \times \text{percent kidney and pelvic fat}) + (6.66 \times \text{adjusted fat thickness over the ribeye inches})$.

(b) (1) The yield grade of a hind-saddle, hindquarter, foresaddle, forequarter, or a cut eligible for grading also is determined on the basis of the above equation except that if the portion being graded does not include the leg, the conformation grade of the portion being graded shall be substituted for leg conformation grade. In addition, if the portion being graded does not include kid-

ney and pelvic fat or if the portion is a trimmed cut (cut from which most of the kidney and pelvic fat has been removed), the following standard percentages of kidney and pelvic fat, as applicable to the quality grade of the portion also shall be used in the equation:

Grade	Kidney and pelvic fat, percent
Prime	4.5
Choice	3.5
Good	3.0
Utility	2.0
Cull	1.5

(2) For untrimmed hindsaddles and for untrimmed hindquarter cuts, the quantity of kidney and pelvic fat is estimated as a percent of the carcass weight.

(3) For untrimmed hindquarters and for untrimmed hindquarter cuts, the quantity of kidney and pelvic fat is estimated as a percent of the side weight.

(c) The following descriptions provide a guide to the characteristics of carcasses in each yield grade to aid in determining yield grades subjectively.

(1) *Yield Grade 1.* (1) A carcass in Yield Grade 1 usually has only a thin layer of external fat over the back and loin and slight deposits of fat in the flanks and cod or udder. There is usually a very thin layer of fat over the top of the shoulders and the outside of the legs. Muscles are usually plainly visible on most areas of the carcass.

(2) A carcass of this yield grade which is near the borderline of Yield Grade 1 and Yield Grade 2 might have 0.1 inch of fat over the ribeye, 1.5 percent of its weight in kidney and pelvic fat, and an average Prime leg conformation grade. Such a carcass with normal fat distribution would also have a body wall thickness of 0.5 inch.

(2) *Yield Grade 2.* (1) A carcass in Yield Grade 2 usually has a slightly thin layer of fat over the back and loin and the muscles of the back are not visible. The top of the shoulders and the outside of the legs have a thin covering of fat and the muscles are slightly visible. There are usually small deposits of fat in the flanks and cod or udder.

(2) A carcass of this yield grade which is near the borderline of Yield Grade 2 and Yield Grade 3 might have 0.2 inch of fat over the ribeye, 2.5 percent of its weight in kidney and pelvic fat, and a low Prime leg conformation grade. Such a carcass with normal fat distribution would also have a body wall thickness of 0.7 inch.

(3) *Yield Grade 3.* (1) A carcass in Yield Grade 3 usually has a slightly thick covering of fat over the back. The top of the shoulders are completely covered with fat, although the muscles are still barely visible. The legs are nearly completely covered, although the muscles on the outside of the lower legs are visible. There usually are slightly large deposits of fat in the flanks and cod or udder.

(2) A carcass of this yield grade which is near the borderline of Yield Grade 3 and Yield Grade 4 might have 0.3 inch of fat over the ribeye, 3.5 percent of its

weight in kidney and pelvic fat, and a high Choice leg conformation grade. Such a carcass with normal fat distribution would also have a body wall thickness of 0.9 inch.

(4) *Yield Grade 4.* (1) A carcass in Yield Grade 4 usually is completely covered with fat. There usually is a moderately thick covering of fat over the back and a slightly thick covering over the shoulder and legs. There usually are large deposits of fat in the flanks and cod or udder.

(2) A carcass in this yield grade which is near the borderline of Yield Grade 4 and Yield Grade 5 might have 0.4 inch of fat over the ribeye, 4.5 percent of its weight in kidney and pelvic fat, and an average Choice leg conformation grade. Such a carcass with normal fat distribution would also have a body wall thickness of 1.1 inches.

(5) *Yield Grade 5.* A carcass in Yield Grade 5 usually has more external and kidney and pelvic fat and a lower conformation grade of leg than a carcass in Yield Grade 4.

PORK CARCASSES

§ 2853.132 Bases for pork carcass standards.

The standards for pork carcasses developed by the United States Department of Agriculture, provide for segregation according to (a) class, as determined by the apparent sex condition of the animal at the time of slaughter, and (b) grade, which reflects quality of pork and the relative proportion of lean cuts to fat cuts in the carcass.

§ 2853.133 Pork carcass classes.

The five classes of pork carcasses, comparable to the same five classes of slaughter hogs, are barrow, gilt, sow, stag, and boar carcasses.

§ 2853.134 Application of standards for grades of barrow and gilt carcasses.

(a) Grades for barrow and gilt carcasses are based on two general considerations: (1) Quality-indicating characteristics of the lean, and (2) expected combined yields of the four lean cuts (ham, loin, picnic shoulder, and Boston butt).

(b) With respect to quality, two general levels are considered: One for carcasses with characteristics which indicate that the lean in the four lean cuts will have an acceptable quality and one for carcasses with characteristics which indicate that the lean will have an unacceptable quality. The quality of the lean is best evaluated by a direct observation of its characteristics in a cut surface and when a cut surface of major muscles is available, this shall be used as the basis for the quality determination. The standards describe the characteristics of the loin eye muscle at the 10th rib. However, when this surface is not available, other exposed major muscle surfaces can be used for the quality determination based on the normal development of the characteristics in relation to those described for the loin eye muscle at the 10th rib. When a major muscle cut

surface is not available, the quality of the lean shall be evaluated indirectly based on quality-indicating characteristics that are evident in carcasses. These include firmness of the fat and lean, amount of feathering between the ribs, and color of the lean. The standards describe a development of each of these factors that is normally associated with the lower limit of acceptable lean quality. The degree of external fatness, as such, is not considered in evaluating the quality of the lean.

(c) Carcasses which have characteristics indicating that the lean in the four lean cuts will not have an acceptable quality or bellies too thin to be suitable for bacon production are graded U.S. Utility. Also graded U.S. Utility—regardless of their development of other quality-indicating characteristics—are carcasses which are soft and oily. Belly thickness is determined by an overall evaluation of its thickness with primary consideration being given to the thickness along the navel edge and thickness of the belly pocket.

(d) Four grades—U.S. No. 1, U.S. No. 2, U.S. No. 3, and U.S. No. 4—are provided for carcasses which have indications of an acceptable lean quality and acceptable belly thickness. These grades are based entirely on the expected carcass yields of the four lean cuts and no consideration is given to a development of quality superior to that described as minimum for these grades. The expected yields of the four lean cuts for each of these four grades are shown in Table I:

TABLE I

Expected Yields of the Four Lean Cuts Based on Chilled Carcass Weight, by Grade¹

Grade	Yield
U.S. No. 1	53 percent and over.
U.S. No. 2	50 to 52.9 percent.
U.S. No. 3	47 to 49.9 percent.
U.S. No. 4	Less than 47 percent.

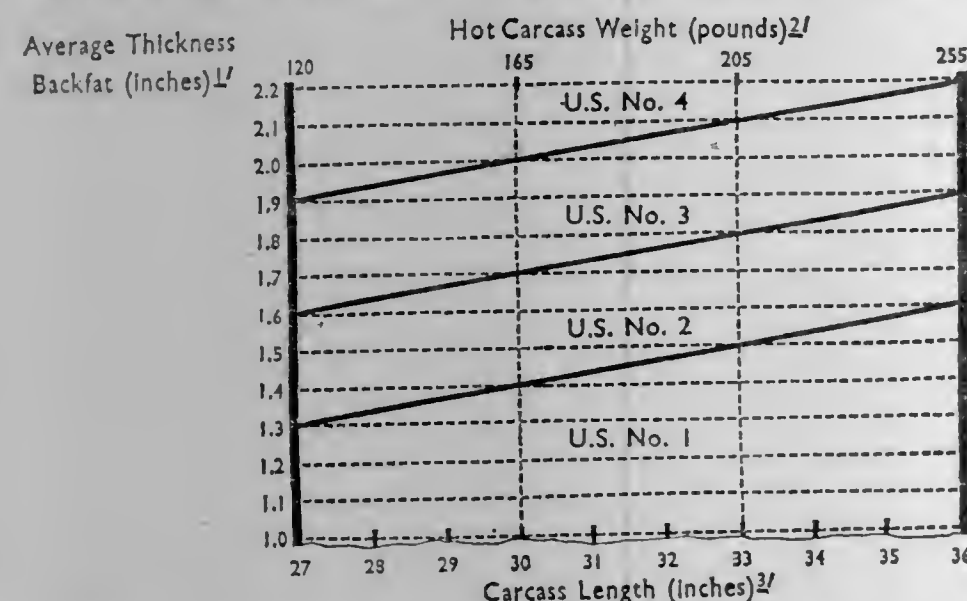
¹ These yields will be approximately 1 percent lower if based on hot carcass weight.

The yields shown in Table I are based on cutting and trimming methods used by the U.S. Department of Agriculture in developing the standards. (These cutting and trimming methods may be obtained from the Meat Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250.) Other cutting and trimming methods may result in different yields. For example, if more fat is left on the four lean cuts than prescribed in the USDA cutting and trimming methods, the yield for each grade will be higher than indicated. However, such a method of trimming, if applied uniformly, should result in similar differences in yields between grades.

(e) Carcasses vary in their yields of the four lean cuts because of variations in their degree of fatness and in their degree of muscling (thickness of muscling in relation to skeletal size). Since many carcasses have a normal distribution of fat and a normal development of muscling for their degree of fatness, in determining their grade the actual average thickness of backfat and

the carcass length or weight are the only factors considered. These relationships are illustrated in Figure 1 for carcasses either 27 to 36 inches long or weighing 120 to 255 pounds. For carcasses of other lengths or weights, average backfat thickness requirements for the various grades can be determined by an extension of the lines in this figure (Note: In cases where length and backfat thickness indicate a different grade than weight and backfat, the grade shall be determined by using length.) In these standards the actual average thickness of backfat is an average of three measurements including the skin made opposite

RELATIONSHIP BETWEEN AVERAGE THICKNESS OF BACKFAT, CARCASS LENGTH OR WEIGHT, AND GRADE FOR CARCASSES WITH MUSCLING TYPICAL OF THEIR DEGREE OF FATNESS.



- 1/ An average of three measurements including the skin made opposite the first and last ribs and the last lumbar vertebra. It also reflects adjustment, as appropriate, to compensate for variations from normal fat distribution.
 2/ Carcass weight is based on a hot packer style carcass.
 3/ Carcass length is measured from the anterior point of the aitch bone to the anterior edge of the first rib.

Figure 1

(f) In some carcasses the actual average thickness of backfat is not representative of their degree of fatness. In such cases, an appropriate adjustment is made in the average thickness of backfat and the grade is then determined as illustrated in Figure 1. In evaluating the degree of fatness to determine whether it is representative of the actual average thickness of backfat, particular attention is given to the backfat thickness at points other than those used in determining the average and to the amount of fat in such areas as over the outside of the ham, at the juncture of the belly with the shoulder, directly anterior to the hipbone, and over the edge of the loin. For a carcass having a fat distribution indicative of a greater degree of overall fatness than that normally associated with its actual average thickness of backfat, the average thickness of backfat is adjusted upward. Likewise, for a carcass having a fat distribution indicative of a lesser degree of overall fatness than that normally

associated with its actual average thickness of backfat, the average thickness of backfat is adjusted downward. In many carcasses, no adjustment is necessary. Although an adjustment in the average thickness of backfat of one-tenth of an inch is not uncommon, seldom should it exceed two-tenths of an inch.

(g) The degree of muscling specified for each of the four grades decreases progressively from the U.S. No. 1 grade through the U.S. No. 4 grade. This reflects the fact that among carcasses of the same weight, fatter carcasses normally have a lesser degree of muscling. For purposes of these standards, six degrees of muscling are recognized: Very thick, thick, moderately thick, slightly thin, thin, and very thin. These are intended to cover the entire range of muscling present among pork carcasses currently being produced. The degrees which are typical for carcasses at the minimum of the U.S. No. 1, U.S. No. 2, U.S. No. 3, and U.S. No. 4 grades are,

respectively: Thick, moderately thick, slightly thin, and thin. For carcasses having a development of muscling which is different from that normally associated with their degree of fatness, the average backfat thickness-carcass length on carcass weight relationships for the various grades are different than shown in Figure 1. Consideration is given such unusual developments of muscling as follows: In each grade, a superior development of muscling is permitted to compensate for a greater average backfat thickness at the rate of one-tenth inch greater backfat thickness for a full degree of superior muscling. Except for the U.S. No. 1 grade, the reverse type of compensation is also permitted at the same rate. In the U.S. No. 1 grade, this type of compensation is limited to one full degree of inferior muscling; carcasses which have less than moderately thick muscling but which would otherwise qualify for the U.S. No. 1 grade are graded U.S. No. 2.

(h) In no case, however, may the combined effect of variations from normal fat distribution and muscling alter the final grade more than one full grade from that indicated by the actual average backfat thickness and carcass length or weight.

(i) Since carcasses qualifying for the U.S. No. 1, U.S. No. 2, U.S. No. 3, and U.S. No. 4 grades may vary with respect to their average thickness of backfat, their length or weight, their development of muscling, and their distribution of fat, there will be carcasses which qualify for each of these grades in which the development of one or more of these factors is more nearly typical of another grade. Because it is impractical to describe the nearly limitless numbers of such recognizable combinations of these factors, the standards for each grade describe only carcasses whose expected yield of the four lean cuts is at the lower limit of each grade and which have a development of muscling and distribution of fat which is normal for such carcasses.

(j) The standards describe the development of the various grade factors as they appear in thoroughly chilled carcasses. However, carcasses with a lesser degree of chilling may be graded if there is reasonable assurance that after thorough chilling they will have indications of either acceptable or unacceptable quality of lean.

§ 2853.135 Specifications for official United States standards for grades of barrow and gilt carcasses.

(a) U.S. No. 1. Carcasses in this grade have an acceptable quality of lean, a high yield of lean cuts, and a low yield of fat cuts. For carcasses with minimum acceptable lean quality, the cut surface of the loin eye muscle at the 10th rib will be slightly firm, have a slight amount of marbling and be grayish pink to moderately dark red in color. However, for intact carcasses, minimum acceptable quality of lean is indicated by a slight amount of feathering, fat that is slightly firm, and lean that is slightly firm and grayish pink to moderately dark red in color.

erately dark red in color. The belly is at least slightly thick. Carcasses near the borderline between the U.S. No. 1 and U.S. No. 2 grades are thickly muscled in the hams, loins, and shoulders. The lower portion of the ham toward the hock is covered with a thin layer of fat, the back is well-rounded, the area at the juncture of the lower part of the shoulder and the belly is depressed in relation to the shoulder and the belly, and the area directly anterior to the hipbone is depressed in relation to the loin and ham. The maximum actual average thickness of backfat for carcasses in this grade will vary depending upon the distribution of fat, the development of muscling, and the carcass length or weight. For carcasses with a distribution of fat and development of muscling as described herein, the maximum average thickness of backfat increases from 1.3 to 1.6 inches with increases in either carcass length from 27 to 36 inches or carcass weight from 120 to 255 pounds (see Figure 1). A development of muscling superior to that specified as minimum for the U.S. No. 1 grade may compensate for a development of fatness which is greater than that indicated in Figure 1 as maximum for the U.S. No. 1 grade at the rate of one full degree of muscling for one-tenth of an inch increase in thickness of backfat. For example, a carcass which is 30 inches long and which has very thick muscling may have an average thickness of backfat of 1.5 inches and remain eligible for the U.S. No. 1 grade. The reverse type of compensation is also permitted—at the same rate—except that in no case may a carcass be graded U.S. No. 1 with less than moderately thick muscling. Also, in no case may the combined effect of variations in muscling and fat distribution from those described herein alter the final grade more than one full grade from that indicated by the actual average backfat thickness and either carcass length or weight.

(b) U.S. No. 2. Carcasses in this grade have an acceptable quality of lean, a slightly high yield of lean cuts, and a slightly low yield of fat cuts. For carcasses with minimum acceptable lean quality the cut surface of the loin eye muscle at the 10th rib will be slightly firm, have a slight amount of marbling and be grayish pink to moderately dark red in color. However, for intact carcasses, minimum acceptable quality of lean is indicated by a slight amount of feathering, fat that is slightly firm, and lean that is slightly firm and grayish pink to moderately dark red in color. The belly is at least slightly thick. Carcasses near the borderline between the U.S. No. 2 and U.S. No. 3 grades are moderately thickly muscled in the hams, loins, and shoulders. The lower portion of the ham toward the hock is covered with a slightly thin layer of fat and the back is slightly well-rounded. The area at the juncture of the lower part of the shoulder and belly is slightly depressed in relation to the shoulder and the belly and the area directly anterior to the hipbone is slightly depressed in relation to the loin and ham.

The maximum actual average thickness of backfat for carcasses in this grade will vary depending upon the distribution of fat, the development of muscling, and the carcass length or weight. For carcasses with a distribution of fat and development of muscling as described herein, the maximum average thickness of backfat increases from 1.6 to 1.9 inches with increases in either carcass length from 27 to 36 inches or carcass weight from 120 to 255 pounds (see Figure 1). A development of muscling superior to that specified as minimum for the U.S. No. 2 grade may compensate for a development of fatness which is greater than that specified as maximum for the U.S. No. 2 grade at the rate of one full degree of muscling for one-tenth of an inch increase in thickness of backfat. For example, a carcass which is 30 inches long and which has thick muscling may have an average thickness of backfat of 1.8 inches and remain eligible for the U.S. No. 2 grade. The reverse type of compensation is also permitted at the same rate. For example, a carcass which is 30 inches long and which has an average thickness of backfat of 1.6 inches may have slightly thin muscling and remain eligible for the U.S. No. 2 grade. In no case may the combined effect of variations in muscling and fat distribution from those described herein alter the final grade more than one full grade from that indicated by the actual average backfat thickness and either carcass length or weight.

(c) U.S. No. 3. Carcasses in this grade have an acceptable quality of lean, a slightly low yield of lean cuts, and a slightly high yield of fat cuts. For carcasses with minimum acceptable lean quality, the cut surface of the loin eye muscle at the 10th rib will be at least slightly firm, have a slight amount of marbling, and be grayish pink to moderately dark red in color. However, for intact carcasses, minimum acceptable quality of lean is indicated by a slight amount of feathering, fat that is slightly firm, and lean that is slightly firm and grayish pink to moderately dark red in color. The belly is at least slightly thick. Carcasses near the borderline between the U.S. No. 3 and U.S. No. 4 grades are slightly thinly muscled in the hams, loins, and shoulders. The lower portion of the ham toward the hock is covered with a slightly thick layer of fat. The back is slightly flat and the edge of the loin is slightly full resulting in a slight break from the back into the side. In the area at the juncture of the lower part of the shoulder and the belly there is only a very slight depression in relation to the shoulder and the belly. In the area directly anterior to the hipbone there is only a very slight depression in relation to the loin and the ham. The maximum actual average thickness of backfat for carcasses in this grade will vary depending upon the distribution of fat, the development of muscling, and the carcass length or weight. For carcasses with a distribution of fat and development of muscling as described herein, the maximum average thickness of backfat increases from 1.9 to 2.2 inches with in-

creases in either carcass length from 27 to 36 inches or carcass weight from 120 to 255 pounds (see Figure 1). A development of muscling superior to that specified as minimum for the U.S. No. 3 grade may compensate for a development of fatness which is greater than that specified as maximum for the U.S. No. 3 grade at the rate of one full degree of muscling for one-tenth of an inch increase in thickness of backfat. For example, a carcass which is 30 inches long and which has moderately thick muscling may have an average thickness of backfat of 2.1 inches and remain eligible for the U.S. No. 3 grade. The reverse type of compensation is also permitted at the same rate. For example, a carcass which is 30 inches long and which has an average thickness of backfat of 1.9 inches may have thin muscling and remain eligible for the U.S. No. 3 grade. In no case may the combined effect of variations in muscling and fat distribution from those described herein alter the final grade more than one full grade from that indicated by the actual average backfat thickness and either carcass length or weight.

(d) U.S. No. 4. Carcasses in this grade have an acceptable quality of lean but a lower expected yield of lean cuts than carcasses in the U.S. No. 3 grade.

(e) U.S. Utility. Included in this grade are all carcasses which have characteristics that indicate they will have a lesser development of lean quality than described as minimum for the U.S. No. 1, U.S. No. 2, U.S. No. 3, and U.S. No. 4 grades. Also included are all carcasses which do not have acceptable belly thickness and all carcasses—regardless of their development of other quality-indicating characteristics—which are soft and oily.

§ 2853.136 Application of standards for grades of sow carcasses.

(a) The standards for grades of sow carcasses are based on (1) differences in yields of lean cuts and of fat cuts and (2) differences in quality of cuts. There are rather uniform differences in these characteristics from one grade to another. The U.S. No. 1 grade has about the minimum degree of finish required to produce cuts of acceptable palatability. The four major trimmed lean cuts—hams, loins, picnic, and butts—normally make up more than 46 percent of carcass weight. The U.S. No. 2 and U.S. No. 3 grades have successively higher degrees of finish resulting in lower yields of lean cuts and higher yields of fat cuts than U.S. No. 1 grade. Yields of lean cuts average 45 to 48 percent and under 45 percent of carcass weight, respectively, for U.S. No. 2 and U.S. No. 3 grades. In addition, the cuts from these grades have more fat remaining after trimming of external fat than do the cuts from U.S. No. 1 grade carcasses. Medium grade carcasses are underfinished and exhibit the lack of firmness and indications of little or no marbling (fat interspersed within the lean) associated with low palatability. Cull grade carcasses are decidedly under-

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finished and the pork is soft with very little evidence of marbling and is of low palatability.

(b) The standards for grades of sow carcasses apply only to carcasses with the firmness appropriate to their degree of finish. However, carcasses which are typically soft or oily as a result of feeds producing soft or oily fat may be graded in accordance with the standards provided they are identified as soft or oily along with the grade.

(c) There are differences in the bellies of sow carcasses which are peculiar to the class. Increasing numbers of litters farrowed and raised by a sow result in greater development of mammary tissue and increasing roughness of the belly along the teat line with accompanying seediness. In addition, when pigs were weaned only a short time before the sow was slaughtered the mammary tissue still contains milk and the bellies are commonly termed "wet". However, the smoothness or dryness of bellies has little appreciable effect on the basic grade determining factors and the standards contain no provision for altering the grade of a sow carcass due to these belly characteristics. Rather than forming a part of the basis for grade, it is the intent of the standards that smoothness and dryness of bellies should be a separate consideration used in conjunction with grade, weight, and other factors in evaluating sow carcasses.

(d) Average back fat thickness measurements provide a reliable indication of the yields of cuts and the quality of cuts which determine the grade of sow carcasses. Therefore, indication of a specific range in back fat thickness for each grade forms a part of the standards for grade. Analysis of measurement and cutting data for sow carcasses reveals that yields of cuts are approximately equal in carcasses which are equal in fat thickness but widely different in weight. Thus, to maintain comparable yields in a grade at all weights, back fat thickness requirements for a grade are the same at all weights. This is in contrast to the standards for barrows and gilts, in which the fat thickness for a grade increases for heavier or longer carcasses in order to maintain yields of cuts. With practice in the grading operation, visual estimates of fat thickness may often replace actual measurements with satisfactory accuracy. The following table of measurements provides an objective guide in determining the grade of sow carcasses.

Grade:	Average back fat thickness ¹
U. S. No. 1.....	1.5 to 1.9 inches.
U. S. No. 2.....	1.9 to 2.3 inches.
U. S. No. 3.....	2.3 or more inches.
Medium.....	1.1 to 1.5 inches.
Cull.....	Less than 1.1 inches.

¹ Average of three measurements, skin included, made opposite first and last ribs and the last lumbar vertebra.

(e) In addition to the measurement guides to grade, the standards also include descriptive specifications outlining the characteristics of sow carcasses typical of the minimum degree of finish for each grade. Average back fat thickness is a major factor in grading, but more accurate appraisal of yields of cuts and quality of cuts is achieved in borderline cases by consideration of thickness of muscling, conformation of the major cuts, uniformity of fleshing and finish, firmness, and indications of marbling. However, in no case may the final grade of a carcass be more than one-half the width of a grade different from that indicated by average back fat thickness.

(f) The standards describe rather typical carcasses of each grade, and no attempt is made to describe the numerous combinations of characteristics that may qualify a carcass for a particular grade.

§ 2853.137 Specifications for official United States standards for grades of sow carcasses.

(a) *U. S. No. 1 grade.* U. S. No. 1 grade sow carcasses have about the minimum degree of finish required to produce pork cuts of acceptable palatability. Meatiness and yield of lean cuts from carcass weight are slightly high. Yield of fat cuts is slightly low. The ratio of total lean and fat to bone is slightly high. Carcasses with the minimum finish required for U. S. No. 1 grade are moderately long and slightly wide in relation to weight. The back and loins are moderately full and thick with a well-rounded appearance. Hams are usually moderately thick and plump and are slightly full in the lower part toward the hock. Bellies are moderately long, slightly thick, and moderately uniform in thickness with a slightly thick belly pocket. Shoulders are slightly thick and full. Carcasses are usually moderately well-balanced and moderately uniform in fleshing and finish. There are moderate quantities of interior fat in the pelvic area, a slightly thin but moderately extensive layer of fat lining the inside surface of the ribs, and a slightly small quantity of feathering, or fat intermingled with the lean between the ribs. The lean is firm. Both exterior and interior fats are firm, white, and of excellent quality. Carcasses with back fat thickness qualifying them for the fatter one-half of the U. S. No. 1 grade but with thin muscling in the major cuts, uneven fleshing and finish, or thick and uneven bellies shall be graded U. S. No. 2. Carcasses with back fat thickness qualifying them for the thinner one-half of the U. S. No. 1 grade but with only a moderately thin and incomplete rib lining, a moderately small quantity of feathering, slightly thin bellies with moderately thin belly pockets, and moderately soft lean and fat shall be graded Medium.

(b) *U. S. No. 2 grade.* U. S. No. 2 grade sow carcasses have a higher de-

gree of finish than the minimum required to produce pork cuts of acceptable palatability. Meatiness and yield of lean cuts from carcass weight are slightly low. Yield of fat cuts is slightly high. The ratio of total lean and fat to bone is moderately high. Carcasses with the minimum finish required for U. S. No. 2 grade are slightly short and moderately wide in relation to weight. The back and loins are full and thick and are especially full near the edges. Hams are usually thick and plump and are moderately full in the lower part toward the hock. Bellies are slightly short, moderately thick, and rather uniform in thickness with a moderately thick belly pocket. Shoulders are moderately thick and full. Carcasses are usually well-balanced and uniform in fleshing and finish. There are slightly large quantities of interior fat in the pelvic area, a slightly thick and rather extensive layer of fat lining the inside surface of the ribs, and moderate feathering. The lean is firm. Both exterior and interior fats are firm, white, and of excellent quality. Carcasses with back fat thickness qualifying them for the fatter one-half of the U. S. No. 2 grade but with thin muscling in the major cuts, uneven fleshing and finish, or very thick and uneven bellies shall be graded U. S. No. 3. Carcasses with back fat thickness qualifying them for the thinner one-half of the U. S. No. 2 grade but with thick muscling in the major cuts, well-balanced fleshing and uniform finish, and slightly thick bellies shall be graded U. S. No. 1.

(c) *U. S. No. 3 grade.* U. S. No. 3 grade sow carcasses have a decidedly higher degree of finish than the minimum required to produce pork cuts of acceptable palatability. Meatiness and yield of lean cuts from carcass weight are low. Yield of fat cuts is high. The ratio of total lean and fat to bone is high. Carcasses with the minimum finish required for U. S. No. 3 grade are short and wide in relation to weight. The back and loins are very full and thick and are decidedly full at the edges. Hams are usually very thick and plump and are full in the lower part toward the hock due to a thick fat covering. Bellies are short and thick and uniform in thickness with a thick belly pocket. Shoulders are thick and full. Carcasses are usually well-balanced and uniform in fleshing and finish. There are large quantities of interior fat in the pelvic area, a moderately thick and extensive layer of fat lining the inside surface of the ribs, and slightly abundant feathering. The lean is firm. Both exterior and interior fats are firm, white, and of excellent quality. Carcasses with back fat thickness indicative of nearly minimum finish for the U. S. No. 3 grade but with thick muscling in the major cuts, well-balanced fleshing and uniform finish, and moderately thick bellies shall be graded U. S. No. 2.

(d) *Medium grade.* Medium grade sow carcasses have a lower degree of finish than the minimum required to

produce pork cuts of acceptable palatability. Yield of lean cuts from carcass weight is moderately high. Yield of fat cuts is moderately low. The ratio of total lean and fat to bone is moderately low. Carcasses with the minimum finish required for Medium grade are long and rather narrow in relation to weight. The back and loins are rather thin, lack fullness, and slope away from the center. Hams are usually slightly thin, lack plumpness, and taper toward the hock. Bellies are long and moderately thin and are somewhat uneven in thickness with a thin belly pocket. Shoulders are moderately thin and flat. Carcasses tend to be uneven and lack uniformity of fleshing and finish. There are slightly small quantities of interior fat in the pelvic area, a thin and incomplete layer of fat lining the inside surface of the ribs, and only a small quantity of feathering. The lean is moderately soft with little evidence of marbling. Both exterior and interior fats are moderately soft, white to creamy white, and of moderately low quality. Carcasses with back fat thickness qualifying them for the fatter one-half of the Medium grade that are firm and have slightly thick bellies and belly pockets, a slightly thin but moderately extensive rib lining, and a slightly small quantity of feathering shall be graded U. S. No. 1. Carcasses with back fat thickness qualifying them for the thinner one-half of the Medium grade but with little or no rib lining and feathering, thin bellies and very thin belly pockets, and soft lean and fat shall be graded Cull.

(e) *Cull grade.* Cull grade sow carcasses have a decidedly lower degree of finish than the minimum required to produce pork cuts of acceptable palatability. Yield of lean cuts from carcass weight is high. Yield of fat cuts is low. The ratio of total lean and fat to bone is low. Carcasses with the degree of finish typical of the Cull grade are long and narrow in relation to weight. The back and loins are thin and decidedly lacking in fullness with a definite slope toward the sides. Hams are usually thin and flat and taper toward the hock. Bellies are very long and thin and are uneven in thickness with a very thin belly pocket. Shoulders are thin and flat. Carcasses tend to be uneven and lack uniformity of fleshing and finish. There are only small quantities of interior fat in the pelvic area, little or no fat lining the inside surface of the ribs, and scant feathering. The lean is soft and watery with very little evidence of marbling. Both exterior and interior fats are soft, creamy white to white, and of low quality. Carcasses with back fat thickness indicative of nearly maximum finish for the Cull grade that are only moderately soft and have moderately thin bellies and belly pockets, a thin and incomplete rib lining, and a small quantity of feathering shall be graded Medium.

[FR Doc. 77-28797 Filed 10-3-77; 8:45 am]

[3410-34]

Title 9—Animals and Animal Products

CHAPTER I—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER C—INTERSTATE TRANSPORTATION OF ANIMALS (INCLUDING POULTRY) AND ANIMAL PRODUCTS

PART 73—SCABIES IN CATTLE

Release of Areas Quarantined

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this amendment is to release portions of Monterey and San Benito Counties in California from areas quarantined because of cattle scabies. Surveillance activity indicates that cattle scabies no longer exists in the areas quarantined. No areas in the State of California remain under quarantine.

EFFECTIVE DATE: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Glen O. Schubert, Chief Staff Veterinarian, Sheep, Goats, Equine, and Ectoparasites Staff, USDA, APHIS, VS, Room 737, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782 (301-436-8322).

SUPPLEMENTARY INFORMATION: This amendment releases portions of Monterey and San Benito Counties in California from the areas quarantined because of cattle scabies. Therefore, the restrictions pertaining to the interstate movement of cattle from quarantined areas contained in 9 CFR Part 73, as amended, will not apply to the excluded areas, but the restrictions pertaining to the interstate movement of cattle from nonquarantined areas contained in said Part 73 will apply to the excluded areas. Accordingly, Part 73, Title 9, Code of Federal Regulations, as amended, restricting the interstate movement of cattle because of scabies, is hereby amended in the following respect:

§ 73.1a [Amended]

In § 73.1a, paragraph (d) relating to the State of California is deleted.

(Secs. 4-7, 23 Stat. 32, as amended; secs. 1 and 2, 32 Stat. 791-792, as amended; secs. 1-4, 33 Stat. 1264, 1265, as amended; secs. 3 and 11, 76 Stat. 130, 132; 21 U.S.C. 111-113, 115, 117, 120, 121, 123-126, 134b, 134c; 37 FR 28464, 28477; 38 FR 19141.)

The amendment relieves restrictions no longer deemed necessary to prevent the spread of cattle scabies and should be made effective promptly in order to be of maximum benefit to affected persons. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, under the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and

other public procedure with respect to the amendment are impracticable and unnecessary, and good cause is found for making the amendment effective less than 30 days after publication in the Federal Register.

Done at Washington, D.C., this 31th day of September 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

PIERRE A. CHALOUX,
Deputy Administrator,
Veterinary Services.

[FR Doc. 77-28276 Filed 10-3-77; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. Z; FC-0110 through FC-0114]

PART 226—TRUTH IN LENDING

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official staff interpretation(s).

SUMMARY: The Board is publishing the following official staff interpretations of Regulation Z, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Attorney, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412).

SUPPLEMENTARY INFORMATION.

(1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR Part 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR Part 226.1(d)(2). Every request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

(3) 15 U.S.C. 1640(f).

FC-0110

§ 226.6(c) Principal amount of mortgage loan (encompassing both prepaid finance

charges and amount financed) may be disclosed consistent with § 226.6(c) and 8(d), but no specific terminology required. Use of this figure to identify the transaction is also permissible but should be done carefully. (See FC-0040)

SEPTEMBER 6, 1977.

This is in response to your letter of . . . in which you requested an official staff interpretation of Regulation Z with respect to disclosure of the principal amount of the loan in a residential mortgage transaction.

You indicate that your client makes mortgage loans in which certain prepaid finance charges are imposed. Your client desires to disclose the aggregate amount of the loan, consisting of the sum of the amount financed and the prepaid finance charges, in order to give customers a more complete picture of the loan transaction. Your letter indicates you would refer to the principal amount of the loan in two places: first, as part of the disclosure which identifies the transaction, and second, as a disclosure item following the disclosures of the "amount financed" and the "prepaid finance charge."

The staff believes the second of the disclosures you suggest is consistent with the provisions of § 226.8(d), and is permissible additional information under § 226.6(c) so long as it does not confuse or detract attention from required disclosures. While § 226.8(d)(1) contemplates the existence of some total loan figure (which encompasses both prepaid finance charges and the amount financed), the regulation requires no specific terminology to be used for that figure, and we cannot prescribe any particular phrasing that your client must use.

With regard to the use of the aggregate amount of the loan as a part of the textual disclosure that identifies the transaction or relates the disclosure statement to the appropriate transaction document(s), the staff believes that this also is permissible additional information under § 226.6(c). We would call your attention, however, to Official Staff Interpretation FC-0040 and to a staff letter dated June 23, 1977, both of which suggest the need for care in the placement of such nonrequired disclosures lest they be found to "contradict, obscure or detract attention from" required disclosures. Copies of both letters are enclosed for your reference.

This is an official staff interpretation of Regulation Z, issued under § 226.1(d)(3) of the regulation and limited in its application to the facts outlined herein. We note that you represent a creditor subject to the laws of the State of Connecticut. Since Connecticut has been granted an exemption from the relevant portion of the Federal law, you may wish to contact the Bank Commissioner of the State of Connecticut for the views of that office. We trust this is responsive to your inquiry.

Sincerely,

JERALD C. KLUCKMAN,
Associate Director.
FC-0111

§ 226.2(h) and § 226.2(s) Where bank and credit card issuer agree to permit bank's checking account customers who have open end credit accounts with card issuer to use credit line to cover overdrafts under separate agreement between bank and customer, and bank neither assists customers in applying for credit card nor receives any fee in connection with overdrafts that are covered, bank is not a creditor for purposes of Regulation Z.

SEPTEMBER 16, 1977.

This is in response to your letter of . . . in which you request an official staff interpretation of Regulation Z.

Your inquiry relates to whether your client, a bank, would be a creditor for purposes of Regulation Z based on the follow-

ing facts. The bank and a credit card issuer enter into an agreement that will permit checking account customers of the bank who have an open end credit account with the card issuer to use the credit line to cover checking account overdrafts. Under a separate agreement with its customers, the bank will agree to request advances from the card issuer in \$50 increments to cover any overdrafts. When an overdraft occurs, the bank will contact the card issuer to determine whether credit is available to the customer and to request an advance. If credit is available, the bank will honor the overdraft and collect a cash advance from the card issuer. If the bank receives a negative response from the card issuer, the bank will return the customer's check because of insufficient funds.

Under this plan, the bank will neither assist the customer in completing an application for a credit card nor participate in any way in the card issuer's initial decision to issue a credit card to a bank customer. The bank will receive no fee from either the customer or the card issuer for requesting an advance to cover an overdraft. Customers will pay no additional charge to the card issuer with regard to cash advances requested by the bank, other than the finance charge normally imposed by the card issuer pursuant to its open end credit agreement with the customer. The bank will impose its normal charge for checks that are returned because of insufficient funds, but will not impose any charge in connection with an overdraft check that is honored under the overdraft plan. The monthly checking account service charge will be the same whether or not a customer has the overdraft feature on the checking account, and whether or not any overdraft has been covered in any given month.

You ask whether the bank is an "arranger of credit" for purposes of § 226.2(h) of Regulation Z and, thus, subject to the disclosure requirements of the regulation. It is staff's opinion that the bank is neither extending credit nor arranging for an extension of credit as defined in § 226.2(h). Consequently, the bank is not subject to any disclosure requirements imposed by the regulation.

I understand that one of our staff members discussed the other issues raised in your letter with you by telephone, and that an answer in this letter is no longer necessary.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts and issues stated herein. I trust it is responsive to your inquiry.

Sincerely,

JERALD C. KLUCKMAN,
Associate Director.
FC-0112

§ 226.15(b) Lessee's right to submit a bid for purchase of vehicle at termination of lease is not an "option to purchase" where lessor need not accept it and lessee's bid is treated like all other bids.

Lessor may require that lessee obtain the § 226.15(b)(14) professional appraisal within a reasonable time after termination of lease, but staff cannot state what is a reasonable time in all circumstances.

§ 226.15(c) Assumption of consumer lease is not a renegotiation; although no new disclosures are required, lessor may provide assuming party with restatement and update of original disclosures.

SEPTEMBER 13, 1977.

This is in reply to your letter of . . . requesting an official staff interpretation concerning several provisions of Regulation Z which implement the Consumer Leasing Act.

Your first question concerns the meaning of the term "option to purchase" as it is used in § 226.15(b)(11). Your client's vehicle lease agreement provides that upon termination of the lease, the realized value of the lease property shall be ascertained by a professional appraisal or by a bid procedure whereby the lessor procures several cash bids for the purchase of the vehicle, with the highest bid being deemed the realized value. The lease agreement provides that the lessee has a right to submit a cash bid for the purchase of the vehicle and that such bid shall receive the same consideration as any other bid. This right to bid is also provided by statute in your State. You note that the lessee's right to bid does not place the lessee in a position in any way superior to that of other bidders, that none of the bids submitted by persons other than the lessee are subordinate to the lessee's bid, and that the lessee has no right to and does not receive any information from the lessor regarding the amounts of other bids submitted. You ask whether the lessee's right to bid as described is an "option to purchase" within the meaning of § 226.15(b)(11).

It is staff's opinion that the lessee's right to submit a bid as described above does not constitute an "option to purchase" within the meaning of § 226.15(b)(11). This opinion is based on the fact that the lessor is not required to accept the lessee's bid and the lessee is in no better position than the other bidders.

Your second question concerns the lessee's right to a professional appraisal, which is provided in § 226.15(b)(14). You ask whether a lessor can require a lessee who chooses to exercise this right to complete the appraisal within a reasonable time after termination or expiration of the lease. In other words, you ask whether a "reasonable time" standard can be read into the provisions of § 226.15(b)(14). You ask further whether ten days would constitute a reasonable time.

Section 226.15(b)(14) requires a statement that the lessee may obtain a professional appraisal "at the end of the lease term or at early termination." Neither the Act nor the regulation specifies any time period in which such appraisal must be completed. In staff's opinion, a creditor may require that a customer obtain the appraisal within a reasonable time after the termination of the lease. Since the issue of what constitutes a reasonable time will vary depending on the facts of each situation, however, staff does not believe it can state whether any particular time period is reasonable in all circumstances.

Your final question concerns a situation in which, subsequent to the execution of a consumer lease, the lessee's obligations are assumed by a third party consumer pursuant to a written agreement between the lessor and the assuming party. You ask whether the lessor has any disclosure obligations to the assuming party. As you have noted, the only provision of Regulation Z which specifically deals with assumptions is found in § 226.8(k), which applies solely to other than open end credit. You ask whether the described lease assumption would constitute a renegotiation within the meaning of § 226.15(c), and thus be considered "a new lease subject to the disclosure requirements of this Part." You point out that treating the transaction as a new lease would be awkward, since re-estimating the residual value may effect a change in all the terms of the lease and thus produce a transaction which neither the lessee, the lessor, nor the assuming party anticipated or desired. You suggest that the lessor's disclosure obligations in this case could be fulfilled by providing a restatement of the disclosures made to the original lessee and a statement of the amounts credited to the original lessee's fixed obligations as of the date of the assumption.

Neither the Act nor the regulation provides for new disclosures to be made upon the assumption of a consumer lease when there are no changes in the original terms, and it is staff's opinion that no disclosures are required in these circumstances. Staff believes that if your client wishes to provide the assuming party with a restatement of the original disclosures as well as any updating information, this would certainly help the new party understand the obligation being assumed, and it would not violate the regulation.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts and issues addressed herein. I trust that it proves helpful to you.

Sincerely,

JERALD C. KLUCKMAN,
Associate Director.
FC-0113

§ 226.8(b) When an obligation is to be repaid in payments of varying amounts, § 226.8(b)(3) requirement that number and amount of payments be disclosed is satisfied if number of payments of each varying amount is disclosed. Total number of payments of all amounts need not be stated.

SEPTEMBER 13, 1977.

This is in response to your letter of . . . requesting clarification of the requirements of § 226.8(b)(3) of Regulation Z.

Specifically, you ask whether certain language, which you indicate appears on loan and installment sale forms used and/or purchased by your clients, complies with the requirement of § 226.8(b)(3) of Regulation Z and the identical requirements of § 128(a)(8) and 129(a)(6) of the Truth in Lending Act that a creditor disclose "[t]he number, amount, and due dates or period of payments scheduled to repay the indebtedness." It is staff's policy not to review particular creditor's disclosures to determine whether they comply with Truth in Lending requirements, and, in fact, § 226.1(d)(3) specifically provides that staff is without authority to approve particular creditors' forms in any manner. However, staff does feel that your letter raises a technical question of general applicability and significance which should be addressed.

In essence, you ask whether a creditor must, pursuant to the Act and Regulation Z, disclose in a single figure or amount the total number of payments scheduled to repay an obligation. For example, if a loan is scheduled to be repaid in 35 equal monthly installments plus one final installment of a differing amount, must the creditor state that there are 36 payments scheduled to repay the loan? Staff is of the opinion that if the creditor in our example discloses that the loan is to be repaid in 35 installments of a stated amount and one final installment of a differing stated amount, the creditor has complied with the requirement that the number of payments scheduled to repay the indebtedness be disclosed. When an obligation is to be repaid in payments of varying amounts, staff believes that the requirement of § 226.8(b)(3) that the number and amount of payments be disclosed is satisfied if the number of payments of each varying amount is disclosed. Staff does not feel that a creditor must also disclose the total number of payments of all amounts in such a situation, although the creditor may do so if it wishes.

In your letter you note that a conclusion opposite to that reached by staff was expressed by the Court in *Powers v. Sims and Levin Realtors*, 396 F. Supp. 12, 20 (E.D. Va. 1975), affirmed in part, reversed in part, and remanded on other grounds, 542 F.2d 1216

(4th Cir. 1976). There the Court held that a creditor must disclose the total number of all payments scheduled to repay an obligation, rather than provide the type of disclosure approved by staff in this letter, in order to comply with § 226.8(b)(3). And see *Louery v. Finance America Corporation*, 32 N.C. App. 174, 231 S.E.2d 904, 911 (1977), relying in part on *Powers*. Nonetheless, staff believes that its interpretation, as contained in this letter, properly construes the requirements of § 226.8(b)(3) with regard to the type of payment schedule discussed in our example. However, staff feels that it would not be appropriate to suggest what course of action should be followed by creditors in jurisdictions where courts have taken a position contrary to ours.

This is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts and issues discussed herein.

I trust that this interpretation is responsive to your inquiry.

Sincerely,

JERALD C. KLUCKMAN,
Associate Director.
FC-0114

§ 226.8(d) Component parts of loan proceeds need not be itemized.

SEPTEMBER 13, 1977.

This is in response to your letter of . . . requesting an official staff interpretation of Regulation Z with respect to the requirements of § 129(a) of the Truth in Lending Act and 226.8(d)(1) of the regulation.

You refer to the recent decision of *McGowan v. Credit Center of North Jackson, Inc.*, 546 F.2d 73 (5th Cir. 1977), which addressed the issue of whether the Act and regulation require individual disclosure of each separate disbursement to be made from the net amount generated by the loan for the borrower's use or benefit. In *McGowan*, the Court held that the lender was not required to itemize the amount of prior loans to be repaid from the loan proceeds. On the basis of the *McGowan* decision, creditors within the Fifth Circuit's jurisdiction may disclose in the manner sanctioned by the Court with some degree of certainty that they are in compliance with the Act and regulation. You request an official staff interpretation, on which creditors in other States could rely, to the effect that components of the loan proceeds need not be itemized.

It is staff's opinion that § 129(a) of the Act and § 226.8(d)(1) of the regulation do not require a creditor to itemize component parts of the amount remaining after excluding all charges that are not part of the finance charge from the amount financed. It should be noted that this interpretation is limited to the question of the need to itemize components of the loan proceeds and expresses no opinion with regard to the separate disclosure of the loan proceeds.

This letter is an official staff interpretation of Regulation Z, issued in accordance with § 226.1(d)(3) of the regulation and limited in its application to the facts and issues outlined herein. I trust it is responsive to your request.

Sincerely,

JERALD C. KLUCKMAN,
Associate Director.

Board of Governors of the Federal Reserve System, September 29, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc 77-29213 Filed 10-3 77; 8:45 am]

[6210-01]

[Docket No. R-0110.]

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to expedite and facilitate the performance of certain of its functions, the Board of Governors has delegated to the Secretary of the Board authority to permit member banks to waive the penalty for early withdrawal of a time deposit in § 217.4(d) of Regulation Q for depositors suffering disaster-related losses in areas declared a major disaster area by the President.

EFFECTIVE DATE: September 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Theodore E. Allison, Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3257).

SUPPLEMENTARY INFORMATION: Section 217.4(d) of Regulation Q (12 CFR § 217.4(d)) provides that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed for a savings deposit and that the depositor shall forfeit three months of interest payable at such rate. The Board of Governors has amended its Rules Regarding Delegation of Authority to authorize the Secretary of the Board to permit member banks to waive the early withdrawal penalty in those situations in which the President of the United States, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order No. 11795 of July 11, 1974, has designated an area a major disaster area. The Board regards a Presidential declaration of a major disaster area as recognition by the Federal government that a disaster of major proportions has occurred and under such circumstances believes it appropriate to provide an additional measure of assistance to disaster victims by temporarily suspending the Regulation Q early withdrawal penalty. Pursuant to this delegation, a waiver of the early withdrawal penalty will be limited in effectiveness to depositors suffering disaster-related losses in a geographical area designated a major disaster area by a Presidential declaration.

The provisions of section 553 of Title 5, United States Code relating to notice and public participation and deferred effective date are not followed in connection with this amendment because the change involved therein is procedural in nature and does not constitute a substantive rule subject to the requirements of such section.

Effective September 27, 1977, a new paragraph 265.2(a)(18) is added to read as follows:

§ 263.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

(a) The Secretary of the Board (or, in the Secretary's absence, the Acting Secretary) is authorized:

(18) Under the provisions of section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) and §§ 217.4(a) and (d) of Regulation Q (12 CFR 277.4(a) and (d)) to permit member banks to waive the penalty for early withdrawal of a time deposit in § 217.4(d) if all of the following conditions are met:

(i) The President of the United States declares an area a major disaster area pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order No. 11795 of July 11, 1974.

(ii) A waiver is limited in effectiveness to depositors suffering disaster-related losses in the officially designated disaster area.

(iii) The appropriate Reserve Bank recommends approval.

(iv) All relevant divisions of the Board's staff recommend approval.

Board of Governors of the Federal Reserve System, September 27, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 77-29097 Filed 10-3-77; 8:45 am]

[6355-01]

Title 16—Commercial Practices CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION SUBCHAPTER A—GENERAL PART 1009—GENERAL STATEMENTS OF POLICY OR INTERPRETATION Amendment of Policy on Establishing Priorities for Commission Action

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: In this notice the Commission amends its policy on establishing priorities for action under the five acts the Commission administers. This policy, has been effective since July 1, 1976. Some of the amendments to the priorities policy were suggested in written comments received from members of the public, and others were initiated within the Commission. The amendments include the addition of new criteria and the clarification and modification of existing criteria which the Commission considers in setting its priorities.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Edward J. Heiden, Director, Office of Strategic Planning, Consumer Product Safety Commission, Washington, D.C. 20207 (202-634-4350).

SUPPLEMENTARY INFORMATION: The Commission's priorities policy (16

CFR 1009.8), published in the FEDERAL REGISTER on July 8, 1976 (41 FR 27960), is a general statement of policy that is exempt from the notice and public procedure provisions of the Administrative Procedure Act (5 U.S.C. 553). Nevertheless, the Commission solicited public comment on the policy because of its importance, and stated that it may amend the policy as a result of the comments received. This notice summarizes the significant comments received, discusses the Commission's responses to them, and amends the policy wherever the Commission found changes to be appropriate and desirable.

The following individuals and groups submitted comments on the Commission's priorities policy: One consumer organization—Consumers Union; eight interested persons—James J. Frankman, Lawrence Feldman, Renee Mizell, Beverly J. Hardin, Amy R. Walker, Lynn Jordan, Theodora Sweeney, and Gayna L. Aude; three companies—AMF Incorporated, Monsanto Textiles Company (comment signed by John Lomartire, a member of the Commission's National Advisory Commission for the Flammable Fabrics Act), and Texize Chemicals Company; three trade associations—Toy Manufacturers of America, Inc., National Electrical Manufacturers Association, and the Soap and Detergent Association; one county official—Janice Redford, the Dane County (Wisconsin) Supervisor, District 37; two federal government entities—the Council on Wage and Price Stability and the Office of Consumer Affairs of the Department of Health, Education, and Welfare; one consulting firm—Walker Associates; one company president who is a former technical advisory committee member—Charles B. Sanders; one professor—Stewart Lee; and one employee of the Commission—Georg Maisel, Director of the Division of Poison Packaging of the Bureau of Biomedical Science.

Some of the comments suggested changes in the Commission's priorities policy, some expressed general support for the policy, and some raised relevant points and issues. The discussion below is organized according to issues rather than according to particular comments. All comments received by the Commission are on file at the Office of the Secretary, 1111 18th Street NW., 3rd floor, Washington, D.C. 20207 and are available for review by any interested member of the public.

The priorities policy, as published on July 8, 1976, included eight criteria that the Commission uses to establish priorities for action under the five acts it administers: the Consumer Product Safety Act (CPSA), the Federal Hazardous Substances Act (FHSA), the Flammable Fabrics Act (FFA), the Poison Prevention Packaging Act of 1970 (PPPA), and the Refrigerator Safety Act (RSA). According to the policy, priorities are established by a majority vote of the Commission members, and "will be reflected by votes on all requests for appropriations, and annual operating plan, and any revisions thereof" (§ 1009.8(b)).

The criteria are: (1) Frequency and severity of injuries, (2) causality of injuries, (3) chronic illness and future injuries, (4) cost and benefit of CPSC action, (5) unforeseen nature of the risk, (6) vulnerability of the population at risk, (7) probability of exposure to hazard, and (8) additional criteria.

The following discussion includes the significant issues raised by the comments:

I. COMMENTS ON EXISTING CRITERIA FOR ESTABLISHING PRIORITIES

A. CHRONIC ILLNESS AND FUTURE INJURIES

Certain products will receive priority attention under criterion (3) if there is reason to believe that they will be associated with many injuries in the future, even if current injuries associated with such products are neither frequent nor severe.

The National Electrical Manufacturers Association has commented that this criterion is based upon an obscure rationale, and should be carefully reconsidered and possibly withdrawn in favor of a more precise instruction—for example, that published research or findings of the National Institutes of Health must be used for anticipatory judgments concerning illnesses.

The Commission will use the best available data, including any available from the National Institutes of Health, for making judgments on chronic illness and future injuries. However, the scope of this criterion should remain broad enough to include all potential sources of data, and the Commission has accordingly decided not to make any change in this criterion.

B. COST AND BENEFIT OF CPSC ACTION

Under criterion (4) the Commission gives consideration to the cost of its action to producers and consumers. These costs and effects of its action on the utility, convenience and supply of the product and the movement toward substitutes, etc. are to be weighed on a preliminary basis against resulting benefits to society from reduced injuries. Numerous comments, including an in-depth statement submitted by an economist at the Council on Wage and Price Stability, have addressed this criterion. Two commenters have urged that, in determining costs and benefits, the Commission consider the expected effectiveness of regulatory options—either as a separate criterion or as an explicit component of the cost/benefit criterion. Two commenters have stated that specific injury and death cost assumptions used in estimating the benefits of an action should be an explicit part of the cost/benefit analysis.

In addition, two commenters have questioned the implications of the statement in criterion (4) that as among "risks of relatively equal priority, . . . those that are capable of being reduced at small cost should be given priority over those that would require producers to incur large costs" and hence would result in large price increases. Both of these commenters are concerned that

benefits will not receive appropriate consideration; one of them avers that only net benefits (benefits minus costs) represent the proper guide to priority.

Finally, two commenters addressing criterion (4) have expressed concern that attention to product cost increases may result in overprotection of producers or insufficient aggressiveness in correcting hazards.

The Commission believes that the comments asking that the Commission consider expected effectiveness of regulatory options and specific injury cost assumptions as components of the cost/benefit criterion indicate the need to be more specific as to the fact that benefit calculations already contain these factors as a component. Similarly, the example originally provided in criterion (4), of cost comparisons between products addressing relatively equal product risks, has apparently, and if so mistakenly, been interpreted as implying inadequate use of benefit estimates.

To correct these misapprehensions, the language of criterion (4) has been changed to provide a more explicit statement regarding the way the Commission considers benefits and costs.

The Commission must reject the argument that consideration of impact of product cost in the light of benefits results in undue protection of the manufacturer at the expense of the consumer. Under section 9(c) of the CPSCA, the Commission is instructed to consider cost impacts.

C. VULNERABILITY OF THE POPULATION AT RISK

Criterion (6) focuses on consumer products that are especially or frequently used by children, the elderly, and the handicapped. If all other factors are equal, the Commission will usually place a higher priority on preventing product related injury to people in these categories, based on their relatively lesser ability to judge or escape certain dangers.

The Toy Manufacturers of America, Inc. (TMA) has objected to the assignment of extra weighting for children's injuries. In support of its position, TMA has cited a study performed under contract to the Commission by Mueller Associates, Inc. entitled "Risk and Priority Determination Approaches: A Panel Study for the CPSC." This study concerns the injury evaluation used for the CPSC Hazard Index (which relies on statistics collected by the Commission's National Electronic Injury Surveillance System (NEISS)) and concludes that "the present practice of essentially counting injuries to children twice [is] not proper and could lead to erroneous conclusions as to which products are most hazardous" (page 21 of study).

The Commission agrees with the Mueller Report that the practice of extra-weighting children's injuries reported in the NEISS system shifts upward on the Hazard Index those products which are used extensively by children. Thus the Hazard Index is not an absolute ranking of products on a totally objective scale of hazard. The Commission hopes that

users of the Index will understand this. The practice of extra-weighting children's injuries merely reflects the Commission's long held belief that children are a particularly vulnerable population group. It is difficult to reach any other conclusion based on available injury statistics. The Commission recognizes, however, that children are not the only population group especially vulnerable to injuries and it believes that when such special vulnerability situations are recognized, the Commission should give them explicit, but not necessarily overriding, consideration.

Another commenter who expressed some doubts about the criterion concerning vulnerability of the population at risk, Renee Mizell, has cited the example of requirements for child-resistant packaging for drugs. She has stated that these requirements do protect children but at the same time hinder elderly people who live alone. Criterion (6) is intended to focus the Commission's attention, in appropriate cases, on the special hazards affecting certain subgroups in the general population. If and when the Commission regulates products to address such hazards, it will make every effort to avoid action that might endanger one subgroup while reducing risks for another subgroup. (It should be noted that, under the provisions of the PPPA, drugs not packaged in child-resistant containers are available to all consumers, including the elderly, upon request.)

D. PROBABILITY OF EXPOSURE TO HAZARD

County official Janice Redford has questioned, with regard to criterion (7), the reliability of future projections and the statistics of probability. The Commission recognizes that probability of exposure to hazards in the future must be based on projections from current statistics. No statistics are perfect, but the Commission nevertheless anticipates that it will be able to evaluate the probability of future consumer exposure to a particular hazard in some situations. This criterion is intended to express nothing more than such an evaluation.

Another commenter, Theodora Sweeney, has objected that criterion (7), "seems to tolerate some degree of probability of even fatal injury." The Commission disagrees with this objection because its responsibility is not to eliminate all risk of serious injury or death, and any attempt to do so would be unrealistic.

II. SUGGESTED ADDITIONAL CRITERIA FOR ESTABLISHING PRIORITIES

A. Consumers Union has suggested as an additional criterion the extent to which tort actions (private lawsuits for damages) might create adequate market incentives for safety. Consumers Union maintains that certain products may be associated with a large number of injuries, but it may be difficult for the injured consumer to prove negligence in the manufacture or distribution of these products. According to Consumers Union, "such products should be regulated before products whose negligent manufac-

ture or distribution is relatively easy to prove," if other factors are equal. Although this may be an interesting factor to consider, the Commission does not believe it is significant enough to be included as one of the criteria in the policy statement.

B. The Commission has similarly denied a second suggestion made by Consumers Union for an additional criterion. That suggestion was that the Commission should be less inclined to regulate products for which safer versions are available on the market than products for which consumers cannot purchase a safer version. The Commission believes that such a criterion would be inappropriate whenever consumers are unaware of the safer versions or fail to recognize that greater risks may be associated with the less safe versions. Therefore, the policy has not been amended to include "availability of safer versions of products" as a new criterion.

C. A third suggested additional factor, also submitted for consideration by Consumers Union, is whether a safety requirement could be easily defeated or could be made undefeatable only at great cost. The Commission believes that this criterion could not be applied to its decision-making involving the setting of priorities. At the time that the Commission considers what products to regulate, there is no particular safety requirement at issue. Only after regulation is underway would the Commission have a particular safety device, design, or requirement to evaluate. Accordingly, this factor appears to be unworkable and the Commission has not adopted it as an additional criterion.

D. The last paragraph of the policy on priorities stated that the Commission may not require extensive documentation on each criterion before making a decision because such data may be difficult to locate or develop on a timely basis. Walker Associates has suggested that this paragraph be labeled "Exceptional Conditions" and be added as an additional criterion. The Commission, however, believes that this paragraph explains how the criteria will be used rather than adds a new factor and has not adopted the suggestion.

E. Monsanto has suggested the addition of a criterion that "would request definition of a suitable means for establishing the effectiveness of the regulation in question." This would normally require "specifying a method for establishing the 'degree of injury' before and after implementation of a rule." If this suggestion involves an estimate of the decrease in the "degree of injury" that would stem from implementation of a rule, it seems to the Commission that this consideration is already included under the policy's fourth criterion on "cost and benefit of CPSC action" (although Monsanto states that its suggestion is not inherent in that criterion). If an actual analysis of "degree of injury" following implementation of a rule is involved, this is inconsistent with the timing of Commission priority determinations, for the same reasons explained in (C), above. (This comment by Monsanto is

also discussed under section I (B) of this preamble.

III. GENERAL ISSUES CONCERNING CRITERIA FOR ESTABLISHING PRIORITIES

A. RANKING/WEIGHTING OF CRITERIA

A number of commenters have expressed concern that the relative weights the Commission attaches to the various criteria, and/or the order in which the criteria are considered, could affect the outcome of the priority-related decisions and should therefore be made explicit in the policy. In particular, AMF Inc. has indicated that language in criterion (2) suggests that consideration of causality of injuries will follow consideration of criterion (1) regarding injury frequency and severity, and that this could result in misdirected decisions concerning priorities. In addition, the Soap and Detergent Association has recommended that criterion (7), "probability of exposure to hazard," be moved to the criterion (2) position to reflect more accurately its importance.

The Commission has never intended its priorities policy to require that causality or any of the other criteria will be considered only for products that first receive priority under criterion (1). More generally, the order of listing of the criteria is intended to indicate neither the order in which they are to be considered nor their relative importance. The Commission will consider all the criteria to the extent feasible in each case, and as interactively or jointly as possible. The Commission will not, however, rely on fixed procedures for applying or weighting the criteria, because that would represent an excessively mechanical approach to complex decisions that will unavoidably be based on evidence of variable quality and subject to varying interpretations. Although weighting criteria and numerical project ratings may be useful for planning and budgeting, the Commission will establish priorities by applying the criteria listed in the policy, relying on its collegial judgment rather than on any set formulas.

To clarify that the priorities policy does not involve any set ranking or weighting of the criteria, the Commission has added an explanatory paragraph at the end of the policy. In addition, the potentially misleading language in criterion (1) and criterion (2) has been omitted, as well as some potentially misleading language in criterion (5).

B. NATIONAL ELECTRONIC INJURY SURVEILLANCE SYSTEM (NEISS) INJURY DATA

The first criterion, concerning the frequency and severity of injuries, references the "NEISS hazard index" and notes that the Commission will give consideration to the probable frequency and severity of injuries in areas known to be undercounted by NEISS. A number of commenters have criticized the inadequacy of the Commission's NEISS injury data.

AMF Inc. has commented that NEISS, upon which the Commission is necessarily highly dependent, does not adequately evaluate the extent to which a

product and consumer behavior are causally related to the injury pattern. The National Electrical Manufacturers Association has stated that the NEISS system should be improved and a properly designed sampling plan should be developed to avoid the presence of "personal judgment" in evaluation of "areas known to be undercounted by NEISS." The Soap and Detergent Association has noted that areas of the NEISS system are overcounted, and has favored a separate breakdown of statistics related to products causing injuries and those that are associated with injuries.

The Commission certainly recognizes the limitations of NEISS injury data and is particularly aware that information on causality of product-related injuries cannot be obtained through NEISS. Accordingly, the Commission referenced NEISS only under its first criterion which involves the frequency and severity of injuries. Information on the causality of injuries, the second criterion in the priorities policy, must come from other sources. A principal such source is the in-depth investigations of individual injury reports. The Commission is pursuing improvements in NEISS and other data bases the Commission uses, as part of an overall evaluation of its total injury data system. However, NEISS is currently the best injury information collection system available and provides valuable information to the Commission regarding product related injuries. In addition, as indicated in criterion (1), the Commission supplements NEISS information with other data such as fire surveys and death certificate collection. The Commission evaluates all of its injury information with awareness of possible shortcomings.

In any case, the first two criteria in the priorities policy merely indicate that the frequency, severity, and causality of product-related injuries will be evaluated to the extent that reliable information is available. None of the criticisms of NEISS received by the Commission undercuts this approach, and no change in either criterion (1) or (2) is necessary in this regard.

C. OPPORTUNITY FOR PUBLIC COMMENT ON PRIORITIES ISSUES

The Office of Consumer Affairs has recommended that the priorities policy state that the public will be advised of and participate in significant changes involving the criteria. Although the Commission is not required under the Administrative Procedure Act to solicit or consider public comment on this general statement of policy concerning priorities, it has done so because of the importance of the policy. For the same reason, the Commission currently intends that any major changes to the policy will receive the same public scrutiny that the original provisions received. However, the Commission does not believe that this intention need be included as part of the policy.

In addition, the Office of Consumer Affairs has suggested that the Commission provide lead time and advance no-

tice for major priorities issues so that the public can be involved, absent crises or emergencies. This suggestion is based on the belief that the public is as well qualified as experts to make the social, political, and ethical judgments that are usually involved.

The Commission agrees with the concept of public participation in decision-making involving priorities, but believes that institutionalizing this concept within its priorities policy would present difficult problems of timing and inflexibility.

In some cases, such as when the Commission is considering rulemaking, public notice and comment at an early stage might be feasible and desirable. For example, the Commission could publish in the Federal Register an advance notice of proposed rulemaking to obtain public comment on the advisability of rulemaking in a particular area. Alternatively, the Commission could hold public meetings with interested persons before deciding to take actions that involve priorities issues. An example of such a meeting was the Commission meeting with consumer representatives on the question of Commission-funded financial assistance to participants in CPSC proceedings. At the time of the meeting, a petition under the Administrative Procedure Act on this issue was pending before the Commission.

The Commission will continue to involve the public in its decision-making concerning priorities whenever possible and in the manner most appropriate for particular matters. However, the policy on priorities cannot and should not reflect such efforts in any formal or institutionally rigid manner.

D. USE OF PRIORITIES POLICY IN DRAFT OPERATING PLANS AND BUDGET

The Office of Consumer Affairs has stressed the importance of insuring that the criteria be uniformly applied at all levels of the Commission so that operating plans and budgets will emphasize the same set of products as the overall action priorities. Based on its experience, the Commission agrees with the importance of this point. Accordingly, the Commission will install monitoring and control mechanisms to guarantee maximum consistency among all phases of Commission activities involving priorities. Development and implementation of these procedures is a major function of the Commission's new Office of Strategic Planning.

Since § 1009.8(b) already reflects the applicability of the policy to operating plans and budgets, no changes are necessary.

E. OTHER POINTS RAISED IN THE COMMENTS

1. Georg Maisel of the Commission staff has recommended that "poison control centers" be added to the policy as another example of the "supplementary data collection systems" mentioned under criterion (1). The Commission agrees and has amended the policy accordingly.

2. Walker Associates has suggested that the policy be used as a guide by "initiators of consumer product safety-action requests." The Commission believes that this phrase is intended to refer to petitioners. If so, the policy is available for use by petitioners, but a priorities policy is meaningful only if two or more potential Commission actions are to be compared. An individual petitioner suggesting one course of action cannot be expected to perform such comparison.

While the Commission has set certain requirements for petitions (see § 1110.7 (a) of the "Procedures for Petitioning for Rulemaking under Section 10 of the Consumer Product Safety Act" 16 CFR 1110.7(a); 41 FR 43128, September 29, 1976), these do not include a requirement that petitions address priority considerations. Section 10 of the CPSC (15 U.S.C. 2059) similarly does not impose such a requirement. Nevertheless, the Commission would evaluate any priority information that is submitted as part of a petition for rulemaking.

3. James J. Frankman has suggested that the Commission give priority to actions under the PPPA and FHSA. However, a major intent underlying the policy is that the Commission evaluate particular products and risks of injury within its jurisdiction without regard to the particular act that would eventually govern Commission action. Sometimes, in fact, the Commission cannot determine at the outset what particular act will be used.

4. Lawrence Feldman has recommended that the Commission establish a unit to do and/or support research on the safety of consumer products. Although this recommendation may have merit (in fact, the Commission's technical staff performs such research and the Commission contracts with private parties for additional such research), it concerns Commission action that is not covered by the priorities policy. The recommendation involves the question of how the Commission should find unsafe consumer products and hazards, while the policy involves the question of how to set priorities among them once they are known.

The Consumer Product Safety Commission amends its priorities policy, effective October 4, 1977, in accordance with the above discussion and under the provisions of the Consumer Product Safety Act (15 U.S.C. 2051), the Federal Hazardous Substances Act (15 U.S.C. 1261), the Flammable Fabrics Act (15 U.S.C. 1191), the Poison Prevention Packaging Act of 1970 (15 U.S.C. 1471), and the Refrigerator Safety Act (15 U.S.C. 1211). The Commission amends Title 16 of the Code of Federal Regulations by revising § 1009.8 of Chapter II, Part 1009 to read as follows:

§ 1009.8 Policy on establishing priorities for Commission action.

(a) This document states the Consumer Product Safety Commission's policy on establishing priorities for action under the five acts the Commission administers. The policy is issued pursuant

to sections 4(f)(2) and 4(f)(3) of the Consumer Product Safety Act, as amended, and in further implementation of the Commission's statement of policy dated September 21, 1973.

(b) It is the general policy of the Commission that priorities for Commission action will be established by a majority of its members. The policy will be reflected by votes on all requests for appropriations, an annual operating plan, and any revisions thereof. Recognizing that these documents are the result of a lengthy planning process during which many decisions are made that substantially determine the content of the final documents, the Chairman shall continually keep the Commission apprised of, and seek its guidance concerning, significant problems, policy questions and alternative solutions throughout the planning cycle leading to the development of budget requests and operating plans.

(1) *Requests for appropriations.* Requests for appropriations are submitted concurrently to the President or the Office of Management and Budget and to the Congress pursuant to section 27(k) of the Consumer Product Safety Act.

(2) *Annual operating plan.* The operating plan shall be as specific as possible with regard to products, groups of products, or generic hazards to be addressed. It shall be submitted to the Commission for approval at least 30 days prior to the beginning of the fiscal year.

(c) In establishing and revising its priorities, the Commission will endeavor to fulfill each of its purposes as set forth in section 2(b) of the Consumer Product Safety Act. In so doing, it will apply the following general criteria:

(1) *Frequency and severity of injuries.* Two criteria in determining priorities are the frequency and severity of injuries associated with consumer products. All available data including the NEISS hazard index and supplementary data collection systems, such as fire surveys, death certificate collection, and poison control centers shall be used to attempt to identify the frequency and severity of injuries. Consideration shall also be given to areas known to be undercounted by NEISS and a judgment reached as to the probable frequency and severity of injuries in such areas. The judgment as to severity shall include an evaluation of the seriousness of the injury.

(2) *Causality of injuries.* Consideration shall be given to the amenability of a product hazard to injury reduction through standard setting, information and education, or other Commission action. This step involves an analysis of the extent to which the product and other factors such as consumer behavior are causally related to the injury pattern. Priority shall be assigned to products according to the extent of product causality involvement and the extent of injuries that can reasonably be expected to be reduced or eliminated through Commission action.

(3) *Chronic illness and future injuries.* Certain products, although not presently associated with large numbers of

frequent or severe injuries, deserve priority attention if there is reason to believe that the products will in the future be associated with many such injuries. Although not as susceptible to measurements as other product related injuries and illnesses, these risks shall be evaluated on the basis of the best information available and given priority on the basis of predicted future illnesses and injuries and the effectiveness of Commission action in reducing or eliminating them.

(4) *Cost and benefit of CPSC action.* Consideration shall be given on a preliminary basis to the prospective cost of Commission action to consumers and producers, and to the benefits expected to accrue to society from the resulting reduction of injuries. Consideration of product cost increases will be supplemented to the extent feasible and necessary by assessments of effects on utility or convenience of the product; product sales and shifts to substitutes; and industry supply factors, competitive structure, or employment. While all these facets of potential social "cost" cannot be subsumed in a single, quantitative cost measure, they will be weighed, to the extent they are available, against injury reduction benefits. The benefit estimates will be based on (i) explicitly stated expectations as to the effectiveness of regulatory options (derived from criterion (2), "causality of injuries"); (ii) costs of injuries and deaths based on the latest injury cost data and analyses available to the Commission; (iii) explicit estimates or assumptions as to average product lives; and (iv) such other factors as may be relevant in particular cases. The Commission recognizes that in analyzing benefits as well as costs there will frequently be modifying factors—e.g., criteria (5) and (6)—or analytical uncertainties that complicate matters and militate against reliance on single numerical expressions. Hence the Commission cannot commit itself to priorities based solely on the preliminary cost-benefit comparisons that will be available at the stage of priority setting, nor to any one form of comparison such as net benefits or cost-benefit ratios. Commission costs will also be considered. The Commission has a responsibility to insure that its resources are utilized efficiently. Assuming other factors to be equal, a higher priority will be assigned to those products which can be addressed using fewer Commission resources.

(5) *Unforeseen nature of the risk.* Consideration should be given to the degree of consumer awareness both of the hazard and of its consequences. Priority could then be given to unforeseen and unforeseeable risks arising from the ordinary use of a product.

(6) *Vulnerability of the population at risk.* Children, the elderly, and the handicapped are often less able to judge or escape certain dangers in a consumer product or in the home environment. Because these consumers are, therefore, more vulnerable to danger in products designed for their special use of frequently used by them, the Commission will usually place a higher priority, assuming other factors are equal, on pre-

venting product related injury to children, the handicapped, and senior citizens.

(7) *Probability of exposure to hazard.* The Commission may also consider several other things which can help to determine the likelihood that a consumer would be injured by a product thought to be hazardous. These are the number of units of the product that are being used by consumers, the frequency with which such use occurs, and the likelihood that in the course of typical use the consumer would be exposed to the identified risk of injury.

(8) *Additional criteria.* Additional criteria may arise that the staff believes warrant the Commission's attention. The Commission encourages the inclusion of such criteria for its consideration in establishing priorities. The Commission recognizes that incontrovertible data related to the criteria identified in this policy statement may be difficult to locate or develop on a timely basis. Therefore, the Commission may not require extensive documentation on each and every criterion before making a decision. In addition, the Commission emphasizes that the order of listing of the criteria in this policy is not intended to indicate either the order in which they are to be considered or their relative importance. The Commission will consider all the criteria to the extent feasible in each case, and as interactively or jointly as possible.

(Sec. 4, (15 U.S.C. 2053), 86 Stat. 1210, as amended by sec. 4, Pub. L. 94-284)

Effective date: October 4, 1977

Dated: September 28, 1977.

RICHARD E. RAPP,
Secretary, Consumer Product
Safety Commission.

[FR Doc. 77-29108 Filed 10-3-77; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 76N-0311]

PART 201—LABELING

Revocation of Requirements for Aminopyrine and Dipyrone

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule revokes the regulation describing the conditions that must be met for the continued marketing of aminopyrine and dipyrone. This is being done because there are no approved new drug applications (NDA's) for either of these drug products.

DATES: Effective November 3, 1977. Comments by November 3, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Nathan M. Kight, Bureau of Drugs (HFD-30), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857. (301-443-3640).

SUPPLEMENTARY INFORMATION: In a statement of policy published in the FEDERAL REGISTER of November 17, 1964 (29 FR 15364) under 21 CFR 3.44 (now 21 CFR 201.311), and amended in the FEDERAL REGISTER of October 11, 1967 (32 FR 14101), the Commissioner of Food and Drugs declared aminopyrine and dipyrone to be new drugs approvable for use only for their antipyretic effect in serious or life-threatening situations where either salicylates or similar drugs are known to be ineffective, or where the benefit-to-risk considerations for dipyrone are acceptable. Applications were approved for dipyrone, but none were received for aminopyrine, which is not known to be marketed in the United States.

Dipyrone is an analgesic antipyretic drug produced in both oral and parenteral forms. It is a sodium sulfonate derivative of aminopyrine and has similar properties.

The Director of the Bureau of Drugs issued a notice of opportunity for hearing in the FEDERAL REGISTER of September 3, 1976 (41 FR 37386) proposing to withdraw approval of NDA's for drug products containing dipyrone on grounds of lack of evidence of safety. In response to the notice, two firms submitted requests for hearing and requests for extension of time to file supporting data. The Food and Drug Administration denied both requests for an extension of time. One of the firms later withdrew its request for hearing. The other elected not to submit the supporting data and analysis that are required by 21 CFR 314.200 and, therefore, its request for hearing was denied. A third firm, though not electing to request a hearing for its products, did request an extension of time to file a hearing request and submitted a published study to demonstrate the safety of dipyrone. The study was reviewed and found not to be relevant to the safety issue on the basis of which the drug products containing dipyrone were being withdrawn. The request for an extension of time was denied. A notice was published in the FEDERAL REGISTER of June 17, 1977 (42 FR 30893) withdrawing approval effective June 27, 1977, of all NDA's for drug products containing dipyrone. Inasmuch as there are no approved NDA's for drugs to which § 201.311 applies, the Commissioner concludes that this regulation should be revoked.

In consideration of the foregoing, the Commissioner finds for good cause that notice and public procedure are impracticable, unnecessary, and contrary to the public interest. Interested persons may, on or before November 3, 1977, file with the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, four copies of

written comments, identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

§ 201.311 [Reserved]

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 502 (f) and (l) and 701(a), 52 Stat. 1051 as amended, 1055 (21 U.S.C. 352 (f) and (i) and 371(a)) and under authority delegated to the Commissioner (21 CFR 5.1), Part 201 is amended by revoking

§ 201.311 *Aminopyrine or dipyrone drug preparations for human use; directions and warnings.*

Effective date. This revocation shall be effective on November 3, 1977.

(Secs. 502 (f), (l), 701(a), 52 Stat. 1051 as amended, 1055 (21 U.S.C. 352 (f), (i), 371(a)).)

Dated: September 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 77-29076 Filed 10-3-77; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Iron Hydrogenated Dextran Injection

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application filed by Medico Industries, Inc., providing for use of iron hydrogenated dextran injection for the prevention and treatment of iron deficiency anemia in baby pigs.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-5247).

SUPPLEMENTARY INFORMATION: In accordance with section 512(l) of the Federal Food, Drug, and Cosmetic Act, Part 522 (21 CFR 522) is amended to reflect approval of a new animal drug application (NADA 106-772V) filed by Medico Industries, Inc., Elwood, Kans. 66024. In addition, the section is editorially revised.

In compliance with the freedom of information regulations and § 514.11(e) (2)(ii) of the animal drug regulations

(21 CFR 514.11(e) (2)(ii)), a summary of the safety and efficacy data and information submitted to support the approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(l), 82 Stat. 347 (21 U.S.C. 360b(l))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 522-1133 is revised to read as follows:

§ 522.1133 *Iron hydrogenated dextran injection.*

(a) *Specifications.* Each milliliter contains 100 milligrams of elemental iron stabilized with a low molecular weight hydrogenated dextran and 0.5 percent phenol as a preservative.

(b) (1) *Sponsor.* See No. 000986 in § 510.600(c) of this chapter.

(2) *Conditions of use.* It is used in baby pigs as follows:

(i) For the prevention of anemia due to iron deficiency, administer an initial intramuscular injection of 100 milligrams of elemental iron to each animal at 2 to 5 days of age. Dosage may be repeated at 2 weeks of age.

(ii) For the treatment of anemia due to iron deficiency, administer an intramuscular injection of 100 milligrams of elemental iron to each animal when indicated between 5 and 28 days of age.

(c) (1) *Sponsor.* See No. 000003 in § 510.600(c) of this chapter.

(2) *Conditions of use.* It is used in baby pigs as follows:

(i) For the prevention of anemia due to iron deficiency, administer by intramuscular or subcutaneous injection of 100 milligrams of elemental iron to each animal at 2 to 4 days of age.

(ii) For the treatment of anemia due to iron deficiency, administer by intramuscular or subcutaneous injection of 100 milligrams of elemental iron in baby pigs up to 4 weeks of age.

(d) (1) *Sponsor.* See No. 015562 in § 510.600(c) of this chapter.

(2) *Conditions of use.* It is used in baby pigs as follows:

(i) For the prevention of iron deficiency anemia, administer intramuscularly 100 milligrams at 2 to 4 days of age.

(ii) For the treatment of iron deficiency anemia, administer intramuscularly 100 milligrams. Treatment may be repeated in 10 days.

Effective date: October 4, 1977.

(Sec. 512(l), 82 Stat. 347 (21 U.S.C. 360b(l))).

Dated: September 27, 1977.

FRED J. KINGMA,
Acting Director, Bureau of
Veterinary Medicine.

[FR Doc. 77-29077 Filed 10-3-77; 8:45 am]

[4110-03]

[FRL 801-2; FAP 6H5135/T29]

PART 561—TOLERANCES FOR PESTICIDE IN ANIMAL FEEDS ADMINISTERED BY THE ENVIRONMENTAL PROTECTION AGENCY

Linuron

AGENCY: Office of Pesticide Programs, Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This rule establishes a feed additive regulation permitting the use of the herbicide linuron in an experimental program. The regulation was requested by E. I. du Pont de Nemours & Co. This rule will permit the marketing of dried sugar beet pulp while further data is collected on the subject pesticide.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. James G. Touhey, Registration Division (WH-567), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460 (202-755-4851).

SUPPLEMENTARY INFORMATION: On July 1, 1976, the EPA announced (41 FR 27112) that E. I. du Pont de Nemours & Co., Inc., Wilmington, Del. 19898, had filed a food additive petition (FAP 6H5135). This petition proposed that 21 CFR Part 561 be amended by establishing a feed additive regulation permitting the use of the herbicide linuron (3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea) in a proposed experimental program involving application of the herbicide to growing sugar beets with a tolerance for residues of the herbicide in dried sugar beet pulp at 1 part per million (ppm). This petition was submitted in accordance with an experimental use permit that is being issued concurrently under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat.-973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.). No comments were received by the Agency in response to this notice of filing. (A related document establishing temporary tolerances for residues of linuron on sugar beet roots and tops appears elsewhere in today's FEDERAL REGISTER.)

The toxicological data submitted in support of the 1 ppm tolerance were two-year rat and dog feeding studies, a three-generation rat reproduction study, a poultry-feeding study, and two cattle-feeding studies. An adequate analytical method (gas chromatography using electron capture detection) is available for enforcement purposes. The data or actions required before any permanent linuron tolerance will be established are (1) all the additional data required by FIFRA in Section 3, including a second oncogenicity study, a teratology study, and a mammalian mutagenicity study; (2) complete copies of all analytical methods; (3) residue data for sugar

beet molasses and sugar showing the presence or absence of linuron residues; (4) additional residue data for sugar beet roots, tops, and dried pulp; (5) proposal of an appropriate milk tolerance; and (6) resolution of crop rotation restrictions.

Tolerances have previously been established (40 CFR 180.184) for linuron residues on a variety of raw agricultural commodities at levels ranging from 1 ppm to 0.25 ppm. There is no reasonable expectation of residues in eggs or poultry as delineated in 40 CFR 180.6(a)(3). Existing tolerances for residues in meat and milk are adequate to cover any residues as delineated 40 CFR 180.6(a)(2).

Therefore, it has been determined that the pesticide may be safely used in accordance with the provisions of the experimental use permit which is being issued concurrently under FIFRA. It has further been determined that since residues of the pesticide may result in dried sugar beet pulp from the agricultural use provided for in the experimental use permit, the feed additive regulation should be established and should include a tolerance limitation. Accordingly, a feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, on or before November 3, 1977, file written objections with the Hearing Clerk, EPA, Rm. 1019, East Tower, 401 M St. SW., Washington, D.C. 20460. Such objections should be submitted in quintuplicate and specify the provisions of the regulation deemed to be objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by the grounds legally sufficient to justify the relief sought.

Effective on October 4, 1977, 21 CFR Part 561 is amended as set forth below.

Dated: September 28, 1977.

EDWIN L. THOMPSON,
Deputy Assistant Administrator,
for Pesticide Programs.

(Sec. 409(c)(1), Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348(c)(1)).)

21 CFR Part 561 is amended by adding a new § 561.265 to read as follows:

§ 561.265 *Linuron.*

(a) A tolerance of a 1 part per million is established for residues of the herbicide linuron (3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea) in dried sugar beet pulp resulting from application of the herbicide in accordance with the provisions of an experimental use permit that expires September 28, 1978.

(b) Residues in dried sugar beet pulp not in excess of 1 part per million resulting from the use described in paragraph (a) of this section remaining after expiration of the experimental use program will not be considered actionable if the pesticide is legally applied

during the term of and in accordance with the provisions of the experimental use permit and feed additive tolerance.

(c) E. I. du Pont de Nemours & Co., Inc., shall immediately notify the Environmental Protection Agency of any findings from the experimental use that have a bearing on safety. The firm shall also keep records of production, distribution, and performance and on request make the records available to any authorized officer or employee of the Environmental Protection Agency or the Food and Drug Administration.

[FR Doc. 77-29079 Filed 10-3-77; 8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7510]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Qualified Joint and Survivor Annuities

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document amends a special effective date rule contained in regulations relating to qualified joint and survivor annuities. This amendment has been prepared in response to requests by the public. This amendment affects some qualified plans which provide benefits by distributing individual annuity contracts to participants and postpones from July 1, 1977, to January 1, 1978, the date by which some participants must be given an opportunity to have amendments made to their contracts.

DATE: The regulations are generally effective for plan years beginning after December 31, 1975.

FOR FURTHER INFORMATION CONTACT:

William D. Gibbs of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: CC:LR:T) (202-566-3293) (not a toll-free number).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 7, 1977, the FEDERAL REGISTER published final regulations under section 401(a)(11) of the Internal Revenue Code of 1954 as Treasury Decision 7458, 42 FR 1463. These regulations were adopted in order to conform the Income Tax Regulations to section 1021(a) of the Employee Retirement Income Security Act of 1974.

Since the publication of these regulations, it has become apparent that some plans which provide benefits by the distribution of individual annuity contracts will not be able to meet the special effective date provision adopted in the regulations for such plans. Accordingly, that effective date rule is extended an additional six months.

DRAFTING INFORMATION

The principal author of this regulation was William D. Gibbs of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, 26 CFR Part 1 is amended as follows:

§ 1.401(a)-11 [Amended]

Paragraph (f) of § 1.401(a)-11 is amended (1) by striking out "July 1, 1977," each place it appears and inserting in lieu thereof "January 1, 1978," and (2) by striking out "June 30, 1977" from the last sentence and inserting in lieu thereof "December 31, 1977".

This Treasury decision merely postpones the effective date of a rule, and there is a need for immediate guidance with respect to the postponement. For these reasons, it is found unnecessary and impracticable to issue this Treasury decision with notice and public procedure thereon under subsection (b) of section 553 of Title 5 of the United States Code or subject to the effective date limitation of subsection (d) of that section.

(Sec. 7805, Internal Revenue Code of 1954, (68A Stat. 917 (26 U.S.C. 7805) .)

JEROME KURTZ,
Commissioner of Internal Revenue.

Approved: September 26, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the
Treasury.

[FR Doc. 77-29015 Filed 10-3-77; 8:45 am]

[4310-31]

Title 30—Mineral Resources

CHAPTER II—GEOLOGICAL SURVEY, DEPARTMENT OF THE INTERIOR

PART 250—OUTER CONTINENTAL SHELF OIL AND GAS OPERATIONS

Emergency Suspension Procedures

AGENCY: Geological Survey, U.S. Department of the Interior.

ACTION: Final rule.

SUMMARY: This rule supplements the existing OCS oil and gas operations emergency suspension provision in three particulars: (1) It specifies the manner in which threats of significant irreparable damages will be studied; (2) it expressly treats the procedure for establishing necessary mitigating measures; and (3) it redefines the property rights granted with the lease to provide that,

if adequate mitigating measures cannot be designed, the Secretary may, as a last resort and under stated limitations, terminate an emergency suspension and allow the lease term to run without renewal of operations of the lease.

EFFECTIVE DATE: This rule applies to all OCS oil and gas leases issued subsequent to this publication.

SUPPLEMENTARY INFORMATION: The proposal (42 FR 36273, July 14, 1977) received twenty-eight comments from industry, state and local government bodies, and interested groups.

We respond to the chief comments in the order in which the material appeared in the proposal.

1. *Leases to which amendment applies.* Several commenters wondered if Sale No. 47 leases were subject to the amendment, as the sale followed publication of this proposal. The answer is no. This rule applies only to leases issued subsequent to the date of this final rule-making. The July 14 publication did not "promulgate" this rule; it was only a proposal.

2. *"Termination of suspension."* The preamble to the proposal and the proposal did not clearly distinguish between suspension of operations and suspension of the running of the lease term. The rule has been revised with elimination of this confusion in mind. In this regard, subsection (c) (2) (iii) (D) has been deleted. The accompanying lease term amendments to Title 43 CFR Part 3300 are the appropriate place for such a provision, not the Geological Survey operations regulations. The Part 3300 amendments accomplish what (iii) (D) stated about the manner in which the running of the lease term is affected by this rule. Termination of a suspension under (c) (2) (iii) does not imply approval of operations on the lease.

3. *Inflationary Impact Statement.* Several commenters questioned our negative declaration under E.O. 11,821. The Executive Order and the OMB Circular implementing it do not require the preparation of statements where the situations in which the rule might be applied, and therefore the impact of the rule on OCS production, and inflation, are presently unknown and purely speculative. That is the case here. We do not predict effects greater than the prescribed threshold.

4. *250.12(c)(1).* This provision, substantially the existing provision, is designed to have a lower threshold for invocation, namely, those cases in which full study and formal imposition of mitigating measures are unnecessary. Sections (c) (1) and (c) (2) are not redundant. For this reason, we retain the "significant irreparable damage" threshold in (c) (2). The absence of formal procedures under (c) (1) does not, of course, deprive the Supervisor in such cases of his authority to issue orders and otherwise regulate operations. See 30 CFR 250.12(a).

5. *Transportation.* Several commenters requested that transportation

operations be explicitly covered in subsection (c) (2) (i). Part 250 of Title 30, however, applies only to lease operations, not to operations under a right-of-way granted under section 5(c) of the OCS Lands Act.

6. *Cost and conduct of study.* A few commenters asked that lessees not be allowed to conduct the studies. We believe the Supervisor's duty to approve study plans protects the federal interest here. Several companies felt the Department should bear the cost of these studies. We have considered this point and concluded that the lessee should bear the costs.

7. *Consultation.* The Department of Commerce was added to the list to allow the National Marine Fisheries Service and the National Oceanic and Atmospheric Administration to participate.

8. *Balancing.* The Department was criticized by some commenters for balancing the lost resource against the environmental benefits in the last lines of subsection (c) (2) (ii) and in (c) (2) (iii) (B). While recognizing the inherent problems with such balancing, we believe sound public policy requires consideration of the foreclosed resource in these decisions.

9. *Unconstitutional "taking" under subsection (c) (2) (iii).* The Department does not "take" property rights in the constitutional sense if it exercises rights it reserves at the time the lease is issued.

10. *In excess of statutory authority.* None of the many comments directed to this question have convinced us we lack authority to enact this rule. We reiterate our view that this rule is consistent with "Union Oil Co. of California v. Morton," 512 F.2d 743, 748-49 (9th Cir. 1975), and its view of the OCS Lands Act construed in light of the National Environmental Policy Act. See 42 FR 36274 (July 14, 1977).

11. *Compensation.* The Department lacks the authority to exercise the power of eminent domain and pay compensation therefor on the Outer Continental Shelf. The Bureau of Land Management was granted eminent domain authority in the Federal Land Policy and Management Act, 90 Stat. 2755, but that Act explicitly does not apply to the OCS, 90 Stat. 2746. This limitation has governed the prospective-only nature of this rule. Rights previously granted are not subject to taking without legislation. Thus we are conditioning the rights granted under future leases in advance of lease issuance.

12. *Need for (c) (2) (iii).* Many commenters felt the subsection was simply unnecessary. The Department believes OCS operations currently meet a high standard of environmental protection, and it hopes the provision need never be applied. The provision is designed as a failsafe, a need we feel must be met. We are aware that the pending OCS Lands Act Amendments contain provisions that would supersede this rule. If the new statutory provisions do not apply to existing leases, however, we will apply this rule to leases which may be issued

between the date of promulgation and enactment of the statutory amendments. We are also aware of the potential disincentive to full participation in OCS sales the regulation poses. It has been specially drafted, however, to limit its application to extreme cases to minimize this possibility. In this regard, we point out that the termination of suspension authority in (c) (2) (iii) is discretionary, not mandatory, and the Secretary may keep the suspension in effect pending any technological development that might mitigate the hazard, or for any other persuasive reason.

13. *Time for compliance.* Subsection (c) (2) (iii) (A) has had the limitation for compliance within "the remaining portion of the lease term," eliminated to avoid what might in some cases be an unreasonably short period, and so that the provision will apply to leases in their extended period.

PRINCIPAL AUTHOR

Lawrence G. McBride, Office of the Solicitor, U.S. Department of the Interior, Washington, D.C. 20240 (202-343-4803).

NOTE.—The Geological Survey has determined that this rule does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11,821 and OMB Circular A-107.

NOTE.—The Department has determined that publication of this rule is not a major federal action significantly affecting the quality of the human environment, and that no detailed statement pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is required.

Dated: September 28, 1977.

CECIL D. ANDRUS,
Secretary.

Accordingly, the following amendments to 30 CFR Part 250 are hereby made:

1. In § 250.12, paragraph (c) is amended as follows:

§ 250.12 Regulation of operations.

(c) *Emergency suspensions.* (1) The Supervisor is authorized either in writing or orally with written confirmation, to suspend any operation, including production, which in his judgment threatens immediate, serious, or significant damage to life, including aquatic life, to property, to the leased deposits, to other valuable mineral deposits, or to the environment. Such an emergency suspension shall continue until, in his judgment, threat or danger has terminated, unless the provisions of subparagraph (2) of this paragraph apply.

(2) (i) When the Supervisor orders, with respect to any lease issued after October 1, 1977, a suspension of operations, including production, because of the threat of significant irreparable damage to life, including aquatic life, to property, to the leased deposits, to other valuable mineral deposits, or to the environment, from a hazard not known to the Secretary or not fully anticipated by

him as to nature and degree when the lease was issued, or not known to the Supervisor when an operating plan was approved, the Supervisor may direct the lessee to conduct site specific studies, including lease- or unit-wide studies as necessary, approved or prescribed by the Supervisor, on the cause of the hazard generating the suspension, the potential damage from that hazard, and the mitigating measures for the hazard. Prior to approval of a study program, notwithstanding the provisions of paragraph (a) of this section, the Supervisor shall consult with interested Departments and agencies including, but not limited to, the Fish and Wildlife Service, Bureau of Land Management, Coast Guard, Department of Defense, Department of Commerce, and Environmental Protection Agency, and with affected state and local governments. All results of such studies will be furnished to the Supervisor by the lessee at no cost to lessee. The Supervisor shall make such results available to interested Departments and agencies and to the public.

(ii) On the basis of the results of the lessee's study and other information available to him, the Supervisor will submit a report with recommendations to the Secretary on the extent of the damage or threat thereof, and on the mitigating measures, if any, that may successfully ameliorate such damage or threat thereof. On the basis of the Supervisor's report and recommendations, and such other advice and information as he deems relevant, the Secretary will require the lessee to take all appropriate measures to mitigate the damage or potential damage of continued operations as a condition for the resumption of exploration, development, or production activity on the lease. The lessee will submit, where deemed appropriate by the Secretary, new or amended exploration, development, or production plans, in accordance with § 250.34, which incorporate the mitigating measures required by the Secretary. In establishing appropriate mitigating measures which must be taken prior to the resumption of operations, the Secretary will balance the costs of mitigation and the reduction in damage to aquatic life, to property, to the leased deposits, to other valuable mineral deposits and to the environment.

(iii) If the lessee indicates that he cannot or will not comply with the conditions established by the Secretary for ending the suspension of operations on the lease, or if the Secretary determines that appropriate mitigating measures will not provide adequate protection from significant irreparable damage to aquatic life, property, the leased deposits, other valuable mineral deposits, or to the environment, the Secretary may leave the suspension in effect, in expectation of technological developments or for other reasons. In the alternative, the Secretary may terminate the suspension of the running of the lease term: *Provided, That:*

(A) The suspension shall not be terminated until the lessee has had a rea-

sonable length of time, which shall be not less than six months, to comply with the conditions established by the Secretary for the approval of resumption of operations on the lease, to be determined by the Secretary.

(B) In determining "adequate protection" the Secretary will weigh the value of the loss of the deposit to the Nation's economy against the probable damage from the hazard after appropriate mitigating measures have been imposed;

(C) Termination of a suspension of the running of the lease term will not be made effective until after the affected lessee has been given notice and an opportunity for a hearing, including the opportunity for the lessee to submit his own proposed mitigation measures; and

(D) Such a termination shall constitute a revocation of the previous approval of any exploration, development, or production plan, but shall not preclude consideration by the Supervisor of a new or amended exploration, development, or production plan, and the issuance of another suspension while that plan is reviewed.

2. Section 250.30 is revised to read as follows:

§ 250.30 Lease terms, regulations, waste, damage, and safety.

(a) The lessee shall comply with the terms of applicable laws and regulations, the lease terms, OCS Orders and other written orders and rules of the Supervisor, and oral orders of the Supervisor. All such oral orders shall be effective when issued and are to be confirmed in writing as provided in § 250.11.

(b) The lessee shall conduct operations on the lease in a manner which does not, in the opinion of the Supervisor, threaten significant irreparable harm or damage to life, including aquatic life, to property, to the leased deposits, to other valuable mineral deposits, or to the environment.

[FR Doc. 77-29111 Filed 10-3-77; 8:45 am]

[3910-01]

Title 32—National Defense

CHAPTER VII—DEPARTMENT OF THE AIR FORCE

SUBCHAPTER C—PUBLIC RELATIONS

PART 819b—LICENSING GOVERNMENT-OWNED INVENTIONS IN THE CUSTODY OF THE DEPARTMENT OF THE AIR FORCE

AGENCY: Department of the Air Force, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Air Force is adding a new Part 819b to 32 CFR. These rules were written as the Air Force implementation of DOD Directive 5535.3 and are consistent with GSA Licensing of Government-Owned Inventions, 41 CFR 101-4.1. They are intended to inform the public of the policies, procedures, terms and conditions for licensing of rights in Government-owned domestic patents and patent ap-

plications vested in the United States of America as represented by the Secretary of the Department of the Air Force.

EFFECTIVE DATE, July 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Peterson, Judge Advocate Civil Division, Patent Office, Forrestal Building, Washington, D.C. 20314. Phone: (202-693-5715).

SUPPLEMENTARY INFORMATION: This rule is issued under the authority of 10 U.S.C. 8012. On November 23, 1976, the Department of the Air Force, DOD, published a proposed rule (41 FR 51615) to amend Title 32 of the Code of Federal Regulations by adding a new Part 819b to Subchapter C. No suggestions or objections were received. Accordingly, 32 CFR is amended by adding the new part to read as follows:

Subpart A—General

Sec.
819b.1 Purpose.
819b.2 Air Force policy.
819b.3 Execution of licenses.
819b.4 Delegation of authority.
819b.5 Definitions.

Subpart B—Types of Licenses and Conditions for Licensing

819b.6 Inventions available for licensing.
819b.7 Nonexclusive license.
819b.8 Limited exclusive license.
819b.9 Additional licenses.
819b.10 Royalties.
819b.11 Reports.

Subpart C—Procedures

819b.12 Publication requirements.
819b.13 Requests for a nonexclusive or a limited exclusive license.
819b.14 Contents of a nonexclusive license application.
819b.14 Contents of a limited exclusive license application.
819b.16 Published notices.
819b.17 Modification or revocation.
819b.18 License requests received by Air Force field activities.
819b.19 Appeals.

Subpart D—Litigation

819b.20 Government policy.

Subpart E—Transfer of Custody of Government Inventions

819b.21 Procedures.

*Authority: 10 U.S.C. 8012.

Subpart A—General

§ 819b.1 Purpose.

This part describes the policies, administrative requirements, procedures, terms, and conditions for licensing of rights in Government-owned domestic patents and patent applications vested in the United States of America as represented by the Secretary of the Department of the Air Force. It implements DOD Directive 5535.3, November 2, 1973 and is consistent with GSA Licensing of Government-Owned Inventions, 41 CFR 101-4.1.

§ 819b.2 Air Force policy.

(a) A major premise of the Presidential Statement of Government Patent Policy, August 23, 1971 (36 FR 16887, August 26, 1971), is that Government-owned inven-

tions normally will best serve the public interest when they are developed to the point of practical application and made available to the public in the shortest possible time. The granting of express nonexclusive or exclusive licenses for the practice of these inventions may assist in the accomplishment of the national objective to achieve a dynamic and efficient economy.

(b) The granting of nonexclusive licenses generally is preferable since the invention is thereby laid open to all interested parties and serves to promote competition in industry. If the invention is in fact promoted commercially. However, to obtain commercial utilization of the invention, it may be necessary to grant an exclusive license for a limited period of time as an incentive for the investment of risk capital to achieve practical application of an invention.

(c) Whenever the grant of an exclusive license is deemed appropriate, it will be negotiated on terms and conditions most favorable to the public interest. In selecting an exclusive licensee, consideration shall be given to the capabilities of the prospective licensee to further the technical and market development of the invention, his plan to undertake the development, the projected impact on competition, and the benefit to the Government and the public. Consideration will be given also to assisting small business and minority business enterprises, as well as economically depressed, low income, and labor surplus areas, and whether each or any applicant is a U.S. citizen or corporation. Where there is more than one applicant for an exclusive license, that applicant will be selected who is determined to be most capable of satisfying the criteria and achieving the goals set forth in this part.

(d) No license will be granted or implied in any invention under the custody of the Department of the Air Force other than as provided for in this part except under:

(1) Any existing or future treaty or agreement between the United States and any foreign government or intergovernmental organization, or

(2) Licenses under or other rights to inventions made or conceived in the course of or under Department of the Air Force research and development contracts where such licenses or other rights to such inventions are granted to or provided for in the contract and retained by the party contracting with the Department of the Air Force.

(e) No grant of a license under this part will be construed to confer upon any licensee any immunity from the antitrust laws or from a charge of patent misuse, and the acquisition and use of rights pursuant to this part will not be immunized from the operation of State or Federal law by reason of the source of the grant.

§ 819b.3 Execution of licenses.

Nonexclusive and exclusive licenses will be executed on behalf of the Department of the Air Force by the Secretary.

§ 819b.4 Delegation of authority.

The administration of this part is delegated to the Judge Advocate General and, while he is so acting, to any individual who is Acting The Judge Advocate General. The Judge Advocate General may redelegate, without the power of redelegation, to the Chief, Patents Division, Office of the Judge Advocate General, the administration of this part.

§ 819b.5 Definitions.

(a) "Government invention" means an invention covered by a domestic patent application that is vested in the United States and in the custody of the Department of the Air Force, and is designated by the Air Force as appropriate for the grant of an express nonexclusive or exclusive license.

(b) "To the point of practical application" means to manufacture in the case of a composition or product, to practice in the case of a process, or to operate in the case of a machine under such conditions as to establish that the invention is being worked and that its benefits are reasonably accessible to the public.

Subpart B—Types of Licenses and Conditions for Licensing

§ 819b.6 Inventions available for licensing.

Government inventions normally will be made available for the granting of express nonexclusive or limited exclusive licenses to responsible applicants according to the factors and conditions set forth in §§ 819b.7 and 819b.8, subject to the applicable procedures of Subpart C of this part.

§ 819b.7 Nonexclusive license.

(a) *Availability of licenses.* Each Government invention normally will be made available for the granting of nonexclusive revocable licenses, subject to the provisions of any other licenses, including those under § 819b.9.

(b) *Terms of grant.* (1) The duration of the license will be for a period as specified in the license agreement, provided that the licensee complies with all the terms of the license.

(2) The licensee will require the licensee to bring the invention to the point of practical application within a period specified in the license, or such extended period as may be agreed upon, and to continue to make the benefits of the invention reasonably accessible to the public.

(3) The license may be granted for all or less than all fields of use of the invention, and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(4) After termination of a period specified in the license agreement, the Air Force may restrict the license to the fields of use and/or geographic areas in which the licensee has brought the invention to the point of practical application and continues to make the bene-

fits of the invention reasonably accessible to the public.

(5) The license may extend to subsidiaries and affiliates of the licensee but will be nonassignable without approval of the Air Force, except to the successor of that part of the licensee's business to which the invention pertains.

(6) The Government makes no representation or warranty as to the validity of any licensed patent or patent application, or of the scope of any of the claims contained therein, or that the exercise of the license will not result in the infringement of any other patent. Moreover, the Government assumes no liability whatsoever resulting from the exercise of the license.

§ 819b.8 Limited exclusive license.

(a) *Availability of licenses.* Each Government invention may be made available for the granting of a limited exclusive license provided that:

(1) The invention has been published as available for licensing pursuant to § 819b.12 for a period of at least 6 months;

(2) It has been determined that (i) the invention may be brought to the point of practical application in certain fields of use and/or in certain geographical locations by exclusive licensing, (ii) the desired practical application has not been achieved under any nonexclusive license granted on the invention, and (iii) the desired practical application is not likely to be achieved expeditiously in the public interest under a nonexclusive license or as a result of further Government-funded research or development;

(3) The notice of the prospective licensee has been published, pursuant to § 819b.6 for at least 60 days; and

(4) After termination of the period set forth in § 819b.8 (a) (3), the Air Force has determined that no applicant for a nonexclusive license has brought or will bring, within a reasonable period, the invention to the point of practical application as specified in the exclusive license, and that to grant the exclusive license would be in the public interest.

(b) *Selection of exclusive licensee.* An exclusive licensee will be selected on bases consistent with the policy set forth in § 819b.2 and in accordance with the procedures set forth in Subpart C of this part.

(c) *Terms of grant.* (1) The license may be granted for all or less than all fields of use of the Government invention and throughout the United States of America, its territories and possessions, the Commonwealth of Puerto Rico, and the District of Columbia, or in any lesser geographic portion thereof.

(2) Subject to the rights reserved to the Government in § 819b.8 (c) (6) and (c) (7), the licensee will be granted the exclusive right to practice the invention in accordance with the terms and conditions specified in the license.

(3) The duration of the license will be negotiated but will be for a period less than the terminal portion of the patent,

the period remaining being sufficient to make the invention reasonably available for the grant of a nonexclusive license; and such period of exclusivity will not exceed 5 years unless it has been determined on the basis of a written submission supported by a factual showing that a longer period is reasonably necessary to permit the licensee to enter the market and recoup his reasonable costs in so doing.

(4) The license will require the licensee to bring the invention to the point of practical application within a period specified in the license, or within a longer period as approved by the Air Force, and to continue to make the benefits of the invention reasonably accessible to the public.

(5) The license will require the licensee to expend a specified minimum amount of money and/or to take other specified actions, within a specified period of time after the effective date of the license, in an effort to bring the invention to the point of practical application.

(6) The license will be subject to the irrevocable royalty-free right of the Government of the United States to practice and have practiced the invention by or on behalf of the Government of the United States and on behalf of any foreign government or intergovernmental organization pursuant to any existing or future treaty or agreement with the United States.

(7) The license will reserve to the Air Force the right to require the licensee to grant sublicenses to responsible applicants on terms that are reasonable in the circumstances (i) To the extent that the invention is required for public use by Government regulations, or (ii) as may be necessary to fulfill health or safety needs, or (iii) for other public purposes stipulated in the license.

(8) The license may extend to subsidiaries and affiliates of the licensee but will be nonassignable without approval of the Air Force, except to successors of that part of the licensee's business to which the invention pertains.

(9) An exclusive licensee may grant sublicenses under his license, subject to the approval of the Air Force. Each sublicense granted by an exclusive licensee will make reference to the exclusive license, including the rights retained by the Government under the exclusive license, and a copy of such sublicense will be furnished to the Air Force.

(10) The license may be subject to such other terms as may be in the public interest.

(11) The Government makes no representation or warranty as to the validity of any licensed patent or patent application, or of the scope of any of the claims contained therein, or that the exercise of the license will not result in the infringement of any other patent. Moreover, the Government assumes no liability whatsoever resulting from the exercise of the license.

§ 819b.9 Additional licenses.

Subject to any outstanding licenses, nothing in this part will preclude the Air

Force from granting additional nonexclusive or limited exclusive licenses for Government-owned inventions when the Air Force determines that to do so would provide for an equitable exchange of patent rights. The following exemplify circumstances wherein such licenses may be granted:

- (a) In consideration of the settlement of an interference;
- (b) In consideration of a release of a claim of infringement; or
- (c) In exchange for or as part of the consideration for a license under adversely held patents.

§ 819b.10 Royalties.

(a) Normally, royalties will not be charged under nonexclusive licenses granted to U.S. citizens and U.S. corporations on Government inventions; however, the Air Force may require other considerations.

(b) A limited exclusive license on a Government invention will contain a royalty provision and/or other consideration flowing to the Government.

§ 819b.11 Reports.

A license will require the licensee to submit periodic reports to the Air Force on his efforts to achieve practical application of the invention. The reports will contain information within his knowledge, or which he may acquire under normal business practices, pertaining to the commercial use being made of the invention and other information which the Air Force may determine is pertinent to its licensing activities and is specified in the license.

Subpart C—Procedures

§ 819b.12 Publication requirements.

The Department of the Air Force will cause to be published in the FEDERAL REGISTER, the Official Gazette of the U.S. Patent and Trademark Office, and at least one other publication that the Air Force deems would best serve the public interest, a list of the Government inventions in custody of the Department of the Air Force available for licensing under the conditions specified in Subpart B of this part. The list will be revised periodically to include directly, or by reference to a previously published list, all inventions currently available for licensing. Other publications on inventions available for licensing may be made and may include abstracts of the inventions, when appropriate, as well as information on the design, construction, use, and potential market for the inventions.

§ 819b.13 Requests for a nonexclusive or a limited exclusive license.

Requests for licenses under a Government invention in the custody of the Department of the Air Force should be addressed to the Chief, Patents Division, HQ USAF/JACP, Washington, D.C. 20314.

§ 819b.14 Contents of a nonexclusive license application.

An application for a nonexclusive license will include:

(a) Identification of the invention for which a license is desired, including the patent application serial number or patent number, title and date, if known, and any other identification of the invention;

(b) Name and address of the person, company, or organization applying for license and whether the applicant is a U.S. citizen or a U.S. corporation;

(c) Name and address of representative of applicant to whom correspondence should be sent;

(d) Nature and type of applicant's business;

(e) Source of information concerning the availability of a license on this invention;

(f) Purpose for which license is desired and a brief description of applicant's plan to achieve that purpose;

(g) A statement of the fields of use for which applicant intends to practice the invention; and

(h) A statement as to the geographic areas in which the applicant would practice the invention.

§ 819b.15 Contents of a limited exclusive license application.

In addition to the information indicated in § 819b.14, an application for a limited exclusive license will include:

(a) Applicant's status, if any, in any one or more of the following categories:

- (1) Small business firm,
- (2) Minority business enterprise,
- (3) Location in a surplus labor area,
- (4) Location in a low-income area, and
- (5) Location in an economically depressed area;

(b) A statement of applicant's capability to undertake the development and marketing required to achieve the practical application of the invention;

(c) A statement describing the time, expenditure, and other acts which the applicant considers necessary to achieve practical application of the invention and the applicant's offer to invest the facilities and funds to perform such acts if the license is granted;

(d) A statement that contains the applicant's best knowledge of the extent to which the Government invention is being practiced by private industry and the Government; and

(e) Any other facts which the applicant believes are evidence that it is in the public interest for the Air Force to grant a limited exclusive license rather than a nonexclusive license and that such limited exclusive license should be granted to the applicant.

§ 819b.16 Published notices.

(a) A notice that a prospective limited exclusive licensee has been selected will be published by the Air Force in the FEDERAL REGISTER, and a copy of the notice will be sent to the Attorney General. The notice will include:

- (1) Identification of the invention;
- (2) Identification of the selected licensee;
- (3) Duration and scope of the contemplated license;

(4) A statement to the effect that the license will be granted unless;

(i) An application for a nonexclusive license, submitted by a responsible applicant pursuant to § 819b.4, is received by the Air Force within 60 days from the publication of the notice in the FEDERAL REGISTER; and the Air Force determines in accordance with its prescribed procedures, under which procedures the Air Force will record and make available for public inspection all decisions made pursuant thereto and the basis therefor, that the applicant has established that he has already achieved or is likely to bring the invention to the point of practical application within a reasonable period under a nonexclusive license; or

(ii) The Air Force determines that a third party has presented evidence and argument which has established that it would not be in the public interest to grant the exclusive license.

(b) If a limited exclusive license has been granted pursuant to this part, notice thereof will be published in the FEDERAL REGISTER. Such notice will include:

- (1) Identification of the invention;
 - (2) Identification of the licensee; and
 - (3) Duration and scope of the license.
- (c) If a limited exclusive license has been modified or revoked pursuant to § 819b.17, notice thereof will be published in the FEDERAL REGISTER. Such notice will include:

(1) Identification of the invention;

(2) Identification of the licensee; and

(3) Effective date of modification or revocation.

§ 819b.17 Modification or revocation.

(a) Any license granted pursuant to this part may be modified or revoked by the Air Force if the licensee at any time defaults in making any report required by the license or commits any breach of any covenant or agreement therein contained.

(b) A license may also be revoked by the Air Force if the licensee willfully makes a false statement of a material fact or willfully omits a material fact in the license application or any report required in the license agreement.

(c) Before modifying or revoking any license granted pursuant to this regulation for any cause, the Air Force will furnish the licensee and any sublicensee of record a written notice of intention to modify or revoke the license; and the licensee and any sublicensee will be allowed 30 days after such notice to remedy any breach of any covenant or agreement as referred to in § 819b.7(a) or to show cause why the license should not be modified or revoked.

§ 819b.18 License requests received by Air Force field activities.

All communications received in any Air Force activity requesting information regarding the licensing of a Government invention will be acknowledged and forwarded without further action directly to HQ USAF/JACP, Washington, D.C. 20314.

§ 819b.19 Appeals.

An applicant for a license, a licensee, or such other third party who has participated under § 819b.6 (a) (4) (ii) shall have the right to appeal to the Judge Advocate General, or in his absence, to the Acting Judge Advocate General, any decision concerning the granting, denial, interpretation, or modification, or revocation of a license. Such appeal must be made in writing and within 60 days from the date the decision was mailed.

Subpart D—Litigation

§ 819b.20 Government policy.

The property interest in a patent is the right to exclude. It is not the intent of the Government to transfer the property right in a patent when a license is issued pursuant to this part. Accordingly, the right to sue for infringement will be retained with respect to all licenses so issued by the Government.

Subpart E—Transfer of Custody of Government Inventions

§ 819b.21 Procedure.

Under certain circumstances it may be in the best interest of the Air Force to enter into an agreement to transfer its custody of an invention to another Government agency for purposes of administration including the granting of licenses pursuant to this part. Such transfers will be made on a case-by-case basis.

FRANKIE S. ESTEP,
Air Force Federal Register
Liaison Officer, Directorate of
Administration.

[FR Doc. 77-29109 Filed 10-3-77; 8:45 am]

[1410-03]

Title 37—Patents, Trademarks, and Copyrights

CHAPTER II—COPYRIGHT OFFICE, LIBRARY OF CONGRESS

[Docket RM 77-8]

PART 201—GENERAL PROVISIONS

Filing of Copies of Certain Contracts by Cable Systems

AGENCY: Library of Congress, Copyright Office.

ACTION: Final regulation.

SUMMARY: This notice is issued to advise the public that the Copyright Office of the Library of Congress is adopting a new regulation to implement section 111 (e) (2) of the Act for General Revision of the Copyright Law. That section requires the filing, in particular cases, of certain contracts entered into by cable television systems located outside of the forty-eight contiguous states. The new regulation establishes formal requirements governing the nature of the document to be filed for recordation.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel,
Copyright Office, Library of Congress,
Washington, D.C. 20559 (703-557-8731).

SUPPLEMENTARY INFORMATION:

Section 111 of the first section of Pub. L. 94-553 (90 Stat. 2541) establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. As a general rule, secondary transmissions must occur simultaneously with the primary transmission in order to be eligible for the compulsory license. However, section 111 provides for an exception to this general requirement for simultaneous retransmission. Because of the limited availability of over-the-air signals in certain areas outside of the forty-eight contiguous States, cable systems located in these areas are eligible for the compulsory license even if their secondary transmissions are "non-simultaneous"—that is, even if they use videotapes or the like to record a broadcast program off-air and later retransmit the program from the recording.

Section 111(e) (2) of the Act deals with exchanges of videotapes and similar recordings of programs between cable systems located in these areas. It provides that recordings embodying a program nonsimultaneously transmitted by a system may, under certain circumstances, be transferred to another system, but only "pursuant to a written nonprofit contract providing for the equitable sharing of the costs of such videotape and its transfer." Among other conditions it also requires that "a copy of such contract [be] filed, within thirty days after such contract is entered into, with the Copyright Office (which Office shall make such contract available for public inspection)"

On August 17, 1977, we published in the FEDERAL REGISTER (42 FR 41438; corrected 42 FR 42362) a proposal that the filing and recordation of these documents be covered by the addition of a new § 201.12 to the regulations of the Copyright Office. Interested parties were given until September 16, 1977, to submit comments.

No comments have been received. The proposed regulation is adopted without change and is set forth below.

(17 U.S.C. 207, and under the following sections of Title 17 of the U.S.C. as amended by Pub. L. 94-553: §§ 111; 702; 708(11).)

Dated: September 23, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTEIN,
Librarian of Congress.

Part 201 of 37 CFR chapter II is amended by adding a new § 201.12 to read as follows:

§ 201.12 Recordation of certain contracts by cable systems located outside of the forty-eight contiguous states.

(a) Written, nonprofit contracts providing for the equitable sharing of costs

of videotapes and their transfer, as identified in section 111(e) (2) of Title 17 of the United States Code as amended by Pub. L. 94-553, will be filed in the Copyright Office by recordation upon payment of the fee prescribed by this section. The document submitted for recordation shall meet the following requirements:

(1) It shall be an original instrument of contract; or it shall be a legible photocopy or other full-size facsimile reproduction of an original, accompanied by a certification signed by at least one of the parties to the contract, or an authorized representative of that party, that the reproduction is a true copy;

(2) It shall bear the signatures of all persons identified as parties to the contract, or of their authorized agents or representatives;

(3) It shall be complete on its face and shall include any schedules, appendices, or other attachments referred to in the instrument as being part of it; and

(4) It shall be clearly identified, in its body or a covering transmittal letter, as being submitted for recordation under 17 U.S.C. 111(e).

(b) For a document consisting of six pages or less the recordation fee is \$10; an additional charge of 50 cents is made for each page over six. If titles of works are specified in the contract, an additional charge of 50 cents is made for each title over one.

(c) The date of recordation is the date when all of the elements required for recordation, including the prescribed fee, have been received in the Copyright Office. A document is filed in the Copyright Office and a filing in the Copyright Office takes place on the date of recordation. After recordation the document is returned to the sender with a certificate of record.

[FR Doc. 77-29162 Filed 10-3-77; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER C—AIR PROGRAMS

[FRL 783-8]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revisions: San Joaquin County Air Pollution Control District (APCD)

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the San Joaquin County portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: November 3, 1977.
FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, Calif. 94111. Attn: David R. Souten, (415-556-7288).

SUPPLEMENTARY INFORMATION: On May 26, 1977, in 42 FR 26999, EPA published a Notice of Proposed Rulemaking for revisions to the San Joaquin County Air Pollution Control District's Rules and Regulations submitted on November 10, 1976 by the California Air Resources Board for inclusion in the California SIP.

Rules concerning new source review and gasoline vapor recovery have been submitted; however, no action is being taken at this time, and these rules will be acted upon in separate FEDERAL REGISTER notices.

The changes contained in this submittal and being acted on by this notice, include the following: changes are made to a number of rules to reflect the recodification numbering changes that have been made to the State of California Health and Safety Code; wording changes are made to certain definitions; requests for a "trade secret" designation are required to be made in writing; a time period is specified for making public records available to requesting parties; wording changes are made to the agricultural operations exemptions to visible emissions limitations; and certain burning operations are added to the list of agricultural burning operations. A list of the rule numbers and titles initially considered for this notice, was published as part of the notice of proposed rulemaking and can be found in 42 FR 26999 (May 26, 1977). The proposed rulemaking provided 30 days for public comments. No comments were received.

It is the purpose of this notice to approve all of the changes contained in the November 10, 1976, submittal for San Joaquin County and to incorporate them into the California SIP, with the exception of those rules not being acted upon and the rule discussed below.

Paragraph e. of Rule 402 *Exceptions*, is disapproved because it exempts "other equipment in agricultural operations" from the visible emission prohibitions imposed by Rule 401. "Other equipment" is not defined, and it is therefore not clear what operations this exemption is intended to cover. Since this provision might permit sources otherwise regulated to violate applicable emission limitations, it should be disapproved. In addition, this exemption is not justified by a control strategy analysis which demonstrates that it will not violate section 110 of the Clean Air Act by interfering with the attainment or maintenance of National Ambient Air Quality Standards.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

Pursuant to section 110 of the Clean Air Act, as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the rules and regulations as State Implementation Plan revisions.

(Secs. 110, 301(a), Clean Air Act, as amended, (42 U.S.C. 1857c-5, 1857g(a)))

Dated: September 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) (35) (v) (A) is added as follows:

§ 52.220 Identification of plan.

(c)

(35)

(v) San Joaquin County APCD.

(A) Rules 102, 103, 103.1, 104, 105, 111, 112, 301, 305, 402, 416.1, 501, 504, 511.

2. Section 52.273 paragraph (a) (3) (i) (A) is added as follows:

§ 52.273 Open burning.

(a)

(3) San Joaquin Valley Intrastate Region:

(i) San Joaquin County APCD.

(A) Paragraph e. of Rule 402.

[FR Doc. 77-29122 Filed 10-3-77; 8:45 am]

[6560-01]

[FRL 784-1]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

California Plan Revision: Sacramento County Air Pollution Control District (APCD)

AGENCY: Environmental Protection Agency.

ACTION: Final rulemaking.

SUMMARY: The Environmental Protection Agency (EPA) takes final action to approve and, where appropriate, disapprove or take no action on changes to the Sacramento County portion of the California State Implementation Plan (SIP) submitted by the Governor's designee. The intended effect of this action is to update rules and regulations and to correct certain deficiencies in the SIP.

EFFECTIVE DATE: November 3, 1977.
FOR FURTHER INFORMATION CONTACT:

Frank M. Covington, Director, Air and Hazardous Materials Division, Environmental Protection Agency, 100 California Street, San Francisco, CA 94111, Attn: David R. Souten, 415-556-7288.

SUPPLEMENTARY INFORMATION: On May 26, 1977, in 42 FR 27001, EPA published a Notice of Proposed Rulemaking for revisions to the Sacramento

County Air Pollution Control District's Rules and Regulations submitted on November 10, 1976 by the California Air Resources Board for inclusion in the California SIP.

Rules concerning new source review and gasoline vapor recovery have been submitted; however, no action is being taken at this time, and these rules will be acted upon in separate FEDERAL REGISTER notices.

The changes contained in the above mentioned submittal and being acted on by this notice, include the following: procedural changes, which update California Health and Safety Code citations contained in the rules, and which delete obsolete effective dates from various rules; procedural changes are made with several definitions; the deletion of a "Gasoline Storage" rule (the requirements of this rule are added to another rule which will be acted on at a future date); permit fees are raised and clarifying language is added to the "Permit Fees" rule; miscellaneous changes are made to rules affecting agricultural burning; and a definitions list is added to the end of Regulation VII. A list of the Rules initially considered for this notice was published as part of the notice of proposed rulemaking and can be found in 42 FR 27001 (May 26, 1977). The proposed rulemaking provided 30 days for public comments. No comments were received.

It is the purpose of this final rulemaking to approve all of the changes contained in the November 10, 1976 submittal for Sacramento County and incorporate them into the California SIP, with the exception of those rules not being acted upon and the rule discussed below.

EPA is disapproving paragraph a. of Rule 96, *Emergency Permits*, which authorizes the Air Pollution Control Officer to permit agricultural burning otherwise prohibited, if the denial of such authorization would threaten imminent and substantial loss. This allowance is disapproved because Section 110 of the Clean Air Act does not allow exceptions on the basis of economic factors absent a showing that other requirements of this section have been met. In addition, no analysis has been presented to show that such exemptions will not interfere with the attainment or maintenance of National Ambient Air Quality Standards or will not violate other Section 110 requirements.

The California Air Resources Board has certified that the public hearing requirements of 40 CFR 51.4 have been satisfied.

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations as State Implementation Plan revisions.

(Sections 110 and 301 (a) of the Clean Air Act, as amended, (42 U.S.C. § 1857c-5 and 1857g(a)))

Dated: September 27, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart F of Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart F—California

1. Section 52.220, paragraph (c) (35) (A) is added as follows:

§ 52.220 Identification of plan.

(c)

(35) Revised regulations for the following APCDs submitted on November 10, 1976 by the Governor's designee.

(i) Sacramento County APCD.

(A) Rules 1, 2, 11, 12, 21, 22a, 22b, 24, 25, 27, 28, 29, 33, 39, 44, 70, 71, 90, 92, 93, 94, 95, 96, 97, 98, and definitions list addition to Regulation VII.

2. Section 52.273, paragraph (a) (3) (i) (A) is added as follows:

§ 52.273 Open burning.

(a) The following rules or portions of rules are disapproved because they contain exemptions to open burning (including open agricultural burning) prohibitions, that do not satisfy the requirements of Section 110 of the Clean Air Act:

(i) Sacramento Valley Intrastate Region:

(i) Sacramento County APCD.

(A) Paragraph a. of Rule 96.

[FR Doc. 77-29083 Filed 10-3-77; 8:45 am]

[6560-01]

[FRL 784-5]

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Approval of New Mexico Regulations 100, 705, and 706

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action approves revisions to Regulations 100 and 705 and a new Regulation 706 of the State Implementation Plan for New Mexico. Revised Regulation 100 includes additional definitions for new and existing petroleum processing facilities, petroleum refineries, natural gas processing plants, and gasification plants. Revised Regulation 705 requires that compliance schedules be submitted on a regulation's effective date rather than the adoption date. New Regulation 706 identifies applicable Air Quality Maintenance Areas in New Mexico. These regulations are considered necessary for the State to exercise its responsibility for attainment and maintenance of National Ambient Air Quality Standards.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Oscar Cabra, Jr., Air Program Branch, Environmental Protection Agency, Region VI, Dallas, Tex. 75270 (214-749-3837).

SUPPLEMENTARY INFORMATION: On November 6, 1975, the Governor of New Mexico, after adequate notice and public hearing, submitted revisions to Regulations 100 and 705, and a new Regulation 706. After EPA's review of these submittals, a proposed approval was published in the FEDERAL REGISTER on June 20, 1977 (42 FR 31175).

PUBLIC COMMENTS

In the proposed approval of Regulations 100, 705, and 706, interested persons were given 30 days to submit comments for consideration by EPA in making a final approval, disapproval decision. No comments on the proposed approval were received. Therefore, there is no information which conflicts with a final approval decision.

CURRENT ACTION

In this action, approval of the revisions to Regulations 100 and 705 and the new Regulation 706 is being promulgated as proposed.

A revision to Regulation 201 and new Regulations 623, 626, 628, 673, 674, 675, and 677 were also included with the Governor's submittal. All of these regulations pertain to non-criteria pollutants such as ammonia, hydrogen sulfide, and hydrogen chloride. EPA does not have authority to require or approve regulations designed to control pollutants other than those identified under Section 109 of the Clean Air Act. Therefore, no action is being taken on these regulations.

(Sec. 110(a) of the Clean Air Act as amended, (42 U.S.C. 1857c-5(a)))

Dated: September 28, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

Subpart GG—New Mexico

1. In § 52.1620, paragraph (c) is amended by adding paragraph (9) as follows:

§ 52.1620 Identification of Plan.

(c)

(9) Revisions to Regulation 100 Definitions, Regulation 705, Schedules of Compliance, and a new Regulation 706, Air Quality Maintenance Areas, were submitted by the Governor on November 6, 1975.

§ 52.1633 [Revoked]

2. Section 52.1633 is revoked.

[FR Doc. 77-29081 Filed 10-3-77; 8:45 am]

[4310-84]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

PART 3300—OUTER CONTINENTAL SHELF OIL AND GAS LEASES

Suspensions and the Five-Year Lease Term
AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Final rule.

SUMMARY: By a rule published today in conjunction with this rule, Geological Survey's OCS operations regulations are amended to provide the procedures to be followed in the case of certain emergency suspensions of operations. This rule amends the lease term and lease extension regulations to incorporate the manner in which the lease term is affected by the 30 CFR 250.12(c) (2) emergency suspension provision.

EFFECTIVE DATE: This rule applies, as amended, to all OCS oil and gas leases issued subsequent to this publication.

SUPPLEMENTARY INFORMATION: The proposal received fifteen comments. Most of these were chiefly directed at the Geological Survey portion of the regulation, 30 CFR 250.12(c), published today. These comments recommended that if the proposed § 250.12(c) was amended to delete subsection (2) (iii), then these provisions could be left essentially as they were. As can be seen from the discussion of the comments in the Geological Survey rule published today, we are proceeding with those amendments. These amendments follow.

Other comments were directed to the question whether these provisions dovetailed with the proposed 30 CFR 250.12 (c). We have revised § 3305a.4 to make clear the operation of 30 CFR 250.12 (c) (2) (iii) on the running of the lease term.

NOTE:—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis under Executive Order 11821 and OMB Circular A-107.

It is hereby determined that publication of this rule is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2) (c) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2) (c)) is required.

Dated: September 28, 1977.

CELESTINE ANDREWS,
Secretary.

Under the authority of the Outer Continental Shelf Lands Act of August 7, 1953 (43 U.S.C. 1331 et seq.), Subparts 3302 and 3305a of Part 3300, Group 3300, Subchapter C, Chapter II, Title 43 of the Code of Federal Regulations are hereby amended as set forth below.

Subpart 3302—Issuances of Leases

1. Subpart 3302 is amended to read as follows:

§ 3302.2 Term.

(a) All oil and gas leases shall be issued for a term of 5 years and so long thereafter as oil or gas may be produced from the leasehold in paying quantities, or drilling or well reworking operations, as approved by the Secretary under § 3305a.1 are conducted thereon. The term of an oil and gas lease is subject to extension as provided in 43 CFR 3305a.4.

Subpart 3305a—Extension of Leases

2. Subpart 3305a is amended to read as follows:

§ 3305a.4 Effect of suspensions on lease term.

In the event that under the provisions of 30 CFR 250.12(c) or (d) (1), the regional oil and gas supervisor of the Geological Survey directs the suspension of either operations or production, or both, with respect to any lease in its primary term, the primary term of the lease will be extended by a period equivalent to the period of the suspension. In the event that under the provisions of 30 CFR 250.12(c) or (d) (1) the supervisor orders or approves the suspension of either operations or production, or both, with respect to any lease extended beyond its primary term, the term of the lease will not be deemed to expire so long as the suspension remains in effect.

[FR Doc. 77-20110 Filed 10-3-77; 8:45 am]

[4910-22]

Title 49—Transportation

CHAPTER III—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—FEDERAL MOTOR CARRIER SAFETY REGULATIONS

[Amendment No. 76-5]

PART 386—RULES OF PRACTICE FOR MOTOR CARRIER SAFETY PROCEEDINGS

PART 391—QUALIFICATIONS OF DRIVERS

Motor Carrier Safety Settlement and Hearing Procedures

AGENCY: The Federal Highway Administration, DOT.

ACTION: Amendment to final rule.

SUMMARY: The changes being made in this document relate to replies, requests for admissions, service, and driver qualification applications. Each of the changes made should result in easier processing and fewer motions being filed.

EFFECTIVE DATE: This amendment takes place on October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Person in legal office to contact; Gerald M. Tierney, Motor Carrier and Highway Safety Law Division, Office of the Chief Counsel (202-426-0346), Federal Highway Administration, Washington, D.C. 20590. Principal Program Contact: Gerald J. Davis, Chief, Driver Requirements Branch, Regulations Division, Bureau of Motor Carrier Safety (202-426-9767), Federal Highway Administration, Washington, D.C. 20590.

SUPPLEMENTARY INFORMATION: On April 5, 1977, the Federal Highway Administration (FHWA) published revised rules of practice for its motor carrier settlement and hearing procedures. 49 FR 18076. At that time, the FHWA requested the public to submit comments on the rules. The intention was to determine whether the rules presented any

problems in operation and, if they did, to change them.

The rules have now been in effect for over 5 months. Although the rules have worked well, experience has shown that a few additions or clarifications are justified. This document makes those changes.

In answer to FHWA solicitation of comments concerning the new rules of practice, one response was received. That response, submitted by the Private Truck Council of America, Inc., commented favorably on the rules in general, but took exception to certain particulars.

RESPONSE OF THE PRIVATE TRUCK COUNCIL OF AMERICA, INC.

The Council claimed that the failure to grant a hearing as a right in all cases should be changed. It contends that it is improper to allow the Associate Administrator to deny a hearing when there are no material factual issues in dispute.

The FHWA cannot agree that such a procedure is improper. The general rule of law regarding the necessity of granting a hearing is that one need be granted only if there are material factual issues in dispute. To grant a hearing whenever one is requested would result in an unnecessary expenditure of money, both the taxpayers' and the parties', for hearings that would not serve any purpose. The rule has already proved effective in several cases in which disqualified drivers requested hearings at the same time they admitted they had physical conditions that were disqualifying. Although they asked for hearings, they were really asking that the rule in question be changed.

Another purpose accomplished by the rule is a narrowing of issues. The requirement for a listing of factual issues in dispute requires the party requesting the hearing to thoroughly evaluate his position before he submits his request. This eliminates frivolous requests.

The rule is not unfair. Parties who show serious factual issues are guaranteed a hearing. The Associate Administrator has and will continue to evaluate each case on its own merit and to grant hearings in all questionable cases.

The Private Truck Council requested that §§ 386.15, 386.35 and 386.40 be changed to allow intervention, discovery and amendment of pleadings in cases not called for oral hearing. The request, as it relates to discovery and amendments to pleadings, is reasonable and may help to increase the information available to the decisionmaker. Those two sections are, therefore, being amended to accomplish the requested changes. Allowing intervention prior to the hearing would, however, only serve to delay and complicate cases where there are no issues in dispute. If there is no dispute between the parties, there is no need to receive evidence of an intervenor. If there is a dispute, the matter will be called for a hearing and intervention will be permitted. Because of these reasons, the present rule on intervention will not be changed.

The Private Truck Council claims that paragraphs (a) and (c) of § 386.43 are

inconsistent and ambiguous. Paragraph (c) merely provides the parties a less formal procedure for requesting the attendance of Government witnesses or Government documents. It is neither ambiguous nor confusing and has, therefore, not been changed.

It is claimed that § 386.56 is extreme and harsh in not allowing a motion for rehearing for 1 year. The other procedural safeguards in the rules, including the allowance of petitions for reconsideration, remove any harshness this rule may have. A rule of this type is necessary to give a certain finality to decisions and to prevent petitions from being filed in rapid succession.

Another of the comments of the Private Truck Council questions the letter of disqualification. These are letters to drivers issued by the Director, Bureau of Motor Carrier Safety, or the FHWA Regional offices. They inform the driver that he has been found not qualified and allow him the opportunity to appeal the determination. These letters are issued only in cases of obvious disqualification when the public safety is at stake. They are issued under the authority granted in 49 U.S.C. 304.

The Private Truck Council questions the authority of 49 CFR 391.47(f) which states that a driver is not qualified once an application is submitted. The authority for this section is 49 U.S.C. 304 which gives the FHWA the power to issue regulations concerning the qualification of drivers. Under § 391.47 there has to be a conflict of medical opinion before an application is submitted. When a conflict exists there is no valid certification. A driver who is not certified cannot drive under the regulations. Therefore, until a determination of the validity of the certification is made, the driver cannot be considered qualified.

The section provides that the Director can issue an order finding the driver qualified pending the issuance of the determination. This procedure was added to the rule to allow the Director to prevent any hardship to the driver if the issuance of the determination is delayed. It is not expected that this section will present a hardship to the driver because, in most cases, the determination will be quickly issued. When it is not, the Director can issue an order finding the driver qualified until the determination is made.

Based on the above explanation, paragraph 391.47(f) will not be changed. Other parts of the section are, however, changed to allow all parties the opportunity to submit records prior to the Director's determination and to require the applicant to establish jurisdiction. These changes will result in more information being available on which to base a decision and will screen out improper cases.

Additional Changes: Practice under the rules during the past several months has shown that additional changes can be made to streamline procedures and clarify issues. The following changes are designed to accomplish that purpose:

Section 386.13(b) is revised to clarify the requirements for a reply and to fur-

ther explain the procedures for requesting a hearing and submitting evidence if no hearing is requested. The time period for requesting a hearing is shortened to provide time for submission of evidence if no hearing is requested.

Section 386.13(d) is changed to require a motion before the Associate Administrator issues a final determination.

Section 386.14(b) is amended to elaborate on the Associate Administrator's actions in deciding on a request for a hearing.

It has been determined that these amendments are not major actions requiring the preparation of either an economic impact statement or environmental impact statement. Because these rules concern practice and procedure, have been issued after public comment and are necessary for immediate enforcement, notice and comment are unnecessary and the changes will go into effect upon publication.

Therefore, the Motor Carrier Safety Settlement and Hearing Procedures are amended as follows:

1. 49 CFR 386.13(b) is revised to read as follows:

§ 386.13 Petitions to review, replies.

(b) *Civil forfeiture proceedings.* (1) The respondent must reply within 20 days after the claim letter is served or within such additional time as the claim letter may specify. The reply must contain the following:

(i) An admission or denial of each allegation of the claim and a concise statement of facts constituting each defense;

(ii) A statement of whether the respondent wishes to discuss the amount claimed; and

(iii) Certification that the reply has been served in accordance with § 386.38.

(2) Additional procedures for proceedings under the Hazardous Materials Transportation Act.

(i) *Request for hearing or for submission of evidence without hearing.* At any time within 40 days after the date the reply was filed or within such other time as the claimant may specify in writing, the respondent must either request an oral hearing or give notice that he intends to submit his evidence without oral hearing. A request for oral hearing must contain a listing of all factual issues believed to be in dispute. Failure to request a hearing as required by this section shall constitute a waiver of any right to a hearing.

(ii) *Submission of evidence.* If a notice of intent to submit evidence without oral hearing is filed or if no hearing is requested under paragraph (b)(2)(i) of this section, all evidence must be served in written form no later than the 20th day following the date the respondent's request for a hearing or notice of intent to submit evidence without oral hearing was due under paragraph (b)(2)(i) of this section. Evidence must be submitted in the form specified in § 386.37.

(iii) *Complainant's requests for a hearing.* If the respondent files a notice

of intent to submit evidence without oral hearing, the complainant may, within 10 days after that request is filed, submit a request for oral hearing. The request must include a listing of all factual issues believed to be in dispute.

2. 49 CFR 386.13(d) is revised to read as follows:

of intent to submit evidence without oral hearing, the complainant may, within 10 days after that request is filed, submit a request for oral hearing. The request must include a listing of all factual issues believed to be in dispute.

3. 49 CFR 386.13(d) is revised to read as follows:

§ 386.13 Petition to review, replies.

(d) *Failure to reply or petition, decision.* Failure to submit a petition as specified in paragraph (a) of this section shall constitute a waiver of the right to petition for review of the determination or letter of disqualification. In these cases the determination or disqualification issued automatically becomes the final decision of the Associate Administrator, 30 days after the time to submit the reply or petition to review has expired unless the Associate Administrator orders otherwise. When no reply is received to the claim letter or notice of investigation under paragraphs (b) and (c) of this section, the Associate Administrator may, on motion of any party, find the facts as alleged and issue a final order in the case.

3. 49 CFR 386.14(b) is revised to read as follows:

§ 386.14 Action on petitions or replies.

(b) *Request for Oral Hearing.* If a request for an oral hearing has been filed, the Associate Administrator shall determine whether there are any factual issues in dispute. If there are, he shall call the matter for a hearing. If there are none, he shall issue an order to that effect and set a time for submission of argument by the parties. Upon the submission of argument he shall decide the case.

4a. 49 CFR 386.35 is revised to read as follows:

§ 386.35 Deposition and interrogatories.

At any time after a reply or petition is submitted under § 386.13, any party may file a motion with the Associate Administrator or the hearing officer, if one has been appointed, requesting permission to take a deposition of any person, including a party, or to file written interrogatories on any party to a proceeding. All requests for depositions or interrogatories must include a description of the general subject matter about which the depositions and interrogatories are requested and the time and place for such matters to take place. Service of the motion shall be made on all other parties. Other parties may submit responses within 7 days after the motion is served. The hearing officer, if one has been appointed, or the Associate Administrator may then rule on the motion. His ruling may deny the motion or permit it in whole or in part.

4b. 49 CFR 386.40(a) is revised to read as follows:

§ 386.40 Amendment and withdrawal of pleadings.

(a) *Amendment or withdrawal of pleadings.* Except in instances covered by other rules, anytime more than 15 days prior to the hearing, a party may amend his pleadings by serving the amended pleading on the Associate Administrator or the hearing officer, if one has been appointed, and on all parties. After 15 days prior to the hearing, an amendment shall be allowed only at the discretion of the hearing officer. When an amended pleading is filed, other parties may file a response and objection within 10 days.

5. 49 CFR 386.36 is revised to read as follows:

§ 386.36 Medical records and physicians' reports.

In cases involving the physical qualifications of a driver, copies of all physicians' reports, test results, and other medical records that a party intends to rely upon shall be served on all other parties at least 30 days prior to the date set for hearing. Except as waived by the Director, Bureau of Motor Carrier Safety, reports, test results and medical records not served under this rule shall be excluded from evidence at any hearing.

6. 49 CFR 386.38 is revised to read as follows:

§ 386.38 Service.

In accordance with the delegations of authority in § 301.60 the following identifies those persons who must be served with papers filed under these rules.

(a) *Docket file.* The original and two copies of all papers filed under these rules of practice shall be served on the docket. A docket number will be assigned to each case and will appear on all papers filed by or served on the Government. Address docket copies to FHWA Docket No. —, Office of the Chief Counsel (HCC-20), Federal Highway Administration, Department of Transportation, Washington, D.C. 20590.

(b) *Associate Administrator for Safety.* A copy of all papers filed under these rules of practice shall be filed with the Associate Administrator for Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590.

(c) *Hearing Officer.* After a hearing officer is appointed by the Associate Administrator, a copy of all papers filed under these rules shall be served on such hearing officer.

(d) *Parties.* A copy of all papers filed under these rules shall be served on all parties to the proceeding.

(e) *Notification.* The first pleading of the Government in a proceeding initiated under this section shall have attached to it a list of persons to be served. Such list shall be updated as necessary.

(f) *Service.* All service required by these rules shall be by registered or certified mail, first class postage prepaid.

(g) *Responsibilities in these proceedings.* The following is a brief summary of the present delegations of authority. A more detailed breakdown is included in § 301.60.

(1) *Director, Bureau of Motor Carrier Safety.* The Director issues driver qualification determinations, letters of qualification, claim letters and notices of investigation under §§ 386.11 and 391.47 of this Chapter. He is also authorized to sign consent orders and compromise claims.

(2) *Regional Administrator.* The Regional Administrator, or his delegate, may issue letters of qualification, may settle claims and sign consent orders.

(3) *The Associate Administrator for Safety.* The Associate Administrator makes the final administrative decisions on all disputed issues in proceedings under Part 386. He makes the final decision, determines whether a matter should be called for a hearing, decides appeals under § 386.53, and decides all motions prior to the appointment of a hearing officer.

(4) *Hearing Officer.* The Hearing Officer issues a decision under § 386.51 and decides all motions submitted from the time he is appointed until he issues a decision under § 386.51.

7. A new section is added to 49 CFR Part 386 as follows:

§ 386.49 Request for Admissions.

(a) Request for Admission. (1) Any party may serve upon any other party a request for admission of any relevant matter or the authenticity of any relevant document. Copies of any document about which an admission is requested must accompany the request.

(2) Each matter of which an admission is requested shall be separately set forth and numbered. The matter is admitted unless within 15 days after service of the request, the party to whom the request is directed serves upon the party requesting the admission a written answer signed by the party or his attorney.

(3) Each answer must specify whether the party admits or denies the matter. If the matter cannot be admitted or denied, the party shall set out in detail the reasons.

(4) A party may not issue a denial or fail to answer on the ground that he lacks knowledge unless he has made reasonable inquiry to ascertain information sufficient to allow him to admit or deny.

(5) A party may file an objection to a request for admission within 10 days after service. Such motion shall be filed with the hearing officer if one has been appointed, otherwise it shall be filed with the Associate Administrator. An objection must explain in detail the reasons the party should not answer. A reply to the objection may be served by the party requesting the admission within 10 days after service of the objection. It is not sufficient ground for objection to claim that the matter about which an admission is requested presents an issue of fact for hearing.

(b) *Effect of Admission.* Any matter admitted is conclusively established unless the Associate Administrator or hearing officer permits withdrawal or amendment. Any admission under this rule is for the purpose of the pending action only and may not be used in any other proceeding.

(c) If a party refuses to admit a matter or the authenticity of a document which is later proved, the party requesting the admission may move for an award of expenses incurred in making the proof. Such a motion shall be granted unless there was a good reason for failure to admit.

8. 49 CFR 391.47(b) (9) and (10) are added and (d) is revised as follows:

§ 391.47 Resolution of conflicts of medical evaluation.

(b)

(9) The application must be accompanied by a statement of the driver that he intends to drive in interstate commerce not subject to the commercial zone exemption or a statement of the carrier that he has used or intends to use the driver for such work.

(10) The applicant must submit three copies of the application and all records.

(d) (1) *Action.* Upon receiving a satisfactory application the Director shall notify the parties (the driver, motor carrier, or any other interested party) that the application has been accepted and that a determination will be made. A copy of all evidence received shall be attached to the notice.

(2) *Reply.* Any party may submit a reply to the notification within 15 days after service. Such reply must be accompanied by all evidence the party wants the Director to consider in making his determination. Evidence submitted should include all medical records and test results upon which the party relies.

(3) *Parties.* A party for the purposes of this section includes the motor carrier and the driver, or anyone else submitting an application.

(49 U.S.C. 304, P.L. 93-633, 88 Stat. 2156 (49 U.S.C. 1801 et seq.); 49 CFR 1.48, 301.60.)

Issued this 26th day of September, 1977, in Washington, D.C.

KENNETH L. PIERSON,
Acting Director,
Bureau of Motor Carrier Safety.

[FR Doc.77-29190 Filed 10-3-77; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 33—SPORT FISHING

Opening of Sand Lake National Wildlife Refuge, S. Dak., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special Regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Sand Lake National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1 through December 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Sand Lake NWR, Columbia, S. Dak. 57433 (605-885-6320).

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations: sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Sand Lake National Wildlife Refuge, S. Dak., only on the areas designated by signs as being open to fishing. These areas comprising 150 acres are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colo. 80225. Sport fishing shall be in accordance with all applicable State regulations subject to the following conditions:

1. The use of boats is not permitted. The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 20, 1977.

SAM WALDSTEIN,
Refuge Manager.
[FR Doc.77-29112 Filed 10-3-77; 8:45 am]

[3410-07]

Title 7—Agriculture
CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[FmHA Instruction 440.3]

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

Obligation of Loan and Grant Funds

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration issues amended regulations to provide that loan and grant funds must be obligated on or before October 31, 1977. This action is brought about by the

need to allow more time for obligation of funds.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles B. Hart, 202-447-5717.

SUPPLEMENTARY INFORMATION: Section 1888.17 of Part 1888 of Chapter XVIII, Title 7, Subchapter G, "Miscellaneous Regulations," in the Code of Federal Regulations (42 FR 19322; 42 FR 23158; 42 FR 37355; 42 FR 42843) is amended. The text of paragraph (a) of this section is amended to provide that loan and grant funds must be obligated on or before October 31, 1977. It is the policy of this Department that rules relating to public property, loans, grants,

benefits, or contracts shall be published for comment notwithstanding the exemptions in 5 U.S.C. 553 with respect to such rules. This amendment, however, is not published for proposed rulemaking since delay in initiating this would reduce the number of communities that obtain funds for drought assistance. Since this assistance is currently needed any delay would be contrary to the public interest. Accordingly, § 1888.17(a) is amended to read as follows:

§ 1888.17 Termination provisions.

(a) Any assistance provided under this regulation must be for an applicant with an application on file on or before September 30, 1977. For projects eligible for assistance under paragraph (b) of § 1888.13, the obligating documents must

have been received in the Finance Office as of close of business on September 30, 1977, and funds must be obligated on or before October 31, 1977.

(7 U.S.C. 1889; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 3, 1977.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.
[FR Doc.77-29340 Filed 10-3-77; 11:52 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-34]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Parts 1, 3]

HUMANE HANDLING, CARE, TREATMENT, AND TRANSPORTATION OF MARINE MAMMALS; PROPOSED REGULATIONS AND STANDARDS

Informal Public Hearing on Proposed Rules

AGENCY: Animal and Plant Health Inspection Service (APHIS), USDA

ACTION: Notice of informal public hearing.

SUMMARY: On August 19, 1977, the Deputy Administrator, Veterinary Services, APHIS, published in the FEDERAL REGISTER proposed rulemaking under the authorities of the Animal Welfare Act (7 U.S.C. 2131) to provide for the humane handling, care, treatment, and transportation of marine mammals maintained in captivity. The notice gave all interested persons a period of 60 days for the filing of written comments concerning the proposed regulations and standards. On September 13, 1977, a notice concerning public hearings to be held in Los Angeles, Calif., and Miami Springs, Fla., on September 26 and 29, 1977, respectively, was published in the FEDERAL REGISTER to further allow interested persons an opportunity to participate in this rulemaking proceeding. This document announces another informal public hearing to be held in College Park, Md., to give interested persons a further opportunity to participate in this rulemaking proceeding through the submission of written comments with an opportunity for oral presentation.

DATE: The hearing will be held on Tuesday, October 18, 1977, at College Park, Md., between the hours of 10 a.m. and 4 p.m.

ADDRESS: The informal public hearing will be held at the Terrapin Room, Quality Inn Motel, 7200 Baltimore Avenue, College Park, Md. 20740, telephone number (301-864-5820).

FOR FURTHER INFORMATION CONTACT:

Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782, telephone number 301-436-8271.

SUPPLEMENTARY INFORMATION: The allegation has been made that the marine mammal hearings to be held in

Los Angeles, Calif., and Miami Springs, Fla., by the Department will allow for presentations by the regulated industry, but will not allow for presentations of opposing views by other interested parties based in and around the Washington, D.C., area. In order to provide for such public participation, an informal public hearing is scheduled to be held in the Washington, D.C., area so that interested parties in such area may present their views concerning the proposed regulations and standards covering marine mammals.

A Veterinary Services representative will serve as chairman at the informal public hearing. The procedure to be followed will be informal and without a structured agenda. Individual presentations will not be scheduled in advance. A written copy of a speaker's comments must be given to the chairman prior to the speaker's oral presentation, but is not required to be read into the record. Individuals making presentations may verbally summarize or emphasize certain points of their written comments. Opportunity will be provided for the chairman or other persons at the hearing to ask questions relating to each presentation made. The time for oral presentations and questions may be limited at the discretion of the chairman in order to give all persons at the hearing an opportunity to be heard. Transcripts of the oral hearing will be made, and copies of the transcripts and any written comments submitted at the hearing, will be made a part of the record in this rulemaking proceeding and will be available for public inspection together with all other comments received in this proceeding in accordance with the notice dated August 19, 1977.

Done at Washington, D.C. this 28th day of September 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc 77 29032 Filed 10-3-77; 8:45 am]

[3410-34]

[9 CFR Part 114]

VIRUSES, SERUMS, TOXINS, AND ANALOGOUS PRODUCTS

Miscellaneous Amendments; Proposed Rulemaking

AGENCY: Animal and Plant Health Inspection Service (APHIS).

ACTION: Proposed rule.

SUMMARY: This proposed amendment clarifies and simplifies the requirements for extending the expiration date for a biological product. A "U.S. Standard of Potency" for each fraction of a product is presently required before an extension of expiration date is granted, although the meaning of that term is unclear. The present regulations also require that the extended expiration date must be computed from the harvest date. This proposed amendment would delete the necessity of establishing a "U.S. Standard of Potency", would provide for different potency evaluation tests, and would delete the "from harvest" requirement.

DATES: Comments must be received on or before October 31, 1977.

ADDRESS: Interested persons are invited to submit written data, views, or arguments regarding the proposed regulations to: Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 828-A, Federal Building, Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. R. J. Price, 301-436-8245.

SUPPLEMENTARY INFORMATION: The present regulations prescribe conditions for permitting an extension of dating for a biological product. One of the conditions is that "U.S. Standard of Potency" be available for all fractions of the product (see § 114.14(a) of the regulations), and another condition is that the new date be determined "from harvest" (see § 114.14(b) of the regulations).

"U.S. Standard of Potency" is an undefined and unclear term. Some potency tests are part of the Standard Requirements. Others are written into the filed Outline of Production and are accepted by Veterinary Services. Misunderstandings as to meaning of the term "U.S. Standard of Potency" have resulted. This proposed amendment of the regulations removes the necessity of having a "U.S. Standard of Potency" for all fractions of a product before an extension of expiration date may be granted for such product, and requires instead, that in order to be granted such extension, a product must be evaluated for potency by tests approved by the Deputy Administrator which are filed in an Outline of Production for such product.

The harvest date is used as the point in time from which expiration dates are computed for certain biological products. As a result, the harvest date was made the point in time from which an extension would be granted for all biological products. Adjustments have been made

in this proposed amendment to provide for changes in manufacturing practices relating to products which do not have their expiration date determined from the date of harvest.

This proposed amendment would delete the "U.S. Standards of Potency" requirement, would provide for different potency evaluation tests, and would delete the "from harvest" requirement.

In § 114.14, paragraphs (a)(1) and (b)(1) would be revised to read as follows:

§ 114.14 Extension of the expiration date for a serial or sub-serial.

(a)

(1) If all fractions of the product are not evaluated for potency by tests designated in the filed Outline of Production for such product in accordance with § 113.4(b) of this subchapter; or

(b)

(1) The new expiration date shall not exceed 6 months beyond the maximum time permitted in the filed Outline of Production; and

All written submissions made pursuant to this notice will be made available for public inspection at the address listed in this document during regular hours of business (8 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 12.7(b)).

Done at Washington, D.C., this 28th day of September 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc 77-28996 Filed 10-3-77; 8:45 am]

FEDERAL RESERVE SYSTEM

[12 CFR Part 226]

[6210-01]

[Reg. Z; Docket Nos. R-0087, R-0093]

PART 226—TRUTH IN LENDING

Proposed Amendment to Regulation Z Concerning Descriptive Billing Requirements

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the provision of Regulation Z that now requires that the date that a cash advance check transaction takes place be disclosed on the creditor's descriptive periodic billing statement. In lieu of disclosing the transaction date, the proposal would permit creditors to disclose the date of debiting (the date on which a creditor honors a cash advance check) provided that the creditor treat any subsequent related inquiry from a

PROPOSED RULES

customer as a billing error and an erroneous billing under the Fair Credit Billing Act. The purpose of the proposed rule is to facilitate compliance by certain creditors who have experienced operational difficulties in capturing transaction dates. Creditors with the capability of disclosing transaction dates would be permitted to do so.

DATE: Comments must be received on or before November 1, 1977.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All materials submitted should include the docket numbers R-0087, R-0093.

FOR FURTHER INFORMATION CONTACT:

Glenn E. Loney, Attorney, Fair Credit Practices Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2412).

SUPPLEMENTARY INFORMATION: The Board of Governors of the Federal Reserve System is publishing for comment a proposed amendment to Regulation Z designed to facilitate compliance with the disclosure requirements relating to cash advance check transactions that are descriptively billed on periodic billing statements. The proposed amendment is in response to serious operational difficulties experienced by a number of creditors in capturing transaction dates on such checks. The regulation currently requires that transaction dates be disclosed in all cases. The proposed amendment would permit debiting dates to be disclosed in substitution for transaction dates provided that the creditor treats any subsequent customer inquiries seeking clarification of cash advance check transactions as billing errors and erroneous billings under the regulation. This would mean that no finance charge on such transactions would be allowed to accrue during the time that the creditor took to provide the customer with documentary or other evidence supporting the transactions. The current requirements were to become fully effective on October 28, 1977. In light of the creditor compliance problems with these requirements, the Board on August 31, 1977, suspended this effective date with regard to cash advance transactions until March 28, 1978.

The Board believes that the substitution of the date of debiting may be permitted without harm to the consumer's understanding of transaction activity in his or her open end credit account. Cash advance transactions appear to be relatively infrequent as compared with purchase transactions in such accounts. Moreover, cash advance transactions appear to be substantially larger in amount. Evidence submitted in support of these assumptions indicated that one bank's open end credit plan averaged six cash advance transactions per account during 1976 and that the average amount was \$176. Comparable figures on purchase transactions under the same plan

were 24 transactions per account during the year for an average amount of \$29. This evidence suggests that consumers may have less difficulty in recalling cash advance transactions in light of their relative infrequency and high dollar amounts.

The Board is interested in having the views of interested persons on whether these assumptions on dollar volume and frequency are typical of other open end credit plans. It is also interested in receiving relevant cost data on supplying transaction dates and debiting dates.

Pursuant to the authority granted in 15 U.S.C. 1604 (1970), the Board proposes to amend paragraph 226.7(k)(3) (ii) of Regulation Z, 12 CFR Part 226 as follows:

§ 226.7 Open end credit accounts—specific disclosures.

(k)

(3)

(ii) A description of the transaction, which characterizes it as a cash advance, loan, overdraft loan, or other designation as appropriate, and which includes the amount of the transaction and the date of the transaction or the date which appears on the document or instrument evidencing the transaction (if the customer signed the document or instrument), or the date of debiting the amount to the account, provided that if only the debiting date is disclosed and the customer submits a proper written notification of a billing error related to the transaction, the creditor shall treat such inquiry as a billing error under §§ 226.2(j) and 226.14, and as an erroneous billing under § 226.14(b), and shall supply documentary evidence of the transaction whether or not the customer requests it, within the time period allowed under § 226.14 for resolution of a billing error without charge to the customer. If the date of debiting is disclosed, it must be reasonably identified as such on the periodic statement.

To aid in the consideration of this proposal by the Board, interested persons are invited to submit relevant data, views, comments, or arguments. All such material should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 1, 1977. All material submitted should include the docket numbers R-0087, R-0093. Such information will be made available for inspection and copying upon request, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

This notice is published pursuant to § 553(b) of Title 5 United States Code

*In cases in which an amount is debited to a customer's open end credit account under an overdraft checking plan, the date of debiting the open end credit account shall be considered the date of the transaction for purposes of this paragraph.

and § 262.2(a) of the Rules of Procedure of the Board of Governors of the Federal Reserve System (12 CFR 262.2(a)).

By order of the Board of Governors, September 28, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 77-29214 Filed 10-3-77; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Parts 1304, 1305]

RESPIRABLE FREE-FORM ASBESTOS

Proposal To Ban Certain Patching Compounds and Artificial Embroidering Materials (Embers and Ash); Extension of Time

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of time.

SUMMARY: This notice extends from September 27, 1977, to November 28, 1977, the period in which the Commission must either publish in the FEDERAL REGISTER a consumer product safety rule to declare that two consumer products containing respirable free-form asbestos are banned hazardous products under section 9 of the CPSA (15 U.S.C. 2058), or withdraw the rule proposed on July 29, 1977.

FOR FURTHER INFORMATION CONTACT:

John Liskey, Consumer Product Safety Commission, Washington, D.C. 20207 (301-492-6557).

SUPPLEMENTARY INFORMATION: On July 29, 1977, the Commission published in the FEDERAL REGISTER (42 FR 38783) a proposal to ban consumer patching compounds and artificial embroidering materials (embers and ash) containing respirable free-form asbestos. Based on information discussed in the proposal, the Commission stated its preliminary determination that inhalation of asbestos fibers released during the use of these products, present an unreasonable risk of injury to the public of certain types of cancer, including lung cancer and mesothelioma. The Commission also preliminarily determined that no feasible standard under the CPSA could adequately protect the public from the unreasonable risk of injury associated with these products.

The FEDERAL REGISTER notice of July 29, 1977, invited interested persons to submit written comments on the proposal by August 29, 1977. In addition, the notice invited interested persons to make oral presentations of data, views, or arguments on the proposal at a public meeting on August 15, 1977. During the August 15 meeting, the Commission solicited other written comments on the oral presentations.

To date, the Commission has received approximately 25 written comments concerning the proposed ban; several of

these were received by the staff after the closing date for comments, August 29, 1977. Many of the comments and oral presentations concern complex, technical issues that must be reviewed by the Commission staff prior to evaluation by the Commission. Since the comment period expired recently, the Commission staff will require additional time to analyze these comments and brief the Commission.

Accordingly, pursuant to section 9(a) (1) of the CPSA, the period of time in which the Commission must either publish a consumer product safety rule declaring that consumer patching compounds and artificial embroidering materials containing respirable free-form asbestos are banned hazardous products, or withdraw the rule proposed on July 29, 1977, is extended to November 28, 1977. This period may be further extended for good cause by notice published in the FEDERAL REGISTER.

Dated: September 28, 1977.

RICHARD E. RAPPS,
Secretary, Consumer Product
Safety Commission.

[FR Doc. 77-29106 Filed 10-3-77; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 133]

[Docket No. 77P-0070]

PASTEURIZED PROCESS CHEESE AND CHEESE PRODUCTS

Proposed Revision of Definitions and Standards of Identity

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would revise the definitions and standards of identity for pasteurized process cheese and other pasteurized process cheese products. It is based on petitions for establishing such standards which have been received from the industry as well as on recommended international standards. The proposed rule would make a wider variety of high quality, lower fat products available.

DATE: Comments by January 3, 1978. Proposed compliance for products initially introduced into interstate commerce: July 1, 1979.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-1155).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs, on his own initiative and in consideration of two separate petitions and the Codex Alimentarius Recommended International Standards (A-8 (a), (b), and (c) for process cheese and cheese products), proposes to revise the standards of identity for pasteurized process cheese and other pasteurized process cheese products.

PETITIONS FOR PROMULGATION OF STANDARD OF IDENTITY

A petition was filed by Borden, Inc., 50 West Broad St., P.O. Box 2478, Columbus, Ohio 43216, proposing that a standard of identity be established for a pasteurized process cheese product that contains less fat than is currently provided for in the standards of identity for pasteurized process cheese, pasteurized process cheese food, and pasteurized process cheese spread (21 CFR 133.169, 133.173, and 133.179, respectively), and is prepared from skim milk cheese for manufacturing (21 CFR 133.685) as a mandatory cheese ingredient with or without other optional cheese varieties.

A notice was published in the FEDERAL REGISTER of October 22, 1971 (36 FR 20451), granting a marketing permit to Borden, Inc., for limited interstate marketing tests of a pasteurized process cheese product that deviated from the identity standards prescribed in §§ 133.169 and 133.173, in that it contained skim milk cheese for manufacturing and American type cheeses as the cheese ingredient, enzyme-modified cheese, and less fat (8.0 percent fat). A notice extending this permit to July 13, 1973 was published in the FEDERAL REGISTER of September 30, 1972 (37 FR 20582).

Based on the technological and marketing information obtained during the permit period, Borden has set forth the following grounds in support of the proposal to establish a standard of identity for a pasteurized process cheese product:

(1) One of the most prevalent nutritional problems in the United States is excessive calorie intake. Expanding the availability of a wide assortment of calorie-reduced foods is in the best interest of consumers since this will better enable them to plan a reduction in their total intake of calories.

(2) There is a great interest on the part of consumers in modified food products having reduced fat and/or calorie content.

(3) It is technically and economically feasible to make a pasteurized process cheese product that is substantially lower in fat and calories than presently available in standardized process cheese, process cheese food, and process cheese spread.

(4) Market testing has shown that a substantial number of consumers will purchase and repurchase a pasteurized process cheese product with a lower fat content than presently available.

(5) The pasteurized process cheese product described in item (3) has a flavor, taste, and texture that is highly

acceptable to a substantial number of consumers, as indicated by actual consumer testing.

(6) Market testing in diverse areas has established that the acceptance of a pasteurized process cheese product is not limited geographically.

(7) Over 14 months of experience distributing this pasteurized process cheese product has shown that it can be distributed in the same manner as regular pasteurized process cheese and has a comparable shelf life.

A petition similar to that filed by Borden, Inc., was filed by Kraft Foods Division, Division of Kraftco Corp., 500 Peshigo Court, Chicago, Ill. 60690. The Kraft petition proposed the promulgation of a standard of identity for a pasteurized process cheese product and proposed the amendment of the standards of identity for pasteurized process cheese, cheese food, and cheese spread, as well as the related standards in 21 CFR 133.170, 133.171, 133.174, 133.176, and 133.180. To facilitate these amendments, proposals were also made to amend the standard of identity for skim milk cheese for manufacturing.

Copies of the Borden and Kraft petitions are on file at the Hearing Clerk's office, Food and Drug Administration.

CODEx ALIMENTARIUS RECOMMENDED INTERNATIONAL STANDARDS

The Joint Food and Agriculture Organization/World Health Organization (FAO/WHO) Committee of Government Experts on the Code of Principles Concerning Milk and Milk Products, an auxiliary body of the Codex Alimentarius Commission, has submitted to the United States for consideration of acceptance recommended international standards for process cheese, process cheese and spreadable process cheese and process cheese preparations, process cheese food, and process cheese spread.

The United States, as a member nation of the Food and Agriculture Organization of the United Nations and the World Health Organization, is obliged to consider all recommended international standards. The rules of procedure of the Codex Alimentarius Commission state that a standard may be accepted by a participating country in one of three ways: (1) Full acceptance, (2) target acceptance, or (3) acceptance with specified deviations. A participating country that concludes that it cannot accept the standard in full is requested to indicate the ways in which its requirements differ from the recommended international standard. Member nations of FAO/WHO Commission are requested to notify the Technical Secretary, Committee on the Code of Principles Concerning Milk and Milk Products, Animal Production and Health Division, FAO, Rome, Italy, of their decision. Should a sufficient number of governments accept these standards, the Secretariat of the Committee will notify the Codex Alimentarius Commission and request the publication of these standards by the Codex Alimentarius Commission as

worldwide standards in light of the acceptances received.

COMMISSIONER'S PROPOSED COURSES OF ACTION

Based on the extensive revisions contemplated in the proposals submitted by the two petitioners, as well as the treaty obligation of the United States to consider the recommended Codex Alimentarius standards for process cheese products in accordance with 21 CFR 130.6, the Commissioner concludes that it would be appropriate to make a combined proposal concerning the standards of identity for these products. He is also of the opinion that the establishment of a fourth category of pasteurized process cheese items is not in the best interest of consumers because there is already considerable confusion about the differences between the present three standards for pasteurized process cheese, cheese food, and cheese spread.

Therefore, the Commissioner proposes to establish only two categories: pasteurized process cheese and pasteurized process cheese product. The proposed pasteurized process cheese product standard will be broad in scope and will not limit fat content. Both the proposed pasteurized process cheese product standard and proposed pasteurized process cheese standard will require label declaration of the percent milkfat. This is necessary because of the variations of fat content of such foods. For example, the fat content of the solids of such foods made from a single variety of cheese may vary from as low as 43 percent for Swiss cheese to as high as approximately 50 percent for cheddar cheese. The resulting pasteurized process cheese would be labeled as containing 24 and 30 percent fat, respectively. With all of the potential variations of fat content for such foods, the Commissioner believes it is necessary to provide the consumer with this label information.

The reason for label declaration of the percent fat in the proposed pasteurized process cheese product standard is that the fat may range from a theoretical zero percent to 23 percent, or even higher, depending on the fat content of the cheese used to make up the 51 percent cheese requirement of pasteurized process cheese product. Label declaration of fat content for both pasteurized process cheese and pasteurized process cheese products will also aid consumers in differentiating between the two standards.

Furthermore, the label declaration of percent fat will automatically require that the foods be nutritionally labeled. Since there are many types of ingredients that the processors of pasteurized process cheese and pasteurized process cheese product may use in manufacturing these foods, the ingredients are considered to be optional and therefore are required to be declared in the ingredient statement in accordance with 21 CFR Part 101.

The Commissioner's proposed revision of the existing standard for pasteurized process cheese in 21 CFR 133.169:

(1) Requires label declaration of fat content.

(2) Adopts the use of class designation for safe and suitable optional ingredients and requires that all such ingredients be declared on the label by their common or usual name in accordance with 21 CFR Part 101 labeling requirements.

(3) Provides for the use of Monterey cheese as one of the varieties of cheese approved for use under the term "American cheese" since this cheese was developed in the United States and is similar to the other cheeses now used for "Pasteurized Process American Cheese".

(4) Provides for the use of semisoft part-skim cheese.

(5) Provides for the use of safe and suitable enzymes for the development of flavor and body in ground or shredded cheese used as the cheese ingredient in pasteurized process cheese.

(6) Provides for the use of butterfat as well as milkfat for the purpose of standardizing the fat content of the pasteurized process cheese.

(7) Provides, within the framework of the standard, for the addition of fruits, vegetables, and meats, etc., previously provided for in 21 CFR 133.170 and 133.171, thus permitting these sections to be revoked.

(8) Provides for the optional use of the word "pasteurized" in the name of the food.

The Commissioner's proposed standard for pasteurized process cheese product:

(1) Sets no limitation on the fat content or the moisture content. However, the proposed standard requires that the fat content shall be declared on the label and the product must contain at least 51 percent by weight of natural cheese.

(2) Adopts the use of class designations for safe and suitable optional ingredients and requires all ingredients to be declared on the label by their common or usual name in accordance with 21 CFR Part 101 labeling requirements.

(3) Provides for the use of all natural cheese varieties as part of the cheese ingredient.

(4) Provides for the use of safe and suitable enzymes for the development of flavor and body in ground or shredded cheese used as the cheese ingredient in pasteurized process cheese product.

(5) Provides for the use of butterfat as well as milkfat for the purpose of standardizing the fat content of the product.

(6) Provides, within the framework of the standard, for the addition of fruits, vegetables, and meats, etc., previously provided for in 21 CFR 133.174 and 133.180, thus permitting these sections to be revoked.

(7) Provides for the optional use of the words "pasteurized process" in the name of the food.

STANDARD OF IDENTITY VERSUS COMMON OR USUAL NAME

The Commissioner considered establishing a common or usual name for pasteurized process cheese and/or pasteurized process cheese product as an alter-

native to the proposed standards of identity. A common or usual name is a name that accurately identifies or describes the basic nature of a food or its characterizing ingredients (21 CFR 102.5). The basic difference between a common or usual name regulation and a standard of identity is that the latter generally prescribes with greater detail and particularity the ingredients to be used, often including the amounts of ingredients permitted in the food and specifying the manufacturing process to be used. A standard of identity thus ensures the quality and identity of the food by controlling its composition. A common or usual name, however, permits the use of a wide variety of ingredients and requires label declaration of the amount of the most valuable ingredients as well as the presence of all other ingredients in the ingredient statement so that consumers can determine the quality and identity of the food.

The proposed standards of identity for pasteurized process cheese and cheese product set minimum compositional requirements for these foods. The Commissioner is of the opinion that these compositional requirements are necessary to assure the uniformity and quality of these foods. In addition, the public has come to associate certain minimum levels of valuable ingredients with the names of the existing standards of identity for pasteurized process cheese, cheese food, and cheese spread. All three of these standards mandate a high cheese content and permit only dairy ingredients as nutritive ingredients in the food. Although consumers may not have understood the distinctions between these different foods, they have come to associate the various pasteurized process cheese type products as being characterized by a high cheese level and the use of only dairy ingredients. The two proposed standards replace the existing standards for pasteurized process cheese, cheese food, and cheese spread, and they mandate the same cheese and dairy content characteristics. The Commissioner concludes that it is appropriate to establish requirements for such characteristics by means of a standard of identity.

The Commissioner considered a requirement that would allow any use of cheese or dairy ingredients, subject to a requirement of percentage declaration, but concluded that it would not be sufficient to meet the consumer expectations for this type of food and it could be potentially confusing to consumers since the name would have to include the percentage of cheese and dairy products as well as fat. Accordingly, the Commissioner concludes that standards of identity for pasteurized process cheese and pasteurized process cheese products will promote honesty and fair dealing in the interest of consumers.

DIFFERENCES BETWEEN CODEX STANDARD AND FDA PROPOSED STANDARDS OF IDENTITY

The primary differences between the Codex Recommended General Standard for Process(ed) Cheese (A-8(a)) and the

proposed revision of the FDA standard of identity for pasteurized process cheese are as follows:

1. The Codex standard does not include a maximum phenol equivalent value to be used as an indicator of effective pasteurization.
2. The Codex standard does not provide for the use of enzyme-modified cheese.
3. Specific optional ingredients and limits of use vary; several are permitted for use by the Codex standard but are

prohibited by the proposed revised standard, and vice versa.

4. The proposed revision requires label declaration of all ingredients, including color. However, some dissimilarities as to the manner of declaring those ingredients do exist.

To assist interested persons in making a detailed comparison of the Codex standard and the Commissioner's proposal, the Codex standard A-8(a) is provided below in its entirety.

STANDARD NO. A-8(A) (1970)

RECOMMENDED GENERAL STANDARD FOR PROCESS(ED) CHEESE¹ OR PROCESS(ED)¹ CHEESE "Fromage — fondu"¹ ou "Fromage fondu —"¹

1. Definition.

1.1 Process(ed) — Cheese or — Process(ed) Cheese is made by grinding, mixing, melting and emulsifying with the aid of heat and emulsifying agents one or more varieties of cheese, with or without the addition of foodstuffs in accordance with paragraph 2.

1.2 "Sugars" means any carbohydrate sweetening matter.

2. Optional ingredients.

2.1 Cream, butter and butteroil may be added in quantities to ensure compliance with the minimum fat requirements.

2.2 Salt (sodium chloride).

2.3 Spices and other vegetable seasonings in sufficient quantity to characterize the product.

2.4 For the purposes of flavouring the product, foods other than sugars, properly cooked or otherwise prepared, may be added in sufficient quantity to characterize the product provided these additions, calculated on the basis of dry matter, do not exceed one sixth of the weight of the total solids of the final product.

3. Food Additives.

3.1 Necessary Food Additives.

3.1.1 Emulsifiers:

- | | |
|---|--|
| 3.1.1.1 Sodium, sodium-aluminum, potassium and calcium salts of | Maximum level
40 g/kg singly or
in combination
calculated as
anhydrous sub-
mono-, di- and
polyphosphates
not to exceed
30 g/kg. |
| 3.1.1.2 Sodium, potassium and calcium salts of citric acid. | |
| 3.1.1.3 Sodium, potassium and calcium salts of citric acid. | |
| 3.1.1.3 Citric acid and/or phosphoric acid with sodium hydrogen carbonate and/or calcium carbonate. | |

3.2 Optional Food Additives.

3.2.1 Colours:

- | | |
|-----------------------------------|-------------------------------|
| Annatto ² | Maximum level
Not limited. |
| Beta-carotene | |
| Chlorophyll | |
| Riboflavin | |
| Oleoresin of paprika ² | |
| Curcumin ² | |

3.2.2 Acidifiers:

- | | |
|-----------------|---|
| Vinegar | Maximum level
Within the limits
specified in 3.1.1. |
| Citrus acid | |
| Phosphoric acid | |
| Acetic acid | |
| di-Lactic acid | |

3.2.3 Preservatives:

- | | |
|---|---|
| 3.2.3.1: | Maximum level
2,000 mg/kg.
3,000 mg/kg.
100 mg/kg. |
| Either sorbic acid and its sodium and potassium salts, or | |
| Propionic acid and its sodium and calcium salts. | |
| 3.2.3.2 Nisin | |

3.2.4 Other Additives:

- | | |
|----------------------------------|--|
| Calcium chloride | Within the limits
specified in 3.1.1. |
| Sodium hydrogen carbonate and/or | |
| Calcium carbonate | |

4. Heat Treatment.

During their manufacture products conforming to the definition of the standard shall be heated to a temperature of 70° C for 30 seconds, or any other equivalent or greater time/temperature combination.

5. Composition and Designation.

Process(ed) cheese, the designation of which includes one or more variety names: 5.1 Shall contain only the varieties mentioned in the name, with the exception of Gruyère and Emmental which are interchangeable;

¹ Blank shall be filled in by (a) cheese variety name(s).

² Temporarily endorsed.

5.2 The fat and solid content of Process(ed) Cheese or — Process(ed) Cheese shall be:

(a) In accordance with the national legislation of the consuming country for Process(ed) Cheese or — Process(ed) Cheese, if any such legislation exists;

(b) In the absence of such national legislation the minimum fat content in the dry matter shall be not less than that prescribed in the international individual cheese standard for that variety and in the case of two or more varieties, not less than that of the arithmetical average of the fat contents in dry matter prescribed in the standards concerned. The minimum solid contents shall be as shown in the following table with the exception of Process(ed) Gruyère, Emmental or Appenzeller cheese where the solid content shall be at least 50% and in the case of Edam the solid content shall be at least 51% and that of Gouda be at least 53%.

Milkfat in dry matter (FBD) percent:	Dry matter (percent)
65	53
60	52
55	51
50	50
45	48
40	46
35	44
30	42
25	40
20	38
15	37
10	36
Less than 10	34

6. Labelling.

The following provisions in respect of the labelling of the products are subject to endorsement by the Codex Committee on Food Labelling. In addition to sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1-1969), the following specific provisions apply:

6.1 The Name of the Food.

6.1.1 The name of a product made from a single variety and designated by a variety name shall be "Process(ed) Cheese or — Process(ed) Cheese", the blank being filled with the name of the variety of cheese used.

6.1.2 The name of a product made from two or more varieties of cheese shall be "Process(ed) and Cheese or — and Process(ed) Cheese" in descending order of proportion.

6.1.3 In case the process(ed) cheese above includes spices used in accordance with paragraph 2.3 or natural foodstuffs in accordance with paragraph 2.4, the name of the product shall be the one applicable above followed by the term "with _____", the blank being filled with the common or usual name or names of the spices or natural foodstuffs used, in order of predominance by weight.

6.1.4 The milkfat content shall be declared on the label in multiples of 5% (the figure used to be that of the 5% multiple below the actual composition), ex-

cept in those cases where process(ed) cheese or — process(ed) cheese carries the name of a single variety of cheese covered by an international individual cheese standard.

6.2 List of Ingredients.³ The presence of optional food additives used in accordance with paragraph 3.2 shall be declared on the label. Class titles listed in paragraph 3.2(c) (ii) of the General Standard for the Labelling of Prepackaged Foods may be used, as appropriate.

6.3 Net Contents. The net contents, except on individual portions not intended for separate sale, shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the food is sold.

6.4 Name and Address. The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared, except on individual portions not intended for separate sale, in which case the declaration may be replaced by a trademark or other indication of the manufacturer, or importer, or seller.

6.5 Country of Origin (Manufacture). The name of the producing country shall be declared (for export only).

7. Methods of sampling and analysis.

7.1 Sampling: according to FAO/WHO Standard B-1 "Sampling Methods for Milk and Milk Products", paragraphs 2 and 7.

7.2 Fat Content: according to FAO/WHO Standard B-3 "Determination of the Fat Content of Cheese and Processed Cheese Products".

7.3 Phosphorus Content: according to FAO/WHO Standard B-12 "Determination of the Phosphorus Content of Cheese and Processed Cheese Products".

7.4 Citric Acid Content: according to FAO/WHO Standard B-13 "Determination of the Citric Acid Content of Cheese and Processed Cheese Products".

The primary differences between the Codex recommended General Standard for Process(ed) Cheese Preparations (A-8(c)) and the proposed FDA standard of

³ Subject to endorsement.

The original text of paragraph 6.2 (see Report of the 13th Session, Appendix IV-A) foresaw the mandatory labelling solely of the presence of preservatives according to paragraph 3.2.3, allowing the use of the class title "Preservatives(s)".

The present text of paragraph 6.2 is the result of a proposal agreed to by the Committee at its 15th Session, requiring the mandatory declaration of the optional food additives. This proposal was the result of a compromise between suggestions for the mandatory labelling of a complete and a selective list of ingredients. The compromise proposal which was supported by 14 countries and objected to by 6 countries was rejected by the Codex Committee on Food Labelling. A decision on the matter will be taken by the Codex Alimentarius Commission (see Report of the 14th Session of the Committee, paragraphs 53 to 57 and the Report of the 15th Session of the Committee, paragraphs 57 to 61).

identity for pasteurized process cheese product are the same four points enumerated in the above comparison of the recommended Codex standard A-8(a) and the proposed revision of the FDA standard for pasteurized process cheese. An additional difference is that the Codex standard A-8(c) defines two distinct foods within the one standard. The Codex standard provides for either specific labeling (Process(ed) Cheese Food or Process(ed) Cheese Spread, depending on the ingredients used) or general labeling (Process(ed) Cheese Preparations) of the food.

To assist interested persons in making a detailed comparison of the Codex standard and the Commissioner's proposal, the Codex standard A-8(c) is provided below in its entirety.

STANDARD NO. A-8(C) (1970)

RECOMMENDED GENERAL STANDARD FOR PROCESS(ED) CHEESE PREPARATIONS

PREPARATIONS A BASE DE FROMAGE FONDU (PROCESS(ED) CHEESE FOOD AND PROCESS(ED) CHEESE SPREAD

(PROCESS(ED) CHEESE FOOD ET PROCESS(ED) CHEESE SPREAD)

1. Definition.

1.1 Process(ed) cheese preparations are made by grinding, mixing, melting and emulsifying with the aid of heat and emulsifying agents one or more varieties of cheese, which contain, moreover in any case, the products mentioned in paragraph 2.4 and/or those mentioned in paragraphs 2.6 and 3.2.4.2. Process(ed) cheese preparations designated as Process(ed) Cheese Food shall contain milk components to an amount of at least 5% expressed as lactose and may contain any of the ingredients in accordance with paragraph 2 except sugars, and food additives in accordance with paragraph 3 except vegetable gums. Process(ed) cheese preparations designated as Process(ed) Cheese Spreads may contain any or all of the ingredients in accordance with paragraph 2 and food additives in accordance with paragraph 3.

1.2 "Sugars" means any carbohydrate sweetening matter.

2. Ingredients.

2.1 Cream, butter and butteroil may be added.

2.2 Salt (sodium chloride).

2.3 Spices and other vegetable seasonings in sufficient quantity to characterize the product.

2.4 Milk components.

2.5 For the purposes of flavoring the product foods properly cooked or otherwise prepared, may be added in sufficient quantity to characterize the product provided these additions, calculated on the basis of dry matter, do not exceed one sixth of the weight of the total solids of the final product.

2.6 Sugars.

3. Food Additives.

3.1 Necessary Food Additives.

3.1.1 Emulsifiers:

- 3.1.1.1 Sodium, sodium-aluminum, potassium and calcium salts of the mono-, di- and polyphosphoric acids.
 3.1.1.2 Sodium, potassium and calcium salts of citric acid.
 3.1.1.3 Citric acid and/or phosphoric acid with sodium hydrogen carbonate and/or calcium carbonate.

Maximum level

40 g/kg, singly or in combination as anhydrous substances, but mono-, di- and polyphosphates not to exceed 30 g/kg.

3.2 Optional Food Additives.

3.2.1 Colours:

- Annatto¹
 Beta-carotene
 Chlorophyll
 Riboflavin
 Oleoresin of paprika¹
 Curcumin¹

Maximum level

Not limited.

3.2.2 Acidifiers:

- Vinegar
 Citric acid
 Phosphoric acid
 Acetic acid
 di-Lactic acid

Maximum level

specified in 3.1.1. Within the limits

3.2.3 Preservatives:

- 3.2.3.1 Either sorbic acid and its sodium and potassium salts, or Propionic acid and its sodium and calcium salts.
 3.2.3.2 Nisin

Maximum level

2,000 mg/kg.
 3,000 mg/kg.
 100 mg/kg.

3.2.4 Other Additives:

- 3.2.4.1: Calcium chloride
 Sodium hydrogen carbonate and/or calcium carbonate
 3.2.4.2: Arabic gum
 Locust (carob) bean gum¹
 Karaya gum¹
 Guar gum¹
 Oat gum¹
 Tragacanth gum¹
 Agar-agar
 Carrageenan
 Sodium carboxymethylcellulose (cellulose gum)
 Sodium, potassium, calcium and ammonium salts of alginate acid
 Propylene glycol ester of alginate acid¹
 Pectin
 Gelatine

Maximum level

Within the limits specified in 3.1.1.

8,000 mg, kg, singly or in combination.

4. Heat Treatment.

During their manufacture products conforming to the definition of the standard shall be heated to a temperature of 70° C for 30 seconds, or any other equivalent or greater time/temperature combination.

5. Composition and Designation.

5.1 Products conforming to this standard may not be designated by a cheese variety name in connection with the name "Process(ed) Cheese Preparations" (Process(ed) Cheese Food and Process(ed) Cheese Spread) but mention may be made of the name of a cheese variety on the label in close proximity to the label declarations required under paragraph 6.2.

5.2 Process(ed) Cheese Preparations (Process(ed) Cheese Food and Process(ed) Cheese Spread) shall have a minimum dry matter content related to the declared minimum milkfat in dry matter, as follows:

¹Temporarily endorsed.

²Pending endorsement by the Codex Committee on Food Additives.

Milkfat in dry matter (FDP) percent:	Dry matter
65	45
60	44
55	44
50	43
45	41
40	39
35	36
30	33
25	31
20	29
15	29
10	29
less than 10	29

At least 51% of the dry matter of the finished product shall be derived from cheese.

6. Labelling.

The following provisions in respect of the labelling of the products are subject to endorsement by the Codex Committee on Food Labelling. In addition to sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref.

No. CAC/RS 1-1969), the following specific provisions apply:

6.1 The Name of the Food.

6.1.1 Process(ed) cheese preparation or where national legislation distinguished between "process(ed) cheese food" and "process(ed) cheese spread" these names shall be used.

6.1.2 In case the products include spices used in accordance with paragraph 2.3 or natural foodstuffs used in accordance with paragraph 2.5 the name of the product shall be the one applicable above followed by the term "with _____", the blank being filled in with the common or usual name or names of the spices or foodstuffs used, in order of predominance by weight.

6.1.3 The minimum milkfat content shall be declared on the label in multiples of 5%, the figure used to be that of the 5% multiple below the actual composition.

6.2 List of Ingredients.² The presence of ingredients used in accordance with paragraph 2 and optional food additives used in accordance with paragraph 3.2 shall be declared on the label, in order of predominance by weight. Class titles listed in paragraph 3.2(c) (i) and (ii) of the General Standard for the Labelling of Prepackaged Foods may be used, as appropriate.

6.3 Net Contents. The net contents, except on individual portions not intended for separate sale, shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the food is sold.

6.4 Name and Address. The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared, except on individual portions not intended for separate sale, in which case the declaration may be replaced by a trademark or other indication of the manufacturer, or importer, or seller.

6.5 Country of Origin (Manufacture). The name of the producing country shall be declared (for export only).

7. Methods of Sampling and Analysis.
 7.1 Sampling: according to FAO/WHO Standard B-1 "Sampling Methods for Milk and Milk Products", paragraphs 2 and 7.

7.2 Fat Content: according to FAO/WHO Standard B-3 "Determination of the Fat Content of Cheese and Processed Cheese Products".

²Subject to endorsement.

The original text of paragraph 6.2 (see Report of the 13th Session, Appendix IV-C) foresaw the mandatory labelling of all ingredients with the exception of the necessary food additives, the colours, acidifiers and "other additives", according to 3.1, 3.2.1, 3.2.2 and 3.2.4.1—i.e. out of the food additives listed solely the preservatives (3.2.3) and the gums, etc (3.2.4.2) had to be declared.

The present text is the result of a proposal agreed to by the Committee at its 14th Session (see also footnote on page 43).

7.3 Phosphorus Content: according to FAO/WHO Standard B-12 "Determination of the Phosphorus Content of Cheese and Processed Cheese Products".

7.4 Citric Acid Content: according to FAO/WHO Standard B-13 "Determination of the Citric Acid Content of Cheese and Processed Cheese Products".

The recommended Codex standard (A-8(b)) for Process(ed) Cheese and Spreadable Process(ed) Cheese bears such close resemblance to the Codex standard A-8(c) and to the existing FDA

standards of identity for pasteurized process cheese food and cheese spread that it is apparent that foods which fall under A-8(b) would correspondingly fall under the applicable FDA standards of identity. Therefore, any comparison would be repetitive.

However, to assist interested persons in making a detailed comparison of this Codex standard, A-8(b), and the Commissioner's proposal for pasteurized process cheese product, the Codex standard A-8(b) is provided below in its entirety.

STANDARD No. A-8(b) (1970)

RECOMMENDED GENERAL STANDARD FOR "PROCESS (ED) CHEESE" AND "SPREADABLE PROCESS (ED) CHEESE"

"Fromage fondu" et "Fromage fondu pour tartine"

1. Definition.

1.1 "Process(ed) cheese" and "spreadable process(ed) cheese" are made by grinding, mixing, melting and emulsifying with the aid of heat and emulsifying agents one or more varieties of cheese, with or without the addition of milk components and/or other foodstuffs in accordance with paragraph 2.

1.2 "Sugars" means any carbohydrate sweetening matter.

2. Optional Ingredients.

2.1 Cream, butter and butteroil may be added.

2.2 Milk components may be added to a maximum total lactose content in the final product of 5%.

2.3 Salt (sodium chloride).

2.4 Spices and other vegetable seasonings in sufficient quantity to characterize the product.

2.5 For the purposes of flavouring the product, foods other than sugars, properly cooked or otherwise prepared, may be added in sufficient quantity to characterize the product provided these additions, calculated on the basis of dry matter, do not exceed one sixth of the weight of the total solids of the final product.

3. Food additives.

3.1 Necessary Food Additives.

3.1.1 Emulsifiers

3.1.1.1 Sodium, sodium-aluminum, potassium and calcium salts of the mono-, di- and polyphosphoric acids.

3.1.1.2 Sodium, potassium and calcium salts of citric acid.

3.1.1.3 Citric acid and/or phosphoric acid with sodium hydrogen carbonate and/or calcium carbonate.

Maximum level

40 g/kg singly or in combination calculated as anhydrous substances, but mono-, di- and polyphosphates not to exceed 30 g/kg.

3.2 Optional Food additives:

3.2.1 Colours:

- Annatto¹
 Beta-carotene
 Chlorophyll
 Riboflavin
 Oleoresin of paprika¹
 Curcumin¹

Maximum level

Not limited.

3.2.2 Acidifiers:

- Vinegar
 Citric acid
 Phosphoric acid
 Acetic acid
 di-Lactic acid

Maximum level

Within the limits specified in 3.1.1.

3.2.3 Preservatives:

- 3.2.3.1: Either sorbic acid and its sodium and potassium salts, or Propionic acid and its sodium and calcium salts.
 3.2.3.2 Nisin

Maximum level

2,000 mg/kg.
 3,000 mg/kg.

3.2.4 Other additives:

- Calcium chloride
 Sodium hydrogen carbonate and/or Calcium carbonate

Within the limits specified in 3.1.1.

¹Temporarily endorsed.

4. Heat Treatment.

During their manufacture products conforming to the definition of the standard shall be heated to a temperature of 70° C for 30 seconds, or any other equivalent or greater time/temperature combination.

5. Composition and Designation.

5.1 Products conforming to this standard may not be designated by a cheese variety name in connection with the names "Process(ed) Cheese" or "Spreadable Process(ed) Cheese" but mention may be made of the name of a cheese variety on the label in close proximity to the label declarations required under paragraph 6.2.

5.2 Process(ed) Cheese and Spreadable Process(ed) Cheese shall have a minimum dry matter content related to the declared minimum milk fat in dry matter content, as follows:

Milk fat in dry matter (FDP) percent	Dry matter percent process(ed) cheese	Dry matter percent spreadable process(ed) cheese
65	53	45
60	52	44
55	51	43
50	50	43
45	48	41
40	46	39
35	44	36
30	42	33
25	40	31
20	38	29
15	37	29
10	36	29
Less than 10	34	29

6. Labelling.

The following provisions in respect of the labelling of the products are subject to endorsement by the Codex Committee on Food Labelling. In addition to sections 1, 2, 4 and 6 of the General Standard for the Labelling of Prepackaged Foods (Ref. No. CAC/RS 1-1969), the following specific provisions apply:

6.1 The Name of the Food.

6.1.1 The name of the product shall be "Process(ed) Cheese" or "Spreadable Process(ed) Cheese" as applicable.

6.1.2 In case the "Process(ed) Cheese" or "Spreadable Process(ed) Cheese" above includes spices used in accordance with paragraph 2.4 or natural foodstuffs used in accordance with paragraph 2.5, the name of the product shall be the one applicable above followed by the term "with _____", the blank being filled with the common or usual name or names of the spices or natural foodstuffs used in order of predominance by weight.

6.1.3 The milk fat content shall be declared on the label in multiples of 5%, the figure used to be that of the 5% multiple below the actual composition.

6.2 List of Ingredients.² The presence of optional food additives used in

²Subject to endorsement.

The original text of paragraph 6.2 (see Report of the 13th Session, Appendix IV-B) foresaw the mandatory labelling solely of the presence of preservatives according to paragraph 3.2.3, allowing the use of the class title "Preservative(s)".

The present text is the result of a proposal agreed to by the Committee at its 14th Session (see also footnote on page 43).

accordance with paragraph 3.2 shall be declared on the label. Class Titles listed in paragraph 3.2(c)(1) of the General Standard for the Labeling of Prepackaged Foods may be used, as appropriate.

6.3 *Net Contents.* The net contents, except on individual portions not intended for separate sale, shall be declared by weight in either the metric ("Système International" units) or avoirdupois or both systems of measurement as required by the country in which the food is sold.

6.4 *Name and Address.* The name and address of the manufacturer, packer, distributor, importer, exporter or vendor of the product shall be declared, except on individual portions not intended for separate sale, in which case the declaration may be replaced by a trademark or other indication of the manufacturer, or importer, or seller.

6.5 *Country of Origin (Manufacture).* The name of the producing country shall be declared (for export only).

7. *Methods of Sampling and Analysis.*
7.1 Sampling: according to FAO/WHO Standard B-1 "Sampling Methods for Milk and Milk Products", paragraphs 2 and 7.

7.2 Fat Content: according to FAO/WHO Standard B-3 "Determination of the Fat Content of Cheese and Processed Cheese Products".

7.3 Phosphorus Content: according to FAO/WHO Standard B-12 "Determination of the Phosphorus Content of Cheese and Processed Cheese Products".

7.4 Citric Acid Content: according to FAO/WHO Standard B-13 "Determination of the Citric Acid Content of Cheese and Processed Cheese Products".

The Commissioner concludes that adequate consideration of the recommended Codex standards A-8 (a), (b), and (c) has been taken in preparing the proposed revised standards of identity for pasteurized process cheese and pasteurized process cheese product.

The Codex standards include certain basic labeling requirements that are not considered a part of food standards under section 401 of the Federal Food, Drug, and Cosmetic Act, which is the legal basis for promulgation of food standards. Among these labeling requirements are declaration of net quantity of contents, name of the manufacture, and country of origin. Such requirements are provided for by other sections of the act, the Fair Packaging and Labeling Act, and regulations promulgated thereunder in 21 CFR Part 101 and are applicable to all products entered into interstate commerce in the United States.

The Codex standards also reference specific methods of sampling as, for example, FAO/WHO Standard B-1 "Sampling Methods for Milk and Milk Products," paragraphs 2 and 4 (CAC/M1-1973).¹ Such sampling methods are not specifically designated in the U.S. standards of identity for milk and cream

¹ "Code of Principles Concerning Milk and Milk Products, International Standards and Standard Methods of Sampling and Analysis for Milk Products," 7th Ed.

products. However, these FAO/WHO sampling methods have been published in the "Official Methods of Analysis of the Association of Official Analytical Chemists," 12th Ed., 1975, the source of the referenced methods of analysis for milk and cream products contained in the U.S. standards of identity.

OTHER MATTERS

Both the standards for pasteurized cheese spread (§ 133.175) and pasteurized cheese spread with fruits, vegetables, or meats (§ 133.176) are cross-referenced to the standard for pasteurized process cheese spread (§ 133.179). The only difference is that §§ 133.175 and 133.176 do not provide for the use of emulsifiers in the food. Since this proposal to revise and combine the standards for pasteurized process cheese food (§ 133.173) and pasteurized process cheese spread (§ 133.179) would cause an inconsistency in §§ 133.175 and 133.176 which would require those two sections to be amended (by changing the name of the food) or possibly revoked, the Commissioner requests interested parties to comment on the need for these standards.

In a similar manner, both the standards for pasteurized blended cheese (§ 133.167) and pasteurized blended cheese with fruits, vegetables, or meats (§ 133.168) are cross-referenced to the standard for pasteurized process cheese (§ 133.169). The differences are that in §§ 133.167 and 133.168 emulsifiers are not used, and when mixtures of two or more cheeses are used in a blend, cream cheese may also be used and the word "blended" is substituted for the word "process" in the name of the food. It is possible that these two sections should be amended (by changing the name of the food) or possibly revoked. The Commissioner requests interested parties to comment on the need for these standards.

The Commissioner proposes that all products initially introduced into interstate commerce on or after July 1, 1979 shall comply with the regulation, except as to any provisions that may be stayed by the filing of proper objections.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in 21 CFR 25.1(d)(4) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this amendment.

Accordingly, this document proposes to: (1) consider the need to amend or revoke §§ 133.167, 133.168, 133.175, and 133.176; (2) revoke §§ 133.170 and 133.171 and combine them into a revised § 133.169 and (3) revoke §§ 133.174, 133.179, and 133.180 and combine them into a revised § 133.173.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Part 133 be amended as follows:

1. By revising § 133.169 to read as follows:

§ 133.169 Pasteurized process cheese.

(a)(1) Pasteurized process cheese is the food prepared by comminuting and mixing, with the aid of heat, one or more cheeses of the same or two or more varieties, except cream cheese, neufchâtel cheese, cottage cheese, lowfat cottage cheese, cottage cheese dry curd, cook cheese, hard grating cheese, part-skim spiced cheese, and skim milk cheese with an emulsifying agent prescribed by paragraph (b) of this section into a homogeneous plastic mass. One or more of the optional ingredients designated in paragraph (b)(1), (2), (3), (4), (5), (6), (7), (8), and (9) of this section may be used.

(2) During its preparation, pasteurized process cheese is heated for not less than 30 seconds at a temperature of not less than 150° F. When tested for phosphatase by the method prescribed in § 133.113(f), the phenol equivalent of 0.25 gram of pasteurized process cheese is not more than 3 micrograms.

(3)(i) The moisture content of a pasteurized process cheese made from a single variety of cheese is not more than 1 percent greater than the maximum moisture content prescribed by the definition and standard of identity, if any there be, for the variety of cheese used; but in no case is more than 43 percent, except that the moisture content of pasteurized process washed curd cheese or pasteurized process colby cheese is not more than 40 percent; the moisture content of pasteurized process swiss cheese or pasteurized process gruyere cheese is not more than 44 percent; and the moisture content of pasteurized process limburger cheese is not more than 51 percent.

(ii) The fat content of the solids of a pasteurized process cheese made from a single variety of cheese is not less than the minimum prescribed by the definition and standard of identity, if any there be, for the variety of cheese used, but in no case is less than 47 percent; except that the fat content of the solids of pasteurized process swiss cheese is not less than 43 percent, and the fat content of the solids of pasteurized process gruyere cheese is not less than 45 percent.

(4)(i) The moisture content of a pasteurized process cheese made from two or more varieties of cheese is not more than 1 percent greater than the arithmetical average of the maximum moisture contents prescribed by the definitions and standards of identity, if any there be, for the varieties of cheese used; but in no case is the moisture content more than 43 percent, except that the moisture content of a pasteurized process cheese made from two or more of the varieties cheddar cheese, washed curd cheese, colby cheese, and granular cheese is not more than 40 percent, and the moisture content of a mixture of swiss cheese and gruyere cheese is not more than 44 percent.

(ii) The fat content of the solids of a pasteurized process cheese made from two or more varieties of cheese is not less than the arithmetical average of the minimum fat contents prescribed by the definitions and standards of identity, if any there be, for the varieties of cheese used, but in no case is less than 47 percent, except that the fat content of the solids of a pasteurized process gruyere cheese made from a mixture of swiss cheese and gruyere cheese is not less than 45 percent.

(5) Moisture and fat are determined by the methods prescribed in § 133.113 (c).

(6) The weight of each variety of cheese in a pasteurized process cheese made from two varieties of cheese is not less than 25 percent of the total weight of both, except that the weight of blue cheese, nuworld cheese, roquefort cheese, or gorgonzola cheese is not less than 10 percent of the total weight of both, and the weight of limburger cheese is not less than 5 percent of the total weight of both. The weight of each variety of cheese in a pasteurized process cheese made from three or more varieties of cheese is not less than 15 percent of the total weight of all, except that the weight of blue cheese, nuworld cheese, roquefort cheese, or gorgonzola cheese is not less than 5 percent of the total weight of all, and the weight of limburger cheese is not less than 3 percent of the total weight of all. These limits do not apply to the quantity of cheddar cheese, washed curd cheese, colby cheese and granular cheese in mixtures which are designated as "American cheese" as prescribed in paragraph (d)(2) of this section. Such mixtures are considered as one variety of cheese for the purposes of this paragraph (a)(6).

(7) For the purposes of this section, cheddar cheese for manufacturing, washed curd cheese for manufacturing, colby cheese for manufacturing, granular cheese for manufacturing, brick cheese for manufacturing, muenster cheese for manufacturing, and swiss cheese for manufacturing are considered as cheddar cheese, washed curd cheese, colby cheese, granular cheese, brick cheese, muenster cheese, and swiss cheese, respectively.

(8) The flavor and body of any optional cheese ingredient used may be modified by the addition of safe and suitable enzymes. For the purpose of this section, the common name of each enzyme-modified cheese ingredient shall be "enzyme-modified _____ cheese," the blank being filled in with the variety name of the cheese so modified.

(b) The optional ingredients referred to in paragraph (a) of this section are any of the following safe and suitable ingredients:

(1) Emulsifying agents (such as phosphates, citrates, and tartrates) in such quantity that the weight of the solids of such emulsifying agents is not more than 3 percent of the weight of the pasteurized process cheese.

(2) Organic acidifying agents in such quantity that the pH of the pasteurized process cheese is not below 5.3.

(3) Cream, anhydrous milkfat, dehydrated cream, butter, butteroil and anhydrous butteroil, or any combination of two or more of these in such quantity that the weight of the fat derived therefrom is less than 5 percent of the weight of the pasteurized process cheese.

(4) Water.

(5) Salt.

(6) Artificial coloring.

(7) Spices and/or flavorings, none of which singly or in combination with other ingredients simulate the flavor of a cheese of any age or variety.

(8) Antimicrobials on cuts or slices of pasteurized process cheese in consumer-sized packages.

(9) Lecithin on cuts or slices of pasteurized process cheese in consumer-sized packages as an anti-sticking agent in an amount not to exceed 0.03 percent by weight of the finished food.

(10) Enzyme-modified cheese solids.

(11) Tissues derived from fruits, vegetables, meat, fish or poultry.

(c) Nomenclature: The name of a pasteurized process cheese for which a definition and standard of identity is prescribed by this section is as follows:

(1) In case it is made from a single variety of cheese, its name is "Pasteurized process _____ cheese", the blank being filled in with the name of the variety of cheese used.

(2) In case it is made from two or more varieties of cheese, its name is "Pasteurized process _____ and _____ cheese", or "Pasteurized process _____ blended with _____ cheese", or "Pasteurized process blend of _____ and _____ cheese", the blanks being filled in with the names of the varieties of cheeses used, in order of predominance by weight; except that:

(i) In case it is made from gruyere cheese and swiss cheese, and the weight of gruyere cheese is not less than 25 percent of the weight of both, it may be designated "Pasteurized process gruyere cheese"; and

(ii) In case it is made of cheddar cheese, washed curd cheese, colby cheese, granular cheese, monterey cheese, or any mixture of two or more of these, it may be designated "Pasteurized process American cheese"; or when cheddar cheese, washed curd cheese, colby cheese, granular cheese, monterey cheese, or any mixture of two or more of these is combined with other varieties of cheese in the cheese ingredient, any of such cheeses or such mixture may be designated as "American cheese".

The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color.

(3) The name of the food shall be followed by the statement "_____ percent milkfat", the blank being filled in with the whole number nearest the actual fat content of the food. This statement of

fat content shall appear in letters not less than one-half the height of the letters used for the name of the food, but in no case less than one-eighth of an inch in height.

(4) If the optional ingredients described in paragraph (b)(11) of this section are utilized, the name of the food is "Pasteurized process cheese with _____ percent milkfat", the first blank being filled in with the common or usual name or names of the ingredients used, in descending order of predominance by weight. When such substances contain fat, the method for determination of fat prescribed by § 133.113(c) is not applicable. The moisture content may be 1 percent more and the milkfat content may be 1 percent less than the prescribed limits for pasteurized process cheese when the ingredients listed in paragraph (b)(11) of this section are added to the food.

(5) The word "Pasteurized" in the name of the food is optional.

(d) Label declaration. Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter except that:

(1) Artificial coloring need not be declared.

(2) If the cheese ingredient contains cheddar cheese, washed curd cheese, colby cheese, granular cheese, monterey cheese, or any mixture of two or more of these and such ingredients are declared in accordance with § 101.4(b)(2)(i) of this chapter, such cheese or such mixture may be designated as "American cheese."

(3) Wherever any word or statement emphasizing the name of any ingredient appears on the label (other than in an ingredient statement) so conspicuously as to be easily seen under customary conditions of purchase, the full name of the food followed by a statement as to its fat content shall immediately and conspicuously precede or follow such word or statement in type of at least the same size as the type used in such word or statement.

§ 133.170 [Revoked]

2. By revoking § 133.170 *Pasteurized process cheese with fruits, vegetables, or meats.*

§ 133.171 [Revoked]

3. By revoking § 133.171 *Pasteurized process pimento cheese.*

4. By revising § 133.173 to read as follows:

§ 133.173 Pasteurized process cheese product.

(a)(1) Pasteurized process cheese product is the food prepared by comminuting and mixing, with the aid of heat, one or more of the optional cheese ingredients prescribed in paragraph (b) of this section, with or without one or more of the optional dairy ingredients prescribed in paragraph (c) of this section, with one or more of the optional ingredients prescribed by paragraph (d)

of this section, into a homogeneous plastic mass.

(2) During this preparation, a pasteurized process cheese product is heated for not less than 30 seconds at a temperature of not less than 150° F. When tested for phosphatase by the method prescribed in § 133.113(f), the phenol equivalent of 0.25 gram of pasteurized process cheese product is not more than 3 micrograms.

(3) There is no limitation on the fat content or the moisture content of pasteurized process cheese product. However, the fat content shall be properly declared and the product shall contain the specified amount of cheese.

(4) The weight of the cheese ingredient referred to in paragraph (a) (1) of this section shall constitute not less than 51 percent of the weight of the pasteurized process cheese product.

(5) The weight of each variety of cheese in a pasteurized process cheese product made with two varieties of cheese is not less than 25 percent of the total weight of both, except that the weight of blue cheese, nuworld cheese, roquefort cheese, gorgonzola cheese, or limburger cheese is not less than 10 percent of the total weight of both. The weight of each variety of cheese in a pasteurized process cheese product made with three or more varieties of cheese is not less than 15 percent of the total weight of all, except that the weight of blue cheese, nuworld cheese, roquefort cheese, gorgonzola cheese, or limburger cheese is not less than 5 percent of the total weight of all. These limits do not apply to the quantity of cheddar cheese, washed curd cheese, colby cheese, monterey cheese, or granular cheese in mixtures that are designated as "American cheese" as prescribed in paragraph (f) of this section. Such mixtures are to be considered as one variety of cheese for the purpose of this paragraph.

(6) Moisture and fat shall be determined by the methods prescribed in § 133.113(c), except that in determining moisture, the loss in weight that occurs in drying for 5 hours under the conditions prescribed in such method is taken as the weight of the moisture.

(7) The flavor and body of any optional cheese ingredient used may be modified by the addition of safe and suitable enzymes. For the purpose of this section, the common name of each enzyme-modified cheese ingredient shall be "enzyme-modified _____ cheese", the blank being filled in with the varietal name of the cheese so modified.

(b) The optional cheese ingredients referred to in paragraph (a) of this section include all natural cheese varieties for which there is a specific definition and standard of identity as well as those natural cheese varieties included in the class category definitions and standards of identity in this part.

(c) The optional dairy ingredients referred to in paragraph (a) of this section are milk or any safe and suitable milk-derived ingredient.

(d) The other optional ingredients referred to in paragraph (a) of this section

are any of the following safe and suitable ingredients:

(1) Emulsifying agents (such as phosphates, citrates, and tartrates) in such quantity that the weight of the solids of such emulsifying agents is not more than 4 percent of the weight of the pasteurized process cheese product, except the total weight of phosphates shall not exceed 3 percent of the weight of the finished food calculated as the anhydrous substance.

(2) (i) Stabilizers consisting of one or any mixture of two or more vegetable gums or xanthan gum. The total weight of such substances is not more than 0.8 percent of the weight of the finished food.

(ii) When one or more of the optional ingredients listed in paragraph (d) (2) (i) of this section is used, dioctyl sodium sulfosuccinate complying with the requirements of § 172.810 of this chapter may be used in a quantity not in excess of 0.5 percent of the weight of such ingredients.

(3) Organic acidifying agents in such quantity that the pH of the pasteurized process cheese product is not below 5.0.

(4) Nutritive carbohydrate sweeteners.

(5) Water.

(6) Salt.

(7) Artificial coloring.

(8) Spices and/or flavorings, one of which singly or in combination with other ingredients simulate the flavor of a cheese of any age or variety.

(9) Antimicrobials on cuts or slices of pasteurized process cheese product in consumer-sized packages.

(10) Lecithin on cuts or slices of pasteurized process cheese product in consumer-sized packages as an anti-sticking agent in an amount not to exceed 0.03 percent by weight of the finished food.

(11) Enzyme-modified cheese solids.

(12) Tissues derived from fruit, vegetable, meat, fish, or poultry for flavoring purposes.

(e) Nomenclature: The name of the food is "pasteurized process cheese product".

(1) The full name of the food shall appear on the principal display panel of the label in type of uniform size, style, and color, followed by the statement "_____ percent milkfat", the blank being filled in with the whole number closest to the actual fat content of the food. This statement of fat content shall appear in letters not less than one-half the height of the letters used for the name of the food, but in no case less than one-eighth of an inch in height. At the option of the manufacturer (for a period not to exceed 24 months from the effective date of this standard), the name of the food may be accompanied by the following terms in type size no larger than one-half that used for the name of the food: "Pasteurized process cheese spread" when the milkfat content is greater than 20 percent but less than 23 percent, and the moisture content is more than 44 but less than 60 percent; and "Pasteurized process cheese food" when the milk fat content is greater than

23 percent and the moisture content no greater than 44 percent. All other label requirements as to the name of the food, shall apply.

(2) If the optional ingredients described in paragraph (d) (12) of this section are utilized, the name of the food is "Pasteurized process cheese product with _____ percent milkfat", the first blank being filled in with the common or usual name or names of the substances used, in order of predominance by weight. When such substances contain fat, the method for determination of fat prescribed by § 133.113(c) is not applicable.

(3) The words "pasteurized process" in the name of the food is optional.

(f) Label declaration: Each of the ingredients used in the food shall be declared on the label as required by the applicable sections of Part 101 of this chapter except that:

(1) If the cheese ingredient contains cheddar cheese, washed curd cheese, colby cheese, granular cheese, monterey cheese, or any mixture of two or more of these, and such ingredients are declared in accordance with § 101.4(b) (2) (i), such cheese or such mixture may be designated as "American cheese."

(2) Whenever any word or statement emphasizing the name of any ingredient appears on the label (other than in an ingredient statement) so conspicuously as to be easily seen under customary conditions of purchase, the full name of the food followed by a statement as to its fat content shall immediately and conspicuously precede or follow such word or statement in a type of at least the same size as the type used in such word or statement.

§ 133.174 [Revoked]

5. By revoking § 133.174 *Pasteurized process cheese food with fruits, vegetables, or meats.*

§ 133.179 [Revoked]

6. By revoking § 133.179 *Pasteurized process cheese spread.*

§ 133.180 [Revoked]

7. By revoking § 133.180 *Pasteurized process cheese spread with fruits, vegetables, or meats.*

Interested persons may, on or before January 3, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular

A-107. A copy of the economic impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 27, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.
[FR Doc. 77-28998 Filed 9-29-77; 8:45 am]

[4110-03]

[21 CFR Part 133]

SKIM MILK CHEESE FOR MANUFACTURING

Proposal to Amend Identity Standard

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: This proposal would amend the identity standard for skim milk cheese for manufacturing, based on a petition filed by the Kraft Foods Division of Kraftco Corp. Such an amendment would provide for the use of skim milk cheese in producing lower fat cheese products.

DATES: Comments by December 5, 1977. Proposed compliance for products initially introduced into interstate commerce: July 1, 1979.

ADDRESS: Written comments to Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Eugene T. McGarrahan, Bureau of Foods (HFF-415), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D. C. 20204 (202-245-1155).

SUPPLEMENTARY INFORMATION: Kraft Foods Division, 135 South LaSalle St., Rm. 2360, Chicago, IL 60603, filed a petition proposing to amend the identity standard for skim milk cheese for manufacturing in § 133.189 (21 CFR 133.189) to: (1) Change the name of the food to "skim milk cheese"; (2) increase the maximum permissible moisture from 50 percent to 60 percent; (3) eliminate the necessity of applying to the surface of the cheese a blue paraffin coating; (4) permit the use of modern cheddar type cheese curd handling techniques; and (5) consistent with other more recent standards, recognize skim milk products as acceptable foods and ingredients in other foods.

Grounds given in support of the proposal are: (1) The proposed changes will update the standard and make the food more useful as a cheese ingredient since "skim milk cheese for manufacturing" is currently seldom used for this purpose; and (2) the use of skim milk cheese as a cheese ingredient in lower fat pasteurized process cheese products would be necessary for the production of high quality, but lower fat, cheese products desired by consumers.

The petitioner has proposed, elsewhere in this issue of the FEDERAL REGISTER, to amend the definitions and standards of identity for pasteurized process cheese food and pasteurized process cheese spread to permit the use of skim milk cheese for manufacturing as an optional cheese ingredient when used in combination with other higher fat cheese varieties, rather than as an optional dairy ingredient. The petitioner states that the use of skim milk cheese is becoming increasingly important as a potential means of standardizing the physical and organoleptic qualities of process cheese foods and spreads without reduction of product quality, wholesomeness, safety, or value.

The Commissioner of Food and Drugs wishes to point out, based on information available to him, the following facts:

1. There is currently an interest among consumers in foods containing a lower fat content.

2. Skim milk cheese is no longer considered to be fit only for use in animal feeds.

3. Acceptable skim milk cheese products, both palatable and nutritious, are being made and sold as nonstandardized foods.

4. Skim milk type cheeses are being imported and sold to consumers in the United States.

Skim milk cheese for manufacturing as provided for in the current standard is considered only as an optional dairy ingredient and, as such, is not readily acceptable as a cheese for direct consumption by consumers. The Kraft petition would amend the standard for skim milk cheese for manufacturing to provide for manufacture of a skim milk cheese that could be sold directly to consumers and could also be used satisfactorily as a cheese ingredient in pasteurized process cheese products.

The Commissioner is therefore proposing that the identity standard for skim milk cheese for manufacturing be amended to provide for the new use of the product.

The Commissioner proposes that all products initially introduced into interstate commerce on or after July 1, 1979 shall comply with the regulation, except as to any provisions that may be stayed by the filing of proper objections.

The Commissioner has considered the environmental effects of the issuance or amendment of food standards and has concluded in 21 CFR 25.1(d) (4) that food standards are not major agency actions significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required for this proposal.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046, 70 Stat. 919, as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner (21 CFR 5.1), it is proposed that Part 133 be amended by revising § 133.189 to read as follows:

§ 133.189 Skim milk cheese.

(a) Skim milk cheese is the food prepared by the procedure set forth in paragraph (b) of this section, or by another procedure that produces a finished cheese having the same physical and chemical properties as the cheese produced when the procedure set forth in paragraph (b) of this section is used. It contains not more than 60 percent moisture, as determined by the method prescribed in § 133.113. (c).

(b) Skim milk, which shall be pasteurized, and which may be warmed, is subjected to the action of harmless lactic acid-producing bacteria present in such skim milk or added thereto. Artificial coloring may be added. Sufficient rennet, other safe and suitable milk-clotting enzyme that produces equivalent curd formation, or both, with or without purified calcium chloride in a quantity not more than 0.02 percent (calculated as anhydrous calcium chloride) of the weight of the skim milk, is added to set the skim milk to a semisolid mass. The curd is formed, handled, and drained as in the preparation of any American cheese (i.e., either cheddar, washed curd, colby, or granular cheese). Proteins from whey may be incorporated. A harmless preparation of enzymes of animal or plant origin capable of aiding in the curing or development of flavor of skim milk cheese may be added during the procedure, in such quantity that the weight of the solids of such preparation is not more than 0.1 percent of the weight of the skim milk used.

(c) For the purposes of this section: (1) "Skim milk" means cow's milk from which the milkfat has been separated to form skim milk having a milkfat content of less than 0.5 percent, concentrated skim milk, nonfat dry milk, or a mixture of any two or more of these with water in a quantity not in excess of that sufficient to reconstitute any concentrated skim milk or nonfat dry milk used.

(2) Milk shall be deemed to have been pasteurized if it has been held at a temperature of not less than 143° F for a period of not less than 30 minutes, or for a time and at a temperature equivalent thereto in phosphatase destruction.

(d) Label declaration of ingredients: Each of the ingredients used in the food shall be declared on the label as required by applicable sections of Part 101 of this chapter.

Interested persons may, on or before December 5, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments (in quadruplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

NOTE.—The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under

Executive Order 11821 (as amended by Executive Order 11949) and OMB Circular A-107.

Dated: September 27, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.
[FR Doc. 77-28997 Filed 9-29-77; 8:45 am]

[4110-03]

[21 CFR Part 343]

[Docket No. 77N-0094]

OVER-THE-COUNTER DRUGS

Establishment of a Monograph for OTC Internal Analgesic, Antipyretic and Antirheumatic Products; Extension of Time

AGENCY: Food and Drug Administration.

ACTION: Extension of time for comments and reply comments.

SUMMARY: The Food and Drug Administration is extending by 60 days the times for filing comments and reply comments on a proposal to establish conditions under which over-the-counter (OTC) internal analgesic, antipyretic and antirheumatic drugs are generally recognized as safe and effective and not misbranded. The extension is in response to requests for such extensions.

DATES: Comments by December 5, 1977 and reply comments by January 6, 1978.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4960).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of July 8, 1977 (42 FR 35345), the Commissioner of Food and Drugs issued a proposed regulation containing the monograph recommended by the Advisory Review Panel on OTC Internal Analgesic and Antirheumatic Products establishing: (1) conditions under which OTC internal analgesic, antipyretic and antirheumatic drugs are generally recognized as safe and effective and not misbranded; (2) a statement of the conditions excluded from the monograph on the basis of a determination by the Panel that they would result in the drugs' not being generally recognized as safe and effective or would result in misbranding; (3) a statement of the conditions excluded from the monograph on the basis of a determination by the Panel that the available data are insufficient to classify such conditions under either (1) or (2) above; and (4) the conclusions and recommendations of the Panel to the Commissioner. Interested persons were given until October 6, 1977 to submit comments

PROPOSED RULES

on the proposal and until November 7, 1977 to reply to any comments so filed.

The agency has received requests from the Proprietary Association, the National Association of Pharmaceutical Manufacturers, the American Home Products Corp., and the Bristol-Myers Co. to extend the time for comments, arguing that 90 days as granted in the proposal is insufficient time to respond properly to the Commissioner's expressed hope that publication of the Panel's findings would "stimulate discussion, evaluation, and comment on the full sweep of the Panel's deliberations" and to obtain his goal of receiving "full public comment before any decision is made on the recommendations of the Panel." The requests noted that the findings cover nearly 450 columns of small FEDERAL REGISTER print and also information contained in more than 150 volumes of submitted data and additional references. They also pointed out that extensive redrafting of the findings was completed by the Panel and that this information was not in previous drafts supplied to the public. The requests for extension are on file in the office of the Hearing Clerk, Food and Drug Administration.

The Commissioner is persuaded that granting additional time for comment is appropriate. Accordingly, interested persons are invited to submit written comments (preferably four copies and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding the proposal on or before December 5, 1977. Such comments should be addressed to the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be accompanied by a memorandum or brief in support thereof. Additional comments replying to any comments so filed may also be submitted on or before January 6, 1978. Received comments may be seen in the above-named office between 9 a.m. and 4 p.m., Monday through Friday.

This action is taken under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 701(a), 52 Stat. 1050-1053 as amended, 1055 (21 U.S.C. 352, 353, 371 (a))) and under authority delegated to the Commissioner (21 CFR 5.1).

Dated: September 29, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 77-29204 Filed 10-3-77; 8:45 am]

[1410-03]

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77-10]

NONDRAMATIC LITERARY WORKS

Voluntary License To Permit Reproduction Solely for Use of the Blind and Physically Handicapped

AGENCY: Library of Congress, Copyright Office.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking is issued to inform the public that the Copyright Office of the Library of Congress is considering adoption of a new regulation designed to implement section 710 of the Act for General Revision of the Copyright Law. This section directs the Register of Copyrights to establish procedures by which the owner of copyright in nondramatic literary works may, at the time of copyright registration, grant the Library of Congress a license to reproduce and distribute the work for the use of the blind and physically handicapped. The effect of the proposed regulation is to establish the terms and conditions of these licenses.

DATES: Initial comments should be received on or before October 21, 1977. Reply comments on or before November 4, 1977.

ADDRESSES: Interested persons should submit five copies of their written comments, if by mail, to: Office of the General Counsel, Copyright Office, Library of Congress, Caller No. 2999, Arlington, Va. 22202, or, if by hand, to: Office of the General Counsel, Copyright Office, Library of Congress, Room 519, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559 (703-557-8731).

SUPPLEMENTARY INFORMATION: One of the major programs of the Library of Congress is to provide Braille editions and special sound recordings of readings of works for the exclusive use of the blind and physically handicapped. In an effort to simplify and speed up the copyright procedures that are a necessary part of this program, section 710 of the first section of Pub. L. 94-553 (99 Stat. 2541) provides for the establishment of a voluntary licensing system to be tied in with copyright registration. Section 710 directs the Register of Copyrights, after consultation with the Division for the Blind and Physically Handicapped of the Library of Congress, to establish forms and procedures by which the copyright owner of a nondramatic literary work may, at the time of copyright registration, grant a license to the Library of Congress. This license would permit the Library to reproduce the work by means of Braille or similar tactile symbols, or by fixation of a reading of the work in a phonorecord, or both, and to distribute the resulting copies and phonorecords solely for use of the blind and physically handicapped.

We propose to give copyright owners the opportunity to grant licenses under section 710 by including, on the application form for registration of nondramatic literary works (Form TX), a statement with "check off" boxes. The statement would make clear that, by checking off

one of the boxes and signing the application, the copyright owner would be granting a nonexclusive license to the Library of Congress without the need for further paperwork. We also propose that the terms and conditions of the license be set forth in a new § 201.15 of the regulations of the Copyright Office.

The proposed regulation adopts a definition of "blind and physically handicapped" from 2 U.S.C. 135(a), as amended, and Library of Congress regulations issued under that provision. That definition identifies persons eligible for special Library loan services as "blind and other physically handicapped readers certified by competent authority as unable to read normal printed material as a result of physical limitations, under regulations prescribed by the Librarian of Congress for this service." The pertinent regulations of the Library of Congress (36 CFR 701.11) are as follows:

(b) **Eligibility criteria.** (1) The following persons are eligible for such service:

(i) Blind persons whose visual acuity, as determined by competent authority, is 20/200 or less in the better eye with correcting glasses, or whose widest diameter if visual field subtends an angular distance no greater than 20 degrees.

(ii) Persons whose visual disability, with correction and regardless of optical measurement, is certified by competent authority as preventing the reading of standard printed material.

(iii) Persons certified by competent authority as unable to read or unable to use standard printed material as a result of physical limitations.

(iv) Persons certified by competent authority as having a reading disability resulting from organic dysfunction and of sufficient severity to prevent their reading printed material in a normal manner.

(2) In connection with eligibility for loan services "competent authority" is defined as follows:

(i) In cases of blindness, visual disability, or physical limitations "competent authority" is defined to include doctors of medicine, ophthalmologists, optometrists, registered nurses, therapists, professional staff of hospitals, institutions, and public or welfare agencies (e.g., social workers, caseworkers, counselors, home teachers, and superintendents). In the absence of any of these, certification may be made by professional librarians or by any person whose competence under specific circumstances is acceptable to the Library of Congress.

(ii) In the case of reading disability from organic dysfunction, competent authority is defined as doctors of medicine who may consult with colleagues in associated disciplines.

Proposed regulation. We propose to amend Part 201 of 37 CFR, Chapter II by adding a new § 201.15 to read as follows:

§ 201.15 Voluntary license to permit reproduction of nondramatic literary works solely for use of the blind and physically handicapped.

(a) **General.** (1) The "blind and physically handicapped" are persons eligible for special loan services of the Library of Congress, as designated by section 135a of title 2 of the United States Code as amended by Pub. L. 89-552 and regulations of the Library of Congress issued under that section.

(2) This section, and any license granted or exercised under this section, applies only to nondramatic literary works which have previously been published with the consent of the copyright owner.

(b) **Form.** The Copyright Office provides the following form as part of applications for registration of claim to copyright in nondramatic literary works (Form TX):

REPRODUCTION FOR USE OF BLIND OR PHYSICALLY HANDICAPPED PERSONS

Signature of this form at space 10 and a check in one of the boxes here in space 8, constitutes a nonexclusive grant of permission to the Library of Congress to reproduce and distribute solely for the blind and physically handicapped and under the conditions and limitations prescribed by the regulations of the Copyright Office: (1) copies of the work identified in space 1 of this application in Braille (or similar tactile symbols); or (2) phonorecords embodying a fixation of a reading of that work; or (3) both.

--- Copies only; --- Phonorecords only;
--- Copies and phonorecords.

(c) **Terms and conditions.** A copyright owner who consents to the use of a copyrighted work by the Library of Congress for the use of the blind and physically handicapped may accomplish this purpose by checking the appropriate box on the application form, by signing the application form as a whole, and by submitting the application for copyright registration to the Copyright Office. The copyright owner thereby grants a non-exclusive license to the Library of Congress with respect to the work identified in the application, under the terms and conditions set forth in this section.

(1) The work may be reproduced only by or on behalf of the Library of Congress.

(2) The work may not be reproduced in any other form than Braille (or similar tactile symbols), or by a fixation of a reading of the work in phonorecords specially designed for use of the blind and physically handicapped, or both, as designated by the copyright owner on the application form.

(3) Such copies and phonorecords of the work may be distributed by the Library of Congress solely for the use of the blind and physically handicapped under conditions and guidelines provided by the Division for the Blind and Physically Handicapped of the Library of Congress.

(4) In the case of any conflict with any other right or license given by the copyright owner to the Library of Congress pertaining to the work, the terms and conditions most favorable to the Library of Congress for the benefit of the blind and physically handicapped shall govern.

(5) Copies and phonorecords reproduced and distributed under this license will contain identification of the author and publisher of the work, and copyright notice, as they appear on the copies or phonorecords deposited with the application.

(6) This license is nonexclusive, and the copyright owner is in no way precluded from granting other nonexclusive

licenses with respect to reproduction for the use of the blind and physically handicapped or other exclusive or nonexclusive licenses or transfers with respect to reproduction or distribution for other purposes.

(7) All responsibility for the clearing and exercise of the rights granted is that of the Library of Congress.

(d) **Duration of license.** (1) The license is effective upon the effective date of registration for the work and, subject to the conditions and procedures stated in paragraph (d) (2) of this section, continues for the full term of copyright in the work provided in section 302 of title 17 of the United States Code as amended by Pub. L. 94-553.

(2) Termination of the license may be accomplished by the copyright owner at any time by submitting a written statement of intent to terminate, signed by the copyright owner or by the duly authorized agent of the copyright owner, to the Division for the Blind and Physically Handicapped of the Library of Congress. Termination will become effective 90 days after receipt of the written statement, or at a later time set forth in the statement. Upon the effective date of termination the Library of Congress will be prohibited from reproducing additional copies of phonorecords of the work, or both, without the consent of the copyright owner, but copies or phonorecords, or both, reproduced under authority of the license before the effective date of termination may continue to be utilized and distributed under the terms of the license after its termination.

(17 U.S.C. 207, and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94-533: § 702; § 710.)

Dated: September 27, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc. 77-29163 Filed 10-3-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 800-8]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Tennessee: Proposed Plan Revisions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rulemaking.

SUMMARY: On October 6, 1975, the Environmental Protection Agency (EPA) promulgated regulations which require the States to revise their air implementation plans to provide for the installation, calibration, maintenance, and operation of equipment for continuously monitoring and recording emissions. These regulations must require the owner or operator of specific sources subject to continu-

ous emission monitoring and recording requirements to maintain a file of all pertinent information. The Metropolitan Nashville-Davidson County Health Department responded by adopting, after public notice and public hearing, continuous monitoring regulations and by submitting them for approval as a proposed implementation plan revision. The purpose of this notice is to announce these regulations as proposed rulemaking and to solicit public comment on them.

DATES: Comments must be received on or before November 3, 1977, to be considered.

ADDRESSES: Written comments on the proposed revisions should be addressed to Mr. Tom Helms of EPA's Air Programs Branch in Atlanta (see address below). Copies of materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit, Library Systems Branch, EPA (PM-213), 401 M Street SW., Washington, D.C. 20406.

EPA Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308.

Metropolitan Health Department, 311 23rd Avenue North, Nashville, Tenn. 37203.

FOR FURTHER INFORMATION CONTACT:

Mr. Tom Helms, Chief, Air Programs Branch, EPA Region IV, 345 Courtland Street NE., Atlanta, Ga. 30308.

SUPPLEMENTARY INFORMATION: Proposed Regulation No. 6, "Emission Monitoring of Stationary Sources," adopted by the Metropolitan Nashville-Davidson County Health Department, essentially incorporates the minimum Federal requirements for continuous monitoring. The sources subject to Regulation No. 6 are fossil-fuel fired steam generators and incinerators. Nitric acid plants and sulfuric acid plants are not included because there are none in Davidson County.

(Section 110(a) of the Clean Air Act (42 U.S.C. 1857c-5(a)).)

Dated: August 17, 1977.

JOHN A. LITTLE,
Acting Regional Administrator.
[FR Doc.77-29082 Filed 10-3-77; 8:45 am]

[4510-]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

[41 CFR Part 60-4]

CONSTRUCTION CONTRACTORS

Affirmative Action Requirements; Extension of Comment Period

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Extension of time for comments.

SUMMARY: This notice extends the time for filing comments on proposed affirmative action standards for women in construction and the consolidation and standardization of requirements for construction contractors and subcontractors from September 30, 1977 to October 15, 1977.

DATES: Comments by October 15, 1977.

ADDRESSES: Send comments to the Director, Office of Federal Contract Compliance Programs, Room C3324, New Department of Labor Building, 200 Constitution Avenue NW., Washington, D.C. 20210. Comments received will be available for inspection during regular working hours at the above address.

FOR FURTHER INFORMATION CONTACT:

William Raymond, Associate Director, Construction Division, Office of Federal Contract Compliance Programs, Room N3402, Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-9447.

SUPPLEMENTARY INFORMATION: On August 16, 1977, a document was published in the FEDERAL REGISTER (42 FR 41378) proposing to establish rules relating to affirmative action requirements for construction contractors under Executive Order 11246, as amended. That proposal allowed a comment period of 45 days or until September 30, 1977.

Since the publication of that document, various requests for the extension of the period provided for the receipt of comments have been received. The importance of the issues addressed in that proposal requires that the Department proceed to final rulemaking as expeditiously as possible. However, the Department also wishes to provide sufficient time for all interested parties to prepare and submit comments. Therefore, an additional 15-day period is provided and comments will be received on this proposal until October 15, 1977.

Dated: September 29, 1977.

RAY MASHRALL,
Secretary of Labor.

DONALD ELISBURG,
Assistant Secretary, Employment Standards Administration.

WELDON J. ROUGEAU,
Director, Office of Federal Contract Compliance Programs.

[FR Doc.77-29201 Filed 10-3-77; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 175]

COLLEGE WORK-STUDY PROGRAM

Notice of Proposed Rulemaking

Correction

In FR Doc. 77-27408, appearing at page 49904, in the issue for Wednesday,

September 28, 1977, in the first column under the heading "DATES:", the hearing date for San Francisco reading "October 9, 1977" should read "October 19, 1977".

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Parts 1003, 1130, 1134]

[Ex Parte No. MC-100 (Sub-No. 2)]

MOTOR CARRIER CERTIFICATES AND PERMITS; CONTROL OR CONSOLIDATION; LIST OF FORMS

Revision of Procedures Requiring Service of Applications on State Officials

Proposed rules revising application procedures for the purpose of saving time, money, and effort expended by motor carrier applicants and State officials in the service and receipt of copies of applications for permanent operating authority or various types of financial control.

AGENCY: Interstate Commerce Commission.

ACTION: Proposed regulations.

SUMMARY: The Interstate Commerce Commission (Commission) is proposing to revise the procedures for serving on State officials copies of applications for permanent motor carrier certificates and permits, applications to consolidate, merge, purchase, lease or control operating rights or properties of motor carriers, and applications for temporary authority to operate motor-carrier properties sought to be acquired under separately filed application under section 5 of the Interstate Commerce Act. Applicants would be required to submit a copy of their application form only to the State of domicile. Other States in or through which applicants operate or propose to operate would be sent only a notice of the application. This new procedure would expedite the application process for applicants (with attendant savings of expense) and eliminate the maintenance of needless records by State functionaries. Those States which need more detailed information in a given proceeding would still be able to obtain from the applicant, upon request, a copy of the application as filed with the Commission.

DATES: Written comments should be filed with the Commission on or before November 3, 1970.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, Phone: 202-275-7292.

¹Through inadvertence, this proceeding initially was docketed incorrectly as No. 36657.

SUPPLEMENTARY INFORMATION: On June 2, 1977, a Staff Task Force was established for the purpose of investigating the Commission's administration of the Interstate Commerce Act, particularly as it relates to motor carriers, and recommending improvements in motor carrier regulation. In Recommendation No. 29 of its report (issued July 6, 1977) the Task Force suggested that the requirement of serving on State Boards copies of applications for permanent operating rights be abolished if there appeared no substantial State support for the continuation of such practice. To facilitate the determination of the States' positions in this matter, it was further suggested that the States be polled. Therefore, a copy of this Notice will be served on all State Public Utility Commissioners so that they might individually comment on the rule changes proposed.

By petition filed August 16, 1977, the National Association of Regulatory Utilities Commissioners (NARUC) seeks the revision of Commission rules regarding the service of applications on State officials in both operating rights and finance proceedings. Both the Staff Task Force and NARUC recommendations were taken into consideration in formulating the regulations proposed here.

CURRENT REGULATIONS AND THEIR EFFECT

Pursuant to 49 CFR 1130.1(b), an applicant for permanent motor carrier operating authority must deliver a copy of its application to the "Board, Commission, or official (or Governor if there is no Board, Commission or official) having authority to regulate the business of transportation by motor vehicles, of each State in or through which applicant operates or proposes to operate." Virtually identical requirements are found in 49 CFR 1134.1(b), 1134.6(b), and 1134.50(b), regarding applications for various types of merger and permanent or temporary financial control of motor carrier operating rights or properties.

The staff task force suggested that these rules appear to have no beneficial effect on either the States or motor carrier applicants before the Commission. NARUC (an association whose members are State officials charged, among others, with the duty of regulating motor carriers within their respective States) believes that the vast majority of the applications covered by these regulations are of only minimal interest to the States and that only under certain circumstances do the States have use for the entire applications. The filing and concomitant administrative costs can be a burden on those States which retain these applications and some States (Rhode Island is cited in the Task Force report) discard them upon receipt. Many applications are quite lengthy and the cost and effort of copying and service (including mailing) may be unjustified by any corresponding benefit derived therefrom.

DISCUSSION OF PROPOSED REVISIONS

The Interstate Commerce Act requires only that reasonable notice of the proceedings to which these applications pertain be afforded to the States, 49 U.S.C. 305(e). Thus, there exists no statutory requirement that the entire application be served and the proposed revisions lie wholly within the Commission's rule-making power.

A substantial portion of the expense and effort inherent in the above-outlined service procedure could be eliminated by substituting a simple short-form notice requirement with regard to all pertinent States except the applicant's State of domicile. This would allow States having a particular interest in any given proceeding to request a complete copy of the application from the carrier(s). Under the proposed revisions, complete applications would be served upon the carrier's domiciliary State. Public comment is sought as to whether it is necessary to serve the carrier's domiciliary State with a complete application.

The Commission's present regulations require that copies of applications be delivered in person or sent by "registered or receipted mail" to the appropriate State officials. Public comment is sought as to whether this requirement should be modified to permit service by first-class mail.

The adoption of the proposed regulations will make necessary slight revisions of the application forms pertaining to each of the revised regulations (OP-OR-9, OP-F-44, OP-F-40, and OP-F-45, 49 CFR 1003.1).

Accordingly, the Commission proposes to amend 49 CFR 1130.1(b), 1134.1(b), 1134.6(b), 1134.50(b), and 1003 to read as follows:

§ 1130.1 Applications.

(b) *Filing and service.* The verified original of each such application shall be filed with this Commission, one true copy thereof shall be furnished the Regional Operations Director of the Bureau of Operations located in the region wherein applicant is domiciled and one true copy shall be delivered in person or by registered or receipted mail, to the Board, Commission, or official (or Governor if there is no Board, Commission or official) having authority to regulate the business of transportation by motor vehicle, in the State of applicant's domicile. Notice of the application in the form and containing the information called for in the form of notice designated as Form B.M.C. 15 (§ 1003.1 of this chapter), shall be provided in the same manner to the appropriate Board or official designated above of each State in or through which applicant operates or proposes to operate. Applicant is not required to give notice to competitors since notice of such filing will be by publication in the FEDERAL REGISTER.

§ 1134.1 Applications for authority to merge properties or franchises.

(b) The original of each such application and five copies thereof shall be filed with this Commission, one copy thereof shall be furnished to each of the Regional Operations Directors of the Bureau of Operations in which are located the headquarters of the carriers involved in the application, and one copy shall be delivered, in person or by registered or receipted mail, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having authority to regulate the business of transportation by motor vehicle in the State of carriers' domicile. Notice of the application in the form and containing the information called for in the form of notice designated as Form B.M.C. 15-A (Revised) (§ 1003.1 of this chapter), shall be provided in the same manner to the appropriate Board or official designated above of each State in which said carriers operate. Applicants are not required to give notice to competitors since notice of such filing will be by publication in the FEDERAL REGISTER, as provided in Rule 240 of the Special Rules of Practice (§ 1100.240 of this chapter).

§ 1134.6 Applications for approval of temporary operation.

(b) The original of each such application and five copies thereof, shall be filed with this Commission, one copy thereof shall be furnished to each of the Regional Operations Directors of the Bureau of Operations in which the headquarters of applicants are located, and one copy shall be delivered, in person or by registered or receipted mail, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having authority to regulate the business of transportation by motor vehicle in the State of applicant's domicile. Notice of the application in the form and containing the information called for in the form of notice designated as Form B.M.C. 15-A (Revised) (§ 1003.1 of this chapter), shall be provided in the same manner to the appropriate Board or Official designated above of each State in which applicants operate. Applicants are not required to give notice to competitors since notice of such filing will be by publication in the FEDERAL REGISTER, as provided in Rule 240 of the Special Rules of Practice (§ 1140.240 of this chapter).

§ 1134.50 Application for authority to acquire control.

(b) The original of each such application and five copies thereof shall be filed with this Commission, one copy thereof shall be furnished to each of the Regional Operations Directors of the Bureau of Operations in which are located

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the headquarters of the carriers involved in the application, and one copy shall be delivered in person or by registered or receipted mail, to the Board, Commission, or Official (or to the Governor where there is no Board, Commission, or Official) having authority to regulate the business of transportation by motor vehicle in the State of applicant's domicile. Notice of the application in the form and containing the information called for in the form of notice designated as Form B.M.C. 15-A (Revised) (§ 1003.1 of this chapter), shall be provided in the

same manner to the appropriate Board or official designated above of each State in which said carriers operate. Applicant is not required to give notice to competitors since notice of such filing will be by publication in the FEDERAL REGISTER, as provided in Rule 240 of the Special Rules of Practice (§ 1100.240 of this chapter).

§ 1003.1 [Amended]

Adoption of the above proposed regulations would require modification of Form B.M.C. 15-A.

This notice of proposed rulemaking is promulgated under the authority contained in 49 U.S.C. 304 and 305; and 5 U.S.C. 553, and was adopted formally at a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 28th day of September, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-29205 Filed 10-3-77; 8:45 am]

[1505-01]

PRIVACY ACT ISSUANCES, ANNUAL PUBLICATION

Federal Home Loan Bank Board

PRIVACY ACT OF 1974

System of Records

Correction

In FR Doc. 77-27836, appearing at page 48117, in the issue for Thursday, September 22, 1977 (as part of the annual Privacy Act compilation), delete the contents of page 48125 in their entirety.

[3410-03]

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

USDA PATENT INDEX MANUAL

Availability

AGENCY: Agricultural Research Service, USDA.

ACTION: Public notice of availability of USDA Patent Index Manual.

SUMMARY: This document gives notice to the public that a USDA Patent Index Manual is available. Copies of the manual and information concerning patent licensing procedures are available from the address below.

The provisions of 41 CFR 101-4.104-1 direct each Government agency to publish a list of the Government inventions in its custody available for licensing in the FEDERAL REGISTER, the Official Gazette of the U.S. Patent Office, and at least one other publication which will best serve the public's interest.

ARS is charged with the responsibility for managing the patent licensing program for all agencies within USDA. This responsibility includes the publication of patents available for public licensing.

FOR FURTHER INFORMATION CONTACT:

Chief, Research Agreements and Patents Management Branch, USDA, ARS, General Services Division, Federal Bldg., 6505 Belcrest Road, Hyattsville, Md. 20782, Telephone: 301-436-8402.

Dated: September 26, 1977.

T. W. EDMISTER,
Administrator.

[FR Doc. 77-29114 Filed 10-3-77; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

Forest Service

VERNON UNIT PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Vernon Unit Plan, Kisatchie National Forest, La., USDA-FS-R8-FES (Adm.) 76-21.

This unit contains 84,874 acres of National Forest land located in Vernon Parish, La. Major actions are harvesting timber products, development and maintenance of wildlife improvements, development of recreation facilities for dispersed recreation and construction and reconstruction of roads.

This final environmental statement was transmitted to CEQ September 26, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Rm. 3230, 12th St. and Independence Ave. SW., Washington, D.C. 20230.
USDA, Forest Service, 1720 Peachtree Road NW., Rm. 804, Atlanta, Ga. 30309.
USDA, Forest Service, Kisatchie National Forest, 2500 Shreveport Highway, Pineville, La. 71360.

A limited number of single copies are available upon request to Forest Supervisor, Kisatchie National Forest, 2500 Shreveport Highway, Pineville, La. 71360.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ guidelines.

Dated: September 26, 1977.

GEORGE H. COOK,
Acting Regional
Environmental Coordinator.

[FR Doc. 77-29208 Filed 10-3-77; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

(Order 77-9-107; Docket 29123; Agreement C.A.B. 26886)

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order; Western Hemisphere Long-Haul Passenger Fares

Issued under delegated authority September 26, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

In general, the agreement would increase passenger fares in various U.S.-South American long-haul markets by two percent of the normal economy fare between Miami on the one hand and Brazil, Argentina, and Uruguay on the other, to compensate for rising fuel prices.

The purpose of this order is to establish procedural dates for the submission of carrier justification in support of the agreement and comments from interested persons. The carriers' justifications should set out, in the tabular format suggested in Order 75-7-88 (July 17, 1975), historical data for the year ended June 30, 1977, to establish the present economic status of scheduled passenger service in the market area covered by the agreement. For this purpose, the historical data reported to the Board in Form 41 reports by functional account for total Latin American passenger services should be adjusted to exclude market areas not covered by the agreement and to exclude all scheduled cargo and charter operations. The carriers should specifically document the cost per gallon and the amount of fuel purchased in Brazil, Argentina, and Uruguay during the year ended June 30, 1977. In addition, the carriers should provide comparable forecasts for the year ending September 30, 1978, assuming both present and proposed fare levels, annualizing the expected cost and revenue increases, indicating the amount of fuel to be purchased, and adequately documenting changes in fuel costs and revenue impact. Costs should be allocated between the passenger and cargo compartments of scheduled passenger aircraft by the "space method" stipulated by the Board in the Nonpriority Mail Rates decision (Orders 70-4-9 and 70-4-10), with complete explanatory notes and supporting detail, including statistical data, to describe the methods used in making the allocation.

Accordingly, it is ordered, that: 1. All United States air carrier members of the International Air Transport Association providing service within the affected

area shall file, within 15 calendar days after the date of service of this order, full documentation and economic justification for the fares embodied in the subject agreement:

2. Comments and objections from interested persons and parties shall be submitted within 15 calendar days after the date of service of this order;

3. Replies to submissions received in response to ordering paragraphs 1 and 2 above shall be submitted within 25 calendar days after the date of service of this order; and

4. Insofar as air transportation as defined by the Act is concerned, tariffs implementing the subject agreement shall not be filed in advance of Board action on the subject agreement.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29161 Filed 10-3-77; 8:45 am]

Agreement
CAB Specific
Commodity
Item No.

Description and Rate¹

20906 R-1	4109	Aircraft engines and parts of aircraft excluding fuselages, wings, aircraft tail assemblies, stabilizers and/or stabilizers; 315 $\frac{1}{2}$ kg. minimum weight 100 kg. 275 $\frac{1}{2}$ kg. minimum weight 200 kg. 220 $\frac{1}{2}$ kg. minimum weight 500 kg. From Addis Ababa to New York.
R-2	6227	Pyrethrum extract, 150 $\frac{1}{2}$ kg. minimum weight 100 kg. From Dar-Es-Salaam to New York.

¹ Subject to applicable currency exchange factors as shown in tariffs.
² Expires Jan. 31, 1978.
³ Expires Dec. 31, 1977.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that the agreement is adverse to the public interest or in violation of the Act, provided that approval is subject to the conditions ordered.

Accordingly, it is ordered, That: Agreement C.A.B. 26906, R-1 and R-2, is approved, provided that (a) approval shall not constitute approval of the specific commodity descriptions contained therein for purposes of tariff publications; (b) tariff filings shall be marked to become effective on not less than 30 days' notice from the date of filing; and (c) where a specific commodity rate is published for a specified minimum weight at a level lower than the general commodity rate applicable for such weight, and where a general commodity rate is published for a greater minimum weight at a level lower than such specific commodity rate, the specific commodity rate shall be extended to all such greater minimum weights at the applicable general commodity rate level.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

[6320-01]

[Order 77-9-103; Docket 27573; Agreement C.A.B. 26906, R-1 and R-2]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order, Specific Commodity Rates

Issued under delegated authority September 26, 1977.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA), and adopted pursuant to the provisions of Resolution 590 dealing with specific commodity rates.

The agreement names two specific commodity rates under existing commodity descriptions as set forth below, reflecting reductions from general cargo rates; and was adopted pursuant to unopposed notice to the carriers and promulgated in an IATA letter dated September 15, 1977.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29169 Filed 10-3-77; 8:45 am]

[6325-01]

COMMISSION ON CIVIL RIGHTS

WEST VIRGINIA ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the West Virginia Advisory Committee (SAC) of the Commission will convene at 12 noon and will end at 2 p.m. on October 18, 1977, in the Ramada Inn, Morgantown, W. Va. 26505.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Mid-Atlantic Regional Office of the Commission, 2120 L Street NW., Washington, D.C. 20037.

The purpose of this meeting is the termination of State Advisory Committee.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 3, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77-29301 Filed 10-3-77; 10:08 am]

CIVIL SERVICE COMMISSION

AGRICULTURE DEPARTMENT

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Deputy Administrator, Foreign Agricultural Service.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.77-29045 Filed 10-3-77; 8:45 am]

AGRICULTURE DEPARTMENT

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Agriculture to fill by noncareer executive assignment in the excepted service the position of Assistant Administrator, Foreign Market Development, Foreign Agricultural Service.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.77-29046 Filed 10-3-77; 8:45 am]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Grant of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Neighborhood and Consumer Affairs, Office of Neighborhoods and Consumer Affairs, Office of the Assistant Secretary for Neighborhoods, Consumer Affairs and Voluntary Associations.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc.77-29047 Filed 10-3-77; 8:45 am]

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary for Consumer Affairs, Office of the Deputy Assistant Secretary for Consumer Affairs, Office of the Assistant Secretary for Consumer Affairs and Regulatory Functions, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,

Executive Assistant to
the Commissioners.

[FR Doc.77-29048 Filed 10-3-77; 8:45 am]

TREASURY DEPARTMENT

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of the Treasury to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (Administration), Office of the Assistant Secretary (Administration), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,

Executive Assistant to
the Commissioners.

[FR Doc.77-29049 Filed 10-3-77; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

TELECOMMUNICATIONS EQUIPMENT TECHNICAL ADVISORY COMMITTEE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. V, 1975), notice is hereby given that a meeting of the Telecommunications Equipment Technical Advisory Committee will be held on Tuesday, October 25, 1977, at 10 a.m. in Room 5230, Main Commerce Building, 14th and Constitution Avenue NW., Washington, D.C.

The Telecommunications Equipment Technical Advisory Committee was initially established on April 5, 1973. On March 12, 1975 and March 16, 1977, the Acting Assistant Secretary for Administration approved the recharter and extension of the Committee for two additional years, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec.

2404(c)(1) and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration, Bureau of East-West Trade, with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of exports controls applicable to telecommunications equipment, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls.

The Committee meeting agenda has five parts:

GENERAL SESSION

- (1) Opening remarks by the Chairman
- (2) Presentation of papers or comments by the public.
- (3) Finalization of Findings—Volume I of the annual report to meet November 1, 1977, due date.
- (4) Discussion of microprocessors used in telecommunications equipment.

EXECUTIVE SESSION

- (5) Discussion of matters properly classified under Executive Order 11652, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting is open to the public, at which a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (5), the Acting Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on April 22, 1977, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, Pub. L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under the Executive Order. All Committee members have appropriately security clearances.

Copies of the minutes of the open portion of the meeting will be available upon written request addressed to the Freedom of Information Officer, Domestic and International Business Administration, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Charles C. Swanson, Director, Opera-

tions Division, Office of Export Administration, Domestic and International Business Administration, Room 1617M, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-4196.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Telecommunications Equipment Technical Advisory Committee and of any subcommittees thereof, was published in the FEDERAL REGISTER on May 25, 1977 (42 FR 26682).

Dated: September 29, 1977.

RAUER H. MEYER,
Director, Office of Export Administration Bureau of East-West Trade, U.S. Department of Commerce.

[FR Doc.77-29165 Filed 10-3-77; 8:45 am]

[3510-24]

Economic Development Administration SMITHFIELD SUGAR COOPERATIVE, INC.

Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Smithfield Sugar Cooperative, Inc., Route 1, Box 157, Port Allen, La. 70767, a processor of cane sugar, was accepted for filing on September 26, 1977, pursuant to section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business, October 14, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-29065 Filed 10-3-77; 8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

STEPHEN BARLOW

Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due and timely form for a Certificate of Exemption under Pub. L. 94-359, and the regu-

lations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant: Stephen Barlow, 283 Brook Street, Providence, R.I. 02906.

Period of Exemption: The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted: (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States; (ii) The prohibition, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity any such species part; (iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted: Two finished scrimshaw carvings from sperm whale bone and finished scrimshaw products to be made from a supply of 89 sperm whale teeth, sperm whale teeth cross-cuts and 17 pounds of whale bone. Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before November 3, 1977.

Dated: September 28, 1977.

MORRIS M. PALIZZI,
Acting Associate Director
for Fisheries Management.

[FR Doc. 77-29059 Filed 10-3-77 8:45 am]

[3510-12]

BARRY T. O'NEIL

Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicant has applied in due and timely form for a Certificate of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

APPLICANT

Barry T. O'Neil, d.b.a. The Scrimshaw Shoppe, 98 Lawson Road, Scituate, Mass. 02066.

Period of exemption: The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted: (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States; (ii) The prohibitions, as set forth in

section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted: Finished scrimshaw products to be made from approximately 92 whale teeth.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 3, 1977.

Dated: September 28, 1977.

MORRIS M. PALIZZI,
Acting Associate Director for
Fisheries Management.

[FR Doc. 77-29060 Filed 10-3-77 8:45 am]

[3510-12]

GERALD J. SHORROCK

Receipt of Application for Certificate of Exemption

Notice is hereby given that the following applicants have applied in due form for Certificates of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

APPLICANTS

1. Gerald J. Shorrock, 2222 Sepulveda Boulevard, Los Angeles, Calif. 90064.

Period of Exemption: The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted: (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted: Finished scrimshaw products consisting of approximately 47 etched whale teeth, 10 carved whale teeth, 7 carved or etched whale teeth pieces, 93 carved whale bone pieces, 2 items made from carved baleen and one carved section of sperm whale jaw bone containing 6 teeth.

2. G & W Laboratories, Inc., 20 Markley Street, Port Reading, N.J. 07064.

Period of Exemption: The applicant requests that the period of time to be covered by the Certificate of Exemption

begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted: (i) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(ii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted: Approximately 170.5 pounds of spermaceti.

3. Cape Cod Scrimshaw, Inc., 190 Longview Drive, Centerville, Mass. 02632.

Period of Exemption: The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted: (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States; (ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted: Finished scrimshaw products consisting of approximately 237 jewelry items, 6 etched whale teeth and 4 items carved from whale teeth. Finished scrimshaw products to be made from approximately 33 whale teeth, 138 pieces cut from whale teeth, an additional 302.25 pounds of whale teeth, 111 pounds of whale tooth scrap and one sperm whale jaw bone.

Written comments on these applications may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 3, 1977.

Dated: September 26, 1977.

MORRIS M. PALIZZI,
Acting Associate Director for
Resource Management.

[FR Doc. 77-29061 Filed 10-3-77 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

AIR FORCE INSTITUTE OF TECHNOLOGY
SUBCOMMITTEE OF AIR UNIVERSITY
BOARD OF VISITORS

Meeting

The Air Force Institute of Technology Subcommittee of the Air University Board of Visitors will hold an open meeting at 11 a.m. on November 22, 1977, in room 2004 (ten seats available).

building 125, Wright-Patterson Air Force Base, Ohio.

The purpose of the meeting is to give the subcommittee the opportunity to present to the Commandant, Air Force Institute of Technology, a report of findings and recommendations concerning the institute's educational programs. The findings of the subcommittee will also be reported to the Commander, Air University, at the next regularly scheduled meeting of the Air University Board of Visitors.

For further information on this meeting, contact Lieutenant Colonel Jonathan H. Shead, Chief, Degree Programs Division, Directorate of Educational Plans and Operations, Air Force Institute of Technology, 513-255-4219 or 5402.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison
Officer, Directorate of
Administration.

[FR Doc. 77-29209 Filed 10-3-77 8:45 am]

[3910-01]

COMMUNITY COLLEGE OF THE AIR FORCE
(CCAF) ADVISORY COMMITTEE

Meeting

SEPTEMBER 26, 1977.

The Community College of the Air Force Advisory Committee is scheduled to meet at 8:00 a.m., November 8, 1977, in Room 41 of the Community College of the Air Force, Building 146, located at Lackland Training Annex, San Antonio, Tex.

The meeting is open to the public.

Agenda items include: Internal Information Program, Transition to the Commission on Colleges, Master Plan, Manpower, External Relations Program, Improving the Quality of Existing Programs.

For further information, contact Lt. Col. Wade R. Kilbride, at 512-671-3635.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison
Officer, Directorate of Administration.

[FR Doc. 77-29210 Filed 10-3-77 8:45 am]

[3910-01]

MILITARY AIRLIFT COMMITTEE

Meeting

SEPTEMBER 22, 1977.

The Military Airlift Committee of the National Defense Transportation Association (NDTA) will hold a meeting on November 9, 1977 from 1:00 p.m. to 4:30 p.m. and on November 10, 1977 from 8:25 a.m. to 11:30 a.m. in the Port of Long Beach Administration Building, Long Beach, Calif.

The purpose of this meeting is for the NDTA Military Airlift Committee, serving as an advisory committee, to advise the Commander in Chief, Military Airlift Command (MAC) on broad management problems pertaining to his command responsibilities. Presentations and discussions, in consonance with the

theme "Government Activities and Decisions Related to Airlift," will be featured.

The meeting is open for general public attendance, but this does not include participation in the proceedings or questioning the briefers and Committee members. If an individual wishes to make a formal, oral statement germane to the meeting, he may submit a formal application, including the substance of the statement, in advance to the Commander in Chief, Military Airlift Command, Attention: Executive Agent, Military Airlift Committee, Scott Air Force Base, Ill. 62225. Formal, written statements may be submitted to the Commander in Chief at any time before or after the meeting.

For additional information concerning this meeting, contact Colonel Floyd D. Castleman (Executive Agent), at 618-256-3025.

FRANKIE S. ESTEP,
Air Force Federal Register
Liaison Officer, Directorate of
Administration.

[FR Doc. 77-29211 Filed 10-3-77 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

SEPTEMBER 30, 1977.

The USAF Scientific Advisory Board ad hoc Committee on Wide Area Munitions will hold a meeting on October 20, 1977, from 1 p.m. to 5 p.m. at the Pentagon, Washington, D.C.

The committee will receive classified briefings and hold classified discussions on the Air Force munitions research and procurement programs. The meeting will be closed to the public in accordance with Section 552(b)(1) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at 202-697-8401.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison
Officer, Directorate of Administration.

[FR Doc. 77-29189 Filed 10-3-77 8:45 am]

[6170-01]

ENERGY RESEARCH AND
DEVELOPMENT ADMINISTRATION

[ERDA 1545-D]

ROCKY FLATS PLANT SITE; JEFFERSON
COUNTY, GOLDEN, COLO.

Availability of Draft Environmental Impact
Statement

Notice is hereby given that the Energy Research and Development Administration (ERDA) has issued the Draft Environmental Impact Statement, ERDA-1545-D, Rocky Flats Plant Site, Jefferson County, Golden, Colo., pursuant to ERDA's implementation of the National Environmental Policy Act of 1969. The statement was prepared to support

ERDA's continued operation of the Rocky Flats Plant and other activities at the Site. The statement assesses the potential cumulative environmental impacts associated with the current site activities and the operation of the plant and with the alternatives to current plant operations.

Copies of the draft environmental impact statement have been distributed for review and comment to appropriate Federal, Colorado State and local agencies, and other organizations and individuals who are known to have an interest in the activities at the Site. Copies have also been sent to those who provided comments and suggestions in response to the Federal Register notice (40 FR 24234) which announced that ERDA had commenced preparation of this statement, and solicited comments and suggestions. Copies of the statement are available for public inspection at the ERDA public document rooms located at:

ERDA Headquarters, 20 Massachusetts Avenue NW., Washington, D.C.
Albuquerque Operations Office, National Atomic Museum, Kirtland Air Force Base East, Albuquerque, N. Mex.
Chicago Operations Office, 9800 South Cass Avenue, Argonne, Ill.
Chicago Operations Office, 175 West Jackson Boulevard, Chicago, Ill.
Idaho Operations Office, 550 Second Street, Idaho Falls, Idaho.
Nevada Operations Office, 2753 South Highland Drive, Las Vegas, Nev.
Oak Ridge Operations Office, Federal Building, Oak Ridge, Tenn.
Richland Operations Office, Federal Building, Richland, Wash.
San Francisco Operations Office, 1333 Broadway, Oakland, Calif.
Savannah River Operations Office, Savannah River Plant, Aiken S.C.

In addition a copy will be placed in the:

Regional Energy Environmental Information Center, Denver Public Library, 1357 Broadway, Denver, Colo.

Comments and views concerning the draft environmental impact statement are requested from other interest agencies, organizations and individuals. Single copies of the statement will be furnished for review and comment upon request addressed to W. H. Pennington, Director, Office of NEPA Coordination, Mail Station E-201, Energy Research and Development Administration, Washington, D.C. 20545 (301-353-4241). Comments should be sent to the same address.

In accordance with the guidelines of the Council on Environmental Quality, those submitting comments on the draft environmental impact statement should endeavor to make their comments as specific, substantive, and factual as possible without undue attention to matters of fact in the impact statement. However, it would assist in the review of the comments if the comments were organized in a manner consistent with the structure of the draft environmental impact statement. Emphasis should be placed specifically on the assessment of the environmental impacts of continued

Plant operations, and the acceptability of those impacts on the quality of the environment, particularly as contrasted with the impacts of reasonable alternatives to the proposed action. Commenting entities may recommend modifications and or new alternatives that will enhance environmental quality and avoid or minimize adverse environmental impacts.

Copies of comments received on the draft environmental impact statement will be placed in the above referenced locations for inspection and will be considered in the preparation of the final environmental impact statement. If received within 90 days of this notice.

Dated at Germantown, Md., this 23rd day of September 1977.

For the Energy Research and Development Administration.

JAMES L. LIVERMAN,
Assistant Administrator for
Environment and Safety.

[FRL Doc 77-29064 Filed 10-3-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 801-1; OPP-00060]

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT SCIENTIFIC ADVISORY PANEL

Meeting

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Notice of open meeting.

SUMMARY: There will be a two-day meeting of the Federal Insecticide Fungicide, and Rodenticide Act (FIFRA) Scientific Advisory Panel from 9 a.m. to 4:30 p.m. daily on Tuesday, October 25, and Wednesday, October 26, 1977. The meeting will be held in Room 2117, Waterside Mall, 401 M Street SW., Washington, D.C. 20460, and will be open to the public.

FOR FURTHER INFORMATION CONTACT:

Dr. H. Wade Fowler, Jr., Executive Secretary, FIFRA Scientific Advisory Panel, Office of Pesticide Programs, Rm. 803 (WH-566-CM No. 2), Crystal Mall, Building 2, 1921 Jefferson Davis Highway, Arlington, Va., telephone 703-557-7560.

SUPPLEMENTARY INFORMATION: In accordance with section 25(d) of the amended FIFRA, the Scientific Advisory Panel will comment on the impact on health and the environment of regulatory actions under sections 6(b) and 25(a) prior to implementation. The purpose of this meeting is to discuss the following topics:

1. Continue preliminary review of Subpart F of the Guidelines for Registering Pesticides in the United States, entitled, "Hazard Evaluation: Humans and Domestic Animals."

2. Briefing on minor revisions of Section 19 Regulations on Pesticide Disposal and Storage.

3. In addition, the Agency may present a status report on the pesticide endrin.

Any member of the public wishing to attend or submit a paper should contact Dr. N. Wade Fowler, Jr., at the address or phone listed above. Interested persons are permitted to file written statements before or after the meeting, and may upon advance notice to the Executive Secretary, present oral statements to the extent that time permits. Written or oral statements will be taken into consideration by the Panel in formulating comments or in deciding to waive comments. Persons desirous of making oral statements must notify the Executive Secretary and submit four copies of a summary not later than October 21, 1977.

Individuals who wish to file written statements are advised to submit ten copies of statements to the Executive Secretary in a timely manner to ensure appropriate consideration by the Panel.

Dated: September 28, 1977.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FRL Doc 77-29066 Filed 10-3-77; 8:45 am]

[1505-01]

[FRL 783-4; OPP 60002]

FLORIDA PLAN

Application of Mirex in Coastal Counties; Solicitation of Public Views

Correction

In FRL Doc. 26547, appearing on page 45944 in the issue of Tuesday, September 13, 1977, in the first line of the second paragraph of the document, the word "not" should read "now".

[6560-01]

[FRL 801-3; PP 6G1751 T130]

PESTICIDE PROGRAMS

Linuron; Establishment of Temporary Tolerances

E. I. du Pont de Nemours and Co., Inc., Wilmington, Del. 19898, has submitted a pesticide petition (PP 6G1791) to the Environmental Protection Agency (EPA). This petition requests that temporary tolerances be established for residues of the herbicide linuron (3-(3,4-dichlorophenyl)-1-methoxy-1-methylurea) in or on the raw agricultural commodities sugar beet roots at 0.2 part per million (ppm) and sugar beet tops at 1.0 ppm. (A related document establishing a feed additive regulation for residues of linuron on dried sugar beet pulp appears elsewhere in today's FEDERAL REGISTER.)

Establishment of these temporary tolerances will permit the marketing of the above raw agricultural commodities when treated in accordance with an experimental use permit that is being issued concurrently under the Federal In-

secticide, Fungicide, and Rodenticide Act, as amended (86 Stat. 973, 89 Stat. 751; 7 U.S.C. 136(a) et seq.).

An evaluation of the scientific data reported and other relevant material has shown that the requested tolerances are adequate to cover residues resulting from the proposed experimental use, and it has been determined that the temporary tolerances will protect the public health. The temporary tolerances are established for the pesticide, therefore, with the following provisions:

1. The total amount of the pesticide to be used must not exceed the quantity authorized by the experimental use permit.
2. E. I. du Pont de Nemours and Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The firm must also keep records of production, distribution, and performance and on request make records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These temporary tolerances expire September 28, 1978. Residues not in excess of 0.2 ppm in sugar beet roots and 1 ppm in sugar beet tops after this expiration date will not be considered actionable if the pesticide is legally applied during the term of and in accordance with the provisions of the experimental use permit and temporary tolerances. These temporary tolerances may be revoked if the experimental use permit is revoked or if any scientific data or experience with this pesticide indicates such revocation is necessary to protect the public health. Inquiries concerning this notice may be directed to the Special Registrations Section, Registration Division (WH-567), Office of Pesticide Programs, Room 315, East Tower, 401 M St. SW., Washington D.C. 20460 (202-755-4851).

Dated: September 28, 1977.

"Section 408(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(j))."

DOUGLAS D. CAMPBELL,
Acting Director,
Registration Division.

[FRL Doc 77-29080 Filed 10-3-77; 8:45 am]

[6560-01]

[FRL 801-4]

SCIENCE ADVISORY BOARD, ENVIRONMENTAL MEASUREMENTS ADVISORY COMMITTEE

Open Meeting

Pursuant to Pub. L. 92-463, notice is hereby given that a meeting of the Environmental Measurements Advisory Committee will be held beginning at 9 a.m. on October 24, 1977, in the Lobby Conference Room of the Holiday Inn, 1489 S. Jefferson Davis Highway, Arlington, Va.

This is the eighth meeting of the Committee. The Agenda includes current activities of the Science Advisory Board; report by the Chairman of the EPA Air and Water Monitoring Strategies Task Group; discussion of suitable topics for anticipatory research in environmental

measurements and monitoring; review of plans and schedules for future meetings of the committee; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend or obtain additional information should contact Dr. A. F. Forziati, Acting Executive Secretary, Environmental Measurements Advisory Committee, 202-245-3027, by close of business on October 17, 1977, as visitor space is limited.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

SEPTEMBER 28, 1977.

[FRL Doc 77-29174 Filed 10-3-77; 8:45 am]

[3821-01]

FEDERAL ENERGY ADMINISTRATION

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

September 15 Through September 16, 1977

Notice is hereby given that during the period from September 15 through September 16, 1977, the Proposed Decisions and Orders which are summarized below were issued by the Federal Energy Administration's Office of Exceptions and Appeals with regard to Applications for Exception which had been filed with that Office.

Amendments to the FEA's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (41 FR 47210; September 20, 1977), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the finalization of a Proposed Decision and Order issued with regard to an application for exception may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, a Proposed Decision and Order will become a final order. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room

B-120, 2000 M Street NW., Washington, D.C. 20461. Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

SEPTEMBER 27, 1977.

ERIC J. FYGI,
Acting General Counsel.

PROPOSED DECISIONS AND ORDERS

Charter Oil Co.; Jacksonville, Fla.; FFE-FXE-4448; Crude Oil

On July 22, 1977, the Charter Oil Co. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). The request, if granted, would relieve Charter of its obligation to purchase entitlements beginning with the month of September 1977. On September 16, 1977, the FEA issued a Proposed Decision and Order in which it determined that the request be granted.

George A. Hoffman; Henderson, Ky.; FEE-4041; Crude Oil

On April 15, 1977, George A. Hoffman filed an Application for Exception from the provisions of 6 CFR, Part 150, Subpart L and 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Hoffman to retain the revenues which he realized during the period November 1, 1973 through December 31, 1975 from charging prices for crude oil produced from the Edward Bohnhoff Lease which exceeded the applicable ceiling prices. On September 16, 1977, the FEA issued a Proposed Decision and Order which determined that the exception request be granted in part.

Special Jet Services, Inc.; West Mifflin, Pa.; FEE-3922; Aviation Fuels

Special Jet Services, Inc. filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Special Jet to increase its selling prices for aviation fuel above the maximum permissible levels specified in 10 CFR 212.93. On September 15, 1977, the FEA issued a Proposed Decision and Order which determined that the exception request be denied.

4-Way Grocery; Molalla, Ore.; FEE-4284; Motor Gasoline

The 4-Way Grocery filed an Application for Exception from the provisions of 10 CFR 211.9. The exception request, if granted, would result in the issuance of a Decision and Order terminating 4-Way's supplies/purchaser relationship with its base period supplier of motor gasoline, then Stein Oil Co., and substituting the Union Oil Co. of California as its current supplier. On September 16, 1977, the FEA issued a Proposed Decision and Order which determined that the exception request be denied.

[FRL Doc 77-28986 Filed 10-3-77; 8:45 am]

[3128-01]

ISSUANCE OF PROPOSED DECISIONS AND ORDERS BY THE OFFICE OF EXCEPTIONS AND APPEALS

September 19 Through September 21, 1977

Notice is hereby given that during the period from September 19 through September 21, 1977, the Proposed Decisions and Orders which are summarized below were issued by the Federal Energy Administration's Office of Exceptions and Appeals with regard to Applications for

Exception which had been filed with that Office.

Amendments to the FEA's procedural regulations, 10 CFR, Part 205, were issued in proposed form on September 14, 1977 (41 FR 47210; September 20, 1977), and are currently being implemented on an interim basis. Under the new procedures any person who will be aggrieved by the finalization of a Proposed Decision and Order issued with regard to an application for exception may file a written Notice of Objection within ten days of service. For purposes of the new procedures, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The new procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, a Proposed Decision and Order will become a final order. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Private Grievances and Redress, Room B-120, 2000 M Street NW., Washington, D.C. 20461. Monday through Friday, between the hours of 1 p.m. and 5 p.m., e.d.t., except Federal holidays.

ERIC J. FYGI,
Acting General Counsel.

SEPTEMBER 27, 1977.

PROPOSED DECISIONS AND ORDERS

Little America Refining Co.; Evansville, Wyo.; FFE-4462; Crude Oil

On August 1, 1977, the Little America Refining Co. filed an Application for Exception from the provisions of 10 CFR 211.67 (the Old Oil Entitlements Program). The exception request, if granted, would relieve the firm of its entitlements purchase obligations commencing with the month of September 1977. On September 19, 1977, the FEA issued a Proposed Decision and Order which determined that the exception request be granted in part.

Skelton Operating Co., Inc.; Jackson, Miss.; FEE-4407; Crude Oil

On July 26, 1977, Skelton Operating Co., Inc. filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would permit Skelton to sell at upper tier ceiling prices the crude oil that is produced on behalf of the working interest owners of the Lee Beard No. 2 well, located on the Diamond Field, in Wayne County, Miss. On September 19, 1977 the FEA issued a Proposed Decision and Order which determined that the exception request be denied.

REQUESTS FOR EXCEPTION RECEIVED FROM NATURAL GAS PROCESSORS

The Office of Exceptions and Appeals of the Federal Energy Administration has issued proposed Decisions and Orders granting exception relief from the provisions of 10 CFR 212.165 to the natural gas processors listed below. The proposed exception relief would permit the firms involved to increase the prices of the production of the gas plants listed below to reflect certain non-product cost increases.

Company Name	Address	Amount of price increase (per cubic foot)
Union Gasline Co. (F.E. 450)	Edmond	0.01
Continental Oil (F.E. 454)	Edmond	0.01
Continental Oil (F.E. 455)	Edmond	0.01
Continental Oil (F.E. 456)	Edmond	0.01
Continental Oil (F.E. 457)	Edmond	0.01
Continental Oil (F.E. 458)	Edmond	0.01
Continental Oil (F.E. 459)	Edmond	0.01
Continental Oil (F.E. 460)	Edmond	0.01
Continental Oil (F.E. 461)	Edmond	0.01
Continental Oil (F.E. 462)	Edmond	0.01
Continental Oil (F.E. 463)	Edmond	0.01
Continental Oil (F.E. 464)	Edmond	0.01
Continental Oil (F.E. 465)	Edmond	0.01
Continental Oil (F.E. 466)	Edmond	0.01
Continental Oil (F.E. 467)	Edmond	0.01
Continental Oil (F.E. 468)	Edmond	0.01
Continental Oil (F.E. 469)	Edmond	0.01
Continental Oil (F.E. 470)	Edmond	0.01
Continental Oil (F.E. 471)	Edmond	0.01
Continental Oil (F.E. 472)	Edmond	0.01
Continental Oil (F.E. 473)	Edmond	0.01
Continental Oil (F.E. 474)	Edmond	0.01
Continental Oil (F.E. 475)	Edmond	0.01
Continental Oil (F.E. 476)	Edmond	0.01
Continental Oil (F.E. 477)	Edmond	0.01
Continental Oil (F.E. 478)	Edmond	0.01
Continental Oil (F.E. 479)	Edmond	0.01
Continental Oil (F.E. 480)	Edmond	0.01
Continental Oil (F.E. 481)	Edmond	0.01
Continental Oil (F.E. 482)	Edmond	0.01
Continental Oil (F.E. 483)	Edmond	0.01
Continental Oil (F.E. 484)	Edmond	0.01
Continental Oil (F.E. 485)	Edmond	0.01
Continental Oil (F.E. 486)	Edmond	0.01
Continental Oil (F.E. 487)	Edmond	0.01
Continental Oil (F.E. 488)	Edmond	0.01
Continental Oil (F.E. 489)	Edmond	0.01
Continental Oil (F.E. 490)	Edmond	0.01
Continental Oil (F.E. 491)	Edmond	0.01
Continental Oil (F.E. 492)	Edmond	0.01
Continental Oil (F.E. 493)	Edmond	0.01
Continental Oil (F.E. 494)	Edmond	0.01
Continental Oil (F.E. 495)	Edmond	0.01
Continental Oil (F.E. 496)	Edmond	0.01
Continental Oil (F.E. 497)	Edmond	0.01
Continental Oil (F.E. 498)	Edmond	0.01
Continental Oil (F.E. 499)	Edmond	0.01
Continental Oil (F.E. 500)	Edmond	0.01

[FR Doc. 77-28987 Filed 10-3-77; 8:45 am]

[8128-01]

PROPOSED INDIANA GAS CO. SYNTHETIC NATURAL GAS PLANT

Availability of Final Environmental Impact Statement

AGENCY: Federal Energy Administration.

ACTION: Notice of availability.

SUMMARY: The Federal Energy Administration (FEA) hereby gives notice

of the availability of the final environmental impact statement (EIS) on the proposed Indiana Gas Co. synthetic natural gas (SNG) plant. The Indiana Gas Co.'s proposed SNG plant will be located in Pike Township, a rural suburb of Indianapolis. This plant will have the capacity to produce 60,000 mcf (thousand cubic feet) of SNG per day or 20,820,000 mcf annually based on 347 days of operation. The feedstock will be naphtha supplied by the LaGloria Oil and Gas Co.

DATE: Comments by November 3, 1977.

ADDRESS: Written comments to: Executive Communications, Box PV, Room 3317, Federal Energy Administration (Department of Energy), Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen (Regulatory Programs), Room 6318, 2000 M Street NW., Washington, D.C. 20461 (202-254-9730).
Robert J. Stern (Office of Environmental Impact), Room 7119, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9760).

Janine Landow-Esser (Office of General Counsel), Room 5113, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9380).

SUPPLEMENTARY INFORMATION: On December 23, 1976, the FEA made available to the Council on Environmental Quality and the public a draft EIS concerning the allocation of SNG feedstocks to the proposed Indiana Gas Co. plant (41 FR 56842). A public hearing was held on January 25, 1977, to receive comments from interested parties. The written comment period closed on April 8, 1977. On August 5, 1977, FEA made available to the Council on Environmental Quality and the public a supplement to the draft EIS (42 FR 40019). The written comment period on this supplement closed on September 19, 1977.

COMMENT PROCEDURE: Single copies of the Indiana Gas Co. final EIS (FES 77-1) are available upon request from the National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Copies of the EIS will also be available for public review in the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Interested parties are invited to submit written comments with respect to the final EIS to Executive Communications, Box PV, Room 3317, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on the documents submitted to FEA with the designation "Indiana Gas Company Final EIS (FES 77-1)." Ten copies should be submitted. All comments

should be received by FEA no later than November 3, 1977, in order to ensure consideration.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in one copy only, in accordance with the procedures set forth at 10 CFR 205.9 (f). Any material not accompanied by a statement of confidentiality will be considered to be non-confidential. FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., September 29, 1977.

ERIC J. FYGE,
Acting General Counsel,
Federal Energy Administration.
[FR Doc. 77-29194 Filed 10-3-77; 8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD FEDERAL SAVINGS AND LOAN ADVISORY COUNCIL

Meeting

SEPTEMBER 28, 1977.

Pursuant to Section 10(a) of Pub. L. 92-463, entitled the Federal Advisory Committee Act, notice is hereby given of the meeting of the Federal Savings and Loan Advisory Council on Monday, Tuesday, and Wednesday, November 7, 8, and 9, 1977. The meeting will commence at 9 a.m. on November 7 and 8, and 7:30 a.m. on November 9. The locations of the meetings are listed below:

MONDAY, NOVEMBER 7
9:30 a.m. Conference Level, Hyatt Regency Washington

Hiring and promotion policies.
Memorandum R-41—Guidelines Regarding Procedures and Management.
Loans to one borrower.
Liquidity and reserves on collateralized savings deposits of a public unit.
Appraiser instructions regarding real estate owned.
Need for land acquisition and development loans to sustain housing.
Status of RSU program.
Discussion of Memorandum R-42—Guidelines for determining the reasonableness of compensation and fees paid to officers, directors, and attorneys.

2 p.m. Federal Home Loan Bank Board Building

Savings and loan involvement in urban lending.
Mobile home lending.
Service corporation rule change 77-337 dated 6-1-77.
Review of asset limitations on real estate loan investments.
Review of net worth regulations.
IRA, Keogh, and pension funds insurance.
Modification of appraisal requirements.
Savings and Loan Association to act as trustees for pensions and profit sharing plans.

TUESDAY, NOVEMBER 8

9 a.m. Federal Home Loan Bank Board Building

Continued discussion of Monday afternoon topics.

2 p.m., Conference Level, Hyatt Regency Washington

General discussion.

WEDNESDAY, NOVEMBER 9

7:30 a.m., Conference Level, Hyatt Regency Washington

General discussion.

The meeting of the Federal Savings and Loan Advisory Council is open to the public.

ROBERT H. MCKINNEY,
Chairman.

[FR Doc. 77-29131 Filed 10-3-77; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION PACIFIC STRAITS CONFERENCE AND PACIFIC INDOONESIAN CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif. and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 24, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegations of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

H. R. Rollins, Secretary, Pacific Straits Conference, Pacific Indonesian Conference, 635 Sacramento Street, San Francisco, Calif. 94111.

Agreements Nos. 5680-26 and 6060-22 are substantially similar modifications of, respectively, the Pacific Straits Conference's and the Pacific Indonesian Conference's basic agreements which have been entered into by the member lines of each of the two conferences for the primary purpose of modifying the conferences' self-policing provisions. In particular, it is proposed to replace the

present conference arbitration procedure of self-policing with a neutral body system of self-policing.

In addition, Agreement No. 6060-22 deletes in its entirety the present Appendix thereto, and replaces it with a revised Appendix restricted to only those matters considered by the Conference members to be of legitimate Section 15 concern. Conference matters which the members consider to be of a purely internal nature and, therefore, not subject to Section 15 approval, have been transferred to a new Administrative Regulations section. In consequence of the above changes, Agreement No. 6060-22 modifies the approved basic agreement by making necessary conforming changes to the basic agreement.

By Order of the Federal Maritime Commission.

Dated: September 28, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 77-29138 Filed 10-3-77; 8:45 am]

[6730-01]

[Docket No. 77-48]

SEA-LAND SERVICE, INC.

General Increase in Rates in the U.S. West Coast/Puerto Rico Trade; Order of Investigation and Suspension

Effective September 29, 1977, Sea-Land Service, Inc. (Sea-Land) proposes to increase all of its ocean freight rates between U.S. West Coast ports and ports in Puerto Rico by 24 percent. The increase was filed with the Commission on August 30, 1977, and was accompanied by supporting financial data pursuant to Amendment 1 to General Order 11 (46 CFR 512.3(d)(1)).

Protests and inquiries have been received concerning the reasonableness of Sea-Land's proposed general increase from Omak Industries, Inc.; Puerto Rico Manufacturers Association; Star-kist Foods, Inc.; C. E. Grosjean Rice Milling Co. and Hunt-Wesson Foods, Inc. Generally, the protestants contend that the increase will have serious detrimental effects upon both their ability to do business in Puerto Rico and the Puerto Rican economy as a whole, or they request that the Commission carefully examine Sea-Land's increase to make certain that it is the minimum amount necessary to insure adequate transportation service.

Both the actual and projected data Sea-Land submitted for its proposed increase employed allocations using container statistics. General Order 11 requires the use of revenue ton statistics. Sea-Land contends that the two methods of allocation produce the same results. We do not agree.

Sea-Land submitted a Report of Rate Base and Income Account which used container-mile allocations in support of its April 1, 1977 general rate increase. By coincidence this data involved the same time period as Sea-Land's annual report for 1976. The annual report was

calculated using revenue ton-mile allocations. A comparison of these reports reveals that the use of container-mile allocations resulted in a significantly lower rate of return than would have resulted if revenue ton-mile allocations had been made. A similar difference could occur relative to the subject increase. Since both the actual and projected data submitted for the current increase employed container statistics, we feel that the rates of return for each report could be significantly understated.

Due to this area of concern relative to financial data submitted by Sea-Land, the Commission is of the opinion that the proposed general rate increase should be made the subject of an investigation to determine whether it is unjust, unreasonable or otherwise unlawful under Section 18(a) of the Shipping Act, 1916, and/or Section 4 of the Intercoastal Shipping Act, 1933. The Commission is of the further opinion that the involved tariff matter should be suspended pursuant to the authority granted the Commission by Section 3 of the Intercoastal Shipping Act, 1933.

It is the Commission's intention to expeditiously resolve the issues in this proceeding. Particular attention is invited to our Order dated March 23, 1977 in which this Commission announced its policy of avoidance of trial-type oral hearings. Commensurate with this policy, the Commission's Rules of Practice and Procedure (46 CFR 502.67(c)) were amended to provide for an expedited procedure in general revenue proceedings. An expedited procedure is herein ordered to enable the Commission to discharge the mandate imposed by Section 3 of the Intercoastal Shipping Act, 1933 to give preference to proceedings in which this Section is invoked "and decide the same as speedily as possible." In the fulfillment of its obligation to speedily decide the issues in this proceeding the Commission directs the respondent, intervenors and Hearing Counsel to exchange among themselves, information in support of their respective positions and wherever possible to enter into stipulations.

Now, therefore, it is ordered, That pursuant to Sections 18(a) and 22 of the Shipping Act, 1916, and Sections 3 and 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted to determine the lawfulness of Supplement No. 1 to Sea-Land Service, Inc. Tariff FMC-F No. 29, for the purpose of making such findings as the facts and circumstances warrant;

It is further ordered, That Sea-Land Service, Inc. be named Respondent in this proceeding;

It is further ordered, That Respondent furnish the Commission with financial data for the actual year ending June 30, 1977 and the projected year ending September 30, 1978 as required by Amendment 1 to General Order 11 (46 CFR 2(d)(1)) using revenue ton allocations as required by General Order 11, (46 CFR 514);

It is further ordered, That the parties submit to the Secretary, not later than October 28, 1977 individual or joint recommendations to the Commission identifying all unresolved issues and specifying the type of procedure best suited to resolve them. After consideration of these recommendations, the Commission will issue an appropriate order limiting the issues and establishing the procedure for their resolution or, alternatively, refer the matter to the Office of Administrative Law Judges for the establishment of such a procedure.

It is further ordered, That pursuant to Section 3 of the Intercoastal Shipping Act, 1933, Supplement No. 1 to Sea-Land Service, Inc. Tariff No. 29 is hereby suspended and the use thereof deferred to and including January 29, 1978 unless otherwise ordered by the Commission.

It is further ordered, That Sea-Land Service, Inc. file immediately a supplement to the aforementioned tariff matter, which supplement shall bear no effective date, shall reproduce this Order in its entirety, and shall state that the aforesaid matter is suspended and may not be used until January 29, 1978 and that the suspended matter may not be changed until this proceeding has been disposed of or until the period of suspension has expired; and that the rates, fares, charges, classifications, rules, regulations or practices in effect prior to the date of this Order and which were to be changed by the suspended tariff matter, or part or parts thereof, shall remain in effect during the period of suspension, unless otherwise ordered by the Commission.

It is further ordered, That this investigation determine whether the gross revenue to be derived from the proposed rate changes is just and reasonable. Evidence as to the effect of the proposed changes on the movement of any particular commodity or commodities will be considered relevant to this basic issue and may be used to determine what overall revenue will, in fact, be derived. However, the question of reasonableness of any particular rate will be affected by an order that may result from this proceeding only insofar as a finding is made regarding the reasonableness of the overall rate level of which the particular rate is a part.

It is further ordered, That shippers or other persons complaining about the level of any particular commodity rate may file a complaint pursuant to Section 22 of the Shipping Act, 1916 (46 USC 821) and litigate the issue of reasonableness of such rate with respect to cost of service, value of service and any other applicable ratemaking factors. They may also petition for leave to intervene in this proceeding provided that they will not broaden the issue described above and that they meet the other tests prescribed by Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72).

It is further ordered, That any changes or amendments to the tariff of Sea-Land Service, Inc. as may be filed during the

pendency of this investigation will be included in this investigation subject to the foregoing unless, as a result of such changes or amendments, more than 50 percent of Sea-Land's tariff items are increased or decreased by 3 percent or more, or the gross revenue of Sea-Land Service, Inc. will increase or decrease by 3 percent or more.

It is further ordered, That during the pendency of this investigation Sea-Land Service, Inc. will serve the Secretary of the Commission and all parties of record with notice of any tariff changes affecting any of the ten leading commodities as reported pursuant to 46 CFR 512.25 at the same time such changes are filed with the Commission.

It is further ordered, That copies of this Order shall be filed with the appropriate tariff schedules in the Bureau of Compliance of the Federal Maritime Commission.

It is further ordered, That (1) a copy of this Order be served upon Respondent, and upon this Commission's Bureau of Hearing Counsel, and published in the Federal Register.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene therein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) with a copy to all parties to this proceeding.

By the Commission:

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 77-29137 Filed 10-3-77; 8:45 am.]

[6730-01]

[Docket No. 77-49]

UNITED STATES LINES, INC.

General Increase in Rates in the U.S. Mainland/Guam Trade; Order of Investigation and Suspension

Effective September 29, 1977, United States Lines, Inc. (USL) proposes to increase its ocean freight rates and charges between U.S. East Coast, U.S. West Coast, Hawaiian Ports and Guam Ports by 5 percent. The increases were filed with the Commission on August 26 and 29, 1977 and were accompanied by supporting financial and operating data pursuant to Commission General Order No. 11, 46 CFR 512.

A protest and petition for suspension and investigation was received relative to the reasonableness of USL's proposed increase from the Government of Guam (Guam). Generally, Guam contends that the proposed increase is not cost justified and that its implementation would inflict severe economic consequences upon Guam and its citizens and requests that the Commission suspend the proposed increase and initiate an appropriate investigation.

Examination of USL's financial and operating data disclosed that the carrier is earning, and will continue to earn what may be inordinately high profits in its Guam service. It appears that this condition would prevail whether the carrier effects its proposed increases or not. Due to the level of these profits, the Commission is of the opinion that USL's proposed general increase should be made the subject of an investigation to determine whether they are unjust, unreasonable or otherwise unlawful under Section 18(a) of the Shipping Act, 1916, and/or Section 4 of the Intercoastal Shipping Act, 1933. Further, the Commission is of the opinion that the involved tariff matter should be suspended pursuant to Section 3 of the Intercoastal Shipping Act, 1933.

Now, therefore, it is ordered, That pursuant to the authority of Sections 18(a) and 22 of the Shipping Act, 1916, as amended, and Section 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of the tariff matter listed in Supplement No. 6 to USL Tariff FMC-F No. 52 and in Supplement No. 2 to USL Tariff FMC-F No. 58 for the purpose of making such findings as the facts and circumstances warrant.

It is further ordered, That pursuant to Section 3 of the Intercoastal Shipping Act, 1933, the tariff matter set forth in Supplement No. 6 to USL Tariff FMC-F No. 52 and in Supplement No. 2 to USL Tariff FMC-F No. 58 is hereby suspended and the use thereof deferred to and including January 23, 1978, unless otherwise ordered by the Commission.

It is further ordered, That there shall be filed immediately by USL consecutively numbered supplements to the aforementioned tariffs which supplements shall bear no effective date, shall reproduce this Order in its entirety and shall state that the aforesaid matter is suspended and may not be used until January 29, 1978, and that the suspended matter may not be changed until this proceeding has been disposed of or until the period of suspension has expired and that the rates, fares, charges, classifications, rules, regulations or practices in effect prior to the date of this Order and which were to be changed by the suspended tariff matter, or part or parts thereof, shall remain in effect during the period of suspension, unless otherwise ordered by the Commission.

It is further ordered, That this investigation determine whether the gross revenue to be derived from the proposed rate changes is just and reasonable. Evidence as to the effect of the proposed changes on the movement of any particular commodity or commodities will be considered relevant to this basic issue and may be used to determine what overall revenue will, in fact, be derived. However the question of reasonableness of any particular commodity rate is not an issue for determination in this proceeding. A particular rate will be affected by an order that may result from this proceeding only insofar as a finding is

made regarding the reasonableness of the overall rate level of which the particular rate is a part;

It is further ordered, That shippers or other persons complaining about the level of any particular commodity rate may file a complaint pursuant to Section 22 of the Shipping Act, 1916 (46 U.S.C. 821) and litigate the issue of reasonableness of such rate with respect to cost of service, value of service and any other applicable ratemaking factors. They may also petition for leave to intervene in this proceeding provided that they will not broaden the issue described above and that they meet the other tests prescribed by Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.72;

It is further ordered, That during the pendency of this investigation, USL will serve the presiding officer and all parties of record with notice of any tariff changes affecting any of the ten leading commodities as reported pursuant to 46 CFR 512.25 at the same time such changes are filed with the Commission.

It is further ordered, That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, the hearing date shall be set no later than January 13, 1978.

The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record;

It is further ordered, That (1) a copy of this Order be forthwith served upon the respondent and upon the Commission's Bureau of Hearing Counsel and published in the Federal Register, and (2) the respondent and Hearing Counsel be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure (46 CFR 502.72) with a copy to all parties to the proceeding.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 77-29137 Filed 10-3-77; 8:45 am]

[6740-02]

FEDERAL POWER COMMISSION

[Docket No. ER76-92]

CENTRAL TELEPHONE & UTILITIES CORP.

Compliance Filing

SEPTEMBER 28, 1977.

Take notice that Central Telephone & Utilities Corp. on August 25, 1977, tendered for filing revised Schedules 77-CWh-2 and 77-MWh-5, pursuant to ordering paragraph (C) of the Commission's Order issued July 26, 1977, in Docket No. ER76-92.

A copy of this filing has been mailed to all parties in the subject proceeding.

Any person desiring to protest said application should file a protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All protests should be filed on or before October 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29053 Filed 10-3-77; 8:45 am]

[6740-02]

[Docket No. R177-129]

COASTAL STATES GAS PRODUCING CO.

Petition for Special Relief

SEPTEMBER 28, 1977.

Take notice that on September 7, 1977, Coastal States Gas Producing Co. (Petitioner), 5 Greenway Plaza East, Houston, Tex. 77046, filed in Docket No. R177-129 a petition for special relief pursuant to §§ 2.56a(g) and 2.76 of the Commission's Statements of General Policy and Interpretation (18 CFR 2.56a(g), 2.76).

Petitioner seeks to collect a rate of \$2.69 for the sale of natural gas to Transcontinental Gas Pipe Line Corporation from its 43.75 percent working interest in wells located in Blocks 255 and 241, Offshore Texas. Petitioner proposes no additional investment.

It appears reasonable and consistent with the public interest to prescribe a period shorter than ten days for filing protests and petitions to intervene. Accordingly, any person desiring to be heard or to make any protest with reference to said petition should on or before October 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice

and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29054 Filed 10-3-77; 8:45 am]

[6740-02]

[Docket No. CP77-623]

COLUMBIA GULF TRANSMISSION CO. AND COLUMBIA GAS TRANSMISSION CORP.

Application

SEPTEMBER 28, 1977.

Take notice that on September 19, 1977, Columbia Gas Transmission Corp. (Columbia Transmission), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, and Columbia Gulf Transmission Co. (Columbia Gulf), 3805 West Alabama Avenue, Houston, Tex. 77027 (Applicants), filed in Docket No. CP77-623 a joint application pursuant to Section 7 of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 160 Mcf of natural gas per day for two years for E. R. Carpenter Company, Inc. (Carpenter), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants request authorization to transport up to 160 Mcf of natural gas per day for Carpenter which volumes Columbia Gulf would receive from Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), at mutually agreeable existing points of exchange in the State of Louisiana, and redeliver such volumes to Columbia Transmission for Carpenter's account. It is stated that Columbia Transmission would receive the subject gas delivered to it by Columbia Gulf for Carpenter's account in Boyd County, Ky. at an existing point of delivery and would transport and redeliver such gas to CNG Transmission Company (CNG) at an existing point of delivery in Greene County, Va. CNG, in turn, would deliver the transported volumes to the City of Richmond (City) for ultimate delivery to Carpenter for use in its Richmond, Va. plant, it is said.

Applicants indicate that Carpenter has contracted with its wholly-owned subsidiary Carpenter Oil and Gas Co. (Carpenter Oil) to purchase the subject gas proposed herein to be transported. It is stated that Carpenter Oil would sell Carpenter its total interest in Well No. 3,

Lac Blanc Field, Vermillion Parish, La., which interest is approximately 700 Mcf per day of natural gas production, at a cost of \$1.75 per Mcf for the entire 2-year term. Carpenter Oil affirms that the gas to be transported hereunder has not been dedicated to the interstate market and it would not be willing to sell the gas on a jurisdictional basis, it is said.

It is stated that Columbia Gulf would make a charge, which is currently 29.34 cents per Mcf for the proposed transportation service and would retain for company-use and unaccounted-for gas a percentage of the total volume of gas delivered into its system by Tennessee for Carpenter's account, which percentage is currently 2.5 percent. It is further stated that Columbia Transmission would make a transportation charge, which is currently 22.21 cents per Mcf and would retain for company-use and unaccounted-for gas a percentage of the total volume of gas delivered into its system by Columbia Gulf for Carpenter's account, which percentage is currently 3.1 percent.

Applicants indicate that the gas to be transported hereunder is for Priority 2 uses for which alternative fuels are not feasible since the products produced at Carpenter's Richmond plant would be contaminated by the by-products of combustion of alternate fuels. Applicants assert that Carpenter's Richmond plant is a customer of City on a firm basis and has been advised that severe curtailment can be expected for the next two years. Carpenter's Richmond facility manufactures cushioning products used in furniture, bedding, automotive seating, carpet cushioning and related uses, it is indicated.

Applicants state that they would not be required to construct any additional facilities to perform the transportation service requested herein.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 12, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required

herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 29055 Filed 10 3 77;8:45 am]

[6740-02]

[Docket No. R177-127]

MAURICE L. BROWN CO.

Petition for Special Relief

SEPTEMBER 28, 1977.

Take notice that on September 6, 1977, The Maurice L. Brown Co. (Petitioner), filed in Docket No. R177-127 a petition for special relief pursuant to § 2.76 of the Commission's Statements of General Policy and Interpretations (18 CFR 2.76). Petitioner seeks to collect a rate of \$1.5986 per Mcf for the sale of natural gas to United Gas Pipeline Co. from the Blocker-Fultz Gas Unit No. 1, Harrison County, Tex. Petitioner states that the well is currently shut in due to a casing leak, and that the proposed rate increase is necessary to put the well back into production.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for the filing of protests and petitions to intervene.

Therefore, any person desiring to be heard or to make any protest with reference to said petition should on or before October 7, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 29056 Filed 10-3-77;8:45 am]

[6740-02]

[Docket No. ER76-830]

MISSISSIPPI POWER & LIGHT CO.

Compliance Filing

SEPTEMBER 28, 1977.

Take notice that on September 13, 1977, Mississippi Power & Light Co.

(MP&L) tendered for filing, pursuant to ordering paragraph (B) of the Commission's Order Approving Settlement Agreement issued August 3, 1977 in this proceeding, its Rate Schedule MW-15, which is applicable to resale service to municipalities, and its Rate Schedule REA-15, which is applicable to resale service to electric power associations.

MP&L states that Rate Schedules MW-15 and REA-15 are in substitution for Rate Schedules MW-14 (Revised) and REA-14 (Revised) as of December 1, 1976, and that they incorporate the recommendations made by the Federal Power Commission's Office of Chief Accountant, Audits Division Report released May 17, 1977.

Any person desiring to be heard or to protest said filing should file a protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such protests should be filed on or before October 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29057 Filed 10-3-77;8:45 am]

[6740-02]

[Docket No. ER77-594]

ROCHESTER GAS & ELECTRIC CORP.

Cancellation

SEPTEMBER 28, 1977.

Take notice that Rochester Gas & Electric Corp. (Rochester) on September 19, 1977, tendered for filing notice of cancellation of FPC Rate Schedule No. 22. Rochester proposes an effective date of October 29, 1977.

Rochester states that copies of this filing have been sent to Consolidated Edison Co. of New York, Inc.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 5, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29058 Filed 10-3-77;8:45 am]

[6740-02]

[Docket No. RP77-129-2]

UNITED GAS PIPE LINE CO.; (GEORGIA-PACIFIC CORP.)

Petition for Extraordinary Relief

SEPTEMBER 27, 1977.

Public notice is hereby given that on August 19, 1977, Georgia-Pacific Corp. (G-P) filed a petition pursuant to § 2.78 (b) of the Commission's Rules and Regulations for extraordinary relief from the curtailment plan of its supplier, United Gas Pipe Line Co. (United). By its petition, G-P seeks an order directing United to deliver to G-P's paper mill at Port Hudson, La., sufficient gas to meet its daily average requirements of 255 Mcf at that facility.

G-P's petition refers to a letter dated July 15, 1977 addressed by United to all of its direct industrial and city gate customers, which letter states United's intention, effective November 1, 1977, to completely curtail plant protection volumes and to curtail industrial requirements of less than 50 Mcf per day by up to 40 percent. G-P states that it presently receives all of its natural gas supplies from United, and that it has no existing alternate fuel capability for the boiler and furnace requirements in question. G-P has, however, retained a consulting firm to do design engineering for a LP gas system to meet the energy requirements for which it now seeks relief. Furthermore, G-P states that natural gas is available from an alternate source and that it is presently negotiating to establish transportation arrangements for the direct purchase of that gas pursuant to the provisions of the Commission's Order No. 533. However, G-P apprehends that it will be impossible to install the alternate fuel capability equipment or to finalize the Order 533 purchases prior to November 1. Absent the relief sought, G-P states that it will be necessary to shut down its plant in Port Hudson, La., thereby risking extensive, but indeterminate damage to equipment from freezing.

Any person desiring to be heard or to protest Georgia-Pacific Corp.'s filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions should be filed on or before October 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29052 Filed 10-3-77;8:45 am]

[6740-02]

[Docket No. RP77-129-1]

UNITED GAS PIPE LINE CO.; (SOUTHLAND OIL CO.)

Petition for Extraordinary Relief

SEPTEMBER 27, 1977.

Public notice is hereby given that on October 29, 1976, Southland Oil Co. (Southland) filed a petition pursuant to § 2.78(b) of the Commission's Rules and Regulations for extraordinary relief pendente lite and on a permanent basis from the curtailment plan of its supplier, United Gas Pipe Line Co. (United). By its petition, Southland seeks an order directing United to deliver to Southland's refinery at Lumberton, Miss. the following minimum volumes of natural gas: 375 Mcf per day during the 1977-78 winter season, 176 Mcf per day during the 1978-79 and all subsequent winter seasons, and 370 Mcf per day during each summer season commencing in 1978. Southland requests that such deliveries not be conditioned on any payback obligation.

Southland's petition cites evidence from United Gas Pipe Line Company, Docket No. RP77-92, to demonstrate that gas deliveries to its Lumberton Refinery would be completely curtailed during the coming winter. Southland states that it is currently taking steps to convert most of its natural gas requirements at the Lumberton Refinery to fuel oil, but that if the requested relief is not granted, it may be necessary to shut down that facility.

Southland's petition states that Southland is a small independent refiner of crude oil and that it has a purchase contract with United for 1,000 Mcf/d on an annual basis. Southland asserts that the requested relief volumes would be utilized for high priority purposes in the processing of crude oil. Southland argues that the public interest requires the granting of its request for extraordinary relief since its refinery operation results in a net production of energy. Furthermore, Southland argues that its petition is consistent with the established national policy of protecting the viability of small, independent refiners.

Any person desiring to be heard or to protest Southland's filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before October 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29051 Filed 10-3-77;8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

BARNETT BANKS OF FLORIDA, INC.

Order Approving Acquisition of Bank

Barnett Banks of Florida, Inc., Jacksonville, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under Section 3(a)(3) of the Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares of Amelia Island Bank, Fernandina Beach, Fla. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with Section 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in Section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the second largest banking organization in Florida, controls 50 banks with aggregate deposits of \$2.2 billion representing approximately 8.2 percent of total commercial bank deposits in Florida.¹ Acquisition of Bank (\$5.3 million in deposits) would increase applicant's share of commercial bank deposits be less than one-tenth of one percent, would not change Applicant's rank among banking organizations in the State, and would have no appreciable effect upon the concentration of banking resources in the State.

Applicant is seeking to make its initial entry into the Fernandina Beach market by acquiring Bank, the smaller of the two banks located in the market, with 21.5 percent of commercial bank deposits in the market.² Applicant's closest subsidiary bank is in Jacksonville, 25 miles south of Bank. Based upon the facts of record, it appears that no significant competition exists between Applicant's banking subsidiaries and Bank, and it is not likely that significant future competition would develop between them because of the distances involved and Florida's restrictive branching laws. De Novo entry into the market is unlikely due to the unattractiveness of the market in light of its low population and deposits per banking office ratios. Accordingly, on the basis of the record, it is concluded that consummation of the proposed transaction would not have any significant adverse effects on existing or potential competition in any relevant area.

The financial and managerial resources and future prospects of Applicant and its subsidiaries are regarded as satisfactory and consistent with approval. The financial and managerial re-

¹ All banking data are as of December 31, 1976 and reflect bank holding company formations and acquisitions approved through July 31, 1977.

² The relevant market is approximated by the eastern portion of Nassau County extending westward from the Atlantic Ocean to a boundary roughly defined by Interstate 95.

sources and future prospects of Bank would be improved through affiliation with Applicant. Affiliation with Applicant will enable Bank to provide improved and additional services to the community. Considerations relating to the convenience and needs of the community. Considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application. It has been determined that the proposed acquisition would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reason summarized above. The transaction shall not be consummated (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Secretary of the Board, acting pursuant to delegated authority from the Board of Governors, effective September 28, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-29085 Filed 10-3-77;8:45 am]

[6210-01]

CITICORP

Request for Determination and Notice Providing Opportunity for Hearing

Notice is hereby given that a request has been made to the Board of Governors of the Federal Reserve System, pursuant to the provisions of section 2(g)(3) of the Bank Holding Company Act of 1956 (12 U.S.C. 1841(g)(3)) ("the Act"), by Citicorp, New York, N.Y., with respect to its sale of all of the shares of Cresap, McCormick and Paget, Inc. ("CMP"), for a determination that Citicorp is not, nor will it be, in fact capable of controlling the transferees of such shares, despite the indebtedness of each such transferee to Citicorp as a result of their purchase of such shares. The transferees of the shares of CMP are: Arnold B. Becker, Rodney F. Beckwith, Robert L. Bush, James W. Buttner, Rodman L. Drake, Bill G. Evans, Chris R. Geckeler, Milton F. Heller, Jr., John H. Hoffman, Fred H. Meyer, Georges Pelipas, Allan J. Prager, Nicholas J. Radell, George I. Roen, James J. Sullivan, Peter Van Pelt and George M. Whitmore, Jr.

Section 2(g)(3) of the Act provides that shares transferred after January 1, 1966, by any bank holding company (or any company which but for such transfer, would be a bank holding company) directly or indirectly to any transferee that is indebted to the transferor or has one or more officers, directors, trustees, or beneficiaries in common with or subject to control by the transferor, shall be deemed to be indirectly owned or controlled by the transferor, unless the

Board, after opportunity for hearing, determines that the transferor is not, in fact, capable of controlling the transferee.

Notice is hereby given, that, pursuant to section 2(g)(3) of the Act, an opportunity is provided for filing a request for oral hearing. Any such request or written comments on the application should be submitted in writing (in duplicate) to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than October 24, 1977. If a request for oral hearing is filed, each request should contain a statement of the nature of the requesting person's interest in the matter, the person's reasons for wishing to appear at an oral hearing, and a summary of the matters concerning which such person wishes to give testimony. The Board subsequently will designate a time and place for any hearing it orders, and will give notice of such hearing to the transferor, the transferee, and all persons that have requested an oral hearing. In the absence of a request for an oral hearing, the Board will consider the requested determination on the basis of documentary evidence filed in connection with the application.

Board of Governors of the Federal Reserve System, September 24, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29086 Filed 10-3-77;8:45 am]

[6210-01]

CLEVETRUST CORP.

Order Approving Acquisition of Lake Life Insurance Co.

CleveTrust Corp., Cleveland, Ohio, a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to acquire shares of Lake Life Insurance Co., Wilmington, Del. ("Company"), a company that will engage de novo in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance directly related to extensions of credit by the bank holding company system. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(10)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 38939 (1977)). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the largest bank holding company in Ohio, controls ten subsidiary banks with aggregate deposits of \$3.4

billion,¹ representing 11.1 percent of the total deposits in commercial banks in the State. Applicant currently owns no non-banking subsidiaries.

Company is chartered under the laws of Delaware and will engage in the activity of underwriting, as reinsurer, credit life and credit accident and health insurance sold in connection with extensions of credit by Applicant's lending subsidiaries.² Inasmuch as the subject proposal involves engaging in this activity de novo, consummation of this transaction would not have any adverse effect upon existing or potential competition in any relevant market.

Credit life and credit accident and health insurance is generally made available by banks and other lenders and is designed to assure repayment of a loan in the event of death or disability of the borrower. In connection with its addition of the underwriting of such insurance to the list of permissible activities for bank holding companies, the Board stated:

To assure that engaging in the underwriting of credit life and credit accident and health insurance can reasonably be expected to be in the public interest, the Board will only approve applications in which an applicant demonstrates that approval will benefit the consumer or result in other public benefits. Normally such a showing would be made by a projected reduction in rates or increase in policy benefits due to bank holding company performance of this service. (12 CFR 225.4(a)(10), n.7)

Applicant proposes to offer, through Company, various credit life and credit accident and health insurance coverages to its customers at rates ranging from 4.9 to 5.1 percent below the approved and prima facie rates established in Ohio.³ In addition, Applicant proposes to expand generally the insurance coverage that it currently makes available so that uniform coverage is offered to all borrowers from its banking subsidiaries. Based upon these factors, the Board concludes that Applicant's proposed continued reductions in premiums and expanded coverage are precompetitive and in the public interest.

¹ All banking data are as of December 31.

² Company is not qualified to act as a direct underwriter of insurance in Ohio, and, consequently, it has entered into an agreement with Credit Life Insurance Co., Springfield, Ohio ("Credit"), whereby Credit will directly underwrite the credit insurance generated by Applicant's banking subsidiaries. Credit is prohibited by Ohio law from reinsuring its policies with any insurance company that is not authorized to do business in Ohio. Therefore, Credit will cede the risk of the insurance related to extensions of credit by Applicant's banking subsidiaries to such a company, which in turn will cede to Company the liability on any credit life and credit accident and health insurance related to extensions of credit by Applicant's banking subsidiaries.

³ Prima facie rates are the maximum rates allowed by the State for particular types of insurance coverage. Where no prima facie rate exists for a type of coverage, the insurance company may apply to the State insurance department for approval of a proposed rate.

[6210-01]

DEXTER BANKING CO.

Formation of Bank Holding Company

Dexter Banking Co., Dexter, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Farmers & Merchants State Bank, Dexter, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 26, 1977.

Board of Governors of the Federal Reserve System, September 28, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29089 Filed 10-3-77;8:45 am]

[6210-01]

FIRST STATE BANCORP., INC.

Formation of Bank Holding Company

First State Bancorp., Inc., Dimmitt, Tex., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of First State Bank of Dimmitt, Texas, Dimmitt, Tex. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 25, 1977.

Board of Governors of the Federal Reserve System, September 27, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29090 Filed 10-3-77;8:45 am]

[6210-01]

HOLT COUNTY INVESTMENT CO.

Order Approving Formation of Bank Holding Company

Holt County Investment Co., St. Joseph, Mo., has applied for the Board's

approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company by acquiring 94 percent of the voting shares of Zook and Roecker State Bank, Oregon, Mo. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a nonoperating corporation organized for the purpose of becoming a bank holding company through the acquisition of Bank, Bank (deposits of \$2.9 million) ranks fourth out of the six banks operating in the Holt County banking market (which is approximated by Holt County) and controls 11.9 percent of the total deposits in commercial banks in the market. Upon acquisition of the Bank, Applicant would control .02 percent of total deposits in commercial banks in Missouri.

The principals of Applicant are also officers and directors of First Midwest Bancorp., St. Joseph, Mo., and four of its six subsidiary banks. However, none of these banks operates in Bank's market. Inasmuch as the proposed transaction represents a reorganization of the present control of Bank from individuals to a corporation owned by the same individuals, the acquisition of Bank by Applicant would not have any significant adverse effect upon either existing or potential competition within the relevant banking market. Accordingly, on the basis of the record, the Board concludes that competitive considerations are consistent with approval of the application.

The financial and managerial resources and future prospects of both Applicant and Bank are regarded as satisfactory. While Applicant will incur acquisition debt as a result of this approval, Applicant plans to meet its debt servicing requirements primarily through the earnings of Bank. In the Board's view, Bank's earnings prospects appear to be adequate in order to allow Applicant to service that debt without impairing the financial condition of the Bank. Accordingly, the Board concludes that considerations relating to the banking factors are consistent with approval of the application. Although consummation of the transaction would effect no immediate changes in the services that are being offered by Bank, the Board regards considerations relating to convenience and needs of the community to be served as being consistent with approval.

¹ All banking data are as of December 31, 1976.

proval. It is the Board's judgment that consummation of the holding company formation would be in the public interest and that the application to acquire Bank should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,
Effective September 27, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29091 Filed 10-3-77; 8:45 am]

[6210-01]

[Docket No. R-0115; Reg. Q]

INTEREST OF DEPOSITS

Order Granting Temporary Suspension of Early Withdrawal Penalty

The Board of Governors has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks (12 CFR 217.4(d)) for depositors affected by the severe storms and flooding beginning about September 12, 1977, in the State of Kansas. On September 20, 1977, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 11795 of July 11, 1974, the President designated the following counties of the State of Kansas a major disaster area: Atchison, Brown, Doniphan, Jackson, Jefferson, Johnson, Leavenworth, Nemaha, Shawnee, and Wyandotte. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.¹ The Board's action permits a member bank wherever located to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has, in fact, suffered property or other financial loss in the disaster area as a result of the severe storms and flooding. A member bank should obtain from a depositor seeking to

¹ Voting for this action: Governors Coldwell, Jackson, Partee and Lilly. Absent and not voting: Chairman Burns and Governors Garner and Walllich.

² Section 217.4(d) of Regulation Q provides that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed for a savings deposit and that the depositor shall forfeit three months of interest payable at such rate.

withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to September 20, 1977, and will remain in effect until 12 midnight March 31, 1978.

Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in § 217.4(d) of Regulation Q for the benefit of depositors suffering disaster-related losses within those geographical areas of the State of Kansas officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster area.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the flooding in the designated counties of Kansas, the Board finds that good cause exists for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and that public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, the Board finds that there is good cause to make the action effective immediately.

By order of the Board of Governors,
effective September 27, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29096 Filed 10-3-77; 8:45 am]

[6210-01]

LANDMARK BANKING CORP. OF FLORIDA

Order Approving Application to Engage in the Activity of Providing Management Consulting Advice

Landmark Banking Corporation of Florida, Fort Lauderdale, Fla., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under Section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to engage de novo in the activity of providing management consulting advice to nonaffiliated commercial banks. Such activity has been determined by the Board to be closely related to banking (12 CFR 225.4(a)(12)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public

interest factors, has been duly published (42 FR 34554 (1977)). The time for filing comments and views has expired, and the Board has considered the application and all comments received, including those submitted by the United States Department of Justice, in the light of the public interest factors set forth in Section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant, the eighth largest commercial banking organization in Florida, controls seventeen banks with aggregate deposits of approximately \$869 million, representing 3.2 per cent of the total deposits in commercial banks in the State.¹ Applicant is also engaged, through nonbank subsidiaries, in the permissible nonbank activities of providing investment advisory and mortgage banking services.

Applicant proposes to engage de novo in providing management consulting advice to nonaffiliated commercial banks on an explicit fee basis only. Such consulting services would include advice concerning bank operations, systems and procedures, computer operations and mechanization, cost analysis, and site planning. Since Applicant proposes to engage in these activities de novo, it does not appear that any meaningful competition would be eliminated or potential competition foreclosed as a result of approval of the application. Rather, it appears that Applicant's de novo entry into this industry should have a procompetitive effect by increasing the number of firms offering this specialized consulting advice. Furthermore, by making this service available on an explicit fee basis rather than as a correspondent banking service, clients will be able to analyze more accurately the cost of such services and may be able to allocate their funds more efficiently.

There is no evidence in the record to indicate that Applicant's engaging in the activity of providing management consulting advice would result in any undue concentration of resources, unfair competition, conflicts of interests or unsound banking practices.²

¹ Unless otherwise noted, all banking data are as of December 31, 1976.

² In connection with the subject application, the United States Department of Justice submitted a letter expressing concern that possible conflicts of interests could result from approval of this proposal. However, at the time the Board adopted the activity of providing management consulting advice to nonaffiliated banks pursuant to section 4(c)(8) of the Act, the Board considered the potential for conflicts of interests resulting from a bank holding company's engaging in this activity. In recognition of this potential, the Board incorporated in Regulation Y a number of restrictions upon a bank holding company's performance of this activity, including the stipulation that any bank holding company providing management consulting advice must disclose to each potential client bank the names of all banks that are affiliates of the consulting company and the names of all existing client banks located in the same market area(s) as the potential client. The Board is of the opinion that these restrictions provide ample protection against possible conflicts of interests.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

The transaction shall be made not later than three months after the effective date of this Order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta, pursuant to authority hereby delegated.

By order of the Board of Governors,
effective September 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29092 Filed 10-3-77; 8:45 am]

[6210-01]

PHILLIPSCO, INC.

Order Approving Formation of Bank Holding Company

Phillipsco, Inc., Denver, Colo. ("Applicant"), has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act ("the Act") (12 U.S.C. 1842(a)(1)) of formation of a bank holding company by acquiring 97.5 percent of the voting shares of The First National Bank of Holyoke, Holyoke, Colo. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the application and all comments received have been considered in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a recently chartered, non-operating corporation, organized for the purpose of becoming a bank holding company by acquiring Bank, which holds deposits of \$12.8 million.¹ Upon acquisition of Bank, Applicant would control the 139th largest commercial bank in the State of Colorado. Applicant would control approximately 0.15 percent of total deposits in commercial banks in the State.

Bank, located in Holyoke, Colo., is the largest of three commercial banks in the relevant banking market and holds approximately 55.9 percent of the total

¹ Voting for this action: Governors Wallich, Coldwell, Jackson, and Partee. Absent and not voting: Chairman Burns and Governors Gardner and Lilly.

² All banking data are as of December 31, 1976.

commercial bank deposits in the market.² It was recently purchased by Applicant's principals. One of the principals of Applicant is also a director of a large Colorado multibank holding company and an officer and director of one of its subsidiary banks. However, that company currently has no subsidiaries in the relevant market, and, therefore, there is no significant competition between that company and Bank at this time. In addition, it appears unlikely that consummation of this proposal would have any adverse effect upon potential competition or increase the concentration of banking resources in any relevant area. Thus, the Board concludes that the competitive effects of the proposal are consistent with approval of the application.

On February 15, 1977, Applicant agreed to acquire, subject to Board approval, shares of Bank that Applicant's principals had purchased two months earlier. In originally purchasing the shares that are the subject of this application, those principals incurred debt which, if this application is approved and the proposed transaction consummated, will be assumed by Applicant.

Upon consideration of the size and terms of this debt, service of which will be dependent upon Bank's earnings, the historic growth of the relevant banking market in particular and Colorado banks in general, Bank's historical earnings and the operating results of other banks located in the same geographic area, the Board believes that Applicant's acquisition debt, the debt temporarily assumed by its principals in anticipation of Applicant's formation, can be serviced without adversely affecting the financial resources of Bank, which are considered generally satisfactory. In reaching this conclusion, the Board is influenced by several facts. First, Applicant will be able to service its debt if Bank achieves earnings equal to the average of banks in its area, and current Bank earnings are well ahead of Applicant's projections. Second, while Applicant is somewhat leveraged, the individual investors incurred no personal debt in making a substantial capital contribution to Applicant. Third, the principals of Applicant have many years of banking experience. Finally, Applicant does not plan any immediate expansion of its operations and intends to limit its activities in the near future solely to the ownership and management of Bank, thereby permitting its entire resources to be devoted to Bank. The Board therefore concludes that the financial resources and future prospects of Bank and Applicant lend weight toward approval of the application.

The Board also concludes that considerations relating to the managerial

² The relevant banking market is approximated by Phillips County, Holyoke is the County seat, Phillips County is in northeastern Colorado. Population of this agricultural county declined 7 percent between 1960 and 1970 to 4,131. However, the population of Holyoke increased 5.5 percent in this same period to 1,646.

resources of Bank and Applicant lend weight toward approval of this application. Applicant's managerial resources are considered satisfactory and Applicant's principals in the brief period they have controlled Bank pending disposition of this application have actively strengthened Bank's managerial resources. Before Applicant's principals acquired Bank, Bank had no middle management and no plans for succession, and the two senior officers were near or above retirement age. Applicant's principals have substantial banking experience and have provided Bank with experienced management which will ensure management succession which was lacking before.

Regarding convenience and needs factors, Applicant states that there are no plans for significant changes in the kinds of services provided by Bank. Under new ownership, however, Applicant's principals have initiated a more aggressive loan policy, with the result that Bank has become more responsive to the borrowing needs of the area. In this connection, Bank has been able to increase its loan to deposit ratio without injury to the quality of its loan portfolio. The Board regards the expansion of Bank's lending services as a positive factor and, therefore, concludes that convenience and needs considerations lend weight toward approval of the application.

For the reasons discussed above, the Board concludes that approval of the application to become a bank holding company would be in the public interest and that the application should be approved.

On the basis of the facts of record and for the reasons summarized above, the application is approved. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,
effective September 27, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29093 Filed 10-3-77; 8:45 am]

[6210-01]

SECURITY STATE BANK HOLDING CO.

Order Approving Formation of Bank Holding Company

Security State Bank Holding Company, Hannaford, N. Dak., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) of formation of a bank holding company through ac-

¹ Voting for this action: Governors Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governors Gardner and Wallich.

quisition of 96 per cent of the voting shares of Security State Bank of Hannaford, Hannaford, N. Dak. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, a nonoperating corporation with no subsidiaries, was organized for the purpose of becoming a bank holding company through the acquisition of Bank. Bank, with deposits of \$8.5 million,¹ is the fourth largest of six banking organizations and controls approximately 15.8 per cent of the total commercial bank deposits in the relevant banking market.² Upon acquisition of Bank, Applicant would control the 81st largest banking organization in North Dakota, holding 0.3 per cent of the total deposits in commercial banks in the State. Inasmuch as the proposed transaction is essentially a reorganization whereby the shareholders who presently control Bank directly will control Bank indirectly through Applicant, and since Applicant presently has no subsidiaries and engages in no activities, consummation of the proposal would not eliminate existing or potential competition, or increase the concentration of banking resources in the relevant market.³ Therefore, competitive considerations are consistent with approval of the application.

The financial and managerial resources of Applicant, which are dependent upon those of Bank, are considered to be satisfactory, and their future prospects appear favorable. Although Applicant would incur some debt as a result of this proposal, it appears that dividends from Bank would enable Applicant to meet its debt service requirements without adversely affecting the financial condition of Bank. Accordingly, considerations relating to banking factors are consistent with approval of the application.

While no major changes are contemplated in Bank's services, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Accordingly, it is the Board's judgment that consummation of the proposed transaction would be consistent with the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this Order or (b) later than three months after the effective date of this Order, unless such period is extended for good cause by the Board, or by the Fed-

¹ All banking data are as of December 31, 1976.

² The relevant banking market is approximated by Griggs and Steele Counties.

eral Reserve Bank of Minneapolis pursuant to delegated authority.

By order of the Board of Governors,¹ effective September 26, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc 77-29094 Filed 10-3-77; 8:45 am]

[6210-01]

WYOMING NATIONAL CORP.

Acquisition of Bank

The Wyoming National Corp., Casper, Wyo., has applied for the Board's approval under Section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a) (3)) to acquire 81 percent or more of the voting shares of Wyoming Bank of Rawlins, Rawlins, Wyo., a proposed new bank. The factors that are considered in acting on the application are set forth in Section 3(c) of the Act (12 U.S.C. 1842 (c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than October 28, 1977.

Board of Governors of the Federal Reserve System, September 28, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc.77-29095 Filed 10-3-77; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

FIRST NATIONAL HOLDING CORP.

Order Approving Acquisition of Banks

First National Holding Corp., Atlanta, Ga., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a) (3) of the Act (12 U.S.C. 1842(a) (3)) to acquire 100 percent of the voting shares of First Bank of Savannah ("Savannah"), Savannah, Ga., and approximately 78 percent of the voting shares of The First National Bank of Dalton ("Dalton"), Dalton, Ga. In acquiring Dalton, Applicant would formally acquire indirect ownership of 64.4 percent of the voting shares of The Bank of Dalton, Dalton, Ga. These shares are held by National Loan Company, Dalton, Ga., a wholly owned subsidiary of Dalton.

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3 of the Act (41 FR 46059; 42 FR 12236). The time for filing comments and views has expired, and the Board has considered the applications and all comments received in light of the factors specified in section 3(c) of the Act.

The applications are consolidated because of a set of facts common to them. In both instances Applicant seeks the

¹ Voting for this action: Governors Coldwell, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governors Gardner and Wallich.

Board's permission to acquire bank shares held by, or subject to a contractual right to acquire bank shares held by, former directors of Applicant's subsidiary bank, The First National Bank of Atlanta ("Atlanta Bank"), Atlanta, Ga., pursuant to arrangements made in 1969 and 1970. Under those arrangements Atlanta Bank financed the ultimate acquisition of controlling interest in Savannah and Dalton by persons affiliated with Atlanta Bank at preferential terms and without risk of loss to the borrowers. The Board has previously determined that similar arrangements may evidence indirect control of bank shares by a company and, if undertaken without prior Board approval, may constitute violations of the Bank Holding Company Act.¹ In connection with these proposals, the Board has scrutinized the underlying facts surrounding the acquisitions of shares of Dalton and Savannah and the acquisition of rights to acquire shares of Dalton by Applicant's subsidiary bank acting through persons related to it, and has concluded that Atlanta Bank, by virtue of these arrangements, acquired indirect ownership and control of more than 25 percent of the shares of both banks without the Board's prior approval in violation of section 3 of the Act.² In

¹ See, e.g., The Jacobus Co. and Inland Financial Corp., 60 Federal Reserve Bulletin 130 (1974); MidAmerica Bancorporation, 60 Federal Reserve Bulletin 131 (1974); First United Bancorporation, Inc., 61 Federal Reserve Bulletin 889 (1975).

² The material facts, summarized here, are undisputed. In the case of Savannah, Atlanta Bank in March 1969 lent, without interest, \$2.7 million to an unrelated individual to acquire all but the directors' qualifying shares of that bank. In April 1970, the bank shares and loan were transferred to the former chairman of Atlanta Bank's executive committee. This loan was structured so that the borrower assumed no personal liability on his debt to Atlanta Bank beyond the shares of Savannah pledged as collateral for that loan, and so that interest would equal dividends paid by Savannah. In September 1971, Atlanta Bank lent this individual on the same basis an additional \$500,000 to acquire additional shares of Savannah. Since 1971 Applicant has invested an additional \$4.4 million directly in Savannah's preferred shares and capital notes. Since 1972, Savannah's executive committee has voted the shares of Savannah held by Atlanta Bank's former director pursuant to proxies executed by him.

In the case of Dalton, several individual shareholders of Dalton, unrelated to Atlanta Bank, placed shares of Dalton in a trust in January 1969, with a view to preventing another Georgia bank from gaining control of Dalton. Under the terms of the trust four directors and former directors of Atlanta Bank agreed to buy from the trust shares of Bank agreed to buy from the trust shares of who any shareholder-beneficiary who died or who decided to sell, at a formula price, if the remaining shareholder-beneficiaries declined to do so. At the same time Atlanta Bank agreed to lend to its designated directors the funds necessary to buy shares from the trust, without personal liability and at interest equal to dividends. Over time additional shares were placed in trust. These arrangements involved about 78 percent of Dalton's voting shares, 39 percent that are still held in trust and another 39 percent that passed through the trust to Atlanta Bank's former directors between 1969 and 1976.

accordance with its policy regarding violations of the Act, and, upon its examination of all the facts of record, the Board is of the view that the specific facts involved in the original indirect acquisitions, even viewed in isolation and absent other adverse considerations, might require denial of the applications but for Applicant's thorough and definite undertakings to guard against violations in the future.³

Applicant, the second largest banking organization in Georgia, controls one bank other than Dalton and Savannah, holding total deposits of \$1.2 billion, or approximately 10 percent of the total deposits in commercial banks in the State.⁴ Savannah is the fourth largest of nine commercial banks located in the Savannah banking market,⁵ and holds deposits of \$33.4 million, or 6 percent of the deposits in commercial banks in that market. Dalton is the largest of six banks in the Dalton banking market,⁶ and holds deposits of \$74 million, or approximately 46 percent of the deposits in commercial banks in that market. The Bank of Dalton, which also is located in the Dalton banking market, holds deposits of \$20.8 million (11 percent of market deposits), and is the third largest commercial bank in that market. Taken together, Dalton and The Bank of Dalton control approximately 57 percent of the market's commercial bank deposits.

Applicant's direct subsidiary bank is located in the Atlanta banking market,⁷ which is approximately 250 miles from Savannah and over 50 miles from Dalton, and Applicant's nonbank subsidiaries are not significant competitors in either the Savannah or Dalton banking markets. Viewing the competitive situation as it existed in 1969 and 1970 when Atlanta Bank arranged to obtain control of Dalton and Savannah, it appears that, in light of the fact that Dalton, Savan-

³ The record also reflects that before initiating these transactions Atlanta Bank had reason to believe them lawful, and that Applicant openly disclosed its transactions regarding Dalton and Savannah to its shareholders and to the Board as soon as those transactions were questioned and cooperated with efforts by the Board's staff to resolve the violations question. Applicant's cooperation, the nature of the violations, the fact that the transactions originated before the Board publicized its policy on such transactions and that management has changed since the transactions originated, coupled with Applicant's undertaking a definite program regarding its future conduct, together persuade the Board that the violations do not reflect so adversely on Applicant's management as to require denial of these applications, though no one of those considerations standing alone might be persuasive.

⁴ Banking data are as of December 31, 1976.

⁵ The Savannah banking market is approximated by Chatham and Effingham Counties and those portions of Liberty and Bryan Counties that lie east of Fort Stewart.

⁶ The Dalton banking market is approximated by Whitfield and Murray Counties.

⁷ The Atlanta banking market is approximated by Fulton, DeKalb, Cobb, Gwinnett, Clayton, Douglas, Henry, and Rockdale Counties.

nah, and Atlanta Bank serve separate banking markets, the acquisitions eliminated and, viewed as present acquisitions would eliminate, no existing banking competition in the relevant markets. Furthermore, consummation of the Dalton proposal may have a procompetitive effect, inasmuch as Applicant has committed, if its application is approved, to sever the affiliation between Dalton and The Bank of Dalton that has existed since 1918.⁸ This would establish The Bank of Dalton as an independent new competitor in a relatively concentrated market. Moreover, continued affiliation between Applicant and Savannah may preserve Savannah's ability to compete with the larger organizations in the market.⁹ The Board accordingly concludes that competitive considerations are consistent with approval of both applications and lend weight to approval of the application to acquire Dalton.

Considerations relating to the convenience and needs of the communities to be served are also consistent with approval of both applications. Applicant states that it will provide a number of new services to both banks, and Applicant has provided assistance to both banks under its present relationship with them.

The financial and managerial resources and future prospects of Dalton and Savannah are viewed as generally satisfactory. Applicant's managerial resources and future prospects are also considered generally satisfactory. Its financial resources, which suffered during the downturn in the real estate industry in the Southeast, are improving. There is no indication in the record that Applicant's recovery is progressing at an unsatisfactory rate, but the Board believes that applicant should continue to strengthen those financial resources before it attempts to expand through proposals involving a diversion of its existing resources.

These proposed transactions, however, represent essentially the reorganization of existing indirect investments, one that would have only a minimal or conceivably a positive effect on the financial resources of Applicant. Applicant made most of its proposed investments in Dalton and Savannah beginning in 1969. In the case of Savannah, converting Applicant's indirect investment to a direct investment requires an additional outlay of only \$10,000. Acquisition of 39 percent of

⁸ Applicant has filed a written commitment that upon consummation of the proposed acquisition of shares held by Atlanta's former directors it will cause director and officer interlocks between Dalton and The Bank of Dalton to be severed, and cause termination of Applicant's direct and indirect ownership and control of, and power to vote, voting shares of The Bank of Dalton at the earliest practicable time and in any event within two years.

⁹ The two largest banking organizations in the Savannah banking market control approximately 70 percent of the market's deposits, and a majority of the market's deposits are controlled by the State's largest and third largest banking organizations.

the shares of Dalton can likewise be accomplished at negligible cost, and the Board is satisfied that Applicant's commitments regarding the circumstances under which it will acquire additional shares of Dalton sufficiently insure that the acquisition will not have any materially adverse effect on Applicant or Atlanta Bank. Moreover, Applicant's ability to consolidate the earnings of Savannah after consummation of that proposed transaction should enhance its financial resources. On the other hand, divestiture of the shares and rights held by Atlanta's former directors could involve adverse financial consequences to Applicant. Having considered all aspects of the proposed transactions, including Applicant's most recent financial information, the Board concludes that on balance considerations relating to Applicant's financial resources are consistent with approval of these applications.¹⁰

Accordingly, based on the record¹¹ and for the reasons summarized herein, these applications are approved. Approval of the application to acquire Dalton is subject to the condition that Applicant cause complete divestiture of The Bank of Dalton in accordance with its commitment, subject to continuing review and the imposition of such further terms as the Board or its General Counsel may direct. Applicant is directed to submit to the Board's General Counsel within 30 days after the effective date of this Order reasons why the divestiture of The Bank of Dalton should not be ordered earlier than Applicant proposes, and authority is hereby delegated to the Board's General Counsel to order such earlier divestiture, and to impose conditions that will insure that the divestiture is complete and effective, if the reasons submitted in his judgment warrant such action. The transactions hereby approved shall not be made before the thirtieth calendar day following the effective date of this Order, or later than three months after the effective date of this Order unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By Order of the Board of Governors,¹² effective September 28, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29196 Filed 10-3-77; 8:45 am]

¹⁰ There is nothing in the record to show that Atlanta Bank's financial resources at the time it arranged to obtain control of Savannah and Dalton were incompatible with those investments at the time they were made. Instead it appears that the problems Applicant has experienced were chiefly those common to other banking organizations and arose several years later.

¹¹ Dissenting Statement of Governors Coldwell and Jackson filed as part of the original document. Copies are available upon request to Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Atlanta.

¹² Voting for this action: Chairman Burns and Governors Gardner, Wallich, and Partee. Voting against this action: Governors Coldwell, Jackson, and Lilly.

[6750-01]

FEDERAL TRADE COMMISSION

WARRANTIES COMPLYING WITH
MAGNUSON-MOSS WARRANTY ACT

Applicability of Certain Provisions of California State Law; Final Findings and Determination

AGENCY: Federal Trade Commission.

ACTION: Final findings and determination in the proceeding.

SUMMARY: Magnuson-Moss Warranty Act § 111 states the Federal scheme for the effect of Federal law on state warranty provisions. Paragraph (c) (1) provides that certain types of State provisions will be inapplicable to warranties complying with the Federal law. However paragraph (c) (2) preserves such provisions if the Commission finds they meet certain criteria stated in the Act. The State of California filed two applications under this paragraph. The Commission's determination on the applications is set forth below. The Commission's final determination includes an explanation of the scheme of § 111.

FOR FURTHER INFORMATION CONTACT:

Rachel Miller, Attorney, Division of Special Statutes, 202-724-1100, or Charles Taylor, Attorney, Division of Marketing Practices, 202-523-3660, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: The California state provisions included in the application of July 1, 1975, are the following:

Civil Code Sections 1790-1795 (Song-Beverly Consumer Warranty Act)
Civil Code Section 1797
Commercial Code Section 2801
Health and Safety Code Sections 39156-39157
Vehicle Code Sections 9975, 34715

In addition, the State of California submitted a supplemental application, dated November 2, 1976, requesting consideration of the following provisions as amended by the 1976 Amendments to the Song-Beverly Act:

§ 17904, 1791, 1793.3, 1793.6, 1794.1.

The Commission initially determined that the only provisions subject to § 111 (c) (1) were the following four sections of the Civil Code:

§ 1793.1(b) (disclosure of warrantor's repair facilities)
§ 1797.3 (mobile home warranty title)
§ 1797.3(d) (disclosure of warrantor's telephone number in mobile home warranties)
§ 1797.5 (posting of mobile home warranties)

It therefore initiated this rulemaking proceeding to determine if any of these provisions meet the requirements of § 111 (c) (2) for preservation.

The Commission also considered the supplementing application of November 2, 1976, and found that none of the provisions as amended are subject to § 111 (c) (1) of the federal Act.

FINDINGS AND DETERMINATIONS

I. HISTORY OF THE PROCEEDING

This proceeding was initiated by the Commission July 9, 1976, in response to an application filed by the State of California pursuant to the provisions of Title I, Section 111(c) (2), 15 U.S.C. 2311(c) (2), of the Magnuson-Moss Warranty-Federal Trade Commission Improvement Act, Pub. L. 93-637, 15 U.S.C. 2301, et seq., (1975) hereinafter the "Warranty Act".

The initial notice of this proceeding, together with staff's analysis of the California state law provisions submitted with the application, was published in the FEDERAL REGISTER on July 9, 1976 (41 FR 28361). All interested persons were invited to file written data, views or arguments concerning this matter or to present such information orally at public hearings. A period of 60 days was allowed for submission of written comments. Public hearings, as announced in the notice, were held September 13-14, 1976, in Los Angeles, California, and September 20, 1976, in Washington, D.C., with Mr. John A. Gray, Attorney, Office of the Special Assistant Director for Rulemaking, Bureau of Consumer Protection, presiding. Every person who had expressed a desire to present his views orally at these hearings was accorded the opportunity to do so. The public record remained open for the receipt of written data, views or arguments until October 20, 1976.

Section 111(c) of the Warranty Act (15 U.S.C. 2311(c)), provides:

(c) (1) Except as provided in subsection (b) and in paragraph (2) of this subsection, a State requirement—
(A) which relates to labeling or disclosure with respect to written warranties or performance thereunder;
(B) which is within the scope of an applicable requirement of sections 102, 103, and 104 (and rules implementing such sections); and
(C) which is not identical to a requirement of section 102, 103, or 104 (or a rule thereunder), shall not be applicable to written warranties complying with such sections (or rules thereunder).

(2) If, upon application of an appropriate State agency, the Commission determines (pursuant to rules issued in accordance with section 109) that any requirement of such State covering any transaction to which this title applies (A) affords protection to consumers greater than the requirements of this title and (B) does not unduly burden interstate commerce, then such State requirement shall be applicable (notwithstanding the provisions of paragraph (1) of this subsection) to the extent specified in such determination for so long as the State administers and enforces effectively any such greater requirement.

Section 111(b), 15 U.S.C. 2311(b), provides:

(b) (1) Nothing in this title shall invalidate or restrict any right or remedy of any consumer under State law or any other Federal law.

(2) Nothing in this title (other than sections 108 and 104(a) (2) and (4)) shall (A)

affect the liability of, or impose liability on, any person for personal injury, or (B) supersede any provision of State law regarding consequential damages for injury to the person or other injury.

In its initial notice the Commission indicated that four provisions of the California laws submitted for Commission analysis would be affected by operation of § 111(c) of the Warranty Act, i.e., Sections 1793.1, 1797.3 and 1797.5 of the California Civil Code. That notice stated:

(1) Section 1793.1(b) of the Song-Beverly Consumer Warranty Act, while similar to disclosures required by 16 CFR § 701.3(a) (5) of the regulations implementing § 102 of the Warranty Act, is not identical to that requirement;

(2) The "Mobile Home Warranty" designation requirement of California Civil Code § 1797.3 is not identical to the provisions of § 103 of the Warranty Act;

(3) That part of § 1797.3(d) of the California Civil Code which requires disclosure of telephone numbers is not identical to the disclosure provided by 16 CFR 701.3(a) (5); and

(4) The pre-sale availability requirements of § 1797.5 of the California Civil Code are not identical to the requirements of 16 CFR Part 702 which also implements Warranty Act § 102.

The purpose of this proceeding is:

to determine, pursuant to the California petition and the provisions of section 111(c) (2) of the Warranty Act (15 U.S.C. 2311(c) (2)), whether the above described State requirements afford protection to consumers greater than the requirements of the Warranty Act and do not unduly burden interstate commerce. If it is determined that a provision of the State law affords protection to consumers greater than the requirements of the Warranty Act and that such provision does not unduly burden interstate commerce, then the provision will be applicable to written warranties in compliance with the federal requirements to the extent specified in such determination for as long as the State of California administers and enforces effectively such greater requirement.

II. THRESHOLD ISSUES

As a general rule Federal and state consumer protection laws are read harmoniously and viewed as supplementing each other rather than being in conflict.¹ The courts have determined that Federal laws will preempt state consumer protection laws only when the state legislation frustrates the full effectiveness of the Federal law, or when compliance with both is a physical impossibility.²

The Congress, in its consideration of the Warranty Act, plainly recognized

these principles and expressed its intention in this area by including a section to deal with these matters—§ 111 entitled "Effect on Other Laws."

Section 111(c) is the centerpiece for the preemption scheme established by Congress. It provides that state labeling and disclosure requirements which are within the scope of requirements of the Warranty Act provisions (§ 101, 103, or 104), or rules thereunder, governing warranty disclosures, designations and minimum standards, and which are not identical to those requirements, are inapplicable to warranties which meet the federal requirements.

Section 111(c) (2) provides a procedure whereby states may petition the Commission for permission to enforce state laws regarding written warranty labeling or disclosures which are not identical to the requirements of the Warranty Act and which would otherwise be rendered inapplicable to written warranties complying with Federal standards.

Section 111(b) preserves all rights and remedies of consumers under state or other federal laws and state requirements directed at liability for personal injury or consequential damages.

During this proceeding numerous alternative interpretations for various sections were advanced. The Commission believes it is important to formulate a consistent interpretation of the section as a whole before proceeding to examine the specific issues raised by the California Application. The Commission has carefully considered the various interpretations and the history of the section. This discussion should give states, consumer groups and industry representatives a guide to the Commission's approach in interpreting this provision.³

The first issue concerns the scope of the exception provided for in paragraph (b). Specifically, does the phrase "right or remedy of any consumer" include rights under a state labeling or disclosure requirement? In California for example, under the provisions of the Song-Beverly Act a consumer can maintain an action at law if he is injured by a failure to comply with that Act's requirements. If that Act contained a warranty disclosure provision—for example, that every written warranty contain the manufacturer-warrantor's telephone number—which was otherwise within the scope of

¹ See Part I, supra.

² See Part I, supra.

³ Ordinarily, the views of the agency charged with implementing a statute are accorded great weight. See *Red Lion Broadcasting v. FCC*, 395 U.S. 367, 381 (1969); *Udall v. Tallman*, 380 U.S. 1, 16 (1964).

During the course of this proceeding the State of California took the position that state requirements concerning written warranty disclosures and labeling can provide consumer rights within the meaning of paragraph (b). See Testimony of Herschel Elkins, Deputy Attorney General, State of California, Transcript pp. 46-50 (Tr. 46-50). See also Statement of Center for Auto Safety, Record pp. 118-124 (R. 118-124), and Testimony of Dennis Kavanagh, Counsel, Golden State Mobilehome Owners League, Inc., Tr. 15.

⁴ See, e.g., *Double-Eagle Lubricants v. State of Texas*, 248 F. Supp. 515, 518 (1965); *Head v. New Mexico Board of Examiners*, 374 U.S. 424, 427, (1963).

⁵ See generally *Perez v. Campbell*, 402 U.S. 632 (1971); *Florida Lime and Avocado Growers, Inc. v. Paul*, 373 U.S. 132 (1963); *Hines v. Davidowitz*, 312 U.S. 52 (1941).

§ 111(c), would it be excluded from preemption because it is a consumer right?

Since one of the purposes of this legislation is to provide standards for disclosures in written warranties, Congress could not have intended for disclosure or labeling provisions to be automatically construed as consumer rights and preserved. Rather, the Commission believes that Congress established the procedure described in subparagraph (2) of § 111 (c) as the proper means by which to determine future applicability of such disclosure and labeling provisions.⁴

Were it otherwise, the federal disclosure scheme would be completely frustrated. If, for example, a state disclosure or labeling requirement, preserved by operation of (b), were directly contradictory to the Federal rules, under the terms of (b) the normal preemption rules would not prevail, and the Federal provision, not the state provision, would fall.

The proviso in § 111(c) "except as provided in (b)" makes it absolutely clear that consumer rights and remedies under state law would never be affected by the Warranty Act. The proviso may have been intended to distinguish between a consumer right to information and a requirement to provide information in a particular form or manner (e.g., in the warranty document). It is even possible that the presence of the proviso in the final Act is due to a drafter's error. The scope of § 111 was limited by the Conference Committee to labeling and disclosure provisions. The House and Senate versions of the legislation would have included performance requirements in the preemption scheme. The proviso preserving consumer rights and remedies was contained in the House version. The Conference Committee took out references to performance requirements but it left in—perhaps to make it entirely clear—the provision that the Act would not affect consumer rights or remedies.

The phrase "right or remedy of any consumer" in § 111(b), therefore, does not include any right to a specific manner of disclosure or labeling of information.

The next issue concerns the scope of the preemption scheme itself. Section 111(c) (1) lists three elements which a state requirement must meet to be within the scope of this section. These requirements are in the conjunctive; all must be found for a requirement to be within the scope of the section.⁵

It should be remembered too that this statute was passed prior to the recent Supreme Court decision recognizing a First Amendment "right" to commercial information. See *Virginia State Board of Pharmacy v. Virginia Citizens Consumer Council, Inc.*, 425 U.S. 748, 96 Sup. Ct. 1817 (1976).

The legislative history of the Warranty Act indicates that the House version of § 111(c) (1) was adopted in the Act. From a reading of that section it appears clear that § 111(c) (1) (A), (B), and (C) were meant to be conjunctive, and the absence of an "and" between subparagraphs (A) and (B) is merely the result of a normal grammatical process. See also University of

Pennsylvania would place a nonexistent "or" between the clauses, which the Commission believes would be contrary to the legislative intent.

First, the state requirement must relate to "labeling or disclosure with respect to written warranties or performance thereunder." It is the Commission's view that the phrase "with respect to written warranties or performance thereunder" in § 111(c) (1) (A) was intended to modify the phrase "which relates to labeling or disclosure." Thus we interpret the clause to mean that state requirements which relate strictly to warranty performance, and which do not involve warranty labeling or disclosure of terms, are outside the scope of § 111(c). In other words, we read this clause as dealing with state requirements which relate to labeling or disclosure with respect to written warranties, and with state requirements which relate to labeling or disclosure with respect to performance under written warranties.

This construction is supported by the legislative history of this section. While the scope of this provision, as proposed in both houses, extended to labeling disclosure and "other requirements" or "other matters," this latter language was dropped in the Conference Committee. No explanation for this is provided in the Conference Report but it may be inferred that Congress intended that the scope of this section should extend only to labeling and disclosure provisions.

Second, the state requirement must be within the scope of § 102, 103, or 104 (or rules thereunder). Section 102 of the Warranty Act authorized Commission promulgation of FTC regulations governing disclosure of written warranty terms and conditions of consumer product warranties. A rule has been promulgated pursuant to the statutory mandate establishing requirements for warrantors for disclosing written warranty terms and conditions. Thus, a state requirement would be within the scope of the Federal requirement if it requires disclosure of terms in a written warranty in a manner different from the Federal rules or if it requires disclosure of additional terms in the warranty.⁶ The Commission has also promulgated a rule establishing requirements for pre-sale availability of warranty terms. A state

Chicago Press "A Manual of Style," § 5.64 (12 ed., 1969) and the comments of the Center for Auto Safety, R. 127-128, and National Consumer Law Center, R. 114-115.

But see Statement of J. C. Penney Co., R. 150. Penney's contended that:

[T]he staff analysis relies upon a conjunctive construction at the end of section 111(c) (1) (A), thus inferring the presence of a nonexistent "and" and substitutes the inferred "and" for the semicolon which actually appears. Penney disagrees with this interpretation and believes that the presence of the semicolon further established a Congressional intent to preserve uniformity of written warranty requirements.

⁶ S. 356, 93d Cong., 1st Sess., § 113(b) (1973).

⁷ H.R. 7917, 93d Cong., 2nd Sess., § 111(c) (A) (1973).

⁸ 16 CFR Part 701.

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requirement would be within the scope of this requirement if it establishes written warranty pre-sale availability requirements different from or in addition to those of the federal rule.¹² Sections 103 and 104 create a labeling scheme for warranties.¹³ These sections divide the universe of warranties into two types—i.e., those which meet the Federal minimum requirements for a warranty ("full" warranties) and those which do not ("limited" warranties). The Commission has stated that these designations must appear clearly and conspicuously as a caption or prominent title of the warranty.¹⁴ A state requirement would be within the scope of these provisions if it imposed a warranty designation requirement different from the Federal scheme or if it attempted to alter the standards for qualifying for the Federal "full" warranty designation.

Finally, the state requirements must be different from the Federal requirement.

If all the conditions above are met, then the state requirement will be rendered inapplicable to written warranties complying with the provisions of the Warranty Act section or rules thereunder. Thus § 111(c) does not in fact preempt state provisions; it merely renders them inapplicable to warranties which meet the Federal requirements.

Further, subparagraph (2) of § 111(c) provides for a procedure whereby such state requirements can be made applicable even to warranties meeting Federal regulations. A State may apply to the Commission for this determination. In reaching this determination, the Commission must consider whether the state requirement in question affords protection to consumers greater than the requirements of the Warranty Act and does not unduly burden interstate commerce.

The questions of greater protection and undue burden are complex issues requiring careful analysis. They can only be answered on a case-by-case basis. The Commission believes the proponent of the state requirement has the burden of showing that the requirement provides more protection to consumers than the Federal requirement. Likewise, persons viewing the state requirement as unduly burdensome have an obligation to support, by more than mere conclusory

¹² 16 CFR Part 702. Note that other rules are authorized by § 102; as they are promulgated, additional state rules may fall within their scope.

¹³ Section 104 appears to be a group of substantive provisions and in fact is entitled "Federal Minimum Standards For Warranties." However, the fact that no warrantor need meet these requirements, but must merely choose a "designation" or label depending on whether he meets them, makes those requirements merely part of the labeling scheme established in § 103.

¹⁴ FTC Magnuson-Moss Warranty Act Implementation and Enforcement Policy, 40 Fed. Reg. 25721 (June 18, 1975); Interpretations of Magnuson-Moss Warranty Act 16 CFR Part 700, 42 Fed. Reg. 36112 (July 13, 1977).

statements and unsupported allegation, their contentions with respect to a requirement's burdensomeness.

It should be noted that U.S. Supreme Court decisions interpreting the Commerce Clause (U.S. Const., Art. I, § 8, cl. 3) have established that only undue and discriminatory burdens are forbidden by the Commerce Clause.¹⁵ The Commission believes these decisions set forth the basic criteria for determining whether a State requirement constitutes an "undue burden on interstate commerce" for purposes of subparagraph (2) of § 111(c).

One final point should be added to this analysis. Warrantors and industry commentators throughout this proceeding argued that the purpose of the Warranty Act was to preserve uniformity of warranties—i.e., to ensure that nationwide manufacturer-warrantors would not have to comply with a multiplicity of State laws on the subject. They base their contentions on the Committee Reports¹⁶ published before the Conference Committee changed § 111. The purpose of the Act, however, is to provide minimum disclosure and content standards for warranties.

The Commission believes that Congress rejected the idea of uniformity of warranties as the major purpose of § 111(c) when it limited its scope to labeling and disclosure requirements. It also rejected the idea of uniformity of disclosure requirements as predominant when it rejected the Senate's absolute preemption scheme and substituted the House version which provides for a savings procedure for such State laws. While uniformity of warranty documents is a goal of § 111, therefore, it is by no means the predominant goal.

As noted herein, because of the comments received during this proceeding and re-examination of the legislative history of the Warranty Act, the Commission has made slight changes in its analysis of § 111 since publication of the initial notice. One additional point should be made in this regard. As discussed above, the Commission is now convinced that the legislative history of § 111 supports the conclusion that the section was meant to apply only to written warranty labeling and disclosure requirements and not to substantive warranty performance requirements. Therefore, the earlier analysis of several sections which were declared exempt from preemption, either because they contained performance requirements identical to those of § 104 or because they constituted consumer rights or remedies, would instead be considered outside the scope of this section because they do not involve written warranty labeling or disclosure. More specifically,

¹⁵ See, e.g., *Huron Portland Cement Co. v. Detroit*, 362 U.S. 440, 443-444 (1960); *Brearl v. City of Alexandria*, 341 U.S. 622, 640-641 (1951); *Dean Milk Co. v. City of Madison*, 340 U.S. 349, 354 (1951).

¹⁶ S. Rep. No. 93-151, 93rd Cong., 1st Sess. (1973); H.R. Rep. No. 93-1107, 93rd Cong., 2nd Sess. (1973).

see the discussion in staff's analysis, published with the initial notice, concerning California Civil Code §§ 1793.2 to 1793.5 and 1797 to 1797.4.

III. CONSIDERATION OF STATE REQUIREMENTS

A. *Disclosure of repair facilities.* Section 102 of the Warranty Act mandates that the Commission promulgate rules requiring full disclosure of written warranty terms and conditions. The Commission has carried out this directive by promulgating 16 CFR Parts 701, 702 which became effective December 31, 1976.

Section 701.3(a)(5) of the Commission's regulations implementing § 102 requires that a written warranty contain the mailing address of the warrantor or the person responsible for performance of warranty obligations.

Section 1793.1(b) of the California Civil Code provides that a warrantor who maintains service and repair facilities in California must disclose the location of such facilities by one of three

¹⁷ 16 CFR § 701.3(a) entitled "Written warranty terms" provides, in pertinent part:

"(a) Any warrantor warranting to a consumer by means of written warranty . . . shall clearly and conspicuously disclose in a single document in simple and readily understood language, the following items of information:

"(5) A step-by-step explanation of the procedure which the consumer should follow in order to obtain performance of any warranty obligation, including the persons or class of persons authorized to perform warranty obligations: This includes the name(s) of the warrantor(s), together with the mailing address(es) of the warrantor(s), and/or the name or title and the address of any employee or department of the warrantor responsible for the performance of warranty obligations, and/or a telephone number which consumers may use without charge to obtain information on warranty performance

"(b) Every manufacturer, distributor, or retailer making express warranties and who elects to maintain service and repair facilities within this state pursuant to the provisions of this chapter shall:

"(1) At the time of sale, provide the buyer with the name and address of each such service and repair facility within this state; or

"(2) At the time of sale, provide the buyer with the name and address and telephone number of the service and repair facility central directory within this State, or the toll-free telephone number of a service and repair facility central directory outside this state. It shall be the duty of the central directory to provide, upon inquiry, the name and address of the authorized service and repair facility nearest the buyer; or

"(3) Maintain at the premises of retail sellers of the warrantor's consumer goods a current listing of such warrantor's authorized service and repair facilities, or retail sellers to whom the consumer goods are to be returned for service and repair, whichever is applicable, within this state. It shall be the duty of every retail seller provided with such a listing to provide, on inquiry, the name, address, and telephone number of the nearest authorized service and repair facility, or the retail seller to whom the consumer goods are to be returned for service and repair, whichever is applicable."

methods. The warrantor may (1) give the buyer a list showing the name and address of each such repair facility; or, (2) give the name, address and telephone number of the repair facility central directory within the state or toll free number; or (3) maintain at the seller's premises a list of authorized service facilities. In the latter instance, it is the duty of the seller to provide the name, address and telephone number of the nearest repair facility upon request.

This section of the Federal regulations concerns disclosures of the location of the warrantor or the person responsible for warranty performance. The State of California, for the protection of consumers in that state, has established a similar requirement that the location of repair facilities be disclosed, but the disclosure required is more comprehensive than that prescribed by the Federal regulations.

At the hearing on this matter it was also brought out by the State of California that so long as the required information is presented (or is available) at the time of sale it need not be disclosed in the written warranty itself.¹⁸ A reading of the statute confirms that nowhere does the provision require a disclosure in the written warranty itself, although inclusion in the warranty is one way to comply.

As discussed above, the scope of Warranty Act § 102 and the regulations promulgated thereunder extends only to information that is required in a written warranty. As the California State provision does not mandate written warranty terms or disclosures, it is not within the scope of Warranty Act § 102 or the regulations promulgated thereunder.

The Commission concludes therefore that § 1793.1(b) of California's Civil Code is not a warranty requirement within the scope of § 111 of the Warranty Act and thus is not subject to preemption.

B. *Mobile home warranty title requirement.* Section 103 of the Warranty Act requires that a warrantor clearly and conspicuously designate, or label, its warranty either "full (statement of duration) warranty" or "limited warranty." Section 1797.3 of the California Civil

¹⁸ Testimony of Herschel Elkins, Deputy Attorney General, State of California, Tr. pp. 57-58, 60-62. See also Statement of Center for Auto Safety R 116 n. 2 and R 117 n. 5.

¹⁹ Warranty Act § 103, 15 U.S.C. § 2303, provides in pertinent part:

"(a) Any warrantor warranting a consumer product by means of a written warranty shall clearly and conspicuously designate such warranty in the following manner: . . .

"(1) If the written warranty meets the Federal minimum standards for warranty set forth in section 104 of this Act, then it shall be conspicuously designated a 'full (statement of duration) warranty.'

"(2) If the written warranty does not meet the Federal minimum standards . . . , then it shall be conspicuously designated a 'limited warranty.'

"The mobilehome warranty from the manufacturer or dealer to the buyer shall be set forth in a separate written document entitled 'Mobilehome Warranty.' . . ."

Code requires a written warranty to be given in connection with the sale of mobile homes, and requires this warranty to be entitled "Mobilehome Warranty."

The Commission in its Final Interpretations, 16 CFR 700.6(a), 42 FR 36112 (July 13, 1977), stated that the "full" and "limited" designations provided by the Act "are the exclusive designations permitted under the Act, unless a specific exception is created by rule." The Commission also stated that the appropriate designation "should appear clearly and conspicuously as a caption, or prominent title," to the warranty. The Commission intended to ensure that readers would focus in the first instance on the status of the warranty with respect to the Federal minimum standards for warranties. The California requirement, which would lead consumers to focus instead on the product being warranted, is inconsistent with this goal.

The state provision thus is a labeling provision within the scope of a requirement of § 103 of the Warranty Act, and not identical to it. It is therefore subject to the provisions of § 111(c) of the Act. The provision may be preserved, however, under paragraph (c) (2) of that section if it affords consumers greater protection than the Federal requirement and does not unduly burden interstate commerce. California Deputy Attorney General Herschel Elkins testified that many mobile homes are now sold with a number of separate warranties on different portions of the home, and that consumers are frequently confused as to the coverage of a particular warranty. He stated that preservation of the state provision would assist consumers in knowing just what the warranty covers.²⁰ However, a statement of what the warranty covers must in any event appear in the warranty. The Commission finds that this state provision does not afford the necessary greater protection to consumers. Therefore it shall not be applicable to warranties which comply with the Federal rule.

C. *Telephone number requirement.* Section 701.3(a)(5) of the rules implementing Warranty Act § 102 requires disclosure of the mailing address where consumers may obtain information on warranty performance; however, disclosure of a telephone number which consumers may use to obtain such information is optional. Section 1797.3 of the California Civil Code requires that the mobile home warranty mandated therein contain the address and phone number of where to mail or deliver written notices of defects.²¹

This state provision is within the scope of a requirement of a rule promulgated under § 102 of the Warranty Act, since

it requires certain information to appear in the warranty itself. Further, it is not identical to the Federal requirement, and is therefore subject to preemption under § 111(c) of that Act. The provision may be preserved, however, under paragraph (a) (2) of that section if it affords consumers greater protection than the Federal requirement and does not unduly burden interstate commerce.

The state requirement compels the use of a telephone system for receiving consumer grievances. Warrantors who do not presently have such a system would be required to install one. The National Retail Merchants Association²² stated that the requirement would therefore be a burden. However, such a requirement affords significantly greater protection to consumers than the Warranty Act which has no such requirement.²³ The consumer has a fast and convenient method of communication with the warrantor. The consumer can make personal contact with the responsible party, and can receive an immediate response. Any burden imposed on the warrantor is outweighed by the benefit to the consumer of having this communication system available.

For those warrantors who presently have a way of handling consumer complaints by telephone, listing the telephone number in the warranty is merely a slight inconvenience. While the burden could be greater on nationwide warrantors if other states were to impose a similar requirement,²⁴ it is hardly an undue burden within the meaning of § 111(c) (2) of the Warranty Act.

It must be noted that industry representatives offered absolutely no data to establish the burdensomeness of this requirement.

The Commission therefore concludes that this requirement provides consumers greater protection than the Warranty Act requirement and will not unduly burden interstate commerce. Furthermore, the state has made an adequate showing that it has the capability to enforce this provision. According to the remarks of the Deputy Attorney General, California's Attorney General has authority under common law principles as well as under California Civil Code § 3369 to bring actions against companies engaging in unlawful and unfair business practices.²⁵ The state requirement will therefore continue to be applicable to warranties complying with the Magnuson-Moss Warranty Act and regulations thereunder.

²⁰ R 167.

²¹ See Testimony of Dennis Kavanagh, General Counsel, Golden State Mobilehome Owners League, Inc., Tr. 11-12; Testimony of Herschel Elkins, Deputy Attorney General, State of California, Tr. 66-68.

²² See Statements of Champlin Home Builders Co., R 145; Fleetwood Enterprises, Inc., R 137; Skyline Corp., R 130.

²³ See Testimony of Herschel Elkins, Deputy Attorney General, State of California, Tr. 51-54; and *People v. Arthur Murray*, 238 (CA 2d) 333, 348-349; *People v. Superior Court*, 9 (CA 3d) 283, 287.

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D. *Pre-sale availability requirement.* Section 102(b)(1)(A) of the Warranty Act authorizes the Commission to prescribe rules "requiring that the terms of any written warranty on a consumer product be made available to the consumer (or prospective consumer) prior to the sale of the product to him." A rule implementing this provision was promulgated by the Commission and became effective December 31, 1976.* The rule requires that warrantors' written warranties be made available to consumers prior to sale by one of four methods.* This requirement may be met by displaying the warranty in close conjunction with the product, by maintaining copies of warranties in a binder available to the consumer, by displaying the product's package if the warranty appears on it, or by posting a sign containing the warranty. Section 1797.5 of the California

*16 CFR Part 702.
*16 CFR § 702.3(a) entitled "Pre-sale availability of written warranty terms" provides in pertinent part that:

"(1) The seller of a consumer product with a written warranty shall:

"(i) Make available for the prospective buyer's review, prior to sale, the text of such written warranty by the use of one or more of the following means:

"(1) Clearly and conspicuously displaying the text of the written warranty in close conjunction to each warranted product; and or

"(ii) maintaining a binder or series of binders which contain(s) copies of the warranties for the products sold in each department in which any consumer product with a written warranty is offered for sale. Such binder(s) shall be maintained in each department, or in a location which provides the prospective buyer with ready access to such binder(s), and shall be prominently entitled 'Warranties' or other similar title which clearly identifies the binder(s). Such binder(s) shall be indexed according to product or warrantor and shall be maintained up to date when new warranted products or models or new warranties for existing products are introduced into the store or department by substituting superseding warranties and by adding new warranties as appropriate.

"The seller shall either:

"(A) display such binder(s) in a manner reasonably calculated to elicit the prospective buyers attention; or

"(B) make the binders available to prospective buyers on request, and place signs reasonably calculated to elicit the prospective buyer's attention in prominent locations in the store or department advising such prospective buyers of the availability of the binders, including instructions for obtaining access; and or

"(iii) displaying the package of any consumer product on which the text of the written warranty is disclosed, in a manner such that the warranty is clearly visible to prospective buyers at the point of sale; and or

"(iv) placing in close proximity to the warranted consumer product a notice which discloses the text of the written warranty, in a manner which clearly identifies to prospective buyers the products to which the notice applies."

Section 702.3(b) requires warrantors to make required materials available to sellers.

*Notice of warrant display posting. Every dealer shall display a notice of reasonable size stating the existence of a one-year

Civil Code requires that mobile home dealers display in the area where sales contracts are signed, a notice stating the existence of a one-year warranty and a sample copy.

This State provision is a requirement within the scope of a rule promulgated under § 102 of the Warranty Act. Further, it is not identical to the Federal requirement and is therefore subject to preemption under § 111(c) of that Act. The provision may be preserved, however, under paragraph (c)(2) of that section if it affords consumers greater protection than the Federal requirement and does not unduly burden interstate commerce.

National Retail Merchants Association asserted that this State provision appears to offer less protection than the Federal regulations because it does not require that the warranty itself be displayed.* However, the representative of the State of California disagreed with this interpretation and stated that copies of warranties must be posted.*

The provision therefore differs from the Federal requirement in two ways. First, the State provision requires posting of the text of the warranty, whereas the Federal rule permits, as an alternative to posting the text, the use of a binder which is calculated to attract shoppers' attention or whose availability is announced by similarly conspicuous signs. Second, the State provision requires the display of the warranty in the area where sales contracts are signed, while the Federal options regarding posting of the warranty require it to appear where the warranted products are displayed. In the mobile home industry, the functions of product display and contract signing are likely to be performed in separate areas. Thus, compliance with the State provision will not be sufficient compliance with the Federal rule, and vice versa. Preservation of the state method of presale availability will therefore entail for sellers separate compliance with the State and Federal provisions. The Commission is not convinced that posting a copy of the warranty in the area for contract signing, where consumers may well never go until their purchase decision has already been made, provides greater protection than posting signs announcing the availability of warranties in the display area. The Commission feels the extra burden on sellers of providing two sets of pre-sale materials is not justified by such benefit to consumers as this state provision may give. The State provision will therefore not be applicable to warranties which comply with the Federal rule. It should be noted, however, that the Commission does not here make any determination of whether a state provision mandating

warranty and a sample copy of such warranty. The notice shall be posted in each area where purchase orders and conditional sales contracts are written."

*R 168.

*Testimony of Herschel Elkins, Deputy Attorney General, State of California. Tr. 68.

one of the four Federal options would meet the requirements for preservation in § 111(c)(2).

IV. FINDINGS

In view of the above stated conclusions, the Commission makes the following findings pursuant to its authority under the Warranty Act and specifically under 15 U.S.C. 2311(c)(2):

(1) California Civil Code § 1793.1(b), which requires that warrantors maintaining service and repair facilities in California disclose the location of such facilities, is not a state requirement within the scope of § 111(c) of the Warranty Act and thus is not subject to preemption under that section.

(2) California Civil Code § 1797.3, which requires that the state-mandated mobile home written warranty be entitled "Mobilehome Warranty," does not afford protection to consumers greater than the requirements of the Warranty Act, 15 U.S.C. 2301, et seq., and regulations thereunder, and therefore shall not be applicable to warranties complying with that Act.

(3) California Civil Code § 1797.3(d), which provides that telephone numbers be disclosed in a state-mandated mobile home written warranty, affords protection to consumers greater than the requirements of the Warranty Act, 15 U.S.C. 2301, et seq., and regulations thereunder, and does not unduly burden interstate commerce; therefore, this State requirement shall be applicable to warranties complying with the Magnuson-Moss Warranty Act for so long as the state administrators and enforces effectively such greater requirement.

(4) California Civil Code § 1797.5, which provides that mobile home dealers display a notice stating the existence of a one-year warranty and a sample copy of such warranty, does not afford protection to consumers greater than the requirements of the Warranty Act, 15 U.S.C. 2301, et seq., and regulations thereunder, and therefore shall not be applicable to warranties complying with that Act.

V. LETTER OF NOTIFICATION TO APPLICANT

For further information, the Commission's letter of notification to the Attorney General of California is set forth:

FEDERAL TRADE COMMISSION,
OFFICE OF THE SECRETARY,
Washington, D.C.

HON. EVELLE J. YOUNGER,
Attorney General, State of California Department of Justice, 3586 Wilshire Blvd., Los Angeles Calif.
(Attention: Herschel Elkins, Deputy Attorney General).

DEAR MR. YOUNGER: The Commission has concluded the proceeding entitled "Determination of Applicability of California State Law to Warrantors Complying with the Magnuson-Moss Warranty Act."

Attached is a copy of the Notice to be published in the FEDERAL REGISTER concerning the Commission's final determination in this matter. Briefly, the Commission made the following findings pursuant to its authority under the Warranty Act and specifically under § 111(c)(2), 15 U.S.C. § 2311(c)(2):

(1) California Civil Code § 1793.1(b), which requires that warrantors maintaining service and repair facilities in California disclose the location of such facilities, is not a state requirement within the scope of § 111(c) of the Warranty Act and thus is not subject to preemption under that section.

(2) California Civil Code § 1797.3, which requires that the state-mandated mobile home written warranty be entitled "Mobilehome Warranty," does not afford protection to consumers greater than the requirements of the Warranty Act, 15 U.S.C. § 2301, et seq., and regulations thereunder, and therefore shall not be applicable to warranties complying with that Act.

(3) California Civil Code § 1797.3(d), which provides that telephone numbers be disclosed in a state-mandated mobile home written warranty, affords protection to consumers greater than the requirements of the Warranty Act, 15 U.S.C. § 2301, et seq., and regulations thereunder, and does not unduly burden interstate commerce; therefore, this State requirement shall be applicable to warranties complying with the Magnuson-Moss Warranty Act for so long as the state administrators and enforces effectively such greater requirement.

(4) California Civil Code § 1797.5, which provides that mobile home dealers display a notice stating the existence of a one-year warranty and a sample copy of such warranty, does not afford protection to consumers greater than the requirements of the Warranty Act, 15 U.S.C. § 2301, et seq., and regulations thereunder, and therefore shall not be applicable to warranties complying with that Act.

Recently, you requested an additional hearing under the Warranty Act on recent amendments to the Song-Beverly Act. Specifically, you requested a Commission determination that 1790.4, 1791, 1793.3 and 1794.1 and the new Civil Code Section 1793.6, which went into effect January 1, 1977, afford protection to consumers greater than the requirements of the Warranty Act and do not unduly burden interstate commerce. However, since none of the amendments relate to labeling of or disclosures in written warranties, the Commission has determined that these provisions are outside the scope of § 111(c) of the Warranty Act and thus not subject to preemption under that section. The Commission believes, therefore, that a hearing on this matter is unnecessary.

In your most recent letter you also requested the Commission's opinion whether state enforcement of requirements determined to be excepted from the preemption section of the Warranty Act by § 111(b)(1) preserving consumer rights and remedies, is nevertheless barred by operation of the preemption provision. The Commission sees no reason why the state cannot enforce such requirements.

By direction of the Commission,

CAROL M. THOMAS,
Secretary.

Enclosure.

By direction of the Commission.

Issued: October 4, 1977.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-29035 Filed 10-3-77;8:45 am]

[6820-14]

GENERAL SERVICES ADMINISTRATION

[FPMR Temporary Reg. 41]

AGENCY PROCUREMENT REQUESTS FOR AUTOMATED DATA PROCESSING EQUIPMENT, SOFTWARE, MAINTENANCE SERVICES, AND SUPPLIES

General Services Administration Action

1. *Purpose.* This regulation temporarily suspends the requirement in § 1-4.1105 (b) for GSA to take action on an agency procurement request (APR) within 20 workdays.

2. *Effective date.* This regulation is effective September 23, 1977.

3. *Expiration date.* This regulation will continue in effect until March 31, 1978.

4. *Background.* a. The number of APR's received from Federal agencies over the past few months has increased significantly. At the same time, congressional interest has been expressed in many ADP procurements. Due to the increased workload, it has become more and more difficult for GSA to meet the prescribed 20 workday response time. The result has been that agencies have proceeded without a substantive GSA review. A continuing absence of these reviews is inconsistent with GSA's responsibilities under Section 111 of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 759) (Pub. L. 89-306, the Brooks Act). Accordingly, it is desirable to prescribe an alternate procedure for use on an interim basis.

b. In view of the foregoing circumstances it is appropriate and necessary to suspend temporarily the requirement in § 1-4.1105(b) for GSA to take action on an APR within 20 workdays. GSA will make every effort to expedite its action on each APR. In view of the potential impact on fulfillment of agency needs, GSA will continue to seek an early, more satisfactory solution to this problem.

5. *Effect on other issuances.* Section 1-4.1105 is amended to read as follows:

§ 1-4.1105 GSA action on procurement requests.

(b) Expeditious action will be taken by GSA after receipt of full information from an agency involving a request for procurement as provided in § 1-4.1104. Agencies shall not proceed with the procurement until a delegation of authority has, in fact, been granted.

SEPTEMBER 23, 1977.

JAY SOLOMON,
Administrator of General Services.
[FR Doc.77-29101 Filed 10-3-77;8:45 am]

[6820-14]

[FPMR Temporary Reg. 42]

CHANGES IN THE SMALL BUSINESS ACT BY PUB. L. 95-89

1. *Purpose.* This regulation provides an interim implementation of Pub. L. 95-89, which amended the Small Business Act.

2. *Effective date.* This regulation is effective.

3. *Expiration date.* This regulation will continue in effect until canceled.

4. *Background.* Pub. L. 95-89, August 4, 1977, amended the Small Business Act, Title V—Procurement Assistance, of the public law expanded the authority of the Small Business Administration (SBA) to certify the responsibility of small business concerns for both purchases and sales, to establish priorities regarding the award of contracts to small business and labor surplus area concerns, and to prescribe procedures applicable to awards to small business concerns involving the Walsh-Healey Act.

5. *Agency action.* Agencies shall comply with the provisions of the Small Business Act, as amended by Public Law 95-89, when the provisions of the FPR are inconsistent with the provisions of the Act.

6. *Effect on other issuances.* a. To the extent that the provisions and clauses in the FPR are inconsistent with Pub. L. 95-89, the provisions of the Act apply. A formal amendment of the FPR which implements the Act will be issued as soon as possible.

b. The following provisions (not necessarily all inclusive) of the FPR are affected and will require modification:

(1) *Certificate of Competency program, § 1-1.708.* The FPR provisions which restrict SBA's authority to "capacity and credit" only are modified by the Act to grant SBA statutory authority to certify the competency of any small business concern with respect to all elements of responsibility, including but not limited to capability, competency, capacity, credit, integrity, perseverance, and tenacity.

(2) *Walsh-Healey Public Contracts Act, Subpart 1-12.6.* The FPR requirement that the contracting officer provide findings of ineligibility and supporting documentation to the Wage and Hour Division of the Department of Labor is modified by the Act with respect to small business concerns. SBA is authorized under the Act to dismiss findings of ineligibility or, where SBA concurs in the contracting officer's findings, SBA is required to refer the matter to the Department of Labor for final decision.

(3) *Procurement set-asides for small business, § 1-1.706, and Labor surplus area policies, § 1-1.802.* (a) The FPR priorities in carrying out set-aside programs are modified by the Act. Section 502(e) of the Act includes the following requirement:

(e) In carrying out labor surplus areas and small business set-aside programs, departments, agencies, and instrumentalities of the executive branch shall award contracts, and encourage the placement of subcontracts for procurement to the following in the manner and in the order stated:

(1) Concerns which are located in labor surplus areas, and which are also small business concerns, on the basis of a total set-aside.

(2) Concerns which are small business concerns on the basis of a total set-aside.

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- (3) Concerns which are small business concerns, on the basis of a partial set-aside.
- (4) Concerns which are located in labor surplus areas on the basis of a total set-aside.

It is pertinent to note that the Act does not foreclose partial labor surplus area set-asides.

(b) Regarding total labor surplus area set-asides, it should be noted that, though not now authorized by the FPR, such set-asides are now permissible under this Act.

(c) Where solicitations involve partial set-asides for small business concerns (the third priority under the Act), the award procedures in the FPR continue to apply.

Dated: September 27, 1977.

ROBERT T. GRIFFIN,
Acting Administrator
of General Services.

[FR Doc 77-29102 Filed 10-3-77; 8 45 am]

[6820-14]

[FPMR Temporary Reg F-444]

SECRETARY OF DEFENSE

Delegation of Authority

1. *Purpose.* This regulation delegates authority to the Secretary of Defense to represent, in conjunction with the Administrator of General Services, the interests of the executive agencies of the Federal Government in a telephone rate proceeding.

2. *Effective date.* This regulation is effective immediately.

3. *Delegation.* a. Pursuant to the authority vested in me by the Federal Property and Administrative Services Act of 1949, 63 Stat. 377, as amended, particularly sections 201(a)(4) and 205(d), (40 U.S.C. 481(a)(4) and 486(d)), authority is delegated to the Secretary of Defense to represent the consumer interests of the executive agencies of the Federal Government before the Kentucky Public Service Commission involving the application of the South Central Bell Telephone Company for an adjustment of its intrastate rates and charges for the Commonwealth of Kentucky.

b. The Secretary of Defense may redelegate this authority to any officer, official, or employee of the Department of Defense.

c. This authority shall be exercised in accordance with the policies, procedures, and controls prescribed by the General Services Administration, and shall be exercised in cooperation with the responsible officers, officials, and employees thereof.

JAY SOLOMON,
Administrator of General Services.

SEPTEMBER 21, 1977.

[FR Doc 77-29100 Filed 10-3-77; 8 45 am]

[6820-14]

[Formal Case No. 686; Intervention Notice No. 39]

WASHINGTON GAS LIGHT CO.

Proposed Intervention in Gas Rate Increase Proceeding Before District of Columbia Public Service Commission

The General Services Administration seeks to intervene in a proceeding before the District of Columbia Public Service Commission concerning an application by the Washington Gas Light Co. for an increase in its tariff rates for intrastate gas service. The GSA represents the interests of the executive agencies of the United States Government, as users of utility services.

Persons desiring to make inquiries concerning this case to GSA should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th & F Streets NW., Washington, D.C. 20405, telephone 202-566-0750, on or before November 3, 1977, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4))

Dated: September 20, 1977.

JOEL W. SOLOMON,
Administrator of General Services.

[FR Doc 77-29099 Filed 10-3-77; 8 45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 76G-0378]

GENERAL MILLS, INC.

Withdrawal of Petition for Affirmation of GRAS Status

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This document announces the withdrawal without prejudice of the petition (GRASP 6G0079) proposing affirmation that plant sterols, phytosterols, and sitosterols used in foods as emulsifying agents are generally recognized as safe (GRAS).

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-4750).

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b), 72 Stat. 1786 (21 U.S.C. 348(b))), the following notice is issued:

In accordance with § 171.7 Withdrawal of petition without prejudice of the procedural food additive regulations (21 CFR 171.7), General Mills, Inc., P.O. Box 1113, Minneapolis, MN 55440, has withdrawn its petition (GRASP 6G0079), notice of which was published in the FEDERAL REGISTER of September 23, 1976 (41 FR 42970), proposing that plant sterols, phytosterols, and sitosterols when used in foods as emulsifying agents are generally recognized as safe.

Dated: September 27, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc 77-29073 Filed 10-3-77; 8 45 am]

[4110-03]

MUTAGENESIS SUBCOMMITTEE OF THE SCIENCE ADVISORY BOARD

Meeting Change

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Mutagenesis Subcommittee of the Science Advisory Board meeting scheduled for September 29, 1977 has been rescheduled for October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Ruth S. Magee, National Center for Toxicological Research, Jefferson, AR 72079 (501-541-4528).

SUPPLEMENTARY INFORMATION: Under the Federal Advisory Committee Act of October 6, 1972 (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. 1)), the Food and Drug Administration (FDA) announced in a notice published in the FEDERAL REGISTER of August 12, 1977 (42 FR 40958), meetings of FDA public advisory committees and other required information in accordance with provisions set forth in section 10(a)(1) and (2) of the act.

Notice is hereby given that the meeting of the Mutagenesis Subcommittee of the Science Advisory Board scheduled for September 29, 1977 has been changed to October 17, 1977. The open public hearing will begin at 9 a.m. at the National Center for Toxicological Research, Jefferson, Arkansas.

Dated: September 27, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc 77-28948 Filed 10-3-77; 8 45 am]

[4110-03]

[Docket No. 77P-0121]

SIEMENS CORP.

Approval of Variance for Diagnostic X-Ray Systems

AGENCY: Food and Drug Administration.

ACTION: Notice of approval of variance.

SUMMARY: The Director, Bureau of Radiological Health, Food and Drug Administration, has approved a variance from two provisions of the performance standard for diagnostic x-ray systems at the request of the Siemens Corp., 186 Wood Ave. South, Iselin, NJ 08830. The variance will apply to beam-limiting devices to be manufactured and used in fluoroscopic x-ray systems with spot-film devices that, in some cases, may operate in the radiographic mode. Under the terms of the variance, these systems will not be required to meet certain of the requirements for x-ray field limitation applicable to radiographic spot-film devices.

DATES: The variance shall be come effective on November 3, 1977, and shall terminate on November 3, 1978. Objections and supporting information must be submitted by November 3, 1977.

ADDRESSES: Written objections to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Harvey Rudolph, Bureau of Radiological Health (HFX-460), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-3426).

SUPPLEMENTARY INFORMATION: Section 1020.31(e)(2)(i) (21 CFR 1020.31(e)(2)(i)) of the performance standard for diagnostic x-ray systems and their major components requires that stationary, general purpose radiographic x-ray systems be provided with means which prevent x-ray production until the x-ray field size is adjusted to the size of the image receptor as specified by § 1020.31(e)(2)(ii). Section 1020.31(g)(1) requires that x-ray systems equipped with spot-film devices be provided with means to automatically adjust the x-ray field to the portion of the film selected for exposure unless the size of the x-ray field is smaller than the selected portion of the film.

The Siemens Corp. manufactures general-purpose fluoroscopic x-ray systems equipped with spot-film devices that, in some cases, may be operated in the radiographic mode. Under the variance, the beam-limiting devices for these systems would not comply with the above requirements when used with certain sizes of X-ray film cassettes because of their design for use only with a limited number of cassette sizes. Siemens Corp.

has requested a variance from these two requirements, pending completion of a new design for the collimation systems.

Systems subject to the variance would be designed to function with a limited number of cassette sizes, depending on the particular model selected, and would be so described by the manufacturer. However, the sensing system would not preclude the use of a cassette for which the system was not designed. Should a nondesignated cassette size be used, the systems, when operated in the radiographic mode, may not properly adjust the size of the X-ray field or prevent production of X-rays as required by § 1020.31(e)(2)(i). When used in the spot-film mode with a cassette for which the system was not designed, the system may not correctly adjust the X-ray field to a size equal to the selected portion of the film as required by § 1020.31(g)(1).

However, the applicant has stated these systems function in a manner compliant with the intent of the performance standard in that for a large fraction of the sizes of X-ray film cassettes in clinical use, the X-ray beam is adjusted correctly to the image receptor size. The applicant has further stated that purchasers select those systems which provide cassette programs or formats that match the clinical tasks to be performed by the system and the cassette sizes to be used by the facility. The applicant maintains that it is unlikely that a cassette of improper size would be used with any of these systems. Therefore, the applicant claims that the chance of unnecessary-patient exposure due to the failure to comply with §§ 1020.31(e)(2)(i) and (g)(1) is remote. On these grounds, and in order to market these X-ray systems to facilities desiring them and to avoid delays in furnishing such facilities with the capability to provided needed X-ray services, the applicant has requested the variance from the performance standard for diagnostic X-ray systems.

The Director, Bureau of Radiological Health, agrees that the diagnostic X-ray systems to be marketed under the variance will comply with the X-ray standard for the large majority of X-ray examinations anticipated and that appropriate warning labels will minimize the likelihood that inappropriate cassette sizes would be used. He therefore concludes that the X-ray systems will provide suitable radiation protection and is granting the variance in accordance with § 1010.4 (21 CFR 1010.4) for a period of 1 year. The variance will apply to beam-limiting devices with the following model numbers, to be used on fluoroscopic or radiographic/fluoroscopic X-ray systems marketed by the applicant:

12-74-836-G0865, 12-75-478-G0865, 16-23-180-G0865, 48-68-089-G0865, 02-83-176-G444G, 02-83-192-G444G, 04-90-227-G444G, 04-90-235-G444G, 42-71-490-G5139, 40-83-424-G5153, and 40-83-432-G5153.

The Director notes that the variance is being granted for 1 year to provide the applicant time to develop beam-limiting devices which comply with all provisions of the performance standard, and it is

his intention that the variance not be extended beyond 1 year.

The applicant has been directed to modify, in accordance with § 1010.4(d), the tags, labels, or other certification required by § 1010.2 (21 CFR 1010.2), which are permanently affixed to or inscribed upon products marketed under this variance to state the following:

This product complies with variance 77003, effective November 3, 1977.

The terms of the variance further require that the applicant permanently label the products marketed under the variance to show those cassette sizes for which the system is designed and to warn users of the consequences of using a cassette for which the products are not designed. This label must be permanently affixed or attached to the X-ray system in the immediate vicinity of the cassette tray or holder and be clearly visible and legible to an operator during the installation of a cassette into the system.

The Commissioner of Food and Drug has reviewed the potential environmental impact of this variance and has concluded that the action will not significantly affect the quality of the human environment and that an environmental impact statement is not required. A copy of the environmental impact analysis report is on file in the office of the Hearing Clerk, Food and Drug Administration.

Variance No. 77003 shall become effective on November 3, 1977, and shall terminate on November 3, 1978, unless written objections and supporting documentation are filed with the Hearing Clerk, Food and Drug Administration, on or before November 3, 1977, requesting that the variance be modified or not granted. Upon receipt of such objections and supporting documentation, the effective date of the variance will be stayed until the Director, Bureau of Radiological Health, rules on them. Pursuant to § 1010.4(c)(3), the applicant shall be notified by certified mail, and a notice of the stay shall be published in the FEDERAL REGISTER. The ruling on the objections shall be made within 60 days, shall be published in the FEDERAL REGISTER, and shall constitute final agency action subject to judicial review under section 358 (d) (42 U.S.C. 263f(d)) of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968.

The application for this variance and all related correspondence, except information covered by the confidentiality provisions of section 360A(e) of the act (42 U.S.C. 263i(e)), have been placed on public display in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, and may be seen Monday through Friday from 9 a.m. to 4 p.m., except on Federal legal holidays.

Dated: September 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc 77-29074 Filed 10-3-77; 9 am]

[Docket No. 77N-0048]

LAETRIECommissioner's Decision
Correction

In FR Doc. 77-22310, appearing at page 39768 in the issue for Friday, August 5, 1977:

1. On page 39768, first column, under the heading "FOR FURTHER INFORMATION CONTACT:", the telephone number reading "310-44-3480" should read "301-443-3480".

2. On page 39768, third column, the word "energy" in the third line of footnote 1 should read "agency".

3. On page 39770, (a) first column, second line from the top, insert the word "would" after "which". (b) Third column, eighth line under "Vitamin B-17", the word "cynophoric" should read "cyanophoric".

4. On page 39774, (a) second column, third line in the first full paragraph, change "glucosides" to "glucosides"; (b) second column, second line of the quoted material in the first full paragraph, the word "beta-glucuronidase" should read "beta-glucuronidase"; (c) in the twenty-first line of that same paragraph, change "(R183 . . ." to "(R378 . . ."; and (d) in the third column, the twentieth line from the bottom, change "glucucenic" to "glucuronic".

5. On page 39777, third column, thirteenth line of the first full paragraph and the last line of the second full paragraph, change "314.11" to "314.11".

6. On page 39781, first column, fourteenth line, change "§ 7" to "§ 7".

7. On page 39785, second column, bottom line, insert "medicine" after "tritional".

8. On page 39788, second column, thirty-first line, the word "Urbutcit" should read "Urbutcit".

9. On page 39790, first column, seventh line of the first full paragraph, the word "patent" should read "patents".

10. On page 39794, second column, eighteenth line of the paragraph numbered "(v)", insert "C." after "U.S.".

11. On page 39794, third column, thirteenth line of the first full paragraph, change "us" to "use", and after the seventeenth line of that paragraph, insert "about its safety. Yet two volunteered".

12. On page 39799, (a) first column, nineteenth line of the first paragraph under "3. Methods of Promotion of Laetria", change "388" to "389"; (b) second column, sixth line from the top, after the word "them", change "§" to "2" and (c) second column, in the first full paragraph, in the eighth line from the bottom, insert the word "time" after "survival"; and (d) in the fourth line from the bottom of that same paragraph, change "theapy" to "therapy".

13. On page 39802, first column, twelfth line, insert "a" after "of", and in the fifteenth line, change "beta-glucosides" to "beta-glucosidase".

14. On page 39803, third column, fifth line from the bottom, change "(R148)" to "(R148)".

[4110-83]**Health Resources Administration
HEALTH CAREER OPPORTUNITY
PROGRAM****Grant Orientation Conferences**

The Office of Health Resources Opportunity, Health Resources Administration, Public Health Service, Department of Health, Education, and Welfare, is providing grant application information for the Health Career Opportunity Program (HCOP) through the conduct of twelve program orientation conferences. HCOP supports projects designed to assist students from disadvantaged backgrounds in entering and completing health professions training. These orientation conferences, scheduled to be conducted October 17-28, 1977, are for the benefit of interested, potential applicants who may be eligible to participate in HCOP.

Eligible applicants include any public or nonprofit private health or educational entity located in any one of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

Each of the twelve conferences will be of one-day duration and will be conducted on the following dates in the cities indicated:

October 17, 1977—New York, N.Y.
October 17, 1977—Philadelphia, Pa.
October 18, 1977—Little Rock, Ark.
October 19, 1977—Atlanta, Ga.
October 20, 1977—Syracuse, N.Y.
October 20, 1977—Chicago, Ill.
October 20, 1977—Portland, Ore.
October 25, 1977—Denver, Colo.
October 25, 1977—Boston, Mass.
October 26, 1977—Albuquerque, N. Mex.
October 27, 1977—San Francisco, Calif.
October 28, 1977—Kansas City, Mo.

Further information pertaining to the conferences may be obtained from the DHEW regional offices listed below or from the Program Coordination Branch, Office of Health Resources Opportunity, Public Health Service, 3700 East-West Highway, Hyattsville, Md. 20782. Call area code 301-436-7230. Application kits will be distributed at each of the conferences or may be obtained from the Program Coordination Branch, Office of Health Resources Opportunity in Hyattsville, Md.

DHEW Region I, John F. Kennedy Federal Building, Room 1405A, Government Center, Boston, Mass. 02203, Ms. Rose Kennedy (617-223-4258).

DHEW Region II, 26 Federal Plaza, Room 3300, New York, N.Y. 10007, Mr. Josue Diaz (212-264-3936).

DHEW Region III, 3535 Market Street, Room 200, Post Office Box 13716, Philadelphia, Pa. 19101, Mr. Louis Coccodrilli (215-596-6472).

DHEW Region IV, Peachtree Seventh Building, Room 831, 50 Seventh Street NE., Atlanta, Ga. 30323, Mr. Al Witcher (404-881-3700).

DHEW Region V, 300 South Wacker Drive, Chicago, Ill. 60606, Ms. Arlene Granderson (312-353-4506).

DHEW Region VI, 1200 Main Tower Building, Room 18-35, 1114 Commerce Street, Dallas, Tex. 75202, Mr. David Diaz (214-655-3930).

DHEW Region VII, 601 East 12th Street, Kansas City, Mo. 64106, Ms. Sally Chappel (816-374-2008).

DHEW Region VIII, 9017 Federal Office Building, 19th and Stout Streets, Denver, Colo. 80202, Ms. Karen Hansen (303-837-2701).

DHEW Region IX, Federal Office Building, 50 United Nation's Plaza, San Francisco, Calif. 94102, Mr. Jack Maready (415-556-7007).

DHEW Region X, The Arcade Building, 1321 Second Avenue, Seattle, Wash. 98101, Dr. Larry Clausen (206-442-0536).

Interested applicants in Hawaii and in the Trust Territory of the Pacific Islands who are unable to attend one of the conferences may contact Dr. Margie R. Matthews, Director of Continuing Education, School of Public Health, University of Hawaii, 1960 East-West Road, D-202, Honolulu, Hawaii 96822 (808-948-7421), for information and assistance.

Dated: September 28, 1977.

HAROLD MARCULIES,
Deputy Administrator, Health
Resources Administration.

[FR Doc. 11-29134 Filed 10-3-77; 8:45 am]

[4110-83]**HEALTH CARE TECHNOLOGY STUDY
SECTION AND HEALTH SERVICES
Developmental Grants Study Section
Meetings**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory bodies scheduled to meet during the month of October 1977:

NAME: Health Care Technology Study Section.

DATE AND TIME: October 19-21, 1977, 9 a.m.

PLACE: Sheraton-Silver Spring Motor Inn, 8727 Colesville Road, Silver Spring, Md. 20910.

OPEN: October 19, 9 a.m.-10 a.m.

CLOSED: For remainder of meeting.

PURPOSE: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

AGENDA: The open session of the meeting on October 19, 1977, will be devoted to a business meeting covering administrative matters. The closed portion of the meeting on October 19-21 will be utilized in a review of health services research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Acting Deputy Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Dr. Alan E. Mayers, National Center for Health Services Research, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6916.

NAME: Health Services Developmental Grants Study Section.

DATE AND TIME: October 27-28, 1977, 8:30 a.m.

PLACE: Potomac Room, Metropolitan Hotel, 1143 New Hampshire Ave. NW., Washington, D.C. 20037.

OPEN: October 27, 8:20 a.m.-9 a.m.

CLOSED: For remainder of meeting.

PURPOSE: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

AGENDA: The open session of the meeting on October 27, 1977, will be devoted to a business meeting covering administrative matters and reports. During the closed sessions, the Study Section will be reviewing research grant applications relating to the delivery, organization and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code, and the Determination by the Acting Deputy Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. David McFall, National Center for Health Services Research, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6916.

Agenda items are subject to change as priorities dictate.

Dated: September 23, 1977.

JAMES A. WALSH,
Associate Administrator for
Operations and Management.

[FR Doc. 77-29130 Filed 10-3-77; 8:45 am]

[4110-83]**HEALTH SERVICES RESEARCH STUDY
SECTION
Meeting**

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1977:

NAME: Health Services Research Study Section.

DATE AND TIME: November 2-3, 1977, 9 a.m.

PLACE: Fiesta West, Sheraton-Silver Spring, 8727 Colesville Road, Silver Spring, Md. 20910.

OPEN: November 2, 9 a.m.-10 a.m.

CLOSED: For remainder of meeting.

PURPOSE: The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Center for Health Services Research.

AGENDA: The open session on November 2, 1977, will be devoted to a business meeting covering administrative matters and reports. During the closed session, the study section will be reviewing research grant applications relating to the delivery, organization, and financing of health services. The closing is in accordance with provisions set forth in section 552b(c)(6), Title 5, U.S. Code and the Determination by the Acting Deputy Administrator, Health Resources Administration, pursuant to Pub. L. 92-463.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Hoke S. Glover, National Center for Health Services Research, Room 7-50A, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6918.

Agenda items are subject to change as priorities dictate.

Dated: September 23, 1977.

JAMES A. WALSH,
Associate Administrator for
Operations and Management.

[FR Doc. 77-29129 Filed 10-3-77; 8:45 am]

[4110-]**Office of the Assistant Secretary for
Education****COLLECTION OF INFORMATION AND
DATA ACQUISITION ACTIVITIES OF
EDUCATION DIVISION AND THE OFFICE
FOR CIVIL RIGHTS****Procedures for Review and Coordination**

Pursuant to the authority contained in Section 406(g) of the General Education Provisions Act, as amended by Section 406 of the Education Amendments of 1976 (Pub. L. 94-482; 20 U.S.C. 1221e-1(g)), the Assistant Secretary for Education, with the approval of the Secretary of Health, Education, and Welfare hereby gives notice of the procedures established for review and coordination of proposed collection of information and data acquisition activities of the Education Division and the Office for Civil Rights in order to eliminate excessive detail and unnecessary or redundant information requests.

1. A "collection of information and data acquisition activity" (hereinafter called an activity) is any form, survey instrument, or plan for the collection of information that is subject to review by the Office of Management and Budget under the Federal Reports Act (44 U.S.C. 3502). The term "information" has the meaning given it by that Act and circulars of the Office of Management and Budget issued pursuant to it.

2. All activities proposed by any bureau or agency of the Education Division and of the education related activities of the Office for Civil Rights shall be submitted to the Administrator of the National Center for Education Statistics (hereinafter called the Administrator) for review and coordination in accordance with these procedures at such times and in such manner as hereafter prescribed by the Administrator. The Administrator shall require of each bureau, agency, and office a detailed justification of how the information once collected will be used; and an estimate of the man-hours required by respondent agencies or institutions to complete the request.

3. The Administrator is responsible for the preparation and maintenance of the HEW Education Data Acquisition Plan (hereinafter called the Plan), which shall include all proposed, continuing, preliminary approved, and approved activities of the Education Division and those of the Office for Civil Rights for which the respondents are educational agencies or institutions. No activity subject to these procedures may be submitted to the Office of Management and Budget for clearance under the Federal Reports Act unless it is approved for inclusion in the Plan; nor shall an activity subject to these procedures be included in any contract or request for proposal unless it has preliminary approval for inclusion in the Plan.

4. Furthermore, each educational agency or institution (i.e., any public or private agency or institution which is the recipient of funds under any applicable program) subject to a request under an activity and their representative organizations shall have an opportunity, during a 30-day period prior to transmittal of the activity to the Director of the Office of Management and Budget, to comment to the Administrator on the activity.

5. There is established the HEW Education Data Acquisition Council to be composed of the following: the Deputy Assistant Secretary for Education (Policy Development), who is the Chairman of the Council; the Deputy Assistant Secretary for Planning and Evaluation (Education); a Deputy Commissioner (to be named by the Commissioner of Education); the Deputy Director for Compliance and Enforcement, Office for Civil Rights; the Deputy Administrator of the National Center for Education Statistics; the Deputy Director, National Institute of Education. The Council shall advise the Administrator on: (1) appeals as to whether a proposed activity should be included in the Plan; and (2) the establishment of standards, criteria, and guidelines for planning and developing a sound body of national education data, and otherwise promoting the objectives of Section 406(g) of the General Education Provisions Act as amended. The Administrator shall designate an appropriately qualified staff person of the National Center for Education Statistics, of grade GS-15 or higher, to serve as the Executive Director of the Council.

The Council may establish such procedures as are needed to fulfill its responsibilities.

6. The heads of the agencies of the Education Division, the Assistant Secretary for Education, the Assistant Secretary for Planning and Evaluation, and the Director, Office for Civil Rights shall designate appropriate staff from their respective agencies and offices to serve on such committees and review groups as the Council, upon the recommendation of the Administrator, establishes for the purpose of carrying out these procedures.

7. The Administrator is authorized to decide on the inclusion of activities in the Plan after having received recommendations from the Executive Director and the appropriate review group. If the Administrator decides not to recommend inclusion of a proposed activity in the Plan, the head of the sponsoring agency, bureau, or office may appeal such decision to the Council, which will advise the Administrator. The head of any agency of the Education Division, the Assistant Secretary for Planning and Evaluation or the Director, Office for Civil Rights may appeal any decision of the Administrator made pursuant to these procedures to the Assistant Secretary for Education whose decision shall be final, except that the Assistant Secretary for Planning and Evaluation or the Director, Office for Civil Rights may further appeal any such decision of the Assistant Secretary for Education to the Secretary.

8. The head of each agency, bureau and office of the Education Division and the Office for Civil Rights is responsible for assisting the Administrator and the Council in the review and coordination of activities subject to these procedures; and shall each designate a Data Acquisition Coordination Officer whose responsibility is to assist the staff of the respective agencies, bureaus, and offices in complying with these procedures.

9. No action taken pursuant to these procedures shall interfere with the enforcement of the provisions of the Civil Rights Act of 1964 or any other nondiscrimination provisions of Federal law.

10. The Administrator is responsible for the overall direction of the coordination and review procedures herein established and shall, after receiving the advice of the Council, issue such supplemental procedures as are necessary to carry out the objectives of these procedures.

(20 U.S.C. 1221-1(g).)

Dated: July 20, 1977.

MARY F. BERRY,
Assistant Secretary for Education.
Approved: August 8, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

[FR Doc. 77-29155 Filed 10-3-77; 8:45 am]

[4110-02]

Office of Education NATIONAL ADVISORY COUNCIL ON ADULT EDUCATION Meeting

AGENCY: National Advisory Council on Adult Education.

ACTION: Notice of Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the National Advisory Council on Adult Education. The meeting shall be open to the public. This notice also describes the functions of the Council. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92-463, Section 10(a) (2)).

DATES: October 27, 1977, 7 p.m. to 10 p.m., Executive Committee Meeting; October 28-29, 1977, 9 a.m. to 5 p.m.; October 30, 1977, 9 a.m. to 12 noon.

ADDRESS: Detroit Plaza Hotel, Renaissance Center, Detroit, Mich. 48242.

FOR FURTHER INFORMATION CONTACT:

Dr. Gary A. Eyre, Executive Director, National Advisory Council on Adult Education, 425 13th St. NW., Washington, D.C. 20004 (202-376-8892).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Adult Education is established under Section 311 of the Adult Education Act (80 Stat. 1216.20 U.S.C. 1201). The Council is directed to:

Advise the Commissioner in the preparation of general regulations and with respect to policy matters arising in the administration of this title, including policies and procedures governing the approval of State plans under section 306 and policies to eliminate duplication, and to effectuate the coordination of programs under this title and other programs offering adult education activities and services.

The Council shall review the administration and effectiveness of programs under this title, make recommendations with respect thereto, and make annual reports to the President of its findings and recommendations (including recommendations for changes in this title and other Federal laws relating to adult education activities and services). The President shall transmit each such report to the Congress together with his comments and recommendations.

The meeting of the Council shall be open to the public.

The proposed agenda includes:

Education in Industry, Committee Meetings and Reports, Legislative Review with the Boards of the Adult Education Association, and the National Association for Public Continuing and Adult Education, 311(d) Project, Council Discussion and Approval of Legislative Package.

Records shall be kept of all Council proceedings, and shall be available for public inspection at the Office of the

National Advisory Council on Adult Education, Room 323, Pennsylvania Bldg., 425 13th St. NW., Washington, D.C. 20004.

Signed at Washington, D.C., on September 27, 1977.

GARY A. EYRE,
Executive Director, National
Advisory Council on Adult
Education.

[FR Doc. 77-29103 Filed 10-3-77; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[M 9703]

MONTANA

Opportunity for Public Hearing and Republication of Notice of Proposed Withdrawal

SEPTEMBER 23, 1977.
The Bureau of Reclamation filed application, Serial No. M 9703, on June 26, 1968, for a withdrawal in relation to the following described lands:

PRINCIPAL MERIDIAN, MONTANA
REICHEL RESERVOIR

T. 4 S., R. 8 W.,
Sec. 19, Lot 4, SE $\frac{1}{4}$ SW $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 28, Lots 3 and 4, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 29, S $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 31, Lot 4;
Sec. 32, NE $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 33, Lots 1 and 2, and NE $\frac{1}{4}$ NW $\frac{1}{4}$; and
Sec. 34, Lots 4, 5, and 6, N $\frac{1}{2}$ S $\frac{1}{2}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 5 S., R. 8 W.,
Sec. 2, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 3, Lot 1, SE $\frac{1}{4}$ NE $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 4, SW $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 5, SW $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$, and S $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 6, Lots 1, 4, 5, and 6, NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 8, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 9, NE $\frac{1}{4}$ NE $\frac{1}{4}$, and
Sec. 10, N $\frac{1}{2}$ NW $\frac{1}{4}$.

T. 4 S., R. 9 W.,
Sec. 11, SW $\frac{1}{4}$ NW $\frac{1}{4}$;
Sec. 21, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 23, NE $\frac{1}{4}$ NE $\frac{1}{4}$;
Sec. 24, S $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$; and
Sec. 25, NE $\frac{1}{4}$ SW $\frac{1}{4}$ and S $\frac{1}{2}$ S $\frac{1}{2}$.

Total for Reichle Reservoir Area is 3,029.70 acres.

WORKS AND PROJECT AREA

T. 1 S., R. 4 W.,
Sec. 8, NW $\frac{1}{4}$ NW $\frac{1}{4}$; and
Sec. 30, NE $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 2 S., R. 6 W.,
Sec. 11, E $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 14, W $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$, and SW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 22, Lot 7; and
Sec. 33, Lot 8.

T. 3 S., R. 6 W.,
Sec. 4, Lot 1 and SE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 1 N., R. 1 W.,
Sec. 18, SE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 10 N., R. 1 W.,
Sec. 12, W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 1 N., R. 2 W.,
Sec. 14, SW $\frac{1}{4}$ SW $\frac{1}{4}$; and
Sec. 20, Lots 1 and 7.
T. 1 N., R. 3 W.,
Sec. 13, Lots 5, 7, and 8; and
Sec. 24, Lots 2 and 3, W $\frac{1}{2}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$.
T. 1 N., R. 4 W.,
Sec. 32, Lots 1, 2, and 3, S $\frac{1}{2}$ SE $\frac{1}{4}$; and
Sec. 34, NW $\frac{1}{4}$ NW $\frac{1}{4}$ less MS 5233.
T. 2 N., R. 5 W.,
Sec. 22, SE $\frac{1}{4}$ SE $\frac{1}{4}$; and
Sec. 26, NW $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 2 N., R. 1 E.,
Sec. 30, Lots 1 to 4 inclusive, NW $\frac{1}{4}$ NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, and SE $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 3 N., R. 1 E.,
Sec. 12, NW $\frac{1}{4}$.
T. 4 N., R. 1 E.,
Sec. 5, S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$; and
Sec. 8, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$, and NW $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 5 N., R. 1 E.,
Sec. 17, S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$.
T. 10 N., R. 1 E.,
Sec. 14, Lots 3, 4, and 5; and
Sec. 17, NW $\frac{1}{4}$ SW $\frac{1}{4}$.
T. 5 N., R. 2 E.,
Sec. 13, NE $\frac{1}{4}$ and S $\frac{1}{2}$ SE $\frac{1}{4}$; and
Sec. 24, NE $\frac{1}{4}$.
T. 8 N., R. 2 E.,
Sec. 2, Lot 1, S $\frac{1}{2}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ NW $\frac{1}{4}$, and NE $\frac{1}{4}$ SE $\frac{1}{4}$.
T. 9 N., R. 2 E.,
Sec. 9, Lot 7;
Sec. 16, Lots 1, 5, and 6; and
Sec. 20, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, and SE $\frac{1}{4}$ NW $\frac{1}{4}$, and SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$.
T. 7 N., R. 3 E.,
Sec. 6, Lot 7 and SE $\frac{1}{4}$ SW $\frac{1}{4}$.

Total for Works and Projects Area is 3,428.56 acres.

The area described contains 6,458.35 acres in Broadwater, Jefferson, Lewis and Clark, and Madison Counties, Mont. The applicant desires the land for Reichle Reservoir, diversion works, and for irrigation development.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on July 23, 1968, Volume No. 33, Page No. 10465, Document No. 68-8706.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing with the State Director, Bureau of Land Management, P.O. Box 30157, Billings, Mont. 59107, on or before November 4, 1977. Notice of the public hearing will be published in the FEDERAL REGISTER, giving the time and place of such hearing. The hearing will be scheduled and conducted in accordance with BLM Manual Sec. 2351.16B. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with

the undersigned authorized officer of the Bureau of Land Management on or before November 4, 1977.

The above-described lands are temporarily segregated from the operation of the public land laws, including the mining laws, to the extent that the withdrawal applied for, if and when effected, would prevent any form of disposal or appropriation under such laws. Current administrative jurisdiction over the segregated lands will not be affected by the temporary segregation. In accordance with section 204(g) of the Federal Land Policy and Management Act of 1976, the segregative effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the Chief, Branch of Lands and Minerals Operations, Bureau of Land Management, Department of the Interior, P.O. Box 30157, Billings, Mont. 59107.

ROLAND F. LEE,
Chief, Branch of Lands
and Minerals Operations.

[FR Doc. 77-29126 Filed 10-3-77; 8:45 am]

[4310-84]

[C-071520-C-063968]

WYOMING

Application

SEPTEMBER 26, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Amoco Pipeline Co. of Denver, Colo. has applied to amend right-of-way grants C-071520 and C-063968 to install cathodic protection units on the following public land:

SIXTH PRINCIPAL MERIDIAN, WYOMING
(C-071520)

T. 14 N., R. 91 W.,
Sec. 18, NW $\frac{1}{4}$.

(C-063968)

T. 21 N., R. 85 W.,
Sec. 36, NE $\frac{1}{4}$.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 77-29129 Filed 10-3-77; 8:45 am]

[4310-84]

[Wyoming 61092]

WYOMING

Application

SEPTEMBER 26, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Amoco Pipeline Co. of Denver, Colo. filed an application for a right-of-way to construct a 4 inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 15 N., R. 119 W.,
Sec. 4, Lot 4;
Sec. 6, S $\frac{1}{2}$ NE $\frac{1}{4}$.
T. 16 N., R. 119 W.,
Sec. 34, SW $\frac{1}{4}$ SE $\frac{1}{4}$ and S $\frac{1}{2}$ SW $\frac{1}{4}$.

The pipeline will transport crude oil from wells in Section 6, T. 15 N., R. 119 W., and will tie into an existing pipeline facility in Section 34, T. 16 N., R. 119 W., Uinta County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, Highway 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 77-29128 Filed 10-3-77; 8:45 am]

[4310-31]

Geological Survey

WYOMING

Proposed Approval of Coal Mining Plan

In accordance with the requirements of 30 CFR 211.5(c) (2), notice is hereby given that the Wyodak Resources Development Corp., P.O. Box 149, Gillette, Wyo., has submitted a plan to expand the North Pit of the Wyodak Mine by surface mining methods from Federal lease W-0111833 into Federal lease W-0313666. The current North Pit operation on Federal lease W-0111833 in secs. 21 and 22, T. 50 N., R. 71 W., 6th P.M., Campbell County, Wyo., was approved on April 1, 1971, by the Area Mining Supervisor. The plan to expand the North Pit into Federal lease W-0313666 in secs. 10, 15, 21, and 22, T. 50 N., R. 71 W., 6th P.M., was initially received for review by the Area Mining Supervisor on March 16, 1976. On May 17, 1977, the company submitted an updated mining plan to comply with the requirements of 30 CFR 211.10.

The purpose of this notice is to inform the public that the Area Mining Super-

visor proposes to approve the mining plan. Any person having an interest, which is or may be adversely affected by this action, may request a public meeting in writing. Requests should include the name and address of the requestor and should be submitted to the Area Mining Supervisor, Conservation Division, U.S. Geological Survey, P.O. Box 2550, Billings, Mont. 59103. All requests should be made on or before October 24, 1977. No decision on the plan to expand the North Pit will be made prior to October 24, 1977.

V. E. McKELVEY,
Director.

Dated: September 20, 1977.

[FR Doc 77-29104 Filed 10-3-77; 8:45 am]

[4310-10]

National Park Service NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 1, 1977, Part IX, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

CHARLES A. HERRINGTON,
Acting Keeper
of the National Register.

The following properties have been added to the National Register since Sept. 6, 1977. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; and properties recorded by the Historic American Engineering Record are designated by HAER.

ARIZONA

Marcopa County

Phoenix, Monroe School, 215 N 7th St. (8-26-77).

ARKANSAS

Conway County

Morrilton, Morrilton Railroad Station, Railroad Ave. between Division and Moose Sts. (9-13-77).

Pulaski County

Little Rock, Little Rock High School (Central High School), 14th and Park Sts. (8-19-77).

CALIFORNIA

Los Angeles County

Sierra Madre, Episcopal Church of the Ascension, 25 E Laurel Ave. (8-19-77).

NOTICES

Whittier, Bailey, Jonathan, House, 13421 E. Camilla St. (8-29-77).

Orange County

Santa Ana, Orange County Courthouse, 211 W Santa Ana Blvd. (8-29-77).

Santa Clara County

San Jose, St. Joseph's Roman Catholic Church, Market and San Fernando Sts. (8-26-77).

Tulare County

Three Rivers vicinity, Hospital Rock, NE of Three Rivers (8-29-77).

COLORADO

El Paso County

Colorado Springs, Alamo Hotel, 128 S. Tejon St. (9-14-77).

Grand County

Grand Lake vicinity, Lulu City Site, N of Grand Lake on Trail Ridge Rd. (9-14-77).

Jefferson County

Wheat Ridge, Richards Mansion, 5349 W. 27th Ave. (9-15-77).

CONNECTICUT

Fairfield County

Bethel, Seelye, Seth, House, 189 Greenwood Ave. (8-29-77).

Greenwich, Lyon, Thomas, House, W. Putnam Ave. and Byram Rd. (8-24-77).

Greenwich, Riverside Avenue Bridge, Riverside Ave. and RR. tracks. (8-29-77) HAER. Monroe, Monroe Center Historic District, CT 110 and CT 111 (8-19-77).

Westport, Goddard Place, 60, 65 Jesup Rd. (8-29-77).

Hartford County

Burlington vicinity, Hitchcock-Schwarzmann Mill, N of Burlington at Foote and Vineyard Rds. (9-13-77).

Southington vicinity, Webster, Horace, Farmhouse, S of Southington at 577 South End Rd. (8-24-77).

Litchfield County

Gaylordsville vicinity, Merutinsville Hotel, E of Gaylordsville on Brown's Forge Rd. (8-29-77).

New Hartford vicinity, Chapin, Philip, House, S of New Hartford (8-29-77).

New Milford vicinity, Noble, John Glover, House, S of New Milford (8-29-77).

Torrington vicinity, Gillette's Grist Mill, E of Torrington on Maple Hollow Rd. (8-29-77).

Windham County

Woodstock, Bowen, Henry C., House, CT 169 (8-24-77).

FLORIDA

Broward County

Fort Lauderdale, U.S. Car. No. 1, 3398 S.W. 9th Ave. (8-24-77).

Jefferson County

Monticello, Monticello Historic District, Irregular pattern along Madison, Jefferson, Dogwood, and Washington Sts. (8-19-77).

GEORGIA

Carroll County

Burns Quarry (8-29-77).

Cobb County

Marietta, Brumby, Arnoldus, House, 472 Powder Springs St. (8-29-77).

Dougherty County

Albany, Smith, W. E., House, 516 Flint Ave. (8-30-77).

Fulton County

Atlanta, Candler Building, 127 Peachtree St., NE (8-24-77).
Atlanta, Swan House, 3099 Andrews Dr., N.W. (9-13-77).

Hancock County

Devereux vicinity, Roe-Harper House, 2 mi. W of Devereux off SR 2133 (8-29-77).

Troup County

LaGrange vicinity, Rutledge House, S of LaGrange on Bartley Rd. (8-24-77).
Mountville vicinity, van Boddie, Nathan, House, W. of Mountville on GA 109. (8-29-77) HABS.

IDAHO

Latah County

Moscow, Ridenbaugh Hall, University of Idaho campus (9-14-77).

ILLINOIS

Cook County

Chicago, Immaculata High School, 800 W. Irving Park Rd. (8-30-77).
River Forest, River Forest Historic District, between Harlem Ave. and Des Plaines River with 2 extensions N of Chicago Ave. and 2 extensions S of Lake St. (8-26-77).

Fulton County

Canton vicinity, Orenforf Site, SE of Canton (9-13-77).

Gallatin County

New Haven vicinity, Duffy Site, S of New Haven (8-26-77).

IOWA

Black Hawk County

Waterloo, Snowden House, 306 Washington St. (9-14-77).

Delaware County

Delhi vicinity, Bay Settlement Church and Monument, SW of Delhi (9-13-77).

Dubuque County

Dubuque, Hollenfelz House, 1651 White St. (9-13-77).

Johnson County

Iowa City, Windrem House, 604 Iowa Ave. (9-13-77).

Mitchell County

Osage, Mitchell County Courthouse, 500 State St. (8-29-77).

Muscatine County

Muscatine, First Presbyterian Church, 401 Iowa Ave. (9-14-77).

KANSAS

Brown County

Hiawatha vicinity, Davis Memorial, 0.1 mi. E of Hiawatha, Mt. Hope Cemetery (8-29-77).

Doniphan County

Wathena, Harding, Benjamin, House, 308 N. 5th (8-29-77).

Douglas County

Lawrence, Riggs, Samuel A., House, 1501 Pennsylvania (8-29-77).

Johnson County

Olathe, Mahaffie, J. B., House, 1100 Kansas City Rd. (8-29-77).

Leavenworth County

Leavenworth vicinity, Powers, David W., House, 2 mi. NW of Leavenworth off U.S. 73 (8-30-77).

NOTICES

MICHIGAN

Chippewa County

Sault Ste. Marie, Federal Building, 209 E. Portage Ave. (9-9-77).

MINNESOTA

Hennepin County

Minneapolis, Carpenter, Elbert L., House, 814 Clifton Ave. (9-13-77).

Minneapolis, Carpenter, Eugene J., House, 300 Clifton Ave. (9-13-77).

Minneapolis, Flour Exchange Building, 310 4th Ave. S. (8-29-77).

Minneapolis, Pittsburgh Plate Glass Company Building, 616 S. 3rd St. (9-13-77).

Ramsey County

St. Paul, Beebe, Dr. Ward, House, 2022 Summit Ave. (8-29-77).

MISSISSIPPI

Adams County

Natchez, Routhland, 92 Winchester Rd. (8-22-77).

Natchez vicinity, Briars, SW of Natchez (8-24-77) HABS.

MISSOURI

Dade County

South Greenfield vicinity, Dilday Mill, SE of South Greenfield on Turnback Creek (8-26-77).

Saline County

Marshall, Saline County Courthouse, Courthouse Sq. (8-24-77).

NEBRASKA

Sioux County

Agate vicinity, Cook, Harold J., Homestead Cabin, 3 mi. E of Agate off NE 29 on Agate Fossil Beds National Monument (8-24-77).

Fitzwilliam, Third Fitzwilliam Meeting House, Village Green (8-26-77).

NEW HAMPSHIRE

Grafton County

Orford, Orford Street Historic District, Orford St. (NH 10) from Rt. 25A to Archertown Rd., E to include cemetery, (8-26-77) HABS.

NEW JERSEY

Atlantic County

Atlantic City, Blenheim Hotel, Boardwalk and Ohio Aves. (8-23-77).

Burlington County

Pemberton, Morris Mansion and Mill, Hanover St. (9-13-77).

Gloucester County

Pitman, Pitman-Grove, bounded by Holly, East, Laurel, and West Aves. (both sides) (8-19-77).

Morris County

Boonton vicinity, Dixon, James, Farm, NW of Boonton on Rockaway Valley Rd. (8-29-77).

Morristown, Morris County Courthouse, Washington St. between Court St. and Western Ave. (8-19-77).

Sussex County

Andover vicinity, Waterloo, 1 mi. S of Andover at Musconetcong River and SR 604 (9-13-77).

Branchville vicinity, Log Cabin and Farm, N of Branchville on Mattison Ave. (8-24-77).

NEW MEXICO

Socorro County

Socorro, Val Verde Hotel, 203 Manzanares St. (9-13-77).

Valencia County

Grants vicinity, Ditter Site, S of Grants (8-22-77).

NEW YORK

Bronx County

Bronx, Dodge, William E., House, 690 W. 247th St. (8-28-77).

Clinton County

Rouses Point, Fort Montgomery, N of Rouses Point (8-22-77).

Kings County

Brooklyn, Brooklyn Museum, Eastern Parkway and Washington Ave. (8-22-77).
Brooklyn, Litchfield Villa, Prospect Park W. and 5th St. (9-14-77).

Livingston County

Dansville, Dansville Library, 200 Main St. (9-14-77).

West Sparta vicinity, Kemp, R. P. No. 1 Site, W of West Sparta (8-22-77).

Montgomery County

Neillston vicinity, Reformed Dutch Church of Stone Arabia, E of Neillston on NY 10 (9-14-77).

New York County

New York, DeVine Press Building, 393-399 Lafayette St. (9-14-77).

New York, Old St. Patrick's Cathedral Complex, Mott and Prince Sts. (8-29-77).

Oneida County

Utica, St. Joseph's Church, 704-8 Columbia St. (8-22-77).

Queens County

Flushing, Eoime John House, 37-01 Bowne St. (9-13-77).

St. Lawrence County

Massena vicinity, Robinson Bay Archeological District, N of Massena at Robinson Bay (9-13-77).

Warren County

Chestertown, Chestertown Historic District, Canada Dr. (U.S. 9) (8-22-77).

NORTH CAROLINA

Dare County

Nags Head, Nags Head Beach Cottages Historic District, U.S. 158 (8-19-77).

Wake County

Cary vicinity, Lane-Bennett House, S of Cary (8-22-77).

NORTH DAKOTA

Burleigh County

Bismarck, Foley, James W., House, 522 6th St. (9-13-77).

Cass County

Amenia, Burlington Northern Depot, Woodward Ave. (8-20-77).

McHenry County

Granville, Granville State Bank, Main and 2nd Sts. (9-13-77).

Slope County

Marmarth, Mystic Theatre, Main St. (9-13-77).

PENNSYLVANIA

Butler County

Butler, Butler County Courthouse, S. Main and Diamond Sts. (9-15-77).

NOTICES

Centre County
Spring Mills vicinity, Fisher, Maj. Jared B. House, NE of Spring Mills on PA 45 (9-14-77).

Chesler County
Coatesville, Huston, Abram, House and Carriage House, 53 S. 1st Ave. (9-15-77).
Coatesville, National Bank of Coatesville Building, 235 E. Lincoln Highway (9-14-77).
Marshallton vicinity, Carter-Worth House and Farm, 450 Lucky Hill Rd. (9-15-77).

Cumberland County
Shippensburg vicinity, Blythe, Benjamin, Homestead, 217 Means Hollow Rd. (9-15-77).

Dauphin County
Harrisburg, State Capitol Building, 3rd and State Sts. (9-14-77).

Lehigh County
Emmaus, Kemmerer House, 3 Iroquois St. (9-14-77).

McKean County
Mt. Jewett, Kinzua Viaduct, 4.2 mi. NE of Mt. Jewett (8-29-77).

Philadelphia County
Philadelphia, Oakley, Violet, Studio, 627 St. George's Rd. (9-13-77).
Philadelphia, Strickland, William, Row, 215-227 S. 9th St. (9-14-77).

Snyder County
Beavertown vicinity, Gross Bridge, 3 mi. W of Beavertown on SR 574 (8-29-77).

Venango County
Oil City, U.S. Post Office, 270 Seneca St. (9-15-77).

RHODE ISLAND
Providence County
Providence, Loew's State Theatre, 220 Weybosset St. (8-19-77).
Providence, North Burial Ground, between Branch Ave. and N. Main St. (9-13-77).

SOUTH DAKOTA
Custer County
Custer vicinity, Norbeck, Peter, Summer House, W of Custer at Custer State Park (9-13-77).

TENNESSEE
Davidson County
Nashville, Church of the Assumption, 1227 7th Ave. N. (8-22-77).

Decatur County
Decaturville vicinity, Brownsport Furnace, SE of Decaturville at Furnace Hollow (8-26-77).

Dickson County
Cumberland Furnace, St. James Episcopal Church, off TN 48 (8-22-77).

Franklin County
Cowan vicinity, Cumberland Mountain Tunnel, SE of Cowan (8-22-77).

Hamilton County
Signal Mountain vicinity, Connor Toll House, 4212 Anderson Pike (8-22-77).

Marion County
South Pittsburg, Christ Episcopal Church and Parish House, corner of 3rd and Holly Sts. (8-22-77) HABS.

Montgomery County
Clarksville, Smith-Hoffman House, Beech and A Sts. (8-22-77).

Shelby County
Memphis, Peabody Hotel, 149 Union Ave. (9-14-77).

Sullivan County
Bristol vicinity, Steel-Seneker Houses, 4 mi. W of Bristol on TN 128 (8-22-77).

Sumner County
Hendersonville vicinity, Talley-Beals House, N of Hendersonville off Saunderville Rd. (8-22-77).

Washington County
Limestone, Gillespie, Col. George, House, off U.S. 411 (8-22-77).

TEXAS
Bexar County
San Antonio, Bexar County Courthouse, Main Plaza (8-29-77) HABS.

Cameron County
Brownsville, Browne-Wagner House, 245 E. St. Charles St. (8-29-77).

Collin County
Farmersville vicinity, Sister Grove Creek Site, 4 mi. W of Farmersville off U.S. 380 (8-22-77).

Floyd County
Quitaque vicinity, Quitaque Railway Tunnel, 10 mi. SW of Quitaque (9-13-77).

Goliad County
Goliad vicinity, Nuestra Senora del Espiritu Santo de Zuniga Site, 0.5 mi. S of Goliad on U.S. 183 (8-22-77).

Irion County
Sherwood, Irion County Courthouse, Public Sq. (8-29-77).

Navarro County
Corsicana, Corsicana Oil Field Discovery Well, 400 block S. 12th St. (8-22-77).

Smith County
Tyler vicinity, Tyler Hydraulic-Fill Dam, W of Tyler off TX31.

UTAH
Salt Lake County
Salt Lake City, Hills, Lewis S., House, 126 S. 200 West (8-18-77).
Salt Lake City, Lollin Block, 238 S. Main St. (8-18-77).
Salt Lake City, McCormick Building, 10 W. 100 South (8-24-77).

Sanpete County
Manti, Pattern, John, House, 95 W. 400 North (8-22-77).

Mount Pleasant, Rasmussen, Morten, House, 417 W. Main St. (8-18-77).

Utah County
Provo, Eggertsen, Simon P. Sr., House, 390 S. 500 West (9-13-77).

Washington County
Hurricane vicinity, Hurricane Canal, E of Hurricane. (8-29-77) HAER.

VERMONT
Lamoille County
Johnson, Nye Block, Main and Railroad Sts. (8-19-77).

Windham County
Brattleboro, Canal Street Schoolhouse, Canal St. (8-19-77).

WASHINGTON

Clallam County
Port Angeles vicinity, Humes Ranch Cabin, S of Port Angeles on Elwha River (9-14-77).

Island County
Oak Harbor, Loers, Benjamin, House, 2046 Swantown Rd. (8-29-77).

King County
Seattle, Cornish School, 710 E. Roy St. (8-29-77).
Seattle, Merrill, R.D., House, 919 Harvard Ave., E. (8-22-77).

San Juan County
San Juan Island, Roche Harbor, Northern San Juan Island (8-29-77).

Whatcom County
Bellingham, Fairhaven Historic District, roughly bounded by 10th and 13th Sts., Columbia and Larrabee Aves. (8-19-77).

WEST VIRGINIA
Berkeley County
Martinsburg vicinity, Van Metre Ford Stone Bridge, E of Martinsburg across Opequon Creek on SR 36 (8-22-77).

Hampshire County
Romney, Wilson-Wodrow-Mytinger House, 51 W. Gravel Lane (8-22-77).

Monroe County
Union vicinity, Walnut Grove, N of Union on U.S. 219 (8-22-77).

WISCONSIN

Ashland County
Ashland, Wheeler Hall, Northland College, 1411 Ellis Ave. (9-13-77).

La Pointe vicinity, Hadland Fishing Camp, N of La Pointe on Rocky Island (8-18-77).

Columbia County
Portage, Portage Canal, between Fox and Wisconsin Rivers (8-26-77).

Rock County
Beloit, Lathrop-Munn Cobblestone House, 624 Bluff St. (8-22-77).
Beloit vicinity, How-Beckman Mill, W of Beloit (9-7-77).
Edgerton, Cullton, Charles L., House, 708 Washington St. (8-22-77).

St. Croix County
Somerset vicinity, Soo Line High Bridge W of Somerset (8-22-77).

The following is a list of corrections to properties previously listed in the Federal Register.

HAWAII

Maua County
Kalaupapa, Kalaupapa Leprosy Settlement, Molokai Island (1-7-76) NHL.

Ualapue, vicinity, Hokukano-Ualapue Complex, on HI 45 (10-15-66) NHL.

NEW JERSEY

Morris County
Mendham vicinity, Ralston Historic District, 1 mi. W of Mendham at NJ 24 and Roxitilus Rd. (2-20-75) HABS.

The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the re-

NOTICES

quest of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to section 106 of the National Historic Preservation Act of 1966, as amended, and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA

Green County
Gainesville vicinity, Archeological Sites in Gainesville Project, Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County
Site 1Jc36, Project I-459-4(4).

Lowndes County
Jones Bluff Park Site (1 Au 139), Jones Bluff Lake Project.

Madison County
Huntsville, Lee House, Red Stone Arsenal.

Montgomery County
Gunter Hill Park Site (1 MT 134), Jones Bluff Lake Project.

Washington County
Sunflower vicinity, Dr. Williams Home, AL project RF-98(7).

ALASKA

Fairbanks Division
Davidson Ditch, Steese Hwy.

Nome Division
Little Diomed Island, Iyapana, John House.

Sitka Division
Crab Bay, Crab Bay Petroglyph.

ARIZONA

Apache County
Grand Canyon National Park, Old Post Office.

Apache County
Painted Cliffs Archeological District (Arizona K:12:3, K:12:87, K:12:238, K:12:239), Lupton Interchange of I-40.

Conconino County
Gray Mountain Site, (AR-02-020-946).

House Rock Springs, Upper Houserock Valley, Paria Plateau Archeological District.

Graham County
Foot Wash—No name Wash Archeological District.

Maricopa County

Eth Israel Synagogue, 120 E. Culver.
Care Creek Archeological District.
Glendale vicinity, Cave Creek Dam.
New River Dams Archeological District.
Phoenix, Brooks, M. B., House, 334B 75th Ave. Central.
Phoenix, Ellis-Shackelford House, 1242 N. Central.
Phoenix, Evans Barn, 67th Ave., between Van Buren and McDowell.
Phoenix, Fennemore House, 501 E. Moreland.
Phoenix, Hidden-Porcher House, 763 E. Moreland.
Phoenix, Ivy House, 111 W. Monroe St.
Phoenix, Kenilworth Elementary School, 1210 N. 5th Ave.
Phoenix, La Ciudad Archeological Site.
Phoenix, Las Colinas (Arizona T:12810), 1200 block of N. 27th Ave.
Phoenix, Pieri-Elliott House, 767 E. Moreland.
Phoenix, Stewart House, 1115 N. Central.
Site T:4-6.
Site U:1:30 (A.S.U.).
Site U:1:31 (A.S.U.).
Skunk Creek Archeological District.

Mohave County

Colorado City vicinity, Short Creek Reservoir States NA 13,257 and NA 13,258.

Navajo County
Polacca vicinity, Walpi Hopi Village, adjacent to Polacca.

Pima County

Tucson, Convento Site.

Yavapai County
Copper Basin Archeological District, Prescott National Forest.

Yuma County
Eagle Tail Mountains Archeological Site.

ARKANSAS

Archeological Sites, Black River Watershed.

Clay County
Site 3CY24, Little Black River Watershed.

Craighead County
Mangrum Site (State Site Number 3CG636).

Faulkner County
Site 3WH145, E fork of Cadron Creek Watershed (also in White county).
Sites 3VB49-3VB51, N fork Cadron Creek Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed.

Lonoke County
Scott vicinity, William S. Pemberton House.

Ouachita County
Camden, Old Post Office, Washington St.

Poinsett County
Riverside Site (State Site Number 3P0395).

CALIFORNIA

Archeological Sites, Buchanan Dam at Chowchilla River.

Alpine County
Woodsford vicinity, Archeological Site 4-Alp-105.

Amador County
Amador City, 35 mi. SE of Sacramento.

Benito County

Chalone Creek Archeological Sites, Pinnacles National Monument.

Calaveras County

New Melones Historical District, New Melones Lake Project area, Stanislaus River (also in Tuolumne County).

Colusa County

Stoneyford vicinity, Upper and Lower Letts Valley Historical District, 12 mi. SW of Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Site Eld-58.
Giebenhahn House and Mountain Brewery Complex.

Fresno County

Helms Pumped Storage Archeological Sites, Sierra National Forest.
Home Camp T.S. (6 archeological sites) in Sierra National Forest.

Glenn County

Stick Lake Prehistoric Site, Case No. 05-08-67, Mendocino National Forest.
Upper Leach Lake Prehistoric Site, Case No. 05-08-67, Mendocino National Forest.
Willows vicinity, White Hawk Top Site, Twin Rocks Ridge Road Reconstruction Project.

Humboldt County

Eureka, Eureka Historic District.

Imperial County
Giamis vicinity, Chocolate Mountain Archeological District.
Lake Cahulla, Lot 1.
Lake Cahulla, Lot 5.

Inyo County

Scotty's Castle, Death Valley National Monument.
Scotty's Ranch, Death Valley National Monument.
The Twenty Mule Team Borax Wagon Road (also in Kern and San Bernardino counties).

Kern County

Site Ca-Ker-322.

Lassen County
Archeological Site HJ-1 and HJ-5.

Los Angeles County

Big Tujunga Prehistoric Archeological Site, 1 210 Project.
Los Angeles, Fire Station No. 26, 2475 W. Washington Blvd.
Van Norman Reservoir, Site CA-LAN 646, CA-LAN 643, Site CA-LAN 490, and a cluster made up of Sites CA-LAN, 475, 491, 492, and 493.

Madera County

Bass Lake Archeological Sites CA-MAD 176-185.
Lower China Crossing.
New Site.

Marin County

Point Reyes, P. E. Booth Company Pier, Point Reyes National Seashore.
Point Reyes, Point Reyes Light Station.

Modoc County

Alturas vicinity, Rail Spring, about 30 mi. N of Alturas in Modoc National Forest.
Johnson Slough Site (Site 1).

NOTICES

Tulelake vicinity, *Lava Bed National Monument Archeological District*, S of Tulelake (also in Siskiyou County).

Mono County
Archeological Site CA-MNO-684.

Monterey County
Big Sur, Point Sur Light Station.
Pacific Grove, Point Pinos Light Station.

Napa County
Archeological Sites 4-Nap-14, 4-Nap-261.
Napa River Flood Control Project.

Plumas County
Mineral, Hay Barn and Cook's Cabin, Drakesbad (Siford Family) Guest House, Lassen Volcanic National Park.
Mineral, Summit Lake Ranger Station, Lassen Volcanic National Park.

Riverside County
Twenty-nine Palms, Cottonwood Oasis (Cottonwood Springs), Joshua Tree National Monument.
Twenty-nine Palms, Lost Horse Mine, Joshua Tree National Monument.

Sacramento County
Sacramento River Bank Protection Project, Site 1, Sacramento River.
Sacramento Weir
Sacramento, Tower Bridge, M St. over Sacramento River (also in Yolo County).

San Bernardino County
Squaw Spring Well Archeological District.
Steam Well Petroglyph Archeological District.
Trona Pinnacles Railroad Camp.
Twenty-nine Palms, Keys, Bill, Ranch, Joshua Tree National Monument.
Twenty-nine Palms, Twenty-nine Palms Oasis, Joshua Tree National Monument.

San Diego County
North Island, Camp Howard, U.S. Marine Corps, Naval Air Station.
North Island, Rockwell Field, Naval Air Station.
San Diego, Marine Corps Recruit Depot, Barnett Ave.

San Francisco County
Forest Hill Station.
North Point Park/Marina (Eagle Cafe and Pier Facades), San Francisco northern waterfront.
San Francisco, Twin Peaks Tunnel.

San Luis Obispo County
New Cuyana vicinity, Caliente Mountain Aircraft Lookout Tower, 13 mi. NW of New Cuyana off Rte. 166.
San Luis Obispo, San Luis Obispo Light Station.

San Mateo County
Hillsborough, Point Montara Light Station.

Santa Barbara County
Santa Barbara, Site SBA-1330, Santa Monica Creek.
Site CA-SBA-1325.

Santa Clara County
Sunnyvale, Theuerkauf House, Naval Air Station, Moffett Field.

Shasta County
Mineral, Comfort Station, Lassen Volcanic National Park.
Mineral, Park Entrance Station and Residence, Lassen Volcanic National Park.
Mineral, Park Naturalist's Residence, Lassen Volcanic National Park.

Mineral, Warner Valley Ranger Station, Lassen Volcanic National Park.
Redding vicinity, *Squaw Creek Archeological Site*, NE of Redding.
Whiskeytown, *Irrigation System* (165 and 166), Whiskeytown National Recreation Area.

Sierra County
Archeological Site HJ-5 (Border Site 26WA-1676).
Properties in Bass Lake Sewer Project.

Siskiyou County
Thomas-Wright Battle Site, Lava Beds National Monument.

Sonoma County
Dry Creek-Warm Springs Valley Archeological District.
Petaluma, Ferrell Home, 500 E. Washington St.

Santa Rosa, Santa Rosa Post Office.

Tehama County
Los Molinos vicinity, *Ishi Site (Yahi Camp)*, E of Los Molinos in Deer Creek Canyon.

Tulare County
Atwell's Mill, Sequoia National Park.
Cattle Cabins, Sequoia National Park.
Quinn Ranger Station.

Ventura County
Simi Valley, Archeological Site Ven-341.

Yuba County
Site 4-Yub-S27 (Marysville Riverfront Park Project), along the Feather River, City of Marysville.

COLORADO

Denver County
Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County
Colorado Springs, Old El Paso County Jail, corner of Vermijo and Cascade Ave.

Larimer County
Estes Park, Beaver Meadows Maintenance Area, Rocky Mountain National Park utility area.
Sites 5-LR-257 and 5-LR-263, Boxelder Watershed Project.

Pueblo County
Pueblo, Pueblo Federal Building (U.S. Post Office), 5th and Main Sts.

CONNECTICUT

Fairfield County
Bridgeport Harbor, Bridgeport Canal Barges.
Norwalk, Washington Street—S. Main Street Area.

Hartford County
Farmington, Gridley-Parsons-Staples Homestead, Rte. 4, Farmington Ave.
Granby, Granby Center.
Hartford, Christ Church Cathedral and Cathedral House, 955 Main St. and 45 Church St.

Hartford, Houses on Charter Oak Place.
Hartford, Houses on Wethersfield Avenue, between Morris and Wyllys Sts., particularly Nos. 97-81, 65.
Manchester, Portions of Cheney Silk Mills Industrial Complex (Cheney Homes Area).
Southington, Lewis, Sally, House, 500 N. Main St.

Middlesex County
Middletown, Cookson, John, House, S. Main St.

Middletown, Fuller, Caleb, House, Upper Williams St.
Middletown, Main Street Firehouse, 533 Main St.
Middletown, Southmayd, William, House, Lower Williams St.

New London County
New London, Bank Street Historic District.
New London, Buckingham Memorial Building, 307 Main St.

New London, Williams Memorial Institute Building, 110 Broad St.
Norwich, Washington Street Historic District, Project 103-169.

New Haven County
Ansonia Opera House, 100 Main St.
New Haven, Grand Avenue Drawbridge, over Quinnipiac River.

Windham County
Brooklyn, Quebec Historic District (Quebec Village).

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
Brick Sentry Tower and Wall, along M St.
Central Heating Plant, 13th and C Sts. SW. SE between 4th and 6th Sts SE

1700 Block Q Street NW, 1700-1744, 1746, 1748 Que St. NW.; 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA

Broward County
Hillsboro Inlet, Coast Guard Light Station.

Collier County
Marco Island, Archeological Sites on Marco Island.

Monroe County
Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
Long Key Bridge
Old Bahia Honda Bridge

Pinellas County
Bay Pines, VA Center, Sections 2, 3, and 11 TWP 31-S, R-15E.

GEORGIA

Bibb County
Macon, Vineville Avenue Area, both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Carroll County
Jordan-Hampton House, Route 1.

Chatham County
Archeological Site, end of Skidway Island.
Savannah, 516 Off Street.
Savannah, 908 Wheaton Street.
Savannah, 914 Wheaton Street.
Savannah, 920 Wheaton Street.
Savannah, 928 Wheaton Street.
Savannah, 930 Wheaton Street.
Skidaway Island, Priest's Landing Mounds.

Clay County
Archeological Site WGC-73, downstream from Walter F. George Dam.

Cobb County
Bostwick, Charles C., House, 325 Atlanta St.
Brumby, Arnoldus, House, 472 Powder Springs St.

Clay, Alexander Stephens, House, 353 Atlanta St.

NOTICES

McCulloch-Wellons House, 348 Powder Springs Rd.
Slaughter, M. G., Cottage, 216 Fraser St.

De Kalb County
Atlanta, Atkins Park Subdivision, St. Augustine, St. Charles, and St. Louis places.
Decatur, Sycamore Street Area.

Fulton County
Atlanta, Downtown Atlanta Historic District, beginning at jct. Atlanta St. and Central Ave.

Gordon County
Haynes, Cleo, House and Frame Structure, University of Georgia.
Moss—Kelly House, Sallacoa Creek area.

Greene County
Wallace Reservoir Archeological District, (also in Hancock, Morgan, and Putnam counties).

Gwinnett County
Duluth, Hudgins, Scott, Home (Charles W. Summerour House), McClure Rd.

Heard County
Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County
Archeological Sites Project F-117-1 (7).
Augusta, Blanche Mill.
Augusta, Enterprise Mill.
Augusta, Green Street.

Stewart County
Rood Mounds, Walter F. George Dam and Reservoir.

Sumter County
Amerlous, Aboriginal Chet Quarry, Souther Field.

HAWAII

Hawaii County
Hawaii Volcanoes National Park, Mauna Loa Trail.
Kwalakakwa Bay, Kona Field System

Maui County
Hana vicinity, Kipahulu Historic District, SW of Hana on Rts. 31.

Oahu County
Barber's Point Harbor.
Moanalua Valley.

IDAHO

Ada County
Boise, Alexanders, 828 Main St.
Boise, Finks Department Store, 100 N. 8th St.
Boise, Idaho Building, 216 N. 8th St.
Boise, Simplot Building (Boise City National Bank), 805 Idaho St.
Boise, Union Building, 712½ Idaho St.

Clearwater County
Orofino vicinity, Canoe Camp—Suite 18, W of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County
Marsh and Ireton Ranch, Montour Flood project.
Town of Montour, Montour Flood project.

Idaho County
Kamlah vicinity, East Kamlah—Suite 15, SE of Kamlah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, Lewis and Clark Trail, Pattee Creek Camp.

Nez Perce County

Lapwal, Fort Lapwai Officer's Quarters, Phinney Dr. and C St. in Nez Perce National Park.
Lapwal, Spalding.
Lewiston, Fix Building, 211-213 Main St.

Lewiston, Lower Snake River Archeological District
Lewiston, Mozley Building, 215 Main St.
Lewiston, Scully Building, 209 Main St.

ILLINOIS

Bureau County
I & M Canal (also in Henry, Rock Island, and Whiteside counties).

Carroll County
Savanna vicinity, Spring Lake Cross Dike
Island Archeological Site, 2 mi. SE of Savanna.

Cook County
Chicago, Ogden Building, 180 W. Lake St.
Chicago, Oliver Building, 159 N. Dearborn St.
Chicago, Springer Block (Bay, State, and Kranz Buildings), 126-146 N. State St.
Chicago, Unity Building, 127 N. Dearborn St.

De Kalb County
De Kalb, Haish Barbed Wire Factory, corner of 6th and Lincoln Sts.

Henry County
Genesco, Ristau Brewery.

Lake County
Fort Sheridan, Museum Bldg. 33, Lyster Rd.

Madison County
American Bottoms, 69 archeological sites in Madison, Monroe, and St. Clair counties.

Rock Island County
Archeological Site 11-R1-337, East Moline Mississippi and Rock Rivers.

Scott County
Naples vicinity, Naples-Castle Site, SW of Naples.

Williamson County
Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA

Lawrence County
Bedford, Main Post Office, 1324 K St.
Mitchell, Riley School.

Marion County
Indianapolis, Lockfield Gardens Public Housing Project, 900 Indiana Ave.

Indianapolis vicinity, Garfield Park Pagoda, 2 mi S of Indianapolis in Garfield Park.

Monroe County
Bloomington, Carnegie Library.

Orange County
Coz Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.
Jackson, Ten Prehistoric Sites in the Patoka Lake.

St. Joseph County
Mishawaka, 100 NW Block, properties fronting N. Main St. and W. Lincoln Way.

Spencer County
Evansville, Pollard, Maier, House.

Vanderburgh County
Evansville, Alhambra Theater, 50 Adams St.
Evansville, Riverside Neighborhood.

Vermillion County

Houses in SR 63/32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA

Allamakee County
Marquette vicinity, Fire Point Site (Nine Foot Channel Navigation Project).

Boone County
Saylorville Archeological District (also in Polk and Dallas counties).

Ida County
Muri Brown Site (13-1A-4), County Courthouse.

Johnson County
Indian Lookout.

KANSAS

Douglas County
Lawrence, Curtis Hall (Kiva Hall), Haskell Institute.

KENTUCKY
Boone County
Rabbit Hash, Sites 15Be75 and 15Be76.

Jefferson County
Archeological Sites: Section 2, SW Jefferson County Local Protection Project.
Louisville, Levin Bates House, Bardstown Rd.

Johnson County
Fishtrap United Methodist Church.
Volga, McKenzie Log Cabin, McKenzie Branch.

Lawrence County
Fort Ancient Archeological Site.

Trigg County
Golden Pond, Center Furnace, N of Golden Pond on Bugg Spring Rd.

LOUISIANA

East Baton Rouge Parish
Baton Rouge, Spanish Town, Baton Rouge.

Orleans Parish
New Orleans, Algiers Point Historic District, bounded by Mississippi River, Atlantic St., and Opelousas St.
New Orleans, Casey, Kate, House, 932-934 Howard.

New Orleans, Central City District.
New Orleans, Cordes, John, House, 3027-3029 Royal St., Square 170.
New Orleans, Deyron, Dr. J. A., House, 3037 Royal St., Square 170.
New Orleans, Dunn, Andrew Jackson, House, 928-930 Callopie St., Square 119.
New Orleans, Dwyer, James, House, 933-935 Calenne St., Square 119.
New Orleans, Gasquet, William, Houses, 1128-1130 Constance St., Square 119.
New Orleans, Hart, James S., House, 616 Erato St., Square 71.
New Orleans, I-Sea Storage and Transfer Company Building, 2201 Clio St., Square 348.
New Orleans, Jahncke Building, 814 Howard Ave., Square 237.
New Orleans, Lee Circle and Lee Monument, St. Charles Ave. at Howard Ave.
New Orleans, Maginnis Cotton Mills, 1054 Constance St., Square 120.
New Orleans, McDowell, Robert, House, 1119-1121 Constance St., Square 130.
New Orleans, McLaughlin, M. A., House, 1122-1126 Constance St., Square 119.
New Orleans, McLeod, Euphemia Napir House, 1523-1525 Callopie St., Square 183.
New Orleans, Murray, Thomas, House, 1131 S. Rampart St., Square 290.

New Orleans, Old Firehouse, 1045 Magazine St., Square 158.
 New Orleans, Payton, William H., House, 1135 S. Rampart St., Square 290.
 New Orleans, Roper, George W., House, 1032 St. Charles Ave., Square 183.
 New Orleans, St. John the Baptist Church, 1139 Dryades St., Square 277.
 New Orleans, Saulet, Marie Theresa, House, 1218-1222 Annunciation St., Square 100.
 New Orleans, Schwegmann, G. A., House, 3044 Royal St., Square 142.
 New Orleans, Sincer, Louis, House, 1061 Camp St., Square 183.
 New Orleans, Spori, C. J., House, 3015 Royal St., Square 142.
 New Orleans, Talen, Aaldemar Appollonius, Studio-House, 1029 Callope St., Square 137.
 New Orleans, Temple Sinai, 1032 Ceroudelet St., Square 215.
 New Orleans, Verret, Theodore, House, 1216 Annunciation St., Square 109.
 New Orleans, Tourae, Nicholas, House, 1169 Tchoupitoulas St., Square 71.
 New Orleans, Zangel, Frederick, House, 1118 Constance St., Square 119.

Red River County

Hanna Site (16RR4).

St. Martins Parish

Site 16, Sm—45, Atchafalaya Basin Floodway.

Vernon Parish

Et. Polk, Site 16 VN 18.

MARYLAND

Allegany County

Flintstone vicinity, Martin Gordon Farm, Breckneck Rd. (Rte. 1).
 Flintstone vicinity, Martins Mountain Farm, Breckneck Rd. (Rte. 1).

Anne Arundel County

Chalborne, Bloody Point Bar Light, on Chesapeake Bay.
 Skidmore, Sandy Point Shoal Light, on Chesapeake Bay.

Baltimore (Independent City)

Baltimore Belt (Baltimore and Ohio) Railroad (Howard Street Tunnel and Power House).
 Barre Circle Historic District, Lombard St., Fremont Ave., Scott St.
 Eastern Avenue Sewage Pumping Station, SW corner of Eastern Ave. and President St.
 Fayette Street Methodist Episcopal Church, 745 West Fayette St.
 Mount Calvary Church Historic District, Bidle St., Madison Ave., N. Eutaw St.

Baltimore County

Federal Hill-Riverside Park Historic District, Federal Hill and Riverside Park areas.
 Port Howard, Craighill Channel Upper Range Front Light, on Chesapeake Bay.
 Hollins-Lombard Historic District, 800 blocks of Hollins and Lombard Sts., bet. Fremont and Callender; unit block of Parkin St.
 New Owings Mills Railroad Station, W of Reisterstown Rd.
 Old Owings Mills Railroad Station, Reisterstown Rd.
 Old Western Police Station (Old Pine Street Station).
 Reisterstown Historic District, Butler and Walston Rds.
 Ridgely's Delight Historic District.
 Sparrows Point, Craighill Channel Range Front Light, on Chesapeake Bay.
 St. Paul's Cemetery, Union Block, Fremont Ave.

NOTICES

Carroll County

Bridge No. 1-141 on Hughes Road.

Cecil County

Sassafras Elk Neck, Turkey Point Light, at Elk River and Chesapeake Bay.

Dorchester County

Hoopersville, Hooper Island Light, Chesapeake Bay-Middle Hooper Island.

Frederick County

Fort Detrick, Horton Test Sphere (One-Million-Liter Test Sphere).

Montgomery County

Rockville, Third Addition to Rockville and Old St. Mary's Church and Cemetery.

St. Marys County

St. Inigo, St. Inigo Manor House, Naval Electronic System Test and Evaluation Detachment.

St. Marys City, Point No Point Light, on Chesapeake Bay.

Talbot County

Tilghman Island, Sharps Island Light, on Chesapeake Bay.

MASSACHUSETTS

Barnstable County

Rider, Samuel, House, Gull Pond Rd. off Mid-Cape Hwy. 6.
 Truro, Highland Gold Course, Cape Cod Light, area.

Hampton County

Holyoke, Caledonia Building (Crafts Building), 185-193 High St.
 Holyoke, Cleary Building (Stiles Building), 190-196 High St.
 Holyoke, Steamer Company No. 3.

Middlesex County

Wayland, Old Town Bridge (Four Arch Bridge), Rte. 217, 1.5 m. NW of Rte. 126 Jct.

Suffolk County

Northern Avenue Bridge, Fort Point Channel.

Worcester County

Leicester, Shaw Site (Sites 4, 5, and 6), Upper Quaboag River Watershed project.
 North Brookfield, Meadow Site No. 11, Upper Quaboag River Watershed.

MICHIGAN

Kalamazoo County

Masonic Temple, corner Rose and Eleanor Sts.
 Little Forks Archeological District.

MINNESOTA

St. Louis County

Duluth, Morgan Park Historic District.

Winona County

Winona, Second Street Commercial Block.

MISSISSIPPI

Lowndes County

Tibbee Creek Archeological Site, Columbus lock and dam project.

Tishomingo County

Tennessee—Tombigbee Waterway.

MISSOURI

Buchanan County

St. Joseph, Hall Street Historic District, bounded by 4th St. on W., Robidoux on S., 10th on E., and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, Hyer, John, House.

Franklin County

Leslie, Noser's Mill and adjacent Miller's House, Rural Rte. 1.

Greene County

Springfield, Landers Theater, 311 E. Walnut St.

Henry County

La Due, Balschelett House, near Harry S Truman Dam and Reservoir.
 Little Black River Watershed (also in Ripley County).

Monroe County

Violette, Alexander House.

MONTANA

Cascade County

Great Falls, Building at 108 Central Avenue, 108 Central Ave.

Custer County

"Old Fort" at Fort Keog's.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.

Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, Marysville Historic District.

NEBRASKA

Cherry County

Valentine vicinity, Fort Niobrara National Wildlife Refuge.
 Valentine vicinity, Newman Brothers House.

Knox County

Niobrara Historic Properties.

NEVADA

Clark County

Las Vegas vicinity, Blacksmith Shop, Desert National Wildlife Range.
 Las Vegas vicinity, Las Vegas Wash Archeological District.
 Las Vegas vicinity, Mesquite House, Desert National Wildlife Range.

Elko County

Carlin vicinity, Archeological Sites 26EK1669, 26EK1672.

Nye County

Las Vegas vicinity, Emigrant's Trail, about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, Adobe in Ruddell Ranch Complex.
 Lovelock vicinity, Lovelock Chinese Settlement Site.

Storey County

Sparks vicinity, Derby Diversion Dam, on the Truckee River 19 mi. E of Sparks, along 180 (also in Washoe County).

Washoe County

Site 26Wa2065.

NEW HAMPSHIRE

Cheshire County

Arch Bridge, between N. Walpole and Bellows Falls (also in Windham Co., VT).

Hillsborough County

Amoskaag Millard Complex.
 Smyth Tower.

Rockingham County

Portsmouth, Pulpit Rock Observation Station, Portsmouth Harbor.

Strafford County

Odd Fellow's Hall (Morning Star Block).
 O'Neill House (Cocheco Co. Housing).
 Public Market (Morrill Block).
 Trella House (Dover Manufacturing Co. Housing).
 Veteran's Building (Central Fire House).
 Western Auto Block (Merchants Row).

NEW JERSEY

Hudson County

S.S. Newton, midway between Ellis and Liberty Islands.

Mercer County

Hamilton and West Windsor Townships, As-sunpink Historic District.
 Trenton, Lambert Interceptor.
 West Windsor Township Wastewater Facilities (Archeological Site 3313.14)—Extended.

Middlesex County

Cranbury Historic District.

Monmouth County

Long Branch, The Reservation, 1-9 New Ocean Ave.

Morris County

Morristown, Abbott Avenue Bridge.

Ocean County

Joseph Holmes Mill (The Mill Site), SW corner of intersection of Mill and Parker Sts.

Passaic County

Forsberg House, 3 Edgemont Crescent.

NEW MEXICO

Chaves County

Cites LA11809—LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, Sites SCSA 1-8.

Guadalupe County

Los Esteros Lake Archeological Site.

Lee County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, Oak Wash Sites N.M.G.:13:19—N.M.G.:13:37.

Otero County

Three Rivers Petroglyphs.

Rio Arriba County

Cerrito Recreation Site Archeological District.

NEW YORK

Albany County

Guilford, Nott Prehistoric Site.

Tetilla Peak Site.

Bronx County

New York, Bronx Post Office.
 New York, North Brothers Island Light Station, in center of East River.

NOTICES

Broome County

Mill Site at Site 7-A, Mantlooke Creek project (also in Tioga County).
 Vestal, Vestal Nursery Site, Vestal Project (also in Union County).

Cattaraugus County

Olean, Forness Park Development-Archeological Sites.

Chautauqua County

Dunkirk, Properties in the city of Dunkirk.
 Loomis Archeological Site, South and Central Chautauqua Lake.

Erie County

Eric Canal.
 New York, Hudson City Light Station, in center of Hudson River.

Greene County

New York, Hudson City Light Station, in center of Hudson River.

Kings County

Steeplechase Parachute Jump.

Nassau County

Greenville, Toll Gate House, Northern Blvd.

Long Island, Seafood Park Archeological Site.

New York County

New York, Colonial Park Pool Complex, Bradhurst Ave.

New York, Harlem Courthouse, 170 E. 121st St.

Orange County

Port Jervis, Church Street School, 55 Church St.

Port Jervis, Farnum, Samuel, House, 21 Ulster Pl.

Oswego County

Gustin-Earle Factory Site, village of Mexico.

Musico Motors Building, W. First and W Seneca Sts.

Otsego County

Swart-Wilcox House.

Queens County

Fort Totten Officers' Club.

Rensselaer County

Sand Lake, Troy and New England Railway (Trolley Embankment), Sand Lake Sewer Project/Wynantskill Trunk Sewer.

Richmond County

New York, Romer Shoal Light Station, located in lower bay area of New York Harbor.

Staten Island, U.S. Coast Guard Base, St. George.

Saratoga County

Saratoga Springs, Yaddo House and Gardens, District.

Saratoga Springs, Yaddo House and Gardens, Saratoga Springs Historic District.

Schuylerville, Archeological Site, Schuylerville Water Pollution Control Facility.

Staten Island

Tottenville, Ward's Point, Oakwood Beach Project.

Suffolk County

Janesport vicinity, East End Site.
 Janesport vicinity, Hallock's Pond Site.

New York, Fire Island Light Station, U.S. Coast Guard Station.

New York, Little Gull Island Light Station, off North Point of Orient Point, Long Island.
 New York, Plum Island Light Station, off Orient Point, Long Island.
 New York, Race Rock Light Station, S. of Fishers Island, 10 mi. N. of Orient Point.
 Northville Historic District, houses along Sound Ave.

Ulster County

Kingston vicinity, Esopus Meadows Light Station, middle of Hudson River.
 New York, Rondout North Dike Light, center of Hudson River at Jct. of Rondout Creek and Hudson River.
 New York, Saugerties Light Station, Hudson River.
 Wildmere and Cliffhouse Resort Hotels (Minnesota Acquisition Project), towns of Gardiner and Rochester.

Warren County

Lake George, Boyau, portion of Montcalm St.

Washington County

Greenwich, Palmer Mill (Old Mill), Mill St.

Westchester County

Port Washington vicinity, Execution Rocks Light Station, lower SW portion of Long Island Sound.

Yonkers, Women's Institute Building.
 Yorktown, Yorktown Railroad Station.

NORTH CAROLINA

Alamance County

Burlington, Clapp's Mill and Dam Site (also in Guilford County).

Burlington, Faust Mill (also in Guilford County).

Burlington, Low House (also in Guilford County).

Burlington, Southern Railway Passenger Depot, NE corner Main and Webb Sts.

Buncombe County

Asheville, Battery Park Hotel, Battle Sq. (7-14-77).

Caswell County

Archeological Sites CS-12, County Line Creek Watershed Project (also in Rockingham County).

Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Broad River Watershed Project (also in Rutherford County).

Cumberland County

Payetteville, Veterans Administration Hospital Confederate Breastworks, 23 Ramsey St.

Dare County

Buxton, Cape Hatteras Light, Cape Hatteras National Seashore.

Forsyth County

Winston-Salem, Atkins, Dr. Simon Green, House, 346 Atkins St.

Winston-Salem, Hill, James S., House, 914 Stadium Dr.

Winston-Salem, Paisley, J. W., House, 934 Stadium Dr.

Winston-Salem, Patterson, Ackerman, and Sussdorf Houses, 434, 440, 448 S. Trade St.

Hyde County

Ocracoke, Ocracoke Lighthouse.

NOTICES

NORTH DAKOTA

Burleigh County

Bismarck, Fort Lincoln Site.

OHIO

Adams County

Wrightsville vicinity, Grimes Site (33 AD 39), Killen Electric Generating Station.
Wrightsville vicinity, Killen Bridge Site, (33 AD 36), Killen Electric Generating Station.

Astabula County

Astabula, West Fifth Street Bridge, over Astabula River.

Clermont County

Neville vicinity, Maynard House, 2 mi. E of Neville off U.S. 52.

Crawford County

Calvary Reformed Church, First United Methodist Church, Crestline Shunk Museum.

Darke County

DAR-S.R.-571-0.00.

Montgomery County

Columbia Bridge Works.
Lower Cratis Road Bridge.

Richland County

Mansfield, Ritter, William, House, 181 S. Main.

Seneca County

Timin, Old U.S. Post Office, 215 S. Washington St.

Summit County

United Way Building, Perkins St.

Tuscarawas County

Conotton Creek Bridge, OR 90 in Warren Township, over Conotton Creek.

Warren County

Corwin, Shaffer Mound, S of New Burlington Rd.
Harveysburg, E. L. Anderlee Mound, S of New Burlington Rd. in Caesar Creek Lake Project.

Wayne County

Wooster, Thorne House, 1576 Beall Ave.

OKLAHOMA

Atoka County

Estep Shelter, Lower Clear Boggy Watershed.
Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, Blockhouse on Signal Mountain off Mackenzie Hill Rd.
Fort Sill, Chiefs Knoll, Post Cemetery, N of

Kay County

Newkirk vicinity, Bryson Archeological Site, NE of Newkirk.

OREGON

Baker County

Baker vicinity, Virtue Flat Mining District, 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappose vicinity, Portland and Southwestern Railroad Tunnel, 13 mi. NW of Scappose.

Coos County

Charleston, Cape Arago Light Station.

Curry County

Port Orford, Cape Blanco Light Station.

Douglas County

Winchester Bay, Umpqua River Lighthouse.

Gilliam County

Archeological Sites (Ghost Camp Reservoir).
Arlington vicinity, Four Mile Canyon Area (Oregon Trail), 10 mi. SE of Arlington.
Crum Gristmill, Ghost Camp Reservoir area.
Old Wagon Road, Ghost Camp Reservoir area.
Oler School, Ghost Camp Reservoir area.
Steel Truss Bridge, Ghost Camp Reservoir area.

Klamath County

Crater Lake National Park, Crater Lake Lodge.

Lane County

Coburg vicinity, McKenzie River Railroad Bridge.

Roosevelt Beach, Heceta Head Lighthouse.
Roosevelt Beach, Heceta Head Light Station.

Lincoln County

Agate Beach, Yakuna Head Lighthouse.

Tillamook County

Tillamook, Cape Meares Lighthouse.

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, Antone Mining Town, Barite 1901-1906.

PENNSYLVANIA

Adams County

Gettysburg, Barlow's Knoll, adjacent to Gettysburg National Military Park.
Kuhn's Fording Bridge, spans Conewago Creek.

Allegheny County

Bruceton, Experimental Mine, U.S. Bureau of Mines, off Cochran Mill Rd.
McJunkin Site, New Texas Rd.
Pittsburgh, St. Boniface Church, 2208 East St.

Berks County

Brownsville vicinity, Lauer/Gerhart Farm.
Mt. Pleasant, Berger-Stout Log House, near Jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, Conrad's Warehouse, near Jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, Heck-Stamm-Unger Farmstead, Gruber Rd.
Mt. Pleasant, Miller's House, Jct. of Rte. 183 and Powder Mill Rd.
Mt. Pleasant, O'Bolds-Billman Hotel and Store, Gruber Rd. and Rte. 183.

Mt. Pleasant, Pleasant Valley Roller Mill, Gruber Rd.
Mt. Pleasant, Reber's Residence and Barn, on Tulephocken Creek.
Mt. Pleasant, Union Canal, Blue Marsh Lake Project area.

Reading vicinity, Blue Marsh Archeological District.

Butler County

Butler, Bonnie Brook Archeological Site.

Chester County

Charlestown, Nessor House (Thomas Davis House), State Rd.

Charlestown, Pickering Creek Ice Dam, State Rd.

Lock Aerie.
Nature Center of Charleston, State Rd.

Charleston township.

Clinton County

Lockhaven, Apsley House, 302 E. Church St.

Lockhaven, Harvey Judge, House, 29 N. Jay St.

Lockhaven, McCormick, Robert, House, 234 E. Church St.

Lockhaven, Mussina, Lyons, House, 23 N. Jay St.

Delaware County

1476 Historic Sites (20 Historic Sites), Mid-County Expwy. (also in Montgomery County).

Minshall House, Media Borough.

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, Miners and Mechanics Bank Bldg., 13 N. Main St.

Lancaster County

Bainbridge Township, Haldeman Mansion.

Lehigh County

Colesville vicinity, Site 1: Farmhouse, barn, and outbuildings, 1-78.

Dorneyville, King George Inn and two other stone houses, Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, Faxon Co., Inc., Williamsport Beltway.

Northampton County

Lehigh Canal.
Site 3: Farmhouse, barn, and outbuildings, 1-78.

Site 4: Farmhouse, barn, and outbuildings, 1-78.

Philadelphia County

Philadelphia, Bridge on "I" Street, over Tacony Creek.

Philadelphia, Courthouse and Post Office, 9th St., between Chestnut and Market Sts.

Philadelphia, New Forest Theatre, 1108-1114 Walnut St.

Philadelphia, Poth, Frederick, House, 216 N. 33rd St.

Philadelphia, Tremont Mills, Wagoncocking St. and Adams Ave.

U.S. Naval Base, Quarters "A" Commandant's Quarters.

Washington County

Charleroi, Ninth Street School.
Cross Creek Village (36 Wn 293) (Cross Creek Watershed).

Somerset Township, Wright No. 22 Covered Bridge.

York County

Wellsville Historic District.

RHODE ISLAND

Providence County

Providence, Woonesquatucket Bridge.
Woonsocket, Club Marquette Building (St. Anne's Gymnasium), Cumberland St.

Washington County

Narragansett, Sprague, Gov., Bridge, Boston Neck Rd.

SOUTH CAROLINA

Beaufort County

Parris Island, Marine Corps Recruit Depot.

Charleston County

Charleston, 139 Ashley St.

Charleston, 69 Barre St.

Charleston, 69r Barre St.

Charleston, 316 Calhoun St.

Charleston, 316r Calhoun St.

Charleston, 268 Calhoun St.

Charleston, 274 Calhoun St.

Charleston, Old Rice Mill, off Lockwood Dr.

Florence County

Florence, United States Post Office-Florence, South Carolina, corner of Irby St. and Evan St.

SOUTH DAKOTA

Minnehaha County

Orpheum Theater, 315 N. Phillips Ave.
Pennington County

TENNESSEE

Davidson County

Rapid City, 612-632 Main St.
Nashville, Ancient Indian Village and Burial Ground, section 203(b).

TEXAS

Bexar County

Fort Sam Houston, Eisenhower House, Artillery Post Rd.

Concho County

Middle Colorado River Watershed, Prehistoric Archeology in the Southwest Laterals Subwatershed (also in McCulloch County).

Denton County

Hammons, George House, between Sangers and Pilot Point.

Galveston County

Galveston, U.S. Customhouse, bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, Quanah Railroad Station, Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed, Archeological Sites.

Webb County

Laredo, Bertani, Paul Prevost House, 604 Iturbide St.

Laredo, De Leal, Viscaya, House, 620 Zaragoza St.

Laredo, Garza, Zoila De La, House, 500 Iturbide St.

Laredo, Leyendecker/Salinas House, 702 Iturbide St.

Laredo, Montemayor, Jose A., House (Carols Vela House), 601 Zaragosa St.

Williamson County

Archeological Districts of North Fork and Granger Lake.

TRUST TERRITORY OF THE PACIFIC ISLANDS

Truk District

Sapore Village, Aikei/Winas, Fefen Island.

UTAH

Emery County

Site ML-2145, Manti-LaSal National Forest.

VERMONT

Chittenden County

Clark Memorial Building.

Windham County

Rockingham, Bellow Falls Armory, 72 Westminster St., Bellow Falls.

Windsor County

Windsor, Post Office Building.

VIRGINIA

Charlottesville (Independent city)

U.S. Post Office and Courthouse (Old Post Office).

Accomack County

Captain's Cove Dev., Archeological Sites (Chincoteague Bay).

NOTICES

Allegheny County

Gathright Lake Project (Archeological sites), (also in Bath County).

Wythe County

Fort Criswell.

WASHINGTON

Benton County

Richland vicinity, Paris Archeological Site, Hanford Works Reservation.

Richland vicinity, Wooded Island Archeological District, N of Richland.

Callam County

Cape Alava vicinity, White Rock Village Archeological Site, S.O. Cape Alava.

Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).

Segium, New Dungeness Light Station.

Grays Harbor County

West Port, Grays Harbor Light Station.

King County

Burton, Point Robinson Light Station.
Seattle, Alki Point Light Station.
Seattle, Home of the Good Shepherd.
Seattle, West Point Light Station.

Kitsap County

Hansville, Point No Point Light Station.

Pacific County

Ilwaco, North Head Light Station.

Pierce County

Fort Lewis Military Reservation, Captain Wilkes, July 4, 1841, Celebration Site.

Longmire, Longmire Cabin, Mount Rainier National Park.

San Juan County

San Juan Islands, Potos Island Light Station.

Skamania County

North Bonneville, Site 44SA11, Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, Mukilteo Light Station.

Wahkiakum County

Skamiokawa village, Archeological site 45-WK-5.

WEST VIRGINIA

Barbour County

Covered Bridge across Rooting Creek, Elk Creek Watershed (also in Harrison County).

Cabell County

Huntington, Old Bank Building, 1208 3rd Ave.

Kanawha County

Charleston, Kanawha County Courthouse.

St. Albans, Chilton House, 439 B St.

Pendleton County

Wayside Inn (Site's Inn), Monongahela National Forest.

Wood County

Parkersburg, Wood County Courthouse.
Parkersburg, Wood County Jail.

WISCONSIN

Ashland County

Ashland vicinity, Madeline Island Site 7302.

LaCrosse County

LaCrosse, LaCrosse Post Office.

Rock County

Portion of Evansville Historic District.

WYOMING

Albany County

Woods Landing vicinity, Boswell Ranch, WY 10.

Fremont County

Pilot Butte Powerplant, Wind River Basin.

Johnson County

Casper, Castle Rock Archeological Site.
Casper, Dull Knife Battlefield.
Casper, Middle Fork Pictograph-Petroglyph Panels.
Casper, Portuguese Houses.

Park County

Mammoth, Chapel at Fort Yellowstone, Yellowstone National Park.

PUERTO RICO

Mona Island, Sardinero Site and Ball Court's.

[FR Doc.77-28786 Filed 10-3-77; 8:45 am]

[4310-10]

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before Sept. 23, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by October 13, 1977.

CHARLES A. HERRINGTON,
Acting Keeper of the
National Register.

CALIFORNIA

Contra Costa County

Richmond, Winehaven, Point Molate.

Fresno County

Fresno, Forestiere Underground Gardens, 5021 W. Shaw Ave.

Kings County

Hanford, Kings County Courthouse, 114 W. 8th St.

Los Angeles County

Newhall, Horseshoe Ranch, 24151 Newhall Ave.

Napa County

Napa, Buford House, 1930 Clay St.

Orange County

El Toro vicinity, El Toro Grammar School, 21802 Serrano Rd.

Santa Ana, Smith-Tuthill Funeral Parlors, 518 N. Broadway.

San Diego County

Julian, Robinson Hotel, 2032 Main St.

La Jolla, Scripps, George H., Memorial Marine Biological Laboratory, 8602 La Jolla Shores Dr.

NOTICES

San Mateo County
Woodside, Independence Hall, 129 Albion Ave.

Santa Barbara County
Santa Barbara vicinity, Hammond's Estate Site, E of Santa Barbara.
Santa Barbara vicinity, Hope Thomas House, 399 Nogal Dr.

FLORIDA

Duval County
Jacksonville, Bethel Baptist Institutional Church, 1058 Hogan St.

Putnam County
Melrose, Melrose Woman's Club, Pine St.

GEORGIA

Baldwin County
Milledgeville vicinity, Rockwell, Samuel House, 165 Allen Memorial Dr. HABS.
Milledgeville vicinity, Rutherford, John, House, 550 Allen Memorial Dr.
Milledgeville vicinity, Storehouse, State Lunatic Asylum, Broad St. and Lawrence Rd.
Milledgeville vicinity, Thalian Hall, Ivey and Allen Memorial Drives.

MASSACHUSETTS

Hampden County
Westfield, Westfield Municipal Building, 59 Court St.

Norfolk County
Brookline, Devotion, Edward, House, 347 Harvard St.

Plymouth County
Duxbury vicinity, Bradford, Capt. Gershom, House, 931 Tremont St.

Worcester County
Milbury, Waters, Asa, Mansion, 123 Elm St.

NEVADA

Carson City
Carson City, Meder, Leir M., House, 308 N. Nevada St. HABS.
Carson City, Nevada State Printing Office, 101 S. Fall St. HABS.

NEW JERSEY

Bergen County
New Milford, DesNarest, Jacobus, House, 618 River Rd. HABS.
Waldwick, Waldwick Railroad Station, Hewson Ave. and Prospect St.

Essex County
Newark, Newark City Hall, 920 Broad St.

Middlesex County
Woodbridge, Baron Library, 582 Rahway Ave.

Monmouth County
Allentown, Allentown Mill, 42 S. Main St.
Eatontown, St. James Memorial Church of Eatontown, 69 Broad St.
West Long Branch, Shadow Lawn, Cedar and Norwood Aves.

OKLAHOMA

Beaver County
Mecane vicinity, Rose, Billy, Archeological Site, S of Mecane.

Cimarron County
Felt vicinity, Cedar Breaks Archeological District, W of Felt.
Kenton vicinity, Bat Cave Archeological Site, S of Kenton.

Harper County

Laverne vicinity, Beagley-Stinson Archeological Site, N of Laverne.

Texas County

Guymon vicinity, Nash II-Clayson Archeological Site, E of Guymon.
Guymon vicinity, Two Sisters Archeological Site, N of Guymon.

PENNSYLVANIA

Adams County
Gettysburg vicinity, Black Horse Tavern (Bream's Tavern), W of Gettysburg on PA 116 HABS.

Allegheny County

Pittsburgh, Allegheny West Historic District, roughly bounded by Jakob Way, Brighton Rd., Ridge and Allegheny Aves.
Pittsburgh, Frick Building and Annex, 437 Grant St.

Armstrong County

Cowansville vicinity, St. Patrick's Roman Catholic Church, W of Cowansville off PA 268.

Berks County

Douglasville, St. Gabriel's Episcopal Church, U.S. 422.

Bucks County

New Hope vicinity, Eagle Tavern, S of New Hope.
Quakertown, Liberty Hall, 1237 W. Broad St.

Centre County

Centre Hall vicinity, Penn's Cave and Hotel, 5 mi. E of Centre Hall off PA 192.
Centre Hall vicinity, Potter-Allison Farm, SE of Centre Hall on PA 144.

Chester County

Birchrunville, Birchrunville General Store, Hollow and Flowing Springs Rds.
Kennett Square vicinity, Harvey, Peter, House and Barn, E of Kennett Square on Hillendale Rd.
Phoenixville vicinity, Here's Hill Road Bridge, W of Phoenixville on Here's Hill Rd.
Phoenixville vicinity, Williams, Davis B., Farm, S of Phoenixville.
Pottstown vicinity, Coventryville Historic District, S of Pottstown on PA 23.

Crawford County

Meadville, Independent Congregational Church, 346 Chestnut St.

Erie County

Erie, Erie Land Lighthouse, Dunn Blvd., Lighthouse Park HABS.

Fayette County

Belle Vernon vicinity, Cook, Col. Edward, House, E of Belle Vernon HABS.
Farmington, Rush House, Jet. U.S. 40 and PA 381.

Lackawanna County

Carbondale, Delaware and Hudson Canal Company Shops, 91 N. Main St.

McKean County

Kane, Kane, Thomas L., Memorial Chapel, 30 Chestnut St.

Mercer County

Sharon, Buhl, Frank H., Mansion, 422 E. State St.

Venango County

Franklin, Plumer Block, 1205 Liberty St.

Washington County

Avella vicinity, Meadowcroft Rockshelter, W of Avella.
Marianna vicinity, Ulery Mill, SE of Marianna.

Westmoreland County

Greensburg, Greensburg Railroad Station, Harrison Ave.

York County

York, Willis House, 190 Willis Rd. HABS.
York, York Dispatch Newspaper Offices, 15-17 E. Philadelphia St.

TENNESSEE

Montgomery County
Clarksville vicinity, Old Post House, N of Clarksville on US 41A.

TEXAS

Burnet County
Marble Falls vicinity, Page, Louis, Archeological Site, E of Marble Falls.

VIRGINIA

Richmond (independent city)
200 Block West Franklin Street Historic District, 200-212 W. Franklin St.

[FR Doc.77-28785 Filed 10-3-77;8:45 am]

[4410-01]**DEPARTMENT OF JUSTICE**

**Drug Enforcement Administration
COLLABORATION RESEARCH, INC.
Manufacture of Controlled Substances;
Correction**

On August 23, 1977, Notice was published in the FEDERAL REGISTER (No. 163, 42 FR 42392) that on July 18, 1977, Collaborative Research, Inc., 1365 Main Street, Waltham, Mass. 02154, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of lysergic acid diethylamide, a basic class of controlled substance in schedule I.

The latest date, September 26, 1977, for filing comments, objections and requests for a hearing was inadvertently omitted from the Notice.

Time for filing comments, objections and requests for a hearing is extended to October 14, 1977.

Dated: September 29, 1977.

PETER B. BENSINGER,
Administrator.

[FR Doc.77-29140 Filed 10-3-77;8:45 am]

[4410-01]

**CONTROLLED SUBSTANCES IN
SCHEDULE II**

**Proposed 1977—Revised Aggregate
Production Quota—Oxycodone for Conversion**

Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) requires the Attorney General to establish aggregate

production quotas for all controlled substances in Schedules I and II each year. This responsibility has been delegated to the Administrator of the Drug Enforcement Administration pursuant to § 0.100 of Title 28 of the Code of Federal Regulations.

On August 1, 1977, a notice of the final aggregate production quota for this substance was published in the FEDERAL REGISTER (42 FR 38945). Since the finalization of this quota, DEA has been advised by the producer of oxymorphone, which is derived by conversion from oxycodone, that calculation errors were made in the derivation of data supplied to DEA in support of the quota request for this substance. These errors on the part of the manufacturer of oxymorphone dosage units has now resulted in an inadequate supply of oxycodone for conversion to produce the entire oxymorphone quota issued this manufacturer.

Factors which the Administrator of the Drug Enforcement Administration is required to consider pursuant to § 1303.11(b) (5) of Title 21 Code of Federal Regulations are yield and stability problems as well as potential disruption to production. Considering these factors as well as the other factors listed in § 1303.11 of Title 21 Code of Federal Regulations, the Administrator has deemed that it is necessary to allow the production during 1977 of additional amounts of oxycodone which will be utilized expressly for conversion to oxymorphone. Therefore, the Administrator of the Drug Enforcement Administration, under the authority vested in the Attorney General by Section 306 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 826) and delegated to the Administrator by § 0.100 of Title 28 of the Code of Federal Regulations does hereby propose the following change of the aggregate production quota for 1977 for Oxycodone for Conversion expressed in grams in terms of anhydrous base:

Basic class	Previously finalized 1977 aggregate production quota	Proposed revised 1977 aggregate production quota
Oxycodone for conversion	8,400	11,000

All interested persons are invited to submit their comments and objections in writing regarding this proposal. The comments or objections should state with particularity the issues concerning which the person desires to be heard. Comments and objections should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, Washington, D.C. 20537, Attention: DEA Federal Register Representative, and must be received by October 28, 1977. If a person believes that one or more issues raised by him warrant a full adversary-type hearing, he should so state and summarize the reasons for his belief.

In the event that comments or objections to this proposal raise one or more issues which the Administrator finds, in

NOTICES

his sole discretion, warrants a fully adversary-type hearing, the Administrator shall order a public hearing in the FEDERAL REGISTER summarizing the issues to be heard and setting the time for the hearing.

Dated: September 28, 1977.

PETER B. BENSINGER,
Administrator.

[FR Doc.77-29141 Filed 10-3-77;8:45 am]

[4510-01]**DEPARTMENT OF LABOR**

**Employment and Training Administration
EMPLOYMENT TRANSFER AND BUSINESS
COMPETITION DETERMINATIONS UNDER
RURAL DEVELOPMENT ACT**

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924 (b), 1932, or 1942 (b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the

area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to:

Deputy Assistant Secretary for Employment and Training, 601 D St. NW, Washington, D.C. 20213.

Signed at Washington, D.C., this 26th day of September 1977.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

Applications received during the week ending September 23, 1977

Name of applicant	Location of enterprise	Principal product or activity
Marlboro Family Recreation Center, Inc.	Monmouth County, N.J.	Roller skating area.
Resorcinol Puerto Rico, Inc.	Penuelas, Puerto Rico	Manufacture of resorcinol and sodium sulfite.
Cumberland Wood Products, Inc. (tenant of industrial development board of Scott County).	Scott County, Tenn.	Manufacture of plywood reels.
Refrigerated Transport Co., Inc. (tenant of city of Madison).	Madison, Fla.	Transportation of perishable commodities.
Toral Shirtmakers, Inc. (tenant of town of Ponce De Leon).	Ponce De Leon, Fla.	Manufacture of men's and ladies' knit shirts.
Curtis Ealman (tenant of city of Montevallo).	Montevallo, Ala.	Manufacture of ladies' sportswear.
Line Fast Corp. (tenant of city of Montevallo).	Montevallo, Ala.	Container and trailer fastening systems.
Young's Dairy Queen, Inc.	Batesville and Brookville, Ind. and Cincinnati, Ohio.	Restaurant.
Nordmeyer, Inc.	Rio Grande City, Tex.	Manufacture of bricks.
Chris-T Emulsion Co.	Van Buren, Ark.	Manufacture of emulsified asphalt and liquid prime asphalt.
Kennett Oil Mill, Inc.	Kennett, Mo.	Receive and process cottonseed.
Cardwell Memorial Hospital, Inc.	Stella, Mo.	Health care services.
Cedar Bowl, Inc.	North Platte, Nebr.	Bowling center, restaurant, and lounge.
Ventana Big Sur.	Big Sur, Calif.	Resort and restaurant.

[FR Doc.77-28955 Filed 10-3-77;8:45 am]

[4510-27]

Office of Federal Contract Compliance Programs

WOMEN IN CONSTRUCTION UNDER EXECUTIVE ORDER 11246, AS AMENDED
Proposed Goals and Timetables Pursuant to Proposed Rule; Extension of Comment Period

On August 16, 1977, a notice proposing goals and timetables for women in construction was published in the *FEDERAL REGISTER* (42 FR 41383). These goals and timetables would be issued under regulations (41 CFR Part 60-4) also proposed by the Department of Labor on August 16, 1977, pursuant to Executive Order 11246. That notice invited comment on the goals and timetables until September 30, 1977.

Since the publication of that document, various requests for the extension of the period provided for the receipt of comments have been received. The importance of the issues addressed in that proposal requires that the Department proceed to establish goals and timetables for women in construction as expeditiously as possible. However, the Department also wishes to provide sufficient time for all interested parties to prepare and submit their comments. Therefore, an additional 15-day period is provided and comments will be received on this proposal until October 15, 1977.

Dated: September 29, 1977.

WELDON J. ROUGEAU,
Director, Office of Federal
Contract Compliance Programs.
[FR Doc.77-29203 Filed 10-3-77;8:45 am]

[4510-26]

Occupational Safety and Health Administration

[V-77-3]

CLARK GRAVE VAULT CO.
Grant of Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Grant of Variance.

SUMMARY: This notice announces the grant of a variance to the Clark Grave Vault Co. from the standards prescribed in 29 CFR 1910.22(c) and 1910.23(c) (3) concerning guardrails.

DATES: The effective date of the variance is October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue NW, Room N-3668, Washington, D.C. 20210, telephone: 202-523-7121.

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor, Room 3263, 230 South Dearborn Street, Chicago, Ill. 60604.
U.S. Department of Labor, Occupational Safety and Health Administration, 360 S. 3rd Street, Room 109, Columbus, Ohio 43215.

I. BACKGROUND

The Clark Grave Vault Co., 375 East Fifth Avenue, Columbus, Ohio 43201 has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and for an interim order pending a decision on the application for a variance, from the safety and health standards prescribed in 29 CFR 1910.22(c) and 1910.23(c) (3). Section 1910.22(c) requires that covers and/or guardrails shall be provided to protect personnel from the hazards of open pits, tanks, vats, ditches, etc. Section 1910.23(c) (3) requires that all galvanizing tanks be guarded with a standard guardrail and toeboard. Section 1910.23(e) states, among other things, that a standard guardrail shall consist of top rail, intermediate rail, and posts and shall have a vertical height of 42 inches nominal from upper surface of top rail to floor, platform, runway, or ramp level. The purpose of the standard is to protect employees from falling into these particularly hazardous areas. The facility affected by this application is as follows:

The Clark Grave Vault Co., 375 East Fifth Avenue, Columbus, Ohio 43201.

Notice of the application, and of the granting of the interim order, was published in the *FEDERAL REGISTER* on July 1, 1977 (42 FR 33813). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance request. In addition, affected employers and employees were notified of their right to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicant operates a galvanizing tank which has a 30 inch side height and a 31½ inch ledge width. The applicant asserts that the erection of a 42 inch guardrail around its galvanizing tank would seriously interfere with necessary work practices such as the moving of items into and out of the tank and the skimming of the zinc.

The applicant argues that the combined 30 inch wall height and 31½ inch width would provide the same protection as would a 42 inch guardrail.

III. DECISION

Section 1910.22(c) requires that guardrails be provided to protect personnel from the hazards of open pits, tanks, etc. Section 1910.23(c) (3) requires that

regardless of height, open-sided floors, walkways, platforms or runways above or adjacent to dangerous equipment, pickling or galvanized tanks, degreasing units or similar hazards shall be guarded with a standard railing and toeboard.

In the work area described, the 31½ inch ledge width prevents an employee from accidentally stepping into the tank. The 30 inch side height is sufficient to allow an employee to right himself if he should fall towards the tank. The combination of side height and ledge width, together with the applicant (1) assuring that no employee walks, steps or sits on the ledge around the tank, and (2) training the employees regarding the proper performance of the operation and the hazards associated with walking, stepping, and sitting on the ledge around the tank, provides protection as safe as that which would be provided by use of a standard guardrail and toeboard.

IV. ORDER

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in the Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that The Clark Grave Vault Company, be, and it is hereby, authorized to continue its operation while using its galvanizing tank having ledges 31½ inches wide and sides 30 inches high, in lieu of the standard guardrail and toeboard required by 29 CFR 1910.22(c) and 1910.23(c) (3) provided that:

(1) No employee shall walk, step, or sit on the ledge around the tank.

(2) Training and information regarding the hazards associated with and the prohibition against walking, stepping or sitting on the ledge around the tank shall be provided for current employees within one week of the effective date of this variance, for new employees at the time of their initial assignment, and for all employees on a quarterly basis after their initial training.

As soon as possible, The Clark Grave Vault Co. shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

Effective date. This order shall become effective on October 4, 1977, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C. this 27th day of September, 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc.77-29157 Filed 10-3-77;8:45 am]

[4510-26]

CONNECTICUT STATE STANDARDS

Approval

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the

Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator), under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 4, 1974, notice was published in the *FEDERAL REGISTER* (39 FR 1012) of the approval of the Connecticut plan and the adoption of Subpart X to Part 1952 containing the decision.

The Connecticut plan provides for the adoption of Federal standards as State standards (or "for the adoption of State standards which are at least as effective as the comparable Federal standards" where relevant). On May 3, 1977 the Occupational Safety and Health Administration (OSHA) adopted pursuant to section 6(c) of the Act, an emergency temporary standard for Occupational Exposure to Benzene, (42 FR 22516). By letter dated June 8, 1977 from Frank Santaguida, Commissioner, Connecticut Department of Labor to Gilbert J. Saulter, Regional Administrator, and incorporated as part of the plan, the State submitted its emergency temporary standard. This standard was promulgated on May 20, 1977, in accordance with applicable State law contained in Sections 31-372 and 4-168(b) of the Connecticut State laws.

2. *Decision.* Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards and accordingly should be approved. The detailed standards comparison is available at the location specified below.

3. *Location of supplement for inspection and copying.* A copy of the standards supplement, along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, U.S. Department of Labor—OSHA, John F. Kennedy Federal Building, Room 1804, Government Center, Boston, Mass. 02203; State of Connecticut Department of Labor, 200 Folly Brook Boulevard, Wethersfield, Conn. 06109; and the Technical Data Center, Room N3620, 200 Constitution Avenue, Washington, D.C. 20210.

4. *Public participation.* 29 CFR 1953.22 (b) (1) provides that emergency temporary standards which are identical to or "at least as effective as" the comparable Federal standards may be approved effective upon publication under the Administrative Procedure Act requirements for good cause, 5 U.S.C. 553(b) (3) (B), for the following reasons:

1. The standard was adopted in accordance with the procedural requirements of State law which authorizes promulgation without public participation for emergency standards, and par-

ticipation at the Federal level would be impractical.

2. The emergency nature of the standard requires that its approval be implemented immediately.

This decision is effective October 4, 1977.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667).)

Signed at Boston, Mass., this 2nd day of August 1977.

GERALD M. DUWORS,
Acting Regional Administrator.

[FR Doc.77-29158 Filed 10-3-77;8:45 am]

[4510-26]

[V-77-12]

FRANCIS HANKIN & CO., INC.

Variance and Interim Order

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order; (2) Grant of interim order.

SUMMARY: This notice announces the application of Francis Hankin & Co., Inc. for a variance and interim order pending a decision on the application for a variance from the standards prescribed in 29 CFR 1926.552(c) concerning personnel hoists, and 1926.451(1)(5) concerning boatswain's chairs. It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is October 4, 1977. The last date for interested persons to submit comments is November 3, 1977. The last date for affected employers and employees to request a hearing on the application is November 3, 1977.

ADDRESSES: Send comments or requests for a hearing to: Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd Street and Constitution Avenue NW, Room N-3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address telephone 202-523-7121, or the following Regional Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, JFK Federal Building, Room 1804—Government Center, Boston, Mass. 02203.

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza)—Room 3445, New York, N.Y. 10036.
U.S. Department of Labor, Occupational Safety and Health Administration, Gateway Building—Suite 2100, 3535 Market Street, Philadelphia, Pa. 19104.

U.S. Department of Labor, Occupational Safety and Health Administration, 1375 Peachtree Street, N.E.—Suite 587, Atlanta, Ga. 30309.

U.S. Department of Labor, Occupational Safety and Health Administration, 32nd Floor—Room 3263, 230 South Dearborn Street, Chicago, Ill. 60604.

U.S. Department of Labor, Occupational Safety and Health Administration, 555 Griffin Square Building—Room 602, Dallas, Tex. 75202.

U.S. Department of Labor, Occupational Safety and Health Administration, 911 Walnut Street—Room 3000, Kansas City, Mo. 64106.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Building—Room 15010, 1961 Stout Street, Denver, Colo. 80294.

U.S. Department of Labor, Occupational Safety and Health Administration, 9470 Federal Building, 450 Golden Gate Avenue—P.O. Box 36017, San Francisco, Calif. 94102.

U.S. Department of Labor, Occupational Safety and Health Administration, Federal Office Building, Room 6048, 909 First Avenue, Seattle, Wash. 98174.

I. NOTICE OF APPLICATION

Notice is hereby given that Francis Hankin & Co., Inc., 117 Crockford Blvd., Scarborough, Ontario, Canada M1R 3B9, has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and an interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1926.552(c) Personnel Hoists and 29 CFR 1926.451(1)(5) Boatswain's chairs.

The places of employment that will be affected by the application are all the applicant's chimney construction sites in States under Federal jurisdiction, and all future stack erection sites in States under Federal jurisdiction.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

The applicant requested a variance from § 1926.451(1)(4) to permit the use of wire rope in lieu of manila rope. Section 1926.451(1)(4) requires an employee using a boatswain's chair to be protected by a safety belt and lifeline in accordance with § 1926.104. Under § 1926.104(c) manila or equivalent rope is permitted. Since wire rope is equivalent to manila rope, a variance from § 1926.451(1)(4) is unnecessary.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by §§ 1926.451(1)(5) and 1926.552(c).

The applicant is engaged in the construction of chimneys and/or chimney liners. In erecting or repairing the chimney and/or chimney liner, work must be performed at elevations at which access ladders are impractical.

The applicant contends that it is not feasible to use personnel hoists meeting the requirements of 1926.552(c) inside a chimney. In a small chimney there would be insufficient room to construct a hoist tower and the hoist tower would interfere with the design and construction of the chimney and/or chimney liner.

Instead, the applicant states that it would use a system incorporating Special Workmen's Hoist and Safety Cages, boatswain's chairs, and a material hoist. Specifically, the applicant proposes to transport personnel to and from the elevated platform, during maintenance (repair) or construction work on chimneys, utilizing a Special Workmen's Hoist, including the hoist machine, safety cage with safety cables on opposite sides, safety devices that will grip the safety cables in the event of any failure of the hoisting cable and limit switches to prevent overrun of the cage at both top and bottom of the chimney; to transport personnel one at a time to and from the elevated scaffold during maintenance or construction work on chimneys or chimney liners of a small diameter or from a bracket scaffold on the outside of a chimney utilizing a boatswain's chair attached to the hoisting cable of a material hoist from which the material bucket shall be temporarily disconnected; to attach the safety belt of the personnel being transported one at a time to or from the elevated scaffold in the boatswain's chair to a clamp riding a separate lifeline of 3/8-inch diameter wire rope securely attached to the rigging at the top and to a weight at the bottom; and to substitute the material hoist for the "block and falls" when transporting personnel one at a time in a boatswain's chair. The applicant has submitted detailed procedures which it will follow in transporting personnel by these means in lieu of the requirements of 29 CFR 1926.451(1)(5) and 29 CFR 1926.552(c).

II. INTERIM ORDER

It appears from the application for a variance and interim order that, as required by section 6(d) of the Act, the use of a Special Workmen's Hoist to transport employees and the substitution of a materials hoist for block and falls on a boatswain's chair will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1926.451(1)(5) and 1926.552(c). It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(d) of the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c), and in Secretary of Labor's Order No. 8-76 (41 FR 25059), that Francis Hankin Co., Inc., be, and it is hereby, authorized to utilize a Special Workmen's

Hoist consisting of a hoist machine and a special two-man safety cage to transport employees to and from the work platform, and to use a boatswain's chair to transport employees one at a time while substituting a materials hoist for the block and falls, provided that the following conditions are complied with:

I. HOIST MACHINE

- a. *Requirements.* (1) The hoist machine shall be designated as a portable man hoist.
- (2) The hoist machine shall be powered both in the up and down direction.
- (3) The hoist machine shall be located far enough from the footblock to obtain correct feet angle or proper spooling on the hoist drum.
- (4) The hoisting machine shall be a type of which the car hoisting drum is driven in both directions of rotation and is automatically stopped and held rotationless upon loss of applied power so that the drum cannot be in a freewheeling condition. A drive system of which the hoisting drum can be placed into a freewheeling position for the purpose of lowering the car by use of the braking system or a system of which the velocity of the car being lowered is reduced by increasing the engine or motor speed shall not be allowed.
- (5) The hoist machine shall be equipped with a "deadman" control switch in top of operating lever or in conventional foot-type location which shall stop the hoist immediately if released.
- (6) The hoist machine shall be equipped with a winding drum of not less than 30 times the diameter of rope used, with rope not to be spooled closer than two inches to edge of flange.

- (7) The hoist machine shall be equipped with a line speed indicator maintained in good working condition.
- (8) The hoist machine shall be equipped with either two independently operated brakes each capable of holding the load as follows:

- (i) An externally contracting band type brake mounted directly on the hoist drum. A foot pedal shall be located near the operator's seat for sit down control.
- (ii) An electromagnetic braking device, capable of holding 150 percent of the rated load, which shall be automatically applied upon cessation of power. The electromagnetic brake shall be properly located in the drive between the power source and the drum or two independent band type brakes in conjunction with hydraulic braking, each capable of holding the load as follows:

- (i) Two independent band type brakes, one mounted directly on the hoist drum, the second mounted directly on the hydraulic motor which are spring engaged and hydraulically disengaged and will automatically engage upon cessation of power and capable of withstanding 150 percent of the rated load.

- (ii) Hydraulic braking system which is concurrent with hand control lever.

- (9) (i) The hoist machine frame shall be self supporting rigid, welded steel frame with skid base and holding brackets for anchor lines located at corners, as well as legs for anchor bolts.

- (ii) The hoisting machine shall be securely anchored to prevent machine displacement, movement or dislodgement.

- (10) Hoist machine wiring shall be equipped with terminal blocks for connections with limit switches that are placed at upper and lower end of travel to prevent the bottom of the cage from being taken above the platform level of the top scaffold or below the bottom loading platform. The hoist shall stop automatically if limit switch contact is opened.

- (11) All electrical equipment shall be waterproof.

- (12) The hoisting machine shall be electrically grounded.

- (13) Single lever control for both speed and direction shall be used.

- b. *Operating control.* (1) The operator of the hoist shall be an experienced operator.

- (2) The hoist shall not be operated in excess of 250ft/min. when carrying personnel.

- (3) Signals shall consist of two-way radio or wired intercom between hoist operator, the lower landing and the upper landing.

- c. *Hoist rope.* (1) The hoisting rope shall be improved plow steel or equivalent quality of nonrotating type or regular lay rope with proper swivel and shall be not less than one-half inch diameter. It shall be attached to the cage by a closed hook or hook with locking swivel safety latch.

- (2) Where clip fastener is used, the clips shall be installed in accordance with Table H-20, 29 CFR 1926.251(a)(2) and they shall be installed with "U" of clip on dead end of rope. Spacing clip-to-clip shall be six times the diameter of the rope.

- (3) The load end of the hoist rope shall be weighted to prevent line run.

- d. *Footblock.* (1) The footblock shall be of construction type of solid single piece ball, which will prevent rope escapement due to sheave failure, and provide for rope return.

- (2) The line diameter of the footblock shall be not less than 24 times the rope diameter.

- (3) The change in directions of hoist rope at the footblock shall be approximately 90°.

- e. *Cathead.* (1) The overhead sheave supports shall be securely fastened together by bolts or weld to prevent spreading. The sheaves shall be installed between the supporting members and shall rotate on a fixed shaft or the shaft shall revolve in pillow block bearings.

- (2) The sheaves used on cathead shall have a minimum diameter equal to 24 times diameter of rope when travel of rope on the sheaves is approximately 90°. When using 1/2 inch diameter rope, the corresponding minimum sheave diameter shall be 12 inches.

II. SAFETY CAGE

- a. *Cage.* (1) The cage shall be of welded construction of two-man capacity.

- (2) The framework of the cage shall be covered with aluminum expand-X or equivalent.

- (3) The floor shall be of 3/4 inch thick plywood securely fastened in place, or equivalent.

- (4) The roof shall be slanted and of 1/2 inch thick aluminum or equivalent.

- (5) The entrance to the cage shall have positive mechanical locking.

- (6) Safety clamps shall be of a type that are portable and can be attached or detached from the safety cable. The clamps shall be fabricated 100 percent of stainless steel, having instant holding action, and a solid self-locking pin, spring loaded, for locking the two parts together.

- (7) The safety clamps attached on opposite sides of the cage shall grip the safety cables in case of emergency.

- (8) The safety clamps shall operate on the broken rope principle.

- b. *Safety cables.* (1) There shall be two steel safety cables suitable for use with safety clamps, as described in paragraph (g) (6), (7) and (8), or equivalent.

- (2) One end shall be fastened to an overhead support which is supported independently of the overhead support for the hoist rope and the bottom end securely attached with approximately 100 pound tension in ropes. Safety cables shall be 3/4 inch diameter when used with two-man cage.

- c. *Capacity.* The maximum for the two-man cage shall be 2 men or 400 pounds. A

sign stating capacity shall be posted in the cage.

d. *Emergency escape.* An emergency escape device with accommodations for each man in the cage with a minimum 5/16 inch braided nylon rope or better, long enough to reach the bottom landing from the highest escape point below the upper landing shall be securely attached to the inside of the cage. Not more than one man shall use the escape means at a time.

III. WELDING

All welding shall be done by welders in accordance with § 1926.556(b)(5).

IV. INSPECTION

- (1) Visual inspection shall be performed daily on the manlift system.

- (2) A drop test shall be performed before initial use at each job and monthly thereafter for the duration of the job.

Francis Hankin & Co., Inc., shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for variance.

Effective date: This interim order shall be effective as of October 4, 1977, and shall remain in effect until a decision is rendered on the application for variance.

Signed at Washington, D.C. this 27th day of September, 1977.

EULA BINGHAM,

Assistant Secretary of Labor.

[FR Doc.77-29156 Filed 10-3-77;8:45 am]

[4510-23]

Office of the Secretary

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations with further relate, as appropriate, to

the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 14, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment

Assistance, at the address shown below, not later than October 14, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 12th day of September 1977.

MARVIN M. FOOKS,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Astatic Corp. (USWA)...	Conneaut, Ohio...	Sept. 8, 1977	Aug. 15, 1977	TA-W-2,330	Phonograph needles, tone arms, cartridges, and microphones.
Birmingham Southern RR Co. (United Transportation Union).	Fairfield, Ala.	Sept. 2, 1977	Aug. 29, 1977	TA-W-2,321	Transporting of commodities.
Cory/Erie (ILGWU).....	Farmingdale, N.Y.	Sept. 6, 1977	Sept. 1, 1977	TA-W-2,322	Women's leather coats.
Leader Dyeing and Finishing Co., Inc. (workers).	Paterson, N.J.	Sept. 2, 1977	Aug. 30, 1977	TA-W-2,323	Textile processing of fabrics.
Lisby Belle Fishing Corp. (workers).	Provincetown, Mass.	Sept. 8, 1977	Aug. 27, 1977	TA-W-2,324	Catching and selling of fish.
Lish Enterprises, Inc. (workers).	New Bedford, Mass.	Sept. 6, 1977	Aug. 31, 1977	TA-W-2,325	Ladies' outerwear.
J. F. McElwain Co. (New Hampshire Shoe Workers Union).	Nashua, N.H.	Sept. 2, 1977	Aug. 25, 1977	TA-W-2,326	Men's dress shoes.
Stafford Garment (workers).	Full River, Mass.	Aug. 31, 1977	Aug. 29, 1977	TA-W-2,327	Ladies' cotton dresses.
Wean United, Inc. (USWA).	Vandergrift, Pa.	Sept. 8, 1977	Aug. 15, 1977	TA-W-2,328	Steel rolls and steel castings.
Do.....	Hendricks Rd., Youngstown, Ohio. ....	.....do.....	.....do.....	TA-W-2,329	Metal working machinery and rubber working machinery.
Do.....	Philips St., Youngstown, Ohio. ....	.....do.....	.....do.....	TA-W-2,330	Metal working machinery.
Do.....	Warren, Ohio. ....	.....do.....	.....do.....	TA-W-2,331	Do.
Aiken Industries, Inc. (company).	Canton, Ohio.	Sept. 7, 1977	Sept. 2, 1977	TA-W-2,332	Iron rolls.
P. R. Hoffman Division (company).	Cherry St., Carlisle, Pa. ....	.....do.....	.....do.....	TA-W-2,333	Quartz crystal blanks for wrist watches and CB radios.
Do.....	East High St., Lincoln St., Carlisle, Pa. ....	.....do.....	.....do.....	TA-W-2,334	Machinery used to make quartz crystals.
Do.....	Lincoln St., Carlisle, Pa. ....	.....do.....	.....do.....	TA-W-2,335	Quartz crystal blanks for wrist watches and CB radios.
Goralnick Shoe Trim Co., Inc. (workers).	Haverhill, Mass.	Sept. 1, 1977	.....do.....	TA-W-2,336	Shoe linings for the shoe industry.
Kramer Corp. (workers).	Avon, Mass. ....	.....do.....	Sept. 2, 1977	TA-W-2,337	Combs and brushes.
Mayflower Coat Co., Inc. (workers).	Paterson, N.J. ....	.....do.....	.....do.....	TA-W-2,338	Ladies' and children's coats.
Norwoc Shoe Co. (workers).	Showhegan, Maine. ....	.....do.....	Sept. 1, 1977	TA-W-2,339	Women's and men's shoes.
Exeter Footwear, Inc. (workers).	Exeter, N.H.	Sept. 12, 1977	Sept. 6, 1977	TA-W-2,340	Men's, women's, and children's sandals.
Ghia Sportswear, Inc. (company).	Manchester, Md.	Sept. 13, 1977	Sept. 9, 1977	TA-W-2,341	Sport coats, dress coats, and vests.
Mari Anna Bag Corp. (ILOPNWU).	New Windsor, N.Y.	Sept. 12, 1977	Sept. 7, 1977	TA-W-2,342	Ladies' vinyl handbags.
Nevel Luggage Manufacturing Co. (workers).	Kansas City, Mo. ....	.....do.....	Sept. 6, 1977	TA-W-2,343	Vinyl luggage and tote bags.
Penny Bag, Inc. (ILOPNWU).	Newburgh, N.Y. ....	.....do.....	Sept. 7, 1977	TA-W-2,344	Ladies' vinyl handbags.
Plesco Products, Inc. (workers).	St. Petersburg, Fla.	Sept. 13, 1977	Sept. 9, 1977	TA-W-2,345	Disposable surgical shoe covers and hats.
Do.....	Worcester, Mass. ....	.....do.....	.....do.....	TA-W-2,346	Do.
Standard Rubber Products, Inc. (workers).	Hanover, Mass.	Sept. 12, 1977	Sept. 7, 1977	TA-W-2,347	Rubber soling compound for rubber footwear companies.
The Peerless Machinery Co. (company).	Newton, Mass. ....	.....do.....	Sept. 6, 1977	TA-W-2,348	Machinery used for the production of shoes and belts.
Vincent Bach (workers)...	Elkhart, Ind.	Sept. 7, 1977	Sept. 1, 1977	TA-W-2,349	Brass wind instruments and saxophones.
Well Made Pants Co., Inc. (company).	Baltimore, Md.	Sept. 13, 1977	Sept. 9, 1977	TA-W-2,350	Men's dress trousers, suits, and sportswear.
Great Western Ry Co....	Loveland, Colo.	Sept. 7, 1977	Aug. 30, 1977	TA-W-2,351	Shipping of raw materials into factories.
E. F. Johnson (workers).	Waseca, Minn.	Sept. 2, 1977	Sept. 1, 1977	TA-W-2,352	Citizen band radios.
Johnson-American (workers).	Clear Lake, Iowa. ....	.....do.....	.....do.....	TA-W-2,353	Do.

Petitioner/Union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Michael Stern and Co (ACTWU).	North Clinton Ave., Rochester, N.Y.	Sept. 12, 1977	Sept. 7, 1977	TA-W-2,354	Men's suits, sport coats, and slacks.
Do.	Bridges Dr., Rochester, N.Y.	do	do	TA-W-2,355	Do.
Do.	Nassau St., Rochester, N.Y.	do	do	TA-W-2,356	Do.
Do.	Penn Yan, N.Y.	do	do	TA-W-2,357	Do.
U.S. Pipe and Foundry Co. (workers).	Birmingham, Ala.	Sept. 8, 1977	Sept. 8, 1977	TA-W-2,358	Gray iron and ductile iron pipe.
Albe Manufacturing (workers).	New Bedford, Mass.	Aug. 30, 1977	Aug. 30, 1977	TA-W-2,359	Women's and juniors' outerwear.
BrownShoe Co. (USWA).	Owensville, Mo.	Sept. 7, 1977	Sept. 7, 1977	TA-W-2,360	Women's dress shoes.
Latmore Coat Co. (workers).	Paterson, N.J.	Sept. 8, 1977	Sept. 8, 1977	TA-W-2,361	Ladies' coats.
Roth Transfer Print (workers).	Fairlawn, N.J.	Sept. 7, 1977	Sept. 7, 1977	TA-W-2,362	Transferring of prints from paper to fabrics.
True Temper Corp. (USWA).	Ganawa, Ohio	Sept. 8, 1977	Aug. 15, 1977	TA-W-2,363	Shafts for golf clubs, tennis rackets, handles for hardware and antennas.
U.S. Steel Corp. (USWA).	Bessemer, Ala.	Sept. 2, 1977	Aug. 31, 1977	TA-W-2,364	All iron and steel products.
Do.	Birmingham, Ala.	do	do	TA-W-2,365	Do.
Do.	Fairfield, Ala.	do	do	TA-W-2,366	Do.
Compton and Knowles Corp. (USWA).	Worcester, Mass.	Sept. 14, 1977	Sept. 9, 1977	TA-W-2,367	Casings and weaving loom parts.
Devon, Inc. (workers).	Thurmond, Md.	Sept. 16, 1977	Sept. 2, 1977	TA-W-2,368	Custom tailored men's clothes.
South Buffalo Ry. Co. (United Transporta- tion Union).	Lackawanna, N.Y.	do	Aug. 28, 1977	TA-W-2,369	Transports raw materi- als within Beth- lehem Steel Corp., Lackawanna, N.Y., and for other firms.
The Arrow Co. (ACT WU).	Cedarstown, Ga.	Sept. 20, 1977	Sept. 6, 1977	TA-W-2,370	Men's dress shirts.
Do.	Bremen, Ga.	do	do	TA-W-2,371	Do.
Do.	Bethlehem, Pa.	do	do	TA-W-2,372	Do.
Kala Manufacturing Co. (workers).	Fall River, Mass.	do	Sept. 14, 1977	TA-W-2,373	Ladies' outerwear.
Macon Shirt Co. (ACT WU).	Macon, Ga.	do	Sept. 6, 1977	TA-W-2,374	Men's dress shirts.

[FR Doc. 77-28873 Filed 10-3-77; 8:45 am]

[4510-01]

**Employment and Training Administration
FEDERAL COMMITTEE ON
APPRENTICESHIP**

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Federal Committee on Apprenticeship, Employment and Training Administration, October 6-7, 1977, at The Harry Lundberg School, Lundberg Maryland Seaman's School, Inc., Piney Point, Md., which was published in the FEDERAL REGISTER on September 21, 1977 (42 FR 47595) and again on September 23, 1977 (42 FR 48413).

This cancellation is due to the uncertain funding authority for the Department of Labor until the enactment of the 1978 Labor-HEW Appropriation Bill.

Signed at Washington, D.C., this 3rd day of October 1977.

ERNEST G. GREEN,
Assistant Secretary for Em-
ployment and Training Ad-
ministration.

[FR Doc. 77-29305 Filed 10-3-77; 10:38 am]

[7510-01]

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

[Notice (77-65)]

**RESEARCH AND TECHNOLOGY ADVISORY
COUNCIL INFORMAL COMMITTEE ON
AERIAL APPLICATIONS TECHNOLOGY**

Meeting

A meeting of the NASA Research and Technology Advisory Council Informal Committee on Aerial Applications Technology originally scheduled for October 5-6, 1977 and announced in FEDERAL REGISTER Doc. 77-60 dated Friday, September 16, 1977 on page 46621 has been rescheduled and will be held November 8-10, 1977. The previously announced places, hours and agenda remain the same. The meeting is open to the public.

KENNETH R. CHAPMAN,
Assistant Administrator for
DOD and Interagency Af-
fairs, National Aeronautics
and Space Administration.

SEPTEMBER 28, 1977.

[FR Doc. 77-29098 Filed 10-3-77; 8:45 am]

[7555-01]

**NATIONAL SCIENCE FOUNDATION
RESEARCH INITIATION AND SUPPORT
(RIAS)**

Project Directors' Meeting

A project directors' meeting will be held from 7:30 p.m. to 9 p.m. on October 20, 1977 at the Holiday Inn, 5520 Wisconsin Ave., Chevy Chase, and from 8:30 a.m. to 5 p.m. on October 21, 1977 at 5225 Wisconsin Avenue NW., Room 651, Washington, D.C.

The purpose of this meeting is to give project directors of the Research Initiation and Support program an opportunity to become better informed regarding appropriate methods for conducting internal project evaluation and to allow the RIAS staff to set into motion mechanisms for monitoring of projects.

While this project directors' meeting is not considered to be a meeting of an "advisory committee" as that term is defined in Section 3 of the Federal Advisory Committee Act (Public Law 92-463), the meetings are believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as meetings open for public attendance and participation.

The meeting will be chaired by Dr. Alfred F. Borg. Because of space limitation, members of the public who wish to attend should call 202-282-7950 regarding attendance at any of these meetings.

TERENCE L. PORTER,
Acting Division Director,
Division of Science Education,
Resources Improvement.

September 29, 1977.

[FR Doc. 77-29151 Filed 10-3-77; 8:45 am]

[7555-01]

**SUBCOMMITTEE ON ANTHROPOLOGY OF
ADVISORY COMMITTEE FOR BEHAV-
IORAL AND NEURAL SCIENCES**

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Anthropology of the Advisory Committee for Behavioral and Neural Sciences.

DATE & TIME: October 20, 21 and 22, 1977, 9 a.m. to 5 p.m. each day.

PLACE: Room 628, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON:

John E. Yellen, Program Director for Anthropology, Room 320, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550, telephone: 202-632-4208.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in anthropology.

AGENDA: To review and evaluate research proposals and projects as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

SEPTEMBER 29, 1977.

[FR Doc. 77-29149 Filed 10-3-77; 8:45 am]

**SUBCOMMITTEE FOR GENETIC BIOLOGY
OF ADVISORY COMMITTEE FOR PHYS-
IOLOGY, CELLULAR AND MOLECULAR
BIOLOGY**

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee for Genetic Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

DATE & TIME: October 20, 21, and 22, 1977—9 a.m. to 6 p.m. each day.

PLACE: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Dr. Philip D. Harriman, Program Director, Genetic Biology Program, Room 326, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5985.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in genetic biology.

AGENDA: To review and evaluate research proposals and projects as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

SEPTEMBER 29, 1977.

[FR Doc. 77-29148 Filed 10-3-77; 8:45 am]

[7555-01]

**SUBCOMMITTEE ON POPULATION BIOLOGY
AND PHYSIOLOGICAL ECOLOGY OF
THE ADVISORY COMMITTEE FOR ENVIRONMENTAL
BIOLOGY**

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

NAME: Subcommittee on Population Biology and Physiological Ecology of the Advisory Committee for Environmental Biology.

DATE & TIME: October 20 and 21, 1977—8:30 a.m. to 5 p.m. each day.

PLACE: Room 643, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

TYPE OF MEETING: Closed.

CONTACT PERSON:

Dr. Donald W. Kaufman, Associate Program Director, Population Biology and Physiological Ecology Program, Room 336, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7317.

PURPOSE OF SUBCOMMITTEE: To provide advice and recommendations concerning support for research in population biology and physiological ecology.

AGENDA: To review and evaluate research proposals as part of the selection process for awards.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. The matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

AUTHORITY TO CLOSE MEETING: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

SEPTEMBER 29, 1977.

[FR Doc. 77-29150 Filed 10-3-77; 8:45 am]

[3110-01]

**OFFICE OF MANAGEMENT AND
BUDGET**

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 26, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

REVISIONS

**DEPARTMENT OF HEALTH, EDUCATION, AND
WELFARE**

Social Security Administration, Statement of Continuing Eligibility for Supplemental Security Income Payments, SSA-8200, on occasion, aged, blind, disabled individual—eligible SSI payments established, Caywood, D. P., 395-3443.

EXTENSIONS

PENSION BENEFIT GUARANTY CORPORATION

Technical Assistance Needs Questionnaire, single time, pension practitioners, Strasser, A., 395-5867.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service:

Tree Nut Shellers and Processors Inquiries, annually, tree nut shellers and processors survey, Caywood, D. P., 395-3443.

Citrus Inquiries—Growers, Monthly, Citrus growers, Caywood, D.P., 395-3443.

Farmers Home Administration, Statement of Personal History—FHA Business and Industrial Loan Program, FHA 449-4, on occasion, business and industry in towns less than 50,000, Ellett, C.A., 395-5867.

DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration, Purchases from Fishing Vessel—Northeast, NOAA 88-30, weekly, wholesale dealers of fishery products and fishermen, Ellett, C. A., 395-5867.

PHILLIP D. LARSEN,
Budget and Management Officer.
[FR Doc. 77-29240 Filed 10-3-77; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[SR-Amex-77-17; Release No. 13952]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 13, 1977.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, N.Y. 10006 (SR-Amex-77-17).

On July 27, 1977, the American Stock Exchange, Inc. ("Amex") filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to provide a procedure whereby a listed company may obtain review of Exchange determinations to halt or suspend trading in its securities.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13811 (August 1, 1977)) and by publication in the FEDERAL REGISTER (42 FR 40301 (August 9, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-29166 Filed 10-3-77; 8:45 am]

[8010-01]

[SR-Amex-77-10; Release No. 13957]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 14, 1977.

In the matter of American Stock Exchange, Inc., 86 Trinity Place, New York, N.Y. 10006 (SR-Amex-77-10).

On May 13, 1977, the American Stock Exchange, Inc. filed with the Commission, pursuant to Section 19(b)

of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The rule change would require that options be restricted on that exchange only when such options are required to be restricted on all exchanges which list such options.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13586 (June 1, 1977)), and by publication in the FEDERAL REGISTER (42 FR 29978 (June 10, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on May 13, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-29167 Filed 10-3-77; 8:45 am]

[8010-01]

[812-4084; Release No. 9947]

FIRST INVESTORS FUND, INC. ET AL.

Application for Order Exempting Proposed Transactions From Certain Provisions

SEPTEMBER 26, 1977.

In the matter of First Investors Fund, Inc., First Investors Fund for Growth, Inc., First Investors Discovery Fund, Inc., First Investors Fund for Income, Inc., First Investors Trend Fund, Inc., First Investors Tax Exempt Fund, Inc. and First Investors Management Company, Inc., 120 Wall Street, New York, N.Y. 10005 (812-4084).

Notice is hereby given That First Investors Fund, Inc., First Investors Fund for Growth, Inc., First Investors Discovery Fund, Inc., First Investors Fund for Income, Inc., First Investors Trend Fund, Inc., and First Investors Tax Exempt Fund, Inc. (hereinafter referred to collectively as "Funds"), each of which is an open-end, diversified management investment company registered under the Investment Company Act of 1940 ("Act"), and the Funds' investment adviser, principal underwriter and distributor, First Investors Management Company, Inc. ("Management Company") (hereinafter referred to collectively with the Funds as "Applicants"), have filed an application on January 23, 1977, and amendments thereto on June 27, 1977, and July 15, 1977, pursuant to Section 6(c) of the Act, for an order

of the Commission exempting certain transactions described herein from the provisions of Section 22(d) of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

According to the Application, the Management Company is a member of the National Association of Securities Dealers, Inc. and a registered broker-dealer, all of whose common stock is owned by First Investors Consolidated Corporation. Applicants represent that Fund shares are sold to the public primarily by representatives licensed to the Funds' co-underwriter, First Investors Corporation; these representatives are life insurance salesmen who sell the life insurance products of First Investors Life Insurance Company ("Insurance Company"), which is 81.6 percent owned by First Investors Consolidated Corporation. Applicants also represent that as of December 31, 1976, total life insurance in force issued by the Insurance Company was over \$260 million, of which approximately \$68 million was of the dividend-paying participant type; the dividends arising from such dividend paying policies currently approximate \$220,000 per annum and approximately 5,200 such policies are in force.

Applicants have filed this application pursuant to Section 6(c) of the Act for an order of the Commission exempting from Section 22(d) of the Act a proposed plan which permits the holders of such dividend-paying policies to invest the dividends paid by the Insurance Company in shares of any of the Funds at net asset value. According to Applicants, the proposed plan would be submitted to policyholders of the Insurance Company, in writing, as a separate supplement to their application for insurance and as a sixth option for the distribution of such dividends. Applicants state that the alternative options for the distribution of such dividends are (1) payment in cash; (2) application towards premium payments; (3) accumulation at interest; (4) purchase of paid-up additions of insurance; and (5) purchase of one-year term insurance. According to the application, the proposed sixth option has been approved by the appropriate departments of insurance for the states of New York, New Jersey, Connecticut, Ohio and Virginia.

Applicants submit that the proposed plan would be implemented in the following manner: (1) policyholders of the Insurance Company would be offered their choice of investment in any of the Funds; (2) at the time the policyholder executes his option to invest, he would be furnished a prospectus of the Fund which he indicated as his choice for investment; (3) dividends in the amount of \$50 or more would be applied wholly to the purchase of whole and fractional shares of the Fund; (4) dividends of less than \$50 would not be applied to the purchase of any Fund shares and such dividends would be distributed in some

other manner as designated by the policyholder; (5) the premiums paid by the policyholder will be the same whether or not he chooses to purchase shares of one of the Funds pursuant to this plan; (6) purchases of Fund shares in this manner are limited to the amount of dividends derived from the policyholder's insurance; (7) a policyholder may revoke the authority to apply his dividends to the purchase of Fund shares and notice of such a right of revocation shall be made a part of such authorization; (8) cancellation or other termination of insurance shall terminate such authorization to purchase Fund shares but shall not affect the policyholder's interest in any Fund shares already so purchased; and (9) revocation by the policyholder of the authority to apply dividends to the purchase of Fund shares will not affect any insurance in force or the status of any Fund shares previously purchased by the policyholder. Applicants state that should the order requested herein be granted, dividends which have been designated by policyholders for the purchase of Fund shares shall be held by the Insurance Company; the Insurance Company, on the dividend date, will place an order with the designated Funds for the appropriate amount of shares, which order shall be executed at the net asset value next computed after receipt of the order.

Section 22(d) of the Act provides, in part, that no registered investment company or principal underwriter for any redeemable security issued by such company shall sell any such security to any person except at a current public offering price described in the prospectus.

Applicants submit that their request for exemption from Section 22(d) of the Act to permit policyholders of the Insurance Company to invest their annual dividends from the Insurance Company in shares of each and any of the Funds at net asset value, rather than at their public offering price (which includes a "sales load"), is motivated, in part, by the fact that such policyholders have already paid a sales charge on the purchased insurance. Moreover, Applicants submit that such a procedure would not be unfair to present shareholders of the Funds since the purchase at net asset value would not dilute the per share value of Fund shares. Applicants state that the requested order of exemption is further justified because most agents of the Insurance Company are also representatives of First Investors Corporation and sell both life insurance and the Funds' shares; elimination of the sales charge on shares of the Funds purchased by policyholders would, in Applicants' view, be proper since there would be no additional sale efforts, commissions or expenses incurred in connection with such purchases.

Section 6(c) of the Act provides, in part, that the Commission, upon application, may conditionally or unconditionally exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from

any provision or provisions of the Act or of any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given That any interested person may, not later than October 20, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-29168 Filed 10-3-77; 8:45 am]

[8010-01]

[812-4184; Rel. No. 9943]

FORD INTERNATIONAL CAPITAL CORP.

Application for Order Amending a Prior Order of the Commission Granting an Exemption

SEPTEMBER 23, 1977.

In the Matter of Ford International Capital Corp., The American Road, Dearborn, Mich. 48121 (812-4184).

Notice is hereby given That Ford International Capital Corp. ("Applicant"), a wholly-owned finance subsidiary of Ford Motor Co. ("Ford"), has filed an application on September 2, 1977 and an amendment thereto on September 16, 1977, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") and Rule 6c-1(c)(2) thereunder for an order amending an order of the Commission dated November 14, 1969 and published as Release No. IC-5886 (the "1969 Order") to permit the Applicant to issue certain debt securities to purchasers in foreign countries. All interested persons are referred to the appli-

cation and amendment thereto on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a Delaware corporation, was formed by Ford in 1968 primarily to raise funds abroad for Ford's foreign operations. The 1969 Order under Section 6(c) of the Act exempted the Applicant from all provisions of the Act subject to the condition that it not issue, subsequent to the offer and sale of certain of its guaranteed debentures, without further order of the Commission, any securities (except to its parent or to a subsidiary of the parent company which is not an investment company) in the event that the United States Interest Equalization Tax ("IET") was not reenacted or was reenacted and expired, was repealed or the rate thereof was reduced to zero and was not replaced by a comparable tax.

It is proposed that the Applicant be permitted to issue for offer and sale to purchasers in foreign countries its unsecured promissory notes in the aggregate principal amount of \$25 million (the "1977 Notes"). Payment of principal of and interest on these notes would be guaranteed by Ford. The notes would not be offered or sold directly or indirectly in the United States or to a United States Person or to any person purchasing any note for resale to, or for the benefit of, or for the account of, any United States Person. The term "United States" means the United States of America and includes its territories, its possessions and all areas subject to its jurisdiction; and the term "United States Person" means any person who is a national, citizen or resident of, or a person normally resident in, the United States, including any corporation or other entity organized under the laws of the United States or any political subdivision thereof.

Applicant states that the 1977 Notes will not be subject to the IET at a rate greater than zero or any other tax providing a comparable deterrent to the purchase of the 1977 Notes by United States Persons. Therefore, the Applicant seeks a Commission order amending the 1969 Order to permit the Applicant to issue the 1977 Notes.

Applicant represents that it should be permitted to proceed with the issuance of the 1977 Notes for, among others, the following reasons:

- (1) A significant effect of the Applicant's operations is to assist in improving the balance of payments position of the United States by obtaining funds for foreign operations in foreign countries.
- (2) It is asserted that it is unlikely that United States Persons would be interested in investing in the 1977 Notes because (a) the coupon rate on the 1977 Notes would probably not be attractive to investors when compared to interest rates available on similar quality and denomination notes in the United States, (b) the restrictions on purchase and sale will make acquisition of the 1977 Notes by United States Persons difficult, and (c) the large minimum denomination

and the lack of a listing on any securities exchange will discourage a secondary market in the 1977 Notes.

(3) The payment of the principal of and interest on the Notes is guaranteed by Ford and does not depend on the operations or investment policy of the Applicant, because the holders of the 1977 Notes are entitled ultimately to look to the business of Ford for assurance of repayment. Accordingly, it is asserted that the public policy that led to the enactment of the Act is not applicable to the Applicant, nor do the security holders of the Applicant require the protections afforded by the Act.

In addition, the Applicant has agreed that an order amending the 1969 Order to provide that the Applicant may issue the 1977 Notes may be issued subject to the conditions (i) that the Applicant comply with all of the requirements of paragraph (b) of Rule 6c-1 and (ii) that the Applicant will not issue, subsequent to the offering and sale of the 1977 Notes, any additional securities (except to Ford or a subsidiary of Ford which is not an investment company) without a further order of the Commission; provided, however, that in the event that (i) the Applicant becomes exempt from each and every provision of the Act pursuant to Rule 6c-1 under the Act or (ii) the Commission adopts, amends, or interprets a Rule under the Act which would exempt the Applicant from each and every provision of the Act, nothing contained in the order requested by the application, or the conditions to which it may be subject, shall preclude the Applicant from being exempt from the Act by virtue solely of the applicability of said Rule or interpretation.

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction, or any class or classes of persons, securities or transactions from any provisions of the Act and the rules and regulations thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given. That any interested person may, not later than October 14, 1977 at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address set forth above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promul-

gated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-29169 Filed 10-3-77; 8:45 am]

[8010-01]

[812-4091; Release No. 9946]

GROMAN MORTUARIES INC.

Filing of Application for Order Exempting Applicant from all the Provisions of the Act

SEPTEMBER 26, 1977.

In the matter of Groman Mortuaries, Inc., 830 West Washington Boulevard, Los Angeles, Calif. 90015 (812-4091).

Notice is hereby given. That Groman Mortuaries, Inc. ("Applicant"), a California corporation, filed an application on February 14, 1977, and amendments thereto on April 21, 1977, and June 10, 1977, for an order, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act"), exempting Applicant from all the provisions of the Act and the rules and regulations thereunder in connection with the completion of installment sales of certain debentures issued by Applicant under existing subscription agreements and for so long as Applicant has outstanding certain debentures which were sold on an installment basis. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant, a wholly-owned subsidiary of Hargrom Services Corp., and its predecessors and affiliates have been engaged principally in the mortuary and funeral related business since 1914, and Applicant currently operates two mortuaries in Los Angeles, Calif. Applicant represents that, since July 1, 1960, it has offered to California residents debentures which may be converted into services upon the death of the owner or any persons he may designate, or may be redeemed at maturity for face value. Applicant states that a purchaser of its debentures ordinarily purchases a debenture the principal amount of which covers the price of the services and products that he desires to be provided at his funeral.

According to the application, the debentures most recently offered and sold bear interest at 4½% payable annually, mature in 20 years, and may be purchased pursuant to a subscription agreement by a single lump sum payment or

by a 10% cash down payment with the balance of the purchase price payable in not more than 36 additional payments (the debentures sold on the installment basis are hereinafter referred to as the "Debentures"). It is submitted that each payment received toward the purchase of a Debenture is placed into the Groman Accumulation Trust ("Trust") and a Debenture is purchased and issued only when all of the payments have been received. Applicants assert that a purchaser can revoke the Trust arrangement at any time and receive the full amount of prior payments with interest less a Trust administrative cancellation charge of 10% of the prior payments. If a purchaser is willing to allow the 4½% interest on a fully paid Debenture to accumulate, Applicant will guarantee the price of the funeral package chosen by the purchaser and represented by the face amount of the Debenture at the then-current price, regardless of the date on which the Debenture is surrendered for cancellation. Applicant states that it maintains a sinking fund, the proceeds of which are used to pay off the Debentures at maturity and that the sinking fund requirements historically have been met through conversions of Debentures into services. Applicant asserts that it has never defaulted on any of its Debenture obligations.

On January 5, 1976, the Commission announced its decision in *In the Matter of International Funeral Services of California, Inc.* ("International") (Investment Company Act Release No. 9112), in which it found that installment sales of pre-need funeral service debentures of the type issued by Applicant constitute the issuance of face-amount certificates of the installment type requiring the issuer to be registered under and to comply with the provisions of the Act.

Section 3(a)(2) of the Act defines "investment company" to mean an issuer which is engaged or proposes to engage in the business of issuing face-amount certificates of the installment type, or which has been engaged in such business and has any such certificates outstanding.

Section 2(a)(15) of the Act defines "face-amount certificate" to include "any . . . security which represents an obligation of its issuer to pay a stated or determinable sum at a fixed or determinable date more than twenty-four months after the date of issuance, in consideration of the payment of periodic installments of a stated or determinable amount (which security shall be known as a face-amount certificate of the installment type)."

Applicant believes that, based upon the Commission's opinion in the *International* case, the Commission may assert that Applicant has outstanding face-amount certificates of the installment type and that Applicant, by issuing Debentures pursuant to existing subscription agreements, is engaged in the business of issuing face-amount certificates of the installment type, thus necessitating registration under and compli-

ance with the provisions of the Act unless an exemption from all the provisions of the Act is granted. Section 6(c) provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any or all provisions of the Act if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act.

Applicant has, therefore, applied for an exemption from all the provisions of the Act pursuant to Section 6(c) of the Act in connection with the completion of Debenture sales by Applicant under existing subscription agreements and under the circumstance of its having outstanding Debentures which were sold on an installment basis.

Applicant makes six basic representations which it asserts make it appropriate in the public interest and consistent with the protection of investors to grant the application:

1. Applicant represents that it has ceased selling Debentures on an installment basis except under existing subscription agreements and that it will no longer offer and sell Debentures on an installment basis.

2. Applicant represents that all future pre-need funeral arrangements made on an installment basis will be made only by way of trust arrangements established pursuant to the provisions of Section 7735 et seq. of the California Business and Professions Code ("Short Act") which requires, among other things, that all cash or other property received by a funeral director in advance of need be maintained by trustees in segregated accounts and held in specified investments. Applicant states that Debenture sales for which 100 percent of the purchase price is paid in one lump sum payment will continue to be made but only pursuant to permits obtained from the Department of Corporations of the State of California ("Department").

3. Applicant represents that it has established a segregated trust account ("Subscription Trust") for the purpose of holding all monies received and to be received since February 9, 1976 on outstanding subscription agreements for Debentures. These funds, to be deposited with a bank custodian and invested in securities of the kind permitted by the Short Act, may be used only to meet redemption requests on Debentures issued after February 9, 1976, pursuant to existing subscription agreements, or to reimburse Applicant for funeral services performed for holders of such Debentures. Applicant asserts that none of said funds will be used to meet sinking fund requirements on any previously issued or outstanding Debentures. Income on the corpus of the Subscription Trust is to be applied first toward the expenses of administering the Trust, second to the payment of interest due on the Debentures if purchasers have not waived such interest, and third to Applicant. If interest income on the Subscription Trust is in-

sufficient to meet these expenses, Applicant submits that it will pay such excess expenses from other of its funds. Applicant represents that, as of June 7, 1977, a total of approximately \$253,922 was being held in the Subscription Trust.

4. Applicant proposes to offer to the original purchaser, his conservator or other legal representative in the case of his incapacity, or any member of his immediate family to whom he has transferred his Debentures, a right to redeem for cash all outstanding Debentures. The redemption right will be available only during the life of the original purchaser. Debentures purchased since February 9, 1976, will be redeemable at the full face amount of the Debenture plus any accrued and unpaid interest. With respect to Debentures issued or paid for prior to February 9, 1976, Applicant will have the option for three years after the date of the order granting this application to charge an administrative fee for cash redemptions of up to 7 percent of the amount of Debentures redeemed. To the extent Applicant has outstanding Debentures having existing provisions affording more liberal redemption rights Applicant will continue to be bound by such provisions. On the expiration of the 3 year period following the date of the order issued on this application, all outstanding Debentures issued by Applicant will be redeemable upon request at the full face amount of the Debentures plus interest, if any, without the 7 percent administrative charge.

5. Applicant represents that it will notify all holders of outstanding Debentures of their redemption rights, the exemption obtained from the Commission, and the trust arrangements created. Notice will be in the form of a letter sent to each Debenture holder promptly upon the grant of the requested exemption or, at the option of the Applicant, with the next interest payment on the Debentures subsequent to the granting of the application.

6. Applicant represents that it will establish a second trust ("Performance Trust") as a reserve against insolvency of the Applicant. The initial amount of the Performance Trust will be \$40,148. The corpus of the Performance Trust may not be reduced without the concurrence of the Department, and may not be used to pay the expenses of maintaining the Performance Trust. Applicant represents that the interest earned on the amount held in the Performance Trust will be applied to the payment of the expenses of the Performance Trust but that any interest earned in excess of its expenses will be accumulated and added to its corpus. Applicant states that the Performance Trust corpus will be deposited with a bank as custodian and will be administered by three trustees, a majority of whom will be independent of the Applicant. The trustees will maintain the Performance Trust for the benefit of Debenture holders requesting redemption in the event that Applicant becomes insolvent.

Applicant asserts that the granting of its requested exemption would be neces-

sary or appropriate in the public interest and consistent with the protection of investors because its proposal, consisting of the six enumerated representations, provides purchasers of Debentures the protections envisioned by the Act.

Notice is further given. That any interested person may, not later than October 21, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-29170 Filed 10-3-77; 8:45 am]

[8010-01]

[File No. SR-MSE-77-23; Release No. 13894]

MIDWEST STOCK EXCHANGE, INC.

Filing of Amended Proposed Rule Change

AUGUST, 26, 1977.

The Midwest Stock Exchange, Inc. ("MSE") has filed an amendment to a proposed rule change under Rule 19b-4 to redesignate as the basis under the Act for the proposed rule change Section 6(b)(5) rather than those provisions of Section 6(d) and 19 relating to the denial of access to exchange services.

Publication of the submission is expected to be made in the FEDERAL REGISTER during the week of August 29, 1977. In order to assist the Commission to determine whether to approve the proposed rule change or institute proceedings to determine whether the proposed rule change should be disapproved, interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of publication in the FEDERAL REGISTER. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange

Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-MSE-77-23.

Copies of the submission and of all written comments will be available for inspection at the Securities and Exchange Commission's Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of the filing will also be available at the principal office of the above-mentioned self-regulatory organization.

For the Commission by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-29171 Filed 10-3-77;8:45 am]

[8010-01]

[File No. SR-NYSE-76-34; Release No. 13953]

NEW YORK STOCK EXCHANGE INC.

Order Extending Time for Commission Action on Proposed Changes to New York Stock Exchange Rule 405

SEPTEMBER 13, 1977.

In the matter of New York Stock Exchange, Inc., 55 Water Street, New York, N.Y. 10041.

The New York Stock Exchange, Inc. (the "NYSE") has filed pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1) and Rule 19b-4 thereunder, 17 CFR 240.19b-4, proposed changes to NYSE Rule 405, the "Know Your Customer" rule.

The proposed rule would:

- (1) Require that a member or member organization "make reasonable effort to ascertain . . ." the essential facts relative to certain persons and accounts in place of the present duty imposed by the rule to "use due diligence to learn . . ." the essential facts;
- (2) Eliminate the specification that the member must learn such facts as to "every order";
- (3) Provide that, with respect to accounts introduced on a disclosed basis, only the introducing member or member organization would be required to inquire into the essential facts as to those customers and accounts;
- (4) Delete the specification that a member or member organization "diligently" supervise compliance with the requirements of Rule 405; and
- (5) Permit members and member organizations to effect isolated (i.e., not

Notice of the amended proposal was given by publication of Securities Exchange Act Release No. 13821 (August 2, 1977) and 42 FR 40290 (August 9, 1977); notice of the initial filing was given in Securities Exchange Act Release No. 12674 (July 20, 1976) and 41 FR 34136 (August 22, 1976). No comments were received.

more than five transactions for a customer during a 12 month period) and unsolicited purchases and sales of securities valued at not more than \$2,000 under certain conditions without complying with Rules 405 (a) and (b) and Rule 409.

EXTENSION OF TIME FOR COMMISSION ACTION

Pursuant to Section 19(b)(2) of the Act, the Commission is required to approve a proposed rule change within 35 days of the publication of the notice of the filing of the proposal. However, the Commission may act in a longer period not to exceed ninety days from the date of publication if it finds such period appropriate and publishes its reasons for this finding.

The Commission published notice of the amended filing of proposed changes to Rule 405 on August 9, 1977. Absent an extension of time, Commission action with respect to this proposal would be required by September 13, 1977.

For the reasons summarized below, the Commission finds that a period longer than thirty-five days is appropriate and designates a period of ninety days from the date of publication of the amended filing as the appropriate time for Commission action.

The primary issue raised by these proposals is whether or not the rule as amended would be inconsistent with the purposes of the Act and, in particular, with the public interest and the protection of investors. In its previous consideration of these changes, the Commission expressed the concern that the proposed amendments to the central provisions of the rule diminish the obligation of the member or member organization to know its customer and to supervise customer accounts. In particular, the Commission noted that the rule, on its face, relieves the clearing broker or dealer of any responsibility to make the inquiry required by Rule 405 and to supervise the activity in customer accounts introduced to it on a disclosed basis; it questioned whether this complete, or at least substantial, relief of responsibility would be consistent with the protection of investors.

Although the NYSE had deferred Commission consideration of the proposed rephrasing of the duty of the member under Rule 405, the Commission advised the NYSE of its concern that this rephrasing sanctioned a less thorough inquiry that might be inconsistent with the public interest and the protection of investors.

Further, while specifying that the rule should be amended to include a definition of the term "isolated" with respect to transactions in the common purchase and sale account and a statement that such transactions must be "unsolicited," the Commission adverted to the fact that allowing members to effect any se-

curities purchases without securing certain information relative to the customer posed serious questions as to the impact on investor protection.

Since each exchange which lists equity securities has adopted a "know your customer" rule which is substantially similar to NYSE Rule 405, any change in the duty to customers which may be affected by the approval of the amendments to Rule 405 can be expected to become the industry standard.

As a result of its most recent review, the Commission believes that the proposed amendments continue to pose a number of substantial questions which require extended consideration before any decision is made to approve the rule proposal or to institute proceedings, pursuant to Section 19(b)(2) of the Act, to determine whether it should be disapproved.

Accordingly, in order to evaluate further the potential impact of the amendments and to consider in greater depth whether the proposed amendments are inconsistent with the Act, the Commission, pursuant to Section 19(b)(2) of the Act, hereby extends until November 7, 1977 the time within which the Commission must act on the proposed rule changes.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 13, 1977.

[FR Doc.77-29172 Filed 10-3-77;8:45 am]

[8010-01]

[SR-PHLX-77-7; Release No. 13958]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 14, 1977

In the matter of Philadelphia Stock Exchange, Inc., 17th Street and Stock Exchange Place, Philadelphia, Pa., 19103.

On July 8, 1977, the Philadelphia Stock Exchange, Inc. filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The rule change would require that options be restricted on that exchange only when such options are required to be restricted on all exchanges which list such options.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13775 (July 18, 1977)) and by publication in the FEDERAL REGISTER (42 FR 38035 (July 26, 1977)).

The Commission finds that the proposed rule change is consistent with the

[8010-01]

[Release No. 34-13995; File No. SR-MSE-77-34]

MIDWEST STOCK EXCHANGE, INC. Proposed Rule Change; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 1, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-29173 Filed 10-13-77; 8:45 am]

Exchange's statement of the terms of substance of the proposed rule change: Options fees schedule charges

Fee	From—	To—
Leasing transfer fee.....	New fee.....	\$100.
Quotron rental.....	\$200 per month.....	\$250 per month.
Firm contract.....	\$0.03 per contract side.....	\$0.06 per contract side.
Order book official contract.....	As below.....	As below.

Rates are per contract

Premium price	Old 1-10 rate	New 1-10 rate	Old 11 and over	New 11 and over
Under \$0.50.....	\$0.40	\$0.48	\$0.32	\$0.38
\$0.50 to \$1.....	.60	.72	.52	.62
\$1 to \$2.....	.72	.86	.60	.72
\$2 to \$4.....	.88	1.04	.72	.86
\$4 to \$8.....	1.20	1.44	1.04	1.25
\$8 to \$14.....	1.60	1.92	1.40	1.64
\$14 to \$20.....	2.00	2.40	1.84	2.18
\$20 to over.....	2.40	2.88	2.14	2.51

NOTE.—New rates reflect a 20-pct increase over old.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The proposed rule change creates increases in providing the above-mentioned services which reflect a corresponding increase in the costs of personnel, equipment and technical support needed to perform them. Also, the new leasing transfer fee represents administrative costs involved in the transfer of leased option membership seats.

The proposed rule change represents an equitable allocation of reasonable dues among its members using its facilities in that they apply to all options members without discrimination.

The Midwest Stock Exchange, Inc. has neither solicited nor received any comments.

The Midwest Stock Exchange, Inc. believes that no burdens have been placed on competition.

The foregoing rule change has become effective, pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary

[8010-01]

[Release No. 34-13993; File No. SR-PSE-77-29]

PACIFIC STOCK EXCHANGE INC. Proposed Rule Change; Self-Regulatory Organizations

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 16, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Commentary .02 of Rule X, Section 18(e) of the Rules of its Board of Governors as follows (brackets indicate deletions):

RULE X

CONDUCT OF ACCOUNTS

DOING A PUBLIC BUSINESS IN OPTIONS

Sec. 18. (e)
Commentary:

.02 Member organizations are required to obtain the written authorization of customers prior to the exercise of discretionary power with respect to exchange options transactions in their account. (These written authorizations by customers shall be renewed annually.) Furthermore, a Registered Options Principal who is an officer or general partner of the member organization shall approve discretionary accounts in writing before discretionary power may be exercised with respect to such accounts. It is consistent to handle discretionary accounts for options transactions wherein limited discretionary power has been authorized. For example, discretionary power may be granted for closing existing positions or exercising existing contracts.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSES

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is designed to eliminate the requirement that member organizations qualified to conduct a non-member customer business, on an annual basis, renew written authorization to maintain a discretionary account.

The PSE is currently the only self-regulatory organization with such a requirement (The Chicago Board of Options Exchange "CBOE" has eliminated a similar rule on August 17, 1977). It is the belief of the PSE that, because of the expansion of the options industry, this requirement is causing a significant amount of paperwork for our member organizations.

In addition, as the rule presently stands, member organizations would be required to discontinue exercising discretion in a customer's account unless they could obtain a timely renewal. In

[8010-01]

[Release No. 34-13992; File No.
SR-PSE-77-25]

PACIFIC STOCK EXCHANGE INC.**Proposed Rule Change: Self-Regulatory Organizations**

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s (b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 7, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Section 11, of Rule VI, of the Rules of its Board of Governors as follows (italics indicates additions):

RULE VI**EXCHANGE OPTION TRADING****RESTRICTION OF OUT-OF-THE-MONEY OPTIONS**

Sec. 11.

(a) to (c) No Change.

Commentary:

.01 No Change.

.02 If the two tests in clauses (i) and (ii) with respect to calls and in clauses (x) and (y) with respect to puts of paragraph (a) are met at the close on a particular day, paragraph (a) applies to orders after the close on such day. However, with regard to an option contract traded on the Exchange which has otherwise met the tests of the previous sentence, the prohibitions of paragraph (a) will not apply to transactions on the Exchange; provided such option is traded on another participating Exchange; And further provided, A transaction has occurred on the last previous day on another such exchange when the closing price of such option does not meet the test clause (ii) with respect to calls or clause (y) with respect to puts.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to establish uniformity with respect to the application of the restricted option rule to dually listed exchange traded options.

At present, pursuant to PSE Rule VI, Section 11, (a) members and member organizations may not enter an order for their own accounts or for accounts of their customers involving an opening transaction (either purchase or sale) in any call option when two conditions exist at the close of the last previous trading: (1) The exercise price of the option is more than \$5 above the price of the underlying stock in the primary market on which it is traded, and (2) the price of the option on the PSE is less than

\$0.50 per share (\$50 per contract). The restriction is automatic and remains in effect until the day following the close of a trading day when either condition is not met.

With the advent of dual listings in exchange traded options, the two conditions referred to above which would otherwise cause the prohibition to become effective may exist on one exchange but not on another exchange which trades the same option series. For example, as of the close of a given day, the exercise price of a dually listed call option may be more than \$5 above the price of the underlying stock; however, the price of the option may close at \$0.50 per share (1/2) on one exchange but less than that price on another exchange. As a result, opening transactions would be restricted on the former exchange.

Although the restricted option rules as adopted by each of the options exchanges provide that an exchange may make exceptions with respect to one or more options series when it is in the public interest to do so. The PSE believes it is advisable to amend its rule to provide for uniformity among the exchanges in respect to restricted options to eliminate situations as described above.

Accordingly, the PSE proposes to amend its restricted options rule to provide that, in the case of dually listed options only, the Exchange will not impose a restriction on an option series unless the conditions giving rise to such restriction exist on all exchanges that trade such option series.

The amendment to Rule VI, Section 11 is authorized by Section 6(b) of the Securities Exchange Act of 1934 (the "1934 Act") and the PSE believes that such Amendment will serve to promote just and equitable principles of trade and to protect investors in dual traded exchange option contracts.

Comments have neither been solicited nor received from members on the proposed rule change.

The proposed rule change imposes no burden upon competition.

On or before November 8, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and

copying in the Public Reference Room, 1104 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 26, 1977.

[FR Doc.77-28907 Filed 10-3-77; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1292; Amdt. No. 4]

CALIFORNIA**Declaration of Disaster Loan Area**

The above numbered Declaration (See 42 FR 11301), Amendment No. 1 (See 42 FR 21339), Amendment No. 2 (See 42 FR 32864), and Amendment No. 3 (See 42 FR 37265), are amended by extending the date for physical damage until the close of business on November 30, 1977, and for economic injury until the close of business on June 30, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 12, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29152 Filed 10-3-77; 8:45 am]

[8025-01]

DENVER DISTRICT ADVISORY COUNCIL**Public Meeting**

The Small Business Administration Denver District Advisory Council will hold a public meeting at 9:00 a.m., Friday, November 18, 1977, in the United States Courthouse, Room 595, (5th Floor), 1961 Stout Street, Denver, Colo., to discuss such business as may be presented by members, the staff of the Small Business Administration and others attending. For further information, write or call Douglas F. Graves, District Director, U.S. Small Business Administration, 721 19th Street, Room 426, Denver, Colo. 80202 (303-837-3673).

Dated: September 26, 1977.

K. DREW,
Deputy Advocate for
Advisory Councils.

[FR Doc.77-29153 Filed 10-3-77; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[Public Notice CM 7/13]

SECRETARY OF STATE'S ADVISORY COMMITTEE ON PRIVATE INTERNATIONAL LAW; STUDY GROUP ON LEASING OF AND SECURITY INTERESTS IN MOVABLE PROPERTY**Meeting**

A meeting of the Study Group on Leasing of and Security Interests in Movable Property, a subgroup of the Secretary of State's Advisory Committee on Private International Law, will be held at 10:30 a.m. on Friday, November 4, 1977, at Harvard Law School, Cambridge, Mass.

The purpose of the meeting will be to prepare for the second meeting of the International Institute for the Unification of Private Law's working group on the leasing contract, to be held in Rome November 17-19, 1977.

The meeting will be open to the public and members of the general public may attend up to the limits of the capacity of the meeting room and participate in the discussion subject to instructions of the Chairman. It is requested that prior to November 4, 1977, members of the general public who plan to attend the meeting inform their name and affiliation and address to Miss Dorothy Fagan, Office of the Legal Adviser, Department of State; the telephone number is 202-632-8134.

Dated: September 27, 1977.

RICHARD D. KEARNEY,
Chairman.

[FR Doc.77-99103 Filed 10-3-77; 8:45 am]

[4830-01; 4510-]

DEPARTMENT OF THE TREASURY**Internal Revenue Service****DEPARTMENT OF LABOR****PENSION AND WELFARE BENEFIT PROGRAMS**

[Prohibited Transaction Exemption 77-11; Application No. D-850]

CENTRAL STATES, SOUTHEAST AND SOUTHWEST AREAS PENSION FUND**Exemptions for Certain Transactions**

AGENCIES: Department of the Treasury/Internal Revenue Service; Department of Labor.

ACTION: Grant of exemptions.

SUMMARY: The Internal Revenue Service (the Service) and the Department of Labor (the Department) hereby grant several exemptions for certain transactions involving the Central States, Southeast and Southwest Area Pension Fund (the Fund). In the absence of the ex-

emptions, these transactions would be prohibited by the Internal Revenue Code of 1954 (the Code) and the Employee Retirement Income Security Act of 1974 (the Act).

FOR FURTHER INFORMATION CONTACT:

Nell Grossman, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20024, Attn: E:EP:PT, Phone 202-566-4260.

Martha McLane, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210, Phone 202-523-9141.

SUPPLEMENTARY INFORMATION: On September 9, 1977, notice was published in the FEDERAL REGISTER (42 FR 45425) that the Service and the Department (hereinafter collectively referred to as the Agencies) had under consideration proposed exemptions from the taxes imposed by section 4975 (a) and (b) of Code by reason of sections 4975(c)(1) (A) through (F) of the Code and from the restrictions of sections 406(a), 406(b), 407(a) of the Act. The exemptions were requested in applications filed pursuant to section 4975(c)(2) of the Code and section 408(a) of the Act by The Equitable Life Assurance Society of the United States (Equitable) and Victor Palmieri & Co. Inc. (VPCO). The proposed exemptions applied to a number of transactions involving Equitable, VPCO, entities related to Equitable and VPCO, the Fund's other investment managers, and the Fund as a result of contractual agreements dated June 30, 1977.

The exemptions were proposed in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and all interested persons were invited to submit written comments on the proposed exemptions and to present oral comments at the hearing to be held on the proposed exemptions. A public hearing was held on September 26, 1977, in which interested persons were afforded the opportunity to present their views on the proposed exemptions.

COMMENTS RECEIVED

No comments relating to the substantive provisions of the proposed exemption were received by the Agencies. Equitable submitted a comment in order to clarify any misunderstanding regarding the operation of the Fund's Benefits and Administration Account (the Account). At 42 FR 45427, Part III, second paragraph of the Summary of Representations, the Notice stated:

Generally, money for the Account will be derived from two sources: employer contributions and income earned by the Fund

¹ These are not toll-free numbers.

on its real estate and mortgage investments, which is not needed to offset the Fund's expenses in managing such investments. Although the influx of money from these sources should ordinarily be sufficient to pay pension benefits and the Fund's administrative expenses, it is conceivable that additional money may be needed for the Account at some time in the future. In such a case, the Fund's Executive Director is authorized to request Equitable to transfer additional funds to the Account, and under the agreements, Equitable can comply with the request by directing the investment managers, including itself and VPCO, to liquidate assets and transfer money to the Account. Equitable, acting on its own, has no authority to initiate a transfer of assets to the Account.

Although the above statement is based on the representations contained in Equitable's application for exemption, Equitable believes that it could be interpreted in a manner that could create confusion with respect to the operation of the Account. It is Equitable's understanding that the Account, which is to be used for the payment of pension benefits and Fund administrative expenses, is to derive its funds principally from employer contributions. If at any time the assets in the Account should prove insufficient to pay pension benefits and Fund administrative expenses, the Fund's Executive Director is authorized under the agreements of June 30, 1977, to request Equitable to transfer additional funds to the Account. Equitable can then comply with such requests by directing the transfer of funds from any one or combination of sources available to it for this purpose, including available investment funds generated by the Fund on its real estate and mortgage investments which are not needed to offset the Fund's expenses in managing such investments, and the assets held by the Fund's investment managers, which could be liquidated and transferred to the Account. Equitable does not expect to be required to direct a liquidation of assets held by the investment managers when there are available investment funds from Fund real estate and mortgage investments.

Accordingly, in order to eliminate any confusion in connection with the operation of the Account, Equitable requests and the Agencies hereby amend the second paragraph and first sentence of Part III of the Notice of Pendency to read as follows:

Generally, money for the Account will be derived primarily from employer contributions. Although the influx of money from this source should ordinarily be sufficient to pay pension benefits and the Fund's administrative expenses, it is conceivable that additional money may be needed for the Account at some time in the future. In such a case, the Fund's Executive Director is authorized to request Equitable to transfer additional funds to the Account, and, under the agreements, Equitable can comply with the request by transferring available investment funds generated by the Fund on its real estate and mortgage investments which are

not needed to offset the Fund's expenses in managing such investments, or by directing the investment managers, including itself and VPCO, to liquidate assets and transfer money to the Account. Equitable, acting on its own, has no authority to initiate a transfer of assets to the Account.

Although the likelihood that investment manager will be directed to liquidate assets in connection with such a transfer is remote, if a transfer is requested that requires such a liquidation, Equitable will determine the best source of funds from which to make the transfer.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 4975(c)(2) of the Code and section 408(a) of the Act does not relieve a fiduciary or other disqualified person or party in interest with respect to a plan to which the exemption is applicable from certain other provisions of the Code and the Act, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 401(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The exemptions set forth herein are supplemental to, and not in derogation of, any other provisions of the Code and the Act, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(3) In accordance with section 4975(c)(2) of the Code and section 408(a) of the Act and based upon the entire record, the Agencies make the following determinations:

- (i) The exemptions set forth herein are administratively feasible;
- (ii) The exemptions set forth herein are in the interests of the Fund and its participants and beneficiaries; and
- (iii) The exemptions set forth herein are protective of the rights of participants and beneficiaries of the Fund.

EXEMPTIONS

Accordingly, the exemptions proposed in the notice of September 9, 1977, 42 FR 45425, as amended above are hereby granted under the authority of section 4975(c)(2) of the Code and section 408(a) of the Act and in accordance with the procedures set forth in Rev. Proc. 75-26, 1975-1 C.B. 722, and ERISA Procedure 75-1 (40 FR 18471, April 28, 1975).

Signed at Washington, D.C., this 29th day of September 1977.

ALVIN D. LURIE,
Assistant Commissioner (Employee Plans and Exempt Organizations),
Internal Revenue Service.

J. VERNON BALLARD,
Deputy Administrator, Pension and Welfare Benefit Programs, Department of Labor.

[FR Doc. 77-29188 Filed 10-3-77; 8:15 am]

[4810-25]

[Treasury Department Order No. 250-2 (Revision 1)]

ESTABLISHMENT OF THE OFFICE OF TARIFF AFFAIRS IN THE OFFICE OF THE GENERAL COUNSEL AND THE DELEGATION OF AUTHORITY TO THE DEPUTY ASSISTANT SECRETARY (TARIFF AFFAIRS)

Under authority of Treasury Department Orders Nos. 190 (Revised) and 250-1, the Office of Tariff Affairs is established within the Office of the General Counsel. Pursuant to the authority delegated to me by those orders, I hereby delegate to the Deputy Assistant Secretary (Tariff Affairs) the following authority, subject to the limitations prescribed herein:

1. To supervise the Office of Tariff Affairs and to make recommendations relative to the employment, promotion, and evaluation of personnel therein.
2. To review all antidumping and countervailing duty cases investigated by the U.S. Customs Service and to recommend their disposition to the General Counsel.
3. To represent the General Counsel on Departmental, interdepartmental, and international meetings or committees concerned with tariff matters within the jurisdiction of the General Counsel's office.
4. To handle all other matters falling within the responsibility of the Office of Tariff Affairs, or as further assigned by me.
5. In the absence of both the General Counsel and the Deputy General Counsel, the Deputy Assistant Secretary (Tariff Affairs) will sign antidumping and countervailing duty notices and determinations in his own name and under his own title.
6. In other respects the Office of Tariff Affairs will conform to the orders and directives issued for the administration of the Legal Division.

Dated: September 23, 1977.

ROBERT H. MUNDHEIM,
General Counsel.

[FR Doc. 77-29193 Filed 10-3-77; 8:45 am]

[4810-25]

Office of the Secretary ROLLER CHAIN, OTHER THAN BICYCLE, FROM JAPAN

Antidumping; Notice of Tentative Determination To Modify or Revoke Dumping Finding

AGENCY: United States Treasury Department.

ACTION: Tentative modification of finding of dumping.

SUMMARY: This notice is to advise the public that it appears that Daido Kogyo Co., Ltd. of Japan is not selling roller chain, other than bicycle, from Japan at less than fair value within the meaning of the Antidumping Act, 1921, as amended. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries. In addition, Daido Kogyo has given assurances that future sales will not be at less than fair value. If this action is made final, entries of this merchandise from Daido Kogyo, on or after the effective date of this notice, will no longer be liable for special dumping duties under the Antidumping Act, 1921. Interested persons are invited to make comments.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman, Operations Officer, Duty Assessment Division, U.S. Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A finding of dumping with respect to roller chain, other than bicycle, from Japan was published as Treasury Decision 73-100 in the FEDERAL REGISTER of April 12, 1973 (38 FR 9226). After due investigation, it has been determined that roller chain, other than bicycle, produced and sold by Daido Kogyo Co., Ltd. of Tokyo, Japan, is not being, nor is likely to be, sold in the United States at less than fair value within the meaning of the Antidumping Act, 1927, as amended (19 U.S.C. 160 et seq.).

STATEMENT OF REASONS ON WHICH THIS TENTATIVE DETERMINATION IS BASED

The investigation indicated that sales of roller chain, other than bicycle, by Daido Kogyo Co., Ltd., have not been made at less than fair value for a period of two years since the finding of dumping, and assurances have been given that future sales of such merchandise to the United States will not be made at less than fair value.

Accordingly, notice is hereby given that the Department of the Treasury intends to modify the finding of dumping with respect to roller chain, other than bicycle, from Japan to exclude such merchandise produced and sold by Daido Kogyo Co., Ltd. of Tokyo, Japan.

In accordance with §153.40, Customs Regulations (19 CFR 153.40), interested

persons may present written views or arguments, or requests in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any requests that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229 in time to be received by his office no later than October 14, 1977. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received by his office not later than November 3, 1977.

This notice is published pursuant to §153.44(c) of the Customs Regulations (19 CFR 153.44(c)).

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

SEPTEMBER 29, 1977.

[FR Doc. 77-29135 Filed 10-3-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 489]

ASSIGNMENT OF HEARINGS

SEPTEMBER 29, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 136168 (Sub-No. 11), Wilson Certified Express, Inc., now assigned October 12, 1977, at Omaha, Neb., will be held in Room 616, Union Pacific Plaza, 110 N. 14th Street, 14th and Dodge.

MC 142899 (Sub-No. 2), Corrugated Carriers, Inc., now assigned October 13, 1977, at Omaha, Neb., will be held in Room 616, Union Pacific Plaza, 110 N. 14th Street, 14th and Dodge.

MC 113678 (Sub-No. 63), Curtis, Inc., now assigned October 17, 1977, at Omaha, Neb., will be held in Room 616, Union Pacific Plaza, 110 N. 14th Street, 14th and Dodge.

MC 111375 (Sub-No. 85), Pirkle Refrigerated Freight Lines, Inc., now assigned November 9, 1977, is postponed to November 14, 1977 (1 week), at Denver, Colo., in a hearing room to be later designated.

No. AB 18 (Sub-No. 6), Chesapeake & Ohio Railway Co. Abandonment Between Coleman and Union, Isabella County, Mich., and FD 27412, Chesapeake & Ohio Railroad Co.—Trackage Rights—A Line of Railroad of The Ann Arbor Railroad Co. Between Mount Pleasant and Clare, in Isabella County, Mich., now assigned October 13, 1977, at Mount Pleasant, Mich., will be held in Room 124, Isabella County Building, 200 North Main Street.

MC 139495 (Sub-No. 181), National Carriers, Inc., now assigned October 17, 1977, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 140792 (Sub-No. 3), Stanley E. Whitehead, now assigned October 18, 1977, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 138144 (Sub-No. 19), Fred Olsen Co., Inc., now assigned October 19, 1977, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn St.

MC 139973 (Sub-No. 12), J. H. Ware Trucking, Inc., now assigned October 20, 1977, at Chicago, Ill., will be held in Room 1319, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC-F 13091, System 99—Control—Nevada Freight Lines, Inc., and MC 97526 (Sub-No. 3), Nevada Freight Lines, Inc., now being assigned November 7, 1977 (1 week) at Reno, Nev., in a hearing room to be later designated. This hearing will be continued to November 14, 1977 (1 week) at Las Vegas, Nev., in a hearing room to be later designated.

MC 129480 (Sub-No. 26), Tri-Line Expressway Ltd., now assigned October 12, 1977, at Denver, Colo., will be held October 12 through 19, 1977, in Room 422, U.S. Customs House, 721 19th Street, Denver, Colo., and October 20 through 21, 1977, in Room 158, U.S. Customs House, 721 19th Street, Denver, Colo.

AB 43 (Sub-No. 30), Illinois Central Gulf Railroad Co. Abandonment Between Waggoner and Glen Carbon in Montgomery, Macoupin, and Madison Counties, Ill., now assigned October 12, 1977, at Litchfield, Ill., will be held at the City Hall, 120 East Ryder.

MC 141779 (Sub-No. 1), Richard Allen Long, d.b.a. Richard's Towing Service, now assigned October 20, 1977, at St. Louis, Mo., will be held in Court Room 3, U.S. Court of Appeals, 1114 Market Street.

MC 135410 (Sub-No. 11), Courtney J. Munson, d.b.a. Munson Trucking, now assigned October 18, 1977, at St. Louis, Mo., will be held in Court Room 3, U.S. Court of Appeals, 1114 Market Street.

MC 130442, Shelmont, Inc., now assigned October 5, 1977, in Atlanta, Ga., is cancelled and application dismissed.

MC 142920, Oliver Trucking Corp., now assigned October 17, 1977, at New York, N.Y., will be held in Room 2206, 26 Federal Plaza.

MC 108937 (Sub-No. 47), Murphy Motor Freight Lines, Inc., now being assigned January 17, 1978 (9 days) for hearing in South Bend, Ind., in a hearing room to be later designated.

MC 115353 (Sub-No. 25), Louis J. Kennedy Trucking Co., now assigned October 20, 1977, at New York, N.Y., will be held in Room 2206, 26 Federal Plaza.

MC 143305, John H. Shuffer & Robert W. Hanna, d.b.a. John & Bob's Auto Service, now assigned October 18, 1977, at New York, N.Y., will be held in Room 2206, 26 Federal Plaza.

MC 121489 (Sub-No. 12), Nebraska-Iowa Express, Inc., now assigned November 28, 1977, at Denver, Colo., will be held in Room 158, U.S. Customs House, 721 19th Street.

MC 140586 (Sub-No. 1), Golden North Van Lines, Inc., now assigned November 15, 1977, at Anchorage, Alaska, will be held in McKay Building, 10th Floor, 338 Denali Street.

MC 142797 (Sub-No. 1), Fulton Oregon Air, Inc., now assigned November 1, 1977, at Salem, Oreg., will be held in Room 346, State Capitol Building.

MC 125551 (Sub-No. 13), K & W Trucking Co., Inc., now assigned October 31, 1977, at Anchorage, Alaska, will be held in McKay Building, 10th Floor, 338 Denali Street.

MC 143013, Roger Chilton, d.b.a. Chilton Trucking Co., now assigned October 3, 1977, at Houston, Tex., is cancelled and application dismissed.

MC 111594 (Sub-No. 75), C. W. Transport, Inc., now being assigned January 17, 1977 (9 days) at Chicago, Ill., in a hearing room to be later designated.

MC 946 (Sub-No. 7), Ferdinand Arrigoul, Inc., now assigned October 18, 1977, at New York, N.Y., and will be held in Room C-2220, Federal Building, 26 Federal Plaza. This hearing also embraces MC 142530 (Sub-No. 2), Pioneer Bus Corp., and MC 67340 (Sub-No. 11), Bosort Bus Lines, Inc.

MC 143187, R. G. Degatano Transportation, Inc., now assigned November 17, 1977, at Boston, Mass., is cancelled and transferred to Modified Procedure.

MC 113655 (Sub-No. 378), International Transport, Inc., now assigned November 4, 1977, at San Francisco, Calif., is cancelled, application dismissed.

MC 141864 (Sub-No. 1), James D. Dickson, Inc., now assigned November 3, 1977, at Chicago, Ill., is cancelled, application dismissed.

MC 107541 (Sub-No. 45), Washington-Oregon Lumber Freighters, Inc., now assigned November 7, 1977, at Portland, Ore., is cancelled, application dismissed.

MC 55898 (Sub-No. 53), Decato Bros., Inc., now assigned October 12, 1977, is postponed to November 17, 1977 (2 days) at Boston, Mass., will be held on the 5th Floor, 150 Causeway.

AB 83 (Sub-No. 3), Maine Central Railroad Co. Abandonment Between North Anson and Bingham in Somerset County, Maine, now assigned November 9, 1977, at Bingham, Maine, will be held in the Conference Room, Town Municipal Bldg., Murray Street.

MC 142610 (Sub-No. 4), Action Motor Express, Inc., now assigned December 12, 1977, at Jacksonville, Fla., is cancelled, application dismissed.

MC 135425 (Sub-No. 24), Cycles Ltd., now assigned November 14, 1977, at Boston, Mass., will be held on the 5th Floor, 150 Causeway.

MC 119619 (Sub-No. 102), Distributors Service Co., now assigned November 15, 1977, at Boston, Mass., will be held on the 5th Floor, 150 Causeway.

MC 119988 (Sub-No. 108), Great Western Trucking Co., Inc., now assigned October 18, 1977, at Dallas, Tex., is cancelled, application dismissed.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77 29142 Filed 10-3-77; 8:45 am]

[Notice No. 490]

ASSIGNMENT OF HEARINGS

SEPTEMBER 29, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified

of cancellation or postponements of hearings in which they are interested.

CORRECTION¹

MC 33641 (Sub-No. 128), IML Freight, Inc., now assigned November 1, 1977, at Spokane, Wash., and will be held November 1 through November 4, 1977, in the Spokane Convention Center, Spokane Falls Boulevard and November 7, 1977, through November 18, 1977, at the Sheraton Hotel, 322 Spokane Falls Courts.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-29143 Filed 10-3-77; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

SEPTEMBER 29, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43438—Barley, Corn, Etc., from Illinois Central Gulf Railroad Co. Stations in Illinois. Filed by Illinois Central Gulf Railroad Co. (No. 77-1), for interested rail carriers.

Rates on barley, corn, oats, rye, soybeans, or wheat, in carloads, as described in the application, from Illinois Central Gulf Railroad Co. stations in Illinois, to Chicago, Ill., for export.

Grounds for relief—Market competition.

Tariff—Supplement 4 to Illinois Central Gulf Railroad Co. tariff 605-A, I.C.C. No. 68. Rates are published to become effective on October 24, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-29144 Filed 10-3-77; 8:45 am]

[7035-01]

[Notice No. 125]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 27, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate

¹ This notice corrects the docket title and the city and state of the hearing.

Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 531 (Sub-No. 350TA), filed September 15, 1977. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant).

Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid plastics (polyester resins), in bulk, in tank vehicles, from Oxnard, Calif., to Grand Junction, Tenn., for 180 days. Supporting shipper(s): Diamond Shamrock Corp., 617 Veterans Blvd., Redwood City, Calif. 94063. Send protests to: John Mensing, District Supervisor, Interstate Commerce Commission, 515 Rusk, Room 8610, Houston, Tex. 77002.

No. MC 19778 (Sub-No. 98TA), filed September 6, 1977. Applicant: THE MILWAUKEE MOTOR TRANSPORTATION CO., Suite 508, 516 West Jackson Blvd., Chicago, Ill. 60606. Applicant's representative: W. E. Gallagher (same address as applicant).

Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Lumber, plywood, mill work and (2) related articles (molding, fasteners, adhesive, caulking, nails) not to exceed 5 percent by weight of commodity described in (1) when transported in connection therewith from Potlatch and Princeton, Idaho, to Bavi, Idaho, restricted to shipments having a subsequent movement by rail, for 180 days.

Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Washington, Idaho & Montana Railroad Co., 516 West Jackson Blvd., Chicago, Ill. 60606. Send protests to: Mrs. Patricia A. Roscoe, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn, Room 1336, Chicago, Ill. 60604.

No. MC 35807 (Sub-No. 78TA), filed September 13, 1977. Applicant: WELLS FARGO ARMORED SERVICE CORP., P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: David E. Wells (same address as applicant) and Harry J. Jordan, 1000 16th St. NW., Washington, D.C. 20036. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Coin, currency, securities, and food stamps, between points in Virginia, West Virginia, and North Carolina, under a continuing contract or contracts with Federal Reserve Bank of Richmond, for 180 days. Supporting Shipper: Federal Reserve Bank of Richmond, P.O. Box 27622, Richmond, Va. 23261. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, Ga. 30309.

No. MC 44989 (Sub-No. 6TA), filed September 15, 1977. Applicant: WILLIAMS TRUCK LINES, INC., P.O. Box 143, Audubon, Iowa 50025. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Neb. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen pork, from the plantsite and storage facilities utilized by Weinstein International Corp., located at or near Worthington, Minn., Sioux City, Iowa, and Omaha, Neb.; to Miami, Tampa, and Riviera Beach, Fla., restricted to traffic originating at the named origins and destined to the named destinations. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Brad McAlister, Director of Export Transportation, Weinstein International Corp., 5738 Olson Highway, Minneapolis, Minn. 55422. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Neb. 68102.

No. MC 51146 (Sub-No. 525TA), filed September 14, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Wood burning stoves and furnaces, from Cobleskill, N.Y., to Green Bay and Madison, Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Energy Options, Inc., P.O. Box 303, Green Bay, Wis. 54305 (John Wilson). Send protests to:

Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 51146 (Sub-No. 526TA), filed September 14, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Insulation, from Kenosha, Wis., to Minneapolis, Minn., for 180 days. Supporting shipper: Koos, Inc., 4500 13th Court, Kenosha, Wis. 53140 (James H. Rosenow). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 51146 (Sub-No. 527TA), filed September 16, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Paper and paper products, from Monroe, Mich., to Ogdensburg, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Union Camp Corp., 1600 Valley Road, Wayne, N.J. 07470 (Roger L. Schoening). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 83539 (Sub-No. 468TA), filed September 14, 1977. Applicant: C&H TRANSPORTATION CO., INC., 1936-2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James, 2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Concrete roof tile, from plantsite of Skandia Roof Tile at or near San Marcos, Tex., to all points in the States of Arkansas, California, Florida, Indiana, Nebraska, and New Mexico, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Skandia Roof Tile, Ltd., 1710 Westminster, Denton, Tex. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, room 13C12, Dallas, Tex. 75242.

No. MC 107403 (Sub-No. 1037TA), filed September 12, 1977. Applicant: MTLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr.

(same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Crude peanut oil, in bulk, in tank vehicles, from Hershey, Pa., to Charlotte, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Gold Kist, Inc., P.O. Box 2210, Atlanta, Ga. 30301. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, room 3238, Philadelphia, Pa. 19106.

No. MC 109689 (Sub-No. 313TA), filed September 12, 1977. Applicant: W. S. HATCH CO., a Utah corporation, 643 South 800 West, Woods Cross, Utah 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Marine oils (fish oil), in bulk, from Seattle, Wash., to Murray, Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: James Farrell & Co., 1612 Hoge Building, Seattle, Wash. 98104 (Jack Miller, President). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 110988 (Sub-No. 348TA), filed September 14, 1977. Applicant: SCHNEIDER TANK LINES, INC., Giltedge Bldg., 4321 West College Avenue, Appleton, Wis. 54911. Applicant's representative: Paul C. Schneider (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Caustic soda, 50% liquid, from LaCrosse, Wis., to points in Illinois, Iowa, Minnesota, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hydrite Chemical Co., 1273 West Bruce Street, Milwaukee, Wis. 53204 (Edward A. Wex). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 110988 (Sub-No. 349TA), filed September 15, 1977. Applicant: SCHNEIDER TANK LINES, INC., Giltedge Bldg., 4321 West College Avenue, Appleton, Wis. 54911. Applicant's representative: Paul C. Schneider (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Aluminum sulphate, or liquid alum, in bulk, in tank vehicles, from Wisconsin Rapids, Wis., to Des Moines and Waterloo, Iowa, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Allied Chemical Corp., P.O. Box 1139R, Morristown, N.J. 07960 (Joseph D. Guitari). Send protests to: Gail Daugherty,

Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 111401 (Sub-No. 501TA), filed September 13, 1977. Applicant: GROEN-DYKE TRANSPORT, INC., 2510 Rock Island Blvd., P.O. Box 632, Enid, Okla. 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alumina slurry*, in bulk, in tank vehicles, from Bauxite, Ark., to Cincinnati, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. R. Grace & Co., Davison Chemical Division, Charles and Baltimore Streets, Baltimore, Md. 21202. Send protests to: Joe Green, District Supervisor, room 240, Old Post Office and Courthouse Bldg., 215 Northwest 3d, Oklahoma City, Okla. 73102.

No. MC 112520 (Sub-No. 344TA), filed September 14, 1977. Applicant: McKENZIE TANK LINE, INC., P.O. Box 1200, Tallahassee, Fla. 32302. Applicant's representative: Sol H. Proctor, 1101 Blackstone Building, Jacksonville, Fla. 32202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid can coatings*, in bulk, in tank vehicles, from the plantsite of Mobile Chemical Co., at Covington, Ga., to points in South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Mobile Chemical Co., Division of Mobile Oil Corp., Chemical Coatings Division, 1024 South Avenue, Plainfield, N.J. 07062. Send protests to: District Supervisor, G. H. Pauss, Jr., Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 112617 (Sub-No. 376TA), filed September 16, 1977. Applicant: LIQUID TRANSPORTERS, INC., P.O. Box 21395, 1292 Fern Valley Road, Louisville, Ky. 4021. Applicant's representative: Larry Thompson (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gases*, in bulk, in tank vehicles, from Institute, W. Va., to points in Kentucky and Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Wm. R. Anderson Manager-Propene, Columbia Hydrocarbon Corp., P.O. Box 575, South Shore, Ky. 41175. Mr. Charles C. Wells, President, Hardware Charlie Gas Co., Inc., P.O. Box 590, Paintsville, Ky. 41240. Mr. Arnold Grate Owner/Manager, Rutland Furniture & Bottle Gas Co., Inc., P.O. Box 326, Rutland, Ohio 45775. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 426 Post Office Building, Louisville, Ky. 40202.

No. MC 114761 (Sub No. 12TA), filed September 16, 1977. Applicant: GETTER TRUCKING INC., P.O. Box 368, Cut Bank, Mont. 59427. Applicant's representative: Thomas M. Roholt, P.O. Box 1611, Billings, Mont. 59103. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bentonite*, from Big Horn County, Wyo., to points in Washington, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Robert N. Garity, Transportation Specialist, American Colloid Co., P.O. Box 228, Skokie, Ill. 60076. George G. Kirsch Supervisor—Domestic Traffic, Minerals and Manufacturing Group, Dresser Industries, P.O. Box 6504, Houston, Tex. 77005. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 117119 (Sub-No. 653TA), filed September 14, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: Martin M. Geffon, P.O. Box 338, Willingboro, N.J. 08046. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Chemicals, pigments, paint and dyes, and personnel safety devices*, (except in bulk), in vehicles equipped with mechanical refrigeration, from Marietta, Ohio, to Portland, Oreg., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Cyanamid Co., Bound Brook, N.J. 08805. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 117589 (Sub-No. 43TA), filed September 16, 1977. Applicant: PROVISIONERS FROZEN EXPRESS, INC., 3801 7th Avenue South, P.O. Box 24507, Seattle, Wash. 98108. Applicant's representative: Michael D. Duppenhaler, 515 Lyon Building, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen human blood plasma*, from the United States-Canada International Boundary Line located at or near Blaine, Lynden, or Sumas, Wash., to Los Angeles, Calif., shipments originating in Vancouver, British Columbia, Canada, for 180 days. Supporting shipper(s): Hyland, a Division of Travenol Laboratories, 3300 Hyland Avenue, Costa Mesa, Calif. 92626.

No. MC-118838 (Sub-No. 14TA), filed September 15, 1977. Applicant: GABOR TRUCKING, INC., Rural Route No. 4, Box 124B, Detroit Lakes, Minn. 56501. Applicant's representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and animal and poultry feed ingredients*, from Culbertson, Mont., to points in Illinois, Iowa, Kansas, Minnesota, Missouri, Nebraska,

North Dakota, South Dakota, and Wisconsin, for 180 days. Supporting shipper: Continental Grain Company, 277 Park Avenue, New York, N.Y. 10017. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 119702 (Sub-No. 51TA), filed September 16, 1977. Applicant: STAHLY CARTAGE CO., P.O. Box 486, 130-A Hillsboro Avenue, Edwardsville, Ill. 62025. Applicant's representative: Jeff S. Wohlford, P.O. Box 486, Edwardsville, Ill. 62025. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid calcium chloride*, in bulk, in tank vehicles, from the plant site of W & W Sales & Leasing Co., located in Pike County, Ill., near Meredosia, Ill., to all points in the State of Okla., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mr. Wendell C. Wholford President, W & W Sales & Leasing Co., P.O. Box 486, Edwardsville, Ill. 62025. Send protests to: District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 119917 (Sub-No. 45TA), filed September 14, 1977. Applicant: DUDLEY TRUCKING COMPANY, INC., 724 Memorial Drive SE., Atlanta, Ga. 30316. Applicant's representative: William F. Dudley, 724 Memorial Drive SE., Atlanta, Ga. 30316. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bakery products* and all products manufactured and distributed by Crackin Good Bakers, Inc., from the plantsite and shipping facilities of Crackin Good Bakers, Inc., Valdosta, Ga., to the warehouse and distribution facilities of Whinn Dixie, Inc., in Montgomery, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Crackin Good Bakers, Inc. 701 North Forrest Road, Valdosta, Ga. 31601. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 121525 (Sub-No. 6TA), filed September 16, 1977. Applicant: SNIDER TRUCKING SERVICE, INC., 110 E. 5th, Ritzville, Wash. 99169. Applicant's representative: Jeffrey D. Snider, Ritzville, Wash. 99169. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry fertilizers*, from Plant Food Center, Inc., plantsite at Interstate, Idaho, to points in Adams, Grant, Lincoln, and Whitman Counties, Wash., for 180 days. Supporting shipper(s): Ritzville Chemicals, Inc., 107 North Adams, Ritzville, Wash. 99169. Cominco American, Inc., West 818 Riverside, P.O. Box 3087, Spokane, Wash. 99220.

No. MC 123392 (Sub-No. 74TA), filed September 14, 1977. Applicant: JACK B. KELLEY, INC., Rt. 1, Box 400, U.S. 66 West at Kelly Drive, Amarillo, Tex. 79106. Applicant's representative: Weldon M. Teague (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Compressed methane gas*, in bulk, in tube trailers, from Oakland, Calif., to Harrison, N.J., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Liquid Carbonic Corp., 135 S. LaSalle, Chicago, Ill. 60603. Send protests to: Haskell E. Ballard, District Supervisor, Interstate Commerce Commission—Bureau of Operations, Box H-4395 Herring Plaza, Amarillo, Tex. 79101.

No. MC 124344 (Sub-No. 8TA), filed September 7, 1977. Applicant: HINER TRANSPORT, INC., 1317 South Jefferson Street, P.O. Box 621, Huntington, Ind. 46750. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a contract carrier, by motor vehicle over irregular routes, transporting: *Ice cream, ice cream mix, ice milk, sherbert, water ices, milk products, and vegetable-fat frozen desserts*, in containers, in mechanically refrigerated vehicles, and *ice cream novelties*, including water ice bars, fudge bars, ice cream bars, ice cream cups, ice cream sandwiches, ice cream cake rolls, ice cream pies, and articles of a like nature, in containers, in mechanically refrigerated vehicles, (1) From Huntington, Ind., to Jacksonville, Fla.; Prestonsburg, Ky.; Peoria, Ill.; Lansing, Port Huron, Battle Creek, Muskegon, Bay City, and Cadillac, Mich.; St. Louis, Mo.; Cleveland and Mount Vernon, Ohio; Fayette City, Altoona, Evans City, and Pittsburgh, Pa.; and Wheeling, Wharton, Clarksburg, Fairmont, and Elkins, W. Va.; and (2) From Peoria, Ill.; Detroit, Mich.; and Louisville, Ky., to Huntington Ind. *Over-aged, rejected, or damaged merchandise* on return, and, *Fruits and fruit segments*, in containers, from Cincinnati, Ohio to Huntington, Ind. Restrictions: (1) The operations authorized herein are restricted to traffic originating at and/or destined to a plantsite or storage facility of Kraft Foods Dairy Group. (2) The operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Kraft Foods Dairy Group (formerly Sealtest Foods Division, Kraftco Corp.), Philadelphia, Pa., under a continuing contract or contracts with Kraft Foods Dairy Group, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kraft Foods Dairy Group, 435 W. State Street, Huntington, Ind. 46750. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 124511 (Sub-No. 38TA), filed September 2, 1977. Applicant: JOHN F. OLIVER, P.O. Box 223, Mexico, Mo. 65265. Applicant's representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, Mo. 64105. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Coal*, from points in Missouri to points in Iowa, Illinois, Nebraska, and Kansas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Missouri Mining, Inc., P.O. Box 207, Unionville, Mo. 63565. Universal Coal & Energy, Inc., P.O. Box 207, Unionville, Mo. 63565. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission—BOP, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 126118 (Sub-No. 52TA), filed September 15, 1977. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Jacksonville and Tampa, Fla., and their commercial zones to Alabama, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Robert Brown, Sr., President, Coosa Valley Budweiser Co., Inc., Box 1141, Sylacauga, Ala. 35150. Robert Brown, Sr., Secretary-Treasurer, Bama Beverage Co., Inc., Box 1601, Anniston, Ala. 36202. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Bldg., and U.S. Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 128555 (Sub-No. 21TA), filed September 12, 1977. Applicant: MEAT DISPATCH, INC., 2103 17th Street, East, Palmetto, Fla. 33561. Applicant's representative: S. Michael Richards, 44 North Avenue, P.O. Box 225, Webster, N.Y. 14580. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Unfrozen foodstuffs* (except in bulk), from Merced, Calif., to points in Texas and Colo., under a continuing contract, or contracts, with Ragu Foods, Inc., for 180 days. There is no environmental impact involved in this application. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ragu Foods, Inc., 1680 Lyell Avenue, Rochester, N.Y. 14606. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 NW., 53rd Terrace, Miami, Fla. 33166.

No. MC 129625 (Sub-No. 9TA), filed September 14, 1977. Applicant: ROBERT COLE TRUCKING CO., P.O. Box N, Falls Creek, Pa. 15840. Applicant's representative: William J. Lavelle, Wick, Wunono & Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, in dump vehicles, from the mines,

plantsites and storage facilities of Morton Salt Co. located in Erie County, N.Y., to points in Clarion, Clearfield, Elk, Forest, McKean, Warren, and Jefferson (except Falls Creek, Pa., and points within its commercial zone) Counties, Pa., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Morton Salt Co., 110 North Wacker Drive, Chicago, Ill. 60606. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 134978 (Sub-No. 13TA), filed September 13, 1977. Applicant: C. P. BELUE, doing business as BELUE'S TRUCKING, Route 2, Chesnee, S.C. 29323. Applicant's representative: Mitchell King, Jr., P.O. Box 1628, Greenville, S.C. 29602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lime and limestone products*, from points in Scott County, Va., to points in Georgia, North Carolina, South Carolina, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Piedmont Mining Corp., P.O. Box 876, Kingsport, Tenn. 37662. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, S.C. 29201.

No. MC 136689 (Sub-No. 10TA), filed September 15, 1977. Applicant: SLAUGHTER TRANSPORTATION CORP., 10910 Lane Street, Houston, Tex. 77029. Applicant's representative: Jo E. Shaw, 815 Houston First Savings Bldg., Houston, Tex. 77002. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Deodorants*, other than medicinal and other than toilet preparations, in containers, in mixed shipments with currently authorized commodities transported for the Clorox Co., under a continuing contract, or contracts, with The Clorox Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Clorox Co., 1221 Broadway, Oakland, Calif. 94612. Send protests to: Mensing District Supervisor, Interstate Commerce Commission, 515 Rusk, 8610 Federal Building, Houston, Tex. 77002.

No. MC 136832 (Sub-No. 3TA), filed September 16, 1977. Applicant: SOUTHERN IDAHO TRANSPORT, INC., P.O. Box "W", Filer, Idaho 83328. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fibreboard boxes*, from the plantsite of Longview Fibre at or near Twin Falls, Idaho to points in Delta, Messa, and Montrose Counties, Colo., under a continuing contract, or contracts, with Longview Fibre Co., for 180 days. Applicant does not intend to tack or interline authority. Supporting ship-

per(s): Morton Salt Co., 110 North Wacker Drive, Chicago, Ill. 60606. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 136832 (Sub-No. 3TA), filed September 16, 1977. Applicant: SOUTHERN IDAHO TRANSPORT, INC., P.O. Box "W", Filer, Idaho 83328. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fibreboard boxes*, from the plantsite of Longview Fibre at or near Twin Falls, Idaho to points in Delta, Messa, and Montrose Counties, Colo., under a continuing contract, or contracts, with Longview Fibre Co., for 180 days. Applicant does not intend to tack or interline authority. Supporting ship-

per(s): Morton Salt Co., 110 North Wacker Drive, Chicago, Ill. 60606. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

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per(s): Morton Salt Co., 110 North Wacker Drive, Chicago, Ill. 60606. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 136832 (Sub-No. 3TA), filed September 16, 1977. Applicant: SOUTHERN IDAHO TRANSPORT, INC., P.O. Box "W", Filer, Idaho 83328. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fibreboard boxes*, from the plantsite of Longview Fibre at or near Twin Falls, Idaho to points in Delta, Messa, and Montrose Counties, Colo., under a continuing contract, or contracts, with Longview Fibre Co., for 180 days. Applicant does not intend to tack or interline authority. Supporting ship-

per(s): Morton Salt Co., 110 North Wacker Drive, Chicago, Ill. 60606. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 136832 (Sub-No. 3TA), filed September 16, 1977. Applicant: SOUTHERN IDAHO TRANSPORT, INC., P.O. Box "W", Filer, Idaho 83328. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fibreboard boxes*, from the plantsite of Longview Fibre at or near Twin Falls, Idaho to points in Delta, Messa, and Montrose Counties, Colo., under a continuing contract, or contracts, with Longview Fibre Co., for 180 days. Applicant does not intend to tack or interline authority. Supporting ship-

per(s): Morton Salt Co., 110 North Wacker Drive, Chicago, Ill. 60606. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

per(s): Longview Fibre Co., 348 South Park Avenue W., P.O. Box 387, Twin Falls, Idaho 83301. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort Street, Box 07, Boise, Idaho 83724.

No. MC 136832 (Sub-No. 4TA), filed September 16, 1977. Applicant: SOUTHERN IDAHO TRANSPORT, INC., P.O. Box "W", Filer, Idaho 83328. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, Idaho 83701. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fibreboard boxes, corrugated fibre-pulpboard and fibreboard lining materials*, from the plantsite of Longview Fibre at or near Twin Falls, Idaho to points in Humboldt County, Nev., under a continuing contract, or contracts, with Longview Fibre Co., for 180 days. Applicant does not intend to tack or interline authority. Supporting shipper(s): Longview Fibre Co., 348 South Park Avenue W., P.O. Box 387, Twin Falls, Idaho 83301. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, 550 W. Fort Street, Box 07, Boise, Idaho 83724.

No. MC 138732 (Sub-No. 10TA), filed September 15, 1977. Applicant: OSTERKAMP TRUCKING, INC., 1049 N. Glassell Street, Orange, Calif. 92667. Applicant's representative: Anthony H. Osterkamp, Jr., P.O. Box 5546, Orange, Calif. 92667. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated fibreboard or pulpboard products*, moving on flatbed trailing equipment, from the plantsite of Hoerner Waldorf-Champion International Corp. at or near Salinas, Calif., to the plantsite of Hoerner Waldorf-Champion International Corp. at or near Sparks, Nev., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hoerner Waldorf-Champion International Corp., 2250 Wabash Avenue, St. Paul, Minn. 55165. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 138882 (Sub-No. 15TA), filed September 8, 1977. Applicant: WILEY SANDERS, INC., P.O. Box 161, Troy, Ala. 36081. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, over irregular routes, transporting: (1) *Wheel weights, materials, equipment and supplies* used in the manufacture and sale of wheel weights, (except commodities in bulk), between the facilities of Bada Co., Inc., division of Hennessey Industries Co., Bowling Green, Ky., (2) *Tire changers, jacks, tire balancers, materials, equipment and supplies* used in the manufacture and sale of tire changers, jacks and tire balancers, (except commodities in bulk), between the facilities of Coats Co.,

Inc., division of Hennessey Industries Co., Nashville, Tenn., on the one hand, and, on the other, Accord, Albany, Tarrytown, N.Y., Atlanta, Ga., Baltimore, Md., Boston, Brighton, Springfield, Mass., Brook Park Cleveland, Ohio, Chicago, Ill., Concord, N.H., Irving, Dallas, Tex., Denver, Colo., Des Moines, Ia., Dover, Del., Fair Lawn, N.J., Hanford, Los Angeles, Calif., Jacksonville, Fla., Janesville, Wisc., Natchez, Miss., Philadelphia, Pa., Richmond, Va., West Haven, Conn. Restricted to shipments having origin and destination at the above facilities. Supporting shipper(s): Hennessey Industries, Inc., 1601 J. P. Hennessey Drive, LaVergne, Tenn. 37086. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616, 2121 Building, Birmingham, Ala. 35203.

No. MC 139193 (Sub-No. 67TA), filed September 13, 1977. Applicant: ROBERTS & OAKE, Inc., 527 East 52nd St. North, Sioux Falls, S. Dak. 57101. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except fresh meats), from Omaha, Nebr., to points in North and South Dakota, under a continuing contract or contracts with Campbell Soup Co., for 180 days. Supporting shipper: Campbell Soup Co., 1202 Douglas Street, Omaha, Nebr. 68102. Stephen M. Jander, Manager-Transportation. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 140118 (Sub-No. 3TA), filed September 15, 1977. Applicant: S.T.L. TRANSPORT, INC., 1000 Jefferson Road, P.O. Box 9776, Rochester, N.Y. 14623. Applicant's representative: S. Michael Richards, representative: Raymond A. Richards, 44 North Avenue, Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning compounds and pre-mixed windshield washer and anti-freeze solvent preparations*, from Rochester, N.Y., to all points in Connecticut, Maine, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont, under a continuing contract, or contracts, with Kleen Brite Chemical Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kleen Brite Chemical Co., Inc., 10 Moore Street, P.O. Box 483, Rochester, N.Y. 14602. Send protests to: Morris H. Gross, District Supervisor, U.S. Courthouse and Federal Building, 100 S. Clinton Street, Room 1259, Syracuse, N.Y. 13202.

No. MC 142268 (Sub-No. 23TA), filed September 6, 1977. Applicant: GORSKI BULK TRANSPORT, INC., R.R. 4, Harrow, Ontario, Canada NOR 1G0. Applicant's representative: Bernard S. Gorski, 843 Central Avenue, Windsor, On-

tario, Canada N8Y 4S2. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors, wine, vermouth, and brandy*, in bulk, *alcoholic liquors* in bulk, from points of entry at United States and Canada border in Michigan to Menlo Park, Calif. From points of entry at United States and Mexico border in Texas to Hartford, Conn., and Allen Park, Mich., *alcoholic liquors, wine, vermouth, and brandy*, in bulk, from points in California to Hartford, Conn., and Allen Park, Mich., for 180 days. Supporting shipper: Heublein, Inc., 330 New Park Avenue, Hartford, Conn. 06101. David F. Tucker, Transportation Manager—Spirits. Send protests to: Erma W. Gray, Secretary of the Detroit Office of the Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Blvd., Detroit, Mich. 48226.

No. MC 142346 (Sub-No. 4TA), filed September 16, 1977. Applicant: LARMER TRANSFER CO., 90129 Prairie Road, P.O. Box 706, Eugene, Ore. 97401. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, Ore. 97205. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Steel plate, angle iron, bars, pipe, channel and reinforcing steel*, from the plantsites of Farwest Steel Corp. and Farwest Rebar Co. at or near Eugene, Ore., to Boise, Idaho and Brownlee Dam Site at Wildhorse, Idaho, under a continuing contract, or contracts, with Farwest Steel Corp., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Farwest Steel Corp., 2000 Henderson Avenue, Eugene, Ore. 97403. Send protests to: A. E. Odums District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 S.W. Yamhill Street, Portland, Ore. 97204.

No. MC 142844 (Sub-No. 2TA), filed September 15, 1977. Applicant: DON HAUSAUER, d/b/a DON HAUSAUER TRUCKING, Fort Lincoln Estates, Bismarck, N. Dak. 58501. Applicant's representative: Charles E. Johnson, 418 East Rosser Avenue, Bismarck, N. Dak. 58501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Washington, Oregon, Montana, and Idaho to Minnesota and Wisconsin, restricted to a transportation service to be performed under a continuing contract or contracts with Owens Forest Products, Inc., Duluth, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Owens Forest Products, Inc., 2320 East First Street, Duluth, Minn. 55812. Send protests to: Ronald R. Mau District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak., 58102.

No. MC 143592 (Sub-No. 2TA), filed September 14, 1977. Applicant: ED-

WARDS TRUCKING CO., INC., P.O. Box 123, Clinton, Md. 20735. Applicant's representative: James E. Savitz, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Microfilm, magnetic tapes, office furniture, and microfilm equipment and supplies*, between the National Headquarters of the Social Security Administration located in Baltimore, Md., and the National Records Center in Boyers, Pa., under a continuing contract, or contracts, with Social Security Administration, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Social Security Administration, P.O. Box 7696, Baltimore, Md. 21207. Send protests to: W. C. Hersman, District Supervisor, Room 1413, Interstate Commerce Commission, 12th & Constitution Avenue NW., Washington, D.C. 20423.

No. MC 143655 (Sub-No. 1TA), filed September 8, 1977. Applicant: R. STANLEY, doing business as R. STANLEY TRUCKING, Lot 152 Waples Mobile Est., Fairfax, Va. 22030. Applicant's representative: R. Stanley (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Saw dust*, in bulk, from the facilities of W. W. Bowie Lumber Co., in or near Pisgah, Md., and from the facilities of Osborn Brothers Lumber Co., in or near Waldorf, Md., to points in Fairfax, Prince William, Loudoun, Fauquier and Stafford Counties, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately fourteen (14) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Interstate Commerce Commission, 12th & Constitution Avenue NW. Room 1413, W. C. Hersman, District Supervisor, Washington, D.C. 20423.

No. MC 143659 (Sub-No. 1TA), filed September 14, 1977. Applicant: VALLEY TRUCKING, INC., Rural Route 2, Box 55, Fargo, N. Dak. 58102. Applicant's representative: James B. Hovland, P.O. Box 1637, Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising material*, from Memphis, Tenn., to Fargo, N. Dak., and (2) *empty malt beverage containers*, from Fargo, N. Dak., to Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bergseth Bros. 501 23rd Street North, Fargo, N. Dak. 58102. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate

Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 143675 (Sub-No. 1TA), filed September 13, 1977. Applicant: PHILLIPS TRUCKING CO., INC., 100 Addison Avenue, Alamoso, Colo. 81101. Applicant's representative: Richard Gibson, P.O. Box 36, LaJara, Colo. 81140. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Animal or poultry feed and feed ingredients and exempt commodities*, from Rio Grande County, Colo., to points in Arizona and New Mexico, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Brown Feed and Seed Co., Inc., P.O. Box 68, Monte Vista, Colo. 81144. Send protests to: Herbert C. Ruoff, District Supervisor, Interstate Commerce Commission, 492 U.S. Customs House, 721 19th Street, Denver, Colo. 80202.

No. MC 143676 (Sub-No. 1TA), filed September 15, 1977. Applicant: DAS, INC., 2153 Patridge Place, Cedar Point, Suffolk, Va. 23433. Applicant's representative: Blair P. Wakefield, Suite 1001, First and Merchants Bank Bldg., Norfolk, Va. 23510. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pelletized peanut shells*, in bulk, in dump vehicles, from Aulander, N.C., to Norfolk, Va., and its commercial zone, under a continuing contract, or contracts, with Inter Proteine S.A., for 180 days. Applicant does not intend to tack authority or interline with other carriers. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Inter Proteine S.A. 15 Avekrieg, Geneva, Switzerland (United States Agent)—United Feed Co., Little Rock, Ark. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, Va. 23240.

No. MC 143717TA, filed September 12, 1977. Applicant: GAYLE K. POWELL, P.O. Box 12090, Lexington, Ky. 40511. Applicant's representative: Gayle K. Powell (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Thoroughbred race horses*, between Lexington, Ky., on the one hand, and, on the other hand, Cincinnati & Columbus, Ohio, for 180 days. Supporting shippers: Gene Woods, Avenstoke Road, Alton, Ky. Herbert Reed, 2136 Tamarack Dr., Lexington, Ky. 40504. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 216 Bakhaus Building, 1500 West Main St., Lexington, Ky. 40505.

By the Commission

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-28145 Filed 10-3-77; 8:45 am]

[7035-01]

[Notice No. 126]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 26, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 107295 (Sub-No. 860TA), filed September 15, 1977. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, 100 South Main Street, Farmer City, Ill. 61842. Applicant's representative: Duane Zehr (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating materials* (except commodities in bulk), from Newark, N.J., to points in Illinois, Indiana, Kentucky, Michigan, Minnesota, Missouri, Ohio, Tennessee, and Wisconsin, for 180 days. Supporting shipper: Mr. Joseph C. Mohen, Marketing Manager, Spraycraft Corp., 2508 Coney Island Avenue, Brooklyn, New York, N.Y. 11223. Send protests to: District Supervisor, Interstate Commerce Commission, P.O. Box 2418, Springfield, Ill. 62705.

No. MC 59640 (Sub-No. 58TA), filed September 16, 1977. Applicant: PAULS TRUCKING CORP., Three Commerce

Drive, Cranford, N.J. 07016. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Disposable dishes, plates, and trays*, from Brentwood, N.Y., to Woodstown, N.J., Lawrence and North Bellerica, Mass., and (2) *paperboard*, in rolls, from Leonistler, Mass., to Brentwood, N.Y., under a continuing contract, or contracts, with Carnation Paper Products Corp., of Brentwood, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Carnation Paper Products Corp., 86 Emjay Blvd., Brentwood, N.Y. 11717. Send protests to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 64932 (Sub-No. 575TA), filed September 2, 1977. Applicant: ROGERS CARTAGE CO., 10735 South Cicero Avenue, Oak Lawn, Ill. 60453. Applicant's representatives: Allan C. Zuckerman, Axelrod, Goodman, Steiner & Bazelon, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bisphenol*, in bulk, in tank or hopper type vehicles, from the facilities of United States Steel Corp., at Haverhill, Scioto County, Ohio, to all points in the United States (except Alaska and Hawaii), and returned and rejected shipments from the above named destination territory to the above named origin point, for 180 days. Supporting shipper(s): United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, room 1386, Chicago, Ill. 60604.

No. MC 108006 (Sub-No. 24TA), filed September 15, 1977. Applicant: MAISLIN TRANSPORT LTD., 7401 Newman Boulevard, Lasalle, Quebec, Canada. Applicant's representative: Edward L. Nehez, P.O. Box 1409, 167 Fairfield Road, Fairfield, N.J., 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Talc*, Moving in ISO (International Standard Organization) 20' Ocean containers, from Balmat and Halesboro, N.Y., to the United States-Canada Boundary Line at or near Champlain, Rouses Point, Alexandria Bay, and Trout River, N.Y., restricted to traffic having a subsequent movement by water through a Canadian port, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cast North America Ltd., 1 Westmount Square, Montreal, Quebec, Canada. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 110525 (Sub-No. 1209TA), filed September 12, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien, 520 East Lancaster Avenue, Downingtown, Pa. 19335. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bisphenol*, in bulk, in tank or hopper type vehicles, from the facilities of United States Steel Corp., at Haverhill, Scioto County, Ohio, to all points in the United States (except Alaska and Hawaii), and returned and rejected shipments from the above named destination territory to the above named origin point, for 180 days. Supporting shipper(s): United States Steel Corp., 600 Grant Street, Pittsburgh, Pa. 15230. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, room 3238, Philadelphia, Pa. 19106.

No. MC 111170 (Sub-No. 241TA), filed September 12, 1977. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 North West Avenue, El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore, P.O. Box 1718, El Dorado, Ark. 71730. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid chemicals*, in bulk (except bromine, petro-chemicals, brominated vegetable oils, and cryogenic liquids), from Union County, Ark., to points in California, Illinois, Mississippi, Pennsylvania, South Carolina, and Wisconsin, for 180 days. Supporting shipper(s): Velsicol Chemical Corp., 351 East Ohio Street, Chicago, Ill. 60611. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 114457 (Sub-No. 328TA), filed September 13, 1977. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and plastic products*, from the warehouse facilities of The Continental Group, Inc., at Louisville, Ky., to points in Illinois, Indiana, Missouri, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Continental Group, Inc., 800 East Northwest Highway, Palatine, Ill. 60067. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th St., Minneapolis, Minn. 55401.

No. MC 117200 (Sub-No. 20TA), filed September 15, 1977. Applicant: TISCH & DREWS, INC., 212 Green Bay Avenue, Oconto Falls, Wis. 54154. Applicant's representative: Michael J. Wyngaard, 329 West Wilson Street, Madison, Wis. 53708. Authority sought to operate as a

contract carrier, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the plantsites and warehouse facilities of Scott Paper Co., at Oconto Falls and Marinette, Wis., to South Beloit, Ill., under a continuing contract, or contracts, with Scott Paper Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers(s): Scott Paper Co., 106 East Central Avenue, Oconto Falls, Wis. (Joseph C. Scott). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, room 619, Milwaukee, Wis. 53202.

No. MC 117940 (Sub-No. 231TA), filed September 2, 1977. Applicant: NATION-WIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman, P.O. Box 104, Maple Plain, Minn. 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Swift Fresh Meats Co., at or near Grand Island, Nebr., Des Moines and Glenwood, Iowa, to points in Georgia, North Carolina, South Carolina, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift Fresh Meats Co., a division of Swift & Co., 115 West Jackson Boulevard, Chicago, Ill. 60604. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 118959 (Sub-No. 152TA), filed September 12, 1977. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, Mo. 63701. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, Ky. 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clay, clay products, paper trays, corrugated posts*, from the plantsite of Absorbent Clay Products, Inc., at or near Mounds, Ill., to points in Alabama, Arkansas, California, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, Washington, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Absorbent Clay Products, Inc., P.O. Box 687, Anna, Ill. 62906. Send protests to: J. P. Werthmann, District

Supervisor, Interstate Commerce Commission, Bureau of Operations, room 1465, 210 North 12th Street, St. Louis, Mo. 63101.

No. MC 124211 (Sub-No. 63TA), filed September 2, 1977. Applicant: HOWARD BAER, P.O. Box 27, Route 98W, Morton, Ill. 61550. Applicant's representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dairy products*, from Cincinnati, Ohio, to points in North Carolina. Restrictions: (1) Restricted to the transportation of traffic originating at and/or destined to a facility of the Kroger Co., (2) restricted to movements in vehicles equipped with mechanical refrigeration, and (3) limited to a transportation service performed under a continuing contract or contracts with the Kroger Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Kroger Co., 1014 Vine Street, Cincinnati, Ohio. 43201. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, room 1386, Chicago, Ill. 60604.

No. MC 125433 (Sub-No. 125TA), filed September 16, 1977. Applicant: F-B TRUCK LINE CO., 1045 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, and wood products*, from the facilities of Neiman Sawmill, Inc., located at or near Hulett, Wyo., to points in Illinois, Indiana, and Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Neiman Sawmill, Inc., Box 218, Hulett, Wyo. (Jim D. Neiman). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 125470 (Sub-No. 26TA), filed September 12, 1977. Applicant: MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, Nebr. 68701. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products and materials and supplies* used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries in mixed loads with salt and salt products, from the facilities of American Salt Co., at or near Lyons, Kans., to points in Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): John

Branham, Traffic Manager, American Salt Co., 3142 Broadway, Kansas City, Mo. 64111. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, suite 620, 110 North 14th Street, Omaha, Nebr. 68102.

No. MC 128007 (Sub-No. 110TA), filed September 15, 1977. Applicant: HOFER, INC., P.O. Box 583, 4032 Parkview Drive, Pittsburg, Kans. 66762. Applicant's representative: Larry E. Gregg, 641 Harrison, Topeka, Kans. 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fabricated concrete reinforcing materials, joints, and accessories*, from points in Labette County, Kans., to points in California and Oregon, and from Houston, Tex., to points in Labette County, Kans., and (2) *materials and supplies* used or useful in the manufacture of the commodities listed in part (1) above, from points in Illinois, Indiana, Missouri, and Texas, to points in Labette County, Kans., for 180 days. Supporting shipper(s): Superior Concrete Accessories, Inc., 1900 Wilson, Parsons, Kans. 67357. Send protests to: M. E. Taylor, District Supervisor, Interstate Commerce Commission, 101 Litwin Building, Wichita, Kans. 67202.

No. MC 128375 (Sub-No. 154TA), filed September 9, 1977. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Ackle (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from Erie and Lock Haven, Pa., Indianapolis, Ind., Oswego, N.Y., and their commercial zones and points in Ohio to Kansas, under a continuing contract, or contracts, with Western Paper Co., Division of Hammermill Paper Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): W. R. Hershman, President, Western Paper Co., Division of Hammermill Paper Co., P.O. Box 12210, Overland Park, Kans. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 135410 (Sub-No. 13TA), filed September 2, 1977. Applicant: COURTNEY J. MUNSON d.b.a. MUNSON TRUCKING, 700 South Main, Monmouth, Ill. 61462. Applicant's representative: Donald L. Stern, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fresh meats and packinghouse products*, from the plantsites and storage facilities of Wilson Foods Corp., at Cedar Rapids, and Des Moines, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and the District of Columbia; and (2) from the plantsite and storage facilities of Wil-

son Foods Corp., at Des Moines, Iowa, to points in Virginia, for 180 days. Supporting shippers(s): Wilson Foods Corp., 4545 Lincoln Blvd., Oklahoma City, Okla. 73105. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, room 1386, Chicago, Ill. 60604.

No. MC 136689 (Sub-No. 9TA), filed September 15, 1977. Applicant: SLAUGHTER TRANSPORTATION CORP., 10910 Lane Street, Houston, Tex. 77029. Applicant's representative: Jo E. Shaw, 816 Houston First Savings Bldg., Houston, Tex. 77002. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: straight loads of *dry bleach* and dry bleach in mixed loads of liquid bleach, cleaning compounds, animal litter, cooking oils, and food stuffs (not frozen, not in bulk), from New Orleans, La., to the plantsite and facilities of The Clorox Co., at or near Houston, Tex., restricted to traffic having an immediately prior rail movement, under a continuing contract, or contracts, with The Clorox Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Clorox Co., 1221 Broadway, Oakland, Calif. 94612. Send protests to: John Mensing, District Supervisor, Interstate Commerce Commission, 515 Rusk, room 8610, Houston, Tex. 77002.

No. MC 140612 (Sub-No. 32TA), filed September 14, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: J. L. Kazimour (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household, commercial, and institutional kitchen and laundry equipment, fixtures, appliances and parts, electrical appliances, equipment and parts, and tools and hardware* (except commodities in bulk and commodities which, because of size or weight, require the use of special equipment), from the facilities of the McGraw-Edison Co., located at or near Chattanooga, Tenn., Ripon, Wis., Searcy, Ark., and Columbia and St. Louis, Mo., to points in the United States in and west of Louisiana, Arkansas, Missouri, Illinois, and Wisconsin (except Alaska and Hawaii), for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): McGraw-Edison Co., P.O. Box U, Columbia, Mo. 65201. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 141273 (Sub-No. 3TA), filed September 7, 1977. Applicant: CARL NEESAM, 228 West Chestnut Street, Pardeeville, Wis. 53954. Applicant's representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wis.

53703. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Blood, meat scraps, entrails, offal, tripe, ground bones, tallow, animal fats, cracklings, feather meal, fish and fish meal, animal poultry and fish byproducts, tankage, and other feed ingredients*, all in bulk, from the plantsite of Badger By-Products Co., Inc., located at Milwaukee, Wis., to Bloomington, Kankakee, Mendota, Rockford, and Springfield, Ill., restricted to shipments moving in open-top, hopper-bottom trailers, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Badger By-Products Co., Inc., 511 East Menomonee Street, Milwaukee, Wis. 53201. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, room 202, Madison, Wis. 53703.

No. MC 142189 (Sub-No. 18TA), filed September 15, 1977. Applicant: C. M. BURNS, d.b.a., WESTERN TRUCKING, 521 Lincoln Avenue, Baker, Mont. 59313. Applicant's representative: C. M. Burns, P.O. Box 980, Baker, Mont. 59313. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Animal and poultry feed and animal and poultry feed ingredients*, from Culbertson, Mont., to points in Arizona, California, Colorado, Idaho, Nevada, Oregon, Texas, Utah, Washington, and Wyoming, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Ian Muir, Manager—Domestic Traffic, Continental Grain Co., 277 Park Avenue, New York, N.Y. 10017. Send protests to: District Supervisor, Paul J. Labane, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 143482 (Sub-No. 1TA), filed September 13, 1977. Applicant: THOMAS D. SHOUP, R.D. 1, Strattanville, Pa. 16258. Applicant's representative: Pope and Pope, 10 Grant Street, Clarion, Pa. 16014. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Clarion Township, Clarion County, Pa., and points in Strattanville Borough, Clarion County, Pa., to Niagara Mohawk at Dunkirk, Chautauqua County, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Clacial Minerals, Inc., 8 South Eighth Avenue, Clarion, Pa. 16214. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, Pittsburgh, Pa. 15222.

No. MC 143660TA, filed August 30, 1977. Applicant: CENTURY SERVICES, INC., Suite 852, American Security Bank Building, 1314 South King Street, Honolulu, Hawaii 96814. Applicant's representative: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Author-

ity sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *New furniture, new household appliances, and new household articles*, restricted to home delivery service, for the account of J. C. Penney Co., Inc., from Langhorne, Pa., to points in Atlantic, Bergen, Burlington, Camden, Cumberland, Essex, Gloucester, Hudson, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Union, and Warren Counties, N.J., and New Castle County, Del., Cecil and Harford Counties, Md., under a continuing contract, or contracts, with J. C. Penney Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): J. C. Penney Co., Inc., Bucks County Business Park, 905 Wheeler Way, Langhorne, Pa. 19047. Send protests to: A. J. Rodriguez, District Supervisor, 211 Main, Suite 506, San Francisco, Calif. 94105.

No. MC 143697TA, filed September 12, 1977. Applicant: NORTH JERSEY TANK LINES, INC., P.O. Box 119, Wyckoff, N.J. 07481. Applicant's representative: Robert DeKroyt, 201 Bloomfield Avenue, Verona, N.J. 07044. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Corn products and blends thereof, fish oil, and vegetable oil*, in bulk, in tank vehicles, between Bayway (Elizabeth), N.J., on the one hand, and, on the other, points in Massachusetts, Connecticut, Rhode Island, New York, Pennsylvania, Delaware, Maryland, Virginia, and Washington, D.C., for 180 days. Supporting shipper(s): Archer Daniels Midland Co., P.O. Box 1470, 4666 Faries Parkway, Decatur, Ill. 62525. Send protests to: Joel Morris, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 143716TA, filed September 12, 1977. Applicant: GILLESPIE TRUCKING CO., Rural Route 1, Clifton, Ill. 60927. Applicant's representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, Ill. 62703. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Heat transfer products and supplies used in the manufacture of heat transfer products and supplies for the crating, palletting, and packaging of heat transfer products*, between the plantsites of Young Radiator Co. at Mattoon, Ill., on the one hand, and on the other, points in the United States excluding Alaska and Hawaii, for 180 days. Supporting shipper(s): Young Radiator Co., Burl Bauer, Plant Manager, 120 North 14th, Mattoon, Ill. 61938. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, room 1386, Chicago, Ill. 60604.

By the Commission,

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29146 Filed 10-3-77; 8:45 am]

[7035-01]

[Ex Parte No. 343]

NATIONWIDE INCREASED FREIGHT RATES AND CHARGES—1977

Authority To File Master Tariff

By petition and verified statements filed September 26, 1977, the railroads listed in Appendix I of the petition, and certain water and motor carriers having joint rates with the Appendix I railroads, request the Commission to institute an investigation into the adequacy of freight rates and charges of all railroad common carriers within the United States. Petitioners request that all such railroad common carriers be made respondents in such investigation. Petitioners ask that the Commission authorize and permit increases in freight rates and charges from, to, and within all territories of 5 percent, effective November 30, 1977, to offset labor cost increases and increases in the cost of materials, supplies, and certain other items, subject to exceptions and holddowns set forth in Appendix II of the petition.

Petitioners seek permission to make the proposed increases effective November 30, 1977, subject to the condition that refunds shall be made in the event that, after any investigation that the Commission deems necessary, no increase or a lesser increase than that requested is authorized. Petitioners also seek entry of an order modifying all outstanding Commission orders to the extent necessary to enable the railroads to file and make effective the proposed increased rates and charges. Such order is also requested to allow the entry of appropriate orders under Sections 4 and 6 of the Interstate Commerce Act.

The petitioners have filed and served 30 verified statements constituting their evidential case pursuant to the requirements set forth in Procedures Governing Rail Carriers General Increase Proceedings, 49 CFR 1102, including certain financial data suggested in Appendix B of the report and order in *Ex Parte No. 281*, Increased Freight Rates and Charges, 1972, 341 I.C.C. 288. Petitioners have also submitted data of the type called for in *Ex Parte No. 290* (Sub-No. 1), Procedures—Rail Car General Increase Proceedings, 349 I.C.C. 22, namely detailed information on estimated revenues which would have been obtained had the last authorized increase been fully applied, and the actual total increase in revenues realized by application of the last authorized general increase.

The petitioners have given notice of the petition and have furnished data to the public in compliance with *Ex Parte No. 286*, Notice of Increases in Frt. Rates and Pass. Fares, 349 I.C.C. 741, and with section 5b of the Interstate Commerce Act.

The petitioners have also submitted information of the type called for in *Ex parte No. 55* (Sub-No. 4), revised Guidelines for the Implementation of the National Environmental Policy Act of 1969, 352 I.C.C. 451 and 49 CFR 1108, namely a supplemental evaluation of environmen-

tal considerations with regard to the petitioners' increased rate proposal. The petitioners contend that the requested increases will have no significant adverse effects upon the movement of the traffic or transportation of recyclable commodities by rail. Any person or persons believing that the requested increases, if authorized, would have a significant impact upon the quality of the human environment are invited to comment upon this matter in verified statements authorized to be filed pursuant to this order. Environmental matters and the requirements of the National Environmental Policy Act of 1969 will be fully considered by this Commission in any subsequent action on the merits of the requested general increases.

By Special Permission Order No. 77-5350, served in conjunction with this order, the Commission is authorizing the filing of tariff schedules increasing rates and charges sought in the petition. These tariff schedules are to become effective upon not less than 30 days' notice to the Commission and the general public, subject to protest and possibly suspension as provided by the Interstate Commerce Act. By this Special Permission Order, the Commission is also authorizing the modifying of outstanding orders to the extent necessary to permit this filing.

It is ordered, That all common carriers by railroad be, and they are hereby, made respondents to this proceeding.

It is further ordered, That pursuant to the special permission authority granted in conjunction with this order, the tariff schedules shall be published and filed upon not less than 30 days' notice effective not earlier than November 30, 1977, nor later than December 30, 1977, subject to protest and possible suspension. These schedules are to contain an appropriate refund provision. Verified statements shall be filed on or before October 28, 1977, in accordance with the procedures as outlined in the following paragraph.

It is further ordered, That any person opposing or wishing to comment on the proposed 5-percent increase in rates and charges shall file and serve verified statements, as provided below.

(a) The verified statements shall contain all evidence relevant and material to the issues in this proceeding which the parties desire to have considered by the Commission, as a basis for a decision on the merits. Any submission on asserted environmental impact shall be set forth under an appropriate subheading in order to identify properly such subject matter.

¹ In the event the tariff is not filed prior to October 10, 1977, the due date specified for the filing of protests and verified statements will be extended to a date 20 days prior to the effective date, and the reply date will be correspondingly extended.

² Section 15(8)(d) of the Interstate Commerce Act specifically requires the filing of verified complaints seeking suspension of proposed rate changes.

(b) Verified statements may include arguments in support of an affiant's position but such argument shall be set forth in a separate section of the document containing the verified statement. If desired, such argument may be contained in a separate document simultaneously filed and served.

(c) Each verified statement shall be signed in ink by affiant and verified (notarized) in the manner provided by Rule 48 and Form No. 6 of the Commission's General Rules of Practice (see 49 CFR 1100.48 and Appendix B, Form No. 6, to 49 CFR 1100). The post office address of affiant or his counsel shall be shown.

(d) Verified statements and arguments shall be filed and served as follows:

The original and 20 copies of each such document for the use of the Commission shall be addressed to the Secretary, and sent to the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, except that a lesser number of copies may be filed upon showing of good cause. All documents filed with the Commission in this matter shall contain the following notation on the envelope: *Ex parte No. 343*.

One copy shall be served upon the representative of the petitioning railroads, James L. Howe III, Esq., 527 American Railroads Building, 1920 L Street NW., Washington, D.C. 20036, which service shall constitute service upon all respondents. However, all parties able to do so shall serve 20 copies upon the railroads' representative. In all cases, where service is made by mail, the document shall be mailed in time to be received by the respective due dates.

(e) Each verified statement shall contain a certificate of service stating that it has been timely served on opposing parties, as herein provided.

(f) Verified statements and arguments by persons opposed to the proposed increases in rates and charges shall include all matters which they desire the Commission to consider with respect to statutory suspension of the rates pending completion of the investigation, as well as evidence relevant to the ultimate decision.

It is further ordered, That on or before November 4, 1977, the respondents shall file with the Commission and serve upon opposing parties such replies to protests or other pleadings seeking suspension, and rebuttal evidence on the merits of the proceeding as they desire to present. Such evidence shall be in the form and served in the same manner as the opening statements filed in accordance with the regulation published in 49 CFR 1102, except that replies and rebuttal evidence need be served only upon the party (and his counsel if known) to whose evidence the reply or rebuttal is directed. However, replies or rebuttal statements proposing changes in the tariff shall be served on all parties. All such statements shall be furnished to interested parties upon request.

It is further ordered, That the request for fourth-section relief will be considered following the filing of verified statements and replies.

And it is further ordered, That in all other respects the petition be, and it is hereby, denied.

SPECIAL PERMISSION No. 77-5350

It is ordered, for good cause shown:

1. All railroads, and water and motor carriers to the extent they have joint rates with the railroads, and their tariff-publishing agents, be, and they are hereby, except as otherwise provided herein, authorized to depart from the Commission's tariff publishing rules in Tariff Circular No. 20 (49 CFR 1300), when publishing and filing tariffs, and tariff amendments, to become effective upon not less than 30 days' notice to the Commission and the public but not earlier than November 30, 1977, nor later than December 30, 1977, providing for increased rates and charges as set forth in the petition:

(a) By publishing and filing a master tariff of increased rates and charges, and supplements to the master tariff, providing increases by means of conversion tables of rates and charges, which shall include, and maintain in effect, a refund provision reading as follows:

In the event any increases resulting from the application of this tariff exceed the increases subsequently approved or prescribed by the Interstate Commerce Commission, the carriers will refund the difference between the increase resulting from the application thereof and any increases which may subsequently be approved or prescribed by the Interstate Commerce Commission with . . . percent interest.

In the event any increase resulting from the application of this tariff is disapproved by the Commission and no increase is authorized, the carriers will refund the full amount of the increase collected with . . . percent interest.

The master tariff shall be indicated to expire on interstate and foreign commerce with a date not beyond one year after the effective date, which may not be extended or cancelled except upon specific authorization of this Commission, and all relief granted in this order expires with that date. The master tariff must initially contain all provisions for application of the increases (including provisions for no increase, part of the overall proposal) following which (unless suspended) any provisions other than those of a general character may be cancelled and transferred to the particular tariff affected upon a common effective date with appropriate notation to that effect in the master tariff amendment.

³ The interest rate to be inserted in the refund provision shall be equal to the average yield (on the date such schedule is filed) of marketable securities of the United States which have a duration of 90 days. See Section 15(8)(e) of the Interstate Commerce Act.

⁴ See, footnote 3.

(b) By publication and filing of a connecting link supplement to each tariff to be made subject to the master tariff, connecting such tariffs with the master. Such supplements may be blanket supplements (a common supplement issued to two or more tariffs).

(c) The master tariff and connecting link supplements issued and filed under this order shall not provide for nonapplication on interstate traffic competitive with intrastate traffic between the same points unless the interstate rates and routes are specifically identified in the connecting link supplements.

(d) By publication and filing of tariffs or amendments to tariffs effective concurrently with the master tariffs and upon the same notice which provide specifically increased rates and charges but which do not result in an increase in charges for transportation and other services greater than those specified in the petition, provided all such publication is identified in the tariffs and made subject to a refund clause worded substantially as in paragraph 1(a) above.

(e) By publication of provisions in tariffs or amendments thereto subjecting rates and charges therein to the provisions of the master tariff, subject to the restriction in (c) above.

2. (a) The master tariff, as amended, and all other tariffs and amendments to

tariffs, that employ the short-form methods authorized herein shall bear the notation:

Form of publication authorized, I.C.C. permission No. 77-5350.

(b) Tariffs or amendments to tariffs publishing specifically increased rates or charges hereunder shall bear a notation reading:

Publication made in accordance with I.C.C. permission No. 77-5350.

3. Connecting-link supplements authorized herein shall be exempted from the Commission's tariff-publishing rules governing the number of supplements and the volume of supplemental matter permissible.

4. The master tariff filed under this order shall not be amended except to correct errors and to comply with findings and orders of the Commission, except when specifically authorized to do so. The terms of rule 9(e) (40 CFR 1300.9 (e)) are not waived as to supplements to the master tariff.

5. Outstanding orders of the Commission are hereby modified only to the extent necessary to permit the filing of tariff publications containing the proposed increases, and all tariffs publications filed shall be subject to protest and possible suspension and rejection. In that regard, we direct petitioners' attention to our admonitions in prior general increase

proceedings concerning maintenance and preservation of existing port relationships. See, for example, Increased Freight Rates and Charges, 1972, 341 I.C.C. 288, 336, and Increased Freight Rates, 1970 and 1971, 339 I.C.C. 125, 188. The rate increase table on grain shall progress in one-half cent increments.

It is further ordered, That future orders and notices of the Commission in this proceeding will be sent only to those participating as herein provided, and those interested persons who specifically request to be included on the service list.

And it is further ordered, That notice of this order be given by serving a copy thereof on each party to the proceedings in *Ex parte* No. 336, to the Governor and public utility regulatory body of each State, the Environmental Protection Agency, the Special Assistant to the President for Consumer Affairs, and by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing a copy with the Director, Office of the Federal Register for publication in the FEDERAL REGISTER.

Decided September 29, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29147 Filed 10-3-77; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6320-01]

CIVIL AERONAUTICS BOARD.

[MA-56 amending M-61]

SEPTEMBER 27, 1977.

Notice of addition of item to the September 29, 1977 meeting agenda.

TIME AND DATE: 2 p.m., September 29, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington D.C. 20428.

SUBJECT: Dockets 31232, 31234, 31235, 31246, 31247, 31285, and 31305, Complaints of National Air Carrier Association, Brendan Tours, Inc., Charter Travel Corp., The Educational Cooperative, and Laker Airways Ltd. against Tariffs of Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, and Air India Proposing Standby, Budget, and Super-Apex Fares over the North Atlantic.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: In order to discuss the President's disapproval on September 26, 1977, of the Board's action suspending passenger fares in this matter, the following Members have voted that agency business requires the addition of this item to the agenda of its September 29, 1977, meeting and that no earlier announcement of this addition was possible.

Chairman Alfred E. Kahn, Vice-Chairman Richard J. O'Melia, Member G. Joseph Minetti, Member Elizabeth E. Bailey.

[S-1497-77 Filed 9-30-77; 9:16 am]

[6320-01]

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[MA-55 amending M-61]

CIVIL AERONAUTICS BOARD.

Notice of addition of items to the September 29, 1977 meeting agenda.

TIME AND DATE: 2 p.m., September 29, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 2a. Dockets 31302 and 31303, Ozark's proposal to reduce fares for multistop service (Memo No. 7262-E, BFR).

2b. Proposed Fare Increase of Aloha and Hawaiian Airlines (Memo No. 7371-A, BFR).

12a. Docket 28807, Petition for extension of time in *Trans International Airlines, Inc., Enforcement Proceeding* (Memo No. 7339-A, OGC).

12b. Docket 30746, Discretionary review on Board's initiative of the decision of the Director, BOE, declining to institute an enforcement proceeding in the complaint of *LACO Travel Service v. Air Travel Conference of America* (Memo No. 7456, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: At the meeting of September 27, 1977, the Board instructed the staff to write an order in the matter of Ozark's proposal to reduce fares for multistop service, Dockets 31302 and 31303. If the Board desires to suspend the tariff pending investigation, it must act before October 1, 1977, or lose the authority to do so under section 1002(g) of the Federal Aviation Act. Accordingly, the following members voted that agency business requires the addition of this item to the agenda of September 29, 1977, and that no earlier announcement was possible:

Chairman Alfred E. Kahn, Vice Chairman Richard J. O'Melia, Member G. Joseph Minetti, Member Elizabeth E. Bailey.

Because of other business the staff was unable to forward to the Board the recommendation concerning Aloha and Hawaiian Airlines' fare increase. If the Board desires to suspend the tariff pending investigation, then it must act be-

fore October 1, 1977, or lose the authority to do so under section 1002(g) of the Federal Aviation Act. The Board must make a determination concerning a petition in the *Trans International Airlines, Inc., Enforcement Proceeding*, Docket 28807, by September 29, 1977, whether or not to extend the time for certain notice requirements. Also in Docket 30746, *LACO Travel Service v. Air Travel Conference of America*, the Board must make a determination before October 5, 1977, whether or not to review the decision of the Bureau of Enforcement not to institute an enforcement proceeding or, under Rule 205 of the Board's Procedural Regulations, the BOE decision will become that of the Board on October 5, 1977. Therefore, the following Board Members have voted that agency business requires the addition of these items to the September 29, 1977, agenda and that no earlier announcement of these additions was possible:

Chairman Alfred E. Kahn, Vice Chairman Richard J. O'Melia, Member G. Joseph Minetti, Member Elizabeth E. Bailey.

[S-1498-77 Filed 9-30-77; 9:16 am]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 4, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

Recommended action on 1.35(g) petitions CME Application for designation to trade Stud Lumber
Comex Application for designation to trade New Zinc Contract

PORTIONS CLOSED TO THE PUBLIC

Enforcement Matter

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1494-77 Filed 9-29-77; 2:35 pm]

[6351-01]

4
COMMODITY FUTURES TRADING COMMISSION.
TIME AND DATE: 10 a.m., October 7, 1977.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.
STATUS: Closed.

MATTERS TO BE CONSIDERED: Market Surveillance Meeting.

Market Surveillance Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1495-77 Filed 9-29-77;2:35 pm]

[6570-06]

5
EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, October 4, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street N.W., Washington, D.C. 20506.

STATUS: Part of the meeting will be open to the public, and part will be closed to the public.

MATTERS TO BE CONSIDERED:

PART OPEN TO THE PUBLIC

A proposed Notice for publication in the FEDERAL REGISTER, concerning the impact of the Commission's new investigative and reasonable cause standards on private Title VII litigation.

PART CLOSED TO THE PUBLIC

Litigation Authorization: General Counsel Recommendations: Matters closed to the public under Sec. 1612.13(a) of the Commission's regulations (42 FR 13830, March 14, 1977).

A majority of the entire membership of the Commission determined by recorded vote that Commission business required that this meeting be called for this date, and that no earlier announcement was possible.

In favor of motion: Eleanor Holmes Norton, Chair; Ethel Bent Walsh, Commissioner; Daniel E. Leach, Commissioner.

Opposed: None.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This Notice Issued September 29, 1977.

[S-1496-77 Filed 9-29-77;2:52 pm]

[6715-01]

6
FEDERAL ELECTION COMMISSION.
DATE & TIME: Thursday, October 6, 1977 at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the Public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

PORTIONS OPEN TO THE PUBLIC

I. Future meetings.
II. Correction and approval of minutes—September 22, 1977.
III. Appropriations and budget.
IV. Pending legislation.
V. Random audits—procedures for releasing reports.
VI. Clearinghouse advisory panel—July meeting.

VII. Classification action.

VIII. Liaison with other Federal agencies.

IX. Report on pending litigation.

X. Routine administrative matters.

A. Request for Distribution of draft advisory opinions prior to placing them on the agenda.

B. Other.

PORTIONS CLOSED TO THE PUBLIC

(EXECUTIVE SESSION)

Audit matters.

Compliance.

Personnel.

Foia appeals.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, telephone: 202-523-4065.

MARJORIE W. EMMONS,

Secretary to the Commission.

[S-1492-77 Filed 9-29-77;2:23 p.m.]

[6720-01]

7
FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., October 6, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED:

Application to Increase Accounts of an Insurable Type (Merger); Cancellation of Membership and Insurance—United Savings & Loan Association of Palestine, Palestine, Ill., into Illinois Guarantee Savings & Loan Association, Effingham, Ill.

Branch Office Application—Norwood Federal Savings & Loan Association, Chicago, Ill.

Application to Dissolve the Beltway Land 1976 Trust—Affiliated Capital Corp., Houston, Tex.

Branch Office Application—Citizens Federal Savings & Loan Association of Cleveland, Cleveland, Ohio.

Application for Approval of Management Interlock—The Leavell Co., El Paso, Tex., and El Paso Financial Corp., El Paso, Tex.

Satellite Office Application—Florida Federal Savings & Loan Association, St. Petersburg, Fla.

Consideration of Proposed Satellite Office Amendments.

Branch Office Application—Bell Federal Savings & Loan Association, Chicago, Ill.

EFTS-RSU Application—California Federal Savings & Loan Association, Los Angeles, Calif.

Branch Office Application—Eureka Federal Savings & Loan Association of San Francisco, San Francisco, Calif.

Agency Office Application—Colorado County Federal Savings & Loan Association, Columbus, Tex.

Branch Office Application—County Federal Savings & Loan Association of Westport, Westport, Conn.

Consideration of Association Request for Release and Discharge of Receiver—Northwest Guaranty Savings & Loan Association, Seattle, Wash.

Consideration of Cost-of-Living Adjustment for Bank Retirees.

No. 75, September 28, 1977.

Branch Office Application—Biscayne Federal Savings & Loan Association, Miami, Fla.

Consideration of Amendments Relating to Service Corporations.

[S-1499-77 Filed 9-30-77;9:16 am]

[6720-01]

8
FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., October 6, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall (202-376-3012).

MATTERS TO BE CONSIDERED: Application for Permission to Organize a New Federal Association.

No. 76, September 28, 1977.

[S-1500-77 Filed 9-30-77;9:16 am]

[6740-02]

9
FEDERAL POWER COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 48955.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: September 22, 1977, 11:30 a.m.

CHANGE IN MEETING: The following items have been added.

Item No., Docket No., and Company

2. CP77-100, et al., Tenneco Atlantic Pipe Line Co.
3. CI77-412, Phillips Petroleum Corp.

KENNETH F. PLUMB,
Secretary.

[S-1501-77 Filed 9-30-77;9:16 am]

[6740-02]

10
FEDERAL POWER COMMISSION.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. § 332b:

AGENCY HOLDING MEETING: Federal Power Commission.

TIME AND DATE: September 23, 1977, 7:55 p.m.

PLACE: 825 North Capitol Street.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Docket No. CP77-631, Lo-Vaca Gathering Co.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, Telephone 202-275-4166.

[S-1502-77 Filed 9-30-77;9:16 am]

[7600-01]

11
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION.

TIME AND DATE: 3 p.m., October 5, 1977.

PLACE: Room 1101, 1825 K Street NW., Washington, D.C.

STATUS: This meeting is subject to being closed by a vote of the Commissioners taken at the beginning of the meeting.

MATTERS TO BE CONSIDERED: Discussion of specific cases in the Commission adjudication process.

CONTACT PERSON FOR MORE INFORMATION:

Ms. Lottie Richardson (202-634-7970).

Date: September 29, 1977.

[S-1493-77 Filed 9-29-77;2:35 pm]

[7715-01]

12
POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, October 5, 1977.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Draft of Tentative Decision Concerning Meredith Corp. Proposal That Invoices and Billing Statements Enclosed With Second-Class Publications Qualify for Second-Class Rates, Docket No. MC76-2.

2. Draft of Tentative Decision Concerning Proposals (1) to Admit Nonidenticals as Bulk Third-Class Mail and (2) to Allow Matter Reproduced by Typewriting or Handwriting to be Mailed at Third-Class Rates, Docket No. MC76-3.

Meeting closed pursuant to 5 U.S.C. 552b(c) (10).

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, Telephone 202-254-5614.

[S-1503-77 Filed 9-30-77;10:37 am]

Registered
Property

TUESDAY, OCTOBER 4, 1977
PART II



DEPARTMENT OF
HOUSING
AND URBAN
DEVELOPMENT

Federal Insurance
Administration

■

APPEALS FROM FLOOD
ELEVATION
DETERMINATIONS

Proposed Base Flood Elevation
Determinations for Various Communities

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[4210-01]

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3456]

FRANKLINVILLE, CATTARAUGUS COUNTY,
N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Franklinville, Cattaraugus County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Clerk's Office, Franklinville, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William Hunter, 28 Chestnut Street, Franklinville, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Franklinville, Cattaraugus County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing

ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gates Creek	Upstream corporate limits	1,618
	4th Ave.	1,586
	Route 16	1,578
Ischen Creek	Wakefield Rd.	1,583
	Downstream corporate limits	1,581

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34, FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28479 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3457]

GREAT VALLEY, CATTARAUGUS COUNTY,
N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Great Valley, Cattaraugus County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review

at the Post Office, Great Valley, Cattaraugus County, New York.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Joseph F. Ward, Great Valley, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Great Valley, Cattaraugus County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 P.L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Wrights Creek	Humphrey Rd.	1,495
	Route 219	1,418
Great Valley Creek	Upstream corporate limits	1,570
	Brewer Rd.	1,566
	Confluence with Forks Creek	1,498
	Route 219	1,462
	Confluence with Wrights Creek	1,445
	Route 219	1,438
	Baltimore & Ohio R.R.	1,426
	Route 219	1,422
	Highland Ave.	1,406
	Route 219	1,406
	Baltimore & Ohio R.R.	1,401
	Route 17, Allegheny Indian Reservation	1,391

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation

of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28480 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3458]

NIAGARA FALLS, NIAGARA COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Niagara Falls, Niagara County, New York.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Hall, Niagara Falls, N.Y. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Michael C. O'Laughlin, Mayor of Niagara Falls, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Niagara Falls, Niagara County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required.

They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Gill Creek	Confluence with Niagara River	563
	Upstream of the first railroad crossing	565
	Upstream of the second railroad crossing	569
	Downstream of Buffalo Ave. (Route 381)	570
	Niagara St.	571
	Upstream of Walnut Ave.	573
	Pine Ave.	573
	Upstream of Hyde Park Dam	575
	Robbins Dr.	578
	Upstream of the foot bridge above Porter Rd.	579
	Downstream of the foot bridge above the railroad bridge	583
	Lockport Rd.	585
Cayuga Creek	Confluence with the Little Niagara River	585
	Battle Ave.	586
	South Military Rd.	588
	Upstream of Lombardi Ave.	592
	Upstream of Bear Ave.	593
	Cayuga Dr.	594
	Corporate limits	594
Bore Creek	Confluence with Cayuga Creek	594
	99th St.	594
	Corporate limits	594

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34, FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28481 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3459]

OGDEN, MONROE COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Ogden, Monroe County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board in the Town Clerk's Office, 409 South Union Street, Spencerport, N.Y. 14559.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Bertil A. Stomquist, Supervisor, 409 South Union Street, Spencerport, N.Y. 14559.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Ogden, Monroe County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
North Creek	Town Line Rd.	460
	Downstream Rd.	485
	Ridge Rd.	508
West Branch	Downstream side of Nichols St.	584
	Ogden Center Rd.	569
	Corporate limits	581
Northrup Creek	Colby St.	577
	Route 33	585
	Hutchins Rd.	591

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28482 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3460]

OYSTER BAY, NASSAU COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Oyster Bay, Nassau County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Lobby of the Town Hall, Audrey Avenue, Oyster Bay, N.Y. 11771.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Joseph Colby, Town Supervisor, Town Hall, Audrey Avenue, Oyster Bay, N.Y. 11771.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Oyster Bay, Nassau County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Massapequa Creek	Massapequa Lake	8
	Summit Highway	12
	Long Island R.R.	12
	Clark St.	18
	Footbridge at Chicago Avenue extended.	19
	Footbridge at Rhode Island Ave. extended.	25
	Footbridge at Walnut St. extended.	34
	Linden St.	36
	Southern State Highway.	38
	Footbridge at 10th St. extended.	41
Tributary No. 1	Confluence with Massapequa Creek.	39
	Footbridge	40
Tributary No. 2	Confluence with Massapequa Creek.	41
	Bethpage Parkway	41

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28483 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3461]

ROCHESTER, MONROE COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Rochester, Monroe County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the lobby in Rochester City Hall, 30 West Broad Street, Rochester, N.Y. 14614.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Thomas P. Ryan, Jr., mayor of Rochester, Rochester City Hall, Room 34, 30 West Broad Street, Rochester, N.Y. 14614.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Rochester, Monroe County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other

Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Genesee River	Mouth	249
	Statton St.	249
	State Route 104 (Ridge Rd.)	251
	Park Ave.	258
	Lyell Ave.	307
	Platt St.	403
	Andrews St.	491
	Broad St.	494
	1-90	512
	Charissa St.	514
Lake Ontario	Elmwood Ave.	517
	Southern corporate limits	520
Lake Ontario	Lake Ave.	251
	Corporate limits at east end of Durand-Eastman Park	252
Red Creek	Confluence with large canal	518
	Hawthorne Dr.	518
West Branch Red Creek	East River Rd.	519
	Confluence of west branch Red Creek	521
Irondequoit Creek	Confluence with Red Creek	521
	Crittenden Rd.	522
Irondequoit Creek	Eastern corporate limits (Tryon Park Rd.)	526

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28484 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3462]

WELLSVILLE, ALLEGANY COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the village of Wellsville, Allegany County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Clerk's Office, Wellsville, N.Y. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert G. Gardner, 156 North Main Street, Wellsville, N.Y. 14895.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Wellsville, Allegany County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Genesee River	Northern corporate limits	1,486
	Upstream of Madison St.	1,494
	Southern corporate limits	1,499
Dyke Creek	Miller St. (extended)	1,500
	Northern corporate limits	1,505

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42

U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28485 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3463]

POMPEY, ONONDAGA COUNTY, NEW YORK

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Pompey, Onondaga County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Pompey Town Hall, Hamlet of Pompey Center, Route 20 and Pompey Center Road, Pompey, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Elwin Chartrand, Supervisor of the Town of Pompey, 3232 Windy Hill Lane, Manlius, N.Y. 13104.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Pompey, Onondaga County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

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PROPOSED RULES

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact plain management requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Brown's Gulf.....	Burke Rd. (upstream)	1,328
	Burke Rd. (downstream)	1,369
	Hennepin Rd. (upstream)	1,257
	Brown Gulf Rd. (upstream)	1,199
	Brown Gulf Rd. (downstream)	981
	Waverline Rd. (upstream)	968
	Confluence with west branch Limestone Creek	892
Limestone Creek.....	Corporate limits	968
	Gardner Rd.	968
	Delphi Falls Rd.	953
	LaSalle Hwy. (downstream)	953
	LaSalle Hwy. (upstream)	606
	Thayer Rd.	872
	Woodard Rd.	815
	U.S. Route 90	813
	Hills Rd.	792
	East Road No. 2	776
	Oran Delphi Rd.	751
	Corporate limits	711
West Branch Limestone Creek.....	East S. on Hill Rd.	1,285
	West Road No. 4	1,225
	U.S. Route 90	1,115
	East Road No. 2	910
	Booth Rd.	890
	Booth Rd.	711
	Booth Rd.	710
	Corporate limits	690

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974)).

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-26186 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3464]

CHILI, MONROE COUNTY, N.Y.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Chili, Monroe County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall in the meeting room, 3235 Chili Avenue, Rochester, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. James Powers, supervisor of Chili, 3235 Chili Avenue, Rochester, N.Y. 14624.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Chili, Monroe County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricted requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Genesee River.....	Downstream corporate limits	520
	Confluence with Little Black Creek	521
	Con. Rd. (Ballantine Rd.)	522
	Route 522 (Ballantine Rd.)	523
	New York State Thruway (I-190)	529
	Upstream corporate limits	529
Black Creek.....	Confluence with Black Creek	523
	Abandoned railroad	525
	B & O. RR.	525
	Route 252 (Archer Rd.)	525
	Humphrey Rd.	528
	Route 251 (Chili-Scottsville Rd.)	530
	Scottsville Rd.	531
	Union St.	540
	Smart Rd.	543
	Route 33A (Buckbee Corners Rd.)	543
	Upstream corporate limits	544

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974)).

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28487 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3466]

PARMA, MONROE COUNTY, NEW YORK

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Parma, Monroe County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 1300 Hilton-Parma, Hilton, N.Y. 14468.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. John F. JenneJahn, supervisor of the town of Parma, 1300 Hilton-Parma, Hilton, N.Y. 14468.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Parma, Monroe County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Northrup Creek.....	Manitou Rd.	339
	Peck Rd.	345
	Dean Rd.	346
	Route 104	433
	Webster Rd.	459
	Town Line Rd.	468
Salmon Creek.....	Payne Beach Rd.	252
	Wilder Rd.	262
	Hill Rd.	277
West Creek.....	Bennett Rd.	256
	North Ave.	273
	Collamer Rd.	275
	Town Line Rd.	279
Otis Creek.....	Hill Rd.	278
	Town Line Rd.	280
East Creek.....	West Beach Rd.	249
	Lake Ontario Parkway	249
Brush Creek.....	Heffer Rd.	253
	Lake Ontario Parkway	249
Lake Ontario.....	Town Line Rd.	249
	North Ave.	251
	Payne Beach Rd.	251

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Adminis-

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trator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28488 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3465]

YOUNGSTOWN, NIAGARA COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the village of Youngstown, Niagara County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Village Office, 240 Lockport Street, Youngstown, N.Y. 14174.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Hon. Watson C. McCalister, mayor of Youngstown, 240 Lockport Street, Youngstown, N.Y. 14174.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the village of Youngstown, Niagara County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed

to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Niagara River.....	Northwest corporate limits	250
	Human St. (extended)	250
	Campbell St. (extended)	253
	Mary's St. (extended)	254
	Southwest corporate limits	254

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974)).

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28489 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3467]

BREVARD, N.C.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Brevard, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 151 West Main, Brevard, N.C.

PROPOSED RULES

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Charles H. Campbell, City Hall, 151 Main, Brevard, N.C. 28712.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Brevard, N.C., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
French Broad River	Lamho Creek confluence	2,100
	Nicholson Creek confluence	2,100
Davidson River	Upstream of Southern Ry.	2,107
	Upstream of U.S. Highways 64 and 276	2,123
Unnamed tributary to Davidson River	Upstream of Ecusta Rd.	2,123
Lamb Creek	Upstream of Southern Ry.	2,112
	Upstream of U.S. Highways 64 and 276	2,140
	Extraterritorial limit (upstream limit)	2,254
Allison Creek	Upstream of U.S. Highways 64 and 276	2,132
Lamho Creek	Upstream of Neely Rd.	2,108
	Upstream of Southern Ry.	2,138
Gilbreath Branch	Upstream of Old Hendersonville Highway	2,113
King Creek	Upstream of Neely Rd.	2,108
	Upstream of Tinsley Rd.	2,178

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Long Branch	Southern Ry. Tinsley Rd.	2,152
Singing Branch	Field Rd.	2,221
Jumping Branch	Confluence with French Broad River	2,119
Nicholson Creek	Country Club Rd.	2,120
	Upstream of Nicholson Creek Rd.	2,120
Norton Creek	Upstream of U.S. Highway 64	2,135
	Southern Ry.	2,158
	Confluence with Brushy Creek	2,192
Hunts Branch	Upstream of Secondary Rd.	2,196
Brushy Creek	Upstream of Music Camp Rd.	2,201
Graham Creek	Upstream of second private road crossing	2,150
Unnamed tributary to the French Broad River	Upstream of Country Club Rd.	2,135
	Downstream of Illabee Rd.	2,160

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28490 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3468]

HUBBARD, TRUMBULL COUNTY, OHIO

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Hubbard, Trumbull County, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Building Inspector's office, Hubbard City Building, 33 West Liberty Street, Hubbard, Ohio 44425.

Any person having knowledge, information, or wishing to make a com-

ment on these proposed elevations should immediately notify the Honorable Arthur U. Magee, Mayor of Hubbard, City Building, 33 West Liberty Street, Hubbard, Ohio 44425.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Hubbard, Trumbull County, Ohio, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mud Run	Confluence with Little Yankee Run	928
	Con Rail	930
	Myron St.	936
	North Main St.	938
	East Water St.	944
	East Liberty St.	953
	Confluence with Tributary No. 3	991
	South Main St.	1,017
	Upstream corporate limits	1,026
Little Yankee Run	Dam	923
	Con Rail	927
	Confluence with Mud Run	928

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28491 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3469]

REYNOLDSBURG, FRANKLIN COUNTY, OHIO

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Reynoldsburg, Franklin County, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the lobby of City Hall, 7232 Main Street, Reynoldsburg, Ohio.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Richard J. Daugherty, Mayor of Reynoldsburg, City Hall, 7232 Main Street, Reynoldsburg, Ohio 43068.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Reynoldsburg, Franklin County, Ohio in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities.

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These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Blacklick Creek	Downstream corporate limits	832
	Confluence of lateral D	834
	Livingston Ave. (downstream)	848
	Livingston Ave. (upstream)	850
	Main St. (U.S. Route 40), downstream	858
	Main St. (U.S. Route 40), upstream	860
	Confluence of lateral F	870
	Upstream corporate limits	882
Lateral D	Confluence with Blacklick Creek	834
	State Route 256 (downstream)	853
	State Route 256 (upstream)	855
	Corporate limits	871
Lateral E	State Route 256 (downstream)	852
	State Route 256 (upstream)	854
	Graham Rd.—corporate limits (downstream)	854
	Graham Rd.—corporate limits (upstream)	855
	Palmer Rd. (downstream)	887
	Palmer Rd. (upstream)	889
	Dam	944
	Main St. (corporate limits)	949
French Run (lateral G)	Confluence with Blacklick Creek	860
	Confluence of lateral G-A	867
	Confluence of lateral G-B	883
	Rodebaugh Rd.—corporate limits (downstream)	900
	Rodebaugh Rd.—corporate limits (upstream)	910
Lateral G-A	Confluence with French Run (lateral G)	867
	Wagoner Rd. (downstream)	870
	Wagoner Rd. (upstream)	881
	Upstream corporate limits	1,005
Lateral G-B	Confluence with French Run (lateral G)	883
	Wagoner Rd. (downstream)	902
	Wagoner Rd. (upstream)	913
Lateral F	Confluence with Blacklick Creek	870
	Rodebaugh Rd. (downstream)	882
	Rodebaugh Rd. (upstream)	883
	Corporate limits	898
Lateral N	Corporate limits	825
	Brice Rd. (downstream)	832
	Brice Rd. (upstream)	835

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28492 Filed 10-3-77; 9:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3470]

LOUISVILLE, STARK COUNTY, OHIO

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Louisville, Stark County, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the lobby of the Louisville City Hall, 215 South Mill Street, Louisville, Ohio.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Stephen Williams, City Manager of Louisville, 215 South Mill Street, Louisville, Ohio 40461.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Louisville, Stark County, Ohio, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any

PROPOSED RULES

existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
East Branch Nimishillen Creek	State Highway 133	1,105
	North Chapel St.	1,107
	Nickelplate Ave.	1,111
	Chapel St.	1,108
	South St.	1,130
	Nickelplate Ave.	1,131
	Broad St.	1,141
	Brookfield St.	1,143

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28493 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3471]

CANFIELD, MAHONING COUNTY, OHIO
Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Canfield, Mahoning County, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review

at Canfield City Building, 104 Lisbon Street, Canfield, Ohio.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Jack C. Eversman, Mayor of Canfield, Canfield City Building, 104 Lisbon Street, Canfield, Ohio 44406.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Canfield, Mahoning County, Ohio, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Sawmill Creek	Corporate limits	1,050
	Camelot Ct.	1,065
	Sleepy Hollow Dr.	1,080
	Garwood Dr.	1,088

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28494 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3472]

CLEVELAND, CUYAHOGA COUNTY, OHIO

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Cleveland, Cuyahoga County, Ohio. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review in Auditorium "B" of the Department of Public Utilities, 201 Lakeside Avenue, Cleveland.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Ralph J. Perk, 601 Lakeside Avenue, Cleveland.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Cleveland, Cuyahoga County, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its

own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Big Creek	Confluence with Cuyahoga River	591
	Upstream of Jennings Rd.	594
	Upstream of private drive	605
	Downstream of Pearl Rd.	613
	Upstream of Pearl Rd.	596
	Pulton Rd.	627
	Downstream of drop structure	615
	Upstream of drop structure	609
	16,500 ft above mouth..	679
	18,800 ft above mouth..	700
Big Creek Tributary	I-71	720
	Bellaire Rd.	728
	6,500 ft above mouth..	732
	Retaining basin	765
	Con Rail	769
	Brookpark Rd.	773
Cuyahoga River	Maine Ave.	578
	West 3d St.	576
	Upstream of Clark Ave.	578
	Norfolk & Western R.R. at 31,000 ft above mouth..	580
	Harvard Ave.	590
	46,900 ft above mouth..	596
Mill Creek	Downstream of Con Rail at 10,400 ft above mouth..	660
	Upstream of Con Rail at 13,400 ft above mouth..	698
	Downstream of water-fall	713
	Upstream of water-fall	762
	Upstream of Warner Rd.	777
	Upstream of pedestrian bridge	789
Doan Brook	Downstream limit of detailed study	715
	Upstream of East Blvd.	778
Euclid Creek	2,400 ft above mouth..	785
	Confluence with Lake Erie	570
	Upstream of Lake Shore Blvd.	585
	Upstream of I-90	596
	Upstream of Con Rail	609
	Upstream of St. Clair Ave.	613
	11,500 ft above mouth..	625

(National Flood Insurance Act of 1969 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28495 Filed 10-3-77; 8:45 am]

PROPOSED RULES

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3473]

SALLISAW, SEQUOYAH COUNTY, OKLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Sallisaw, Sequoyah County, Okla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Sallisaw, Okla. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor George Glenn, 111 North Elm, Sallisaw, Okla. 74955.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Sallisaw, Sequoyah County, Okla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional en-

tities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hog Creek	Upstream of Redwood St.	419
Shiloh Creek	Adams St. (extended)	530
Tributary No. 1	Upstream of Interstate 40 West	511
	Upstream of U.S. Highway 64 Bridge	527
	Redwood Avenue Bridge	535
Tributary No. 3	Upstream of Cedar Street Bridge	516
West branch, Tributary No. 3	Upstream of Cedar St.	507
Tributary No. 4	Upstream of U.S. Highway 64 (western crossing)	505
	Upstream of U.S. Highway 64 (eastern crossing)	517
	Approximately 100 ft downstream of Redwood Ave.	520
Tributary No. 5	Approximately 100 ft east of Dogwood Street Bridge	525
Tributary No. 7	Approximately 100 ft downstream of U.S. Highway 59	545

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28496 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3493]

RINGGOLD, GA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Ringgold, Ga. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

PROPOSED RULES

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 301 Mountain Street, Ringgold, Ga. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Joseph Barger, City Hall, 301 Mountain Street, Ringgold, Ga. 30736.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Ringgold, Ga., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South Chickamauga Creek	Georgia Highway 2...	781
	Georgia Highway 151...	760
	U.S. Highways 41 and 76	756

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28497 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3492]

CAROL STREAM, DU PAGE COUNTY, ILL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Carol Stream, Du Page County, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the lobby of Village Hall, 415 North Gary Avenue, Carol Stream.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Donald M. Swanson, 415 North Gary Avenue, Carol Stream, Ill. 60187.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Carol Stream, Du Page County, Ill. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regu-

lations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Klein Creek	Kunn Rd.	746
	Downstream corporate limits.	738
	Treatment Plant Rd.	746
	Thunderbird Trail	747
	Willow Dr.	749
	Low Flow Dam	749
	Lies Rd.	754
Thunderbird Trail Creek	Seminole La.	747
	Thunderbird Trail	748
	Blackhawk Dr.	752
Winfield Creek	Geneva Rd.	747
	Upstream corporate limits.	747

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28498 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3494]

FAIRVIEW HEIGHTS, ILL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Fairview Heights, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of

local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 10251 Lincoln Trail, Fairview Heights, Ill.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Everett W. Moody, City Hall, 10251 Lincoln Trail, Fairview Heights, Ill. 62208.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Fairview Heights, Ill., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ogles Creek	Private drive bridge	569
	Route 60	568
	St. Clair, west entrance	565
	St. Clair, east entrance	560
	Footbridge	557
	Mount Vernon Dr.	556
	Footbridge	555
	Hampton Dr.	553
	Foot bridge	551
	Old Collinsville Rd.	549

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation

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of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28499 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3495]

GLENDALE HEIGHTS, DU PAGE COUNTY, ILL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the village of Glendale Heights, Du Page County, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in the Village Hall, 1611 Bloomingdale Road, Glendale Heights.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Robert L. Lippert, president of the Village of Glendale Heights, 1611 Bloomingdale Road, Glendale Heights, Ill. 60137.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the village of Glendale Heights, Du Page County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevation together with the flood plain management measures required by

§ 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevation will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
East Branch Du Page River	Downstream corporate limits	742
	Illinois Central R.R.	746
	Upstream corporate limits	746
Armitage Ditch	Downstream corporate limits	747
	Wayne Ave.	713
	Jill Ct.	718
	Leslie La.	719
	Armitage Ave.	722
	Glen Ellyn Rd.	726
	Highland Ave.	732
	Winthrop Ave.	733
	Fullerton Ave.	737
	Ardmore Ave.	740
	Lincoln Ave.	751
	Pleasant Ave.	750
	Upstream corporate limits	740
Armitage Fork	Confluence with Armitage Ditch	733
	Pearle Ave.	733
	Bladen Ave.	736
	Upstream corporate limits	738

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28500 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3496]

GLENWOOD, COOK COUNTY, ILLINOIS

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the village of Glenwood, Cook County, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either

PROPOSED RULES

adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in the lobby of the Village Hall, 13 South Rebecca Street, Glenwood.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Bob Pitrowski, 13 South Rebecca Street, Glenwood, Ill. 60425.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the village of Glenwood, Cook County, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Thorn Creek.....	Chicago System railroad bridge, Chicago Heights-Glenwood Rd.	614
	Chicago System Corporate limits (upstream).	615
Butterfield Creek...	Chicago Heights-Glenwood Rd.	615

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Butterfield Creek...	Confluence of Gay Stream.	616
	Halsted St.	618
	C&E.I. & N. RR Bridge.	620
	Upstream.	620
	Downstream.	618
	Young St.	620

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28501 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3497]

VILLA GROVE, ILL.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Villa Grove, Ill. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 223 North Main, Villa Grove, Ill. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John A. Leon, City Hall, 223 North Main, Villa Grove, Ill. 61956.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations

of base flood elevations (100-year flood) for the city of Villa Grove, Ill., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Embarras River ..	Sycamore Street Bridge.	652
	Harrison Street Bridge.	652
	C & E.I. RR Bridge.	651
Jordan Slough ..	Intersection of Ash and Maple Sts.	652
West Ditch ..	Harrison St.	651
	Walnut St.	651
	Adams St.	651

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28502 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3499]

BLOOMINGTON, MONROE COUNTY, IND.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Bloomington, Monroe County, Ind. These base flood elevations are the basis for the flood plain management

measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board, Municipal Building, 22 East 3d Street, Bloomington, Ind.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Frances X. McCloskey, Box 100, Municipal Building, Bloomington, Ind.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of Bloomington, Monroe County, Ind., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Creek.....	Corporate limits (downstream).	646
	Louisville & Nashville RR, spur.	646
	Rodgers St.	644
	Gordon Rd.	672
	Winslow Rd.	695

PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Creek.....	Access Road.....	717
	Hillside Dr.....	719
	Grimes St.....	723
	Footbridge.....	728
	Dodds St.....	730
	First St.....	731
West Fork, Clear Creek.	Victor Pike.....	640
	Thai Rd.....	647
	Gordon Rd.....	649
	Rockport Rd.....	692
	Quarry railroad spur.....	704
	Tapp Rd.....	713
	Private Road.....	728
West Branch, Clear Creek.	Rodgers St.....	722
	Fairview St.....	727
	Allen St.....	741
	24 St.....	768
	24 St.....	778
Jackson Creek..	Corporate limits (downstream).	653
	Rhorer Rd.....	681
	Elliston Dr.....	694
	Clairmont Pl.....	694
	East Rodgers St.....	710
	Spicewood Ct. (extended).	723
	Sare Rd.....	737
	Moore's Pike.....	747
	College Mall Rd.....	764
	Buick-Cadillac Blvd.....	772
East Fork, Jackson Creek.	Rhorer Rd.....	687
	East Rodgers Rd.....	706
	Smith Rd.....	728
East Branch, Jackson Creek.	Moore's Pike.....	738
	Private road.....	767
West Branch, Jackson Creek.	Moore's Pike.....	759
	Sare Rd.....	769
	Private drive.....	768
	Hillside Dr.....	779
	Brooks LA.....	785
	Copeland St.....	796
Bean Blossom Creek.	Corporate limits (upstream).	689
	State Route 37.....	687
	Route 37 Bypass.....	686
	Corporate limits (downstream).	684
Griffy Creek.....	Route 37 Bypass.....	686
	Hayle Rd.....	688
	State Route 37.....	695
	U.S. Route 37.....	698
	Dam.....	692
Cascade Creek ..	At confluence with Griffy Creek.	693
	Private drive.....	670
	do.....	685
	45 and 64 Bypass.....	687
Stout Creek.....	Corporate limits.....	682
	Acuff Rd.....	648

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28503 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3499]

NOBLE COUNTY, IND.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood)

listed below for selected locations in Noble County, Ind. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Bulletin Board in the Hall of the County Courthouse, Albion, Ind.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Omar Stangland, President of the Board of Commissioners, County Courthouse, Albion, Ind. 46701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for Noble County, Ind., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black Creek.....	State Route 205.....	846
	County Road 300 south.	870

PROPOSED RULES

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3500]

PANORAMA PARK, SCOTT COUNTY, IOWA

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Panorama Park, Scott County, Iowa. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information in the National Flood Insurance flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, Short Street, Panorama Park.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Honorable Robert Longley, Mayor of Panorama Park, 717 Park Avenue, Panorama Park, Bettendorf, Iowa.

Source of flooding	Location	Elevation in feet above mean sea level	Area flooded
Crow Creek	24 St.	391	South of 24 St. to corporate limit.

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28505 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3501]

SHIVELY, JEFFERSON COUNTY, KY.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Shively, Jefferson County, Ky.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review in the Entrance Way of City Hall, 3920 Dixie Highway, Shively.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION:

The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Panorama Park, Scott County, Iowa in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level	Area flooded
Crow Creek	24 St.	391	South of 24 St. to corporate limit.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Shively, Jefferson County, Ky.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review in the Entrance Way of City Hall, 3920 Dixie Highway, Shively.

PROPOSED RULES

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3502]

UNINCORPORATED AREAS OF IBERIA PARISH, LA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the unincorporated areas of Iberia Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Police Jury Office of Iberia Parish, New Iberia, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify president of the Police Jury Errol A. Romero, P.O. Box 970, New Iberia, La. 70560.

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28507 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3503]

PATTERSON, ST. MARY PARISH, LA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Patterson, St. Mary Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Police Jury Office of St. Mary Parish, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify president of the Police Jury Errol A. Romero, P.O. Box 970, New Iberia, La. 70560.

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28506 Filed 10-3-77; 8:45 am]

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William S. O'Daniel, P.O. Box 16007, Shively, Ky. 40216.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Shively, Jefferson County, Ky. in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Upper Mill Creek	Rockford La.	443
	Kieffer Rd.	445
	U.S. Highway 31W-60	449
	Upstream corporate limit.	451
Heatherfield Ditch	Collage La.	449
	Crums La.	449
	Dextron Dr.	449
City Park Ditch	Park Rd.	448
	Matheis La.	449
	Appleton La.	450

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

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entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rodere Canal	Downstream of Curtis La.	10
Peelies Coulee	Approximately 0.47 mi upstream from U.S. Highway 90.	11
	Approximately 400 ft downstream from the southern New Iberia corporate limits.	13
Vermilion Bay	Delembre Canal, downstream of the town of Delembre.	9
	Wilkins Canal of the confluence of Little Valley Bayou.	10
	Petite Anse Canal at the Avery Island Oil field.	10
	Weeks Bayou at the northern Week Island oil and gas field.	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28507 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3503]

PATTERSON, ST. MARY PARISH, LA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Patterson, St. Mary Parish, La. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Police Jury Office of St. Mary Parish, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify president of the Police Jury Errol A. Romero, P.O. Box 970, New Iberia, La. 70560.

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28506 Filed 10-3-77; 8:45 am]

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Patterson, La. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Fred Allen Mensman, P.O. Box 89, Patterson, La. 70392.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Patterson, St. Mary Parish, La., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lower Atchafalaya River, Panding	Bridge Rd. (extended), Intersection of Louisiana St. and Red Cypress Rd., Intersection of Catherine and Lee Sts.	5 3 5

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28508 Filed 10-3-77; 8:45 am]

PROPOSED RULES

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3392]

NORTHFIELD, VERMONT

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the town of Northfield, Vt. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Municipal Building, Main Street, Northfield, Vt. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Robert Dorman, town and village manager, Municipal Building, Main Street, Northfield, Vt. 05663.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the town of Northfield, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

ings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dog River.....	Route 12A.....	897
	Stoney Brook Rd.....	775
	Kingston Bridge (upstream).....	755
	Kingston Bridge (downstream).....	753
Cox Brook.....	Route 12.....	668
	Queen Post Covered Bridge.....	658
Union Brook.....	Central Vermont R.R. (Pleasant St. inside village limits).....	651
	.....	753
Sunny Brook.....	Route 12.....	833
	Lovers La.....	787
	Route 12A.....	756

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77 28509 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3441]

ORONO, PENOBSCOT COUNTY, MAINE

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Orono, Penobscot County, Maine.

These base flood elevations are the basis for flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board at the Town Hall.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should im-

mediately notify Mr. Mark Schnur, Town Manager of Orono, P.O. Box 150, Orono, Maine 04473.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Orono, Penobscot County, Maine in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Unnamed stream...	Downstream corporate limits.	115
	Forest Ave.....	120
	Essex St.....	121
Penobscot River...	Downstream corporate limits.	46
	Route 178 (extended).....	49
	Downstream Ayers Island.....	51
	Upstream Ayers Island.....	53
	Confluence of Stillwater River.....	57
	Penobscot St. (extended).....	60
	Maine Central R.R. (extended).....	67
	Upstream corporate limits.....	73
Stillwater River....	Confluence with Penobscot River.....	57
	Maine Central R.R. (extended).....	63
	Orono Dam.....	67
	U.S. Route 2.....	81
	Riverdale Rd. (extended).....	82
	Kell St. (extended).....	84
	Upstream corporate limits.....	85

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Ad-

PROPOSED RULES

ministrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28510 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3442]

EDDINGTON, PENOBSCOT COUNTY, MAINE

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Eddington, Penobscot County, Maine.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the bulletin board in the Town Office, Route 9, Eddington.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Earl Brown, Jr., Town Manager of Eddington, R.D. 1, Box 380, East Holden, Maine 04429.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Eddington, Penobscot County, Maine in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regu-

lations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Penobscot River...	Corporate limits (downstream).....	32
	Veazie Dam.....	34
	Downstream.....	44
	Upstream.....	46
	Veazie-Orono Town line.....	50
	Confluence with Meadow Brook.....	50
	Corporate limits (upstream).....	129
Chemo Pond.....	(1).....	129
Davis Pond.....	(1).....	129

¹ It should be noted that the flood zones along Chemo Pond and Davis Pond are limited to a narrow band extending upward from the lake shore to elevations 128.6 and 128.6, respectively.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28511 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3443]

MENOMINEE, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Menominee, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publica-

tion of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 2511 10th Street, Menominee, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Harry F. Johnson, City Hall, 2511 10th Street, Menominee, Mich. 49858.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Menominee, Mich., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Green Bay	47th Ave.	584
	34 St.	584
	Hence Park Rd.	584
	30th Ave.	584
	Chicago and North-western RR.	584
	Harbor Dr.	584
	Orden Rd.	584
	U.S. Highway 41	584
Manominee River	Chicago and North-western RR.	585
	Hattie St.	587
	Scott Paper Co., lower dam (upstream side).	596
	Scott Paper Co., upper dam (upstream side).	610

PROPOSED RULES

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28512 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3193]

PINCONNING, MICHIGAN

Correction of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on July 28, 1977, at 42 FR 38536 in the FEDERAL REGISTER, and in The Pinconning Journal on July 13, 1977, and July 20, 1977, showing the flood locations in Pinconning along Pinconning Road Bridge at Taver Beach Road should be corrected to read Pinconning Road Bridge at Tower Beach Road, and Newman Road east of Z mile Road should be corrected to read Newman Road east of 2 Mile Road. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Ben Wilczynski, Pinconning Township Superior, 1480 East Mount Forest Road, Pinconning, Mich. 48650.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28513 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3444]

ST. CLAIR, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of St. Clair, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 411 Trumbull Street, St. Clair, Mich. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Raymond Gellein, City Hall, 411 Trumbull Street, St. Clair, Mich. 48079.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the city of St. Clair, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
St. Clair River	Brown St.	581
Pine River	Port Huron-Detroit R.R.	588
	New Fred W. Moore Highway.	595
Jordan Creek	Railroad spur	591
	Standard Oil private drive.	595
	Fred W. Moore Highway.	597
	Adams St.	603
	Vine St.	605
	Brown St.	608

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28514 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3445]

ST. CLAIR, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the township of St. Clair, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 1539 South Bartlett Road, St. Clair, Mich. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Robert J. Ellery, township supervisor, Township of St. Clair, Township Hall, 1539 South Bartlett Road, St. Clair, Mich. 48079.

FOR FURTHER INFORMATION CONTACT:

PROPOSED RULES

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, (202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the township of St. Clair, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pine River	New Fred W. Moore Highway.	595
	Vine St.	600
	I-94 westbound	605
	Gratiot Rd.	610
	Fifth Rd.	611
St. Clair River	Yankee Rd.	581
	Newman Rd.	581
	Davis Rd.	582

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28515 Filed 10-3-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3446]

CHINA, MICH.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the township of China, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 4560 Indian Trail Road, Marine City, Mich. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Anthony Pizzo, supervisor, Township of China, Township Hall, 4560 Indian Trail Road, Marine City, Mich. 48039.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the township of China, Mich., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Pine River.....	Old Fred W. Moore Highway.	594
Helle River.....	King Rd.....	591
	Indian Trail.....	599
	Westrick Rd.....	610
	Trail Rd.....	616

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28516 Filed 10-3-77;8:45 am.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3447]

FLOODWOOD, MINN.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the city of Floodwood, Minn. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Office, Highway 73, Floodwood, Minn. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Sanford Ruohoniemi, Box 348, Floodwood, Minn. 55736.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year

flood) for the city of Floodwood, Minn., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
St. Louis River.....	5th Ave. and county State aid Highway 8 Bridge.	1,213
Mississippi River.....	Burlington Northern, Inc., railroad bridge.	1,214
	U.S. Highway 2 and county State aid Highway 73 Bridge.	1,211
Floodwood River.....	Elm St. and county State aid Highway 73 Bridge.	1,215

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28517 Filed 10-3-77;8:45 am.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3200]

RULEVILLE, MISS.

Correction of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Correction of proposed rule.

SUMMARY: The notice published on July 28, 1977, at 42 FR 38541 in the Federal Register, and in The Sunflower County News on July 14, 1977, and July 21, 1977, showing the name of the chief executive officer for Ruleville,

should be corrected to read: Any person having knowledge, information or wishing to make a comment on these proposed elevations should immediately notify Mayor Carrol Land, Town Hall, 200 Floyce Street, Ruleville, Miss. 38771.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28518 Filed 10-3-77;8:45 am.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3448]

ST. CHARLES COUNTY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in St. Charles County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Administration Building, 118 North Second Street, St. Charles, Mo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Judge Charles L. Schwendemann, County Administration Building, 118 North Second Street, St. Charles, Mo. 63301.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for St. Charles County, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mississippi River.....	Burlington Northern R.R.	437
Missouri River.....	U.S. Highways 40 and 67.	467
	Burlington Northern R.R.	437
Bellevue Creek.....	Plackmeier Dr.....	532
	U.S. Highway 40.....	470
	Missouri Highway 79 (new).	448
Dardene Creek.....	Hennings Rd.....	490
	State Route N.....	474
	Cottleville Rd.....	465
	State Route C.....	447

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28519 Filed 10-3-77;8:45 am.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3449]

ST. LOUIS COUNTY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in St. Louis County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at County Government Center, 41 South Central Clayton, Mo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Gene McNary, County Supervisor, St. Louis County, County Government Center, 41 South Central, Clayton, Mo. 63105.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for St. Louis County, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Meramec River.....	Missouri Pacific R.R.	55
	Missouri Highway 21.....	51
	Interstate Highway 55.....	50
Mattese Creek.....	Interstate Highway 55 (upstream side).	55
	Ringer Rd.....	50
Fishpot Creek.....	Yeager Rd.....	50
	Sulphur Springs Rd. (downstream side).	50
	Big Bend Woods Rd. (upstream side).	50
	Upstream side.....	50
	Downstream side.....	50
	Vance Rd.....	50
	Oak Rd. (downstream side).	50
	Sulfur Springs Rd. (upstream side).	50
	Manchester Rd. (downstream side).	50
	Streeker Rd. (crossing near power line).	50
	Upstream side.....	50
	Downstream side.....	50
	Shepherd Rd.....	50
	Kehrs Mill Rd. (upstream side).	50
	Wild Horse Creek Rd. (upstream side).	50
	Upstream side.....	50
	Downstream side.....	50
Creve Coeur Creek.....	Baxter Rd. (upstream side).	50
	Upstream side.....	50
	Downstream side.....	50
	Schoettler Rd. (upstream side).	50
	Downstream side.....	50
	Conway Rd.....	50
	Ladue Rd.....	50
	Olive Street Rd. (upstream side).	50
	Downstream side.....	50
Smith Creek.....	Ladue Rd. (downstream side).	50
	Mason Rd. (upstream side).	50
	Downstream side.....	50
	Fee Fee Rd. (downstream side).	50
	Bookbinder Dr. (upstream side).	50
	Upstream side.....	50
	Downstream side.....	50
	Creve Coeur Mill Rd. (East side Manchester city limits).	50
Grand Glaize Creek.....	Brashear Dr.....	50
	Dietrich Rd.....	50
	Mason La.....	50
	Big Bend Rd.....	50
Glaize Creek.....	Weidmann Rd.....	50
	Manchester Rd. (upstream side).	50
	Upstream side.....	50
	Downstream side.....	50

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28520 Filed 10-3-77;8:45 am.]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3450]

KEARNEY, CLAY COUNTY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

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PROPOSED RULES

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Kearney, Clay County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Kearney, Mo. 64060. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify The Honorable Dennis Watson, Mayor, City of Kearney, City Hall, Kearney, Mo. 64060.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Kearney, Clay County, Mo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Clear Creek	At eastern corporate limits.	759
	200 ft downstream of Grove St.	791
	200 ft upstream of Grove St.	793
	200 ft downstream of Interstate 35.	797
	200 ft upstream of Interstate 35.	800
	At State Highway 31.	803
	At western corporate limits.	804

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28521 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3451]

OLIVETTE, ST. LOUIS COUNTY, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Olivette, St. Louis County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Olivette, Mo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert I. Bean, 9473 Olivette Boulevard, Olivette, Mo. 63132.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Olivette, St. Louis County, Mo., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
River Des Peres	Arrowhead Dr. (extended).	538
	Upstream of Diehlman Road Bridge.	587

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28522 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3452]

OLEAN, CATTARAUGUS COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Olean, Cattaraugus County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the display table, City Clerk's Office, Municipal Building, Olean.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor William Smith, Olean Municipal Building, Olean, N.Y. 14760.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Olean, Cattaraugus County, New York in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

PROPOSED RULES

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Allegheny River	Downstream corporate limits.	1,322
	South Union St.	1,325
	Upstream corporate limits.	1,427
Olean Creek	Con Rail and State St.	1,426
	Main St.	1,428
	Route 17.	1,432
	Upstream corporate limits.	1,432
Kings Brook	Route 417.	1,423
	Griffin St.	1,426
	Con Rail.	1,431
	Brook St.	1,433
Two Mile Creek	North 24th St.	1,433
	North 24th St.	1,433
	Buffalo St.	1,438
	Johnson St.	1,439
	Route 17.	1,442
	Homer St.	1,427

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28523 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3146]

UNIVERSITY CITY, ST. LOUIS COUNTY, MO.

Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of University City, St. Louis County, Mo. Due to recent engineering analysis, this notice revises the proposed determinations of base flood elevations published in 42 FR 38542 on July 28, 1977, and in the *Clayton Citizen* published on July 20, 1977 and July 27, 1977, and hence supersedes those notices.

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Planning and Development Department, City Hall, 4th Floor, 6801 Delmar, University City, Mo. 63130.

Any person having knowledge, information, or wishing to make a comment on these determinations should immediately notify the Honorable Nathan B. Kaufman, Mayor, City of University City, City Hall, 6801 Delmar, University City, Mo. 63130.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard W. Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed flood elevations (100-year flood) are listed below for selected locations in the City of University City, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.4 (a)).

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year Flood Elevations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
River Des Peres	Downstream face of Pennsylvania Ave.	502
	Downstream face of Vernon Ave.	507
	Downstream face of footbridge.	508
	Downstream face of Purdue Ave.	511
	Downstream face of Midland Blvd.	515
	Downstream face of Shattlesbury Bridge.	520
	Downstream face of Hanley Rd.	521
	Downstream face of North and South Blvd.	524
	Downstream face of Olive Blvd.	534
	At the confluence with Southwest branch.	538
	At the downstream face of 82d Blvd.	540
	At the downstream face of Appellon Dr.	543
	At the downstream face of Kempland Pl.	543

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Northeast branch of River Des Peres.	At the downstream face of Kingsland Ave.	502
	At the downstream face of Julian Ave.	507
	At the downstream face of Raymond Ave.	512
Northwest branch of River Des Peres.	Downstream face of Canton Ave.	534
	At the downstream face of fault bridge at Wayne Ave.	537
	At the downstream face of culvert outlet.	551
Southwest branch of River Des Peres.	At the culvert inlet (50 ft upstream from the culvert inlet).	539
	At the downstream face of Spoon Dr.	540
	At the downstream face of McKnight Rd.	553
Southwest branch of River Des Peres.	At the upstream face of McKnight Rd.	559
	At the downstream face of Spoon Dr.	563
	At the upstream face of Spoon Dr.	573

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28524 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]
[Docket No. FT-3453]

AUBURN, CAYUGA COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Auburn, Cayuga County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review on the Bulletin Board, in the City Hall, 24 South Street, Auburn.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Paul Lattimore, City Hall, 24 South Street, Auburn, N.Y. 13021.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Auburn, Cayuga County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Owasco Outlet.	Canoga St.	559
	Aurelius St.	585
	Division St.	636
	Washington St.	649
	State St.	661
	Route 5 and 20	660
	arterial.	
	North St.	667
	Lake Ave.	690
	State Dam (downstream).	704
Hunter Brook.	State Dam (upstream).	716
	Con Rail.	667
	McIntosh Rd.	674
	Schwartz Rd.	679
	Grant Ave.	686
	Franklin St. (downstream).	711
	Herman Ave.	726
	Marvine Ave.	742
	Upstream corporate limits.	764
	Grant Ave.	704
Hunter Brook Tributary.	Prospect St.	724
	Upstream corporate limit.	760
	Upstream corporate limit.	
Cold Spring Brook.	Downstream corporate limit.	560
	Division St.	574
	Old railroad grade.	589

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28525 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]
[Docket No. FT-3454]

BUFFALO, ERIE COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Buffalo, Erie County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the lobby of City Hall, 11 Niagara Square, Buffalo, N.Y. 14202.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Stanley Makowski, Mayor of Buffalo, Room 201, City Hall, 11 Niagara Square, Buffalo, N.Y. 14202.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Buffalo, Erie County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Public Law 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Buffalo River.	Mouth of the Buffalo River.	581
	Bailey Ave.	583
	Seneca St.	584
	Con Rail.	587
	South Ogden Rd.	591
Cazenovia Creek.	Confluence with Buffalo River.	582
	Bailey Ave.	583
	Southside Parkway.	584
	Stevenson St.	586
	Cazenovia St.	587
Sagehen Creek.	Cazenovia Parkway.	594
	Exit ramp Route 90.	571
	Southbound to Route 198, New York State thruway.	573
	Route 90.	
	Exit ramp, Route 198 northbound to Route 90.	581
	Niagara St.	582
	Entrance ramp, Route 198 eastbound.	582
	West Ave.	583
	Grant St.	585
	Elmwood Ave.	587
Private road.	Delaware Ave. ramp.	588
	Private road.	588

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28526 Filed 10-3-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FT-3455]

DUNKIRK, CHAUTAUQUA COUNTY, N.Y.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Dunkirk, Chautauqua County, N.Y. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall on the bulletin board, 342 Central Avenue, Dunkirk, N.Y.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable William Smyder, City Hall, 342 Central Avenue, Dunkirk, N.Y.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Dunkirk, Chautauqua County, N.Y., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by § 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary of Crooked Brook.	Circular culvert.	679
	New York State Thruway.	673
	Circular culvert.	669
	Central Ave.	661
	Corporate limits.	660
	Corporate limits.	660
	Culvert.	655
	Brigham Rd.	618
	Willow Rd.	611
	Box culvert.	604
Crooked Brook.	Confluence of unnamed tributary.	598
	Norfolk-Western RR.	597
	Penn Central RR.	584
	Circular culvert.	587
	Confluence of Crooked Brook.	586
	Limit of detailed study.	650
	Confluence of unnamed tributary.	635
	Central Ave.	633
	Howard Avenue.	630
	Western RR.	628
Lake Shere Dr.	Lucas Ave.	623
	Arch culvert.	618
	Arch culvert.	611
	Sixth St. West.	606
	Woodrow Ave.	604
	West 5th St.	600
	Brigham Rd.	595
	Penn Central RR.	592
	Bridge (wood and steel).	588
	Lake Shere Dr.	585
Drive West.	Drive West.	580
	Drive West.	580

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28527 Filed 10-3-77; 8:45 am]

Registered
Product

TUESDAY, OCTOBER 4, 1977
PART III



FEDERAL ENERGY ADMINISTRATION

ENERGY CONSERVATION PROGRAM FOR COMPLIANCES

Test Procedures for Water Heaters

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Title 10—Energy

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Test Procedures for Water Heaters

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes final test procedures for water heaters. Appliance test procedures are one element of the appliance energy efficiency program required by the Energy Policy and Conservation Act.

EFFECTIVE DATE: November 8, 1977.
FOR FURTHER INFORMATION CONTACT:

James A. Smith (Office of Conservation), Room 307 Old Post Office Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-4635).

Jim Merna (Media Relations), Room 3104 Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9833).

Robert D. R. de Sugny (Office of the General Counsel), Room 5116 Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9750 or 202-566-9380).

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

The Federal Energy Administration (FEA) hereby amends Part 430, Chapter II of Title 10, Code of Federal Regulations, in order to prescribe test procedures for water heaters pursuant to section 323 (42 U.S.C. 6293) of the Energy Policy and Conservation Act (Pub. L. 94-163). Water heater test procedures were proposed by notice issued April 21, 1977 (42 FR 21576, April 27, 1977), and a public hearing on the proposed test procedures was held on June 13, 1977.

By notice issued May 24, 1977 (42 FR 27896, June 1, 1977), FEA established Subparts A and B of Part 430, Chapter II of Title 10, Code of Federal Regulations. Certain definitions and general provisions applicable to the energy conservation program for appliances have been promulgated in Subpart A. Final test procedures for room air conditioners, dishwashers, television sets, clothes dryers, electric refrigerators, freezers, and electric refrigerator-freezers, have been prescribed in Subpart B and the final test procedure for clothes washers has been issued today by separate notice. Several other test procedures have been proposed for inclusion in Subpart B and FEA has also proposed a Subpart C for appliance energy efficiency improvement targets. An outline of the provisions of Part 430 which have so far been established, including provisions in today's notice, is as follows:

RULES AND REGULATIONS

SUBPART A—GENERAL PROVISIONS

Sec. 430.1	Purpose and scope.
430.2	Definitions.
SUBPART E—TEST PROCEDURES	
430.21	Purpose of scope.
430.22	Test procedures for measures of energy consumption.
	(a) Refrigerators and refrigerator-freezers.
	(b) Freezers.
	(c) Dishwashers.
	(d) Clothes dryers.
	(e) Water heaters.
	(f) Room air conditioners.
	(h) Television sets.
	(j) Clothes washers.
430.23	Units to be tested [reserved].
430.24	Representations regarding measures of energy consumption.
	(a) Refrigerators and refrigerator-freezers.
	(b) Freezers.
	(c) Dishwashers.
	(d) Clothes dryers.
	(e) Water heaters.
	(f) Room air conditioners.
	(h) Television sets.
	(j) Clothes washers.

APPENDICES TO SUBPART B

Appendix A1—Uniform Test Method for Measuring the Energy Consumption of Electric Refrigerators and Electric Refrigerator-Freezers.
Appendix B—Uniform Test Method for Measuring the Energy Consumption of Freezers.
Appendix C—Uniform Test Method for Measuring the Energy Consumption of Dishwashers.
Appendix D—Uniform Test Method for Measuring the Energy Consumption of Clothes Dryers.
Appendix E—Uniform Test Method for Measuring the Energy Consumption of Water Heaters.
Appendix F—Uniform Test Method for Measuring the Energy Consumption of Room Air Conditioners.
Appendix H—Uniform Test Method for Measuring the Energy Consumption of Television Sets.
Appendix J—Uniform Test Method for Measuring the Energy Consumption of Clothes Washers.

B. DISCUSSION OF COMMENTS

Comments were received from industry, consumers, and both Federal and State agencies. Those comments which were directly concerned with the labeling program under section 324 of the Act were forwarded to the Federal Trade Commission for consideration in developing labeling rules applicable to water heaters and they are not addressed here.

The following is a discussion of the issues raised by those comments which pertained to the technical aspects of the proposed water heater test procedures. The comments have been analyzed by topic, rather than source, since in many cases the same or similar comments were received from more than one person.

1. THE BURDEN OF TESTING

Both the electric water heater manufacturing industry and the oil water heater manufacturing industry commented that the proposed test procedure was unduly burdensome, however, their objections were based on different grounds.

The basis of the electric water heater industry's objection was that testing costs would be prohibitive due to the extremely large number of basic models they would be considered to manufacture under the test procedure's proposed definition of basic model. That definition categorized units as different basic models not only if they differed in factors such as tank capacity and insulation, but also if they differed in heater element wattage or voltage ratings. As a consequence, one manufacturer commented that he theoretically offered 20,000 basic models. Another manufacturing firm stated that 144 different electrical input configurations are available for each of its electric water heater tank sizes.

FEA finds that the test procedure, as proposed, would prove unduly burdensome for manufacturers of electric water heaters with immersed heating elements in view of the large number of basic models that would have to be tested and the attendant high cost of testing. As a result, FEA has made changes to the proposed test procedure which are designed to reduce the burden of testing for manufacturers of electric water heaters with immersed heating elements. The changes are based on the fact noted at the hearing and in the comments that the electrical characteristics of an electric water heater with immersed heating elements have a minimal effect on efficiency for many purposes of the test procedure. It was therefore feasible to eliminate the distinction between units made on the basis of electrical characteristics. This reduces the number of basic models that most manufacturers would be considered to produce to twenty according to testimony received at the hearing.

As a consequence, several important changes in the test procedure have been made. First, the definition of a water heater basic model was revised to exclude immersed heating elements from consideration. Second, the standby loss test for electric water heaters with immersed heating elements was revised to require the installation of "standardized" heating elements in the water heaters to be tested. Third, the hot water supply rating test and the recovery rate calculation were deleted from the test procedure. Finally, the method for determining the power input for electric water heaters with immersed heating elements was changed. Each of these changes is discussed in detail in other sections of the preamble.

The oil water heater manufacturing industry also commented that the test procedure was burdensome as applied to them and they requested to be exempted from testing. They based their request on the fact that they represent only one percent of water heater sales and the

claim that their costs of testing would be higher than for manufacturers of other types of water heaters. The oil water heater manufacturing industry presented a cost analysis to demonstrate how the costs of testing would result in a much higher per unit cost increase for water heaters produced by a small manufacturer of oil water heaters with small production runs than for a large manufacturer of electric water heaters with large production runs. Thus, it was claimed, the much greater increase in price due to testing costs of oil water heaters over gas and electric water heaters would price the oil water heaters outside of the water heater market and lead to the demise of the oil water heater manufacturing industry.

FEA finds that insufficient evidence has been produced by the oil water heater manufacturing industry to establish grounds for excluding oil water heaters from the water heater test procedure. The cost analysis presented is a comparison of hypothetical cases. No evidence was presented to indicate that these hypothetical cases are representative of industry-wide conditions or that the costs would be any different for a small electric water heater manufacturer. The sampling plan used in the cost analysis was not the sampling plan which appeared in the proposed test procedure and the assumption was made that each manufacturer would test his own units even though independent testing laboratories could be utilized. FEA rejects the recommendation that oil water heaters be excluded from the water heater test procedure at this time but may reconsider its position upon the submission of sufficient evidence that the test procedure is unduly burdensome or significantly more burdensome to oil water heater manufacturers as compared to similar sized manufacturers of other types of water heaters.

2. FLUE REQUIREMENTS

A comment made was that a specification is needed for the attachment of a flue pipe extension to gas or oil water heaters having horizontal vent outlets. FEA concurs. The flue requirement specification in the proposed test procedure inadvertently addressed only water heaters with vertical vent outlets. Section 2.2 of Appendix E has been revised to incorporate a specification for attaching a flue pipe to a water heater with a horizontal vent outlet.

Another comment made was that the test procedure should require that a direct vent water heater be set up as specified in the manufacturer's instructions that accompany the water heater. FEA concurs with this comment with the proviso that the length of vertical flue pipe attached to the water heater must not be greater than the specified five foot length. Section 2.2 of Appendix E has been revised to incorporate this specification.

A third comment suggested the use of a longer flue pipe extension in the test procedure to better represent actual conditions of gas and oil water heater installation in the home. While it would be more representative of field conditions to use a longer length of flue pipe for testing water heaters, e.g., 15 feet instead of the specified 5 feet, the physical limitations of the manufacturer's test laboratories might make such a requirement unduly burdensome. FEA has therefore not adopted this suggestion.

RULES AND REGULATIONS

3. FUEL HEATING VALUE

Many comments were directed toward Section 2.4 of Appendix E, "Energy Supply." Most of these comments concerned the heating values assigned to gas and oil fuels. One such comment was a recommendation that a manufacturer of oil water heaters be permitted to conduct testing either by using fuel oil with a presumably certified heating value of 138,000 Btu per gallon or by determining the actual heating value of the fuel oil used in the test. FEA has assumed that the figure 138,000 cited in the comment above was a typographical error in the comment and was supposed to be 138,500, the heating value of fuel oil in Btu per gallon cited in the proposed test procedure. Another comment was a recommendation that the heating value of natural gas and propane should be designated as approximate net values. A comment was also made that specifying a heating value for natural gas of 1025 Btu per standard cubic foot is unrealistic since the heating value of the natural gas supplied by local utilities varies with geographic location. A manufacturing firm implied that the requirement that the actual heating value of the natural gas used in the test be determined with an error no greater than one percent is unduly burdensome. This firm stated that it does not have the instrumentation available at its water heater manufacturing plants to measure the heating value of the natural gas supplied by the local utilities. It has been this firm's practice to rely on the local utility to furnish on an "as needed" basis the heating value of the natural gas supplied. The firm recommended allowing the use of the gas supplied by the local utility for testing on the condition that is identified by the utility as "natural gas." The firm also stated that its comments concerning the determination of the heating value of natural gas apply to propane gas as well. A comment was made that an ERDA report indicated that the heating value of fuel oil supplied by utilities may be as low as 120,000 Btu per gallon. It was also pointed out that FEA did not state what type of test was to be used for determining the heating value of fuel oil. This can have a dramatic impact on the results it was claimed. Finally, a comment recommended that the requirement that natural gas with a heating value of 1025 Btu per standard cubic foot be used in the test be deleted, the reason being that the manufacturers performing the tests would have no control over the gas supplied by the utilities.

The concerns expressed in the comments above fall into two categories: (1) the proposed test procedures speci-

cation of exact heating values for gas and oil fuels, and (2) the burden of having to determine the heating value of the fuel used in testing with an error of no greater than one percent.

In the proposed test procedure heating values for gas and oil fuels were inadvertently specified as exact values. The actual heating value of the fuel used in testing need only approximate the value specified for that fuel in the proposed test procedure. Therefore, section 2.4 of Appendix E has been revised to specify approximate heating values for gas and oil fuels.

FEA rejects the recommendations that a standard heating value be assumed for each fuel or that local utilities be relied upon to provide the heating value of the fuel they supply. Fluctuations in the heating value of fuels supplied by utilities do occur as studies have shown. FEA does not have sufficient information on the capability of local utilities to provide accurate and meaningful heating value information on the fuel or fuels they supply to warrant acceptance of this means of determining fuel heating value. On the other hand, FEA accepts the recommendation made at the public hearing that water heater manufacturers be permitted the option of purchasing "bottled" fuel which has had its actual higher heating value determined with an error of no greater than one percent as certified by the supplier. Thus, a manufacturer would have the choice of either purchasing a calorimeter, if one is not already available, to determine the actual heating value of the fuel or fuels supplied by the local utility or purchasing the necessary quantity of "bottled" fuel of a certified heating value. Section 2.4 of Appendix E has been revised to allow for the use of "bottled" gas or a tested oil of a certified heating value in the test procedure.

4. WATER TEMPERATURE RISE AND THERMOSTAT SETTING

Several comments were made which questioned the specification of 90° F. in the test procedure for the temperature rise through which a water heater under test must heat the inlet water. One comment recommended that values of temperature rise be selected on the basis of geographical regions to better reflect actual conditions where water heaters are marketed. In other words, the water heater test procedure should be regionalized to account for different water inlet temperatures which result in different temperature rises in various parts of the country. FEA rejects this recommendation on the basis that it would require water heater manufacturers to conduct many more tests than currently required and it would therefore be unduly burdensome.

Comments were made that the 90° F. temperature rise figure was too high and should be lowered to reflect conditions of operation advocated by FEA, i.e., that consumers should lower the thermostat settings on their water heaters to reduce energy consumption. FEA rejects this recommendation. Water heater thermo-

stats are normally factory-set for gas heaters at 140° F. and at 150° F. for electric water heaters. The fact that these settings may be adjusted both up or down by the installer or the homeowner is irrelevant to the determination of the cost of operation unless field surveys indicate that water heaters in representative use are normally adjusted to a different thermostat setting than at the time of purchase. No such field survey data was presented at the public hearing. Therefore, the test procedure uses the average value of the two common factory settings of water heater thermostats, 145° F., as the best approximation of the typical field water heater thermostat setting. Since, as stated in the proposed test procedure, NBS has determined that the national average inlet water temperature is 55° F., the difference between these two temperatures, 90° F., is used as the water temperature rise in the test procedure.

Further comments questioned FEA's selection of the inlet water temperature and the water heater thermostat setting for the purposes of the test procedure. It is true that these values, 70° F. and 160° F., respectively, do not represent field conditions as described by FEA. However, for some testing facilities, climatic conditions and/or other factors may be such that for all or part of the year tap water temperatures will exceed 55° F. Therefore, if a 55° F. inlet water temperature were to be specified in the test procedure, these facilities would have to purchase additional equipment to cool the available tap water prior to conducting a test. FEA believes that appropriate and comparable results can be obtained and the test procedure can be made less burdensome if water heaters are tested with an inlet water temperature of 70° F. This inlet water temperature can normally be achieved in laboratories throughout the country at any time of year without the need for cooling of the tap water. When the inlet water temperature of 70° F. is coupled with the requirement of a 90° F. water temperature rise, it results in a thermostat setting of 160° F. FEA finds that specifying an inlet water temperature of 70° F. and a water heater thermostat setting of 160° F. makes for a less burdensome test procedure which justifies their use.

5. OIL WATER HEATER DEFINITION

Comments were made that the definition of an oil water heater in the proposed test procedure included oil water heaters predominantly used in commercial and industrial facilities. To exclude commercial and industrial type units and thereby make the types of oil water heaters covered by the test procedures comparable to the types of gas and electric water heaters covered, it was recommended that the value of the maximum energy input rate, 172,500 Btu per hour in the proposed test procedure, be reduced to 103,875 Btu per hour which equates to an oil consumption rate of 0.75 gallons per hour. It was further recommended that the value of the maximum energy input rate, 172,500 Btu per

the proposed definition of an oil water heater be reduced from 50 gallons to 40 gallons for the same reason.

FEA finds that the proposed definition of an oil water heater does cover units which are not normally purchased by individuals for household use. FEA has revised the proposed definition of an oil water heater to specify a maximum energy input rating of 103,875 Btu per hour (which equates to an oil consumption rate of 0.75 gallons per hour) but has not revised the specified maximum tank capacity value, 50 gallons. With the reduction of the maximum specified energy input rate, FEA finds that oil water heaters with 50 gallons tank capacities are purchased by individuals for household use and therefore will be covered by the test procedure.

6. HOT WATER USE RATE

Many comments questioned the daily hot water usage rate of 64.3 gallons per day specified in the test procedure to compute annual costs of operation. Most of these comments stated that this rate is too high to represent national average conditions. The reason for the apparent discrepancy between the hot water usage rate specified by FEA and the studies cited in the comments is that FEA's usage rate is based upon representative conditions of use of the types of water heaters covered by the proposed test procedure. The comments cited national average use rates based on household surveys which includes water usage data from households not serviced by the type of water heaters covered by the proposed test procedures such as apartment dwellings serviced by large commercial water heaters. Including these types of households also lowers the number of persons per household from four, which is used by FEA to determine the daily hot water usage rate, to three, further contributing to a lower usage rate than that used by FEA.

The hot water usage rate of 64.3 gallons per day was arrived at from a survey of 50 gas and 50 electric utility companies for hot water and energy usage data for water heaters. Eighteen of these companies supplied metered data. Data obtained were normalized to a family of four and to a 90° F. temperature rise. The family size of four was taken from Census Bureau data as the average family size. The types of water heaters covered by the proposed test procedure are usually found in the service of single families. The use of a 90° F. temperature rise is explained in the previous section, Water Temperature Rise and Thermostat Setting. When the hot water usage rate of 64.3 gallons per day and the temperature rise of 90° F. are inserted into the water heater test procedure equations along with typical water heater performance parameters of recovery efficiency and standby loss as determined by laboratory tests, the result correlates well with typical home energy usage as determined by the field survey.

Therefore no changes to the proposed test procedure are considered necessary with respect to the national average

value of hot water usage rate as used in the calculation of average daily energy consumption.

7. WATER HEATERS NOT COVERED BY THE TEST PROCEDURES

Comments were made that the proposed test procedures do not address solar water heaters, water heater/boiler combinations, or recirculating water heaters. Although the Energy Policy and Conservation Act empowers the Administrator to include other energy sources, at this time only those appliances powered by electricity or fossil fuels are subject to testing. Therefore solar water heater manufacturers are not subject to the Act, however, they may use the present test procedure to provide the consumer with information concerning solar water heater performance if they so choose.

Boiler/water heater combinations are not considered in this test procedure because it is more appropriate to consider such combinations as systems rather than to attempt to consider the water heater and boiler components separately. Since the water heater portion of a boiler/water heater combination is a secondary system of the boiler, FEA finds that it is more appropriate to include boiler/water heater combinations with furnaces. Therefore the boiler/water heater type of appliance will be considered in, and subject to, the test procedure which is currently under development for furnaces.

The recirculating water heater is generally used in large apartment buildings or for other commercial applications such as office buildings where long runs of piping from the water heater to the point of use would result in a long delay period before hot water becomes available at the fixture if a recirculating system were not used. Very few of these systems are sold to the typical consumer and many are custom designed and custom built. Therefore, the inclusion of recirculating systems in the test procedure is not recommended at this time.

8. TEMPERATURE DIFFERENCE BETWEEN STORED WATER AND ROOM TEMPERATURE AS USED IN THE CALCULATIONS

A comment stated that the mean temperature difference between the stored water and room temperature is more likely in the range of 70-80° F. since most water heaters are located indoors. The proposed test procedure specifies that a temperature difference of 90° F. is to be used as the temperature difference between the stored water and the room temperature. Unlike all of the other values specified in this test procedure, this value for temperature difference is a derived value rather than a value determined by empirical data. FEA has no data on typical ambient temperatures where water heaters are installed, however, the assumed value of 90° F., when coupled with a hot water usage rate of 64.3 gallons per day heated through a 90° F. temperature rise, will yield values of calculated energy consumption that agree with actual energy consumption

data for water heaters. A change in this value would necessitate a change in one of the other parameters such as hot water usage rate, water temperature rise, etc., in order to maintain agreement between the energy consumption calculated by use of the test procedure and actual energy consumed in representative use. Therefore, no change to the specified temperature difference between stored water and room temperature is recommended.

9. MEASUREMENT AND CALCULATION OF STANDBY LOSS

Concerning the standby loss test, FEA concurs with the comments that standby loss for electric water heaters with immersed heating elements is virtually independent of energy input ratings. Standby loss is a measure of the hot water storage performance of a water heater. This measure is primarily a function of the type and configuration of the tank insulation since most of the heat loss during standby is through the water heater jacket to the air surrounding the water heater. This is particularly true for electric water heaters which do not have flue losses and therefore their only other heat loss is through the inlet and outlet pipes when no heat traps are present. Because of this and because virtually all input energy to the heating elements goes towards heating water by the very nature of their design of having the heating elements in direct contact with the water in the water heater tank, standby loss will be the same for all electric water heaters with immersed heating elements of a given basic model. Therefore, FEA has adopted the recommendation that standby loss tests for electric water heaters with immersed heating elements be performed with the water heaters to be tested equipped with "standardized" heating elements. The procedure for determining standby loss for electric water heaters with immersed heating elements is presented in section 3.4.2 of Appendix E.

A suggestion was made that determining standby loss in terms of the fraction of the heat content of the stored water lost per hour instead of in units of energy lost per hour hides the actual value of standby loss. FEA finds that the determination of standby loss in terms of units of energy lost per hour can be accomplished by additional calculations which utilize the results obtained by the present test procedure. The determination of standby loss in terms of the fraction of the heat content of the stored water above room temperature lost per hour, however, allows the test for standby loss to be run without maintaining an exact 90° F. temperature difference between the stored water and the ambient laboratory room temperature since the test procedure compensates for ambient temperature and will yield the same value of standby loss as long as the ambient room temperature is within the range specified, 65° F. to 85° F. In order to directly determine standby loss in absolute terms of Btu per hour, the test would need to be run under condi-

tions of a constant room temperature of 70° F. with stored water at 160° F. in order to obtain an exact 90° F. temperature difference. Alternatively, the stored water temperature would have to be adjusted depending on the laboratory room temperature at the time of tests.

Thus, the determination of standby loss in terms of the fraction of the heat content of the stored water lost per hour makes for a less burdensome test procedure than the one which would have to be developed if the suggestion that standby loss be determined in terms of units of energy lost per hour were to be adopted. In addition, it allows FTC to label the standby loss in the manner suggested if the FTC deems it appropriate. Therefore, the suggestion has not been adopted.

A comment was made that a calculation be included in the test procedure to determine a cost of operation for a water heater on standby in terms of dollars per month. FEA finds such a cost can be determined from the test results of the current test procedure. Therefore, FTC can adopt this proposal to determine a cost of operation of a water heater on standby as part of their water heater labeling program, if they so choose.

Another comment suggested that a single test be conducted to determine both standby loss and recovery efficiency. The test recommended consists of a 12-hour standby period followed by a draw period repeated enough times to provide acceptable accuracy. It was stated that the standby test proposed may not credit the savings to be expected from an electric ignition system and that recovery during dynamic conditions such as a water draw schedule may be different than recovery from 70° F. to 165° F., as proposed in the static test. Although no testing with intermittent ignition has been conducted by NBS to date, preliminary testing with a reduced pilot input rate has shown energy savings for a 72-hour standby test. The question of accurately predicting an energy savings for electric ignition alone seems to be a moot point since that design option is not considered economically practical unless it is accompanied by the use of a flue damper. In any event, NBS considers the test procedure as proposed to be sufficient to detect energy savings for intermittent ignition systems. FEA concurs with the NBS position. Therefore, this suggestion has not been adopted.

10. MEASUREMENT AND CALCULATION OF RECOVERY EFFICIENCY

A comment noted that a recovery efficiency of 100 percent is assumed for electric water heaters with immersed heating elements in the calculation of standby loss yet a value for the recovery efficiency of an electric water heater with immersed heating elements is calculated in a previous section. This apparent inconsistency results from the different methods used to calculate recovery efficiency and standby loss between the electric and gas or oil fueled heaters.

The recovery efficiency of an electric water heater with immersed heating ele-

ments is very near to 100 percent since, as explained in the section on standby loss, an immersed heating element delivers practically 100 percent of the energy input at the point of use to the water. To make a direct measurement of the recovery efficiency of such a water heater would be very difficult. The procedure would require that the temperature of the water in the water heater tank be determined very accurately. The six thermocouple array that is required to be installed in the tank according to section 2.5 for the purpose of measuring water temperature is not sufficient for the purpose of such a test. In fact, attempts made to measure the recovery efficiency of an electric water heater with this thermocouple array could result in values of recovery efficiency greater than 100 percent due to the error introduced by variations in water temperature which exist in the spherical portion at the bottom of the tank. An analysis would have to be made of the geometry of the tank and additional thermocouples would have to be used in order to achieve the accuracy requisite to directly measure recovery efficiency. The requirements of making such a direct measurement would result in a test procedure which would be unduly burdensome for a manufacturer to conduct.

Instead of requiring that the recovery efficiency of an electric water heater with immersed heating elements be determined directly, the test procedure provides for calculating the recovery efficiency as one minus the standby losses during recovery since standby loss is the only energy loss for such water heaters. This indirect method for determining recovery efficiency is more accurate than any direct method of determination which would not be unduly burdensome.

The standby loss measurement procedure is the same for each type of heater. However, the calculation differs in that an assignment of 0.98 for the recovery efficiency, E_r , is made for the electric water heater with immersed heating elements. Since one does not know the exact recovery efficiency for electric water heaters until the standby loss is measured and the standby loss contains a correction based on recovery efficiency, there exists two equations with three unknowns. It therefore becomes necessary to assign a recovery efficiency in the standby loss equation. In the proposed test procedure, an assignment of 1.00 was made. The actual value of the recovery efficiency is more likely in the range of 0.97 to 0.99. Therefore, in order to reduce the error introduced into the standby loss equation for electric water heaters with immersed heating elements, FEA has changed the assigned value for recovery efficiency from 1.00 to 0.98.

One comment proposed that the water heater tank should be preheated for the purposes of performing the recovery efficiency test since oil fueled heaters are affected more by a cold start test than either gas or electric heaters. Elimination of the tank preheating test reduced the test time and the cost of testing. NBS testing has revealed that the cold start

procedure gives test results 2 percent to 3 percent lower than if the tank were preheated for oil fueled water heaters. The preheated tank procedure would credit the recovery test with heat retained in the tank from the preheating of the tank. This does not represent actual field conditions since heat input is not obtained free in actual use. However, the cold start test as proposed also does not represent actual use in the field. In the interest of reducing the time and the costs required to include a tank preheating test in the test procedure, the use of a tank preheating test has not been adopted.

A comment stated that the static tests, without drawing water for measuring recovery efficiency, are not sufficiently accurate for determining the recovery efficiency of gas or oil fueled water heaters. Tests at NBS using a typical withdrawal schedule have shown a good correlation between the static test measurements and calculations compared to actual metered energy consumption for a 16-hour withdrawal schedule. Therefore, no change to the static test procedure has been made.

A comment was made that a calculation be included in the test procedure to determine a cost of operation for a water heater during the recovery stage in terms of dollars per 1000 gallons of hot water delivered per month. Such a cost can be determined from the test results of the current test procedure. Therefore, FTC can adopt this proposal to determine a cost of operation of a water heater on recovery as part of their water heater labeling program, if they so choose.

11. POWER INPUT DETERMINATION

As a result of the change made to the definition of a basic model of a water heater, a method for determining the power input for an electric water heater with immersed heating elements had to be developed. Section 3.2.2 of Appendix E of this subpart presents the method for making this determination. The method does not require that power input measurements be made. The manufacturer's assigned design energy ratings for the immersed heating elements that are installed in a water heater are used to calculate the power input term. Although this means of determining the power input for an electric water heater with immersed heating elements is an approximation of the actual value, the error that may be present will have little bearing on the two measures, recovery efficiency and average daily energy consumption, that use the power input term in their equations, by the nature of the equations themselves. The values determined from these equations are sufficiently insensitive to error in the power input term to justify using an approximation for power input and not requiring that it be directly measured.

12. HOT WATER SUPPLY RATING AND RECOVERY RATE

The hot water supply rating test and the recovery rate determination that

were part of the proposed test procedure have been deleted from the test procedure on the basis that, in their present form, they would make the test procedure unduly burdensome for manufacturers of electric water heaters with immersed heater elements to conduct. Unlike standby loss, hot water supply rating and recovery rate determinations are very dependent on the actual wattage and location of the immersed heating elements installed in the water heater, the number of such elements installed, and the configuration of the auxiliary electrical system of the water heater which controls the operation of the heating elements. Testing for hot water supply rating and recovery rate would have to be done for all possible combinations of these factors which goes back to the problems associated with the proposed definition of a basic model of a water heater.

Comments were made that the hot water supply rating of an electric water heater with immersed heating elements could be predicted for all basic models of electric water heaters in much the same way that standby loss could be predicted. No hot water supply rating prediction scheme was presented. Neither was any data submitted from which a hot water supply rating prediction scheme might be developed. Without a hot water supply rating prediction scheme and without test data to verify that a particular prediction scheme is sufficiently accurate, FEA cannot consider making such a modification to the hot water supply rating test at the present time.

In the case of recovery rate, the power input to the water heater must be determined. The current procedure for determining power input for electric water heaters with immersed heating elements is to accept the design value assigned by the manufacturer. Unlike recovery efficiency and average daily energy consumption, recovery rate is sensitive to error in the power input term and the approximations of power input determined in section 3.2.2 would introduce a potentially significant error into the determination of recovery rate which would be unacceptable.

FEA finds that in the absence of a hot water supply rating prediction scheme and a recovery rate prediction scheme, the hot water supply rating test and the recovery rate determination must be deleted from the water heater test procedure at the present time. FEA recognizes that this deletion will eliminate an important measure of water heater performance from the test procedure. FEA also recognizes that without a hot water supply rating, or some other measure of hot water delivery performance, the test procedure leaves a consumer with less than the best information to select a water heater which will satisfy his needs. Therefore, FEA plans to investigate prediction schemes for the determination of hot water supply rating or for the determination of some other measure of hot water delivery performance for water heaters. The goal of this investigation will be to provide consumers with a use-

ful measure of hot water delivery performance for water heaters while not imposing unduly burdensome test requirements on any segment of the water heater industry.

FEA hereby invites the water heater industry and any other interested parties to provide input to FEA concerning this proposed investigation. This investigation will be completed by December 1, 1977. In its present form, nothing in this final test procedure prohibits a manufacturer from making representations concerning the hot water supply rating of any of his water heater products.

13. SYMBOLS USED IN THE TEST PROCEDURE EQUATIONS

Comments were made that the symbols used in the equations of the proposed test procedure exhibited inconsistencies which made interpretation of the equations difficult. Further comments recommended that the symbols used be revised in accordance with standard practices. FEA concurs. The equations of section 4 of Appendix E of this subpart reflect the recommended changes.

14. TESTING CONDITIONS

Comments on section 2.5 of the proposed test procedure pointed out that the requirement that thermocouples be installed along the centerline of the water heater tank may lead to confusion since for many gas and oil water heaters the flue is located at the centerline of the tank. Section 2.5 has been revised to eliminate this potential source of confusion.

In response to a comment concerning the hook-up of the water heater inlet and outlet pipe connections to water supply and delivery pipes, the test procedure has been revised to require a heat trap type of configuration for water heaters with vertical inlet and/or outlet pipe connections.

15. CALCULATIONS OF THE ENERGY FACTOR

The proposed test procedure did not clearly state the appropriate section of Appendix E to be used in the calculation of the energy factor in section 430.22(e). This resulted in misinterpretation of the use of the average daily energy consumption. Section 430.22(e) has been corrected to properly reference the appropriate section of Appendix E.

16. INDIRECT ENERGY CONSUMPTION

A comment was made that the test procedure should account for the increased operating time and energy consumption of a furnace or air conditioner which is caused by gas and oil water heaters. The increased energy consumption arises from the fact that most gas and oil water heaters utilize interior air for combustion and draft maintenance which is then vented out of the house and replaced by the infiltration of exterior air which must then be heated by the furnace or cooled by the air conditioner depending on the season. The loss of interior conditioned air continues even when the water heater is not in the combustion state due to the natural draft of the flue unless the water heater is

equipped with a flue damper which is usually not the case.

FEA is sensitive to such hidden costs of operation and will incorporate them whenever they are of sufficient magnitude to warrant the burden of additional testing designed to measure and quantify such costs.

Secondary costs have been included in the final test procedures for dishwashers and clothes washers, and in the proposed test procedures for dehumidifiers and furnaces, however, FEA has decided not to incorporate these costs in the water heater test procedure at this time. FEA bases its decision on data forwarded by NBS which indicates that the secondary costs represent only 2 percent of the cost of operation of a water heater and that the testing burden to account for such costs would be large. Furthermore, NBS has reported to FEA that the potential dollar savings achieved by the use of a direct vent system, which utilizes exterior air rather than interior air and thereby avoids imposing additional costs on furnaces or air conditioners, is not sufficient to pay for the cost of such devices. Only when direct vent systems are combined with preheating devices do they become economically viable and the test procedure, as currently written, will measure most of the increased efficiency of water heaters so equipped. Therefore there is little justification for modifying the test procedures at this time.

Anyone with information indicating that direct vent systems alone are currently economically justified for water heaters or that the cost associated with the loss of interior conditioned air is greater than 2 percent of the cost of operation of a gas or oil water heater is hereby requested by FEA to submit such information. Should the assumptions on which FEA has based its decision be shown to be incorrect, FEA will consider modifying the water heater test procedure to incorporate the secondary costs of operation.

17. PRIMARY ENERGY LABELING

While a comment suggested primary energy labeling, i.e., taking into consideration the energy consumed by a power plant to produce the amount of electrical energy consumed by an appliance, the Energy Policy and Conservation Act specifically requires that the estimated annual operation cost of an appliance be calculated in terms of the retail cost of energy likely to be consumed in representative use. Therefore, this suggestion has not been adopted.

18. NUMBER OF UNITS TO BE TESTED

Some comments expressed objections to the sampling provision for water heaters. Proposed section 430.23(e) provided for sampling of each basic model to be tested when testing of water heaters is required by the Act or by program regulations of agencies responsible for administering the Act. This provision was intended both to provide an acceptable level of assurance that the test results are applicable to all units of a basic model for which testing is required and

to minimize the testing burden on manufacturers.

Test procedures prescribed under section 323 of the Act are intended ultimately to be used, for example, for labeling under section 324, for monitoring the progress of manufacturers toward accomplishing the energy efficiency improvement targets under section 325, and for enforcement testing under section 326. These aspects of the appliance program have not, however, been implemented. It is quite possible that the objectives of appliance testing under each of these parts of the program, as well as the instructions as to how a test procedure should be applied, e.g., sampling of production units, may differ. FEA, NBS, and FTC are continuing to evaluate the appropriate method or methods for sampling the units to be tested in order to comply with the statute and satisfy all of the different elements of the appliance program.

While the various parts of the appliance program identified above are not in effect at this time, section 323(c) of the Act provides:

Effective 90 days after a test procedure rule applicable to a covered product is prescribed under this section, no manufacturer, distributor, retailer or private labeler may make any representation—

- (1) In writing (including a representation on a label), or
- (2) In any broadcast advertisement,

respecting the energy consumption of such product or cost of energy consumed by such product, unless such product has been tested in accordance with such test procedure and such representation fairly discloses the results of such testing.

In order to eliminate the problem discussed above associated with a general sampling provision, § 430.23 has been reserved in the final test procedure, and sampling requirements which apply only for purposes of advertising have been reorganized into § 430.24(e) of the final test procedures. Section 430.24(e) is similar to proposed § 430.23(e), but contains several revisions. Most notably, the units tested may now be either representative of production units, or actual production units. This change is intended to reduce the burden which might be caused by requiring post-production rating of basic models in every instance of testing pursuant to section 323(c) of the Act.

In addition, certain technical changes have been made in sampling language. Specifically, there is to be 90 percent confidence that the true mean of any measure of the basic model lies within ± 10 percent of the mean of such measure of the sample. Comments pertaining to several proposed test procedures criticized the language of the proposed sampling provision. These comments suggested that a sampling provision should refer to the estimate of the mean rather than to the true mean. FEA has considered this suggestion and has determined that the language prescribed today is more technically correct because the statistical measure "estimate of the mean" and "mean of the sample" are generally considered to be identical. The final test procedures for room air conditioners

and dishwashers used both these terms in a manner that could be confusing, and the language prescribed today is intended to eliminate this possibility.

Until a labeling rule has been implemented pursuant to section 324, manufacturers are not required to test unless they choose to make representations regarding a measure of energy consumption. It should be emphasized that the test procedures prescribed today apply only to the initial rating of a basic model.

19. MISCELLANEOUS

After careful consideration of all of the comments and further consultation with NBS and FTC, FEA has incorporated some minor changes in the proposed test procedures in the final rule that are not discussed above.

C. REGULATIONS PRESCRIBED

1. TEST PROCEDURES

The test procedures for water heaters prescribed today are included in Subpart B and are substantially the same as those proposed with the exception of the elimination of the hot water supply rating test and the recovery rate determination. As with the proposed procedures, test methods and conditions incorporate the approach contained in American National Standards Institute standard Z21.10.1-1971 and C72.1-1972. The test procedure also uses the definition of the term "oil" contained in the American Society for Testing and Materials (ASTM) D396-71. Subsequent amendments of either the standard or the supplement made by the standard setting organization will have no effect on the test procedure which can only be amended by FEA.

Under the requirements of section 32(c) of the Federal Energy Administration Act of 1974 (15 U.S.C. 761 et seq.) as amended by section 9 of the Federal Energy Administration Authorization Act of 1977 (Pub. L. 95-70), the Administrator is to consult with the Attorney General and the Chairman of the Federal Trade Commission concerning the impact on competition of any rules prescribed by FEA which utilize or incorporate any commercial standards.

The Administrator has transmitted copies of the final test procedures for water heaters, which incorporate the above mentioned commercial standards, to the Attorney General and the Chairman of the Federal Trade Commission for their comments concerning the impact of such standards on competition in accordance with section 32(c). Neither individual has any comments nor do they recommend against the incorporation or use of these commercial standards in the final test procedures for water heaters.

2. GENERAL PROVISIONS

Prescribed today are certain definitions applicable to water heaters which were previously proposed in Subpart A (41 FR 19977, May 14, 1976; 42 FR 15423, March 22, 1977). Comments were received regarding these definitions and the issues and changes have been discussed earlier in this notice. All definitions appearing in section 321 of the Act were incorporated by reference into Sub-

part A of Part 430 in the final test procedures for room air conditioners issued May 24, 1977 (42 FR 27896, June 1, 1977). Definitions of the terms "Administrator", "Btu" and "FEA" were also incorporated into Subpart A by the final room air conditioner test procedures. The definition of the term "basic model" for water heaters has been changed, as discussed above. Definitions of the terms "cutout" and "design power rating" have been added.

It should be noted that some of the definitions prescribed today may be applicable to test procedures for other appliances. While these definitions are final, comments to the effect that any of these definitions are inapplicable to a particular appliance will be evaluated to determine whether amendment or modification is appropriate.

3. APPLICATION OF TEST PROCEDURES

As discussed previously, the final water heater test procedures prescribed today must be applied before representations regarding a measure of energy consumption can be made. Because the purposes and needs of the different elements of the appliance program, such as labeling or targets, vary, application of the standard test methodology prescribed today may differ in some respects for each program element. Instructions on how to apply the standard test methodology will be proposed for comment as these other elements of the appliance program are developed.

The requirements of § 430.24(e) of the final regulations apply until such time as final labeling requirements for a particular measure of energy consumption and the associated test procedure application provision are prescribed. After that time, all representations regarding a measure of energy consumption covered by a labeling rule must be the same as represented on the label.

D. UNIT COSTS OF ENERGY

Under section 323(b)(2) of the Act, FEA is to provide manufacturers information as to the representative average unit costs of energy. This information was provided by notice issued July 11, 1977 (42 FR 36549, July 15, 1977).

E. PREEMPTION

Today's rulemaking prescribing final test procedures for water heaters supersedes any State regulation to the extent required by section 327 of the Act. Pursuant to section 327, all State regulations which provide for the disclosure of information with respect to any measure of energy consumption of water heaters or which provide for any energy efficiency standard or similar requirement with respect to energy efficiency or energy use of water heaters must now employ test procedures identical to those specified in today's final rule.

In consideration of the foregoing, Chapter II of Title 10, Code of Federal Regulations is amended as set forth below, effective November 8, 1977.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

Issued in Washington, D.C., September 27, 1977.

Eric J. Fygi,
Acting General Counsel,
Federal Energy Administration.

1. Section 430.2 is amended by adding paragraph (5) as part of the definition of "basic model" and by adding in appropriate alphabetical order the definition of "immersed heating element" and "water heater" to read as follows:

§ 430.2 Definitions.

"Basic model" means all units of a given type of covered product, or class thereof, manufactured by one manufacturer and:

(5) with respect to water heaters, which have the same primary energy source and which, with the exception of immersed heating elements, do not have any differing electrical, physical, or functional characteristics that affect energy consumption.

"Immersed heating element" means an electrically powered heating device which is designed to operate while totally immersed in water in such a manner that the heat generated by the device is imparted directly to the water.

"Water heater" means an automatically controlled thermally insulated vessel designed for heating water and storing heated water, which utilizes either oil, gas, or electricity as the fuel or energy source for heating the water, which is designed to produce hot water at a temperature of less than 180°F., and which includes the following products:

(a) "Electric water heater" means a water heater which utilizes electricity as the energy source for heating the water, which has a manufacturer's specified energy input rating of 12 kilowatts or less at a voltage no greater than 250 volts, and which has a manufacturer's specified storage capacity of not less than 20 gallons nor more than 120 gallons.

(b) "Gas water heater" means a water heater which utilizes gas as the energy source for heating the water, which has a manufacturer's specified energy input rating of 75,000 Btu per hour or less, and which has a manufacturer's specified storage capacity of not less than 20 gallons nor more than 100 gallons.

(c) "Oil water heater" means a water heater which utilizes oil as the energy source for heating the water, which has a manufacturer's specified energy input rating of 103,875 Btu per hour or less, and which has a manufacturer's specified storage capacity of 50 gallons or less.

2. Section 430.22 is amended by adding a paragraph (e), to read as follows:

§ 430.22 Test procedures for measures of energy consumption.

(e) *Water Heaters.* (1) The estimated annual operating cost for water heaters shall be—

(i) For a gas or oil water heater, the product of the representative average use cycle of 365 days per year times the sum of (A) The product of the average daily auxiliary electrical energy consumption in kilowatt-hours per day, determined according to section 4.5.1 of Appendix E of this subpart, times the representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Administrator plus (B) The product of the average daily gas or oil energy consumption in Btu per day, determined according to section 4.5.2 of Appendix E of this subpart, times the representative average unit cost of gas or oil, as appropriate, in dollars per Btu as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(ii) For an electric water heater, the product of the following three factors: (A) The representative average use cycle of 365 days per year, (B) The average daily energy consumption in kilowatt-hours per day, determined according to section 4.5.4 of Appendix E of this subpart, and (C) The representative average unit cost of electricity in dollars per kilowatt-hour as provided by the Administrator, the resulting product then being rounded off to the nearest dollar per year.

(2) The energy factor for water heaters shall be—

(i) For a gas or oil water heater, the quotient of the daily water heating energy consumption determined according to section 4.3 of Appendix E of this subpart divided by the product of the average daily energy consumption as determined according to section 4.5.4 of Appendix E of this subpart times 3.412 Btu per kilowatt-hours, the resulting quotient then being rounded off to the nearest 0.01.

(ii) For an electric water heater, the quotient of the daily water heating energy consumption determined according to section 4.3 of Appendix E of this subpart divided by the product of the average daily energy consumption as determined according to section 4.5.4 of Appendix E of this subpart times 3.412 Btu per kilowatt-hours, the resulting quotient then being rounded off to the nearest 0.01.

(3) Other useful measures of energy consumption for water heaters shall be those measures of energy consumption for water heaters which the Administrator determines are likely to assist consumers in making purchasing decisions and which are derived from the application of Appendix E of this subpart.

3. Section 430.24 is amended by adding a paragraph (e), to read as follows:

§ 430.24 Representations regarding measures of energy consumption.

(e) *Water heaters.* (1) Except as provided in paragraph (e)(3) of this section, no manufacturer, distributor, retailer, or private labeler of water heaters may make any representation with respect to or based upon a measure or measures of energy consumption described in § 430.22(e) unless a sample of sufficient size of each basic model for which such representation is made has been tested in accordance with applicable provisions of this subpart such that, for each such measure of energy consumption, there is at least 90 percent confidence that the true mean of such measures of the basic model is within ± 10 percent of the mean of such measures of the sample.

(2) The sample selection for paragraph (e)(1) of this section shall be comprised of units which are production units, or which are representative of production units, of the basic model being tested.

(3) Whenever a rule applicable to water heaters has been prescribed under section 324 of the Act, this paragraph shall not apply to any label covered by such rule, and all representations of any measure of energy consumption covered by such rule shall be identical to the measure of energy consumption on the label.

4. Subpart B of Part 430 is amended to add an Appendix E, to read as follows:

APPENDIX E—UNIFORM TEST METHOD FOR MEASURING THE ENERGY CONSUMPTION OF WATER HEATERS

1. Definitions.

1.1 "Cutout" means the moment in time when a water heater thermostat has acted to reduce the energy or fuel input to the heating elements or burners to a minimum.

1.2 "Design Power Rating" means the nominal power rating that a water heater manufacturer assigns to a particular design of water heater heating element, expressed in kilowatts.

1.3 "Heat Trap" means a device which can be integrally connected, or independently attached, to the hot or cold water pipe connections of a water heater such that the device will develop a thermal or mechanical seal to minimize the recirculation of water due to natural thermal convection between the water heater tank and its water supply pipes and thereby reduce the heat loss to the environment from the hot water stored in the water heater.

1.4 "Recovery Efficiency" means the ratio of the heat imparted to the water to—

(a) in the case of an electric water heater, the energy input to the heating elements during the period that the water temperature is raised from the inlet temperature to the final temperature with the tank filled to capacity.

(b) in the case of a gas or oil water heater, the heat content of the fuel consumed by the burners during the period that the water temperature is raised from the inlet temperature to the final temperature with the tank filled to capacity.

1.5 "Standby loss" means the ratio of the heat loss per hour to the heat content of the stored water above room temperature.

a. Test conditions.

2.1 *Installation.* Install the water heater according to the manufacturer's directions on a $\frac{3}{4}$ -inch-thick plywood platform supported by three 2 x 4-inch runners. For water heaters without integral heat traps and with vertical inlet and outlet pipe connections, install the inlet and outlet piping with heat traps at the inlet and outlet ports. Such heat traps may be made using pipe fittings such as elbows connected in such a fashion that the inlet and outlet piping make vertically upward runs just before turning downward to connect to the inlet and outlet ports. For water heaters with integral heat traps or with horizontal inlet and outlet pipe connections, install the inlet and outlet piping in any convenient fashion.

Sufficient clearance shall be allowed between the water heater surface and the piping (including heat traps, if any) so that when the piping is insulated as specified below, the insulation does not contact any water heater surface except at the location where the pipe connections penetrate the water heater jacket. Insulate the water heater inlet and outlet piping (including heat traps, if any) for a length of four feet from the connection at the water heater with a material having a thermal resistance (R) value of not less than

$$\frac{R}{\text{Btu}^{\circ}\text{F}^{\circ}\text{hr}}$$

2.2 *Flue requirements for gas and oil water heaters.*

2.2.1 *Flue requirements for gas water heaters.* For a gas water heater having a vertically discharging draft hood outlet, a 5 foot vertical flue pipe extension having a diameter equal to the largest flue collar size of the draft hood shall be connected to the draft hood outlet. For a gas water heater having a horizontally discharging draft hood outlet, a 90 degree elbow having a diameter equal to the largest flue collar size of the draft hood shall be connected to the draft hood outlet. A 5 foot length of flue pipe shall be connected to the elbow and oriented to discharge vertically upward. Perform all tests with the natural draft established by this length of flue pipe. Direct vent gas water heaters should be installed with venting equipment as specified in the manufacturer's instructions; however, the vertical length of the flue pipe shall be no greater than 5 feet.

2.2.2 *Flue requirements for oil water heaters.* For an oil fueled water heater, establish a draft at the flue collar equivalent to at least 0.02 inch of water column during periods of burner firing. For an oil water heater having a vertically discharging draft hood outlet, establish the draft by using a sufficient length of flue pipe connected to the water heater flue outlet and directed vertically upward. For an oil water heater having a horizontally discharging draft hood outlet, a 90 degree elbow having a diameter equal to the largest flue collar size of the draft hood shall be connected to the draft hood outlet. A length of flue pipe sufficient to establish the draft shall be connected to the elbow fitting and oriented to discharge vertically upward. Direct vent oil water heaters should be installed with venting equipment as specified in the manufacturer's instructions. When ceiling height limits the use of a sufficient length of vertical flue pipe for an oil water heater, a mechanical draft inducer may be used during periods of burner firing to establish the specified draft at the flue collar.

2.3 *Water supply.* During the entire test maintain the water supply to the water heater inlet at a temperature of between

68 and 72° F., and at a gauge pressure of between 40 pounds per square inch and the maximum pressure specified by the manufacturer for the water heater under test. If the water supply pressure varies outside of these limits during testing, the heater shall be isolated by use of a shut-off valve in the supply line with an expansion tank installed in the supply line downstream of the shut-off valve. There shall be no shut-off means between the expansion tank and the water heater inlet.

2.4 *Energy Supply.*

2.4.1 *Electrical supply.* For an electric water heater and for the auxiliary electrical system, if any, of an oil or gas water heater, maintain the electrical supply voltage to within ± 1 percent of the center of the voltage range specified by the water heater manufacturer on the water heater nameplate throughout the entire operating portion of each test.

2.4.2 *Gas supply.*

2.4.2.2 *Natural gas.* For a gas water heater utilizing natural gas, maintain the gas supply at a normal inlet test pressure immediately ahead of all controls at 7 to 10 inches of water column. If the water heater is equipped with a gas appliance pressure regulator, the regulator outlet pressure at the normal test pressure shall be approximately that recommended by the manufacturer. All burners shall be adjusted to achieve an hourly Btu rating that is within ± 2 percent of the hourly Btu rating specified by the manufacturer. Use natural gas with a higher heating value of approximately 1,025 Btu per standard cubic foot. Determine the actual higher heating value, H_u , in Btu per standard cubic foot, for the natural gas to be used in the test, with an error no greater than ± 1 percent, and use that value for all calculations included herein. Alternatively, the test can be conducted using "bottled" natural gas of a higher heating value of approximately 1,025 Btu per standard cubic foot as long as the actual higher heating value of the bottled natural gas has been determined with an error no greater than ± 1 percent as certified by the supplier.

2.4.2.2 *Propane gas.* For a gas water heater utilizing propane, maintain the gas supply at a normal inlet test pressure immediately ahead of all controls at 11 to 13 inches of water column. If the water heater is equipped with a gas appliance pressure regulator, the regulator outlet pressure at normal test pressure shall be approximately that recommended by the manufacturer. All burners shall be adjusted to achieve an hourly Btu rating that is within ± 2 percent of the hourly Btu rating specified by the manufacturer. Use propane with a higher heating value of approximately 2,500 Btu per standard cubic foot. Determine the actual higher heating value, H_u , in Btu per standard cubic foot, for the propane to be used in the test, with an error no greater than ± 1 percent, and use that value for all calculations included herein. Alternatively, the test can be conducted using "bottled" propane of a higher heating value of approximately 2,500 Btu per standard cubic foot as long as the actual higher heating value of the bottled propane has been determined with an error no greater than ± 1 percent as certified by the supplier.

2.4.3 *Oil supply.* For an oil water heater utilizing fuel oil, maintain an uninterrupted supply of fuel oil to the water heater during the entire operating portion of the test cycle. Use fuel oil with a heating value of approximately 138,500 Btu per gallon. Determine the actual heating value, H_u , in Btu per gallon for the fuel oil to be used in the test, with an error no greater than ± 1 percent, and use that value for all calculations

included herein. Alternatively, the tests can be conducted using a tested fuel oil with a certified higher heating value of approximately 138,500 Btu per gallon as long as the actual higher heating value of the test fuel oil has been determined with an error of no greater than ± 1 percent as certified by the supplier.

2.5 Thermocouple installation. Install six thermocouples inside the water heater tank. Position each thermocouple measuring junction along a vertical line at the level of the center horizontal plane of each of six non-overlapping sections of approximately equal volume from the top to the bottom of the tank such that each thermocouple is surrounded by water and as far as possible from any heating element, anodic protective device, or a water tank or flue wall. The anodic protective device may be removed in order to install the thermocouples and all testing may be carried out with the device removed. Install thermocouples in both the cold-water inlet pipe and the hot-water outlet pipe not more than six inches from the connections to the water heater, or, where those connections are inaccessible, at the closest accessible point to those connections. Install in the test room a thermocouple with junction shielded against direct radiation from the water heater and positioned at the vertical mid-point of the heater at a perpendicular distance of approximately 24 inches from the surface of the water heater jacket. Provide an associated temperature measurement and indicator system to assure that the temperature indicated for the thermocouple location is within $\pm 1^\circ\text{F}$ of the actual temperature at that location.

2.6 Setting the tank thermostat. Starting with a tank of unheated water, initiate normal operation of the water heater. After cutout, determine whether the maximum value of the mean tank temperature is within the range of $160^\circ\text{F} \pm 5^\circ\text{F}$. If not, turn off the water heater, adjust the thermostat, empty the tank and refill with unheated water, then initiate normal operation of the water heater, and once again determine the maximum mean tank temperature after cutout. Repeat this sequence until the maximum mean tank temperature after cutout is within the range of $160^\circ\text{F} \pm 5^\circ\text{F}$, at which time the thermostat is properly set. If a water heater has two thermostats, the thermostat which controls the upper heating element shall be set first to yield a maximum water temperature of $160^\circ\text{F} \pm 5^\circ\text{F}$, as measured by the topmost tank thermocouple after cutout. The thermostat which controls the lower heating element shall then be set to yield a maximum mean tank temperature of $160^\circ\text{F} \pm 5^\circ\text{F}$, after cutout.

2.7 Fuel or energy consumption measurement. Install one or more instruments which measure, as appropriate, and with an error no greater than ± 1 percent, the quantity of electrical energy, natural gas, propane or fuel oil consumed by a water heater. Electrical energy consumption is to be expressed in units of kilowatt-hours. Natural gas and propane consumption shall be expressed in units of standard cubic feet, i.e., measured cubic feet corrected to standard conditions of 60°F temperature and 30 inches of mercury column pressure. Fuel oil consumption is to be expressed in units of gallons. Also install one or more instruments which measure, as appropriate, and with an error no greater than ± 1 percent, the rate of electrical energy, natural gas, propane or fuel oil consumption by a water heater. The rate of electrical energy consumption shall be expressed in units of kilowatts. The rate of natural gas and propane consumption shall

be expressed in units of standard cubic feet per hour. The rate of fuel oil consumption shall be expressed in units of gallons per hour.

2.8 Room ambient temperature. Maintain the ambient air temperature of the test room between 65°F and 85°F at all times during the test, as measured according to section 3.5. The ambient air temperature during these tests shall not vary more than $\pm 7^\circ\text{F}$ from the average ambient air temperature determined as the arithmetic average of the air temperatures measured periodically at intervals no greater than 15 minutes throughout the duration of the test.

3. Test procedures and measurements.
3.1 Tank storage capacity. Determine the storage capacity, V , of the water heater under test, in gallons, according to the method specified in section 2.26 of the American National Standard for Gas Water Heaters, Volume 1, designated ANS Z21.10.1-1975.

3.2 Power input determination.
3.2.1 Power input determination for gas and oil water heaters and electric water heaters with other than immersed heating elements. Initiate normal operation of the water heater, and by using the appropriate instrumentation specified in section 2.7 and the appropriate fuel heating values of section 2.4, determine the power input, P , to the main burners (including pilot light power, if any) or heating elements of the water heater under test, in Btu per hour or kilowatts, as appropriate. In addition, determine the power input, p , to any auxiliary electrical system of a gas or oil water heater when the main burners are in operation, in kilowatts; and the power input, p , to any auxiliary electrical system of a gas or oil water heater when the main burners are not in operation, in kilowatts.

3.2.2 Power input determination for electric water heaters with immersed heating elements. The power input, P , to the heating element of an electric water heater with one immersed heating element shall be taken to be the design power rating of the heating element. For an electric water heater with dual immersed heating elements, the power input, P , to the heating elements shall be taken to be the arithmetic mean of the design power ratings of the heating elements, if, in characteristic operation of the water heater, only one heating element will be energized at any time; otherwise, P shall be taken to be the sum of the design power ratings of the heating elements.

3.3 Recovery efficiency.
3.3.1 Recovery efficiency for gas and oil water heaters and electric water heaters with other than immersed heating elements. With the water heater turned off, fill the tank with water and eliminate any residual air remaining in the tank. If the mean tank temperature is constant and within $70^\circ\text{F} \pm 2^\circ\text{F}$, record the mean tank temperature, initiate normal operation of the water heater, and begin measuring the fuel or energy flow to the burners (including pilot light fuel if any) or heating elements of the water heater using the appropriate instrumentation specified in section 2.7. After cutout determine the maximum mean tank temperature and record the total fuel flow, Q , for a gas or oil water heater, or the total electrical energy flow, Z , to the heating elements of an electric water heater, from initiation to cutout. Record the temperature difference, ΔT , obtained by subtracting the initial from the final maximum mean tank temperature.

3.3.2 Recovery efficiency for electric water heaters with immersed heating elements. The recovery efficiency for electric water heaters with immersed heating elements is derived from the results of the standby loss tests of section 3.4.2.

3.4 Standby loss.
3.4.1 Standby loss for gas and oil water heaters and electric water heaters with other than immersed heating elements. Establish normal water heater operation within the maximum mean tank temperature within the range specified in section 2.6 and with all air eliminated from the tank. Begin the standby loss test immediately after cutout. At the beginning of the standby loss test record the time, the mean tank temperature, the ambient air temperature, and begin measuring the fuel or energy flow to the burners (including pilot light fuel if any) or heating elements of the water heater using the appropriate instrumentation specified in section 2.7.

At the end of the first 15 minute interval and at the end of each subsequent 15 minute interval following the beginning of the test, record the mean tank temperature and the ambient air temperature. Continue these measurements until the end of a 48 hour period unless a main heating element or burner is on at that time, in which case, continue these measurements until the first subsequent cutout. When the test is terminated, record the total fuel flow, Q , for a gas or oil water heater, or the total electrical energy flow, Z , to the heating elements of an electric water heater, from the beginning to the end of the test period, the final mean tank temperature, the final ambient air temperature, and the time duration, t , of the standby loss test, in hours rounded off to the nearest tenth of an hour, which elapsed from the beginning to the end of the test period. Calculate the average of the recorded values of the mean tank temperatures and of the ambient air temperatures taken at the end of each time interval, including in each case the initial and final values. Determine the difference, ΔT , between these two averages by subtracting the latter from the former, and the difference, ΔT , between the final and initial mean tank temperatures by subtracting the latter from the former.

3.4.2 Standby loss for electric water heaters with immersed heating elements. All water heaters to be tested must be equipped with immersed heating elements that have a design power rating of 4,500 watts unless such a design power rating exceeds the maximum design power rating specified by the manufacturer for the water heater to be tested, in which case the standby loss test will be conducted with the water heater equipped with immersed heating elements of a design power rating equal to the manufacturer's specified maximum design power rating. All water heaters capable of operating with dual immersed heating elements will be equipped and tested with dual immersed heating elements of equal design power rating in accordance with the provisions specified above. Tests shall be conducted in accordance with the same procedures as those specified in section 3.4.1.

3.5 Room temperature measurement. Room temperature wherever specified shall be the temperature determined by using the test room thermocouple described in section 2.5.

3.6 Mean tank temperature measurement. Mean tank temperature, the average temperature of the water in a water heater tank, wherever specified shall be the mean of the temperatures determined by using the six water heater tank thermocouples described in section 2.5.

4. Calculation of derived results from test measurements.
4.1 Recovery efficiency.

from the results of the standby loss tests of section 3.4.2.

3.4 Standby loss.

3.4.1 Standby loss for gas and oil water heaters and electric water heaters with other than immersed heating elements. Establish normal water heater operation within the maximum mean tank temperature within the range specified in section 2.6 and with all air eliminated from the tank. Begin the standby loss test immediately after cutout. At the beginning of the standby loss test record the time, the mean tank temperature, the ambient air temperature, and begin measuring the fuel or energy flow to the burners (including pilot light fuel if any) or heating elements of the water heater using the appropriate instrumentation specified in section 2.7.

At the end of the first 15 minute interval and at the end of each subsequent 15 minute interval following the beginning of the test, record the mean tank temperature and the ambient air temperature. Continue these measurements until the end of a 48 hour period unless a main heating element or burner is on at that time, in which case, continue these measurements until the first subsequent cutout. When the test is terminated, record the total fuel flow, Q , for a gas or oil water heater, or the total electrical energy flow, Z , to the heating elements of an electric water heater, from the beginning to the end of the test period, the final mean tank temperature, the final ambient air temperature, and the time duration, t , of the standby loss test, in hours rounded off to the nearest tenth of an hour, which elapsed from the beginning to the end of the test period. Calculate the average of the recorded values of the mean tank temperatures and of the ambient air temperatures taken at the end of each time interval, including in each case the initial and final values. Determine the difference, ΔT , between these two averages by subtracting the latter from the former, and the difference, ΔT , between the final and initial mean tank temperatures by subtracting the latter from the former.

3.4.2 Standby loss for electric water heaters with immersed heating elements. All water heaters to be tested must be equipped with immersed heating elements that have a design power rating of 4,500 watts unless such a design power rating exceeds the maximum design power rating specified by the manufacturer for the water heater to be tested, in which case the standby loss test will be conducted with the water heater equipped with immersed heating elements of a design power rating equal to the manufacturer's specified maximum design power rating. All water heaters capable of operating with dual immersed heating elements will be equipped and tested with dual immersed heating elements of equal design power rating in accordance with the provisions specified above. Tests shall be conducted in accordance with the same procedures as those specified in section 3.4.1.

3.5 Room temperature measurement. Room temperature wherever specified shall be the temperature determined by using the test room thermocouple described in section 2.5.

3.6 Mean tank temperature measurement. Mean tank temperature, the average temperature of the water in a water heater tank, wherever specified shall be the mean of the temperatures determined by using the six water heater tank thermocouples described in section 2.5.

4. Calculation of derived results from test measurements.

4.1 Recovery efficiency.

4.1.1 Recovery efficiency for gas and oil water heaters. For a gas or oil water heater, calculate the recovery efficiency, E_r , expressed as a dimensionless quantity and defined as:

$$E_r = \frac{k \times V \times \Delta T_1}{Q_r \times H}$$

where

k = 8.25 Btu per gallon $^\circ\text{F}$, the nominal specific heat of water.

V = tank capacity, determined in accordance with section 3.1, expressed in gallons.

ΔT_1 = difference between the initial and final mean tank temperatures, determined in accordance with section 3.3.1, expressed in $^\circ\text{F}$.

Q_r = total fuel flow in the recovery test, determined in accordance with section 3.3.1, expressed in appropriate units.

H = higher heating value for the appropriate fuel type, H_g , H_o , or H_e , as determined in accordance with section 2.4, expressed in appropriate units.

4.1.2 Recovery efficiency for electric water heaters with other than immersed heating elements. For an electric water heater with other than immersed heating elements, calculate the recovery efficiency, E_r , expressed as a dimensionless quantity and defined as:

$$E_r = \frac{k \times V \times \Delta T_1}{Z_r \times 3,412 \text{ Btu/kWh}}$$

where k , V , and ΔT_1 are as defined in section 4.1.1. Z_r = total electrical energy flow to the heating elements in the recovery test, determined in accordance with section 3.3.1, expressed in kilowatt-hours.

4.1.3 Recovery efficiency for electric water heaters with immersed heating elements. For an electric water heater with immersed heating elements, calculate the recovery efficiency, E_r , expressed as a dimensionless quantity and defined as:

$$E_r = 1 - \frac{S \times k \times V \times \Delta T_2}{P \times 3,412 \text{ Btu/kWh}}$$

where k and V are as defined in section 4.1.1.

S = standby loss, as calculated in section 4.4.2.

ΔT_2 = 45°F , the nominal average difference between the mean tank temperature and the ambient air temperature during recovery.

P = water heater input power, determined in accordance with section 3.2.2, expressed in kilowatts.

4.2 Standby loss.

4.2.1 Standby loss for gas and oil water heaters. For a gas or oil water heater, calculate the standby loss, expressed in hour $^{-1}$ and defined as:

$$S = \frac{Q_r \times H}{k \times V \times \Delta T_2 \times t} - \frac{\Delta T_1}{\Delta T_2 \times t \times E_r}$$

where k , V , and H are as defined in section 4.1.1.

Q_r = total fuel flow in the standby loss test, determined in accordance with section 3.4.1, expressed in appropriate units.

ΔT_1 = difference between the average value of the mean tank temperature and the average value of the ambient air temperature during the standby loss test, determined in accordance with section 3.4.1, expressed in $^\circ\text{F}$.

ΔT_2 = difference between the initial and final mean tank temperatures, determined in accordance with section 3.4.1, expressed in $^\circ\text{F}$.

t = duration of the standby loss test, determined in accordance with section 3.4.1, expressed in hours.

E_r = recovery efficiency, as calculated in section 4.1.1.

H = higher heating value for the appropriate fuel type, H_g , H_o , or H_e , as determined in accordance with section 2.4, expressed in appropriate units.

k = 8.25 Btu per gallon $^\circ\text{F}$, the nominal specific heat of water.

V = tank capacity, determined in accordance with section 3.1, expressed in gallons.

ΔT_1 = difference between the average value of the mean tank temperature and the average value of the ambient air temperature during the standby loss test, determined in accordance with section 3.4.1, expressed in $^\circ\text{F}$.

ΔT_2 = difference between the initial and final mean tank temperatures, determined in accordance with section 3.4.1, expressed in $^\circ\text{F}$.

t = duration of the standby loss test, determined in accordance with section 3.4.1, expressed in hours.

E_r = recovery efficiency, as calculated in section 4.1.1.

H = higher heating value for the appropriate fuel type, H_g , H_o , or H_e , as determined in accordance with section 2.4, expressed in appropriate units.

k = 8.25 Btu per gallon $^\circ\text{F}$, the nominal specific heat of water.

V = tank capacity, determined in accordance with section 3.1, expressed in gallons.

ΔT_1 = difference between the average value of the mean tank temperature and the average value of the ambient air temperature during the standby loss test, determined in accordance with section 3.4.1, expressed in $^\circ\text{F}$.

ΔT_2 = difference between the initial and final mean tank temperatures, determined in accordance with section 3.4.1, expressed in $^\circ\text{F}$.

t = duration of the standby loss test, determined in accordance with section 3.4.1, expressed in hours.

E_r = recovery efficiency, as calculated in section 4.1.1.

4.2.2 Standby loss for electric water heaters. For an electric water heater, calculate the standby loss, S , expressed in hour $^{-1}$ and defined as:

$$S = \frac{Z_r \times 3,412 \text{ Btu/kWh}}{k \times V \times \Delta T_2 \times t} - \frac{\Delta T_1}{\Delta T_2 \times t \times E_r}$$

where k and V are as defined in section 4.1.1.

Z_r = total electrical energy flow to the heating elements in the standby loss test, determined in accordance with section 3.4.1 for electric water heaters with other than immersed heating elements, or section 3.4.2 for electric water heaters with immersed heating elements, expressed in kilowatt-hours.

ΔT_1 = difference between the average value of the mean tank temperature and the average value of the ambient air temperature during the standby loss test, determined in accordance with section 3.4.1 for electric water heaters with other than immersed heating elements, or section 3.4.2 for electric water heaters with immersed heating elements, expressed in kilowatt-hours.

ΔT_2 = difference between the initial and final mean tank temperatures, determined in accordance with section 3.4.1 for electric water heaters with other than immersed heating elements, or section 3.4.2 for electric water heaters with immersed heating elements, expressed in kilowatt-hours.

t = duration of the standby loss test, determined in accordance with section 3.4.1 for electric water heaters with other than immersed heating elements, or section 3.4.2 for electric water heaters with immersed heating elements, expressed in hours.

E_r = E_r as calculated in section 4.1.2 for electric water heaters with other than immersed heating elements, or 0.8 for electric water heaters with immersed heating elements.

4.3 Daily water heating energy consumption. Calculate the daily water heating energy consumption, C_{wh} , the energy required to heat the nominal amount of hot water used daily, expressed in Btu per day and defined as:

$$C_{wh} = \frac{k \times V \times \Delta T_3}{E_r}$$

where k is as defined in section 4.1.1.

V is as calculated in section 4.1.1 for gas and oil water heaters, section 4.1.2 for electric water heaters with other than immersed heating elements, or section 4.1.3 for electric water heaters with immersed heating elements.

ΔT_3 = 90°F , the nominal difference between the water heater inlet and outlet water temperatures.

E_r = 0.8 for electric water heaters with immersed heating elements.

4.4 Average hourly hot water storage energy consumption. Calculate the average hourly hot water storage energy consumption, C_{sh} , the average energy required per hour to maintain stored water temperature, expressed in Btu per hour and defined as:

$$C_{sh} = S \times k \times V \times \Delta T_3$$

where k and V are as defined in section 4.1.1.

S is as calculated in section 4.2.1 for gas and oil water heaters, or section 4.2.2 for electric water heaters.

ΔT_3 = 90°F , the nominal difference between the water heater inlet and outlet water temperatures.

E_r = 0.8 for electric water heaters with immersed heating elements.

4.5 Average daily energy consumption. Calculate the average daily energy consumption, C_d , the average energy required per day to maintain stored water temperature, expressed in Btu per day and defined as:

$$C_d = S \times k \times V \times \Delta T_3$$

where k and V are as defined in section 4.1.1.

S is as calculated in section 4.2.1 for gas and oil water heaters, or section 4.2.2 for electric water heaters.

ΔT_3 = 90°F , the nominal difference between the water heater inlet and outlet water temperatures.

E_r = 0.8 for electric water heaters with immersed heating elements.

4.6 Average daily energy consumption for electric water heaters. For an electric water heater, calculate the average daily energy consumption, C_d , expressed in kilowatt-hours per day and defined as:

$$C_d = \frac{1}{3,412 \text{ Btu/kWh}} \times \left[C_{wh} + C_{sh} \times \left(\frac{24 \text{ hours}}{\text{day}} - \frac{C_{wh}}{P \times 3,412 \text{ Btu/kWh}} \right) - J_A - J_e \right]$$

where C_{wh} is as calculated in section 4.3.

C_{sh} is as calculated in section 4.4.

J_A and J_e are as defined in section 4.5.2.

P = input power, determined in accordance with section 3.2.1 for electric water heaters with other than immersed heating elements or section 3.2.2 for electric water heaters with immersed heating elements, expressed in kilowatts.

J_A = daily energy credit for a heat trap installed in the outlet water connection of a water heater=1,311 Btu per day for water heaters that have such a heat trap as an integral part of the water heater, or zero for water heaters that do not.

J_e = daily energy credit for a heat trap installed in the inlet water connection of a water heater=983 Btu per day for water heaters that have such a heat trap as an integral part of the water heater, or zero for water heaters that do not.

4.5.3 Average daily energy consumption for gas and oil water heaters. For a gas or oil water heater, calculate the average daily energy consumption, C_d , expressed in Btu per day and defined as:

$$C_d = C_{wh} + C_{sh} \times 24 \text{ Btu/kWh}$$

where C_{wh} is as calculated in section 4.3.

C_{sh} is as calculated in section 4.4.

J_A and J_e are as defined in section 4.5.2.

P = input power, determined in accordance with section 3.2.1 for electric water heaters with other than immersed heating elements or section 3.2.2 for electric water heaters with immersed heating elements, expressed in kilowatts.

J_A = daily energy credit for a heat trap installed in the outlet water connection of a water heater=1,311 Btu per day for water heaters that have such a heat trap as an integral part of the water heater, or zero for water heaters that do not.

J_e = daily energy credit for a heat trap installed in the inlet water connection of a water heater=983 Btu per day for water heaters that have such a heat trap as an integral part of the water heater, or zero for water heaters that do not.

4.5.4 Average daily energy consumption for electric water heaters. For an electric water heater, calculate the average daily energy consumption, C_d , expressed in kilowatt-hours per day and defined as:

$$C_d = \frac{1}{3,412 \text{ Btu/kWh}} \times \left[C_{wh} + C_{sh} \times \left(\frac{24 \text{ hours}}{\text{day}} - \frac{C_{wh}}{P \times 3,412 \text{ Btu/kWh}} \right) - J_A - J_e \right]$$

where C_{wh} is as calculated in section 4.3.

C_{sh} is as calculated in section 4.4.

J_A and J_e are as defined in section 4.5.2.

P = input power, determined in accordance with section 3.2.1 for electric water heaters with other than immersed heating elements or section 3.2.2 for electric water heaters with immersed heating elements, expressed in kilowatts.

J_A = daily energy credit for a heat trap installed in the outlet water connection of a water heater=1,311 Btu per day for water heaters that have such a heat trap as an integral part of the water heater, or zero for water heaters that do not.

J_e = daily energy credit for a heat trap installed in the inlet water connection of a water heater=983 Btu per day for water heaters that have such a heat trap as an integral part of the water heater, or zero for water heaters that do not.

4.5.5 Average daily energy consumption for gas and oil water heaters. For a gas or oil water heater, calculate the average daily energy consumption, C_d , expressed in Btu per day and defined as:

$$C_d = C_{wh} + C_{sh} \times 24 \text{ Btu/kWh}$$

where C_{wh} is as calculated in section 4.3.

C_{sh} is as calculated in section 4.4.

J_A and J_e are as defined in section 4.5.2.

P = input power, determined in accordance with section 3.2.1 for electric water heaters with other than immersed heating elements or section 3.2.2 for electric water heaters with immersed heating elements, expressed in kilowatts.

J_A = daily energy credit for a heat trap installed in the outlet water connection of a water heater=1,311 Btu per day for water heaters that have such a heat trap as an integral part of the water heater, or zero for water heaters that do not.

J_e = daily energy credit for a heat trap installed in the inlet water connection of a water heater=983 Btu per day for water heaters that have such a heat trap as an integral part of the water heater, or zero for water heaters that do not.

4.5.6 Average daily energy consumption for electric water heaters. For an electric water heater, calculate the average daily energy consumption, C_d , expressed in kilowatt-hours per day and defined as:

$$C_d = \frac{1}{3,412 \text{ Btu/kWh}} \times \left[C_{wh} + C_{sh} \times \left(\frac{24 \text{ hours}}{\text{day}} - \frac{C_{wh}}{P \times 3,412 \text{ Btu/kWh}} \right) - J_A - J_e \right]$$

where C_{wh} is as calculated in section 4.3.

C_{sh} is as calculated in section 4.4.

J_A and J_e are as defined in section 4.5.2.

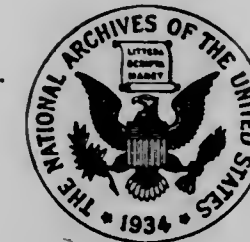
P = input power, determined in accordance with section 3.2.1 for electric water heaters with other than immersed heating elements or section 3.2.2 for electric water heaters with immersed heating elements, expressed in kilowatts.

J_A = daily energy credit for a heat trap installed in the outlet water connection of a water heater=1,311 Btu per day for water heaters that have such a heat trap as an integral part of the water heater, or zero for water heaters that do not.

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TUESDAY, OCTOBER 4, 1977

PART IV



DEPARTMENT OF
LABOR

Pension and Welfare Benefit
Programs

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MAINTENANCE OF
INDICIA OF OWNERSHIP
OF PLAN ASSETS
OUTSIDE THE
JURISDICTION OF
DISTRICT COURTS OF
UNITED STATES

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Title 29—Labor

CHAPTER XXV—PENSION AND WELFARE
BENEFIT PROGRAMS, DEPARTMENT OF
LABORSUBCHAPTER F—FIDUCIARY RESPONSIBILITY
UNDER THE EMPLOYEE RETIREMENT INCOME
SECURITY ACT OF 1974PART 2550—RULES AND REGULATIONS
FOR FIDUCIARY RESPONSIBILITYMaintenance of Indicia of Ownership of
Plan Assets Outside Jurisdiction of Dis-
trict Courts of the United States

AGENCY: Department of Labor.

ACTION: Final regulation.

SUMMARY: This regulation prescribes conditions which permit a fiduciary of an employee benefit plan to maintain the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States, a practice which is prohibited under section 404 (b) of the Employee Retirement Income Security Act of 1974 (ERISA) (29 U.S.C. 1104) except as authorized by the Secretary of Labor. Under the regulation, if certain protective conditions are met, a plan may invest in foreign securities without incurring the costs which would be associated with the physical transfer of securities to and from the United States in order to satisfy the requirements of section 404(b) of ERISA. The regulation affects participants and beneficiaries of employee benefit plans, their employers and fiduciaries of such plans.

EFFECTIVE DATE: January 1, 1975.

FOR FURTHER INFORMATION CON-
TACT:

Forrest Foss, Room C-4508, Plan Benefits Security Division, Office of the Solicitor, Department of Labor, 200 Constitution Avenue, NW., Washington, D.C. 20201 (202-523-6856—not a toll free number).

SUPPLEMENTARY INFORMATION: Section 404(b) of ERISA prohibits an employee benefit plan from maintaining the indicia of ownership of plan assets outside the jurisdiction of United States district courts. On December 17, 1976, the Department of Labor (Department), pursuant to specific statutory authority in section 404(b), published a proposed regulation (41 FR 55206) to permit the maintenance abroad of the indicia of ownership of plan assets if certain conditions are met. Public comments were received in response to the Department's proposed regulations which generally supported the proposal, although several suggestions for specific revisions were offered. The regulation, as adopted, states that the indicia of ownership of specified assets may be held abroad if such assets are under the management and control of certain banks, insurance companies or investment adviser fiduciaries, or if the indicia of the specified assets are in the physical possession of certain banks or brokers or dealers or if such banks or brokers or dealers main-

tain, under certain conditions, the indicia in the custody of entities which are designated by the Securities and Exchange Commission as "satisfactory control locations" pursuant to Rule 15c3-3 under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.). Additionally, the regulation provides broader relief from the statutory prohibition of section 404(b) to permit the maintenance in Canada of the indicia of ownership of plan assets, attributable to contributions on behalf of Canadian participants, if such maintenance is required by Canadian law as a condition to tax exempt status for the plan.

DISCUSSION OF MAJOR COMMENTS

Types Of Assets. The proposed regulation provided that only the indicia of ownership of securities issued by (1) a person not organized under the laws of the United States or a state and not having its principal place of business within the United States or (2) a government other than the government of the United States or a state or any political subdivision, agency or instrumentality of such a government could be maintained outside the jurisdiction of the district courts of the United States.

Several comments were received suggesting amendments that would expand the types of assets whose indicia of ownership a plan could maintain abroad. The Department was urged to delete the requirements which limited the securities whose indicia of ownership could be held abroad to those issued by a person not organized under the laws of the United States. As the comments noted, securities whose principal market is outside the jurisdiction of the district courts of the United States might be issued by a person who is organized under the laws of the United States. Because it generally would not be in the interest of plans to require that indicia of ownership be held in the United States in situations where the primary trading market for the securities in question is abroad, the Department has revised the regulation to permit a plan to maintain abroad the indicia of ownership of securities whose principal market is outside the United States, regardless of whether the issuer of the securities is organized under the laws of the United States.

A number of commentators questioned the effect of the proposed regulation on the investment by plans in American Depositary Receipts (ADR). An ADR is a certificate which enables the owner to demand delivery of foreign securities which are deposited with a foreign depository and is considered to be a security issued in the United States which, generally, is subject to registration under the Securities Act of 1933 (15 U.S.C. 77a et seq.). For purposes of section 404(b) and the regulation adopted thereunder, the ADR will be deemed to be the indicium of ownership of the interest held by the plan.

Another comment stated that the proposal failed to address the question of a plan maintaining foreign currency abroad. Such currency might be trans-

ferred abroad in order to purchase foreign securities, or might be generated from the proceeds of a sale of foreign traded securities (or the payment of interest or dividends attributable to foreign securities) where the proceeds are held for reinvestment. Because the inability to maintain foreign currency abroad could seriously hamper a plan's ability to trade in foreign securities, the regulation, as adopted, permits plans, under specified circumstances, to maintain foreign currency outside the jurisdiction of the district courts of the United States.

One comment suggested that an insurance company (meeting the standard of section (a) (2) (i) (B) of the proposal) be permitted to maintain abroad the indicia of ownership of foreign real estate. Because real estate is generally not the subject of frequent trading, the Department has determined not to incorporate this comment. Accordingly, when the indicia of ownership of real estate are portable, they must be held within the jurisdiction of the district courts of the United States, and when they are not portable, such as in foreign jurisdictions where the only recognized evidence of ownership is recordation, then plans may not hold such assets.

Qualifying Fiduciaries. Paragraph (a) (2) (i) of the proposal provided that certain fiduciaries could maintain abroad the indicia of ownership of certain plan assets without being subject to the requirements of paragraph (a) (2) (ii) of the proposal. Several comments urged the Department to revise section (a) (2) (i) (C) of the proposal which pertained to investment advisers registered under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) to eliminate either the net worth requirement or the assets under management test contained therein. These standards were included to ensure that only financially responsible investment advisers could act as fiduciaries of plans choosing to maintain the indicia of ownership of plan assets abroad. The comments noted that the investment advisory business is not capital intensive, and, as a result, many financially sound investment advisers would be unable to meet the requirements of the regulation.

In order that plan investments in foreign securities not be unnecessarily restricted where adequate safeguards are present, the Department has determined to provide an alternative standard to that set forth in proposed section (a) (2) (i) (C) by which an investment adviser may qualify under the regulation. Section (a) (2) (i) (C) of the regulation, as adopted, requires that the investment adviser have \$50,000,000 of client assets under its management and control and either shareholders' or partners' equity of more than \$750,000, or all of its obligations and liabilities assumed or guaranteed by an insurance company, bank, investment adviser or broker or dealer that satisfies the requirements of paragraphs (a) (2) (i) (A), (B) or (C) (1) or (a) (2) (ii) (A) (2) of the regulation.

Comments were received urging the Department to clarify the effect of the regulation on so called "directed trustees"—person having physical possession of the indicia of ownership but subject to the directions of another fiduciary. The Department notes that if the fiduciary possessing management and control of the indicia of ownership satisfies the requirements of section (a) (2) (i) of the regulation, then such fiduciary may maintain the indicia of ownership of the plan assets in the physical possession of any person, including a "directed trustee," regardless of whether such other person satisfies any requirements of the regulation. Similarly, a fiduciary which does not meet the requirements of section (a) (2) (i) may maintain the indicia of ownership of plan assets abroad in the physical possession of a person, including a "directed trustee," if such person satisfies the requirements of section (a) (2) (ii) (A) of the regulation. Finally, a "directed trustee" which is a bank or broker or dealer meeting the requirements of paragraph (a) (2) (ii) (A) of the regulation may maintain, under certain circumstances, the indicia of ownership of certain plan assets in the custody of various entities designated by the Securities and Exchange Commission as "satisfactory control locations" pursuant to Rule 15c3-3 under the Securities Exchange Act of 1934. Accordingly, the Department does not believe that it is necessary to provide additional relief for "directed trustees."

Custodians. If fiduciaries did not meet the tests set forth in section (a) (2) (i), the proposed regulation required that the indicia of ownership be maintained in the physical possession of certain persons specified in paragraph (a) (2) (ii). One comment suggested that the Department permit a plan to maintain the indicia of ownership of plan assets in the custody of various foreign depositories, foreign clearing agencies, foreign custodian banks or other entities which the Securities and Exchange Commission had designated as "satisfactory control locations" pursuant to Rule 15c3-3 under the Securities Exchange Act of 1934. In order not to disrupt established procedures, particularly where a United States bank or broker or dealer will remain liable to the plan to the same extent it would be if it retained physical possession of the indicia of ownership, the Department has determined to modify the proposed regulation in response to this comment. Accordingly, paragraph (a) (2) (ii) (B) of the regulation, as adopted, now permits a bank or broker or dealer satisfying the conditions of paragraph (a) (2) (ii) (A) to maintain the indicia of ownership in the custody of an entity designated by the Securities Exchange Commission as a "satisfactory control location" pursuant to Rule 15c3-3 under the Securities Exchange Act of 1934, if such entity holds the indicia as agent for the bank or broker or dealer and the bank or broker or dealer is liable to the plan to the same extent it would be if it retained physical possession of the indicia of ownership pursuant to paragraph (a) (2) (ii) (A).

Other comments also urged the Department to expand the persons qualifying under the alternative standard of proposed paragraph (a) (2) (ii). However, these comments did not adequately describe the regulatory provisions to which these various persons would be subject with respect to their operations abroad nor demonstrate the existence of alternate safeguards that would ensure adequate protections to plant utilizing the services of such persons. Accordingly, these comments were not adopted.

One comment suggested that the Department permit the indicia of ownership of plan assets to be held abroad by a person other than a qualifying custodian, if such assets do not exceed one percent of the total assets of the plan. Because the Department does not believe it is appropriate that any portion of a plan's assets not be subject to protections deemed necessary under section 404(b) for the other assets of the plan, it has determined not to incorporate this suggestion.

The Department was also urged to amend section (a) (2) (ii) (B) of the proposal so that a broker or dealer would qualify as a custodian if its net worth was less than \$750,000 but its liabilities and obligations were assumed or guaranteed by a person with a net worth in excess of \$750,000. As in the case of investment advisers, the Department believes that an alternative standard for brokers or dealers can provide adequate protections to plans maintaining the indicia of ownership of plan assets abroad. Accordingly, the Department has created a new section (a) (2) (ii) (A) (3) which permits a broker or dealer registered under the Securities Exchange Act of 1934 to qualify as a custodian if a person meeting the requirements of the regulation under paragraphs (a) (2) (i) (A), (B) or (C) (1) or (a) (2) (ii) (A) (2) assumes or guarantees all the obligations and liabilities of the broker or dealer.

Canadian Plans. Paragraph (b) of the proposal provided that a fiduciary of a plan could maintain the indicia of ownership of plan assets in Canada, notwithstanding the requirements of paragraph (a), if certain conditions were met. One of these conditions was that the plan receive contributions on behalf of its participants from one or more employers which are organized under the laws of Canada or a Province of Canada or have their principal place of business in Canada. Several comments urged the Department to revise this provision to permit a plan fiduciary to maintain the indicia of ownership of plan assets in Canada if the plan receives contributions on behalf of one or more employers which maintain a place of business in Canada but which are neither organized under the laws of Canada nor have their principal place of business in Canada. The comments noted that the proposal would not permit an employer, whose principal place of business is in the United States and which is not organized under the laws of Canada but which has a branch operation in Canada and maintains one plan

to cover all of its employees, to retain the assets of its plan derived from contribution on behalf of its Canadian employees in Canada as required by Canadian law. Because the Department does not intend this regulation to require a company to set up separate plans for United States and Canadian employees in order to comply with Canadian law, it has determined to delete from paragraph (b) of the regulation, as adopted, any requirement respecting the place of business of the contributing employer. Accordingly, the regulation now permits a plan fiduciary to maintain in Canada the indicia of ownership of plan assets attributable to a contribution on behalf of a Canadian participant if such indicia must remain in Canada in order for the plan to qualify for and maintain tax exempt status under the laws of Canada and to comply with other applicable laws of Canada or its provinces.

Other Foreign Jurisdictions. Pursuant to its request for comments respecting the interrelationship between the proposed regulation and the requirements of the laws of foreign jurisdictions other than Canada, the Department received one comment indicating that certain countries may tax or otherwise impede the removal of plan assets held in those countries. The comment further indicated that the laws of such countries may make it difficult or impossible for a United States bank to establish a branch office there that would be qualified under section (a) (2) (ii) of the regulation to retain in such country the physical possession of the indicia of ownership of plan assets. Although the regulation provides no specific relief for plans under these circumstances, the Department notes that pursuant to the provisions of section (a) (2) (i) of the regulation, the indicia of ownership of certain plan assets may be held in such a country provided that such indicia are under the management and control of an entity satisfying the requirements of section (a) (2) (i). Moreover, pursuant to section (a) (2) (ii) (B) of the regulation, a bank or broker or dealer satisfying the requirements of section (a) (2) (ii) (A) of the regulation may maintain, under certain conditions, the indicia of ownership of certain plan assets in the custody of entities designated by the Securities and Exchange Commission as "satisfactory control locations" pursuant to Rule 15c3-3 under the Securities Exchange Act of 1934.

Other Matters. In addition to the changes noted above which have been made in the regulation as adopted pursuant to suggestions made in the written comment letters, other minor changes intended to clarify the provisions of the regulation have been made.

The Department received one request for a public hearing. The Department believes that the subject of this regulation is susceptible to full and complete written comments and that all interested persons have had an opportunity to furnish such comments. Accordingly, the Department has determined not to hold

a public hearing with respect to this regulation.

The regulations set forth below are adopted pursuant to the authority contained in sections 404(b) and 505 (29 U.S.C. 1135) of ERISA.

Part 2550 of Chapter XXV of Title 29 of the Code of Federal Regulations is amended as follows:

PARAGRAPH 1. Section 2550.404b-1 is inserted in the appropriate place to read as set forth below:

§ 2550.404b-1 Maintenance of the indicia of ownership of plan assets outside the jurisdiction of the district courts of the United States.

(a) Effective January 1, 1975, no fiduciary may maintain the indicia of ownership of any assets of a plan outside the jurisdiction of the district courts of the United States, unless:

(1) Such assets are (i) Securities issued by a person, as defined in section 3(9) of the Employee Retirement Income Security Act of 1974 (Act) (other than an individual), which is not organized under the laws of the United States or a State and does not have its principal place of business within the United States, (ii) securities issued by a government other than the government of the United States or of a State, or any political subdivision, agency or instrumentality of such a government, (iii) securities issued by a person, as defined in section 3(9) of the Act (other than an individual), the principal trading market for which securities is outside the jurisdiction of the district courts of the United States, or (iv) currency issued by a government other than the government of the United States if such currency is maintained outside the jurisdiction of the district courts of the United States solely as an incident to the purchase, sale or maintenance of securities described in paragraph (a) (1) of this section; and

(2) (i) Such assets are under the management and control of a fiduciary which

is a corporation or partnership organized under the laws of the United States or a State, which fiduciary has its principal place of business within the United States and which is—

(A) A bank as defined in section 202 (a) (2) of the Investment Advisers Act of 1940 that has, as of the last day of its most recent fiscal year, equity capital in excess of \$1,000,000;

(B) An insurance company which is qualified under the laws of more than one State to manage, acquire, or dispose of any asset of a plan, which company has, as of the last day of its most recent fiscal year, net worth in excess of \$1,000,000 and which is subject to supervision and examination by the State authority having supervision over insurance companies; or

(C) An investment adviser registered under the Investment Advisers Act of 1940 that has, as of the last day of its most recent fiscal year, total client assets under its management and control in excess of \$50,000,000 and either (1) Shareholders' or partners' equity in excess of \$750,000 or (2) all of its obligations and liabilities assumed or guaranteed by a person described in paragraph (a) (2) (i) (A), (B), or (C) (1) or (a) (2) (ii) (A) (2) of this section; or

(ii) Such indicia of ownership are either

(A) In the physical possession of, or, as a result of normal business operations, are in transit to the physical possession of, a person which is organized under the laws of the United States or a State, which person has its principal place of business in the United States and which is—

(1) A bank as defined in section 202 (a) (2) of the Investment Advisers Act of 1940 that has, as of the last day of its most recent fiscal year, equity capital in excess of \$1,000,000;

(2) A broker or dealer registered under the Securities Exchange Act of 1934 that has, as of the last day of its most recent fiscal year, net worth in excess of \$750,000; or

(3) A broker or dealer registered under the Securities Exchange Act of 1934 that has all of its obligations and liabilities assumed or guaranteed by a person described in paragraph (a) (2) (i) (A), (B), or (C) (1) or (a) (2) (ii) (A) (2) of this section; or

(B) Maintained by a bank or broker or dealer, described in paragraph (a) (2) (ii) (A) (1), (2) or (3), in the custody of an entity designated by the Securities and Exchange Commission as a "satisfactory control location" pursuant to Rule 15c3-3 under the Securities Exchange Act of 1934, provided that:

(1) Such entity holds the indicia of ownership as agent for the bank or broker or dealer, and

(2) Such bank or broker or dealer is liable to the plan to the same extent it would be if it retained the physical possession of the indicia of ownership pursuant to paragraph (a) (2) (ii) (A).

(b) Notwithstanding any requirement of paragraph (a) of this section, a fiduciary with respect to a plan may maintain in Canada the indicia of ownership of plan assets which are attributable to a contribution made on behalf of a plan participant who is a citizen or resident of Canada, if such indicia of ownership must remain in Canada in order for the plan to qualify for and maintain tax exempt status under the laws of Canada or to comply with other applicable laws of Canada or any Province of Canada.

(c) For purposes of this regulation the term "management and control" means the power to direct the acquisition or disposition through purchase, sale, pledging, or other means.

Signed at Washington, D.C. this 30th day of September 1977.

IAN D. LANOFF,
Administrator of Pension and
Welfare Benefit Programs,
Labor-Management Services
Administration, Department
of Labor.

[FR Doc.77-29187 Filed 9-30-77;10:50 am]

TUESDAY, OCTOBER 4, 1977

PART V



DEPARTMENT OF TRANSPORTATION

Urban Mass Transportation
Administration

CAPITAL AND OPERATING ASSISTANCE FUNDS

Fiscal Year 1978 Formula
Apportionment

Federal Register

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DEPARTMENT OF
TRANSPORTATIONUrban Mass Transportation Administration
FORMULA APPORTIONMENT OF CAPITAL
AND OPERATING ASSISTANCE FUNDS
FY 1978 Formula Apportionment

A program of Federal assistance to urban mass transportation systems through grants on a formula basis for capital or operating assistance was enacted on November 26, 1974. The program was established pursuant to Section 5 of the Urban Mass Transportation Act of 1964 (49 U.S.C. 1604), as amended by Section 103(a) of Pub. L. 93-503 (88 Stat. 1565; November 26, 1974), the National Mass Transportation Assistance Act of 1974. An aggregate amount of \$3.975 billion is authorized for this program for fiscal years 1975 through 1980.

The purpose of this Notice is to provide a formal list of amounts apportioned to urbanized areas in fiscal years 1976, Transition Quarter (TQ), 1977 and 1978. In fiscal year 1975, \$300 million was made available; in fiscal year 1976, an additional \$500 million was made available. The Transition Quarter and fiscal year 1977 apportionments were \$125 million and \$650 million respectively. The fiscal year 1978 apportionment will be \$775 million. These amounts are available for programming in the annual elements of Transportation Improvement Programs (TIP's) developed in accordance with 23 CFR Part 450 Subpart C and for subsequent filing of individual Section 5 project applications.

These apportioned funds remain available for obligation for two fiscal years following the year in which they are apportioned. Fiscal year 1975 funds will remain available only through September 30, 1977; therefore, those amounts have been removed from the following apportionment schedule.

For urbanized areas with a population of 200,000 persons or more, this Notice provides the formula factor weight and individual amounts for each apportionment. For urbanized areas with a population of under 200,000 persons, this Notice provides the formula factor

weight but aggregates the amounts for each State.

The factor weight is computed in accordance with the Section 5 formula described in an attachment to this Notice. The attachment also describes the rounding procedures used to assure that all funds are apportioned; such procedures are consistent with those printed in the July 1, 1976 FEDERAL REGISTER. If changes to the basic formula data are reported to UMTA by the United States Bureau of the Census, appropriate changes are made to the factor weights with respect to all apportionments subsequent to the reporting of the changes.

Amounts to be made available in subsequent fiscal years will be made known through notification in the FEDERAL REGISTER.

RICHARD S. PAGE,
Urban Mass Transportation
Administrator.

TECHNICAL APPENDIX: EXPLANATION OF APPORTIONMENT FORMULA AND DATA SOURCES

Section 5(b)(1) of the Urban Mass Transportation Act of 1964, as amended, directs the Secretary to apportion authorized funds on the basis of a formula under which urbanized areas would be entitled to receive an amount equal to the sum of:

"(A) One-half of the total amount so apportioned multiplied by the ratio which the population of such urbanized area or part thereof, . . . bears to the total population of all urbanized areas . . . ; and

"(B) One-half of the total amount so apportioned multiplied by a ratio for that urbanized area determined on the basis of population weighted by a factor of density, as determined by the Secretary."

The mathematical expression of the apportionment formula utilized to devise the attached allocation projects is as follows:

Factor Weight

$$= \left[\left(\frac{p_i}{\sum_{i=279}^N p_i} \right) + \left(\frac{p_i d_i}{\sum_{i=279}^N p_i d_i} \right) \right] \div 2$$

Where:

p = population of urbanized area.

d = population density of urbanized area.

i = i-th urbanized area case.

p = sum of the populations for 279 urbanized areas

calculated to equal 121,808,823.

pd = sum of the population times density products for 279 urbanized areas is calculated to equal 498,683,712,680.

In cases wherein the urbanized area is divided by two or more State boundaries, an apportionment factor weight is calculated for

the whole area. State allocation is made on the basis of the ratios of each State urbanized area component to the sum of all component population and population density values, and applying those ratios to the apportionment factors of the whole urbanized area.

The primary source of data was the Bureau of the Census Report of the County and City Data Book of 1972. Additional Bureau of the Census reports, PC(1) and HC(3) series, were consulted to verify data items and multi-state components.

Population densities are calculated by the Bureau of the Census on a land area to the nearest tenth of a square mile; land area is reported to the nearest whole square mile.

Due to significant number limitations in computation and printout, the various factor weight columns may not add to the printed totals. This also applies to the illustrational splits of the funds apportioned to multi-state urbanized areas over 200,000; the area total is the correct apportionment amount.

FY 1978 ROUNDING PROCEDURE

Though the factor weights have not been adjusted, the dollar apportionment of fiscal year 1978 funds has been adjusted so that the sum of fiscal year 1978 allocations to urbanized areas will add to \$500 million exactly. In addition, the assignment of amounts to portions of multi-state urbanized areas of over 200,000 population has been adjusted so that the sum of the parts is equal to the urbanized area total.

It should be noted that the unadjusted apportionment of fiscal year 1976 funds falls \$98 short of \$500 million. Therefore, the following rounding procedure was used for FY 1976. One dollar was added to each of the 98 largest urbanized areas (by population). For multi-state urbanized areas over 200,000 population the required adjustment to the multi-state split (never more than \$4) was spread equally among the state components except that all adjustments were in whole dollar increments with the first dollar of adjustment made to the first state cited.

TQ AND FY 1977 ROUNDING PROCEDURES

In the same manner the dollar apportionment of TQ and FY 1977 funds have been adjusted so that the sum of the allocations add exactly to \$125 million and \$650 million respectively. A similar rounding procedure to that described for FY 1976 rectified shortfalls in the unadjusted apportionments of \$131 in the TQ and \$159 in FY 1977.

FY 1978 ROUNDING PROCEDURES

In the same manner the dollar apportionment of FY 1978 funds has been adjusted so that the sum of the allocations add exactly to \$775 million. A similar rounding procedure to that described for FY 1976 rectified shortfalls in the unadjusted apportionment of \$42 in FY 1978.

NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
SECTION 5 APPORTIONMENTS TO URBANIZED AREAS OVER 200,000 POPULATION

STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
AKRON, OHIO	.003715166	1.857,583	.003714963	464,371	2,416,726	2,879,096
ALBANY-SCHENECTADY-TROY, NY	.003613054	1.806,528	.003612859	451,608	2,349,359	2,799,965
ALBUQUERQUE, N.MEX.	.002015507	1,007,754	.00201539	251,925	1,310,008	1,561,927
ALLEN-TOWN-BETHLEHEM-EASTON, PA-NJ (PART: NEW JERSEY)	.002870612	1,435,307	.002870458	358,808	1,865,799	2,224,604
(PART: PENNSYLVANIA)	.00202308	101,155	.00202297	25,288	131,494	156,780
ATLANTA, GA.	.002668304	1,334,152	.002668161	333,520	1,734,305	2,067,824
AURORA-ELGIN, ILL.	.008062327	4,031,164	.008061889	1,007,737	5,240,228	6,247,964
AUSTIN, TEX.	.001681841	840,921	.001681750	210,219	1,093,138	1,303,356
BALTIMORE, MD.	.001923474	961,738	.001923370	240,422	1,250,191	1,490,611
BATON ROUGE, LA.	.014766851	7,383,426	.014766068	1,845,759	9,597,944	11,443,703
BIRMINGHAM, ALA.	.001779788	889,894	.001779691	222,462	1,156,800	1,379,260
BOSTON, MASS.	.003715702	1,857,851	.003715499	464,438	2,415,075	2,879,511
BRIDGEPORT, CONN.	.021767057	10,883,529	.021765891	2,720,737	14,147,828	16,868,566
BUFFALO, N.Y.	.002876531	1,438,266	.002876374	359,547	1,869,644	2,220,189
CANTON, OHIO	.010136739	5,068,370	.010136201	1,267,026	6,588,531	7,855,556
CHARLESTON, S.C.	.001796760	898,380	.001796662	224,583	1,167,831	1,392,413
CHARLOTTE, NC.	.001477690	738,846	.001477610	184,702	960,447	1,145,147
CHATTANOOGA, TENN-GA. (PART: GEORGIA)	.001906998	953,500	.001906895	238,362	1,239,482	1,477,843
(PART: TENNESSEE)	.001357850	678,925	.001357775	169,722	882,555	1,052,275
CHICAGO, ILL.-NORTHWESTERN INDIANA (PART: ILLINOIS)	.000177769	88,885	.000177759	22,220	115,544	137,763
(PART: INDIANA)	.001180080	590,040	.001180016	147,502	767,010	914,512
	.063826205	31,913,103	.063822825	7,977,854	41,484,830	49,482,690
	.060314300	30,157,152	.060311112	7,538,890	39,202,217	46,741,111
	.003511901	1,755,951	.003511709	438,964	2,282,611	2,721,874

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NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
SECTION 5 APPORTIONMENTS TO URBANIZED AREAS OVER 200,000 POPULATION

STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
CINCINNATI, OHIO - KY. (PART) KENTUCKY (PART) OHIO	.008339362 .001395930 .006943432	4,169,682 697,966 3,471,716	.008338913 .001395854 .006943058	1,042,365 174,482 867,883	5,420,295 907,306 4,512,988	6,462,658 1,091,786 5,380,869
CLEVELAND, OHIO	.014151851	7,075,926	.014151085	1,768,886	9,198,205	10,967,091
COLORADO SPRINGS, COLO.	.001319110	659,555	.001319038	164,880	857,375	1,022,254
COLUMBIA, SC.	.001573956	786,979	.001573870	196,734	1,023,016	1,219,749
COLUMBUS, GA.-ALA. (PART) ALABAMA (PART) GEORGIA	.001277258 .000137954 .001139304	638,628 68,977 569,651	.001277187 .000137946 .001139241	159,649 17,244 142,405	830,173 89,666 740,507	989,819 106,908 882,911
COLUMBUS, OHIO	.005977257	2,988,629	.005976935	747,117	3,885,009	4,632,125
CORPUS CHRISTI, TEX.	.001230626	615,313	.001230558	153,820	799,863	953,682
DALLAS, TEX.	.008226389	4,113,195	.008225937	1,028,243	5,346,860	6,375,102
DAVENPORT-ROCK ISLAND-MOLINE, IOWA-ILL. (PART) ILLINOIS (PART) IOWA	.001706967 .000948906 .000758060	853,484 474,454 379,030	.001706873 .000948855 .000758018	213,360 118,607 94,753	1,109,469 616,756 492,712	1,322,826 735,362 587,463
DAYTON, OHIO	.004972060	2,486,030	.004971791	621,474	3,231,664	3,853,139
DENVER, COLO	.008147720	4,073,861	.008147282	1,018,411	5,295,734	6,314,144
DES MOINES, IOWA	.001666425	833,213	.001666334	208,292	1,083,118	1,291,408
DETROIT, MICH	.034871087	17,435,544	.034869230	4,358,654	22,664,997	27,023,654
EL PASO, TEX	.002365034	1,182,518	.002364906	295,614	1,537,189	1,832,802
FLINT, MICH	.002516730	1,258,366	.002516595	314,575	1,635,787	1,950,361
FORT LAUDERDALE-HOLLYWOOD, FLA.	.004343807	2,171,904	.004343572	542,947	2,823,322	3,366,269
FORT WAYNE, IND.	.001679443	839,722	.001679353	209,920	1,091,580	1,301,498
FORT WORTH, TEX.	.003966571	1,983,286	.003966352	495,794	2,578,129	3,073,923

NOTICES

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NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
SECTION 5 APPORTIONMENTS TO URBANIZED AREAS OVER 200,000 POPULATION

STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
FRESNO, CALIF	.001976999	988,500	.001976892	247,112	1,284,980	1,532,091
GRAND RAPIDS, MICH.	.002321768	1,160,885	.002321641	290,207	1,509,067	1,799,271
HARRISBURG, PA	.001747807	873,904	.001747713	218,465	1,136,014	1,354,477
HARTFORD, CONN	.003610860	1,805,431	.003610666	451,334	2,346,933	2,798,266
HONOLULU, HAWAII	.003564412	1,782,206	.003564221	445,528	2,316,743	2,762,271
HOUSTON, TEX.	.012256819	6,128,410	.012256156	1,532,020	7,966,502	9,498,521
INDIANAPOLIS, IND	.005180487	2,590,244	.005180203	647,526	3,367,132	4,014,658
JACKSONVILLE, FLA.	.002994303	1,497,152	.002994137	374,268	1,946,189	2,320,456
KANSAS CITY, MO. - KANS. (PART) KANSAS (PART) MISSOURI	.007051344 .002361865 .004689479	3,525,673 1,180,933 2,344,740	.007050958 .002361737 .004689221	881,370 295,218 586,152	4,583,124 1,535,129 3,047,994	5,464,493 1,830,346 3,634,146
LANSING, MICHIGAN	.001679463	839,732	.001679372	209,922	1,091,592	1,301,513
LAS VEGAS, NEV	.001446412	723,206	.001446332	180,792	940,116	1,120,907
LAWRENCE-HAVERHILL, MASS-N.H. (PART) MASSACHUSETTS (PART) NEW HAMPSHIRE	.001310376 .001212134 .000098242	655,187 606,067 49,120	.001310304 .001212068 .000098236	163,789 151,509 12,280	851,699 787,844 63,854	1,015,485 939,352 76,132
LITTLE ROCK-NORTH LITTLE ROCK, ARK.	.001448052	724,025	.001447973	180,997	941,183	1,122,179
LOS ANGELES -- LONG BEACH	.079864399	39,932,200	.079860171	9,982,522	51,909,102	61,891,633
LOUISVILLE, KY.-IND. (PART) INDIANA (PART) KENTUCKY	.005704391 .000577053 .005127337	2,852,196 288,527 2,563,669	.005704084 .000577022 .005127062	713,011 72,128 640,883	3,707,655 375,065 3,332,590	4,420,666 447,192 3,973,473
MADISON, WIS.	.001473638	736,818	.001473558	184,195	957,813	1,142,007
MEMPHIS, TENN. - MISS. (PART) MISSISSIPPI (PART) TENNESSEE	.005042038 .000065919 .004976119	2,521,019 32,959 2,488,060	.005041766 .000065915 .004975851	630,221 8,240 621,981	3,277,149 42,845 3,234,303	3,907,369 51,084 3,856,284

NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
SECTION 5 APPORTIONMENTS TO URBANIZED AREAS OVER 200,000 POPULATION

STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
MIAMI, FLA.	.010914489	5,457,245	.010913909	1,364,239	7,094,041	8,458,280
MILWAUKEE, WIS.	.008671847	4,335,924	.008671376	1,083,923	5,636,395	6,720,317
MINNEAPOLIS - ST. PAUL	.011134050	5,567,025	.011133441	1,391,681	7,236,737	8,628,417
MOBILE, ALA	.001463798	731,899	.001463717	182,965	951,416	1,134,380
NASHVILLE-DAVIDSON, TENN	.002442463	1,221,232	.002442327	305,291	1,587,513	1,892,803
NEW HAVEN, CONN	.002591518	1,295,760	.002591378	323,923	1,684,396	2,008,317
NEW ORLEANS, LA.	.009112177	4,556,089	.009111694	1,138,962	5,922,601	7,061,563
NEWPORT NEWS-HAMPTON, VA	.001617093	808,547	.001617004	202,126	1,051,053	1,253,178
NEW YORK, N.Y.: NORTHEASTERN N.J.	.177799223	88,899,612	.177789895	22,223,737	115,563,412	137,787,169
(PART) NEW JERSEY	.035558460	17,779,232	.035558538	4,444,568	23,111,747	27,556,316
(PART) NEW YORK	.142240756	71,120,380	.142233349	17,779,169	92,451,660	110,230,845
NORFOLK - PORTSMOUTH, VA.	.004277488	2,138,745	.004277254	534,657	2,780,215	3,316,872
OKLAHOMA CITY, OKLA.	.003398474	1,699,238	.003398287	424,786	2,208,886	2,633,672
OMAHA, NEBR-IOWA	.003661649	1,830,825	.003661451	457,682	2,379,944	2,837,624
(PART) IOWA	.003359415	1,79,708	.003359395	44,925	233,607	278,531
(PART) NEBRASKA	.003302234	1,651,117	.003302056	412,757	2,146,336	2,559,093
ORLANDO, FLA	.001982030	991,015	.001981922	247,741	1,288,249	1,535,989
OXNARD-VENTURA-THOUSAND OAKS, CALIF	.001555705	777,853	.001555620	194,453	1,011,153	1,205,605
PEORIA, ILL	.001602372	801,186	.001602284	200,286	1,041,485	1,241,770
PHILADELPHIA, PA.-NEW JERSEY	.038602771	19,301,386	.038600728	4,825,091	25,090,471	29,915,565
(PART) NEW JERSEY	.003480259	2,740,130	.003479962	684,996	3,561,975	4,246,970
(PART) PENNSYLVANIA	.033122511	16,561,256	.033120764	4,140,095	21,528,494	25,668,592
PHOENIX, ARIZ	.005520090	2,760,046	.005519788	689,974	3,587,862	4,277,836
PITTSBURGH, PA.	.013447439	6,723,720	.013446711	1,680,839	8,740,362	10,421,202

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NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
SECTION 5 APPORTIONMENTS TO URBANIZED AREAS OVER 200,000 POPULATION

STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
PORTLAND, OREG. - WASH.	.006006607	3,003,304	.006006282	750,786	3,904,084	4,654,869
(PART) OREGON	.0055333679	2,766,842	.005533380	691,673	3,596,697	4,288,369
(PART) WASHINGTON	.000472928	236,462	.000472902	59,113	307,387	366,499
PROVIDENCE-PAWTUCKET-WARWICK, R.I.-MASS.	.005926602	2,963,301	.005926282	740,786	3,852,084	4,592,869
(PART) MASSACHUSETTS	.000404519	202,259	.000404497	50,563	262,923	313,485
(PART) RHODE ISLAND	.005522083	2,761,042	.005521785	690,223	3,589,160	4,279,383
RICHMOND, VA.	.002942858	1,471,429	.002942698	367,838	1,912,754	2,280,590
ROCHESTER, N.Y.	.005018179	2,509,090	.005017911	627,239	3,261,642	3,888,882
ROCKFORD, ILL.	.001561130	780,565	.001561046	195,131	1,014,680	1,209,810
SACRAMENTO, CALIF.	.004290868	2,145,434	.004344134	543,017	2,823,687	3,366,704
SALT LAKE CITY, UTAH	.003248480	1,624,240	.003248303	406,038	2,111,397	2,517,434
SAN ANTONIO, TEX	.005921791	2,960,896	.005921472	740,185	3,848,958	4,589,141
SAN BERNARDINO-RIVERSIDE, CALIF.	.003525125	1,762,563	.003524931	440,617	2,291,205	2,731,822
SAN DIEGO, CALIF.	.008794397	4,397,199	.008793922	1,099,241	5,716,050	6,815,290
SAN FRANCISCO - OAKLAND	.025730814	12,865,408	.025729442	3,216,181	16,724,135	19,940,318
SAN JOSE, CALIF. (INC)	.008104777	4,052,389	.008104342	1,013,043	5,267,823	6,280,866
SAN JUAN, P.R.	.010081345	5,040,673	.010080820	1,260,103	6,552,533	7,812,636
SCRANTON, PA.	.001273538	636,769	.001273468	159,184	827,755	986,937
SEATTLE-EVERETT, WASH	.008894300	4,447,151	.008893819	1,111,728	5,780,982	6,892,710
SHREVEPORT, LA	.001562158	781,080	.001562073	195,260	1,015,348	1,210,606
SOUTH BEND, IND-MICH	.002016712	1,008,356	.002016602	252,076	1,310,793	1,562,866
(PART) INDIANA	.001876163	938,082	.001876061	234,508	1,219,440	1,453,947
(PART) MICHIGAN	.000140549	70,274	.000140541	17,568	91,352	108,919
SPOKANE, WASH	.001638690	819,346	.001638601	204,826	1,065,091	1,269,915

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NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
SECTION 5 APPORTIONMENTS TO URBANIZED AREAS OVER 200,000 POPULATION

STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
SPRINGFIELD-CHICOPEE-HOLYOKE, MASS.-CONN. (PART)CONNECTICUT) (PART)MASSACHUSETTS)	.003254013 .000384623 .002869390	1,627,007 192,312 1,434,695	.003253835 .000384602 .002869232	406,730 48,076 358,654	2,114,994 249,992 1,865,001	2,521,722 298,066 2,223,656
ST. LOUIS, MO. - ILL. (PART)ILLINOIS) (PART)MISSOURI)	.015637165 .002070552 .013566609	7,818,583 1,035,276 6,783,307	.015636329 .002070439 .013565885	1,954,542 258,806 1,695,736	10,163,614 1,345,786 8,817,825	12,118,155 1,604,590 10,513,560
ST. PETERSBURG, FLA	.003601884	1,800,943	.003601689	450,212	2,341,098	2,791,308
SYRACUSE, NY	.003055157	1,527,579	.003054993	381,875	1,985,746	2,367,619
TACOMA, WASH	.002247673	1,123,837	.002247550	280,944	1,460,908	1,741,851
TAMPA, FLA	.002584185	1,292,093	.002584045	323,006	1,679,629	2,002,634
TOLEDO, OHIO-MICH (PART)MICHIGAN) (PART)OHIO)	.003479117 .000044281 .003414836	1,739,559 32,140 1,707,419	.003478928 .000044277 .003414651	434,867 8,035 426,832	2,261,304 41,781 2,219,523	2,696,169 49,814 2,646,354
TRENTON, NJ-PA (PART)NEW JERSEY) (PART)PENNSYLVANIA)	.002305991 .002081352 .000224638	1,152,986 1,040,677 112,319	.002305868 .002081241 .000224626	288,234 260,156 28,078	1,498,815 1,352,807 146,008	1,787,047 1,612,961 174,085
TUCSON, ARIZ	.002056839	1,028,420	.002056727	257,091	1,336,873	1,593,963
TULSA, OKLA	.002312298	1,156,150	.002312171	289,022	1,502,912	1,791,932
WASHINGTON, D.C. - MARYLAND - VIRGINIA (PART)MARYLAND) (PART)DISTRICT OF COLUMBIA) (PART)VIRGINIA)	.002978783 .007373766 .010444258 .005160754	11,489,392 3,686,888 5,222,128 2,580,376	.002977563 .007373368 .010443717 .005160474	2,872,196 921,671 1,305,465 648,060	14,935,418 4,792,690 6,788,416 3,354,308	17,807,612 5,714,360 8,093,880 3,999,367
WEST PALM BEACH, FLA	.001803142	901,572	.001803043	225,381	1,171,979	1,397,358
WICHITA, KANS	.002134631	1,067,316	.002134515	266,815	1,387,435	1,654,249
WILKES-BARRE, PA.	.001533002	766,501	.001532918	191,615	996,397	1,188,011
WILMINGTON, DEL-NJ (PART)DELAWARE) (PART)NEW JERSEY)	.002813571 .002689636 .000123935	1,406,786 1,344,818 61,968	.002813419 .002689491 .000123928	351,678 336,187 15,491	1,828,724 1,748,169 80,554	2,180,399 2,084,355 96,044

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NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
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STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
WORCESTER, MASS	.001760608	880,305	.001760513	220,065	1,144,334	1,364,397
YOUNGSTOWN-WARREN, OHIO	.002873579	1,436,790	.002873423	359,178	1,867,725	2,226,902

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NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
SECTION 5 APPORTIONMENTS TO URBANIZED AREAS UNDER 200,000 POPULATION

STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
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STATE - ALABAMA

HUNTSVILLE, ALA.	.000780954		.000780911			
MONTGOMERY, ALA.	.000958873		.000958821			
TUSCALOOSA, ALA.	.000525860		.000525832			
GADSDEN, ALA.	.000363268		.000363247			
FLORENCE, ALA.	.000355141		.000355121			
ANNISTON, ALA.	.000336737		.000336719			
GOVERNORS APPORTIONMENT FOR ALABAMA	.003320833	1,660,414	.003320650	415,078	2,158,419	2,573,503

STATE - ALASKA

ANCHORAGE, ALASKA	.000686119		.000686081			
GOVERNORS APPORTIONMENT FOR ALASKA	.000686119	343,059	.000686081	85,761	445,952	531,712

STATE - ARIZONA

GOVERNORS APPORTIONMENT FOR ARIZONA	.0		.0			
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STATE - ARKANSAS

FORT SMITH, ARK.-OKLA	.000396977		.000396955			
PINE BLUFF, ARK.	.000433225		.000433202			
TEXARKANA, TEX.-ARK.	.000138523		.000138515			
GOVERNORS APPORTIONMENT FOR ARKANSAS	.000968725	484,361	.000968672	121,084	629,635	750,720

STATE - CALIFORNIA

BAKERSFIELD, CALIF.	.001280481		.001280412			
STOCKTON, CALIF.	.001222933		.001222867			
SANTA BARBARA, CALIF	.000999064		.000999011			
MODESTO, CALIF	.000772715		.000772673			
SEASIDE-MONTEREY, CALIF	.000753893		.000753853			
SANTA ROSA, CALIF	.000459852		.000459827			
SANTA CRUZ, CALIF	.000465225		.000465200			

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NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
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STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
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STATE - CALIFORNIA

SALINAS, CALIF.	.000523551		.000523523			
ANTIOCH-PITTSBURG, CALIF.	.000408151		.000408129			
SIMI VALLEY, CALIF.	.000368012		.000367992			
GOVERNORS APPORTIONMENT FOR CALIFORNIA	.007253878	3,626,935	.007253486	906,683	4,714,759	5,621,451

STATE - COLORADO

PUEBLO, COLO	.000772013		.000771971			
BOULDER, COLO.	.000624979		.000624946			
GOVERNORS APPORTIONMENT FOR COLORADO	.001396992	698,495	.001396918	174,615	907,995	1,082,611

STATE - CONNECTICUT

STAMFORD, CONN.	.001263683		.001263614			
WATERBURY, CONN.	.001067113		.001067055			
NEW LONDON-NORWICH, CONN	.000834764		.000834718			
NEW BRITAIN, CONN	.000992433		.000992379			
NORWALK, CONN	.000719860		.000719821			
MERIDEN, CONN	.000545032		.000545002			
BRISTOL, CONN	.000436160		.000436136			
DANBURY, CONN.	.000356717		.000356697			
GOVERNORS APPORTIONMENT FOR CONNECTICUT	.006215761	3,107,877	.006215422	776,924	4,040,021	4,816,952

STATE - DELAWARE

GOVERNORS APPORTIONMENT FOR DELAWARE	.0		.0			
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STATE - DISTRICT OF COLUMBIA

GOVERNORS APPORTIONMENT FOR DIST OF COLUMBIA	.0		.0			
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STATE - FLORIDA

MELBOURNE-COCOA, FLA.	.001042667		.001042610			
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NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
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STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - FLORIDA						
SARASOTA-BRADENTON, FLA.	.001000568		.001000513			
PENSACOLA, FLA.	.001113421		.001113361			
DAYTONA BEACH, FLA.	.000633107		.000633072			
TALLAHASSEE, FLA.	.000528473		.000528444			
GAINESVILLE, FLA.	.000454882		.000454857			
FORT MYERS, FLA.	.000396896		.000396874			
LAKELAND, FLA.	.000461591		.000461567			
GOVERNORS APPORTIONMENT FOR FLORIDA	.005611606	2,805,799	.005611298	701,411	3,647,339	4,348,755
STATE - GEORGIA						
SAVANNAH, GA.	.001102008		.001101944			
AUGUSTA, GA-S.C.	.000880823		.000880775			
MACON, GA	.000854076		.000854030			
ALBANY, GA	.000496902		.000496875			
GOVERNORS APPORTIONMENT FOR GEORGIA	.003333809	1,666,903	.003333628	416,702	2,166,856	2,583,561
STATE - HAWAII						
GOVERNORS APPORTIONMENT FOR HAWAII	.0		.0			
STATE - IDAHO						
BOISE, IDAHO	.000603301		.000603269			
GOVERNORS APPORTIONMENT FOR IDAHO	.000603301	301,650	.000603269	75,409	392,124	467,533
STATE - ILLINOIS						
JOLIET, ILL.	.001089921		.001089862			
SPRINGFIELD, ILL	.000943335		.000943284			
CHAMPAIGN-URBANA, ILL	.000978253		.000978201			
DECATUR, ILL	.000683706		.000683669			
ALTON, ILL	.000622170		.000622136			

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STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - ILLINOIS						
BLOOMINGTON-NORMAL, ILL.	.000533430		.000533401			
DUBUQUE, IOWA-ILL.	.000014397		.000014396			
GOVERNORS APPORTIONMENT FOR ILLINOIS	.004865212	2,432,603	.004864950	608,117	3,162,213	3,770,336
STATE - INDIANA						
EVANSVILLE, IND	.001099778		.001099719			
MUNCIE, IND	.000714082		.000714043			
TERRE HAUTE, IND	.000544902		.000544872			
ANDERSON, IND	.000485490		.000485463			
LAFAYETTE-WEST LAFAYETTE, IND	.000670531		.000670495			
GOVERNORS APPORTIONMENT FOR INDIANA	.003514782	1,757,388	.003514592	439,322	2,284,482	2,723,808
STATE - IOWA						
CEDAR RAPIDS, IOWA	.000830600		.000830554			
WATERLOO, IOWA	.000652036		.000652000			
SILOUX CITY, IOWA-NEBR.-S.DAK	.000498686		.000498658			
DUBUQUE, IOWA-ILL.	.000485795		.000485769			
GOVERNORS APPORTIONMENT FOR IOWA	.002467117	1,233,556	.002466981	308,372	1,603,535	1,911,910
STATE - KANSAS						
TOPEKA, KANS	.000881854		.000881806			
ST JOSEPH, MO-KANS	.00006371		.00006370			
GOVERNORS APPORTIONMENT FOR KANSAS	.000888224	444,111	.000888176	111,022	577,313	688,336
STATE - KENTUCKY						
HUNTINGTON-ASHLAND, W.VA-KY-OHIO	.000331897		.000331879			
LEXINGTON, KY.	.001310154		.001310084			
CLARKSVILLE, KY.-TENN.	.000485248		.000485244			
OWENSBORO, KY.	.000461829		.000461805			

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STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - KENTUCKY						
GOVERNORS APPORTIONMENT FOR KENTUCKY	.002189129	1,094,562	.002189011	273,625	1,422,856	1,696,483
STATE - LOUISIANA						
MONROE, LA	.000581947		.000581915			
LAKE CHARLES, LA	.000601217		.000601184			
LAFAYETTE, LA	.000576912		.000576881			
ALEXANDRIA, LA	.000485369		.000485352			
GOVERNORS APPORTIONMENT FOR LOUISIANA	.002245446	1,122,721	.002245323	280,665	1,459,457	1,740,125

STATE - MAINE						
PORTLAND, MAINE	.000647180		.000647144			
LEWISTON-AUBURN, MAINE	.000331998		.000331980			
GOVERNORS APPORTIONMENT FOR MAINE	.000979178	489,588	.000979124	122,391	636,429	758,821

STATE - MARYLAND						
GOVERNORS APPORTIONMENT FOR MARYLAND	.0		.0			
STATE - MASSACHUSETTS						
LOWELL, MASS.	.001302563		.001302493			
BROCKTON, MASS.	.001044491		.001044435			
FALL RIVER, MASS.-R.I.	.000956134		.000956082			
NEW BEDFORD, MASS.	.001093302		.001093264			
FITCHBURG-LEOMINSTER, MASS.	.000423193		.000423170			
PITTSFIELD, MASS.	.000351219		.000351199			
GOVERNORS APPORTIONMENT FOR MASSACHUSETTS	.005170903	2,585,448	.005170623	646,326	3,360,902	4,007,232

STATE - MICHIGAN						
ANN ARBOR, MICH.	.001461414		.001461336			

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STATE - MICHIGAN						
KALAMAZOO, MICH.	.000948476		.000948424			
SAGINAW, MICH.	.001119860		.001119800			
MUSKEGON-MUSKEGON HEIGHTS, MICH.	.000653440		.000653404			
JACKSON, MICH.	.000494253		.000494226			
BAY CITY, MICH.	.000559749		.000559718			
BATTLE CREEK, MICH.	.000520469		.000520440			
GOVERNORS APPORTIONMENT FOR MICHIGAN	.005761660	2,880,825	.005761348	720,165	3,744,872	4,465,044

STATE - MINNESOTA						
DULUTH-SUPERIOR, MINN.-WIS.	.000584467		.000584435			
FARGO-MOORHEAD, N. DAK.-MINN.	.000241991		.000241978			
LA CROSSE, WIS.-MINN.	.000017405		.000017404			
ROCHESTER, MINN.	.000448408		.000448484			
ST. CLOUD, MINN.	.000361787		.000361767			
GOVERNORS APPORTIONMENT FOR MINNESOTA	.001654558	827,277	.001654468	206,807	1,075,401	1,282,212

STATE - MISSISSIPPI						
JACKSON, MISS.	.001294081		.001294011			
BOLOXI-GULFPORT	.000737635		.000737594			
GOVERNORS APPORTIONMENT FOR MISSISSIPPI	.002031716	1,015,857	.002031605	253,951	1,320,542	1,574,493

STATE - MISSOURI						
SPRINGFIELD, MO	.000737797		.000737756			
ST JOSEPH, MO-KANS.	.000502686		.000502658			
COLUMBIA, MO.	.000328932		.000328914			
GOVERNORS APPORTIONMENT FOR MISSOURI	.001569414	784,705	.001569328	196,166	1,020,061	1,216,229

STATE - MONTANA						
BILLINGS, MONT	.000485864		.000485837			

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NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
SECTION 5 APPORTIONMENTS TO URBANIZED AREAS UNDER 200,000 POPULATION

STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - MONTANA						
GREAT FALLS, MONT GOVERNORS APPORTIONMENT FOR MONTANA	.000528015 .001013878	506,938	.000527986 .001013823	126,728	658,985	785,712
STATE - NEBRASKA						
LINCOLN, NEBR. STOUC CITY, IOWA-NEBR.-S.DAK GOVERNORS APPORTIONMENT FOR NEBRASKA	.001094105 .000047450 .001141555	570,777	.001094046 .000047448 .001141493	142,686	741,969	884,657
STATE - NEVADA						
RENO, NEV GOVERNORS APPORTIONMENT FOR NEVADA	.000681412 .000681412	340,705	.000681375 .000681375	85,172	442,893	528,065
STATE - NEW HAMPSHIRE						
MANCHESTER, N.H. NASHUA, N.H. GOVERNORS APPORTIONMENT FOR NEW HAMPSHIRE	.000628339 .000364217 .00092556	496,277	.000628304 .000364197 .000925501	124,063	645,124	769,188
STATE - NEW JERSEY						
ATLANTIC CITY, N.J. VINELAND-MILLVILLE, N.J. GOVERNORS APPORTIONMENT FOR NEW JERSEY	.000825060 .000367263 .001192323	596,161	.000825015 .000367242 .001192257	149,031	774,966	923,999
STATE - NEW MEXICO						
GOVERNORS APPORTIONMENT FOR NEW MEXICO	.0	.0	.0			
STATE - NEW YORK						
UTICA-ROME, N.Y.	.001189350		.001188285			

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STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - NEW YORK						
BINGHAMTON, N.Y. POUGHKEEPSIE, N.Y. ELMIRA, N.Y. GOVERNORS APPORTIONMENT FOR NEW YORK	.001235662 .000619297 .000540552 .003583860	1,791,927	.001235595 .000619263 .000540523 .003583665	447,956	2,329,380	2,777,340
STATE - NORTH CAROLINA						
FAYETTEVILLE, N.C. RALEIGH, N.C. GREENSBORO, N.C. WINSTON-SALEM, N.C. DURHAM, N.C. GASTONIA, N.C. HIGH POINT, N.C. ASHEVILLE, N.C. BURLINGTON, N.C. WILMINGTON, N.C. GOVERNORS APPORTIONMENT FOR NORTH CAROLINA	.001027449 .000963059 .001014130 .000901686 .000656165 .000546382 .000556598 .000438596 .000365884 .000353111 .006823061	3,411,526	.001027393 .000963006 .001014075 .000901636 .000656129 .000546352 .000556568 .000438572 .000365864 .000353091 .006822887	852,832	4,434,739	5,287,582
STATE - NORTH DAKOTA						
FARGO-MOORHEAD, N. DAK.-MINN GOVERNORS APPORTIONMENT FOR NORTH DAKOTA	.000427929 .000427929	213,964	.000427906 .000427906	53,488	278,138	331,627
STATE - OHIO						
LORAIN-ELYRIA, OHIO HUNTINGTON-ASHLAND, W.VA-KY-OHIO SPRINGFIELD, OHIO WHEELING, W. VA.-OHIO HAMILTON, OHIO STEUBENVILLE-WEIRTON, OHIO-W. VA. MANSFIELD, OHIO LIMA, OHIO PARKERSBURG, W.VA.-OHIO	.001146137 .000183772 .000740615 .000285842 .000595465 .000322132 .000469761 .000473858 .000045825		.001146074 .000183762 .000740575 .000285827 .000595433 .000322114 .000469735 .000473833 .000045823			

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SECTION 5 APPORTIONMENTS TO URBANIZED AREAS UNDER 200,000 POPULATION

STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - OHIO						
GOVERNORS APPORTIONMENT FOR OHIO	.004263207	2,131,600	.004262975	532,868	2,770,929	3,303,805
STATE - OKLAHOMA						
LAWTON, OKLA	.000606589		.000606556			
FORT SMITH, ARK-OKLA	.000101139		.000101139			
GOVERNORS APPORTIONMENT FOR OKLAHOMA	.00016728	308,363	.00016694	77,086	400,851	477,937
STATE - OREGON						
EUGENE, OREG	.000931851		.000931800			
SALEM, OREG	.000623557		.000623523			
GOVERNORS APPORTIONMENT FOR OREGON	.001555407	777,703	.001555323	194,414	1,010,958	1,205,375
STATE - PENNSYLVANIA						
ERIE, PA.	.001439830		.001439753			
READING, PA.	.001394269		.001394194			
YORK, PA	.000922689		.000922639			
LANCASTER, PA	.000844689		.000844643			
JOHNSTOWN, PA	.000733858		.000733818			
ALTOONA, PA	.000686420		.000686384			
WILLIAMSPORT, PA.	.000455422		.000455398			
GOVERNORS APPORTIONMENT FOR PENNSYLVANIA	.006477178	3,238,586	.006476830	809,600	4,209,935	5,019,543
STATE - PUERTO RICO						
PONCE, P.R.	.001520094		.001520014			
HATAGUEZ, P.R.	.000633107		.000633074			
CHAUAS, P.R.	.000794257		.000794215			
GOVERNORS APPORTIONMENT FOR PUERTO RICO	.002947458	1,473,727	.002947304	368,411	1,915,745	2,284,160
STATE - RHODE ISLAND						
FALL RIVER, MASS.-R.I.	.000081317		.000081312			

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STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - RHODE ISLAND						
GOVERNORS APPORTIONMENT FOR RHODE ISLAND	.000081317	40,658	.000081312	10,164	52,852	63,016
STATE - SOUTH CAROLINA						
GREENVILLE, S.C.	.001002188		.001002133			
AUGUSTA, GA-S.C.	.000123575		.000123568			
SPARTANBURG, S.C.	.000456600		.000456575			
GOVERNORS APPORTIONMENT FOR SOUTH CAROLINA	.001582363	791,180	.001582276	197,782	1,028,478	1,226,263
STATE - SOUTH DAKOTA						
STOUX CITY, IOWA-NEBR.-S.DAK	.000004477		.000004477			
STOUX FALLS, S. DAK	.000524161		.000524133			
GOVERNORS APPORTIONMENT FOR SOUTH DAKOTA	.000528638	264,318	.000528610	66,075	343,596	409,672
STATE - TENNESSEE						
KNOXVILLE, TENN.	.001215087		.001215020			
KINGSFORD, TENN.-VA.	.000368637		.000368616			
CLARKSVILLE, KY.-TENN.	.000241880		.000241867			
GOVERNORS APPORTIONMENT FOR TENNESSEE	.001825604	912,801	.001825503	228,187	1,186,575	1,414,764
STATE - TEXAS						
LURBOCK, TEX.	.000917355		.000917305			
AMARILLO, TEX	.000794324		.000794281			
WACO, TEX	.000649235		.000649199			
PORT ARTHUR, TEX	.000669080		.000669043			
BEAUMONT, TEX	.000664304		.000664267			
WICHITA FALLS, TEX	.000632220		.000632185			
MCALLEN-PHARR-EDINBURG, TEX	.000635074		.000635040			
ABILENE, TEX	.000479247		.000479220			
TEXAS CITY-LA MARQUE, TEX	.000432760		.000432736			

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NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
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STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - TEXAS						
ODESSA, TEX.	.000607993		.000607961			
KILLEEN, TEX.	.000440094		.000440070			
LAREDO, TEX.	.000517189		.000517162			
SAN ANGELO, TEX.	.000336669		.000336647			
GALVESTON, TEX.	.000428148		.000428125			
MIDLAND, TEX.	.0003364847		.000336462			
TYLER, TEX.	.000393464		.000393443			
TEXARKANA, TEX.-ARK.	.000216343		.000216331			
SHERMAN-DENISON, TEX.	.000318371		.000318353			
BROWNSVILLE, TEX.	.000403202		.000403181			
BRYAN-COLLEGE STATION, TEX.	.000292227		.000292211			
HARLIGEN-SAN BENITO, TEX.	.000284577		.000284561			
GOVERNORS APPORTIONMENT FOR TEXAS	.010526724	5,263,351	.010526146	1,315,760	6,841,983	8,157,763

STATE - UTAH	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - UTAH						
OGDEN, UTAH.	.000992235		.000992181			
PROVO-OREM, UTAH	.000598698		.000598665			
GOVERNORS APPORTIONMENT FOR UTAH	.001590933	795,465	.001590845	198,855	1,034,048	1,232,904

STATE - VIRGINIA	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - VIRGINIA						
ROANOKE, VA.	.001022474		.001022419			
PETERSBURG-COLONIAL HEIGHTS, VA	.000658309		.000658273			
LYNCHBURG, VA.	.000429365		.000429342			
KINGSFORT, TENN.-VA.	.000244456		.000244434			
GOVERNORS APPORTIONMENT FOR VIRGINIA	.002134684	1,067,300	.002134487	266,809	1,387,415	1,654,227

STATE - WASHINGTON	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - WASHINGTON						
RICHLAND-KENNEWICK, WASH	.000387599		.000387577			
YAKIMA, WASHINGTON	.000459620		.000459595			
GOVERNORS APPORTIONMENT FOR WASHINGTON	.000847219	423,609	.000847172	105,496	550,661	656,558

STATE - WEST VIRGINIA	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - WEST VIRGINIA						
HUNTINGTON-ASHLAND, W.VA-KY-OHIO	.000692171		.000692134			

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NATIONAL MASS TRANSPORTATION ASSISTANCE ACT OF 1974
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STATE AND URBANIZED AREAS	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - WEST VIRGINIA						
CHARLESTON, W.VA.	.001060370		.001060312			
WHEELING, W. VA.-OHIO	.000415086		.000415064			
STEUBENVILLE-WEIRTON, OHIO-W. VA.	.000221848		.000221836			
PARKERSBURG, W.VA.-OHIO	.000434885		.000434861			
GOVERNORS APPORTIONMENT FOR WEST VIRGINIA	.002824360	1,412,178	.002824207	353,022	1,835,732	2,188,760

STATE - WISCONSIN	FACTOR WEIGHT	FY 1976 ALLOC	FACTOR WEIGHT	TRANS QTR	FY 1977 ALLOC	FY 1978 ALLOC
STATE - WISCONSIN						
DULUTH-SUPERIOR, MINN.-WIS	.000160827		.000160818			
APPLETON, WIS	.000996270		.000996216			
GREEN BAY, WIS	.000750658		.000750617			
RACINE, WIS	.000985886		.000985834			
KENOSHA, WIS	.000762700		.000762659			
LA CROSSE, WIS.-MINN.	.000418321		.000418298			
OSHKOSH, WIS.	.000478695		.000478670			
GOVERNORS APPORTIONMENT FOR WISCONSIN	.004553357	2,276,675	.004553111	569,137	2,959,518	3,528,661

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NOTICES

Registered
Federal Paper

TUESDAY, OCTOBER 4, 1977
PART VI



DEPARTMENT OF LABOR

Occupational Safety and
Health Administration

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IDENTIFICATION, CLASSIFICATION
AND REGULATION OF TOXIC
SUBSTANCES POSING A
POTENTIAL OCCUPATIONAL
CARCINOGENIC RISK

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DEPARTMENT OF LABOR

Occupational Safety and Health
Administration

[29 CFR Part 1990]

IDENTIFICATION, CLASSIFICATION AND
REGULATION OF TOXIC SUBSTANCES
POSING A POTENTIAL OCCUPATIONAL
CARCINOGENIC RISKAGENCY: The Occupational Safety and
Health Administration, Department of
Labor.ACTION: Proposed rule and notice of
hearing.

SUMMARY: The Occupational Safety and Health Administration (OSHA) proposes a new general regulation concerning the identification, classification and regulation of toxic substances in American workplaces that may pose a carcinogenic risk to workers.¹ This proposal is necessary to allow OSHA to deal in a comprehensive way with the important problem of worker exposure to many toxic substances which may be potential or confirmed occupational carcinogens. This broad rulemaking proceeding is intended to establish: new procedures and a regulatory framework for regulating exposures to potential occupational carcinogens; OSHA's scientifically based policies concerning the identification and classification of potential occupational carcinogens; and three model standards for use in specific rulemakings involving such substances. The three proposed model standards incorporate OSHA's views concerning which protective provisions are generally the most appropriate to protect employees permanently against exposure to categories of toxic substances, as defined, and, in the model emergency temporary standard, which protective provisions are necessary to protect employees from the danger of cancer and which can be instituted immediately. Once promulgated in this rulemaking therefore, these proposed procedures, identification and classification criteria, and, as qualified above, the provisions of the model standards will be consistently applied and, as discussed in this proposal, foreclosed from reconsideration in future regulatory activity pursuant to these proposed regulations.

OSHA invites written comment on these proposed regulations and all of the issues raised or implicit therein. In that regard, OSHA has scheduled an informal public hearing for the receipt of oral testimony as well, as pointed out below.

DATES: Written comments concerning the proposed set of regulations and notices of intention to appear at the hearing must be postmarked on or before December 8, 1977; all materials and direct written testimony of witnesses

¹ Later additional subparts to this Part may be added to include other generic approaches to other toxic substances, such as, for example, those posing a potential occupational teratogenic or mutagenic risk.

PROPOSED RULES

which will be introduced into the hearing record by any party must be filed by no later than January 9, 1978; an informal hearing is scheduled to begin March 14, 1978.

FOR FURTHER INFORMATION CON-
TACT:

Mr. James Foster, Office of Public Affairs, OSHA, Third Street and Constitution Avenue NW., Room N3641, Washington, D.C. 20210 (202-523-8151).

SUPPLEMENTARY INFORMATION: Pursuant to sections 6(b), 8(c), and 8 (g) of the Occupational Safety and Health Act of 1970 (the Act) (84 Stat. 1593, 1599, 29 U.S.C. 655, 657), the Secretary of Labor's Order 8-76 (41 FR 25059) and Title 29 of the Code of Federal Regulations (CFR), Part 1911, it is proposed to amend Title 29 of the CFR by adding at this time a new Part 1990, a subpart A to Part 1990 to deal with the identification, classification and regulation of toxic substances, in general, and a subpart B to Part 1990 to deal with the identification, classification and regulation of toxic substances, as defined, for which there is reported to be evidence of carcinogenic potential to humans. These regulations would apply to all employments in all industries covered by the Act, including general industry, construction, maritime and agriculture. OSHA requests the submission of written comments, data and arguments from interested persons on the variety of scientific, technical and procedural issues addressed or implicit in this proposal. In addition, an informal hearing has been scheduled to provide an opportunity for presentation of evidence concerning the issues and to facilitate the conduct of this rulemaking.

This proposed set of regulations attempts to deal with one of the most important issues OSHA faces, namely the exposure of workers to toxic substances which may be potential or confirmed occupational carcinogens. At the outset, OSHA recognizes that some 1,500 to 2,000 agents have been identified by the National Institute for Occupational Safety and Health (NIOSH) as being "suspect carcinogens" (*Suspected Carcinogens*, HEW Publication No. (NIOSH) 77-149, December, 1976). By definition, this means that NIOSH has found some scientific evidence, of varying degrees of quality and quantity, identifying those substances as having potential carcinogenic activity, based on observations in human populations or on results from experimentation with laboratory test animals. Yet, OSHA has completed regulatory activity for only 17 of those substances since its creation on April 29, 1971. OSHA recognizes that in regulating occupational exposure to potential carcinogens, many gaps remain in our knowledge of cancer, its causes, prevention and cure. However, to wait for years to resolve these issues scientifically without some consistent and workable system for the regulation of toxic substances, for which there is evidence of a carcinogenic potential to humans, would be, we believe, inconsistent with OSHA's statutory obligations and unacceptable to all.

Thus, OSHA proposes an orderly and comprehensive set of regulations to identify, classify and regulate potential carcinogens in American workplaces. This action is based upon three basic propositions, namely:

1. That the term "carcinogen," although perhaps difficult to define as a matter of science, must be defined for purposes of overall regulatory activity.

2. That a toxic substance, determined as a carcinogen in a mammalian test animal system, as defined, is to be treated as a policy matter as posing a carcinogenic risk to humans.

3. That when OSHA is dealing with a toxic substance, identified as a carcinogen, as defined herein, the permissible exposure limits will be set as low as feasible. In cases where there are suitable substitutes that are found to be less hazardous to the worker, no occupational exposure to the toxic substance will be permitted. In other words, unless there is evidence submitted in this rulemaking sufficient to convince the Secretary of Labor that this general policy is incorrect namely, that there is presently no means to determine a safe exposure level to a carcinogen, the permissible exposure limits will be set as low as feasible or occupational exposure will not be permitted in certain cases, both determinations to be made in the individual rulemakings conducted pursuant to this subpart.

In short, utilizing best available and generally accepted scientific knowledge to establish the carcinogenicity of a substance, OSHA proposes, in general, to rely on evidence from human epidemiological studies, adequately designed and conducted animal studies, or both. The degree of conclusiveness of such data may permit regulation of the toxic substance as a Category I toxic substance or a Category II toxic substance. This set of regulations also provides for the classification of toxic substances for which further development of data may be needed before any regulatory activity as to carcinogenicity is concerned (Category III Toxic Substances) or for toxic substances which OSHA believes are not found in American workplaces although the evidence shows that if they were, they would be classified pursuant to this subpart (Category IV Toxic Substances). The classifications of Category I and II toxic substances will require OSHA to initiate appropriate regulatory action, through the means of one or more of the three model standards, to control or eliminate exposure to the toxic substance, by way of engineering controls, work practices, respirators or simple housekeeping procedures. The content and format of these model standards, as pointed out below, are to be followed in subsequent rulemakings pursuant to this subpart, except where OSHA determines that unique properties of the toxic substance require deviations, additions or changes from the general requirements found in the model standards.

PROPOSED RULES

OSHA recognizes that some of the scientific concepts underlying this rulemaking may still be subject to controversy. Most, however, are not new but have, in fact, been the basis for policy decisions made, after scientific debate, by OSHA and other governmental agencies in the past. For example, see the preambles to OSHA's carcinogen standard, applicable to 14 selected substances, 29 CFR 1910.1003-1910.1016 (39 FR 3758), *aff'd*, *Synthetic Organic Chemical Manufacturers Assn. v. Brennan* 503 F. 2d 1155 (3rd Cir., 1974); the vinyl chloride standard, 29 CFR 1910.1017 (39 FR 35892) *aff'd*, *The Society of the Plastic Industry v. OSHA*, 509 F. 2d 1301 (2nd Cir.) *cert. den.*, 421 U.S. 992 (1975); the inorganic arsenic proposal (40 FR 3392, 1975); the coke oven emissions proposal (40 FR 32268, 1975) and final, 29 CFR 1910.1029 (41 FR 46742, 1976); the asbestos proposal (40 FR 47652, 1975); the beryllium proposal (40 FR 48814, 1975) and the benzene emergency temporary standard, 29 CFR 1910.1028 (42 FR 22516, 1977).

In addition to previous OSHA regulatory decisions, the United States Environmental Protection Agency (EPA), the Food and Drug Administration (FDA) of the Department of Health, Education, and Welfare, the United States Consumer Product Safety Commission (CPSC) and other governmental agencies and bodies have made, or recommended, regulatory decisions concluding that substances pose carcinogenic risks to man, based primarily or solely upon evidence derived from studies conducted in laboratory animal populations. In particular, decisions made by EPA regarding the cancellation or suspension of certain chlorinated hydrocarbon pesticides involved extensive consideration of carcinogenicity based on laboratory animal data. See, for example: *In Re Stevens Industries, et al.*, (37 FR 13369, June 30, 1972), *aff'd*, *Environmental Defense Fund (EDF) v. EPA*, 489 F. 2d 1247 (D.C. Cir. 1973); *In Re Shell et al.*, (39 FR 37265, Oct. 18, 1974), *aff'd*, *EDF v. EPA*, 510 F. 2d 1292 (D.C. Cir. 1975); and *In Re Velsicol et al.*, (41 FR 7552, 1976) *aff'd*, *EDF v. EPA*, 548 F. 2d 998 (D.C. Cir. 1976). And FDA, in its decision to order the elimination of chloroform from human drug and cosmetic products, relied explicitly on data supplied by National Cancer Institute (NCI) experiments showing chloroform to be carcinogenic in test animals (41 FR 15026-29, April 9, 1976 and 41 FR 26842-46, June 29, 1976).

OSHA expects that some may question the policy decisions inherent in this proposal as going too far, while others may contend that they do not go far enough. OSHA believes, however, that all concerned should approach these issues in a spirit of co-operation and candor—and with the recognition that policy determinations in a legal framework cannot be based solely upon scientific fact where often factual data are incomplete. But, insofar as the central issue of whether exposure to carcinogens should be regulated, we believe that the time has come

to say that at least this issue has been resolved. In that regard, we agree with the scientific blue ribbon Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens of NCI, when it reported over seven (7) years ago in 1970 to the Surgeon General of the United States that:

An effective program to protect man from the mass of environmental cancer hazards is within reach. No more time should be allowed to pass before the recommendations set forth in this report are applied to reality. (p. 8)

Thus, we propose today a system for regulatory action which will assure, we believe, an internal consistency in regulating carcinogens and a speedy approach which will limit the size and scope of OSHA's rulemakings which have grown far beyond the ability of OSHA's staff to handle by the present case-by-case approach.

In proposing these regulations, OSHA is relying upon leading scientific evidence and opinions believed to reflect the research conclusions of individual cancer specialists and expert national and international cancer committees and agencies, as well as "experience gained under . . . other health and safety laws" (section 6(b)(5) of the Act). In such a task we recognize that we are operating "on the frontiers of scientific knowledge" *Industrial Union Department v. Hodgson*, 499 F. 2d 467, 474 (D.C. Cir. 1974) but with a "command to act" *Ethyl Corp. v. EPA*, 541 F. 2d 1, 28 (D.C. Cir. 1976). In this proposal, OSHA relies therefore, upon what it believes to be the best available and prudent evidence, interpretations and theories. Once these regulations are promulgated, OSHA is prepared to modify the views therein if new evidence or future scientific advances show we are in error.² But if we are, we hope that the error was in being too careful and overly protective of the worker, for the alternative would appear to be unacceptable to all concerned.

THE REGULATORY DILEMMA

Any decision to regulate carcinogens is obviously complex. As the cancer rate increases, the causes elude us. Chemical or physical agents known or suspected to pose a risk of carcinogenicity in humans pose certain problems unique to the regulation of toxic materials in the workplace which are discussed below. And with the increasing number of environmental chemicals, the number of carcinogens also increases, together with the size and complexity of OSHA's rulemakings. However, in its six year history,

² OSHA will not, however, modify its policies in actions taken subsequent to the promulgation of, and pursuant to, these regulations. Efforts in that regard should be addressed to the amendment of these regulations, as is warranted from time to time, as advances in science are made. OSHA, at no time, intends or believes that these regulations are scientifically inflexible or fail to recognize future scientific advances that may occur. OSHA will encourage petitions for amendments to these regulations, including the model standards, as conditions so warrant.

OSHA has concluded only 4 rulemaking proceedings in the health area, namely the asbestos standard in 1972, the carcinogen standard in January 1974 (regulating 14 substances), the vinyl chloride standard in October 1974 and the coke oven emissions standard in October 1976.

A. NATURE OF THE DISEASE

Cancer is a particularly dreaded and costly disease. As pointed out below, the natural course of its development is generally irreversible and autonomous. It is a disease generally characterized in its advanced stages by the aggressive growth of abnormal (immature) populations of cells. The early cellular events of the disease and the causative factors leading to initiation of the disease are poorly understood, although much progress has been made as a result of intensive research for several decades. There also is evidence—though not definitive—that at least some cancers may originate from a single transformed cell.

In any case, once the initial carcinogenic events have been triggered, the resulting aberrant cells are capable of progressing to stages where normal tissue is invaded, and cancerous cells are capable of spreading throughout the body, even though the agent or agents responsible for inducing the disease may be no longer present. Most body structures are composed of many different kinds of tissues made up of many different types of cells, any of which may give rise to cancer. A specific type of cancer draws its name generally from the type of cell affected. For example:

Cancer of connective tissue, including bones, are generally called sarcomas.

Cancer of epithelial cells that line the body's internal surfaces and cover the external surfaces (lung, breast, skin) are generally called carcinomas.

Cancer of cells that compose the blood-forming system are generally called leukemias or lymphomas.

In most cases of cancer, unrestrained cell growth leads to the buildup of tumors which compress, invade, and/or destroy normal tissues; if untreated, these tumors usually lead to death. Like cells, there are different types of tumors, each of which may be distinct in its behavior. However, induced malignant tumors generally share some common characteristics such as a long latent period between initial exposure and manifestation of the disease, as pointed out below. Some other characteristics may also include a higher rate of cell growth than in the normal, surrounding tissues, failure to maintain the boundaries of normal tissue and organs, a microscopic appearance which suggests immature rather than mature tissues, and a tendency in the human to spread to parts of the body distant from the original site of the cancer. Not all these features however accompany every malignant tumor.

It also appears that the effects of continuous or occasional exposure to different carcinogenic agents may be cumulative or synergistic, as pointed out below. The development of cancer can take as long as five to forty years before the

disease progresses to the point where detection is possible. Thus, cancer seen today may be due to exposure occurring as little as five or as many as forty or more years ago as pointed out below.

B. THE INCREASE IN CANCER AND ITS MASSIVE ECONOMIC, SOCIAL AND EMOTIONAL IMPACT

Only a few generations ago, human life expectancy was less than 40 years. Today, however, human life expectancy and general health conditions prevailing in developed countries such as the United States reflect a striking—and comparatively recent—improvement over those that characterized most of man's long history.

Throughout the 19th century, the prime life limiting factor in this country was infectious disease. Since 1900 however, public health measures and medicine have made remarkable contributions to human longevity in the United States. A man born in Massachusetts in 1850 had a life expectancy of 38.3 years; a woman, of 40.5 years. As the decades passed, life expectancy at birth inched upward—by 1900 a man could expect to live to 46 years and a woman to nearly 50. (U.S. Bureau of the Census, *Historical Statistics of the United States, Colonial Times to 1957* (Washington, D.C.: Government Printing Office, (1960), Series B76-100.) Today, such expectancy is much greater with rates approaching 80 years of age.

A comparison of leading causes of death in 1900 with those in 1960 reveals a noteworthy shift in disease patterns. At the turn of the century, infectious diseases—pneumonia, influenza, tuberculosis, gastroenteritis and poliomyelitis—were the leading killers, accounting for over 31 percent of all deaths. Owing to such medical advances as the development of immunization techniques and antibiotics, tuberculosis and gastroenteritis are no longer significant causes of death in the United States; diphtheria, typhoid fever and poliomyelitis have been nearly eliminated, and even influenza and pneumonia have declined in significance to one-seventh of their previous level.

On the other hand, heart disease and cancer—the fourth and eighth leading causes of death, respectively, in 1900 now lead the nation's list of killers. In 1900, these two diseases were responsible for only 12 percent of deaths; today, they account for more than one-half of U.S. mortality. Annual crude death rates from heart disease rose from 137.4 per 100,000 population in 1900 to 362 in 1970, while deaths from cancer rose in that same period of time from 64 per 100,000 population to 162.8 and to 171.5 in 1975. (President's Science Advisory Committee Panel on Chemicals, *Chemicals and Health* (Washington, D.C.: Government Printing Office, 1973), p. 152; U.S. Department of Health, Education, and Welfare, Public Health Service, *Facts of Life and Death*, DHEW Pub. No. (HRA) 74-1222 (Washington, D.C.: Government Printing Office, 1974), p. 31.)

Some increase in the number of cancer deaths may have been predicted on the

basis of demographic factors, such as general aging of the population, and hence on the success of medicine in reducing the significance of infectious diseases. Another unquantifiable portion is undoubtedly traceable to improved reporting methods, i.e., some deaths from cancer in earlier times were mistakenly ascribed to other causes. Even after these factors have been taken into account, however, the death rate for cancer sharply exceeds predictions.

Cancer killed a reported 358,400 U.S. citizens in 1974—over 1,000 persons per day. Over one million are under treatment for the disease, and each year over 900,000 new cases are diagnosed. Of these, about one-third are skin cancers: Troublesome, sometimes painful, usually treatable, with an impact on life expectancy for about 2,000 humans per year; the other 600,000, however, are more serious and more of them are potentially fatal. The American Cancer Society now estimates that 25 percent of the United States' population will ultimately develop some form of cancer. (U.S. Department of Health, Education and Welfare, *Monthly Vital Statistics Report: Annual Summary for the United States*, Vol. 21, No. 13 (1975); U.S. Department of Health, Education and Welfare, National Institutes of Health, *National Cancer Program: The Strategic Plan*, DHEW Pub. No. (NIH) 74-569 (Washington, D.C.: Government Printing Office, 1973); American Cancer Society, *Cancer Facts and Figures* (New York, 1974).)

The economic and social impacts of cancer in the United States are massive and yet hard to estimate. Certainly the human anguish is. Those impacts, however, are very real. An estimated \$1.8 billion per year is spent solely for hospital care of cancer patients. Additional costs, doctor bills, outpatient therapy, and other treatment-related fees, raise the direct annual expenditures for cancer well into the tens of billions of dollars. To these direct expenditures must be added indirect costs, such as the estimated 1.8 million work years lost annually to the national economy and to family income by unemployed or underemployed cancer victims. (U.S. Public Health Service, *Cancer Rates and Risks*, Pub. No. (NIH) 75-619 (Washington, D.C.: Government Printing Office, 1975, p. 3). One estimate cited by the General Accounting Office of the United States Congress (GAO) is that the annual cost of cancer is \$15 billion, of which \$3-5 billion is attributable to direct care and treatment and the remainder attributed to the loss of earning power and productivity (GAO, "Federal Efforts to Protect the Public From Cancer Causing Chemicals Are Not Very Effective", June 16, 1976, p. 1). This estimate is supported by a study prepared by NCI with information on the economic costs of cancer to the United States, and to individual patients' families in particular. See "The National Cancer Program, the Strategic Plan," January 1973 ed.

Cancer rates vary significantly through the United States. In general, however,

States with high rates are the more industrialized States. It has long been known that densely populated and industrialized areas have higher death rates from many causes than nearby rural areas. Although urbanization and industrialization have been associated with heart disease, cancer of the respiratory and digestive systems, and many other diseases, the reasons for this association are not fully understood. This excess disease risk may be related to lifestyle (urban dwellers use more tobacco, for example), to occupation (working with toxic substances), to the environment of cities (air pollution and water pollution), or to other factors as yet unidentified, as well as combinations thereof.

C. THE RECOGNITION THAT THE DEVELOPMENT OF CANCER IS INFLUENCED BY ENVIRONMENTAL AND OCCUPATIONAL FACTORS

Most of the details of how and why cancers develop still elude scientists and physicians, so that the exact causative mechanisms of observed malignancies cannot be well defined. But a number of factors appear to be implicated, both separately and in combination, for many observed cancers.

Among the causes of cancer, those most prominent are believed to be traceable to environmental factors acting singularly or in conjunction with genetic or other susceptibilities. It should be remembered that the extensive exposure to cancer-causing environmental factors is relatively new in the history of man. Today, there is growing acceptance that 60 to 90 percent of all cancer may be related to environmental factors. (See, for example: World Health Organization, *Prevention of Cancer*, Technical Report Series 276 (Geneva, 1974); E. Boyland, "The Correlation of Experimental Carcinogenesis and Cancer in Man," *Progress in Experimental Tumor Research*, Vol. 11 (1969), pp. 222-34; S. S. Epstein, "Environmental Determinants of Human Cancer," *Cancer Research* Vol. 34 (1974), pp. 2425-35). The basis for the estimates largely derives from large community studies over extended periods of time, which have revealed wide geographical variations in the incidence of cancer of various organs. Specific examples include, among others, diet, the large component of cancer attributable to cigarette smoking, those resulting from exposures to chemicals in the workplace, and cancers from physical agents such as solar and ionizing radiation and asbestos and those caused by aflatoxins (a class of naturally occurring chemicals secreted by some molds on certain foodstuffs, such as peanuts).

The extent to which the observed incidence and rise in incidence of cancers are attributable to manmade chemicals cannot be estimated with any precision. The tragic effects, however, are evident. Recognition by cancer specialists that many, if not most, human cancers are influenced by environmental factors is of extraordinary significance to OSHA—it means that occupational cancers may be preventable if the causative agents

can be identified and human exposure to them eliminated or minimized.

Only some of these manmade agents have been identified. Unfortunately, our nation's capacity in the past to develop new chemical substances far exceeded its ability to determine their carcinogenic potential and, as pointed out, OSHA's ability to promulgate standards in any speedy fashion solely by way of the case-by-case approach. In the past 10 years, the production of synthetic organic chemicals has expanded by 255 percent; relatively few of the new compounds have been studied for their cancer-causing potential. Because of the typical latency period of 5-40 years for cancer in humans, we must assume that any increase in cancer which may have been initiated by recent industrial development is not yet observable. (Wilhelm C. Hueper, "Medicolegal Considerations of Occupational and Nonoccupational Environmental Cancers," Chapter 7 in *Lawyers Medical Cyclopedia*, Irving J. Sellikoff and E. Cuyler Hammond, "Environmental Cancer in the Year 2000," presented at the Seventh National Cancer Conference, Los Angeles, Sept. 29, 1972).

D. MOST TOXIC MATERIALS APPEAR NOT TO BE CARCINOGENS EVEN AT HIGH DOSES

As additional studies are reported of the carcinogenicity of substances representing a wide range of chemical structures and used for a variety of purposes, there has been tendency for some to suspect that all chemicals are capable of causing cancer if administered to experimental animals at sufficiently high doses. This claim appears to be based on the belief that carcinogenesis is a non-specific kind of biological process associated with any substance under the right conditions, namely that test animals, bred for their sensitivity to carcinogens, when fed maximum tolerated doses of a substance for their lifetime become very ill and may be more susceptible to carcinogenic effects. However, there is evidence that renders this suspicion very unlikely to be true.

A publication of the U.S. Department of Health, Education, and Welfare compiles and abstracts all substances tested for carcinogenic effects. ("Survey of Compounds Which Have Been Tested For Carcinogenic Activity," Volumes I-VII (1947-1976)). Although these volumes are not intended to provide a critical evaluation of the data on each of the substances, only about 17 percent of over 6,000 were reported as showing tumorigenic effects and this in spite of the fact that most of the compounds were selected because of their suspicious nature.

In a study sponsored by NCI from 1965 to 1968 and performed by the Biometrics Research Laboratories under contracts PH 43-64-57 and PH 43-67-735, approximately 130 pesticide and industrial chemicals were tested for carcinogenic activity. Pesticide chemicals, of course, are known to possess high biological activity as demonstrated by their use as pesticides. In addition, the substances tested in the Biometrics study were selected on the basis of a number of cri-

teria, among which were: (1) Published evidence of toxicity that suggested potential hazards to man and (2) the similarity between possible test substances and substances of known carcinogenic activity. Each substance was fed to both sexes of two strains of mice at a maximum tolerated dose determined at a young age* by continuous oral administration with both positive and negative controls for 18 months. Despite weighting in the choice of test substances, less than 10 percent of the substances tested definitely produced tumorigenic effects and most of the others gave no evidence of carcinogenicity. (J.R.M. Innes et al., "Bioassay of Pesticides and Industrial Chemicals for Tumorigenicity in Mice: A Preliminary Note," *J. Natl. Cancer Inst.* 42, 1101-14, 1969.)

Furthermore, it has been recognized for many years that the negative findings of carcinogenic bioassays are often not published and are even rejected for publication (Report of the Panel on Carcinogenicity, Int. Union Against Cancer, "Carcinogenicity Testing," edited by I. Berenblum, IUAC Geneva, 1969). Thus, the percentage of substances tested for carcinogenic activity and found positive may be even lower than present data indicate.

During the hearings to consider the intent of the Administrator of the U.S. Environmental Protection Agency to cancel the registration of pesticides aldrin and dieldrin, testimony was presented concerning this proposition. The then Associate Director for Carcinogenesis of the Division of Cancer Cause and Prevention at NCI, Dr. Umberto Saffottil, testified:

Not all chemicals can cause cancers, contrary to some ill-informed belief; in fact, only a relatively small proportion of the chemical species that have been studied are capable of such activity. The activity is dependent on a number of specific chemical and physical properties of the molecules, which are gradually brought to light. It can be expected that, when thousands of new environmental chemicals will be tested, only a few hundred, or maybe just a few dozen, will be found to be carcinogenic, and it will be possible to concentrate our preventive measures on those. (Exhibit 40 of the EPA Public Hearings concerning the cancellation of the pesticide registrations of Aldrin and Dieldrin, 1973, pp. 7-8).

Thus, the available evidence provides strong indication indeed that not all chemicals are capable of causing cancer and that only a small number of the total is so capable. This apparent fact has also been recognized by two Administrators of EPA. In the DDT cancellation pro-

*It should be noted that use of this maximum tolerated dosage was the basis for criticism by one member of the Mark Commission's Technical Panel on Carcinogenicity as being less than the maximum tolerated dose once the animals reached maturity and therefore might mean that at higher dose levels, carcinogenic effects could have been observed for more substances. (Report of the Secretary's Commission on Pesticides and the Relationship to Environmental Health, U.S. Department of Health, Education, and Welfare, Nov. 1969, p. 483).

ceeding. *In Re Stevens Industries, et al.*, EPA IFR Docket No. 63 et al., 37 FR 13369 (1972), *aff'd*, *EDF v. EPA*, 489 F. 2d 1247 (D.C. Cir. 1973). Administrator William D. Ruckelshaus stated:

The 'everything is cancerous' argument fails because it ignores the fact that not all chemicals fed to animals in equally concentrated doses have produced the same tumorigenic results. (37 FR 13371)

Likewise, in the Aldrin and Dieldrin suspension proceeding, *In Re Shell Chemical Co. et al.*, EPA FIFRA Docket No. 145, 39 FR 37265 (1974) *aff'd*, *EDF v. EPA*, 510 F. 2d 1292 (D.C. Cir. 1975), Administrator Russell E. Train stated:

Carcinogenicity is a relatively rare phenomenon exhibited by only a few of the many hundreds of thousands of chemicals. (39 FR 37268)

And in ordering the suspension of the pesticides Heptachlor and Chlordane in *In Re Velsicol Chemical Co. et al.*, EPA FIFRA Docket No. 384, 41 FR 7572 (1976), *aff'd*, *EDF v. EPA*, 548 F. 2d 998 (D.C. Cir. 1976), Administrator Train stated:

Finally, I have noted some tendency, not entirely absent from the record, to assert that any chemical, if fed in sufficiently large amounts, will cause cancer in test animals. This is not true. A study sponsored by the National Cancer Institute tested 140 pesticides and industrial chemicals in two strains of mice, and less than ten percent of these were found to be carcinogenic. (41 FR 7575)

E. LATENCY AND IRREVERSIBILITY OF EFFECT

Another very troubling problem to the regulation of chemical carcinogens is posed by two biological characteristics of cancer that are well established and that distinguish it from other processes of chronic toxicity. These are the general irreversibility of effect and the generally long latent period between exposure to the carcinogen and manifestation of the effect, namely the tumor.

1. *Irreversibility.* The reasons underlying the irreversibility of effect are fundamental to the understanding of the mechanisms of chemical carcinogenesis. The effect under consideration is the induction of a critical change in the target cells which determines their subsequent growth as tumor cells. The specific molecular target of a carcinogen within a cell is not yet fully identified, although it is known that carcinogens can interact directly with the genetic material of the cells (DNA), as well as with other molecules that control cellular functions (RNA and proteins).

Once a cell has been switched ("transformed") from its normal status to a neoplastic one, this cell can replicate and produce neoplastic daughter cells. Only a few initially transformed neoplastic cells may be sufficient to give rise to a growing tumor. There is experimental evidence that even a single cell can be transformed by chemicals to produce

*For instance, see I. B. Weinstein, N. Yamaguchi, R. Gebert, and M. E. Kaighn, "Use of Epithelial Cell Cultures for Studies on the Mechanism of Transformation by Chemical Carcinogens," *In Vitro*, 11, 130-141 (1975).

a malignant tumor.³ It is consistent with our knowledge of carcinogenesis that a relatively small number of molecules may be sufficient to initiate a neoplastic change in a target cell. Following such an initial event, exposure to the carcinogen is no longer required to maintain the initial alteration that leads ultimately to a cancer cell, which is then capable of autonomous growth. Thus a single biological event produced by a very small number of molecules of the carcinogen may be sufficient to initiate the irreversible development of a tumor. As the Ad Hoc NCI Committee's report to the Surgeon General stated in 1970:

The effects of carcinogens on tissues appear irreversible. Exposure to small doses of a carcinogen over a period of time results in a summation or potentiation of effect. The fundamental characteristic which distinguishes the carcinogenic effect from other toxic effects is that the tissues affected do not seem to return to their normal condition. This summation of effects in time and the long interval (latent period) which passes after tumor induction before the tumor becomes clinically manifest demonstrate that cancer can develop in man and in animals long after the causative agent has been in contact and disappeared. (p. 2)

2. *Long latent period.* The other important characteristic of the carcinogenic effect is that it is a *delayed effect*, one where the manifestation (the appearance of a tumor) follows the causative exposure by a long period of time, called the latent period, during which the action of the carcinogen on the host, although already effected, cannot currently be detected. In man, as well as in experimental animals, the latent period of chemical carcinogens is often as long as a major portion of a lifetime. It has been found to be as long as 15, 20, 30 or more years in man, while it is usually from 1 to 2 years or even more in rodents, which live up to two or three years. In most cases the latent period for human carcinogenesis is 5 to 40 years. In case histories of human exposure to chemical carcinogens with such long latent periods, such as cigarette smoke or asbestos, conclusive epidemiological findings were not available until 20 or more years after the start of exposure, by which time large numbers of persons had been exposed and a substantial cancer epidemic had been caused. Thus, as pointed out below, the significance of the long latent period for chemical carcinogenesis is that it is *impractical and imprudent to wait for results of epidemiological studies in man*; prevention of chemical carcinogenesis in man requires identification of the carcinogens by experimentation in laboratory animals with a short lifetime and a correspondingly short latent period for tumor induction. As the Ad Hoc NCI Committee's report to the Surgeon General stated:

³ P. J. Flakow, "The Origin and Development of Human Tumors Studied with Cell Markers," *New England Journal of Medicine* 291, 26-35 (1974); S. M. Gartler, "Utilization of Mosaic Systems in the Study of the Origin and Progression of Tumors," in: J. German (ed.), *Chromosomes and Cancer*, pp. 317-352. (1973).

It is, therefore, important to realize that incidences of cancer in man today reflect exposure of 15 or more years ago; similarly, any increase of carcinogenic contaminants in man's environment today will reveal its carcinogenic effect some 15 or more years from now. For this reason, it is urgent that every effort be made to detect and control sources of carcinogenic contamination of the environment well before damaging effects become evident in man. . . . Environmental cancer remains one of the major disease problems of modern man. (p. 2)

And, as Administrator Russell Train of EPA pointed out in *In Re Velsicol*, *supra*:

. . . the latency periods for cancer-inducing chemicals tend to be long (in the tens of years), so that what results there are from the study of human exposure are difficult to gather and may well appear too late to save people from an already widespread chemical to which they are unavoidably exposed. (41 FR 7575)

F. KNOWN HUMAN CARCINOGENS ARE ALSO CARCINOGENS IN ANIMALS

At least 28 chemical substances or mixtures are known to cause cancer in man; in most cases this knowledge is derived from epidemiological studies. With one or possibly two exceptions, all of these are known to cause cancer in experimental animals. In the text of a review published by Dr. U. Saffioti:

"Over one thousand chemical substances have been shown to be carcinogenic by tests in animals (although some of the 'positive' tests reported in the literature—particularly the older ones—are not quite satisfactory by present standards). Several individual chemicals or mixtures of chemicals have also been shown conclusively to be carcinogenic by direct observation in man (Table 1). With the exception of arsenic, still under experimental study, all the main products that were found to be carcinogenic by direct evidence in man have also been proven carcinogenic in animals. On the other hand, proof that a substance, which had been recognized as carcinogenic in animals, actually causes cancer in man would require in most cases extremely complex and lengthy epidemiologic studies. In many cases, it may be impossible to obtain such proof because of the complexity of controls that would be needed for a satisfactory demonstration. Therefore, the only prudent course of action at the present state of our knowledge is to assume that chemicals which are carcinogenic in animals could also be so in man, although the direct demonstration in man is lacking. (U. Saffioti, "The laboratory approach to the identification of environmental carcinogens," in Scholefield, P.G. (Ed.), *Proceedings of the Ninth Canadian Cancer Research Conference 1971*, pp. 23-26; University of Toronto Press 1972.)

In a report by a Committee of the National Research Council (Contemporary Pest Control Practices and Prospects, Vol. 1, 1975: "NRC Pest Control"), published data on 13 compounds known to also cause cancer in man are tabulated: 12 of them are known to also cause cancer in mice, rats, and/or hamsters (NRC Pest Control, pp. 67-73).

Notwithstanding the difficulty of identifying specific carcinogens affecting man, about a dozen agents are now recognized as human carcinogens. All of these but one are definitely carcinogenic in tests on laboratory animals, as indicated in Table 4. The only exception is arsenic, which is still under test on animals. It may be noted that the organs af-

fected in man are not always the same as those that are found to develop tumors in laboratory animals, nor is the organ specifically the same in different species of rodents. Nevertheless, the evidence, based on a limited number of carcinogens, suggests that most agents that pose a carcinogenic threat to man will be carcinogenic in laboratory tests on animals. (NRC Pest Control, p. 68)

The NRC Committee also tabulated numerical data on the doses of these chemicals associated with increased cancer incidence (*ibid.*, pp. 75-81, Table 5). They found an approximate correspondence between the sensitivities of humans and rodents when they were compared on the basis of cumulative lifetime exposure:

Thus, as a working hypothesis, in the absence of countervailing evidence for the specific agent in question, it appears reasonable to assume that the lifetime cancer incidence induced by chronic exposure in man can be approximated by the lifetime incidence induced by similar exposure in laboratory animals at the same total doses per body weight. (*ibid.*, p. 82)

The reliance of EPA on animal test data, and other similar principles set forth herein, as indicating human carcinogenic potential has been judicially approved. For example, in referring, albeit, to an adjudicatory proceeding concerning the suspension of a pesticide, the United States Court of Appeals stated in *EDF v. EPA* (Velsicol) 548 F. 2d 998, 1006-07 (D.C. Cir. 1976):

We start by rejecting Velsicol's argument that the 'cancer principles' EPA relied on in structuring its analysis of the mice and rat studies improperly biased the agency's open-minded consideration of the evidence. In brief form, the principles accept the use of animal test data to evaluate human cancer risks; consider a positive oncogenic effect in test animals as sufficient to characterize a pesticide as posing a cancer risk to man; recognize that negative results may be explained by the limited number and sensitivity of the test animals as compared to the general human population; note that there is no scientific basis for establishing a no-effect level for carcinogens; and view the finding of benign and malignant tumors as hazard to man given the increasing evidence that many 'benign' tumors can develop into cancer. The Agency's reliance on these principles did not come as a surprise to Velsicol; they were included in the Administrator's Notice of Intent to Suspend; and as recognized in *EDF v. EPA*, 167 U.S. App. D.C. at 77-78, 510 F. 2d at 1298-99, form part of the Agency's 'scientific expertise.' Velsicol was properly given an opportunity to put in evidence contesting those principles, but failed to demonstrate anything more than some scientific disagreement with respect to them. Velsicol's principal complaint—that mice are inappropriate test animals—was specifically rejected by the Administrator, citing statements by the National Academy of Sciences' Food Protection Committee, the World Health Organization, HEW's Commission on Pesticides and their Relationship Environmental Health, FDA Advisory Panel on Carcinogenesis, International Agency for Research on Cancer, and Director of the National Cancer Institute's Carcinogenesis Program. Unlike the failure to adduce critical methodology that we criticized in *International Harvester*, EPA's specific enunciation of its underlying analytic principles, derived from its experience in the area, yields meaningful notice and dialogue, enhances

the administrative process and furthers reasoned agency decisionmaking" (omitting footnotes).

G. THE LEGAL MANDATE AND THE REGULATORY APPROACH

The primary purpose of the Act is to assure, so far as possible, safe and healthful working conditions for every American employee over the period of his or her working lifetime. One means prescribed by Congress to achieve this goal is the mandate given to, and the concomitant authority vested in, the Secretary of Labor to set mandatory safety and health standards. The Act provides specifically that:

The Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures to the extent feasible, on the basis of the best available evidence, that no employee will suffer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of standards, and experience gained under this and other health and safety laws. (Section 6(b)(5)).

In setting standards pursuant to the Act, the Secretary is expressly required to consider the feasibility of the proposed standards. Senate Committee on Labor and Public Welfare, S. Rep. No. 91-1282, 91st Cong., 2d Sess., p. 58 (1970). Nevertheless, considerations of technological feasibility are not limited to devices already developed and in use. Standards may require improvements in existing technologies or require the development of new technology. *The Society of the Plastics Industry v. OSHA*, *supra* at 1309.

Where appropriate, the standards are required to include provisions for labels or other forms of warning to apprise employees of hazards, suitable protective equipment, control procedures, monitoring and measuring of employee exposure, employee access to the results of monitoring, appropriate medical examinations and training and education. Moreover, where a standard prescribes medical examinations or other tests, they must be made available at no cost to the employees (section 6(b)(7)). Standards may also prescribe recordkeeping requirements where necessary or appropriate for enforcement of the Act or for developing information regarding occupational accidents and illnesses (section 8(c)).

Sections 2(b)(5), 2(b)(6), 6, 20, 21, 22, and 24 of the Act reflect Congress' recognition that conclusive medical or scientific evidence including causative factors, epidemiological studies or dose response data may not exist for many toxic materials or harmful physical agents. Nevertheless, Congress mandated that standards should not be postponed because definitive medical or scientific evi-

dence is not currently available. Indeed, while final standards are based on the best available evidence, the legislative history makes it clear that "it is not intended that the Secretary be paralyzed by debate surrounding diverse medical opinion." House Comm. On Education and Labor, H.R. Rep. No. 91-1291, 91st Cong., 2d Sess. 18 (1970).

This congressional judgment is supported by the Courts which have reviewed standards promulgated under the Act. In *Industrial Union Department, AFL-CIO v. Hodson*, 499 F. 2d 467 (D.C. Cir. 1974), the United States Court of Appeals considered the Secretary of Labor's delegated mandate and power under the Act to protect the health of workers from exposure to asbestos. It stated (499 F. 2d at 474):

From extensive and often conflicting evidence, the Secretary in this case made numerous factual determinations. With respect to some of those questions, the evidence was such that the task consisted primarily of evaluating the data and drawing conclusions from it. The court can review that data in the record and determine whether it reflects substantial support for the Secretary's findings. But some of the questions involved in the promulgation of these Standards are on the frontiers of scientific knowledge, and consequently as to them insufficient data is presently available to make a fully informed factual determination. Decision making must in that circumstance depend to a greater extent upon policy judgments and less upon purely factual analysis.¹⁴

This rationale was likewise applied in *The Society of the Plastics Industry, Inc. v. OSHA*, 509 F. 2d 1301 (2d Cir.), *cert. den.* 421 U.S. 992 (1975), where the Second Circuit reviewed regulations limiting worker exposure to vinyl chloride. The Court stated at 1308:

As in *Industrial Union Department, AFL-CIO v. Hodson*, *supra*, the ultimate facts here in dispute are on the frontiers of scientific knowledge, and, though the factual finger points, it does not conclude. Under the command of OSHA, it remains the duty of the Secretary to act to protect the workingman, and to act even in circumstances where existing methodology or research is deficient. The Secretary, in extrapolating the MCA study's findings from mouse to man, has chosen to reduce the permissible level to the lowest detectable ones. We find no error in this respect.

And in *Ethyl Corp. v. EPA* 541 F. 2d 1 (D.C. Cir. 1976), the Court of Appeals affirmed the EPA Administrator's decision to limit lead in gasoline, based in large part upon the rationale of *UD v. Hodson*, *supra* and *SOCMA v. OSHA*, *supra*. The Court stated at pp. 24-28:

Questions involving the environment are particularly prone to uncertainty. Technological man has altered his world in ways never before experienced or anticipated. The health effects of such alterations are often unknown, sometimes unknowable. While a

¹⁴ Where existing methodology or research in a new area of regulations is deficient, the agency necessarily enjoys broad discretion to attempt to formulate a solution to the best of its ability on the basis of available information. *Permian Basin Area Rate Cases*, 390 US 747, 811, 88 S. Ct. 1344, 20 L. Ed. 2d 312 (1968).

concerned Congress has passed legislation providing for protection of the public health against gross environmental modifications, the regulators entrusted with the enforcement of such laws have not thereby been endowed with a prescience that removes all doubt from their decisionmaking. Rather, speculation, conflicts in evidence, and theoretical extrapolation typify their every action. How else can they act, given a mandate to protect the public health but only a slight or nonexistent data base upon which to draw? Never before have massive quantities of asbestiform tailings been spewed into the water we drink. Never before have our industrial workers been occupationally exposed to vinyl chloride or to asbestos dust. Never before has the food we eat been permeated with DDT or the pesticides aldrin and dieldrin. And never before have hundreds of thousands of tons of lead emissions been disgorged annually into the air we breathe. Sometimes, of course, relatively certain proof of danger or harm from such modifications can be readily found. But, more commonly, "reasonable medical concerns" and theory long precede certainty. Yet the statutes—and common sense—demand regulatory action to prevent harm, even if the regulator is less than certain that harm is otherwise inevitable.

Undoubtedly, certainty is the scientific ideal—to the extent that even science can be certain of its truth. But certainty in the complexities of environmental medicine may be achievable only after the fact, when scientists have the leisurely and isolated scrutiny of an entire mechanism. Awaiting certainty will often allow for only reactive, not preventive, regulation. Petitioners suggest that anything less than certainty, that any speculation, is irresponsible. But when statutes seek to avoid environmental catastrophe, can preventive, albeit uncertain, decisions legitimately be so labeled? 541 F. 2d 1 at pp. 24-25, omitting footnotes.

That petitioners, and their scientists, find a basis to disagree is hardly surprising, since the results are still uncertain, and will be for some time. But if the statute accords the regulator flexibility to assess risks and make essentially legislative policy judgments, as we believe it does, preventive regulation based on conflicting and inconclusive evidence may be sustained. Recent cases have recognized this flexibility in similar situations [citing *UD v. Hodson*; *SOCMA v. OSHA*, *supra*; and *Reserve Mining Co. v. EPA* 514 F. 2d 492 (8th Cir. 1975) (*en banc*)] 541 F. 2d 1 at 26.

Where a statute is precautionary in nature—the evidence difficult to come by, uncertain, or conflicting because it is on the frontiers of scientific knowledge, the regulations designed to protect the public health, and the decision that of an expert administrator, we will not demand vigorous step-by-step proof of cause and effect. Such proof may be impossible to obtain if the precautionary purpose of the statute is to be served. 541 F. 2d 1 at 28.

And finally, in *Certified Color Manufacturers Ass'n v. Mathews* 543 F. 2d 284 (D.C. Cir. 1976), the Commissioner of FDA had terminated provisional approval of the color additive "Red Dye No. 2" because of evidence that it caused cancer in rats. In affirming that action, the Court stated at 297-98:

Courts have traditionally recognized a special judicial interest in protecting the pub-

¹⁵ Or, as with OSHA, mandatory in its command to act. See note 56 *supra*.

lic health, particularly where "the matter involved is as sensitive and frightful as cancer." Where the harm envisioned is cancer, courts have recognized the need for action based upon lower proof than otherwise applicable (footnotes omitted).

This proposal marks a departure from OSHA's usual pattern of a substance-by-substance approach in setting health standards concerning exposures to potential occupational carcinogens. One obvious result of OSHA's current case-by-case approach to the regulation of carcinogens has been the relitigation of certain issues in each and every rulemaking. This taxes witnesses who have in the past been willing to testify in prior rulemakings. In addition, the system hardly guarantees a continuity of approach in every case, whether it be within the Agency or within the Courts. And finally, the manpower resources of OSHA are exceeded using the present approach. See, for example, the affidavits of the chief legal advisor and the chief of the health standards division filed in an action brought to compel the issuance of a cotton dust standard (*Textile Workers Union of America, et al. v. Wm. J. Usery, Jr., et al.*, Civil Action No. 75-2157 (D.D.C. —, 1975)). It is OSHA's belief that if this proposal or something similar is not promulgated, with present resources the output of standards to protect American workers from carcinogens will never be adequate and may collapse by means of the futility of the effort. Indeed, to follow the present system and procedure for each and every individual substance and hazard would be, we contend, beyond the abilities of any agency, no matter how large a staff it may have.

The vinyl chloride standard (29 CFR 1910.1017) provides a striking example of the effort which has been required for standard promulgation, under optimum circumstances, pursuant to the *de novo* case-by-case approach. That standard, developed on a top priority basis with resources borrowed from other ongoing projects, took the full statutory six months from the issuance of the emergency temporary standard, through the required hearings and the adequate review of the record, to publish a final rule. And that time does not include the time and manpower devoted to the earlier fact-finding hearing and the necessary preparation of the emergency temporary standard and preamble themselves. Moreover, that time does not include the resources that were required to defend the final standard in the appellate courts. The ETS itself was not contested.

The vinyl chloride rulemaking proceedings concerned a substance which undisputedly was a human carcinogen. Yet, controversy raged during the hearing concerning the precise level of exposure which posed a hazard, whether a "safe" exposure level existed, whether animal data could be prudently extrapolated to man in quantitative terms and the appropriateness of the regulatory requirements. The comments and testimony concerning these issues were discussed in a significant part of the more

than 600 written comments, 200 written and oral hearing submissions, the hearings, and the 4,000 page record.

Notwithstanding the bulk and comprehensiveness of the record, OSHA finally determined that the record did not provide definitive answers to these questions. The Agency declared, "[w]e cannot wait until indisputable answers to these questions are available, because lives of employees are at stake." (39 FR 35392).

Moreover, certain issues predictably and inevitably reoccur in other proceedings concerning highly toxic and carcinogenic substances, such as arsenic, coke oven emissions, benzene and beryllium. Yet, the determinations on these issues have been made by the Agency as a matter of "policy", not necessarily with complete factual certainty at the time of that determination. These determinations have been upheld as policy matters. For example, OSHA's determination in the preamble to the final standard regulating exposure to one of the 14 carcinogens, (ethyleneimine, EI), that carcinogenicity in animals should be treated as posing a carcinogenic threat to humans, was characterized by the United States Court of Appeals for the Third Circuit as "not really a factual matter." Rather, the Court stated that, the determination "is in the nature of a recommendation for prudent legislative action," i.e., a policy decision. *SOCMA v. Brennan*, 503 F. 2d 1155, 1159 (3d Cir., 1974).

To dedicate substantial (and unavailable) resources to the rehearing, and record resubstantiation in each and every rulemaking, of these kinds of policy issues is truly nonproductive if we are honestly concerned about the health of workers and, possibly, the future of mankind.

OSHA therefore, like other administrative agencies in the past, has determined that it is necessary at this time, to the fulfillment of its statutory objectives, to reshape the size and content of its rulemaking proceedings at least insofar as potential carcinogens are concerned. This proposed set of regulations incorporates policy determinations concerning how and when chemical or physical substances should be identified, classified, and consequently regulated, as posing a carcinogenic risk to humans. It is OSHA's intention, once this proposal is duly promulgated, to foreclose, in the subsequent 6(b) rulemakings on individual substances, the rehearing of the validity of this classification system and most other policy determinations made in this proposal, including the procedural structure intended to be followed.

For example, one such foreclosed policy determination is whether employees shall be exposed to potential occupational carcinogens above the lowest level feasible. Accordingly, during the subsequent section 6(b) proceedings, interested parties would be foreclosed from the present endless debate concerning whether permissible exposure limits to humans can be related or extrapolated to those levels of exposure in test ani-

mals that indicated evidence of carcinogenesis.

OSHA intends and expects that these and the other issues raised by this proposal will be fully discussed, debated and aired in this rulemaking proceeding. At the conclusion of these proceedings, these policy decisions, including the regulatory framework embodied in this new Part 1990, will have been subjected to public proceedings, their scientific bases debated, and their consequences delineated. Based on the record fully developed in this proceeding, the scientific and related policy determinations will be made in the final regulations. Consequently, the Agency believes that this "generic" form of standard setting will not in any way shortcut "due process", the statutory procedural requirements set forth in section 6(b) of the Act or in 5 U.S.C. 553, *et seq.*, since every opportunity for notice, comment, and public participation in extensive hearings pursuant to those provisions will have been afforded.

It has long been recognized by the courts that regulatory agencies, such as OSHA, must and should use innovative rulemaking procedures to set policy, in order to comply with their statutory mandates, even at the expense of nominally depriving interested parties of a hearing on individual claims which may be contrary to the generally announced policy. Thus in 1956, the Supreme Court held that the Federal Communications Commission was not required to give a license applicant a statutorily required hearing, when the applicant did not qualify under the Commission's policy, adopted through rulemaking, that no person could own more than 5 broadcasting stations. (*United States v. Storer Broadcasting Co.*, 351 U.S. 192, 202 (1956). See also, *FPC v. Texaco*, 377 U.S. 33 (1964); *Airline Pilots Assn. v. Quesada*, 276 F. 2d 892 (2d Cir. 1960).

The overriding concern in these cases was whether parties had unreasonably been deprived of statutory procedural rights which were intended to assure that the agency would not act arbitrarily in denying claims. OSHA believes that no such deprivation will occur as the result of promulgation of these proposed regulations.

Rather, we believe that the combination of the broadly based rulemaking hearing and proceeding concerning this proposal and the subsequent section 6(b) proceedings on individual standards will provide all parties with ample opportunity to present their views and comments at the most relevant procedural stages. Certain policy determinations will be foreclosed from rehearing at the subsequent section 6(b) hearings. Those decisions based more on factual considerations, such as the applicability of the content of specific protective provisions as monitoring, respirator use and protective clothing, may be open in the section 6(b) proceeding depending on whether the unique properties of the substance are shown to warrant an exception to the general policy.

In addition, the following questions may also be at issue in the subsequent

proceedings relating to individual substances: (1) Whether the Secretary correctly classified the toxic material according to the appropriate criteria, (2) whether the Secretary correctly decided that the classification should not be rebutted, (3) the determination of the lowest feasible occupational exposure, or whether there are suitable substitutes found that are less hazardous to humans than the toxic materials, (4) the appropriateness and feasibility of the specific protective measures of the proposed standard and (5) the environmental impact arising from regulation of the toxic material.

Therefore, OSHA believes the flexibility and fairness of the individual substance-by-substance approach will be preserved by the procedures and policies incorporated in this proposal, for the feasibility and appropriateness of the protective provisions as applied to a given substance will be fully discussed at the rulemaking, concerning the specific substance, held pursuant to this Part and subpart. Yet OSHA's policy and factual judgments, based mainly "on the frontiers of scientific knowledge" with a "command to act", will be established after opportunity for full public participation in this rulemaking, and any future amendments thereto, and will not be allowed to be relitigated in "the standard-by-standard or substance-by-substance process".

II. CRITERIA FOR THE IDENTIFICATION OF TOXIC SUBSTANCES THAT POSE A CARCINOGENIC RISK TO MAN

For the reasons discussed below, there are currently two principal methods to identify the carcinogenic potential of any substance, namely, studies of human experience and tests on animals. In determining whether a toxic substance poses a carcinogenic risk to humans, OSHA intends, in general, to primarily rely upon evidence from these two methods, namely, human epidemiological studies, animal studies, or both. Two other possible methods to identify the carcinogenic potential of a substance—molecular structure (or similarity) and short-term tests—are also discussed, but OSHA will not, at this time, place sole reliance upon short term tests, and will not place any reliance on molecular structure or similarity for the reasons discussed below. OSHA invites public comment on all aspects of this specific part of this proposal.

While human studies are valuable, they cannot be the sole basis for regulatory decision making. Three overwhelming considerations generally require reliance upon laboratory animal testing insofar as carcinogenicity or other irreversible effects are concerned:

(1) As an ethical or moral matter, humans should never be used deliberately and prospectively as test subjects to determine the carcinogenicity of a substance. This principle has been affirmed in *Ethyl Corp v. EPA*, *supra* at p. 26:

Lastly, significant exposure . . . is toxic, so that considerations of decency and morality limit the flexibility of experiments on

humans that would otherwise accelerate lead exposures from years to months, and measure these results. *Cf. Environmental Defense Fund Inc. v. EPA* (shell), 167 U.S. App. D.C. 71, 78, 510 F. 2d 1292, 1299 (1975).

As FDA recently stated in issuing its final "Criteria and Procedures for Evaluating Assays for Carcinogenic Residues" in food producing animals (42 FR 10412, 10418; February 22, 1977):

As a source of information, direct carcinogenesis testing of chemical compounds in man is and must remain beyond the ethical bounds placed by society on human experimentation. In the absence of this source of information, which incidentally would be the most relevant, alternate sources are human epidemiology studies and animal experimentation. Human epidemiology may provide post facto information about the carcinogenic effects of chemical compounds on man. However, while potentially useful in assessing the significance of new exposures or the risk posed by related compounds, such experience cannot be a central basis for . . . safety evaluations for several reasons, including the same ethical objections that make direct experimentation in man unacceptable.

(2) Moreover, even if such testing were condoned, an agency would have to wait for the linking of individual human cancers to exposure to the carcinogen pending the usual long latency period of 5 to 40 years before meaningful results could be obtained. This is, of course, not necessarily so in the case of lead, referred to by the Court of Appeals in *Ethyl Corp v. EPA*. As the Ad Hoc NTC Committee reported to the Surgeon General in 1970:

Because the latent period in human carcinogenesis is so long, epidemiologic evidence develops only over periods of 15 to 20 years. Timely decisions to exclude materials from uses involving exposure to man, therefore, must be based solely on adequately conducted animal bioassays. Retrospective human evidence of risk must not be allowed to show itself before controlling action is taken. (p. 8)

(3) It is extremely difficult to construct a valid human study because humans are continually exposed to many toxic materials, most of which are not known either to be carcinogenic or not. See, *eg. EDF v. EPA*, 510 F. 2d 1292 (D.C. Cir. 1975).

A. HUMAN STUDIES

Identification of carcinogens through human experience requires comparing cancer risk for selected groups of individuals exposed to known agents with the risk for a similar population that either has not been exposed to the same agents or has been exposed but at significantly lower levels. Such population, or epidemiological, studies have tended to focus upon occupational groups because of their relatively high or consistent exposures to substances often found in the workplace.

Several problems however exist in using human studies, although epidemiological studies can provide strong evi-

It is for these reasons that, although lead additives have been used for over 50 years, the danger posed by lead emissions is still a question "on the frontiers of scientific knowledge." *Industrial Union Department, AFL-CIO v. Hodgson*, *supra* . . .

dence of the causal relationship between exposure and disease, particularly when the findings are positive. Negative studies are difficult to interpret for the reasons discussed below. Although experiments on humans should never be used prospectively, as pointed out above, to wait for retrospective studies, based on *post hoc* investigation, clearly subjects workers to massive, involuntary human experiments with their attendant tragedies years later. Indeed:

[e]xisting epidemiologic methods are adequate for demonstrating carcinogenic hazards in the work environment even when the excess risk is rather small and the disease in question is relatively common in the general population . . . [But] . . . this capacity for recognition depends on the actual occurrence of disease and, by itself, has no preventive or control value. (Cole and Goldman, in Fraumeni, Persons at High Risk of Cancer, Natl. Cancer Inst., 1975, p. 177.)

Also acknowledged is that:

. . . all public health approaches to the prevention of occupational cancer are to complement, not replace or make less stringent, the industrial hygiene practices that should be in effect. (*Ibid.*, p. 179.)

In addition, often severe reliability problems exist which limit the value of human studies. As Fraumeni pointed out:

[I]t seems likely that existing epidemiologic methods will allow the identification of groups at high risk of cancer because of their occupational experience . . . [t]hese methods are imperfect, however, and limitations in study design and types of data should be borne in mind when occupational carcinogenesis is studied. (*Ibid.*, p. 168.)

First, an important characteristic of carcinogenesis is the apparent variability in individual susceptibility. Since carcinogenesis results from the interaction of the toxic material with the biological target, the effect is qualified by the susceptibility of various cell types, various tissues or organs and various individuals as has been pointed out above. It has been found that individual variability in response to carcinogens is great. Factors such as age, sex, hormonal status, diet and nutritional conditions, genetic factors, individual variations in the metabolic handling of chemicals, or the combined effect of different chemicals, all contribute to determine the response of an individual to a chemical carcinogen; differences in response in test animals as high as 100 fold or 1000 fold can be obtained by changing only one factor at a time. Thus, valid epidemiological studies are difficult to conduct because study population groups tend to be small and reactions to a single carcinogen may not appear in the study groups due to the varying degrees of susceptibility.

Second, these difficulties are further complicated by the latency period between exposure and cancer symptoms. It usually takes 5-40 years between exposure to a cancer-producing chemical and manifestation of the disease.

Generally, the greater the exposure the shorter the latency period. In one study of bladder tumors among 78 aromatic amine workers, for instance, the length of exposure appears to correlate

inversely with the length of the latency period—the greater the exposure, the shorter the latency. Because so many factors influence latency, however, it is impossible to define the extent to which the length and degree of exposure may be important.

Latency poses troublesome medical, social, and economic implications for identifying hazardous contaminants in the environment. Chemicals may appear safe for human exposure after they have been used for 10 to 15 years without obvious harm. With carcinogens, however, the lack of demonstrated damage to health even after this comparatively long period presents a false sense of security. Thirty or 40 years may be required before enough individuals have been exposed to a carcinogen to produce detectable cancers. The long delay between exposure and symptoms and the irreversibility of the disease often makes it medically and scientifically impossible to identify carcinogens in the environment.

Detection difficulties posed by the latency period are compounded by the mobility of our society. People in this country change jobs, residences, and, consequently, doctors and hospitals relatively frequently, so that even large-scale adverse health effects from latent diseases may be undetected. Moreover, people are exposed to carcinogens in great variety and concentration not only on the job but in their diets and surrounding environments; this multiplicity of exposure further complicates identification of the causes for any given cancer.

And third, epidemiological studies are difficult to conduct because seldom is it possible to isolate a single variable for study because of the complex mix of chemical agents to which humans are exposed in their work and other environments. In the real world, obviously, workers are exposed to a combination of substances, rather than just one chemical. Often exposure levels are difficult to define. Individual resistance to participation in tests and an investigator's inability to obtain medical histories and records may also hamper a study. Some chemicals are virtually everywhere in the environment, but at low concentrations—a combination of circumstances which presents formidable problems of safety assessment for investigators. It will be extremely difficult, for example, to assess the carcinogenic impact of the pesticide dieldrin because residues are found in 99 percent of the U.S. population. More important, perhaps, is the possible synergistic effects of that substance in workers who are exposed to other cancer causing agents. The Ad Hoc NCI Committee recognized this possibility in 1970 when it stated:

It has become increasingly obvious that the hazard from a single chemical carcinogen cannot be evaluated out of a context of the total environmental exposure. Estimation of the "cumulative carcinogenic dose" resulting from all possible chemical carcinogens or even from all sources of a single type or class of chemical carcinogens is presently impossible. (P. 3)

The same state of science exist today although the theory is perhaps confirmed. As the Administrator of EPA stated in 1975, in denying the use of the pesticide DDT in Louisiana:

In addition, evidence reviewed by me in September 1974 that had been introduced in the Aldrin/Dieldrin suspension hearing revealed the apparent synergistic effects on the development of tumors in mice fed DDT and Dieldrin in combination. (39 FR at 37268) While such a possibility had long been feared, this was the first evidence actually demonstrating such effects. (40 FR 15940, April 8, 1975)

Thus, even if the effects of a carcinogen can be unequivocally demonstrated as soon as those first exposed manifest symptoms of cancer (rarely, the case because their first exposure occurred 5-40 years earlier) and even if exposure can be immediately eliminated and we could solve the problem of synergism, mankind still faces several decades of cancer in individuals who have already been exposed but who have not yet manifested symptoms. In those circumstances, there is nothing any regulatory agency can do to prevent the disease. Thus, what is true of carcinogenesis for an individual or a working population is also true for society, namely that an epidemic of cancer may be in the making while exposure to the unknown carcinogenic agent continues for decades, multiplying its potential effects.

B. ANIMAL STUDIES

Because we have been unable to identify with sufficient precision the causes of cancer in humans already affected and because it is unacceptable to wait for additional cases of human cancer to provide the scientific evidence needed, investigators have long relied upon laboratory tests with animals to study the carcinogenic potential of chemicals. We discuss the general propositions herein, although we recognize that some of the opinions of the distinguished bodies discussed go farther than, or not quite as far as, some of the positions taken in these proposed regulations.

For all practical purposes, the detection of carcinogenic activity of chemicals is based on animal experimentation. All chemical substances or mixtures that have been proven carcinogenic by direct observation in man have also been shown to be carcinogenic in experimental animals (with the possible exception of arsenic and benzene, still under experimental study). Because of the difficulties of epidemiological studies on humans exposed to potential carcinogens stated above, there are usually no data which provide us with any evidence—one way or another—whether cancer is caused in man by a chemical that has been shown to be carcinogenic in animal studies. However, not to at least qualitatively assume that such a chemical does pose a carcinogenic threat to man seems imprudent and could lead to disaster. As the Ad Hoc NCI Committee's report to the Surgeon General stated in 1970:

Any substance which is shown conclusively to cause tumors in animals should be

considered carcinogenic and therefore a potential cancer hazard for man. (P. 1)

Indeed, OSHA has long ago accepted this principle. In the preamble to the standards for the 14 carcinogens, OSHA stated:

A major question of occupational carcinogenesis relates to the extrapolation of results of animal experimentation to humans. The basis of numerous objections to the proposals is that, even assuming the validity of animal experiments, such do not furnish sufficient evidence that the substances involved are carcinogenic to humans. Extrapolation of results obtained by animal experimentation is alleged to be vitiated by several considerations: (a) That certain cancers are specific only to some species; (b) that the conditions of animal experiments are out of proportion to, and not consistent with conditions prevailing in industrial exposure; and (c) that no cancers have yet been detected in humans exposed to the substances. For those substances whose metabolism is understood, and is similar in both animals and man, the fact that they induce cancers in animals warrants the expectation that they will induce cancers in men. This applies to the substances which cause urinary bladder cancers in animals acting, not directly, but indirectly through the mediation of metabolites formed both in experimental animals and in exposed workers. This is also true of those substances which apparently require no metabolic alteration but attack a particular biologic system (e.g., respiratory tract, alimentary canal) which is similar in both animals and humans.

The objections raise the much broader issue of human exposure to a chemical which is only known to have caused cancers in experimental animals. It is important to note that some opponents of the regulation of such chemicals do not advocate treating them as if they were harmless with respect to carcinogenic potential. Several employers, for instance insist that such substances must be treated with "care" or "respect," while also insisting that they call for significantly less protection than those substances known to be human carcinogens.

We think it improper to afford less protection to workers when exposed to substances found to be carcinogenic only in experimental animals. Once the carcinogenicity of a substance has been demonstrated in animal experiments, the practical regulatory alternatives are to consider them either non-carcinogenic or carcinogenic to humans, until evidence to the contrary is produced. The first alternative would logically require, not relaxed controls on exposure, but exclusion from regulation. The other alternative logically leads to the treatment of a substance as if it was known to be carcinogenic to man.

We agree with the Director of NIOSH, and the report of the Ad Hoc Committee on the Evaluation of Low Levels of Environmental Chemical Carcinogens to the Surgeon General, U.S. Public Health Service, April 22, 1970, that the second alternative is the responsible and correct one. This decision accords with the work practices of some who object to the proposed regulation. (39 FR 3756 at 3757-58)

Moreover, in regulating ethyleneimine (EI) in 1974 as a carcinogen, OSHA stated:

The carcinogenic potential of ethyleneimine (EI) has been confirmed by a study conducted by Walpole in 1954 involving rats and one sponsored by the National Cancer Institute involving mice. In the first study, animals developed injection site sarcomas

which the investigators attributed to the direct action of Ethyleneimine, and in the second study 80 percent of the animals developed tumors, including more than one-half with hepatomas (which the investigators stated had "malignant potential") and almost three-quarters with pulmonary tumors. Although high doses of EI were administered, the investigators stated there was no way to predict whether man would be more or less susceptible to tumor induction by EI.

The case for the carcinogenicity of EI, then, rests on the extrapolation to humans of the findings in two separate, controlled animal studies. The position is compatible with that of NIOSH concerning the prior demonstration of carcinogenicity in at least two animal studies. (39 FR 3756 at 3757)

This position was affirmed by the Third Circuit which held in *Synthetic Organic Chemical Manufacturers Association v. Brennan*, 503 F.2d 1155, 1160 (3d Cir. 1974) that: "There does exist substantial evidence in the record as a whole to support the Secretary's finding that EI is carcinogenic in rats and mice and, in the absence of evidence of carcinogenicity in humans, the Secretary properly weighed the only available alternatives."

In *In Re Shell supra*, The EPA Administrator agreed:

The ultimate issue in this suspension proceeding is whether Aldrin-Dieldrin is carcinogenic in man. Because man's response to carcinogens is similar to that of rodents, the finding that a substance is carcinogenic in experimental animals indicates that it poses a similar risk to man.

In affirming that decision, the Court of Appeals for the District of Columbia stated at 510 F.2d at 1299:

The validity of extrapolation to humans from data derived from tests on animals is also a matter within the agency's expertise. There was testimony before the Administrator to support such extrapolation and this court has acknowledged the significance of test animal data when cancer is involved. Use of animal data is particularly appropriate where, as here, accurate epidemiological studies cannot be conducted because the virtually universal contamination of humans by residues of aldrin/dieldrin make it impossible to establish an uncontaminated human control group. The long latency period of carcinogens further hinders epidemiological research, and the ethical problems of conducting cancer experiments on human beings are too obvious to require discussion. Although extrapolation of data from mice to men may be quantitatively imprecise, it is sufficient to establish a "substantial likelihood" that harm will result. *Cf. Society of Plastics Industry, Inc. v. OSHA*, 509 F.2d 1301, at 1308 (2d Cir. 1975).

And in proposing to ban the use of chloroform in drug and cosmetic products, FDA stated (41 FR 15027):

Although he is not aware of any direct evidence that chloroform induces cancer in man, the Commissioner recognizes that the positive finding of cancer in test animals in the National Cancer Institute report indicates chloroform may pose a risk of cancer for humans. Experience has indicated that, with one or two possible exceptions, compounds that are carcinogenic in humans are also carcinogenic in one or more experimental animal bioassay systems. In addition, several compounds first detected as a carcinogen in experimental animals were later found to cause human cancer. The clear

demonstration that a compound is carcinogenic in experimental animals must, therefore, be taken as evidence that it has a potential for carcinogenesis in humans unless there is strong evidence to the contrary.

In finalizing that decision some two months later, FDA stated (41 FR 26844):

The Commissioner considers the fact that a substance has been shown to be an animal carcinogen must be taken as evidence that it has a potential for carcinogenesis in humans unless there is strong evidence to the contrary.

And, in banning "TRIS", the Consumer Product Safety Commission stated:

The Commission has no conclusive data that establish that TRIS has caused cancer in humans. Since cancers develop over many years and cannot be easily linked to particular causes, this is not unexpected. The Commission's Office of the Medical Director (OMD) believes that once a substance is established as an animal carcinogen it can never be assured as a safe substance for human exposure. In addition, OMD believes that all known human carcinogens have been shown to be carcinogenic in laboratory animals. (Footnotes omitted). (42 FR 28060 at 28061, June 1, 1977)

Animal studies are most often conducted on small mammalian rodents such as mice, hamsters, and rats. Although as mammals, rodents are biologically closer to humans than fish, birds, or invertebrates, the choice of rodents as test species is not based solely upon their similarity to man. In large part, they are chosen for scientific convenience; they are small, easy to breed, relatively inexpensive to maintain, and have gestation periods of only a few weeks, so that an investigator can study many generations of rodents in a single year. Most important, cancers with a latency period of 5-40 years in humans will show up in rodents in only 1 to 2 years.

Animal studies typically use either a heterogeneous group of animals—one exhibiting a wide variety of physical and physiological traits, as humans do—or a carefully inbred strain that continues to exhibit the same well-defined characteristics generation after generation. Inbred strains offer experimental advantages and disadvantages; in studies of the carcinogenic potential of ultraviolet radiation on the skin, for example, hairless strains eliminate the need for removing the test animal's hair so that radiation can reach the skin. On the other hand, an inbred strain may have either an atypical sensitivity or resistance to the carcinogenic effects of a chemical. Repeated results can often be obtained with smaller numbers when animals of an inbred strain are used because of less variation due to genetic variation.

The chemical being tested may be administered to the animal in any one of several ways, for example: By ingestion through food or water, inhalation, injection under the skin or through the skin into the peritoneum, application to the skin, or directly to the stomach by means of a throat tube (gavage). Ingestion, inhalation, and skin application correlate with the normal modes of human exposure. Injection and a tube to the stomach

are the favored methods when the amount of exposure must be measured precisely.

The validity of extrapolating animal test results to man is firmly based upon empirical evidence as we point out below. Not only have mammalian experiments given positive carcinogenic test results for every compound known to cause cancer in man, except arsenic and perhaps benzene; although there may be wide variations in the susceptibility of various species to cancer, evidence indicates that a chemical that causes cancer in one animal species is likely to do so in most other species tested. The preponderance of scientific data indicates, in sum, that laboratory animals are suitable test models for determining the cancer causing potential of a toxic substance to humans.

In "General Criteria for Assessing the Evidence for Carcinogenicity of Chemical Substances", recently proposed for NCI by the Subcommittee on Environmental Carcinogenesis of its National Cancer Advisory Board (NCAB Report), 58 JNCI 461 (Feb. 1977) the expert subcommittee stated that studies with animal populations represent "a major source of data on carcinogenicity". Although present knowledge is not sufficiently advanced to allow a precise determination of whether a carcinogen identified solely by means of a bioassay in animals will or will not be carcinogenic in man and because it is not ethically nor practically feasible to undertake to study the effects on man of substances identified as carcinogens through animal studies, it is necessary to rely on the correlation between substances studied in animals and those known to induce cancer in man. The NCAB Report states that:

[e]xperience has indicated that, with one or two possible exceptions, compounds that are carcinogenic in humans are also carcinogenic in one or more experimental animal bioassay systems. In addition, several compounds first detected as carcinogens in experimental animals were later found to cause human cancer. Demonstration that a compound is carcinogenic in animals should therefore, be considered evidence that it is likely to be carcinogenic in humans, unless there is strong evidence in humans to the contrary.

The validity of using animal data as a qualitative indication of potential human effects has long been recognized by scientific advisory committees, and other governmental bodies; portions of the extensive discussion by expert committees, of the general criteria and principles applied to the design and interpretation of studies in animals will be traced to illustrate the varying conditions accepted for testing for carcinogenicity in animals (including length of the exposure period, number of animals to be employed, kinds of controls to be used, etc.) and the necessity for reliance on such data despite considerable uncertainties. As far back as 1959, a report of the National Research Council's Food Protection Committee provided one of the earliest reviews of the problems of identifying carcinogens. In the case of food additives, it was noted that epidemiological studies were even more difficult to conduct than for occu-

pational exposures, and a series of general considerations and principles underlying evaluations of carcinogenicity from animal studies were outlined. The report stated with regard to substances studied by administration to experimental animals that:

[t]here is general agreement as to the carcinogenicity of these substances and, although the carcinogenicity of all of them for man has not been demonstrated, it is unlikely that anyone would defend the addition of any of them to the human diet. (NRC, 1959, p. 6)

In 1961, a joint committee of the Food and Agricultural Organization (FAO) and the World Health Organization (WHO) issued a report entitled: "Evaluation of the Carcinogenic Hazards of Food Additives" (WHO Tech. Rept. 220). The committee, in its report, noted the "... difficulty of carrying out and interpreting epidemiological studies" and recognized that tests in animals are necessary to identify carcinogens. The committee stated that:

... tests on experimental animals cannot provide irrefutable proof of the safety or carcinogenicity of a substance for the human species. However, it is at least reassuring that the known carcinogenic activities of certain chemicals in man are similar in many ways to those found in experimental animals. (WHO Tech. Rept. 220, p. 6)

As a minimum safeguard, the committee said an "... investigation of the tumor incidence in a chronic toxicity test ..." should be performed, which "... should involve the study of an adequate number of animals of two species (e.g., rats and mice) and subjected to the feeding of a suitable dose range of the substance under question for the lifetime of the animals." (Ibid., p. 7)

The committee also noted its view of the need to use sensitive animals and stated:

Both sexes of each of at least two species of animals should be used in the tests throughout their lifespan. In most cases these species would be rats and mice. Hamsters or dogs might be suitable, but guinea-pigs, for example, appear to be resistant to some known carcinogens. The use of dogs in carcinogenicity tests has disadvantages. Because of the expense of maintenance, it is difficult to use a sufficient number to detect a low incidence of cancer, and the life span of the animal is 12-15 years. (Ibid., p. 8)

The committee report further stated that to establish valid negative results requires either the "unrealistic" use of large numbers of animals or dose levels "... far in excess of those recommended for human consumption." (Ibid., p. 9) Thus, to reduce the possibility that studies in animals will be too insensitive to detect the carcinogenic action of a substance, large doses of the substance are administered to the animals, despite the fact that in some cases large doses of many substances may cause non-lethal, non-carcinogenic but toxic effects in animals.

A report published in 1969 by the International Union Against Cancer (UIAC, 1969) discussed the results of a

study of "... those aspects of experimental carcinogenesis in animals which have a direct bearing on the problems of environmental cancer in man ..." with particular emphasis on "... methods of testing substances suspected of being carcinogenic in man, and to problems related to testing procedures." (UIAC, 1969, p. 1). The report states:

The need to formulate minimal requirements for satisfactory testing of substances suspected of being carcinogenic for man, has been recognized for a long time, and a number of international and regional bodies had already discussed it in some detail and published specific recommendations "... These earlier recommendations differed one from another in several respects, due in part to conflicting views among the various experts in the field, though some of the divergencies of opinion were more concerned with differences between minimal and optimal requirements. (Ibid., p. 11)

The report then discussed the minimal, and to some extent desirable, procedures to be employed in animal bioassays for carcinogenicity, the presentation of data, their interpretation, and other points, including priorities for testing. In the report it was also stated that positive findings should outweigh negative results:

It is generally recognized that negative results of biological testing are less significant than positive results, in relation to human application. This is all the more true when testing procedures are inadequate. (Ibid., p. 18)

In the United States, a review of concepts to be applied in carcinogenicity testing was also published in 1969 by the Commission on Pesticides and Their Relationship to Environmental Health, appointed by the Secretary of the Department of Health, Education, and Welfare (Mrak Commission). The Technical Panel on Carcinogenicity recommended that food additives and contaminants be tested for possible carcinogenic effects by means of adequate long-term bioassays.

The minimum requirements for such bioassays should include: Adequate numbers of animals of at least two species and both sexes with adequate positive and negative controls, subjected for their lifetime to the feeding of a suitable dose range of the test material, including doses considerably higher than would be present in food "... any substance which is shown conclusively to cause cancers in animals when tested under these conditions should be considered potentially carcinogenic for man ..." (Mrak Commission, p. 467)

... the number of animals in each test group should be sufficient throughout the tests to yield statistically significant results. It is important to stress that the detection of positive results in these bioassays depends on the development of tumor incidences significantly above the threshold of detectability for a given number of animals. Any carcinogenic effect below these levels will not be detected by the bioassays used. (Ibid., p. 465)

The species most practical for testing are rats, mice, and—as more recently shown—hamsters. Strains and colonies should be se-

lected to provide adequate sensitivity to tumor induction, as revealed by positive control tests with known carcinogens. (Ibid., p. 465)

The Technical Panel noted (footnote 2 on p. 465) that:

[t]he use of nonrodent species, recommended in the earlier reports, has now been substantially dropped. A suitable, practical nonrodent species would be useful but it is not available at this time "... While dogs have been employed for tests of carcinogenicity, with noteworthy success in selected cases (bladder carcinogenicity of aromatic amines), the requirement of lifetime feeding makes this species too expensive, in terms of time and funds, to be employed routinely.

The Technical Panel also noted the:

[g]eneral principles and criteria for evaluation of carcinogenic hazards "... laid down by several expert committees conceived in the last fifteen years by scientific and public health agencies ...

and stated that:

Recommendations made in these reports express a remarkably unanimous view on the general principles and criteria to be followed for carcinogenesis safety evaluations, widely accepted in principle by the scientific community (references omitted). (Ibid., p. 464)

In the report, the Technical Panel discussed the uncertainties as to the relevance and extrapolation of animal data to man, which it was stated:

... are a cause for concern and caution in interpretation of results. It should be noted, however, that a remarkable degree of concurrence has been found to exist between chemical carcinogenesis in animals and that in man where it has been studied closely. (Ibid., p. 482)

Thus, in recommending that human exposure to those pesticides considered to present a potential health hazard to man should be reduced, the Mrak Commission cautioned that:

... it is of utmost importance that the results of screening tests be scientifically and rationally considered. The correct interpretation of hazards to human health is sometimes extraordinarily difficult. It must involve the transfer of the results of animal experiments to prediction of human effects. In addition, the screening process frequently involves preliminary examination of the effects of massive dosages, possible contamination of test samples, and other factors which affect proper interpretation "... [but] ... [t]he health and welfare of the public must be effectively protected. (Ibid., p. 10)

Also in 1969, a Panel on Carcinogenesis of FDA's Advisory Committee on Protocols for Safety Evaluation prepared a report (FDA Panel Report) and later published it ("Panel on Carcinogenesis Report on Cancer Testing in the Safety Evaluation of Food Additives and Pesticides," *Toxic and Appl. Pharmacol.*, 20, 419 (1971)). The FDA Panel concerned itself "... with an evaluation of the present status of testing for carcinogenic action of food additives and other chemicals, which come into contact with man principally through his diet ..." and "... consideration of recommended test procedures for carcinogen-

sis (p. 425). A number of issues involved in the reliance on tests in animals under controlled conditions were discussed. Of the species of animals that might be used, the Panel said:

There is general recognition that new species in addition to the commonly used rodents are needed for carcinogenicity testing. Increasing the number of species used would greatly increase the margin of confidence with which safety can be predicted "... The most discussed additional species are primates. Recent studies show certain primates to be highly susceptible to some carcinogens; however, much more work is needed to justify the additional expense and time that would be necessitated by the introduction of these animals in routine test procedures. (FDA Panel Report, p. 426)

And in a discussion of the use of dogs, the Panel said:

There is general agreement that the dog is not a practical test animal because of its size and relatively long life span. (Ibid., p. 426)

The FDA Panel also delineated the responses in experimental animals as compared with a series of untreated (control) animals that "... may suggest the presence of a carcinogenic hazard ..." They are:

... (1) an increased incidence of tumors of a type seen commonly in the control animals, (2) an occurrence of a type of tumor not seen at all in the control animals or (3) a combination of the occurrence of a different type of tumor and an increased incidence of one or several types of tumors seen in the controls. In some experiments the only manifestation of an effect consists of (4) an earlier occurrence of tumors in the treated animals than in the controls, the incidence being the same in both. In yet another variation the only effect seen may consist of (5) an increase in the number of tumors per animal, the number of tumor bearing animals being the same. (Ibid., 419-420)

In 1969, the NRC Food Protection Committee prepared another report, "Evaluating the Safety of Food Chemicals," which was published in 1970 (NRC, 1970). The Committee noted that the previous reports of the Food Protection Committee, the Joint FAO/WHO Expert Committee, and the FDA contained:

... complementary statements of the principles underlying evaluation of the safety of food chemicals and "... set forth proposed procedures for accomplishing the evaluation ..." (NRC, 1970, p. 1)

The Committee stated that it was:

... not the purpose of this report to present another set of principles and procedures, but rather to review the purposes and value of what have become conventional procedures "... (Ibid., p. 1)

The Committee discussed the difficulty in carrying out controlled epidemiological studies and stated that:

[c]ontrolled experimental studies in man, though desirable, have limited predictive value "... (Ibid., p. 44)

and therefore:

[I]t is clear that appropriate and well-executed animal studies are more likely to provide a substantial background of biological

data from which to judge safety than are studies in man alone. (Ibid., p. 45)

In a discussion of the evaluation of the carcinogenic hazards of chemicals for man, the Committee stated that:

[o]n both ethical and practical grounds, the possible carcinogenic effects of chemicals to which man might be exposed must be determined in experimental animals, generally in short-lived species. The extrapolation of the results of these determinations to man rests on two basic findings:

1. Despite a great variety of studies, no significant aspect of the natural occurrence, induction, and properties of cancer has been shown to differ fundamentally between man and experimental animals.

2. Considerable assurance of the general applicability of the tests can be derived from the fact that the chemicals generally known to be carcinogenic in man also induce neoplasia (tumors) in experimental animals.

Many clear differences in the activities of chemical carcinogens in various species exist, however, and the unpredictable nature of species differences is the principal limitation to the extrapolation of results from studies with experimental animals to man. (Ibid., p. 47)

In 1970, the report, prepared for the Surgeon General by the Ad Hoc Committee of NIC, dealt with problems of exposure to chemical agents from all sources and "... the scientific criteria for evaluation of carcinogenic hazards." (NIC, 1970, p. 1). In emphasizing the broader scope of their report, the Committee said:

[M]any previous recommendations on the criteria to be used for evaluating environmental chemical carcinogenic hazards have been made for specific sources of exposure or for specific groups of substances (e.g., food additives, pesticides, certain occupational carcinogens). In some cases this approach has led to an uneven assessment of risks from different sources and to an uneven approach to preventive measures. (Ibid., p. 1)

The Committee acknowledged that:

[t]he present state of the art requires long-term bioassays in mammalian species for the experimental identification of carcinogenic activity "... A body of knowledge has developed over the years on the response of experimental animals to chemical carcinogens. Several committees of experts in the field of carcinogenesis convened by national and international bodies over the past 15 years have formulated general principles for performance and evaluation of carcinogenesis studies in animals. The recommendations put forth by these committees have shown remarkable unanimity (specifically cited were WHO Tech Repts 276 and 220, FDA Panel Report, Mrak Commission Report) and are widely accepted in principle by the scientific community" (Ibid., p. 1)

The committee cited the following references: P. Shubik and J. Sice, "Chemical carcinogenesis as a chronic toxicity test: A Review," *Cancer Res.* 61, 728 (1956). D. B. Clayton, "Chemical Carcinogenesis," Boston, Massachusetts, Little Brown and Co., 1962. W. C. Hueper, W. D. Conway, "Chemical Carcinogenesis and Cancers," Springfield, Illinois, C. C. Thomas, 1964. J. H. Welsburger and E. K. Welsburger, "Tests for Chemical Carcinogens, In Methods in Cancer Research, Volume 1, (H. Busch, ed.), New York, New York, Academic Press Inc., 1967, pp. 307-

Among the Committee's recommendations were:

Any substance which is shown conclusively to cause tumors in animals should be considered carcinogenic and therefore a potential cancer hazard for man. Exceptions should be considered only where the carcinogenic effect is clearly shown to result from physical, rather than chemical, induction, or where the route of administration is shown to be grossly inappropriate in terms of conceivable human exposure.

Data on carcinogenic effects in man are only acceptable when they represent critically evaluated results of adequately conducted epidemiological studies.

... Evidence of negative results, under the conditions of the test used, should be considered superseded by positive findings in other tests. Evidence of positive results should remain definitive, unless and until new evidence conclusively proves that the prior results were not causally related to the exposure.

... A basic distinction should be made between intentional and unintentional exposures.

... No substance developed primarily for uses involving exposure to man should be allowed for wide-spread human intake without having been properly tested for carcinogenicity and found negative.

... Any substance developed for use not primarily involving exposure in man but nevertheless resulting in such exposure, if found to be carcinogenic, should be either prevented from entering the environment or, if it already exists in the environment, progressively eliminated. (Ibid., pp. 1, 2)

The Committee also stated:

Any substance which is [validly] shown conclusively to produce tumors in animals ... should be considered potentially carcinogenic for man. (Ibid., p. 7)

More recent reports further confirm the widely recognized validity of animal experiments for establishing the carcinogenic potential of substances. An ongoing series of monographs published by the International Agency for Research on Cancer of WHO (IARC) beginning in 1972 lists animal data and any epidemiological evidence of cancer in man when discussing the carcinogenic potential of individual substances or of classes of substances. The monographs were initiated as a result of a recommendation in 1970 of the IARC Advisory Committee on Environmental Carcinogenesis:

... that a compendium on carcinogenic chemicals be prepared by experts. The biological activity and evaluation of practical importance to public health should be referenced and documented. (IARC Monographs, Vol. 1, p. 8)

The stated objective of the monographs is:

... to achieve a balanced evaluation of data through the deliberations of an international group of experts in chemical carcinogenesis and to put into perspective the present state of knowledge with the final aim of evaluating the data in terms of possible human risk, as well as to indicate the need of research efforts. (IARC Monographs, Vol. 1, p. 8)

387. J. G. Arcos, M. G. Argus, G. Wolf, "Testing Procedures," In "Chemical Induction of Cancer," Volume 1 (J. G. Arcos, M. G. Argus, and G. Wolf, eds.), New York, New York, Academic Press Inc., 1968, pp. 340-463.

The monographs emphasized that the response to a carcinogen in animals may be observed in several forms:

- (a) as a significant increase in the frequency of one or several types of neoplasms, as compared with other than zero frequency in control animals;
- (b) as the occurrence of neoplasms not observed in control animals;
- (c) as a decreased latent period as compared with control animals;
- (d) as a combination of (a) and (c).

(IARC Monographs, Vol. 1, p. 10)

In 1975, the National Research Council published two reports that addressed the question of carcinogenicity testing in animals. In a report on present and alternative technologies for pest control ("NRC Pest Control"), it is concluded:

... the carcinogenic risks, and other health hazards, of pesticides require continuing evaluation by testing with laboratory mammals, and that despite the problems involved in translating the results from such experiments to human risk, the present techniques are sufficiently reliable to justify registration actions based upon such data alone, on an interim basis, until evidence convincingly demonstrates that there is no human risk (NRC Pest Control, Vol. 1, p. 5)

In a report on principles for evaluating chemicals in the environment (NRC Principles for Evaluating Chemicals), a section is devoted to chemical carcinogenesis which discussed aspects of experimental design for carcinogenicity testing. The report states:

[R]odents are the animals of choice for carcinogenesis tests because of their convenience, comparatively short life span and proven susceptibility to a broad range of carcinogenic agents. (NRC Principles for Evaluating Chemicals, p. 150)

In 1976 the Subcommittee on Environmental Carcinogenesis of the National Cancer Advisory Board, National Cancer Institute, issued a report entitled "General Criteria for Assessing the Evidence for Carcinogenicity of Chemical Substances" (NCAB Report), June 2, 1976. The report stated:

... Demonstration that a compound is carcinogenic in animals should, therefore, be considered evidence that it is likely to be carcinogenic in humans, unless there is strong evidence in humans to the contrary. (NCAB Report, p. 2)

The report also stated:

Because of the limitations inherent in animal bioassays, a negative result obtained in a particular animal bioassay does not exclude the potential carcinogenicity of a compound in humans. The inappropriate experimental species may have been chosen; the number of animals tested may have been too small; or the duration of observation may have been too short. Alternatively, test conditions may have been inappropriate in terms of their predictive value for the response of humans. The extrapolation of experimental carcinogenicity data to the human situation is strengthened by obtaining results in more than one species. Negative results obtained in one species do not, however, detract from the significance of clearly positive results obtained in another species. (NCAB Report, p. 9)

It would seem, therefore, that opinions of scientific experts generally are substantially in agreement on (1) the prac-

tical and ethical difficulties in relying on epidemiological studies in man as the basis for establishing the lack of a carcinogenic potential of substances; (2) the validity of studies in experimental animals to establish the carcinogenic potential of a substance; (3) the minimal and optimal experimental conditions for testing for carcinogenicity; and (4) the kinds of statistically significant changes in tumor incidents that may be observed in experimental animals and used to characterize carcinogenic potential.

In particular, there appears to be general agreement on some of the following major issues and OSHA relies upon these concepts in proposing these regulations:

1. *Mammalian Species.* Mammalian species are those species of test animals generally considered directly relevant to man insofar as carcinogenicity testing is concerned. Other species, such as reptiles have not been shown to have any such similarity to humans, insofar as carcinogenicity is concerned. Thus, OSHA relies, in general, only upon results found in testing of mammalian species. In that regard, the rat and mouse (and to a lesser extent the hamster) have traditionally been the species of choice for carcinogenicity testing, other mammalian species being useful for certain purposes but being generally impractical for use in full-scale bioassays (WHO Tech. Rept. 220, p. 8; Mrak Commission, p. 465; FDA Panel Report, p. 426; NRC Principles for Evaluating Chemicals, p. 150). The choice of the rat and mouse is not only dictated by considerations of convenience, but because of their known susceptibility to agents known to be carcinogenic in humans as well as the similarity in the mechanisms of tumor induction (NRC, 1970, p. 47).

In *In Re Shell, supra*, the EPA Administrator stated:

Most of what we know about cancer is derived from tests with experimental animals, usually mice. The response of mice to carcinogens is similar pathologically to that of man; and research laboratories, such as those of the National Cancer Institute and Shell Chemical Company, use mice extensively in their research. (Footnotes omitted)

In affirming the EPA action, the United States Court of Appeals for the District of Columbia stated, 510 F. 2d 1292 at 1299:

Shell claims that tests based on mouse data are not substantial evidence, because mouse livers are unusually susceptible to cancer. Still, Shell's data—of statistically significant incidence of malignant liver tumors—were in strains of mice that were, as was noted by the Administrator, unusually resistant to such tumors. In any event, Shell's objections are outweighed by the substantial evidence supporting EPA's determination that mice are not uniquely susceptible to carcinogens, but are, in fact, good predictors of carcinogenic hazard to man. The Administrator found that rodents are particularly useful experimental animals, in part because of the similarity of their response to carcinogens to the response of man, their short lifespan, and our relatively well-developed understanding of the pathological development of tumors in mice and rats. Respected research institutions such as the National Cancer Institute have used mice ex-

tensively because they have found mice to be an accurate predictor of cancer in other species. (omitting footnotes).

And, in *In Re Velsicol*, the EPA Administrator stated:

For these reasons, pesticides and other chemicals are tested for carcinogenicity in laboratory animals, particularly mice (the first choice) and rats, which are broadly accepted by the scientific community as appropriate test animals for these purposes.

The mouse develops almost every kind of cancer that occurs in man and, with few, if any, exceptions, is subject to cancer from any source which is known to be a carcinogen in man. In both mouse and man, genes are involved in the control of processes through which cancer is induced. They control reactions to physical and chemical carcinogens. The genetic characteristics of mouse and man are sufficiently similar to permit the assumption that if a chemical or other agent such as radiation causes cancer in a particular organ of mice, then it will also cause cancer in the same organ, or possibly some other organ, of man.

In fact, the difficulty with using laboratory animals to test for carcinogenicity lies in the other direction. The failure of a chemical to induce cancers in a particular strain (or even several strains) of laboratory animals is not an assurance that the chemical is not a carcinogen in man, since that particular strain may be genetically resistant to cancer from that source, where, by contrast, the genetic susceptibility of people to cancer varies a great deal from person to person.

In the final determination to prohibit the use of chloroform in drug and cosmetic products, FDA was also faced with a study based on mice and rats. In discussing the issues raised concerning the mouse, FDA stated:

1. One comment from the Cosmetic, Toiletry and Fragrance Association, Inc. (CTFA), which also submitted safety data to FDA on studies involving the use of chloroform, questions the relevancy, design, execution, and interpretation of the National Cancer Institute (NCI) studies, and expressed the opinion that it is scientifically unjustified to disregard CTFA's studies in favor of the NCI studies. The specific points raised by the comment in opposing the Commissioner's determination that chloroform is a carcinogen or is otherwise a deleterious substance are as follows:

a. The comment contends that the NCI studies in no way consider the differences in metabolism between rodents and man. In support of this contention regarding differences in metabolism, the comment cites an article by Hill et al., "Genetic Control of Chloroform Toxicity in Mice," *Science*, 190:159, 1975; a recent review by Charlesworth in *BIBRA* (British Industrial Biological Research Association) *Information Bulletin*, 14:225, 1975, which cites Taylor et al. in *Xenobiotica*, 4:165, 1974; and a paper entitled "Covalent Binding of Haloalkanes to Liver Constituents, but Absence of Mutagenicity on Bacteria in Metabolizing Test System" by Uehleke, Greim, Kramer and Werner, presented at the fifth meeting of the European Environmental Mutagen Society, Florence, October 19-22, 1975. The comment states that (1) Hill et al. demonstrated that there are genetic factors in mice that affect susceptibility to chloroform lethality and induction of organ pathology and that these are associated with a metabolite whose formation is regulated by genetic factors; (2) Charlesworth reported distinct species differences to show that the metabolic fate of chloroform in mice and most likely in rats,

is not the same as in man, that there are sex-linked differences in metabolism that are peculiar to the mouse, and that man appears to eliminate more of the chloroform unchanged in the exhaled air; (3) Taylor et al. concluded that the mouse is an unsuitable species for evaluating the toxic effects of chloroform; and (4) Uehleke found in the "Ames study" that chloroform is not mutagenic and unlikely to be carcinogenic.

The comment further states that a "recognized international expert in oncology" concluded that in consideration of the findings in the NCI report and those obtained by himself, "there is obviously wide species, strain, and sex variation both in the incidence of spontaneous tumor of the liver and kidney and in the response of these organs to chloroform." The comment claims that such a conclusion is supported by an opinion expressed by Dr. Grasso in a talk entitled "Evaluation of the Hepatoma in the Rodent in Carcinogenesis Bioassay" summarized in *BIBRA*, 1975 ("The Value of the Mouse in Carcinogenesis Bioassay" summarized in *BIBRA*, 1975).

The Commissioner views the conclusions expressed in the comment as relying on the finding that, in studies of three mouse strains, male and female mice showed a sex-linked difference in ability to metabolize chloroform. The Commissioner does not agree that this forms an adequate basis for rejecting the mouse as a useful experimental animal, especially since the work of Hill et al. indicates that this variability exists not only between sexes but also within the same sex among different strains of the same species. Since these authors cite findings in humans of large interindividual difference in the disposition of commonly used drugs—differences which they attribute to genetic variability—it is not surprising that chloroform toxicity would be variable in the same species as well.

The Commissioner points out that the NCI report observes the variation in species and sex in the incidence of spontaneous tumor of the liver and kidney, and the response of these organs to chloroform. The report notes that the Osborne-Mendel strain was selected by NCI because it was reported to be sensitive to the carcinogenic effects of carbon tetrachloride (CCl₄). The question of genetic drift within a strain might also be a factor since the positive control (CCl₄) produced a relatively low response (less than 5 percent with hepatocellular carcinomas). Thus, if anything, the Osborne-Mendel rats used in the NCI studies appear to be less sensitive to the hepatocarcinogen than those reported in the literature.

The Commissioner recognizes that there is disagreement among pathologists on diagnosis of lesions, including hepatic nodular lesions. However, proliferative changes and neoplastic lesions are discussed in considerable detail on pages 32-37 and 40 of the NCI report. The critique submitted by the comment provides no new information that would negate the effects discussed in the pathology section of the NCI report. (41 FR 26842)

2. *Positive Versus Negative Results.* Testing of chemicals for valid negative results may be used to evaluate the evidence only if they are derived from tests which used both sexes of each species tested, exposed for their lifetime to a suitable dose range of the test material, with appropriate controls (WHO Tech. Rept. 220, p. 8; Mrak Commission, p. 486-87). As the Ad Hoc NCI Committee report recommended to the Surgeon General of the United States:

4. No chemical substance should be assumed safe for human consumption without proper negative lifetime biological assays of adequate size. The minimum requirements for carcinogenesis bioassays should provide for: adequate numbers of animals of at least two species and both sexes with adequate controls, subjected for their lifetime to the administration of a suitable dose range, including the highest tolerated dose, of the test material by routes of administration that include those by which man is exposed. Adequate documentation of the test conditions and pathologic standards employed are essential. (Emphasis supplied) (P. 1)

However, as the following discussions make clear, OSHA is concerned not about negative test results in species other than the species in which the substance created positive carcinogenic activity, but rather additional negative test results in the species that has been reported as positive in other tests. This is so because, as pointed out, known carcinogens in humans are not necessarily so in all species of test animals or even consistently so.

Likewise, positive results in tests with experimental animals, if obtained under sound experimental conditions and with proper statistical confirmation, should generally supersede negative results, both because of the aforementioned insensitivity of laboratory bioassays conducted with limited numbers of animals, which may frequently lead to false negative results, and also because of interspecies differences in susceptibility. For example, in 1970, the Ad Hoc NCI Committee's report to the Surgeon General recommended that:

5. Evidence of negative results, under the conditions of the test used, should be considered superceded by positive findings in other tests. Evidence of positive results should remain definitive, unless and until new evidence conclusively proves that the prior results were not causally related to the exposure. (P. 1)

FDA appears to accept this view. In banning the use of chloroform, FDA stated:

E. The comment contends that FDA has never made a determination that a substance is carcinogenic on the bases of a single unreplicated study where there are contradictory data, and it refers to saccharin, where the studies produced conflicting test results, as an example.

The Commissioner advises that the reference to saccharin is neither analogous nor applicable to the chloroform toxicity and carcinogenicity bioassays relied upon in this action. Thus far, the results of studies using saccharin have been inconclusive; additional studies are ongoing. The results of the NCI studies are conclusive. In addition, the studies submitted by CTFA were conducted at lower dosages than those reported by NCI. The lack of sensitivity of the current carcinogenesis bioassays in rodents is well recognized. Thus the positive finding with chloroform should be given greater weight than studies at lower dosages using smaller numbers of animals.

Moreover, FDA stated:

... negative evidence in experimental animals, such as reported in some of the studies submitted by CTFA, does not exclude the potential human carcinogenicity of a substance. The Commissioner is of the opinion that the risk to humans through

frequent and long-term exposure to a substance in human drugs and cosmetics that has been shown to be an animal carcinogen is contrary to the public health unless the benefit of such exposure clearly outweighs the risk. (41 FR 26844)

And, it should be noted that certain chemicals may be carcinogenic in certain species, including man, but not in others. For example, betanaphthylamine, a known carcinogen in man, monkeys and dogs, is not apparently carcinogenic in rats or rabbits. Hence, positive studies in any mammalian species will, as a general rule, always supersede negative findings in another species. (UICC 1969, p. 18; NCI, 1970, p. 2; NCAB, report, p. 9)

Thus, OSHA believes that, as a practical rather than a theoretical matter, positive animal data should supersede negative human data, in general, because of the inherent defects in such human studies, as pointed out above. Moreover, in the case of DES, OSHA is unaware of any data indicating that women who took DES during pregnancy (with the possible exception of those with gonadal dysgenesis) have any greater risk of contracting cancer than women who have never been exposed to the chemical. Yet, DES is unquestionably a human carcinogen in terms of at least the exposed female offspring. Thus, humans may be exposing themselves to potential carcinogens that may affect, and appear in, only future generations, at that point a matter which is irreversible even in terms of reduction of exposure. But, as in the case of all known human carcinogens (with the possible exception of arsenic and benzene), DES had been regarded for years as positive, for carcinogenic activity, by all routes of administration, in test animals, including the mouse, rat, hamster and the squirrel monkey.

3. *Testing at High Doses.* The testing of chemicals at constant high exposure levels, at or approaching the maximum tolerated dose level, is not inappropriate and is indeed required to overcome the statistical insensitivity of laboratory bioassays conducted with the limited numbers of animals that can be handled in practical laboratory conditions (WHO Tech. Rept. 220, p. 9; Mrak Commission, p. 487; UIAC 1969, p. 17). As the NCI Ad Hoc Committee's report to the Surgeon General stated:

... bioassay methods have remained tools of low sensitivity, capable only of detecting the highest peaks of carcinogenic activity. The factor which limits bioassay sensitivity is usually the small number of test animals used. If the bioassay design has a low probability of detecting carcinogenic effects produced by hazards at levels comparable to those present in environmental samples, then tests at such levels are wastes of time, effort and money. The need to test levels higher than those found in the environment is thus founded. (P. 7)

Regulatory agencies have agreed. The Administrator of EPA stated in *In Re Shell, supra*:

High doses are administered in animal tests, not because the researchers seek to correlate animal response levels to humans, but because with a limited number of animals

this methodology is necessary to determine gross effect. Consequently, a substance that will induce cancer in experimental animals at any dose level, no matter how high or low, should be treated with great caution. (Footnotes omitted) (39 FR 37268)

Again, in *In Re Veliscol*, EPA addressed this issue and stated:

Some interest has focused on the high dose levels given to laboratory animals as opposed to the much lower levels encountered by man in the environment, the supposition being that the lower doses naturally encountered may not be dangerous. However, there is not any evidence to indicate that there is a minimum dosage of any known carcinogen below which it does not have a carcinogenic effect. There does not appear to be a relationship between the dose level of a carcinogen on the one hand and, on the other both the percentage of the total of persons or animals exposed who get cancer and the latency period of the disease. High doses in animal experiments are thus justified, and indeed necessary, because the comparatively small numbers of animals necessarily involved in the experiments make it very difficult at least to test for positive results at lower doses.

Testing at . . . relatively high doses is now generally regarded as essential to the attempt to reduce the gross insensitivity imposed on tests by the small size of animal groups routinely tested, such as 50 or so rats or mice per dose level per chemical, compared with the millions of humans at presumptive risk . . .

To illustrate the insensitivity of conventional animal test systems, assume that man is as sensitive to a particular carcinogen as the rat or mouse. Assume further that this particular agent carries a risk of producing cancer in 1 of 10,000 humans exposed; this would result in approximately 20,000 cancers in the United States population. Then the chances of detecting this in groups of 50 rats or mice, tested at ambient human exposure levels, are very low. Indeed, samples of 10,000 rats or mice would be required to yield 1 cancer over and above any spontaneous occurrences; for statistical significance, perhaps 30,000 rodents would be needed.

Moreover, there exists the problem that for particular chemicals, human beings may be far more sensitive than laboratory animals. For example, thalidomide produces teratogenic effects in man at a dose level that is 1/60 of that needed to produce that effect in mice, 1/100 of that for rats, 1/200 of that for dogs, and 1/700 of that for hamsters. (41 FR 7575)

And again, FDA in eliminating chloroform from drugs and cosmetics stated:

b The comment also argues that the dosage in the NCI studies was excessive and thus does not support the contention of risk to humans. Noting that the NCI report states that the methodology used in their studies differs from that which is currently used by NCI, the comment states that the most serious defects in the methodology used are the inadequacy of the subchronic toxicity study to determine the maximal tolerated dose (MTD) and one-half MTD, and the failure to employ a meaningful definition of MTD. The comment further states that had a proper and reliable subchronic study been conducted, employing liver and renal function measurements as well as histological assessment of the effects of chloroform upon the liver and kidney, it would have been found that the dose levels used were too toxic. In support, the comment notes that in the NCI rat study, the dose levels had to be reduced after 22 weeks of

treatment because the lethal consequences were too great. The comment also cites in support a short term study conducted at Bio/dynamics Inc. at dosage levels of 60, 120, 240, and 480 milligrams/kilogram and with the same strain of mice as that used in the NCI study. In the Bio/dynamics Inc. study both males and females had poor tolerance to the chloroform and at the 480 and 240 milligrams/kilogram levels most of the mice died.

It is the Commissioner's opinion that the growth and survival curves as plotted for the mice in the NCI report reveal no significant effect on growth from the dosages administered, and only in the high-dose level female mice is there an effect seen on survival. However, this effect was observed late in the study, when the death rate showed a sudden increase after the 70th week. The Commissioner therefore concludes that the dosages in the NCI mouse study conform to the standard generally accepted for an MTD to be used in carcinogenicity studies.

In the NCI rat study, it is true that the survival rate for chloroform-treated rats was lower than that for control rats.

However, in the Commissioner's view the high dosage level for male rats appears to conform to standards for MTD when the first 90 days of the growth curves are examined. The comment's objection regarding excessive dosage (greater than MTD) would apply only to female rats. In this regard the Commissioner notes that the statement in the comment that dosage levels employed had to be reduced after 22 weeks because of lethality applies only to the female rats. Despite the reduction in dosage, the survival curves show a consistently lower survival rate. However, the Commissioner emphasizes that there was no increase in tumors reported for these animals. Rather, it was only in the male rats that an increased incidence of renal tumors was reported.

The comment also points out that the ratio of tumor-bearing animals to animals involved in all chloroform treatment groups is less than that found in both male and female matched control groups. This observation, however, is noted and described by NCI in their report as not significant. Moreover, the Commissioner believes the distribution of other than kidney tumors to be normal. Aside from this, the comment disregards the dose-related time of tumor onset. The CITFA analysis further states that . . . data for the female groups indicate that chloroform treatment may have actually exerted beneficial effects. Obviously, the lethal effects cannot be viewed as beneficial. Finally, the Commissioner notes that in the case of male rats where dosage would appear to conform to the generally accepted standard for carcinogenicity studies, definite evidence of kidney carcinogenicity appeared. (41 FR 26842)

4. *Species or Organ-Specificity.* In experimental carcinogenesis, the type of cancer seen is often the same as that recorded in human epidemiological studies (e.g., bladder cancer in man, monkeys, dogs, and hamsters with beta-naphthylamine). In other instances, however, a chemical will induce neoplasms at different sites in different animal species (e.g., benzidine, which induces hepatic carcinoma in the rat, but bladder carcinoma in man; or chloroform, which induces hepatic carcinoma in the mouse, but kidney carcinoma in the rat) (IARC Monographs, Vol. 1, p. 10; 41 FR 15026; NRC Pest Control, Vol. 1, pp. 74-82). Thus there can be no presumption that the organ affected in ani-

mal experiments would necessarily be that at risk in man. And, in *In re Shell* the EPA Administrator further stated:

Most carcinogens are also not organ-specific. In a survey by Dr. Tomatis of 58 compounds known to produce liver tumors in mice, 40 also induced tumors in a variety of other organs. Furthermore, chemically induced tumors in one species need not appear in the same organ in other species. Thus, a carcinogen which induces liver tumors in mice might, for example, produce mammary cancers in rats and lung tumors in men. (39 FR 37268)

5. *Statistical significance.* For adequate demonstration of carcinogenicity of a substance in test animals, it is generally necessary that the increased incidence of neoplasms in one or more of the experimental groups should be evaluated statistically for significance (NCAB Report, p. 5; Mrak Commission Report, p. 465). This requires that the size of the experimental groups be adequately large to permit statistical evaluation (Mrak Commission Report, p. 465; UICC 1969, p. 17).

In contrast to the five (5) points discussed above, on six (6) other issues discussed below (6-11), the opinions of scientific experts appear to be less fully in agreement, and OSHA takes cognizance of the areas of scientific debate in determining the weight to be placed on different types of evidence. However, for the reasons stated in the following discussions, OSHA believes that responsible public rulemaking and prudence concerned with protecting the health of American workers mandate the decisions reached therein.

6. *How much weight should be placed upon the incidence of benign tumors in animals as an indication of potential carcinogenic hazard in man?* There are well-established morphological and histological criteria for distinguishing between benign and malignant tumors, and there is substantial agreement among scientific experts that the occurrence of tumors in advanced stages of cancer—invasion of adjoining tissue and metastasis to other organs—is an unequivocal predictor of carcinogenic hazard to man. Malignant tumors are those that display these characteristics of invasion and metastasis, or have the capacity to do so, whereas benign tumors are those which are judged by experts to lack this capacity (NCAB Report, p. 3). Scientific opinion has varied on the issues of whether substances which induce benign tumors only should be characterized as carcinogenic, and whether they should be regarded as posing a potential carcinogenic hazard to man. Historically, a distinction was drawn. For example, the FDA Panel on Carcinogenicity in 1969 stated:

. . . a carcinogen is a substance that when administered by an appropriate route, causes an increased incidence of malignant tumors in experimental animals as compared with a control series of untreated animals . . . The occurrence of benign tumors only would not classify an agent as a carcinogen. (FDA Panel Report, pp. 419-420)

The Panel pointed out that:

The occurrence of metastases provides an unequivocal demonstration of malignancy. There are, however, many tumors induced experimentally that are invasive and are classified as malignant, that metastasize only rarely during the average experiment. The absence of metastasis, in view of most pathologists, does not rule out the diagnosis of malignancy. (FDA Panel Report, p. 420)

This position was also supported in the 1959 report of the NRC Food Protection Committee:

The general term "cancer" refers to the development of all kinds of malignant tumors. This term is not applied to non-malignant tumors . . . It is recognized, however, that progression from benignity to malignancy may occur. (NRC, 1959, p. 5)

The FDA Panel did, however, note that:

. . . benign tumors may cause death in man and animals without ever undergoing malignant transformation. The induction of a benign tumor is, itself, therefore, an indication of a serious adverse reaction. There can be no doubt from a survey of experimental studies that benign neoplasms are often precursors of malignancies . . . (and) it would be wise to take serious note of the occurrence of benign neoplasms in experimental studies . . . (FDA Panel Report, p. 420)

However, in more recent times, the considerations that benign tumors are hazardous without progressing to malignant stages and that benign tumors are often precursors to malignant tumors have led other expert agencies and committees to be more cautious in terms of exposing man to potential carcinogens. For example, the Technical Panel on Carcinogenicity of the Mrak Commission stated:

. . . the majority of the Panel recognizes that benign tumors may become malignant. The Panel is unaware of the existence of any chemical which is capable of inducing benign tumors only, which is to say, in the light of present knowledge, all tumorigens must be regarded as potential carcinogens. Thus, the majority of the Panel accepts tumorigenicity as an index of potential carcinogenicity. (Mrak Commission Report, p. 466)

In a discussion of the Litton-Bionetics study sponsored by NCI, the Technical Panel stated:

The end point employed in the study was tumors. This term was used to include the benign and the malignant neoplasms and those neoplasms whose malignancy could not be ascertained on the basis of histomorphology alone . . . This use of the term "tumor," in the opinion of the panel, is both useful and admissible for the purposes of quantitating chemical carcinogenicity in animals. Its admissibility is based upon two facts: (a) No adequately tested chemical has been found to produce only benign neoplasms and, (b) a substantial percentage of benign-appearing tumors in mice, has been demonstrated ultimately to eventuate in cancer. (Mrak Commission Report, p. 482)

Other reports as well support the position of considering the occurrence of benign tumors to be evidence of carci-

nogenicity. The World Health Organization Report in 1961 stated:

In the assessment of the carcinogenic risk it is not considered relevant whether the tumor is benign or malignant since the conversion of the first to the second must be regarded as possible. (WHO Tech. Rept. 220, p. 16)

The Ad Hoc Committee that reported to the Surgeon General in 1970 recommended that:

. . . The implication of potential carcinogenicity should be drawn both from tests resulting in the induction of benign tumors and those resulting in tumors which are more obviously malignant. (NCI, 1970, p. 1)

In the report of the Ad Hoc Committee, the earlier definition of the FDA Panel was specifically discussed, and the Ad Hoc Committee stated:

The assessment of the carcinogenic activity of a chemical depends on a variety of parameters. These include not only the total numbers of tumors induced but also their multiplicity, latent period, morphologic type, and degree of malignancy. The induction of tumors diagnosed as benign as a result of treatments has been interpreted by certain groups in the past as not sufficient to demonstrate a "carcinogenic" effect. This is a dangerous position since few, if any, substances have produced only benign tumors and no malignant ones when properly and repeatedly tested. (NCI, 1970, p. 6)

In the report of the WHO Expert Committee in 1964 on "Prevention of Cancer" precancerous lesions in animals were discussed:

In the thinking of most experimentalists the induction of a benign tumour represents the production of neoplasia. Most would feel that this is an indication of carcinogenicity although it is usual to continue studies until morphologically malignant tumours have appeared. There are few studies on record in which only benign tumors are recorded (the neurofibromas induced by ergot appear to be such an instance). In the majority of experimental studies with epithelial tissues, the induction of a benign tumor is merely a stage in the subsequent occurrence of a malignancy. (WHO Tech. Rept. 276, p. 12)

A World Health Organization report on "Principles for the Testing and Evaluation of Drugs for Carcinogenicity" ("WHO Tech. Rept. 426"), published in 1969, stated:

The response of test animals to carcinogens may take one of several forms: (1) an increased incidence of one or more of the tumor types noted in the controls; (2) the occurrence of tumors earlier than in the controls, without increased incidence; (3) the development of types or tumor not seen in the controls (this may or may not be associated with an overall increase in the number of tumors seen in the controls; and (4) a multiplicity of tumors in individual animals, the incidence in terms of tumor-bearing animals being the same. Furthermore, the tumors seen may be benign or malignant, or tumors of both categories may be present. (WHO Tech. Rept. 426, p. 19)

The International Agency for Research on Cancer (IARC) took a similar position:

The qualitative nature of neoplasia has been much discussed. Many instances of carcinogenesis involve the indication of both benign and malignant tumors. There are few, if any, recorded instances in which only benign tumors are induced; their occurrence in experimental systems is usually indicative of eventual malignancy. (IARC Monographs, Vol. 1, p. 10)

And a decision of the Administrator of EPA in suspending two pesticides in *In Re Shell*, *supra*, is noteworthy. He stated, citing the above mentioned report of the IARC:

The once significant distinction between tumors and cancers, or between tumorigenic and carcinogenic substances has lost much of its validity with the increasing evidence that many tumors can develop into cancers. Thus, for purposes of carcinogenicity testing, they should be considered synonymous. Similarly, the distinction between benign and malignant tumors, while important to the individual host animal, is not a reliable indicator of carcinogenicity, for in the thinking of most experimentalists, the induction of a benign tumor is merely a stage in a subsequent occurrence of a malignancy. (39 FR 27267)

In addition, one recent committee reports the following position:

The carcinogenicity of a substance is established when the administration to groups of animals in adequately designed and conducted experiments results in increases in the incidence of one or more types of malignant neoplasms (or a combination of benign and malignant neoplasms) in the treated groups as compared to control groups maintained under identical conditions but not given the test compound . . .

The occurrence of benign neoplasms raises the strong possibility that the agent in question is also carcinogenic since compounds that induce benign neoplasms frequently induce malignant neoplasms. In addition, benign neoplasms may be an early stage in a multi-step carcinogenic process and they may progress to malignant neoplasms; also, benign neoplasms may themselves jeopardize the health and life of the host. For these reasons, if a substance is found to induce benign neoplasms in experimental animals it should be considered a potential human health hazard which requires further evaluation. In experiments where the increased incidence of malignant neoplasms in the treated group is of questionable significance, a parallel increase in incidence of benign tumors in the same tissue adds weight to the evidence for carcinogenicity of the test substance. (NCAB Report, p. 5)

It is plain from the above quotations that the scientific discussion is not concerned with the significance of benign tumors, but rather with the precise degree of weight that should be placed upon the results of an experiment in which a substance induces only tumors that are authoritatively classified as benign in the test animals. Since such instances are acknowledged to be rare (IARC Monographs, Vol. 1, p. 10; WHO Tech. Rept. 276, p. 12; NCI, 1970, p. 6; Mrak Commission Report, pp. 466, 482), the issue may be somewhat academic. However, if such a case should arise before OSHA in regulatory decision-making, the Agency proposes to place as much weight on an experiment in which only benign tumors are observed, as upon experi-

ments in which both malignant and benign tumors are induced.

7. *How much weight should be placed on the induction of a type of tumor which occurs spontaneously in untreated animals?* There has been some debate in recent years as to the amount of weight that should be placed on experiments in which administration of a compound merely increases the frequency of a type of tumor which occurs spontaneously in untreated control animals of the species and strain involved in the test. Some would argue that such compounds should not be classified as carcinogenic, but merely as "augmenting" or "enhancing" agents. However, such a view is not supported by the expert committees which have reviewed this problem:

For present practical purposes, no distinction is made between the induction of tumors and the enhancement of tumor incidence, although it is noted that there may be fundamental differences in mechanisms that will eventually be elucidated (IARC Monographs, Vol. 1, p. 10)

It is not possible to differentiate clearly between initiating agents, promoting agents, and certain modifying factors. Any factor or combination of factors which increases the risk of cancer in humans is of concern regardless of its mechanism of action. (NCAB Report, p. 2)

Ineed, if a species of animals has a very low or zero spontaneous incidence of tumors at various sites, this may indicate that it is resistant to the induction of tumors at these sites by carcinogens, and hence would be unsuitable as an experimental subject. It is for this reason that the use of positive controls in carcinogenesis bioassays is recommended by some expert committees (Mrak Commission Report, p. 467).

A more substantial argument that has been raised is that certain animal strains may be inappropriate for testing because of high and variable spontaneous incidence of tumors in one or more organs. This argument has been made with particular reference to liver tumors in certain strains of mice but has also been made in reference to lympho-sarcomas in mice, and certain other tumors. The NCAB Report cautions against unequivocal reliance on:

[b]ioassays employing inbred strains of animals which develop high incidences of particular tumors in the untreated state. In some of the studies the particular characteristics of the animals and the results obtained may require additional evaluation—in other instances, such well controlled test systems may be quite satisfactory for the establishment of carcinogenicity of an agent. (NCAB Report, p. 6)

The other expert committee reports cited above, however, expressed no such reservations, merely emphasizing that the spontaneous incidence of tumors be carefully recorded (Mrak Commission Report, p. 465; UICC 1969, p. 17), and in some cases recommending the use of genetically inbred strains with known spontaneous tumor incidence for specific bioassay purposes (UICC 19, p. 16; NAS Principles for Evaluating Chemicals, p.

135; FDA Panel, p. 422). Where the spontaneous incidence of tumors is high or even 100 percent, reliable inferences of carcinogenicity can be drawn from a decrease in the latency periods or an increase in the number of tumors per animal (IARC Monographs, p. 10; FDA Panel, p. 420). In such cases, the emphasis that the study be "well controlled" (NCAB Report, p. 6) is important since the incidence of spontaneous tumors may depend on age or other factors, which therefore must be maintained the same in control and treated groups.

Indeed, recent studies of the mechanisms of cancer induction and their implications for dose-response relationships have suggested that animals with relatively high spontaneous tumor incidence may in fact be more appropriate for assaying potential carcinogens than animals with low or zero spontaneous incidence:

One practical implication of the fact that different carcinogens share many mechanistic steps is that enhancement of certain carcinogenic processes may have a more readily detectable effect on cancer incidence in animals with high background levels of all other carcinogenic processes. Therefore carcinogenicity tests of various substances should possibly include tests on high-spontaneous incidence strains or experiments to see whether the test substance enhances the carcinogenic effect of a standard carcinogen. (K. S. Crump, D. G. Hoel, C. H. Langley, and R. Peto, *Cancer Research*, 36:2977, 1976)

Accordingly, OSHA proposes to interpret the results of experiments showing increased incidence of tumors in treated animals as positive evidence of carcinogenicity, regardless of the spontaneous tumor incidence, provided that the experiments are sufficiently well controlled and the increase in incidence is statistically significant. However, it may be appropriate to place less weight on an experiment conducted with an animal strain in which the spontaneous tumor incidence is relatively high. For example, an increase in tumor incidence from 1% to 21% would appear more biologically significant than an increase from 50% to 70%, even if both were equally significant in the statistical sense. It should be remembered that if only very resistant strains are used, some substances that may be carcinogenic in susceptible humans may be missed.

8. *Which routes of exposure of experimental animals are to be considered appropriate for extrapolation to man?* The NCI Ad Hoc Committee recognized that exceptions to the validity of qualitative extrapolation from data on carcinogenic effects on animals to predict potential hazard for man might be considered "where the route of administration is grossly inappropriate in terms of conceivable human exposure." (NCI, 1970, p. 1). The National Cancer Advisory Board Subcommittee similarly expressed reservations about the unequivocal interpretation of:

[b]ioassays in which the test compound is given by unusual routes of administration [such as bladder implantation] and there is reason to believe that the tumors that occurred may not be due to a specific effect

of the test compound. (NCAB Report, pp. 6-7)

However, the Subcommittee continued:

This does not mean, however, that substances should only be tested in animals by the same route of administration as pertains to human exposure (*ibid.*).

In cases where the test compound is absorbed by the experimental animals and is circulated systemically, giving rise to tumors at sites other than the point of application, it seems reasonable to regard the route of administration as irrelevant to weighing the potential risks to man. This principle was specifically enunciated by the National Cancer Institute in its report in the "Carcinogenesis Bioassay of Trichloroethylene" (NCI Carcinogenesis Tech. Rept. Series No. 2, May 31, 1976):

Trichloroethylene was administered by gavage in this study while the main human exposures are by inhalation of vapors and by ingestion through contaminated water and food products. The selected route of exposure is considered relevant to all modes of human exposure because trichloroethylene is readily absorbed and distributed to all organs following ingestion or inhalation. This has been shown in several species, including the rabbit (Gask, 1936), the dog (Barrett and Johnston, 1939), and the guinea pig (Fabre and Truhaut, 1952). The fact that in this study tumor induction occurred in the liver indicates that trichloroethylene was absorbed and that systemic exposure of tissues occurred. (NCI Tech. Rept. Series 2, p. 41)

In cases where tumors are induced in experimental animals only at the site of administration of the substance, it becomes important to evaluate the appropriateness of the route of exposure to that likely to occur in occupational situations. OSHA intends to consider each such case on its merits, subject to the following guiding principles:

(1) oncogenic effect resulting from dermal, inhalation, injection (with tumors at distant sites) and oral exposure (including gavage or intratracheal instillation), shall be regarded as directly relevant to occupational exposure, except in special circumstances;

(2) carcinogenesis resulting from injections or implantations, in which the tumors are induced only at the site of application, shall generally be regarded as irrelevant to occupational exposure, except where the substance is distributed systemically or in other special circumstances.

OSHA draws attention to this specific part of the proposal and invites public comment on its proposed conclusions.

9. *How much confirmation of positive results is necessary?* For the reasons stated above, positive results in tests with experimental animals, if obtained under sound experimental conditions and with proper statistical confirmation, should in general, supersede negative results, including those in humans, as pointed out. In particular, positive findings of carcinogenicity in one animal species should generally outweigh negative reports in another, in relation to human application (UICC, 1969, p. 18; NCI, 1970, p. 2, NCAB Report, p. 9).

Nevertheless, OSHA recognizes that "false positive" results may arise occasionally, both through statistical ac-

cidents and honest errors in the conduct of single experiments. Accordingly, OSHA recognizes that much greater weight should be attached to positive results that have been replicated in another study than in a single unconfirmed result. As the National Cancer Advisory Board expressed the situation:

Such increases [in neoplasms in experimental animals] may be regarded with greater confidence if positive results are observed in more than one group of animals or in different laboratories. The demonstration that the occurrence of neoplasms follows a dose-dependent relationship provides additional evidence of a positive result. (NCAB Report, p. 5)

While recognizing the importance of a single positive result as a warning flag, the Agency believes that it would not serve the interest of responsible public rulemaking to impose major, cost intensive regulatory requirements on the basis of unconfirmed, and possibly unreplicable, results. Following the guidance of the NCAB Subcommittee, which emphasized in the above-quoted passage and elsewhere that varying degrees of confidence can be attached to positive results, OSHA proposes to establish a three-tier system of classification for those toxic substances that are found in the American workplace. In general, as is more fully discussed below, Category I toxic substances are those whose carcinogenicity, as defined, has been determined in humans or in two or more mammalian species of test animals or in one species if the results of that study have been replicated. Category II toxic substances are those whose carcinogenicity has been reported but the evidence for some reason is only suggestive, as defined, or positive in one species, but not yet replicated. Category III toxic substances are those for which the evidence is inadequate to raise any concern regarding carcinogenicity or where the evidence consists of animal data in a single species that is less than suggestive. As pointed out, OSHA is also proposing a classification for those substances that might be classified as one of the 3 categories except for the fact that they are not found in American workplaces (Category IV toxic substances).

OSHA recognizes that there are other factors involved in carcinogenicity tests which affect the degree of confidence in the results (e.g., choice of strain, spontaneous tumor incidence, duration of experiment, survival, intensiveness and competence of pathological examination, etc.). In addition, OSHA may require detailed review of each experiment, including, where necessary, independent pathological diagnoses, before classifying each toxic substance. Comments on this aspect of the proposed classification scheme are specifically invited.

These principles appear to be closely aligned with past actions of FDA and EPA. For example, in *In Re Shell supra*, the Administrator of EPA stated:

Some witnesses also suggested that carcinogens can be species-specific—that is, a chemical substance might affect mice but not any other species, including man. This is

theoretically possible. But of the thousands of compounds tested the record indicates that this effect has been suggested for only one of them, and even this single exception has been seriously challenged. I therefore will rely on the conclusion of such organizations as the International Association for Research on Cancer, which have rejected species-specificity as unsubstantiated.

If carcinogens are not species-specific, it logically follows that the demonstration of carcinogenic effect in more than one species is not absolutely necessary for a finding of carcinogenicity.

This evidence of carcinogenicity [in the mouse] is supported by additional, although not definitive, evidence that Aldrin-Dieldrin has increased the incidence of tumors in rats. Dr. Upton, a recognized cancer expert, has testified:

In safety testing of carcinogens today we are concerned with one question: Does exposure to the test agent result in a significant induction of tumors in exposed populations as compared to controls? If so then the test agent has elicited a carcinogenic response and must therefore be considered potentially hazardous to human health. Whether the agent actually is a *sine qua non* of the observed response or merely enhances a virus or some other factor found in the host animal is irrelevant unless and until we know that similar factors are not also found in man. Until we have such knowledge, we have no basis on which to make distinctions between "carcinogens" and "co-carcinogens" and "causative agents" versus "enhancing agents".

Given this lack of knowledge concerning mechanisms, I believe that a carcinogenic reaction in any species of test animal must be considered sufficient to describe the test compound as a carcinogen and so a threat to human health. I consider that a similar reaction in a second mammalian species is a confirmation of the carcinogenicity of the test agent but it is not necessary before a finding of carcinogenicity and threat to human health can be made; and negative results in a second or even third species of test animal do not in my mind establish that the test agent is not a threat for human beings. Given the variation in human susceptibility to carcinogens, I believe it unreasonable to ignore a finding of carcinogenicity in any mammalian test species when considering possible effects on human health. (Emphasis added) (39 FR at 37269-70)

10. *Can "safe" or "no-effect" levels be set for exposure to chemical carcinogens?* Toxic effects, and biological effects in general, are assumed on the basis of much experience to occur above a certain "threshold" or "no-effect" level of exposure to the causative agent or agents. For many such effects, thresholds may theoretically occur for specific individuals as well as for defined populations at risk, even though thresholds for specific individuals may vary substantially within a population. The relationship between dose and response and knowledge of the underlying biological stages leading to the effect in question provide the basis for estimating such thresholds for defined populations. Safety factors are then applied to give additional assurance that the estimated threshold is not too high.

For many chemical carcinogens, identified either by means of studies in man or animals, a relationship between dose and response has been found to exist.

The nature of the relationship is generally for the response to increase with increasing dose, although in some carefully studied cases this relationship has been found either not to exist or to be opposite to that usually found (the response is greater at lower doses). In comparable test systems, chemical carcinogens can vary in the responses they elicit by as much as a factor of 10 (WHO Tech. Rept. 546, p. 11).

The incidence of tumors and the period of latency can be related to dose, and because any individual has a finite lifetime an individual threshold may exist by virtue of the fact that the latency of the disease may be so long that it exceeds the individual's lifetime. Also, in light of increasing evidence that cancer originates from a single cell a threshold may exist for the particular affected cell; however, a large number of factors—age, sex, nutritional status, and health, to name a few—can affect individual susceptibility, and there is a large number of types of cells that can give rise to cancer. Thus, there is no means of predicting an individual threshold, even if they do indeed exist.

It might be thought that on the basis of general experience with other toxic effects, no-effect levels for a defined population could be set for chemical carcinogens by means of extrapolation from observed dose-response relationships. However, the variation among individual susceptibilities to cancer is extremely large, making it very difficult to place any confidence in observed no-effect levels in animals or in defined human populations for which individual variations are small in comparison. Furthermore, the underlying biological events by which cancer is initiated and progresses are not well understood, and on the basis of what is known the existence of thresholds for chemical carcinogens has been questioned because of:

- (1) the self-replicating nature of the cancer cell.
- (2) . . . work . . . which has been interpreted to indicate summation of irreversible effects in carcinogenesis . . .
- (3) evidence from experiments on tumor initiation and promotion in skin carcinogenesis indicating lasting change induced by one tumor-initiating event.
- (4) the fact that cancer can occur in response to chemicals, even after single doses, long after their disappearance from the body.
- (5) the possibility that cancer may result from mutation in a somatic cell (that is, a cell that contains all the necessary genetic materials to life, as opposed to a germ or reproductive cell which contains only half the necessary genetic material. (WHO Tech. Rept. 546, pp. 9, 10)

The nature of the dose-response relationship and the existence of thresholds has been discussed by many expert committees and they are substantially in agreement that dose-response data cannot be used to set no-effect levels for exposure to chemical carcinogens. As early as 1959 the NRC Food Protection Committee stated:

. . . the possibility exists that doses at "no-effect levels" [observed in experimental studies] do in fact exert carcinogenic

effects but that the effects are too weak to detect with the numbers of animals feasible for routine testing. Such a possible effect, though extremely weak, might become evident in a large population such as, for example, the population potentially exposed to . . . [the substance].

The foregoing . . . supports the view that there is a level of exposure to a carcinogen below which cancer will not be induced in the exposed animal. The practical establishment of this threshold level is, however, complicated by a number of factors affecting, or related to, the carcinogenic process . . . (NRC, 1959, p. 15)

The Committee also stated:

Information obtainable from dose-response curves prepared from data obtained in animal experiments appears of limited practical use in evaluating carcinogenic hazard for man. The apparent lack of quantitative correspondence in the carcinogenicity of a substance for different mammalian species and the other complicating factors that have been discussed make meaningful extrapolation from the "no-effect" level on the dose-response curve to a "safe level" of use by man currently impossible. . . . (Ibid., pp. 31, 32)

This view was reiterated by the Joint FAO/WHO Expert Committee in 1961, the WHO Expert Committee in 1964, and in 1969 the Technical Panel on Carcinogenicity of the MRAK Commission, which stated:

The evaluation of carcinogenic hazards for man is based on a judgment of all available information: on bioassay, on toxicologic, metabolic, and pharmacologic studies, on the extent and route of exposure of man, and on epidemiologic studies The position of this Panel is that the different qualitative and quantitative response of various animal species, including man, to carcinogens make meaningful extrapolation from "no-effect" levels in dose-response studies in animals to man currently impossible (MRAK Commission Report, pp. 466, 467)

The FDA Panel discussed the quantitative methods available at that time for estimating a "virtually safe dose," particularly the methods proposed by Mantel and Bryan and by Druckrey (N. Mantel, "The concept of threshold in carcinogenesis," *Clin. Pharmacol. Therap.*, 4, 104-109 (1963); N. Mantel and W. R. Bryan, "Safety testing of carcinogenic agents," *J. Nat. Cancer Inst.*, 27, 455-470 (1961); H. Druckrey, "Quantitative aspects in chemical carcinogenesis," U.I.C.C. Monograph No. 7, "Potential Carcinogenic Hazards from Drugs," 60-77 (1967); H. Druckrey, R. Preussman, S. Ivankovic, D. Schmaehl, "Organotrope carcinogene Wirkungen bei 65 verschiedenen N-Nitroso-Verbindungen an BD-Ratten," *Z. Krebsforsch.* 69, 103-201 (1967). The Panel said:

. . . the only practicable basis for estimating a safe dose is by extrapolation downward from results obtained at some level well above the actual use level. But this extrapolation introduces serious uncertainties, which must be recognized if rational methods of safety evaluations are to be developed. The basic problem is that extrapolation outside the range of observation must be based on generally unverifiable assumptions about the mathematical nature of the dose-response relationship near zero dosage (FDA Panel Report, p. 432)

And the Panel concluded:

Although it is possible in principle to estimate "safe" levels of a carcinogen, uncertainties involved in downward extrapolation from test levels will usually result in permissible levels that are the practical equivalent of zero. (Ibid., p. 435)

One committee that has been interpreted as differing to an extent on this point from others is the NRC Food Protection Committee of 1969 and 1970. The Committee stated with respect to the evaluation of carcinogenic hazards:

Although there are probably noncarcinogenic dosage levels for an experimental species in which a given compound is carcinogenic, there is as yet no generally accepted way of quantitatively extrapolating dose-response data in predicting a noncarcinogenic level for man. This fact is the principal basis for urging that such compounds be permitted for use in foods only if an explicit judgment has been made that demonstrable benefit greatly exceeds the risk. (NRC, 1970, pp. 47, 48)

Despite this situation with respect to cancer, the Committee introduced criteria for toxicologically insignificant levels of exposure to apply generally to substances found in the diet. The Committee stated that:

[t]o provide optimum assurance of public safety within the limitations of capabilities available, toxicological facilities for evaluating safety must be concentrated on environmental situations in which there is a reasonable expectation that exposure to chemicals may cause real hazards. The definition of a "toxicologically insignificant" level simply as one well below an established safe level is too indefinite and too limiting to be of practical value, since it requires in every case the establishment of a safe level by experiment. To insist that nothing can be assumed to be safe without direct experimental toxicological evidence implies that safety must be proved experimentally before the proof of safety can be considered unnecessary. This denies the value of establishing criteria for insignificance. Thus, there is urgent need to arrive at more specific guidelines for estimating dietary levels that can be considered toxicologically insignificant. (NRC, 1970, p. 51)

However, the Ad Hoc Surgeon General's Committee discounted the application of this concept to evaluations of carcinogenic risks. The scientific blue-ribbon Committee recommended to the Surgeon General that:

2. No level of exposure to a chemical carcinogen should be considered toxicologically insignificant for man. For carcinogenic agents a "safe level for man" cannot be established by application of our present knowledge. (NCI, 1970, p. 1)

In addition, the Committee recommended that:

3. The statement made in 1969 by the Food Protection Committee . . . that natural or synthetic substances can be considered safe without undergoing biological assay should be recognized as scientifically unacceptable

The Committee further stated:

It is impossible to establish any absolutely safe level of exposure to a carcinogen for man. The concept of "toxicologically insignificant" levels (as advanced by the Food Protection Committee of the NAS/NRC

in 1969; see Appendix II), of dubious merit in any life science, has absolutely no validity in the field of carcinogenesis. (P. 7)

Thus, once a qualitative presumption of carcinogenicity has been established for a substance, any exposure to the substance must be considered to be attended by risk when considering any given population. No exception to this point has yet been demonstrated. OSHA proposes to adopt this principle to establish qualitatively the existence of risk posed by exposure to carcinogens, and hence to justify the classification of substances shown to be carcinogenic in animals at Category I or Category II toxic substances as proposed in the rulemaking. OSHA does, however, recognize that obviously not all individuals contract cancer because of exposure to a carcinogen. Thus, it appears that there may be individual effect levels. However, we have attempted to point out, we do not know who in any exposed population is susceptible and at what levels.

The regulatory decision to treat a carcinogen as having no "safe" or "no-effect" levels is supported by logic and decisions made by OSHA and other regulatory agencies.

First, as pointed out, is our inability, at present, to determine whether humans are more or less sensitive than the test animal in question. In the case of thalidomide, admittedly not a carcinogen but a teratogen, human were 60 times more sensitive than mice, 100 times more sensitive than rats, 200 times more sensitive than dogs and 700 times more sensitive than hamsters. In the case of inorganic arsenic, a known human carcinogen, no positive results have been reported in any mammalian test animal, including the mouse and rat, although negative results have been. And in the case of beta-naphthylamine, a known bladder carcinogen in man, monkeys and dogs, negative reports have been reported in rats and rabbits. Hence, today it does not appear feasible to predict a quantitative finite "safe" level for a carcinogen to an individual human, let alone for a population, comprised as we are of aggregates of genetically heterogeneous individuals with widely varying predispositions and susceptibilities.

Second, other bodies and regulatory agencies have taken the same position in the past, in addition to OSHA. In 1958, Congress expressed its policy by enacting the "Delaney Clause" which, in general, imposes a zero tolerance for carcinogenic food additives. The clause states:

. . . no additive shall be deemed to be safe if it is found to induce cancer when ingested by man or animal, or if it is found after tests which are appropriate for the evaluation of the safety of food additives, to induce cancer in man or animals

These conclusion were further emphasized, as pointed out, by the expert committee of the World Health Organization in 1961:

. . . It is agreed that no assuredly safe level for carcinogens in human food can be determined from experimental findings at the present time. (P. 5)

In 1960, Secretary Arthur Flemming of the Department of Health, Education, and Welfare testified at the Hearings on Color Additives, Committee on Interstate and Foreign Commerce, House of Representatives that:

Scientifically, there is no way to determine a safe level for a substance known to produce cancer in animals.

This scientific principle was re-affirmed over fourteen years later by Secretary Caspar Weinberger of the same Department, in a letter dated June 14, 1974 to the Congress objecting to proposed legislation amending the "anti-cancer" or Delaney clause of the Food, Drug and Cosmetics Act. He said:

At present the Department of Health, Education and Welfare lacks the Scientific information necessary to establish no-effect levels for carcinogenic substances in animals in general and in man in particular. In the absence of such information, we do not believe that detectable residues of carcinogenic animal drugs should be allowed in the food supply.

. . . It may someday be possible for the Department to establish levels at which residues of carcinogens can safely be tolerated in human food without risk of cancer to humans. Until the necessary scientific data base exists to establish such levels, however, we oppose enactment of legislation such as H.R. 922 or H.R. 1171 to amend or even repeal one or all of the anticancer clauses of the Act. Enactment of such legislation would have no effect on current Department policies since, under the present state of scientific knowledge, the general safety provisions of the Act would not permit this Department to allow detectable residues of carcinogenic animal drugs in human food.

And finally, in the revised NIOSH Arsenic Criteria Document (1975), the Director of NIOSH also stated:

. . . It is not possible at present to determine a safe exposure level for carcinogens. (p. iv)

The proposal therefore makes clear, as pointed out below, that in regulating a toxic substance that meets the criteria of a Category I toxic substance, the level of exposure set by the standard is not a "healthful", "safe", or "no-effect" level but a feasibility level. The proposal further provides that the Secretary shall determine what levels of employee exposure can feasibly be met.

11. *Quantification.* While OSHA is of the view that "threshold" or "no-effect" levels cannot be set for chemical carcinogens, some have said that it may be desirable to attempt to quantify risk for the purpose of evaluating the expense and level of control considered feasible in view of the risk posed by any given substance. However, because of the previous discussion, it appears that such consideration should apply, if at all, only at the point of considering the feasibility of the regulatory provisions of any given standard—not the risk as determined pursuant to this proposed regulatory framework. Work by Mantel and co-workers (N. Mantel, N. Bohidar, C. Brown, J. Ciminera, and J. Tukey, "An Improved 'Mantel-Bryan' Procedure for 'Safety' Testing of Carcinogens," *Cancer*

Res., 35, 865-872 (1975) and by N. Mantel and M. Schneiderman, "Estimating 'safe' Levels, a Hazardous Undertaking," *Cancer Res.*, 35, 1379-1386 (1975) highlight the need to be cautious in estimating the nature of the dose-response relationship for chemical carcinogens. More recent work by Crump *et al.* (K. Crump, D. Hoel, C. Langley, and R. Peto, "Fundamental Carcinogenic Processes and Their Implications for Low Dose Risk Assessment," *Cancer Res.*, 36, 2973-2979 (1976)) indicates that on the basis of increasing evidence that exposure to carcinogens is additive and that since a large number of carcinogenic substances are known to be present in the environment at low levels, any low dose exposure can be seen as affecting an ongoing process in which progressive stages are shared by chemical carcinogens in general. Thus a mathematical model that incorporates a number of very different biological models of cancer causation shows that the response in terms of the number of individuals at risk within a population will be linear with dose. With respect to the method employed by Mantel to predict risk at low doses the authors state:

. . . [It] may be valid for a few very special 'indirect' carcinogenic processes, but our arguments suggest that in general it is not correct (Crump, *et al.*, p. 2978)

and the authors recommend that:

. . . linear dose-response relationships are likely to be approximately correct for many environmental carcinogens, and this should be publicly agreed for such substances, as it was for radiation 20 years ago. (Ibid., p. 2979)

OSHA invites comments on whether such an estimation should be attempted and, if so, the methods to be employed for a quantitative estimation of risk to be used in the rulemaking process triggered by classification of a toxic substance as a Category I toxic substance. Such a classification will establish required control techniques and also require that permissible levels of exposure be reduced to as low as feasible.

C. SHORT-TERM OR IN VITRO TESTS FOR CARCINOGENS

OSHA is aware that short term and *in vitro* tests for carcinogens are being developed rapidly, take a few weeks at most to complete and yet examine the capacity of a substance to cause mutagenicity, other genetic alterations or neoplastic transformation. Reliance upon the short-term mutagenic tests is based upon the assumption that cancer can be related to genetic alterations and that, therefore, detection of such changes is indicative that such a substance may have carcinogenic potential. Mutagenesis tests are very useful as screening tests because they can be conducted quickly and inexpensively. In addition, short term tests have been developed to test the ability of a substance to induce neoplastic transformation of cells that are cultured *in vitro*.

Short term tests use a variety of biological systems, such as bacteria yeast and mammalian cells. These methods are in various stages of development and

some of these methods have been more extensively utilized than other ones. To date, the most widely used method appears to be the Salmonella, or Ames, test. This method utilizes several specially constructed strains of Salmonella bacteria to detect mutagenic changes. Rat (or human) liver extracts are used to activate the mutagenic form of the substance being tested. However, although the correlation between positive short term test and animal carcinogenicity may be good, the number of validation studies is still small. Therefore, OSHA agrees with the following judgment as to these tests, at the time, set further in the NCAB report:

A major practical limitation in the bioassay of potential carcinogens is the large number of test animals and the long duration required to obtain results. A number of short-term or *in vitro* tests are currently under development and appear promising. These include assays for: the induction of DNA damage and repair; mutagenesis in bacteria, yeast, *Drosophila melanogaster*, or in mammalian somatic cell cultures; and neoplastic transformation of mammalian cells in culture. Other assays that have been employed include the dominant lethal test and studies of chromosomal damage. The latter two tests suffer from the fact that they are frequently non-specific and/or difficult to quantify. Of the various short-term tests, the Ames Salmonella mutagenesis system has been studied the most extensively. Tests based on other *in vitro* approaches are also being developed.

The intelligent application and interpretation of the *in vitro* tests must also take into account species variations in factors related to the pharmacologic distribution and metabolism of the parent compound as well as possible species differences in macromolecular repair and host defense mechanisms. A number of approaches addressed to the metabolic aspects are now available, including "host-mediated" mutagenesis assays; the assay of urine and other biologic fluids taken from animals or humans receiving the test compound; the addition of microsomal enzymes and co-factors to the assay system; and the inclusion of specific cells in the assay.

At present, none of the short-time tests can be used to establish whether a compound will or will not be carcinogenic. Positive results obtained in these systems suggest extensive testing of the agent in long-term animal bioassays, particularly if there are other reasons for testing. Negative results in a short-term test, however, do not establish the safety of the agent.

This Subcommittee is enthusiastic about the possible future use of *in vitro* tests as part of a screening system for potential carcinogens and believes that their further development and validation deserve high priority.

Thus, while these short-term tests appear very promising for the identification of carcinogens, OSHA does not regard them as sufficiently well developed for use as a sole basis for identification of carcinogenic potential. However, OSHA does believe that it is appropriate to give serious regard to a combination of positive results when found both in adequate short-term tests and in experimental animal models. In particular OSHA proposes that the combination of positive results in short-term tests and a positive result for carcinogenesis in a single bi-

oassay in a mammalian test species would provide sufficient evidence for classifying a substance as a Category I toxic material. In this regard, FDA, in banning chloroform stated:

Regarding the reported findings of Uehleke in the "Ames study," which use a bacterial system, the Commissioner recognizes that rapid progress is being made in the development of mutagenicity test systems. He is aware of a number of reports indicating a mutagenicity carcinogenicity correlation using these test systems. However, a number of "false positives" as well as "false negatives" have been observed in these test systems. Such tests using nonmammalian systems have not been validated for establishing correlations and are not considered an appropriate basis for regulatory actions. (41 FR 26842)

D. MOLECULAR STRUCTURE OR SIMILARITY

Whether chemical similarities between known carcinogens and other untested substances should be used to qualitatively predict the carcinogenic effects of those untested substances, as a matter of regulation, rather than of research, has been debated in recent time.

OSHA is aware that, for many years, priorities for scientific research in testing individual substances for carcinogenic activity have sometimes been set, to a certain extent, by the structural similarity of those substances to be tested to the structural similarities of other substances that have been tested and found positive for carcinogenic activity. This concept has often been referred to as the "structure/function" theory. Many have recognized the distinction between using a structural similarity to predict carcinogenic activity of an untested substance as a basis for setting priorities when actually testing substances on the one hand and using such structural similarity to regulate untested substances that may have a great deal of structural similarity to substances that have been tested and found positive on the other hand. OSHA agrees, at this time, with the Ad Hoc NCI Committee's Report to the Surgeon General that:

The carcinogenic activity of materials can only be detected by long-term biological tests. At the present time the chemical structure or physico-chemical properties of a compound do not provide a reliable basis for prediction of freedom from carcinogenic activity. Several structure-activity correlations are valuable indicators of the possible carcinogenicity of a compound, but none can be used to classify the compound as non-carcinogenic. Short-term bioassays that determine the effect of certain chemicals on selected biologic targets have not been reliable for prediction of carcinogenic activity. (Pp. 5-6)

Chemicals of many classes and vastly different structures have produced cancer of virtually all organ sites in experimental animals. For some of these chemicals, there are data showing cancer induction in man. OSHA is not aware of any single molecular configuration, structural characteristic, or physical property of chemical carcinogens that can be pinpointed as the crucial cancer inducing element or site. One explanation may be that a substance may be

metabolized to a different form when exposed to the test model or man and that metabolite be the carcinogen, rather than the substance itself. However, gross similarities in chemical reactivity and metabolic fate in the host can be identified for many chemical carcinogens. This followed the discovery by the Millers that metabolic conversion of environmental chemical carcinogens can occur in the host with the ultimate formation of the "proximate" or "active" form of the chemical carcinogen.

The history of attempts to identify structure activity correlations useful for the prediction of carcinogenic capability on the basis of chemical structure is as old as the scientific study of carcinogenesis. Cook, Kennaway, and their co-workers² in 1932 were the first to isolate and characterize the carcinogenic polycyclic aromatic hydrocarbons (PAH) in soot. They were unable to identify any unique distinction between carcinogenic and noncarcinogenic PAH. Years later a major step forward in the knowledge of the metabolism of PAH was achieved in 1964 by Boyland and Sims,³ who demonstrated the formation of epoxidic metabolites of carcinogenic PAH. They, too, were unable to identify the locus responsible for carcinogenic properties. The epochal observation of the Millers⁴ in 1968 that all chemical carcinogens that are not themselves chemically reactive must be converted metabolically into a reactive form, and that this reactive form is an electrophilic reagent, provides some hope that a unifying thread for carcinogenesis exists and may someday be found.

The limitations in our current knowledge of carcinogen metabolism which fail to provide a basis for prediction are reinforced, however, by several other categories of data which further cast doubt that structure/activity correlations are a useful tool for regulatory purposes at the present time. These include variations within major classes of chemicals, such as PAH, aromatic amines and amides, and chlorinated hydrocarbons.

In addition, it appears that single substituents can markedly affect carcinogenic potential. As shown by the Millers in 1961, the substitution of a fluorine atom in the 6 position of the K region of 7 methyl-BA had little effect on carcinogenicity, while a fluorine substitution in the 5 position appears to have completely obliterated the carcinogenicity of this compound. The literature on chemical carcinogenesis is replete with myriad instances where a single atom or molecule substituent markedly affects carcinogenic potential.

Finally, it appears that isomers of carcinogenic chemicals may frequently exhibit non-carcinogenic effects. Stearic properties of chemical compounds ap-

pear to be of major importance in the ultimate carcinogenic potency of the compound. Non-carcinogenic isomers of chemical carcinogens are common, as for example perylene (non-carcinogenic) and benzo-a-pyrene (carcinogenic). An array of non-carcinogenic isomers exist for the carcinogenic aromatic amine 3'DAB.

That someday structure/activity correlations would be of predictive value for regulation is something that all would appear to hope for. However, in addition to the obstacles listed above, there are the compounding factors of dose dependent variations in metabolic fate, species differences in anatomic and metabolic fate, and the influence of related compounds (summation, synergism or inhibition) upon chemical carcinogens when present simultaneously either in the environment or in the host. Thus, at least at this time, OSHA does not propose to rely upon structural similarities between known carcinogens and other substances to regulate those other toxic substances as carcinogens. Public comment as to this specific part of the proposal is invited. In that regard, such comment may also address whether implementation of the Toxic Substances Control Act might in effect, "moot" this problem by requiring testing based on such molecular or structural similarities.

III. CLASSIFICATION AND REGULATION: THE PROPOSAL

The previous discussions have set forth the necessity of and the rationale for OSHA's proposal to identify, classify and regulate potential occupational carcinogens. It is not intended to duplicate those discussions here. The following sections attempt to explain: (1) the procedural mechanisms which will be utilized to accomplish these goals and (2) the additional rationale and policy considerations, not been already discussed above, regarding the specific requirements that will be mandated by the three individual model standards that are part of these proposed regulations.

The individual model standards include an emergency temporary standard (ETS) to be issued, in general, if the toxic substance meets the criteria for a Category I toxic substance; a proposed permanent standard for such a Category I toxic substance; and a proposed permanent standard for those toxic substances that meet only the criteria for a Category II toxic substance, as defined. The three proposed model standards incorporate OSHA's views concerning which protective provisions are generally the most appropriate to permanently protect employees against exposure to Category I and Category II toxic substances, as defined, and, in the model emergency temporary standard, which protective provisions should be instituted immediately. As a result of this rule-making, OSHA will promulgate, in final form, models for an emergency temporary standard and for permanent standards for Category I and Category II toxic substances. Except where the unique properties of such a substance

warrant departure from any given provision, the model ETS will be issued as the actual ETS when a substance is classified as a Category I toxic substance. Similarly, the model Category I and Category II permanent standards will be issued as the proposal in the subsequent section 6(b) proceedings except where unique properties of the substance under consideration warrant departure from any given provisions. It is OSHA's intention that apart from the unique substance-specific aspects of these standards, the appropriateness of the model permanent standards, resolved in this proceeding, will not be at issue in the subsequent rulemaking proceedings. Once promulgated in this rulemaking therefore, these proposed procedures, identification and classification criteria, and the provisions of the model standards will be consistently applied in future regulatory activity. Of course, the Secretary's decision in the particular final standard will reflect the adequacy of the evidence in the rulemaking record in support of any such deviation, addition or change from the model standard.

This regulatory framework permits OSHA to retain the flexibility necessary for regulating substances of differing toxicological properties while speeding the process of standards development in the important area of control of exposures to potential or proven cancer causing substances.

This proposed set of regulations also provides for a third and fourth category of toxic substances. The third category of toxic substances (Category III), includes those toxic substances for which OSHA had determined that the evidence is insufficient to warrant taking regulatory action insofar as carcinogenicity is concerned. In other words, the proposal requires that OSHA, as a responsible public agency, will affirmatively review the evidence, concerning any substance that meets the definition of a toxic substance, seek public comment and then classify these substances as Category III toxic substances, if warranted. In addition, this action will notify the public, industry and labor of OSHA's position so that attention can be drawn to the important task of reducing employee exposures to those other substances that are or have been identified as Category I or Category II toxic substances.

Finally, the fourth category of toxic substances (Category IV) includes those substances that might meet the definition of a toxic substance except that they are not found in American workplaces. OSHA intends to list these substances in the FEDERAL REGISTER and the Code of Federal Regulations for the convenience of the concerned public. However, OSHA does not intend to review the evidence concerning carcinogenicity at that time. And, as pointed out below, OSHA intends to enter into an agreement with EPA with respect to implementation of the Toxic Substances Control Act so that when or if such substances are permitted to be introduced into the American workplace, OSHA will have ample time to develop a standard regulating expo-

sure to the substance as is warranted by the proposed regulatory program herein.

A. GENERAL

Section 190.102 sets forth the general definitions for both a "toxic substance" and a "potential occupational carcinogen". OSHA is aware of the difficulties that experts have had in reaching a scientific consensus as to the precise definition of a carcinogen. However, as pointed out above, the definitions herein are viewed, for the purposes of regulation, as reflecting policy decisions, and not solely as decisions of science.

The definition of a toxic substance is intended to include any scientific report of carcinogenicity as pointed out below, and merely meeting the definition would not require by itself that the Secretary initiate standard setting activity. In other words, the term "toxic substance" is intentionally defined to include more substances than the definition of a "potential occupational carcinogen", i.e. any information that is "reported" to meet the definition of a potential occupational carcinogen is sufficient to categorize that substance as a toxic substance. The purpose of this preliminary designation as a toxic substance is to require the Secretary to affirmatively classify the substance, after receiving public comment and reviewing the available information. As described below, the classification category would either require the initiation of standard setting activity or an announcement that the evidence appears insufficient to require regulation of the substance as posing a carcinogenic risk to man.

For purposes of this regulation, a toxic substance will be classified qualitatively as a "potential occupational carcinogen" if it has been found in the American workplace and OSHA believes that it has been shown: (a) to cause, at any level of exposure or dose, as the result of any oral, respiratory or dermal exposure, or any other exposure which results in systemic distribution of the substance under consideration, in the organism tested, an increased incidence of malignant or benign neoplasms, or a combination thereof, in any experimental mammalian species or in humans, or, (b) in a statistically significant manner decreases the latency period between exposure and onset of neoplasm formation in any experimental mammalian species or in humans. In addition, the definition is intended to cover leukemogens and particulate substances such as asbestos. However, it is not intended *per se* to include non-systemic substances which are reported to cause injection site sarcomas.

OSHA is of the impression that a certain number of the "suspect carcinogens" reported by NIOSH are not found in American workplaces. Naturally, therefore, no standard for such a substance will be required and no classification will be made for such substances at this time. Thus, the definition of a "foreign toxic substance" has been provided to set out the parameters for Category IV toxic substances. As pointed out,

OSHA intends to initiate with EPA discussions leading to an agreement so that information submitted to EPA under the Toxic Substances Control Act concerning these substances, when and if the substance is introduced into American workplaces, will be reported to OSHA without requiring duplicative reporting on the part of the public. Public comment on this specific aspect of this proposal is invited.

Section 190.103 permits "any interested person" to notify the Secretary, or designee, in writing, of the existence of information concerning any toxic substance. The Secretary shall publish a notice of receipt of this information in the FEDERAL REGISTER, together with a short statement identifying the contents and source of such information. Where relevant data is presently being generated but which is then unavailable to the Secretary, he may delay the publication of the receipt of the information up to, but no longer than, 180 days. In most cases a comment period of at least thirty (30) days but no longer than sixty (60) days shall be provided. However, where the Secretary finds that extraordinary circumstances warrant less or no time for comment, he may issue an ETS without such an opportunity for any comments. After the comment period, the Secretary of required to classify within thirty (30) days the toxic substance into one of three possible categories (discussed further below) and publish in the FEDERAL REGISTER a notice and an explanation of his decision.

While § 190.103 enables any interested party to present information to the Secretary for the classification of any toxic substance, as defined, it does not preclude OSHA from devising its own system for the orderly, systematic classification of the large number of potential carcinogens already identified by NIOSH. In fact, OSHA recognizes the backlog of substances that will confront it at the outset of a regulatory program such as proposed. OSHA therefore intends to develop a separate schedule, if such is warranted, even while implementing this proposal as to other toxic substances, to permit the orderly handling of the hundreds of compounds with allegedly some degree of evidence of tumorigenicity or carcinogenicity, as identified by NIOSH. For example, where the evidence is sufficient to classify a toxic substance on the NIOSH list as a Category I toxic substance but where the evidence is not relatively recent, one option available to OSHA in implementing this separate schedule might be to commence the regulatory process by a notice of proposed rulemaking pursuant to § 190.160 herein and section 6(b) of the Act, rather than by the issuance of an ETS pursuant to § 190.150 herein and section 6(c) of the Act. Another option would be to decide how many years should be taken to handle the NIOSH list, such as 3 years, and then take the NIOSH identified substances on an alphabetical basis. OSHA solicits public comment as to the best way to imple-

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ment these regulations insofar as those substances identified as "suspect carcinogens" by NIOSH are concerned.

Sections 1990.110, 1990.120, and 1990.130 define three categories for the classification of toxic substances, namely: Category I toxic substances, Category II toxic substances, and Category III toxic substances. The classification is determined by the kind and degree of evidence indicating that a substance may, or may not, pose a carcinogenic risk to workers and thereafter governs the type of responsive protective action which OSHA will appropriately take. In addition, and notwithstanding the other provisions of these proposed regulations, section 1990.140 provides for Category IV toxic substances, namely, those foreign toxic substances, as defined, for which no standards will be issued during the duration of that classification.

1. *Category I Toxic Substances.* Section 1990.110 establishes a presumption that a substance shall be classified by the Secretary as a "Category I Toxic Substance" if the evidence concerning such substance meets the definition of a potential occupational carcinogen and the evidence was developed: (a) in humans; (b) in two mammalian test species; (c) in a single mammalian species, if those results have been replicated in the same species in another experiment or supported by short-term tests, as defined; or (d) upon the basis of any other scientific evidence that the Secretary finds sufficient. A result is considered to have been replicated if a similar significant increase in tumor incidence is induced in the same or different strain of the particular species so long as the experiments were carried out independently (i.e. at the least, with independent sets of control animals). If the evidence satisfies any of these criteria, the presumption exists that the Secretary shall classify the substance as a "Category I Toxic Substance."

The basis for these criteria initiating a Category I classification are predicated upon the discussions above and here. First, despite the inherent limitations of epidemiological studies in humans, where such studies indicate positive results, even where there is a small cohort of workers, OSHA believes that exposure to such a substance gives rise to great concern. Thus, the proposed set of regulations provides that such evidence in humans at least presumptively initiates a Category I classification, unless the evidence is "only suggestive" in which case the evidence initiates the Category II classification. It is only where the human evidence is "totally inadequate" that OSHA will classify the toxic substance as a Category III toxic substance. OSHA believes that responsible public regulation in matters concerning human health requires no less action or caution.

Second, as pointed out above, OSHA intends to qualitatively treat a toxic substance that produces cancer in at least two species of test animals as posing a potential carcinogenic risk to humans. This is so because positive results in at least two species of test animals gen-

erally replicate the results of each test and thus gives rise to a higher degree of confidence in those results than might exist in the case of results arising from a single unreplicated study, so long as the grounds for rebutting the presumption are not found appropriate, as discussed below. The risk of cancer is "sensitive and fright-laden" (*EDF v. EPA*, 465 F.2d 528, 538 (1972)). Although the Delaney Clause is not applicable to the statutory mandate of the Act, it has been stated that it:

... does, however, indicate the magnitude of Congressional concern about the hazards created by carcinogenic chemicals, and places a heavy burden on any administrative officer to explain the basis for his decision to permit the continued use of a chemical known to produce cancer in experimental animals. *EDF v. Ruckelshaus*, 439 F.2d 543 at 596, n. 41.

Third, OSHA recognizes that the results from a single study in a single species can be in error. OSHA therefore believes that before it regulates a toxic substance as a Category I toxic substance, that positive animal test results be replicated either by similar results in another species, as pointed out above, a replicated study in the same animal species or supported by short-term tests, as defined. Insofar as the validity of short-term testing is concerned, at the present time OSHA relies upon the National Cancer Advisory Board of NCI, and the discussion above. It should be noted that reliance upon replicated experiments in a single species of test animals is not new and has been accepted by other Federal agencies. FDA, in banning chloroform, as discussed above, relied almost exclusively on mouse data. And, in his aldrin and dieldrin suspension decision, EPA Administrator Russell E. Train stated:

Some witnesses also suggested that carcinogens can be species-specific—that is, a chemical substance might affect mice but not any other species, including man. This is theoretically possible. But of the thousands of compounds tested, the record indicates that this effect has been suggested for only one of them, and even this single exception has been seriously challenged. I therefore will rely on the conclusion of such organizations as the International Association for Research on Cancer, which have rejected species-specificity as unsubstantiated.

If carcinogens are not species-specific, it logically follows that the demonstration of carcinogenic effect in more than one species is not absolutely necessary for a finding of carcinogenicity.¹

Most carcinogens are also not organ-specific. In a survey by Dr. Thomatis of 58 compounds known to produce liver tumors in mice, 40 also induced tumors in a variety of other organs. Furthermore, chemically-induced tumors in one species need not appear in the same organ in another species. Thus, a carcinogen which induces liver tumors in mice might, for example, produce mammary cancers in rats and lung tumors in men.

¹ An HEW Advisory Panel has recommended that a finding of carcinogenicity be made when a substance is "judged positive for tumor induction in one or more species * * *." (*EPA Ex. 40F*, p. 468)

And, in that same proceeding, Dr. Arthur C. Upton, then Dean of the School of Basic Health Sciences at the State University of New York at Stony Brook, New York and now Director of the National Cancer Institute, testified:

Given this lack of knowledge concerning mechanisms, I believe that a carcinogenic reaction in any species of test animal must be considered sufficient to describe the test compound as a carcinogen and so a threat to human health. I consider that a similar reaction in a second mammalian species is a confirmation of the carcinogenicity of the test agent but it is not necessary before a finding of carcinogenicity and threat to human health can be made; any negative results in a second or even third species of test animal do not in my mind establish that the test agent is not a threat for human beings. Given the variation in human susceptibility to carcinogens, I believe it unreasonable to ignore a finding of carcinogenicity in any mammalian test species when considering possible effects on human health. (*EPA Ex. S-19* at pp. 4-5)

Likewise, three other eminent scientists testified to the same effect in that same proceeding. Doctor Melvin D. Reuber, then Associate Professor of Pathology at the University of Maryland School of Medicine and formerly a staff pathologist at NCI, testified:

Sufficient documentation is available on qualitative extrapolation of animal data that one must conclude that a finding of carcinogenicity in one mammalian species should be deemed to have relevance for other mammalian species—including man. (*EPA Ex. 42*, p. 47)

A similar conclusion was drawn by Dr. Walter E. Heston, then Chief of the Laboratory of Biology at NCI, a position that he had held since 1961. Dr. Heston testified:

If a chemical causes a neoplastic change in the liver of a mouse or rat, we would expect that through a comparable mechanism it could cause a neoplastic change in the liver of man if given in adequate doses to genetically susceptible individuals. If an agent causes the neoplastic transformation in cells of any organ of the mouse, one would expect that in some human beings, cells either in the same organ or possibly in some other organ that were exposed to the same agent would also become neoplastic. (*EPA Ex. 46*, p. 9; see also *EPA Ex. S-11*, p. 7)

Moreover, Dr. Heston further testified:

Knowing this, and knowing the general biological similarity of mice and other mammalian species, including man, we can reasonably expect that in a population of human beings exposed to Aldrin-Dieldrin, cancer of some kind will occur in some individuals, and these individuals will not have been afflicted in the absence of these compounds * * *. The human population is so much more genetically diverse than any laboratory animals, that if a chemical has been shown to be carcinogenic by a significant induction in any laboratory strain of mammal, we can reasonably expect that at least certain human beings would also respond to the chemical by developing some kind of neoplasm. (*EPA ex. S-11*, 5-7)

And, finally, as unequivocal as the testimony of Dr. Upton was the testimony of Dr. Emmanuel Farber, then Professor of Pathology and Biochemistry and Director of the Fels Research Institute of the

Temple University School of Medicine, Philadelphia, who testified:

* * * any compound shown clearly to be a carcinogen in any animal species, especially a mammal, must be considered as a possible or even probable carcinogen for man. (*EPA Ex. 45*, p. 4)

Finally, the proposed set of regulations for any other evidence to initiate a Category I classification, if the Secretary so determines. This basis is meant to include evidence, for example, of those substances that might possess a unique property, e.g., a substance that generates nonstatistically significant but extremely rare or unusual tumors, such as brain tumors, that might not otherwise, standing alone, meet the other criteria for a Category I classification. This might also include evidence from a single, exceptionally well conducted, test in one animal species, as well.

Section 1990.111 sets forth the circumstances under which the Secretary determines that the evidence rebuts the presumption of a Category I classification. This section is one of the key sections of this proposed set of regulations. The Secretary may find that a Category I classification of a substance is not warranted if he scientifically determines on the basis of the evidence: (a) that the alleged carcinogenic effect based on animal data clearly resulted from non-specific physical, rather than chemical induction; (b) that the route of exposure was grossly inappropriate relative to the potential occupational routes of human exposure; (c) that the animal or human studies submitted for review were only suggestive; (d) that the human or animal studies are totally inadequate to establish any conclusion with respect to the carcinogenicity or noncarcinogenicity of the toxic substances; or (e) that for some other scientific reason, the positive results in experimental mammals are not relevant to man. Any such determination by the Secretary shall be after consultation with the Director of NIOSH and published in the *FEDERAL REGISTER*. In the event that the Secretary finds that a Category I classification has been rebutted, he shall classify the substance as either a Category II or III toxic substance.

The first two bases for rebutting the presumption of a Category I classification reflect the advice of the Ad Hoc Committee to the Surgeon General in 1970, as cited above. There, the Committee stated:

1. a. Any substance which is shown conclusively to cause tumors in animals should be considered carcinogenic and therefore a potential cancer hazard for man. Exceptions should be considered only where the carcinogenic effect is clearly shown to result from physical, rather than chemical, induction, or where the route of administration is shown to be grossly inappropriate in terms of conceivable human exposure. (p. 1)

The third basis for rebutting the presumption that a toxic substance should be classified as a Category I toxic substance has been provided because OSHA believes that some suggestive evidence of

carcinogenicity, where perhaps not conclusive and therefore not sufficient to support a full blown regulation of the substance as a carcinogen, raises, nevertheless, a yellow flag of caution. OSHA believes in such a case that responsible public policy dictates that some regulation of the toxic substance should occur even if the evidence is "only suggestive" of carcinogenicity. Therefore, provisions such as medical surveillance of employees, exposure monitoring, and the other requirements of the model standard found in section 1990.160 are considered appropriate. However, as pointed out below, OSHA recognizes that in general, the most cost intensive items found in the Category I model standard are the requirements that the permissible exposure limits be set as low as feasible and be achieved by way of equipment or work practice controls. Thus, because of the lower qualitative and quantitative evidence required for a Category II classification, OSHA has not required that permissible exposure limits be reduced to as low as feasible, as in the case of a Category I toxic substance.

The fourth rebuttal criterion is implicit in the Ad Hoc Surgeon General's Committee's Report, namely that if the studies are scientifically totally inadequate, for example in methodology or conduct, then OSHA will not rely upon such studies at all.

Finally, because of possible legal necessity or the needed flexibility in the field of scientific research, the proposed set of regulations provides that OSHA will rebut the presumption of a Category I classification if it can be shown that "for some other" scientific reason, the results in experimental animals "are not scientifically relevant to man." OSHA is reluctant to add this fifth option, for OSHA does not intend to reopen discussion and litigation on the scientific issues foreclosed by these regulations, such as whether a tumorogen should be regulated as a carcinogen. OSHA specifically invites public comment on this issue and its scientific and legal necessity and relevance.

Section 1990.112 sets forth the regulatory consequences of a Category I classification, which include, among other things, the issuance of an emergency temporary standard, in accordance with section 6(c) of the Act, and a proposed permanent standard, in accordance with section 6(b) of the Act. The permissible exposure limits in both model standards must be set as low as feasible. The model permanent standard also provides that when it is determined by the Secretary that there are suitable substitutes for certain uses or classes of uses that are less hazardous to humans, on the basis of the best available evidence, the proposal shall permit no occupational exposure. These requirements concerning the setting of permissible exposure limits, namely, as low as feasible, is one of those requirements that may not be deviated from in the standard setting process in the subsequent rulemakings.

Section 1990.113 provides for a public hearing pursuant to section 6(b) of the

Act, if requested or upon the Secretary's own initiative. In addition, § 1990.113 describes the issues to which the scope of such a hearing is limited. They are: (1) whether the Secretary correctly classified the toxic material as a Category I Toxic Substance; (2) whether the Secretary was correct in the determination that the Category I classification should not be rebutted; (3) whether the Secretary correctly determined the lowest feasible occupational exposure, and whether there are suitable substitutes that are less hazardous to humans; (4) whether the toxic substance has unique properties or uses that make any of the specific protective measures of the model standard inappropriate or infeasible; and (5) the environmental impact arising from regulation of the toxic substance.

Section 1990.114 provides that at the conclusion of the rulemaking as to the specific substance, the Secretary has three options. First, if he determines, based on the record, that he was correct in his initial classification of the toxic substance as Category I, he is required to issue a standard that shall follow the content and format of the model standard set forth in § 1990.160. This is the "full-blown" OSHA carcinogen standard. The permissible exposure limits shall, as pointed out, reflect the lowest feasible levels and, where it is determined by the Secretary that there are suitable substitutes that are less hazardous to humans, no occupational exposure shall be permitted. As we point out below in discussing this specific requirement, "no occupational exposure" does not mean a ban of the use of the substance; for example, a substance might be used where it can be used in a truly closed system.

Second, if the Secretary determines, based on the record, that the toxic substance should have been classified as a Category II toxic substance, he is required to issue a standard following the content and format of the model permanent standard set forth in § 1990.170.

Finally, if the Secretary determines, based on the record, that the toxic substance should be classified as a Category III toxic substance, he is required to follow the procedures provided by section 1990.131, *et. seq.* These procedures however, as pointed out, do not require regulatory action.

2. *Category II Toxic Substances.* Section 1990.120 establishes that certain evidence mandates a Category II classification while other evidence only triggers a presumption that a substance shall be classified as a "Category II Toxic Substance". If the substance meets the definition of a potential occupational carcinogen (as was the case with a Category I toxic substance) but the evidence was scientifically found to be "only suggestive" by the Secretary in determining not to classify the substances as Category I, the Secretary is required to classify the toxic substance as a Category II toxic substance. This classification is not discretionary on the part of the Secretary and may not be deviated from. This is so because any evidence in humans or in

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more than one mammalian test animal species or in one such species that is replicated, as defined, that is not totally inadequate obvious forms the basis for some degree of concern. In addition, if the evidence meets the definition of a potential occupational carcinogen in an unreplicated experiment in only one mammalian species, or the Secretary finds that any other evidence is sufficiently convincing, the toxic substance should be classified, as posing some carcinogenic risk, a presumption exists that the toxic substance shall be classified as a "Category II Toxic Substance".

Section 190.121 sets forth the circumstances under which the Secretary may rebut the presumption of a Category II classification. First, it should be pointed out, as it was above, that if the evidence would have supported a Category I classification but for the finding that the evidence was "only suggestive", the classification of Category II is not presumptive but mandatory. Thus the presumptive nature of the Category II classification exists only for evidence based on unreplicated animal data in one mammalian animal species or other evidence that the Secretary finds sufficient. The grounds to rebut that limited presumption are exactly the same as those used to rebut the Category I presumption, with the exception of the finding that the evidence is "only suggestive". Because OSHA believes that this evidence will generally consist of one study in a single mammalian species, OSHA believes that if the evidence is "less than suggestive" but not totally inadequate, regulatory activity may be unjustified. Thus, the proposal provides that the Secretary may rebut the presumption that a toxic material be classified as a Category II toxic substance where the evidence in the unreplicated experiment in a single mammalian test species is less than suggestive, as defined (but by definition not totally inadequate). As with the rebuttal of a presumptive classification of a Category I toxic substances, any such rebuttal by the Secretary shall be after consultation with the Director of NIOSH, and published in the FEDERAL REGISTER. In the event that the Secretary finds that a presumptive Category II classification has been rebutted, he shall classify the material as a Category III toxic substance.

Section 190.122 sets forth the regulatory consequences of a Category II classification, which includes, among other things, the issuance of a proposed permanent standard in accordance with section 6(b) of the Act. As will be pointed out, the permissible exposure limits found in the proposed model standard will not be changed from those if no OSHA standard exists or the present OSHA standard if one exists. If OSHA standard is inadequate, based on evidence of acute or chronic effects other than carcinogenicity, the exposure limits shall be set at levels found appropriate by the Secretary to protect against such acute or chronic effects. OSHA is concerned that this require-

ment may result in rulemakings under this subpart for such a Category II toxic substance that will be consumed by issues concerning toxic effects other than carcinogenicity. One obvious alternative to the proposal would be to keep the present OSHA standard or, where there is none, not to attempt to set permissible exposure limits in that rulemaking. The limits might be set in a subsequent rulemaking devoted entirely to that issue. This alternative, of course, could provide that in cases, where good evidence is in hand as to other toxic effects, the Secretary would set a level or lower the present OSHA standard, where appropriate. Because one of the essential reasons for this proposal is to speed up regulatory activity as to occupational exposure to potential carcinogens, OSHA seeks and invites the widest public comments and views as to how to handle the problems posed by an inadequate, or nonexistent OSHA standard for Category II toxic substances. It should be pointed out, as we have above, that the Category II classification exists for those substances for which the evidence raises concern about possible carcinogenic effects of exposure but not as high degree of confidence. Thus, OSHA believes that some regulation of such a substance should occur, where perhaps none occurred in the past. However, OSHA believes that, in general, the most cost intensive items found in the "full-blown" carcinogen standard are the requirements that the mandated permissible limits be set as low as feasible and be achieved by way of equipment or work practice control. Thus, with respect to the potential cancer hazard of a Category II toxic substance OSHA does not believe it appropriate to impose the requirement that permissible exposure limits be reduced to the lowest feasible levels.

Section 190.122 also gives notice that if, pursuant to the rulemaking, the Secretary determines that the substance should have been classified as a Category I toxic substance, the final standard will be that required for a Category I toxic substance, as required by § 190.160. The regulation also specifically requires that the Secretary give explicit notice of this possibility in the notice of proposed rulemaking for a Category II substance. This provision exists because OSHA believes that it would serve no purpose to have multiple rulemakings on the same substance, particularly where adequate notice of the possibility of such events is given in advance to the concerned public.

Section 190.123 describes the issues to which the scope of such a hearing is limited. Those issues are exactly the same as those to which hearings and comments are limited as to Category I toxic substances.

Finally, § 190.124, as did § 190.114, provides that, at the conclusion of the public rulemaking, the Secretary has three options. First, if he determines that he was correct in his initial classification of the toxic substance as a Category II toxic substance, he is required to issue a standard that shall follow the content and format of the model standard set forth in § 190.170.

Second, if the Secretary determines that the toxic substance should have been classified as a Category I toxic substance, he is required to issue a standard that shall follow the content and format of the model standard set forth in § 190.160.

Third, if the Secretary determines that the toxic substance should have been classified as a Category III toxic substance, he is required to follow the procedures provided by § 190.131, *et seq.*

3. *Category III Toxic Substances.* Section 190.130 provides that any toxic substance, as defined, not classified by the Secretary as a Category I or II toxic substance shall be classified as a Category III toxic substance. Naturally, this does not include Category IV toxic substances. Basically the Category III classification includes substances for which there is meager or no valid scientific evidence indicating that the substance has a carcinogenic potential to humans. Moreover, it may also include substances for which there is some evidence of a lack of carcinogenic activity. This is not to say however that OSHA has determined by such classification that the toxic substance does not pose a carcinogenic risk—it is merely to say that on the basis of the present evidence, one cannot say that it does. No regulation of this category of toxic substance is provided, insofar as carcinogenicity is concerned. Regulation will occur through OSHA's present standard setting activity or in the future concerning other acute or chronic effects of exposure.

Section 190.131 provides that when the Secretary determines that a toxic substance should be classified as a Category III toxic substance, he will publish his determination in the FEDERAL REGISTER and add that substance to the list provided for by § 190.133, in order to approximately inform the public as to the status of any toxic substance for which there is no Category I or Category II standard. The Secretary is also required to transmit his findings to EPA, NIOSH, NCI and CPSC with a request that each agency determine if there is additional information, unavailable to, or unreviewed by, the Secretary that might be relevant to the classification of that toxic substance.

4. *Category IV Toxic Substances.* OSHA does not believe that prudent government regulation should control substances that are not found in American workplace for several reasons. First, it would be a waste of precious manpower that is needed to regulate substances already found in the workplace. Second, it would be difficult if not impossible to foresee the possible problems concomitant with regulation of substance not yet found in the workplace. For example, uses for a substance might not now exist. When they do, what substitutes for that substance that might exist could not be known with any degree of certainty. And finally, to conduct such a rulemaking would perhaps deprive the public—and thus OSHA—of any meaningful input into such process because of the probable lack of any present in-

terest in participating in such a process for a substance that nobody uses.

Thus OSHA intends to list such substances in section 190.141. The regulations provide, however, that the Secretary will first publish a notice of intent to list those toxic substances as Category IV toxic substances which he believes are not found in American workplaces, in order to provide an opportunity for public comment. Thereafter, the Secretary will publish and update a list of these substances in the FEDERAL REGISTER and the Code of Federal Regulations. OSHA intends to add or delete from that list but without the formality of rulemaking, *per se*. In addition, OSHA intends to develop a procedure with EPA to coordinate this part of the proposal with EPA's implementation of the Toxic Substances Control Act.

B. THE BASIS AND RATIONALE FOR THE EMERGENCY TEMPORARY STANDARD FOR A CATEGORY I TOXIC SUBSTANCE (1990.150)

The Secretary believes, upon the basis of the preceding discussion of cancer, that when evidence exists that meets the definition of a potential occupational carcinogen and the criteria found in § 190.110, (a) continued exposure constitutes "a grave danger" within the meaning of section 6(c)(1)(A) of the Act and (b) that an emergency temporary standard as proposed in § 190.150 is necessary and proper to protect employees from such danger. The proposition that cancer, and substance that cause cancer, pose a grave danger to man does not need lengthy discussion. As pointed out, the nature of a cancer hazard differs from other types of toxicity. Employees exposed to carcinogens risk incurable, irreversible and, in most cases, fatal consequences. These consequences may be irreversibly set in time. No symptomatic evidence of the development of he cancer may be apparent to the employee during a long latency period. A single exposure episode may be sufficient to cause cancer. These factors, which establish the grave danger posed by exposure to carcinogens, also lead inexorably to the conclusion that it is necessary to provide protection for employees as soon as possible through the issuance of an emergency temporary standard, within the meaning of section 6(c)(1)(B) of the Act.

Further, another basis for immediate action arises from the nature of the disease itself. If cancer were a reversible, generally curable disease, there might be some justification for pursuing a standard by some other procedure than an ETS. For example, a worker contracting the disease during the time required to complete full rulemaking proceedings might possibly be cured at some subsequent time. However, cancer is not generally reversible. The Court of Appeals in *Florida Peach Growers v. Bren-*

nan 489 F.2d 120 (5th Cir. 1974) emphasized the importance of irreversibility in its interpretation of some of the criteria that might be necessary to sustain an emergency temporary standard. The Court stated:

We reject any suggestion that deaths must occur before health and safety standards may be adopted. Nevertheless, the danger of incurable, permanent, or fatal consequences to workers as opposed to readily curable and fleeting effects on their health, become important in the consideration of the necessity for emergency measures to meet a grave danger. 489 F.2d at 132.

The model emergency temporary standard contains those provisions deemed necessary and possible to immediately provide employee protection pending completion of the 6(b) permanent rulemaking proceedings to commence shortly thereafter. OSHA firmly believes that when a toxic substance meets all of the criteria and definitions herein, it would be unconscionable not to require those actions that can be done immediately to reduce human exposure. Simply put, the model emergency temporary standard, in general, would require the employer to identify exposed employees, measure their exposures, inform them of the hazards associated with exposure to the toxic substance, provide medical examinations, and reduce their exposures to the lowest level possible that, in OSHA's judgment, can be complied with immediately through any practicable combination of engineering, work practice, and appropriate personal protective equipment control. It would not require that the reduction of employee exposures to the permissible exposure limits be achieved solely by way of equipment or work practice controls, as described more fully below.

Additionally, the ETS would require employers to notify OSHA of the location of workplaces in which employees are exposed to the Category I toxic substance and to describe the conditions of use and exposure and protective measures in effect. Such information will facilitate OSHA's decisions in the subsequent rulemaking proceedings by providing information concerning the extent of use, number of exposed employees, other facts relevant to determination of feasible exposure limits and the appropriateness of specific regulatory provisions.

C. THE BASIS AND RATIONALE FOR THE REQUIREMENTS OF THE THREE MODEL PROPOSED STANDARDS: 1. THE CATEGORY I TOXIC SUBSTANCE ETS (1990.150); 2. THE CATEGORY I TOXIC SUBSTANCE PERMANENT STANDARD (1990.160); AND 3. THE CATEGORY II TOXIC SUBSTANCE PERMANENT STANDARD (1990.170)

The following discussion summarizes the significant provisions of the three model standards and the rationale and policy considerations underlying those

provisions. As pointed out, these three model standards are intended to be proposed and promulgated in their entirety, in form and content, in each of the substance-by-substance rulemakings, except where deviations, additions or changes are shown to be appropriate. However, certain provisions of the model standards, which represent basic policy decisions of OSHA, such as the requirement that the lowest feasible levels of exposure to be achieved for Category I toxic substances, will not be permitted to be changed in the subsequent substance-by-substance rulemakings. Other requirements, such as the content of medical tests and procedures, may properly vary according to the unique properties or uses of the substance to be regulated and the appropriateness of such requirements will be obviously issues in the subsequent 6(b) rulemaking. Therefore, §§ 190.113 and 190.123 permit the rulemaking proceedings on specific substances to consider whether the unique properties or uses of the substance make any of the specific protective measures of the model standards inappropriate or infeasible. For example, in the recent proposal to regulate occupational exposure to benzene (42 FR 27452), no provision was made for change rooms or showers. This omission from usual OSHA requirements for occupational exposure to a carcinogen occurred because the high volatility of benzene made such requirements unnecessary as to the regulation of that toxic substance.

In format, OSHA has identically lettered those provisions appearing in the model ETS and the model permanent standards for Category I and Category II toxic substances, which cover the same subject headings, for the convenience of the public. For example, paragraph (n) in all three model standards will always contain the requirements for medical surveillance, whether it be the model ETS or the model standards for Category I or Category II toxic substances. Where inappropriate provisions are deleted, for example the regulated area requirement is omitted from the ETS, the lettered paragraph will nonetheless appear with the notation "deleted" to maintain consistency throughout the three model standards.

For the convenience of the public, OSHA attempts here to graphically illustrate, in general, as Table I, the requirements of, and differences in, the three model standards. This table does not, however replace the discussion of the individual requirements, as Table I can only generalize. In addition, attached to this proposed set of regulations, as Appendix A, is a three column display of the three model proposed standards side by side. OSHA believes that Table I and Appendix A will greatly facilitate public understanding and response to this rulemaking.

TABLE I

Description of the 3 model standards, as proposed	Category I: Toxic substances emergency temporary standard	Category I: Toxic substances standard	Category II: Toxic substances standard
1. See (a): Scope and application.	As provided.	As provided.	As provided.
2. See (b): Definitions.	Do.	Do.	Do.
3. See (c): Permissible exposure limits.	Levels are to reflect the lowest levels feasible that can be achieved within the shortest possible time.	Levels are to reflect the lowest levels feasible or, in certain cases, the levels shall permit no occupational exposures.	Levels are to retain the present OSHA standard (29 CFR 1910.1000) or if none or inadequate, the appropriate levels based on acute or chronic non-carcinogenic effects.
4. See (d): Notification of use and emergencies.	Provides for notification of use.	Provides for notification of use and emergencies.	Provides for notification of use and emergencies.
5. See (e): Exposure monitoring and measurements.	Monthly if above limits set by sec. (c); quarterly otherwise.	Monthly if above limits set by sec. (c); quarterly otherwise.	Monthly if above limits set by sec. (c); quarterly otherwise.
6. See (f): Regulated areas.	Omits this requirement.	Required.	Omits this requirement.
7. See (g): Methods of compliance.	Any combination of equipment controls and personal protective equipment.	By way of engineering and work practice controls only, except in certain circumstances.	By way of engineering and work practice controls only, except in certain circumstances.
8. See (h): Respiratory protection.	Required.	Required.	Required.
9. See (i): Emergency situations.	Omits this requirement.	Do.	Do.
10. See (j): Protective clothing and equipment.	Some of the requirements.	All of the requirements.	All of the requirements.
11. See (k): Housekeeping.	Required.	Required.	Required.
12. See (l): Waste disposal.	Do.	Do.	Do.
13. See (m): Hygiene facilities.	Some of the requirements.	All of the requirements.	Some of the requirements.
14. See (n): Medical surveillance.	Required.	Required.	Required.
15. See (o): Employee training and education.	Do.	Do.	Do.
16. See (p): Precautionary signs and labels.	Do.	Do.	Do.
17. See (q): Recordkeeping.	Do.	Do.	Do.
18. See (r): Observation of monitoring.	Do.	Do.	Do.
19. See (s): Effective dates.	Immediately.	As determined in the proposed or final standard.	As determined in the proposed or final standard.
20. See (t): Appendices.	Will be provided.	Will be provided.	Will be provided.

1. *Paragraph (a): Scope and Application.* The three proposed model standards would apply to all workplaces in all industries, including the general, construction, maritime, and agriculture industries, wherever occupational exposure to the toxic substance, as defined, occurs. The three model standards also provide for instances where the standard will be determined by OSHA not to apply, if applicable. The wordings of the three model standards, as proposed, are identical in this regard, although in their application they will obviously be different. See for example, the differences between the final Coke Oven Emissions Standard (29 CFR 1910.1029), the final Vinyl Chloride standard (29 CFR 1910.1017), and the recent Benzene proposal (42 FR 47452).

2. *Paragraph (b): Definitions.* The three proposed model standards contain definitions in order to establish a consistent working vocabulary. OSHA considers these definitions to be minimal insofar as the model standards are concerned. There are some differences, however, even as proposed, in the three model standards because of deleted or additional requirements found in the body of each standard, as discussed. However, there are no differences in the definitions common to the standards.

3. *Paragraph (c): Permissible Exposure Limits.* The proposed ETS and the model permanent standard for a Category I toxic substance would require that employee exposure to a Category I toxic substance be reduced to the lowest levels feasible. In practice, it may be that the permissible exposure limits for the ETS might be higher or lower than those pro-

posed or promulgated in the permanent model standard because of the opportunity for a better assessment of feasibility during the comment period and possible hearing. Additionally, where, on the basis of facts set forth in the proposal or on the record of the public rulemaking, suitable substitutes in certain applications or uses are found to exist which are less hazardous to workers, the Secretary shall prohibit, in the permanent standard, occupational exposure for such specific applications or uses. This prohibition against occupational exposure is not *per se* a ban upon the use of the toxic substance, unless otherwise noted. Any such use of the toxic substance might, for example, be safely contained in a system that would not create any occupational exposure even when the toxic substance were still being used.

The policy decision to reduce exposures to as low as feasible, or to prohibit occupational exposure where suitable substitutes exist, is not made without sound support. As has been discussed above, a no-effect or threshold level may theoretically exist for any specific carcinogen. As yet, however, there is no satisfactory scientific basis for determining such levels for any given population. Thus, as has been proposed, any human exposure to a carcinogen, even at levels below those which induced positive effects in man or in test animals, would be considered by OSHA to present a potential cancer risk as a policy matter. We do not know whether "safe" or "no-effect" levels exist for a carcinogen and, if so what they may be. Therefore, attempts to set finite exposure limits are not directed at determining "safe" levels

of exposure but rather are attempts to determine the lowest feasible levels.

OSHA intends to permit no deviation from the general policy, that the employee exposure limits in the ETS and permanent Category I standard shall always be "the lowest feasible level". OSHA does not believe that it should deviate, in the substance by substance rulemakings themselves, from the position proposed to be established in this rulemaking, namely, that when dealing with human carcinogens it is appropriate to set a level which assures the lowest feasible risk to workers. If and when substantial evidence is available to show that "safe" or "no-effect" levels can be predicted for exposure of human beings to carcinogens, OSHA will act to amend this basic policy decision reflected in this set of regulations proposed today.

The two model permanent standards for Category I and Category II toxic substances provide for permissible exposure limits for inhalation over a time weighted average for an 8 hour day and a ceiling level for any prescribed appropriate interval during that day. They also provide that no employee shall be exposed to eye contact or repeated skin contact. The only difference is that insofar as the model permanent standard for a Category I toxic substance is concerned, the ceiling level shall not be over five (5) times the time weighted average for the inhalation permissible exposure limit. This is provided because statistically, an employer can not generally assure that his employees' exposures are below the time weighted average limit unless the ceiling exposures are less than 5 times that limit.

Finally, the proposed permanent standard for a Category II toxic substance differs markedly from the requirements for Category I toxic substances concerning the permissible exposure limits. This is so because of the lower quantity or quality of the evidence being relied upon. Thus, the model standard for a Category II toxic substance: (a) retains the present OSHA standard found in 29 CFR 1910.1000 or (b) where none exists, sets an appropriate level based upon acute or chronic effects of exposure other than carcinogenicity to the toxic substance, or (c) where acute or chronic effects of exposure other than carcinogenicity indicate that the present OSHA standard is inadequate, lowers the exposure level from the present OSHA standard to the level found appropriate by the Secretary, in the record, to protect against such effects. As has been pointed out above, OSHA is concerned about this specific provision of the Category II model permanent standard and invites the widest public comment as to whether the lowering or setting of permissible exposure levels for such a substance should await a subsequent rulemaking, except where the Secretary determines that he has sufficient evidence in hand at the time.

4. *Paragraph (d): Notification of Use and Emergencies.* The three model standards all provide that within a certain time after the effective date of each

standard, the employer shall notify the applicable OSHA area office as to the address and location of each workplace in which employee exposure to the toxic substance occurs, a brief description of the work operations and the number of employees that may be exposed.

In addition, the Category I and II proposed permanent standards provide that the employer must also notify the OSHA area office when emergencies, as defined, have occurred. If the OSHA area office requests additional information relevant to the emergency, the employer will be required to furnish such information, together with a description of measures taken to prevent future emergencies of a similar nature. The model ETS does not include this requirement because it does not require written plans for emergency situations, for the reasons set forth in paragraph 9 below. Moreover, because previous employee exposures may be at levels much higher than the ceiling limits and compliance with the lower levels set by the ETS is most likely to be achieved by respirators, OSHA deems such requirement to be unnecessary or even infeasible for the ETS. Finally, in light of the other requirements mandated of employers by the ETS, OSHA believes that such a further requirement might be overburdensome in the case of most employers because of the short effective period of the ETS (6 months).

These reports of use, and in the case of the two model permanent standards, the report of emergencies, are considered necessary and proper in order to aid enforcement activities. In addition, such information is helpful, in the case of the rulemaking concerning the permanent standard for Category I toxic substances, in determining what level of exposure can feasibly be attained by way of engineering and work practice controls. Finally, such reports are necessary in order to monitor the effectiveness of standards in protecting employees against occupational cancer and in order to obtain information, on a continuing basis, concerning the hazards found in the use of these toxic substances.

OSHA recognizes that the reporting of use may be a requirement of the United States Environmental Protection Agency pursuant to the Toxic Substances Control Act of 1976. OSHA does not desire duplication of reporting to more than one Federal agency and therefore directs the attention of the public to this issue and requests comments on ways to achieve notification of use without duplicating reports concerning the use of any given toxic substance. It is OSHA's intention to enter into an agreement with EPA reducing, to the maximum extent possible, any such duplication in reporting requirements.

5. *Paragraph (e): Exposure Monitoring and Measurement.* The three model standards require each employer who has a place of employment where the toxic substance is present to monitor employees to measure their exposure to the toxic substance over an eight (8) hour period, without regard to the use of res-

piratory protection. Section 6(b)(7) of the Act (29 U.S.C. 655) mandates that any standard promulgated under the Act shall, where appropriate, provide for monitoring or measuring of employee exposure and in such manner as may be necessary for the protection of employees. In addition, section 8(c)(3) of the Act (29 U.S.C. 657) requires employers to promptly notify any employee who has been or is being exposed to toxic substances or harmful physical agents at levels which exceed those prescribed by an applicable occupational safety and health standard and to inform such employee of the corrective action being taken to reduce such exposures. Exposure monitoring is necessary, therefore, in order to determine whether employees are being exposed to the toxic substance at levels exceeding those prescribed by the standard and therefore should be notified as required by the Act.

In addition to the statutory requirements, there are various other reasons which make it appropriate for employers to measure employee exposure to the toxic substance.

First, employers would have a legal obligation imposed by the individual standard to assure that their employees are not exposed above the permissible exposure limits. Exposure monitoring informs the employer whether that obligation is being met.

Second, if the employer determines that employee exposures exceed the permissible exposure limits, then there would be an obligation in the case of a permanent standard for Category I or II toxic substances to institute engineering and work practice controls in order to reduce exposures to the permissible exposure levels. Hence, exposure monitoring aids the evaluation of the effectiveness of the installation of engineering and work practice controls and informs the employer whether additional controls need be instituted. For the same reasons, the ETS requires the use of respiratory protection whenever the permissible exposure limits are exceeded.

Third, if the permissible exposure limits are exceeded, either before all feasible engineering and work practice controls have been instituted, or after, then there is an obligation to use respiratory protection to reduce exposures. The selection of a particular respirator depends largely on the level at which employees are being exposed. Therefore, exposure monitoring is necessary in order to determine whether respiratory protection is required at all, and if so, which respirator is to be selected.

Finally, the results of exposure monitoring are a necessary part of the information which is required to be supplied to the physician to enable him to perform his stated functions under the standard.

The three model standards require that the measurements be made by monitoring which is representative of each employee's exposure to the toxic substance over an eight-hour (8) period without regard to the use of respiratory protection. In order to use the results of

exposure monitoring to evaluate the effectiveness of the required engineering and work practice controls, to determine whether additional controls must be instituted, and to ascertain which, if any, respirator must be used, it is necessary to know employee exposure levels without regard to the use of respiratory protection. Exposure measurements of each individual employee would, of course, be the best indication of that employee's exposure. However, OSHA believes that this may be too burdensome and monitoring which is truly representative of an employee's exposure would provide the necessary information with, in many instances, fewer samples. It should be noted that individual exposure measurements would certainly be considered to be representative and are not precluded by this requirement.

All three model standards require that whenever there has been a production, process, control or personnel change which may result in new or additional exposures to the toxic substance or whenever the employer has any other reason to suspect an increase in employee exposure, the employer shall repeat the required monitoring and measurements for those employees affected by such change or increase. This is necessary so that the employer may take the appropriate actions required, such as providing the appropriate respirator protection or instituting engineering controls.

The three model standards require an employer to notify each employee in writing of that employee's representative exposure measurement within five working days after receipt of the results of any required measurement. Section 8(c)(3) of the Act (49 U.S.C. 667) requires employers to promptly notify an employee who is exposed in excess of the permissible exposure limit. The standard extends that right to employees exposed at or below the permissible exposure limits and establishes the time period involved. OSHA believes that informing employees of their exposure measurement, at or below the permissible exposure limits, contributes to their understanding of their work and its attendant hazards, particularly where no level of exposure is "safe" and the level that is set solely a feasibility level. The success of a control strategy that so intimately involves worker cooperation is highly dependent on such understanding. A period of five (5) working days is believed to be a reasonable time in which to notify the employees. The five day limit fulfills the statutory requirement of promptness, yet accommodates the need to allow time for the written notification to be completed.

Section 8(c)(3) of the Act (29 U.S.C. 657) also provides that whenever measurement results indicate that an employee is exposed in excess of the permissible exposure limits, the employer must also notify the employee of the corrective action being taken to reduce exposure to or below the permissible exposure limits. The three model standards all incorporate this statutory obligation.

The employer is also required to use a method of monitoring and measurement with an accuracy (at a confidence level of 95%) of not more than plus or minus an appropriate level to be determined in each specific rulemaking pursuant to this subpart.

6. *Paragraph (i): Regulated Areas.* The model permanent standard for a Category I toxic substance provides that when employee exposure is in excess of the permissible exposure limits, without regard to respiratory protection, the employer must establish a regulated area and limit access to those areas to authorized persons. The purpose of these requirements is to limit the risk of exposure to as few employees as possible. OSHA believes these requirements will allow operation to continue without undue interference, considering the dangerous hazard to which the workers are exposed.

The model ETS does not include a requirement for the designation of regulated areas. As has been explained, the ETS requirements are those that OSHA has determined and believes can generally be instituted immediately or fairly quickly. Yet, before a regulated area is required, employers would be required to monitor to determine which, if any, employees are exposed to the toxic substance over the permissible exposure limits. OSHA believes that with the present requirements of the model ETS, it would not be feasible in many cases to add this additional requirement to the model ETS.

The model permanent standard for a Category II toxic substance also does not include the requirement for regulated areas. OSHA believes, as has been pointed out, that Category II substances are those substances with substantially less quantitative and qualitative proof of carcinogenicity than the Category I toxic substances. In other words, these substances probably have not been regulated in the past by any federal agency insofar as carcinogenicity is concerned. Thus, OSHA believes that requiring regulated areas in the model proposed permanent standard for Category II toxic substances would be too burdensome a requirement based on the quality or quantity of evidence required to trigger a Category II classification.

7. *Paragraph (a): Methods of Compliance.* (a) *The model permanent standards.* The model permanent standards simply restate OSHA's current policy that feasible engineering and work practice controls must be used as the primary methods to reduce employee exposure to or below the permissible exposure limits. They would require the employer to immediately institute feasible engineering and work practice controls to reduce employee exposures to or below the permissible limits, except in situations where the employer proves that such controls are infeasible. Further, in situations where feasible engineering and work practice controls are insufficient to reduce exposure to the permissible limits, they must none-

theless be used to reduce exposures to the lowest achievable level, and then be supplemented by the use of respiratory protection. In addition, a program must be established and implemented to reduce exposures to within the permissible exposure limits or to the greatest extent feasible, solely by means of engineering and work practice controls. Written plans for this program must be developed and be furnished upon request for examination and copying to representatives of the Assistant Secretary and the Director. These plans must be reviewed and updated periodically to reflect the current status of exposure control.

As has been pointed out time and time again in OSHA rulemaking proceedings, respirators are the least satisfactory means of control because of difficulties inherent in their design and use. Respirators are capable of providing good protection only if they are properly selected for the types and concentrations of airborne contaminants present, properly fitted and refitted to the employee, worn by the employee, and replaced when they have ceased to provide protection. While it is theoretically possible for all of these conditions to be met, it is more often the case that they are not. Consequently, the protection of employees by respirators is not always effective and is therefore permitted only in certain specified circumstances. For example, proper facial fit is essential, but due to variations in individual facial dimensions, and the limited range of facepiece configurations, such fit is difficult to achieve. Often the work involved is strenuous and the increased breathing resistance of the respirator reduces their acceptability to employees. Safety problems presented by respirators must also be considered. Respirators limit vision. Speech is also limited. Voice transmission through a respirator can be difficult, annoying and fatiguing. Movement of the jaw in speaking also causes leakage. Communication may make the difference between a safe, efficient operation, on the one hand, and confusion and panic, especially in difficult and dangerous jobs, on the other hand. Also skin irritation can result from wearing a respirator in hot, humid conditions and such irritation can cause considerable distress and disrupt work schedules. The extent of this problem is even greater where the toxic substance is a skin irritant and becomes trapped between the respirator facepiece and the skin.

It is clear therefore that respirators cannot be considered as the primary means of employee health protection. Nevertheless, they do provide some protection and OSHA has concluded therefore that under certain circumstances, the employees must use the respirators provided.

(b) *The Model ETS.* OSHA has indicated herein that the provisions of the model ETS are intended to require only those things which are possible to achieve immediately or within a very short period of time. While the model ETS therefore states that OSHA prefers the re-

duction of employee exposure by way of engineering and work practice controls, it also states that OSHA recognizes, as a very practical matter, that in many instances, the immediate reduction of exposure will be primarily through the use of respiratory protection, with all of the inadequacies stated above, and the institution of good housekeeping practices such as the prohibitions against the blowing of dust containing the toxic substance or the permitting of open containers and vessels of liquids containing the toxic substances. The methods of compliance, therefore, are a major difference between the model ETS and the model 6(b) proposed and final standards. One other major and distinctive feature of the model ETS is the requirement that during the effective period of the ETS (6 months), the affected employers must look down the road to the model permanent standard for the Category I toxic substance and start planning how to reduce exposures to the lowest feasible levels solely by way of engineering and work practice controls. Thus, OSHA anticipates that by such requirements, delayed effective dates of the permanent standard can be limited or perhaps avoided altogether, hastening the reduction of employee exposure to the toxic substance. Because of the general irreversibility of cancer as pointed out above, OSHA considers the early reduction of employee exposures the most significant provision in decreasing the gravity of the risk of contracting cancer.

8. *Paragraph (b): Respiratory Protection.* The model ETS provides that, whenever the permissible exposure limits are exceeded, the employer shall assure that the employees use respirators. The two model proposed and final standards, however, require that respirators be used to achieve compliance with the permissible exposure limits only during the time period necessary to install or implement feasible engineering and work practice controls, in work operations in which such controls are not technically feasible or are not yet sufficient to reduce exposure to the permissible limit, or in emergencies.

The three model standards require that the employee be properly trained to wear the respirator, to know why the respirator is needed and to understand the limitations of the respirator. An understanding of the hazards involved is necessary to enable the employee to take steps for his or her own protection. The respiratory protection program implemented by the employer must conform to the program set forth in 29 CFR 1910.134. This section contains basic requirements for proper selection, use, cleaning, and maintenance of respirators.

The three proposed model standards also contain a respirator selection table (Table I) so the employer will be informed of and provide the type of respirator which affords the proper degree of protection based on the airborne concentrations of the toxic substance.

To prevent skin irritation and to minimize the discomfort of respirator use, the three model standards require that

employees must be allowed to periodically wash their faces and respirator facepieces in order to remove any accumulation of the toxic substance or to reduce the chance of irritation from the wearing of the facepiece itself, such as a heat rash.

9. *Paragraph (i): Emergency Situations.* The two model permanent standards provide that written plans for emergency situations be developed. They further require that some type of alarm or warning system be devised to adequately alert employees of the emergency. Finally, the two model standards provide for evacuation of all employees from the area except those engaged in correcting the emergency.

The model ETS does not provide such a requirement. As has been pointed out under methods of compliance, OSHA recognizes that respirators may be the primary method used to reduce employee exposure in the short term under the ETS. Thus, the requirements concerning emergencies provided for by the two model proposed and final standards would not appear to be necessary or in some cases attainable for the ETS.

10. *Paragraph (j): Protective Clothing and Equipment.* The three model standards require the employer to provide and assure that employees, who are subject to skin or any eye contact, use protective clothing or equipment such as goggles in order to minimize these hazards.

Basically, the requirements of the three model standards are the same. The three model standards also require that the employer clean, launder, or dispose of the required protective clothing to eliminate any potential exposure that might result were the clothing to be laundered by the employee at home or in a commercial laundry.

The three model standards also require that protective clothing be provided in a clean and dry condition at appropriate times. Since repeated skin contact with many toxic substances, as proposed to be regulated herein, creates a potential for skin cancer, OSHA believes that the regular cleaning of contaminated work clothing plays an important role in the prevention of this hazard. More important, this requirement prevents increased exposure to airborne concentrations of the toxic substance released from the contaminated clothing. The three model standards also require that protective clothing and equipment be maintained and replaced as needed in order to ensure effectiveness.

The two model permanent standards provide that the employer assure that all protective clothing is removed at the end of each work shift, only in change rooms, and that the clothing that is to be laundered, cleaned, or disposed of be placed in a closable container in the change room. The purpose in requiring such a container is to prevent the contaminants on the clothing from coming into contact with an individual handling the container or being released in the change room. Since the container is to be located in the change room, it is appropriate

to limit the removal of contaminated clothing to that area.

Finally the three model standards require employers to inform those who handle the contaminated articles of the potentially harmful effects of exposure to the toxic substance. This provision is designed to make clear the need to use proper care in handling of the contaminated articles.

11. *Paragraph (k): Housekeeping, Removal and prevention of accumulations of the toxic substance dust and liquid deposits on all surfaces in the workplace are important aspects in minimizing employee exposure, particularly in the case of a Category II toxic substance where there may not be a mandatory reduction in the present permissible exposure limits, per se.* To assure that the toxic substance is not reintroduced into the workplace air, all three model standards prohibit dry sweeping or the use of compressed air for cleaning of floors and other surfaces where the toxic substance dust or liquid deposits are found.

As important, all three model standards require that when the toxic substance is present in a liquid form, or as a resultant vapor, that all containers or vessels shall be enclosed to the maximum extent feasible and tightly covered when not in use.

12. *Paragraph (l): Waste Disposal.* For disposal of waste, scrap, equipment or debris containing the toxic substance, the three model standards require that such substance be collected and disposed in sealed bags or other closed containers which will prevent dispersion of the toxic substance outside of the container.

13. *Paragraph (m): Hygiene Facilities and Practices.* As to the three model standards, there are, generally, the same provisions for hygiene facilities and practices as are provided by present OSHA standards, as mandated by 29 CFR 1910.141.

The two model permanent standards also add other requirements. For example, the model proposed and final standard for a Category I toxic substance also requires that positive pressured, filtered air lunchrooms be provided and readily accessible for employees whenever food or beverages are consumed in the workplace. These lunchrooms must be provided and readily accessible to encourage employees to make use of them. Positive pressure filtered air is required to create a lunchroom with a relatively emission free air supply and to minimize the amount of air from outside the lunchroom blowing inside whenever the door is opened. The air supply is also required to be temperature controlled so that the lunchroom does not become unbearably hot in the summer or cold in the winter, making employees reluctant to use it. In addition, a lunchroom with a temperature controlled air supply will encourage employees not to leave the door open in order to lower the temperature in hot weather, thus minimizing the opportunities for air contaminated with the toxic substance to blow into the lunchroom.

Second, the model permanent standards for Category I and Category II toxic

substances require the use of hygiene practices and facilities which are intended to remove the toxic substance collected on employees. The standards do this by requiring that the employer assure that employees wash their hands and faces prior to eating. Since washing is required, the model standards also repeat the existing obligation to provide washing facilities and lavatories in accordance with 29 CFR 1910.141(d) (1) and (2).

The two model permanent standards for Category I and Category II toxic substances require the employer to provide change rooms equipped with storage facilities for street clothes and separate storage facilities for protective clothing and equipment as is presently provided by 29 CFR 1910.141. The purpose of this requirement is to reduce the possibility of an employee having skin contact with the toxic substances which collect on the employee's street clothes as a result of those clothes having been in the same storage facility as the employee's contaminated protective clothing and equipment. It should again be noted that this requirement repeats the existing obligation to provide change rooms in § 1910.141(e) of this Part.

In addition to requiring shower facilities, the model proposed and final standards require showering at the end of each work shift. This action can, in certain cases prevent skin cancer among workers. In addition, and as importantly, it reduces the employee's overall exposure to the toxic substance. OSHA believes that, although some allege that workers currently engage in this practice, it is usually not the case. Thus, OSHA believes that it is necessary to create a legal obligation to do so, in order to assure that this practice is continued or created. The model standards also require shower facilities which comply with 29 CFR Part 1910.141(d) (3).

The model standards also require that employers assure that employees do not apply cosmetics in the regulated area. This is intended to prevent employees from sealing the toxic substance onto their skin.

OSHA invites comments on these paragraphs of the model standards. Basically, as pointed out, the additional Category I requirements to those already imposed by 29 CFR 1910.141 for hygiene facilities are capital intensive. In regulating Category II substances, OSHA is relying upon evidence insufficient to justify treating the substance as a full-blown carcinogen. Thus, the lower standard of regulation, but with what OSHA believes is an adequate margin of health and safety commensurate with the quality and quantity of evidence.

14. *Paragraph (n): Medical Surveillance.* The three model standards require that each employer institute a medical surveillance program for all employees who are, or will be, exposed to the toxic substance. OSHA believes that a medical surveillance program is appropriate in dealing with the problem of employee exposure to Category I or II toxic substances; hence, pursuant to the Act, this

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standard has prescribed it. The authority, indeed the requirement, to include medical surveillance in an OSHA standard is found in subsection 6(b)(7) of the Act:

where appropriate, such standard promulgated under subsection 6(b) shall prescribe the type and frequency of medical examinations or other tests which shall be made available, by the employer or at his cost, to employees exposed to high employment-related hazards in order to most effectively determine whether the health of such employees is adversely affected by such exposure.

The three model standards require that the medical surveillance program provide each covered employee with an opportunity for medical examination. As noted above, the authority and requirement for this provision is found in section 6(b)(7) of the Act.

All examinations and procedures are required to be performed by or under the supervision of a licensed physician and provided without cost to the employee. While the physician will usually be selected by the employer, the standard does not so mandate, leaving the employer free to institute alternative procedures such as joint selection with the employee or selection by the employee. Clearly, a licensed physician is the appropriate person to be conducting a medical examination. However, certain parts of the required examination (e.g. taking of a history) do not necessarily require a physician's expertise and may be conducted by another person under the supervision of the physician. As noted above, the Congress has mandated, by reason of section 6(b)(7) of the Act, that medical examinations and procedures required by OSHA standards be provided at no cost to the employee.

The three model standards provide that a work history, medical history and medical examination be performed. The purpose of this requirement is to establish a baseline health condition against which changes in an employee's health may be compared in the detection of changes in physical condition.

The model standards leave blank the specific medical protocols for the examination. The various tests that comprise the medical examination to be prescribed in the individual rulemakings are determined by the specific toxicology and effects of each substance. The tests are designed to be used in an initial assessment of an employee's health and to detect changes in health which may occur are to be required as appropriate. Of course, if additional tests and procedures are appropriate for a given substance, they may be added in the specific rulemaking covering that substance.

The three model standards require that the employer provide the physician with certain specified information. This information includes a copy of the regulation, a description of the affected employee's duties as they relate to the employee's exposure, the results of the employee's exposure measurement, if any personal protective equipment is used or is to be used, and information from previous medical examinations of

the affected employee to the extent that they are not readily available to the physician. The purpose in making this information available to the physician is to aid in the evaluation of the employee's fitness to wear personal protective equipment when required. It should be noted that the three model standards do not require that a copy of the regulation be given to the physician for each employee. One copy would be sufficient, provided the employer assures that the physician is aware of which employees are covered by this standard. Items that relate to individual employees or categories of employees (such as the description of job duties) need be transmitted to the physician only once, unless, for example, the duties change. Exposure measurements will be cumulative so that the results of each monitoring are to be sent to the physician. However, since sampling will be done on a representative basis, the language of the three model standards require the physician to be given either the employee's actual exposure measurements, if available, or the estimated level of the employee's exposure based on the relevant representative measurements.

The employer is required to obtain a written opinion from the examining physician containing: the physician's opinion as to whether the employee has any detected medical conditions which would place the employee at increased risk of material impairment of health from exposure to the toxic substance; the results of the medical tests performed; any recommended limitations upon the employee's exposure to the toxic substance and upon the use of protective clothing and equipment such as respirators; and a statement that the employee has been orally informed by the physician of any medical conditions which require further examination or treatment. This written opinion must not reveal specific findings or diagnoses unrelated to occupational exposure, and a copy of the opinion must be provided to the affected employee. The purpose in requiring the examining physician to supply the employer with a written opinion containing the above-mentioned analyses is to provide the employer with a medical basis to aid in his determination of the employee's initial placement and continuing capability to use protective clothing and equipment of employees. Requiring that the opinion be in written form will serve as an objective check that employers have actually had the benefit of the information in making these determinations. Likewise, the requirement that the employee be provided with a copy of the physician's written opinion will assure that the employee is informed of the results of the medical examination and may take any appropriate action. The purpose in requiring that specific findings or diagnoses unrelated to occupational exposure not be included in the written opinion is to encourage employees to submit to medical examination by removing the fear that employers may find out information about their physical condition that has no relation to occupational exposures.

15. *Paragraph (o): Employee Information and Training.* The three model standards uniformly require the employer to provide a training program for employees exposed to the toxic substance. OSHA believes that an information and training program is essential for the protection of employees because an employee can do much to protect himself if he is informed of the nature of the hazards in his workplace. To be effective, an employee education system must, at the minimum, apprise the employee of the specific hazards associated with his work environment. For this reason, the employer would be required to inform each employee exposed to the toxic substance of the nature of the toxic substance's related health problems; the necessity for exposure control and the medical and industrial hygiene monitoring programs.

The three model standards also require that the training program be provided at least annually. The content of the training program is intended to apprise the employees of: (1) the hazards to which they are exposed; (2) the necessary steps to protect themselves, including avoiding unnecessary exposures, respiratory protection and medical surveillance; (3) their role in reducing exposures to the toxic substance and (4) their rights under the standard. Section 6(b)(7) of the Act makes it clear that these are appropriate goals of an employee training program, and the model standards, therefore, include them.

The employer is required to make a copy of the model ETS and proposed and final standards, as applicable, as well as the appendices available to the affected employees. This requirement, in combination with the review provided for as part of the training program, is intended to assure that employees understand hazards and the requirements of the applicable standard.

The employer is also required to provide, upon request, all materials relating to the training program to the Secretary and the Director. This is intended to provide an objective check of compliance with the content requirements of the applicable standard.

16. *Paragraph (p): Signs and Labels.* The three model standards require the use of signs and labels, with the two model standards for a Category I toxic substance requiring the warning of "Cancer Hazard." The model proposed and final standard for a Category II toxic substance requires the warning of "Potential Cancer Hazard." OSHA believes that it is important, and indeed section 6(b)(7) of the Act requires, that appropriate forms of warning, as necessary, be used to apprise employees of the hazards to which they are exposed in the course of their employment. OSHA believes, as a matter of policy, that employees should be given the opportunity to make informed decisions as to whether to work at a job under the particular working conditions extant. Furthermore, OSHA believes that when the control of potential safety and health problems involves the cooperation of employees, the success of such a program is highly dependent

upon the employee's understanding of the hazards attendant to that job.

In light of the serious nature of the hazard of exposure to carcinogens, OSHA does not believe that periodic training alone will adequately apprise employees of the carcinogenic hazard. However, coupled with the training requirements, OSHA believes that the requirement to post signs will adequately do so. Additionally, the appearance of the phrase "cancer hazard" or "potential cancer hazard" on the warning sign assure that employees are actually being informed of this hazard.

Since even persons who are exposed to a carcinogen only occasionally may face an increased risk of cancer, OSHA does not believe that the hazard to these people is overstated by the required signs. Also, as is the case with a regular employee, the warning signs would serve as an added impetus to occasionally visiting employees to utilize any protective equipment which has been provided.

Finally, given the evidence of the carcinogenicity of substance, OSHA believes that signs will not cause undue alarm. This is especially so when balanced against the positive results anticipated, as described above. For all of the reasons set forth, OSHA believes that it is appropriate to use precautionary signs which warn of a cancer hazard. Additionally, the phrase "authorized personnel only" relates directly to requirements in the Category I permanent standard which limit access and activities within regulated areas. (See discussions of Regulated Areas and of Hygiene Facilities and Practices.)

The words "danger" or "caution" are used for three reasons: (1) To attract the attention of workers; (2) to alert workers to the fact that they are in a dangerous area, i.e., an area where they are exposed to a potential carcinogen; and (3) to emphasize the importance of the message to follow.

The use of labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs required by this standard is permitted. OSHA recognizes that employers may be subject to various legal requirements to use warning signs and labels. The purpose of this provision of the standard is to allow the employer to comply with these various requirements in an administratively convenient manner.

The standards require that no statement which contradicts or detracts from the effect of any sign required by this paragraph shall appear on or near any such required sign. They also require that the legend on the signs be kept visible to employees by illuminating and cleaning the signs when necessary. These two requirements are designed to ensure the effectiveness of the warning signs.

Statements which contradict or detract from the intended effect of the sign are clearly counterproductive to using signs to convey information. Similarly, if the legend on the sign cannot be read because of either darkness or an

unclean condition, then there is no purpose in requiring signs to be posted.

The use of precautionary labels on containers of protective clothing contaminated with the toxic substance is required. We are mindful that no evidence may presently exist that laundry workers who handle contaminated clothing containing any specific carcinogen exhibit an excess of cancer. However, no evidence exists to the contrary, and in light of our experience with other carcinogens (e.g. asbestos) and the preventative nature of the Act, we have decided to include a requirement for precautionary labels for contaminated clothing. Moreover, OSHA believes it is as appropriate that individuals who are engaged in handling and laundering the contaminated clothing be apprised of the hazard and practices to be avoided when handling the clothing as it is to inform the other primary employees.

As to labels, due to the hazardous nature of exposure to a potential carcinogen, OSHA believes that emphasis should be placed on warning employees and other persons about the danger of exposure. For this reason, the model standards include a requirement that caution labels be affixed to all containers containing the Category I and Category II toxic substance and of the products containing it, not only because of the hazardous nature of this exposure, but because of the related necessity for both the employer and employee to know whether the product contains any of the carcinogen. The labeling provisions for the model standards for the Category I and Category II toxic substance also require the employer to assure that caution labels are affixed to any product containing the toxic substance when such product leaves the employer's workplace. This proposed requirement is designed to protect any other employees who will be handling, transporting, or using this product. Thus manufacturers and suppliers would be required to affix caution labels. The rationale for this requirement is that the manufacturer or supplier is in the best position to know whether the product does contain the Category I and Category II toxic substance and should therefore be required to inform employees of even other employers of the hazards to which they are being exposed.

17. *Paragraph (g): Recordkeeping.* Section 8(c)(3) of the Act mandates the promulgation of regulations requiring employers to maintain accurate records of employee exposure to potentially toxic substances or harmful physical materials which are required to be monitored or measured. Accordingly, the three model standards contain identical provisions for recordkeeping except that the model ETS has a shorter time requirement for retention due to its short effective date and does not require a transfer of records to the Director of NIOSH if the employer ceases to do business. OSHA believes that such a requirement is not necessary for the ETS because of its short effective life (6 months).

The three model standards provide that records must be kept which include information which is intended to identify the employee and to accurately reflect the employee's exposure. Specifically, it must include: (a) the names, social security numbers and job classification of each employee covered by the monitoring; (b) the dates, number, duration and results of each of the samples taken, including a description of the representative sampling procedure used to determine employee exposure where applicable; (c) the type of respiratory protective devices worn by the employee, if any; (d) the environmental variables that could affect the measurement of employee exposure and (e) a description of the sampling and analytical methods used, and evidence of their accuracy.

The model permanent standards for both a Category I and II toxic substance require that this record be maintained for at least 40 years, or for the duration of employment plus 20 years, whichever is longer. OSHA believes that this retention period is necessary and appropriate for the development of information regarding the causes and prevention of occupational cancer related to exposure to a toxic substance. To be useful for this purpose, an exposure monitoring record must be retained long enough to allow health effects related to employee exposure to become manifest. Some of the health effects related to the development of cancer, do not become manifest for at least 20 or 30 years. Therefore, a retention period which encompasses both the period of exposure and the period of latency has been selected. Since the latency period may exceed 20 or 30 years, a minimum retention period of 40 years has been established to cover employees who have experienced shorter periods of exposure, i.e. less than 20 years.

The three model standards also require that the employer keep an accurate medical record for each employee who is subject to surveillance. Section 8(c)(1) of the Act authorizes the promulgation of regulations requiring an employer to keep such records as are necessary or appropriate for the enforcement of the Act or for developing information regarding the causes and prevention of occupational illnesses. OSHA believes that medical records (like exposure monitoring records) are both necessary and appropriate to both the enforcement of the standards and the development of information regarding the causes and prevention of illness related to exposure to potential occupational carcinogens.

Like all records, medical records serve as an objective check that an employer has actually performed the substantive requirements of the standard. More importantly, as explained above, it is necessary to relate employee's medical effects with their exposures in order to develop information regarding cause and prevention. Medical records are necessary and appropriate for this purpose. In addition, medical records are necessary for the proper evaluation of an individual employee's health. For all of these reasons, medical records have been required in the three model standards.

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The three model standards provide that the medical records must include information which is intended to identify the employee, to accurately reflect the employee's health, and to establish that the employee has had an opportunity to participate in a medical examination. The reasons for requiring the various aspects of the medical surveillance program have been explained. It is basically these requirements which dictate the content of the medical records.

The two model permanent standards require that medical records be maintained for at least 40 years or for the duration of employment plus 20 years, whichever is greater. OSHA believes that the same justification applies to the retention period for medical records as applies to the retention of exposure monitoring records.

The three model standards require that all records required to be maintained by the recordkeeping section be made available upon request to the Assistant Secretary and Director for examination and copying. The purpose of this section is to insure compliance with the recordkeeping regulations and to provide data necessary for development of information regarding the cause and prevention of occupational cancer.

The three model standards require that employees or their designated representatives be provided access to examine and copy records of required monitoring and measuring. The purpose of this provision is to inform current employees of their exposure levels. An additional purpose for this requirement is to protect the former employee's health over his entire lifespan by permitting him access to records indicating this exposure to potentially carcinogenic substances. Section 8(c)(3) of the Act states that regulations shall provide: "employees or their representatives with an opportunity to observe . . . monitoring or measuring . . . and to have access to the records thereof." Because the final standard permits monitoring which is "representative" of an employee's exposure, not monitoring of each individual employee's exposure, the former employee can also have the right to access to all those measurements from which his exposure was determined to gain assurance that his exposure measurement was properly calculated.

The three model standards require that required employee medical records be made available upon request for examination and copying to the affected employee or former employer or to a physician designated by the affected employee or former employee. The purpose of this provision is to protect the employee's health by authorizing his designated physician to have access to medical records useful in the diagnosis of illness.

The two model permanent standards require, with regard to the transfer of records, that in the event the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained under the recordkeeping section. The purpose of

this section is to assure that the records will be protected and preserved for the required retention period.

The two model permanent standards also require that in the event an employer ceases to do business and there is no successor to receive and retain the records for the prescribed period, the records are to be transmitted by registered mail to the Director of NIOSH. The purpose of this provision is to assure that records are preserved for the requisite retention period.

18. Paragraph (r): *Observation of Monitoring.* Section 8(c)(3) of the Act requires that employers provide employees or their representatives with the opportunity to observe monitoring of employee exposures to toxic substances or harmful physical agents. In accordance with this section, all three proposed model standards contain identical provisions for such observation. To assure that the right to observe is meaningful, observers would be entitled to receive an explanation of the measurement procedure, to observe all steps related to the measurement procedure and to record the results obtained.

The observer, whether an employee or designated representative, must be provided with, and is required to use, any personal protective devices required to be worn by employees working in the area that is being monitored, and must comply with all other applicable safety and health procedures.

19. Paragraph (s): *Effective Date.* The model ETS states that it becomes effective upon publication, as provided by section 6(c) of the Act. However, certain paragraphs do contain minimally longer periods in recognition of the difficulty in requiring "instant" compliance requirements for those respective paragraphs. The two model permanent standards provide that the Agency insert the appropriate effective date during each substance-by-substance rulemaking.

20. Paragraph (t): *Appendices.* All three model standards provide for three appendices: Appendix A entitled "Substance Safety Data Sheet," Appendix B entitled "Substance Technical Guidelines" and Appendix C entitled "Medical Surveillance Guidelines". It should be noted that the appendices will be included for informational purposes only and will vary because of the differing toxicological properties of each substance. None of the statements contained therein should be construed as imposing a mandatory requirement which is not otherwise imposed or as negating any requirement which is imposed by the standard.

The information contained in Appendices A and B is intended to aid the employer in complying with requirements of the standard. This information is also to be provided to employees as part of the annual training and education program. Appendix C gives the employer a means of providing the examining physician with an explanation of the potential health effects of exposure to the toxic material and provides information needed by the physician to evaluate the

results of the medical examination. Appendix C also lists other types of examinations, not required by the individual standard, which may help the physician in making an accurate determination of whether an employee should be exposed or should continue to be exposed to the toxic material.

IV. ENVIRONMENTAL AND ECONOMIC IMPACT ASSESSMENT

The National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*), requires, among other things, that Federal agencies assess their proposed major actions, including proposed rulemaking, to determine whether a significant impact on the quality of the human environment may result. Furthermore, 29 CFR Part 1999.3(d) requires that where OSHA determines that an environmental impact statement should be prepared, the determination to do so must be published in the FEDERAL REGISTER.

At the outset, it should be pointed out that OSHA intends to issue a draft and final environmental impact statement, where warranted, in connection with each and every individual rulemaking proceeding held pursuant to this proposed Part and subpart. In addition, OSHA intends to do so within a reasonable time after the issuance of the Category I toxic substance ETS (at the time of the issuance of the proposed 6(b) model permanent standard).¹⁰ Evaluation of the potential environmental impact of this set of regulations at this time appears to be of questionable legal

¹⁰ OSHA does not intend to issue a draft EIS at the time a Category I ETS is promulgated but only at the time that the Category I or Category II model permanent standard is proposed. As the Court observed in *Dry Color Manufacturers' Assn., Inc. v. Department of Labor*, 486 F.2d 98 (3rd Cir. 1973) at 107-08: ". . . while the NEPA requirement of an environmental impact statement applies to ordinary standards promulgated under the Occupational Safety and Health Act, an exception should be made for the Emergency Temporary Standard involved in this case. The process by which NEPA statements are produced and circulated is a lengthy one. To require its completion before the promulgation of an emergency temporary standard would impair the purpose of subsection 6(c) to provide speedy protection from grave dangers to the health of employees. No doubt any exemption of emergency temporary standards under this Act from the requirement of an environmental impact statement involves some sacrifice of the policy behind NEPA. However, that sacrifice is mitigated somewhat by the fact that an emergency temporary standard must be replaced within six months by a permanent standard, for which a completed impact statement is required, and it is, in any case, justified by the need to accommodate the provisions of NEPA with those of the Occupational Safety and Health Act. We therefore have concluded that where, as here, OSHA begins the process contemplated by NEPA by issuing a draft environmental impact statement within a reasonable time after issuing an emergency temporary standard, the requirements of NEPA are sufficiently satisfied." OSHA intends in the future, and has in the past, followed exactly that procedure.

necessity and value. This is so because until the proposal is implemented on a substance-by-substance basis, there can be little, if any, precise quantitative assessment of environmental impact. Such an attempt at this time must necessarily be highly speculative because of unknown substances and unidentified industries. Nevertheless, OSHA has attempted to evaluate the elements of environmental impact to the limited extent possible at this time. OSHA intends that the preceding description of the proposed standard, together with its supporting rationale, which relate primarily to the workplace environment, as well as the following section on external environmental impact, do constitute a draft environmental impact statement on this proposed set of regulations concerning the identification, classification, and regulation of potential carcinogens.

This statement has been prepared in accordance with the provisions of NEPA as well as the guidelines of the Council on Environmental Quality (40 CFR Part 1500). The purpose of this draft environmental impact statement, however, is to aid in OSHA's decision making on proposed actions which may have the potential for significantly affecting the quality of the human environment, and, hopefully, for the better. Written comments and information on the projected impacts of this proposed set of regulations, as well as the desirability of preparing an environmental impact statement at this time, are solicited from any interested persons or groups during the period for written comment submissions listed below in this Notice. In issuing the final set of regulations pursuant to this subpart, OSHA will determine whether a final environmental impact statement is required. In addition, prior to the hearing, OSHA will determine if it has facts not before it at present to amend or revise this draft environmental impact statement.

In addition to this general request for comment, copies of this proposal and draft environmental impact statement will be sent to numerous Federal and State agencies, industry representatives, employee unions, and public interest groups with requests for their comments. A copy of this listing is available in the OSHA Technical Data Center, Room S-6212, Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Testimony, data, arguments, and related submissions on environmental impact will be received at the public hearing to be held on this proposed set of regulations on March 14, 1978, provided prehearing submission requirements, also outlined below, are complied with.

Additional copies of this draft environmental impact statement are available for review and copying in the OSHA Technical Data Center.

A. ALTERNATIVES

There appear to be at least three major areas of regulatory decision making which will affect the impact of this proposed Part and subpart on the exter-

nal environment. These are: (1) the scope and application of the applicable model standard, (2) the airborne permissible exposure limits, and (3) the methods by which compliance is mandated. The purpose of this section is to present the alternatives available. The discussion of the impact of each of these alternatives will be in the following section. At the outset however, it should be noted that the impacts on the workplace environment will be beneficial ones, with fewer cases of cancer in the years to come. This preamble details some of the studies and reports on which OSHA bases its belief that this beneficial impact will occur. Further, it is anticipated that more information concerning the proposal's potential for impacting the workplace environment will be introduced during the course of the public comment and hearing period of this rulemaking proceeding.

(1) *Scope and Application.* The three model standards apply to those industries or classes of operations that OSHA determines, in the individual rulemakings conducted pursuant to this proposal Part and subpart, should be regulated. Likewise, this proposal provides an exemption for those industries or classes of operations that OSHA has decided not to include, for the reasons stated in the respective preambles, in those subsequent rulemakings concerning individual toxic substances. As pointed out below, OSHA presently has no data which would quantify the impacts of those subsequent rulemakings as to regulation of toxic substances that will be classified as Category I or Category II toxic substances. Some alternatives would be to provide for no exemption on the one hand or limit application only to industries of major exposure on the other.

(2) *Permissible exposure limits.* The proposed Part and subpart propose that for Category I toxic substances, the permissible exposure limits shall be reduced to the lowest levels feasible, except in cases where suitable, less hazardous substances are available, in which case no occupational exposure is permitted. The model ETS and permanent standard for a Category I toxic substance also prohibit eye contact and skin contact to the toxic substance. The model permanent standard for a Category I toxic substance also prohibits a ceiling level of more than 5 times the airborne 8 hour time-weighted average.

The permissible exposure limits for Category I toxic substances are not chosen as "safe" or "no-effect" levels, but on the basis of OSHA's belief as to the lowest feasible levels. OSHA is mandated by the Act to consider feasibility in setting regulations. However, it is possible that after each such rulemaking contemplated by this proposed Part and Subpart, that a level lower than that set in the ETS or the proposed model standard could be shown to be feasibly attained either by existing controls or by the development of new controls. In that case, OSHA has the option to regulate to whatever level is determined to be appropriate. Likewise, where the proposed

level in the model permanent standard is shown to be infeasible to achieve, a higher figure may appear in the final standard.

As has been pointed out, in the case of the Category II toxic substances, present permissible exposure levels are retained where OSHA presently has a standard, sets permissible exposure limits where no OSHA standard presently exists or lowers the exposure limits found in a present OSHA standard where it can be shown that such levels do not protect against acute and chronic effects other than carcinogenicity.

Another regulatory alternative is to adopt differing standards for different industries, moderating the degree of regulation as deemed necessary for adequate and feasible protection of workers in the various industries where exposure to the Category I and Category II toxic substance exists.

In any event, regardless of the alternative chosen, the impacts of an OSHA regulation for a carcinogen can be summarized as follows: the more of the toxic substances emitted from the workplace into the air or into water systems, the greater the potential for adverse impacts on air and/or water quality. Depending upon the levels of the toxic substance present in the ambient air and water of communities surrounding regulated workplaces, however, better control of exposures in the workplace may have the potential for benefiting the general human environment of nearby areas as a result of limiting fugitive emissions and controlling point source emissions. In any event, in the case of Category I toxic substances, reduction of employee exposure to levels lower than that presently required under the current standard (29 CFR 1910.1000) or lower than present levels where no such standard exists at all should, have a beneficial impact upon the external environment as well. The same can be said for the regulation of Category II toxic substances where the permissible exposure limits can remain the same or be reduced.

(3) *Methods of Compliance.* OSHA's present regulation in 29 CFR 1910.1000, under which exposure levels for certain toxic materials have been set, provide that compliance be achieved first through administrative or engineering controls, where feasible, and, when such controls are not feasible, through the use of supplementary protective equipment.

The two model permanent standards (as distinct from the ETS) require the institution of engineering and work practice controls to reduce exposure to or below the permissible exposure limits. In addition, the proposal requires that a program be established and implemented to reduce exposures to or below the permissible exposure limits, solely by means of engineering and work practice controls. Protective clothing and equipment are also required where necessary to prevent eye contact or repeated skin contact.

Engineering controls may include the installation of local exhaust ventilation, modification of a process so as to reduce

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emission, or substitution of a less hazardous substance.

Alternatives involved in the compliance section of the regulation are primarily concerned with establishing a particular priority among the types of controls (engineering, work practice, and respiratory protective equipment). Sole reliance on engineering controls or on use of engineering and work practices equally could be required. Another alternative would allow the employer complete freedom in choosing the method of control without any required priority systems.

Additionally, there are other areas in which alternative actions might variously have impact upon what is considered the external environment. One of these areas is medical surveillance. The proposed ETS provides, in general, for the minimum tests considered necessary over the short life of that standard. The two model permanent standards require, in general, a more comprehensive evaluation and perhaps a more sensitive means of detecting changes which may indicate effects of exposure to the individual toxic substances.

The possible impacts of these approaches will be discussed in the following chapter.

B. PROJECTED IMPACTS

The primary effect of this Part and subpart, as implemented in the subsequent substance-by-substance rulemakings that follow, is expected to impact on the workplace by reducing worker exposure to Category I and Category II toxic substances. A second potential impact may occur to the environment external to the workplace.

The impacts on workers and the work environment of this proposed set of regulations has already been treated above. This section attempts, to the best possible extent, to delineate the impacts of this Part and subpart on the external environment and will also consider the potential impacts of alternative regulatory measures and various compliance methods. It should be remembered that, where required, OSHA intends to develop an environmental impact statement where Category I and Category II toxic substances are classified in the individual rulemakings.

A standard for control of occupational exposure to a carcinogen has the potential for affecting the external air quality, water quality, waste disposal (a function of land use, air quality and water quality), energy consumption, and human resources. Economic costs of implementing an occupational health standard also has been determined to have the potential for impacting the general human environment.

The specifics of potential impacts, expected as a result of the promulgation of this proposed Part and subpart, cannot, as pointed out, be foreseen and is somewhat speculative. An overview however gives a general idea of some of the types of impacts which may result, and the ways in which they depend on the various alternatives involved in the regula-

tory decisionmaking and subsequent choice of compliance methods.

The first area of alternatives is in the scope and application of the subsequent rulemakings pursuant to this proposed Part and subpart. If, for some explained reason, a substantial industry or use were excluded from the scope of the standard, there might be little if any impact upon the external environment. The basic direction of the impacts would appear to be improvement of the ambient air quality by reduction of contamination of the employees' breathing air. It would also appear easier to control contamination of the external environment by converting non-point source emissions into point sources.

To the extent that monitoring and medical surveillance of employees is required, there will be an impact on medical resources and the supply of industrial hygienists. The full extent of this impact cannot be readily quantified although the incidence of cancer avoidance may ultimately lead to less demand upon such resources.

The second area of alternative is in setting the permissible exposure limits. This area is integrally related to the methods of compliance (the third area of alternatives) used to achieve control of exposure to or below the permissible exposure limits. The choice of alternative levels of exposure compliance is expected to have impact in some way every category of the external environment.

In a general sense, reduction of exposure to liquid toxic substances will involve engineering control to prevent emissions at the source, work practices to prevent accidental spills and contacts and good housekeeping procedures to cope with spills when they do occur.

In the case of dust, if control of employee exposures are achieved, for example, by methods which collect the exhausted fumes, dust, vapors, etc. of the toxic substance, logically, air quality in the neighborhood surrounding workplaces containing the toxic substance may be improved. Similarly, the method of dust collection and disposal could impact water quality, solid waste and land use categories.

Respirators may also be used in some cases to prevent worker exposure to dust, vapor, etc. An additional method of compliance might be the substitution of some other substance.

The extent of engineering control required is to some extent relative to the level of exposure which must be met. If exposure is to be controlled by preventing leaks and evaporation, then the controls would have to be tighter and perhaps more extensive to meet lower exposure limits. This would result in less workplace contamination and, thereby, lower ambient emissions. On the other hand, if control is achieved by ventilation, the amount of contamination by the toxic substance would remain constant but the rate of exhaust outside the plant would increase. This increased flow rate may not affect the ambient air

quality, but might result in an insignificant increase in energy consumption.

Likewise, tighter engineering controls to achieve lower levels of exposure escape of the toxic substance into the effluent discharge, represent a positive impact on water quality. Conversely, other means of control and their degree of effectiveness may result in increased contamination of water and increased sludge production, representing a potential negative impact on both water quality and the amount of solid waste. The exposure levels and compliance methods chosen should have no effect on the amount of monitoring and medical surveillance required. However, the degree of impact on human resources will depend on the contents of monitoring and medical surveillance provisions.

In sum, as pointed out, OSHA has little data which quantify these potential impacts but will issue an EIS, where required, in the case of each individual rulemakings held pursuant to this proposed Part and subpart. Submissions and public comment into the record of this proceeding concerning this issue are encouraged. Likewise, OSHA believes that potential impacts upon human resources, energy, land use and other economic aspects posed by the proposed set of regulations cannot be readily be quantified, except in the individual environmental impact statements prepared and issued at the time of the substance-by-substance rulemakings pursuant to this proposed part and subpart.

C. RELATIONSHIP WITH OTHER FEDERAL ACTIONS

Workers exposed to a toxic material during industrial operations constitute that portion of the general population most exposed to its health hazards. Any OSHA standard to limit occupational exposure to that toxic material is written for their protection. However, since workers are exposed in a variety of industries and because many toxic materials may be released to the general environment and have impacts on the consumer and the environment external to the workplace this rulemaking is also a matter of concern to EPA, CPSC and FDA. OSHA intends to coordinate its activities with these and other agencies in this and the subsequent rulemakings.

D. ECONOMIC IMPACT ASSESSMENT

The Assistant Secretary of Labor for Occupational Safety and Health has determined that economic impact assessments, as applicable, will be performed pursuant to Executive Orders 11821 (39 FR 41501) and 11949 (42 FR 1017) in the individual rulemakings to be conducted pursuant to this Part and subpart, where it is possible to consider such impacts.

V. PUBLIC PARTICIPATION; NOTICE OF HEARING

On January 20, 1977, the Assistant Secretary of Labor for OSHA transmitted for review and comment a draft of this proposed set of regulations, and preamble, to the National Advisory Com-

mittee on Safety and Health (NACOSH), a standing advisory committee provided for by section 7(a) of the Act.

After several subcommittee meetings, which were duly announced in the *FEDERAL REGISTER*, to discuss the draft preamble and regulations, the two relevant NACOSH subcommittees, one the subcommittee on Standards and the other on Policy and Budget, on April 5, 1977, adopted their position which was received and adopted by the full NACOSH committee on May 5, 1977. The resolution stated:

RECOMMENDATIONS ON PROPOSED REGULATION OF CERTAIN TOXIC MATERIALS

Having reviewed the draft document "Regulation of Certain Toxic Materials", we endorse OSHA's general attempt to deal with this difficult problem. In order to develop in the public forum the various factors, including certain legal and scientific issues, for a regulatory carcinogen policy to govern OSHA's administrative approach and to propose should be published in the *FEDERAL REGISTER* solely for the purpose of information gathering and that neither the document nor the process be engaged for a rulemaking purpose at this time. This recommendation is proposed since:

1. The document can be adopted by OSHA as an administrative policy, and there should be such flexibility.
2. The document, even if adopted as a policy through the rulemaking process, would not deprive due process challenges when subsequent standards are promulgated.
3. The document identifies those issues upon which much debate has evolved and should continue, including the concept that some substances, although not always scientifically definable as carcinogens, must be addressed because of a regulatory obligation.

ISSUES WHICH NEED TO BE EXPANDED

1. Address adequacy of classification system.
2. Address carcinogenicity of impurities and mixtures.
3. Expand discussion on "other than animal testing" routes.
4. Anatomic and metabolic fate.
5. Decision on rate retention issue.

OSHA has carefully reviewed NACOSH's recommendations. Because of importance of the issues raised herein and in order to assure participation in resolution of these issues and maximum usefulness of the cancer policy once adopted, OSHA believes that it should commence this rulemaking at this time with the full procedures provided for in section 6(b) of the Act. The alternative could well be an internal pronouncement of policy which might effect substantive rights of interested parties and therefore not be sustainable in the Courts, thus, in actuality delaying its effective date in this important area by years.

Interested persons are invited to submit written data, views and arguments on this proposed Part, subpart and all issues raised or involved herein. These comments must be postmarked on or before December 8, 1977 and must be submitted in quadruplicate to the Docket Officer, Docket No. H-090, Room S-6212, U.S. Department of Labor, 3rd Street and Constitution Avenue NW., Wash-

ington, D.C. 20210. Written submissions must clearly identify the provisions of the proposal addressed and the position taken with respect to each such provision. The data, views, and arguments will be available for public inspection and copying at the above address. All written submissions received will be made a part of the record of this proceeding.

In order to expedite this rulemaking proceeding and in anticipation of requests for a hearing, OSHA is scheduling an informal public hearing, pursuant to section 6(b)(3) of the Act and 29 CFR Part 1911, to begin on March 14, 1978 in the Department of Labor Auditorium, 3rd Street and Constitution Avenue NW., Washington, D.C.

All issues raised in this notice and all aspects of the proposed set of regulations including OSHA's views on its economic and environmental impacts, will be at issue in the hearing.

NOTICES OF INTENTION TO APPEAR

All persons who desire to participate at the hearing must file a notice of intention to appear, postmarked on or before December 8, 1977 with the OSHA Office of Consumer Affairs, Room N3633, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210 (Telephone: 202-523-8023). The notices of intention to appear, which will be available for inspection and copying at the above address, must contain the following information:

- (1) The name, address and telephone number of each person to appear;
- (2) The capacity in which the person will appear;
- (3) The approximate amount of time required for the presentation;
- (4) The specific issue raised by the proposal that will be addressed;
- (5) A detailed statement of the position that will be taken with respect to each issue addressed; and
- (6) Whether the party intends to submit documentary evidence, and if so, a brief summary of that evidence.

FILING OF TESTIMONY AND EVIDENCE BEFORE HEARING

Any party requesting more than 15 minutes for a presentation at the hearing, or who will submit documentary evidence, must provide in quadruplicate the complete text of testimony, including any documentary evidence to be presented at the hearing, to the OSHA Division of Consumer Affairs. This material must be received by January 9, 1978, and will be available for inspection and copying at the Technical Data Center—Docket Office. Each such submission will be reviewed in light of the amount of time requested in the notice of intention to appear. In those instances where the information contained in the submission does not justify the amount of time requested, a more appropriate amount of time will be allocated and the participant will be notified of that fact.

Any party who has not substantially complied with this requirement may be

limited to a 15 minute presentation, and may be requested to return for questioning at a later time.

Testimony of witnesses to be called by OSHA will be filed and made available to the public on or before February 28, 1978.

CONDUCT OF THE HEARING

The hearing will commence at 9:30 a.m. on March 14, 1978 and will be conducted in accordance with 29 CFR Part 1911. The oral proceedings will be reported verbatim and a transcript will be made available for inspection and copying to interested persons.

The Administrative Law Judge, who will be designated to preside at the hearing, shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers:

- (1) To regulate the course of the proceedings;
- (2) To dispose of prehearing requests, objections, and comparable matters;
- (3) To confine presentations to matters pertinent to the proposed standard;
- (4) To regulate the conduct of those present at the hearing by appropriate means;
- (5) In his discretion, to question and permit questioning of any witness; and
- (6) In his discretion, to keep the record open to receive written information and additional data, views, and arguments from any person who has participated in the oral proceedings.

Following the close of the hearing, the presiding Administrative Law Judge shall certify the record thereof to the Assistant Secretary of Labor for Occupational Safety and Health. The proposal will be reviewed in light of all the oral and written submissions received as part of the record in this proceeding and appropriate action will be taken.

VI. AUTHORITY

This document was prepared under the direction of Eula Bingham, Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, Third Street and Constitution Avenue NW., Washington, D.C. 20210.

Accordingly, pursuant to sections 4(b), 6(b), 8(c) and 8(g) of the Occupational Safety and Health Act of 1970 (84 Stat. 1592, 1593, 1599; 29 U.S.C. 653, 655, 657), the Secretary of Labor's Order 8-76 (41 FR 25059) and 29 CFR Part 1911, it is hereby proposed to amend Title 29, of the Code of Federal Regulations, by adding a new Part 1990, to identify, classify, and regulate certain toxic substances, as set forth below.

Signed at Washington, D.C., this 28th day of September 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

A new Part 1990, and certain subparts thereto, are proposed to be added to Title 29 of the Code of Federal Regulations, reading as follows:

PART 1990—IDENTIFICATION, CLASSIFICATION AND REGULATION OF CERTAIN TOXIC SUBSTANCES

Subpart A—General

Sec. 1990.1 Scope.
1990.2 Purpose.

Subpart B—Identification, Classification and Regulation of Toxic Substances Posing a Potential Carcinogenic Risk

GENERAL

1990.101 Scope.
1990.102 Definitions.
1990.103 Classification of substances.
1990.104 Advisory committees.

CATEGORY I TOXIC SUBSTANCES

1990.110 Category I Toxic substances.
1990.111 Rebuttal of a category I classification to a category II or III classification.
1990.112 Consequences of a category I classification.
1990.113 Limitation of issues in the rulemaking.
1990.114 Final action after a category I rulemaking.

CATEGORY II TOXIC SUBSTANCES

1990.120 Category II Toxic substances.
1990.121 Rebuttal of a category II classification to a category III classification.
1990.122 Consequences of a category II classification.
1990.123 Limitation of issues in the rulemaking.
1990.124 Final action after a category II rulemaking.

CATEGORY III TOXIC SUBSTANCES

1990.130 Category III toxic substances.
1990.131 Consequences of a category III classification.
1990.132 Reconsideration of a category III classification.
1990.133 The category III toxic substances list.

CATEGORY IV TOXIC SUBSTANCES

1990.140 Category IV toxic substances.
1990.141 The category IV toxic substances list.

MODEL STANDARDS

1990.150 Section 6(c) model standard for a category I toxic substance.
1990.160 Section 6(b) model standard for a category I toxic substance.
1990.170 Section 6(b) model standard for a category II toxic substance.

Subpart C—Identification, Classification and Regulation of Toxic Substances Posing a Potential Occupational Teratogenic Risk [Reserved]

Subpart A—General

§ 1990.1 Scope.

This Part provides for the identification, classification and regulation of certain toxic materials, pursuant to the Occupational Safety and Health Act of 1970 (the Act), as set forth in the various subparts below:

§ 1990.2 Purpose.

The Act provides, among other things, that "the Secretary, in promulgating standards dealing with toxic materials or harmful physical agents under this subsection, shall set the standard which most adequately assures, to the extent feasible, on the basis of the best available evidence, that no employee will suf-

fer material impairment of health or functional capacity even if such employee has regular exposure to the hazard dealt with by such standard for the period of his working life. Development of standards under this subsection shall be based upon research, demonstrations, experiments, and such other information as may be appropriate. In addition to the attainment of the highest degree of health and safety protection for the employee, other considerations shall be the latest available scientific data in the field, the feasibility of the standards, and experience gained under this and other health and safety laws. Whenever practicable, the standard promulgated shall be expressed in terms of objective criteria and of the performance desired". (Section 6(b)(5)). It is the purpose of the regulations of this Part to carry out the intent of the Act.

Subpart B—Identification, Classification and Regulation of Toxic Substances Posing a Potential Occupational Carcinogenic Risk General

§ 1990.101 Scope.

This subpart provides for the identification, classification and regulation of toxic substances which pose an occupational carcinogenic risk to workers.

§ 1990.102 Definitions.

Terms used in this subpart shall have the meanings set forth in the Act. In addition, as used in this subpart, the following terms shall have the meanings set forth below:

"Act" means the Occupational Safety and Health Act of 1970 (Pub. L. 91-596, 84 Stat. 1590 *et seq.*).

"Administrator of EPA" means the Administrator of the United States Environmental Protection Agency, or designee.

"Chairman of CPSC" means the Chairman of the United States Consumer Product Safety Commission.

"Commissioner of FDA" means the Commissioner of the Food and Drug Administration, United States Department of Health, Education, and Welfare or designee.

"Director of NCI" means the Director of the National Cancer Institute, United States Department of Health, Education, and Welfare, or designee.

"Director of NIOSH" means the Director of the National Institute for Occupational Safety and Health, United States Department of Health, Education, and Welfare, or designee.

"Foreign toxic substance" means any toxic material that would meet the definition of a toxic substance, except that it is not found in the American workplace.

"Mutagenesis" means the property of a toxic material to induce changes in the genetic material of either somatic or germinal cells or tissues in subsequent generations.

"Potential occupational carcinogen" means any toxic substance which (1) Causes, at any level of exposure or dose, as the result of any oral, respiratory or

dermal exposure, or any other exposure which results in the systemic distribution of the substance under consideration, in the organism tested, an increased incidence of benign or malignant neoplasms, or a combination thereof, in (i) humans or (ii) in one or more experimental mammalian species, or (2) in a statistically significant manner decreases the latency period between exposure and onset of neoplasm in (i) humans or (ii) in one or more experimental mammalian species.

"Secretary" means the Secretary of Labor, or designee.

"Short-term tests" includes, but is not limited to positive results in more than one of the following assays for: (1) the induction of DNA damage and repair; (2) mutagenesis in bacteria, yeast, or *Drosophila melanogaster*; (3) mutagenesis in mammalian somatic cells; (4) mutagenesis in mammalian germinal cells; or (5) positive results in tests for neoplastic transformation of mammalian cells in culture.

"Suggestive" means that degree of confidence in test animal or human data which is less than persuasive or not statistically significant but which, nonetheless, raises scientific concerns that the toxic substance may pose a carcinogenic risk to the exposed animals or humans.

"Toxic substance", for the purposes of this subpart, means any toxic material, found in the American workplace, either a single chemical substance or combination of substances, or any other agent, which has been reported by scientific study, at any level of exposure or dose, as the result of any exposure, to (1) Cause neoplasms, benign or malignant, in (i) humans or (ii) in one or more experimental mammalian species, or (2) In a statistically significant manner decreases the latency period between exposure and onset of neoplasms, in (i) humans or (ii) in one or more experimental mammalian species.

§ 1990.103 Classification of substances.

(a) *General.* (1) Whenever the Secretary receives information, submitted to him in writing by any interested person, concerning any toxic substance, or upon his own cognizance has any such information, he shall, to assist him in developing information relevant to the classification of a toxic substance: (i) Within thirty (30) days publish a notice of receipt in the FEDERAL REGISTER, together with a short statement identifying the contents and sources of such information, and shall provide a period for public comment, except as provided by (a)(2) herein, or (ii) Where the Secretary certifies in writing to the interested party that information exists that additional scientific data or study that may be relevant to the classification of a toxic substance is not immediately available or does not yet exist but will be available within a short period of time, the Secretary may delay the publication date of receipt of the original

information in the FEDERAL REGISTER referred to but in no case shall the publication date be extended to more than one hundred and eighty (180) days after the receipt of the original information.

(2) The period for public comment provided for by § 1990.103(a) (1) shall be at least thirty (30) days but not more than sixty (60) days unless the Secretary determines issued that extraordinary circumstances warrant less or no time for such public comment.

(b) *Classification.* Within thirty (30) days from the close of the comment period, or from the receipt of the report of an Advisory Committee as provided by § 1990.104, the Secretary shall classify or reclassify the toxic substance in accordance with the criteria set forth in this subpart and publish in the FEDERAL REGISTER a notice of his decision as to the classification of that substance, together with the other consequences and actions required by this subpart.

(c) *Reclassification.* As to toxic substances previously classified pursuant to this subpart, the term "information" as used by § 1990.103(a) is limited to additional evidence, not reviewed at the time of the issuance of the final standard, or to a new scientific review of the then existing evidence.

§ 1990.104 Advisory committees.

At any time the Secretary decides to appoint an advisory committee, pursuant to sections 6(b) and 7 of the Act, to assist him in his standard-setting function concerning any toxic substance, he shall require that the advisory committee submit to him its recommendations regarding the rule to be promulgated no later than ninety (90) days from the date of its appointment.

CATEGORY I TOXIC SUBSTANCES

§ 1990.110 Category I toxic substances.

A presumption exists that a toxic substance shall be classified by the Secretary as a "Category I Toxic Substance" if: (a) the toxic substance meets the definition of a "potential occupational carcinogen" in (1) humans, or (2) two mammalian test species, or (3) a single mammalian species, if those results have been replicated in the same species in another experiment or (4) a single mammalian species if those results are supported by short-term tests, or (b) the Secretary finds that any other evidence is sufficient to convince him that the toxic substance should be classified as a Category I Toxic Substance.

§ 1990.111 Rebuttal of a category I classification to a Category II or III classification.

(a) The presumption that a toxic substance be classified as a Category I toxic substance shall be rebutted if the Secretary determines, after consultation with the Director of NIOSH, that scientifically:

(1) The carcinogenic evidence based on animal data clearly resulted from physical, rather than chemical induction; or

(2) The route of exposure in animals is grossly inappropriate relative to the potential occupational routes of human exposure; or

(3) The human or animal data relied upon are only suggestive; or

(4) The human or animal data relied upon are totally inadequate to establish any conclusion with respect to the carcinogenicity or non-carcinogenicity of the toxic substance; or

(5) For some other reason, the positive results in the experimental animal species are not scientifically relevant to man insofar as the toxic substance in question is concerned.

(b) Such determinations and reasons shall be in writing and published in the FEDERAL REGISTER, pursuant to section 1990.103, and shall classify the substance as a Category II toxic substance if the determination was based on § 1990.111 (a) (3) in that the Secretary has determined that the human or animal studies relied upon are only suggestive. All other toxic substances for which the Secretary has determined that a Category I classification is inappropriate shall be classified as a Category III toxic substance.

§ 1990.112 Consequences of a category I classification.

In the event the Secretary determines that a toxic substance shall be classified as a Category I Toxic Substance, he shall require the initiation of the following actions:

(a) He shall, at the time he classifies the toxic substance as Category I, issue an Emergency Temporary Standard, pursuant to section 6(c) of the Act, which shall follow the format and content of the model emergency temporary standard set forth in § 1990.150. Any deviation, addition or change from that format or content shall be explained, together with the reasons therefor.

(b) He shall, within sixty (60) days from such classification, issue a notice of proposed rulemaking, pursuant to section 6(b) of the Act, which shall follow the format and content of the model standard set forth in § 1990.150. Any deviation, addition or change from that format or content shall be explained, together with the reasons therefor. The permissible exposure limits, insofar as the proposed standard is concerned, shall be set as low as feasible. When it is determined by the Secretary that there are suitable substitutes for certain uses or classes of uses that are less hazardous to humans, on the basis of the best available evidence, the proposal shall permit no occupational exposure for such uses or classes of uses.

§ 1990.113 Limitation of issues in the rulemaking.

At any time after a request for a public hearing is made or upon his initiative, subsequent to the publication of the documents referred to in § 1990.112, the Secretary shall provide for such a hearing in accordance with Section 6(b) of the Act, the regulations thereunder and 29 CFR Part 1911. The issues in the hearing or in comment shall be limited to the fol-

lowing: (a) Whether the Secretary correctly classified the toxic substance according to the Category I criteria (§ 1990.110); (b) whether the Secretary was correct in his determination that the Category I classification should not be rebutted (§ 1990.111); (c) the determination of the lowest feasible occupational exposure, or whether there are suitable substitutes that are found to be less hazardous to humans than the toxic substance; (d) whether the toxic substance has unique properties or uses that make the specific protective measures of the proposed standard inappropriate or infeasible; and (e) the environmental impact arising from regulation of the toxic substance.

§ 1990.114 Final action after a category I rulemaking.

(a) *Affirmance.* At the conclusion of the Category I rulemaking, if the Secretary determines, based on the record, that his classification of the toxic substance as Category I was correct and that his decision not to rebut the presumption was also correct, he shall issue a standard which shall follow the format and content of the model standard contained in § 1990.160. Any deviation, addition or change from that format and content shall be explained, together with the reasons and evidence therefor. However, the permissible exposure level shall be set as low as feasible or, when it is determined by the Secretary that there are suitable substitutes that are less hazardous to humans, on the best available evidence, no occupational exposure shall be permitted for that use or class of use.

(b) *Change in classification.* At the conclusion of the Category I rulemaking, if the Secretary determines, based on the record, that his classification of the toxic substance as a Category I Toxic Substance was incorrect, or that his decision not to rebut the presumption was incorrect, he shall classify the toxic substance as a Category II or III Toxic Substance, as follows:

(1) If the Secretary determines that the toxic substance should have been classified as a Category II Toxic Substance, he shall issue a final standard which shall follow the format and content of the model standard contained in § 1990.170. Any deviation, addition or change from that format and content shall be explained, together with the reasons therefor.

(2) If the Secretary determines that the toxic substance should have been classified as a Category III Toxic Substance, he shall follow the procedures provided by § 1990.131.

CATEGORY II TOXIC SUBSTANCES

§ 1990.120 Category II toxic substances.

A toxic substance shall be classified by the Secretary as a "Category II Toxic Substance" if the toxic substance meets the definition of a "potential occupational carcinogen" in studies in test animals or humans, the results of which, however, were found by the Secretary,

pursuant to § 190.111(a)(3), to be only suggestive. This classification is required and is not presumptive. In addition, a presumption exists that a toxic substance shall be classified by the Secretary as a "Category II Toxic Substance" if: (a) The toxic substance meets the definition of a "potential occupational carcinogen" in an unreplicated experiment in a single mammalian test species or (b) the Secretary finds that any other evidence is sufficient to convince him that the toxic substance should be classified as a Category II Toxic Substance.

§ 190.121. Rebuttal of a category II classification to a category III classification.

(a) The presumption that a toxic substance be classified as a Category II toxic substance shall be rebutted if the Secretary determines, after consultation with the Director of NIOSH, that scientifically:

(1) The carcinogenic evidence based on the animal data clearly resulted from physical, rather than chemical induction, or

(2) The route of exposure in animals is grossly inappropriate relative to the potential occupational routes of human exposure, or

(3) The animal data in a single mammalian test species is less than suggestive; or

(4) For some other reason, the positive results in the experimental animal species are not scientifically relevant to man insofar as the toxic substance in question is concerned.

(b) Such determinations and reasons shall be in writing and published in the FEDERAL REGISTER, pursuant to § 190.103, and shall classify the substance as a Category III toxic material.

§ 190.122. Consequences of a category II classification.

In the event the Secretary determines that a toxic substance shall be classified as a Category II Toxic Substance, he shall require the initiation of the following actions:

(a) He shall, within sixty (60) days from the announcement of his intent to classify the toxic substance as a Category II toxic substance, issue a notice of proposed rulemaking, pursuant to section 6(b) of the Act, which shall follow the format and content of the model standard set forth in section 190.170. Any deviation, addition or change from that format or content shall be explained, together with the reasons therefor. The permissible exposure limits, insofar as the proposal is concerned, shall be: (1) the present OSHA standard or (2) where none exists, an appropriate level based upon acute or chronic effects of exposure to the toxic substance other than carcinogenicity or (3) where acute or chronic effects indicate that the present OSHA standard is inadequate, the exposure level shall be lowered to the level found appropriate by the Secretary. He shall also give notice that if, pursuant to the rulemaking, it is determined that the

toxic substance should be classified as a Category I toxic substance, the final standard will be that required by 190.160 herein.

(b) He shall notify the applicable federal and state agencies, including the Administrator of EPA, the Director of NCI, the Director of NIOSH, Commissioner of FDA and the Chairman of CPSC of the determination that the evidence is "only suggestive" or that the evidence consists of only positive results in one mammalian species and request that the applicable agencies engage in, or stimulate, further research pursuant to their legislative authority, to develop new and additional scientific data.

§ 190.123. Limitation of issues in the rulemaking.

At any time after a request for a public hearing is made or upon his initiative, subsequent to the publication of the documents referred to in § 190.122, the Secretary shall provide for such a hearing in accordance with section 6(b) of the Act, the regulations thereunder and 29 CFR Part 1911. The issues in the hearing or in comment shall be limited to the following: (a) Whether the Secretary correctly classified the toxic substance according to the Category II criteria (§ 190.120); (b) Whether the Secretary was correct in his determination that the Category II classification should not be rebutted (§ 190.121); (c) If OSHA presently has no standard, or it is inadequate based on considerations of acute or chronic effects other than carcinogenicity, the appropriate level of exposures; (d) Whether the toxic substance has unique properties or uses that make the specific protective measures of the proposed standard inappropriate or infeasible; and (e) the environmental impact arising from regulation of the toxic substance.

§ 190.124. Final action after a category II rulemaking.

(a) *Affirmance.* At the conclusion of the Category II rulemaking, if the Secretary determines, based on the record, that his classification of the toxic material as Category II was correct and that his decision not to rebut the presumption was also correct, he shall issue a standard which shall follow the format and content of the model standard contained in § 190.170. Any deviation, addition or change from that format and content shall be explained, together with the reasons and evidence therefor.

(b) *Change in classification.* At the conclusion of the Category II rulemaking, if the Secretary determines, based on the record, that his classification of the toxic substance as a Category II Toxic Substance was incorrect, or that his decision not to rebut the presumption was incorrect, he shall classify the toxic substance as a Category I or Category III Toxic Substance, as follows:

(1) If the Secretary determines that the toxic substance should have been classified as a Category I Toxic Substance, he shall issue a standard which shall follow the format and content of

the model standard contained in § 190.160. Any deviation, addition or change from that format and content shall be explained, together with the reasons therefor.

(2) If the Secretary determines that the Toxic Substance, should have been classified as a Category III Toxic Substance, he shall follow the procedure provided by § 190.131.

CATEGORY III TOXIC SUBSTANCES

§ 190.130. Category III toxic substances.

Any toxic substance not classified by the Secretary as a Category I or a Category II toxic substance, pursuant to this subpart, shall be classified as a Category III Toxic Substance.

§ 190.131. Consequences of a category III classification.

(a) At the time a toxic substance is classified as Category III, the Secretary shall transmit his findings to the Director of NCI, the Director of NIOSH, the Administrator of EPA, the Commissioner of FDA, and the Chairman of CPSC with a request that each determine whether there is additional information, previously unavailable to, or unreviewed by, the Secretary, which could have a bearing on reconsideration of the Category III classification of the toxic substance.

(b) The determination that a Toxic Substance is classified by the Secretary as a Category III Toxic Substance shall be published and appropriately updated in the FEDERAL REGISTER and the Code of Federal Regulations.

§ 190.132. Reconsideration of a category III classification.

If, at any time, any of the agencies, referred to in Section 190.131, provide additional information having a bearing on the initial determination of classification, the Secretary shall, within thirty (30) days after the receipt of such a response, publish in the FEDERAL REGISTER the response and reconsider his decision to classify the toxic substance as Category III.

§ 190.133. The category III toxic substance list.

The following substances have been determined by the Secretary to be Category III toxic substances for the purposes of this subpart. They are:

Name: Federal Register date of final publication
1. Water Aug. 26, 1977

CATEGORY IV TOXIC SUBSTANCES

§ 190.140. Category IV toxic substances.

(a) Notwithstanding any other provision of this subpart, whenever the Secretary determines after consultation with the Administrator of EPA, the Director of NIOSH, the Director of NCI, the Commissioner of FDA and the Chairman of CPSC that a toxic material would meet the definition of a toxic substance except that it is not found in the American workplace and therefore meets the definition of a foreign toxic

substance, he shall publish in the FEDERAL REGISTER a notice of his intent to classify the foreign toxic substance as a Category IV Toxic Substance and shall provide a period of at least thirty (30) days but not more than sixty (60) days for public comment.

(b) Within thirty (30) days from the close of the comment period, or from the receipt of the report of an Advisory Committee as provided by § 190.104, the Secretary shall classify the foreign toxic substance as a Category IV Toxic Substance and list such foreign toxic substance in § 190.141 hereof or, if he determines that his original intent was in error, the Secretary shall initiate the procedures required by § 190.103(a) et seq. hereof.

(c) The determination that such toxic substance is not found in the American workplace shall be published and appropriately updated in the FEDERAL REGISTER and Code of Federal Regulations.

(d) Whenever the Secretary receives information, submitted to him in writing by any interested person, or upon his own cognizance has any information, that such toxic substance previously classified as a Category IV toxic substance is, has been, or will be found in an American workplace, the Secretary shall, within thirty (30) days, initiate the procedures required by § 190.103(a) et seq. hereof.

§ 190.141. The category IV toxic substance list.

The following substances are foreign toxic substances that the Secretary has determined are not found in any American workplace. They are:

Name: Federal Register date of final publication
1. French water Aug. 25, 1977
MODEL STANDARDS

§ 190.150. Section 6(c) Model Standard for a Category I Toxic Substance.

OCCUPATIONAL EXPOSURE TO XXXXX EMERGENCY TEMPORARY STANDARD Section 1910.0000 XXXX

(a) *Scope and application.* This section applies to all occupational exposures to XXXX, (Chemical Abstracts Service Registry Number 00000), except that this section does not apply to: (to be filled in as applicable.)

(b) *Definitions.* "XXXX" means (definition of substance to be regulated).

"Authorized person" means any person specifically authorized by the employer and whose duties require the person to be present in areas where XXXX is present; and any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under paragraph (r) of this section.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Ad-

ministration having jurisdiction over the geographic area where the affected workplace is located.

(c) *Permissible exposure limits.* (1) *Inhalation.* (i) *Time-weighted average limit (TWA).* Within (insert appropriate time) from the effective date of this emergency temporary standard, the employer shall assure that no employee is exposed to an airborne concentration of XXXX in excess of: (insert appropriate exposure limit representing the lowest feasible level that can be complied with immediately) as an eight (8)-hour time-weighted average.

(ii) *Ceiling limit.* (If appropriate.) The employer shall assure that no employee is exposed to an airborne concentration of XXXX in excess of: (insert appropriate exposure limit representing the lowest feasible level that can be complied with immediately) as averaged over any: (insert appropriate time period) during the working day.

(2) *Dermal and eye exposure.* The employer shall assure that no employee is exposed to eye contact or skin contact with XXXX.

(d) *Notification of Use.* Within (insert appropriate time) of the effective date of this section, or within fifteen (15) days following the introduction of XXXX into the workplace, every employer shall report the following information to the nearest OSHA Area Office for each such workplace:

(1) The address and location of each workplace in which XXXX is present;

(2) A brief description of each process or operation which may result in employee exposure to XXXX;

(3) The number of employees engaged in each process or operation who may be exposed to XXXX and an estimate of the frequency and degree of exposure that occurs; and

(4) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to XXXX;

(e) *Exposure monitoring.* (1) *General.* (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to XXXX over an eight (8) hour period.

(ii) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(2) *Initial monitoring.* Each employer who has a place of employment in which XXXX is present shall monitor, within thirty (30) days of the effective date of this standard, each such workplace and work operation to accurately determine the airborne concentrations of XXXX to which employees may be exposed.

(3) *Frequency.* (i) If the monitoring, required by this section, reveals employee exposure to be below the permissible exposure limits, the employer shall repeat such monitoring at least quarterly.

(ii) If the monitoring, required by this section, reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(4) *Additional monitoring.* Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to XXXX, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to XXXX, additional monitoring which complies with this paragraph shall be conducted.

(5) *Employee notification.*

(i) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus (insert appropriate value) for concentrations of XXXX at or above the permissible exposure limits.

(7) *Type of monitoring.* (Where applicable, specific mandatory monitoring, devices and techniques may be required.)

(8) *Regulated areas.* (Deleted.)

(g) *Methods of compliance.* (1) *General policy.* OSHA's general policy as to methods of compliance for permanent standards has traditionally required that employee exposures to a substance be reduced to the permissible exposure limits solely by use of engineering and work practice controls. OSHA has permitted reduction of employee exposures by use of respiratory protection only where the employer proves that engineering and work practice controls are not feasible to reduce such exposures to the permissible exposure limits. This general policy is inherent in the model standards found in 29 CFR 190.160 and 190.170. However, during the effective period of this emergency temporary standard, OSHA recognizes the need to permit employee exposures to airborne concentrations of XXXX to be controlled by any practicable combination of engineering controls, work practices and personal protective devices and equipment as follows. OSHA recognizes that the immediate reduction of exposure to XXXX may generally be achieved primarily through the use of respiratory protection and the institution of good work practices during the effective period of this emergency temporary standard, such as the prohibitions against the blowing of dust containing XXXX or the permitting of open containers and vessels of liquids containing XXXX. On the other hand, OSHA believes that where engineering or work practice controls can reduce exposure, they should be used, even where such controls by themselves do not reduce the exposures to the permissible exposure limits. Thus, engineering controls to reduce the airborne concentration of XXXX shall be instituted, if practicable, as soon as possible. Examples of such controls include substitution of a less hazardous material, enclosure of the process, and use of local exhaust ventilation systems. The employer should also examine each work area in which XXXX is present and institute, as soon as possible, work practices to reduce employee exposures to XXXX to or below the permissible exposure limits. Examples of such work practices include, among other things, limiting access to work areas where XXXX is present to authorized personnel only; written procedures and work practices for each operation which may result in employee exposure to XXXX; prohibiting smoking and the consumption of food and beverages in work areas where XXXX is present; requiring the use of appropriate personal protective clothing and equipment to minimize eye and skin contact with XXXX; use of signs, labels, or other means to clearly designate all work areas where XXXX may be present; and institution of good housekeeping practices as set forth in paragraph (k) of this section. Finally, as pointed out, when-

ever the engineering and work practice controls described are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer should supplement them by the use of respiratory protection which complies with the requirements of the emergency temporary standard.

(2) *Engineering and work practice control plan.* (i) Within ninety (90) days of the effective date of this emergency temporary standard, the employer shall develop a written plan describing proposed means to reduce employee exposures to the lowest feasible level solely by means of engineering and work practice controls (which will be eventually required by a permanent standard for occupational exposure to xxxxx, issued pursuant to section 190.160(g) of this subpart).

(ii) Written plans required by this paragraph shall be submitted, upon request, to the Assistant Secretary and the Director and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, and any affected employee or designated representative.

(h) *Respiratory protection.* (1) *Required use.* The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposures to within the permissible exposure limits and in emergencies.

(2) *Respirator selection.* (i) Where respiratory protection is required or permitted under this section, the employer shall select and provide at no cost to the employee, the appropriate respirator from Table 1 below and shall assure that the employee wears the respirator provided.

TABLE 1

RESPIRATORY PROTECTION FOR XXXXX

(The table will contain a listing of the appropriate type of respirator for various conditions of exposure to xxxxx.)

(ii) The employer shall select respirators from those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

(3) *Respirator program.* (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e) and (f).

(ii) Employees who wear respirators shall be allowed to wash their face and respirator face piece to prevent potential skin irritation associated with respirator use.

(i) *Emergency situations.* (Deleted.)

(j) *Protective clothing and equipment.*

(1) *Provision and use.* Where eye or skin contact with xxxxx may occur, the employer shall provide, at no cost to the employee, and assure that employees wear, appropriate protective clothing or other equipment in accordance with 29 CFR 1910.132 and .133 to protect the area of the body which may come in contact with xxxxx.

(2) *Cleaning and replacement.*

(i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this paragraph, as needed, to maintain their effectiveness. In addition the employer shall provide clean protective clothing and equipment at least (insert appropriate time) to each affected employee.

(ii) The employer shall assure that the employee removes all protective clothing and equipment at the completion of a workshift.

(iii) The employer shall assure that xxxxx-contaminated protective clothing and equipment is placed and stored in closed containers which prevent dispersion of xxxxx outside the container.

(iv) The employer shall inform any person who launders or cleans xxxxx contaminated protective clothing or equipment of the po-

tentially harmful effects of exposure to xxxxx. (v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (p) (3) of this section.

(vi) The employer shall prohibit the removal of xxxxx from protective clothing or equipment by blowing or shaking.

(k) *Housekeeping.* (1) *Surfaces.* (i) All surfaces shall be maintained free of accumulations of xxxxx.

(ii) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where xxxxx dust or liquids are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that xxxxx is not reintroduced into the work place air; and

(B) Portable vacuum units used to collect xxxxx, may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (p) (3) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(2) *Liquids.* Where xxxxx is present in a liquid form, or as a resultant vapor, all containers or vessels containing xxxxx shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(l) *Waste disposal.* xxxxx waste, scrap, debris, bags, containers, or equipment shall be disposed of in sealed bags or other closed containers which prevent dispersion of xxxxx outside the container.

(m) *Hygiene facilities and practices.* Where employees are exposed to airborne concentrations of xxxxx, or where employees are required to wear protective clothing or equipment pursuant to paragraph (j) of this section, or where otherwise found to be appropriate, the facilities required by 29 CFR 1910.141 shall be provided by the employer for the use of those employees, and the employer shall assure that the employees use the facilities provided.

(n) *Medical surveillance.* (1) *General.* (i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to xxxxx. The employee shall provide each such employer with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(2) *Initial examinations.* Within thirty (30) days of the effective date of this section, or thereafter at the time of initial assignment, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history, a medical history, and a physical examination with direct emphasis towards the pulmonary, renal, and hepatic systems, and shall include the personal history of the employee, family, and occupational background, including genetic and environmental factors. Additionally, such factors as the current systems review, pregnancy, current treatment with steroids or cytotoxic agents, and smoking habits should be considered.

(ii) The medical examination shall also include the following: (insert appropriate medical protocol).

(3) *Periodic examinations.* (Insert appropriate medical protocol and time.)

(4) *Interim examinations.* If the employee for any reason develops signs or symptoms commonly associated with exposure to xxxxx, the employer shall provide appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this emergency temporary standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level; and

(iv) A description of any personal protective equipment used or to be used.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical tests performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to xxxxx;

(C) Any recommended limitations upon the employee's exposure to xxxxx or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to xxxxx;

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(o) *Employee information and training.* (1) *Training program.* (i) Within thirty (30) days from the effective date of this standard, the employer shall institute a training program for all employees where there is occupational exposure to xxxxx and shall assure their participation in the training program.

(ii) The employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B, and C;

(B) The quantity, location, manner of use, release, or storage of xxxxx and the specific nature of operations which could result in exposure to xxxxx, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators;

(D) The purpose and description of the medical surveillance program required by paragraph (n) of this section; and

(E) A review of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) *Signs and labels.* (1) *General.* (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this paragraph, which contradicts or detracts from such effects of the required sign or label.

(2) *Signs.* (i) The employer shall post signs to clearly indicate all workplaces where xxxxx may be present. The signs shall bear the following legend:

DANGER

XXXXX

(Insert appropriate trade or common names)

CANCER HAZARD

AUTHORIZED PERSONS ONLY

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(iii) Where airborne concentrations of xxxxx exceed the permissible exposure limits, the signs shall bear the additional legend: "Respirators Required."

(3) *Labels.* (i) The employer shall assure that precautionary labels are affixed to all containers of xxxxx and of products containing xxxxx, and that the labels remain affixed when the xxxxx or products containing xxxxx are sold, distributed, or otherwise leave the employer's workplace.

(ii) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

DANGER

CONTAINS XXXXX

CANCER HAZARD

(q) *Recordkeeping.* (1) *Exposure monitoring.* (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number, and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for the effective period of this emergency temporary standard, and for any additional period required by the permanent standard.

(2) *Medical surveillance.* (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) Any employee medical complaints related to exposure to xxxxx;

(C) A copy of the information provided to the physician as required by paragraph (n) (6) of this section; and

(D) A copy of the employee's work history.

(iii) The employer shall assure that this record be maintained for the effective period of this emergency temporary standard, and for any additional period required by the permanent standard.

(3) *Availability.* (i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records, as required by this section, be made available, upon request, for examination and copying to the affected employee, former employee, or designated representative.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available,

upon request, for examination and copying to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(r) *Observation of monitoring.* (1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to xxxxx conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) Whenever observation of the monitoring of employee exposure to xxxxx requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the measurement of airborne concentrations of xxxxx performed at the place of exposure; and

(C) Record the results obtained.

(s) *Effective date.* This section shall become effective (insert date of publication).

(t) *Appendices.* The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

APPENDIX A

SUBSTANCE SAFETY DATA SHEET

XXXXX

APPENDIX B

SUBSTANCE TECHNICAL GUIDELINES

XXXXX

APPENDIX C

MEDICAL SURVEILLANCE GUIDELINES

XXXXX

§ 190.160 Section 6(b) Model Standard for a Category I Toxic Substance.

Occupational Exposure to XXXXX

Notice of Proposed or Final Rulemaking

§ 190.0000 XXXXX.

(a) *Scope and application.* This section applies to all occupational exposures to xxxxx (Chemical Abstracts Service Registry Number 00000), except that this section does not apply to: (to be filled in as applicable).

(b) *Definitions.* "xxxxx" means (definition of substance to be regulated).

"Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area or any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under paragraph (r) of this section.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control

equipment which is likely to, or does, result in unexpected exposure of xxxxx in excess of the ceiling limit.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

(c) *Permissible exposure limits.* (1) *Inhalation.* (i) *Time-weighted average limit (TWA).* The employer shall assure that no employee is exposed to an airborne concentration of xxxxx in excess of: (insert appropriate exposure limit representing: (a) the lowest feasible level, except as modified by paragraph (c) (3) of this section or (b) when it is determined by the Secretary that there are available substitutes for all uses or classes of uses that are less hazardous to humans, the proposal shall permit no occupational exposure) as an eight (8) hour time-weighted average.

(ii) *Ceiling limit.* (If appropriate.) The employer shall assure that no employee is exposed to an airborne concentration of xxxxx in excess of: (insert appropriate exposure limit representing the lowest feasible level, which shall however, not be more than five (5) times the TWA as averaged over any: (insert appropriate time period) during the working day.

(2) *Dermal and eye exposure.* The employer shall assure that no employee is exposed to eye contact or skin contact with xxxxx.

(3) *Other restrictions.* The employer shall assure that there is no occupational exposure to xxxxx from the following uses or classes of uses: (Where the Secretary determines, in the proposal or upon the record of the public rulemaking, that there are materials less hazardous to employees and that those materials are suitable substitutes in certain applications where xxxxx might otherwise be used, the Secretary here shall specify that no occupational exposure to xxxxx be permitted in those circumstances and uses, listing those circumstances or uses.)

(d) *Notification of use and emergencies.*

(1) *Use.* Within (insert appropriate time), or within fifteen (15) days following the introduction of xxxxx into the workplace, every employer shall report, unless he has done so pursuant to the emergency temporary standard issued pursuant to 29 CFR 190.150(d) here-in, the following information to the OSHA Area Office for each such workplace:

(i) The address and location of each workplace in which xxxxx is present;

(ii) A brief description of each process or operation which may result in employee exposure to xxxxx;

(iii) The number of employees engaged in each process or operation who may be exposed to xxxxx and an estimate of the frequency and degree of exposure that occurs;

(iv) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to xxxxx; and

(v) Whenever there has been a significant change in the information required by this paragraph or 29 CFR 190.150(d), the employer shall promptly amend such information previously provided to the OSHA area office.

(2) *Emergencies and remedial action.* Emergencies, and the facts obtainable at that time, shall be reported within twenty-four (24) hours of the initial occurrence to the OSHA Area Office. Upon request of the OSHA Area Office, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

(e) *Exposure monitoring.* (1) *General.* (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to xxxxx over an eight (8) hour period.

(11) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(2) *Initial monitoring.* Each employer who has a place of employment in which *xxxxx* is present shall monitor each such workplace and work operation to accurately determine the airborne concentrations of *xxxxx* to which employees may be exposed.

(3) *Frequency.* (1) If the monitoring, required by this section, reveals employee exposure to be below the permissible exposure limits, the employer shall repeat such monitoring at least quarterly.

(2) If the monitoring, required by this section, reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(4) *Additional monitoring.* Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to *xxxxx*, or whenever the employer has any other reason to suspect a change which may result in new or additional exposures to *xxxxx*, additional monitoring which complies with this paragraph shall be conducted.

(5) *Employee notification.* (1) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(2) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus (insert appropriate value) for concentrations of *xxxxx* at or above the permissible exposure limits.

(7) *Type of monitoring.* (Where applicable, specific mandatory monitoring devices and techniques may be required.)

(1) *Regulated areas.* (1) The employer shall establish regulated areas where *xxxxx* concentrations are in excess of the permissible exposure limits.

(2) Regulated areas shall be demarcated and segregated from the rest of the workplace, in any manner that minimizes the number of persons who will be exposed to *xxxxx*.

(3) Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the Act or regulations issued pursuant thereto.

(4) The employer shall assure that in the regulated area, food or beverages are not present or consumed, smoking products are not present or used, and cosmetics are not applied (except that these activities may be conducted in the lunchroom, change rooms and showers required under paragraphs (m)(1)-(m)(3) of this section.)

(g) *Methods of compliance.* (1) *Engineering and work practice controls.* (1) The employer shall institute engineering or work practice controls to reduce and maintain employee exposures to *xxxxx* to or below the permissible exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(2) Wherever the engineering and work practice controls which can be instituted are not sufficient, to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection which complies with the requirements of paragraph (h) of this section.

(2) *Compliance program.* (1) The employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by paragraph (g)(1) of this section.

(2) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to *xxxxx*;

(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) A detailed schedule for the implementation of engineering or work practice controls; and

(E) Other relevant information.

(3) Written plans for such a program shall be submitted, upon request, to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, or any affected employee or representative.

(4) The plans required by this paragraph shall be revised and updated at least every six (6) months to reflect the current status of the program.

(h) *Respiratory protection.* (1) *General.* The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposures to within the permissible exposure limits and in emergencies. Compliance with the permissible exposure limits may not be achieved by the use of respirators except:

(i) During the time period necessary to install or implement feasible engineering and work practice controls; or

(ii) In work operations such as maintenance and repair activities in which the employer establishes that engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; or

(iv) In emergencies.

(2) *Respirator selection.* (1) Where respiratory protection is required under this section, the employer shall select and provide at no cost to the employee, the appropriate type of respirator from Table 1 below and shall assure that the employee wears the respirator provided.

TABLE 1

RESPIRATORY PROTECTION FOR XXXXX

(The table will contain a listing of the appropriate type of respirator for various conditions of exposure to *xxxxx*.)

(2) The employer shall select respirators from those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

(3) *Respirator program.* (1) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e), and (f).

(2) Employees who wear respirators shall be allowed to wash their face and respirator

facepiece to prevent potential skin irritation associated with respirator use.

(1) *Emergency situations.* (1) *Written plans.* (1) A written plan for emergency situations shall be developed for each workplace where *xxxxx* is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(2) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in paragraph (h) of this section until the emergency is abated.

(2) *Alerting employees.* (1) *Alarms.* Where there is the possibility of employee exposure to *xxxxx* in excess of the ceiling limit due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(2) *Evacuation.* Employees not engaged in correcting the emergency shall be restricted from the area and shall not be permitted to return until the emergency is abated.

(j) *Protective clothing and equipment.* (1) *Provision and use.* Where eye or skin contact with *xxxxx* may occur, the employer shall provide at no cost to employee, and assure that employees wear, appropriate protective clothing or other equipment in accordance with 29 CFR 1910.132 and .133 to protect the area of the body which may come in contact with *xxxxx*.

(2) *Cleaning and replacement.* (1) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this paragraph, as needed, to maintain their effectiveness. In addition, the employer shall provide clean protective clothing and equipment at least (insert appropriate time) to each affected employee.

(2) The employer shall assure that the employee removes all protective clothing and equipment at the completion of a work shift and only in change rooms as required by paragraph (m)(1) of this section.

(3) The employer shall assure that *xxxxx*-contaminated protective clothing and equipment is placed and stored in closed containers which prevent dispersion of *xxxxx* outside the container.

(4) The employer shall assure that no employee removes *xxxxx*-contaminated protective equipment or clothing from the change room, except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(5) The employer shall inform any person who launders or cleans *xxxxx* contaminated protective clothing or equipment of the potentially harmful effects of exposure to *xxxxx*.

(6) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (p)(3)(ii) of this section.

(7) The employer shall prohibit the removal of *xxxxx* from protective clothing or equipment by blowing or shaking.

(k) *Housekeeping.* (1) *Surfaces.* (1) All surfaces shall be maintained free of accumulations of *xxxxx*.

(2) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where *xxxxx* dust or liquids are found is prohibited.

(3) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(4) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that *xxxxx* is not reintroduced into the work place air; and

(B) Portable vacuum units used to collect *xxxxx*, may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (p)(3) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(2) *Liquids.* Where *xxxxx* is present in a liquid form, or as a resultant vapor, all containers or vessels containing *xxxxx* shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(3) *Dust collection systems.* Periodic cleaning of dust collection systems; i.e., ducts and filters, shall be performed to reduce *xxxxx* dust buildup and to maintain the effectiveness of the system.

(4) *Waste disposal.* *xxxxx* waste, scrap, debris, bags, containers or equipment, shall be disposed of in sealed bags or other closed containers which prevent dispersion of *xxxxx* outside the container.

(m) *Hygiene facilities and practices.* Where employees are exposed to airborne concentrations of *xxxxx*, or where employees are required to wear protective clothing or equipment pursuant to paragraph (j) of this section, or where otherwise found to be appropriate, the facilities required by 29 CFR 1910.141 shall be provided by the employer for the use of those employees and the employer shall assure that the employees use the facilities provided. In addition, the following additional facilities or requirements are mandated.

(1) *Change rooms.* The employer shall provide clean change rooms in accordance with 29 CFR 1910.141(e).

(2) *Showers.* (1) The employer shall provide shower facilities in accordance with 29 CFR 1910.141(d)(3).

(2) In addition, the employer shall also assure that employees exposed to *xxxxx* shower at the end of the work shift.

(3) *Lunchrooms.* (1) Whenever food or beverages are consumed in the workplace, the employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees exposed to *xxxxx*.

(2) In addition the employer shall also assure that employees exposed to *xxxxx* wash their hands and face prior to eating.

(n) *Medical Surveillance.* (1) *General.* (1) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to *xxxxx*. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(2) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(3) *Initial examinations.* At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(A) A work history, a medical history, and a physical examination with direct emphasis towards the pulmonary, renal and hepatic systems, and shall include the personal history of the employee, family, and occupational background, including genetic and environmental factors. Additionally, such factors as the current systems review, pregnancy, current treatment with steroids or cytotoxic agents, and smoking habits should be considered.

(B) The medical examination shall also include the following: (insert appropriate medical protocol).

(3) *Periodic examinations.* (1) The employer shall provide examinations specified in this paragraph at least (insert appropriate time) for all employees specified in paragraph (n)(1) of this section.

(2) If an employee has not had the examinations prescribed in paragraph (n)(2) of this section within 6 months of termination of employment, the employer shall make such examination available to the employee upon such termination.

(4) *Additional examinations.* If the employee for any reason develops signs or symptoms commonly associated with exposure to *xxxxx*, the employer shall provide appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(1) A copy of this standard and its appendices;

(2) A description of the affected employee's duties as they relate to the employee's exposure;

(3) The employee's representative exposure level;

(4) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);

(5) A description of any personal protective equipment used or to be used; and

(6) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

(7) *Physician's written opinion.* (1) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical tests performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to *xxxxx*;

(C) Any recommended limitations upon the employee's exposure to *xxxxx* or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(2) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to *xxxxx*;

(3) The employer shall provide a copy of the written opinion to the affected employee.

(o) *Employee Information and Training.* (1) *Training Program.* (1) The employer shall institute a training program for all employees where there is occupational exposure to *xxxxx* and shall assure their participation in the training program.

(2) The training program shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B and C;

(B) The quantity, location, manner of use, release or storage of *xxxxx* and the specific nature of operations which could result in exposure to *xxxxx*, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of the respirators;

(D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section;

(E) The emergency procedures developed, as required by paragraph (1) of this section; and

(F) The engineering and work practice controls, their function and the employee's relationship thereto; and

(G) A review of this standard.

(2) *Access to Training Materials.* (1) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(3) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) *Signs and Labels.* (1) *General.* (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this paragraph, which contradicts or detracts from such effects of the required sign or label.

(2) *Signs.* (1) The employer shall post signs to clearly indicate all workplaces where *xxxxx* may be present. The signs shall bear the following legend:

DANGER

XXXXXX

(insert appropriate trade or common names)

CANCER HAZARD

AUTHORIZED PERSONNEL ONLY

(2) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(3) Where airborne concentrations of *xxxxx* exceed the permissible exposure limits, the signs shall bear the additional legend: "Respirator Required"

(3) *Labels.* (1) The employer shall assure that precautionary labels are affixed to all containers of *xxxxx* and of products containing *xxxxx*, and that the labels remain affixed when the *xxxxx* or products containing *xxxxx* are sold, distributed or otherwise leave the employer's workplace.

(2) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

DANGER

CONTAINS XXXXX

CANCER HAZARD

(q) *Recordkeeping.* (1) *Exposure Monitoring.* (1) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(2) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(3) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.

(2) *Medical Surveillance.* (1) The employer shall establish and maintain an accurate

PROPOSED RULES

APPENDIX A

SUBSTANCE SAFETY DATA SHEET

XXXXXX

APPENDIX B

SUBSTANCE TECHNICAL GUIDELINES

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APPENDIX C

MEDICAL SURVEILLANCE GUIDELINES

-XXXXXX

§ 1900.170 Section 6(b) Model Standard for a Category II Toxic Substance.

OCCUPATIONAL EXPOSURE TO XXXXXX

NOTICE OF PROPOSED OR FINAL RULEMAKING

§ 1910.0000 XXXXX.

(a) *Scope and application.* This section applies to all occupational exposures to *xxxxx* (Chemical Abstracts Service Registry Number 00000), except that this section does not apply to: (to be filled in as applicable.)

(b) *Definitions.* "xxxxx" means (definition of substance to be regulated). "Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education, and Welfare, or designee.

"Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which is likely to, or does, result in unexpected exposure, of *xxxxx* in excess of the ceiling limit.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

(c) *Permissible exposure limits.* (1) *Inhalation.* (i) *Time-weighted average limit (TWAL).* The employer shall assure that no employee is exposed to an airborne concentration of *xxxxx* in excess of: (insert appropriate exposure limit representing (a) the present OSHA standard found in 29 CFR 1910.1000 or (b) where none exists, an appropriate level based upon acute or chronic effects of exposure to *xxxxx* other than carcinogenicity or (c) where acute or chronic effects other than carcinogenicity indicate that the present OSHA standard is inadequate, the exposure level shall be lowered from the present OSHA standard to the level found appropriate by the Secretary to protect against such effects) as an eight (8)-hour time-weighted average.

(ii) *Ceiling limit.* (If appropriate.) The employer shall assure that no employee is exposed to an airborne concentration of *xxxxx* in excess of: (insert the appropriate exposure limit) as averaged over any: (insert appropriate time period) during the working day.

(2) *Dermal and eye exposure.* The employer shall assure that no employee is exposed to eye contact or skin contact with *xxxxx*.

(d) *Notification of use and emergencies.* (1) *Use.* Within (insert appropriate time), or within fifteen (15) days the introduction of *xxxxx* into the workplace, every employer shall report the following information to

the OSHA Area Office for each such workplace:

(i) The address and location of each workplace in which *xxxxx* is present;

(ii) A brief description of each process or operation, which may result in employee exposure to *xxxxx*;

(iii) The number of employees engaged in each process or operation who may be exposed to *xxxxx* and an estimate of the frequency and degree of exposure that occurs;

(iv) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to *xxxxx*; and

(v) Whenever there has been a significant change in the information required by this paragraph, the employer shall promptly amend such information previously provided to the OSHA area office.

(2) *Emergencies and Remedial Action.* Emergencies, and the facts obtainable at that time, shall be reported within twenty-four (24) hours of the initial occurrence to the OSHA Area Office. Upon request of the OSHA Area Office, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

(e) *Exposure monitoring.* (1) *General.* (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to *xxxxx* over an eight (8) hour period.

(ii) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.

(2) *Initial monitoring.* Each employer who has a place of employment in which *xxxxx* is present shall monitor each such workplace and work operation to accurately determine the airborne concentration of *xxxxx* to which employees may be exposed.

(3) *Frequency.* (i) If the monitoring, required by this section, reveals employee exposure to be below the permissible exposure limits, the employer shall repeat such monitoring at least quarterly.

(ii) If the monitoring, required by this section, reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat the determinations for each such employee at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.

(4) *Additional monitoring.* Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to *xxxxx*, or whenever the employer has any other reason to suspect a change which may result in new or additional exposure to *xxxxx*, additional monitoring which complies with this paragraph shall be conducted.

(5) *Employee notification.* (i) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever such results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice

a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

(6) *Accuracy of measurement.* The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus (insert appropriate value) for concentrations of *xxxxx* at or above the permissible exposure limit.

(7) *Type of monitoring.* (Where applicable, specific mandatory monitoring and techniques may be required.)

(i) *Regulated areas.* (Deleted.)

(g) *Methods of compliance.* (1) *Engineering and work practice controls.* (i) The employer shall institute engineering or work practice controls to reduce and maintain employee exposures to *xxxxx* to or below the permissible exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(ii) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest levels achievable by those controls and shall supplement them by the use of respiratory protection which complies with the requirements of paragraph (h) of this section.

(2) *Compliance program.* (i) The employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by paragraph (g)(1) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to *xxxxx*;

(B) Engineering plans and other studies used to determine the controls for each process;

(C) A report of the technology considered in meeting the permissible exposure limits;

(D) A detailed schedule for the implementation of engineering or work practice controls; and

(E) Other relevant information.

(iii) Written plans for such a program shall be submitted, upon request, to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, or any affected employee or representative.

(iv) The plans required by this paragraph shall be revised and updated at least every six (6) months to reflect the current status of the program.

(h) *Respiratory protection.* (1) *General.* The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposure to within the permissible exposure limits and in emergencies. Compliance with the permissible exposure limits may not be achieved by the use of respirators except:

(i) During the time period necessary to install or implement feasible engineering and work practice controls; or

(ii) In work operations such as maintenance and repair activities in which the employer establishes that engineering and work practice controls are not feasible; or

(iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; or

(iv) In emergencies.

(2) *Respirator selection.* (i) Where respiratory protection is required under this sec-

PROPOSED RULES

TABLE 1

RESPIRATORY PROTECTION FOR XXXXX

(The table will contain a listing of the appropriate type of respirator for various conditions of exposure to *xxxxx*.)

(ii) The employer shall select respirators from those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

(3) *Respirator program.* (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e), and (f).

(ii) Employees who wear respirators shall be allowed to wash their face and respirator facepiece to prevent potential skin irritation associated with respirator use.

(i) *Emergency situations.* (1) *Written plans.* (i) A written plan for emergency situations shall be developed for each workplace where *xxxxx* is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in paragraph (h) of this section until the emergency is abated.

(2) *Alerting employees.* (i) *Alarms.* Where there is the possibility of employee exposure to *xxxxx* in excess of the ceiling limit due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

(ii) *Evacuation.* Employees not engaged in correcting the emergency shall be restricted from the area and shall not be permitted to return until the emergency is abated.

(j) *Protective clothing and equipment.* (1) *Provision and use.* Where eye or skin contact with *xxxxx* may occur, the employer shall provide at no cost to the employee, and assure that employees wear, appropriate protective clothing or equipment in accordance with 29 CFR 1910.132 and .133 to protect the area of the body which may come in contact with *xxxxx*.

(2) *Cleaning and replacement.* (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this paragraph, as needed, to maintain their effectiveness. In addition the employer shall provide clean protective clothing and equipment at least (insert appropriate time) to each affected employee.

(ii) The employer shall assure that the employee removes all protective clothing and equipment at the completion of a work shift and only in change rooms as required by paragraph (m)(1) of this section.

(iii) The employer shall assure that *xxxxx*-contaminated protective clothing and equipment is placed and stored in closed containers which prevent dispersion of *xxxxx* outside the container.

(iv) The employer shall assure that no employee removes contaminated protective equipment or clothing from the change room except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

(v) The employer shall inform any person who launders or cleans *xxxxx* contaminated protective clothing or equipment of the potentially harmful effects of exposure to *xxxxx*.

(vi) The employer shall assure that the containers of contaminated protective

clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (p)(3)(ii) of this section.

(vii) The employer shall prohibit the removal of *xxxxx* from protective clothing or equipment by blowing or shaking of work clothing.

(k) *Housekeeping.* (1) *Surfaces.* (i) All surfaces shall be maintained free of accumulations of *xxxxx*.

(ii) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where *xxxxx* dust or liquids are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters, or other appropriate means of contaminant removal, so that *xxxxx* is not reintroduced into the work place air; and

(B) Portable vacuum units used to collect *xxxxx* may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (p)(3) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(2) *Liquids.* Where *xxxxx* is present in a liquid form, or as a resultant vapor, all containers or vessels containing *xxxxx* shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(3) *Dust collection systems.* Periodic cleaning of dust collection systems, i.e. ducts and filters, shall be performed to reduce *xxxxx* dust buildups and to maintain the effectiveness of the system.

(1) *Waste disposal.* *xxxxx* waste, scrap, debris, bags, containers or equipment, shall be disposed of in sealed bags or other closed containers which prevent dispersion of *xxxxx* outside the container.

(m) *Hygiene facilities and practices.* Where employees are required to wear protective clothing or equipment pursuant to paragraph (j) of this section, or where otherwise found to be appropriate, the facilities required by 29 CFR 1910.141 or in this paragraph shall be provided by the employer for the use of those employees and the employer shall assure that the employees use the facilities provided. In addition, the following additional facilities or requirements are mandated.

(1) *Change rooms.* The employer shall provide clean change rooms in accordance with 29 CFR 1910.141(e).

(2) *Showers.* (i) The employer shall provide shower facilities in accordance with 29 CFR 1910.141(d)(3).

(ii) In addition, the employer shall also assure that employees exposed to *xxxxx* shower at the end of the work shift.

(3) *Lunchrooms.* (i) The employer shall provide appropriate facilities for eating and drinking in accordance with 29 CFR 1910.141(g) and (h).

(ii) The employer shall assure that employees exposed to *xxxxx* wash their hands and face prior to eating.

(n) *Medical Surveillance.* (1) *General.* (i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to *xxxxx*. The employer shall provide each employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a

licensed physician, and shall be provided without cost to the employee.

(2) *Initial examinations.* At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history, a medical history, and a physical examination with direct emphasis towards the pulmonary, renal and hepatic systems, and shall include the personal history of the employee, family, and occupational background, including genetic and environmental factors. Additionally, such factors as the current systems review, pregnancy, current treatment with steroids or cytotoxic agents, and smoking habits should be considered.

(ii) The medical examination shall also include the following: *(insert appropriate medical protocol)*

(3) *Periodic examinations.* (i) The employer shall provide examinations specified in this paragraph at least *(insert appropriate time)* for all employees specified in paragraph (n)(1) of this section.

(ii) If an employee has not had the examinations prescribed in paragraph (n)(2) of this section within 6 months of termination of employment, the employer shall make such examination available to the employee upon such termination.

(4) *Additional examinations.* If the employee for any reason develops signs or symptoms commonly associated with exposure to *xxxx*, the employer shall provide appropriate examination and emergency medical treatment.

(5) *Information provided to the physician.* The employer shall provide the following information to the examining physician:

(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level;

(iv) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);

(v) A description of any personal protective equipment used or to be used; and

(vi) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

(6) *Physician's written opinion.* (i) The employer shall obtain a written opinion from the examining physician which shall include:

(A) The results of the medical tests performed;

(B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to *xxxx*;

(C) Any recommended limitations upon the employee's exposure to *xxxx* or upon the use of protective clothing and equipment such as respirators; and

(D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.

(ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to *xxxx*.

(iii) The employer shall provide a copy of the written opinion to the affected employee.

(c) *Employee information and training.*

(1) *Training program.* (i) The employer shall institute a training program for all employees where there is occupational exposure to *xxxx* and shall assure their participation in the training program.

(ii) The training program shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:

(A) The information contained in Appendices A, B, and C;

(B) The quantity, location, manner of use, release or storage of *xxxx* and the specific nature of operations which could result in exposure to *xxxx*, as well as any necessary protective steps;

(C) The purpose, proper use, and limitations of respirators;

(D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section;

(E) The emergency procedures developed, as required by paragraph (i) of this section;

(F) The engineering and work practice controls, their function and the employee's relationship thereto; and

(G) A review of this standard.

(2) *Access to training materials.* (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.

(ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

(p) *Signs and labels.* (1) *General.* (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.

(ii) The employer shall assure that no statement appears on or near any sign or label, required by this paragraph, which contradicts or detracts from the effects of such required sign or label.

(2) *Signs.* (i) The employer shall post signs to clearly indicate all work areas where *xxxx* may be present. The signs shall bear the following legend:

CAUTION
XXXXXX
(insert appropriate trade or common names)
POTENTIAL CANCER HAZARD
AUTHORIZED PERSONNEL ONLY

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(iii) Where airborne concentrations of *xxxx* exceed the permissible exposure limits, the signs shall bear the additional legend:

RESPIRATOR REQUIRED
(3) *Labels.* The employer shall assure that precautionary labels are affixed to all containers of *xxxx* and of products containing *xxxx* and that the labels remain affixed when the *xxxx* or products containing *xxxx* are sold, distributed or otherwise leave the employer's workplace. The label shall bear the following legend:

CAUTION
CONTAINS XXXXX
POTENTIAL CANCER HAZARD

(q) *Recordkeeping.* (1) *Exposure monitoring.* (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.

(ii) This record shall include:

(A) The dates, number, duration, and results of each of the samples taken, including

a description of the sampling procedure used to determine representative employee exposure;

(B) A description of the sampling and analytical methods used;

(C) Type of respiratory protective devices worn, if any; and

(D) Name, social security number and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

(iii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.

(2) *Medical surveillance.* (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.

(ii) This record shall include:

(A) A copy of the physicians' written opinions;

(B) Any employee medical complaints related to exposure to *xxxx*;

(C) A copy of the information provided to the physician as required by paragraph (n) (6) of this section; and

(D) A copy of the employee's work history.

(iii) The employer shall assure that this record be maintained for at least forty (40) years, or for the duration of employment plus twenty (20) years, whichever is longer.

(3) *Availability.* (i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records, as required by this section, be made available, upon request, for examination and copying, to the affected employee, former employee, or designated representative.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(4) *Transfer of records.* (i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the Director.

(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall transmit these records to the Director.

(r) *Observation of monitoring.* (1) *Employee observation.* The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to *xxxx* conducted pursuant to paragraph (e) of this section.

(2) *Observation procedures.* (i) Whenever observation of the monitoring of employee exposure to *xxxx* requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(ii) Without interfering with the monitoring observers shall be entitled to:

(A) Receive an explanation of the measurement procedures;

(B) Observe all steps related to the measurement of airborne concentrations of *xxxx* performed at the place of exposure; and

(C) Record the results obtained.

(s) *Effective dates.* This section shall become effective *(insert appropriate period)* following publication.

(t) *Appendices.* The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligations.

APPENDIX A

SUBSTANCE SAFETY DATA SHEET

XXXXXX

APPENDIX B

SUBSTANCE TECHNICAL GUIDELINES

XXXXXX

APPENDIX C

MEDICAL SURVEILLANCE GUIDELINES

XXXXXX

Subpart C—Identification, Classification and Regulation of Toxic Substances Pos-ing a Potential Occupational Teratogenic Risk [Reserved]

(Secs. 4, 6, 8, 84 Stat. 1503, 1599 (29 U.S.C. 653, 655, 657); Secretary of Labor's Order 8-76 (41 FR 25059); 29 FR Part 1911.)

MODEL STANDARDS

Section 1990.150. Section 6(c) Model Standard for a Category I Toxic Substance

Section 1990.160. Section 6(b) Model Standard for a Category I Toxic Substance

Section 1990.170. Section 6(b) Model Standard for a Category II Toxic Substance

Emergency Temporary Standard

Section 1910.0000 xxxxx

(a) Scope and application. This section applies to all occupational exposures to xxxxx, (Chemical Abstracts Service Registry Number 0000), except that this section does not apply to: (to be filled in as applicable.)

Notice of Proposed or Final Rulemaking

Section 1910.0000 xxxxx

(a) Scope and application. This section applies to all occupational exposures to xxxxx, (Chemical Abstracts Service Registry Number 0000), except that this section does not apply to: (to be filled in as applicable.)

Notice of Proposed or Final Rulemaking

Section 1910.0000 xxxxx

(a) Scope and application. This section applies to all occupational exposures to xxxxx (Chemical Abstracts Service Registry Number 0000), except that this section does not apply to: (to be filled in as applicable.)

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(b) Definitions.

"xxxxx" means (definition of substance to be regulated).

"Authorized person" means any person specifically authorized by the employer and whose duties require the person to be a present in areas where xxxxx is present; and any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under paragraph (r) of this section.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

"Director" means the Director, National Institute for Occupational Safety and Health, U.S. Department of Health, Education and Welfare, or designee.

(b) Definitions.

"xxxxx" means (definition of substance to be regulated).

"Authorized person" means any person specifically authorized by the employer whose duties require the person to enter a regulated area or any person entering such an area as a designated representative of employees for the purpose of exercising the opportunity to observe monitoring procedures under paragraph (r) of this section.

"Assistant Secretary" means the Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, or designee.

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"Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which is likely to, or does, result in unexpected exposure of ~~xxxxx~~ in excess of the ceiling limit.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

"Emergency" means any occurrence such as, but not limited to, equipment failure, rupture of containers, or failure of control equipment which is likely to, or does, result in unexpected exposure, of ~~xxxxx~~ in excess of the ceiling limit.

"OSHA Area Office" means the Area Office of the Occupational Safety and Health Administration having jurisdiction over the geographic area where the affected workplace is located.

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(c) Permissible exposure limits.

(1) Inhalation.

(i) Time-

weighted average limit (TWA). Within (insert appropriate time) from the effective date of this emergency temporary standard, the employer shall assure that no employee is exposed to an airborne concentration of ~~xxxxx~~ in excess of: (insert appropriate exposure limit representing the lowest feasible level that can be complied with immediately) as an eight (8)-hour time-weighted average.

(c) Permissible exposure limits.

(1) Inhalation.

(i) Time-

weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration of ~~xxxxx~~ in excess of: (insert appropriate exposure limit representing: (a) the lowest feasible level, except as modified by paragraph (c)(3) of this section or (b) when it is determined by the Secretary that there are available substitutes for all uses or classes of uses that are less hazardous to humans, the proposal shall permit no occupational exposure) as an eight (8)-hour time-weighted average.

(c) Permissible exposure limits.

(1) Inhalation.

(i) Time-

weighted average limit (TWA). The employer shall assure that no employee is exposed to an airborne concentration of ~~xxxxx~~ in excess of: (insert appropriate exposure limit representing (a) the present OSHA standard found in 29 CFR 1910.1000 or (b) where none exists, an appropriate level based upon acute or chronic effects of exposure to ~~xxxxx~~ other than carcinogenicity or (c) where acute or chronic effects other than carcinogenicity indicate that the present OSHA standard is inadequate, the exposure level shall be lowered from the present OSHA standard to the level found appropriate by the Secretary to protect against such effects) as an eight (8)-hour time-weighted average.

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- (ii) Ceiling limit. (If appropriate.) The employer shall assure that no employee is exposed to an airborne concentration of xxxxx in excess of: (insert appropriate exposure limit) as averaged over any: (insert appropriate time period) during the working day.
- (2) Dermal and eye exposure. The employer shall assure that no employee is exposed to eye contact or skin contact with xxxxx.
- (3) Other restrictions. The employer shall assure that there is no occupational exposure to xxxxx from the following uses or classes of uses: (where the Secretary determines, in the proposal or upon the record of the public rulemaking, that there are materials less hazardous to employees and that those materials are suitable substitutes in certain applications
- (ii) Ceiling limit. (If appropriate.) The employer shall assure that no employee is exposed to an airborne concentration of xxxxx in excess of: (insert appropriate exposure limit representing the lowest feasible level, which shall however, not be more than five (5) times the TWA) as averaged over any: (insert appropriate time period) during the working day.
- (2) Dermal and eye exposure. The employer shall assure that no employee is exposed to eye contact or skin contact with xxxxx.
- (3) Other restrictions. The employer shall assure that there is no occupational exposure to xxxxx from the following uses or classes of uses: (where the Secretary determines, in the proposal or upon the record of the public rulemaking, that there are materials less hazardous to employees and that those materials are suitable substitutes in certain applications
- (ii) Ceiling limit. (If appropriate.) The employer shall assure that no employee is exposed to an airborne concentration of xxxxx in excess of: (insert appropriate exposure limit representing the lowest feasible level that can be complied with immediately) as averaged over any: (insert appropriate time period) during the working day.
- (2) Dermal and eye exposure. The employer shall assure that no employee is exposed to eye contact or skin contact with xxxxx.
- (ii) Ceiling limit. (If appropriate.) The employer shall assure that no employee is exposed to an airborne concentration of xxxxx in excess of: (insert the appropriate exposure limit) as averaged over any: (insert appropriate time period) during the working day.
- (2) Dermal and eye exposure. The employer shall assure that no employee is exposed to eye contact or skin contact with xxxxx.

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where xxxxx might otherwise be used, the Secretary here shall specify that no occupational exposure to xxxxx shall be permitted in those circumstances and uses, listing those circumstances or uses.)

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- (d) Notification of Use. Within (insert appropriate time) of the effective date of this section, or within fifteen (15) days following the introduction of xxxxx into the workplace, every employer shall report the following information to the nearest OSHA Area Office for each such workplace:
- (1) Use. Within (insert appropriate time), or within fifteen (15) days the introduction of xxxxx into the workplace, every employer shall report the following information to the OSHA Area Office for each such workplace:
- (i) The address and location of each workplace in which xxxxx is present;
- (ii) A brief description of each process or operation which may result in employee exposure to xxxxx;
- (iii) The number of employees engaged in each process or operation who may be exposed to xxxxx and an estimate of the frequency and degree of exposure that occurs; and
- (i) The address and location of each workplace in which xxxxx is present;
- (ii) A brief description of each process or operation which may result in employee exposure to xxxxx;
- (iii) The number of employees engaged in each process or operation who may be exposed to xxxxx and an estimate of the frequency and degree of exposure that occurs;

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- (4) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to xxxxx:
- (v) Whenever there has been a significant change in the information required by this paragraph or 29 CFR 1990.150(d), the employer shall promptly amend such information previously provided to the OSHA area office.
- (2) Emergencies and Remedial Action. Emergencies, and the facts obtainable at that time, shall be reported within twenty-four (24) hours of the initial occurrence to the OSHA Area Office. Upon request of the OSHA Area Office, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.
- (iv) A brief description of the employer's safety and health program as it relates to limitation of employee exposure to xxxxx; and
- (v) Whenever there has been a significant change in the information required by this paragraph, the employer shall promptly amend such information previously provided to the OSHA area office.
- (2) Emergencies and Remedial Action. Emergencies, and the facts obtainable at that time, shall be reported within twenty-four (24) hours of the initial occurrence to the OSHA Area Office. Upon request of the OSHA Area Office, the employer shall submit additional information in writing relevant to the nature and extent of employee exposures and measures taken to prevent future emergencies of a similar nature.

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- (e) Exposure monitoring.
- (1) General.
- (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to xxxxx over an eight (8) hour period.
- (ii) For the purposes of this section, employee exposure is that exposure which would occur if the employee were not using a respirator.
- (2) Initial monitoring. Each employer who has a place of employment in which xxxxx is present shall monitor within thirty (30) days of the effective date of this standard, each such workplace and work operation to accurately determine the airborne concentrations of xxxxx to which employees may be exposed.
- (e) Exposure monitoring.
- (1) General.
- (i) Determinations of airborne exposure levels shall be made from air samples that are representative of each employee's exposure to xxxxx over an eight (8) hour period.
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- (3) Frequency.
- (i) If the monitoring, required by this section, reveals employee exposure to be below the permissible exposure limits, the employer shall repeat such monitoring at least quarterly.
- (ii) If the monitoring, required by this section, reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employees at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.
- (4) Additional monitoring.
- Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to xxxxx, or whenever the
- (3) Frequency.
- (i) If the monitoring, required by this section, reveals employee exposure to be below the permissible exposure limits, the employer shall repeat such monitoring at least quarterly.
- (ii) If the monitoring, required by this section, reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employees at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.
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- (ii) If the monitoring, required by this section, reveals employee exposure to be in excess of the permissible exposure limits, the employer shall repeat these determinations for each such employees at least monthly. The employer shall continue these monthly measurements until at least two consecutive measurements, taken at least seven (7) days apart, are below the permissible exposure limits, and thereafter the employer shall monitor at least quarterly.
- (4) Additional monitoring.
- Whenever there has been a production, process, control or personnel change which may result in new or additional exposure to xxxxx, or whenever the

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employer has any other reason to suspect a change which may result in new or additional exposures to xxxxx, additional monitoring which complies with this paragraph shall be conducted.

(5) Employee notification.

(i) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

employer has any other reason to suspect a change which may result in new or additional exposures to xxxxx, additional monitoring which complies with this paragraph shall be conducted.

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(ii) Whenever the results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

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(5) Employee notification.

(i) Within five (5) working days after the receipt of monitoring results, the employer shall notify each employee in writing of the results which represent that employee's exposure.

(ii) Whenever such results indicate that the representative employee exposure exceeds the permissible exposure limits, the employer shall include in the written notice a statement that the permissible exposure limits were exceeded and a description of the corrective action being taken to reduce exposure to or below the permissible exposure limits.

PROPOSED RULES

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(6) Accuracy of measurement. The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus (insert appropriate value) for concentrations of xxxxx at or above the permissible exposure limits.

(7) Type of monitoring. (Where applicable, specific mandatory monitoring devices and techniques may be required.)

(6) Accuracy of measurement. The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus (insert appropriate value) for concentrations of xxxxx at or above the permissible exposure limits.

(7) Type of monitoring. (Where applicable, specific mandatory monitoring devices and techniques may be required.)

(6) Accuracy of measurement. The method of measurement shall be accurate, to a confidence level of 95 percent, to within plus or minus (insert appropriate value) for concentrations of xxxxx at or above the permissible exposure limit.

(7) Type of monitoring. (Where applicable, specific mandatory monitoring and techniques may be required.)

PROPOSED RULES

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(f) Regulated areas. (deleted.)(f) Regulated areas.

- (1) The employer shall establish regulated areas where ~~xxxx~~ concentrations are in excess of the permissible exposure limits.
- (2) Regulated areas shall be demarcated and segregated from the rest of the workplace, in any manner that minimizes the number of persons who will be exposed to ~~xxxx~~.
- (3) Access to regulated areas shall be limited to authorized persons or to persons otherwise authorized by the Act or regulations issued pursuant thereto.
- (4) The employer shall assure that in the regulated area, food or beverages are not present or consumed, smoking products are not present or used, and cosmetics are not applied, (except that these activities may be conducted in the lunchroom, change rooms and showers required under paragraphs (m) (1) - (m) (3) of this section.)

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(g) Methods of compliance.(1) General policy. OSHA's

general policy as to methods of compliance for permanent standards has traditionally required that employee exposures to a substance be reduced to the permissible exposure limits solely by use of engineering and work practice controls. OSHA has permitted reduction of employee exposures by use of respiratory protection only where the employer proves that engineering and work practice controls are not feasible to reduce such exposures to the permissible exposure limits. This general policy is inherent in the model standards found in 29 CFR 1990.160 and 1990.170. However, during the effective period of this emergency temporary standard, OSHA recognizes the need to permit employee exposures to airborne concentrations of ~~xxxx~~ to be controlled by any practicable combination of engineering controls, work practices and personal protective devices and

(g) Methods of compliance.(1) Engineering and work practice controls. (1) Engineering and work practice controls.

(i) The employer shall institute engineering or work practice controls to reduce and maintain employee exposures to ~~xxxx~~ to or below the permissible exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(ii) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest levels achievable by these controls and shall supplement them by the use of respiratory protection which complies with the requirements of paragraph (h) of this section.

(g) Methods of compliance.(1) Engineering and work practice controls. (1) Engineering and work practice controls.

(i) The employer shall institute engineering or work practice controls to reduce and maintain employee exposures to ~~xxxx~~ to or below the permissible exposure limits, except to the extent that the employer establishes that such controls are not feasible.

(ii) Wherever the engineering and work practice controls which can be instituted are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer shall nonetheless use them to reduce exposures to the lowest levels achievable by those controls and shall supplement them by the use of respiratory protection which complies with the requirements of paragraph (h) of this section.

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equipment as follows. OSHA recognizes that the immediate reduction of exposure to xxxxx may generally be achieved primarily through the use of respiratory protection and the institution of good work practices during the effective period of this emergency temporary standard, such as the prohibitions against the blowing of dust containing xxxxx or the permitting of open xxxxx containers and vessels of liquids containing xxxxx. On the other hand, OSHA believes that where engineering or work practice controls can reduce exposure, they should be used, even where such controls by themselves do not reduce the exposures to the permissible exposure limits.

Thus, engineering controls to reduce the airborne concentration of xxxxx shall be instituted, if practicable, as soon as possible. Examples of such controls include substitution of a less hazardous material, enclosure of the process, and use of local exhaust

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ventilation systems. The employer should also examine each work area in which xxxxx is present and institute, as soon as possible, work practices to reduce employee exposures to xxxxx to or below the permissible exposure limits. Examples of such work practices include, among other things, limiting access to work areas where xxxxx is present to authorized personnel only; written procedures and work practices for each operation which may result in employee exposure to xxxxx; prohibiting smoking and the consumption of food and beverages in work areas where xxxxx is present; requiring the use of appropriate personal protective clothing and equipment to minimize eye and skin contact with xxxxx; use of signs, labels, or other means to clearly designate all work areas where xxxxx may be present; and institution of good housekeeping practices as set forth in paragraph (k) of this section.

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Finally, as pointed out, whenever the engineering and work practice controls described are not sufficient to reduce employee exposures to or below the permissible exposure limits, the employer should supplement them by the use of respiratory protection which complies with the requirements of the emergency temporary standard.

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(2) Engineering and work practice control plan.

(i) Within ninety (90) days of the effective date of this emergency temporary standard, the employer shall develop a written plan describing proposed means to reduce employee exposures to the lowest feasible level solely by means of engineering and work practice controls (which will be eventually required by a permanent standard for occupational exposure to ~~xxxxx~~, issued pursuant to section 1990.160 (g) of this subpart).

(ii) Written plans required by this paragraph shall be submitted, upon request, to the Assistant Secretary and the Director and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, and any affected employee or designated representative.

(2) Compliance program.

(i) The employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by paragraph (g) (1) of this section.

(2) Compliance program.

(i) The employer shall establish and implement a written program to reduce exposures to or below the permissible exposure limits solely by means of engineering and work practice controls, as required by paragraph (g) (1) of this section.

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to ~~xxxxx~~;
(B) Engineering plans and other studies used to determine the controls for each process;
(C) A report of the technology considered in meeting the permissible exposure limits;

(ii) Written plans for these compliance programs shall include at least the following:

(A) A description of each operation or process resulting in employee exposure to ~~xxxxx~~;
(B) Engineering plans and other studies used to determine the controls for each process;
(C) A report of the technology considered in meeting the permissible exposure limits;

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- (D) A detailed schedule for the implementation of engineering or work practice controls; and
- (E) Other relevant information.
- (iii) Written plans for such a program shall be submitted, upon request, to the Assistant Secretary and the Director, and shall be available at the worksite for examination and copying by the Assistant Secretary, the Director, or any affected employee or representative.

- (iv) The plans required by this paragraph shall be revised and updated at least every six (6) months to reflect the current status of the program.

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(h) Respiratory Protection.

- (1) Required use. The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposures to within the permissible exposure limits and in emergencies.

(h) Respiratory Protection.

- (1) General. The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposures to within the permissible exposure limits and in emergencies. Compliance with the permissible exposure limits may not be achieved by the use of respirators except:

- (i) During the time period necessary to install or implement feasible engineering and work practice controls; or

- (ii) In work operations such as maintenance and repair activities in which the employer establishes that engineering and work practice controls are not feasible; or

- (iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; or

(h) Respiratory Protection.

- (1) General. The employer shall assure that respirators are used where required pursuant to this section to reduce employee exposure to within the permissible exposure limits and in emergencies. Compliance with the permissible exposure limits may not be achieved by the use of respirators except:

- (i) During the time period necessary to install or implement feasible engineering and work practice controls; or

- (ii) In work operations such as maintenance and repair activities in which the employer establishes that engineering and work practice controls are not feasible; or

- (iii) In work situations where feasible engineering and work practice controls are not yet sufficient to reduce exposure to or below the permissible exposure limits; or

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- (2) Respirator selection.
- (i) Where respiratory protection is required or permitted under this section, the employer shall select and provide at no cost to the employee, the appropriate respirator from Table 1 below and shall assure that the employee wears the respirator provided.
- (iv) In emergencies.
- (2) Respirator selection.
- (1) Where respiratory protection is required under this section, the employer shall select and provide at no cost to the employee, the appropriate type of respirator from Table 1 below and shall assure that the employee uses the respirator provided.

Table 1

RESPIRATORY PROTECTION FOR XXXXX

RESPIRATORY PROTECTION FOR XXXXX

* * *

(The table will contain a listing of the appropriate type of respirator for various conditions of exposure to XXXXX).

(ii) The employer shall select respirators from those approved by the National Institute for Occupational Safety and Health under the provisions of 30 CFR Part 11.

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- (3) Respirator program.
- (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e) and (f).
- (ii) Employees who wear respirators shall be allowed to wash their face and respirator facepiece to prevent potential skin irritation associated with respirator use.
- (3) Respirator program.
- (i) The employer shall institute a respiratory protection program in accordance with 29 CFR 1910.134 (b), (d), (e), and (f).
- (ii) Employees who wear respirators shall be allowed to wash their face and respirator facepiece to prevent potential skin irritation associated with respirator use.

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(1) Emergency situations.
(deleted.)

(i) Emergency situations.

(1) Written Plans.

(i) A written plan for emergency situations shall be developed for each workplace where ~~xxxx~~ is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in paragraph (h) of this section until the emergency is abated.

(2) Alerting employees.

(i) Alarms. Where there is the possibility of employee exposure to ~~xxxx~~ in excess of the ceiling limit due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

PROPOSED RULES

(1) Emergency situations.

(1) Written Plans.

(i) A written plan for emergency situations shall be developed for each workplace where ~~xxxx~~ is present. Appropriate portions of the plan shall be implemented in the event of an emergency.

(ii) The plan shall specifically provide that employees engaged in correcting emergency conditions shall be equipped as required in paragraph (h) of this section until the emergency is abated.

(2) Alerting employees.

(i) Alarms. Where there is the possibility of employee exposure to ~~xxxx~~ in excess of the ceiling limit due to the occurrence of an emergency, a general alarm shall be installed and maintained to promptly alert employees of such occurrences.

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PROPOSED RULES

(ii) Evacuation. Employees not engaged in correcting the emergency shall be restricted from the area and shall not be permitted to return until the emergency is abated.

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(j) Protective clothing and equipment.

- (1) Provision and use. Where eye or skin contact with ~~xxxxx~~ may occur, the employer shall provide, at no cost to the employee, and assure that employees wear, appropriate protective clothing or other equipment in accordance with 29 CFR 1910.132 and .133 to protect the area of the body which may come in contact with ~~xxxxx~~.

(2) Cleaning and replacement.

- (i) The employer shall clean, launder, maintain, or replace protective clothing and equipment required by this paragraph, as needed, to maintain their effectiveness. In addition the employer shall provide clean protective clothing and equipment at least ~~(insert appropriate time)~~ to each affected employee.

(j) Protective clothing and equipment.

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- (ii) The employer shall assure that the employee removes all protective clothing and equipment at the completion of a workshift.

- (iii) The employer shall assure that ~~xxxxx~~-contaminated protective clothing and equipment is placed and stored in closed containers which prevent dispersion of ~~xxxxx~~ outside the container.

- (ii) The employer shall assure that the employee removes all protective clothing and equipment at the completion of a work shift and only in change rooms as required by paragraph (m) (1) of this section.

- (iii) The employer shall assure that ~~xxxxx~~-contaminated protective clothing and equipment is placed and stored in closed containers which prevent dispersion of ~~xxxxx~~ outside the container.

- (iv) The employer shall assure that no employee removes ~~xxxxx~~-contaminated protective equipment or clothing from the change room, except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

- (ii) The employer shall assure that the employee removes all protective clothing and equipment at the completion of a work shift and only in change rooms as required by paragraph (m) (1) of this section.

- (iii) The employer shall assure that ~~xxxxx~~-contaminated protective clothing and equipment is placed and stored in closed containers which prevent dispersion of ~~xxxxx~~ outside the container.

- (iv) The employer shall assure that no employee removes contaminated protective equipment or clothing from the change room except for those employees authorized to do so for the purpose of laundering, maintenance, or disposal.

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(iv) The employer shall inform any person who launders or cleans ~~xxxx~~ contaminated protective clothing or equipment of the potentially harmful effects of exposure to ~~xxxx~~.

(v) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (p) (3) of this section.

(vi) The employer shall prohibit the removal of ~~xxxx~~ from protective clothing or equipment by blowing or shaking.

(v) The employer shall inform any person who launders or cleans ~~xxxx~~ contaminated protective clothing or equipment of the potentially harmful effects of exposure to ~~xxxx~~.

(vi) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (p) (3) (ii) of this section.

(vii) The employer shall prohibit the removal of ~~xxxx~~ from protective clothing or equipment by blowing or shaking.

(v) The employer shall inform any person who launders or cleans ~~xxxx~~ contaminated protective clothing or equipment of the potentially harmful effects of exposure to ~~xxxx~~.

(vi) The employer shall assure that the containers of contaminated protective clothing and equipment which are to be removed from the workplace for any reason are labeled in accordance with paragraph (p) (3) (ii) of this section.

(vii) The employer shall prohibit the removal of ~~xxxx~~ from protective clothing or equipment by blowing or shaking of work clothing.

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(k) Housekeeping.

(1) Surfaces.

(i) All surfaces shall be maintained free of accumulations of ~~xxxx~~.

(ii) Dry sweeping and the use of compressed air for the cleaning of floors and other surfaces where ~~xxxx~~ dust or liquids are found is prohibited.

(iii) Where vacuuming methods are selected, either portable units or a permanent system may be used.

(A) If a portable unit is selected, the exhaust shall be attached to the general workplace exhaust ventilation system or collected within the vacuum unit, equipped with high efficiency filters or other appropriate means of contaminant removal, so that ~~xxxx~~ is not reintroduced into the work place air; and

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(B) Portable vacuum units used to collect xxxxx, may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (p) (3) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(2) Liquids. Where xxxxx is present in a liquid form, or as a resultant vapor, all containers or vessels containing xxxxx shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(B) Portable vacuum units used to collect xxxxx, may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (p) (3) of this section.

(iv) Cleaning of floors and other contaminated surfaces may not be performed by washing down with a hose, unless a fine spray has first been laid down.

(2) Liquids. Where xxxxx is present in a liquid form, or as a resultant vapor, all containers or vessels containing xxxxx shall be enclosed to the maximum extent feasible and tightly covered when not in use.

(3) Dust collection systems. Periodic cleaning of dust collection systems, i.e. ducts and filters, shall be performed to reduce xxxxx dust buildups and to maintain the effectiveness of the system.

(B) Portable vacuum units used to collect xxxxx, may not be used for other cleaning purposes and shall be labeled as prescribed by paragraph (p) (3) of this section.

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(1) Waste disposal. xxxxx waste, scrap, debris, bags, containers or equipment, shall be disposed of in sealed bags or other closed containers which prevent dispersion of xxxxx outside the container.

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(m) Hygiene facilities and practices. Where employees are exposed to airborne concentrations of ~~xxxxx~~, or where employees are required to wear protective clothing or equipment pursuant to paragraph (j) of this section, or where otherwise found to be appropriate, the facilities required by 29 CFR 1910.141 shall be provided by the employer for the use of those employees, and the employer shall assure that the employees use the facilities provided.

(m) Hygiene facilities and practices. Where employees are exposed to airborne concentrations of ~~xxxxx~~, or where employees are required to wear protective clothing or equipment pursuant to paragraph (j) of this section, or where otherwise found to be appropriate, the facilities required by 29 CFR 1910.141 shall be provided by the employer for the use of those employees and the employer shall assure that the employees use the facilities provided. In addition, the following additional facilities or requirements are mandated.

(1) Change rooms. The employer shall provide clean change rooms in accordance with 29 CFR 1910.141(e).

(2) Showers.

(i) The employer shall provide shower facilities in accordance with 29 CFR 1910.141(d)(3).

(m) Hygiene facilities and practices. Where employees are required to wear protective clothing or equipment pursuant to paragraph (j) of this section, or where otherwise found to be appropriate, the facilities required by 29 CFR 1910.141 or in this paragraph shall be provided by the employer for the use of those employees and the employer shall assure that the employees use the facilities provided. In addition, the following additional facilities or requirements are mandated.

(1) Change rooms. The employer shall provide clean change rooms in accordance with 29 CFR 1910.141(e).

(2) Showers.

(i) The employer shall provide shower facilities in accordance with 29 CFR 1910.141(d)(3).

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(ii) In addition, the employer shall also assure that employees exposed to ~~xxxxx~~ shower at the end of the work shift.

(3) Lunchrooms.

(i) Whenever food or beverages are consumed in the workplace, the employer shall provide lunchroom facilities which have a temperature controlled, positive pressure, filtered air supply, and which are readily accessible to employees exposed to ~~xxxxx~~.

(ii) In addition the employer shall also assure that employees exposed to ~~xxxxx~~ wash their hands and face prior to eating.

(ii) In addition, the employer shall also assure that employees exposed to ~~xxxxx~~ shower at the end of the work shift.

(3) Lunchrooms.

(i) The employer shall provide appropriate facilities for eating and drinking in accordance with 29 CFR 1910.141 (g) and (h).

(ii) The employer shall assure that employees exposed to ~~xxxxx~~ wash their hands and face prior to eating.

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(n) Medical surveillance.(1) General.

(i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to ~~xxxxx~~. The employer shall provide each such employer with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(n) Medical surveillance.(1) General.

(i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to ~~xxxxx~~. The employer shall provide each such employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

(n) Medical surveillance.(1) General.

(i) The employer shall institute a program of medical surveillance for each employee who is or will be exposed to ~~xxxxx~~. The employer shall provide each employee with an opportunity for medical examinations and tests in accordance with this paragraph.

(ii) The employer shall assure that all medical examinations and procedures are performed by or under the supervision of a licensed physician, and shall be provided without cost to the employee.

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(2) Initial examinations. Within thirty (30) days of the effective date of this section, or thereafter at the time of initial assignment, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history, a medical history, and a physical examination with direct emphasis towards the pulmonary, renal, and hepatic systems, and shall include the personal history of the employee, family, and occupational background, including genetic and environmental factors. Additionally, such factors as the current systems review, pregnancy, current treatment with steroids or cytotoxic agents, and smoking habits should be considered.

(ii) The medical examination shall also include the following: (insert appropriate medical protocol).

(2) Initial examinations. At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history, a medical history, and a physical examination with direct emphasis towards the pulmonary, renal and hepatic systems, and shall include the personal history of the employee, family, and occupational background, including genetic and environmental factors. Additionally, such factors as the current systems review, pregnancy, current treatment with steroids or cytotoxic agents, and smoking habits should be considered.

(ii) The medical examination shall also include the following: (insert appropriate medical protocol).

(2) Initial examinations. At the time of initial assignment, or upon institution of the medical surveillance program, the employer shall provide each affected employee an opportunity for a medical examination, including at least the following elements:

(i) A work history, a medical history, and a physical examination with direct emphasis towards the pulmonary, renal and hepatic systems, and shall include the personal history of the employee, family, and occupational background, including genetic and environmental factors. Additionally, such factors as the current systems review, pregnancy, current treatment with steroids or cytotoxic agents, and smoking habits should be considered.

(ii) The medical examination shall also include the following: (insert appropriate medical protocol).

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(3) Periodic examinations. (Insert appropriate medical protocol and time.)

(3) Periodic examinations.
(i) The employer shall provide examinations specified in this paragraph at least (insert appropriate time) for all employees specified in paragraph (n) (1) of this section.

(ii) If an employee has not had the examinations prescribed in paragraph (n) (2) of this section within 6 months of termination of employment, the employer shall make such examination available to the employee upon such termination.

(4) Interim examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to ~~xxxxx~~, the employer shall provide appropriate examination and emergency medical treatment.

(4) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to ~~xxxxx~~, the employer shall provide appropriate examination and emergency medical treatment.

(3) Periodic examinations.
(i) The employer shall provide examinations specified in this paragraph at least (insert appropriate time) for all employees specified in paragraph (n) (1) of this section.

(ii) If an employee has not had the examinations prescribed in paragraph (n) (2) of this section within 6 months of termination of employment, the employer shall make such examination available to the employee upon such termination.

(4) Additional examinations. If the employee for any reason develops signs or symptoms commonly associated with exposure to ~~xxxxx~~, the employer shall provide appropriate examination and emergency medical treatment.

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(5) Information provided to the physician. The employer shall provide the following information to the examining physician:
(i) A copy of this emergency temporary standard and its appendices;
(ii) A description of the affected employee's duties as they relate to the employee's exposure;
(iii) The employee's representative exposure level; and

(iv) A description of any personal protective equipment used or to be used.

(5) Information provided to the physician.
The employer shall provide the following information to the examining physician:
(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;
(iii) The employee's representative exposure level;

(iv) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);

(v) A description of any personal protective equipment used or to be used; and

(vi) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

(5) Information provided to the physician.
The employer shall provide the following information to the examining physician:
(i) A copy of this standard and its appendices;

(ii) A description of the affected employee's duties as they relate to the employee's exposure;

(iii) The employee's representative exposure level;

(iv) The employee's anticipated or estimated exposure level (for preplacement examinations or in cases of exposure due to an emergency);

(v) A description of any personal protective equipment used or to be used; and

(vi) Information from previous medical examinations of the affected employee, which is not otherwise available to the examining physician.

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- (6) Physician's written opinion.
- (i) The employer shall obtain a written opinion from the examining physician which shall include:
- (A) The results of the medical tests performed;
- (B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to xxxxx;
- (C) Any recommended limitations upon the employee's exposure to xxxxx or upon the use of protective clothing and equipment such as respirators; and
- (6) Physician's written opinion.
- (i) The employer shall obtain a written opinion from the examining physician which shall include:
- (A) The results of the medical tests performed;
- (B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to xxxxx;
- (C) Any recommended limitations upon the employee's exposure to xxxxx or upon the use of protective clothing and equipment such as respirators; and
- (6) Physician's written opinion.
- (i) The employer shall obtain a written opinion from the examining physician which shall include:
- (A) The results of the medical tests performed;
- (B) The physician's opinion as to whether the employee has any detected medical condition which would place the employee at an increased risk of material impairment of the employee's health from exposure to xxxxx;
- (C) Any recommended limitations upon the employee's exposure to xxxxx or upon the use of protective clothing and equipment such as respirators; and

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- (D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.
- (ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to xxxxx.
- (iii) The employer shall provide a copy of the written opinion to the affected employee.
- (D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.
- (ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to xxxxx.
- (iii) The employer shall provide a copy of the written opinion to the affected employee.
- (D) A statement that the employee has been informed by the physician of the results of the medical examination and any medical conditions which require further examination or treatment.
- (ii) The employer shall instruct the physician not to reveal in the written opinion specific findings or diagnoses unrelated to occupational exposure to xxxxx.
- (iii) The employer shall provide a copy of the written opinion to the affected employee.

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- (o) Employee information and training.
- (1) Training program.
- (i) Within thirty (30) days from the effective date of this standard, the employer shall institute a training program for all employees where there is occupational exposure to xxxxx and shall assure their participation in the training program.
- (ii) The employer shall assure that each employee is informed of the following:
- (A) The information contained in Appendices A, E and C;
- (i) Employee information and training.
- (1) Training program.
- (i) The employer shall institute a training program for all employees where there is occupational exposure to xxxxx and shall assure their participation in the training program.
- (ii) The training program shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:
- (A) The information contained in Appendices A, B and C;
- (ii) The training program shall be provided at the time of initial assignment, or upon institution of the training program, and at least annually thereafter, and the employer shall assure that each employee is informed of the following:
- (A) The information contained in Appendices A, B and C;

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- (B) The quantity, location, manner of use, release or storage of xxxxx and the specific nature of operations which could result in exposure to xxxxx, as well as any necessary protective steps:
- (C) The purpose, proper use, and limitations of respirators;
- (D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section; and
- (E) The emergency procedures developed, as required by paragraph (i) of this section; and
- (F) The engineering and work practice controls, their function and the employee's relationship thereto; and
- (G) A review of this standard.
- (B) The quantity, location, manner of use, release or storage of xxxxx and the specific nature of operations which could result in exposure to xxxxx, as well as any necessary protective steps:
- (C) The purpose, proper use, and limitations of the respirators;
- (D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section;
- (E) The emergency procedures developed, as required by paragraph (i) of this section; and
- (F) The engineering and work practice controls, their function and the employee's relationship thereto; and
- (G) A review of this standard.
- (B) The quantity, location, manner of use, release or storage of xxxxx and the specific nature of operations which could result in exposure to xxxxx, as well as any necessary protective steps:
- (C) The purpose, proper use, and limitations of respirators;
- (D) The purpose and a description of the medical surveillance program required by paragraph (n) of this section;
- (E) The emergency procedures developed, as required by paragraph (i) of this section;
- (F) The engineering and work practice controls, their function and the employee's relationship thereto; and
- (G) A review of this standard.

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- (2) Access to Training Materials.
- (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.
- (ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.
- (2) Access to Training Materials.
- (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.
- (ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.
- (2) Access to Training Materials.
- (i) The employer shall make a copy of this standard and its appendices readily available to all affected employees.
- (ii) The employer shall provide, upon request, all materials relating to the employee information and training program to the Assistant Secretary and the Director.

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- (p) Signs and Labels.
- (1) General.
- (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.
- (ii) The employer shall assure that no statement appears on or near any sign or label, required by this paragraph, which contradicts or detracts from such effects of the required sign or label.
- (p) Signs and Labels.
- (1) General.
- (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.
- (ii) The employer shall assure that no statement appears on or near any sign or label, required by this paragraph, which contradicts or detracts from such effects of the required sign or label.
- (p) Signs and Labels.
- (1) General.
- (i) The employer may use labels or signs required by other statutes, regulations, or ordinances in addition to, or in combination with, signs and labels required by this paragraph.
- (ii) The employer shall assure that no statement appears on or near any sign or label, required by this paragraph, which contradicts or detracts from the effects of such required sign or label.

- (2) Signs.
- (i) The employer shall post signs to clearly indicate all workplaces where ~~XXXXX~~ may be present. The signs shall bear the following legend:
- DANGER
XXXXX
- (insert appropriate trade or common names)
- CANCER HAZARD
AUTHORIZED PERSONS ONLY
- (2) Signs.
- (i) The employer shall post signs to clearly indicate all workplaces where ~~XXXXX~~ may be present. The signs shall bear the following legend:
- DANGER
XXXXX
- (insert appropriate trade or common names)
- CANCER HAZARD
AUTHORIZED PERSONNEL ONLY
- (2) Signs.
- (i) The employer shall post signs to clearly indicate all work areas where ~~XXXXX~~ may be present. The signs shall bear the following legend:
- CAUTION
XXXXX
- (insert appropriate trade or common names)
- POTENTIAL CANCER HAZARD
AUTHORIZED PERSONNEL ONLY

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(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(iii) Where airborne concentrations of ~~XXXX~~ exceed the permissible exposure limits, the signs shall bear the additional legend:

"Respirator Required"

(3) Labels. The employer shall assure that precautionary labels are affixed to all containers of ~~XXXX~~ and of products containing ~~XXXX~~ and that the labels remain affixed when the ~~XXXX~~ or products containing ~~XXXX~~ are sold, distributed or otherwise leave the employer's workplace. The label shall bear the following legend:

CAUTION

CONTAINS ~~XXXX~~

POTENTIAL CANCER HAZARD

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(iii) Where airborne concentrations of ~~XXXX~~ exceed the permissible exposure limits, the signs shall bear the additional legend: "Respirator Required"

(3) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of ~~XXXX~~ and of products containing ~~XXXX~~, and that the labels remain affixed when the ~~XXXX~~ or products containing ~~XXXX~~ are sold, distributed or otherwise leave the employer's workplace.

(ii) The employer shall assure that signs required by this paragraph are illuminated and cleaned as necessary so that the legend is readily visible.

(iii) Where airborne concentrations of ~~XXXX~~ exceed the permissible exposure limits, the signs shall bear the additional legend: "Respirators Required"

(3) Labels.

(i) The employer shall assure that precautionary labels are affixed to all containers of ~~XXXX~~ and of products containing ~~XXXX~~, and that the labels remain affixed when the ~~XXXX~~ or products containing ~~XXXX~~ are sold, distributed or otherwise leave the employer's workplace.

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(ii) The employer shall assure that the precautionary labels required by this paragraph are readily visible and legible. The labels shall bear the following legend:

DANGER

CONTAINS ~~XXXX~~

CANCER HAZARD

DANGER

CONTAINS ~~XXXX~~

CANCER HAZARD

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- (g) Recordkeeping.
- (1) Exposure monitoring.
- (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.
- (ii) This record shall include:
- (A) The dates, number, duration and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;
- (B) A description of the sampling and analytical methods used;
- (C) Type of respiratory protective devices worn, if any; and
- (D) Name, social security number and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.
- (g) Recordkeeping.
- (1) Exposure monitoring.
- (i) The employer shall establish and maintain an accurate record of all monitoring required by paragraph (e) of this section.
- (ii) This record shall include:
- (A) The dates, number, duration, and results of each of the samples taken, including a description of the sampling procedure used to determine representative employee exposure;
- (B) A description of the sampling and analytical methods used;
- (C) Type of respiratory protective devices worn, if any; and
- (D) Name, social security number and job classification of the employee monitored and of all other employees whose exposure the measurement is intended to represent.

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- (iii) The employer shall maintain this record for the effective period of this emergency temporary standard, and for any additional period required by the permanent standard.
- (2) Medical surveillance.
- (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.
- (ii) This record shall include:
- (A) A copy of the physicians' written opinions;
- (B) Any employee medical complaints related to exposure to ~~xxxx~~;
- (C) A copy of the information provided to the physician as required by paragraph (n) (6) of this section; and
- (D) A copy of the employee's work history.
- (iii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.
- (2) Medical surveillance.
- (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.
- (ii) This record shall include:
- (A) A copy of the physicians' written opinions;
- (B) Any employee medical complaints related to exposure to ~~xxxx~~;
- (C) A copy of the information provided to the physician as required by paragraph (n) (6) of this section; and
- (D) A copy of the employee's work history.
- (iii) The employer shall maintain this record for at least 40 years or the duration of employment plus 20 years, whichever is longer.
- (2) Medical surveillance.
- (i) The employer shall establish and maintain an accurate record for each employee subject to medical surveillance as required by paragraph (n) of this section.
- (ii) This record shall include:
- (A) A copy of the physicians' written opinions;
- (B) Any employee medical complaints related to exposure to ~~xxxx~~;
- (C) A copy of the information provided to the physician as required by paragraph (n) (6) of this section; and
- (D) A copy of the employee's work history.

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(iii) The employer shall assure that this record be maintained for the effective period of this emergency temporary standard, and for any additional period required by the permanent standard.

(3) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records, as required by this section, be made available, upon request, for examination and copying to the affected employee, former employee, or designated representative.

(iii) The employer shall assure that this record be maintained for at least forty (40) years, or for the duration of employment plus twenty (20) years, whichever is longer.

(3) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records, as required by this section, be made available, upon request, for examination and copying to the affected employee, former employee, or designated representative.

(iii) The employer shall assure that this record be maintained for at least forty (40) years, or for the duration of employment plus twenty (20) years, whichever is longer.

(3) Availability.

(i) The employer shall assure that all records required to be maintained by this section be made available upon request to the Assistant Secretary and the Director for examination and copying.

(ii) The employer shall assure that employee exposure measurement records, as required by this section, be made available, upon request, for examination and copying, to the affected employee, former employee, or designated representative.

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(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying, to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(iii) The employer shall assure that employee medical records required to be maintained by this section, be made available, upon request, for examination and copying to the affected employee or former employee, or to a physician designated by the affected employee, former employee, or designated representative.

(4) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the Director.

(4) Transfer of records.

(i) Whenever the employer ceases to do business, the successor employer shall receive and retain all records required to be maintained by this section.

(ii) Whenever the employer ceases to do business and there is no successor employer to receive and retain the records for the prescribed period, these records shall be transmitted to the Director.

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(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall transmit these records to the Director.

(iii) At the expiration of the retention period for the records required to be maintained pursuant to this section, the employer shall transmit these records to the Director.

(r) Observation of monitoring.

(1) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to ~~xxxxx~~ conducted pursuant to paragraph (e) of this section.

(2) Observation procedures.

(i) Whenever observation of the monitoring of employee exposure to ~~xxxxx~~ requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

(r) Observation of Monitoring.

(1) Employee observation. The employer shall provide affected employees, or their designated representatives, an opportunity to observe any monitoring of employee exposure to ~~xxxxx~~ conducted pursuant to paragraph (e) of this section.

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(i) Whenever observation of the monitoring of employee exposure to ~~xxxxx~~ requires entry into an area where the use of protective clothing or equipment is required, the employer shall provide the observer with personal protective clothing or equipment required to be worn by employees working in the area, assure the use of such clothing and equipment, and require the observer to comply with all other applicable safety and health procedures.

- (ii) Without interfering with the monitoring observers shall be entitled to:
- (A) Receive an explanation of the measurement procedures;
- (B) Observe all steps related to the measurement of airborne concentrations of xxxxx performed at the place of exposure; and
- (C) Record the results obtained.
- (ii) Without interfering with the monitoring observers shall be entitled to:
- (A) Receive an explanation of the measurement procedures;
- (B) Observe all steps related to the measurement of airborne concentrations of xxxxx performed at the place of exposure; and
- (C) Record the results obtained.

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(s) Effective date. This section shall become effective (insert date of publication).

(t) Appendices. The information contained in the appendices is not intended, by itself, to create any additional obligations not otherwise imposed or to detract from any existing obligation.

Appendix A
SUBSTANCE SAFETY DATA SHEET
XXXXX
Appendix B
SUBSTANCE TECHNICAL GUIDELINES
XXXXX
Appendix C
MEDICAL SURVEILLANCE GUIDELINES
XXXXX

(s) Effective date. This section shall become effective (insert appropriate period) following publication.

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Appendix A
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Appendix C
MEDICAL SURVEILLANCE GUIDELINES
XXXXX

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(Revised as of April 1, 1977)

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Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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[First published at 42 FR 45975, Sept. 13, 1977]

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H.R. 6111..... Pub. L. 95-115

Juvenile Justice Amendments of 1977. (Oct. 3, 1977; 91 Stat. 1048). Price: \$.80.

presidential documents

[3195-01]

Title 3—The President

Executive Order 12012

October 3, 1977

White House Fellowships

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, Executive Order No. 11183, as amended, is further amended as follows:

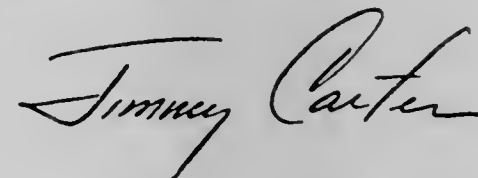
SECTION 1. The word "young" is deleted wherever it appears in the preamble and in Section 2(a).

SEC. 2. Section 2(b) (2) is amended to read:

"(2) Are presently early in their chosen careers and show exceptional promise of future development;"

SEC. 3. Section 2(b) (4) is deleted, the word "and" is added at the end of Section 2(b) (3), and Section 2(b) (5) is redesignated as Section 2(b) (4).

SEC. 4. Section 2(c) is amended by adding "age" after "national origin,".



THE WHITE HOUSE,
October 3, 1977.

[FR Doc.77-29468 Filed 10-4-77;11:15 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6110-01]

Title 1—General Provisions

CHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

PART 305—RECOMMENDATIONS OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Miscellaneous Amendments

AGENCY: Administrative Conference of the United States.

ACTION: Recommendations.

The Administrative Conference of the United States was established by the Administrative Conference Act, 5 U.S.C. 571-576, to study the efficiency, adequacy and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs, and to make recommendations for improvement to administrative agencies, collectively or individually, to the President, Congress, and the Judicial Conference of the United States (5 U.S.C. 574 (1)).

The Administrative Conference of the United States at its Sixteenth Plenary Session, held September 15-16, 1977, adopted three Recommendations. Recommendation 77-1 urges that Congress should not, in general legislation or as a routine practice, provide for prior submission of agency rules for Congressional review and possible veto. Recommendation 77-2 makes a series of recommendations for legislation concerning the judicial review of actions taken by the U.S. Customs Service. Recommendation 77-3 prescribes guidelines for agency handling of those ex parte communications which may occur in the course of an informal rulemaking proceeding.

DATES: These recommendations were adopted September 15-16, 1977, and issued September 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard K. Berg, Executive Secretary, (202-254-7065).

1. The table of contents to Part 305 of Title I, Chapter III, CFR is amended to add the following sections:

- Sec.
305.77-1 Legislative Veto of Administrative Regulations (Recommendation No. 77-1).
305.77-2 Judicial Review of Customs Service Actions (Recommendation No. 77-2).
305.77-3 Ex parte Communications in Informal Rulemaking Proceedings (Recommendation No. 77-3).

2. Section 305.77-1 is added to Part 305 to read as follows:

§ 305.77-1 Legislative Veto of Administrative Regulations (Recommendation No. 77-1).

Congress has by statute occasionally required that certain agency actions be subject to Congressional approval or disapproval before they became effective. Several proposals have now been advanced which would apply this procedure to all substantive rules issued pursuant to the notice-and-comment procedures of 5 U.S.C. § 553 (which are not subject to 5 U.S.C. §§ 556 and 557). These proposals typically would provide that if either house of Congress disapproved a proposed rule within a specified period, such as 60 days, it would not take effect.

The Conference believes that this kind of legislative veto would not further the ability of Congress to direct agency policy; moreover, it would bring about undesirable changes in the rulemaking process and in relationships among the agencies, Congress, and the courts.

1. Agencies. Legislative veto proposals contemplate postponing the effective date of most agency rules for two months beyond the present statutory period of thirty days that must elapse between their publication in the FEDERAL REGISTER and their taking effect. This additional period is prescribed so that Congress may have opportunity to exercise the power of review. The volume of existing agency rulemaking and the technical or noncontroversial nature of many rules suggest, however, that few proposed rules would in fact receive specific Congressional attention. Nevertheless the operation of the great mass of rules, whether or not actually considered by Congress, would be postponed without corresponding benefit and often with unfortunate public consequences. In instances when Congress did undertake review, it would risk engaging in piecemeal examination of particular rules, in isolation from an agency's program as a whole, and without benefit of the experience and specialized knowledge that had shaped the elements of that program. Of great concern is the possibility that Congressional review of administrative agencies' rules would significantly diminish the importance of the procedures now prescribed by law to assure public participation in rulemaking. Rules that survive active legislative review are likely to be based upon negotiations with Congressional units rather than upon the information, expression of opinion, research materials, and background experience that shaped the agency's policy.

2. Congress. Legislative review of substantive rules would increase the workload of Congress substantially. Review of complex, technical rules would be difficult, time consuming, and often impracticable. Yet, in the belief that each agency's work product would have to undergo later scrutiny by Congress or its committee staffs, Congress might be more ready even than at present to delegate power in broad terms and to avoid specificity and precision in formulating legislative policies that guide agency discretion. Piecemeal review, moreover, might create a misleading impression that Congress has endorsed by implication whatever it has not explicitly disapproved. Were that impression to become widespread, Congress might be deemed to

have accepted a responsibility of unforeseen dimensions.

3. Courts. A procedure for Congressional review of agency rules may also imply legislative ratification of rules not disapproved by Congress. If legislative approval is inferred from inaction by Congress under the proposed procedure, then the scope of judicial review may be reduced without provision of an adequate substitute. Existing constraints on agency rulemaking discretion would therefore be lessened in a manner not intended by Congress.

The objectives of a generic requirement of legislative review of administrative rules can be realized by careful delineations of basic Congressional policy, by particularized statutes addressed to specific issues, and by Congressional hearings focused on review of agency policy rather than on details. Careful attention to appointments and appropriations constitutes a further effective means of maintaining Congressional oversight of agencies' use of delegated power.

RECOMMENDATION

The Conference urges that Congress should not, in general legislation or as a routine practice, provide for prior submission of agency rules for Congressional review and possible veto.

3. Section 305.77-2 is added to Part 305 to read as follows:

§ 305.77-2 Judicial Review of Customs Service Actions (Recommendation No. 77-2).

A. *Jurisdiction and Powers of the Customs Court.* The Customs Court has exclusive jurisdiction to review decisions of the Customs Service (1) denying protests of importers relating to certain enumerated matters and (2) rejecting petitions of United States manufacturers, producers or wholesalers to challenge certain actions taken with respect to merchandise imported by others. Actions of the Customs Service suspending or revoking customs brokers licenses are reviewable, by statute, in the courts of appeals.¹ There are other actions of the Customs Service that are administratively final but for which no specific statutory provision for review has been made. These include decisions made by the Service to suspend or discontinue permits for immediate delivery of merchandise as well as decisions to exclude certain types of merchandise from entry. Such actions are now reviewable, if at all, in the district courts pursuant to their general or special jurisdiction.

Moreover, the Customs Court does not have power at present to "compel agency action unlawfully withheld or unreasonably delayed," as can district courts under the APA, 5 U.S.C. § 706(1). The Customs Service sometimes fails to act on significant matters

¹ The Conference has not studied the advisability of a change in the reviewing forum for such action. Nor does the Conference intend that the current method of reviewing personnel actions of the Customs Service or its determinations under the Freedom of Information Act or like statutes be disturbed.

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for such extended periods that its inaction may amount to agency action, as defined by 5 U.S.C. § 551(13) to include "failure to act." An example is the failure or refusal of the Service to complete the final assessment of duties payable on an importation. Finally, the Customs Court has no power at present to provide relief until after the protest or petition process has run its course even though the Customs Service has taken action with such immediate and drastic impact on a person that a district court considering comparable action of another agency would treat it as final for purposes of review. The recommendation would provide for review by the Customs Court of the final actions and failures to act just described.

Decisions to exclude merchandise may be made either by the Customs Service or another agency, such as the Food and Drug Administration. All exclusion decisions pursuant to a customs law (i.e., a law applicable only to imported merchandise, usually codified in Title 19 of the United States Code), whether made by the Customs Service or some other agency, are now reviewable in the Customs Court. This review would be unaffected by the recommendation. Exclusion decisions under a law that is not a customs law are never reviewed in the Customs Court. When such an exclusion decision is made by an agency other than the Customs Service, the Customs Court does not, and under the recommendation would not, review the decision. However, when such an exclusion decision is made by the Customs Service, the recommendation would give the Customs Court exclusive jurisdiction to review it.

The Customs Court has sometimes been said not to have "equity powers." What is meant by this is not clear, but the recommendation would give the Customs Court all powers, injunctive and other, of the district courts.

The Customs Court is unique among Article III courts in being subject to a requirement that not more than five of its nine judges be appointed from the same political party and in having a chief judge selected from time to time by the President. These requirements, appropriate perhaps for multi-member administrative agencies, are not consonant with the Article III judicial role of the Customs Court, especially as that role would be expanded by these recommendations.

1. *Jurisdiction Without a Protest or Petition.* Congress should amend 28 U.S.C. § 1582 to broaden the jurisdiction of the Customs Court by giving the court exclusive jurisdiction of any civil action brought to challenge final agency action (as defined in the Administrative Procedure Act) of the Customs Service except (1) action specifically subject to review in another court and (2) action pertaining to the exclusion of merchandise, under a law that is not a customs law, and taken by the Customs Service on the request or at the direction of a court or another federal agency.

2. *Remedial Powers.* Congress should amend 28 U.S.C. § 1581 to confer upon the Customs Court in respect of actions properly pending before it the remedial powers of a United States district court.

3. *Political Affiliation of Court Appointees and Selection of Chief Judge.* Congress should amend 28 U.S.C. § 251 to delete the requirement that not more than five of the nine judges of the Customs Court be appointed from the same political party and to provide that the chief judge is appointed by the President with the advice and consent of the Senate, as in the case of the

Court of Claims and the Court of Customs and Patent Appeals.

B. *Standing to Seek Administrative and Judicial Review.* Under Section 516 of the Tariff Act of 1930, 19 U.S.C. § 1516, an "American manufacturer, producer, or wholesaler" may ask for and receive information on the duty imposed on imported merchandise of a kind manufactured, produced or dealt in by him and, thereafter, contest the appraised value of, classification of, or the rate of duty assessed upon, that merchandise by petition to the Customs Service. As stated under heading A, a decision concerning such a petition may be reviewed in the Customs Court. The recommendation is that Congress consider broadening the category of persons entitled to seek this sort of administrative relief and, thereafter, review in the Customs Court to include all persons adversely affected by an incorrect determination by the Customs Service. The Conference believes that the category of persons eligible to challenge such determinations by the Customs Service should thus conform with modern administrative practice, unless Congress determines that overriding considerations of economic policy make this undesirable.

Only the importer of excluded merchandise may now protest within the Customs Service the exclusion of merchandise and have denial of that protest reviewed by the Customs Court. The recommendation contemplates a broadening of the standing provision to enable any adversely affected person to seek administrative and judicial review of action either to exclude or to admit merchandise (unless the action is taken under a law that is not a customs law upon the request or at the direction of a court or another agency).

Under A(1) final actions of the Customs Service other than the denial of protests or petitions relating to classification, appraisal, duty and admission of merchandise, such as the suspension of immediate delivery permits, would be subject to review in the Customs Court. The recommendation contemplates conferring upon any adversely affected person who has exhausted his administrative remedies standing to seek review of such actions. The recommendation does not specify what procedures must be exhausted.

1. *Decisions Concerning Duties.* Congress should consider amending Section 518 of the Tariff Act of 1930, 19 U.S.C. § 1518, to allow any person adversely affected by an incorrect determination of the appraised value of, classification of, or rate of duty assessed upon, imported merchandise to obtain from the Customs Service information concerning such appraisal, classification or rate and to petition for a change. Denials of such petitions should be reviewable in the Customs Court.

2. *Exclusion Cases.* Congress should consider enacting a new provision giving any person adversely affected by an action of the Customs Service, concerning merchandise that is, or should be, excluded from entry or delivery, a means of seeking administrative review of such action, with subsequent review in the Customs Court. Such a procedure should not be available to challenge action pertaining to the exclusion of merchandise, under a law that is not a customs law, and taken by the Customs Service on the request or at the direction of a court or another federal agency.

3. *Other Actions.* If Congress broadens the jurisdiction of the Customs Court as recommended in A(1), it should also consider providing that actions within the broadened jurisdiction may be brought by any adversely affected person who has exhausted his administrative remedies.

C. Burden of Proof in the Customs Court.

The Customs Court operates under a statute that establishes a presumption that a Customs Service decision under review is correct and places upon a party seeking review the burden of proving the decision incorrect. Trial in the Customs Court is had on a record made in the court although 28 U.S.C. § 2632 (f) provides that, upon the service of a summons, the Customs Service is to transmit certain documents underlying the Customs Service decision to the court "as part of the official record of the court action." The Customs Court and the Court of Customs and Patent Appeals have inferred from the statute a further requirement, that in order to prevail the party seeking review must prove, in addition to the incorrectness of the agency's decision, what the correct decision should be. The recommendation would do away with that unorthodox further requirement and make Customs Court review of Customs Service actions conform in this respect with the review of actions of other agencies by other courts. The mode of review would continue to be a de novo trial (in the sense indicated above), which is considered appropriate because of the high degree of informality of most Customs Service procedures.

1. *Elimination of the Plaintiff's Double Burden.* Congress should amend 28 U.S.C. § 2635(a) to revise the Customs Court's standard of review in the following way: The presumption of correctness of Customs Service decisions and the imposition upon a party challenging a decision the burden of proving otherwise would be retained, but an additional requirement read into the statute by the Customs Court and the Court of Customs and Patent Appeals would be eliminated. The additional requirement is that the challenging party prove not only that the Customs Service was wrong but also what a correct decision would be or risk suffering affirmance of the incorrect adverse decision.

Specifically, the amended statute should provide that, if the Customs Court determines that action taken by the Customs Service is erroneous, the court should modify or set aside such action; if the court is able to determine what action is correct, it should so determine and order that the correct action be taken; if the court, after exhausting its processes and procedures, cannot determine what action is correct, it should remand the case to the Customs Service with instructions to take action consistent with the decision of the court; any redetermination made by the Customs Service pursuant to a remand should be subject to a new protest or petition; a decision by the Customs Court to remand a case should be appealable.

D. *Review of Decisions to Exclude Merchandise.* Exclusion of merchandise is a severe remedy. The recommendation would attempt to ensure expedited review of exclusion decisions and would delete the extraordinary authority of the Customs Service to detain and seize imported merchandise that allegedly infringes a United States trademark or copyright in the absence of the same sort of court order that is required before action may be taken against allegedly infringing domestic merchandise.

1. *Expedited Review.* Congress should amend the statutes giving preference to certain types of cases in the Customs Court, 28 U.S.C. § 2633, and the Court of Customs and Patent Appeals, 28 U.S.C. § 2602, to ensure a similar preference for cases properly before either court involving the exclusion of merchandise from entry or delivery.

2. *The Customs Service's Authority Under the Trademark and Copyright Statutes.* Con-

gress should amend the statutes under which the Customs Service is authorized to detain and seize merchandise that allegedly infringes a United States trademark, 19 U.S.C. § 1526, or copyright, 17 U.S.C. § 603, to provide that the Customs Service may take no such action until after the owner of the trademark or copyright has obtained an order in a United States district court enjoining the importation. Alternatively, Congress should amend the trademark statute, as it has the copyright statute, to authorize the Customs Service to establish by regulation such a condition precedent to its acting to detain and seize allegedly infringing merchandise, and the Customs Service should promulgate such a regulation. In either event, the Customs Service should then adopt express procedures that would enable the owner of a trademark or copyright to identify imported merchandise that may infringe his mark or copyright.

E. *Imposition of Civil Penalties.* The penalty for violations of Section 592 of the Tariff Act of 1930, 19 U.S.C. § 1592, and some other import statutes is forfeiture of imported merchandise or its value. These penalty provisions are unsatisfactory. The statutory forfeiture penalty is likely to be disproportionate to the gravity of the alleged offense. Although the Customs Service is usually prepared to mitigate the penalty, the statutes pose the following dilemma: If the alleged violator does not wish to accept the proffered mitigation because he believes he did not violate the statute or because he believes that he is entitled to a greater degree of mitigation, he is subject to suit in the district court for the full forfeiture value. Moreover, he will lose the benefit of any mitigation if the government can prove a violation, however insignificant, on his part. The recommendation would rationalize penalty procedures.

1. *The Rationalization of Section 592.* Section 592 of the Tariff Act of 1930, 19 U.S.C. § 1592, prohibiting fraudulent or false statements or practices respecting imports, should be revised to make it fairer and more rational in its operation.

(a) Section 592 should be amended to provide for civil money penalties against the person violating the statute rather than for forfeiture of the merchandise or the full value thereof. Congress should establish maximum penalties based upon the revenue deficiency, if any, resulting from the violation and upon the degree of culpability of the violator. In any case in which the violation does not result in a revenue deficiency, the maximum penalties should be based upon a percentage of the value of the imported merchandise and upon the degree of culpability of the violator. If the violator is an importer, he should be given the option of surrendering his merchandise in lieu of payment of any penalty assessed.

(b) The Customs Service should continue to have the authority to mitigate civil penalties. If an assessment is contested, an action by the government to enforce the penalty should be in the Customs Court. In such an action, the government should have the burden of proving the act or omission constituting a violation and, if so alleged, the intentional nature thereof. The Customs Court should be authorized to determine de novo the amount of the penalty.

(c) In order to ensure that those subject to possible penalties under Section 592 know what is expected of them under the laws administered and enforced by the Customs Service, the Service should, to the maximum extent feasible, adopt and publish standards that will guide its determinations under such laws.

(d) The authority of the Customs Service to seize and hold merchandise under Section 592, other than prohibited or restricted merchandise, should be limited to instances

where such seizure and holding are necessary to protect its ability to collect any revenue deficiency or penalty, and the Customs Service should be required to release the merchandise to the owner upon his provision of security for payment of such revenue deficiency or penalty. Where no such release is effected by the owner, the Customs Service should be required to release the merchandise not later than 60 days after seizure unless the government has initiated an action in the Customs Court within that period and obtained an extension for good cause from the court. In instances where the Customs Court permits the Service to hold merchandise for sale by the Service to satisfy any revenue deficiency or penalty determined by the judgment of the court, the net proceeds of such sale, after allowance for the judgment and costs of the sale, should be paid to the owner.

2. *Other Statutes.* Each of the other penalty provisions enforced by the Customs Service should be reviewed and, if appropriate, revised in a manner consistent with the foregoing recommendations for the revision of Section 592.

4. Section 305.77-3 is added to Part 305 to read as follows:

§ 305.77-3 Ex parte Communications in Informal Rulemaking Proceedings (Recommendation No. 77-3).

In Recommendation 72-5 the Conference expressed the view that, generally, agency rulemaking is preferably carried out through the simple, flexible and efficient procedures of 5 U.S.C. § 553. That statute requires publication of notice of proposed rulemaking and provision of opportunity for submission of written comments; additional procedures may be utilized by the agencies as they deem necessary or appropriate. Recommendation 72-5 counseled that Congress ordinarily should not impose mandatory procedural requirements going beyond those of § 553 in the absence of special reasons for doing so. In Recommendation 76-3 the Conference amplified its 1972 recommendation by suggesting ways in which agencies might usefully supplement the minimum procedures required by § 553 in appropriate circumstances.

The primary purposes of rulemaking procedures under § 553 are to enhance the agency's knowledge of the subject matter of the proposed rule and to afford all interested persons an adequate opportunity to provide data, views, and arguments with respect to the agency's proposals and any alternative proposals of other interested persons. Section 553 procedures, in some instances, also serve to provide the basis for judicial review. To the extent consistent with all of these purposes, the agencies should have broad discretion to fashion procedures appropriate to the nature and importance of the issues in the proceeding, in order to make rules without undue delay or expense. Informal rulemaking should not be subject to the constraints of the adversary process. Ease of access to information and opinions, whether by recourse to published material, by field research and empirical studies, by consultation with informed persons, or by other means, should not be impaired.

While the foregoing considerations militate against a general prohibition upon ex parte communications in rulemaking subject only to Section 553, certain restraints upon such communications may be desirable. Ex parte communications during the rulemaking process may give rise to three principal types of concerns. First, decision makers may be influenced by communications made privately, thus creating a situation seemingly at odds with the widespread demand for open government; second, significant information may be unavailable to reviewing courts; and

third, interested persons may be unable to reply effectively to information, proposals or arguments presented in an ex parte communication. In the context of Section 553 rulemaking, the first two problems can be alleviated by placing written communications addressed to a rule proposal in a public file, and by disclosure of significant oral communications by means of summaries or other appropriate techniques. The very nature of such rulemaking, however, precludes any simple solution to the third difficulty. The opportunity of interested persons to reply could be fully secured only by converting rulemaking proceedings into a species of adjudication in which such persons were identified, as parties, and entitled to be, at least constructively, present when all information and arguments are assembled in a record. In general rulemaking, where there may be thousands of interested persons and where the issues tend to be broad questions of policy with respect to which illumination may come from a vast variety of sources not specifically identifiable, the constraints appropriate for adjudication are neither practicable nor desirable.

RECOMMENDATION

In rulemaking proceedings subject only to the procedural requirements of § 553 of the APA:

1. A general prohibition applicable to all agencies against the receipt of private oral or written communications is undesirable, because it would deprive agencies of the flexibility needed to fashion rulemaking procedures appropriate to the issues involved, and would introduce a degree of formality that would, at least in most instances, result in procedures that are unduly complicated, slow and expensive, and, at the same time, perhaps not conducive to developing all relevant information.

2. All written communications addressed to the merits, received after notice of proposed rulemaking and in its course, from outside the agency by an agency or its personnel participating in the decision should be placed promptly in a file available for public inspection.

3. Agencies should experiment in appropriate situations with procedures designed to disclose oral communications from outside the agency of significant information or argument respecting the merits of proposed rules, made to agency personnel participating in the decision on the proposed rule, by means of summaries promptly placed in the public file, meetings which the public may attend, or other techniques appropriate to their circumstances. To the extent that summaries are utilized they ordinarily should identify the source of the communications, but need not do so when the information or argument is cumulative. Except to the extent the agencies expressly provide, the provisions of this paragraph and the preceding paragraph should not be construed to create new rights to oral proceedings or to extensions of the periods for comment on proposed rules.

4. An agency may properly withhold from the public file, and exempt from requirements for making summaries, information exempt from disclosure under the Freedom of Information Act, 5 U.S.C. § 552.

5. Agencies or the Congress or the courts might conclude of course that restrictions on ex parte communications in particular proceedings or in limited rulemaking categories are necessitated by considerations of fairness or the needs of judicial review arising from special circumstances.

Dated: September 28, 1977.

RICHARD K. BERG,
Executive Secretary.

[FR Doc. 77-29234 Filed 10-4-77; 8:45 am]

[1610-01]

Title 4—Accounts

CHAPTER III—COST ACCOUNTING
STANDARDS BOARD

PART 331—CONTRACT COVERAGE

AGENCY: Cost Accounting Standards Board.

ACTION: Final rule.

SUMMARY: This modification of the Cost Accounting Standards Board's rules and regulations provides criteria for determining the materiality of costs in given circumstances, in applying words or phrases of materiality used in Cost Accounting Standards, and to limit price adjustments to material amounts of cost.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

James L. DiGiuseppe, Project Director,
Cost Accounting Standards Board,
Washington, D.C. 20548 (202-275-6113).

SUPPLEMENTARY INFORMATION: A discussion of the background and public comments received in response to the initial publication of these regulations and of the principal issues considered in preparing the final promulgation precedes the regulations.

The purpose of this publication by the Cost Accounting Standards Board is to adopt a modification to Part 331, Contract Coverage, of its rules and regulations. The modification will provide criteria for determining the materiality of amounts of cost in given circumstances. The Board initially considered publishing a definition of the terms "cost accounting practice" and "change to either a disclosed cost accounting practice or an established cost accounting practice" along with the modification dealing with materiality. That definition is being handled separately by the Board, however, and will be considered at a later date.

The Board is authorized by Pub. L. 91-379 to prescribe rules and regulations for implementing Cost Accounting Standards. Pursuant to this authority, the Board is today issuing a modification to its regulations. Contractors and procurement agencies engaged in the implementation and administration of CASB rules, regulations, and Standards have recommended that the Board provide guidance concerning materiality in the administration of the Board's rules, regulations, and Standards.

Representatives from various organizations affected by Standards have pointed out that guidance in this area will facilitate the implementation and administration of CASB pronouncements. A similar recommendation was also received by the Board at an Evaluation Conference in June 1975. The General Accounting Office's Status Report on the Cost Accounting Standards Program—Accomplishments and Problems (PSAD-76-154, Aug. 20, 1976), also referred to the need for guidance on this subject.

Research in this area included a review of data submitted by participants in the Evaluation Conference, an analysis of papers submitted by various contractors, professional groups, trade associations, and Government agencies, as well as a review of existing procurement regulations, and existing CASB promulgations. A Staff draft of an amendment dealing with materiality criteria and price adjustments was distributed on August 13, 1976. Responses from 53 sources contributed to the Board's further consideration of the issues involved in this proposed amendment.

A proposed amendment to the Board's regulations was published in the *FEDERAL REGISTER* on February 3, 1977 (42 FR 6591). A total of 45 responses were received from individual companies, Government agencies, professional associations, industry associations, universities, and others. The Board takes this opportunity to express its appreciation for the helpful suggestions and criticisms which have been furnished. The comments furnished by the organizations and individuals have resulted in a number of changes in the amendment being promulgated today. The following material summarizes the issues regarding materiality that were discussed by respondents in connection with the proposed modification and explains the changes made to the proposal published February 3, 1977. The still relevant portions of the comments which accompanied the February 3, 1977, publication have been incorporated in this material.

MATERIALITY CRITERIA

Generally, commentators felt the proposed materiality criteria were a necessary, positive and useful step. However, some commentators suggested that the proposed criteria were not sufficiently specific and would not resolve the materiality questions that currently exist. Some commentators suggested that quantitative criteria be added to the proposed regulation; others suggested that the criteria proposed were suitable.

At the present time, the Board is of the opinion that quantitative limits should not be established for materiality determinations. The essence of materiality criteria is to allow for the exercise of judgment; an absolute dollar amount in one case may be material while in another case the same amount may be immaterial. Accordingly, quantitative limits have not been added to the proposed amendment.

The materiality criteria being promulgated are designed for use in a variety of situations and to resolve issues which have been raised by various sources. Cost Accounting Standards establish the cost accounting appropriate for the determination of contract costs. Departure from the requirements of these Standards may occur and the cost effects of such departure may be immaterial. The criteria serve to limit price adjustments to material amounts of cost. The regulation also describes the actions to be taken when immaterial amounts of cost are involved in noncompliance with

Standards. The criteria for materiality are also to be used in applying words or phrases of materiality used in Cost Accounting Standards. In particular Standards, the Board will continue to give consideration to defining materiality in a specific manner as to either the entire Standard or any provision thereof, whenever it appears feasible and desirable to do so.

ADMINISTRATIVE COSTS

Commentators proposed that the administrative cost of processing a change in cost accounting practice to both the Government and the contractor should be one of the criteria used in determining materiality. The Board's initial publication did not provide for consideration of these costs in determining materiality. Generally, such costs on the part of both the Government and the contractor are absorbed as part of their routine operations. On a conceptual basis, the determination of materiality should be made considering only the amount of costs affected by the proposed change. As a practical matter, however, the administrative cost to process a contract price adjustment is a factor in a materiality decision.

The Board is persuaded that the administrative cost of processing a change in cost accounting practice should influence a decision as to materiality. For example, if it is estimated that costs would be changed by \$10,000 through processing a change at a Government-contractor administrative cost of \$10,000, then processing the change would be nonproductive whether or not, considering all materiality factors, the estimated change in costs of \$10,000 would be judged material. Accordingly, the Board has added a provision to this modification dealing with such costs.

MEASUREMENT OF COST IMPACT

Commentators suggested that the Board's regulations provide that initially the determination of materiality should be done on a gross, overall, basis rather than on an in-depth cost impact study. These commentators asserted that a provision of this type would help to reduce the time and cost of evaluating and processing proposed changes which are judged to have an immaterial impact. Procedures for measuring and processing cost impact due to both changes in cost accounting practice and noncompliances with Cost Accounting Standards have been developed by the procurement agencies, and they now require an estimate of the general dollar magnitude of the change as a first step in the process. The Board encourages the use of the materiality criteria promulgated today in conjunction with the existing two-stage cost impact evaluation procedure provided in procurement agency regulations. The Board believes that the effective use of procedures established in agency regulations will accomplish the saving in time and cost desired.

Some Government commentators proposed that subparagraph 331.71(b)(2) be deleted. They expressed the view that

it dealt with administrative matters and not criteria for the determination of materiality. The question of both the contractor's and the Government's responsibility in situations where noncompliance with Cost Accounting Standards resulted in a cost impact which is immaterial has frequently arisen. The Board believes that the implementation and administration of cost accounting rules, regulations, and Standards will be facilitated by a statement of the Board's position on this matter. Accordingly, the Board believes that the subparagraph in question should be retained in its regulations.

RETROACTIVE APPLICATION

Commentators expressed concern that subparagraph 331.71(b)(2) would be applied retroactively to immaterial items. The language of this subparagraph requires that it be applied to the accounting period for which the cost impact of a noncompliance becomes material and to succeeding cost accounting periods. In any cost accounting period prior to that, by reason of the provisions of this requirement, the cost impact of the noncompliance would have been determined to be immaterial. Thus, no contract modification was or is required.

ILLUSTRATIONS

The February 3, 1977, proposal contained two illustrations of the application of the materiality criteria. A number of commentators stated that the illustrations were too basic to be useful, and that the problems related to the determination of materiality are too numerous and too complex to be adequately illustrated in a regulation of this type. The commentators suggested that the illustrations be eliminated. The Board agrees, and has eliminated the examples in this section.

Amend Part 331 by adding a new § 331.71 as follows:

§ 331.71 Materiality.

(a) In determining whether amounts of cost are material or immaterial, the following criteria shall be considered where appropriate; no one criterion is necessarily determinative.

(1) The absolute dollar amount involved. The larger the dollar amount, the more likely that it will be material.

(2) The amount of contract cost compared with the amount under consideration. The larger the proportion of the amount under consideration to contract cost the more likely it is to be material.

(3) The relationship between a cost item and a cost objective. Direct cost items, especially if the amounts are themselves part of a base for allocation of indirect cost, will normally have more impact than the same amount of indirect costs.

(4) The impact on Government funding. Changes in accounting treatment will have more impact if they influence the distribution of costs between Government and non-Government cost objectives than if all cost objectives have Government financial support.

(5) The cumulative impact of individually immaterial items. It is appropriate to consider whether such impacts (a) tend to offset one another, or (b) tend to be in the same direction and hence to accumulate into a material amount.

(6) The cost of administrative processing of the price adjustment modification shall be considered. If the cost to process exceeds the amount to be recovered, it is less likely the amount will be material.

(b)(1) A contract modification for price adjustment or cost allowance under paragraphs (a)(4) and (a)(5) of the Cost Accounting Standards clause set forth in section 331.50 is required only if the cost impact is material.

(2) Where a contractor is in noncompliance and does not change a cost accounting practice because the cost impact is immaterial, the contracting agency is not relieved of its responsibilities to assure that an appropriate price adjustment is obtained if the cost impact of the noncompliance subsequently becomes material. The contractor shall be notified that the Government's decision to forbear action for noncompliance is solely because the cost impact at the time of the notice is immaterial. If at any time thereafter, the Government determines that the cost impact of noncompliance with respect to the practice in question is material, the Government then must require action under paragraph (a)(5) of the contract clause for any cost accounting period in which the cost impact is material. The fact that the Government does not pursue a price adjustment does not excuse the contractor from his obligation to comply with the Standard involved.

(3) Whether cost impact is recognized by modifying a single contract, several but not all contracts, or all contracts, or any other suitable technique, is a contract administration matter. The Standards, rules, and regulations of the Board do not in any way restrict the capacity of the parties to select the method by which the cost impact attributable to a change in cost accounting practice is recognized.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc.77-29179 Filed 10-4-77; 8:45 am]

[3128-01]

Title 10—Energy

CHAPTER II—FEDERAL ENERGY
ADMINISTRATIONPART 205—ADMINISTRATIVE
PROCEDURES AND SANCTIONS

Amendments to Guidelines for Granting Exception Relief From the Oil Import Regulations

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes guidelines for granting exception relief to all persons required to pay license fees to import residual fuel oil into the East

Coast (PAD District I) under the Oil Import Regulations. This amendment is intended to alleviate dislocations in the distribution of fee-exempt licenses which might otherwise impair competition among residual fuel oil marketers and increase costs to consumers during the upcoming heating season.

EFFECTIVE DATE: Date of Issuance.

FOR FURTHER INFORMATION CONTACT:

Robert Moore, (Regulatory Programs),
2000 M St. NW., Room 6114C, Wash-
ington, D.C. 20461, (202-254-8620).

Ed Vilade, (Media Relations), 12th
and Pennsylvania Ave. NW., Room
3104, Washington, D.C. 20461, (202-
566-9833).

Robert C. Goodwin, Jr., (Office of Gen-
eral Counsel), 12th and Pennsylvania
Ave. NW., Room 5116, Washington,
D.C. 20461, (202-566-9380).

SUPPLEMENTARY INFORMATION:

I. Proposed Amendment.
II. Discussion of Comments.
III. Regulations Prescribed.

I. PROPOSED AMENDMENT

In order to avoid the dislocations in the distribution of fee exemptions for imports of residual fuel oil into District I, which have developed under the Oil Import Program since the fee system was established, FEA proposed by notice issued August 29, 1977 (42 FR 44244, Sept. 2, 1977) to amend the "Guidelines for the Disposition of Requests for Exceptions from Part 213", Appendix II of Subpart D of Part 205, by adding Special Guideline I. This special guideline provides that for the allocation period of May 1, 1977, through April 30, 1978, any person desiring to import residual fuel into District I would be deemed to be experiencing extreme hardship to the extent that his available fee-exempt licenses, if any, are less than his contractual obligations or other projected needs for that period. Under the proposal, in order to meet those obligations and needs, such persons would be authorized to obtain additional fee-exempt licenses by certifying the amount of their incremental requirements to the Director of Oil Imports. The Director would issue the additional licenses except where he determines that issuance thereof would not be in accordance with the objectives of the Proclamation. Once issued, such licenses would be subject to the applicable provisions of Part 213, including the prohibition on sale or transfer of product licenses at § 213.22. Any licenses remaining unused at the end of the allocation period would expire. In order to facilitate this procedure, FEA also proposed to amend § 205.52 to provide an exception to the general rule that applications for relief from Part 213 be filed with the Office of Exceptions and Appeals. Instead, applications for an allocation would be filed directly with the Director of Oil Imports.

Under the proposal, firms not currently eligible for allocations under § 213.15 would be able to receive allocations under Special Guideline I. This was

intended to prevent any economic hardship that would result with respect to such persons if FEA's remedial action were limited to historical importers.

The proposal elicited comments from many sources and a public hearing was held on September 28, 1977.

II. DISCUSSION OF COMMENTS

Most of the comments received strongly endorsed the proposed amendment. Many cited as the basis for their approval the rationale expressed by FEA in its proposal, i.e., the elimination of inequities in the distribution of fee-exempt licenses which have been caused by drastic changes in residual oil markets during the last four years and the unnecessary increase in cost to the consumer which would result therefrom. Other comments noted that even though they could expect to be granted exemptions under the present allocation system, they favored the proposed amendment in order to avoid uncertainty and to reduce the cost of applying for exemptions. A final reason advanced in the comments in support of the proposed amendment was that it would eliminate the anticompetitive aspect of the current allocation system which results from the fact that fee-exempt licenses are allocated on the basis of an importer's 1973 level of imports to the detriment of more recent suppliers who are now attempting to enter the market or expand their market share.

Some comments, however, expressed objections to the proposed amendments. The first, and most serious of the objections raised, was the contention that FEA was without authority to amend the regulations in the manner proposed. One comment asserted that section 232 of the Trade Expansion Act of 1962, as amended, required a determination of the national security consequences by the Secretary of the Treasury and the President before any action could be taken by FEA. However, section 232(a) explicitly pertains only to foreign trade agreements, while the terms of section 232(b), which require a national security determination with respect to imposition of import limitations, have been fulfilled. This determination was originally made in 1959 by President Eisenhower and succeeding Presidents have reaffirmed the finding when they have amended the Proclamation. See, e.g., Pres. Proc. No. 4412, January 3, 1976. Regulations promulgated pursuant to authority delegated to the Administrator by the Proclamation do not require subsequent investigations by the Secretary of the Treasury or national security determinations by the President.

The proposed amendment is clearly within the delegated authority of the FEA. Section 3 of Proclamation No. 3279, as amended, provides:

The Administrator is authorized to refund or reduce fees, whether in whole or in part, . . .

(1) Where refunds or reductions, whether in whole or in part, are ordered pursuant to Section 5.

Section 5 of the Proclamation provides:

(b) The Appeals Board may be empowered [by the Administrator] . . . without regard to the limits of the maximum levels of imports established in section 2 of this Proclamation: . . .

(2) To modify, on the grounds of exceptional hardship, any allocation made to any person under such regulations; . . .

(4) To grant allocations of imports of finished products on grounds of exceptional hardship; . . .

(c) The Administrator . . . may modify or alter the composition of the Appeals Board or abolish the Board and establish such other appellate procedures as he deems appropriate.

It is clear, therefore, that the Administrator is fully authorized to amend the regulations in the manner proposed.

Other comments challenged the legal authority of the Administrator on the ground that the proposed amendment did not comport with the requirements of the Emergency Petroleum Allocation Act of 1973 (Pub. L. 93-159) and the Federal Energy Administration Act of 1974 (Pub. L. 93-275). The sections of those statutes which were cited are general in nature and are applicable to the programs established under these statutes. They are neither in conflict with nor do they supersede the specific provisions of the Proclamation.

The second major objection to the proposed amendment was that it discriminates against other PAD districts. However, as already noted, the basic purpose of the proposal is to alleviate existing competitive dislocations among firms because of the differing availability of fee-exempt licenses for importation of residual fuel oil.

Because of the method by which fee-exempt licenses were initially distributed, some firms in PAD District I have a surplus of fee-exempt licenses in the current allocation period, while other firms will be required to purchase varying amounts of fee-paid licenses at \$0.63 per barrel in order to meet contractual obligations. FEA has calculated that for the current allocation period, the ratio of imports to allocations made pursuant to § 213.15 ranges from 0 percent to 130 percent. Similarly the ratio of projected 1977 imports to 1973 actual imports ranges from 0 percent to 366 percent. Hence, the maldistribution of fee-exempt licenses among District I importers is exceptionally severe. Under any assumption as to residual fuel oil prices, holders of fee-exempt licenses would possess a real competitive advantage. In the comments and the hearing there was no information developed with respect to similar types of disparities existing in other PAD districts. Should information which indicates that other regions are suffering similar inequities be developed, FEA will consider extending the application of these amendments to those regions. However, the record does not warrant such action at the current time.

The final objection which was raised in several comments was that long term, rather than short term, solutions are needed to resolve current problems which exist not only in the Oil Import Regulations but in the Domestic Entitlements Program as well. FEA recognizes the need to address the long term problems. The lack of a long range plan alone, however, is an insufficient reason to delay rectifying those short term dislocations in the distribution of fee-exempt licenses in PAD District I which presently produce inequitable results.

III. REGULATIONS PRESCRIBED

After careful consideration of all comments, both written and oral, FEA has decided not to make any changes in the amendment as originally proposed. The regulations prescribed today are therefore identical to those proposed by notice issued August 29, 1977 (42 FR 44244, September 2, 1977).

In consideration of the foregoing, Part 205, Chapter II of Title 10, Code of Federal Regulations, is amended as set forth below.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

1. Section 205.52 is amended in paragraph (b) by adding a new subparagraph (3) to read as follows:

§ 205.52 Where to file.

(b) . . .

(3) All applications for exemption to § 213.15 by persons seeking to import residual fuel oil into District I in order to satisfy contractual obligations or other projected needs for the allocation period May 1, 1977, through April 30, 1978, shall be filed with the Director of Oil Imports in accordance with Special Guideline I in Appendix II of this subpart.

2. Appendix II of Subpart D of Part 205 is amended by adding a new Special Guideline I to read as follows:

SPECIAL GUIDELINE I

For the allocation period May 1, 1977 through April 30, 1978, any person desiring to import residual fuel oil into District I shall be deemed to be experiencing an exceptional hardship to the extent that his available fee-exempt licenses, if any, are less than his contractual obligations or other projected needs for that period. Any person so deemed may receive additional fee-exempt licenses in the amount required to meet such obligations or needs by certifying his additional requirements to the Director of Oil Imports. The Director shall issue a license for the amount certified, except where he determines that issuance thereof would not be in accordance with the objectives of Proclamation No. 3279, as amended.

Any license issued pursuant to this Special Guideline shall be subject to the limitations contained in § 213.15(e). Licenses which remain unused at the end of the allocation period shall expire at that time.

[FR Doc.77-29288 Filed 10-3-77;8:45 am]

[3128-01]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

PART 212—MANDATORY PETROLEUM PRICE REGULATIONS

Further Amendments To Crude Oil Buy/Sell Program

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: The Federal Energy Administration ("FEA") hereby adopts amendments to the Mandatory Crude Oil Allocation Program (the "buy/sell program") set forth in 10 CFR 211.65, to modify the pricing provision for sales of allocated crude oil to reflect more accurately the actual market value of crude oil sold under the program and to permit small refiners that are excluded from the program to re-enter the program in the event that they experience a significant reduction in domestic crude oil supplies.

DATES: Effective October 1, 1977. Further comments due on or before October 21, 1977 (see Supplementary Information).

ADDRESS: Send comments to: Executive Communications, Room 3317, Federal Energy Administration, Box NO, Federal Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette, (Comment Procedures), 2000 M Street, NW., Room 2214B, Washington, D.C. 20461, (202-254-5201).

Ed Vilade, (Media Relations), 12th and Pennsylvania Ave., NW., Room 3104, Washington, D.C. 20461, (202-566-9833).

Robert G. Bidwell, Jr. or H. William Gottfried, (Office of Regulatory Programs), 2000 M Street, NW., Room 6128P, Washington, D.C. 20461, (202-254-9707).

Samuel M. Bradley, (Office of the General Counsel), 12th and Pennsylvania Ave., NW., Room 5134, Washington, D.C. 20461, (202-566-9565).

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Discussion of Comments: A. Pricing of allocated crude oil;
B. Re-entry provision;
C. Newly constructed refining capacity.
- III. The Amendments Adopted: A. Pricing of allocated crude oil;
B. Re-entry into the buy/sell program;
C. Technical amendments.
- IV. Request for Further Comments.

I. BACKGROUND

On August 19, 1977, following a notice of proposed rulemaking and public hearing (42 FR 37406, July 1977), FEA issued a final rule amending the crude oil buy/sell program effective October 1, 1977 to simplify the administration of the program and to limit the scope of the program to those refiner-buyers that

have a demonstrated necessity for allocations of crude oil based on their lack of access to adequate supplies of domestic and foreign crude oil (42 FR 42770, August 24, 1977). FEA stated in the preamble to the August 19 amendments that it was reserving for further consideration and would issue in September a final rule with respect to the pricing provision governing buy/sell program sales and, in particular, a provision for transportation cost adjustments. FEA invited further comments on the proposed pricing provision and the following additional issues: whether small refiners that are not eligible to apply for an allocation under the revised program should be permitted to re-enter the program and, if so, under what circumstances re-entry should be permitted; and whether small refiners that make a commitment for construction of a new refinery or expanded refining capacity after the publication on August 24, 1977 of the regulation implementing the revised buy/sell program should be permitted to apply for an allocation.

II. DISCUSSION OF COMMENTS

In response to the request in the August 19 notice, thirty written comments were received by FEA. These comments, as they relate to specific outstanding proposals, are discussed in this section.

A. PRICING OF ALLOCATED CRUDE OIL

FEA proposed in the July 21 notice that each refiner-seller determine a weighted average landed cost separately for high sulfur and for low sulfur imported crude oil, respectively. High sulfur crude oil would be defined as crude oil that has a sulfur content of .6% or more by weight and low sulfur crude oil as crude oil that has a sulfur content of less than .6% by weight. The maximum permissible price in each sale of allocated crude oil of a particular category (high or low sulfur) would be determined by applying the current sulfur differential (plus or minus three cents per barrel per one tenth percent sulfur by weight) and gravity differential (plus or minus three cents per barrel per API) against the weighted average landed cost for the refiner-seller of that category of crude oil. With respect to transportation expenses, the proposal provided that refiner-buyers could be charged only actual additional expenses incurred by a refiner-seller to move crude oil to a refiner-buyer's refinery over and above the average transportation expenses included in the refiner-seller's weighted average per barrel landed costs.

As indicated in the preamble to the August 19 amendments, the majority of refiner-sellers and refiner-buyers supported FEA's proposal to permit refiner-sellers to determine their costs separately for high sulfur and low sulfur imported crude oil. As explained in more detail below, FEA is adopting this aspect of the July 21 proposal.

In light of the comments addressed to the July 21 proposal regarding transportation cost adjustments, FEA requested further comments in the August 19 no-

tice on the following proposed provisions concerning transportation cost adjustments. The first three alternative provisions pertain to transportation cost adjustments in the case of sales of domestic crude oil and the fourth to sales of imported crude oil:

A refiner-seller would be required to reduce the transportation charge for crude oil sold under the program by an amount equal to its average cost of transporting imported crude oil from the port of entry to the seller's refinery and would be permitted to increase the transportation charge by an amount equal to the cost of transporting domestic crude oil from the lease to the buyer's refinery. For example, if a refiner-seller's average domestic transportation cost for imported crude oil was \$0.40 per barrel, and the cost of transporting the domestic crude oil sold to the refiner-buyer from the lease to the buyers' refinery is \$0.52 per barrel, then the seller could charge the buyer \$0.12 per barrel over the seller's average landed cost for crude oil of that category.

A refiner-seller would be required to sell domestic crude oil to a refiner-buyer at the lease at the refiner-seller's average landed cost less the refiner-seller's average domestic transportation cost. The buyer would be required to arrange for the transportation of the crude oil from the lease to its refinery.

A refiner-seller would be required to reduce its average landed cost by its actual savings, if any, in moving domestic crude oil from the lease to its own refinery. The domestic crude oil would be sold to the refiner-buyer at the lease at this reduced cost.

A refiner-seller would be required to reduce its average landed cost by its average cost of transporting imported crude oil to its refineries from the port of entry and add actual domestic transportation costs from the point of entry to the point of delivery to the refiner-buyer when imported crude oil is actually delivered to the refiner-buyer.

In addition, FEA solicited further comments on: (1) whether the pricing provision should provide for a one-month period in which to make the required calculations rather than the proposed three-month period, and (2) an appropriate pricing provision for sales of allocated crude oil applicable to refiner-sellers which import only high sulfur crude oil (or only low sulfur crude oil) and are required to sell a different quality domestic crude oil.

1. *Adjustments for transportation expenses.* The majority of refiner-sellers and refiner-buyers submitting further comments generally supported FEA's fourth proposal concerning transportation expenses in the case of sales of imported crude oil. Accordingly, FEA has adopted a rule that provides that, if imported crude oil is sold to the refiner-buyer, the price adjustment for transportation expenses shall not exceed the actual transportation costs incurred by the refiner-seller in moving the imported crude oil from the United States port of entry to the refiner-buyer's refinery.

With respect to sales of domestic crude oil under the program, however, most refiner-sellers and refiner-buyers opposed FEA's proposals as unworkable, contending that "average domestic costs" would be difficult to calculate and could be unfair to both refiner-buyers and refiner-sellers. In addition, refiner-sellers were nearly unanimous in recommending that the refiner-buyer should bear the cost of moving replacement foreign crude oil from the port of entry to the refiner-seller's refinery. Relatively few refiner-buyers submitted specific comments with respect to adjustments for transportation expenses in the case of sales of domestic crude oil.

On the basis of all the comments received in this proceeding, FEA has concluded that all of its alternative proposals as to the proper transportation costs allowable for sales of domestic crude oil fall short of achieving the goal of assuring that refiner-buyers are charged only actual transportation costs incurred by refiner-sellers. FEA also has concluded that any provision that would permit refiner-sellers to recover the transportation cost incurred in replacing domestic crude oil sold under the program with imported crude oil would be extremely complex and might, in many cases, result in inequitable prices to refiner-buyers. Accordingly, FEA is adopting a provision which provides that, in the case of sales of domestic crude oil, refiner-buyers may be charged only the actual transportation costs incurred by the refiner-seller in moving the domestic crude oil to the refiner-buyer's refinery.

2. *Period for calculation of maximum sale price.* The majority of refiner-sellers submitting further comments recommended that FEA's proposed pricing provision be modified to provide that the price of allocated crude oil be based on a one-month period rather than a three-month average. Refiner-sellers generally contended that refiner-buyers purchasing crude oil in the two months following a price increase receive a price advantage under the three-month formula and that sellers are unable to recover fully their costs during those two months.

Although the comments addressed to this issue urged the adoption of a one-month period, FEA has determined to retain the three-month period for calculating the maximum permissible price in light of the data available to the Agency. As FEA has previously stated, these data demonstrate that some refiner-sellers experience significant fluctuations in their costs of imported crude oil from month to month. Although under a one-month calculation period these fluctuations may not result in an appreciable difference in prices for large volumes sold over several months, the possibility continues to exist that refiner-buyers purchasing small quantities of allocated crude oil would pay significantly higher prices if a one-month calculation period rather than a three-month average were used. In the event there is a substantial increase in world market crude oil prices, FEA will evaluate the desirability of utilizing a

one-month average on a temporary basis as it has in the past.

3. *Refiner-sellers importing only low sulfur or high sulfur crude oil.* The July 21 pricing proposal failed to provide a procedure for refiner-sellers which import only high sulfur (or only low sulfur) crude oil and are required to sell only low sulfur (or only high sulfur) crude oil. In the August 19 notice FEA requested comments on a proposal which would allow refiner-sellers that import only one category of crude oil to calculate their maximum price for crude oil sold under the program by utilizing its weighted average per-barrel port of entry cost for the category of crude oil imported and applying the proposed adjustments for sulfur and gravity differentials. Firms commenting on this issue generally supported this proposal, and FEA is adopting it substantially as proposed.

B. RE-ENTRY PROVISION

The amendments to the buy/sell program adopted on August 19, 1977, exclude from the program small refiners that have had allocations shown on the buy/sell list during the last year but have not exercised their purchase opportunities. The large refiners submitting further comments were divided on the issue whether this provision should be modified. Several large refiners opposed relaxation of the provision, contending that re-entry should be available only upon a finding of extreme hardship in the context of a request for exception. Some large refiners, however, recommended that any small refiner that is able to demonstrate a significant reduction in crude oil supply due to factors over which it has no control—such as, for example, termination of Federal Royalty or Naval Petroleum Reserve crude oil supplies—and that does not have access to imported crude oil should be eligible for an allocation. All of the small refiners commenting strongly urged that provision be made for re-entry into the buy/sell program. Several small refiners pointed out that FEA premised its revision of the buy/sell program on the finding that "supplies of crude oil for small and independent refiners were adequate, taking into account allocations under the crude oil supplier/purchaser freeze (10 CFR 211.62) and the general availability of crude oil in the world market . . ." (42 FR at 37407, July 21, 1977.) However, as these firms noted, this premise does not reflect the fact that some small refiners are dependent upon supply sources that are exempt from the supplier/purchaser rule, such as the Federal Royalty oil program, and therefore could experience a substantial reduction in their current supply below base period levels in the event these supplies should be terminated.

It is FEA's conclusion from the record in this proceeding that small refiners that experience a substantial reduction in their supplies of domestic crude oil and that do not have access to imported crude oil should be eligible for an allocation under the buy/sell program, notwithstanding the fact that such refiners did not exercise their purchase opportunities in the past. FEA believes that a provision for re-entry on this basis is consistent with the objective of limiting the scope of the program to small refiners that lack access to adequate supplies of domestic and imported oil. In addition, the re-entry provision should ensure that all small refiners are treated equitably with regard to access to supplies under the program.

C. NEWLY CONSTRUCTED REFINING CAPACITY COMMITTED FOR AFTER AUGUST 23, 1977

The revised buy/sell program provides that small refiners that have expended or are irrevocably committed to expend prior to the publication of the amendments on August 24 an amount equal to at least twenty percent of the total cost of newly constructed refining capacity are eligible for an allocation not to exceed twenty-five percent of such capacity. FEA invited further comments as to whether and under what circumstances small refiners that make a commitment after August 24, 1977, for new capacity should be eligible for an allocation.

The large refiners that commented were unanimous in their opposition to any provision that would permit new capacity committed for after the publication of the revised buy/sell program to receive an allocation on the ground that such a provision would serve only to encourage investment in potentially uneconomic refining capacity that would depend for its viability on the continuation of crude oil allocation programs. Small refiners commenting generally contended that such new capacity should not be unconditionally excluded from the buy/sell program. None of the refiners commenting offered specific guidelines for determining the eligibility of such new refining capacity for participation in the buy/sell program.

On the basis of the evidence presented in this rulemaking proceeding, and in light of the uncertainties regarding regulatory incentives for small refiners in the future, FEA has determined to continue this aspect of the rulemaking pending final action by the Congress on the President's National Energy Plan. Subsequent to final Congressional action, FEA intends to review the crude oil supply situation as it affects small refiners and the needs of the nation with respect to additional refining capacity. Following that review, FEA will determine whether such new refining capacity should be eligible for allocations under the buy/sell program.

III. THE AMENDMENTS ADOPTED

A. PRICING OF ALLOCATED CRUDE OIL

Under the amendments adopted today, a refiner-seller shall determine its weighted average port of entry cost for imported high sulfur crude oil and its weighted average port of entry cost for imported low sulfur crude oil in the month in which the particular allocated crude oil sale is made and the

two months preceding that month, excluding any costs associated with transporting such crude oil from the ports of entry ("domestic transportation costs"). FEA is adopting the provisions for calculation of gravity and sulfur content differentials substantially as proposed. With respect to transportation expenses recoverable by refiner-sellers in each allocated crude oil sale, the amendments provide that, in the event a refiner-seller sells and delivers imported crude oil to a refiner-buyer, the refiner-buyer may be charged only the actual costs associated with transporting the imported crude oil from the United States port of entry to the refiner-buyer's refinery. With respect to transportation cost adjustments for allocated sales in which domestic crude oil is delivered, the refiner-buyer may be charged only the actual costs associated with transporting the domestic crude oil from the wellhead, if the refiner-seller owns the crude oil, or the point of purchase or exchange, if the refiner-seller purchases or acquires pursuant to an exchange the crude oil sold, to the refiner-buyer's refinery. When Alaskan crude oil is sold, the refiner-buyer may be charged the cost of transporting the Alaskan crude oil from the port of entry into the lower forty-eight states to the refiner-buyer's refinery.

As indicated above, FEA also is adopting substantially as proposed the pricing provision applicable to refiner-sellers that receive deliveries of only imported low sulfur (or only imported high sulfur) crude oil and are required to sell high sulfur (or low sulfur) crude oil under the program. The amendment permits such refiner-sellers to utilize their weighted average per barrel port of entry cost for the particular category of imported crude oil and to apply the gravity and sulfur adjustments adopted today.

B. RE-ENTRY INTO THE BUY/SELL PROGRAM

As discussed above, the amendments adopted today provide that any small refiner that is excluded from the revised buy/sell program because it did not exercise its purchase opportunities in the past year may apply for an allocation if it has experienced in the preceding six-month period or will experience in the six-month period following the application a twenty-five percent reduction in its domestic crude oil supplies for one or more of its refineries due to factors over which the small refiner has no control. In the event that FEA determines that the refinery in question does not have access to imported crude oil under 10 CFR 211.65(a)(3) and thus is eligible for an allocation, FEA may assign the refinery a maximum allocation equal to the amount of such reduction in crude oil supplies.

C. TECHNICAL AMENDMENTS

In addition to the substantive amendments discussed above, FEA is also adopting three technical amendments to the revised buy/sell program regulations adopted on August 19, 1977, and effective October 1, 1977. The first amendment

substitutes the defined term "refining capacity" for the term refinery capacity in § 211.65(a)(1), since the definition of "refinery capacity" was deleted by the August 19 amendments. The second technical amendment revises 10 CFR 211.65(a)(4) to make clear that small refiners that are eligible to apply for an allocation under the program but which chose not to apply for an allocation for the period commencing October 1, 1977, may apply for an allocation by the specified filing deadline for subsequent allocation periods. The third amendment adds a new subparagraph (2) to paragraph (g) of 10 CFR 211.65 to make clear that, following the issuance of a buy/sell notice, FEA may make adjustments to allocations and increase sales obligations in accordance with the regulations without recalculating all refiner-sellers' sales obligations and issuing a supplemental buy/sell notice.

IV. REQUEST FOR FURTHER COMMENTS

10 CFR 211.65(b)(4) establishes a ceiling on the purchase opportunities of refiner-buyers that own first priority refineries under the Canadian Allocation Program set forth in 10 CFR Part 214. As indicated in the buy/sell notice for the allocation period commencing October 1, 1977, (42 FR 41866, September 22, 1977) only one first priority refinery, the Laurel, Mont., refinery of Farmers Union Central Exchange (CENEX), is presently affected by this ceiling. However, in light of the substantial reduction in the export levels of Canadian crude oil and the petroleum product shortages projected for Montana beginning in early 1978, FEA is requesting comments on the following options for the purpose of determining whether to initiate a rulemaking proceeding on this issue: (1) eliminate the ceiling and the provisions of 10 CFR 211.65(f)(2)(ii) that limit the sales obligations of refiner-sellers that own first priority refineries; (2) eliminate the ceiling but retain the limitation on sales obligations of refiner-sellers in 10 CFR 211.65(f)(2)(ii); (3) retain the ceiling but permit any refiner-buyer affected by the ceiling to purchase its full allocation of crude oil through negotiated sales, provided that FEA would not direct a refiner-seller to sell crude oil in excess of the ceiling level; or (4) retain the ceiling but permit purchases of allocated crude oil in excess of the ceiling only if the supply-to-capacity ratio of the refiner-buyer does not exceed that of the seller from which the crude oil was purchased.

Written comments will be accepted and considered if received by the date specified in the "Dates" section of this notice. Comments should be submitted to Executive Communications, Room 3317, Federal Energy Administration, Box NO, the Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted with the designation "Crude Oil Buy/Sell Program." Fifteen copies should be submitted.

As indicated in the August 19 notice, FEA is adopting these final amendments

effective October 1, 1977, to provide immediate guidance and information with respect to the allocation of crude oil for the allocation period commencing October 1, 1977.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Parts 211 and 212 of Chapter II, Title 10, Code of Federal Regulations, are amended as set forth below, effective October 1, 1977.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

1. Section 211.65 is amended by revising subparagraphs (1) and (4) of paragraph (a), by adding a new subparagraph (5) to paragraph (a), and by designating existing paragraph (g) as subparagraph (1) thereof and by adding a new subparagraph (2) to paragraph (g) to read as follows:

§ 211.65 Method of allocation.

(a) *Eligibility for allocation.* (1) Any small refiner may apply to FEA for an allocation for one or more of its refineries; *Provided*, That the small refiner (i) purchased crude oil under the provisions of this section during the period September 1, 1976, through August 31, 1977, (ii) was listed on the buy/sell notices during the period September 1, 1976, through August 31, 1977, with an allocation of zero (0) barrels in all four allocation quarters in that period, or (iii) as to small refiners not shown on such buy/sell notices and other small refiners with newly constructed refining capacity or reactivated refineries or refining capacity, had completed the process design basis for the refining capacity concerned and had expended or were irrevocably committed to expend prior to August 24, 1977, an amount equal to at least twenty (20%) percent of the total cost of such refining capacity, in which latter case the FEA may assign such refining capacity a maximum allocation of twenty-five (25%) percent of the capacity. Such allocation will be in effect for a period not to exceed two allocation periods, following which the allocation for such refining capacity shall be calculated in accordance with the provisions of paragraph (b) of this section.

(4) Small refiners eligible under subparagraph (1) of this paragraph to apply for allocations for one or more of their refineries shall submit applications by September 1, 1977, for a determination of the refineries' eligibility for an allocation for the allocation period commencing October 1, 1977. For subsequent allocation periods, applications must be submitted no less than 60 days or more than 90 days prior to the beginning of

the allocation period. Applications shall be addressed to the Program Manager, Crude Oil Allocation, FEA, in accordance with the procedures established in Subpart G of Part 205 of this chapter. Each application shall contain the information (including documentation where appropriate) necessary for the FEA to evaluate the application under the criteria specified in subparagraph (3) of this paragraph and the data on crude oil sales to which necessary to calculate an allocation under paragraph (b) of this section, including the information specified in § 211.65(d) for the months of June and July 1977. Documentation should include copies of correspondence with pipeline companies, as well as any published requirements of pipeline companies as to required minimum shipments. Separate applications must be submitted for each refinery. The FEA may request additional information if necessary for evaluation of the application and shall notify each applicant of its determination as to eligibility of the refinery or refineries concerned by September 30, 1977, for the allocation period commencing October 1, 1977, and, for subsequent allocation periods, 15 days prior to the beginning of the period.

(5) Notwithstanding the provisions of subparagraph (1) of this paragraph (a), any small refinery that did not purchase crude oil under the provisions of this section during the period September 1, 1976, through August 31, 1977 may apply to FEA at any time for an allocation for one or more of its refineries; *Provided*, That such refinery shall be required to demonstrate that it has incurred in the preceding six-month period or will incur in the six-month period following the application a reduction, due to circumstances over which such refinery had no control, in its supply of domestic crude oil for the refinery for which an allocation is sought equal to at least twenty-five (25%) percent of such crude oil supply. In the event FEA determines that such refinery is eligible for an allocation under subparagraphs (2) and (3) of this paragraph (a), the FEA may assign the refinery a maximum allocation equal to the amount of the reduction in its domestic crude oil supplies. In granting a request of such a refinery for an allocation, the FEA may direct one or more refinery-sellers to sell a suitable type of crude oil to such refinery pursuant to paragraph (j) of this section.

(g) *Buy/sell notice.* . . .

(2) Following the issuance of a buy/sell notice pursuant to subparagraph (1) of this paragraph (g), the FEA may: (i) grant an allocation to a refinery-buyer pursuant to subparagraph (5) of paragraph (a) of this section; (ii) grant an emergency supplemental allocation pursuant to paragraph (c) of this section; (iii) adjust any allocation shown on such buy/sell notice; or (iv) issue one or more directed sales orders that would result in one or more refinery-sellers selling more than their published

sales obligations for that allocation period pursuant to subparagraph (3) of paragraph (j) of this section, without issuing a supplemental buy/sell notice listing such allocations, adjustments to allocations or increased sales obligations.

2. Section 212.94 is revised to read as follows:

§ 212.94 Allocated crude pricing.

(a) *Scope.*—(1) *General.* This section applies to each sale of crude oil made pursuant to the provisions of § 211.65 of Part 211 of this chapter, effective for sales obligations for the allocation periods commencing on or after October 1, 1977.

(2) *Definitions.* For the purposes of this section—

"High sulfur crude oil" means crude oil the sulfur content of which is equal to or greater than 0.6% (six-tenths of one percent) by weight.

"Low sulfur crude oil" means crude oil the sulfur content of which is less than 0.6% (six-tenths of one percent) by weight.

"Lower forty-eight states" means the forty-eight contiguous states of the United States.

(b) *Rule.* (1) Notwithstanding the general rules described in this subpart, the price at which low sulfur and high sulfur crude oil, respectively, shall be sold when required pursuant to § 211.65 of Part 211 of this chapter shall not exceed the refinery-seller's weighted average per barrel landed cost (as defined in § 212.82, but utilizing the volumes of imported crude oil at the time of importation thereof into the United States), less the average cost of domestic transportation to the refinery-seller's refinery(s), of all low sulfur or high sulfur imported crude oil, respectively (other than crude oil imported from Canada), delivered to the refinery-seller in the month in which the sale is made and the two months preceding that month, plus a handling fee of five cents per barrel, and any transportation, gravity and sulfur content adjustments as specified in subparagraphs (2) through (4), respectively, of this paragraph (b). Each refinery-seller making such a sale shall maintain records, which shall be made available to the FEA upon request, listing the volumes and costs of all imported low sulfur and high sulfur crude oil delivered to it.

(2) (i) A price adjustment shall be made for transportation expenses for crude oil offered for sale under § 211.65 of Part 211 of this chapter by adding to the weighted average costs as calculated under paragraph (b) (1) of this section: (A) where domestic crude oil (other than Alaskan crude oil) is sold, the actual cost of transporting the domestic crude oil from the (1) the wellhead, in the event the refinery-seller owns the crude oil so sold or (2) the point of purchase or exchange in the event the refinery-seller acquires the crude oil so sold pursuant to a purchase or exchange, to the refinery-buyer's refinery; (B) where Alaskan crude oil is sold, the actual cost of trans-

porting the Alaskan crude oil from the port of entry into the lower forty-eight states to the refinery-buyer's refinery; (C) where imported crude oil is sold, the actual cost of transporting the crude oil from the U.S. port of entry to the refinery-buyer's refinery.

(ii) For purposes of calculating transportation adjustments under this subparagraph (2) (i) a refinery-seller shall include pipeline tariffs, water transportation and terminalling costs, exchange differentials, insurance and taxes paid to deliver the domestic or imported crude oil to the refinery-buyer's refinery.

(iii) Each refinery-seller making a sale of domestic crude oil under § 211.65 of Part 211 of this chapter shall maintain records, which shall be made available to the FEA upon request, listing the volumes of domestic crude oil sold, the acquisition cost of such crude oil, and the transportation expenses incurred in transporting the domestic crude oil to the refinery-buyer's refinery.

(3) A price adjustment shall be made for gravity differential of crude oil offered for sale under § 211.65 of Part 211 of this chapter by adding to or subtracting from the weighted average costs as calculated under paragraph (b) (1) of this section three cents per barrel for each °API that the crude oil being offered for sale under § 211.65 of Part 211 of this chapter is above or below, respectively, the weighted average °API of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the applicable three month period specified in paragraph (b) (1) of this section for the refinery-seller.

(4) A further price adjustment shall be made for sulfur content differential of crude oil offered for sale under § 211.65 of Part 211 of this chapter by adding to or subtracting from the weighted average costs as calculated under paragraph (b) (1) of this section three cents per barrel per one tenth percent that the sulfur content by weight of the crude oil being offered for sale under § 211.65 of Part 211 of this chapter is either below or above, respectively, the percentage representing the weighted average sulfur content of imports of crude oil of the same sulfur content category (other than crude oil imported from Canada) for the applicable three months period specified in paragraph (b) (1) of this section for the refinery-seller.

(5) To calculate a refinery-seller's maximum permitted sale price under subparagraph (1) of this paragraph where the refinery-seller receives deliveries of only imported low sulfur crude oil (or only imported high sulfur crude oil) and sells high sulfur crude oil (or low sulfur crude oil) pursuant to § 211.65 of Part 211 of this chapter, such refinery-seller shall utilize its weighted average per barrel cost of imported crude oil as determined under subparagraph (1) of this paragraph for the particular category of crude oil so imported, and apply the gravity and sulfur adjustments specified in subparagraphs (3) and (4), respectively, of this paragraph (b).

[FR Doc.77-29299 Filed 10-3-77; 8:45 am]

[3128-01]

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendments to Crude Oil Supplier/Purchaser Rule

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: Effective December 1, 1977, this final rule amends the Federal Energy Administration's (FEA) Mandatory Petroleum Allocation Regulations (10 CFR 211.63), to provide greater flexibility as to the termination of crude oil supplier/purchaser relationships between crude oil producers and crude oil resellers. In general, the amendments permit a crude oil supplier/purchaser relationship between a producer and a reseller to be terminated by the producer, and a new reseller substituted, with respect to crude oil being delivered to refineries other than small refineries, if the new reseller offers to continue to supply these refineries with such crude oil. The amendments also permit a substitution of resellers with respect to crude oil being delivered to small refineries, if the new reseller offers to continue to supply the small refinery with such crude oil and the small refinery consents to the substitution.

EFFECTIVE DATE: The amendments adopted hereby are effective December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams, (FEA Reading Room), 12th and Pennsylvania Ave., NW., Room 2107, Washington, D.C. 20461, (202-566-9161).

Ed Vilade, (Media Relations), 12th and Pennsylvania Ave., NW., Room 3104, Washington, D.C. 20461, (202-566-9833).

Gerald Emmer, (Office of Regulatory Programs), 2000 M Street, NW., Washington, D.C. 20461, (202-254-7200).

Cliff G. Russell, (Office of General Counsel), 12th and Pennsylvania Ave. NW., Room 5134, Washington, D.C. 20461 (202-566-9565).

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Discussion of amendments:
 - A. Amendments adopted;
 - B. Effective date;
 - C. General purpose of amendments.
- III. Additional matters.

I. BACKGROUND

On July 28, 1977, the FEA issued a Notice of Proposed Rulemaking and Public Hearing concerning proposed amendments to the crude oil supplier/purchaser rule (42 FR 39395, August 4, 1977). In that Notice, the FEA set forth the history and purposes of the crude oil supplier/purchaser rule, and of the Agency's prior attempts to ameliorate the restrictive effects of this rule upon competition in the crude oil reseller industry.

Basically, the purpose of the July Notice was to ascertain whether the proposed amendments would further effectuate the goal of facilitating competition in the crude oil reselling industry while providing adequate crude oil supply protection to refineries, and in particular small refineries.

Public hearings on the proposal were held in Washington, D.C., on September 1, 1977, at which 12 persons presented oral statements. In addition, the FEA received a total of 61 written comments, including 18 late comments, in response to its proposal.

II. DISCUSSION OF AMENDMENTS

A. AMENDMENTS ADOPTED

The amendments adopted hereby are substantially as proposed in the July 1977 Notice of Proposed Rulemaking. However, certain changes have been made, to assure that the procedural rights and obligations of all parties affected by a proposed termination are clear.

In general, the amendments adopted permit a crude-oil supplier/purchaser relationship between a producer and reseller to be terminated with respect to crude oil being delivered to refineries other than small refineries, if the new reseller offers to continue to supply these refineries with such crude oil. Termination of such a supplier/purchaser relationship with respect to crude oil being delivered to small refineries is also permitted, subject to the same conditions applicable to other terminations and provided also that the small refinery consents. Prices charged in sales by the new reseller are subject to the Mandatory Petroleum Price Regulations.

The amendments set forth the procedural requirements for accomplishing a substitution of resellers. Thus, a producer that proposes to terminate a supplier/purchaser relationship with a given reseller and to substitute a new reseller shall provide the existing reseller with a written termination notice, not later than 30 days prior to the date of termination. Such notice shall set forth the termination date, the source, quality and estimated volume of crude oil involved (including the portions of that volume that are lower tier, upper tier, and uncontrolled crude oil), and the name and address of the proposed new reseller.

The existing reseller must then (within 10 days) provide copies of the termination notice to all purchasers whose deliveries of crude oil would be affected by the termination notice, together with a statement of the volume, quality and pricing category (i.e., whether upper- or lower-tier or uncontrolled) of crude oil involved for that purchaser. At the same time, the existing reseller must provide copies of the notices sent to its purchasers to the proposed new reseller, so that the new reseller can make timely offers to supply such purchasers as a substituted reseller. Proposed § 211.63(d) (1) (iv) (B) (2) has been revised to make clear that the existing reseller must provide these copies to the proposed new reseller simultaneously with the provision of the relevant notices to the existing reseller's purchasers.

If the existing reseller has more than one purchaser whose volumes are potentially affected by the termination notice, an order of priority of providing notice to such purchasers is established. First, the reseller must provide notice to that refinery other than a small refinery that purchases the largest amount of such crude oil, to the extent of the entire volume of such crude oil purchased by that refinery or 1,000 barrels per day, whichever is less. If the proposed termination involves an amount of crude oil that is greater than the amount specified above, then the reseller must notify that refinery other than a small refinery that is the purchaser of the next largest amount of such crude oil, again up to that refinery's volume of purchases of such crude oil or 1,000 barrels per day, whichever is less. This process continues, until all refineries that are not small refineries have been notified. Thus, the termination must be spread among affected refineries other than small refineries in amounts of not more than 1,000 barrels per day.

If notices to refineries other than small refineries in the amounts established in the above manner are not sufficient to account for the total volume of crude oil subject to the termination notice, then the existing reseller must notify any reseller receiving crude oil subject to the termination notice (that is, any immediate purchaser from the existing reseller that is also a reseller). Such a reseller is subject, in turn, to the same notice requirements with respect to its purchasers as apply to the prime reseller.

Finally, if the crude oil subject to the termination notice is in excess of the amounts that can be accounted for in the above fashion, the existing reseller must notify small refineries, in the same order as provided for refineries other than small refineries.

The new reseller—who will have received copies of the notices sent to the existing reseller's purchasers—must then make a written offer to continue to supply the same volumes of such crude oil to such purchasers, at prices consistent with the crude oil reseller pricing rules of Part 212.

The provisions establishing the order of priority of notification of the existing reseller's purchasers have been altered to some degree from the proposed provisions, in order to make clear the notification obligations of the existing reseller. In brief, the existing reseller is to notify all refineries other than small refineries, in the order of the magnitude of their purchases but only up to 1,000 barrels per day for any such refinery; and if the termination notice involves greater volumes than can be so accounted for, then notification must be given to any purchasers from the existing reseller that are themselves resellers; and if any volumes subject to the termination notice still remain unaccounted for, then notice must be given to small refineries in the same order of priority as for refineries that are not small refineries.

The purposes of these changes are two-fold. First, they should make clear that an existing reseller cannot fragment

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its notices in such a way as practically to frustrate the substance of these amendments, by spreading small volumes among many diverse purchasers. Thus, they establish that notification to any refiner must be for a minimum volume, equal to 1,000 barrels per day or the amount of that refiner's purchases of crude oil subject to the termination notice, whichever is less; and they require that the reseller first notify the purchasers of the largest amounts of crude oil subject to the termination notice. Second, they should also make clear, in the regulatory provisions, the policy set forth in the July Notice of Proposed Rulemaking on this subject, viz., that no one refiner shall be subject to termination with respect to more than 1,000 barrels per day under any particular termination notice issued to the existing reseller.

The FEA has also determined that it is desirable to revise the original proposal to provide greater specificity as to the timing of the acceptance or rejection of offers from the new reseller, so that refiners are given adequate opportunity to determine whether to accept the offer and so that the supply obligations of the existing and new reseller are clearly determined prior to any substitution. Therefore, the amendments provide that each refiner shall have 10 days from the receipt of the offer to accept or reject such offer. For purposes of these provisions, if notice of acceptance is not provided within 10 days, the offer shall be deemed to have been rejected. Upon the acceptance or rejection of all such offers, the new reseller may be substituted for the existing reseller, except with regard to volumes supplied to small refiners that have rejected such offers. If a small refiner rejects such an offer, the producer must continue the supplier/purchaser relationship with the existing reseller to the extent of the volumes involved for such small refiner. Of course, where an offer is accepted by any offeree, whether the offeree is a small refiner or a refiner other than a small refiner, a supplier/purchaser relationship between the new reseller and the accepting offeree will thereby be established.

As proposed in the July Notice, the amendments provide that the new substitution rule is not to be construed as authorizing the breach of an existing contract. However, this provision has been reworded slightly to make clear that it applies only to contracts that the producer may have with the existing reseller. It does not apply to contracts which another reseller that purchases from the existing "prime" reseller may have with its own purchasers. Thus, these substitution provisions might provide a "second" reseller with a defense to an action for breach of contract, to the extent such breach is necessitated in order to effectuate these provisions, but they would not authorize breach of a contract between the producer and the existing "prime" reseller.

Finally, copies of all notices, offers, acceptances and rejections must be sent

to the FEA (Department of Energy) National Office by the new reseller. (A more specific address will be provided, when available, prior to the effective date of these amendments.)

B. EFFECTIVE DATE

As indicated above, the FEA has determined to adopt the proposed amendments substantially in the form proposed, with some changes designed to assure that the termination notice provisions operate in such a way that the relative rights and obligations between the existing and new resellers and any of the existing resellers' purchasers are clear.

However, the comments received by the FEA in this proceeding have led it to the conclusion that the effective date of these amendments should be postponed until December 1, 1977, in order to permit the FEA to amend the pricing rules applicable to crude oil resellers to address a number of specific issues which have arisen in that industry. A number of commenters stated that competition in the reseller industry is not practicable under current FEA price regulations applicable to crude oil resellers. Some also opined that the cost of crude oil to refiners could increase significantly as a result of the proposed amendments, under the current crude oil reseller pricing rules. With a view to these concerns, expressed by both refiners and resellers, the FEA has concluded that the reseller substitution amendments should not be made effective prior to December 1, 1977, by which time it is anticipated that amendments to the pricing rules under which such resellers are required to operate will have been adopted. FEA has therefore provided for an effective date of December 1, 1977, in order to permit appropriate amendments to the pricing rules applicable to crude oil resellers to address a number of specific pricing problems which have arisen in that industry.

On August 9, 1977, the FEA issued a Notice of Proposed Rulemaking and Public Hearing concerning proposed amendments to the Mandatory Petroleum Price Regulations pertaining to the resale of crude oil (42 FR 41256, August 15, 1977). In that Notice, the FEA outlined the issues which had arisen under the price regulations applicable to crude oil resellers, and it set forth proposed amendments and possible alternatives to address these matters. Public hearings on this proposed rulemaking were held in Dallas, Tex., on September 15, 1977, and Washington, D.C., on September 20, 1977. The FEA is presently considering the comments received in response to its proposals, and it anticipates that amendments to the crude oil reseller price rules will be issued by December 1, 1977. Therefore, the FEA believes that any uncertainties generated by the pendency of that rulemaking proceeding, which might otherwise affect the decisions of producers, resellers and refiners under the amendments adopted today, should be resolved by December 1.

At the same time, the FEA has concluded that it should adopt today the basic procedural mechanism by which termination of the supplier/purchaser relationship between crude oil producers and crude oil resellers can be accomplished. In this way, producers, resellers and refiners will be apprised of their relative rights and obligations concerning substitutions in advance of the effective date of the rule, which is fixed as December 1.

C. GENERAL PURPOSE OF AMENDMENTS

The FEA believes that the reseller substitution method set forth in the amendments adopted today is reasonably well adapted to accomplishing the goal of permitting greater flexibility on the part of producers to select the resellers with which they do business, while at the same time avoiding undue disruption in the crude oil supply system and protecting the crude oil supply of refiners. As stated in the July Notice, the principal purpose of the basic crude oil supplier/purchaser rule is to assure continued supply of crude oil to refiners, and particularly small refiners. The amendments adopted today reflect this basis for the rule, by permitting small refiners to refuse the substitution of resellers as to them. Moreover, by providing all refiners the right of first refusal as to their volumes of crude oil, the amendments provide a means for all refiners to assure continuation of their supplies of domestic crude oil.

The FEA recognizes the concerns of those commenters that were opposed to the proposed amendments. A few resellers feared that they might be forced out of the market by large integrated companies. However, a majority of resellers commenting on the proposal, either individually or through associations, generally favored the proposal. Moreover, the FEA will monitor developments in the crude oil reselling industry as a result of these amendments, and it will consider adopting appropriate additional measures in the event that there appears to be any significant adverse effect upon competition in the crude oil reselling industry, especially with regard to independent crude oil marketers.

As previously indicated, some resellers and refiners expressed concern over the possibility of significant increased costs and unfair competition as a result of this proposal. Some commenters stated that the proposal would be likely to result in the offer of illegal inducements to producers by potential new resellers, in order to gain access to the crude oil sold by such producers. However, the FEA believes that these concerns, and the possible uncertainties prevailing as a result of the pendency of a rulemaking proceeding concerning crude oil reseller price regulations, should be substantially alleviated upon the issuance of amended crude oil reseller price regulations. For this reason, as stated above, the effective date of the amendments adopted hereby is December 1, 1977, by which time the new pricing regulations should have been issued.

Moreover, the FEA will monitor the activities of resellers, producers and refiners under these amendments, and is prepared to take appropriate action in the event of any abuses by any segment of the crude oil distribution chain. The FEA believes that it has adequate authority, for example, to prevent or redress the acceptance of consideration by producers which would have the effect of circumventing first sale ceiling prices of crude oil under Subpart D of Part 212 of the price regulations.

Finally, the FEA wishes to make very clear its position that the amendments adopted today are intended to operate as a mechanism for the substitution of resellers, and not for the multiplication (or "layering") of resellers in the distribution chain. FEA will closely monitor, and vigorously audit, any situation in which it may appear that these provisions are being utilized in such a manner as to inflate prices artificially.

III. ADDITIONAL MATTERS

In the July Notice, the FEA requested comments concerning whether it should permit the substitution of refiners for resellers that have an existing supplier/purchaser relationship with a crude oil producer, and conversely whether it should permit the substitution of resellers for refiners that have a supplier/purchaser relationship with a crude oil producer. Comments were also requested concerning the criteria which should apply to any such substitutions.

The FEA received several comments in response to its request, some of which favored the idea of permitting such substitutions generally, some of which favored the idea of permitting only refiner displacement of resellers, and some of which opposed such substitutions altogether. However, the comments received were not sufficiently specific as to the criteria and safeguards to be applied in permitting such substitutions, and the FEA has determined that it is necessary to explore the implications of such substitutions further.

For example, several commenters suggested that the substitution rule should be applicable to any supplier/purchaser relationship between a crude oil producer and any "firm." This language would have permitted a substitution not only among resellers, but also between resellers and refiners. Thus, it would have permitted a reseller to be inserted between a producer and a refiner that had a direct supplier/purchaser relationship, as well as permitting a refiner to "eliminate" a reseller. However, several refiners expressed the concern that allowing a reseller to be inserted (against the refiner's wishes) would be likely to result in higher costs, by introducing a middleman's margin where none previously existed. Of course, whether increased costs would in fact result would be partly dependent upon the relative efficiencies of the refiner and the reseller in the performance of the same functions; but the possibility of increased costs occurring simply as a result of the introduction of

a third party must be recognized and addressed.

FEA continues to be of the view that it would be generally desirable to further open up the crude oil distribution chain to competition, and thus to provide further flexibility in supplier/purchaser relationships in this chain, to the extent that this can be done consistent with the need to protect crude oil supplies to refiners and in a manner that does not result in unjustified increases in crude oil prices. Therefore, the FEA will attempt to formulate specific criteria and necessary safeguards under which such substitutions might be permitted. (As an example, the FEA may be able to devise some means to avoid specific adverse consequences such as increased costs resulting from the introduction of resellers into a producer-refiner relationship, without prohibiting such substitutions altogether.)

When the preliminary formulation of such criteria is accomplished, the FEA anticipates that it will issue a notice of proposed rulemaking requesting comments upon whether it would be feasible to permit certain additional substitutions under certain specified conditions.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 211 of Chapter II of Title 10 of the Code of Federal Regulations is amended as set forth below, effective December 1, 1977.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

Section 211.63 is amended by revising paragraph (d) (1) (iv) to read as follows:

§ 211.63 Domestic crude oil supplier/purchaser relationships.

(d) Termination of Supplier/purchaser relationships

(1)
(iv) By a producer (as defined in Part 212 of this chapter) as to a reseller purchasing crude oil from that producer: Provided, That:

(A) At least thirty days in advance of any termination under this subdivision (iv), the producer shall give to the reseller purchasing from it whose supplier/purchaser relationship is proposed to be terminated a written termination notice stating the date of termination, the source, quality, and estimated volume of crude oil involved (including the portions of that volume that are priced as lower tier crude oil, upper tier crude oil and uncontrolled crude oil under Part 212 of this chapter), and the name and address of the new reseller to which such crude oil is proposed to be sold.

(B) Any reseller that has received a termination notice from a producer as

provided in subclause (A) of this subdivision, which proposed termination would effect a reduction in deliveries of crude oil by that reseller, either directly or through exchanges, to any refiner or other reseller shall:

(i) Within 10 days of receipt of the termination notice, provide a copy of the termination notice, together with a statement as to the volume, quality, and price level of crude oil involved for the particular purchaser, to the purchasers of the crude oil subject to such termination notice. To the extent that such reseller has any option in deciding which of its customers is to be regarded as the purchaser of the crude oil subject to such termination notice, the following priorities shall apply:

(i) To that refiner other than a small refiner purchasing the greatest volume of crude oil subject to the termination notice, but only to the extent of the lesser of such purchaser's purchases or 1,000 barrels per day;

(ii) If the proposed termination would affect crude oil deliveries to crude oil refiners by more than the amount determined under subclause (B) (1) (i), of this subdivision, to additional refiners other than small refiners in the order determined under the criteria set forth in subclause (B) (1) (i), of this subdivision;

(iii) If the proposed termination would affect crude oil deliveries beyond that which could be accounted for as provided above in sales to refiners other than small refiners, to any reseller receiving crude oil subject to the termination notice. (Any reseller receiving such notice shall, in turn, comply with the requirements of this § 211.63(d) (1) (iv) (B); and

(iv) If only small refiners remain as purchasers of the crude oil subject to the termination notice, to such small refiners in the same order as provided in subclauses (B) (1) (i) and (B) (1) (ii), of this subdivision, for refiners other than refiners.

(2) At the same time that the notices required under subclause (B) (1), of this subdivision, are provided, provide copies of such notices to the proposed new purchaser, including the name and address of each person to which a copy of the termination notice was provided and the volume, quality, and price level of the crude oil affected for each such person.

(C) The proposed new purchaser of the crude oil shall make written offer to continue to supply the volume of that crude oil to each refiner provided with a copy of the termination notice as that refiner would otherwise lose as a result of the proposed termination. Such offer or offers shall be at prices consistent with the provisions of Part 212 of this chapter; Provided, That, no firm that resells that crude oil may charge a price in any sale of that crude oil in excess of the actual price paid for that crude oil, where such firm does not provide a service or other function traditionally and historically associated with the resale of crude oil. Each refiner receiving an offer under this subclause (C) of this subdivision have 10 days within which to accept or reject such offer. For purposes of these

provisions, if notice of acceptance is not provided within 10 days, the offer shall be deemed to have been rejected. Acceptance of any such offer shall not constitute a waiver of any rights which the refiner may have under Part 212 of this chapter.

(D) Upon the acceptance or rejection of the offer or offers under subclause (C) of this subdivision by the refiner or refiners concerned, the proposed new purchaser may be substituted by the producer for the purchaser whose supplier/purchaser relationship has been proposed to be terminated; *Provided*, That, if a small refiner that was notified as to a proposed termination does not accept the offer of the proposed new purchaser, the proposed termination shall not be effective as to the volume of the crude oil being delivered to that small refiner.

(E) Nothing in this paragraph (d) shall be construed as authorizing a producer to terminate a supplier/purchaser relationship in breach of a contract or agreement it may have with another firm.

(F) Copies of all notices, offers, acceptances, and rejections required under this subdivision (iv) shall be sent by the new reseller to the National Office of the Department of Energy (Economic Regulatory Administration, Office of Fossil Fuels).

[FR Doc. 77-29290 Filed 10-3-77; 8:45 am]

[3128-01]

PART 430—ENERGY CONSERVATION PROGRAM FOR APPLIANCES

Procedural Regulations for the Submission and Disposition of Petitions for Prescription of a Rule to Supersede a State Appliance Energy Use or Efficiency Regulation

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: This rule prescribes procedures for the submission and disposition of petitions requesting the Administrator to prescribe a rule to supersede a State appliance energy use or efficiency regulation. These petitions may be submitted under the Energy Policy and Conservation Act.

EFFECTIVE DATE: November 10, 1977.

FOR FURTHER INFORMATION CONTACT:

James A. Smith, (Office of Conservation), Room 307, Old Post Office Bldg., 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, (202-566-4635).

Elliott D. Light, (Office of the General Counsel), Room 7150, Federal Building, 12th and Pennsylvania Ave., NW., Washington, D.C. 20461, (202-566-9380).

SUPPLEMENTARY INFORMATION:

A. BACKGROUND

The Federal Energy Administration (FEA) hereby amends Part 430, Chapter

II, Code of Federal Regulations, in order to prescribe procedural regulations governing the submission and disposition of petitions requesting that the Administrator issue a rule to supersede a State energy efficiency or use regulation. Such petitions are authorized by section 327 (b) (1) of the Energy Policy and Conservation Act (Act) (Pub. L. 94-163). The regulations prescribed today will appear in subpart D of Part 430. A number of other regulations have been prescribed under Part 430, including a number of definitions contained in Subpart A which are applicable to Subpart D.

Proposed regulations governing petitions submitted under section 327 were issued June 8, 1977 (42 FR 30206, June 13, 1977). A hearing was held on July 15, 1977. Additional public comments were requested by notice issued August 3, 1977 (42 FR 40217, August 9, 1977).

B. DISCUSSION OF COMMENTS

Comments were received from a State, a private citizen, industry associations, and a retailer. The major issues raised by the comments to the proposed procedures are discussed below.

1. DETAILED INFORMATION REQUIREMENTS

(a) Burden on interstate commerce. The majority of comments were directed at section 430.43(d) of the proposed regulations. That section enumerated a number of factors which, at minimum, were considered to be necessary to any determination by the Administrator that the State regulations against which a petition was submitted unduly burden interstate commerce. Many of these factors were stated to be too stringent, possibly unknown, and not within the knowledge of many of the small retailers, manufacturers, and other parties subject to the State regulations. Trade associations argued that while individual manufacturers could not provide the required information because of a lack of resources and expertise, the associations could not provide such information because of antitrust and trade secret problems. In essence, the comments suggested that the "minimum" requirements would foreclose participation by many persons affected by the State regulations. While the comments suggested ways in which the language of section 430.43(d) might be made advisory rather than "a minimum" requirement there were no suggestions as to what constituted the facts necessary to demonstrate an "undue burden on interstate commerce."

In evaluating the comments to section 430.43(d) of the proposed regulations, it has become clear that no minimum evidentiary requirement can adequately define the factual proof necessary to demonstrate whether a particular State regulation "unduly burdens" interstate commerce. Further, the legal standard for preempting a State regulation is not affected by a minimum filing requirement. The confusion of these two concepts appears to have affected both the proposal and the comments to the proposal. Meeting the "filing requirements" in no way assures demonstration of the

statutory requirements. On the other hand, it is possible that the burden question could turn on a single fact. Thus, a petition which failed to meet the minimum filing requirements of the proposed regulations might actually meet the requirements of the Act.

The final regulations have been changed to reflect these concerns by deleting the minimum evidentiary requirements and replacing them with a list of factual items considered particularly relevant to the burden question. The new information items have been included in a new paragraph (e) to section 430.43 entitled "Information Guidelines." The change from "minimum requirements" to "guidelines" is intended to provide a broader opportunity for consideration of petitions of those subject to State appliance efficiency regulations. The change to more general statements of the subject matter considered by FEA to be relevant to the burden question is in response to comments concerning the extreme detail of the proposal.

While the final regulations provide only "guidelines" as to the evidentiary requirements of petitions, the statement that FEA considers these items as "particularly relevant" should be underscored. While FEA solicits any information a petitioner believes would prove that a State regulation unduly burdens interstate commerce, the subject areas enumerated in section 430.43(e) of the final regulations should be given particular attention by a petitioner. Where a petitioner believes that a particular subject area is not relevant to the burden question and does not address that subject in its petition, a statement as to why the subject was not discussed would be appropriate.

b. State interest. Comments were also critical of section 430.43(d) (2) (x) of the proposed regulation in the handling of the requirements for demonstrating the lack of a State interest sufficient to justify the State regulation. A number of comments suggested that the proposal was too general. It was also argued that petitioner should not be required to argue the State's case for its regulations. Further, it was noted that much of the information necessary to evaluate the State interest was possessed by the State and could be best presented by the State.

The Act clearly places the burden on the petitioner to demonstrate that the State's interest in the regulations does not justify the burden imposed by the regulations on interstate commerce. A petition must, therefore, provide information regarding the State interest and a discussion comparing the State interest to the burden on commerce.

Section 430.43(e) of the final regulations include guidelines as to the nature of the information required to make this showing. Again, these are not minimum filing requirements. The State interest question is less susceptible to quantification than the burden question. The final regulations reflect this conceptual difference by delineating the matters which can be quantified (e.g., the energy which would be saved by the State regulation, the ability of the industry to finance the

implementation of the State requirements) and leaving other areas (e.g., the State interest in the regulations as they reflect environmental concerns) more general.

In adopting this approach, FEA has rejected a State comment which included detailed economic factors which a petitioner should present in demonstrating the lack of a State interest. (A number of statements very critical of these factors were received from commenters who reviewed the State proposal). The fact that these detailed factors were not incorporated in the final regulations is not to suggest that FEA considers them irrelevant. However, as in the case of the evidentiary requirements regarding the burden issue, requiring detailed information concerning the State interest question to be submitted in all cases could foreclose participation in the petition process.

The guideline approach requires the prospective petitioner to judge, in the first instance, the evidence needed to prevail on the merits. Thus, while the changes in the final regulations with respect to the undue burden and State interest questions increase the likelihood that a petition will be accepted for filing, the changes do not affect the legal standards established by the Act. A petitioner must still "demonstrate to the satisfaction of the Administrator" the factors delineated by the Act or the petition will be denied.

A commenter took issue with FEA's interpretation of section 327(b) (1) of the Act insofar as that provision is affected by the Supremacy Clause of the Constitution. It was suggested that the evidentiary requirements relating to the State interest be modified to reflect the position that only a State interest which is unique could support the regulation of energy-related characteristics of appliances. Otherwise, such regulation would be an undue burden on interstate commerce.

FEA has taken the position that section 327 of the Act defines the roles of the States in the regulation of appliance energy efficiency. Section 327(a) clearly speaks to protecting the federal interest against intrusion by State regulation. Section 327(b) (1) addresses the interest of the private sector, not the federal interest. Since section 327(a) reflects the extent of Congressional concern with State action, it follows that State action which does not contravene section 327(a) is permitted unless a person subject to the state regulation can show that the State interest in the regulations is not sufficient to justify the burden the regulations impose on interstate commerce. The State interest is not to be compared with the federal interest in appliance energy efficiency regulations because federal interests are already protected. Section 327 does not support requiring a State which desires to regulate appliance energy efficiency to have an interest different from other States. The question posed by section 327(b) (1) is whether the regulation can be justified on the particular interests of that State. Thus,

the Supremacy Clause arguments are out of place with respect to section 327(b) (1).

No changes have been made in the regulation in response to this comment.

2. CONFIDENTIALITY

A number of comments asserted that some of the information necessary to demonstrate the impact of a State regulation on interstate commerce would be proprietary. The proposed regulations quite clearly provided for a public forum for the review of petitions filed under the Act. The impact of the outcome of any such proceedings could substantially affect a large number of persons, States, and industries. Given the extreme importance of a petition proceeding, it seems antithetical to protect from disclosure and comment evidence which would be crucial to an ultimate decision. It should be pointed out that if State regulations were attacked in the courts a plaintiff could not deny the defendant (i.e., the State) an opportunity to rebut the evidence which the plaintiff asserts supports the negotiation of the State law. The final regulations are also consistent with the practice of other administrative agencies which, as here, applications are filed at the applicants' discretion.

For these reasons, and in view of changes made in response to other comments, the final regulations do not provide for confidential treatment of information.

3. DENIAL OF A PETITION PRIOR TO ISSUANCE OF A PROPOSED RULE

Under section 430.44(a) of the proposed regulations, a petition accepted for filing would be made available for public comment. Based upon the petition and the comments received, on the petition, a petition would be denied (without a formal hearing) or a proposed rule superseding the State regulation would be issued. A hearing would be held on the proposed rule. One commentator took issue with this procedure because it would allow for the denial of a petition prior to a hearing.

Section 327(b) (1) provides that "the Administrator shall . . . either deny a petition or prescribe a rule under this subsection superseding such State regulation." Section 336 of the Act requires that a rule issued under section 327(b) (1) be proposed and that "interested persons shall be afforded an opportunity to present written and oral data, views, and arguments with respect to any proposed rules . . ." While a right to present oral testimony on any proposed preemptory rule is specifically provided for, a petition can clearly be denied prior to this stage in the petition process. There is, therefore, no requirement that a hearing be held before a petition is denied.

No changes have been made to the final regulations in response to this comment.

The comment served to demonstrate, however, that section 430.44 of the proposed regulations failed to state the standard by which it will be determined

whether a petition is denied or a proposed rule preempting the state regulations is issued. This standard is not whether a petition makes out a prima facie case since this judgment could have been made prior to the solicitation of comments on a petition. Further, under section 430.43(b) (1) of the regulations, only petitions which contain sufficient information for the purpose of a substantive decision will be accepted for filing. Since a petition could be denied after a proposed rule is issued, issuance of a proposed rule is also not a conclusive judgment as to the merits of the petition. The decision to issue a proposed preemptory rule should, therefore, be viewed as preliminary determination that the petition is likely to prevail on the merits. Section 430.44(a) (2) has been amended to provide that if the Administrator determines that a petition, in light of all the comments received, is likely to prevail with regard to the undue burden-state interest issues, a proposed rule will be issued. All other petitions will be denied. If a proposed rule is issued, interested persons will be afforded an opportunity to present their views both in writing and by oral testimony on the proposed rule and the decision to issue the proposed rule.

4. PUBLIC PARTICIPATION IN RECONSIDERATION

Section 430.44(a) (3) of the proposed regulations provided for reconsideration of a petition which was denied following the public comment period but before a preemptory rule was issued. The comments reflected some concern that interested persons were not allowed to participate in the decision to reconsider the denial of a petition. The primary basis of this concern was that a petitioner might submit new evidence to justify reconsideration of the petition and that this evidence would not be subject to public scrutiny.

The disposition of this comment clearly depends on the purpose for reconsideration. Upon reflection, FEA has concluded that the fault lies not in the exclusion of the public from participation in reconsideration but in the lack of guidance as to the scope of that review. Section 430.44(b) of the final regulations explicitly limit the function of reconsideration to errors of fact or law which can be demonstrated from review of the record of the petition proceeding. No new evidence will be considered in this process. New evidence will, however, be considered if petitioner chooses to submit a new petition.

5. ENVIRONMENTAL REPORT

Section 430.43(e) of the proposed regulations required a petition to include a report of the environmental impact of either a denial of a petition or the issuance of a preemptory rule. One comment questioned the purpose of this report and suggested that the requirement was burdensome.

The environmental report requirement stems from the duty of FEA under the

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National Environmental Policy Act (NEPA) to reconsider the environmental impact of "major federal actions." Because FEA is charged with considering these impacts before a decision is made, it is appropriate that petitioner provide, in the first instance, an assessment of these impacts. In considering this comment, it has become clear that the proposed regulation was potentially burdensome in requiring a report which contained the information outlined in FEA's NEPA procedures. Section 430.44 (e) (4) of the final regulations has been modified to require that FEA's NEPA regulations be used as guidelines.

6. MISCELLANEOUS COMMENTS

It was suggested that at least one hearing should be held in the State whose regulations are the subject of the petition. Because any proceedings under section 327(b)(1) are of particular interest to the State whose regulations are the subject of those proceedings, FEA will make every effort to schedule at least one hearing in that State.

Other changes of a minor nature were made in the proposed regulations for the purpose of clarity and continuity.

C. REGULATIONS PRESCRIBED

The final regulations are substantially the same as those proposed with the exception of the deletion of the minimum filing requirement and the inclusion of a new information guidelines provision. Under the final regulations a petition accepted for filing will be made available for public comment. Following review of the comments, a petition either will be denied or a proposed rule preempting the State regulations will be issued. The issuance of a proposed rule will be followed by an opportunity for written and oral comment on the basis of the decision to issue a proposed rule and on the appropriateness of the proposed rule. After all comments have been received and evaluated, the petition either will be denied or a final rule preempting the State regulations will be issued.

The final regulations provide for the reconsideration of any petition which is deemed after the public comment period but before the issuance of a proposed preemptory rule. Reconsideration will lie only where it is alleged and proven that the denial was based on an error of fact or law which is clear in the record.

(Energy Policy and Conservation Act, Pub. L. 94-163, as amended by Pub. L. 94-383; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E. O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 430 of Chapter II of Title 10, Code of Federal Regulations is amended by adding a new Subpart D as set forth below, effective November 10, 1977.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYCI,
Acting General Counsel,
Federal Energy Administration.

Subpart D—Petitions for Prescription of a Rule To Supersede a State Appliance Energy Use or Efficiency Regulation

Sec.

- 430.40 Purpose.
- 430.41 Definitions.
- 430.42 General requirements.
- 430.43 Petitions.
- 430.44 Disposition of petitions.

AUTHORITY: Energy Policy and Conservation Act, Pub. L. 94-163 as amended by Pub. L. 94-383; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended by Pub. L. 94-385; E.O. 11790, 39 FR 23185.

Subpart D—Petitions for Prescription of a Rule To Supersede a State Appliance Energy Use or Efficiency Regulation

§ 430.40 Purpose.

Subpart D establishes procedures for the submission and disposition of petitions for prescription of a rule to supersede a consumer appliance energy efficiency or energy use State regulation pursuant to section 327(b)(1) of the Energy Policy and Conservation Act (42 U.S.C. 6297(b)(1)).

§ 430.41 Definitions.

- For the purpose of this subpart—
- (1) "Day" means calendar day.
- (2) "Petition" means a petition filed pursuant to section 327(b)(1) of the Act.
- (3) "State regulation" means a law or regulation of a State or political subdivision thereof.

§ 430.42 General requirements.

(a) *Scope.* Unless otherwise noted, the provisions of this section apply to all documents required or permitted to be submitted under this subpart.

(b) *Copies.* An original, which shall be signed, and five copies of each document shall be submitted to:

Assistant Administrator,
Office of Conservation,
Attn: Appliance Program-Petition to Supersede,
Federal Energy Administration,
12th and Pennsylvania Ave., NW.,
Washington, D.C. 20461.

All submissions become part of the FEA's files and will not be returned.

(c) *Service.* All documents required to be served under this subpart shall, if mailed, be served by first class mail. Service upon a person's duly authorized representative shall constitute service upon that person.

(d) *Obligation to supply information.* A person who submits a petition is under a continuing obligation to provide any new or newly discovered information relevant to that petition. Such information includes, but is not limited to, information regarding any other petition or request for action subsequently submitted by that person.

(e) *The same or related matters.* A person who submits a petition or other request for action shall state whether, to the best knowledge of that person, the same or related issue, act, or transaction has been or presently is being considered or investigated by the FEA; by any other Federal agency, department, or instrumentality; by any Federal court; by a

State or municipal agency, department, or instrumentality; or by a State court.

(f) *Computation of time.* (1) In computing any period of time prescribed by or allowed under this subpart, the day of the act of which the designated period of time begins to run is not to be included. If the last day of the period is a Saturday, Sunday, or Federal legal holiday, the period runs until the end of the next day that is neither a Saturday, Sunday, nor Federal legal holiday.

(2) Saturdays, Sundays, and intervening Federal legal holidays shall be excluded from the computation of time when the period of time allowed or prescribed is 7 days or less.

(3) When a submission is required to be made within a prescribed time, the FEA may grant an extension of time upon good cause shown.

(4) Documents received after regular business hours are deemed to have been submitted on the next regular business day. Regular business hours for the FEA's National Office, Washington, D.C., are 8 a.m. to 4:30 p.m.

(5) The FEA reserves the right to refuse to accept, and not to consider, untimely submissions.

§ 430.43 Petitions.

(a) *Petition requirements.* (1) A petition shall conform to the General Requirements of § 430.42 of this subpart and, in addition, shall (i) state the name and address of the petitioner, (ii) contain a brief description of the interest of the petitioner, (iii) designate a person to be contacted by the FEA regarding disposition of the petition, (iv) include a copy of each State regulation for which a rule to supersede is sought, (v) identify each product covered by the State regulation for which a rule to supersede is sought, (vi) contain a summary of the position of the petitioner, and (vii) state whether the petitioner seeks a rule prescribing a State regulation in whole or in part and, if in part, which part or parts.

(2) The petitioner shall serve a copy of the petition, all supporting documents, and all future submissions on each State agency, department, or instrumentality whose regulation the petitioner seeks to supersede. The petition shall contain a certification of this service which states the name and mailing address of the served parties, and the date of service.

(3) A petition may be submitted on behalf of more than one person. A joint petition shall indicate each person participating in the submission. A joint petition shall provide the information required by subparagraph (a)(1) of this section 430.43 for each person on whose behalf the petition is submitted.

(4) All petitions shall be signed by the person submitting the petition or by a duly authorized representative. If submitted by a duly authorized representative, a petition shall certify this authorization.

(b) *Acceptance for filing.* (1) Within fifteen (15) days of the receipt of a petition by the FEA, the FEA will either accept it for filing or reject it, and the

petitioner will be so notified in writing. FEA will serve a copy of this notification on the affected State agency, department, or instrumentality. Only such petitions which conform to the requirements of this subpart and which contain sufficient information for the purposes of a substantive decision will be accepted for filing. Petitions which do not so conform will be rejected and an explanation provided to petitioner in writing.

(2) For purposes of the Act and this subpart, a petition is deemed to be filed on the date it is accepted for filing.

(c) *Docket.* A petition accepted for filing will be assigned an appropriate docket designation. Petitioner shall use the docket designation in all subsequent submissions.

(d) *Specific information requirements.* The petition shall provide information sufficient to demonstrate to the satisfaction of the Administrator that—

(1) The petitioner is a person subject to the State regulation sought to be superseded (or is the duly authorized representative of that person);

(2) Each product for which a rule to supersede is sought is a covered product under the Act;

(3) There is no significant State or local interest sufficient to justify the State regulation; and

(4) Such State regulation unduly burdens interstate commerce.

(e) *Informational guidelines.* The following information is considered particularly relevant to the demonstration required by paragraph (d) of this section:

(1) In demonstrating that the State regulation unduly burdens interstate commerce, an analysis of the effect of complying with the State regulation on

- (i) Labor and capital costs;
- (ii) Material costs;
- (iii) Transportation costs;
- (iv) Distribution, inventory, and other associated costs;
- (v) Economies of scale;

(vi) The relationship of the investment capital necessary to comply with the State regulations to the size of a typical manufacturer of the product to which the State regulation applies and an estimate of the number of manufacturers which cannot meet the investment requirements; and

(vii) Retail price, sales volume, and employment.

(2) In demonstrating that there is no significant State or local interest sufficient to justify the State regulation—

(i) An estimate of the number of appliances meeting the State regulation which would be purchased in the State over a period of 10 years;

(ii) An estimate of the aggregate amount of energy saved by implementation of the State regulation over a period of 10 years;

(iii) A comparison of the present value of the energy saved by appliances meeting the State regulation and the increase in the retail cost of such appliances;

(iv) An estimate of the number of years of operation necessary to recoup

the estimated increase in the cost of appliances;

(v) An evaluation of the environmental, health, safety, and economic interests of the State in its regulations; and

(vi) An explanation of why the State interest in the regulations is not sufficient to justify the burden imposed by the regulations on interstate commerce.

(3) Any of analysis of the effect of the State regulations shall include a discussion of the bases of the analysis.

(4) *Environmental report.* Each petition shall contain a report containing petitioner's assessment of the environmental consequences both of denial of the petition and of publication of a rule superseding the State regulation. This environmental report shall be guided by the requirements of § 208.7 of FEA's Regulations, as applicable, 10 CFR 208.7.

§ 430.44 Disposition of petitions.

(a) *Initial public comment period.* (1) The FEA will publish a notice in the FEDERAL REGISTER of the submission and acceptance for filing of a petition. The notice will include a summary of the State regulation at issue and the petitioner's objection to the regulation. The notice will provide instructions on how copies of the petition may be obtained and will invite on how copies of the petition may be obtained and will invite public comments by all interested persons.

(2) A reasonable time after the close of the initial public comment period, the FEA will either deny the petition or propose a rule to supersede the State regulation. If, on the basis of the petition, and in light of all information submitted as comments to the petition, the Administrator determines that petitioner is likely to prevail on the merits of the petition, a proposed rule to supersede the State regulations will be issued. Otherwise, the petition will be denied. Written notice of the decision and the reasons therefore will be served on the petitioner, the affected State agency, department, or instrumentality, and all persons who submitted comments, and will be published in the FEDERAL REGISTER.

(b) *Reconsideration of the denial of a petition.* (1) If the petition is denied, any interested person may, within twenty (20) days from the date of issuance of the decision, submit an application for reconsideration to the Assistant Administrator, Office of Conservation. An application is deemed accepted when received by the FEA. The applicant shall serve a copy of the application on all persons who submitted comments on the petition. The FEA will publish a notice of submission of an application in the FEDERAL REGISTER. The applicant shall clearly and concisely state the basis for the application and the relief sought.

(2) The denial of a petition will be reconsidered only where it is alleged and demonstrated that the denial was based on an error in law or fact and that the evidence of the error is in the record of the proceedings on the petition. Argument that new information is available

which would reverse the denial of the petition may be considered if the petition is resubmitted but will not support reconsideration of the denied petition.

(3) The FEA will either deny the application for reconsideration or propose a rule to supersede the State regulation. Written notice of the decision and the reasons therefore will be served on the applicant, the affected State agency, the petitioner (if petitioner is not the applicant), and all persons who submitted comments in the initial public comment period, and will be published in the FEDERAL REGISTER.

(4) The denial of an application for reconsideration is a final decision and action for all purposes under section 327(b)(1), including judicial review. There is no other administrative appeal or review under this subpart.

(c) *Proposed rulemaking.* (1) The FEDERAL REGISTER notice of a proposed rulemaking for prescription of a rule to supersede a State regulation will invite written comments on the proposed rule from all interested persons, and will provide for a public hearing. This rulemaking will be conducted pursuant to 5 U.S.C. 553 and section 7(i) of the Federal Energy Administration Act of 1974, 15 U.S.C. § 767(i).

(2) A reasonable time after the close of the public hearing held pursuant to a notice of proposed rulemaking but no later than six months after acceptance for filing, the FEA will either deny the petition and withdraw the proposed rule, or prescribe a final rule which supersedes the State regulation in whole or in part. Written notice of the decision and the reasons therefore will be published in the FEDERAL REGISTER and served on the petitioner, the affected State agency, and all persons who submitted comments in the proposed rulemaking proceeding. The decision is a final decision and action for all purposes under section 327(b)(1) of the Act, including judicial review. There is no administrative appeal or application for reconsideration.

(c) *Consolidation.* Whenever two or more petitions are filed with respect to the same State regulation, the FEA may consolidate two or more proceedings under this subpart for the purpose of resolving one or more issues whenever it appears that such consolidation will expedite or simplify consideration of such issues. Consolidation shall not affect the running of any time period with respect to any petition.

(d) *Finality of decision.* A decision to prescribe a rule superseding a State regulation is final on the day the rule is issued, that is, signed at the FEA. A decision to deny a petition is final following the initial public comment period § 430.44(a) on the day a denial of an application for reconsideration is issued, that is, signed at the FEA, and is final following a proposed rulemaking proceeding (§ 40.44(b)) on the day the denial is issued, that is, signed at the FEA.

[FR Doc. 77-29298 Filed 10-3-77; 8:45 am]

[3128-01]

**PART 440—WEATHERIZATION
ASSISTANCE FOR LOW-INCOME PERSONS**
Final Rulemaking; Correction

AGENCY: Federal Energy Administration.

ACTION: Final rulemaking; correction.

SUMMARY: This document makes two corrections in § 440.30 of the final rulemaking regarding the program of weatherization assistance for low-income persons, which was published in the FEDERAL REGISTER (42 FR 27899) on June 1, 1977. Paragraph (e)(1) is corrected to require that the notice sent by the Regional Administrator informing a grantee of his or her intent to terminate its grant include a statement of reasons. Paragraph (h) is corrected to require that a grantee may appeal from an adverse final determination made by the Regional Administrator.

FOR FURTHER INFORMATION CONTACT:

Mary M. Bell, Director, Office of Weatherization Assistance, Room 6447, Federal Energy Administration, Washington, D.C. 20461 (202-566-3091).

SUPPLEMENTARY INFORMATION: Two changes are made to correct § 440.30. Administrative review, of the final rulemaking regarding the program of weatherization assistance for low-income persons in order to clarify the procedures for denial of a grant, application and for termination of a grant. These two changes correct § 440.30 to achieve FEA's original intent that a grantee whose grant is terminated be accorded the same right of administrative review as an applicant whose application is denied.

As published, paragraph (e)(1) required that only the notice sent by the Regional Administrator informing a State or local applicant of his or her intent to deny its application include a statement of reasons for the Regional Administrator's determination. As corrected, paragraph (e)(1) requires that the notice sent by the Regional Administrator informing a grantee of his or her intent to terminate its grant include a statement of reasons as well. As published, paragraph (h) provided that only a State or local applicant could appeal from an adverse final determination made by the Regional Administrator. As corrected, paragraph (h) provides that a grantee may appeal from an adverse final determination made by the Regional Administrator as well.

Since the references to a grantee whose grant is terminated were omitted by oversight from paragraphs (e)(1) and (h) of the final rulemaking for the weatherization program, FEA is not offering an opportunity for public comment on these technical corrections.

(Part A of Title IV of the Energy Conservation and Production Act, Pub. L. 94-385, 90 Stat. 1125 (42 U.S.C. 6326); Pub. L. 93-

275, as amended, 15 U.S.C. 761; E.O. 11790, 39 FR 23185.)

Accordingly, § 440.30, Chapter II of Title 10, Code of Federal Regulations, is corrected as set forth below.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

§ 440.30 [Amended]

1. Paragraph (e)(1) of 10 CFR 440.30 is corrected by adding the words, "or (d)", immediately following the words, "paragraph (c)".

2. Paragraph (h) of 10 CFR 440.30 is corrected by adding the words, "or grantee", immediately following the word, "applicant," and immediately before the word, "may", in the first sentence.

[FR Doc. 77-29235 Filed 10-3-77; 8:45 am]

[3128-01]

**1977 PRICE AND ALLOCATION
INTERPRETATIONS**

AGENCY: Federal Energy Administration.

ACTION: Notice of interpretations.

SUMMARY: Attached are the interpretations issued by the General Counsel and Regional Counsels of the Federal Energy Administration (FEA) during the period September 1 through September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Kathleen Williams, Federal Energy Administration, 12th and Pennsylvania Avenue NW., Room 7132, Washington, D.C. 20461 (202-566-2454).

SUPPLEMENTARY INFORMATION: FEA interpretations issued pursuant to 10 CFR Part 205, Subpart F, are published in the FEDERAL REGISTER from time to time in accordance with the editorial and classification criteria set forth in 42 FR 7923, February 8, 1977, as modified in 42 FR 46270, September 15, 1977.

FEA Interpretations depend for their authority on the accuracy of the factual statement used as a basis for the Interpretation (10 CFR 205.84(a)(2)) and may be rescinded or modified at any time (§ 205.85(d)). Only the persons to whom Interpretations are addressed and other persons upon whom Interpretations are served are entitled to rely on them (§ 205.85(c)). An Interpretation is modified by a subsequent amendment to the regulation(s) or ruling(s) interpreted thereby to the extent that the Interpretation is inconsistent with the amended regulation(s) or ruling(s) (§ 205.85(e)). In addition, Interpretations are subject to appeal. The Interpretations appended hereto are published today only for general guidance in accordance with the reasons set forth in the FEA Notice first cited above.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

Appendix

No.	To	Date	Category
1977-34	Mobil Oil Corp.	Sept. 16	Allocation.
1977-35	Oil Transit Corp.	Sept. 27	Price.
1977-36	Guam Oil & Refining Co.	Allocation.	
1977-37	Joseph J. C. Paine & Associates.	Sept. 28	Price.
1977-38	Damson Oil Corp.	Sept. 30	Do.

[INTERPRETATION 1977-34]

To: Mobile Oil Corp.
Date: September 16, 1977.
Rules interpreted: §§ 211.62, 211.65.
Code: GCW—AI—Crude oil buy/sell program.

FACTS

Mobil Oil Corp. ("Mobil") is a refiner-seller as that term is defined in 10 CFR 211.62 and is required to offer crude oil for sale to those refiners classified as refiner-buyers under the Federal Energy Administration (FEA) domestic crude oil allocation program (the "buy/sell program") set forth at 10 CFR 211.65. The sales obligations of refiner-sellers are computed generally with reference to their respective refining capacities as reported to the Bureau of Mines as of January 1, 1973.

Mobil's total refining capacity reported to the Bureau of Mines as of that date was 918,000 barrels per day, including a 47,000 barrel per day refinery owned by Mobil located in East Chicago, Ind. Based on this report and when considered as a portion of the total refining capacity of all refiner-sellers as of January 1, 1973, Mobil's fixed percentage share under 10 CFR 211.65(d) was calculated to be 0.089 of the total allocation obligation for each allocation quarter, subject to the other adjustments provided for by the pertinent FEA regulations applicable to the buy/sell program. In July 1974, Mobil suspended operations of its East Chicago refinery and, for the allocation quarter commencing September 1, 1974, reported a resulting reduction of 47,000 barrels per day in its operable refining capacity.

ISSUE

The issue presented for interpretation is whether a 47,000 barrel per day reduction of Mobil's refining capacity from that reported by Mobil to the Bureau of Mines on January 1, 1973, results in a decrease in Mobil's fixed percentage share as a refiner-seller under 10 CFR 211.65(d).

INTERPRETATION

For the reasons set forth below, it has been concluded that decrease in a refiner-seller's refining capacity from that reported by the refiner-seller to the Bureau of Mines on January 1, 1973, is not a basis for a reduction of that refiner-seller's fixed percentage share under 10 CFR 211.65(d)(2)(iii).

Each refiner-seller's sales obligation under the buy/sell program is determined with reference to its fixed percentage share of the total refining capacity of all refiner-sellers. 10 CFR 211.65(d)(iii) provides in relevant part that:

¹ The FEA Office of Exceptions and Appeals reached the same conclusion in *Atlantic Richfield Co.*, 3 FEA ¶ 83.177 (May 14, 1976).

A refiner-seller's fixed percentage share is its proportionate share of the total refining capacity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973, as certified by the FEA. New refining capacity or future refining capacity shall not subject a refiner-seller to any increase in its fixed percentage share. . . .

Under 10 CFR 211.65(d)(2)(iii), as stated above, a refiner-seller's fixed percentage share is its proportionate share of the total refining capacity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973. In Mobil's request, it was contended that the use of the defined term "refining capacity" incorporates, in accordance with the provisions of the definition of that term, subsequent reductions in the actual refining capacity as reported to the Bureau of Mines on January 1, 1973, into the calculation of refiner-sellers' fixed percentage shares. Refining capacity is defined in 10 CFR 211.62 as follows:

"Refining capacity" means, for each refinery, the capacity reported to the Bureau of Mines as of January 1, 1973, as certified by the FEA. Any capacity of a refinery which has ceased to be operated continuously in the normal course of business since the January 1973 report to the Bureau of Mines shall be deducted from refining capacity.²

The reference to the Bureau of Mines report on January 1, 1973, in the context of the provisions for a refiner-seller's fixed percentage share, however, indicates that refinery capacity is not used in its defined sense, but rather specifically fixes refiner-sellers' percentage shares by reference to a historical event. Without this additional reference, the provisions of the definition would have been incorporated in their entirety in 10 CFR 211.65(d)(2)(iii). Thus, the context in which the term "refining capacity" appears in 10 CFR 211.65(d)(2)(iii) renders inapplicable the provision of 10 CFR 211.62 with regard to subsequent reduction in a seller's 1972 capacity.

The clear intent behind the additional reference to the January 1, 1973, report date was to establish permanent sales obligations for refiner-sellers and not permit fluctuations in a refiner-seller's share from allocation quarter to allocation quarter as a result of increases or decreases in its refining capacity.

² Prior to the August 26, 1976, amendment to 10 CFR 211.65(d) (40 FR 39847, August 29, 1975), 10 CFR 211.65(d)(1) contained provisions identical to those of 10 CFR 211.65(d)(2)(iii) as set forth above. Revisions to the buy/sell program were adopted on August 19, 1977 (42 FR 42770, August 24, 1977), to be effective October 1, 1977. In the revised program, a refiner-seller's percentage share is defined in 10 CFR 211.65(f)(2)(ii). That section provides, in relevant part, that:

A refiner-seller's fixed percentage share is its proportionate share of the total refining capacity of all refiner-sellers as reported to the Bureau of Mines on January 1, 1973, as certified by the FEA. Changes in refining capacity shall not subject a refiner-seller to any change in its fixed percentage share over the share identified for the first allocation period.

Thus the recently adopted revisions to the buy/sell program eliminate any ambiguity in the regulations with regard to a refiner-seller's fixed percentage share and are fully consistent with this interpretation.

³ In the revised program, the definition of refining capacity will be amended to read as follows:

"Refining capacity" means, for each refinery, the capacity thereof as certified by the FEA. Any capacity of a refinery which has ceased to be operated continuously in the normal course of business shall be deducted from refining capacity.

In addition, the explicit language of the regulation consistently refers to the refiner-seller's fixed percentage share which is further indicative of the intent to establish unvarying supply obligations under the buy/sell program.

The preamble to the revision of the Mandatory Crude Oil Allocation Program (30 FR 17288, May 14, 1974) further describes the general intent in so structuring the sales obligations of refiner-sellers:

Fixed share for allocating refiners . . . A refiner-seller's allocation obligation would be basically a fixed percentage share of the total amount to be allocated to all refiner-buyers in an allocation quarter. Each refiner-seller's percentage share would be its proportional share of the reported refinery capacity of all refiner-sellers as of January 1, 1973. It is important to note that a refiner-seller's relative share of the total allocation obligation would not increase as the refiner-seller acquires additional crude oil since the percentage share is fixed by reference to an event in the past. *Id.* (Emphasis added.)

Each refiner-seller's proportionate share of the total sales obligation was fixed as of a certain date for the purpose of lending predictability to the amount of that obligation and removing any disincentives to increase supplies through imports or to develop additional refining capacity. Refiners were specifically put on notice that since their percentage share was fixed with respect to a historic date that their proportionate share of the sales obligation could not be increased.

Finally, allowing decreases in actual refining capacity to reduce a refiner-seller's sales obligation under the buy/sell program would be inconsistent with the general intent of the regulations with regard to increases in sales obligations because any decreases in one refiner-seller's obligation would result in increases in all other refiner-sellers' obligations. Although most references are to increases in obligations, it is evident that increases or decreases are interrelated and neither is contemplated within the context of the buy/sell program.

[INTERPRETATION 1977-35]

To: Oil Transit Corp.
Date: September 27, 1977.
Rule interpreted: § 210.62(a).
Code: GCW—PI—Normal business practices.

FACTS

Oil Transit Corp. ("Oil Transit"), a supplier of motor gasoline, is a wholesale purchaser-reseller under Federal Energy Administration (FEA) Mandatory Allocation Regulations and is subject to FEA price regulations applicable to resellers. On May 15, 1973, Oil Transit sold motor gasoline to its purchasers based upon credit terms which required full payment within 30 days and allowed a one percent (1%) discount for payment within 10 days. No letter of credit or other financial assurance guaranteeing payment was required by Oil Transit of its purchasers on May 15, 1973. Since May 15, 1973, Oil Transit's accounts receivable have increased substantially because of the rising prices of the motor gasoline it sells. In light of this fact, Oil Transit proposes to require all motor gasoline purchasers to obtain a letter of credit in an amount reflecting increases in the sales price over May 15, 1973, price levels as a precondition to its sales of the product.

ISSUE

Would Oil Transit violate the provisions of 10 CFR 210.62(a) precluding the imposition of more stringent credit terms if Oil Transit required its motor gasoline purchasers to submit letters of credit or similar financial assurances guaranteeing payment to

Oil Transit of any portion of the purchase price of motor gasoline since such letters of credit or other similar financial assurances were not imposed as a purchase prerequisite by Oil Transit on May 15, 1973?

INTERPRETATION

If Oil Transit required, as a prerequisite to the sale of motor gasoline to its purchasers, that such purchasers obtain letters of credit or other similar financial assurances not required by Oil Transit on May 15, 1973, Oil Transit would be imposing more stringent credit terms than those in effect on May 15, 1973, in violation of 10 CFR 210.62(a).

10 CFR 210.62(a) provides in pertinent part:

Suppliers will deal with purchasers of an allocated product according to normal business practices in effect during the base period specialized in Part 211 for that allocated product Credit terms other than those associated with seasonal credit programs are included as a part of the May 15, 1973, price charged to a class of purchaser under Part 212 of this Chapter. Nothing in this paragraph shall be construed to require suppliers to sell to purchasers who do not arrange proper credit or payments for allocated products, as customarily associated with that class of purchaser . . . on May 15, 1973 However, no supplier may require or impose more stringent credit terms . . . on purchasers than those in effect for that class of purchaser . . . on May 15, 1973

FEA has previously addressed the impact of 10 CFR 210.62(a) upon credit terms. In *Crystal Oil Co.*, 1 FEA ¶ 20.161 (October 8, 1974), the FEA Office of Exceptions and Appeals affirmed an April 9, 1974, Interpretation issued by the Regional Administrator of FEA Region VI. In that case, the FEA concluded that a supplier's requirement of letters of credit as a precondition for the sales of covered products would be a violation of 10 CFR 210.62, if that practice had not been followed on May 15, 1973. The FEA further found that the imposition by a supplier of more stringent credit terms than those in effect for the class of purchaser on May 15, 1973, is in fact an impermissible price increase.⁴

It is clear then that Oil Transit is proposing a change in a credit term in the sale of a covered product more stringent than that which was in effect on May 5, 1973. On May 15, 1973, purchasers of Oil Transit's motor gasoline were not required to incur the additional cost of obtaining (solely for Oil Transit's benefit) letters of credit or other similar financial assurances guaranteeing payment to Oil Transit of any portion of the purchase price within the payment period specified. The effect of the imposition of this more stringent credit term would be to increase the cost of the motor gasoline to Oil Transit purchasers. Restricting the applicability of such financial assurances to the amount of the increase in the sales price of the covered product between May 15, 1973, and the present does not alter this conclusion, since any such requirement by Oil Transit was wholly absent on May 15, 1973. See FEA Ruling 1974-10, Federal Energy Guidelines (CCH) ¶ 16,020.

Oil Transit has asserted that it is exposed to greater financial risks because of increases in the magnitude of the firm's accounts receivable attributable to the substantial increase in the sales prices of motor gasoline

⁴ Since the Temporary Emergency Court of Appeals' decision in *Marathon Oil Co. v. FEA*, 547 F.2d 1140 (1976) there can be no doubt concerning the authority of the FEA to regulate credit terms as an incident to FEA price regulations.

that has occurred since May 15, 1973. A similar argument was noted and rejected in *Crystal Oil Co., supra*, which established that 10 CFR 210.62(a) did not contemplate the imposition of more stringent credit terms than those in existence on May 15, 1973 "based upon a change in general economic conditions."

Of course, if Oil Transit can show that a particular purchaser exhibits a pattern of late payment of financial instability, Oil Transit may request permission from FEA to impose stricter credit terms with regard to that purchaser, although "the burden of establishing the necessity of a change in credit practice with respect to any purchaser rests with the supplier." *Crystal Oil Co., supra* at 20,266.

[INTERPRETATION 1977-36]

To: Guam Oil & Refining Co. (GORCO).
Date: September 27, 1977.
Rules interpreted: §§ 211.67(d)(2) and 212.53(a).

Code: GCW—AI—Export sales deduction.

FACTS

Guam Oil & Refining Co. (GORCO) operates a refinery located in Guam. GORCO proposes to enter into a time exchange with Firm X. Pursuant to the proposed agreement, GORCO would deliver to Firm X, f.o.b. Guam, a specified quantity of high-sulphur residual fuel oil for shipment to a destination outside the United States. In exchange for this oil, within seven months of the delivery referred to above, Firm X would deliver to GORCO, f.o.b. Guam, an approximately equal volume of high-sulphur residual fuel oil originating from a source outside the United States. If the quantities of residual fuel oil exchanged are not exactly the same, the party receiving delivery of the larger volume would compensate the other party at the rate of \$xxx per barrel. Firm X would compensate GORCO for the time exchange by payment of a monthly fee computed at the rate of xxx percent per annum multiplied by the number of barrels of residual fuel oil delivered by GORCO to Firm X, each barrel being valued at \$xxx.

ISSUE

Is this exchange of residual fuel oil by GORCO an export sale within the meaning of 10 CFR 212.53(a), which requires GORCO to deduct the volume of residual fuel oil exchanged from its crude oil runs to stills pursuant to the export sales deduction requirement under the domestic crude oil allocation program (the "entitlements program") as set forth at 10 CFR 211.67(d)(2)?

INTERPRETATION

For the reasons set forth below, it has been concluded that the volume of residual fuel oil exchanged by GORCO for export pursuant to this agreement would not be an export sale within the meaning of 10 CFR 212.53(a), and therefore the volumes exchanged are not required to be deducted from GORCO's crude oil runs to stills under 10 CFR 211.67(d)(2), provided that the volumes of residual fuel oil exchanged are equal. If the volume of residual fuel oil delivered by GORCO to Firm X exceeds the volume of residual fuel oil received in exchange by it, the difference in volume would constitute an export sale by GORCO to be deducted from its crude oil runs to stills under the entitlements program by means of a retroactive adjustment.

10 CFR 211.67(d)(2) provides, in pertinent part, that:

The volume of a refiner's crude oil runs to stills in a particular month for purposes of the calculations in paragraph (a)(1) of this section (issuance of entitlements) and the calculations for the national domestic crude

oil supply ratio shall be reduced by that refiner's volume of export sales under § 212.53 of Part 212 of this chapter in that month of refined petroleum products . . . and residual fuel oil, including sales to a domestic purchaser which certifies the product is for export

10 CFR 212.53(a) exempts "export sales" from the Federal Energy Administration's price regulations but does not define the term "export sales."

In FEA Interpretation 1977-16 (42 FR 31151, June 20, 1977), it was pointed out that export sales under 10 CFR 212.53(a) are those which produce revenues from foreign sources. The Interpretation also found that the export sales exemption was adopted to allow export sales to be made at the highest possible prices.² Thus, if GORCO and Firm X exchange the same volumes of residual fuel oil over time, no export sale will occur because GORCO will have received no sales revenue from a foreign source.

Moreover, the policy underlying the loss of entitlements for export sales under 10 CFR 211.67(d)(2), does not apply in this case. That statement of policy, set forth in the preamble to the amendments to that section issued on March 29, 1976 (41 FR 13899, April 1, 1976), notes that the entitlements program was established to equalize among all segments of the petroleum industry the benefits of access to lower priced domestic crude oil whose ceiling price is low in comparison to uncontrolled domestic or imported crude oil. Thus, the export deduction provision of the entitlements program is designed first to ensure that cost equalization benefits are not granted to the extent that a firm exports refined petroleum products or residual fuel oil and sells these products in the world market at uncontrolled prices and further to preserve the advantages of these cost benefits for domestic purchasers of petroleum products (Id. at 13902). Allowing exported refinery products to earn entitlements would, in effect, constitute a subsidy to foreign oil consumers.

Since GORCO does not propose any net export of residual fuel oil in this case, the cost equalization benefits of any and all entitlements it receives will be retained in the domestic economy. Therefore, no export sales deduction is required. However, if a net export of a small volume of such oil results from the failure of Firm X to deliver in exchange to GORCO as much residual fuel oil as GORCO delivers to Firm X, GORCO will be required to make a retroactive adjustment to its Form P-102-M-1 and reduce its crude oil runs to stills under the entitlements program by the net volume of residual fuel oil exported pursuant to the agreement.

If Firm X fails to deliver to GORCO the volume of residual fuel oil specified in the time exchange agreement and Firm X accordingly pays GORCO for that residual fuel oil, GORCO's receipt of such payment would constitute an export sale under 10 CFR 211.67(d)(2), requiring the retroactive adjustment outlined above.

[INTERPRETATION 1977-44]

To: Joseph J. C. Paine & Associates.

Date: -----
Rules interpreted: § 212.72, Ruling 1977-1.
Code: GCR (VIII)—PI—Definition of BPCL property.

FACTS

Joseph J. C. Paine & Associates ("Paine"), a crude oil producer, is a working interest owner with Chandler & Associates

² See also CLC Phase IV Price Ruling 1974-3, issued March 14, 1974 (39 FR 10152, March 18, 1974), which dealt with a regulatory provision analogous to 10 CFR 212.53(a).

("Chandler") in the section 10 sublease. The section 10 sublease is the site of an abandoned well, located in the larger 1,920 acre Kimball County, Nebr., base lease which has been producing crude oil since 1950. The base lease consists of five sections, only one of which, section 20, a stripper well property, is currently producing crude oil. The section 10 and section 20 subleases were developed separately, accounted for separately during the time both were producing crude oil, encompass separate reservoirs and are non-contiguous.

As part of its operations, Paine proposes to reactivate the section 10 sublease by drilling a new well in the place of one which was abandoned in October 1971 by a former working interest owner. No crude oil has been produced from section 10 since October 1971.

ISSUE

Does section 10 constitute a separate property pursuant to 10 CFR 212.72 and Ruling 1977-1? If so, is the crude oil produced from the well on the property subject to the upper tier ceiling price in accordance with 10 CFR 212.74(b)?

INTERPRETATION

For the reasons set forth below, it has been concluded that the section 10 sublease constitutes a separate property pursuant to section 212.72 and Ruling 1977-1 and that the crude oil produced from the sublease is subject to the upper tier ceiling price rule set forth in section 212.74(b).

The term "property" is defined in section 212.72 as: "Property" means the right to produce domestic crude oil, which arises from a lease or from a fee interest. A producer may treat as a separate property each separate and distinct producing reservoir subject to the same right to produce crude oil, provided that such reservoir is recognized by the appropriate governmental regulatory authority as a producing formation that is separate and distinct from, and not in communication with, any other producing formation.

This concept of property was further interpreted by the Federal Energy Administration in Ruling 1977-1.

In this Ruling it was stated in part: "In all cases in which it can be shown that since non-contiguous tracts were developed and produced separately, and where they have historically and consistently been accounted for as separate properties, FEA will permit them to be so regarded." (16,065 at 16,777).

This property concept is considered by FEA to be "generally synonymous with the concept of 'working interest.'" Id., at 16,176. Thus, since production of crude oil from a producing area under one lease may constitute a "working interest" separate from that of another producing area subject to a different lease, that production area is a separate property for purposes of Part 212, Subpart D. Furthermore, then a large base lease such as the Kimball County base lease, containing a number of underlying reservoirs, has been divided into several production areas which are non-contiguous or were accounted for and developed separately or even developed by different working interest owners, the separate producing areas of the base lease are separate properties for purposes of Part 212, Subpart D.

Based upon the facts presented by Paine, section 10 meets all of these criteria. The section 10 lease appears to encompass a reservoir distinct from that of the remainder of the Kimball County base lease. In addition, the section 10 lease has historically been treated as distinct from the remaining producing area on the base lease, section 20, and must accordingly be treated as separate from the section 20 lease. Therefore, section 10

must establish selling prices for crude oil based upon its status as a separate property.

The appropriate ceiling price for crude oil produced from the section 10 lease may be determined by calculating the property's base production control level. "Base production control level is defined in section 212.72 as: "Base production control level" means: (1) with respect to months ending prior to February 1, 1976:

(A) If crude oil was produced and sold from the property concerned in every month of 1972, the total number of barrels of domestic crude oil produced and sold from the property in the same month of 1972;

(B) If crude oil was not produced and sold from the property concerned in every month of 1972, the total number of barrels of crude oil produced and sold from that property in 1972, divided by 12;

(2) With respect to months commencing after January 31, 1976, except as provided in § 212.76, either:

(A) The total number of barrels of old crude oil produced and sold from the property concerned during calendar year 1975, divided by 365, multiplied by the number of days in the month in 1975 which corresponds to the month concerned;

Since no crude oil was produced from the section 10 property subsequent to October 1971, the section 10 sublease has no base production control level.

"New" crude oil is defined in section 212.72 to mean: with respect to a specific property: (1) Prior to February 1, 1976, the total number of barrels of domestic crude oil produced and sold in a specific month, less (A) the base production control level for that month, and less (B) the current cumulative deficiency;

(2) Effective February 1, 1976, the total number of barrels of domestic crude oil produced and sold in a specific month, less (A) the property's base production control level for that month and less (B) the current cumulative deficiency since February 1, 1976;

Thus, all crude oil produced from the section 10 property will, upon proven certification pursuant to section 212.131(a), be classified as new crude oil and will therefore be subject to the upper tier ceiling price rule set forth in section 212.74.

[INTERPRETATION 1977-38]

To: Damson Oil Corp.
Date: September 30, 1977.
Rule interpreted: § 212.72.
Code: GCW—PI—Definition of first sale.

FACTS

Damson Oil Corp. ("Damson") is a working interest owner and operator of the Avoca No. 3 producing well* in the Wyandotte Field in St. Mary's Parish, La. All production from this property is sold to Koch Oil Co. ("Koch"), a division of Koch Industries, Inc. Sales from the property are subject to the price regulations applicable to producers of crude oil in 10 CFR Part 212, Subpart D.

Damson measures production from the property concerned by meter prior to entry into its storage tank. Koch takes delivery of all of the production which is stored in Damson's storage tank at the tank site at regular intervals (approximately every 10 days). The property is located in the marshes of southern Louisiana and is accessible only by boat.

On January 28, 1976, Koch arranged with Damson for Koch to take delivery of crude oil on January 31, 1976. Due to fog, the barge

*For purposes of this Interpretation, the Avoca No. 3 producing well will be referred to as the "property" to which price controls apply under 10 CFR Part 212, Subpart D.

which was to pick up the crude oil was unable to arrive on January 31. A subsequent meeting was arranged for 6:30 a.m., February 1, 1976. Damson's guager was present at 6:30 a.m. to witness the delivery, but the barge operator would not commence receiving the load of crude oil until Koch's guager arrived to check the tanks and the barge. Koch's guager arrived at approximately 7 a.m., but the loading valve was not opened until 7:40 a.m. Damson states that the sale would have constituted a sale occurring in January 1976 under the terms of the contract between the parties, "[h]ad sale been completed prior to 7 a.m.," February 1, 1976.

The first stage of regulations issued under the Energy Policy and Conservation Act, Pub. L. 94-163, December 22, 1975, became effective February 1, 1976. These regulations eliminated the "released" crude oil regulatory classification, under which sales of such crude oil were permitted at uncontrolled prices. They also subjected crude oil that formerly had been sold at market price levels as "new" crude oil to an "upper tier" ceiling price set at levels somewhat below the formerly uncontrolled price. As a result of these regulatory changes effective February 1, 1976, Damson claims that it will suffer a loss in excess of \$56,000 on the sale of crude oil described above if this sale is deemed to have occurred after January 31, 1976.

ISSUE

Where crude oil is metered upon production and all such production is sold to a single purchaser, may the "first sale" under 10 CFR 212.72 be deemed to have occurred upon production even though delivery was not completed until the following month?

INTERPRETATION

Mere production of crude oil generally does not constitute a "first sale" under FEA price regulations applicable to producers of crude oil. On the facts presented to FEA in this instance, Damson may not treat the production of crude oil from the property concerned as the "first sale" of that crude oil.

Section 212.2 of 10 CFR provides that Part 212 of the FEA regulations "applies to each sale or purchase of a covered product in the United States" (emphasis added). Section 212.71 states that Subpart D of Part 212, applicable specifically to producers of crude oil, applies to "each first sale of domestic crude oil" (emphasis added), as distinct from subsequent sales of crude oil which are subject to the reseller rules in Subpart F of Part 212.

Further, § 212.72 defines "first sale" as "the first transfer for value by the producer or royalty owner." Thus, the applicability of the FEA's price regulations for producers relates to the first "sale" of crude oil.

The FEA price regulations applicable to producers sometimes refer to crude oil "produced and sold," or "production and sale" of crude oil, reflecting in part the usual concurrence or close temporal relationship between the production and initial sale of crude oil. See, e.g., the definition of "base production control level" and "current cumulative deficiency" in § 212.72. In Interpretation 1976-16, August 26, 1976, FEA followed the interpretation of "produced and sold" originally adopted by the Cost of Living Council in Phase IV Question and Answer No. 15-1, October 1, 1973. The Council stated that "[i]f crude petroleum was produced in one month, but sold in another, that amount is considered 'produced and sold' in the month of sale for purposes of determining the base production control level." Thus, even in situations in which crude oil may have been produced in one month and sold in another, the time of sale

is used for purposes of applying the FEA price regulations applicable to producers.

As indicated above, the "first sale" is defined by FEA as "the first transfer for value." It is clear from the facts that there was no transfer of physical possession of the crude oil concerned to Koch upon production in January 1976 and it is not alleged by Damson that the bare title to the crude oil passed at that time. On the contrary, the interpretation request admits that "sale" was not completed prior to 7 a.m. on February 1, 1976. In the absence of a clear showing to the contrary, FEA presumes that the first transfer for value—i.e., the first sale—occurs upon delivery, in accordance with normal business practice. FEA cannot conclude, therefore, as a matter of interpretation, that the sale in question occurred upon production.

The fact that the delay in the sale until February 1 was unintended and inadvertent, or that the crude oil was metered upon production and that all production was sold to a single purchaser, does not alter the fact that the crude oil in question was sold in February 1976. The economic consequences resulting to Damson in this case because of the effectiveness of new price regulations applicable to first sales of crude oil beginning February 1, 1976, while possibly forming the basis for a request for exception from FEA price regulations applying to producers, are not relevant to an interpretation of the meaning or applicability of those regulations.

[FR Doc. 77-29241 Filed 10-3-77; 8:45 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 5, Amdt. 10]

PART 107—SMALL BUSINESS INVESTMENT COMPANIES

Limited Partnership Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: This rule adopts regulations, published in proposed form on October 29, 1976 (41 FR 47502), authorizing small business investment companies (SBICs) to be organized as limited partnerships. The Small Business Investment Act (SBI Act) was amended on June 4, 1976 to permit unincorporated SBICs to be licensed by SBA (Pub. L. 94-305, sec. 106, 90 Stat. 663 et seq.). On June 25, 1976, technical amendments were incorporated into the SBIC Regulation accommodating existing regulatory provisions to limited partnerships (13 CFR Part 107, Rev. 5, Amdt. 5, 41 FR 26201). The present implementing policy regulations enable the limited partnership SBIC program to become operative.

EFFECTIVE DATE: The amendments will become effective on November 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Peter F. McNeish, Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, (202-653-6584).

SUPPLEMENTARY INFORMATION: A substantial number of comments were received following publication of the Notice of Proposed Rulemaking on October 29, 1976. Major subjects covered were: (1) restrictions on use of funds by, and outside activities of, the corporate general partner (CGP); (2) the CGP's liability for leverage indebtedness to SBA; (3) limitation to a sole CGP as distinguished from multiple general partners (including individuals); (4) aggregation of CGP's separate corporate capital with SBIC's partnership capital for leverage purposes; (5) prohibition against removal of CGP by limited partners without SBA's prior approval; and (6) conversion of limited partnership SBIC to corporate form without SBA prior approval.

(1) *Restrictions on Use of Funds and Outside Activities of CGP.* Section 107.4(b) requires the limited partnership SBIC to have a sole corporate general partner, "organized under State law solely for service as such, which shall not serve in such capacity for any other Licensee." Under § 107.4(d), the CGP's corporate capital not invested in the partnership Licensee "shall be invested only as permitted by the last sentence of section 308(b) of the [SBI] Act [U.S. Government and Government-guaranteed obligations, pursuant to § 107.808] and § 107.1004(c) [joint Financing of small concerns with the Licensee]." The limited partnership SBIC organized under applicable State law, is licensed by SBA under Section 301 of the SBI Act and is eligible to receive from SBA leverage funds in an amount up to four times its private capital, but not to exceed \$35 million. Pursuant to the SBI Act, limited partnership as well as corporate SBICs are subject to SBA examination, reporting, conflicts of interest, disciplinary, and other enforcement and administrative requirements under the statute, and regulations thereunder.

The CGP will be vested with sole management powers over the affairs of the limited partnership SBIC; it will represent for all practical purposes the SBIC in actual operation. Accordingly, consistent with its management authority and fiduciary relationship, obligations, and accountability under the Uniform Limited Partnership Act, SBA considers it administratively necessary to the practicable administration of the SBIC program, to subject the CGP to the same examination, reporting, self-dealing, administrative, enforcement, and other requirements applicable to the Licensees themselves. It would impose a virtually impossible administrative burden on SBA to examine and regulate, from SBA's standpoint as creditor and supervisory authority, the CGP's Licensee-related activities as distinguished from its outside business interests and operations assertedly separate from, and unrelated to, the Licensee.

(2) *Corporate General Partner's (CGPs) Liability for Leverage Indebtedness to SBA.* The comments assert that partnership SBIC debentures issued

to SBA evidencing leverage pursuant to Section 303(b) of the SBI Act, should be non-recourse loans, recovery of which is limited to SBIC assets, without recourse (in case of deficiency) against the CGP's separate corporate assets. In effect, the claim is that SBA should relinquish its creditor's rights pursuant to Section 9(1) of the Uniform Limited Partnership Act, which renders a general partner in a limited partnership liable for partnership debts and obligations. It is asserted that subjection of the CGP to such liability, will discourage the formation of partnership SBICs and substantially impede implementation of the limited partnership SBIC program contemplated by Congress.

As explained in the preamble to the Notice of Proposed Rulemaking (41 FR 47502), SBA is considering its legal authority as well as the administrative desirability of not looking to the CGP's separate assets. Accordingly, SBA invited written comments to be submitted on the merits of this question. The matter is still under active consideration; a formal submission has been made by SBA to the Comptroller General for his decision concerning SBA's legal authority to make such non-recourse loans. His decision is now being awaited before SBA's final determination.

(3) *Limitation to Sole CGP as Distinguished from Multiple General Partners (including individuals).* The comments assert that the limitation to a sole corporate general partner, excluding multiple corporate general partners as well as individuals, is unduly restrictive and prevents the entrance into the SBIC program of financially stable, well-managed corporations with added resources and management expertise. It is also asserted that multiple general partners will assure continuity of operation, without termination of the partnership in the event of removal or dissolution of the sole CGP.

The matter of permitting limited partnership SBICs to have multiple general partners, with one vested with active management authority, is under current review. After full consideration, SBA will make its final determination of this issue.

(4) *Aggregation of CGP's Separate Corporate Capital with SBIC's Partnership Capital for Leverage Purposes.* Some of the comments submitted assert that since the CGP's separate assets will be dedicated to the SBIC program under § 107.4(d), its corporate capital should be aggregated with the SBIC's capital for leverage purposes. There is no present explicit legal basis in the June 4, 1976 legislation or its legislative history, for the extension of leverage in the manner suggested. Nevertheless, SBA is now considering the advisability of submitting to the Comptroller General for decision, the question of SBA's statutory authority to leverage the corporate capital of the CGP (after receipt from the Internal Revenue Service of its advice concerning possible tax consequences to the partnership and its investors of such leverage).

(5) *Prohibition Against Removal of CGP by Limited Partners Without SBA's Prior Approval.* Section 107.4(b) prohibits the removal or replacement of the CGP by action of the limited partners, without SBA's prior written approval. The point is made in the comments that the limited partners should have power of removal, free of SBA control, in order to assure continuity of operation if it becomes necessary to replace the CGP. SBA, however, deems it essential to its responsibility as creditor and supervisory authority to retain an effective administrative hold over the CGP as fiduciary-manager of the partnership SBIC. If circumstances warrant removal or replacement, SBA approval will be forthcoming; its consent will not be unreasonably withheld. The CGP's removal and replacement do not merely involve matters of concern to the general and limited partners, but also SBA's vital interests in the context of leverage extended, and SBIC management in conformity with the SBI Act and regulations thereunder. An exit-examination of the CGP's affairs, for example, may be appropriate before terminating its existing relationship to the SBIC.

(6) *Conversion of Limited Partnership SBIC to Corporate Form Without SBA Prior Approval.* Under § 107.903 of the SBIC Regulation, merger, consolidation or reorganization of a Licensee requires prior SBA approval. This provision applies to both corporate Licensees and limited partnership SBICs. The contention that a partnership SBIC should be allowed to convert freely to the corporate form, without the necessity of SBA approval, is based on the unwarranted assumption that its consent may be unreasonably withheld. In any event, to permit partnership SBICs to convert, without SBA review and approval, would unfairly discriminate against corporate Licensees desiring to reorganize into the partnership form, with SBA consent.

Section 107.805, which restricts eligible consideration for the issuance of SBIC securities to cash, U.S. Government obligations, and certain types of non-cash property and services, was not made explicitly applicable to the CGP's corporate capital under the technical amendments to the SBIC Regulation adopted on June 25, 1976 (41 FR 26201). It is not now necessary to do so in view of the fact that § 107.4(d) of the present amendments requires such corporate capital to be invested as Idle Funds (U.S. Government obligations) or in joint financing of small concerns with the partnership SBIC, pursuant to §§ 107.808 and 107.1004(c). Accordingly, its corporate capital must consist of funds available for such investment.

Certain miscellaneous minor corrections are made in §§ 107.103, 107.701(b) (2), 107.702, 107.1102 (a) and (b) (1) (iii), and 107.1105(a). They were listed in the October 29, 1976 Notice and no objections or other comments were submitted concerning them.

Pursuant to the authority contained in section 308 of the Small Business Investment Act of 1958, 15 U.S.C. 661, et seq., Part 107 is amended as follows:

1. Section 107.3 Definition of terms is amended as follows:

(1) The definition of "Associate of a Licensee" is amended by amending paragraph (b);

(2) The definition of "Licensee" is amended; and

(3) Section 107.3 Definition of terms is further amended by inserting at the appropriate alphabetical places the definitions of "Corporate Licensee" and "Unincorporated Licensee."

§ 107.3 Definition of terms.

"Associate of a Licensee" . . .

(b) Any Person owning or Controlling, directly or indirectly ten or more percent of any class of stock of such Corporate Licensee, or ten or more percent of the partnership capital of such Unincorporated Licensee.

"Corporate Licensee" see "Licensee."

"Licensee." "Licensee" means either a corporation ("Corporate Licensee"), or a limited partnership organized pursuant to § 107.4 ("Unincorporated Licensee"), to which a license has been granted pursuant to the Act. For sections deeming "Licensee" to include the corporate general partner of an Unincorporated Licensee, see § 107.4(c).

"Unincorporated Licensee" see "Licensee."

2. A new § 107.4 is added reading as follows:

§ 107.4 Limited Partnership SBIC.

(a) *General.* A limited partnership organized under State law solely for the purpose of performing the functions and conducting the activities contemplated under the Act may apply for a license pursuant to section 301(c) of the Act.

(b) *Application.* Such application shall include the Articles, providing for a sole corporate general partner organized under State law solely for service as such, which shall not serve in such capacity for any other Licensee, and which may not be removed or replaced by action of the limited partners without prior written approval of SBA.

(c) *Obligations of the corporate general partner.* Such general partner shall be subject to the same examination and reporting requirements as a Corporate Licensee under section 310(b), the disciplinary provisions of sections 313 and 314, and its officers, directors and shareholders shall be bound by the conflict of interest rules under section 312 of the Act. Moreover, the events of default specified in § 107.203(b) (1) (ii) and (iii) and (b) (2), relating to contractual and regulatory violations and to insolvency and bankruptcy, and § 107.203(b) (3) (iii) and (4), relating to salaries and to the employment of former SBA personnel, shall apply to the corporate general partner and be deemed to have been agreed to by the Unincorporated Licensee, "Licensee" in (1) the definition of "Associate of a Licensee" in § 107.3, and (2)

§§ 107.701, 107.702, 107.703, 107.801, 107.802, 107.803, 107.806, 107.809, 107.901, 107.902, 107.903, 107.1005, 107.1101, 107.1102, 107.1105, 107.1203 and 107.1301 shall be deemed to include the corporate general partner of an Unincorporated Licensee.

(d) *Capital of corporate general partner.* The corporate capital of such general partner which is not invested in the Unincorporated Licensee shall be invested only as permitted by the last sentence of section 308(b) of the Act, pursuant to §§ 107.808 and 107.1004(c), or any of them.

(e) *Reorganization of Corporate Licensee.* A Corporate Licensee wishing to reorganize as an Unincorporated Licensee, or an Unincorporated Licensee wishing to reorganize as a Corporate Licensee, may apply to SBA for approval pursuant to § 107.903 of these Regulations.

3. Miscellaneous minor amendments are as follows:

(1) Section 107.103 Public notice is amended to read as follows:

§ 107.103 Public notice.

SBA shall publish notice of the license application in the FEDERAL REGISTER. It shall include such appropriate information as the name and location of the proposed Corporate Licensee, its areas of operation, the names and addresses of its officers, directors, and owners of ten or more percent of its voting stock; and, in the case of an Unincorporated Licensee, its name, location and areas of operation and the names and addresses of the officers, directors and owners of ten or more percent of any class of stock of the corporate general partner, the corporate general partner's name and address, and each partner owning ten percent or more of the Unincorporated Licensee's Private Capital, and shall provide an opportunity for the submission of written comments. The proposed Licensee shall publish a similar notice in a newspaper of general circulation in the city or proposed areas of operation, and a certified copy shall be furnished to SBA within ten days.

§ 107.701 [Amended]

(2) Section 107.701(b) (2) is amended by inserting the word "or" after the semicolon at the end thereof.

§ 107.702 [Amended]

(3) Section 107.702 Common Control is amended by replacing the upper-case "P" with a lower-case "p" in the word "partner" appearing in the lead-in paragraph and paragraph (a) thereof.

§ 107.1102 [Amended]

(4) Section 107.1102(a) is amended by inserting a comma after the words "Unincorporated Licensee."

§§ 107.1102 and 107.1105 [Amended]

(5) Section 107.1102(b) (1) (iii) Preservation of records and § 107.1105(a) Changes to be reported are amended by replacing the lower-case "a" with an upper-case "A" in the word "Articles."

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: September 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc. 77-29222 Filed 10-4-77; 8:45 am]

[6355-01]

Title 16—Commercial Practices

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

PART 1505—REQUIREMENTS FOR ELECTRICALLY OPERATED TOYS OR OTHER ELECTRICALLY OPERATED ARTICLES INTENDED FOR USE BY CHILDREN

Electrically Operated Toys (Labeling); Interpretation

AGENCY: Consumer Product Safety Commission.

ACTION: Interpretation of regulation.

SUMMARY: The Commission publishes a Letter of Advice, approved by the Commissioners, from the Associated Executive Director for Compliance and Enforcement, concerning lettering height requirements for marking on electrically operated toys and accompanying instruction sheets and outer packaging. The Letter of Advice, issued September 26, 1977, responds to a petition from Hasbro Industries, Inc., requesting clarification of the lettering requirements. The Commission is publishing the Letter of Advice to inform all interested persons of its interpretation of the regulation.

FOR FURTHER INFORMATION CONTACT:

Dale Miller, Director, Regulatory Management, Directorate for Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207; (301-492-6617).

SUPPLEMENTARY INFORMATION: On September 19, 1974, Hasbro Industries, Inc., petitioned the Commission (HP 75-8) to amend the lettering height provisions of the regulation entitled "Requirements for Electrically Operated Toys or Other Electrically Operated Articles Intended for Use by Children" (16 CFR Part 1505). Specifically, the petitioner sought amendment of the lettering height requirement in 16 CFR 1505.3(d) (2) which pertains to all markings on electrically operated toys and accompanying instruction sheets and outer packaging required by 16 CFR 1505.3(b).

The petitioner stated that the minimum lettering height provision is unclear because it does not specify whether the upper or lower case letter is to be used as the guide in measuring the minimum lettering height. The petitioner suggested that 16 CFR 1505.3(d) (2) be amended to state:

Minimum lettering height, as delineated by the height of the riser in the lower case alphabet, shall be as follows: . . .

[4810-22]

Title 19—Customs Duties

[T.D. 77-241]

CHAPTER I—UNITED STATES CUSTOMS SERVICE

VESSELS IN FOREIGN AND DOMESTIC TRADES; TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT; CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE; ENTRY OF MERCHANDISE; PERSONAL DECLARATIONS AND EXEMPTIONS

AGENCY: United States Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule revises the Customs Regulations setting forth the general provisions relating to the operation of the United States Customs Service. This revision, which is part of the general revision of the Customs Regulations, follows a new format and contains changes or additions to language to clarify the former provisions.

EFFECTIVE DATE: November 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard M. Belanger, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Ave., NW., Washington, D.C. 20229, (202-566-8237).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 13, 1976, a notice of proposed rulemaking which would revise the Customs Regulations setting forth general provisions relating to the operation of the Customs Service was published in the *Federal Register* (41 FR 34261). The revision is part of the general revision of the Customs Regulations, and replaces Part 1 with a new Part 101. Part 101 follows a new format, and contains changes or additions to language to clarify the former provisions. No substantive changes were proposed. Interested parties were given until October 12, 1976, to submit data, views, or arguments in regard to the proposal.

DISCUSSION OF COMMENTS

The Customs Service received comments which pointed out several clerical or typographical errors. These have been corrected. Other comments involved substantive changes to the Customs Regulations and, consequently, were beyond the scope of this revision. These comments will be considered separately at a later time as possible amendments to new Part 101.

After review of the proposed revision, the following changes have been made:

1. The table in section 101.4 is updated to include the following changes in Customs regions, districts, and ports: Orlando, Fla., Battle Creek, Mich., and Grand Rapids, Mich., have been designated ports of entry; the port limits of Charleston, S.C., Mobile, Ala., Progreso, Tex., Dayton, Ohio, and Erie, Pa., have been extended; Richmond County N.J., has been transferred from Region III to

Region II; and the district of St. Albans, Vt., has been reorganized.

2. The table in § 101.4 is updated to reflect the transfer of supervision over the Customs station at Los Ebanos, Tex., from Hidalgo to Rio Grande City, and the reorganization of the St. Albans, Vt., district.

3. Sections 101.6 (Assignment of Customs regions to regional directors, internal affairs), 101.7 (Office of Investigations), and 101.8 (Customs laboratories) of the proposed revision are deleted. The matter formerly contained in these sections will be published annually in a notice in the *Federal Register* in accordance with 5 U.S.C. 552(a) (1).

4. Section 101.0, relating to the scope of this part of the Customs Regulations, is changed to eliminate references to the subject matter of the deleted sections referred to in the previous paragraph.

5. Sections 101.9, 101.10, and 101.11 of the proposed revision are respectively redesignated §§ 101.6, 101.7, and 101.8. The index and Appendix I to Part 101 are changed to reflect these deletions and redesignations. Appendix I is further changed by adding a parallel reference table listing in order the old section numbers and their corresponding new section numbers.

In addition to the above changes, a number of editorial corrections have been made to the text of the provisions originally proposed. Further, conforming changes have been made to other sections of the Customs Regulations necessitated by this revision.

Accordingly, Part 1 is deleted, conforming changes are made to Parts 4, 18, and 24, and new Part 101 is adopted, as set forth below.

DRAFTING INFORMATION

The primary author of this revision was Richard M. Belanger, Attorney, Regulations and Legal Publications Division, Office of Regulations and Rulings, United States Customs Service (202-566-8237). However, personnel from other offices of the United States Customs Service participated in the development of the revision, both in matters of substance and style.

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: September 22, 1977.

BETTE B. ANDERSON,
Under Secretary of the Treasury.

PART 1—GENERAL PROVISIONS

Chapter I of Title 19, Code of Federal Regulations, is amended by deleting Part 1.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.6 [Amended]

Section 4.6(b) is amended by substituting "101.1(b)" for "1.1".

§ 4.81 [Amended]

Section 4.81(g) (6) is amended by substituting "101.4 (a) and (b)" for "1.3 (b) and (c)".

§ 4.96 [Amended]

Sections 4.96 (d) and (e) are amended by substituting "101.4" for "1.2(b)" wherever it appears therein.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

§ 18.13 [Amended]

Section 18.13(a) is amended by substituting "101.4" for "1.2".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

§ 24.17 [Amended]

Section 24.17(a) (4) is amended by substituting "101.4" for "1.2" and "101.4 (b)" for "1.2(c)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 101—GENERAL PROVISIONS

Chapter I of Title 19, Code of Federal Regulations, is amended by adding a new Part 101 to read as follows:

- Sec.
- 101.0 Scope.
 - 101.1 Definitions.
 - 101.2 Authority of Customs officers.
 - 101.3 Customs regions, districts and ports.
 - 101.4 Entry and clearance of vessels at Customs stations.
 - 101.5 Customs preclearance offices in foreign countries.
 - 101.6 Hours of business.
 - 101.7 Customs seal.
 - 101.8 Identification cards.

AUTHORITY: R.S. 251, as amended, sec. 624, 46 Stat. 759, 774 Stat. 14, 79 Stat. 1317; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624, Reorganization Plan 1 of 1965; 3 CFR 1965 Supp. Additional authority and statutes interpreted or applied are cited in the text or following the section affected.

§ 101.0 Scope.

This part sets forth general regulations governing the authority of Customs officers, and the location of Customs regions, districts, and ports of entry, and of Customs stations. It further sets forth regulations concerning the entry and clearance of vessels at Customs stations and a listing of Customs preclearance offices in foreign countries. In addition, this part contains provisions concerning the hours of business of Customs offices, the Customs seal, and the identification cards issued to Customs officers and employees.

§ 101.1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular part or portion thereof:

(a) *Area*. "Area" refers to any of the three administrative areas created in the Customs district of New York City, New

York, which is coextensive with Customs Region II, New York City, New York, and identified as Kennedy Airport Area, Newark Area, and New York Seaport Area, each of which is under the jurisdiction of an area director of Customs.

(b) *Customs district*. A "Customs district" is the geographical area under the jurisdiction of a district director of Customs.

(c) *Customs region*. A "Customs region" is the geographical area under the jurisdiction of a regional commissioner of Customs.

(d) *Customs station*. A "Customs station" is any place, other than a port of entry, at which Customs officers or employees are stationed, under the authority contained in article IX of the President's Message of March 3, 1913 (T.D. 33249), to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the Customs and navigation laws of the United States.

(e) *Customs territory of the United States*. "Customs territory of the United States" includes only the States, the District of Columbia, and Puerto Rico.

(f) *Date of entry*. The "date of entry" or "time of entry" of imported merchandise shall be the effective time of entry of such merchandise, as defined in § 141.68 of this chapter.

(g) *Date of exportation*. "Date of exportation" or "time of exportation" shall be as defined in § 152.1(c) of this chapter.

(h) *Date of importation*. "Date of importation" means, in the case of merchandise imported otherwise than by vessel, the date on which the merchandise arrives within the Customs territory of the United States. In the case of merchandise imported by vessel, "date of importation" means the date on which the vessel arrives within the limits of a port in the United States with intent then and there to unload such merchandise.

(i) *Duties*. "Duties" means Customs duties and any internal revenue taxes which attach upon importation.

(j) *Entry or withdrawal for consumption*. "Entry or withdrawal for consumption" means entry for consumption or withdrawal from warehouse for consumption.

(k) *Importer*. "Importer" means the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on his behalf. The importer may be:

- (1) The consignee, or
- (2) The importer of record, or
- (3) The actual owner of the merchandise, if an actual owner's declaration and superseding bond has been filed in accordance with § 141.20 of this chapter, or
- (4) The transferee of the merchandise, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with subpart C of Part 144 of this chapter.

(l) *Port and port of entry*. The terms "port" and "port of entry" refer to any place designated by Executive order of the President, by order of the Secretary of the Treasury, or by Act of Congress, at which a Customs officer is authorized to accept entries of merchandise to collect duties, and to enforce the various

provisions of the Customs and navigation laws. The terms "port" and "port of entry" incorporate the geographical area under the jurisdiction of a port director when such port is one other than a district headquarters port. (The Customs District of the Virgin Islands, although under the jurisdiction of the Secretary of the Treasury, has its own Customs laws (48 U.S.C. 1406(i)). This district, therefore, is outside the Customs territory of the United States and the ports thereof are not "ports of entry" within the meaning of these regulations.)

(m) *Principal field officer*. A "Principal field officer" is an officer in the field service whose immediate supervisor is located at Customs Service Headquarters.

§ 101.2 Authority of Customs officers.

(a) *Supremacy of delegated authority*. Action taken by any person pursuant to authority delegated to him by the Secretary of the Treasury, whether directly or by subdelegation, shall be valid despite the existence of any statute or regulation, including any provision of this chapter, which provides that such action shall be taken by some other person. Any person acting under such delegated authority shall be deemed to have complied with any statute or regulation which provides or indicates that it shall be the duty of some other person to perform such action.

(b) *Consolidation of functions*. Any reorganization of the Customs Service or consolidation of the functions of two or more persons into one office which results in the failure of a designated customs officer to perform an action required by statute or regulation, shall not invalidate the performance of that action by any other Customs officer.

§ 101.3 Customs regions, districts and ports.

(a) *Redesignation of Customs districts and ports of entry*. The Under Secretary of the Treasury, pursuant to authority delegated by the Secretary of the Treasury, is authorized from time to time, as the needs of the Customs Service may require, to rearrange or consolidate the Customs districts, to discontinue ports of entry by abolishing them and establishing others in their place, and to change the location of the headquarters in any Customs district as the needs of the Customs Service may require.

(b) *Customs regions, districts and ports of entry listed*. The following is a list of Customs regions and districts, with a list of the ports in each district. (The Customs region of New York City, New York, is coextensive with the Customs district of New York City, New York). The first-named port in each district, listed in capital letters, is the headquarters port. Many of the ports listed were created by the President's message of March 3, 1913, concerning a reorganization of the Customs Service pursuant to the Act of August 24, 1912 (37 Stat. 434; 19 U.S.C. 1). Subsequent orders of the President or of the Secretary of the Treasury which affected these ports, or which created (or subsequently affected) additional ports, are cited following the name of the ports.

Region		Districts		
No.	Head-quarters	Name and head-quarters	Area	Ports of entry
I	Boston, Mass.	Portland, Maine.	The States of Maine and New Hampshire except the county of Coos.	Portland, Maine, including territory described in E.O. 9297, Feb. 1, 1943; 8 F.R. 1479.
				Bangor, Maine, including Brewer, Maine (E.O. 9297, Feb. 1, 1943; 8 F.R. 1479).
				Bar Harbor, Maine, including Mount Desert Island, the city of Ellsworth, and the townships of Hancock, Sullivan, Sorrento, Gouldsboro, and Winter Harbor (E.O. 4572, Jan. 27, 1927).
				Bath, Maine, including Booth Bay and Wiscasset (E.O. 4356, Dec. 15, 1925).
				Belfast, Maine, including Searsport (E.O. 6754, June 28, 1934).
				Bridgewater, Maine (E.O. 8079, Apr. 4, 1939; 4 F.R. 1475).
				Calais, Maine, including townships of Calais, Robbinston, and Baring (E.O. 6284, Sept. 13, 1933).
				Eastport, Maine, including Lubec and Cutler (E.O. 4296, Aug. 26, 1925).
				Fort Fairfield, Maine.
				Fort Kent, Maine.
	St. Albans, Vt.	The State of Vermont and the county of Coos, N.H.		Houlton, Maine (E.O. 4156, Feb. 14, 1925).
				Jackman, Maine, including the townships of Jackman, Sandy Bay, Bald Mountain, Haleb, Attean, Lowelltown, Dennistown, and Moose River (T.D. 54858).
				Jonesport, Maine, including the towns (townships) of Beals, Jonesboro, Roque Bluffs, and Machiasport (E.O. 4296, Aug. 26, 1925; E.O. 5895, Feb. 25, 1941).
				Limestone, Maine.
				Madawaska, Maine.
				Portsmouth, N.H., including Kittery, Maine.
				Rockland, Maine.
				Van Buren, Maine.
				Vanceboro, Maine.
				St. Albans, Vt., including township of St. Albans (E.O. 3925, Nov. 13, 1923; E.O. 7632, June 15, 1937; 2 F.R. 1042). T.D. 77-165
	Boston, Mass.	The State of Massachusetts.		Beecher Falls, Vt.
				Burlington, Vt., including the town of South Burlington (T.D. 54677).
				Derby Line, Vt.
				Highgate Springs/Alburg, Vt., including territory described in T.D. 77-165.
				Norton, Vt., including the territory described in T.D. 73-249.
				Richford, Vt.
				Boston, including territory and waters adjacent thereto described in T.D. 56493.
				Fall River, including territory described in T.D. 54476.
				Gloucester.
				Lawrence, including the territory described in T.D. 71-12; E.O. 544, Sept. 16, 1930; E.O. 10088, Dec. 3, 1949; 14 F.R. 7287.
	Providence, R.I.	The State of Rhode Island.		New Bedford.
				Plymouth.
				Salem, including Beverly, Marblehead, Lynn, and Peabody (E.O. 9207, July 29, 1942).
				Springfield (T.D. 69-189).
				Worcester.
				Providence, including the territory described in T.D. 67-3.
				Newport.
				Bridgeport, including territory described in T.D. 68-224.
				Hartford, including territory described in T.D. 68-224.
				New Haven, including territory described in T.D. 68-224.
	Ogdensburg, N.Y.	The State of Connecticut.		New London, including territory described in T.D. 68-224.
				Ogdensburg.
				Alexandria Bay, including territory described in E.O. 10042, Mar. 10, 1949; 14 F.R. 1155.
				Cape Vincent.
				Champlain-Rouses Point, including territory described in T.D. 67-68.
				Chateaugay.
				Clayton.
				Fort Covington.
				Massena (T.D. 54834).
				Trout River (T.D. 50074).
	Buffalo, N.Y.	The counties of Oswego, Oneida, Onondaga, Cayuga, Seneca, Wayne, Broome, Tompkins, Chenango, Madison, Cortland, Hamilton, Schuyler, Chemung, Herkimer, Monroe, Ontario, Livingston, Yates, Steuben, Orleans, Genesee, Wyoming, Allegany, Erie, Niagara, Cattaraugus, Chautauqua, and Tioga, in the State of New York.		Buffalo-Niagara Falls, N.Y. (T.D. 56512)
				Oswego.
				Rochester.
				Sodus Point.
				Syracuse.
				Utica.

Region		Districts		
No.	Head-quarters	Name and head-quarters	Area	Ports of entry
II	New York City N.Y.	New York City N.Y.	The counties of Sussex, Passaic, Hudson, Bergen, Essex, Union, Middlesex, and Monmouth, in the State of New Jersey, and that part of the State of New York not expressly included in the districts of Buffalo and Ogdensburg. (The district is divided into 3 areas; namely, Kennedy Airport area, Newark area, and New York seaport area, the limits of which are described in T.D. 71-19 and T.D. 76-59).	New York, N.Y., including territory described in E.O. 4205, Apr. 15, 1925; T.D. 53786.
				Albany, N.Y.
				Perth Amboy, N.J.
III	Baltimore, Md.	Philadelphia, Pa.	The State of Pennsylvania except the county of Erie, the State of Delaware, and that part of the State of New Jersey not included in the district of New York City.	Philadelphia, Pa., including Camden and Gloucester City, N.J., and territory described in E.O. 7340, Mar. 15, 1938; 3 F.R. 687; T.D. 53738 and T.D. 54303.
				Chester Pa. (E.O. 7706, Sept. 11, 1937; 2 F.R. 1548).
				Harrisburg, Pa. (T.D. 71-233).
				Pittsburgh, Pa., including the territory described in T.D. 67-197.
				Wilkes-Barre/Scranton, Pa., including the territory described in T.D. 75-64.
				Wilmington, Del., including territory described in T.D. 54202; E.O. 4496, Aug. 12, 1926.
				Baltimore, Md., including territory described in T.D. 68-123.
				Annapolis, Md.
				Cambridge, Md. (E.O. 3888, Aug. 13, 1923).
				Crisfield, Md.
	Washington, D.C.	The District of Columbia, the counties of Montgomery and Prince Georges, in the State of Maryland; the counties of Loudoun, Fairfax, and Arlington, and the city of Alexandria, in the State of Virginia, including any independent cities and towns within the boundaries of such counties.		Washington, D.C., including the territory described in T.D. 68-67.
				Alexandria, Va. (T.D. 68-67).
IV	Miami, Fla.	Wilmington, N.C.	The State of Virginia except the counties of Loudoun, Fairfax, and Arlington, and the city of Alexandria, including any independent cities and towns within the boundaries of such counties, and the State of West Virginia.	Norfolk and Newport News, including the waters and shores of Hampton Roads.
				Cape Charles City.
				Charleston, W. Va., including the territory described in T.D. 73-221.
				Reedville.
				Richmond-Petersburg, including the territory described in T.D. 68-179.
	Miami, Fla.	The State of North Carolina.		Wilmington, including townships of North-west, Wilmington, and Cape Fear (E.O. 7761, Dec. 3, 1937; 2 F.R. 2679, and territory described in E.O. 10042, Mar. 10, 1949; 14 F.R. 1155).
				Beaufort-Morehead City (T.D. 55637).
				Charlotte (T.D. 56079).
				Durham (E.O. 4876, May 3, 1928), including territory described in E.O. 9433, Apr. 6, 1944; 9 F.R. 3761.
				Reidsville (E.O. 5159, July 18, 1929), including territory described in E.O. 9433, Apr. 6, 1944; 9 F.R. 3761.
				Winston-Salem (E.O. 2366, Apr. 24, 1916).
				Charleston, including territory described in T.D. 70-142.
				Georgetown.
				Greenville-Spartanburg, S.C., including territory described in T.D. 70-148.
				Savannah, including territory described in E.O. 8367, Mar. 5, 1940; 5 F.R. 985.
	Charleston, S.C.	The State of South Carolina.		Atlanta, including territory described in T.D. 55548.
				Brunswick.
				Tampa, including territory described in T.D. 68-31.
				Boca Grande.
				Fernandina Beach, including St. Marys, Ga. (T.D. 53033).
				Jacksonville (T.D. 67-45).
				Orlando (T.D. 76-340).
				Port Canaveral, Fla., including territory described in T.D. 66-212.
	Savannah, Ga.	The State of Georgia, except the north shore of the St. Marys River and the city of St. Marys, Ga.		St. Petersburg (E.O. 7928, July 14, 1933; 3 F.R. 1749, including territory described in T.D. 53994).
				Miami, Fla., including territory described in T.D. 53514.
				Key West, including territory described in T.D. 53994.
				Port Everglades (E.O. 5770, Dec. 31, 1931), including territory described in T.D. 53514.
				Mall: Fort Lauderdale, Fla.
				West Palm Beach (E.O. 4324, Oct. 15, 1925), including territory described in T.D. 53514.
	Tampa, Fla.	The north shore of the St. Marys River and the city of St. Marys, Ga., and all the State of Florida lying east of the east bank of the Ochlockonee River except the counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, and Dade.		
	Miami, Fla.	The counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, and Dade in the State of Florida.		

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Region		Districts		
No.	Head-quarters	Name and headquarters	Area	Ports of entry
V	New Orleans, La.	San Juan, P.R.	The Commonwealth of Puerto Rico.	San Juan, including territory described in T.D. 54017. Aguadilla. Fajardo. Guanica. Humacao, including the territory described in T.D. 70-157. Jobos (E.O. 9162, May 13, 1942). Mayaguez (T.D. 22305). Ponce, including territory described in T.D. 54017.
		Charlotte Amalie, St. Thomas, V.I.	All of the Virgin Islands of the United States.	Charlotte Amalie, St. Thomas, V.I. Christiansted, St. Croix. Coral Bay, St. John. Cruz Bay, St. John. Frederiksted, St. Croix.
		Mobile, Ala.	The State of Alabama and that part of the State of Mississippi lying south of lat. 31° N., and that part of the State of Florida lying west of the east bank of the Ochlockonee River.	Mobile, Ala., including territory described in T.D. 70-259. Apalachicola, Fla. Birmingham, Ala. Carrabelle, Fla. (E.O. 7508, Dec. 11, 1936; 1 F.R. 2149). Gulfport, Miss. Panama City, Fla. (E.O. 3919, Nov. 1, 1923). Pascagoula, Miss., including territory described in T.D. 56333. Pensacola, Fla. Port St. Joe, Fla. (E.O. 7818, Feb. 17, 1938; 3 F.R. 503).
		New Orleans, La.	The States of Tennessee, Arkansas, and Louisiana, except the parishes of Cameron and Calcasieu and that part of the State of Mississippi lying north of lat. 31° N.	New Orleans, La., including territory described in T.D. 74-206. Baton Rouge, La. (E.O. 5903, Jan. 13, 1933), including territory described in T.D. 53514 and T.D. 54381. Chattanooga, Tenn. Greenville, Miss., including the territory described in T.D. 73-325. Knoxville, Tenn., including the territory described in T.D. 75-128. Little Rock-North Little Rock, Ark., including territory described in T.D. 70-146. Memphis, Tenn. Morgan City, La., including territory described in T.D. 66-266. Nashville, Tenn. Vicksburg, Miss., including territory described in T.D. 72-123.
VI	Houston, Tex.	Port Arthur, Tex.	That part of the State of Texas from Sabine Pass north along State line to north boundary line of Shelby County; west to Neches River; down western shore of said river to north boundary of Jefferson County; westerly along said boundary to east boundary of Liberty County; south to Gulf; also the parishes of Cameron and Calcasieu in the State of Louisiana.	Beaumont, Orange, Port Arthur, and Sabine, Tex., including territory described in T.D. 74-231. Lake Charles, La. (E.O. 5475, Nov. 3, 1930) including territory described in T.D. 64137.
		Galveston, Tex.	The Counties of Galveston, Matagorda, Chambers, Calhoun, Refugio, Brazoria, San Patricio, Nueces, and Aransas in the State of Texas.	Galveston, including Port Bolivar and Texas City. Corpus Christi (E.O. 8283, Nov. 22, 1939; 4 F.R. 4691).
		Houston, Tex.	That part of the State of Texas lying north of lat. 33° N. and that part of the State of Texas lying east of long. 97° W., except the territory embraced in the Port Arthur and Galveston districts. Also, the counties of Dallas and Tarrant and the State of Oklahoma.	Freeport (E.O. 7632, June 15, 1937; 2 F.R. 1042). Port Lavaca-Point Comfort, Tex. (T.D. 56115). Houston, Tex., including territory described in T.D. 54109. Amarillo, Tex. (T.D. 75-129). Dallas/Fort Worth, Tex., including territory described in T.D. 73-297. Oklahoma City, Okla., including territory described in T.D. 66-132. Tulsa, Okla. (T.D. 69-142).
		Laredo, Tex.	That part of the State of Texas lying west of long. 97° W. and east of the Pecos River except that territory included in the Houston and Galveston districts.	Laredo. Brownsville, Tex. including territory described in T.D. 54900. Del Rio. Eagle Pass. Hidalgo (E.O. 3609, Jan. 9, 1922). Lubbock, Tex. (T.D. 75-143). Progreso, Tex. including territory described in T.D. 76-339. Rio Grande City. Roma (E.O. 4830, Mar. 14, 1928). San Antonio. El Paso, Tex. (T.D. 54407).
		El Paso, Tex.	That part of the State of Texas lying west of the Pecos River and the States of New Mexico and Colorado.	Albuquerque, N. Mex., including the territory described in T.D. 74-304. Columbus, N. Mex. Denver, Colo. Fabens, Tex. (E.O. 4869, May 1, 1928). Presidio, Tex. (E.O. 2702, Sept. 7, 1917).

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Region		Districts		
No.	Head-quarters	Name and headquarters	Area	Ports of entry
VII	Los Angeles, Calif.	Nogales, Ariz.	The State of Arizona.	Nogales, including the territory described in T.D. 71-166. Douglas, including territory described in E.O. 9382, Sept. 25, 1943, 8 F.R. 130-3. Lakeville (E.O. 10088, Dec. 3, 1949; 14 F.R. 7287). Naco. Phoenix, Ariz. (T.D. 71-103). San Luis (E.O. 5322, Apr. 9, 1930). Sasabe (E.O. 5608, Apr. 22, 1931). San Diego (T.D. 54741), including the territory described in T.D. 66-229.
		San Diego, Calif.	The counties of San Diego and Imperial in the State of California.	Andrade (E.O. 4780, Dec. 13, 1927). Calexico. Tecate (E.O. 4780, Dec. 13, 1927). Los Angeles-Long Beach, including territory described in T.D. 53341; T.D. 56383. Las Vegas, Nev., including the territory described in T.D. 73-55. Port San Luis.
		Los Angeles, Calif.	That part of the State of California lying south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, except the counties of San Diego and Imperial and that part of the State of Nevada comprising Clark County.	
		San Francisco, Calif.	That part of the State of California lying north of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, and the State of Utah and the State of Nevada except Clark County.	San Francisco-Oakland, Calif., including all points on San Francisco Bay and territory described in E.O. 10042, Mar. 10, 1949; 14 F.R. 1153; and T.D. 53738 and including territory described in T.D. 56030. Eureka, Calif. Fresno, Calif., including the territory described in T.D. 74-18. Reno, Nev., including the territory described in T.D. 73-56. Salt Lake City, Utah (T.D. 69-76). Honolulu (T.D. 53514). Hilo. Kahului. Nawiliwili-Port Allen (E.O. 4385, Feb. 25, 1936), including the territory described in T.D. 56424. Columbia River (Portland, Astoria, Longview), including territory described in T.D. 73-388. Coos Bay, Oreg. (E.O. 4004, Oct. 28, 1924. E.O. 5193, Sept. 14, 1929; E.O. 5445, Sept. 16, 1930; E.O. 9533, Mar. 23, 1945; 10 F.R. 3173). Newport, Oreg. Puget Sound (Seattle, Anacortes, Bellingham, Everett, Friday Harbor, Neah Bay, Olympia, Port Angeles, Port Townsend, Tacoma), including the territory described in T.D. 75-130.
VIII	San Francisco, Calif.	San Francisco, Calif.		Aberdeen, including territory described in T.D. 56229. Blaine (E.O. 5835, Apr. 13, 1932). Brundary (T.D. 67-65). Danville. Ferry. Frontier (T.D. 67-65). Laurier. Lynden (E.O. 7632, June 15, 1937; 2 F.R. 1042). Metairie Falls (E.O. 7632, June 15, 1937; 2 F.R. 1042). Nighthawk. Oroville (E.O. 5206, Oct. 11, 1929). South Bend-Raymond (T.D. 53576). Spokane. Sumas. Anchorage, Alaska (T.D. 55295; T.D. 68-50). Alecan, Alaska (T.D. 71-210). Fairbanks (E.O. 8064, Mar. 9, 1930; 4 F.R. 1191). Juneau. Ketchikan, Alaska, including the territory described in T.D. 74-100. Kodiak, Alaska (T.D. 55206). Pelican (E.O. 10238, Apr. 27, 1951; 16 F.R. 3627). Petersburg (E.O. 4132, Jan. 24, 1925). Sand Point (T.D. 53514). Sitka, including territory described in T.D. 55049. Skagway. Wrangell, including territory described in T.D. 56420.
		Honolulu, Hawaii.	The State of Hawaii.	Great Falls, Mont. Butte, Mont., including the territory described in T.D. 73-121. Del Bonita, Mont. (E.O. 7947, Aug. 9, 1938; 3 F.R. 1965). Mail: Cut Bank, Mont. Eastport, Idaho. Morgan, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Mail: Loring, Mont. Opheim, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Piegan, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Mail: Babb, Mont. Porthill, Idaho. Raymond, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
		Portland, Oreg.	The State of Oregon and that part of the State of Washington which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° W.	
		Seattle, Wash.	The State of Washington except that part which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° W.	
		Anchorage, Alaska.	The State of Alaska.	
		Great Falls, Mont.	The States of Montana, Idaho, and Wyoming.	

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RULES AND REGULATIONS

Region		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
IX	Chicago, Ill.	Pembina, N. Dak.	The States of North and South Dakota and the counties of Kittson, Roseau, Lake of the Woods, Marshall, Beltrami, Polk, Red Lake, and Pennington in the State of Minnesota.	Rossville, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Mail: Eureka, Mont.
				Scobev, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Sweetgrass, Mont.
				Turner, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Whitetail, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Whirlash, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Pembina, N. Dak.
				Ambrose, N. Dak. (E.O. 5835, Apr. 13, 1932).
				Antler, N. Dak.
				Baudette, Minn. (E.O. 4422, Apr. 19, 1926).
				Carbury, N. Dak. (E.O. 5137, June 17, 1929).
				Dunseith, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Fortuna, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Hannah, N. Dak.
				Hansboro, N. Dak.
				Maida, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Neche, N. Dak.
				Neonan, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Northgate, N. Dak.
				Noyes, Minn. (E.O. 5835, Apr. 13, 1932).
				Pinereck, Minn. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Portai, N. Dak.
				Roseau, Minn. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Sarles, N. Dak.
				Sherwood, N. Dak.
				St. John, N. Dak. (E.O. 5835, Apr. 13, 1932).
				Walhalla, N. Dak.
				Warroad, Minn.
				Westhope, N. Dak. (E.O. 4236, June 1, 1925).
				Minneapolis-St. Paul, including the territory described in T.D. 69-15.
				Duluth, Minn., and Superior Wis., including the territory described in T.D. 55904.
				Ashland, Wis.
				Grand Portage, Minn. (T.D. 56073).
				International Falls-Rauler, Minn., including the territory described in T.D. 66-246.
				Milwaukee, including the territory described in T.D. 72-105.
				Green Bay, including the townships of Ashwaubenon, Alcuze, Fremle, and Howard, and the city of De Pere (T.D. 54597).
				Manitowoc.
				Marinette, including Menominee, Mich.
				Racine, including the city of Kenosha and the townships of Mt. Pleasant and Somers (T.D. 51884).
				Sheboygan.
				Chicago, Ill., including the territory described in T.D. 71-121.
				Des Moines, Iowa, including the territory described in T.D. 75-104.
				Omaha, Nebr., including the territory described in T.D. 73-228.
				Peoria, Ill., including the territory described in T.D. 72-130.
				Cleveland, Ohio, including the territory described in T.D. 77-232.
				Akron, Ohio (E.O. 4597, Feb. 25, 1927), including the territory described in T.D. 77-232.
				Ashtabula-Conneaut, Ohio, including the territory described in T.D. 77-232.
				Cincinnati, Ohio, including the territory described in T.D. 75-144.
				Columbus, Ohio.
				Dayton, Ohio, including the territory described in T.D. 76-77.
				Erie, Pa., including the territory described in T.D. 77-5.
				Evansville, Ind.
				Indianapolis, Ind.
				Lawrenceburg, Ind., including Greendale (E.O. 6634, Mar. 7, 1934).
				Louisville, Ky., including the territory described in T.D. 77-232.
				Sandusky, Ohio.
				Toledo, Ohio, including the territory described in T.D. 71-157.
				St. Louis, Mo., including the territory described in T.D. 69-224.
				Kansas City, Mo., including Kansas City, Kans., and North Kansas City, Mo. (E.O. 8528, Aug. 27, 1940), including the territory described in T.D. 67-56.
				St. Joseph, Mo.
				Wichita, Kans., including the territory described in T.D. 74-93.

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Region		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
		Detroit, Mich.	The State of Michigan except the island of Isle Royale and the county of Menominee, Mich.	Detroit, including the territory described in E.O. 9073, Feb. 25, 1942; 7 F.R. 1888; and T.D. 53738. Battle Creek (T.D. 76-233). Grand Rapids (T.D. 77-4). Muskegon (E.O. 8315, Dec. 22, 1939), including territory described in T.D. 56230. Port Huron, including territory described in T.D. 53576. Saginaw-Bay City (T.D. 53738). Sault Ste. Marie.

§ 101.4 Entry and clearance of vessels at Customs stations.

(a) *Entry at Customs station.* A vessel shall not be entered or cleared at a Customs station, or any other place that is not a port of entry, unless entry or clearance is authorized by the district director for the district in which such station or place is located pursuant to the provisions of section 447, Tariff Act of 1930, as amended (19 U.S.C. 1447).

(b) *Authorization to enter.* Authorization to enter or be cleared at a Customs station shall be granted by the district director for the district in which such station or place is located provided the district director is notified in advance of the arrival of the vessel concerned and the following conditions are met:

- (1) Such Customs supervision as may be necessary can be provided.
- (2) All applicable Customs and navigation laws and regulations are complied with.

(3) The owner, master or agent of a vessel sought to be entered at a Customs station reimburses the Government for the salary and expenses of the Customs officer or employee stationed at or sent to such Customs station or other place which is not a port of entry for services rendered in connection with the entry or clearance of such vessel, and

(4) Except as otherwise provided by these regulations, the Government is reimbursed by the interested parties for the expenses, including any per diem allowed in lieu of subsistence, but not the salary of a Customs officer or employee for services rendered in connection with the entry or delivery of merchandise.

(c) *Customs stations designated.* The Customs stations and the ports of entry having supervision thereof are listed below:

District	Customs stations	Port of entry having supervision
Portland, Maine	Bucksport, Maine	Belfast.
	Coulburn Gore, Maine	Jackman.
	Easton, Maine	Fort Fairfield.
	Forest City, Maine	Houlton.
	Hamlin, Maine	Van Buren.
St. Albans, Vt.	Knoxford Line (Mars Hill)	Bridgewater.
	Monticello, Maine	Houlton.
	Orrville, Maine	Do.
	Beebe Plaine, Vt.	Derby Line.
	Beebe Plaine, Vt.	Derby Line.
Boston, Mass.	Canaan, Vt.	Beecher Falls.
	East Richford, Vt.	Richford.
	Newport, Vt.	Derby Line, Vt.
	North Troy, Vt.	Do.
	Pittsburg, N.H.	Beecher Falls.
Ogdensburg, N.Y.	West Berkshire, Vt.	Richford.
	Provincetown, Mass.	Plymouth.
	Camions Corners, N.Y.	Moors.
	Churubusco, N.Y.	Chateaugay.
	Hogansburg, N.Y.	Massena.
Philadelphia, Pa.	Jamieson's Line, N.Y.	Trout River.
	Morristown, N.Y.	Ogdensburg.
	Waddington, N.Y.	Do.
	Atlantic City, N.J.	Philadelphia.
	Lewes, Del.	Do.
Baltimore, Md.	Port Norris, N.J.	Do.
	Tuckerton, N.J.	Do.
	Salisbury, Md.	Baltimore.
	Fort Pierce, Fla.	West Palm Beach.
	Biloxi, Miss.	Mobile.
Houston, Tex.	Gramercy, La.	New Orleans.
	Houma, La.	Merzan City.
	Muskogee, Okla.	Tulsa, Oklahoma.
	Amistad Dam, Tex.	Del Rio.
	Falcon Dam, Tex.	Rona.
El Paso, Tex.	Los Ebanos, Tex.	Rio Grande City.
	Antelope Wells, N. Mex. (mail: Hachita, N. Mex.).	Columbus.
	Fort Hancock, Tex.	Fabens.
	Marathon, Tex.	El Paso.
	Lochiel, Ariz.	Nogales.
Nogales, Ariz.	Tucson, Ariz.	Do.
	San Diego, Calif.	Tecate.
	Port Hueneme, Calif.	Los Angeles.
	Monterey, Calif.	San Francisco.
	Point Roberts, Wash.	Dian.
Anchorage, Alaska	Annette Island, Alaska	Ketchikan.
	Eagle, Alaska	Fairbanks.
	Haines, Alaska	Skagway.
	Hyder, Alaska	Ketchikan.
	Tok, Alaska	Fairbanks.
Great Falls, Mont.	Wild Horse, Mont.	Great Falls.
	Willow Creek, Mont.	Do.
	Grand Forks, N. Dak.	Pembina.
	Lancaster, Minn.	Noyes.
	Oak Island, Minn.	Warroad.

District	Customs stations	Port of entry having supervision
Duluth, Minn.	Crane Lake, Minn.	International Falls/Ranier.
	Ely, Minn.	Grand Portage.
Cleveland, Ohio.	Fairport, Ohio.	Cleveland.
	Huron, Ohio.	Sandusky.
	Lorain, Ohio.	Cleveland.
	Marblehead-Lakeside, Ohio.	Sandusky.
	Put-in-Bay, Ohio.	Do.
Detroit, Mich.	Algonac, Mich.	Port Huron.
	Alpena, Mich.	Saginaw-Bay City.
	Detour, Mich.	Sault Ste. Marie.
	Escanaba, Mich.	Do.
	Grand Haven, Mich.	Muskegon.
	Houghton, Mich.	Sault Ste. Marie.
	Marine City, Mich.	Port Huron.
	Marquette, Mich.	Sault Ste. Marie.
	Roberts Landing, Mich. (mail Route 1, Algonac, Mich.).	Port Huron.
	Rogers City, Mich.	Saginaw-Bay City.

(d) *Temporary Customs stations.* Customs stations may be designated for a temporary time only, to provide Customs facilities where needed because of certain large-scale operations. Because these designations change from time to time they are not listed. However, current information as to the existence of such stations in any district may be obtained from the district director.

§ 101.5 Customs preclearance offices in foreign countries.

Listed below are the preclearance offices in foreign countries where United States Customs officers are stationed and the Customs districts under which they function:

Customs office:	Customs district having supervision
Montreal, Quebec.	St. Albans, Vt.
Toronto, Ontario.	Buffalo, N.Y.
Kindley Field, Bermuda.	Kennedy Airport area, Jamaica, N.Y.
Nassau, Bahama Islands.	Miami, Fla.
Vancouver, British Columbia.	Seattle, Wash.
Prince Rupert, British Columbia.	Anchorage, Alaska.
Winnipeg, Manitoba.	Pembina, N. Dak.

§ 101.6 Hours of business.

Except as specified in paragraphs (a)-(g) of this section, each Customs office shall be open for the transaction of general Customs business between the hours of 8:30 a.m. and 5 p.m. on all days of the year:

(a) *Saturdays, Sundays and national holidays.* In addition to Saturdays, Sundays, and any other calendar day designated as a holiday by Federal statute or Executive order, Customs offices shall be closed on the following national holidays:

- (1) The first day of January.
- (2) The third Monday of February.
- (3) The last Monday of May.
- (4) The fourth day of July.
- (5) The first Monday of September.
- (6) The second Monday of October.
- (7) The fourth Monday of October.
- (8) The fourth Thursday of November.
- (9) The twenty-fifth day of December.

If a holiday falls on Saturday, the day immediately preceding such Saturday will be observed. If a holiday falls on Sunday, the day immediately following such Sunday will be observed. (5 U.S.C. 6103(b) (1); (E.O. No. 11582, January 1, 1971; 34 FR 2957; 3 CFR Ch. 11)

(b) *Local conditions requiring different hours.* If, because of local conditions, different but equivalent hours are required to maintain adequate service, such hours shall be observed provided the Commissioner of Customs approves them and provided further that a notice of business hours is prominently displayed at the principal entrance and in each public room of the Customs office.

(c) *Fixing of hours.* At each port or station where there is no full-time Customs employee, the appropriate district director shall, with the approval of the regional commissioner of Customs, fix the hours during which the Customs office will be open for the transaction of general Customs business. Notice of such hours shall be prominently displayed at the principal entrance of the office.

(d) *State and local holidays.* Each Customs office shall be open for the transaction of business on all state and local holidays occurring on days other than Saturdays, Sundays, and national holidays listed in paragraph (a) of this section. The appropriate principal field office may excuse any employee(s) without charge to leave when a state or local holiday interferes with the performance of his work in a Customs office.

(e) *Services performed outside a Customs office.* Customs services required to be performed outside a Customs office shall be furnished between the hours of 8 a.m. and 5 p.m. (or between the corresponding hours at ports where different but equivalent hours are required for the maintenance of adequate service and are approved by the Commissioner of Customs) on all days when the Customs office is open for the transaction of general Customs business. The regional commissioner of Customs shall, from time to time, and upon reasonable advance notice to the principal local officer concerned, issue instructions for the furnishing of such services on Saturdays.

(f) *Customs services not within prescribed hours.* Where there is a regularly recurring need for Customs services outside the hours prescribed in paragraphs (a)-(e) of this section and the volume and duration of the required services are uniformly such as to require, of themselves or in immediately consecutive combination with other essential Customs activities of the port, the full time of one or more Customs employees, the necessary number of regular tours of duty to furnish such services on all days of the

year except Sundays and national holidays may be established with the approval of the Commissioner of Customs.

(g) *Customs services furnished private interests.* Other than as specified in this section, Customs services shall be furnished private interests only in accordance with the provisions of section 24.16 of this chapter.

§ 101.7 Customs seal.

(a) *Design.* According to the design furnished by the Department of the Treasury, the Customs seal of the United States shall consist of the seal of the Department of the Treasury surrounded by an outer circle in which appear the words "Treasury" at the top and "U.S. Customs Service" at the bottom.

(b) *Use of the Customs seal.* The Customs seal currently in official use, including the dies, rolls, plates, and like devices now in the possession of the Bureau of Engraving and Printing, shall continue to be equally effective as the official seal of the United States Customs Service and shall continue to be so used by each Customs officer and employee having possession of the seal until that particular device requires replacing and is replaced. Use of the United States Customs seal shall be restricted in the following manner:

(1) The Customs seal of the United States shall be impressed upon all official documents requiring the impress of a seal. It shall be impressed upon all marine documents and landing certificates, certificates of weight, gauge, or measure, and similar classes of documents for outside interests.

(2) The impress of the seal is not necessary on documents passing within the Customs Service nor shall the seal be used in the manner of a notary seal to indicate authority to administer oaths.

§ 101.8 Identification cards.

Each Customs employee shall be issued an appropriate identification card with that employee's photograph and signature, signed by the appropriate issuing officer.

PART 141—ENTRY OF MERCHANDISE

§ 141.62 [Amended]

Section 141.62(a) is amended by substituting "101.6" for "1.7". (R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

§ 148.22 [Amended]

Section 148.22 is amended by substituting "101.5" for "1.4". (R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

APPENDIX I—PARALLEL REFERENCE TABLE

(This table shows the relation of revised Part 101 to superseded 19 CFR Part 1.)

Revised Part 101, section	Superseded 19 CFR, section
101.0	New.
101.1(a)	New.
101.1(b)	1.2(a).
101.1(c)	1.2(a).
101.1(d)	1.3(a), footnote 1.
101.1(e)	New.
101.1(f)	1.11.
101.1(g)	1.11.
101.1(h)	1.11.
101.1(i)	1.11.
101.1(j)	1.11.
101.1(k)	1.11.
101.1(l)	1.2(b), footnote 2.
101.1(m)	New.
101.2(a)	1.1(a), (b).
101.2(b)	1.1(c).
101.3(a)	Footnote 1 to 1.2(b).
101.3(b)	1.2(c), footnote 3.
101.4(a)	1.3(b).
101.4(b)	1.3(b) and (c).
101.4(c)	1.3(d).
101.4(d)	Footnote 7 to 1.3(d).
101.5	1.4.
101.6(a)	1.7(a), footnote 10.
101.6(b)	1.7(b).
101.6(c)	1.7(c).
101.6(d)	1.7(d).
101.6(e)	1.7(e).
101.6(f)	1.7(f).
101.6(g)	1.7(g).
101.6(h)	1.8(a).
101.7(b)	1.8(a).
101.7(b) (1)	1.8(b).
101.7(b) (2)	1.8(b) and (c).
101.8	1.9.

(This table shows the relation of the old sections of Part 1 to the new sections in revised Part 101.)

Old section:	New section
1.1(a)	101.2(a).
1.1(b)	101.2(a).
1.1(c)	101.2(b).
1.1(d)	None.
1.1(e)	None.
1.2(a)	101.1(b), (c).
1.2(b)	101.1(d).
Footnote 1	101.3(a).
Footnote 2	101.1(i).
1.2(c)	101.3(b).
Footnote 3	101.3(b).
1.3(a)	101.1(d).
Footnote 5	101.1(d).
1.3(b)	101.4(a), (b).
Footnote 6	None.
1.3(c)	101.4(b).
1.3(d)	101.4(c).
Footnote 7	101.4(d).
1.4	101.5.
1.4(a)	None.
1.5	None.
1.6	None.
1.7(a)	101.6(a).
Footnote 10	101.6(a).
1.7(b)	101.6(b).
1.7(c)	101.6(c).
1.7(d)	101.6(d).
1.7(e)	101.6(e).
1.7(f)	101.6(f).
1.7(g)	101.6(g).
1.8(a)	101.7(a), (b).
1.8(b)	101.7(b) (1), (2).
1.8(c)	101.7(b) (2).
1.9	101.8.
1.10	None.
1.11	101.1(f)-(k).

[FR Doc. 77-29176 Filed 10-4-77; 8:45 am]

[4810-22]

[T.D. 77-242]

PART 22—DRAWBACK

PART 111—CUSTOMHOUSE BROKERS

Delegations of Authority

AGENCY: United States Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations by authorizing the regional commissioners of Customs to perform certain functions relating to drawback entries and reprimands of customhouse brokers now performed either by the Commissioner of Customs or other Customs officials at Headquarters of the U.S. Customs Service. The necessity of referring the relevant matters to either the Commissioner or Headquarters has unnecessarily delayed those matters. The changes are intended to facilitate the affected procedures.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

George C. Stewart, Attorney, Carriers, Drawback and Bonds Division, United States Customs Service, 1301 Constitution Ave., NW., Washington, D.C. 20229 (202-566-5856).

SUPPLEMENTARY INFORMATION:

BACKGROUND

1. "Drawback" denotes a situation in which a duty or tax, lawfully collected, is refunded or remitted, wholly or partially, because of a particular use made of the merchandise on which the duty or tax was collected. One of the more common types of drawback is that allowed upon the exportation of articles manufactured or produced in the United States with the use of imported merchandise (section 313(a), Tariff Act of 1930 (19 U.S.C. 1313(a))). Part 22 of the Customs Regulations (19 CFR Part 22) contains the provisions regarding drawback claims.

In support of a claim for drawback of duties, a landing certificate, which is a document used to show that merchandise has been exported from the United States and landed in a foreign country, is required in certain stated circumstances as provided by section 22.17 of the Customs Regulations (19 CFR 22.17). Under paragraph (e) of that section (19 CFR 22.17(e)), when a landing certificate is required and cannot be produced, an application for its waiver may be made to Headquarters, U.S. Customs Service, accompanied by such evidence of exportation and landing abroad as may be available. The application will be granted if Headquarters is satisfied by the evidence submitted that the merchandise has been exported.

Section 22.29(d) of the Customs Regulations (19 CFR 22.29(d)) provides that, to complete a drawback entry, a bill of lading issued by the proper representative of the exporting carrier and covering the merchandise described in the

entry must be filed within 2 years after the merchandise is exported. However, paragraph (g) of that section (19 CFR 22.29(g)) provides that if the person making the drawback entry cannot produce the required bill of lading, he may submit a statement explaining why he cannot produce the bill of lading along with whatever evidence of exportation and of his right to make the drawback entry as may be obtainable. If Headquarters is satisfied from the evidence submitted that the failure to produce the bill of lading is justified, that the merchandise has been exported, and that the person making the drawback entry has the right to do so, the statement and accompanying evidence are accepted in place of the bill of lading.

A review of the procedures under §§ 22.17(e) and 22.29(g) of the Customs Regulations has resulted in the determination that it would be beneficial to the public and to Customs to authorize the regional commissioners of Customs to grant the waiver under § 22.17(e), or to accept the substituted documents under § 22.29(g). In the majority of cases, this will speed up the processing of drawback entries. If the regional commissioner is not satisfied by the evidence submitted that the pertinent facts have been established, the matter will be transmitted to Headquarters, U.S. Customs Service for final determination. It has also been determined that, for the sake of clarity and consistency, the language and format of § 22.29(g) should be amended to parallel those of § 22.17(e).

2. Section 111.78 of the Customs Regulations (19 CFR 111.78) provides that if a licensed customhouse broker fails to observe and fulfill his duties and responsibilities, but the failure is not serious enough to warrant initiation of proceedings to suspend or revoke his license, the Commissioner of Customs, or the district director of Customs with the approval of the Commissioner, may serve the broker with a written reprimand. The reprimand and the facts on which it is based may be considered in connection with any future disciplinary proceeding that may be initiated against the broker.

The Commissioner of Customs has determined that authorizing the regional commissioner of Customs to serve reprimands, or approve reprimands served by the district director, will facilitate the reprimand proceedings.

Inasmuch as these amendments are matters of agency organization, procedure, or practice, notice and public procedure thereon are unnecessary and good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553.

DRAFTING INFORMATION

The principal author of this document was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the Customs Service participated in developing the document, both on matters of substance and style.

RULES AND REGULATIONS

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX

[T.D. 7511]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Industrial Development Bonds

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to whether substantially all of the proceeds of an issue of industrial development bonds are used for designated purposes. Changes to the applicable tax law were made by the Revenue and Expenditure Control Act of 1968. These regulations provide necessary guidance to the public for compliance with the law.

DATE: In general, the regulations are effective with respect to obligations issued after April 30, 1968.

FOR FURTHER INFORMATION CONTACT:

John P. MacMaster, of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention CC:LR:T) (202-566-3516, not a toll-free call).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 20, 1975, the FEDERAL REGISTER published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 103(c) of the Internal Revenue Code of 1954 (40 FR 36371). The amendments were proposed to revise the regulations under then section 103(c), as added by section 107(a) of the Revenue and Expenditure Control Act of 1968 (82 Stat. 266). Under section 1901(a)(17) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1765), section 103(c) was redesignated as section 103(b). A public hearing was held on November 21, 1975. After consideration of all comments regarding the portion of the proposed amendments revising § 1.103-8(a)(1)(i) of the Income Tax Regulations, that portion is adopted by this Treasury decision with certain changes. The other portions of the proposed amendment which revise § 1.103-8(g) of the Income Tax Regulations remain outstanding.

Additionally, certain revisions made by this Treasury decision indicate that certain rules prescribed in § 1.103-8 of the Income Tax Regulations also apply for §§ 1.103-9 and 1.103-10. These rules

are either of a clarifying nature or favorable to taxpayers. For this reason and because there is a need for immediate guidance for taxpayers, the relevant provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring further notice of proposed rulemaking, opportunity for public participation, and delay in effective date are found to be inapplicable.

IN GENERAL

Interest on an industrial development bond, subject to certain exceptions, does not qualify for the exclusion from gross income under section 103(a)(1) for interest on State or local governmental obligations. Section 103(b)(4) allows an exclusion for the interest on industrial development bonds substantially all of the proceeds of which are used to provide specified exempt facilities, e.g., residential real property for family units.

This document adopts the proposed amendment (40 FR 36371) to § 1.103-8(a)(1)(i) subject to the revisions discussed below. Section 1.103-8(a)(1)(i) provides rules used in determining whether substantially all of the proceeds of an issue of obligations are used to provide an exempt facility. The amendment as proposed would revise § 1.103-8(a)(1)(i) to provide that "substantially all" of the proceeds of an issue are used to provide an exempt facility if 90 percent or more of the proceeds are so used. Further, the proposed amendment stated that certain expenditures which were deducted pursuant to section 266 of the Code would not be considered as expenditures to provide an exempt facility.

The proposed rule regarding the meaning of the phrase "substantially all" is adopted. However, this document strikes that portion of the proposed amendment concerning expenditures which are deducted pursuant to section 266 of the Code. As amended § 1.103-8(a)(1)(i) states that amounts paid or incurred to provide an exempt facility include amounts which are properly chargeable to the facility's capital account including those amounts which in fact are deducted but otherwise could have been properly charged to capital account.

Many comments questioned whether the term "substantially all" has identical meaning in sections 103(b)(5) and (6) of the Code. Therefore, this document also makes the rules in § 1.103-8(a)(1)(i) apply to §§ 1.103-9(a)(1) and 1.103-10(b)(1)(ii).

DRAFTING INFORMATION

The principal author of this regulation was John P. MacMaster of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the proposed amendment to § 1.103-8(g) remains outstanding and 26 CFR Part 1 is amended as follows:

PARAGRAPH 1. Section 1.103-8 is amended by adding the following at the end of paragraph (a)(1)(i):

§ 1.103-8. Interest on bonds to finance certain exempt facilities.

(a) *In general.*—(1) *General rule.* (i) Substantially all of the proceeds of an issue of governmental obligations are used to provide an exempt facility if 90 percent or more of such proceeds are so used. For purposes of this "substantially all" test, two rules apply. First, proceeds are reduced by amounts properly allocable on a pro rata basis between providing the exempt facility and other uses of the proceeds. Second, amounts used to provide an exempt facility include amounts paid or incurred which are chargeable to the facility's capital account or would be so chargeable either with a proper election by a taxpayer (for example, under section 266) or but for a proper election by a taxpayer to deduct such amounts.

PAR. 2. Section 1.103-9 is amended by adding the following at the end of paragraph (a)(1):

§ 1.103-9. Interest on bonds to finance industrial parks.

(a) *General rule.* (1) Whether substantially all of the proceeds of an issue of governmental obligations are used to finance an industrial park is determined consistently with the rules for exempt facilities in § 1.103-8(a)(1)(i).

PAR. 3. Section 1.103-10(b)(1)(ii) is amended by revising the second sentence and adding immediately thereafter a new sentence. These sentences read as follows:

§ 1.103-10. Exemption for certain small issues of industrial development bonds.

(b) *Small issue exemption.* . . .

(1) \$1 million or less. . . .

(ii) . . . Proceeds which are loaned to a borrower for use as working capital or to finance inventory are not used in the manner described in the preceding sentence. Whether substantially all of the proceeds of an issue of governmental obligations are used in such manner is determined consistently with the rules for exempt facilities in § 1.103-8(a)(1)(i).

This Treasury decision is issued under the authority contained in section 7805

RULES AND REGULATIONS

of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

JEROME KURTZ,
Commissioner of
Internal Revenue.

Approved: September 30, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary
of the Treasury.

[FR Doc.77-29280 Filed 9-30-77;5:09 pm]

[4410-01]

Title 28—Judicial Administration

CHAPTER I—DEPARTMENT OF JUSTICE
PART 16—PRODUCTION OR DISCLOSURE OF MATERIAL OR INFORMATION

Delegations of Authority

AGENCY: Department of Justice, Federal Bureau of Investigation.

ACTION: Final rule.

SUMMARY: This directive delegates the authority to deny requests under the Freedom of Information Act and the Privacy Act of 1974 to the occupant of the position of Chief, Freedom of Information/Privacy Acts Branch (FOI/PA), Records Management Division, Federal Bureau of Investigation. This delegation is also made to the Special Agent In Charge of each field office of the Federal Bureau of Investigation for records under the custody and control of that individual.

EFFECTIVE DATE: Upon signature (March 17, 1977).

FOR FURTHER INFORMATION CONTACT:

James M. Powers, Chief, Freedom of Information/Privacy Acts Branch, Records Management Division, Federal Bureau of Investigation, J. Edgar Hoover Building, Washington, D.C. 20535, (202-324-5520).

Part 16 is amended by adding the following Appendix to Subpart A:

APPENDIX—DELEGATION OF AUTHORITY

1. By virtue of the authority vested in me by Section 16.5(b) of Title 28 of the Code of Federal Regulations, the authority to deny requests under the Freedom of Information Act is delegated to the occupant of the position of Chief, Freedom of Information/Privacy Acts Branch, Records Management Division, Federal Bureau of Investigation. This same authority is delegated to the occupant of the position of Special Agent In Charge of each of the field offices of the Federal Bureau of Investigation for records in their custody and control.

2. This directive is effective March 17, 1977. Dated: September 19, 1977.

CLARENCE M. KELLEY,
Director, Federal Bureau
of Investigation.

Part 16 is amended by adding the following Appendix to Subpart D:

APPENDIX—DELEGATION OF AUTHORITY

1. By virtue of the authority vested in me by Section 16.45 of Title 28 of the Code of Federal Regulations, the authority to deny requests under the Privacy Act of 1974 is delegated to the occupant of the position of Chief, Freedom of Information/Privacy Acts Branch, Records Management Division, Federal Bureau of Investigation. This same authority is delegated to the occupant of the position of Special Agent In Charge of each of the field offices of the Federal Bureau of Investigation for records in their custody and control.

2. This directive is effective March 17, 1977.

Dated: September 19, 1977.

CLARENCE M. KELLEY,
Director, Federal Bureau
of Investigation.

[FR Doc.77-29007 Filed 10-4-77;8:45 am]

[3710-92]

Title 33—Navigation and Navigable Waters

CHAPTER II—CORPS OF ENGINEERS,
DEPARTMENT OF THE ARMY

[ER 1105-2-32]

PART 257—APPROVAL OF PHASE I
GENERAL DESIGN MEMORANDA

AGENCY: Corps of Engineers, DOD.

ACTION: Final rule.

SUMMARY: This regulation changes the approval authority for selected planning reports prepared by Corps of Engineers field offices after Congress has authorized a water resources project for construction. According to established guidelines within the Corps of Engineers, the next step after Congress authorizes a project for construction and after Congress appropriates funds for advance engineering and design, is the preparation of a Phase I General Design Memorandum. This report is the product of a study which re-evaluates the authorized project under any changed conditions or changed Federal evaluation criteria since the Corps completed its survey (feasibility) report. If Congress funds a project soon after it is authorized, this Phase I stage of advance engineering and design may be very brief. The Chief of Engineers has determined that unless certain conditions exist, the division engineers (heads of Corps regional offices) may approve the Phase I reports and file any associated Environmental Impact Statements with the Council on Environmental Quality (CEQ). In the past, the division engineer would forward these documents to the Chief of Engineers for approval and filing with CEQ. The change will expedite approval actions in those cases where there are no unresolved issues and for which full review at the Washington level had

been accomplished prior to Congress authorizing the project for construction.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Robert D. Wolff, (DAEN-CWP-A), Planning Division, Directorate of Civil Works, Office, Chief of Engineers, Washington, D.C. 20314 (202-693-7187).

SUPPLEMENTARY INFORMATION: This regulation modifies those portions of 33 CFR 209.410 which designate the Corps of Engineers official responsible for filing with the Council on Environmental Quality (CEQ) Environmental Impact Statements for selected Phase I General Design Memoranda. The Office of the Chief of Engineers will be amending 33 CFR 209.410 to reflect this change. Since this regulation only relates to changes in procedure, notice of proposed rulemaking and the procedures thereto are considered unnecessary.

NOTE:—The U.S. Army Corps of Engineers has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 15, 1977.

JAMES E. ELLIS,
Colonel, Corps of Engineers,
Executive Director, Engineer Staff.

The following new Part 257, Approval of Phase I General Design Memoranda, is added to 33 CFR Chapter II:

- Sec.
257.1 Purpose.
257.2 Applicability.
257.3 References.
257.4 Delegation of Authority.
257.5 Conditions for Approval of a Phase I GDM.
257.6 Information to OCE.
257.7 Intensive Management.
257.8 Effective Date.

AUTHORITY: The provision of this Part 257 issued under R.S. 161; 5 U.S.C. 301.

§ 257.1 Purpose.

This regulation delegates authority to division engineers to approve Phase I General Design Memoranda (GDMs) and file Environmental Impact Statements (EIS) with the Council on Environmental Quality (CEQ) unless certain conditions exist.

§ 257.2 Applicability.

This regulation is applicable to all field operating agencies and all OCE elements having civil works responsibilities.

§ 257.3 References.

- Engineer Regulation No. 1105-2-10, Intensive Management.
- Engineer Regulation No. 1105-2-507, Environmental Impact Statements (33 CFR 209.410).
- Engineer Regulation No. 1110-2-1150, Post-Authorization Studies.

§ 257.4 Delegation of authority.

Division engineers, with the exception of Pacific Ocean and New England, are

delegated the authority to approve Phase I GDMs and file associated EISs with CEQ unless any of the following conditions exist:

(a) The Phase I GDM has been prepared pursuant to specific Congressional authorization which requires the Secretary of the Army to transmit the Phase I report to Congress.

(b) The plan recommended by the district engineer includes significant post-authorization changes for which Congressional authorization is required.

(c) Coordination of the Phase I GDM and EIS with States, regional offices of Federal agencies, or the public has revealed issues which cannot be resolved by the district or division engineer.

(d) The Report of the Board of Engineers, the Report of the Chief of Engineers or the transmittal letter of the Secretary of the Army raised issues which required resolution in the Phase I stage of advance engineering and design, and the resolution of these issues has not subsequently been approved by the Chief of Engineers.

(e) A preauthorization report for the project was not reviewed at the Washington level nor transmitted to Congress by the Secretary of the Army.

(f) The Phase I GDM has been combined with the Phase II GDM.

§ 257.5 Conditions for Approval of a Phase I GDM.

The division engineer shall meet all of the following conditions prior to approving a Phase I GDM:

- Checkpoint conference shall be held in accordance with ER 1105-2-10.
- If an EIS, or a supplement to a previous EIS, has been prepared, requirements of Part 209-410 of this chapter for coordination and filing with CEQ shall be met. The division engineer's approval shall not precede the end of the 30-day waiting period following FEDERAL REGISTER publication of the notice of availability of the EIS.

(c) If the Phase I GDM includes post-authorization changes for which an information summary must be submitted to Office of Management and Budget (OMB), the division engineer's approval shall not precede notification from OCE that OMB has no objection. Notification will be made by DAEN-CWP.

(d) The recommended plan of improvement shall be feasible based on applicable economic, engineering, environmental, and social evaluation criteria.

(e) Engineering investigations and resolution of design problems shall be determined by the division engineer to be compatible with the stage of project development.

§ 257.6 Information to OCE.

After final approval, the division engineer shall transmit 2 copies of the Phase I report; the EIS, if there is one; and the approving indorsement to HQDA (DAEN-CWP) WASH DC 20314, and 5 copies of the Phase I report and approving indorsement to DAEN-CWE-BB for information. Exempt report under paragraph 7-2aa, AR 335-15.

§ 257.7 Intensive Management.

The purposes of the Intensive Management Program in the Phase I stage of advance engineering and design are to assure quality in the accomplishment of the Phase I study, to assist the district engineer in decisions required to complete the Phase I GDM, and to expedite the final Phase I GDM review and approval process. The division engineer is responsible for organizing an intensive management program for each Phase I study and for assuring appropriate OCE and BERH participation, in accordance with ER 1105-2-10.

§ 257.8 Effective Date.

This regulation is effective 5 Oct 1977 as published in the FEDERAL REGISTER, and codified as 33 CFR Part 257.

[FR Doc. 77-27987 Filed 10-4-77; 8:45 am]

[6050-01]

Title 45—Public Welfare CHAPTER XII—ACTION

PART 1224—IMPLEMENTATION OF THE PRIVACY ACT OF 1974

Final Adoption

AGENCY: Action.

ACTION: Final adoption.

SUMMARY: ACTION published a notice in the FEDERAL REGISTER, Vol. 40, pages 39434 through 39438 on August 27, 1975 which proposed to amend Title 45 of the Code of Federal Regulations by adding a new Part 1224 to implement the provisions of the Privacy Act of 1974 (Pub. L. 93-579) (hereinafter referred to as the Act). No comments were received, but amendments were published pursuant to recommendations of an OMB task force. These were published for comment in 41 FR 19671 on May 13, 1976. No other comments were received during the notice period.

Part 1224—Implementation of the Privacy Act of 1974, is herein published as adopted with the above mentioned amendments incorporated.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

John F. Nolan, Director, Administrative Services Division, ACTION, Washington, D.C. 20525.

Title 45, Code of Federal Regulations, is amended by establishing a new Part 1224 as follows:

- Sec.
1224.1-1 Purpose.
1224.1-2 Policy.
1224.1-3 Definitions.
1224.1-4 Disclosure of records.
1224.1-5 Annual notices.
1224.1-5a New uses of information.
1224.1-6 Reports regarding changes in systems.
1224.1-7 Use of social security account number in records system [Reserved].
1224.1-8 Rules of conduct.
1224.1-9 Records systems-management and control.

- Sec.
1224.1-10 Security of records systems—manual and automated systems.
1224.1-11 Accounting for disclosure of records.
1224.1-12 Contents of records systems.
1224.1-13 Access to records.
1224.1-14 Specific exemptions.
1224.1-15 Identification of requestors.
1224.1-16 Amendment of records and appeals with respect thereto.
1224.1-17 Denial of access and appeals with respect thereto.
1224.1-18 Fees.

AUTHORITY: Pub. L. 93-579, 5 U.S.C. 552a.

§ 1224.1-1 Purpose.

The purpose of this part is to set forth the basic policies of ACTION governing the maintenance of systems of records containing personal information as defined in the Privacy Act (5 USC 552a). Records included in this part are those described in aforesaid Act and maintained by ACTION and/or any component thereof.

§ 1224.1-2 Policy.

It is the policy of ACTION to protect, preserve and defend the right of privacy of any individual as to whom the agency maintains personal information in any system records and to provide appropriate and complete access to such records including adequate opportunity to correct any errors in said records. It is further the policy of the agency to maintain its records in such a fashion that the information contained therein is and remains material and relevant to the purposes for which it is received in order to maintain its records with fairness to the individuals who are the subject of such records.

§ 1224.1-3 Definitions.

(a) "Record" means any document or other information about an individual maintained by the agency whether collected or grouped and including but not limited to information regarding education, financial transactions, medical history, criminal or employment history, or any other personal information which contains the name or other personal identification number, symbol, etc. assigned to such individual.

(b) "System of Records" means a group of any records under the control of the agency from which information is retrieved by use of the name of an individual or by some identifying number, symbol, or other identifying particular of whatsoever kind or nature.

(c) "Routine Use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(d) The term "agency" means ACTION and/or any component thereof.

(e) The term "individual" means any citizen of the United States or an alien lawfully admitted to permanent residence.

(f) The term "maintain" includes the maintenance, collection, use or dissemination of any record.

§ 1224.1-4 Disclosure of records.

The agency will not disclose any personal information from systems of records it maintains to any individual other than the individual to whom the record pertains, or to another agency, without the express written consent of the individual to whom the record pertains, or his agent or attorney, except in the following instances:

(a) To officers or employees of ACTION having a need for such record in the official performance of their duties.

(b) With respect to records which should follow an employee in transfer situations, to the personnel office of a different agency as a result of a transfer or a potential transfer of the individual to whom the record pertains.

(c) When required under the provisions of the Freedom of Information Act (5 U.S.C. 552).

(d) For routine uses as appropriately published in the annual notice of the FEDERAL REGISTER.

(e) To the Bureau of the Census for uses pursuant to Title 13.

(f) To an individual or agency having a proper need for such record for statistical research provided that such record is transmitted in a form which is not individually identifiable and that an appropriate written statement is obtained from the person to whom the record is transmitted stating the purpose for the request and a certification under oath that the records will be used only for statistical purposes.

(g) To the National Archives of the United States as a record of historical value under rules and regulations of the Archives as may be established by the Administrator of General Services or his designee.

(h) To an agency or instrumentality of any governmental jurisdiction within the control of the United States for civil or criminal law enforcement purposes provided however that the head of any such agency instrumentality has made a written request for such records specifying the particular portion desired and the law enforcement activity for which the record is sought. Such a record may also be disclosed by the agency to the law enforcement agency on its own initiative in situations in which criminal conduct is suspected provided that such disclosure has been established as a routine use or in situations in which the misconduct is directly related to the purpose for which the record is maintained.

(i) In emergency situations upon a showing of compelling circumstances affecting the health or safety of any individual provided that after such disclosure notification of such disclosure must be promptly sent to the last known address of the individual to whom the record pertains.

(j) To either House of Congress or to a subcommittee or committee (joint or of either house) to the extent the subject matter falls within their jurisdiction.

(k) To the comptroller general or any of his authorized representatives in the

course of the performance of his duties of that of the General Accounting Office.

(l) Pursuant to an order of a court of competent jurisdiction provided that if any such record is disclosed under such compulsory legal process and subsequently made public by the court which issued it, the agency must make a reasonable effort to notify the individual to whom the record pertains of such disclosure.

§ 1224.1-5 Annual notices.

The agency shall publish annually a notice of all systems of records maintained by it as defined herein in the format prescribed by the General Services Administration in the FEDERAL REGISTER, *Provided however*, That such publication shall not be made for those systems of records maintained by other agencies though in the temporary custody of this agency.

§ 1224.1-5a New uses of information.

At least 30 days prior to publication of information under the preceding section, the agency shall publish in the FEDERAL REGISTER a notice of its intention to establish any new routine use of any system of records maintained by it with an opportunity for public comments on such use. Such notice shall contain the following:

- The name of the system of records for which the routine use is to be established.
- The authority for the system.
- The purpose for which the record is to be maintained.
- The proposed routine use(s).
- The purpose of the routine use(s).
- The categories of recipients of such use. In the event of any request for an addition to the routine uses of the systems which the agency maintains, such request may be sent to the following officer: Director, A&F/AS, ACTION, 806 Connecticut Avenue NW., Washington, D.C. 20525.

§ 1224.1-6 Reports regarding changes in systems.

The agency shall provide to Congress, the Office of Management and Budget, and the Privacy Protection Commission advance notice of any proposal to establish or alter any system of records as defined herein. This report will be submitted in accord with guidelines to be provided by the Office of Management and Budget.

§ 1224.1-7 Use of social security account number in records systems. [Reserved]

§ 1224.1-8 Rules of conduct.

(a) The Head of the agency shall assure that all persons involved in the design, development operation or maintenance of any systems of records as defined herein are informed of all requirements necessary to protect the privacy of individuals who are the subject of such records. All employees shall be informed of all implications of the

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Act in this area including the criminal penalties provided under 5 U.S.C. 552a and the fact that agency may be subject to civil suit for failure to comply with the provisions of the Privacy Act and these regulations.

(b) The Head of the agency shall also ensure that all personnel having access to records receive adequate training in the protection of the security of personal records and that adequate and proper storage is provided for all such records with sufficient security to assure the privacy of such records.

§ 1224.1-9 Records systems—Management and control.

(a) The Director of Administrative Services (A&F) shall have overall control and supervision of the security of all records keeping systems and shall be responsible for monitoring the security standards set forth in these regulations.

(b) A designated official (System Manager) shall be named who shall have management responsibility for each record system maintained by the agency and who shall be responsible for providing protection and accountability for such records at all times and for insuring that such records are secured in appropriate containers whenever not in use or in the direct control of authorized personnel.

§ 1224.1-10 Security of records systems—Manual and automated systems.

The Head of the agency has the responsibility of maintaining adequate technical, physical, and security safeguards to prevent unauthorized disclosure or destruction of manual and automatic record systems. These security safeguards shall apply to all systems in which identifiable personal data are processed or maintained including all reports and outputs from such systems which contain identifiable personal information. Such safeguards must be sufficient to prevent negligent, accidental, or unintentional disclosure, modification or destruction of any personal records or data and must furthermore minimize the extent practicable the risk that skilled technicians or knowledgeable persons could improperly obtain access to modify or destroy such records or data and shall further insure against such casual entry by unskilled persons without official reasons for access to such records or data.

(a) *Manual systems.* (1) Records contained in records systems as defined herein may be used, held or stored only where facilities are adequate to prevent unauthorized access by persons within or without the agency.

(2) All records systems when not under the personal control of the employees authorized to use same must be stored in an appropriate metal filing cabinet. Where appropriate, such cabinet shall have three position dial-type combination lock, and/or be equipped with a steel lock bar secured by a GSA approved changeable combination padlock or in some such other securely

locked cabinet as may be approved by GSA for the storage of such records. Certain systems are not of such confidential nature that their disclosure would harm an individual who is the subject of such record. Records in this category shall be maintained in steel cabinets without the necessity of combination locks.

(3) Access to and use of systems of records shall be permitted only to persons whose official duties require such access within the agency, for routine uses as defined in subpart B herein as to any given system, or for such other uses as may be provided herein.

(4) Other than for access within the agency to persons needing such records in the performance of their official duties or routine users as defined in subpart B herein or such other uses as provided herein, access to records within systems of records shall be permitted only to the individual to whom the record pertains or upon his or her written request to a designated personal representative.

(5) Access to areas where records systems are stored will be limited to those persons whose official duties require work in such areas and proper accounting of removal of any records in storage areas in the form directed by the Director, A&F/AS, shall be maintained at all times.

(6) The agency shall assure that all persons whose official duties who require access to and use of records contained in records systems are adequately trained to protect the security and privacy of such records.

(7) The disposal and destruction of records within records systems shall be in accord with rules promulgated by the General Services Administration.

(b) *Automated systems.* (1) Identifiable personal information may be processed, stored or maintained by automatic data systems only where facilities or conditions are adequate to prevent unauthorized access to such system in any form. Whenever such data whether contained in punch cards, magnetic tapes or discs are not under the personal control of an authorized person such information must be stored in a metal filing cabinet having a built-in three position combination lock, a metal filing cabinet equipped with a steel lock bar secured with a GSA approved combination padlock, or in adequate containers or in a secured room or in such other facility having greater safeguards than those provided for herein.

(2) Access to and use of identifiable personal data associated with automated data systems shall be limited to those persons whose official duties require such access. Proper control of personal data in any form associated with automated data systems shall be maintained at all times including maintenance of accountability records showing disposition of input and output documents.

(3) All persons whose official duties require access to processing and main-

tenance of identifiable personal data and automated systems shall be adequately trained in the security and privacy of personal data.

(4) The disposal and disposition of identifiable personal data and automated systems shall be carried on by shredding, burning or in the case of tapes or discs, degaussing, in accord with any regulations now or hereafter proposed by the GSA or other appropriate authority.

§ 1224.1-11 Accounting for disclosure of records.

Each office maintaining a system of records shall account for all records within such system by keeping a written log in the form prescribed by the Director, A&F/AS, containing the following information:

(a) The date, nature, and purpose of each disclosure of a record to any person or to another agency. Disclosures made to employee of the agency in the normal course of their official duties, or pursuant to the provisions of the Freedom of Information Act need not be accounted for.

(b) Such accounting shall contain the name and address of the person or agency to whom the disclosure was made.

(c) The accounting shall be maintained in accord with a system approved by the Director, A&F/AS, as sufficient for the purpose but in any event sufficient to permit the construction of a listing for all disclosures at appropriate periodic intervals.

(d) The accounting shall reference any justification or basis upon which any release was made including any written documentation required when records are released for statistical or law enforcement purposes under the provisions of subsection (b) of the Privacy Act of 1974 (5 U.S.C. 552a).

(e) For the purpose of this part, the system of accounting for disclosures is not a system of records under the definitions hereof and no accounting need be maintained for the disclosure of accounting of disclosures.

§ 1224.1-12 Contents of records systems.

The agency shall maintain in any records contained in any records system hereunder only such information about an individual as is accurate, relevant, and necessary to accomplish the purpose for which the agency acquired the information as authorized by statute or Executive Order.

(a) In situations in which the information may result in adverse determinations about such individuals' rights, benefits and privileges under any Federal program, all information placed in records systems shall, to the greatest extent practicable, be collected from the individual to whom the record pertains.

(b) Each form or other document which an individual is expected to complete in order to provide information for any records system shall have ap-

ended thereto, or in the body of the document:

(1) An indication of the authority authorizing the solicitation of the information and whether the provision of the information is mandatory or voluntary.

(2) The purpose or purposes for which the information is intended to be used.

(3) Routine uses which may be made of the information and published pursuant to § 1224.1-6 of this regulation.

(4) The effect on the individual if any of not providing all or part of the required or requested information.

(c) Records maintained in any system of record used by the agency to make any determination about any individual shall be maintained with such accuracy, relevancy, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the making of any determination about such individual, provided however, that the agency shall not be required to update or keep current retired records.

(d) Before disseminating any record about any individual to any person other than an agency, unless the dissemination is made pursuant to the provisions of the Freedom of Information Act (5 U.S.C. 552) the agency shall make reasonable efforts to assure that such records are, or were at the time they were collected, accurate, complete, timely and relevant for agency purposes.

(e) Under no circumstances shall the agency maintain any record about any individual with respect to or describing how such individual exercises rights guaranteed by the first amendment of the Constitution of the United States unless expressly authorized by statute or by the individual about whom the record is maintained, or unless pertinent to and within the scope of an authorized law enforcement activity.

(f) In the event any record is disclosed as a result of the order of a court of appropriate jurisdiction, the agency shall make reasonable efforts to notify the individual whose record was so disclosed after the process becomes a matter of public record.

§ 1224.1-13 Access to records.

(a) Upon request of any individual about whom a record is maintained addressed to the Director of Administrative Services, 806 Connecticut Avenue NW., Washington, D.C. 20525, in person during regular business hours, or by mail, access to his record or to any information contained therein shall be provided.

(b) If the request is made in person, such individual may, upon his request, be accompanied by a person of his choosing to review the record and shall be provided an opportunity to have a copy made of all or any portion of any record about such individual.

(c) A record may be disclosed to a representative chosen by the individual as to whom a record is maintained upon proper written consent of such individual.

(d) Request made in person will be promptly complied with if the records sought are in the immediate custody of

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ACTION. Mailed requests or personal requests for documents in storage or otherwise not immediately available, will be acknowledged within ten working days, and the information requested will be promptly provided thereafter.

(e) With regard to any request for disclosure of record the following procedure shall apply:

(1) Medical or psychological records shall be disclosed to an individual unless in the judgment of the agency, access to such records might have an adverse effect upon such individual. When such determination has been made, the agency may require that the information be disclosed only to a physician chosen by the requesting individual. Such physician shall have full authority to disclose all or any portion of such record to the requesting individual in the exercise of his professional judgment.

(2) Test material and copies of certificates or other lists of eligibles or any other listing, the disclosure of which would violate the privacy of any other individual, or be otherwise proscribed by the provision of the Privacy Act of 1974, shall be removed from the record before disclosure to any individual to whom the record pertains.

§ 1224.1-14 Specific exemptions.

Records or portions of records specified below shall be exempt from disclosure provided however that no such exemption shall apply to the provisions of § 1224.1-16(d)(3) hereof (informing prior recipient of corrected or disputed records); § 1224.1-12(a) (collecting information directly from the individual to whom it pertains); § 1224.1-12(b) (informing individuals asked to supply information of the purposes for which it is collected and whether it is mandatory); § 1224.1-12(c) (maintaining records with accuracy, completeness, etc. as reasonably necessary for agency purposes); § 1224.1-12(f) (notifying the subjects of records disclosed under compulsory court process); § 1224.1-16(g) (civil remedies). With the above exceptions the following material shall be exempt from disclosure to the extent indicated:

(a) Material considered classified and exempt from disclosure under the provisions of section 552(b)(1) of the Freedom of Information Act (5 U.S.C. 552).

(b) Investigatory material compiled for the purposes of law enforcement provided, however, that if such information is to be used for the basis for denial of any right, privilege or benefit to which such individual would be entitled by Federal law or otherwise, such material shall be provided to the such individual except to the extent necessary to protect the identity of a source who furnished information to the government under an express promise that his or her identity would be held in confidence, or prior to the effective date of the Privacy Act of 1974, under an implied promise of such confidentiality of the identity of such source.

(c) Required by statute to be maintained and used solely as statistical records.

(d) Investigatory material compiled solely for the purpose of determining suitability, eligibility or qualification for service as an employee or volunteer or for the obtaining of a Federal contract or for access to classified information; provided, however, that such material shall be disclosed to the extent possible without revealing the identity of a source who furnished information to the government under an express promise of the confidentiality of his identity or, prior to the effective date of the Privacy Act of 1974, under an implied promise of such confidentiality of identity.

(e) Testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service, disclosure of which would compromise the objectivity or fairness of the testing or examination process.

(f) An individual shall not have a right of access to any information compiled by the agency in reasonable anticipation of a civil action or proceeding.

The above specific exemptions from disclosure are made for the purpose of protecting the confidentiality of classified information, sources who furnish information for law enforcement purposes or selection purposes for volunteer service or employment, and to protect the integrity of any system of tests or examinations for Federal service or advancement therein.

§ 1224.1-15 Identification of requestors.

The agency shall require reasonable identification of all individuals who request access to records to assure that records are disclosed to the proper person.

(a) In the event an individual requests disclosure in person, such individual shall be required to show an identification card such as a drivers license etc., containing a photo and a sample signature of such individual. Such individual may also be required to sign a statement under oath as to his or her identity acknowledging that he or she is aware of the penalties for improper disclosure under the provisions of the Privacy Act of 1974.

(b) In the event that disclosure is requested by mail, the agency may request such information as may be necessary to reasonably assure that the individual making such request is properly identified. In certain cases, the agency may require that a mail request be notarized with an indication that the notary received an acknowledgment of identity from the individual making such request.

(c) In the event an individual is unable to provide suitable documentation or identification, the agency may require a signed notarized statement asserting the identity of the individual and stipulating that the individual understands that knowingly or willfully seeking or

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obtaining access to records about another person under false pretenses is punishable by a fine of up to \$5,000.

(d) In the event a requestor wishes to be accompanied by another person while reviewing his or her records, the agency may require a written statement authorizing discussion of his or her records in the presence of the accompanying representative or other persons.

§ 1224.1-16 Amendment of records and appeals with respect thereto.

A request for inspection of any record shall be made to the Director, A&F/Administrative Services, 806 Connecticut Avenue NW., Washington, D.C. 20525. Such request may be made by mail or in person provided however that requests made in person may be required to be made upon a form to be provided by the Director of Administrative Services. The Director of Administrative Services shall keep a current list of systems or records maintained by the agency and published in accordance with the provisions of these regulations. Requests as to record systems maintained in Regional Offices may be addressed to the appropriate Regional Office, Attention the Regional Records Officer, in person or by mail. A requesting individual may request that the agency compile all records pertaining to such individual at any named Regional Office or at the Central Office in Washington, D.C., for such individual's inspection and/or copying. In the event an individual makes such request for a compilation of all records pertaining to him in various locations, appropriate time for such compilation shall be provided as may be necessary to promptly comply with such requests.

Any such requests should contain, at a minimum, identifying information needed to locate any given record and a brief description of the item or items of information required in the event the individual wishes to see less than all records maintained about him.

(a) In the event an individual after examination of his record desires to request an amendment of such record, he may do so by addressing such request to the Director of Administrative Services. The Director of Administrative Services shall provide assistance in preparing any such amendment upon request and a written acknowledgement of receipt of such request within 10 working days from the receipt thereof from the individual who requested the amendment. Such acknowledgment may, if necessary, request any additional information needed to make a determination with respect to such request. If the agency makes a determination to comply with such request within such 10-day period, no written acknowledgment is necessary provided however that a certification of such change shall be provided to such individual within such period.

(b) Promptly after acknowledgment of the receipt of a request for an amendment the agency shall take one of the following actions:

(1) Make any corrections of any portion of the record which the individual believes is not accurate, relevant, timely or complete.

(2) Inform the individual of its refusal to amend the record in accord with the request together with the reason for such refusal and the procedures established for requesting review of such refusal by the head of the agency or his designee. Such notice shall include the name and business address of such official.

(3) Refer the request to the agency that has control of and maintains the record in those instances where the record requested remains the property of the controlling agency and not of ACTION.

(c) In reviewing a request to amend the record the agency shall assess the accuracy, relevance, timeliness and completeness of the record with due and appropriate regard for fairness to the individual about whom the record is maintained. In making such determination, the agency shall consult criteria for determining record quality published in pertinent chapters of the Federal Personnel Manual and to the extent possible shall accord therewith.

(d) In the event the agency agrees with the individual's request to amend such record, it shall:

(1) Advise the individual in writing,

(2) Correct the record accordingly, and

(3) Advise all previous recipients of a record which was corrected of the correction and its substance.

(e) In the event the agency, after an initial review of the request to amend a record, disagrees with all or a portion of it, the agency shall:

(1) Advise the individual of its refusal and the reasons therefore,

(2) Inform the individual that he or she may request further review in accord with the provisions of these regulations, and

(3) The name and address to whom the request should be directed.

(f) In the event an individual requestor disagrees with the initial agency determination, he or she may appeal such determination to the Deputy Director of the Agency or his designee. Such request for review must be made within 30 days after receipt by the requestor of the initial refusal to amend.

(g) If after review the Deputy Director or his designee refuses to amend the record as requested he shall advise the individual requester of such refusal and the reasons for same; of his or her right to file a concise statement of the reasons for disagreeing with the decision of the agency in the record; of the procedures for filing a statement of disagreement and of the fact that such statement so filed will be made available to anyone to whom the record is subsequently disclosed together with a brief statement of the agency summarizing its reasons for refusal, if the agency decides to place such brief statement in the record.

The agency shall have the authority to limit the length of any statement to be filed, such limit to depend upon the record involved. The agency shall also inform such individual that prior recipients of the disputed record will be provided a copy of both statements of dispute to the extent that the accounting of disclosures has been maintained and of the individual's right to seek judicial review of the agency's refusal to amend the record.

(h) If after review the official determines that the record should be amended in accordance with the individual's request the agency shall proceed as provided above in the event a request is granted upon initial demand.

(i) Final agency determination of an individual's request for a review shall be concluded within 30 working days from the initial request excluding the period of time between receipt by such individual of the initial denial and his or her filing of a request for review provided however that the Deputy Director or his designee may determine that fair and equitable review cannot be made within that time. If such circumstances occurs, the individual shall be notified of the additional time required in writing and of the approximate date on which determination of the review is expected to be completed.

§ 1224.1-17 Denial of access and appeals with respect hereto.

In the event that the agency finds it necessary to deny any individual access to a record about such individual pursuant to provisions of the Privacy Act or of these regulations, a response to the original request shall be made in writing within ten working days from the date of such initial request. The denial shall specify the reasons for such refusal or denial and advise the individual of the reasons therefore, and of his or her right to an appeal within the agency and/or judicial review under the provisions of the Privacy Act.

(a) In the event an individual desires to appeal any denial of access, he may do so in writing by addressing such appeal to the attention of the Deputy Director, ACTION, c/o the Director, AF/Administrative Services, 806 Connecticut Avenue NW., Washington, D.C. 20525. Although there is no time limit for such appeals, ACTION shall be under no obligation to maintain copies of original requests or responses thereto beyond 180 days from the date of the original request.

(b) The Deputy Director, or his designee, shall review a request from a denial of access and shall make a determination with respect to such appeal within 20 days after receipt thereof. Notice of such determination shall be provided to the individual making the request in writing. If such appeal is denied in whole or in part, such notice shall include notification of the right of the person making such requests to have judicial review of the denial as provided in the Privacy Act (5 U.S.C. 552a).

§ 1224.1-18 Fees.

No fees shall be charged for search time or for any other time expended by the agency to produce a record. Copies of records may be charged for at the rate of 10 cents per page provided that one copy of any record shall be provided free of charge.

This notice is issued in Washington, D.C., on September 28, 1977.

SAM BROWN,
Director, ACTION.

[FR Doc.77-29233 Filed 10-4-77; 8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

[Gen. Order 16, Amdt. 21; Docket No. 77-14]

PART 502—RULES OF PRACTICE AND PROCEDURE

Subpart B—Appearances and Practices Before the Commission

FORMER EMPLOYEES

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: The Federal Maritime Commission is amending its Rules of Practice and Procedure governing the appearance and practice before the Commission of former employees to prohibit any former Commission member, officer or employee from practicing, appearing, or representing anyone before the Commission within one year of the termination of their service with the Commission unless it is shown that the particular matter under consideration by the Commission was not under the official responsibility of such former member, officer or employee at any time within a period of one year prior to the termination of such responsibility. These changes are being made to conform the Commission's rule with Federal statute.

DATES: To become effective October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573.

SUPPLEMENTARY INFORMATION: By Notice published in the FEDERAL REGISTER (42 FR 26664, 26665 May 25, 1977) the Commission proposed revisions in the rules governing the appearance and practice before the Commission of former Commission employees (46 CFR 502.32 (b)). Interested parties were given an opportunity to submit comments on the proposed rules.

No comments or objections were received. Accordingly, the proposed regulations are hereby adopted without change as set forth below.

These amendments have been made to conform the Commission's regulations with 18 U.S.C. 207(b). Because former

RULES AND REGULATIONS

employees must conduct themselves in a manner consistent with 18 U.S.C. 207(b), these regulations will be made effective as of October 5, 1977. Therefore, 46 CFR 502.32(b) is amended as follows:

§ 502.32 Former employees.

(b) *Matters pending; waiver.* (1) No former member, officer, or employee of the Commission shall practice, appear, or represent anyone before the Commission, within one year after the termination of his or her service with the Commission, in connection with any particular Commission matter involving a specific party or parties which was pending before the Commission at any time during the period of his or her service with the Commission, unless prior written consent of the Commission is applied for and obtained. This consent will not be granted unless it appears that the particular matter was not under the applicant's official responsibility as a member, officer, or employee of the Federal Maritime Commission at any time within a period of one year prior to the termination of such responsibility.

(2) Such applicant shall be required to file an affidavit to the effect that the particular Commission matter was not under the applicant's official responsibility as a member, officer or employee of the Federal Maritime Commission at any time within a period of one year prior to the termination of such responsibility; that the applicant is not associated with, and will not in such matter be associated with, any former member, officer, or employee of the Commission who is either permanently or temporarily precluded from practicing, appearing or representing anyone before the Commission in connection with the particular matter; and that the applicant's employment is not prohibited by any law of the United States or by the regulations of the Commission. The statements contained in such affidavit shall not be sufficient if disproved by an examination of the files and records of the case.

(3) Applications for consent should be directed to the Commission, should state the former connection of the applicant with the Commission, and should identify the matter in which the applicant desires to appear. The applicant shall be promptly advised as to his privilege to appear in the particular matter, and the application, affidavit and consent, or refusal to consent, shall be filed by the Commission in its records relative thereto. Separate consents to appear must be obtained to appear in separate cases. (18 U.S.C. 207(b); E.O. 11222 of May 8, 1965 (30 FR 6169; section 43 of the Shipping Act, 1916 (46 U.S.C. 841a); and 5 U.S.C. 553).

Effective date: These regulations are effective October 5, 1977.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29270 Filed 10-4-77; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1241; Amdt. 3]

PART 1033—CAR SERVICE

Chicago and North Western Transportation Co. Authorized To Operate Over Tracks Formerly Operated by South Omaha Terminal Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency Order (Amendment No. 3 to Service Order 1241).

SUMMARY: Amendment No. 3 to Service Order No. 1241 authorizes the Chicago and North Western to operate over tracks of South Omaha Terminal Railway in order to continue service to shippers.

DATES: Effective 12:01 a.m., September 30, 1977. Expires 11:59 p.m., March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: This order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of September 1977.

Upon further consideration of Service Order No. 1241 (41 FR 17394, 43723; and 42 FR 17447), and good cause appearing therefor:

It is ordered, That: Service Order No. 1241 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

§ 1033.1241 Service Order No. 1241.

(a) Chicago & North Western Transportation Co. authorized to operate over tracks formerly operated by South Omaha Terminal Railway Co. . . .

(e) Expiration date: The provisions of this order shall expire at 11:59 p.m., March 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1977.

(49 U.S.C. 1(12), (15), (16) and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given

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to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the FEDERAL REGISTER.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29286 Filed 10-4-77; 8:45 am]

[7035-01]

[S.O. 1277]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1277).

SUMMARY: Service Order No. 1277 authorizes the Burlington Northern to substitute two smaller 40-ft. plain boxcars for 50-ft. boxcars ordered for loading lumber and plywood. The Burlington Northern has an adequate supply of 40-ft. narrow-door plain boxcars while at the same time it is encountering shortages of 50-ft. plain boxcars.

DATES: Effective 12:01 a.m., September 30, 1977. Expires 11:59 p.m., November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 29th day of September 1977.

There is an acute shortage of plain boxcars in excess of 40-ft. 6-in. on the lines of the Burlington Northern, Inc. (BN), for transportation of shipments of lumber and plywood subject to tariff provisions that require the use of plain boxcars having lengths in excess of 40-ft. 6-in. The BN has a surplus of 40-ft. 6-in. narrow-door plain boxcars that could be substituted for larger cars if minimum quantity tariff provisions permitted. The economic loss suffered by shippers dependent on the BN for their car supplies can be alleviated by the substitution of smaller cars for the larger cars ordered to transport the shipments offered at the ratio of two smaller cars for each larger car ordered.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of boxcars are ineffective to overcome these shortages of boxcars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and

public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1277 Distribution of freight cars.

(a) *Application.* (1) This order shall apply only to cars originating and terminating at stations on the Burlington Northern system and routed only via the lines comprising that system as defined in subsection (2), except that shipments may originate or terminate in terminal switching service on connecting lines which do not participate in the line-haul.

(2) Burlington Northern System: Burlington Northern, Inc.; the Colorado & Southern Railway Co.; Fort Worth & Denver Railway Co.

(3) The provisions of this order shall apply to intrastate, interstate and foreign commerce.

(b) Subject to the concurrence of the shipper, the Burlington Northern, Inc. (BN), may substitute two narrow-door plain boxcars listed in the Official Railway Equipment Register, ICC-R.E.R. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM" with inside length 40-ft. 6-in. or less, and with doors less than 8-ft. wide, for each plain boxcar of greater length, but not exceeding 52-ft. 6-in. in length, ordered by the shipper for loading lumber and plywood. (See Exceptions (c), (d), and (e).)

(c) *Exception.* This order shall not apply to shipments subject to tariff provisions requiring the use of twenty-five or more cars per shipment.

(d) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(e) *Exception.* Cars subject to this order may not be diverted or reconsigned for movement via lines other than the BN.

(f) *Rates and minimum weights applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by section (b) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(g) *Billing to be endorsed.* The carrier substituting smaller cars for larger cars as authorized by section (b) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Car of (-----) in length, or of (-----) cu. ft. or of (-----) lbs. or greater capacity ordered. Two smaller cars furnished authority ICC Service Order No. 1277

(h) *Concurrence of shipper required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(i) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such ex-

ception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(j) *Rules and regulations suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(k) *Effective date.* This order shall become effective at 12:01 a.m., September 30, 1977.

(l) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission. (49 U.S.C. 1(12), (15), (16) and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael. Joel E. Burns not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29285 Filed 10-4-77; 8:45 am]

[7035-01]

[Service Order No. 1278]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1278).

SUMMARY: There is a shortage of 180,000 lbs. capacity hopper cars for shipments of phosphate rock from Garrison, Mont., to Kimberly, British Columbia. The Burlington Northern, Inc., the originating carrier, has secured a supply of smaller cars (140,000 lbs. capacity) which are suitable, except for capacity for transporting this traffic. Service Order No. 1278 authorizes the Burlington Northern to substitute these smaller cars for the large cars normally required because of tariff minimum weights of 180,000 lbs. per car. The rates applicable to the larger cars ordered are to be applied to the smaller cars loaded provided the cars are loaded to capacity.

DATES: Effective 12:01 a.m., September 30, 1977. Expires 11:59 p.m., November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of September 1977.

There is a regular movement of phosphate rock in bulk from Garrison (Phosphate Spur), Mont., to Kimberly, British Columbia, Canada, routed via the Burlington Northern, Inc. (BN), thence CP Rail. These shipments are subject to tariff minimum weights of 180,000 lbs. per car. Because of heavy demands by various shippers, there is an acute shortage on the BN of open hopper cars capable of transporting shipments of these weights resulting in costly delays to the shipper and consignee because of interruptions in the regular flow of this traffic. The BN has secured an adequate supply of cars of 70-tons and greater capacity but less than 90-tons capacity and is willing to transport this traffic in fully loaded cars of at least 70-ton capacity at the rates normally subject to the higher minimum weights specified in the applicable tariffs. Use of these smaller cars in place of 90-ton cars will alleviate the economic loss to shippers caused by the inability of the BN to supply sufficient high capacity cars and will provide the BN with additional hopper cars to meet the requirements of its shippers.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of hopper cars are ineffective to overcome these shortages of hopper cars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1278 Distribution of freight cars.

(a) Subject to the concurrence of the shipper, the Burlington Northern, Inc. (BN), may substitute open hopper cars listed in the Official Railway Equipment Register, ICC-RER No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation Class "H" and capacity of 140,000 lbs. or greater but less than 180,000 lbs. for open hoppers, Class "H" capacity 180,000 lbs. or greater ordered for transporting shipments of phosphate rock from Garrison (Phosphate Spur), Mont., to Kimberly, British Columbia, Canada, and routed BN-CP Rail subject to the conditions prescribed in sections (b), (c), (d), and (e) of this order.

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(c) *Rates and minimum weights applicable.* The rates to be applied shall be those applicable to the size car ordered provided cars are loaded to the lesser of full visible or marked capacity.

(d) *Billing to be endorsed.* The carrier substituting smaller cars for larger cars as authorized by section (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Car of (-----) lb. capacity ordered. Smaller cars furnished authority ICC Service Order No. 1278.

(e) *Concurrence of shipper required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(f) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and regulations suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order and insofar as they apply within the United States of America.

(h) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(i) *Effective date.* This order shall become effective at 12:01 a.m., September 30, 1977.

(j) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission. (49 U.S.C. 1(12), (15), (16), and 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29284 Filed 10-4-77; 8:45 am]

[7035-01]

[Amtd. No. 3 to Service Order No. 1254]

PART 1033—CAR SERVICE

Vermont Northern Railroad Co. Authorized To Operate Over Tracks Owned by State of Vermont and Formerly Operated by St. Johnsbury & Lamoille County Railroad

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 3 to Service Order No. 1254).

SUMMARY: The State of Vermont owns the former St. Johnsbury & Lamoille County Railroad between Swanton, Vt., and St. Johnsbury, Vt., and has leased the line to the Vermont Northern Railroad for operation on behalf of the State. Service Order No. 1254 authorizes the Vermont Northern to operate this line pending disposition of its application for a Certificate of Convenience and Necessity in order to provide uninterrupted rail service to shippers in northern Vermont. Amendment No. 3 extends Service Order No. 1254 for an additional three months.

DATES: Effective 11:59 p.m., September 30, 1977. Expires 11:59 p.m., December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of September 1977.

Upon further consideration of Service Order No. 1254 (41 FR 48122; 42 FR 3309 and 30841), and good cause appearing therefor:

It is ordered, That: Service Order No. 1254 be, and it is hereby, amended by substituting the following paragraph (f) for paragraph (f) thereof:

§ 1033.1254 Service Order No. 1254.

(a) Vermont Northern Railroad Co. authorized to operate over tracks owned by State of Vermont and formerly operated by St. Johnsbury & Lamoille County Railroad.

(f) *Expiration date:* The provisions of this order shall expire at 11:59 p.m., December 31, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1977.

(49 U.S.C. 1, 12, 15, and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29295 Filed 10-4-77; 8:45 am]

[7035-01]

[Amtd. No. 1 to Service Order No. 1269]

PART 1033—CAR SERVICE

Missouri Pacific Railroad Co. Authorized to Operate Over Tracks of the Atchison, Topeka & Santa Fe Railway Co.

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Amendment No. 1 to Service Order No. 1269).

SUMMARY: The Missouri Pacific's line between Winfield, Kans., and Arkansas City, Kans., has been damaged by flooding and is inoperable. Service Order No. 1269 authorizes the Missouri Pacific to operate over parallel tracks of the Atchison, Topeka and Santa Fe between those points in order to provide continued railroad service to shippers served by the undamaged portions of this line. Amendment No. 1 extends this order for an additional six months.

DATES: Effective 11:59 p.m., September 30, 1977. Expires 11:59 p.m., March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 28th day of September 1977.

Upon further consideration of Service Order No. 1269 (42 FR 34883) and good cause appearing therefor:

It is ordered, That: Service Order No. 1269 be, and it is hereby, amended by substituting the following paragraph (c) for paragraph (c) thereof:

§ 1033.1269 Service Order No. 1269.

(a) Missouri Pacific Railroad Co. authorized to operate over tracks of the

Atchison, Topeka & Santa Fe Railway Co. . . .

(c) Expiration date: The provisions of this order shall expire at 11:59 p.m., March 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., September 30, 1977.

(49 U.S.C. 1, 12, 15, and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington, and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29296 Filed 10-4-77; 8:45 am]

[3510-12]

Title 50—Wildlife and Fisheries**CHAPTER II—NATIONAL MARINE FISHERIES SERVICE, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DEPARTMENT OF COMMERCE****PART 216—REGULATIONS GOVERNING THE TAKING AND IMPORTING OF MARINE MAMMALS****Importation of Yellowfin Tuna and Tuna Products**

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Final rule.

SUMMARY: This final regulation is issued under the authority of the Marine Mammal Protection Act of 1972 and extends until January 1, 1978, the effective date of embargo provisions on yellowfin tuna and tuna products originating from vessels engaged in the yellowfin tuna purse seine fishery in the eastern tropical Pacific Ocean.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William P. Jensen, Marine Mammal and Endangered Species Division, National Fisheries Service, Washington, D.C. 20235. Telephone 202-634-7461.

SUPPLEMENTARY INFORMATION: The National Marine Fisheries Service (NMFS) published regulations in the FEDERAL REGISTER on March 1, 1977 (42 FR 12010-12014) governing the taking of marine mammals incidental to commercial fishing operations.

These regulations include documentation provisions concerning the importa-

tion of yellowfin tuna from nations known to be involved in the purse seine fishery in the eastern tropical Pacific Ocean (hereafter the ETP fishery). Originally effective June 1, 1977, these importation provisions make importation of yellowfin tuna and tuna products from nations known to be involved in the ETP fishery contingent upon certain findings by the Director of NMFS. The Director of NMFS must find either (a) that the fishing operations of the nation concerned . . . are conducted in conformance with U.S. regulations and standards . . . or (b) that, "although not in conformity with these regulations, such fishing is accomplished in a manner which does not result in an incidental mortality and serious injury in excess of that which results from U.S. fishing operations under these regulations." (See 50 CFR 216.24(e)(5)). Either finding will result in an exception from the embargo provisions of the U.S. regulations for the nation concerned.

The Director of NMFS published a notice in the FEDERAL REGISTER on May 16, 1977 (42 FR 24742) which extended the effective date of the import restrictions until August 1, 1977. Subsequently, on August 4, 1977 (42 FR 39394), the effective date was further extended until October 1, 1977.

In view of recent developments which have brought new difficulties to light and confirmed continuing problems, the Director of NMFS has determined that a further extension until December 31, 1977 is necessary. This extension will allow foreign nations a reasonable period of time to conform to U.S. regulations and standards, facilitate the implementation of an international agreement which will reduce porpoise mortality, and avoid an unwarranted disruption or cessation in the flow of tuna and tuna products.

A recent trip by an NMFS representative to several of the nations involved in the ETP fishery sharpened the focus on many of the problems associated with conformance. A fundamental problem was an incomplete understanding by many nations of the intent and requirements of the import provisions. However, all nations which either were visited or have responded are receptive and have taken steps to conform.

Four nations, Canada, Mexico, Ecuador and Netherlands Antilles, are in substantial conformance with U.S. regulations and standards. Panama, Costa Rica, and Nicaragua have indicated an intent to comply, and have undertaken good faith efforts to achieve conformance. The remaining nations, Bermuda, Peru, Senegal, Spain, and Venezuela have been contacted, but, as yet, their position with respect to conformance is unclear.

The ongoing efforts of the Inter-American Tropical Tuna Commission (IATTC) were a major factor considered by the Director of NMFS. The IATTC meeting on June 27-29, 1977 produced a resolution that would establish an international tuna-porpoise research and observer program for IATTC member nations, with provision for inclusion of non-

member nations, operating in the ETP fishery. This resolution represents the first significant step taken by the IATTC to solve the problem of incidental porpoise mortality. The resolution has been approved by all member nations. It is expected that implementation of the resolution will be discussed and clarified at the annual meeting to be held in Mexico City, Mexico on October 17-20, 1977. Implementation of this resolution will be a factor in making findings for various nations. In addition, the meeting will provide a forum in which to clarify doubts, resolve problems, and assess efforts with respect to conformance by both member and interested non-member nations. The present effective date of the embargo provisions, October 1, 1977, does not allow the Director nor the nations concerned sufficient time to perfect their respective roles.

In making the determination for an extension, the Director of NMFS also considered the recommendation of the Department of State and the comments filed in response to the extension appearing in the FEDERAL REGISTER on August 4, 1977 (supra) by Cooperativa de Pescadores del Pacifico R.L. ("Coopeatun") of Costa Rica and Productos Alimenticios del Mar, S.A. ("Palmar") of Mexico, all of which concurred in the need for an extension.

The Director of NMFS will publish in the FEDERAL REGISTER before December

31, 1977 a list of nations for which he has made findings.

§ 216.24 [Amended]

Accordingly, § 216.24 paragraphs (e) (2) (ii), (e) (4), and (e) (5) (i) of 50 CFR Part 216 is amended to read as follows:

(1) Section 216.24 (e) (2) (ii) is amended by deleting the date "September 30, 1977" and inserting the date "December 31, 1977";

(2) Section 216.24(e)(4) is amended by deleting the date "October 1, 1977" in the first line and inserting the date "January 1, 1978", and by deleting the date "September 30, 1977" in the seventh line and inserting the date "December 31, 1977";

(3) Section 216.24(e)(5)(i) is amended by deleting the date "September 30, 1977" in the first line and inserting the date "December 31, 1977."

Dated: September 30, 1977.

WINFRED H. MEIBOHM,
Associate Director,
National Marine Fisheries Service.

[FR Doc.77-29283 Filed 10-4-77; 8:45 am]

[6325-01]

Title 5—Administrative Personnel**CHAPTER I—CIVIL SERVICE COMMISSION
PART 213—EXCEPTED SERVICE****Department of Energy**

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C fourteen policy making Executive Level V positions of Staff Officer who are to be used in various executive positions during the organization phase of the establishment of the Department of Energy and who will be assigned to more specific and definitively titled positions when the initial organizational phase of the establishment of the Department is completed.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:

John W. McKee, Civil Service Commission, (202-632-4625).

FOR FURTHER INFORMATION ON POSITION CONTENT CONTACT:

Lloyd W. Grable, Director, Transition Personnel Office, Department of Energy, (202-376-4210).

Accordingly, 5 CFR 213.3331(a)(5) is added as set out below:

§ 213.3331 Department of Energy.

(a) Office of the Secretary. . . .

(5) Fourteen Staff Officers.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

[FR Doc.77-29453 Filed 10-4-77; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[1610-01]

COST ACCOUNTING STANDARDS BOARD

[4 CFR Part 416]

ACCOUNTING FOR INSURANCE COSTS

Cost Accounting Standards

AGENCY: Cost Accounting Standards Board.

ACTION: Proposed rule.

SUMMARY: This proposed rule would provide criteria for the measurement of insurance costs, the assignment of such costs to cost accounting periods and the allocation of insurance costs to cost objectives. The application of these criteria should increase the probability that insurance costs are allocated to cost objectives in a uniform and consistent manner.

DATE: Written comments must be received on or before December 12, 1977.

ADDRESSES: Written comments should be sent to the Cost Accounting Standards Board, 441 G Street NW., Room 4836, Washington, D.C. 20548.

FOR FURTHER INFORMATION CONTACT:

Robert Straith, Associate Director, Cost Accounting Standards Board, 441 G Street NW., Room 4836, Washington, D.C. 20548 (202-275-6136).

SUPPLEMENTARY INFORMATION: The proposed Standard, if adopted, would be one of a series of Cost Accounting Standards which the Board is promulgating "to achieve uniformity and consistency in the cost accounting principles followed by defense contractors and subcontractors under Federal contracts." (See sec. 719(g) of the Defense Production Act of 1950, as amended.) It is anticipated that any contractor receiving an award of a contract subject to the rules, regulations, and Standards of the Cost Accounting Standards Board on or after the effective date of this Standard will be required to follow it in accordance with the provisions of § 416.80.

The Board solicits comments on the proposed Cost Accounting Standard which will assist the Board in its consideration of the proposal.

NOTE.—All written submissions made pursuant to this Notice will be made available for public inspection at the Board's Office during regular business hours.

Accordingly, it is proposed to publish 4 CFR Part 416 as follows:

PART 416—ACCOUNTING FOR INSURANCE COSTS

Sec.	General applicability.
416.10	Purpose.
416.20	Definitions.
416.30	Fundamental requirement.
416.40	Techniques for application.
416.50	Illustrations.
416.60	Exemptions.
416.70	Effective date.
416.80	

AUTHORITY: Sec. 719 of the Defense Production Act of 1950, as amended, Pub. L. 91-379, 50 U.S.C. App. 2168.

§ 416.10 General applicability.

General applicability of this Cost Accounting Standard is established by § 331.30 of the Board's regulations on applicability, exemption, and waiver of the requirement to include the Cost Accounting Standards in negotiated defense prime contracts and subcontracts (4 CFR 331.30).

§ 416.20 Purpose.

The purpose of this Standard is to provide criteria for the measurement of insurance costs, the assignment of such costs to cost accounting periods, and the allocation of insurance costs to cost objectives. The application of these criteria should increase the probability that insurance costs are allocated to cost objectives in a uniform and consistent manner.

§ 416.30 Definitions.

(a) The following are definitions of terms prominent in this Standard:

Insurance administration expenses. The contractor's costs of administering an insurance program, e.g., the costs of operating an insurance department, processing claims, actuarial fees, and service fees paid to insurance companies or trustees.

Projected average loss. The theoretical long-term average loss per period for periods of comparable exposure to risk of loss.

Self-insurance. The assumption or retention of the risk of loss by the contractor, whether voluntarily or involuntarily. Self-insurance includes the deductible portion of purchased insurance.

Self-insurance charge. An accrued cost which represents the projected average loss under a plan of self-insurance accounting.

(b) The following modifications of definitions set forth in Part 400 of this chapter are applicable to this Standard: None.

§ 416.40 Fundamental requirement.

(a) The amount of insurance cost to be assigned to a cost accounting period is the projected average loss for that period plus insurance administration expenses in that period.

(b) The allocation of insurance costs to cost objectives shall be based on the beneficial or causal relationship between the insurance costs and the benefiting or causing cost objectives.

§ 416.50 Techniques for application.

(a) *Measurement of insurance costs.* (1) For exposure to risk of loss which is covered by the purchase of insurance or by payments to a trusted fund: (i) The premium cost applicable to a given policy period shall be assigned pro rata among the cost accounting periods covered by the policy period, except as provided in paragraphs (a) (1) (ii) through (vi) of this section. A refund, dividend, or additional assessment shall become an adjustment to the pro rata premium costs for the earliest cost accounting period in which the refund or dividend is actually or constructively received or in which the additional assessment is payable.

(ii) Where insurance is purchased specifically for, and directly allocated to, a single final cost objective, the premium need not be prorated among cost accounting periods.

(iii) Any part of a premium or payment to an insurer or trustee, or any part of a dividend or premium refund retained by an insurer or trustee which would be includable as a deposit in published financial statements shall be accounted for as a deposit for the purpose of determining insurance costs.

(iv) Payments to an insurer or to a trustee, or premium refunds or dividends retained by an insurer, for inclusion in a reserve or fund established and maintained on behalf of the insured or the policyholder or trustor, shall be accounted for as deposits unless the following conditions are met:

(A) The objectives of the reserve or fund are clearly stated in writing;

(B) Measurement of the amount required for the reserve or fund is actuarially determined and is consistent with the objectives of the reserve or fund;

(C) Payments and additions to the reserve or fund are made in a systematic and consistent manner; and,

(D) Payments to accomplish the stated objectives of the reserve or fund are made from the reserve or fund or the method of funding accomplishes the same result.

(v) If an objective of an insurance program is to prefund insurance coverage on retired lives, then, in addition to the requirements imposed by paragraph (a) (1) (iv) of this section:

(A) Payments must be made to an insurer or trustee to establish and maintain a fund or reserve for that purpose;

(B) The policyholder or trustor must have no right of recapture of the reserve or fund so long as any active or retired participant in the program remains alive; and,

(C) The amount added to the reserve or fund in any cost accounting period must not be greater than an amount which would be required to fairly allocate the cost of the insurance coverage provided over the working lives of the active employees in the plan.

(vi) The contractor may adopt and consistently follow a practice of determining insurance costs based on the estimated premium and assessments net of estimated refunds and dividends. If this practice is adopted, then any difference between an estimated and actual refund, dividend, or assessment shall become an adjustment to the pro rata net premium costs for the earliest cost accounting period in which the refund or dividend is actually or constructively received or in which the additional assessment is payable.

(2) For exposure to risk of loss which is not covered by the purchase of insurance or by payments to a trusted fund, the contractor shall follow a program of self-insurance accounting according to the following criteria:

(i) Except as provided in paragraph (a) (2) (iii) of this section, the contractor shall make a self-insurance charge for each period which shall represent the projected average loss for that period. Where insurance can be purchased against the self-insured risk, the self-insurance charge plus insurance administration expenses may be equal to, but shall not exceed the cost of comparable purchased insurance plus the associated insurance administration expenses. Where insurance cannot be purchased against the self-insured risk, the amount of the self-insurance charge for each period shall be based on past experience and anticipated conditions.

(ii) In any period where a self-insurance charge is made, actual losses in that period related to the self-insured risk shall not become a part of insurance costs. However, actual loss experience shall be evaluated regularly, and self-insurance charges for subsequent periods shall reflect such experience in accordance with accepted actuarial principles.

(iii) Where it is probable that the actual amount of losses which will occur in a cost accounting period will not differ significantly from the projected average loss for that period, the actual amount of losses in that period may be considered to represent the projected average loss for that period in lieu of a self-insurance charge. Under self-insurance programs on retired lives, only actual losses shall be considered to represent

the projected average loss unless a reserve or fund is established in accordance with § 416.50(a) (1) (v).

(iv) The contractor may elect to follow a consistent practice of recognizing minor self-insured losses as part of other expense categories rather than as "insurance costs."

(v) The self-insurance charge shall be determined in a manner which will give appropriate recognition to any indemnification agreement which exists between the contracting parties.

(3) In measuring the projected average loss under paragraph (a) (2) of this section:

(i) The amount of an incurred loss shall be measured by (A) the net book value of property destroyed, (B) amounts paid or accrued to repair damage, and (C) amounts paid or accrued to compensate claimants, including subrogation. Where the amount of the loss is uncertain, the estimate of the loss shall be the amount includable in published financial statements.

(ii) If a loss has been incurred and the amount of the liability to a claimant is fixed or reasonably certain, but actual payment of the liability will not take place for more than one year after the loss is incurred, the amount of the loss to be recognized currently shall not exceed the present value of the future payments, determined by using a discount rate equal to that prescribed for settling such claims by the State having jurisdiction over the claim. If no such rate is prescribed by the State, then the rate shall be equal to the interest rate as determined by the Secretary of the Treasury pursuant to Pub. L. 92-41, 85 Stat. 97, in effect at the time the loss is recognized. Alternatively, where settlement will consist of a series of payments over an indefinite time period, as in worker's compensation, the contractor may follow a consistent policy of recognizing only the actual amounts paid at the time of payment.

(4) Insurance administration expenses which are material in relation to other insurance costs shall be separately identified and combined with the projected average loss to determine the total insurance cost for the cost accounting period.

(b) *Allocation of insurance costs.* (1) In allocating insurance costs from a home office to segments, in accordance with 4 CFR 403.40(b) (4), the following criteria shall be utilized:

(i) Premiums and assessments paid by, refunds and dividends received by, or a self-insurance charge made by a home office on behalf of a segment shall be allocated directly to that segment. Premiums, assessments, refunds, dividends, and self-insurance charges which can be identified with two or more segments shall be allocated among such segments on a basis which reasonably reflects (A) the factors used to determine the premium, assessment, refund, dividend, or self-insurance charge and (B) the beneficial or causal relationship which exists between the insurance coverage and the

segments. The allocation shall give reasonable weight to both exposure to risk of loss and loss experience by segment.

(ii) Where actual losses are recognized as a part of insurance costs in accordance with § 416.50(a) (2) (iii), or where actual loss experience is determined for the purpose of developing self-insurance charges by segment, a loss which is incurred in given segment shall be identified with that segment. However, if the contractor's home office acts, in effect, as a re-insurer of its segments against catastrophic losses, a portion of such catastrophic losses may be allocated to, or identified with, the home office.

(2) Insurance costs incurred by a segment or allocated to a segment from a home office shall be allocated to intermediate and final cost objectives on a basis which reasonably reflects the factors used to determine the premium, assessment, refund, dividend, or self-insurance charge.

(c) *Records.* The contractor shall maintain such records as may be necessary in the normal course of business to substantiate the amounts of premiums, refunds, dividends, losses, and self-insurance charges, paid or accrued, and the measurement and allocation of insurance costs. Memorandum records may be used to reflect any material differences between insurance costs as determined in accordance with this Standard and as includable in published financial statements.

§ 416.60 Illustrations.

(a) Contractor A pays a company-wide property and casualty insurance premium for the policy term July 1, 1976, to July 1, 1979, and charges the entire amount to expense in its cost accounting period which ended December 31, 1976. This is a violation of § 416.50 (a) (1) (i) in that only one-sixth of the policy term fell within the cost accounting period which ended December 31, 1976, and therefore only one-sixth of the premium should have been charged to expense in that cost accounting period.

(b) (1) Contractor B has a retrospectively rated worker's compensation insurance program. The policy term corresponds with the contractor's cost accounting period. Premium refunds are normally received and applied in the following cost accounting period. The contractor's practice is to charge the entire gross premium to insurance expense in the cost accounting period in which it is paid and to credit the refund against insurance expense in the cost accounting period in which it is received. This practice conforms with § 416.50(a) (1) (i).

(2) Under the provisions of § 416.50(a) (1) (vi), the contractor could have followed a practice of estimating such refunds in advance and charging the estimated net premium to insurance expense. If the contractor were to follow this latter practice, he would recognize the difference between the estimated and the actual refund as an adjustment to insurance expense at the time of receipt.

(c) Contractor C establishes a self-insured program of life insurance for ac-

tive and retired employees. The contractor pay death benefits directly to the beneficiaries of deceased employees and charges such payments to insurance costs at the time of payment. This practice complies with § 416.50(a)(2)(iii) which requires that only the actual losses be recognized unless a properly funded reserve is established.

(d) Instead of paying death benefits directly, Contractor D purchases annual group term life insurance on active and retired employees and charges the premiums to insurance costs (with proper recognition for refunds and dividends). Contractor D's retired employees wish to be protected against possible discontinuance of the program. Contractor D therefore establishes a trustee fund. As each employee retires, Contractor D deposits in the fund an amount which is equal to the premium on a paid-up policy for that employee, and he advises the trustee that the fund is to be used to continue to pay premiums on retired lives in the event the program is discontinued. The contractor also continues to purchase group term insurance on both active and retired employees and charges both the premiums and the deposits to insurance costs. This practice does not comply with § 416.50(a)(1)(iii). The contractor is insured against risk of loss on retired lives by the current purchase of group term insurance. Therefore, the payments to the reserve represent deposits rather than expenses.

NOTE.—In this instance the contractor could comply with the Standard by paying from the fund that portion of the group term premium which represented the retired lives or by reducing the deposits to the fund by an equivalent amount in accordance with § 416.50(a)(1)(iv)(D).

(e) Contractor E wishes to provide assurance of his life insurance program continuance to both active and retired employees. He establishes a trustee fund in accordance with § 416.50(a)(1)(iv) and (v) and thereafter pays into the fund each year for each active employee an actuarially-determined amount which will accumulate to the equivalent of the premium on a paid-up life insurance policy at retirement. He charges the annual payments to insurance costs. Benefits are paid directly from the fund (or the fund is used to pay the annual premiums on group term life insurance for all employees). This practice complies with the Standard.

(f) Contractor F has a fire insurance policy which provides that the first \$50,000 of any fire loss will be borne by the contractor. Because the risk of loss is dispersed among many physical units of property and the average potential loss per unit is relatively low, the actual losses in any period may be expected not to differ significantly from the projected average loss. Therefore, the contractor proposes to let the actual losses represent the projected average loss for this exposure, and the Contracting Officer approves this plan in accordance with existing procurement regulations. Property with a net book value of \$80,000 is destroyed in a fire. The contractor charges \$50,000 of the loss to insurance expense in the year of the loss. The practice complies with the requirement of § 416.50(a)(2). However, had the contractor's plan been to make a self-insurance charge, then any difference between the self-insurance charge and actual losses in that cost accounting period would not have been allocable as an insurance cost.

(g) Contractor G is preparing to enter into a Government contract to produce explosive devices. The contractor is unable to purchase adequate insurance protection and must act as a self-insurer, and the contractor has sufficient financial resources to do so. The risk is concentrated rather than dispersed, and there is a significant possibility of a major loss, against which the Government will not undertake to indemnify the contractor. The contractor must therefore make a self-insurance charge. The contractor may use data obtained from other contractors or any other reasonable method of estimating the projected average loss in order to determine the self-insurance charge.

NOTE.—Had adequate insurance been available but the contractor nevertheless chose to self-insure, and the Contracting Officer approved this plan, then in accordance with § 416.50(a)(2)(i) the amount of the self-insurance charge plus insurance administration expenses could not exceed the cost of the available insurance plus associated insurance administration expenses.

(h) Contractor H has segments located in two different states. Contractor H purchases group insurance for its employees through its home office under a single, company-wide plan and pays a common premium rate for all employees. Periodically Contractor H receives a significant experience rating premium refund from its insurer. Contractor H allocates the refund between segments based on a common percentage of the initial premium, despite the fact that loss experience at one segment has consistently been significantly more favorable than at the other segment and this difference is reflected in the insurer's refund determination. This practice violates § 416.50(b)(1)(i) which provides that the allocation shall give reasonable weight to both exposure to risk of loss and loss experience by segment.

(i) Contractor I purchases liability insurance for all of its motor vehicles in a single, company-wide policy which contains a \$50,000 deductible provision. However, the company's management policy provides that if a loss incurred in a segment, only the first \$5,000 of the loss will be charged to the segment; the balance of the loss will be absorbed at the home-office level and reallocated among all segments. Contractor I does not make a self-insurance charge for the exposure to loss which is represented by the deductible provision.

(1) Contractor I's practice of allocating the loss in excess of \$5,000 to the home office is a violation of § 416.50(b)(1)(ii) unless any loss in excess of \$5,000

can realistically be considered "catastrophic" in relation to the assets of the segment in which it occurs.

(2) The allocation to segments of the cost of losses absorbed by the home office must give reasonable weight to both exposure to risk of loss and actual loss experience by segment, in accordance with § 416.50(b)(1)(i).

§ 416.70 Exemptions.

None for this Standard.

§ 416.80 Effective date.

(a) The effective date of this standard is reserved.

(b) This Standard shall be followed by each contractor on or after the start of his next cost accounting period beginning after the receipt of a contract to which this Cost Accounting Standard is applicable.

ARTHUR SCHOENHAUT,
Executive Secretary.

[FR Doc. 77-29130 Filed 10-4-77; 8:45 am]

[3128-01]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 211]

SPECIAL SET-ASIDE PROCEDURES FOR MIDDLE DISTILLATES

Proposed Rulemaking and Public Hearing
AGENCY: Federal Energy Administration.

ACTION: Notice of Proposed Rulemaking and Public Hearing.

SUMMARY: FEA proposes to amend the Mandatory Petroleum Allocation Regulations to reinstate, by the adoption of a Special Rule No. 5, a set-aside procedure for middle distillates to be administered by the State Energy Offices and FEA's Regional Offices for the period November 1977 through March 1978. The proposal would permit wholesale purchaser-consumers and end-users who have made unsuccessful efforts to obtain supplies for an emergency or hardship to acquire that volume required to meet their certified current requirements.

DATES: Comments by October 21, 1977; Requests to speak by October 14, 1977; Hearing date: October 21, 1977.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box PT, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461; Hearing location: Room 2015, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), 12th and Pennsylvania Ave. NW., Room 3104, Washington, D.C. 20461 (202-566-9833).

Gerald P. Emmer, (Regulatory Programs), 2000 M Street, NW., Room 2304, Washington, D.C. 20461, (202-254-7200).

Michael Paige, (Office of the General Counsel), 12th and Pennsylvania Ave., NW., Room 5134, Washington, D.C. 20461, (202-566-9565).

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. State Set-Aside Proposal.
- III. Comment Procedures.

I. BACKGROUND

DEREGULATION OF MIDDLE DISTILLATES

On June 15, 1976 FEA issued and submitted to the Congress two separate amendments which provided for the exemption of middle distillates from allocation and price controls. These amendments became effective July 1, 1976.

In response to concerns expressed by some members of Congress, FEA informed the Congress that a set-aside procedure administered by FEA's Regional Offices would be established before the end of July 1976 to operate to insure that no marketer would lose its supply source without adequate time to arrange a new supplier during the transitional period following removal of controls.

STATE SET-ASIDE PROCEDURE ADOPTED

On July 9, 1976, FEA issued a notice of proposed rulemaking and public hearing (41 FR 28797, July 13, 1976) concerning establishment of a special set-aside procedure for middle distillates to be in effect from August 1976 through March 1977.

Because this new set-aside program could not be implemented before August 1, 1976, FEA adopted an interim rule (Special Rule No. 2 to Subpart A) on July 1, 1976 which continued the operation of the then existing State set-aside program in a modified form for one month following the exemption.

On August 5, 1976 (41 FR 33881, August 11, 1976), FEA adopted Special Rule No. 3 which provided that, notwithstanding the exemption of middle distillates from controls, a special set-aside procedure for middle distillates would be in effect for the months of August 1976 through March 1977. Under these procedures State Offices were enabled to make assignments to marketers which could demonstrate an inability to obtain adequate supplies of middle distillates after reasonable efforts in this regard and directly to consumers who could meet the same hardship criteria that were in effect for the State set-aside program.

HEARINGS ON FURTHER ACTION WITH REGARD TO MIDDLE DISTILLATES

On May 26, 1977, FEA issued a Further Notice of Proposed Rulemaking and Public Hearing to provide an opportunity for receipt of comments and testimony on the manner in which the FEA middle distillate price monitoring system had operated during the past heating season and on what action, if any, should be taken by FEA with respect to middle distillates during the 1977-1978 winter. In the period July 11, through 15, 1977, FEA held regional hearings in the following cities: Boston, New York, Chi-

cago, Seattle and Atlanta. FEA held a national public hearing in Washington, D.C. from August 2, 1977 through August 4, 1977. On the third day of the national hearing presentations were made by representatives of consumers groups, which FEA funded to promote the acquisition of the technical assistance necessary for the proper preparation of their views.

II. STATE SET-ASIDE PROPOSAL

FEA's review of the public comments received on the State set-aside procedures revealed strong support for this program among the States, consumer groups and trade associations, which viewed the set-aside as an effective device to address emergency situations such as occurred in the 1976-77 winter. State governments argued that since State Energy Offices are in existence, such offices are most aware of local conditions and can move most quickly to get supplies to those who are experiencing an emergency or hardship situation. Refiners stated that the set-aside program only provided another level of bureaucracy and inhibited the transfer of heating oil from one area to another. Moreover, refiners stated that the set-aside procedures had been used sparsely during the 1976-77 winter. FEA has carefully analyzed and evaluated these comments and has decided that the set-aside procedures represent an important means of insuring adequate supplies of middle distillates to consumers to meet emergency and hardship situations.

FEA's initial determination is that adoption of a State set-aside for the 1977-78 winter is necessary to attain, and is consistent with, the objectives specified in section 4(b)(1) of the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA"). In particular, FEA believes that such a regulation would further the objectives set forth in section 4(b)(1) of the EPAA by promoting public health, safety and welfare (including maintenance of residential heating for individual homes, apartments and similar occupied dwelling units) and the equitable distribution of refined petroleum products among all regions and areas of the United States, and sectors of the petroleum industry, and among all users. In reimposing the State set-aside for middle distillates, FEA would be taking action under section 12(f) of the EPAA, which permits the President to prescribe such a regulation upon a determination by him that such regulation is necessary to attain, and is consistent with, the objectives specified in section 4(b)(1) of the EPAA.

FEA proposes to reinstate a set-aside program by adopting a new Special Rule No. 5 for Subpart A of Part 211. The special procedures proposed hereby provide that, notwithstanding the exemption of middle distillates from controls, a special set-aside program for middle distillates would be in effect from November 1, 1977 to March 31, 1978 so as to permit assignments to marketers and consumers by State Energy Offices or by

the appropriate FEA Regional Office if a State Energy Office declines administration of the procedures. Within 10 days after the effective date of this Special Rule, each supplier would designate for each State within which the supplier operates as a prime supplier a representative who would act on behalf of the prime supplier with regard to these special procedures. The set-aside would constitute four (4) percent of a prime supplier's estimated portion of its total supply of middle distillates for the particular month which will be sold into the distribution system of the State (for consumption therein). The set-aside volume for a particular month cannot be accumulated or deferred and may be released totally or partially at any time during the month by order of the State Energy Office. These volumes would be available for assignments to wholesale purchaser-consumers and end-users who have made unsuccessful efforts to obtain supplies for an emergency or hardship. Such assignments would be limited to that volume required to meet certified current requirements and conditioned upon demonstration of the same hardship criteria that were in effect for the State set-aside program. Assignments could also be made to wholesale purchaser-resellers who are unable to obtain a sufficient volume of product to meet the emergency and hardship needs of those wholesale purchaser-consumers and end-users with whom the wholesale purchaser-reseller had a supplier/purchaser relationship on November 1, 1977. Application for these volumes would be made to the appropriate State Energy Office which would approve or disapprove the application. If the State Energy Office approved the application, it would assign a prime supplier to furnish the applicant an amount from the set-aside. The State Energy Office would issue both the applicant and the representative of the prime supplier a document authorizing such assignment. This document would entitle the applicant to receive the assigned volume from any convenient local distributor of the prime supplier from which the set-aside assignment had been made. Such document would expire ten days after issuance unless it had been presented to the prime supplier or a designated local distributor of the prime supplier.

PROPOSED MODIFICATION OF THE CATEGORIES OF ELIGIBLE RECIPIENTS

The proposed operation of the State set-aside under the Special Rule differs in only one aspect from the operation of Special Rule No. 3 during the last heating season. FEA adopted Special Rule No. 3 to insure that during the transitional period following removal of controls on middle distillates no marketer would lose its supply source without adequate time to secure a new supplier. To prevent supply disruptions, Special Rule No. 3 further provided a procedure through which a wholesale purchaser-reseller could obtain a volume of middle distillates equal to its base period use of mid-

dle distillates as determined under Subparts A and G of Part 211. Since the transition to an unregulated market is substantially complete, the proposed Special Rule No. 5 would not provide wholesale purchaser-resellers with a similar guarantee of a volume of middle distillates equal to their base period use, but would limit the eligible recipients to wholesale purchaser-consumers and end-users who are experiencing hardship or emergency conditions and to wholesale purchase-resellers which require middle distillates to meet the emergency needs of such wholesale purchaser-consumers and end-users.

REQUEST FOR SPECIFIC COMMENTS

Since the States play an integral role in the operation of the set-aside procedure, FEA is soliciting their comments as to how the operation of the set-aside might be improved. Comments are particularly sought with respect to the following specific modifications suggested by certain States at the hearings held this past summer.

First, many States experienced problems in the enforcement of their orders. To alleviate this difficulty, some States have proposed that prime suppliers be required to physically store set-aside volumes in each State and to segregate the set-aside volume from other available supplies. Other States have suggested that the regulations specify the response time within which companies must fill orders. FEA believes at this time that requiring separate physical storage in each State for set-aside volumes could entail substantial expense and that it would be impractical to require segregated short-term storage of set-aside volumes. Furthermore, requirements such as these would not necessarily facilitate the distribution of the product. For example, if the product were released from set-aside obligations, suppliers might have logistical problems in transporting and delivering supplies from diverse locations. As to a specified response time for suppliers, FEA recognizes that the appropriate response times will differ depending upon local conditions and that a provision for a delivery deadline in the regulations would be difficult to enforce. However, FEA wishes to make clear that suppliers are required to comply as soon as practicable with the terms of authorizing documents presented to them.

Second, transfers of middle distillates from a prime supplier of one brand to a user of a different brand proved difficult in many States. FEA invites further comments on such occurrences so that the actual areas of concern might be more clearly delineated, and so that the Agency may determine what action, if any, FEA should propose to address this problem.

Many States expressed the opinion that the set-aside program would function more efficiently with provisions for federal enforcement of State set-aside orders and mandatory penalties for non-compliance. However, FEA's tentative conclusion at this time is that State en-

forcement is more appropriate due to the necessity for expedited relief in many instances and the State Offices' familiarity with the documentation underlying and justification for the relief in set-aside orders.

Several States depend heavily on a particular type of middle distillate, and they suggested revising Form FEA 1000 so that the volumes of each type of middle distillate being sold in the State would be disclosed, which would enable the State to accurately calculate the allocable supply for each fuel type. FEA believes that this point has merit and is considering requiring the reporting by prime suppliers of separate volumes for each type of middle distillate.

Finally, most States considered the four percent set-aside figure sufficient under normal winter conditions, but several States thought the rule should allow a State's governor the right to petition FEA to increase the percentage during extreme emergencies. If such an emergency does arise this winter, FEA intends to take whatever further action is necessary to ensure supplies to consumers, which action could include such a procedure for an increase in the set-aside percentage.

III. COMMENT PROCEDURES

Interested persons are invited to participate in this matter by submitting data, views or arguments with respect to the proposals set forth in this notice to Executive Communications, Room 3317, Federal Energy Administration, Box PT, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Proposal for Reinstating Distillate Set-Aside." Fifteen copies should be submitted. All comments received by October 21, 1977, before 4:30 p.m., e.s.t., will be considered by FEA before final action is taken in this matter.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

The public hearing in this proceeding will be held at 9:30 a.m., e.s.t., on October 21, 1977 and will be continued, if necessary, to October 25, 1977, in Room 2105, 2000 M Street, NW., Washington, D.C. 20461, in order to receive comments from interested persons on the matters set forth herein.

Any person who has an interest in this matter, or who is a representative of a group or class of persons that has an interest in this matter, may make a written request for an opportunity to make an oral presentation. Such a request should be directed to Executive Communications, FEA, and must be received before 4:30 p.m., e.s.t., on October 14, 1977. Such a request may be hand delivered to Room 3317, Federal Building, 12th and Penn-

sylvania Avenue, NW., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through October 21, 1977. Each person selected to be heard will be so notified by FEA before 4:30 p.m., e.s.t., October 18, 1977 and must submit 100 copies of his or her statement to Allocation and Pricing Regulations Development Office, FEA, Room 2214, 2000 M Street, NW., Washington, D.C. 20461, before 4:30 p.m., e.s.t., October 19, 1977.

FEA reserves the right to select the persons to be heard at the public hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing, to Executive Communications, FEA, before 4:30 p.m., e.s.t., October 19, 1977. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue, NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c)(2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Ad-

ministrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments.

In accordance with Executive Order 11821 and OMB Circular A-107, FEA is considering the inflationary impact of this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-332, and Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185; E.O. 11933, 41 FR 36641.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

The Appendix to Subpart A of Part 211 is amended by adding Special Rule No. 5 to read as follows:

SPECIAL RULE NO. 5

SPECIAL SET-ASIDE PROCEDURES FOR MIDDLE DISTILLATES

1. *Scope.* This Special Rule provides for a set-aside program for middle distillates for the months of November 1977 through March 1978, as provided below, notwithstanding the exemption of middle distillates from the Mandatory Petroleum Allocation and Price Regulations effective July 1, 1976.

2. *Provision for middle distillate set-aside.* Notwithstanding the provisions of paragraphs (b) and (c) of § 210.35 and of paragraphs (b) (5) and (6) of § 211.1, a set-aside is hereby established for the months November 1977 through March 1978 for designated middle distillates for assignment by State Offices in accordance with the provisions of this Special Rule.

For purposes of this Special Rule the term middle distillates includes the following, as defined in § 212.31 of this chapter: No. 1 heating oil, No. 1-D diesel fuel, No. 2 heating oil, No. 2-D diesel fuel and kerosene.

3. *Set-aside volume.* A prime supplier shall inform each appropriate State Office monthly of the estimated volume of middle distillates to be sold into a State for consumption within that State. The set-aside volume available in a State for a particular month shall be the sum of the amounts calculated by multiplying four (4%) percent by each prime supplier's estimated portion of its total supply for that month which will be sold into that State's distribution system for consumption within the State. The set-aside for a particular month cannot be accumulated or deferred; it shall be made available from stocks of prime suppliers whether directly or through their wholesale purchaser-resellers.

4. *State representative.* Each supplier shall designate a representative for each State in which the supplier is a prime supplier to act for and on behalf of the prime supplier with respect to set-aside petitions and assignments from the set-aside to be supplied by that prime supplier. Each prime supplier for a State shall designate its representative for that State, and shall notify in writing the appropriate State and FEA Regional Offices of such designation within 10 days after the

effective date of this Special Rule. The State Office shall to the maximum extent possible consult with a prime supplier's representative prior to issuing any authorizing document affecting set-aside volumes to be provided by the prime supplier.

5. *Eligible recipients of set-aside volumes.* The set-aside provided for by this Special Rule shall be utilized by the State Offices in issuing authorizations to applicants for designated middle distillates to be supplied by a prime supplier to meet hardship and emergency requirements of wholesale purchaser-consumers and end-users. To facilitate relief of the hardship and emergency requirements of wholesale purchaser-consumers and end-users, the State Office may also direct that a wholesale purchaser-reseller be supplied from the set-aside to enable the wholesale purchaser-reseller to supply the emergency and hardship needs of wholesale purchaser-consumers and end-users with whom the wholesale purchaser had a supplier/purchaser relationship on November 1, 1977.

6. *Term of assignments.* Assignments to eligible end-users and wholesale purchaser-consumers under section 5 of this Special Rule by a State Office shall be made to meet the emergency or hardship conditions being experienced during that period. Assignments to wholesale purchaser-resellers shall be only for the period necessary to preclude hardship and provide emergency requirements to that wholesale purchaser-reseller's wholesale purchaser-consumers and end-users. No assignments under this Special Rule shall relate to any period subsequent to March 31, 1978.

7. *Application for assignment.* All applications for assignment under this Special Rule shall be made to the appropriate State Office, which Office has jurisdiction over the State in which the applicant conducts its business operations, in accordance with the procedures set forth in §§ 205.211-218 of Subpart Q of Part 205 of this chapter with respect to the State set-aside, except as otherwise provided in this Special Rule and except that all applications by wholesale purchaser-resellers must be in writing.

8. *Transfer of functions to FEA Regional Office.* Any State may elect irrevocably at any time to transfer administration of the middle distillate set-aside established by this Special Rule from its State Office to the FEA Regional Office which has jurisdiction over said State, and will inform the FEA Regional Office in writing of such election. In the event of such an election by a particular State, all applications by applicants conducting business within that State shall be made to the appropriate FEA Regional Office. With respect to applications made to an FEA Regional Office under this section all references to a State Office in this Special Rule and Subpart Q of Part 205 of this chapter shall be deemed to refer to the appropriate FEA Regional Office.

9. *Approval of application.* If a State Office approves an application for assignment, it shall assign a prime supplier an amount to furnish from the set-aside to the applicant to meet the expressed emergency or hardship condition. To determine an appropriate prime supplier, the State Office may coordinate with the State representatives of prime suppliers.

10. *Authorizing document.* The State Office shall issue to an applicant granted an assignment a document authorizing such assignment. A copy of the authorizing document (or a summary) shall also be provided by the State Office to the designated State representative of the prime supplier assigned to the applicant. An authorizing document not presented to either the prime supplier or a designated local distributor of the prime supplier within ten (10) days of issuance shall expire after that ten-day period.

11. *Supplier's Responsibilities.* When presented with an authorizing document, suppliers shall provide the assigned amount of middle distillates to an applicant. The authorizing document shall entitle the applicant to receive product from any convenient local distributor of the prime supplier from which the set-aside assignment has been made. Wholesale purchaser-resellers of prime suppliers shall, as non-prime suppliers, honor such authorizing documents upon presentation and shall not delay deliveries required by the authorizing documents while confirming such deliveries with the prime supplier. Any non-prime supplier which provides middle distillates pursuant to an authorizing document shall in turn receive from its prime supplier an equivalent volume of the product. The requirements of paragraph (b) of § 210.62 of this chapter continue to apply to suppliers to whom an authorizing document is presented pursuant to this Special Rule to prohibit any form of discrimination (including price discrimination) which has the effect of circumventing, frustrating or impairing the objectives, purposes, and intent of this Special Rule.

12. *Prime suppliers.* All prime suppliers shall designate middle distillates from their set-aside volume each month, as directed by the State Offices, not to exceed the total set-aside volume for such middle distillates for that month for the State concerned.

13. *Release of set-aside.* At any time during the month, a State Office may order the release of part or all of a prime supplier's set-aside volume through the prime supplier's normal distribution system in the State.

14. *Orders issued by State offices.* Authorizing documents and other orders issued pursuant to this Special Rule shall be in writing and effective immediately upon presentation to the prime supplier's designated State representative. Authorizing documents shall represent a call on the prime supplier's set-aside volumes for the month of issuance irrespective of the fact that delivery cannot be made until the following month. Any order issued by a State Office pursuant to this Special Rule may be appealed to the FEA Regional Office that has jurisdiction over the State involved, in accordance with the procedures set forth in Subpart H of Part 205 of this chapter. Any appeal from such an order shall be filed within ten (10) days of service of the order from which the appeal is taken. If a State Office fails to take action on an application within ten (10) days of filing, the applicant may treat the application as having been denied in all respects and may appeal therefrom as provided in this section.

[FR Doc. 77-29287 Filed 10-3-77; 8:45 am]

[3128-01]

[10 CFR Part 212]

COMPUTATION OF LANDED COSTS: TIMING

AGENCY: Federal Energy Administration (FEA).

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: FEA is proposing to amend the definition of landed cost in § 212.82 to provide that with respect to arms-length transactions, the landed cost shall be considered to be incurred when it is recognized as having been incurred by application of the refiner's customary accounting procedures. The amendment would make timing of landed costs in arms-length transactions consistent with the timing of landed costs in inter-affili-

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ate transactions pursuant to § 212.84(h). Such consistency in FEA's data base facilitates administration of the transfer pricing program under § 212.84, pursuant to which FEA analyzes data from arm's length sales in order to determine the proper cost of crude oil purchased in particular months in inter-affiliate transactions.

DATES: Comments by October 25, 1977, 4:30 p.m.; requests to speak by October 11, 1977, 4:30 p.m.; hearing date October 27, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box OH, Washington, D.C. 20461; hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street NW., Room 2214B, Washington, D.C. 20461 (202-254-5201).

Ken Workman (Office of Regulatory Programs), 2000 M Street NW., Room B110, Washington, D.C. 20461 (202-634-7610).

Allan P. Weeks (Office of General Counsel), 12th and Pennsylvania Avenue NW., Room 5119, Washington, D.C. 20461 (202-566-7541).

SUPPLEMENTARY INFORMATION:

I. BACKGROUND

Section 212.84(h) provides, in pertinent part, that with respect to inter-affiliate transactions, "the landed cost shall be considered to be incurred when that cost is recognized as having been incurred by application of the refiner's customary accounting procedures generally accepted and consistently and historically applied." FEA regulations are silent with respect to the timing of landed costs in arm's-length transactions, although regulations issued by the Cost of Living Council (whose authority was transferred to FEA) required that landed costs be incurred at the time of physical landing, and "landing" is recognized by the current refiner rules at § 212.83. However, since FEA extracts the date of loading from data concerning arm's-length transactions, in order to calculate the proper cost of crude oil in inter-affiliate sales under § 212.84 (the transfer pricing program), FEA has determined that procedures applicable to timing of the landed cost of crude oil can and should be consistent with regard to both arm's-length and inter-affiliate transactions. Accordingly, FEA proposes to amend the definition of "landed cost" in § 212.82 to conform with that in § 212.84(h). Firms will benefit from such consistency, in that it will facilitate a single, more easily auditable accounting system.

II. PROPOSED AMENDMENT

Under FEA's proposal, the definition of "landed cost" in § 212.82 would be amended in paragraph (5), defining the

landed cost of crude oil purchased in arm's-length transactions, by the addition of the following language: "For purposes of this paragraph (5), the landed cost shall be considered to be incurred when that cost is recognized as having been incurred by application of the refiner's customary accounting procedures generally accepted and consistently and historically applied."

Moreover, consistent with the reasoning in FEA Ruling 1977-4 (42 FR 12161, March 3, 1977), FEA will not initiate disallowances or other enforcement procedures against any firm for incurring costs on the basis set forth in this amendment prior to its effective date. Under that ruling FEA exempted firms from compliance action for having incurred costs in inter-affiliate transactions for the period preceding adoption of § 212.84(h), in accordance with the procedures specified therein, i.e., pursuant to their customary accounting procedures generally accepted and consistently and historically applied.

This amendment, and FEA's application of its provisions to periods preceding adoption thereof, are premised on the requirement that a firm's customary accounting procedures have been consistently and historically applied. Moreover, such accounting procedures must be considered to be generally accepted for purposes of reports to stockholders.

III. COMMENT PROCEDURE

1. WRITTEN COMMENTS

Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposal set forth in this notice. Comments should be identified on the outside envelope and on documents submitted with the designation "Landed Costs: Timing," Box OH. Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

2. PUBLIC HEARING

(a) *Request procedure.* The times and places for the hearings are indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued to 9:30 a.m. of the next business day following the date of the hearing.

Any person who has an interest in today's proposed amendments, may make a written request for an opportunity to make oral presentation. The person mak-

ing the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.s.t., October 13, 1977, and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street NW., Washington, D.C. 20461, before 4:30 p.m., e.d.s.t., October 26, 1977.

(b) *Conduct of the hearings.* The FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, Room 3317, FEA, Box OH, before 4:30 p.m., e.d.s.t., October 11, 1977. Any person who wishes to ask a question at the hearings may submit the question, in writing, to the presiding officer. The FEA or the presiding officer, if the question is submitted at the hearings will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by the FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue N.W., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

In the event that it becomes necessary for the FEA to cancel a hearing, FEA will make every effort to publish advance notice in the FEDERAL REGISTER of such can-

cellation. Moreover, FEA will notify all persons scheduled to testify at the hearings. However, it is not possible for FEA to give actual notice of cancellations or changes to persons not identified to FEA as participants. Accordingly, persons desiring to attend a hearing are advised to contact FEA on the last working day preceding the date of the hearing to confirm that it will be held as scheduled.

FEA has determined that since this proposal is procedural only, the requirement in section 7(c)(2) of the Federal Energy Administration Act that proposals affecting the environment be reviewed by the Administration of the Environmental Protection Agency, does not apply.

FEA has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended Pub. L. 94-163, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, it is proposed to amend Part 212 of Chapter II of Title 10 of the Code of Federal Regulations as set forth below.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYCH,
Acting General Counsel,
Federal Energy Administration.

Section 212.82 is amended in paragraph (5) of the definition of "landed cost" to read as follows:

§ 212.82 Definitions.

"Landed cost" means:
(5) For purposes of crude oil purchased in an arm's-length transaction or purchased in a transaction to which § 212.84(g) is applicable, the purchase price (or the cost if § 212.84(g) is applicable) plus the cost of transportation, if any, computed pursuant to § 212.85, from the point of delivery to the firm to the U.S. port of entry (or the actual cost of transportation to the U.S. border in the case of crude oil not transported by sea, plus the cost of domestic transportation to the refinery, plus import fees and duties incurred. For purposes of this paragraph (5), the landed cost shall be considered to be incurred when the cost is recognized as having been incurred by application of the refiner's customary accounting procedures generally accepted and consistently and historically applied.

[FR Doc.77-29289 Filed 10-3-77;8:45 am]

[6320-01] CIVIL AERONAUTICS BOARD [14 CFR Part 234]

[EDR-301A; Docket 27891; Dated: September 29, 1977]

FLIGHT SCHEDULES OF CERTIFICATED AIR CARRIERS: REALISTIC SCHEDULING REQUIRED

Supplemental Advance Notice Concerning Proposed Mandatory On-Time Arrival Standards

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: This supplemental advance notice invites the submission of detailed comments from members of the general public, air carriers, travel agents, consumer organizations, and interested governmental agencies setting forth, to the extent possible, precise economic data in support of their views favoring or opposing the imposition of mandatory on-time arrival standards. This proceeding was instituted in response to a petition by the Aviation Consumer Action Project.

DATES: Comments by November 21, 1977. Reply comments by December 12, 1977. Request to be placed on service list by October 17, 1977.

ADDRESSES: Comments should be sent to Docket 27891, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5442).

SUPPLEMENTARY INFORMATION: Sections 234.3-234.4 of the Board's Economic Regulations provide that at least 75 percent of each carrier's scheduled flights, on a calendar quarter basis, must be operated within the elapsed time indicated between origin and destination (plus 15 minutes) published in the carrier's schedule. Section 234.8 establishes a system of reports of on-time arrivals, showing the percentage in each month of each carrier's nonstop flights in each of the largest 200 city-pair markets which arrive within 15 minutes of the scheduled arrival time. The reports are then published each month by the Board.

The Aviation Consumer Action Project (ACAP) filed a petition for rulemaking to amend sections 234.3-234.4 by substituting an on-time arrival standard for the present elapsed-time standard that the Board applies in judging a carrier's adherence to its published schedules. In

response to ACAP's petitions, the Board issued Advance Notice of Proposed Rulemaking, EDR-301, dated July 23, 1976, asking for public comment as to whether the proposed mandatory on-time arrival standard should be adopted, or could be effectively supplemented. The Board stated that unless there was a persuasive showing of need, it was not inclined to overturn established Board policy against such a standard. Comments generally in support of the ACAP proposal were filed by Electro Magnetic Filter, ACAP, the Board's Office of the Consumer Advocate (OCA), and six members of the general public. Comments generally opposed to the proposal were submitted by Hughes Airwest, Eastern Air Lines, General Mills, Braniff Airways, American Airlines, Northwest Airlines, United Airlines, the Air Transport Association of America, and four members of the general public.

Those comments in support of the proposal state that there is presently no government regulation which requires the carriers to meet their published scheduled arrival times, making enforcement almost impossible. The proponents argue that the elapsed-time rule now in Part 234 is misleading to the public and irrelevant to the public's need. ACAP and its supporters do not believe that mandatory on-time arrival standards would in any way impair air safety, since safety-related factors would be considered permissible delay. Nor, since the definition of permissible delay under ACAP's proposal would be the same as is used now for the elapsed-time rule, would there be a problem of enforcement.

Opponents of the proposal argue that no further government regulation is necessary, since carrier on-time performance in most reported city-pair markets already meets or surpasses the standard suggested by ACAP. The carriers contend that economic incentive from competition is sufficient to insure adequate overall arrival performance, including accurate schedules and punctual performance. They believe that carrier on-time performance is best judged by the public itself on the basis of the Board's published on-time arrival reports. Some opponents also argue that the administrative burdens on the Board and the carriers, as well as the increased cost, would outweigh any public benefit that might be gained, and that pressure on the carriers to avoid Board enforcement action might affect flight safety in some cases. Finally, opponents state that it is virtually impossible to define "permissible delay" in a way which permits enforcement, yet allows the necessary tolerance for uncontrollable delays or for management discretion. They argue that these delays also have a greater cumulative effect on on-time performance than on elapsed-time performance. As an example, if the first arrival of a multi-

segment flight is delayed by adverse weather, then each succeeding arrival is also delayed, even though the scheduled time for each segment could remain the same as published.

At a meeting open to the public on July 5, 1977, the Board reviewed the facts and arguments that had been presented in the comments filed in response to the Advance Notice. It also reviewed a novel proposal by the Board's Bureau of Enforcement, made for the first time shortly before the meeting, which would amend Part 234 to require that whenever a carrier fails to perform on-time (within 15 minutes as published in its schedules) 75 percent of all trips on any scheduled flight, in any three calendar months, all references (whether written or oral) to, or publication of, the schedule of that flight, must be asterisked with the notation "Subject to frequent delays." There would be no exception to this notation requirement, and it would apply systemwide. The Bureau of Enforcement argued that whether or not the cause of a delay is the fault of the carrier, the traveler who uses that flight has a right to know that it is frequently delayed.

Also during the meeting, the Board noted that the data submitted by both the proponents and opponents of the proposed rule had been too sparse and ambiguous to enable the Board to reach an informed judgment as to the action which it should take. For example, several carriers had cited specific costs which would be added to their operations if the proposed standard were adopted, and OCA had cited certain results of its Consumer Complaints Survey for 1975 as an indication of the seriousness of the problem which flight delays have become for the public. Yet, neither of these assertions were sufficiently detailed or analyzed in the comments so as to be particularly persuasive.

Although, upon consideration of the petition and comments thus far received, the Board is not persuaded to overturn its long-established policy against imposing the kind of on-time standard proposed by ACAP, we have decided not to terminate this proceeding, until we have given interested persons a further opportunity to present data and analysis in support of their views. While we will carefully review all comments we particularly invite detailed responses to the following questions:

1. What would be the economic costs to the carriers, individually and industrywide and eventually to the air traveler, if the proposed amendments by ACAP were adopted?
2. What is the significance of available statistics on the number and proportion of traveler complaints in regard to flight delay? How many of these complaints involve foreign air transportation, which is not covered by Part 234 and would therefore not be alleviated by the proposed rule?
3. Do individual members of the public view flight delay as such a serious problem as to warrant regulations prohibiting noncompliance with on-time standards?

4. Is there a better means of informing the public of the carriers' on-time performance than merely publishing on-time arrival reports? Would the alternative suggested by the Bureau of Enforcement better serve the public need than either mandatory standards or the present published reports?

5. What would be the relative costs to the carriers of the various proposals for making a meaningful on-time standard?

REQUEST FOR COMMENTS

Interested persons may participate in this proceeding by submitting 20 copies of written data, views, or arguments addressed to: Docket 27891, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. All comments received by November 21, 1977, and reply comments received by December 12, 1977, will be considered by the Board before taking further action.

Those persons planning to participate who wish to be served with the comments of others, and who are willing to serve their own comments and reply comments on others, may, on or before October 17, 1977, request the Docket Section to place them on the Service List. The Service List will be prepared by the Docket Section and mailed to those named on it. Persons filing responsive comments should serve any person whose comment is dealt with in their responsive comment, whether or not either party is on the Service List.

Individual members of the general public who wish to express their interest as consumers may do so by submitting comments in letter form, in the manner and by the dates indicated above, without the necessity of filing additional copies.

(Sections 204, 404, and 411 of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 760, and 769; 49 U.S.C. 1321, 1374, and 1381.)

By the Civil Aeronautics Board,

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc 77-29327 Filed 10-4-77; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1013]

PUBLICATIONS AND PUBLICITY

Proposed Application: Consumer Product Safety Act

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: This notice proposes procedures for carrying out the Consumer Product Safety Commission's responsibility under section 6(b) of the Consumer Product Safety Act. The rules are needed to establish procedures for manufacturers and other sellers to comment on Commission publicity and publications about consumer products; or to request retraction of inaccuracies in published information. The rules are intended to publicly express the Commission's interpretation of section 6(b).

DATES: Comments must be received no later than November 21, 1977.

ADDRESS: Office of the Secretary, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Jeanette Wiltse, General Law Division, Office of the General Counsel, Consumer Product Safety Commission, 1111 18th Street NW., Washington, D.C. 20207 (202-634-7770).

SUPPLEMENTARY INFORMATION: In this notice, the Consumer Product Safety Commission (CPSC) proposes procedures to carry out section 6(b) of the Consumer Product Safety Act (CPSA), 15 U.S.C. 2055(b). Section 6(b) of the CPSA requires the Commission to notify a manufacturer or private labeler in advance of publicly disclosing product safety information from which its identity will be readily ascertainable by the public. The manufacturer or private labeler is to be given a reasonable opportunity to comment on the information. The Commission is to take reasonable steps to insure that such information is accurate and that its disclosure is fair in the circumstances and reasonably relates to effectuating the purposes of the Consumer Product Safety Act. This section also requires the Commission to publicly retract published information if it later finds that the information was inaccurate or misleading and reflects adversely on the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products. Because the requirements and exceptions of section 6(b) are complex, its language is included here for reference.

(b) (1) Except as provided by paragraph (2) of this subsection, not less than 30 days prior to its public disclosure of any information obtained under this Act, or to be disclosed to the public in connection therewith (unless the Commission finds out that the public health and safety requires a lesser period of notice), the Commission shall, to the extent practicable, notify, and provide a summary of the information to, each manufacturer or private labeler of any consumer product to which such information pertains, if the manner in which such consumer product is to be designated or described in such information will permit the public to ascertain readily the identity of such manufacturer or private labeler, and shall provide such manufacturer or private labeler with a reasonable opportunity to submit comments to the Commission in regard to such information. The Commission shall take reasonable steps to assure, prior to its public disclosure thereof, that information from which the identity of such manufacturer or private labeler may be readily ascertained is accurate, and that such disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the Act. If the Commission finds that, in the administration of this Act, it has made public disclosure of inaccurate or misleading information which reflects adversely upon the safety of any consumer product, or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products, it shall, in a manner similar to that in which such disclosure was made, publish a retraction of such inaccurate or misleading information.

(2) Paragraph (1) (except for the last sentence thereof) shall not apply to the public disclosure of (A) information about any consumer product with respect to which the Commission has filed an action under section 12 (relating to imminently hazardous products), or which the Commission has reasonable cause to believe is in violation of section 19 (relating to prohibited acts), or (B) information in the course of or concerning any administrative or judicial proceeding under this Act.

Section 1013.2 of these procedures states that they are applicable to CPSC publications and publicity, including all materials, announcements, or speeches created or adopted by a CPSC officer or employee for dissemination to the general public or distribution to news media. This expresses the Commission's interpretation that section 6(b) of the CPSA is applicable when the CPSC actively and publicly discloses information, but not when the CPSC makes a record available in response to a Freedom of Information Act request (FOIA, 5 U.S.C. 552). The legislative history and the language of section 6(b) show that it was designed to insure against unwarranted damage to the reputation of a product, or of one who sells it, from CPSC publication of misleading or inaccurate information (See, H.R. Rep. No. 1153, 92d Cong., 2d Sess. 32 (1972); 118 Cong. Rec. 31389 (1972) (remarks of Rep. Crane)). Hence the Commission interprets section 6(b) to cover the widespread dissemination of information which could harm the reputation of a product or seller, i.e., dissemination of information in publications and publicity which carry the official approval of the CPSC. This interpretation accords with the intent expressed in the Conference Report accompanying the Consumer Product Safety Commission Improvements Act of 1976; H.R. Rep. 1022, 94th Cong., 2d Sess. 27 (1976). That report states that section 6(b) is not intended to "supercede or conflict with the requirements of the Freedom of Information Act" and that section 6(b) applies to public disclosure initiated by the CPSC and not to disclosure initiated by a specific request from a member of the public under the FOIA. The discussion that follows presents further reasoning of the Commission on this interpretation.

Section 6(b) (1) requires that advance notice and a comment period be given to a manufacturer or private labeler whenever its identity can be readily ascertained from product-related information to be publicly disclosed by CPSC. The Commission is required to take reasonable steps, prior to public disclosure, to assure that the information is accurate, and that its disclosure will be fair in the circumstances and reasonably related to effectuating the purposes of the Consumer Product Safety Act. Many records requested from CPSC under the FOIA are letters, accident reports, petitions for rulemaking, and complaints sent to it by consumers and others concerning the safety of products. The CPSC receives thousands of such communications each year, and, while it attempts to give some attention to all, ascertaining their accuracy and deciding whether their disclosure, pursuant to an FOIA request, would be fair and effectuate the purposes of the CPSA would consume a significant amount of Commission time and resources. Since accuracy cannot usually be determined simply from the face of such a record, the CPSC would have to take time to investigate each record requested in some depth. If information could not be disclosed until after a 30-day notice and comment procedure and a separate investigation of each record requested were carried out, then necessarily, a large proportion of CPSC records and its activities regarding them would remain secret for extended periods of time. That this secrecy would thwart the purposes of the FOIA is obvious, since the basic policy of the FOIA requires liberal and prompt disclosure of information, "EPA v. Mink", 410 U.S. 73, 7980 (1973); H.R. Rep. No. 876, 93d Cong., 2d Sess. 1, reprinted in (1974) U.S. Code Cong. & Ad. News 6267. Extended delays would also directly conflict with the specific requirement in the FOIA that agencies respond to requests within 10 working days by telling the requester whether or not records will be made available, and if not, giving reasons; and the requirement that agencies promptly release non-exempt records 5 U.S.C. 552(a) (6) and (a) (3). Applying section 6(b) (1) to FOIA requests would mean that the decision whether a record would be made available would have to await the conclusion of 6(b) (1) notice and comment and, in many cases, CPSC investigation. The 10-day period for response could become a period of months, and prompt disclosure would be impossible.

These policy and procedural conflicts between section 6(b) (1) and the FOIA can be exemplified by the results of applying section 6(b) (1) in the context of petitions for rulemaking under the CPSA. Under section 10 of the CPSA (15 U.S.C. 2059), any interested person may petition the Commission to issue a consumer product safety rule. Such a petition will contain factual information to support the allegation that there is a product hazard justifying regulation. (See Procedures for Petitioning under Section 10 of the Consumer Product Safety Act, 41 FR 43126, September 29, 1976.) Under section 10, the Commission has 120 days in which to decide whether to grant or deny such a petition. If, before disclosing a petition upon an FOIA request, the Commission must verify its accuracy under section 6(b) (1), then, logically, the decision to disclose the petition or not would have to come at the end of the period (i.e., up to 120 days) during which the Commission considers the petition's merits. If the petition were

eventually granted because the information had been substantiated, it could be released. If it were not substantiated, and were denied, it would have to be corrected or withheld according to section 6(b) (1). The result of applying section 6(b) (1) to an FOIA request for a copy of a petition which had just been filed, would be that the requester would not be informed within 10 days whether the petition could be released, but rather would have to wait for up to four months for an answer; meanwhile the public would not have access to the petition. The Commission does not believe that Congress can have intended it to withhold a petition for rulemaking from the public.

Another reason why section 6(b) (1) cannot be applied to FOIA requests is that the FOIA contains no exemption which would permit withholding records from disclosure on the basis of section 6(b) (1). In order to withhold a record from a requester, the record must fall within an exemption to the FOIA (5 U.S.C. 552(b) (1)-(b) (9)). The only FOIA exemption that provides for withholding on the basis of another statute is exemption 3, 5 U.S.C. 552(b) (3), as amended by the Government in the Sunshine Act, section 5(b) of Pub. L. 94-409, September 13, 1976, which provides that records may be withheld if they are

(3) specifically exempted from disclosure by statute (other than section 552b of this title) provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld.

Section 6(b) (1) contains no direction or discretion for the CPSC to withhold information either temporarily or permanently from an FOIA requester. Thus, it fails to meet the first requirement of exemption 3, that of being a statute which "specifically" (syn. "explicitly") exempts records from disclosure. See *People of the State of California v. Weinberger*, 505 F.2d 767 at 768 (9th Cir. 1974) in which the Court said, "It appears to us that when Congress used the word 'specifically,' it was requiring no more than that the exemption be found in the words of the statute rather than the implication of it." Section 6(b) does not mention "withholding;" nor does it provide any particular criteria or describe particular types of matters to be withheld.

One commentator has suggested that the requirements that the Commission take reasonable steps to assure accuracy of information to be disclosed which identifies a manufacturer or private labeler and to assure that disclosure is fair in the circumstances, and related to effectuating the purposes of the Act, may be "particular criteria" within the meaning of the exemption 3 of the FOIA. "Note, The Effect of the 1976 Amendment to Exemption Three of the Freedom of Information Act," 76 Col. L. Rev. 1027 at n. 100 (1976). The Commission does not consider "accuracy," "fairness," and "reasonably related to effectuating the pur-

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poses of the Act" to be any more particular criteria than the "public interest" criterion for withholding contained in Statutes that Congress has stated are not to be considered within the ambit of exemption 3. (H.R. Rep. No. 1441, 84th Cong., 2d Sess. 14 (1976) (Conference Report)). Without either particular criteria or authority for the CPSC to withhold information for the months it will take to complete notice and comment procedures and CPSC investigation, or particular criteria for permanent withholding, section 6(b)(1) cannot qualify as an exemption 3 statute.

It may be argued that the policies and procedures of the FOIA can be altered to accommodate section 6(b)(1) procedures, but the Commission does not believe that this can be done without sacrificing the essentials of the Freedom of Information Act which are liberal and prompt disclosure. The Commission's interpretation that section 6(b)(1) applies only to publications and publicity it disseminates or distributes does not conflict with the purposes and policies of the FOIA. The CPSC controls the eventual content of such materials and can provide for 6(b)(1) notice and comment during their preparation. In fact, the Commission believes that the section 6(b)(1) requirements that CPSC take reasonable steps to assure accuracy of information it discloses which identifies a manufacturer or private labeler, and that disclosure is fair in the circumstances and reasonably related to effectuating the purposes of the Act, only make sense in the context of public disclosure of information through publications or publicity that the CPSC itself initiates. The Congress has recently expressed an interpretation of section 6(b) which agrees with the Commission's interpretation. The Conference Report pertaining to a 1976 amendment of section 29 of the CPSA (section 29 concerns cooperation with States and other Federal agencies) stated:

The requirement that the Commission comply with section 6(b) prior to another Federal agency's public disclosure of information obtained under the Act (CPSA) is not intended by the conferees to supercede or conflict with the requirements of the Freedom of Information Act (5 U.S.C. 552 (a)(3) and (a)(6)). The former relates to public disclosure initiated by the Federal agency while the latter relates to disclosure initiated by a specific request from a member of the public under the Freedom of Information Act. H.R. Rep. 1022, 94th Cong. 2d Sess. 27 (1976).

The procedures proposed are based upon this interpretation.

These procedures contain subparts which deal separately with notice and comment (Subpart B) and retractions (Subpart C) under section 6(b) of the CPSA. The separate treatment reflects the differing applicability of the two procedures. Section 6(b)(1) notice and comment procedures are applicable only when it is determined that product-related information to be published will enable the identity of a manufacturer

or private labeler to be readily ascertained. Also, section 6(b)(2) of the CPSA states certain exceptions to the applicability of notice and comment procedures. The section 6(b)(1) retraction provisions, however, are applicable whether or not the product safety information to be retracted identified a manufacturer or private labeler. The retraction provisions are not subject to the exceptions listed in section 6(b)(2).

Interested persons may participate in this proposed rulemaking by submitting written comments (preferably in five copies) to the Office of the Secretary, 1111 18th Street NW., Washington, D.C. 20207 until November 21, 1977. Late comments will be considered to the extent practicable. All comments in response to this proposal will be available for public inspection during normal business hours at the foregoing address.

Accordingly, under section 6(b) of the Consumer Product Safety Act (Pub. L. 92-573, 86 Stat. 1212; 15 U.S.C. 2055(b)), the Commission proposes to add the following Part 1013 to Title 16, Chapter II, Subchapter A:

PART 1013—PUBLICATIONS AND PUBLICITY

APPLICATION OF SECTION 6(b) OF THE CONSUMER PRODUCT SAFETY ACT

Subpart A—General

Sec.	
1013.1	Purpose and scope.
1013.2	Applicability.
1013.3	Definitions.
1013.4	Policy.
1013.5	Delegation of authority.

Subpart B—Procedures for Notice and Comment

1013.6	Applicability.
1013.7	Notice.
1013.8	Comments.
1013.9	Response to comments.

Subpart C—Procedures for Requesting Retraction or Correction

1013.10	Applicability.
1013.11	Requests for retraction or correction.
1013.12	Response to requests.

Subpart D—Appeal to the Commission

1013.13	Right to appeal.
1013.14	Notice of appeal.
1013.15	Record for review.
1013.16	Action upon a Commission decision.
1013.17	Right to appeal in cases of less than 30-day notice under Subpart C.

AUTHORITY: Sec. 6(b), Pub. L. 92-573; 86 Stat. 1212 (15 U.S.C. 2055(b)(1)).

Subpart A—General

§ 1013.1 Purpose and scope.

This part establishes procedures implementing section 6(b) of the Consumer Product Safety Act, as follows:

(a) Subpart B describes notice and comment procedures giving manufacturers and private labelers of consumer products an opportunity to comment on product-related information in proposed Consumer Product Safety Commission publications and publicity from which their identity will be readily ascertainable by the public. The procedures provide for correction of errors or misstate-

ments in publications or publicity before public disclosure.

(b) Subpart C describes procedures whereby manufacturers, private labelers, distributors, and retailers of consumer products may request a finding that the Consumer Product Safety Commission has made public disclosure of inaccurate or misleading information which reflects adversely upon their practices or upon the safety of their consumer product. The procedures provide for retraction or correction of the information upon such a finding.

§ 1013.2 Applicability.

This part applies to Consumer Product Safety Commission publications and publicity pertaining to consumer products including all materials, announcements, or speeches created or adopted by a Consumer Product Safety Commission officer or employee for dissemination to the general public or distribution to news media.

§ 1013.3 Definitions.

As used in this part:

(a) The term "Commission" means the five Commissioners of the Consumer Product Safety Commission;

(b) The term "CPSC" means the entire organization which bears the title, the "Consumer Product Safety Commission";

(c) The term "publications" means printed and photographic material, and public service announcements for television or radio broadcast, created or adopted by CPSC for dissemination to the public, and speeches by CPSC officers and employees;

(d) The term "publicity" means press releases or interviews furnished by CPSC personnel to news media for widespread public attention;

(e) The term "administrative proceeding" means an agency process as defined by paragraphs (5), (7), and (9) of 5 U.S.C. 551 (the Administrative Procedure Act);

(f) The term "Executive Director" means the Executive Director of the CPSC.

§ 1013.4 Policy.

In accord with the terms of section 6(b) of the Consumer Product Safety Act:

(a) It is the policy of the Commission to avoid identifying manufacturers, private labelers, or product brands in publications or publicity unless identification is necessary in order to effectuate the purposes of the Consumer Product Safety Act. When such identification is determined to be necessary, the procedures of Subpart B will be used to assure that matters to be publicly disclosed are stated accurately and fairly in the circumstances.

(b) The CPSC will retract or correct any statement made in its publications or publicity which it later finds to have been erroneous or misleading and to have reflected adversely on the safety of any consumer product or on the practices of

a manufacturer, private labeler, distributor, or retailer of consumer products. This policy will be followed whether such an error is discovered by CPSC staff or is brought to its attention through the procedures of Subpart C of this part.

§ 1013.5 Delegation of authority.

The Executive Director may delegate any of his or her duties under this Part 1013 with the exception of the duty to determine whether the public health and safety require less than 30-day notice prior to disclosure of information. See § 1013.7.

Subpart B—Procedures for Notice and Comment

§ 1013.6 Applicability.

(a) The procedures of Subpart B of this part apply when the identity of a manufacturer or private labeler will be readily ascertainable by the public from the content of a proposed CPSC publication or publicity, except as provided in § 1013.6(b).

(b) The procedures of Subpart B of this part do not apply to public disclosure of—

(1) Information about any consumer product with respect to which product the Commission has filed an action under section 12 of the Consumer Product Safety Act (relating to imminently hazardous products), or

(2) Information about any consumer product which the Commission has reasonable cause to believe is in violation of section 19 of the Consumer Product Safety Act (relating to prohibited acts), or

(3) Information in the course of or concerning any administrative or judicial proceeding under the Consumer Product Safety Act, or

(4) Information disclosed to duly authorized committees of Congress, or

(5) Information in a Corrective Action Plan agreed to by a manufacturer or private labeler and the Commission under 16 CFR Part 1116—Policy and Procedures Regarding Substantial Product Hazards (a manufacturer or private labeler who has agreed to such a Plan has already had notice and comment opportunities as to the information within it), or

(6) Information submitted to the Commission by a manufacturer or private labeler pursuant to section 15(b) of the Consumer Product Safety Act and regulations thereunder (dealing with the requirement that manufacturers, distributors and retailers inform the Commission of noncomplying or defective products). Obtaining comments from the person who submitted the information would be redundant.

(c) A decision of the Executive Director as to the applicability of Subpart B of this part is not appealable to the Commission.

§ 1013.7 Notice.

(a) In addition to using other existing internal CPSC review procedures for

accuracy, fairness, and legal sufficiency, officers of the Commission shall, prior to public disclosure, review all publications and publicity for which they are responsible, to assure conformance to the policies of this part. If an officer determines that it will be necessary for a publication or publicity to identify a manufacturer, private labeler, or product brand, or if the officer believes the identity of the manufacturer or private labeler will be readily ascertainable by the general public or he or she shall forward it to the Executive Director for application of the procedures of this Subpart.

(b) When the Executive Director determines that the identity of a manufacturer or private labeler will be readily ascertainable by the public from information pertaining to consumer products in a proposed publication or publicity, he or she shall, to the extent practicable, notify each such manufacturer or private labeler and provide a copy or summary of the information for comment. The notification shall be in writing except that it may be oral if the Executive Director determines time does not permit written notification. Any such oral notification shall be confirmed in writing.

(c) The notice shall give a date by which comments must be received by CPSC. This date shall be no less than 30 calendar days after the date of receipt of the notice unless the Executive Director determines, with the approval of the Commission, that in the interest of public health and safety, a lesser period is required. If a lesser period is required, the notice shall explain the reasons for it.

§ 1013.8 Comments.

(a) Any person receiving a notice of proposed disclosure of information pursuant to § 1013.7 may submit comments within the period specified in the notice. Comments taking issue with the accuracy of the information must be accompanied by supporting facts.

(b) Comments should be sent to the Executive Director, Consumer Product Safety Commission, Washington, D.C. 20207.

§ 1013.9 Response to comments.

(a) If no comments are received by the date set in the notice, the Executive Director may immediately thereafter release the publication or publicity for dissemination.

(b) If comments are timely received, the Executive Director shall make written findings of fact and determinations in response to the comments. The Executive Director shall make changes to the publication or publicity as necessary in view of the findings and determinations. The Executive Director may require the comments received to be disclosed along with the publication or publicity if he or she decides that such action is in the public interest.

(c) The Executive Director shall provide a notice of his or her decision, and a copy of the findings and determinations and changes made under this section, to all persons who received the notice. The notice of decision may be

given orally to the concerned manufacturer or private labeler; but if it is given orally, it shall be confirmed in writing. As part of the notice of decision, the Executive Director shall inform the manufacturer or private labeler of any right it has to appeal to the Commission pursuant to Subpart D of this part. If the Executive Director does not receive a notice of appeal of the decision within the period prescribed under Subpart D of this part, he or she may release the publication or publicity for dissemination to the public.

Subpart C—Procedures for Requesting Retraction or Correction

§ 1013.10 Applicability.

(a) The procedures of this Subpart C apply to any CPSC publication or publicity that is claimed to reflect adversely upon the safety of any consumer product or the practices of any manufacturer, private labeler, distributor, or retailer of consumer products except as provided in § 1013.9(b).

(b) The Executive Director will not entertain a request for retraction or correction under this subpart from any person who received a notice of proposed disclosure under § 1013.6, unless that person shows, or the Commission discovers, that new information or changed circumstances affect the accuracy or fairness of the information that was disclosed.

§ 1013.11 Requests for retraction or correction.

(a) A manufacturer, private labeler, distributor, or retailer adversely affected by a publication or publicity to which this Subpart applies may request a finding that information in the publication or publicity was inaccurate or misleading and request a retraction or correction of such information.

(b) Requests must be in writing, addressed to the Executive Director, Consumer Product Safety Commission, Washington, D.C. 20207, and must be accompanied by supporting facts.

§ 1013.12 Response to requests.

(a) The Executive Director shall consider requests for retraction or correction of information in CPSC publications and publicity and shall make findings of fact and determinations in response and provide them to the requester. If it is determined that information in a publication or publicity was inaccurate or misleading, the Executive Director shall publish a retraction or correction of the information in a manner similar to that in which it was disclosed. Publication of the retraction or correction shall be designed to reach at least as many members of the public as the original publication or publicity, and, to the extent possible, to reach the same members who received the original publication or publicity.

(b) When a request is received for retraction or correction of a publication or publicity disclosed in the course of or concerning a CPSC administrative or judicial proceeding, and the proceeding

is still in progress, the Executive Director may defer making a final decision on the request until the proceeding has concluded. This may be done only to the extent that the issues raised by the request are the issues which are to be resolved in the proceeding. If the answer is to be deferred, the Executive Director shall make a written determination to that effect and provide it to the requester.

(c) The final decision of the Executive Director under this Subpart C may be appealed pursuant to Subpart D of these rules. The final decision of the Executive Director shall inform the requester of the requirements of Subpart D of this part.

Subpart D—Appeal to the Commission

§ 1012.13 Right to appeal—Generally.

Except as described in § 1013.15, a company or its representative who has commented on a proposed publication or publicity under Subpart B of this part, or has requested retraction or correction of information under Subpart C of this part, may appeal for review of the Executive Director's final decision by the Commission.

§ 1013.14 Notice of appeal.

(a) A company or its representative shall have three days from the receipt of the Executive Director's final decision under Subpart B, § 1013.9(c), or Subpart C, § 1013.13 of this part, in which to appeal to the Commission. Notice of the appeal must be received by the Executive Director within the prescribed three days. In counting the three days, the day of receipt of the decision, Saturday, Sunday, and Federal holidays will not be included.

(b) Appeal shall be perfected by notice to the Executive Director. The notice shall be sufficient if it identifies the decision of the Executive Director and states that appeal is made. The notice may be oral or in writing by telegram or letter. An oral notice must be confirmed in writing.

§ 1013.15 Record for review.

(a) Upon receiving a notice of appeal, the Executive Director shall forward the record to the Commission for its review. The record shall consist of all relevant correspondence between the appellant and the Executive Director, and all other information relied upon by the Executive Director in making his or her decision.

(b) Review of the Executive Director's decision will be on the record described in paragraph (a) of this section.

§ 1013.16 Action upon a Commission decision.

(a) The Executive Director shall promptly notify the appellant of the Commission's decision on the appeal. Notice of the Commission's decision may be given orally, but must be confirmed in writing.

(b) The Executive Director shall carry out the action indicated in the Commission's decision.

(c) If the appeal was taken from a decision under Subpart B of this part, and

if on appeal the Commission has approved in whole or part, the Executive Director's decision to release a publication or publicity for dissemination, then the approved release may be made.

§ 1013.17 Right to appeal in cases of less than 30-day notice under Subpart C.

Whenever the Commission approves a decision by the Executive Director that the public health and safety require less than a 30-day notice and comment period under Subpart B (see, § 1013.6(c)), the Commission shall also decide whether or not the interests of public health and safety permit time to be taken for an appeal of the Executive Director's final decision responding to the comments. If the Commission decides that an appeal will not be allowed, then the Executive Director's final decision will be the final decision of the Commission. If the Commission decides that an appeal will be allowed, the Commission will, at the same time, determine the procedure to be followed for appeal; in such cases §§ 1013.13 through 1013.15 will not apply.

Interested persons are invited to submit, on or before November 21, 1977 written comments regarding this proposal. Comments and any accompanying data or material should be submitted, preferably in five copies, addressed to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Comments may be accompanied by a memorandum or brief in support thereof. Comments received by the Commission may be inspected in the Office of the Secretary, at 1111 18th Street NW., Washington, D.C., during working hours, Monday through Friday.

Dated: September 29, 1977.

RICHARD E. RAPP,
Secretary, Consumer Product
Safety Commission.

[FR Doc. 77-29217 Filed 10-4-77; 8:45 am]

[6355-01]

[16 CFR Part 1500]

LABELING REQUIREMENTS FOR CYANOACRYLATE-BASED GLUE

Proposed Exemption From Full Compliance With Labeling Requirements of Federal Hazardous Substances Act for Cyanoacrylate-Based Glue in Tube Sizes of 2 Grams or Less

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The purpose of this document is to propose an exemption from full label compliance under the Federal Hazardous Substances Act (FHSA), for cyanoacrylate-based glue in package sizes of 2 grams or less. This exemption is being proposed since the Commission has preliminarily found that, because of the size of the package involved, full compliance with the labeling requirements applicable under the FHSA is impracticable and is not necessary for the

adequate protection of the public health and safety.

DATES: Comments on this proposed exemption should be submitted on or before November 4, 1977. If the Commission issues a final regulation concerning the exemption, the Commission proposes that the exemption be effective on the date the final regulation is published in the FEDERAL REGISTER.

ADDRESSES: Written comments, preferably in five copies, should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207. Copies of all available material on this subject, including any comments that are received on this proposal, may be examined in the Office of the Secretary, Third Floor, 1111 18th Street, NW., Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Mark Gulak, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207. Telephone: 301-492-6754.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 2(f)(1)(A) of the Federal Hazardous Substances Act (FHSA) (15 U.S.C. 1261(f)(1)(A)) provides that the term "hazardous substances" includes any substance or mixture of substances which is an irritant, if such substance or mixture of substances may cause substantial personal injury or substantial illness during, or as a proximate result of, any customary or reasonably foreseeable handling or use, including reasonably foreseeable ingestion by children.

Section 2(p) of the FHSA (15 U.S.C. 1261(p)) provides that a hazardous substance which is intended, or packaged in a form suitable, for use in the household or by children is misbranded if it does not bear a label stating certain specified information.

16 CFR 1500.121 describes in detail placement, conspicuousness, and contrast requirements for labeling under the FHSA. Section 1500.121(d) provides that, except for the signal word, statement of hazard, and instructions to read carefully cautionary information that may be placed elsewhere on the label, the remainder of the required information may be placed elsewhere than on the main panel of the immediate container. This section provides that the type size used must bear a reasonable relationship to the printing on the package panel involved, and must be no smaller than 10 point type, unless the available label space requires reductions, in which event this type size must be reduced to no smaller than 6 point type, unless because of small label space an exemption is granted under section 3(c) of the Act and 16 CFR 1500.82 and 16 CFR 1500.83.

The provisions for exemption provided by section 3(c) of the Act and 16 CFR 1500.82 and 16 CFR 1500.83 are applicable to this proposal. If the Consumer Product Safety Commission finds that,

because of the size of a package for a hazardous substance or because of the minor hazard presented to the public by this substance, or for other good and sufficient reasons, full compliance with the labeling requirements stated above is either impracticable or unnecessary for the adequate protection of the public health and safety, the FHSA provides for the issuance of regulations pursuant to 16 CFR 1500.83 exempting the substance from these labeling requirements to the extent that the labeling is consistent with the adequate protection of the public health and safety. By the provisions of 16 CFR 1500.83(a), any person who believes that a particular hazardous substance intended or packaged in a form suitable for use in the household or by children should be exempted from full label compliance, otherwise applicable under the Act, may submit to the Commission a request for an exemption pursuant to section 3(c) of the Act. Facts must be presented in support of the view that full compliance is impracticable or is not necessary for the protection of the public health.

The Commission must determine, on the basis of the facts submitted, and all other available information, whether the requested exemption is consistent with the adequate protection of the public health and safety. If the Commission so determines, it must detail the exemption granted and the reasons for granting it by an order published in the FEDERAL REGISTER.

In May 1974, the Consumer Product Safety Commission issued a notice announcing staff information based on testing of cyanoacrylate glues. This information indicated that cyanoacrylate-based glue is a "hazardous substance" within the meaning of that term under the Act because it is an "eye irritant." (39 FR 16511, May 9, 1974) Therefore, any such glue was deemed "misbranded" under section 2(p) of the Act unless it was properly labeled in accordance with 16 CFR 1500.121 as described above.

PETITION

On November 11, 1975, the Consumer Product Safety Commission received a petition from Wilhold Glues Inc. of Santa Fe Springs, California, requesting an exemption from full label compliance under the Federal Hazardous Substances Act for its cyanoacrylate-based glue in the 2 gram size tube. The petition stated that the size of the package made it impracticable to show all of the required labeling in the minimum 6 point type (as required by 16 CFR 1500.121).

Having considered this petition, and information obtained by the Commission staff pertinent to the requested exemption, the Consumer Product Safety Commission concludes that an exemption should be proposed as set forth below. It is proposed that this exemption include all glues with a cyanoacrylate base sold in sizes of 2 grams or less.

The Commission's decision to propose this exemption is based principally on the preliminary findings that full label compliance is both impracticable, due to

the size of the package, and unnecessary for the adequate protection of the public health.

The Commission believes that any risk of injury of eye irritation to the public associated with cyanoacrylate glues could adequately be mitigated by the placement on the main label panel of the signal word, statement of hazard, and instructions to read additional warnings elsewhere on the immediate container, as well as the requirement that additional warnings be placed elsewhere on the immediate container and on any outer package, accompanying leaflet, and display card. Under the proposed exemption, additional labeling required by the Act need not appear on the main label panel provided such warnings appear elsewhere on the label in legible type and appear on the outer package, accompanying leaflet and display card in accordance with the placement, conspicuousness, and contrast requirements of 16 CFR 1500.121.

CONCLUSION AND PROPOSAL

The Commission proposes that this exemption be granted under section 3(c) of the Federal Hazardous Substances Act and 16 CFR 1500.82, and 16 CFR 1500.83. Provided, That: (1) The immediate container bears both the proper signal word and a statement of the principal hazard or hazards associated with this product fully in accordance with 16 CFR 1500.121. This means that the signal word, in this instance either "WARNING" or "CAUTION," must appear on the main label panel of the product and must appear in accordance with the placement, conspicuousness and contrast requirements specified at 16 CFR 1500.121. A statement of the principal hazard or hazards associated with the product must also appear on the main label panel of the product in accordance with the placement, conspicuousness and contrast requirements specified at 16 CFR 1500.121; (2) the immediate container must also bear instructions to read additional warnings elsewhere on the label and on any outer package, accompanying leaflet, and display card. Thus, any precautionary measures required by section 2(p)(1) of the Act, describing the action to be followed or avoided, instructions for first-aid treatment, and the statement "keep out of the reach of children," or its practical equivalent, need not appear on the main label panel, and need not comply with the minimum type size requirements when appearing elsewhere on the immediate container label. However, instructions to read these additional warnings must be placed on the main label panel along with the required signal word and statement of hazard or hazards, in accordance with the requirements of 16 CFR 1500.121; and (3) the remainder of the cautionary labeling required by the Act, must appear elsewhere on the immediate container and must appear on any outer package, accompanying leaflet, and display card in accordance with the requirements of 16 CFR 1500.121. These

additional warnings must conform with the requirements provided in 16 CFR 1500.121, except that the type size required for this labeling on the immediate container label may be less than six point type, provided it is legible. If there is no outer package, accompanying leaflet, or display card, then the remainder of the required cautionary labeling must be displayed by means of a tag or other suitable material that is securely affixed to the article so that the labeling will remain attached throughout the conditions of merchandising and distribution to the ultimate consumer. The size, placement, and conspicuousness of these statements must conform with paragraphs (a), (c), and (d) of § 1500.121.

Accordingly, pursuant to provisions of the Federal Hazardous Substances Act (sections 2(f), (p), 3(c), 10(a); 74 Stat. 372, 374, 375, 378, as amended 80 Stat. 1304-05, 83 Stat. 187-89 (15 U.S.C. 1261(f), 1262(p), 1269(a), and under authority vested in the Commission by the Consumer Product Safety Act (Pub. L. 92-573, section 30(a), 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes to add an additional exemption to those provided at 16 CFR 1500.83(a), as follows: (The text of the introductory portion of § 1500.83(a) is included for context.)

§ 1500.83 Exemptions for small packages, minor hazards, and special circumstances.

(a) The following exemptions are granted for the labeling of hazardous substances under the provisions of § 1500.83:

(37) Glues with a cyanoacrylate base packaged in containers of 2 grams or less are exempt from the requirement of 16 CFR 1500.121(d) that labeling, other than the signal word and statement of hazard may appear elsewhere than on the main label panel in type size no smaller than 6 point type: Provided, That:

(i) The main panel of the immediate container bears both the proper signal word and a statement of the principal hazard or hazards associated with this product, as provided by 16 CFR 1500.121 (a) and (c);

(ii) The main panel of the immediate container also bears instructions to read additional warnings elsewhere on the label or on any outer package, accompanying leaflet, and display card. The instructions to read additional warnings must appear in accordance with the placement, conspicuousness, and contrast requirements specified at 16 CFR 1500.121; and

(iii) The remainder of the cautionary labeling required by the Act must appear elsewhere on the label in legible type and must appear on any outer package, accompanying leaflet, and display card, in accordance with the placement, conspicuousness, and contrast requirements specified at 16 CFR 1500.121. If there is no outer package, accompanying leaflet, or display card, then the remainder of the required cautionary labeling must be

displayed by means of a tag or other suitable material that is securely affixed to the article so that the labeling will remain attached throughout conditions of merchandising and distribution to the ultimate consumer. The size, placement, and conspicuousness of these statements must conform with paragraphs (a), (c), and (d) of § 1500.121.

Interested persons are invited to submit written data, views, or arguments regarding any aspect of the proposal on or before November 4, 1977. Comments submitted after this date will be considered to the extent practicable. Comments should be accompanied, to the extent possible, by supporting data or documentation. Requests for confidentiality of documentation will be handled in accordance with the Freedom of Information Act as amended (5 U.S.C. 552), the Commission's regulations under that Act (16 CFR Part 1015, 42 FR 10490) and the provisions of section 6(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2055 (a)(2)). Comments may be supported by a memorandum or brief.

Written comments and any accompanying data or materials should be submitted, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Any comments that are received, and all other material which the Commission has that is relevant to this proceeding, may be seen in, or copies obtained from, the Office of the Secretary, Third Floor, 1111 18th Street, NW., Washington, D.C. 20207.

Dated September 29, 1977.

RICHARD E. RAPPS,
Secretary,
Consumer Product
Safety Commission.

[FR Doc 77 20216 Filed 10-4-77; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 6]

AIR COMMERCE REGULATIONS

Proposed Amendment to Customs Regulations Pertaining to Permits To Proceed for Foreign-Registered Aircraft

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed amendment would require foreign-registered private aircraft arriving from outside the United States to obtain a permit from Customs before proceeding from the airport of entry to any other airport in the United States. These permits are now required only for foreign-registered commercial aircraft. The purpose of the proposal is to facilitate enforcement of Customs laws by providing information on the movement of foreign-registered private aircraft between airports in the United States.

DATES: Comments must be received on or before November 4, 1977.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, 1301 Constitution Avenue NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Donald H. Reusch, Attorney, Carriers, Drawback and Bonds Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under Customs Regulations, § 6.2(d) (1) (19 CFR 6.2(d)(1)) requires a foreign-registered aircraft not treated as an imported article to obtain a permit to proceed from the airport of first arrival to one or more airports in the United States if it arrives in the United States carrying passengers for hire or merchandise (that is, for commercial aircraft), and is to proceed without passengers or merchandise; and § 6.9 (19 CFR 6.9) requires any commercial aircraft to obtain a permit to proceed from the airport of first arrival to one or more airports in the United States if the aircraft arrives in the United States carrying merchandise and is to proceed with merchandise.

Foreign-registered private aircraft, however, arriving from outside the United States may proceed after reporting at the airport of first arrival to as many United States airports as desired without any Customs control. The term "private aircraft" means those aircraft engaged in a personal or business flight to or from the United States and not carrying passengers or cargo for compensation or hire, nor departing from the United States to load passengers or cargo for compensation or hire. Examples are corporate aircraft and aircraft used by individuals exclusively for pleasure purposes.

Without requiring a permit to proceed, the Customs Service has no way of monitoring the movement of foreign-registered private aircraft in the United States including aircraft suspected of smuggling. Also, if the aircraft were sold while in the United States, duty on the aircraft may not be collected as Customs may not be aware of the sale.

To assist in the enforcement of the laws administered by the Customs Service, it is proposed to extend the permit-to-proceed requirement now applicable to foreign-registered commercial aircraft arriving from outside the United States to foreign-registered private aircraft as well.

This amendment is proposed under the authority of R.S. 251, as amended (19 U.S.C. 66), section 624, 46 Stat. 759 (19 U.S.C. 1624), and section 1109, 72 Stat. 799, as amended (49 U.S.C. 1509).

COMMENTS

Before adopting this proposed regulation, consideration will be given to any

written comments that are timely submitted to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with § 103.8(b) of the Customs Regulations (19 CFR 103.8(b)) during regular business hours at the Regulations and Legal Publications Division, Headquarters, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229.

DRAFTING INFORMATION

The principal author of this proposed regulation was Richard M. Belanger, Attorney, Regulations and Legal Publications Division of the Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the United States Customs Service participated in developing the regulation, both on matters of substance and style.

PROPOSED AMENDMENT

PART 6—AIR COMMERCE REGULATIONS

It is proposed to amend the second sentence of § 6.2(d)(1) of the Customs Regulations (19 CFR 6.2(d)(1)) to read as follows:

§ 6.2 Landing requirements.

(d) Permit to proceed; foreign aircraft.

(1) * * * Except as provided in § 6.9, before any aircraft which is not treated as an imported article and which is registered in a foreign country proceeds from the airport of first arrival to one or more airports in the United States, its commander shall obtain from the district director at the airport of first arrival a permit to proceed on Customs Form 7507 allowing the aircraft to proceed from airport to airport in the United States, which shall be retained on board the aircraft while in the United States. * * *

G. R. DICKERSON,
Acting Commissioner of Customs.

Approved: August 29, 1977.

Bette B. Anderson,
Under Secretary
of the Treasury.

[FR Doc 77-20223 Filed 10-4-77; 8:45 am]

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

[36 CFR Part 214]

YOUTH CONSERVATION CORPS PROGRAM

Grants to States for Establishment

AGENCY: Forest Service, USDA.

ACTION: Proposed rulemaking.

SUMMARY: The Youth Conservation Corps Act of 1970 provided for a 3-year pilot program to be carried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Pub. L. 92-597 amended

the 1970 act to include a pilot program (beginning in FY 1974) under which grants shall be made to States, to assist them in meeting the cost of Youth Conservation Corps projects on non-Federal public lands and waters within the States. Pub. L. 93-408 made the Youth Conservation Corps program permanent. This document proposes revisions to the present regulations which are necessary to assure a closer alignment between Federal and State grant program characteristics and to update current procedures to reflect policy and grants-in-aid requirements.

DATE: Comments must be received on or before November 4, 1977.

ADDRESS: Send Comments to: Director, Human Resource Programs, Forest Service, USDA, P.O. Box 2417, Washington, D.C. 20013. Comments will be available for public review in Room 2117, Auditors Building, 14th and Independence Avenues, SW., from 8:15 a.m. to 4:45 p.m. on regular working days.

FOR FURTHER INFORMATION CONTACT:

Hollis Hardy, (202-447-7783).

SUPPLEMENTARY INFORMATION: Since the enactment of Pub. L. 93-403, the Youth Conservation Corps (YCC) grants-in-aid program has grown markedly. Though interim regulations and final regulations were published in 1974 and 1975 respectively, recently proposed policies and procedures for the State grant component appear to be advisable. This revision is proposed jointly by the Department of Agriculture and the Interior. The Department of the Interior will publish the same revision under Title 43 of the Code of Federal Regulations, Subtitle A, Part 26.

NOTE.—The Department of Agriculture has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

It is proposed to revise 36 CFR Part 214 as follows:

PART 214—GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAM

- Sec.
- 214.1 Introduction.
- 214.2 Definitions.
- 214.3 Program purpose and objectives.
- 214.4 Legislation.
- 214.5 Administrative requirements.
- 214.6 Request for grant.
- 214.7 Application format and instructions.
- 214.8 Program reporting requirements.
- 214.9 Consideration and criteria for awarding grants.

AUTHORITY: Sec. 4, 86 Stat. 1320, as amended, 88 Stat. 1067.

§ 214.1 Introduction.

(a) The Youth Conservation Corps (YCC) is a program of summer employment for young men and women, aged 15 through 18, who work, earn, and learn together by doing projects which further the development and conservation of the natural resources of the United States.

The Corps is open to youth of both sexes, and youth of all social, economic, and racial classifications who are permanent residents of the United States, its territories, possessions, or trust territory.

(b) The Youth Conservation Corps Act of 1970 (Pub. L. 91-378) provided for a 3-year pilot program to be carried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Pub. L. 92-597 amended the 1970 Act to include a pilot program (beginning in FY 1974) under which grants shall be made to States to assist them in meeting the cost of Youth Conservation Corps projects on non-Federal public lands and waters within the States. Pub. L. 93-408 made the Youth Conservation Corps program permanent.

§ 214.2 Definitions.

(a) Terms used in these Regulations are defined as follows:

(1) *Act*. The Youth Conservation Corps Act of 1970, Pub. L. 91-378, as amended.

(2) *Secretaries*. The Secretaries of Agriculture and the Interior, or their designated representatives, who jointly administer the grant program. Within the Department of Agriculture, the YCC program is administered by the Forest Service; within the Department of the Interior it is administered by the Office of Manpower Training and Youth Activities.

(3) *States*. Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa and the Commonwealth of the Northern Marianas Islands.

(4) *Grant*. Money or property provided in lieu of money, paid or furnished by the Secretaries pursuant to the Act, to a State to carry out YCC programs on non-Federal public lands and waters. The amount of any grant shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 percentum of the cost (as determined by the Secretaries) of said project.

(5) *Grantee*. Any State which is a recipient of a Federal grant for the operation of a YCC program.

(6) *Sub-Grantee*. Any public organization, municipality, or agency which successfully applied through a State for the operation of a Youth Conservation Corps project within that State.

(7) *Contractor*. Any public agency or organization or any private non-profit agency or organization which has been in existence for at least 5 years which operates a YCC project for a grantee or sub-grantee.

(8) *Program agent*. Agency, Bureau, or Department designated by the Governor to have program responsibility for all aspects of YCC operations in that State except for those projects conducted under Federal auspices. Responsibility may be redelegated by the Agency, Bureau, or Department Head. Such redele-

gation must be made in writing to the Secretaries.

(9) *State Grant Program*. That part of the YCC program carried out on non-Federal lands and waters by States receiving YCC grants-in-aid.

(10) *Project*. The operating unit or camp of the State YCC grant program, either of residential or nonresidential program type, as follows:

(i) *Residential project*. One in which youths reside either seven or five days per week at a camp on or adjacent to the public lands where they conduct their work-education program.

(ii) *Nonresidential project*. One in which youths reside at home and daily commute to the public lands to conduct their work-education program.

(iii) For purposes of establishing a Federal/State cost sharing ratio, a project is defined as all YCC operations within a State which are carried out on non-Federal public lands and waters.

(11) *Operating year*. January 1 through December 31.

(12) *Non-Federal public lands and waters*. Any lands or waters within the territorial limits of a State owned either in fee simple by a State or political subdivision thereof or over which a State or political subdivision thereof has, as determined by the Secretaries, sufficient long-term jurisdiction so that improvements made as the result of a grant will accrue primarily to the benefit of the public as a whole. Federally-owned public lands and waters administered by a State or political subdivision thereof under agreement with a Department or Agency of the Federal Government are eligible under such definition if the Secretaries determine that the State or political subdivision thereof is entitled to or is likely to retain administrative responsibility for an extended period of time sufficient to justify classification as non-Federal public lands or waters.

§ 214.3 Program purpose and objectives.

(a) The purpose of the Act is to further the development and maintenance of the natural resources of the United States by American youth and in so doing prepare them for the ultimate responsibility of maintaining and managing these resources for the American people. The Departments of Agriculture and the Interior have stressed the following three equally important objectives of the Youth Conservation Corps as reflected in the law:

(1) Accomplish needed conservation work on public lands.

(2) Provide gainful employment for 15 through 18 year old males and females from all social, economic, and racial backgrounds.

(3) Develop an understanding and appreciation in participating youths of the Nation's environment and heritage.

(b) These objectives will be accomplished in a manner that will provide the youth with an opportunity to acquire increased self-dignity and self-discipline, better work with and relate with peers

and supervisors, and build lasting cultural bridges between youth from various social, ethnic, racial and economic background.

(c) Each YCC project will, to the maximum extent possible as determined by the Secretaries' representatives, have the following characteristics:

(1) A properly balanced and integrated environmental-work learning program in which environmental knowledge and awareness derives principally from meaningful work activities on public lands.

(2) A mixture of youth of both sexes from various social, economic, ethnic, and racial backgrounds which is representative of the youth residing within the recruiting area.

(3) A group living component wherein enrollees have an opportunity to relate to each other and staff during non-working hours in activities which promote social interaction and group learning.

(4) An enrollment of sufficient size (not less than 10 enrollees) that will permit social interaction and group learning. The program encourages camps of a size of 20 to 50 enrollees as the most desirable size.

§ 214.4 Legislation.

State programs must meet all of the requirements of Section 4 of the Act. Section 4 of the Act which applies to the grant program reads as follows:

Sec. 4(a). The Secretary of the Interior and the Secretary of Agriculture shall jointly establish a program under which grants shall be made to States to assist them in meeting the cost of projects for the employment of young men and women to develop, preserve, and maintain non-Federal public lands and waters within the States. For purposes of this section, the term "States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(b) (1). No grant may be made under this section unless an application therefor has been submitted to and approved by, the Secretary of the Interior and the Secretary of Agriculture. Such application shall be in such form, and submitted in such manner, as the Secretaries shall jointly by Regulations prescribe and shall contain:

(A) Assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted shall: (i) Have attained the age of fifteen but not attained the age of nineteen, (ii) be permanent residents of the United States or its territories, possessions, or Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to full-time employees of the applicant, (iv) be employed for a period of not more than ninety days in any calendar year, and (v) be employed without regard to their sex or social, economic, or racial classification; and

(B) Such other information as the Secretaries may jointly by Regulation prescribe.

(2) The Secretaries may approve applications which they determine (A) meet the requirements of paragraph (1), and (B) are for projects which will further the development, preservation, or maintenance of the non-Federal public lands or waters within the jurisdiction of the applicant.

(c) (1) The amount of any grant under this Section shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 percentum of the cost (as determined by the Secretaries) of such project.

(2) Payments under grants under this section may be made in advance or by way of reimbursements and at such intervals and on such conditions as the Secretaries find necessary.

(d) Thirty percentum of the sums appropriated under Section 6 for any fiscal year shall be made available for grants under this section for such fiscal year.

§ 214.5 Administrative requirements.

The following administrative requirements must be met: (a) Recruitment will be conducted in a manner designed to assure (1) a full opportunity for all America's youth to participate in the Youth Conservation Corps, and (2) specific outreach efforts to attract minority and disadvantaged youth. The grantee and sub-grantee will assure that the YCC program is open to all eligible youth from all parts of the State including urban and rural youth of both sexes and youth of all social, economic, racial and ethnic classifications. A well-balanced YCC camp enrollment should also include representation of non-public school youth, the disadvantaged, and youth having quit school before graduation.

The grantee will conduct, or will permit to be conducted, a selection system which will assure that applicants will be selected on a random basis, without bias because of race, creed, color, religion or national origin. To insure coeducational projects, stratification of applicants by sex, prior to selection, is required. To insure that the program will reach the largest number of youth, the grantee will assure that not more than 10 percent of the selected enrollees have been YCC enrollees in previous years and that all returnees shall be designated as youth leaders and paid an increment of at least \$1.50 per day above the normal wage.

(b) To the maximum extent practicable enrollees should be selected from an area within one day's surface travel from their residence to a YCC camp.

(c) Capital outlays for facilities should be kept at a minimum. No grant is to be made for construction of residential facilities other than to provide temporary facilities and their necessary basic infrastructure and necessary renovation or modification of existing facilities.

(d) Operation of YCC projects during non-summer periods may be authorized by the Secretaries when it can clearly be demonstrated that enrollment will not interfere with the established educational systems.

(e) The enrollee is an employee of the grantee or subgrantee. The enrollee pay plan must comply with Federal or State minimum wage laws whichever may be higher. To the maximum extent practicable, State YCC enrollees should receive the same hourly rate of pay as Federal YCC enrollees. Grantees will insure that enrollees are engaged in 40 hours of work-learning activities each week, 10

hours of which will be environmental awareness. The Federal Government will cost share enrollee salary up to the equivalent of 30 hours per week.

(f) Grantees must provide for an effective accident control, health, and safety program. As a minimum, grantees shall follow U.S. Department of Labor Bulletin No. 101, "A Guide to Child Labor Provisions of the Fair Labor Standards Act".

(g) Grantees will have a financial management system which will provide the information called for in Attachment G of Federal Management Circular (FMC) 74-7.

(h) "Request for Advance or Reimbursement" as outlined in FMC 74-7, Attachment H, item 4(a), will be used to obtain an advance to start and/or maintain the program. It can also be used to obtain a reimbursement during or at the end of a project. An advance, not to exceed one month's needs, may be made after approval of the grant application.

(i) Grantees will prepare a "Financial Status Report" required by FMC 74-7, Attachment H, item 3(a), twice for each operating year. These reports will be prepared on a cash basis using the same functional headings as those used in preparing Part II of the application for Federal Assistance. Instructions and forms will be supplied each grantee at the time of grant award. Grantees shall require similar reports from all sub-grantees and contractors to facilitate their own reporting to the grantor agencies. The two reports required of the grantee are:

(1) An "Interim Financial Status Report" prepared as of September 30 and mailed in time to reach the Secretaries by October 30 of each operating year.

(2) A "Final Financial Status Report" prepared as of December 31 of each operating year. This report will be forwarded in time to reach the Secretaries by March 31 of the following operating year.

(j) Allowable costs under the grant program are defined in FMC 74-7 and FMC 74-4.

(k) Records retention and custodial requirements for records are prescribed by Attachment C to FMC 74-7.

(l) Because of the short duration of each project, budget revisions normally should be unnecessary; however, if a budget revision becomes necessary, the grantee will be governed by Attachment K of FMC 74-7.

(m) Grantees shall comply with the provisions of Attachments O and N of FMC 74-7 in regard to nonexpendable personal property and procurement standards.

(n) The Secretaries or their designees shall periodically review the conduct of the program of the State.

(o) Grantees will supervise those projects in the State being administered by sub-grantees and contractors. Sub-grantees and contractors will be required to operate in accordance with the procedures outlined in these regulations and the grant agreement with the State.

Periodic inspection of sub-grantee projects will be made by the grantee under the direction of the Program Agent or his designee. Grantees or sub-grantees may contract with a qualified non-profit agency or organization for the operation of their YCC project.

(p) Grantees will meet the audit requirements of Attachment G to FMC 74-7 and will require the same of sub-grantees. Copies of audits will be made available to the Secretaries upon request.

(q) If the grantee fails to comply with the grant award stipulations, standards, or conditions, the Secretaries may jointly suspend the grant pending corrective action. Subsequent to or during any period of suspension of the grant, the Federal Government shall not be obligated to reimburse the grantee for any incurrence of obligations other than direct salaries of enrollees and then only for a period of time which both the Secretaries shall determine to be reasonable. In addition, the Secretaries may jointly terminate the grant. Termination shall be effective by a notice of termination. Upon receipt of a notice of termination, the grantee shall:

(1) Discontinue further commitments of grant funds.

(2) Cancel all sub-Grants or contracts, where possible, scheduled for payment with grant funds.

(3) Supply either of the Secretaries within 90 days after receipt of the notice of termination, a final financial statement, along with a refund check for any unused portion of funds advanced, or request for reimbursement for allowable expenditures incurred in the grant program.

§ 214.6 Request for grant.

(a) Of the amount available for Youth Conservation Corps projects, 30 percent will be allocated for State projects. All States will be given an opportunity to participate in the program. Allocated funds not needed by a State will be re-allocated based on the merits of proposals submitted in accordance with paragraph (c) of this section or a pre-application in accordance with Attachment M of FMC 74-7. All proposed projects should be listed by priority. Grant funds are for State projects only. A grant to a State must be matched by the State for each project. Matching can consist of either direct expenditures or services of an in-kind nature.

(b) Pursuant to section 4(c) (1) of Pub. L. 93-408, States may receive grants up to but not to exceed 80 percent of the cost of funding any project from the Federal Government.

(c) Application for Federal Assistance (Standard Form 424) will be used by applicants in applying for grants under this program. Application forms will be supplied to Program Agents. Only a Program Agent may submit an application. A single grant application (Parts I, II, IV, V) must be submitted for the entire summer program within each State. Parts II, III, and VI are required for

each project included in the grant application. A separate application must be used for non-summer projects. A non-summer project is defined as one which extends beyond October 1, or beginning prior to May 1.

(d) The Secretaries have designated individuals in each State who will jointly represent them. Grant applications (original and six copies) must be submitted to the designated representative of either Secretary. January 1 has been established as the deadline date for acceptance of applications for each operating year. Names and addresses of designated representatives will be furnished to each State. The Secretaries' representatives must jointly approve grant proposals. Approval or disapproval of proposals will be documented by a formal letter to the Program Agent. The Secretaries' representatives will also be available for technical assistance and advice.

§ 214.7 Application format and instructions.

Grant applications must be made using the Office of Management and Budget approved form (SF-424) entitled "Federal Assistance." General instructions for completing the form by part numbers follow. Specific instructions and requirements which must be followed are included in the Secretaries' State Grant Procedures Handbook.

(a) Part I—(SF-424 Cover Sheet, Sections I and II) shall be completed.

(b) Part II—(Budget Data) lines 1-8 need not be used. However, the following information is needed relative to the YCC program. Please prepare a supplemental sheet using the following functional headings:

General Staff Pay
Enrollee Pay
Food

Work Project Costs
Travel and Transportation
Program Direction

A description of the items to be included under each of these functional headings are:

General. Include expenditures for (1) Capital Improvement (camp facilities and improvement), (2) other (medical, first aid expense, utilities, maintenance costs, recreation, all supplies not otherwise identified, training), (3) camp opening and closing costs.

Staff pay. Includes pay and benefits net any deductions made for meals and quarters furnished.

Enrollee pay. Includes pay and benefits of enrollees.

Food. Includes cost of food and related freight charges.

Work project costs. Safety equipment and work and environmental awareness supplies and materials.

Travel and transportation. Includes transportation of enrollees and staff to and from project sites and both intrastate and interstate travel for purposes of program direction and training.

Program direction. Includes support services and program administration expenses at locations other than at projects. The total of the above categories should be entered on line 9 of Part II and the rest of Part II completed.

The grantee agrees that any facility which is utilized in the performance of this grant is not listed on the EPA List of Violating Facilities pursuant to 40 CFR, part 15.20.

The recipient certifies that no owner or operator of a facility which he proposes to utilize in connection with this grant, has been notified that the facility has been listed on the EPA List of Violating Facilities pursuant to the provisions of the EPA in 40 CFR, Part 15.20, and that this same certification will be obtained from subgrantees or sub-contractors benefiting from this grant.

The grantee agrees that any facility which is utilized in the performance of this grant is not listed on the EPA List of Violating Facilities pursuant to 40 CFR, part 15.20.

Indirect costs. Compute the appropriate allowance for indirect costs on line 15 and enter amount on line 10. Grantee must have an approved indirect cost rate applicable to the grant period. A copy of the approved indirect expense plan should be included in the grant application.

(c) Part III—(Program Narrative Statement) should include the following information:

(1) Location of project (address and county).

(2) Distance to nearest town; name of town.

(3) Number of youth planned for project.

(4) Type of project (7-day residential, 5-day residential, nonresidential, other).

(5) Length of session (i.e., number of weeks) and proposed beginning and ending dates.

(6) Description of living conditions (types of facilities, age, condition, tents, cabins, dormitories).

(7) Project Staff (number and position titles).

(8) Complete calculation for daily rate of enrollee pay including deduction for food and lodging (if any).

(9) Description of health and safety program.

(10) Description of enrollee and staff recruiting and selection systems including description of affirmative action measures to be taken to assure that minority and other disadvantaged persons receive equal opportunity and consideration.

(11) Description of the work-learning program including the types of work projects that will be available (an integrated environmental work-learning program is required wherever possible as determined by the Secretaries' representatives).

(12) States agreement to administer tests, conduct interviews, or otherwise assist the Federal Government in collecting data on the grant program. The data is to be used for the required report to the President and Congress in accomplishing the purposes of the Act. A statement to this effect must be written into the proposal by the applicant.

(d) Part IV—(Assurances) is pre-printed within Attachment M, FMC 74-7 and is to be included as part of the application. The following assurances are not preprinted and must be included by the grantee in the grant application:

(1) EPA Required Certification if the application is for \$100,000 or more (40 CFR 15):

The recipient certifies that no owner or operator of a facility which he proposes to utilize in connection with this grant, has been notified that the facility has been listed on the EPA List of Violating Facilities pursuant to the provisions of the EPA in 40 CFR, Part 15.20, and that this same certification will be obtained from subgrantees or sub-contractors benefiting from this grant.

The grantee agrees that any facility which is utilized in the performance of this grant is not listed on the EPA List of Violating Facilities pursuant to 40 CFR, part 15.20.

In the event the grantee fails to comply with clean air or water standards at such facilities, the grant may be cancelled, terminated for default or suspended for such failure, in whole or in part, and the Government may refrain from further granting with the grantee.

The grantee agrees to comply with all the requirements of Section 114 of the Air Act and Section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information as well as all other requirements specified in Section 114 and Section 308, respectively, and all regulations and guidelines issued thereunder.

The grantee agrees to promptly notify the awarding official of the receipt of any notice from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that any facility utilized or to be utilized under the grant is under consideration for listing on the EPA List of Violating Facilities.

The grantee further agrees to insert, in any subgrant thereunder, unless otherwise exempted pursuant to the EPA Regulations implementing the Air or Water Acts (40 CFR 15.5) provisions which shall include this statement. The grantee shall take such action as the Government may direct as a means of enforcing such provisions.

(2) The Federal/State cost sharing ratio established by the approval of this grant application shall remain in effect for the duration of the operating year, unless modified prior to December 31 in accordance with Attachment K to Federal Management Circular 74-7.

(3) In a format prescribed by the Secretaries' representatives, the grantee agrees to provide by July 15, but not later than 14 days following project opening, detailed information on the demographic characteristics of youths enrolled in the State grant program.

(e) Part V—A camp or project profile for each project must be submitted with the application.

§ 214.8 Program reporting requirements.

(a) Monitoring and reporting of program performance will be in accordance with Attachment I of FMC 74-7. Grantees will submit performance reports with the final Financial Status Report to either of the Secretaries' representatives. This final performance report is due by March 30. An interim performance report is due not later than October 30. For non-summer projects, the final report is due 90 days after termination of the project. The performance report will include the number of youth enrolled in the project, number of weeks of camp operation, youth loss rate, value of work accomplished by resource category (for example, timber management, recreation, etc.), hours of youth work-learning experience by resource category and value of work supplies and materials by resource category.

(b) The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

§ 214.9 Consideration and criteria for awarding grants.

The decision by both of the Secretaries' representatives on grants to individual States will consider the following:

- The amount of grant funds appropriated and available.
- The quality of the proposed program in terms of meeting program characteristics and objectives.
- The overall cost per enrollee 8-week position.
- Actual prior performance of the States in administering YCC projects.
- The performance of the grantee in meeting the conditions of the grant and the requirements of FMC 74-4 and FMC 74-7.

M. RUPERT CUTLER,
Assistant Secretary.

SEPTEMBER 29, 1977.

[FR Doc. 77-29191 Filed 10-4-77; 8:45 am]

[1505-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 250]

[FRL 797-8]

DEVELOPMENT OF REGULATIONS FOR THE TRANSPORTATION OF HAZARDOUS WASTE

Joint Public Meeting
Correction

In FR Doc. 77-28591, appearing at page 51625 in the issue for Thursday, September 29, 1977, in the third line of "ADDRESSES", the last word reading "Materials", should read "Management".

[4310-10]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[43 CFR Part 26]

YOUTH CONSERVATION CORPS PROGRAM

Grants to States for Establishment

AGENCY: Office of Manpower Training and Youth Activities, Interior.

ACTION: Proposed rulemaking.

SUMMARY: The Youth Conservation Corps Act of 1970 provided for a 3-year pilot program to be carried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Pub. L. 92-597 amended the 1970 act to include a pilot program (beginning in FY 1974) under which grants shall be made to States, to assist them in meeting the cost of Youth Conservation Corps projects on non-Federal public lands and waters within the States. Pub. L. 93-408 made the Youth Conservation Corps program permanent. This document proposes revisions to the present regulations which are necessary to assure a closer alignment between

Federal and State grant program characteristics and to update current procedures to reflect policy and grants-in-aid requirements.

DATE: Comments must be received on or before November 4, 1977.

ADDRESS: Send comments to: Director, Office of Manpower Training and Youth Activities, 18th & C Sts., NW., Washington, D.C. 20240. Comments will be available for public review in Room 2419, at the above address from 7:45 a.m.-4:15 p.m. on regular working days.

FOR FURTHER INFORMATION CONTACT:

Vivian Bower, (202-343-3865.)

SUPPLEMENTARY INFORMATION: Since the enactment of Pub. L. 93-403, the Youth Conservation Corps (YCC) grants-in-aid program has grown markedly. Though interim regulations and final regulations were published in 1974 and 1975 respectively, recently proposed policies and procedures for the State grant component appear to be advisable.

This revision is proposed jointly by the Departments of Agriculture and Interior. The Department of Agriculture will publish the same revision under Title 36 of the Code of Federal Regulations, Chapter II, Part 214.

The primary author of this document is Vivian Bower, Office of Manpower Training and Youth Activities, 202-343-3865.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: September 28, 1977.

RICHARD R. HITE,
Deputy Assistant
Secretary of the Interior.

It is proposed to revise 43 CFR Part 26 to read as follows:

PART 26—GRANTS TO STATES FOR ESTABLISHING YOUTH CONSERVATION CORPS PROGRAM

Sec.

- 26.1 Introduction.
- 26.2 Definitions.
- 26.3 Program purpose and objectives.
- 26.4 Legislation.
- 26.5 Administrative requirements.
- 26.6 Request for Grant.
- 26.7 Application format and instructions.
- 26.8 Program reporting requirements.
- 26.9 Consideration and criteria for awarding grants.

AUTHORITY: Sec. 4, 86 Stat. 1320, as amended, 88 Stat. 1067.

§ 26.1 Introduction.

(a) The Youth Conservation Corps (YCC) is a program of summer employment for young men and women, aged 15 through 18, who work, earn, and learn

together by doing projects which further the development and conservation of the natural resources of the United States. The Corps is open to youth of both sexes, and youth of all social, economic, and racial classifications who are permanent residents of the United States, its territories, possessions, or the Trust Territory.

(b) The Youth Conservation Corps Act of 1970 (Public Law 91-378) provided for a 3-year pilot program to be carried out on lands and waters under the jurisdiction of the Secretary of Agriculture or the Secretary of the Interior. Public Law 92-597 amended the 1970 act to include a pilot program (beginning in FY 1974) under which grants shall be made to States, to assist them in meeting the cost of Youth Conservation Corps projects on non-Federal public lands and waters within the States. Public Law 93-408 made the Youth Conservation Corps program permanent.

§ 26.2 Definitions.

(a) Terms used in these Regulations are defined as follows: (1) *Act*. The Youth Conservation Corps Act of 1970. Pub. L. 91-378 as amended.

(2) *Secretaries*. The Secretaries of Agriculture and the Interior, or their designated representatives, who jointly administer the grant program. Within the Department of Agriculture, the YCC program is administered by the Forest Service; within the Department of the Interior it is administered by the Office of Manpower Training and Youth Activities.

(3) *States*. Any of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, American Samoa and the Commonwealth of the Northern Mariana Islands.

(4) *Grant*. Money or property provided in lieu of money, paid or furnished by the Secretaries pursuant to the Act, to a State to carry out YCC programs on non-Federal public lands and waters. The amount of any grant shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 percent of the cost (as determined by the Secretaries) of said project.

(5) *Grantee*. Any State which is a recipient of a grant for the operation of YCC grant program.

(6) *Sub-Grantee*. Any public organization, municipality, or agency which successfully applied through a State for the operation of a Youth Conservation Corps project within that State.

(7) *Contractor*. Any public agency or organization or any private non-profit agency or organization which has been in existence for at least 5 years which operates a YCC project for a grantee or subgrantee.

(8) *Program Agent*. Agency, Bureau, or Department designated by the Governor to have program responsibility for all aspects of YCC operations in that State except for those projects conducted under Federal auspices. Responsibility may be

re delegated by the Agency, Bureau, or Department Head. Such re delegations must be made in writing to the Secretaries.

(9) *Grant program*. That part of the YCC program carried out on non-Federal lands and waters by States receiving YCC grants-in-aid.

(10) *Project*. The operating unit or camp of the State YCC grant program, either of residential or nonresidential program type, as follows:

(i) *Residential project*. One in which youths reside either seven or five days per week at a camp on or adjacent to the public lands where they conduct their work-education program.

(ii) *Nonresidential project*. One in which youths reside at home and daily commute to the public lands to conduct their work-education program.

(iii) *Project*. For purposes of establishing a Federal/State cost sharing ratio a project is defined as all YCC operations within a State which are carried out on non-Federal public lands and waters.

(11) *Operating year*. January 1 through December 31.

(12) *Non-Federal public lands and waters*. Any lands or waters within the territorial limits of a State owned either in fee simple by a State or political subdivision thereof or over which a State or political subdivision thereof has, as determined by the Secretaries, sufficient longterm jurisdiction so that improvements made as the result of a grant will accrue primarily to the benefits of the public as a whole. Federally-owned public lands and waters administered by a State or political subdivision thereof under agreement with a Department or Agency of the Federal Government are eligible under such definition if the Secretaries determine that the State or political subdivision thereof is entitled to or is likely to retain administrative responsibility for an extended period of time sufficient to justify classification as non-Federal public lands or waters.

§ 26.3 Program purpose and objectives.

(a) The purpose of the Act is to further the development and maintenance of the natural resources of the United States by American youth and in so doing prepare them for the ultimate responsibility of maintaining and managing these resources for the American people. The Departments of Agriculture and the Interior have stressed the following three equally important objectives of the Youth Conservation Corps as reflected in the law:

(1) Accomplish needed conservation work on public lands.

(2) Provide gainful employment for 15 through 18 year-old males and females from all social, economic, and racial backgrounds.

(3) Develop an understanding and appreciation in participating youths of the Nation's natural environment and heritage.

(b) These objectives will be accomplished in a manner that will provide the

youth with an opportunity to acquire increased self-dignity and self-discipline, better work with and relate with peers and supervisors and build lasting cultural bridges between youth from various social, ethnic, racial, and economic background.

(c) Each YCC project will, to the maximum extent possible as determined by the Secretaries' representatives, have the following characteristics:

(1) A properly balanced and integrated environmental-work learning program in which environmental knowledge and awareness derives principally from meaningful work activities on public lands.

(2) A mixture of youth of both sexes from various social, economic, ethnic, and racial backgrounds which is representative of the youth residing within the recruiting area.

(3) A group living component wherein enrollees have an opportunity to relate to each other and staff during non-working hours in activities which promote social interaction and group learning.

(4) An enrollment of sufficient size (not less than 10 enrollees) that will permit social interaction and group learning. The program encourages camps of a size of 20 to 50 enrollees as the most desirable size.

§ 26.4 Legislation.

State programs must meet all of the requirements of Section 4 of the Act. Section 4 of the Act which applies to the grant program reads as follows:

Sec. 4(a) The Secretary of the Interior and the Secretary of Agriculture shall jointly establish a program under which grants shall be made to States to assist them in meeting the cost of projects for the employment of young men and women to develop, preserve, and maintain non-Federal public lands and waters within the States. For purposes of this section, the term "States" includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Trust Territory of the Pacific Islands, and American Samoa.

(b) (1) No grant may be made under this section unless an application therefor has been submitted to and approved by, the Secretary of the Interior and the Secretary of Agriculture. Such application shall be in such form, and submitted in such manner, as the Secretaries shall jointly by Regulations prescribe and shall contain:

(A) Assurances satisfactory to the Secretaries that individuals employed under the project for which the application is submitted shall: (i) Have attained the age of fifteen but not attained the age of nineteen, (ii) be permanent residents of the United States or its territories, possessions, or Trust Territory of the Pacific Islands, (iii) be employed without regard to the personnel laws, rules, and regulations applicable to full-time employees of the applicant, (iv) be employed for a period not more than ninety days in any calendar year, and (v) be employed without regard to their sex or social, economic, or racial classification; and

(B) Such other information as the Secretaries may jointly by Regulation prescribe.

(2) The Secretaries may approve applications which they determine (A) meet the requirements of paragraph (1) and (B) are for

projects which will further the development, preservation, or maintenance of the non-Federal public lands or waters within the jurisdiction of the applicant.

(c) (1) The amount of any grant under this Section shall be determined jointly by the Secretaries, except that no grant for any project may exceed 80 per centum of the cost (as determined by the Secretaries) of such project.

(2) Payments under grants under this section may be made in advance or by way of reimbursements and at such intervals and on such conditions as the Secretaries find necessary.

(d) Thirty per centum of the sums appropriated under Section 6 for any fiscal year shall be made available for grants under this section for such fiscal year.

§ 26.5 Administrative requirements.

The following administrative requirements must be met: (a) Recruitment will be conducted in a manner designed to assure (1) a full opportunity for all America's youth to participate in the Youth Conservation Corps, and (2) specific outreach efforts to attract minority and disadvantaged youth. The grantee and sub-grantee will assure that the YCC program is open to all eligible youth from all parts of the State including urban and rural youth of both sexes and youth of all social, economic, racial, and ethnic classifications. A well-balanced YCC camp enrollment should also include representation of nonpublic school youth, the disadvantaged, and youth having quit school before graduation. The grantee will conduct, or will permit to be conducted, a selection system which will assure that applicants will be selected on a random basis, without bias because of race, creed, color, religion or National origin. To insure coeducational projects, stratification of applicants by sex, prior to selection, is required. To insure that the program will reach the largest number of youth, the grantee will assure that not more than 10 percent of the selected enrollees have been YCC enrollees in previous years and that all returnees shall be designated as youth leaders and paid an increment of at least \$1.50 per day above the normal wage.

(b) To the maximum extent practicable, enrollees should be selected from an area within one day's surface travel from their residence to a YCC camp.

(c) Capital outlays for facilities should be kept at a minimum. No grant is to be made for construction of residential facilities other than to provide temporary facilities and their necessary basic infrastructure and necessary renovation or modification of existing facilities.

(d) Operation of YCC projects during non-summer periods may be authorized by the Secretaries when it can clearly be demonstrated that enrollment will not interfere with the established educational systems.

(e) The enrollee is an employee of the grantee or sub-grantee. The enrollee pay plan must comply with Federal or State minimum wage laws whichever may be higher. To the maximum extent practicable, State YCC enrollees. Grantees will insure that enrollees are engaged in 40 hours of work-learning activities each week, 10 hours of which will be in environmental awareness. The Federal Gov-

ernment will cost share enrollee salary up to the equivalent of 30 hours per week.

(f) Grantees must provide for an effective accident control, health, and safety program. As a minimum, grantees shall follow U.S. Department of Labor Bulletin No. 101, "A Guide to Child Labor Provisions of the Fair Labor Standards Act."

(g) Grantees will have a financial management system which will provide the information called for in Attachment G of Federal Management Circular (FMC) 74-7.

(h) "Request for Advance or Reimbursement" as outlined in FMC 74-7 will be used to obtain an advance to start and/or maintain the program. It can also be used to obtain a reimbursement during or at the end of a project. An advance, not to exceed one month's needs may be made after approval of the grant application.

(i) Grantees will prepare a "Financial Status Report" required by FMC 74-7, Attachment H, item 3(a), twice for each operating year. These reports will be prepared on a cash basis using the same functional headings as those used in preparing Part II of the application for Federal Assistance. Instructions and forms will be supplied each grantee at the time of grant award. Grantees shall require similar reports from all sub-grantees and contractors to facilitate their own reporting to the grantor agencies. The two reports required of the grantee are:

(1) An "Interim Financial Status Report" prepared as of September 30 and mailed in time to reach the Secretaries by October 30 of each operating year.

(2) A "Final Financial Status Report" prepared as of December 31 of each operating year. This report will be forwarded in time to reach the Secretaries by March 31 of the following operating year.

(j) Allowable costs under the grant program are defined in FMC 74-7 and FMC 74-4.

(k) Records retention and custodial requirements for records are prescribed by Attachment C to FMC 74-7.

(l) Because of the short duration of each project, budget revisions normally should be unnecessary; however, if a budget revision becomes necessary, the grantee will be governed by Attachment K of FMC 74-7.

(m) Grantees shall comply with the provisions of Attachments N and O of FMC 74-7 in regard to nonexpendable personal property and procurement standards.

(n) The Secretaries or their designees shall periodically review the conduct of the program by the State.

(o) Grantees will supervise those projects in the State being administered by sub-grantees and contractors. Sub-grantees and contractors will be required to operate in accordance with the procedures outlined in these regulations and the grant agreement with the State. Periodic inspection of sub-grantee projects will be made by the grantee under the direction of the Program Agent or his designee. Grantees or sub-grantees

may contract with a qualified non-profit agency or organization for the operation of their YCC project.

(p) Grantees will meet the audit requirements of Attachment G to FMC 74-7 and will require the same of sub-grantees. Copies of audits will be made available to the Secretaries upon request.

(q) If the grantee fails to comply with the grant award stipulations, standards, or conditions, the Secretaries may jointly suspend the grant pending corrective action. Subsequent to or during any period of suspension of the grant, the Federal Government shall not be obligated to reimburse the grantee for any incurrence of obligations other than direct salaries of enrollees and then only for a period of time which both the Secretaries shall determine to be reasonable. In addition, the Secretaries may jointly terminate the grant. Termination shall be effected by a notice of termination. Upon receipt of a notice of termination, the grantee shall:

(1) Discontinue further commitments of grant funds.

(2) Cancel all subgrants or contracts, where possible, scheduled for payment with grant funds.

(3) Supply either of the Secretaries within 90 days after receipt of the notice of termination, a financial statement, along with a refund check for any unused portion of funds advanced, or request for reimbursement for allowable expenditures incurred in the grant program.

§ 26.6 Request for grant.

(a) Of the amount available for Youth Conservation Corps projects; 30 percent will be allocated for State projects. All States will be given an opportunity to participate in the program. Allocated funds not needed by a State will be re-allocated based on the merits of proposals submitted in accordance with paragraph (c) of this section or a preapplication in accordance with Attachment M of FMC 74-7. All proposed projects should be listed by priority. Grant funds are for State projects only. A grant to a State must be matched by the State for each project. Matching can consist of either direct expenditures or services of an in-kind nature.

(b) Pursuant to section 4(c) (1) of Pub. L. 93-408, States may receive grants up to but not to exceed 80 percent of the cost of funding any project from the Federal Government.

(c) Application for Federal Assistance (Standard Form 424) will be used by applicants in applying for grants under this program. Application forms will be supplied to Program Agents. Only a Program Agent may submit an application. A single grant application (Parts I, II, IV) must be submitted for the entire summer program within each State. Parts II, III and V are required for each project included in the grant application. A separate application must be used for non-summer projects. A non-summer project is defined as one which extends beyond October 1 or being prior to May 1.

(d) The Secretaries have designated individuals in each State who will jointly represent them. Grant applications (original and two copies) must be submitted to the designated representative of either Secretary. January 1 has been established as the deadline date for acceptance of applications for each operating year. Names and address of designated representatives will be furnished to each State. The Secretaries' representatives must jointly approve grant proposals. Approval or disapproval of proposals will be documented by a formal letter to the Program Agent. The Secretaries representatives will also be available for technical assistance and advice.

(1) Location of project (address and county).

(2) Distance to nearest town; name of town.

(3) Number of youth planned for project.

(4) Type of project (7-day residential, 5-day residential; nonresidential; other).

(5) Length of session (i.e., number of weeks) and proposed beginning and ending dates.

(6) Description of living conditions (types of facilities, age, condition, tents, cabins, dormitories).

(7) Project staff (number and position titles).

(8) Complete calculation for daily rate of enrollee pay including deduction for food and lodging (if any).

(9) Description of health and safety program.

(10) Description of enrollee and staff recruiting and selection systems including description of affirmative action measures to be taken to assure that minority and other disadvantaged persons receive equal opportunity and consideration.

(11) Description of the work-learning program including the types of work projects that will be available (an integrated environmental work-learning program is required wherever possible as determined by the Secretaries' representatives).

(12) States agreement to administer tests, conduct interviews, or otherwise assist the Federal Government in collecting data on the grant program. The data is to be used for the required report to the President and Congress in accomplishing the purposes of the Act. A statement to this effect must be written into the proposal by the applicant.

(d) Part IV (Assurances) is preprinted within Attachment M, FMC 74-7 and is to be included as part of the application. The following assurances are not preprinted and must be included by the grantee in the grant application:

(1) EPA required certification if the application is for \$100,000 or more (40 CFR 15):

The recipient certifies that: No owner or operator of a facility which he proposes to utilize in connection with this grant has been notified that the facility has been listed on the EPA list of violating facilities pursuant to the provisions of the EPA in 40 CFR, Part 15.20, and that this same certification will be obtained from sub-grantees or sub-contractors benefiting from this grant.

The grantee agrees that any facility which is utilized in the performance of this grant is not listed on the EPA list of violating facilities pursuant to 40 CFR, part 15.20. In the event the grantee fails to comply with clean air or water standards at such facilities, the grant may be canceled, terminated for default or suspended for such failure, in whole or in part, and the Government may refrain from further granting with the grantee.

The grantee agrees to comply with all the requirements of section 114 of the Air Act and section 308 of the Water Act relating to inspection, monitoring, entry, reports, and information as well as all other requirements specified in section 114 and section 308, respectively, and all regulations and guidelines issued thereunder.

§ 26.7 Application format and instructions.

Grant applications must be made using the Office of Management and Budget approved form (SF-424) entitled "Federal Assistance." General instructions for completing the form by part numbers follows. Specific instructions and requirements which must be followed are included in the Secretaries State Grant Procedures Handbook.

(a) Part I—SF-424 Cover Sheet, sections I and II shall be completed.

(b) Part II—(Budget Data) Lines 1-8 need not be used. However, the following information is needed relative to the YCC program. Please prepare a supplemental sheet using the following functional headings:

General.
Staff pay.
Enrollee pay.
Food.
Work project costs.
Travel and transportation.
Program direction.

A description of the items to be included under each of these functional headings are:

General. Include expenditures for: (1) Capital improvement (camp facilities and improvement), (2) other (medical, first aid expense, utilities, maintenance costs, recreation, all supplies not otherwise identified, training), (3) camp opening and closing costs.

Staff pay. Includes pay and benefits net any deductions made for meals and quarters furnished.

Enrollee pay. Includes pay and benefits of enrollees.

Food. Includes cost of food and related freight charges.

Work project costs. Safety equipment and work supplies and environmental awareness supplies and materials.

Travel and transportation. Includes transportation of enrollees and staff to and from project sites and both intrastate and interstate travel for purposes of program direction and training.

Program direction. Includes support services and program administration expenses at locations other than at projects. The total of the above categories should be entered on line 9 of Part II and the rest of Part II completed.

Indirect costs. Compute the appropriate allowance for indirect costs on line 15 and enter amount on line 10. Grantee must have an approved indirect cost rate applicable to the grant period. A copy of the approved indirect expense plan should be included in the grant application.

(c) Part III—Program narrative statement should include the following information:

The grantee agrees to promptly notify the awarding official of the receipt of any notice from the Director, Office of Federal Activities, Environmental Protection Agency, indicating that any facility utilized or to be utilized under the grant is under consideration for listing on the EPA list of violating facilities.

The grantee further agrees to insert, in any subgrant thereunder unless otherwise exempted pursuant to the EPA regulations implementing the Air or Water Acts (40 CFR, Part 15.5) provisions which shall include this statement. The grantee shall take such action as the Government may direct as a means of enforcing such provisions.

(2) The Federal/State cost sharing ratio established by the approval of this grant application shall remain in effect for the duration of the operating year, unless modified prior to December 31 in accordance with Attachment K to Federal Management Circular (FMC) 74-7.

(3) In a format prescribed by the Secretaries' representatives, the grantee agrees to provide by July 15, but not later than fourteen days following project opening, detailed information on the demographic characteristics of youths enrolled in the State grant program.

(e) Part V—A camp or project profile for each project must be submitted with the application.

§ 26.8 Program reporting requirements.

(a) Monitoring and reporting of program performance will be in accordance with Attachment I of FMC 74-7. Grantees will submit performance reports with the final financial status report to either of the Secretaries' representatives. This final performance report is due by March 30. An interim performance report is due not later than October 30. For non-summer projects, the final report is due 90 days after termination of the project. The performance report will include the number of youth enrolled in the project, number of weeks of camp operation, youth loss rate, value of work accomplished by resource category (for example, timber management, recreation, etc.), hours of youth work-learning experience by resource category and value of work supplies and materials by resource category.

(b) The reporting and/or recordkeeping requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

§ 26.9 Consideration and criteria for awarding grants.

The decision by both of the Secretaries' representatives on grants to individual States will consider the following:

(a) The amount of grant funds appropriated and available.

(b) The quality of the proposed program in terms of meeting program characteristics and objectives.

(c) The overall cost per enrollee eight-week position.

(d) Actual prior performance of the States in administering YCC projects.

(e) The performance of the grantee in meeting the conditions of the grant and the requirements of FMC 74-4 and FMC 74-7.

[FR Doc. 77-29192 Filed 10-4-77; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

EXTENSION OF TIMBER SALE CONTRACTS AND OTHER RELATED MATTERS

Forest Service Policy

AGENCY: Forest Service, USDA.

ACTION: Proposed policy.

SUMMARY: This is a Forest Service proposed policy on contract term extension, contract term adjustment and period of contract. The proposal includes Forest Service manual changes, revised timber sale contract provisions, and graphs to be used when the policy is implemented.

DATE: Comments must be received before November 4, 1977.

ADDRESS: Submit comments to Chief, John R. McGuire, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be available for public inspection in the Timber Management Staff, South Agriculture Building, Room 3207, Washington, D.C., during regular business hours.

FOR FURTHER INFORMATION, CONTACT:

George Leonard, Timber Management Staff, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, D.C. 20013, (202-447-4051).

SUPPLEMENTARY INFORMATION: This is a Forest Service proposed policy to revise the criteria for contract term extension and to make other less significant changes regarding contract term. The significant changes in extension policy are: (1) 75 percent of the volume must be removed rather than 50 percent; (2) Volume must be removed and presented for scaling to be counted toward the 75 percent requirement; and (3) the sale must have been operated in reasonable conformance with the plan of operations required by the National Forest Management Act of 1976.

The changes in matters other than extension criteria can be summarized briefly as: (1) Clarification of policy for granting contract term adjustment when other, distressed timber is in more urgent need of cutting; (2) criteria for extension in conjunction with an environmental modification and (3) revision of guidance to Forest officers on setting the original term of a contract.

The proposed Forest Service Manual changes are:

TITLE 2400—TIMBER MANAGEMENT

Revise 2433.12 to read:

2433.12—Contract term extension. A contract for harvesting National Forest timber clearly establishes an obligation on the part of the purchaser to complete the cutting and removal of all designated timber, as well as other contractual obligations, within the time limits specified in the contract. The Forest Service expects timber purchasers to meet this obligation.

1. Policy. Extensions of a contract term should be the exception rather than the rule and a timber purchaser is expected to complete all contractual obligations during the specified contract term. Failure on the part of the timber purchaser to harvest the timber within the specified time limits will result in termination of the timber sale contract unless the purchaser applies for and the Forest Service approves a contract term extension. If no extension is granted, the purchaser is liable for damages as set forth in the contract.

The contract contains certain stipulations which apply if the contract period is extended. Subject to those contract provisions, an extension of time may be granted by the officer approving the sale, his successor, or his superior, if the purchaser has diligently performed in accordance with contract provisions and the approved plan of operations, or if it is determined that the substantial overriding public interest justifies the extension. Except as discussed later in this section, contracts will be extended only when there is proper justification and termination is imminent.

(a) Criteria for determining diligent performance. To qualify for an extension of a sale sold prior to July 1, 1971, a purchaser should expect to have cut at least 50 percent of the advertised volume by the date of his application for extension and to have constructed sufficient specified roads to service at least 60 percent of the timber to be cut, including all roads which are planned or needed as access routes for other National Forest timber.

Unless there are other considerations advantageous to the United States, extension applications which fail to meet this standard will not be considered.

To qualify for an extension of a sale made on or after July 1, 1971, "but prior to January 1, 1978", all of the following conditions must be met by the purchaser:

(1) At least 50 percent of the advertised volume must have been cut and removed from the sale area;

(2) Specified roads needed by the purchaser (a) to remove the timber har-

vested to date and (b) those specified roads which are needed to permit planned, orderly development of future sales and which were identified in the prospectus, have been accepted under B6.35. Where possible it is desirable to announce those roads to which this latter requirement will apply prior to advertisement.

(3) All contractual requirements, such as snag felling, erosion control and slash disposal, have been accepted on the area cutover except for areas where logging is currently in progress. Purchaser's burning of current slash may be waived as a prerequisite for extension, if weather conditions or other considerations, have precluded burning.

A decision not to grant an extension when the above conditions are met will be made only when the extension would result in intolerable resource management or protection problems, or cause environmental damage, which cannot be corrected or prevented by contract modification.

"Timber sale contracts for sales made on or after January 1, 1978, shall authorize contract term extensions only if the purchaser has met the following conditions, unless the Chief finds that there is an overriding public interest which justifies the extension.

1. Specified roads needed by the Purchaser for removal of all included timber in accordance with his approved plan of operations were constructed and accepted by the Forest Service prior to the applicable road completion date.

2. At least 75 percent of the advertised volume has been cut, removed from the sale area, and presented for scaling.

3. Operations to date have been in reasonable compliance with contract terms and the approved plan of operations.

4. Contractual requirements, such as snag felling, erosion control, and slash disposal, have been accepted on the area cutover, except for areas where logging is currently in progress. Purchaser's burning of current slash or grass seeding of disturbed areas may be waived as a prerequisite for extension, if weather conditions or other factors have delayed these activities.

A decision not to grant an extension when the above criteria are met will be made only when the extension would result in intolerable resource management or protection problems, or cause environmental damage which cannot be corrected or prevented by contract modification.

(b) Waiver of extension criteria. Wood product markets are highly volatile with wide fluctuations in price and demand. These fluctuations are normally in re-

sponse to major changes in the Nation's economy, such as expansion or contraction of the housing market. Individual timber sale purchasers can exercise little control over such market changes, yet the changes can have significant impacts on industry-wide production and the individual purchaser's ability to successfully market products produced from National Forest timber.

The terms of most timber sales are long enough to provide the purchaser with flexibility to respond to normal fluctuations in market conditions. There are, however, occasional drastic reductions in market demand which can preclude successful operation of relatively short-term sales (contract period two years or less). It is not in the public interest to force uneconomic operation of such sales nor to allow such sales to be defaulted. Therefore, contracts for sales of two years or less sold after January 1, 1978, shall authorize waiver of the extension criteria set forth above when the Chief determines that a drastic decline in industry-wide production has occurred which has seriously affected markets for products expected to be produced.

In order to provide an equitable basis to reflect such situations, the timber management staff in the Washington Office will maintain data to monitor and identify when rapid and significant production declines occur. Quarterly average production rates and rolling four-quarter averages will be maintained for major forest product commodities. The Chief will notify Regional Foresters that extension criteria may be waived for short-term sales whenever the quarterly average production drops 15 percent or more below the four-quarter average or if the quarterly average drops ten percent or more below the rolling four-quarter average and remains below for two or more quarters. The above criteria notwithstanding, the Chief may authorize extensions of a timber sale contract when he determines such action is justified by a substantial overriding public interest (36 CFR 223.8).

(c) Extension in conjunction with modification of contract to prevent environmental or resource damage. When a modification (2433.23) of contract to prevent environmental or resource damage cannot be executed prior to the start of an ensuing operating period, and purchaser's timber harvest operations on the timber involved in the modification are delayed, an extension of the contract term may be necessary. The following guidelines are established for determining the period of contract extension.

1. Consider all factors relating to the harvest of the timber involved in the environmental modification including the timber involved in procurement, scheduling, move-in, and use of equipment (types) other than that contemplated in the original sale. If the "final" modification is executed after the mid-way date of a normal logging season, disregard the remainder of that logging season in establishing the time needed

to harvest the timber involved in the environmental modification.

2. The period time for harvest of the timber volume involved in the contract modification to prevent environmental or resource damage must recognize any changes in harvest methods which could reduce production rates used to establish the original contract term. Estimate the rate of production for the harvest methods specified in the modification, volumes to be cut per acre, road construction needed, and any other variables affecting the establishment of a logical contract period.

3. Estimated production rates for the volume involved in the environmental modification and other considerations included in Item No. 2 above will be used to calculate the time needed to complete the harvest of the timber involved in the modification.

4. Using the period of time calculated in No. 3 above, determine if there is sufficient time remaining under the original contract term to harvest the timber involved in the environmental modification. If not, extend the contract term to fully provide for the changed conditions of the modified sale and any time lost by the purchaser while the Forest Service was preparing the modification. In estimating the time required to complete the sale it is advisable to consult the Purchaser.

(d) Early extensions. Even though the termination date is not imminent, "early extension" may be granted when appropriate, whether or not the above conditions have been met. An early extension may be granted only when the approving officer determines that it is in the interest of the United States to permit a purchaser to interrupt or reduce operations on National Forest timber so that he may log other timber which is more urgently in need of harvesting, for example, salvage of fire-killed or insect-threatened timber. When the purchaser cannot operate the subject National Forest timber at the rate required to complete the contract by the termination date, and at the same time operate the other timber that is more urgently in need of harvesting, additional time may be granted for operating the subject National Forest timber. An extension may be executed at the time operations are initiated on the timber more urgently needing cutting.

When the timber more urgently in need of cutting is National Forest timber, an early extension need be processed only for sales on contract form 2400-2. Such an extension should be granted only where the intent to do so has been stated in the prospectus for the timber in more urgent need of harvesting. For sales on forms 2400-5 and 2400-6, contract term adjustments may be granted (FSM 2433.11).

When other than National Forest timber is more urgently in need of harvesting the early extension procedure must be followed regardless of contract form.

(1) Restrictions. Extensions to permit harvesting of other than National Forest timber should be granted only when:

(a) Substantial timber quantities or values are involved.

(b) In the case of other public timber the managing agency has requested Forest Service cooperation, or

(c) In the case of private timber, when failure to harvest it promptly will result in significant resource loss or create a threat of an insect epidemic.

(d) The purchaser presents an acceptable "plan of operations" for completing the sale to be extended.

Good judgement is required in determining the proper lengths of early extensions to avoid either excessive or inadequate periods.

Where indicated by the facts, it is reasonable to provide some slack time in the extension period to cover unforeseen difficulties, such as slower production or greater volume than expected. Because specific situations vary widely, no hard and fast rules can be applied. The purchaser's plan of operations should be used as a guide.

(2) Procedure for urgent removal sales. During the sale preparation phase of sales requiring urgent removal, a decision must be made of whether or not early extension or contract term adjustment on other sales will be granted to operators who purchase the sales. If the decision is to grant such extensions, the prospectus for such sales should clearly state that such extensions may be granted and in addition should state:

(a) The specific geographic area which will be considered for granting extensions on existing sales.

(b) That a showing of impact on existing sales is a prerequisite to granting early extension.

(c) Specific classes of sales (such as salvage sales) which will not be considered for early extension.

(d) That the number of days of contract term adjustment or early extension a purchaser may expect to be granted will be calculated on a case by case basis and will reflect the time lost in logging the salvage sales.

The specific sales to be extended and the time granted should be agreed upon as soon after bidding as possible. To expedite this process the award letter to successful bidders (except for bidders with no existing sales) would contain a paragraph similar to the following:

"As stated in the prospectus for this sale, we are willing to consider early extension or contract term adjustment on green sales to allow time for logging the timber in this sale which is in urgent need of removal. To qualify for these extensions you must submit your request for adjustments within 30 days of receipt of this letter. The request should list which sales you want extended, the number of days requested by sale, and how the existing sales would be impacted by logging this sale."

When the logger has submitted his list of sales, they will be checked against the criteria listed in the prospectus. If they meet these criteria the early extension (or contract term adjustment) will normally be granted unless there is clear

NOTICES

evidence that there will be no impact from the urgent removal cutting. If there are sales on the list which do not qualify, the purchaser should be advised promptly and asked to revise his list accordingly. It is highly desirable that the early extensions be granted prior to the commencement of logging on sales involving timber in urgent need of removal.

As indicated above, a showing of impact on existing sales must be made. However, impacts should not be limited to physical limitations on log storage, or physical moving of men and equipment. Transfers of capital, inventory limitations established for fiscal purposes, and similar indirect impacts should also be considered.

2451.82—Period of contract (B8.2, A19). Add the following to replace the material following the first two paragraphs in FSM:

Regional Foresters will provide guidelines to assure reasonable consistency in establishment of contract lengths. The guidelines should recognize the need for variation in sale periods to reflect differences in factors such as required road construction, climate, and special operating requirements.

Contract periods will be established with consideration of the size and type of offering. Contract periods should provide time for well planned operations by typical operators within the local area. Sale periods must provide adequate time for completion of logging and other contractual obligations after construction of specified roads by the Forest Service, should the bidder so elect. Contract lengths should be set with recognition that an adequate volume of timber under contract is essential to provide the purchaser a basis for financing his operation, planning his timber supply needs, and reasonable flexibility to respond to market fluctuations. On the other hand, a continuous flow of National Forest timber onto the market is desirable, and sale periods should not be so long as to encourage speculative buying.

Guidelines adopted by Regional Foresters should recognize that variation from established guides may be appropriate in the following circumstances:

1. Additional time should be considered for such special requirements or condi-

tions as extensive road construction, special logging systems, the need to avoid peak recreation periods, and requirements for time-consuming work, such as yarding unutilized material. Some sales are well suited for winter or early spring logging. Consideration should be given to allowing additional seasons for these sales in order to make operable area available when other areas may be closed. Additional operating seasons may also be necessary for high elevation sales with abnormally short operating seasons. Sales where construction of access road is not by purchaser should be withheld from sale until access is ensured rather than establishing a longer period of contract.

2. Shorter sale periods should be considered for salvage sales to minimized timber deterioration or sales when prompt removal is necessary to prevent the spread of insects. Shorter sale periods may also be appropriate when necessary to meet clearing deadlines in connection with development projects. When shorter sale periods are established, potential bidders shall be apprised of this condition in the prospectus.

3. Sales of products for which markets are not assured, such as pulpwood, bolts, or poles, should be given special consideration.

4. Sales in heavily competitive areas which do not require road construction should generally be of shorter duration than sales requiring road construction.

The following are proposed National C Provisions to be added to new timber sale contracts.

C8.231—Conditions for contract term extensions (Proposed). Forest Service may grant Purchaser's written request for Contract Term Extension if all of the following conditions have been met by Purchaser at time of Purchaser's request:

(a) At least 75 percent of estimated volume in A2 has been cut, removed from Sale Area, and presented for scaling.

(b) Specified Roads needed by Purchaser for removal of all Included Timber.

ber in accordance with his approved plan of operations under C6.3 were constructed and accepted by Forest Service prior to the applicable road completion date shown in C5.101.

(c) Purchaser's Operations to date have been in reasonable compliance with

contract terms and the approved plan of operations under C6.3.

(d) All contractual requirements have been met by Purchaser and accepted by Forest Service on area cutover at time of Purchaser's request except for areas where logging is in progress at time of Purchaser's request. Purchaser's burning of current slash, or seeding or planting for erosion control, may be temporarily waived if weather or other considerations make such work currently impractical.

Instructions: Use in all new 2400-6 contracts.

CT8.231—Conditions for Contract Term Extension (Proposed). Forest Service may grant Purchaser's written request for Contract Term Extension if all of the following conditions have been met by Purchaser at time of Purchaser's request:

(a) At least 75 percent of estimated volume in AT2 has been cut, paid for and removed from Sale Area.

(b) Specified Roads needed by Purchaser for removal of all Included Timber in accordance with his approved plan of operations under CT6.3 were constructed and accepted by Forest Service prior to the applicable road completion date shown in CT5.101.

(c) Purchaser's Operations to date have been in reasonable compliance with contract terms and the approved plan of operations under CT6.3.

(d) All contractual requirements have been met by Purchaser and accepted by Forest Service on area cutover at time of Purchaser's request amount for area.

of Purchaser's request except for area where logging is in progress at time of Purchaser's request. Purchaser's burning of current slash, or seeding or planting for erosion control, may be temporarily

Instructions: Use in all new 2400-67

Instructions: Use in all new 2400-6 contracts.

Following is a copy of graphs referred to in FSM 2433.12(1) (b).

M. RUPERT CUTLER,
Assistant Secretary.

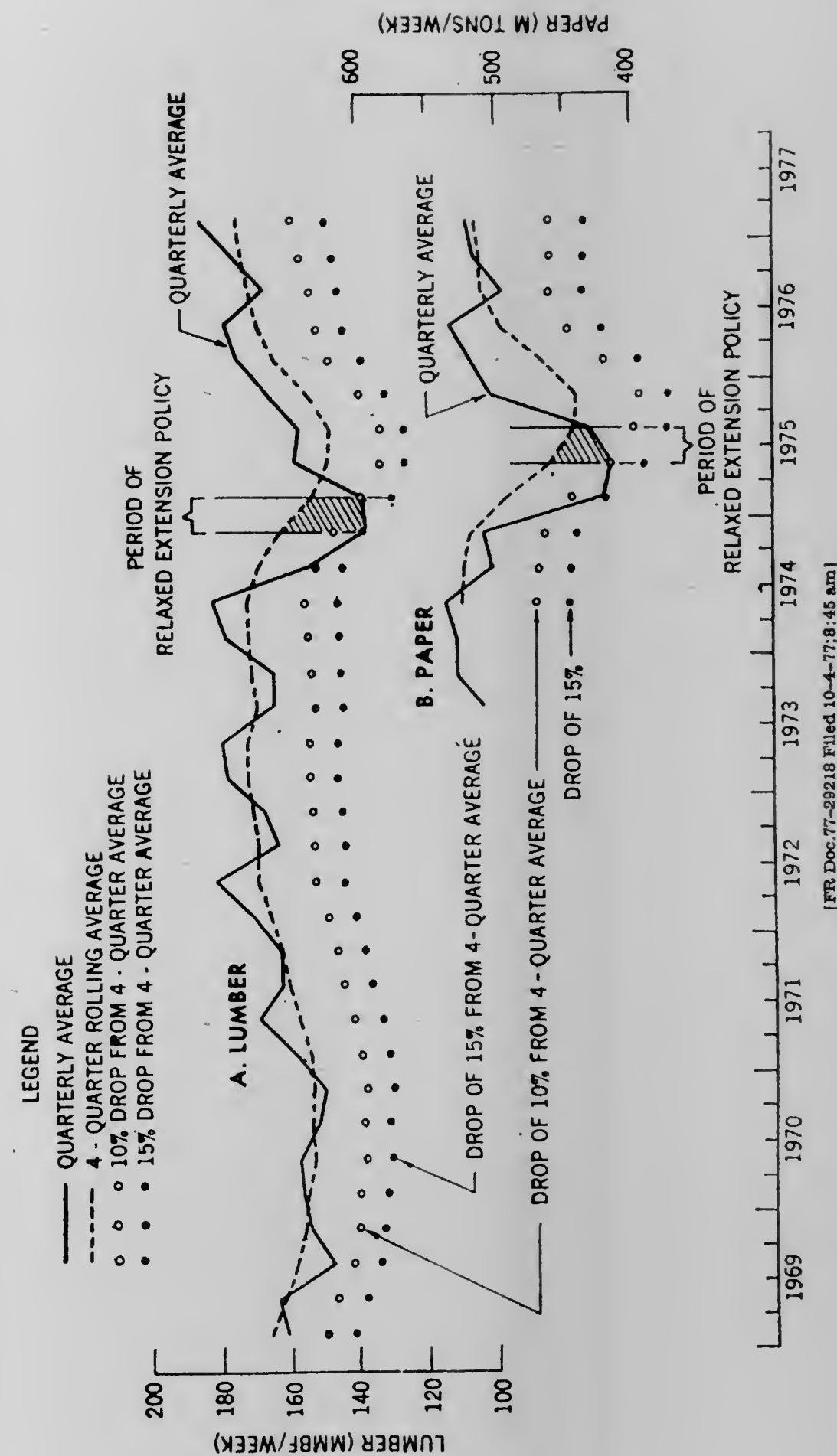
SEPTEMBER 29, 1977.

Exhibit 1

AVERAGE WEEKLY PRODUCTION RATES 1969 - 1977

A. LUMBER (COAST & INLAND MILLS) (WWPA)

B. PAPER (A.P.I.)



JFR Doc.77-29218 Filed 10-4-77;8:45 am]

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[3510-12]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
Administration
SPORTSMANReceipt of Application for Certificate of
Exemption

Notice is hereby given that the following applicant has applied in due and timely form for a Certificate of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicant:

The Sportsman, 184 Pierce St., Birmingham, Mich. 48011.

Period of exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States; (ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of commercial activity any such species part; (iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products consisting of 14 jewelry items, one carved whale tooth and seven items carved from slices of whale teeth.

Written comments on this application may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before November 4, 1977.

Dated: September 30, 1977.

MORRIS M. PALLIZZI,
Acting Associate Director
for Fisheries Management.

[FR Doc.77-29263 Filed 10-4-77; 8:45 am]

[3510-12]

TWENTIETH CENTURY-FOX
MARINELAND, INC.

Modification of Permit

Notice is hereby given that, pursuant to the provisions of § 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), the Public Display Permit issued to Twentieth Century-Fox Marineland, Inc., 6600 Palos Verdes Drive South, Rancho Palos Verdes, California 90274, is modified in the following manner:

The period of validity, during which the authorized marine mammal may be taken,

is extended from December 31, 1977, to December 31, 1978.

This modification is effective on October 5, 1977.

The Permit, as modified, and documentation pertaining to the modification is available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven St. NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry St., Terminal Island, Calif. 90731.

Dated: September 19, 1977.

WINFRED H. MEIBOHM,
Associate Director.

National Marine Fisheries Service.

[FR Doc.77-29261 Filed 10-4-77; 8:45 am]

[3510-04]

National Technical Information Service
GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for \$5.00 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for \$3.50 (\$7.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPLnumber. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent application 758,879: Fusible Heat Sink for a Cryogenic Refrigerator; filed January 12, 1977.

Patent 4,005,144: Ethynyl-Substituted Aromatic Ortho Diamines and Method of Synthesis. Filed April 9, 1976, patented January 25, 1977; not available NTIS.

Patent 4,005,327: Low Beam Velocity Retina for Schottky Infrared Vidicons; filed October 28, 1975, patented January 25, 1977, not available NTIS.

Patent 4,005,366: System to Simulate Motion and Plasma Induced Signal Variations from Reentry Vehicles; filed August 18, 1975, patented January 25, 1977; not available NTIS.

Patent 4,005,378: Surface Acoustic Wave Filter; filed November 25, 1975, patented January 25, 1977; not available NTIS.

Patent 4,005,399: Impedance Sensitive Power Line Intrusion Alarm System; filed February 14, 1975, patented January 25, 1977; not available NTIS.

U.S. ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION, Assistant General Counsel for Patents, Washington, D.C. 20545.

Patent 3,957,031: Light Collectors in Cylindrical Geometry; filed May 29, 1975, patented May 18, 1976; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 712,416: Polymer-Bound Metalocarbonyl Catalyst; filed August 6, 1976.

Patent application 736,902: Photometric Method and Apparatus for Measuring Packing Fraction of Terminated Fiber Optic Cables; filed October 29, 1976.

Patent application 737,807: On Line Electro-Optic Modulator; filed November 1, 1976.

Patent application 747,590: Low-Loss Single Filament Fiber Optic Connector; filed December 6, 1976.

Patent application 749,935: Desensitizer for N-Propyl Nitrate; filed December 13, 1976.

Patent application 753,646: Microstrip Hybrid Ring Coupler; filed December 20, 1976.

Patent application 756,575: Method and Means of Link Coupling with Separate Control of Link Reactance and Coupling Coefficient; filed January 3, 1977.

Patent application 757,429: Fourier Power Spectra of Optical Images using CCD's; filed January 6, 1977.

Patent application 758,624: Complex Photo-dichroic Spatial Filter; filed January 12, 1977.

Patent application 759,970: Non-Linear Analog-to-Digital Converter; filed January 17, 1977.

Patent application 761,749: A Method of Manufacturing Three Dimensional Integrated Circuits; filed January 23, 1977.

Patent 3,893,332: Leakage Test System; filed February 21, 1974, patented July 8, 1975; not available NTIS.

Patent 3,913,107: Noise Cancelling Magnetic Antenna for Use with Watercraft; filed September 6, 1974, patented October 14, 1975; not available NTIS.

Patent 3,938,888: Automated Precision Flame-Emission Photometric Apparatus; filed February 3, 1975, patented February 17, 1976; not available NTIS.

Patent 3,958,176: Method for Measuring Suitability of Aluminum for Use in Certain Propellants; filed February 24, 1975, patented May 18, 1976; not available NTIS.

Patent 3,961,169: Based-Bit Generator; filed March 25, 1975, patented June 1, 1976; not available NTIS.

Patent 3,963,310: Liquid Crystal Waveguide; filed August 20, 1973, patented June 15, 1976; not available NTIS.

Patent 3,968,126: Ferrocene Derivatives and Their Preparation; filed March 22, 1974, patented July 8, 1976; not available NTIS.

Patent 3,976,596: Hydridometallic Carbonyl Catalytic Compounds; filed March 26, 1975; patented August 24, 1976; not available NTIS.

Patent 3,983,832: Planing Ski Conversion to Stand-Off Armor; filed July 18, 1975, patented October 5, 1976; not available NTIS.

Patent 3,988,682: Voltage Ramp Temperature Controller; filed June 23, 1975, patented October 26, 1976; not available NTIS.

Patent 3,988,778: System for Random, Time Accurate Access to Recorded Material; filed February 10, 1975, patented October 26, 1976; not available NTIS.

Patent 3,938,888: Filter; Cooler; filed June 14, 1974, patented November 2, 1976; not available NTIS.

Patent 3,992,683: Optically Pumped Collision Laser in Hg at 546.1 NM; filed May 28, 1976, patented November 16, 1976; not available NTIS.

Patent 3,994,696: Aluminum Soap Demisting Agent in Jet Fuel; filed May 22, 1975; patented November 30, 1976; not available NTIS.

Patent 3,995,155: Integrated Optical Data Bus Coupler; filed June 6, 1975; patented November 30, 1976; not available NTIS.

Patent 3,995,311: Optical Logic Elements; filed September 22, 1975; patented November 30, 1976; not available NTIS.

Patent 3,995,957: Internally Referenced, Laser Intracavity Technique for Measuring Small Gains or Losses; filed October 16, 1975; patented December 7, 1976; not available NTIS.

Patent 3,996,484: Interactive Negative Resistance Multiple-Stable State Device; filed September 5, 1975; patented December 7, 1976; not available NTIS.

Patent 3,996,525: Acousto-Optically Tuned Laser; filed May 12, 1975; patented December 7, 1976; not available NTIS.

Patent 3,999,083: Automatic Threshold Circuit; filed March 31, 1975; patented December 21, 1976; not available NTIS.

Patent 3,999,301: Reticule-Lens System; filed July 24, 1975; patented December 28, 1976; not available NTIS.

Patent 4,001,726: High Accuracy Sweep Oscillator System; filed January 23, 1976; patented January 4, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20548.

Patent application 658,487: Improved Nozzle for Use with Abrasive and/or Corrosive Materials; filed February 17, 1976.

Patent application 760,771: Improved Back-wall Cell; filed January 19, 1977.

Patent application 767,912: Preparation of Dielectric Coatings of Variable Dielectric Constant by Plasma Polymerization; filed February 11, 1977.

Patent application 776,869: Solar Cell Collector and Method for Producing Same; filed February 22, 1977.

Patent 3,999,886: Hingeless Helicopter Rotor with Improved Stability; patented December 28, 1976; not available NTIS.

Patent 4,000,929: Magnetic Bearing System; patented January 4, 1977; not available NTIS.

Patent 4,005,574: Reverse Pitch Fan with Divided Splitter; patented February 1, 1977; not available NTIS.

[FR Doc.77-29242 Filed 10-4-77; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS
Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents

and Trademarks, Washington, D.C. 20231, for \$5.00 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for \$3.50 (\$7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPLnumber. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF THE AIR FORCE, AF/JACP, Washington, D.C. 20314.

Patent 4,005,363: Range Resolving Ground Line Sensor; filed October 22, 1974; patented January 25, 1977; not available NTIS.

Patent 4,005,414: Method for Providing Means to Eliminate Ambiguous Polarization Effects on Phase and Amplitude of Radar Backscatter Due to Unknown Target Aspect Angle; filed June 24, 1975; patented January 25, 1977; not available NTIS.

U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, General Services Division, Federal Bldg., Agricultural Research Service, Hyattsville, Md. 20782.

Patent 4,002,769: Insect Maturation Inhibitors; filed August 1, 1975; patented January 11, 1977; not available NTIS.

U.S. ENVIRONMENTAL PROTECTION AGENCY, Room W513, 401 M St., SW., Washington, D.C. 20460.

Patent 3,857,777: Ion Exchange Membrane for Measuring Orthophosphate; filed August 10, 1973; patented December 31, 1974; not available NTIS.

Patent 3,994,822: Polarization Excitation Device for X-Ray Fluorescence Analysis; filed September 30, 1974; patented March 16, 1976; not available NTIS.

Patent 3,948,769: Ligand Exchange Process for Removal of Ammonia; filed April 8, 1974; patented April 6, 1976; not available NTIS.

Patent 3,966,431: Waste Stone Oxidation and Recarbonization; filed February 21, 1975; patented June 29, 1976; not available NTIS.

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, National Institutes of Health, Chief, Patent Branch, Westwood Bldg., Bethesda, Md. 20014.

Patent application 734,129: Homocysteine Thiolactone Perchlorate and a Method of Making Same; filed October 20, 1976.

U.S. DEPARTMENT OF THE INTERIOR, Branch of Patents, 18th and C Streets, NW., Washington, D.C. 20240.

Patent application 738,201: Preparation and Use of High Surface Area Transition Metal Catalysts; filed November 3, 1976.

Patent application 749,583: Beneficiation of Olivine Foundry Sand by Differential Attrition Grinding; December 12, 1976.

Patent application 749,586: Foam Injection Leaching Process for Fragmented Ore; filed December 10, 1976.

Patent 4,002,428: Deductive Method for Measuring Ion Concentration Electrically; filed May 21, 1976; patented January 11, 1977; not available NTIS.

Patent 4,002,975: Electro-Optic Measurement of Voltage on High-Voltage Power Lines; filed February 26, 1976; patented January 11, 1977; not available NTIS.

U.S. DEPARTMENT OF THE NAVY, Assistant Chief for Patents, Office of Naval Research, Code 302, Arlington, Va. 22217.

Patent application 734,833: Diving Helmet Breech Ring Connection; filed October 22, 1976.

Patent application 747,461: Sealant-Primer Coating; filed December 13, 1976.

Patent application 750,087: Prosthetic Implant Suitable for the Plateau of a Joint, and Method of Making the Same; filed December 13, 1976.

Patent application 751,308: Soft abrasive disc; filed December 16, 1976.

Patent application 761,189: Means for Sensitizing Liquid Explosives Abstract of the Disclosure; filed January 21, 1977.

Patent 3,937,951: All-Sky Photoelectric Lightning Detector Apparatus; filed December 9, 1974; patented February 10, 1976; not available NTIS.

Patent 3,961,964: Coating Composition for Suppressing Combustion of Titanium Metal; filed October 24, 1973; patented June 8, 1976; not available NTIS.

Patent 3,989,792: Method for Fabricating a Consumable Cartridge, Casing; filed April 1, 1974, patented November 2, 1976; not available NTIS.

Patent 3,992,976: Liquid Propellant Gun; filed September 12, 1975; patented November 23, 1976; not available NTIS.

Patent 3,992,997: Warhead Casing; filed March 31, 1975; patented November 23, 1976; not available NTIS.

Patent 3,992,998: Warhead, Penetrating Nose Shape; filed February 10, 1975; patented November 23, 1976; not available NTIS.

Patent 3,994,231: Guided Missile Warhead Fuze; filed December 8, 1971; patented November 30, 1976; not available NTIS.

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Patent 3,998,408: Remote Elevated Platform; filed February 19, 1976; patented December 21, 1976; not available NTIS.

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TENNESSEE VALLEY AUTHORITY, Division of Law, Muscle Shoals, Ala. 35660.

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 Patent application 772,165: Simulator for Practicing the Mating of an Observer-Controlled Object with a Target; filed February 25, 1977.
 Patent application 772,167: Device for the Detection of Phenol and Related Compounds; filed February 25, 1977.
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[3510-04]

GOVERNMENT-OWNED INVENTIONS Availability for Licensing

The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for \$5.00 each. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for \$3.50 (\$7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPLnumber. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made

available to serious prospective licensees by the agency which filed the case. Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, OFFICE OF JUDGE ADVOCATE GENERAL, PATENT DIVISION, ROOM 2C-455, PENTAGON, WASHINGTON, D.C. 20310.

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[FR Doc. 77-29244 Filed 10-4-77 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS Availability for Licensing

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Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Virginia 22161 for \$3.50 (\$7.00 outside North American Continent). Requests for copies of patent applications must include the PAT-APPLnumber. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an

interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, OFFICE OF JUDGE ADVOCATE GENERAL, PATENT DIVISION, ROOM 2C-455, PENTAGON, WASHINGTON, D.C. 20310.

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[3510-04]

GOVERNMENT-OWNED INVENTIONS Availability for Licensing

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Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161 for \$3.50 (\$7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPLnumber. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

Requests for licensing information on a particular invention should be directed to the address cited for the agency-sponsor.

DOUGLAS J. CAMPION,
Patent Program Coordinator,
National Technical Information Service.

U.S. DEPARTMENT OF THE ARMY, Office of Judge Advocate General, Patent Division, Room 2C-455, Pentagon, Washington, D.C. 20310.

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U.S. DEPARTMENT OF THE AIR FORCE AF JACP, Washington, D.C. 20314.

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U.S. DEPARTMENT OF AGRICULTURE, Research Agreements and Patent Management Branch, General Services Division, Federal Building, Agricultural Research Service, Hyattsville, Md. 20782.

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[FR Doc. 77-29246 Filed 10-4-77; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS

Availability for Licensing

The inventions listed below are owned by the U.S. Government and are avail-

able for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for \$0.50. Requests for copies of patents must include the patent number.

Copies of the patent applications can be purchased from the National Technical Information Service (NTIS), Springfield, Va. 22161, for \$3.50 (\$7 outside North American Continent). Requests for copies of patent applications must include the PAT-APPL number. Claims are deleted from patent application copies sold to the public to avoid premature disclosure in the event of an interference before the Patent and Trademark Office. Claims and other technical data will usually be made available to serious prospective licensees by the agency which filed the case.

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Patent Program Coordinator,
National Technical Information Service.

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 [FR Doc.77-29247 Filed 10-4-77; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS
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The inventions listed below are owned by the U.S. Government and are available for domestic and possibly foreign licensing in accordance with the licensing policies of the agency-sponsors.

Copies of the patents cited are available from the Commissioner of Patents and Trademarks, Washington, D.C. 20231, for \$5.00 each. Requests for copies of patents must include the patent number.

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Requests for licensing information on a particular invention should be directed

to the address cited for the agency-sponsor.

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Patent Program Coordinator,
National Technical Information Service.

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[FR Doc.77-29248 Filed 10-4-77; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS
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Patent Program Coordinator,
National Technical Information Service.

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 [FR Doc 77 29249 Filed 10-4-77; 8:45 am]

[3510-04]

GOVERNMENT-OWNED INVENTIONS
Availability for Licensing

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of patents must include the patent number.

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Patent Program Coordinator,
National Technical Information Service.

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Patent application 743,723: 2,2,7,8-Tetraazaspiro (4,4) nonane, 2,3,7,8-Tetraazaspiro-(4,4) nona-2,7-diene and Derivatives; filed November 22, 1976.

Patent application 747,453: Particulate Sampling Probe; filed December 3, 1976.

Patent application 761,831: Improved Chirped Acousto-Optic & Switch; filed January 24, 1977.

Patent application 770,332: Gradient Index Miniature Coupling Lens and Method of Fabrication; filed February 22, 1977.

Patent application 771,041: Doppler Processing Method and Apparatus; filed February 22, 1977.

Patent application 771,715: Knife Edge for Direct Measurement of the Electron Beam of a Scanning Electron Microscope; filed February 24, 1977.

Patent application 772,221: Strobe Light Having Reduced Electromagnetic Radiation; filed February 25, 1977.

Patent application 774,285: Hydro-Optic Vibration Detector; filed March 4, 1977.

Patent application 774,366: Liquid Propellant Guns; filed March 30, 1977.

Patent application 778,910: Fast Two Dimensional Fourier Transform Device; filed March 30, 1977.

Patent application 781,243: Integrated Refractive Effects Prediction System; filed March 25, 1977.

Patent application 781,278: Desensitizing Agent for Compositions Containing Crystalline High-Energy Nitrates or Nitrites; filed March 25, 1977.

Patent 3,983,470: Superconducting Apparatus for Generating High Frequency Microwaves; filed August 20, 1975; patented September 28, 1976; not available NTIS.

Patent 4,002,353: Towing Vehicle having a Cart-Hitching Mechanism; filed August 27, 1975; patented January 11, 1977; not available NTIS.

Patent 4,005,927: Broad Bandwidth Optical Modulator and Switch; filed March 10, 1975; patented February 1, 1977; not available NTIS.

Patent 4,006,597: Method for Microwave Transmission Energy with Superconducting Apparatus; filed June 3, 1976; patented February 8, 1977.

Patent 4,007,688: Timed Missile Flight Termination System; filed February 23, 1976; patented February 15, 1977; not available NTIS.

Patent 4,007,700: Multiple Seafloor Storage and Supply System; filed October 28, 1975; patented February 15, 1977; not available NTIS.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION, Assistant General Counsel for Patent Matters, NASA Code GP-2, Washington, D.C. 20546.

Patent application 692,284: Durable Antistatic Coating for Polymethylmethacrylate; filed June 3, 1976.

Patent application 786,322: A System for Synchronizing Synthesizers of Communication Systems; filed April 11, 1977.

Patent application 788,045: Thermal Insulation Protection Means; filed April 15, 1977.

Patent Application 788,704: Volumetric Direct Nuclear Pumped Laser; filed April 19, 1977.

Patent application 788,705: Nondestructive Method for Instrumenting Helicopter Rotor Blades; filed April 19, 1977.

Patent application 792,067: Composite Lamination Method; filed April 28, 1977.

Patent 3,635,573: Adjustable Chamfering Tool; patented January 18, 1972; not available NTIS.

Patent 4,018,080: Device for Tensioning Test Specimens within an Hermetically Sealed Chamber; patented April 19, 1977; not available NTIS.

Patent 4,018,085: Amplifying Ribbon Extensometer; patented April 19, 1977; not available NTIS.

Patent 4,018,533: Optical Instrument Employing Reticle Having Preselected Visual Response Pattern Formed Thereon; patented April 19, 1977; not available NTIS.

Patent 4,019,179: Method of Locating Persons in Distress; patented April 19, 1977; not available NTIS.

[FR Doc.77-29250 Filed 10-4-77; 8:45 am]

[6170-01]

ENERGY RESEARCH AND
DEVELOPMENT ADMINISTRATION
RETRANSFER AND REPROCESSING OF
SPECIAL NUCLEAR MATERIAL OF U.S.
ORIGIN

Denial of Petition for Rulemaking

On March 28, 1977 (42 FR 16466), ERDA gave notice that it had received a Petition for Rulemaking styled as follows: "In the Matter of Approvals for Retransfer and Reprocessing of Special Nuclear Material of United States Origin." The petitioners are Natural Resources Defense Council, Inc., Union of Concerned Scientists, Friends of the Earth (United Kingdom) Ltd., and Les Amis de la Terre. By letter dated August 31, 1977 ERDA denied the Petition. Copies of the letter denying the petition are available for inspection at ERDA's Public Document Room, 20 Massachusetts Avenue, N.W., Washington, D.C.

HUDSON B. RAGAN,
Acting General Counsel.

[FR Doc.77-29269 Filed 10-4-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION
AGENCY

[FRL 801-7; OPP-50331]

MISSISSIPPI AUTHORITY FOR CONTROL
OF FIRE ANTSIssuance of Experimental Use Permit and
Solicitation of Public Views

The Environmental Protection Agency (EPA) has issued two experimental use permits to the Mississippi Authority for Control of Fire Ants, Jackson, Mississippi 39025. These permits are in accordance with, and subject to, the provisions of 40 CFR Part 172, which defines EPA procedures with respect to the use of pesticides for experimental purposes.

Experimental Use Permit No. 38962-EUP-1 allows the use of 0.5 pound of the insecticide dodecachlorooctahydro-1,3,4-metheno-2H-cyclobuta (cd) pentalene (0.05 Mirex Bait 10-5) on clear cut forest areas to evaluate control of imported fire ants. A total of 1,000 acres is involved; the program is authorized only in the State of Mississippi. The experimental use permit is effective from

September 2, 1977 to December 31, 1977.

Experimental Use Permit No. 38962-EUP-2 allows the use of approximately 11 pounds of the insecticide dodecachlorooctahydro-1,3,4-metheno-2H-cyclobuta (cd) pentalene (Ferriamicide Bait) on infested clear cut forest areas to evaluate control of imported fire ants. A total of 5,500 acres is involved; the program is authorized only in the States of Florida and Mississippi. The experimental use permit is effective from September 2, 1977 to October 1, 1978.

The Mississippi Authority for the Control of Fire Ants is the holder of all registrations for Mirex end-use products. With EPA acceptance of its phase-out plan on December 29, 1976, all registered Mirex formulations will be effectively cancelled by December 1, 1977, and all existing stocks of registered Mirex formulations within the United States will not be sold or distributed or used after June 30, 1978.

On August 10, 1977, the Mississippi Authority for Control of Fire Ants requested experimental use permits to use a 0.05% Mirex bait and a 0.025 to 0.1% Ferriamicide Bait (degradable Mirex). The purpose of the program for the 0.5% Mirex bait (No. 38962-EUP-1) is to obtain efficacy data on the reduced concentration of Mirex formulation, a comparison of 0.05% active ingredient with the registered 0.1% active ingredient formulation. The purpose of the 0.025 to 0.1% Mirex bait (No. 38962-EUP-2) is to determine the efficacy of this degradable Mirex bait formulation and to investigate the bioaccumulation and rate of degradation in the environment.

In light of the Mississippi Authority Plan mentioned above to end all uses of registered Mirex formulations by June 30, 1978, loss of this season's testing would take away the only mechanism with which to gather data necessary to support any new registration requests in time for possible use in the 1978 season. Since Mirex formulations may be used through June 30, 1978, the newly approved use of the 0.05% formulation on 1,000 acres from September through December 1977 and of the Ferriamicide formulation from September 1977 through September 1978 should not increase any possible adverse effect on the environment. Further, the program for the degradable Mirex bait will create data which will enable a determination of the fate of this new compound in the environment to be made.

The Agency is soliciting public comment now rather than prior to issuance of the permits since timing of application was critical to the gathering of data this season.

All interested parties are invited to submit written comments pertinent to these experimental use permits. Comments should be forwarded to the Federal Register Section, Room E-401, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, 401 M Street, S.W., Washington, D.C. 20460.

Three copies of the comments should be submitted to facilitate the work of the Agency and others interested in inspecting the submissions. The comments must be received on or before November 4, 1977, and should bear the identifying notation OPP-50331.

All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. during normal working days.

Interested parties wishing to review the experimental use permits are referred to Room E-315, Registration Division (WH-567), Office of Pesticide Programs, EPA, at the same address mentioned above. It is suggested that such interested persons call 202-755-4854 before visiting the EPA Headquarters Office, so that the appropriate permits may be made conveniently available for review purposes. These files will be available for inspection from 8:30 a.m. to 4:00 p.m. Monday through Friday.

Dated: September 29, 1977.

DOUGLAS D. CAMP,
Acting Director,
Registration Division.

[FR Doc.77-29281 Filed 10-4-77; 8:45 am]

[6560-01]

[FRL 801-8]

SCIENCE ADVISORY BOARD EXECUTIVE
COMMITTEE

Open Meeting

As required by Pub. L. 92-463, notice is hereby given that a meeting of the Executive Committee of the Environmental Protection Agency's Science Advisory Board will be held beginning at 9 a.m., October 25 and 26, in Room 1101 (West Tower), U.S. Environmental Protection Agency, Waterside Mall, 401 M Street S.W., Washington, D.C.

This meeting is a regularly scheduled meeting of the Committee. The Committee will be briefed on selected EPA activities and the activities and reports of other Science Advisory Board Committees; discuss the report of the Study Group on encapsulated pesticides, an approach for the Science Advisory Board to provide advice on anticipatory research for the next budget cycle, approaches for improving the peer review of ORD programs, the formation of a subcommittee to provide the advice required by the Clean Air Act Amendments, the SAB review of Air and Water Monitoring Strategies; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend or submit a paper should contact Dr. Richard M. Dowd, Executive Secretary, of the Executive Committee, 202-755-0263, by c.o.b. October 19, 1977.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board

SEPTEMBER 29, 1977.

[FR Doc.77-29282 Filed 10-4-77; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS
COMMISSIONPURAC TASK AREA ON TECHNICAL
STANDARDS

Meeting

In preparation for the next meeting of the Personal Use Radio Advisory Committee (PURAC), the PURAC Task Area investigating technical standards will meet October 19, 1977 at 9 a.m. in room A110 of the offices of the Federal Communications Commission at 1229 20th Street N.W., Washington, D.C. 20554.

The agenda for the meeting will be to discuss the task's progress in preparing its fact finding report for presentation to the full PURAC.

This meeting is open to the public. Individuals seeking further information about the task area or the meeting should contact the Task Coordinator, Mr. Howard L. Lester, of the General Electric Company, Research and Development Center, P.O. Box 43, Schenectady, New York 12301 (518-385-4043).

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc 77-29238 Filed 10-1-77; 8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR
MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

EXECUTIVE COMMITTEE MEETING

TUESDAY, OCTOBER 18, 1977

The next Executive Committee meeting will be on Tuesday, October 18, 1977, in Conference Room 847, 1919 M Street NW., Washington, D.C. at 9:30 a.m.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of Minutes of Executive Committee meetings.
4. Committee Reports.
5. Approval of new Membership Applications.
6. Administrative Action Items.
7. Approval of Terms of Reference revision for SC-71, "VHF Automated Radiotelephone Systems."
8. Approval of establishment of SC-72, "Numerical Identification of Stations in Maritime Telecommunications Systems."
9. Discussion and approvals for 1978 Assembly Meeting.
10. Summary Reports and Announcements.
11. New business.
12. Establishment of next meeting date.

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and

an actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of a meeting. Those planning to attend a meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for a meeting will be available at the meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. Phone 202-632-6490.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees, and a Special Committee final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc 77-29239 Filed 10-4-77; 8:45 am]

[6712-01]

RADIO TECHNICAL COMMISSION FOR
MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

Secretariat note: In addition to the October meetings listed below, notices of the following October meetings already have been published in the FEDERAL REGISTER.

Special Committee No. 70, "Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment," Thursday, October 6, 10 a.m., Conference Room (Second floor), U.S. Coast Guard Marine Inspection Office, Battery Park Building, Battery Park at South Ferry, New York, N.Y.

RTCM Executive Committee, Tuesday, October 18, 9:30 a.m., Room 847, 1919 M Street NW., Washington, D.C.

SC-65 SHIP RADAR
WASHINGTON, D.C.

Wednesday, October 19, 1977

Members of Special Committee No. 65, "Ship Radar," notice of 58th meeting, Wednesday, October 19, 1977—1:30 p.m., Conference Room 8210, 2025 M Street NW., Washington, D.C.

Agenda for SC-65 Committee Meeting appears later in this notice. SC-65 Working Group schedule. To be held at 2025 M Street NW., Washington, D.C.

Working group	Room	Date	Time
Basic Radar	8210	Oct. 19	9:30 a.m.

If other Working Group meetings are scheduled, Group Members will be notified.

NOTE.—Meeting Room location is subject to change. Check at Room 8210 first.

AGENDA

1. Call to Order; Chairman's Report; Adoption of Agenda.
2. Acceptance of SC-65 Summary Records; Appointment of Rapporteur.
3. Progress Report of Basic Radar Working Group.
4. Report of recent Executive Committee action on SC-65 papers.
5. Mini-meeting of: (a) CAWG on Evaluation; (b) REWG on Reliability.
6. Other business.
7. Establishment of next meeting date. (Proposed November 16, 1977).

Irvin Hurwitz, Chairman, SC-65, Federal Communications Commission, Washington, D.C. 20554. Phone: 202-632-7197.

Special Committee No. 72, "Numerical Identification of Stations in Maritime Telecommunications Systems," notice of 1st meeting, Wednesday, October 19, 1977—9:30 a.m. (full-day meeting), Conference Room 7327, 2025 M Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Appointment of Secretary.
3. Adoption of Agenda.
4. Discussion on Terms of Reference.
5. Review of Timetable.
6. Discussion of Preliminary Views.
7. Discussion of Work Assignments.
8. Other Business.
9. Establishment of Meeting Schedule. (Next meeting: Friday, October 28, 1977)

Francis K. Williams, Chairman, SC-72, Federal Communications Commission, Washington, D.C. 20554. Phone: 202-632-7054.

Special Committee No. 66, "Receiver Standards for the Maritime Mobile Service," notice of 43rd meeting, Thursday, October 20—9:30 a.m. (all-day meeting), Conference Room A-205, 1229 20th Street N.W., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Adoption of Agenda; Appointment of Rapporteur.
3. Acceptance of SC-66 Summary Record.
4. Continue preparation of MMS R-5, Standard for "General Purpose Marine Receivers."
5. Discussion of problem areas.
6. Solicitation of work assignments.
7. Other business.
8. Establishment of next meeting date.

H. R. Smith, Chairman, SC-66, ITT Mackay Marine, 441 U.S. Highway No. 1, Elizabeth, N.J. 07202. Phone: 201-527-0300.

Special Committee No. 71, "VHF Automated Radiotelephone Systems," notice of fourth meeting, Friday, October 21, 1977, 10 a.m. (full-day meeting), Conference Room A-110, 1229 20th Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of SC-71 Summary Record.
4. Morning Session (10:00 a.m.—11:45 a.m.), Afternoon Session (1:45 p.m.—3:45 p.m.); Presentation and discussion of proposals offered for Committee consideration.
5. Other business.
6. Establishment of next meeting date.

John J. Renner, Chairman, Advanced Technology Systems, Inc., 2425 Wilson Blvd., Arlington, Va. 22201. Phone: 703-525-2664.

SC-72, Numerical Identification of Stations in Maritime Telecommunications Systems, Friday, October 28, 1977—9:30 a.m., Conference Room 7327, 2025 M Street NW., Washington, D.C.

NOTE.—Meeting Room location is subject to change. Check at Room 7327 first.

AGENDA

1. Call to Order.
2. Introduction of Attendees; Appointment of Secretary.
3. Adoption of Agenda.
4. Discussion on Terms of Reference.
5. Review of Timetable.
6. Discussion of Preliminary Views.
7. Discussion of Work assignments.
8. Other Business.
9. Establishment of Meeting Schedule.

Francis K. Williams, Chairman, SC-72, Federal Communications Commission, Washington, D.C. 20554. Phone: 202-632-7054.

To comply with the advance notice requirements of Public Law 92-463, a comparatively long interval of time occurs between publication of this notice and an actual meeting. Consequently, there is no absolute certainty that the listed meeting room will be available on the day of a meeting. Those planning to attend a meeting should report to the room listed in the notice. If a room substitution has been made, the new meeting room location will be posted at the room listed in this notice.

Agendas, working papers, and other appropriate documentation for a meeting will be available at the meeting. Those desiring more specific information may contact either the designated Chairman or the RTCM Secretariat. Phone 202-632-6490.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. Problems are studied by Special Committees, and a Special Committee final report is approved by the RTCM Executive Committee. All RTCM meetings are open to the public. Written statements are preferred but by previous arrangement, oral presentations will be permitted within time and space limitations.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc 77-29260 Filed 10-4-77; 8:45 am]

[6715-01]

FEDERAL ELECTION COMMISSION

[Notice 1977-50, AOR 1977-49]

ADVISORY OPINION REQUEST

Pursuant to 2 U.S.C. 437f(c) and the procedures reflected in Part 112 of the Commission's regulations, published on August 25, 1976 (41 FR 35954), Advisory Opinion Request 1977-49 has been made public at the Commission. Copies of AOR 1977-49 were made available on September

ber 28, 1977. These copies of the advisory opinion request were made available for public inspection and purchase at the Federal Election Commission, Public Records Division, at 1325 K Street NW., Washington, D.C. 20463.

Interested persons may submit written comments on any advisory opinion request within ten days after the date the request was made public at the Commission. These comments should be directed to the Office of General Counsel, Advisory Opinion Section, at the Commission. Persons requiring additional time in which to respond to any advisory opinion requests will normally be granted such time upon written request to the Commission. All timely comments received by the Commission will be considered before the Commission issues an advisory opinion. Comments on pending requests should refer to the specific AOR number of the requests and statutory references should be to the United States Code citations rather than to the Public Law citations.

A descriptive listing of the request recently made public as well as the identification of the requesting party follows hereafter:

AOR 1977-49: The Kerr-McGee Corp. Political Action Committee (K-M PAC) requests an advisory opinion on several issues:

(1) May corporate employees who participate in Kerr-McGee's Savings Investment Plan be regarded as stockholders and thus solicitable under 2 U.S.C. § 441b and Part 114 of the Commission's regulations?

(2) Is a bank which holds Kerr-McGee stock as a fiduciary thereby precluded from functioning as custodian and independent mailing service for K-M PAC under the twice-yearly solicitation provisions of 2 U.S.C. § 441b(b)(4)(B) and § 114.6 of the regulations?

(3) If K-M PAC solicits only employees of Kerr-McGee, is it required to make the names and addresses of stockholders available for political contribution solicitations by a labor organization?

(4) Is Kerr-McGee entitled to receive from a labor organization reimbursement of costs in making computer produced labels available for a labor organization's contribution solicitations?

(5) If labor organization is required to bear costs of using independent mailing service for distributing its solicitation materials, but cannot reach agreement on price terms, would the lack of agreement, and hence non-use of service by labor organization, preclude K-M PAC from using the service for its mailing?

(6) In view of K-M PAC's decision not to solicit employees (or stockholders) who are or may be foreign nationals may Kerr-McGee nevertheless be required to make addresses of such persons available to an independent mailing service for purposes of labor organization solicitations under 2 U.S.C. § 441b(b)(4)(B) and § 114.6 of the regulations?

(7) May solicitation materials used by K-M PAC inform the recipients that 2 U.S.C. § 441b permits a labor organization to solicit political contributions from Kerr-McGee personnel and that one or more labor organizations have indicated their intent to make such a solicitation?

(8) Are both the local of an international union and the international union itself separate labor organizations for purposes of 2 U.S.C. § 441b if both are signatories to a labor agreement?

(9) May those labor organizations, which do not agree on a twice yearly joint written solicitation with others representing Kerr-McGee employees, solicit political contributions (under the twice yearly provisions) on their own behalf to their own separate segregated funds.

Requested by Robert H. Walsh on behalf of the Kerr-McGee Corp. Political Action Committee, Oklahoma City, Okla.

Dated: September 29, 1977.

THOMAS E. HARRIS,
Chairman for the
Federal Election Commission.

[FR Doc 77-29212 Filed 10-4-77; 8:45 am]

[3128-01]

FEDERAL ENERGY
ADMINISTRATIONGASOLINE MARKETING ADVISORY
COMMITTEE

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Gasoline Marketing Advisory Committee will meet Friday, November 4, 1977, 10 a.m., in the Williamsburg Room, Olympic Hotel, Seattle, Wash.

The Committee was established to provide the Administrator, FEA, with expert and technical advice concerning the wholesale and retail selling of gasoline. The agenda for the meetings is as follows:

1. Old business—Discussion of requests and commitments from the previous committee meeting.
2. Gasoline decontrol—Standby mechanism.
3. Gasoline trigger data.
4. Refiner-supplier direct marketing (white paper).
5. Implementation of the National Energy Act: Impact on marketing segments.
6. Gasoline rationing.
7. New business—Items for discussion at the next meeting.
8. Remarks from the floor (10 minute rule).

A subcommittee meeting will be held Thursday, November 3, 1977, at 2 p.m. in the Colonial Room, Olympic Hotel, Seattle, Wash., to discuss and make recommendations to the parent committee concerning agenda items.

The meetings are open to the public. The Chairman of the Committee or subcommittee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee or subcommittee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning these meetings may be obtained from the Ad-

visory Committee Management Office. Transcripts of the meetings will be available for public review at the Freedom of Information Public Reading Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.
[FR Doc. 77-29291 Filed 10-3-77; 8:45 am]

[3128-01]

FUEL OIL MARKETING ADVISORY
COMMITTEE
Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that the Fuel Oil Marketing Advisory Committee will meet Monday, December 5, 1977, at 10 a.m., at the Fairmont Hotel, atop Nob Hill, San Francisco, Calif.

The Committee was established to provide the Administrator, FEA, with expert and technical advice concerning the trade of selling fuel oil.

The agenda for the meeting is as follows:

1. Old business—Discussion of requests and commitments from previous committee meeting.
2. Strategic storage of product in the regions.
3. Emergency planning for upcoming heating season (coal and rail deliveries of coal will be linked together).
4. Monitoring program—FEA data collection.
5. Synthetic natural gas plants—FEA policy.
6. Heating oil distribution—Pullouts and contracts.
7. Heat pumps as a renewable resource.
8. New business—Items for discussion at the next meeting.
9. Remarks from the floor (10 minute rule).

The meeting is open to the public. The Chairman of the Committee is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Committee will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Georgia Hildreth, Acting Director, Advisory Committee Management, 202-566-9996, at least 5 days prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Further information concerning this meeting may be obtained from the Advisory Committee Management Office.

The transcript of the meeting will be available for public review at the Freedom of Information Public Reading

Room, Room 2107, FEA, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.
[FR Doc. 77-29292 Filed 10-3-77; 8:45 am]

[3128-01]

STATE ENERGY CONSERVATION PLANS
Negative Determination of Environmental
Impact, American Samoa Energy Con-
servation Plan

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the provision of Federal financial assistance for the implementation, by American Samoa, of its State Energy Conservation Plan. Federal funding is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon assessment of environmental impacts that are expected to result from implementation of this plan, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for this plan.

Single copies of the environmental assessment of the State Plan for American Samoa are available upon request from the FEA National Energy Information Center, Room 1404, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

A copy of the State Plan is available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessment to Executive Communication, Box PZ, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—American Samoa Energy Conservation Plan." Fif-

teen copies should be submitted. All comments should be received by FEA by 4:30 p.m. e.d.s.t., October 28, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.
[FR Doc. 77-29293 Filed 10-3-77; 8:45 am]

[3128-01]

SUPPLEMENTAL STATE ENERGY
CONSERVATION PLANSNegative Determination of Environmental
Impact, Supplemental State Energy Con-
servation Plans

Pursuant to 10 CFR 208.4, the Federal Energy Administration hereby gives notice that it has performed an analysis and review of the environmental impacts associated with the Supplemental State Energy Conservation Program. Federal funding for plans submitted under this program is authorized by Part C of Title III of the Energy Policy and Conservation Act, 42 U.S.C. 6321, et seq.

Based upon an assessment of environmental impacts that are expected to result from implementation of these plans, the FEA has determined that Federal financial assistance will not be a "major Federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C). Therefore, pursuant to 10 CFR 208.4(c), the Federal Energy Administration has determined that an environmental impact statement is not required for these plans.

Single copies of the environmental assessment of the Supplemental State Plans are available upon request from the FEA National Energy Information Center, Room 1406, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Copies of the environmental assessment will also be available for public review in the Federal Energy Administration Information Access Reading Room, Room 2107, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Copies of the State Plans are available for public review in the Office of State Energy Conservation Programs, Room 6437, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461.

Interested persons are invited to submit data, views or arguments with respect to the environmental assessment to Executive Communication, Box PY, Room 3317, Federal Energy Administration, Washington, D.C. 20461.

Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Environmental Assessment—Supplemental State Energy Conservation Plans." Fifteen copies should be submitted. All comments should be received by FEA by 4:30 p.m., October 26, 1977, in order to receive full consideration.

Any information or data considered by the person submitting it to be confidential must be so identified and submitted in one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.
[FR Doc. 77-29294 Filed 10-3-77; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION
CONTINENTAL NORTH ATLANTIC
WESTBOUND FREIGHT CONFERENCE

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 25, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:
Mr. R. J. Finn, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, La. 70130.

Agreement No. 10312, between the above-named parties, is a stevedoring contract whereby Lykes engages Carolina Shipping Company to perform stevedoring services for Lykes' vessels at the port of Charleston, S.C., in accordance with the terms, conditions and to the extent set forth in the agreement.

Howard A. Levy, Esq., Suite 727, 17 Battery Place, New York, N.Y. 10004.

Agreement No. 8210-38 states that the Conference shall appoint a resident representative in the United States who may be the Chairman or other official of the North Atlantic Continental Freight Conference. The resident representative shall perform functions delegated to him by the Chairman such as attending and/or chairing meetings and implementing shippers' requests and complaints procedures adopted in the United States.

By Order of the Federal Maritime Commission.

Dated: September 30, 1977.

FRANCIS C. HURNEY,
Secretary.
[FR Doc. 77-29295 Filed 10-4-77; 8:45 am]

[6730-01]

LYKES BROTHERS STEAMSHIP CO.,
INC., AND CAROLINA SHIPPING CO.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, N.W., Room 10126; or may inspect the agreement at the field offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 25, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the Commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce. A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:
Mr. R. J. Finn, Pricing Analyst, Lykes Bros. Steamship Co., Inc., 300 Poydras Street, New Orleans, La. 70130.

Agreement No. 10312, between the above-named parties, is a stevedoring contract whereby Lykes engages Carolina Shipping Company to perform stevedoring services for Lykes' vessels at the port of Charleston, S.C., in accordance with the terms, conditions and to the extent set forth in the agreement.

By order of the Federal Maritime Commission.

Dated: September 29, 1977.

FRANCIS C. HURNEY,
Secretary.
[FR Doc. 77-29296 Filed 10-4-77; 8:45 am]

[6730-01]

[Docket No. 77-51]

MATSON NAVIGATION CO.; GENERAL IN-
CREASE IN RATES IN THE U.S. MAIN-
LAND/GUAM TRADE

Order of Investigation

Effective September 29, 1977, Matson Navigation Co. (Matson) proposes to increase its ocean freight rates and charges between West Coast, Hawaii, and Guam Ports (the trade) by 5 percent. The increases were filed with the Commission on August 16, 1977, and were accompanied by supporting financial and operating data pursuant to Commission General Order No. 11, 46 CFR 512.

A protest and petition for suspension and investigation was received relative to the reasonableness of Matson's proposed increase from the Government of Guam (Guam). Generally, Guam contends that the proposed increase is not cost justified and that its implementation would inflict severe economic consequences upon Guam and its citizens and requests that the Commission suspend the proposed increase and initiate an appropriate investigation.

United States Lines, Inc. (USL), Matson's competitor in the trade, filed a similar 5 percent increase simultaneously with Matson. The Commission believes that USL may be earning an excessive rate of return and therefore has ordered the increase of USL suspended and investigated. That investigation may result in a Commission order prescribing the maximum rate level to be charged by USL. Historically, the rate levels maintained by USL and Matson have remained at parity for competitive reasons. Therefore, any order affecting the rate level of USL will probably affect Matson as well. Accordingly, we believe that the revenue requirements of Matson must be considered in determining the level of rates which will, in all probability, be charged by both carriers in the trade.

Now, therefore, it is ordered, That, pursuant to the authority of sections 18 (a) and 22 of the Shipping Act, 1916, as amended, and section 4 of the Intercoastal Shipping Act, 1933, an investigation is hereby instituted into the lawfulness of the tariff matter listed in Supplement No. 4 to Matson Tariff FMC-F No. 152 for the purpose of making such findings as the facts and circumstances warrant;

It is further ordered, That this investigation determine whether the gross revenue to be derived from the proposed rate changes is just and reasonable. Evidence as to the effect of the proposed

changes on the movement of any particular commodity or commodities will be considered relevant to this basic issue and may be used to determine what overall revenue will, in fact, be derived. However the question of reasonableness of any particular commodity rate is not an issue for determination in this proceeding. A particular rate will be affected by an order that may result from this proceeding only insofar as a finding is made regarding the reasonableness of the overall rate level of which the particular rate is a part.

It is further ordered. That shippers or other persons complaining about the level of any particular commodity rate may file a complaint pursuant to section 22 of the Shipping Act, 1916 (46 U.S.C. 821) and litigate the issue of reasonableness of such rate with respect to cost of service, value, and service and any other applicable ratemaking factors. They may also petition for leave to intervene in this proceeding provided that they will not broaden the issue described above and that they meet the other tests prescribed by Rule 72 of the Commission's Rules of Practice and Procedure, 46 CFR 502.27.

It is further ordered. That during the pendency of this investigation, Matson will serve the presiding officer and all parties of record with notice of any tariff changes affecting any of the ten leading commodities as reported pursuant to 46 CFR 512.25 at the same time such changes are filed with the Commission.

It is further ordered. That this proceeding be assigned for public hearing before an Administrative Law Judge of the Commission's Office of Administrative Law Judges and that the hearing be held at a date and place to be determined by the Presiding Administrative Law Judge, but in any event, the hearing date shall be set no later than March 28, 1978.

The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

It is further ordered. That (1) a copy of this order be forthwith served upon the respondent and upon the Commission's Bureau of Hearing Counsel and published in the FEDERAL REGISTER, and (2) the respondent and Hearing Counsel be duly served with notice of time and place of hearing.

All persons (including individuals, corporations, associations, firms, partnerships, and public bodies) having an interest in this proceeding and desiring to intervene herein should notify the Secretary of the Commission promptly and file petitions for leave to intervene in accordance with Rule 72 of the Commis-

sion's Rules of Practice and Procedure (46 CFR 502.72) with a copy to all parties to the proceeding.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29267 Filed 10-4-77; 8:45 am]

[6730-01]

[Docket No. 77-50]

NORTH CAROLINA STATE PORTS AUTHORITY, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, LOCAL 1426, INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO, LOCAL 1426-A, WAREHOUSEMEN v. DART CONTAINERLINE CO., LTD.

Notice of Filing of Complaint

SEPTEMBER 29, 1977.

Notice is hereby given that a complaint filed by North Carolina State Ports Authority, International Longshoremen's Association, AFL-CIO, Local 1426, International Longshoremen's Association, AFL-CIO, Local 1426-A, Warehousemen against Dart Containerline Co., Ltd., was served September 29, 1977. Complainants allege that respondent is diverting or attempting to divert cargo by the absorption of inland transportation costs from the Port of Wilmington, N.C., to other ports, in a manner unlawful and illegal under sections 16 and 17 of the Shipping Act, 1916, and section 8 of the Merchant Marine Act of 1920.

Hearing in this matter, if any is held, shall commence on or before March 28, 1978. The hearing shall include oral testimony and cross examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statement, affidavits, depositions, or other documents or that the nature of the matters in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29268 Filed 10-4-77; 8:45 am]

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

NATIONAL DIRECT STUDENT LOAN; COLLEGE WORK-STUDY, SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANTS

Approved List of Need Analysis Systems

AGENCY: Office of Education, HEW.

ACTION: Notice of approved need analysis systems.

SUMMARY: The Office of Education announces the list of approved need analysis systems for use by institutions of higher education in making awards

to students during the academic year 1978-79 under the National Direct Student Loan, College Work-Study, and Supplemental Educational Opportunity Grants Programs.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Hubert S. Shaw, Chief, Program Development Branch, Division of Student Financial Aid, Bureau of Student Financial Assistance, 400 Maryland Avenue SW., Washington, D.C. 20202 (202-245-9717).

SUPPLEMENTARY INFORMATION:

General. Section 144.13 of the National Direct Student Loan Program Regulations (45 CFR 144.13), § 175.13 of the College Work-Study Program Regulations (45 CFR 175.13), and § 176.13 of the Supplemental Educational Opportunity Grant Program Regulations (45 CFR 176.13) approve the use of certain need analysis systems and methods of determining expected family contributions for dependent and independent students, and set forth procedures for an annual review and approval by the Commissioner of other need analysis systems for use in those programs. In order to be approved for dependent students the latter systems must generate expected parental contributions for at least 75 percent of the sample cases which are within \$50 of the benchmark figures published by the Commissioner for those cases. The benchmark figures for the 1978-79 academic year were published in the FEDERAL REGISTER of June 30, 1977 (42 FR 33290). For independent students, a system that was not specifically included in the regulations must produce expected family contributions which are comparable to those produced by one of the systems specified in subparagraph (c)(1) of each section. An annual review of systems for independent students is not required.

The approved systems are:

1. Dependent students only—
 - (a) The Income Tax System.
 2. Dependent and independent students—
 - (a) The method of calculating expected family contributions used in the Basic Educational Opportunity Grant Program (45 CFR 190);
 - (b) The system of need analysis published by the College Scholarship Service;
 - (c) The system of need analysis published by the American College Testing Program;
 - (d) The need analysis service published by the Graduate and Professional Student Financial Aid Service;
 - (e) The system of need analysis published by Financial Analysis Service Inc., a division of Donley, Richardson and Associates;
 - (f) The system of need analysis published by Student Assistance Financial Evaluation, a program of Information and Communications, Inc.;

(g) The system of need analysis published by Student Aid Management, a program of Education Methods, Inc.;

(h) The system of need analysis published by the Illinois State Scholarship Commission;

(i) The system of need analysis published by Functional Solutions, Inc.;

(j) The system of need analysis published by Monroe, The Calculator Co.; and

(k) The system of need analysis published by J. S. Jones and Associates.

(20 U.S.C. 1087ad, 42 U.S.C. 2754, and 20 U.S.C. 1070b-1 and 1070b-2.)

(Catalog of Federal Domestic Assistance No. 13.418, Supplemental Educational Opportunity Grant Program; 13.463, College Work-Study Program; and 13.471, National Direct Student Loan Program.)

Dated: September 29, 1977.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc.77-29181 Filed 10-4-77; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

NATIONAL FISH AND WILDLIFE HEALTH LABORATORY

Meeting

Notice is hereby given that a public meeting will be held by the Fish and Wildlife Service on Thursday, October 6, 1977, at 7:30 p.m., in the Lecture Hall of the Madison Memorial High School located at Mineral Point and Gamman Road in Madison, Wis.

The purpose of this meeting will be to explain the acquisition and renovation of the existing Ansel Laboratory facilities at 6006 Schroeder Road, Madison, Wis., for use by the National Fish and Wildlife Health Laboratory. Interested persons are invited to attend, appear, and present written statements at the time of the meeting.

Dated: September 29, 1977.

MILTON FRIEND,
Director, National Fish and Wildlife Health Laboratory.

[FR Doc.77-29357 Filed 10-4-77; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[Order No. 749-77]

PRIVACY ACT OF 1974

Notice of System of Records

Notice is hereby given that pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a) the Department of Justice proposes to add a new subsystem of records entitled the "Application and petition system" of records to the Immigration and Naturalization Service Index System JUSTICE/INS-001 which was published in the FEDERAL REGISTER on March 21, 1977 (42 FR 15349).

JUSTICE INS-001 has been revised and is reprinted below in its entirety to include the changes associated with the addition of this subsystem and to describe more accurately the record-keeping practices of the Immigration and Naturalization Service (INS). For the convenience of the reader, the changes relating to the added subsystem have been underscored. Finally, the notice reflects the addition of three locations for the maintenance of INS records: Glynnco, Ga.; Oklahoma City, Okla.; and Louisville, Ky.; and the redesignation of a sub-office at Dallas, Tex. as a district office.

A report of the proposed subsystem has been provided to the President of the Senate, the Speaker of the House of Representatives, the Office of Management and Budget, and the Privacy Protection Study Commission.

Interested persons are invited to submit written comments concerning the routine uses applicable to this subsystem. Comments should be mailed by November 4, 1977 to the Office of Administrative Counsel, Office of Management and Finance, Department of Justice, Washington, D.C. 20530. Comments received will be available for inspection in Room 1266, Main Department of Justice Building, 10th and Constitution Avenue NW., Washington, D.C.

Dated: September 26, 1977.

GRIFFIN B. BELL,
Attorney General.

JUSTICE/INS-001

System name:

The Immigration and Naturalization Service Index System, which consists of the following subsystems:

- A. Agency information control record index.
- B. Alien address reports index and records.
- C. Alien enemy index and records.
- D. Automobile decal parking identification system for employees.
- E. Centralized index and records (Master Index).
- F. Congressional Mail Unit correspondence control index.
- G. Document vendors and alterers index.
- H. Enforcement indexes.
 1. *Group one.* (a) Contact index. (b) Informant index. (c) Anti-smuggling index (general). (d) Criminal, immoral, narcotic, racketeer, and subversive index. (e) Suspect third party index.
 2. *Group two.* (a) Air detail office index. (b) Anti-smuggling information centers, Canadian and Mexican borders. (c) Border Patrol Academy index. (d) Border Patrol sectors general index. (e) Fraudulent Document Center index.
 3. Enforcement correspondence control index.
 1. Examinations indexes.
 1. Application and petition system.
 2. Correspondence control index.
 3. Service lookout system.
 - J. Extension training program enrollees.

K. Finance Section indexes.

1. Accounts with creditors.

2. Accounts with debtors.

L. Freedom of Information correspondence control index.

M. Intelligence indexes.

N. Microfilmed manifest records.

O. Naturalization and citizenship indexes.

1. Naturalization and citizenship docket cards.

2. Examiners docket lists of petitioners for naturalization.

3. Master docket list of petitions for naturalization pending one year or more.

P. Personnel investigations index and records.

Q. Property issued to employees.

R. Security access clearance index.

S. White House and Attorney General correspondence control index.

T. Health record system.

U. Personal data card system.

V. Compassionate cases system.

W. Emergency reassignment index.

X. Alien documentation, identification and telecommunications (ADIT) system.

System location:

A. Central Office: 425 Eye Street NW., Washington, D.C. 20536.

B. Regional Offices: (1) Burlington, Vt.; (2) Fort Snelling, Twin Cities, Minn.; (3) Dallas, Tex.; (4) San Pedro, Calif.

C. District offices in the United States:

(1) Anchorage, Alaska; (2) Atlanta, Ga.; (3) Baltimore, Md.; (4) Boston, Mass.; (5) Buffalo, N.Y.; (6) Chicago, Ill.; (7) Cleveland, Ohio; (8) Dallas, Tex.; (9) Denver, Colo.; (10) Detroit, Mich.; (11) El Paso, Tex.; (12) Hartford, Conn.; (13) Helena, Mont.; (14) Honolulu, Hawaii; (15) Houston, Tex.; (16) Kansas City, Mo.; (17) Los Angeles, Calif.; (18) Miami Fla.; (19) Newark, N.J.; (20) New Orleans, La.; (21) New York, N.Y.; (22) Omaha, Nebr.; (23) Philadelphia, Pa.; (24) Phoenix, Ariz.; (25) Portland, Maine; (26) Portland, Oreg.; (27) St. Albans, Vt.; (28) St. Paul, Minn.; (29) San Antonio, Tex.; (30) San Diego, Calif.; (31) San Francisco, Calif.; (32) San Juan, P.R.; (33) Seattle, Wash.; (34) Washington, D.C.

D. District offices in foreign countries: (1) Hong Kong, B.C.C.; (2) Mexico City, Mexico; (3) Rome, Italy.

E. Sub-offices: (1) Agana, Guam; (2) Albany, N.Y.; (3) Cincinnati, Ohio; (4) Hammond, Ind.; (5) Harlingen, Tex.; (6) Las Vegas, Nev.; (7) Louisville, Ky.; (8) Memphis, Tenn.; (9) Milwaukee, Wis.; (10) Norfolk, Va.; (11) Oklahoma City, Okla.; (12) Pittsburgh, Pa.; (13) Providence, R.I.; (14) Reno, Nev.; (15) St. Louis, Mo.; (16) Salt Lake City, Utah; (17) Spokane, Wash.

F. Border Patrol Sector Headquarters: (1) Blaine, Wash.; (2) Buffalo, N.Y.; (3) Chula Vista, Calif.; (4) Del Rio, Tex.; (5) Detroit, Mich.; (6) El Centro, Calif.; (7) El Paso, Tex.; (8) Grand Forks, N. Dak.; (9) Havre, Mont.; (10) Houlton, Maine; (11) Laredo, Tex.; (12) Livermore, Calif.; (13) Marfa, Tex.; (14) McAllen, Tex.; (15) Miami, Fla.; (16) New Orleans, La.; (17) Ogdensburg, N.Y.; (18)

Spokane, Wash.; (19) Swanton, Vt.; (20) Tucson, Ariz.; (21) Yuma, Ariz.

G. Border Patrol Academy, Los Fresnos, Tex.; Federal Law Enforcement Training Center (FLETC), Glynco, Ga.

H. Charlotte Amalie, St. Thomas, V.I. I. Sub-offices in foreign countries: (1) Athens, Greece; (2) Frankfurt, Germany; (3) Naples, Italy; (4) Palermo, Palermo, Italy; (5) Rome, Italy; (6) Tokyo, Japan; (7) Vienna, Austria.

J. El Paso Intelligence Center (EPIC), El Paso, Tex.

Addresses of offices are listed in the telephone directories of the respective cities listed above under the heading "United States Government, Immigration and Naturalization Service."

Categories of individuals covered by the system:

A. Agency information control record index (Location A, supra). Individuals named or referenced in documents classified for national security reasons.

B. Alien address reports index and records (Location A, supra). Aliens required to report addresses each January.

C. Alien enemy index and records (Location A, supra).

1. Alien enemies who were interned during World War II.

2. Americans of Japanese ancestry (Nisei) who returned to Japan and, during World War II, either accepted employment by the Japanese Government or became naturalized in Japan.

D. Automobile decal parking identification for employees (Location B-4, supra). Current INS employees who have the privilege of parking their cars on government premises.

E. Centralized index and records (Master Index) (Locations A, C, D, E, and I, supra).

1. Individuals covered by provisions of the immigration and nationality laws of the United States.

2. Individuals who are under investigation, were investigated in the past, or who are suspected of violating the criminal or civil provisions of treaties, statutes, Executive orders, and Presidential proclamations administered by the Immigration and Naturalization Service, and witnesses and informants having knowledge of such violations.

F. Congressional Mail Unit correspondence control index (Location A, supra).

1. Individuals named in correspondence received, including INS employees and past employees; Federal, state, and local officials; and members of the general public.

2. Individuals named in reports or correspondence received, as individuals investigated in the past or under active investigation, or suspected of violations of the criminal or civil provisions of statutes enforced by INS, including Presidential proclamations and Executive orders relating thereto, and witnesses and informants having knowledge of violations.

G. Document vendors and alterers index (Location B-4; duplicates in several

INS offices in the Western and Southern regions). Individuals who are alleged immigration law violators involved in the supply of fraudulent documents.

H. Enforcement indexes.

1. Group one (Locations A, B, C, and E, supra): (a) Contact index; (b) Informant index; (c) Anti-smuggling index (general); (d) Criminal, immoral, narcotic, racketeer and subversive indexes; (e) Suspect third party index.

(1) Individuals who are in a position to know, learn of, and assist in locating aliens illegally in the United States; (2) individuals who have significant knowledge of foreign or domestic organizations subversive in nature and are willing to appear as Government witnesses or cooperate with INS on a continuing basis; (3) individuals who are known or suspected of being professional arrangers, transporters, harborers, and smugglers of aliens; who operate or conspire to operate with others to facilitate the surreptitious entry of an alien over a coastal or land border of the United States; and witnesses having knowledge of such matters; (4) individuals who are known or suspected of being habitual or notorious criminals, immoral, narcotic violators or racketeers, or subversive functionaries or leaders; (5) individuals who are known or believed to be engaged in fraud operations involving the preparation and submission of visa petitions and other applications for benefits administered by INS; or the preparation and submission of applications for immigrant visas and/or Department of Labor certifications, or the filing of false United States birth registrations for alien children to enable them to pose as citizens or to enable parents who are immigrant visa applicants to evade the labor certification requirements.

2. Group two. (a) Air detail office index (Location J, supra). Individuals who are pilots and/or owners of private aircraft flying between the United States and foreign countries; individuals who engage in or are suspected of being engaged in illegal activity such as alien smuggling or entry without inspection.

(b) Anti-smuggling information centers, Canadian and Mexican borders (Locations: northern border, F-19, supra; southern border, J, supra). Individuals who are known or suspected of being smugglers or transporters of illegal aliens.

(c) Border Patrol Academy index (Location G, supra). Students or former students at the Border Patrol Academy; INS officers attending advanced training classes at the Academy or the Federal Law Enforcement Training Center (FLETC).

(d) Border Patrol sectors general index (Locations F, supra). Past or present INS employees; individuals who are law violators, witnesses, contacts, informants, members of the general public, Federal, state, county, and local officials.

(e) Fraudulent Document Center index (Location J, supra). Individuals who are members of the general public,

notaries public, state and local birth registration officials and employees, immigration law violators, vendors of documents, donors of documents, midwives, and witnesses. Also included in the system are names and information about fictitious persons used by counterfeiters or alterers of citizenship documents.

3. Enforcement correspondence control index (Location A, supra). (a) Individuals named in correspondence received, including employees, past employees, and others; (b) individuals named in documents, reports, or correspondence as individuals under current or past investigation, suspended of violation of the criminal or civil provisions of the statutes enforced by INS, including Executive orders and Presidential proclamations, and witnesses and informants having knowledge of violations.

I. Examinations indexes (Location A supra; duplicates in some local offices):

1. Application and petition index: individuals who have filed or assisted in filing petitions to classify aliens for the issuance of immigrant visas.

2. Correspondence control index: members of the general public.

3. Service lookout system: violators or suspected violators of the criminal or civil provisions of statutes enforced by INS.

J. Extension training program enrollees (Location A, supra). INS employees and other Federal agency employees enrolled in extension training program courses administered by INS.

K. Finance Section indexes (Locations A and B, supra): (1) Accounts with creditors; (2) Accounts with debtors.

(a) Individuals who are indebted to the United States Government for goods, services, or benefits or for administrative fines and assessments.

(b) Employees who have received travel advances or overpayments from the United States Government, who are in arrears in their accounts, or who are liable for damage to Government property.

(c) Vendors who have furnished supplies, material, equipment, and services to the Government.

(d) Employees, witnesses and special deportation attendants who have performed official travel.

(e) Employees and other individuals who have a valid claim against the Government.

L. Freedom of Information correspondence control index (Locations A, B, C, D, E, F, G, H, and I, supra). Individuals who request access to or copies of records maintained by INS, under the provisions of the Freedom of Information Act (5 U.S.C. 552).

M. Intelligence indexes (Locations A and B, supra). Individuals who have or are suspected of having violated the criminal or civil provisions of the statutes enforced by INS.

N. Microfilmed manifest records (Locations A, C-26, C-10, C-20, and C-29, supra). Individuals who have arrived or

departed by aircraft or vessel at a United States port.

O. Naturalization and citizenship indexes (Locations C and E, supra, except E-6, E-7, E-8, and E-13).

1. Naturalization and citizenship docket cards. Individuals seeking benefits under Title III of the Immigration and Nationality Act of 1958, as amended.

2. Examiners' docket lists of petitioners for naturalization. Petitioners for naturalization and their beneficiaries.

3. Master docket list of petitioners for naturalization pending one year or more. Petitioners for naturalization and their beneficiaries.

P. Personnel investigations index and records (Location A, supra). Employees, former employees, other Government agency employees designated to perform immigration functions, witnesses, informants, and certain other persons having contacts with INS operations.

Q. Property issued to employees (Locations A, B, C, E, and F, supra). INS employees who have been issued property for use in performance of official duties.

R. Security access clearance index (Location A, supra). Current INS employees who have been cleared for access to documents and materials classified in the interest of national security.

S. White House and Attorney General correspondence control index (Location A, supra). Individuals named in or originating correspondence referred to INS by staff of the White House or Attorney General.

T. Health record system (Location A, supra). Persons at Location A who have requested health services or required emergency treatment.

U. Personal data card system (Locations A and B, supra). Employees and former employees of INS.

V. Compassionate cases system (Locations A and B, supra). INS employees who have requested transfers for personal reasons.

W. Emergency reassignment index (Locations B, C, E, and F, supra). INS employees who would be reassigned to other duty stations in case of emergency.

X. Alien documentation, identification, and telecommunications (ADIT) system (Location A, supra). Aliens lawfully admitted for permanent residence, commuters and other authorized frequent border crossings, and nonimmigrant persons other than transients.

Categories of records in the system:

A. Agency information control record index. This system contains reference and locator data on the following kinds of documents:

1. Top secret and secret materials classified as national security information, including all copies prepared from controlled documents originated, received, or transmitted by INS officers.

2. Confidential material originated by other agencies and referred to INS, including all copies prepared from controlled documents.

3. All investigative reports, responses to security checks, and intelligence material received from sources within the Department of Justice and other Federal intelligence sources.

B. Alien address report index and records. This system contains an index and copies of Form I-53, Alien Address Report, required to be filed January 1 of each year by aliens in the United States.

C. Alien enemy index and records. This system contains a microfilm index and files containing various forms, reports, and other information.

D. Automobile decal parking identification system for employees. This system contains a list by number of each Department of Justice decal car sticker issued to local INS employees.

E. Centralized index and records (Master Index). The system consists of index records and related records and files containing various forms, applications and petitions for benefits under the immigration and nationality laws, reports of investigation, statements, reports, correspondence, and memorandums. Records which may be accessed electronically are limited to index and file locator data including name, identifying number, date and place of birth, date and port of entry, coded status transaction data, and location of relating records or files.

F. Congressional Mail Unit correspondence control index. This system contains a locator record for each report or piece of correspondence received, reflecting the name of the individual and the number of the subject file in which specific information concerning the individual is maintained.

G. Document vendors and alterers index. This system consists of "mug book" photos of alleged immigration law violators involved in the supply of fraudulent documents, and data relating to the pictured violators including name, aliases, vital statistics, method of operation, list of convictions, present location, and source material.

H. Enforcement indexes. 1. Group one. (a) Contact index; (b) Informant index; (c) Antismuggling index (general); (d) Criminal, immoral, narcotic, racketeer and subversive indexes; (e) Suspect third party index. These systems of records are maintained on Form G-598, Contact Record; Form G-169, Informant Record; Form G-170, Smuggler Information Index Card; and other index cards containing reference and file locator data on the individuals, including in some cases biographic data, address, and a brief description of activities.

2. Group two. (a) Air detail office index. The primary record in the system is Form I-92A, Report of Private Aircraft Arrival, which is executed by the inspecting official upon arrival of a private aircraft from foreign territory. There are also index cards, forms, investigative reports, records, and correspondence on aircraft arrivals, failures to report for inspection, and known or suspected alien

smuggling operations using aircraft; and microfiche indexes containing names of owners of aircraft of United States registry.

(b) Anti-smuggling information centers, Canadian and Mexican borders. This system contains Form G-170, Smuggler Information Index Card, other index cards, and correspondence relating to anti-smuggling activities. These indexes are in loose leaf form and are distributed to Border Patrol offices in the border areas.

(c) Border Patrol Academy index. This system contains general information and correspondence regarding each student's academic progress in training. The information is maintained on the following forms: SW-91, Probationary Achievement Report; SW-91A, Scholastic Grade Worksheet; SW-91B, IOBTC Achievement Report-Immigration Inspector; SW-91C, IOBTC Achievement Report-Investigator; SW-96, Class Rating Form; SW-128, Training Data; SW-282, Registration Information Form; SW-446, Conduct and Efficiency Report of Probationary Employee-5½ and 10 Months Exam Grades.

(d) Border Patrol sectors general index. This system contains indexes, forms, reports, and records relating to activities of the Border Patrol, including Form I-44, Record of Apprehension or Seizure; Form I-326, Prosecution Reports; Form I-263A and I-263B, Record of Sworn Statement; Form I-195, Criminal Prosecution Control Card; Form I-263W, Record of Sworn Statement-Witness; Form I-236, Prosecution Reports; Form G-170, Smuggler Information Index Card; Form G-296, Report of Violation of Section 239, Immigration and Nationality Act; Form G-330, Notice of Action Information; Form G-445, Conduct and Efficiency Evaluation of Probationary Appointees; Form G-598, Contact Record. This system also contains copies of correspondence and memorandums between INS offices and outside agencies and individuals, as well as photographs of some violators of the immigration laws of individuals suspected of being involved in immigration law violations.

(e) Fraudulent Document Center index. This system contains birth certificates, baptismal certificates, and other identification documents used by aliens to support their fraudulent claims to United States citizenship. Most of the documents are genuine; however, there are also counterfeit and altered documents in the system. Also contained in the system are cross indexes, investigative reports, and records of individuals involved in fraud schemes or whose documents have been put to fraudulent use.

3. Enforcement correspondence control index. This system contains reference and locator information on documents, reports, and correspondence received in the offices of the Associate Commissioner, Enforcement. Records are maintained on Form G-617, Correspondence

Control Card, and Form CO-147, Call-up Index—Domestic Control.

1. Examinations indexes. 1. *Application and petition system.* This system contains petitioners' names, date and place of birth, names of prior spouses, immigration "A" number if an alien, and date of marriage if married; beneficiaries' names, date and place of birth, immigration "A" number if any, names of spouses, and nationality code, and the names, dates, and places of birth of any children; name of the person administering the oath or preparing the form, if other than a Government employee.

2. Correspondence control index. This system contains reference and locator information on documents, reports and correspondence received in the office of the Associate Commissioner. Examinations. Records are maintained on Form G-617, Correspondence Control Card.

3. Service lookout system. This system contains names and reference data on violators, alleged violators, and suspected violators of the criminal or civil provisions of the statutes enforced by INS.

J. Extension training program enrollees. This system contains correspondence and records of each enrollee's test scores; dates of actions such as mailing of lesson materials, test results, and certificates of completion; and dates of receipt of tests.

K. Finance Section indexes. 1. Accounts with creditors. Records are vendors' invoices, purchase orders, travel vouchers, and claims filed by appropriation for the fiscal year from which payment is chargeable.

2. Accounts with debtors. Records consist of bills for inspection services performed under the Act of March 2, 1931; fees, fines, penalties, and deportation expenses assessed pursuant to the Immigration and Nationality Act; and employee indebtedness for travel advances, for the unofficial use of Government facilities and services, for damage to or loss of Government property, and for erroneous or overpayment of compensation for travel expenses.

L. Freedom of Information correspondence control index. Records are kept on Form G-617, Correspondence Control Card, and include reference and locator information on each request for information received under the Freedom of Information Act.

M. Intelligence indexes. Records include reference and locator information on documents, reports, bulletins, and correspondence; records are categorized by name, violation, and activity.

N. Microfilmed manifest records. The system contains microfilmed indexes and arrival and departure manifests with brief biographical data and facts of arrival and departure. Arrival records for certain ports date from 1891, and departure records date from 1900. Records are not complete, as some records were destroyed and not microfilmed.

O. Naturalization and citizenship indexes. 1. Naturalization and citizenship docket cards. Docket cards are 3X5 or 5X8 index cards for each applicant, bene-

fiary, or petitioner, recording type of application, date of receipt, file and/or petition number, court number where petition for naturalization was filed, and reference number of the individual's case file.

2. Examiners' docket lists of petitioners for naturalization. Records are maintained on Form N-476, Examiner's Docket List, and record court of naturalization jurisdiction, petition number, petition filing date, court number, name of petitioner, name of beneficiary, proposed recommendation by the naturalization examiner, reasons for continuance, and reference number of the individual's case file.

3. Master docket lists of petitions for naturalization pending one year or more. Records are maintained on Form N-476, Examiner's Docket List, and contain reference and locator information on petitions pending for one year or longer.

P. Personnel investigations index and records. Index records for closed cases or cases under active investigation contain reference and locator information including names, locations, and allegations. Two relating sets of temporary work folders contain reports, documents, and correspondence.

Q. Property issued to employees. Records are maintained on Form G-570, Record-Receipt—Property Issued to Employees, which lists name, description of property, serial number, dates issued and returned, employee's initials, and supervisor's initials.

R. Security access clearance index. Records are kept on 3X5 index cards listing employee's name, dates when clearances were granted, and levels of clearance. Related records and reports are maintained by the Office of Management and Finance, Department of Justice.

S. White House and Attorney General correspondence control index. Records are maintained on Form G-617, Correspondence Control Card, and contain reference and locator information on correspondence addressed to the President and the Attorney General which has been referred to INS for appropriate attention.

T. Health record system. Records are kept on 5X7 index cards listing name, date, and treatment given.

U. Personal data card system. Records are kept on Form G-74, Personal Data Card, for each employee or former employee. Information includes name, date of birth, height, weight, sex, blood type, photograph, and color of hair and eyes.

V. Compassionate cases system. Records are kept on 3X5 index cards containing employees' name, position, grade, present location, date of request, date circulated to committee, disposition, and (when applicable) new location of employee. Relating records include the employee's request; Form G-410, Employee Qualification-Skills Inventory; local and regional recommendations, medical statements (where applicable), records of committee actions, and response to employee.

W. Emergency reassignment index. Records are kept on Form G-560, Emergency Activity Project Assignment. Information includes name, age, grade, title, official station, residence, telephone number, and emergency assignment activity.

X. Alien documentation, identification and telecommunications (ADIT) system. Records consist of formatted data base records of personal and biographical information such as name, date of birth, picture and fingerprint coordinates, height, mother's first name, father's first name, city/town/village of birth.

Authority for maintenance of the system:

A. General, applicable to all Service index system, includes but is not limited to: Sections 103, 265 and 290 and Title III of the Immigration and Nationality Act, hereinafter referred to as the Act (66 Stat. 163), as amended, (8 U.S.C. 1103; U.S.C. 135; 8 U.S.C. 1360), and the regulations pursuant thereto.

B. Specific, applicable to some of the indexes, including but not limited to:

1. Executive Order 11652, and 28 CFR 17.79—Agency control information record index, and Access clearance information system.

2. 31 U.S.C. 66a—Finance Section indexes.

3. Title III of the Act, as amended, (8 U.S.C. section 1401 through 1503), and the regulations promulgated thereunder—Naturalization and citizenship indexes.

4. Sections 235 and 287 of the Act, as amended, (8 U.S.C. 1225; and 8 U.S.C. 1357), and the regulations promulgated pursuant thereto—Personnel investigations.

5. Section 231 of the Act, as amended, (8 U.S.C. 1221)—Microfilmed manifest records.

6. 40 U.S.C. 483—Property management system.

7. 5 U.S.C. 4113—Extension training program.

8. 5 U.S.C. 552. The Freedom of Information Act requires certain record keeping; this system was established and is maintained in order to enable INS to comply with this requirement.

9. 5 U.S.C. 301—Health Record System, Personal Data Card System, and Compassionate Cases System.

10. Executive Order 11490—Emergency Reassignment Index.

11. Section 204, 214, and 290 of the Act, as amended (8 U.S.C. 1154, 1184, 1360)—Application and petition system.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This system of records is used to serve the public by providing data for responses, when authorized, to written inquiries, complaints, and so forth. It is also used to administer the management, operational, and enforcement activities of the Service. The records are used by officers and employees of the Service and the Department of Justice in the admin-

istration and enforcement of the immigration and nationality laws, and related statutes, including the processing of applications for benefits under these laws, detecting violations of these laws, and for referrals for prosecution.

A. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

B. Relevant information contained in this system of records maintained by the Service to carry out its functions may be referred, as a routine use, to the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Laws Act, and all other immigration and nationality laws, including treaties and reciprocal agreements.

C. Relevant information contained in this system of records maintained by the Service to carry out its functions may be provided, as a routine use, to other federal, state, and local government law enforcement and regulatory agencies, foreign governments, the Department of Defense, including all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency the Selective Service System, the United States Coast Guard, the United Nations, INTERPOL, and individuals and organizations during the course of investigation in the processing of a matter or a proceeding within the purview of the immigration and nationality laws, to elicit information required by the Service to carry out its functions and statutory mandates.

D. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in this system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

E. In the event that this system of records maintained by the Service to carry out its functions indicates a violation or potential violation of the immigration and nationality laws, or of a general statute within Service jurisdiction, or by regulation, rule, or order issued pursuant thereto, the relevant records in this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal and to opposing counsel in the course of discovery.

F. A record from this system of records may be disclosed, as a routine use, to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. A record from this system of records may be disclosed, as a routine use, to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision of this Service concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

H. Indication of a violation or potential violation of the laws of another nation, whether civil or criminal, may be referred to the appropriate foreign agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing such laws; indication of any such violation or potential violation may also be referred to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

I. Relevant information contained in this system of records may be disclosed, as a routine use, to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

J. A record from this system may be disclosed to other Federal agencies for the purpose of conducting national intelligence and security investigations.

K. Information contained in this system or records may be disclosed to an applicant, petitioner or respondent or to his or her attorney or representative (as defined in 8 CFR 1.1(j)) in connection with any proceeding before the Service.

Release of information to the news media:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available from systems of records maintained by the Department of Justice unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Release of information to Members of Congress.

Information contained in systems of records maintained by the Department of Justice, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Con-

gress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Generally, index records and cards are stored in manually operated index machines, file drawers, and boxes; other information is stored manually as paper records in file folders at locations A, B, C, E, F, and H, supra. Inactive files are stored at Federal Records Centers. Exceptions are as follows:

A. Alien address report index and records: Forms I-53, Alien Address Report, are microfilmed in the order in which they are received. An index is maintained on microfiche and on computer-readable magnetic tape.

B. Alien documentation, identification, and telecommunications (ADIT) system information is stored on magnetic tape and disks. Original forms completed by the individuals are filed with other records described for the subsystem "Centralized index and records."

C. Alien enemy index: Index records are maintained on microfilm. Actual files are stored in Federal Records Centers.

D. Centralized index and records: Most records are paper documents stored in file folders. Those index records which can be accessed electronically are stored on magnetic disk and tape.

E. Enforcement indexes: Original index cards and records are stored in manually operated file drawers and machines. Some records are also maintained in the automated system published in a notice entitled "JUSTICE/DEA-INS-111. Automated Intelligence Records System (Pathfinder)."

F. Examinations indexes: (1) *Application and petition system records* are stored on magnetic media at the Department of Justice Data Management Service. Original paper forms completed by the individuals are filed with other records in the subsystem called "Centralized index and records." (2) *Service lookout system records* are maintained on magnetic tape and in printed loose-leaf reference books at ports of entry.

Retrievability:

Generally, records are indexed and retrievable by name and/or "A" or "C" file number. Exceptions are as follows:

A. Air detail office index system: Aircraft data is filed in numerical sequence, within each calendar year.

B. Intelligence indexes: Records are retrieved by name within organization, activity, or type of violation.

C. Examiners' docket lists of petitioners for naturalization, and Master docket lists of petitions for naturalization pending one year or more, are filed chronologically for each court exercising naturalization jurisdiction. Relating records are filed by petition number.

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Access controls:

Records are safeguarded in accordance with Department of Justice rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces which are locked outside of normal office hours. Many records are stored in cabinets or machines which are locked outside of normal office hours. Access to automated systems is controlled by restricted password for use of remote terminals in secured areas.

Retention and disposal:

Several general rules apply to many subsystems of records:

A. Alien registration records are retained for 100 years from the closing date or date of last action.

B. Correspondence control cards (Forms G-617) are normally retained for one year following the year in which created.

C. Correspondence portions of subject files are normally retained no longer than two years. Records are then either microfilmed or destroyed by burning.

D. Records in policy portions of subject files are retained indefinitely.

E. Indexes and records not specifically mentioned are retained only so long as they serve a useful purpose.

F. Records are destroyed by shredding, burning, or as provided in disposal schedules.

Exceptions to the general practices are as follows:

A. Alien documentation, identification, and telecommunications (ADIT) system records are maintained until naturalization, death, or other material change in status of the individual, or until the registration card is relinquished.

B. Air detail office index: Forms I-92A are retained for five years.

C. Border Patrol trainee examination papers are destroyed six months after the trainee officer completes his probationary year.

D. Centralized index records stored on magnetic disk and tape are updated periodically and maintained for the life of the relating record. Original index cards are microfilmed, then destroyed.

E. Compassionate cases system records are retained for three years after completion of action.

F. Congressional Mail Unit correspondence control index records are retained for three years.

G. Emergency reassignment index records are destroyed upon the transfer, separation, retirement, or death of the employee.

H. Enforcement indexes relating to law violators and witnesses are retained for three years. Routine investigations records are destroyed when the investigation is closed. Correspondence control records are destroyed after final action on the subject matter.

I. Examinations indexes: (1) *Application and petition system records are deleted from the automated data base five years after the date of last activity. Inactive records will be stored on magnetic tape for an additional five years.* (2) Service lookout system records are deleted five years after insertion, unless removed at an earlier date or reinserted by the listing agency.

J. Finance Section indexes: accounts with creditors and debtors are retained for two years from the close of the fiscal year to which they relate and then are transferred to Federal Records Centers for storage and disposition.

K. Freedom of Information correspondence control index cards and records of requests under appeal or litigation are retained until completion of the action. Other index records of FOIA requests are retained for one year following the year in which created.

L. Health records are retained for six years after the date of the last entry.

M. Intelligence indexes: records are maintained indefinitely.

N. Naturalization examiners' docket lists and master docket lists are retained for two years. Naturalization and citizenship docket cards are purged after applications are rejected, closed, granted, or denied; or petitions for naturalization are granted, denied, or nonfiled.

O. Microfilmed manifest records are retained permanently.

P. Personal data cards are retained for three years after the employee is separated (Location A, supra). In regional offices (Location B, supra), records are destroyed after the employee is separated.

Q. Personnel investigations records are destroyed at the close of the fiscal year following the year of investigation. However, Operation Clean Sweep records are being retained until the program is terminated. Records of criminal investigations are retained as long as the information serves a useful purpose.

R. Security access clearance index records are destroyed upon the separation, death, or retirement of the employee.

S. White House and Attorney General correspondence control index cards are retained for one year beyond the expiration of the term of the President.

System manager(s) and address:

A. The system manager, Service-wide, is the Associate Commissioner, Management (Location A, supra).

B. The Associate Commissioner, Management, is the sole manager of the following subsystems:

1. Agency information control record index.

2. Alien address reports index and records.

3. Alien documentation, identification and telecommunications (ADIT) system.

4. Alien enemy index.

5. Centralized index and records (Master Index).

6. Congressional Mail Unit correspondence control index.

7. Document vendors and alterers index.

8. Enforcement correspondence control index.

9. Examinations indexes: (1) *Application and petition system; (2) Correspondence control index; (3) Service lookout system.*

10. Finance Section indexes.

11. Freedom of Information correspondence control index.

12. Health record system.

13. Intelligence indexes.

14. Microfilmed manifest records.

15. Property issued to employees.

16. Security access clearance index.

17. White House and Attorney General correspondence control index.

C. The following officials are system managers for special subsystems:

1. Automobile decal parking identification for employees: Deputy Regional Commissioner (Location B-4, supra).

2. Enforcement indexes, group one (Contact index; Informant index; Anti-smuggling index (general); Criminal, immoral, narcotic, racketeer and subversive indexes; Suspect third party index): the ranking Service officer of the offices in which the indexes are maintained (Locations A, B, C, and E, supra).

3. Enforcement indexes, group two: (a) Air detail office index: Deputy Director (Location J, supra). (b) Anti-smuggling information centers: (1) Canadian border, Chief Patrol Agent (Location F-19, supra); (2) Mexican Border, Deputy Director (Location J, supra). (c) Border Patrol Academy index: Chief Patrol Agent (Location G, supra). (d) Border Patrol sectors general index: Chief Patrol Agent (Location F, supra). (e) Fraudulent Document Center index (Location J, supra).

4. Compassionate cases system: Associate Commissioner, Management (Location A, supra); Regional Commissioners (Location B, supra).

5. Emergency reassignment index: Regional Commissioners (Location B, supra); District Directors (Location C, supra); Officers in charge (Location E, supra); Chief Patrol Agents (Location F, supra).

6. Extension training program enrollees: Chief, Employee Development Branch, Office of Assistant Commissioner, Personnel (Location A, supra).

7. Naturalization and citizenship indexes: (a) Naturalization and citizenship docket cards, and Examiners' docket lists of petitioners for naturalization: District Directors (Location C, supra); Officers in Charge (Location E, supra, except E-6, E-7, E-8, and E-13). (b) Master docket lists of petitions for naturalization pending one year or more: the Associate Commissioner, Management (Location A, supra); Regional Commissioners (Location B, supra); District Directors (Location C, supra); Officers in charge (Location E, supra, except E-6, E-7, E-8, and E-13).

8. Personal data card system: Associate Commissioner, Management (Location A, supra); Regional Commissioners (Location B, supra).

Notification procedure:

A. Inquiries should be addressed to the system managers listed above, except for the following subsystems:

1. Finance Section indexes: address inquiries to the INS office at which business was conducted.

2. Freedom of Information correspondence control index: address inquiries to the INS office nearest the requestor's place of residence, or (if known) the INS office where the record is located.

B. Systems totally exempt from disclosure pursuant to 5 U.S.C. 552a(j) and (k) are listed below:

1. Agency information control record index.

2. Document vendors and alterers index.

3. Emergency reassignment index.

4. Enforcement indexes, group one: (a) Contact index. (b) Informant index. (c) Anti-smuggling index (general). (d) Criminal, immoral, narcotic, racketeer, and subversive indexes. (e) Suspect third party index.

5. Enforcement indexes, group two: Anti-smuggling information centers, Canadian and Mexican borders.

6. Examinations indexes: Service lookout system.

7. Intelligence indexes.

Record access procedures:

In all cases, requests for access to a record from any record subsystem shall be in writing or in person. If a request for access is made in writing, the envelope and letter shall be clearly marked "Privacy Access Request." The requester shall include a description of the general subject matter and if known, the relating file number. To identify a record relating to an individual's full name; date and place of birth; alien, citizen, or employee identification number; and, if appropriate, the date and place of entry into or departure from the United States. The requester shall also provide a return address for transmitting the information.

Most of the subsystems of records contain information which the Attorney General has exempted from disclosure pursuant to 5 U.S.C. 552a(j) and (k), and records which are classified pursuant to Executive order. Each requester will be accorded access to the records relating to himself only to the extent that such records are not within the scope of exemptions and are not classified.

Contesting record procedure:

Any individual desiring to contest or amend information maintained in the system should direct his request to the INS office nearest his residence or to the office in which he believes a record concerning him may exist. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

Record source categories:

Basic information contained in INS records is supplied by individuals on Department of State and INS applications and reports. Other information comes from inquiries and/or complaints from members of the general public and mem-

bers of the Congress; referrals of inquiries and/or complaints directed to the White House or Attorney General; INS reports of investigation, sworn statements, correspondence and memorandums; official reports, memorandums, and written referrals from other government agencies, including Federal, state, and local, and from various courts and regulatory agencies; information from foreign government agencies and international organizations; and personnel and administrative applications and forms.

Systems exempted from certain provisions of the act:

The Attorney General has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2), and (3); (e) (4) (G), (H), and (I); (e) (5) and (8); (f); (g); and (h) of the Privacy Act. These exemptions apply to the extent that information in the subsystems is subject to exemption pursuant to 5 U.S.C. 552a(j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e) and have been published in the FEDERAL REGISTER as additions to Title 28, Code of Federal Regulations (28 CFR 16.99).

[FR Doc. 77-29124 Filed 10-4-77; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

SCIENCE FOR CITIZENS ADVISORY COMMITTEE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Science for Citizens Advisory Committee.

Date and Time: October 21, 1977, 9 a.m. to 5 p.m., and October 22, 1977, 9 a.m. to 12 noon.

Place: Room 405, 5225 Wisconsin Avenue, Washington, D.C. 20550.

Contact person: Ms. Rachelle Hollander, Acting Program Manager, Science for Citizens Program, Office of Science and Society, National Science Foundation, Washington, D.C. 20550, telephone 202-282-7770.

Purpose of meeting: To provide advice and recommendations concerning the development of the Science for Citizens program.

Agenda: (1) Review program announcements for (a) public service science residencies and internships, and (b) forums, conferences, and workshops; and (2) development of criteria for planning grants for Public Service Science Centers and Scientific and Technological Information Institutes.

Summary minutes: May be obtained from the Committee Management Coordination Staff, Division of Personnel and Management, Room 248, Washington, D.C. 20550.

M. REBECCA WINKLER, Acting Committee Management Officer.

SEPTEMBER 30, 1977.

[FR Doc. 77-29262 Filed 10-4-77; 8:45 am]

[7555-01]

SUBCOMMITTEE ON ECONOMICS OF THE ADVISORY COMMITTEE FOR SOCIAL SCIENCES

Meeting

In accordance with Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Economics of the Advisory Committee for Social Sciences.

Date and time: October 21 and 22, 1977, 9 a.m. to 6 p.m. each day.

Place: Room 1224, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. James H. Blackman, Program Director for Economics, Division of Social Sciences, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5968.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in economics.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER, Acting Committee Management Officer.

SEPTEMBER 30, 1977.

[FR Doc. 77-29261 Filed 10-4-77; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 29, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be

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approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

DEPARTMENT OF COMMERCE

United States Travel Service, USER Survey—National Travel Information Service, single time, travel agencies, Economics and General Government Division, C. Louis Kincannon, 395-3451.

Bureau of Census, General Revenue Sharing Survey—Indian Tribes, RS-14, annually, Indian tribal officials, Charles A. Ellett, 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Data Collection Forms in Response to Section 437, GEPA, Calendar 1977 Collection, CE-511, annually, government agencies, Laverne V. Collins, 395-5867. Alcohol, Drug Abuse, and Mental Health Administration, NDA State Appropriations Survey, annually, Single State Agencies, Richard Eisinger, 395-6140.

Center for Disease Control, Monitoring Abortion in Sentinel Hospitals (MASH), weekly, medical care facilities, Richard Eisinger, 395-6140.

DEPARTMENT OF LABOR

Employment and Training Administration, Study on Actual Duration of Spell Unemployment Experienced by Disqualified UI Claimants and UI Beneficiaries, single time, UI claimants, Strasser, A., 395-5867.

REVISIONS

VETERANS ADMINISTRATION

Supplement to SF 129, Bidder's Mailing List Application, 08-6299, on occasion, Persons or concerns wishing to be added to VA bidder's list, Caywood, D. P., 395-3443

DEPARTMENT OF COMMERCE

Economic Development Administration, Local Public Works Payroll Reporting Form, EC-746, weekly, construction (sub) contractors on public works projects, Economics and General Government Division, Strasser, A., 395-3451.

DEPARTMENT OF THE TREASURY

Departmental and Other, Monthly Report of Assets, Liabilities, and positions in Specified Foreign Currencies of Firms in the United States, FC-3, monthly, non-banking business concern and nonprofit institutions, C. Louis Kincannon, 395-3211.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service: Prices Paid by Farmers for Equipment, Supplies and Marketing Containers, quarterly, farm equipment dealers, Strasser, A., 395-5867.

Hop Inquiries (Acreage, Production, and Prices), Other (see SF-83), Hop growers, Ellett, C. A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Vocational Rehabilitation Report to Social Security Administration—Disability Applicant, SSA-853, on occasion, State vocational rehabilitation agencies, Human Resources Division, Caywood, D. P., 395-3532.

DEPARTMENT OF LABOR
Employment and Training Administration, weekly PSE Expansion Report, ETA-3, weekly, State and local agencies, Lowry, R. L., 395-3772.

PHILLIP D. LARSEN,
Budget and Management Officer.
[FR Doc.77-29353 Filed 10-4-77;8:45 am]

[3110-01]

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on September 27, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503 (202-395-4529), or from the reviewer listed.

NEW FORMS

U.S. CIVIL SERVICE COMMISSION

Allotments Questionnaire, single-time, individual or households, Marsha Traynham, 395-4529.

SMALL BUSINESS ADMINISTRATION

Local Development Company Loan Program Evaluation Questionnaire for Participating Small Business, single-time, business loan recipients, economics and general government division, Raynsford, R., 395-3451.

Course Evaluation, single-time, potential business, economics and general government division, 395-3451.

DEPARTMENT OF AGRICULTURE

Statistical Reporting Service, A Study of Questionnaire and Interview Effects, single-time, cattle and hog farmers, Ellett, C. A., 395-5867.

DEPARTMENT OF COMMERCE

Bureau of Census, Schedule for New York City Housing Vacancy Survey, Visitation Letter, H-100 and 100L, single-time, households in New York City, Laverne V. Collins, 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration, Key Question Determining Continuing Eligibility for Supplemental Security Income Payments, SSA-8202, annually, aged, blind or disabled recipients of SSI Payments, Caywood, D. P., 395-3443.

Office of Education, Bilingual Vocational Training Inventory, OE-536, single-time, directors of bilingual vocational training, Reese, B. P., 395-3532.

Alcohol, Drug Abuse and Mental Health Administration, PCP Investigation, single-time, data systems, Richard Eisinger, 395-6140.

Office of Human Development:

National Study of the Incidence and Severity of Child Abuse and Neglect (Pretest) (Part 2: Parent Survey), single-time, household having children under 18, Laverne V. Collins, 395-5867. Evaluation of Title IV—Career Training Program in Aging Institutional Mail Survey, single-time, schools receiving title IV-A Grants, Human Resources Division, Raynsford, R., 395-3532.

REVISIONS

RAILROAD RETIREMENT BOARD

Statement of Spouse of Employee Annuitant, G-318, on occasion, spouse of employee annuitant, Caywood, D. P., 395-3443.

DEPARTMENT OF COMMERCE

Bureau of Census, (Part of 1980 Decennial Census of Population and Housing) Special Census Prelist Address Register-1977 Census of Oakland, California, DH-140-A, single-time, housing units in special places where mailing lists is N/A, Richard Eisinger, 395-6140.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Call Report for Unregulated and Specialized Lenders Under the Federally Insured Student Loan Program, OE 1166-3, annually, colleges, universities and State institutions, Laverne V. Collins, 395-5867.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Special Milk Program Application, FNS-826, on occasion, non-profit child care institutions, Human Resources Division, 395-3532.

DEPARTMENT OF TRANSPORTATION

Coast Guard, Notification of Change in Status of Vessel, CG 3921, on occasion, boat owners, Strasser, A., 395-5867.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-29354 Filed 10-4-77;8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

SBIC NATIONAL ADVISORY COUNCIL Meeting

The Small Business Administration SBIC National Advisory Council will hold a public meeting at 9:30 a.m. and conclude at 5 p.m., Wednesday, October 9, at the Small Business Administration office, 450 Golden Gate Ave., San Francisco, California, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Peter F. McNelsh, U.S. Small Business Administration.

tion, 1441 L St. NW., Washington, D.C. 20416, (202) 653-6585.

Dated: September 30, 1977.

K. DREW,
*Deputy Advocate
for Advisory Councils.*

[FR Doc.77-29444 Filed 10-4-77;8:45 am]

[4710-01]

DEPARTMENT OF STATE

Office of the Secretary

[Public Notice 571]

MISSION, TEX.

Application for Bridge Permit

Notice is hereby given that the Department of State has received an application for a permit authorizing the construction, operation and maintenance of an international bridge in the Mission-McAllen, Texas, area. The application has been filed by the City of Mission, Texas, for a permit authorizing a highway bridge and rail crossing connecting Mission with the new Industrial Park northwest of the City of Reynosa.

The Department's jurisdiction with respect to this application is based upon Executive Order 11423, dated August 16, 1968, and the International Bridge Act of 1972 (Pub. L. 92-343, 86 Stat. 731, approved September 26, 1972).

As required by E.O. 11423, the Department of State is circulating this application to concerned agencies for comment. In addition, the Office of Environmental Affairs of the Department of State is initiating an assessment of the environmental effects of the proposal to determine if an environmental impact statement will be required.

Interested persons may submit their views regarding this application in writing by November 4, 1977 to Mr. Phillip R. Trimble, Assistant Legal Adviser for Economic and Business Affairs, Room 6420, Department of State, 2201 C Street, NW., Washington, D.C. 20520.

The application and related documents made part of the record to be considered by the Department of State in connection with this application are available for inspection and copying in the Office of the Assistant Legal Adviser for Economic and Business Affairs during normal business hours.

Any questions relating to this notice may be addressed to Mr. Trimble at the above address, (202-632-0242) or to Ms. Diane Wood, (202-632-3970).

Dated: September 28, 1977.

For the Secretary of State.

PHILLIP R. TRIMBLE,
*Assistant Legal Adviser
for Economic and Business Affairs.*

[FR Doc.77-29251 Filed 10-4-77;8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 77-243]

WHITE OR IRISH POTATOES, OTHER THAN CERTIFIED SEED—TARIFF-RATE QUOTA

Tariff-Rate Quota for the Quota Year Beginning September 15, 1977, for White or Irish Potatoes, Other Than Certified Seed

SEPTEMBER 28, 1977.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for white or Irish potatoes, other than certified seed, for the 12-month period beginning September 15, 1977.

SUMMARY: Each year the tariff-rate quota for potatoes described in item 137.25, Tariff Schedules of the United States (TSUS), is based on the estimate by the Department of Agriculture of potatoes entered during the calendar year.

EFFECTIVE DATES: The 1977 tariff-rate quota is applicable to white or Irish potatoes described in item 137.25, TSUS, entered, or withdrawn from warehouse, for consumption during the 12-month period beginning September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Helen C. Rohrbaugh, Head, Quota Section, Duty Assessment Division, Office of Operations, U.S. Customs Service, Washington, D.C. 20229 (202-566-8592).

The tariff-rate quota for white or Irish potatoes, other than certified seed, pursuant to item 137.25, Tariff Schedules of the United States, for the 12-month period beginning September 15, 1977, is 45,000,000 pounds.

The estimate of the production of white or Irish potatoes, including seed potatoes, in the United States for the calendar year 1977, made by the United States Department of Agriculture as of September 1, 1977, was in excess of 21 billion pounds.

In accordance with headnote 2, part 8A, of schedule 1, Tariff Schedules of the United States, the quota quantity is not increased because the estimated production is greater than 21,000,000,000 pounds.

JOHN A. HURLEY,
Acting Commissioner of Customs.
[FR Doc.77-29177 Filed 10-4-77;8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 24, Rule 19; 8th Rev. Exemption No. 128]

ATCHISON, TOPEKA & SANTA FE RAILROAD CO., ET AL.

Mandatory Car Service Rules

To: The Atchison, Topeka & Santa Fe Railroad Co., Chicago & North Western Transportation Co., Chicago, Milwaukee, St. Paul & Pacific Railroad Co., Chicago, Rock Island & Pacific Railroad Co., Illinois Central Gulf Railroad Co., Louisville & Nashville Railroad Co., Missouri-Illinois Railroad Co., Missouri Pacific Railroad Co., Seaboard Coast Line Railroad Co., Southern Railway Co.

It appearing, That the ten railroads listed below have mutually agreed to the use of each other's empty plain cars having mechanical designations "XM", "FM"—less than 200,000 lbs., "GA", "GB", "GD", "GH", and "GS" and bearing reporting marks assigned to such carriers.

It further appearing, That these ten railroads have mutually agreed to participate in an Expanded Clearinghouse Project in which each road will treat the cars of the nine roads as systems, with the Car Service Division of the AAR acting as agent.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, empty plain cars described in the Official Railway Equipment Register I.C.C.-R.E.R. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "XM", "FM"—less than 200,000 lbs., "GA", "GB", "GD", "GH", and "GS" and bearing the following reporting marks are exempt from the provisions of Car Service Rules 1 and 2, while on the lines of any of the above named railroads.

The Atchison, Topeka & Santa Fe Railroad Co., reporting marks: ATSF. Effective August 22, 1976.

Chicago & North Western Transportation Co., reporting marks: CNW-CGW-CMO-FDDM-MSTL. Effective October 17, 1976.

Chicago, Milwaukee, St. Paul & Pacific Railroad Co., reporting marks: MILW. Effective July 15, 1976.

Chicago, Rock Island & Pacific Railroad Co., reporting marks: RI-ROCK. Effective September 12, 1976.

Chicago, Rock Island & Pacific Railroad Co., reporting marks: RI-ROCK. Effective September 12, 1976.

Illinois Central Gulf Railroad Co., reporting marks: ICG-GM&O-IC. Effective August 22, 1976.

Louisville & Nashville Railroad Co., reporting marks: L&N-CIL-MON-NC. Effective August 15, 1976.

Missouri-Illinois Railroad Co., reporting marks: MI. Effective July 15, 1976.

Missouri Pacific Railroad Co., reporting marks: MP-C&EI-KO&G-T&P. Effective July 15, 1976.

[Deleted]

¹ St. Louis Southwestern Railway Co., eliminated.

Seaboard Coast Line Railroad Co., reporting marks: SCL-ACL-C&WC-SAL. Effective August 15, 1976.
Southern Railway Co., reporting marks: SOU-AEC-CG-GF-NS SA. Effective July 15, 1976.

It is further ordered, That this order will become effective for specific ownerships on dates to be set by the Car Service Division as each road is phased into the Project starting July 15, 1976, the Car Service Division to issue appropriate notification to Project participants, and to advise the undersigned.

Effective 11:59 p.m., October 1, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 22, 1977.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc 77-29220 Filed 10-4-77; 8:45 am]

[7035-01]

[Ex Parte No. 241; Rule 19; 13th Rev. Exemption No. 129]

BESSEMER & LAKE ERIE RAILROAD CO., ET AL.

Mandatory Car Service Rules

It appearing, That the railroads named herein own numerous 40-ft. plain boxcars; that under present conditions, there is virtually no demand for these cars on the lines of the car owners; that return of these cars to the car owners would result in their being stored idle on these lines; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of plain boxcars owned by the railroads listed herein, resulting in unnecessary loss of utilization of such cars.

It is ordered, That, pursuant to the authority vested in me by Car Service Rule 19, plain boxcars described in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 404 issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", with inside length 44-ft. 6-in. or less, regardless of door width and bearing reporting marks assigned to the railroads named below, shall be exempt from the provisions of Car Service Rules 1(a), 2(a), and 2(b).

Bessemer & Lake Erie Railroad Co., reporting marks: BLE.
Chicago, West Pullman & Southern Railroad Co., reporting marks: CWP.
Chicago, Rock Island & Pacific Railroad Co., reporting marks: RI-ROCK.
Detroit & Mackinac Railway Co., reporting marks: D&M-DM.
Illinois Terminal Railroad Co., reporting marks: ITC.
Louisville, New Albany & Corydon Railroad Co., reporting marks: LNAC.

¹ Addition.

² St. Louis-San Francisco Railway Co. eliminated.

Missouri-Kansas-Texas Railroad Co., reporting marks: MKT.
Missouri Pacific Railroad Co., reporting marks: CEI-MI-MP-TP.
New Hope & Ivyland Railroad Co., reporting marks: NHIR.
Richmond, Fredericksburg & Potomac Railroad Co., reporting marks: RFP.
[Deleted]

Effective 12:01 a.m., September 30, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 22, 1977.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc 77-29221 Filed 10-4-77; 8:45 am]

[7035-01]

[Ex Parte No. 241; Rule 19; Exemption No. 127, Amdt. No. 6]

BESSEMER & LAKE ERIE RAILROAD CO., ET AL.

Mandatory Car Service Rules

AMENDMENT NO. 6 TO EXEMPTION NO. 127

To: Bessemer & Lake Erie Railroad Co., The Baltimore & Ohio Railroad Co., The Chesapeake & Ohio Railway Co., Western Maryland Railway Co.

Upon further consideration of Exemption No. 127 issued June 29, 1976.

It is ordered, That, under authority vested in me by Car Service Rule 19, Exemption No. 127 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 be, and it is hereby, amended to expire December 31, 1977.

This amendment shall become effective September 30, 1977.

Issued at Washington, D.C., September 22, 1977.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc 77-29219 Filed 10-4-77; 8:45 am]

[7035-01]

[No. 36654]

BOYLE BROTHERS, INC.

Petition for Clarification, Publication of Arbitrariness and Weighing Charges; Instituting a Proceeding

The purpose of this notice is to inform the public that upon a petition of Boyle Brothers, Inc., filed August 9, 1977, which sought the institution of a rule-making proceeding, the Commission is starting a declaratory order proceeding pursuant to the Administrative Procedure Act (5 U.S.C. 554(e)) concerning petitioner's proposed tariff publications.

Petitioner seeks to have the Commission interpret its proposed tariff publications as reasonable. The publications involve the following: First, the establishment of an additional charge (or arbitrary) of three cents per 100 pounds,

subject to a minimum charge of \$10 on all shipments destined to any point in the State of Vermont. A proposed mileage Table No. 19, would add an additional charge of three cents per 100 pounds, minimum charge of \$12 per vehicle used, on all shipments destined to points in New York City, Nassau, and Suffolk Counties, N.Y. Second, petitioner proposes to reimburse the carrier for weighing shipments without the consent (or request) of the shipper, consignee, or other designated party responsible for payment of the freight charges.

Petitioner submits that its proposal has been rejected by the Commission's Bureau of Traffic because of an alleged violation of Rule 4(a) and 4(b) of Tariff Circular MF No. 3, as the proposal was not a "clear and explicit statement of rates" and provided "a complicated plan", prohibited by those rules. Petitioner believes that by the summary rejection of its tariff publication, the Commission's Bureau of Traffic is giving a new interpretation to Rules 4(a) and 4(b), without an opportunity for the petitioner to show on a formal record that the proposal is reasonable.

By an order served concurrently with this publication, the proceeding is being set for handling under the modified procedure. Oral hearings do not appear necessary at this time and are not contemplated.

Any interested parties subsequently permitted to intervene should comply with Rules 43 to 52 (49 CFR 1100.43 to 1100.54), inclusive, of the Commission's general rules of practice, and the filing and service of pleadings is to be as follows: (a) Opening statement of facts and arguments by petitioner and any parties supporting petitioner on or before 20 days from the date of service of this order; (b) 30 days after that date, statement of facts and argument by replicant and any supporting parties; and (c) reply by petitioner and any supporting parties 20 days thereafter.

All written submissions will be available for public inspection during regular business hours at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, Washington, D.C.

Issued in Washington, D.C., September 22, 1977.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc 77-29271 Filed 10-4-77; 8:45 am]

[7035-01]

[Rule 19, Ex Parte No. 241, 32nd Rev. Exemption No. 90]

CAMINO, PLACERVILLE & LAKE TAHOE RAILROAD CO., ET AL.

Exemption Under Mandatory Car Service Rules

It appearing, that the railroads named below own numerous 50-ft. plain boxcars; that under present conditions there are substantial surpluses of these cars on their lines; that return of these cars

to the owners would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owners; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, 50-ft. plain boxcars described in the Official Railway Equipment Register, I.C.C. R.E.R. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "XM", and bearing reporting marks assigned to the railroads named below, shall be exempt from provisions of Car Service Rules 1, 2(a), and 2(b).

Camino, Placerville & Lake Tahoe Railroad Co.

Reporting Marks: CPLT.
City of Prineville.

Reporting Marks: COP.
The Clarendon & Pittsford Railroad Co.
Reporting Marks: CLP.

Greenville & Northern Railway Co.
Reporting Marks: GRN.
Greenwich & Johnsonville Railway Co.
Reporting Marks: GJ.
Lake Erie, Franklin & Clarion Railroad Co.
Reporting Marks: LEF.
Louisville & Wadley Railway Co.
Reporting Marks: LW.
Louisville, New Albany & Corydon Railroad Co.

Reporting Marks: LNAC.

McCloud River Railroad Co.

Reporting Marks: MR.

[Deleted]

Municipality of East Troy, Wis.

Reporting Marks: METW.

New Orleans Public Belt Railroad.

Reporting Marks: NOPB.

Pearl River Valley Railroad Co.

Reporting Marks: PRV.

The Pittsburgh & Lake Erie Railroad Co.

Reporting Marks: P&LE.

Providence & Worcester Co.

Reporting Marks: PW.

Raritan River Railroad Co.

Reporting Marks: RR.

¹ Missouri-Kansas-Texas Railroad Co. eliminated.

² Addition.

Sacramento Northern Railway.
Reporting Marks: SN.
St. Johnsbury & Lamotte County Railroad.
Reporting Marks: SJL.
St. Lawrence Railroad.
Reporting Marks: NSL.
Sierra Railroad Company.
Reporting Marks: SERA.
Terminal Railway, Alabama State Docks.
Reporting Marks: T ASD.
Tidewater Southern Railway Co.
Reporting Marks: TS.
Toledo, Peoria & Western Railroad Co.
Reporting Marks: TPW.
Vermont Railway, Inc.
Reporting Marks: VTR.
WCTU Railway Co.
Reporting Marks: WCTR.
Yreka Western Railroad Co.
Reporting Marks: YW.

Effective October 1, 1977, and continuing in effect until further order of this Commission.

Issued at Washington, D.C., September 23, 1977.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc 77-29272 Filed 10-4-77; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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Postal Rate Commission	10

[6320-01]

1

CIVIL AERONAUTICS BOARD.

Notice of rescheduled meeting from September 30, 1977, to October 7, 1977: MA-57 amending M-63; September 28, 1977.

TIME AND DATE: 10 a.m., October 7, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: The Air Charter Tour Operators of America to make a presentation to the Board regarding the problems affecting the charter tour operators industry.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The General Counsel for the Air Charter Tour Operators of America have requested that the meeting originally scheduled for September 30, 1977, be rescheduled for October 7, 1977.

[S-1500-77 Filed 10-3-77;9:24 am]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

Notice of additions of items to the September 29, 1977, meeting agenda: MA-58 amending M-61; September 28, 1977.

TIME AND DATE: 2 p.m., September 29, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 3a. Docket 30226, increase in subsidy for Kodiak-Western Alaska Airlines, Inc. (Memo No. 6669-D, BFR, OC, BOR). 3b. Docket 31428, exemption for Reeve Aleutian Airways, Inc., to continue carriage of military passengers on certain scheduled services at less than its tariff rates (Memo No. 5333-D, BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: On August 29, 1977, Kodiak-Western filed a petition for an increase in its temporary subsidy rate. The carrier informally indicated to the staff that if relief is not granted on an emergency basis, it will be forced to curtail severely (or perhaps cease) its operations after October 1, 1977. On September 27, 1977, Reeve Aleutian Airways filed a petition for an exemption to transport military passengers on scheduled commercial flights during the period October 1, 1977, through September 30, 1978. Reeve Aleutian's military contract is effective October 1, 1977. The staff forwarded its recommendations to the Board concerning these cases on September 28, 1977. In order for the Board to consider these cases before October 1, 1977, it is necessary for these items to be added to the September 29, 1977, agenda. Accordingly, the following Members have voted that agency business requires the addition of items 3a and 3b to the September 29, 1977, agenda and that no earlier announcement of these additions was possible:

Chairman Alfred E. Kahn,
Vice Chairman Richard J. O'Melia,
Member G. Joseph Minetti,
Member Elizabeth E. Bailey.

[S-1507-77 Filed 10-3-77;9:24 am]

[6320-01]

3

CIVIL AERONAUTICS BOARD.

Notice of change of time for the September 29, 1977, meeting: MA-59 amending M-61; September 29, 1977.

TIME AND DATE: 3 p.m., September 29, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Scheduled meeting for September 29 as announced by M-61 as amended by MA-54, MA-55, MA-56 and MA-58.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Chairman Kahn is appearing at a Congressional meeting today and will not be available for the meeting until 3 p.m.

[S-1508-77 Filed 10-3-77;9:24 am]

[3410-05]

COMMODITY CREDIT CORPORATION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 48453, September 23, 1977.

PREVIOUSLY ANNOUNCED DATE AND TIME OF MEETING: Friday, September 30, 1977, 3 p.m.

STATUS: Open meeting.

CHANGES IN THE MEETING: Additional agenda item: (5) General discussion re: CCC administrative responsibilities concerning pilot projects for the production and marketing of industrial hydrocarbons and alcohols from agricultural commodities and forest products.

CONTACT PERSON FOR MORE INFORMATION:

Bill Cherry, Acting Secretary, Commodity Credit Corporation, Room 202-W, Administration Building, U.S. Department of Agriculture, Washington, D.C. 20013, telephone 202-447-7583.

[S-1513-77 Filed 10-3-77;11:39 am]

[6714-01]

5

FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting.

At its open meeting held at 2:30 p.m. on Friday, September 30, 1977, the Board of Directors of the Federal Deposit Insurance Corporation unanimously determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required its addition of the following matters to the agenda for consideration at that meeting, on less than seven days' notice to the public:

Application of the Western New York Savings Bank, Buffalo, N.Y., for consent to establish a branch at 1777 Sheridan Drive, Town of Tonawanda, N.Y.

Resolution rejecting the highest bid received for the stock of First National Bank of Jefferson Parish, Gretna, La., which stock was acquired by the Corporation from the receiver of International City Bank & Trust Company, New Orleans, La.

Resolution extending to November 1, 1977, the deadline for the submission of statements of employment and financial interests by employees of the Corporation.

Resolution augmenting the budget of administrative expenses for 1977.

The Board further determined that no earlier notice of a change in the subject matter of the meeting was possible.

Dated: September 30, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1504-77 Filed 10-3-77;8:45 am]

[6714-01]

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FEDERAL DEPOSIT INSURANCE CORPORATION.

Notice of change in subject matter of agency meeting.

At its closed meeting held at 2 p.m. on Friday, September 30, 1977, the Board of Directors of the Federal Deposit Insurance Corporation unanimously determined, on motion of Chairman George A. LeMaistre, seconded by Director John G. Heimann (Comptroller of the Currency), that Corporation business required its addition of Case Nos. 43,227-L and 43,234-L, regarding the liquidation of assets acquired by the Corporation from Northeast Bank of Houston, Houston, Tex. (in liquidation), to the agenda for consideration at the meeting, on less than seven days' notice to the public.

The Board also voted to withdraw Case No. 43,204-L, regarding the liquidation of assets acquired by the Corporation from Northern Ohio Bank, Cleveland, Ohio, from consideration, at the request of the Division of Liquidation.

The Board further determined that no earlier notice of a change in the subject matter of the meeting was possible.

Dated: September 30, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[S-1505-77; Filed 10-3-77;8:45 am]

SUNSHINE ACT MEETINGS

54349-54357

[6730-01]

7

FEDERAL MARITIME COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: September 30, 1977, 42 FR 52601.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: October 5, 1977, 10 a.m.

CHANGES IN THE MEETING: Addition of the following item to the closed session: 2. Docket No. 77-22—Actions to adjust or meet conditions unfavorable to shipping in the foreign trade of the United States (Guatemalan Decree No. 41-71); consideration of comments on proposed rule.

[S-1511-77 Filed 10-3-77;11:01 am]

[6730-01]

8

FEDERAL MARITIME COMMISSION.

TIME AND DATE: October 11, 1977, 10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED: Portions open to the public:

1. Section 510.5, general order 4—Surety bond requirements—Proposed rulemaking proceeding.

2. Agreement No. 7631-6; modification of the Concordia Line joint service agreement to establish intermodal authority.

3. Agreement No. 9522-31; modification of the Med-Gulf Conference agreement providing for voting by secret ballot and right of independent action.

4. Docket No. 73-70—Inter Equip, Inc. v. Hugo Zanelli & Co., review of order of dismissal.

Portion closed to the public:

1. Docket No. 77-44—In re Atlantic and Gulf/Indonesia Conference, Atlantic and Gulf/Singapore, Malaya, and Thailand Conference, Pacific-Straits Conference, and Pacific/Indonesian Conference: Application for approval of interconference agreement Nos. 10175 and

10176; and for approval of conference agreements Nos. 8080-14, 6060-17, 8240-11, and 5680-18—Review of order of discontinuance.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5727.

[S-1512-77 Filed 10-3-77;11:01 am]

[7030-01]

9

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., October 13, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the public.

Docket 182, Fort Sill Apache.
Docket 196, Hopi.
Docket 197, Nisqually.
Docket 206, Squawin.
Docket 208, Stellacoom.
Docket 356, Pueblo of Santa Clara.
First quarter fiscal year 1978 financial plan.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-1510-77 Filed 10-3-77;11:01 am]

[7715-01]

10

POSTAL RATE COMMISSION.

TIME AND DATE: 9:30 a.m., Wednesday, October 5, 1977.

PLACE: Conference Room, Room 500, 2000 L Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Minutes of the 305th meeting.

CONTACT PERSON FOR MORE INFORMATION:

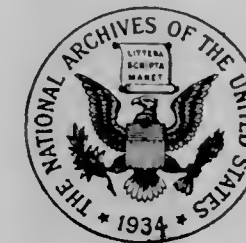
Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street, N.W., Washington, D.C. 20268, Telephone (202) 254-5614.

[S-1509-77 Filed 10-3-77;10:31 am]

Registered
Federal

WEDNESDAY, OCTOBER 5, 1977

PART II



DEPARTMENT OF
HOUSING AND
URBAN
DEVELOPMENT

Federal Insurance
Administration

NATIONAL FLOOD
INSURANCE PROGRAM

Proposed Flood Elevation Determinations

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[4210-01]

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3474]

NORTHPORT, TUSCALOOSA COUNTY,
ALA.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Adminis-
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Northport, Tuscaloosa County, Ala. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at McGuire Engineering Co., Northport, Ala.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor J. Frank Manderson, Drawer L, Northport, Ala. 35476.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Northport, Tuscaloosa County, Ala., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements

on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Black Warrior River	Confluence of Mill Creek	148
	Upstream of Lurleen Wallace Blvd.	152
Black Warrior Tributary No. 1	Upstream of 5th St.	151
	Downstream of 9th St.	151
Mill Creek	Upstream of 5th St.	148
	Upstream of 37th St.	157
	Upstream of Flatwoods Rd.	165
Mill Creek Tributary No. 1	Upstream of 12th St.	149
	Upstream of 17th St.	169
	Upstream of 33rd St.	205
Mill Creek Tributary No. 1 A	Upstream of 30th St.	195
Mill Creek Tributary No. 2	Upstream of 32nd St.	212
	Confluence with Mill Creek Tributary No. 1	148
	Upstream of 17th St.	153
	Upstream of 24th St.	176
	Upstream of 33rd St.	214
Mill Creek Tributary No. 3	46th Ave. (extended)	162
	Downstream of U.S. Highway 43	170
Mill Creek Tributary No. 4	Downstream of U.S. Highway 43	176
Tater Hill Creek	Upstream of Old Columbus Rd.	149
	Approximately 150 ft upstream of U.S. Highway 82	159
Tater Hill Creek Tributary No. 1	Upstream of U.S. Highway 82	160
	Upstream of 34th St.	172
Twomile Creek	Approximately 175 ft upstream of U.S. Highway 82	162
	Upstream of Union Chapel Rd.	205
	Downstream of Old Barnes Rd.	233
Twomile Creek Tributary No. 1	Approximately 125 ft upstream of U.S. 82	161
	Upstream of Alabama 69	174
Twomile Creek Tributary No. 2	Upstream of Shirley Rd.	205
	Approximately 100 ft upstream of Country Road 11	232
	Upstream of Crawford Rd.	268
Twomile Creek Tributary No. 2A	Confluence with Twomile Creek Tributary No. 2	205
	Downstream of Country Road 14	265
Twomile Creek Tributary No. 3	Confluence with Twomile Creek	170
	Confluence of Twomile Creek Tributary No. 3A	193
Twomile Creek Tributary No. 3A	Upstream Indian Lake Rd.	196
Twomile Creek Tributary No. 4	Upstream of Hunter Creek Rd.	191
	Upstream of 43rd St.	218
Twomile Creek Tributary No. 5	Upstream of Twin Oaks Rd.	216
	Upstream of Union Chapel Rd.	236
Twomile Creek Tributary No. 5A	Confluence with Twomile Creek Tributary No. 5	218

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation

of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28528 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3475]

PARAGOULD, GREENE COUNTY, ARK.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Adminis-
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Paragould, Greene County, Ark. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Post Office, 200 West Court, Paragould, Ark.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert Camp, 221 West Court, Paragould, Ark.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Paragould, Greene County, Ark., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed

to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Eight Mile Creek	County road	301
	do	313
	Upstream corporate limits	286
	Downstream corporate limits	288
	State Highway 135	282
	North 6th Ave.	276
Longy Creek	Upstream corporate limits	305
	Reynolds Rd.	293
	Downstream corporate limits	289
Reynolds Creek	Country Club Rd.	296
	East St.	296

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28529 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3476]

JACKSONVILLE, PULASKI COUNTY, ARK.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Adminis-
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Jacksonville, Pulaski County, Ark. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the

Source of flooding

Location

Elevation in feet, national geodetic vertical datum

Jack Bayou
Tributary No. 2-A

Upstream of an 8th
drive of Pine
Meadows Trailer
Park

266

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28530 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3477]

GARDEN GROVE, CALIF.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Adminis-
tration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Garden Grove, Calif. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 11391 Acacia Parkway, Garden Grove, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor J. Tilman Williams, City Hall, 11391 Acacia Parkway, Garden Grove, Calif. 92640.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Garden Grove,

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bayou Moto Main Stem	Upstream of Arkansas Highway 161	246
	Jacksonville cutoff road from Arkansas Highway 161	253
Bayou Moto Tributary No. 1	Upstream of South Redmond Rd.	250
	Gregory Rd.	283
Bayou Moto Tributary No. 1-A	Upstream of Marshall Rd.	258
Jack Bayou Main Stem	Eastern Pulaski County limits	256
Jack Bayou Tributary No. 1	Eastern Pulaski County limits	253
	Upstream of Arkansas Highway 161	273
Jack Bayou Tributary No. 1-A	Upstream of Arkansas Highway 161	275
Jack Bayou Tributary No. 2	Upstream of U.S. Highway 67-167	262
Jack Bayou Tributary No. 2-A	Confluence with Jack Bayou Tributary No. 2	258

Calif., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Estimated depth (feet)
Sheet flow from Santa Ana River.	Intersection of Westminster Ave. and Roney Dr.	1
	Intersection of Marly La. and Sieman St.	1
	Intersection of Beacon Ave. and Spaulst	1

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28531 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3478]

SEAL BEACH, CALIF.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Seal Beach, Calif. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 211 8th Street, Seal Beach, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Dennis Courtemarche, City Manager, Seal Beach, City Hall 211 8th Street, Seal Beach, Calif. 90740.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Seal Beach, Calif., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Local runoff from golf course retarding basin.	North and West of Lampson Ave	11

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

tration, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28532 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3479]

BOULDER COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Boulder, Colo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 1777 Broadway, Boulder, Colo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Robert W. Westdyke, City Manager, City of Boulder, P.O. Box 791, Boulder, Colo. 80306.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Boulder, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Boulder Creek	6th St.	5,372
	9th St.	5,390
	Broadway	5,348
	Arapahoe Ave.	5,341
	17th St.	5,325
	19th St.	5,315
	Folsom Field	5,301
	24th St.	5,297
	28th St.	5,285
	30th St.	5,272
	Arapahoe Ave.	5,248
	Colorado and Southern R.R.	5,224
South Boulder Creek	Arapahoe Ave.	5,231
	Colorado and Southern R.R.	5,220

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28533 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3480]

PALMER LAKE, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Palmer Lake, Colo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, Lower Glenway and Crescent, Palmer Lake, Colo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Randall Warthen, P.O. Box 208, Palmer Lake, Colo. 80133.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Palmer Lake, Colo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Monument Creek	Virginia Ave.	7,276
	Lovers La.	7,110
	Private driveway	7,016
	Red Rock Ranch Rd.	7,010
Monument Creek	Private driveway	6,957
Tributary	Westward La.	7,002
	Colorado Highway 105	6,977
	County road	6,947
Monument Creek	Clover Hoof Rd and private driveway	5,956
Bypass	Walnut Ave.	7,198
North Monument Creek	Private driveway	7,158
	Spring St.	7,118
Carpenter Creek	County Line Rd.	7,220

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation

of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28534 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3481]

THORNTON, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed based flood elevations (100-year flood) listed below for selected locations in the City of Thornton, Colo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 8992 North Washington St., Thornton, Colo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Tony E. Richter, City Hall, 8992 North Washington St., Thornton, Colo. 80229.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Thornton, Colorado, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any

existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Grange Hall Creek	Union Pacific R.R.	5,293
	Colorado Blvd.	5,146
	Liverdale Rd.	5,101
South Fork Grange Hall Creek	Washington St.	5,319
	104th Ave.	5,238
Grange Hall Creek tributary	York St.	5,240
basin 4100	Union Pacific R.R.	5,151
	Wells Rd.	5,136
Brainerd Gulch	Colorado Blvd.	5,189
Big Dry Creek	Interstate 25	5,162
	136th Ave.	5,147

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28537 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3482]

GLASTONBURY, HARTFORD COUNTY, CONN.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Glastonbury, Hartford County, Conn. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base

flood elevations are available for review at the Town Clerk's Office, Glastonbury Town Hall, 2108 Main St., Glastonbury, Conn. 06033.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable Henry A. Kinne, Mayor, Town of Glastonbury, Glastonbury Town Hall, 2108 Main St., Glastonbury, Conn. 06033.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notices of the proposed determinations of base flood elevations (100-year flood) for the Town of Glastonbury, Connecticut, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed evaluations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary B	450 ft upstream from confluence with Smith Brook	51
	50 ft downstream of Farmstead La. culvert	70
	40 ft downstream of Founders Rd. culvert	85
	At the downstream face of Carl Rd. culvert	88
	50 ft downstream of Coach Rd. culvert	90
	At culvert, 425 ft upstream of Coach Rd.	95
	At culvert, 600 ft upstream of Coach Rd.	101
Wickat Brook	At confluence with Salmon Brook	156
	At the dam, 315 ft upstream of the confluence with Salmon Brook	164

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	At the upstream face of access Rd. culvert	177
	At the downstream face of Hebron Rd. culvert	183
Connecticut River	1300 ft upstream of Hebron Rd. culvert	193
	3.45 mi downstream of Roaring Brook confluence	196
	At the confluence with Roaring Brook	27
	Upstream corporate limit	28
Roaring Brook	At the Tyson Street Bridge	27
	100 ft downstream of Main Street Bridge	31
	0.63 mi upstream of the Main St.	50
	0.43 mi downstream of of Matson Hill Rd.	122
	0.11 mi downstream of Matson Hill Rd.	161
	60 ft upstream of Matson Hill Rd.	168
	At the dam, 0.13 mi upstream of Matson Hill Rd.	181
	At the Brainard Pond Dam	229
	At the Woodland Street Bridge	233
	At the Cold Brook Road Bridge	237
	At the New London Turnpike Bridge	258
	At the dam, 0.33 mi downstream of Connecticut Route 2	265
	At the Hodges Pond Dam	285
	At the Fisher Hill Road Bridge	285
	At the Angus Park Pond Dam	306
	At the Shady Mill Rd. culvert	315
	100 ft upstream of Wier St.	349
	At the dam 0.28 mi upstream of Wier St.	368
	At the dam, 100 ft downstream of the Tributary A confluence	374
	0.36 mi upstream of the Tributary A confluence	394
Salmon Brook	At the Nantua Ave. culvert	28
	0.25 mi upstream of the Route 17 culvert	36
	At the Eastern Blvd. culvert	47
	At the dam, 350 ft upstream of Mill St.	60
	At the Mill Bldg. culvert	104
	0.45 mi upstream of the Mill Bldg. culvert	107
	At the Bell Street Bridge	147
	At the confluence with the south branch of Salmon Brook	174
Porter Brook	At the Nantua Ave. culvert	28
Hubbard Brook	At the Route 17 culvert	29
	At the footbridge, 300 ft downstream of Williams St.	29
	At the Williams Pond Dam	50
	At the New London Turnpike culvert	66
	At the Rogers Pond Dam	80
	At the Connecticut Route 2 culvert	86
	0.86 mi upstream of the Connecticut Route 2 culvert	116
Smith Brook	At the footbridge, 0.28 mi upstream of Main St.	28

cation of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall of Portland, Conn.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify First Selectman Marie T. Larson, P.O. Box 71, Portland, Conn.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Portland, Middlesex County, Conn., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Hales Brook	Upstream of State Route 17	139
	Upstream of Thompson Hill Rd.	231
Reservoir Brook	Upstream of Wilcox Rd.	39
	Approximately 50 ft upstream of Thompson Hill Rd.	190
	Upstream of the Old Marlborough Turnpike	221
Connecticut River	Intersection of the southeastern corporate limits and the north bank of the Connecticut River	20
	Upstream of State Route 17A	23

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Intersection of the northern corporate limits and the east bank of the Connecticut River	26
Carr Brook	Upstream of Strickland Rd.	25
	Upstream of Rose Hill Rd.	81
	Pennfield Hill Rd.	169

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28537 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3484]

JUNO BEACH, FLA.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Juno Beach, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Hall, 841 Ocean Drive, Juno Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Alfred M. Elder, Town Hall, 841 Ocean Drive, Juno Beach, Fla. 33408.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

PROPOSED RULES

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Juno Beach, Fla., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Shoreline from northern corporate limit to southern corporate limit.	7
Intersecting Waterway	East end of North 16th Ave.	7
	East end of South 12th Ave.	7
	Lake Osborne Dr. west side.	11
	West end of 22nd Ave.	11
	West end of 17th Ave.	12

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28539 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3485]

LAKE PARK, FLA.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Lake Park, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt

or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 535 Park Avenue, Lake Park, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Bob Carlson, Town Manager, Town of Lake Park, P.O. Box 12276, Lake Park, Fla. 33403.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Lake Park, Fla., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Worth	Shoreline from northern corporate limits to southern corporate limits.	7
	Lake Shore Dr. to Cypress Dr.	7
	West end of Gateway Rd.	12
Runoff ponding	West end of Industrial Ave.	17

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28539 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3486]

LAKE WORTH, FLA.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Lake Worth, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 7 North Dixie, Lake Worth, Fla. 33460.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Leamon Andrews, City Hall, 7 North Dixie, Lake Worth, Fla. 33460.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for City of Lake Worth, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234, 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Shoreline from northern corporate limit to southern corporate limit.	7
Lake Worth	East end of North 16th Ave.	7
	East end of South 12th Ave.	7
Rainfall	Lake Osborne Dr. west side.	11
	West end of 22nd Ave.	11
	West end of 17th Ave.	12

*Flooding at these locations is caused by poor drainage.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28540 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3487]

LAUDERHILL, FLA.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Lauderhill, Fla.

These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

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DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 1080 Northwest 47th Avenue, Lauderhill, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Eugene Cipoloni, City Hall, 1080 Northwest 47th Avenue, Lauderhill, Fla. 33313.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Lauderhill, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Middle River	Florida Turnpike	8
Canal (C-15)	Inventory Dr.	8
Plantation Canal	U.S. Highway 441	8
W-12	Florida Turnpike	7
Middle River	Northwest 31st St.	8
Canal Tributary	U.S. Highway 441	8

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Adminis-

trator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28541 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3488]

NORTH PALM BEACH, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of North Palm Beach, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, 501 U.S. Highway 1, North Palm Beach, Fla.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor M. C. Love, Jr., Village Hall, 501 U.S. Highway 1, North Palm Beach, Fla. 33408.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of North Palm Beach, Fla., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any

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existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Atlantic Ocean	Shoreline from northern corporate limit to southern corporate limit.	7
Lake Worth	East end of Wetlaw La.	7
Intracoastal waterway, North Palm Beach Waterway to C-17 Canal.	U.S. 1 State Road 5 Bridge over intra-coastal waterway. Lighthouse Drive Bridge over North-Palm Beach waterway. U.S. 1 State Roads Bridge over C-17 Canal.	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28542 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3489]

SEWALL'S POINT, FLA.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Sewall's Point, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 1 South Sewall's Point Road, Jensen Beach, Fla. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Major General Donald W. Graham, USAF Ret., Liaison Officer, Town of Sewall's Point, Town Hall, 1 South Sewall's Point Rd., Jensen Beach, Fla. 33452.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Sewall's Point, Florida, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Indian River	State Road A1A, Sewall's Point Rd. High Point Rd. and Island Rd.	8
St. Lucie River	West End of State Road A1A.	6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 26, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28543 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3490]

STUART, FLA.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Stuart, Fla. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 121 Flagler Avenue, Stuart, Fla. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Kenneth S. Stimmell, City Hall, 121 Flagler Ave., P.O. Drawer 599, Stuart, Fla. 33494.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Stuart, Fla., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the

second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
St. Lucie River	North End of Colorado Ave.	6

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28544 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3491]

ATHENS, GA.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Athens, Ga. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 301 College Ave., Athens, Ga. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Upshaw Bentley, Jr., City Hall, 301 College Ave., Athens, Ga. 30601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

PROPOSED RULES

SUPPLEMENTAL INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Athens, Ga., in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brooklyn Creek	Talmadge Dr.	708
	King St.	694
	Broad St.	666
	Dearing extension	663
	Baxter St.	662
	Baxter Dr.	632
	Dudley Dr.	627
	Fortson Dr.	618
	Milledge Circle	609
	West Lake Dr.	602
	Belvoir Heights	701
Brooklyn Creek-Tributary A	Rockspring Rd.	698
Brooklyn Creek-Tributary B	Paris St.	676
	Minor St.	676
Carr's Creek	U.S. Highway 78	637
	Unnamed paved road	629
Hunnicutt Creek	Janice Dr.	672
	Ashton St.	658
	Seaboard Coastline R.R.	629
	Oglethorpe Ave.	621
Middle Oconee River	Mitchell Bridge	584
	U.S. Highway 29	583
	Madison Branch	580
	U.S. Highways 29 and 78	577
	U.S. Highways 441 and 123, Georgia Highway 15	563
North Oconee River	North Athens bypass	620
	Elizabeth St.	617
	Seaboard Coastline R.R.	615
	North Ave.	615
	Broad St.	611
	Georgia R.R.	609
	U.S. Highway 78 and Cemetery Rd.	607
Tanyard Creek	Baxter St.	606
	Lumkin St.	612
	Sanford Dr.	606
Trail Creek	Seaboard Coastline R.R.	611
Tributary C	John Davis Rd.	563
Tributary D	Will Hunter Rd.	562
Tributary E	Boulevard	685
	Nantahala Ave.	682
	Seaboard Coastline R.R.	669
	Barber St.	661
	Southern R.R.	655
	Waterworks Dr.	655

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Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary M	Unnamed dirt road	640
	Unnamed Rd.	641
	Newton Bridge Rd.	624
Tributary MT	Seaboard Airline	668
	U.S. Highway 29	650
Tributary O	Tallapoosa Rd.	643
Tributary P	U.S. Highway 29	642
	U.S. Highway 29	640

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: August 16, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28545 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3374]

CORONA, CALIF.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Corona, Calif. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 815 West 6th Street, Corona, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Tom Gunderson, City Hall, P.O. Box 940, 815 West 6th Street, Corona, Calif. 91720.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator

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PROPOSED RULES

gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Corona, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Arlington Channel	Parkridge Ave. and Santa Fe R.R.	629
Main Street Channel	McKinley St.	607
	6th St.	629
	Circle City Dr.	653
	Rimpou Ave.	677
	Fullerton Ave.	737
	Killeg Ave.	801
	Garrison Ave.	802
	Chase Ave.	1,035
	Access road	1,120
	do	1,202
Mangual Channel	Kronen Ave.	853
	Ontario Ave.	853
	Country Club La.	500
North Norco Channel	Ontario Ave.	879
Oak Street Channel	Chase Dr.	1,042
South Norco	Lincoln Ave.	567
	(Goodwin St.)	
Tennessee Wash	River Rd.	579
	Lincoln Ave.	567
	(Goodwin St.)	
	Cota St.	576
	River Rd.	594
	Main St.	593
	Joy St.	640
	Atchison, Topeka, and Santa Fe R.R.	615
	Riverside Freeway	616
	Quarry St.	620
	6th St.	626
	El Sobrante Ave.	629
	Compton Ave.	639
	Pacific Electrical R.R.	644
	Magnolia Ave.	649
	Cota St.	583
Tennessee Wash Breakout	River Rd.	579
South Norco Channel	Parkridge Ave.	582
Tributary A	Hammer Ave.	596
West Norco Channel	River Rd.	563

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administration, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

ministrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28546 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3375]

SOUTH LAKE TAHOE, CALIF.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of South Lake Tahoe, Calif. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, South Lake Tahoe, Calif.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Del Laine, City Hall, P.O. Box 7322, South Lake Tahoe, Calif. 95705.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of South Lake Tahoe, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more

stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Bijou Creek	Ralph Dr.	6,306
	Pioneer Trail	6,285
	Pairway Ave.	6,233
	U.S. Route 50	6,232
Heavenly Valley Creek	Pioneer Trail	6,245
	Johnson Rd.	6,255
Trout Creek	U.S. Route 50	6,243
Upper Truckee River	do	6,241

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administration, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28547 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3376]

BOULDER, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Boulder, Colo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 1777 Broadway, Boulder, Colo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Frank Buchanan, P.O. Box 791, Boulder, Colo. 80306.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Boulder, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Boulder Creek	6th St.	5,372
	9th St.	5,360
	Broadway	5,348
	Arapahoe Ave.	5,341
	17th St.	5,325
	19th St.	5,315
	Folsom Field	5,304
	24th St.	5,297
	28th St.	5,285
	30th St.	5,272
	Arapahoe Ave.	5,218
	Colorado and Southern R.R.	5,224
South Boulder Creek	Arapahoe Ave.	5,231
	Colorado and Southern R.R.	5,220

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administration, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28548 Filed 10-4-77; 8:45 am]

PROPOSED RULES

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3377]

TRINIDAD, COLO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Trinidad, Colo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 135 North Animas, Trinidad, Colo. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John Rino, City Hall, 135 North Animas, Trinidad, Colo. 81082.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Trinidad, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the

second layer of insurance on existing buildings and contents. The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Purgatoire River	1-25	6,402
	Commercial St.	5,786
	Linden Ave.	5,872
Prospect Canyon	Atchison Ave.	6,087
	Robinson Ave.	6,064
	Nickerson Ave.	6,010
Pinon Canyon	Nevada Ave.	6,027
	Arizona Ave.	6,020
Portland Avenue Canyon	East Main St.	5,686
	Colorado and Southern R.R.	5,978
Fishers Peak Arroyo	2d St	6,004

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administration, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28549 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3378]

ANDOVER, MASS.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Andover, Mass. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, 20 Main St., Andover, Mass. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. J. Maynard Austin, Town Manager, Town of Andover, Town Hall, 20 Main St., Andover, Mass. 01810.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Andover, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Merrimack River...	Interstate 93.....	50
Shawheen River...	Interstate 93 (upstream).....	75
	Interstate 93 (downstream).....	74
	Andover St.....	71
	Balmoral St.....	34
	Boston and Maine RR.....	34

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28550 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3379]

FARMINGTON, MICH.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Farmington, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 23600 Liberty St., Farmington, Mich. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor John Richardson, City Hall, 23600 Liberty St., Farmington, Mich. 48024.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Farmington, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Upper River Rouge.....	Grand River Ave.....	655
	Powers Rd.....	692
	Shiawassee Rd.....	705
Tarabusi Creek.....	Smithfield Rd.....	753
	Brittany Hill Rd.....	757
	Blanchard Rd.....	798

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28551 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3380]

KAWKAWLIN, MICH.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Township of Kawkawlin, Mich. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Township Hall, 1379 East Beaver Road, Kawkawlin, Mich.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Lloyd Pagot, Township Supervisor, Township of Kawkawlin, Township Hall, 1379 East Beaver Road, Kawkawlin, Mich. 48631.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year

flood) for the Township of Kawkawlin, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kawkawlin River-North Branch.....	Beaver Rd.....	595
Saginaw Bay.....	M-13 Expressway.....	590
	Le Bourdais Rd.....	585
	Oakwood Drain (extended).....	585
	Boutell Rd. (extended).....	585
Railroad Drain.....	Detroit and Mackinac Rd.....	585
	Elevator Rd.....	585
Rosebush Drain.....	M-13 Expressway.....	591
	Detroit and Mackinac Rd.....	585
	Linwood Rd.....	585
Tap-Grove Drain.....	M-13 Expressway.....	593
	Linwood Rd.....	596
Indian Town Drain.....	Two Mile Rd.....	586
	Lauria Rd.....	586
	Beaver Rd.....	587

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28552 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3381]

INVERNESS, MISS.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Inverness, Miss. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, East Grand Avenue, Inverness, Miss. 38753.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Robert Y. Wright, Town Hall, East Grand Avenue, Inverness, Miss. 38753.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Inverness, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary 3.....	Upstream corporate limits.....	113
	Downstream corporate limits.....	112
Mound Bayou.....	Baird St.....	116
Tributary 2.....	Grand Ave.....	115
Tributary 1.....	Upstream corporate limits.....	118
	Upstream corporate limits.....	119

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28553 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3382]

HERCULANEUM, JEFFERSON COUNTY, MO.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Herculaneum, Jefferson County, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the City Clerk's Office, City Hall, No. 1 Parkwood Court, Herculaneum, Mo. 63048.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify the Honorable William H. Burlage, Mayor, City of Herculaneum, City Hall, No. 1 Parkwood Court, Herculaneum, Mo. 63048.

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FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Herculaneum, Jefferson County, Mo., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Joachim Creek	1,300 ft downstream of Missouri Illinois R.R.	112
	1,000 ft upstream of Interstate 55	112
Hidden Valley Creek	At confluence with Joachim Creek	111
	100 ft downstream of Commercial Blvd.	112
	100 ft upstream of Commercial Blvd.	115
	1,650 ft upstream of Commercial Blvd.	117
	3,050 ft upstream of Commercial Blvd.	128
Burns Creek	At city limits	146
	At confluence with Joachim Creek	111
	300 ft downstream of Lake Dr.	112
	At Lake Dr.	122
	50 ft downstream of Highway 61 spur	123
	At Highway 61 spur	129
Missouri River	50 ft upstream of I-55	139
	Southern corporate limits	142
	Northern corporate limits	143

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Adminis-

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trator, FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28554 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3383]

SPRINGFIELD, MO.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Springfield, Mo. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 830 Bloomville Street, Springfield, Mo.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Don Busch, City Manager, City of Springfield, 830 Bloomville Street, Springfield, Mo. 65801.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Springfield, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed

to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Ward Branch	Republic St., Highway M.	1,218
	Corporate limits	-
Dickerson Branch	Livingston St.	1,227
	Evergreen St.	1,207
	Norton St.	1,200
	Zoo Park Rd.	1,188
	Corporate limits	1,159
Doling Branch	Highway 144	1,217
	Norton St.	1,241
Nichols Branch	Orchard Crest	1,206
	Elden Ave.	1,240
North Branch	Nichols St.	1,253
Wilson's Creek	Waddill St.	1,210
	Highway 160 Bypass	1,220
	State St.	1,210
	Highway 160 Bypass	1,200
	Missouri Pacific R.R.	1,218
Wilson's Creek	Golden Ave.	1,212
	Corporate limits	1,198
Jordan Creek	Benton Ave.	1,272
	Main St.	1,263
	Fort St.	1,251
	Mount Vernon St.	1,241
	Grand St.	1,231
	Bonnet St.	1,222
North branch, Jordan Creek	Oak Grove Ave.	1,252
	Glenstone Ave.	1,228
	Fremont Ave.	1,311
	Hampton Ave.	1,292
	Sherman Ave.	1,286
	St. Louis and San Francisco Rys.	1,275
South branch, Jordan Creek	Patterson Ave.	-
	East Traffic Way	-
	Glenstone Ave.	-
	Fremont Ave.	-
	Sherman Ave.	-
Fasnight Creek	Jefferson Ave.	-
	Thelma St.	-
South Creek	Fort Ave.	-
	National Ave.	-
	Campbell Ave.	-
	Fort Ave.	1,255
	Scenic Ave. and Missouri Pacific R.R.	1,228
	Golden Ave.	1,204
Galloway Creek	Battlefield Rd.	1,226
	Laguna Ave.	1,204
	Barton St.	1,189
	Republic St., Highway M.	1,177
James River	U.S. Highways 60-65	-
	Corporate limits (upstream)	-
	River Rd.	-
	Confluence with Galloway Creek	1,152

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28555 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3384]

NEWPORT, N.C.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Newport, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, Newport, N.C.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor Gilbert Slaughter, City Hall, P.O. Box 115, Newport, N.C. 28570.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Newport, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the

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second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Newport River	State Road 137, U.S. 70	7
Blakes Branch (Newport River)	State Road 1140	7
Cedar Swamp Creek (Newport River)	State Road 1140	7
Little Deep Creek (Newport River)	At extrajurisdictional boundary	7
Deep Creek (Newport River)	State Road 1154	7
Stumps Swamp Branch (Newport River)	State Road 1137	7
	100 ft downstream of Atlantic and East Carolina R.R.	7

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969, (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc 77-28556 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3385]

NEW HANOVER COUNTY, N.C.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in New Hanover County, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESS: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the County Administration Building, 320 Chestnut St., Wilmington, N.C. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Dan Eller, County Manager, New Hanover County, County Administration Building, 320 Chestnut St., Wilmington, N.C. 28401.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for New Hanover County, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cape Fear River	U.S. Route 74 to...	11
	U.S. Route 421	11
	Seaboard Coast Line R.R.	10
Northeast Cape Fear River	U.S. Route 117 near Cape Fear River	11
	Seaboard Coast Line R.R. near Cape Fear River	11
	U.S. Route 117 upstream of Prince George Creek	8
	Seaboard Coast Line R.R. upstream of Prince George Creek	8
Island Creek	State Route 1002	8
Prince George Creek	Sidbury Road	18
	North Carolina Route 133	12
	Seaboard Coast Line R.R.	13
	North Carolina Route 132	14
	Blue Clay Rd. (State Route 1318)	19
	Sidbury Rd. (State Route 1336)	20
Prince George Creek Tributary	State Route 133	23
Ness Creek	North Carolina Route 133	22
Smith Creek	do	10
	Seaboard Coast Line R.R.	10
	23rd St.	10
	Kerr Ave.	10
	North Carolina Route 132	13
	do	15

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kings Grant Tributary	North Carolina Route 132**	15
Murrayville Tributary	State Route 1327*.....	32
	Murrayville Rd. (State Route 1327)*.....	21
Spring Branch	do.....	26
	Kerr Ave. North Carolina Route 132*.....	21
Mott Creek	do.....	12
	River Rd. Antionette Dr. U.S. Route 421*.....	15
	North Carolina Route 132*.....	19
Bradley Creek	do.....	21
	Mallard St. State Route 1119*.....	17
Bradley Creek Tributary	U.S. Route 74*.....	15

* Downstream side.
** Upstream side.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974))

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28557 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3388]

ROCKWELL, N.C.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Rockwell, N.C. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Town Hall, Rockwell, N.C. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mayor O. T. Medley, Town Hall, P.O. Box 506, Rockwell, N.C.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Rockwell, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Peeler Branch	Sides branch confluence	720
	Broad St.*.....	710
	do.....	713
	Market St.*.....	715
	do.....	730
Post Branch	Lower Stone Church Rd.*.....	710
	do.....	721
	China Grove Highway*.....	760
	do.....	765

* Downstream.
** Upstream.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28558 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3387]

WARRENTON, OREG.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the City of Warrenton, Ore. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at City Hall, 147 Southwest Main Street, Warrenton, Ore.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Gilbert Gramson, City Manager, 147 Southwest Main Street, P.O. Box 250, Warrenton, Ore.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5207, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the City of Warrenton, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the

appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Columbia River	Back of Columbia River, Harbor St.	7
Lewis and Clark River	Warren Astoria Highway, Clatsop County Airport	7
Skipanon River	Harbor St. Columbia Beach Rd. Oregon Coast Highway 101	8
Alder Creek	Fort Stevens Highway	4

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28559 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3388]

MORRISTOWN, VT.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Morristown, Vt. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, Morristown, Vt.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should im-

mediately notify Mr. Joseph L. Trombley, Chairman, Board of Selectmen, Town of Morristown, Village Hall, Morristown, Vt. 05661.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Morristown, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Kennel Brook	Town Highway 23, Shady Hill Rd.	750
	Town Highway 56	715
Ryder Brook	Vermont Route 100	691
	Town Highway 23	690
Lake River	Vermont Route 15A	652
	Bridge St.	590
	Cady's Falls Dam	587
	Cady's Falls Rd.	551
	Det. Bonds Bridge	543

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 77-28560 Filed 10-4-77; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3389]

NORTHFIELD, VT.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Northfield, Vt. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Municipal Building, Main Street, Northfield, Vt.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Robert Dorman, Town and Village Manager, Municipal Building, Main Street, Northfield, Vt. 05663.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Northfield, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968, Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its

PROPOSED RULES

own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dog River	Wall St.	728
	Central Vermont RR.	724
	Main St.	722
Union Brook	Pleasant St.	733
	Water St.	738

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28561 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3390]

BRANDON, RUTLAND COUNTY, VT.

Proposed Flood Elevation Determinations
AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Town of Brandon, Rutland County, Vt. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATE: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at the Town Manager's Office, Town Office Building, Center Street, Brandon, Vt. 05733.

Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Edward Dencke, First Selectmen, Town of Brandon,

Town Office Building, Center Street, Brandon, Vt. 05733.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Town of Brandon, Rutland County, Vt., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in the flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 110-year flood elevations for selected location are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Nashobe River	500 ft downstream of Clay St.	362
	100 ft upstream of Clay St.	364
	1,300 ft upstream of Clay St.	365
	50 ft downstream of Vermont Ry.	367
	100 ft upstream of Vermont Ry.	373
	1,600 ft upstream of Vermont Ry.	374
	2,300 ft upstream of Vermont Ry.	410
	300 ft upstream of Center St. (below dam).	423
	400 ft upstream of Center St. (above dam).	430
	2,700 ft downstream of Wheeler Rd.	432
	At Wheeler Rd.	434
	800 ft downstream of Welton Rd.	436
	50 ft downstream of Welton Rd.	441
	100 ft upstream of Welton Rd.	450
	600 ft upstream of Welton Rd.	458
	100 ft downstream of Town Farm Rd.	479
	100 ft upstream of Town Farm Rd.	486

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	1,300 ft upstream of Town Farm Rd.	487
	4,500 ft upstream of Town Farm Rd.	509
Nashobe River	100 ft upstream of State Route 53.	570
	1,600 ft upstream of State Route 53.	615
Arnold Brook	800 ft downstream of Arnold District Rd.	401
	25 ft downstream of Arnold District Rd.	439
	At Arnold District Rd.	443
	280 ft upstream of Arnold District Rd.	443

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28562 Filed 10-4-77;8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3391]

MORRISVILLE, VT.

Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base flood elevations (100-year flood) listed below for selected locations in the Village of Morrisville, Vt. These base flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base flood elevations are available for review at Village Hall, Morristown, Vt. Any person having knowledge, information, or wishing to make a comment on these proposed elevations should immediately notify Mr. Adrian West, Chairman, Board of Trustees, Village of Morrisville, Village Hall, Morrisville, Vt. 05661.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or Toll Free Line 800-424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base flood elevations (100-year flood) for the Village of Morrisville, in accordance with Section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added Section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917.

These elevations together with the flood plain management measures required by Section 1910.3 of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, state or regional entities. These proposed elevations will also be used to calculate the appropriate

flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and contents.

The proposed 100-year flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beardsman Brook	Wards Pond Dam	630
	Cottage St.	613
	Vermont Route 100	613
Lincoln River	Vermont Northern RR.	639
	Bridge St.	637
	Morrisville Dam	635

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended (39 FR 2787, January 24, 1974).)

Issued: September 8, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc.77-28563 Filed 10-4-77;8:45 am]

Registered
Federal

WEDNESDAY, OCTOBER 5, 1977

PART III



DEPARTMENT OF
HOUSING AND
URBAN
DEVELOPMENT

Federal Housing Commissioner

■

MOBILE HOMES

Amendment to Construction and Safety
Standards; Interpretive Bulletins

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[4210-01]

Title 24—Department of Housing and Urban Development

CHAPTER II—OFFICE OF ASSISTANT SECRETARY FOR HOUSING—FEDERAL HOUSING COMMISSIONER, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R 77-495]

PART 280—MOBILE HOME CONSTRUCTION AND SAFETY STANDARDS
Miscellaneous Amendments

AGENCY: Department of Housing and Urban Development.

ACTION: Final rule.

SUMMARY: This final rule issues six minor amendments to the Federal Mobile Home Construction and Safety Standards. These amendments are being issued to clarify certain aspects of the standards, and to remedy a potential life-safety problem that now exists in the standards.

EFFECTIVE DATE: December 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard A. Mendlen, Standards Branch, Mobile Home Standards Division, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4228, Washington, D.C. 20410, telephone 202-472-4710.

SUPPLEMENTARY INFORMATION: The following is a discussion of the amendments being made to the Federal standards for mobile homes:

1. Section 280.208(d) is being amended to preclude the placement of a smoke detector on any electrical circuit protected by a ground fault circuit interrupter (GFCI). (See § 280.806(b)). This revision is being made to assure proper operation of smoke detectors since circuits protected by a GFCI are subject to nuisance tripping of the circuit breaker which may have the effect of making the detector inoperable during periods of emergency. It is necessary to make this amendment immediately and without public comment to assure that the fire protection provided by smoke detectors is not negated by nuisance tripping of a GFCI.

2. Section 280.603(b)(4)(iii) is being amended to require that the receptacle outlet provided for the use of an electrical heat tape shall not be protected by a GFCI. This amendment also makes it clear that the receptacle outlet shall be located on the underside of the mobile home within two feet of the water supply inlet. The location provisions were originally provided in Interpretative Bulletin G-1-76 as published in the *Federal Register* at 42 FR 962 on January 4, 1977. Because this amendment changes portions of that interpretation, the remaining appropriate requirements with respect to location, have been incorporated into this amendment. This change is being made since the nuisance tripping problem for circuits protected by a GFCI may negate the effectiveness of an outlet provided for the use of an electrical heat tape. This amendment is necessary to assure that any exposed water piping is protected against freezing.

3. Section 280.612(a) is being amended to correct a typographical error in the requirement for pressure testing of the water piping distribution system as published in the *Federal Register* at 40 FR 58777 on December 18, 1975. Because the pressure cited under former state and consensus standards for mobile homes reflected the correct pressure, the industry, recognizing the error, continued to use the correct pressure for performing the test under the Federal program. This typographical error was previously acknowledged by the Department in public meetings held in May 1976. This amendment merely reflects the current and correct practice for testing the water piping system.

4. Section 280.705(1)(3) is being amended to make it clear that manual shutoff valves required to be installed in the gas piping system are intended to permit servicing of individual appliances rather than to function as primary life-safety devices in the event of an emergency. This change is consistent with the National Mobile Home Advisory Council recommendation to direct occupants to leave the mobile home in the event of an emergency rather than to remain in the home and attempt to control the spread of leaking gas. Further, a master shutoff valve is usually provided at the mobile home site in conjunction with the connection of the gas piping to the utility service. This change has been concurred in by the National Mobile Home Advisory Council. The confusion with respect to this issue arose because the language "for shutoff in case of emergency" was added to this section. As discussed in Interpretative Bulletin H-3-77, issued on May 19, 1977, this language was intended only to stress the life-safety aspects of the valve and not to change the substantive requirements, as some have interpreted the language. Since the language was not intended to have a substantive effect and has only caused confusion, it is being deleted.

5. Section 280.707 is amended by adding a new paragraph (f) to make it clear that external switches, remote controls, and emergency disconnect switches are not required for oil fired heating equipment. The preamble discussion relating to oil fired heating equipment as published in the *Federal Register* on December 18, 1975, at 40 FR 58753 indicated that the Department had determined that the requirement for oil safety controls as originally published in § 280.707 (f) of the September 2, 1975, final rule was redundant. The Department stated the following reasons for its determination:

(a) Adequate safety controls are presently provided in oil fired furnaces.
(b) Equipment redesign has eliminated previous melting point problems.

(c) There may be adverse effects to furnace operation and durability associated with indiscriminate power interruption to the circulatory air blower, and
(d) The primary goal in the event of any fire is to remove all occupants from the mobile home, rather than encourage the occupant to remain in a burning unit, while attempting to cut off oil flow in case of a furnace fire.

However, certain reference standards in the table provided in § 280.703 contained a requirement for these devices. Therefore, this paragraph (f) is being added to make it clear that the requirement for external switches, remote controls, and emergency disconnect switches for oil fired heating equipment has been deleted.

While the referenced standards cited remain in the table provided in section 280.703, section 280.4 states: "Whenever reference standards are inconsistent, the requirements of this standard prevail to the extent of the inconsistency." This amendment merely codifies the practice that has been followed since publication of the preamble language discussed above.

6. Finally, § 280.708 is being amended so that the clothes dryer moisture-lint exhaust duct is no longer required to be listed as a component of the appliance since the Department has determined that such devices are not ordinarily certified as components of the appliance. However, the moisture-lint exhaust duct and termination fittings are to be installed in accordance with the appliance manufacturer's printed instructions. Under the amendment, mobile home manufacturers are required to provide printed installation instructions whenever provision for a future clothes dryer has been made. This assures that consumers and others have proper instructions on how to complete the installation of the exhaust duct system. This amendment also requires that the manufacturer install an electrical receptacle where wiring has been provided for the installation of a future electrical clothes dryer. This change is being made since confusion has arisen over what constitutes an acceptable electrical connection for future installation of an electric clothes dryer. The confusion resulted in potentially unsafe situations for consumers and others when installing electric clothes dryers. This amendment reflects present practice and the Department's interpretation of the previous language.

For the reasons stated with respect to each amendment, the Secretary has determined that it would be unnecessary and contrary to the public interest to publish these amendments for public comment. Good cause exists for making these amendments effective on publication.

A Finding of Inapplicability of Section 102(2)(c) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. It is available for public inspection in the office of the Rules Docket Clerk, Room 5218, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, D.C. 20410, during normal business hours.

NOTE.—It is hereby certified that the economic and inflationary impacts of the proposed rule have been carefully evaluated in accordance with OMB Circular A-107.

These amendments are being signed by two Assistant Secretaries because the standards were originally codified in the Federal Regulations Chapter assigned to the Assistant Secretary for Housing Production and Mortgage Credit, but the substantive authority for the program has been transferred to the Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

Accordingly, 24 CFR Part 280 is amended as follows:

1. By adding the following sentence to the end of § 280.208(d):

§ 280.208 Mobile Home Fire Detection Equipment.

(d) . . . The smoke detector shall not be placed on any branch circuit protected by a ground fault circuit interrupter. (See section 280.208(b)).

2. By revising § 280.603(b)(4)(iii) to read as follows:

§ 280.603 General requirements.

(b) . . .
(4) . . .

(i) A receptacle outlet for the use of a heat tape located on the underside of the mobile home within 2 feet of the water supply inlet. The receptacle outlet provided shall not be placed on a branch circuit which is protected by a ground fault circuit interrupter.

3. By revising the last sentence of § 280.612(a) to read as follows:

§ 280.612 Test and inspection.

(a) . . . The test shall be made by subjecting the system to air or water at 100 psi for 15 minutes without loss of pressure.

4. By revising the first sentence of § 280.705(1)(3) to read as follows:

§ 280.705 Gas piping systems.

(1) . . .

(3) Valves. A shutoff valve shall be installed in the fuel piping at each appli-

ance inside the mobile home structure, upstream of the union or connector in addition to any valve on the appliance and so arranged to be accessible to permit servicing of the appliance and removal of its components. * * *

5. By adding paragraph (f) to § 280.707 as follows:

§ 280.707 Heat producing appliances.

(f) Oil fired heating equipment. All oil fired heating equipment shall conform to UL 307(A)-1969 or ANSI 147.1-1969 and be installed in accordance with NFPA 31-1974. Regardless of the requirements of the above referenced standards, or any other reference standards, the following are not required: (1) External switches or remote controls which shut off the burner or the flow of oil to the burner, or (2) An emergency disconnect switch to interrupt electric power to the equipment under conditions of excessive temperature.

6. Section 280.708 is revised to read as follows:

§ 280.708 Exhaust duct system and provisions for the future installation of a clothes dryer.

(a) General. (1) All gas and electric clothes dryers shall be exhausted to the outside by a moisture-lint exhaust duct and termination fitting. When the clothes dryer is supplied by the manufacturer, the exhaust duct and termination fittings shall be completely installed by the manufacturer. However, if the exhaust duct system is subject to damage during transportation, it need not be completely installed at the factory when: (i) The exhaust duct system is connected to the clothes dryer, and (ii) a moisture lint exhaust duct system is roughed in and installation instructions are provided in accordance with section 280.708 (b)(3) or (c).

(2) A clothes dryer moisture-lint exhaust duct shall not be connected to any other duct, vent or chimney.

(3) The exhaust duct shall not terminate beneath the mobile home.

(4) Moisture-lint exhaust ducts shall not be connected with sheet metal screws

or other fastening devices which extend into the interior of the duct.

(5) Moisture-lint exhaust duct and termination fittings shall be installed in accordance with the appliance manufacturer's printed instructions.

(b) Provisions for future installation of a gas clothes dryer. A mobile home may be provided with "stubbed-in" equipment at the factory to supply a gas clothes dryer for future installation by the owner provided it complies with the following provisions: (1) The "stubbed-in" gas outlet shall be provided with a shutoff valve, the outlet of which is closed by threaded pipe plug or cap; (2) the "stubbed-in" gas outlet shall be permanently labeled to identify it for use only as the supply connection for a gas clothes dryer; (3) a moisture-lint exhaust duct system shall be roughed in by the manufacturer. The manufacturer shall provide written instructions to the owner on how to complete the exhaust duct installation in accordance with provisions of § 280.708(a)(1) through (5).

(c) Provisions for future installation of an electric clothes dryer. When wiring is installed to supply an electric clothes dryer for future installation by the owner, the manufacturer shall: (1) Provide a roughed in moisture-lint exhaust duct system; (2) install a receptacle for future connection of the dryer; (3) provide written instructions on how to complete the exhaust duct installation in accordance with the provisions of § 280.708(a)(1) through (5).

(Secs. 604 and 625 of the National Mobile Home Construction and Safety Standards Act of 1974, (42 U.S.C. 5403 and 5424 and § 7(d), Department of HUD Act, 42 U.S.C. 3535(d)).

Issued at Washington, D.C., September 28, 1977.

GENO C. BARONI,
Assistant Secretary for Neighborhoods, Voluntary Associations and Consumer Protection.

LAWRENCE B. SIMONS,
Assistant Secretary for Housing, Federal Housing Commissioner.

[FR Doc. 77-29254, Filed 9-30-77, 3:59 pm]

[4210-01]

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENTOffice of the Assistant Secretary for Neigh-
borhoods, Voluntary Associations, and
Consumer Protection

[Docket No. N-77-677]

MOBILE HOME CONSTRUCTION AND
SAFETY STANDARDSInterpretative Bulletins D-1-77 and
F-2-77AGENCY: Department of Housing and
Urban Development.

ACTION: Final interpretative bulletins.

SUMMARY: These are two final interpretative bulletins related to the Federal Mobile Home Construction and Safety Standards. Interpretative Bulletin D-1-77 clarifies how lumber moisture content is to be measured and evaluated.

The issuance of this bulletin has been prompted by the use of improper practices and evaluations made in determining if the moisture content in lumber met the requirements of the standard. Interpretative Bulletin F-2-77 provides guidance to the industry and consumers regarding the language used on the heat loss certificate.

The issuance of F-2-77 has been prompted by confusion in the industry over the substantive impact of the language on the heat loss certificate. A comprehensive index of all currently effective interpretative bulletins is also included with this notice.

EFFECTIVE DATE: December 5, 1977.
FOR FURTHER INFORMATION CONTACT:

Richard A. Mendlen, Standards Branch, Mobile Home Standards Division, Office of Neighborhoods, Voluntary Associations and Consumer Protection, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, Room 4228, telephone 202-472-4771.

SUPPLEMENTARY INFORMATION: The Department initially published these interpretative bulletins in proposed form in the FEDERAL REGISTER at 42 FR 5985 on January 31, 1977. The public comment period closed on February 28, 1977, but all comments received since that date have been considered.

INTERPRETATIVE BULLETIN D-1-77—LUMBER
MOISTURE CONTENT MEASUREMENT
AND EVALUATION

Interpretative Bulletin D-9-77 as published on January 31, 1977, has been redesignated D-1-77 to be compatible with the Department's indexing procedure. This bulletin is being issued to establish the proper methods and measurement practices to be used in assuring that dimensional and board lumber used in mobile homes not exceed 19 percent moisture content at the time of installation, as required by 24 CFR 280.304(a). The final bulletin establishes that the

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tests to be used in evaluating the moisture content are those set out in American Society for Testing and Materials (ASTM) Standard D-2016. As a result of comments received on the proposed bulletin, the final version also states where on the lumber specimens the measurements must be taken, and it allows the moisture content reading for a piece of lumber to be corrected for temperature and species if either are different from those used to calibrate the meter being used to make the measurements.

The bulletin describes how electrode resistance type moisture meters must be used if that is the method chosen to evaluate moisture content. The final bulletin requires that a meter with insulated needles be used, since it provides a more accurate reading than a meter utilizing uninsulated needles. The bulletin also includes the originally proposed limitations on use of the meters on wet lumber and the statement that lumber in a temporarily wet condition shall be allowed time to dry before measuring moisture content.

The final bulletin remains essentially unchanged with regard to the acceptance of lumber which is identified by a nationally recognized grading agency as having a moisture content not greater than 19 percent. However, the bulletin now provides that if a lot or components of a lot of identified lumber is suspected of containing excessive moisture, it may be necessary to re-verify the moisture content as not being in excess of 19 percent by testing a random sampling of lot specimens.

The bulletin states that the moisture content of lumber that has not been identified by a nationally recognized grading agency be verified by sampling procedures described in ASTM D-2016.

In response to a public comment, the bulletin clarifies that these procedures are also applicable to lumber used in preassembled components (i.e., trusses, etc.). Also in response to public comment, this bulletin makes it clear that regardless of what method is used to establish acceptable moisture content, all lumber is subject to verification as to moisture content at the time of installation in the factory.

Finally the bulletin requires that all lumber be surface dry at the time of installation, as did the proposed bulletin.

Comments were also received, with respect to two other issues related to lumber moisture content. One commenter suggested that there be measurement requirements for lumber greater than 2" nominal thickness. The Department did not follow this suggestion because such lumber is not commonly used in mobile homes.

Another commenter suggested that there be a requirement that all lumber surfaces be tested for dryness and moisture content. The Department believes that the sampling methods provided for by the bulletin provide adequate protection and, therefore, did not adopt this suggestion.

INTERPRETATIVE BULLETIN F-2-77—HEAT
LOSS CERTIFICATE

Interpretative Bulletin F-2-77 makes it clear that the heat loss certificate required by 24 CFR 280.510(b) does not govern what type of heating equipment must be installed in the mobile home. The temperature shown on the heating certificate relating to maximum furnace operating economy and optimum energy conservation is provided only to advise consumers in selecting mobile homes that are energy efficient for the areas where they are to be located.

The proposed version of this bulletin was discussed by the National Mobile Home Advisory Council, which recommended that the Department take no action which would encourage unnecessary energy consumption in mobile homes. This interpretation and the requirements of § 280.510(b) are consistent with the recommendation because they assist the consumer in purchasing an energy efficient home.

There is currently no restriction on furnace sizing as it relates to energy conservation. The Department believes that such a restriction would be inappropriate because variations in equipment certification, temperature, wind velocity, and atmospheric pressure conditions may require larger furnaces in a particular location despite the fact that the larger furnace would not be necessary for most of the general geographical area as set out in the standards. The final bulletin includes the reference to variations in equipment certification, which was not in the proposed version.

COMPREHENSIVE INDEX—INTERPRETATIONS
OF THE MOBILE HOME STANDARDS

Included in this notice is a comprehensive index of all currently effective interpretative bulletins issued under 24 CFR Part 280. This index includes bulletins issued through publication in the FEDERAL REGISTER as well as those issued through distribution without publication in the FEDERAL REGISTER. The index deletes reference to Interpretative Bulletin G-1-76 since an amendment to section 280.603(b)(4)(iii) being published concurrently with this index renders that bulletin obsolete and unnecessary. Reference to Interpretative Bulletin H-3-77 is being deleted for the same reason.

A Finding of Inapplicability of Section 102(c) of the National Environmental Policy Act of 1969 has been made in accordance with HUD Handbook 1390.1. It is available for public inspection in the Office of the Rules Docket Clerk, Room 5218, U.S. Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, during normal business hours.

NOTE.—It is hereby certified that the economic and inflationary impacts of the interpretative bulletins have been carefully evaluated in accordance with OMB Circular A-107.

Accordingly, 24 CFR 280.304(a) and 280.510(b) are interpreted as follows:

NOTICES

Interpretative bulletin	Subject	Section(s)
A-1-77	Identification of Manufacturer and State of Manufacturer in the Mobile Home Serial Number.	280.6.
A-2-77	Reliability of Information on Data Plate.	280.5(a).
B-1-76	Swinging Exterior Passage Door Dimensions.	280.105.
B-2-76	Interior Door Construction.	280.108, 280.301.
B-3-76	Interior Door in a Hallway.	280.113.
C-1-76	List of Material Applications not Requiring Flame Spread Certification.	280.203(a).
C-2-76	Fire Protection for Furnace and Water Heater Spaces.	280.203(a)(3), 280.303(b).
C-3-76	Combustible Kitchen Cabinet Protection.	280.304.
C-4-76	2-in. Maximum Foam Plastic Siding Backer Board.	280.307(a).
C-5-76	Foam Plastic Insulating Sheathing Materials.	280.307(a).
C-1-77	Smoke Detector Standard, Waiver.	280.308(a).
D-1-76	Allowable Design Stresses for Board Lumber.	280.303(d), 280.304.
D-2-76	Carpet Application.	280.305(a).
D-3-76	Structural Design Criteria, Wind Load.	280.305(b).
D-4-76	Structural Design Criteria, "Net" Uplift.	280.305(c)(1) and (2).
D-5-76	Structural Design Criteria, Allowable Eave Deflection.	280.305(d).
D-6-76	Structural design criteria, interior partitions.	280.305(d)(2).
D-7-76	Structural design criteria, tie-down systems.	280.305(e), 280.306 D.
D-8-76	Floor covering application in areas subject to excessive moisture.	280.305(e)(2).
D-1-77	Lumber moisture content measurement and evaluation.	280.304(a).
E-1-76	Alternate test procedure in lieu of testing to failure allowable design live load determination for tested assemblies.	280.304(b).
E-2-76	Uplift testing.	280.402(a)(2).
E-3-76	Egress windows.	280.404.
E-1-77	Condensation control, exterior sheathing.	280.504(d)(2).
F-1-77	Air infiltration at wall to wall, wall to ceiling, wall to floor connections.	280.505(a)(2).
F-2-77	Heat loss certificate.	280.510(b).
G-2-76	Master cold water shut-off valve.	280.600(b)(1).
G-3-76	Antisiphon trap vent device, materials.	280.611(d)(5).
G-1-77	Plastic drain line fittings.	280.610(a)(2) and (3).
G-2-77	Accessibility to plumbing fixtures.	280.607(c)(1).
H-1-76	Provision of exterior furnace/air conditioning appliance.	280.700(a)(1).
H-2-76	Preparation of mobile home for external heating/cooling systems.	280.700(c)(6).
H-3-76	Vertical clearance over cooking top.	280.700(d).
H-1-77	Clothes dryer/rough-in of moisture limit exhaust duct system.	280.708(b)(3) and (c).
H-2-77	Underlayment of bathroom doors.	280.175(d)(1) and (v).
I-1-76	Installation of "snap-in" type boxes.	280.808(a).
I-2-76	Exterior lighting outlet requirements.	280.813(a).
I-1-77	Location and type of outdoor receptacle outlet.	280.806(d)(8).
I-2-77	External heating or air conditioning equipment wiring protection, waiver.	280.808(k).
J-1-76	Clarification and guidance regarding transportation standards.	Subpt. J.

INTERPRETATIVE BULLETIN D-1-77

LUMBER MOISTURE CONTENT MEASUREMENT
AND EVALUATION SECTION 280.304

"Moisture content for dimensional and board lumber shall be evaluated by test methods described in ASTM D-2016. The moisture content shall be measured near the middle of the wide face of the lumber at least 20 inches from the end of the specimen being evaluated. The moisture content reading may be corrected for temperature and species if the specimen being evaluated is different from that used to calibrate the meter.

If an electrode resistance type moisture meter is used to evaluate moisture content, a meter with insulated needles shall be used. The needles shall be driven to a depth of 1/4"-3/8" for board lumber of 1" nominal thickness and 3/8" for dimensional lumber

of 2" nominal thickness. Electrical resistance meters shall not be used on material that has recently been exposed to rain, dew, or high humidity and is in a temporarily wet condition. Lumber in a temporarily wet condition shall be allowed adequate time to dry prior to checking the moisture content.

Dimensional and board lumber which is identified by a nationally recognized grading agency as having a moisture content not to exceed 19 percent may be accepted as in compliance with the requirements of this section. However, if a lot or components of a lot of identified lumber is suspected of having excessive moisture, the moisture content may be re-verified as not being in excess of 19 percent by evaluating a random sampling of lot specimens.

The moisture content of each lot of non-identified dimensional and board lumber shall be verified by sampling procedures de-

scribed in ASTM D-2016 (20 specimens or 10 percent of the lot, whichever is greater).

Regardless of the method used to establish that the moisture content of lumber does not exceed 19 percent, all lumber surfaces shall be dry and all lumber subject to verification as to moisture content at the time of installation in the factory.

The sampling and measurement criteria set out in this bulletin are also applicable to pre-assembled components containing dimensional and board lumber.

INTERPRETATIVE BULLETIN F-2-77

HEAT LOSS CERTIFICATE—SECTION 280.510(b)

The temperature shown on the heating certificate relating to maximum furnace operating economy and optimum energy conservation is provided as an advisory recommendation to consumers in selecting an energy efficient mobile home that is suitable for the climatic requirements of the area in which the home is to be installed. However, this recommendation on operating economy and energy conservation is not intended to prohibit manufacturers from installing heating equipment having a larger capacity than required to maintain an indoor temperature of 70° F in the climatic zone specified on the heating certificate. Such a prohibition would be inappropriate because variations in equipment certification, temperature, wind velocity, and atmospheric pressure conditions may require larger heating equipment to maintain an average of 70° F temperature inside of the home.

However, regardless of the size of furnace installed, the outdoor winter design temperature (97½ percent) specified on the heating certificate shall be determined in accordance with the method described in footnote 1 of § 280.510(b).

(Secs. 604, 625, National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5403, 5424); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).)

Issued at Washington, D.C., September 28, 1977.

GENO C. BARONI,
Assistant Secretary for Neigh-
borhoods, Voluntary Associa-
tions, and Consumer Protec-
tion.

[FR Doc.77-29255 Filed 9-30-77; 3:59 pm]

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WEDNESDAY, OCTOBER 5, 1977

PART IV



INTERSTATE
COMMERCE
COMMISSION

SYSTEM DIAGRAM MAPS

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[7035-01]

INTERSTATE COMMERCE COMMISSION

[AB 156 (SDM)]

DELAWARE & HUDSON RAILWAY CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Delaware & Hudson Railway Company, has filed with the Commission its color-coded system diagram map in docket No. AB 156 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map and the Commission on September 19, 1977, received a certificate of publication as required by said regulation which is considered the effective date on which the system diagram map was filed.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 156 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.



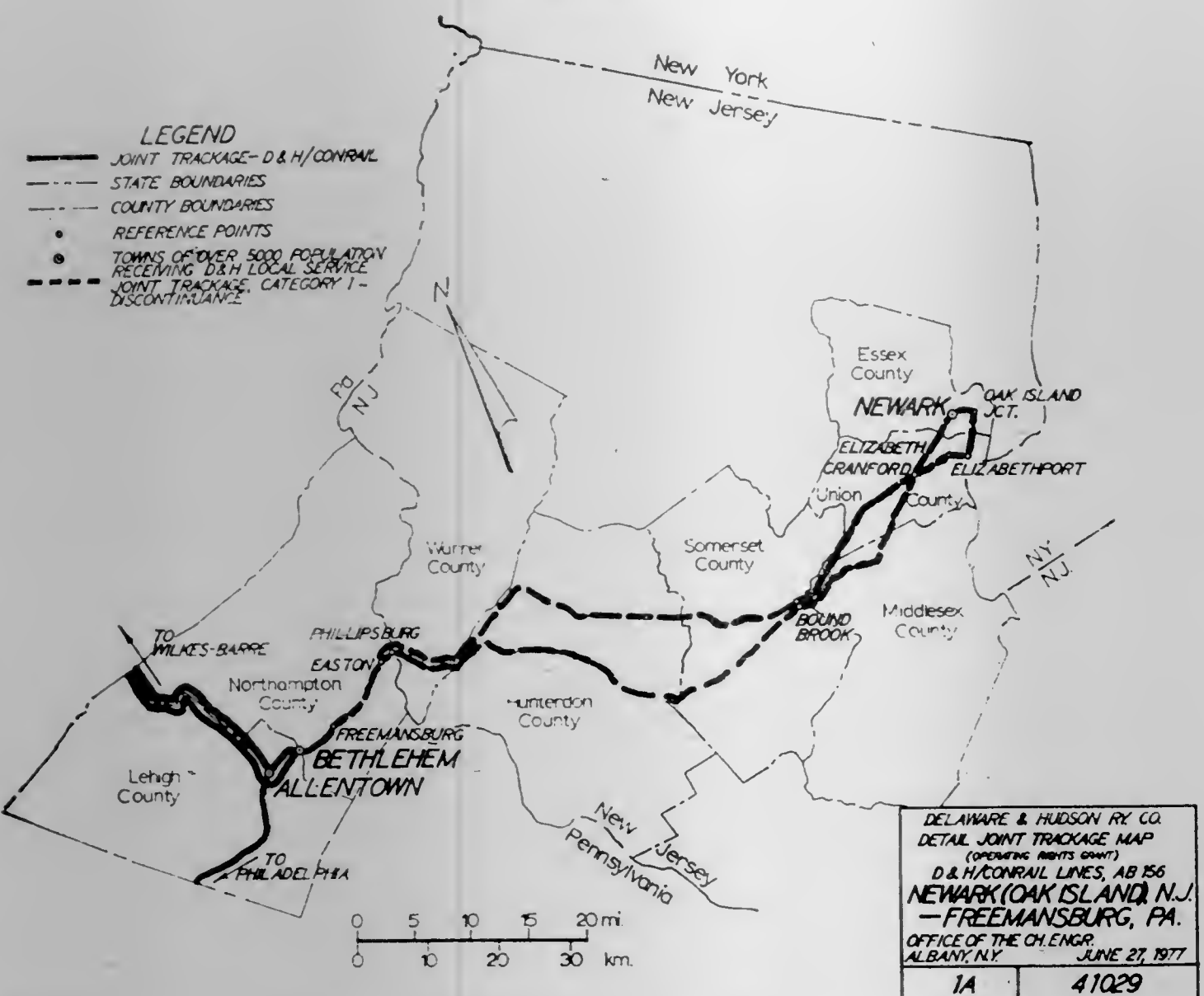
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SYSTEM DIAGRAM MAP

DELAWARE AND HUDSON RAILWAY COMPANY DISCUSSION OF LINES WHICH MAY BE SUBJECT TO DISCONTINUANCE APPLICATION WITHIN THREE YEARS
D&H has operating rights over the lines of Consolidated Rail Corporation between Newark (Oak Island), New Jersey, and Freemansburg (near Allentown-Bethlehem), Pennsylvania.

More particularly, D&H's operating rights in the state of New Jersey utilize (1) the line formerly operated by The Central Railroad Company of New Jersey ("CNJ") as its Newark-Elizabethport Branch between Newark (Oak Island) (Milepost 1.7) and Elizabethport (Milepost 5.5), and the former main line of CNJ between Elizabethport (Milepost 8.9) and Phillipsburg (Milepost 72.1); and (2) the former main line of Lehigh Valley Railroad Company ("LV") between Newark (Oak Island) (Milepost 6.5) and the New Jersey-Pennsylvania state line (Milepost 76.6). The lines are located in the New Jersey Counties of Essex, Union, Middlesex, Somerset, Hunterdon and Warren.

In the Commonwealth of Pennsylvania, D&H's said operating rights utilize the former main line of LV between the New Jersey-Pennsylvania state line (Milepost 76.6) and Freemansburg (Milepost 85.8). The line is located in Northampton County, Pennsylvania.

The only agency or terminal section on the line is at Newark (Oak Island), New Jersey (Milepost 1.7).

[FR Doc. 77-29018 Filed 10-4-77; 8:46 am]

[AB 140 (SDM)]

THE HOBOKEN SHORE RAILROAD CO.

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Hoboken Shore Railroad Company, has filed with the Commission its color-coded system diagram map in docket No. AB 140 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 140 (SDM).

H. G. HOMME, Jr.,
Acting Secretary.

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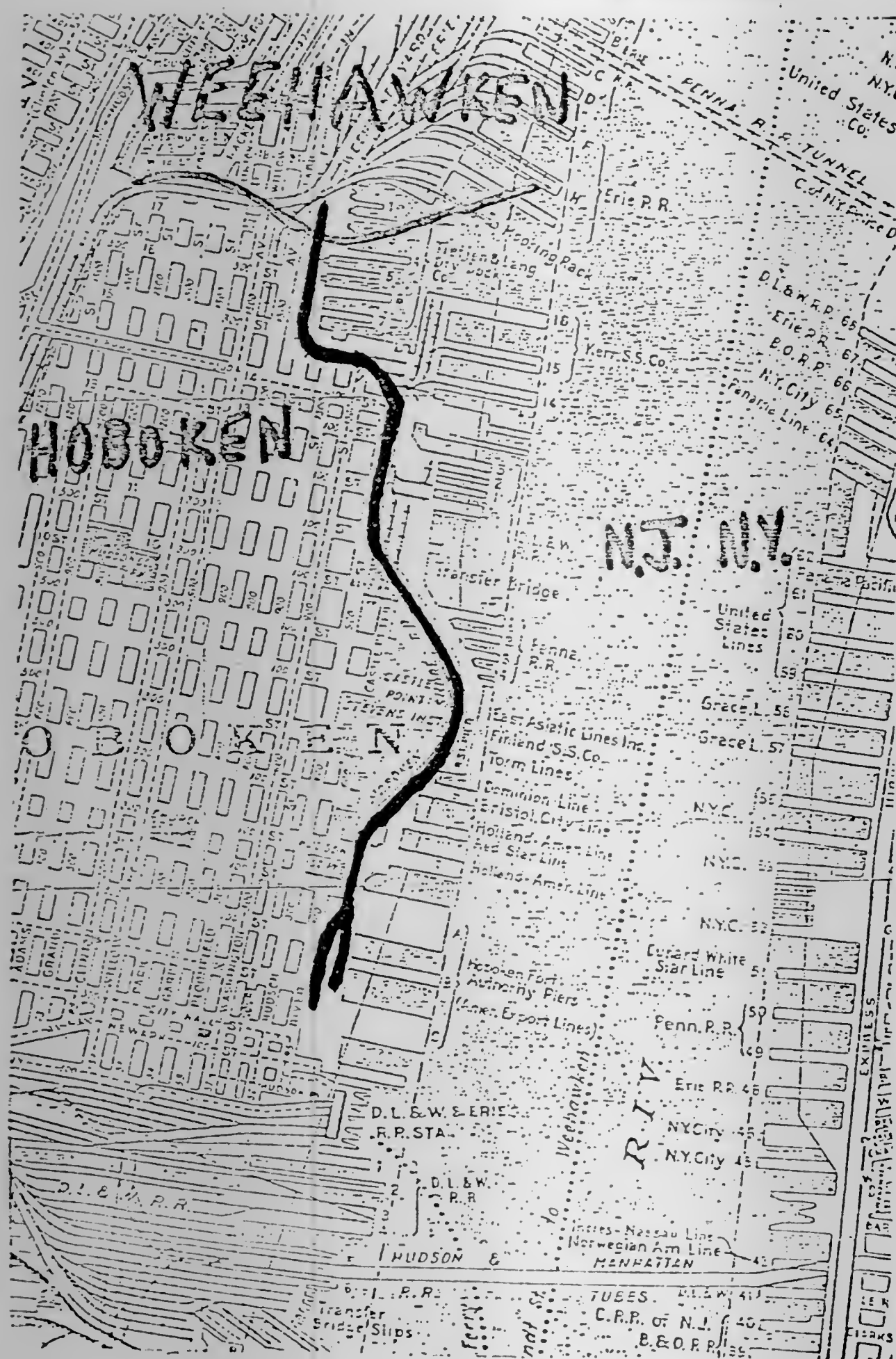
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AB 140 (SDM)



[AB No. 140]

HOBOKEN SHORE RAILROAD

DESCRIPTION OF LINE

Hoboken Shore Railroad supplies the following information regarding its System Diagram Map pursuant to 49 CFR Section 1121.21. The line set forth falls within category 1 of 49 CFR Section 1121.21(b) in that the carrier anticipates said line will be the subject of an abandonment application within a three-year period of the filing of this map: (a) Said line is designated as the entire line of the Hoboken Shore Railroad. (b) Said line is located entirely in New Jersey. (c) Said line is located entirely in Hudson County. (d) Said line commences at a point on the waterfront approximately two hundred (200) feet north of First Street in the City of Hoboken, New Jersey on property of the Port of New York Authority and continues until its connection with the Erie Railroad Company at a point just north of Seventeenth Street in the Township of Weehawken, New Jersey. (e) The stations on the line are located at Fifth Street, Eleventh Street and Fifteenth Street in Hoboken, New Jersey and are all less than one mile apart.

THOMAS E. DURKIN, JR.,
Attorney for Hoboken Shore Railroad.

[FR Doc. 77-29019 Filed 10-4-77; 8:45 am]

[AB 199 (SDM)]

THE LONG ISLAND RAIL ROAD

System Diagram Map

Notice is hereby given that, pursuant to the requirements contained in Title 49 of the Code of Federal Regulations, Part 1121.22, that the Long Island Rail Road, has filed with the Commission its color-coded system diagram map in docket No. AB 199 (SDM). The maps reproduced here in black and white are reasonable reproductions of that system map.

Color-coded copies of the map have been served on the Governor of each state in which the railroad operates and the Public Service Commission or similar agency and the State designated agency. Copies of the map may also be requested from the railroad at a nominal charge. The maps also may be examined at the office of the Commission, Section of Dockets, by requesting docket No. AB 199 (SDM).

H. G. HOMME, JR.,
Acting Secretary.

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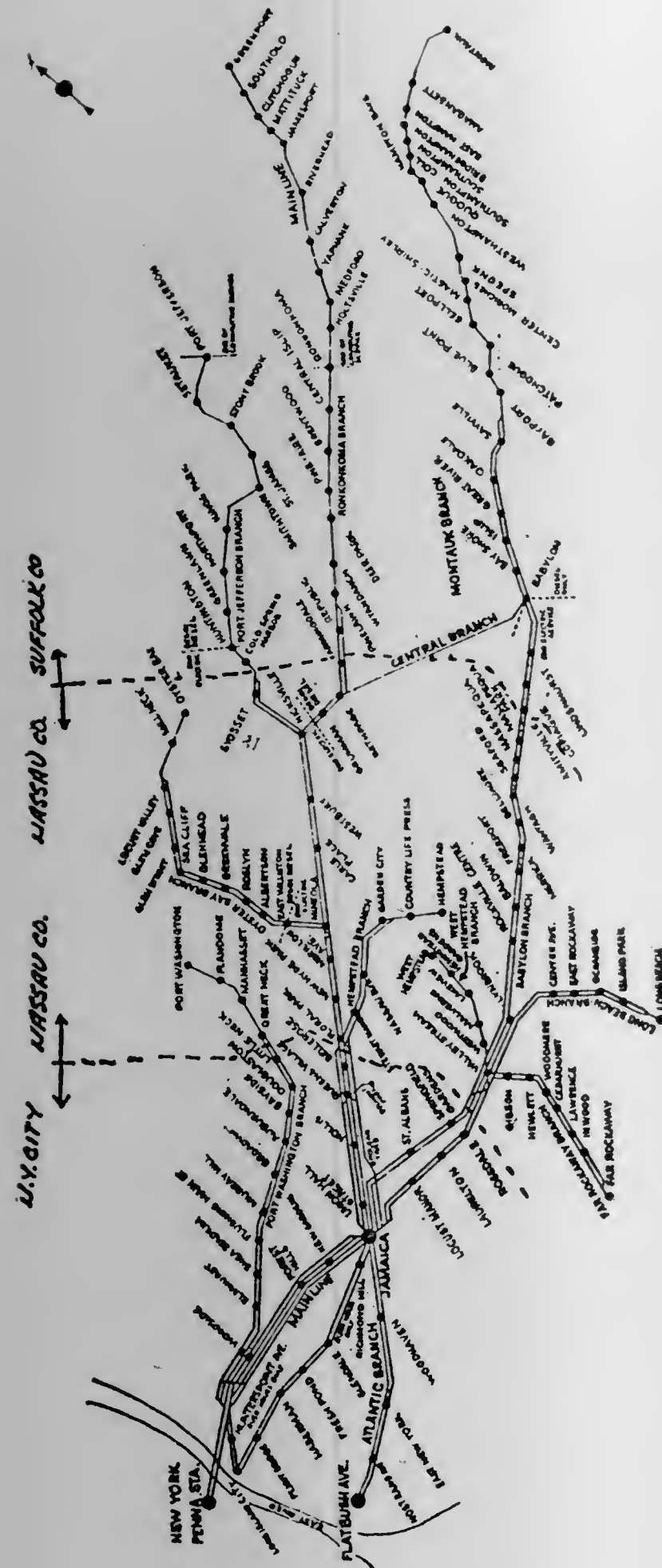
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SYSTEM MAP ~ THE LONG ISLAND RAIL ROAD

NOTE 1- ENTIRE LIRR SYSTEM LOCATED WITHIN NEW YORK STATE. WITH EXCEPTION OF PENN STATION. THE LIRR SYSTEM IS LOCATED ON LONG ISLAND.

NOTE 2- LIRR OPERATES WITHIN NEW YORK CITY AND NASSAU SUFFOLK STANDARD METROPOLITAN AREAS

DESCRIPTION OF LONG ISLAND RAIL ROAD SYSTEM

Following is a description of the Long Island Rail Road system as required by Ex Parte No. 274 (Sub-No. 2), Sections 1121.20 and 1121.21.

The LIRR does not have any lines which fall under categories 1, 2, 3 or 4. The following information relates to category 5 only.

Category 5—All other lines or portions of lines which the carrier owns and operates directly or indirectly.

Stations	Distance from Long Island City	County	State
OYSTER BAY BRANCH			
Nassau Tower.....	18.6	Nassau	New York
East Williston.....	19.8	do	do
Albertson.....	20.8	do	do
Roslyn.....	22.2	do	do
Greenvale.....	21.2	do	do
Glen Head.....	25.4	do	do
Sea Cliff.....	26.7	do	do
Glen St.....	27.3	do	do
Glen Cove.....	27.9	do	do
Locust Valley.....	29.0	do	do
Mill Neck.....	31.1	do	do
Oyster Bay.....	32.9	do	do
MONTAUK BRANCH			
Long Island City.....	0	Queens	do
Penny Bridge.....	1.8	do	do
Haberman.....	2.1	do	do
Fresh Pond.....	3.9	do	do
Glendale.....	5.2	do	do
Richmond Hill.....	7.6	do	do
Jamaica.....	9.0	do	do
St. Albans.....	11.8	do	do
Springfield Gardens.....	13.0	do	do
Valley Stream.....	16.1	Nassau	do
Valley Tower.....	16.2	do	do
Lynbrook.....	17.7	do	do
Rockville Centre.....	19.3	do	do
Baldwin.....	21.2	do	do
Freeport.....	22.7	do	do
Merick.....	24.1	do	do
Bellmore.....	25.6	do	do
Souford.....	27.7	do	do
Massapequa.....	28.7	do	do
Massapequa Park.....	29.0	do	do
Amityville.....	31.3	Suffolk	do
Coppage.....	32.4	do	do
Lindenhurst.....	33.7	do	do
Babylon.....	36.6	do	do
Bay Shore.....	40.7	do	do
Islip.....	43.1	do	do
Great River.....	45.2	do	do
Oakdale.....	47.4	do	do
Sayville.....	49.8	do	do
Bayport.....	51.0	do	do
Blue Point.....	52.0	do	do
Patchogue.....	53.9	do	do
Bellport.....	57.8	do	do
Mastic-Shirley.....	62.3	do	do
Center Moriches.....	66.3	do	do
Speonk.....	71.6	do	do
Westhampton.....	74.3	do	do
Quogue.....	77.0	do	do
Hampton Bays.....	81.7	do	do
Southampton.....	85.8	do	do
College.....	89.3	do	do
Southampton.....	94.0	do	do
Bridgehampton.....	100.9	do	do
East Hampton.....	104.3	do	do
Amagansett.....	104.3	do	do
Montauk.....	115.8	do	do
MAIN LINE			
Penn Station.....	0	Manhattan	do
Harold Tower.....	3.7	Queens	do
Long Island City.....	0	do	do
Hunterspoint Ave.....	.6	do	do
Harold Tower.....	1.8	do	do

Stations	Distance from Long Island City	County	State
Woodside.....	3.1	do	do
Win Tower.....	3.8	do	do
Forest Hills.....	6.7	do	do
Kew Gardens.....	7.7	do	do
Jamaica.....	9.3	do	do
Queens Village.....	13.2	do	do
Queens Tower.....	13.3	do	do
Floral Park.....	11.9	Nassau	do
New Hyde Park.....	16.2	do	do
Merrill Ave.....	17.3	do	do
Mineola.....	18.5	do	do
Nassau Tower.....	18.6	do	do
Carle Pl.....	30.4	do	do
Westbury.....	21.4	do	do
Hicksville.....	21.8	do	do
Divide Tower.....	24.9	do	do
Grumman.....	26.6	do	do
Belgrade.....	27.9	do	do
B Tower.....	28.6	do	do
Farmingdale.....	29.2	do	do
Republie.....	31.4	Suffolk	do
Pineblow.....	32.4	do	do
Wyandanch.....	31.6	do	do
Deer Park.....	36.4	do	do
Pilgrim.....	38.7	do	do
Pine-Aire.....	39.2	do	do
Brookwood.....	40.8	do	do
Central Islip.....	43.3	do	do
Ronkonkoma.....	18.3	do	do
Holtville.....	51.8	do	do
Medford.....	51.1	do	do
Yaphank.....	58.6	do	do
Manorville.....	65.1	do	do
Calverton.....	69.1	do	do
Riverhead.....	73.3	do	do
Jamesport.....	78.3	do	do
Mattituck.....	82.4	do	do
Elmhurst.....	1.7	do	do
Shea Stadium.....	6.7	do	do
Flushing Main St.....	7.5	do	do
Murray Hill.....	8.4	do	do
Brooklyn.....	9.2	do	do
Ardenhulme.....	9.9	do	do
Bayside.....	10.8	do	do
Douglaston.....	12.1	do	do
Little Neck.....	12.7	do	do
Great Neck.....	13.9	Nassau	do
Manhasset.....	15.4	do	do
Plandome.....	16.5	do	do
Port Washington.....	18.1	do	do
LONG BEACH BRANCH			
Valley Tower.....	0	Nassau	New York
Lynbrook.....	1.5	do	do
Center Ave.....	2.4	do	do
East Rockaway.....	2.9	do	do
Ocean side.....	3.4	do	do
Island Park.....	5.9	do	do
Long Beach.....	6.9	do	do
HEMPSTEAD BRANCH			
Queens Tower.....	13.3	Queens	New York
Bellerose.....	14.3	do	do
Floral Park.....	11.9	do	do
Stewart Manor.....	16.3	do	do
Nassau Boulevard.....	17.3	do	do
Garden City.....	18.1	do	do

Stations	Distance from Long Island City	County	State
Garden Tower.....	18.7	do	do
Country Life Press.....	19.0	do	do
Hempstead.....	19.8	do	do
CENTRAL BRANCH			
B Tower.....	28.6	Nassau	New York
Babylon.....	35.8	Suffolk	do
FORT JEFFERSON BRANCH			
Divide Tower.....	21.9	Nassau	do
Syosset.....	24.1	do	do
Cold Spring Harbor.....	31.9	Suffolk	do
Huntington.....	34.7	do	do
Greenlawn.....	37.4	do	do
Northport.....	39.6	do	do
Kings Park.....	41.1	do	do
Smithtown.....	47.1	do	do
St. James.....	49.9	do	do
Stony Brook.....	53.1	do	do
Sektauket.....	54.9	do	do
Port Jefferson.....	57.4	do	do
FAR ROCKAWAY BRANCH			
Valley Tower.....	0	Nassau	New York
Gibson.....	2.8	do	do
Riverhead.....	1.7	do	do
Hewlett.....	1.7	do	do
Woodmere.....	2.3	do	do
Cedarhurst.....	3.2	do	do
Lawrence.....	4.0	do	do
Inwood.....	4.4	do	do
Far Rockaway.....	5.0	Queens	do
ATLANTIC BRANCH			
Flatbush Ave.....	0	Kings	New York
Nostrand Ave.....	1.6	do	do
East New York.....	4.0	do	do
Jamaica.....	9.3	Queens	do
Levitt Manor.....	12.2	do	do
Laurelton.....	13.1	do	do
Rosedale.....	14.0	do	do
Valley Stream.....	15.7	Nassau	do
Valley Tower.....	15.8	do	do
WEST HEMPSTEAD BRANCH			
Valley Tower.....	0	Nassau	New York
Westwood.....	1.3	do	do
Malverne.....	2.1	do	do
Lakeview.....	3.3	do	do
Hempstead.....	4.0	do	do
Gardens.....	4.6	do	do
GARDEN-NUTHELL FIELD, SECONDARY TRACK			
Garden Tower.....	0	Nassau	New York
Clinton Rd.....	1.7	do	do
Newsday.....	1.1	do	do
A. & P.....	1.3	do	do
Mitchell Field.....	2.0	do	do

[FR Doc.77-29020 Filed 10-4-77;8:45 am]

Department	Billing Code
Legal Services Corporation.....	6820-35
Libraries and Information Science, National Commission.....	7527-01
Library of Congress/Copyright Office.....	1410-03
Management and Budget Office.....	3110-01
Marine Mammal Commission.....	6820-31
National Aeronautics and Space Administration.....	7510-01
National Capital Planning Commission.....	7520-01
National Credit Union Administration.....	7535-01
National Institute of Education.....	4110-39
National Mediation Board.....	7550-01
National Labor Relations Board.....	7545-01
National Science Foundation.....	7555-01
Navy Department:	
DCFA U S.....	3810-01
Defense, Office of Secretary SD-0859.....	3810-70
Navy: Judge Advocate General.....	3810-71
Nuclear Regulatory Commission.....	7590-01
Occupational Safety and Health Review Commission.....	7600-01
Overseas Private Investment Corporation.....	3210-01
Panama Canal Company.....	3640-01
Pennsylvania Avenue Development Corporation.....	7630-01
Pension Benefit Guaranty Corporation.....	7708-01
Postal Rate Commission.....	7715-01
Postal Service.....	7710-12
Railroad Retirement Board.....	7905-01
Renegotiation Board.....	7910-01
Science and Technology Policy, Office of.....	7555-02
Securities and Exchange Commission.....	8010-01
Selective Service System.....	8015-01
Small Business Administration.....	8025-01
Smithsonian Institution.....	8030-01
State Department.....	4710-01

Department	Billing Code
Susquehanna River Basin Commission.....	7040-01
Technology Assessment, Office of.....	1630-01
Telecommunications Policy Office.....	3160-01
Tennessee Valley Authority.....	8120-01
Transportation Department:	
Office of Secretary.....	4910-62
Federal Railroad Administration.....	4910-08
Federal Aviation Administration.....	4910-13
Coast Guard.....	4910-14
Federal Highway Administration.....	4910-22
Urban Mass Transportation Administration.....	4910-57
National Transportation Safety Board.....	4910-58
National Highway Traffic Safety Administration.....	4910-59
Materials Transportation Board.....	4910-60
St. Lawrence Seaway Development Corporation.....	4910-61
Treasury Department:	
Customs Service.....	4810-22
Administrative Programs.....	4810-25
Revenue Sharing.....	4810-28
Alcohol, Tobacco and Firearms.....	4810-31
Federal Law Enforcement Training Center.....	4810-32
Comptroller of the Currency.....	4810-33
Engraving and Printing.....	4810-34
Government Finance Operations.....	4810-35
Mint, Bureau.....	4810-37
Public Debt.....	4810-40
Secret Service.....	4810-42
Internal Revenue Service.....	4830-01
U.S. Information Agency.....	8230-01
Veterans Administration.....	8320-01
Water Resources Council.....	8410-01
White House Office.....	3195-01

If your agency's name does not appear above, GPO may not have received your printing and binding requisition (Standard Form 1). Your documents can not be printed in the FEDERAL REGISTER without a billing code.

INFORMATION AND ASSISTANCE: Mr. William Rose, 202-275-2867.

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NEW BILLING PROCEDURES FOR AGENCIES

As part of the new billing procedures announced in the FEDERAL REGISTER of August 24, 1977, and to insure that each agency is correctly billed for only its own documents, the Office of the Federal Register requests agencies to insert the proper billing code on all of their documents. The six-digit billing code should be typed or handwritten in ink at the top of the first page on all three copies of documents submitted to the Office of the Federal Register for publication, as follows:

BILLING CODE: 0000-00

The following are the billing codes assigned by the Government Printing Office follows:

Department	Billing Code	Department	Billing Code
Agriculture Department:		Federal Energy Administration.....	3128-01
Agricultural Marketing Service.....	3410-02	Federal Home Loan Bank Board.....	6720-01
Agricultural Research Service.....	3410-03	Federal Maritime Commission.....	6730-01
Agricultural Stabilization and Conservation Service.....	3410-05	Federal Mediation and Conciliation Service.....	6732-01
Farmer Cooperative Service.....	3410-06	Federal Power Commission.....	6740-02
Farmer's Home Administration.....	3410-07	Federal Reserve System Board of Governors.....	6210-01
Federal Crop Insurance Corporation.....	3410-08	Federal Trade Commission.....	6750-01
Extension Service.....	3410-09	Fine Arts Commission.....	6330-01
Forest Service.....	3410-11	Foreign Claims Settlement Commission.....	6770-01
National Agricultural Library.....	3410-12	General Services Administration:	
Rural Electrification Administration.....	3410-15	OAD.....	6820-34
Soil Conservation Service.....	3410-16	Administrative Management Division, Public Buildings Service.....	6820-22
Economic Research Service.....	3410-18	Public Buildings Service.....	6820-23
Statistical Reporting Service.....	3410-20	Federal Supply Service.....	6820-24
Cooperative State Research Service.....	3410-22	Automated Data and Telecommunications Service.....	6820-25
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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Rules Going Into Effect Today

DOT/FAA—Albany, N.Y.; alteration of control zone and transition area. 41107; 8-15-77

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Alteration of control zone and 700-foot transition area; Barre-Montpelier, Vt. 35639; 7-11-77

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Control zone and transition area; Charlottesville, Va. 42194; 8-22-77

Control zone and transition area; K. I. Sawyer AFB, Mich. 41626; 8-18-77

Designation of transition area; Orland, Calif. 41111; 8-15-77

Domestic low altitude reporting point; Hugo, Colo. 35639; 7-11-77

Extension of Federal airway; Fla. 41109; 8-15-77

Jet routes and area high routes; Waypoint name changes. 39379; 8-4-77

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Numbering of federal airway between Farmington, N.M. and Durango, Colo. 40691; 8-11-77

Revocation of transition area, Craig AFB Aux. (Vaiden), Ala. 35640; 7-11-77

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Standard instrument approach procedures; miscellaneous amendments. 45633; 9-12-77

Transition area; Aitkin, Minn. 41626; 8-18-77

Transition area; alteration of controlled airspace; Lewiston, Idaho. 39378; 8-4-77

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Alturas, Calif.; Cameron, Ariz.; De Ridder, La.; Killeen, Tex. (4 documents). 40690-3; 8-11-77

Transition area; Lewiston, Idaho. 39378; 8-4-77

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Transition area; Peebles, Ohio. 41627; 8-18-77

Transition area and controlled airspace; Hawaiian Islands. 42193; 8-22-77

VOR federal airway between Atlanta, Ga. and Augusta, Ga.; revocation. 40692; 8-11-77

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

H.R. 6502..... Pub. L. 95-116
Veterans, automotive assistance allowance and adaptive equipment, provide. (Oct. 3, 1977; 91 Stat. 1062). Price: \$.50.

H.R. 1862..... Pub. L. 95-117
Veterans Disability Compensation and Survivor Benefits Act of 1977. (Oct. 3, 1977; 91 Stat. 1063). Price: \$.50.

H.R. 5262..... Pub. L. 95-118
International Financial Institutions, increased participation by U.S. (Oct. 3, 1977; 91 Stat. 1067). Price: \$.50.

H.R. 7554..... Pub. L. 95-119
Department of Housing and Urban Development—Independent Agencies Appropriation Act, 1978. (Oct. 4, 1977; 90 Stat. 1073). Price: \$.90.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-05]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

PART 17—SALES OF AGRICULTURAL COMMODITIES MADE AVAILABLE UNDER TITLE I OF THE AGRICULTURAL TRADE DEVELOPMENT AND ASSISTANCE ACT OF 1954, AS AMENDED

Subpart A—Regulations Governing the Financing of Commercial Sales of Agricultural Commodities

INVITATIONS FOR BIDS; PURCHASING AND/OR SHIPPING AGENTS

AGENCY: Office of the General Sales Manager, USDA.

ACTION: Final rule.

SUMMARY: This rule amends the Title I, Pub. L. 480, financing regulations to establish several new requirements applicable to purchases made on the basis of invitations for bids (IFB's) and to awards made on a "lowest landed cost" basis. Purchases of food commodities are required to be made on the basis of IFB's and payments to selling agents in connection with such sales are prohibited.

A procedure is established for the approval of a person to act as purchasing and/or shipping agent for participating countries. Such person is required to submit certain information for consideration upon such person's not acting in certain other capacities in any Title I transaction with the participating country while he is its purchasing and/or shipping agent for Title I transactions. Appeal procedures are provided for a person denied approval as shipping agent and/or purchasing agent and for one whose approval has been terminated as provided in the regulations. Appeal procedures are also provided for a person not approved or conditionally approved as supplier or selling agent.

In addition to implementing the Food and Agricultural Act of 1977, the purpose of the amendment is as follows:

To increase competition and eliminate certain potential conflicts of interest, keep the costs of the Title I, Pub. L. 480, program to the United States Government as low as possible, and insure that all persons, including small businesses, desiring to participate in the procurement, supplying and shipping of commodities financed under Title I, Pub. L. 480, receive fair and equitable treatment.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

George Pope, Office of the General Sales Manager, U.S. Department of Agriculture, Room 4085, South Building, Washington, D.C. 20250, telephone 202-447-5693.

SUPPLEMENTARY INFORMATION:

EFFECTIVE DATE

The provisions of this amendment shall not apply with respect to transactions involving purchase authorizations issued prior to October 6, 1977.

Various provisions of this regulation are required by the Food and Agriculture Act of 1977 (Pub. L. 95-113), effective October 1, 1977. Public notice of rulemaking with respect to other provisions was given in June 1977. Accordingly, it is hereby determined that compliance with any further notice of proposed rulemaking, public procedure, and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest.

BACKGROUND

On June 29, 1977, the Office of the General Sales Manager published a proposed rule (42 FR 33038) to amend the regulations governing the financing of the sale and exportation of agricultural commodities made available under Title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701 et seq.), referred to herein as "Title I, Pub. L. 480."

Since the publication of the proposed rule on June 29, 1977, the "Food and Agriculture Act of 1977" (Pub. L. 95-113) has amended Pub. L. 480, effective October 1, 1977.

The major provisions of the legislation which relate to this rule are as follows:

1. Food commodities are required to be purchased on the basis of an IFB publicly advertised in the United States.

2. Bid offerings are required to conform to such IFB and be received and publicly opened in the United States.

3. Commissions, fees, or other payments to any selling agent are (unless waived by the Secretary) prohibited in any purchase of food commodities.

Those areas of the proposal covered by the legislation have been changed to conform therewith.

Situations in which there could be conflicts of interests are varied. Suppliers under Title I, Pub. L. 480, with economic ties and other interests in firms acting for participants as agents in the shipping or purchasing of commodities financed under the program may have an advantage in the contracting procedure stemming from advance knowledge or collaboration, involving the

arrival of the commodity and vessel at the U.S. ports, not enjoyed by other suppliers. Eliminating such possibilities gives all firms, including small businesses, a more equal opportunity to participate. The resultant increased competition should be a significant factor in keeping the Government's costs as low as possible.

Requirements that invitations for bids, publicly opened in the United States, be used in purchasing food commodities financed under Title I, Pub. L. 480, will make it easier for commodity suppliers, particularly small businesses, to participate. Potentially, this should reduce commodity prices by increasing the number of bidders.

Based on comments received and on the recent amendments to Title I, Pub. L. 480, several changes have been made in the text of this proposal, which is now being published as a final rule. These changes are pointed out in "Discussion of Major Comments."

DISCUSSION OF MAJOR COMMENTS

APPROVAL OF SHIPPING AND/OR PURCHASING AGENTS

In many of the comments addressed to the proposed requirements for approval of shipping and/or purchasing agents, the position was taken that the proposed rule was too broad and the result would be that few, if any, of the firms currently acting as shipping and/or purchasing agents would be able to qualify as being free from all disqualifying activities or affiliations. In other comments, questions were raised as to the justification for a rule which would disqualify persons from acting as shipping and/or purchasing agents on the basis of affiliations and activities unrelated to Pub. L. 480 transactions. It was also pointed out that there were no guidelines established for determining that a person who could not meet the specified standards could be approved on the basis that such approval would result in no conflict of interest or reduced competition.

In light of these comments, under the regulation a person would be disqualified from acting as shipping agent and/or purchasing agent for a participant only if he or an affiliate acted as a ships broker, ocean transportation supplier, commodity supplier, or selling agent in any Title I transaction with the participant while he was serving as purchasing and/or shipping agent for Title I transactions for the participant. This narrows the prohibition to those actions clearly providing a potential conflict of interest situation in connection with Title I transactions. The agent's activities and affiliations in non-Title I transactions

are no basis for disqualification. There is no provision for a waiver to permit approval of a person as an agent who does not meet the above requirement.

Additional questions were raised with respect to that part of the approval procedure based on "business reputation and any other factors with respect to the capability of such person to perform." The regulation now deletes the above reference, with approval of shipping and purchasing agents being based solely on standards directed toward eliminating conflicts of interest and increasing competition.

The final rule contains, as did the proposal, a procedure for appeal to the GSM by a person who was not approved as a purchasing and/or shipping agent.

"LOWEST LANDED COST" OPTION

The proposal stated that an importer purchasing under an IFB had the option of awarding on a "lowest landed cost" basis (commodity price plus ocean freight charges) under certain circumstances rather than strictly on the basis of the lowest commodity price offered. A number of comments were received opposing this option.

One comment was that the commodity supplier should know the basis on which awards would be made ("lowest landed cost" or lowest commodity price) before he submitted his offer. This would not appear relevant in a competitive bidding situation, where a supplier would be expected to offer his lowest possible price regardless of which method the importer used to determine awards. This is especially true under Title I, Pub. L. 480 transactions, since commodity and ocean freight offers are independent of each other. The wording of the proposal in this area is, therefore, retained.

Other comments recommended that the current policy governing commodity awards for rice, which requires that rice be purchased based on the lowest f.a.s. or f.o.b. commodity price, be continued. This does not permit an importer to use the "lowest landed cost" option for rice. All comments on this point have been carefully reviewed, and it has been determined that there is no justification for treating rice differently from other food commodities by precluding the lowest landed cost option for rice purchases. However, changes have been made to meet some of the underlying problems in the use of the lowest landed cost option which caused these commenters concern.

Specific comments received opposing the lowest landed cost option included the following:

The lowest landed cost option allows manipulation of results, as the importing country or commodity supplier may own or control vessels whose rates are used in the computation, and a decision on lowest landed cost based on estimated freight rates, not actual freight rates, is not valid.

The use of the lowest landed cost option precludes prompt handling of awards.

The lowest landed cost option leads to excessive retendering by the buyer.

In response to these comments, provisions have been added which preclude the use of lowest landed cost when vessels offered under the flag of the participant or importing country, or vessels controlled by the participant or importing country, are to be used; in such cases, commodity purchases must be made on the basis of the lowest f.a.s. or f.o.b. commodity offers. This will prevent manipulation of freight rates to allow the importer to accept higher commodity offers.

Also, lowest landed cost may not be used unless offers for commodity and freight are received for review by the importer at the same time. This allows the importer to make lowest landed cost awards on a timely basis and insures that actual freight rates are available for use in the computation of the lowest landed cost. From a review of Pub. L. 480 transactions it appears that the availability of the lowest landed cost option does not lead to more retendering by the importer but, in fact, results in fewer tenders, particularly when commodity and freight offers are reviewed together.

The question was raised as to why purchases on a c. and f. or c.i.f. basis ("commodity and freight" or "commodity, insurance and freight") were not permitted instead of allowing purchases on the lowest landed cost basis. The use of c. or c.i.f. sales can favor large commodity suppliers, who may own or control ocean vessels, and place smaller commodity suppliers, not controlling their own vessels, at a disadvantage.

SELLING AGENT'S COMMISSIONS

The proposed rule (§ 17.8(c)(1)(ii)) would have made commissions paid to "a selling agent . . . employed or engaged by the supplier to obtain a contract . . ." for the sale of food commodities ineligible for financing. The basis for this restriction was that there would appear to be no need for the commodity supplier to use the services of a selling agent to "obtain a contract" when purchases were required to be made under an IFB issued and publicly opened in the United States.

In several comments received the argument was made, however, that CCC should continue to finance selling agents' commissions in such cases since selling agents performed many necessary services for the supplier which are in addition to obtaining a contract, such as the handling of documentation problems and contract disputes.

The Food and Agriculture Act of 1977 amended Title I, Pub. L. 480, to prohibit the payment of a commission, fee, or payment to a selling agent in connection with the sale of food commodities financed under Title I, Pub. L. 480, unless waived by the Secretary. The regulation has been changed to conform thereto, with no provision being made for a waiver.

REGULATION OF COMMODITY SUPPLIERS AND SELLING AGENTS

In one comment the position was taken that commodity suppliers and selling agents should be covered by this rule, as there could be a conflict of interest with a commodity supplier who is also an ocean transportation supplier, for example. Currently, commodity contracts and ocean freight contracts may not be contingent upon one another (see § 17.6(a)(2)). Also, selling agents, if used, may not be affiliated with the government of the importing country (§ 17.2(c)(19)). Further regulations in this area will be proposed in accordance with the amendment of section 408 of Pub. L. 480 by the "Food and Agriculture Act of 1977" which requires further regulations to be issued within six months to prevent conflict of interest.

DEFINITION OF TERMS

There was a request in one comment for a definition of "conflict of interest" and in another for a redefinition of "affiliate." These comments were addressed to the broad ineligibility criteria which were applicable to the approval of purchasing and/or shipping agents. We feel this is not necessary in view of the manner in which conflict of interest is now handled in § 17.8(e)(3)(vi).

In another comment a comprehensive definition of the term "responsive to the IFB" to prevent inconsistent interpretation was requested and in a related comment it was requested that it be made clear how late in the bidding procedure an offer could be modified to make it responsive to the IFB. This is unnecessary since these points can be controlled by USDA review of the IFB to insure that it outlines the key elements to be expected of a responsive bid and that it provides there can be no modification of an offer after the closing date in the IFB.

IFB'S MUST BE ISSUED IN U.S.

Comments on this requirement noted that it imposes an added burden and expense on the importing country and might discourage developing countries from purchasing from the United States under Title I, Pub. L. 480. Several comments from importing countries did not indicate major problems with this regulation; one country stated that it would be inconvenient, but not impossible, for them to comply for certain commodities. The "Food and Agriculture Act of 1977" amends Pub. L. 480 to require IFB's issued and publicly opened in the United States, to be used in the purchase of food commodities financed thereunder.

For consistency, this regulation provides that when IFB's are used, whether for food or non-food commodities, they must be issued in the United States. It is felt that the concessional nature of the financing will continue to make purchases under Title I, Pub. L. 480 sufficiently attractive to participating coun-

tries to overcome any potential problems raised by this requirement.

In other comments it was noted that this requirement would not necessarily mean that many smaller firms would become direct exporters under the program. It is recognized that small firms may still prefer to serve as intermediate suppliers for reasons such as lack of expertise in export paperwork procedures; however, the amendment should provide expanded opportunity for participation by some small suppliers who may not have participated in the past when IFB's were held in the importing country.

In one comment it was suggested that OGSM consider having an observer present at IFB openings to monitor procedures. It is planned that a USDA representative attend IFB openings as an observer only.

DISTINCTION BETWEEN USE OF IFB'S FOR PURCHASE OF FOOD AND NON-FOOD COMMODITIES

In several comments disagreement was expressed with the distinction made in the regulation between food commodities, for which IFB's must be issued, and non-food commodities (cotton, tallow, and tobacco) which are not required to be purchased by IFB. This distinction was made because of the significantly different marketing practices used in purchasing non-food commodities from those for food commodities. This distinction was recognized by the Congress in the amendment of Pub. L. 480 made by the Food and Agriculture Act of 1977 which requires IFB's only for purchases of food commodities. The final rule retains this distinction.

DELAY UNTIL LEGISLATION PASSED

In some comments it was suggested that publication of the final rule be delayed until final Congressional action on legislation affecting Title I, Pub. L. 480. This has been done.

MISCELLANEOUS AMENDMENTS

No comments were received opposing the miscellaneous amendments in the proposal which changed references from "EMS" to "OGSM," amended and added definitions, and added a hearing provision applicable to approval of commodity suppliers and selling agents. They are adopted without change.

COMMENTS OUTSIDE SCOPE

Other comments were received which were outside the scope of the proposed rule. These will be filed for consideration when the sections of the regulations to which they apply are reviewed for future amendment.

AUTHORITY TO APPROVE PURCHASING AND/OR SHIPPING AGENTS

The authority to issue regulations which might bar participation of a person to act as a shipping agent for a purchaser obtaining Title I, Pub. L. 480, financing was questioned in one of the comments received. The interest of the United States Government in such

transactions is sufficient to warrant such regulation.

The Commodity Credit Corporation finances over long periods of time (up to 40 years) at low interest rates the purchase price of such commodities. The Commodity Credit Corporation also pays the ocean freight differential between the cost of shipping the commodity on United States-flag vessels and foreign-flag vessels to the extent that U.S.-flag vessels are required by the Cargo Preference Act to be used for such shipments. It is essential that there not be interference with the conduct of the program caused by actions which could result from conflicts of interest.

The Congress has recognized this in the amendment to section 408 of Title I, Pub. L. 480, made by the Food and Agriculture Act of 1977, which requires that regulations for the administration of Title I operations be issued within six months from the effective date of the Act (October 1, 1977), to prohibit conflict of interest between "(A) recipient countries (or other purchasing entities) and their agents, (B) suppliers of commodities, (C) suppliers of ships, and (D) other shipping interests." This regulation covers certain of these areas with respect to which there was proposed rulemaking. Additional regulations, to comply further with this provision, will be prepared for publication.

Accordingly, the amendments to 7 CFR Part 17 Subpart A, Regulations Governing the Financing of Commercial Sales of Agricultural Commodities, are adopted with changes as set forth below.

Dated: October 3, 1977.

KELLY HARRISON,
General Sales Manager, Office
of the General Sales Manager,
Department of Agriculture.

1. The terms "Export Marketing Service" and "EMS" are changed to read "Office of the General Sales Manager" and "OGSM," respectively, wherever they appear in the regulations and Appendices A and B.

2. Section 17.2 is amended by revising paragraphs (a) (1) and (6), renumbering paragraphs (a) (7) through (10) as paragraphs (a) (8) through (11), adding a new paragraph (a) (7), revising paragraphs (a) (8) and (10) as renumbered, revising paragraph (c) (12), and adding paragraphs (c) (22) through (26) as follows:

§ 17.2 Definition of terms.

(a) *Terms relating to the United States, its agencies, and officials.* (1) "AMS" means the Agricultural Marketing Service, U.S. Department of Agriculture.

(6) "FGIS" means the Federal Grain Inspection Service, U.S. Department of Agriculture.

(7) "OGSM" means the Office of the General Sales Manager, U.S. Department of Agriculture.

(8) "USDA" means the U.S. Department of Agriculture and includes all or

any of the offices mentioned in subparagraphs (1) through (7) of this paragraph.

(9) "Secretary" means the Secretary of Agriculture of the United States, or his designee.

(10) "General Sales Manager" and "GSM" mean the General Sales Manager, OGSM, or his designee.

(11) "United States" means the 50 States, the District of Columbia, and Puerto Rico.

(c) *Other terms.* . . .
(12) "Importer" means the legal entity which contracts with the supplier for the importation of the commodity. The importer may be the participant or any legal entity to which a participant has issued a subauthorization.

(22) "Shipping agent" means any person engaged by a participant to arrange ocean transportation.

(23) "Ships broker" means any person engaged by a supplier of ocean transportation to arrange employment of vessels.

(24) "Purchasing agent" means any person engaged by a participant to procure agricultural commodities.

(25) "Person" means an individual or other legal entity.

(26) "Invitation for bids" and "IFB" mean a publicly advertised request for offers.

3. Section 17.6 is amended by revising paragraph (a) (4), adding a new paragraph (a) (7), revising paragraph (b), and by deleting and reserving paragraph (c) as follows:

§ 17.6 Contracts between suppliers and importers.

(a) *Eligibility for financing.* . . .
(4) Commodity contracts between suppliers and importers made subject to the applicable purchase authorization shall be deemed to be conditioned on the approval by USDA of the supplier, the selling agent if any, the contract price, and, whenever purchases are made on the basis of an IFB, responsiveness to IFB terms.

(7) A supplier or selling agent who is not approved, or is approved upon any conditions established under applicable criteria of this section, shall be notified of such determination promptly. The notification shall state the reasons for the action taken or conditions established. Such person shall have the right to appeal such action to a designated USDA official and submit further information, orally or in writing, bearing on such determination.

(b) *Contracting procedures.* (1) *Purchasing—general.* Importers may purchase through negotiation with a supplier or suppliers of the importer's choice except when the regulations (§ 17.6(b)(2)) or the purchase authorization specifies that purchases must be made on the basis of IFB's.

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(2) *Purchasing—food commodities.* The importer shall purchase food commodities on the basis of IFB's.

(3) *IFB's—general.* Whenever commodity purchases are made on the basis of IFB's the following conditions shall apply:

(i) The terms of the IFB must be approved by the GSM prior to issuance.

(ii) The IFB shall be issued in the United States and all offers shall be opened in public in the United States at the time and place specified in the IFB.

(iii) The IFB shall permit submission of offers from all suppliers who meet the requirements of this section.

(iv) The IFB shall not preclude offers for shipment from any United States port(s) unless the purchase authorization limits exportation to certain ports.

(v) The IFB shall not establish minimum quantities to be offered or which will be considered.

(vi) The IFB shall be in compliance with the regulations, the purchase authorization, and sound commercial standards.

(4) *Contract awards.* (i) Whenever purchases are made on the basis of an IFB, the importer shall consider only offers which are responsive to the IFB and shall make awards on the basis of the lowest commodity price(s) offered, unless the importer determines and the GSM agrees that acceptance of a higher commodity price would result in the lowest landed cost of the commodity; *Provided*, That awards may not be made on a "lowest landed cost" basis unless IFB's are issued for commodity and ocean freight so that all commodity and ocean freight offers are reviewed simultaneously; *And provided further*, That when vessels offered under the flag of the participant or importing country or vessels controlled by the participant or importing country are to be used, the participant must purchase commodities on the basis of the lowest FAS/FOB offers. (ii) Announcement of awards shall be made in the United States. The importer shall promptly submit to OGSM copies of all offers received with a copy of the IFB which was issued. No sale can be approved for financing until this information has been received by OGSM. The decision of the GSM shall be final regarding the responsiveness of offers to IFB terms in the awarding of contracts.

(c) [Reserved]

4. Section 17.8 is amended by revising paragraphs (c)(1) and (c)(2) and adding a new paragraph (e).

§ 17.8 Fees, discounts, commissions, brand names, purchasing agents, shipping agents.

(c) *Commissions.* (1) (i) For non-food commodities, a commission to a selling agent as defined in § 17.2(c)(19), employed or engaged by the supplier to obtain a contract, is eligible for financing

to the extent that such commission is included in the contract price, except as stated in this paragraph.

(ii) For food commodities, a commission, fee or other payment to a selling agent as defined in § 17.2(c)(19), employed or engaged by the supplier to obtain a contract, is prohibited.

(2) If the supplier of the commodity has employed any person or firm, other than a selling agent, to obtain a contract, the sale is not eligible for financing.

(e) *Purchasing agents; shipping agents.* (1) A participant is not required to use a purchasing agent or shipping agent; however, if a purchasing or shipping agent is to be used, the participant shall submit the nomination(s) to the GSM in writing along with a copy of the proposed agency agreement. No person may act as purchasing or shipping agent, or as both, unless approved by the Assistant Sales Manager, Pub. L. 480 Programs, in accordance with the provisions of this paragraph.

(2) The term "affiliate" shall have the meaning as provided in § 17.2(c)(1) and, in addition, persons will also be deemed to be affiliates if any of the following conditions are met:

(i) Such persons have any common officers or directors.

(ii) There is any investment by ships brokers, ocean transportation suppliers, approved commodity suppliers, or selling agents, or their officers, or directors in the purchasing agents or shipping agents.

(iii) There is any investment by the purchasing agent or shipping agent, or his officers or directors in ships brokers, ocean transportation suppliers, or approved commodity suppliers, or selling agents.

These conditions include those cases in which investment has been concealed by the utilization of any scheme or device to circumvent the purposes of this section but does not include investment in any mutual fund.

(3) A person whose nomination has been submitted to act as a purchasing agent or shipping agent, or both, shall furnish to the Assistant Sales Manager, Pub. L. 480 Programs, the following:

(i) The names of all incorporators of the firm;

(ii) The names and titles of all officers and directors;

(iii) The names and proportionate share interest of all stockholders;

(iv) If the beneficial interest in the firm is held by persons other than the named shareholders, the names of the holders of the beneficial interest and the proportionate share of each;

(v) The amount of the subscribed capital of the firm;

(vi) A written undertaking signed by such person agreeing that if he is approved neither he nor any of his affiliates, as defined in § 17.2(c)(19), will act as a ships broker, ocean transportation supplier, commodity supplier, or selling

agent in any Title I transactions with the participant during the term of the agency agreement.

(vii) A certification that the person has not arranged to give or receive any payment or other benefit in connection with his selection as agent.

(4) Consideration will not be given to approval of a person to act as a shipping or purchasing agent, or both, until the documents required to be submitted by this paragraph are received by the Assistant General Sales Manager, Pub. L. 480 Programs. Approval of a nomination for purchasing agent or shipping agent may be withheld for a period not to exceed 30 days pending completion of any investigation deemed appropriate.

(5) Approval of a purchasing agent or shipping agent to act for a participant shall be coextensive with the term of the agency agreement or such shorter period as the Assistant Sales Manager, Pub. L. 480 Programs, may determine; *Provided*, That such approval will be automatically terminated if the shipping or purchasing agent or any of the affiliates of such agent, acts as ships broker, ocean transportation supplier, commodity supplier or selling agent in connection with any Title I transaction for such participant during the term of the agency agreement.

(6) If a participant uses an unapproved purchasing agent in the procurement of commodities made available under Title I, Pub. L. 480, sales approval may be withheld.

(7) If a participant uses an unapproved shipping agent in the shipping of commodities made available under Title I, Pub. L. 480, vessel approval may be withheld or the amount of the shipping agent's commission in connection with the shipment may be deducted from the ocean freight differential to be paid.

(8) The Assistant Sales Manager, Pub. L. 480 Programs, shall promptly notify persons seeking approval as purchasing or shipping agents of his determination or of the need for further investigation. If such person is not approved, the notification shall state the reasons therefor. The determination of the Assistant Sales Manager shall be effective immediately and shall continue in effect pending the result of any appeal to the General Sales Manager. Nothing herein shall be construed as to prohibit a shipping agent or purchasing agent, whose application has been disapproved or whose approval terminated, from being nominated at a later time.

(9) Any person whose nomination has been disapproved or whose approval has been terminated pursuant to the provisions of this section shall have the opportunity, within 30 days, to present to the General Sales Manager any reasons, orally or in writing, as to why such action should not stand.

(Sec. 101-115, Pub. L. 83-480, as amended (7 U.S.C. 1701 et seq.); E.O. 10900, 26 FR 143, as amended.)

[FR Doc. 77-29341 Filed 10-5-77; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES

[FmHA Instruction 444.1]

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart A—Section 502 Rural Housing Loan Policies, Procedures and Authorizations

INCOME DETERMINATION

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulation to establish new guidelines for the determination of family income for separated couples. The intended effect of this amendment is to make the income determinations which establish the program eligibility of separated individuals consistent with similar determinations made for interest credit eligibility.

EFFECTIVE DATE: This amendment is effective on October 6, 1977. Comments must be received on or before November 7, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Wesley Harris (202-447-4295).

SUPPLEMENTARY INFORMATION: The FmHA amends § 1822.3(n)(2) and Exhibit E, paragraph 5, (c)(3)(i) of Subpart A of Part 1822, Chapter XVIII, Title 7, Code of Federal Regulations (39 FR 44993 as amended at 42 FR 1023-1025). Paragraph (n)(2)(v) of this section is added to provide guidelines under exempted income for separated couples; paragraphs 5, (c)(2) and (3) of Exhibit E are amended to allow for an exemption where the spouse has been living apart from the family without having filed for divorce or legal separation for at least six months.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts, shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since they make loan and interest credit eligibility definitions consistent with each other. As a result the program is made available to certain individuals who are currently in need of

Assistance. For this reason delay in making these changes effective would be contrary to the public interest. Accordingly, the following changes are made.

1. Section 1822.3 (n)(2)(v) is added to exempted income.

§ 1822.3 Definitions.

(n) *Annual income.* . . .

(2) . . .

(v) The income of an applicant's spouse not living in the dwelling when:

(A) Legal papers have been filed with the appropriate court to commence divorce or legal separation proceedings, *Provided*:

(1) The applicant is informed and agrees that should the spouse begin to live in the dwelling, that spouse's income will then be counted toward annual income and the applicant may be required to graduate to other credit; and

(2) The spouse, if necessary for FmHA to obtain adequate security (as provided by State Regulations), signs the security instrument.

(B) Papers have not been filed to commence divorce or legal separation proceedings, *Provided*:

(1) The spouse has been living apart from the family for at least six months, and

(2) The conditions of paragraph (n)(2)(v)(A) (1) and (2) of this section are met.

2. Paragraphs 5, (c)(2), (2)(ii), (3) and (3)(i) of Exhibit E as amended, read as follows:

5. *Interest credits for existing loans.*

(c) . . .

(2) A borrower's spouse is living apart from the family and property, and legal papers have been filed with the appropriate court to commence divorce or legal separation proceedings provided:

(i) . . .

(ii) For FmHA recordkeeping purposes, the account is put in the remaining spouse's name only.

(3) A borrower's spouse is living apart from the family and the property, and papers have not been filed to commence divorce proceedings provided:

(1) The spouse has been living apart from the family for at least six months, and

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 23, 1977.

GORDON CAVANAUGH,
Administrator, Farmers
Home Administration.

[FR Doc. 77-29343 Filed 10-5-77; 8:45 am]

[3410-07]

SUBCHAPTER J—LOAN AND GRANT PROGRAM (GROUP)

PART 1933—LOAN AND GRANT PROGRAM (GROUP) COMMUNITY FACILITY LOANS

Subpart A—Community Facility Loans

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulations pertaining to Office of the General Counsel review of Construction Contracts; the dissolution of other than utility type projects by nonprofit corporations; the qualifications of independent auditors engaged to audit financial operations accounts and reports submitted to the Farmers Home Administration and specifications for flexible plastic pipe for water systems. These changes are intended to make the Community Facilities loans more procedurally efficient.

EFFECTIVE DATE: October 6, 1977. Comments must be received on or before November 7, 1977.

ADDRESSES: Submit written comments to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Judd M. Hudson. Telephone 202-447-7667.

SUPPLEMENTARY INFORMATION: Sections 1933.8(g), 1933.17(a)(4)(v), 1933.17(a)(14)(iv)(C)(1) and 1933.18(a)(3)(ii)(C) of Subpart A, Part 1933, Title 7, Code of Federal Regulations (42 FR 24232-24252) are amended. On May 13, 1977, a document was published in the FEDERAL REGISTER (42 FR 24232-24252) containing final regulations for community facility loans but requesting comments. Based upon comments received upon publication certain procedural changes have been made in the regulations. These changes are now being published in final rulemaking form because they do not impose additional substantive requirements upon the recipients of assistance under this program and because they are the result of the comment process. However, any additional written comments will be considered and, if accepted, incorporated in a further revision of this regulation. As amended, §§ 1933.8(g), 1933.17(a)(4)(v), 1933.17(a)(14)(iv)(C)(1) and 1933.18(a)(3)(ii)(C) read as follows:

§ 1933.8 Actions subsequent to loan closing.

(g) *State Office review of loan closing.* The State Director will review the

County Supervisor's statement concerning loan closing, the security instruments, and other documents used in closing to determine whether the transaction was closed properly. All material submitted by the County Supervisor, including the executed contract documents with the certification of the attorney, along with a statement by the State Director that all administrative requirements have been met, will be referred to the OGC for post closing review. OGC will review the submitted material to determine whether all legal requirements have been met. OGC's review of FmHA's standard forms will be only for proper execution thereof, unless the State Director brings specific questions or deviations to the attention of OGC. It is not expected that facility development including construction will be held up pending receipt of the opinion from OGC. When the opinion from OGC is received, the State Director will advise the County Supervisor of any deficiencies that must be corrected and return all material that was submitted for review.

§ 1933.17 Appendix A—Community facilities.

(a)

(4) Facilities for public use. . . .

(v) Before a loan is made to an applicant other than a public body for other than utility type projects, the articles of incorporation or loan agreement will include a condition similar to the following: "In the event of dissolution of this corporation, or in the event it shall cease to carry out the objectives and purposes herein set forth, all business, property and assets of the corporation shall go and be distributed to one or more nonprofit corporations or public bodies as may be selected by the board of directors of this corporation and approved by at least 75 percent of the users or members to be used for, and devoted to, the purpose of a community facility project or other purpose of serve the public welfare of the community. In no event shall any of the assets or property, in the event of dissolution thereof, go or be distributed to members, directors, stockholders, or others having financial or managerial interest in the corporation either for the reimbursement of any sum subscribed, donated or contributed by such members or for any other purposes, provided that nothing herein shall prohibit the corporation from paying its just debts."

(14) Borrower accounting methods, management reporting and audits. . . .

(iv) Audits and financial statements.

(C) Other borrowers. . . .

(i) Independent public accountant defined. Audits shall be conducted in accordance with generally accepted auditing standards by independent certified

public accountants or by independent licensed public accountants, licensed on or before December 31, 1970, who are certified or licensed by a regulatory authority of a State or other political subdivision of the United States.

§ 1933.18 Appendix B—Community Facilities—Planning Bidding, Contracting Constructing.

(a)

(3) Design policies. . . .

(ii) Water systems. . . .

(C) Pipe. All pipe used should meet current product standards in American Society Testing Materials, further, if plastic pipe is used, its operating pressure shall not exceed $\frac{2}{3}$ of its rated working pressure, and its wall thickness shall not be less than .090. If flexible plastic pipe is used its operating pressure shall not exceed $\frac{2}{3}$ of its rated working pressure, and its wall thickness shall not be less than ".060".

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture; 7 CFR 2.23; delegation of authority by the Assistant Secretary of Agriculture for Rural Development; 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an economic impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 21, 1977.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc.77-29344 Filed 10-5-77;8:45 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

PART 10—CRITERIA AND PROCEDURES FOR DETERMINING ELIGIBILITY FOR ACCESS TO RESTRICTED DATA OR NATIONAL SECURITY INFORMATION

Clarifying and Corrective Amendments

AGENCY: Nuclear Regulatory Commission.

ACTION: Clarifying and corrective amendments.

SUMMARY: The Commission's "Criteria and Procedures for Determining Eligibility for Access to Restricted Data or National Security Information" is hereby amended. The amendments substitute certain office and officer designations so as to reflect the Commission's present staff functions and organization, or to make the designations consistent throughout. The amendments also correct language inaccuracies regarding various statutory provisions of the Atomic Energy Act of 1954, as amended, and delete certain words which are superfluous.

EFFECTIVE DATE: The amendments are effective October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Royal J. Voegeli, Office of the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone 301-492-7437.

SUPPLEMENTARY INFORMATION:

The amendments relate to substituting office and officer designations in 10 CFR Part 10 so as to reflect the present NRC staff functions and organization, or to make the designations consistent throughout Part 10. Thus, the "[AEC] Office of the General Counsel" in § 10.22 will be changed to "Office of the Executive Legal Director", and the definition of "Hearing Counsel" in § 10.5(c) will be changed to mean an NRC attorney assigned "by the Office of the Executive Legal Director." The designation of "Executive Director of Operations" in § 10.22(f) will be changed to "Director, Office of Administration" so that the designation will be consistent with §§ 10.5(b) and 10.26(a). In various other paragraphs the word "Director" has been inserted preceding "Office of Administration", and in others the "Director, Division of Security" has been substituted for "Office of Administration" so that the designations will reflect the actual functioning of the Director of the Division of Security and the delegation of authority currently in effect. Several other changes relate to the routing of documents and staff procedures, and are set forth in the amendments to §§ 10.21, 10.22, 10.22(h), 10.24(a), 10.26(h), 10.27(j) and 10.27(q).

The amendments will also correct language inaccuracies in § 10.3 regarding the statutory provisions of Sections 141, 145(f), 161(a), 161(c) and 161(n) of the Atomic Energy Act of 1954, as amended. The present amendments will also delete certain words which are superfluous, i.e., the word "concerned" in §§ 10.27(j) and 10.30(a), and the words "from whom he received his notification letter" in § 10.29(a).

Because these amendments relate solely to minor matters, it has been found that good cause exists for omitting notice of proposed rule making, and public procedure thereon, as unnecessary, and for making the amendments effective upon publication in the FEDERAL REGISTER.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and section 552 and 553 of title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Part 10 are published as a document subject to codification.

§ 10.3 [Amended]

1. Section 10.3 is amended by substituting the word "declassification" for the word "disclosure" in Section 141; by deleting the comma following the word "investigation" in Section 145(f); by deleting the word "the" where it precedes the word "legislation" in Section 161(a); by deleting the sentence "No person shall

be excused from complying with any requirements under this paragraph because of his privilege against self-incrimination, but the immunity provisions of the Compulsory Testimony Act of February 11, 1953, shall apply with respect to any individual who specifically claims such privilege." in Sec. 161(c); by substituting "57b." for "57a(3)" in Sec. 161(n); deleting "102 (with respect to the finding of a practical value)" in Sec. 161(n); and by substituting "145f." for "145e" in Sec. 161(n).

§§ 10.5, 10.22, 10.24, 10.26, 10.28-10.34 [Amended]

2. Paragraphs 10.5(b), 10.22(c), 10.22(d), 10.24(b), 10.26(a), 10.26(b), 10.26(f), 10.26(g), 10.28(d), 10.29(a), 10.29(b), 10.29(b)(2), 10.30(a), 10.30(b), 10.30(c), 10.31(a), 10.32(c), 10.33(b) and 10.34(b) are amended by inserting "Director," before the words "Office of Administration" wherever those words appear.

§ 10.5 [Amended]

3. Paragraph 10.5(c) is amended by adding the words "by the Office of the Executive Legal Director" after the word "assigned".

§ 10.10 [Amended]

4. Paragraph 10.10(c) is amended by deleting the words "The Director, Office of Administration", and substituting the words "The Director, Division of Security, Office of Administration".

§ 10.21 [Amended]

5. Section 10.21 is amended by deleting the words "Office of Administration" where it first appears and substituting the words "Director, Division of Security, through the Director, Office of Administration"; and by deleting the words "Office of Administration" where it next appears and substituting the words "Director, Division of Security".

§ 10.22 [Amended]

6. Section 10.22 is amended by deleting the first sentence and substituting the following sentence: "A notification letter, prepared by the Division of Security, approved by the Office of the Executive Legal Director, and signed by the Director, Office of Administration, shall be presented to each individual whose eligibility for access authorization is in question."

7. Paragraph 10.22(f) is amended by deleting the words "Executive Director for Operations" and substituting the words "Director, Office of Administration".

§§ 10.22, 10.24 [Amended]

8. Paragraphs 10.22(h) and 10.24(a) are amended by inserting "Director, Division of Security, through the Director," before the words "Office of Administration".

§§ 10.25, 10.34 [Amended]

9. Paragraphs 10.25(b), 10.25(d) and 10.34(c) are amended by deleting the

words "Office of Administration" and substituting the words "Director, Division of Security".

§ 10.26 [Amended]

10. Paragraph 10.26(h) is amended by inserting "Director," before the words "Office of Administration" where it first appears; by inserting "Director, Division of Security, through the Director," before the words "Office of Administration" where it next appears; and by inserting "Director," before the words "Office of Administration" where it last appears.

§ 10.27 [Amended]

11. Paragraph 10.27(j) is amended by deleting the words "Office of Administration concerned" and substituting the words "Director, Office of Administration, that he instruct the Director, Division of Security" and paragraph 10.27(q) is amended by deleting the words "Office of Administration" in the first sentence and substituting the words "Director, Office of Administration, that he instruct the Director, Division of Security".

§ 10.29 [Amended]

12. Paragraph 10.29(a) is amended by deleting the words "from whom he received his notification letter".

§ 10.30 [Amended]

13. Paragraph 10.30(a) is amended by deleting the word "concerned".

(Sec. 161, Pub. L. 83-703, 68 Stat. 948 (42 U.S.C. 2201); Sec. 201, Pub. L. 93-438, 88 Stat. 1242 (42 U.S.C. 5841).)

Dated at Bethesda, Maryland this 29th day of September, 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Acting Executive
Director for Operations.

[FR Doc.77 29418 Filed 10-5-77;8:45 am]

[3128-01]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 211—MANDATORY PETROLEUM ALLOCATION REGULATIONS

Amendments to Synthetic Natural Gas Feedstock Allocation Regulations

AGENCY: Federal Energy Administration.

ACTION: Final rule.

SUMMARY: The Federal Energy Administration (FEA) is amending the Mandatory Petroleum Allocation Regulations with respect to crude oil and allocated products used for the manufacture of synthetic natural gas (SNG). The purpose of these amendments is to make the regulations more responsive to the needs of priority users of natural gas and to assure consistency with the National Energy Plan.

EFFECTIVE DATE: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202-566-9833).

Gerald P. Emmer (Allocation Regulations), 2000 M Street NW., Room 2304, Washington, D.C. 20461 (202-254-7200).

Kenneth Kincel (Resource Development Policy), 12th and Pennsylvania Avenue NW., Room 4112, Washington, D.C. 20461 (202-566-9052).

Finn K. Neilsen (Specialty Fuels), 2000 M Street NW., Room 6318, Washington, D.C. 20461, (202-254-9730).

Joel M. Yudson (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461, (202-566-9565).

SUPPLEMENTAL INFORMATION:

I. BACKGROUND

On August 30, 1977, the Federal Energy Administration (FEA) issued a notice of proposed rulemaking and public hearing with respect to the allocation of petroleum feedstocks for the production of SNG (42 FR 44551, September 6, 1977). As proposed, the regulations provided for a continuation of FEA's current policy of case-by-case review of feedstock applications for new and expanded SNG plants. A public hearing was held in Washington, D.C. on September 26 and 27, 1977 at which 22 persons testified. In addition, 20 written comments were received.

In issuing the notice of proposed rulemaking, the FEA was responding to a number of concerns and developments. As discussed in the August 30 notice, for more than a year FEA had been conducting a review of its policies related to SNG production from petroleum. Further impetus toward revision of the SNG allocation regulations was provided by the establishment of a task force in this area pursuant to the FEA's allocation regulations covering all natural gas liquids, including regulations dealing with allocation levels for SNG feedstock. Btu enrichment and use limitations (42 FR 41242, August 15, 1977).

II. COMMENTS RECEIVED

A large number of comments from the natural gas industry and other affected parties were received in connection with the five public hearings mentioned above. Comments addressed to the major areas of concern in this rulemaking proceeding are discussed below.

A. EXISTING PLANTS AND PENDING APPLICATIONS

FEA proposed that existing SNG plants which had received allocations as of July 1, 1977 for commercial operation be allowed to elect whether their current and future applications should be evaluated under the criteria existing at that time or under the new criteria set forth in the proposed rule. Such plants would be given thirty days from the date

this rule becomes effective to make such the irrevocable election. FEA further proposed that firms which have had applications for SNG feedstock allocations pending since prior to January 1, 1976, should make the same election with respect to the SNG production capacity covered by their applications.

Firms commenting generally stated that they would not be able to make an informed choice as to which set of policies set forth in the President's National Energy Plan in April 1977. As part of the efforts of the task force, a general hearing regarding SNG feedstock allocation was held on July 18, 1977 to receive comments on SNG policy, with specific reference to fifteen questions published in a notice of inquiry (42 FR 32838, June 28, 1977). The task force completed its review in August 1977 and issued two reports summarizing its findings. These were made available to the public for comment concurrently with the commencement of the comment period for the August 30 notice. In addition, a draft programmatic environmental impact statement (EIS) on FEA's SNG feedstock allocation program was issued in June 1977 (42 FR 30240, June 13, 1977), comments on which were received at a public hearing held on July 11, 1977. The final programmatic EIS was issued on August 31, 1977.

Two other related public hearings were held in September 1977 on the allocation of natural gas liquids which dealt in part with issues concerning the use of natural gas liquids by gas utilities or transmission companies. Specifically, a hearing was held on September 6, 1977, on FEA guidelines for the allocation of propane for gas utility use in propane-air peakshaving plants (42 FR 38553, July 29, 1977), and a second hearing was held on September 12 and 13, 1977, on a proposed general revision of criteria to choose. They pointed out that the new criteria are broad and untested and that certain of the existing criteria set forth in Special Rule No. 1 to Subpart A of Part 211 have been found to be unsatisfactory. In addition, the entire Special Rule has reference to, and is dependent on, the Statement of Policy, which was proposed to be deleted. Requiring an immediate election would be speculative, it was contended, particularly for those companies with allocation orders which will continue in effect for a number of years. Further, the proposal was not clear as to whether all SNG plant operators would be required to make the election or just those with applications currently pending before FEA. Most utilities requested that, rather than being given a choice of criteria to be judged under, their feedstock allocations should be "grandfathered" at full capacity operational levels for the life of their plants.

B. WINTER OPERATION

FEA proposed that allocations for the fourth and first calendar quarters be based on design winter requirements for priority gas users, a classification which would correspond to Federal Power Com-

mission (FPC) priorities 1, 2, and 3 (as set forth in Orders 467B and C), not including industrial boiler fuel uses. FEA further proposed that, if a particular heating season were warmer than a design winter, the SNG plant would be permitted to use the feedstock during that time to function as a supply buffer to meet peak demand. Although a certain amount of SNG would thereby be used to service lower priority users, FEA would place no end use restrictions on the allocation as to the amount of SNG feedstock used during the winter season. In addition, FEA requested comments as to whether a definition of a "design" winter should be adopted on a uniform basis rather than separately for each applicant.

Comments received were generally in favor of having winter allocations based on design winter requirements. It was pointed out, however, that the winter heating seasons in all parts of the country are not co-extensive and allocations for winter operation could in certain instances include parts of the second or third calendar quarter. Most commenters stated that a uniform definition of design winter is not possible, because of the varying methods by which design conditions are determined.

C. NON-WINTER OPERATION

Many commenters opposed the requirement of proposed Section 211.29(c) (3)(iii) that applicants certify that allocated feedstocks would be used for SNG production in the second or third calendar quarter only while gas service is continued to priority gas users or for industrial boiler fuel users which use up to 1500 MCF per peak day. It was stated that SNG plants must be operated year round to achieve efficiency. Such operation, it was contended, spreads the fixed cost of an SNG facility over a greater number of units of production. It was stated also that year-round operation is necessary to provide a consistent volume outlet for the feedstock supplier. Suppliers, it was contended, would be reluctant to enter into any type of agreement unless fixed delivery schedules could be maintained. It was further pointed out that pipeline companies which distribute SNG to a great number of local distribution companies would have no way to ascertain or assure the class of ultimate customers receiving gas supplies from them and therefore they could never make such a certification.

D. FEEDSTOCK STORAGE REQUIREMENT

To insure that sufficient feedstocks will be available to operate plants in the event of a supply interdiction, FEA proposed that applicants certify that a 90-day peak-load supply of feedstock be maintained in readily accessible storage which could be used without adversely affecting the distribution of such products to other users. Commenters were requested to indicate whether storage for greater or less than ninety days of operation should be required, and whether such a provision should apply

differently for various kinds of feedstocks.

Comments received in relation to the 90-day storage requirement focused on the capital expense involved, the large land-use requirements, possible technical difficulties, and the potential environmental and safety hazards, particularly where natural gas liquids (NGLs) are to be stored. In the case of naphtha feedstock, if the SNG plant is to be supplied by a nearby refinery, then it was asserted that the refinery's access to sufficient supplies of crude oil could provide the necessary assurance that the SNG plant could continue to meet the needs of priority gas uses. Furthermore, it was stated that certain utilities maintain large storage supplies of natural gas which would reduce the need for SNG feedstock storage.

A number of commenters suggested alternatives to the proposal. Among the suggested alternatives were requirements of 20, 30, or 45 days' storage, or a requirement that applicants simply demonstrate that they will have adequate storage to meet emergency situations.

E. NATURAL GAS LIQUID IMPORT REQUIREMENT

Many utilities voiced strong objection to the requirement of proposed Section 211.29(c) (3) (iv) that SNG plants be restricted to the use of non-Canadian imports where NGLs are used as feedstocks. It was argued that the restriction discriminates against the gas industry and forces high priority gas utility customers to be dependent on higher-priced and less secure imports. Some commenters urged that SNG plants should at least have access to Canadian NGLs, because Canadian imports will be at lower prices and are from a more secure supply source than overseas imports.

F. PRIOR STATE APPROVAL

FEA proposed that an applicant for SNG feedstock certify that approval for the proposed new or expanded SNG facility has been obtained from the state public service commission having the appropriate authority (if the SNG plant were subject to such authority) in at least one state to be served by the facility. It was contended that such a requirement would lead to extra delay and costs. The suggestion was made that the regulation require only that an application be filed with the appropriate state public service commission and that prior approval should not be necessary.

G. OTHER COMMENTS

Comments were also submitted alleging that the detailed informational requirements imposed on applicants would be burdensome. As to the proposed audit provision, it was alleged that such a provision could hamper the efforts of firms to obtain financing because of the constant threat of rescission of an allocation. Further, the objection was raised that the proposal was silent as to audit standards and due process safeguards. One commenter also stated that the requirement of proposed § 211.29(c) (4) (v), re-

quiring a clear and convincing demonstration of the need for SNG to overcome a severe environmental problem, imposed too difficult a standard for an applicant to meet.

III. AMENDMENTS ADOPTED

The FEA has concluded, based on all the comments received in this proceeding and other information available to FEA, including the analysis presented in the programmatic EIS and in the two reports prepared for the SNG Task Force, that the proposal should be adopted in a modified form as explained below.

A. EXISTING PLANTS AND PENDING APPLICATIONS

In the rule adopted today, FEA is not requiring firms that operate existing SNG plants to choose whether their applications should be evaluated under the criteria contained in Special Rule No. 1 or under new criteria adopted, as was proposed. FEA has concluded that the criticisms of the proposed election procedure are valid.

Special Rule No. 1 is being deleted, together with the Statement of Policy which accompanies it, and all applications for SNG feedstock or Btu enrichment, including those now pending, will be evaluated under the new criteria adopted hereby.

However, a special provision is adopted with respect to applications received prior to July 1, 1977 relating to the capacity of SNG facilities existing as of that date or to proposed capacity which was the subject of an application pending before FEA as of that date. Any action that FEA will take under these amendments shall result in allocations no less favorable to the applicant than those which would have been provided by FEA under § 211.29 and Special Rule No. 1 as in effect on July 1, 1977. The allocations of firms which were grandfathered under Paragraph No. 4 of Special Rule No. 1 as in effect on July 1, 1977 will not be affected by the adoption of these amendments.

Applications filed subsequent to July 1, 1977 for new SNG facilities or expansions of existing SNG facilities will be evaluated under the new criteria without regard to what treatment they would have received under Special Rule No. 1.

B. CRITERIA AND REQUIREMENTS

1. *Winter Operations.* The proposal required a demonstration by an applicant of the need for the requested volumes of SNG feedstock or Btu enrichment material in the fourth and first calendar quarters to meet priority gas uses under design conditions. The final rule provides in § 211.29(c) (2) (i) that for the entire winter heating season, the allocation will be based on those natural gas volumes which will be required under design winter conditions to meet priority gas uses. FEA has concluded that basing the need for SNG on requirements for priority gas uses only in the fourth and first calendar quarters

as set out in the proposal is inappropriate in view of the fact that temperature-sensitive priority requirements may extend for either a shorter or a longer period, depending upon a company's location and the nature of their demand profile. The gas requirements will take into account the applicant's entire supply of gas from all sources other than propane-air used for peak shaving and the incremental amount necessary to be supplied by the SNG facility will be determined.

The definition of design winter has also been revised. For most companies, a design winter is an analytical device which is based on the experiences of past winters and uses a number of variables and criteria in order to estimate future winter heating season requirements under the most severe conditions which could reasonably be expected. Although an unusually severe winter may have requirements which exceed those of a design winter, as was the case for some companies during the winter of 1976-77, FEA has concluded that design winter requirements are an appropriate measure of a company's future potential need for gas, including SNG. FEA recognizes further that such requirements will vary from utility to utility. For purposes of these regulations, "design winter" will mean a specified level of estimated natural gas requirements for a future winter heating season which the system capacity and other engineering specifications can reliably meet and which has previously been recorded with either a state public service commission or the Federal Power Commission, or, in the case of an unregulated utility, can be demonstrated to have been used for such purposes prior to July 1, 1977.

2. *Non-winter use.* FEA is modifying the provision in the proposal which required that an applicant certify that it would not use naphtha or an allocated natural gas liquid product for SNG production in the second and third calendar quarters while continuing gas service to customers which would be classified in FPC priorities 4 through 9. FEA has concluded, based on comments detailing specific problems that could occur as a result of a complete prohibition of service to customers other than for priority gas uses and small industrial boiler fuel use, that such a prohibition is inappropriate. A utility may find that short-term supplies of gas may become available as a result of various circumstances, but because an SNG plant, for technical reasons, cannot be closed down and restarted during such a short period, it must choose between refusing the extra gas which would be available to serve industrial customers or to receive the gas for a short period and serve such customers in violation of its required certification. Further, as indicated in the discussion of the comments, pipeline transmission companies do not control the class of customer served by their utility customers and could not operate an SNG plant during non-winter months without substantial risks of non-

compliance with prohibitions as to priorities of customers served.

Therefore, to afford companies a measure of flexibility to respond to unforeseen opportunities to receive additional supplies of gas, FEA will not prohibit the use of allocated SNG feedstocks during non-winter months when customers other than those in FPC priorities 1 through 3 receive gas service. FEA will, pursuant to § 211.29(c) (2) (ii), continue to determine the volumes of SNG feedstock or Btu enrichment material for non-winter use (which is not necessarily co-extensive with the second and third calendar quarters) based on those volumes of natural gas required to meet priority gas uses and industrial boiler fuel use which require up to 1,500 MCF per peak day. It is altogether possible that if a utility's other gas supplies are sufficient to meet its entire requirements for priority gas uses and industrial boiler fuel loads of up to 1,500 MCF per peak day, its allocation of SNG feedstock for non-winter months will be zero. However, under the regulations as adopted there is no prohibition as to classes of customers served and, where unanticipated short-term supplies of natural gas become available, an SNG plant with a non-winter allocation could operate while gas service is provided to customers which would be in FPC priorities 4-9.

FEA will continue to monitor the classes of customers served by the utility with non-winter allocations and, if it finds that such service to lower priorities is of a regular rather than a sporadic nature, it may consider taking action to reduce the SNG plant's allocation.

3. *Feedstock storage.* In the final rule, FEA is requiring that an applicant demonstrate it will maintain a thirty (30) day peak-load supply of feedstock in readily accessible storage which can be used without adversely affecting the distribution of such product to other users. The comments were persuasive that requiring certification of a ninety-day peak-load feedstock supply in storage, while desirable to maintain gas service in the event of a feedstock supply interruption, would be costly and difficult for utilities to implement.

4. *State public commission approval.* Although comments expressing a contrary position were received, FEA has concluded it is appropriate for an applicant to obtain prior approval from the appropriate state regulatory agency, where such approval is required by a state which would receive the SNG. FEA's decision is based on the states' significant interest in the impacts of SNG provided to their residents and FEA's desire to coordinate its actions with such states. The final rule provides that if more than one state requires such approval, the approval of only one state which would receive the SNG is necessary prior to the granting of an allocation.

5. *Natural gas liquid feedstock import requirement.* The FEA is amending the proposed requirement that an applicant

certify that any allocated natural gas liquid product to be used for SNG feedstock, SNG Btu enrichment or SNG plant fuel will be a non-Canadian import. FEA has concluded that any import, including Canadian imports of allocated natural gas liquid products, may be used for SNG use.

The easing of the prohibition as to Canadian imports is not based on the comments alleging discriminatory treatment of utilities or those contending that utilities should be given access to lower-priced product. FEA remains aware that the cost of the SNG feedstock will in most instances be rolled-in to prices for ultimate customers. FEA believes that the Canadian NGL supply situation is such that, in a select number of situations, allowing the use of Canadian imports by utilities for SNG use will not impact adversely upon other historical users of such products. FEA intends to examine carefully each application requesting the use of Canadian imports to assure other firms reliant on Canadian feedstocks will not be prejudiced by any action taken by the Agency.

6. *Environmental review.* FEA believes that it will be sufficiently difficult for an applicant to demonstrate that SNG is necessary to overcome or mitigate a significant environmental problem, and therefore § 211.29(c)(3)(vi) of the final rule does not impose a "clear and convincing" burden of proof requirement upon an applicant in this regard.

7. *Other criteria.* One additional criterion is included in the final rule which was not contained in the proposal. This factor, which is set forth at § 211.29(c)(3)(vii), provides FEA the flexibility to grant an allocation for unique or special circumstances not encompassed by the other criteria. The need for this factor was demonstrated by the pending application of one firm commenting for a small prototype SNG plant, which is to be built for testing and demonstration purposes only. Such an application could not be properly evaluated under the other enumerated criteria.

Certain of the criteria have been adopted substantially as proposed and are not discussed above, including the requirement that utility customer growth to be served by the SNG plant be limited to priority uses only and that allocations will be for a term of years.

C. INFORMATIONAL REQUIREMENTS

FEA has determined that applications should set forth all of the information required in the proposal, with the exception of the rate structure of the SNG manufacturer's gas utility customers, with those items claimed to be proprietary marked as such. FEA believes that all the information required to be submitted is clearly necessary to evaluate an SNG feedstock or Btu enrichment application.

D. REVIEW

Under this final rule, FEA has retained the ability to review at its discretion any allocation to assure that a firm is continuing to operate an SNG plant in ac-

cordance with the factual basis for and the terms and conditions of the allocation order and the applicable regulations. On the basis of such a review, the FEA may determine that adjustment or rescission of the allocation is appropriate. Any such rescission or adjustment to an allocation order is required to be upon reasonable notice to all interested parties, with an opportunity for a hearing provided to the operator of the affected SNG plant.

E. OTHER PROVISIONS

The remainder of the regulatory provisions have been adopted substantially as proposed, except that the definition of synthetic natural gas has been changed to clarify that gas produced from sources other than liquid hydrocarbons is not subject to the regulation.

Comments were requested as to whether the standards proposed for SNG plants should also be adopted for base loading propane-air facilities. FEA intends to resolve this issue in the near future and the rulemaking is continued in this regard.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159; as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is amended as set forth below, effective immediately.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

1. Section 211.29 is amended to read as follows:

§ 211.29 Synthetic natural gas production.

(a) *General.* Notwithstanding any inconsistent provision of §§ 211.12 and 211.13, a firm which purchases or acquires crude oil and allocated products for use in the production of synthetic natural gas (SNG), including feedstock use, SNG Btu enrichment use, and plant fuel use, shall comply with the provisions of this section. Any firm which has requirements for an SNG plant that exceed its base period volume or which has no base period volume may seek an adjustment of its base period volume or establishment of a base period volume only upon application to the FEA National Office in accordance with Subparts B or C, respectively, of Part 205 of this chapter.

(b) *Existing plants and pending applications.* (1) This paragraph applies to firms which had received allocations for SNG feedstock, SNG enrichment, or plant fuel for SNG production prior to July 1, 1977, or which had applied prior to July 1, 1977, for an SNG feedstock allocation.

(2) The allocations of firms which have received allocations of naphtha for SNG production pursuant to paragraph

(4) of Special Rule No. 1 to Subpart A of Part 211 of this chapter, as in effect on July 1, 1977, shall remain in full force and effect.

(3) Any action FEA takes under this section with respect to applications related to the July 1, 1977, capacity of SNG facilities existing as of that date or related to the proposed capacity which was the subject of an application pending before FEA as of that date shall result in allocations no less favorable to the applicant than those which would have been provided by FEA under Special Rule No. 1 and this section as in effect on July 1, 1977.

(c) *Criteria and requirements.* In evaluating an application for assignment or adjustment of base period volumes for SNG feedstock, Btu enrichment or SNG plant fuel, FEA shall impose the following requirements and consider the following factors, in addition to the criteria set forth in Subparts B or C of Part 205.

(1) Unless otherwise waived by FEA for good cause shown, applicants shall demonstrate that:

(i) Approval for a proposed new or expanded SNG facility has been obtained from the state regulatory agency having the appropriate jurisdiction in at least one state to be served by the facility (no such approval is required where no state agency has such jurisdiction or where no state approval is required).

(ii) Any allocated natural gas liquid product to be used for SNG feedstock, SNG Btu enrichment or SNG plant fuel will be imported for such use.

(iii) All new growth by the applicant or the applicant's gas utility customers which would be served by the SNG plant will be for priority gas uses.

(iv) A thirty (30) day peak-load supply of feedstock, which can be used without adversely affecting the distribution of such product to other users of such product, will be maintained in readily accessible storage.

(2) The volumes allocated for SNG feedstock or Btu enrichment use shall take into account all projected sources of natural gas supplies other than propane-air used for peak shaving and shall be calculated so as to provide, together with such natural gas supplies,

(i) For the winter heating season, those natural gas volumes which will be required under design winter conditions to meet priority gas uses, and

(ii) For other than the winter heating season, those natural gas volumes which will be required to meet priority gas uses and industrial boiler fuel uses which require up to 1500 MCF per peak day.

(3) The following factors shall also be considered by FEA in its evaluation of applications under this paragraph (c):

(i) The effects on the distribution and storage systems serving the market area.

(ii) The effect of allocating domestic rather than imported feedstocks.

(iii) The effect of allocation of the requested product for SNG production on the supply of and demand for such product in a particular market area, with

due regard to the impacts on competing uses.

(iv) The security of feedstock supply from the proposed source of supply.

(v) The ability of a new plant to use a variety of feedstocks.

(vi) The environmental impact of the requested allocation within a market area. If the applicant contends that the production of SNG is required to overcome a significant environmental problem, the applicant shall demonstrate the need for SNG to overcome or mitigate such problem. Notwithstanding the other requirements contained in this paragraph (c), if such a showing is made, an allocation may be granted to the applicant to serve other than priority gas users under design winter conditions or other than priority gas users and industrial boiler fuel users up to 1,500 MCF per peak day during other than the winter heating season.

(vii) Any unique or special factors not addressed in the above criteria.

(d) *New applications.* Any application for adjustment or assignment shall contain, in addition to the information specified in §§ 205.24 or 205.34 of Part 205 of this chapter, the following information:

(1) The applicant's projected pipeline supply of natural gas for the period for which the allocation is sought.

(2) All other current and projected sources of gas supplies, including, but not limited to, underground storage, liquefied natural gas (LNG), propane-air, SNG from coal, and the efforts the applicant has made to obtain such supplies.

(3) The projected demand for gas (design winter and other estimates—by volume and number of customers) in the applicant's market area, by consuming sector (set forth by FPC priority or other readily identifiable categories with separate identification of industrial boiler fuel requirements), including estimates of that portion of the demand for which the SNG will be required.

(4) The projected rate of growth of gas consumption in the applicant's market area for each consuming sector.

(5) The projected schedule of curtailments of pipeline supplies of gas for the allocation period, and a description of any curtailment plan in effect for the market area to be served by the SNG plant and an estimate of the effect of such plan.

(6) A description of the rate structures of the SNG manufacturer including pricing policies for SNG and other supplemental sources of gas.

(7) A complete description of the proposed feedstock, including the supplier(s), volumes, prices, and technical specifications of the feedstock.

(8) The design and practical feedstock capacity of the SNG plant.

(9) The proposed product needed for Btu-enrichment requirements of the SNG plant, including source, volumes, and price.

(10) The proposed SNG plant fuel, including source and volumes.

(11) Other information which may be identified by FEA as necessary for a comprehensive evaluation of the application.

(e) *Special limitations.* Unless directed by FEA upon application pursuant to Subpart G of Part 205 of this chapter, no supplier shall supply and no wholesale purchaser or end-user shall accept or use naphtha or any allocated natural gas liquid product in excess of one hundred percent of base period use for synthetic natural gas plant feedstock use.

(f) *Reporting requirements.* Each SNG manufacturer shall report to FEA in a manner prescribed by FEA on the usage of crude oil or allocated products for SNG production.

(g) *Review.* Each firm operating an SNG plant shall be subject to review at the discretion of FEA to assure that the firm is continuing to operate the plant in accordance with the factual basis for and the terms and conditions of the allocation order and the applicable regulations. On the basis of such a review the FEA may determine that adjustment or rescission of the allocation is appropriate. Any such rescission or adjustment to an allocation order shall be upon reasonable notice given to all interested parties, with an opportunity for a hearing provided to the operator of the affected SNG plant.

2. Special Rule No. 1 to Subpart A of Part 211 and the Statement of Policy following Special Rule No. 1 are deleted.

3. Section 211.51 is amended by deleting the definition of "synthetic natural gas plant" and by inserting the following definitions of "design winter," "priority gas uses," and "synthetic natural gas" in the appropriate alphabetical order:

§ 211.51 General definitions.

"Design winter" means a specified level of estimated natural gas requirements for a future winter heating season which the system capacity and other engineering specifications can reliably meet and which has previously been recorded with either a state public service commission, the Federal Power Commission, or, in the case of an unregulated utility, can be demonstrated to have been used for such purposes prior to July 1, 1977.

"Priority gas uses" means usage of natural gas for residential use, commercial use, storage injection requirements, and firm industrial requirements for plant protection, feedstocks, process uses, or other non-boiler fuel uses.

"Synthetic natural gas" or "SNG" means gas chemically reformed from any allocated liquid hydrocarbon source material and having the same characteristics as natural gas, and which is, or may easily be made, fungible with natural gas.

[FR Doc. 77-29303 Filed 10-3-77; 10:25 am]

[6714-01]

Title 12—Banks and Banking

CHAPTER III—FEDERAL DEPOSIT
INSURANCE CORPORATION

SUBCHAPTER A—PROCEDURE AND RULE OF
PRACTICE

PART 303—APPLICATIONS, REQUESTS,
AND SUBMITTALS

Delegation of Authority To Levy Civil
Penalties

AGENCY: Federal Deposit Insurance
Corporation (FDIC).

ACTION: Final rule.

SUMMARY: The Board of Directors of the FDIC ("Board") has delegated to the General Counsel of FDIC or his designee the authority to levy civil penalties for the late filing of Reports of Condition and Reports of Income, or such other reports as the Board may from time to time require. The purpose of the delegation is to promote flexibility, expedition and efficiency in operations.

EFFECTIVE DATE: These amendments shall become effective immediately.

ADDRESSES: Alan R. Miller, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT:

Arthur L. Beamon, Attorney, Legal Division, Federal Deposit Insurance Corporation, Washington, D.C. 20429 (202-389-4422).

SUPPLEMENTARY INFORMATION: In connection with the June 30, 1976 Call for Reports of Condition and Reports of Income FDIC revised the reporting schedule to provide that both reports are due within 30 days after the Call date. Previous to that time reports had been due within 10 days after the end of the reporting period. At the same time, FDIC announced that insured State non-member banks which fail to submit reports within 30 calendar days of the Call date will be subject to a penalty of up to \$100 per day for each delinquent report. Notice of adoption of a statement of policy on the imposition of such penalties was published in the FEDERAL REGISTER on July 12, 1976 at 41 FR 28583.

This policy was implemented for the first time on September 7, 1976, when the Board of Directors of FDIC levied penalties on 89 insured State non-member banks. The policy has been followed on each Call since that time.

Since the levying and enforcement of civil penalties involves primarily legal functions, the Board of Directors of FDIC has delegated to the General Counsel or his designee authority to levy and collect civil penalties for late filing of Reports of Condition and Reports of Income, or such other reports as the Board may require under the authority of section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. 1817(a)(1)). In the exercise of the delegated authority, the General Counsel will be required to

consult with the Director of the Division of Bank Supervision or his designated representative.

Section 303.13 of FDIC rules and regulations (12 CFR 303.13) is amended to reflect the delegation. The amendment is adopted pursuant to the authority of sections 7(a)(1) and 9 (Seventh and Tenth) of the Federal Deposit Insurance Act (12 U.S.C. 7(a)(1) and 9 (Seventh and Tenth)).

Section 303.13 is amended to read as follows:

§ 303.13 Other delegations of authority.

(i) *Imposition of Civil Penalties.* The Board of Directors has delegated to the General Counsel or his designee the authority for the levying and enforcement of civil penalties under Section 7(a)(1) of the Federal Deposit Insurance Act (12 U.S.C. § 1877(a)(1)) for the late filing of Reports of Condition and Reports of Income, and such other reports as the Board may require under the authority of that Section. In the exercise of the delegated authority, the General Counsel shall consult with the Director of the Division of Bank Supervision or his designated representative before imposing any penalty. At its discretion, the Board may review any action taken under authority of this paragraph.

The rulemaking procedures set forth in the Administrative Procedure Act (5 U.S.C. 553 (b) and (d) and the rules and regulations of the Federal Deposit Insurance Corporation (12 CFR 302.1, 302.2, and 302.5) with respect to notice, public participation, and deferred effective date were not followed in connection with this amendment because they constitute rules of internal FDIC practice and procedure and are not substantive in nature.

By order of the Board of Directors, September 30, 1977.

FEDERAL DEPOSIT INSURANCE CORPORATION,
ALAN R. MILLER,
Executive Secretary.

[FR Doc. 77-29314 Filed 10-5-77; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 10492; Amdt. SFAR 26-11]

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

Interim Approval of Import Aircraft Components and Subassemblies From Japan

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment extends the effectivity of a current Special Federal Aviation Regulation which provides for the interim approval of certain air-

craft components and subassemblies that are manufactured in Japan. The extension is needed to facilitate the completion of the renegotiation of a related bilateral agreement with Japan.

DATE: Effective October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone: 202-755-8716.

SUPPLEMENTARY INFORMATION: SFAR 26 provided for approvals on a selective basis of aircraft engines, propellers, materials, parts and appliances manufactured in a foreign country with which the United States has an agreement for the acceptance of powered aircraft for export and import. SFAR 26 was adopted to provide these approvals on an interim basis pending appropriate amendments to certain of those bilateral agreements where such amendments are in the mutual interest of the United States and the foreign country involved. The termination date for SFAR 26 has been extended by Amendments SFAR 26-1 through Amendment SFAR 26-10, and is currently scheduled to terminate on October 1, 1977.

At the time the current termination date of SFAR 26 was established, the negotiation of amendments to the existing bilateral agreements had been concluded with all foreign countries to the extent then involved except Japan, and the FAA believed that the Japanese bilateral agreement would be concluded by October 1, 1977. However, these negotiations will not be concluded by that date and the government of Japan has requested a 60-day extension of SFAR 26 to allow time for final negotiations and processing of the agreement in order to assure uninterrupted trade flow. The reasons which justified the adoption of SFAR 26 still exist with respect to Japanese aircraft components and subassemblies. In view of the above, the FAA believes that it is in the public interest to extend the termination date of SFAR 26 from October 1, 1977, to December 1, 1977, for Japanese aircraft components and subassemblies produced under existing contracts with United States manufacturers.

Since this amendment continues in effect the provisions of a currently effective Special Federal Aviation Regulation and imposes no additional burden on any person, I find that notice and public procedure hereon are unnecessary and it may be made effective in less than 30 days.

The principal authors of this document are N. S. Dobi, Flight Standards Service, and J. D. Jeffrey, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, effective October 1, 1977, the last paragraph of Special Federal Aviation Regulation No. 26 (35 FR

12748), as amended by Amendments SFAR 26-1 through SFAR 26-10 (42 FR 35634), is further amended by striking out the words "October 1, 1977" and inserting the words "December 1, 1977" in place thereof, and paragraph 6 is amended to read: "After October 1, 1977, this special regulation applies only to aircraft components and subassemblies produced in Japan pursuant to contracts between Japanese manufacturers and United States product manufacturers entered into prior to October 1, 1977."

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 30, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc. 77-29308 Filed 10-5-77; 8:45 am]

[4910-13]

[Docket No. 17238; Amdt: 39-3053]

PART 39—AIRWORTHINESS DIRECTIVES
Societe Nationale Industrielle Aerospatiale (Formerly Nord Aviation) Nord 262 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires the installation of certain modifications to the fuel tanks on Societe Nationale Industrielle Aerospatiale (formerly Nord Aviation) Nord 262 series airplanes to prevent the fuel surging that is associated with the failure of one engine and that results in the exposure of fuel tank booster pumps and interruption of fuel flow to the operating engine.

EFFECTIVE DATE: October 31, 1977.

Compliance is required within the next 300 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletins may be obtained from Aerospatiale, BP 475, 36003 Chateauroux, France.

A copy of each of the service bulletins is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

M. E. Gaydos, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: The FAA has determined during flight tests that flight operations with less than 700 pounds (110 gals) of fuel in each tank introduces the possibility of complete power loss in the event of failure of one engine on Societe Nationale Industrielle Aerospatiale (formerly Nord Aviation) Nord 262 Series Airplanes. Fuel surging associated with failure of one engine causes exposure of fuel tank booster pumps and consequent interruption of fuel flow to the operating engine. Since this condition is likely to exist or develop on other airplanes of the same type design, an airworthiness directive is being issued which requires the incorporation of partitions in the boost-pump area of the fuel tanks to restrain fuel surging.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are M. E. Gaydos, Europe, Africa, and Middle East Region, F. H. Kelley, Flight Standards Service, and K. May, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new Airworthiness Directive:

SOCIETE NATIONALE INDUSTRIELLE AEROSPATIALE (formerly Nord Aviation). Applies to all Nord 262 Series Airplanes certificated in all categories.

Compliance is required within the next 300 hours time in service after the effective date of this AD, unless already accomplished.

To prevent interruption of fuel flow to the operating engine as a consequence of failure of one engine, accomplish the following:

(a) For airplanes not equipped with auxiliary tanks in center wing, install a rigid metal partition inside fuel tank No. 1 (LH and RH) in accordance with Paragraph II "Embodiment Instructions" of NORD 262-FREGATE Service Bulletin No. 28-18 (MOD. 825), dated June 23, 1977, or an FAA-approved equivalent.

(b) For airplanes equipped with auxiliary tanks in center wing, install a rigid metal partition inside fuel tank No. 1 (LH and RH) in accordance with Paragraph II "Embodiment Instructions" of NORD 262-FREGATE Service Bulletin No. 28-19 (MOD. 826), dated June 23, 1977, or an FAA-approved equivalent.

(c) After accomplishing paragraph (a) or (b) of this AD, adjust the zero point on the fuel quantity indicator in accordance with Paragraph II "Accomplishment Instructions" of NORD 262-FREGATE Service Bulletin No. 28-20 (MOD. 828), dated June 23, 1977, or an FAA-approved equivalent.

This amendment becomes effective October 31, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 28, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 77-29273 Filed 10-5-77; 8:45 am]

[4910-13]

[Airspace Docket No. 77-CE-11]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Control Zone and Transition Area at Columbus, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this amendment is to alter the Columbus, Nebr., control zone and transition area due to relocation of the Columbus, Nebr., VOR to provide additional airspace to protect aircraft executing approach and departure procedures at the Columbus, Nebr., Municipal Airport.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, Federal Building 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subparts F and G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is to alter the Columbus, Nebr., control zone and transition area. The notice of proposed rulemaking was published in the FEDERAL REGISTER on April 18, 1977 (42 FR 20147, 20148). The proposal resulted from the relocation of the Columbus, Nebr., VOR. Relocation of the VOR requires adjustment of the instrument flight procedures based on that navigational aid. Alteration of controlled airspace (control zone, transition area), at Columbus, Nebr., is necessary to compensate for the adjustment of the instrument approach procedures so that aircraft will be afforded continuous airspace protection at or above 700 feet AGL (Above Ground Level) in which to execute the adjusted instrument approaches. No objections were received on the proposal.

DRAFTING INFORMATION

The principal authors of this document are Gary W. Tucker, Operations, Procedures and Airspace Branch, Air Traffic Division, and John L. Fitzgerald, Jr., Office of the Regional Counsel.

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977 (42 FR 440), is amended, effective 0901 G.m.t. December 1, 1977, by adding the following transition area to read:

§ 71.171 [Amended]

1. By amending § 71.171 (42 FR 371) so as to alter the following control zone to read:

COLUMBUS, NEBR.

Within a five mile radius of the Columbus Municipal Airport (latitude 41°26'49" N., longitude 97°20'31" W.), and within 4.5 miles each side of the 323° bearing from the Columbus Airport extending from the five mile radius zone to 11 miles northwest of the airport, and within three miles each side of the 157° radial of the Columbus VOR extending from the five mile radius zone to 8.5 miles southeast of the VOR. This Control Zone shall be effective during the times established by a notice to airman or as published in the Airman's Information Manual.

§ 71.181 [Amended]

2. By amending section 71.181 (42 FR 475) so as to alter the following transition area to read:

COLUMBUS, NEBR.

The airspace extending upward from 700' above the surface within a 6.5 mile radius of the Columbus Municipal Airport (latitude 41°26'49" N., longitude 97°20'31" W.); and within 4.5 miles each side of the 323° bearing from the Columbus Airport extending from the 6.5 mile radius area to 11.5 miles northwest of the Airport.

(Sec. 307(a), Federal Aviation Act of 1958, as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on September 26, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 77-29330 Filed 10-5-77; 8:45 am]

[4910-13]

[Docket No. 77-SO-39]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Laurel, Mississippi, Transition Area

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Laurel, Mississippi, Transition Area. The name of the Laurel Municipal Airport has been changed to Hessler-Noble Field. The action of the City of Laurel, officially changing the name, requires this to be reflected in the transition area description.

EFFECTIVE DATE: 0901 Gmt, December 1, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320. Telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: In a regular meeting, the City of Laurel officially changed the name of the Laurel Municipal Airport to Hesler-Noble Field. Therefore, it is necessary to alter the description of the Laurel, Mississippi, Transition Area to reflect the name change. Since this alteration is editorial in nature, notice and public procedures hereon are not necessary.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

ADOPTION OF AMENDMENT

Accordingly, Part 71 of the Federal Aviation Regulations is amended, effective 0901 Gmt, December 1, 1977, as follows:

§ 71.181 [Amended]

In Subpart G, § 71.181 (42 FR 440), the Laurel, Mississippi, Transition Area is amended as follows:

"* * * Laurel Municipal Airport * * *" is deleted and

"* * * Hesler-Noble Field * * *" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Georgia, on September 27, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 77-29120 Filed 10-5-77; 8:45 am]

[4910-13]

[Docket No. 77-SO-42]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Memphis, Tennessee, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the Memphis, Tenn., transition area. The Memphis VORTAC is being relocated to a position on the Memphis International Airport. This relocation requires deletion of controlled airspace no longer required for aircraft executing instrument approaches predicated upon the former Memphis VORTAC location.

EFFECTIVE DATE: 0901 GMT, December 1, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Ronald T. Niklasson, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. Telephone: 404-763-7646.

SUPPLEMENTARY INFORMATION: On December 1, 1977, the Memphis VORTAC navigational aid will be relocated to a position on the Memphis International Airport. Therefore, it is necessary to alter the description of the Memphis, Tennessee, transition area to delete controlled airspace which was required for aircraft executing instrument approach procedures predicated upon the former location. Since this alteration lessens the burden on the public, notice and public procedure hereon are not necessary.

DRAFTING INFORMATION

The principal authors of this document are Ronald T. Niklasson, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Part 71 of the Federal Aviation Regulations is amended effective 0901 GMT, December 1, 1977, as follows:

In Subpart G, § 71.181 (42 FR 440), the Memphis, Tennessee, area is amended by deleting the following: "* * * within 1.5 miles each side of Memphis VORTAC 265° radial, extending from the 6.5-mile radius area to the VORTAC * * *" and "* * * within 3 miles each side of Memphis VORTAC 311° radial, extending from the 6.5-mile radius area to 32.5 miles northwest of the VORTAC * * *".

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Georgia, on September 27, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 77-29116 Filed 10-5-77; 8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 194—THURSDAY, OCTOBER 6, 1977

[4910-13]

[Docket No. 77-SO-41]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Mobile, Ala., Control Zone (Aerospace Airport) and Mobile, Ala., Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Aviation Regulations by altering the Mobile, Alabama, control zone (Aerospace Airport) and Mobile, Alabama, transition area. The existing control zone and transition area extensions will be realigned. This is necessary due to revision of the VOR instrument approach procedure to Mobile Aerospace Airport.

EFFECTIVE DATE: 0901 GMT December 1, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7947.

SUPPLEMENTARY INFORMATION: The final approach radial of the Brookley VORTAC for the VOR Runway 32 approach to Mobile Aerospace Airport will be realigned from the 146° radial to the 153° radial. Therefore, it is necessary to alter the control zone and transition area extensions to coincide with the revised final approach course of the instrument approach procedure. Since this alteration is minor in nature, notice and public procedure hereon are not considered necessary.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 G.m.t., December 1, 1977, as hereinafter set forth.

In Subpart F, § 71.171 (42 FR 355), the Mobile, Alabama (Aerospace Airport) control zone is amended as follows:

"* * * within 3.5 miles each side of Brookley VORTAC 150° radial * * *" is deleted and "* * * within 3.5 miles each side of Brookley VORTAC 157° radial * * *" is substituted therefor.

In Subpart G, § 71.181 (42 FR 440), the Mobile, Alabama, transition area is amended as follows:

"* * * within 3.5 miles each side of Brookley VORTAC 150° radial * * *" is deleted and "* * * within 3.5 miles each side of Brookley VORTAC 157° radial * * *" is substituted therefor.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Georgia, on September 27, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 77-29117 Filed 10-5-77; 8:45 am]

[4910-06]

[Airspace Docket No. 76-SO-67]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of VOR Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter the low altitude VOR airway structure in the vicinity of Memphis, Tenn., and Gilmore, Ark., commensurate with the relocation of the Memphis, Tenn., VORTAC at Lat. 35° 03' 45" N., Long. 89° 58' 53" W., and the establishment of the Gilmore, Ark., VOR/DME at Lat. 35° 20' 49" N., Long. 90° 28' 41" W. These actions are part of an overall plan to improve and upgrade the air traffic capabilities in and around the Memphis, Tenn., International Airport, thereby providing more efficient services to the airspace users.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone: 202-426-8530.

HISTORY

On March 31, 1977, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the VOR airway structure in the vicinity of Memphis, Tenn., commensurate with the relocation of the Memphis, Tenn., VORTAC and establishment of the Gilmore, Ark., VOR/DME (42 FR 17138). Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. One comment was received from the Southern Region U.S. Air Force Representative concerning VOR Airway (V-11) transiting the Columbus 3 Military Operations Area (MOA) and possibly derogating the military use of this area. The FAA Southern Region assured the Air Force

Representative that whenever the Columbus 3 MOA was activated, ATC controlled IFR aircraft would not be routed via V-11 within the Columbus 3 MOA.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) alters the low altitude VOR airway structure in the vicinity of Memphis, Tenn., and Gilmore, Ark., commensurate with the relocation of the Memphis, Tenn., VORTAC and the establishment of the Gilmore, Ark., VOR/DME. Subsequent to the publication of the NPRM further airway refinements, in the interest of route design efficiency, were found to be in order. These refinements are as follows:

In V-7 an east alternate from Graham, Tenn., to Central City, Ky., via Nashville, Tenn., is not required. Other airways are established along this route, therefore, the elimination of this east alternate will reduce route duplication.

In V-9 the final site selection of the Gilmore VOR/DME has eliminated the requirement for a dogleg airway between Greenwood, Miss., and Gilmore, Ark. This route segment will now proceed direct between these facilities.

In V-16 after Jacks Creek, Tenn., the route alignment will remain as it is presently established.

In V-124 from Jacks Creek, Tenn., this route will now proceed via Shelbyville, Tenn., to Hinch Mountain, Tenn.

In view of the extensive airway/alternate airway structure in the vicinity of Nashville and Crossville, Tenn., retaining the designation V-16 for the airways over these locations will lessen the impact of these changes, and a comprehensive study shows that no useful purpose will be served in changing the nomenclature of the airways. This change will switch the airway numbers only for those segments between Jacks Creek and Hinch Mountain, Tenn.

In V-52 a north alternate airway is designated between Nashville, Tenn., and Central City, Ky., in order to provide flexibility for terminal procedures.

In V-74 between Jackson and Greenville, Miss., this route was realigned slightly to the west in order to have 15 degrees divergence between the main and alternate airway.

These airway refinements are considered to be within the scope of the original notice (42 FR 17138). Therefore, the FAA believes that additional public comment is unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) and amended (42 FR 30607) is further amended, effective 0901 G.m.t., December 1, 1977, as follows:

1. In V-7 "Graham, Tenn.; Nashville, Tenn.; Central City, Ky.; including an east alternate;" is deleted and "Graham, Tenn.; Central City, Ky.;" is substituted therefor.

2. In V-9 "Memphis, Tenn., including an E alternate and also a W alternate; Maiden, Mo., including a W alternate;" is deleted and "Gilmore, Ark.; Maiden, Mo.;" is substituted therefor.

3. In V-11 "Jackson, Miss. From Memphis, Tenn., Dyersburg, Tenn., including a W alternate via INT Memphis 001° and Dyersburg 235° radials, and an E alternate via the INT Memphis 045° and Dyersburg 182° radials;" is deleted and "Jackson, Miss.; Greenwood, Miss.; Holly Springs, Miss., including a W alternate via the INT Greenwood 010° and Holly Springs 225° radials; Dyersburg, Tenn.;" is substituted therefor.

4. In V-16 "Pine Bluff, Ark.; Memphis, Tenn., including a S alternate; Jacks Creek, Tenn., including a N alternate via INT Memphis 045° and Jacks Creek 260° radials; Graham, Tenn., including a S alternate from Memphis to Graham via INT Memphis 078° and Graham 238° radials;" is deleted and "Pine Bluff, Ark.; Holly Springs, Miss.; Jacks Creek, Tenn.; Graham, Tenn.;" is substituted therefor.

5. In V-47 "From Little Rock, Ark., via Walnut Ridge, Ark.; Malden, Mo.;" is deleted and "From Pine Bluff, Ark.; Gilmore, Ark.; Dyersburg, Tenn.;" is substituted therefor.

6. In V-49 "Graham, Tenn.; INT Graham 006° and Bowling Green, Ky., 230° radials; Bowling Green, including an E alternate from Decatur to Bowling Green via Nashville, Tenn.;" is deleted and "Nashville, Tenn.; Bowling Green, Ky., including a W alternate from Decatur to Bowling Green via Graham, Tenn., and INT Graham 006° and Bowling Green 230° radials;" is substituted therefor.

7. In V-52 After "Evansville, Ind.;" Central City, Ky.; Nashville, Tenn., including a N alternate;" is added.

8. In V-54 "Memphis, Tenn., including a N alternate; Muscle Shoals, Ala., including a N alternate via INT Memphis 078° and Muscle Shoals 293° radials and also a S alternate via Holly Springs, Miss., and INT Holly Springs 099° and Muscle Shoals 255° radials;" is deleted and "Holly Springs, Miss.; Muscle Shoals, Ala.;" is substituted therefor.

9. In V-67 "From Chattanooga, Ky.;" is deleted and "From Chattanooga, Tenn.; Shelbyville, Tenn.; Graham, Tenn.; Cunningham, Ky.;" is substituted therefor.

10. In V-69 "Pine Bluff, Ark.; INT Pine Bluff 040° and Walnut Ridge, Ark., 187° radials" is deleted and "Pine Bluff, Ark.; INT Pine Bluff 038° and Walnut Ridge, Ark., 187° radials;" is substituted therefor.

11. In V-74 After "Pine Bluff 006° radials.;" Greenville, Miss., including a N alternate; INT Greenville 147° and Jackson, Miss., 325° radials; Jackson, including a N alternate;" is added.

12. In V-94 "Greenville, Miss., including a W alternate; INT Greenville 036° and Memphis, Tenn., 205° radials; to Memphis. The airspace within R-5103A is excluded." is deleted and "Greenville, Miss., including a S alternate; Holly Springs, Miss., including a N alternate via INT Greenville 021° and Holly Springs 268° radials; Jacks Creek, Tenn.; Bowling Green, Ky. The airspace within R-5103A is excluded." is substituted therefor.

13. In V-124 "Memphis, Tenn.;" is deleted and "Gilmore, Ark.; Jacks Creek, Tenn.; Shelbyville, Tenn.; to Hinch Mountain, Tenn.;" is substituted therefor.

14. In V-140 "Livingston 232°" is deleted and "Livingston 226°" is substituted therefor.

15. In V-159 "Holly Springs, Miss., including an east alternate from Birmingham to Holly Springs via INT Birmingham 313° and Holly Springs 099° radials; Memphis, Tenn., including a west alternate from Hamilton to Memphis via INT Hamilton 273° and Memphis 136° radials; Walnut Ridge, Ark.;" is deleted and "Holly Springs, Miss., including an east alternate from Birmingham to Holly Springs via INT Birmingham 313° and Holly Springs 099° radials; Memphis, Tenn., including a west alternate from Hamilton to Memphis via INT Hamilton 273° and Memphis 136° radials; Walnut Ridge, Ark.;" is substituted therefor.

FEDERAL REGISTER, VOL. 42, NO. 194—THURSDAY, OCTOBER 6, 1977

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leted and "Holly Springs, Miss.; Gilmore, Ark.; Walnut Ridge, Ark.," is substituted therefor.

18. In V-305 After "Little Rock, Ark.," "Walnut Ridge, Ark.; Malden, Mo.; Cunningham, Ky." is added.

17. In V-321 After "Huntsville, Tenn.," "Shelbyville, Tenn.; Livingston, Tenn." is added.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 29, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 77-29369 Filed 10-5-77; 8:45 am]

[4910-13]

[Docket No. 77-SO-32]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area,
Columbia, Miss.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule designates a 700-foot transition area in the vicinity of Columbia, Mississippi. This action provides the necessary controlled airspace for accommodation of IFR operations at the Columbia-Marion County Airport.

EFFECTIVE DATE: 0901 G.m.t., December 1, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7947.

SUPPLEMENTARY INFORMATION: A Notice of Proposed Rulemaking was published in the FEDERAL REGISTER on Monday, August 8, 1977 (42 FR 39994), which proposed the designation of the Columbia, Mississippi, transition area. No objections were received from this notice.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

ADOPTION OF AMENDMENT

Accordingly, Subpart G of Part 71 of the Federal Aviation Regulations (14

CFR 71) is amended, effective 0901 GMT, December 1, 1977, by adding the following:

COLUMBIA, MISS.

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Columbia-Marion County Airport (Lat. 31°17'45" N., Long. 89°48'50" W.)

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); (14 CFR 11.69)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on September 2, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 77-29118 Filed 10-5-77; 8:45 am]

[4910-13]

[Airspace Docket No. 77-CE-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area—
Gothenburg, Nebr.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a transition area at Gothenburg, Nebr., to provide controlled airspace for aircraft executing a new instrument approach procedure to the Gothenburg Municipal Airport which is based on a Non-directional Radio Beacon (NDB) navigational aid being installed at the airport.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Gary W. Tucker, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-538, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The City of Gothenburg, Nebr., is installing a Non-directional Radio Beacon (NDB) on the Gothenburg Municipal Airport. This navigational aid will provide new navigational guidance for aircraft utilizing this airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure adequate controlled airspace for aircraft executing the new instrument approach procedures at the Gothenburg Municipal Airport.

DRAFTING INFORMATION

The principal authors of this document are Gary W. Tucker, Operations, Procedures and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On page 36270 of the FEDERAL REGISTER dated July 14, 1977, the Federal Aviation Administration published a notice of proposed rulemaking which would amend section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Gothenburg, Nebr. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the notice of proposed rulemaking.

§ 71.181 [Amended]

Accordingly, Subpart G, § 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977 (42 FR 440), is amended, effective 0901 G.m.t. December 1, 1977, by adding the following transition area to read:

GOTHENBURG, NEBR.

That airspace extending upward from 700 feet above the surface within a 5 mile radius of the Gothenburg Airport (latitude 40°55'45" N., longitude 100°09'00" W.) within 3 miles each side of the Gothenburg NDB 136° true bearing, extending from the 5 mile radius to 8 miles southeast of the NDB.

(Section 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Mo., on September 26, 1977.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 77-29331 Filed 10-5-77; 8:45 am]

[4910-13]

[Airspace Docket No. 77-CE-9]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Designation of Transition Area—
Mountain View, Mo.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: The nature of this federal action is to designate a transition area at Mountain View, Missouri, to provide controlled airspace for aircraft executing a new instrument approach procedure to the Mills Memorial Airport, Mountain View, Missouri, which is based on a

Non-directional Radio Beacon (NDB) navigational aid being installed at the airport.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Dwaine E. Hiland, Airspace Specialist, Operations, Procedures and Airspace Branch, Air Traffic Division, ACE-537, FAA, Central Region, Federal Building, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3408.

SUPPLEMENTARY INFORMATION: The City of Mountain View, Missouri, is installing a Non-directional Radio Beacon (NDB) on the Mills Memorial Airport. This navigational aid will provide new navigational guidance for aircraft utilizing this airport. The establishment of an instrument approach procedure based on this navigational aid entails designation of a transition area at and above 700 feet above ground level (AGL) within which aircraft are provided air traffic control service. The intended effect of this action is to ensure adequate controlled airspace for aircraft executing the new instrument approach procedure at the Mills Memorial Airport.

DRAFTING INFORMATION

The principal authors of this document are Dwaine E. Hiland, Operations, Procedures and Airspace Branch, Air Traffic Division and John L. Fitzgerald, Jr., Office of the Regional Counsel.

DISCUSSION OF COMMENTS

On Page 20635 of the FEDERAL REGISTER dated April 21, 1977, (the period in which to comment being extended in the FEDERAL REGISTER of May 31, 1977, at Page 27603), the Federal Aviation Administration published a Notice of Proposed Rule Making which would amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to designate a transition area at Mountain View, Missouri. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No objections were received as a result of the Notice of Proposed Rule Making.

Accordingly, Subpart G, Section 71.181 of the Federal Aviation Regulations (14 CFR 71.181) as republished on January 3, 1977 (42 FR 440), is amended, effective 0901 G.m.t. December 1, 1977, by adding the following transition area to read:

MOUNTAIN VIEW, MO.

That airspace extending upward from 700' above the surface within a 5 mile radius of the Mills Memorial Airport, (latitude 36°59'33" N., longitude 91°42'42" W.); and within 3 miles each side of the 106° bearing from the Mills Memorial Airport, extending from the 5 mile radius area to 8 miles east of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 as amended (49 U.S.C. 1348); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.69 of the Federal Aviation Regulations (14 CFR 11.69).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Kansas City, Missouri, on September 26, 1977.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 77-29329 Filed 10-5-77; 8:45 am]

[4910-13]

[Docket No. 77-SO-40]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redesignation of Control Zone, Valdosta, Ga. (Moody AFB)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective hours of the Valdosta, Georgia (Moody AFB) Control Zone. On September 3, 1977, the Air Base operating hours were reduced on weekends and Federal holidays.

EFFECTIVE DATE: 0901 G.m.t., December 1, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

Harlen D. Phillips, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7946.

SUPPLEMENTARY INFORMATION: In Subpart F, § 71.171 (42 FR 355) of FAR Part 71, the Valdosta, Ga. (Moody AFB) Control Zone is designated as part time, 0700 to 2300 hours, local time, daily. Since the Air Base operating hours on Saturday, Sunday, and Federal holidays have been reduced to 0800 to 1600 local time, it is necessary to alter the description to reflect the changes. The aforementioned action will reduce the constraints and, in effect, the impact on the user imposed by the Control Zone operation. Consequently, we have elected to omit circularization of the change for comment.

DRAFTING INFORMATION

The principal authors of this document are Harlen D. Phillips, Airspace and Procedures Branch, Air Traffic Division, and Ronald R. Hagadone, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

ADOPTION OF AMENDMENT

Accordingly, Part 71 of the Federal Aviation Regulations, is amended effective 0901 GMT, December 1, 1977, as follows:

In Subpart F, § 71.171 (42 FR 355), the Valdosta, Georgia (Moody AFB), Control Zone is amended by adding the following:

"... This Control Zone is effective from 0700 to 2300 hours, local time, daily * * * is deleted and * * * This Control Zone is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual * * * is substituted therefor.

(Sec. 307(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Ga., on September 27, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 77-29121 Filed 10-5-77; 8:45 am]

[4910-13]

[Docket No. 77-SO-37]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Revocation of Control Zone, Selma, Ala.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Selma, Alabama, control zone because Craig AFB has been deactivated, all instrument approach procedures cancelled, and air traffic control services discontinued.

EFFECTIVE DATE: December 1, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7947.

SUPPLEMENTARY INFORMATION:

The Selma, Alabama, control zone, described in Subpart F, § 71.171 (42 FR 355), was designated to provide controlled airspace protection for IFR operations at Craig Air Force Base. The IFR approach procedures have been cancelled and the Air Force Base deactivated. Therefore, it is necessary to revoke the control zone. Since this amendment lessens the burden on the public, notice and public procedure hereon are unnecessary.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) revokes the Selma, Alabama, control zone.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320.

ADOPTION OF AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Part 71, of the Federal Aviation Regulations (14 CFR, Part 71) is amended, effective 0901 GMT, December 1, 1977, by revoking the Selma, Alabama, control zone.

(Sec. 307(a), of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)) (14 CFR 11.69)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 10949, and OMB Circular A-107.

Issued in East Point, Ga., on September 27, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 77-29119 Filed 10-5-77; 8:45 am]

[4910-13]

[Docket No. 17237; Amdt. No. 1093]

**PART 97—STANDARD INSTRUMENT
APPROACH PROCEDURES**
Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—(1) FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; (2) The FAA Regional Office

of the region in which the affected airport is located; or (3) The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from: (1) FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or (2) The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed weekly, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The current annual subscription price is \$150; add \$30 for each additional copy mailed to the same address.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. § 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA Forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impracticable. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA Form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aro-

autical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

§ 97.23 [Amended]

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

• • • Effective December 1, 1977.

Nogales, AZ—Nogales International, VOR-B, Original, cancelled.
Nogales, AZ—Nogales International, VOR/DME-A, Original, cancelled.
Washington, DC—Washington National, VOR Rwy 15, Amdt. 4.
Washington, DC—Washington National, VOR/DME Rwy 18, Amdt. 4.
Washington, DC—Washington National, VOR Rwy 38, Amdt. 6.
Olive Branch, MS—Olive Branch, VOR-A Orig., cancelled.
Olive Branch, MS—Olive Branch, VOR/DME-A, Orig., cancelled.
Walls, MS—Twinkle Town, VOR-A, Amdt. 4, cancelled.
Walls, MS—Twinkle Town, VOR/DME Rwy 5, Orig.
Memphis, TN—Memphis International, VOR Rwy 9, Original.
Memphis, TN—Memphis International, VOR Rwy 17L, Original.
Memphis, TN—Memphis International, VOR Rwy 17R, Original.
Memphis, TN—Memphis International, VOR Rwy 27, Original.
Memphis, TN—Memphis Int'l, VOR Rwy 35L, Amdt. 3, cancelled.
Memphis, TN—Memphis International, VOR Rwy 35L, Original.
Memphis, TN—Memphis International, VOR Rwy 35R, Amdt. 2, cancelled.
Memphis, TN—Memphis International, VOR Rwy 35R, Original.
Memphis, TN—Memphis International, VOR/DME Rwy 17R, Amdt. 2, cancelled.

• • • Effective November 17, 1977.

Santa Ynez, CA—Santa Ynez, VOR-A, Amdt. 5.

Santa Ynez, CA—Santa Ynez, VOR-B, Amdt. 3.
Jamestown, ND—Jamestown Municipal, VOR Rwy 12, Amdt. 4.
Jamestown, ND—Jamestown Municipal, VOR Rwy 30, Amdt. 5.
Dallas, TX—Addison, VOR Rwy 15, Amdt. 14.

§ 97.25 [Amended]

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

• • • Effective December 1, 1977.

Memphis, TN—Memphis International, LOC (BC) Rwy 27, Amdt. 19.

• • • Effective November 17, 1977.

Jamestown, ND—Jamestown Municipal, LOC/DME BC Rwy 12, Amdt. 2.

§ 97.27 [Amended]

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

• • • Effective December 1, 1977.

Washington, DC—Washington National, NDB Rwy 15, Amdt. 1.
Washington, DC—Washington National, NDB Rwy 36, Amdt. 4.
Olive Branch, MS—Olive Branch, NDB Rwy 18, Amdt. 1.
Olive Branch, MS—Olive Branch, NDB Rwy 36, Amdt. 1.

• • • Effective November 17, 1977.

Jamestown, ND—Jamestown Municipal, NDB Rwy 30, Amdt. 3.
Wichita Falls, TX—Kickapoo Downtown Airpark, NDB-A, Amdt. 3.

§ 97.29 [Amended]

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

• • • Effective December 1, 1977.

Washington, DC—Washington National, LDA Rwy 18, Amdt. 8.
Washington, DC—Washington National, ILS Rwy 36, Amdt. 29.
Memphis, TN—Memphis International, ILS Rwy 9, Amdt. 22.
Memphis, TN—Memphis International, ILS Rwy 17L, Amdt. 4.
Memphis, TN—Memphis International, ILS Rwy 17R, Amdt. 2.
Memphis, TN—Memphis International, ILS Rwy 35L, Amdt. 4.
Memphis, TN—Memphis International, ILS Rwy 35R, Amdt. 3.

• • • Effective November 17, 1977.

Jamestown, ND—Jamestown Municipal, ILS Rwy 30, Amdt. 3.

§ 97.31 [Amended]

5. By amending § 97.31 RADAR SIAPs identified as follows:

• • • Effective December 1, 1977.

Washington, DC—Washington National, RADAR-1, Amdt. 20.

• • • Effective November 3, 1977.

Longview, TX—Gregg County, RADAR-1, Original.

• • • Effective October 20, 1977.

Rockford, IL—Greater Rockford, RADAR-1 Original.

§ 97.33 [Amended]

6. amending § 97.33 RNAV SIAPs identified as follows:

• • • Effective December 1, 1977.

Washington, DC—Washington National, RNAV-A, Amdt. 2.
Washington, DC—Washington National, RNAV Rwy 3, Amdt. 4.
Washington, DC—Washington National, RNAV Rwy 33, Amdt. 2.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354 (a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

Issued in Washington, D.C., on September 30, 1977.

JAMES M. VINES,
Chief,

Aircraft Programs Division.

[FR Doc. 77-29334 Filed 10-5-77; 8:45 am]

[3510-04]

Title 15—Commerce and Foreign Trade
**SUBTITLE A—OFFICE OF THE
SECRETARY OF COMMERCE**

**PART 17—LICENSING OF GOVERNMENT-
OWNED INVENTIONS IN THE CUSTODY
OF THE DEPARTMENT OF COMMERCE**

**Licensing of Rights in Domestic Patents
and Patent Applications**

AGENCY: Department of Commerce.

ACTION: Final rule.

SUMMARY: The General Services Administration (GSA) has issued Government-wide rules prescribing the terms, conditions, and procedures for the licensing of rights in domestic patents and patent applications vested in the United States of America (41 CFR 101-4.1). The Department of Commerce is adopting this rule to make clear the applicability of the GSA licensing rules to the Department and intends that this rule will provide a convenient reference for individuals wishing to obtain domestic licenses for patents and patent applications in the custody of the Secretary of Commerce.

DATES: This rule has been effective since October 1, 1975.

FOR FURTHER INFORMATION: Inquiries concerning this rule or the licensing activities of the DoC should be addressed as follows:

Mr. Ted Mann, Attorney-Advisor, Office of Assistant General Counsel for Science and Technology, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202-377-5394.

SUPPLEMENTARY INFORMATION: It is intended that this rule will provide a convenient reference for individuals wishing to obtain domestic licenses for patents and patent applications in the custody of the Secretary, Department of Commerce, by establishing a new Part 17 to Title 15, Code of Federal Regulations. Part 17 is entitled "Licensing of Government-Owned Inventions in the Custody of the Department of Commerce" with Subpart A entitled "Licensing of Rights in Domestic Patents and Patent Applications". A Subpart B of Part 17, entitled "Licensing of Rights in Foreign Patents and Patent Applications" is reserved for future use. Public comment on this rule prior to its issuance is unnecessary since this rule merely states for the Department of Commerce the Government-wide domestic licensing rules which were subject to public comment before adoption by the General Services Administration.

15 CFR Subtitle A is amended by adding a new Part 17, reading as follows:

**Subpart A—Licensing of Rights in
Domestic Patents and Patent Applications**

§ 17.1 Licensing rules.

(a) The Government-wide rules for the licensing of rights in domestic patents and patent applications vested in the United States of America, found at 41 CFR 101-4.1, are applicable to all such licensing activities of the Department of Commerce, subject to the following minor clarifications:

(a) The term "Government agency" as defined at 41 CFR 101-4.102(c) means the United States Department of Commerce or a designated operating unit within the Department.

(b) The term "The head of the Government agency", as defined at 41 CFR 101-4.102(d), means the Secretary of Commerce or a designee.

(Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Subpart B—Licensing of Rights in Foreign Patents and Patent Applications

[Reserved]

WILLIAM T. KNOX,
Director, National
Technical Information Service.

[FR Doc. 77-29443 Filed 10-5-77; 8:45 am]

Title 19—Customs Duties

**CHAPTER I—UNITED STATES CUSTOMS
SERVICE; DEPARTMENT OF THE TREASURY**

[T.D. 77-232]

PART 1—GENERAL PROVISIONS

Ports of Entry

Correction

In FR Doc. 77-27263 appearing at page 47190 in the issue for Tuesday, September 20, 1977, the following correction should be made:

On page 47191, first column, in the amendments to § 1.2, please insert the following between lines 9 and 10 of that section, "CLEVELAND, OHIO and adding in its".

[6560-01]

Title 40—Protection of Environment
CHAPTER I—ENVIRONMENTAL
PROTECTION AGENCY
SUBCHAPTER C—AIR PROGRAMS
[FRL 801-8]

PART 52—APPROVAL AND PROMULGA-
TION OF IMPLEMENTATION PLANS
Pennsylvania Revision

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: A revision to the Commonwealth of Pennsylvania's State Implementation Plan (SIP) is approved to include the requirement that the Pennsylvania Department of Transportation (Penn DOT) restrict the usage of liquid bituminous cutback asphalt material in the Penn DOT paving and road surface maintenance program. This action is taken by the Commonwealth of Pennsylvania in order to obtain non-methane hydrocarbon (NMHC) emission offsets, pursuant to the requirements of Section 110 of the Clean Air Act (as amended, 1977) and the Environmental Protection Agency's (EPA) December 21, 1976 Interpretative Ruling (41 FR 55524), for the accommodation of the construction and operation of the Volkswagen Manufacturing Company of America, Inc., automobile assembly plant in New Stanton, Pennsylvania.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Glenn Hanson, Regional Air New Source Coordinator, Air and Hazardous Materials Division, Environmental Protection Agency, Region III, Curtis Building, 6th & Walnut Streets, Philadelphia, Pennsylvania, 19106 (215-597-8170).

SUPPLEMENTARY INFORMATION: Under Section 110 of the Clean Air Act (as amended, 1977) and the EPA December 21, 1976 Interpretative Ruling, a major new stationary source may locate in an area currently exceeding any National Ambient Air Quality Standard(s) (NAAQS) provided certain conditions are met. Those conditions include:

(1) Air pollutant emissions resulting from the construction and operation of the proposed new source must be controlled to the lowest achievable emission rate(s).

(2) For the pollutant(s) emitted by the proposed new source which will cause or contribute to a violation of any NAAQS(s), there must be a reduction in similar emissions from existing sources which will more than offset those emissions resulting from the construction and operation of the proposed new source.

(3) The required emission offsets must provide for some reasonable progress towards attainment of the NAAQS(s).

On May 20, 1977, the Commonwealth of Pennsylvania submitted to EPA a pro-

posed amendment to the Pennsylvania SIP. The proposed amendment was subsequently published by EPA in the FEDERAL REGISTER on June 14, 1977 (42 FR 30393) as a proposed revision to the Pennsylvania SIP and written public comments were solicited.

The purpose of this revision to the Pennsylvania SIP is to provide for emission reductions or offsets in order to accommodate the construction and operation of the proposed Volkswagen Manufacturing Company of America, Inc., automobile assembly plant in New Stanton, Pennsylvania. This revision is necessary because the geographical area in which the proposed Volkswagen facility is to be located is an area currently exceeding the photochemical oxidant NAAQS and it has been determined that the operation of the proposed Volkswagen facility will result in an increase in non-methane hydrocarbon air emissions, primary contributors to the formation of photochemical oxidants. Therefore, it is necessary that non-methane hydrocarbon air emissions be reduced so as to provide for some reasonable progress towards attainment of the photochemical oxidant NAAQS as required under conditions 2 and 3 as stated above.

Today's approved revision to the Pennsylvania SIP will provide for a net reduction in non-methane hydrocarbon emissions of one thousand and twenty-five tons (1025) per year. This reduction is achieved through the requirement that the Pennsylvania Department of Transportation (Penn DOT) restrict the usage of non-methane hydrocarbon (NMHC) based liquid bituminous cutback asphalts in road surfacing and maintenance programs. To achieve this objective Penn DOT will restrict the usage of NMHC based liquid bituminous cutback asphalts to less than twenty (20) percent of the total amount of asphalt paving material used in the following sixteen (16) county area in the southwest portion of the State; Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Fayette, Greene, Indiana, Jefferson, Lawrence, Mercer, Somerset, Venango, Washington and Westmoreland Counties. Section 7.5.9.8 of the Penn DOT Pavement Maintenance Policy has been amended to include the above requirement.

In order to assure that reasonable further progress towards attainment of the photochemical oxidant NAAQS is provided for, the Volkswagen Company of America, Inc., construction and operating permit, issued by the Pennsylvania Department of Environmental Resources and enforceable by EPA, requires that at no time will NMHC air emissions ever exceed eight hundred and ninety-eight (898) tons per year. Further, the Volkswagen Company of America, Inc., has committed to a program which will provide for a reduction in NMHC emissions from six hundred and twenty (620) tons of NMHC's per year to two hundred and eighty (280) tons of NMHC's per year over a three year period. These reductions will be achieved through the substitution of water based/high solids paint

for NMHC based paint in Volkswagen's automobile paint spraying operations. These reductions are based upon paint spraying operations of eight hours per day, five days per week, fifty weeks per year.

During the written public comment period, EPA did receive comments concerning this revision. Some comments addressed the legal authority under which the Commonwealth of Pennsylvania would restrict the usage of liquid bituminous cutback asphalts. The Penn DOT is authorized by Pennsylvania statutory law to formulate and implement the NMHC emissions reduction program; Pa. Stat. Ann., tit. 71, Sections 511, 515(b) (Purdon). Today's approval of the NMHC emissions reduction program; Pa. a revision to the Pennsylvania SIP makes the NMHC emissions reduction program enforceable by EPA as well as by the Commonwealth of Pennsylvania (Specific provisions have been added in a new section to 40 CFR Part 52 to ensure enforceability by EPA).

EPA has assessed the issues relating to the monitoring of compliance with the Penn DOT NMHC emissions reduction program including the monitoring, recording, and reporting of total usages of liquid bituminous cutback asphalts. A specific provision has been added to 40 CFR Part 52 requiring Penn DOT to forward to the Pennsylvania Department of Environmental Resources, on a quarterly basis, reports which list for each of the affected counties the numbers of gallons of each class of asphalt used. This information will be used to compute the total NMHC usage in each county. The first quarterly reports will be submitted in October 1977 for the period between July 1, 1977 and September 30, 1977. Copies of all reports will also be forwarded to Region III, EPA, and the NMHC emissions data will be entered into the EPA National Emissions Data System.

After evaluation of the State's submittal, the Administrator has determined that the Pennsylvania revision meets the requirements of the Clean Air Act (as amended, 1977), the EPA December 21, 1976 Interpretative Ruling and 40 CFR Part 51. Accordingly, this revision is approved as a revision to the Pennsylvania Implementation Plan.

(Sec. 110, sec. 301, Clean Air Act, as amended, (42 U.S.C., 1857c-5, 1857g))

Dated: September 29, 1977.

DOUGLAS M. COSTLE,
Administrator.

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

Subpart NN—Pennsylvania

1. Section 52.2020(c), paragraph (15) is revised to read as follows:

§ 52.1120 Identification of plan.

(c) The plan revision listed below was submitted on the dates specified . . .

(15) Pennsylvania Department of Transportation change to section 7.5.9.8 of the Paving Maintenance Manual Creditable as emission offsets submitted by the Secretary of the Pennsylvania Department of Environmental Resources on July 15, 1977, as addenda to the Pennsylvania Air Quality Implementation Plan.

2. Section 52.2054 is added to read as follows:

§ 52.2054 Control of asphalt paving material.

(a) Notwithstanding any provisions to the contrary in the Pennsylvania Implementation Plan, the Pennsylvania Department of Transportation shall restrict the annual usage of asphalts to the limits listed below in the following sixteen county area of Pennsylvania: Allegheny, Armstrong, Beaver, Butler, Cambria, Clarion, Fayette, Green, Indiana, Jefferson, Lawrence, Mercer, Somerset, Venango, Washington, and Westmoreland Counties:

(1) No more than twenty percent of the total amount of liquid bituminous asphalt paving material used shall be cutback asphalt; and

(2) No more than 2,615,000 gallons of cutback asphalts shall be used, of which no more than 1,400,000 gallons may be used for dust palliative work on roadways and shoulders; and

(3) No more than 2,500,000 gallons total of emulsion Class E-4 and Class E-5 shall be used unless an equivalent reduction in the use of cutbacks is made to balance the additional hydrocarbon emissions from emulsions.

(b) The Pennsylvania Department of Transportation is required to submit to the Pennsylvania Department of Environmental Resources, on a quarterly basis, reports which list for each of the affected Counties the number of gallons of each class of asphalt used. The first quarterly reports will be submitted in October 1977 for the period between July 1, 1977, and September 30, 1977. Copies of all reports will also be forwarded to Region III, EPA.

[FR Doc. 77-29326 Filed 10-5-77; 8:45 am]

[6560-01]

SUBCHAPTER N—EFFLUENT LIMITATIONS
GUIDELINES FOR EXISTING SOURCES AND
NEW SOURCE PERFORMANCE STANDARDS
[FRL 802-1]

PART 432—INDEPENDENT RENDERING
INDUSTRY

Effluent Limitations and New Source
Performance Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This document sets forth final regulations establishing effluent limitations and new source performance standards for processing plants in the in-

dependent rendering industry. The independent renderer recovers salable products such as fats, oils and proteinaceous meal from discarded animal materials. The regulations were proposed on May 23, 1977 (42 FR 26226) after EPA completed a restudy of the industry as directed by the U.S. Court of Appeals for the Eighth Circuit. The regulations will make certain pollutant limitations for existing plans (1983 requirements) less stringent and will make requirements for new plants more stringent than those originally promulgated. The final rule does not differ from the proposed rule, except that this regulation adds a new § 432.105(b). This corrects an omission in the proposed regulation and restores the allowance for cattle hide curing contained in the original new source regulation. The hide curing allowance for BAT is contained in § 432.103(b) of the original regulation which is unchanged.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Harold B. Coughlin, Effluent Guidelines Division (WH-552), Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460, (202-426-2560).

SUPPLEMENTARY INFORMATION:
BACKGROUND AND BASIS FOR AMENDMENTS

On May 23, 1977 the Environmental Protection Agency (EPA) published a proposed rule (42 FR 26226) to revise the present standards of performance for new sources (NSPS) and those portions of the regulations which set forth effluent limitations guidelines representing best available technology economically achievable (BATEA) for existing sources.

The above action was taken in part in response to a court order. The new source performance standards for the renderer subcategory of the Meat Products and Rendering Processing Point Source Category, published on January 3, 1975 and codified as 40 CFR 432.105 (Subpart J) were remanded to the Agency for further study on August 30, 1976 by the U.S. Court of Appeals for the Eighth Circuit (*National Renderers Association, et al., v. EPA, et al.*, 541 F.2d 1281). The BATEA limitations for this subcategory were not remanded but nonetheless were also reevaluated by the Agency.

EPA has reevaluated the technical and economic information on which the original regulations were based, and has reviewed new information in both areas. The rules proposed on May 23 reflected this substantial reevaluation.

LEGAL AUTHORITY

The original regulations were promulgated and today are amended pursuant to sections 301(b), 304(b) and 306 of the Federal Water Pollution Control Act Amendments of 1972.

ECONOMIC IMPACT ANALYSIS

This section summarizes the economic and inflationary impacts of the BATEA

effluent limitations guidelines and the new source performance standards on the independent rendering processing point source category.

The Agency has considered the economic impact of the internal costs (investment plus cost of operation, maintenance, capital and depreciation) and external costs (price increases and impeded growth). For each model rendering plant, the following impact indicators were analyzed: required price increases, after-tax income, return on sales and invested capital.

Following is the impact analysis of BATEA regulations on existing plants and a condensed summary of the impact of NSPS standards (a more detailed summary of the impact of NSPS is contained in the preamble to the proposed regulations).

The final BATEA requirements for BOD₅, TSS and ammonia are less stringent than those originally promulgated. The investment and annual costs necessary to meet the amended BATEA requirements in almost all cases are lower than those found for the original limitations. The cost involved to reach BATEA requirements is for internal controls in the form of air-cooled or shell and tube condensers. The impact of the BATEA regulations is expected to be minimal for the industry. No plant closures due to BATEA regulations are projected. Required price increases and effects on employment, growth, and international trade are expected to be minimal. The estimated total industry investment to install BATEA technology is expected to be no more than \$4.5 million. This assumes that all plants are currently meeting the BPCTCA regulations. Annual costs are projected to be \$591,000.

Small plants: Small plants (less than 75,000 pounds of raw material per day) are exempted from BPCTCA and BATEA regulations and NSPS. Therefore, an economic impact analysis was not performed for these model plants.

Medium batch and continuous plants. Medium batch plants process 75,000 to 250,000 pounds of raw material per day, while medium continuous plants process 250,000 to 350,000 pounds of raw material per day. Technology investment costs ranged from \$69,000 for the batch plant to \$96,000 for the continuous plants. Annual costs were \$12,000 and \$16,000, respectively, for the two model plants. Decreases in after-tax income were 10 percent for the continuous model plants and 12 percent for the batch model plants. The packinghouse batch model plant showed the greatest percentage decrease, with a \$13,000 reduction from \$105,000. The packinghouse batch model plant also had the greatest percentage decrease in after-tax return on sales, declining from 5.7 percent to 4.7 percent. After-tax return on sales for the other medium model plants showed similar reductions. After-tax returns on invested capital declined between 17 percent and 20 percent. The medium poultry batch plant had the greatest percentage decline, decreasing from 33.5

percent to 26.8 percent. However, these declines in financial conditions were not judged to result in closures for the medium plants.

Large batch and continuous plants. Technology costs ranged from \$148,000 for the large batch plants to \$165,000 for the large continuous plant. Annual costs were \$24,000 for the batch plant and \$27,000 for the continuous plant. After-tax income for the packinghouse batch plant decreased from \$337,000 to \$318,000, while after-tax return on sales declined from 5.4 percent to 4.7 percent. After-tax returns on invested capital for the packinghouse batch plant decreased from 25.3 percent to 20.4 percent, while the decline in net present value was 5 percent. The other large plants showed similar, but somewhat smaller, declines. Reductions in profitability are not projected to cause plant closures.

The external cost analysis showed that the required price increases to maintain profitability similar to that before installation of pollution control equipments to be minimal. The maximum price increase required to maintain pre-BAT conditions was 1.4 percent for the medium poultry batch and continuous plants. Impacts of this regulation on employment and international trade will be insignificant.

The NSPS requirements are more stringent than those originally promulgated for BOD₅, TSS, oil and grease, and ammonia. The impact of the standards is expected to be minimal for the industry. It is anticipated that no construction would be impeded by the imposition of the pollution control costs. Plants that would be built in the absence of pollution control costs would also be built in the presence of such costs. Required price increases are expected to be minimal, as are the effects on employment, growth and international trade.

An inflationary impact assessment is not necessary because this regulatory action would not exceed any of the following four (4) criteria established by the Administrator:

1. Annualized costs will total more than \$100 million.
2. Total additional cost of production is more than 5 percent.
3. Net national energy consumption will be increased by the equivalent of 25,000 barrels of oil a day.
4. Additional annual demands for scarce resources is increased more than 3 percent.

PUBLIC COMMENT

The public was provided 30 days within which to submit suggestions and criticisms of the proposal. Two commenters responded, the National Renderers Association (NRA) and the North Carolina Department of Natural and Economic Resources.

No comments were received regarding limitations for BOD₅, TSS, pH and fecal coliform. No adverse comments were received relative to the economic impact analysis or with respect to making the requirements for both BATEA and NSPS equivalent.

The NRA requested that oil and grease not be limited because (1) control of BOD₅ to the levels specified in the proposed regulations will result in reduction of oil and grease to the proposed effluent levels, (2) oil and grease from rendering operations is not subject to pretreatment limitations when discharged to publicly owned treatment works (POTW) which have typical biological treatment systems, and (3) monitoring for oil and grease will impose extra operating costs which provide no pollution control benefits.

Oil and grease is a major constituent of rendering wastes. It is a significant parameter in measuring materials recovery and effectiveness of waste treatment systems. The pollutant has physical and chemical properties that are environmentally significant. For example, it can form ugly scums on stream banks and objectionable surface slicks on water. Soluble and emulsified material may adhere to the gills of fish or coat and destroy algae and other plankton. Chemically, its constituents vary in composition and have different degrees of degradability not readily accounted for in the BOD₅ test. For the above reasons, it has been determined that monitoring and control of oil and grease are necessary.

In answer to the NRA comment, the Agency considered the use of BOD₅ as a surrogate for oil and grease. However, analyses of treated effluents from exemplary plants as listed in tables V-1 and V-2 of the Supplement to the Development Document showed no relationship between the two. Further, efficiency of oil and grease removal could not be predicted from BOD₅ and TSS removal efficiencies. In addition, BOD₅ test results cannot be considered to represent the total amount of oil and grease present. The accepted method for determining and limiting oil and grease is by Freon extraction. This test is designed to reflect total oil and grease of any composition. The short term BOD₅ test measures only a part of oil and grease.

Use of BOD₅ as a surrogate was also considered inappropriate because the preparation and dilution techniques used in the BOD₅ test preclude obtaining representative amounts of oil and grease. Also, composite sampling as practiced for obtaining BOD₅ samples is different from sampling for oil and grease (see *Standards Methods for the Examination of Water and Waste Water*).

The pretreatment issue raised by the commenter is not germane to effluent limitations for the direct discharger. The oil and grease in rendering wastes sent to POTW is intermixed and diluted with other wastes. That sent to on-site treatment plants is not. Pretreatment regulations concern the levels of pollutants present in industrial waste waters prior to municipal treatment. These regulations, on the other hand, concern the levels of pollutants in waste waters after treatment.

The commenter also stated that monitoring for oil and grease will result in extra costs with no attendant benefits.

Typically, the costs for monitoring oil and grease are very nominal and would be between 40 and 80 dollars per month as discussed in the Supplement to the Development Document. This cost is comparable to that for testing BOD₅ and is not a burden for the size of operations involved. Data on oil and grease are very significant to plant managers, treatment plant operators and regulatory agencies. It signals the effectiveness of in-plant equipment used to remove reusable oil and grease from process waste and the end-of-pipe treatment system. If the amount of oil and grease in the discharge from a large renderer increased from 10 to 100 milligrams per liter, approximately 15,000 pounds of potential product would be lost each year. The data also provide regulatory agencies specific information on a pollutant whose physical characteristics can cause stream and plant operational problems.

Comments from the North Carolina Department of Natural and Economic Resources said the Department concurred with the proposed rules. The Department reported that sample data on several rendering plants in the state do not show a correlation between BOD₅ and oil and grease. However, the Department noted that there would be no objection to a procedure for withdrawing oil and grease monitoring requirements on a case-by-case basis where correlation can be demonstrated.

EPA approval for use of alternate test procedures can be obtained, as explained in the Amendments to the Guidelines Establishing Test Procedures for the Analysis of Pollutants, 40 CFR Part 136 (41 FR 52781). Such approval can be obtained for specific NPDES permit holders or for nationwide use.

CONCLUSION

As a result of the above review along with information previously available to the Agency, it has been determined that the oil and grease limitations should be retained in the regulation. It is essential to have a direct measure and limitation for this pollutant, rather than rely on an indirect limit such as BOD₅, especially when there is no established correlation between oil and grease and BOD₅ values in rendering wastes.

All available information indicates the BOD₅, TSS, pH and fecal coliform limitations as proposed are appropriate.

PUBLICATION OF INFORMATION

In conformance with Section 304(e) of the Act, the manual supporting this regulation titled "Supplement to the Development Document for Effluent Limitations Guidelines and New Source Performance Standards for the Rendering Segment of the Meat Products and Rendering Processing Point Source Category" will be published and will be available for purchase from the Government Printing Office, Washington, D.C. 20402, for a nominal fee.

Copies of the economic analysis document supporting the regulation titled "Economic Analysis of the Effluent Limitations Guidelines and New Source Performance Standards for the Independent

Rendering Segment of the Meat Products and Rendering Processing Point Source Category" and "Economic Analysis of the Effluent Limitations Guidelines for BATEA for the Independent Rendering Segment of the Meat Industry" will be available from the National Technical Information Service, Springfield, Va. 22151.

SMALL BUSINESS ADMINISTRATION LOANS

Section 8 of the FWPCA authorizes the Small Business Administration, through its economic disaster loan program, to make loans to assist any small business concerns in effecting additions to or alterations in their equipment, facilities, or methods of operation so as to meet water pollution control requirements under the FWPCA, if the concern is likely to suffer a substantial economic injury without such assistance.

For further details on this Federal loan program, write to EPA, Office of Analysis and Evaluation, WH-586, 401 M Street, S.W., Washington, D.C. 20469.

As a result of the data, information, and comments assembled for this study of the industry, the new source performance standards and the effluent limitations guidelines based on the use of best available technology economically achievable for this industry (40 CFR Part 432, Subpart J) are to be amended as set forth below.

Dated: September 29, 1977.

DOUGLAS M. COSTLE,
Administrator.

Subpart J—Rendering Subcategory

1. § 432.103(a) is revised to read as follows:

§ 432.103 Effluent limitations guidelines representing the degree of effluent reduction attainable by the application of the best available technology economically achievable.

(a) Subject to the provisions of paragraph (b) of this section, the following limitations establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a point source subject to the provisions of this subpart after application of the best available technology economically achievable:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 Kg of raw material)	
BOD ₅	0.18.....	0.09
TSS.....	0.22.....	.11
Oil and grease.....	0.10.....	.05
Ammonia.....	0.14.....	.07
pH.....	Within the range 6.0 to 9.0	
Fecal coliforms.....	Maximum at any time 400 mpn/100 ml.	

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	English units (Pounds per 1,000 lb of raw material)	
BOD ₅	0.18.....	0.09
TSS.....	0.22.....	.11
Oil and grease.....	0.10.....	.05
Ammonia.....	0.14.....	.07
pH.....	Within the range 6.0 to 9.0	
Fecal coliforms.....	Maximum at any time 400 mpn/100 ml.	

2. Section 432.105 is revised to read as follows:

§ 432.105 Standards of performance for new sources.

(a) Subject to the provisions of paragraph (b) of this section, the following standards of performance establish the quantity or quality of pollutants or pollutant properties, controlled by this section, which may be discharged by a new source subject to the provisions of this subpart:

Effluent characteristics	Effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days shall not exceed—
	Metric units (kilograms per 1,000 Kg of raw material)	
BOD ₅	0.18.....	0.09
TSS.....	0.22.....	.11
Oil and grease.....	0.10.....	.05
Ammonia.....	0.14.....	.07
pH.....	Within the range 6.0 to 9.0	
Fecal Coliforms.....	Maximum at any time 400 mpn/100 ml	
	English units (pounds per 1,000 lb of raw material)	
BOD ₅	0.18.....	0.09
TSS.....	0.22.....	.11
Oil and grease.....	0.10.....	.05
Ammonia.....	0.14.....	.07
pH.....	Within the range 6.0 to 9.0	
Fecal coliforms.....	Maximum at any time 400 mpn/100 ml.	

(b) The standards given in paragraph (a) of this section for BOD₅ and TSS are derived for a renderer which does no cattle hide curing as part of the plant activities. If a renderer does conduct hide curing, the following empirical formulas should be used to derive an additive adjustment to the standards for BOD₅ and TSS.

V
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2
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4

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I

BOD5 adjustment (kilograms per 1,000 kg of raw material) = $\frac{8.0 \times (\text{number of hides})}{\text{kilograms of raw material}}$

(pounds per 1,000 lb of raw material) = $\frac{17.6 \times (\text{number of hides})}{\text{pounds of raw material}}$

TSS adjustment (kilograms per 1,000 kg of raw material) = $\frac{11.0 \times (\text{number of hides})}{\text{kilograms of raw material}}$

(pounds per 1,000 lb of raw material) = $\frac{24.2 \times (\text{number of hides})}{\text{pounds of raw material}}$

[FR Doc. 77-29451 Filed 10-5-77; 8:45 am]

[1505-01]

Title 45—Public Welfare

CHAPTER II—SOCIAL AND REHABILITATION SERVICE (ASSISTANCE PROGRAMS), DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 250—ADMINISTRATION OF MEDICAL ASSISTANCE PROGRAMS

Payment for Reserved Beds in Institutions
Correction.

In FR Doc. 77-26758 appearing on page 46536 in the issue for Friday, September 16, 1977, on page 46537, § 250.30(d), (2) was revised and reads in its entirety as follows:

§ 250.30 Reasonable charges.

(d) Federal financial participation.

(2) Payments during recipient's absence from institution. Federal financial participation is available in payments made to reserve a bed during a recipient's temporary absence from an inpatient facility. For purposes of this paragraph:

(i) The State plan must provide for such payments and must indicate any limitations placed on the reserved bed policy, and

(ii) The patient's plan of care must provide for absences other than for hospitalization.

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 20727; RM-2557; FCC 77-668]

PART 73—RADIO BROADCAST SERVICES
Television Broadcast Stations in Riverside and Santa Ana, California; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: This Order makes the re-assignment of TV Channel 40 from Riverside, California, to Santa Ana, California, effective and terminates the proceeding. A previous Report and Order in this docket, 42 FR 41125, August 15, 1977 discussed the reasons for this action but final disposition was postponed pending Mexican concurrence. Such concurrence has been obtained and the action is now final.

EFFECTIVE DATE: November 9, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, (202-632-7792).

SUPPLEMENTARY INFORMATION:

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations, (Riverside and Santa Ana, California), Docket No. 20727, RM-2557, Order (Proceeding Terminated).

Adopted: September 21, 1977.

Released: September 30, 1977.

1. On July 27, 1977, the Commission adopted a Report and Order, 42 FR 41125 (Aug. 15, 1977), in this proceeding which reassigned UHF TV Channel 40 from Riverside, California, to Santa Ana, California. The action was taken subject to receipt of concurrence from the Mexican government and was to become effective after adoption of an Order terminating this proceeding (see para. 15 of the Report and Order).

2. By letter of August 15, 1977, the Mexican government gave notification of its concurrence with the assignment of the channel to Santa Ana.

3. Accordingly, it is ordered, effective November 9, 1977, Section 73.606(b) of the Commission's Rules is amended with respect to the following communities:

City	Channel No.
Riverside, Calif.	46
Santa Ana, Calif.	40, *50-

4. It is further ordered, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc. 77-29431 Filed 10-5-77; 8:45 am]

[6712-01]

[Docket No. 20916; RM-2685; RM-2707]

PART 73—RADIO BROADCAST SERVICES
FM Broadcast Stations in Santa Barbara and Ventura, Calif.; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

¹ Authority for this action is found in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended.

SUMMARY: This action assigns Channel 296A to Ventura, Calif., as its third FM channel and substitutes noncommercial educational Channel 220 for Channel 218 at Santa Barbara, Calif. The Ventura assignment intermixes classes of channels there but the Class A proponent expresses a willingness to compete. The Santa Barbara substitution increases the coverage area of Station KCSB-FM and eliminates a short-spacing of 90 kilometers (56 miles).

EFFECTIVE DATE: November 11, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mark N. Lipp, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: In the matter of amendment of §§ 73.202(b) and 73.504(a), Table of Assignments, FM Broadcast Stations (Santa Barbara and Ventura, Calif.), Docket No. 20916, RM-2685, RM-2707. Report and order, (Proceeding Terminated).

Adopted: September 27, 1977.

Released: September 30, 1977.

1. The Commission has before it for consideration its Notice of Proposed Rule Making, 41 FR 43196 (Sept. 30, 1976) adopted September 16, 1976, and comments thereto (See also 41 FR 49859, Nov. 11, 1976). The Notice proposed in the alternative the assignment of commercial FM Channel 221A to Ventura, Calif., or the substitution of noncommercial educational Channel 220 for Channel 218 at Santa Barbara, Calif. Comments have been submitted by the Ventura petitioners, Charles V. Martin and John A. Popejoy and by the Santa Barbara petitioner, the University of California. No oppositions have been submitted.

2. Ventura (pop. 57,964)² is the seat of Ventura County (pop. 378,497). It has two AM stations, KVEN and KBBQ (both fulltime) and two Class B FM stations, KBBY (Channel 236) and KNAY (Channel 264). Supporting demographic data for the assignment of a third FM channel were set forth in the Notice and will not be repeated here.

3. Santa Barbara (pop. 70,215) is the seat of Santa Barbara County (pop. 264,324). A change in frequencies for the only non-commercial educational station in Santa Barbara is sought by the University of California to solve a short-spacing problem which existed prior to the adoption of Section 73.504³

¹ Due to mileage separation requirements, stations on Channel 221A and Channel 220 must be separated by 105 kilometers (65 miles). Santa Barbara is 66 kilometers (41 miles) from Ventura.

² Population data are taken from the 1970 U.S. Census, as corrected.

³ In accordance with the U.S.-Mexican Treaty, Section 73.504 (then Section 73.507) was adopted to set forth a Table of non-commercial educational FM assignments within approximately 320 kilometers (199 miles) of the border.

(then Section 73.507) of the Commission's Rules. The University of California's Station KCSB-FM (Channel 218) is short spaced by 90 kilometers (56 miles) to Station KUSC (Channel 218), Los Angeles, California. Modification of the Station KCSB-FM license to specify the new channel is also requested.

4. In view of the conflict in the two proposals, the Notice invited suggestions regarding other channels which could be used for either of the two communities. In response several channels were suggested for assignment at both communities and it was discovered by the Commission's staff that Channel 296A can be assigned at Ventura without affecting any other existing FM assignments. The assignment of this channel will also make possible the substitution of Channel 220 for Channel 218 at Santa Barbara as requested.

5. The comments of the respective parties primarily address the comparative factors involved in choosing between an additional Ventura FM channel or an increase in service from the Santa Barbara station through removal of the short-spacing problem. The availability of Channel 296A makes it possible to respond to both needs.

6. The assignment of Channel 296A will result in intermixture at Ventura, but as previously discussed in the Notice, this factor does not represent a bar to the assignment since there is a willingness to utilize the Class A channel in competition with two existing Class B stations. The assignment will provide a third FM station for this sizable community which has shown substantial growth in recent years.

7. The substitution of Channel 220 at Santa Barbara is also desirable since it is anticipated that the resulting gain in the Santa Barbara coverage area would include some 3,224 square kilometers (1,240 square miles). Also it would be possible for Station KUSC at Los Angeles to gain in coverage area by some 10 percent, as now could apply to operate non-directionally. Therefore, we find it to be in the public interest to substitute Channel 220 at Santa Barbara. No other interest has been expressed in the proposed Santa Barbara channel, and in such circumstances there is no impediment to the modification of the license of Station KCSB-FM to specify the new channel.

8. Mexican concurrence has been obtained for both channel assignments.

9. Accordingly, pursuant to authority contained in Sections 4(i), 5(d)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, it is ordered, That effective November 11, 1977, the FM Table of Assignments, Section 73.202(b) of the Commission's Rules is amended with respect to the community listed, as follows:

City	Channel No.
Ventura, Calif.	236, 264, 296A

10. It is further ordered, That effective November 11, 1977, the noncommercial

educational FM Table of Assignments, Section 73.504(a) of the Commission's Rules IS AMENDED with respect to the community listed, as follows:

City	Channel No.
Santa Barbara, Calif.	220

11. It is further ordered, That effective November 11, 1977, pursuant to authority contained in Section 316 of the Communications Act of 1934, as amended, the license of Station KCSB-FM, Santa Barbara, Calif., is modified to specify operation on Channel 220. In addition:

(a) At least 30 days before operating on Channel 220, the University of California shall submit to the Commission the technical information normally required of an applicant for a construction permit on Channel 220.

(b) At least 10 days prior to commencing operations on Channel 220, the University of California shall submit the measurement data required of an applicant for an FM broadcast station license; and

(c) The University of California shall commence operation on Channel 220 only with prior Commission authorization.

12. It is further ordered, That this proceeding is terminated.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; 47 U.S.C. 154, 155, 303)

FEDERAL COMMUNICATIONS COMMISSION,
MARTIN I. LEVY,
Acting Chief,
Broadcast Bureau.

[FR Doc. 77-29428 Filed 10-5-77; 8:45 am]

[6712-01]

[Docket No. 21180; FCC 77-661]

PART 87—AVIATION SERVICES

Permitting Aeronautical Enroute Stations Which Are a Part of an Off-Set Carrier Network to Identify by the Location of Their Principal Control Point

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This rule permits aeronautical enroute stations to identify by the location of their control points. Because of technical and operational difficulties, it is not practical for each station along an aircraft route to be individually identified by presently allowable methods.

EFFECTIVE DATE: November 9, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

R. P. DeYoung, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION: In the matter of amendment of § 87.115 (g) of the rules to permit aeronautical enroute stations which are a part of

an off-set carrier network to identify by the location of their principal control point (Docket No. 21180). Report and Order (proceeding terminated).

Adopted: September 21, 1977.

Released: September 30, 1977.

1. On April 1, 1977, the Commission released a Notice of Proposed Rule Making in the captioned matter (FCC 77-223) (42 FR 19498, April 14, 1977). The time for filing of comments and reply comments has passed. Comments were filed by Aeronautical Radio Inc. (ARINC) and by the Aircraft Owners and Pilots Association (AOPA).

2. The comments favored adoption of the rule as proposed. ARINC noted variations in wording between the text of the Notice and of the rule as proposed in the appendix. These variations concerned the use of the words "off-set" to characterize enroute networks and of the word "principal" to characterize control point. The Commission intended to permit this method of identifying enroute networks notwithstanding the techniques used on such networks.

3. Because some networks have more than one authorized control point and because authorized control points are listed on the station license, ready location of a station in a network is possible. Consequently, station identification by means of any authorized control point will be permitted. For these reasons, the rule will be adopted as proposed in the Appendix.

4. Accordingly, it is ordered, That the Commission's rules are amended, effective November 9, 1977, as set forth below. Authority for this action is contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

5. It is further ordered, That this proceeding is terminated.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; 47 U.S.C. 154, 303.)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 87 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 87.115(g) is amended to read as follows:

§ 87.115 Station identification.

(g) A land station in the aviation services may use radio station call letters, its location, or the name of the city, area, or airdrome which it serves together with such additional identification as may be required. An aeronautical enroute station which is a part of multistation network may also be identified by the location of its control points.

[FR Doc. 77-29450 Filed 10-5-77; 8:45 am]

¹ Chairman Wiley not participating.

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Agassiz National Wildlife Refuge, Minnesota, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening of hunting of Agassiz National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 5, 1977 to November 20, 1977 and November 26, 1977 to November 28, 1977, all dates inclusive from sunrise to sunset.

FOR FURTHER INFORMATION CONTACT:

Joseph Kotok, Refuge Manager, Agassiz National Wildlife Refuge, Middle River, MN 56737, (218) 449-4115, or Regional Director, U.S. Fish & Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

SUPPLEMENTARY INFORMATION: § 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of white tailed deer is permitted on the Agassiz National Wildlife Refuge, Minnesota in all areas except those designated by closed area signs.

The open area comprises approximately 57,600 acres and is delineated on a map available at the Refuge Head-

quarters. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife areas generally, which are set forth in Title 50, Code of Federal Regulations, Part 32, and are effective through November 28, 1977.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

JOSEPH KOTOK,
Refuge Manager.

SEPTEMBER 29, 1977.

[FR Doc.77-29318 Filed 10-5-77;8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Agassiz National Wildlife Refuge, Minnesota, to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Agassiz National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: December 3, 1977 through December 11, 1977, all dates inclusive from sunrise to sunset.

FOR FURTHER INFORMATION CONTACT:

Joseph Kotok, Refuge Manager, Agassiz National Wildlife Refuge, Middle

River, MN 56737, (218) 449-4115, or Regional Director, U.S. Fish & Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of moose on the Agassiz National Wildlife Refuge, Minnesota, is permitted on all areas except those designated by closed area signs. This open area comprises approximately 57,600 acres and is delineated on a map available at refuge headquarters at Middle River, Minnesota and from the Regional Director. Hunting shall be in accordance with all applicable State regulations subject to the following special conditions:

1. All parties hunting Agassiz National Wildlife Refuge are required to report to the Agassiz check station located 11 miles east of Holt, Minnesota, before they begin to hunt.

2. All moose killed on Agassiz Refuge must be registered at the Agassiz Refuge check station within 48 hours of the kill.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32, and are effective through December 11, 1977.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

JOSEPH KOTOK,
Refuge Manager.

SEPTEMBER 29, 1977.

[FR Doc.77-29317 Filed 10-5-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 989]

RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Notice of Reopening of Time for Receipt of Written Data, Views, or Arguments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The notice of proposed rulemaking provides additional time for the receipt of written comments on the proposal to add Golden Seedless and Dipped Seedless raisins under a weight dockage system for immaturity. A comment objecting to the inclusion of these raisins under this system was submitted. The reopening of the comment period will give interested persons an opportunity to reconsider the proposal in light of the comment received.

DATES: Comments must be received by October 17, 1977.

ADDRESSES: Comments should be addressed to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Two copies of all written comments should be submitted, and they will be available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetables Division, Agricultural Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: Pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674) a notice of proposed rulemaking was published in the August 19, 1977, issue of the FEDERAL REGISTER (42 FR 41867) regarding proposed changes to improve administrative operating procedures under the Federal marketing order for California raisins (7 CFR Part 989; 42 FR 37200). The proposal was based on a recommendation of the Raisin Administrative Committee.

The notice afforded interested persons an opportunity to submit written data, views, or arguments. A raisin handler submitted a comment objecting to the proposed change in § 989.210 of Subpart—Supplementary Regulations (7 CFR 989.201-989.231) to include

Golden Seedless and Dipped Seedless raisins under a weight dockage system for immaturity. Currently, this system is applicable only to Natural (sun-dried) Seedless raisins.

The commentator's main objection was that Golden Seedless and Dipped Seedless raisins do not have the same stemming characteristics as do Natural (sun-dried) Seedless raisins because they are stickier. He contended that these two artificially dried raisins are therefore much less free flowing during the stemming operation and more difficult to process in removal of immature raisins than sun-dried raisins. The commentator stated that through their experience in past years they often failed minimum processed inspection standards for substandard raisins when running lots that were high in substandard prior to processing. Thus, it appears that the risk of failure is present regardless of the care taken during processing.

It was further contended that the proposed change transfers a grower problem to the handler. The problem results from the grower making raisins from immature grapes. The commentator believes that the more the maturity standard is relaxed, the more likely will be the tendency by growers to pick earlier—hence, before the grapes are ready to be picked—and that this will have a disadvantageous market effect.

Therefore, to give interested persons opportunity to reconsider the proposal in light of the comment, the time for receipt of written data, views, or arguments on the proposal to include Golden Seedless and Dipped Seedless raisins under the weight dockage system prescribed in § 989.210 is reopened. Any comments must be received by October 17, 1977.

Dated: September 30, 1977.

CHARLES R. BRADER,
Acting Director,
Fruit and Vegetable Division.

[FR Doc. 77-29368 Filed 10-5-77;8:45 am]

[1505-01]

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[8 CFR Part 242]

VOLUNTARY DEPARTURE PRIOR TO COMMENCEMENT OF HEARING

Corrections

In FR Doc. 77-28056 appearing at page 49459 in the issue for Tuesday, September 27, 1977, the following corrections should be made.

(1) The headings should read as set forth above.

(2) On page 49461, third column, line 13 from the bottom, the reference to paragraph (a) (1), should read, (a) (2).

[3128-01]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Parts 210, 211 and 212]

EXEMPTION OF MOTOR GASOLINE FROM THE MANDATORY PETROLEUM ALLOCATION AND PRICE REGULATIONS

Deferral of Action on Proposal

AGENCY: Federal Energy Administration.

ACTION: Notice.

SUMMARY: The Federal Energy Administration gives notice that it has elected to defer taking action on its proposal to exempt motor gasoline from the Mandatory Petroleum Allocation and Price Regulations (42 FR 40915, August 12, 1977). This will permit this issue to be evaluated under procedures that become effective October 1, 1977, which afford the Federal Energy Regulatory Commission jurisdiction to consider a proposal by the Secretary of Energy to take such action.

FOR FURTHER INFORMATION CONTACT:

Everard A. Marseglia, Jr. (Office of General Counsel), Federal Energy Administration, Room 5138, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9567).

SUPPLEMENTARY INFORMATION: On August 8, 1977, FEA issued a Notice of Proposed Rulemaking and Public Hearing to amend 10 CFR Parts 210, 211, and 212 to exempt gasoline on November 1, 1977 from the Mandatory Petroleum Allocation and Price Regulations, and to establish a transitional assignment program for gasoline to alleviate possible supply dislocations following deregulation. This proposal followed a preliminary analysis by FEA of the impact of regulation of gasoline pursuant to the Emergency Petroleum Allocation Act of 1973, as amended ("EPAA", Pub. L. 93-159), and FEA's tentative conclusion that gasoline should be exempted from the Allocation and Price Regulations.

FEA proposed two amendments to be submitted as energy actions to Congress in accordance with the provisions of Section 12 of EPAA, Section 551 of the Energy Policy and Conservation Act (Pub. L. 93-163), and section 102 of the Energy Conservation and Production Act (Pub. L. 94-385), to exempt gasoline, effective November 1, 1977, from the application of the Allocation and Price Regulations,

thereby converting the EPAA to standby authority with respect to the allocation and pricing of motor gasoline.

A National hearing was held in Washington, D.C. on September 7, 1977, and regional hearings were held in Atlanta, New York, Chicago, Dallas, Denver, and San Francisco, during the period September 6 through September 8. Written comments have also been received by FEA.

Section 402(c)(1) of the Department of Energy Organization Act ("DOEOA"), Pub. L. (5-91) provides:

Pursuant to the procedures specified in section 404 and except as provided in paragraph (2), the Commission shall have jurisdiction to consider any proposal by the Secretary to amend the regulation required to be issued under section 4(a) of the Emergency Petroleum Allocation Act of 1973 which is required by section 8 and 12 of such Act to be transmitted by the President to, and reviewed by, each House of Congress, under section 551 of the Energy Policy and Conservation Act.

On September 13, 1977, the President signed Executive Order 12099 (42 FR 46267, September 15, 1977), establishing October 1, 1977 as the effective date for the Department. Accordingly, as of October 1, 1977, the Commission will have jurisdiction to consider a proposal by the Secretary to decontrol gasoline, as it involves amendments that must be submitted for Congressional review.

Final action with respect to this proposal will not be taken by FEA prior to the October 1, 1977 effective date of the Department inasmuch as FEA has concluded that the data and comments received in connection with the proposal should be evaluated under the procedures that will become effective October 1, 1977. This is particularly appropriate inasmuch as there does not appear to be pressing need for final action before October 1.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYER,
Acting General Counsel,
Federal Energy Administration.

[FR Doc. 77-29304 Filed 10-3-77; 10:25 am]

[3128-01]

[10 CFR Part 211]

ENTITLEMENTS PROGRAM TO REVISE FACTOR USED TO DETERMINE ENTITLEMENT VALUE OF NAPHTHA FEEDSTOCKS IMPORTED INTO PUERTO RICO

Proposed Amendments

AGENCY: Federal Energy Administration.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: The Federal Energy Administration ("FEA") hereby gives notice of a proposed rulemaking and public hearing to amend its domestic crude oil allocation ("entitlements") program (10 CFR 211.67), by revising the factor which is used in calculating the imputed cost of domestically produced

naphtha for purposes of determining the entitlement value awarded with respect to the naphtha imports of firms operating petrochemical plants in Puerto Rico. FEA believes that this revision is necessary to compensate more accurately under the entitlements program for the feedstock cost disadvantage of the petrochemical plants in Puerto Rico, which is reliant on imported naphtha, as compared with mainland petrochemical producers that have access to naphtha produced by domestic refiners.

DATES: Comments by November 15, 1977, 4:30 p.m.; Requests to speak by October 21, 1977, 4:30 p.m.; Hearing date: November 3, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Federal Energy Administration, Box PX, Washington, D.C. 20461; Hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Deanna Williams (FEA Reading Room), 12th and Pennsylvania Ave., NW., Room 2107, Washington, D.C. 20461, (202-566-9161).

Allen Hoffard (Media Relations), 12th and Pennsylvania Ave., NW., Room 3104, Washington, D.C. 20461, (202-566-9833).

Douglas McIver (Entitlements Program Office), 2000 M Street, NW., Room 61281, Washington, D.C. 20461, (202-254-8660).

Michael Paige or Judith Garfield (Office of the General Counsel), 12th and Pennsylvania Avenue, NW., Room 7134, Washington, D.C. 20461, (202-566-9565) (Paige); (202-566-2085) (Garfield).

SUPPLEMENTARY INFORMATION:

- I. Background.
- II. Proposed Amendments.
- III. Specific Comments Requested.
- IV. Comment Procedures: A. Written Comments;
- B. Public Hearing: 1. Request Procedure;
2. Conduct of the Hearing.

I. BACKGROUND

On July 20, 1976, FEA adopted amendments to 10 CFR § 211.67 to include within its entitlements program naphtha feedstocks imported into Puerto Rico for petrochemical use (41 FR 30321; July 23, 1976). These amendments were intended to alleviate the competitive disadvantage of the Puerto Rican petrochemical industry which, because of its dependence upon imported naphtha for feedstock use, had been adversely affected by increases in world crude prices taken in conjunction with the imposition of domestic price controls.

In the 1960's, the Federal Government encouraged the establishment and development of refining and petrochemical industries in Puerto Rico. The viability of the petrochemical industry was premised upon the availability of low cost imported feedstock, particularly naph-

tha from Caribbean refiners, to provide a feedstock cost advantage over petrochemical producers on the mainland. Such a cost advantage was necessary in order to offset higher shipping and other costs (including necessary investments) incurred in starting up the industry in the relatively underdeveloped economy of Puerto Rico.

Since its inception in the 1960's, the petrochemical industry in Puerto Rico has grown to the extent that it now constitutes an important segment of total United States petrochemical capacity. However, as FEA noted in the proposed rulemaking relating to the inclusion of naphtha feedstocks imported into Puerto Rico under the entitlements program (41 FR 21936; May 28, 1976), the Puerto Rican petrochemical industry was at a severe competitive disadvantage due to its reliance upon imported feedstocks:

The imposition of the Arab oil embargo and the consequent increases in world crude prices dramatically increased feedstock costs for the entire Puerto Rican petrochemical industry. However, while world prices were rising, the imposition of domestic price controls kept the overall feedstock costs of domestic firms much lower than those of import dependent Puerto Rican companies and placed these companies at a severe competitive disadvantage.

The elimination of the supplemental import fee on crude oil on December 22, 1975 increased the disparity between domestic and imported crude oil costs and placed the Puerto Rican based petrochemical industry at an even greater competitive disadvantage than previously existed. In addition, the domestic crude oil price roll back mandated by the pricing provisions of the Energy Policy and Conservation Act, which were implemented on February 1, 1976, has also contributed to competitive imbalances with respect to Puerto Rican firms. (41 FR at 21936-21937.)

To alleviate this situation, FEA amended the entitlements program to permit Puerto Rican petrochemical producers to receive entitlement benefits for imported naphtha feedstocks. Section 211.67(d)(5) of the amended regulations permits inclusion in a refiner's monthly crude oil runs to stills of the total number of barrels of naphtha imported into Puerto Rico utilized as a petrochemical feedstock at a petrochemical plant owned or operated by that refiner. A firm other than a refiner that owns a petrochemical plant in Puerto Rico is also eligible to receive entitlements with respect to naphthas processed at that plant on the same basis as a refiner.

In adopting these amendments, FEA determined that it would be inappropriate to grant the full crude oil entitlement benefit to naphtha imports when, due to fluctuations in naphtha prices in the world market, the differential between the prices of imported and domestic naphtha is less than the per barrel entitlement value for the month in question. Accordingly, FEA adopted a procedure whereby the entitlement value of naphtha imported into Puerto Rico would not exceed the differential between the weighted average imported naphtha costs of the affected firms and an imputed domestic naphtha price. The maximum entitlement value that can be re-

ceived, however, is the actual per barrel crude oil entitlement value.

Under the procedure adopted by FEA, each eligible firm reports for each month its volumes of naphtha imported into Puerto Rico and used as a petrochemical feedstock. Entitlements are issued with respect to each such barrel of imported naphtha on the same basis as for a barrel of crude oil included in a refiner's crude oil runs for that month, unless the weighted average imported naphtha costs of firms reporting imports into Puerto Rico for this purpose exceed the imputed cost of domestically produced naphtha for that month by less than the per barrel crude oil entitlement value. In the latter case, the entitlement value for each barrel of imported naphtha is equal to the differential between such weighted average imported naphtha costs and the imputed cost of domestic naphtha. For purposes of calculating the imputed cost of domestically produced naphtha, a factor of one hundred twenty percent (120%) is applied to the weighted average cost of crude oil for all domestic refiners for the month in question.

FEA originally developed the factor for calculating the imputed cost of domestically produced naphtha after analyzing the differentials in naphtha prices and crude oil costs over the year preceding the date of the rulemaking (July 20, 1976), with reference to Rotterdam naphtha postings as compared with the estimated delivered costs of Arabian Light crude oil to Rotterdam. At the time, FEA found it necessary to use naphtha postings in the world market because prices for domestic naphthas (the large portion of which are not sold in the marketplace but are used for gasoline production in the refinery where they were produced) are extremely difficult to obtain.

In adopting this factor, FEA requested comments as to whether the factor was an accurate representation of the normal differential between crude oil and the type of naphtha used as a petrochemical feedstock. FEA stated in the July 20, 1976 final rule that if, on the basis of such comments or its own further analysis, FEA determined the factor to be inaccurate, it would propose an appropriate modification.

II. PROPOSED AMENDMENTS

Change in imputed domestic naphtha ratio. It has recently come to FEA's attention that, in light of the fluctuations in world naphtha market prices and the steady decline in naphtha values over the past year, the factor for calculating the imputed cost of domestic naphtha as currently set forth in the regulations is too high. FEA's review of current data relating to naphtha prices and crude oil costs indicates that if FEA were to use its original methodology (i.e., a comparison of Rotterdam naphtha posting with the estimated delivered costs of Arabian Light crude oil to Rotterdam) in calculating the factor at the present time, the proper factor would be one hundred thirteen percent (113 percent) rather

than one hundred twenty percent (120 percent).

The following table sets out the naphtha-to-crude price ratios from 1974 through August 1977 for Arabian Light crude oil, with prices per metric ton con-

verted to dollars per barrel on the basis of 8.51 barrels per metric ton (the API conversion factor used in FEA's original calculations) and on the basis of 8.75 barrels per metric ton (the factor used by the 1976 World Naphtha Survey).

COMPARISON OF NAPHTHA/CRUDE RATIOS

MO./YR.	AVERAGE NAPHTHA PRICE--\$/B		NAPHTHA/ARABIAN LIGHT CRUDE RATIO	
	PRICE--\$/B		8.51 FACTOR	
	8.51 FACTOR	8.75 FACTOR	8.51 FACTOR	8.75 FACTOR
5/74	17.55	17.07	1.49	1.45
6/74	14.93	14.53	1.25	1.22
10/74	11.48	11.17	0.96	0.93
1/75	10.83	10.54	1.00	0.98
4/75	12.74	12.40	1.19	1.15
5/75	13.29	12.93	1.22	1.19
6/75	12.81	12.46	1.18	1.14
7/75	12.45	12.11	1.12	1.09
8/75	12.83	12.48	1.16	1.13
9/75	13.03	12.67	1.18	1.15
10/75	13.57	13.20	1.15	1.12
11/75	15.02	14.62	1.27	1.24
12/75	15.11	14.70	1.24	1.20
1/76	15.38	14.96	1.28	1.24
2/76	15.91	15.48	1.30	1.27
3/76	16.46	16.01	1.36	1.33
4/76	16.09	15.65	1.33	1.29
5/76	15.74	15.31	1.29	1.26
6/76	15.75	15.32	1.31	1.28
7/76	15.73	15.30	1.29	1.25
8/76	15.07	14.67	1.24	1.20
9/76	14.71	14.31	1.21	1.18
10/76	15.17	14.76	1.25	1.22
11/76	14.16	13.78	1.15	1.12
12/76	14.57	14.17	1.19	1.16
1/77	14.62	14.23	1.07	1.04
2/77	15.01	14.61	1.19	1.16
3/77	15.27	14.85	1.20	1.16
4/77	15.39	14.97	1.23	1.20
5/77	14.98	14.57	1.19	1.16
6/77	14.85	14.44	1.19	1.16
7/77	14.82	14.42	1.13	1.09
8/77	14.83	14.43	1.11	1.08

As the table indicates, the naphtha-to-crude oil price ratios in the first eight months of 1977 are significantly lower than those in 1976. If the conversion factor of 8.51 barrels per metric ton is used, the average ratio is 1.27 for 1976 and 1.16 for 1977. Using the conversion factor of 8.75 barrels per metric ton, the average ratio is 1.23 for 1976 and 1.13 for 1977.

As a result of the discrepancy between the factor set forth in the regulations and the 1977 average naphtha-to-crude price ratio, FEA believes that petrochemical producers located in Puerto Rico may not be receiving sufficient entitlement value for the naphtha feedstocks that they import, thus resulting in a relative competitive disadvantage for these petrochemical producers as compared with mainland firms. To alleviate this situation, FEA is proposing to revise the factor for calculating the imputed cost of domestic naphtha from one hundred twenty percent (120 percent) to one hundred thirteen percent (113 percent). The proposed factor, like the factor currently provided for in the regulations,

is derived by comparing Rotterdam naphtha postings with the estimated delivered costs of Arabian Light crude oil to Rotterdam. In calculating the proposed factor, however, FEA has used the conversion factor of 8.75 barrels per metric ton rather than the factor of 8.51 barrels per metric ton previously used to calculate the current factor of one hundred twenty percent (120 percent). FEA believes that application of the 8.75 conversion factor, which is used by the 1976 World Naphtha Survey for naphtha of the type used in petrochemical production and traded in Rotterdam, produces a more accurate naphtha-to-crude price ratio than the 8.51 API conversion factor, for purposes of these entitlement program provisions.

Therefore, FEA proposes to amend § 211.67(d)(5)(iii) to provide that for purposes of determining the volume of naphthas eligible for inclusion in the volume of a refiner's crude oil runs to stills for a particular month, the imputed per barrel cost of domestically produced naphtha is calculated by applying to the weighted average per barrel cost of crude oil for all domestic refiners for that

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month a factor of one hundred thirteen percent (113 percent).

Change in calculation of imported naphtha costs. Due to the relief being received by Commonwealth Oil Refining Company from FEA's Office of Exceptions and Appeals (5 FEA 183.132, April 14, 1977) with respect to its naphtha imports into Puerto Rico, FEA further proposes that the naphtha costs of any firm receiving this type of exception relief be excluded from the calculation of the weighted average per barrel cost of naphtha imported into Puerto Rico for purposes of § 211.67(d) (5) (iii). FEA believes that the inclusion of the average imported naphtha costs of a firm receiving the type of exception relief provided in this decision in the entitlement calculations for other affected companies is not appropriate, since the value of that firm's entitlement issuances are not calculated by reference solely to the regulatory provisions.

III. SPECIFIC COMMENTS REQUESTED

It is FEA's objective in this rulemaking proceeding to adopt a factor for calculating the imputed cost of domestically produced naphtha which accurately represents the normal differential between crude oil and the type of naphtha used as a petrochemical feedstock. Therefore, FEA requests comments on the appropriateness of the factor proposed in this notice and the methodology used to obtain it. In this connection, FEA invites comments on whether Arabian Light crude oil is the appropriate crude oil to use for purposes of the naphtha-to-crude price ratio or whether another type of crude oil should be used as the basis of comparison with naphtha postings. FEA also solicits views as to whether, in light of the fluctuations in world market naphtha prices, the factor ultimately adopted should be periodically reviewed and, if market conditions warrant, adjusted.

FEA is particularly interested in ascertaining whether there is an alternative methodology for imputing the cost of domestically produced naphtha that would be more accurate than the methodology upon which the proposed factor is based. For example, FEA believes that the price of JP-4 (a naphtha-based jet fuel used by the military) could be used as a surrogate for the cost of domestic naphtha, with adjustments made to the price of JP-4 to take into account the difference in density between the naphtha used to produce JP-4 and the naphtha used in petrochemical production.

Another possible method for imputing the cost of domestically produced naphtha is to determine the value of naphtha as a feedstock for gasoline. Under this method, it would be necessary to identify an appropriate price for gasoline (such as the average of refiners' rack prices for regular leaded gasoline in the United States) and to subtract from that price the cost of reforming naphtha into gasoline. This method would require FEA to determine the normal

operating costs associated with the reforming process, including perhaps an appropriate allowance for a return on an investment. FEA therefore specifically invites comments as to what costs are involved in reforming naphtha into gasoline, what would constitute an appropriate return on investment for reforming capacity and whether, in general, such a procedure would be an appropriate, as well as administratively feasible, method to determine the imputed cost of domestically produced naphtha.

A third possible methodology would be to identify the actual market prices of domestically produced naphthas. As mentioned previously, the difficulty with this approach is that most domestic naphthas are sold in the marketplace but are used for gasoline production in the refineries in which they are produced. However, FEA is aware that some firms do purchase domestically produced naphthas and is interested in receiving information as to whether these naphtha prices could be used in the entitlement calculations that are the subject of this proposal.

FEA requests comments on the alternate methodologies described above, as well as on any other appropriate methods for determining the cost of domestically produced naphtha.

Finally, FEA invites specific comments on whether naphtha imported by firms on the mainland for use as petrochemical feedstock (but not for use as synthetic natural gas feedstock) should be included under the entitlements program on the same basis as naphtha imports into Puerto Rico. In the previous rulemaking proceeding on this issue, FEA determined not to extend entitlement benefits to mainland importers of naphtha on the basis that the volumes of naphtha imports into the mainland for petrochemical use were not significant enough to warrant such an extension of the entitlements program at that time. FEA, however, is currently reevaluating this issue in light of advice to the Agency as to the reliance by certain mainland petrochemical producers on imports of naphtha.

IV. COMMENT PROCEDURES

A. Written comments. Interested persons are invited to participate in this rulemaking by submitting data, views, or arguments with respect to the proposals set forth in this notice. Comments should be submitted to the address indicated in the addresses section of this preamble and should be identified on the outside envelope with the designation "Amendments to Entitlements Program to Revise Factor Used to Determine Entitlement Value of Naphtha Feedstocks Imported into Puerto Rico." Fifteen copies should be submitted. All comments received by FEA will be available for public inspection in the FEA Reading Room, Room 2107 Federal Building, 12th and Pennsylvania Avenue, NW., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidentiality status of the information or data and to treat it according to its determination.

B. Public hearing. 1. *Request procedure.* The time and place for the public hearing is indicated in the dates section of this preamble. If necessary to present all testimony, the public hearing will be continued to 9:30 a.m. of the first business day following the hearing date shown above.

Any person who has an interest in the proposed amendments or who is a representative of a group or class of persons that has an interest in the proposed amendments may make a written request for an opportunity to make an oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through the day before the hearing.

Each person selected to be heard will be so notified by the FEA before 4:30 p.m., e.d.t., October 26, 1977, and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street, NW., Washington, D.C., before 4:30 p.m., e.d.t. on November 1, 1977.

2. *Conduct of the hearing.* The FEA reserves the right to select the persons to be heard at this hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing. This will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions to be asked of any person making a statement at the hearing, to Executive Communications before 4:30 p.m., e.d.t., November 1, 1977. Any person who wishes to ask a question at the hearing may submit the question, in writing, to the presiding officer. FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant, and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be retained by FEA and made available for inspection at the Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Ave. NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

As required by section 7(c) (2) of the Federal Energy Administration Act of 1974, Pub. L. 93-275, a copy of this notice has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning the impact of this proposal on the quality of the environment. The Administrator had no comments on this proposal.

In accordance with Executive Order 11821 and OMB Circular A-107, FEA is considering the inflationary impact of this proposal.

(Emergency Petroleum Allocation Act of 1973, Pub. L. 93-159, as amended, Pub. L. 93-511, Pub. L. 94-99, Pub. L. 94-133, Pub. L. 94-163, and Pub. L. 94-385; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended, Pub. L. 94-385; Energy Policy and Conservation Act, Pub. L. 94-163, as amended, Pub. L. 94-385; E.O. 11790, 39 FR 23185.)

In consideration of the foregoing, Part 211 of Chapter II, Title 10 of the Code of Federal Regulations, is proposed to be amended as set forth below.

Issued in Washington, D.C. September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

1. Section 211.67 is amended in paragraph (d) (5) (iii) to read as follows:

§ 211.67 Allocation of domestic crude oil.

(d) *Adjustments to volume of crude oil runs to stills.*

(5) * * *

(iii) The volume of naphthas eligible for inclusion in the volume of a refiner's crude oil runs to stills for a particular month under this subparagraph (5) shall be reduced by the application of a fraction the denominator of which is equal to the entitlement value for a barrel of crude oil included in the volume of a refiner's crude oil runs to stills for that month (without giving effect to the provisions of paragraphs (e) and (d) (4) of this section), and the numerator of which is equal to the weighted average per barrel cost of all naphthas imported into Puerto Rico for that month as to which entitlement issuances are sought (excluding the per barrel imported naphtha cost for firms receiving relief from FEA's Office of Exceptions and Appeals with respect to such imports), less the imputed per barrel cost of domestically produced naphthas for that month. For purposes of

this subparagraph (5) (iii), the imputed per barrel cost of domestically produced naphthas for a particular month shall be equal to one hundred thirteen percent (113%) of the weighted average per barrel cost of all the crude oil receipts for all domestic refiners for that month.

[FR Doc. 77-29297 Filed 10-3-77; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

[Docket No. 16854; Notice No. 77-22]

[14 CFR Parts 23, 25, 91, 121, and 135]

AIRCRAFT CABIN OZONE CONTAMINATION

Advance Notice of Proposed Rulemaking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: The Federal Aviation Administration is considering rulemaking to amend the Federal Aviation Regulations (FAR) by revising aircraft design and operational procedures in order to prevent or reduce aircraft cabin ozone contamination during high altitude flights. This action is being taken as a result of crewmember and passenger complaints of physical discomfort on high altitude flights.

DATES: Comments must be received on or before December 6, 1977.

ADDRESSES: Send comments on the proposal to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-24) Docket No. 16854, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Ave., SW., Washington, D.C. 20591, telephone 202-755-8716.

SUPPLEMENTARY INFORMATION: This advance notice of proposed rulemaking is being issued in accordance with the FAA's policy for early institution of public proceedings in actions related to rulemaking. An "advance" notice to invite early public participation in the identification and selection of a course or alternate courses of action with respect to a particular rulemaking problem.

Air carriers, aircraft manufacturers, crewmember organizations, high altitude research organizations, health organizations and other interested persons are invited to participate in the proposed rule making by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to: Federal

Aviation Administration, Office of the Chief Counsel, Attention: AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. All communications received on or before December 6, 1977, will be considered by the Administrator before drafting the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

During the winter of 1976, the FAA became aware of crew and passenger complaints of physical discomfort on high altitude flights. By March of 1977, information from FAA air carrier inspectors, air carriers, and aircraft manufacturers led to the discovery that ozone gas (O₃) was the probable cause of many of the crew and passenger complaints.

On April 19, 1977, FAA Flight Standards Service completed a draft advisory circular which defined ozone irritation, discussed its causes and symptoms, and described a means of dealing with the problem should it occur in flight. This advisory circular, AC No. 00-52, Ozone Irritation During High Altitude Flight, was published July 21, 1977.

By letter of May 27, 1977, Lawrence M. Noble, Staff Attorney, Aviation Consumer Action Project (ACAP), P.O. Box 19029, Washington, D.C. 20036, petitioned to "immediately issue a rule requiring FAA Part 121 air carriers to give adequate notice to airline passengers of the possibility of exposure to high levels of ozone gas on certain high altitude flights and the ensuing health and safety risks."

ACAP contends that "this emergency action is required because of high concentrations of ozone encountered in the cabins of high altitude flights and the physical discomfort and illness which exposure to this gas is causing among both passengers and flight crews." It states that "studies undertaken by the airlines, aircraft manufacturers and government agencies—many of which were done over a decade ago—clearly show that passengers may frequently be exposed to levels of ozone on high altitude flights that exceed the maximum limits for human exposure recommended by the Occupational Safety and Health Administration (OSHA) and the 1975 Federal Ambient Air Quality Standards established by the Environmental Protection Agency (EPA)."

ACAP further states that "because the airlines fear losing passengers and the aircraft manufacturers fear losing sales of their aircraft, the airlines and manufacturers are reluctant to give passengers notice of the present possibility and danger of exposure to ozone."

For these reasons, ACAP requests "that the Administrator take immediate action to require each certificate holder operating passenger-carrying aircraft that fly above 35,000 feet to ensure that a warning of the possibility of exposure of high levels of ozone, and the ensuing health effects, be posted at every ticket-selling location, be inserted with each passenger ticket for every flight that may exceed an altitude of 35,000 feet, and be orally given by an appropriate crewmember before take-off of the aircraft." These ac-

tions. It asserts, "are required to permit and allow airline passengers to make informed choices concerning air travel, to avoid unnecessary health risks, and to assist the airlines and the FAA in identifying flights that encounter high levels of ozone, so that proper precautionary action can be taken."

The FAA believes that the OSHA standard referenced in the ACAP petition is not a maximum limit for human exposure as stated in the petition. It is rather the maximum exposure average over a single 8-hour work shift in a 40-hour week to which industrial workers may be exposed. OSHA has not established a maximum limit ("ceiling limit") for exposures to ozone of less than 8 hours duration. In fact, levels of ozone measured in the air of several U.S. cities have approached 10 times the OSHA standard without any observable effects on the population.

Ozone concentrations exceeding accepted values may cause irritation of the eyes, nose, mouth, and throat. Higher concentrations can bring about shortness of breath and coughing. The degree of irritation generally increases with increasing levels of ozone concentration, exposure time, and physical activity. The probability of more serious health effects is quite remote, based on measurements of atmospheric and cabin ozone levels at jet operating altitudes and the relatively short periods of exposure.

Scientific studies have shown that concentrations of ozone at jet operating altitudes are generally highest when the tropopause comes closest to the earth. This cycle normally takes place in the late winter and early spring in the northern hemisphere. Because the northern hemisphere is entering the declining phase in the ozone cycle, immediate health problems related to aircraft cabin ozone contamination are not likely. This is also borne out by the substantially reduced number of complaints from passengers and crewmembers since April.

Based on the available information on aircraft cabin ozone contamination, the FAA believes that emergency action rule making is not warranted. However, because of the number and extent of the responses to the FAA draft advisory circular, the ACAP petition for rule making, and the intricacies of this source of airborne irritation, the FAA believes that it is important to review all relevant data on ozone to determine if amending Parts 23, 25, 91, 121, and 135 of the FARs could bring about action which would prevent or reduce aircraft ozone contamination.

To this end, the FAA solicits data, views, and arguments from all interested persons on the question set forth below. Through these questions, the FAA hopes to determine the extent of the ozone problem and to gather information on the available solution aspects. Data supporting an answer should be submitted and sufficiently identified so that the FAA may use it most effectively.

1. Submit any statistics available on aircraft cabin ozone contamination, including aircraft type, date, altitude, position, and severity of symptoms.

2. What are the health aspects of aircraft cabin ozone contamination in relation to ozone concentration (expressed in parts per million by volume) and exposure time?

3. What design changes to present and future aircraft would be required to prevent or reduce aircraft cabin contamination?

4. Is a cabin ozone meter operationally feasible and functional? What types of meters are available? How should they be used?

5. Can atmospheric ozone concentrations at jet operating altitudes be forecast with enough accuracy to aid flight dispatch? How?

6. What operational procedures would aid flight crews in avoiding or reducing aircraft cabin ozone contamination?

7. Considering the aircraft type, the flight altitude, the route of flight and the season of the year, what combination of potential remedies (i.e. aircraft design changes, operational procedures, etc.) would provide the best solution to the aircraft cabin ozone contamination problem?

8. Should the FARs be amended to require each certificate holder to warn its passengers of the possibility of exposure to high levels of ozone and the ensuing health effects?

DRAFTING INFORMATION

The principal authors of this document are Charles H. Huettner, Flight Standards Service, and Marshall S. Filler, Office of the Chief Counsel.

(Secs. 313, 601, 603, and 604 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c) of the Department of Transportation Act 49 U.S.C. 1655(c)).

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949; and OMB Circular A-107.

Issued in Washington, D.C., on September 29, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc. 77-29276 Filed 10-5-77; 8:45 am]

[4910-13]

[14 CFR Part 39]

(Docket No. 77-EA-53)

AIRWORTHINESS DIRECTIVES

DeHavilland Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require alteration to wiring and shielding of relays in the reverse current relay of DHC-6 type airplanes. The proposed AD is needed to prevent a fire in one generating system destroying the remaining generating system, which could result in complete loss of electrical power.

DATES: Comments must be received on or before November 10, 1977.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of Regional Counsel, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. The applicable service bulletins may be obtained from the manufacturer DeHavilland of Canada, Ltd. at Downsview, Ontario, Canada. A copy of the service bulletin is contained in the docket at the Office of Regional Counsel, FAA, Federal Building, Eastern Region, J.F.K. International Airport, Jamaica, N.Y. 11430 telephone 212-995-2815.

FOR FURTHER INFORMATION CONTACT:

M. Mavricos, Systems & Equipment Section, AEA-213, Engineering and Manufacturing Branch, Flight Standards Division, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3372.

SUPPLEMENTARY INFORMATION:

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

There have been reports of in-flight electrical fires in the reverse current relay box which resulted in a total loss of electrical power. While the electrical system has two parallel d.c. sources, the collocation of the reverse current relays permitted a fire in one to disable the other. Since this condition exists in other airplanes of similar type design, the proposal would require alteration of the wiring and installation of shielding around the relays in the reverse current relay box.

DRAFTING INFORMATION

The principal authors of this document are M. Mavricos, Flight Standards Service, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

DeHavilland. Applies to DeHavilland of Canada DHC-6 series aircraft serial numbers 1 through 530.

Compliance required within 800 hours time in service after the effective date of this AD unless already accomplished, or DeHavilland modification 6/1598 is incorporated.

To preclude the possibility of total electrical failure due to contact welding of the reverse current relay and subsequent burning of the adjacent wiring, the other reverse current relay and the battery circuit wiring, install DeHavilland modification 6/1598 in accordance with DeHavilland Service Bulletin No. 6/353 dated May 13, 1977, or later revision, or an equivalent approved by the Chief, Engineering and Manufacturing Branch, FAA Eastern Region.

Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation, 49 U.S.C. 1655(c); 14 CFR 11.85.

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on September 27, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 77-29333 Filed 10-5-77; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 77-WE-26-AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-9 Series Airplanes Including Military Type C-9A, C-9B, and VC-9C

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require repetitive inspections of the McDonnell Douglas Model DC-9 Series airplane elevator spar for stress corrosion cracking that could, if allowed, to grow beyond certain limits, result in structural failure and loss of an elevator surface.

DATES: Comments must be received on or before November 15, 1977.

ADDRESSES: Send comments on the proposal to: Department of Transportation Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

Persons affected by this AD may obtain copies of Douglas DC-9 Service Bulletin 55-28 by writing to:

McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif., 90846. Attention: L.A. Eisenberg, CI-750, 54-60.

Also, a copy of the service bulletin may be reviewed at, or a copy obtained from:

Rules Docket in Room 916, FAA, 800 Independence Avenue SW., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, Telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION:

Several DC-9 operators have reported finding cracks in elevator spar, Douglas P/N 9918450-1 or 501, upper and lower flanges. These cracks have been attributed to stress corrosion. Several of the spars have more than one crack, usually running from one fastener hole to another. If these individual cracks were allowed to grow or join to form longer cracks, the structural integrity of the spar could be degraded to the point where it could no longer carry design loads and failure of the elevator surface could occur.

The manufacturer has performed an analysis of the spar structure to determine permissible crack limits and associated inspection periods to ensure continued airworthiness of the elevator structure. Dye penetrant and X-ray inspection procedures have been developed to detect cracks and a standard repair is available in the DC-9 Structural Repair Manual. If the old 7075-T651 are replaced with 7075-T7351 spars P/N 9918450-503, no further repetitive inspections are considered necessary, as the 7075-T7351 aluminum has a much higher stress corrosion cracking threshold than 7075-T651. DC-9 aircraft with fuselage No. 840 and subsequent have 7075-T7351 elevator spars installed during manufacture and are not included in this AD.

McDonnell Douglas has issued DC-9 Service Bulletin 55-28 containing crack limits and inspection and repair instructions. Since this condition is likely to exist or develop in other aircraft of the same type design, the proposed AD would require compliance with the inspection and crack limits of DC-9 Service Bulletin 55-28.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Information on the economic, environmental, and energy impact that might result because of the adoption of the proposed rule is also requested. Communications should identify the airworthiness docket number and be submitted in duplicate to the Department of Transportation, Federal Aviation Administration, Western Region, Attention: Regional Counsel, Airworthiness Rule Docket, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

Also, a copy of the service bulletin may be reviewed at, or a copy obtained from:

tained in the notice may be changed in light of comments received. All comments will be available, both before and after the closing date for comments, in the Airworthiness Rule Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rule Docket.

DRAFTING INFORMATION

The principal authors of this document are Everett W. Pittman, Aircraft Engineering Division, and Richard G. Wiltry, Office of the Regional Counsel.

PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

McDONNELL DOUGLAS: Applies to Model DC-9 Series airplanes, certificated in all categories including military type C-9A, C-9B, and VC-9C, F/N's 1 through 839.

Compliance required within the next 1200 hours time in service, unless already accomplished within the past 2400 hours time in service, and thereafter at intervals not to exceed 3600 hours time in service, on all airplanes with over 10,000 hours time in service as of, and after, the effective date of this AD.

To detect cracks and prevent failure of the elevator spar, comply with the following:

(a) Perform an X-ray or dye-penetrant inspection of the elevator spars, P/N 9918450-1 or -501, in accordance with the inspection procedures of McDonnell Douglas DC-9 Service Bulletin 55-28 dated August 29, 1977, or later FAA approved revision, or McDonnell Douglas All Operators Letter AOL 9-1000 dated November 3, 1978.

(b) Cracked parts found during any of the inspections of paragraph (a) which do not exceed the crack limits in McDonnell Douglas DC-9 Service Bulletin 55-28 dated August 29, 1977, or later FAA approved revision, may be continued in service. However, in addition to the 3600 hour repetitive general inspection requirements of paragraph (a), the area 12 inches inboard and outboard of all cracks must be X-ray or dye penetrant inspected at intervals not to exceed the following:

(1) Length of longest crack up to two inches—800 hours time in service.

(2) Length of longest crack between two and four inches—400 hours time in service.

(c) If cracks are found during any of the inspections of Paragraph (a) or (b) which exceed the crack limits of McDonnell-Douglas DC-9 Service Bulletin 55-28 dated August 29, 1977, or later FAA approved revision, the cracked spar must be repaired or replaced before further flight.

(d) Equivalent inspections and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(e) If the original 7075-T651 spars (P/N 9918450-1 or -501) are replaced with 7075-T7351 spars (P/N 9918450-503), the repetitive inspection requirements of this AD will not apply to that airplane.

(f) Special flight permits may be issued in accordance with FAR's 21.197

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and 21.199 to authorize operation of an airplane to a base for the accomplishment of the inspections required by this AD.

(g) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Aircraft Engineering Division, FAA Western Region, may adjust the repetitive inspection intervals specified in this AD to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for that operator.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.85.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Los Angeles, Calif. on September 27, 1977.

WILLIAM R. KRIEGER,
Acting Director,
FAA Western Region.

[FR Doc.77-29332 Filed 10-5-77; 8:45 am]

[4910-13]

[Airspace Docket No. 77-NE-17]

[14 CFR Part 71]

CONTROL ZONE EFFECTIVE HOURS

Alteration of Control Zone Effective Hours
AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice (NPRM) proposes to reduce the control tower hours of operation at the Worcester Municipal Airport, Worcester, Massachusetts, from 24 hours to 0700 to 2300 hours local time daily. This alteration is necessary due to the limited aeronautical activity between the hours of 2300 and 0700 local time at the Worcester Municipal Airport which do not warrant full-time operation of the Worcester, Massachusetts, Control Tower. Since the effective hours of the Worcester Control Zone are contingent upon the availability of weather updating service provided by the Worcester Tower, this airspace action is required.

DATES: Comments must be received on or before November 7, 1977 (Proposed effective date, January 26, 1978).

ADDRESSES: Send comments in triplicate to the Federal Aviation Administration, Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 77-NE-17, 12 New England Executive Park, Burlington, Mass. 01803.

A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 12 New Eng-

land Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Richard G. Carlson, Operations Procedures and Airspace Branch, ANE-536, Federal Aviation Administration, Air Traffic Division, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7285.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making process by submitting such written data, views, or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Office of the Regional Counsel, ANE-7, Attention: Rules Docket Clerk, Docket No. 77-NE-17, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803. All communications received on or before November 7, 1977, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this Notice of Proposed Rule Making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amending Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to reduce the control tower hours of operation at the Worcester Municipal Airport, Worcester, Mass., from 24 hours to 0700 to 2300 hours local time daily. This alteration is necessary due to the limited aeronautical activity between the hours of 2300 and 0700 local time at the Worcester Municipal Airport which do not warrant full-time operation of the Worcester, Massachusetts, Control Tower. Since the effective hours of the Worcester Control Zone are contingent upon the availability of weather updating service provided by the Worcester Tower, this airspace action is required. Aeronautical maps and charts will reflect this change in control tower hours of operation.

DRAFTING INFORMATION

The principal authors of this document are Richard G. Carlson, Air Traffic Division, New England Region, and George

L. Thompson, Associate Regional Counsel, New England Region.

THE PROPOSED AMENDMENT

Accordingly, the FAA proposes to amend § 71.171 of Part 71 of the Federal Aviation Regulations as follows:

§ 71.171 [Amended]

1. In § 71.171 of Part 71 (42 FR 440), the following control zone is amended to read as follows:

WORCESTER, MASSACHUSETTS, CONTROL ZONE

"Within a 5-mile radius of the Worcester Municipal Airport (Latitude 42°18'05" N., Longitude 71°52'20" W.). This control zone is effective from 0700 to 2300 hours, local time daily or during the specific dates and time established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airmen's Information Manual."

(Secs. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); and Section 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Burlington, Massachusetts, on September 26, 1977.

WILLIAM E. CROSSBY,
Acting Director,
New England Region.

[FR Doc.77-29275 Filed 10-5-77; 8:45 am]

[4910-13]

[Airspace Docket No. 77-SO-35]

[14 CFR Parts 71 and 75]

VOR FEDERAL AIRWAYS AND JET ROUTES

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to alter VOR Federal Airways identified as V-3, V-7, V-35, V-51, V-97 and V-267 to alter Jet Routes identified as J-53, J-79 and J-85 in the state of Fla. A review of the airway/jet route structures in the state of Fla., indicated a need for several changes in the airway/jet route structures to reflect the present day traffic flow. These proposed actions would provide for more efficient use of the navigable airspace.

DATES: Comments must be received on or before November 7, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 77-SO-35, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. The official docket may be examined at the following locations:

¹ Maps filed as part of original.

lowing location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Ave. SW., Washington, D.C. 20591. An informal docket may be examined at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Huff, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Ave. SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before November 7, 1977 will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Ave. SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications must identify the docket number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering amendments to Subpart C of Part 71 and Subpart B of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) to alter six federal airways and three jet routes identified as V-3, V-7, -35, V-51, V-97, V-267, J-53, J-79 and J-85 in the state of Florida. The proposed actions would: (1) Realign V-3 from over Biscayne Bay, Fla., VOR direct to Ft. Lauderdale, Fla., VOR direct to Palm Beach, Fla., VOR. This action would assure that V-3 and V-51E between Biscayne Bay and Ft. Lauderdale overlie; (2) Realign V-7 from over Biscayne Bay, Fla., VOR direct to Ft. Myers, Fla., VOR including an east alternate from Biscayne Bay, Miami, Fla., INT of Miami 337° and Ft. Myers 101° radials, Ft. Meyers, INT of Ft. Myers 022° and Lakeland 154° radials, Lakeland. The realignment of V-7E between Ft. Myers and Lakeland

would establish an airway along a route that is presently being used as an alternate routing between Ft. Myers and Lakeland. (3) Realign the west alternate of V-35 between Ft. Myers and St. Petersburg, Fla., via the INT Ft. Myers 311° and Sarasota, Fla., 156° radials; Sarasota VOR. The realignment of V-35W would improve arrival procedures and afford unrestricted descents into Ft. Myers Airport. (4) Realign V-51 from over Biscayne Bay, Fla., Miami, Fla., INT of Miami 337° and Pahokee, Fla., 174° radials; Pahokee; including an east alternate from Biscayne Bay; Ft. Lauderdale, Fla.; INT of Ft. Lauderdale 339° and Pahokee 124° radials; INT Pahokee 009° and Vero Beach, Fla., 193° radials; Vero Beach. (5) Amend V-97 by adding an east alternate between Miami and LaBelle, Fla., via Miami 337° and LaBelle 124° radials. (6) Realign V-267 between Biscayne Bay and Orlando, Fla., from over Biscayne Bay; INT Biscayne Bay 340° and Pahokee, Fla., 150° radials; Pahokee; including an east alternate from Biscayne Bay; INT Biscayne Bay 340° and Palm Beach, Fla., 201° radials; Palm Beach; INT Palm Beach 326° and Orlando 162° radials. (7) Realign J-53 between Biscayne Bay and Orlando via direct routing. (8) Realign J-79 between Key West, Fla., and Vero Beach via Key West; Miami; Palm Beach; Vero Beach. (9) Realign J-85 between Biscayne Bay and Lakeland via Biscayne Bay, INT Biscayne Bay 328° and Lakeland, Fla., 140° radials, Lakeland. All radials in this proposal have the same magnetic and true values. These actions, items 5-9, would align the above airways/routes along the present routings being provided to departures from the Miami Terminal Area.

DRAFTING INFORMATION

The principal authors of this document are Mr. Richard Huff, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 and § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (42 FR 307 and 707) and subsequently amended (41 FR 45819, 49805, 53318, 56789 and 42 FR 7121, 12167, 20619 and 30606) as follows:

§ 71.123 [Amended]

§ 75.100 [Amended]

1. In V-3 between Biscayne Bay; and Palm Beach, Fla.; "Ft. Lauderdale, Fla.;" would be added.

2. In V-7 all before "Ormond Beach, Fla.;" would be deleted and "From Biscayne Bay, Fla., via Ft. Myers, Fla., including an east alternate from Biscayne Bay via Miami, Fla., INT of Miami 337° and Ft. Myers 101° radials, Ft. Myers; Lakeland, Fla., including an east alternate via INT Ft. Myers 022° and Lakeland 154° radials;" would be substituted therefor.

3. In V-35 after "St. Petersburg, Fla., including a west alternate" and before "INT St. Petersburg" "via Ft. Myers, INT Ft. Myers

311° and Sarasota, Fla., 156° radials, Sarasota, St. Petersburg;" would be added.

4. In V-51 all before "Ormond Beach, Fla.;" would be deleted and "From Biscayne Bay, Fla.; Miami, Fla.; INT Miami 337° and Pahokee, Fla., 174° radials; Pahokee, including an east alternate from Biscayne Bay, Ft. Lauderdale, Fla., INT Ft. Lauderdale 339° and Pahokee 124° radials, INT Pahokee 009° and Vero Beach, Fla., 193° radials, Vero Beach;" would be substituted therefor.

5. In V-97 "Miami 343° and LaBelle 121°" would be deleted and "Miami 337° and LaBelle 124°" would be substituted therefor.

6. In V-267 all before "INT Palm Beach" would be deleted and "From Biscayne Bay, Fla., INT Biscayne Bay 340° and Pahokee, Fla., 150° radial; Pahokee; Orlando, Fla., including an east alternate from Biscayne Bay, INT Biscayne Bay 340° and Palm Beach, Fla., 201° radials; Palm Beach;" would be substituted therefor.

7. In Jet Route No. 53 "Key West, Fla., via Miami, Fla.;" would be deleted and "Biscayne Bay, Fla., via Orlando, Fla.;" would be substituted therefor.

8. In Jet Route No. 79 all before "Ormond Beach, Fla.;" would be deleted and "From Key West, Fla., via Miami, Fla.; Palm Beach, Fla.; Vero Beach, Fla.;" would be substituted therefor.

9. In Jet Route No. 85 all before "Lakeland;" would be deleted and "From Biscayne Bay, Fla., via INT Biscayne Bay 328° and Lakeland, Fla., 140° radials;" would be substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 27, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.77-29274 Filed 10-5-77; 8:45 am]

CIVIL AERONAUTICS BOARD

[6320-01]

[14 CFR Part 399]

[PSDR-49B; Docket 31290; Dated: September 30, 1977]

DOMESTIC PASSENGER-FARE LEVEL POLICIES, AND DOMESTIC PASSENGER-FARE STRUCTURE POLICIES

Supplemental Advance Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental advance notice of proposed rulemaking.

SUMMARY: This notice announces the denial of a request for extending the filing date for reply comments in the rulemaking proceeding concerning modification of the Board's DPFI policies. The requested extension was filed by American Airlines, Inc.

DATES: As prescribed by PSDR-49, the filing date continues to be: Reply Comments: October 6, 1977.

ADDRESSES: Comments should be sent to: Docket 31290, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Norman D. Schwartz, Legal Division, Bureau of Fares and Rates, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428 (202-673-5056).

SUPPLEMENTARY INFORMATION: In a telegraph dated September 30, 1977, counsel for American Airlines, Inc. requested an extension of one week for the filing of reply comments in this proceeding. In support of his request, counsel states that he did not receive the comments of the Department of Justice until September 27, 1977 and late-filed comments of the Department of Transportation until September 28, 1977.¹

The requested extension is denied. As we explained in PSDR-49A, the Board has established a very tight schedule in this rulemaking in order to complete it before our decision in the *Chicago-Midway Low-Fare Route Proceeding* (Docket 30277). This schedule does not permit extension of any of the dates established.

We should emphasize, however, that we expect all parties to comply with these dates. Whether late-filed comments will be accepted will be decided by the Board. The undersigned finds that good cause has not been shown for the granting of the requested delay.

Accordingly, pursuant to authority delegated in section 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the request for extending the time for filing reply comments is denied.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743, 49 U.S.C. 1324.)

STEPHEN L. BARCOCK,
Acting Associate General Counsel,
Rules Division.

[FR Docket 77-29445 Filed 10-5-77, 8:45 am]

¹ Comments of the Department of Justice were filed with the Board on the due dates of September 21, 1977; and counsel for the DOJ certified that he served copies of these comments upon all interested persons on that date. However, the comments of the Department of Transportation were not filed with the Board until September 26, 1977 and were accompanied by a motion to submit a late-filed document.

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1930]

[Docket No. R-77-466]

FEDERAL CRIME INSURANCE PROGRAM

Offer To Pay Finders Fee to Property and Life Insurance Agents, Brokers and Certain Nonprofit Corporations and Organizations

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would, if adopted, amend existing provisions for compensating persons who sell policies of Federal Crime Insurance under the Federal Crime Insurance Program.

Increasing amounts of evidence indicate that the public is still largely unaware of the availability of Federal Crime Insurance and that marketing of policies is not aggressively conducted in urban areas where the need for the Program appears to be the greatest.

This proposed rule would, if adopted, provide a method of compensating property and life insurance agents and brokers with a one-time finders fee and provide for the designation of certain nonprofit community corporations and organizations as eligible for a finders fee. The proposed rule would, therefore, furnish an increased incentive for publicizing and marketing Federal crime insurance in urban areas.

DATES: Comments must be received on or before November 4, 1977.

ADDRESS: Comments should be submitted to the Rules Docket Clerk, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

Mr. James M. Rose, Jr., Assistant Administrator, Office of Urban Property Insurance—Riot and Crime, 755-6555, Room 5248, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Crime Insurance Program, since its creation in August 1971, has relied upon property insurance agents and brokers for the sale of Federal crime insurance. Approximately 34,000 policies are currently in force in the District of Columbia and nineteen States eligible for Federal crime insurance. There are

nonprofit community organizations and also life insurance agents which operate in urban areas but current regulations contain no provision for compensating such organizations or persons for publicizing and marketing Federal crime insurance. Section 1930.4 of the Federal Crime Insurance Regulations, Title 24 provides only for the payment of commissions to property insurance agents and brokers. This proposed rule would, if adopted, provide for designating qualified nonprofit community organizations, and compensating them with a finders fee for each valid application leading to the issuance of a Federal Crime Insurance Policy, thus furnishing an incentive for them to publicize and market Federal crime insurance to the citizens for whose benefit those organizations exist. It would also provide for compensating with a finders fee property and life insurance agents or brokers who market Federal crime insurance policies.

Revisions can best be effectuated by deleting the current § 1930.4 and inserting in its place § 1930.4a, which will read basically the same as the current § 1930.4 which describes the procedure for compensating property insurance agents and brokers, and a § 1930.4b which will provide for and describe a finders fee procedure for compensating qualified community organizations. To give both property and life insurance agents and brokers a fair opportunity to compete in the marketing of crime insurance, § 1930.4b would also make the finders fee concept available to them, and for property insurance agents and brokers this would provide an alternative to their current commission procedures. Because no renewal fees will be paid, the one-time fee will be larger than the current minimum commission, thus providing maximum incentive for the sale of policies.

A \$40 fee would be paid for commercial policies and a \$20 fee for residential policies. The Administrator proposes initially to exercise the authority in a limited number of metropolitan areas and with respect to a limited number of specially trained and qualified organizations in order to evaluate the results of the new procedure. The Administrator proposes to compare the marketing effectiveness of the nonprofit corporations and organizations with efforts by agents and brokers.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD Regulations published at 38 FR 19182, 19186. A copy of this Finding of Inapplicability is available for public inspection during regular business hours at the following address:

Rules Docket Clerk, Department of Housing and Urban Development, Room 5218, 451 Seventh Street SW., Washington, D.C. 20410.

NOTE:—It is also certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

Subchapter C of Chapter X of Title 24 is proposed to be amended as follows:

PART 1930—DESCRIPTION OF PROGRAM AND OFFER TO PROPERTY AND LIFE INSURANCE AGENTS, BROKERS AND CERTAIN NONPROFIT CORPORATIONS AND ORGANIZATIONS

Present § 1930.4 is deleted and §§ 1930.4a and 1930.4b are added to read as follows:

§ 1930.4a Offer to pay commissions to property insurance agents and brokers to sell Federal crime insurance.

(a) The insurer hereby offers to pay to any eligible property insurance agent or broker a commission in an amount equal to the specified percentage of the applicable policyholder premium with respect to each Federal crime insurance policy he procures for an eligible applicant in accordance with the provisions of this subchapter. The actual submission of a valid and complete application, together with the applicable premium, resulting in the issuance of a policy to an eligible insured, all on approved forms and in accordance with the provisions of this subchapter, shall be deemed an acceptance of this offer: *Provided*, The agent or broker promptly submits the application and transmits the gross amount of the policyholder premium then due to the servicing company and complies, with respect to such policy, with any additional procedural requirements the insurer may then have imposed. It shall be a further condition of this offer that the agent or broker must certify on the application that he has fully carried out any duties set forth in the application. The amount of the commission shall be prorated in the event of the cancellation of any validly issued policy, and the agent or broker shall repay to the servicing company the amount of any unearned commission in excess of the minimum annual commission applicable to the then current term of the policy resulting from any such cancellation. Premiums must be paid by a check or money order made payable to the Federal Insurance Administration, and no agent or broker shall cause any applicant to make any Federal Crime Insurance premium payable to anyone other than the Federal Insurance Administration.

(b) Commissions earned by eligible agents and brokers under the authority of paragraph (a) of this section shall be paid to them in a lump sum by the servicing company either monthly or on such other equitable basis as the insurer may approve.

(c) Subject to a minimum annual commission of \$15 on each commercial policy and \$5 on each residential policy, the specified commission percentages of the policyholder premium for both residential and commercial insurance cover-

ages shall be the following: Initial policies, territory 01, 16 percent; 02, 15 percent; 03, 14 percent; and for all renewal business the commission shall be 12 percent. The renewal commission rate shall apply to any property that has previously been insured under the program unless the lapse of time since the termination of the previous policy is in excess of 1 year: *Provided*, That the commission for any such renewed policy shall be deemed payable only to the agent or broker, if any, who actually submits the renewal application.

(d) No service, placement, or other fee of whatsoever nature shall be charged by any agent, broker, or servicing company to any applicant or property owner under the program as a condition of placement; nor shall any applicant be compelled to purchase any other services or merchandise as a condition for having his application submitted.

(e) For the purposes of this offer, an eligible agent or broker means an agent or broker who is, at the time of making application for the policy, licensed and authorized to act as an agent or broker with respect to the State where the insured premises are located and who has not been suspended or debarred by the insurer. An eligible applicant is one whose premises to be insured are located in a State then currently designated as eligible for the sale of Federal crime insurance in § 1931.1 of this chapter.

(f) Insureds will be billed directly by the servicing company for all installment and renewal payments and insureds should make payment by check or money order payable to the Federal Insurance Administration and mail such payment to the servicing company and not to the agent or broker. But, nevertheless, in the event that an insured makes a timely installment payment (after the initial payment submitted with the application) to any agent or broker, proof of the timely receipt by the agent or broker shall be deemed proof of timely payment to the insurer.

(g) Neither this § 1930.4a nor any acceptance of this offer shall be deemed to confer upon any agent or broker any authority to act for, represent, or bind the insurer or the United States except as otherwise expressly provided herein.

§ 1930.4b Offer to pay finders fees to licensed property insurance and life insurance agents and brokers and to qualified nonprofit corporations and organizations to sell Federal crime insurance.

(a) The insurer hereby offers to pay to any eligible property or life insurance agent or broker and to any nonprofit corporation or organization, specifically designated by the Administrator, a finders fee of \$20 for each residential policy and \$40 for each commercial policy which such agent or broker or nonprofit corporation or organization procures for an eligible applicant in accordance with the provisions of this subchapter. The Administrator may in his discretion designate such nonprofit corporations or organizations which, after examination by his office, he concludes are qualified

to participate in the marketing of Federal Crime Insurance. No such corporation or organization shall be designated unless the Administrator determines that there has been conducted for the benefit of such corporation or organization a training program approved by and under the supervision of the Administrator which, in his judgment, assures that those who are to explain the Federal Crime Insurance Program to the public are adequately educated concerning the Program and are worthy of trust and confidence. The Administrator shall also determine that any corporation or organization to be designated has demonstrated a proven capability of serving the public interest. If at any time the Administrator determines that any such corporation or organization has failed to comply with the regulations governing the Program, he may upon giving thirty days written notice revoke his designation and no finders fee shall thereafter be paid to such corporation or organization. It is the intention of the Administrator to designate initially a limited number of nonprofit corporations and associations in a limited number of metropolitan areas. As the Program progresses, the Administrator may designate additional such corporations or associations in additional cities and States. For property insurance agents and brokers, this procedure for compensation is an alternative to that described in § 1930.4a and such an agent or broker choosing to be compensated under this § 1930.4b may not thereafter receive any commissions with respect to any policy written under this § 1930.4b. The actual submission of a valid and complete application, together with the applicable premium, resulting in the issuance of a policy to an eligible insured, all on approved forms and in accordance with the provisions of this subchapter, shall be deemed an acceptance of this offer: *Provided*, The agent or broker or nonprofit corporation or organization promptly submits the application and transmits the gross amount of the policyholder premium then due to the servicing company and complies with respect to such policy with any additional procedural requirements the insurer may then have imposed. Premiums must be paid by a check or money order made payable to the Federal Insurance Administration, and no property or life insurance agent, broker, nonprofit corporation or organization shall cause any applicant to make any Federal crime insurance premium payable to anyone other than the Federal Insurance Administration.

(b) Fees shall be paid in a lump sum by the servicing company either monthly or on such other equitable basis as the insurer may approve.

(c) No finders fee shall be payable for any policy with respect to a premises that has previously been insured under the program unless the lapse of time since the termination of the previous policy is in excess of 1 year.

(d) No service, placement, or other fee of whatsoever nature shall be charged to any applicant by any property or life insurance agent, broker, nonprofit corpora-

[4310-10]

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[43 CFR Part 4]

PROCEEDINGS IN INDIAN PROBATE

Miscellaneous Changes in Certain Rules

AGENCY: Department of the Interior, Office of the Secretary.

ACTION: Proposed amendments to rules.

SUMMARY: Amendments pertain to the probate of individual Indian estates held in trust by the Federal Government are being proposed. The effect of these changes would be to permit an Administrative Law Judge of proper jurisdiction to (1) reopen an estate after 3 years to prevent a manifest injustice without first obtaining permission to do so from the Interior Board of Indian Appeals (IBIA) located in Arlington, Va., (2) remove the limits on the scope of review on appeals to the IBIA from an Administrative Law Judge's ruling, and (3) require the IBIA to distribute its decisions to interested parties immediately on issuance.

DATES: All comments received on or before November 7, 1977, will be considered.

ADDRESS: Interested persons may participate in these proposed changes of the rules by submitting written comments to the United States Department of the Interior, Office of Hearings and Appeals, Board of Indian Appeals, Room 1105, 4015 Wilson Boulevard, Arlington, Va. 22203.

FOR FURTHER INFORMATION CONTACT: Alexander H. Wilson, Room 1105, 4015 Wilson Blvd., Arlington, Va. 22203 (703-557-1400).

SUPPLEMENTARY INFORMATION: 43 CFR 4.242(h) of the present probate procedure does not permit an Administrative Law Judge to reopen an Indian trust estate probated by the Department of the Interior more than 3 years after entry of a final decision. He must consider any petition requesting reopening and then if he believes there is a possibility to correct a manifest injustice refer it along with his recommendation to the Interior Board of Indian Appeals (IBIA), which is a part of the Department of the Interior, Office of Hearings and Appeals, Arlington, Va. If the recommendation is accepted by the Board, the petition may be returned to the Administrative Law Judge for further proceedings and decision, subject to an appeal to the IBIA. The proposed regulation change would permit an Administrative Law Judge to reopen an estate which has been closed more than 3 years and take such action as he considers appropriate subject to appeal to the IBIA. The proposed amendment sets forth restrictions which must be satisfied in reopening estates after 3 years and contains provisions to ensure

that all parties concerned will receive an adequate opportunity to be heard.

Present requirements under 43 CFR 4.290 limit the scope of review in appeals to the IBIA to issues which were before the Administrative Law Judge when a ruling was made on a petition for rehearing or reopening. It is believed that this is an unnecessary restriction on the Board of Indian Appeals in its scope of review. The proposed change would delete this limitation.

Under the present 43 CFR 4.291, IBIA decisions are sent to the Administrative Law Judges for distribution. The proposed amendment would require the IBIA to distribute its decisions to all interested parties and offices upon issuance. The primary author of this document is Alexander H. Wilson, Chief Administrative Judge, Board of Indian Appeals, Office of Hearings and Appeals, 703-557-1400.

It is proposed to amend 43 CFR Part 4 in the following manner:

1. Section 4.242 is amended by revising paragraph (h) to read as follows:

§ 4.242 Reopening.

(h) If a petition for reopening is filed more than 3 years after the entry of a final decision in a probate, it shall be allowed only upon a showing that a manifest injustice will occur; that a reasonable possibility exists for correction of the error; that the petitioner had no actual notice of the original proceedings; and that petitioner was not on the reservation or otherwise in the vicinity at any time while the public notices were posted. A denial of such petition may be made by the Administrative Law Judge on the basis of the petition and available Bureau records. No such petition shall be granted, however, unless the Administrative Law Judge has caused copies of the petition and all other papers filed by the petitioner to be served on those persons whose interest in the estate might be adversely affected by the granting of the petition, and after allowing such persons an opportunity to resist such petition by filing answers, cross petitions or briefs as provided in (c) of this rule.

2. Section 4.290 is revised to read as follows:

§ 4.290 Who may appeal.

Any party in interest aggrieved by the action taken by an Administrative Law Judge on a petition for rehearing or on a petition for reopening shall have a right of appeal to the Board of Indian Appeals. The Board shall not be limited in its scope of review and may exercise the inherent authority of the Secretary to correct a manifest injustice or error where appropriate.

3. Section 4.296 is revised to read as follows:

§ 4.296 Decisions.

Decisions of the Board will be made in writing. Immediate distribution of decisions shall be made by the Board to all parties and offices concerned, including

the Administrative Law Judge, the Superintendent, the title plant designated under § 4.236(b), and to such other persons as the Board in its discretion deems appropriate. Decisions of the Board, which are final upon issuance, shall not be executed prior to the expiration of 60 days following the date of issuance of the decision. Immediately upon expiration of such period, the Administrative Law Judge shall issue any implementing or supplemental order which may be necessary in accordance with the Board's decision and shall notify the same offices and parties who received the decision of the Board.

NOTE.—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 29, 1977.

JAMES A. JOSEPH,
Under Secretary.

[FR Doc. 77-29433 Filed 10-5-77; 8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 19879, RM-2020; RM-2064; RM-2113; RM-2226; RM-2177; RM-2264; RM-2288; RM-2299; RM-2305; RM-2313; RM-2381; RM-2404; RM-2387; RM-2527]

FM BROADCAST STATIONS IN FAYETTEVILLE AND SPRINGDALE, ARK.

Request for Supplemental Information; Extension of Time for Comments

Correction

In FR Doc. 77-28157, appearing at page 49486, in the issue for Tuesday, September 27, 1977, the first docket number in the heading, reading "19897" should read "19879".

[6712-01]

[47 CFR Part 73]

[Docket No. 21352; RM-1754]

PUBLIC NOTICE OF INTENT TO SELL BROADCAST STATION

Order Extending Time For Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments to a Notice of Inquiry concerning public notice of intent to sell a broadcast station. Haley, Bader and Potts, a law firm, stated that because of intense client response it needs additional time to complete a process of consultation with its clients and prepare a response.

DATES: Comments must be received on or before November 3, 1977. Reply comments must be received on or before December 1, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: Adopted: September 23, 1977.

Released: September 28, 1977.

By the Chief, Broadcast Bureau: 1. On July 27, 1977, the Commission adopted a Notice of Inquiry and Memorandum Opinion and Order, 42 Fed. Reg. 41141, August 15, 1977 concerning the above-captioned proceeding. The dates for filing comments and reply comments are October 3, and November 1, 1977, respectively.

2. On September 22, 1977, the law firm of Haley, Bader and Potts ("Haley") filed a request seeking an extension of time for filing comments and reply comments to and including November 3, and December 1, 1977, respectively. Haley states that it represents a number of licensees of stations in each of the broadcast services and, because of the importance of this proceeding, it has taken special efforts to alert its clients to the implications involved and to develop a response to the Commission's Notice. Haley notes that as a result of intense client interest, it is still in the process of receiving opinions and suggestions for such a response. Haley states that the additional requested time will permit the process of consultation to be completed and will be conducive to a more useful participation by the firm and its clients.

3. We believe the requested additional time is warranted in order to assure development of a sound and comprehensive record on which to base a decision in this proceeding. Accordingly, *It is ordered*, That the dates for filing comments and reply comments in Docket 21352 are extended to and including November 3, and December 1, 1977, respectively.

4. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

FEDERAL COMMUNICATIONS COMMISSION,

WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 77-29430 Filed 10-5-77; 8:45 am]

[6712-01]

[47 CFR Part 73]

[Docket No. 21427; RM-2933]

FM BROADCAST STATION IN MARION, ALA.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a first FM channel to Marion, Ala. Petitioners, Jimmie F. Mizell and Samuel M. Shiller, state the proposed channel would provide for a first full-time service for Marion, and Perry County.

DATES: Comments must be received on or before November 10, 1977. Reply comments must be received on or before November 30, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, 202-632-7792.

SUPPLEMENTARY INFORMATION: Adopted: September 23, 1977.

Released: September 30, 1977.

In the Matter of Amendment of §73.202 (b), Table of Assignments, FM Broadcast Stations. (Marion, Alabama).

By the Chief, Broadcast Bureau: 1. *Petitioner, Proposal and Comments:* (a) Petition for rule making¹, filed July 22, 1977, by Jimmie F. Mizell and Samuel M. Shiller ("petitioners"), proposing the assignment of Channel 280A to Marion, Ala., as a first FM assignment to that community.

(b) The channel could be assigned in conformity with the minimum distance separation requirements provided the transmitter site of the proposed channel is located 4.8 kilometers (three miles) west-northwest of Marion. No responses were made to the petition.

(c) Petitioners state they will promptly apply for the channel, if assigned.

2. *Community Data:* (a) *Location:* Marion, seat of Perry County, is located approximately 40 kilometers (25 miles) northwest of Montgomery, Ala.

(b) *Population:* Marion—4,289; Perry County—15,388.²

(c) *Local Broadcast Service:* Marion has a daytime-only AM station, WJAM, licensed to Radio Marion, Inc.

3. *Economic Data:* Petitioners state that Marion is on the threshold of industrial growth. They note that a new plant which will employ approximately 150 people and add \$1 million in annual payroll to the local economy has recently been located in the community. They indicate that Marion is under con-

¹ Public Notice was given of the petition on August 8, 1977 (Report No. 1069).

² Population figures are taken from the 1970 U.S. Census.

tion or organization receiving finders fees under the Federal Crime Insurance Program; nor shall any applicant be compelled to purchase any other services or merchandise as a condition for having his application submitted.

(e) An eligible applicant is one whose premises to be insured are located in a State then currently designated as eligible for the sale of Federal crime insurance in § 1931.1 of this chapter.

(f) Insureds will be billed directly by the servicing company for all installments and renewal payments, and insureds should make payment by check or money order payable to the Federal Insurance Administration and mail such payment to the servicing company.

(g) Neither this § 1930.4b nor any acceptance of this offer shall be deemed to confer upon any property or life insurance agent or broker, nonprofit corporation, or any other person or organization any authority to act for, represent, or bind the insurer or the United States except as otherwise expressly provided herein.

(h) Failure of any person to comply with any provision of these regulations may result in the immediate suspension or debarment of the violator from any further participation in the Program.

Paragraphs (b) and (c) of present § 1930.3 are amended to read as follows:

§ 1930.3 Operation of program and inapplicability of State laws.

(b) No Federal crime insurance policy issued by or on behalf of the insurer shall be subject to any State or local tax or insurance law or regulation, nor shall any property of life insurance agent, broker, servicing company and nonprofit corporation or organization designated by the Federal Insurance Administrator be subject thereto with respect to any monies received or action taken in providing Federal crime insurance to the public under the authority of this subchapter; nor shall any person be subject thereto with respect to any action taken to make the public aware of Federal crime insurance.

(c) Nothing in this § 1930.3 shall be construed as authorizing or denying any State or subdivision thereof the right to impose any income or other tax on fees, commissions, or profits earned by property or life insurance agents, brokers, or any other persons solely for their own account or to prosecute any such agent of broker or other person for theft or embezzlement of monies received in connection with the Federal Crime Insurance Program.

(Sec. 7(d), 79 Stat. 670; 42 U.S.C. 3535(d); sec. 1103, 82 Stat. 566 (12 U.S.C. 1749bbb-17))

Issued at Washington, D.C., September 23, 1977.

JAY JANIS,
Secretary of Housing
and Urban Development.

[FR Doc. 77-29339 Filed 10-5-77; 8:45 am]

sideration as a possible site for two other large companies. Petitioners add that the existence of two colleges, Judson College and Marion Military Institute and their influence upon the community, gives rise to greater needs for self expression. Petitioners state that the proposed assignment would provide for a first full-time service for Marion and Perry County.

4. In view of the apparent need for a full-time local aural broadcast service in Marion and Perry County, we believe that consideration of the proposed FM assignment in a rule making proceeding would be in the public interest.

5. Accordingly, it is proposed to amend the FM Table of Assignments, § 73.202 (b) of the Commission's Rules, with regard to Marion, Alabama, as follows:

Channel No. Present Proposed
City Marion, Ala. 280A

6. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained in the attached Appendix and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

7. Interested parties may file comments on or before November 10, 1977, and reply comments on or before November 30, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

§ 73.202 [Amended]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and section 0.31(b) (6) of the Commission's Rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's Rules and Regulations, as set forth in the Notice of Proposed Rule Making to which this Appendix is attached.

2. Showings required. Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. Cut-off procedures. The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. Comments and reply comments; service. Pursuant to applicable procedures set out in sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the Notice of Proposed Rule Making to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b), and (c) of the Commission Rules.)

5. Number of copies. In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. Public inspection of filings. All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 N Street NW., Washington, D.C.

[FR Doc. 77-29429 Filed 10-5-77; 8:45 am]

[6712-01]

[47 CFR Part 83]

[Docket No. 21405; FCC 77-662]

STATIONS ON SHIPBOARD IN THE MARITIME SERVICES

Prohibiting Transmission of Radiocommunications by Ship Stations in the Maritime Services When the Vessels Are on Land

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: The amendment of the Commission's rules is proposed to specifically prohibit the transmission of radiocommunications by ship stations in the maritime services when the vessels are on land. An increasing number of inquiries and complaints have been received concerning the operation of ship stations on land. This action is intended to clarify the rules and avoid confusion regarding the utilization of such shipboard stations on land.

DATES: Comments must be received on or before November 9, 1977, and reply comments must be received on or before November 21, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Adopted: September 21, 1977.

Released: September 30, 1977.

In the Matter of Amendment of Part 83 of the rules to specifically prohibit the transmission of radiocommunications by ship stations in the maritime services when the vessels are on land.

By the Commission: 1. Notice of Proposed Rule Making is hereby given.

2. The Commission has been receiving an increasing number of inquiries and complaints regarding the transmission of radiocommunications by ship stations aboard vessels on land. Apparently the most common such occurrences involve recreational boats parked in driveways, backyards, adjacent to marinas, traveling along roadways, and the like. Part 83 of the Commission's rules (Stations on Shipboard in the Maritime Services) makes no provision for the operation of ship stations while they are on land. Generally transmissions by land borne ship stations would be considered beyond the scope of authority of such stations and thus in violation of the rules. However, rather than rely on a case by case interpretation of the rules, it is felt that confusion can best be avoided by including a specific statement in the rules prohibiting the transmission of signals or communications by ship stations while on land.

3. Accordingly, we propose to amend the rules by adding a new subparagraph (f) to Section 83.178 to indicate that stations subject to Part 83 shall not transmit signals or communications while on board vessels being transported, stored, parked or otherwise located on land. However, for the purposes of this proposed subparagraph, vessels which are aground as a result of a distress situation or in drydock undergoing repairs would not be considered as located on land.

4. The proposed amendment as set forth in the attached appendix, is issued pursuant to the authority contained in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended.

5. Pursuant to the applicable procedures set forth in Section 1.415 of the Commission's rules, interested persons may file comments on or before November 9, 1977, and reply comments on or before November 21, 1977. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decision in this proceeding, the Commission may also take into account other

relevant information before it, in addition to the specific comments invited by this notice.

6. In accordance with the provisions of Section 1.419 of the Commission's rules, an original and 5 copies of all statements, briefs or comments shall be furnished the Commission. All comments received in response to this Notice of Proposed Rule Making, will be available for public inspection in the Docket Reference Room in the Commission's Offices in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

Part 83 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 83.178(f) is added to read as follows:

§ 83.178 Unauthorized transmissions.

(f) Transmit signals, or communications while on board vessels being transported, stored, parked or otherwise located on land. (Vessels which are aground as a result of a distress situation or in drydock undergoing repairs are not considered to be located on land for the purposes of this subparagraph.)

[FR Doc. 77-29432 Filed 10-5-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1062]

[Ex Parte No. MC-110]

SPECIAL REGULATIONS, FOR-HIRE MOTOR CARRIERS ENGAGED IN THE TRANSPORTATION FOR RECYCLING OR REUSE OF "WASTE" PRODUCTS IN FURTHERANCE OF RECOGNIZED POLLUTION CONTROL PROGRAMS¹

Service at New Plantsites

AGENCY: Interstate Commerce Commission.

ACTION: Initiation of rulemaking proceedings.

SUMMARY: The Interstate Commerce Commission is initiating this rulemaking proceeding to investigate the feasibility of permitting motor carriers to serve newly opened plantsites without the necessity of going through formal application procedures presently required under the Commission's Rules of Practice. This proceeding was prompted by recommendation number 12 of the Staff Task Force report on improving motor carrier entry regulation.

DATES: Comments due on or before December 5, 1977.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Com-

merce Commission, Washington, D.C. 20423. Phone: 202-275-7292.

SUPPLEMENTARY INFORMATION: On July 6, 1977, a specially appointed Commission Staff Task Force submitted its report to the Commission on recommendations for improving motor carrier entry regulation. One of the recommendations dealt with the situation where new plantsites are opened and applications are filed by motor carriers seeking to provide transportation services from the new plantsite.

When a plantsite opens, many applications are filed by carriers seeking to provide service. Although protestants may hold paper authority to provide some or all of the needed service, they have never served the new plantsite. It is difficult to see how these protestants will be harmed by grants of operating authority to serve the new plantsite. We question the necessity of requiring applicants to apply formally for authority to serve the new plantsite when existing carriers cannot be harmed.

We suggest that a carrier (presently authorized or new entrant) could apply to serve a new plantsite during a specified period prior to or after its opening. The carrier would be required only to demonstrate its fitness, to submit a brief affidavit of shipper support, and, possibly to submit certain other basic information. Comments are requested on this or any alternative procedure.

Among the questions that should be addressed are:

- (1) Is the proposal likely to lead to over-capacity at new plantsites?
- (2) Should existing carriers have standing to protest?
- (3) For what period of time prior to or after the opening of a "new plantsite" should these shortened procedures be operative?
- (4) How would implementation of such a proposal affect existing precedents?
- (5) What is meant by "new plantsite"?
- (6) Is this proposal a fair and equitable one?
- (7) Are there alternative implementation procedures?

PUBLIC COMMENTS INVITED

Interested persons are invited to comment on the proposal and suggest alternatives.

This document is promulgated under the authority of 49 U.S.C. § 204, 206, and 207; and 5 U.S.C. § 553, and was adopted at a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 28th day of September, 1977.

By the Commission:

H. G. HOMME, Jr.,
Acting Secretary.

¹ If adopted, Part 1062 will be re-titled "Part 1062—Special Application Procedure."
² A statement by Commissioner Stafford, dissenting, is filed as part of the original document.

[FR Doc. 77-29452 Filed 10-5-77; 8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 194—THURSDAY, OCTOBER 6, 1977

[3410-37]

DEPARTMENT OF AGRICULTURE

Food Safety and Quality Service

[9 CFR Parts 317 and 319]

STANDARDS AND LABELING REQUIREMENTS FOR TISSUE FROM GROUND BONE

AGENCY: Food Safety and Quality Service, Meat and Poultry Inspection, U.S. Department of Agriculture.

ACTION: Proposed rulemaking.

SUMMARY: This document sets forth a proposed definition (including parameters for measuring compliance), permitted uses, and labeling requirements for a meat food product prepared by mechanical processing of tissue from ground bone. This proposal is based on new information, data, and arguments submitted to the Department in response to the April 27, 1976, proposal regarding mechanically deboned meat, as well as recommendations from a select Panel on Health and Safety Aspects of Use of Mechanically Deboned Meat and information and data available to the Department prior to publication of the first proposal.

DATE: Comments must be received on or before December 5, 1977.

ADDRESS: Any person wishing to submit written data, views, or arguments concerning the proposed rules may do so by filing them in duplicate with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All such submissions made pursuant to this notice will be made available for public inspection in the Office of the Hearing Clerk during regular hours of business. Comments on the proposal should bear a reference to the date and page number of this issue of the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Irwin Fried, Product Labeling and Standards Staff, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, area code 202-447-6042.

SUPPLEMENTARY INFORMATION:

THE FIRST PROPOSAL

On April 27, 1976, the Administrator published a notice of proposed rulemaking titled "Definition of Meat and Classes of Meat, Permitted Uses, and Labeling Requirements." It appeared in Vol. 41, No. 82, pages 17560-17566 of the FEDERAL REGISTER with a comment period which closed on August 25, 1976. That proposed rulemaking included, among other things, a proposal for the permitted manufacture of "Mechanically Deboned Meat" and related products.

As proposed, these materials were defined as the product resulting from the mechanical separation and removal of most of the bone from attached skeletal muscle tissue. The proposed parameters for the three classes are given in Table 1.

TABLE 1

Proposed names	Meat class	Maximum percent calcium	Minimum percent protein	Minimum percent essential amino acids or minimum protein efficiency ratio	Maximum percent fat
Mechanically deboned meat	7	0.75	14	2.5 or 33	30
Mechanically deboned meat for processing	8	1.0	10	2.5 or 33	
Mechanically deboned meat for rendering	9				

As the table shows, limits for Mechanically Deboned Meat were to be lower for calcium and fat and higher for protein than parameters for the other two classes. Mechanically Deboned Meat for Processing was to have a requirement for protein quality, as measured by PER or proportion of essential amino acids, that was equal to the requirements for Mechanically Deboned Meat. No nutritional parameters were to be set for Mechanically Deboned Meat for Rendering, which was not to be used as such in the formulation of meat food products. No limitation on amount used in products was proposed for Mechanically Deboned Meat, but Mechanically Deboned Meat for Processing was to be limited to 20 percent of the total meat, meat by-products, poultry products, or poultry meat content of the product. The proposal also specified those products in which Mechanically Deboned Meat or Mechanically Deboned Meat for Processing were to be permitted as ingredients.

COMMENTS ON THE PROPOSAL

More than 1,100 comments were received in response to the proposal for redefining meat. The great majority of these comments dealt, in whole or in part, with the three proposed classes of mechanically deboned product (hereafter referred to as MDM). Many of these comments were complex, dealing with more than one aspect of the proposed redefinition. Also, many approaches to the same basic questions were used by the different commenters, further adding to the complexity of summarizing the issues. Therefore, no attempt has been made to provide exact tallies of the number of people commenting on any one issue in the discussion of that issue.

A general description of the comments and their sources follows:

Total comments	1100
Based on review of the proposal	175
Based on reports from secondary sources	925
From consumers (includes 13 organizations)	975
From industry (includes 17 trade groups)	80
From government agencies (Federal, State, local)	15
From university and college faculty	20
From health professionals (MD, RN, and OD primarily)	10

Of the 860 comments specifically addressed to the question of whether or not MDM should be allowed to be prepared and used in other products, 355 were yes and 505 were no. Many of these comments were based on reports in the

news media rather than on readings of the proposal itself.

Of the comments based on readings of the proposal itself, consumers generally questioned the proposal, while others favored it. Comments by consumers fell into the following broad categories:

1. **Labeling.**—Concern was consistently expressed that if MDM was used, its presence should be identified in ingredients statements on product labels, so that the consumer could have knowledge needed to select or avoid such products as desired. Many of the concerns about labeling were tied to another concern, that of economics.

2. **Economics.**—Because there is a potential for the eventual use of one billion pounds of MDM yearly, consumers believed there would be a definite economic impact. They wanted savings, if any, passed on to them.

3. **Health.**—Issues related to health and safety aspects of use of MDM were of primary importance to consumers. Their concerns fell into the following categories:

a. **Bone.**—What effects would the amount of calcium permitted in MDM, the size of bone particles, and the digestibility of the calcium in bone have on calcium-related diseases and disorders such as diverticulitis?

b. **Trace elements.**—To what extent would there be problems of health and safety because of the presence or absence in bone of trace elements such as lead, fluorine, strontium-90, iron, nickel or zinc, and chemical and pesticide residues? Would any of these constituents be present in product containing MDM in amounts great enough to have toxic effects? Would any be helpful in improving nutrition?

c. **Lipids.**—Would there be changes in the amounts and kinds of fat in meat food products if they contained MDM? If so, would these changes be harmful to persons eating these meat products?

d. **Microbiological safety.**—Would meat food products containing MDM carry higher bacterial loads than meat food products without MDM? Should there be limits to the amounts of bacteria allowed in MDM?

Comments which were based on direct readings of the proposal, and which favored it, gave the following reasons:

1. The calcium contained in MDM is digestible and would be a useful addition to American diets.

2. The extra meat product so recovered would add a significant amount of high quality protein food to the world food supply.

3. Safety of the meat product recovered by this process need not be questioned because of the history of usage of mechanically deboned poultry (10-15 years) and mechanically deboned fish (20 years), and present usage of mechanically deboned red meat in approximately 40 countries throughout the world.

Industry spokesmen stated that proposed uses for MDM were too restrictive and should be expanded, both in permitted amounts and in the number of meat food products in which MDM could be used. Competition would see that if savings were realized, they would be passed on to the consumer.

Comments from industry also questioned the need for labeling other than species labeling (beef, pork, etc.) on the basis that there was no precedent for identifying the method of production in an ingredient statement, and mechanical deboning is a process resulting in a traditional ingredient. Specific labeling, according to some of these comments, would result in higher costs. Most health professionals and university faculty, on the other hand, favored either specific labeling of MDM in ingredient statements, or labeling for calcium content of final products, or both.

Comments from several consumer oriented organizations and Government agencies showed concern over whether or not use of MDM would result in adulteration, particularly if specific labeling of MDM in ingredient statements was not required.

A number of comments from industry and university faculty addressed themselves to technical aspects of the nutritional requirements for MDM (maximum contents of calcium and fat, and minimum requirements for amount and quality of protein). These comments were concerned not only with what the requirements should be, but also what measurements should be used to monitor these requirements.

Comments were also received concerning whether or not nutrition labeling should be required for products containing MDM and asking questions concerning flavor and texture of meat food products containing MDM.

THE INTERIM REGULATION

Also on April 27, 1976, in the issue of the FEDERAL REGISTER containing the proposed Redefinition of Meat, a regulation which included interim standards for MDM was published. The interim standards were to remain in effect pending final rulemaking on the proposal, unless rescinded before rulemaking was completed. The interim regulation was considered necessary in order to develop data, previously unavailable except on an experimental basis, for determining if the analytical parameters were effective in assuring nutritional quality of the products.

After the interim regulation was issued, a coalition of consumer oriented organizations and the Attorney General of Maryland took legal steps to have the interim regulation repealed. Following two court hearings, a Preliminary Injunction was issued on September 10,

1976, enjoining the Secretary from using the provisions of the interim regulation with respect to MDM. In the Court's opinion, the Department had not adequately assessed the potential health hazards of MDM in three areas:

(1) Possible gastroenterological side effects which may result from frequent ingestion of bone particles;

(2) The possibly unduly high levels of strontium-90 which may be contained in bone particles; and

(3) The possible long term effects of the fat content present in MDM on the cardiovascular systems of those Americans for whom processed meat products constitute a significant portion of their diets.

The Court further indicated that until such assessments were made, MDM was considered adulterated and an adulterant. Following the September 10 Court Order, the Department ordered discontinuation of the placement of the official mark of Federal inspection on all MDM, which in effect stopped the production and use of it.

THE SELECT PANEL AND ITS FINDINGS ON HEALTH AND SAFETY ASPECTS OF MDM

In order to respond to the questions on health and safety raised by the Court, an intensive analytical program was initiated to develop data on representative amounts of nutrients and problem substances in MDM. Samples for analysis were obtained from materials which had been commercially produced prior to the court ordered ban and had been maintained in frozen storage. The samples were analyzed in the laboratories of the Food Safety and Quality Service, using standard methods of analysis. To assure reliability of the procedures as applied to these samples, cross-check analyses for critical substances were made on some of the same samples by expert analysts in other Government laboratories.

To evaluate findings from this analytical program and pertinent information and data gathered from other sources, a panel of eminent Government scientists who are expert in a wide range of subject areas dealing with health and safety aspects of foods was convened.

Members of this group, hereafter called the Panel, were asked to respond to questions which had been raised both by the Court and in the comments on health and safety aspects of use of MDM. The summary of the Panel's conclusions and recommendations follows:

The Panel, after reviewing all pertinent data and information and the reports of the subcommittees, unanimously accepted those reports and drew the following conclusions and made the following recommendations:

A. Bone particle size as obtained with mechanical deboners currently available presents hazards to health. However, the Panel recommended that limits for maximum particle size be included in any regulation to be promulgated allowing the production of MDM.

B. A slight nutritional benefit is to be expected for most people from the calcium in MDM, especially for persons whose customary intake of calcium falls below the Recommended Dietary Allowance. The calcium

which would be added to the diet by MDM is not so great in amount as to pose a hazard to the health of most people, except for those persons who are hyper-absorbers of calcium and likely already to be under medical supervision to limit their calcium intakes.

C. The fluoride content of MDM poses no health problem for adults. Fluoride intakes of children need to be controlled more closely than intakes of adults in order to avoid mottling of teeth. Since little is known about the fluoride intake of children, caution is advised. Data on projected consumption of MDM show that intakes of fluoride from MDM would be negligible, even for children consuming much higher than average quantities of MDM with a high fluoride content. MDM in the Panel's judgment presents no problem for children. However, fluoride intake of infants is known to be high. The Panel, therefore, concluded that prudence dictates that MDM not be incorporated into baby and junior foods at present. This recommendation is based primarily on lack of information rather than evidence of a hazard and should be subject to further evaluation as data are gathered.

D. The Panel concurred with the subcommittee evaluation that, based on currently available data and relative to the magnitude of other environmental sources of lead, the amount of lead which would be provided by MDM is toxicologically insignificant for children and adults.

E. Amounts of cadmium in MDM are so small as to be not detectable by current analytical procedures, and are of no public health significance.

F. Selenium was judged not to be a health problem. There is no evidence to indicate that selenium concentrates in bone.

G. Increases in dietary intakes of strontium-90 from use of MDM would be negligible, amounting to about a one-percent increase in exposures which are already well below tolerable limits. MDM poses no health hazards in regard to strontium-90.

H. Cobalt, copper, iron, nickel, zinc, arsenic, and mercury pose no potential problems in relation to use of MDM. Consumption data indicate that MDM would probably provide about 1 percent of the expected daily intake of cobalt. Additional iron from MDM would be in the order of 2.5 percent of the total iron intake, and should be readily available to the body. Zinc content of MDM is essentially the same as zinc in hand-deboned meat, and use of MDM should not affect bioavailability of zinc from other dietary sources. Arsenic has not been found in mechanically deboned poultry, and poultry would be expected to have greater relative intakes of arsenic than red meat animals. Therefore, arsenic should present no problem in MDM. Mercury does not accumulate in bone.

I. Chlorinated hydrocarbon residues present no special problem in MDM, because if present in measurable amounts, they are found in quantities well below established tolerance or action limits.

J. Data presently available on the lipid spectrum of MDM show that it is comparable to the lipid pattern found in hand-deboned meats. However, because of concern over the general problem of excessive intakes of fat and their effect on health, the Panel recommended that limits be placed on the fat content of MDM, on the basis of good manufacturing practices, and that limits also be placed on the fat content of products in which MDM could be used.

K. Proposed standards for protein content and quality (PER) are reasonable. Efforts should be continued to find more rapid and economical methods for monitoring protein quality, to replace the cumbersome PER assay.

L. The microbiology of MDM presents no unique hazards and should not be a problem if good manufacturing practices and quality control programs are employed.

M. Tetracyclines accumulate in the bones of young animals, and a recent German study has found tetracyclines in calf bones. The amounts are such that even at the highest level found, residues in products made with MDM derived from calf bones would be within present permitted tolerance. The U.S. slaughters comparatively few calves, and it is unlikely that there will be calf MDM. Tetracyclines in older cattle and swine present no problem. Though it is apparent that the use of tetracyclines in calves is on the decline in the United States, controls should be established to assure that if MDM is prepared from calves it will not exceed established tolerances for such drugs.

N. The Panel agreed that MDM contained in food products should be so labeled in the ingredients statement, so that persons who must stringently restrict calcium intake could avoid these products. The Panel further agreed that there was no need for health or safety reasons to make nutrition labeling mandatory for products containing MDM, although nutrition labeling of all food products containing MDM, although nutrition labeling of all food products should be encouraged.

O. The Panel recommended that efforts should be made to inform and educate health and medical professionals and the general public about dietary effects of use of MDM, especially in relation to calcium fluoride.

P. The Panel recommended that further research should be encouraged on MDM when it is again produced commercially. Suggestions for research are given in several of the subcommittee reports. (End of Panel's conclusions and recommendations.)

Single copies of the complete report of the Panel may be obtained without charge from the Office of Information, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250. The report is entitled, "Health and Safety Aspects of the Use of Mechanically Deboned Meat, Volume I. Final Report and Recommendations, Select Panel."

THE REVISED PROPOSAL

Because of the large number of questions of substantive concern, the widespread interest, and the court activity which were generated by the proposal and the interim regulation allowing production of MDM, it appears that several changes are needed in the proposed regulation, and that it would be highly desirable to provide an opportunity for the public to comment further on the proposed rule. Therefore, a revised proposal is being issued for standards and labeling requirements for Tissue from Ground Bone.

The new proposal contains the following provisions:

1. The product would be named "Tissue from Ground Bone". This appears to be an accurate descriptive name for the product.

2. Tissue from Ground Bone would be classified as a meat food product rather than as a class of meat. This change is indicated because of the presence in Tissue from Ground Bone of bone marrow and of minerals such as calcium and fluoride, which minerals are present in large amounts than found in the muscle and accompanying fatty tissue which have been traditionally defined as meat.

The change is further indicated by the fact that the United States District Court for the District of Columbia has held that this product is not meat as traditionally defined. However, Tissue from Ground Bone would be a meat food product, which is defined under the Federal Meat Inspection Act as, "... made wholly or in part from any meat or other portion of the carcass ..."

3. The number of classes of such product has been reduced from three to one. The classes originally designated as Mechanically Deboned Meat and Mechanically Deboned Meat for Processing have been combined. This was done because a single use limitation for Tissue from Ground Bone is being proposed making separate classes unnecessary.

4. The calculation of percent of essential amino acids will be in terms of total amino acids, rather than in terms of total protein. Also, data on the essential amino acid, tryptophan will be excluded in making this calculation.

The change to calculating in terms of total amino acids follows recommendations of university and industry scientists, who state that greater accuracy can be achieved by this procedure than by calculating as percent of total protein. Tryptophan is present in small and relatively constant proportions that would have little effect on the total percentage of amino acids. Also, tryptophan must be determined by a separate method from that used for the other amino acids, so deleting the requirement for its analysis would help control costs of measuring compliance.

5. A requirement has been added that size of the openings in the sieves, screens, or ports of the equipment used in processing Tissue from Ground Bone should be no greater than 0.5 mm. in diameter.

This change follows the recommendation of the Select Panel that quality control measures be instituted in order to limit particle size to those levels presently associated with good manufacturing practice.

6. The requirements for minimum protein and maximum fat for Tissue from Ground Bone would be set at 14 percent and 30 percent respectively. These limits compare with minima of 14 percent and 10 percent for protein, and maxima of 30 percent and no limit for fat proposed for Mechanically Deboned Meat and Mechanically Deboned Meat for Processing, respectively. Tissue from Ground Bone thus compares with Mechanically Deboned Meat in that it has the same minimum protein content and the same maximum fat content but, as is discussed in 9 below, the same limit on usage in finished products as did Mechanically Deboned Meat for Processing. The Panel, in its deliberations, was reluctant to approve a product that would increase the total fat composition of meat products in which it was used. We believe that the proposed limitations satisfy the concerns of the Panel, especially since large portions of the meat diet, such as frankfurters, hamburger and ground beef, and beef sausage, are limited to 30 percent fat levels.

A 14 percent protein requirement on Tissue from Ground Bone with a 30 per-

cent fat level precludes adulteration with water.

7. The provision that would allow Tissue from Ground Bone to be labeled by species only (beef, pork) rather than as a specific ingredient has been deleted. The species name would be used only in the ingredient statement and the term "Tissue from Ground Bone" would be used in conjunction with the product name.

The change to specific labeling follows the Panel's recommendation that food products containing Tissue from Ground Bone should be so labeled in the ingredient statement, so that persons who must stringently restrict calcium intakes could avoid these products. Specific labeling was also overwhelmingly desired by consumers and health professionals who commented on the original proposal.

8. Tissue from Ground Bone would not be allowed in baby (strained), junior, or toddler foods.

This change follows the recommendation of the Select Panel, which concluded that prudence dictates that Tissue from Ground Bone should not be incorporated into baby, junior, and toddler foods at present. This recommendation was based on lack of information rather than evidence of a hazard. The Panel's concern was that fluoride intakes of infants from birth to six months were known to be high, that long term data on the fluoride content of Tissue from Ground Bone are not available at present, and that the fluoride content of Tissue from Ground Bone may vary in different localities and may also depend on the age of the animal from which it is produced.

It should be noted that the Panel's concern for controlling fluoride intakes of infants was based not on a possible health hazard, but on the possibility of development of mottling of the teeth. Mottling can occur at much lower levels of fluoride intake than are required to develop fluorosis. Thus, controlling intakes of fluoride at levels which do not permit the development of mottled teeth would automatically insure that fluoride intakes stayed far below levels at which they were a health hazard.

Consumption studies reviewed by the Panel showed that projected increases in fluoride intakes from use of Tissue from Ground Bone would be negligible for all infants and children (ages 0 to 18 years), even at the top one percent level of consumption. Thus, the Panel concluded that it was not necessary to further restrict the use of Tissue from Ground Bone for reasons of safety. The Panel also indicated that the restriction on baby, junior, and toddler foods should be subject to further evaluation as data are gathered.

9. A limit of usage for Tissue from Ground Bone in any product would be set at 20 percent.

The original proposal set a use limit for Mechanically Deboned Meat for Processing of no more than 20 percent of the meat block (total of all meat, meat byproducts, poultry products and poultry meat) used in the formulation. No use limit was set for Mechanically Deboned Meat. The interim stand-

ard had stricter limits, permitting Mechanically Deboned Meat for Processing to make up no more than 15 percent, and Mechanically Deboned Meat no more than 20 percent, of the meat block of formulated products. Developmental research had showed that finished products retaining characteristic sensory qualities could be prepared with about 20 percent of the meat block as Tissue from Ground Bone, so these limitations on tissue were judged to be reasonable for purposes of data gathering. The limit is proposed to provide for caution in the introduction of this new product.

The need to proceed cautiously was emphasized by the evidence from analytical data that Tissue from Ground Bone is higher in content of fluoride and lead than is hand-deboned meat. A limitation of 20 percent Tissue from Ground Bone in the meat block was therefore built into calculations projecting the increased consumption of minerals from such tissue. The resulting consumption data were those used by the Select Panel in making its evaluation and recommendations. Safety at higher usage levels has been neither established nor disproved. Therefore, it has been concluded that permission for higher use levels would not be warranted at present.

10. Tissue from Ground Bone would not be allowed in ground beef, hamburger, fabricated steaks, barbecued meats, roast beef—parballed and steam roasted, corned beef cuts, lima beans with ham and similar products, beef with gravy and gravy with beef, and meat pies.

The Department believes that inclusion of Tissue from Ground Bone in the above listed products would impair the basic characteristics of such products. For example, in most of these products, the consumer expects solid pieces of meat. In other cases (hamburger, ground meat, and fabricated steaks), the consistency normally expected by the consumer is significantly different than that contributed by Tissue from Ground Bone. These considerations led to a study by the Select Panel of consumption data. Its deliberations led the Department to propose the exclusion of these products. Expanding the usage of Tissue from Ground Bone to such products may require reconsiderations of the 20 percent usage level.

The proposed rule retains the following provisions from the earlier proposal:

1. The requirement for maximum calcium is set at 0.75 percent (the proposed maximum for class 7, MDM), and the minimum protein quality is set at a Protein Efficiency Ratio of 2.5 (the proposed minimum for classes 7 and 8, MDM and MDM for Processing).

Analytical data gathered after the first proposal was issued indicate that it is possible to routinely prepare Tissue from Ground Bone containing no more than 0.75 percent calcium. Furthermore, because significant and positive correlations were found between the content of calcium and the content of fluoride or lead in Tissue from Ground Bone, control of calcium may hold promise as a way of controlling content of these two potentially toxic elements. In addition,

data gathered to date indicate that when calcium content of Tissue from Ground Bone is maintained at 0.75 percent or less, the protein quality (PER) is highly likely to equal or exceed 2.5, the proposed minimum. Therefore, it is proposed that a maximum of 0.75 percent calcium in Tissue from Ground Bone shall be included in the standards for this meat food product.

It is also proposed to maintain the protein quality requirement of a minimum PER of 2.5 for Tissue from Ground Bone. This requirement was recommended by the Select Panel, along with the provisions for measuring PER discussed below in item 2. Requiring a minimum PER of 2.5 would assure a product of high protein quality, equal to the quality of the milk protein casein. In addition, data gathered since publication of the previous proposal indicated that Tissue from Ground Bone which meets this standard for PER can be routinely prepared when good manufacturing practices (especially control of calcium) are employed.

2. Use of the value of percent of essential amino acids as a measure of protein quality would be allowed as an alternate to use of the Protein Efficiency Ratio.

The Select Panel found the proposed standards for protein content and quality (PER) to be reasonable, but recommended that efforts should be continued to find more rapid and economical methods for monitoring protein quality, to replace the cumbersome PER assay. In response to these recommendations, it is proposed that the standard for protein quality should be based on the PER, and rat feeding tests should be the only recognized method of determining the PER; that following the effective date of these amendments to the regulations, an amino acid profile which had a minimum of 33 percent of the essential amino acids isoleucine, leucine, lysine, methionine, phenylalanine, threonine, and valine should be accepted in lieu of data on PER; and that after the expiration of approximately 12 to 18 months following the effective date of these amendments, a decision will be made as to the continued use of the alternate method, based on all information available to the Department, including data furnished by meat processors.

3. No standards are being set for maximum microbiological content of Tissue from Ground Bone.

In its analytical programs, the Department has found no evidence whatsoever that there is any bacterial health hazard associated with Tissue from Ground Bone when handled in keeping with good manufacturing practices. Furthermore, there is evidence, from the experience of the State of Oregon with bacterial standards for ground meat that the standards were not effective in reducing bacterial content of the ground meat, that the standards were unfair to consumers, who might be led to believe they resulted in meat with a lower bacterial content and thus improved quality, and that the cost of enforcing the standards was not justified by the benefits derived.

The Department has strict sanitary requirements, and handling practices (including times and temperature at which processed and stored) are expected to be such that product would not be abused. Federal meat inspection regulations already in effect require operators of establishments to institute appropriate control programs to assure the maintenance of their establishments and the preparation, marking, labeling, packaging and other handling of their products are strictly in accordance with sanitary and other requirements of the regulations. Inspectors are knowledgeable about perishability of meat products, sanitation, and proper handling practices. The meat inspection regulations provide ample authority for reinspection as deemed necessary using appropriate means, which may include statistically sound sampling to assure a high level of confidence in the final evaluation of the product.

The Department uses in other products, and intends to use in Tissue from Ground Bone, microbiological data as a basis for assuring that processing procedures are maintained in such a manner as to produce wholesome food. Handling practices would be monitored on a continuing basis.

4. Product failing to meet the requirements for Tissue from Ground Bone could be used for rendering.

Because of health considerations discussed above, product failing to meet the requirements for Tissue from Ground Bone because of high calcium may only be used for the production of animal fats. Until such time as standards are set for the low temperature rendered product, such product produced from Tissue from Ground Bone failing to meet the requirements for reasons other than high calcium may be used in the production of imitation products as well.

On the basis of all the foregoing, the following amendments to the Federal meat inspection regulations (9 CFR Parts 317 and 319) are proposed:

1. Section 317.2(j) would be amended by adding a new subparagraph (13) to read as follows:

§ 317.2 Labels: definitions; required features.

• • • • •

(j) • • • • •

(13) When any Tissue from Ground Bone described in 319.5 of this subchapter is used as an ingredient in the preparation of a meat food product the name of the finished product shall be further qualified by the phrase, "Tissue from Ground Bone Added." Examples of such label declarations are: "Pork Sausage—Tissue from Ground Bone Added"; "Frankfurter—Tissue from Ground Bone Added"; "Cooked Salami—Tissue from Ground Bone Added". Any phrase qualifying the product name shall be at least ½ the size of the product name. In addition, the ingredient statement shall include in proper order of predominance the tissue from ground (species) bone; e.g., Tissue from Ground Beef Bone.

• • • • •
§§ 319.2—319.4 [Reserved]

2. Sections 319.2, 319.3 and 319.4 would be reserved, and a new § 319.5 would be

added to the meat inspection regulations to read as follows:

§ 319.5 Standards for tissue from ground bone.

(a) Any tissue resulting from the mechanical separation and removal of most of the bone from attached skeletal muscle, and subsequent straining through a screen, sieve, or port. The openings in such screens, sieves or ports shall not exceed 0.5 millimeter in diameter. The tissue resulting from the separating process shall not have a calcium content exceeding 0.75 percent; shall have a minimum protein content or not less than 14.0 percent with a minimum PER of 2.5 (except as modified in paragraph (e) (1) of this section), and a fat content of not more than 30 percent. Such tissue failing to meet the calcium requirements of this paragraph shall only be used in producing animal fats. Such tissue failing to meet any of the other requirements of this paragraph shall only be used in producing animal fats or, alternatively, may be used in the formulation of imitation products.

(b) [Reserved]

(c) [Reserved]

(d) [Reserved]

(e) (1) An essential amino acid content of at least 33 percent of the total amino acids present in Tissue from Ground Bone shall be accepted as evidence of compliance with the protein quality requirement set forth in paragraph (a) of this section. The percent of essential amino acid content is calculated as the total of the percentages of isoleucine, leucine, lysine, methionine, phenylalanine, threonine, and valine, divided by the percentage of total amino acids and multiplied by 100.

(2) A prerequisite for the production of Tissue from Ground Bone shall be a plant quality control system that the Administrator finds meets the requirements of this section. Acceptance is based on the ability of the system to provide the controls and information necessary to assure that the product will meet the requirements described in § 319.5(a) and to enable establishment personnel and Program employees to monitor the system for effectiveness. As a minimum, the system shall include a written description of the methods used by the establishment to maintain the wholesomeness and uniformity of the raw ingredients used in manufacturing product, to control the blending of the raw ingredients, and to control the handling and processing of the raw ingredients and the finished product, and shall contain provisions for chemical analyses of the product to determine compliance with standards for the product. Analyses to verify basic finished product constituents of fat, protein, calcium, essential amino acid content, and protein efficiency ratio shall be performed by the operator of the establishment or its agent to assure that finished product will meet the requirements in § 319.5(a). Finished product samples shall be analyzed by a laboratory in accordance with methods prescribed in the current "Official Methods of Analysis of the Association of Official Analytical

Chemists,"² or by other appropriate analytical procedures approved by the Administrator in each case.

3. A new § 319.6 would be added to the Federal meat inspection regulations (9 CFR 319.6) to read as follows:

§ 319.6 Limitations with respect to use of Tissue from Ground Bone.

(a) When the Tissue from Ground Bone described in § 319.5 of this Part is used as an ingredient in other meat food products, the finished product shall be labeled in accordance with § 317.2(j) (13) of this subchapter. Products required to be prepared from meat or meat products of one species may contain Tissue from Ground Bone only of the species.

(b) Tissue from Ground Bone described in § 319.5 of this Part may constitute up to 20 percent of the meat portion of any meat food product except listed in paragraph (c) of this section.

(c) Tissue from Ground Bone described in § 319.5 of this Part may not be used in baby (strained), junior or toddler foods, ground beef, hamburger, fabricated steaks (319.15 (a), (b) and (d)), barbecued meats (319.80), roast beef—parboiled and steam roasted (319.81), corned beef cuts (319.100), lima beans with ham and similar products (319.310), beef with gravy and gravy with beef (319.313), and meat pies (319.500).

4. The second sentence of § 319.14(c) would be amended to read:

§ 319.15 Miscellaneous beef products.

(c) . . . Binders or extenders, Tissue from Ground Bone used in accordance with § 319.6, and/or partially defatted beef fatty tissue may be used without added water or with added water only in amounts such that the product's characteristics are essentially that of a meat patty.

§ 319.100 [Amended]

5. Section 319.100 "Corned Beef" would be amended by adding the following immediately after the second sentence: "Tissue from Ground Bone may be used in accordance with § 319.6."

§ 319.105 [Amended]

6. Section 319.105 "Chopped Ham" would be amended by adding a new subsection (b) (10) to read as follows: "Tissue from Ground Bone used in accordance with § 319.6."

7. The first sentence of section 319.141 would be revised to read:

§ 319.141 Fresh pork sausage.

"Fresh Pork Sausage" is sausage prepared with fresh pork or frozen pork or both, and may contain Tissue from Ground Bone in accordance with § 319.6, but not including pork byproducts, and may be seasoned with condimental substances as permitted under Part 318 of this subchapter. . . .

8. The first sentence of § 319.142 would be revised to read:

§ 319.142 Fresh beef sausage.

"Fresh Beef Sausage" is sausage prepared with fresh beef or frozen beef, or

both, and may contain Tissue from Ground Bone used in accordance with § 319.6, but not including beef products, and may be seasoned with condimental substances as permitted under Part 318 of this subchapter. . . .

9. The first sentence of § 319.143 would be revised to read:

§ 319.143 Breakfast sausage.

"Breakfast Sausage" is sausage prepared with fresh and/or frozen meat; or fresh and/or frozen meat and meat byproducts, and may contain Tissue from Ground Bone in accordance with § 319.6, and may be seasoned with condimental substances as permitted in Part 318 of this subchapter. . . .

10. The first sentence of § 319.144 would be revised to read:

§ 319.144 Whole hog sausage.

"Whole Hog Sausage" is sausage prepared with fresh and/or frozen meat from swine in such proportions as are normal to a single animal, and may include any Tissue from Ground Bone produced from the animal and used in accordance with § 319.6, and may be seasoned with condimental substances as permitted under Part 318 of this subchapter. . . .

§ 319.145 [Amended]

11. Section 319.145(a) (1) would be amended to read:

(1) "Italian Sausage" shall be prepared with fresh or frozen pork, or pork and pork fat, and may contain Tissue from Ground Bone in accordance with § 319.6.

12. Section 319.145(a) (2) would be amended by adding the following sentence immediately after the first sentence of that subparagraph: "Tissue from Ground Bone may be used in accordance with § 319.6."

13. Section 319.145(a) (3) is amended by adding the following sentence to the end of that subparagraph: "Tissue from Ground Bone may be used in accordance with § 319.6."

§ 319.180 [Amended]

14. The sixth sentence of § 319.180(a) would be revised to read: "Such products may contain raw or cooked poultry meat not in excess of 15 percent of the total ingredients, excluding water, in the sausage, and Tissue from Ground Bone used in accordance with § 319.6."

15. The seventh sentence of § 319.180 (b) would be revised to read: "These sausage products may contain poultry products, individually or in combination, not in excess of 15 percent of the total ingredients, excluding water, in the sausage, and may contain Tissue from Ground Bone in accordance with § 319.6."

16. The second sentence in § 319.180 (c) would be changed to read: "When such sausage products are prepared with meat from a single species of cattle, sheep, swine, or goats they shall be labeled with the term designating the particular species in conjunction with the generic name, e.g., 'Beef Frankfur-

ter', and when such sausage products are prepared in part with Tissue from Ground Bone in accordance with § 319.6, they shall be labeled in accordance with § 317.2(j) (13) of this subchapter."

§§ 319.104, 319.182, 319.260, 319.261, 319.280, 319.281, 319.300, 319.301, 319.305, 319.306, 319.312, 319.760 [Amended]

17. The following sentence would be inserted immediately after the first sentence of each of the following sections: §§ 319.104(f) Pressed ham, spiced ham, and similar products, 319.182 Liver sausage and braunschweiger, 319.260 Luncheon meat, 319.261 Meat loaf, 319.280 Scrapple, 319.281(a) (1) Bockwurst, 319.300 Chili con carne, 319.301 Chili con carne with beans, 319.305 Tamales, 319.306 Spaghetti with meat balls and sauce, spaghetti with meat and sauce, and similar products, 319.312 Pork with barbecue sauce and beef with barbecue sauce, and 319.760(a) Deviled ham, deviled tongue, and similar products: "Tissue from Ground Bone may be used in accordance with § 319.6."

§§ 319.281, 319.302, 319.304, 319.307, 319.311, 319.600, 319.762 [Amended]

18. The following sentence would be added at the end of the following sections: §§ 319.281(a) (1) Bockwurst, 319.302 Hash, 319.304 Meat stews, 319.307 Spaghetti sauce with meat, 319.311 Chow mein vegetables with meat and chop suey vegetables with meat, 319.600(a) and 319.600(b) Pizza, and 319.762 Ham spread, tongue spread, and similar products: "Tissue from Ground Bone may be used in accordance with § 319.6."

19. Section 319.303 is amended by adding a new subsection (b) (9) to read:

§ 319.303 Corned beef hash.

(b) . . .

(9) Tissue from Ground Bone when derived from carcasses of cattle may be used in accordance with § 319.6.

NOTE: The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on October 4, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety
and Quality Service.

[FR Doc.77-29508 Filed 10-5-77;8:45 am]

¹Send approval request to the Systems Development and Sanitation Staff, Technical Services, Meat and Poultry Inspection Program, Food Safety and Quality Service, U.S. Department of Agriculture (located at 14th and Independence Avenue SW.) Washington, DC 20250.

²Copies of this publication are available from the Association of Official Analytical Chemists, P.O. Box 540, Benjamin Franklin Station, Washington, D.C. 20044.

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3910-01]

DEPARTMENT OF DEFENSE

**Department of the Air Force
SPACE SHUTTLE PROGRAM,
VANDENBERG AFB**

**Extension of Public Review and Comment
Period on Draft Environmental Impact
Statement**

The Council on Environmental Quality announced the availability of the Draft Environmental Impact Statement on the Space Shuttle Program, Vandenberg AFB, Calif., in the FEDERAL REGISTER, Vol. 42, No. 167—Monday, August 29, 1977, with public review and comment period to end on October 10, 1977.

In response to requests from other Agencies, the public review and comment period is extended to October 31, 1977.

For further information contact Mr. R. W. Munsie, Environmental Planning Division, HQ USAF, phone 202-695-1422.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of
Administration.

[FR Doc.77-29466 Filed 10-5-77;8:45 am]

[3810-70]

Office of the Secretary

**PRESIDENT'S COMMISSION ON MILITARY
COMPENSATION**

Notification of Public Hearing

Pursuant to Pub. L. 92-463 notice is hereby given of a Public Hearing to be held by the President's Commission on the Military Compensation from 1 p.m. to 5 p.m., October 19, 1977, at the Hilton Hotel, 200 South Alamo, San Antonio, Tex.

The following rules and regulations govern participation by the public at this hearing:

(1) The hearing will be open to the public.

(2) Presentation of no more than 15 minutes may be made to the Commission, provided application is made in writing by October 14, 1977. A copy of the presentation must be received by the Commission not later than one day before the hearing. Address is 666 11th St. NW., Suite 520, Washington, D.C. 20001. Telephone 202-693-1290.

(3) The local area representative of the Commission for the purposes of the public hearing is Captain V. Starkes, USAF, Randolph Air Force Base, San Antonio, Tex. Telephone 512-652-6601.

(4) The agenda of the public hearing will be determined by the Commission, based on the following factors:

a. Order of receipt of application.
b. Desire to hear from as many different groups and individuals as possible.

(5) Applicants are encouraged to offer prepared remarks of no more than 10 minutes in order to permit questioning by the Commissioners.

(6) Questions and statements from the gallery will not be accepted.

MAURICE W. ROCHE,
Director, Correspondence and
Directives OASD (Comptroller).

OCTOBER 3, 1977.

[FR Doc.77-29338 Filed 10-5-77;8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder
License No. 1405]

AMERICAN OCEANAIR EXPRESS, INC.

Order of Revocation

By letter dated August 30, 1977, Mr. Paul Donatelli, President, American Oceanair Express, Inc., 10910 La Cienega Blvd., Inglewood, Calif. 90304 was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1405 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before September 28, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

American Oceanair Express, Inc., has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised) Section 5.01 (c) dated June 30, 1975:

It is ordered, that Independent Ocean Freight Forwarder License No. 1405 issued to American Oceanair Express, Inc. be returned to the Commission for cancellation.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1405 be and is hereby revoked effective September 28, 1977.

It is further ordered, that a copy of this order be published in the FEDERAL

REGISTER and served upon American Oceanair Express, Inc.

LEROY F. FULLER,
Director, Bureau of Cer-
tification and Licensing.

[FR Doc.77-29425 Filed 10-5-77;8:45 am]

[6730-01]

**PHILADELPHIA PORT CORP. AND LAVINO
SHIPPING CO.**

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California, and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 26, 1977.

Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Francis A. Scanlan, Esquire, Deasey, Scanlan & Bender, Ltd., Suite 2900, Two Girard Plaza, Philadelphia, Pa. 19102.

Agreement No. T-2553-A, between the Philadelphia Port Corporation (Port) and Lavino Shipping Company (Lavino), provides for: (a) An extension of the Packer Avenue Container Terminal crane rails approximately 730 feet upriver onto the Packer Avenue Marine Terminal (a breakbulk facility which is also operated by Lavino); and (b) the demolition of transit shed A/3, which is located on the

Packer Avenue Marine Terminal. As compensation, the Port is to receive 10.36 percent annually of the capital cost of these improvements.

By Order of the Federal Maritime Commission.

Dated: October 3, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29424 Filed 10-5-77;8:45 am]

[4110-39]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Education

PANEL FOR THE REVIEW OF LABORATORY AND CENTER OPERATIONS

Meeting

Notice is hereby given that the next meeting of the Panel for the Review of Laboratory and Center Operations will be held on October 22-23, 1977, at the National Institute of Education, 1200 19th Street NW., Washington, D.C., in Room 823. The Panel will meet from 9 a.m. until 5 p.m. on October 22 and from 9 a.m. until 12:30 p.m. on October 23.

The Panel for the Review of Laboratory and Center Operations is established under Section 405 of the General Education Provisions Act as amended by Section 403(d) of the Education Amendments Act of 1976, 20 U.S.C. 1221e. Its functions include:

(a) Preparing recommendations on initial long-range funding and program plans submitted by the 17 educational laboratories and research and development centers;

(b) Reviewing and assessing the operations of the laboratories and centers and making recommendations for the improvement and continuation of individual laboratories and centers and for the support of new laboratories and centers.

The entire meeting will be open to the public. The tentative agenda is as follows:

Saturday, October 22

9 a.m.—Convene.
9-9:15—Approve September 11-12 minutes.
9:15-10—General business.
10-12—Discussion of the development of criteria for the review of long-range plans.
12-1:30—Lunch.
1:30-5—Resume discussion of above.

Sunday, October 23

9-11:30—Resume discussion of the development of criteria for the review of long-range plans.
11:30-12:30—Discussion of future meeting dates and agenda.

Members of the public are invited to attend the sessions. Written statements relevant to an agenda item (or to any other items considered of interest to the Institute) may be submitted at any time and should be sent to Ms. Carolyn Breedlove at the address shown below.

In accordance with the announcement previously made, 42 FR 43131, August 26, 1977, copies of the records of all Panel proceedings can be obtained by con-

NOTICES

tacting Ms. Carolyn Breedlove. Minutes require approval by the Panel at a subsequent meeting and are available to the public two weeks following their approval hereafter.

In order to verify the tentative agenda, or assure adequate seating arrangements, interested persons are requested to contact Ms. Carolyn Breedlove whose address and telephone number are listed below:

Panel for the Review of Laboratory and Center Operations, National Institute of Education, Washington, D.C. 20208 (202-254-5680).

Dated: October 3, 1977.

CAROLYN BREEDLOVE,

Staff Director Panel for the Review of Laboratory and Center Operations.

[FR Doc.77-29504 Filed 10-5-77;8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1079]

SHANNON CISCO

Petitions for Reconsideration of Actions in Rule Making Proceedings Filed

SEPTEMBER 30, 1977.

Docket or RM No.	Rule No.	Subject	Date received
RM-2941	Pr. 97	Request to relicense former holders of conditional license whose licenses have expired Filed by Shannon Cisco, petitioner.	Sept. 20, 1977

NOTE: Oppositions to petitions for reconsideration must be filed on or before Oct. 21, 1977. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-29355 Filed 10-5-77;8:45 am]

[3128-08]

FEDERAL ENERGY ADMINISTRATION

MONITORING OF MIDDLE DISTILLATE PRICES

Public Hearing

AGENCY: Federal Energy Administration.

ACTION: Notice of public hearing.

SUMMARY: FEA proposes to continue a monitoring system for the prices of middle distillates and to establish a price level index for residential sales of No. 2 heating oil. The proposal would permit a comparison of actual prices charged for residential sales of No. 2 heating oil with the prices which FEA estimates would have prevailed under continued controls. If actual prices exceed the index price level, FEA proposes to take appropriate action.

DATES: Comments by October 21, 1977, 4:30 p.m.; Requests to speak by October 14, 1977, 4:30 p.m.

HEARING DATES

Washington Hearing: October 19, 1977, 9:30 a.m. Boston Hearing: October 20, 1977, 9:30 a.m. New York Hearing: October 17, 1977, 9:30 a.m. Chicago Hearing: October 17, 1977, 9:30 a.m.

ADDRESSES: All comments to: Executive Communications, Room 3317, Federal Energy Administration, Box PW, Washington, D.C. 20461.

REQUESTS TO SPEAK

Washington Hearing: Attn: Executive Communications, 12th and Pennsylvania

Avenue NW., Room 3317, Box PW, Washington, D.C. 20461. Boston Hearing: Federal Energy Administration, Attn: D. Novick, 150 Causeway Street, Room 700, Boston, Mass. 02114. New York Hearing: Federal Energy Administration, Attn: Eugene W. Hennessy, 26 Federal Plaza, Room 3200, New York, N.Y. 10007. Chicago Hearing: Federal Energy Administration, Attn: Charles Swank, 175 West Jackson Boulevard, Chicago, Ill. 60604.

HEARING LOCATIONS

Washington Hearing: Room 3000A, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461. Boston Hearing: John F. Kennedy Federal Building, Room 2003, Government Center, Boston, Mass. 02114. New York Hearing: Federal Building, Room 305C, 26 Federal Plaza, New York, N.Y. 10007. Chicago Hearing: Federal Building, Room 3619, 230 South Dearborn Street, Chicago, Ill. 60604.

FOR FURTHER INFORMATION CONTACT:

Ed Vilade (Media Relations), 12th and Pennsylvania Avenue NW., Room 3104, Washington, D.C. 20461 (202-566-9833).

Gerald P. Emmer (Office of Regulatory Programs), 2000 M Street NW., Room 2304, Washington, D.C. 20461 (202-254-7200).

Ben McRae (Office of the General Counsel), 12th and Pennsylvania Avenue NW., Room 5134, Washington, D.C. 20461 (202-566-9565).

SUPPLEMENTARY INFORMATION:

I. Background.
II. Proposals.
III. Comment Procedures.

NOTICES

I. BACKGROUND

A. DEREGULATION OF MIDDLE DISTILLATES

On June 15, 1976, FEA issued and submitted to the Congress two separate amendments which provided for the exemption of middle distillates from allocation and price controls. These amendments became effective July 1, 1976.

In response to concerns expressed by some members of Congress, FEA committed to take certain actions following the effectiveness of the exemption to insure that no unwarranted price increases would occur once controls were removed. FEA stated that it would adopt a system for monitoring prices of middle distillates, which would compare actual prices with projections of what prices would have been if controls had remained in effect.

In addition, FEA informed the Congress that a set-aside procedure to be administered by FEA's regional offices would be established to operate to insure that during the transitional period following removal of controls no marketer would lose its supply source without adequate time to arrange for a new supplier.

FEA's commitment with respect to price monitoring expired March 31, 1977, but the weekly monitoring system was nevertheless extended through April 30, 1977, and a monthly monitoring system has been maintained.

B. PRICE MONITORING SYSTEM ADOPTED

On September 15, 1976, FEA adopted the following price monitoring system. (41 FR 41155, September 21, 1976.)

1. *National Index Price.* In general, two separate national index prices were computed based on actual average June 1976 prices for No. 2 heating oil and No. 2-D diesel fuel, adjusted to take into account: (1) seasonal price variations of both products during 1960-1967, (2) actual increases or decreases in the prices of imported and domestic crude oil, (3) actual increases or decreases in the prices of imported middle distillates (weighted by their monthly relative volumes in 1972, the last normal import year before the embargo), (4) increases in non-product costs of refiners, as defined and limited under FEA cost passthrough regulations, and estimated increases in operating costs of resellers and retailers, and (5) a two-cent per gallon flexibility factor.

Prices for No. 1-D diesel fuel, kerosene, and other middle distillates not included in the index were periodically monitored by FEA using sales price data reported to FEA by refiners and large resellers. If price increases for such products not in the index differed significantly from price increases for products in the index, FEA undertook to investigate and take appropriate action.

2. *National Monitoring.* FEA surveyed actual average national prices for No. 2 heating oil and No. 2-D diesel fuel at the retail level (i.e., prices to all end users, including residential, commercial, and industrial), and compared these prices with the national index prices for

the corresponding period. FEA also monitored prices at the refiner and reseller levels to determine relative price changes for refiners, resellers, and retailers.

3. *Remedial Process.* If actual average national prices exceeded the national index prices, FEA undertook to hold public hearings within ten days to determine the causes and appropriate remedies for the pricing excess.

4. *Regional Index Prices and Monitoring.* FEA adopted a system of regional index prices, which were computed and monitored on essentially the same basis as the national index prices, to protect against unduly disproportionate price increases in one or more regions even though actual average national prices might not exceed the national index prices.

Actual regional price data were determined in a manner similar to that used for monitoring actual national price levels. FEA also monitored "rack" prices by state. If actual average regional retail prices exceeded the index prices for that region FEA undertook to initiate remedial action in accordance with the same procedures outlined for national index prices. Four regions were adopted: Northeast, North Central, South, and West.

5. *Two-Month Cost Lag Replaced by One-Month Lag.* Index prices were originally calculated so that the factors for increased crude oil costs, increased prices for imported middle distillates and refiners' increased nonproduct costs were included with a two-month lag, which allowed these costs to be based on actual data reported to the FEA. Thus, except to the extent that actual increases in middle distillate prices resulting from an increase in crude oil prices, import prices, or refiners' increased nonproduct costs were absorbed by a two-cent per gallon flexibility factor, the index prices assumed that refiners would absorb these increased costs for two months. However, under continued controls, FEA would have required refiners to absorb any such increase for only one month before passing it through. Because such a result was not consistent with the intent of the index value mechanism, FEA revised the index methodology effective February 1, 1977, to reduce the two-month lag to one month (42 FR 9415, February 16, 1977).

6. *North Central Regional Index Prices Exceeded by Actual Prices.* In March 1977, FEA recalculated the weekly middle distillate monitoring system figures for January to include final information received on actual prices for all sales to ultimate customers. FEA found that actual prices exceeded the index price by 0.4 of a cent in the North Central region during January. Preliminary calculations indicated that actual prices exceeded the index price in the North Central region during March. Therefore, FEA held hearings in Chicago on April 4 and April 12. On May 26, 1977, FEA announced that it would take no action with respect to the previous heating season, but issued a Further Notice of Pro-

posed Rulemaking and Public Hearing on the monitoring of middle distillate prices to consider further action, if appropriate, with respect to middle distillate prices during the following heating season.

7. *Hearings on Further Action with Regard to Middle Distillate Prices.* In the period July 11 through 15, 1977, FEA held regional hearings in the following cities: Boston, New York, Chicago, Seattle, and Atlanta. National hearings were also held in Washington, D.C., from August 2, 1977, to August 4, 1977.

II. PROPOSALS

A. COMMENTS ON FURTHER ACTION WITH RESPECT TO MIDDLE DISTILLATE PRICES

FEA received 99 oral and written comments with regard to the operation of the monitoring system during the previous heating season addressed to what action, if any, should be taken for the 1977-78 heating season. These comments encompassed a broad spectrum of viewpoints, including: Member of U.S. Congress (1); State Governments (15); Fuel Oil Dealers/Distributors (6); Major Fuel Consumer (1); Community Action/Consumer Organizations (3); Fuel Terminal Operator (1); Trade Associations (29); Major Refiners (14); Independent Refiners (6); Business Organizations (9); Other Trade Groups (2); Religious Organization (1); Truck Rental (1); Dealers (2); Small Refiners (3); and Transit Authorities (2). Most of these comments centered on retention of the monitoring system and the possible reimposition of controls on middle distillates.

The possible reimposition of controls elicited the most responses. Those who opposed reimposition of controls greatly outnumbered those who favored their reimposition. Industry spokesmen pointed out that the severe winter had caused problems with deliveries to consumers and that if middle distillates had been under controls, dealers could not have responded as quickly, as they had. These comments urged that controls would have caused disastrous conditions during the 1976-77 winter and that the reimposition of controls would in effect, have the same results in the following heating season. Consumer groups clearly favored reimposition of controls, stating that: (1) The effects of deregulation fell more heavily on low and fixed-income persons, and (2) the monitoring system adopted by FEA did not accurately reflect the situation faced by consumers and did not serve to maintain reasonable and equitable prices.

On the basis of the comments received by FEA, and based upon the data currently available, FEA has determined not to reimpose price and allocation controls on middle distillates for the coming heating season, because the supply problems of last winter would most likely have been much more severe if the supply response had been constrained by controls. Moreover, market disruptions following decontrol may have resulted, in large part, in index prices having been ex-

ceeded last winter; and because those disruptions are not likely to continue now that the market has adjusted to decontrol, FEA does not expect index prices to be exceeded this winter. Nevertheless, as is more fully discussed below, FEA will retain the option of reimposing controls in the event that index prices are exceeded this winter.

Over twice as many comments opposed continuation of the monitoring system as comments which favored its retention. Industry spokesmen stated that the monitoring system imposed stricter constraints on prices than continued controls because the index price did not include banked costs which would have been allowed for pass through under continued controls. They also contended that the index was understated due to its inability to recognize additional costs incurred last winter, such as extraordinary transportation costs and increased costs of blending No. 1 heating oil with No. 2 heating oil, and that the index provided a disincentive to the importation of middle distillates during shortages because the impact of increased import costs on the index was limited by the use of 1972 import volumes as a "cap."

Among state governments and consumer groups there was strong support for retention of the monitoring system. However, many of these comments indicated that the system did not reflect the actual market situation faced by residential consumers since the system combined sales of No. 2 heating oil for residential use and for non-residential use into one category, even though prices charged to residential customers generally exceed those charged to non-residential customers. Several comments suggested that the system could have more precisely reflected market conditions through the separate monitoring of refiners, resellers, and retailers.

Comments also indicated that the use of four regions did not accurately reflect price conditions in many sections of the country since, in some instances, these regions grouped areas which traditionally had lower prices with areas which traditionally had higher prices. Had FEA established a monitoring system on a state or FEA regional level, these comments stated that the index price would have been exceeded in many of the individual states or regions.

Consumer groups expressed concern that there was insufficient justification for the two cent flexibility factor, and that the use of a two cent factor resulted in unjustified profits for major refiners.

Some comments stated that the system of weekly updates to the monitoring system, which were based on estimates, did not provide a reliable indication of what the more accurate monthly monitoring system would disclose. These comments pointed to the month of April 1977 when the weekly indices were exceeded on a national basis by one-tenth to two-tenths of a cent, in the South Region by five-tenths to six-tenths of a cent, and in the North Central Region by 1.1 to 1.2 cents. The subsequent and more accurate monthly index was exceeded only in the North Central Region.

As a result of FEA's analysis and evaluation of these comments and on the basis of FEA's experience with the current monitoring system, FEA is proposing to continue the monitoring system for the 1977-78 heating season, but is soliciting comments on modifications to the system to correct for some of the deficiencies highlighted by the comments.

B. PRICE MONITORING PROPOSAL

1. *General.* The following monitoring system, which FEA proposes for the coming heating season, would monitor prices for residential sales of No. 2 heating oil by developing national and regional index prices, representing the average price levels which FEA estimates would have prevailed had No. 2 heating oil remained under price controls. Unlike the monitoring system used during the past heating season, the proposed system would calculate an index price level only for residential sales of No. 2 heating oil in order to provide a more accurate description of prices charged to residential consumers.

FEA does not propose to compute separate residential indices for refiners, since refiners' direct sales to consumers account for only a small portion of total residential sales. However, FEA would calculate No. 2 heating oil margins (based on survey data) for refiners as an analytical tool in determining the source of unwarranted price increases, if any.

FEA does not propose to continue computation of No. 2 diesel fuel index values, but the survey of No. 2 diesel fuel prices will continue, with FEA's Retail Motor Fuels Service Station survey replacing the Lundberg survey when it is available.

2. *Survey and Publication of Data.* Under the proposal, FEA would measure average actual prices at the retail level and calculate index prices on a monthly basis during the heating season, publishing index values and survey prices two months after the month to which they pertain. Survey prices will be adjusted by one-tenth of a cent at the national level and two-tenths of a cent at the regional level to allow for statistical errors. Weekly updates to the index price would be discontinued since during the last heating season such updates were not as accurate as the monthly figures and resulted in confusion as to whether the index price had actually been exceeded.

3. *National Index Price.* In general, the national index price would be computed each month based on actual average June 1977 prices for residential sales of No. 2 heating oil. The following adjustments to the base price would be made to compute monthly national index prices:

$$\text{Index price} = \text{Seasonal Factor} \times \left[\text{June 1977 Price} + \text{Distillate Reverse Tilt} \right] \times \left[\frac{\text{Change in Crude Oil Costs} + \text{Change in Refiners Nonproduct Costs}}{\text{Change in Refiners Nonproduct Costs}} + \frac{\text{Change in Retailers Margin}}{\text{Change in Refiners Nonproduct Costs}} \right] + \text{Adjustment for Imports}$$

a. Monthly changes in refiners' crude oil costs would be added to or subtracted from the base price.

b. Monthly changes in refiners' non-product costs would be added to or subtracted from the base price. FEA proposes to permit refiners to include within this category extraordinary transportation costs which refiners can substantiate. These costs should present no problem as to quantification and their inclusion might help to insure the delivery of heating oil to distant customers.

c. A "reverse tilt" factor representing the less than proportionate share of costs allocated to No. 2 heating oil would be applied to the refiners' crude oil and nonproduct costs. Inasmuch as the "reverse tilt" factor would be included in the calculation of the index price for No. 2 heating oil to provide consistency between the index for No. 2 heating oil and any proposed index for gasoline which would include a "gasoline tilt" factor, FEA proposes to adopt such a reverse tilt only if gasoline is decontrolled and a monitoring system is adopted. The reverse tilt would take into account the amount of costs attributable to distillates on a volumetric basis, shifted to gasoline prices during the period that controls allowed for such a shift. Since costs attributable to middle distillates cannot be passed through to prices of gasoline as long as it remains subject to controls, FEA has calculated this factor based on data during the period when both gasoline and middle distillates were controlled. The factor also reflects the fact that such cost reallocations affected all middle distillates and not merely No. 2 heating oil.

d. Monthly changes in retailers margins would be added to or subtracted from the base price.

e. A "seasonal factor", which would simulate the normal historical seasonal pattern of prices for residential sales of No. 2 heating oil, would be applied to the sum of the base price, changes in crude oil costs, changes in refiners nonproduct costs and changes in retailers' margins.

f. Monthly changes in the cost of imported No. 2 heating oil would be added to or subtracted from the base price. FEA proposes to abandon the use of the 1972 import ratio as a cap to the magnitude of this figure since such a cap might prove a disincentive to imports of No. 2 heating oil during a severe winter. Therefore, FEA proposes to base the import adjustment on actual import prices and volumes, with a one-month lag.

A summarized form of the equation which FEA proposes to use to determine the national index price follows:

Appendix 1 contains a more detailed explanation of the formula in equation form, for both the national index and the regional indices.

3. *Regional Monitoring System.* Regional index prices would be computed on essentially the same basis as the national index price, except that the June 1977 price and some of the adjustment factors would of course, relate to the region concerned rather than the nation.

To achieve a more valid sample of prices in the various sections of the nation, FEA proposes to implement monitoring systems for the ten FEA regions instead of the four regions used during the last heating season. FEA regions were chosen for three reasons: (1) They are the most disaggregated of standard governmental regional classifications; (2) they provide reasonable approximations to heating oil marketing areas; and (3) they facilitate the administration of the survey by the FEA regional offices.

Moreover, FEA proposes to expand the sampling universe to provide statistically valid state average prices, which would be less precise than the regional average prices, for those states with significant sales of residential heating oil. This would necessitate augmentation of the sample for those states and calculation of base residential prices. State averages would be used to respond to consumer inquiries about heating oil prices but would not be used for comparison against index values. A listing of the states for which FEA would compile average prices appears in Appendix II.

4. *Remedial Actions.* FEA proposes to consider various actions if prices exceed index levels. In this regard, FEA solicits comments on a broad range of options which might be available in the event that any such action becomes necessary.

a. *National or Regional Index Exceeded.* In the event that either the National or one or more of the Regional indices was exceeded, FEA would at the earliest possible time schedule regional and/or national hearings to determine the causes for the particular index or indices having been exceeded, and to consider appropriate remedies to correct for prices having been greater than was anticipated.

For purposes of this proceeding, FEA solicits comments as to whether FEA should schedule such hearings in response to a particular index having been exceeded for one month only, or whether FEA should continue to monitor prices in subsequent months to determine if the index having been exceeded in a particular month reflected such anomalies as not to warrant the immediate scheduling of a public hearing.

FEA proposes to retain a significant degree of flexibility with respect to its actions if a particular Regional index has been exceeded. Thus, public hearings might be scheduled only after a significant number of Regional indices had been exceeded in a particular month, depending upon the particular factors associated with the index or indices having been exceeded.

Following the receipt of comments at a public hearing, FEA could take corrective action consisting of reimposition of complete price and allocation controls for some or all regions, as well as specific actions with respect to particular firms as discussed below. FEA has preliminarily determined that unless there were a strong showing that immediate reimposition of partial or complete controls was absolutely necessary during the current heating season, such reimposition of controls would be considered for the heating season following the one in which the index was exceeded.

b. *Actions with respect to Individual Firms.* FEA solicits comments addressed to the following possible actions against individual firms. FEA proposes to conduct preliminary audits of selected refiners and retailers in order to identify those firms that appear to be contributing to the possibility of a particular index being exceeded, by increasing prices for sales of No. 2 heating oil in excess of the particular firm's actual increased costs attributable to No. 2 heating oil. To the extent that a preliminary audit has indicated that a firm might have exceeded its historical margin, FEA would conduct a comprehensive audit of the firm concerned, and would afford the firm an opportunity for a non-public hearing at which to justify increased prices for sales of No. 2 heating oil in excess of historical margins. In order to deter firms from unjustified price increases which would contribute to indices having been exceeded, FEA would on the basis of its findings of audits and hearings publish on a periodic basis a list of those firms that have unjustifiably increased prices in excess of increased costs, and are thus responsible for price excesses.

Moreover, FEA seeks to ensure that individual firms are deterred from exceeding historical margins in the belief that excessive price increases effected during a period of decontrol would be permitted to be retained following reimposition of controls. Also, FEA believes that should the reimposition of controls become necessary, it would be inequitable to require remedial actions of firms that did not contribute to pricing excesses. Accordingly, should reimposition of controls become necessary, FEA would require firms that increased prices to levels that reflect more than actual increased costs to make corresponding adjustments to prices subsequent to the reimposition of controls to reflect revenues received during the period of decontrol in excess of actual increased costs.

5. *Request for specific comments.* While comment is solicited on any aspect of this Notice, comments are particularly sought with respect to the following:

Several refiners expressed the opinion that calculation of the price index should reflect the cost of blending No. 1 heating oil with No. 2 heating oil. However, it appears that this practice occurs only in a few areas of the nation and only in very limited circum-

stances. FEA invites further comments on this practice, and any data which might show the actual extent of this practice and its effects on the price of No. 2 heating oil, so that FEA can determine whether to propose the inclusion of a factor in the price index formula to reflect such blending.

FEA has analyzed and evaluated the two cent flexibility factor used under the current monitoring system and has concluded that two cents represented a fair figure to account for the pricing changes that were anticipated following the deregulation of middle distillates. However, FEA believes that the readjustments to an unregulated market that were associated with deregulation of middle distillates should by this time be fully accounted for and not likely to continue to occur. June 1977 prices represent, on a nation wide basis, a full utilization of the two cent factor, and should serve for the future as a fair indication of target prices for residential sales of No. 2 heating oil. Therefore, the proposed price index would not include any flexibility factor. FEA invites further comments on whether the price index should include a flexibility factor and if so, the appropriate value for such a factor. It should be noted in this regard that although this proposal is to use June 1977 as the base month for the index price, it may be necessary to use August 1977 if the necessary forms for collection of June data are not approved for use prior to the implementation of the proposed monitor system. Comments on whether there would be any significant difference resulting from the use of August rather than June as the base month are therefore requested.

III. COMMENT PROCEDURES

Interested persons are invited to participate in this matter by submitting data, views, or arguments with respect to the proposals set forth in this notice to Executive Communications, Room 3317, Federal Energy Administration, Box PW, Washington, D.C. 20461.

Comments should be identified on the outside envelope and on documents submitted to FEA Executive Communications with the designation "Proposal for Monitoring Middle Distillate Prices." Fifteen copies should be submitted. All comments received by October 21, 1977, before 4:30 p.m., e.s.t., will be considered by FEA before final action is taken in this matter.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

The times and places for the hearings are indicated in the dates section of this preamble. If necessary to present all testimony, the hearing will be continued at 9:30 a.m. of the next business day following the first day of the hearing.

Any person who has an interest in this matter, or who is a representative of a group or class of persons that has an

interest in this matter, may make a written request for an opportunity to make oral presentation. The person making the request should be prepared to describe the interest concerned, if appropriate, to state why he or she is a proper representative of a group or class of persons that has such an interest, and to give a concise summary of the proposed oral presentation and a phone number where he or she may be contacted through October 14, for regional hearings and October 17 for the national hearing. Each person selected to be heard will be so notified by FEA before 4:30 p.m., October 14, 1977, for regional hearings and by October 17 for the National hearing. Each person must submit 100 copies of his or her statement to the address given above for requests to speak, for the National hearing, before 4:30 p.m., October 18, 1977. Persons scheduled to speak at regional hearings must bring 100 copies of his or her statement to the hearing.

FEA reserves the right to select the persons to be heard at the public hearing, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearing. The length of each presentation may be limited, based on the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearing, which will not be a judicial or evidentiary-type hearing. Questions may be asked only by those conducting the hearing, and there will be no cross-examination of persons presenting statements. At the conclusion of all initial oral statements, each person who has made an oral statement will be given the opportunity, if he or she so desires, to make a rebuttal statement. The rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations.

Any interested person may submit questions, to be asked of any person making a statement at the hearing. Such questions must be submitted to the address indicated above for requests to speak, before 4:30 p.m., October 17, 1977, for the National hearing. Questions to be asked at regional hearings should be brought to the hearing. Any person who wishes to ask a question at the hearing

may submit the question, in writing, to the presiding officer. FEA or the presiding officer, if the question is submitted at the hearing, will determine whether the question is relevant and whether the time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearing will be announced by the presiding officer.

A transcript of the hearing will be made and the entire record of the hearing, including the transcript, will be re-

tained by FEA and made available for inspection at the FEA Freedom of Information Office, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

Issued in Washington, D.C., September 30, 1977.

ERIC J. FYGI,
Acting General Counsel.

APPENDIX I

The general format of the formula is as follows:

$$\text{Index price} = \text{Seasonal Factor} \times \left[\frac{\text{June 1977 Price}}{\text{Distillate Tilt}} + \frac{\text{Change in Crude Oil Costs}}{\text{Change in Refiners Costs}} + \frac{\text{Change in Nonproduct Costs}}{\text{Change in Retailers Margin}} + \frac{\text{Adjustment for Imports}}{\text{Adjustment for Imports}} \right]$$

The specific calculations for the middle distillate index prices are detailed below:

a. National index price for residential heating oil sales.

$$P_h^t = S^t \left\{ P_h^a + K_h \left[(C^{t-1} - C^b) + \frac{(N^{t-1} - N^b)}{V^{t-1}} \right] + d \left(\frac{N^{t-1}}{N^b} - 1 \right) M \right\} + [R^{t-1}(I_f^{t-1} - I_f^b) + \Delta R^{t-1}(I_f^b - I_d^b)]$$

b. Regional index price for residential heating oil sales.

$$P_{hr}^t = S^t \left\{ P_{hr}^a + K_h \left[(C^{t-1} - C^b) + \frac{(N^{t-1} - N^b)}{V^{t-1}} \right] + d \left(\frac{N^{t-1}}{N^b} - 1 \right) M \right\} + [R^{t-1}(I_{rf}^{t-1} - I_{rf}^b) + \Delta R^{t-1}(I_{rf}^b - I_{rd}^b)]$$

Where:

- P_h^t = predetermined price for sales of No. 2 heating oil to residential users nationwide during month t.
- P_{hr}^t = weighted average price for No. 2 heating oil sold nationwide to residential users during June 1977, determined by a statistically valid sample of sellers of No. 2 heating oil to residential users.
- S^t = Multiplicative seasonal adjustment factor for heating oil. Seasonal factor derived from Bureau of Labor Statistics No. 2 heating oil consumer price index for the period 1960 through 1967.
- C^{t-1} = unit crude oil costs in month t-1 reported to FEA on FEA Form P-110-M-1.
- C^b = unit crude oil costs in May 1977.
- N^{t-1} = nonproduct costs for refiners during the month t-1 reported to the FEA on Form P-302-M-2. These costs represent the amount of nonproduct costs that refiners are permitted to pass through under current pricing regulations, plus extraordinary transportation costs that can be substantiated.
- N^b = nonproduct costs for refiners in May 1977.
- V^{t-1} = total volume of sales of refined products in month t-1 derived from refining operations. Total derived from refined product volumes reported to the FEA on Form P-302-M-1, or Form P-302-M-2 when available, adjusted for import volumes.
- d = percentage of No. 2 heating oil sales to residential users accounted for by nonrefiners nationwide, estimated from No. 2 heating oil sales data reported to the FEA.
- d_r = percentage of No. 2 heating oil sales to residential users accounted for by nonrefiners in region r estimated from No. 2 heating oil sales data reported to the FEA.
- W^{t-1} = Bureau of Labor Statistics wage index for Truckers and Warehousemen (SIC42) for the month t-1.
- W^b = Bureau of Labor Statistics wage index for Truckers and Warehousemen (SIC42) for August 1977.

M = gross margin in cents per gallon for sales to residential users nationwide by nonrefiners for the month June 1977 estimated from FEA's No. 2 Heating Oil Monitoring System.

M_r = gross margin in cents per gallon for sales to residential users by nonrefiners selling No. 2 heating oil in region r for the month June 1977 estimated from FEA's No. 2 Heating Oil Monitoring System.

K_h = heating oil tilt factor to measure the less than proportionate allocation of costs to No. 2 heating oil measured on the basis of costs and wholesale prices over the period July 1975 to June 1977 (preliminary estimate = .983).

I_f^{t-1} = the imported price of distillates for the nation in month t-1, obtained from the Monthly Petroleum Product Price Report (Form P-302-M-1), or Form P-302-M-2 when available.

R^{t-1} = fraction of total sales of distillates nationwide accounted for by imports during time period t-1, obtained from FEA's Monthly Petroleum Product Price Report (Form P-302-M-1), or Form P-302-M-2 when available.

R_r^{t-1} = change in the above fraction nationwide from May 1977 to time period t-1.

I_f^b = price of distillates imported nationally in May 1977.

I_d^b = wholesale price for domestic sales of distillates nationwide during May 1977.

I_{rf}^{t-1} = the imported price of distillates for region r in month t-1, obtained from the Monthly Petroleum Product Price Report (Form P-302-M-1), or Form P-302-M-2 when available.

R_r^{t-1} = fraction of total sales of distillates in region r accounted for by imports during time period t-1, obtained from FEA's Monthly Petroleum Product Price Report (Form P-302-M-1), or Form P-302-M-2 when available.

R_r^b = change in the above fraction from May 1977 to time period t-1 in region r.

P_{hr}^t = predetermined price for sales of No. 2 heating oil to residential users in region r during month t.

P_{hr}^a = weighted average price for No. 2 heating oil sold to residential users in region r during June 1977, determined by a statistically valid sample of sellers of No. 2 heating oil to residential users.

S^t = Multiplicative seasonal adjustment factor for heating oil. Seasonal factor derived from Bureau of Labor Statistics No. 2 heating oil consumer price index for the period 1960 through 1967.

C^{t-1} = unit crude oil costs in month t-1 reported to FEA on FEA Form P-110-M-1.

C^b = unit crude oil costs in May 1977.

N^{t-1} = nonproduct costs for refiners during the month t-1 reported to the FEA on Form P-302-M-2. These costs represent the amount of nonproduct costs that refiners are permitted to pass through under current pricing regulations, plus extraordinary transportation costs that can be substantiated.

N^b = nonproduct costs for refiners in May 1977.

V^{t-1} = total volume of sales of refined products in month t-1 derived from refining operations. Total derived from refined product volumes reported to the FEA on Form P-302-M-1, or Form P-302-M-2 when available, adjusted for import volumes.

d = percentage of No. 2 heating oil sales to residential users accounted for by nonrefiners nationwide, estimated from No. 2 heating oil sales data reported to the FEA.

d_r = percentage of No. 2 heating oil sales to residential users accounted for by nonrefiners in region r estimated from No. 2 heating oil sales data reported to the FEA.

W^{t-1} = Bureau of Labor Statistics wage index for Truckers and Warehousemen (SIC42) for the month t-1.

W^b = Bureau of Labor Statistics wage index for Truckers and Warehousemen (SIC42) for August 1977.

i_b = price of distillates imported into region r in May 1977.
 r_f
 i_b = wholesale price for domestic sales of distillates in region r during May 1977.
 r_d

Superscripts used in the formulae refer to time periods as follows:

- a refers to June 1977.
- b refers to May 1977.
- t refers to the month for which the index is being computed.
- $t-1$ refers to the month one month before the month for which the index is being computed.

Subscripts used in the formulae refer to the following:

- d refers to domestic middle distillates.
- f refers to imported middle distillates.
- h refers to No. 2 heating oil.
- r refers to a particular region.

[FR Doc. 77-29302 Filed 10-3-77; 8:45 am]

[3128-01]

PRIVACY ACT OF 1974

Proposed New Systems of Records

AGENCY: Federal Energy Administration.

ACTION: Notice of Proposed New Systems of Records.

SUMMARY: Notice is hereby given that the Federal Energy Administration (FEA) is proposing to add to its existing and previously proposed systems of records, as published on September 30, 1977 (42 FR 53480), two additional systems to be designated as "FEA-24, Strategic Petroleum Reserve Personnel List" and "FEA-25, Low-Income Weatherization Program Home Report Records." In accordance with 5 U.S.C. 552(a)(1), Office of Management and Budget (OMB) Circular No. A-108 and the transmittal memorandum thereto, a report on these systems of records has been filed, concurrent with this publication, with the Acting Director of the Office of Management and Budget, the Speaker of the House of Representatives, the President of the Senate, and the Privacy Protection Study Commission.

Written comments will be received with respect to these proposals; however, it is the intent of FEA to operate the proposed systems of records at the expiration of the advance notice period if no comments to the contrary are received.

DATES: Comments by November 7, 1977, 4:30 p.m.

ADDRESS: Written comments to: Executive Communications, Room 3317, Federal Energy Administration, Box PU, Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

John Treanor, Privacy Act Officer, Room 2121, 12th and Pennsylvania

Avenue NW., Washington, D.C. 20461 (202-566-9840).

William D. Luck, Office of General Counsel, Room 6144, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9296).

SUPPLEMENTARY INFORMATION:

I. Narrative Statement for FEA-24, as required by the Privacy Act of 1974 and OMB Circular No. A-108: A. Purposes; B. Authority; C. Potential consequences on individual privacy; and D. Safeguards against unauthorized access.

II. Narrative Statement for FEA-25, as required by the Privacy Act of 1974 and OMB Circular No. A-108: A. Purposes; B. Authority; C. Potential consequences on individual privacy; and D. Safeguards against unauthorized access.

III. Comment procedures: Narrative statements as required by the Privacy Act of 1974 and OMB Circular No. A-108.

I. FEA-24, Strategic Petroleum Reserve Emergency Personnel List.
 A. Purposes. The information contained in this system is used as a reference for the telephone numbers of persons involved with the operation of the Strategic Petroleum Reserve Program. The establishment of this system is a necessary precaution to guard against an emergency situation during which the appropriate FEA personnel or contractors or other Government personnel could not be contacted.

B. Authority. The authority for the maintenance of this system is as listed in the proposed system notice. This system is established under the authority vested in the FEA Administrator contained in: (i) Section 153 of the Energy Policy and Conservation Act (Pub. L. 94-163) to exercise authority over the establishment, management and maintenance of the United States' Strategic Petroleum Reserve; and (ii) section 7(c) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275) to promulgate such

rules, regulations, and procedures as may be necessary to carry out his functions; as well as (iii) his authority under 5 U.S.C. 301 to prescribe regulations for the performance of FEA business and for the custody, use, and preservation of FEA records, papers, and property.

No change to existing rules is required for this proposed new system.

C. Potential consequences on individual privacy. FEA does not deem that the maintenance of this system will have any substantial effect on the privacy and other personal or property rights of individuals. No information is retained in the system other than that which is given voluntarily to the agency by the subject individuals. The use of the system is limited to those requiring the information contained therein for official purposes. With FEA's stringent access controls and the limited use of the records contained in this system, the operation of the system will have minimal effect on an individual's privacy and other personal or property rights.

Because this system is designed to facilitate the internal administrative operations of the agency, its operation will have no effect on the preservation of the constitutional principle of federalism and separation of power.

D. Safeguards against unauthorized access. The risk of unauthorized access has been minimized by locating this system in lockable containers within rooms secured when authorized users or the system managers are not present. Control over these facilities is given only to the system manager and those qualifying for access under the routine uses listed in the proposed system notices.

Distribution of the list will be made to the FEA personnel, contractors, and other Government agency personnel involved with the operation of the Strategic Petroleum Reserve Program. Each such person receiving a copy of the list will be instructed to take care that the information be appropriately safeguarded and that disclosure to unauthorized persons is strictly prohibited.

The lower risk alternative of maintaining the system in locked cabinets within secured rooms and not distributing copies of the list was considered. However, the presence of responsible FEA personnel in the system manager's office was considered to be sufficient to prevent unauthorized access to the system at that location. Additionally, the alternative of making distribution to authorized personnel and cautioning them against further disclosure was considered preferable to keeping the list only at the system manager's office, since the more restrictive alternative is far less likely to enable rapid contact with affected personnel during the emergency situations for which the list is maintained.

II. FEA-25, Low-Income Weatherization Program Home Report Records.

A. Purpose. In section 411 of the Energy Conservation and Production Act (Pub. L. 94-385) (ECPA), Congress made the following findings:

(1) dwellings owned or occupied by low-income persons frequently are inadequately insulated;

(2) low-income persons, particularly elderly and handicapped low-income persons, can least afford to make the modifications necessary to provide for adequate insulation in such dwellings and to otherwise reduce residential energy use;

(3) weatherization of such dwellings would lower utility expenses for such low-income owners or occupants as well as save thousands of barrels per day of needed fuel; and

(4) States, through community action agencies established under the Economic Opportunity Act of 1964 and units of general purpose local government, should be encouraged, with Federal financial and technical assistance, to develop and support coordinated weatherization programs designed to ameliorate the adverse effects of high energy costs on such low-income persons, to supplement other Federal programs serving such persons, and to conserve energy.

As a result, the ECPA directs the Administrator of the Federal Energy Administration (FEA) to develop and conduct a weatherization program. In developing and conducting this program, the Administrator is authorized to make grants to States. Such grants shall be made for the purpose of providing financial assistance with regard to projects designed to provide for the weatherization of dwelling units, particularly those where elderly or handicapped low-income persons reside, in which the head of the household is a low-income person.

The FEA Office of Conservation and Environment, through the Office of Weatherization Assistance, is implementing the described weatherization program. On April 1, 1977, draft regulations for the program were published (42 Fed. Reg. 17470) and on June 1, 1977 the final regulations were adopted (42 Fed. Reg. 27899). These regulations are located at 10 CFR, Part 440. Pursuant to 10 CFR 440.12, States were to submit grant applications to FEA within 90 days of the publication of the final rule and by August 31, 1977, all States had submitted such applications.

Under criteria contained in the regulations the FEA determines whether and to what extent to award a grant to a State making application therefor. The grant is made to a State by the appropriate FEA Regional Administrator whose Region contains the State making application for funds. The State then in turn makes subgrants of the funds received to one or more local Community Action Agencies (CAA). CAAs are private corporations or public agencies established pursuant to the Economic Opportunity Act of 1964, Pub. L. 88-452, which are authorized to administer funds received from Federal, State, local or private funding entities to assess, design, operate, finance and oversee antipoverty programs.

The CAA's, through various "out-reach" services (e.g. by referral from other local service organizations or welfare agencies), discover eligible candidates for weatherization assistance. Information is collected from each individ-

ual weatherization candidate on a "Building Weatherization Report." The categories of information collected are listed in the proposed system notices, as are the purposes and routine uses of the information. After determining the work to be done on a dwelling the CAA is responsible for performing the requisite repairs and certifying that the work was in fact done.

Additionally, the CAA's will maintain copies of a "Fuel Information Release Form." This form is a waiver form to authorize the individual's utility company(ies) to disclose to the CAA historical data on fuel consumption and also costs for the individual's dwelling. The purpose of this form is to ensure compliance with the requirement of section 421 of the Energy Conservation and Production Act, 42 U.S.C. 6801 et seq. That section requires an annual report to Congress regarding the weatherization assistance program, including the results of periodic evaluations and monitoring activities. In order to assure the effective provision of weatherization assistance, it is necessary to compile accurate historical data on both fuel costs and fuel quantity before and after weatherization repairs. The "Fuel Information Release Form" is designed to accomplish this objective. It should be stressed that the form is voluntary and that weatherization assistance will not be denied any person who declines to make the authorization sought in this form.

B. Authority. The specific authority for the maintenance of the Building Weatherization Reports is in section 416 and 417 of the ECPA. Additionally, the FEA Administrator has general authority by section 7(c) of the Federal Energy Administration Act of 1974 (Pub. L. 93-275), to promulgate such rules, regulations and procedures as may be necessary to carry out his functions.

The Building Weatherization Reports are required by the FEA to be maintained by the CAA's as indicated in the proposed system notice and as authorized by section 417 of the ECPA. No change to existing rules is required for this proposed new system. The FEA is a routine user of the records, to enable the agency to discharge the statutory obligation in sections 416 and 417 of the ECPA that it monitor and evaluate the effectiveness of the weatherization program.

C. Potential consequences on individual privacy and D. Safeguards against unauthorized access. FEA does not deem that the maintenance of this system will have a substantially negative effect on the privacy and other personal property rights of individuals. No information is retained in the system other than that which is given voluntarily to the CAA's by the subject individuals and persons performing repair work. Without this information, the programmatic purpose of better weatherizing the dwelling units of low-income persons could not be achieved. As a result of the maintenance of these records, the homes of eligible individuals are improved and their fuel

bills should be reduced. These are clearly positive effects. And, with the FEA's insistence that each subgrantee CAA maintain records in accordance with the provisions of the Privacy Act of 1974 and that diligence be exercised in controlling access to the records and that only authorized persons be allowed to use the data, the operation of this system should have a minimal negative effect on an individual's privacy and other personal or property rights. Moreover, given the grant application and award structure of 10 C.F.R. Part 440, under which monies are distributed to the various states and the sub-grantee CAA's, and the legal requirement of the ECPA that the FEA monitor the effectiveness of the weatherization program, the operation of this system of records will not affect the constitutional principle of federalism and separation of power.

III. Comment Procedures. As provided by section 3(e)(11) of the Privacy Act of 1974 (5 U.S.C. 552a(e)(11)), interested persons are invited to submit written data, views, or arguments related to these proposals to Executive Communications, Federal Energy Administration, Box PU, Washington, D.C. 20461. Hand-carried comments may be delivered to Room 3309, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. to 4:30 p.m., Monday through Friday, except on legal public holidays.

Comments should be identified on the outside of the envelope and on the documents submitted to FEA Executive Communications with the designation "Privacy Act System of Records" and include the appropriate system number(s). Fifteen copies should be submitted. All comments received on or before November 7, 1977, will be available for public inspection in the FEA Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m., and 4:30 p.m., Monday through Friday, except on legal public holidays. These comments and all other relevant information, will be considered by FEA before the proposed systems are adopted in their final form.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to that determination.

It is the intent of the Federal Energy Administration to operate the systems of records as proposed at the expiration of the advance notice period if no comments to the contrary are received.

The FEA has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Privacy Act of 1974, Pub. L. 93-579; Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended; Energy Conservation and Production Act, Pub. L. 94-385, as amended; Executive Order 11790, 39 F.R. 23185.)

In consideration of the foregoing, the adoption of the two systems of records set forth below is proposed.

Issued in Washington, D.C. September 30, 1977.

ERIC J. FYGI,
Acting General Counsel,
Federal Energy Administration.

FEA-24

System name:

Strategic Petroleum Reserve Emergency Personnel List.

Security classification:

Unclassified.

System location:

Strategic Petroleum Reserve Office, Federal Energy Administration, 1726 M Street NW., Washington, D.C. 20036.

Categories of individuals covered by the system:

Individuals (a) employed by FEA and by other Federal agencies and Departments, and (b) FEA contractors, who are involved in the operation of the Strategic Petroleum Reserve Program.

Categories of records in the system:

Name, address, and business and home telephone numbers.

Authority for maintenance of the system:

5 U.S.C. 301; Federal Energy Administration Act of 1974, as amended; Energy Policy and Conservation Act, as amended; Executive Order 11790.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Distribution of the list will be made to the FEA personnel, contractors, and other Government agency personnel involved with the operation of the Strategic Petroleum Reserve Program. The information will be used in order to enable contact with appropriate personnel in the event of a program emergency.

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Paper records.

Retrievability:

Name.

Safeguards:

Records are located in a lockable metal file cabinet with access limited to those whose official duties require access.

Retention and disposal:

Records are revised when appropriate, at which point the older records are destroyed.

System manager(s) and address:

Associate Assistant Administrator for Operations, Strategic Petroleum Reserve, 1726 M Street NW., Washington, D.C. 20036.

Notification procedure:

Requests by an individual to determine if a system of records contains

information about him should be directed to the Privacy Act Officer, Federal Energy Administration, Washington, D.C. 20461, in accordance with FEA's Privacy Act Regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975)).

Record access procedures:

Requests by an individual for access to a system of records that contains information about him should be directed to the Privacy Act Officer, Federal Energy Administration, Washington, D.C. 20461, in accordance with FEA's Privacy Act Regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975)).

Contesting records procedures:

Requests by an individual to correct or amend the content of a record containing information about him should be directed to the Privacy Act Officer, Federal Energy Administration, Washington, D.C. 20461, in accordance with FEA's Privacy Act Regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975)).

Record source categories:

The subject individual.

Systems exempted from certain provisions of the Act:

None.

FEA-25

System name:

Low income Weatherization Program Home Report Records.

Security classification:

Unclassified.

System location:

For each State participating in this program, the records will be located in the Community Action Agency designated by the State to implement the program. A list of participating States and Community Action Agencies is available from the Director, Office of Weatherization Assistance, Office of Conservation and Environment, Federal Energy Administration, Washington, D.C. 20461.

Categories of individuals covered by the system:

All persons eligible for weatherization assistance participating in Federal Energy Administration-sponsored weatherization programs.

Categories of records in the system:

Information about weatherization program participants, including name, address, annual income, whether participant receives public assistance, whether the participant owns or rents, and number of elderly, handicapped, native American, migrants and total members in a participant's household; information about the characteristics of a participant's dwelling, including fuel use data; before and after information about improvements to the dwelling to be undertaken in connection with the program and information about the costs of such improvements; information about the hours and source of labor involved in making the improvements.

Authority for maintenance of the system:

Federal Energy Administration Act of 1974; sections 416 and 417 of the Energy Conservation and Production Act; Executive Order 11790.

Routine uses of records maintained in the system, including categories of users and the purpose of such uses:

The participating community action agencies will use the records maintained for the following purposes: determination of whether and which improvements should be undertaken; determination of correlation of the demographic and building characteristics to the quantity, quality and cost of the work undertaken; enable the Federal Energy Administration to monitor the effectiveness of the program.

The Federal Energy Administration will use the records for the following purposes: assure the effective provision of weatherization assistance for the dwelling units of low-income persons; carry out periodic evaluations of the program.

Also, the routine uses listed in Appendix B to the most recent annual republication of FEA's systems of records, 42 FR 53480 (September 30, 1977).

Policies and practices for storing, retrieving, accessing, retaining and disposing of records in the system:

Storage:

Paper records.

Retrievability:

Name.

Safeguards:

The contracts with the Community Action Agencies stipulate that the Community Action Agencies will exercise all diligence in controlling access to the records maintained under this program and that only authorized members of the Community Action Agency and other routine users will be allowed to use the data. All personnel that handle or process the data are to be instructed and cautioned as to the confidentiality of the data and its proper disposition.

Retention and disposal:

Records will be retained for three years or until the completion of the low-income weatherization program.

System manager(s) and address:

For each State participating in the program, the system manager will be the head of the Community Action Agency designated by the State to implement the program. A list of participating States and Community Action Agencies is available from the Director, Office of Weatherization Assistance, Office of Conservation and Environment, Federal Energy Administration, Washington, D.C. 20461.

Notification procedure:

Requests by an individual to determine if a system of records contains information about him should be directed to the Privacy Act Officer, Federal Energy Administration, Washington, D.C. 20461 in accordance with FEA's Privacy Act Reg-

ulations (10 CFR 206.2, 40 FR 45610 (October 10, 1975)). The requests will in turn be forwarded to the appropriate participating Community Action Agency maintaining the complete record pertaining to the individual.

Record access procedures:

Requests by an individual for access to a system of records that contains information about him should be directed to the Privacy Act Officer, Federal Energy Administration, Washington, D.C. FEA's Privacy Act Regulations (10 CFR 206.3, 40 FR 45610 (October 2, 1975)). Requests will in turn be forwarded to the appropriate participating Community Action Agency maintaining the complete record pertaining to the individual.

Contesting record procedures:

Requests by an individual to correct or amend the content of a record containing information about him should be directed to the Privacy Act Officer, Federal Energy Administration, Washington, D.C. 20461 in accordance with FEA's Privacy Regulations (10 CFR 206.7, 40 FR 45613 (October 2, 1975)). Requests will in turn be forwarded to the appropriate participating Community Action Agency the complete record pertaining to the individual.

Record source categories:

The individual who is the subject of the record persons who will evaluate the need for repairs and those who will perform work undertaken in connection with the program.

Systems exempted from certain provisions of the Act:

None.

[FR Doc.29310 Filed 10-5-77;11:01 am]

[6320-01]

CIVIL AERONAUTICS BOARD
INTERNATIONAL AIR TRANSPORT
ASSOCIATION (IATA)

Order

SEPTEMBER 23, 1977.

[Order No. 77-9-114; Docket No. 29123, Agreement C.A.B. 26895, R-1 and R-2; Agreement C.A.B. 26896, R-1 through R-3; Docket No. 30332, Agreement C.A.B. 26897, R-1 through R-5]

Issued under delegated authority. Agreements adopted by the Traffic Conferences of the International Air Transport Association relating to passenger fares, cargo rates, and currency matters.

Agreements have been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolution of the Traffic Conferences of the International Air Transport Association (IATA). Agreement 26895 was adopted at the 76th meeting of the TC2 Passenger Traffic Conference held in Geneva during Sep-

tember 1977; Agreements C.A.B. 26896 and C.A.B. 26897 were adopted by mail vote.

The agreements would amend the currency adjustment factors for application with passenger fares and cargo rates from Portugal to points worldwide, in order to relate local currency selling fares and rates more closely to fluctuating foreign exchange values. The agreements have application in air transportation as defined by the Act, insofar as

they affect either fares and rates to from U.S. points or fares and rates which are combinable with fares and rates to/from U.S. points, and will be approved.

Pursuant to authority duly delegated by the Board's Regulations, 14 CFR 385.14:

1. It is not found that the following resolutions, which have direct application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement	IATA No.	Title	Application
CAB 26896:			
R-1.....	022g	Adjustment Factors for Sales of Passenger Air Transportation (amending).	1 2 (North Atlantic), Do.
R-2.....	022h	.....do.....	.....do.....
CAB 26897:			
R-2.....	022dd	Adjustment Factors for Sales of Cargo Air Transportation (amending).	2 3 4 2 3.
R-3.....	022gg	.....do.....	1 2 (North Atlantic), Do.
R-4.....	022hh	.....do.....	.....do.....

2. It is not found that the following resolutions, which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement	IATA No.	Title	Application
CAB 26895:			
R-1.....	022a	TC2 (within Europe) Adjustment Factors for Sales of Passenger Air Transportation (amending).	2.
R-2.....	022b	TC2 (except within Europe) Adjustment Factors for Sales of Passenger Air Transportation (amending).	2.
CAB 26896:			
R-3.....	022i	Adjustment Factors for Sales of Passenger Air Transportation (amending).	1 2 (South Atlantic), Do.
CAB 26897:			
R-1.....	022aa	Adjustment Factors for Sales of Cargo Air Transportation (amending).	2 (Europe/Africa Middle East).
R-5.....	022ii	Adjustment Factors for Sales of Cargo Air Transportation (amending).	1/2 (South Atlantic), Do.

Accordingly, it is ordered, That: Agreements C.A.B. 26895, C.A.B. 26896, and C.A.B. 26897, set forth in finding paragraphs 1 and 2 above, are approved. Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Fares and Rates.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29436 Filed 10-5-77;8:45 am]

[6320-01]

[Order No. 77-9115; Docket No. 29123, Agreement C.A.B. 26898]

INTERNATIONAL AIR TRANSPORT
ASSOCIATION (IATA)

Order

SEPTEMBER 23, 1977.

Issued under delegated authority. Agreement adopted by the Joint Traffic Conferences of the International Air

Transport Association relating to passenger fare matters.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of the Joint Traffic Conferences of the International Air Transport Association (IATA). The agreement was adopted at a meeting on Resolution 015 held August 23-25, 1977, in New York and has been assigned the above C.A.B. agreement number.

The agreement amends North Atlantic proportional fares used to construct through international fares between U.S. interior points and points in Europe/Middle East/Africa. The changes are occasioned by the recently granted two percent increase in U.S. domestic fares and as such will be approved. However, note "L" of the agreement sets forth special proportional fares for use with the super-APEX fares recently disapproved by the Board in Order 77-9-55, September 16, 1977, and will be disapproved.

Pursuant to authority duly delegated by the Board's Regulations 14 CFR 385.14:

1. It is not found that the following resolution, incorporated in Agreement C.A.B. 26898 as indicated, is adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to all conditions previously imposed by the Board:

Agreement	IATA No.	Title	Application
CAB 2688	015	North American Proportional Fares—North Atlantic (amending) (except sec. 1, note "L").	1/2.

2. It is found that the following resolution, incorporated in Agreement C.A.B. 26898 as indicated, is adverse to the public interest and in violation of the Act:

Agreement	IATA No.	Title	Application
CAB 26898	015	North American Proportional Fares—North Atlantic (amending) (sec. 1, 1.2, note "L").	

Accordingly, it is ordered, That:

1. That portion of Agreement C.A.B. 26898 set forth in finding paragraph one is approved, subject, where applicable, to conditions previously imposed by the Board; and

2. That portion of Agreement C.A.B. 26898 set forth in finding paragraph two above is disapproved.

Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review thereof is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Economics.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29437 Filed 10-5-77;8:45 am]

[6320-01]

[Order No. 77-9-116, Docket No. 30332, Agreement C.A.B. 26887]

INTERNATIONAL AIR TRANSPORT ASSOCIATION (IATA)

Order

SEPTEMBER 23, 1977.

Issued under delegated authority.

Agreement adopted by Traffic Conference 2 of the International Air Transport Association relating to cargo rates.

An agreement has been filed with the Board pursuant to section 412(a) of the Federal Aviation Act of 1958 (the Act) and Part 261 of the Board's Economic Regulations between various air carriers, foreign air carriers, and other carriers embodied in the resolutions of Traffic Conference 2 of the International Air Transport Association (IATA). The agreement, adopted by mail vote, has been assigned the above C.A.B. agreement number.

The agreement would amend the resolution governing cargo rates between Ireland and the United Kingdom. In general, the unit load device (ULD) charges between Dublin and London would be

amended to enable the carriers serving this market to rate their services at comparable levels. The agreement would also extend the ULD program to Cork/Shannon, on the one hand, and various U.K. provincial points, on the other hand, by establishing ULD charges between these points; these rates represent reductions from otherwise applicable freight-all-kinds rates. The agreement has indirect application in air transportation insofar as the rates established are combinable with rates to/from United States points, and it will be approved.

Pursuant to authority duly delegated by the Board in the Board's Regulations, 14 CFR 385.14, it is not found that Resolution 200 (Mail 166) 004], incorporated in Agreement C.A.B. 26887 and which has indirect application in air transportation as defined by the Act, is adverse to the public interest or in violation of the Act.

Accordingly, it is ordered, That: Agreement C.A.B. 26887 is approved. Persons entitled to petition the Board for review of this order, pursuant to the Board's Regulations, 14 CFR 385.50, may file such petitions within ten days after the date of service of this order.

This order shall be effective and become the action of the Civil Aeronautics Board upon expiration of the above period, unless within such period a petition for review is filed or the Board gives notice that it will review this order on its own motion.

This order will be published in the FEDERAL REGISTER.

By James L. Deegan, Chief, Passenger and Cargo Rates Division, Bureau of Fares and Rates.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29438 Filed 10-5-77;8:45 am]

[6320-01]

[Order 77-9-127; Docket 27813, Agreement CAB 26291; Docket 29123, Agreements CAB 26157-R through R3 and 26260-R17; Agreement CAB 26096]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Deferring Action; Agency Matters

Issued under delegated authority September 27, 1977.

There have been filed, pursuant to section 412(a) of the Federal Aviation Act of 1958, as amended (the Act), and Part 261 of the Board's Economic Regulations,

certain agreements among the members of the International Air Transport Association (IATA) to establish or amend certain IATA resolutions on agency matters. The resolutions were adopted by the

Composite Passenger Traffic Conference held in Miami on September 2-15, 1976, or by mail vote.

The agreements are identified as follows:

Agreement	IATA resolution designator No.	Title of IATA resolution affected
CAB: 26096	100 (mail 51) 860a	Payment of Interline Commission (new)
26157-R1	300 (mail 51) 86a	Passenger Sales Agency Rules (U.S.A. only) (amending)
26157-R2	174 810a (U.S.A. only) 11	Passenger Sales Agency Rules (except U.S.A.) (amending)
26157-R3	174 810a (except U.S.A.)	Passenger Sales Agency Rules (except U.S.A.) (amending)
26260-R17	174 820a	Passenger Sales Agency Agreement (amending)
26291	174 820a	Interline Agreements with Non-IATA Carriers (amending)
	174 851	Industry Incentive Scheme for Approved Passenger Sales Agents (amending)
	200 (mail 78) 815	
	200 (mail 78) 815	
	300 (mail 78) 815	

In Order 75-12-141, December 23, 1975, the Board deferred action on Agreements CAB 25606-R1 through R4.¹ In Order 76-7-56, July 16, 1976, it refused to grant interim approval of the agreements and instituted an investigation into the principal issue raised by the agreements, viz, whether or not the establishment of a uniform commission rate payable to agents for the sale of international air transportation is adverse to the public interest. In Order 77-8-14, August 3, 1977, the Board denied a request by National Airlines, Inc. (National) for interim approval of the agreements. In doing so, it found that the apparent effects of the current open commission rate situation did not warrant a reversal of the Board's earlier determination not to grant interim approval.

Upon review of agreements subsequently filed by IATA for Board approval, it appears that the agreements listed above relate in a substantive manner to

¹ The agreements at issue are CAB 25606, R1 through R4, which, respectively, establish or amended IATA Resolutions 0022, 016d, 815 and 860. Resolutions 0022 and 815 establish a uniform commission rate of 8 percent (with a few exceptions). An additional commission of 3 percent is provided for sales of inclusive tours. An additional 4 percent incentive commission is paid to agents who increase their industry sales by 10 percent in a given year. Resolution 860 establishes commissions on interline sales. Resolution 016d undertakes a conference study of tour and travel organizations. The texts of the agreements are reproduced in the Appendix to Order 75-12-141. See also, Order 76-3-83.

² Agreements CAB 26096, 26157-R1 through R3, 26260-R17, and 26291, respectively, provide that the commission rates schedule established by Agreement CAB 25606-R1 be applicable in certain localities within TC1 and TC3; further amend that commission rate schedule and amend the IATA Sales Agency Rules and Sales Agency Agreement to reflect those changes; modify the resolution governing interline agreements with non-IATA carriers to reflect the provisions of Agreements 25606-R1 and R3; and delay introduction of the industry incentive scheme in Lebanon.

issues which ultimately will be determined by the investigation being conducted in Docket 28672.² In denying National's motion for interim approval of Agreements 25606-R1 through R3, the Board found that there had been no concrete showing that the public interest had been adversely affected by the open commission rate situation. With respect to the agreements listed above, IATA has presented no new supporting argument which would suggest a decision different from that reached by the Board in Order 75-12-121 and reiterated in Order 77-8-14.

Therefore, pursuant to authority duly delegated by the Board in the Board's Economic Regulations, 14 CFR 385.3, it has been decided to defer action on these agreements, pending completion of the investigation of the IATA commission rate structure. Upon completion of the investigation, the agreements will be considered on their merits.

Accordingly, it is ordered, That: 1. Action on Agreements CAB 26096, 26157-R1 through R3, 26260-R17, and 26291 be deferred; and

2. This order shall be served on IATA and its U.S. member air carriers, the Air Traffic Conference of America and its member air carriers, the American Society of Travel Agents, Inc., the Association of Retail Travel Agents, the American Automobile Association, the Association of Bank Travel Bureaus, the International Airfreight Agents Association, the Travel Agents' Legal Action Committee, Unitours, Inc., and the United States Department of Justice and Transportation.

Persons entitled to petition the Board for review of this order pursuant to the Board's Economic Regulations, 14 CFR 385.50, may file such petitions within 10 days after the date of service of this order.

This order will be published in the FEDERAL REGISTER.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29439 Filed 10-5-77;8:45 am]

[6320-01]

[Docket No. 30682]

INVESTIGATION OF PAN AMERICAN'S WASHINGTON/BALTIMORE/CHICAGO SERVICE, ROUTES 117 AND 130

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 1, 1977, at 10 a.m. (local time), in Room 1003, Hearing Room B, 1875 Connecticut Avenue NW., Washington, D.C. 20428, before the undersigned.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on July 26, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 3, 1977.

RICHARD M. HARTSOCK,
Administrative Law Judge.

[FR Doc.77-29135 Filed 10-5-77;8:45 am]

[6320-01]

[Order 77-9-133; Docket 30226]

KODIAK-WESTERN ALASKA AIRLINES, INC.

Order To Show Cause; Subsidy Mail Pay Increase

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of September 1977.

On August 29, 1977, Kodiak-Western Alaska Airlines, Inc. (Kodiak-Western) filed a second amendment to its petition for increased subsidy filed December 16, 1976. In the amendment, Kodiak-Western requests a further increase in its subsidy mail rate. The carrier projects a need of \$571,931 for the year ending December 31, 1977, to cover its expected operating losses and to pay its net interest expense.

The Board granted Kodiak-Western a temporary increase in annual subsidy from \$129,509 to \$188,277 in the spring of 1977.¹ The increase was based on the carrier's cash-flow crisis and its need for immediate relief to meet current obligations. In the order proposing the new temporary rate, the Board noted that the carrier expected its financial situation to improve by summer and that if the improvement failed to materialize, a full investigation of Kodiak-Western's operations might be instituted.²

It is evident from data contained in Form 41 reports and in Amendment Two to its subsidy petition that Kodiak-Western's condition has deteriorated rather than improved. Consequently, temporary emergency action is again

¹ Order 77-4-9, April 4, 1977.

² Order 77-3-136, March 23, 1977.

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needed in order to maintain service levels during the fall and winter months and to provide the Board and the carrier with time to explore possible long-term solutions to Kodiak-Western's chronic problems.

Based on our analysis of pertinent reported financial and operating data, we tentatively conclude that the temporary subsidy rate (expressed in annual amounts) for Kodiak-Western's scheduled service should be increased from \$188,277 to \$500,235 as indicated in Appendix A.² We also tentatively conclude that the new rate should be effective from October 1, 1977, through March 31, 1978, and the rate will then automatically revert to \$188,277 annually; or, a new rate will be established based on conditions existing then and on prospects for the future.

In the interim, the carrier is directed to examine all aspects of its operations to determine what rationalization, restructuring, and retrenchment can be undertaken which might produce a long-range solution to its financial difficulties. Among the areas we expect Kodiak-Western to consider in this evaluation are:

1. Modification or restructuring of the carrier's operating authority including the withdrawal of services at points where alternative services would be provided by other carriers;
2. Retrenchment in the levels of service provided at any of the points served;
3. Disposal of equipment which is not absolutely essential to the carrier's operations; and

4. Rationalization of Kodiak-Western's rate structures and levels.

If the carrier cannot develop by January 16, 1978, a reasonable and workable plan for continuing services to the Kodiak and Bristol Bay areas of Alaska at subsidy costs closer to the levels historically needed by the carrier to operate its system, the Board will be compelled to institute an investigation aimed at finding alternative ways of providing air services to these areas.

We, therefore, find it reasonable and in the public interest to provide Kodiak-Western with a temporary subsidy rate of \$500,235 annually for the period October 1, 1977, through March 31, 1978.

On the basis of the foregoing, we tentatively find and conclude that the fair and reasonable temporary rate of compensation to be paid to Kodiak-Western Alaska Airlines, Inc., for the transportation of mail by aircraft, the facilities used and useful therefore, and the subsidy-eligible services connected therewith between the points between which the carrier has been, is presently, or hereafter may be authorized to transport mail by its certificate of public convenience and necessity, is the sum of (a) the service mail rates as heretofore and hereafter established for the carrier by order of the Board, and (b) subsidy as follows: For each calendar month on and after October 1, 1977, in which miles des-

ignated by the Postmaster General for the transportation of mail are flown, an amount determined by multiplying the appropriate rates stated in Appendix B by the scheduled subsidy-eligible aircraft-miles flown during the month, or by the appropriate monthly base aircraft-miles, whichever is lower.

The scheduled revenue aircraft-miles flown shall be computed on the basis of the direct airport-to-airport mileage⁴ between the points actually served on each revenue trip operated over Kodiak-Western's authorized subsidy-eligible routes pursuant to its flight schedules filed with the Board, including all revenue trips operated as extra sections.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, particularly sections 102, 204, and 406, and the regulations promulgated in 14 CFR 302.

It is ordered, That: 1. Kodiak-Western Alaska Airlines, Inc., be directed to show cause why the Board should not fix, determine, and publish the aforesaid rate as the fair and reasonable temporary rate of compensation to be paid Kodiak-Western for the transportation of mail by aircraft, the facilities used and useful therefore, and the services connected therewith, over the carrier's subsidy-eligible system pending the fixing of a final rate in the instant proceeding;

2. Kodiak-Western Alaska Airlines, Inc., be further directed to examine all aspects of its operations and to submit a plan for restructuring its operations to the Board no later than January 16, 1978;

3. Further procedures with respect to the temporary rate proposed here shall be in accordance with the Board's Rules of Practice, particularly Rule 302, et seq., and, if there is any objection to the rate specified here, notice must be filed within eight days, and, if notice is filed, written answer and supporting documents must be filed within 15 days, after the date of service of this order;

4. If notice of objection is not filed within eight days, or if notice is filed and answer is not filed within 15 days, after service of this order, or, if an answer timely filed raises no material issue of fact, all parties shall be deemed to have waived the right to a hearing and all other procedural steps short of a final decision by the Board, and the Board may enter an order fixing the temporary subsidy rate specified here;

5. If notice of objection and answer are filed presenting issues for hearing, issues regarding the establishment of these fair and reasonable rates shall be limited to those specifically raised by such answers except as otherwise provided in 14 CFR, § 302.307;

6. This proceeding shall remain open pending entry of an order fixing final rates retroactive to such date as the Board may determine, which final rates may be lower or higher than the temporary rates fixed here; and

7. This order shall be served upon all parties to this proceeding.

⁴ 14 CFR 247.1.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.⁵

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29440 Filed 10-5-77;8:45 am]

[6325-01] COMMISSION ON CIVIL RIGHTS

MAINE ADVISORY COMMITTEE Agenda; Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Maine Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 10 p.m. on October 27, 1977, Maine Teachers Association, 25 Community Drive, Augusta, Maine.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss the transition from SACs to RACs.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 3, 1977.

JOHN I. BINKLEY,
Advisory Committee Management
Officer.

[FR Doc.77-29448 Filed 10-5-77;8:45 am]

[6325-01] WYOMING ADVISORY COMMITTEE

Agenda; Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Wyoming Advisory Committee (SAC) of the Commission will convene at 12:30 p.m. and will end at 2:30 p.m. on October 29, 1977, in the Natrona Public Library, Durbin and 2nd Streets, Casper, Wyoming 82601.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, Executive Tower Inn, Suite 1700, 1405 Curtis Street, Denver, Colorado 80202.

The purpose of this meeting is to discuss agenda for consultation on civil rights to be held on November 11-12 in Cheyenne.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., October 3, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc.77-29449 Filed 10-5-77;8:45 am]

⁵ All Members concurred.

[6740-02] FEDERAL POWER COMMISSION

[Project No. 618]

ALABAMA POWER CO.

Application for Approval of Change in Land Rights

SEPTEMBER 29, 1977.

Public notice is hereby given that an application was filed on April 26, 1976, and amended on November 11, 1976, under the Federal Power Act, 16 U.S.C. 791a-825r, by Alabama Power Co. (Applicant) (Correspondence to: Mr. F. L. Clayton, Jr., Vice President, Alabama Power Co., P.O. Box 2641, Birmingham, Ala. 35291) for Commission approval of a change in land rights at Project No. 618, known as the Jordan Dam Project. Project No. 618 is located on the Coosa River in Elmore, Chilton, and Coosa Counties, Ala.

Applicant seeks Commission approval of the conveyance to the Wallsboro-Santuck Water and Fire Protection Authority of an easement over project lands for the purpose of installing and maintaining a water distribution system in Sections 6, 8, 9, 10, 14, 15, and 16 T. 19 N., R. 18 E., Elmore County, Ala. The proposed distribution system would include 7.27 miles of 3-inch-diameter plastic pipeline and 0.92 mile of 8-inch-diameter plastic pipeline. The lines would be laid a minimum of 30 inches below the ground surface. The proposed system would serve approximately 500 families, and would replace existing lake water systems and individual wells, drawing water instead from the City of Montgomery, Alabama's 20 mgd water treatment plant.

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 7, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29380 Filed 10-5-77;8:45 am]

[6740-02] [Docket No. E-9605]

BLACK HILLS POWER & LIGHT Application

SEPTEMBER 29, 1977.

Take notice that on September 22, 1977, Black Hills Power & Light Co. (Ap-

plicant) filed an application for authority, pursuant to section 203 of the Federal Power Act, to sell certain electric facilities to the City of Gillette, Wyo.

Applicant is incorporated under the laws of the State of South Dakota with its principal business office at Rapid City, S. Dak., and is engaged in the electric utility business in the States of Wyoming, Montana, and South Dakota.

Any person desiring to be heard or to make any protest with reference to the application, should on or before October 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. This application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29381 Filed 10-5-77;8:45 am]

[6740-02] [Docket No. RP76-135]

CITIES SERVICE GAS CO. Filing of Settlement Agreement

SEPTEMBER 30, 1977.

Take notice that on September 13, 1977, Cities Service Gas Co. (Cities Service) tendered for filing a Stipulation and Agreement proposed in settlement of this general rate proceeding. Cities Service states that the stipulation and agreement, if approved by the Commission, will resolve all issues in the proceeding except for the propriety of a rate design modification proposed by the Commission Staff.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, on or before October 14, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29403 Filed 10-5-77;8:45 am]

[6740-02] [Docket No. E-7743]

CONNECTICUT LIGHT & POWER CO. Compliance Filing

SEPTEMBER 29, 1977.

Take notice that Connecticut Light & Power Co. (CL&P) on September 19, 1977, tendered for filing a revised summary cost of service and tariff sheets.

CL&P states that this filing is in compliance with the Commission's findings and orders contained in Opinion No. 761, issued April 28, 1976, as modified by Opinion No. 761-A, issued July 20, 1977.

Any person desiring to protest said filing should file a petition to protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such protests should be filed on or before October 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29382 Filed 10-5-77;8:45 am]

[6740-02] [Project No. 1494]

GRAND RIVER DAM AUTHORITY

Application for Approval of Change in Land Rights

SEPTEMBER 29, 1977.

Public notice is hereby given that an application was filed on May 16, 1977, under the Federal Power Act, 16 U.S.C. 791a-825r, by Grand River Dam Authority (Applicant) (Correspondence to: Mr. Robert W. Sullivan, Jr., General Counsel, Grand River Dam Authority, Administrative Headquarters, Drawer G, Vinita, Okla. 74301) for Commission approval of a change in land rights at Project No. 1494, located on the Grand River in Mayes, Craig, Delaware, and Ottawa Counties, Okla., and McDonald County, Mo.

Applicant seeks Commission approval of the sale of a 0.4677-acre triangular tract of land located in the SW¼SE¼, Section 9, T. 24 N., R. 23 E., Delaware County, Okla. The land would be sold to a development company for possible housing construction.

Any person desiring to be heard or to make any protest with reference to said application should, on or before November 7, 1977, file with the Federal Power Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 1.8 or 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29383 Filed 10-5-77;8:45 am]

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[6740-02]

[Docket No. R177-128]

HERBERT S. WOODS & ASSOCIATES

Petition for Special Relief

SEPTEMBER 29, 1977.

Take notice that on August 29, 1977, Herbert S. Woods & Associates (Woods), P.O. Box 1367, El Dorado, Ark., requested, pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76) a special relief rate of \$2 Mcf for sales of gas to Natural Gas Pipe Line Co. of America (Natural) from the J. L. Swiney No. 1 Well, Jack County, Ark.

Woods states that it will cost \$133,000 to recondition the well in order to economically recover the remaining 200,000 Mcf of reserves. Woods avers that during the past 20 years of production, expenses exceeded revenues resulting in a negative cash flow. Woods says that he has received a net revenue for his gas of 12.6 cents/Mcf over the last 20 years.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29384 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ES77-61]

IOWA ELECTRIC LIGHT & POWER CO.

Application

SEPTEMBER 29, 1977.

Take notice that on September 23, 1977, the Iowa Electric Light and Power Co. (Applicant) filed an application pursuant to section 204 of the Federal Power Act with the Federal Power Commission seeking authority to issue and sell at competitive bidding \$25,000,000 principal amount of First Mortgage Bonds.

Applicant is incorporated under the laws of the State of Iowa and is authorized to do business in the States of Iowa, Minnesota, Colorado, and Nebraska with its principal business office at Cedar Rapids, Iowa. Applicant is engaged primarily in the generation, transmission and sale at retail of electric energy in 55 counties in the State of Iowa.

The First Mortgage Bonds which are to mature December 1, 2007, will be issued on approximately December 7, 1977 under the Applicant's Indenture of Mortgage and Deed of Trust, dated August 1,

1940, as heretofore amended and supplemented by forty-five supplemental indentures and as to be further supplemented by a forty-sixth supplemental indenture to be dated December 1, 1977 between the Applicant and the First National Bank of Chicago, as Trustee. The rate of interest to be paid by the Applicant will be determined by competitive bidding in accordance with the Commission's regulations under the Federal Power Act.

The purpose for which the said securities are to be issued is for the Applicant's continuing construction program and for the repayment of commercial paper anticipated to be outstanding at the time the Bonds are sold.

Any person desiring to be heard or to make protest with reference to this Application should on or before October 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions of protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The Application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29385 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. R177-133]

JESSE FRANKLIN ROSETT

Petition For Special Relief

SEPTEMBER 30, 1977.

Take notice that on September 15, 1977, Jesse Franklin Rosett (Petitioner), 715 Edgemont Street, Shreveport, La. 71106, filed in Docket No. R177-133 a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). Petitioner seeks to collect a rate in excess of the established applicable ceiling rate for the sale of natural gas to United Gas Pipe Line Co. from the T. A. Glass No. 1 and M. A. Blackwell No. 1 wells located in the Cotton Valley Field, Webster Parish, La. Petitioner states that production from the subject wells is presently shut down due to a complete breakdown in the compressor and engine. In order to restore production, Petitioner states that it will be necessary to repair the present compressor or to purchase or rent a new compressor.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Com-

mission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29407 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. E-7477]

KANSAS CITY POWER & LIGHT CO.

Application

SEPTEMBER 29, 1977.

Take notice that on September 26, 1977, Kansas City Power & Light Co. (Applicant) filed a seventh supplemental application seeking authority pursuant to Section 204 of the Federal Power Act to issue up to \$100,000,000 principal amount of short-term, unsecured promissory notes to be outstanding at any one time, of which aggregate amount a maximum of \$45,000,000 may be in the form of commercial paper, said notes to be issued not later than December 31, 1978, with maturities not later than December 31, 1979. By prior supplemental order issued November 26, 1976, the Commission authorized Applicant to issue prior to December 31, 1977, up to \$75,000,000 short-term promissory notes to be outstanding at any one time, of which aggregate amount up to \$36,000,000 could be in the form of commercial paper, with final maturities not later than December 31, 1978.

Applicant is incorporated under the laws of the State of Missouri and its principal business office at Kansas City, Missouri, and authorized to do business in the State of Kansas.

The interest rate applicable to the promissory notes will be, in the case of demand notes issued to commercial banks, the prime rate in effect at the time of issuance; in the case of notes issued to commercial paper dealers, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity sold to commercial paper dealers; and in the case of commercial paper placed directly with regular purchasers of such commercial paper for their own accounts, the market rate (or discount rate) at the date of issuance for commercial paper of comparable quality and of the particular maturity placed directly by the issuer thereof. The Applicant contemplates the issuance of promissory notes, including the "roll-over" of commercial paper promissory notes, without further application to this Commission, at any time from time to time prior to December 31, 1978, each of such notes to have a maturity date of not later than December 31, 1979.

The proceeds will be used to finance in part Applicant's construction program to December 31, 1979. The authorization to issue up to \$100,000,000 of said short-term, unsecured promissory notes will allow the Applicant more freedom in selecting the appropriate times under market conditions to fund its short-term debt.

Any person desiring to be heard or to make any protest with reference to the application should, on or before October 19, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). The Application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29386 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ES77-60]

LOUISVILLE GAS AND ELECTRIC CO.

(KENTUCKY)

Application

SEPTEMBER 29, 1977.

Take notice that on September 21, 1977, Louisville Gas and Electric Co. (Applicant) of Louisville, Ky., filed an application pursuant to section 204 of the Federal Power Act seeking an order authorizing the issuance of unsecured Promissory Notes to commercial banks, to trust companies, and to commercial paper dealers in amounts not exceeding in the aggregate \$80,000,000 outstanding at any one time.

The Promissory Notes to be issued by the Applicant to commercial banks will be issued on various days during the two year period ending December 31, 1979, but no Note will mature more than twelve months after date of issue or renewal. The interest rate of such Notes will be at the prime loan interest rate of the banks in effect from time to time.

The Promissory Notes to be issued as trust demand notes (master notes) to commercial banks and trust companies will be issued on various days during the period ending December 31, 1979, but no Note will mature more than nine months after date of issue. The interest rate on master notes will be dependent upon the money market conditions prevailing during the life of the Note.

The Promissory Notes issued to commercial paper dealers will be issued on various days during the period ending December 31, 1979, but no Note will mature more than nine months after date of issue nor will any Note be extended or renewed. The interest rate on such Notes will be dependent upon the term of the Notes and the money market conditions at the time of issuance.

According to the application, the aggregate amount of commercial paper to be outstanding at any one time will not exceed the sum of (1) the dollar amount of Applicant's receivables arising out of

the sale of electric and gas service, (2) the dollar amount of Applicant's inventory of fuel and gas stored underground, and (3) the dollar amount of depreciation and amortization charges on plant and equipment for the preceding month.

The proceeds from the issuance of the Notes will be added to the general funds of the Applicant which general funds will be used, among other things, to finance in part the Applicant's 1978-1979 construction program. Applicant estimates that construction expenditures for the years ending December 31, 1978 and 1979 will total about \$67,400,000 and \$89,000,000, respectively.

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). The application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29387 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ER77-613]

LOUISVILLE GAS AND ELECTRIC CO.

Proposed Tariff Change

SEPTEMBER 30, 1977.

Take notice that Louisville Gas and Electric Co. (Louisville) on September 26, 1977, tendered for filing proposed changes in its Interconnection Agreement between Louisville and Big Rivers Electric Corp. (Big Rivers) designated FPC Rate Schedule No. 27. Louisville indicates that the proposed changes would increase revenues from jurisdictional sales and service by \$288,500 based on the 12 months ended August 31, 1977.

Louisville states that the purpose of this filing is to increase the demand charge for short term power as set forth on Service Schedule C from 45c per kilowatt per week to 60c per kilowatt per week. Louisville states that this proposed revision reflects a desire on the part of both parties to attain the optimum benefit from the interconnection of their systems.

Louisville requests that the Commission establish an effective date of October 30, 1977, for the changes proposed in this filing.

Louisville indicates that copies of the filing were served upon Big Rivers and the Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before October 13, 1977. Protests will be considered by the Commission in deter-

mining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29406 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. R177-126]

MAURICE L. BROWN CO.

Petition for Special Relief

SEPTEMBER 29, 1977.

Take notice that on September 6, 1977 The Maurice L. Brown Co. (Petitioner), 9229 Ward Parkway, Kansas City, Oklahoma 64114, filed a petition for special relief pursuant to § 2.76 of the Commission's Statements of General Policy and Interpretations (18 C.F.R. 2.76). Petitioner seeks to collect a rate of \$1.9403 per Mcf for the sale of natural gas to United Gas Pipeline Company from the Ruby Russell Gas Unit No. 1, Bethany Field, Harrison County, Texas. Petitioner states that unless the requested increase is granted, further production would be uneconomical.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing herein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29388 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. R177-130]

MAURICE L. BROWN CO.

Petition For Special Relief

SEPTEMBER 29, 1977.

Take notice that on September 9, 1977, The Maurice L. Brown Co. (Petitioner), 9229 Ward Parkway, Kansas City, Mo. 64114, filed a petition for special relief in Docket No. R177-130 pursuant to § 2.76 of the Commission's Rules of Practice and Procedure.

Petitioner states that the current rate of 81.66 cents per Mcf for gas sold to United Gas Pipeline Company from Newton-Whiteside Gas Unit No. 1, Harrison County, Tex. is no longer economical, and therefore requests an increase

in this rate to \$2.33 per Mcf. Petitioner does not propose that any additional work be done on the Newton-Whiteside gas Unit No. 1.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to the proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29402 Filed 10-5-77; 8:45 am]

[6740-02]

[Docket No. RI77-125]

MAURICE L. BROWN CO.
Petition For Special Relief

SEPTEMBER 30, 1977.

Take notice that on September 1, 1977, The Maurice L. Brown Company (Petitioner), P.O. Box 11320, Kansas City, Mo. 64112, filed in Docket No. RI77-125 a petition for special relief pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76). Petitioner seeks authorization for the working interest owner to collect an increase in rate from 27.29 cents per Mcf to \$1.5879 per Mcf for the sale of natural gas to Northern Natural Gas Company from the Strackeljohn Gas Unit No. 1 Well located in Finney County, Kans. Petitioner states that current production from the well is uneconomical at current prices.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29404 Filed 10-5-77; 8:45 am]

¹The petition states that Leslie Oil and Gas Co. owns a 100% working interest in the subject well.

[6740-02]

[Docket No. RI77-124]

MAURICE L. BROWN CO.
Petition For Special Relief

SEPTEMBER 30, 1977.

Take notice that on September 1, 1977, the Maurice L. Brown Co. (Petitioner), P.O. Box 11320, Kansas City, Mo. 64112, filed in Docket No. RI77-124, a petition for special relief pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). Petitioner seeks to collect a rate of 184.69 cents per Mcf for the sale of natural gas to United Gas Pipe Line Co. from the Sneed Gas Unit No. 1 and Sneed Gas Unit No. 2 Wells located in the Bethany Field, Harrison County, Tex. Petitioner indicates that the proposed rate increase is necessary in order for Petitioner to continue economic operations so that it may maintain its oil and gas leases pending future development.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29405 Filed 10-5-77; 8:45 am]

[6740-02]

[Docket No. RP73-43 (PGA77-31)]

MID LOUISIANA GAS CO.
Informal Conference

SEPTEMBER 30, 1977.

Take notice that an informal conference in the above-captioned proceeding will be held on October 6, 1977, at 10 a.m., e.s.t., at the offices of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. The conference is being convened by the Commission's staff pursuant to Ordering Paragraph (B) of the Commission's order in Docket No. RP73-43 (PGA77-3) issued September 21, 1977.

Customers and other interested persons will be permitted to attend, but if such persons have not been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in this proceeding.

All parties will be expected to come fully prepared to discuss all issues arising out of Mid Louisiana Gas Co.'s filing in the instant docket, to make and accept offers of settlement with respect to such

issues, and to make commitments concerning procedural matters antecedent to a full evidentiary hearing should such hearing be required.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29409 Filed 10-5-77; 8:45 am]

[6740-02]

[Docket No. E-9604]

MINNESOTA POWER & LIGHT CO.
Filing

SEPTEMBER 28, 1977.

Take notice that Minnesota Power & Light Co. (MP&L) on September 12, 1977, tendered for filing an application for an order pursuant to section 203 of the Federal Power Act authorizing the sale by MP&L of certain facilities to United Power Association, a Minnesota Corporation, and United States Steel Corp., a Delaware Corporation.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 14, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29374 Filed 10-5-77; 8:45 am]

[6740-02]

[Docket No. ER76-830]

MISSISSIPPI POWER & LIGHT CO.
Compliance Filing

SEPTEMBER 29, 1977.

Take notice that Mississippi Power & Light Co. (Mississippi) on September 14, 1977, tendered for filing an Agreement for Purchase of Power, dated April 23, 1976, and a Supplemental Operating Agreement dated July 12, 1962. Mississippi states that this filing is made in compliance with the Commission order issued August 3, 1977, in the above-noted docket.

Any person desiring to protest said filing should file a petition to protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with § 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.10). All such protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the

proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29390 Filed 10-5-77; 8:45 am]

[6740-02]

[Docket No. CP77-624]

MONTANA-DAKOTA UTILITIES CO.
Application

SEPTEMBER 29, 1977.

Take notice that on September 20, 1977, Montana-Dakota Utilities Co. (Applicant), 400 North Fourth Street, Bismarck, N. Dak. 58501, filed in Docket No. CP77-624 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain gas receipt and appurtenant facilities which are necessary in order to allow Applicant to take into its system significant quantities of gas that it would purchase from the Montana Power Co. (Montana Power), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to construct and operate the following facilities:

(a) A 6-inch valve assembly and appurtenant facilities at a point on each loop of Applicant's Elk Basin to Billings transmission lines (two 12-inch lines) at a point in the NE $\frac{1}{4}$, SW $\frac{1}{4}$ of Section 18, T8S, R23E, near Belfry, Carbon County, Mont., where existing facilities of Applicant and Montana Power cross, and including:

(b) A 12-inch check valve at each valve assembly designed to prevent any of the gas purchased from Montana Power from physically leaving the State of Montana.

Applicant states that the proposed facilities would provide an interconnection of its transmission line with Montana Power's transmission line for purposes of receiving the gas to be delivered from Montana Power, and that the facilities would be capable of receiving up to 11,000 Mcf of natural gas per day.

Measurement would be performed by Montana Power, it is said. Applicant states that the check valve assemblies which it is also seeking authorization to install and operate are for purposes of confining the gas purchased from Montana Power to consumption solely within the State of Montana.

It is stated that by means of the proposed facilities, Applicant intends to purchase from Montana Power over the period October 1, 1977, through February 28, 1983, a quantity of gas up to approximately 13,750,000 Mcf, and that this quantity of gas would be made available by Montana Power from Canadian supplies which would be excess to Montana Power's market requirements over approximately the next five years. It is further stated that Montana Power is currently confronted with an excess

supply situation, and that it is obliged by take-or-pay contracts to purchase large volumes of Canadian gas, but because of the recent and drastic loss of its industrial loads it can no longer make use of all of the Canadian gas which it is obliged to take. This over-supply situation is expected to last for approximately five years, it is said.

Applicant, on the other hand, is currently in curtailment, is seeking every available source of gas supply with which to augment the natural gas supplies available to its customers, it is said. Consequently, the application shows that Applicant and Montana Power have entered into an agreement for the sale and purchase of natural gas dated August 2, 1977, which agreement provides that during the period October 1, 1977 through February 28, 1983, Montana Power would sell and Applicant would purchase up to approximately 13.75 Bcf as follows:

	Billion cubic feet
March 1 through November 30 of each year	2.5
December 1 through the last day of February in the following year	.25

It is stated that during the period October 1, 1977, through November 30, 1977, the amount of gas that is to be made available would be .55 Bcf, and that the maximum amount to be delivered on any one day would be 11,000 Mcf. It is further stated that during the March through November periods the minimum to be delivered on any one day would be 6,000 Mcf, and deliveries would be considered as firm. During the December through February period there would be no minimum delivery obligation, and all deliveries would be on a best efforts basis only, it is indicated.

It is stated that the price which Applicant would pay for the gas is to be the sum of the following elements: (a) the Canadian border price per million Btu plus (b) 4.267 percent of the Canadian border price as the cost of fuel necessary to deliver the subject gas into Applicant's pipeline system plus (c) a delivery charge of 11.6 cents per Mcf. The 11.6 cent per Mcf delivery charge would be increased by one cent per Mcf at the beginning of each contract year thereafter, it is said. Applicant states that initially this formula produces a rate of \$2.454 per Mcf delivered.

Applicant indicates that the cost of the facilities is estimated to be \$10,000, which cost would be financed with internally generated funds.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any

person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29389 Filed 10-5-77; 8:45 am]

[6740-02]

[Docket No. ER77-612]

MONTAUP ELECTRIC CO.
Tariff Filing

SEPTEMBER 30, 1977.

Take notice that Montaup Electric Company (Montaup), on September 23, 1977, tendered for filing a service agreement providing for Montaup's transmission of a power purchase of the Middleborough (Massachusetts) Municipal Gas and Electric Department, pursuant to Montaup's generally applicable transmission tariff. According to Montaup, this service commenced on September 1, 1977 and will terminate on October 31, 1977.

Montaup requests waiver of the Commission's notice requirements to allow an effective date of September 1, 1977 for this service.

Montaup states that copies of the filing were served upon Middleborough Municipal Gas and Electric Department and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission.

sion and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29408 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ER77-607]

NEW ENGLAND POWER POOL Filing of Interconnection Agreement

SEPTEMBER 29, 1977.

Take notice that on September 21, 1977, the New England Power Pool (NEPOOL) filed an Interconnection Agreement between NEPOOL and the New York Power Pool, dated as of April 4, 1977. NEPOOL indicates that certificates of concurrence were filed on behalf of Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., Long Island Lighting Company, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation.

NEPOOL states that the Interconnection Agreement provides for emergency and economy reserve and energy interchanges between NEPOOL and the New York Power Pool. NEPOOL further states that the Interconnection Agreement also provides for each of the pools to facilitate purchase and sale transactions which one pool may have with remote systems and with which the other pool is interconnected.

The parties have requested that the Commission waive its notice requirements and permit the Interconnection Agreement to become effective as of April 4, 1977, the date upon which the New York Power Pool first became operative.

Any person desiring to be heard or to make any protest with reference to the Interconnection Agreement should on or before October 11, 1977, file with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Persons wishing to become parties to a proceeding or to participate as a party in any hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29391 Filed 10-5-77;8:45 am]

NOTICES

[6740-02]

[Docket No. ER77-610]

NORTHERN STATES POWER CO. Interconnection and Interchange Agreement and Supplement No. 1

SEPTEMBER 28, 1977.

Take notice that Northern States Power Company (NSPC), on September 22, 1977, tendered for filing an Interconnection and Interchange Agreement and a Supplement No. 1, both dated September 16, 1977, with the City of Melrose, N. Dak.

NSPC indicates that the Interconnection and Interchange Agreement includes Service Schedules providing for transactions between the parties similar to those contained in Service Schedules under the Mid-Continent Area Power Pool Agreement. NSPC further indicates that Supplement No. 1 provides for the delivery of the City's Bureau allocation.

NSPC requests waiver of the Commission's notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedures (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29375 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ER77-608]

NORTHERN STATES POWER CO. Interconnection and Interchange Agreement

SEPTEMBER 28, 1977.

Take notice that Northern States Power Company (NSPC), on September 22, 1977, tendered for filing an Interconnection and Interchange Agreement, dated September 14, 1977, with the City of Janesville, N. Dak.

NSPC states that the Interconnection and Interchange Agreement includes service schedules, which provide for transactions between the parties, similar to the service schedules contained in the Mid-Continent Area Power Pool Agreement.

NSPC requests waiver of the Commission's notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29376 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ER77-609]

NORTHERN STATES POWER CO. Interconnection and Interchange Agreement and Supplement No. 1

SEPTEMBER 28, 1977.

Take notice that Northern States Power Company (NSPC), on September 22, 1977, tendered for filing an Interconnection and Interchange Agreement and a Supplement No. 1, both dated September 16, 1977, with the City of Fairfax, N. Dak.

NSPC indicates that the Interconnection and Interchange Agreement includes Service Schedules providing for transactions between the parties similar to those contained in Service Schedules under the Mid-Continent Area Power Pool Agreement. NSPC further indicates that Supplement No. 1 provides for the delivery of the City's Bureau allocation.

NSPC requests waiver of the Commission's notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29377 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ER77-596]

NORTHERN STATES POWER CO. Municipal Resale and Transmission Service Agreement

SEPTEMBER 28, 1977.

Take notice that Northern States Power Company (Northern States), on September 20, 1977, tendered for filing a Municipal Resale and Transmission Service Agreement, dated September 12, 1977, with the City of Sioux Falls.

Northern States indicates that the Agreement provides for Northern States to furnish Sioux Falls' requirements in excess of Bureau of Reclamation power and energy as Load Pattern Power. Northern States further indicates that the Agreement changes the wheeling rate from a flat monthly charge to \$2.70 per KW per year. Northern States requests an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29378 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ER 77-604]

NORTHERN STATES POWER CO. Interconnection and Interchange Agreement

SEPTEMBER 29, 1977.

Take notice that Northern States Power Company (NSPC), on September 21, 1977, tendered for filing an Interconnection and Interchange Agreement, dated September 16, 1977 with the City of Lake Crystal, N. Dak.

NSPC indicates that the Interconnection and Interchange Agreement includes service schedules, which provide for transactions between the parties, similar to the service schedules contained in the Mid-Continent Area Power Pool Agreement.

NSPC requests waiver of the Commission's notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10

NOTICES

of the Commission's rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29393 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ER77-602]

NORTHERN STATES POWER CO. Interconnection and Interchange Agreement and Supplement No. 1

SEPTEMBER 29, 1977.

Take notice that Northern States Power Company (NSPC), on September 21, 1977, tendered for filing an Interconnection and Interchange Agreement and a Supplement No. 1, both dated September 12, 1977, with the City of Kenyon.

NSPC indicates that the Interconnection and Interchange Agreement includes Service Schedules providing for transactions between the parties similar to those contained in Service Schedules under the Mid-Continent Area Power Pool Agreement. NSPC further indicates that Supplement No. 1, provides for Northern States to supply the City's requirements in excess of 1669 KW as Load Pattern Power.

NSPC requests an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29394 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ER77-616]

NORTHERN STATES POWER CO. Transmission Service Agreement

SEPTEMBER 29, 1977.

Take notice that Northern States Power Company (NSPC), on September 26, 1977, tendered for filing a Transmis-

sion Service Agreement, dated September 20, 1977, with the State of South Dakota.

NSPC states that the Agreement changes the wheeling rate from 2.3 mills per KWH to \$2.70 per KW per year.

NSPC requests waiver of the Commission's notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29395 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ER77-603]

NORTHERN STATES POWER CO. Interconnection and Interchange Agreement

SEPTEMBER 29, 1977.

Take notice that Northern States Power Company (NSPC), on September 21, 1977, tendered for filing an Interconnection and Interchange Agreement, dated September 16, 1977, with the City of Glencoe, North Dakota.

NSPC indicates that the Interconnection and Interchange Agreement includes service schedules, which provide for transactions between the parties, similar to the service schedule contained in the Mid-Continent Area Power Pool Agreement.

NSPC requests waiver of the Commission's notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 11, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29396 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. CP75-340]

NORTHWEST PIPELINE CORP.

Petition to Amend

SEPTEMBER 29, 1977.

Take notice that on September 21, 1977, Northwest Pipeline Corporation (Petitioner), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP75-340 a petition to amend the Commission's order of February 17, 1977 (57 FPC ----), as amended, May 9, 1977 (57 FPC ----) issued in the instant docket pursuant to Section 3 of the Natural Gas Act so as to provide for the continued importation of additional volumes of natural gas through October 31, 1978 at the Kingsgate, British Columbia import point, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

It is indicated that pursuant to the Commission's order of February 17, 1977, as amended May 7, 1977, in the instant docket, Petitioner was granted authorization to continue the importation of an additional 125,000 Mcf of natural gas on peak days and up to 30,000 Mcf of natural gas on an average day basis at Kingsgate through a period ending October 31, 1977. Petitioner states that the additional volumes of natural gas are made available to Westcoast Transmission Company Limited (Westcoast) by Alberta and Southern Gas Company Limited (A&S) on a best efforts limited term basis, and that Pacific Gas Transmission Company (PGT) receives the volumes at Kingsgate and transports such volumes for delivery to Northwest at two existing points of interconnection between the facilities of PGT and Petitioner in the vicinity of Stansfield, Oregon and Spokane, Washington.

Petitioner requests authorization to continue the importation of additional volumes of natural gas to be purchased from Westcoast at the Kingsgate import point through October 31, 1978. Petitioner further requests that such volumes authorized to be imported at the Canadian Government's established border price of \$2.16 (United States) per Mcf.

It is indicated that Petitioner, in an effort to retain this supplemental supply of natural gas has entered into a new amendment to an agreement and consent with Westcoast dated August 1, 1977. It is further indicated that pursuant to such agreement Petitioner consented to Westcoast entering into an agreement dated August 1, 1977 with A&S. The agreement between Westcoast and A&S provides that A&S is willing and able to sell gas to Westcoast for resale to Petitioner, during the period November 1, 1977 to October 31, 1978 subject to A&S's existing sales contract obligations, it is said. Petitioner indicates that the quantity of natural gas that A&S would have available would be the quantity which A&S would have available after A&S has complied with its existing sales

contract obligations and would be dependent upon the volume of natural gas that PGT in its sole discretion is able to accept in its transmission system each day in excess of those volumes of natural gas necessary to meet its existing sales and transportation obligations. It is further indicated that Petitioner and PGT have entered into a letter agreement executed July 15, 1977 regarding the transportation of such excess volumes of natural gas, and that Petitioner has agreed to pay PGT for the volumes transported in accordance with the cost of service and cost allocation procedures contained in Rate Schedule I-1 of PGT's FPC Gas Tariff Original Volume No. 1.

The volumes of natural gas to be made available by A&S to Westcoast would not exceed 30,000 Mcf on an average day and 125,000 Mcf on a peak day, it is stated. It is indicated that the rate to be paid Westcoast for such volumes of natural gas would be the rate prescribed by the National Energy Board (NEB) of Canada for all gas exported pursuant to Westcoast's export license GL-41, which price is \$2.16 per Mcf.

Petitioner indicates that no new or additional facilities are required to effectuate the continued importation proposed herein as the existing transmission and border facilities of PGT would be utilized in the importation of the A&S volumes.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29392 Filed 10-5-77; 8:45 am]

[6740-02]

[Project No. 2370]

PENNSYLVANIA ELECTRIC CO.

Meeting

SEPTEMBER 29, 1977.

Public notice is hereby given that a meeting will be held on October 13, 1977, at 10 a.m. at the Federal Power Commission in Room 8402, 825 North Capitol Street, Washington, D.C., respecting a proposed revision of the application for approval of revised Exhibit R (recreational use plan) for the Deep Creek Project, FPC No. 2370, filed by Pennsylvania

Electric Co. All parties have been notified of the meeting.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29434 Filed 10-5-77; 8:45 am]

[6740-02]

[Docket No. CI77-760]

PIONEER GAS PRODUCTS CO.

Notice of Applications For Certificates, Abandonment of Service and Petitions To Amend Certificates¹

SEPTEMBER 29, 1977.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure a hearing will be held without further notice before the Commission on all applications in which not petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicants to appear or to be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

¹This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
A CI77-700.... 7-29-77	Pioneer Gas Products Co., P.O. Box 511, Amarillo, Tex. 79105.	Lone Star Gas Co., a division of ENSERCH Corp. (certain acreage in Bryan and Marshall Counties, Okla.)	\$1.46	14.73
Filing code: A—Initial service B—Abandonment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Succession. F—Partial succession.				
See footnotes at end of table.				

[FR Doc. 77 29345 Filed 10 5-77; 8:45 am]

[6740-02]

[Docket No. RP77-137-1]

SOUTH GEORGIA NATURAL GAS CO.
(GREAT SOUTHERN PAPER CO.)

Petition For Extraordinary Relief From Curtailment and Reclassification of Requirements

SEPTEMBER 29, 1977.

Take notice that on September 13, 1977, Great Southern Paper Co. (Great Southern) filed a petition pursuant to § 1.7(b) of the Commission's Rules of Practice and Procedure and § 2.78(b) of the Commission's General Policy and Interpretations for extraordinary relief from the operation of the curtailment plan of South Georgia Natural Gas Co. (South Georgia). Specifically, Great Southern requests the Commission to (1) direct that an average daily volume of 545 Mcf of natural gas required for ignition service and flame stability in two coal-fired boilers, two recovery boilers and two lime kilns employed at Great Southern's plant in Cedar Springs, Georgia be classified as a Priority 2 requirement under South Georgia's Index of Requirements, and (2) require South Georgia to deliver up to 3,000 Mcf of natural gas per day for nonboiler fuel use in Great Southern's lime kilns as a Priority 7 load.

Great Southern states in its petition that South Georgia is the sole supplier of natural gas to Great Southern's paper mill located in Cedar Springs, Georgia, and that Great Southern has been subjected to increasing levels of curtailment since 1974. Great Southern anticipates almost total curtailment of its supplies in the upcoming winter heating season.

Great Southern alleges that reclassification is warranted to correct an erroneous priority classification resulting from South Georgia's adherence to the firm-interruptible distinction in its curtailment plan and from the aggregation of all of Great Southern's requirements for purposes of classification under South Georgia's Index of Requirements in disregard of the various end-uses of natural gas at the Cedar Springs mill. Under the operation of South Georgia's curtailment plan, all of Great Southern's minimum average daily requirements of 3,545 Mcf of natural gas per day, which are currently purchased on an interruptible basis from South Georgia, are placed in

South Georgia's curtailment priority 8. Great Southern contends that the different uses of natural gas in its paper mill operations should be categorized separately according to end-use within South Georgia's curtailment priorities.

According to the petition, only LP-gas can be used as an alternate fuel in Great Southern's present igniter systems, and Great Southern's allocation of propane from its supplier, Union Texas Petroleum, is not adequate to meet its requirements during periods of curtailment. Although No. 6 fuel oil can be substituted for natural gas in the lime kilns designed originally to use natural gas, Great Southern claims that use of such alternate fuel reduces both efficiency and the quality of the product, considerations not relevant in determining a fuel for the generation of steam in boilers.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 11, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules. The petition which was filed with the Commission is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29398 Filed 10 5 77; 8:45 am]

[6740-02]

[Docket No. RI77-131]

SOUTH STATES OIL & GAS CO.

Petition for Special Relief From Refund Obligation

SEPTEMBER 29, 1977.

Take notice that on September 9, 1977, South States Oil and Gas Company (South States), Milan Building, San Antonio, Tex. 78205 filed a petition for special relief from refund obligation in Docket No. RI77-131 pursuant

to Section 1.7(a) of the Commission's Rules of Practice and Procedure and Section 154.109 of the Commission's Regulations.

Specifically, South States seeks special relief from the \$155,000.00 refund obligation imposed by the Commission for sales of gas made by South States to Tennessee Gas Pipe Line Co. (Tennessee) between 1961 and 1968 from wells located in the Texas Gulf Coast Area. South States alleges that its actual production, marketing and gathering expenses exceed the revenues derived from the sale of gas from the subject leases and that payment of the refunds and interest would result in the dissolution of this natural gas company.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77 29397 Filed 10 5-77; 8:45 am]

[6740-02]

[Docket No. ER77-615]

SOUTHERN INDIANA GAS & ELECTRIC CO.
Cancellations

SEPTEMBER 29, 1977.

Take notice that Southern Indiana Gas & Electric Co. (Company) on September 26, 1966, tendered for filing notices of cancellation of the following rate schedules, involving Company and the parties listed. The Company requests waiver of the Commission's notice requirements to allow for the cancellations to become effective as of the dates listed:

Rate schedule	Party	Proposed effective date
FPC No.		
10	Dubois Rural Electric Co-operative, Inc. (Dubois).	Oct. 31, 1970
11	Dubois	July 31, 1972
12	Southern Indiana Rural Electric Co-operative, Inc. (Southern Rural).	Aug. 31, 1972
13	Southern Rural	Do
14	do	Do
15	do	Do
16	do	Do
18	do	Do
19	do	Do

The Company states that copies of this filing have been forwarded to Dubois and Southern Rural.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 12, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29399 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. CP77-616]

TEXAS GAS TRANSMISSION CORP. Application

SEPTEMBER 28, 1977.

Take notice that on September 12, 1977, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42301, filed an application, in Docket No. CP77-616, pursuant to Section 7 of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the construction of:

Approximately 20.4 miles of 20-inch pipeline and appurtenant facilities extending from the Houston Oil & Minerals Corp. platform in the Vermilion Area, Block 50, Offshore Louisiana (Block 50), to the southern terminus of Applicant's 20-inch Maurice-North Freshwater Bayou pipeline, as more fully described in the application.

The facilities proposed by Applicant are to provide a connection between the reserves to be produced in the Block 50 area.

Applicant shows that the total estimated cost of the proposed facilities is \$15,284,600. Applicant states that the additional volumes to be made available to Applicant from the block to be connected will help to reduce the level of future curtailments.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 11, 1977, should file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the

Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29379 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. ER77-614]

UNION ELECTRIC CO. Proposed Tariff and Rate Schedule Changes

SEPTEMBER 29, 1977.

Take notice that Union Electric Co. (Union) on September 26, 1977, tendered for filing proposed changes in its FPC Electric Service Tariffs Nos. W-2, 88 and 49. Union indicates that the proposed changes would increase revenues from jurisdictional sales and service by \$14,976,000 based on the twelve-month period ending September 30, 1978. Union further indicates that in addition, the proposed changes in the W-2 Tariff also modify the form of rate, power factor requirements, billing and payment provisions, and add provisions regarding load reduction as well as other minor modifications.

Union states that its proposed increase in rates is due to the increased costs of construction, capital, wages, property and payroll taxes and other similar increases in costs, and Union contends that the rate increases are necessary in order to provide a fair return to Union and its investors and at the same time generate sufficient cash to insure Union's ability to continue to provide adequate and reliable service.

According to Union, copies of the filing were served upon Union's jurisdictional customers and the Missouri Public Service Commission and Iowa State Commerce Commission.

Union requests that the changes proposed in this filing become effective as of October 26, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 12, 1977. Protests

will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person desiring to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29400 Filed 10-5-77;8:45 am]

[6740-02]

[Docket No. RI77-121]

WALTER E. BAILY Petition for Special Relief

SEPTEMBER 29, 1977.

Take notice that on August 29, 1977, Walter E. Baily (Baily), Box 548, Seminole, Okla., filed a petition for special relief pursuant to Section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76).

Baily seeks authorization to charge \$1.50/Mcf for the sale of gas from his well in Wood County, Okla., to Cities Service Gas Co. Baily states that the gas is presently shut-in because it can't deliver against Cities Service's line pressure and as a result the well has loaded up with salt water. Baily estimates there are 150,000 Mcf of remaining recoverable reserves in the well. Baily currently is authorized a 31 cents/Mcf rate. He states that his proposed reconconditioning will cost \$55,000.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 20, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29401 Filed 10-5-77;8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM LANDMARK BANCSHARES CORP.

Order Approving Acquisition of Bank

Landmark Bancshares Corp., St. Louis, Mo., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval under section 3(a) (3) of the Act (12 U.S.C. 1842(a)(3)) to acquire all of the voting shares (less directors' qualifying shares) of Fidelity Bank and Trust Co., Creve Coeur, Mo. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant, the twelfth largest banking organization in Missouri, controls three banks with total deposits of approximately \$222.4 million, representing 1.2 percent of total deposits in commercial banks in the State.¹ Acquisition of Bank (deposits of approximately \$13.4 million) would increase Applicant's share of commercial bank deposits in Missouri by less than .1 of one percent and would have no appreciable effect on concentration of banking resources in the State.

Bank ranks 66th out of 81 banking organizations in the relevant banking market² and holds .1 of one percent of the total commercial bank deposits in the market. Applicant's three banking subsidiaries are all located in the St. Louis market and control in the aggregate 2.6 percent of market deposits, making Applicant the ninth largest banking organization in the market. Upon consummation of the proposed acquisition, Applicant's share of commercial bank deposits would increase to 2.7 percent and Applicant would become the eighth largest banking organization in the market. The Board does not view such effects as being particularly serious in light of the competitive banking structure in the St. Louis market. Thirteen of the twenty largest banking organizations in Missouri are represented in the market and nine of those organizations are among the ten largest banking organizations in the market. In addition, although Applicant's rank in the market will improve as a result of the proposed acquisition, Applicant's share of market deposits would not increase significantly. While consummation of the proposal would reduce the number of independent banking organizations in the St. Louis market, that effect is not regarded as important in view of the fact that a large number of independent banking organizations would remain competing in the market. In light of the above and other facts of record, the Board concludes that the proposed acquisition would have only slightly adverse effects on competition and, in light of the considerations discussed below, the Board does not view such effects as being so serious as to require denial of this proposal.

The financial and managerial resources and future prospects of Applicant, its subsidiaries, and Bank are regarded as generally satisfactory and consistent with approval of the proposal.

¹ Banking data are as of December 31, 1976.

² The relevant banking market is approximated by the city of St. Louis, St. Louis County, portions of St. Charles and Jefferson Counties in Missouri, and portions of Madison and St. Clair Counties in Illinois.

As a result of its affiliation with Applicant, Bank would be able to offer additional services to its customers, including automatic telephone fund transfers and direct deposit of payroll and social security funds. In addition, Applicant intends to lower the charges on certain of Bank's services. These considerations relating to the convenience and needs of the community to be served lend weight toward approval of the application and, in the Board's judgment, are sufficient to outweigh any slight adverse competitive effects that might result from consummation of the proposal. It is the Board's judgment that approval of the application would be in the public interest and that the application should be approved.

On the basis of the record, the application is approved for the reasons summarized above. The transaction shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of St. Louis pursuant to delegated authority.

By order of the Board of Governors, effective September 29, 1977.

GRAFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29348 Filed 10-5-77;8:45 am]

[6210-01]

SIERRA PETROLEUM CO., INC., K&B PRODUCERS, INC.

Order Approving Acquisition of Shares of a Bank Holding Company

Sierra Petroleum Co., Inc., Wichita, Kans. ("Sierra"), a bank holding company by virtue of its ownership of 87.2 percent of the voting shares of United American Bank & Trust Co., Wichita, Kans. ("United Bank"), and K&B Producers, Inc., Wichita, Kans. ("K&B"), a bank holding company by virtue of its ownership of 95.8 percent of the voting shares of Allen County State Bank, Iola, Kans. ("Allen Bank"), have applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) for each to acquire 24.9 percent of the voting shares of Twin Lakes Financial Corp., Wichita, Kans. ("Twin Lake"), a proposed bank holding company with respect to Twin Lakes State Bank, Wichita, Kans. ("Twin Lakes Bank").

Notice of the applications, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b) of

¹ Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

² In a related action, the Board approved today an application by Twin Lakes to become a bank holding company through the acquisition of 98.9 percent of the voting shares of Twin Lakes Bank.

the Act.³ The time for filing comments and views has expired, and the applications and all comments and views received have been considered by the Board in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Twin Lakes Bank (\$28.4 million in deposits) ranks 84th among 616 commercial banks in Kansas and controls 0.3 percent of the total commercial bank deposits in the State.⁴ Twin Lakes Bank is the 14th largest of 28 commercial banks in the Wichita banking market (the relevant market) and controls approximately 1.9 percent of the total deposits held by commercial banks in that market.⁵ Sierra's subsidiary bank, United Bank (\$29.9 million in deposits), controls 2 percent of the total deposits held by commercial banks in the relevant market and is the eighth largest commercial bank in that market. K&B's subsidiary bank Allen Bank (\$30.7 million in deposits), is located in Iola, Kans., over 100 miles east of Wichita. In a separate banking market, United Bank and Twin Lakes Bank are located in the same banking market, along with a third commercial bank⁶ also controlled by the principals of Sierra and K&B; thus, consummation of the proposals would result in some elimination of existing competition. However, it appears that the proposed transactions will not have an significant adverse competitive effects due to the relative size of these banking organizations in the Wichita market (in the aggregate they control only 5.75 percent of the total deposits in commercial banks in the market, and together would rank as the fifth largest organization therein⁷), the number of remaining banking alter-

³ Pursuant to the Supreme Court's holding in *Whitney National Bank of Jefferson Parish v. Bank of New Orleans and Trust Co.*, 379 U.S. 411, (1965), the Board may not approve an application by a bank holding company if Board approval of the proposal contemplated by such application would result in the violation of a valid State law. Kansas law prohibits the formation of multi-bank holding companies. The relevant statute generally defines a bank holding company as any company that directly or indirectly owns, controls, or holds with power to vote, 25 percent or more of the voting shares of each of two or more banks; or controls in any manner the election of a majority of the directors of each of two or more banks (K.S.A. § 9-504). Notice of the subject proposals has been given to the Kansas Banking Commissioner, as required by § 3(b) of the Bank Holding Company Act (12 U.S.C. 1842(b)). The Banking Commissioner has indicated that consummation of the proposals, which involve the direct acquisition by Sierra and K&B of 24.9 percent each of the voting shares of Twin Lakes, would not contravene the provisions of Kansas law.

⁴ All banking data are as of December 31, 1976, and reflect bank holding company formations and acquisitions approved as of July 31, 1977.

⁵ The relevant market is the Wichita banking market, approximated by Sedgewick County, Kans.

⁶ Wichita State Bank, Wichita, Kans. (\$28.5 million in deposits) controls 1.9 percent of total commercial bank deposits and ranks 13th in the relevant banking market.

natives in the market, and the common ownership ties between the three institutions. Accordingly, on the basis of the facts of record, the Board concludes that consummation of the proposals would not have any significant adverse competitive effects in any relevant area.

The financial and managerial resources and future prospects of Sierra and its subsidiary bank and K&B and its subsidiary bank are considered satisfactory and consistent with approval. The acquisition of Twin Lakes' shares by Sierra and K&B will not adversely affect the overall financial conditions of Sierra, United Bank, K&B, Allen Bank, or Twin Lakes Bank. To the contrary, the proposals would have the effect of enabling Twin Lakes to reduce the debt incurred in connection with the acquisition of Twin Lakes Banks. Considerations relating to the convenience and needs of the communities to be served also appear to be consistent with approval of the applications. It is the Board's judgment that the proposed transactions would be consistent with the public interest, and that the applications to acquire shares of Twin Lakes should be approved.¹

Based upon the foregoing and other considerations reflected in the record,² the applications are approved for the reasons summarized above. The transactions to acquire shares of Twin Lakes shall not be made (a) before the thirtieth calendar day following the effective date of this order or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City, pursuant to delegated authority.

By order of the Board of Governors,³ effective September 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc. 77-29349 Filed 10-5-77; 8:45 am]

¹In connection with its consideration of the subject proposals, the Board has by letters of today's date notified both Sierra and K&B that, upon consummation of the proposals, the Board has determined, on the basis of the record, that Sierra and K&B would be capable of exercising a "controlling influence" over the management or policies of Twin Lakes within the meaning of section 2 (a) (2) (C) of the Act. Accordingly, upon consummation of the proposals, Sierra and K&B are required to report Twin Lakes, as well as its subsidiaries, as subsidiaries of Sierra and K&B and to comply with the applicable provisions of the Act with respect to such subsidiaries. Sierra and K&B have waived the requirement of notice and opportunity for a hearing provided in the statute, and this determination becomes final upon consummation of the proposals.

²Dissenting statements of Governor Coldwell filed as part of the original document. Copies are available upon request to Board of Governors of the Federal Reserve System, Washington, D.C. 20551, or to the Federal Reserve Bank of Kansas City.

³Voting for this action: Governors Wallich, Jackson, Partee, and Lilly. Voting against this action: Governor Coldwell. Absent and not voting: Chairman Burns and Governor Gardner.

[6210-01]

SUN BANK OF OCALA, SUN BANK OF SOUTH OCALA

Order Approving Application for Merger of Banks

Sun Bank of Ocala, Ocala, Fla. ("Applicant Bank") has applied for the Board's approval, pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), of the merger of Applicant Bank with the Sun Bank of South Ocala, Ocala, Fla. ("Other Bank"), under the charter and title of Applicant Bank. Incident to the proposed merger, the existing office of Other Bank would become a branch office of the resulting bank.

Both banks involved are wholly owned subsidiaries (except for Directors' qualifying shares) of Sun Banks of Florida, Inc., Orlando, Fla., a registered bank holding company under the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841, et seq.).

As required by the Bank Merger Act, notice of the proposed transactions in a form approved by the Board was published, and reports on competitive factors from the U.S. Attorney General, the Comptroller of the Currency, and the Federal Deposit Insurance Corporation were requested. The Board has considered the applications and all comments and reports received in the light of the factors set forth in the Bank Merger Act.

Applicant Bank holds deposits of \$61 million and is the largest of seven banks (including Other Bank), in the market.¹ Other Bank holds deposits of \$18 million and is the fifth largest bank in the market. Applicant Bank and Other Bank together hold 36.5 percent of market deposits.

Since the banks are both wholly owned subsidiaries of the same bank holding company, and have been since 1972, the proposed transaction is essentially a corporate reorganization and would have no effect on competition. Nor does it appear that approval will have any adverse effects on any other banks in the market. Therefore, the Board concludes that competitive considerations are consistent with approval of the application.

This is essentially a corporate reorganization, and the Board finds the financial condition and managerial resources of the institutions involved as being satisfactory and consistent with approval of the application.

It is contemplated that the present office of Other Bank will be converted into a branch office of Applicant Bank, incident to and subject to approval of this application, and it is anticipated that the merger will result in more efficient operation of the two banks.

Applicant proposes no new services in connection with the merger. Concurrently, Applicant Bank has received approval to expand a "cast facility" into a full branch and to establish yet another branch. Accordingly, convenience and needs considerations are consistent with approval. It is the Board's judgment that consummation of the proposal would be in the public interest and that the application should be approved.

On the basis of the record and for the reasons summarized above, the application to merge and, incident thereto, to establish a branch, is approved. The transactions shall not be made (a) before the thirtieth calendar day following the date of this order or (b) later than three months after the date of this order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors,³ effective September 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc. 77-29350 Filed 10-5-77; 8:45 am]

[6210-01]

TENNESSEE HOMESTEAD CO.

Retention of Bank Shares

Tennessee Homestead Co., Ogden, Utah, has applied for the Board's approval under section 3(a) (3) of the Bank Holding Company Act (12 U.S.C. 1842 (a) (3)) to retain 0.47 percent of the voting shares of Bank of Utah, Ogden, Utah, which would result in the ownership of 46.72 percent of the voting shares of that bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 28, 1977.

Board of Governors of the Federal Reserve System, September 30, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc. 77-29351 Filed 10-5-77; 8:45 am]

[6210-01]

TWIN LAKES FINANCIAL CORP.

Order Approving Formation of Bank Holding Company

Twin Lakes Financial Corp., Wichita, Kans., has applied for the Board's approval under section 3(a) (1) of the Bank Holding Company Act (12 U.S.C. 1842(a) (1)) of formation of a bank holding company through acquisition of 98.9 percent of the voting shares of Twin Lakes State Bank, Wichita, Kans. ("Bank").

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with section 3(b)

³Voting for this action: Vice Chairman Gardner and Governors Wallich, Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governor Coldwell.

of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant is a newly formed corporation organized under the laws of Kansas for the purpose of becoming a bank holding company through the acquisition of Bank Bank (\$28.4 million in deposits) ranks 84th among the 616 commercial banks in Kansas and controls 0.3 percent of the total commercial bank deposits in the State.¹ Bank is the 14th largest of 28 commercial banks in the Wichita banking market (the relevant market) and controls approximately 1.9 percent of the total deposits held by commercial banks in that market.² In addition to Bank, there are two other banks in the Wichita banking market affiliated with Applicant's principals.³ Applicant's principals also are affiliated with a bank in Iola, Kans., Allen County State Bank (\$30.7 million in deposits), which is located over 100 miles east of Wichita, in a separate banking market. It appears that the proposal would result in some elimination of existing competition; however, on the basis of all the facts of record, including the relative size of the affiliated banking organizations in the Wichita market (in the aggregate they control 5.75 percent of total market deposits and together would rank as the fifth largest banking organization therein), the number of banking alternatives remaining in the market, the fact that consummation of the proposal would not alter the competitive relationship between Bank and the two other affiliated banks in the Wichita market, and the proposed transactions is essentially a reorganization of existing ownership interests, the Board concludes that consummation of this proposal would not have any significant adverse effects upon either existing or potential competition within the relevant market.

Applicant proposes to sell 24.9 percent of its voting shares to Sierra Petroleum Co., Inc., Wichita, Kans., and 24.9 percent of its voting shares to K&B Producers, Inc., Wichita, Kans.⁴ As a result, Applicant will receive additional funding which it appears will allow Applicant to have the necessary financial resources available to service its debt without impairment of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received, in light of the factors set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Applicant proposes to sell 24.9 percent of its voting shares to Sierra Petroleum Co., Inc., Wichita, Kans., and 24.9 percent of its voting shares to K&B Producers, Inc., Wichita, Kans.⁴ As a result, Applicant will receive additional funding which it appears will allow Applicant to have the necessary financial resources available to service its debt without im-

¹All banking data are as of December 31, 1976, and reflect bank holding company formations and acquisitions approved as of July 31, 1977.

²The Wichita banking market is approximately by Sedgewick County, Kans.

³Wichita State Bank (\$28.5 million in deposits) and United American Bank & Trust Co. (\$29.9 million in deposits), with 1.9 and 2.0 percent, respectively, of the total commercial bank deposits in the Wichita banking market.

⁴Applicant's principals are also controlling shareholders in Sierra Petroleum Co. Inc. and K&B Producers, Inc., registered bank holding companies by virtue of their control, respectively, of United American Bank & Trust Co. and Allen County State Bank.

pairing the financial condition of Bank.¹ In addition, as part of this proposal, Bank's capital will be increased. Accordingly, the financial and managerial resources and future prospects of Applicant and Bank are considered to be satisfactory and consistent with approval of the application.

Although there will be no immediate changes in the operations or services of Bank as a result of this proposal, considerations relating to the convenience and needs of the community to be served are consistent with approval of the application. Based upon the foregoing and other considerations reflected in the record, it is the Board's judgment that the proposed acquisition is in the public interest and that the application should be approved.

On the basis of the record,² the application is approved for the reasons summarized above. The acquisition of Bank shall not be made: (a) before the thirtieth calendar day following the effective date of this order, or (b) later than three months after the effective date of this order, unless such period is extended for good cause by the Board or by the Federal Reserve Bank of Kansas City pursuant to delegated authority.

By order of the Board of Governors,³ effective September 29, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc. 77-29352 Filed 10-5-77; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA 2398]

CALIFORNIA

Opportunity for Public Hearing and Republishing of Notice of Proposed Withdrawal

SEPTEMBER 28, 1977.

The Forest Service, U.S. Department of Agriculture, filed application Serial No. CA 2398 on October 24, 1974, amended on February 17, 1976, for a withdrawal in relation to the following described lands:

MOUNT DIABLO MERIDIAN, CALIFORNIA
T. 17 N., R. 11 E.,
Sec. 30, Lot 5;
Sec. 31, Lot 44 (Mineral Survey C-10);
Sec. 32, Lot 44 (Mineral Survey C-10).

¹In a related action, the Board today approved the applications by Sierra Petroleum Co., Inc., Wichita, Kans., and K&B Producers, Inc., Wichita, Kans., to acquire 24.9 percent each of the voting shares of Applicant.

²Dissenting Statement of Governor Coldwell filed as part of the original document. Copies are available upon request to Board of Governors of the Federal Reserve System, Washington, D.C. 20551 or to the Federal Reserve Bank of Kansas City.

³Voting for this action: Governors Wallich, Jackson, Partee, and Lilly. Voting against this action: Governor Coldwell. Absent and not voting: Chairman Burns and Governor Gardner.

The area described aggregates 104.13 acres in Nevada County, California.

The applicant desires the land be added to the Tahoe National Forest in order to promote the efficient management of land and to effect national resource conservation in the area.

A notice of the proposed withdrawal was published in the FEDERAL REGISTER on October 29, 1975, page 50293, FR Doc. 75-28975, and on March 23, 1976, page 12072, FR Doc. 76-8173.

Pursuant to Sec. 204(h) of the Federal Land Policy and Management Act of 1976, 90 Stat. 2754, notice is hereby given that an opportunity for a public hearing is afforded in connection with the pending withdrawal application. All interested persons who desire to be heard on the proposed withdrawal must file a written request for a hearing to the State Director, Bureau of Land Management, E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825, on or before November 7, 1977. All previous comments submitted in connection with the withdrawal application have been included in the record and will be considered in making a final determination on the application.

In lieu of or in addition to attendance at a scheduled public hearing, written comments or objections to the pending withdrawal application may be filed with the undersigned authorized officer of the Bureau of Land Management on or before November 7, 1977.

The proposed withdrawal temporarily segregates the lands from any form of disposal or appropriation under the public land laws. The proposed action, when consummated, will transfer jurisdiction to national forest status, subject to all laws and regulations applicable to national forest lands. In accordance with Section 204(g) of the Federal Land Policy and Management Act of 1976, the effect of the pending withdrawal application will terminate on October 20, 1991, unless sooner terminated by action of the Secretary of the Interior.

All communications (except for public hearing requests) in connection with the pending withdrawal application should be addressed to the undersigned, Bureau of Land Management, Department of the Interior, Room E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, California 95825.

JOAN B. RUSSELL,
Chief, Lands Section Branch of
Lands and Minerals Operations.

[FR Doc. 77-29358 Filed 10-5-77; 8:45 am]

[4310-84]

(NM 31719)

NEW MEXICO

Application

SEPTEMBER 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by

the Act of November 16, 1973 (87 Stat. 576), Northwest Pipeline Corporation has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 41 N., R. 6 W.,
Sec. 10, W½NE¼

This pipeline will convey natural gas across 0.281 of a mile of public land in Rio Arriba County, New Mexico.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

STELLA V. GONZALES,
*Acting Chief, Branch of
Lands and Minerals Operations.*

[FR Doc. 77-29359 Filed 10-5-77; 8:45 am]

[4310-84]

[NM 31694]

NEW MEXICO

Application

SEPTEMBER 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), Phillips Petroleum Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. Mex.

T. 14 S., R. 28 E.,
Sec. 8 SW¼SE¼,
Sec. 17 N¼NE¼.

This pipeline will convey natural gas across 0.350 of a mile of public land in Chaves County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

STELLA V. GONZALES,
*Acting Chief, Branch of Lands
and Minerals Operations.*

[FR Doc. 77-29360 Filed 10-5-77; 8:45 am]

[4310-84]

[NM 31724]

NEW MEXICO

Application

SEPTEMBER 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat.

576), Cities Service Oil Co. has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. Mex.
T. 17 S., R. 27 E.,
Sec. 35, SE¼SW¼.

This pipeline will convey natural gas across 0.08 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

STELLA V. GONZALES,
*Acting Chief, Branch of Lands
and Minerals Operations.*

[FR Doc. 77-29361 Filed 10-5-77; 8:45 am]

[4310-84]

[NM 31741 and 31742]

NEW MEXICO

Applications

SEPTEMBER 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for three 4½-inch natural gas pipelines, with above-ground related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. Mex.
T. 24 S., R. 24 E.,
Sec. 4, NE¼SW¼ and N¼SE¼.

These pipelines will convey natural gas across 0.427 miles of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

STELLA V. GONZALES,
*Acting Chief, Branch of Lands
and Minerals Operations.*

[FR Doc. 77-29362 Filed 10-5-77; 8:45 am]

[4310-84]

[NM 31693, 31685, 31688, 31690, 31691, and 31698]

NEW MEXICO

Applications

SEPTEMBER 29, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has ap-

plied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, N. Mex.
T. 29 N., R. 8 W.,
Sec. 7, SE¼SE¼;
Sec. 17, SW¼NE¼, N¼SE¼ and SE¼SE¼;
Sec. 18, N¼NE¼, NE¼NW¼ and E¼SE¼;
T. 29 N., R. 9 W.,
Sec. 8, NW¼SE¼;
T. 25 N., R. 11 W.,
Sec. 26, N¼SW¼;
Sec. 27, NE¼SE¼.

These pipelines will convey natural gas across 1.917 miles of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

STELLA V. GONZALES,
*Acting Chief, Branch of Lands
and Minerals Operations.*

[FR Doc. 77-29363 Filed 10-5-77; 8:45 am]

[4310-84]

[NM 31674]

NEW MEXICO

Application

SEPTEMBER 27, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. Mex.
T. 26 S., R. 37 E.,
Sec. 13, SE¼SE¼.

This pipeline will convey natural gas across 0.298 of a mile of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
*Chief, Branch of Lands and
Minerals Operations.*

[FR Doc. 77-29364 Filed 10-5-77; 8:45 am]

[4310-84]

OREGON AND WASHINGTON

Filing of Amended Protraction Diagrams

SEPTEMBER 29, 1977.

Notice is hereby given that effective November 4, 1977, the following amended

protraction diagrams, approved September 12, 1977 are officially filed of record in the Oregon State Office, Bureau of Land Management, Portland, Ore. In accordance with Title 43, Code of Federal Regulations, these protractions will become the basic record for describing the land for all authorized purposes at and after 10:00 a.m. of the above effective date. Until this date and time, the diagrams have been placed in the open files and are available to the public for information only.

OREGON AMENDED PROTRACTION DIAGRAM

WILLAMETTE MERIDIAN

Unit 35:

T. 27 S., R. 7 E.,
Sec. 4 to 9 inclusive;
Sec. 10 W½;
Sec. 15 W½;
Sec. 16 to 19 inclusive;
Sec. 20 N¼, SW¼.

WASHINGTON AMENDED PROTRACTION DIAGRAMS

Unit 1:

T. 32 N., R. 13 E.,
Secs. 1, 12, 13, 24, 25, 36.
T. 32 N., R. 14 E.,
Secs. 7 to 36 inclusive.
Unit 5:
T. 9 N., R. 9 E.,
Secs. 1 to 36 inclusive.
T. 9 N., R. 10 E.,
Secs. 1 to 36 inclusive.

Copies of these diagrams are for sale at the Oregon State Office, Bureau of Land Management, 729 N. E. Oregon, Portland, Ore. 97232.

SHIRLEY M. VESSELLA,
*Acting Chief, Branch of
Records and Data Management.*

[FR Doc. 77-29322 Filed 10-5-77; 8:45 am]

[4310-84]

[Wyoming 61091]

WYOMING

Application

SEPTEMBER 27, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Western Oil Transportation Co., Inc., of Casper, Wyo. filed an application for a right-of-way to construct a 4½" pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 44 N., R. 77 W.,
Sec. 21, W½E½;
Sec. 28, W½NE¼.

The pipeline will transport crude oil within T. 44 N. R. 77 W., Johnson County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of

Land Management, 951 Union Building, Casper, Wyo. 82601.

WILLIAM S. GILMER,
*Acting Chief, Branch of Lands
and Minerals Operations.*

[FR Doc. 77-29324 Filed 10-5-77; 8:45 am]

[4310-55]

Fish and Wildlife Service

ALASKA

Application for Pipeline Right-of-Way

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by Pub. L. 93-153 approved November 16, 1973, (87 Stat. 576), Alaska Pipeline Company has applied for a thirty (30) foot wide permanent pipeline right-of-way across the following lands:

Kenai National Moose Range within an existing electric transmission line right-of-way located generally seven (7) miles north-east of Kenai, Alaska, more specifically Sections 7, 16, 17, 18, 21, 28 and 33, T 6 N, R 10 W and Sections 1, 2 and 12, T 6 N, R 11 W, Seward Meridian.

The 8-inch pipeline will convey natural gas across eight (8) miles of the Kenai National Moose Range, Kenai Peninsula Borough, Alaska.

The purpose of this notice is to inform the public that the United States Fish and Wildlife Service will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their comments to the Refuge Manager, Kenai National Moose Range, P.O. Box 500, Kenai, Alaska 99611.

GORDON W. WATSON,
*Area Director, United States
Fish and Wildlife Service.*

[FR Doc. 77-29323 Filed 10-5-77; 8:45 am]

[4310-09]

Office of the Secretary

[INT Des 77-33]

NEW MELONES 230-KV ELECTRICAL TRANSMISSION LINE, CENTRAL VALLEY PROJECT, CALIF.

Availability of Draft Environmental Statement

Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Department of the Interior has prepared a draft environmental statement on the proposed development of an electrical transmission system for transmission of about 420 million kWh annually. The 23-mile line is to be constructed by the Pacific Gas & Electric Co. to transmit the output of the New Melones Powerplant to the Bureau of Reclamation's Tracy Switchyard near Tracy, Calif.

The environmental statement concerns the effects of the construction and operation of the transmission line. Written comments may be submitted to the Regional Director (address below) within 45 days of the date of this notice.

Copies are available for inspection at the following locations:

Office of Assistant to the Commissioner—Ecology, Room 7620, Bureau of Reclamation, Department of the Interior, Washington, D.C. 20240.

Division of Engineering support, Technical Services and Publications Branch, E&R Center, Denver Federal Center, Denver, Colo. 80225, telephone 303-234-3006.

Office of the Regional Director, Bureau of Reclamation, 2800 Cottage Way, Sacramento, Calif. 95825, telephone 916-484-4792.

Single copies of the draft statement may be obtained on request to the Commissioner of Reclamation or the Regional Director. Please refer to the statement number above.

Dated: October 3, 1977.

LARRY E. MEIEROTTO,
*Deputy Assistant Secretary
of the Interior.*

[FR Doc. 77-29423 Filed 10-5-77; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

MALLEABLE CAST-IRON PIPE AND FITTINGS

[Inv. TA-201-26]

Report to the President

SEPTEMBER 29, 1977.

To the President:

In accordance with section 201(d)(1) of the Trade Act of 1974 (Trade Act), the United States International Trade Commission herein reports the results of an investigation relating to malleable cast-iron pipe and tube fittings.

The investigation (Inv. No. TA-201-26) was undertaken to determine whether cast-iron pipe and tube fittings, malleable, provided for in items 610.70, 610.71, and 610.74 of the Tariff Schedules of the United States (TSUS), are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission instituted the investigation, under the authority of section 201(b)(1) of the Trade Act, on April 13, 1977, following receipt on March 29, 1977, of a petition for import relief under section 201 of the Trade Act of 1974 (19 U.S.C. 2251) filed by the American Pipe Fittings Association, representing the eight domestic producers of malleable cast-iron pipe and tube fittings.

The Commission held a public hearing on this matter in Washington, D.C., on June 21, 1977.

Notice of the institution of the investigation and time and place of the hearing was published in the FEDERAL REGISTER of April 19, 1977 (42 FR 20355).

The information for this report was obtained from field work and interviews by members of the Commission's staff, from other Federal agencies, from responses to the Commission's question-

nares, from information presented at the public hearings, from briefs submitted by interested parties, and from the Commission's files.

A transcript of the hearing and copies of briefs submitted by interested parties in connection with the investigation are attached.¹

DETERMINATION OF THE COMMISSION

On the basis of the investigation, the Commission unanimously determines that cast-iron pipe and tube fittings, malleable, provided for in items 610.70, 610.71, and 610.74 of the TSUS, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

VIEWS OF THE COMMISSION

On March 29, 1977, the American Pipe Fittings Association petitioned the United States International Trade Commission for import relief under section 201 of the Trade Act of 1974. The Commission instituted an investigation on April 13, 1977, to determine whether cast-iron pipe and tube fittings, malleable, provided for in items 610.70, 610.71, and 610.74 of the Tariff Schedules of the United States, are being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

Section 201(b)(1) of the Trade Act requires that each of the following conditions must be satisfied before an affirmative determination can be made:

- (1) Imports of an article into the United States are increasing (either actually or relative to domestic production);
- (2) The domestic industry producing an article like or directly competitive with the imported article is being seriously injured, or threatened with serious injury; and
- (3) Increased imports are a substantial cause (i.e., an important cause and not less than any other cause) of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

DETERMINATION

On the basis of information obtained in the present investigation, we have determined that malleable cast-iron pipe and tube fittings are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

THE DOMESTIC INDUSTRY

We have determined that the domestic industry in the present investigation consists of facilities in the United States de-

¹ Attached to the original report sent to the President, and available for inspection at the U.S. International Trade Commission, except for material submitted in confidence.

voted to the production of malleable cast-iron pipe and tube fittings (hereinafter referred to as the domestic industry). There are eight firms operating such facilities.

NO SERIOUS INJURY OR THE THREAT THEREOF CAUSED BY IMPORTS

Section 201(b)(2) of the Trade Act outlines certain guidelines which the Commission is to take into account in determining whether serious injury, or the threat thereof, exists. In determining whether serious injury exists, the Commission is directed by the Trade Act to take into account all economic factors which it considers relevant, including the significant idling of productive facilities in the industry, the inability of a significant number of firms to operate at a reasonable level of profit, and significant unemployment or under employment within the industry. When evaluated in light of the foregoing, imports of malleable cast-iron pipe and tube fittings are not causing serious injury to the domestic industry within the meaning of the act.

Information obtained in this investigation establishes that the domestic industry supplied about 85 percent of domestic consumption of malleable cast-iron pipe and tube fittings in 1976. This is about the same percentage supplied by the domestic industry in 1972 and only slightly below the 1972-76 average of approximately 88 percent.

The net sales of the domestic industry in 1976 were the highest in the last five years, with the exception of 1974, a recession year. Responses to the Commission's questionnaire show that although the ratio of net operating profit to net sales declined between 1972 and 1975, it increased from 1975 to 1976, when imports were increasing. Moreover, if the poor financial performance of a domestic producer that experienced a five-month strike in 1976 is excluded from the aggregate industry profit-and-loss data, the domestic industry projected an even stronger profit image, recording a higher average profit ratio than that reported for all fabricated metal products producers in 1976.

The recent domestic financial picture is complemented by domestic price trends for the articles covered in this investigation. For the period 1972 through the first quarter of 1977, trends indicate that domestic prices have nearly doubled.

During 1972-76 no firms left the domestic industry, and the only plant closing was temporary and due to a strike. During the same period, there was a rise in the production capacity of the domestic industry. The increase in capacity is the result of new more efficient equipment being installed by a number of the members of the domestic industry. Capacity utilization has declined from the high level reached in 1973; however, the decline occurred in part because the increase in capacity noted above took place during a concurrent slump in demand which began in 1974.

Information obtained during the investigation shows that although there

was some reduction in employment in 1975 and 1976, employment increased during January-April 1977. The decline in employment in 1975 and 1976 reflected the reduced consumption during those years while the industry's productivity reached an all-time high in 1976.

In determining whether there is a threat of serious injury, the Commission is directed to take into account all economic factors it considers relevant, including a decline in sales, a higher and growing inventory, and a downward trend in production, profits, wages, or employment. An evaluation of the information obtained in the Commission's investigation does not support a finding of threat of serious injury. Sales of domestic malleable cast-iron pipe and tube fittings increased 9.3 percent from 1975 to 1976. As noted earlier, profit also climbed in that period. Production rose by 4.6 percent in the same period. Inventories were at a five-year low at the end of 1976 having declined by over 11 percent from 1972 levels. In addition, new construction activity, to which the production of malleable cast-iron pipe and tube fittings is closely related, appears to be maintaining its upward trend.

CONCLUSION

From the foregoing, we have determined that malleable cast-iron pipe and tube fittings are not being imported in such increased quantities as to be a substantial cause of serious injury or the threat thereof to the domestic industry.

By order of the Commission.

Issued: October 3, 1977.

KENNETH R. MASON,
Secretary.

[FR Doc 77-29441 Filed 10-5-77; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

UNITED STATES V. NATIONAL BLANK BOOK CO.

Proposed Consent Decree in Action to Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States v. National Blank Book Company*, Civil Action No. 77-585-C, will be lodged with the District Court for the District of Massachusetts that will require the Company to bring its discharges into compliance with its previously issued NPDES permit by October 1, 1977 or to pay a \$1,000 a day penalty for failing to do so. The decree also compels the Company to pay a \$10,000 civil penalty for failing to meet the effluent limitations set forth in its previously issued NPDES permit.

The Department of Justice will receive written comments relating to the proposed judgment on or before November 2, 1977. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to "United States v. Na-

tional Blank Book Company," D.J. Ref. No. 90-5-1-1-712.

The proposed consent decree may be examined at the office of the United States Attorney, 1107 John W. McCormack Post Office and Courthouse, Boston, Mass. 02109; at the Region I Office of the Environmental Protection Agency, Enforcement Division, J. F. Kennedy Federal Building, Boston, Mass. 02203; and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2630, Washington, D.C. 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General,
Land and Natural Resources Division.
[FR Doc 77-29325 Filed 10-5-77; 8:45 am]

[4510-30]

NATIONAL COMMISSION FOR MANPOWER POLICY

FIELD REVIEW ON NET EMPLOYMENT EFFECTS OF PUBLIC SERVICE EMPLOYMENT

Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770) notice is hereby given that the National Commission for Manpower Policy will conduct a field review on the net employment effects of the public service employment (PSE) program on November 10 and November 11, 1977. The reviews will be held at the Hilton Airport Inn, No. 1 International Plaza, Nashville, Tennessee. On November 10, the review will be held in the Stratosphere Room and on November 11, ber 10, the review will be held in the Room. The reviews will commence at 9 a.m. and conclude at 4 p.m. on both days.

The National Commission for Manpower Policy was established pursuant to Title V of the Comprehensive Employment and Training Act of 1973 (Pub. L. 92-203). The Act charges the Commission with the broad responsibility of advising the Congress, the President, the Secretary of Labor, and other Federal agency heads on national manpower issues. The Commission is specifically charged with reporting annually to the President and the Congress on its findings and recommendations with respect to the Nation's manpower policies and programs. The Emergency Jobs Programs Extension Act of 1976 directs the Commission to study and report to Congress on the net employment effects of PSE programs under Title II and Title VI of the Comprehensive Employment and Training Act.

The purpose of the review is to elicit the views of those at the state and local level (in and out of government) on the effects and effectiveness of the public service employment program. Among the issues to be addressed are:

1. What goals and objectives are developed by state and local governments for the PSE programs? How are these goals developed so that they are supportive of national goals; provide needed public services; and are supportive of other public services?

2. To what extent has PSE resulted in an increase in the provision of services by state or local governments? Has PSE been instrumental in maintaining the level of services where they would have otherwise been curtailed due to revenue reductions, increased costs or other factors? What types of services are being provided through the PSE programs? What types of agencies (e.g., public safety, sanitation, education) received PSE jobs? If the PSE program were reduced or phased out, to what extent would these services also be reduced or terminated?

3. To what extent has PSE resulted in an increase in the services provided by nonprofit community organizations? How has this changed as a result of the requirements of the Emergency Jobs Program Extension Act of 1976? What types of services are being provided by community organizations with the employment provided by PSE?

4. What is the ability of state and local governments to absorb additional PSE jobs? To what extent can this be expanded by increased utilization of nonprofit community organizations? What has been the experience in implementing and increasing the PSE programs to date? What are the constraints to further increasing the size of the program?

5. What effect has the presence of the PSE program had on the personnel practices of state and local governments? Have changes been made to provide PSE employees with improved access to regular (i.e., non-PSE) jobs? Has the PSE program resulted in any changes in the composition of the regular employment of the employing jurisdiction in terms of race, sex, education, experience, or other characteristics? Can PSE be used as a means of training the hard-to-employ and then obtaining access for them to permanent, unsubsidized employment?

6. What should be the areas of concern in consideration of phasing out or phasing down the current PSE programs? What areas should be considered if the target populations or mode of operation of the current programs are to be modified? To what extent and how do changes in the scale, mode of operation, target population and/or continuity of the program effect the delivery of needed public services?

Members of the general public or other interested individuals may attend the Commission field reviews. Members of the public desiring to submit written statements to the Commission that are germane to the agenda may do so, provided such statements are in reproducible form and are submitted to the Director no later than two days before and seven days after the meeting.

Additionally, members of the general public may request to make oral statements to the Commission to the extent that the time available for the meeting

permits. Such oral statements must be directly germane to the announced agenda items and written application must be submitted to the Director of the Commission three days before the meeting. This application shall identify the following: The name and address of the applicant, the subject of his or her presentation and its relationship to the agenda; the amount of time requested; the individual's qualifications to speak on the subject matter; and shall include a justifying statement as to why a written presentation would not suffice. The Chairman reserves the right to decide to what extent public oral presentation will be permitted at the meeting. Oral presentations shall be limited to statements of fact and views and shall not include any question of Commission members or other participants unless these questions have been specifically approved by the Chairman.

Minutes of the meeting, working papers and other documents prepared for the meeting will be available for public inspection five working days after the field review at the Commission's headquarters located at 1522 K Street NW., Room 300, Washington, D.C.

Signed at Washington, D.C., this 27th day of September 1977.

ISABEL V. SAWHILL,
Director, National Commission
for Manpower Policy.

[FR Doc 77-29154 Filed 10-5-77; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

SUBCOMMITTEE ON ECOLOGICAL SCIENCES OF THE ADVISORY COMMITTEE FOR ENVIRONMENTAL BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Ecological Sciences of the Advisory Committee for Environmental Biology.

Date and time: October 26 and 27, 1977, 8:30 a.m. to 5 p.m. each day.

Place: Room 643, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Wayne T. Swank, Program Director, Ecosystem Studies Program, Room 336, National Science Foundation, Washington, D.C. 20550, telephone 202-632-5854.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in the ecological sciences.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c). Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

OCTOBER 3, 1977.

[FR Doc. 77-29447 Filed 10-5-77; 8:45 am]

[7555-01]

SUBCOMMITTEE ON REGULATORY BIOLOGY OF THE ADVISORY COMMITTEE FOR PHYSIOLOGY, CELLULAR & MOLECULAR BIOLOGY

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Regulatory Biology of the Advisory Committee for Physiology, Cellular and Molecular Biology.

Date and time: October 24, 25 and 26, 1977—9 a.m. to 6 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Betty M. Twarog, Program Director, Regulatory Biology Program, Room 333, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4298.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in regulatory biology.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

OCTOBER 3, 1977.

[FR Doc. 77-29446 Filed 10-5-77; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, WORKING GROUP NO. 4 OF THE SUBCOMMITTEE ON REACTOR SAFETY RESEARCH

Meeting

In accordance with the purposes of Section 29 and 182b. of the Atomic En-

ergy Act (42 U.S.C. 2039, 2232 b.), Working Group No. 4 of the ACRS Subcommittee on Reactor Safety Research will hold an open meeting on October 25, 1977 in Room 1162, 1717 H Street NW., Washington, D.C. 20555. The purpose of this meeting is to review the NRC sponsored research on advanced reactor technology.

The agenda for the subject meeting shall be as follows:

TUESDAY, OCTOBER 25, 1977

8:30 A.M. UNTIL CONCLUSION OF BUSINESS

The Working Group may meet in Executive Session, with any of its consultants who may be present, to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and with representatives of other organizations participating in research on advanced reactor technology.

At the conclusion of these sessions, the Working Group may caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing a readily reproducible copy to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily

reproducible copy addressed to Dr. Richard P. Savio, ACRS, NRC, Washington, D.C. 20555. Comments postmarked no later than October 18, 1977 will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the beginning of the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on October 24, 1977 to the Office of the Executive Director of the Committee (telephone 202/634-1394, Attn: Dr. Richard P. Savio) between 8:15 a.m. and 5 p.m. EDT.

(d) Questions may be asked only by members of the Working Group, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman of a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after November 1, 1977 and January 25, 1978, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555. Copies may be obtained upon payment of appropriate charges.

Date October 4, 1977.

JOHN C. HOYLE,
Advisory Committee,
Management Officer.

[FR Doc. 77-29857 Filed 10-5-77; 9:51 am]

[7590-01]

[Docket No. 50-313]

ARKANSAS POWER & LIGHT CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Facility Operating License No. DPR-51, issued to Arkansas Power & Light Company (the li-

censee), which revised Technical Specifications for operation of Arkansas Nuclear One, Unit No. 1 (ANO-1) (the Facility) located in Pope County, Arkansas. The amendment was effective as of August 26, 1977.

The amendment revised the Technical Specifications for the facility to authorize operation with the total hydrogen purge system inoperable for a period up to 30 days. An emergency technical specification change, authorizing the requested change, had been issued by letter dated August 26, 1977 and authorized by telephone call that same day. This action supersedes that change.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice was not required since these actions do not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 26, 1977, (2) change authorization letter dated August 26, 1977, (3) Amendment No. 27 to License No. DPR-51 and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Arkansas Polytechnic College, Russellville, Ark. 72801. A single copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 22nd day of September, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 77-29068 Filed 10-5-77; 8:45 am]

[7590-01]

[Docket No. PRM-71-5]

CHEM-NUCLEAR SYSTEMS, INC.

Filing of Petition for Rule Making

Notice is hereby given that John L. West, Esquire, by letter dated September 14, 1977, has filed with the Nuclear Regulatory Commission a petition for rule-

Dated at Washington, D.C. this 3rd day of October 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 77-29463 Filed 10-5-77; 8:45 am]

[7590-01]

[Docket No. 50-249]

COMMONWEALTH EDISON CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 29 to Facility Operating License No. DPR-25 issued to Commonwealth Edison Company (the licensee) for operation of Dresden Station Unit No. 3 (the facility) located in Grundy County, Illinois. The amendment is effective as of its date of issuance.

The amendment authorized operation of the reactor beyond the previously analyzed end-of-cycle scram reactivity conditions in accordance with Commonwealth Edison's request dated August 17, 1977.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 17, 1977, (2) Amendment No. 29 to License No. DPR-25 and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Morris Public Library, 604 Liberty St., Morris, Ill. 60451. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23rd day of September, 1977.

For the Nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 77-29231 Filed 10-5-77; 8:45 am]

[7590-01]

[Docket No. 50-265]

COMMONWEALTH EDISON CO. AND IOWA-ILLINOIS GAS AND ELECTRIC CO.
Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-30, issued to Commonwealth Edison Company (acting for itself and on behalf of the Iowa-Illinois Gas and Electric Company) (the licensee), for operation of Quad Cities Unit No. 2 (the facility) located in Rock Island County, Illinois. The amendment is effective as of its date of issuance.

The amendment authorized operation of the reactor beyond the previously analyzed end-of-cycle scram reactivity conditions in accordance with Commonwealth Edison's request dated August 17, 1977.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission had made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated August 17, 1977, (2) Amendment No. 39 to License No. DPR-30, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the Moline Public Library, 504 17th Street, Moline, Ill. 60265. A single copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 23rd day of September, 1977.

For the Nuclear Regulatory Commission,

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 77-29232 Filed 10-5-77; 8:45 am]

NOTICES

[7590-01]

[Docket No. 50-286]

CONSOLIDATED EDISON CO. OF NEW YORK, INC., AND POWER AUTHORITY OF THE STATE OF NEW YORK

Issuance of Amendment to Facility Operating License

The U. S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility Operating License No. DPR-64, issued to Consolidated Edison Co. of New York, Inc., and the Power Authority of the State of New York (the licensees), which revised Technical Specifications for operation of the Indian Point Nuclear Generating Unit No. 3 (the facility) located in Buchanan, Westchester County, N.Y. The amendment is effective as of its date of issuance.

This amendment revises the Technical Specifications to clarify the surveillance interval applicable for refueling outage tests and to make surveillance interval requirements for testing of containment isolation valves consistent with Appendix J, 10 CFR Part 50.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with the issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment transmitted by letter dated August 15, 1977, (2) Amendment No. 7 to License No. DPR-64, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C., and at the White Plains Public Library, 100 Martine Avenue, White Plains, N.Y. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Md., this 26th day of September 1977.

For the Nuclear Regulatory Commission,

MORTON B. FAIRFAX,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc. 77-29371 Filed 10-5-77; 8:45 am]

[7590-01]

[Docket Nos. STN 50-568, 50-569]

NEW ENGLAND POWER COMPANY, ET AL. (NEP-1 AND NEP-2)

Notice and Order Regarding Second Special Prehearing Conference

SEPTEMBER 28, 1977.

By its Order entered on September 15, 1977, the Licensing Board ruled upon all pending petitions for leave to intervene, and identified 51 admissible issues or contentions which have been pleaded by one or more parties. This proceeding is now ripe for the commencement of discovery in relation to those identified issues, and to that end an appropriate discovery schedule should be developed.

A motion to consolidate was filed on September 20, 1977 by Intervenor New England Council for Economic Development, Blackstone Valley Chamber of Commerce, Greater Providence Chamber of Commerce, and Labor and Management Plan for Economic Development (LAMP) together with those Intervenor already consolidated with LAMP. This motion is in accordance with the desire of the Board to encourage consolidation in order to expedite discovery and the presentation of evidence, and the motion is granted.

Please Take Notice that a Second Special Prehearing Conference pursuant to the provisions of § 2.751a of the Commission's Rules of Practice (10 CFR 2.751a), will be held at 9 a.m. on November 15, 1977 at the Cranston Hilton Inn Ballroom, Route 1-A, Cranston, Rhode Island. All parties and counsel are requested to be prepared to advise the Board regarding their recommendations for a firm discovery schedule related to the issues in this proceeding. All parties are also requested to consider the further consolidation of issues and parties in the interest of orderly and expeditious procedure. Written stipulations to accomplish these ends will be given consideration.

Members of the public are invited to attend this conference. However, the conference will be limited to the purpose specified in this notice. No evidence or testimony will be received, and there will not be an opportunity to present statements by persons who have made applications for permission to make limited appearances. Such applications will be ruled on by the Board at the evidentiary hearing to be held at a later date, notice of which will be published in the FEDERAL REGISTER.

Dated at Bethesda, Maryland this 28th day of September 1977.

It is ordered.

The Atomic Safety and Licensing Board,

EMMETH A. LUEBKE,
Member.

OSCAR H. PARIS,
Member.

MARSHALL E. MILLER,
Chairman.

[FR Doc. 77-29230 Filed 10-5-77; 8:45 am]

[7590-01]

[Docket No. 50-338]

VIRGINIA ELECTRIC AND POWER CO., NORTH ANNA POWER STATION, UNIT NO. 1

Order Extending Construction Completion Date

Virginia Electric & Power Company is the holder of Construction Permits No. CPPR-77 and CPPR-78 issued by the Atomic Energy Commission¹ on February 19, 1971, for the construction of the North Anna Power Station, Units 1 and 2, presently under construction at the Company's site in Louisa County, Virginia. By letter, dated July 28, 1977, the company filed a request for an extension of the latest construction completion date for Unit No. 1 from September 1, 1977 to December 31, 1977, because construction has been delayed due to (1) the completion of hot functional testing which necessitated repairs to the three reactor coolant loop cold leg isolation valves, replacement to the reactor coolant pump motor, completion of repairs to service water reservoir spray headers, addition of residual heat removal and refueling pool purification systems and modifications to the steam generator support heating system, (2) completion of tie-ins for the bearing cooling system modifications were determined to be required prior to fuel loading, (3) structural steel nonconformities were identified in the Unit No. 1 main steam valve house and repairs completed, (4) conduit color separation deficiencies in the reactor containment cubicles were identified and corrective activity is continuing, (5) inspection, evaluation and repair program related to Category I piping systems in connection with an identified hanger base plate flexibility problem, and (6) modification to the main feedwater recirculation piping and reactor containment cubicle structural steel and ventilation seals.

This action involves no significant hazards consideration; good cause has been shown for the delay; and the requested extension is for a reasonable period, the bases for which are set forth in the staff evaluation, dated September 28, 1977.

Copies of the above documents and other related material are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. 20555 and at the local public document rooms established for the North Anna facility in the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Va. 22901 and County Administrator's Office, Board of Supervisors, Louisa County Courthouse, Louisa, Virginia 23093.

It is hereby ordered, That the latest completion date for CPPR-77 be ex-

¹ Effective January 20, 1975, the Atomic Energy Commission became the Nuclear Regulatory Commission and permits in effect on that day continued under the authority of the Nuclear Regulatory Commission.

NOTICES

tended from September 1, 1977 to December 31, 1977.
For the Nuclear Regulatory Commission.

Date of issuance: September 28, 1977.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 77-29227 Filed 10-5-77; 8:45 am]

[7590-01]

[Docket No. 50-282]

NORTHERN STATES POWER CO.

Granting of Relief From ASME Section XI Inservice Inspection (Testing) Requirements

The U.S. Nuclear Regulatory Commission (the Commission) has granted relief from certain requirements of the ASME Code, Section XI, "Rules for Inservice Inspection of Nuclear Power Plant Components" to Northern States Power Company. The relief relates to the inservice inspection (testing) program for the Prairie Island Nuclear Generating Plant Unit No. 1 located in Goodhue County, Minnesota. The ASME Code requirements are incorporated by reference into the Commission's rules and regulations in 10 CFR Part 50. The relief is effective as of its date of issuance.

The relief consists of permitting alternate inservice testing and inspection methods in certain cases where the Section XI inservice inspection requirements have been found to be impractical by the licensee.

The request for relief complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the letter granting relief. Prior public notice of this action was not required since the granting of this relief from ASME Code requirements does not involve a significant hazards consideration.

The Commission has determined that the granting of this relief will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

For further details with respect to this action, see (1) the request for relief dated March 1, 1977, and the April 7, 1977 supplement, (2) the Commission's letters to the licensee dated April 28, 1976 and July 20, 1977.

These items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Environmental Conservation Library, Minneapolis Public Library, 300 Nichollet Mall, Minneapolis, Minnesota 55401. A copy of

item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 16th day of September, 1977.

For the nuclear Regulatory Commission.

DON K. DAVIS,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 77-29069 Filed 10-5-77; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION ISSUANCES

Availability of Semiannual Hardbound Volume

The Nuclear Regulatory Commission has issued Volume 4 of the Nuclear Regulatory Commission Issuances, covering the period July 1, 1976, to December 31, 1976. This publication is a semiannual compilation of adjudicatory decisions and other issuances of the Commission, the Atomic Safety and Licensing Appeal Boards, and the Atomic Safety and Licensing Boards.

A copy of Volume 4 is available for inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. This publication, designated Nuclear Regulatory Commission Issuances, Volume 4, Opinions and Decisions, July 1, 1976, to December 31, 1976, may also be purchased at a cost of \$8.75 from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The GPO stock number is 052-010-00496-4.

Dated at Bethesda, Md. this 30th day of September 1977.

For the Nuclear Regulatory Commission.

JOSEPH M. FELTON,
Director, Division of Rules and Records, Office of Administration.

[FR Doc. 77-29462 Filed 10-5-77; 8:45 am]

[7590-01]

[Docket Nos. 50-354; 50-355]

PUBLIC SERVICE ELECTRIC AND GAS CO. AND ATLANTIC CITY ELECTRIC CO.; (HOPE CREEK GENERATING STATION, UNITS 1 AND 2)

Order

Joint Intervenor's September 22, 1977, "Motion for Setting Hearing Schedule" is hereby denied. The further evidentiary hearing directed to be held by ALAB-429 will commence on Tuesday, November 1, 1977, at 9:30 a.m., at the Salem County Courthouse (Courtroom No. 3), 92 Market Street, Salem, N.J. The hearing will continue, if necessary, at the Salem County Courthouse through Friday, November 4, 1977.

The parties shall make their submissions as follows:

- (a) October 11, 1977, filing of direct testimony by Applicants and Staff;
- (b) October 25, 1977, filing of direct testimony by Joint Intervenors;
- (c) November 16, 1977, filing by all parties of their proposed findings of fact and conclusions of law;
- (d) November 23, 1977, filing of reply proposed findings and conclusions.

So ordered.

The Atomic Safety and Licensing Board.

Dated at Bethesda, Maryland, this 27th day of September 1977.

EDWARD LUTON,
Chairman.

[FR Doc 77 20070 Filed 10-5-77; 8 45 am]

[7590-01]

REGULATORY GUIDE Withdrawal

Regulatory Guide 1.66, "Nondestructive Examination of Tubular Products," is being withdrawn. It was issued in October 1973 to supplement the examination specified in Section III of the ASME Code for tubular products intended for use in safety-related systems. Since that time, all important regulatory positions of the guide have been incorporated in the ASME Code, and the guide is no longer needed.

Regulatory guides are developed to describe and make available to the public methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems. Guides may be withdrawn when they are superseded by the Commission's regulations, when equivalent recommendations have been incorporated in applicable and approved codes and standards, or when changing methods and techniques have made them obsolete.

(5 U.S.C. 552(a).)

Dated at Rockville, Maryland, this 26th day of September 1977.

For the Nuclear Regulatory Commission.

ROBERT B. MINOGUE,
Director, Office
of Standards Development.

[FR Doc 77-29072 Filed 10-5-77; 8:45 am]

[7590-01]

SHIRLEY BASIN URANIUM MILL, UTAH INTERNATIONAL, INC. (LUCKY MC URANIUM CORP.)

[Docket No. 40-6622]

Negative Declaration Regarding Renewal of License No. SUA-442

The Nuclear Regulatory Commission (the Commission) is considering the renewal of Source Material License SUA-442 for the continued operation of the Shirley Basin uranium mill at Shirley Basin, Wyoming.

The Commission's Division of Fuel Cycle and Material Safety has prepared an environmental impact appraisal for the proposed renewal of license SUA-442. On the basis of this appraisal, the Commission has concluded that an environmental impact statement for this renewal action is not warranted because there will be no significant increase of environmental impact attributable to the proposed action other than which has already been predicted and described in the Commission's Final Environmental Impact Statement and the Environmental Impact Appraisal for Utah International, Inc., Uranium Mill published in December 1974 and March 1976, respectively. The environmental impact appraisal is available for public inspection at the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C.

Dated at Silver Spring, Maryland, this 29th day of September, 1977.

For the Nuclear Regulatory Commission.

W. T. Crow,
Fuel Processing and Fabrication
Branch, Division of Fuel
Cycle and Material Safety.

[FR Doc 77 29229 Filed 10-5-77; 8:45 am]

[7590-01]

[Docket No. 50-553; 50-554]

TENNESSEE VALLEY AUTHORITY; (PHIPPS BEND NUCLEAR PLANT, UNITS 1 AND 2)

Order

The evidentiary hearing on health and safety matters will be held on Tuesday, October 25, at 9 a.m., at the Nuclear Regulatory Commission's Public Hearing Room, Fifth Floor, 4350 East-West Highway, Bethesda, Md. If necessary, the hearing will continue on Wednesday, October 26, 1977, at the NRC Public Hearing Room (Room No. 155), in the Willste Building, 7915 Eastern Avenue, Silver Spring, Md. The hearing on October 26 will begin at 2 p.m.

So ordered.

Dated at Bethesda, Maryland this 27th day of September 1977.

The Atomic Safety and Licensing Board.

EDWARD LUTON,
Chairman.

FR Doc 77-29071 Filed 10-5-77; 8:45 am]

[7590-01]

[Docket No. 50-338]

VIRGINIA ELECTRIC AND POWER CO.

Negative Declaration Supporting Order Relating to the Extension of Dates for Completion of Construction North Anna Power Station Unit No. 1 (CPR-77)

The U.S. Nuclear Regulatory Commission (the Commission) has reviewed the Order relating to the construction permit for the North Anna Power Station, Unit 1 (CPR-77) located in Louisa County, Virginia, issued to Virginia Electric and Power Company. The Order would au-

thorize the extension for four months of the date for completion of construction of Unit No. 1.

The Commission's Division of Site Safety and Environmental Analysis has prepared an environmental impact appraisal for the Order and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the Order other than that which has already been predicted and described in the Commission's Final Environmental Statement for North Anna Power Station, Units Nos. 1, 2, 3 and 4, published in April 1973 and the addendum to the Final Environmental Statement published in November 1976.

The environmental impact appraisal is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Board of Supervisors, Louisa County Courthouse, Louisa, Va. 23093 and Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Va. 22901. A copy may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Md., this 28th day of September 1977.

For the Nuclear Regulatory Commission.

WILLIAM H. REGAN,
Chief, Environmental Projects
Branch No. 2, Division of Site
Safety and Environmental
Analysis.

[FR Doc 77-29228 Filed 10-5-77; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-40]

ACCIDENT REPORT; SAFETY RECOMMENDATIONS AND RESPONSES Availability and Receipt

Railroad Accident Report NTSB-RAR-77-6.—The National Transportation Safety Board on September 29 released its narrative report of the head-on collision of two Norfolk & Western Railway Company freight trains last October 19 at New Haven, Ind.

The Safety Board's investigation revealed that each train was traveling at about 10 mph when the westbound freight and eastbound yard train collided on the single track main line. The freight train's front brakeman was killed and four crewmembers were injured when the caboose, coupled immediately behind the locomotive, jackknifed and was crushed between the locomotive and following cars. Estimated damages were \$168,400.

Probable cause of the accident was determined by the Safety Board to be the failure of the westbound train's crewmembers to couple the airbrake hoses

between the fifth and sixth cars from the rear, and to test the brakes as required by company rules and the Federal Power Brake Law of 1958.

As a result of its investigation, the Safety Board on August 19 recommended that Norfolk & Western establish policy and procedures to insure that all trains are operated in compliance with company rules and the Federal power brake regulations (Recommendation R-77-25). (See 42 FR 42935, August 25, 1977.)

Aviation Safety Recommendations A-77-63 through 67.—Board investigation into the crash last April 4 of Southern Airways, Inc., Flight 242, a DC-9-31, at New Hope, Ga., resulted in issuance last week to the Federal Aviation Administration of five new safety recommendations.

Investigation disclosed that Flight 242 had entered a relatively small precipitation area classified by the National Weather Service (NWS) as intense, or level-5; the intense area was part of a considerably larger area of lesser intensities. By the time the flight had left this small intense area, the level had risen to a level-6, the highest level currently used by NWS. The Board believes that had this intense area been identified adequately and in real-time to both the pilot and controller, the flightpath of Flight 242 might have differed from that actually flown.

After penetrating the area of severe thunderstorms, the aircraft crashed as its crew attempted an emergency landing on a highway—70 persons died and 24 persons were injured.

The Safety Board believes that the NWS six-level scale—based on the strength of the received radar signal which has been related to precipitation intensity and thus to thunderstorm intensity—should be adopted and promoted as a standard of description of thunderstorm intensity. This would be of use with severe weather forecasts, ground observations, and pilot reports and would provide pilots with a clearer picture of potential and actual thunderstorm activity. Pilots could also benefit by the use of this standard if used as a reference for the capability of their present-day airborne radar.

To encourage FAA's early implementation of the results of various severe weather-related research projects and to foster the more timely transmission of vital weather information to the cockpit, the Safety Board on September 27 recommended that FAA—

Expedite the development and implementation of an aviation weather subsystem for both en route and terminal area environments, which is capable of providing a real-time display of either precipitation or turbulence, or both and which includes a multiple-intensity classification scheme; transmit this information to pilots either via the controller as a safety advisory or via an electronic data link. (A-77-63)

Establish a standard scale of thunderstorm intensity based on the NWS' six-level scale and promote its widespread use as a common language to describe thunderstorm precipitation intensity; also, indoctrinate pilots and air traffic control personnel in the use of this system. (A-77-64)

Investigation of the Southern Airways accident also disclosed two problems involving the dissemination and use of meteorological information which the Safety Board believes warrant corrective action.

One primary method of alerting pilots to potential severe weather is by issuance of SIGMET's (Significant Meteorological Information), now transmitted over navigation aid (NAVAID) radio frequencies upon receipt and at 15-minute intervals for the first hour and at 30-minute intervals for the remainder of the effective period of the advisory. Air traffic controllers notify pilots of SIGMET's. NAVAID transmissions are live broadcasts, occasionally interrupted, delayed, or missed if other work required of the flight service specialists takes precedence. The time interval between broadcasts is such that, at jet speeds, a flight may cross a SIGMET area between transmissions and miss the opportunity of being advised of severe weather within the area.

In view of the severity of the weather phenomena described in SIGMET's and the shortcomings of current procedures for relaying them to pilots, the Safety Board believes that each SIGMET should be transmitted more often in order to make the advisory immediately available to the pilot. One method might involve the repetitive transmission of a recorded SIGMET at more frequent intervals than are currently prescribed.

The Severe Thunderstorm Watch Bulletin or Tornado Watch Bulletin (WW), issued by the Severe Local Storms Unit of the National Severe Storms Forecast Center, delineates area of potentially severe weather. These watches are transmitted on teletype by FAA through the Weather Message Switching Center. Testimony at the Safety Board hearing indicates that WW's are not made automatically available on circuits used by air traffic control facilities, because they are transmitted for the entire Nation simultaneously and cost of communications time for receipt of WW's and man-hours to sort them was judged prohibitive.

The Safety Board believes that information in the WW's is vital to aviation safety and should be made available to controllers and relayed to flightcrews. The Board also believes that improved availability could be achieved by coding the watch bulletins based on geographic applicability; watch bulletins transmitted to any one air traffic control facility would apply to that facility's area of responsibility.

Accordingly, the Safety Board on September 28 recommended that FAA—

Transmit SIGMET's more frequently on NAVAID's so that pilots can receive more timely information about hazardous weather. (A-77-65)

Code, according to geographic applicability, Severe Thunderstorm Watch Bulletins and Tornado Watch Bulletins issued by the National Severe Storms Forecast Center so that they may be transmitted to appropriate air traffic control facilities by the FAA Weather Message Switching Center; thus, air traffic control facilities can relay the earliest

warning of severe weather to flightcrews. (A-77-66)

Further in connection with the Southern Airways accident, investigation indicated that following failure of both engines and as the flight descended through 7,000 feet, the crew requested "a vector to the nearest place." The Atlanta Approach Controller told the flight to turn right, issued a vector for Dobbins Air Force Base, and advised the flight that it was 20 miles west of Dobbins. Before this turn instruction was issued, the aircraft was 6 miles from Cornelius Moore Airport and headed in that direction. The airport has a published instrument approach procedure. Investigation revealed that the airport was not included on the video map of the radar display and that the Atlanta Approach Controller and his Handoff Controller did not know that the Cornelius Moore Airport existed.

The Board recognizes that although Cornelius Moore Airport may not have been suitable for a DC-9 type aircraft in this situation, had that airport been depicted on the radar display of Atlanta Approach Control, the Board believes that it would have been available for immediate consideration by the controllers. Also, in an emergency situation involving a smaller aircraft, the depiction of similar adjacent airports would provide controllers greater latitude in assessing their options and facilitate coordination with adjacent facilities.

Since a portion of adjacent airspace is normally displayed on a facility's radar scope, the Board believes that the video mapping for this adjacent airspace should then contain the same airport information as the adjacent facility, thus increasing the air traffic controller's capability to assist aircraft during emergencies. Specifically, those airports outside a facility's boundary, but within the area in which handoffs normally are accomplished, should be included on the video display.

In view of the above, the Safety Board also on September 28 recommended that FAA—

Require that each air traffic control facility depict on the map portion of its radar displays, those airports immediately outside of that facility's jurisdiction to the extent that adjacent facilities depict those airports on their displays. (A-77-67)

Each of the above five safety recommendations resulting from the Southern Airways accident investigation is designated "Class II, Priority Followup."

Pipeline Safety Recommendations P-77-24 through 26.—Three recommendations, resulting from the Safety Board's investigation of the May 25, 1977, natural gas explosion in Greenwich, Conn., were issued by the Board on September 27.

The explosion and fire destroyed three buildings and heavily damaged another building. Ten persons required medical treatment for injuries caused by the accident. Before the accident, a Connecticut Natural Gas Corporation crew had installed a 3-inch insulating tapping sleeve, but the crew was not aware that the 3-

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inch pipe they exposed was not the gas main itself but actually was a sleeve containing a 2-inch gas main. When the crew cut through the 3-inch sleeve with a drilling machine, the 2-inch carrier pipe was also cut. This allowed natural gas at 30-psig to fill the annular space between the 3-inch sleeve and the 2-inch pipe and to escape from the unsealed ends of the sleeve, 11 feet away. The gas migrated through the soil and cracks in the stone foundation of the building, 5½ feet from the severed gas main. The gas was ignited by an unknown source.

The Safety Board notes that the gas company is aware of its incomplete records and has begun a 3-year program to verify and update those records. However, because of the potential for another accident of this type, the Board believes that a 3-year program is too long for a record update. Accordingly, on September 27, the Board recommended that the Connecticut Natural Gas Corporation—

Expedite the updating of its gas piping records as soon as possible to eliminate uncertainties on future system maintenance work. (P-77-24)

Instruct its crews to ascertain positively by all possible means the type and size of existing gas line facilities before working on them. (P-77-26)

In a separate letter, also issued September 27, the Safety Board recommended that the American Gas Association—

Advise its member companies of the circumstances of this accident and urge them to keep accurate records of facilities and to instruct maintenance crews in the importance of verifying these facilities before working on them. (P-77-26)

Each of the above recommendations is designated "Class II, Priority Followup."

Response from the United States Coast Guard to Marine Safety Recommendation M-76-14.—Letter of September 20 is in answer to one of nine recommendations issued by the Safety Board following investigation of the sinking of the SS SILVER DOVE on April 2, 1973, in the Pacific Ocean. (See 41 FR 53874, December 9, 1976.)

The recommendation asked Coast Guard to develop, with assistance of the Portland Cement Association, guidelines for the use of cement for making watertight temporary repairs aboard ship and inspection of such repairs, and to issue such guidelines in a Navigation and Vessel Inspection Circular.

Coast Guard reports that field testing programs, to evaluate the effectiveness of various types of compounds for making temporary repairs to unmanned barges operating on inland waters, have been implemented by the Commander, Second Coast Guard District, and the Commander, Eighth Coast Guard District. The programs will be in effect for approximately one year. Coast Guard will further respond to recommendation M-76-14 after evaluating results of the field testing programs which are outlined in two attachments to Coast Guard's letter; these attachments are titled CCGD2 In-

struction 16711.1 of August 18, 1977, and CCGD8 Instruction 16711.1 of August 5, 1977.

Response from Alyeska Pipeline Service Company to Pipeline Safety Recommendations P-77-21 through 23.—Letter dated September 16 reports on action to implement the recommendations issued by the Safety Board on September 9 during investigation into the explosion and fire which occurred July 8, 1977, at Alyeska's Pump Station No. 8 on the Trans-Alaska pipeline. (See 42 FR 46425, September 15, 1977.)

In answer to P-77-21, which recommended installation of a control in the pump room to shut down the pumps from that location, Alyeska reports installation in early July of a study of possible changes in pump control locations and plans to install an "emergency stop" button positioned locally for each pump. These control buttons will actually be an extension of the button in the control room and will initiate the same logic so that a safe shutdown of each pump can be accomplished. Alyeska's study further includes all booster pumps and the Pump Station 5 injection pumps, as well as the mainline pumps recommended by the Safety Board. Alyeska has started installing additional wiring and controls and expects to have the mainline pump controls completed by mid-October; the remainder will be completed sequentially.

Recommendation P-77-22 asked Alyeska to install a control in the pump room to operate the pump valves from that location at any time. Alyeska considers that the intent of the recommendation has been met by "a logic change that now has the mainline pump suction and discharge valves normally closed when the pump is shutdown and not running." According to Alyeska, this change, in conjunction with changes for local control of pump shutdown, now provides local closing of these valves via the pump shutdown and precludes the possibility of action from a remote location causing either valve to reopen if the pump is not running. "The operator would now have to put the control in 'local' and then go to the valve location and manually hold-in the 'open' button to open the valve; the 'close' button is on the same control box to enable immediate response in the event of inadvertent or accidental opening," Alyeska stated.

With reference to P-77-23, which asked Alyeska to install a closed circuit-type video camera in the pump room and turbine room to allow the pump station control center to monitor visually all activities at these locations, Alyeska reports that design work is essentially complete and they plan to install the first camera by mid-October. The video system will consist of two cameras covering opposite ends of the pump room; one camera will have remote control for "pan, tilt and zoom." A third camera will cover the pump room sump, and cameras four and five will cover the manifold building. Stations with scraper

trap or launcher will have an additional camera, and a similar provision will be made for stations have topping units. Alyeska states that the control room will have two monitor screens, one on steady for any selected camera and the other will rotate through all cameras.

Note.—The above notice consists of summaries of Safety Board documents made available, and recommendation responses received, during the week preceding publication of the notice in the *Federal Register*. The accident report and the safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge while limited supplies last. Copies of the full text of the response letters may be obtained at a cost of \$4.00 for service and 10c per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

OCTOBER 3, 1977.

[FR Doc.77-29422 Filed 10-5-77; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

COST OF HOSPITAL AND MEDICAL CARE AND TREATMENT FURNISHED BY THE UNITED STATES

Certain Rates Regarding Recovery From Tortiously Liable Third Persons

By virtue of the authority vested in the President by Section 2(a) of the Act of September 25, 1962, (76 Stat. 593; 42 U.S.C. 2652), and delegated to the Director of the Office of Management and Budget by Executive Order No. 11541 of July 1, 1970, (35 FR 10737), the following three sets of rates are established for use in connection with the recovery, as authorized by such Act, from tortiously liable third persons of the cost of hospital and medical care and treatment furnished by the United States (Part 43 of Chapter I of Title 28 of the Code of Federal Regulations) through three separate Federal agencies. These rates have been determined to represent the reasonable cost of hospital, nursing home, medical, surgical or dental care and treatment (including prostheses and medical appliances) furnished or to be furnished:

(a) For such care and treatment furnished by the United States in Federal hospitals, nursing homes, administered by any of the three Federal agencies—Department of Defense, Veterans Administration, or Department of Health, Education, and Welfare—with the exception of Canal Zone Government hospitals.

Effective Oct. 1, 1977
and thereafter

DOD VA HEW

Hospital care per inpatient day:			
General medical, surgical, and tuberculosis care	\$206	\$188	\$142
Psychiatric care		84	
Nursing home care		60	
Outpatient medical and dental treatment: Per outpatient visit	30	41	29

(b) For such care and treatment furnished at Government expense in a facility not operated by the United States, the rates shall be the amounts expended by the United States for such care and treatment.

(c) For such care and treatment at Canal Zone Government hospitals, the rates shall be those established, and in effect at the time the care and treatment is furnished, by the Canal Zone Government for such care and treatment furnished to beneficiaries of other United States Government agencies.

For the period beginning October 1, 1977, the rates prescribed herein supersede those established by the Director of the Office of Management and Budget on June 29, 1976, (41 FR 18802).

Dated: September 28, 1977.

JAMES T. MCINTYRE, Jr.,
Acting Director, Office
of Management and Budget.

[FR Doc.77-29397 Filed 10-5-77; 8:45 am]

[4710-01]

DEPARTMENT OF STATE SHIPPING COORDINATING COMMITTEE Meeting

The working group on ship design and equipment of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 8 a.m. on Wednesday, November 16, 1977, in Rooms 8236 and 8238 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting is to prepare for the intersessional meetings of the Intergovernmental Maritime Consultative Organization (IMCO) Ad Hoc Group on Mobile Offshore Drilling Units and the IMCO Ad Hoc Group on Machinery and Electrical Installations regarding the development of a Code for the Construction and Equipment of Mobile Offshore Drilling Units. The intersessional meetings will be held in London during the week of November 28 and December 2, 1977. The work of the Code will include consideration of a draft Assembly Resolution, Preamble, General Provisions, Fire Protection, Lifting Devices, Helicopter Facilities, and Electrical Installations, and the Form of Certificate. The meeting will also include the consideration of requirements for Offshore Supply Vessels for preparation of a paper for the 18th Session of the IMCO Subcommittee on Ship Design and Equipment.

Requests for further information on the meeting should be directed to CAPT J. W. Kime, United States Coast Guard. He may be reached by telephone on (area code 202) 426-2167.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,

Shipping Coordinating Committee.

SEPTEMBER 26, 1977.

[FR Doc.77-29319 Filed 10-5-77; 8:45 am]

[4710-01]

SHIPPING COORDINATING COMMITTEE (CM-7/115) Meeting

The Ad-hoc Working Group on Nuclear Ships of the Working Group on Design and Equipment, part of the Subcommittee on Safety of Life at Sea of the Shipping Coordinating Committee, will conduct open meetings on Wednesday and Thursday, October 26 and 27, 1977 at 9:30 a.m. Both meetings will be held in room 8236 of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meetings is to discuss Chapters 3, 4, and 6 of the proposed Code of Safety for Nuclear Merchant Ships of the Intergovernmental Maritime Consultative Organization (IMCO) with regard to comments received from participating governments.

Requests for further information on the meetings should be directed to CDR John Deck III, United States Coast Guard. He may be reached by telephone on (area code 202) 426-2197.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman,

Shipping Coordinating Committee.

SEPTEMBER 28, 1977.

[FR Doc.77-29320 Filed 10-5-77; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

(CGD 77-177)

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting, and miscellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during

the period from June 30, 1977, to July 20, 1977 (List No. 14-77). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46 (b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

GAS MASKS, SELF-CONTAINED BREATHING APPARATUS, AND SUPPLIED-AIR RESPIRATORS FOR MERCHANT VESSELS

Approval No. 160.011/31/0, M-S-A chemox one-half hour self-contained oxygen-generating breathing apparatus, with or without quick start cartridge, Bureau of Mines Approval No. 13D-13, dwg. No. A-84600, Rev. 11, dated January 26, 1965, manufactured by Mine Safety Appliances Co., 201 North Braddock Avenue, Pittsburgh, Pa. 15208, effective July 19, 1977. (It is an extension of Approval No. 160.011/31/0, dated May 2, 1972.)

Approval No. 160.011/33/0, M-S-A chemox one-hour self-contained oxygen-generating breathing apparatus, Bureau of Mines Approval No. 1307, dwg. No. A87500, Rev. 8, dated August 3, 1966, manufactured by Mine Safety Appliances Co., 201 North Braddock Avenue, Pittsburgh, Pa. 15208, effective July 19, 1977. (It is an extension of Approval No. 160.011/33/0, dated May 2, 1972.)

LIFEBOAT WINCHES FOR MERCHANT VESSELS

Approval No. 160.015/118/0, Type 55G-MK IV lifeboat winch; limited to mechanical components only and for a maximum working load of 11,000 lbs. pull at the drums (5,500 lbs. per fall); identified by general arrangement drawing WI-F-025, dated February 23, 1977, and drawing list, dated February 23, 1977, trackway-mounted winch, manufactured by Marine Safety Equipment Corp., foot of Wyckoff Road, Farmingdale, N.J. 07727, effective June 30, 1977.

LADDERS, EMBARKATION-DEBARKATION (FLEXIBLE), FOR MERCHANT VESSELS

Approval No. 160.017/47/0, Type I, embarkation-debarkation ladder, rope suspension, wooden ears and rungs, identified by dwg. No. 160.017-1(b) of U.S.C.G. Specification 160.017, manufactured by A. L. Don Co., foot of Dock Street, Matawan, N.J. 07747, effective July 19, 1977. (It is a nextension of Approval No. 160.017/47/0, dated September 29, 1972.)

LIFE FLOATS FOR MERCHANT VESSELS

Approval No. 160.027/73/0, 6.16' x 3.66' (6" x 9" body section) peripheral-body type life float fibrous glass reinforced plastic (FRP) shell with unicellular polyurethane core, 12-person capacity, identified by dwg. No. 9012/5/72, dated May 25, 1972, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, effective July 19, 1977. (It is an extension of Approval No. 160.027/73/0, dated September 29, 1972.)

Approval No. 160.027/74/0, 4.16' x 3.0' (8" x 8" body section) peripheral-body type life float, fibrous glass reinforced plastic (FRP) shell with unicellular polyurethane core, 6-person capacity, identified by dwg. No. 9006/5/72, dated May 25, 1972, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, effective July 19, 1977. (It is an extension of Approval No. 160.027/74/0, dated September 27, 1972.)

DAVITS FOR MERCHANT VESSELS

Approval No. 160.032/210/0. Type GPD-80 gravity pivot davit; approved for a maximum working load of 16,000 lbs. per set (8,000 lbs. per arm) using 2-part falls; identified by general arrangement drawing D1-F-309, revision B, dated January 12, 1977, and drawing list, Revision A, dated June 15, 1977, manufactured by Marine Safety Equipment Corp., foot of Wyckoff Road, Farmingdale, N.J. 07727, effective June 30, 1977. (It supersedes Approval No. 160.032/210/0, dated February 10, 1977, to show minor revisions.)

BUOYS, LIFE, RING, UNICELLULAR PLASTIC

Approval No. 160.050/100/0, 24-inch, Model No. A-24, coated unicellular plastic foam ring life buoy, manufactured in accordance with U.S.C.G. Specification Subpart 160.050 and Approval No. 160.050/89/ revision number in effect on date of manufacture, Type IV PFD, manufactured by the Massalite Co., Box 214, Winnetka, Ill. 60093, for Billy Pugh Co., Inc., P.O. Box 802, Corpus Christi, Tex. 78403, effective July 1, 1977.

Approval No. 160.050/101/0, 30-inch, Model No. A-30, coated unicellular plastic foam ring life buoy, manufactured in accordance with U.S.C.G. Specification Subpart 160.050 and Approval No. 160.050/89/revision number in effect on date of manufacture, Type IV PFD, manufactured by the Massalite Co., Box 214, Winnetka, Ill. 60093, for Billy Pugh Co., Inc., P.O. Box 802, Corpus Christi, Tex. 78403, effective July 1, 1977.

MARINE BUOYANT DEVICE

Approval No. 160.064/1165/0, adult small, Model No. BV-Y, cloth covered unicellular plastic foam "Boating Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 7, Type III PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, effective July 19, 1977.

Approval No. 160.064/1166/0, adult small, Model No. BV-S, cloth covered unicellular plastic foam "Boating Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 7, Type III PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, effective July 19, 1977.

Approval No. 160.064/1167/0, adult medium, Model BV-M, cloth covered unicellular plastic foam "Boating Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 7, Type III PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, effective July 19, 1977.

Approval No. 160.064/1168/0, adult large, Model No. BV-L, cloth covered unicellular plastic foam "Boating Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 7, Type III PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, effective July 19, 1977.

Approval No. 160.064/1280/0, child large, Model No. 750, cloth covered unicellular plastic foam "Boating Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 266, Type III PFD, manufactured by Swan Products Co., Inc., 25 Brighton Avenue, Passaic, N.J. 07055, effective July 1, 1977.

Approval No. 160.064/1281/0, child medium, Model No. 750, cloth covered unicellular plastic foam "Boating Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 266, Type III PFD, manufactured by Swan Products Co., Inc., 25 Brighton Avenue, Passaic, N.J. 07055, effective July 1, 1977.

Approval No. 160.064/1282/0, child small, Model No. 750, cloth covered unicellular plastic foam "Boating Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 266, Type III PFD, manufactured by Swan Products Co., Inc., 25 Brighton Avenue, Passaic, N.J. 07055, effective July 1, 1977.

Approval No. 160.064/1299/0, adult X-large, Model No. BV-XL, cloth covered unicellular plastic foam "Boating Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 7, Type III PFD, manufactured by Atlantic-Pacific Manufacturing Corp., 124 Atlantic Avenue, Brooklyn, N.Y. 11201, effective July 19, 1977.

Approval No. 160.064/1300/0, adult small, Model Nos. 5113, 5123, or 5133, cloth covered unicellular plastic foam "Marine Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 289, Type III PFD with additional inflatable Type II characteristics, manufactured by Soniform, Inc., 8400 Alvarado Road, La Mesa, Calif. 92041, effective July 1, 1977.

Approval No. 160.064/1301/0, adult medium, Model Nos. 5114, 5124, or 5134, cloth covered unicellular plastic foam "Marine Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 289, Type III PFD with additional inflatable Type II characteristics, manufactured by Soniform, Inc., 8400 Alvarado Road, La Mesa, Calif. 92041, effective July 1, 1977.

Approval No. 160.064/1302/0, adult large, Model Nos. 5116, 5126, or 5136, cloth covered unicellular plastic foam "Marine Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 289, Type III PFD with additional inflatable Type II characteristics, manufactured by Soniform, Inc., 8400 Alvarado Road, La Mesa, Calif. 92041, effective July 1, 1977.

Approval No. 160.064/1303/0, adult medium, Model Nos. 5214, 5224, or 5234, cloth covered unicellular plastic foam "Marine Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 289, Type III PFD with additional inflatable Type II characteristics, manufactured by Soniform, Inc., 8400 Alvarado Road, La Mesa, Calif. 92041, effective July 1, 1977.

Approval No. 160.064/1304/0, adult large, Model Nos. 5216, 5226, or 5236, cloth covered unicellular plastic foam "Marine Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 289, Type III PFD with additional inflatable Type II characteristics, manufactured by Soniform, Inc., 8400 Alvarado Road, La Mesa, Calif. 92041, effective July 1, 1977.

Approval No. 160.064/1305/0, youth, Model Nos. 5213, 5223, or 5233, cloth covered unicellular plastic foam "Marine Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 289, Type III PFD with additional inflatable bladder, manufactured by Soniform, Inc., 8400 Alvarado Road, La Mesa, Calif. 92041, effective July 1, 1977.

Approval No. 160.064/1308/0, adult small, Model No. 1661, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

Approval No. 160.064/1309/0, adult medium, Model No. 1661, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

Approval No. 160.064/1310/0, adult large, Model No. 1661, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

Approval No. 160.064/1311/0, adult X-large, Model No. 1661, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

Approval No. 160.064/1312/0, adult medium, Model No. 1662, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

Approval No. 160.064/1313/0, adult large, Model No. 1662, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

Approval No. 160.064/1314/0, adult small, Model No. 101, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

Approval No. 160.064/1315/0, adult medium, Model No. 101, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

Approval No. 160.064/1316/0, adult large, Model No. 101, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

Approval No. 160.064/1317/0, adult X-large, Model No. 101, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

Approval No. 160.064/1318/0, adult medium, Model No. 202, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

Approval No. 160.064/1319/0, adult large, Model No. 202, cloth covered unicellular plastic foam "Float Coat," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 269, Type III PFD, manufactured by Mustang Sportswear, Ltd., 540 Beatty Street, Vancouver, B.C. V6B2L3, effective July 20, 1977.

RELIEF VALVES (HOT WATER HEATING BOILERS)

Approval No. 162.013/13/1, Type No. 2240, multiple relief valve assembly for hot water heating boilers, two (2) No. 240-1 inch-30 relief valves mounted on common base, maximum set pressure 30 p.s.i., combined relieving capacity of 1,820,000 BTU/Hr., base inlet size 2" nominal pipe diameter, relief valves were formerly 230-30, manufactured by McDonnell & Miller, Inc., 3500 North Spaulding Avenue, Chicago, Ill. 60618, effective July 20, 1977. (It is an extension of Approval No. 162.013/13/1, dated August 14, 1972, and minor changes.)

Approval No. 162.013/14/1, Type No. 3240, multiple relief valve assembly for hot water heating boilers, three (3) No. 240-1 inch-30 relief valves mounted on common base, maximum set pressure 30 p.s.i., combined relieving capacity 2,730,000 BTU/Hr., base inlet size 2" nominal pipe diameter, relief valves were formerly 230-30, manufactured by McDonnell & Miller, Inc., 3500 North Spaulding Avenue, Chicago, Ill. 60618, effective July 20, 1977. (It is an extension of Approval No. 162.013/14/1, dated August 14, 1972, and minor changes.)

PRESSURE VACUUM RELIEF VALVES FOR TANK VESSELS

Approval No. 162.017/118/1, Waukesha Bearings Type HS-M venting valve with cast iron or bronze valve body and flame screen body as indicated for groups A, B, and C on dwg. C-991-308, Rev. C pressure setting from 1 to 3 p.s.i.g. and vacuum settings from 0.5 to 1 p.s.i.g. vacuum are acceptable, sizes, 4", 6", 8", and 10", flame screen body and valve body must be bolted together, use of a spool piece or other separation is not permitted, manufactured by Waukesha Bearings Corp., P.O. Box 798, Waukesha, Wis. 53166, effective July 20, 1977. (It supersedes Approval No. 162.017/118/0, dated December 17, 1976, to show addition of new materials of construction.)

Dated: September 28, 1977.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard
Chief, Office of Merchant Marine Safety.

[FR Doc. 77-29372 Filed 10-5-77; 8:45 am]

[4910-14]

[CGD 77-178]

EQUIPMENT, CONSTRUCTION, AND MATERIALS

Approval Notice

1. Certain laws and regulations (46 CFR Chapter I) require that various items of lifesaving, firefighting and mis-

cellaneous equipment, construction, and materials used on board vessels subject to Coast Guard inspection, on certain motorboats and other recreational vessels, and on the artificial islands and fixed structures on the Outer Continental Shelf be of types approved by the Commandant, U.S. Coast Guard. The purpose of this document is to notify all interested persons that certain approvals have been granted as herein described during the period from July 20, 1977 to August 2, 1977 (List No. 15-77). These actions were taken in accordance with the procedures set forth in 46 CFR 2.75-1 to 2.75-50.

2. The statutory authority for equipment, construction, and material approvals is generally set forth in sections 367, 375, 390b, 416, 481, 489, 526p, and 1333 of Title 46, United States Code, section 1333 of Title 43, United States Code, and section 198 of Title 50, United States Code. The Secretary of Transportation has delegated authority to the Commandant, U.S. Coast Guard with respect to these approvals (49 CFR 1.46(b)). The specifications prescribed by the Commandant, U.S. Coast Guard for certain types of equipment, construction, and materials are set forth in 46 CFR Parts 160 to 164.

3. The approvals listed in this document shall be in effect for a period of 5 years from the date of issuance, unless sooner cancelled or suspended by proper authority.

SEA ANCHORS, LIFEBOAT

Approval No. 160.019/11/0, Type JF lifeboat sea anchor, U.S.C.G. dwg. No. MMI-562 and specification dated November 1, 1943, revised August 24, 1944, manufactured by Samuel Fassman Co., 2776 Atlantic Avenue, Brooklyn, N.Y. 11207, effective July 27, 1977. (It is an extension of Approval No. 160.019/11/0 dated June 5, 1972.)

DAVITS FOR MERCHANT VESSELS

Approval No. 160.032/202/0, Type 26-16 gravity davit, approved for a working load of 16,000 lbs. per set (8,000 lbs. per arm) using 2-part falls; identified by general arrangement drawing D1-E-292, revision A dated May 25, 1977, and drawing list dated July 5, 1977, manufactured by Marine Safety Equipment Corp., foot of Wyckoff Road, Farmingdale, N.J. 07727, effective August 1, 1977.

MECHANICAL DISENGAGING APPARATUS, LIFEBOAT, FOR MERCHANT VESSELS

Approval No. 160.033/64/0, Rottmer type releasing gear, approved for maximum working load of 25,100 pounds per hook, identified by disengaging apparatus drawing No. 502-111, Revision B, dated March 3, 1977, and disengaging apparatus master drawing list CA5000-111, Revision B, dated April 22, 1977, manufactured by Whittaker Corp., Survival Systems Division, 5159 Baltimore Drive, La Mesa, Calif. 92041, effective August 1, 1977. (It supersedes Approval No. 160.033/64/0 dated January 12, 1977, revised to show new drawing list incorporating minor changes.)

Approval No. 160.033/65/1, Rottmer type releasing gear, approved for maxi-

mum working load of 7,860 pounds per hook, apparatus is Welin Size 299 releasing gear, approval No. 160.033/28/7, modified in accordance with Viking Marine Co., Ltd., drawing 8EL-135 dated September 17, 1976, 8EL-136 dated September 16, 1976, and 8EL-137 dated September 16, 1976, alternate hook; Lane drawing R-146, size 0-1-C2 release gear, Approval No. 160.033/51/0, satisfactory for use with Watercraft "MRD" type cradle davit system, as well as vertical lifting davit systems, manufactured by Watercraft America, Inc., P.O. Box 307, Mims, Fla. 32754, effective August 1, 1977. (It supersedes Approval No. 160-033/65/0 dated November 22, 1976 to show alternate hook.)

MARINE BUOYANT DEVICE

Approval No. 160.064/1240/0, child medium, Model No. 1001, vinyl dipped unicellular plastic foam "Sailing & Water Ski Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160-064 and UL/MD report file No. MQ 278, Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective July 27, 1977.

Approval No. 160.064/1241/0, adult universal (woman's), Model No. 1002, vinyl dipped unicellular plastic foam "Sailing & Water Ski Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160-064 and UL/MD report file No. MQ 278, Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective July 27, 1977.

Approval No. 160.064/1242/0, adult small, Model No. 1003, vinyl dipped unicellular plastic foam "Sailing & Water Ski Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160-064 and UL/MD report file No. MQ 278, Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective July 27, 1977.

Approval No. 160.064/1243/0, adult medium, Model No. 1004, vinyl dipped unicellular plastic foam "Sailing & Water Ski Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160-064 and UL/MD report file No. MQ 278, Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective July 27, 1977.

Approval No. 160.064/1244/0, adult large, Model No. 1005, vinyl dipped unicellular plastic foam "Sailing & Water Ski Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160-064 and UL/MD report file No. MQ 278, Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective July 27, 1977.

Approval No. 160.064/1245/0, adult X-large, Model No. 1006, vinyl dipped unicellular plastic foam "Sailing & Water Ski Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160-064 and UL/MD report file No. MQ 278,

Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective July 27, 1977.

Approval No. 160.064/1347/0, adult X-small, Model No. 101, vinyl dipped unicellular plastic foam "General Purpose Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 278, Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective August 2, 1977.

Approval No. 160.064/1348/0, adult small, Model No. 102, vinyl dipped unicellular plastic foam "General Purpose Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 278, Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective August 2, 1977.

Approval No. 160.064/1349/0, adult medium, Model No. 103, vinyl dipped unicellular plastic foam "General Purpose Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 278, Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective August 2, 1977.

Approval No. 160.064/1350/0, adult large, Model No. 104, vinyl dipped unicellular plastic foam "General Purpose Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 278, Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective August 2, 1977.

Approval No. 160.064/1351/0, adult X-large, Model No. 105, vinyl dipped unicellular plastic foam "General Purpose Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 278, Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective August 2, 1977.

Approval No. 160.064/1352/0, adult XX-large, Model No. 106, vinyl dipped unicellular plastic foam "General Purpose Buoyant Vest," manufactured in accordance with U.S.C.G. Specification Subpart 160.064 and UL/MD report file No. MQ 278, Type III PFD, manufactured by H. H. Bremen Manufacturing Co., Inc., 405 N. Industrial Drive, Bremen, Ind. 46506, effective August 2, 1977.

CLASS A EPIRB

Approval No. 161.011/6/0, Model DB-2051, Class A, float free, Emergency Position Indicating Radio Beacon, FCC Type Acceptance issued on July 16, 1975, under 46 CFR 83, Jotron U.S. Agent: The Jover Corp., P.O. Box 386, Park Ridge, N.J. 07656, manufactured by A/S Jotron Elektronikk, 7600 Levanger, Norway, effective July 27, 1977. (It supersedes Approval No. 161.011/6/0 dated July 23, 1975.)

FLAME ARRESTERS FOR TANK VESSELS

Approval No. 162.016/8/0, Figure No. 50, Varec flame arrester, aluminum body, aluminum multiple plate bank, vertical type, flanged connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 20, 1977. (It supersedes No. 162.016/8/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/9/0, Figure No. 50A, Varec flame arrester, aluminum body, aluminum plate bank, vertical type, flanged connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 20, 1977. (It supersedes Approval No. 162-016/9/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/10/0, Figure No. 50ACU, Varec flame arrester, grey iron ASTM 126-73 body, copper multiple plate bank, vertical type, flanged connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 20, 1977. (It supersedes Approval No. 162.016/10/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/11/0, Figure No. 50ABCU, Varec flame arrester, grey iron ASTM 126-73 body, copper multiple plate bank, vertical type, female pipe thread connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 20, 1977. (It supersedes Approval No. 162.016/11/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/12/0, Figure No. 50ACCU, Varec flame arrester, grey iron ASTM 126-73 body, copper multiple plate bank, vertical type, flanged and screwed connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boule-

vard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 20, 1977. (It supersedes Approval No. 162.016/12/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/13/0, Figure No. 50AN, Varec flame arrester, grey iron ASTM 126-73 and aluminum body, aluminum multiple plate bank, vertical type, square flange connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 20, 1977. (It supersedes Approval No. 162.016/13/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/14/0, Figure No. 50B, Varec flame arrester, aluminum body, aluminum multiple plate bank, vertical type, female threaded connections, fitted with extensible banks and removable cover plates, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 20, 1977. (It supersedes Approval No. 162.016/14/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/15/0, Figure No. 50C, Varec flame arrester, aluminum body, aluminum multiple plate bank, vertical type, flanged and screwed connections, fitted with extensible banks and removable cover plate, approved for use with 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Company, 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 20, 1977. (It supersedes Approval No. 162-016/15/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/16/0, Figure No. 50CU, Varec flame arrester, grey iron ASTM 126-73 body, copper multiple plate bank, vertical type, flanged connections fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Company, 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 20, 1977. (It supersedes Approval No. 162-016/16/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/17/0, Figure No. 50S, Varec flame arrester, grey iron ASTM 126-73 body, aluminum multiple

plate bank, vertical type, flanged connection, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 20, 1977. (It supersedes Approval No. 162.016/17/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/18/0, Figure No. 50SA, Varec flame arrester, grey iron ASTM 126-73 body, small aluminum multiple plate bank, vertical type, flanged connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 20, 1977. (It supersedes Approval No. 162-016/18/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/19/0, Figure No. 50SG, Varec flame arrester, grey iron ASTM 126-73 body, aluminum multiple plate bank, vertical type, flanged connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 26, 1977. (It supersedes Approval No. 162.016/19/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/20/0, Figure No. 50SB, Varec flame arrester, grey iron ASTM 126-73 body, aluminum multiple plate bank, vertical type, threaded connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 26, 1977. (It supersedes Approval No. 162.016/20/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/21/0, Figure No. 50SC, Varec flame arrester, grey iron ASTM 126-73 body, aluminum multiple plate bank, vertical type, flanged and screwed connections fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Company, 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 26, 1977. (It supersedes Approval No. 162.016/21/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

July 26, 1977. (It supersedes Approval No. 162.016/21/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/22/0, Figure No. 53, Varec flame arrester, aluminum body, aluminum multiple plate bank, horizontal type, flanged connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 26, 1977. (It supersedes Approval No. 162.016/22/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/23/0, Figure No. 53A, Varec flame arrester, aluminum body, aluminum multiple plate bank, horizontal type, flanged connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Company, 301 E. Alondra Boulevard, Gardena, California 90247, formerly VAREC, Inc., effective July 26, 1977. (It supersedes Approval No. 162.016/23/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/24/0, Figure No. 53B, Varec flame arrester, aluminum body, aluminum multiple plate bank, horizontal type, screwed connections, fitted with extensible banks and removable cover plate, approved for 2½", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Company, 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 26, 1977. (It supersedes Approval No. 162.016/24/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/25/0, Figure No. 53C, Varec flame arrester, aluminum body, aluminum multiple plate bank, horizontal type, flanged and screwed connections, fitted with extensible banks and removable cover plate, approved for use with 2½", 3", 4", 6", 8", 10", and 12" pipe sizes for use with inflammable or combustible liquids of Grade A or lower, manufacturer by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 26, 1977. (It supersedes Approval No. 162.016/25/0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/26/0, Figure No. 53S, Varec flame arrester, grey iron ASTM 126-73 body, aluminum multiple plate bank, horizontal type, flanged connections, fitted with extensible banks and removable cover plate, approved for

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2 1/2", 3", 4", 6", 8", 10", and 12" pipe sizes, for use with inflammable or combustible liquids of Grade A or lower, manufactured by VAREC, Division Emerson Electric Company, 301 E. Alondra Boulevard, Gardena, California 90247, formerly VAREC, Inc., effective July 26, 1977. (It supersedes Approval No. 162.016.26.0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016.27.0, Figure No. 53SA, VAREC flame arrester, grey iron ASTM 126-73 body, aluminum multiple plate bank, horizontal type, flanged connections, fitted with extensible banks and removable cover plate, approved for 2 1/2", 3", 4", 6", 8", 10", and 12" pipe sizes for use with inflammable or combustible liquids of Grade A or lower, manufactured by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 26, 1977. (It supersedes Approval No. 162.016/27.0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/28.0, Figure No. 53SB, VAREC flame arrester, grey iron ASTM 126-73 body, aluminum multiple plate bank, horizontal type, screwed connections, fitted with extensible banks and removable cover plate, approved for 2 1/2", 3", 4", 6", 8", 10", and 12" pipe sizes for use with inflammable or combustible liquids of Grade A or lower, manufactured by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 26, 1977. (It supersedes Approval No. 162.016/28.0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

Approval No. 162.016/29.0, Figure No. 53SC, VAREC flame arrester, grey iron ASTM 126-73 body, aluminum multiple plate bank, horizontal type, flanged and screwed connections, fitted with extensible banks and removable cover plate, approved for 2 1/2", 3", 4", 6", 8", 10", and 12" pipe sizes for use with inflammable or combustible liquids of Grade A or lower, manufactured by VAREC, Division Emerson Electric Co., 301 E. Alondra Boulevard, Gardena, Calif. 90247, formerly VAREC, Inc., effective July 26, 1977. (It supersedes Approval No. 162.016/29.0 dated June 6, 1972 to show change of name of manufacturer and revision of identifying data.)

BACKFIRE FLAME CONTROL, GASOLINE ENGINES; FLAME ARRESTERS; FOR MERCHANT VESSELS

Approval No. 162.041/190.4 Barbronn all brass flame arresters, Model No. suffixed by "B" Barbronn all aluminum flame arresters, Model No. suffixed by "AA" Model No. indicates units size: first two digits indicate units diameter (57=5.7"); second two digits indicate element height (15=1.5") last two digits are base code, 571501, 571503, 572004, 571510, 571513, 571517, 572522, 572524, 572001, 572003, 572005, 572010, 572013,

571518, 573022, 573024, 572201, 573003, 572006, 575010, 571113, 572018, 571721, 573010, 572501, 575003, 571507, 572011, 571213, 571519, 571023, 573001, 571004, 572007, 572012, 572014, 571520, 571523, 575001, 571204, 572008, 571112, 572015, 572020, 572023, 572002, 571304, 571509, 571212, 571516, 572520, 571524, 571003, 571504, 572009, 571512, 571317, 572022, 572024, the majority of these models were previously approved units, due to their similarities, these units are grouped together to eliminate the long list of approval numbers which now exist for Barbronn Corp. Note: last two digits of drawing No. indicate particular base, manufactured by Barbronn Corp., 14580 Lesure Avenue, Detroit, Mich. 48227, effective August 1, 1977. (It supersedes Approval No. 162.041.190.4 dated September 2, 1976.)

BULKHEAD PANELS FOR MERCHANT VESSELS

Approval No. 164.008/29/1, "Marinitite-23", inorganic composition board type bulkhead panel, identical to that described in Protexol Testing Laboratory Report No. 193 dated February 24, 1950, approved as meeting Class B-15 requirements in a 3/4" thickness, when veneered with combustible material not meeting the requirements of 46 CFR Subpart 164.012 the restrictions of Subpart 72.05-15 apply, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1977. (It is an extension of Approval No. 164.008/29/1 dated August 2, 1972.)

INCOMBUSTIBLE MATERIALS FOR MERCHANT VESSELS

Approval No. 164.009/13/0, "Transite", asbestos cement board type incombustible material identical to that described in National Bureau of Standards Test Report No. TG3610-1495:FP2573 dated November 28, 1947, formerly approved under the name of "J-M TRANSITE", manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1977. (It is an extension of Approval No. 164.009/13/0 dated August 2, 1972.)

Approval No. 164.009/25/0, "J-M Six-Pound Reinforced Asbestos Paper", asbestos paper type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-1643:FP2833, dated October 13, 1949, approved in a weight of 6 pounds per 100 square feet, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1977. (It is an extension of Approval No. 164.009/25/0 dated August 2, 1972.)

Approval No. 164.009/26/0, "J-M 32-lb. Commercial Grade Asbestos Paper", asbestos paper type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-1660:FP2861, dated December 21, 1949, approved in a weight of 32 pounds per one hundred square feet, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1977. (It is an extension of Approval No. 164.009/26/0 dated August 2, 1972.)

Approval No. 164.009/32/0, "Thermoflex Felt RF 400", mineral wool insulation type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-1944:FP3305 dated December 13, 1954, approved in a 4-pound per cubic foot density, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, effective August 2, 1977. (It is an extension of Approval No. 164.009/32/0 dated August 2, 1972.)

Approval No. 164.009/72/3, "Incombustible Microlite" fibrous glass insulation type incombustible material identical to that described in National Bureau of Standards Test Report No. TG10210-2151:FR3688 dated June 27, 1967 and Johns-Manville letter dated July 20, 1967, approved in densities of 0.6 through 2 pounds per cubic foot, manufactured by Johns-Manville Sales Corp., Denver, Colo. 80217, Plant: Parkersburg, W. Va., effective August 2, 1977. (It is an extension of Approval No. 164.009/72/3 dated August 2, 1972.)

Dated: September 28, 1977.

W. M. BANKERT,
Rear Admiral, U.S. Coast Guard
Chief, Office of Merchant
Marine Safety.

[FR Doc.77-29373 Filed 10-5-77; 8:45 am]

[4910-13]

Federal Aviation Administration

AIR TRAFFIC PROCEDURES ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the Federal Aviation Administration Air Traffic Procedures Advisory Committee to be held October 26 through October 28, 1977, from 9 a.m. e.d.t. to 4 p.m. daily, except for the last day which will terminate at 1 p.m., in conference rooms 7A and B at FAA Headquarters, 800 Independence Ave. SW., Washington, D.C.

The agenda for this meeting is as follows: A continuation of the Committee's review of present air traffic control procedures and practices for standardization, clarification, and upgrading of terminology and procedures.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from Mr. Franklin L. Cunningham, Executive Director, Air Traffic Procedures Advisory Committee, Air Traffic Service, AAT-300, 800 Independence Ave. SW., Washington, D.C. 20591, telephone 202-426-3725.

Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on September 27, 1977.

F. L. CUNNINGHAM,
Executive Director, ATPAC.

[FR Doc.77-29115 Filed 10-5-77; 8:45 am]

[4910-13]

DEVELOPMENT OF AN AUTOMATED LOW-COST WEATHER OBSERVATION SYSTEM (ALWOS)

Meeting

Notice is hereby given that on October 13, 1977, at 10:00 a.m., an informal public meeting will be held in Room 6 A&B, FAA Headquarters Building (FOB-10A), 800 Independence Avenue SW., Washington, D.C. The purpose of this meeting is to obtain information and suggestions from the public concerning the development of ALWOS.

Interested persons are invited to attend and make individual presentations. Interested persons are also invited to submit written statements to FAA, Systems Research and Development Service, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590. Further information can be obtained from Glenn Glassburn or Eric Mandel at 202-426-8427.

Issued in Washington, D.C., on September 29, 1977.

ROBERT W. WEDAN,
Acting Director, Systems Research and Development Service, ARD-1.

[FR Doc.77-29253 Filed 10-5-77; 8:45 am]

[4910-13]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA)

Executive Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Executive Committee to be held October 28, 1977, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C. commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Approval of Minutes of September 16, 1977 Meeting; (2) Special Activities Report for September 1977; (3) Chairman's Report of RTCA Administration and Activities; (4) Consideration of MPS/MOC Informal Review Group Report; (5) Consideration of Establishing New Special Committees; (6) Report on International Standards Organization TC-20/SC-5 Activities and (7) Discuss Agenda Items for November 16, 1977 Executive Committee Meeting with International Associates.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify,

not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006; (202) 296-0484. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on September 28, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc.77-29252 Filed 10-5-77; 8:45 am]

[4910-13]

RADIO TECHNICAL COMMISSION FOR AERONAUTICS (RTCA), SEPARATION STUDY REVIEW GROUP

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) notice is hereby given of a meeting of the RTCA Separation Study Review Group to be held November 1-2, 1977, Main Conference Room, Building 11, National Aviation Facilities Experimental Center, Tilden Road, Pleasantville, N.J. commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of First Meeting held May 10-11, 1977; (3) Discussion of Terms of Reference; (4) Status Report on FAA Separation/Navigation Standards Program; (5) Presentation of Initial Information on Data Collected in Cleveland Area; (6) Discussion of Data Correlation, Processing and Reduction Procedures; (7) Review of Data Collection Specification Supplement; (8) Status Report on Definition of Alternate Separation Analysis Methods, and (9) General Discussion.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006 (202-296-0484). Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C. on September 28, 1977.

KARL F. BIERACH,
Designated Officer.
[FR Doc.77-29328 Filed 10-5-77; 8:45 am]

[4910-60]

Materials Transportation Bureau ASSOCIATED UNIVERSITIES, INC.; APPLICATION FOR INCONSISTENCY RULING Public Hearing and Extension of Comment Period

Associated Universities, Inc. (AUI) has applied for an administrative ruling

pursuant to 49 CFR 107.203-211 on whether Section 175.111 of the New York City Health Code, which restricts the transportation of radioactive materials in and through the City of New York, is inconsistent with and thus preempted by the Hazardous Materials Transportation Act (HMTA) (Title I of Pub. L. 93-633, 88 Stat. 2156, 49 U.S.C. 1801-1812) or regulations issued thereunder.

On August 15, 1977, the Materials Transportation Bureau (MTB) published a public notice (42 FR 41204) summarizing the issues raised in AUI's application and the City's response and soliciting public comment until September 30, 1977. In the notice it was noted that New York City and others had requested a public hearing and at that time the request was denied.

However, in light of the substantial public interest expressed on this issue, additional requests received, the possible significance to State and local governments elsewhere in the United States of a ruling on the AUI application, and the fact that such a ruling will be the first issued under 49 CFR Part 107, the MTB has decided to extend the time for public comment until November 30, 1977, and to schedule a public hearing on the matter. The MTB is considering Thursday, November 10, 1977, and a New York City location for the hearing. A final date, time and location will be announced in the Federal REGISTER in the near future. The hearing will be informal and will not be a judicial or evidentiary-type hearing. There will be no cross-examination of persons presenting statements.

During the hearing, opportunity will be provided for both proponents and opponents of AUI's application to present their views. Any public official or representative of a civic, public interest, or industry group may request to testify. Participants will be permitted a maximum of ten minutes for each presentation. If requests received exceed the available time, we will ask prospective witnesses with similar views to combine their presentations. In the event that accommodation cannot be made, witnesses will be assigned by lot.

Any public official or organizational representative desiring to participate must write to Dockets Section, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590 (phone 202-426-2077). The letter must be received no later than October 28, 1977, and provide the following information:

1. Name and address.
2. Telephone number during normal working hours.
3. Capacity in which presentation will be made (i.e., public official or organizational representative, with name of group represented).
4. Position—pro or con AUI's application.
5. Time desired, if less than ten minutes.

Shortly before the hearing a schedule will be prepared listing the partici-

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pants in the order in which their presentations will be made.

Written comments by any interested persons, including those who may not have sufficient time to express their full views at the hearing, are invited through November 30, 1977. These should be sent, preferably five copies, to the Dockets Section at the address indicated above. Additionally, as required by regulation (49 CFR 107.205(b)), a copy of each written comment must be sent to Mr. N. Peter Rathvon, Jr., Associated Universities, Inc., Upton, N.Y. 11873, and that fact noted on the comment sent to MTB.

All written comments, as well as a transcript of the hearing, will become a part of the record of the proceeding. The entire record which includes the AUI application, the City of New York's response, and all comments received to date may be reviewed in the Dockets Section at the address indicated above.

Comments presented at the hearing and those submitted in writing should be restricted to the specific question of whether Section 175.111 of the New York City Health Code is inconsistent with the HMTA or regulations issued thereunder. Information which is not pertinent to an inconsistency ruling or which is expressive of the relationship of Section 175.111 to other Federal laws and regulations is not to be considered by the Director, Office of Hazardous Materials Operations (OHMO) in making his ruling. Supplementary information is provided in the August 15, 1977, FEDERAL REGISTER publication and potential commenters are urged to refer to that document.

Any questions relating to this notice should be addressed to Douglas A. Crockett, Office of the Assistant General Counsel for Materials Transportation Law, Room 6222, Trans Point Building, 2100 Second Street SW., Washington, D.C. 20590 (phone 202-755-4972). As previously noted, requests for time to speak at the hearing must be addressed to the Dockets Section.

AUTHORITY: 49 U.S.C. 1811, 49 CFR 1.53(e), 49 CFR Part 107 Subpart C.

Issued in Washington, D.C. on October 3, 1977.

ALAN I. ROBERTS,
Director, Office of Hazardous
Materials Operations.

[FR Doc 77-29554 Filed 10-5-77; 8:45 am]

[4810-22]

DEPARTMENT OF THE TREASURY

Customs Service

BROMINE AND BROMINATED COMPOUNDS FROM ISRAEL

Receipt of Countervailing Duty Petition and Initiation of Investigation

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Initiation of Countervailing Duty Investigation.

SUMMARY: This notice is to advise the public that a countervailing duty petition has been received in proper form and that an investigation is being initiated in order to determine whether or not bounties or grants are being paid by the Government of Israel on bromine and brominated compounds. A preliminary determination will be made no later than January 11, 1978, and a final determination no later than July 11, 1978.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

William T. Trujillo, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: A petition was received in proper form on July 11, 1977, from Velsicol Chemical Corp., alleging that payments or bestowals conferred by the Government of Israel upon the manufacture, production, or exportation of bromine and brominated compounds constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303). Bromine is provided for in the Tariff Schedules of the United States under item 415.05. Brominated compounds are classified under various item numbers including items 429.28, 420.82, and 403.60.

Pursuant to section 303(a)(4), of the Trade Act of 1930, as amended (19 U.S.C. 1303(a)(4)), the Department of the Treasury is required to issue a preliminary determination as to whether or not any bounty or grant is being paid or bestowed within the meaning of the countervailing duty law within 6 months of the date of receipt, in satisfactory form, of the petition alleging the payment or bestowal of a bounty or grant. A final decision must be issued within 12 months of the receipt of such petition.

Therefore, a preliminary determination on this petition will be made no later than January 11, 1978, as to whether the alleged payments or bestowals conferred by the Government of Israel upon the manufacture, production, or exportation of the above-described merchandise constitute the payment or bestowal of a bounty or grant within the meaning of section 303, Tariff Act of 1930, as amended. A final determination will be issued no later than July 11, 1978.

This notice is published pursuant to section 303(a)(3) of the Tariff Act of 1930, as amended (19 U.S.C. 1303(a)(3)).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised, November 2, 1954, and section 159.47(c) of the Customs Regulations (19 CFR 159.47(47)), insofar as they pertain to the initiation of a

countervailing duty investigation by the initiation of a countervailing duty investigation by the Commissioner of Customs, are hereby waived.

Dated: October 3, 1977.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

[FR Doc 77-29472 Filed 10-5-77; 8:45 am]

Fiscal Service

(Dept. Circ. 570, 1977 Rev., Supp. No. 1)

SURETY COMPANIES ACCEPTABLE ON FEDERAL BONDS

Issuance of Certificate of Authority

Correction

In FR Doc 77-23621 appearing at page 41504 in the issue of Wednesday, August 17, 1977, the center heading and text following should be corrected to read as follows:

NAME OF COMPANY, BUSINESS ADDRESS, AND
STATE IN WHICH INCORPORATED

Insurance Company of the West, Post Office
Box 81063, San Diego, California 92138,
California.

[4810-]

Office of Foreign Assets Control

IMPORTATION FROM THE EUROPEAN COMMUNITIES OF FERROCHROMIUM AND CHROMIUM-BEARING STEEL WILL PRODUCTS UNDER THE RHODESIAN SANCTIONS REGULATIONS

Availability of Special Certificates for
Imports From Denmark, Ireland, and Italy

Special certificates issued under the Certification Agreement between the United States and the Commission of the European Communities are available as of September 18, 1977 for imports from Denmark, Ireland, and Italy of ferrochromium and chromium-bearing steel mill products. Materials shipped after September 18, 1977 may only be imported if a special certificate is presented to Customs at the time of entry.

Imports of certifiable materials shipped prior to September 18, 1977 but arriving after that date may continue to be made under the interim certificates. However, the entry will not be liquidated until the importer presents a special certificate on or before October 18, 1977.

Importers are reminded that a special certificate must be procured and filed with Customs on or before October 18, 1977 to complete liquidation of entries covering certifiable materials imported under interim certificates prior to September 18, 1977.

Dated: September ??, 1977.

STANLEY L. SOMMERFIELD,
Acting Director.

Approved:

BETTE B. ANDERSON,
Under Secretary.

[FR Doc 77-29442 Filed 10-5-77; 8:45 am]

[4810-25]

Office of the Secretary

CARBON STEEL PLATE FROM JAPAN

Antidumping; Withholding of Appraisement Notice

AGENCY: U.S. Treasury Department.

ACTION: Withholding of Appraisement.

SUMMARY: This notice is to advise the public that an antidumping investigation has resulted in a preliminary determination that carbon steel plate from Japan is being sold at less than fair value. (Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries or the constructed value of the merchandise). Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Interested parties are invited to comment on this action.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Stephen Nyschot, Operations Officer, U.S. Customs Service, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue, NW., Washington, D.C. 20229, telephone 202-566-5492.

SUPPLEMENTARY INFORMATION:

On March 8, 1977, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of Oregon Steel Mills, Division of Gilmore Steel Corporation, indicating a possibility that carbon steel plate from Japan is being, or is likely to be sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). An "Antidumping Proceeding Notice" was published in the FEDERAL REGISTER on March 30, 1977 (42 FR 16883). That notice indicated that there was evidence on record concerning injury to or likelihood of injury to, or prevention of establishment of, an industry in the United States.

For purposes of this notice, the term "carbon steel plate" means hot-rolled carbon steel plate, 0.1875 ($\frac{3}{16}$) inches or more in thickness, over 8 inches in width, not in coils, not pickled, not coated or plated with metal, not clad, and not cut, pressed or stamped to non-rectangular shape.

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in the Customs Service investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price or the exporter's sales price of carbon steel plate from Japan is less, or is likely to be less, than the fair value of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

a. *Scope of the Investigation.* It appears that during the period of investigation covering October 1, 1976 to March 31, 1977, over 70 percent of the imports of the subject merchandise from Japan were manufactured by Nippon Steel Corporation (Nippon Steel), Nippon Kokan K.K. (NEK), Sumitomo Metal Industries, Ltd. (Sumitomo), Kawasaki Steel Corporation (Kawasaki), and Kobe Steel, Ltd. (Kobe). Therefore, the investigation was limited to these five manufacturers.

b. *Basis of Comparison.* For the purpose of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between purchase price and constructed value on all sales by Nippon Steel, NEK, and Kobe, and on most sales by Sumitomo and Kawasaki. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162), was used since those export sales were made to unrelated Japanese trading companies. On the remaining sales by Sumitomo and Kawasaki, the proper basis of comparison appears to be between exporter's sales prices, as defined in section 204 of the Act (19 U.S.C. 163), and constructed value, since those sales in the United States are made by importers who are related to those manufacturers. Constructed value, as defined in section 206 of the Act (19 U.S.C. 165) was used pursuant to section 205(b) of the Act (19 U.S.C. 164(b)), since on the basis of the best evidence available at this time sales in the home market which were at not less than the cost of production appear to be inadequate as a basis for comparison. As the exporters declined to provide any information concerning their sales in third countries and no other information to the contrary was available, it has been assumed that sales to third countries which were at not less than the cost of production would also provide an inadequate basis for comparison.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31(b)), home market pricing information was obtained for the period October 1, 1976, through March 31, 1977. Since the question of sales prices below cost was raised, cost information was requested but was not provided.

c. *Purchase Price.* For the purpose of this tentative determination of sales at less than fair value, purchase price has been calculated on the basis of the f.o.b. or f.a.s. price to the unrelated trading company for export to the United States. A deduction has been made for inland transportation costs included in the price.

d. *Exporter's Sales Price.* For the purpose of this tentative determination of sales at less than fair value, exporter's sales price has been calculated on the basis of the price to the first unrelated purchaser in the United States. Deductions have been made for ocean freight and insurance, brokerage charges, import duties, and for expenses incurred in selling the merchandise in the United States.

e. *Constructed Value.* For the purpose of this tentative determination of sales at less than fair value, constructed value has been calculated on the basis of the best information available concerning the cost of materials and of fabrication or other processing involved in producing the merchandise, plus an amount for general expenses usually reflected in sales of merchandise of the same general class or kind, plus an amount for profit equal to that required by section 206 (a)(2)(B) of the Act (19 U.S.C. 165(a)(2))

(B)), plus the cost of all containers and coverings and all other expenses incidental to placing the merchandise in condition, packed ready for shipment to the United States.

Counsel for petitioner has claimed that sales of this merchandise for home consumption or to third countries have been made in substantial quantities over an extended period of time at prices which are less than the cost of production within the meaning of section 205(b) of the Act and which do not permit recovery of all costs within a reasonable period of time in the normal course of trade.

Information concerning sales in the home market has been submitted. Information requested concerning sales to third countries has not been received. Information requested in order to establish the actual cost of production of the aforementioned Japanese manufacturers of the subject merchandise also has not been received. Therefore, for purposes of this tentative determination, the best information available has been utilized for the purpose of deriving the cost of production of carbon steel plate within the meaning of section 205(b) of the Act. The best information available has been determined to consist of the published financial reports of the Japanese producers subject to this investigation, which earn no less than 90 percent of total revenue from the sale of all steel products, and of information submitted by petitioner in connection with the cost of production of Japanese carbon steel plate.

It has further been determined that the cost of production thus derived exceeds, in virtually all instances, the prices at which carbon steel plate has been sold in the home market during the investigatory period. Further, it has been determined that in the absence of requested information with respect to prices of this merchandise applicable to sales to third countries, such sales may be presumed to have been made at less than the cost of production. Fair value comparisons have therefore been made on the basis of constructed value.

The derived cost of production includes an amount shown on the published financial statements of the producers for "non-operating expenses". In the absence of proof from respondents that all or certain of these expenses are not, according to accounting principles generally accepted in the United States, properly allocable to the cost of production of all carbon steel products in general, and carbon steel plate in particular, such expenses are properly allocable to the cost of production of this merchandise.

In determining whether sales have been below the cost of production under section 205(b), the Secretary must determine whether below-cost sales have been made in substantial quantities over an extended period of time, and "are not at prices which permit recovery of all costs within a reasonable period of time in the normal course of trade." It has tentatively been determined that a majority of home market sales during the period of investigation were made below the cost of production and that, in the context of this industry, three years represents a reasonable period of time within which all cost must be recovered in the normal course of trade. Three years appears to be the approximate length of the historic business cycle in the Japanese steel industry within which all but extraordinary costs (and no information as to any such costs has been presented), should be recovered. It has therefore been determined that sales of carbon steel plate in Japan have been made over an extended period of time in substantial quantities at prices which do not permit recovery of all costs within a reasonable period of time in the normal course of trade.

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Counsel for petitioner has claimed that possible additional dumping margins may have been created by sales below the cost of acquisition by trading companies which export carbon steel plate from Japan and also sell this merchandise to ultimate users and other home market purchasers. Some information has been received indicating a possibility that this practice may be occurring. Prior to any Final Determination, therefore, additional information relevant to this claim will be requested, and such information as is received will be taken into account for the purposes of making the Final Determination.

1. *Result of Fair Value Comparisons.* Using the above criteria, preliminary analysis suggests that purchase price or exporter's sales price probably will be lower than the constructed value of such merchandise. Comparisons were made on approximately 83 percent of the subject merchandise sold to the United States by the five manufacturers during the investigative period. Margins were tentatively found ranging from 1 to 48 percent for sales made by Nippon Steel on 100 percent of sales compared, from 6 to 55 percent for sales made by NKK on 100 percent of sales compared, from 8 to 52 percent for sales made by Sumitomo on 100 percent of sales compared, from 0.4 to 52 percent for sales made by Kawasaki on 97 percent of sales compared, and from 7 to 44 percent for sales made by Kobe on 100 percent of sales compared. Weighted average margins over the total sales compared for each firm were approximately 31 percent for Nippon Steel, 38 percent for NKK, 32 percent for Sumitomo, 27 percent for Kawasaki, and 32 percent for Kobe.

Accordingly, Customs officers are being directed to withhold appraisement of carbon steel plate from Japan in accordance with section 153.48, Customs Regulations (19 CFR 153.48).

In accordance with section 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received by his office no later than October 17, 1977. Such requests must be accompanied by a brief statement outlining the issues wished to be discussed, which issues may be discussed in greater detail in a written brief.

All written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received in his office no later than November 7, 1977. All persons submitting written views or arguments should avoid repetitions and merely cumulative material. Counsel for the petitioner and the respondents are requested to serve all written submissions on all other counsel and to file their submissions with the Commissioner of Customs in ten copies.

This notice, which is published pursuant to section 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective October 6, 1977. It shall

cease to be effective April 6, 1978, unless previously revoked.

PETER D. EHRENIHAFT,
Deputy Assistant
Secretary (Tariff Affairs).

SEPTEMBER 30, 1977.

[FR Doc. 77-29426 Filed 10-5-77; 8:45 am]

[4810-22]

Office of the Secretary

POLYVINYL CHLORIDE SHEET AND FILM FROM THE REPUBLIC OF CHINA

Antidumping; Withholding of Appraisement Notice

AGENCY: United States Treasury Department.

ACTION: Withholding of appraisement.

SUMMARY: This notice is to advise the public that there are reasonable grounds to believe or suspect that there are or are likely to be sales of polyvinyl chloride sheet and film from the Republic of China at less than fair value within the meaning of the Antidumping Act of 1921. (Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.) Appraisement for the purpose of determining the proper duties applicable to entries of this merchandise will be suspended for 6 months. Interested persons are invited to comment on this action.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

David R. Chapman or Richard Rimlinger, Operations Officers, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229. Telephone: 202-566-5492.

SUPPLEMENTARY INFORMATION: On February 24, 1977, information was received in proper form pursuant to sections 153.26 and 153.27, Customs Regulations (19 CFR 153.26, 153.27), from counsel acting on behalf of the Plastic Imports Action Committee (PIAC), alleging that polyvinyl chloride sheet and film from the Republic of China are being, or are likely to be, sold at less than fair value within the meaning of the Antidumping Act, 1921, as amended (19 U.S.C. 160 et seq.) (referred to in this notice as "the Act"). The PIAC is an ad hoc group consisting of the following United States producers of the subject merchandise: The Goodyear Tire and Rubber Co.; Harte and Co., Inc., a subsidiary of the Diamond Shamrock Corp.; Tenneco Chemicals, Inc., a subsidiary of Tenneco; Pantasote Co. of New York, Inc.; W. R. Grace and Co.; Hatco Plastics Division; and Hooker Chemicals and Plastic Corp., Ruco Division. An "Anti-

dumping Proceeding Notice" indicating that there was evidence on record concerning injury to or likelihood of injury to or prevention of establishment of an industry in the United States was published in the FEDERAL REGISTER of April 1, 1977 (42 FR 17558).

For purposes of this notice the term "polyvinyl chloride sheet and film" means unsupported, flexible, calendared polyvinyl chloride sheet, film and strips over 6 inches in width and over 18 inches in length, and at least 0.002 inches, but not over 0.020 inches in thickness.

TENTATIVE DETERMINATION OF SALES AT LESS THAN FAIR VALUE

On the basis of the information developed in Customs' investigation and for the reasons noted below, pursuant to section 201(b) of the Act (19 U.S.C. 160(b)), I hereby determine that there are reasonable grounds to believe or suspect that the purchase price of polyvinyl chloride sheet and film from the Republic of China is less, or likely to be less, than the fair value, and thereby the foreign market value of such or similar merchandise.

STATEMENT OF REASONS ON WHICH THIS DETERMINATION IS BASED

a. *Scope of the Investigation.* It appears that approximately 90 percent of the imports of the subject merchandise from the Republic of China is sold for export to the United States by Nan Ya Plastics (Nan Ya), China Gulf Plastics Corp. (China Gulf), Cathay Plastic Industry, Ltd. (Cathay Plastics) and Ocean Plastics Co., Ltd. (Ocean Plastics), all of Taipei, Republic of China. The investigation therefore was limited to sales by these four exporters.

b. *Basis of Comparison.* For the purposes of considering whether the merchandise in question is being, or is likely to be, sold at less than fair value within the meaning of the Act, the proper basis of comparison appears to be between the purchase price and the home market price of such or similar merchandise. Purchase price, as defined in section 203 of the Act (19 U.S.C. 162) was used since the great preponderance of export sales to the United States appears to be made to non-related customers.

Home market price as defined in § 153.2, Customs Regulations (19 CFR 153.2), was used since such or similar merchandise appears to have been sold by the manufacturers in the home market in sufficient quantities to provide a basis for fair value comparisons.

In accordance with section 153.31(b), Customs Regulations (19 CFR 153.31(b)), pricing information was sought concerning imports and home market sales during the period October 1, 1976, through March 31, 1977. Because the manufacturers subject to this investigation did not submit responses in sufficient time to be verified and analyzed for use in making a tentative determination in this case, the best information available has been utilized for purposes of this determination. In this case the best information available is that submitted by the petitioner. The data submitted by the petitioner covered the period February-August 1976.

Since the responses of the respondent manufacturers were not timely submitted and therefore could not be utilized for pur-

poses of this tentative determination, counsel for the manufacturers withdrew their responses for the purpose of refinement and review. If the information requested is re-submitted in sufficient time for verification and analysis prior to the final determination in this proceeding, it will be used to form the basis of that determination.

c. *Purchase Price.* For the purpose of this tentative determination of sales at less than fair value, the purchase price has been calculated on the basis of the sales price to the unrelated United States purchasers with deduction for inland freight.

d. *Home Market Price.* For the purpose of this tentative determination of sales at less than fair value, the home market price has been calculated on the basis of the delivered prices to unrelated purchasers in the Republic of China. Adjustments have been made for inland freight and for differences in packing costs.

e. *Results of Fair Value Comparisons.* Using the above criteria, comparisons were made on all sales of the subject merchandise to the United States listed in the petition. The petition contained comparisons on approximately 10 percent of the subject exports from the Republic of China to the United States during the period covered. Margins were found on 100 percent of the sales compared. The results of those comparisons, by manufacturer, are shown below in terms of the range and weighted average, respectively (in percent):

1. Nan Ya—5.8 to 29.0, 26.2.
2. Cathay Plastic—6.0 to 37.0, 31.5.
3. China Gulf—10.2 to 44.4, 23.6.
4. Ocean Plastics—12.7 to 46.5, 37.4.

Accordingly, Customs officers are being directed to withhold appraisement of polyvinyl chloride sheet and film from the Republic of China, in accordance with § 153.48 Customs Regulations (19 CFR 153.48).

In accordance with § 153.40, Customs Regulations (19 CFR 153.40), interested persons may present written views or arguments, or request in writing that the Secretary of the Treasury afford an opportunity to present oral views.

Any request that the Secretary of the Treasury afford an opportunity to present oral views should be addressed to the Commissioner of Customs, 1301 Constitution Avenue NW., Washington, D.C. 20229, in time to be received in his office no later than 10 days after the date of publication of this notice in the Federal Register. Such requests must be accompanied by a statement outlining the issues wished to be discussed.

Any written views or arguments should likewise be addressed to the Commissioner of Customs in time to be received in his office no later than November 7, 1977. All persons submitting written views or arguments should avoid repetitions and merely cumulative material. Counsel for the petitioner and the respondents are requested to serve all written submissions on all other counsel and to file their submissions with the Commissioner of Customs in ten copies.

This notice, which is published pursuant to § 153.35(b), Customs Regulations (19 CFR 153.35(b)), shall become effective October 6, 1977. It shall cease

to be effective 6 months from the date of publication, unless previously revoked.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

OCTOBER 3, 1977.

[FR Doc 77-29473 Filed 10-5-77; 8:45 am]

[4810-25]

WELDED STAINLESS STEEL PIPE AND TUBING FROM JAPAN

Antidumping; Extension of Investigatory Period

AGENCY: Customs Service, Treasury.

ACTION: Extension of Antidumping Investigatory Period

SUMMARY: This notice is to advise the public that the Secretary of the Treasury has determined that a tentative determination as to whether sales at less than fair value of welded stainless steel pipe and tubing from Japan have occurred cannot reasonably be made in six months. This decision will be made in not longer than nine months from the date of the initiation of the investigation. Sales at less than fair value generally occur when the price of merchandise sold for exportation to the United States is less than the price of such or similar merchandise sold in the home market or to third countries.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Rimlinger, U.S. Customs Service, Office of Operations, Duty Assessment Division, Technical Branch, 1301 Constitution Avenue NW., Washington, D.C. 20229 (202-566-5492).

SUPPLEMENTARY INFORMATION: On March 2, 1977, the United States International Trade Commission notified the Secretary of the Treasury that a petition filed on November 15, 1976, pursuant to section 337 of the Tariff Act of 1930, as amended, concerning welded stainless steel pipe and tubing from Japan may involve matters within the purview of the Antidumping Act of 1921, as amended (19 U.S.C. 160 et seq.) (hereinafter referred to as "the Act").

This product had previously been subject to an antidumping investigation in 1972 which resulted in a notice of "Discontinuance of Antidumping Investigation," published in the FEDERAL REGISTER of November 27, 1972 (37 FR 24838). After examination, it was concluded that the information was sufficient to renew an investigation and a notice of "Reopening of Discontinued Antidumping Investigation" was published in the FEDERAL REGISTER of March 30, 1977 (42 FR 16883).

In reopened discontinued antidumping investigations, the procedures and time periods specified in section 201(b) of the Act are generally followed. In the in-

stant case, six months have been inadequate to collect and analyze all the data and information regarding production costs in the home market necessary to determine whether substantial sales have been made at less than the cost of production in the home market or to third countries over an extended period and at prices which do not permit the recovery of all costs within a reasonable period of time in the normal course of trade as required by section 205(b) of the Act (19 U.S.C. 164(b)).

Accordingly, pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)), notice is hereby given that the Secretary concludes that the determination provided for in section 201(b)(1) of the Act (19 U.S.C. 160(b)(1)), cannot reasonably be made within six months. The determination under 201(b)(1) of the Act (19 U.S.C. 160(b)(1)) will therefore be made within not more than nine months, although it is not expected that the entire additional three-month period will be required.

This notice is published pursuant to section 201(b)(2) of the Act (19 U.S.C. 160(b)(2)).

PETER D. EHRENIHAFT,
Deputy Assistant Secretary
(Tariff Affairs).

SEPTEMBER 30, 1977.

[FR Doc. 77-29427 Filed 10-5-77; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

NEW YORK NATIONAL CEMETERY AT CALVERTON, N.Y. (LONG ISLAND)

Availability of Final Environmental Impact Statement

Notice is hereby given that a document entitled "Final Environmental Impact Statement for the Proposed New York National Cemetery, Calverton, N.Y. (Long Island)," dated September 1977, has been prepared as required by the National Environmental Policy Act of 1969.

The proposed National Cemetery is to be located on 900± acres near Calverton, N.Y. (Long Island). This proposed development will provide for approximately 370,000 gravesites and will have an administration building, a memorial center, a committal service center and a maintenance complex to provide for all associated cemetery functions.

The Final Statement discusses the significant environmental impact of the proposed New York National Cemetery and responds to comments on the Draft Statement (January 1977). The document is being placed for public examination in the Veterans Administration Office of Washington, D.C. Persons wishing to examine a copy of the document may do so at the following office: Mr. Jack Westall, Assistant Chief Medical Director for Administration (13) Room 600, Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Single copies of the Final Statement may be obtained on request to the above office.

Dated: September 29, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-29342 Filed 10-5-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 491]

ASSIGNMENT OF HEARINGS

OCTOBER 3, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 135195 (Sub-3), Stover Air Cargo, Inc. now being assigned January 30, 1978 (2 weeks) at Chicago, Illinois in a hearing room to be later designated.

MC 141949 K.M.O., Inc., Contract Carrier Application, now assigned October 18, 1977 is postponed to November 21, 1977 at the Offices of the Interstate Commerce Commission in Washington, D.C.

No. MC 143129, B.J.T. Transport, Inc., now being assigned for Prehearing conference on October 31, 1977 (1 day), at Providence, R.I., in a hearing room to be later designated.

MC-F 12991, System 99—Purchase (Portion)—Compton Transfer and Storage Co. and MC 98327 Sub 22, System 99 now assigned October 12, 1977 at San Francisco, California and will be held in Room 510, 5th Floor, 211 Main Street.

MC-F 13203, Allied Van Lines, Inc., d.b.a. Allied Van Lines—Control—Eleveid Chicago Furniture Service, Inc. now being assigned January 17, 1978 (9 days) at Chicago, Illinois in a hearing room to be later designated.

MC 1515 (Sub-229), Greyhound Lines, Inc. now being assigned January 17, 1978 at Detroit, Michigan in a hearing room to be later designated.

MC 141511 (Sub-1), Robert W. Rettig, d.b.a. Protein Express now being assigned January 24, 1978 (1 day) at Chicago, Illinois in a hearing room to be later designated.

MC 124078 (Sub-728), Scherman Trucking Co. now being assigned January 25, 1978 (1 day) at Chicago, Illinois in a hearing room to be later designated.

MC 113651 (Sub-217), Indiana Refrigerated Lines, Inc. now being assigned January 26, 1978 (2 days) at Chicago, Illinois in a hearing room to be later designated.

MC 135236 (Sub-17), Legan Trucking, Inc. now being assigned January 30, 1978 (1 week) at Chicago, Illinois in a hearing room to be later designated.

MC 96925 (Sub-7), Crown Motor Lines, Inc. now being assigned December 12, 1977 (1 week) at Tallahassee, Florida in a hearing room to be later designated.

MC 138875 (Sub-No. 51), Shoemaker Trucking Co., now being assigned December 13, 1977 (2 days) at Salem, Oregon, in a hearing room to be later designated.

MC-C 9522, Texas Oklahoma Express, Inc. v. Caddo Express, Inc., now being assigned December 1, 1977 (2 days) at Oklahoma City, Oklahoma in a hearing room to be later designated.

MC 129994 (Sub-23), Ray Bethers Trucking, Inc. now being assigned December 14, 1977 (3 days) at Salt Lake City, Utah in a hearing room to be later designated.

MC 119864 (Sub-No. 69), Craig Transportation Co., now being assigned December 13, 1977 (2 days) at Lansing, Michigan, in a hearing room to be later designated.

MC 143041, Byron G. Davenport, dba Drilling & Mining International now assigned November 29, 1977 (3 days), at Denver, Colo., in a hearing room to be later designated.

MC 124211 (Sub-31), John F. Oliver, now assigned December 5, 1977, (2 days), at Indianapolis, Ind., in a hearing room to be later designated.

MC 109891 (Sub-31), Infinger Transportation Co., Inc., now assigned December 13, 1977 (3 days), at Columbia, S.C., in a hearing room to be later designated.

MC 142258 (Sub-2), Dale Bland Trucking, Inc. now being assigned December 14, 1977 (3 days), at Indianapolis, Indiana in a hearing room to be later designated.

MC 514 (Sub-5), United Warehouse & Transfer, Inc., now assigned December 14, 1977 (3 days), at Nashville, Tenn., in a hearing room to be later designated.

MC 9812 (Sub-No. 5), C. F. Kolb Trucking Co., Inc., now being assigned December 12, 1977 (2 days), at Indianapolis, Ind., in a hearing room to be later designated.

MC 2900 (Sub-301), Ryder Truck Lines, Inc., now being assigned January 17, 1978 (3 days), at Knoxville, Tennessee in a hearing room to be later designated.

MC 2900 (Sub-296), Ryder Truck Lines, Inc., now assigned January 23, 1978 (1 week) at Charleston, W. Va., and continued to January 30, 1978 (1 week), at Pittsburgh, Pa., in a hearing room to be later designated.

MC 133937 (Sub-No. 19), Carolina Cartage Co., Inc., now being assigned December 7, 1977 (3 days), at Columbia, South Carolina in a hearing room to be later designated.

MC 45363 (Sub-9), Stones Express, Inc., now being assigned January 18, 1978 (3 days), at New York, New York in a hearing room to be later designated.

MC 141076 (Sub-10), Rogers Motor Lines, Inc., now being assigned January 17, 1978 (1 day), at New York, New York in a hearing room to be later designated.

MC 125978 (Sub-9), Dependable Car Travel Service, Inc. now being assigned January 23, 1978 (1 week) at New York, New York in a hearing room to be later designated.

MC 63973 (Sub-No. 17), Kaler Freight Lines, Inc., now being assigned December 12, 1977 (1 week) at Des Moines, Iowa, in a hearing room to be later designated.

MC 134477 (Sub-175), Schanno Transportation, Inc. now being assigned January 24, 1978 (1 day) at Boston, Massachusetts in a hearing room to be later designated.

MC 142177 (Sub-1), B.W.C.S., Inc. now being assigned January 25, 1978 (3 days) at Boston, Massachusetts in a hearing room to be later designated.

MC 1934 (Sub-40), The Arrow Line, Inc. now being assigned January 30, 1978 (1 week) at Boston, Massachusetts in a hearing room to be later designated.

MC 70470 (Sub-8), Film Transit Co., now assigned January 23, 1978, at Lincoln, Neb., (1 week) in a hearing room to be later designated.

MC 134493 (Sub-3), Chicago-St. Louis Transport, Inc., now assigned January 16, 1978, (2 days), at Chicago, Ill., in a hearing room to be later designated.

MC 40978 (Sub-31), Chair City Motor Express, Co., now being assigned January 18, 1978, (3 days), at Chicago, Ill., in a hearing room to be later designated.

MC 142957 (Sub-1), Network Transportation Systems, Inc. now being assigned February 31, 1978 (1 day) at New York, New York in a hearing room to be later designated.

MC 125770 (Sub-10), Spiegel Trucking, Inc. now being assigned January 20, 1978 (1 day) at New York, New York in a hearing room to be later designated.

MC-F 13050, J. B. Williams Express, Inc.—Purchase (Portion)—National Transportation Co., dba National Transport 101 and MC 95336 (Sub-9), J. B. Williams Express, Inc. now being assigned February 1, 1978 (3 days) at New York, New York in a hearing room to be later designated.

MC 125368 (Sub-No. 17), Continental Coast Trucking Co., Inc., and MC 14130 Sub No. 4 Trans-Contental Express, Inc., now being assigned December 6, 1977 (1 day) for hearing in Dallas, Texas, in a hearing room to be later designated.

MC 142672 (Sub-No. 2), David Beneux Produce & Trucking, Inc., now being assigned December 7, 1977 (3 days) for hearing in Dallas, Texas, in a hearing room to be later designated.

MC 141033 (Sub-No. 21), Content Contract Carrier Corp., now being assigned December 12, 1977 (1 day) for hearing in Dallas, Texas, in a hearing room to be later designated.

MC 116004 (Sub-42), Texas Oklahoma Express, Inc. now assigned November 7, 1977 at Oklahoma City, Oklahoma is cancelled and reassigned for November 7, 1977 (2 weeks) at Lawton, Oklahoma in a hearing room to be later designated.

MC 123407 (Sub-No. 362), Sawyer Transport, Inc. now being assigned December 13, 1977 (1 day) for hearing in Dallas, Texas, in a hearing room to be later designated.

MC 139577 (Sub-No. 3), Adams Transit, Inc., now being assigned December 14, 1977 (3 days) for hearing in Dallas, Texas in a hearing room to be later designated.

MC 114457 (Sub-No. 293), Dart Transit Co., now assigned October 12, 1977 at St. Paul, Minnesota, will be held in St. Paul Hotel, Queens Room, 363 St. Peter Street.

MC 720 (Sub-No. 29), Bird Trucking Co., Inc., now assigned October 13, 1977 at St. Paul, Minnesota, will be held in St. Paul Hotel, Queens Room, 363 St. Peter Street.

MC 134477 (Sub-No. 137), Schanno Transportation, Inc., now assigned October 14, 1977 at St. Paul, Minn., will be held in St. Paul Hotel, Queens Room, 363 St. Peter Street.

MC 133189 (Sub-No. 9), Vant Transfer, Inc., now assigned October 17, 1977 at St. Paul, Minn., will be held in Court Room 4, 5th Floor Federal Bldg., 316 North Robert Street.

MC 123407 (Sub-No. 343), Sawyer Transport, Inc., now assigned October 18, 1977 at St. Paul, Minnesota, will be held in Court Room 4, 5th Floor Federal Bldg., 316 North Robert Street.

MC 124813 (Sub-No. 160), Umthun Trucking Co., and MC 127187 Sub No. 21 Floyd Due-now, Inc., now assigned October 20, 1977 at St. Paul, Minnesota, will be held in Court Room 4, 5th Floor Federal Bldg., 316 North Robert Street.

MC 117119 (Sub-633), Willis Shaw Frozen Express, Inc., now being assigned December 12, 1977, (1 day) at Philadelphia, Pa., in a hearing room to be later designated.

MC 136786 (Sub-116), Robco Transportation, Inc., now being assigned December 13, 1977 (1 day), at Philadelphia, Pa., in a hearing room to be later designated.

MC 138157 (Sub-38), Southwest Equipment Rental, Inc., dba Southwest Motor Freight, now being assigned December 12, 1977, (1 day) at Philadelphia, Pa., in a hearing room to be later designated.

MC 106398 (Sub-774), National Trailer Convey, Inc., now being assigned December 15, 1977, (2 days) at Philadelphia, Pa., in a hearing room to be later designated.

MC 32779 (Sub-13), Silver Eagle Company now assigned November 28, 1977 at Portland, Oregon is being postponed to January 16, 1978 (2 weeks) at Yakima, Washington in a hearing room to be later designated.

MC 40235 (Sub-33), I.R.C. & D. Motor Freight, Inc. now being assigned January 23, 1978 (1 week) at Indianapolis, Indiana in a hearing room to be later designated.

MC 129537 (Sub-22), Reeves Transportation Company now being assigned January 23, 1978 (1 week) at Tallahassee, Florida in a hearing room to be later designated.

MC 113908 (Sub-394), Erickson Transportation Corporation now assigned October 13, 1977 at Chicago, Illinois is cancelled, application dismissed.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29421 Filed 10-5-77; 8:45 am]

[7035-01]

[Notice No. 492]

ASSIGNMENT OF HEARINGS

Correction

OCTOBER 3, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearing will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

H. G. HOMME, Jr.,
Acting Secretary.

MC 113678 (Sub-699), Curtis, Inc. now being assigned November 14, 1977 (1 week) at Denver, Colorado in a hearing room to be later designated.

[FR Doc.77-29420 Filed 10-5-77; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 3, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than

those sought to be established at more distant points.

Protest to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

FSA No. 43439—*Joint Water-Rail Container Rates—Korea Shipping Corporation*. Filed by Korea Shipping Corporation. (No. 1), for itself and interested rail carriers. Rates on general commodities, between ports in Japan, Korea, Hong Kong and Taiwan, and rail carriers terminals on the U.S. Atlantic and Gulf Coasts.

Grounds for relief—Water competition.

Tariff—Korea Shipping Corporation tariff No. 1, I.C.C. No. 1, F.M.C. No. 16. Rates are published to become effective on November 1, 1977.

FSA No. 43440—*Sand, Gravel, Stone and Related Articles Between Points in Southern Territory*. Filed by M.B. Hart, Jr., Agent. (No. A6350), for interested rail carriers. Rates on chert, gravel, sand, slag, stone and related articles, in carloads, as described in the application, between points in southern territory.

Grounds for relief—Short-line distance formula and grouping; also rate relationship.

Tariff Supplement 133 to Southern Freight Association, Agent, tariff 388-L, I.C.C. No. S-1188. Rates are published to become effective on November 10, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29419 Filed 10-5-77; 8:45 am]

[7035-01]

[Volume No. 37]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDON- MENTS, ALTERNATE ROUTE DEVI- ATIONS, AND INTRASTATE APPLICA- TIONS

Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

SEPTEMBER 30, 1977.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the Federal Register notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protest shall comply with Special Rule 247(d)

of the Commission's *General Rules of Practice* (49 CFR 1100.247) and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 52574 (Sub-No. 37) M-1) (Notice of filing of petition to add an additional contracting shipper, filed August 22, 1977. Petitioner: ELIZABETH FREIGHT FORWARDING CORP., 120 S. 20th St., Irvington, N.J. 07111. Petitioner's representative: Edward F. Bowes, P.O. Box 1409, Fairfield, N.J. 07006. Petitioner holds a motor contract carrier permit in No. MC 52574 (Sub-No. 37) issued September 18, 1968, authorizing transportation, over irregular routes, of *Bakery products, potato chips, and popcorn* (except such commodities in bulk), from points in that part of Pennsylvania on and east of U.S. Highway 15, to Linden, N.J.; and from Linden, N.J., to Baltimore, Md., and Washington D.C., under a continuing contract or contracts with Gourmet Bakers, Inc. of Linden, N.J. By the instant petition, petitioner seeks to add Clem's Snacks as an additional contracting shipper.

No. MC 89021 (M1) (Notice of filing of petition to add an additional commodity) filed August 19, 1977. Petitioner: JOHN WEIGERT, doing business as LEVINE'S EXPRESS & TRUCKING CO., 1001 Roosevelt Avenue, P.O. Box 237, Carteret, N.J. 07008. Petitioner's representative: Robert B. Pepper, The Forest Park Building, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Petitioner holds a motor common carrier certificate in No. MC 89021, issued August 10, 1977, authorizing transportation, over irregular routes, of: *Advertising display materials*, between New York, N.Y., on the one hand, and, on the other, points in California, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Delaware, Maryland, Pennsylvania, Ohio, Indiana, Illinois, and Michigan. By the instant petition, petitioner seeks to modify the above authority by adding "sheetings" as an additional commodity.

No. MC 107304 (Sub-No. 9) (M1) (Notice of filing of petition to delete restriction), filed August 29, 1977. Petitioner: TRANSWAY, INC., 2411 Edenborn Avenue, Metairie, La. 70001. Petitioner's representative: Thomas A. Stroud, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Petitioner holds a motor common carrier certificate in No. MC 107304 (Sub-No. 9), issued October 15, 1965, authorizing transportation, over irregular routes of: *General commodities*, (except commod-

¹ Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary Interstate Commerce Commission, Washington, D.C. 20423.

ities of unusual value, Classes A and B explosives, household goods as defined by the Commission, livestock, commodities in bulk, and those requiring special equipment), having an immediately prior or subsequent movement by air.

(1) Between New Orleans, La., on the one hand, and, on the other, points in Louisiana, Arkansas, Mississippi, Alabama and Florida on and within a boundary line beginning at the Gulf of Mexico at the Louisiana-Texas State line and extending along the Louisiana-Texas State line to the Arkansas-Texas State line thence along the Arkansas-Texas State line to and including Texarkana, Tex.-Ark., thence along U.S. Highway 82 to Strong, Ark., thence along Arkansas Highway 129 to the Arkansas-Louisiana State line, thence along the Arkansas-Louisiana State line to the Arkansas-Mississippi State line, thence along the Arkansas-Mississippi State line to junction U.S. Highway 82, thence along U.S. Highway 82 to the Alabama-Mississippi State line, thence along the Alabama-Mississippi State line to junction U.S. Highway 278, thence along U.S. Highway 278 to Guin, Ala., thence along U.S. Highway 43 to Tuscaloosa, Ala., thence along Alabama Highway 61 to Greensboro, Ala., thence along Alabama Highway 61 to Uniontown, Ala., thence along U.S. Highway 80 to junction Alabama Highway 28, thence along Alabama Highway 28 to Camden, Ala., thence along Alabama Highway 10 to Luverne, Ala., thence along U.S. Highway 29 to Brantley, Ala., thence along Alabama Highway 189 to Elba, Ala., thence along U.S. Highway 84 to Dothan, Ala., and thence along U.S. Highway 231 to the Gulf of Mexico at Panama City, Fla.; (2) Between Shreveport, La., on the one hand, and, on the other, points in that part of Arkansas (except El Dorado), on and south of U.S. Highway 82 and on and west of Arkansas Highway 129, and points in De Soto, Caddo, Bossier, Webster, Bienville, Red River, Union and Jackson Parishes, La.; (3) Between Baton Rouge, La., on the one hand, and, on the other, points in Pointe Coupee, St. Martin, Iberville, Assumption, St. James, St. John the Baptist, Ascension, Livingston, West Baton Rouge, East Baton Rouge, West Feliciana, East Feliciana, St. Helena, Terrebonne, St. Charles, and Tangipahoa Parishes, La., and Wilkenson, Franklin, and Amite Counties, Miss.; (4) Between Monroe, La., on the one hand and, on the other, points in Union, Lincoln, Jackson, Winn, Ouachita, Caldwell, Franklin, Tensas, Madison, Richland, East Carroll, West Carroll, Catahoula, La Salle, Concordia, Clairborne, and Morehouse Parishes, La.

(5) Between Jackson, Miss., on the one hand, and, on the other, points in that part of Mississippi on and bounded by a line beginning at the Mississippi-Louisiana State line and extending eastwardly along U.S. Highway 84 to the Mississippi-Alabama State line, thence northwardly extending along the Mississippi-Alabama State line to junction U.S. Highway 82,

thence westwardly along U.S. Highway 82 to the Mississippi-Arkansas State line, and thence southwardly along the Mississippi-Arkansas-Louisiana State lines to U.S. Highway 84, except Natchez, Miss.; (6) Between Mobile, Ala. on the one hand, and, on the other, points in that part of Alabama and Florida located on and within a boundary line beginning at the Gulf of Mexico at the Mississippi-Alabama State line and extending along the Mississippi-Alabama State line to junction U.S. Highway 278 (near Gattman, Miss.), thence along U.S. Highway 278 to Guin, Ala., thence along U.S. Highway 43 to Tuscaloosa, Ala., thence along Alabama Highway 61 to Greensboro, Ala., thence along Alabama Highway 61 to Uniontown, Ala., thence along U.S. Highway 80 to junction Alabama Highway 5, thence along Alabama Highway 5 to junction Alabama Highway 28, thence along Alabama Highway 28 to Camden, Ala., thence along Alabama Highway 10 to Luverne, Ala., thence along U.S. Highway 29 to Brantley, Ala., thence along Alabama Highway 189 to Elba, Ala., thence along U.S. Highway 84 to Dothan, Ala., and thence along U.S. Highway 231 to the Gulf of Mexico at Panama City, Fla., and points in that part of Mississippi on and east of U.S. Highway 11; (7) Between Pensacola, Fla., on the one hand, and, on the other, points in that part of Florida located on and within a boundary line beginning at the Gulf of Mexico at the Alabama-Florida State line and extending along the Alabama-Florida State line to junction U.S. Highway 231 (a point south of Dothan, Ala.), thence along U.S. Highway 231 to the Gulf of Mexico at Panama City, Fla., and points in that part of Alabama on and south of a line beginning at the Alabama-Florida State line and extending northwardly along U.S. Highway 231 to junction U.S. Highway 84, thence northwesterly along U.S. Highway 84 to junction Alabama Highway 129, thence over Alabama Highway 129 to junction U.S. Highway 29, thence over U.S. Highway 29 to junction Alabama Highway 10, thence northwesterly along Alabama Highway 10 to junction Alabama Highway 21, thence southwesterly along Alabama Highway 21 to junction U.S. Highway 31, thence southwesterly along U.S. Highway 31 to junction U.S. Highway 90 and thence westwardly along U.S. Highway 90 to the Alabama-Mississippi State line, restricted against the interline or interchange of any shipments handled under such rights with other common carriers by motor vehicles. By the instant petition, petitioner seeks to modify the above authority by deleting the restriction.

No. MC 111651 (Sub-No. 3) (M-1). (Notice of filing of petition to delete restriction), filed August 22, 1977. Petitioner: MIDDLEWEST FREIGHTWAYS, INC., 6810 Prescott, St. Louis, Mo. 63147. Petitioner's representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas, City, Mo. 64105. Petitioner holds a motor common carrier certificate in No. MC 111651 (Sub-No. 3) issued January 28, 1966, authorizing, as

pertinent, transportation, over regular routes, of General commodities, except Classes A and B explosives (except fireworks and small-arms ammunition), livestock, corpses, currency, bullion, articles of virtu, exposed motion picture film, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, (1) between St. Louis, Mo., and Kansas City, Mo., serving intermediate and off-route points within 15 miles of St. Louis, Mo. (except Belleville, Ill., and St. Charles, Mo.), and those in the Kansas City, Mo.-Kans., Commercial Zone as defined by the Commission, and the off-route point of Leavenworth, Kans.; From St. Louis, over U.S. Highway 40 to Kansas City, and return over the same route; and (2) between St. Louis, Mo., and Chicago, Ill., serving the intermediate and off-route points within 15 miles of St. Louis, Mo. (except Belleville, Ill., and St. Charles, Mo.), and the off-route points of Hammond and Gary, Ind., and Aurora, Waukegan, Elgin, and Woodstock, Ill.; (a) From St. Louis over U.S. Highway 66 to Chicago, and return over the same route; and (b) From St. Louis over U.S. Highway 66 to junction Illinois Highway 48, thence over Illinois Highway 48 to junction U.S. Highway 54, thence over U.S. Highway 54 to Chicago, and return over the same route, restricted against shipments originating at or destined to Belleville, Ill., and Perryville, St. Charles, St. Clair, and Sullivan, Mo. By the instant petition, petitioner seeks to modify the above authority by deleting the restriction.

No. MC 116763 (Sub-No. 87) (M1) (notice of filing of petition to add an origin county), filed August 17, 1977. Petitioner: CARL SUBLER TRUCKING, INC., P.O. Box 81, Northwest Street, Versailles, Ohio 45380. Petitioner's representative: H. M. Richters (same address as petitioner). Petitioner holds a motor common carrier certificate in No. MC 116763 (Sub-No. 87), issued May 29, 1967, authorizing transportation, over irregular routes, as pertinent, of *Canned goods*, from Sandusky, Ohio, and points in the Lower Peninsula of Michigan (except Fennville, and South Haven, and points in Berrien County, Mich.), to points in that part of Pennsylvania east of U.S. Highway 220, those points in that part of New York east of Interstate Highway 81, points in New Jersey, and Baltimore, Md., and the District of Columbia. By the instant petition, petitioner seeks to delete Berrien County, Mich. from the exception, thereby adding Berrien County, Mich. as an additional origin.

No. MC 124004 (Sub-No. 16) M1 (notice of filing of petition to delete facility limitation), filed August 16, 1977. Petitioner: RICHARD DAHN, INC., 620 W. Mountain Road, Sparta, N.J. 07871. Petitioner's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Petitioner holds motor common carrier certificate in No. MC 124004 (Sub-No. 16) issued March 27, 1977, authorizing transportation over irregular routes, of: *Dry salt, and dry salt prod-*

ucts, from the facilities of the Morton Salt Company, Division of Morton International, Inc., located at Milo, N.Y., to points in Connecticut, Delaware, New York, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont, and the District of Columbia. By the instant petition, petitioner seeks to delete the phrase "the facilities of the Morton Salt Co., Division of Morton International, Inc., located at," so that the origin will read "from Milo, N.Y."

No. MC 134043 (Sub-No. 5) (M1) (notice of filing of petition to add an additional contracting shipper) filed August 10, 1977. Petitioner: ART KNIGHT, INC., 316 SE. Market, P.O. Box 14626, Portland, Oreg. 97214. Petitioner's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Oreg. 97030. Petitioner holds a motor contract carrier permit in No. MC 134043 (Sub-No. 5), issued February 25, 1973, authorizing transportation, over irregular routes, of: *Such commodities as are dealt in or sold by department stores*, between points in Washington, Oregon, California, and Arizona, under a continuing contract, or contracts, with Baza'r Inc. By the instant petition, petitioner seeks to modify the above authority by adding Pacific Gamble Robinson, doing business as Pacific Fruit and Produce as an additional contracting shipper.

No. MC 140986 (Sub-No. 3) (M1) (notice of filing of petition to add an additional contracting shipper and origin point), filed August 5, 1977. Petitioner: GREAT NORTHERN TRUCK LINES, INC., Bank Street, Netcong, N.J. 07857. Petitioner's representative: Robert B. Pepper, The Forrest Park Building, 168 Woodbridge Avenue, Highland Park, N.J. 08904. Petitioner holds a motor contract carrier permit in No. MC 140986 (Sub-No. 3), issued September 13, 1977, authorizing transportation, over irregular routes, of *Materials, and supplies used in the construction of tennis courts*, (except commodities in bulk), from the facilities of Robert Lee Co., Inc., at Charlottesville, Va., to points in Connecticut, Delaware, Kentucky, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Tennessee, and Vermont, under a continuing contract, or contracts, with Robert Lee Co., Inc., of Charlottesville, Va. By the instant petition, petitioner seeks to modify the above authority by adding Har-Tru Corp., of Hagerstown, Md. as an additional contracting shipper and also to add the facility and origin point of Har-Tru Corp., at Charmian, Pa.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's *General Rules of Practice* (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 66531 (Sub-No. 7), (republication), filed November 26, 1976, published in the FEDERAL REGISTER issue of December 30, 1976, and republished this issue. Applicant: INTERSTATE GROCERY DISTRIBUTION SYSTEM, INC., 2200 48th Street, North Bergen, N.J. 07047. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. An Order of the Commission, Review Board Number 3, dated August 29, 1977, and served September 23, 1977, finds that operation, by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *drugs, chemicals, cleaning compounds, paper impregnated with cleansing agents, non-medicated corn syrup, dental instruments, needles, glassware (except cut glassware), vermin exterminators, non-agricultural insecticides, petroleum naphtha, coal tar dyes (except indigo), lavatory fixtures (except china fixtures), flour enriching compounds, dry flavoring compounds, advertising materials, glass or plastic bottles, steel, aluminum or plastic bottle caps, paper and paperboard, and cellulose film tubes*, from East Brunswick, N.J., to points in the Harbor of New York, N.Y., as defined by the Commission, located in New Jersey. Restrictions: (1) Restricted against the transportation of the above-described commodities in bulk; (2) Restricted to the transportation of shipments having a subsequent movement by water; and (3) any portion of the above authority and any portion of the other operating authority of the carrier which is duplicated confer only a single operating right; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate the additional grants of paper impregnated with cleansing agents, vermin exterminators and insecticide other than agricultural.

No. MC 118831 (Sub-No. 116), (supplemental notice), filed January 20, 1975, published in the FEDERAL REGISTER March 12, 1975, and republished this issue. Applicant: CENTRAL TRANSPORT, INC., P.O. Box 7007, High Point,

N.C. 27264. Applicant's representative: E. Stephen Helsley, 666 Eleventh St., NW., Washington, D.C. 20001. A Report of the Commission, decided September 7, 1977, and served September 21, 1977, finds on further consideration, that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, from Grasselli and Passaic, N.J., and Philadelphia, Pa., to points in that part of North Carolina east of U.S. Highway 21 and north of U.S. Highway 74; and *liquid chemicals*, in bulk, in tank or hopper-type vehicles, from Grasselli and Passaic, N.J., and Philadelphia, Pa., to points in Mississippi, South Carolina, Alabama, Florida, Georgia, and to points in that part of Virginia on and west of a line beginning at the North Carolina-Virginia State line, thence northward along U.S. Highway 301 to Emporia, Va., thence over U.S. Highway 58 to Lawrenceville, thence over Virginia Highway 46 to Blackstone, thence over Virginia Highway 460 to Farmville, thence over U.S. Highway 15 to a point 2 miles north of Sprouses' Corner, thence over Virginia Highway 20 to Charlottesville, thence over U.S. Highway 29 to Culpeper, thence over U.S. Highway 522 to Winchester, thence over U.S. Highway 11 to the West Virginia-Virginia State line; that applicant is fit, willing and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations.

NOTE.—Previous notice of this transaction was filed as a matter directly related to finance proceeding in No. MC-F-12377, Central Transport Incorporation—Purchase (Portion)—Piedmont Petroleum Products, Inc.; said notice is being supplemented to add Norfolk, Va. commercial zone as a gateway proposed to be eliminated. This notice is being published pursuant to a report and order of the Commission (127 M.C.C. 1), which granted the proposed application in part. Pursuant to directives in said report, any person having an interest in or who would be prejudiced by grant of authority as awarded by the report, may file an original and six copies of a petition or other pleading within 30 days from the date of publication of this notice. Such petitions shall set forth the precise manner in which the party has been prejudiced by the grant of such authority. Applicants shall file their replies to said petitions within 50 days from the date of publication of this notice.

No. MC 119619 (Sub-No. 88) (republication), filed May 18, 1976, published in the FEDERAL REGISTER issue of June 17, 1976, and republished this issue. Applicant: DISTRIBUTORS SERVICE CO., a Corporation, 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One LeFrak City Plaza, Flushing, N.Y. 11368. An order of the Commission, Review Board Number 2, dated March 18, 1977, and served April 4, 1977, finds that the present and future public convenience and necessity require operation by applicant,

in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, in the transportation of meats, meat products and meat byproducts, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, and commodities in bulk, in tank vehicles), from the facilities used by Dinner Bell Foods, Inc., located at Archbold, Defiance, and Troy, Ohio, to King George, Va., and points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, and the District of Columbia, restricted to the transportation of traffic originating at the named origins and destined to the named destination territory.

NOTE.—The purpose of this republication is to add the additional origin point of Defiance, Ohio.

No. MC 136611 (Sub-No. 1) (republication), filed June 24, 1976, published in the *FEDERAL REGISTER* issues of August 12, 1976, as corrected October 21, 1976, and republished this issue. Applicant: RED & WHITE MARKET & TRANSFER, INC., 1214 East South Street, Hastings, Nebr. 68901. Applicant's representative: Gallyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. An Order by the Commission, Review Board No. 1, dated September 15, 1977, and served September 20, 1977, finds on further consideration that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a common carrier, by motor vehicle, over irregular routes, in the transportation of: (1) (a) *Agricultural machinery, and equipment, between Hastings, Nebr., on the one hand, and, on the other, points in Colorado, Iowa, Kansas, Minnesota, and South Dakota*; (b) *agricultural implements and parts thereof, between Hastings, Nebr., on the one hand, and, on the other, points in Missouri, Oklahoma, and Texas*; (c) *farm machinery and parts thereof, from Hastings, Nebr., to St. Paul, Minn.; Sioux Falls, S.D., points in that part of Iowa on and north of U.S. Highway 6 and on and west of U.S. Highway 65, and those in that part of Minnesota on and west of U.S. Highway 65 and on and south of U.S. Highway 14*; and (d) *farm implements and parts thereof, from St. Paul, Minn., to Algona, Charles City, and Spencer, Iowa; and Hastings and Omaha, Nebr.*; (2) *farm truck bodies, from Hastings, Nebr., to points in Idaho, Illinois, Indiana, Kentucky, Louisiana, Missouri, Montana, North Dakota, Oklahoma, Texas, Utah, and Wyoming*; (3) *lumber, sheet metal, and hardware, from points in Illinois, Indiana, Kentucky, and Louisiana, to Hastings, Nebr.*; (4) *lumber, nuts, bolts, rivets, and sheet metal, from points in Missouri, Oklahoma, Texas, Utah, and Idaho, to Hastings, Nebr.*; (5) *farm truck body parts, from Louisville, Ky., to Hastings, Nebr.*; (6) *farm machinery, and parts, from Hastings, Nebr., to points in Iowa, Illinois, Missouri, Kansas, Colorado, South Dakota, North Dakota, Min-*

nesota, Wyoming, Montana, and Indiana; (7) *machinery parts, supplies, and materials used in the manufacture of farm machinery, from points in Iowa, Illinois, Missouri, Kansas, Colorado, North Dakota, South Dakota, Minnesota, Wyoming, Montana, and Indiana, to Hastings, Nebr.*; and

(8) (a) *agricultural and industrial machinery and equipment and parts thereof, between Hastings, Nebr., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii and Nebraska)*; and (b) *tubing from Delta, Ohio to Hastings, Nebr.*; restricted in parts (1) through (8) above to the transportation of traffic originating at the named origin points and destined to the named destination points, provided, however, that the said restriction shall not preclude the transportation of traffic originating at or destined to Hastings, Nebr., when such traffic has had an immediately prior or subsequent movement in foreign commerce; that applicant is fit, willing and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to include the District of Columbia in part (8) (a) of the application and to change the restriction to read: "restricted in parts (1) through (8) above, to the transportation of traffic originating at the named origin points and destined to the named destination points, provided, however, that the said restriction shall not preclude the transportation of traffic originating at or destined to Hastings, Nebr., when such traffic has had an immediately prior or subsequent movement in foreign commerce", in lieu of restriction as previously published.

No. MC 140743 (Sub-No. 3) (republication), filed March 17, 1975, published in the *FEDERAL REGISTER* issue of April 24, 1975, and republished this issue. Applicant: GORSKI BULK TRANSPORT, INC., 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Applicant's representative: William B. Elmer (same address as applicant). An Order of the Commission, Review Board Number 3, dated July 15, 1977, and served August 19, 1977, orders that Gorski Bulk Transport, Inc., of Harrow, Ontario, Canada (a Canadian corporation) be substituted as applicant in lieu of Gorski Bulk Transport, Inc., of St. Clair Shores, Mich. (a Michigan corporation). An Order of the Commission, Review Board Number 3, dated September 12, 1977, and served September 29, 1977, finds that the present and future public convenience and necessity require operation by the substituted applicant, in foreign commerce, as a common carrier by motor vehicle, over irregular routes, in the transportation of alcoholic beverages, in bulk, in tank vehicles, from the ports of entry on the International boundary line between the United States and Canada located at or near Port Huron, Marine City, and Detroit, Mich., Buffalo, Niagara Falls, Ogdensburg, Rooseveltown, Champlain, Rouses Point, and Alexandria Bay, N.Y.,

Derby Line, Vt., and West Stewartstown, N.H., to the facilities of Joseph E. Seagram & Sons, Inc., at or near Lawrenceburg, Ind., restricted to the transportation of shipments originating at Waterloo, Ontario, and Montreal, Quebec, Canada. The substituted applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is (1) to indicate the addition of Derby Line, Vt., and West Stewartstown, N.H., as additional ports of entry; and (2) to indicate the grant of Montreal, Canada as an additional origin point.

MOTOR CARRIER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR § 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the *FEDERAL REGISTER*. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d) (3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d) (4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for

good cause shown, and restrictive amendments will not be entertained following publication in the *Federal Register* of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 531 (Sub-No. 348), filed August 15, 1977. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road (P.O. Box 14048), Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid Animal Feed Supplements*, in bulk, in tank vehicles, from Westwego, La., to Nacogdoches, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New Orleans, La., or Houston, Tex. Common control may be involved.

No. MC 1117 (Sub-No. 13) (Amendment), filed March 21, 1977, published in the *FEDERAL REGISTER* issue of May 19, 1977, and republished as amended this issue. Applicant: M.G.M. TRANSPORT CORP., 70 Maltese Drive, Totowa, N.J. 07512. Applicant's representative: Morton E. Kiel, 5 World Trade Center, Suite 6193, New York, N.Y. 10048. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, from Liberty, Salisbury, Troy, Brisco, Greensboro, Lexington, Ashboro, Lincolnton, Mount Airy, Pleasant Gardens and Winston-Salem, N.C., to Connecticut, New Jersey, New York, and Philadelphia, Pa.; (2) *furniture frames*, from Greensboro, N.C., to Connecticut, New Jersey, New York, and Philadelphia, Pa.; and (3) *new furniture and furniture parts*, from the plantsite of Contemporary Shells, Inc., located in Garden City, N.Y., to points in North Carolina.

NOTE.—The purpose of this republication is to amend applicant's origin point in (1) above and to add a plantsite in (3) above. Hearing is assigned to commerce on November 10, 1977, at 9:30 a.m. Local Time, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 8535 (Sub-No. 59), filed August 30, 1977. Applicant: GEORGE TRANSFER AND RIGGING CO., INC., P.O. Box 500, Parkton, Md. 21120. Applicant's representative: John Guandolo, 1000 16th Street, NW., Washington, D.C. 20036. Authority sought to operate as a common carrier by motor vehicle, over irregular routes transporting: (1) *Roofing and building materials, and materials used in the installation and application of such commodities (except commodities in bulk) from Franklin, Ohio, to points in Illinois, Indiana, Michigan and Tennessee*; and (2) *Materials, equipment and supplies used in the manufacture, installation or application of roofing or building materials (except commodities in bulk) from points in Illinois,*

Indiana, Michigan, and Tennessee to Franklin, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 11592 (Sub-No. 18), filed August 23, 1977. Applicant: BEST REFRIGERATED EXPRESS, INC., P.O. Box 7356, Omaha, Nebr. 68107. Applicant's representative: F. E. Myers (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Indigestible animal feed ingredients (except in bulk in tank vehicles)*, (1) from Estherville, Iowa, to Kansas City, Mo.; Chicago and Kankakee, Ill.; Zanesville, Ohio; Allentown, Bloomsburg, Camp Hill, and Harrisburg, Pa.; and (2) from Fremont and Omaha, Nebr., to Kankakee, Ill.; Zanesville, Ohio; Bloomsburg and Allentown, Pa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Omaha, Nebr., or Des Moines, Iowa.

No. MC 29910 (Sub-No. 177), filed August 30, 1977. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment)*: Serving the site of K-Mart Corporation located in Coweta County, Ga., as an off-route point in connection with applicant's authorized regular route operations at Atlanta, Ga.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Washington, D.C.

No. MC 32882 (Sub-No. 78), filed August 25, 1977. Applicant: MITCHELL BROS. TRUCK LINES, A Corporation, P.O. Box 17039, 3841 North Columbia Blvd., Portland, Oreg. 97217. Applicant's representative: Lex F. Page (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Such commodities as are dealt in, or used by agricultural equipment, industrial equipment, and lawn and leisure product dealers (except commodities in bulk, in tank equipment) from Multnomah County, Oreg., and Cowlitz County, Wash., to points in Washington, Oregon, California, Nevada, Idaho, Montana, Utah, and Wyoming, restricted to shipments having an immediate prior or subsequent movement by rail or water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Portland, Oreg., Seattle, Wash., or San Francisco, Calif.

No. MC 32882 (Sub-No. 79), filed August 26, 1977. Applicant: MITCHELL

BROS. TRUCK LINES, P.O. Box 17039, Portland, Oregon 97217. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Insulation and insulated panels and boards*, from Tacoma, Wash., and points in Salt Lake and Davis Counties, Utah, to points in Arizona, California, Colorado, Idaho, Montana, New Mexico, Oklahoma, Texas, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Portland, Oreg., or Denver, Colo.

No. MC 32882 (Sub-No. 80), filed August 26, 1977. Applicant: MITCHELL BROS. TRUCK LINES, P.O. Box 17039, Portland, Oregon 97217. Applicant's representative: John T. Wirth, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colorado 80202. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Insulation, and materials, supplies, and equipment used in the manufacturing, production, and distribution of insulation, between points in the United States (except Alaska and Hawaii), restricted to transportation between the plantsites and facilities of Mega Corporation and Cel-Cor Industries, Inc., and their affiliates, subsidiaries, and licensees.*

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Portland, Oreg., or Denver, Colo.

No. MC 34631 (Sub-No. 4), filed August 29, 1977. Applicant: A. ARNOLD & SON TRANSFER AND STORAGE CO., INC., 2600 W. Broadway, Louisville, Kentucky 40211. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, in the transportation of empty household goods shipping containers (except containers made of paper or paper products), between points in Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Louisville, Ky.

No. MC 35807 (Sub-No. 77), filed August 29, 1977. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, Ga. 30302. Applicant's representative: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Coin, currency, securities, food stamps, and other items of value between Chicago, Ill., and*

points in Indiana, Iowa, and Wisconsin, in a non-radial movement, under a continuing contract or contracts with the Federal Reserve Bank of Chicago.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C. or Chicago, Ill. Common control may be involved.

No. MC 40978 (Sub-No. 34), filed August 29, 1977. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, a Corporation, 3321 Business Highway 141 South, Sheboygan, Wisconsin 53081. Applicant's representative: William C. Dineen, Suite 412, Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured, distributed, or used by manufacturers or distributors of plastic, wooden, and health care products* (except commodities in bulk) between Sheboygan Falls, Wis., and points in the Sheboygan Falls, Wis., Commercial Zone, on the one hand, and, on the other, points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Milwaukee or Madison, Wis.

No. MC 42261 (Sub-No. 123), filed August 22, 1977. Applicant: LANGER TRANSPORT CORP., Box 305, Jersey City, N.J. 07303. Applicant's representative: W. C. Mitchell, 370 Lexington Avenue, New York, N.Y., 10017. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Malt beverages and related advertising materials, and returned empty malt beverage containers, between South Volney, N.Y., on the one hand, and, on the other, points in Connecticut, Massachusetts, New Jersey, and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 46219 (Sub-No. 16), filed August 8, 1977. Applicant: STERNBERGER MOTOR CORPORATION, 45-50 Court Square, Long Island City, N.Y. 11101. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St. NW., Washington, D.C. 20004. Authority sought to operate as a common carrier, over irregular routes, transporting new furniture, from Brookneal and Appomattox, Va., to points in Maine, and points in Allegany, Bronx, Broome, Cattaraugus, Cayuga, Chautauque, Chemung, Chenango, Cortland, Delaware, Erie, Genesee, Herkimer, Jefferson, Kings, Lewis, Livingston, Madison, Monroe, New York, Niagara, Oneida, Onondaga, Ontario, Orange, Orleans, Oswego, Otsego, Queens, Richmond, Schuyler, Seneca, Steuben, Sullivan, Tioga, Tompkins, Wayne, Wyoming, and Yates Counties, N.Y.

No. MC 48958 (Sub-No. 137), filed August 22, 1977. Applicant: ILLINOIS-

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, Colorado, 80216. Applicant's representative: Lee E. Lucero (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities (except Class A and B explosives, Household Goods as defined by the Commission, commodities in bulk, articles of unusual value, and articles requiring special equipment), serving the plantsite and facilities of Levi Strauss & Co., located at or near Henderson, Nev., as an off-route point in connection with carrier's authorized regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo., or San Francisco, Calif.

No. MC 51146 (Sub-No. 524), filed August 30, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle over irregular routes, transporting: (1) *Paper and paper products* (except commodities in bulk), from Jackson, Ala., to East St. Louis, Ill. and points in Illinois on and south of U.S. Highway 40; and points in Missouri south of a line beginning at the junction of the Missouri-Kansas state boundary line and U.S. Highway 66, thence along U.S. Highway 66 to Lebanon, Mo., thence along Missouri Highway 32 to junction Missouri Highway 21, thence along Missouri Highway 21 to junction U.S. Highway 60, thence along U.S. Highway 60 to the Missouri state boundary line; and (2) *scrap paper and waste paper*, from points in Missouri, to Oskaloosa, Iowa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 52704 (Sub-No. 152), filed August 25, 1977. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer "H", LaFayette, Ala. 36862. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 West Peachtree St., NW., Atlanta, Ga. 30309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Paper and paper articles, plastic bags, materials, equipment and supplies* (except in bulk), used in the manufacture and distribution of paper and paper articles, and plastic bags, between the plantsite and warehouse facilities of Hudson Pulp & Paper Corp. at or near Hamlet, N.C., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, Texas, Vir-

ginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 59150 (Sub-No. 103), filed August 30, 1977. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic Pipe, and fittings, materials, accessories and supplies* used in the installation thereof, from Colfax, N.C.; Anderson, S.C.; Pell City, Ala.; Social Circle, Ga., and points in Florida, to points in Alabama, Georgia, Florida, North Carolina, South Carolina, Tennessee, Virginia, Louisiana, and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jacksonville, Fla.

No. MC 59150 (Sub-No. 105), filed August 31, 1977. Applicant: PLOOF TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Composition board, plywood and plywood wall paneling*, from the plantsite and storage facilities of Plywood Panels, Inc., located at or near Norfolk, Va., to points in Alabama, Georgia, Florida, North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Norfolk, Va., or Jacksonville, Fla.

No. MC 60014 (Sub-57), filed August 25, 1977. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from the plantsite of Southern Iron & Supply Co. at or near St. Louis, Mo., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at St. Louis, Mo.

No. MC 61403 (Sub-No. 248), filed August 29, 1977. Applicant: THE MASON AND DIXON TANK LINES, INC., Highway 11-W, P.O. Box 969, Kingsport, Tenn. 37662. Applicant's representative: W. C. Mitchell, Suite 1201, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting *Bisphenol*, in bulk, in tank or hopper type vehicle, (1) from the facilities of United States Steel Corp., at Haverhill, Scioto County, Ohio, to points in the United States (except Alaska and Hawaii); and (2) *returned and rejected shipments*, from the above named desti-

nation territory to the above named origin point.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 63417 (Sub-No. 110), filed August 30, 1977. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a common carrier by motor vehicle over irregular routes transporting: Petroleum and Petroleum Products (except in bulk), vehicle body sealer and sound deadener compound, (1) from Bradford and New Kensington, Pa., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, and Tennessee; and (2) *returned shipments* of above commodities, from above destinations, to Bradford and New Kensington, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Pittsburgh, Pa. or Roanoke, Va.

No. MC 63417 (Sub-No. 111), filed August 31, 1977. Applicant: BLUE RIDGE TRANSFER CO., INC., P.O. Box 13447, Roanoke, Va. 24034. Applicant's representative: William E. Bain (same address as applicant). Authority sought to operate as a common carrier by motor vehicle over irregular routes transporting: *Glass containers*, from the plant and warehouse facilities of Midland Glass Co., located at or near Warner Robins, Ga., to the facilities of Anheuser-Busch, Inc., located at or near Williamsburg, Va.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Roanoke, Va.

No. MC 64808 (Sub-No. 29), filed August 25, 1977. Applicant: W. S. THOMAS TRANSFER, INC., 1854 Morgantown Avenue, Fairmont, W. Va. 26554. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier by motor vehicle, over irregular routes transporting: *flat glass*, from the plant site of PPG Industries, Inc., located at or near Crystal City, Mo., to points in Connecticut, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Pittsburgh, Pa.

No. MC 67450 (Sub-No. 62), filed August 22, 1977. Applicant: PETERLIN CARTAGE CO., a corporation, 9651 Ewing Avenue, Chicago, Ill. 60617. Applicant's representative: Joseph M. Scanlan, 111 West Washington Avenue, Chicago, Ill. 60602. Authority to operate as a common carrier, by motor vehicle over irregular routes, transporting: Paper and paper products, (except commodities in bulk), having prior movement by motor carrier, rail or water from the warehouses and facilities of Bowater Southern Paper Corp. at Chicago, Ill. to points in Illinois, Iowa, Indiana, Michigan, Minnesota, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 73165 (Sub-No. 417), filed August 29, 1977. Applicant: EAGLE MOTOR LINES, INC., 830 North 33rd Street, Birmingham, Ala. 35202. Applicant's representative: John W. Cooper, Suite 200, Woodward Building, 1927 1st Avenue, North, Birmingham, Ala. 35203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, fittings, and couplings*, from Albany, Ind., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas; and (2) *materials and supplies* used in the installation of the commodities in (1) above, from points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas, to Albany, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind.

No. MC 83539 (Sub-No. 466), filed August 30, 1977. Applicant: C. & H. TRANSPORTATION CO., INC., 2010 West Commerce Street, P.O. Box 5976, Dallas, Tex. 75222. Applicant's representative: Thomas E. James (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Mineral products*, in bags, from Nye County, Nev., to points in the United States (except Alaska, Colorado, Hawaii, North Dakota, New Mexico, Oklahoma, Texas, and Utah), and ports of entry on the international boundary line between the United States and Canada located in Washington, Idaho, Montana, Minnesota, Wisconsin, Michigan, Ohio, Pennsylvania, New York, Vermont, New Hampshire, and Maine.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Denver, Colo. or Dallas, Tex.

No. MC 87566 (Sub-No. 10), filed August 25, 1977. Applicant: SCHMIDT TRUCK SERVICE, INC., No. 1 Clyde Avenue, Litchfield Industrial Park, Litchfield, IL 62056. Applicant's representative: Allan C. Zuckerman, 39 South LaSalle Street, Room 600, Chicago, IL 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Corrugated boxes*, from Mt. Olive, Ill., to points in Iowa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. Common control may be involved.

No. MC 88161 (Sub-No. 92), filed August 25, 1977. Applicant: INLAND TRANSPORTATION CO., INC., 6737 Corson Avenue South, Seattle, WA 98108. Applicant's representative: Stephen A. Cole (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Dry chemical fertilizers and urea*, in bulk, from points in Kootenai County, Idaho, to points in and east of Okanogan, Chelan, Kittitas, Yakima and Klickitat Counties, Wash.,

and points in Umatilla and Morrow Counties, Oreg.

NOTE.—Applicant holds carrier authority in MC 128203 Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Seattle or Spokane, Wash.

No. MC 96881 (Sub-No. 18), filed August 25, 1977. Applicant: FINE TRUCK LINE, INC., 801 West Dodson Avenue, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, 510 North Greenwood, Post Office Box 43, Fort Smith, AR 72902. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Shreveport-Bossier City, La. and Tulsa, Okla.: From Shreveport-Bossier City over Interstate Highway 20 to the junction of Texas State Highway 135, thence over Texas State Highway 135 to the junction of U.S. Highway 271, thence over U.S. Highway 271 to the junction of the Oklahoma Indian Nation Turnpike, thence over the Oklahoma Indian Nation Turnpike to the junction of U.S. Highway 75, thence over U.S. Highway 75 to Tulsa, and return over the same route, serving no intermediate points and restricted against the interlining of traffic at Shreveport-Bossier City on such traffic destined to or originating at New Orleans, La., or points in Alabama, Arkansas, Georgia or Mississippi; (2) Between Shreveport-Bossier City, La. and Muskogee, Okla.: From Shreveport-Bossier City over Interstate Highway 20 to the junction of Texas State Highway 135, thence over Texas State Highway 135 to the junction of U.S. Highway 271, thence over U.S. Highway 271 to the junction of the Oklahoma Indian Nation Turnpike, thence over the Oklahoma Indian Nation Turnpike to the junction of U.S. Highway 69, thence over U.S. Highway 69 to Muskogee, and return over the same route, serving no intermediate points and restricted against the interlining of traffic at Shreveport-Bossier City on such traffic destined to or originating at New Orleans, La., or points in Alabama, Arkansas, Georgia or Mississippi.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Shreveport, La., or Tulsa, Okla.

No. MC 99439 (Sub-No. 5), filed August 25, 1977. Applicant: SUWANNEE TRANSFER, INC., 1830 East 21st Street, Jacksonville, FL 32206. Applicant's representative: Kevin V. Canipelli, 1729 Gulf Life Tower, Jacksonville, FL 32207. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *tractors* (except truck tractors); and *attachments, parts and accessories for tractors* when moving at the same time and in the same equipment with tractors from rail ramps located at or near Jacksonville and Tampa, Fla., to points in Florida. Restriction: The authority sought herein shall be restricted to traffic having a prior movement by rail.

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NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 100666 (Sub-No. 363), filed September 1, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 N.W. 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Pipe, pipe fittings, valve boxes, water boxes, and castings*, from the facilities of Central Foundry Company located at or near Holt, Ala., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Birmingham, Ala.

No. MC 102560 (Sub-No. 12), filed August 8, 1977. Applicant: FREILER TRUCK LINES, INC. Address: P.O. Box 636, U.S. Highway 51 South, Amite, La. 70422. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, La. 70130. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: *Plywood* from the plant site of Champion International Corp. at or near Holden, La., to points in Alabama, Arkansas, Florida, Georgia, Louisiana, Mississippi, Tennessee, and Texas.

NOTE.—If a hearing is hearing is deemed necessary, the applicant requests it to be held at New Orleans, La.

No. MC 102616 (Sub-No. 935), filed August 25, 1977. Applicant: COASTAL TANK LINES, INC., 250 N. Cleveland-Massillon Road, Akron, Ohio 44313. Applicant's representative: David F. McAllister (same address as Applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Commodities in bulk (except liquefied petroleum or natural gas, anhydrous ammonia, fertilizer, feed and cement)*, from points in Illinois, Indiana, Kentucky, Louisiana, Minnesota, Missouri, New Jersey, Ohio, Pennsylvania, Texas, West Virginia, and Wisconsin, to Ports of Entry on the International Boundary Line between the United States and Canada located in Michigan and New York. Restricted to traffic moving in foreign commerce.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio or Chicago, Ill.

MC 106195 (Sub-No. 18), filed August 22, 1977. Applicant: CLARK BROS. TRANSFER, INC., P.O. Box 388, Norfolk, Nebr. 68701. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Grain handling equipment and related parts and accessories, and equipment, materials and supplies* used in the manufacture and distribution thereof, between the plantsite and storage facilities of Sweet Manufacturing Co., located

at or near West Point, Nebr., on the one hand, and, on the other, points in Wisconsin, Minnesota, Iowa, Missouri, Arkansas, Texas, Oklahoma, Kansas, Nebraska, North Dakota, South Dakota, Montana, Wyoming, Colorado, Utah, Illinois, and Indiana. Restricted to shipments originating at or destined to the plantsite and storage facilities of Sweet Manufacturing Co. of West Point, Nebr.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 106274 Sub-No. 26, filed August 31, 1977. Applicant: RAEFORD TRUCKING CO., a corporation, P.O. Box 219, Sanford, N.C. 27330. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. and 13th St. SW., Washington, D.C. 20004. Authority sought to operate as a common carrier, over irregular routes, transporting *Lumber and lumber products (except commodities in bulk)*, from points in Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont to points in North Carolina, South Carolina, Tennessee, and points in Virginia on and south of U.S. Highway 460.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Boston, Mass.

No. MC 106398 (Sub-No. 782), filed August 29, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Roofing, building and insulating materials (except iron and steel articles and commodities in bulk)*, (1) from the plantsite and warehouse facilities of CertainTeed Corporation in Chatham County, Georgia, to points in Alabama, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia; (2) from the plantsite and warehouse facilities of CertainTeed Corporation in Dallas County, Texas, to points in Alabama, Arkansas, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, and Tennessee; (3) from the plantsite and warehouse facilities of CertainTeed Corporation in Cook County, Illinois, to points in Indiana, Iowa, Kentucky, Michigan, and Wisconsin; (4) from the plantsite and warehouse facilities of CertainTeed Corporation in Erie County, Ohio, to points in Indiana, Kentucky, Michigan, New York, Pennsylvania, and West Virginia; (5) from the plantsite and warehouse facilities of CertainTeed Corporation in Jackson County, Missouri, to points in Iowa.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 106557 (Sub-No. 7) (Correction), filed July 25, 1977, published in the FEDERAL REGISTER issue of September 1, 1977 and republished as corrected this issue. Applicant: PAMCO, INC., P.O. Box 926, Columbus, Ohio 43216. Applicant's

representative: Boyd B. Ferris, 50 West Broad St., Columbus, Ohio 43215. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Rendering products, by-products, and hides* between Columbus, Ohio, on the one hand, and, on the other, points in Wisconsin, New Jersey, New Hampshire, Massachusetts, New York, and Maine, under a continuing contract or contracts with Inland-Ohio Hide, Inc., and Inland Products, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio. The purpose of this correction is to include Inland-Ohio Hide, Inc. as a contracting shipper.

No. MC 106603 (Sub No. 156), filed August 25, 1977. Applicant: Direct Transit Lines, Inc., 200 Colrain St. SW., Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Levitt, 22375 Haggerty Rd., P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Roofing, building materials and siding and materials used in the installation and application of such commodities (except commodities in bulk)* from Franklin, Ohio to points in Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, Pennsylvania, Tennessee, West Virginia, and Wisconsin; (2) *Materials, equipment and supplies used in the manufacture, installation or application of roofing or building materials (except commodities in bulk)* from points in Delaware, Illinois, Indiana, Iowa, Kentucky, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, Pennsylvania, Tennessee, West Virginia and Wisconsin to Franklin, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Illinois or Washington, D.C. Common control may be involved.

MC 106674 (Sub-No. 253), filed August 29, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Part 1, Building materials, roofing and siding and materials used in the installation and application of such commodities (except commodities in bulk)*. From Franklin, Ohio to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, South Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin and the District of Columbia. Part 2, *Materials, equipment and supplies used in the manufacture, installation or application of building, roofing or siding materials (except commodities in bulk)* from points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, New Jersey, New York, North Car-

olina, South Carolina, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia to Franklin, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Illinois or Indianapolis, Indiana.

Docket No. MC 107012 (Sub-No. 250), filed August 29, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Rd., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representatives: Gerald A. Burns, P.O. Box 988, Fort Wayne, Ind. 46801. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *lawn mowers, rotary tillers, lawn and garden tractors, snow throwers, powered lawn and garden equipment, and parts and accessories* therefor from points in California, Connecticut, Florida, Illinois, Indiana, Iowa, Kansas, Maryland, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, Ohio, South Carolina, Tennessee and Wisconsin, to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Illinois, or Washington, D.C.

Docket No. MC 107012 (Sub-No. 251), filed August 31, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Rd., P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representatives: Gerald A. Burns (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Carpet tile, cartoned from the plantsite and storage facilities of Ozite Corporation, located at or near Libertyville, Ill., to points in Alabama, Connecticut, District of Columbia, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia and Wisconsin.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Ill., or Washington, D.C.

No. MC 107460 (Sub-No. 69), filed August 26, 1977. Applicant: WILLIAM Z. GETZ, INC., 3055 Yellow Goose Rd., Lancaster, Pa. 17601. Applicant's representative: Donald D. Shipley (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Metal roofing and fabricated metal products, (except commodities in bulk)* from the plant site of Fabral Corporation located at or near Jackson, Ga. to the plant site of Fabral Corporation located at or near Gridley, Illinois, under a continuing contract or contracts with Fabral Corporation.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Washington, D.C. or Harrisburg, Pa.

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No. MC 107496 (Sub-No. 1102), filed August 29, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, Iowa 50304. Applicant seeks authority to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, from Butler County, Ohio to points in Indiana.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. or Des Moines, Iowa.

No. MC 107839 (Sub-No. 173), filed September 12, 1977. Applicant: DENVER-ALBUQUERQUE MOTOR TRANSPORT, INC., 2121 E. 67th Ave., Denver, Colo. 80216. Applicant's representative: Edward L. Gordon, P.O. Box 16106, Denver, Colo. 80216. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs, pharmaceutical materials, chemicals, alcoholic beverages, tobacco products, pet foods, and commodities* generally dealt in by distribution warehouses, (a) from Denver, Colo., to points in the United States in and west of Minnesota, Iowa, Missouri, Arkansas and Louisiana (except Alaska and Hawaii); and (b) from points in the previously described area of the United States in (a) above to Denver, Colo., restricted to traffic originating at or destined to consolidated warehouses or distribution warehouses in Denver, Colo.

NOTE.—Applicant seeks to tack the requested authority in (a) and (b) above at Denver, Colo. Applicant requests that this application be consolidated with other similar applications set for hearing at Denver, Colo. on November 14, 1977.

No. MC 108119 (Sub-No. 67), filed August 25, 1977. Applicant: E. L. MURPHY TRUCKING CO., a corporation, P.O. Box 3010, St. Paul, Minn. 55165. Applicant's representative: Andrew R. Clark, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Cranes and bulk material handling systems*, and (2) *Parts and accessories for cranes and bulk material handling systems*. Between the plantsites and facilities of Paceco division of Fruehauf Corporation in Harrison County, Mississippi, on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, Calif.

No. MC 109397 (Sub-No. 368), filed August 28, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs (same address as Applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron or steel articles*, from the plantsite of Nucor Steel Corporation lo-

cated at or near Darlington, South Carolina, to points in that part of the United States east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, Minnesota, thence northward along the western boundaries of Itasca and Koochiching Counties, Minnesota, to the United States-Canada Boundary line.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Charleston, South Carolina or Washington, D.C.

Docket No. MC 110686 (Sub-No. 52), filed September 12, 1977. Applicant: MC-CORMICKDRAY-LINE, INC., Avis, Pa. 17721. Applicant's representative: David A. Sutherland, 1150 Connecticut Ave., Suite 400, Washington, D.C. 20036. Authority is sought to operate as a common carrier by motor vehicle, over irregular routes transporting: *Aircraft and internal combustion engines, aircraft and internal combustion engine parts, and materials, supplies and equipment* used in or incidental to the manufacture, storage, sale, distribution or installation of aircraft and internal combustion engines, and aircraft and internal combustion engine parts, between the plant sites of Lycoming Division of AVCO Corporation, located at or near Williamsport, Pa., on the one hand, and, on the other, points in the United States in and east of the states of Wisconsin, Illinois, Kentucky, Tennessee, Mississippi, and Louisiana. Hearing: October 19, 1977 at 9:30 a.m. Local Time, at the Offices of the Interstate Commerce Commission, Washington, D.C.

No. MC 111299 (Sub-No. 12), filed August 30, 1977. Applicant: KIRVAN TRUCK LINES, INC., P.O. Box 829, International Falls, Minn. 56649. Applicant's representative: F. H. Kroeger, 1745 University Ave., St. Paul, Minn. 55104. Authority sought to operate as a common carrier by motor vehicle over irregular routes, transporting (1) *Paper and paper products*; (2) *materials, equipment and supplies* used in the production and manufacture of paper and paper products, from (1) International Falls, Minnesota, to points in Minnesota and Wisconsin; and (2) from points in Minnesota and Wisconsin, to International Falls, Minnesota.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at St. Paul, Minnesota.

No. MC 111401 (Sub-No. 497), filed August 26, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., Post Office Box 632, Enid, Okla. 73701. Applicant's representative: Alvin L. Hamilton (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Molasses, liquid feeds and liquid feed supplements*, in bulk, in tank vehicles, from Garden City, Kans., to points in Colorado, Kansas, Nebraska, New Mexico, Oklahoma and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Wichita Kans., or Kansas City, Kans.

No. MC111401 (Sub No. 498), filed August 30, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., Post Office Box 632, Enid, Okla. 73701. Applicant's representative: Alvin L. Hamilton (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Hydrochloric (Muriatic) acid*, in bulk, in tank vehicles, from Norco, La., to points in Arkansas and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La., or Memphis, Tenn.

No. MC111401 (Sub No. 499), filed August 29, 1977. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Blvd., Post Office Box 632, Enid, Okla. 73701. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Sodium Bichromate Solution*, in bulk, in tank vehicles, from Corpus Christi, Texas to Telluride, Colorado; (2) *Toraphene Solution*, in bulk, in tank vehicles, from Los Fresnos, Texas to Altus, Oklahoma; (3) *Cresote Oil*, in bulk, in tank vehicles, from Lone Star, Texas to Bossier City, Louisiana; and (4) *Liquid Chemicals*, in bulk, in tank vehicles, from Pascagoula, Mississippi to Ports of Entry on the International Boundary line between the United States and Mexico located in Texas. Restriction: Restricted in Part (4) to shipments moving in foreign commerce only.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La., or Houston, Tex.

No. MC 112617 (Sub-No. 375), filed August 26, 1977. LIQUID TRANSPORTERS, INC., 1292 Fern Valley Rd., P.O. Box 21395, Louisville, Ky. 40221. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Bisphenol*, in bulk, in tank or hopper type vehicles, from (1) the facilities of United States Steel Corporation at Haverhill, Scioto County, Ohio, to points in the United States (except Alaska and Hawaii); and (2) *returned and rejected shipments*, from the above named destination territory to the above named origin point.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Louisville, Ky., or Washington, D.C.

No. MC 112822 (Sub No. 426), filed August 26, 1977. Applicant: BRAY LINES INCORPORATED, 1401 N. Little St., P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular

routes, transporting: (1) *Foodstuffs*; (2) *pharmaceutical materials, supplies and products*; (3) *chemicals*; (4) *alcoholic beverages*; (5) *tobacco products*; (6) *pet foods*; (7) *such commodities as are dealt in by distribution or consolidation warehouses for the commodities described in (1), (2), (3), (4), (5) and (6)*; and (8) *except commodities when moving with regulated commodities, (a) from Denver, Colo., to points in the United States (except Alaska and Hawaii) in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, and (b) from points in the United States (except Alaska and Hawaii) in and west of Minnesota, Iowa, Missouri, Arkansas, and Louisiana, to Denver, Colo. Restricted against the transportation of commodities in bulk.*

NOTE.—Common control may be involved. Hearing scheduled for November 14, 1977 at 9:30 a.m. local time in Denver, Colo. To be consolidated with No. MC 111375 (Sub-No. 85) et al.

No. MC 113000 (Sub-No. 6), filed August 25, 1977. Applicant: RICHARD A. EVAVOLD, d.b.a. EVAVOLD TRUCKING, P.O. Box 166, Ashby, Minn. 56309. Applicant's representative: F. H. Kroeger, 1745 University Ave., St. Paul, Minn. 55104. Authority sought to operate as a Contract Carrier, by motor vehicle, over irregular routes, transporting: *Insulation materials*, from Underwood, Minnesota, to points in Colorado, Idaho, Kansas, Missouri, Montana, New Mexico, and Wyoming, under a continuing contract or contracts with Pal-O-Pak Insulation Co., Inc., located at Hartland, Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either St. Paul or Minneapolis, Minnesota.

No. MC-113434 (Sub-No. 83), filed August 26, 1977. Applicant: GRA-BELL TRUCK LINE, INC., 679 Lincoln Ave., Holland, Mich. 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, Mich. 48226. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, except in bulk, in vehicles equipped with mechanical refrigeration, from Greenville, Michigan to points in Illinois, Indiana, Ohio, those in New York on and West of Interstate Highway 81, Pennsylvania, West Virginia, Kentucky, Missouri, Iowa, Minnesota and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Chicago, Illinois or Washington, D.C.

No. MC 113651 (Sub-No. 228), filed August 4, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., Riggm Road, P.O. Box 552, Muncie, Ind. 47305. Applicant's representative: Bernard J. Kompare, 10 South LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses (except hides and commodities in bulk)*, from Lexington, Kentucky to points in Florida, Georgia, Illinois, Indiana, Maryland, Massachusetts, Michigan, Louisi-

ana, Mississippi, Ohio, Pennsylvania, Tennessee and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lexington, Ky., or Chicago, Ill.

No. MC 114194 (Sub-No. 196), filed August 31, 1977. Applicant: KREIDER TRUCK SERVICE, INC., 8003 Collinsville Rd., East St. Louis, Ill. 62201. Applicant's representative: Ernest A. Brooks, II, 1301-02 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Clay, in bulk*, from High Hill, Missouri, to points in Maryland, Ohio and Pennsylvania.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either St. Louis, or Kansas City, Mo.

No. MC 114457 (Sub-No. 327), filed: August 23, 1977. Applicant: DART TRANSIT CO. (a corporation), 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James C. Hardman, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Fibreboard cans and metal ends from the plant sites of Boise Cascade Corporation at or near Bradford, Pa.; Bristol, Pa.; East Greenville, Pa.; Forest Park, Ga.; Indianapolis, Ind.; Whiting, Ind.; Jackson, Tenn.; Memphis, Tenn.; Kansas City, Kans.; Orrville, Ohio; St. Louis, Mo.; and West Chicago, Ill. to points in the United States in and east of Minnesota, Iowa, Missouri, Kansas, Oklahoma, and Texas; and (2) Materials, equipment and supplies used in the production and manufacture of fibreboard cans and metal ends from points of destination to origins listed in (1) above.*

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Paul, Minn., or Chicago, Ill.

Docket No. MC 114533 (Sub-No. 360), filed: August 26, 1977. Applicant: BANKERS DISPATCH CORP., 1106 West 35th St., Chicago, Ill. 60609. Applicant's representative: Warren W. Wallin, 1106 West 35th St., Chicago, Ill. 60609. Authority sought to operate as a common carrier by motor vehicle over irregular routes, transporting: *Radiopharmaceuticals, radioactive drugs and medical isotopes*, between points in Kansas, Missouri, and Nebraska. Restricted to traffic having a prior or subsequent movement by air.

NOTE.—Applicant holds motor contract carrier authority in No. MC 128816 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Boston, Mass. or Kansas City, Mo.

MC 114552 (Sub-No. 138), filed August 19, 1977. Applicant: SENN TRUCKING CO., a corporation, Post Office Drawer 220, Newberry, S.C. 29108. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Boulevard, Post Office Box 1267, Arlington, Va. 22210. Authority sought to operate as a common carrier by motor vehicle, over irregular

routes, transporting: *Plywood, paneling, and composition board*, from Boston, Mass., to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, Louisiana, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass.

No. MC 114552 (Sub-No. 140), filed: August 31, 1977. Applicant: SENN TRUCKING CO., a corporation, P.O. Box 220, Newberry, S.C. 29108. Applicant's representative: Ken Simons (same address as applicant). Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials, and materials used in the installation and application of such commodities (except commodities in bulk)*, from Franklin, Ohio to points in Alabama, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia, and (2) *Materials, equipment and supplies used in the manufacture, installation or application of roofing or building materials (except commodities in bulk)* from points in Alabama, Delaware, District of Columbia, Florida, Georgia, Indiana, Kentucky, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Virginia, and West Virginia to Franklin, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 114569 (Sub-No. 188), filed August 31, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *foodstuffs and related products*, (except in bulk, moving in vehicles equipped with mechanical refrigeration), between the warehouse sites of Louisville Freezer Center in Jefferson County, Kentucky, on one hand, and, on the other points in Alabama, Delaware, Georgia, Illinois, Indiana, Iowa, Maryland, Michigan, Minnesota, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia. Restriction: Restricted to traffic originating and terminating at points in the above named states and to traffic originating and terminating at the warehouse sites of Louisville Freezer Center, in Jefferson County, Kentucky.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Louisville, Ky., or Washington, D.C.

No. MC 114569 (Sub-No. 189), filed August 31, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address as applicant). Authority sought to oper-

ate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen fruits and frozen vegetables*, from points in Cameron and Hidalgo Counties, Tex., to Cambridge, Md.; Jackson, Ohio; and Kansas City, Mo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Winston-Salem, N.C., or Washington, D.C.

No. MC 115233 (Sub-No. 2), filed: August 22, 1977. Applicant: MARSHALL STORAGE CO., a corporation, Highway 19 East, P.O. Box 145, Marshall, Minn. 56258. Applicant's representative: Gene P. Johnson, P.O. Box 2471, Fargo, N. Dak. 58102. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: (1) *Glass, glass products and glass cullet*, and (2) *Materials, equipment and supplies used in the manufacture and distribution of glass and glass products (except commodities in bulk, in tank vehicles)*, between the plantsites of PPG Industries, Inc. located at Marshall, Minnesota and at or near Wichita Falls, Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minnesota.

No. MC 115311 (Sub-No. 239), filed August 22, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes transporting: *Iron and steel articles*, from points in Chatham County, Ga., to points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Savannah, Ga.

MC 115841 (Sub-No. 549), filed August 31, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: *Meats, meat products, and articles distributed by meat packing plants, as described in Sections A and C of Appendix 1 to the report in Descriptions in Motor Carrier Certificates; 61 M.C.C. 209 and 766 (except hides and commodities in bulk)*, from Rockville, Missouri to points in Alabama, Georgia, North Carolina, South Carolina, and Tennessee. Restricted to shipments originating at and destined to the above named points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Kansas City, Mo., or Washington, D.C.

No. MC 116254 (Sub-No. 185), filed August 26, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative:

Hampton M. Mills (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Muriatic acid*, in bulk, in tank vehicles, from Gulfport, Miss., to points in Alabama, Arkansas, Delaware, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Maine, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Mobile, Ala., or Washington, D.C.

No. MC 116325 (Sub-No. 76), filed August 29, 1977. Applicant: JENNINGS BOND d.b.a. BOND ENTERPRISES, P.O. Box 8, Lutesville, Missouri 63762. Applicant's representative: Robert E. Tate, P.O. Box 517, Evergreen, Alabama 36401. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Pre-cut timber homes, prefabricated buildings, building materials, parts, and accessories (except commodities in bulk)*, from points in Washington County, Mo., to points in the United States (except Alaska and Hawaii); and (2) *material, parts, supplies, and accessories used in the manufacture of pre-cut timber homes, prefabricated buildings, building materials, parts, and accessories (except commodities in bulk)*, from points in the United States (except Alaska and Hawaii), to points in Washington County, Mo.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either St. Louis, Mo. or Washington, D.C.

No. MC 116725 (Sub-No. 23) (Amendment), filed June 1, 1977, published in the FEDERAL REGISTER issue of July 8, 1977, and republished as amended this issue. Applicant: INDIAN VALLEY ENTERPRISES, INC., 855 Maple Avenue, Harleysville, Pa. 19438. Applicant's representative: John W. Frame, P.O. Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsites and facilities of Mayfair Creamery, Division of Beatrice Foods Co., located at or near Somerset, Pa., to points in New York and New Jersey; and (2) *milk, eggs, and exempt agricultural commodities originating at points in the above-destination states and destined to the above-origin point.*

NOTE.—The purpose of this republication is to indicate the correct name of the origin point as Mayfair Creamery, division of Beatrice Foods Co., located at or near Somerset, Pa., in lieu of Keller Creamery Co., a division of Beatrice Foods Co., and reduction of authority sought. If a hearing is deemed necessary, the applicant requests that it be held at Harrisburg, Pa.

No. MC 116763 (Sub-No. 390), filed August 22, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West

Street, Versailles, Ohio 45380. Applicant's Representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority south to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Animal Feed (except in bulk), from the plantsite of Allied Foods, Inc. at Atlanta, Ga., to the warehouse and storage facilities of Weis Markets at or near Sunbury, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Pittsburgh, Pa.

No. MC 116763 (Sub-No. 392), filed August 26, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, Ohio 45380. Applicant's Representative: H. M. Richters, P.O. Box 81, Versailles, Ohio 45380. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Foodstuffs (except in bulk) from points in Maine, to points in Delaware, Maryland, New Jersey, New York, Virginia, points in Pennsylvania east of U.S. Highway 15, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Portland, Maine.

No. MC 117119 (Sub-No. 649), filed August 29, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Arkansas 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: Pigments, Paints, and Plastic Materials (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from Glens Falls, N.Y., to points in Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga., or Washington, D.C.

No. MC 117940 (Sub-No. 226) (Correction), filed July 11, 1977, published in the FEDERAL REGISTER of September 1, 1977, and republished as corrected this issue. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman, P.O. Box 104, Maple Plain, Minn. 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by or used in the operation of retail department stores (except foodstuffs, commodities in bulk, and household goods as defined by the Commission) from New York, N.Y.; Boston, Mass.; and Philadelphia, Pa., Commercial Zones to the facilities of Nordstrom, Inc., in Tukwila, Wash.; and Nordstrom Stores in Seattle, Tacoma, Yakima, Spokane, Bremerton, Bellingham, and Bellevue, Wash., restricted to traffic originating at named origins and destined to the facilities of Nordstrom's at named destinations.

NOTE.—The purpose of this republication is to indicate the phrase "Nordstrom Stores" in applicant's territorial description, omitted

in the FEDERAL REGISTER publication of September 1, 1977. If a hearing is deemed necessary, the applicant requests it be held at Seattle, Wash. Applicant holds contract carrier authority in No. MC 114789 (Sub-No. 16 and other subs); therefore dual operations may be involved.

No. MC 118610 (Sub-No. 27), filed August 31, 1977. Applicant: GEORGE PARR TRUCKING SERVICE, INC., 829 Alsop Lane, Owensboro, Kentucky 42301. Applicant's representative: George M. Catlett, Suite 708 McClure Building, Frankfort, Kentucky 40601. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: Commodities in bulk, in dump vehicles, between the site of the Owensboro Riverport Authority, located at or near Owensboro, Ky., on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Owensboro, Ky., or Louisville, Ky.

No. MC 118811 (Sub-No. 7), filed August 31, 1977. Applicant: LAWRENCE MCKENZIE, d.b.a., MCKENZIE TRUCKING SERVICE, Route 5, Box 111, Winchester, Ky. 40391. Applicant's representative: William L. Willis, Suite 708 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: *Scrap metal*, in dump vehicles, from points in Kanawha, Putnam, and Wood Counties, W. Va., to the plantsites of Kentucky Electric Steel Co., and Mansbach Metal Co., located at or near Ashland, Ky.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Lexington or Ashland, Ky.

No. MC 119094 (Sub-No. 6), filed August 29, 1977. Applicant: CLARENCE S. WINTERSTEEN, d.b.a., C. S. WINTERSTEEN COMPANY, 1st Street and Park Avenue, Bemidji, Minnesota 56601. Applicant's representative: Sheldon D. McRae, Sr., 204 Fifth Street, P.O. Box 684, Bemidji, Minnesota 56601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages in containers, and related advertising materials*, from Milwaukee, Wisc., to Bemidji, Minn., under a continuing contract or contracts with Bemidji Distributing Co., Inc., located at Bemidji, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Bemidji, Minn., or Fargo, N. Dak.

No. MC 119547 (Sub-No. 47), filed August 15, 1977. Applicant: EDGAR W. LONG, INC., 3815 Old Wheeling Rd., Zanesville, Ohio 43701. Applicant's representative: Richard H. Brandon, 220 West Bridge St., P.O. Box 97, Dublin, Ohio 43017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (A) *Glassware*, from Jeanette, Pa., to points in Alabama, Georgia, Mississippi, Oklahoma, Texas, Kansas, Missouri, North Dakota, and South Dakota, (B) *plasticware*, from Lake City and Girard, Pa.,

to points in Alabama, Georgia, Mississippi, Oklahoma, Texas, Kansas, Missouri, North Dakota, South Dakota, and Florida; and (C) *chinaware*, porcelainware, and stoneware, from Sebring and Bedford Heights, Ohio, to points in Alabama, Georgia, Mississippi, Oklahoma, Texas, Kansas, Missouri, North Dakota, South Dakota, and Florida.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Columbus, Ohio.

No. MC 119726 (Sub-No. 102), filed August 22, 1977. Applicant: N. A. B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Applicant's representative: James L. Beatty, 130 E. Washington Street, Suite One Thousand, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Porcelain and enamel sinks and basins, cartoned enameled sinks, sink tops, and skids, plate or sheet steel without legs not nested*, from the plantsite of Ingram-Richardson located at or near Frankfort, Ind., and the plantsite of Lawndale Products located at or near Aurora, Ill., to the plantsite of Alabama Metal Products Company, Inc., located at or near Rosedale, Miss.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Jackson, Miss. or Indianapolis, Ind.

No. MC 119726 (Sub-No. 103), filed August 25, 1977. Applicant: N. A. B. TRUCKING CO., INC., 1644 W. Edgewood Avenue, Indianapolis, IN 46217. Applicant's representative: James L. Beatty, 130 East Washington Street, Suite One Thousand, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers and closures therefor*, from the plant site of Midland Glass Company at or near Warner Robins, Ga., to points in Indiana, Virginia, Oklahoma, Illinois, Ohio, Wisconsin, Michigan, North Dakota, South Dakota, Kansas, Iowa, Minnesota, West Virginia, Pennsylvania, and New York.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y., or Indianapolis, Ind.

No. MC 119789 (Sub-No. 368), filed August 29, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in containers, in mechanically refrigerated equipment, from LaPorte, Texas to Holland and Whitehall, Michigan, and Trenton, New Jersey.

NOTE.—If an oral hearing is deemed necessary, the applicant requests that it be held at Chicago or Detroit, Mich.

No. MC 119792 (Sub-No. 65), filed, August 26, 1977. Applicant: CHICAGO SOUTHERN TRANSPORTATION CO.

a Corporation, 3600 South Western Avenue, Chicago, Ill. 60609. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat and dairy products*, from Fond du Lac, Wis.; Harrodsburg, Russell Springs, Cynthiana, and Tompkinsville, Ky.; Valley City, Ill.; and Atlanta, Ga., to points in Alabama, Arkansas, Florida, Kentucky, Tennessee, Louisiana, Mississippi, North Carolina, South Carolina, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 120981 (Sub-No. 23), filed August 29, 1977. Applicant: BESTWAY EXPRESS, INC., 905 Visco Drive, Nashville, Tenn. 37210. Applicant's representative: George M. Catlett, Suite 708 McClure Building, Frankfort, Ky. 40601. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Lexington, Kentucky, and Cynthiana, Kentucky; from Lexington, Kentucky, over Interstate Highway 75 to junction of U.S. Highway 62, thence over U.S. Highway 62 to Cynthiana, Kentucky, and return over the same route, serving no intermediate points, restricted against the handling of traffic originating at, or destined to, points in Connecticut, Delaware, Illinois, Indiana, Iowa, Michigan, Maryland, Minnesota, Massachusetts, Maine, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, Wisconsin and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Lexington, Ky., or Frankfort, Ky.

No. MC 121120 (Sub-No. 4) (amendment), filed June 9, 1977, published in the FEDERAL REGISTER issue of July 28, 1977, and republished as amended this issue. Applicant: SOUTHERN GARMENT DISTRIBUTING CORP., 1605 W. 33rd Place, Hialeah, Fla. 33012. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in or used by a retail department or discount store, between the terminal of Southern Garment Distributing Corp. located at Orlando, Fla., on the one hand, and, on the other, points in Alachua, Bradford, Brevard, Broward, Charlotte, Citrus, Clay, Collier, Dade DeSoto, Duval, Flagler, Glades, Hardee, Hendry, Hernando, Highlands, Hillsborough, Indian River, Lake, Lee, Manatee, Marion, Martin, Nassau, Okeechobee, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Putnam, St. Johns, St. Lucie, Sarasota, Seminole, Sumter, and Volusia Coun-

ties, Fla., restricted to traffic having a prior or subsequent movement in interstate or foreign commerce by motor or air.

NOTE.—The purpose of this amendment is to indicate the modification in the base point. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. Common control may be involved.

No. MC 121658 (Sub-No. 9), filed August 26, 1977. Applicant: Steve D. Thompson, 1205 Percy Street, P.O. Drawer 149, Winnsboro, La. 71295. Applicant's representative: Donald B. Morrison, 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Memphis, Tenn. and Mer Rouge, La.; From Memphis, Tenn. over U.S. Highway 61 to its junction with U.S. Highway, 82 at or near Leland, Miss.; thence over U.S. Highway 82 to its junction with U.S. Highway 165 at or near Montrose, Ark.; thence over U.S. Highway 165 to Mer Rouge, La., and return over the same routes, serving no intermediate points except those in Louisiana lying on U.S. Highway 165 between the Arkansas-Louisiana State Line and Mer Rouge, La.; (2) between the junction of U.S. Highway 82 with U.S. Highway 65 south of Lake Village, Ark. and Lake Providence, La.; From the junction of U.S. Highway 82 with U.S. Highway 65; thence over U.S. Highway 65 to Lake Providence, La., and return over the same route, serving no intermediate points except those in Louisiana lying on U.S. Highway 65 between the Arkansas-Louisiana State line and Lake Providence, La.; (3) between the junction of U.S. Highway 82 with U.S. Highway 65 south of Lake Village, Ark. and Oak Grove, La.; From the junction of U.S. Highway 82 with U.S. Highway 65; thence over U.S. Highway 65 to its junction with Arkansas Highway 159 at Eudora, Ark.; thence over Arkansas Highway 159 and Louisiana Highway 17 to Oak Grove, La. and return over the same route, serving no intermediate points except those in Louisiana lying on Louisiana Highway 17 between the Arkansas-Louisiana State line and Oak Grove, La.; (4) between Winnfield, La. and Natchitoches, La.; From Winnfield, La. over U.S. Highway 84 to Clarence, La., thence over Louisiana Highway 6 to Natchitoches, La. and return over the same route, serving all intermediate points; and (5) between Memphis, Tenn. and Jackson, Miss. over Interstate 55 as an alternate route for operating convenience only, serving no intermediate points and serving Jackson, Miss. as a point of joinder only, restricted against the transportation of shipments moving from, to or through Memphis, Tenn. and its commercial zone which originate at or are destined to points in Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Memphis, Tenn. and Monroe, La.

No. MC 123048 (Sub-No. 365), filed August 29, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Post Office Box 1557, Racine, WI 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, WI 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Water heaters, boilers, garbage disposers and parts thereof, from garbage disposers and parts thereof*, from Kankakee, Illinois to points in Minnesota, North Dakota, South Dakota, Nebraska, Iowa, and Kansas.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either at Chicago, Illinois or Washington, D.C.

No. MC 123407 (Sub-No. 397), filed August 29, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same Address as Applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, paneling, lumber and lumber products*, from Camden, N.J.; Philadelphia, Pa.; Norfolk, Va.; Baltimore, Md.; Charleston, S.C.; and New Orleans, La., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico (except plywood, composition board, and wood moldings, from Charleston, South Carolina, to points in Illinois, Indiana, Iowa, Michigan, Minnesota, North Dakota, Ohio, South Dakota, and Wisconsin).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Detroit, Mich. or Toledo, Ohio.

No. MC 123407 (Sub-No. 400), filed August 29, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *building and construction materials, and iron and steel articles*, from the plant sites or warehouses of Penn-Dixie Steel Corporation at or near Albuquerque, N. Mex.; Denver, Colo.; Blue Island, Joliet, and Chicago, Ill.; Grand Rapids, Lansing, Petroskey, Holland, and Detroit, Mich.; Toledo and Columbus, Ohio; Winterset, Centerville, and West Des Moines, Iowa; Fort Wayne and Kokomo, Ind.; Jackson, Miss.; Kingsport, Knoxville, and South Pittsburg, Tenn.; Salisbury, N.C.; Atlanta, Ga.; Nazareth, Pa.; and Milwaukee, Wis.; to points in the United States (except Alaska and Hawaii) and (except iron and steel articles) from Kokomo, Ind., to Delaware, Ky., Louisiana, Michigan, Minnesota, Mississippi, Missouri, North Dakota, Pennsylvania, South Dakota, Texas, West Virginia, and Wisconsin; and (except iron and steel articles) from Joliet, Ill., to Kansas, Minnesota,

Nebraska, and South Dakota); and (2) *materials and supplies used in the manufacture of building and construction materials and iron and steel articles from points in the United States (except Alaska and Hawaii)*, to origin points listed in Part (1) above.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Indianapolis, Ind.

No. MC 123544 (Sub-No. 11), filed August 17, 1977. Applicant: BERTSCH TRUCKING, INC., Hillsboro, N. Dak. 58045. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, Minn. 55102. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *farm machinery and implements and parts thereof from Fargo, North Dakota to points in the United States (except Alaska and Hawaii)*; (2) *farm machinery and implements and parts thereof from ports of entry on the International Boundary line between the United States and Canada located at Neche and Pembina, N. Dak. and Noyes, Minn. to points in Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, North Carolina, Rhode Island, South Carolina, Tennessee, Virginia, Vermont, and West Virginia*; (3) *damaged or defective farm machinery and implements and parts thereof from the destination points in (1) above to Fargo, N. Dak.; and (4) damaged or defective farm machinery and implements and parts thereof from the destination points in (2) above to ports of entry on the International Boundary line between the United States and Canada located at Neche and Pembina, N. Dak. and Noyes, Minn., under a continuing contract with Versatile Manufacturing, Ltd. located at Winnipeg, Manitoba, Canada. Restricted in (2) to traffic originating and (4) to traffic destined to points in Manitoba, Canada.*

NOTE.—Applicant holds common carrier authority in MC-135045 (Sub-No. 2) therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at St. Paul, Minn.

No. MC 123819 (Sub-No. 48), filed August 31, 1977. Applicant: ACE FREIGHT LINE, INC., P.O. Box 16589, Memphis, Tenn. 38116. Applicant's representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Spring Rd., Atlanta, Ga. 30339. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fish meal from Empire, La. to Port Arthur, Tex.*

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at New Orleans, La.

No. MC 124078 (Sub-No. 743), filed August 29, 1977. Applicant: SCHWERTMAN TRUCKING CO., a Corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor

vehicle, over irregular routes, transporting: *Fly ash, in bulk, (1) from Clinton, Iowa, to points in Illinois, and (2) from Lansing, Iowa, to points in Illinois, Minnesota, and Wisconsin.*

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill. Common control may also be involved.

No. MC 124078 (Sub-No. 745), filed August 29, 1977. Applicant: SCHWERTMAN TRUCKING CO., a Corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphoric fertilizer solutions and spent phosphoric acid, in bulk, in tank vehicles, from Clinton and Cullman, Ala.; Magnolia, Ark.; Cleveland, Herando, McCormick and Pontotoc, Miss.; and Cleveland, Tenn., to points in Alabama, Arkansas, Florida, Illinois, Kentucky, Louisiana, Mississippi, and Texas.*

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Atlanta, Ga. Common control may be involved.

No. MC 124211 (Sub-No. 304), filed August 17, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Neb. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Grain handling equipment and related parts and accessories, and materials, equipment and supplies used in the manufacture and distribution of grain handling equipment and related parts and accessories. Between points in Cuming County, Nebr., on the one hand and, on the other, points in the United States in and west of Michigan, Ohio, Indiana, Illinois, Missouri, Arkansas, and Texas, except Alaska and Hawaii.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Lincoln or Omaha, Nebr.

No. MC 124306 (Sub-No. 32), filed August 29, 1977. Applicant: KENAN TRANSPORT CO. INC., P.O. Box 2729, Chapel Hill, N.C. 27514. Applicant's representative: Richard A. Mehley, 1000 16th Street, N.W., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastics, in bulk, in tank vehicles, from Brunswick, Ga. to points in Alabama, Tennessee, North Carolina, and South Carolina.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, D.C. or Atlanta, Ga.

No. MC 124692 (Sub-No. 179), filed August 26, 1977. Applicant: SAMMONS TRUCKING, A Corporation, P.O. Box 4347 Missoula, Mont. 59806. Applicant's representative: J. David Douglas (same address as applicant). Authority sought

to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Contractors' equipment, tools, materials and supplies between points in California, Idaho, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming*; and (2) *Contractors' equipment, tools, materials and supplies in shipper's own trailers between points in California, Idaho, Minnesota, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 124947 (Sub-No. 70), filed August 25, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Road, Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting iron and steel articles from the plantsite of Nucor Steel—Division of Nucor Corp., located at or near Norfolk, Nebr., to points in North Dakota, Minnesota, Wisconsin, Illinois, Indiana, Ohio, and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr., or Denver, Colo.

No. MC 125023 (Sub-No. 49), filed August 30, 1977. Applicant: SIGMA-4 EXPRESS, INC., P.O. Box 9117, Erie, Pa. 16504. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages, in containers, (1) from Chicago, Ill., to points in Virginia and West Virginia, and (2) from Monroe, Wis., to points in North Carolina, South Carolina, Virginia, and West Virginia.*

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in either Chicago, Ill., or Washington, D.C.

No. MC 125433 (Sub-No. 118), filed August 29, 1977. Applicant: F-B TRUCK LINE CO., a Corporation, 1945 South Redwood Road, Salt Lake City, Utah 84104. Applicant's representative: David J. Lister (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Extruded aluminum products (except those products the transportation of which because of size or weight require the use of special equipment), from Phoenix, Arizona, to points in the United States (except Alaska and Hawaii).*

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City, Utah.

No. MC 126899 (Sub-No. 116), filed August 22, 1977. Applicant: USHER TRANSPORT, INC., P.O. Box 3156, Paducah, Ky. 42001. Applicant's representative: George M. Catlett, Suite 708 McClure Building, Frankfort, Ky. 40601.

Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic liquors, in containers, from Paducah, Ky., to points in the United States (except Alabama, Arkansas, Georgia, Indiana, Kansas, Louisiana, Mississippi, Missouri, Oklahoma, South Carolina, Tennessee, Texas, Alaska, Hawaii, and those in Illinois on and south of U.S. Highway 136), restricted to the handling of traffic originating at Paducah, Ky.*

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Louisville, Ky., or Paducah, Ky.

No. MC 127337 (Sub-No. 18), filed August 26, 1977. Applicant: CHET'S TRANSPORT, INC., Charlotte, Maine 04666. Applicant's representative: Lawrence E. Lindeman, Suite 1032 Pennsylvania Building, Pennsylvania & 13 St. NW, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: (1) *Frozen blueberries, from points in Maine to ports of entry on the United States-Canada boundary line located in Maine, restricted to shipments destined to the Province of Quebec, Canada; (2) Meat and meat products, from Albany, N.Y., and Boston, Mass., to ports of entry on the United States-Canada boundary line located in Maine and Massachusetts, restricted to shipments destined to the Provinces of Nova Scotia and Newfoundland, Canada; (3) Preserved fish, and fish, the transportation of which is otherwise exempt from economic regulation pursuant to section 203(b) (6) of the Interstate Commerce Act in mixed loads with preserved fish, from ports of entry on the United States-Canada boundary line located in Maine and Massachusetts to points in the United States (except Alaska and Hawaii), restricted to shipments originating in the Provinces of New Brunswick, Nova Scotia, Newfoundland, and Prince Edward Island, Canada; and (4) Foodstuffs, and agricultural commodities, the transportation of which is otherwise exempt from economic regulations pursuant to section 203(b) (6) of the Interstate Commerce Act in mixed loads with foodstuffs, from points in Massachusetts to ports of entry on the United States-Canada boundary line located in Maine and Massachusetts, restricted to traffic destined to points in the Province of Newfoundland, Canada.*

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Boston, Mass., or Portland, Maine.

No. MC 127625 (Sub-No. 25), filed August 29, 1977. Applicant: SANTEE CEMENT CARRIERS, INC., P.O. Box 638, Holly Hill, S.C. 29059. Applicant's representative: Frank B. Hand, Jr., P.O. Drawer C, Berryville, Va. 22611. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, in bulk, in tank trailers, from Spartanburg, S.C., to points in Georgia on and north of U.S. Highway 78.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Columbia, S.C.

No. MC 127810 (Sub-No. 3) (amendment), filed February 7, 1977, published in the FEDERAL REGISTER issue of April 14, 1977, and republished this issue. Applicant: SHERMAN & BODDIE, INC., Highway 158 South, P.O. Box 621, Oxford, N.C. 27565. Applicant's representative: Joseph E. Wall, 333 Fayetteville Street, Post Office Box 709, Raleigh, N.C. 27602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Yarns, between Henderson, N.C., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Tennessee, and Virginia; and (2) fibers, on return movements from points named in (1) above to Henderson, N.C.*

NOTE.—The purpose of this republication is to amend applicant's present contract carrier authority to a common carrier. If a hearing is deemed necessary, the applicant requests it be held at either Raleigh or Charlotte, N.C.

No. MC 127834 (Sub-No. 117), filed August 22, 1977. Applicant: CHEROKEE HAULING & RIGGING, INC., a corporation, Nashville, Tenn. 37202. Applicant's representative: Carl U. Hurst, P.O. Drawer "L", Madisonville, Ky. 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *conduit or pipe, and fittings for conduit or pipe, from the plant site of Cement Asbestos Products Co. (subsidiary of ASARCO Inc.), at or near Ragland, Ala., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either St. Louis, Mo., or Birmingham, Ala.

No. MC 128220 (Sub-No. 18), filed August 30, 1977. Applicant: RALPH LATHAM, doing business as LATHAM TRUCKING CO., P.O. Box 596, Burnside, Kentucky 42519. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, Kentucky 42101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Charcoal, charcoal briquettes, fireplace logs, wood chips, lighter fluid, spices, sauces, and vermiculite (except commodities in bulk), from Cotter, Ark., to points in the United States (except Alaska and Hawaii), (2) materials, supplies, and equipment used in connection with the commodities described in (1) above (except commodities in bulk), from points in the United States (except Alaska and Hawaii), to Cotter, Ark.*

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Louisville, Ky., or Washington, D.C.

No. MC 128339 (Sub-No. 5), filed August 29, 1977. Applicant: VALLEY TRUCKING SERVICE, INC., 1371 Jacqueline Dr., Columbus, Ga. 31906. Applicant's representative: C. E. Walker, P.O. Box 1085, Columbus, Ga. 31902. Authority sought to operate as a *common carrier* of general commodities, except commodities in bulk, having prior or subsequent movement by rail, in shipper or railroad-owned trailers, between rail ramps at (1) LaGrange, Manchester, Albany, Americus, and Cordele, Ga., and Lanett, Ala., on the one hand, and on the other, points in Barbour, Bullock, Chambers, Lee, Macon, Randolph, and Russell Counties, Ala.; and Bibb, Calhoun, Chattahoochee, Clay, Crawford, Crisp, Dooly, Dougherty, Harris, Heard, Houston, Lamar, Lee, Macon, Marion, Meriwether, Monroe, Muscogee, Peach, Pike, Quitman, Randolph, Schley, Spaulding, Stewart, Sumter, Talbot, Taylor, Terrell, Troup, Upson, and Webster Counties, Ga.; and (2) *Columbus, Ga., on the one hand, and on the other, points in Barbour, Bullock, Chambers, Macon, and Randolph Counties, Ala.; and Bibb, Calhoun, Clay, Crawford, Crisp, Dooly, Dougherty, Heard, Houston, Lamar, Lee, Macon, Monroe, Peach, Pike, Randolph, Spaulding, Sumter, Terrell, Troup, and Upson Counties, Ga.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Columbus or Atlanta, Ga.

No. MC 128555 (Sub-No. 20), filed August 29, 1977. Applicant: MEAT DISPATCH, INC., 2103 17 St. East, Palmetto, Fla. 33561. Applicant's representative: S. Michael Richards, P.O. Box 225, 44 North Ave., Webster, New York 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic parts and cabinet housings for the manufacture of office copiers, from Evansville, Ind., to Rochester and Webster, N.Y., under continuing contract, or contracts, with Xerox Corporation of Webster, N.Y.*

NOTE.—Applicant holds common carrier authority in No. MC-136123, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Buffalo or Syracuse, N.Y.

No. MC 128616 (Sub-No. 23), filed August 29, 1977. Applicant: BANKERS DISPATCH CORPORATION, 1106 West 35th Street, Chicago, Ill. 60609. Applicant's representative: Warren W. Wallin (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Commercial papers, documents, and written instruments (except currency and negotiable securities) as are used in the business of banks and banking institutions, between points in Finney County, Kans., on the one hand, and, on the other, points in Beaver, Cimarron, Harper, Texas, and Woodward Counties, Okla.; Bent, Otero, and Prowers Counties, Colo.; and Dallam,*

Hansford, Lipscomb, Ociltree, and Sherman Counties, Tex., under a continuing contract or contracts with First National Bank and Trust Company of Great Bend, Kans.

NOTE.—Applicant holds motor carrier authority in No. MC 114533 (Sub-No. 4), and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Mo.

No. MC 129290 (Sub-No. 4), filed August 16, 1977. Applicant: MACKINAW COMPANY, a Corporation, 1500 Pine Street, Essexville, Michigan 48732. Applicant's representative: John W. Bryant, 900 Guardian Building, Detroit, Michigan 48226. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cement*, in bulk, in tank vehicles, from the plantsite of Aetna Cement Corporation at Essexville, Mich., to the port of entry on the International Boundary line between the United States and Canada located at or near Sault Sainte Marie, Mich. Restricted to traffic destined to points in Ontario, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Detroit, Mich., or Washington, D.C.

No. MC 129643 (Sub-No. 11), filed August 15, 1977. Applicant: GEORGE SMITH, d.b.a. GEO SMITH TRUCKING CO., 433 Mountain Avenue, Winnipeg, Manitoba, Canada R2W 1K5. Applicant's representative: George Smith (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Frozen bakery products*, from points in Oregon and Washington, to ports of entry on the International Boundary line between the United States and Canada, located at or near Eastport, Idaho, restricted to traffic destined to points in the Province of Manitoba, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fargo, N. Dak.

No. MC 13330 (Sub-No. 10), filed August 12, 1977. Applicant: HALVOR LINES, INC., P.O. Box 6227, Duluth, Minn. 55806. Applicant's representative: William Vinje (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) (a) *Loaders, cranes, and vehicles* equipped with loaders and components, parts and accessories for loaders and cranes from Superior, Wis., to points in the United States, including Alaska, but excluding Hawaii; (b) from Superior, Wis., to the ports of entry on the International Boundary Line between the United States and Canada located at Detroit and Sault Ste. Marie, Mich.; Grand Portage; International Falls and Noyes, Minn.; Pembina and Portal, N. Dak.; Sweetgrass, Mont.; and Blaine, Wash.; restricted in (1) (b) above to traffic moving in foreign commerce and (2) *materials, equipment, and supplies* used in the manufacture of commodities described in (1) above, (a) from points in the United States including Alaska, but excluding

Hawaii; and (b) from the ports of entry on the International Boundary Line between the United States and Canada located at Detroit and Sault Ste. Marie, Mich.; Grand Portage, International Falls and Noyes, Minn.; Pembina and Portal, N. Dak.; Sweetgrass, Mont.; and Blaine, Wash., to Superior, Wis., restricted in (2) (b) above to traffic moving *mental and show display loaders and cranes, and vehicles* equipped with loaders and components, parts and accessories for loaders and cranes, between points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Barko Hydraulics, Inc., of Superior, Wis.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Duluth or Minneapolis, Minn.

No. MC 134477 (Sub-No. 188), filed August 25, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting (1) malt beverages (except in bulk), from Fulton, N.Y. and Milwaukee, Wis., to Spencer, Iowa. (2) Empty malt beverage containers, from Spencer, Iowa, to Fulton, N.Y., and Milwaukee, Wis.

NOTE.—If a hearing is deemed necessary, applicant request it be held at Minneapolis, Minn.

No. MC 135236 (Sub-No. 22), filed August 2, 1977. Applicant: LOGAN TRUCKING, INC., 801 Erie Avenue, Logansport, Indiana 46947. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting malt beverages from Orange, N.J., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, Ohio, Oklahoma, Tennessee, Texas, Utah, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 135599 (Sub-No. 6), filed August 26, 1977. Applicant: WITTENBURG TRUCK LINE, INC., P.O. Box 98, Readlyn, Iowa 50568. Applicant's representative: Ronald R. Adams, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic drain tile, and other plastic water pipe and plastic storm sewer pipe*, between the facilities of Hancor of Iowa located at or near Fairmont, Minn., on the one hand, and, on the other, points in North Dakota, South Dakota, Nebraska, Kansas, Iowa, Missouri, Illinois, Wisconsin, Ohio, Colorado, Wyoming, Indiana, Montana, Tennessee, Oklahoma, and

Arkansas, under a continuing contract or contracts with Hancor of Iowa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Des Moines, Iowa or Minneapolis, Minn.

No. MC 135639 (Sub-No. 8), filed August 26, 1977. Applicant: QUEENSWAY, INC., 105 North Keyser Avenue, Old Forge, Pa. 18518. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought, as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting: *Foodstuffs*, serving Williamson, New York as an off-route point in connection with applicant's present regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Harrisburg, Pa.

No. MC 135965 (Sub-No. 5), filed August 26, 1977. Applicant: J. P. WIEST, doing business as WIEST TRUCK LINE, 1305 6th Avenue Southwest, Jamestown, N. Dak. 58401. Applicant's representative: James B. Hovland, P.O. Box 1637, 414 Gate City Building, Fargo, N. Dak. 58102. Authority sought to operate as a *contract carrier* motor vehicle, over irregular routes, transporting: (a) *Iron and steel articles*, from Sioux City, Iowa and Quincy, Ill., to Maddock, N. Dak.; and (b) *Agricultural machinery and implements, parts and attachments*, from Maddock, N. Dak., to points Minnesota, Wisconsin, Ohio, Iowa, Nebraska, Kansas, Georgia, Indiana, Illinois, Idaho, and Washington, under a continuing contract or contracts, with Summers Manufacturing Co., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fargo, N. Dak., or Minneapolis, or St. Paul, Minn.

No. MC 136318 (Sub-No. 47), filed August 23, 1977. Applicant: COYOTE TRUCK LINE, INC., 302 Cedar Lodge Road, P.O. Box 756, Thomasville, N.C. 27360. Applicant's representative: David R. Parker, 2310 Colorado State Bank Building, 1600 Broadway, Denver, Colo. 80202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, furnishings, appliances, accessories, and fixtures*, (1) From points in California, Oregon and Washington, to points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, Louisiana; (2) From points in Georgia, Michigan, North Carolina, Tennessee, and Virginia; to points in Arizona, California, Illinois, Indiana, Michigan, Minnesota, Oregon, Washington, and Wisconsin; (3) From points in Pennsylvania, to points in Arizona, California, Oregon and Washington, under a continuing contract, or contracts, in (1) (2) and (3) above with the Wickes Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

No. MC 136605 (Sub-No. 31), filed August 29, 1977. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, Mont. 59807. Applicant's representative: W. E. SELISKI (same address as appli-

cant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour glue extender*, in bags or sacks, from Great Falls, Mont., to points in Idaho, Washington, Oregon, and California.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Billings or Missoula, Mont.

No. MC 136668 (Sub-No. 3), filed August 28, 1977. Applicant: ROGERS VINEGAR CO., INC., West Olive at Frisco Tracks, Rogers, Ark. 72756. Applicant's representative: Michael H. Mashburn, P.O. Box 869, Springdale, Ark. 72764. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ethyl alcohol in bulk* from Muscatine, Iowa to the plant site and warehouse of Standard Brands, Inc. at Nixa, Mo., under a continuing contract, or contracts, with Standard Brands, Inc.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Little Rock, Ark., Kansas City, Mo., or Jefferson City, Mo.

No. MC 138104 (Sub-No. 45), filed August 15, 1977. Applicant: MOORE TRANSPORTATION CO., INC., 3509 North Grove Street, Fort Worth, Tex. 76106. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Manganese and alloys*, in bulk, from points in the United States (except Alaska and Hawaii), to the plantsite and storage facilities of Chaparral Steel Co., located at or near Midlothian, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Fort Worth or Dallas, Tex.

No. MC 138741 (Sub-No. 35), filed August 22, 1977. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2006 North Broadway, Joliet, Ill. 60435. Applicant's attorney: Tom B. Kretsinger, 910 Brookfield Building, 101 West Eleventh Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *Roofing and building materials*, and materials used in the installation and application of such commodities (except commodities in bulk), from Franklin, Ohio, to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Nebraska, Oklahoma, Tennessee, and Wisconsin; and (2) *Materials, equipment and supplies* used in the manufacture, installation or application of roofing or building materials (except commodities in bulk), from points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Nebraska, Oklahoma, Tennessee, and Wisconsin, to Franklin, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 138875 (Sub-No. 59), filed August 26, 1977. Applicant: SHOEMAKER

TRUCKING CO., a corporation, 11900 Franklin Road, Boise, Idaho 83705. Applicant's representative: Frank L. Sigloh (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Materials and supplies used in the manufacture and distribution of hosiery* (except products in bulk in tank vehicles) from Patterson, N.J.; Siler City, Burlington, High Point and Hickory, N.C.; Louisville, Ky.; and Indianapolis, Ind., to the facilities of Kellwood Co. at or near Twin Falls, Idaho, restricted to transportation of traffic originating at named origin points and destined to named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 138882 (Sub-No. 14), filed August 23, 1977. Applicant: WILEY SANDERS, INC., P.O. Box 161, Troy, Ala. 36081. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wheel weights, materials, equipment and supplies* used in the manufacture and sale of wheel weights (except commodities in bulk), between the facilities of Bada Co., Inc., Division of Hennessey Industries Co., located at Bowling Green, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and (2) *Tire changers, jacks, tire balancers, materials, equipment and supplies* used in the manufacture and sale of tire changers, jacks, tire balancers (except commodities in bulk), between the facilities of Coats Co., Inc., Division of Hennessey Industries Co., located at Nashville, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), restricted in (1) and (2) above, to shipments having originated at or destined to named facilities.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Birmingham, Ala. or Nashville, Tenn.

No. MC 138941 (Sub-No. 23) (Correction), filed July 5, 1977, published in the FEDERAL REGISTER issue of August 18, 1977, and republished as corrected this issue. Applicant: COUNTRY WIDE TRUCK SERVICE, INC., 1110 South Reservoir, Pomona, Calif. 91766. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Kitchen accessories*, gum, gum and food dispensing machines, and exhibition equipment for same, from San Dimas, Calif., to points in the United States (except Alaska and Hawaii), (2) (a) *exhibition equipment* for kitchen accessories, gum, gum and food dispensing machines, (b) *materials and supplies* used in the manufacture of kitchen accessories, gum, gum and food dispensing machines, (c) *damaged, refused, rejected, or returned shipments* of kitchen accessories, gum, gum and

food dispensing machines, from points in the United States (except Alaska and Hawaii), to San Dimas, Calif., under a continuing contract, or contracts, with Knock On Wood Corp., located at Covina, Calif., restricted in (1) and (2) above against the transportation of commodities in bulk.

NOTE.—The purpose of this republication is to indicate the restriction against commodities in bulk and to exclude Alaska and Hawaii. If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif.

No. MC 139108 (Sub-No. 4), filed August 30, 1977. Applicant: METRO SALES CORP., 1921 W. 1st Street, P.O. Box 1961, Sanford, Fla. 32771. Applicant's representative: Theodore Polydoroff, 1250 Connecticut Avenue, Suite 600, Washington, D.C. 20036. Authority is sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Tires and tubes*, from Clarksdale, Miss.; Texarkana, Ark.; and Mansfield and Findlay, Ohio, to Sanford, Fla., restricted to service performed under a continuing contract with John Dickey, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Orlando, Fla.

No. MC 139206 (Sub-No. 2) (Amendment), filed August 11, 1977, published in the FEDERAL REGISTER issue of September 22, 1977, and republished, as amended, this issue. Applicant: F.M.S. TRANSPORTATION, INC., Box 1597, 2564 Harley Drive, Maryland Heights, Missouri 64043. Applicant's representative: E. Stephen Heasley, Suite 805, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought by applicant to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Textiles and textile products, chemicals, and materials, equipment, and supplies* used in the sale, manufacture, processing, production, and distribution of textiles and textile products and chemicals (except commodities in bulk), between Graniteville, S.C., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Chromalloy American Corporation.

NOTE.—(1) Applicant states it already holds contract carrier authority in No. MC 139206 to transport the identical commodities between Laredo, Brenham, Houston, and Arlington, Texas, Wellsville, Mo., and Johnson City, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Applicant states that it is a commonly-controlled contract carrier for and on behalf of Chromalloy American Corporation and that the purpose of this application is to extend its operations for its commonly-controlled contracting shipper. (2) Common control and dual operations may be involved. The purpose of this amendment is to change "from • • • to" movement to "between" radial movement. If a hearing is deemed necessary applicant requests that it be held at St. Louis, Mo.

No. MC 139206 (Sub-No. 5), filed August 31, 1977. Applicant: F. M. S. TRANSPORTATION, INC., Box 1597,

2564 Harley Drive, Maryland Heights, Missouri 64043. Applicant's representative: E. STEPHEN HEISLEY, Suite 805, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought by applicant to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Textiles and textile products, chemicals, and materials, equipment, and supplies* used in the sale, manufacture, processing, production, and distribution of textiles and textile products and chemicals (except commodities in bulk), between Boston, Mass., and Kearny, N.J., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Restriction: The authority granted herein is limited to a transportation service to be performed under a continuing contract or contracts with Chromalloy American Corporation.

NOTE.—(1) Applicant states that it already holds contract carrier authority in No. MC 139206 to transport the identical commodities between Laredo, Brenham, Houston, and Arlington, Tex., Wellsville, Mo., and Johnson City, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). Applicant states that it is a commonly controlled contract carrier for and on behalf of Chromalloy American Corporation and that the purpose of this application is to extend its operations for its commonly-controlled contracting shipper. (2) Common control may be involved. If a hearing is deemed necessary it is requested at St. Louis, Mo.

No. MC 139274 (Sub-No. 3), filed August 8, 1977. Applicant: THE DANIEL COMPANY OF SPRINGFIELD, 419 E. Kearney, Springfield, MO 65803. Applicant's representative: Turner White, 910 Plaza Towers, Springfield, MO 65804. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: (1) Materials, supplies, and equipment used in manufacturing, packaging, and distributing products of the R. T. French Company and the commodities manufactured or distributed by the R. T. French Company; and (2) exempt commodities moving in mixed loads with those in (1), between Springfield, Mo., on the one hand, and, on the other, points in California, under a continuing contract or contracts with the R. T. French Company, Rochester, N.Y., and restricted to traffic originating at or destined to be plant sites, storage, shipping and receiving facilities of the R. T. French Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, Mo.

No. MC 139298 (Sub-No. 2), filed August 29, 1977. Applicant: KEDNEY WAREHOUSE COMPANY (A Corporation), 4700 DeMers Avenue, Grand Forks, North Dakota 58201. Applicant's representative: Alan F. Wohlstetter, 1700 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Used household goods, restricted to the transportation of traffic having a prior or subsequent movement, in containers, and further restricted to the performance of pickup and delivery service in connection with

unpacking, uncrating and decontainerization of such traffic; between points in: packing, crating and containerization or Grand Forks, Walsh, Trall, Steele, Griggs, Nelson, Pembina, Cavalier, Ramsey, Eddy, and Foster Counties, N. Dak., and Polk, Marshall, Norman, Pennington, Kittson, Roseau, Red Lake, and Clearwater Counties, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Grand Forks, N. Dak.

No. MC 139420 (Sub-No. 20), filed August 26, 1977. Applicant: ART GREENBERG d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, North Dakota 58201. Applicant's representative: James B. Hovland, P.O. Box 1637, 414 Gate City Building, Fargo, North Dakota 58102. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Confectionery*, from Jackson, Minn., to Harrisburg, Pa., and San Francisco, Calif.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Minneapolis or St. Paul, Minn.

No. MC 139420 (Sub-No. 21), filed August 26, 1977. Applicant: ART GREENBERG d.b.a. GLACIER TRANSPORT, an individual, P.O. Box 428, Grand Forks, North Dakota 58201. Applicant's representative: James B. Hovland, P.O. Box 1637, 414 Gate City Building, Fargo, North Dakota 58102. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Agricultural commodity processing equipment and agricultural commodity processing machinery*, from Thief River Falls, Minn., to points in California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fargo, N. Dak., or Minneapolis, Minn.

No. MC 139495 (Sub-No. 258), filed August 17, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Adhesives, sealants, solvents, stains, wood preservatives, and accessories, equipment, materials, and supplies* used in the installation, maintenance, and distribution of floors, floor coverings, walls, and wall coverings, in vehicles equipped with mechanical refrigeration (1) from the facilities of Roberts Consolidated Industries, Inc. located at Dayton and Piqua, Ohio to points east of Montana, Wyoming, Colorado, and New Mexico; and (2) from the facilities of Roberts Consolidated Industries, Inc. at Kalamazoo, Mich. to the warehouse facilities of Roberts Consolidated Industries located at Huntington Valley, Pa.; Georgia and Waco, Tex.; Dayton and Piqua, Ohio; City of Industry and Monrovia, Calif. and Vancouver, Wash.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. Applicant holds contract carrier authority in No. MC 133106 and Subs thereunder, therefore dual operations may be involved.

No. MC 139495 (Sub-No. 259), filed August 17, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert A. Dubin, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Curtain rods, shelving, and bath accessories* from the plantsite and storage facilities of Kirsch Company at or near Sturgis, Mich. to points in Arizona, California, Colorado, Idaho, Kansas, Montana, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 133106 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 263), filed August 30, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Suite 10000, 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by retail, wholesale, and discount drug, food, and variety stores from the plantsite and storage facilities of Supreme Distributors Co., located at or near Detroit, Mich., to points in the United States (except Alaska and Hawaii).

NOTE.—Applicant holds contract carrier authority in MC 133106 and Subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139577 (Sub-No. 8), filed August 26, 1977. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, Friesland, Wis. 53935. Applicant's representative: Wayne W. Wilson, 329 West Wilson St., P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *canned goods* and prepared foodstuffs from Pickett, Wis. to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Madison or Milwaukee, Wis.

No. MC 139973 (Sub-No. 26), filed August 29, 1977. Applicant: J. H. WARE TRUCKING, INC., P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, and meat by-products, and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766* (except hides, skins, and commodities in bulk), from the facilities of Farmland Foods, Falls, Iowa, to points in Maine, Foods, Inc. at or near Crete, Nebr., and

Denison, Carroll, and Iowa Falls, Iowa, to points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, Massachusetts, New Jersey, New York, Delaware, Maryland, Pennsylvania, and the District of Columbia, restricted to traffic originating at the named origins and destined to points in the destination states.

NOTE.—Applicant holds motor contract carrier authority in MC-138375 and sub numbers thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Omaha, Nebr. or Kansas City, Mo.

No. MC 140612 (Sub-No. 34) (amendment), filed May 10, 1977, published in the FEDERAL REGISTER issue of June 16, 1977 as No. MC 138003 (Sub-No. 13), and republished as amended this issue. Applicant: ROBERT F. KAZIMOUK, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Appliances, furnaces and air conditioners, parts, materials, equipment and supplies* used in the manufacture thereof (except commodities in bulk), from the facilities of the Tappan Co., at or near Mansfield, Ohio, Nashville and Springfield, Tenn., Murray, Ky., Dalton, Ga., and Anaheim, Calif., to points in the United States in and West of Montana, Wyoming, Colorado, and New Mexico (except Alaska and Hawaii), and points in that part of Texas on and west of U.S. Highway 277, restricted to the transportation of traffic originating at the above named facilities and destined to the above named destinations.

NOTE.—The purpose of this republication is to amend applicant's territorial description, and to also indicate the change to common carrier authority in No. MC 140612 (Sub-No. 34), in lieu of contract carrier authority in No. MC 138003 (Sub-No. 13) as previously published. Applicant holds contract carrier authority in No. MC 138003 and other subs thereunder, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Mansfield, Ohio or Lincoln, Nebr.

No. MC 141361 (Sub-No. 4), filed August 17, 1977. Applicant: LONSBURG TRUCKING AND MATERIALS, INC., 545 Broadway, Platteville, Wis. 53818. Applicant's representative: A. R. Hanson, P.O. Box 1229, Madison, Wis. 53701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in dump vehicles (1) From Dubuque, Iowa to Platteville, Wis.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison, or Milwaukee, Wis. or Chicago, Ill.

No. MC 141804 (Sub-No. 74), filed August 23, 1977. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General*

commodities (except Class A and B explosives and commodities in bulk in tank vehicles), from International Airports located at Seattle, Wash.; San Francisco and Los Angeles, Calif. to Chicago, Ill., and New York City, N.Y., restricted to the transportation of traffic having an immediate, prior movement in foreign commerce by air.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif. or Nashville, Tenn. Common control may be involved.

No. MC 141878 (Sub-No. 4), filed August 29, 1977. Applicant: DIRECT COURIER, INC., 2780 S. Jefferson Davis Highway, Arlington, Va. 22202. Applicant's representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, Md. 20760. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sera, cell and tissue cultures, biological research products and equipment, laboratory equipment and apparatus, medical reagents, plasma and live laboratory animals*, between Montgomery and Frederick Counties, Md., and points in Virginia, on the one hand, and, on the other, points in North Carolina, South Carolina, and Georgia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 142114 (Sub-No. 2), filed August 15, 1977. Applicant: RETAIL EXPRESS, INC., 9 Stuart Road, Chelmsford, Mass. 01824. Applicant's attorney: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail department stores (except commodities in bulk), between facilities, stores, warehouses, consolidators and distribution centers of King's Department Stores, Inc., and its divisions and subsidiaries, between points in Connecticut, Indiana, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, North Carolina, Ohio, Pennsylvania, Tennessee and Virginia, under a continuing contract or contracts with Kings' Department Stores, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 142268 (Sub-No. 20), filed September 1, 1977. GORSKI BULK TRANSPORT, INC., R.R. No. 4, Harrow, Ontario, Canada NOR 1G0, William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority to engage in operation, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, in the transportation of: *Alcoholic beverages, wine, spirits, and alcohol*, in bulk, in tank vehicles, from (1) points on the international boundary line between the United States and Canada, located in Michigan, Minnesota, and New York, to Menlo Park, Calif.; (2) from points on the International Boundary line between the United States and Republic of Mex-

ico, located in Texas, to Hartford, Conn. Paducah, Ky.; Allen Park, Mich.; and Menlo Park, Calif.; (3) from Decatur, Ill., to Allen Park, Mich.; Hartford, Conn.; Paducah, Ky.; and Menlo Park, Calif.; and (4) from points in California, to Allen Park, Mich.; Hartford, Conn.; and Paducah, Ky.

NOTE.—If a hearing is deemed necessary the applicant requests that it be held at either Hartford, Conn., Detroit, Mich., or Washington, D.C.

No. MC 142485 (Sub-No. 2), filed August 26, 1977. Applicant: KENDRICK MOVING AND STORAGE, INC., P.O. Box 209, Lebanon, Ohio 45036. Applicant's representative: James M. Burtch, 100 East Broad Street, Columbus, Ohio 43215. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Roofing and building materials, and materials used in the installation and application of such commodities (except commodities in bulk), from Franklin, Ohio to points in Illinois, Indiana, Kentucky, Michigan, Pennsylvania, Tennessee, and West Virginia, and (2) Materials, equipment and supplies used in the manufacture, installation or application of roofing or building materials (except commodities in bulk), from points in Illinois, Indiana, Kentucky, Michigan, Pennsylvania, Tennessee, and West Virginia to Franklin, Ohio.

NOTE.—Applicant holds contract carrier authority in No. MC 136334, and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 142516 (Sub-No. 1), filed August 26, 1977. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Ave., South Kearny, N.J. 07032. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier* over irregular routes, transporting: *Brass and copper products*, from Kenilworth, N.J. to points in the United States (except Alaska and Hawaii), under continuing contract or contracts with Volco Brass & Copper Co., Kenilworth, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

No. MC 142848 (Sub-No. 3), filed August 25, 1977. Applicant: JAMES R. POSHARD AND SON, INC., P.O. Box 69, Mt. Vernon, Ind. 47620. Applicant's representative: Norman R. Garvin, 815 Merchants Bank Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal* (1) from Franklin, Gallatin, Hamilton, Hardin, Jackson, Jefferson, Johnson, Marion, Pope, Saline, Union, and Williamson Counties, Ill.; and (2) from points in Kentucky on and west of U.S. Highway 31E to Gibson, Knox, and Vigo Counties, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 142887 (Sub-No. 1), filed August 29, 1977. Applicant: NEW ENGLAND BULK TERMINAL, INC., 390 Southbridge Street, Worcester, Mass. 01610. Applicant's representative: Francis P. Barrett, 60 Adams Street, Milton, Mass. 02187. Authority sought: To operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Plastic, dry, in bulk, in tank vehicles, from Worcester and Leominster, Mass., to points in Maine, New Hampshire, Vermont, Rhode Island, Connecticut, New York, New Jersey, Delaware, Maryland, Virginia, Pennsylvania.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass.

No. MC 143143 (Sub-No. 1), filed August 26, 1977. Applicant: RICHARD L. HODGES, INC., P.O. Box 141, Unity, Maine 04988. Applicant's representative: Peter L. Murray, 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *contract carrier* by motor vehicle, over irregular routes, transporting: *Frozen potato products and frozen vegetables*, from plantsite of Penobscot Frozen Foods, Inc., at Belfast, Maine, to points in Alabama, Florida, Georgia, Louisiana, North Carolina, South Carolina, Tennessee, and Texas, under a continuing contract or contracts with Penobscot Frozen Foods, Inc.

NOTE.—Applicant holds common carrier authority in MC 141516 Sub 1, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Portland, Maine, or Boston, Mass.

No. MC 143276 (Sub-No. 4), filed August 15, 1977. Applicant: WEAVER TRANSPORTATION CO., (a corporation), 5452 Oakdale Road, Smyrna, Ga. 30080. Applicant's representative: James L. Brazee, Jr., 2310 Parklake Drive NE, Suite 190, Atlanta, Ga. 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing asphalt* in barrels, drums, or packages, in flat bed trailers with removable sides, from the plant site of Trumbull Asphalt Co., located in Atlanta (Fulton County), Ga., to points in North Carolina, South Carolina, Tennessee, and Alabama.

NOTE.—Applicant holds motor contract carrier authority in No. MC 135687 (Sub-Nos. 1 and 2), therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 143357 (Sub-No. 2), filed August 15, 1977. Applicant: STANLEY BYBEE, doing business as WESTERN APPLICATORS, P.O. Box 2361, Nyssa, Ore. 97913. Representative: Steven J. Pierce, 14 South Second Street, Nyssa, Ore. 97913. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Beer, malt beverages, carbonated beverages, wine, and wine beverages*; and (2) *containers, cartons, bottles, can openers, and related advertising and display matter* in mixed loads with the commo-

ditities named in (1) above, (a) from points in California, to points in Ada, Canyon and Payette counties, Idaho; and LaGrande, Nyssa and Ontario, Ore.; and points in their respective commercial zones; (b) from points in Washington, to points in Oregon and Idaho; and (c) from points in Wisconsin, to points in Oregon and Idaho.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boise, Idaho.

No. MC 143369 (Sub-No. 1), filed: August 22, 1977. Applicant: ON-A-WAY TRUCKING, INC., Route 3, Box 426C, Molalla, Ore. 97038. Applicant's representative: John A. Anderson, Suite 1440, 200 Market Building, Portland, Ore. 97201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *wood-chips and hog fuel*, from points in Clatsop, Columbia, Tillamook, Washington, Yamhill, Multnomah, Clackamas, Marion, Polk, Lincoln, Benton, Linn, and Lane Counties, Oregon, to Longview, Washington, under a continuing contract or contracts with Wilson, Wilson & Wilson, located at Lyons, Ore.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Ore.

No. MC 143424 (Sub-No. 2), filed August 29, 1977. Applicant: AAA MOVING & STORAGE CO., INC., 2414 University Blvd., Tuscaloosa, Ala. 35401. Applicant's representative: J. Douglas Harris, 1426 Union Bank Towers, Montgomery, Ala. 35104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used Household goods*, between points in Bibb, Blount, Cullman, Fayette, Jefferson, Lamar, Marion, Pickens, Shelby, Tuscaloosa, Walker, Calhoun and Winston County, Ala., restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Montgomery or Birmingham, Ala., or Atlanta, Ga. Common control may be involved.

No. MC 143436 (Sub-No. 3) filed August 30, 1977. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Rd., Indianapolis, Ind. 46227. Applicant's representative: Stephen M. Gentry, 1500 Main St., Speedway, Ind. 46224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionary items* in vehicles equipped with mechanical refrigeration from the plantsite and storage facilities of Peter Paul, Inc., located at or near Frankfort, Indiana to points in Illinois, Kentucky, Michigan and Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Indianapolis, Ind., or Chicago, Ill.

No. MC 143442 (Sub-No. 2), filed August 30, 1977. Applicant: CARL E. PARNELL, 418 West 8th Street, Belvidere, Ill. 61008. Applicant's representative: Abraham A. Diamond, 29 South LaSalle St., Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Raw cream, ice cream mix, non-dairy cream substitutes, whey and yogurt*, in tank vehicles in bulk only, between points in Illinois, on the one hand, and, on the other, points in Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Chicago, Ill.

No. MC 143571, filed August 4, 1977. Applicant: VILLA FONTANA TRANSPORT CO., INC., 1814 Cedar Ave., Bronx, N.Y. 10453. Applicant's representative: Irving J. Panzer, 800 Grand Concourse, Bronx, N.Y. 10451. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods, office furniture and office machines*, (1) from the storage facilities utilized by Villa Fontana Transport Co., Inc., located at or near Springfield, Mass., Hartford, Conn., and Hoboken, N.J. to the storage facility utilized by Villa Fontana Transport Co., Inc. at or near New York, N.Y.; (2) from the storage facility utilized by Villa Fontana Transport Co., Inc. located at or near New York, N.Y. to points in New York, traffic restricted to a subsequent movement by water; and (3) from the storage facilities utilized by Villa Fontana Transport Co., Inc. located at New York City, N.Y. to the storage facility used by Villa Fontana Transport Co., Inc., located at or near Miami, Fla. Restriction: Restricted to the performance of pickup and delivery service in connection with the packing, crating and containerization or unpacking, uncrating and decontainerization of such shipments in (1), (2) and (3) above.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York City, N.Y.

No. MC 143580, filed August 8, 1977. Applicant: FREIGHT SYSTEMS, INC., 2888 El Presidio St., Carson, Calif. 90810. Applicant's representative: Savery L. Nash, 800 Wilshire Blvd., Suite 700, Los Angeles, Calif. 90017. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *magazines and printed material* from Los Angeles County, California to points in California, and Las Vegas and Reno, Nevada under a continuing contract, or contracts, with Select Magazines, Incorporated; and Seventeen Magazine, Triangle Publications, Inc.

NOTE.—Applicant states it holds no interstate authority at the present time. If a hearing is deemed necessary, applicant requests that it be held at Los Angeles, California, Las Vegas, Nevada or San Francisco, California.

No. MC 143598, filed August 15, 1977. Applicant: WILLIAM M. SEWARD,

d.b.a. EUCLID'S SERVICE, 3404 Watling, East Chicago, Ind. 46312. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wrecked and disabled and replacement vehicles*, for wrecker or tow truck service, between points in Lake County, Ind., on the one hand, and on the other, points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

Docket No. MC 143616 (Sub-No. 1), filed August 26, 1977. Applicant: MADDOX AND STARLING TRUCK BROKERS, INC., P.O. Box 368, Sultana, Calif. 93666. Applicant's representative: Harry C. Ames, Jr., Suite 805, 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Envelopes and Paper Products*, from New York, N.Y., to Dallas, Texas, Phoenix, Ariz., and San Diego, Calif., under a continuing contract or contracts with Accurate Envelope Company.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at New York, N.Y.

No. MC 143631, filed August 19, 1977. Applicant: Robert L. Curtis, d.b.a. CURTIS TRANSPORTS, P.O. Box 2464, Jackson, Tenn. 38301. Applicant's representative: James N. Clay, III, 2700 Sterick Bldg., Memphis, Tenn. 38103. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Jackson, Tenn., and Humboldt, Tenn., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points: From Jackson over U.S. Highway 45 to junction with U.S. Highway 45W, thence over U.S. Highway 45W to Humboldt, and return over the same route; (2) Between Jackson, Tenn., and Milan, Tenn., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operation, serving no intermediate points: From Jackson over U.S. Highway 45 to junction with U.S. Highway 45E and thence over U.S. Highway 45E to Milan, and return over the same route; (3) Between Jackson, Tenn., and junction Tennessee Highway 20 and Alternate U.S. Highway 70 near Bells, Tenn., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points: From Jackson over Tennessee Highway 20 to junction with Alternate U.S. Highway 70, and return over the same route; (4) Be-

tween Jackson, Tenn., and Nashville, Tenn., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operation, serving no intermediate points: From Jackson over Interstate Highway 40 to Nashville, Tenn., and return over the same route; (5) Between Jackson, Tenn., and Memphis, Tenn., as an alternate route for operating convenience only in connection with carrier's otherwise authorized regular-route operations, serving no intermediate points: From Jackson over Interstate Highway 40 to Memphis, Tenn., and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Memphis or Nashville, Tenn.

No. MC 143635, filed August 22, 1977. Applicant: VETZEL MOVING & STORAGE, INC., 103 N. 12th Street, Tampa, Fla. 33602. Applicant's representative: Robert J. Gallagher, 1000 Connecticut Ave., NW., Suite 1200, Washington, D.C. 20036. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of Used Household Goods, as defined by the Commission, restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic: Between points in the counties of Hillsborough, Pinellas, Pasco, Manatee, Hardee, Sarasota, De Soto, Polk, Charlotte, Glades, and Highlands, Florida.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Tampa, Florida, however, modified procedure is requested.

No. MC 143637, filed August 23, 1977. Applicant: Ronald L. Crosscut, d.b.a. L. W. CROSSCUT, R.D. No. 4, Corry, Pa. 16407. Applicant's representative: Richard L. Nygaard, 33 East Main St., North East, Pa. 16428. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Construction and earth-moving equipment*, including bulldozers, tractors and rubber-tired loaders, (1) from points in New York, Pennsylvania, Ohio, Massachusetts, Indiana, Illinois, New Jersey, New Hampshire, Rhode Island, Vermont, Connecticut, Michigan, Wisconsin, Virginia, West Virginia, Maryland, Delaware, Tennessee, and Kentucky to the warehouse and distribution facility of Nuttall Equipment Company, Inc., located at Sherman, N.Y.; and (2) from the destination named in (1) above, to points in New York, and Pennsylvania, under a continuing contract, or contracts, with the Nuttall Equipment Company, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Erie or Pittsburgh, Pa., or Buffalo, N.Y.

No. MC 143642, filed August 23, 1977. Applicant: J. A. K. LEASING, INC., P.O. Box 1323, Bellingham, Wash. 98225.

Applicant's representative: George Kariganis, 2120 Pacific Bldg., Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer, malt beverages and wine* from points in California to points in Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Washington.

No. MC 143643, filed August 26, 1977. Applicant: C. E. PRICE, JR., P.O. Box 23, Berryville, Va. 22611. Applicant's representative: James W. Lawson, 843 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Baskets, wire bound boxes, pallets, pallet boxes, and skids, and materials, equipment, and supplies* used in the manufacturing, sale, and distribution thereof, between Berryville, Va., on the one hand, and on the other, points in Alabama, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia, West Virginia, and Wisconsin, under a continuing contract or contracts with Smalley Package, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C., or Winchester, Va.

No. MC 143650 (Sub-No. 1), filed August 26, 1977. Applicant: RAPID DAIRY TRANSPORT, INC., 1745 Torrington West Street, Torrington, Connecticut 06790. Applicant's representative: Hugh M. Joseloff, 80 State Street, Hartford, Connecticut 06103. Authority sought to operate as a *contract carrier* by motor vehicle over irregular routes, transporting: *Liquid industrial waste* in bulk in tank trucks and in barrels or drums, from points in New York, Massachusetts, New Hampshire, Vermont, Rhode Island, Maine, Pennsylvania, and New Jersey, to points in Connecticut, under a continuing contract or contracts with Liqwacon Corporation.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Hartford, Conn., or Boston, Mass.

No. 143651, filed August 26, 1977. Applicant: BLACKHAWK EXPRESS, INC., P.O. Box 705, Lake View, Iowa 51450. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pressure sensitive tape, tape, tape products, and materials, equipment, and supplies* used in the manufacture of pressure sensitive tape, tape, and tape products, from (1) Beacon, N.Y., to Carbondale, Ill., and points in Arizona, California, Nevada, Oregon, and Washington; (2) from Carbondale, Ill., to points in Arizona, California, Nevada, Oregon, and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Washington, D.C., or New York, N.Y.

No. MC 143713, filed September 15, 1977. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION OF ILLINOIS, R.F.D. 8, 37 Forest Ridge, Springfield, Illinois 62707. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebraska 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) (1) Agricultural implements and parts and accessories, from the plantsite and facilities of Dunbar Kapple, Inc., located at Batavia, Ill., to points in Alabama, Arizona, California, Indiana, Iowa, Louisiana, Maine, Montana, Mississippi, Michigan, Nebraska, New Jersey, New York, North Dakota, Ohio, Oregon, Pennsylvania, South Carolina, Texas, Virginia, Washington, Kansas, Maryland, and Minnesota; (2) materials and supplies used in the manufacture of agricultural implements, parts and accessories, from points in Louisiana, Mississippi, North Dakota, and Indiana, to the facilities of Dunbar Kapple, Inc., located at Batavia, Ill.; and (3) damaged or defective agricultural equipment, from the destination States named in (1) above to the facilities of Dunbar Kapple, Inc., located at Batavia, Ill. Restricted in parts (1), (2), and (3) above to traffic originating at the named origins and destined to points in the named destination States. (B) Farm buildings, accessories, and equipment, between the facilities of H & W Systems located at Fairbury, Ill., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, New Jersey, New York, North Carolina, South Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. Restricted to traffic originating at the named origin and destined to points in the named destination States. (C) Farm buildings and accessories and equipment, between the facilities of Lyle Honegger Sales located at Fairbury, Ill., on the one hand, and, on the other, points in Alabama, Arkansas, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Missouri, New Jersey, New York, North Carolina, South Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. Restricted to traffic originating at the named origin and destined to points in the named destination States. (D) (1) Farm buildings and accessories, from the plantsite and facilities of Huskee-Bilt Construction Co. located at Monmouth, Ill., to points in Arizona, Colorado, Georgia, Florida, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Maine, Minnesota, Missouri, Nebraska, New Jersey, New York, North Dakota, South Dakota, Ohio, Pennsylvania, Oklahoma, Wisconsin, Tennessee, Texas, Virginia, and Mississippi; (2) materials and supplies used in the manufacture and construction of

farm buildings, from points in Indiana, Iowa, Missouri, Wisconsin, Ohio, Michigan, Alabama, Oregon, Idaho, Colorado, Wyoming, Utah, and Nebraska, to the facilities of Huskee-Bilt Construction Co. located at Monmouth, Ill.; and (3) damaged or defective farm buildings or parts thereof, from points in the destination States named in part (1) above to the facilities of Huskee-Bilt Construction Co. located at Monmouth, Ill. Restricted in parts (1), (2), and (3) above to traffic originating at the named origins and destined to points in the named destination States.

(E) (1) Agricultural equipment, implements, machinery, supplies, parts, and accessories between the facilities of Tractor Supply Co. located at Indianapolis, Ind., and Omaha, Nebr., on the one hand, and, on the other, points in Arizona, Arkansas, Colorado, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, New York, North Dakota, South Dakota, Ohio, Pennsylvania, Oklahoma, Wisconsin, Tennessee, Texas, and Mississippi; and (2) damaged or defective agricultural equipment, implements, machinery, supplies, and parts and accessories from points in the destination States named in part (1) above to the facilities of Tractor Supply Co. located at Indianapolis, Ind., and Omaha, Nebr. Restricted in parts (1) and (2) to traffic originating at the named origins and destined to points in the named States.

(F) Feed lot equipment and supplies, from points in Ohio, Indiana, and Tennessee, to the facilities of Robert C. Thompson Feed Store located at or near Monmouth, Ill. Restricted to traffic originating at the named origins and destined to the named destination point.

(G) Used agricultural implements, from points in Kentucky, Minnesota, Indiana, Ohio, Iowa, Missouri, Wisconsin, Nebraska, Kansas, Michigan, and Tennessee to Henderson Farms at or near Aledo, Ill. Restricted to traffic originating at the named origins and destined to the named destination point.

(H) Metal buildings and materials used in the construction of metal buildings, from points in Indiana to points in Illinois and Iowa, moving on bills of lading of Deane Frye, Inc., Aledo, Ill. Restricted to traffic originating at the named origin and destined to points in the named destination States.

(I) (1) Agricultural irrigation equipment, parts, and accessories, from the plantsite and storage facility of Ag-Rain, Inc., located at Havana, Ill., to points in Alabama, Colorado, Florida, Georgia, Indiana, Iowa, Kansas, Kentucky, Michigan, Missouri, Montana, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Wisconsin, California, Utah, Minnesota, Tennessee, Arkansas, and South Carolina; (2) materials and supplies used in the manufacture of irrigation equipment and parts, from points in Florida, Georgia, Indiana, Michigan, Texas, Wisconsin, and Maryland, to Havana, Ill.; and (3) damaged or defective agricultural irri-

gation systems, from points in the destination States named in (1) above to the facilities of Ag-Rain, Inc. located at Havana, Ill. Restricted in parts (1), (2), and (3) above to traffic originating at the named origins and destined to points in the named destination States.

(J) Farm equipment and farm implements, from points in Nebraska and Iowa to the facilities of Stahl Implements located at Mt. Pulaski, Ill. Restricted to traffic originating at the named origins and destined to the named destination point.

(K) Agricultural buildings and building materials, from the facilities of Tazewell Builders located at or near Tremont, Ill., to points in Iowa, Indiana, and Missouri. Restricted to traffic originating at the named origin and destined to points in the named destination States.

(L) (1) Agricultural implements from the facilities of Clay Equipment Co. located at Cedar Falls, Iowa, and Morton, Ill., to points in Iowa, Illinois, South Carolina, Wisconsin, Missouri, Georgia, Nebraska, Kansas, Kentucky, Tennessee, Michigan, Minnesota, North Carolina, and Ohio; (2) materials and supplies used in the manufacture of agricultural implements from points in Iowa, Illinois, and Missouri to the facilities of Clay Equipment Co. located at Cedar Falls, Iowa, and Morton, Ill.; and (3) damaged or defective agricultural implements from points in the destination States named in part (1) above to the facilities of Clay Equipment Co. located at Cedar Falls, Iowa, and Morton, Ill. Restricted in parts (1), (2), and (3) above to traffic originating at the named origins and destined to points in the named destination States.

(M) Agricultural equipment, from the facilities of Woll Implement Company located at San Jose, Ill., to points in Indiana, Iowa, Wisconsin, and Pennsylvania. Restricted to traffic originating at the named origin and destined to points in the named destination States.

(N) (1) Farm mowers, from the plant site and facility of Bachtold Brothers located at Forrest, Ill., to points in Indiana, Iowa, Wisconsin, Minnesota, Michigan, Kentucky, and Tennessee; and (2) materials and supplies used in the manufacturing of mowers, from Milwaukee and Kohlar, Wis., to Forrest, Ill. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named States.

(O) (1) Farm buildings, farm machinery, and supplies, from the facilities of United Agri-Services, Inc., located at Chenoa, Fairbury, Forrest, and Gridley, Ill., to points in Indiana, Iowa, Missouri, Wisconsin, Kentucky, Minnesota, Michigan, Ohio, Nebraska, South Dakota, Kansas, Tennessee, Arkansas, and Mississippi; and (2) materials used in the manufacture of farm buildings, from points in Indiana, Iowa, Missouri, Wisconsin, Kentucky, Minnesota, Michigan, Ohio, Nebraska, South Dakota, Tennessee, Arkansas, Mississippi, North Carolina, Georgia, Texas, Oklahoma, Pennsylvania, New York, New Jersey, Wash-

ington, Oregon, California, Utah, Montana, and Wyoming, to points in Chenoa, Fairbury, Forrest, and Gridley, Ill. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination States.

(P) (1) Machinery, parts, and accessories, from the facilities of Yetter Manufacturing Co. located at Colchester, Ill., to points in Ohio, Indiana, Michigan, Wisconsin, Missouri, Iowa, Minnesota, Alabama, Kentucky, North Carolina, South Carolina, Louisiana, Georgia, Tennessee, Texas, and Mississippi; and (2) damaged or defective machinery parts and accessories from points in the destination States named in (1) above to the facilities of Yetter Manufacturing Co. located at Colchester, Ill. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination States.

(Q) (1) Agricultural equipment, parts, and accessories, from the facilities of Painter Farm Equipment located at Monmouth, Ill., to points in Ohio, Missouri, and Iowa; and (2) agricultural equipment, parts, and accessories, from points in Missouri, North Dakota, Minnesota, Iowa, Wisconsin, and Pennsylvania, to the facilities of Painter Farm Equipment located at Monmouth, Ill. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination States.

(R) (1) Agricultural equipment, parts, and accessories, from the facilities of Mount Pleasant Ford Sales located at Mount Pleasant, Iowa, to points in Ohio and Missouri; and (2) agricultural equipment, parts, and accessories, from points in Michigan, Missouri, North Dakota, Minnesota, Wisconsin, Indiana, and Pennsylvania to the facilities of Mount Pleasant Ford Sales located at Mount Pleasant, Iowa. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination States.

(S) Fertilizer equipment, parts, and accessories, from Wilmar, Minn., to points in Illinois and Indiana. Restricted to traffic originating at the named origin and destined to points in the named destination States.

(T) (1) Agricultural implements, parts and accessories, from the facilities of M & W Gear located at Gibson City, Ill., to points in Georgia, Indiana, Iowa, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Tennessee, Texas, Wisconsin, Colorado, Kansas, North Carolina, Pennsylvania, Louisiana, South Dakota, North Dakota, Mississippi, Arkansas, Montana, Arizona, Kentucky, Washington, New Jersey, Maryland, and California; (2) materials and supplies used in the manufacture of agricultural implements, parts, and accessories, from points in Iowa to the facilities of M & W Gear located at Gibson City, Ill.; (3) damaged or defective agricultural implements, from the destination States named in part (1) to the facilities of M & W Gear located at Gibson City, Ill.;

and (4) materials and supplies, agricultural implements, parts, and accessories, from the facilities of M & W Gear Co. located at Des Moines, Iowa, to points in Missouri, Nebraska, North Dakota, South Dakota, Minnesota, Montana, Arizona, Texas, and Utah, including California. Restricted in parts (1), (2), (3), and (4) above to traffic originating at the named origins and destined to points in the named destination States.

(U) (1) Agricultural equipment and parts, from the plantsite and facilities of DMI, Inc., located at Goodfield, Ill., to points in Alabama, Arkansas, California, Georgia, Florida, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Washington, and Wisconsin; (2) materials and supplies, used in the manufacture of agricultural equipment, from points in Alabama, Arkansas, California, Georgia, Florida, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New York, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Wisconsin, and Wisconsin to the facilities of DMI, Inc., of Goodfield, Ill.; and (3) damaged or defective agricultural equipment or parts thereof, from points in the destination States named in part (1) above to the facilities of DMI, Inc., located at Goodfield, Ill. Restricted in parts (1), (2), and (3) above to traffic originating at the named origins and destined to points in the named destination States.

(V) (1) Agricultural implements, parts, and accessories, from the plantsite and facilities of Avco-New Idea Corp., located at Coldwater, Ohio, to points in Illinois, Indiana, Wisconsin, Iowa, and Missouri; and (2) damaged or defective agricultural implements and parts, from points in the destination States named in part (1) above to the facilities of Avco-New Idea Corp., located at Coldwater, Ohio. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination States.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Springfield, or Chicago, Ill.

No. MC 143713 (Sub-No. 1), filed: September 15, 1977. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION OF ILLINOIS, R.F.D. 8, 37 Forest Ridge, Springfield, Ill. 62707. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (A) Feed and feed ingredients, except in bulk, in tank vehicles, (1) from the facilities of Kane Molass Labs, Inc., located at Mt. Pulaski, Ill., to points in Georgia, Indiana, Iowa, Kentucky, Louisiana, Missouri, Ohio, Virginia, Wisconsin, and Pennsylvania; and (2) from points in

Ohio to the facilities of Kane Molass Labs, Inc., located at Mt. Pulaski, Ill. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination States. (B) (1) Feed and feed ingredients, from the facilities of Wells Div./National Pet Foods Co., located at Monmouth, Ill., and Springfield, Tenn., to points in Alabama, Colorado, Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Pennsylvania, Maryland, New Mexico, Nebraska, Ohio, Tennessee, Virginia, and Wisconsin; (2) materials and supplies used in the manufacture and distribution of feed and feed ingredients and defective or damaged feed, and pallets, from points in Wisconsin, Illinois, Indiana, Iowa, Minnesota, Tennessee, and Ohio, to the facilities of Wells Div./National Pet Foods Co. located at Monmouth, Ill., and Springfield, Tenn.; and (3) equipment used in the manufacture of feed and feed ingredients, from Ohio, Tennessee, and Indiana, to the facilities of Wells Div./National Pet Foods Co. located at Monmouth, Ill. Restricted in parts (1), (2), and (3) above to traffic originating at the named origins and destined to points in the named destination States. (C) Fertilizer, from points in Indiana, Iowa, Missouri, and Wisconsin, to the facility of Boney Farm Store located at Aledo, Ill. Restricted to traffic originating at the named origins and destined to the named destination point.

(D) Feed, seeds, hog houses, hog feeders, and fertilizer, from points in Wisconsin, Iowa, Missouri, Indiana, and Ohio to the facilities of Joy Feed Mill located at Joy, Ill. Restricted to traffic originating at the named origins and destined to the named destination point.

(E) Feed and seeds, from points in Wisconsin, Iowa, and Missouri, to the facilities of Farmer's Grain & Coal Co. located at Aledo, Ill. Restricted to traffic originating at the named origins and destined to the named destination point. (F) Animal and poultry feeds and ingredients thereof, from the facilities of Murphy Products Co., Inc., located at Burlington, Wis., to points in Illinois, Missouri, and Iowa. Restricted to traffic originating at the named origin and destined to points in the named destination States. (G) Chemicals, in drums and bags, (1) from the facilities of Fisher-Calo Chemical Co. located at Chicago, Ill., to points in Indiana, Michigan, Wisconsin, Ohio, and Iowa; and (2) from points in Delaware, Indiana, Maryland, Minnesota, Florida, New Jersey, New York, Pennsylvania, Tennessee, and Virginia, to the facilities of Fisher-Calo Chemical Co. located at Chicago, Ill., and Kingsbury, Ind. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination States. (H) Feed and feed ingredients, bags, and equipment and supplies used in the manufacture of feed and feed ingredients, between the facilities of Honegger and Co. located at Fairbury, Ill., on the one hand, and, on the other, points in Alabama, Arkansas, Georgia, Indiana, Iowa, Kansas, Kentucky, Maryland, Minnesota, Missouri,

New Jersey, New York, North Carolina, South Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. Restricted to traffic originating at the named origin and destined to points in the named destination states.

(I) (1) *Agricultural chemicals, feed, feed ingredients, and fertilizer*, between the facilities of Diamond Shamrock Corp. located at Van Buren, Ark., Fresno, Calif., Franklin Park, Ill., Louisville, Ky., St. Louis, Mo., Harrison, N.J., and Des Moines, Iowa, on the one hand, and, on the other, points in the United States (except Alaska, Hawaii, Idaho, Montana, Nevada, and Wyoming); and (2) *Flavoring syrups, beverage preparations, stabilizers and emulsifiers, dry or liquid, chemicals, n.o.i., and cocoa powders*, between the facilities of Diamond Shamrock Corp. located at St. Louis, Mo., on the one hand, and, on the other, points in the United States (except Alaska, Hawaii, Idaho, Montana, Nevada, and Wyoming). Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination states. (J) (1) *Feed and feed ingredients*, from the facilities of Super Sweet Feeds located at Monmouth, Ill., to points in Missouri and Iowa; and (2) *damaged and defective feed bags and ingredients*, from points in Iowa and Missouri, to the facilities of Super Sweet Feed located at Monmouth, Ill. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination states. (K) (1) *Potash*, from Colfax, Byron, and Jerseyville, Ill., to points in Indiana, Illinois, Wisconsin, and Missouri; and (2) *liquid fertilizer*, from Lemont, Havana, Peoria, and Marseilles, Ill., Reynolds, Ind., and Dubuque, Iowa, to points in Illinois, Indiana, and Wisconsin. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination states. (L) (1) *Agricultural chemicals and equipment*, from the facilities of Heartland Chemicals, Inc., located at Farmer City, Ill., to points in Iowa, Minnesota, Nebraska, Wisconsin, Kentucky, Missouri, Indiana, Michigan, and Ohio; and (2) *Agricultural chemicals and equipment*, from points in Iowa, Nebraska, Minnesota, Indiana, Michigan, Georgia, and Kentucky, to the facilities of Heartland Chemicals, Inc., located at Farmer City, Ill. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Springfield, Ill., or Chicago, Ill.

No. MC 143713 (Sub-No. 2), filed: September 15, 1977. Applicant: AGRICULTURAL TRANSPORTATION ASSOCIATION OF ILLINOIS, R.F.D. 8, 37 Forest Ridge, Springfield, Ill. 62707. Applicant's representative: Arlyn L. Westergren, Suite 530, Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a common carrier, by motor vehicle, over

irregular routes, transporting: (A) (1) *Cheese containers, bean pots, and stoneware*, from the facility of Western Stoneware located at Monmouth, Ill., to points in Michigan, Missouri, Virginia, Iowa, Minnesota, Kentucky, and Wisconsin; and (2) *empty cartons, pallets, and gas-kets, and materials and supplies used in the manufacture of stoneware*, from points in Iowa, Minnesota, Ohio, Kansas, Indiana, Michigan, Missouri, Virginia, and Wisconsin to Monmouth, Ill. Restricted in parts (1) and (2) to traffic originating at the named origins and destined to points in the named destination states. (B) (1) *Meats, meat products, meat byproducts and articles distributed by meat packinghouses* (except hides and commodities in bulk). (a) From the plant sites and storage facilities of Wilson Foods Corp., located at Monmouth, Ill., Albert Lea, Minn., Cherokee, Des Moines, and Cedar Rapids, Iowa, Marshall, Mo., and Logansport, Ind., to points in the United States (except Alaska, Arizona, Hawaii, California, Idaho, Montana, New Mexico, Utah, Washington, and Wyoming); and (b) from the storage facilities of Wilson Foods Corp., located at Dubuque, Iowa, Chicago and East Peoria, Ill., and Fairmont, Minn., to points in the United States (except Alaska, Arizona, Hawaii, California, Idaho, Montana, New Mexico, Utah, Washington, and Wyoming); and (2) *rejected shipments of meat and packinghouse products*, from the destination states named in parts 1 (a) and (b) above to the origins named in parts 1 (a) and (b) above. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination states.

(C) (1) *Canned goods*, from the facilities of Joan of Arc Co., located at St. Francisville, and Hessemer, La., Hooperston and Princeville, Ill., Maysville, Wis., and Turkey, N.C., to points in the United States (except Alaska, Hawaii, Idaho, Montana, Nevada, New Hampshire, Oregon, Utah, Vermont, Washington, and Wyoming); and (2) *empty cans, boxes, pallets, skids, starch, seasonings, and labels*, from the destinations named in part (1) above to the origins named in part (1) above. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination states. (D) (1) *Food seasonings, flour and meat binders, and food processing ingredients*, from the facilities of B. Heller and Co., located at Chicago and Decatur, Ill., and Mantiowac, Wis., to points in Arkansas, Colorado, California, Delaware, Florida, Georgia, Illinois, Louisiana, Michigan, Minnesota, Missouri, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Pennsylvania, Tennessee, Texas, Virginia, and Wisconsin; and (2) *food seasonings, flour fillers, and food ingredients*, from points in Delaware, Kansas, Georgia, New Jersey, New Mexico, North Carolina, Oklahoma, Texas, Virginia, and Wisconsin to the facilities of B. Heller and Co., located at Chicago and Decatur, Ill., and Mantiowac, Wis. Restricted in parts (1) and (2) above to

traffic originating at the named origins and destined to points in the named destination states. (E) (1) *Cheese*, from the facilities of Fisher Cheese Co., located at Wapokoneta, Ohio, and Artesia, Calif., to points in Alabama, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Michigan, Mississippi, Missouri, Nebraska, New Jersey, New Mexico, New York, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Utah, Virginia, Wisconsin, and the District of Columbia; and (2) *dairy products, powdered milk, starch, cheese casings, barrels, and cartons*, from points in Alabama, Arizona, Arkansas, Colorado, California, Illinois, Indiana, Iowa, Kansas, Kentucky, Minnesota, Missouri, Nebraska, New York, New Jersey, North Dakota, South Dakota, Ohio, Tennessee, and Wisconsin to the facilities of Fisher Cheese Co., located at Wapokoneta, Ohio, and Artesia, Calif. Restricted in parts (1) and (2) above to traffic originating at the named origins and destined to points in the named destination states.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Springfield, Ill., or Chicago, Ill.

FINANCE APPLICATIONS NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers, or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this Federal Register notice. Such protests shall comply with Special Rules 240 (c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13316. Authority sought for purchase and consolidation by BAKER HI-WAY EXPRESS, INC., P.O. Box 506, 555 Commercial Parkway, Dover, Ohio 44622, of the operating rights and properties of Watkins Trucking, Inc., 203-207 Trenton Avenue, Uhrichsville, Ohio 44683, and for acquisition individually by Harold Baker, Sr., Stone Creek, Ohio, of control of such rights. Applicant's representative: Richard H. Brandon, 220 West Bridge Street, P.O. Box 97, Dublin, Ohio 43017. Operating rights to be transferred: *Clay products*, as a common carrier, over irregular routes, from Uhrichsville, Ohio, and points within three miles thereof, and from points in Jefferson County, Ohio, to points in that part of New York on and south of New York Highway 12F beginning at Black River Bay and extending to Watertown, N.Y., on and west of U.S. Highway 11 from Watertown, N.Y., to junction of

New York Highway 57 at Syracuse, N.Y., and east of New York Highway 57 from Syracuse, N.Y., to Oswego, N.Y., and that part of New York on and south of U.S. Highway 20 from the New York-Massachusetts State line to junction U.S. Highway 11, and east of U.S. Highway 11 from junction U.S. Highway 20 to the New York-Pennsylvania State line, points in New Jersey, Delaware, Virginia, Maryland, that part of West Virginia east of U.S. Highway 219 from the West Virginia-Maryland State line to junction U.S. Highway 60 and north of U.S. Highway 60 from junction U.S. Highway 219 to the West Virginia-Virginia State line, Kentucky (except points in Boyd, Greenup, Mason, Campbell, Kenton, Boone, and Jefferson Counties, Ky.), St. Louis, Mo., and points in St. Louis County, Mo., and the District of Columbia; and *pallets and lumber* used in connection with the manufacture or shipment of clay products, from points in the destination territory described immediately above, to Uhrichsville, Ohio, and points within three miles thereof, and points in Jefferson County, Ohio.

Fire clay and clay products, from Uhrichsville, Ohio, and points within four miles thereof, and points in Jefferson County, Ohio, to points in Pennsylvania, Ohio, Illinois, Indiana, the lower peninsula of Michigan, Boyd, Greenup, Mason, Campbell, Kenton, Boone, and Jefferson Counties, Ky., that part of New York on and west of a line beginning at Oswego, N.Y., and extending along New York Highway 57 to Syracuse, N.Y., and thence along U.S. Highway 11 to the New York-Pennsylvania State line and that part of West Virginia on and west of a line beginning at the West Virginia-Maryland State line and extending along U.S. Highway 219 to junction U.S. Highway 60 and thence along U.S. Highway 60 to the West Virginia-Virginia State line; and *empty containers* used in the transportation of clay products, from points in the destination territory described immediately above, to Uhrichsville, Ohio, and points within four miles thereof, and points in Jefferson County, Ohio; *clay products*, from points in Palmyra Township, Portage County, Ohio, to points in Illinois, Indiana, Kentucky, and St. Louis County, Mo.; *concrete sewer pipe and concrete manholes and fittings* therefor, *asphalt compound, and sulphur compound* from points in Palmyra Township, Portage County, Ohio, to points in New York, Pennsylvania, and West Virginia. *Sewer pipe forms (iron and steel), and reinforcing steel mesh*, between points in Palmyra Township, Portage County, Ohio, on the one hand, and on the other, Relay, Md., and Croydon, Pa.; *reinforcing steel mesh*, from Monessen and Donora, Pa., to points in Palmyra Township, Portage County, Ohio. *Asphalt compound*, from Chester, W. Va., to Uhrichsville, Ohio, and points within four miles thereof, and points in Palmyra Township, Portage County, Ohio. *Sulphur compound*, from Emmaus, Pa., to Uhrichsville, Ohio, and points within

four miles thereof, and points in Palmyra Township, Portage County, Ohio. *Clay products and fire clay*, from points in Tuscarawas County, Ohio, and points in Springfield Township, Summit County, Palmyra Township, Portage County, and Brown Township, Carroll County, Ohio, to points in Wisconsin. *Cardboard and lumber* used in the manufacture, packing, or shipping of clay products and fire clay, from points in Wisconsin, to points in Tuscarawas County, Ohio, and points in Palmyra Township, Portage County, Ohio, with restrictions.

Plastic pipe, fittings for plastic pipe, and pallets and containers and other shipping devices used therewith, from the site of the plant of the Evanite Plastic Co., near Carrollton, Ohio, to St. Louis, Mo., and points in St. Louis County, Mo., and points in Illinois, Indiana, Kentucky, New York, Pennsylvania, West Virginia, Maryland, Virginia, New Jersey, Delaware, Wisconsin, the lower peninsula of Michigan, and the District of Columbia; and *pallets, containers, and other shipping devices* used in the transportation of plastic pipe and fittings for plastic pipe, and damaged, defective, and returned shipments of plastic pipe and fittings for plastic pipe, from the destination points specified immediately above, to the site of the plant of the Evanite Plastic Co., near Carrollton, Ohio. *Clay products*, from Uhrichsville, Ohio, and points in Tuscarawas County, Ohio, within five miles of Uhrichsville, Ohio, and Goshen, Midvale, Parral, Strasburg, Mogadore, Diamond, and Malvern, Ohio, to points in Vermont, New Hampshire, and Maine; and *empty containers, pallets, cardboard, and lumber* used in packing or shipping, from points in Vermont, New Hampshire, and Maine, to Uhrichsville, Ohio, and points in Tuscarawas County, Ohio, within five miles of Uhrichsville, Ohio, Goshen, Midvale, Parral, Strasburg, Mogadore, Diamond, and Malvern, Ohio. *Clay products and fire clay*, from Uhrichsville, Ohio, and points within five miles thereof, to points in Iowa, Minnesota, Missouri, and the upper peninsula of Michigan; and *empty containers, pallets, cardboard, and lumber* used in the manufacture, packing, or shipping of clay products and fire clay, from points in Iowa, Minnesota, Missouri, and the upper peninsula of Michigan, to Uhrichsville, Ohio, and points within five miles thereof. Irregular routes: *Clay products and fire clay*, from points in Tuscarawas and Jefferson Counties, Ohio, to points in Connecticut, Rhode Island, and Massachusetts; from points in Jefferson County, Ohio, to points in New Hampshire, Vermont, and that part of Maine on and south of a line beginning at the Maine-New Hampshire State line, near Gilead, Maine, and extending along U.S. Highway 2 to Bangor, Maine, thence along Alternate U.S. Highway 1 to Ellsworth, Maine, thence along Maine Highway 3 to Bar Harbor, Maine.

Irregular routes: *Plastic pipe and fittings* therefor, from the plant site of the Evanite Plastic Co. near Carrollton, Ohio, to points in Alabama, Arkansas, Connecticut, Iowa, Kansas, Louisiana, Maine, Massachusetts, the upper peninsula of Michigan, Minnesota, Mississippi, Missouri (except St. Louis and St. Louis County), Nebraska, North Dakota, New Hampshire, Oklahoma, Rhode Island, South Dakota, Tennessee, and Texas. Irregular routes: *Plastic pipe, fittings for plastic pipe, and brick and clay products*, from the plant site of the Evanite Plastic Co. near Carrollton, Ohio, and points in Mill and Goshen Townships (Tuscarawas County), Ohio, to points in North Carolina and South Carolina. Irregular routes: *Plastic pipe and fittings for plastic pipe*, from the plant site of the Evanite Plastic Co. near Carrollton, Ohio, to points in Vermont. *Plastic pipe and fittings for plastic pipe*, in mixed loads with clay products, (presently authorized), from points in Mill Township (Tuscarawas County), Ohio, to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, West Virginia, Wisconsin, and the District of Columbia. Irregular routes: *Clay products* (when transported in mixed loads with plastic pipe and fittings for plastic pipe presently authorized), from the plant site of the Evanite Plastic Co., near Carrollton, Ohio, to points in Connecticut, Delaware, Illinois, Indiana, Iowa, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, West Virginia, Wisconsin, and the District of Columbia. *Plastic pipe and fittings for plastic pipe* (when transported in mixed loads with clay products), from points in Mill Township, Tuscarawas County, Ohio, to points in Vermont. Irregular routes: *Clay products*, from New Straitsville, Ohio, to points in Wisconsin, Illinois, Indiana, Michigan, West Virginia, Pennsylvania, New Jersey, Delaware, Maryland, Virginia, Connecticut, Rhode Island, Vermont, Massachusetts, Maine, New Hampshire, and the District of Columbia, from Junction City, Ohio, to Detroit, Mich., and to points in Wisconsin, Illinois, Indiana, the upper peninsula of Michigan, New Jersey, Delaware, Maryland, Virginia, Connecticut, Rhode Island, Vermont, Massachusetts, Maine, New Hampshire, and the District of Columbia.

Irregular routes: *Firebrick and firebrick shapes*, from points in Yellow Creek Township, Columbiana County, Ohio, to points in Indiana, Illinois, Michigan, Kentucky, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, West Virginia, Wisconsin, Iowa, Minnesota, Missouri, Vermont, New Hampshire, Maine, Connecticut, Rhode Island, Massachusetts, Tennessee, and the District of Columbia with restrictions. *Vitrified clay sewer pipe, sewer pipe fittings, and flue liners*, from East Liverpool, Ohio, to points in Illinois, Indiana, Iowa, Kentucky, and Missouri; *plastic pipe and fittings* therefor, from the facilities of

Olin Corp. at Canton, Ohio, to points in Illinois, Indiana, Kentucky, New York, Pennsylvania, West Virginia, Maryland, Virginia, New Jersey, Delaware, Wisconsin, Michigan, Alabama, Arkansas, Connecticut, Iowa, Kansas, Louisiana, Maine, Massachusetts, Missouri, Nebraska, North Dakota, New Hampshire, Oklahoma, Rhode Island, South Dakota, Tennessee, Texas, North Carolina, South Carolina, and the District of Columbia, with restrictions. The operations authorized under the commodity description next above are restricted against the transportation of pipe used in or in connection with the construction, operation, maintenance, servicing, dismantling, or stringing of pipe lines. Vendee is authorized to operate as a common carrier in Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13320. Authority sought for purchase by MIDDLE-WEST FREIGHTWAYS, INC., 6810 Prescott Avenue, St. Louis, Mo. 63147, of a portion of the operating rights of Navajo Freight Lines, Inc., 1205 South Platte River Drive, Denver, Colo. 80223, and for acquisition by National Industries, Inc., 510 West Broadway, Louisville, Ky. 40202, of control of such rights through the purchase. Applicants' attorney: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, Ill., 60603. Operating rights sought to be transferred: *General commodities*, with exceptions, as a common carrier, over regular routes, between Chicago, Ill., and Milwaukee, Wis., serving all intermediate points, and the off route points of Cudahy, Fox Point, Greendale, West Milwaukee, Shorewood, Wauwatosa, West Allis, and Whitefish Bay, Wis.: From Chicago over Illinois Highway 21 to junction Illinois Highway 83, thence over Illinois Highway 83 to the Illinois-Wisconsin State line, thence over Wisconsin Highway 83 to junction Wisconsin Highway 75, thence over Wisconsin Highway 75 to junction Wisconsin Highway 20 near Beaumont, Wis., thence over Wisconsin Highway 20 to junction U.S. Highway 45, thence over U.S. Highway 45 to Durham, Wis., thence over Wisconsin Highway 36 to Milwaukee, and return over the same route. Vendee is authorized to operate as a common carrier in Illinois, Indiana, Kansas, Kentucky, and Missouri. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13322. (Crouse Cartage Co.—Purchase (Portion)—Jack Link Truck Line, Inc.), published in the September 22, 1977, issue of the FEDERAL REGISTER. By application filed on September 20, 1977, CROUSE CARTAGE

COMPANY, P.O. 586, Carroll, Iowa 51401, seeks authority to temporarily lease a portion of the operating rights of Jack Link Truck Line, Inc., Dyersville, Iowa 52040, under section 210a(b).

No. MC-F-13324. Authority sought for merger into WATKINS MOTOR LINES, INC., 1144 West Griffin Road, Lakeland, Fla. 33801, of the operating rights and properties of Watkins Carolina Express, Inc., 1144 West Griffin Road, Lakeland, Fla. 33801, and for acquisition by Bill Watkins, also of Lakeland, Fla., of control of the rights and property through the merger. Applicant's attorney: Paul M. Daniell and K. Edward Wolcott, Watkins & Daniell, P.C., P.O. Box 872, Atlanta, Ga. 30301, Watkins Carolina Express, Inc., operates primarily as a common carrier of *general commodities* over irregular routes between New York, N.Y., in the northeast, and points in Georgia including Atlanta, Ga., in the southeast, serving numerous off-route and intermediate points in between as more fully described in certificate No. MC 30280. Said certificate additionally authorizes the transportation of specified commodities such as synthetic fibre, textile products, flat glass, from named points in the northeast and southeast to named states lying generally within the northeast and southeast. Vendee is authorized to operate as a common carrier of numerous specified commodities, primarily foodstuff items, over irregular routes from, to, and between specified points and states throughout the continental United States, and is further authorized to operate as a common carrier of general commodities over regular routes between points in Florida, California, and that part of Georgia on and south of U.S. Highway 80 serving intermediate points and off-route points in those named states as more fully described in MC 95540. Approval of the transaction will not result in (a) dual operations; (b) splitting of operating authority; or (c) duplicating authority. Application has been filed for temporary authority and under section 210a(b).

NOTE.—Under MC-F-7942, Watkins Motor Lines, Inc., was granted control of Johnson Transfer Co., Inc. (name later changed to Watkins Carolina Express, Inc.), on March 21, 1963, and the order was served March 26, 1963.

No. MC-F-13330. Authority sought for purchase by BEKINS MOVING & STORAGE CO., Aurora Avenue at North 95th Street, Seattle, Wash. 98103, of the operating rights of Pacific Movers, Inc., 750 East International Airport Road, Anchorage, Alaska 99502, and for acquisition by Claude Bekins, Fred Bekins, both of 9401 Aurora Avenue, North, Seattle, Wash. 98103, and the estate of Bruce J. Bekins, United States National Bank, Portland, Ore. 97208, of control of such rights through the transaction. Applicant's attorney: Russell S. Bernhard, 1625 K Street NW., Washington, D.C. 20006. Operating rights sought to be acquired: Certificate No. MC 129850 authorizing transportation, as a common carrier, over irregu-

lar routes, of *household goods* as defined by the Commission between points in Alaska within 25 miles of Anchorage, Alaska, including Anchorage. Vendee holds authority to operate as a common carrier in Washington, Oregon, and Idaho, as a broker of household goods and aeroplanes at Seattle, Tacoma, and Spokane, Wash., and of household goods only at Yakima and Pasco, Wash., Eugene and Portland, Ore., and Boise Idaho. No tacking or joinder is involved. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13333. Authority sought by SMITH'S TRANSFER CORP., P.O. Box 1000, Staunton, Va. 24401, to purchase a portion of the operating rights of Nelson Freightways, Inc., from M & M Transportation Co. (Debtor-in-possession), 750 Third Avenue, New York, N.Y. 10017, and for acquisition by R. R. Smith, P.O. Box 1000, Staunton, Va. 24401, of control of such rights through the transaction. Applicants' attorneys: Francis W. McInerney, 1000 Sixteenth Street NW., Washington, D.C. 20036, Donald L. Caldera, Vice President, M & M Transportation Co. (Debtor-in-possession), 750 Third Avenue, New York, N.Y. 10017, and John A. Vuono, Wick, Vuono & Lavelle, 2310 Grant Building, Pittsburgh, Pa. 15219. Operating rights sought to be purchased: *General commodities*, with exceptions, as a common carrier, over irregular routes, between points within the municipalities of Boston, Chelsea, Revere, Everett, Malden, Somerville, Medford, Cambridge, Newton, and Quincy, and points within the township limits of Winthrop Watertown, Needham, Dedham, Brookline, and Milton, Mass., excluding points in the commercial zones beyond the municipal and township limits thereof, on the one hand, and, on the other, points in New Hampshire. Vendee is authorized to operate as a common carrier in Alabama, Connecticut, Delaware, the District of Columbia, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Arkansas, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b) of the Act.

NOTE.—M & M Transportation Co. (Debtor-in-possession) has assigned its contractual agreement to purchase that portion of Nelson Freightways, Inc., authority set out above to Smith's Transfer Corp.

No. MC-F-13338. Authority sought for purchase by PENNSYLVANIA TRUCK LINES, INC., 49th Street and Parkside Avenue, Philadelphia, Pa. 19101, of all of the motor carrier operating rights of Consolidated Rail Corp., 6 Penn Center Plaza, Philadelphia, Pa. 19104. Applicant's attorneys: S. Berne Smith, Esquire, and Robert H. Griswold, P.O. Box 1166, Harrisburg, Pa. 17108. Operating rights sought to be purchased: *General commodities*, with some excep-

tions, as a common carrier, over regular routes, as more fully described in certificates Nos. MC 101010 (Sub-Nos. 2, 21, 22, 23, 24, 25, 26, and 27), authorizing service between Corning, N.Y., and Painted Post, N.Y.; Passiac, N.J., and near Parsippany, N.J.; Passiac, N.J., and Patterson, N.J.; Passiac, N.J., and Montclair, N.J.; Passiac, N.J., and Orange, N.J.; Passiac, N.J., and Kingsland, N.J.; Morristown, N.J., and Bernardsville, N.J.; Dover, N.J., and Phillipsburg, N.J.; Netcong, N.J., and Branchville, N.J.; Washington, N.J., and East Stroudsburg, Pa.; Columbia, N.J., and Newton, N.J.; Dover, N.J., and Ledgewood, N.J.; Goshen, N.Y., and Pine Island, N.Y.; Goshen, N.Y., and Montgomery, N.Y.; Middletown, N.Y., and Pine Bush, N.Y.; Suffern, N.Y., and Great Bend, Pa.; Youngstown, Ohio, and Girard, Ohio; Portland, Pa., and Bath, Pa.; Bangor, Pa., and Martins Creek, Pa.; Norwich, N.Y., and Binghamton, N.Y.; Cortland, N.Y., and Binghamton, N.Y.; Binghamton, N.Y., and Owego, N.Y.; Buffalo, N.Y., and Rochester, N.Y.; Jersey City, N.J., and Port Jervis, N.Y.; Waverly, N.Y., and Corning, N.Y.; Wayland, N.Y., and Painted Post, N.Y.; Stroudsburg, Pa., and Scranton, Pa.; Scranton, Pa., and Binghamton, N.Y.; Scranton, Pa., and Northumberland, Pa.; Huntington, Ind., and Chicago, Ill.; Port Jervis, N.Y., and Binghamton, N.Y.; Lima, Ohio, and Huntington, Ind.; Norwich, N.Y., and Utica, N.Y.; Utica, N.Y., and Richfield Springs, N.Y.; Cortland, N.Y., and Syracuse, N.Y., and Oswego, N.Y.; Marion, Ohio, and Lima, Ohio; Marion, Ohio, and Mansfield, Ohio; Marion, Ohio, and Dayton, Ohio; Buffalo, N.Y., and Niagara Falls, N.Y.; Buffalo, N.Y., and Brockport, Pa.; Alexander, N.Y., and Painted Post, N.Y.; Painted Post, N.Y., and Blossburg, Pa.; and Waverly, N.Y., and Owego, N.Y. All service is limited to service which is auxiliary to, or supplemental of, rail service and other related restrictions. Service is generally authorized to intermediate points and named off route points. Vendee is authorized to operate pursuant to certificates at Nos. 1901 and subs in the states of Delaware, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, and the District of Columbia, and also holds some contract carrier permits at Nos. MC 11879 and subs. Vendee is a wholly owned subsidiary of Consolidated Rail Corp., vendor. The rights being transferred to vendee were formerly held by the Erie Lackawanna Railway Co. Approval of this application will not create any new dual operations, nor result in the splitting of authority. The purpose is to consolidate all motor carrier authority controlled by ConRail into vendee, and duplicating rights are not sought. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13339. Authority sought for purchase by CLEMMER MOVING & STORAGE, INC., Clearview Road, Soud-

erton, Pa. 18964, of the operating rights of ALLSTATE VAN LINES, INC., 201 East Baltimore Pike, Media, Pa. 19063, and for acquisition by Norman C. Lemmer and Earl N. Mininger, both of Clearview Road, Souderton, Pa. 18964, of control of such rights through the transaction. Applicants' attorney: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, Pa. 19107. Operating rights sought to be transferred: *Household goods*, as defined by the Commission, as a common carrier, over irregular routes, between points in Philadelphia and Delaware Counties, Pa., on the one hand, and, on the other, points in New York, New Jersey, Massachusetts, Connecticut, Delaware, Maryland, Virginia, Ohio, and the District of Columbia. Vendee is authorized to operate as a common carrier in Connecticut, Delaware, the District of Columbia, Louisiana, Maryland, Massachusetts, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13343. Authority sought for purchase by KROBLIN REFRIGERATED XPRESS, INC. (KRK), 2125 Commercial Street, Waterloo, Iowa 50702, of a portion of the operating rights of SCHULTZ TRANSIT, INC., 323 Bridge Street, Winona, Minn. 55987, and for acquisition by Allen E. Krobilin, Loyal H. Frisch, and Kenneth L. Schadle, all of 2125 Commercial Street, Waterloo, Iowa 50702, of control of such rights through the transaction. Applicants' attorney: Thomas J. Beener, Box 5000, Waterloo, Iowa 50702. Operating rights sought to be purchased is that portion of MC 118202 (Sub 41) authorizing transportation of chemicals over irregular routes as a common carrier from Muscatine, Iowa, to points in Georgia, North Carolina, and South Carolina, restricted to traffic originating at the facilities of Monsanto Chemical Co. at or near Muscatine, Iowa, and destined to the named states. Vendee is authorized in Docket MC 30844 to transport specified commodities in all 48 continental states. Vendee is under approved common control with Takin Bros. Freight Line, Inc., a general commodity carrier between Twin Cities, Minn., points in Iowa and Kansas City, Mo., as authorized in MC 87909. Approval of the transaction will not result in dual operations or duplicating authority. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13344. Authority sought for purchase by MCGUIRE LUMBER & SUPPLY, INC., Wylliesburg, Va. 23976, of a portion of the operating rights of POTTER TRANSFER, INC., Waldorf, Md. 20601, and for acquisition by PENDLETON R. MCGUIRE, ELEANOR S. MCGUIRE, and RALEIGH E. OSBORNE, all of Wylliesburg, Va. 23976, of control of such rights through the transaction. Applicant's attorney: Francis J. Ortmann, 7101 Wisconsin Ave., Suite 605, Washington, D.C. 20423. Operating rights sought to be transferred: Lumber (except veneer and plywood), as a common carrier over

irregular routes, from points in Calvert, Charles, and St. Mary's Counties, Md., to points in North Carolina and Virginia, with no transportation for compensation on return except as otherwise authorized, as described in Certificate MC 127147 (Sub-No. 1). Vendee is presently authorized to transport lumber and other specified commodities from limited origins to points in eastern and central states. Application has not been filed for temporary authority under section 210a(b).

MOTOR CARRIERS OF PASSENGERS

No. MC-F 13346. Authority sought for control by ALFRED HEUBNER, an individual, P.O. Box 343, Ford Road, Rockaway, N.J. 07866, of REAL TRANSIT CO., Route 94, Blairstown, N.J. 07825, of control of such rights through the transaction. Applicant's attorney: Edward F. Bowes, P.O. Box 1409, 167 Fairfield, N.J. 07006. Operating rights sought to be controlled: Passengers and their baggage in the same vehicle with passengers, as a common carrier over regular routes between Blairstown, N.J., and the Port of New York Authority Terminal, New York, N.Y., serving all intermediate points between Blairstown and Stanhope, N.J., including Stanhope; from junction Carhart Street and New Jersey Highway 94 in Blairstown, thence over New Jersey Highway 94 to junction U.S. Highway 206, thence over U.S. Highway 206 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction U.S. Highway 46, thence over U.S. Highway 46 to junction New Jersey Highway 3 (Clifton, N.J.), thence over New Jersey Highway 3 to the Lincoln Tunnel approach, and thence through the Lincoln Tunnel to the Port of New York Authority Terminal and return over the same route. Vendee is authorized to operate as a common carrier in New York, Pennsylvania, New Jersey, Connecticut, Rhode Island, Delaware, the District of Columbia, and Virginia. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 13349. Authority sought for purchase by CARAVAN REFRIGERATED CARGO, INC., 605 South Loop 12, Irving, Tex. 75060, of the operating rights of SPECIALIZED TRUCK SERVICE, INC., Twin 6 Truck Stop, 4901 Old Dixie Highway, Forest Park, Ga., and for acquisition by CARAVAN MOTOR CARGO, INC., of control of such rights through the purchase. Applicant's attorneys: Ralph W. Pulley, Jr., 4555 First National Bank Bldg., Dallas, Tex. 75202, and Guy H. Postell, Suite 713, 3384 Peachtree Road, NE, Atlanta, Ga. 30326. Operating rights sought to be transferred: Heating, airconditioning, and environmental control systems, as a common carrier over irregular routes from the facilities of Brandt-Airflex Corp., at Champaign, Ill., to points in the United States (except Indiana, Missouri, Ohio, Wisconsin, Alabama, Florida, Georgia, South Carolina, Tennessee, Alaska, and Hawaii); malt beverages and related advertising materials when shipped at the same time, from Pabst, Houston County, Ga., to points in Louisiana, Tennessee,

Kentucky, and Virginia; to transport malt beverages, (1) from the facilities of Pabst Brewing Company, located in Houston County, Ga., to points in Texas, and (2) from the facilities of Lone Star Brewing Company, located at San Antonio, Tex., to points in Illinois, Tennessee, and Virginia, and to the District of Columbia; malt beverages, from Pabst (Houston County, Ga., to points in West Virginia; malt beverages, as a common carrier over regular routes from Atlanta, Ga., to Tusculumbia, Ala., serving the intermediate points of Huntsville, Gadsden, and Anniston, Ala.; from Atlanta, Ga., to Birmingham, Ala., serving the intermediate point of Anniston, Ala.; from Atlanta, Ga., to Montgomery, Ala., serving no intermediate points; from Atlanta, Ga., to Abbeville, Ala., serving no intermediate points, empty malt beverage containers, from Tusculumbia, Ala., to Atlanta, Ga., serving the intermediate points of Huntsville, Gadsden, and Anniston, Ala.; from Birmingham, Ala., to Atlanta, Ga., serving the intermediate point of Anniston, Ala.; from Montgomery, Ala., to Atlanta, Ga., serving no intermediate points; from Abbeville, Ala., to Atlanta, Ga., serving no intermediate points; malt beverages, as a common carrier over irregular routes from Atlanta, Ga., to Chattanooga, Lawrenceburg, Shelbyville, Cookeville, Harriman, Johnson City, Knoxville, and Nashville, Tenn., and points in Alabama, Florida, North Carolina, and South Carolina; and from Orlando, Fla., to points in Georgia, North Carolina, South Carolina, and Tennessee; and empty malt beverage containers, from Chattanooga, Lawrenceburg, Shelbyville, Cookeville, Harriman, Johnson City, Knoxville, and Nashville, Tenn., and points in Alabama, Florida, North Carolina, and South Carolina, to Atlanta, Ga.; from points in Georgia, North Carolina, South Carolina, and Tennessee, to Orlando, Fla. Advertising matter used in the sale and distribution of malt beverages, when moving in mixed shipments with malt beverages, from Atlanta, Ga., to Chattanooga, Lawrenceburg, Shelbyville, Cookeville, Harriman, Johnson City, Knoxville, and Nashville, Tenn., and points in Alabama, Florida, North Carolina, and South Carolina, with restrictions.

Malt beverages, in containers, and advertising matter when transported with malt beverages, from Atlanta, Ga., to points in Arkansas, Kentucky, Louisiana, Mississippi, Virginia, and Tennessee (except Chattanooga, Lawrenceburg, Shelbyville, Cookeville, Harriman, Johnson City, Knoxville, and Nashville, Tenn.); and empty malt beverage containers, from points in Arkansas, Kentucky, Louisiana, Mississippi, Virginia, and Tennessee (except Chattanooga, Lawrenceburg, Shelbyville, Cookeville, Harriman, Johnson City, Knoxville, and Nashville, Tenn.), to Atlanta, Ga.; Plywood and particleboard, from the plantsites of the Georgia-Pacific Corporation at or near Louisville and Gloster, Miss., to points in Alabama, Florida, Georgia, Arkansas, North Carolina, South Carolina, Tennessee, Louisiana, Texas, Oklahoma, Kansas,

Missouri, Iowa, Wisconsin, Michigan, Illinois, Indiana, Maine, Ohio, Kentucky, Virginia, West Virginia, Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, and the District of Columbia, with restrictions; building, wall, or insulating boards, and materials and supplies used in the installation of building, wall, or insulating boards, from the plantsite of the Armstrong Cork Company, at or near Macon, Ga., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, Wisconsin, and the District of Columbia; composition sheets, from the plantsite of Georgia-Pacific Corporation, Crossett Division, Crossett, Ark., to points in Alabama, Arkansas, Connecticut, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia; malt beverages and related advertising matter, from Pabst (Houston County), Ga., to points in Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, and that part of Tennessee on and east of U.S. Highway 431, and returned shipments of the above-specified commodities, from points in the above-specified destination territory to Pabst (Houston County), Ga.

Gypsum wallboard, gypsum lath, and gypsum wallboard products, from the plantsite of Dierks Forests, Inc., at Briar (Howard County), Ark., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Virginia, and West Virginia; lumber and lumber products, from the plantsites of Dierks Forests, Inc., at Dierks (Howard County) and Mountain Pine (Garland County), Ark., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, and Wisconsin; posts, poles, piling, and lumber, from the plantsite of Dierks Forests, Inc., at Process City (Sevier County), Ark., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Michigan, Mississippi, New Jersey, New York, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and Virginia, with restrictions; malt beverages and related advertising materials, over irregular routes between the facilities of the Lone Star Brewing Company located at San Antonio, Tex., on the one hand, and, on the other, points in Georgia, Missouri, Maryland, and North Carolina; malt beverages, related advertising materials, and empty malt beverage containers,

over irregular routes, between the plantsite and storage facilities of Pabst Brewing Company (Georgia Division) located at or near Perry, Ga., on the one hand, and, on the other, points in Ohio, Wisconsin, Illinois, Indiana, Iowa, Michigan, Missouri, and Maryland; malt beverages, related advertising material and empty malt beverage containers, over irregular routes, from Fort Worth, Tex., to Panama City, Fla.; malt beverages, related advertising material and empty malt beverage containers, over irregular routes, from Fort Worth, Tex., to Dothan, Ala.; malt beverages, related advertising material and empty malt beverage containers, over irregular routes, from Fort Worth, Tex., to Macon, Albany, and Valdosta, Ga. Vendee is authorized to operate as a common carrier in all States except Alaska and Hawaii pursuant to Certificate No. MC 119789 and related subnumbers thereunder. Application has been filed for temporary authority under section 210 a(4).

ABANDONMENT APPLICATIONS

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6) (a) of the Interstate Commerce Act that orders have been entered in the following abandonment applications which are administratively final and which found that subject to conditions the present and future public convenience and necessity permit abandonment.

A Certificate of Abandonment will be issued to the applicant carriers 30 days after this FEDERAL REGISTER publication unless the instructions set forth in the notices are followed.

[Docket No. AB-12 (Sub-No. 27)]

SOUTHERN PACIFIC TRANSPORTATION COMPANY—ABANDONMENT BETWEEN NORTH STANTON AND WEST SANTA ANA IN ORANGE COUNTY, CALIF.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6) (a) of the Interstate Commerce Act (49 U.S.C. 1a(6) (a)) that by an order entered on August 10, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 ICC 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of its branch line extending from railroad milepost 507.811 to the end of the line at milepost 514.965 near West Santa Ana, Orange County, Calif. A certificate of abandonment will be issued to the Southern Pacific Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-12 (Sub-No. 29)]

SOUTHERN PACIFIC TRANSPORTATION COMPANY—ABANDONMENT OF ITS NAPOLEONVILLE BRANCH BETWEEN SUPREME AND GLENWOOD IN ASSUMPTION PARISH, LA.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6) (a) of the Interstate Commerce Act (49 U.S.C. 1a(6) (a)) that by an order entered on July 26, 1977, a finding, which is administratively final, was made by the Administrative Law Judge, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of its branch line of railroad between milepost 15.28 at or near Supreme, Louisiana, and extending in a northerly direction to the end of the line at milepost 23.14 near Glenwood, Louisiana, in Assumption Parish, Louisiana, a distance of 7.86 miles. A certificate of abandonment will be issued to the Southern Pacific Transportation

Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-12 (Sub-No. 48)]

SOUTHERN PACIFIC TRANSPORTATION COMPANY—ABANDONMENT BETWEEN CULVER JUNCTION AND INGLEWOOD IN LOS ANGELES COUNTY, CALIF.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6) (a) of the Interstate Commerce Act (49 U.S.C. 1a(6) (a)) that by an order entered on August 2, 1977, a finding, which is administratively final, was made by the Commission, Commissioner Brown, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 I.C.C. 700, and for public use as set forth in said order, the present and future public convenience and necessity permit the abandonment by the Southern Pacific Transportation Company of a line of railroad extending from milepost 494.249 near Culver Junction to milepost 498.017 near Alla on the Alla Branch and from milepost 498.112 to

milepost 502.200 near Inglewood on the Inglewood Branch, a distance of 8.571 miles in Los Angeles County, California. A certificate of abandonment will be issued to the Southern Pacific Transportation Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

Docket No. AB-33 (Sub-No. 11)

UNION PACIFIC RAILROAD CO.—ABANDONMENT—PORTION OF LEAVENWORTH BRANCH BETWEEN TONGANOXIE AND LAWRENCE IN LEAVENWORTH AND DOUGLAS COUNTIES, KANS.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6) (a) of the Interstate Commerce Act (49 U.S.C. 1a(6) (a)) that by an order entered on August 11, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in Chicago, B. & Q. R. Co., Abandonment, 257 ICC 700, and for public use as set forth in said order, the present and

future public convenience and necessity permit the abandonment by the Union Pacific Railroad Co. of the portion of the Leavenworth Branch line from railroad milepost 20.72 near Tonganoxie, Kans., to railroad milepost 34.15 near Lawrence, Kans., a distance of 13.43 miles in Leavenworth and Douglas Counties, Kans. A certificate of abandonment will be issued to the Union Pacific Railroad Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

[Docket No. AB-128]

EAST WASHINGTON RAILWAY CO.—ENTIRE LINE ABANDONMENT—IN THE DISTRICT OF COLUMBIA AND PRINCE GEORGES COUNTY, MD.

NOTICE OF FINDINGS

Notice is hereby given pursuant to Section 1a(6) (a) of the Interstate Commerce Act (49 U.S.C. 1a(6) (a)) that by an order entered on July 28, 1977, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the condition for public use as set forth in said order, the present and future public convenience and necessity permit the

abandonment by the East Washington Railway Co. of its entire line of railroad extending from milepost 0 to Chesapeake Junction, D.C., easterly to milepost 3 at the Roundhouse, east of Seat Pleasant, Md., a distance of 2.631 miles, and a spur line extending westerly from milepost 0 to the Potomac Electric Power Co. Plant at Benning, D.C., a distance of .756 mile, the entire line encompassing a total distance of 3.387 miles in the District of Columbia and Prince Georges County, Md. A certificate of abandonment will be issued to the East Washington Railway Co. based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) a financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) it is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the FEDERAL REGISTER on March 31, 1976, at 41 FR 13691. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced order.

MOTOR CARRIER ALTERNATE ROUTES DEVIATIONS

NOTICE

The following letter-notices to operate over deviation routes for operating convenience only have been filed with the Commission under the Deviation Rules—Motor Carrier of Property (49 CFR 1042.4 (c) (11)).

Protests against the use of any proposed deviation route herein described may be filed with the Commission in the

manner and form provided in such rules at any time, but will not operate to stay commencement of the proposed operations unless filed within 30 days from the date of this FEDERAL REGISTER notice.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its request.

MOTOR CARRIERS OF PROPERTY

No. MC-29910 (Deviation No. 38), ARKANSAS-BEST FREIGHT SYSTEM, INC., P.O. Box 48, Ft. Smith, Ark. 72902, filed July 5, 1977. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Scranton, Pa., over Interstate Highway 380 to junction Interstate Highway 80, thence over Interstate Highway 80 to junction Interstate Highway 280, thence over Interstate Highway 280 to Newark, N.J., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Scranton, Pa., over U.S. Highway 11 to junction New York Highway 281 near Homer, N.Y., thence over New York Highway 281 to junction U.S. Highway 11 near Tully, N.Y., thence over U.S. Highway 11 to Syracuse, N.Y., thence over New York Highway 5 to Albany, N.Y., thence over U.S. Highway 20 to Pittsfield, Mass., thence over U.S. Highway 7 to Norwalk, Conn., thence over U.S. Highway 1 to New York City, N.Y., thence over city streets to Newark, N.J., and return over the same route.

No. MC-29910 (Deviation No. 39), ARKANSAS-BEST FREIGHT SYSTEM, INC., P.O. Box 48, Ft. Smith, Ark. 72901, filed September 23, 1977. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Cincinnati, Ohio, over Ohio Highway 125 to junction U.S. Highway 68, thence over U.S. Highway 68 to junction U.S. Highway 52 near Ripley, Ohio, thence over U.S. Highway 52 to Portsmouth, Ohio and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Cincinnati, Ohio over U.S. Highway 52 to Portsmouth, Ohio and return over the same route.

No. MC 42487 (Deviation No. 114), CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE, P.O. Box 5138, Chicago, Ill. 60680, filed September 22, 1977. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Birmingham, Ala., over Interstate Highway 59 to junction Interstate Highway 24, thence over Interstate Highway 24 to Chattanooga, Tenn., thence over Interstate Highway

124 to junction U.S. Highway 127, thence over U.S. Highway 127 to junction Interstate Highway 40 near Crossville, Tenn., thence over Interstate Highway 40 to junction Interstate Highway 81, thence over Interstate Highway 81 to junction U.S. Highway 30 near Chambersburg, Pa., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Birmingham, Ala., over U.S. Highway 31 to junction Alabama Highway 53, thence over Alabama Highway 53 to Ardmore, Tenn., thence over Tennessee Highway 110 to Fayetteville, Tenn., thence over U.S. Highway 231 to Murfreesboro, Tenn., thence over U.S. Highway 41 to Nashville, Tenn., thence over U.S. Highway 31W to Elizabethtown, Ky., thence over U.S. Highway 62 to Lexington, Ky., thence over U.S. Highway 25 to Cincinnati, Ohio, thence over U.S. Highway 22 to Pittsburgh, Pa., thence over U.S. Highway 30 to junction Interstate Highway 81 near Chambersburg, Pa., and return over the same route.

No. MC 89723 (Deviation No. 41), MISSOURI PACIFIC TRUCK LINES, INC., 210 N. 13th St., St. Louis, Mo. 63103, filed September 23, 1977. Carrier proposes to operate as a common carrier, by motor vehicle, of general commodities, with certain exceptions, over a deviation route as follows: From Little Rock, Ark., over U.S. Highway 65 to junction U.S. Highway 165 near Halley, Ark., thence over U.S. Highway 165 to Monroe, La., thence over Interstate Highway 20 to Shreveport, La., and return over the same route for operating convenience only. The notice indicates that the carrier is presently authorized to transport the same commodities over a pertinent service route as follows: From Little Rock, Ark., over U.S. Highway 65 to junction U.S. Highway 165 near Halley, Ark., thence over U.S. Highway 165 to Monroe, La., thence over Interstate Highway 20 to Shreveport, La., and return over the same route.

MOTOR CARRIER INTRASTATE APPLICATION (S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to Section 206(a) (6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

California Docket No. A57554 filed September 6, 1977. Applicant: KIMKRIS TRUCKING CO., INC., 1101 Wright Ave., Richmond, Calif. 94804. Applicant's representative: Randall M. Faccinto, 100 Pine St., Suite 2550, San Francisco, Calif. 94111. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of General commodities (1) Between all points and places in the San Francisco Territory, as described in Note A hereto; and (II) Between all points in the San Francisco Territory, on the one hand, and, on the other hand, points and places located on or within five miles laterally of the following routes: (a) U.S. Highway 101 between San Jose and Salinas, inclusive; (b) State Highway 17 between San Jose and Santa Cruz, inclusive; (c) State Highway 1 between San Francisco and Carmel, inclusive, including the off-route point of Carmel Valley; (d) State Highway 9 between Los Gatos and Santa Cruz, inclusive; (e) State Highway 152 between Gilroy and State Highway 1, at Watsonville, inclusive; (f) State Highway 156 between Watsonville and its intersection with U.S. Highway 101 south of Gilroy, inclusive; (g) State Highway 129 between its intersection with U.S. Highway 101 and State Highway 1 at Watsonville, inclusive; (h) State Highway 68 between Salinas and Monterey, inclusive; (III) Between all points and places in the San Francisco Territory, on the one hand, and, on the other hand, points and places located on or within twenty five miles laterally of the following routes: (a) Interstate Highway 80 between Richmond and Sacramento, inclusive; (b) Interstate Highway 5 between Sacramento and its intersection with State Highway 198, inclusive; (c) Interstate Highway 580 between Oakland and its junction with Interstate Highway 5, inclusive; (d) Interstate Highway 205 between its junction with Interstate Highway 5 and its junction with Interstate Highway 580 inclusive; (e) State Highway 198 between its intersection with Interstate Highway 5 and its intersection with State Highway 99, inclusive; (f) State Highway 9 between Sacramento and its intersection with State Highway 198, inclusive; and (g) State Highway 4 between its intersection with Interstate Highway 80 and Stockton, inclusive. (IV) In performing the service herein authorized, the carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service, (except that, pursuant to the authority herein granted, carrier shall not transport any shipments of:

(1) Used household goods, personal effects, and office, stores and institution furniture, fixtures and equipment not packed in salesmen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap or gunny) or cotton, burlap, gunny, fibreboard, or straw matting. (2) Automobiles,

trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis. (3) Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers. (4) Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles. (5) Commodities when transported in bulk in dump trucks or in hopper-type trucks. (6) Commodities when transported in motor vehicles equipped for mechanical mixing in transit. (7) Logs. (8) Articles of extraordinary value. (9) Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper; and (10) Fresh fruit and vegetables. (11) The following commodities between points on or within twenty five miles laterally of routes specified in paragraph III above, (except between points in the San Francisco Territory on the one hand, and, Vallejo, Sacramento, Stockton and Modesto and points within five miles of those cities, on the other hand): (a) Commodities in ocean containers and empty ocean containers having an immediately prior or subsequent movement by water; and (b) Commodities having an immediately prior or subsequent movement in rail piggyback service.

NOTE.—A San Francisco Territory includes all the City of San Jose and that area embraced by the following boundary: Beginning at the point the San Francisco-San Mateo County Line meets the Pacific Ocean; thence easterly along said County Line to a point one mile west of and paralleling State Highway 82 to its intersection with Southern Pacific Company right-of-way at Arastradero Road; southeasterly along the Southern Pacific Company right-of-way to Pollard Road, including industries served by the Southern Pacific Company spur line extending approximately two miles southwest from Simla to Permanente; easterly along Pollard Road to W. Parr Ave.; easterly along W. Parr Ave. to Capri Drive; southerly along Capri Drive to Division St.; easterly along Division St.; to the Southern Pacific Company right-of-way; southerly along the Southern Pacific right-of-way to the Campbell-Los Gatos City Limits; easterly along said limits and the prolongation thereof to South Bascom Ave., (formerly San Jose-Los Gatos Road); northeasterly along South Bascom Ave.; to Foxworthy Ave.; easterly along Foxworthy Ave. to Almaden Road; southerly along Almaden Road to Hillside Ave.; easterly along Hillside Ave., to State Highway 82; northwesterly along State Highway 82 to Tully Road; northeasterly along Tully Road and the prolongation thereof to White Road; northwesterly along White Road to McKee Road; southerly along McKee Road to Capitol Ave.; northwesterly along Capitol Ave., to State Highway 238 (Oakland Road); northerly along State Highway 238 to Warm Springs; northerly along State Highway 238 (Mission Blvd.) via Mission San Jose and Niles to

Hayward; northerly along Foothill Blvd. and MacArthur Blvd. to Seminary Ave.; easterly along Seminary Ave. to Mountain Blvd.; northerly along Mountain Blvd. to Warren Blvd. (State Highway 13); northerly along Warren Blvd. to Broadway Terrace; westerly along Broadway Terrace to College Ave.; northly along College Ave. to Dwight Way; easterly along Dwight Way to the Berkeley-Oakland Boundary Line; northerly along said boundary line to the Campus Boundary of the University of California; westerly, northerly and easterly along the campus boundary

to Euclid Ave.; northerly along Euclid Ave. to Marin Ave.; westerly along Marin Ave. to Arlington Ave.; northerly along Arlington Ave. to San Pablo Ave., (State Highway 123); northerly along San Pablo Ave., to and including the City of Richmond to Point Richmond; southerly along an imaginary line from Point Richmond to the San Francisco waterfront at the foot of Market St.; westerly along said waterfront and shoreline to the Pacific Ocean; southerly along the shoreline of the Pacific Ocean to point of beginning. Intrastate, interstate and foreign commerce authority sought.

Hearing: Date, time and place not yet fixed. Requests for procedural information should be addressed to the Public Utilities Commission, State of California, State Building, Civic Center, 455 Golden Gate Ave., San Francisco, Calif. 94102 and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29300 Filed 10-5-77; 8:45 am]

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[6320-01]

NOTICE OF DELETION OF ITEM AND CHANGE OF TIME AND DATE OF THE SEPTEMBER 29, 1977 MEETING

REVISED AGENDA

TIME AND DATE: 10 a.m., September 30, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Dockets 31232, 31234, 31235, 31246, 31247, 31285, and 31305, Complaints of National Air Carrier Association, Brendan Tours, Inc., Charter Travel Corp., The Educational Cooperative, and Laker Airways Ltd. against Tariffs of Pan American World Airways, Inc., Trans World Airlines, Inc., British Airways, and Air India Proposing Stand-by, Budget, and Super-Apex Fares over the North Atlantic (President's letter dated September 26, 1977).

1a. Docket 25908 et al. Transatlantic Route Proceeding (OGC).

1b. Overseas National Airways, Inc., petition for review of staff action denying a request by Pan American World Airways, Inc. to transport ONA charter passenger on PAA's scheduled service at ONA's charter rate (Memo No. 7436, BFR).

2. Docket 31315, Continental Air Lines' application for an exemption to furnish domestic reduced-rate transportation for 794 World Airways overbooked Charter passengers (Memo No. 7238-B, BFR).

2a. Dockets 31302 and 31303, Ozark's proposal to reduce fares for multistop service (Memo No. 7262-E, BFR).

2b. Proposed Fare Increase of Aloha and Hawaiian Airlines (Memo No. 7371-A, BFR).

3. Board Comments on S. 1898, The Rural Transportation Act of 1977 (Memo No. 7443, BFR, BOR, OCCR, OGC).

3a. Docket 30226, Increase in Subsidy for Kodiak-Western Alaska Airlines, Inc. (Memo No. 6669-D, BFR, OC, BOR).

3b. Docket 31428, Exemption for Reeve Aleutian Airways, Inc. to Continue Carriage of Military Passengers on Certain Scheduled Services at less than its Tariff Rates (Memo No. 5333-D, BFR).

4. Dockets 29093, 29131, 29142, Applications of Braniff, Continental and East-

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

ern for removal of single-plane restrictions in Pacific Northwest-Southeast markets (Memo No. 6916-C, BOR, OGC).

5. Docket 31123, Trans-Florida Airlines, Inc., Application for exemption to operate a 44- to 50-seat Convair 240 aircraft in air taxi passenger service (Memo No. 7441, BOR).

6. United Air Lines' Transaction Agreement UA-519 (No. 27A, filed August 31, 1977) (Memo No. 7440, BOR, BAS, OGC).

7. United Air Lines' Transaction Agreement UA-226 (No. 26, filed August 30, 1977) (Memo No. 6767-B, BOR, BAS, OGC).

8. Comments on proposed Executive Order on Environmental factors in decisionmaking, amending Executive Order 11514 (Memo No. 7444, OGC, BLJ, BOR).

9. Part 385—Expansion of Delegated Authority of Director, Bureau of Operating Rights (Memo No. 7434, OGC).

10. Docket 29684, Ephrata-Moses Lake Deletion Case, order making effective initial decision (Memo No. 7435, OGC).

11. Redesignated 1a.

12. Docket 29747, Foreign Air Carrier Permit Investigation, withdrawal of moot Board opinions, orders and permits of British carriers from the President (Memo No. 6355-G, OGC).

12a. Docket 28807, Petition for extension of time in Trans International Airlines, Inc., Enforcement Proceeding (Memo No. 7339-A, OGC).

12b. Docket 30746, Discretionary review on Board's initiative of the decision of the Director, BOE, declining to institute an enforcement proceeding in the complaint of LACO Travel Service v. Air Travel Conference of America (Memo No. 7456, OGC).

13. Docket 30742, Discretionary review on Board initiative of the decision of the Director, BOE, declining to institute an enforcement proceeding in the complaint of William B. Schultz v. Eastern Air Lines, Inc. (Memo No. 7439, OGC).

14. Deleted by MA-60.

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: Item 14 on the September 29, 1977 meeting agenda was the Freedom of Information Act Request of Barbara Cook. On September 29, 1977, Ms. Cook agreed to one week's postponement of the Board's determination of her request. Accordingly, the following Members have voted that agency business requires that the Freedom of Information Act request of Barbara Cook be deleted from the September 29, 1977 meeting agenda and that

no earlier announcement of the change was possible:

Vice Chairman Richard J. O'Melia.
Member G. Joseph Minetti.
Member Lee R. West.
Member Elizabeth E. Bailey.

[S-1515-77 Filed 10-3-77; 4:39 pm]

[6320-01]

2

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., October 6, 1977

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: 1. Ratification of items adopted by notation.

2. Docket 31158, Petition for investigation of TWA's charter cancellation rule by Hawaiian Holidays, Inc., and Adventure Holidays International Wholesale Tours, Inc., (Memo No. 7454, BFR).

3. Docket 31327, Transatlantic specific commodity rate proposed by Sabena (Memo No. 7455, BFR, BIA).

4. Docket 31378, Complaint of Air Tariff Corp. and request for suspension or rejection of local and joint passenger tariff No. VP-1 issued by Airline Tariff Publishing Co., filed on behalf of American, Eastern, and other carriers, effective October 10, 1977 (BFR).

5. Docket 30659, Institution of California-Nevada Low Fare Proceeding—PSA's Motion for immediate hearing and related pleadings (Memo No. 7433, BOR, BLJ, OGC, BFR, OEA).

6. Docket 30976, TWA fill-up authority in the New York-Boston/Detroit/Washington/Baltimore markets, order to show cause (Memo No. 7447, BOR).

7. Docket 28457, Reinstatement of Midland/Odessa's joint petition for an investigation of air service to the east (Memo No. 6130-C, BOR, OGC).

8. Dockets 30945 and 30972, Applications of Frontier and Texas International for Little Rock-Denver one-stop authority (Memo No. 7457, BOR).

9. Docket 30967, Eastern Air Lines' Application for Nonstop Authority between Milwaukee/Twin Cities and Louisville on Flights Serving Nashville or a Point South Thereof (Memo No. 7453, BOR, OGC).

10. Docket 31293, Delta's Exemption Request to Operate One Daily Round-trip Detroit-New Orleans-Houston Flight (Memo No. 7459, BOR).

11. Docket 30948, Rich International Airways—amendment to exemption request to operate as an air taxi operator (Memo No. 3047-E, BOR).

SUNSHINE ACT MEETINGS

[6750-01]

3

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, October 11, 1977.

PLACE: Room 632, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

NONADJUDICATIVE MATTERS

(1) Approval of Minutes of Nonadjudicative Matters Considered at Meetings of September 28, and October 4, 1977.

(2) Consideration of a proposed complaint in a nonpublic Part I investigation.

(3) Consideration of issuance of investigational resolution in nonpublic Part II matter.

ADJUDICATIVE MATTERS UNDER PART 3 OF THE RULES OF PRACTICE

The Commission has not yet scheduled any adjudicative items for discussion at this meeting.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202-523-3830; Recorded message: 202-523-3806.

[S-1518-77 Filed 10-4-77; 10 am]

[6750-01]

4

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, October 12, 1977.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, October 12, 1977, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202-523-3830; Recorded message: 202-523-3806.

[S-1517-77 Filed 10-4-77; 10 am]

[4910-58]

5

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, October 13, 1977 (NM-77-33).

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Aviation Accident Report.—Texas International Airlines, Inc., Stapleton International Airport, Denver, Colo., November 16, 1976.

2. Aviation Accident Report.—Knob Hill, Inc., C-421, Nogales, Ariz., January 22, 1977.

3. Aviation Accident Report.—New York Airways, S-61, New York, N.Y., May 16, 1977.

4. Pipeline Accident Report.—Exxon Gas System, Inc., Natural Gas Explosion and Fire, Robstown, Tex., December 7, 1976.

5. Discussion.—Type of information made available to the public, including Members of Congress, through Brief Format, Aviation Accident Reports.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-755-4930.

[S-1514-77 Filed 10-3-77; 3:54 pm]

[8010-01]

6

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 11, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, October 12, 1977, at 10 a.m. An open meeting will be held on Thursday, October 13, 1977, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 551b(c) (4) (8) (9) A and (10) and 17 CFR 200.402 (a) (8) (9) (i) and (10).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meeting in closed session.

SUNSHINE ACT MEETINGS

The subject matter of the closed meeting scheduled for Wednesday, October 12, 1977, at 10 a.m. will be:

Formal orders of investigation.
Institution of injunctive actions.
Institution of administrative proceedings.

Simultaneous institution and settlement of administrative proceeding.

Referral of investigative files to Federal, State, or Self Regulatory authorities.

Other litigation matter.

The subject matter of the open meeting scheduled for Thursday, October 13, 1977, at 10 a.m. will be:

1. Application of Sanford S. Trontz to allow him to be employed as a registered representative by Hornblower, Weeks, Noyes & Trask, Inc., a registered broker-dealer, in a non-supervisory, non-proprietary capacity, with adequate supervision.

2. Petition for review filed by Titan

Wells, Inc. of staff denial of extension of time to file Form 10-K pursuant to Rule 12b-25 under the Securities Exchange Act of 1934.

3. Proposed Amendments to New York Stock Exchange Rule 110 and Rules 109 and 112, which would remove several major direct restrictions on floor trading activity.

4. Proposed amendments to the net capital rule, Rule 15c3-1, which (1) would eliminate present exemption of certain specialists in listed options from the net capital and would require them to maintain net capital of at least \$25,000 and prescribe early warning and surveillance reports by firms that carry such specialists accounts and (2) would propose adjustments in the calculation of net capital with respect to specialists positions in options.

5. Proposed amendments to the Municipal Securities Rulemaking Board's recordkeeping and retention rules to elim-

inate the requirement that a municipal securities broker and dealer obtain evidences of authority to transact business for joint, corporate, partnership and certain other accounts. In lieu of this, the amended rule would prescribe that the broker or dealer enter the name (and address if other than that on the account) of the person entering the order on the trading ticket or a comparable record.

6. Applications of CMA Money Trust and Merrill Lynch, Pierce, Fenner & Smith Inc. for exemptive relief from the pricing provisions of Rule 22c-1 under the Investment Company Act of 1940 and the confirmation delivery requirements of Rules 10b-10 and 15c1-4 under the Securities Exchange Act of 1934.

FOR FURTHER INFORMATION CONTACT:

Glynn Mays at 202-755-1268.

OCTOBER 4, 1977.

[S-1519-77 Filed 10-4-77; 10:51 am]

*Advance Orders are now being Accepted
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(Revised as of April 1, 1977)

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_____	Title 26—Internal Revenue (Part 1, §§ 1.851 to 1.1200)	\$5.25	\$ _____
_____	Title 26—Internal Revenue (Part 1, § 1.1200 to End)	6.75	_____
_____	Title 27—Alcohol, Tobacco Products and Firearms	7.00	_____
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FRIDAY, OCTOBER 7, 1977



highlights

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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
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	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3510-25]

Title 15—Commerce and Foreign Trade

CHAPTER III—DOMESTIC AND INTERNATIONAL BUSINESS ADMINISTRATION, DEPARTMENT OF COMMERCE

PART 387—ENFORCEMENT

PART 388—DENIAL OF EXPORT PRIVILEGES AND IMPOSITION OF CIVIL PENALTIES

Limited Revision of Sanctions for Violations of Export Administration Act

AGENCY: Office of Export Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This document reflecting amendments (effective June 22, 1977) to the Export Administration Act of 1969, as amended, increases the maximum fines that may be imposed for violations of the Act and any order, regulation or license issued thereunder and modifies certain other penalty provisions.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230, telephone 202-377-4196.

SUPPLEMENTARY INFORMATION: The Export Administration Amendments of 1977 (P.L. 95-52) amended portions of section 6 of the Export Administration Act of 1969, as amended (the "Act"), to increase the maximum fines which may be imposed for violations of the Act. The fine which may be imposed in a criminal proceeding for a first violation of the Act or any order, regulation or license issued thereunder is increased from a maximum of \$10,000 to a maximum of \$25,000. The maximum fine which may be imposed in a criminal proceeding for a second or subsequent such violation is now three times the value of the exports involved or \$50,000 (increased from \$20,000), whichever is greater. In addition, the maximum fine which may be imposed in a criminal proceeding for a willful violation of the Act or any order, regulation or license issued thereunder, by exporting anything with knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes (formerly for the benefit of "any Communist-dominated nation"), is five times the

value of the exports involved or \$50,000 (increased from \$20,000), whichever is greater. Maximum periods of imprisonment which may be imposed in lieu of, or in addition to, such fines remain unchanged.

The civil penalty which may be imposed in an administrative proceeding is also increased from a maximum of \$1,000 to a maximum of \$10,000 for each violation of the Act or any order, regulation or license issued thereunder. These regulations, as revised, also reflect the statutory amendment which permits the deferral or suspension of payment of the civil penalty imposed in an administrative proceeding for a limited period of time, but does not bar the collection of the fine if conditions of the deferral, suspension or probation are not met.

1. Accordingly, § 387.1 (a)(1) and (b)(3) of the Export Administration Regulations (15 CFR 387.1) are revised as follows:

§ 387.1 Sanctions.

(a) *Criminal*—(1) *Violations of Export Administration Act.* Any person who knowingly violates the Export Administration Act or any order, regulation, or license issued thereunder is punishable for each violation by a fine of not more than \$25,000 or by imprisonment for not more than one year, or both. For a second or subsequent offense, the violator is punishable by a fine of not more than three times the value of the exports involved or \$50,000, whichever is greater, or by imprisonment for not more than five years, or both. In addition, a person who willfully exports any commodities or technical data contrary to any provision of the Act or any regulation, order, or license issued thereunder, with the knowledge that such exports will be used for the benefit of any country to which exports are restricted for national security or foreign policy purposes, is punishable by a fine of not more than five times the value of the exports involved or \$50,000, whichever is greater, or by imprisonment for not more than five years or both.

(b) *Administrative.* . . .

(3) *Civil penalty.* A civil penalty not to exceed \$10,000 for each violation of the

*The U.S. Department of Commerce is authorized, within its discretion, to compromise and settle any administrative proceedings brought with respect to such violations upon payment of a sum not to exceed \$10,000 for each violation.

Export Administration Act or any regulation, order or license issued thereunder may be imposed, either in addition to, or in lieu of, any other liability or penalty which may be imposed.¹ The payment of this penalty may be made a condition for a period not exceeding one year after the imposition of such penalty to the granting restoration, or continuing validity of any export licenses, permission, or privilege granted to the person upon whom such a penalty is imposed. The payment of such penalty may be deferred or suspended in whole or in part for a period of time no longer than any probation period (which may exceed one year) that may be imposed upon such person. Such deferral or suspension shall not operate as a bar to the collection of the penalty in the event that the conditions of the suspension, deferral or probation are not fulfilled. Upon failure of any person to pay a penalty, imposed pursuant to this § 387.1(b)(3), civil action for the recovery of the penalty may be brought in the name of the United States, in which action the court shall determine de novo all issues necessary to the establishment of liability. Once a penalty has been paid, no action for the refund thereof may be maintained in any court.²

2. Section 388.1(a)(4) of 15 CFR Part 388 is revised to read as follows:

§ 388.1 Denial of export privileges and imposition of civil penalties.

(a) . . .

(4) *Civil Penalty.* In addition to the administrative sanctions described in § 388.1(a), or in lieu thereof, a civil penalty not to exceed \$10,000 may be imposed for each violation. (See § 387.1(b)(3).)

(Secs. 4 and 6, Pub. L. No. 91-184, 83 Stat. 842 (50 U.S.C. App. § 2403, 2405), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated November 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and International Business Administration Organization and Function Orders 46-1, dated November 17, 1975, 40 FR 59764 (1975), as amended and 46-2, dated November 17, 1975, 40 FR 59761 (1975), as amended.)

RAUER H. MEYER,
Director, Office of Export
Administration.

[FR Doc. 77-28560 Filed 10-6-77; 8:45 am]

*The U.S. Department of Commerce is authorized, within its discretion, however, to refund the penalty at any time within two years of payment if it is found that there was material error of fact or of law.

[3510-25]

PART 390—GENERAL ORDERS

Extensions of Terms for Technical Advisory Committee Members

AGENCY: Office of Export Administration, U.S. Department of Commerce.

ACTION: Final rule.

SUMMARY: This document, reflecting amendments (effective June 22, 1977) to the Export Administration Act of 1969, as amended, extends the term of industry members of Technical Advisory Committees established pursuant to the provisions of the Act from two to four years and defines more precisely the purpose for which such Committees are established.

EFFECTIVE DATE: October 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Charles C. Swanson, Director, Operations Division, Office of Export Administration, Department of Commerce, Washington, D.C. 20230 (Telephone: 202-377-4196)

SUPPLEMENTARY INFORMATION: The Export Administration Amendments of 1977 (Pub. L. 95-52) amended the Export Administration Act of 1969, as amended (the "Act"), to increase the term that industry members may serve on a Technical Advisory Committee established pursuant to Section 5(c) of the Act from two to four consecutive years. The Amendments also defined more precisely the matters on which Committees should be consulted to include questions involving "exports subject to multilateral controls in which the United States participates including proposed revisions of any such multilateral controls." These regulations implement the foregoing amendments and, in addition, reflect the current Department of Commerce policy of publishing technical advisory committee meeting notices in the FEDERAL REGISTER at least 20 days (previously seven days) prior to the meeting. Accordingly, the introductory text to § 390.1(b), and § 390.1(b)(6) and § 390.1(c) of the Export Administration Regulations (15 CFR Part 368 et seq.) are revised as follows:

§ 390.1 Advisory Committees.

(b) *Technical Advisory Committees.* Any producer of articles, materials, or supplies, including technical data and other information which are subject to export controls, or are being considered for such controls because of their significance to the national security of the United States, may request the Secretary of Commerce to establish a technical advisory committee, under the provisions of

Section 5(c) of the Export Administration Act of 1969, as amended, to advise and assist the Department of Commerce and other appropriate U.S. Government departments, agencies, or officials with respect to questions involving: technical matters, worldwide availability and actual utilization of production technology, licensing procedures which affect the level of export controls applicable to a clearly defined grouping of articles, materials, or supplies, including technical data or other information, and exports subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

If producers of articles, materials, or supplies, including technical data, or other information which are subject to export controls, or are being considered for such controls because of their significance to the national security of the United States, wish a trade association or other representative to submit a written request on their behalf for the appointment of a technical advisory committee, such request shall be submitted in accordance with the provisions of § 390.1(b)(4).

(6) *Selection of industry members of committee.* Industry members of a technical advisory committee will be selected by the Department of Commerce from a list of nominees who have indicated their availability for service on the committee. To the extent feasible, the Department of Commerce will select a committee balanced to represent all significant facets of the industry involved, taking into consideration such factors as the size of the firms, their geographical distribution, and their product lines. No industry representative shall serve on such committee for more than four consecutive years.

(c) *Public notice.* Notice to the public of each meeting of a technical advisory committee shall be issued at least 20 days in advance and shall be published in the FEDERAL REGISTER. The notice shall include the time and place of the meeting and its agenda.

(Sec. 5(c), Pub. L. No. 91-184, 83 Stat. 842 (50 U.S.C. App. 2404(c), as amended; E.O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated No. 17, 1975, 40 FR 58876 (1975), as amended; and Domestic and International Business Administration Organization and Function Orders 46-1, dated November 17, 1975, 40 FR 59764 (1975), as amended and 46-2, dated November 17, 1975, 40 FR 59761 (1975), as amended)

RAUER H. MEYER,
Director,
Office of Export Administration.

[FR Doc.77-29499 Filed 10-6-77;8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 33-5871]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

Small Issues Exemption—Abandoned Notifications

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission adopts a procedure whereby it may determine whether a filing pursuant to Regulation A, the small issues exemption from registration under Section 3(b) of the Securities Act of 1933, has been abandoned so that it may be removed from consideration as a pending matter, and the authority to order such filings abandoned is delegated to the Regional Administrators.

EFFECTIVE DATE: October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Ruth D. Appleton, Chief, Office of Tender Offers, Acquisitions and Small Issues, Division of Corporation Finance, Securities and Exchange Commission, Washington, D.C., (202-755-1290).

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission today announced the adoption of Rule 264 (17 CFR 230.264) and an amendment to its rule governing delegation of authority to Regional Administrators (17 CFR 200.306) establishing a procedure whereby the Commission may determine that a notification on Form 1-A (17 CFR 239.90) filed pursuant to the Regulation A exemption (17 CFR 230.251 to 230.264) from the registration requirements of the Securities Act of 1933, as amended ("the Securities Act") (15 U.S.C. 77a et seq.), has been abandoned. The Commission may then remove such filings from consideration as a pending matter.

BACKGROUND

At any given time, there are on file with the Commission a number of notifications on Form 1-A which the issuers appear to have abandoned. This situation may have developed either because the issuer has determined not to proceed with an offering due to changed market or other conditions or because the issuer has ceased operations due to its dissolu-

tion or bankruptcy. Whatever the reason, the filing is not up to date and should not be relied upon for the accuracy of the information therein. Therefore, the filing should be withdrawn by the issuer or otherwise removed from consideration as a pending filing.

To accomplish this purpose, the rule provides that when a Regulation A filing has become out of date by the passage of nine months from the filing date of the notification or from the filing date of the latest substantive amendment thereto, and the issuer has not furnished the Commission a satisfactory explanation why it has not amended or withdrawn the filing, the Commission may, in its discretion, follow the procedure set forth in the new rule. The rule also provides that an abandoned filing shall be marked as such and shall remain in the files of the Commission.

In order to simplify most effectively the procedure for ordering abandonment of Regulation A filings; the Commission delegates the authority to order such filings abandoned to the Regional Administrators.

The proposed rules were published for comment in Release No. 33-5831 on June 6, 1977, (42 FR 30378), and the comment period ended July 31, 1977. All of the Commission's Regional Offices have concurred with the proposed rules. No comments were received from members of the public.

TEXT OF AMENDMENTS

I. The Commission's Rules of Organization (17 CFR 200.1 to 200.30-12) are hereby amended by adding a new § 200.30-6(a) (4) to read as follows:

§ 200.30-6 Delegation of authority to Regional Administrators.

(a) . . .

(4) To issue orders declaring notifications on Form 1-A (§ 239.90 of this chapter) abandoned pursuant to Rule 264 (§ 230.264 of this chapter).

II. Regulation A [17 CFR 230.251 to 230.263] is amended by adding a new § 230.264, reading as follows:

§ 230.264 Procedure with respect to abandoned notifications on Form 1-A [§ 239.90].

When a notification on Form 1-A [239.90] under §§ 230.251 to 230.264, or the latest substantive amendment thereto, if any, has been on file with the Commission for a period of nine months from its filing date and the offering has not commenced, the Commission may, in its discretion, proceed in the following manner to determine whether such filing has been abandoned by the issuer:

(a) Notice will be sent to the issuer, and to any counsel for the issuer named in the notification, by registered or certified mail, return receipt requested, addressed to the most recent addresses for issuer and issuer's counsel as reflected in the notification. Such notice will inform the issuer and issuer's counsel that the notification or amendments thereto is

out of date and must be either amended to comply with applicable requirements of §§ 230.251 to 230.264 or be withdrawn within thirty days after the date of such notice.

(b) If the issuer or issuer's counsel fails to respond to such notice by filing a substantive amendment or withdrawing the notification or does not furnish a satisfactory explanation as to why the issuer has not done so within such thirty days, the Commission may, where consistent with the public interest and the protection of investors, enter an order declaring the notification abandoned.

(c) When such an order is entered by the Commission, the papers comprising the notification and any amendment thereto will not be removed from the files of the Commission but will be plainly marked in the following manner: "Declared abandoned by order dated _____"

(Secs. 3(b), 19(a), 48 Stat. 75, 85; Sec. 209, 48 Stat. 908; c. 122, 59 Stat. 167; Pub. L. 91-565, 84 Stat. 1480; 15 U.S.C. 77c(b), 77s(a).)

The Commission hereby adopts Rule 264 pursuant to Sections 3(b) and 19(a) of the Securities Act. The delegation of authority amendment is made pursuant to Public Law 87-592, 76 Stat. 394 (15 U.S.C. 78d-1, 78d-2).

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 29, 1977.

[FR Doc.77-29511 Filed 10-6-77;8:45 am]

[8010-01]

[Release Nos. 33-5870, 34-14003, AS-228]

PART 240—GENERAL RULES AND REGULATIONS, SECURITIES EXCHANGE ACT OF 1934

Quarterly Reporting Requirements for Life Insurance Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission is further deferring, until 1979, the effective date of the quarterly reporting requirements for life insurance companies whose shares are not actively traded. Such additional delay is necessary to allow sufficient time for the Commission to fully consider the recommendations of its Advisory Committee on Corporate Disclosure regarding the special problems of smaller companies.

EFFECTIVE DATE: Deferred from December 25, 1978, to December 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Edward R. Cheramy, Office of the Chief Accountant, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549 (202-376-8020).

SUPPLEMENTARY INFORMATION: On September 20, 1976, the Commission

issued Accounting Series Release No. 197 (41 FR 42645, September 28, 1976)¹ to require quarterly financial reporting, on Form 10-Q, by life insurance companies and holding companies having only life insurance subsidiaries. In that release the Commission stated:

Recognizing that some life insurers do not presently prepare quarterly financial information, the Commission believes that the quarterly reporting responsibilities imposed by these amendments should first be applied to those life insurance companies whose activities are most closely followed by analysts and investors. At the same time and taking into account the lead time and start-up requirements for those companies not currently preparing quarterly financial information on a generally accepted accounting principles (GAAP) basis, the Commission has decided to defer the effective date of these amendments until 1978 for life insurance companies whose shares are not actively traded. In addition, the Commission notes that its Advisory Committee on Corporate Disclosure is reviewing the overall question of the reporting responsibilities of smaller companies. The results of their work are anticipated in mid-1977 and could possibly impact the filing requirements of many smaller companies, including small public life insurance companies. Accordingly, the Commission will give notice no later than September 30, 1977, as to whether or not there will be any further delay of the effective date of these amendments or any change in these amendments with respect to those life insurance companies whose shares are not actively traded.

The Commission's Advisory Committee on Corporate Disclosure has not yet issued its final report. However, it has agreed on the following recommendations regarding the special problems of small companies.

The Commission should hold public hearings to determine: (1) Whether and to what extent, the Commission should attempt to define a category of "small companies" for the purpose of requiring less burdensome reporting; (2) how such a classification, if desirable and possible, should be defined; and (3) what reductions of reporting requirements are possible, consistent with the purposes of the Federal securities laws.

The Commission has not formally received the final report, but it believes that all recommendations of the Advisory Committee will warrant careful consideration. Accordingly, the Commission has decided to defer the effective date of the quarterly reporting requirements for life insurance companies whose shares are not actively traded until 1979. Notice will be given no later than September 30, 1978, as to whether or not there will be any further deferral of the effective date.

COMMISSION ACTION

The Commission hereby amends paragraphs (c) (1) of §§ 240.13a-13 and 240.15d-13 of 17 CFR Part 240, to defer the effective date specified therein as given below.

¹ Certain technical errors were corrected in Accounting Series Release No. 218 (42 FR 27879), May 23, 1977.

§ 240.13a-13 Quarterly reports on Form 10-Q (§ 249.308a of this chapter).

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1979, if they do not meet the tests specified in paragraph (b) (1) (i) of § 210.3-16; or

§ 210.15d-13 Quarterly reports on Form 10-Q (§ 249.308a of this chapter).

(1) Life insurance companies and holding companies having only life insurance subsidiaries for quarters in fiscal years ending on or before December 25, 1979, if they do not meet the tests specified in paragraph (b) (1) (i) of § 210.3-16; or

(Secs. 12, 13, 15(d), and 23(a) (15 U.S.C. 78l, 78a(d), and 78w) Securities Exchange Act of 1934.)

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 28, 1977.

[FR Doc. 77-29512 Filed 10-6-77; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

PART 5—DELEGATIONS OF AUTHORITY AND ORGANIZATION

Subpart B—Re Delegations of Authority From the Commissioner of Food and Drugs Disclosure of Official Records and Information

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is revising the delegations of authority relating to disclosure of official records and information. The amendment changes the delegation to bring it in accord with the agency's public information regulations and current policies and procedures being followed by officials for release of records and information under the Freedom of Information Act. The new delegations will provide needed guidance to agency officials and promote more effective and efficient operations.

EFFECTIVE DATE: October 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert L. Miller, Office of Administration (HFA-340), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4976).

SUPPLEMENTARY INFORMATION: Further redelegation of the authority re-delegated by this amendment is not authorized. Authority re-delegated by this amendment to a position by title may be exercised by a person officially designated to serve in such position in an acting capacity or on a temporary basis, unless prohibited by a restriction written into the document designating him as "acting" or unless not legally permissible.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 5 is amended by revising § 5.23 to read as follows:

§ 5.23 Disclosure of official records.

(a) The following officials are authorized to make determinations to disclose official records and information under Part 20 of this chapter except that only the officials listed in this paragraph (a) (1) and (2) may disclose official records and information under §§ 20.82 and 20.85 of this chapter.

(1) Associate and Deputy Associate Commissioners.

(2) Assistant and Deputy Assistant Commissioners.

(3) Directors of Office of the Commissioner Staff Offices.

(4) The Director and Deputy Director of the Bureau of Drugs; and the Associate Director and Deputy Associate Director for Compliance and the Directors of the Divisions of: Methadone Monitoring; Drug Product Quality; Drug Labeling Compliance; and Drug Manufacturing of that Bureau.

(5) The Director and Deputy Director of the Bureau of Foods; and the Associate Director for Compliance and the Director of the Division of Regulatory Guidance of that Bureau.

(6) The Director of the Bureau of Veterinary Medicine; the Associate Director and Deputy Associate Director for Surveillance and Compliance; and the Director and Deputy Director of the Division of Compliance of that Bureau.

(7) The Director and Deputy Director of the Bureau of Radiological Health; and the Director of the Division of Electronic Products and the Director of the Division of Compliance of that Bureau.

(8) The Director and Deputy Director of the Bureau of Biologics; the Associate Director for Compliance; and the Director of the Division of Compliance of that Bureau.

(9) The Director and Deputy Director of the Bureau of Medical Devices; the Associate Director and Deputy Associate Director for Compliance; the Assistant Director for Regulations Policy; and the Directors of the Divisions of Compliance Operations and Product Surveillance of that Bureau.

(10) Director and Executive Director, National Center for Toxicological Research.

(11) Executive Director and Deputy Executive Director of Regional Operations.

(12) Regional Food and Drug Directors and District Directors.

(13) Freedom of Information Officers.

(b) The Chief of the Drug Listing Branch of the Division of Drug Labeling Compliance of the Bureau of Drugs is authorized to sign affidavits regarding the presence or absence of records of Registration of Drug Establishments.

(c) The Associate Director for Compliance and the Director of the Division of Product Surveillance of the Bureau of Medical Devices are authorized to sign affidavits regarding the presence or absence of medical device establishment registration records.

(d) The Chief of the Records Section of the Administrative Services Branch, Division of Management Services, Office of Administration, is authorized to sign affidavits regarding the presence or absence of records in the files of that section.

Effective date: This regulation shall be effective October 7, 1977.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).)

Dated: September 22, 1977.

WILLIAM F. RANDOLPH,
Acting Associate
Commissioner for Compliance.

[FR Doc. 77-29224 Filed 10-6-77; 8:45 am]

[4110-03]

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 76F-0445]

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

Mineral Reinforced Nylon Resins

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the food additive regulations to provide for the safe use of nylon 66 resins reinforced with calcium silicate for use as articles or components of articles intended for repeated use in contact with nonacidic food at temperatures not to exceed 212° F. E. I. duPont de Nemours & Co. filed a petition for such use.

EFFECTIVE DATE: October 7, 1977. Objections by November 7, 1977.

ADDRESS: Written objections to the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202-472-5690).

SUPPLEMENTARY INFORMATION: A notice published in the FEDERAL REGISTER of November 23, 1976 (41 FR 51655) announced that a food additive petition (FAP 6B3243) had been filed by E. I. duPont de Nemours & Co., Wilmington, DE 19898 proposing that § 177.1500 Ny-

lon resins (21 CFR 177.1500, formerly § 121.2502 prior to recodification published in the FEDERAL REGISTER of March 15, 1977 (42 FR 14302)) be amended to provide for the use of nylon 66 resins reinforced with calcium silicate for use as articles or components of articles intended for repeated use in contact with nonacidic food.

A subsequent notice published in the FEDERAL REGISTER of August 5, 1977 (42 FR 39721) amended the filing of this petition to include 3-(triethoxysilyl) propylamine as a component of the subject resins.

The Commissioner of Food and Drugs, having evaluated data in the petition and other relevant material, concludes that the food additive regulations should be amended as set forth below to provide for the use of the petitioned additive.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 409(c) (1), 72 Stat. 1786 (21 U.S.C. 348(c) (1))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 177 is amended by adding new § 177.2355 to read as follows:

§ 177.2355 Mineral reinforced nylon resins.

Mineral reinforced nylon resins identified in paragraph (a) of this section may be safely used as articles or components of articles intended for repeated use in contact with nonacidic food (pH above 5.0) and at use temperatures not exceeding 212° F, in accordance with the following prescribed conditions:

(a) For the purpose of this section the mineral reinforced nylon resins consist of nylon 66, as identified in and complying with the specifications of § 177.1500, reinforced with up to 40 weight percent of calcium silicate and up to 0.5 weight percent 3-(triethoxysilyl) propylamine (Chemical Abstracts Service Registry No. 000919302) based on the weight of the calcium silicate.

(b) The mineral reinforced nylon resins may contain up to 0.2 percent by weight of titanium dioxide as an optional adjuvant substance.

(c) The mineral reinforced nylon resins with or without the optional substance described in paragraph (b) of this section, and in the form of 1/8-inch molded test bars, when extracted with the solvents, i.e., distilled water and 50 percent (by volume) ethyl alcohol in distilled water, at reflux temperature for 24 hours using a volume-to-surface ratio of 2 milliliters of solvent per square inch of surface tested, shall meet the following extractives limitations:

(1) Total extractives not to exceed 5.0 milligrams per square inch of food-contact surface tested for each solvent.

(2) The ash after ignition of the extractives described in paragraph (c) (1) of this section, not to exceed 0.5 milligram per square inch of food-contact surface tested.

(d) In accordance with good manufacturing practice, finished articles containing the mineral reinforced nylon resins shall be thoroughly cleansed prior to their first use in contact with food.

Any person who will be adversely affected by the foregoing regulation may at any time on or before November 7, 1977 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date: This regulation shall become effective October 7, 1977.

(Sec. 409(c) (1), 72 Stat. 1786 (21 U.S.C. 348(c) (1)).)

Dated: September 30, 1977.

WILLIAM F. RANDOLPH,
Acting Associate
Commissioner for Compliance.

[FR Doc. 77-29460 Filed 10-6-77; 8:45 am]

[4110-03]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 75N-0063]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Safety Test; Correction

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document amends the antibiotic drug regulations to correct an error that appears in a biological test method.

EFFECTIVE DATE: October 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Joan M. Eckert, Bureau of Drugs (HFD-140), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4292).

SUPPLEMENTARY INFORMATION: Through an editorial error, in 21 CFR

436.33(b) the route of administration for chloramphenicol is listed in the table incorrectly as "Do." (meaning Ditto) and should be changed to "Intravenous." This correction makes the route of administration for the next item on the list, chloramphenicol palmitate, also incorrect. It should therefore be changed to "Oral."

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59

Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 436 is amended in § 436.33 (b) in the table therein by amending the entries for chloramphenicol and chloramphenicol palmitate, as follows:

§ 436.33 Safety test.

(b) . . .

Antibiotic drug	Diluent (diluent number listed in sec. 436.31)	Test dose		Route of administration as described in paragraph (c) of this section
		Concentration in units or milligrams of activity per milliliter	Volume in milliliters to be administered to each mouse	
Chloramphenicol	.	.	.	Intravenous.
Chloramphenicol palmitate	.	.	.	Oral.

Effective date: October 7, 1977.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: September 30, 1977.

PHILIP L. PAQUIN,
Acting Assistant Director for
Regulatory Affairs.

[FR Doc 77-29337 Filed 10-6-77; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

Shell Chemical Co.; Change of Sponsor Address

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect the change of corporate section name and address as requested by the sponsor, Shell Chemical Co.

EFFECTIVE DATE: October 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles E. Haines, Bureau of Veterinary Medicine (HFV-138), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-3410).

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the act (21 U.S.C. 360b(i)), § 510.600 of the animal drug regulations (21 CFR 510.600) is amended to reflect change of sponsor name and address. This amendment to the regulations reflects approval of the following supplemental new animal drug applications (NADA's).

NADA No.:

31-512 ----- Dichlorvos pellets.
33-803 ----- Dichlorvos capsules and pellets.
35-918 ----- Dichlorvos pellets.
40-848 ----- Dichlorvos medicated premix.
43-606 ----- Dichlorvos pellets.
48-237 ----- Dichlorvos paste (for oral use).
49-271 ----- Dichlorvos tablets.
49-032 ----- Dichlorvos medicated premix.

Amendment of the regulations to reflect these changes does not require a re-evaluation of the NADA's, nor does it constitute a reaffirmation of the safety and effectiveness.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), § 510.600 is amended in paragraphs (c) (1) and (c) (2) by revising the entries for Shell Chemical Co., to read as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

(c) . . .

(1) . . .

Firm name and address	Drug Listing No.
Shell Chemical Co., Division of Shell Oil Co., Animal Health, One Shell Plaza, Houston, Tex. 77001.	011461

(2) . . .

Drug Listing No.:	Firm name and address
011461	Shell Chemical Co., Division of Shell Oil Co., Animal Health, One Shell Plaza, Houston, Tex. 77001.

Effective date: October 7, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))).

Dated: September 27, 1977.

FRED J. KINGMA,
Acting Director, Bureau
of Veterinary Medicine.

[FR Doc 77-29225 Filed 10-6-77; 8:45 am]

[4110-03]

SUBCHAPTER F—BIOLOGICS

[Docket No. 75 N-0313]

PART 610—GENERAL BIOLOGICAL PRODUCTS STANDARDS

PART 660—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR LABORATORY TESTS

Blood Grouping Serum

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) issues additional standards for the manufacture of Blood Grouping Serum. This regulation is based on proposals issued to clarify labeling requirements and to establish production and testing standards reflecting advances in technology.

DATES: Effective December 6, 1977, except the labeling requirements become effective August 7, 1978.

FOR FURTHER INFORMATION CONTACT:

Donna Williams, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014 (301-443-1920).

SUPPLEMENTARY INFORMATION:

In two separate proposals published in the FEDERAL REGISTER of November 13, 1973 (38 FR 31312) and November 11, 1975 (40 FR 52623), the Commissioner of Food and Drugs proposed additional standards governing the manufacture of Blood Grouping Serum. This product consists of sterile preparations of sera containing one or more blood-grouping antibodies that are used to detect ABO, Rh and other antigens of red blood cells. Comments received after publication of the 1973 proposal suggested many substantive changes reflecting advances in technology. Therefore a second proposal was published to provide interested persons an opportunity for additional comment.

Thirty-one letters containing varying numbers of comments concerning the 1975 proposal were received. The comments and the Commissioner's responses are as follows:

1. The Commissioner is amending § 610.53 *Dating period for specified products*, to provide a heading designation for Blood Grouping Serum, followed by the names of each of the antibodies.

2. One comment recommended that § 610.53 be amended to change the storage temperature for Blood Grouping Serum from 2° to 8° C to 1° to 6° C to be consistent with "other requirements." Although the other requirements were not specified, the Commissioner assumes that they are the 1° to 6° C storage temperature for Whole Blood (Human).

The more restrictive storage temperature range of 1° to 6° C for Whole Blood (Human) was established to assure maintenance of red blood cell viability for transfusion. This temperature range is not required for Blood Grouping Serum to maintain its potency and effectiveness over the dating period. The Commissioner believes that the difference in these requirements will not present any undue hardships to those who wish to store Blood Grouping Serum in the same refrigerators used for Whole Blood (Human). Most establishments prefer to maintain their stored blood at a temperature no colder than 2° C to provide a margin of safety in normal temperature fluctuations. Accordingly, the comment is rejected.

3. One comment asked why the source of Blood Grouping Serum as defined in proposed § 660.20(b) did not include lectins of plant origin.

The Commissioner is aware that lectins, plant seed extracts, are reagents used in tests to determine whether human red blood cells have certain blood group antigens. However, these products are not biological products and thus are not subject to section 351 of the Public Health Service Act. Rather, lectins used as blood grouping reagents are in vitro diagnostic products subject to the Federal Food, Drug, and Cosmetic Act, as amended May 28, 1976.

4. One manufacturer suggested revising proposed § 660.21(a) (2) to permit bulk material to be mixed in one vessel and sterile filtered from that into several others rather than mixing and filtering into one vessel, as proposed.

The Commissioner advises that passage of Blood Grouping Serum through filters for purposes of sterilization may reduce the potency of the product. Consequently, if the suggested revision were adopted, the potency of the material in each of the second set of vessels may vary, resulting in differing potencies within one lot. Since the material in the recipient vessels could not be considered "uniform material," it would not be a "lot" as defined in § 600.3(x). The Commissioner finds no reason for making an exception to the definition of a lot applicable to all other biological products. Accordingly, the comment is rejected.

5. Two comments were received on proposed § 600.21(a) (3). One comment asked what volume of bulk material constitutes a "sublot," and one comment said that the term "sublot" should not be applied to those portions of a master lot placed in bulk containers for shipment to other manufacturers or for export as bulk material.

The Commissioner specified no minimum or maximum volumes for sublots because the total volume may vary sig-

nificantly depending on the specificity of the antiserum. The specifications established by the manufacturers to verify that sublots are identical are expected to demonstrate identity independent of volume. Subdivision of a lot into sublots for export or for shipment to another manufacturer shall be defined in specifications submitted by the manufacturer in its license application. Accordingly, no change is made.

6. Four comments suggested that proposed § 660.21(c) be revised to permit use of white dropper bulbs in addition to black. One comment said that black or white dropper bulbs did not constitute color coding.

The Commissioner did not propose the use of white dropper bulbs as an alternate to black dropper bulbs because white is being reserved for future use with Anti-Human Serum. Many technologists and laboratory directors have asked that Anti-Human Serum be clearly differentiated in some manner to distinguish it from all blood grouping sera, and the Commissioner concludes that this is a valid and useful purpose. Accordingly, the comments are rejected.

7. One comment on proposed § 660.21(d) suggested that translucent final containers and dropper pipettes be allowed for antisera for manual use as well as final containers for antisera for automated use. The comment said this would permit development of plastic containers for Blood Grouping Sera for manual use.

The Commissioner has no objection to the use of translucent plastic final containers and dropper pipettes if they are sufficiently transparent to permit observation of the contents, prevent leaking of contents, and have no adverse effect on the stability of the product during the dating period. Accordingly, § 660.21(d) of the final regulation is revised to permit use of final containers and dropper assemblies that are sufficiently transparent to permit observation of the contents for freedom from increased turbidity.

8. Three comments concerning proposed § 660.21(e) objected to the 10-milliliter volume restriction for Blood Grouping Serum for manual use. One comment asked why the volume limit was imposed. A second considered the 10-milliliter volume inconveniently small and unnecessarily expensive for large blood banks. A third comment requested some allowance to provide for overflow so that customers can withdraw the labeled volume.

The restriction of 10-milliliter volume of Blood Grouping Serum per final container was imposed to discourage the practice of users buying large-volume final containers issued by the manufacturers and subdividing the contents into smaller portions. This additional handling creates an unnecessary risk of errors in labeling and a potential for contamination. Safe use of the product outweighs any potential cost decrease created by larger fill volumes. The Commissioner accepts the comment that a small volume of overflow should be allowed to enable users to withdraw the

labeled volume. Accordingly, § 660.21(e) in the final regulation retains the 10-milliliter volume per final container restriction, but is revised to provide for an overflow volume sufficient to permit withdrawing the labeled volume. To accommodate this change, the format of proposed § 660.21(e) is amended and a new paragraph (e) (3) is added.

9. Three comments on proposed § 660.22 questioned the advisability of using Anti-CD as a reference for saline active Anti-D because such antibodies are likely also to contain Anti-G specificity. One comment recommended revision of the listing of Anti-CD for the saline tube test to specify its use for saline active Anti-D only.

The probable presence of Anti-G specificity in Anti-CD serum used as a reference for Anti-D saline activity has been recognized for many years, but experience demonstrates that it nevertheless successfully provides a comparison of the potencies of saline active Anti-D reagents. The Commissioner accepts the suggestion to revise the listing of Anti-CD for the saline tube test as a reference for saline active Anti-D only, and § 660.22 is revised accordingly.

10. One comment in regard to proposed § 660.22 recommended publication of the average titer values observed in tests performed at the Bureau of Biologics with the reference Blood Grouping Sera. The comment also recommended publication of a comparison of the reference sera to the international standards.

The Commissioner accepts the recommendation to publish the average titer values. Data comparing the reference sera with the international standards are not yet available, but they will be published when the studies are completed. The logarithmic average titer values observed in multiple tests of the reference sera in the Bureau of Biologics' immunohematology laboratory are as follows:

Reference serum specificity	Lot No.	Test cell phenotype	Observed titer value
Anti-A	6	A ₁	119
		A ₂ B	57
Anti-B	7	B	130
Anti-CD (for saline active Anti-D only)	9	cDE	13
Anti-D (rapid tube)	1a	C'De	29
		cDE	73
Anti-C (rapid tube)	10	CeDe	5
		CeDe	12
Anti-E (rapid tube)	11a	cdEe	4
Anti- \bar{c} (rapid tube)	12a	cdEe	4
Anti- \bar{c} (saline tube)	13	Cdees	18
Anti-C (saline tube)	14	Cdees	4
Anti-E (saline tube)	15	cedEe	3

11. Six comments on proposed § 660.22 recommended that reference Anti- \bar{c} and Anti-A, B Blood Grouping Sera be made available.

The Commissioner acknowledges the recommendation to provide an Anti-A,B reference but advises that there is no reference preparation of this specificity now available. The reference Anti- \bar{c} was prepared and made available in October 1976. Accordingly, Anti- \bar{c} is added to §§ 660.22, 660.24(b) and 660.24(b) (1)

(ii), and CcDEe cells are provided for in § 660.24(b)(1)(ii). Anti-c (rapid tube and slide) is deleted from § 660.25(a)(5)(i).

11a. The Commissioner is amending § 660.22 to add two new reference Blood Grouping Sera recently prepared. The reference sera are Anti-C for saline tube test and Anti-E for saline tube test. In adding these two reference sera, § 660.25(a)(5)(ii) is amended by deleting Anti-C (saline) and Anti-E (saline) from the potency requirements of sera without reference preparations. Although the titer value of the new reference sera is 8 and the potency requirement proposed in § 660.25(a)(5)(ii) was 4 (expressed as "at least a 1+ reaction with a 1:4 dilution of antiserum"), the titer value of 8 established with the new reference sera is lower than the titer values reported for the majority of lots submitted by manufacturers before the reference sera were prepared. Of the Anti-C sera submitted, 2 of 12 lots reported titer values with an average of 5-9 and the balance of 10 lots averaging titer values of 13-27. Of the Anti-E sera submitted, 1 of 10 lots reported titer values with an average of 5 and the balance of 9 lots averaging titer values of 16 to 40. A titer value of 8 is considered high enough to produce sera that will give clearly readable reactions with a variety of cells of varying antigenic reactivity and yet low enough to conserve these valuable antisera. The test procedure in § 660.24(b)(1)(ii) is amended by deleting cells CcDEe to be used in testing Anti-E Blood Grouping Serum and adding cells of ccdEe instead. A new lot of reference Anti-c Lot No. 12-a is now available that also contains Anti-rh₀. Therefore, cells of ccdEe specificity are satisfactory for use in comparing potency of Anti-c for release, while the cells previously listed would be likely to give falsely high titer values for the reference serum.

12. Three comments objected to the requirement in proposed § 660.23(a) that fresh red blood cells be used within 7 days of withdrawal from the donor. They recommended that licensed Reagent Red Blood Cells (Human) be permitted for use within the dating period of the cells. One comment suggested the use of test cells within 21 days be permitted in the transfusion service.

The Commissioner accepts the recommendation to permit use of licensed Reagent Red Blood Cells (Human) because data have demonstrated their stability during the dating period. Section 660.23(a) is revised to permit the use of licensed Reagent Red Blood Cells (Human) before their expiration date. The requirement to use fresh red blood cells within 7 days of withdrawal from the donor is retained for unlicensed fresh red blood cells used for specificity testing. The retention of antigenic reactivity depends in part on the temperature of storage, the presence or absence of anticoagulant, the type of anticoagulant used, and the type of red blood cell preservative used. Nonspecific reactivity in specificity testing is ordinarily demonstrated more readily with fresh red blood cells

than with older red blood cells. No restriction is placed on the age of red blood cells for potency testing because older cells would be less reactive and produce lower titer values. If titer values required for release of products were adequate in tests with older cells, the titer values obtained using fresh cells would be even greater. Accordingly, § 660.23(a) of the final regulation permits use of unlicensed red blood cells of any age for potency testing, but not for specificity testing. The suggestion to permit test cells up to 21 days in the transfusion service is not applicable to these regulations, which define standards for Blood Grouping Sera before release for sale to transfusion services or other professional services using these products.

13. Five comments objected to the 3-year limitation in use of frozen red blood cells, as proposed in § 660.23(b). The comments said this limitation would create an unnecessary hardship in procuring red cells of rare phenotypes required to establish specificity of certain antisera. The comments contended that 3-years storage at -20° C for frozen glycerolized red blood cells was too long a period of time and that 5 years was satisfactory for storage of red blood cells in liquid nitrogen. In most tests done in parallel with reference preparations, the cells for use would have such a common phenotype that frozen, thawed, processed cells would not be likely to be used or the phenotype of the cells would be so rare that it would be necessary to store the cells frozen for many years. The comments recommended that red blood cells be frozen within 7 days, and they recommended use of controls when testing thawed red blood cells rather than setting an arbitrary time limit for storage of frozen red blood cells.

The Commissioner accepts the comments that the proposed 3-year limitation might result in an unnecessary waste of red blood cells of rare phenotype where the method of freezing and conditions of storage were demonstrated to assure stability over a longer time. Accordingly, § 660.23(b) of the final regulation is revised to require use of red blood cells for freezing that meet the criteria for red blood cells that are not frozen. In lieu of the 3-year limitation for storage, appropriate controls are required to demonstrate the desired reactivity of the thawed red blood cells. The final regulations retain the requirement that manufacturers submit to the Director, Bureau of Biologics, a detailed description of the method of freezing, storage, and thawing of red blood cells for use in control testing.

14. One comment recommended that proposed § 660.23(c) be revised to require pretesting of all cells by the direct antiglobulin technique before they are used in testing antisera requiring the indirect antiglobulin technique.

The Commissioner accepts the comment. It is common practice to include these controls with any antiglobulin test using freshly collected blood or Reagent Red Blood Cells (Human), and the Commissioner had not specified this in

proposed § 660.23(c). To avoid any misinterpretation, § 660.23(c) is amended in the final order to require all red blood cells for use in control testing of antisera requiring indirect antiglobulin technique first be tested and found negative by direct antiglobulin technique on the day of use or each time frozen red blood cells are thawed, whichever is applicable.

15. One comment on proposed §§ 660.24(a)(1)(i) and (b)(1)(i) and 660.25(a)(1)(i) said that package insert directions should allow use of a 2-percent red blood cell suspension instead of the 5-percent suspension most manufacturers recommend because the required potency tests use a 2-percent suspension of cells. The comment further stated that if one followed the Good Manufacturing Practices GMP's, § 606.65(e) (21 CFR 606.65(e)), which requires reagents to be used in a manner consistent with instructions provided by the manufacturer, it would be illegal to use the 2-percent red blood cell suspension required in potency testing.

The Commissioner sees no conflict between the potency test methods prescribed in proposed § 660.24 and § 660.25 and compliance with § 606.65(e) of the GMP's. The red blood cell concentration defined in proposed § 660.24(a)(1)(i), 660.24(b)(1)(i) and 660.25(a)(1)(i) is part of the potency test performed by manufacturers of Blood Grouping Serum in evaluating each lot before release for sale to consumers. The potency test is only one of several tests required to evaluate the ability of the product to yield its expected results during the dating period. The manufacturers are also required to test each lot for specificity, using all test methods specified in the package insert to accompany the product. The manufacturers do not recommend in their package inserts that users perform potency tests. They recommend test methods by which their products may be used to identify the presence or absence of red blood cell antigens. Therefore, consumers using these reagents in a manner consistent with instructions provided by the manufacturer are complying with § 660.65(e). Accordingly, the comment is rejected.

15a. Four comments on proposed § 660.24(a)(1)(ii) recommended that tests with weak subgroups of A and B cells be required in potency testing of Anti-A,B Serum.

The Commissioner advises that the supply of weak subgroups of A and B cells is not adequate to furnish the large quantity of red blood cells that would be required in potency testing of all lots of Anti-A,B Blood Grouping Serum. Accordingly, the comments are rejected.

16. One comment on proposed § 660.24 said (1) that the regulations were not explicit—whether Anti-A,B Blood Grouping Serum would necessarily be obtained from Group O donors, or whether it could be a mixture of Anti-A and Anti-B from Group A and Group B donors; and (2) that it was not clear whether Anti-CD Blood Grouping Serum was obtained from monospecific Anti-C

and Anti-D sera or serum from donors with antibody of Anti-CD specificity.

The comment supplied no specific data. The Commissioner is therefore unable to respond directly to suggested alternatives. There is no apparent reason for making the regulations more explicit if the antibody designated on the label is capable of detecting those antigens. Further reply to these comments appears in paragraph number 34.

17. One comment on proposed § 660.24 wanted the potency requirements of ABO Grouping Sera reduced.

The potency titer of Blood Grouping Sera must be at least equal to that of the reference sera. Reference preparations for Anti-A and Anti-B are available to manufacturers and therefore establish the potency requirement for the licensed product. Those persons interested in having the potency of the ABO reference sera reduced should submit original data to the Director, Bureau of Biologics, demonstrating the safety and effectiveness of antisera at the reduced potency.

18. Nine comments addressed proposed §§ 660.24(a), (b), and (c) and 660.25(a). The comments questioned the need for manufacturers to use titration procedures to assure adequate reactivity of antisera, since such test methods are not necessary for users and therefore are not recommended in the manufacturer's package insert.

Requirements for the manufacture of a product often have a different purpose and serve a different function than the directions for the use of a product. They need not be parallel because they are not comparable. The Commissioner recognizes the limitations of the titration procedure; however, the procedure approximates actual conditions of use, i.e., reaction vessel, cell and serum volumes, centrifugation, and incubation time. The results provide a general assessment of quality, predictive stability and reactivity with antigens at the lower extremes of phenotypic expression. Titration procedures have been used for many years to evaluate effectiveness of immunization and potency of antisera. The procedure provides a more precise measurement of antiserum and cell concentration than do the drops recommended by manufacturers. Accordingly, the comments are rejected.

19. One comment on proposed § 660.24(a)(2)(i) and (c) said that the quantity of protein contributed by adding 1 to 2 percent AB serum or bovine albumin would not be sufficient and recommended revision to specify that the diluent should be prepared using isotonic saline containing 1 to 2 grams percent protein as provided by AB serum or bovine albumin. Three comments on proposed § 660.24(a)(2)(i) questioned the advisability of using AB serum as a diluent for ABO Blood Grouping Sera because the presence of soluble A and B substances may neutralize the antibodies at the higher dilutions.

The Commissioner is aware that there are some laboratories that prefer using AB serum and some that prefer bovine

albumin in the diluent to reduce the loss of antibody from adsorption of proteins on glass. There is no general scientific agreement on the optimum concentration of protein required; both 1 percent AB serum and 0.5 to 3.0 percent albumin have been successfully used as diluents in many laboratories. The presence of A and B soluble substances at a dilution of 1 to 2 percent is not expected to present any unusual problems. The products to be tested by this method require parallel titrations with reference preparations; therefore, any neutralization effect of the AB serum will be insignificant. In addition, these regulations provide for the use of 1 to 2 percent bovine albumin as a source of protein in the diluent by those laboratories that consider 1 to 2 percent AB serum to be an insufficient amount of protein. Accordingly, the comments are rejected.

20. One comment recommended that the wording of §§ 660.24(a)(2)(i) and 660.24(b)(2)(i) should be similar and suggested that the phrase "prepared in AB serum or bovine albumin diluted to 1 to 2 percent in isotonic saline" be used.

The Commissioner believes there is no substantive difference in the phraseology suggested from that used in §§ 660.24(a)(2)(i) of the proposal. Further, the wording suggested by the comment is unacceptable for § 660.24(b)(2)(i) because the required 20 to 22 percent bovine albumin to be used as a diluent may or may not have to be diluted by the person performing the test. Bovine albumin reagents are commonly distributed in 22 and 30 percent concentrations. Thus a 22 percent reagent could be used undiluted and a 30 percent reagent would need to be diluted. Accordingly, the comment is rejected.

21. One comment suggested that proposed § 660.24(b)(1)(ii) be revised to add C⁺cDee cells to the list of cells to be used in testing Anti-C Serum.

The Commissioner is aware that Anti-C Sera frequently are reactive with C⁺ positive cells, but finds no need to require potency testing of Anti-C Sera with C⁺ positive cells. If users wish to know whether cells are C⁺ positive, Anti-C⁺ serum is licensed and may be purchased to conduct the desired test. Accordingly, the comment is rejected.

22. One comment concerning proposed § 660.24(b)(1)(ii) recommended deleting CcDEE, CCDEE, and CCdEE cells from those required in potency testing of Anti-C Serum and revising the specificity test requirements proposed in § 660.26(a)(1) to deal with the presence of Anti-rh₀ by proper specificity testing. The comment further suggested that Anti-D Serum should be titrated against CCdEe cells, but gave no reason for the suggestion.

The Commissioner is aware that most Anti-C Sera also contain Anti-rh₀; the requirement to use cells of CcDEE, CCDEE and CCdEE specificity was to assure that potency tests performed with Ccdee cells would be measuring primarily the potency of Anti-C. The recommendation to use the cells in specificity testing instead would also assure

adequate reactivity of Anti-C Serum with C positive cells that are rh₀ negative. Accordingly, the cells of CcDEE, CCDEE, and CCdEE are deleted from those required in tests of Anti-C serum in § 660.24(b)(1)(ii), and C⁺rh₀ negative cells are added to the cells required in testing Anti-C Sera under § 660.26(b)(1) of the final regulation. (See paragraph 34.) The Commissioner knows of no reason why CCdEe cells would be particularly desirable in testing Anti-D Sera because such cells would be expected to give a higher titer value than the ccdEe cells required. Therefore, that suggestion is rejected.

23. Three comments concerning proposed § 660.24(a)(3)(ii) and (b)(3)(iii) suggested different time intervals for centrifugation of antiserum and cells. Another comment recommended specifying a fixed speed of 3,400 revolutions per minute (rpm) and calibrating each instrument for saline or high protein suspensions of cells and antiserum mixtures.

The Commissioner advises that the time intervals and relative centrifugal force (rcf) specified in proposed § 660.24(a)(3)(ii) and (b)(3)(iii) are based on many years of experience with two of the most commonly available types of laboratory centrifuges and the general density of the cell-suspending media. The proposed time and rcf will provide sufficient force to pack the red blood cells and still enable one to tap the cell button gently to dislodge it from the bottom of the test tube without breaking up weak agglutination. Relative centrifugal force is based on radius of the centrifugal arm and revolutions per minute. The shorter time intervals were based on centrifuges that operate at a fixed speed of approximately 3,400 revolutions per minute. Accordingly, the comments are rejected.

24. The Commissioner is amending proposed § 660.24(a)(4)(i) and (ii) to clarify the requirement that doubtful reactions be recorded as negative. A doubtful reaction cannot be considered a valid endpoint in determining a titer value. Accordingly, in § 660.24(a)(4)(i) of the final regulations, a new cell button reaction, designated "D", is added to the list of standard interpretations; and § 660.24(a)(4)(ii) is amended to delete the first sentence.

25. The Commissioner notes that proposed § 660.24(c), which defines the test procedure for Anti-D for the saline tube test, references the test method defined in paragraph (b)(1) through (4) of that section. The test method defined in paragraph (b)(1) through (4) specifies a time of centrifugation suitable for a method employing high protein medium; therefore, amendments are necessary to adapt the centrifugation time suitable for a method employing low protein medium. Accordingly, § 660.24 is amended by adding paragraphs (c)(1) and (2) creating exceptions to the method prescribed in paragraph (b)(1) through (4).

26. One comment on proposed § 660.24(d), on potency requirements, urged reduction of the titer of Anti-D in the

reference serum supplied by the Bureau of Biologics. The comment said that the titer of the reference Anti-D in the commentator's laboratory was 1:256 to 1:512; however, the test method was not described. And the comment said that pools of Anti-D Serum of comparable titer often showed a prozone, agglutinating Rh positive cells of various phenotypes less strongly with undiluted serum than with a 1:2 or 1:4 dilution of the serum. No data were submitted to support these conclusions.

The Commissioner is unable to determine how titer values of 1:256 and 1:512 were obtained. The logarithmic average titer values observed in multiple tests of the reference Anti-D Serum in the Bureau of Biologics' immunohematology laboratory when tested by the required test method defined in § 660.24(b), gave titer values of 29 with CDe cells, 32 with cDe cells, and 58 with cDE cells. The prozone phenomenon has not been evident in tests at the Bureau of Biologics. The Commissioner is willing to accept recommendations to adjust potency of the various reference preparations provided adequate data are submitted to support the lower level of potency recommended. Such data must demonstrate the potency level at which the antiserum would effectively detect the respective red blood cell antigens, including the weaker reacting phenotypes. Until adequate data are received, no adjustment can be made in the potency of the reference sera, and no change is made in § 660.24(d) in the final regulation.

27. Four comments recommended that proposed § 660.25(a) (1)(i) and (2)(i) include higher concentrations of bovine albumin in the diluent for both red blood cells and serum used in performing the potency test without reference preparations.

The Commissioner considers the higher concentrations of bovine albumin unnecessary now that the Anti-c reference preparation is available. The proposal was published in expectation that the Anti-c reference preparation would be made available before publication of the final regulations. Therefore, the comments recognizing the need for the higher concentrations of bovine albumin in the diluent are no longer applicable. Accordingly, the comments are rejected.

28. Four comments on proposed § 660.25(a) (1)(ii) suggested that cells of any ABO group should be permitted, and clarification was requested concerning the selection of cells of certain heterozygous phenotypes. One comment questioned the need to report the phenotypes to be used in the license application because the phenotypes are reported in the protocols submitted for release. One comment said that red blood cells heterozygous for P, I and U could not be determined without comprehensive family studies and claimed that this would place an undue burden on the manufacturers.

The Commissioner recognized the difficulty in locating rare phenotypes of certain red blood cell antigens by inserting the phrase "If heterozygous phenotypes are not available" in proposed

§ 660.25(a) (1)(ii). The suggestion to permit use of red blood cells of any ABO group is accepted; this should increase the probability of locating the rarer phenotypes. In addition, the statement concerning the selection of cells is revised to provide for the selection of heterozygous phenotypes if antisera defining antigens corresponding to products of all alleles of that blood group system exist. The Commissioner did not intend to require comprehensive family studies to locate rare phenotypes. The Commissioner considers it advisable that the use of red blood cells other than heterozygous phenotypes be reported in protocols to facilitate the development of standards relative to the specificity of the antiserum and the availability of certain phenotypes. Accordingly, § 660.25(a) (1)(ii) is revised in the final regulation to allow the use of red blood cells of any ABO group, the selection of cells of other than heterozygous phenotypes when required, and the reporting of this information in the protocols submitted for lot release.

29. Two comments noted that the phrase "and the reference serum" in proposed § 660.25(a) (2)(i) was in error.

The Commissioner is deleting the phrase "and the reference serum" in § 660.25(a) (2)(i) of the final regulation.

30. One comment referred to the requirement in proposed § 660.25(a) (3)(ii) and (iv) to follow the manufacturer's instructions for time of incubation and centrifugation of test tubes. The comment suggested that the shortest incubation time be required when the manufacturer recommended a range of time intervals, and that centrifugation at the lowest speed or the least time be required when more than one was recommended by the manufacturer.

The Commissioner accepts these suggestions because the intent of the regulations is to assure reactivity of the antisera with cells having the corresponding antigens, and it is therefore prudent to test under the least favorable conditions. In general, shorter incubation times and less centrifugal force will result in weaker agglutination reactions than longer incubation times and greater centrifugal force. Therefore, it is critical to assure effectiveness of the antisera under these conditions. Accordingly, § 660.25(a) (3)(ii) and (iv) is amended to require the shortest incubation time and the lowest relative centrifugal force (rcf) and the least time recommended in the manufacturer's package insert.

31. Six comments recommended changes in titer requirements proposed in § 660.25(a) (5) to avoid creating shortages of very rare reagents. The comments emphasized that some rare antisera of good titer now available from only one source will not be available in the future from any other source at a comparable titer.

The Commissioner accepts the comments, and changes are made in the titer requirements to avoid creating shortages of source material for these rare and necessary reagents. In § 660.25(a) (5) the following changes are made: Anti-c

(saline) is deleted from § 660.25(a) (5)(i) and added to § 660.25(a) (5)(ii); anti-Kp⁺, anti-Kp⁻, anti-U, anti-Js⁺, and anti-Fy⁺ are deleted from § 660.25(a) (5)(ii) and added to § 660.25(a) (5)(iii).

32. One comment on proposed § 660.25(b) recommended deletion of the requirement to test Blood Grouping Serum recommended for slide test with a 1:2 dilution of serum. The comment maintained that this was not the conventional method in which the products would be used.

The Commissioner believes that the requirement to test Blood Grouping Serum recommended for slide test with a 1:2 serum dilution is necessary to provide a margin of safety in routine use, since the size of drops delivered by pipettes and red blood cell concentration can vary significantly. Accordingly, the comment is rejected.

33. Six comments on proposed § 660.26(a) recommended extensive testing be done by manufacturers to assure absence of antibodies to leukocytes, serum proteins, low-incidence red blood cell antigens, drugs, and chemicals.

On the basis of his evaluation of the relative costs and benefits, the Commissioner concludes that such testing should not be required. There is no practical way to test for every possible interfering substance that may be found in reagent antisera on rare occasions. Imposing the suggested test requirements would either exhaust the valuable supply of rare antisera for more significant tests or make antisera prohibitively expensive without assuring that yet another previously unidentified substance might not be present. Accordingly, the comment is rejected.

34. Five comments on proposed § 660.26(a) recommended that specificity testing be amended to include tests for antibodies directed against low frequency antigens. The antigens recommended for inclusion were Kell, Lu^a, C⁺, Mi^a/Vw, M^a, Wr^a, Js^a, and Kp^a. Two comments recommended further that the presence of Anti-G in Anti-CD serum be demonstrated by tests with r⁺r cells; absence of Anti-E in Anti-c serum be demonstrated in tests with CCDEe, CCDEE, or CCdEE cells; and absence of Anti-C in Anti-c serum be demonstrated in tests with CcDEE, CCDEE, or CCdEE cells.

In addition, A_s and A_x cells were recommended for specificity testing of Anti-A,B serum. One comment recommended that specificity should be demonstrated for any antigen with a probability of at least one in one hundred, and referred to the book by Race and Sanger, "Blood Groups in Man," 3d ed., 1958. One comment maintained that use of only ccDee cells in specificity testing of Anti-D serum could be misleading owing to the variability of reactive strength of Anti-D serum with a variety of ccDee cells of varying genetic background. Cells of CcDee specificity were recommended as being less variable in reactivity than are ccDee cells.

The Commissioner believes that the increased availability of Reagent Red

Blood Cells with many antigens identified, supports the recommendation to increase the numbers of specificity tests. In recognizing the difficulties that can occur in finding red blood cells that have the antigens specified for specificity testing and lack the antigen for which the antiserum is specific, exceptions to this new testing requirement are also provided. Under such circumstances, the Specific Performance Characteristics in the package insert can list the antigens for which tests were not performed. Section 660.26 is revised to include paragraphs (a) through (d), changing the format to provide for new specificity testing. Provisions in proposed § 660.26(a) (1) and (2) and (b) (1)(v) are retained and revised as necessary. Section 660.26(b) (2) is amended to be consistent with revised requirements for testing antisera for Anti-Bg antibodies, discussed in paragraph 35 below. As discussed in paragraph 22, one respondent advised that the specificity test requirements for Anti-C should include tests with C positive, rh⁻, negative cells and that the potency test requirements could then be modified by deleting the requirement for titration with rh⁻ negative cells (CcDE, CCdEE, or CCdEE). The Commissioner agrees that reactivity with rh⁻ negative cells can be adequately demonstrated by specificity testing alone. The list of red blood cells to be used in testing ABO and Rh antisera is amended by (1) adding A cells from three different donors to those required for testing Anti-A,B serum when the labeling recommends such tests to detect the presence of group A variants; (2) adding CcDee cells to those required in testing Anti-D serum; (3) adding C⁺rh⁻ negative cells to use in tests of Anti-C serum; (4) adding r⁺r cells to those required in testing of Anti-CD and Anti-CDE when the antisera are recommended for detection of the G antigen; (5) adding CCDEe, CCDEE, or CCdEE cells to test specificity of Anti-c and (6) adding CCDEE, CCDEE, or CCdEE cells to test specificity of Anti-e serum. A list of red blood cells antigens to be included in specificity testing is added to § 660.26(c) (1) in the final regulation, and § 660.26(c) (2) provides an exception when the Blood Grouping Serum is specific for high incidence antigens.

35. Thirteen comments on proposed § 660.26(b) (2) were received. Proposed § 660.26(b) (2) required that all antisera recommended for use by the antiglobulin technique be tested for the presence of anti-Bg^a, anti-Bg^b, and anti-Bg^c using strongly reactive Bg(a⁺), Bg(b⁺), and Bg(c⁺) cells. Although consumers agreed that it would be desirable to eliminate unwanted Bg antibodies from antisera recommended for use by the antiglobulin technique, both consumers and manufacturers agreed that properly characterized Bg positive cells, particularly Bg^a and Bg^b, are not now available in adequate supply to perform the proposed testing.

The Commissioner has reevaluated the advantages and disadvantages of the proposed regulations. Moreover, since

publication of the proposal in 1975, survey data and other information reveal that Anti-Bg^a is the cause of most non-specific reactions attributable to contamination with Anti-Bg antibodies. Also, Bg^a and Anti-Bg^a are, at present, more clearly defined serologically than Bg^b, Bg^c, and their corresponding antibodies. It is believed that testing for the absence of Anti-Bg^a alone will eliminate nearly all of the unwanted reactions. There are documented cases in the scientific literature of Rh.(D) negative persons being falsely typed as Rh.(D) positive owing to the unexpected presence of Bg antibodies in the anti-D reagent used to test their cells. The references are available at the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. There is a significant hazard to health in these cases since either the transfusion of Rh.(D) positive blood or the withholding of Rh.(D) Immune Globulin could cause irreversible immunization to the Rh.(D) factor. Such immunization could result in hemolytic disease of the newborn with its severe hazard to the health of afflicted infants. Current technology permits freezing cells for long use, thus assuring an adequate supply of cells for testing anti-D sera. Accordingly, § 660.26(b) (1) of the final regulation is amended to require that Anti-Bg^a be excluded only from Anti-D sera recommended for use in testing for D⁺ because erroneous D⁺ testing results are a much more significant hazard to health than any of the other factors requiring antiglobulin tests. The Commissioner believes, therefore, that the increased specificity testing requirements are justified for Anti-D but not for all of the other antisera used by antiglobulin technique.

36. Four comments questioned the need for performing the test proposed in § 660.26(b) (1). The comments said that any nonspecific qualities such as hemolysis or rouleaux would be detected in the other required tests for specificity.

The Commissioner agrees that the extensive required testing for specificity makes separate and "additional tests for nonspecific qualities" redundant. Therefore, the requirements (proposed § 660.26(b) (1) (i) through (iv)) are deleted.

37. Three comments on proposed § 660.27 (a) and (b) recommended that the 40-percent red blood cell suspension be changed to 35 to 45 percent to provide for the use of whole blood samples without adjustment in red blood cell concentrations normally encountered in whole blood.

The Commissioner agrees that the 35-to-45-percent red blood cell suspension normally occurring in whole blood is more representative of actual conditions of use, and § 660.27 (a) and (b) are amended accordingly.

38. One comment recommended amending proposed § 660.27 in the introductory paragraph and paragraphs (a) (4), (b) (4), and (c) (2) to clarify how the size of clumps or aggregates should be recorded.

The Commissioner intended that the size of clumps shall be not less than 1

millimeter in diameter, and the size shall be recorded as being either less or more than 1 millimeter in diameter. Accordingly, § 660.27 is amended in the last sentence of the introductory paragraph, by replacing the word "aggregates" with the phrase "size of the clumps"; and paragraphs (a) (4), (b) (4), and (c) (2) are amended to require that at the end of time specified, the size of the clumps be observed and recorded as less or more than 1 millimeter in diameter.

39. Two comments on proposed § 660.27 (a) and (b) objected to imposing a standard procedure for avidity testing rather than permitting use of the procedure recommended by the manufacturer of the antiserum. The comments provided no reason for the objections.

The Commissioner has conducted a review of the avidity test procedures described in the ABO and Rh sera package inserts of all licensed manufacturers and finds that the avidity test procedure required in § 660.27 (a) and (b) will provide equally satisfactory results with all of these reagents. The Commissioner considers the standardization of the ABO and Rh avidity testing procedure necessary to minimize variables and allow comparative testing of products. Accordingly, the comments are rejected and no change is made in the final regulation.

40. Five comments objected to the use of color coding as prescribed in proposed § 660.28(a) (1). One comment suggested that color coding be prohibited. Two comments recommended use of the existing color coding to preclude errors. Two comments objected strongly to the proposed use of lavender to color code Anti-c Serum labels because lavender has been used for 20 years to color code labels of Anti-c Serum. The comments said this change would invite error because of the long association of lavender color with Anti-c Serum and the similarity in printed appearance of Anti-c and Anti-e.

As stated in the preamble of the November 1975 proposal, the Commissioner believes that color coding of Blood Grouping Sera container labels will serve as a practical aid to the technologist to identify expeditiously the container contents. In addition, the Commissioner believes that the lettering size of the antibody designation on the labels of the container, required by § 660.28(a) (3), will eliminate the likelihood that the product will be identified solely by the container label color. Accordingly, the Commissioner rejects the comments suggesting that color coding be prohibited and that existing color coding alone be used to preclude error. But the Commissioner accepts the comments regarding possible errors caused by the similarity in printed appearance of Anti-c and Anti-e and the long association of lavender-colored labels with Anti-c Serum. Accordingly, to preclude such errors, the Commissioner is amending § 660.28(a) (1) in the final regulation by designating Lavender GP 234-P—40 percent tone to Anti-c and Green GP 270-G—70 percent tone to Anti-e.

41. One comment on proposed § 660.28(a)(1) recommended amendment to permit coloring of only a portion of the final container label.

The Commissioner has no objection to this, provided the remaining portion of the label is white. Accordingly, § 660.28(a)(1) is amended in the final regulation to permit all or a portion of the final container label to be color coded.

42. One comment on proposed § 660.28(a)(1) objected to the requirement that only black ink be used for printing.

The Commissioner proposed that only black ink be used for printing to assure legibility and to preclude the use of company colors. If color coding is to be effective, it is just as important to eliminate nondesignated colors as it is to adhere strictly to the colors selected. In addition, if color is to be used to designate a particular specificity of product, the use of color must be restricted to this use alone. The Commissioner is aware of the current use of color by some manufacturers to be representative of the particular manufacturer. But some of the colors used to identify the manufacturer are similar to those designated in § 660.28(a)(1) for a particular specificity of product and may cause confusion about the identity of the container contents. Accordingly, the comment is rejected.

43. Two comments on proposed § 660.28(a)(1) recommended that color coding of Whole Blood (Human) be consistent with the color coding of labels for Anti-A and Anti-B Blood Grouping Serum. Colors designated for Whole Blood (Human) are blue for Group O, yellow for Group A, pink for Group B, and white for Group AB. Colors designated for Blood Grouping Sera are blue for Anti-A and yellow for Anti-B.

The Commissioner acknowledges the recommendations to achieve consistency in color coding of labels of Blood Grouping Serum and Whole Blood (Human). No change is made in color coding designations of Anti-A and Anti-B in § 660.28(a)(1), however, because the consensus of workers in the field is that changing the colors of these vital reagents after many years experience with the existing colors could very possibly lead, through errors, to fatal transfusion reactions. The comment was directed at effecting a change in the Whole Blood (Human) color code which is not a part of these regulations. The Commissioner advises that he will consider future regulations for Whole Blood (Human) which may include a color code.

44. The Commissioner is amending proposed § 660.28 introductory paragraph and paragraph (c) by deleting the reference to § 328.10 and inserting therefor § 809.10 to reflect the recodification published in the FEDERAL REGISTER of February 13, 1976 (41 FR 6896). In addition, the phrase "§ 610.62 through § 610.65" is added to the introductory paragraph of § 660.28 to include the labeling requirements for all biological products, inadvertently omitted in the proposal.

45. The Commissioner is amending § 660.28(a)(1) in the final regulation to

refer to the final container label rather than the paper of the final container label.

46. The Commissioner is amending proposed § 660.28(a)(2) to make it clear that the proper name of the product, "Blood Grouping Serum," need not appear on the final container label, provided the final container is distributed in a package and the package label bears the proper name.

47. The Commissioner is amending proposed § 660.28(a)(2)(ii) to require the address of the manufacturer, inadvertently omitted in the proposal.

48. Two comments objected to the lettering size proposed in § 660.28(a)(3), maintaining that the type size requirement is too large.

The Commissioner advises that the type size specified in proposed § 660.28(a)(3) refers to the antibody designation only and not other required information. To relieve any potential crowding of labeling information, the prefix "Anti" in all the blood group designations need not appear in the same type size as that part of the name designating the specificity of the antiserum. The Commissioner believes that the correct identification of antibody specificity is of utmost importance. Since the other information required on the final container label does not vary significantly from the information currently required, no sound basis exists to alter the label and type sizes. Accordingly, § 660.28(a)(3) is amended in the final regulation by stating that only the specificity of antibody designations shall appear in the larger type size.

49. One comment suggested revising proposed § 660.28(a)(3) by designating the volume of contents in a final container instead of the capacity of the final container.

This is contrary to the intent of the regulation because the Commissioner believes that it is desirable to use the largest practical type size whenever possible. If the container is capable of holding 5 milliliters, the regulations require that the larger type size be used even if the manufacturer's fill volume is less than 5 milliliters. Accordingly, the comment is rejected.

50. One comment recommended revision of proposed § 660.28(b) to provide that the package label information requirements are fulfilled if the information is included on the final container label and is visible within the package if it is placed therein.

The Commissioner finds no prohibition in the general biologics label regulations to preclude this procedure. Accordingly, § 660.28(b) is amended in the final regulation to provide that the requisite information may appear either on the package label or on the final container label if it is visible within the package.

51. One comment concerning proposed § 660.28(b)(15) recommended including the word "CAUTION" before the required statement of the hepatitis B surface antigen (HBsAg) test results of source material, to better alert users to the hazards of hepatitis.

The Commissioner accepts the comment, and § 660.28(b)(15) is revised in the final regulation by adding "CAUTION:" before the required statement on hepatitis.

52. The Commissioner is revising the hepatitis warning statement proposed in § 660.28(b)(15) to agree with the labeling requirements of § 610.40(d)(2), which were revised in the FEDERAL REGISTER of February 13, 1976 (41 FR 6912), subsequent to the proposal on Blood Grouping Serum. Section 660.28(b)(15) of the final regulation prescribes two statements, one for source material reactive and another for source material nonreactive in a test for HBsAg. If there is not sufficient space on the package to bear the statement required for nonreactive source material, the statement may appear in the package insert, and the statement "CAUTION: HANDLE AS IF CAPABLE OF TRANSMITTING HEPATITIS" may be substituted on the package label.

53. One comment on proposed § 660.28(b)(6) recommended listing on the package label, all additives as well as any preservative.

The Commissioner advises that the listing of additives is required in the package insert in the "ingredient" section. The recommendation to include this information on the package label is impractical because of the limited space available. Accordingly, the comment is rejected.

54. Two comments recommended amending proposed § 660.28(c) to require one package insert per carton if several final containers requiring identical package inserts are packaged in a single carton, rather than the proposed requirement of one package insert per final container. One comment said that the amendment would reduce inflationary effects.

The Commissioner agrees that one package insert is necessary to supply the required information for identical packages. Therefore, § 660.28(c) is amended in the final regulation by adding a sentence to allow only one package insert per package if two or more final containers requiring identical package inserts are placed in a single package.

55. Two comments, concerning proposed § 660.28(d) recommended a small bar be placed over the lower case k of Anti-K, (Anti-Cellano) used in listing Blood Group designations to differentiate the lower case k from the capital K of anti-K (Anti-Kell). One comment recommended correcting the optional synonym listed for Anti-C^e from (Anti-rh^c) to (Anti-rh^a).

The Commissioner agrees with the comments, and § 660.28(d) is amended accordingly. The Commissioner also notes that Anti-Js^a Anti-(Sutter) was inadvertently omitted from the proposal although it is a currently licensed product. Section 660.28(d) is therefore amended to include the listing of Anti-Js^a (Anti-Sutter).

56. One comment regarding proposed § 660.28(d) recommended numerical designations as optional synonyms for anti-

sera, claiming that many of the more recently discovered antigens are named only in this way.

The Commissioner is aware of many changes in nomenclature in this field. But the proposed Blood Group designation and optional synonyms listed represent the terminology most generally recognized by the majority of users of products currently licensed. If, in the future, numerical designations or some other nomenclature gain widespread use and acceptance, further revisions can be made. This position does not preclude the use of numerical designations or other synonyms in package inserts in addition to those listed in § 660.28(d) if a manufacturer chooses to do so. Accordingly, the comment is rejected.

57. Four comments regarding proposed § 660.28(d) objected to the adoption of the Fisher-Race nomenclature and presented support for the Wiener nomenclature. On the other hand, five comments supported elimination of the Wiener nomenclature.

The Commissioner advises that the only purpose for requiring the Fisher-Race Nomenclature on the final container label is to communicate simply and clearly the identity of the contents. He believes this is best accomplished with the Fisher-Race symbols.

The Commissioner strongly supports the retention in the package insert of optional synonyms that serve a more "educational" purpose. Accordingly, the comments are rejected.

58. Three comments on proposed § 660.29(a)(1)(i) and (ii) were received. One comment recommended that samples of partial fillings of a lot (or subfillings), as well as samples filled from a sublot, be considered representative of the lot. One comment requested clarification regarding bulk release. One comment said that manufacturers should not be required to submit final container samples of each sublot to the Bureau of Biologics for release action.

The Commissioner advises that materials which manufacturers often refer to as "partial fillings" are defined in these additional standards as sublots. If a manufacturer wishes to fill part of a lot, the lot shall first be subdivided into sublots, and one sublot shall be filled in one continuous operation into final containers. Manufacturers' specifications for processing and testing must verify that each sublot is identical to other sublots of the lot as prescribed in § 660.21(a)(3). "Bulk release" in the past has referred to sampling a bulk lot and filling a sufficient number of final containers to enable a manufacturer and the Bureau of Biologics to complete their required testing. This has resulted in the Bureau of Biologics receiving final container samples that are not representative of the balance of the lot. The Commissioner believes that consistency in manufacturing shall have been demonstrated to the extent that "bulk release" is no longer desirable or necessary. The material submitted to the Bureau of Biologics should be representative of filled final contain-

ers intended for sale to users. Thus, § 660.29(a)(1)(ii) of the final regulation specifies that randomly selected final containers of a lot or sublot which have been filled in one continuous operation and packaged and labeled for distribution shall be sent to the Bureau of Biologics for testing. To assure that these samples are representative of the final containers prepared for distribution, § 660.29(a) is amended in the final regulation to require that 15 percent of the lot shall have been filled before final containers are submitted to the Bureau of Biologics for release action. In addition, § 660.29(a)(1)(ii) in the final regulation is amended to clearly state that final container samples of only one sublot are required to be submitted to the Director, Bureau of Biologics.

59. One comment on proposed § 660.29(a)(1)(iii) recommended that the quantity of final container material to be submitted to the Bureau of Biologics be expressed in milliliters rather than in the number of final containers required for release action.

The Commissioner advises that the number of final containers of the specified fill volumes is the minimum number required to complete sterility and serological testing and still have an adequate volume for retention throughout the dating period. Since receipt of samples in the final container form maximizes the effectiveness of the final product testing, there is no basis for expressing this amount in total milliliters. Accordingly, the comment is rejected.

60. Two comments on proposed § 660.29(a)(3)(ii) recommended that a lot of reprocessed material be defined as a lot previously submitted to the Bureau of Biologics and found unacceptable, or a lot voluntarily withdrawn by the manufacturer. One comment expressed the opinion that the inflationary effect of listing the required information outweighs the value of that information.

The Commissioner advises that the comments' recommended definition of a lot of reprocessed material is consistent with the intent of the proposed regulation. Accordingly, § 660.29(a)(3)(ii) is amended to define reprocessed material as all or part of a lot previously rejected by the Bureau of Biologics, or a lot withdrawn from distribution or release action by the manufacturer. The Commissioner does not agree that listing of lot numbers, dates of manufacture, and proportion of each such reprocessed lot on the protocol would be inflationary. The required information to be listed on the protocol is information currently required as a part of manufacturing records of each lot. Accordingly, that comment is rejected.

The Commissioner has carefully considered the environmental effects of the proposed regulation and, because the proposed action will not significantly affect the quality of the human environment, has concluded that an environmental impact statement is not required. A copy of the environmental impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Public Health Service Act (sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262)) and under authority delegated to the Commissioner (21 CFR 5.1) Parts 610 and 660 are amended as follows:

§ 610.53 [Amended]

1. In Part 610, § 610.53 *Dating periods for specific products* is amended as follows:

a. By deleting the following items:

Adsorbed anti-A serum...	1 yr.
Anti-A blood grouping serum.	Liquid: 1 yr. dried: 5 yrs.
Anti-A, B blood grouping serum.	Do.
Anti-B blood grouping serum.	Do.
Anti-D ⁺ serum (anti-Diego).	1 yr.
Anti-Fy ^a serum (anti-Duffy).	Do.
Anti-Fy ^b serum.	Do.
Anti-Gr (Vw) serum.	Do.
Anti-I serum.	Do.
Anti-Jk ^a serum (anti-Kidd).	Do.
Anti-Jk ^b serum.	Do.
Anti-Js ^a serum (anti-Sutter).	Do.
Anti-k serum (anti-Cellano).	Do.
Anti-K serum (anti-Kell).	Do.
Anti-Kp ^a (anti-Penney).	Do.
Anti-Kp ^a and anti-K serum (anti-Rautenberg and anti-Kell).	Do.
Anti-Kp ^b serum (anti-Rautenberg).	Do.
Anti-Le ^a (anti-Lewis)...	Liquid: 1 yr. dried: 5 yrs.
Anti-Le ^b serum.	Do.
Anti-Lu ^a serum (anti-Lutheran).	1 yr.
Anti-M serum.	Do.
Anti-M ^a serum.	Do.
Anti-M ^b (anti-Miltnerberger).	Do.
Anti-N serum.	Do.
Anti-P serum.	Do.
Anti-Rh typing serum, anti-rh' (anti-c).	Do.
Anti-Rh typing serum, anti-rh'' (anti-e).	Do.
Anti-Rh typing serum, anti-rh' (anti-C).	Liquid: 1 yr. dried: 5 yrs.
Anti-Rh typing serum, anti-rh'' (anti-E).	Do.
Anti-Rh typing serum, anti-Rh' (anti-D).	Do.
Anti-Rh typing serum, anti-Rh' (anti-CD).	Do.
Anti-Rh typing serum, anti-Rh'' (anti-DE).	1 yr.
Anti-Rh typing serum, anti-Rh-rh'' (anti-CDE).	Do.
Anti-Rh typing serum, anti-Rh + (anti-D + D ⁺).	Do.
Anti-Rh typing serum, anti-rh* (anti-C*).	Do.
Anti-rh* and anti-K serum (anti-(C*+Kell)).	Do.
Anti-s serum.	Liquid 1 yr. dried: 5 yrs.
Anti-S serum.	1 yr.
Anti-U serum (anti-Uss).	Do.
Anti-Wr ^a serum (anti-Wright).	Do.

b. By adding after "BCG Vaccine" in the list, the heading "Blood Grouping

Serums" and alphabetically inserting thereunder new items as follows:

BLOOD GROUPING SERA	
Anti-A	Liquid 1 yr. dried: 5 yrs.
Anti-A1	1 yr.
Anti-A B	Liquid 1 yr. dried: 5 yrs.
Anti-B	Do.
Anti-C	Do.
Anti-c	1 yr.
Anti-CD	Liquid 1 yr. dried: 5 yrs.
Anti-CDE	1 yr.
Anti-C*	Do.
Anti-D	Liquid 1 yr. dried: 5 yrs.
Anti-DE	1 yr.
Anti-D*	Do.
Anti-E	Liquid 1 yr. dried: 5 yrs.
Anti-e	1 yr.
Anti-Fy ^a	Do.
Anti-Fy ^b	Do.
Anti-I	Do.
Anti-Jk ^a	Do.
Anti-Jk ^b	Do.
Anti-Js ^a	Do.
Anti-K	Do.
Anti-k	Do.
Anti-Kp ^a	Do.
Anti-Kp ^b	Do.
Anti-Le ^a	Liquid 1 yr. dried: 5 yrs.
Anti-Le ^b	Do.
Anti-M	1 yr.
Anti-M*	Do.
Anti-N	Do.
Anti-Pl	Do.
Anti-S	Do.
Anti-s	Liquid 1 yr. dried: 5 yrs.
Anti-U	1 yr.
Anti-Xg ^a	Do.

2. In Part 660, by adding new Subpart C, consisting of §§ 660.20 through 660.29, to read as follows:

Subpart C—Blood Grouping Serum

Sec.	
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AUTHORITY: Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).

Subpart C—Blood Grouping Serum

§ 660.20 Blood Grouping Serum.

(a) *Proper name and definition.* The proper name of this product shall be Blood Grouping Serum which shall consist of a sterile preparation of serum containing one or more blood grouping antibodies as set forth in § 660.28(d).

(b) *Source.* The source of this product shall be blood, plasma, or serum.

§ 660.21 Processing.

(a) *Processing method.* (1) The processing method shall be one that has been shown to consistently yield a specific, potent final product, free of properties

that would affect the product for its intended use throughout the dating period.

(2) Only that material which has been fully processed, sterile-filtered into a single vessel and thoroughly mixed in that vessel shall constitute a lot.

(3) A lot may be subdivided into clean, sterile vessels. Each subdivision shall constitute a subplot. If lots are to be subdivided, the manufacturer shall include this information in the license application. The manufacturer shall describe the test specifications to verify that each subplot is identical to other sublots of the lot and that each subplot is sterile as specified in § 610.12 of this chapter.

(4) Each lot of Blood Grouping Serum shall be identified by a lot number. Each subplot shall be identified by that lot number to which a distinctive prefix or suffix shall be added. Final container and package labels shall bear the lot number and all distinctive prefixes and suffixes that have been applied to identify the subplot from which filling was accomplished.

(b) *Color coding of antisera.* Blood Grouping Sera shall not be colored, except that anti-A may be colored blue, and anti-B may be colored yellow.

(c) *Color coding of dropper bulbs.* Dropper bulbs may be color coded to match the color of the label of each antiserum. If the dropper bulb is not color coded, it shall be black.

(d) *Final containers and dropper assemblies.* Final containers and dropper assemblies shall be sterile, colorless, and sufficiently transparent to permit observation of the contents for freedom from increases in turbidity during use.

(e) *Volume of final product.* A final container of Blood Grouping Serum shall contain no more than the following volumes, excluding overfill volume, to permit withdrawing the labeled volume:

(1) 150 milliliters of product for automated use for those sera to be used without dilution in automated equipment.

(2) 10 milliliters of product for automated use for those sera to be diluted for use in automated equipment.

(3) 10 milliliters of product for manual use.

(f) *Date of manufacture.* The date of manufacture shall be the date of initiation by the manufacturer of the last valid potency test reported on a protocol and submitted to the Director, Bureau of Biologics, Food and Drug Administration.

§ 660.22 Reference preparations.

The following reference Blood Grouping Sera shall be obtained from the Bureau of Biologics, Food and Drug Administration, 8800 Rockville Pike, Bethesda, MD 20014, and shall be used as described in the accompanying package insert for determining the potency of Blood Grouping Sera.

Anti-A	
Anti-B	
Anti-D for rapid tube test	
Anti-CD for saline tube test for saline active	
Anti-D only	
Anti-C for rapid tube test	
Anti-C for saline tube test	
Anti-E for rapid tube test	

Anti-E for saline tube test

Anti-c for rapid tube test

Anti-e for rapid tube test

§ 660.23 Red blood cell preparations.

Fresh or frozen red blood cells may be used for preparing cell suspensions for the testing of all Blood Grouping Sera under the following conditions:

(a) Unlicensed fresh red blood cells used for specificity testing shall be used within 7 days of withdrawal from the donor. Unlicensed red blood cells of any age may be used for potency testing. Licensed Reagent Red Blood Cells (Human) may be used for potency and specificity testing any time before their expiration date.

(b) Red blood cells meeting the criteria of paragraph (a) of this section may be frozen and thawed for use in the preparation of all cell suspensions for testing antisera. Frozen red blood cells shall be used on the day of thawing and appropriate controls shall be used to demonstrate the desired reactivity of the thawed red blood cells. The method of freezing, storing, and thawing red blood cells, including a description of the cryoprotective medium, shall be described in detail and must be approved by the Director, Bureau of Biologics, as a license amendment before use in control testing of antisera.

(c) Red blood cells for use in control testing of antisera requiring indirect antiglobulin technique shall first be tested and found negative by direct antiglobulin technique on the day of use or each time frozen blood cells are thawed, whichever is applicable.

§ 660.24 Potency test with reference preparations.

Products for which Reference Blood Grouping Sera are available shall be tested as follows:

(a) *Test procedures for ABO Blood Grouping Serum—(1) Cell suspension.*

(i) A 2-percent suspension of red blood cells in isotonic saline shall be prepared on the day of use. The red blood cells used shall have been washed with isotonic saline at least twice and shall result in a clear supernate.

(ii) As a minimum, the following cells shall be used:

Blood grouping serum	Cells
Anti-A	A ₁ , A ₂ B (A ₂ B cells from 3 different donors shall be used).
Anti-A B	A ₁ , A ₂ , B.
Anti-B	B.

(2) *Serum dilutions.* (i) Beginning with undiluted serum, separate two-fold dilutions (1:2, 1:4, etc.) of the test serum and the reference serum shall be prepared using isotonic saline containing 1 to 2 percent AB serum or bovine albumin.

(ii) A separate clean pipette shall be used for each dilution to avoid carryover of higher serum concentrations.

(iii) For anti-A,B serum, unpooled Reference Blood Grouping Sera anti-A and anti-B shall be used.

(3) *The test.* Using cells listed in paragraph (a) (1) (ii) of this section, Refer-

ence Blood Grouping Sera anti-A and anti-B shall be tested in parallel with the test serum.

(i) Place 0.1 milliliter of each serum dilution in a separate clean test tube approximately 10 x 75 millimeters. Add 0.1 milliliter of the appropriate 2 percent cell suspension to each test tube.

(ii) Mix contents of each test tube thoroughly and centrifuge immediately for 1 minute at approximately 150 relative centrifugal force (rcf) or 20 seconds at approximately 1,000 rcf.

(4) *Interpretation of the test.* (i) The cell buttons of each test tube shall be gently dislodged and observed macroscopically. The reactions shall be graded as follows:

- 4+ Cell button remains in one clump.
- 3+ Cell button dislodges into several clumps.
- 2+ Cell button dislodges into many small clumps of equal size.
- 1+ Cell button dislodges into finely granular, but definite, small clumps.

D Cell button dislodges into fine granules, but not definite small clumps. Results shall be recorded as doubtful. For purposes of this paragraph, doubtful reactions are deemed to be negative.

(ii) The potency titer value is the reciprocal of the greatest serum dilution for which the reaction is graded as 1+. The dilution caused by the addition of the cells shall not be considered as contributing to the dilution of the antiserum.

(b) *Test procedures for anti-D, anti-CD, anti-DE, anti-CDE, anti-C, anti-E, anti-c and anti-e for slide test or rapid tube test—(1) Cell suspensions.* (i) A 2-percent suspension of red blood cells in 11 to 15 percent bovine albumin shall be prepared on the day of use. The red blood cells used shall have been washed with isotonic saline at least twice and shall result in a clear supernate.

(ii) As a minimum, the following cells shall be used:

Blood grouping serum	Cells (A, B, AB, or O)
Anti-D	ccDee.
Anti-C	Ccdee.
Anti-E	ccDEe.
Anti-c	CcDee.
Anti-e	ccDEe.
Anti-CD	ccDee, Ccdee.
Anti-DE	ccDee, ccdEe.
Anti-CDE	ccDEe, ccDee, Ccdee.

(2) *Serum dilutions.* (i) Beginning with undiluted serum, separate two-fold dilutions (1:2, 1:4, etc.) of the test serum and the reference serum shall be prepared using 20 to 22 percent bovine albumin.

(ii) A separate clean pipette shall be used for each dilution to avoid carryover of higher serum concentrations.

(iii) For test sera containing multiple antibodies (e.g., anti-CDE) the corresponding unpooled Reference Blood Grouping Sera shall be used.

(3) *The test.* Using cells listed in paragraph (b) (1) (ii) of this section, Reference Blood Grouping Sera shall be tested in parallel with the test sera.

(i) Place 0.1 milliliter of each serum dilution in a separate clean test tube ap-

proximately 10 x 75 millimeters. Add 0.1 milliliter of the appropriate 2 percent cell suspension to each test tube.

(ii) Mix contents of each test tube thoroughly and incubate test tubes at 37° C for 1 hour.

(iii) Centrifuge test tubes for 2 minutes at approximately 150 relative centrifugal force (rcf) or for 45 seconds at approximately 1,000 rcf.

(4) *Interpretation of the test.* The interpretation of the test shall be the same as described in paragraph (a) (4) of this section.

(c) *Test procedure for anti-C, anti-D, and anti-E for saline tube test.* The test procedure shall be the same as that described in paragraph (b) (1) through (4) of this section except for the following:

(1) The 2-percent suspensions of red blood cells and the two-fold serum dilutions shall be made in isotonic saline containing 1 to 2 percent AB serum or bovine albumin.

(2) Test tubes shall be centrifuged for 1 minute at approximately 150 relative centrifugal force (rcf) or 20 seconds at approximately 1,000 rcf.

(d) *Potency requirements.* Products for which Reference Blood Grouping Sera are available shall have a potency titer value at least equal to that of the reference sera.

§ 660.25 Potency test without reference preparations.

Products for which Reference Blood Grouping Sera are not available shall be tested as follows:

(a) *Products recommended for tube tests—(1) Cell suspensions.* (i) A 2-percent suspension of red blood cells in isotonic saline or in AB serum shall be prepared on the day of use. The red blood cells used shall have been washed with isotonic saline at least twice and shall result in a clear supernate.

(ii) As a minimum, red blood cells from two donors shall be used. Heterozygous phenotypes shall be selected if antisera defining antigens corresponding to products of all alleles of that blood group system exist. When necessary, other cells may be used and reported on the protocol for that lot.

(2) *Serum dilutions.* (i) Beginning with undiluted serum, separate two-fold dilutions (1:2, 1:4, etc.) of the test serum shall be prepared using isotonic saline or AB serum.

(ii) A separate clean pipette shall be used for each dilution to avoid carryover of higher serum concentrations.

(3) *The test.* (i) Place 0.1 milliliter of each serum dilution in a separate clean test tube approximately 10 x 75 millimeters. Add 0.1 milliliter of the appropriate cell suspension to each test tube.

(ii) Mix contents of each test tube thoroughly and incubate test tubes at the temperature and for the shortest length of time recommended in the manufacturer's package insert for the product.

(iii) Perform antiglobulin test, if required in the manufacturer's package insert for the product.

(iv) Centrifuge test tubes according to the instructions that result in the lowest rcf and the least time recommended in the manufacturer's package insert.

(4) *Interpretation of the test.* The interpretation of the test shall be the same as described in § 660.24(a) (4).

(5) *Potency requirements.* Blood Grouping Sera recommended for the test tube methods, including the indirect antiglobulin test, shall have the following potency titer value when tested by the method defined in paragraph (a) (1) through (4) of this section.

(i) For Anti-K, Anti-k, Anti-Jk^a, Anti-Fy^a, Anti-C*, at least 1+ reaction with a 1:8 dilution of antiserum.

(ii) For Anti-S, Anti-s, Anti-P, Anti-M, Anti-I, Anti-e (saline), Anti-c (saline) and Anti-A, at least a 1+ reaction with a 1:4 dilution of the antiserum.

(iii) For Anti-U, Anti-Kp^a, Anti-Kp^b, Anti-Js^a, Anti-Fy^b, Anti-N^a, Anti-Le^a, Anti-Le^b, Anti-Di^a, Anti-M^a, Anti-Jk^b, and Anti-Xg^a, at least a 2+ reaction with undiluted serum.

(b) *Products recommended for slide tests.* Blood Grouping Serum recommended for slide test methods shall produce clumps of agglutinated cells at least 1 millimeter in diameter when both undiluted serum and a 1:2 dilution of serum are tested by all methods recommended in the manufacturer's package insert using red blood cells heterozygous for the corresponding antigen. The dilution shall be made with an equal volume of group compatible serum or AB serum.

(c) *Products recommended for use in automated system.* Blood Grouping Serum recommended for use in an automated system shall be sufficiently potent that a two-fold dilution will produce the same qualitative test result as the undiluted product tested in accordance with the manufacturer's package insert. This shall be demonstrated by preparing the two-fold dilution of the antiserum with an appropriate diluent and testing it against red blood cells which are heterozygous (except for A or B or D) for the corresponding antigen by the method described in the manufacturer's package insert.

§ 660.26 Specificity tests.

(a) *Test procedures.* (1) Each lot of Blood Grouping Serum shall be tested by all test methods described in the manufacturer's package insert.

(2) Red blood cell samples from four different donors whose cells have the antigen and red blood cell samples from four different donors whose cells lack the antigen corresponding to the specificity of the antibody shall be tested.

(3) Approval for exceptions to paragraph (a) (2) of this section may be requested from the Director, Bureau of Biologics, by a manufacturer at the time of submission of the first protocol if the Blood Grouping Serum is specific for high-incidence antigens.

(b) Red blood cells to be used as a minimum in specificity tests of the following antisera:

(1) ABO and Rh Blood Grouping Sera:

Blood grouping serum	Cells
Anti-A	A ₁ , A ₂ , B, O.
Anti-B	A, B, O.
Anti-A,B	A ₁ , A ₂ , B, O, A ₁ cells from 3 different donors. ¹
Anti-A ₁	A ₁ , A ₂ , A,B,A,B,O.
Anti-D	CcDce, ccDce, Ccddee, ccdDe, A ₁ ccddee, B ccddee, O ccddee.
Anti-D (recommended for use by indirect antiglobulin technique).	ccdee Bg(a+) cells from 3 different donors.
Anti-C	ccDce, Ccddee, ccdDeE, C+rh ₁ neg. cells, A ₁ ccddee, B ccddee, O ccddee.
Anti-E	ccDce, Ccddee, ccdDeE, A ₁ ccddee, B ccddee, O ccddee.
Anti-CD	ccDce, Ccddee, ccdDeE, A ₁ ccddee, B ccddee, O ccddee, r ₁ r ₂ .
Anti-DE	ccDce, Ccddee, ccdDeE, A ₁ ccddee, B ccddee, O ccddee.
Anti-CDE	ccDce, Ccddee, ccdDeE, A ₁ ccddee, B ccddee, O ccddee, r ₁ r ₂ .
Anti-c	Ccddee, A ₁ CCDee, B CCDee, O CCDee, and CCDee or CCDeE or CCDeE.
Anti-e	ccDeE, A ₁ ccDeE, B ccDeE, O ccDeE, and ccDeE or CCDeE or CCDeE.

¹ Only if the labeling recommends Anti-A,B Blood Grouping Serum for detection of Group A variants.

² Only if antiserum is recommended for detection of G antigen.

(2) All other Blood Grouping Sera:

(1) Red blood cells of any ABO blood group that are heterozygous phenotypes may be used if antisera defining antigens corresponding to the products of all alleles of that blood grouping system exist.

(ii) In addition, group O, A₁ and B red blood cells lacking the corresponding antigen shall be tested. A,B cells may be substituted for A₁ and B cells when either or both are unavailable.

(c) Specificity tests shall include red blood cells having the following antigens:

(1) Antigens: A, B, H, Le^a, Le^b, Le^c, Le^d, I, K, k, Kp^a, Kp^b, Js^a, P₁, D, C, E, c, e, C⁺, M, N, S, s, U, Lu^a, Lu^b, Jk^a, Jk^b, Fy^a, Fy^b, Xg^a, Do^a, Do^b, Yt^a, Yt^b, Lan, Co^a, Co^b, M^a, M^b, and Sd^a.

(2) Approval for exceptions to paragraph (c) (1) of this section may be requested from the Director, Bureau of Biologics, by a manufacturer at the time of submission of the first protocol if Blood Grouping Serum is specific for high incidence antigens.

(3) Red blood cell samples from four different donors may be used to confirm presumptively the absence of contaminating antibodies to antigens having an incidence of greater than 99 percent in the general population of the United States. If tests of all four blood samples are negative, absence of these contaminating antibodies is taken to have been confirmed.

(d) Specificity requirements. (1) Specificity tests shall demonstrate no hemolysis or rouleaux formation in all tests performed on the finished lot.

(2) If one of four red blood cell samples with the antigen corresponding to the specific antibody gives less than a 2+ reaction, additional red blood cell samples from four donors whose cells have the antigen shall be tested. The test is considered satisfactory if no more than one of eight red blood cell samples gives less than a 2+ reaction with the test serum.

(3) The manufacturer shall list on the protocol and in the "Specific Performance Characteristics" section of the package insert red blood cell antigens M^a and W^a and antigens having an incidence of 1 percent or greater in the general population of the United States for which no specificity tests have been performed. If desired, the red blood cell phenotype of the antibody donor(s) may also be listed as presumptive evidence that antibodies to those factors have been excluded.

(4) Specificity tests shall confirm the absence of significant contaminating antibodies reactive with red blood cell antigens M^a and W^a and antigens having an incidence of 1 percent or greater in the general U.S. population by the most sensitive test technique recommended by the manufacturer for use of the Blood Grouping Serum.

(5) Confirmation of nonspecific reactions by manufacturers after a lot of Blood Grouping Serum has been released shall be reported promptly by the manufacturer to the Director, Bureau of Biologics.

§ 660.27 Avidity test.

Blood Grouping Sera recommended for use by a slide method shall be tested for avidity by the appropriate test established in this section. Such sera shall be sufficiently avid that beginning agglutination occurs within 60 seconds. Agglutinated cells shall remain visible for the period of time required in this section for each serum, and at that time the size of the clumps shall be no less than 1 millimeter in diameter.

(a) Test procedure for ABO Blood Grouping Serum. (1) A 35 to 45 percent suspension of red blood cells in either AB serum or group-compatible serum or plasma shall be used.

(2) One drop of undiluted test serum shall be mixed with one drop of the cell suspension over an oval area of approximately 20 millimeters x 40 millimeters on an unheated glass slide.

(3) The time required for agglutination to begin shall be recorded.

(4) At the end of 2 minutes, the size of the clumps shall be observed and recorded as either less or more than 1 millimeter in diameter.

(5) As a minimum, the following cells shall be used:

Blood grouping serum	Cells
Anti-A	A ₁ , A ₂ , B
Anti-B	A, B, O
Anti-A,B	A ₁ , A ₂ , B

(b) Test procedure for Anti-D, Anti-CD, Anti-DE, Anti-CDE, Anti-C, Anti-E, Anti-c and Anti-e. (1) A 35 to 45 percent suspension of red blood cells in either AB serum or group-compatible serum or plasma shall be used.

(2) One drop of undiluted test serum shall be mixed with 2 drops of the cell suspension over an oval area of approximately 20 millimeters x 40 millimeters on a glass slide continuously heated at 40° C to 50° C.

(3) The time required for agglutination to begin shall be recorded.

(4) At the end of 2 minutes, the size of the clumps shall be observed and recorded as either less or more than 1 millimeter in diameter.

(5) As a minimum, the following cells shall be used:

Blood grouping serum	Cells (A, B, AB or O)
Anti-D	ccDce
Anti-C	CcdDee
Anti-E	ccdde
Anti-c	CcdDee
Anti-e	ccDee
Anti-CDE	ccDce, CcdDee, ccdDeE
Anti-CD	ccDce, CcdDee
Anti-DE	ccDce, ccdDeE

(c) Test procedure for other Blood Grouping Sera. All Blood Grouping Sera recommended for the slide test, except those listed in paragraphs (a) and (b) of this section, shall be tested for avidity following instructions in the manufacturer's package insert for performing the slide test with the following provisions:

(1) Cells of any ABO group which are heterozygous for the corresponding antigen shall be used.

(2) At the end of the recommended maximum observation period, the size of the clumps shall be observed and recorded as less or more than 1 millimeter in diameter.

§ 660.28 Labeling.

In addition to the applicable labeling requirements of §§ 610.62 through 610.65 and 809.10 of this chapter, and in lieu of the requirements in §§ 610.60 and 610.61 of this chapter, the following requirements shall be met:

(a) Final container label—(1) Color coding. The final container label of all Blood Grouping Sera shall be completely white, except that all or a portion of the final container label of the following antisera may be color coded with a visual match of the specific color samples identified below and in the Standard Ink Book for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Printing on all final container labels shall be in solid black.

Blood grouping serum	Color of label paper
Anti-A	Blue GP 251-B—70 pct tone.
Anti-B	Yellow GP 201-Y—100 pct tone.
Anti-C	Pink GP 218-R—70 pct tone.
Anti-D	Grey GP 298-G—70 pct tone.

Slide and rapid tube test sera only:
Anti-E—Brown GP 283-BR—70 pct tone.
Anti-CDE—Orange GP 204-Y—100 pct tone.
Anti-c—Lavender GP 234-P—40 pct tone.
Anti-e—Green GP 270-G—70 pct tone.

Slide and rapid tube test sera only:

Anti-E	Brown GP 283-BR—70 pct tone.
Anti-CDE	Orange GP 204-Y—100 pct tone.
Anti-c	Lavender GP 234-P—40 pct tone.
Anti-e	Green GP 270-G—70 pct tone.

(2) Required information. The proper name "Blood Grouping Serum" need not appear on the final container label provided the final container is distributed in a package and the package label bears the proper name. The final container label shall bear the following information:

(i) Name of the antibody or antibodies present as set forth in paragraph (d) of this section.

(ii) Name, address (including ZIP Code), and license number of the manufacturer.

(iii) Lot number, including subplot designations.

(iv) Expiration date.

(v) Source of product if other than human.

(vi) Test method(s) recommended.

(vii) Recommended storage temperature.

(viii) Volume of product if a liquid, or equivalent volume for a dried product if it is to be reconstituted.

(ix) If a dried product, the statement "RECONSTITUTION DATE EXPIRES 1 YEAR AFTER RECONSTITUTION DATE."

(3) Lettering size. The type size for the specificity of the antibody designation on the labels of a final container with a capacity of less than 5 milliliters shall be not less than 12 point. The type size for the specificity of the antibody designations on the label of a container with a capacity of 5 milliliters or more shall be not less than 18 point.

(4) Visual inspection. When the label has been affixed to the final container, a sufficient area of the container shall remain uncovered for its full length or no less than 5 millimeters of the lower circumference to permit inspection of the contents.

(b) Package label. The following information shall appear either on the package label or on the final container label if it is visible within the package.

(1) Proper name of the product.

(2) Name of the antibody or antibodies present as set forth in paragraph (d) of this section.

(3) Name, address (including ZIP Code), and license number of the manufacturer.

(4) Lot number, including subplot designations.

(5) Expiration date.

(6) Preservative used and its concentration.

(7) Number of containers, if more than one.

(8) Volume or equivalent volume for dried products when reconstituted, and precautions for adequate mixing when reconstituting.

(9) Recommended storage temperature.

(10) Source of the product if other than human.

(11) Reference to enclosed package insert.

(12) If a dried product, a statement indicating the period within which the product may be used after reconstitution.

(13) The statement: "IN VITRO DIAGNOSTIC REAGENT. FOR PROFESSIONAL USE ONLY."

(14) The statement: "MEETS FDA POTENCY REQUIREMENTS."

(15) The statement: "CAUTION: SOURCE MATERIAL FROM WHICH THIS PRODUCT WAS DERIVED WAS FOUND NONREACTIVE FOR HB₁Ag WHEN TESTED WITH LICENSED REAGENTS. NO KNOWN TEST METHOD CAN OFFER ASSURANCE THAT PRODUCTS DERIVED FROM HUMAN BLOOD WILL NOT TRANSMIT HEPATITIS." or "CAUTION: SOURCE MATERIAL FOR THIS PRODUCT WAS REACTIVE WHEN TESTED FOR HB₁Ag AND MAY TRANSMIT HEPATITIS", whichever is applicable. If the source material is nonreactive in a test for HB₁Ag and there is insufficient space on the package label to include the entire statement, the required statement may be included in the package insert and the statement "CAUTION: HANDLE AS IF CAPABLE OF TRANSMITTING HEPATITIS" shall be used on the package label.

(16) A statement of an observable indication of an alteration of the product, e.g., turbidity, color change, precipitate.

(c) Package insert. Each final container of Blood Grouping Serum shall be accompanied by a package insert meeting the requirements of § 809.10 of this chapter. If two or more final containers requiring identical package inserts are placed in a single package, only one package insert per package is required.

(d) Names of antibodies.

Blood group designation for container label	Optional synonym for package label and package insert
Anti-A	None.
Anti-A ₁	Do.
Anti-B	Do.
Anti-A,B	Do.
Anti-D ^a	(Anti-Diego ^a).
Anti-Py ^a	(Anti-Duffy ^a).
Anti-Py ^b	(Anti-Duffy ^b).
Anti-I	None.
Anti-Jk ^a	(Anti-Kidd ^a).
Anti-Jk ^b	(Anti-Kidd ^b).
Anti-K	(Anti-Kell).
Anti-k	(Anti-Cellano).
Anti-Kp ^a	(Anti-Penney).
Anti-Kp ^b	(Anti-Rautenberg).
Anti-Le ^a	(Anti-Lewis ^a).
Anti-Le ^b	(Anti-Lewis ^b).
Anti-M	None.
Anti-N	Do.
Anti-M ^a	(Anti-Gilfeather).
Anti-P ₁	None.
Anti-D	(Anti-Rh ^a).
Anti-CD	(Anti-Rh ^a).
Anti-DE	(Anti-Rh ^a).
Anti-CDE	(Anti-Rh ^a).
Anti-c	(Anti-rh ^a).
Anti-e	(Anti-hr ^a).
Anti-c	(Anti-hr ^a).
Anti-e	(Anti-hr ^a).

Anti-C ^a	(Anti-rh ^a).
Anti-S	None.
Anti-a	(Do).
Anti-U	(Do).
Anti-Xg ^a	(Do).
Anti-Js ^a	(Anti-Sutter).

§ 660.29 Samples; protocols; official release.

(a) Samples and protocols. After no less than 15 percent of each lot has been filled into final containers, the following material for each lot shall be submitted to the Director, Bureau of Biologics, 8800 Rockville Pike, Bethesda, Md. 20014.

(1) Liquid products. (i) Randomly selected final container samples of the lot which have been filled in one continuous operation and packaged and labeled for distribution, or

(ii) If a lot of fully processed product is divided into sublots, randomly selected final container samples from one subplot that have been filled in one continuous operation and packaged and labeled for distribution shall be considered representative of the entire lot.

(iii) Not less than the following quantities shall be submitted:

LIQUID PRODUCTS		
Final container size (in milliliters)	Number of final containers to be submitted for serum recommended for—	
	Manual use	Automated use
1	5	5
2	3	3
5	2	2
10	2	2
More than 10	2	2

(2) Dried products. (i) Randomly selected final container samples of the dried product from each oven of each drying operation.

(ii) Not less than the following quantities shall be submitted:

DRIED PRODUCTS		
Final container size (in milliliters)	Number of final containers to be submitted for serum recommended for—	
	Manual use	Automated use
0.5	12	12
1.0	6	6
2.0	4	4
5.0	3	3
10.0	3	3
More than 10.0	3	3

(iii) At least 200 milligrams of dried product shall be submitted for a test to determine moisture content. Samples for moisture testing may be either (a) final container material of the product, or (b) dummy samples of material with the same composition and protein concentration as the product, filled in the same size vials, with the same volume as the product. Such samples shall be appropriately labeled before drying and placed in random locations throughout the drying equipment.

(3) Protocol. A protocol which shall consist of a summary of the history of manufacture of the lot. The history shall include: (i) Results of all tests

which are required by these regulations; and (ii) a listing of each lot of reprocessed material incorporated into the lot submitted for release including the lot number, date of manufacture, and the proportion of each reprocessed lot in the final product. A reprocessed lot is all or a portion of reprocessed material rejected by the Bureau of Biologics or withdrawn from distribution or release action by the manufacturer.

(b) *Official release.* A lot of Blood Grouping Serum shall not be issued by the manufacturer until written notification of official release of the lot is received from the Director, Bureau of Biologics, Food and Drug Administration.

Effective date. These regulations shall be effective December 6, 1977, except for the labeling requirements, which shall be effective August 7, 1978.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: August 26, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 77-29206 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket No. 77N-0264]

PART 650—ADDITIONAL STANDARDS FOR DIAGNOSTIC SUBSTANCES FOR DERMAL TESTS

Bulk Tuberculin, PPD

AGENCY: Food and Drug Administration.

ACTION: Final Rule.

SUMMARY: This rule reduces the requirement for volume of bulk tuberculin, PPD, to be submitted for testing. The current required volume exceeds the amount used in testing. This amendment will eliminate surplus material and reduce cost to the agency.

EFFECTIVE DATE: October 7, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Al Rothschild, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, Md. 20014 (301-443-1920).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration is conducting a continuing review of the existing regulations governing biological products to ensure that the criteria of safety, purity, potency, and effectiveness established by such regulations are updated to reflect current requirements for licensed products. Consistent with the review, the Commissioner of Food and Drugs is amending the regulations to reduce the volume of bulk tuberculin, PPD, to be submitted to the Bureau of Biologics for testing—from no less than

20 milliliters to a volume of no less than 6 milliliters.

The biologics regulations in § 650.11 (c) (2) (ii) require that manufacturers of tuberculin submit for each lot manufactured a sample totaling no less than 20 milliliters of bulk tuberculin to the Bureau of Biologics for testing.

The Commissioner has reviewed the current requirement and finds that the prescribed volume of bulk tuberculin, PPD, required to be submitted significantly exceeds that actually used for testing. The Commissioner has determined that the current requirement is wasteful; unnecessarily increases the cost to the Food and Drug Administration in processing, storing, and disposing of samples; and imposes an undue hardship on manufacturers in loss of the product. Accordingly, the Commissioner is revising § 650.11 (c) (2) (ii) to prescribe an appropriate smaller volume of bulk tuberculin, PPD, required to be submitted for testing.

Therefore, under the Public Health Service Act (section 351, 58 Stat. 702, as amended (42 U.S.C. 262) and the Administrative Procedure Act (sections 4, 10, 60 Stat. 238 and 243, as amended (5 U.S.C. 553, 702 et seq.)), and under authority delegated to the Commissioner (21 CFR 5.1), Part 650 is amended by revising § 650.11 (c) (2) (ii) to read as follows:

§ 650.11 Potency tests.

- (c)
- (2)

(ii) A total of no less than 6 milliliters of bulk tuberculin.

Under the Administrative Procedure Act (5 U.S.C. 553 (b) and (d)), the Commissioner concludes that notice, public procedure, and delayed effective date are unnecessary for the amendment of § 650.11 because it does not impose an additional duty or burden on any person but rather relieves unnecessary requirements and clarifies the intent of the regulations.

Effective date: October 7, 1977.

(Sec. 351, 58 Stat. 702 as amended (42 U.S.C. 262).)

Dated: September 28, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.

[FR Doc. 77-29335 Filed 10-6-77; 8:45 am]

[4410-01]

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1308—SCHEDULES OF CONTROLLED SUBSTANCES

Placement of Lorazepam in Schedule IV
AGENCY: Drug Enforcement Administration.

ACTION: Final rule.

SUMMARY: This is a rule to place the drug lorazepam into schedule IV of the

Controlled Substances Act. This rule is issued in response to a letter from the Acting Assistant Secretary for Health, Department of HEW, and after the Administrator's own study of the drug. This rule requires that the manufacture, distribution, dispensing, importation, and exportation of lorazepam be subject to controls for schedule IV controlled substances.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Howard McClain, Chief, Regulatory Control Division, telephone 202-382-5676.

SUPPLEMENTARY INFORMATION: A Notice was published in the FEDERAL REGISTER on Tuesday, June 28, 1977 (42 FR 32805-06) proposing that schedule IV of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 812(c)) be amended to include lorazepam. All interested persons were given until July 28, 1977 to submit their comments or objections in writing regarding this proposal.

One comment was received in response to the proposal, from the American Society of Hospital Pharmacists, which supported the proposed schedule IV placement of lorazepam.

No further comments or objections were received, nor were there any requests for a hearing, and in view thereof, and based upon the investigations and review of the Drug Enforcement Administration and upon the scientific and medical evaluation and recommendation of the Acting Assistant Secretary in behalf of the Secretary of Health, Education, and Welfare, received pursuant to sections 201(a) and 201(b) of the Act (21 U.S.C. 811(a) and 811(b)), the Administrator of the Drug Enforcement Administration finds that:

1. Based on information now available, lorazepam has a low potential for abuse relative to the drugs or other substances currently listed in schedule III;

2. Lorazepam will, upon the issuance of a New Drug Application by the FDA, have a currently accepted medical use in treatment in the United States;

3. Abuse of lorazepam may lead to limited physical dependence or psychological dependence relative to the drugs or other substances in schedule III.

Therefore, under the authority vested in him by the Act and by regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that § 1308.14(b) of Title 21 of the Code of Federal Regulations (CFR) be amended to read as follows:

§ 1308.14 Schedule IV.

(b) *Depressants.* Unless specifically excepted or unless listed in another schedule, any material, compound, mixture, or preparation which contains any quantity of the following substances, including its salts, isomers, and salts of isomers whenever the existence of such salts, isomers, and salts of isomers is

possible within the specific chemical designation:

(11) Lorazepam	2885
(12) Mebutamate	2800
(13) Meprobamate	2820
(14) Methohexital	2264
(15) Methyphenobarbital (mephobarbital)	2250
(16) Oxazepam	2835
(17) Paraldehyde	2585
(18) Petrichoral	2591
(19) Phenobarbital	2285
(20) Prazepam	2764

The Food and Drug Administration issued a letter approving the New Drug Application on September 30, 1977.

Dated: October 3, 1977.

PETER B. BENSINGER,
Administrator, Drug
Enforcement Administration.

[FR Doc. 77-29575 Filed 10-6-77; 8:45 am]

[1505-01]

Title 29—Labor

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION

TEMPORARY EMPLOYMENT OF ALIENS ON GUAM

Labor Certification Process

Correction

In FR Doc. 77-26599 appearing at page 45898 in the issue for Tuesday, September 13, 1977, the following correction should be made.

On page 48900, first column, line 7, now reading, "process for occupation of Guam other", should read, "process for occupations on Guam other".

[3810-70]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

[DoD Instruction 7730.54]

PART 114—DEPARTMENT OF DEFENSE RESERVE COMPONENTS

Common Personnel Data System

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes Department of Defense (DoD) policies and procedures for the Reserve Components Common Personnel Data System (RCCPDS) to meet statutory requirements. The requirements provide that adequate and current personnel records be maintained to ensure proper management and mobilization readiness of Reserve Components. This rule outlines the processes and assigns responsibilities to comply with those requirements.

EFFECTIVE DATE: September 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Major Donald L. McCabe, USAF, telephone: 697-4334 or 697-0624, Office of

the Deputy Assistant Secretary of Defense (Reserve Affairs), The Pentagon, Room 3C980, Washington, D.C. 20301.

SUPPLEMENTARY INFORMATION: In FR Doc. 77-22299 published in the FEDERAL REGISTER on August 3, 1977 (42 FR 39234), the Office of the Secretary of Defense published a proposed rule establishing DoD policies and procedures for the Reserve Components Common Personnel Data System (RCCPDS) to meet statutory requirements. The requirements provided that adequate and current personnel records be maintained to ensure proper management and mobilization readiness of Reserve Components. The proposed rule outlined the processes and assigned responsibilities to comply with those requirements. No substantive comments were received. Accordingly, 32 CFR Part 114 as proposed at 42 FR 39234, August 3, 1977 is formally adopted to read as set forth below.

MAURICE W. ROCHE,
Director, Correspondence and
Directives, Office of the
Assistant Secretary of Defense
(Comptroller).

OCTOBER 4, 1977.

Sec.	
114.1	Applicability and scope.
114.2	Statutory requirement.
114.3	Preservation of privacy.
114.4	Responsibilities.
114.5	Furnishing Selective Service with Information.
114.6	Effective date and implementation.

AUTHORITY: Title 10, U.S.C. section 275.

§ 114.1 Applicability and scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff and the Defense Agencies. Additionally, the Coast Guard of the Department of Transportation has agreed to provide information in conformance with this Part.

(b) Its provisions govern all male and female officers, warrant officers, and enlisted personnel assigned to the Ready Reserve, the Standby Reserve, and the Retired Reserve. Included are reservists on active duty for training who continue their assignment with a Reserve Component.

(c) Individuals who are enlisted members of a Regular component and also have a Reserve commission should not be reported in the Reserve Components Common Personnel Data System (RCCPDS).

(d) Individuals on extended active duty who are part of the active force should not be reported.

§ 114.2 Statutory requirement.

(a) Title 10, United States Code, section 275 requires the Armed Force to maintain adequate and current personnel records of Reserve Components, which shall include each member's:

- (1) Physical condition.
- (2) Dependence status.
- (3) Military qualifications.
- (4) Civilian occupation skills.

(5) Availability for service, and such other information as the Secretary of

the Military Department concerned may prescribe.

(b) *Common DoD Data Base.* A computerized common data base has been established to meet the above statutory requirement and to provide statistical tabulations of Reserve Components strengths and related data for use throughout the Department of Defense, by other Government Agencies and by the Congress, and for appropriate public release by the Assistant Secretary of Defense (Public Affairs).

(c) *Minimum data requirements.* The items of personnel data included in this reporting system partially satisfy the minimum essential data items needed to meet the statutory requirements of 10 U.S.C. Additionally, data falling within the following categories will be maintained in individual records (either in a manual or automated mode) to satisfy fully statutory requirements:

(1) Retirement Points Earnings (all point earning reservists).

(2) Retirement Authority (all retired reservists).

(3) Professional Military Education for Enlisted Members (all point earning enlisted members).

(4) Servicemen's Group Life Insurance Option Selected (all point earning reservists).

(d) *Data Maintenance Policy.* The Military Departments shall maintain only such additional items of data on an individual as necessary to (1) manage adequately their Guard and Reserve Forces, and (2) ensure mobilization readiness.

§ 114.3 Preservation of Privacy.

The requirements and procedures prescribed by the Privacy Act, 5 U.S.C. 552a, and 32 CFR Part 286a must be followed in order to safeguard the personnel data maintained in this reporting system. Individuals having access to identifiable personnel information may be held personally responsible and punishable under the law for making unauthorized disclosures.

§ 114.4 Responsibilities.

(a) The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) or his designee, the Deputy Assistant Secretary of Defense (Reserve Affairs), shall be responsible for:

(1) Collecting, summarizing and publishing, on a periodic basis, the "Official Manpower Strengths and Statistics" report for the Reserve Components of the Department of Defense and, through the Office of the Assistant Secretary of Defense (Public Affairs), for public release.

(2) Providing access to the DoD Data Base to each of the Military Departments through an on-line time sharing terminal system. The Guard and Reserve Components will have access only to their portion of the data base by means of assigned passwords controlled by the Deputy Assistant Secretary of Defense (Reserve Affairs).

(b) The Secretaries of the Military Departments shall be responsible for:

(1) Implementing Directives.

(2) Providing their respective Guard and Reserve Components the necessary support to establish personnel data systems that support readiness requirements in addition to this reporting requirement.

(3) Preparing, at the end of each month, a Master Officer and Master Enlisted File reflecting the status of each member of the Guard and Reserve as of the last day of each month.

(4) Preparing, at the end of each month, an Officer Transaction File and an Enlisted Transaction File reflecting the gains, losses, reenlistment or extensions of Selected Reserve personnel that occurred during the reporting month.

(5) Editing monthly submissions in support of the editing concept.

(6) Performing a quality control validation of the data prior to submission to the Office of the Secretary of Defense.

(7) Assuring accuracy of data considered "critical data items" since they are required by either statutes, directives, or regulations, and should be 100 percent accurate to insure acceptability in the system.

(8) It is our policy that the data reliability objectives apply equally to the Ready, Standby and Retired Reserve Categories. If the data item must be reported. Similarly, the data reliability rates are goals of data accuracy which should eventually be achieved by each Reserve Component.

§ 114.5 Furnishing selective service with information.

Any information available in RCCPDS which is required by the Director of Selective Service will be provided by magnetic tape extracts of data submitted in compliance with this part.

NOTE.—This paragraph is effective after the requirements of the Privacy Act are fulfilled.

§ 114.6 Effective data and implementation.

(a) This part is effective 1 year from the date of issuance. Each Reserve Component shall be formally advised of the specific implementation date by separate correspondence.

(b) When implementation occurs, each record in the initial submission will be expanded to provide fields for all new data items. All new data which is available either directly or through data extrapolation will be provided at that time.

(c) The Retired Reserve data was incorporated into this reporting system during January 1977. Retired Reserve records will expand with all other Reserve Categories for the initial submission. Records in this category shall be considered as part of the parallel validation which will be conducted during the first 2 months following implementation.

(d) Beginning with the initial submission under this part, a complete record containing all new data items will be provided on accessions. The collection of new data on existing records will be handled incrementally after that time. Our goal is to have all new data

collected and in the system within a three-to-four year period.

(e) At the time of conversion to this part, unknown and unavailable data items will be left blank.

[FR Doc. 77-29574 Filed 10-6-77; 8:45 am]

[4310-70]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 67—HISTORIC PRESERVATION CERTIFICATIONS PURSUANT TO THE TAX REFORM ACT OF 1976

AGENCY: National Park Service, Interior.

ACTION: Final rulemaking.

SUMMARY: This rule revises and makes final the interim regulations published for comment in the FEDERAL REGISTER of March 15, 1977 (42 FR 14121). The Tax Reform Act of 1976 requires the Secretary of the Interior to make certain certifications with respect to the historic character of buildings and structures and to the rehabilitation work undertaken on such buildings and structures.

EFFECTIVE DATE: November 7, 1977.

ADDRESS: Send comments to: Mr. Jerry L. Rogers, Chief, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240 (202-523-5275).

SUPPLEMENTARY INFORMATION: On March 15, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 14121) to amend Chapter I Title 36 of the Code of Federal Regulations by adding a new part 67 concerning historic preservation certifications pursuant to the Tax Reform Act of 1976 (Pub. L. 94-455 90 Stat. 1519) made by the Secretary of the Interior.

At that time, it was explained that under Section 2124, "Tax Incentives to Encourage the Preservation of Historic Structures," the Secretary of the Interior is required to make certain certifications with respect to the historic character of buildings and structures, the rehabilitation of historic buildings and structures, and the preservation criteria of State and Local statutes. The purpose of the proposed rulemaking was to regularize procedures, standards, and criteria for the making of such certifications. The Internal Revenue Service, pursuant to its regulatory authorities, has and will continue to issue all regulations necessary for implementation of Section 2124 of the Tax Reform Act of 1976 with respect to Federal income tax consequences, requirements, and procedures. However, the section 2124 tax incentive provisions are generally described as follows so as to permit a public understanding of the certifications required to be made by the Secretary:

1. Section 2124(a). (Section 191 of the Internal Revenue Code of 1954). Permits a 60-month amortization of certain rehabilitation expenses made in connection with qualified depreciable properties;

2. Section 2124(b). (Section 280B of the Internal Revenue Code of 1954). Disallows a deduction for demolition of qualified depreciable properties;

3. Section 2124(c). (Section 167(n) of the Internal Revenue Code of 1954). Generally precludes accelerated depreciation for structures built on the site of qualified depreciable properties;

4. Section 2124(d). (Section 167(o) of the Internal Revenue Code of 1954). Provides special depreciation rules for qualified rehabilitated property;

5. Section 2124(e). (Sections 170(f) (3), 2055(e) (2) and 2522(c) (2) of the Internal Revenue Code of 1954). Amends charitable contribution deductions on income, estate, and gift taxes to liberalize deductions for conservation purposes (including historic preservation).

The term "depreciable properties" as used above generally means those properties subject to the allowance for depreciation under Section 167 of the Internal Revenue Code of 1954 and generally excludes owner-occupied homes.

Sections (a)-(d) of Section 2124 as briefly described above require the Secretary of the Interior to make the following classes of certifications:

a. *Certified Historic Structures.* All the tax provisions described above (except subsection 2124(e)) are related to so-called "Certified Historic Structures," which, generally, are defined as qualified depreciable properties of historic character which are either listed in the National Register, or are located within a historic district listed in the National Register or created by or pursuant to a certified State or local statute. The Secretary, as a general rule, must certify that such structures are in fact "Certified Historic Structures" before the described tax consequences accrue.

b. *Certified Rehabilitation.* In order for the tax consequences described above relating to rehabilitation to accrue, the Secretary must determine not only that the rehabilitation was done to a certified historic structure but also that it meets certain standards with respect to the historic integrity of the rehabilitation work.

c. *Certified Statutes.* Qualified historic structures located in historic districts designated under a statute of the appropriate State or local government are subject to the tax consequences discussed above if located within a historic district created by or pursuant to a statute of local or State government certified by the Secretary as containing criteria which will substantially achieve the purposes of preserving and rehabilitating buildings of historic significance to the district. This rulemaking is developed under the authority of Section 101(a)(1) of the National Historic Preservation Act of 1966 U.S.C. 470a-1(a) (1970 ed.), as amended, and Section 2124 of the Tax Reform Act of 1976, 90 Stat. 1519. In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4331, et seq.) the National Park Service has prepared an environmental assessment of these regulations. Based on this assessment, it is determined that implementation of the regulations is not a

major Federal action that would have a significant effect on the quality of the human environment and that an environmental impact statement is not required. The assessment, on file in the office of the Chief, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240, is available for public inspection. It has been administratively determined that this proposed rulemaking is not "major" within the intent of Section 2124 of the Tax Reform Act of 1976 and that an inflationary impact certification is therefore not required.

Changes have been incorporated in this final rulemaking both in response to the comments that were received and based upon National Park Service review. Consistent with the discussions below, no major changes in the certification process have been necessary. The minor changes are as follows:

1. Recognizing that active State participation in the certification process may not be possible at this time, Section 67.3 has been expanded to explain how in certain situations owners of record may apply for certifications directly to the Secretary and bypassing the State preservation office.

2. Recognizing that some completed rehabilitation projects may not require an onsite inspection, the revised regulations (Section 67.7) require the owner to provide photographs of the completed rehabilitation to the State Historic Preservation Officer and to attest that in the owner's opinion, the rehabilitation is consistent with the Secretary's "Standards for Rehabilitation." In some cases, this documentation will be sufficient to enable the Secretary to certify the rehabilitation without an onsite inspection being necessary.

3. In the interim regulations, reference was made to three application forms: "Application for Evaluation of Significance," "Application for Certified Rehabilitation," and "Request for Inspection" form. In an attempt to simplify the certification process, the decision was made to consolidate the information required by these three forms into a single application form. The resulting "Historic Preservation Certification Application" eliminates some of the duplication present in the three forms yet provides sufficient space for documentation on the historic character of the building and the nature of the rehabilitation work.

4. The Secretary's "Standards for Rehabilitation," set forth in Section 67.7, have been modified slightly and renumbered, reflecting the comments from State Historic Preservation Officers and others. The revised standards set forth herein have been reviewed and approved by the Committee on Rules and Regulations of the National Conference of State Historic Preservation Officers. There was some concern that the National Park Service was restricting the range of rehabilitation projects by requiring that all rehabilitated structures be used for their originally intended purpose. This was not the intent of the Secretary's "Standards

for Rehabilitation," and to clarify this point, the Standards were reworded to encourage compatible and creative adaptive use provided that the architectural and historical integrity of the structure is not irrevocably impaired.

Two new standards have been added, one dealing with the surface cleaning of structures, the other concerned with the protection of archaeological resources affected by rehabilitation projects. Both standards articulate concerns implied in the earlier set of standards.

5. Under temporary income tax regulations published on April 6, 1977 by the Department of the Treasury (26 CFR Part 7, 42 FR 18275), taxpayers may elect to amortize expenditures incurred in rehabilitating a structure prior to actual certification of the project by the Secretary, provided the taxpayer has requested certification in accord with these regulations. Sections 67.4 and 67.6 have been amended to enable owners of such structures to obtain a preliminary determination whether their structure contributes to the historic significance of the district in which it is included and a preliminary determination whether the rehabilitation work will meet the Secretary of Interior's "Standards for Rehabilitation." The regulations make it clear that taxpayers owning structures not yet determined to be "certified historic structures" will be proceeding at their own risk.

On August 10, 1977, Section 67 of the interim rules was amended by adding a new Section 67.9 entitled "Certification of State or Local Statutes." This particular section will remain as an interim regulation until such time as it may be amended and published in final. The originators of these regulations are Carol Shull, Ward Jandi, and Katherine Cole, National Park Service.

Accordingly, with minor changes and additions, and in consideration of the foregoing comments and the reasons given in the preamble to the proposed rulemaking on March 15, 1977, which is specifically hereto by reference, the proposed new part 67.1 through 67.8 of Chapter I of Title 36 of the Code of Federal Regulations is hereby adopted, effective November 7, 1977, as follows:

Sec. 67.1	The Tax Reform Act of 1976.
67.2	Definitions.
67.3	How to apply.
67.4	Certifications of historic significance.
67.5	Standards for evaluating structures within Registered Historic Districts.
67.6	Certification of rehabilitation.
67.7	Standards for rehabilitation.
67.8	Appeals.

AUTHORITY: Sec. 101(a)(1), 80 Stat. 915 as amended. (16 U.S.C. 470-1(a)); Sec. 2124, 90 Stat. 1519.

§ 67.1 The Tax Reform Act of 1976.

The Tax Reform Act of 1976, 90 Stat. 1519, requires the Secretary to make certifications of historic significance and certifications of rehabilitation in connection with certain tax incentives involving historic preservation. The procedures for obtaining such certifications are set forth below. The Internal Revenue

Service is responsible for all procedures, legal determinations and rules and regulations concerning the tax consequences of the historic preservation incentives of the Tax Reform Act of 1976. Any certifications made by the Secretary pursuant to this part shall not be considered as binding upon the Internal Revenue Service with respect to tax consequences or interpretations of the Internal Revenue Code of 1954. Certifications made by the Secretary do not constitute determinations that a structure is of the type subject to the allowance for depreciation under Section 167 of the Internal Revenue Code of 1954.

§ 67.2 Definitions.

As used in these procedures:

(a) "Certified Historic Structure" means a structure which is of a character subject to the allowance for depreciation provided in Section 167 of the Internal Revenue Code of 1954 which is either (1) listed in the National Register; or (2) located in a National Register historic district and certified by the Secretary of the Interior as being of historic significance to the district; or (3) located in a historic district designated under a statute of the appropriate State or local government if such a statute is certified by the Secretary to the Secretary of the Treasury pursuant to 36 CFR 67.9.

(b) "Certified Rehabilitation" means any rehabilitation of a certified historic structure occurring after June 14, 1976, and prior to June 15, 1981, which the Secretary has certified to the Secretary of the Treasury as being consistent with the historic character of such property or the district in which such property is located.

(c) "Historic District" means a geographically definable area, urban or rural, possessing a significant concentration, linkage, or continuity of sites, buildings, structures, or objects which are united by past events or aesthetically by plan or physical development.

(d) "Inspection" means a visit by an authorized representative of the Secretary of the Interior to a certified historic structure for the purposes of reviewing and evaluating the significance of the structures and the completed rehabilitation work.

(e) "National Register" means the national register of districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, and culture that the Secretary is authorized to expand and maintain pursuant to Section 101(a)(1) of the National Historic Preservation Act of 1966.

(f) "National Register Program" means the survey, planning, and registration program that has evolved under the Secretary's authority pursuant to 101(a)(1) of the National Historic Preservation Act of 1966. The procedures of the National Register program appear in 36 CFR Part 60.

(g) "Registered Historic District" means any district listed in the National Register or any district designated under a State or local statute which has been

certified by the Secretary as containing criteria which will substantially achieve the purpose of preserving and rehabilitating buildings of historic significance to the district.

(h) "Rehabilitation" means the process of returning a property to a state of utility, through repair or alteration, which makes possible an efficient contemporary use while preserving those portions and features of the property which are significant to its historic, architectural and cultural values.

(i) "Secretary" means the Secretary of the Interior or the designee authorized to carry out his responsibilities.

(j) "Standards for Rehabilitation" mean the Secretary of the Interior's "Standards for Rehabilitation" as set forth in § 67.7, hereof.

(k) "State Historic Preservation Officer" means the official within each State, or his designated representative, authorized by the State at the request of the Secretary to act as liaison for purposes of implementing the requirements of the National Historic Preservation Act of 1966.

(l) "Structure" means a specific piece of real estate, including building(s) and other site improvements.

§ 67.3 How to apply.

(a) Ordinarily, only the record owner of the property in question may apply for the certifications described in §§ 67.4 and 67.6 hereof. However, upon request of a State Historic Preservation Officer, the Secretary may determine whether or not a particular structure located within a Registered Historic District qualifies as a certified historic structure. The Secretary shall do so, however, only after notifying the property owner of record of the request, informing such owner of the possible tax consequences of such decision, and permitting the property owner to submit written comments to the Secretary prior to decision.

(b) Requests for certifications shall be made through the appropriate State Historic Preservation Officer except in those cases when that official chooses not to participate in the certification process. The recommendations of the State Historic Preservation Officer are generally accepted and supported by the Secretary. If, however, a State Historic Preservation Officer has indicated to the Secretary his inability to participate in the certification process, or is unable to make recommendations to the Secretary within the period of time specified herein, the property owner may apply directly to the Secretary. In all other situations, requests for certification are to be made through the appropriate State Historic Preservation Officer.

§ 67.4 Certifications of historic significance.

(a) Requests for evaluation of historic significance as required by sections 2124(a), (b), (c), and (d) of the Tax Reform Act of 1976 should be made by the owner in accordance with respective procedures for the following categories of certifications: (1) That a structure is

listed in the National Register; (2) that a structure is located within a Registered Historic District but is or is not of historic significance to such district.

(b) If the property is individually listed in the National Register:

(1) To determine whether or not a property is individually listed in the National Register, the owner should consult the listing of National Register properties in the Federal Register (found in most large libraries). This listing generally appears the first Tuesday of February each year, with regular monthly updates. If access to the Federal Register is difficult, the owner shall contact the appropriate State Historic Preservation Officer for this information.

(2) If the property is individually listed in the National Register and the owner believes it has lost the characteristics which caused it to be nominated and therefore wishes it delisted, the owner should refer to the procedures outlined in 36 CFR 60.17.

(c) If the property is located within the boundaries of a Registered Historic District and the owner wishes the Secretary to certify as to whether the structure is of historic significance to the district, the owner must make written application to the appropriate State Historic Preservation Officer and provide the following minimum documentation on his request:

- (1) Name of owner;
- (2) Name and address of structure;
- (3) Name of historic district;
- (4) Current photographs of structure;
- (5) Brief description of appearance including alterations, distinctive features and spaces, and date(s) of construction;
- (6) Brief statement of significance (architectural and/or historical); and
- (7) Signature of property owner requesting the evaluation.

(d) The State Historic Preservation Officer will forward the information listed in paragraph (c) of this section, along with his written recommendation as to the significance of the structure, to the Keeper of the National Register. Part I of an "Historic Preservation Certification Application" shall be used in requesting an evaluation from the Secretary. Application forms are supplied to the State Historic Preservation Officers by the Keeper of the National Register at the address given above.

(e) The State Historic Preservation Officer shall forward Part I of the "Historic Preservation Certification Application" to the Keeper of the National Register within 45 days after the owner has submitted the required information. If this period has expired without such actions being taken the owner may request an evaluation of significance directly from the Keeper of the National Register pursuant to § 67.3(c) above.

(f) Structures within Registered Historic Districts will be evaluated for conformance with the Secretary's "Standards for Evaluating Historic Districts" as set forth in § 67.5 hereof. Once the significance of the structure has been determined by the Secretary, written no-

tification will be sent directly to the property owner in the form of a Certification of Significance or as a notice that the structure does not contribute to the historic significance of the district. Written notification will be made within 30 days of receipt of Part I of an "Historic Preservation Certification Application."

(g) Owners of structures which (1) appear to meet National Register criteria (36 CFR 60.6) but are not yet listed in the National Register; or (2) are located within a historic district which appears to meet National Register criteria but has not yet been listed in the National Register may request preliminary determinations, through the State Historic Preservation Officer, as to whether such structures may qualify as certified historic structures when and if the property or district is listed in the National Register. Any such determinations are preliminary only and will be reconsidered upon further review by the Secretary at the time the individual property or district is nominated to the National Register.

§ 67.5 Standards for evaluating structures within Registered Historic Districts.

Structures located within Registered Historic Districts are reviewed by the Secretary for conformance to the following "Standards for Evaluating Structures within Registered Historic Districts." These standards shall be used by the State Historic Preservation Officer in making recommendations to the Secretary.

(a) A structure contributing to the historic significance of a district is one which by location, design, setting, materials, workmanship, feeling and association adds to the district's sense of time and place and historical development.

(b) A structure not contributing to the historic significance of a district is one which detracts from the district's sense of time and place and historical development intrinsically; or when the integrity of the original design or individual architectural features or spaces have been irretrievably lost.

(c) Ordinarily structures that have been built within the past 50 years shall not be considered eligible unless a strong justification concerning their historical or architectural merit is given or the historical attributes of the district are considered to be less than 50 years old.

§ 67.6 Certification of rehabilitation.

Property owners desirous of having rehabilitations of certified historic structures certified by the Secretary as being consistent with the historic character of the structure or district in which the structure is located, thus qualifying as "certified rehabilitations," shall comply with the following procedures:

(a) Obtain from the appropriate State Historic Preservation Officer or from the Technical Preservation Services Division, National Park Service, Washington, D.C. 20240, an "Historic Preservation Certification Application" and a copy of the

Secretary's "Standards for Rehabilitation" and guidelines for applying these standards.

(b) Complete part 2 of the application form and submit it to the State Historic Preservation Officer. The application may be for proposed rehabilitation or completed rehabilitation.

(c) If the work described in part 2 of the application form has not commenced, the appropriate State Historic Preservation Officer shall review the proposed project as to whether or not the project is likely to meet the Secretary of the Interior's "Standards for Rehabilitation" and forward the application and recommendations to the Secretary within 45 days of receipt of the application and any additional information the State Historic Preservation Officer may request.

(d) Upon receipt of the application describing the proposed project and the recommendation of the State Historic Preservation Officer, the Secretary shall determine, normally within 45 days, if the proposed project is consistent with the "Standards for Rehabilitation." If the proposed project does not meet the "Standards for Rehabilitation," the owner shall be advised of necessary revisions to meet such standards.

(e) Upon completion of the rehabilitation project, the owner shall notify the appropriate State Historic Preservation Officer in writing of the project completion date and shall sign a statement that, in the owner's opinion, the completed rehabilitation meets the Secretary's "Standards for Rehabilitation" and is consistent with the work described in part 2 of the "Historic Preservation Certification Application." At this time the owner will be requested to provide photographs of the completed rehabilitation project and other documentation that the State Historic Preservation Officer believes is necessary to make a recommendation to the Secretary. The completed project may be inspected by an authorized representative of the Secretary to determine if the work meets the "Standards for Rehabilitation." Inspections, if made, will normally be completed within 30 days of receipt by the State Historic Preservation Officer of the project completion date. The Secretary reserves the right to make inspections at any time after completion of the rehabilitation and to withdraw certification if the project does not meet the Secretary's "Standards for Rehabilitation" as proposed and/or completed.

(f) The State Historic Preservation Officer shall forward his recommendations as to certification to the Secretary within 30 days of receipt of the project completion date and documentation described in paragraph (e) of this section.

(g) Notification as to certification shall be in writing and will normally be made by the Secretary within 15 days of receipt of the State Historic Preservation Officer's recommendations.

(h) In the event that the completed rehabilitation project does not meet the

"Standards for Rehabilitation," an explanatory letter will be sent to the owner. An appeal from this decision may be made by the owner pursuant to § 67.8.

(i) Although parts 1 and 2 of the "Historic Preservation Certification Application" may be submitted concurrently to the Secretary, no certifications of rehabilitation will be issued until the structure has been designated a "certified historic structure."

(j) (1) A determination that a rehabilitation project is consistent with the Secretary's "Standards for Rehabilitation" may be made for structures not yet designated "certified historic structures." Such determinations will be made only if the owner has requested certification in accord with these regulations and has obtained confirmation from the appropriate State Historic Preservation Officer (i) that the structure appears to meet National Register Criteria for Evaluation and will likely be nominated to the National Register in accordance with National Park Service procedures (36 CFR 60); or (ii) that the structure is located within a historic district that appears to meet National Register Criteria for Evaluation, will likely be nominated to the National Register in accordance with National Park Service procedures (36 CFR 60), and appears to contribute to the character of said district, in accordance with § 67.5 above.

(2) Taxpayers should understand that confirmation of intent to nominate does not constitute listing in the National Register nor does it constitute an evaluation of significance as required under Section 2124 (a), (b), (c), and (d) of the Tax Reform Act of 1976.

(3) Taxpayers should be aware that they are proceeding at their own risk, for when additional research on the structure is completed, it may become clear that the property does not meet National Register Criteria for Evaluation.

(4) Owners of record should fill out Parts 1 and 2 of the "Historic Preservation Certification Application" and submit the completed form to the State Historic Preservation Officer. Review of rehabilitation work undertaken on such a structure will be made in accord with procedures set forth above. Issuance of a certification of rehabilitation, however, will be made only for "certified historic structures." A determination that rehabilitation of a structure not yet designated a "certified historic structure" meets the Secretary's "Standards for Rehabilitation" does not constitute a certification of rehabilitation.

§ 67.7 Standards for rehabilitation.

(a) The following "Standards for Rehabilitation" shall be used by the Secretary to determine if rehabilitation of a certified historic structure qualifies as "certified rehabilitation." With respect to certified historic structures located within districts designated by State or local Statutes certified by the Secretary, the rehabilitated structure must be consistent with the historic character of the

district in which it is located to qualify as "certified rehabilitation."

(1) Every reasonable effort shall be made to provide a compatible use for a property which requires minimal alterations of the building structure, or site and its environment, or to use a property for its originally intended purpose.

(2) The distinguishing original qualities or character of a building structure or site and its environment shall not be destroyed. The removal or alteration of any historic material or distinctive architectural features should be avoided when possible.

(3) All buildings, structures, and sites shall be recognized as products of their own time. Alterations that have no historical basis and which seek to create an earlier appearance shall be discouraged.

(4) Changes which may have taken place in the course of time are evidence of the history and development of a building, structure, or site and its environment. These changes may have acquired significance in their own right, and this significance shall be recognized and respected.

(5) Distinctive stylistic features or examples of skilled craftsmanship which characterize a building, structure, or site shall be treated with sensitivity.

(6) Deteriorated architectural features shall be repaired rather than replaced, wherever possible. In the event replacement is necessary, the new material should match the material being replaced in composition, design, color, texture, and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplications rather than on conjectural designs or the availability of different architectural elements from other buildings or structures.

(7) The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.

(8) Every reasonable effort shall be made to protect and preserve archaeological resources affected by, or adjacent to any rehabilitation project.

(9) Contemporary design for alterations and additions to existing properties shall not be discouraged when such alterations and additions do not destroy significant historical, architectural, or cultural material, and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment.

(10) Wherever possible, new additions or alterations to structures shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the structure would be unimpaired.

(b) Guidelines to help property owners formulate plans for the rehabilitation, preservation, and continued use of historic properties consistent with the intent of the Secretary's "Standards for Rehabilitation," are available from the Technical Preservation Services Division.

National Park Service, Washington, D.C. 20240.

§ 67.8 Appeals.

An appeal may be made from any of the certifications or denials of certifications made pursuant to this part. Such appeals must be in writing and received by the Chief, Office of Archaeology and Historic Preservation, National Park Service, Department of the Interior, Washington, D.C. 20240 within 30 days of receipt by the appellant of the decision which is the subject of the appeal. The Chief, Office of Archaeology and Historic Preservation, will review such appeals and the written record of the decision in question and shall advise the appellant within 30 days of its receipt unless the appellant is required to submit additional information. The decision of the Chief, Office of Archaeology and Historic Preservation, shall be the final administrative decision on the matter. Appeals pursuant hereto should be mailed to the address noted above.

Dated: September 29, 1977.

ERNEST ALLEN CONNALLY,
Acting Director,
National Park Service.

[FR Doc. 77-29459 Filed 10-6-77; 8:45 am]

[1505-01]

Title 41—Public Contracts and Property Management

CHAPTER 3—DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 3-4—SPECIAL TYPES AND METHODS OF PROCUREMENT

Negotiated Procurement Under the Buy Indian Act
Corrections

In FR Doc. 77-28857, appearing at page 52400 in the issue for Friday, September 30, 1977:

1. On page 52400, in § 3-4.5703(c), in the last line of paragraph (c) of the clause, delete the word "contract" and substitute "tracts issued under the contract".

2. On page 52401, in § 3-4.5703(e), insert the following between the second and third lines of paragraph (a) of the clause: "organization of an Indian-owned economic".

[6560-01]

[FRL 787-5]

CHAPTER 15—ENVIRONMENTAL PROTECTION AGENCY

PART 15-19—TRANSPORTATION

Subpart 15-19.3—Contract Delivery Terms

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This action revokes regulations pertaining to contract delivery

RULES AND REGULATIONS

terms, because of an improper interpretation of a Comptroller General Decision and GSA Bulletin.

EFFECTIVE DATE: October 7, 1977.

FOR FURTHER INFORMATION CONTACT:

John H. Dammeyer, Environmental Protection Agency, Contracts Management Division (PM-214), Washington, D.C. 20460 (202-755-0900).

SUPPLEMENTARY INFORMATION: The revision of the Environmental Protection Agency Procurement Regulations (EPPR) published in the FEDERAL REGISTER on June 15, 1977 (42 FR 30509), was based on Comptroller General Decision B-163758, dated August 14, 1975, and General Services Administration (GSA) Bulletin Federal Property Management Regulations (FPMR) G-120, dated December 12, 1975. Subsequent to the publication of the revision, it was found that both the Comptroller General Decision and the GSA Bulletin pertained to charges for transportation services paid directly to carriers by the Government and not to charges for transportation services paid for by vendors identical to the delivery of supplies. Accordingly, the revision of June 15, 1977, is revoked. In addition, a forthcoming amendment of the Federal Procurement Regulations (41 CFR Chapter 1) will provide arrangements whereby vendors may include shipping charges in their invoices. Therefore, it is considered appropriate to delete the text of Subpart 15-19.3, Contract Delivery Terms, in its entirety.

It is the general policy of the EPA to invite comments regarding the development of proposed rules; however, this action cancels an improper interpretation of a Comptroller General Decision and GSA Bulletin and no purpose would be served by inviting comments.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c).)

Dated: September 29, 1977.

DOUGLAS M. COSTLE,
Administrator,
Environmental Protection Agency.

1. The Table of Contents for Subpart 15-19.3 is revised to delete the captions for §§ 15-19.302, 15-19.303, and 15-19.305, and to reserve the sections as follows:

Sec.
15-19.302 [Reserved]
15-19.303 [Reserved]
15-19.305 [Reserved]

2. Subpart 15-19.3 is revised to delete the captions and texts of §§ 15-19.302, 15-19.303, and 15-19.305, and to reserve the sections as follows:

§ 15-19.302 [Reserved]
§ 15-19.303 [Reserved]
§ 15-19.305 [Reserved]

[FR Doc. 77-29347 Filed 10-6-77; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21261]

PART 87—AVIATION SERVICES

Aviation Instructional Stations; Correction
AGENCY: Federal Communications Commission.

ACTION: Erratum to Report and Order.
SUMMARY: This document makes a technical correction to a rule which appears at 42 FR 48881, September 26, 1977, relating to the allowance of more than one fixed aviation instructional station authorized at a landing area.

EFFECTIVE DATE: October 31, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Robert H. McNamara, Safety and Special Radio Services Bureau, 202-632-7197.

SUPPLEMENTARY INFORMATION:

Released: September 27, 1977.

In the matter of amendment of Part 87 of the rules relative to aviation instructional stations, Docket No. 21261.

In the Report and Order in the above entitled matter, FCC 77-624 (42 FR 48881, September 26, 1977), Instruction 1 on page 48882 amending § 87.183 is erroneous and should read: "1. Section 87.183(d) is added to read as follows:"

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc. 77-29535 Filed 10-6-77; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[S.O. 1279]

PARTS 1080—CONTRACT FORWARDERS—MOTOR COMMON CARRIERS

Freight Forwarders of Export Traffic Authorized To Operate to Any Available Atlantic or Gulf Coast Port in the United States and To Any Port in Dominion of Canada

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1279).

SUMMARY: Because of a labor dispute at Atlantic and Gulf ports, freight forwarders of export freight are unable to operate in the ports designated by their

operating permits. Service Order No. 1279 authorizes these freight forwarders to operate through any available Atlantic or Gulf port or through any available Canadian port.

DATES: Effective 12:01 a.m., October 3, 1977. Expires 11:59 p.m., October 15, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 3rd day of October 1977.

Because of a strike by the International Longshoremen's Association at certain Atlantic and Gulf ports in the United States, freight forwarders of export traffic are unable to operate via the ports they are authorized to serve, thus causing great economic loss to shippers and serious disruption of foreign trade. Certain of these freight forwarders are able to operate through other ports on the Atlantic and Gulf Coasts of the United States or in the Dominion of Canada if authorized to use such ports. Temporary use of these other ports by these freight forwarders will reduce the economic loss and the disruption of foreign trade caused by this strike.

In the opinion of the Commission, an emergency exists requiring immediate action in the interest of the public and good cause exists for making this order effective upon less than 30 days' notice.

It is ordered, That:

§ 1080.1279 Service Order No. 1279.

(a) Freight forwarders of export traffic authorized to operate to any available Atlantic or Gulf Coast Port in the United States and to any Port in Dominion of Canada. Freight forwarders of export traffic authorized to operate at certain ports on the Atlantic and Gulf Coasts of the United States which are effectively closed by the strike of the International Longshoremen's Association, are authorized to operate via any open Atlantic or Gulf port, or via any port in the Dominion of Canada insofar as the movement is in the United States.

(b) It is further ordered, That each freight forwarder rerouting traffic as authorized by this order via ports not authorized in its operating permit shall promptly print and file with the Commission tariffs showing its rates and charges for the service authorized herein.

(c) Rules and Regulations Suspended. The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(d) Effective date. This order shall become effective 12:01 a.m., October 3, 1977.

RULES AND REGULATIONS

(e) Expiration date. This order shall expire at 11:59 p.m., October 15, 1977, unless otherwise modified, changed, or suspended by order of this Commission. (49 U.S.C. 1 (15 and 16), 17(2) and 420.)

It is further ordered, That copies of this order shall be served upon all freight forwarders; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29580 Filed 10-6-77; 8:45 am]

[7035-01]

SUBCHAPTER D—TARIFFS AND SCHEDULES

[Ex Parte No. MC-97]

PART 1310—FREIGHT RATE TARIFFS AND CLASSIFICATIONS OF MOTOR COMMON CARRIERS

Investigation into Practices of Motor Common Carriers of Property on Residential and Redelivered Shipments

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: This document incorporates into Part 1310, regulations regarding tariff practices of motor common carriers with respect to pickup and delivery of freight shipments to and from private residences, apartments, etc. These regulations were adopted in the proceeding in Docket No. 35867, (42 FR 44236) and are effective on October 5, 1977. Regulations concerning the same types of tariffs are already incorporated into Part 1307, Subpart B. However, the regulations in Part 1307, Subpart B will be superseded by the new regulations in Part 1310 in two years. In order to permit an orderly transition, carriers will be allowed to file tariffs under either the old or the new regulations during the first year.

EFFECTIVE DATE: The final rule became effective October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

William P. Geisenkotter, Chief, Section of Tariffs, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 10423 (202-275-7739).

SUPPLEMENTARY INFORMATION: The Commission began this proceeding by notice of proposed rulemaking and order of September 4, 1975 (40 FR 43038). At issue was the legality of various charges assessed by motor common carriers in addition to their line-haul rates on shipments to and from, for example, private residences, camps, apartment houses, churches, country clubs,

and farms and the legality of redelivery charges to the same kinds of locations where no notice is given to the receiver of an impending delivery. It was proposed that a new rule generally forbidding these charges be added to 49 CFR 1307, Subpart B. The rule was adopted and became effective August 14, 1977. The report is printed at 353 I.C.C. 689.

The regulations in Subpart B of Part 1307 govern the construction, filing, and posting of freight tariffs of motor common carriers and will be superseded by the regulations published in Part 1310. The regulations in Part 1310 were adopted in the proceeding in Docket No. 35867, Regulations, Construction, Filing, and Posting of Tariffs, 352 I.C.C. 36 and 355 I.C.C. 95 (42 FR 44236) and bear an effective date of October 5, 1977. To permit an orderly transition, carriers may file under either the old or new regulations during the first year.

It is therefore necessary to publish without change in Part 1310 the rule adopted in the proceeding in Ex Parte No. MC-97 to continue its effectiveness for tariffs filed under that part and to continue its effectiveness after the regulations in Subpart B of Part 1307 have been revoked.

This action is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Accordingly, Part 1310 of Title 49 of the Code of Federal Regulations is amended by adding a new § 1310.15(e) reading as follows:

§ 1310.15 Terminal and special services—charges and allowances (rule 15).

(e) Assessment of charges on shipments originating at or destined to private residences and other types of premises. (1) Tariffs of for-hire motor common carriers shall not provide for the application of rates or the imposition of charges, by whatever means, for movements to or from, for example, private residences, apartments, churches, schools, camps, and other such locations, which differ from otherwise applicable rates from or to other locations such as businesses, warehouses, and other generally recognized commercial locations.

(2) Before attempting delivery to residences and other related types of premises such as those described in subparagraph (1) of this paragraph, the carrier must reach agreement with the consignee or consignor regarding the date and time (approximate) of such delivery. This arrangement for delivery may be accomplished through a notation by the consignor on the bill of lading, or by oral or written arrangement between the carrier and the consignee. In any case, some mutually agreed-upon arrangement for delivery must be made before tender of delivery is initially attempted.

(3) If the carrier complies with the regulation described in subparagraph (2) of this paragraph, and, through the fault of the consignee, is unable to ten-

der delivery as scheduled, a reasonable charge to cover the service described in subparagraph (2) of this paragraph and additional costs of the renitification, arrangement, and redelivery may be assessed. The requirements of subparagraph (2) of this paragraph regarding prior arrangement for tender of delivery are similarly applicable when redelivery is necessary.

Issued at Washington, D.C., September 29, 1977.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc 77-29495 Filed 10-6-77; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

SUBCHAPTER B—TAKING, POSSESSION, TRANSPORTATION, SALE, PURCHASE, BARTER, EXPORTATION, AND IMPORTATION OF WILDLIFE

PART 20—MIGRATORY BIRD HUNTING

Late Seasons, Bag Limits, and Possession of Certain Migratory Game Birds in the United States; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Correction of final rule.

SUMMARY: This document corrects typographical errors in the seasons and bag limits for migratory bird hunting in Michigan, published by the Service on September 29, 1977.

EFFECTIVE DATE: October 7, 1977.

FOR FURTHER INFORMATION CONTACT:

John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C., telephone 202-343-8827.

SUPPLEMENTARY INFORMATION: The amendments in this document correct typographical errors in the amendment to § 20.105(d) of Department of the Interior's regulations as published in the FEDERAL REGISTER at 42 FR 51587 on September 29, 1977 (FR Doc. 77-26723). This document was authorized by John P. Rogers, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C., telephone 202-343-8827.

50 CFR Part 20 is amended by revising § 20.105(d) as follows:

In the table for the Mississippi Flyway at page 51594, the portion pertaining to geese in Michigan that reads:

Geese, including no more than 1 Canada or 2 white-fronted or 1 of each.	5
North zone (zone 1)	Oct. 1 to Nov. 14
South zone:	Oct. 12 to Nov. 30
(Zone 2)	Oct. 1 to Nov. 30
(Zone 3)	Oct. 12 to Nov. 30
Including no more than:	
Canada geese	1
White-fronted geese	2
Canada and white-fronted geese combined	3
Snow (including blue) geese	5

is corrected to read:

Geese, including no more than 1 Canada or 2 white-fronted or 1 of each.	5
North zone (zone 1)	Oct. 1 to Nov. 14
South zone:	Oct. 1 to Nov. 30
(Zone 2)	Oct. 1 to Nov. 30
(Zone 3)	Oct. 12 to Nov. 30

ECONOMIC IMPACT REVIEW: The Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: October 4, 1977.

ROBERT S. COOK,
Acting Director, United States
Fish and Wildlife Service.

[FR Doc. 77-29556 Filed 10-6-77; 8:45 am]

[6325-01]

Title 5—Administrative Personnel

CHAPTER I—CIVIL SERVICE COMMISSION

PART 213—EXCEPTED SERVICE

Department of Energy

NOTE:—This document originally appeared at page 54205 in the FEDERAL REGISTER for October 5. It is reprinted in this issue to meet the assigned day-of-the-week publication schedule.

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: This amendment excepts from the competitive service under Schedule C fourteen policy making Executive Level V positions of Staff Officer who are to be used in various executive positions during the organization phase of the establishment of the Department of Energy and who will be assigned to more specific and definitively titled positions when the initial organizational phase of the establishment of the Department is completed.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION ON POSITION AUTHORITY CONTACT:

John W. McKee, Civil Service Commission, (202-632-4625).

FOR FURTHER INFORMATION ON POSITION CONTENT CONTACT:

Lloyd W. Grable, Director, Transition Personnel Office, Department of Energy, (202-376-4210).

Accordingly, 5 CFR 213.3331(a) (5) is added as set out below:

§ 213.3331 Department of Energy.

- (a) Office of the Secretary.
(5) Fourteen Staff Officers.

(5 U.S.C. 3301, 3302; E.O. 10577, 3 CFR 1954-1958 Comp., p. 218.)

[FR Doc. 77-29453 Filed 10-4-77; 8:45 am]

[6325-01]

PART 591—ALLOWANCES AND DIFFERENTIALS

Nonforeign Area Cost of Living Allowances

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: Revised cost of living allowance rates are published for Puerto Rico, the Virgin Islands, and Alaska (except Juneau) as a part of the Commission's annual review. Two allowance areas have been established for Puerto Rico: "San Juan Metropolitan Area" and "Outside San Juan". Results of a separate survey for Juneau will be announced later. Data supplied by agencies on rental costs of units under their control have been incorporated into the Federal housing indexes.

EFFECTIVE DATE: For Puerto Rico and the Virgin Islands, the effective date for the new allowance rates is the first pay period that begins on or after August 28, 1977.

For Alaska, the effective date for the new allowance rates is the first pay period that begins on or after September 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Carney, Civil Service Commission, 1900 E Street NW., Washington, D.C. 202-632-5595.

SUPPLEMENTARY INFORMATION: The Commission has completed its review of the cost of living allowances that are paid to eligible employees in Puerto Rico, the Virgin Islands, and Alaska.

Based on the survey findings, the Commission has decided to establish two allowance areas within the Commonwealth of Puerto Rico. One area will consist of the San Juan Standard Metropolitan Statistical Area and the allowance rates for that area will apply to all eligible employees whose official duty stations are within this Standard Metropolitan Statistical Area. The second area is identified as "Outside San Juan" and applies to eligible employees whose duty stations are outside the San Juan Area.

The results of the 1976 annual review for the State of Alaska do not include the Juneau area. It was necessary to conduct a separate survey of Juneau and as a result, the annual review findings for that location will be announced at a later date. Until that time, the 1975 index and allowance rate for Juneau will remain in effect.

There has been a procedural change initiated in collecting housing cost data on Federal housing units which has affected some Alaskan indexes. The Commission has requested agencies with these units under their control to provide cost data directly to the Commission. The change will increase the in-

formation available on Federal housing units.

As a result of this change, the rates for employees occupying Federal housing in Anchorage decreased significantly. As these downward adjustments stem from a procedural change and because they exceed five percentage points, the allowance rates will be reduced gradually. Downward adjustments will be in 2.5 percentage point increments each six months following the initial adjustment until the authorized allowance rate is reached.

This will result in adjustments as shown in the following example:

	Current allowance rate (percent)	New authorized rate (percent)
Local retail/Federal housing	25.0	17.5
Interim rates	22.5	20.0
	20.0	17.5

1 Sept. 25, 1977.
2 Apr. 1, 1978.
3 Oct. 1, 1978.

This change in procedure also resulted in an increase for the Commissary/PX/Federal Housing category in Fairbanks. The interim rates will no longer apply and the phase-down period for this category is terminated as of September 25, 1977.

Accordingly, 5 CFR 591, Appendix A of Subpart B, the tables for Puerto Rico, the Virgin Islands and Alaska except the Juneau Area are amended as set out below:

APPENDIX A OF SUBPART B, PLACES AND RATES AT WHICH ALLOWANCES SHALL BE PAID

Allowance category	1976 Index	Authorized allowance rate (percent)
Commonwealth of Puerto Rico		
San Juan Area: 1		
Local retail/private housing	113.4	12.5
Local retail/Federal housing	109.1	10.0
Commissary/PX/private housing	104.4	0
Commissary/PX/Federal housing	100.1	0
Commissary/PX/military housing	79.8	0
Outside San Juan Area:		
Local retail/private housing	105.4	5.0
Local retail/Federal housing	112.1	12.5
Commissary/PX/private housing	97.1	0
Commissary/PX/Federal housing	103.8	0
Commissary/PX/military housing	77.4	0
Virgin Islands		
St. Croix:		
Local retail/private housing	107.0	7.5
Local retail/Federal housing	97.3	0
Commissary/PX/private housing	(0)	0
Commissary/PX/Federal housing	84.3	0
Local retail/military housing		
St. Thomas and St. John:		
Local retail/private housing	108.6	7.5
Local retail/Federal housing	98.5	0
Commissary/PX/private housing	(0)	0
Commissary/PX/Federal housing	84.5	0
Local retail/military housing		

State of Alaska 4

City of Anchorage and 50-mile radius:		
Local retail/private housing	129.2	25.0
Local retail/Federal housing	116.9	17.5
Commissary/PX/private housing	117.6	17.5
Commissary/PX/Federal housing	105.3	5.0
Commissary/PX/military housing	86.2	0
City of Fairbanks and 50-mile radius:		
Local retail/private housing	146.3	25.0
Local retail/Federal housing	140.3	25.0
Commissary/PX/private housing	123.7	25.0
Commissary/PX/Federal housing	123.8	25.0
Commissary/PX/military housing	90.8	0
All other locations within Alaska, all employees	134.7	25.0

1 The "San Juan Area" is defined as the San Juan Standard Metropolitan Statistical Area. This area has been defined by the Office of Management and Budget to consist of the municipalities of Canowas, Lofra, Toca, Baja, Bayamon, Guaynabo, Carolina, Trujillo Alto, San Juan, and all localities included therein. Employees whose duty stations are located in this area will receive cost of living allowances based on the rates authorized for the "San Juan" area. All other employees will receive cost of living allowances based on the rates authorized for the "Outside San Juan" area.

2 For allowance areas in Puerto Rico, the Commissary/PX rates will apply to those employees who have such purchasing privileges and whose duty stations are located within a 50-mile radius by road from a major commissary/PX facility. Currently the only facilities in Puerto Rico which qualify as "major" are Fort Buchanan and Roosevelt Roads. All employees whose duty stations are outside this 50-mile radius will receive an allowance based on the appropriate local retail rate.

3 Where an index is "not applicable", the appropriate local retail index and rate apply depending on type of housing occupied.

4 The results of the 1976 annual review for the State of Alaska do not include the Juneau area. It was necessary to conduct a separate survey of Juneau and as a result, the annual review findings for that location will be announced at a later date. Until that time, the 1975 index and allowance rate for Juneau will remain in effect.

(5 U.S.C. 5941; E.O. 10,000 3 CFR 1943-1948 Comp., p. 792.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc. 77-29496 Filed 10-6-77; 8:45 am]

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Lemon Reg. 114; Lemon Reg. 113, Amt. 1]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period October 9-15, 1977, and increases the quantity of such lemons that may be so shipped during the period October 2-8, 1977. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective October 9, 1977 and the amendment is effective for the period October 2-8, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202-447-3545).

SUPPLEMENTARY INFORMATION:

Findings. Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on October 4, 1977, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good on 140's and larger, easier on 165's and smaller.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.414 Lemon Regulation 314.

Order. (a) The quantity of lemons grown in California and Arizona which may be handled during the period October 9, 1977, through October 15, 1977, is established at 205,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

§ 910.413 [Amended]

The provisions of paragraph (a) in § 910.413 Lemon Regulation 113 (42 FR 53593) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period October 2, 1977, through October 8, 1977, is established at 240,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).)

Dated: October 6, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc 77-29744 Filed 10-6-77, 11 32 am]

[3410-02]

[Avocado Reg. 19, Amend. 2]

PART 915—AVOCADOS GROWN IN SOUTH FLORIDA

Maturity Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to final rule.

SUMMARY: This amendment revises the maturity requirements for Booth 8 and Choquette varieties of avocados. Booth 8 avocados are maturing at lower minimum weights or smaller diameters and Choquette avocados are maturing about two weeks earlier than they currently can be shipped. Recently completed maturity studies on these avocados indicate they will be mature at the specified dates, minimum weights, or diameters. The maturity requirements are necessary because weight or diameter and picking dates are indices used at harvest to assure that avocados are mature and will ripen satisfactorily after picking.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader (202-447-3545).

SUPPLEMENTARY INFORMATION: Findings. (1) Pursuant to the marketing agreement, and Order No. 915, both as amended (7 CFR Part 915), regulating the handling of avocados grown in South Florida, effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations of the Avocado Administrative Committee, established under the marketing order, and upon other available information, it is found that the maturity requirements for the handling of avocados, as hereinafter provided, will tend to effectuate the declared policy of the act.

(2) It is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the Federal Register (5 U.S.C. 553) in that the time intervening between the dates when information became available upon which this amend-

ment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient; and this amendment relieves restrictions on the handling of the specified varieties of avocados.

Order. (1) The provisions of subparagraphs (a) (2) and (7) of § 915.319 (Avocado Regulation 19; 42 FR 27210 May 27, 1977) are amended by revising in Table I the dates applicable to the

Variety	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date	Minimum weight or diameter	Date
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Choquette	Oct. 3, 1977	24 oz. 1 1/8 in.	Oct. 17, 1977	26 oz. 3 3/8 in.	Oct. 31, 1977	16 oz. 3 3/8 in.	Nov. 14, 1977

(7) No handler shall handle (i) prior to September 12, 1977, any Booth 8 variety avocados, (ii) during the period September 12, 1977, through October 2, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 16 ounces, or is at least 3 3/8 inches in diameter, or (iii) during the period October 3, 1977, through October 16, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 12 ounces, or is at least 3 3/8 inches in diameter, or (iv) during the period October 17, 1977, through November 13, 1977, any Booth 8 variety avocados unless the individual fruit in each lot of such avocados weighs at least 10 ounces, or is at least 3 1/8 inches in diameter.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: September 30, 1977, to become effective October 3, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 77-29506 Filed 10-6-77; 8:45 am]

[3410-05]

CHAPTER XIV—COMMODITY CREDIT CORPORATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS, PURCHASES, AND OTHER OPERATIONS

PART 1435—SUGAR

Subpart—Price Support Payment Program for 1977-Crop Sugarbeets and Sugarcane

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth the terms and conditions under which prices to domestic producers of 1977-crop sugarbeets and sugarcane will be supported, as announced September 15, 1977. Prices will be supported at average levels estimated to be equivalent to 52.5 percent of the parity prices for the commodities as of July 1977. Price

support for sugarbeets and sugarcane will be made through payments by the Commodity Credit Corporation (CCC) to sugar processors in an amount by which the national average market price received by processors (computed on a raw sugar price equivalent basis) is less than 13.5 cents per pound. Payments will be made upon the condition that processors pay producers no less than the applicable support price for the unprocessed commodities. Eligible processors will receive payments on the quantity of refined beet sugar or raw cane sugar marketed from the 1977 crop on or after the effective date of this rule.

§ 915.319 Avocado Regulation 19.

- (a)
(2)

support for sugarbeets and sugarcane will be made through payments by the Commodity Credit Corporation (CCC) to sugar processors in an amount by which the national average market price received by processors (computed on a raw sugar price equivalent basis) is less than 13.5 cents per pound. Payments will be made upon the condition that processors pay producers no less than the applicable support price for the unprocessed commodities. Eligible processors will receive payments on the quantity of refined beet sugar or raw cane sugar marketed from the 1977 crop on or after the effective date of this rule.

EFFECTIVE DATE: September 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert R. Stansberry, Jr., ASCS (202-447-7561 or 202-447-3517), P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: One June 14, 1977, a notice of proposed rulemaking was published in the Federal Register (42 FR 30409) announcing that the Secretary of Agriculture was considering the institution of a program to support prices in the marketplace for sugarbeet and sugarcane producers through payments made to sugar processors. A similar notice was also issued in a USDA press release. The proposal would have established a level of support of not more than 13.5 cents per pound, raw sugar equivalent, but would have limited payments to 2 cents per pound of sugar. Processors would have been required to pay producers the full amount of the support payments received, after deduction of actual administrative expenses incurred in fulfilling the program requirements. Subsequent to the date of this original proposal, the Secretary reaffirmed the Administration's commitment to assure domestic sugar producers a sugar price of 13.5 cents per pound. This announcement, in effect, lifted the 2-cent limitation placed on price support payments.

Comments were invited on the proposal and interested persons were given until July 14, 1977, to express their views. To afford additional time for

comment, the original comment period was first extended to August 1 and then to August 15 by issuance of USDA press releases. Notices of the two extensions were published in the Federal Register on July 22 (42 FR 37576) and August 9 (42 FR 40216), respectively.

The Department received nearly 200 written comments from consumers, corn sweetener processors, producers and processors in the domestic sugar-producing areas (the sugarbeet area and the sugarcane areas of Florida, Hawaii, Louisiana, Texas, and Puerto Rico), and various organizations representing or supporting these groups. About 40 respondents were opposed to any type of a subsidy program for the sugar industry. Most of the other respondents supported the Department's proposal to undertake a program which would assist sugarbeet and sugarcane producers and processors through the present period of low sugar prices, but very few supported the program as originally proposed. Many respondents recommended that the support payments not be limited, that the support level of 13.5 cents per pound of sugar be increased, and that processors be permitted to share in the program benefits. Others recommended that the support mechanism be through a restriction of sugar imports rather than through Government payments. Many of the various sugar processors and organizations representing sugarbeet and sugarcane producers which responded to the invitation for comments made substantive recommendations for improving the proposed program even though they were not in full support of the proposal.

Because of legal objections to the proposed payments program raised by several persons during the course of the comment period, the Secretary requested an opinion from the Deputy Attorney General at the U.S. Department of Justice as to whether the proposed program was authorized under section 301 of the Agricultural Act of 1949, as amended. On August 19, the Secretary released the opinion of the Deputy Attorney General in which it was concluded that the proposed program was unauthorized since there would be no distinction in substance between it and a program of direct payments to producers which, he held was not authorized under the Act.

The program has been modified to remove the limitation on the amount of payment which will be made and to provide that payments to the processors will be made only on the condition that processors pay producers not less than the announced level of price support. The Department of Justice has concluded that such a program would be authorized by Section 301 of the Agricultural Act of 1949, as amended.

All comments received were considered in connection with this final rule. Changes have been incorporated which meet most of the major objections to the program as originally proposed.

After giving careful consideration to the arguments of those opposing any type

of price support payment program, it has again been determined that it is in the best interest of the American people to institute such a program to help maintain a viable domestic sugar industry. The industry has been placed in even greater jeopardy since the original proposal to institute a program was made. Prices for raw sugar in the domestic market averaged only about 10.5 cents per pound during the period June through August, whereas the average price during the first five months of 1977 was 11.5 cents. In view of the fact that prices are considerably below the costs of production for even the most efficient producers and processors of sugar crops, it is believed that the institution of this program is essential to the economic well-being of our domestic sugar industry.

A substantial portion of the 1977 crop of sugarbeets and sugarcane is presently being harvested. In view of the time which will be required to implement the price support program for sugar provided for in the Food and Agriculture Act of 1977 (Pub. L. 95-113, effective October 1, 1977), it is essential that the announced program be placed in operation immediately to remain in effect until superseded by such program. Accordingly, it is hereby determined that compliance with any further notice of proposed rulemaking, public procedure, and 30-day effective date requirements of 5 U.S.C. 553 is impracticable and contrary to the public interest. An economic impact statement will be available by contacting John Stovall, Room 350, GHI Bldg., USDA, 20250.

Accordingly, Chapter XIV of Title 7 of the Code of Federal Regulations is amended by adding a new Part 1435—Sugar, to read as follows:

Subpart—Price Support Payment Program for 1977—Crop Sugarbeets and Sugarcane

Sec.	General.
1435.1	Administration.
1435.2	Definitions.
1435.3	Price support levels.
1435.4	Method of support.
1435.5	Eligibility for payment.
1435.6	Cooperative refiners.
1435.7	Computation of national average market price.
1435.8	Subterfuge.
1435.9	Setoffs and assignments.
1435.10	Appeals.
1435.11	Records and inspection thereof.
1435.12	False certifications.
1435.13	Forms.

AUTHORITY: The provisions of this subpart are issued under secs. 301-303 and 401 et seq. of the Agricultural Act of 1949, as amended (7 U.S.C. 1447 et seq., 1421 et seq.).

§ 1435.1 General.

This subpart sets forth the policies, procedures, and requirements governing price support for 1977-crop sugarbeets and sugarcane by the Commodity Credit Corporation (referred to in this subpart as "CCC"). The program shall remain in effect until all 1977-crop sugar has been marketed or another price support program for the 1977 crop supersedes this program.

§ 1435.2 Administration.

The program will be carried out by the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture (referred to in this subpart as "ASCS") under the general supervision and direction of the Executive Vice President, CCC.

§ 1435.3 Definitions.

(a) "1977 crop" means sugarbeets and sugarcane, the substantial portion of which is harvested during the following periods:

Sugar producing area	Harvesting period
Sugarbeets:	
All States, excluding California and Arizona.	Sept.-Nov. 1977.
California, excluding southern area.	July 1977-June 1978.
Southern California.	Mar.-Aug. 1978.
Arizona, lowland area.	Apr.-Aug. 1978.
Arizona, upland area.	Sept. 1977-Jan. 1978.
Sugarcane:	
Florida	Oct. 1977-May 1978.
Louisiana	Oct. 1977-Jan. 1978.
Texas	Oct. 1977-May 1978.
Hawaii	Calendar year 1977.
Puerto Rico	Dec. 1977-July 1978.

¹ Southern California includes the counties of Imperial, San Diego, Riverside, Orange, San Bernardino, and that part of Los Angeles lying south of the San Gabriel Mountains.

(b) "Producer" means the owner of a portion or all of the sugarbeets or sugarcane, including share rent landowners, at the time of harvest and delivery to the processor.

(c) "Processor" means a person who processes sugarbeets into refined sugar or sugarcane into raw sugar.

(d) "Quantity of sugar marketed" means the pounds of refined beet sugar or cane sugar, raw value, marketed from the 1977 crop during the marketing period as provided herein. Refined beet sugar or raw cane sugar shall be deemed to have been marketed when delivered to the purchaser or to a carrier for delivery to the purchaser or when title otherwise passes to the purchaser or when sugar has been contracted and committed for future delivery, but only to the extent that gross proceeds are accounted to the seller; *Provided*, That where raw cane sugar processors market their sugar through a cooperatively-owned refiner, marketing shall not be deemed to have occurred until a sale of refined sugar is made by the cooperative.

(e) "Marketing period" means the period September 15, 1977, forward until all 1977 crop sugar has been marketed.

(f) "Gross proceeds" means (1) total receipts from the sales of refined beet sugar, F.O.B. factory, including price differentials for sugar sold in other than bulk form, less all allowances and discounts, and before any freight adjustment; or (2) total receipts from the sales of cane sugar, raw value, F.O.B. factory, less all allowances and discounts, and

before any insurance or freight adjustments.

(g) "Raw sugar price equivalent" means the percentage relationship of the average gross proceeds for refined beet sugar to the average gross proceeds for the sugar, raw value.

(h) "National average market price" means the price of sugar, raw value, computed by dividing gross proceeds, on a raw sugar price equivalent basis, received by all processors by the quantity of sugar, raw value, marketed by all processors during the marketing period.

(i) "Raw value" of any quantity of sugar means its equivalent in terms of ordinary commercial raw sugar testing ninety-six degrees by the polariscope.

(j) "Sugarbeets of average quality" means sugarbeets containing 15.44 percent sucrose.

(k) "Sugarcane of average quality" means (1) for Florida, sugarcane containing 14.01 percent sucrose in normal juice; and (2) for Louisiana, sugarcane containing 12.69 percent sucrose in normal juice of 78.18 percent purity.

(l) "Secretary" means the Secretary of Agriculture or an official who has been designated to act on his behalf.

§ 1435.4 Price support levels.

(a) Prices to domestic producers of sugarbeets and sugarcane will be supported during the 1977 crop at average levels estimated to be equivalent to 52.5 percent of the parity prices for sugarbeets and sugarcane as of July 1977.

(b)(1) For producers of sugarbeets, the general support price will be \$22.84 per net ton of sugarbeets of average quality.

(2) For producers of sugarcane in Florida, the general support price will be \$13.37 per net ton of sugarcane of average quality.

(3) For producers of sugarcane in Louisiana, the general support price will be \$15.90 per net ton of sugarcane of average quality.

(4) For producers of sugarcane in Texas, the general support price per net ton of sugarcane will be the amount determined by multiplying 8.10 cents times the average pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by all producers, as adjusted by the processor to reflect the quality of the juice (normal juice sucrose and normal juice purity) extracted from the individual producer's sugarcane.

(5) For producers of sugarcane in Hawaii, the general support price per net ton of sugarcane where the delivery point is at the mill will be the amount determined by multiplying 8.91 cents times the total pounds of cane sugar, raw value, recovered per ton from the sugarcane delivered to the processor by the individual producer.

(6) For producers of sugarcane in Puerto Rico, the general support price per net ton of sugarcane will be determined in accordance with the provisions of Puerto Rico Law No. 426—also known as the Puerto Rico Sugar Law—and the

rules issued thereunder by the Sugar Board of Puerto Rico:

Provided, however, That for any producing area where the specified support price is based on sugarbeets or sugarcane of average quality, that price may be adjusted for sugarbeets or sugarcane of non-average quality on the method agreed upon by the producer and processor, subject to prior approval of the Executive Vice President, CCC, or his designee.

(c) Nothing in paragraph (b) of this section shall be construed as prohibiting normal and traditional customs or practices agreed upon between the producer and processor with respect to the marketing of sugarbeets and sugarcane or the products processed therefrom. Any such custom or practice which would cause any reduction in the specified support price must be reported in writing by the processor to, and approved by, the Executive Vice President, CCC.

§ 1435.5 Method of support.

(a) *General.* The support to domestic producers of 1977-crop sugarbeets and sugarcane will be made available in accordance with the provisions of this subpart by means of payments to processors.

(b) *Coverage.* Payments will be made on refined beet sugar and cane sugar, raw value, marketed from the 1977 crop during the marketing period. Sugar of the 1977 crop shall be identified by the processor on the basis of his normal and traditional method of accounting, i.e., the "first-in first-out" rule or the "last-in first-out" rule. No change from the normal and traditional method of accounting shall be made by the processor.

(c) *Rate of payment.* The rate of payment for the marketing period will be the amount by which the national average market price received by processors for sugar marketed in that period is less than 13.5 cents per pound. No payment will be made if the national average market price received by processors is equal to or greater than 13.5 cents per pound.

(d) *Timing of payment.* Payment to processors will be made by CCC as soon as the information submitted in accordance with § 1435.6(d) is compiled, the national average market price is determined, and the CCC sight drafts are prepared.

§ 1435.6 Eligibility for payment.

Before any payment can be approved under this subpart, the following requirements must be met:

(a) Processor shall certify that producers will be paid no less than the applicable support price in accordance with § 1435.4. In the event that the contractual agreement, or normal and traditional method of settlement, between the processor and producer would require a payment greater than the support price, the processor shall be obligated to make such payment over and above the support price to the producer. The processor shall not be obligated to pay the producer any amount greater than the support price if the contractual agreement or

normal and traditional method of settlement would require a payment of an amount which is less than the support price.

(b) Processor shall submit a report no later than October 20, 1977, showing the quantity of sugar marketed and the gross proceeds received therefrom during the 12-month period July 1, 1976, through June 30, 1977.

(c) Processor shall submit a report no later than October 20, 1977, showing (1) the quantity of refined beet sugar or cane sugar, raw value, in inventory at the beginning of the 1977 crop harvest and (2) the quantity of 1977-crop sugar, if any, in inventory as of September 15, 1977.

(d) Processor shall submit a report, within 15 days after the end of the marketing period, showing the quantity of sugar marketed on or after September 15, 1977, from the 1977 crop and the gross proceeds received therefrom.

§ 1435.7 Cooperative refiners.

For the purposes of computing "gross proceeds" as used herein, a facility which refines raw cane sugar that is cooperatively owned by its raw cane sugar processors shall be allowed to deduct up to 8 percent from gross proceeds to the cooperative-member processors to reflect that portion of returns which can be attributed to their investment in the refining facility. Net non-patronage income shall also be excluded in determining gross proceeds.

§ 1435.8 Computation of national average market price.

(a) The quantity of sugar marketed and the gross proceeds received therefrom during the 12-month period ending June 30, 1977, as submitted by processors in accordance with § 1435.6(b), will provide the basis for converting gross proceeds received for refined beet sugar to a raw sugar price equivalent basis, except that those processors in Louisiana who are also refiners of raw cane sugar or specialty sugars will be omitted in the calculation of the national average market price. The percentage by which the average market price received for refined beet sugar exceeds the average market price received for cane sugar, raw value, will be computed.

(b) The determination of the national average market price for the marketing period will be computed on the basis of information received from processors on the quantity of sugar marketed and the gross proceeds received therefrom during the marketing period as provided in accordance with § 1435.6(d). The computation will be as follows: (1) The percentage determined in accordance with paragraph (a) of this section will be used to reduce the gross proceeds received for refined beet sugar to a raw sugar price equivalent basis; (2) the gross proceeds received for refined beet sugar, after conversion to a raw sugar price equivalent basis, will be added to the gross proceeds received for cane sugar, raw value; (3) the total quantity

of refined beet sugar marketed will be converted to a raw value by multiplying the quantity by 1.07; and (4) the total gross proceeds will be divided by the total quantity of sugar, raw value, marketed to obtain the national average market price.

§ 1435.9 Subterfuge.

The processor shall not reduce returns to the producer below those determined in accordance with the requirements of this subpart through any subterfuge or device whatsoever.

§ 1435.10 Setoffs and assignments.

(a) *Processor indebtedness.* The regulations issued by the Secretary governing setoffs and withholding, Part 13 of this title, shall be applicable to the program.

(b) *Assignments.* Payments may be assigned only to the Farmers Home Administration in accordance with the regulations in Part 709 of this title.

§ 1435.11 Appeals.

A producer or processor may obtain reconsideration and review of determinations made under this subpart in accordance with the regulations in Part 780 of this title.

§ 1435.12 Records and inspection thereof.

ASCS shall reserve the right to have access to the premises of the processor, in order to inspect, examine, and make copies of the books, records, accounts, and other written data used in furnishing reports required by this subpart.

§ 1435.13 False certifications.

Any false certification which is made for the purpose of enabling a processor to obtain any payment to which he is not entitled, will subject the processor making such certification to liability under applicable Federal civil and criminal statutes.

§ 1435.14 Forms.

Processors shall submit the reports required by this subpart on Form SU-1, "Sugar Processor Certifications," to the Executive Vice President, CCC.

NOTE.—The ASCS, to meet the requirements of the National Environmental Policy Act (Pub. L. 91-190, 42 U.S.C. 4321 et seq.), has developed an environmental assessment on the program and has determined that the proposed action would not constitute a major Federal action significantly affecting the human environment.

NOTE.—It is hereby certified that the economic effects of this action have been carefully evaluated in accordance with Executive Order 11921 and OMB Circular A-107.

Signed at Washington, D.C. on October 4, 1977.

BOB BERGLAND,
Secretary.

[FR Doc. 77-29576 Filed 10-6-77; 8:45 am]

[3410-05]

PART 1446—PEANUTS

Subpart—1977 Crop Peanut Warehouse Storage Loan Supplement

AGENCY: Commodity Credit Corporation, U.S. Department of Agriculture.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth (1) the national average level of support, (2) support values by type, (3) kernel value for each percent sound mature and sound split kernels for each type, (4) the support price for each percent of other kernels, (5) the value of loose shelled kernels, (6) the damaged kernel, sound split kernel and foreign material discounts, (7) location adjustments, and (8) marketing procedure for peanuts containing *Aspergillus flavus* mold. This final rule is needed to make price support available to producers on 1977-crop peanuts.

EFFECTIVE DATE: Effective for all 1977 crop peanuts marketed during the 1977 peanut marketing year.

FOR FURTHER INFORMATION CONTACT:

Dallas R. Smith (ASCS) (202-447-7405).

SUPPLEMENTARY INFORMATION: The present regulations, to which these changes are made were published in the FEDERAL REGISTER on July 15, 1974 (39 FR 25949) and are entitled "General Regulations Governing 1974 and Subsequent Crop Peanut Warehouse Storage Loans". The new regulations are a 1977 crop supplement to the general regulations and include operating provisions necessary to carry out the program.

The historical objective of price support differentials has been to offer to eligible producers a price support level by type and quality that is representative of the market value of that type and quality of peanut. In addition, the support level for each type and quality is required by law to be established at levels which will provide an average support on all types at not less than the minimum national average support level.

In recent years, the national average price support has risen dramatically and has determined the market value. The Department has attempted to set support levels for each type in order that they can be marketed, processed, and utilized on equal terms.

This requires that the Department review annually the relationship of the various types of peanuts, taking into consideration the views and opinions of producers, shellers, manufacturers, and consumers. The "uniform kernel pricing" concept, which was in effect for the years 1971-1975, was agreed upon by industry

leaders and the Department after such a review. The sound mature kernel (SMK) value for Virginias was 3.9 cents higher than Runners and Spanish—which were equal. The introduction of a new variety of Virginia type in the early 1960's started an increase in the production of the Virginia type peanut from 384,000 to 533,000 tons, without any corresponding increases in use. This resulted in a substantial increase in surplus stocks of Virginia type by 1970.

The "uniform kernel pricing" concept solved the problem of surpluses of Virginia type; it provided that each type be marketed, processed, and utilized on equal terms. However, in 1971, a new variety of the Runner type peanut was introduced with yield and kernel characteristics that altered the relationship of the various types, as had the new Virginia variety earlier. Runners soon came into surplus supply. This indicated that another change in price support was necessary.

On May 17, 1977, a notice of proposed rulemaking entitled "Determination of Price Support Levels by Type of Peanuts" was published in the FEDERAL REGISTER (42 FR 25329). This notice announced that the Department was preparing to make determinations and issue regulations concerning a loan and purchase program for the 1977 crop of peanuts; invited the public to submit written comments; and scheduled a public meeting for June 9 to receive oral comments. The Secretary in a press release on May 13 appealed to the industry to come to this meeting with a unified position to aid the Department in making the final price determination.

The written comment period ended July 5. There were 33 responses, eleven from manufacturers of peanut products; six from shellers; five from farmer groups; three each from sheller associations and cooperative marketing associations; two from farmers; and one each from a State Department of Agriculture, a consultant, and a State Commodity Commission.

Commentators from the Southeast area proposed that the sound mature kernel (SMK) value per percent of the Runner type be lowered in relation to the Virginia and Spanish type. Commentators from the Virginia-Carolina and Southwest areas proposed that the SMK values per percent for Runner and Spanish types be the same, and that the SMK values for Virginia type be 3.9 cents per percent higher.

Other comments concerned continued contracting with grower associations by CCC, requiring separate inspection certificates for each trailer load of peanuts, and requiring that each load of farmer stock peanuts be weighed before inspection.

The public meeting was held on June 9, at which time industry representatives indicated that no unified industry posi-

tion could be reached. The previous conflicting positions were strictly adhered to by the representatives from the respective production areas.

The Southeastern area representatives recommended differential levels equivalent to a 5 percent increase in SMK values on Virginia and a 2½ percent increase in SMK values on Spanish over the SMK value for the Runner type peanut. This recommendation carried a high risk of loss to CCC because of the possibility of forcing Virginia and Spanish into surplus and also causing substantial damage to market relationships that had developed over a long period of time.

The Southwest and Virginia-Carolina areas maintained their position in support of the "uniform kernel pricing" concept, although for different reasons. Their recommendation was to establish the support level for sound mature kernels using the "uniform kernel pricing" method.

As a result of litigation involving the 1976 crop peanut differentials the Department did not use "uniform kernel pricing" for that crop. However, in order to restore the equitable relationship in effect when "uniform kernel pricing" formula was first introduced in 1971, some change from 1975 crop differentials was again necessary in 1977.

Therefore, a moderate change from 1975 is being adopted for the 1977 crop of peanuts. The differentials being adopted are the SMK value of Virginias, 2 percent, and Spanish, one-half percent, above the SMK value of Runners. The Department has relied on monthly price quotations between shellers and manufacturers for selected grades of the different types as indications that the 2 percent and one-half percent differentials would again assure that each type would be marketed, processed and utilized on equal terms.

For the 1977 crop of farmers stock peanuts, §§ 1446.8 through 1446.13 of Title 7 and the title of the subpart are hereby amended to read as provided below. The material previously appearing in §§ 1446.8 through 1446.13 shall remain in full force and effect as to the crops to which it is applicable.

Subpart—1977 Crop Peanuts Warehouse Storage Loan Supplement

Sec. 1446.8	Associations through which producers may obtain price support.
1446.9	Applicability.
1446.10	National average support value.
1446.11	Average support value by type.
1446.12	Calculation of support values.
1446.13	Peanuts containing mold.

AUTHORITY: Secs. 4 and 5, 62 Stat. 1070, as amended (15 U.S.C. 714 b and c); secs. 101, 401, 63 Stat. 1051, as amended (7 U.S.C. 1441, 1421).

Subpart—1977 Crop Peanuts Warehouse Storage Loan Supplement

§ 1446.8 Association through which producer may obtain price support.

Eligible producers may obtain price support by means of warehouse storage loans on eligible 1977 crop farmers stock peanuts through, in the Southeastern

area, GFA Peanut Association, Camilla, Ga.; Southwestern area, Southwestern Peanut Growers' Association, Gorman, Tex.; and Virginia-Carolina area, Peanut Growers Cooperative Marketing Association, Franklin, Va.

§ 1446.9 Applicability.

The support prices specified in this subpart apply to 1977 crop farmers stock peanuts in bulk or in bags, net weight basis, eligible for price support advances under the General Regulations.

§ 1446.10 National average support value.

The national average support value for 1977 crop peanuts is \$430.50 per ton.

§ 1446.11 Average support values by type.

The support values by type per average grade ton of 1977 crop peanuts are:

Type:	Per ton
Virginia	\$429.62
Runner	433.09
Spanish	417.05
Valencia, in the Southwest area suitable for cleaning or roasting	429.62

The price for all Valencia type peanuts in the Southeast and Virginia-Carolina areas and those in the Southwest area which are not suitable for cleaning and roasting will be the same as for Spanish type peanuts in the same area.

§ 1446.12 Calculation of support values.

The support value per ton for 1977 crop peanuts of a particular type and quality shall be calculated on the basis of the following rates, premiums, and discounts (with no value being assigned to damaged kernels), except that the minimum support value for any lot of eligible peanuts of any type shall be 8 cents per pound of kernels in the lot:

(a) *Kernel value per net ton excluding loose shelled kernels.* (1) Price for each percent of sound mature and sound split kernels shall be:

Type:	Per ton
Virginia	\$6.158
Runner	6.037
Spanish	6.067
Valencia:	
Southwest area—suitable for cleaning and roasting	6.537
Southwest area—not suitable for cleaning and roasting	6.067
Areas other than Southwest	6.067

(2) Price for each percent of other kernels:

	Per ton
All types-----	\$1.40

(3) Premium for each 1 percent extra large kernels in Virginia type peanuts shall be 45 cents, except that no premium shall be applicable to any lot of such peanuts containing more than 4 percent damaged kernels.

(b) *Value of loose shelled kernels per pound.*

	Per pound
All types.....	\$0.

(c) *Foreign material discount.* The discount for each full 1 percent foreign material in excess of 4 percent and not over 10 percent shall be \$1 per ton.

(d) *Sound split kernel discount.* For all types of peanuts, the discount per ton for sound split kernels shall be as follows:

Peanuts containing sound split kernels of:	Discount
1 through 4 pct.	None
5 pct.	\$1.00
6 pct.	1.60

Plus 80 cents for each percent of sound split kernels in excess of 6 percent.

(e) *Damaged kernel discount.* For all types of peanuts, the discount per ton for damaged kernels shall be as follows:

Peanuts containing damaged kernels of:	Discount
1 pct.	None
2 pct.	\$3.40
3 pct.	7.00
4 pct.	11.00
5 pct.	25.00
6 pct.	40.00
7 pct.	60.00
8-9 pct.	80.00
10 pct and over	100.00

(f) *Price adjustment for peanuts sampled with other than a pneumatic sampler.* The support price for Virginia type peanuts sampled with other than a pneumatic sampler shall be reduced by \$0.10 per percent sound mature and sound split kernels.

(g) *Mixed type discount.* Individual lots of farmer stock peanuts containing mixtures of two or more types in which there is less than 90 percent of any one type will be supported at a rate which is \$10 per ton less than the support price applicable to the type in the mixture having the lowest support price.

(h) *Location adjustments to support prices.* Farmers stock peanuts delivered to the association for price support advances in the States specified, where peanuts are not customarily shelled or crushed, shall be discounted as follows:

	Per ton
(1) Arizona	\$25
(2) Arkansas	10
(3) California	33
(4) Louisiana	7
(5) Mississippi	10
(6) Missouri	10
(7) Tennessee	25

(i) *Virginia type peanuts.* Virginia type peanuts, to receive peanut price support as Virginia type, must contain 40 percent or more "fancy" size peanuts, as determined by a presizer with the rollers set at 3¼ inch space. Virginia type peanuts so determined to contain less than 40 percent "fancy" size peanuts will be supported (but not classed) as though they were runner type.

(j) *Deduction for storage, handling and inspection.* For all types of peanuts, a deduction of \$20 per net ton will be made from the price support value to cover cost of storage, handling and inspection.

§ 1446.13 Peanuts containing mold.

(a) *Background.* Peanuts, as they are marketed, are inspected by the Federal-

State Inspection Service for visible *Aspergillus flavus* mold, a mold known to produce toxins. As provided in § 1446.7 (7), peanuts containing such mold are not eligible for price support. It is essential that stocks of peanuts which are sold for commercial purposes remain free from contamination by peanuts containing *Aspergillus flavus* mold. The adverse effect on the market for peanuts which would result from seizure or other Governmental action with respect to contaminated peanuts is readily apparent. The associations designated in § 1446.8 and parties to the Peanut Marketing Agreement are subject to strict limitations upon their marketing of peanuts which contain such mold. Therefore, as a condition to his eligibility for price support, the producer shall dispose of any lot of peanuts found by the Federal-State Inspection Service to have visible *Aspergillus flavus* mold therein referred to as "any affected lot" in the manner prescribed in paragraph (b) of this section.

(b) *Disposition of affected peanuts.* The producer shall either (1) at the point of first inspection, sell any affected lot to a signer of the Peanut Marketing Agreement or turn it over to the Association for marketing on his behalf, or (2) reclean any affected lot, or have it recleaned, for the purpose of removing loose shelled kernels and foreign material. If the producer elects to reclean the affected lot, or to have it recleaned, he will be given a copy of the Inspection Certificate and Sales Memorandum, Form MQ-94, which will show that visible mold was found. The producer shall return such copy, along with the affected lot it represents, to an inspector for a second inspection by the close of business on the next workday following the initial inspection. If visible mold is, upon second inspection, again found in the lot, the producer shall, at the point of second inspection, either sell the affected lot to a signer of the Peanut Marketing Agreement or turn it over to the Association for marketing on his behalf.

(c) *Liquidated damages.* In view of the circumstances set forth in paragraph (a) of this section, CCC may incur substantial damages to its program to support the price of peanuts if peanuts containing *Aspergillus flavus* mold are disposed of other than in accordance with the provisions of paragraph (b) of this section. The amount of such damages is difficult, if not impossible, to ascertain exactly. Therefore, the producer shall, with respect to any lot of peanuts ineligible for price support pursuant to § 1446.7(7) which is placed under price support, or any lot of peanuts which is placed under price support by a producer after he has disposed of any affected lot other than in the manner prescribed in paragraph (b) of this section, pay to CCC as liquidated damages and not as a penalty, seven cents (\$0.07) per net weight pound of such peanuts. The provisions of § 1446.4(b) relating to the producer's liability (aside from liability under criminal and civil frauds statutes) shall not be applicable to such peanuts.

Signed at Washington, D.C., on September 30, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.
[FR Doc. 77-29501 Filed 10-6-77; 8:45 am]

[3410-37]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE STANDARDS, INSPECTION, MARKETING, PRACTICES, DEPARTMENT OF AGRICULTURE

PART 2852—PROCESSED FRUITS, VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—Regulations Governing Inspection and Certification of Processed Fruits and Vegetables

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This document adjusts the rates charged for inspection services to reflect recently announced Federal Employees' salary increase.

EFFECTIVE DATE: October 9, 1977.

FOR FURTHER INFORMATION CONTACT:

E. C. Williams, Chief, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202-447-4693).

SUPPLEMENTARY INFORMATION: The Agricultural Marketing Act of 1946 authorizes official inspection and certification of processed fruits, vegetables, processed products thereof, and certain other processed food products. Such inspection and certification is voluntary and is made available upon request of financially interested parties and upon payment of a fee. The Act requires such fees to be reasonable and, as nearly as possible, to cover the cost of rendering the service.

The rising costs of maintaining the inspection service has made it necessary to adjust inspection fees. These adjustments will compensate for 1977 increases in Government employee salaries as authorized by Congress, as well as increased personnel benefits resulting therefrom.

Accordingly, Sections 2852.42 and 2852.52—schedule of fees and charges for inspection services on a contract basis—are being revised to recover the increased costs.

Pursuant to the authority contained in the Agricultural Marketing Act of 1946 (60 Stat. 1087 et seq., as amended; 7 U.S.C. 1621-1627), §§ 2852.42 and 2852.52(c) (1) and (2); and (d) (1) are hereby amended to read as follows:

§ 2852.42 Schedule of fees.

Unless otherwise provided in a written agreement between the applicant and the Administrator, the fee for any inspection service performed under the

regulations in this part, including analyses specified in Section 2852.47, shall be at the rate of \$19.75 per hour plus an additional \$5.00 per hour for all scheduled overtime hours.

§ 2852.52 Charges for inspection service on a contract basis.

(c) Charges for year-round in-plant inspection service on a contract basis will be billed to the applicant at least once each 28 days for all hours worked with a minimum of 40 hours per week, holiday pay and night differential for each inspector assigned to perform the inspection services in accordance with the following schedules:

(1) For personnel assigned on a year-round basis:

Each inspector, \$15.30 per hour.

(2) For personnel assigned on less than a year-round basis:

Each inspector, \$17.50 per hour.

Each subordinate inspector on the same shift with an inspector, \$12.95 per hour.

(d) Charges for less than year-round in-plant inspection services on a contract basis will be billed to the applicant at least once each 28 days for all hours with a minimum of 40 hours per week, holiday pay and night differential for each inspector assigned to perform the inspection services in accordance with the following schedules:

(1) Each inspector, \$22.00 per hour.

Notice of proposed rulemaking, public procedure thereon, and the postponement of the effective time of this action later than October 9, 1977, (5 U.S.C. 553), are impracticable, unnecessary, and contrary to the public interest in that (1) the Agricultural Marketing Act of 1946 provides that the fees charged shall be reasonable and, as nearly as possible, cover the cost of the service rendered, (2) the increases in fee rates set forth herein are necessary to more nearly cover such cost including, but not limited to, Federal employee salary adjustments, and (3) additional time is not required by the user of the inspection service to comply with the amendment.

(Secs. 203, 205, 60 Stat. 1087, as amended, 1090, as amended, (7 U.S.C. 1622, 1624).)

Dated to become effective at 12:01 a.m., October 9, 1977.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 29, 1977.

ROBERT ANGILOTTI,
Administrator, Food
Safety and Quality Service.

[FR Doc. 77-29506 Filed 10-6-77; 8:45 am]

[3410-37]

PART 2851—FRESH FRUITS, VEGETABLES, AND OTHER PRODUCTS (INSPECTION, CERTIFICATION, AND STANDARDS)

Subpart—United States Standards for Grades of Potatoes for Chipping¹

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule represents new voluntary U.S. Standards for Grades of Potatoes for Chipping which were developed at the request of industry and are intended to provide a basis for developing more uniform trading practices.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank J. McNeal, Fresh Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-2185).

SUPPLEMENTARY INFORMATION: Potatoes, a major farm crop, are grown commercially in every State in the country. Recently published figures indicate that the farm value is in excess of a billion dollars and that potatoes contribute significantly to the national economy. The production and marketing of this crop is a highly competitive and specialized business that has to contend with the persistent problem of relatively inelastic demand and variable supply. Currently, in excess of fifty percent of the production of potatoes is used in the manufacture of processed products. Approximately ten percent is used in the manufacture of potato chips.

The production of potatoes for chipping purposes requires special production and handling measures not commonly experienced in the production and marketing of potatoes for fresh consumption. Often relatively long distances separate the producer and the manufacturer which may bring about product changes or deterioration. This is compounded in many cases by the special conditioning required that could substantially affect the chipping quality of the potatoes. In addition to the inherent industry problems, contractual arrangements lacking in uniform trading standards have been the subject of much discussion and disagreement on the part of concerned parties. As a result of these discussions, it was recognized by the industry that uniform trading standards

¹ Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug and Cosmetic Act, or with applicable State Laws and regulations.

could play a substantial part in promoting a more orderly basis for doing business.

Chip manufacturers have for years purchased potatoes on the basis of the U.S. Standards for Grades of Potatoes either U.S. No. 1, a percentage of U.S. No. 1 quality or U.S. Commercial grade, plus size, specific gravity and "satisfactory chipping quality" requirements. This latter requirement has been very controversial.

In 1973 a Joint Liaison Committee consisting of members of the National Potato Council and Potato Chip Institute International, hereinafter referred to as the Joint-Committee, met to develop a uniform potato purchasing format for use in grower-chipper contracts.

In March of 1974, after a year of discussions, the Joint-Committee formally requested the U.S. Department of Agriculture to conduct investigations leading to the development of U.S. Standards for Grades of Potatoes for Chipping. Department Standardization Specialists met with the Joint-Committee and presented a "Plan of Action" to be taken by the Department in developing the new standards using the Committee's glossary of terms and tolerances whenever possible.

In July 1974 a comprehensive report from a Departmental study team, initiated by the Secretary of Agriculture, titled "Report of the Potato Processing Study Group" was released. This report recommended that the Department work with growers, processors, and researchers to develop acceptable grade standards, testing procedures, and methods for arbitrating disagreements regarding potatoes delivered under chip contracts.

In December 1974 a study draft was widely distributed to individuals, groups and organizations of potato growers and chip manufacturers with the period of comment to end June 30, 1975. Potato Chip Institute International, in order to adequately inform its membership about the proposed grade standards, requested that a revised edition of the study draft be issued with a period of comment ending June 30, 1976. Their request was acknowledged and a revised study draft consolidating comments and recommendations from growers and chippers was issued and a comprehensive instructional program was initiated.

Departmental personnel explained the study draft proposal at four regional meetings, annual meetings of National and State potato organizations and NPC-PCII co-sponsored grower-chipper seminars held throughout the country. At their annual meeting, the Potato Chip/ Snack Food Association (formerly Potato Chip Institute International) voted unanimously to oppose the revised study draft. During this time many producers' bargaining committees and chippers incorporated parts of the proposal in their contracts. The Department has inspected some shipments on the basis of the proposal.

On August 6, 1976 a notice of proposed rulemaking was published in the *Federal Register* (41 FR 32896), regarding the issuance of U.S. Standards for Grades of Potatoes for Chipping, under Chapter I, Part 51 which has been changed to Chapter XXVIII, Part 2851 by a rule effective June 27, 1977, establishing a new Chapter for the Food Safety and Quality Service in the Code of Federal Regulations. Interested persons were given until February 1, 1977, to submit written data, views, or arguments regarding the proposed standards. Following publication, copies were widely distributed to individuals and to groups and organizations of potato growers, shippers, brokers, consumers, and processors.

Departmental representatives again discussed and explained the proposed standards at the annual meetings of the National Potato Council, Michigan Potato Commission, Rhode Island Potato Growers, New York Empire State Potato Club, and with many other organizations made up of growers, shippers, brokers, and processors. Also, information concerning the proposal was carried in newspapers and trade publications. In all instances it was pointed out that use of U.S. grade standards and official grading services is voluntary.

During the period for comment more than 560 letters of comment were received in response to the proposal. Nearly two-thirds of the comments received expressed approval of the proposal to establish grade standards. Most of these were from growers expressing a variety of reasons for having standards, including use by industry as a reference point; to serve as a stabilizing factor; to help decrease late payments; to discourage processors from rejecting lots; to improve the over-all marketing of potatoes; to provide a uniform basis for settling claims; and to serve as a basis for drawing up delivery contracts. Most of the favorable comments concur with previous findings and recommendations that grade standards be developed.

Other favorable comments mentioned optional positive color determination, an objective method of determining defects, increased tolerances more in line with present contract requirements, and no increase of waste to inflate cost to consumers.

Potato chip manufacturers, in general, expressed complete disapproval of the proposal to establish grade standards. In their opinion, use of the standards could become mandatory, the proposed standards represent a new and unnecessary regulation, they would create substantial and costly confusion within the industry and would involve government interference in private industry. Some growers commented that they were satisfied with current contractual arrangements with chippers and saw no need for any mandatory regulations.

The foregoing objections are believed to be lacking in substance. These grade standards are not a regulation nor would they become mandatory. They are issued under authority of the Agricultural Marketing Act of 1946, which provides for the issuance of U.S. grades to designate different levels of quality for the voluntary use of producers, buyers, and consumers. Official grading services are also provided under this act upon request of any financially interested party and upon payment of a fee to cover the cost of such service.

These grade standards would apply to many varieties of potatoes produced under widely varying soil and climatic conditions at different seasons of the year and would provide a basis for developing a sound and satisfactory purchasing system. The standards would provide uniform objective methods for determining product quality.

The fresh produce industry has recognized that the first step required to eliminate confusion and bring about more efficient and orderly marketing is to have uniform trading standards. As a result, the Department in cooperation with industry has developed, over 50 years, grade standards covering some 82 fresh commodities.

The Department recognizes the complexity of the situation and it is inevitable that there will be differences of opinion among growers and chip manufacturers over the necessity of establishing grade standards; however, it is the responsibility of the Department to provide voluntary grade standards which it believes could be useful to the industry and consumers.

Final issuance of the grade standards was, in part, delayed in an attempt to develop, in cooperation with industry, a five plate color chart which was referenced in the proposal. As it was not possible to resolve differences of opinion in the choice of specific fry colors, the reference to the visual color chart is deleted from Section 2851-4578 "Optional Test For Fry Color" subparagraph (b) (1). However, the index for fry color determination by means of photoelectric color meters has been retained. Only minor adjustments are made in the numerical indices in addition to the establishment of a, unless otherwise specified, minimum readout fry color index.

Changes in the text from the published proposal are: (1) deletion of references to the five-color chip chart; (2) establishment of a, unless otherwise specified, minimum fry color readout values; (3) lowering of each Agtron Index numerical value range by 5 points and elimination of value overlap; and (4) when visual determination of color is requested, not more than 10 percent of the slices may be darker than a specified fry color.

After consideration of all relevant matters presented by interested persons, and since these grade standards are not a regulation and would not become mandatory, the following United States Standards for Grades of Potatoes for Chipping are hereby promulgated pursuant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621-1627).

ant to the Agricultural Marketing Act of 1946 (60 Stat. 1087, as amended; 7 U.S.C. 1621-1627).

Sec. 2851.4575 U.S. No. 1 Potatoes for Chipping.
2851.4576 U.S. No. 2 Potatoes for Chipping.

2851.4577 Size.

OPTIONAL TESTS FOR SPECIFIC GRAVITY AND FRY COLOR

2851.4578 Optional tests for specific gravity and fry color.

APPLICATION OF STANDARDS

2851.4579 Application of Standards.

SAMPLES FOR GRADE AND SIZE DETERMINATIONS

2851.4580 Samples for grade and size determination.

DEFINITIONS

2851.4581 Similar varietal characteristics.

2851.4582 Firm.

2851.4583 Fairly firm.

2851.4584 Fairly clean.

2851.4585 Seriously damaged by dirt.

2851.4586 Fairly well shaped.

2851.4587 Seriously misshapen.

2851.4588 Soft rot or wet breakdown.

2851.4589 Sprouts.

2851.4590 Foreign or extraneous material.

2851.4591 Damage.

2851.4592 Serious damage.

2851.4593 External defects.

2851.4594 Internal defects.

AUTHORITY: Agricultural Marketing Act of 1946 Secs. 203, 205, 60 Stat. 1087, as amended, 1090 as amended; 7 U.S.C. 1622, 1624.

GRADES

§ 2851.4575 U.S. No. 1 Potatoes for Chipping.

"U.S. No. 1 Potatoes for Chipping" consists of potatoes which meet the following requirements:

(a) Basic requirements: (1) similar varietal characteristics; (2) firm; (3) fairly clean; (4) fairly well shaped.

(b) Free from: (1) freezing; (2) blackheart; (3) late blight tuber rot; (4) southern bacterial wilt; (5) bacterial ring rot; (6) nuts of nut sedge; (7) tuber moth injury; (8) soft rot and wet breakdown.

(c) Free from damage by any other cause.

(d) Size. Not less than 1 1/4 inches (47.7 mm) in diameter, unless otherwise specified. See § 2851.4577.

(e) For tolerances see § 2851.4579.

§ 2851.4576 U.S. No. 2 Potatoes for Chipping.

"U.S. No. 2 Potatoes for Chipping" consists of potatoes which meet the following requirements:

(a) Basic requirements: (1) similar varietal characteristics; (2) fairly firm; (3) not seriously damaged by dirt; (4) not seriously misshapen.

(b) Free from: (1) freezing; (2) blackheart; (3) late blight tuber rot; (4) southern bacterial wilt; (5) bacterial ring rot; (6) nuts of nut sedge; (7) tuber moth injury; (8) soft rot and wet breakdown.

(c) Free from serious damage by any other cause.

(d) Size. Not less than 1 1/4 inches (44.5 mm) in diameter, unless otherwise specified. See § 2851.4577.

(e) For tolerances see § 2851.4579.

SIZE

§ 2851.4577 Size.

(a) The minimum size, maximum size or range in size may be specified in connection with the grade in terms of diameter or weight of the potato, or in accordance with one of the size classifications given in the following table:

TABLE I

Size classification	Minimum diameter ¹	Maximum diameter ¹ or weight ²
A ³	1 1/4 in (47.7 mm) ..	16 oz (453.6g).
B.....	1 1/2 in (38.1 mm) ..	2 1/4 in (57.2 mm).
Small.....	1 3/4 in (44.5 mm) ..	2 1/2 in (63.5 mm).

¹ Diameter means the size designation in terms of inches or 8ths of an inch indicating the greatest dimension at right angles to the longitudinal axis, without regard to the position of the stem end.

² Weight means the size designation in terms of whole ounces indicating the minimum weight of the potato. For example, a potato having a designation of 10 oz (283.50 g) is one which weighs at least 10 oz (283.50 g) but less than 11 oz (311.85 g).

³ In addition to the minimum size specified, a lot of potatoes designated as size A shall contain at least 40 pct of potatoes which are 2 1/2 in (63.5 mm) in diameter or larger or 6 oz (170.10 g) in weight or larger.

OPTIONAL TESTS FOR SPECIFIC GRAVITY AND FRY COLOR

§ 2851.4578 Optional tests for Specific gravity and fry color.¹

Tests to determine specific gravity and fry color shall be made in accordance with the procedures set forth in this section. The potatoes used for such determinations shall be taken at random from a composite sample drawn from containers throughout a load, or a comparable sample from a bulk load or storage bin.

(a) *Optional test for specific gravity.* Specific gravity shall be determined by either hydrometer, or by calculation from the weights of the sample in air and in water, with equipment which has been tested and calibrated to give accurate results. The reading obtained from each specific gravity test shall be corrected for temperature variations as prescribed by Table II of this section. The specific gravity for any lot of potatoes shall be the average of at least 3 such corrected readings on separate tests from the composite sample.

(1) *Temperature correction.* The pulp temperature of the potatoes and the temperature of water shall be recorded immediately before testing and the specific gravity reading corrected as indicated in the following table:

¹ Whenever proper testing equipment is not available for official use at point of inspection or at the local field office of the Fresh Fruit and Vegetable Inspection Service, optional testing for specific gravity or fry color shall be performed by the Inspection Service at one of the following USDA Fresh Inspection Offices: Room 2052, S. Building, Washington, D.C. 20250; Room 1160, 610 South Canal St., Chicago, Ill. 60607 or, Appraisers Building, Room 739, 630 Sansome St., San Francisco, Calif. 94111.

RULES AND REGULATIONS

TABLE II.—Correction factors for specific gravity of potatoes¹
(Corrected to zero of 50° F tuber temperature and 50° F water temperature)

Tuber temperature	Water temperature (degrees Fahrenheit)									
	35°	40°	45°	50°	55°	60°	65°	70°	75°	80°
35°	-0.0021	-0.0020	-0.0018	-0.0015	-0.0010	-0.0003	-0.0002	-0.0003	-0.0007	-0.0006
40°	-0.0017	-0.0016	-0.0014	-0.0011	-0.0006	-0.0001	-0.0001	-0.0002	-0.0006	-0.0005
45°	-0.0013	-0.0012	-0.0010	-0.0007	-0.0002	0.0000	0.0000	-0.0001	-0.0005	-0.0004
50°	-0.0009	-0.0008	-0.0006	-0.0003	0.0000	0.0000	0.0000	-0.0001	-0.0005	-0.0004
55°	-0.0005	-0.0004	-0.0002	0.0000	0.0000	0.0000	0.0000	-0.0001	-0.0005	-0.0004
60°	-0.0001	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	-0.0001	-0.0005	-0.0004
65°	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	-0.0001	-0.0005	-0.0004
70°	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	-0.0001	-0.0005	-0.0004
75°	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	-0.0001	-0.0005	-0.0004
80°	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	-0.0001	-0.0005	-0.0004

¹ To apply correction factor, change actual specific gravity reading by adding or subtracting the appropriate factor according to the plus or minus sign.

(b) *Optional test for fry color.* The test to determine compliance with a specified fry color is made by frying potato slices 0.05 inch (1.3 mm) thick from the center portion of the potato sliced longitudinally in an approved oil with a starting temperature of 365 F (185° C) for not less than one minute 40 seconds. A minimum of 40 slices shall be used for color evaluation. Unless otherwise specified, the color index of the composite sample of fried chips shall be not less than a reading of 25 on a USDA approved photoelectric colorimeter (Agtron M-30A or M-300 A) or it may be based on one or more of the color designations with corresponding colorimeter indices (Agtron M-30A or M-300 A) specified in Table III. Photoelectric equipment (Agtron M-30A or M-300 A) shall be calibrated at 0 and 90 using M-00 and M-90 calibration discs on the red mode.¹

TABLE III

Color designations:	Agtron index range
1.....	65 and higher.
2.....	55 to 64.
3.....	45 to 54.
4.....	35 to 44.
5.....	25 to 34.

APPLICATION OF STANDARDS

§ 2851.4579 Application of Standards.

In the application of these standards to determine the percentage of the lot which meets the requirements of the grades, tolerances shall not apply.

(a) *Tolerances.* When a lot of potatoes is required to meet one of the grades, the following tolerances, by weight, are provided as specified:

(1) *For defects.* 15 percent for potatoes in any lot which fail to meet the

¹ Fry color determinations may be made using other approved electronic color meters (which have been properly calibrated and standardized) which would give readings that could be mathematically converted to Agtron numerical index values shown in Table III.

requirements of the grade: *Provided*, That included in this tolerance not more than the following percentages shall be allowed for the defects listed:

(i) 5 percent internal defects;
(ii) 10 percent external defects, including not more than 3 percent for potatoes which are affected by freezing, Blackheart, Late Blight Tuber Rot, Southern Bacterial Wilt, Bacterial Ring Rot, nuts of nut sedge, Tuber Moth injury, soft rot or wet breakdown, including therein not more than 1 percent for potatoes which are frozen or affected by soft rot or wet breakdown.

(2) *For offsize:* (i) *Undersize:* 3 percent when the minimum size specified is less than 2 1/4 inches (57.2 mm) in diameter or less than 6 ounces (170.10 g) in weight; and 5 percent when the minimum size specified is 2 1/4 inches (57.2 mm) or more in diameter or 6 ounces (170.10 g) or more in weight.

(ii) *Over-size:* 10 percent.
(3) *For Off-color—Visual determination:* (i) Unless otherwise specified, when a lot of potatoes is required to meet a specified visual color, not more than 10 percent of the slices tested may be darker than the specified color.

SAMPLES FOR GRADE AND SIZE DETERMINATION

§ 2851.4580 Samples for grade and size determination.

Individual samples shall consist of 25 pounds (11.34 kg). The number of individual samples drawn for grade or size determination will vary with the size of the lot.

DEFINITIONS

§ 2851.4581 Similar varietal characteristics.

"Similar varietal characteristics" means that the potatoes in any lot have the same general shape, color, character of skin and color of flesh.

§ 2851.4582 Firm.

"Firm" means the individual potato is not shriveled or wrinkled over more than 15 percent of the surface.

§ 2851.4583 Fairly firm.

"Fairly firm" means that the individual potato is not soft or flabby or excessively shriveled over more than 25 percent of the surface.

§ 2851.4584 Fairly clean.

"Fairly clean" means that the individual potato is not caked with dirt over more than 5 percent of the surface or not more than 1/3 of the surface is affected by smearing or staining.

§ 2851.4585 Seriously damaged by dirt.

"Seriously damaged by dirt" means that more than 25 percent of the surface of the individual potato is affected by caked dirt or more than 2/3 of the surface is affected by smearing or staining.

§ 2851.4586 Fairly well shaped.

"Fairly well shaped" means that the individual potato is not ridged, lumpy, dumbbell-shaped, materially affected by second growth or otherwise misshapen.

§ 2851.4587 Seriously misshapen.

"Seriously misshapen" means that the individual potato is seriously dumbbell-shaped, ridged, lumpy or seriously affected by second growth or otherwise seriously misshapen.

§ 2851.4588 Soft rot or wet breakdown.

"Soft rot or wet breakdown" means any soft, mushy or leaky condition of the tissue such as leak, slimy soft rot, wet breakdown, or wet type Fusarium Tuber Rot.

§ 2851.4589 Sprouts.

"Sprouts" means any sprout more than 1 inch (25.4 mm) in length attached to the potato.

§ 2851.4590 Foreign or extraneous material.

"Foreign or extraneous material" means rocks, loose or chunks of dirt, vines, stems, trash and other material including detached sprouts.

§ 2851.4591 Damage.

"Damage" means any defect or combination of defects other than those listed in Tables IV and V, which cannot be removed without a loss of more than 5 percent of the total weight of the potato.

§ 2851.4592 Serious damage.

"Serious damage" means any defect or combination of defects other than those listed in Tables IV and V, which cannot be removed without a loss of more than 10 percent of the total weight of the potato.

§ 2851.4593 External defects.

"External defects" are defects which can be detected externally. However, cutting may be required to determine the extent of the injury. Some external defects are listed in Table V.

RULES AND REGULATIONS

TABLE IV.—External defects

Defect	Damage	Serious damage ¹
Air cracks.....	Removal causes loss of more than 5 pct of total weight of potato.	Removal causes loss of more than 10 pct of total weight of potato.
Bruises.....	Do.....	Do.....
Flea beetle injury.....	Do.....	Do.....
Scab, pitted.....	Do.....	Do.....
Sunburn, greening, wind-burn or Silver Scurf.....	Do.....	Do.....
Pressure bruise discoloration.....	Do.....	Do.....
Wireworm, grass grub and other insects.....	Do.....	Do.....
Dry rot.....	Do.....	Do.....
Growth cracks.....	The length of the crack or aggregate lengths of 2 or more cracks exceed 2/3 the length of the potato or the maximum depth exceeds the maximum width of the cracks.	The length of the crack or aggregate lengths of 2 or more cracks equals the length of the potato or the maximum depth exceeds the maximum width of the cracks.
Rhizoctonia light.....	More than 50 pct of surface affected.	More than 75 pct of surface affected.
External surface discoloration.....	Do.....	Do.....
Scab, surface.....	Do.....	Do.....
Cuts (slab, knife).....	Cuts aggregating more than 1 in in diameter (25.4 mm) on a potato 2 1/2 in (63.5 mm) in diameter or 6 oz (170.10 g) in weight and correspondingly smaller and larger cuts on smaller and larger potatoes.	Cuts aggregating more than 1 1/2 in (38.1 mm) in diameter on a potato 2 1/2 in (63.5 mm) in diameter or 6 oz (170.10 g) in weight and correspondingly smaller and larger cuts on smaller and larger potatoes.
Dirt.....	More than 5 pct of the surface is affected by caked dirt or more than 1/3 of the surface is affected by staining or smearing.	More than 25 pct of the surface is affected by caked dirt or 2/3 of the surface is affected by staining or smearing.
Rhizoctonia, caked.....	More than 25 pct of surface affected.	More than 50 pct of surface affected.
Sprouts.....	More than 10 pct of the potatoes have any sprout more than 1 in (25.4 mm) in length.	Do.....

¹ The following defects are considered serious damage when present in any degree: freezing; blackheart; late blight tuber rot; southern bacterial wilt; bacterial ring rot; nuts of nut sedge; tuber moth injury; soft rot; and wet breakdown.

§ 2851.4594 Internal defects.

"Internal defects" are defects which cannot be detected without cutting the potato. Some internal defects are listed in Table V.

TABLE V.—Internal defects

Defect	Damage	Serious damage
Hollow heart.....	Cracks aggregating 1/4 in (9.6 mm) in width or exceeds 1/4 the length of the largest diameter of the potato.	Cracks aggregating 1/2 in (12.7 mm) in width or exceeds 1/2 the length of the largest diameter of the potato.
Ingrown sprouts.....	Removal causes a loss of more than 5 pct of the total weight of the potato.	Removal causes a loss of more than 10 pct of the total weight of the potato.
Vascular discoloration.....	Do.....	Do.....
Internal discoloration.....	More than the equivalent of 3 scattered light brown spots 1/4 in (3.2 mm) in diameter in a potato 2 1/2 in (63.5 mm) in diameter or 6 oz (170.10 g) in weight, or correspondingly lesser or greater amounts in smaller or larger potatoes.	More than the equivalent of 6 scattered light brown spots 1/4 in (3.2 mm) in diameter in a potato 2 1/2 in (63.5 mm) in diameter or 6 oz (170.10 g) in weight, or correspondingly lesser or greater amounts in smaller or larger potatoes.

The United States Standards for Grades of Potatoes for Chipping contained in the subpart shall become effective January 1, 1978.

Note.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB A-107.

Dated: October 3, 1977.

ROBERT ANGELOTTI, Ph. D.,
Administrator.

[FR Doc.77-29578 Filed 10-6-77; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 931]

HANDLING OF FRESH BARTLETT PEARS GROWN IN OREGON AND WASHINGTON

Notice of Proposed Rulemaking With Respect to Expenses and Fixing of Rate of Assessment for the 1977-78 Fiscal Period and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule

SUMMARY: This notice invites written comments on proposed expenses of \$27,425 and a rate of assessment of \$0.01 per standard western pear box for the functioning of the Northwest Fresh Bartlett Pear Marketing Committee for the 1977-78 fiscal period. The committee administers locally a Federal marketing order program regulating the handling of Bartlett pears grown in Oregon and Washington. The proposal would enable the committee to collect assessments from first handlers on all assessable Bartlett pears handled and to use the resulting funds for its expenses.

DATES: Comments must be received on or before October 21, 1977. Proposed effective dates July 1, 1977, through June 30, 1978.

ADDRESSES: Send two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250. Comments will be made available for public inspection at the Hearing Clerk's office during business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-3315.

SUPPLEMENTARY INFORMATION: Consideration is being given to the following proposals submitted by the Northwest Fresh Bartlett Pear Marketing Committee, established under the marketing agreement and Order No. 931 (7 CFR Part 931), regulating the handling of fresh Bartlett pears grown in Oregon and Washington, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer the terms and provisions thereof:

(1) That expenses that are reasonable and likely to be incurred by the Northwest Fresh Bartlett Pear Marketing Committee, during the period July 1,

1977, through June 30, 1978, will amount to \$27,425.

(2) That the rate of assessment for such period, payable by each handler in accordance with § 931.41 be fixed at \$0.01 per standard western pear box of pears, or an equivalent quantity of pears in other containers or in bulk.

(3) That assessments in excess of expenses incurred during the fiscal period ended June 30, 1977, be carried over as reserve in accordance with the provisions of § 931.42.

Terms used in the marketing agreement and order shall, when used herein, have the same meaning as is given to the terms in the marketing agreement and order.

Dated: September 30, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc 77 29507 Filed 10-6-77 8:45 am]

[3410-05]

COMMODITY CREDIT CORPORATION

[7 CFR Part 1425]

COOPERATIVE MARKETING ASSOCIATIONS

Eligibility Requirements for Price Support
AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Commodity Credit Corporation (CCC) is considering an amendment to the Cooperative Marketing Associations Eligibility Requirements for price support which would specify 15 days as the period of time in which an approved cooperative must distribute to its members proceeds received through CCC price support loans and purchases. The proposed amendment is needed for the purpose of clarification.

DATE: In order to be considered, comments must be received on or before November 7, 1977.

ADDRESSES: Send comments to Chief, Cooperative Staff, PSL Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Charlie B. Robbins, 202-447-4634.

SUPPLEMENTARY INFORMATION: The Commodity Credit Corporation is soliciting comments on this proposal. All

written comments will be available for public inspection at the office of the Chief, Cooperative Staff, PSL Division during regular business hours (7 CFR 1.27(b)).

PROPOSED RULE

It is proposed to amend § 1425.14(a) of Part 1425 to read as follows:

§ 1425.11 Distribution of proceeds.

(a) **CCC Loans and Purchases.** If price support is obtained on any part of the commodity in a pool through CCC loans or purchases, the proceeds therefrom shall be distributed to members participating in such pool on the basis of the quantity and quality of the commodity delivered by each member less any authorized charges for services performed by and/or paid for by the cooperative which are necessary to condition the commodity or otherwise make the commodity eligible for price support. Such proceeds shall be distributed within a period of 15 days from the date of receipt from CCC. However, if the cooperative has distributed initial advances to members in the eligible pool at the time it acquires the commodity and which advances equal not less than such proceeds, less authorized charges, a further distribution shall not be required.

Signed at Washington, D.C. on September 30, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc 77-29503 Filed 10-6-77 8:45 am]

[6714-01]

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR PART 338]

FAIR HOUSING

Fair Housing Advertising, Poster, and Recordkeeping Requirements

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed rules.

SUMMARY: The Federal Deposit Insurance Corporation proposes to promulgate new regulations which would: (1) establish a data collection and analysis system for monitoring insured State nonmember bank compliance with the Federal fair housing laws and (2) incorporate an amended version of the advertising and poster requirements contained in the FDIC's policy statement on

fair housing entitled "Nondiscrimination in Real Estate Loan Activities." The proposed regulations are intended to provide a basis for a more effective FDIC fair housing enforcement program.

DATE: Comments must be received on or before: November 7, 1977.

ADDRESS: Interested persons are invited to submit written data, views or arguments regarding the proposed regulations to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429. All written comments will be made available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT:

Jerry L. Langley, Attorney, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, D.C. 20429 (202-389-4237).

SUPPLEMENTARY INFORMATION:

The Federal Deposit Insurance Corporation has the responsibility to require and enforce insured State nonmember bank compliance with the Fair Housing Act (42 U.S.C. § 3601, et seq.) and the Equal Credit Opportunity Act (15 U.S.C. § 1691, et seq.). The Fair Housing Act and the Equal Credit Opportunity Act make it unlawful to deny or discriminate in the fixing of the terms of a loan made for the purpose of purchasing, constructing, improving or maintaining a dwelling because of the race, color, religion, sex, or national origin of the loan applicant, any person associated with the applicant in connection with the loan, or the present or prospective owner, lessees, tenants, or occupants of the dwelling or dwellings in relation to which the loan is made. The Equal Credit Opportunity Act also makes it unlawful to discriminate against an applicant in any aspect of a loan transaction for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling (1) on the basis of marital status or age (provided the applicant has the capacity to contract); (2) because all or part of the applicant's income derives from a public assistance program; or (3) because the applicant has in good faith exercised any right under the Consumer Credit Protection Act (15 U.S.C. 1601 note).

Under the proposed data collection and analysis system, FDIC examiners would collect samples of data pertaining to mortgage loan applications and inquiries at each insured State nonmember bank. The data collected would include information as to race and sex voluntarily supplied by mortgage loan applicants and persons inquiring about mortgage loans, as well as other information routinely supplied on mortgage loan application forms. This information would be forwarded to Washington, D.C. for analysis. The analysis of the collected

data would not in itself conclusively establish either the existence or nonexistence of discrimination. Rather, if the analysis were to indicate the possible existence of discriminatory lending practices, a thorough investigation would be made. If unlawful discrimination were found and appropriate corrective measures could not be obtained on a voluntary basis, the FDIC's Board of Directors would take necessary corrective action, such as the issuance of a cease and desist order pursuant to section 8(b) of the Federal Deposit Insurance Act (12 U.S.C. § 1818(b)).

The advertising and poster requirements contained in the FDIC's fair housing policy statement which are incorporated in the proposed regulations have been amended to include the word "sex" as a prohibited basis for discriminating under the Fair Housing Act, as amended.

Accordingly, the Board of Directors of the Federal Deposit Insurance Corporation proposes to add 12 CFR Part 338 to its rules and regulations as set forth below.

PART 338—FAIR HOUSING

Sec. 338.1 Definitions.
338.2 Nondiscriminatory advertising.
338.3 Equal Housing Poster.
338.4 Recordkeeping requirements
338.5 Mortgage lending of a controlled entity.

AUTHORITY: Sec. 2, Pub. L. 86-671, 74 Stat. 547, 12 U.S.C. 1817; sec. 202, Pub. L. 89-695, 80 Stat. 1046, 12 U.S.C. 1818; sec. 9, Pub. L. 796, 64 Stat. 881, 12 U.S.C. 1819; sec. 203, Pub. L. 89-695, 80 Stat. 1053, 12 U.S.C. 1820; sec. 805, Pub. L. 90-284, 82 Stat. 83, 84, as amended by sec. 808, Pub. L. 93-383, 88 Stat. 720, 42 U.S.C. 3605, 3608; sec. 501, Pub. L. 93-495, 88 Stat. 1521, as amended by sec. 2, Pub. L. 94-239, 90 Stat. 251, 15 U.S.C. 1691, et seq.; 40 F.R. 4930, 12 CFR 202; 37 F.R. 3429, 24 CFR 110.

§ 338.1 Definitions.

(a) "Applicant" means a natural person who makes a written, or an oral in-person, request for a home loan.

(b) "Application" means a written, or an oral in-person, request by a natural person for a home loan.

(c) "Bank" means an insured State nonmember bank as defined in section 3 of the Federal Deposit Insurance Act.

(d) "Controlled entity" means a corporation, partnership, association, or other business entity with respect to which the bank possesses, directly or indirectly, the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract, or otherwise.

(e) "Dwelling" means any building, structure, or portion thereof (including a mobile home) which is occupied as, or designed or intended for occupancy as, a residence by one or more natural persons and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof.

(f) "Home mortgage loan" means any extension of credit relating to the purchase or construction of a dwelling which is or will be comprised of one to four residential units, at least one of which the applicant intends to occupy as a principal residence, and which secures or will secure the extension of credit.

(g) "Home improvement loan" means any extension of credit relating to the improvement, repair or maintenance of a dwelling comprised of one to four residential units, at least one of which the applicant intends to occupy as a principal residence.

(h) "Home loan" means a home mortgage loan or home improvement loan.

(i) "Inquirer" means a natural person who makes a written, or an oral in-person request for information about the terms of a home loan, but who does not make application for such a loan.

§ 338.2 Nondiscriminatory advertising.

Any bank which directly or through third parties engages in any form of advertising of loans for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling shall prominently indicate in such advertisements, in a manner appropriate to the advertising media and format utilized, that the bank makes such loans without regard to race, color, religion, sex, or national origin. With respect to written advertisements, this requirement may be satisfied by including in the advertisement a facsimile of the logotype contained in the Equal Housing Lender Poster prescribed in section 338.3(b). No advertisements shall contain any words, symbols, models or other forms of communication which express, imply, or suggest a discriminatory preference or policy of exclusion in violation of the provisions of the Fair Housing Act or the Equal Credit Opportunity Act.

§ 338.3 Equal Housing Lender Poster.

(a) Each bank engaged in extending loans for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling shall conspicuously display an Equal Housing Lender Poster in any public lobby or area of each floor where deposits are received or where such loans are made, in a manner clearly visible to the general public entering such area. The Equal Housing Lender Poster shall contain the text prescribed in paragraph (b) of this section and shall be at least 11 by 14 inches in size.

(b) The text of the Equal Housing Lender Poster shall be as follows:



We Do Business in Accordance With the
Federal Fair Housing Law

IT IS ILLEGAL, BECAUSE OF RACE, COLOR,
RELIGION, SEX, OR NATIONAL ORIGIN TO:

- ☐ Deny a loan for the purpose of purchasing, constructing, improving, repairing or maintaining a dwelling or
- ☐ Discriminate in fixing the amount, interest rate, duration, application procedures or other terms or conditions of such a loan.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED
AGAINST UNDER THIS LAW, YOU MAY SEND A COMPLAINT TO:

Assistant Secretary for Fair Housing and Equal Opportunity
Department of Housing & Urban Development
Washington, D.C. 20410
or

The Office of Bank Customer Affairs
Federal Deposit Insurance Corporation
Washington, D.C. 20429

IT IS ALSO ILLEGAL UNDER THE EQUAL CREDIT OPPORTUNITY
ACT TO DISCRIMINATE IN EXTENDING CREDIT:

- ☐ On the basis of race, color, religion, national origin, sex, marital status, or age (providing the applicant has the legal capacity to enter a binding contract)
- ☐ Because income is from public assistance
- ☐ Because a right was exercised under the Consumer Credit Protection Act.

IF YOU BELIEVE YOU HAVE BEEN DISCRIMINATED
AGAINST UNDER THIS LAW, YOU MAY SEND A COMPLAINT TO THE
FEDERAL DEPOSIT INSURANCE CORPORATION AT THE ADDRESS ABOVE
OR ANY FDIC REGIONAL OFFICE

§ 338.4 Recordkeeping requirements.

(a) *Records Required.* (1) Any bank which receives an inquiry from a natural person concerning a home loan shall request the following information regarding the inquirer:

- (i) Name.
- (ii) Address.
- (iii) Race/national origin, using the categories American Indian or Alaskan Native; Asian or Pacific Islander; Black; White; Hispanic; Other (Specify).
- (iv) Sex.
- (v) Location (street address, city, state, and Zip Code) of property being purchased, constructed, improved or maintained.

A sample format for recording the information is provided in Part I of Form A in paragraph (d) of this section.

¹ These records are required for the purpose of monitoring compliance and may not be used for the purpose of extending or denying credit or fixing credit terms where prohibited by law.

(2) Any bank which receives an application for a home mortgage loan shall request, as a part of each application, the information required in paragraph a(1) of this section and the following additional information:

(i) *Characteristics of Applicants.* (Should be requested of both applicants and co-applicants.)

(A) *Marital Status.* (Use the categories married, unmarried, and separated.)

(B) *Age.*

(C) *Employment.*

(1) Number of years employed in current occupation.

(2) Self-employed—Yes or No.

(3) Years on present job (Number of continuous years employed by the current employer. For self-employed persons, the number of continuous years self-employed. If a person is not employed, record as zero years).

(D) *Income.* (1) Base Salary Income (Enter only normal monthly base salary or wages. For self-employed persons,

enter average or normal monthly income.)

(2) Other Income (Average per month). (Enter estimated other monthly income. If received on a regular basis include, by so stating, overtime pay, bonuses, commissions, dividends, interest, rental income, income from part-time employment, and alimony, separate maintenance and child-support payments. Information on the last three sources should not be included or considered unless the applicant desires.)

(E) *Number of Dependents.* (Each dependent should be counted only once. The applicant and any co-applicant(s) should be excluded.)

(F) *Total Assets.* (1) Liquid assets—(Include all cash and other items which are readily convertible to cash (e.g., checking, savings and time deposit accounts at banks, savings and loan associations, credit unions, or similar institutions, stocks and bonds for which there is a ready market, and the cash surrender value of any life insurance policies).)

(2) Assets which will be disposed of in connection with the purchase of property associated with the application.

(3) All other assets.

(G) *Total Debt.* (Exclude any indebtedness which will be incurred from the application.)

(1) Debts which will be satisfied from the refinancing of the subject property or from the assets disposed of for the purchase of the property associated with this application.

(2) All other outstanding debts.

(H) *Total Monthly Debt Payments.* (Exclude any payments which will be associated with the application.)

(1) Payments associated with obligations which will be satisfied from the sale of assets or from the proceeds of the subject loan.

(2) Payments associated with obligations which will be satisfied within six (6) months of the date of this application.

(3) All other debt payments.

(I) *Customer(s) of Bank—Yes or no.*

(ii) *Characteristics of Subject Property—(A) Approximate Age of Dwelling (years). (B) Purchase Price. (C) Street Address, City, State, Zip Code Census Tract (if located in a SMSA). (D) Number of Residential Units.*

(iii) *Characteristic of Loan Request.* (This item should include information applicable to the terms granted or the terms which were considered as being appropriate at the last contact between the applicant(s) and institution if other action was taken. Where verified information is not available—e.g., with respect to insurance or tax rates—a best estimate should be recorded and so indicated by an asterisk (*).)

(A) *Purpose of Loan.* (1) Purchase of existing dwelling. (2) Refinancing of existing home mortgage loan. (3) Purchase of vacant land to construct a dwelling. (4) Construction loan.

(i) interim.

(ii) permanent.

(5) Purchase of mobile home.

(B) *Annual Percentage Rate (APR).*

(C) *Closing Costs (excluding down-payment).* (1) Total to both purchaser and seller.

(D) *Years to Maturity.* (For short-term, renewable mortgages or those with some other provision for varying rates, a brief explanation of the provisions should be appended to the application form.)

(E) *Amount of Loan.*

(F) *Insurance Status.* (1) Conventional; (2) VA; (3) FHA; (4) Private Mortgage Insurance; (5) Other (specify).

(G) *Monthly Payment.* (1) Principal and Interest; (2) Taxes; (3) Hazard Insurance. (Not applicable for purchase of unimproved land).

(H) *Value of Land (Construction loan only).*

The bank shall have the information recorded either on the application form or on a separate form which is maintained with the application file. A sample format for recording the information on a separate form is provided in Part II of Form A in paragraph (d) of this section.

(3) Any bank which receives an application for a home improvement loan shall request, as a part of each application, the information requested in subparagraph a(1) of this section and the following information:

(i) *Characteristics of Applicant(s)* (To be required of both applicant(s) and co-applicant(s).)

(A) *Marital Status* (Use the categories married, unmarried, and separated.)

(B) *Age.*

(C) *Employment.* (1) Number of years employed in current occupation. (2) Self-employed—yes or no. (3) Years on present job (Number of continuous years employed by current employer. For self-employed persons, the number of continuous years self-employed. If a person is not employed, record as zero years.)

(D) *Income—(1) Base Salary Income* (Enter only normal monthly, base salary or wages. For self-employed persons enter average or normal monthly income.)

(2) *Other Income* (Average per month). (Enter estimated other monthly income. If received on a regular basis include, by so stating, overtime pay, bonuses, commissions, dividends, interest, rental income, income from part-time employment, and alimony, separate maintenance and child-support payments. Information on the last three sources should not be included or considered unless the applicant desires.)

(E) *Number of Dependents.* (Each dependent should be accounted only once. The applicant and any co-applicant(s) should be excluded.)

(F) *Total Monthly Debt Payments.* (Exclude any payments which will be associated with the application.)

(1) Payments associated with obligations which will be satisfied from the sale of assets or from the proceeds of the subject loan.

(2) All other debt payments.

(G) *Customer of Bank—yes or no.*

(ii) *Characteristics of Subject Property—(A) Approximate Age of Dwelling.*

(B) *Approximate Current Market Value.*

(C) *Street address, City, State and Zip Code Census Tract (if located in SMSA).*

(D) *Number of Residential Units.*

(iii) *Characteristics of Loan Request* (This item should include information applicable to the terms granted or to the terms which are considered as being appropriate at the last contact between the applicant(s) and institution if other action was taken.)

(A) *Annual Percentage Rate (APR).*

(B) *Closing Costs (if any).*

(C) *Years to Maturity.*

(D) *Amount of Loan.*

(E) *Insurance Status.* (1) Non-Insured (2) Insured

(F) *Monthly Payment.*

A sample format for recording the information is provided in Part III of Form A in paragraph (d) of this section.

(4) A bank collecting the data specified in paragraph a (2) and (3) of this section will be considered to be in compliance with the requirements of section 202.13 of Regulation B of the Board of Governors of the Federal Reserve System (12 U.S.C. § 202.13).

(5) Each bank shall keep a log-sheet on its home loan applications and inquiries by bank offices. The log-sheet shall contain the information reflected in Sample Form B in paragraph (d). Each bank shall make the log-sheets from all of its offices available to FDIC examiners upon request at one location. The bank shall also make available to FDIC examiners upon request the information collected and retained under paragraphs a (2) and (3) of this section with respect to specific home loan applications and inquiries identified by the examiners on the log-sheets.

(b) *Disclosure to Applicant or Inquirer.*

The bank shall advise an applicant or inquirer that (1) the information in Part I of Form A regarding race, national origin, and sex is being requested for the purpose of enabling the Federal Deposit Insurance Corporation to monitor compliance with the Federal Fair Housing and Equal Credit Opportunity Acts, (2) the Acts prohibit creditors from discriminating against applicants or inquirers on these bases, (3) the submission of the information in Part I is voluntary, (4) the bank encourages the applicant or inquirer to provide the information, and (5) the information regarding race/national origin and sex cannot be used to deny a loan request. If the applicant or inquirer chooses not to provide any part of the information, the bank shall have this fact noted (preferably by the applicant or inquirer) on the form used for recording Part I information, and

PROPOSED RULES

shall record as much of the information as possible from observation of the applicant or inquirer.

(c) Record Retention. Each bank shall retain the records required by this section for 25 months after the bank notifies

an applicant of action taken on an application or after the date of receipt of an inquiry. The Federal Deposit Insurance Corporation may by written notice extend the retention period.

(d) Sample Forms.

SAMPLE LOAN APPLICATION
FORM 1
PART I

INFORMATION FOR GOVERNMENT MONITORING PURPOSES

The Federal Deposit Insurance Corporation is asking you to provide the following information to assist it in its efforts to monitor compliance with the Federal Fair Housing Act and the Equal Credit Opportunity Act. You do not have to complete Part I of this form if you do not want to. However, we encourage you to do so. You are further advised that it is against the law for this bank to use your answers regarding race/ethnicity and sex to deny you a loan.

Name _____

Address of property which is the subject of this inquiry or application
Street and Number _____
City and State _____ Zip Code _____

Present Address:
Street and Number _____
City and State _____ Zip Code _____

BORROWER'S:
Race/Ethnicity: ☐ American Indian, Alaska Native ☐ Male ☐ Female
☐ Asian, Pacific Islander ☐ Black ☐ Hispanic ☐ White
☐ Other (Specify): _____

CO-BORROWER'S:
Race/Ethnicity: ☐ American Indian, Alaska Native ☐ Male ☐ Female
☐ Asian, Pacific Islander ☐ Black ☐ Hispanic ☐ White
☐ Other (Specify): _____

Check here ☐ and initial if you do not want to complete all or part of this form.

RESIDENTIAL LOAN APPLICATION
PART II

MORTGAGE APPLIED FOR: ☐ Conventional ☐ FHA ☐ VA ☐ Private Mortgage Insurance ☐ Other _____

Amount \$ _____ APR % _____ No. of years _____ Monthly Payments Principal & Interest \$ _____ Loan Fee \$ _____

Property Street Address _____ City _____ County _____ State _____ Zip _____ No. Units _____

Year Built _____

Purpose of loan: ☐ Purchase ☐ Construction/Permanent ☐ Construction/Interim ☐ Refinance ☐ Mobile Home ☐ Other (Specify) _____

Complete this line if construction/Permanent or Construction loan: _____

Complete this line if a Refinance loan: _____

2. BORROWER 3. CO-BORROWER

Name _____ Name _____

Marital Status: ☐ Married ☐ Separated Age _____ Marital Status: ☐ Married ☐ Separated Age _____
☐ Unmarried (incl. single, divorced, widowed) ☐ Unmarried (incl. single, divorced, widowed)

Dependents other than listed by Co-borrower _____ Dependents other than listed by Borrower _____

Years employed in this line of work or profession? _____ years Years employed in this line of work or profession? _____ years

Years on this job _____ Years on this job _____
☐ Self Employed ☐ Self Employed

Customer or Institution ☐ yes ☐ no Customer or Institution ☐ yes ☐ no

4. GROSS MONTHLY INCOME AND DEBT PAYMENTS

Indicate with (x) any Debt Payments Associated with Obligations to be Satisfied with the Proceeds of this Loan.

Item	Borrower	Co-Borrower	Total
Base Empl. Income	\$	\$	\$
Overlapping			
Bonuses			
Commissions			
Dividends/Interest			
Net Rental Income			
Other			
Total			
MONTHLY DEBT PAYMENTS			

7. ASSETS

Indicate by (x) the assets that will be satisfied upon sale of real estate owned or upon refinancing of property.

Asset	Value	Net Worth (A minus B)
Cash Deposit (Savings) Purchase	\$	\$
Checking and Savings Accounts	\$	\$
Stocks and Bonds	\$	\$
Life Insurance Net Cash Value	\$	\$
Real Estate (Other than Mortgages) (Indicate with (x) any property which is to be sold)	\$	\$
Real Estate Interest (or Refinance) Fund	\$	\$
Net Worth of Business Owner	\$	\$
Automobiles	\$	\$
Furniture and Personal Property	\$	\$
Other Assets	\$	\$
TOTAL ASSETS	\$	\$

8. LIABILITIES

Liability	Value	Net Worth (A minus B)
First Mortgage (Full)	\$	\$
Other Financing (FHA)	\$	\$
Second Mortgage	\$	\$
Real Estate Taxes	\$	\$
Mortgage Insurance	\$	\$
Homeowner's Assoc. Dues	\$	\$
Other	\$	\$
Total Monthly Pay	\$	\$
Other Debt, including Bank Pledges	\$	\$
TOTAL MONTHLY PAYMENTS	\$	\$
TOTAL LIABILITIES	\$	\$

This statement and any applicable supporting schedules may be completed jointly by both married and unmarried co-borrowers.

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HOME IMPROVEMENT LOAN APPLICATION

PART III

MORTGAGE APPLIED FOR: ☐ Conventional ☐ Insured Amount \$ _____ APR % _____ No. of years _____ Monthly Payments Principal & Interest \$ _____ Loan Fee \$ _____

1. SUBJECT PROPERTY

Property Street Address _____ City _____ County _____ State _____ Zip _____ No. Units _____

Census Tract _____ Year Built _____

Value Date _____ Present Value (a) \$ _____ Cost of Improvement (b) \$ _____ Total (a+b) \$ _____

2. BORROWER 3. CO-BORROWER

Name _____ Name _____

Marital Status: ☐ Married ☐ Separated Age _____ Marital Status: ☐ Married ☐ Separated Age _____
☐ Unmarried (incl. single, divorced, widowed) ☐ Unmarried (incl. single, divorced, widowed)

Dependents other than listed by Co-borrower _____ Dependents other than listed by Borrower _____

Years employed in this line of work or profession? _____ years Years employed in this line of work or profession? _____ years

Years on this job _____ Years on this job _____
☐ Self Employed ☐ Self Employed

Customer or Institution ☐ yes ☐ no Customer or Institution ☐ yes ☐ no

4. GROSS MONTHLY INCOME AND DEBT PAYMENTS

Indicate with (x) any Debt Payments Associated with Obligations to be Satisfied with the Proceeds of this Loan.

Item	Borrower	Co-Borrower	Total
Base Empl. Income	\$	\$	\$
Overlapping			
Bonuses			
Commissions			
Dividends/Interest			
Net Rental Income			
Other			
Total			
MONTHLY DEBT PAYMENTS			

PROPOSED RULES

PROPOSED RULES

mit their views and comments on or before September 30, 1977.

In order to receive the benefits of the comments which affected issuers and others may have on these matters, and in view of the requests received by the Commission for additional time in which to comment, the Commission has determined to extend the comment period until October 31, 1977.

By the Commission,

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 29, 1977.

[FR Doc. 77-29513 Filed 10-6-77; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 207, 607, 807]

[Docket No. 77N-0255]

MEDICAL DEVICES

Device Listing Procedures

Correction

In FR Doc. 77-28575 appearing at page 52808 in the issue of Friday, September 30, 1977, in the first column on page 52808, under "DATES:", the first full sentence should read as follows: "The Commissioner proposes that the final regulations based on this proposal shall be effective on the date 30 days after their publication in the FEDERAL REGISTER."

[4110-03]

[21 CFR Part 800]

[Docket No. 77N-0218]

MEDICAL DEVICES

Proposed Administrative Detention Procedures

AGENCY: Food and Drug Administration.

ACTION: Proposed rule.

SUMMARY: The agency is proposing procedures to enable its officers or employees to order medical devices that appear to be adulterated or misbranded to be held and not moved, without permission, for up to 30 days. The proposed procedures are required by section 304(g) of the act, which was added to the statute by the Medical Device Amendments of 1976. The purpose of these procedures, termed "administrative detention," is to protect the public from exposure to devices that violate the Federal Food, Drug, and Cosmetic Act (the act) during the time it takes the agency to determine if the devices are adulterated or misbranded and to process any proposed legal action.

DATES: Comments by December 6, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Bert L. Schrivener, Bureau of Medical Devices (HFK-116), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, Md. 20910 (301-427-7304).

SUPPLEMENTARY INFORMATION: The Medical Device Amendments of 1976 (Pub. L. 94-295) (the amendments) became law on May 28, 1976, and amended the Federal Food, Drug, and Cosmetic Act (52 Stat. 1040 et seq., 21 U.S.C. 321 et seq.) to provide the Food and Drug Administration (FDA) with, among other things, administrative detention authority for those devices believed to be adulterated or misbranded under the act.

This proposal would amend Title 21 of the Code of Federal Regulations by establishing a new Part 800 consisting of § 800.55 Administrative detention. Under the proposal, detention orders must be approved by FDA district directors and may, under prescribed procedures, be appealed to regional Food and Drug directors.

Under 21 CFR 5.1, authority of the Secretary of Health, Education, and Welfare under the act has been redelegated to the Commissioner of Food and Drugs. In the FEDERAL REGISTER of August 2, 1977 (42 FR 39100) the Commissioner published notice of further redelegations of authority under section 304(g) of the act needed to implement the procedures proposed in this notice.

The proposed effective date of the final regulation is 30 days after the date of publication in the FEDERAL REGISTER.

STATUTORY BACKGROUND

Section 304(g) of the act (21 U.S.C. 334(g)) authorizes FDA officers or employees conducting inspections under section 704 of the act to detain devices they suspect are adulterated or misbranded (as these terms are used in sections 501 and 502 of the act). Section 304(g) also requires that regulations be developed to prescribe procedures for detention. The period of time during which a device may be detained is to be a reasonable period that may not exceed 20 days unless it is determined by the Commissioner that a period of detention greater than 20 days is required to institute a seizure action or an injunction, in which case he may authorize a detention period not to exceed 30 days. A detention order may require that detained devices be labeled or marked during the detention period. Section 304(g) of the act further provides that any person entitled to claim a device if it were seized may appeal an administrative detention to the Commissioner, who must offer opportunity for an informal hearing (as defined in section 201(y) of the act) and confirm or revoke the detention within 5 days of the hearing.

Section 304(g) also provides that detained devices may not be moved until released by FDA or the detention expires, whichever occurs first. However, the act does permit a device subject to a deten-

tion order to be moved in accordance with regulations prescribed by FDA and, if not in final form for shipment, at the discretion of the manufacturer of the device for the purpose of completing the work required to put it in such form.

Section 301(r) of the act makes the violation of an administrative detention order a prohibited act subjecting the person to fine or imprisonment as provided in section 303 of the act. Section 301(r) prohibits the movement of devices under administrative detention or the removal or alteration of any label or mark required by the order to identify the device as detained.

LEGISLATIVE HISTORY

Prior to the enactment of the amendments, FDA had no authority to order the detention of devices that it believed violated the act. Although a court can prevent shipment of such devices by means of an injunction under section 302 or a seizure under section 304 of the act, the public has often been exposed to adulterated or misbranded devices during the period between the discovery of a suspected violation and completion of the processing of legal papers needed to take legal action. Since it had no administrative detention authority, FDA often had to rely on the cooperation of manufacturers, distributors, and dealers to voluntarily withhold from the market the remainder of the devices from which FDA had taken samples because of a suspected violation of the act until FDA could evaluate the sampled devices and determine whether a violation had occurred, and prepare to take legal action. After these steps were completed and a U.S. marshal was sent to seize the devices, the devices often had been distributed. Certain state officials who possess embargo authority have cooperated with FDA to prevent distribution of suspect devices until FDA could determine if a violation had occurred and take legal action.

In 1972 the General Accounting Office analyzed 91 seizure actions of products in violation of the act and reported that, on an average, only 69 percent of the total supply of a product identified for seizure was actually removed from the market; the remaining 31 percent was sold or otherwise disposed of before legal action was effected. ("Lack of Authority Limits Consumer Protection: Problems in Identifying and Removing From the Market Products Which Violate the Law", GAO Report No. B-164031-2, September 14, 1972.)

Other detention authorities have been delegated to FDA under the Federal Meat Inspection Act (Pub. L. 90-201), the Poultry Products Inspection Act (Pub. L. 90-492), and the Egg Products Inspection Act (Pub. L. 91-597) (see 21 CFR 5.1(a)(11)-(13)). These authorities allow detention of meat, poultry, and egg products that may be adulterated or misbranded under the act.

The Food and Drug Administration regards the administrative detention regulation for devices to be the initial legal authority granted by Congress to FDA in

this area. This regulation may be revised if similar authority is enacted for other FDA regulated products, as proposed in bills submitted in past sessions of Congress, and if changes are required in the agency's administrative detention procedures promulgated for devices.

DISCUSSION OF PROPOSED REGULATION

The following is a brief discussion of each provision in the proposed regulation. The regulation refers to "devices" in the plural rather than the singular because the Commissioner expects that administrative detention orders will usually involve a number of individual units of the same device or different types of device products.

Proposed § 800.55(a) describes the objective of administrative detention, which is to prevent distribution or sale of devices suspected of being in violation of the act. This allows FDA time to determine whether legal action is necessary and to initiate court action if indicated. To accomplish this objective, FDA officers or employees, after securing proper approval, will be authorized to order that devices suspected of being adulterated or misbranded not be distributed.

Proposed § 800.55(b) sets forth criteria for determining the circumstances under which administrative detention will be used. The product that is the subject of the detention must be a device, as defined under section 201(h) of the act, and the FDA officer or employee making an inspection under section 704 of the act must have reason to believe that the device is adulterated or misbranded.

Proposed § 800.55(c) sets forth the period of administrative detention, that is, the length of time devices may be detained. This period of time shall be a reasonable period that may not exceed 20 days unless it is determined that a greater period is required to either seize the devices or institute injunction proceedings, in which case a detention period not to exceed 30 days may be authorized by the FDA district director in whose district the devices are located. As indicated in proposed § 800.55(c), FDA district offices are listed in 21 CFR 5.115. The period of detention may be extended under proposed § 800.55(g) (6) if the person entitled to claim the detained devices, if seized, requests delay in the holding of a hearing. In these cases, the detention may continue until the date of the FDA decision on the appeal of the detention, if later than the period otherwise applicable to the detention under a detention order.

Proposed § 800.55(c) also authorizes an FDA officer or employee who is authorized to issue detention orders to issue orders releasing detained devices from detention before the expiration of the detention period. Internal FDA procedures will assure appropriate supervisory approval of the issuance of orders to release detained devices before the expiration of a detention period.

Proposed § 800.55(d) provides for the issuance of the detention order to the owner, operator, or agent in charge (who

could be the president of the firm, a plant manager, or a similar person who has custody of the device) at the site the device is located. The order must be in writing and signed by the FDA officer or employee authorized to perform inspections under section 704 of the act who has reason to believe that the devices are adulterated or misbranded. The Commissioner notes that such officers or employees carry credentials indicating their authority to perform inspections. Before any inspection under section 704, the officer or employee presents these credentials and a written notice to the owner, operator, or agent in charge of the establishment. This paragraph also requires that a copy of the detention order be provided to the owner of the devices if that person is different from the owner, operator, or agent in charge, and if his identity can be readily ascertained.

Proposed § 800.55(d) also requires that since devices may be detained in a vehicle, or other carrier, which are considered to be establishments under section 704 of the act, the shipper of record and the owner of the vehicle or other carrier, if readily ascertainable, shall be provided with a copy of the detention order.

Proposed § 800.55(d) describes information that must be included in the detention order: identification of the detained devices, the detention order number assigned by FDA, the date and hour of the detention order, the period of the detention, and a notice of opportunity to appeal the detention to the FDA district director named in the order and to request a regulatory hearing in accordance with 21 CFR Part 16. Part 16 sets forth procedures for FDA regulatory hearings, i.e., informal adjudicatory hearings, and includes provisions on the initiation of proceedings, designation of presiding officers, and the conduct of these hearings.

Proposed § 800.55(e) identifies the official, namely, the FDA district director in whose district the devices are located, as the person who can approve an administrative detention order. The Commissioner believes this is consistent with the House Committee report on the amendments which expressed the desire that individuals designated to approve detention orders hold responsible positions to assure that devices are not detained except when necessary. It was recommended that FDA district directors be designated to approve such orders (House Report No. 94-853 at 47).

The Commissioner adopts this recommendation because the district director, as the head of each FDA field office, bears ultimate responsibility for all activities of the district office. Thus, it is appropriate that the district director be given the responsibility of approving detention orders. In addition, the delegation to FDA district directors of authority to approve detention orders is consistent with other authorities delegated to them. The authority of an FDA district director to approve detentions and take other action under this section may be exercised by any official who, in the absence of the

FDA district director, is designated as the acting FDA district director.

Prior approval of detention orders is required in all cases. Generally, the approval must be written. However, the proposed regulation provides that in those situations where it is not possible for the officer or employee to obtain advance written approval of the detention order, prior oral approval of such detention order shall be obtained and shall be confirmed later in writing. Prior oral approval could occur where the FDA officer or employee authorized to make inspections unexpectedly encounters devices which appear to be adulterated or misbranded at a location distant from the FDA district office.

Proposed § 800.55(f) authorizes detention orders to include requirements that detained devices be labeled or marked and specifies the information to be included on official FDA labels or tags affixed to the detained devices. The Commissioner intends that the FDA officer or employee who issues the detention order be the one to supervise compliance with proposed § 800.55(f). Any requirement that devices be labeled or marked shall continue during any appeal under proposed § 800.55(g).

Proposed § 800.55(g) describes the procedure for the appeal of a detention order. It is proposed that such an appeal be submitted in writing to the FDA district director who approved the detention and that the person making such an appeal demonstrate his ownership or proprietary interest in the detained devices if they are located at a place other than an establishment owned or operated by the appellant.

The Commissioner believes that field office handling of detentions and appeals of detentions is essential because of the need for rapid decisions on these matters. Thus, the FDA official who decides any appeal of, and presides over any regulatory hearing on, a detention order shall be a regional food and drug director, i.e., a director of an FDA regional office listed in 21 CFR 5.115. Usually, the official designated to handle the appeal and preside over a hearing shall be the regional food and drug director of the region where the devices are held. In some cases, however, the presiding officer might be a regional food and drug director from another region when the director who would normally preside is absent or is not permitted under 21 CFR 16.40 to handle the appeal because he also serves as the FDA district director who approved the detention or has otherwise participated in the situation which resulted in the detention order.

Appeals are required to be filed within 5 days of receipt of the detention order. If a regulatory hearing is requested, FDA ordinarily will hold the hearing within 5 days after an appeal is filed. However, recognizing that circumstances may arise where a potential claimant desires more time to prepare for a hearing, the Commissioner is proposing to permit requests for the hearing to be held at a

date later than 5 days after the filing of an appeal. If such a request is made, the period within which the responsible FDA official must decide the appeal and the period of the detention may be extended until 5 days after the conclusion of the hearing, if later than the time period otherwise applicable to the detention.

Proposed § 800.55(h) implements section 304(g)(2)(B) of the act which provides for the movement of devices under detention. The Commissioner recognizes that there may be instances when a firm may wish to move the detained devices to a different location for the purpose of segregating the articles, to complete manufacturing of devices that are in-process, to prevent interference with other operations of the firm, or to bring the devices into compliance with the act. Such movements must be approved in accordance with proposed § 800.55(h).

Proposed § 800.55(i) requires that certain establishments subject to FDA inspection have, or establish, and maintain manufacturing and other records relating to how the detained devices may have become adulterated or misbranded, records on the distribution of the detained devices both before and after the detention (e.g., to assure traceability where the detention period has expired before seizure was accomplished or any injunctive relief was given), records on the correlation of detained in-process devices that are permitted to be put in finished form to the finished devices, and records of any changes in, or processing of, the devices permitted under the detention order. Records required to be maintained must be provided to FDA on request, including requests by authorized FDA inspectors under section 704(e) of the act. The Commissioner intends that the records required to be maintained under proposed § 800.55(i) be kept in a convenient manner and at a convenient location to facilitate inspection. As required by sections 704(e) and 519 of the act, FDA requests for access to required records shall be made at reasonable times, shall specify the purpose of the request and, to the fullest extent practicable, specify the records to which access is required. Records required to be maintained under this paragraph shall be maintained for 2 years after the detention order or such other period as FDA directs.

REFERENCES

Background data and information on which the Commissioner relies in proposing this regulation have been placed on file for public review in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. These documents are:

(1) House Report No. 94-853, Medical Device Amendments, February 29, 1976 (Committee on Interstate and Foreign Commerce).

(2) "Lack of Authority Limits Consumer Protection: Problems in Identifying and Removing from the Market Products Which Violate the Law," GAO

Report No. B-164031(2), September 14, 1972.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 304, 519, 701, 52 Stat. 1044-1045 as amended, 1055-1056 as amended, 90 Stat. 564-565 (21 U.S.C. 334, 3601, 371)) and under authority delegated to him (21 CFR 5.1), the Commissioner proposes that Title 21 of the Code of Federal Regulations be amended by adding to Subchapter H of Chapter I a new Part 800 consisting at this time of Subpart C, § 800.55, to read as follows:

PART 800—GENERAL

Subpart A-B [Reserved]

Subpart C—Administrative Practices and Procedures

Sec. 800.55 Administrative detention.

AUTHORITY: Secs. 304, 519, 701, 52 Stat. 1044-1045 as amended, 1055-1056 as amended, 90 Stat. 564-565 (21 U.S.C. 334, 3601, 371).

Subpart A-B [Reserved]

Subpart C—Administrative Practices and Procedures

§ 800.55 Administrative detention.

(a) *General.* This section sets forth the procedures to be followed by the Food and Drug Administration in detention of devices believed to be adulterated or misbranded. Administrative detention is intended to protect the public by preventing distribution of those devices, encountered during inspections, that may violate the act until the Food and Drug Administration has had time to consider what course of action it should take concerning the devices and to initiate action, if appropriate.

(b) *Criteria for ordering detention.* Administrative detention of devices may be ordered in accordance with this section when an authorized officer or employee of the Food and Drug Administration, during an inspection under section 704 of the act, has reason to believe that a product which is a device, as defined in section 201(h) of the act, is adulterated or misbranded.

(c) *Period of detention.* The administrative detention shall be for a reasonable period that may not exceed 20 days after the detention order was given, unless the Food and Drug Administration district director (i.e., the director of a Food and Drug Administration district office listed in § 5.115 of this chapter) in whose district the devices are located determines that a greater period is required to either seize the devices or to institute injunction proceedings, in which case he may authorize a detention period not to exceed 30 days. The detention period may also be extended under paragraph (g)(6) of this section. An officer or employee of the Food and Drug Administration authorized to issue a detention order may issue an order releasing detained devices before the expiration of the detention period.

(d) *Issuance of detention order.* (1) The detention order shall be in writing, signed by the officer or employee authorized to perform inspections under sec-

tion 704 of the act who has reason to believe that the devices are adulterated or misbranded, and issued to the owner, operator, or agent in charge at the place the devices are located. If the owner of the devices that are being detained is different from the owner, operator, or agent in charge at the place the devices are located, a copy of the detention order shall be provided to such owner if his identity can be readily ascertained.

(2) If detention of devices in a vehicle or other carrier is ordered, a copy of the detention order shall be provided to the shipper of record and the owner of the vehicle or other carrier, if readily ascertainable.

(3) The detention order shall contain the following information: identification of the detained device, the detention order number, the date and hour of the detention order, the period of the detention, and a notice of opportunity for any person who would be entitled to claim the devices, if seized, to appeal the detention to the Food and Drug Administration district director named in the order and to request a regulatory hearing in accordance with Part 16 of this chapter.

(e) *Approval of detention order.* Prior to issuance, a detention order shall be approved by the Food and Drug Administration district director in whose district the devices are located. If prior written approval is not feasible, prior oral approval shall be obtained and confirmed later in writing.

(f) *Labeling or marking of a detained device.* When an administrative detention order is issued under paragraph (d) of this section and the officer or employee issuing the order determines that it is necessary to mark or label the device to identify it as detained, the order shall include a requirement to this effect. If such a requirement is ordered, official FDA labels or tags with the following information shall be affixed to the detained devices by the officer or employee issuing the order:

(1) A statement that the devices are detained by the United States Government in accordance with 21 U.S.C. 334 (g) (section 304(g) of the Federal Food, Drug, and Cosmetic Act).

(2) A statement that the devices shall not be moved, used, or tampered with in any manner, by any person, until released by an authorized officer or employee of the Food and Drug Administration or until the detention period applicable to the device expires, whichever occurs first.

(3) A statement that the unauthorized movement of devices in violation of a detention order or the removal or alteration of any label or mark required by the order is prohibited and is punishable, upon conviction, by fine or imprisonment under 21 U.S.C. 333 (section 303 of the Federal Food, Drug, and Cosmetic Act).

(4) The detention order number, the date and hour of the detention order, the period of the detention order, and the name of the officer or employee who issued the detention order.

(g) *Appeal of a detention order.* This paragraph prescribes the procedure for an appeal of a detention order issued under paragraph (d) of this section.

(1) Any appeal of a detention order, by a person who would be entitled to claim the devices, if seized, shall be submitted in writing to the Food and Drug Administration district director named in the order. Any appeal shall be filed within 5 days of receipt of a detention order. If the appeal includes a request for a regulatory hearing, the appellant shall either indicate that a hearing is desired within 5 days after the appeal is filed or request that the hearing be held at a later date.

(2) An appeal of a detention order shall state the ownership or proprietary interest the appellant has in the detained devices, including documents showing that the appellant would have the authority to claim the devices, if seized, when the detained devices are located at a place other than an establishment owned or operated by the appellant.

(3) Any regulatory hearing on an appeal of a detention order shall be informal and conducted with Part 16 of this chapter.

(4) The presiding officer of a regulatory hearing on an appeal of a detention order, who shall also decide the appeal, shall be a regional food and drug director (i.e., a director of a regional office listed in § 5.115 of this chapter) who is permitted by § 16.40 of this chapter to preside over the hearing.

(5) If the appellant requests a regulatory hearing and indicates the hearing is desired to be held within 5 days after the appeal is filed, the presiding officer shall, within 5 days, hold the hearing and render a decision confirming or revoking the detention.

(6) If the appellant requests a regulatory hearing and indicates that the hearing is desired to be held at a date later than within 5 days after the appeal is filed, the presiding officer shall hold the hearing at a date agreed upon by the appellant and the Food and Drug Administration and shall decide whether to confirm or revoke the detention by the date that is 5 days after the conclusion of the hearing. The detention shall continue until the date of the decision, if later than the time period otherwise applicable to the detention under the order.

(7) If the appellant appeals the detention order but does not request a regulatory hearing, the presiding officer shall render a decision on the appeal confirming or revoking the detention within 5 days after the filing of the appeal.

(8) If the presiding officer revokes a detention order, the devices shall be released.

(h) *Movement of detained devices.* (1) Except as provided in this paragraph, devices subject to a detention order shall not be moved by any person from the place at which they are ordered detained or further processed until released by the Food and Drug Administration or until expiration of the detention period, whichever occurs first.

(2) Devices subject to a detention order may be moved within the establishment to a designated location therein if approved by the officer or employee issuing the detention order or other responsible official of the Food and Drug Administration district office. Devices subject to a detention order may be moved from the establishment where the detention occurs only if this movement is approved in writing by the Food and Drug Administration district director who approved the detention order. The Food and Drug Administration may approve the movement of detained devices:

(i) to prevent interference with an establishment's operations or, (ii) if the manufacturer wishes to perform further work on in-process devices, to put them in finished form or, (iii) to bring them into compliance. If the Food and Drug Administration approves the movement of detained devices, the person authorized to move the devices shall notify the official who approved the movement of the new location of the detained devices.

(3) Unless otherwise permitted by the official who approved the movement of devices under this paragraph (h), any labels or tags required under paragraph (f) of this section shall accompany the devices after movement and remain with the devices when completed until released by the Food and Drug Administration or expiration of the detention period, whichever occurs first.

(4) Although the Food and Drug Administration may permit the completion of in-process devices when the requirements of this section are met, it may nevertheless determine that the completed devices are adulterated or misbranded and take regulatory action against the completed devices and responsible individuals, or request that the completed devices be destroyed or otherwise brought into compliance with the act under the Food and Drug Administration's supervision.

(i) *Recordkeeping requirements.* After a detention order under paragraph (d) of this section has been issued, the owner, operator, or agent in charge of any factory, warehouse, establishment, or consulting laboratory where devices are manufactured, processed, packed, or held shall have, or establish, and maintain adequate manufacturing and other records relating to how the detained devices may have become adulterated or misbranded, records on the distribution of the devices both before and after the detention order, records on the correlation of any in-process detained devices that are permitted to be put in finished form under paragraph (h) of this section to the completed devices, and records of many changes in, or processing of, the devices permitted under the detention order. Such records shall be provided to the Food and Drug Administration on request. Any request for access to a record under this paragraph shall be made at a reasonable time, shall state the reason or purpose for the request, and shall identify to the fullest extent practicable the information or

type of information sought in the records to which access is requested. Records required under this paragraph shall be maintained for 2 years after the detention order or for such other period as the Food and Drug Administration directs.

Interested persons may, on or before December 6, 1977, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

The Food and Drug Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Dated: September 29, 1977.

JOSEPH P. HYLE,
Associate Commissioner for
Compliance.

[FR Doc. 77-29336 Filed 10-6-77; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE Health Resources Administration

[42 CFR Part 121]

NATIONAL GUIDELINES FOR HEALTH PLANNING Correction

In FR Doc 77-27493 appearing at page 48501 in the issue of Friday, September 23, 1977 (Part 11 of that issue), the words, "Advanced Notice of Proposed Rulemaking" should be removed from the cover page and the heading should read as set forth above.

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 2]

[Docket No. 21371]

REQUIRING A DESCRIPTION OF MEASUREMENT FACILITIES USED IN THE EQUIPMENT AUTHORIZATION PROGRAM AND TO MAKE OTHER CHANGES

Extension of Comment Period

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: An extension of time to file comments and reply comments has been

requested in Docket No. 21371 relating to the requirement for a description of measurement facilities used in the equipment authorization program and making other changes. Because of the importance of this proceeding to both the manufacturers and consumers, the Commission has granted the request. No objections have been received.

DATES: Comments must be received by December 12, 1977, and Reply Comments must be received by December 22, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Leslie A. Wall, RF Devices and Experimental Office of Chief Engineer, (202-632-7095).

ORDER EXTENDING TIME TO FILE COMMENTS

Adopted: September 27, 1977.

Released: September 30, 1977.

In the matter of amendment of Part 2 to require a description of measurement facilities used in the equipment authorization program and to make other changes, Docket No. 21371, (42 FR 45342).

1. On September 6, 1977, the Commission released a Notice of Proposed Rulemaking in the above entitled matter (42 FR 45342, Sept. 9, 1977). The Consumer Electronics Group of the Electronic Industries Association (EIA/CEG) which represents all the major domestic manufacturers of television receivers and several Japanese companies which have manufacturing facilities in the United States, has requested a 60-day extension of time within which to file comments in this matter.

2. EIA/CEG states that this proceeding, which affects a broad range of radio-frequency devices, will require considerable study. In addition EIA/CEG believes that it will be necessary for them to submit a written inquiry to the Commission for clarification of the meaning of several of the proposed rules before their comments can be prepared. Also, their technical experts who will be required to prepare comments in this matter are currently involved in the preparation of comments in four other pending Commission dockets.

3. Because of the technical nature of this proceeding; the need for clarification of several of the proposals; the importance of this proceeding to both the manufacturers and consumers; and, the Commission's desire to have the most definitive responses possible, an extension of time to December 12, 1977, for filing Comments and December 22, 1977, for filing Reply Comments is hereby ordered pursuant to the authority granted by § 0.241(d) of the Commission rules.

RAYMOND E. SPENCE,
Chief Engineer.

[FR Doc. 77-29537 Filed 10-6-77; 8:45 am]

[6712-01]

[47 CFR Part 13]

[Docket No. 20817]

RADIO OPERATOR LICENSING PROGRAM Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Extension of time.

SUMMARY: FCC has been asked to extend the time for filing comments in Docket No. 20817 relating to the radio operator licensing program. This order grants an extension.

DATES: Comments must be received on or before January 3, 1978, and Reply Comments must be received on or before January 31, 1978.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Vernon P. Wilson, Field Operations Bureau, (202-632-7240).

SUPPLEMENTARY INFORMATION: ORDER EXTENDING TIME TO FILE COMMENTS AND REPLY COMMENTS

In the matter of an inquiry relating to the Commission's Radio Operator Licensing Program, Docket No. 20817.

Adopted: September 27, 1977.

Released: September 28, 1977.

1. The Commission has before it a Petition to Extend the Time for Filing Comments in Docket 20817¹ in the above captioned matter submitted by the National Association of Broadcasters, representing 2486 AM stations, 1814 FM stations, and 548 television stations.

2. The petitioner states that this proceeding, the first total review of operator licensing requirements since the adoption of the Communications Act of 1934, has engendered a significant amount of interest in view of the potential impact any new rules or policies may have on the broadcast industry and requests an extension of time to enable a complete review by its Operator Licensing Subcommittee and Engineering Committee.

3. In view of the importance and complexity of this proceeding and a desire that the final determination be based on the most complete record possible, it appears that an extension of time is warranted.

4. Accordingly, under authority delegated by § 0.311 of the Commission's rules: *It is ordered*, That the time for the filing of comments in Docket 20817

¹ Notice of Proposed Rulemaking, FCC 77-528, 42 FR 40929, August 12, 1977.

is extended until January 3, 1978 and for reply comments until January 31, 1978.

C. PHYLL HORNE,
Chief, Field Operations Bureau.

[FR Doc. 77-29536 Filed 10-6-77; 8:45 am]

[6712-01]

[47 CFR Part 73]

[Docket No. 18109; RM-1122; FCC 77-669]

AUTOMATIC AND SELF-MONITORED FM BROADCAST TRANSMITTERS

Memorandum Opinion and Order re Inquiry Concerning Installation and Use

AGENCY: Federal Communications Commission.

ACTION: Memorandum Opinion and Order.

SUMMARY: This action incorporates into Docket 20403 the issues raised in a 1967 petition for automatic FM transmitting equipment to the extent that they have not already been granted in Docket 20403, and it terminates Docket 18109.

DATES: Non-applicable.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

James J. Gross, Broadcast Bureau, (202-632-7792).

SUPPLEMENTARY INFORMATION: In the matter of amendment of Part 73 of the Commission's rules to provide for the installation and use of automatic and self-monitored FM broadcast transmitters (Docket No. 18109, RM-1122). Memorandum opinion and order (Proceeding terminated).

Adopted: September 21, 1977.

Released: September 30, 1977.

1. On March 15, 1967, Collins Radio Company of Dallas, Texas, filed a petition for rule making to permit the use of automatic and self monitoring transmitter equipment for FM broadcast stations that resulted in a Notice of Inquiry, 33 FR 5274 (April 2, 1968).¹

2. The Commission determined that the comments obtained and the record developed in response to this Inquiry was inadequate for proper resolution of the issues presented, and a new Notice of Inquiry, in Docket No. 20403, 52 F.C.C. 2d 610 (1975), was adopted which looked toward developing rules for automatic transmission systems for AM, FM and television stations. The new Docket No. 20403 Inquiry expanded the scope of this proceeding and incorporated the comments and record of Docket 18109 for

¹ See also 42 FR 14889, October 4, 1968.
² Chairman Wiley not participating.

further consideration. See 52 F.C.C. 2d at para. 3.

3. A First Report and Order, 62 F.C.C. 2d 372 (1976), was adopted in Docket 20403 which encompassed and resolved the Collins proposals and the Notice of Inquiry in Docket 18109, with the exception of two suggestions by Collins regarding automatic distortion detection and an automatic Emergency Broadcast System. Docket 20403 has not been terminated, and the Collins suggestions not resolved by the First Report and Order will be considered in the next phase of Docket 20403.

4. Accordingly, *it is ordered*, That to the extent the petition for rule making of Collins Radio Company has not already been granted in Docket 20403, it is hereby incorporated into that proceeding.

5. *It is further ordered*, That Docket No. 18109 is terminated.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc. 77-29471 Filed 10-6-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1008]

[Ex Parte No. 342]

MOTOR CARRIERS AND FREIGHT FORWARDERS

Procedures Governing the Processing, Investigation, and Disposition of Overcharge, Duplicate Payment, or Overcollection Claims

AGENCY: Interstate Commerce Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commission proposes to consider the propriety of the practices of motor carriers and freight forwarders in the processing and disposition of claims of overcharge, duplicate payment, and overcollection for the transportation of household goods, and to determine if new rules are necessary to govern the processing of such claims in a more efficient and expeditious manner.

DATES: Notice of intent to participate (an original and one copy) shall be filed on or before October 17, 1977. The dates for submission of written comments and replies will be established by subsequent notice.

ADDRESS: All written submissions shall be sent to:

Office of Proceedings, Interstate Commerce Commission, Room 5342, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Martin E. Foley, Director, Bureau of Traffic, Interstate Commerce Commission, 202-275-7348.

SUPPLEMENTARY INFORMATION: This rulemaking proceeding is instituted upon our own motion to consider the propriety of the practices of the Nation's motor common carriers of property and freight forwarders in the processing of overcharge duplicate payment, and overcollection (the latter only in connection with household goods carriers) claims, and to determine if new rules are necessary to govern the processing of such claims in a more expeditious manner.

This Commission has received and continues to receive numerous complaints from shippers, receivers, and their representatives respecting the practices of motor carriers and freight forwarders in the processing of overcharge, duplicate payment, and overcollection claims. Essentially, the complaints indicate: (1) That the motor carriers and forwarders fail to acknowledge such claims, and (2) when such claims are acknowledged, the motor carriers or forwarders delay the processing of such claims for long periods of time.

These practices not only frustrate the affected member of the public, but place on this Commission an additional administrative burden which rightfully belongs with the motor carriers and forwarders. The fact that this Commission has continued to receive substantial numbers of these complaints over the past several years seems to indicate that motor carriers and forwarders have done nothing to alleviate this problem or otherwise to improve their practices and procedures for processing claims of this nature. Similar problems related to practices and procedures for processing loss and damage claims have been alleviated by the Commission's adoption of regulations in *Ex Parte No. 263*, "Rules, Regulations and Practices of Regulated Carriers With Respect to the Processing of Loss and Damage Claims," 340 I.C.C. 515, decided February 3, 1972.

It is, therefore, both desirable and necessary at this time to institute an investigation concerning the practices of motor carriers and freight forwarders as they relate to the processing of overcharge, duplicate payment, and overcollection claims. Our investigation, among other things, shall include a determination of the propriety of adopting the proposed regulations set forth in this notice, as well as whether this Commission should take any further action as the facts developed in this investigation may justify or require.

As the proposed rules have little impact, if any, on carrier operations, this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Oral hearing does not appear necessary at this time, and none is contemplated, unless a need therefor should later appear. Anyone wishing to present views and evidence, either in support of or in opposition to the action proposed in this notice, may do so by submitting for consideration written statement of fact, views, and arguments on the subjects mentioned above or any other subjects pertaining to the proceeding. All

motor common carriers of property and freight forwarders operating in interstate or foreign commerce subject to the Interstate Commerce Act are made respondents to this proceeding, and the Bureau of Investigations and Enforcement of this Commission is authorized and directed to participate in this proceeding.

Respondents and parties interested in presenting their views and evidence, or in otherwise participating in this proceeding, shall be required by the order entered concurrently herewith to notify this Commission by filing with the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on or before October 17, 1977, the original and one copy of a declaration of intent to participate. The Commission shall then prepare and make available to all such persons a list containing the names and addresses of all parties to this proceeding, upon whom copies of all statements must be filed. At the time of service of this service list the Commission will fix a time within which initial statement and replies must be filed.

This notice of proposed rulemaking is issued pursuant to sections 553 and 559 of the Administrative Procedure Act (5 U.S.C. 553 and 559) and sections 204(a) (6), 204a, 208(a), 216(b), 217(b), 404 (a), 405(c), 406a, 410(e), and 417 (a) of the Interstate Commerce Act. Notification of the initiation of this proceeding will be provided to the general public by the mailing of a copy of this notice to the Governor of every State, to the Public Utilities Commissions or Boards of each State having jurisdiction over transportation and to various consumers groups, by depositing a copy of this notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection, and by delivering a copy to the Director, Division of the Federal Register, for publication in the FEDERAL REGISTER as notice to all interested persons.

It is ordered: A proceeding is instituted to consider adoption of the proposed rules.

Decided September 29, 1977.

By the Commission.

H. C. HOMME, Jr.,
Acting Secretary.

PART 1008—PROCEDURES GOVERNING THE PROCESSING, INVESTIGATION, AND DISPOSITION OF OVERCHARGE, DUPLICATE PAYMENT, OR OVERCOLLECTION CLAIMS

Sec.	Applicability of regulations.
1008.1	Definition of terms.
1008.2	Processing of claims.
1008.3	Documentation of claims.
1008.4	Acknowledgment of claims.
1008.5	Investigation of claims.
1008.6	Disposition of claims.
1008.7	Maintenance of claim register and files.
1008.8	Indemnity agreement.
1008.9	Disposition of overcharges, duplicate payments, or overcollections without claim.
1008.10	

AUTHORITY: Secs. 553, 559, Administrative Procedure Act (5 U.S.C. 553, 559); Secs. 204 (a) (6), 204a, 208(a), 216(b), 217(b), 404(a), 405(c), 406a, 410(e), 417(a), Interstate Commerce Act.

§ 1008.1 Applicability of regulations.

The regulations set forth in this part shall govern the processing, investigation, and disposition of claims for overcharge, duplicate payment for the transportation of property, or overcollection for the transportation of household goods, in interstate or foreign commerce, by motor carrier and freight forwarder (hereinafter called carrier), subject to Parts II and IV of the Interstate Commerce Act.

§ 1008.2 Definition of terms.

(a) **Overcharge.** The term "overcharge" refers to overcharges as defined in Sections 204a(6) and 406a(6) of the Interstate Commerce Act. The term "overcharge" does not encompass non-disputed duplicate payments as defined in paragraph (b) of this section or non-disputed overcollections as defined in paragraph (c) of this section.

(b) **Duplicate payment.** The term "duplicate payment" refers to two or more payments, made in the exact amount of the published freight charges, for transporting the same shipment, where there is no dispute regarding the applicability of such charges, or the quality or quantity of the service performed. Duplicate payments are not "overcharges" or "overcollections" as defined in paragraphs (a) or (c) of this section.

(c) **Overcollection.** The term "overcollection" refers to receipt by a household goods carrier of a payment(s) in excess of transportation and/or accessorial charges applicable to a particular shipment(s) of household goods, as defined in Part 1056 of this chapter, under tariffs lawfully on file with the Commission, when there exists no dispute regarding the applicability of the charges. Where a dispute does exist between the parties, the collection of excess amounts shall be considered and treated as an "overcharge" as defined in paragraph (a) of this section.

§ 1008.3 Processing of claims.

(a) A claim for overcharge, duplicate payment, or overcollection shall not be processed unless filed in writing, as provided in § 1008.4, within the applicable time limits. The carrier that collected the transportation charges shall be responsible for the handling of a claim. If a claim is filed with a carrier other than the carrier that collected the transportation charges, such carrier shall transmit the claim to the carrier that collected the transportation charges within 15 days after receipt thereof and so notify the claimant. The carrier with which the claim was initially filed shall enter the claim in its claims register as provided in § 1008.5. The carrier that collected the transportation charges shall acknowledge the claim within the time limit named in § 1008.5.

(b) Claims presented in accordance with the provisions of this section should be accompanied by information sufficient to allow the carriers to conduct an investigation, and pay or decline, the claim within the time limitation set forth in § 1008.7. A separate claim shall be submitted for each shipment, except that more than one shipment may be included in one claim, if the overcharge resulted from the same circumstances.

§ 1008.4 Documentation of claims.

(a) Each claim for the recovery of overcharges shall provide, as a minimum, the following information:

- (1) The name of the claimant;
- (2) The file number assigned by claimant to its claim;
- (3) The date the claim was submitted to the carrier;
- (4) The article shipped and its weight, volume, or measurement;
- (5) The date of shipment;
- (6) The names of the consignor and consignee;
- (7) The origin, destination, and route of the shipment;
- (8) The bill of lading number and date;
- (9) The carrier's freight bill (Pro) number(s);
- (10) The rate, classification or commodity description, and/or weight upon which charges were paid;
- (11) The rate, classification or commodity description, and/or weight claimed to have been applicable;
- (12) Complete tariff authority for the rate, classification, or commodity description claimed; and
- (13) The amount of the overcharge sought to be recovered.

(b) All overcharge claims shall be accompanied, except as otherwise provided herein, by the original paid freight bill at the time the claim is presented to the carrier. If the claimant is unable to produce the original paid freight bill, a certified copy shall be considered proof of payment of the freight charges and entitlement to any overcharges. If claimant submits a certified copy of the paid freight bill, an indemnity agreement as set forth in § 1008.9 shall also be executed and presented with the claim.

(c) Other transportation papers or documents should be submitted with the overcharge claim at the time it is presented to the carrier, if information provided by them is necessary to the carrier's investigation and disposition of the claim. These additional documents may include:

- (1) The original bill of lading or a certified copy;
- (2) The original invoice or a certified copy;
- (3) The weight certificate or a certified copy;
- (4) Sales brochures, advertising matter, or excerpts from catalogues; and
- (5) Any other documents, paper, or information which is believed by the

claimant to substantiate the basis for its claim.

(d) Claims for duplicate payment of transportation charges and overcollection of charges on movement of household goods need only be accompanied by paid freight bill(s), and, in the case of overcollection, certified copy of means of payment, for example, certified check, money order, etc.

§ 1008.5 Acknowledgment of claims.

(a) Each carrier shall, upon receipt in writing of a proper claim in the form described in these regulations, acknowledge the receipt of the claim in writing to the claimant, within thirty (30) days after the date of receipt, unless the carrier shall have paid or declined the claim in writing within thirty (30) days after the date of receipt.

(b) In the event the carrier investigating the claim requires information in addition to that provided by § 1008.4, the request for additional information must be in writing and must be transmitted to the claimant not later than fifteen (15) days from the date of receipt of the claim.

§ 1008.6 Investigation of claims.

Upon receipt of a claim, the carrier that collected the transportation charges shall promptly initiate an investigation and establish a file, as required by § 1008.8, or if a claim has not been filed, and an overcharge, duplicate payment, or overcollection is discovered by the carrier, the latter shall promptly initiate an investigation and establish a file as though a claim had been filed. See § 1008.10.

§ 1008.7 Disposition of claims.

(a) Each carrier which collected the transportation charges, and which receives a written claim, shall pay, decline, or otherwise make settlement of the claim as its investigation may warrant, in writing to the claimant, within 60 days after receipt of the claim by the carrier: *Provided, however,* That, if the claim cannot be processed and disposed of within 60 days, the carrier shall at that time and at the expiration of each succeeding 30-day period the claim remains pending, advise the claimant in writing of the current status of the claim and the reason for the delay in making a final disposition. The carrier shall keep a copy of this advice to the claimant in its claim file. If the carrier declines payment of the claim, or otherwise makes settlement in an amount different from that sought, the carrier shall notify the claimant, in writing, the reason(s) for its action citing tariff authority or other pertinent information developed as a result of its investigation.

(b) If the claim was initially filed with a carrier other than the carrier collecting the transportation charges, the carrier processing the claim shall notify the first carrier of its disposition of the claim so that carrier may complete the entry in its claim register. See § 1008.8.

§ 1008.8 Maintenance of claim register and file.

(a) Each carrier shall maintain a claims register which shall contain the following information:

- (1) Claim number assigned by the carrier (see paragraph (b) of this section);
- (2) Name of claimant;
- (3) Date of shipment;
- (4) Date claim received;
- (5) Date of acknowledgment;
- (6) Date of request, if any, for additional information;
- (7) Disposition of claim (declined, paid or paid in part); and
- (8) Date of disposition.

(b) Each carrier shall at the time a claim is received create a separate file and assign it a successive claim file number and note that number on all documents filed in support of the claim and all records and correspondence with respect to the claim, including written acknowledgment of receipt and, if in its possession, the shipping orders and delivery receipt, if any, covering the shipment involved. At the time a claim is received the carrier shall record the date of receipt on the face of the claim document, and the date of receipt shall also appear in the carriers' written acknowledgment of receipt to claimant.

§ 1008.9 Indemnity agreement.

When claimant cannot furnish original documents as required by § 1008.4, and, instead furnishes certified copies of such documents, the claimant shall enter into an agreement indemnifying the carrier for subsequent duplicate claims which may be filed and supported by the original documents.

§ 1008.10 Disposition of overcharges, duplicate payment, or overcollection not supported by claims.

If any carrier discovers, through routine auditing or otherwise, that an overcharge, duplicate payment, or overcollection exists for any paid transportation charge, which has not been supported by a claim, that overcharge, duplicate payment, or overcollection must be entered in the claims register as if a claim had been filed. When a carrier which was party to the movement, but did not collect the transportation charges, discovers that an overcharge, duplicate payment, or overcollection claim has been made, that carrier shall enter the overcharge, duplicate payment, or overcollection in its claims register and immediately notify in writing the carrier obli-

gated under this section to investigate the matter. In the case of such overcharge, duplicate payment, or overcollection, the carrier which collected the charges must make a prompt refund to that person who paid the transportation charges, or the person that made duplicate payment, but in no event may the carrier retain such overcharge, duplicate payment, or overcollection for a period beyond thirty (30) days from the date of discovery.

[FR Doc. 77-29581 Filed 10-6-77; 8:45 am]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 32]

HUNTING

San Bernard National Wildlife Refuge, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: Notice is hereby given that it is proposed to add San Bernard National Wildlife Refuge, Texas to the list of refuge areas open for the hunting of migratory game birds. The Director has determined that this action is compatible with the major purposes for which this refuge was established and that there is public demand for additional recreational opportunity. He has also determined that the action is compatible with the principles of sound wildlife management and will otherwise be in the public interest. Hunting, subject to annual special regulations, will provide additional public recreational opportunity.

DATES: Comments must be received on or before October 31, 1977.

ADDRESS: Comments may be addressed to the Director (FWS/RF), U.S. Fish and Wildlife Service, Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Ralph H. Town, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240 (202-343-4305).

SUPPLEMENTARY INFORMATION: Ralph H. Town is also the primary author of this proposed rule. As a general rule, most areas within the National Wildlife System are closed to hunting

until officially opened by regulation. The Director may open refuge areas to public hunting upon a determination that such use is compatible with the major purposes for which such areas were established, that it would be in accordance with provisions of all laws applicable to the area, will be compatible with the principles of sound wildlife management and will otherwise be in the public interest. It is the purpose of this rulemaking to allow the hunting of migratory game birds on San Bernard National Wildlife Refuge, Texas.

Pursuant to the requirements of § 102 (2) (C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332 (2) (C), an environmental assessment has been prepared on this proposal, which is available for public inspection and copying at Room 2340, Department of the Interior, 18th and C Streets NW., Washington, D.C. 20240, or by mail, addressing the Director at the address given above. A determination will be made prior to the time of final rulemaking as to whether this is a major Federal action significantly affecting the quality of the human environment.

The policy of the Department of the Interior is, whenever practical to afford the public an opportunity to participate in the rulemaking process. Therefore, interested persons may submit written comments, suggestions, or objections regarding the proposed amendment to the address given above. All relevant comments received will be considered by the Director prior to the issuance of final rulemaking.

NOTE:—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Accordingly, it is proposed to amend 50 CFR 32 by the addition of San Bernard National Wildlife Refuge as follows:

§ 32.11 List of open areas; migratory game birds.

TEXAS

SAN BERNARD NATIONAL WILDLIFE REFUGE

Dated: October 3, 1977.

LYNN A. GREENWALT,
Director, U.S. Fish and
Wildlife Service.

[FR Doc. 77-29406 Filed 10-6-77; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[Amtd. 1]

SALES OF CERTAIN COMMODITIES

Monthly Sales List (Period June 1, 1977, Through May 31, 1978), Interest Rates, and Peanuts

The CCC Monthly Sales List for the period June 1, 1977, through May 31, 1978, published at 42 FR 40945 (Aug. 12, 1977) is amended as follows:

1. The last sentence of Section 1(b) entitled "General" is revised to read as follows: "Interest at 9 percent will be charged for delinquent payments on all sales."

2. Section 1(c) entitled "General" is revised to read as follows:

(c) The pricing provisions in the CCC Monthly Sales List in effect at time of sale shall be applicable to sales of all commodities. Grain sales are made on-track with immediate delivery; in-store for delivery as soon as possible; or FOB origin for delivery as soon as possible subject to availability of transportation.

In the case of sales FOB buyers conveyance, carrying charges for the account of the buyer will accrue as specified in the contract. Sales for delivery other than immediate or as soon as possible will be made only pursuant to terms specified in special provisions.

3. The provisions of Section 32 entitled "Peanuts, Farmers Stock-Restricted Crushing and Domestic Use Oil (Segregation 1 and 2 Lots)" published at 42 FR 40946 (Aug. 12, 1977) are deleted.

(Sec. 4, 62 Stat. 1070, as amended (15 U.S.C. 714b); sec. 407, 63 Stat. 1955, as amended (7 U.S.C. 1427).)

Effective date: August 31, 1977, 2:20 p.m. (EST).

Signed at Washington, D.C., on September 27, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc 77 29497 Filed 10 6 77 8:45 am]

[3410-37]

Food Safety and Quality Service

U.S. STANDARDS FOR GRADES OF CANNED APPLES AND FOR GRADES OF FROZEN APPLES

Availability of Drafts for Study, Review and Comment in Preparation for Proposed Revision

Take notice that the Fruit and Vegetable Quality Division of the Food Safety

and Quality Service, U.S. Department of Agriculture, has study drafts available for review and comment in its consideration of proposed revisions to the U.S. Standards for Grades of Canned Apples and for Grades of Frozen Apples.

Comments, suggestions, recommendations and requests for single copies of the two study drafts will be welcome until April 1, 1978, and should be sent to:

Chief, Processed Products Branch, Fruit and Vegetable Quality Division, FSQS, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: October 3, 1977.

ROBERT ANGELOTTI,
Administrator.

[FR Doc 77-29577 Filed 10-6-77; 8:45 am]

[3410-11]

Forest Service

HUSTON PARK LAND MANAGEMENT PLAN FOR THE MEDICINE BOW NATIONAL FOREST

Notice of Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the Huston Park Land Management Plan for the Medicine Bow National Forest. The Forest Service report number is USDA-FS-R2-FES(Adm) FY-77-02.

The environmental statement concerns a proposed action to implement a revised land management plan for the 63,560 acre Huston Park of the South Hayden planning unit area.

The draft environmental statement was transmitted to CEQ on December 17, 1976.

This final environmental statement was transmitted to CEQ on September 29, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA—Forest Service, So. Agriculture Bldg., Room 3230, 12th St. and Independence Ave., SW., Washington, D.C. 20250.

USDA—Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colo. 80225.

USDA—Forest Service, Medicine Bow National Forest, 605 Skyline Drive, Laramie, Wyo. 82070.

A limited number of single copies are available upon request to Craig W. Rupp, Regional Forester, USDA—Forest Service, 11177 West 8th Avenue, P.O. Box 25127, Denver, Colo. 80225.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

EINAR L. ROGET,
Acting Deputy Chief.

SEPTEMBER 29, 1977.

[FR Doc 77-29498 Filed 10-6-77; 8:45 am]

[3410-11]

TIMBER MANAGEMENT PLAN, HIAWATHA NATIONAL FOREST

Notice of Availability of Draft Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement on the Timber Management Plan for the Hiawatha National Forest, USDA-FS-R9-DES(ADM)-77-08.

The environmental statement concerns a proposed plan for managing the timber resource on the Hiawatha National Forest for the period June 1977 through June 1987. The Hiawatha National Forest is located in Alger, Delta, Schoolcraft, Chippewa, and Mackinac Counties, Mich.

This draft environmental statement was transmitted to CEQ on September 22, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3231, 12th St. and Independence Ave., SW., Washington, D.C. 20250.

USDA, Forest Service, Eastern Region, 633 West Wisconsin Avenue, Milwaukee, WI 53203.

USDA, Forest Service, Hiawatha National Forest, 2727 N. Lincoln Rd., Escanaba, Mich. 49829.

A limited number of single copies are available upon request to Forest Supervisor, Hiawatha National Forest, 2727 N. Lincoln Rd., Escanaba, Mich. 49829.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the CEQ Guidelines.

Written comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Written comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Hiawatha National Forest, 2727 N. Lincoln Rd., Escanaba, Michigan 49829. Comments must be received by December 30, 1977, in order to be considered in the preparation of the final environmental statement.

JAMES H. FREEMAN,
Director, Planning,
Programming and Budgeting.

SEPTEMBER 22, 1977.

[FR Doc 77-29456 Filed 10-6-77; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket Nos. 29093; Order 77-9-136]

BRANIFF AIRWAYS, INC. ET AL.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of September 1977.

There are pending before the Board applications by Braniff Airways, Continental Air Lines and Eastern Air Lines for improved authority between Portland, Oregon, and Seattle-Tacoma, Washington, on the one hand, and Miami, Ft. Lauderdale, Tampa and St. Petersburg/Clearwater, Fla., and Atlanta, Ga., on the other hand.¹ The carriers were prompted to file these applications by the Board's opinion in the "Miami-Los Angeles Competitive Nonstop Case," Order 76-3-93, March 15, 1976. In that decision we awarded nonstop Miami-Los Angeles authority to Western Air Lines and permitted Western, over objections, to combine (or "tack") that award with its nonstop Los Angeles-Portland/Seattle authority to operate one-stop Miami/Ft. Lauderdale-Pacific Northwest service. Western did, in fact, inaugurate one-stop Miami-Seattle DC-10 service on August 1, 1976. We expressly recognized in our opinion that it might be inequitable to decline to restrict Western's operations without entertaining requests by other carriers for relief from single-plane restrictions:

In short, we cannot find that a restriction on Western's ability to tack . . . is required by either legal considerations or the public interest. However, the Board is not insensitive to the elements of equity in Braniff's argument, and accordingly has decided that it would be receptive to applications by Braniff and/or the other carriers whose Miami-Seattle/Portland authority had heretofore been restricted (Continental and Eastern) for relaxation of those restrictions (Order 76-3-93, at 31-32).

In our Order on Reconsideration, Order 76-6-120, June 16, 1976 at 17, we reiterated our position and elaborated upon our rationale and assumptions.

The particulars of the pending applications are as follows: Braniff requests deletion of section (b) of condition (17) of its certificate for Route 9 which prohibits single-plane service between Miami/Ft. Lauderdale and Tampa/St.

See footnotes at end of article.

NOTICES

Petersburg/Clearwater and Portland and Seattle on flights over segment 10 which serve Dallas/Ft. Worth.² Continental seeks deletion of section (d) of condition (8) of its certificate for Route 29 which contains an outright prohibition against single-plane service in the Miami/Ft. Lauderdale-Seattle/Portland markets. If the restrictions were removed, Continental could offer one-stop Miami/Ft. Lauderdale-Seattle/Portland service via Houston.³ Finally, Eastern requests modification of section (a) of condition (10) of its certificate for Route 10 to remove Atlanta, Miami, Ft. Lauderdale, Tampa and St. Petersburg/Clearwater from the list of points which may not receive single-plane service to Portland or Seattle. The carrier would then be able to offer one-stop service via St. Louis.⁴

Each of the three applications was accomplished by a motion for an order to show cause. The carriers allege generally that their restrictions were imposed a number of years ago and that the rationale for retaining them no longer exists. They point to the Board's policy of removing trunkline operating restrictions in the absence of an affirmative showing that they should be retained and they cite the Board's statements in "Miami-Los Angeles" as the predicate for granting their applications by non-hearing procedures.

Answers in support of Braniff's and Eastern's applications were submitted by the Tampa Bay Area Parties. Eastern answered the Braniff and Continental applications stating that it does not object as long as its own application is granted concurrently. Northwest also filed a pleading styled an "answer . . ." and motion to institute proceeding.⁵ Northwest argues that it already possesses and utilizes single-plane Pacific Northwest-Southeast authority and that it would be "patently illegal" and "inequitable" to grant comparable authority to the three applicants by nonhearing procedures. The carrier notes that the needs of these markets have never been specifically considered in a formal proceeding and suggests that the Board now institute such a case. If, however, the Board wishes to proceed by show cause order, Northwest claims that its certificate should be amended in a similar manner to permit nonstop service in the markets in issue. The Tampa Bay Area Parties and the Washington Parties support the motion to institute a proceeding but the latter argue that the pendency of a proceeding should not deter the Board from granting the improvements sought by Braniff, Continental and Eastern. Eastern opposes the motion claiming that it is a delaying tactic antithetical to the public interest and that Northwest holds no preferred position because its authority was obtained by tacking unrelated segments rather than by implementing specific route authority.

Upon consideration of the pleadings and all the relevant facts, the Board tentatively finds and concludes that the

public convenience and necessity do not require retention of the prohibition against single-plane service by Braniff, Continental and Eastern in the Miami/Tampa/Atlanta-Portland/Seattle markets; and that the motion of Northwest to institute a proceeding should be denied. In support of these ultimate conclusions, we make the following tentative findings.

Although we stated in our "Miami-Los Angeles" opinion that we would be receptive to applications from Braniff, Continental and Eastern for removal of their single-plane restrictions in the Miami/Ft. Lauderdale-Portland/Seattle markets, relief cannot be granted automatically irrespective of the facts. Our award to Western was, of course, based upon an evidentiary hearing record. On the other hand, the Board has stated on a number of prior occasions that the show cause procedure is appropriate as a means of evaluating the need for relief from restrictions which impede efficient and economic operations in situations which do not raise complex and controversial questions of fact, law, or policy, and in which grant of the requested relief will have no more than a minimal impact on competing carriers.⁶ On the basis of the facts now before us, we believe that this is the case with respect to not only the Miami/Fort Lauderdale markets, but also the Tampa/St. Petersburg/Clearwater and Atlanta markets.⁷

From an operating perspective, a single-plane restriction is probably the most onerous type of prohibition, with the possible exception of a closed-door restriction. It not only limits the manner in which a carrier's management schedules through-plane or direct service over its system, but also may artificially preclude valuable service to the public. Therefore, the Board has been reluctant to impose this restriction unless there is an overriding need to protect incumbent carriers or unless it is necessary to keep the scope of a case within manageable proportions. All of the restrictions in issue here derived from procedural decisions in the "Pacific Northwest-Southwest Service Investigations", 46 C.A.B. 652 (1967), and the "Southern Tier Competitive Nonstop Investigation", Order 69-9-111, September 18, 1969. Eastern held nonstop Miami/Tampa-St. Louis authority when "Pacific Northwest-Southwest" was instituted, but the Board imposed a pretrial restriction against taking that authority with any new award purely to limit the scope of the case.⁸ The restrictions on Braniff's and Continental's authority were imposed as a result of complex circumstances related to separate awards in the two major cited cases, which were conducted concurrently.⁹ It is sufficient for present purposes to observe that they were unrelated to any need to protect incumbents in the markets and there were no substantive findings that they were otherwise required by the public convenience and necessity. Consequently, there has been presented a prima facie case for removing these restrictions.

In the Pacific Northwest-Florida markets, the Board has recently found, on the basis of evidentiary records, that there is no affirmative need for single-plane restrictions.¹⁰ It follows that, if there is no affirmative need to restrict newly authorized carriers, then we cannot justify refusing to place incumbents on an equal footing when the incumbents have labored under restrictions adopted for procedural reasons.¹¹ We need not, and do not, find an affirmative public need for competitive one-stop service by four carriers in the Pacific Northwest-Florida markets. It is immaterial whether all of the carriers, in fact, exercise the improved authority proposed to be granted them. Rather, what we do tentatively find is that where the single-plane restrictions previously imposed on Braniff, Continental, and Eastern for procedural reasons in earlier cases have been shown not to be required in the public interest, where the public may benefit from new or additional single-plane service, and where the carriers involved may achieve operating efficiencies, the public convenience and necessity require elimination of these single-plane restrictions.¹²

The Atlanta-Portland/Seattle markets are not "minor" nor has the Board itself found in a formal proceeding that there is no affirmative need for the retention of single-plane restrictions.¹³ If Eastern were granted authority coextensive with Northwest's, the latter might lose some traffic. We tentatively find that the impact will not be substantial. Eastern already offers much more service in the Portland market and accounts for 44 percent of the revenue passenger miles, compared with Northwest's 13 percent. (See Appendix B.) In the Seattle market, Northwest's RPM participation is 48 percent, but Eastern's share is 30 percent despite Northwest's superior authority (one-stop versus two-stop) and stronger intermediate traffic support (Chicago or Minneapolis/St. Paul versus St. Louis and Omaha).¹⁴ Northwest has not submitted an estimate of the diversion it might suffer as a result of Eastern's proposed amendment. If an estimate is submitted in response to this order, we will evaluate it to determine whether the impact of such diversion, either on Northwest's system or in particular markets, is so great as to require us to modify our tentative findings that the public convenience and necessity do not require retention of the restrictions here in issue. See Greenville/Spartanburg-Washington/New York Subpart M Case, Order 77-10-1, October 3, 1977.

Finally, we are not persuaded that Northwest has a stake in these markets that legally or equitably merits protection.¹⁵ First, even with one-stop authority in all markets, Northwest has offered one-stop service on a regular basis only between Seattle and Miami/Ft. Lauderdale and Tampa. Second, Northwest has established what might be termed a relatively dominant stake in only one market, Seattle-Tampa. The majority of the

See footnotes at end of article.

traffic in every market except Seattle-Tampa has moved on Eastern's multi-stop flights or connecting services, which indicates quite clearly that improvements in the quantity of single-plane services are warranted. Last, we are constrained to note that Northwest's contentions of illegality and inequity are completely unsupported by citation to administrative or judicial precedent.

Northwest's request for a formal evidentiary proceeding will be deferred. With the exception of Seattle-Atlanta (53,260 O&D plus connecting passengers), which receives multiple daily one-stop and two-stop service, the Pacific Northwest-Southeast markets are small by any standard; the second largest is Seattle-Miami/Ft. Lauderdale, with only 29,320 O&D plus interline connecting passengers in the year ended June 30, 1976, and all Florida markets together accounted for only 63,360 passengers. This level of traffic is far lower than the levels in markets that have recently been set for hearing. However, outright denial of Northwest's motion at this time is not indicated because we are in the process of reviewing our hearing priority standards. When we have settled upon standards for the future, these markets will be measured against them and a decision will be made on whether or not to institute a proceeding.

We also tentatively find and conclude that the removal of operating restrictions as contemplated here will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. Braniff, Continental, and Eastern propose to combine existing flights; therefore it is not anticipated that there will be any increase in operations at any airport resulting from the proposed improved authority.¹⁶

Interested persons will be given thirty (30) days following the date of adoption of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically reciting the tentative findings and conclusions to which objection is taken. Objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If an evidentiary hearing is requested, the objector should state in detail why a hearing is considered necessary and what relevant and material facts he would expect to establish through a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That:

1. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and modifying certain conditions in the certificates of public convenience and necessity of Braniff Airways, Inc. for Route 9,

Continental Air Lines, Inc. for Route 29, and Eastern Air Lines, Inc. for Route 10, as follows:

a. *Braniff's condition (17)*: "On flights over segment 10 which serve Dallas-Ft. Worth, Tex., the holder shall not provide single-plane service between New Orleans, La., on the one hand, and Portland, Oreg., Seattle-Tacoma, Wash., Denver, Colo., Wichita, Kans., Oklahoma City, Okla., or Amarillo or Lubbock, Tex., on the other hand."

b. *Continental's condition (8)*: "The holder shall not operate single-plane service (a) over segment 6 between Chicago, Ill., on the one hand, and points south of Kansas City, Mo., on the other hand (other than points on segment 6), (b) between Denver, Colo., on the one hand, and Ft. Worth or Dallas, Tex., on the other hand, and (c) between Los Angeles-Ontario-Long Beach, Calif., on the one hand, and Dallas and Ft. Worth, Tex., on the other hand, except over segment 16."

c. *Eastern's condition (10)*: "The holder shall not provide single-plane service (a) on segment 1, 2, 4, or 5 between Portland, Oreg., or Seattle-Tacoma, Wash., on the one hand, and New York, N.Y., Newark, N.J., Washington, D.C., Baltimore, Md., or Chicago, Ill., on the other, (b) between Columbus, Ga., on the one hand, and Washington, D.C., New York, N.Y., or Newark, N.J. on the other, (c) between Miami, Ft. Lauderdale, Tampa or St. Petersburg-Clearwater, Fla. on the one hand, and Los Angeles-Ontario-Long Beach, Calif., or Houston, Tex., on the other, or (d) between San Juan, P.R. and Los Angeles-Ontario-Long Beach, Calif."

2. Any interested person having objection to the issuance of an order making final the proposed findings or conclusions set forth here shall, within 30 days after the date of service of this order, file with the Board and serve upon all persons listed in paragraph 8, a statement of objections together with a summary of testimony, statistical data, and other evidence relied upon to support the stated objections;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board;

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative finding and conclusions set forth here;

5. The respective petitions of Braniff Airways (Docket 29093), Continental Air Lines (Docket 29131) and Eastern Air Lines (Docket 29142) for an order to show cause are granted to the extent indicated above and denied in all other respects;

6. The motion of Northwest Airlines, Inc. in Dockets 29093, 29131, and 29142 to institute a proceeding is deferred.

7. A copy of this order shall be served upon Braniff Airways, Continental Air Lines, Eastern Air Lines, Northwest Airlines, the Tampa Bay Area Parties, and the Washington Parties."

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

FOOTNOTES

¹ Northwest Airlines filed an application on November 24, 1975, in Docket 28540 for Portland/Seattle-Atlanta nonstop authority together with a motion to consolidate the application into the Oklahoma-Denver-Southeast Points Investigation, Docket 20421 et al. By Order 75-12-150, December 30, 1975, the motion was denied and the application was dismissed pursuant to Rule 12(e) of the Rules of Practice. Apparently unaware that its application had been dismissed, Northwest filed an Amendment No. 1 in Docket 28540 on April 26, 1976, to add Tampa/St. Petersburg/Clearwater, Ft. Lauderdale and Miami. Concurrently, the carrier filed a motion to institute a proceeding to hear Docket 28540, as well as the three dockets cited here, and Docket 29047, a Subpart N application by Eastern. An answer was filed on May 5 by the Tampa Bay Area Parties and consolidated answers in all five aforementioned dockets were filed by Eastern and the Washington Parties. However, the mere filing of an amendment does not reinstate a docket that has been previously dismissed. On the other hand, we note that Northwest has recently filed a Subpart N application in Docket 30233 requesting removal of restrictions precluding nonstop operations between Seattle, on the one hand, and Atlanta, Tampa-St. Petersburg-Clearwater, Miami and Fort Lauderdale, on the other. Northwest's various requests for improved Pacific Northwest-Southeast authority (including its motion to institute a proceeding, which is alternatively an answer in the four dockets just noted, and answers relating to it), are considered here, except to the extent that they address matters in Docket 28540.

² By a combination of other restrictions and segmentation, there is no way for Braniff to offer any single-plane service in these markets, regardless of the number of stops. Removal of the restriction would enable Braniff to offer one-stop/Florida-Pacific Northwest service via Dallas/Ft. Worth.

³ By virtue of its recent award in the "Oklahoma-Denver-Southeast Points Investigation," Order 77-4-146, April 29, 1977, Continental may now operate single-plane, one-stop service in the Miami/Ft. Lauderdale/Tampa-Portland/Seattle Markets via Denver. Such service is still prohibited via Houston.

⁴ Eastern may now offer single-plane Miami/Ft. Lauderdale-Pacific Northwest service but its best authority is three-stop via Omaha, St. Louis and a point southeast of St. Louis.

⁵ See note 1, supra.
⁶ Order 73-2-30, February 8, 1973. See also Order 73-7-77, July 16, 1973.

⁷ We recognize that Western was not awarded Tampa or Atlanta authority, so that the requests of Braniff and Eastern, to the extent that they include Tampa and Atlanta, are unrelated to the Miami-Los Angeles decision.

⁸ See Order E-21601, December 21, 1964.
⁹ See Order 69-9-111, at 6-7, and Order 72-1-99, January 28, 1972, for a recitation of these circumstances.

¹⁰ "Miami-Los Angeles," supra p. 2, and "Oklahoma-Denver-Southeast Points," supra n. 3.

¹¹ See our "Oklahoma-Denver-Southeast Points" opinion, at note 15.

¹² We also note, in passing, that Portland-Tampa generated fewer than 20 O&D plus interline connecting passengers per day. (See Appendix A.) Under present Board policy, minor markets such as this "do not present competitive considerations of significant magnitude" and, therefore, relief may be granted by show-cause procedures. Order 76-5-101, May 21, 1976, at 9-10.

¹³ However, in finding that United Air Lines should be awarded nonstop Atlanta-Denver authority in "Oklahoma-Denver-Southeast Points," the Administrative Law Judge concluded, on the basis of the record, that "it would be inconsistent with the public interest to impose restrictions on the new authorizations in this proceeding to prevent one-stop or single-plane service between the Pacific Northwest and Atlanta * * *." I.D. at 22.

¹⁴ For the year ended March 31, 1976, a total of 381,070 on-line local and interline connecting passengers flowed over all segments of Eastern's Atlanta-St. Louis-Omaha-Seattle routing. In comparison, 687,030 such passengers flowed over Northwest's Atlanta-Chicago-Seattle routing and 236,960 over the Atlanta-Minneapolis/St. Paul-Seattle routing. Thus, Northwest theoretically has far greater access to intermediate support traffic although it must be conceded that Northwest faces more competition over its routings than does Eastern. (Source: O&D Survey, Table 10.)

¹⁵ Northwest argues that the Board is legally and equitably obliged to propose to upgrade Northwest's authority to nonstop if we propose to allow the other applicants to provide one-stop service.

¹⁶ Notwithstanding this determination, we point out that each of these applicants should have filed an environmental evaluation pursuant to § 312.12(c) of the Board's regulations. This evaluation could have consisted of responses to the specific requests contained in section 312.12(c)(1), and a statement that the requests in §§ 312.12(c)(2)-(5) are not applicable since no increase in operations is contemplated. This type of evaluation shall be required in future similar situations.

¹⁷ All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further such motions, requests, or petitions for reconsideration of this order will be entertained.

¹⁸ As explained in note 1, supra, Northwest's motion to institute a proceeding as well as all other pleadings filed in Docket 28540 after December 30, 1975, will be removed and the docket will be closed.

¹⁹ Appendices A and B filed as part of the original document.

[FR Doc.77-29573 Filed 10-6-77;8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

ADVISORY COMMITTEE ON ADMINISTRATIVE LAW JUDGES

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Public Law 92-463, the U.S. Civil Service Commission announces the following meeting:

Name: Advisory Committee on Administrative Law Judges.

Date and time: October 21, 1977, 9:30 A.M.—4:00 P.M.

Place: U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C.

Room: 5323.

Type of meeting: Open.

Contact person: Arthur L. Burnett, Assistant General Counsel, U.S. Civil Service Commission, 1900 E Street NW., Washington, D.C. Telephone: 202-632-5421.

Purpose of committee: To continue its discussion of possible recommendations the Advisory Committee wishes to make

in connection with governmental reorganization plans as they may affect the structure of the Administrative Law Judges system, selection, recruitment, compensation and productivity.

Dated: October 7, 1977.

JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-29474 Filed 10-6-77;8:45 am]

[6325-01]

DEPARTMENT OF DEFENSE

Title Change in Noncareer Executive Assignment

By notice of June 13, 1970, FR Doc. 70-7379 the Civil Service Commission authorized the Department of Defense to fill by noncareer executive assignment the position of Deputy Assistant Secretary of Defense (Civil Rights), ODASD (Civil Rights), OASD (Manpower and Reserve Affairs), Office of the Secretary of Defense. This is notice that the title of this position is now being changed to Deputy Assistant Secretary of Defense (Equal Opportunity), ODASD (Equal Opportunity), OASD (Manpower, Reserve Affairs and Logistics), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the
Commissioners.

[FR Doc.77-29410 Filed 10-6-77;8:45 am]

[6325-01]

FEDERAL MARITIME COMMISSION

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Maritime Commission to fill by noncareer executive assignment in the expected service the position of General Counsel, Federal Maritime Commission.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the
Commissioners.

[FR Doc.77-29411 Filed 10-6-77;8:45 am]

[6325-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Health, Education, and Welfare to fill by noncareer executive assignment

in the expected service and position of Director, Office of State and Community Affairs, Office of Human Development Services.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-29412 Filed 10-6-77; 8:45 am]

[6325-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the expected service the position of Director, Office of Planning and Evaluation, Office of Human Development, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-29413 Filed 10-6-77; 8:45 am]

[6325-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the expected service the position of Deputy Assistant Secretary for Legislation (Welfare), Office of the Assistant Secretary for Legislation, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-29414 Filed 10-6-77; 8:45 am]

[6325-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Housing and Urban Development to fill by noncareer executive assignment in the expected service the position of Executive Vice President,

Office of the President, Government National Mortgage Association.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-29415 Filed 10-6-77; 8:45 am]

[6325-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Housing and Urban Development to fill by noncareer executive assignment in the expected service the position of Assistant to the Secretary for Labor Relations, Immediate Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-29416 Filed 10-6-77; 8:45 am]

[6325-01]

DEPARTMENT OF LABOR

Grant of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Labor to fill by noncareer executive assignment in the expected service the position of Director, Office of Workers' Compensation Programs, Employment Standards Administration.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-29417 Filed 10-6-77; 8:45 am]

[6325-01]

NATIONAL IPA PROJECT GRANTS

Request for Proposals

The U.S. Civil Service Commission is now accepting proposals from eligible applicants for national IPA program grants to be made for Fiscal Year 1978 (commencing October 1, 1977) pursuant to Section 506(a) of the Intergovernmental Personnel Act (IPA). Under the IPA, the Commission can award grants for up to 50 percent of the costs of approved projects. In addition to State and local general governments, eligible applicants include non-profit organizations which render services to governments, provided the proposed projects involve training State and local officials.

The Commission is interested in:

A. Projects which, on a nationwide basis, would use innovative training ac-

tivities and techniques to assist in the solving of high priority State and local government management problems.

B. Projects which through research, demonstration, or training, would contribute to the resolution of priority State and local personnel management issues such as affirmative action, personnel system development, selection improvement, productivity improvement, and labor management relations.

Projects with potential for the greatest direct impact will be given preference. To be considered for funding, a proposal must contain evidence that the proposed project has been requested by State or local governments.

Proposals proposed should be intergovernmental in nature and involve a substantial national audience. Projects which would be carried out on a local or regional basis, even though wide applicability is intended or projected, should be submitted to the appropriate State IPA office or the regional office of the Commission for consideration.

Proposals will be evaluated according to the following basic criteria:

1. The probable impact of the proposed project on improved central policy making and management capability.
2. The extent of need by and support of the proposed project as expressed by State and local government officials.
3. The extent to which the proposed project would result in newly established or strengthened programs, systems, or activities which would be continued after a period of IPA support.

4. The quality and efficiency of the proposed means by which the project would be executed.

5. The potential for broader use by other jurisdictions and organizations of the results or products of the project.

Grant funds available for competitive award to initiate new efforts in Fiscal Year 1978 will be limited. An estimated \$400,000 of IPA grant funds will be committed to national projects approved under this request. The deadline for receipt of official applications is December 12, 1977.

For further information, application forms and guidelines, please contact: U.S. Civil Service Commission, Bureau of Intergovernmental Personnel Programs, Grants Administration Division, 1900 E. Street, NW., Washington, D.C. 20415, (202-632-6274). Interested parties are encouraged to contact the above office before submitting a formal application.

This notice pertains only to the award of Fiscal Year 1978 IPA grant funds for national programs. For further information about IPA grant funds for specific State and local governments and governments and combinations thereof, contact the appropriate regional office of the U.S. Civil Service Commission, see list below.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

U.S. Civil Service regions intergovernmental personnel programs division

Region	Headquarters	Director	IPP division chief	Area served
Atlanta	1340 Spring St. NW., Atlanta, Ga. 30309	David Caldwell, phone: 404-257-2436, FTS: 8-257-2436	George Murphy, phone: 404-257-2448, FTS: 8-257-2448	Alabama, Florida, Georgia, Kentucky, Mississippi, Tennessee, North Carolina, South Carolina, Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, Vermont.
Boston	John W. McCormack Post Office and Courthouse, Boston, Mass. 02109	Charles A. Maher, phone: 617-223-2538, FTS: 8-223-2538	Thomas D. McCarthy, phone: 617-223-6845, FTS: 8-223-6845	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.
Chicago	Federal Office Bldg., 20th floor, 230 South Dearborn St., Chicago, Ill. 60604	Keith Rodolfo, phone: 312-353-2601, FTS: 8-353-2601	John S. Anderson, phone: 312-353-5262, FTS: 8-353-5262	Arkansas, Louisiana, New Mexico, Oklahoma, Texas.
Dallas	1100 Commerce St., Dallas, Tex. 75242	Edward Vela, Jr., phone: 214-719-3352, FTS: 8-719-3352	Orman Wright, phone: 214-719-1967, FTS: 8-719-1967	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming.
Denver	Bldg. 20, Denver Federal Center, Denver, Colo. 80225	George F. Dwyer, phone: 303-231-3023, FTS: 8-231-3023	Charles P. Dooley, phone: 303-231-4047, FTS: 8-231-4047	New Jersey, New York, Puerto Rico, Virgin Islands.
New York	New Federal Building, 26 Federal Plaza, New York, N.Y. 10007	John J. Lafferty, phone: 212-264-0440, FTS: 8-264-0440	Sally Williams, phone: 212-264-4612, FTS: 8-264-4612	Delaware, Maryland, Pennsylvania, Virginia, West Virginia.
Philadelphia	William J. Green, Jr., Federal Bldg., 600 Arch St., Philadelphia, Pa. 19106	Robert E. Sperry, phone: 215-597-4543, FTS: 8-597-4543	William T. Kesselring, phone: 215-597-9125, FTS: 8-597-9125	Iowa, Kansas, Missouri, Nebraska.
St. Louis	1256 Federal Bldg., 1820 Market St., St. Louis, Mo. 63103	Robert J. Dunn, phone: 314-279-4262, FTS: 8-279-4262	Victor Young, phone: 314-279-1941, FTS: 8-279-1941	Arizona, California, Hawaii, Nevada, Guam, American Samoa, Trust Territory.
San Francisco	Federal Bldg., Box 36010, 450 Golden Gate Ave., San Francisco, Calif. 94102	Francis V. Yanak, phone: 415-556-0581, FTS: 8-556-0581	Joseph Rosati, phone: 415-556-1140, FTS: 8-556-1140	Alaska, Idaho, Oregon, Washington.
Seattle	Federal Bldg., 915 2nd Ave., 20th floor, Seattle, Wash. 98174	Thomas G. McCarthy, phone: 206-399-7536, FTS: 8-399-7536	Robert A. McBride, phone: 206-399-0164, FTS: 8-399-0164	

[FR Doc. 77-29475 Filed 10-6-77; 8:45 am]

[6325-01]

DEPARTMENT OF THE TREASURY

Title Change in Noncareer Executive Assignment

By notice of April 5, 1973, FR Doc. 73-6565 the Civil Service Commission authorized the Department of the Treasury to fill by noncareer executive assignment the position of Deputy Director, Office of Revenue Sharing, Office of the Deputy Secretary, Office of the Secretary. This is notice that the title of this position is now being changed to Deputy Director, Office of Revenue Sharing, Office of the Assistant Secretary (Domestic Finance), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-29236 Filed 10-6-77; 8:45 am]

[6325-01]

DEPARTMENT OF THE TREASURY

Revocation of Authority To Make Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of the Treasury to fill by noncareer executive assignment in the expected service the position of Deputy Special Assistant to the Secretary (Public Affairs), Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 77-29237 Filed 10-6-77; 8:45 am]

[4910-06]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[FRA Waiver Petition No. HS-77-15]

EAST ERIE COMMERCIAL RAILROAD CO. Petition for Exemption From the Hours of Service Act

The East Erie Commercial Railroad has petitioned the Federal Railroad Administration pursuant to 45 U.S.C. 64a (c) for an exemption, with respect to certain employees, from the Hours of Service Act, as amended, 45 U.S.C. 61-64 (b).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Attention: FRA Waiver Petition No. HS-77-15, Room 5101, 400 Seventh Street, SW., Washington, D.C. 20590. Communications received before November 11, 1977, will be considered before final action is taken on this petition. All comments received will be available for examination by interested persons during business hours in Room 5101, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590.

Issued in Washington, D.C. on September 29, 1977.

DONALD W. BENNETT,
Chairman, Railroad Safety Board.
[FR Doc. 77-29582 Filed 10-6-77; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

ART ADVISORY PANEL

Closed Meeting

Notice is hereby given pursuant to section 10(a)(2) of the Federal Advisory

Committee Act, 5 U.S.C. App. 1 (1977), as amended by Government in the Sunshine Act of 1976, Pub. L. No. 94-409, § 5(c), 90 Stat. 1247, that a closed meeting of the Art Advisory Panel will be held on November 8 and 9, 1977, beginning at 9:30 A.M. in Room 3313, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, D.C. 20224.

The agenda will consist of the review and evaluation of the acceptability of market value appraisals of works of art involved in Federal income, estate, or gift tax returns. This will involve the discussion of material in individual tax returns made confidential by the provisions of section 6103 of Title 26 of the United States Code.

A determination as required by section 10(d) of the Federal Advisory Committee Act has been made that these meetings are concerned with matters listed in section 552b(c), (3), (4), (6), and (7) of Title 5 of the United States Code, and that the meetings will not be open to the public.

JEROME KURTZ,
Commissioner.

OCTOBER 3, 1977.

[FR Doc. 77-29455 Filed 10-6-77; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

THEATRE ADVISORY PANEL MEETING

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Theatre Advisory Panel to the National Council on the Arts will be held on October 22, 1977, from 9:30 a.m. to 5:15 p.m. and on October 23, 1977, from 9:30 a.m. to 5:30 p.m. in Room 1340 of the Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

NOTICES

A portion of this meeting will be open to the public on October 22, 1977, from 9:30 a.m. to 11:00 a.m. and 12:00 to 5:15 p.m., and on October 23, 1977, from 9:30 a.m. to 5:30 p.m. The agenda for these sessions will include a discussion of policy.

The remaining sessions of this meeting October 22, 1977 from 11 a.m. to 12 noon are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *FEDERAL REGISTER* March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9 (B) of section 552(b) of Title 5, United States Code.

For further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-624-6377.

Dated: September 29, 1977.

ROBERT M. SIMS,
Administrative Officer, National
Endowment for the Arts, National
Foundation on the Arts and
the Humanities.

[FR Doc.77-29207 Filed 10-6-77; 8:45 am]

[3510-07]

DEPARTMENT OF COMMERCE

Bureau of the Census
SPECIAL CENSUSES
Results

The Bureau of the Census conducts a program whereby a local or State government can contract with the Bureau to conduct a special census of population. The content of a special census is ordinarily limited to questions on household relationship, age, race, and sex, although additional items may be included at the request and expense of the sponsor. The enumeration in a special census is conducted under the same concepts which govern the Decennial Census.

Summary results of special censuses are published semiannually in the *Current Population Reports—Series P-28*, prepared by the Bureau of the Census. For each area which has a special census population of 50,000 or more, a separate publication showing data for that area by age, race, and sex is prepared. If the area has census tracts, these data are shown by tracts.

The data shown in the following table are the results of special censuses conducted since December 31, 1976, for which tabulations were completed between September 1, 1977, and September 30, 1977.

Dated: October 3, 1977.

MANUEL D. PLOTKIN,
Director,
Bureau of the Census.

State/place or special area	County	Date of census	Population
Illinois			
Chillicothe City	Peoria	Sept. 11, 1976	5,982
Greenup village	Cumberland	July 18, 1977	1,646
Mount Prospect village	Cook	July 5, 1977	51,374
Minnesota Cook County		July 12, 1977	1,223

[FR Doc.77-29356 Filed 10-6-77; 8:45 am]

[3510-12]

National Oceanic and Atmospheric
Administration
FOREIGN FISHING
Schedule of Fees

AGENCY: National Marine Fisheries Service Department of Commerce.

ACTION: Notice of schedule of fees for foreign fishing.

SUMMARY: This amendment establishes the schedule of fees which will be charged each foreign nation for fishing in calendar year 1978 for fishery resources subject to the jurisdiction of the United States. The criteria for establishing the fees, method of payment of fees, other charges, and the process for applying for refunds also are presented.

EFFECTIVE DATE: January 1, 1978.

ADDRESSES: Questions may be directed to Director, National Marine Fisheries Service, Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Richard Schaefer, Chief, Fisheries Management Operations Division, National Marine Fisheries Service, Washington, D.C. 20235 (202-634-7454).

NATIONAL OCEANIC AND ATMOSPHERIC
ADMINISTRATION
SCHEDULE OF FEESFISHING BY FOREIGN VESSELS IN FISHERIES
OVER WHICH THE UNITED STATES EXERCISES
EXCLUSIVE FISHERY MANAGEMENT
AUTHORITY

On June 15, 1977, the National Marine Fisheries Service (NMFS) published in the *FEDERAL REGISTER* (42 FR 30529) a notice of a proposed fee schedule for calendar year 1978, for fishing by foreign vessels for species of fish over which the United States exercises exclusive fishery management authority, pursuant to Section 204(b)(10) of the Fishery Conservation and Management Act of 1976 (16 U.S.C. 1801 et seq.), hereinafter the "Act." The proposed schedule establishes fees which must be paid by the owner or operator of any foreign fishing vessel wishing to fish within the United States Fishery Conservation Zone, or beyond it as authorized by the Act, before actually engaging in any fishing activity.

The notice of June 15, 1977, proposed a permit fee based on the gross registered tonnage for catching and processing vessels, a flat fee for support vessels, and a poundage fee of 3.5 percent of the ex-vessel price of the fish allocated to each nation. The ex-vessel prices for computing fees are taken from "Fisheries of the United States, 1976," a

Department of Commerce, NMFS/NOAA publication, except where otherwise noted.

In consideration of comments received during the public comment period, which closed July 15, 1977, the Director, National Marine Fisheries Service, hereinafter the "Director," hereby issues notice of a fee schedule for the calendar year 1978 for fishing by foreign vessels for species of fish over which the United States exercises exclusive fishery management authority. This fee schedule has been duly established by the Associate Administrator for Marine Resources of the National Oceanic and Atmospheric Administration.

PERTINENT SECTIONS OF THE ACT

Section 201(d) of the Act provides that foreign fishermen may be allowed to fish for " * * * that portion of the optimum yield of such fishery which will not be harvested by vessels of the United States * * * ." Section 204(b)(10) of the Act further provides that reasonable fees shall be paid by the owner or operator of any foreign fishing vessel for which a permit is issued. Fishing vessels are defined by Section 3(11) of the Act to include several types of vessels in addition to those actually engaged in harvesting fish. This includes any vessel " * * * aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing, including, but not limited to, preparation, supply, storage, refrigeration, transportation, or processing * * * ." Section 204(b)(10) of the Act further provides, in part: "In determining the level of such fees, the Secretary may take into account the cost of carrying out the provisions of this Act with respect to foreign fishing, including, but not limited to, the cost of fishery conservation and management, fisheries research, administration, and enforcement."

CRITERIA FOR ESTABLISHING FEE SCHEDULE

The following criteria were considered in developing the fee schedule for foreign fishing:

1. Fees will not be used as a management tool to restrict foreign fishing. Foreign fishing effort will be controlled by management plans and associated regulations.

2. The fees will not be so high as to prevent nations from utilizing the allocated surplus solely because of the fee level. The fees must be reasonable.

3. Fees will recover an appropriate part of the management costs related to foreign fishing.

4. The same rate must apply to all foreign nations and the rate will not change within a given calendar year.

NOTICES

5. Fees will be simple to compute and collect. Fees shall be paid as provided in the Act.

6. Every vessel, by law, must pay a fee and obtain a permit, but the fee may vary with size and function of the vessel.

COMMENTS RECEIVED

Public comments received during the 30 day period after June 15, 1977, centered on the following major issues:

1. Charging fees for valuable non-surplus species (prohibited species) taken as by-catch in directed fisheries: Some commenters have indicated that prohibited species taken as by-catch should be retained and that high fees should be charged for such species. A low probability of survival for most discarded species (except for certain creatures of the Continental Shelf) was given as the main reason for retention, and that waste of the resource should be avoided. Others have proposed no retention, and that no fees should be charged for such by-catch. In their view, the no-retention provision will discourage fishing for prohibited species.

The views of the latter group of commenters are in accord with the provisions of the Act. The Act does not permit retention of prohibited species. Accordingly, the fee schedule adopted provides that a poundage fee will be charged only for those species which may be retained. No fee will be charged for species which may not be retained.

2. The data base for calculating poundage fees: The vast majority of public comments supported the use of 1976 U.S. ex-vessel prices as the appropriate basis for setting poundage fees. Two of the 20 commenters recommended using more current prices. Two foreign countries proposed that for some species not landed by U.S. fishermen, prices should be lower than those which applied in 1977. Since the 1976 U.S. ex-vessel prices represent the latest published annual average prices available, they were retained as the basis of fees for all species where such prices have been established and published. For other species for which no published U.S. prices were available, prices were obtained from either foreign government publications or foreign embassy representatives, and verified as accurate by NMFS whenever possible.

Prices listed in this final fee schedule, compared to the June 15, 1977, proposed prices, vary for only one species, Pacific herring. Prices have also been added for certain species for which no figures were published in the June 15, 1977, proposed schedule. Where appropriate, footnotes have been added to explain the source of data and changes in prices.

3. The level of fees: Three and one-half (3.5) percent of the ex-vessel price of allocated fish was considered an appropriate basis on which to calculate poundage fees by all U.S. reviewers and by one foreign country. One foreign country proposed a reduction to 1.5 percent, and the complete elimination of permit fees. Neither of these proposals

was deemed to satisfy the criteria established for setting a fee schedule; consequently neither was adopted.

The payment of poundage fees either in installments during the fishing year, or in one lump sum after fishing has been concluded, was also proposed. Since the Act requires payment of fees prior to issuance of permits for fishing by foreign vessels, this proposal was not adopted.

FEE SCHEDULE

The fees charged each foreign nation for fishing for fishery resources subject to the exclusive fishery management authority of the United States will be as follows:

1. Permit Fee: (a) A fixed annual fee of \$1.00 per gross registered ton (GRT) will be charged for any vessel engaged in, or attempting to engage in the catching, taking, or harvesting of fish; (b) a fixed annual fee of \$0.50 per GRT will be charged for any vessel engaged in processing fish, but not catching, taking, or harvesting fish, with \$2,500 per vessel the upper limit on this charge; and (c) a fixed annual fee of \$200 per vessel will be charged for any vessel engaged in aiding or assisting one or more vessels at sea in the performance of any activity relating to fishing but not itself catching, taking, harvesting, or processing fish. If a vessel participates in more than one of the above activities, the highest applicable fee will be charged. Permit fees are required to be paid in advance and are not refundable, but, on a case by case basis, the Director may allow a like vessel to be substituted.

2. Poundage Fee: For 1978, a poundage fee of 3.5 percent of the 1976 U.S. ex-vessel price of the fish, when available, will be charged on the actual catch of all fish allocated to each nation, including the bycatch (prohibited species excluded). When U.S. prices are not available, the most applicable foreign ex-vessel price for 1976 will be used.

The poundage fee is required to be paid in advance, and it shall be based on the allocation made to each nation. If the catch is substantially lower than the allocation, an application may be made for a refund as described below.

The following ex-vessel prices to be used for computing fees are based on U.S. commercial landings as published in "Fisheries of the United States, 1976, Current Fishery Statistics No. 7200, National Marine Fisheries Service, April, 1977," except where noted:

Species:	Average ex-vessel Value (per metric ton)
Butterfish	\$622
Cod, Pacific	282
Crab, Tanner (Snow)	441
Flounders, Pacific	387
Hake, Pacific	32
Hake, Red	185
Hake, Silver (Whiting)	184
Herring, Atlantic	87
Herring, Pacific	100
Herring, River (Alewives)	96
Mackerel, Atka	138
Mackerel, Atlantic	259
Mackerel, Jack	110
Other Finfish, Atlantic	334

Species:	Average ex-vessel value (per metric ton)
Other Groundfish, Pacific	*48
Pollock, Alaska	*84
Pacific Ocean Perch	280
Rockfish	298
Sablefish	399
Seamount Groundfish	*172
Snails (meat)	*600
Squid, Atlantic	*414
Squid, Pacific	*55

* Price for roeless herring, which will constitute the foreign harvest. Provided by the Embassy of Japan in Washington, D.C., and validated by NMFS, Division of Data Management and Statistics.

* Source: Suisanbutsu Ryutsu Tokai Geppo (Monthly Statistical Report on Distribution of Fish and Fish Product), Issued by the Ministry of Agriculture and Forestry, Japan.

* Average price from U.S. Atlantic landings of bluefish, cusk, scup, sea trout, sharks, white hake, and wolffish. Source: Division of Data Management and Statistics, NMFS.

* Used for production of fish meal. Price based on U.S. landings of anchovy and Pacific hake.

* Average price in 1976 for dressed frozen fish taken in U.S. waters, landed in Japan, converted to raw fish price (round weight).

* Source: U.S. Fishery Attaché in Tokyo.

* Includes amorheads and alphonisins. Average price in 1976 for dressed frozen fish landed in Japan, converted to raw fish price (round weight). Source: U.S. Fishery Attaché in Tokyo.

* Ex-vessel price provided by the Embassy of Japan.

* Separate prices for Atlantic and Pacific squids are based on raw data used to develop the value for squid in "Fisheries of the United States, 1976." (Division of Data Management and Statistics, NMFS).

The list of prices may be expanded at a later date, if required, to include other species for which the total allowable level of foreign fishing might be determined in the future.

OTHER CHARGES

Foreign nations will be required to reimburse the United States for the total costs of placing observers aboard foreign fishing vessels. All costs associated with the program, including salary, per diem, and transportation of observers, as well as overhead costs, will be included in the determination of this fee. Payment of observer costs will be made upon billing at the end of the calendar year. Procedures and charges for the observers are published in the *FEDERAL REGISTER*, Vol. 42, No. 64, April 4, 1977.

PAYMENT OF FEES AND REFUNDS

Payment of all fees shall be in accordance with the prescribed guidelines as contained herein. Bills for Collection covering fee payments due will be sent by the National Oceanic and Atmospheric Administration to the Department of State, Office of the Deputy Assistant Secretary for Oceans and Fisheries Affairs, for forwarding to the foreign nations after approval of applications and before permits have been issued. Payments should be made as follows:

1. All payments received must be drawn in U.S. dollars, payable at a bank in the United States and be made payable to the U.S. Department of Commerce, NOAA. In addition, payments

from private firms or individuals should be in the form of a certified check.

2. Remittances should be sent to the Director, National Marine Fisheries Service, Attention: F3, Washington, D.C. 20235. To facilitate processing, each remittance should be accompanied by a copy of the applicable Bill for Collection for identification purposes.

Refunds of poundage fees will be made only upon written application to the Director, National Marine Fisheries Service, Attention: F3, Washington, D.C. 20235. Refunds should be requested as follows:

1. The amount involved must be more than \$100.00.
2. The requester must provide an explanation of the difference between the amount of actual catch and the amount of catch authorized, and indicate the reasons for the difference.

NOTE—The National Marine Fisheries Service has determined that this document does not contain a major action requiring preparation of an Economic Impact Analysis under E.O. 11821 and 11949.

Issued at Washington, D.C., and dated October 4, 1977.

JACK W. GEHRINGER,
Deputy Director, National
Marine Fisheries Service.

[FR Doc 77 29534 Filed 10 6 77;8:45 am]

[3510-12]

SOUTH ATLANTIC FISHERY MANAGEMENT COUNCIL Cancellation of Meeting

The meeting of the South Atlantic Fishery Management Council on October 13-14, 1977, at Raleigh, N.C., as published in the FEDERAL REGISTER, Vol. 42, No. 185, page 48364, on Friday, September 23, 1977, has been cancelled. The next Council meeting is scheduled for November 15-17, 1977, at Kissemmee, Fla.

Dated: October 4, 1977.

JACK W. GEHRINGER,
Deputy Director, National
Marine Fisheries Service.

[FR Doc 77 29572 Filed 10 6 77;8:45 am]

[3510-12]

MID-ATLANTIC FISHERY MANAGEMENT COUNCIL

Extension of Council Meeting

Notice is hereby given of an extension of the joint meeting of the New England and Mid-Atlantic Fishery Management Councils scheduled for October 19-20, 1977, at the Northeast Fisheries Center, National Marine Fisheries Service, Woods Hole, Mass. The notice of the meeting was published in the FEDERAL REGISTER on September 20, 1977, Volume 42, No. 128.

The Mid-Atlantic Fishery Management Council will meet separately on October 21, 1977 from 8 a.m. to noon, at the same location.

Proposed agenda: Progress on Fishery Management Plans for Atlantic Mackerel and Squid.

Dated: October 3, 1977.

JACK W. GEHRINGER,
Deputy Director, National
Marine Fisheries Service.

[FR Doc 77-29157 Filed 10-6-77;8:45 am]

[3510-11]

United States Travel Service TRAVEL ADVISORY BOARD Notice of Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I (Supp. IV, 1974), notice is hereby given that the Travel Advisory Board of the U.S. Department of Commerce will meet on November 7, 1977, at 5:30 p.m., in Room 4830, of the Main Commerce Building, 14th Street and Constitution Avenue NW., Washington, D.C. 20230.

Established in July 1968, the Travel Advisory Board consists of senior representatives of 15 U.S. travel industry segments who are appointed by the Secretary of Commerce.

Members advise the Secretary of Commerce and Assistant Secretary of Commerce for Tourism on policies and programs designed to accomplish the purposes of the International Travel Act of 1961, as amended, and the Act of July 19, 1940, as amended. A detailed agenda for the meeting will be published in the FEDERAL REGISTER in advance of the meeting.

A limited number of seats will be available to observers from the public and the press. The public will be permitted to file written statements with the Committee before or after the meeting. To the extent time is available the presentation of oral statements will be allowed.

David Koch, Acting Director of Media Services Division, the United States Travel Service, Room 1860, U.S. Department of Commerce, Washington, D.C. 20230 (telephone 202-377-4613) will respond to public requests for information about the meeting.

FABIAN CHAVEZ, Jr.,
Assistant Secretary for Tourism,
U.S. Department of Commerce.

[FR Doc 77-29502 Filed 10-6-77;8:45 am]

[6330-01]

COMMISSION ON FINE ARTS MEETINGS

The Board of Architectural Consultants for Old Georgetown will meet in open session on the following dates to discuss various projects affecting the appearance of Georgetown Historic District in Washington, D.C. These projects are submitted by the D.C. Government under Pub. L. 808:

October 19, 1977.
November 2, 1977.
November 16, 1977.
November 30, 1977.
December 14, 1977.
December 28, 1977.

The meetings will be held at the Commission of Fine Arts Offices, 708 Jackson Place NW., Washington, D.C., at 9:30 a.m.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address.

Dated in Washington, D.C. October 3, 1977.

CHARLES H. ATHERTON,
Secretary.

[FR Doc 77 29158 Filed 10 6 77;8:45 am]

[6820-33]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Deletion

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed deletion from procurement list.

SUMMARY: The Committee has received a proposal to delete from Procurement List 1977 a service provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 11, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703 537-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77.

It is proposed to delete the following service from Procurement List 1977, November 18, 1976 (41 FR 50975):

SIC 0782

Grounds Maintenance, Edwards Air Force Base, Calif. For the following locations: Chapel Building No. 6447 and Housing Area 'D'.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc 77 29516 Filed 10-6-77;8:45 am]

[6820-33]

PROCUREMENT LIST 1977

Proposed Additions

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed additions to procurement list.

SUMMARY: The Committee has received proposals to add to Procurement List 1977 commodities to be produced by and a service to be provided by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 11, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street N., Suite 610, Arlington, Va. 22201.

FOR FURTHER INFORMATION CONTACT:

C.W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. If the Committee approves the proposed additions, all entities of the Federal Government will be required to procure the commodities and service listed below from workshops for the blind or other severely handicapped. It is proposed to add the following commodities and service to Procurement List 1977, November 18, 1976 (41 FR 50975):

Class 8354

Flag, Signal, Vehicle Danger Red, 8345-00-260-2724.

Class 8465

Bag, Sleeping, Firefighter's, 8465-00-081-0798. Change the portion the workshop would provide from the requirements for GSA Regions 9 and 10 to an annual quantity of 100,000 each.

Class 9905

Sign, Plastic (U.S. Property), 9905 00 559-2971.

SIC 0782

Grounds Maintenance, Edwards Air Force Base, California. For the following buildings: 1200, 1220, 1400, 2650, 2660, 2800, 3940, and P-1.

E. R. ALLEY, Jr.,
Acting Executive Director.

[FR Doc 77-29517 Filed 10-6-77;8:45 am]

[3125-01]

COUNCIL ON ENVIRONMENTAL QUALITY

ENVIRONMENTAL IMPACT STATEMENTS List of Statements Received

The following is a list of environmental impact statements received by the Council on Environmental Quality from September 26, to Sept. 30, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (November 21, 1977) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environ-

mental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U. S. Department of Agriculture, Room 307A, Washington, D.C. 20250, (202-447-6827).

FOREST SERVICE

Draft

Herbicide Use, USDA Eastern Region, September 27: This statement outlines guidelines and policies affecting the use of herbicides on National Forest System lands in the Eastern Region of the Forest Service, USDA. This includes National Forest System land located in the States of Illinois, Indiana, Maine, Michigan, Minnesota, Missouri, New Hampshire, New York, Ohio, Pennsylvania, Vermont, West Virginia, and Wisconsin. It is estimated that approximately 45,000 acres of the 11,250,000 acres of National Forest land in the Eastern Region will be involved annually in chemical vegetation control activities. (ELR Order No. 71200.)

Rogue River National Forest Timber plan, Oregon, California, September 26: The proposed action is to implement a revised 10-year Timber Management Plan for the Rogue River National Forest. The existing Plan was approved in 1962 and has since become obsolete. This statement deals with the intensity and type of timber management on those lands which have been classified as commercial forest land available for timber production by the Land Management Planning process. The Rogue River National Forest includes portions of Douglas, Jackson, Josephine, and Klamath Counties in Oregon and Siskiyou County in California. (ELR Order No. 71194.)

RURAL ELECTRIFICATION ADMINISTRATION

Draft

Antelope Valley Station, 455 MW; Mercer County, N. Dak., September 28: Proposed is the use of REA guaranteed loan funds to finance the proposed new Antelope Valley Station (two 455 MW (nameplate) rating lignite-fired steam electric generating units). Makeup water will be pumped through a pipeline from Lake Sakakawea. The primary fuel is planned to come from nearby new lignite mines. Two new 26 mile, 345 kV transmission lines will be constructed to interconnect the proposed plant with the substation at Basin's Leland Olds Plant in Oliver County, North Dakota, and will cross Mercer County. Adverse effects include release of oxides of nitrogen and sulphur, as well as small quantities of particulate matter. (ELR Order No. 71205.)

SOIL CONSERVATION SERVICE

Draft

Black Creek Watershed, Holmes County, Miss., September 26: This statement proposes a project for watershed protection, flood prevention, and drainage in the southwestern part of the delta area of Holmes County, Mississippi. The planned works of improvement include conservation land treatment, 37.4 miles of channel work with appurtenant structures for grade control (pipe overfall), four water level control structures (to preserve 86 acres of wetlands), and four grade stabilization structures. Floodwater and drainage damages will be reduced on 17,750 acres of agricultural lands that have severe water problems. Agricultural production will be lost or decreased on 570 acres of land. (ELR Order No. 71196.)

Swift Creek Watershed, Pitt, Beaufort, Craven Counties, N.C., September 26: Proposed is a watershed project for Pitt, Beaufort, and Craven Counties, North Carolina. The project proposes land treatment over the watershed supplemented by 185 miles of

stream channel modifications, 42 sediment traps, and 25 fish holes. All work is to be done on man-made or previously modified channels. Adverse effects include the displacement of wildlife on laterals and temporary damage to fishery resources. Approximately 335 acres of bottom land forest and 30 percent of loafing and roosting areas will be lost. (ELR Order No. 71191.)

Robinson Creek Watershed, Lincoln County, Okla., September 27: Proposed is the Robinson Creek Watershed Plan, which provides for watershed protection, flood prevention, municipal water supply, and recreation. The planned works of improvement include conservation land treatment supplemented by 10 floodwater retarding structures and one multi-purpose structure designed to retard flood flows, and provide a recreation water supply with attendant recreational facilities. Adverse effects include increase in noise, dust, erosion, and stream turbidity during the construction process. About 450 acres of land devoted to sediment pools, dams, and spillways will be removed from agricultural production. (ELR Order 71199.)

Final

Dynne Creek Watershed Plan, Cleburne County, Ala., September 27: Proposed is the Dynne Creek Watershed Plan for watershed protection, flood prevention, municipal and industrial (M&I) water supply, and water-based recreation. Conservation land treatment practices are planned to provide watershed protection; two single-purpose structures and one multipurpose structure will provide M&I and recreational water storage. Basic recreational facilities are also planned at structure No. 4. Loss of 161 acres of wildlife habitat and the clearing of 47 acres of flood plain forest land will result from project installation. Comments made by: USDA, COE, HEW, HUD, DOI, EPA and State and local agencies. (ELR Order No. 71201.)

DEPARTMENT OF DEFENSE ARMY

Contact: George A. Cunney, Jr., Acting Chief, Environmental Office, Office of the Assistant Chief of Engineers, Department of the Army, Room 1E676, Pentagon, Washington, D.C. 20310. (202 694-4269).

Final

Chemical Agent Identification Set Disposal, Colorado, September 26: Proposed is the disposal of Chemical Agent Identification sets. The plan entails movement of the 21,500 obsolete sets out of 30 storage sites to Rocky Mountain Arsenal, Colorado, for disposal. The two phases are 1) movement of 1,500 sets from 18 sites to support the pilot test phase and, 2) movement of the remaining 20,000 sets from 16 storage sites. No adverse impacts are anticipated. Comments made by: EPA and State and local agencies. (ELR Order No. 71190.)

Supplement

Chemical Agent Disposal, Rocky Mountain (S-1) Colorado, September 29: The final statement for the disposal of chemical agent identification sets addressed the movement of about 1500 sets from military storage sites to Rocky Mountain Arsenal, Colorado. Included in the movement were 51 K951 852 sets stored at the Marine Corps Base, Quantico. The balance of 20,000 sets were to be moved to Rock Mountain Arsenal for disposal during a second movement phase. Included in the latter were 256 sets at the St. Jullen's Creek Annex, Yorktown, Va. The purpose of this addendum is to include the additional 256 sets at the Marine Corps Base, Quantico, in the first movement phase. (ELR Order No. 71219.)

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Ave. SW., Washington, D.C. 20314 (202-693-6795).

Draft

Bolles Harbor, Michigan, Maintenance Operations, Michigan, September 29: The proposed Federal action includes maintenance dredging of the Bolles Harbor navigation channels and maintaining the Federal structures, including revetments and jetty. Maintenance dredging would be required approximately every 2 to 3 years to insure continuance of adequate depths for recreational and commercial fishing vessels using the La Plaisance Creek. Materials dredged from the unpolluted portion of the navigation channel will be placed at the 2600' x 2600' open water disposal site located in Lake Erie, approximately 4 1/4 miles from the entrance light at the creek mouth. No long term effects are expected. (Detroit District.) (ELR Order No. 71211.)

West Harbor Recreational Navigation Improvement, Ohio, September 29: The proposed plan entails recreational navigation improvements for small craft at West Harbor, Ohio, consisting of breakwater construction and channel dredging. Breakwater construction would occur in Lake Erie at the mouth of the natural channel entrance to the harbor. Dredging would be performed to provide a deepened channel for recreational craft extending from offshore in Lake Erie through the natural channel and into the harbor. Adverse effects include a temporary degradation of the aquatic environment due to construction and the loss of some benthic organisms. (Detroit District.) (ELR Order No. 71214.)

Sequin Bay Small Boat Basin, Permit, Washington, September 28: Proposed is the approval of a permit application by the Port of Port Angeles to dredge and fill an intertidal landsite at Pitship Point on the west shore of Sequin Bay, Washington, to develop a small boat haven with wet moorage for 535 boats, dry storage for 134 boats, and launching facilities. Adverse effects include construction-related pollution, the removal and partial destruction of existing bottom flora and fauna in 23.1 acres of intertidal and subtidal lands, potential degradation of project area water quality and possible decertification of nearby shellfish beds. (Seattle District.) (ELR Order No. 71204.)

Final

Twin Valley Lake—Wild Rice River (2), September 29: This Final EIS is an addendum to a Final EIS originally filed with CEQ in 1975, on the proposed Twin Valley Lake Project. At that time, however, several unresolved issues existed between the Corps of Engineers and the U.S. Fish and Wildlife Service (FWS), the U.S. Environmental Protection Agency (EPA), the Minnesota Department of Natural Resources (DNR) and the Minnesota Pollution Control Agency (MPCA). This Final is intended to inform the public of the issues involved, coordination which has occurred, and agreements which have been reached during the period February 1975 to May 1976. The text of the original Final EIS has not been changed. (ELR order No. 71215.)

Portsmouth Refinery and Terminal, Virginia, September 30: The Hampton Roads Energy Company proposes to construct a refinery and marine terminal for the handling and production of petroleum products. The complex would produce daily a combined total of more than 7 million gallons of gasoline, jet fuel, fuel oil, butane, propane and other related products. Adverse impacts in-

clude loss of vegetation, animal habitat, trees, cropland on the site and possible indirect impacts on small nearby creeks. A total of 470 acres will be acquired for the project. (Norfolk District.) Comments made by: DOT, DOC, EPA, DOI, USDA, HEW, AHP, State and local agencies, and concerned groups and individuals. (ELR order No. 71220.)

ENERGY RESEARCH AND DEVELOPMENT ADMIN.

Contact: Mr. W. Herbert Pennington, Office of NEPA Coordination, Energy Research and Development Administration, E-201, ERDA, Washington, D.C. 20545 (301-353-4241).

Draft

Coal R.D. & D. Program, September 29: This statement assesses the potential; generic impacts of the construction and operation of a U.S. based coal conversion and utilization industry based on technologies under development in ERDA's Coal Research, Development, and Demonstration Program. The furtherance of the technologies within the Program would encourage the development of a coal conversion and combustion industry in the future. This EIS examines the impact of the production, and conversion (to liquid or gaseous fuels) or combustion of between 1.6 and 5.9 billion tons of coal at some future time. (ELR order No. 71212.)

Rocky Flats Plant Site, Jefferson County, Colo., September 28: This statement assesses the potential cumulative environmental impacts associated with current site activities and plant operation at Rocky Mountain Plant Site in Golden, Colo. Activities at the plant include plutonium processing and waste treatment, fabrication of uranium, beryllium, and stainless steel components for weapons, and other production-related research. The statement addresses public concern which has resulted from past releases of plutonium to the environment and the potential adverse effects from any possible future releases. (ELR order No. 71193.)

Final

Nevada Test Site Testing Activities, Nye County, Nev., September 29: This statement considers underground nuclear detonation with yields of one megaton or less, along with the preparations necessary for such detonations at the Nevada Test Site (NTS). The testing activities considered also include other continuing and intermittent activities, both nuclear and nonnuclear, which can best be conducted in the remote and controlled area of the NTS. Provision is also made for the study of geologic formations at the NTS for possible use in the ERDA program for management of commercially generated high-level radioactive wastes. Comments made by: USDA, HEW, DOI, STAT, DOT, AHP, EPA, NRC, and State agencies. (ELR order No. 71206.)

Portsmouth Gaseous Diffusion Plant Expansion, Pike County, Ohio, September 29: Proposed is the design and construction of an add-on gaseous diffusion plant at the Portsmouth Gaseous Diffusion Plant in Piquette, Ohio. Construction and operation of the 8.75 million separate work unit/year plant will be on land already owned by ERDA. The major impact associated with operation of the expansion facilities will be related to the offsite production of 3900 megawatts of electrical power including reserves required to support the add-on plant. Offsite land use will amount to about 25,000 acres over a 30-year period. Other adverse effects include the use of about 19.8 Mgd in water for cooling purposes. Comments made by: HEW, DOC, USDA, DOT, AHP, TVA, NRC, EPA, State and local agencies, and concerned groups and individuals. (ELR order No. 71207.)

Intermediate Level Radioactive Waste Management—Oak Ridge, Roane County, Tenn., September 30: The proposed action is the selection of a preferred technique for the management of intermediate level radioactive liquid waste (ILW) and the construction and operation of a facility to implement the technique at the Oak Ridge National Laboratory (ORNL) in Roane County, Tenn. Current ERDA activities at ORNL annually generate about 2 million gallons of ILW which is evaporated to reduce the volume. Three alternative management techniques are assessed: hydrofracture, shale-cement fixation, and glass fixation. The overall impact of any of the techniques would be expected to be beneficial, since each would remove large volumes of radioactive waste from existing storage facilities. Comments made by: USDA, DOC, HEW, DOI, DLAB, DOT, EPA, NSF, NRC, TVA, State and local agencies, and concerned groups and individuals. (ELR order No. 71221.)

Final

Safety Research Experiment Facilities, Idaho Laboratory, Idaho, September 30: This statement was prepared in support of ERDA's proposal for legislative authorization and appropriations for the Safety Research Experiment Facilities (SAREF) Project. The purpose of the proposed project is to modify some existing facilities and provide a new test facility at the Idaho National Engineering Laboratory for conducting fast breeder reactor (FBR) safety experiments. The proposed facilities provide for the in-reactor testing of large bundles of prototypical FBR fuel elements under a wide variety of conditions. Comments made by: USDA, HEW, DOI, DOT, AHP, EPA, FPC, NSF, NRC, State agencies, and one concerned individual. (ELR No. 71228.)

High Performance Fuel Laboratory, Hanford Reservation, Benton County, Washington, September 30: Proposed are the design and construction of a High Performance Fuel Laboratory (HPFL) at the ERDA Hanford Reservation in Richland, Wash. The HPFL will provide a pilot scale facility to support the liquid metal fast breeder reactor program. It will be used to develop and demonstrate safe and economic manufacturing processes for fuels comprising oxides of plutonium and uranium. The construction and operation of the HPFL facility will result in the irretrievable commitment of only moderate amounts of materials and supplies. Comments made by: USDA, HEW, DOI, AHP, EPA, State agencies, and concerned groups and individuals. (ELR No. 71277.)

Savannah River Plant, Waste Management, Aiken and Barnwell Counties, S.C., September 30: This statement assesses the environmental impact of continuing the ERDA's waste management operations at the Savannah River Plant (SRP), and approximately 300 sq. mile site, in South Carolina. Current operations consist of the treatment and storage or disposal of both radioactive and nonradioactive solid, liquid, gaseous and thermal effluents from nuclear reactors operated for the production of materials used in the U.S. defense effort, fuel reprocessing plants, and support facilities. Radiation exposure from potential accident situations is evaluated. Comments made by: USDA, DOC, HEW, DOI, EPA, FPC, NRC, State and local agencies, and concerned groups and individuals. (ELR No. 71225.)

Idaho National Engineering Laboratory, Waste Management, Idaho, September 30: This statement presents a summary description of the waste management operation at the Idaho National Engineering Laboratory, (INEL) and proposes the continuance of these operations. Described in the statement are (1) a description of the separate

operational and support areas; (2) information related to each waste system; (3) an analysis of the impact upon the environment from the radiological and non-radiological releases; and (4) the alternatives available to the ongoing INEL waste management program. Approximately 210 acres of desert land are committed to waste storage activities. Only minor effects to terrestrial or aquatic life have been observed. Comments made by: USDA, DOC, HEW, DOI, DOT, EPA, NSF, NRC, State agencies, and concerned groups and individuals. (ELR No. 71226.)

ENVIRONMENTAL PROTECTION AGENCY

Contact: Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Final

Jacksonville Wastewater Treatment System, Jackson County, Ore., September 29: Proposed is the construction of a wastewater disposal system for the City of Jacksonville, Jackson County, Ore. Various alternatives for the 1,300-acre city include a hookup by Jacksonville to the Bear Creek Valley Sanitary Authority, local treatment and use of reclaimed water by the U.S. Forest Service, and aerated lagoons with adjacent agricultural use. Adverse effects will vary according to the alternative selected. (Region X.) Comments made by: HEW, AHP, DOI, USDA, EPA, COE, State and local agencies, and concerned groups and individuals. (ELR order No. 71203.)

FEDERAL ENERGY ADMINISTRATION

Contact: Mr. Robert Stern, Director, Office of Environmental Programs, Federal Energy Administration, New Post Office Building, Room 7119, 12th and Pennsylvania Avenue NW, Washington, D.C. 20461 (202-566-9760).

Final

Naphtha Allocation-SNG Production, Indiana Gas, Marion County, Ind., September 30: Proposed is an allocation of naphtha feedstock of approximately 3.8 million barrels per year to the Indiana Gas Company for operation of its proposed synthetic natural gas (SNG) plant in Pike Township, a rural suburb of Indianapolis, Indiana. The allocation would enable construction of the plant with a completion date projected for late 1979. With an expected SNG output of 20,820,000 Mcf per year this plant will provide approximately 20% of the total gas supply available to Indiana Gas when in operation. Twenty-five acres of open fields and woods will be committed to industrial use. Comments made by: EPA, USDA, HEW, DOI, COE, FPC, and concerned groups. (ELR order No. 71222.)

Kleer Mine, SPR, Van Zandt County, Tex., September 30: This statement involves the implementation of the Strategic Petroleum Reserve, Title I, Part B, of the Energy Policy and Conservation Act of 1975 (Pub. L. 94-163). The Reserve will store 150 million barrels of oil by December of 1978 in the Early Storage Reserve (ESR), and 500 million barrels by 1982 under the entire program. The candidate site discussed would be part of the ESR and would involve storage of 30 million barrels of oil in a conventional salt mine located in Grand Saline, Tex. The storage of oil at Kleer Mine would be implemented at an existing underground salt mine presently owned and operated by the Morton Salt Co. Comments made by: AHP, USDA, DOD, DOT, TREAS, EPA, NRC, and State agencies and concerned groups. (ELR order No. 71224.)

FEDERAL POWER COMMISSION

Contact: Dr. Jack M. Heinemann, advisor on Environmental Quality, Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 (202-275-4791).

Final

Santee-Cooper Project No. 199, S.C., several counties, South Carolina, September 26: Proposed is the granting of a new license for the continued operation of South Carolina Public Service Authority's constructed Santee-Cooper Project No. 199, located on the Santee and Cooper Rivers in Berkeley, Calhoun, Clarendon, Orangeburg, and Sumter Counties, S.C. The project consists of 97,274 acre Lake Marion impounded by Santee Dam on the Santee River, a 7.5 mile long Diverston Canal connecting Lake Marion to Lake Moultrie, and adjacent 55,394 acre reservoir impounded by Pinopolis Dam and several dikes, a 4-mile long Zabrabe Canal discharging into the Cooper River, and two hydroelectric generating facilities with a total capacity of 134,535 kW. Comments made by: DOI, HEW, DOC, COE, USDA, EPA, and State agencies. (ELR order No. 71192.)

DEPARTMENT OF HUD

Contact: Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street NW., Washington, D.C. 20410 (202-755-6308).

Draft

I-95 Route 40 Growth Corridor—New Castle County, Del., September 30: The proposed action is for the Department of Housing and Urban Development to accept the New Castle County 1985 General Comprehensive Plan and to accept future HUD project applications within the I-95/Route 40 growth Corridor for Processing without applying the automatic 500-unit EIS threshold if they are in compliance with the Plan and this EIS. The 18.5 mile "growth Corridor" would provide living accommodations for approximately 40,000 people by the year 1995. Adverse effects include the loss of approximately 1,500 acres of forested land and 5,000 acres of prime and productive farmland, and increased air and water pollution. (ELR No. 71229.)

Piney Ridge Village, Carroll County, Md., September 29: This statement contains a proposal for mortgage insurance for the Piney Ridge Village in Carroll County, Md. The site of the proposed Piney Ridge Village Planned Unit Development is 450 acres comprising most of the southwestern quadrant of the major intersection of State Route 26 and Route 32. Development will include construction of 1,665 dwelling units, and community centers. Land has been reserved for development of public open space and school areas. Adverse effects include increases in air pollution and community noise levels, and increased storm water runoff. (ELR order No. 71218.)

Final

The Village Development, Butte County, Calif., September 29: The statement proposes the development of "The Village", a 237-acre mixed use housing project in Chico, Calif. The development will include dwelling units and 47.8 acres of commercial development, and is located south of Little Chico Creek and East of Highway 99E. Adverse impacts will be land use transition from crop production to an urbanized milieu, loss of open space and watershed, degradation of air quality, and loss of wildlife. Comments made by: EPA, AHP, USDA, HEW, and FPC. (ELR order No. 71216.)

Merced, Atwater, and Castle AFB-Assessment, Merced County, Calif., September 29: Proposed is the application of HUD noise standards to the Merced, Atwater, and Castle Air Force Base environs in Merced County, Calif. This action involves the consideration of major areas acceptable for HUD programs, including mortgage insurance. Potential adverse impacts are the loss of open space and agricultural land and the potential under-use of infrastructure. Comments made by: DOT, COE, VA, USDA, DOI, FPC, DOD, HEW, AHP, and State and local agencies. (ELR order No. 71217.)

Mission Bend Subdivision, Harris and Fort Bend Counties, Tex., September 29: Proposed is the acceptance of an application by Fox & Jacobs, Inc. for approval of the Mission Bend Subdivision for home mortgage insurance purposes. The development plan includes the construction of 588 single family units on 134 acres. The average FHA insured house proposed for Mission Bend will have approximately 1,700 sq. ft. and will contain, on the average, 3.5 bedrooms. Adverse impacts include disruption or destruction of plant and animal communities on the site, conversion of agricultural land to residential use, and increases in air and noise pollution. Comments made by: AHP, DOT, EPA, COE, USDA, DOI, State agencies, and interest groups. (ELR order No. 71198.)

Hunters Glen Subdivision, Fort Bend County, Tex., September 29: Proposed is the development of Hunters Glen Subdivision, Missouri City, Tex., under the HUD/FHA mortgage program. The 493-acre subdivision would include 3,038 single- and multi-family units, a 10-acre site for a sewage treatment plant, a large drainage easement, and an area designated for possible commercial use. Adverse effects include loss of agricultural and grazing land and increased demand for fossil fuels through heavy dependence on the automobile for transportation. Comments made by: EPA, DOI, USDA, COE, AHP, and State and local agencies. (ELR order No. 71209.)

Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Final

Pine Bluff, Ark., West Side Sewer, Jefferson County, Ark., September 27: Proposed is the installation of a sanitary sewer system to serve several hundred acres of the southwest section of the city of Pine Bluff in Enumeration Districts 49, 50, 128, 129, and 130. Adverse effects resulting from project implementation include clearing of woodlands, erosion and siltation, cuts through street paving, traffic disruption, and economic impact on business. Comments made by: (ELR Order No. 71202.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street SW., Washington, D.C. 20590 (202-426-4357).

FEDERAL HIGHWAY ADMINISTRATION

Draft

Southwest Loop Thoroughfare, N.C. 18 to U.S. 321, Caldwell County, N.C., September 27: The proposed project consists of constructing approximately 4.5 miles of multi-lane highway from N.C. 18 Business to U.S. 321 in the city of Lenoir, Caldwell County.

Several combinations of cross-section types are being considered for various segments of this project including five lane, four lane divided by 1 16-foot median, and four lane divided by a 36 to 44-foot median. Adverse effects include the destruction of approximately 125 to 150 acres of wildlife habitat, the possible rechannelization of a portion of a stream, and the relocation of between 31 and 43 families and between 2 and 4 businesses. (Region 4.) (ELR Order No. 71197.)

Ohio State Route 2 Relocation, South Huron, Erie County, Ohio, September 29: The proposed action is the improvement and relocation of a 6.06 mile length of State Route 2 in Erie County, Ohio. The proposed 4-lane, limited access highway will bypass through traffic around the City of Huron. Beginning on previously improved S.R. 2 east of Rye Beach Road Interchange, the proposed highway will extend south then east on an average right of way width of 300 feet and connect with improved S.R. 2 east of S.R. 61. Adverse effects include the removal of 185 acres of cropland from production, and a reduction in wildlife habitat due to the commitment of 61 acres of woods and brush and 15.6 acres of Lake Erie's estuarine marsh to the highway. (Region 5.) (ELR Order No. 71213.)

Burlington Southern Connector—1-189 to Battery Street, Chittenden County, Vt., September 29: Proposed is the construction of approximately 2.5 miles of highway known as the Southern Connector, in the City of Burlington, Vt., commencing at the interchange of 1-189 with Shelburne Street (U.S. 7) and extending westerly and northerly to the intersection of Battery and King Streets in the Burlington Central Business District. The proposed highway is to have a 50-foot, curb-to-curb, four-lane travel way. Sidewalks will be provided through sections of existing location. Right-of-way acquisition will vary depending on the alternate chosen; both alternates will displace 15 families. (Region 1.) (ELR order No. 71210.)

Final

Nebraska Hwy 133 (90th Street), Omaha, Douglas County, Nebr., September 26: The project consists of the improvement of Nebraska Highway 133 (90th Street) from Burt Street to Maple, a distance of 1.3 miles, and a second segment from Maple to the junction of N-133 and N-38, a distance of 1.9 miles. The project will displace three residences, and will require the acquisition of 6 acres of land. Comments made by: DOT, DOD, COE, USDA, EPA, DOI, State and local agencies, and interest groups. (ELR order No. 71195.)

SR 82 and SR 97 Connection, Union Gap, Yakima County, Wash., September 29: The proposed project consists of a 1.9 mile connection via a loop type interchange between existing SR 82 and SR 97 south of the City of Union Gap in central Washington State. The improvement would also add an additional two lanes to a short segment of rural two lane roadway which joins a four lane segment. The proposed roadway would consist of a four lane asphalt concrete roadway with 10' asphalt concrete shoulder and a 16' median with median barrier. Adverse effects include removal of 31 acres of wildlife habitat and displacement of one family residence. Comments made by: COE, EPA, DOI, USDA, 2 DOC, 2 HUD, and State and local agencies. (ELR order No. 71208.)

U.S. COAST GUARD

Draft

Station Creek Bridge—St. Phillips Island (2), Beaufort County, S.C., September 30: This revised draft proposes the issuance of a

permit approving the location and plans for a fixed bridge over Station Creek, mile 2.6, between St. Helena and St. Phillips Islands near Beaufort, S.C. Casually related to that permit is the development of St. Phillips Island for residential purposes. Implementation of the project will alter a presently undeveloped barrier island for residential use, increase the population of Beaufort County by about 7 percent, and alter 5.7 acres of marsh and 460 acres of forest. (ELR order No. 71223.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc. 77-29510 Filed 10-6-77; 8:45 am]

[3810-70]

DEPARTMENT OF DEFENSE

Office of the Secretary

DEFENSE INTELLIGENCE SCHOOL BOARD OF VISITORS

Notice of Partially Closed Meeting

Pursuant to the provisions of Sub-Section (d) Section 10 of Pub. L. 92-463, as amended by Section 5 of Pub. L. 94-409, notice is hereby given that a partially closed meeting of the Defense Intelligence School Board of Visitors will be held on-site at the School in Washington, D.C., on 9-11 November 1977.

Morning sessions on 9, 10, and 11 November 1977 will be devoted to the discussion of classified information as defined in Section 552 b(7)(C), Title 5 of the U.S. Code and will therefore be closed to the public. Subject matter will be concerned with specialized instructional requirements and related curriculum content.

MAURICE W. ROCHE,
Director, Correspondence and
Directives OASD (Comptrol-
ler).

OCTOBER 4, 1977.

[FR Doc. 77-29515 Filed 10-6-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 802-8; OPP-42043B]

MINNESOTA

Extension of Contingency Approval of State Plan for Certification of Pesticide Applicators

In accordance with the provisions of Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and 40 CFR 171, the Governor of the State of Minnesota submitted a State Plan for the Certification of Commercial and Private Applicators of Restricted Use Pesticides to the Environmental Protection Agency (EPA) for approval on a contingency basis. Contingent approval was requested pending promulgation of implementing regulations. On May 4, 1977, the Regional Administrator, EPA, Region V, approved the Plan on a contingency basis. Con-

tingent approval was granted until October 21, 1977. Notice of the approval was published in the FEDERAL REGISTER on May 23, 1977 (42 FR 26241).

The Minnesota Pesticide Control Law was passed by the Minnesota Legislature on March 19, 1976. Implementing regulations are expected to be completed shortly as the Department of Agriculture proposes to hold public hearings during October or early November. As a result, the State of Minnesota has requested an extension of the Minnesota contingency approval pending final implementation of regulations.

The Agency finds that there is good cause for approving the request and as such has granted Minnesota an extension, effective through December 31, 1977.

Dated: September 28, 1977.

GEORGE R. ALEXANDER, JR.,
Regional Administrator, Region V.

[FR Doc. 77-29583 Filed 10-6-77; 8:45 am]

[6560-01]

[FRL 802-7; OPP-30138]

PESTICIDE PRODUCTS CONTAINING NEW ACTIVE INGREDIENTS

Receipt of Applications to Register

Applications have been submitted to the Environmental Protection Agency (EPA) to register pesticide products containing new active ingredients which have not been included in any previously registered pesticide products. Notice of receipt of these applications is made in accordance with section 3(c)(4) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) (40 CFR 162.6 (b)(6)) and does not indicate a decision by the Agency on the applications.

Any Federal Agency or other interested persons are invited to submit written comments on any applications to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must be received on or before November 7, 1977, and should bear a notation indicating the EPA File Symbol number of the application to which the comments pertain. Comments received within the specified time period will be considered before a final decision is made with respect to the pending applications. Comments received after the specified time period will be considered only to the extent possible without delaying processing of the application. Notice of approval or denial of the applications to register pesticide products listed will be announced in the FEDERAL REGISTER. The labels furnished by each applicant as well as all written comments filed will be available for public inspection in the office of the Federal

Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 3, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

APPLICATIONS RECEIVED

EPA File Symbol 3125-GRO. Chemagro Agricultural Division, Mobay Chemical Corp., Box 4913, Kansas City, Mo. 64120. BAYLETON TECHNICAL. Active Ingredients: 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone 92%. Application proposes that this product be classified for general use as a fungicide in the formulation of economic poison. PM21 (202-426-2454).

EPA File Symbol 3125-GEN. Chemagro Agricultural Division, Mobay Chemical Corp. BAYLETON 50% WETTABLE POWDER. Active Ingredients: 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone 50%. Application proposes that this product be classified for general use as a fungicide for control of azalea petal blight. PN (202-426-2454).

EPA File Symbol 3125-GRIL Chemagro Agricultural Division, Mobay Chemical Corp. BAYLETON 25% WETTABLE POWDER. Active Ingredients: 1-(4-chlorophenoxy)-3,3-dimethyl-1-(1H-1,2,4-triazol-1-yl)-2-butanone 25%. Application proposes that this product be classified for general use as a fungicide for control of azalea petal blight. PM21 (202-426-2454).

[FR Doc. 77-29584 Filed 10-6-77; 8:45 am]

[6560-01]

[FRL 801-6; OPP-30000 16A]

PESTICIDE PROGRAMS

Rebuttable Presumption Against Registration and Continued Registration of Pesticide Products Containing Dimethoate; Correction

In FR Doc. 77-26195 appearing at page 45806 in the issue of September 12, 1977, the first sentence of the first paragraph, first column, on page 45812 is corrected to read "The pathological evaluation of this study was done at Experimental Pathology Laboratories."

Dated: October 3, 1977.

JAMES M. CONLON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 77-29585 Filed 10-6-77; 8:45 am]

[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PRIVATE TITLE VII LITIGATION

Impact of Commission's New Investigative Procedures

Notice is hereby given that the decision of the Equal Employment Opportunity Commission ordinarily to limit investigations of charges of employment discrimination to allegations of violations which directly affect the charging party (see Statement of Eleanor Holmes Nor-

ton, Chair, EEOC, 42 FR 42034) is based on the necessity of allocating limited Commission resources. Accordingly, the fact of a narrow commission investigation does not reflect the scope of the Commission investigation which might reasonably have grown out of a charge. Therefore the decision to limit investigations is not intended to, and should not, affect the charging party's right to seek relief in a private suit for all discriminatory practices like or related to those alleged in the charge which might have been uncovered if the Commission had sufficient resources to investigate all charges more extensively. See *McBride v. Delta Airlines*, 551 F.2d 113 (6th Cir. 1977).

A Commission finding of no reasonable cause to believe that discrimination in violation of Title VII has occurred reflects a judgment that the evidence obtained in the Commission's investigation of the charge does not preponderate in favor of a conclusion that there is reasonable cause to believe that there is a violation of the Title. A Commission finding of no reasonable cause is based upon, and limited to, the evidence obtained in the Commission's investigation.

Dated: October 4, 1977.

ELEANOR HOLMES NORTON,
Chair, Equal Employment
Opportunity Commission.

[FR Doc. 77-29514 Filed 10-6-77; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Docket Nos. 21338-21341; File Nos. BPH-9471, etc.]

SPRINGFIELD ADVERTISING CO. ET AL. Designating Applications for Consolidated Hearing on Stated Issues

MEMORANDUM OPINION AND ORDER

Adopted: September 29, 1977.

Released: October 3, 1977.

In re applications of Springfield Advertising Co., Springfield, Ill., Docket No. 21338, File No. BPH-9471, Req: 98.7 MHz, Channel No. 254; 50 kW (H&V); 460 feet (H&V); Group 76 Inc., Springfield, Ill., Docket No. 21339, File No. BPH-9587, Req: 98.7 MHz, Channel No. 254; 50 kW (H&V); 470 feet (H&V); Midwest Broadcasting Co., Springfield, Ill., Docket No. 21340, File No. BPH-9632, Req: 98.7 MHz, Channel No. 254; 50 kW (H&V); 470 feet (H&V); Edward G. Pree, Marlin D. Coleman, James H. Donnewald, Cecil A. Partee, d.b.a. Lincoln-Douglas Communications, a Joint Venture, Springfield, Ill., Docket No. 21341, File No. BPH-9638, Req: 98.7 MHz, Channel No. 254; 50 kW (H&V); 440 feet (H&V); for construction permit.

1. The Commission, by the Chief, Broadcast Bureau, has before it for consideration the above-captioned applications of Springfield Advertising Co.; Group 76 Inc.; Midwest Broadcasting

Co.; and, Edward G. Pree, Marlin D. Coleman, James H. Donnewald, and Cecil A. Partee, d.b.a. Lincoln-Douglas Communications, a Joint Venture, all seeking a construction permit for a new FM broadcast station to serve Springfield, Ill. Because the proposals are mutually exclusive, they must be designated for hearing in a consolidated proceeding.

2. Accordingly, it is ordered, That, pursuant to Section 309(e) of the Communications Act of 1934, as amended, the above-captioned applications are designated for hearing in a consolidated proceeding, at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine which of the proposals would, on a comparative basis, best serve the public interest.

2. To determine, in light of the evidence adduced pursuant to the foregoing issues, which of the applications should be granted.

3. It is further ordered, That to avail themselves of the opportunity to be heard, the applicants herein, pursuant to § 1.221(c) of the Commission's rules, in person, or by attorney, shall, within twenty (20) days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date fixed for the hearing and present evidence on the issues specified in this Order.

4. It is further ordered, That the applicants herein shall, pursuant to section 311(a)(2) of the Communications Act of 1934, as amended, and § 1.594 of the Commission's rules, give notice of the hearing, either individually or, if feasible and consistent with the rules, jointly, within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 1.594(g) of the rules.

FEDERAL COMMUNICATIONS
COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc. 77-29532 Filed 10-6-77; 8:45 am]

[6740-02]

FEDERAL POWER COMMISSION

[Project No. 814, et al]

EXPIRATION OF LICENSES

So that the Congress may have an adequate opportunity to decide whether upon the expiration of the licenses, to take over the projects under Section 14 of the Federal Power Act, as amended (16 U.S.C. 807), and that the Licensees for the projects and others may have adequate notice and opportunity to file timely application for new licenses under Section 15 of the Act, as amended (16 U.S.C. 808), public notice is hereby given that the license issued for the designated and described projects on the appended tables will expire on the dates specified.

KENNETH F. PLUMB,
Secretary.

TABLE 1.—*Projects for which licenses will expire between Jan. 1, 1978 and Dec. 31, 1983, inclusive, which are subject to relicensing or takeover¹*

License expiration date	Licensee	Project No.	State	County or town	Stream	Installation (kilowatts)	Facilities under license	Period of license (years)
Aug. 31, 1979	Utah Power & Light Co.	811	Utah	Beaver	Beaver River and tributaries	3,000	Dam, reservoir, powerhouse	50
Dec. 11, 1979	Pacific Power & Light Co.	935	Washington	Clark and Cowlitz	Lewis River	135,000	Dam, reservoir and powerhouse	50
Apr. 10, 1980	Consumers Power Co.	785	Michigan	Allegan	Kalamazoo River	2,550	Dam, reservoir, powerhouse and transmission line	50
Apr. 21, 1980	Safe Harbor Water Power Corp.	1,025	Pennsylvania	York and Lancaster	Susquehanna River	196,000	Dam and powerhouse	50
May 22, 1980	The Montana Power Co.	5	Montana	Flathead and Lake Counties	Flathead Lake and River	108,000	Dam, reservoir, 2 penstocks, powerhouse, and transmission lines	50
June 30, 1980	Moan Lake Electric Association	190	Utah	Duchesne	Pole Creek Uinta River	1,200	Dam, canal, diversion dam, powerhouse and a transmission line	50
June 30, 1981	Appalachian Power Co.	739	Virginia	Pulaski County	New River	77,100	Dam, reservoir, powerhouse and transmission line	50
Sept. 30, 1982	Pacific Gas & Electric Co.	1,902	California	Butte and Plumas Counties	North Fork of Feather River	180,900	2 dams, 2 reservoirs, 2 powerhouses and transmission lines	50

¹ See 11 of the Federal Power Act (16 U.S.C. 807), reserves the right of the United States to take over the project works upon expiration of the license at a price to be determined under that section, but may be waived pursuant to sec. 100) to the act (16 U.S.C. 806(h)). Sec. 11 is not applicable to any project owned by a State or municipality, pursuant to the act of Aug. 15, 1933 (47 Stat. 587).

TABLE 2.—*Projects for which licenses will expire between Jan. 1, 1978 and Dec. 31, 1983, inclusive, which are not subject to takeover¹*

License expiration date	Licensee	Project No.	State	County or town	Stream	Installation (kilowatts)	Facilities under license	Period of license (years)
Aug. 9, 1978	Crisp County Power Commission	659	Georgia	Crisp, Dooley, Lee, Sumter, and Worth	Flint River	15,700	Dam, powerhouse, storage reservoir and transmission line	50
Nov. 6, 1978	Puerto Rico Water Resources Authority	663	Puerto Rico	Maunabo municipality	Maunabo River and tributaries	5,000	4 diversion dams, conduits, powerhouse and transmission line	50
Mar. 31, 1979	Citizens Utilities Co.	912	Idaho	Wallace, Shoshone County	Placer Creek	2,298	Dam, reservoir, and powerhouse	50
Nov. 26, 1979	Hyrum City Corp.	916	Utah	Cache	Blacksmith Fork	2,450	Dam, reservoir, powerhouse and transmission line	50
Jan. 20, 1980	Public Utility District No. 1 of Chelan County and Puget Sound Power & Light Co.	943	Washington	Chelan, Ephantine, Rock Island, Waterville and Wenatchee, Chelan, and Douglas Counties	Columbia River	212,000	Dam, reservoir, 2 powerhouses, and transmission lines	50
Apr. 10, 1980	City of Ottumwa	925	Iowa	Wapello County	Des Moines River	3,000	Dams and powerhouse	50
May 1, 1980	New England Fish Co.	1,299	Alaska	Kodiak Island	One Mile Creek	2,353	Diversion dam, pipeline, and 2 turbines	10
Aug. 24, 1983	City of Ephraim	1,212	Utah	Sagepate	City Creek	2,205	Pipeline and powerhouse	50
Dec. 8, 1983	City of Radford, Virginia	1,245	Virginia	Montgomery and Pulaski	Little River	2,800	Dam, reservoir and powerhouse	50

¹ See 11 of the Federal Power Act (16 U.S.C. 807) reserves the right of the United States to take over the project works upon expiration of the license at a price to be determined under that section, but may be waived pursuant to sec. 100) to the act (16 U.S.C. 806(h)). Sec. 11 is not applicable to any project owned by a State or municipality, pursuant to the act of Aug. 15, 1933 (47 Stat. 587).

[FR Doc. 77-29346 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. ER77-617]

APPALACHIAN POWER CO.
Changes in Rates and Charges

SEPTEMBER 30, 1977.

Take notice that Appalachian Power Co. (Applicant) on September 27, 1977, tendered for filing Modification No. 7 dated August 1, 1977, to the Interconnection Agreement dated February 28, 1949, under Appalachian and Duke Power Co., designated Appalachian's Rate Schedule FPC No. 18.

Appalachian indicates that section 1 of Modification No. 7 provides for an increase in the Demand Charge for Short Term Power from \$0.50 to \$0.60 per kilowatt per week and section 3 provides for an increase in the Demand Charge for

Limited Term Power from \$2.75 to \$3.25 per kilowatt per month. Appalachian also indicates that Section 2 of Modification No. 7 provides for an increase in the transmission charge for third party Short Term Power transactions from \$0.125 per kilowatt per week to \$0.15 per kilowatt per week and Section 4 provides for an increase in the transmission charge for third party Limited Term transactions from \$0.55 per kilowatt per month to \$0.65 per kilowatt per month.

Appalachian requests waiver of the Commission's notice requirements to allow for an effective date of August 1, 1977.

Appalachian states that since the use of Short Term and Limited Term Power cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the proposed changes. Appalachian indicates that the

Exhibit which is included with the filing of this modification demonstrates that the increase in revenues which would have resulted had the changes been in effect during the twelve-month period ending September 1977, would have been \$16,666.67 (i.e., from \$54,838.90 to \$71,505.57) for purchases.

According to Appalachian copies of the filing were served upon Duke Power Co., the Public Service Commission of West Virginia, the Virginia State Corporation Commission, the North Carolina Utilities Commission, and the South Carolina Public Service Commission.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice

and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29479 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. RI77-8]

BOB M. LLOYD

Order Granting Special Relief

SEPTEMBER 30, 1977.

Bob M. Lloyd (Lloyd), a small producer (Docket No. CS74-296, issued May 3, 1974) filed a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76) on November 8, 1976, for the sale of gas from the Hatch 1, 1-2, and 1-34 wells, Richland Field, Richland Parish, La., to Mid-Louisiana Gas Co. (Mid-Louisiana). This petition was noticed November 24, 1976, at 41 FR 51873. There were no interventions.

Lloyd is currently receiving 35 cents/Mcf and requested a rate of \$1.36/Mcf in its petition. However, its renegotiated contract allows any rate up to a maximum of 85 cents/Mcf. Lloyd did not propose any additional development, but claims that the present rate results in an economic loss to him. Consistent with prior Commission precedent, Staff prepared a cost study utilizing only "out-of-pocket" costs and determined (see Appendix A) that the new contract rate of 85 cents/Mcf is cost-justified. Staff estimates that there are 87,144 Mcf of gas reserves here involved with a delivery life estimated at 8.67 years.

Staff reviewed the applicant's 1975 and 1976 operating costs and found the 1976 costs to be suitable as a base year. The total production expense of \$62,148 was determined by applying a 5 percent inflation factor for the first five years to the 1976 base year cost of \$5,800.

Staff employed these costs along with the 70,805 Mcf of gas representing the applicant's 81.25 percent net working interest in reserves, based on Staff's reserves estimate, in a traditional cost study. The result of this study, attached as Appendix A, indicates that a total rate of 85 cents is cost supported.

We agree that this case is covered by the provisions of special relief in Section 2.56(b) of the Commission's General Policy and Interpretations (18 CFR 2.56(b)) and not by 18 CFR 2.76 because no new investment is proposed. Therefore, we will allow Lloyd to recover only his "out-of-pocket" expense, regulatory expense, and production tax minus liquid revenue credit.

After our review of the costs to be incurred and the reserves to be recovered,

we conclude that it is in the public interest to grant Lloyd a special relief rate of 85 cents per Mcf at 15.025 psia for the sale of the subject gas effective the date this order is issued.

The Commission orders: (A) Bob M. Lloyd's petition for special relief is granted to the extent of authorizing Lloyd to collect a total rate of 85 cents per Mcf at 15.025 psia for the sale of the subject gas effective on the date of issuance of this order.

(B) The special relief rate authorized in Ordering Paragraph (A) shall not become effective as provided therein unless Lloyd files within 30 days of the issuance of this order, a notice in Docket No. CS74-296, of Independent Producer Rate Change detailing the authorized special relief rate.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—Schedule 1 of 1: Bob M. Lloyd, docket No. RI77-8, Hatch Wells 1, 1-2 and 1-34, Richland Field, Richland Parish, La. (other southwest area)

[Out-of-pocket unit cost of gas]		
Line No.	Item	Amount
	(a)	(b)
1	Net working interest volumes:	
2	Gas—1,000 ft ³ at 15.025 lb/in ² a 1	70,805
3	Liquids—barrels	0
4	Cost of production:	
5	Production expense ¹	\$62,148
6	Regulatory expense ²	71
7	Total cost of production	62,219
8	Unit cost of gas:	
9	Cost of production (cents per 1,000 ft ³)	87.87
	Production tax ³	7.0
10	Total unit cost (cents per 1,000 ft ³)	94.87

187,144 1,000 ft³ times 0.8125 net working interest.
² Based on estimated 1977 production expense of \$5,800 escalated 5 pct/yr for the first 5 yr over a 8.67 yr production life.

³ Line 2 times 0.14 1,000 ft³ per opinion No. 749.
⁴ Line 7 divided by line 2.
⁵ Louisiana production tax at 7¢ 1,000 ft³.

[FR Doc. 77-29477 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. ER76-533]

CENTRAL VERMONT PUBLIC SERVICE CORP.

Order Approving Settlement Agreement

SEPTEMBER 30, 1977.

On March 1, 1976, Central Vermont Public Service Corp. submitted for filing in the above docket proposed changes in rates to nine non-affiliated and one affiliated customer providing for increased charges of \$926,668 for the 1976 test year. By order issued March 31, 1976, the Commission suspended Central Vermont's proposed increase for five months to become effective September 1, 1976, subject to refund.

Settlement negotiations between Central Vermont and its customers resulted

in a settlement agreement which was executed by all parties with the exception of Allied Power & Light Co. (Allied).¹ In substance, the settlement provided for (1) reduction in the demand ratchet from 90 percent to 85 percent of the maximum demand metered during the preceding winter months (November through March) and (2) a moratorium providing that no rate change be tendered for filing having an effective date prior to September 1, 1977.

The settlement also provided that no change would be made in the demand or energy rates from the original filing. These proposals were supported by a cost of service which utilized a weighted average coincidental peak formula to allocate production power supply demand related costs, Central Vermont's single annual peak excluding wheeling loads to allocate Central Vermont's payment to others for transmission service (Account 565) and Central Vermont's single annual peak including wheeling loads to allocate the balance of the transmission power supply demand related costs.

The proposed settlement was certified to the Commission by the Administrative Law Judge on August 11, 1976, with comments due on or before September 10, 1976. On September 10, 1976, Staff submitted comments indicating that, although it had not participated in the negotiations leading to the proposed settlement, its subsequent analysis indicated that the proposed agreement provided a reasonable resolution of the subject proceeding.

On September 13, 1976, Allied submitted a protest to the proposed settlement. Allied questioned the appropriateness of the formula² utilized by Central Vermont in allocating production power supply demand related costs, and also questioned the basis of the proposed 85 percent demand ratchet. Central Vermont responded to Allied's objection, stating that it believed its demand allocation and its ratchet provision are just and reasonable.

On September 29, 1976, Staff submitted supplementary comments indicating that it had reevaluated Central Vermont's proposed settlement, and could no longer support the proposal as proffered. For settlement analysis purposes, Staff employed the so-called Nepool formula for allocation of production demand costs, but utilized the average of the 12 monthly coincident peaks for allocating all transmission power supply demand related costs. This further analysis indicated that the proposed rates could produce excess revenues and Staff recommended that a hearing be scheduled.

¹ Allied similarly declined to enter into Central Vermont's R-3 settlement but did not oppose it. The Commission approved that settlement on April 5, 1976, in Docket No. E-9040.

² Under a Nepool formula an average is taken of the maximum peak (weighted 70 percent) and the average of the twelve monthly coincident peaks (weighted 30 percent).

uled with respect to the issue of the proper allocation basis for transmission demand related costs.

On November 4, 1976, Central Vermont submitted an answer to Staff's supplemental comments, stating that the bulk of the discrepancy between Staff and company revenue requirement determinations is not the result of the different transmission demand allocators per se, but rather the result of Staff's treatment of Account 565 transmission expense.

The company stated that Staff had improperly allocated a portion of such expenses to Central Vermont's wheeling customers. Such costs are said to be incurred solely for the purpose of transmitting capacity purchases utilized to meet Central Vermont's firm load, and they should therefore be borne at the production power supply level. As part of its November 4, answering comments, Central Vermont offered for settlement purposes to reduce its rates to its non-affiliated customers by \$9,541 annually. The settlement rates as amended would reduce the originally filed rates from \$1,840,310 to \$1,780,894 for the non-affiliated customers and from \$4,126,218 to \$4,075,500 for the affiliated customers. Central Vermont states that such reduction reflects its use of the 70.30 weighted average coincidental peak allocation for both production and transmission demand related costs. Also in its November 4, answering comments Central Vermont requested that if the settlement is not approved for all customers that it be approved for the nine signatory customers (all customers are signatories except Allied).

On January 7, 1977, an informal conference was convened for purposes of further discussion. Notice of the conference was issued on December 27, 1976. Allied, who protested the settlement, did not attend the conference nor did it offer any additional comments.

On May 18, 1977, Staff submitted additional supplemental comments on the settlement proposal. Staff now supports the settlement proposal.

The only negative comments received on this settlement were filed by Allied. Allied has never petitioned for intervention in this case. When this settlement was noticed Allied neither appeared at the conference nor did it file comments on the revised settlement. Allied objects to the ratchet clause and to the use of the Nepoch 70-30 formula for determining demand related costs.

The 85 percent ratchet in the settlement is a reduction from the 90 percent ratchet proposed by Central Vermont. The use of the Nepoch formula for determining demand related costs was previously approved by this Commission in Central Vermont's last rate proceeding. Its use here does not bind the Commission to perpetual acceptance of this formula. It merely accepts it for settlement purposes. We note that since Allied filed its letter, the settlement rates have been reduced by an additional \$9,541 as a result of subsequent settlement conferences that Allied did not attend.

We believe that the settlement agreement should be approved. Staff's analysis indicates that the settlement will result in a rate of return which does not exceed 9.83 percent, including a 13.08 percent return on common equity, for each customer class.

The Commission finds: The settlement agreement certified to the Commission on August 11, 1976, and as modified on November 4, should be approved.

The Commission orders: (A) The settlement agreement certified on August 11, 1976, as modified, is hereby approved.

(B) Within thirty days after the date of this order Central Vermont shall file substitute tariff sheets consistent with this order and the amended settlement agreement.

(C) Within thirty days of the Commission's approval of Applicant's substitute tariff sheets, Applicant shall refund to its customers all amounts, if any, collected in excess of those which would have been payable under the rates and charges approved in this proceeding, together with interest at a rate of nine percent per annum from the date of payment to Applicant to the date of refund.

(D) Within fifteen days after refunds have been made Central Vermont shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present, and adjudicated rates; monthly adjudicated rate increase, monthly rate refund, and the monthly interest computation, together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each state commission within whose jurisdiction the wholesale customers distribute and sell electric energy at retail.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29480 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. CP74-98]

EL PASO NATURAL GAS CO.

Informal Conference

SEPTEMBER 30, 1977.

Take notice that on October 13, 1977, at 12 p.m., an informal conference of all interested persons will be convened concerning the above-captioned matter. The conference will be held at the offices of the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C., 20426.

Customers and other interested persons will be permitted to attend, but if such persons have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention.

All parties will be expected to appear fully prepared to discuss (1) the issues presented by the United States Court of Appeals for the District of Columbia Cir-

cuit remanding *Southern Union Gas Company v. Federal Power Commission, et al.*, (No. 75-1600, Decided June 18, 1976), (2) the Notice Prescribing Procedures for the Submission of Comments Regarding Issues Presented by Court Remand issued January 18, 1977, (3) the comments filed in response to said notice, and (4) all parties will, additionally, be expected to comment on any procedural matters and make commitments with respect to the issues and any offers of settlement or stipulations discussed at the conference.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29481 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. CP76-464]

EQUITABLE GAS CO.

Amendment to Application

SEPTEMBER 30, 1977.

Take notice that on September 22, 1977, Equitable Gas Company (Applicant), 429 Boulevard of the Allies, Pittsburgh, Pennsylvania 15219, filed in Docket No. CP76-464 an amendment to its application filed in said docket pursuant to Section 7 of the Natural Gas Act so as to provide for certain modifications in its requests for the renewal and replacement of certain transmission lines in Greene and Washington Counties, Pennsylvania, and in Monongalia County, West Virginia; and the abandonment of certain minor sections of its transmission facilities located in these counties, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

Applicant indicates that on August 2, 1976, it filed an application in the instant docket requesting authorization to renew and replace certain transmission lines in Greene and Washington Counties, Pennsylvania, and in Monongalia County, West Virginia. Applicant further indicates that it also requested authorization to abandon certain minor sections of its transmission facilities located in those counties. It is stated that the purpose of Applicant's application was to achieve compliance with Department of Transportation Regulations, to provide it with a more efficient transmission system, reduce maintenance costs, maintain delivery capacity, and improve reliability and safety. Applicant states that as an incident to grant of its application, the facilities and service to a small number of its direct customers would be abandoned.

Applicant indicates that on July 29, 1977, it filed an application in the instant docket requesting temporary authorization to renew 7.5 miles of its pipeline included in its August 2, 1976 application, and that pursuant to the Commission's letter order of September 13, 1977, Applicant received such temporary authorization.

By this amendment Applicant proposes: (1) to modify its request so that

its Transmission Lines Numbers H-102, H-106, and H-117 (presently having a diameter of 16-inch and a maximum allowable operating pressure of 225 pounds) be renewed with 16-inch (instead of 20-inch) pipeline with a maximum allowable operating pressure of 1,000 pounds.

(2) To modify Applicant's requests so that: (a) 4.0 miles (instead of 4.6 miles) of its Transmission Lines Number H-117, be renewed from Orndorff to the proposed Columbia Gas Transmission Corporation's connection at Waynesburg, Pennsylvania; (6 of a mile of Applicant's Line Number H-117 need not be renewed since it would not be carrying high pressure gas); and

(b) 13.6 miles (instead of 16.2 miles) of its Transmission Line Number H-11 be renewed. This decrease is due to a revision based on more current surveys.

Applicant states that the effect of modifications 2(a) plus 2(b) is to alter the total length from 35.1 miles to 31.9 miles of the transmission lines for which renewal authority is sought.

(3) To withdraw Applicant's request that its Transmission Lines Numbers H-103 and H-116 be abandoned. It is now contemplated that these lines would remain in service. The effect of this request is to alter the total length of transmission line to be abandoned from 36.5 miles to 30.5 miles and the total length of older, mechanically joined pipeline which can be eliminated from 71.6 miles to 62.4 miles.

Applicant further states that as part of its application herein is the request for authorization to abandon facilities and service to 24 of its direct customers. With regard to these 24 customers, Equitable has formulated a plan which would assure the delivery of either natural gas service or alternative fuels, it is said. Applicant indicates that as a result of its plan, these 24 customers would continue to receive fuel to meet their full requirements.

Applicant indicates that the total cost of this project is estimated to be \$9,216,000 and would be financed initially from cash on hand generated from operations, together with supplemental funds borrowed under short-term bank credit agreements.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). A protest filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party or to participate as a party to any hearing therein must file a petition to intervene in accordance with the Commission's

Rules. All persons who have heretofore filed need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29482 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket Nos. CI76-758 and CI77-15; Docket No. CI77-616]

GETTY OIL CO. AND CITIES SERVICE CO.

Findings and Order After Statutory Hearing Issuing Certificates of Public Convenience and Necessity

SEPTEMBER 30, 1977.

On September 10, 1976,¹ and October 8, 1976,² Getty Oil Company (Getty) filed in Docket Nos. CI76-758 and CI77-15, respectively, requesting issuance of permanent certificates authorizing sales from Block A-133, Brazos Area, Offshore Texas (Federal Domain), to Transco Gas Supply Company (Supply).³ Cities Service Company (Cities) requests issuance of a permanent certificate in Docket No. CI77-616 authorizing sales from the same block to Supply. Each Applicant indicates a willingness to accept a certificate conditioned to the national rate.

Transcontinental Gas Pipe Line Corporation (Transco) filed in Docket No. CP77-382 for a certificate authorizing it to construct and operate facilities to attach the subject reserves.

Each related contract permits the producer to reserve and exclude a specified percentage of the volumes of gas well gas delivered each day after the reservation is exercised and provides the reservation will not be effective for any purpose until the buyer is authorized to transport and/or exchange seller's reserved gas. Getty's contracts permit it to reserve up to 33 1/3 percent of the gas while Cities' contract permits it to reserve up to 33 percent of the gas.

Each related contract contains impermissible pricing provisions. Consistent with past Commission action in similar situations, § 154.93 of the Regulations will be waived when accepting the rate schedules for filing.

Cities stated its sale qualifies for the proposed rate since the wells were commenced after December 31, 1974, and the waiver of contingent escalations required by § 2.56a(d) of the Rules was filed. In Docket No. CI76-758, Getty filed the waiver required by Section 2.56a(i) but did not demonstrate the applicability of the proposed rate. In Docket No. CI77-15, Getty did not file the waiver required by Section 2.56a(i) but stated the sale qualifies for the proposed rate since the

¹ Supplemented on 9-15-76 and 9-20-76.

² Application originally filed by Skelly Oil Company; however, on 4-13-77, Getty requested its name be substituted for Skelly's.

³ Supplemented on 12-6-76.

⁴ Supply resells all gas it purchases to Transcontinental Gas Pipe Line Corporation pursuant to authorization issued in Docket No. CP76-3.

wells were all spudded after January 1, 1975. Each Applicant qualifies for the gathering allowance prescribed in Opinion No. 770-A, § 2.56a(d) (7) since the gas will be delivered on an offshore platform.

After due notice by publication in the FEDERAL REGISTER, no protests or interventions have been filed in Docket No. CI77-15. On October 27, 1976, the Public Service Commission of the State of New York (PSCNY) filed a notice of intervention and a request for a hearing in Docket No. CI76-758. However, on November 15, 1976, PSCNY filed a letter stating it does not oppose issuance of a certificate at the national rate. Thus, no hearing is required.

At a hearing held on September 21, 1977, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications and petitions and exhibits thereto, submitted in support of the authorizations sought herein, and upon consideration of the record.

The Commission finds: (1) Each Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission or will be engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption, subject to the jurisdiction of the Commission, and will, therefore be a "natural-gas company" within the meaning of the Natural Gas Act upon the commencement of service under the authorization hereinafter granted.

(2) The sale of natural gas hereinbefore described, as more fully described in the application in this proceeding, will be made in interstate commerce subject to the jurisdiction of the Commission; and such sale by Applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are subject to the requirements of subsections (c) and (e) of section 7 of the Natural Gas Act.

(3) Applicants are able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules and regulations of the Commission.

(4) The sale of natural gas by Applicants, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity; and a certificate therefor should be issued as hereinafter ordered and conditioned.

(5) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the FPC gas rate schedule related to the authorization hereinafter granted should be accepted for filing to be effective on the date of initial delivery.

The Commission orders: (A) Permanent certificates are issued to Getty in Docket Nos. CI76-758 and CI77-15 and a permanent certificate is issued to Cities in Docket No. CI77-616 subject to Opin-

ion No. 770, as amended, and any further orders issued thereunder and conditioned to the lesser of the contract rate or the national rate for sales from wells commenced on or after January 1, 1975.

(B) Section 154.93 of the Commission's Regulations is hereby waived to permit filing of the contract which contain impermissible pricing provisions. The granting of such waiver, however, does not constitute approval of such provisions and any rate increase based on said pricing provisions to the extent it is inconsistent with the provisions of § 154.93 of the Commission's Regulations is subject to rejection.

(C) This order does not authorize Transco to transport and/or exchange Cities' or Getty's reserved gas and Transco is hereby advised that it will be necessary to file for and receive specific Commission authorization to transport and/or exchange Cities' or Getty's reserved gas.

(D) Getty and Cities are advised that if a pipeline is authorized to transport and/or exchange their reserved gas, a concomitant filing under section 7(b) will not be required for that percentage of their reserved gas which is authorized to be transported and/or exchanged.

(E) Getty and Cities are advised that issuance of the certificates and acceptance of the rate schedules do not constitute approval of their contractual reservations of gas. Such reservations may be exercised only upon prior approval of the Commission upon appropriate application or applications specifying the facts surrounding the proposed exercise of the reservations, including (but not by way of limitation) specification of volumetric demands, transportation arrangements, and end uses, so that a determination can be made by the Commission as to whether or not the proposal is in the public interest.

(F) Getty and Cities are advised that if a pipeline company is not authorized to transport or exchange their reserved gas, they must continue sales until they apply for and obtain section 7(b) abandonment authorization.

(G) Getty and Cities are required to submit, at least 30 days prior to the proposed effective date of any proposed exercise of their gas reservations, a rate schedule supplement notifying the Commission that they have elected to reserve gas and setting forth the conditions and details of the contemplated action.

(H) The related rate filings are accepted to be effective on the date of initial delivery and are designated as follows:

Description	Designation
Contract Aug. 10, 1976	Getty Oil Company, FPC Gas Rate Schedule No. 412.
Contract Sept. 14, 1976	Getty Oil Company, FPC Gas Rate Schedule No. 413.
Certificate of Merger Jan. 26, 1977	Supplement No. 1 to FPC Gas Rate Schedule No. 413.
Contract Aug. 10, 1976	FPC Gas Rate

Description	Designation
Preambles and Resolutions Apr 14, 1977	Schedule No. 413.
	Cities Service Company, FPC Gas Rate Schedule No. 450.
	Supplement No. 1 to FPC Gas Rate Schedule No. 450.

Applicants shall advise the Commission in writing of the date of initial delivery within 10 days therefrom.

(I) Within 30 days from the dates of initial delivery, Applicants shall submit three copies of a revised billing statement which clearly reflects the components of the authorized rates in Ordering Paragraph (A) above in the event the previously filed billing statements do not reflect the national rate in effect when deliveries commence.

(J) PSCNY is permitted to intervene in Docket No. C176-758 subject to the rules and regulations of the Commission; *Provided, however*, That participation by such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further*, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order of the Commission entered in these proceedings.

(K) The grant of the certificates issued in Ordering Paragraph (A) above shall not be construed as a waiver of the requirements of section 7 of the Natural Gas Act or of Part 154 or Part 157 of the Commission's Regulations thereunder and is without prejudice to any findings or orders which have been or which may hereafter be made by the Commission in any proceeding now pending or hereafter instituted by or against Applicant. Further, our action in this proceeding shall not foreclose or prejudice any future proceedings or objections relating to the operation of any price or related provisions in the gas purchase contracts herein involved. The grant of the certificates aforesaid for service to the particular customer involved does not imply approval of all of the terms of the contract, particularly as to cessation of the service upon termination of said contract as provided by section 7(b) of the Natural Gas Act. The grant of the certificates aforesaid shall not be construed to preclude the imposition of any sanctions pursuant to the provisions of the Natural Gas Act for the unauthorized commencement of any sales of natural gas subject to said certificate.

(L) The certificates of public convenience and necessity issued herein authorize the sales by Applicants of natural gas in interstate commerce for resale, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the application.

(M) Pursuant to Order No. 539-B, *Order Clarifying Prior Orders And*

Amending Section 157 Of The Commission's Regulations Under The Natural Gas Act, Docket No. RM76-8 (issued July 30, 1976), the Commission's Regulations were amended to include new Section 157.41, which requires the following language be inserted as a condition in all certificates of public convenience and necessity issued on or after July 30, 1976:

All persons making jurisdictional sales pursuant to the authority granted by this certificate are hereby given notice that the contractual obligations between the buyer and the seller are incorporated into the certificate obligations, and that the certificate is further conditioned to require that the seller shall observe the standard of a prudent operator to develop and maintain deliverability from reserves dedicated hereunder.

(N) Getty is required to submit, within 30 days from the date of initial delivery, the written waiver required by § 2.56a(4) of the Rules in Docket No. C177-15 and a statement demonstrating the applicability of the authorized rate in Docket No. C176-758.

(O) Each Applicant is advised that the authorized rate cannot be changed without an appropriate filing under Section 154.94 of the Commission's Regulations.

(P) Getty is required to submit, within 30 days from the date of this order, three copies of dated copies of page 1 of the September 14, 1976, contract.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29483 Filed 10-6 77; 8:45 am]

[6740-02]

[Docket No. ER77-532]

GULF POWER CO.

Order Accepting for Filing and Suspending Proposed Rates and Establishing Procedures

SEPTEMBER 30, 1977.

On July 29, 1977, Gulf Power Co. (Gulf) filed with the Commission revisions to the Company's wholesale tariff, amounting to a request for an additional \$1,860,427 above the revenues requested in Docket No. E-8911, Gulf's previous filing. Revisions in certain terms and conditions of the tariff are also sought. This proposed filing is also \$2.3 million above the increase authorized by the Administrative Law Judge in Docket No. E-8911. No final Commission decision in that docket has been rendered.

Notice of the proposed filing was issued on August 9, 1977, with comments, protests, and petitions to intervene due on or before August 19, 1977. A "Petition to Intervene, Protest and Motion to Reject or (to the Extent Not Rejected) for a Five Month Suspension of, and a Hearing on, Gulf Power Co.'s Tendered Filing of Rate Increases and Other Tariff Changes" was filed on August 18, 1977, by certain electric cooperatives (Co-

operatives). Subsequently, on August 19, 1977, the Florida Public Utilities Co. (FPU), a wholesale customer of Gulf, also filed a Petition to Intervene.

All Petitioners seeking intervention assert that their respective interests could not be represented adequately by other participants. AEC, although not a wholesale customer, claims it could be adversely affected by Gulf's proposed rate increase by virtue of pooling arrangements among AEC members and various cooperative customers of Gulf. Gulf does not oppose intervention.

Gulf filed its timely response to these petitions on September 2, 1977. A discussion of the various arguments presented follows below.

Cooperatives have filed an extensive petition seeking intervention and outright rejection of Gulf's filing or alternatively partial rejection of the filing and a five month suspension of its effective date. Cooperatives contentions are basically as follows:

(1) Gulf's proposed revisions to the increased capacity requirements and termination clauses are patently unlawful; they are unduly restrictive and violate the policies underlying the antitrust laws. These revisions merit outright rejection;

(2) Gulf's proposed rate of return is so excessive as to warrant outright rejection;

(3) Gulf's tendered filing contains numerous other significant deficiencies further warranting outright rejection. Among the deficiencies alleged, Cooperatives state that: (i) Gulf's Period I data is stale; (ii) Gulf's proposed Environmental Protection Cost Adjustment Clause is improper; (iii) Gulf has included excessive AFUDC in its rate base and cost of service; (iv) an improper demand allocation method was used; (v) transmission facilities have been misclassified; (vi) Gulf's wholesale rates raise the issue of price squeeze, etc.

FPU asserts in its petition that, as a wholesale customer of Gulf, it has legal and economic interests in this matter which may be adversely affected by a final order in this proceeding.

Our review indicates that Cooperatives and FPU are interested parties within the meaning of § 1.8 of the Rules of Practice and Procedure and that sufficient justification exists for permitting their intervention in Docket No. ER77-532. As to the Cooperatives' requests for rejection of Gulf's filing, those requests must be denied for the reasons stated herein.

It is well established that rejection of a party's filing is appropriate in certain

¹ The Petition was filed on behalf of the Alabama Electric Cooperative (AEC) as well as four distribution cooperative customers of Gulf, identified as:

- (1) Gulf Coast Electric Cooperative, Inc.,
- (2) Choctawhatchee Electric Cooperative, Inc.,
- (3) West Florida Electric Cooperative Association, Inc.,
- (4) Escambia River Electric Cooperative, Inc.,

limited circumstances. "It should mark the clear case of a filing that patently is either deficient in form or a substantive nullity." *Municipal Light Boards of Reading and Wakefield, Massachusetts v. FPC*, 450 F. 2d 1341, 1345 (D.C. Cir., 1971).

We have examined Gulf's filing and find no basis for rejection. Gulf's proposed Environmental Protection Cost Adjustment Clause requires cost support as well as justification for inclusion in Gulf's tariff. Gulf's Period I data conforms with our filing regulations and is not stale. Such matters as the Company's proposed rate of return, its AFUDC calculations, its demand allocation methods, etc., are factual questions that are appropriately resolved by a formal hearing, where conflicting contentions can be presented for resolution by the Commission.

The Cooperatives request for rejection of Paragraphs 9 and 9A of Gulf's proposed tariff, dealing with certain increased capacity requirements and termination clauses must also be denied. The Cooperatives allege that "Gulf Power's position in the Northwestern Florida wholesale power supply market is one of overwhelming monopoly." Petition, p. 9. Cooperatives allege that Gulf has in the past refused to wheel SLPA power to distribution cooperatives and has denied Alabama Electric Cooperative members certain coordination benefits. Cooperatives conclude that Gulf seeks its monopoly position "through its proposed termination clause provisions." Petition, p. 10. They contend that the above mentioned tariff provisions unreasonably restrict Cooperative's bulk power supply options.

Gulf, on the other hand, disputes that such a market as defined by Cooperatives exists and states that "the Company does not have a monopoly position respecting wholesale power supply." Response, p. 9. It further asserts that tariff provisions may be justified on the basis of the structure of the industry, safety and business reasons, etc.

Clearly, there are a number of opposing contentions. The existence of anticompetitive effects is not necessarily obvious on the face of a contract or tariff provision and such an issue cannot be dealt with summarily at this time. Whether an anticompetitive requirements provision or exclusive dealing arrangement exists, as alleged by Cooperatives, depends upon the resolution of a number of questions that require exploration through hearing procedures. The pleadings as noted raise many such questions.

Cooperatives have raised the question of price squeeze and have also requested a five month suspension of Gulf's proposed rate increase. The Company denies price squeeze and requests no more than the minimum suspension.² We have

² On August 29, 1977, Gulf filed a letter with the Commission pointing out that its rate increase application was submitted on the last business day before the Commission

examined the various motions as well as Gulf's filing. Our review indicates that the proposed increase in rates and charges has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential, or otherwise unlawful. Based on this review of the filing and the various pleadings we will accept for filing (as previously discussed) the proposed increased rates and suspend their effective date for one month, i.e., to November 1, 1977, at which time they will become effective subject to refund.

The Commission finds: (1) The intervention by Cooperatives and EPU may be in the public interest and should be granted.

(2) Cooperatives motion to reject or in the alternative to reject in part and suspend for five months should be denied.

(3) Good cause exists to establish "price squeeze" procedures to effectuate the Commission's policy announced in Order No. 563.

(4) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the proposed increased rates and charges tendered by Gulf on July 29, 1977, establishing procedures for that hearing, and that the proposed increased rates and charges be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly sections 205, 206, 301, 303, and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rates proposed by Gulf in this proceeding.

(B) Pending such hearing and decision thereon, the proposed increased rates and charges filed by Gulf on July 29, 1977, are hereby accepted for filing, suspended and the use thereof deferred until November 1, 1977, when they shall become effective, subject to refund.

(C) The Staff shall prepare and serve top sheets on all parties for settlement purposes on or before January 16, 1978.

(D) A Presiding Administrative Law Judge to be determined by the Chief Administrative Law Judge for that purpose shall preside at a prehearing conference in this proceeding to be held on January 31, 1978, at 10 a.m. (ET) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE, Washington, D.C. 20426. Said Law Judge is authorized to establish all procedural dates and to rule upon all motions (except

issued Order 569. Gulf suggests that had it filed one business day later, the Company could have requested that its new rates become effective within 30 days rather than 60 days. This argument has been considered.

NOTICES

petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Commission's Rules of Practice and Procedure.

E) Cooperative and FPU are hereby permitted to intervene in these proceedings. *Provided, however,* That participation of such intervenors shall be limited to matters set forth in the petition to intervene; *And provided further,* That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(F) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the intervenors' request for data required to present its case, including a prima facie showing, on the price squeeze issue. Gulf shall also be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days and the intervenors shall file their case-in-chief on the price squeeze issue within 30 days after Gulf's response.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29484 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. ER77-623]

IOWA ELECTRIC LIGHT & POWER CO.
Initial Rate Schedule

SEPTEMBER 30, 1977.

Take notice that Iowa Electric Light & Power Co. (Iowa Electric) on September 28, 1977, tendered for filing a wholesale electric service agreement with the City of Anita, Iowa. Iowa Electric indicates the proposed Agreement provides that Iowa Electric will provide to the City of Anita any electric service in excess of the electric service currently being provided by the United States Department of the Interior, Bureau of Reclamation. Iowa Electric also indicates that the cost of the proposed electric service will be equal to the current rate set forth in Iowa Electric's currently effective RES-1 Rate Schedule which was approved by Commission order issued on December 15, 1976, in Docket No. ER76-206. Iowa further indicates that the only facilities installed to fulfill Iowa Electric's commitments under the Wholesale Electric Service Agreement were certain metering facilities. Iowa Electric requests waiver of the Commission's notice requirements to permit the Agreement to become effective on October 1, 1977.

Iowa Electric states that copies of the above filing have been served upon the City of Anita and the Iowa State Commerce Commission.

Any person desiring to be heard or to protest said application should file a pe-

tition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29485 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. RI77-132]

JOHN H. HURBROUGH, ET AL.
Petition for Special Relief

SEPTEMBER 30, 1977.

Take notice that on September 13, 1977, John H. Hurbrough, et al. (Petitioner), 3901 Westheimer, Suite 354, Houston, Tex. 77027, in Docket No. RI77-132, filed a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). Petitioner requests an increase in rate to \$2.10 per Mcf for natural gas sales to United Gas Pipeline Co. from the J. C. Beard Lease, J. C. Beard No. 1 well, Boggy Creek Field, Anderson County, Tex. Petitioner states that the requested increase is necessary in order to continue producing from the subject well.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29486 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. RI77-134]

LEACH BROTHERS, INC.
Petition for Special Relief

SEPTEMBER 30, 1977.

Take notice that on September 20, 1977, Leach Brothers, Inc. (Petitioner),

13601 Preston Road, Suite 714-E, Dallas, Tex. 75240, in Docket No. RI77-134 filed a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76). Petitioner requests an increase in rate from 34.8199 cents per Mcf to \$1.75 per Mcf for natural gas sales to United Gas Pipeline Co. from the T. N. Mauritz No. 1 well and the T. N. Mauritz No. 2 well, North Laward Field, Jackson County, Tex. Petitioner states that production and lease operation can no longer be continued at the present rate.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedures (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29487 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. ER77-621]

MONTAUP ELECTRIC CO.
Tariff Filing

SEPTEMBER 30, 1977.

Take notice that Montaup Electric Co. (Montaup), on September 28, 1977, tendered for filing an agreement dated September 1, 1977, under which Montaup assigns to the Middleborough (Massachusetts) Municipal Gas and Electric Department a portion, 2.5 MW, of Montaup's entitlement to New Brunswick Power under the Second Supplement to the New Brunswick Participation Agreement dated as of December 1, 1977. Montaup indicates that the assignment by Montaup to Middleborough is for the period November 1, 1977, through October 31, 1981. Montaup further indicates that under the assignment, Middleborough agrees to make all payments and discharge all obligations, duties, and liabilities with respect to the assigned power. Montaup has also filed a service agreement under which Montaup proposes to transmit the assigned power across its system to Middleborough under Montaup's generally applicable transmission tariff. Montaup has requested that the assignment and the related transmission agreement be allowed to become effective as of November 1, 1977.

According to Montaup copies of this filing were served upon Middleborough Municipal Gas and Electric Department and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29488 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. ER77-622]

MONTAUP ELECTRIC CO.
Proposed Contract Amendment

SEPTEMBER 30, 1977.

Take notice that Montaup Electric Co. (Montaup), on September 28, 1977, tendered for filing a letter agreement between itself and the Middleborough (Massachusetts) Municipal Gas and Electric Department effecting certain changes in its FPC Rate Schedule No. 40 and Supplement No. 1 thereto. Montaup indicates that the chief purpose of the filing is to extend the term of the current agreement under which Middleborough purchases Somerset No. 6 unit power from Montaup through the year 1981. Montaup requests that the letter agreement be allowed to become effective as of November 1, 1977.

According to Montaup copies of the filing were served upon Middleborough Municipal Gas and Electric Department and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29489 Filed 10-6-77; 8:45 am]

NOTICES

[6740-02]

[Docket Nos. CP75-131 and CP76-129, Docket No. CP76-94]

**MOUNTAIN FUEL SUPPLY CO. AND
PHILLIPS PETROLEUM CO.**

Notice of Further Extension of Time

SEPTEMBER 30, 1977.

On September 23, 1977, Phillips Petroleum Company (Phillips) filed a motion for clarification and extension of time for filing a certificate application and rate schedule, as required by the Initial Decision issued December 14, 1976, affirmed in part and revised in part by Commission Order issued July 1, 1977, in the above designated proceeding.

Upon consideration, notice is hereby given that an extension of time is granted to and including October 19, 1977, within which Phillips shall file its certificate application and rate schedule.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29490 Filed 10-6-77; 8:45 am]

[6740-02]

[Project No. 2251]

NEW ENGLAND FISH CO.
Issuance of Annual License(s)

SEPTEMBER 30, 1977.

New England Fish Company is the Licensee for the San Juan Lake and Creek Project No. 2251, located on Evans Island, Alaska. By letter of September 23, 1977, Licensee requested that its license be renewed.

The license for Project No. 2251 was issued effective May 8, 1959, for a period ending October 7, 1977. In order to authorize the continued operation and maintenance of the project, it is appropriate and in the public interest to issue an annual license to New England Fish Company.

Take notice that an annual license is issued to New England Fish Company for the period October 8, 1977, to October 7, 1978, or until Federal takeover, or until the issuance of a new license for the project, whichever comes first, for the continued operation and maintenance of the San Juan Lake and Creek Project No. 2251 subject to the terms and conditions of the original license. Take further notice that if Federal takeover or issuance of a new license does not take place on or before October 7, 1978, a new annual license will be issued each year thereafter, effective October 8 of each year, until such time as Federal takeover takes place or a new license is issued, without further notice being given by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29491 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. RP76-52, et al.]

NORTHERN NATURAL GAS CO.

Order Denying Motion for Establishment of Interim Curtailment Plan

SEPTEMBER 30, 1977.

On August 30, 1977, The Brick People, et al., filed a motion requesting the Commission to issue an order establishing an interim curtailment plan for Northern Natural Gas Company (Northern), pending final Commission action on Northern's permanent curtailment plan. The Brick People et al. specifically request the Commission to place interruptible process, plant protection, and feedstock requirements without alternative fuel capability with similar firm requirements. These interruptible volumes are currently in Priority 3 while similar firm volumes are in Priority 2(b). Northern, Northern Distributors Group (NDG), Northern Municipal Defense Group (MDG), and Commission Staff filed responses to The Brick People's motion.

The Brick People state that the Commission has the responsibility of monitoring and altering curtailment plans when necessary. In this proceeding, the Brick People argue that without the requested modification, interruptible process, plant protection and feedstock users will suffer irreparable harm. Finally, the Brick People argue that abolishment of the firm-interruptible distinction is consistent with Commission precedent.

Northern, NDG, MDG, and Commission Staff oppose the Brick People's motion. All parties argue that the Brick People have failed to show the resultant "irreparable harm" if this motion is denied. Specifically, it is argued that they have not stated that any member of the "interruptible" category will be forced to slow down operations if Northern curtails Priority 3 as projected. The parties opposing the motion assert that this is just another motion which "attempts to take this contested case and resolve one or more of its issues without full hearing and evidentiary consideration." (NDG Answer at 2).

After careful consideration of the arguments of all of the parties, we must deny the Brick People's motion for implementation of an interim curtailment

¹ NDG consists of Interstate Power Co., Iowa Electric Light and Power Co., Iowa Illinois Gas and Electric Co., Iowa Power and Light Co., Iowa Public Service Co., Iowa Southern Utilities Co., Metropolitan Utilities District of Omaha, Minnesota Gas Co., North Central Public Service Co., and Northern States Power Co.

² MDG consists of the Cities of Brooklyn, Cascade, Coon Rapids, Emmetsburg, Gilmore City, Graettinger, Harlan, Hawarden, Mankato, Manning, Osage, Preston, Remsen, Rolfe, Sac City, Sanborn, Sioux Center, West Bend, Whittemore, and Woodbine, Iowa.

plan. The Brick People stated in their motion that "[i]n virtually every fully adjudicated curtailment proceeding to date in which a final Commission order has been issued, the Commission has concluded, based upon the record in that proceeding, that similar end-uses should be treated in a similar fashion" (Brick People's Motion at 4). We agree with this conclusion; however, we note that the key phrases in the above quote are "fully adjudicated curtailment proceeding in which a final Commission order has been issued" and "based upon the record in that proceeding." The Commission, after review of the entire record in this proceeding may conclude to abolish the firm-interruptible distinction; however, these decisions have been made on a case by case basis and no substantial reasons have been given to vary from this procedure. The Brick People have failed to demonstrate that these users will be irreparably harmed without immediate action. Furthermore, if curtailments are such that an emergency exists for these customers, their alternative is to file for these customers, their alternative is to file for extraordinary relief from Northern's effective curtailment plan.

The Commission finds and orders: The motion filed by the Brick People et al. on August 30, 1977, for imposition of an interim curtailment plan is hereby denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 29192 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. ER78-532]

PACIFIC GAS & ELECTRIC CO.

Rescinding Notice of Further Extension of Time

SEPTEMBER 30, 1977.

On September 26, 1977, the Commission issued a Notice of Further Extension of Time of the procedural dates in the above designated proceedings. Concurrently, an Order Staying Procedural Schedule was issued by the Presiding Administrative Law Judge.

Notice is hereby given that the September 26, 1977, Notice of Further Extension of Time is rescinded and that the September 26, 1977, Order Staying Procedural Schedule is in effect.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 29493 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. RI77-113]

SUN GAS CO., A DIVISION OF SUN OIL CO., DELAWARE

Order Granting Special Relief

SEPTEMBER 30, 1977.

On July 11, 1977, Sun Gas Co., a Division of Sun Oil Co., Delaware (Sun) filed a petition for special relief pursuant to

Section 2.76 of the Commission's General Policy and Interpretations (18 CFR 2.76) for the sale of natural gas to Valley Gas Transmission, Inc. (Valley) from the Hidalgo Willacy Unit, South Elsa Field, Hidalgo County, Tex.

Sun, a large producer, is making this sale under its contract with Valley dated February 20, 1961, on file as Sun's FPC Gas Rate Schedule No. 213 in Docket No. CI61-1710. Sun is currently receiving a base rate of 29.50 cents per Mcf at 14.73 psia for this gas. Sun proposes to replace a single stage compressor with a two-stage compressor in order to increase the production rate. Consequently, Sun requests that the Commission authorize it to collect a base rate of 45.46 cents per Mcf at 14.73 psia. By letter dated May 6, 1977, Valley agreed to pay Sun whatever rate is approved by the Commission.

Notice of the petition was issued August 3, 1977, and no protests or interventions have been filed to date, the period for filing protests or interventions having ended on August 26, 1977.

Sun's proposed rate is within the criteria set out in Order No. 551. Specifically, the proposed additional investment will result in less than \$50,000 additional revenue (\$38,533), the additional investment to be made is in excess of 25 percent of the estimated additional revenue, and the total rate requested is less than 50 cents per Mcf, exclusive of production or severance taxes, at 14.73 psia.

Based on the Commission Staff's evaluation of data submitted by Sun in conformance with the criteria set out in Order No. 551, the proposed total rate is cost justified and in the public interest. Accordingly, we find that the instant petition is consistent with the purposes of Section 2.76 and that such petition sets forth an adequate economic justification for the relief sought.

The Commission orders: (A) Sun's petition for special relief is hereby granted.

(B) Sun is authorized to collect a base rate of 45.46 cents per Mcf at 14.73 psia for gas sold to Valley from the Hidalgo Willacy Unit, South Elsa Field, Hidalgo County, Tex., effective on the date of issuance of this order or on the date of completion of the proposed work, whichever is later. This authorization is contingent upon Sun's filing within 30 days of the effective date set forth above a statement, signed by Valley, that the proposed work has been performed to Valley's satisfaction.

(C) The special relief authorized in Ordering Paragraph (B) shall not become effective as provided therein unless Sun files within 30 days of the issuance of this order a contractual amendment authorizing the rate granted herein.

(D) Sun's independent producer rate change filing is hereby accepted as Supplement No. 28 to Sun's Rate Schedule No. 213 with an effective date as provided in Ordering Paragraph (B).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29494 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket Nos. E-9556, IT-5026, E-6723, E-6192 and E-6109]

CENTRAL POWER & LIGHT CO. AND COMISION FEDERAL DE ELECTRICIDAD DIVISION GOLFO NORTE

Order Authorizing Export of Electric Energy, Terminating Outstanding Orders Authorizing Export of Electric Energy, Amending Presidential Permit, and Revoking Outstanding Presidential Permit

SEPTEMBER 30, 1977.

On April 15, 1976, several filings were made in the above-captioned cases. Since these filings all deal with related issues, they will be considered in connection with one another in this order.

(1) In Docket No. E-9556, Central Power & Light Company (CPL) and Comision Federal de Electricidad Division Golfo Norte (CFE) filed a joint application for authority to export electrical energy to Mexico.

(2) In Docket Nos. IT-5026 and E-6723, CPL & CFE filed a joint application for termination of outstanding orders authorizing the exportation of electrical energy to Mexico.

(3) In Docket No. E-6192, CFE has filed an application to reflect a change in ownership of facilities, and

(4) In Docket No. E-6109, CFE has filed an application for the revocation of a permit to reflect the removal of facilities covered by permit.

The subject filings reflect the growth of the CFE electric system from a number of isolated systems supplied by CPL to an integrated system with its own bulk power supply; and the interconnected operation of CPL with the CFE system to exchange off-peak power and energy.

Central Power and Light Company for many years supplied electric energy to small privately owned electric systems in Mexico. These systems have been taken over by Comision Federal de Electricidad Division Golfo Norte, an agency of the Federal Government of Mexico, which has been constructing integrated electric systems within that country to supply its customers from its own bulk power resources. CFE and CPL have agreed to exchange off-peak power and energy over 138 kV interconnections which were constructed primarily to supply loads in Mexico.

E-9556 is a request for authorization to export electric power and energy to Mexico in accordance with an agreement which provides for the interchange of off-peak power and energy. (This part of the application has been assigned Docket No. E-9556.) The letter agreement has the following provisions:

1. The normal maximum interchange demand limit will be 50 megawatts, if and when available upon request and when available upon request and by proper approval of the sending system dispatcher. This maximum demand limit may be exceeded only by mutual agreement of the dispatchers, depending on conditions in effect at the time required.

2. All kilowatt-hours interchanged on a 1.0 to 1.0 basis will be those kilowatt-hours received or transmitted during any day of the year for CPL peak hours between 8:00 a.m. and 6:00 p.m. and for CFE peak hours

between 6:00 p.m. and 10:00 p.m. All other hours (10:00 p.m. to 8:00 a.m.) will be considered off-peak for both parties.

3. The interchange account will be operated in such a manner that the account will become zero at least once during each calendar year. In order for this to be accomplished, it may be necessary for CFE to return energy owed CPL during the CPL off-peak hours of 10:00 p.m. to 8:00 a.m. This energy may be returned at a ratio of 1.4 kilowatt-hours to CPL for each 1.0 kilowatt-hours received by CFE.

4. Interchange power and energy will be made available for either party when and if available on a 1.0 to 1.0 or 1.4 to 1.0 basis as set out above except when the sending party's generating expenses are other than normal. At such off-normal times, the ratio for returning interchange power and energy will be specifically negotiated between the system dispatchers at the time of each request.

In Docket Nos. IT-5026 and E-6723, CFE and CPL have joint authority to export electric energy. In Docket No. IT-5026, the authorization is for an amount not to exceed 45,000,000 kWh annually, at a rate not to exceed 7,500 kW. In Docket No. E-6723 the authorization is for an amount not to exceed 233,000,000 kilowatt hours annually at a rate not to exceed 45,000 kW. Applicants submit that since the new operating agreement provides that the net energy balance will be zero at least once every year, the limitations are no longer appropriate and request that they be revoked, and that transmission of electric power and energy as contemplated by the agreement be authorized.

Servicios Electricos de Piedras Negras hold two Presidential Permits in Docket Nos. E-6192 and E-6109. CFE has taken over this small electric system and requests that the Permit in Docket No. E-6192 be amended to reflect this change. CFE also requests that the Permit in Docket No. E-6109 be revoked since the facilities have been removed.

Pursuant to section 202(e) of the Federal Power Act relating to the export of electric energy from the United States, this Commission "shall issue such order upon application unless, after opportunity for hearing it finds that the proposed transmission would impair the sufficiency of electric supply within the United States or would impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission." Federal Power Act, § 202(e).

In Docket No. E-9556, the provisions of the present agreement limit the transfer of power to an "if and when available" basis thus permitting the dispatcher to use only capacity surplus to his own system requirements. The diversity exchange should result in less use of higher cost peaking capacity with attendant lower costs of energy. Exchanges of higher than normal cost energy as may be negotiated under the agreement may provide some measure of emergency assistance. Since the CPL and Mexican systems are parallel electrically along the border, there can be local exchanges and enhancement of reliability in that area.

Since the exchange of energy will be on a kWh basis, and from capacity surplus to the suppliers needs, a limit to the amount of electric energy to be exported and the rate in kW of export does not appear to be necessary. Also, the systems will be required to file annual reports on the transactions which can be used to monitor such exports.

Although Docket No. E-9556 relates only to the application for permission to export electrical energy, the proposed transactions thereunder are in the nature of exchanges to be arranged whenever such an exchange results in benefits to both parties. Such exports will result in economy in operation to CPL and will improve electrical reliability for its system.

The Commission finds: 1. In Docket No. E-9556, good cause exists to accept for filing as an Export Rate Schedule the letter agreement under which the parties now operate.

2. In Docket No. E-9556, the equal exchange of diversity power as contemplated in the Letter Agreement will not impair the sufficiency of electric supply within the United States, or impede or tend to impede the coordination in the public interest of facilities subject to the jurisdiction of the Commission.

3. In Docket No. E-9556, good cause exists to authorize CFE and CPL to transmit electric energy to Mexico in accordance with the instant application and Exhibit A to the Application (Letter Agreement) over facilities covered by Presidential Permit, Docket No. E-6192, Permit, Docket No. E-8057, and over facilities of International Boundary and Water Commission at Falcon Dam.

4. Good cause exists to require CFE and CPL to report annually the energy transactions authorized in Docket No. E-9556.

5. Good cause exists to terminate the authorizations to transmit electric energy to Mexico in Docket Nos. IT-5026 and E-6723.

6. Good cause exists to remove the Presidential Permit in Docket No. E-6109 to reflect removal of the facilities.

7. Good cause exists to amend the Presidential Permit in Docket No. E-6192 to reflect the present ownership of the electric facilities by CFE.

The Commission orders: (A) In Docket No. E-9556, the letter agreement designated Exhibit A is accepted for filing an Export Rate Schedule.

(B) In Docket No. E-9556, CFE and CPL are authorized to transmit electric energy to Mexico in accordance with the instant application and Exhibit A over facilities covered by Presidential Permits, Docket No. E-6192 and E-8057, and over facilities of International Boundary and Water Commission at Falcon Dam.

(C) In Docket No. E-9556, CFE and CPL are directed to report annually the energy transactions authorized in Docket No. E-9556.

¹ Exhibit A to the Application.

(D) In Docket Nos. IT-5026 and E-6723, the authorizations to transmit electric energy to Mexico are hereby terminated.

(E) In Docket No. E-6109, the Presidential Permit issued is hereby revoked.

(F) In Docket No. E-6192, the Secretary is directed to amend the Presidential Permit to reflect the present ownership of the electric facilities by CFE.

By the Commission. Chairman CURTIS voted present.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 29541 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. CP77-640]

COLORADO INTERSTATE GAS CO.

Application

SEPTEMBER 30, 1977

Take notice that on September 26, 1977, Colorado Interstate Gas Co. (Applicant), P.O. Box 1087, Colorado Springs, Colo. 80944, filed in Docket No. CP77-640 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(c) of the regulations thereunder (18 CFR 157.7(c)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period beginning January 1, 1978, and operation of facilities to make miscellaneous rearrangements on its system, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in making miscellaneous rearrangements which would not result in any material change in the service presently rendered by Applicant.

Applicant states that the total cost of the proposed facilities would not exceed \$300,000, which cost would be financed from current funds on hand, funds from operations, short-term borrowings, or long-term financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Fed-

eral Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein. If the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29542 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. CP77-637]

COLUMBIA GAS TRANSMISSION CORP.

Application

SEPTEMBER 30, 1977.

Take notice that on September 26, 1977, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP77-637 an application pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's general policy and interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 232 Mcf of natural gas per day for Rea Magnet Wire Co., Inc. (Rea), for 2 years, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport gas for Rea, which volumes would be received by Applicant into its Lines A-75 and A-80 in Warren County, Ohio, at an existing point of delivery from Texas Gas Transmission Corp. (TGT). Applicant indicates that it would redeliver the subject gas for the account of Rea at an existing point of delivery located in Walkers Creek District, Rockbridge County, Va., to Columbia Gas of Virginia, Inc. (Columbia Virginia), who would in turn deliver the gas to Rea's facility located in Buena Vista, Va.

It is stated that Rea operates a magnet wire manufacturing facility at Buena Vista, Va., and that the gas proposed to be transported is process gas which would be used to a reduced atmosphere in an annealing process, to provide an uncontaminated supply in the application of enamel layers to bare magnet wire and to heat fresh air for the air make-up heaters which are necessary in the enameling process. Applicant states that Rea has been advised by Columbia Virginia that it can expect a curtailment of its nonsubstitutable load of

approximately 70 percent of its base allocation for the 1977-78 winter period.

It is indicated that Rea, et al., has contracted with PAR Oil Corp., et al., (PAR) to purchase a daily quantity of 3,920 Mcf of natural gas of which amount 254 Mcf per day would be for use at Rea's Buena Vista plant. The subject gas would be produced from PAR's oil and gas leasehold interests located in Claiborne Parish, La. It is said, Applicant states that it would pay PAR \$2.05 per Mcf plus Btu adjustment if appropriate for the gas. Applicant further states that it would not be required to construct any additional facilities to perform the proposed transportation service.

Applicant indicates that its charge for this service would be its average system-wide unit storage and transmission costs exclusive of oil company-use and unaccounted-for gas, which is 22.21 cents per Mcf, and that it would retain for company-use and unaccounted-for gas a percentage of the total volumes received for the account of Rea, which percentage is currently 3.1 percent.

It is indicated that the gas proposed herein to be transported has never been sold in interstate commerce. It is further indicated that the gas proposed to be transported is subject to diversion to Applicant on a temporary basis in emergency periods when, in Applicant's sole judgment, such gas is required for the protection of Priority 1 requirements on its system. Gas so diverted would be paid back as soon as practicable after the emergency period, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required,

further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29543 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. CP77-629]

CUMBERLAND VALLEY PIPE LINE CO.

Application for Exemption

SEPTEMBER 30, 1977.

Take notice that on September 22, 1977, Cumberland Valley Pipe Line Co. (Applicant), P.O. Box 247, Wichita, Kans. 67201, filed in Docket No. CP77-629 an application pursuant to section 1(c) of the Natural Gas Act for exemption from the Natural Gas Act and the regulations of the Commission thereunder, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it maintains and operates a gas transmission pipeline system located wholly within the Commonwealth of Kentucky, running from the city gates of Middlesboro, Ky., thence to the cities of Pineville, Barbourville, and Williamsburg, Ky., with an additional pipeline which connects to the foregoing line at a point between Pineville and Barbourville and thence runs north to a point near Manchester, Ky.

Applicant further states that it purchases natural gas from Columbia Gas Transmission Corporation within the Commonwealth of Kentucky at a connection with Columbia's pipeline at the terminal point of Applicant's line near Manchester, Ky., and that the volumes purchased during any year vary, depending upon weather and other factors, but approximate in recent years 900,000 Mcf of gas. All other gas transported by Applicant is purchased from wells located in the Stoney Fork, Kettle Island, Flat Lick, Artemus, North Williamsburg, South Williamsburg, and Woodbine Fields in Kentucky, it is said.

Applicant indicates that all of the gas purchased and transported by it, including that purchased from Columbia Gas Transmission Corp., is sold at wholesale to Gas Service Co., Inc., a Kentucky corporation, which distributes and sells the same at retail to its customers in the above cities of Middlesboro, Pineville, Barbourville, and Williamsburg, Ky., and in some instances, to its customers along the pipeline of Applicant. Applicant states that all of such gas is consumed within the boundaries of Kentucky.

The Public Service Commission of Kentucky certified on September 16, 1977, that it has and is exercising jurisdiction over the rates, service and facilities of Applicant it is stated.

As indicated above, Applicant states that it is engaged in the purchase, transportation, and sale of natural gas wholly within the Commonwealth of Kentucky, and requests that the Commission declare its exemption from the provisions of the Natural Gas Act and the orders, rules, and regulations of the Commission thereunder.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29544 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. R177-20]

DORFMAN PRODUCTION CO., OPERATOR

Order Granting Petition for Special Relief

SEPTEMBER 30, 1977.

On December 27, 1976, Dorfman Production Co., Operator (Dorfman) filed a petition for special relief pursuant to § 2.76 and § 2.56(b) of the Commission's General Policy and Interpretations for sales of gas from the Willow Springs Field, Gregg County, Tex., to United Gas Pipeline Co. and Texas Eastern Transmission Corp. Dorfman is selling the gas under its small producer certificate issued in Docket No. CS72-406 on January 11, 1972. Dorfman's petition covers fifteen working interest owners.

The wells covered by this petition have been producing for approximately 25 years and are considered "stripper" gas wells. Production is from the Henderson, Rodessa, Pettit, and Travis peak formations at depths from 6,700 to 7,700 feet. Dorfman proposes to invest \$335,000 to rework 7 of the 10 wells covered by its petition. Staff estimates that an additional 1,621,000 Mcf of gas can be produced from these wells over the remaining life of 8.25 years. Dorfman does not

Dorfman filed an amendment to its petition on June 23, 1977, requesting withdrawal of said petition with respect to 9 of the 19 wells involved. By that amendment Dorfman also sought to collect rates ranging from \$4.498 per Mcf to \$1.2234 per Mcf at 14.65 psia, as set forth in Appendix A hereto. Dorfman is currently collecting a rate of approximately \$4.40 per Mcf. Previously, Dorfman had filed additional data on February 16, 1977, and March 25, 1977, in response to Staff inquiries.

*See Appendix C, attached hereto.

propose to do any work on the other three wells.

Notice of Dorfman's petition was issued on January 13, 1977, and appeared in the FEDERAL REGISTER on January 24, 1977, at 42 FR 4197. Notice of Dorfman's amended petition was issued on July 21, 1977, and appeared in the FEDERAL REGISTER on July 29, 1977, at 42 FR 38633. No petitions to intervene have been filed.

Staff has reviewed the cost information supplied by Dorfman and has determined that the proposed rates are cost justified. These rates were calculated on an "out-of-pocket" expenses basis by Staff for those three wells which will not be reworked by Dorfman. Upon consideration of the data submitted and Staff's analysis thereof, we conclude that Dorfman's petition should be granted.

The Commission finds: The petition for special relief filed by Dorfman in Docket No. R177-20 should be approved.

The Commission orders: (A) For the above-stated reasons, the petition for special relief filed by Dorfman in Docket No. R177-20 is hereby granted. Dorfman is authorized to collect from its purchasers the total rates of 14.65 psia set forth in Appendix A hereto.

(B) The rates authorized in Ordering Paragraph (A) above for the Harrison No. 2, Harrison No. 3, McWhorter No. 1, McWhorter No. 2, Stevens No. 2, Toler No. 3, and Hayes No. 1 wells are effective as of the dates of completion of the proposed remedial work or the date of issuance of this order (whichever is later), provided Dorfman files within 30 days of said effective dates statements signed by its purchasers that the remedial work has been completed to their satisfaction.

(C) The rates authorized in Ordering Paragraph (A) above for the Duncan No. 1, Hayes No. 2, and the Thrasher No. 2 wells are effective as of the date the issuance of this order.

(D) Within 30 days hereof Dorfman shall file copies of its contract amendments with its purchasers authorizing the rates granted therein.

(E) Dorfman shall file in Docket No. CS72-406 within 30 days hereof a notice of rate change to the levels authorized in Ordering Paragraph (A) above.

By the Commission,

KENNETH F. PLUMB,
Secretary.

Appendix A Sheet 1 of 1

Dorfman Production Co., Operator, Docket No. R177-20, 10 Wells, Willow Springs Field, Gregg County, Tex., Requested Rates

Requested rates at 14.65 psia

Sales to United:

Well	Rate (\$/Mcf)
Harrison No. 2	90.50
Harrison No. 3	105.16
McWhorter No. 2	75.54
Stevens No. 2	122.34
Toler No. 3	114.50
Duncan No. 1	44.98
Hayes No. 2	48.92
Thrasher No. 2	46.28

Sales to Texas Eastern:

Hayes No. 1	46.06
McWhorter No. 1	84.14

*See Appendix B, attached hereto.

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NOTICES

APPENDIX B.—Sheet 1 of 2, Dorfman Production Co., operator, docket No. R177-20, rework of seven wells, Willow Springs Field, Gregg County, Tex.
[Calculation of unit cost of gas]

Line No.	Item	United Gas Pipeline contract					Texas Gas Transmission Corp. contract	
		Harrison No. 2	Harrison No. 3	McWhorter No. 2	Stevens No. 2	Toler No. 3	Hayes No. 1	McWhorter No. 1
1	Net working interest volumes:							
2	Gas—M ft ³ at 14.65 lb/mcf ¹	198,600	75,600	225,400	100,800	75,900	155,700	173,700
3	Liquids—barrels ²	1,000	500	1,717	804	657	2,151	2,653
4	Average net lease investment ³	\$26,714	\$11,300	\$13,311	\$13,155	\$12,386	\$1,837	\$26,715
5	Average net investment—working capital allowance ⁴	1.14	896	1,783	997	1,071	1,218	1,783
6	Average rate base	27,858	12,196	15,104	14,152	13,457	3,055	28,498
7	Cost of production:							
8	Return on rate base at 15 pct ⁵	4,178	1,829	2,265	2,123	2,018	458	4,274
9	DDG ⁶	67,191	25,914	30,000	60,000	30,000	15,000	70,000
10	Production expenses ⁷	71,534	35,755	117,093	41,867	15,021	52,132	58,765
11	Subtotal	173,303	73,508	169,358	104,110	57,039	72,231	145,897
12	Allocated to gas ⁸	143,094	59,507	157,200	113,991	80,394	66,932	135,013
13	Regulatory expense ⁹	199	7	25	101	76	156	174
14	Total cost of production	143,293	59,514	157,225	114,091	80,470	67,088	135,187
15	Unit cost of gas (cents per M ft ³) ¹⁰	\$4.71	\$7.37	\$9.87	\$11.15	\$10.61	\$4.33	\$7.83
16	Cost of production ¹¹	6.79	7.80	9.67	9.18	8.59	3.45	6.31
17	Production tax ¹²							
18	Total unit cost of gas ¹³	6.79	7.80	9.67	9.18	8.59	3.45	6.31
19	Remaining productive life, years ¹⁴	8.25	5.25	8.25	5.25	5.25	5.25	4.25

¹ Staff estimate of 100 pct gross interest remaining recoverable reserves (excluding fuel) X net working interest.
² 6.5 Bbls/1,000 M ft³ (staff estimate) X net working interest staff remaining recoverable reserves (before adjustment for fuel) in 1,000 M ft³.

³ The average net investment is based on the sums of each year's net book balance at mid-year divided by the remaining productive life. Annual depreciation obtained as follows using staff's schedule of estimated annual production: (annual production X total remaining recoverable reserves) X depreciable investment.

⁴ $\frac{1}{2}$ X line 11 X remaining productive life in years.
⁵ 15 pct X line 7 X remaining productive life in years.

⁶ Based on data Dorfman submitted in filing.
⁷ Based on average operating expenses for the 24-mo. period from October 1971 through September 1976 and escalated 5 pct per year for inflation for the first 5 yr.

⁸ Based on the modified Btu method as per opinion No. 719.
⁹ Line 2 X \$5.00/M ft³ per opinion No. 719.

¹⁰ Line 15 X line 2.
¹¹ 7.5 pct X line 19.
¹² Staff estimate.

¹³ Line 15 X line 2.
¹⁴ Staff estimate.

APPENDIX B.—Sheet 2 of 2, Dorfman Production Co., operator, docket No. R177-20 (no proposed work), out-of-pocket expenses used, Willow Springs Field, Gregg County, Tex.

[Calculation of unit cost of gas]

Line No.	Item	United Gas Pipeline contract		
		Duncan No. 1	Hayes No. 2	Thrasher No. 2
1	Net working interest volumes:			
2	Gas—M ft ³ at 14.65 lb/mcf ¹	135,500	121,300	92,000
3	Liquids—barrels ²	1,013	500	785
4	Cost of production:			
5	Production expense ³	\$60,701	\$58,633	\$44,810
6	Allocated to gas ⁴	57,493	54,799	42,119
7	Regulatory expense ⁵	139	121	93
8	Total cost of production	57,632	54,810	42,912
9	Unit cost of gas (cents per M ft ³) ⁶	41.61	45.25	45.54
10	Cost of production ⁷	3.37	3.67	3.70
11	Production tax ⁸			
12	Total unit cost of gas ⁹	41.98	48.92	49.28
13	Remaining productive life, years ¹⁰	7	6	6

¹ Staff estimate of 100 pct gross interest remaining recoverable reserves (excluding fuel) X net working interest.
² 6.5 Bbls/1,000 M ft³ X net working interest staff remaining recoverable reserves (before adjustment for fuel) in 1,000 M ft³.

³ Based on average operating expenses for the 24-mo. period from October 1971 through September 1976 and escalated 5 pct per year for inflation for the first 5 yrs.

⁴ Based on the modified Btu method as per opinion No. 719.
⁵ Line 2 X \$5.00/M ft³ per opinion No. 719.

⁶ Line 8 X line 2.
⁷ 7.5 pct X line 12.
⁸ Staff estimate.

⁹ The unit cost of gas is based on "out-of-pocket" expenses which are defined for this calculation as all costs not associated with capital expenses or recovery.

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APPENDIX C.—Sheet 1 of 1, Dorfman Production Co., operator docket No. R1-77-20, rework of seven wells, Willow Springs Field, Gregg County, Tex., proposed work, costs, reserves, and future producing life data

		100 pct gross interest estimated recoverable reserves at 14.65 lb/mcf			
Description of proposed work and estimated recoverable reserves	100 pct W I cost	Staff 1,000 cubic feet	Dorffman	Staff future producing life, years	
Subject to United contract:					
Harrison No. 2	Re-enter the well to restore the Travis Peak and Pettit formations to production. Install a tubing string in the well and a compressor at the well.	\$90,000	398,000	215,000	8.25
Harrison No. 3	Back off the tubing, mill up the permanent packer, and restimulate the Travis Peak formation.	40,000	154,000	180,000	5.25
McWhorter No. 2	Re-enter the Travis Peak formation.	30,000	326,000	288,000	8.25
Flemons No. 2	Pull the tubing, squeeze cement the perforations in the Redessa formation, drill out the permanent packer and retreat the Travis Peak formation.	60,000	165,000	180,000	5.25
Tolet No. 3	Squeeze cement the perforations in 1 section of the Henderson formation and perforate another section of the Henderson formation behind the pipe.	30,000	122,000	120,000	5.25
Subject to Texas Eastern contract:					
Hayes No. 1	Reperforate and reactivate the Redessa formation.	10,000	135,000	120,000	4.25
McWhorter No. 1	Pull the tubing and check for possible casing leak. If leak is found, squeeze cement the leak, drill out the cement and reactivate the Redessa formation.	70,000	239,000	180,000	4.25
Grand totals:		330,000	1,621,000	1,283,000	

[FR Doc 77 29539 Filed 10-6-77 8 45 am]

[6740-02]

[Docket No. R177-122]

FREEPORT OIL CO.

Application for Amendment of Certificate Application and Petition for Special Relief

SEPTEMBER 30, 1977.

Take notice that on July 29, 1977, Freeport Oil Co. (Freeport), P.O. Box 3038, Midland, Tex. 79701, filed an amendment and supplement to an application for certificate of public convenience and necessity previously filed by Freeport on June 16, 1977, in Docket No. C177-571 (noticed by the Commission on September 2, 1977, 42 FR 45714, September 12, 1977) and a petition for special relief pursuant to Section 2.56a(g) of the Commission's General Policy and Interpretations.

In its June 16 application, Freeport seeks to sell natural gas to Mississippi River Transmission Corp. (Mississippi) from eleven existing wells and acreage in Mills Ranch Field, Wheeler County, Tex., pursuant to a contract with Mississippi dated May 18, 1977. Although this was stated to be initial sale, the gas involved is presently being sold to Mississippi under a limited term certificate issued by the Commission on October 31, 1974, in Docket No. C174-78 (52 FPC 1141). That certificate authorized the sale for a period of three years from its date of issuance at a rate of 56 cents per Mcf, subject to Btu adjustment and a one cent annual escalator. The proposed

price for the new sale is 181.311 cents per Mcf plus Btu and tax adjustment. Estimated sales volumes are 730,290 Mcf per month. On August 11, 1977, Mississippi filed a petition to intervene in Docket No. C177-571 in support of the application.

The instant filing is an amendment to Freeport's June 16 application to seek special relief allowing the 181.311 cents per Mcf rate its seeks.

Any person desiring to be heard or to make any protest with reference to said amendment and petition should on or before October 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10) and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on this ap-

plication if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Mississippi's petition to intervene in Docket No. C177-571 is deemed to be a petition to intervene in this proceeding also.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 29545 Filed 10-6-77 8 45 am]

[6740-02]

[Docket No. ER77-533]

LOUISIANA POWER & LIGHT CO.

Order Rejecting Section 205 Filing, Amending Prior Order, Establishing Section 206(A) Proceedings, Granting Intervention and Establishing Price Squeeze Procedures

SEPTEMBER 30, 1977.

On July 29, 1977 Louisiana Power and Light Co. (LP&L) tendered for filing proposed increased rates and charges for jurisdictional sales to four rural electric cooperatives and four municipal electric customers. The filing would increase the Company's revenues by \$4,377,951 (\$3.46¢) for the 12-month period ending August 31, 1978.

The Cities of Winnfield, Vidalia, and Jonesville, La. (hereinafter referred to as Cities) jointly filed a petition to intervene and a motion to reject the filing as violative of the Mobile-Sierra doctrine, inter alia. On August 26, 1977, the Commission issued an order in this proceeding which deferred ruling on Cities' motion to reject LP&L's filing pursuant to Section 205 of the Federal Power Act. LP&L's rates were suspended for two months and provisionally accepted subject to our determination of the fixed-rate contract issue.

The Cities' allegation that the contracts are fixed rate contracts within the meaning of Mobile-Sierra doctrine was underpinned by their interpretation of the following provision which was part

* See Appendix A for Description of order issued August 26, 1977.

* *United Gas Pipeline Co. v. Mobile Gas Service Corp.*, 350 U.S. 332 (1956); and *F.P.C. v. Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

* The Commission also in the order issued August 26, 1977 granted intervention and established price squeeze procedures pursuant to our policy announced in Order No. 563.

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of the printed form contract drafted by LP&L.⁴

The terms and conditions of this Agreement and the Rate Schedule are subject to amendment or alteration as a result of and in accordance with a valid applicable order of any governmental regulatory authority having jurisdiction hereof.⁴

In its answer filed August 23, 1977, LP&L argues that it has reserved in its contracts with each of the Cities the right to make a unilateral rate change in accord with section 205 of the Act. Alternatively, the Company argues that if the Company is prohibited from filing pursuant to section 205, it should be allowed to implement the requested increase upon issuance of a final Commission order determining just and reasonable rates.

The Commission sua sponte examined the individual contracts between LP&L and the town of Minden, Cajun Electric Power Cooperative, Inc., (hereinafter referred to as Cajun),⁴ Dixie Electric Membership Corp., Pointe Coupee Electric Membership Corp. and Washington-St. Tammany Electric Cooperative, Inc. (hereinafter referred to collectively as Cooperatives).

The provision in question in each of the contracts between the Company and Cajun and the Company and the Cooperatives is the same and reads as follows:

The terms and conditions of the Agreement and the Rate Schedule are subject to approval or acceptance for filing by any governmental regulatory authority having jurisdiction hereof and to amendment or alteration as a result of and in accordance with a valid applicable order of any such governmental regulatory authority.

Both contract provisions as set forth above reveal that a change in rate is to be made only when ordered by the appropriate regulatory authority. Since the parties provided for a change in rate only by order issued by a regulatory authority, it is clear they did not contemplate a unilateral filing pursuant to Section 205 of the Act. This interpretation is entirely consistent with our interpretation.

⁴ The Cities cite a number of cases as authority for their request that the Commission reject LP&L's filing with respect to the Cities. *FPC v. Sierra Pacific Power Company*, 350 U.S. 348 (1956); *United Gas Pipe Line Co. v. Mobile Gas Service Corp.*, 350 U.S. 332, 343 (1956); *Same Rayburn Dam Electric Cooperative v. FPC*, 515 F.2d 988, 1003 (CA-DC, 1975); and *Anderson Power & Light of the City of Anderson, Indiana v. FPC*, 482 F.2d 490, 499, 501 (CA-DC, 1973).

⁵ This provision was in each of the contracts between LP&L and the cities of Winnfield, Vidalia, Jonesville and Minden.

⁶ Cajun is the wholesale power supplier for Beauregard Electric Cooperative, Inc., Bossier Rural Electric Membership Corporation, Claiborne Electric Cooperative, Inc., Concordia Electric Cooperative, Inc., Jefferson Davis Electric Cooperative, Inc., Northeast Louisiana Power Cooperative, Inc., South Louisiana Electric Membership Corporation, Teche Electric Cooperative, Inc., and Valley Electric Membership Corporation.

tation of similar contract provisions in prior cases.⁷

We also have interpreted similar clauses to mean that the contracts contemplate a rate changeable in a specific manner such as may be instituted under section 206 of the Act. We stated in *Indiana and Michigan Electric Co.*, Docket No. E-7740 that:⁸

We would note that the procedures under such a Section 206 proceeding would not entail meeting the heavy burden of proof associated with the *Mobile-Sierra* decisions. As all parties concede, these contracts clearly contemplate that the Commission may order a change in rates; that is, the rates are not fixed for the term of the contract, only the manner in which such a change may be effected is contractually established. Accordingly, our examination of I&M's proposed rates would still be on a basis of our cost-plus-fair return standard. Cf. *Southern California Edison Co.*, Docket No. E-8176, order issued September 21, 1973. [Emphasis supplied.]

LP&L appears to have bargained for and obtained a contractual authorization for a section 206(a) rate proceeding with its just and reasonable standard of proof.⁹

In our order issued August 26, 1977, we raised the question as to whether the fuel adjustment rider (supplement No. 1 of the contract) would alter the contractual relationship between the parties set forth in the contract. The clause in question grants both the Company and the customer the right to request a lawful change in the rate.¹⁰ This contractual right is limited to changes in the fuel adjustment rider. Accordingly, the fuel adjustment rider filed by the Company does not alter the underlying contractual

⁷ We determined that such language as "authorized" or "ordered" prohibits a section 205 filing in *Kansas Power and Light Company*, Docket No. ER76-39, order issued December 22, 1975. We stated:

We do not believe the word "authorized" contemplates a unilateral filing which may be made effective merely by Commission acceptance but rather that it contemplates a rate fixed by the Commission. We have consistently held that similar phrases such as "approved" [citation omitted] and "ordered" [citation omitted] . . . "by the Commission" do not support unilateral filings by the company. We find therefore, as did the Court in *Mobile*, that the parties to the contracts in question consented only to those changes finally authorized or ordered by the appropriate Commission, and clearly did not contemplate unilateral filings as permitted by Section 205.

⁸ *Indiana and Michigan Electric Company*, Docket No. E-7740, order issued June 3, 1974. Also see, *Detroit Edison Company*, Docket No. ER77264, order issued June 30, 1977.

⁹ See, *Public-Service Company of New Mexico*, Docket No. E-9454, order issued July 31, 1975.

¹⁰ The fuel adjustment rider was filed as Supplement No. 1 to the contracts and reads as follows: *Service hereunder is subject to the orders of regulatory bodies having jurisdiction and either the Company or Customers may request lawful change in rate or contract in accordance with such jurisdiction.* (emphasis supplied)

arrangement of the parties as heretofore discussed.

We shall institute a section 206(a) proceeding to examine the just and reasonable rate for LP&L's service to the four municipal customers, Cajun and the Cooperatives. All changes will be prospective in application. LP&L's filing as to these customers shall represent its case-in-chief in these section 206(a) proceedings.

On August 23, 1977 Cajun and Cooperatives jointly filed a protest, petition to intervene in this proceeding, a motion to reject the filing and a motion to suspend the proposed rates for the maximum statutory period. The motion to reject was predicated on the averment that the rates were neither just nor reasonable on its face because of the magnitude of the proposed increase. Cajun and Cooperatives also raise a price squeeze allegation in their filing.

On September 1, 1977, LP&L filed an answer to Cajun and Cooperatives joint petition. The Company argues that Cajun and Cooperatives did not allege any grounds for rejecting its filing under the Commission Regulations nor did they allege any grounds for suspending its rate application for the maximum five month period. The company further states that it disputes the contention that there is any "price squeeze" between its retail and wholesale rates. We find that good cause exists to grant Cajun's and Cooperatives' joint petition to intervene. To conform with our Order No. 563, we shall allow Cajun and Cooperatives to fully participate in price-squeeze procedures as established in our order issued August 26, 1977 in this docket.

The Commission finds: (1) Good cause exists to reject LP&L's filing under section 205 of the Federal Power Act and to terminate the proceeding heretofore initiated under that section of the Act, as hereinafter ordered.

(2) Good cause exists to institute an investigation under section 206 of the Act to determine just and reasonable rates to be charged to Cities, Cajun, and Cooperatives.

(3) Good cause exists to accept Cajun and Cooperatives' joint petition to intervene.

(4) Good cause exists to allow joint petitioners—Cajun and Cooperatives—to fully participate in the price squeeze procedures established in order issued August 26, 1977 in Docket No. ER77-533, in this proceeding.

The Commission orders: (A) LP&L's rate filing pursuant to section 205 of the Act is hereby rejected.

(B) Ordering paragraphs (A) and (B) in the order issued August 26, 1977 in this proceeding are hereby deleted.

(C) Pursuant to the authority of the Federal Power Act, particularly section 206 thereof, and the Commission's rules and regulations, and the regulations under the Federal Power Act, an investigation is ordered to determine the just and reasonable rates to be charged to Cities, Cajun, and Cooperatives. Said investiga-

tion is to be based on LP&L's filing of July 29, 1977, and LP&L shall have the burden of proof in establishing the justness and reasonableness of its July 29 filing.

(D) Joint petitioners—Cajun and Cooperatives—are hereby permitted to intervene in Docket No. ER77-533 subject to the Rules and Regulations of the Commission; *Provided, however*, That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further*, That the admission of such intervenor shall not be construed as recognition by the Commission that they might be aggrieved because of any Commission order entered in this proceeding.

(E) In Docket No. ER77-533, the Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the petitioners' request for data required to present their case, including a *prima facie* showing, on the price squeeze issue. Also, the Company shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and the petitioners shall file their case-in-chief on the price squeeze issue within 30 days after the Company's response.

(F) The Secretary shall cause prompt publication of the Order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29546 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. CP75-33]

MOUNTAIN FUEL SUPPLY CO. Petition To Amend

SEPTEMBER 30, 1977.

Take notice that on September 22, 1977, Mountain Fuel Supply Company (Petitioner), 180 East First South, Salt Lake City, Utah 84139, filed in Docket No. CP75-33 a petition to amend the Commission's order of August 20, 1975, issued in the instant docket (54 FPC ----) pursuant to section 7(c) of the Natural Gas Act so as to provide for an increase in the maximum allowable gas inventory in the Chalk Creek Storage Field in Summit County, Utah, and the allowable withdrawal deliverability; and to permit the installation of the necessary facilities to effectuate these operations, all as more fully set forth in the petition to amend on file with the Commission and open to public inspection.

Petitioner indicates that pursuant to the Commission's order of August 20, 1975, it was authorized to operate facilities for the injection and withdrawal of natural gas at the Chalk Creek Storage Field. Petitioner indicates that in the initial decision, issued March 27, 1975 and ultimately confirmed by the Com-

mission on August 20, 1975, two limitations were placed on Petitioner's operation of the Chalk Creek Field: (1) Withdrawals were limited to 52,531 Mcf per day at 14.73 psia, (2) Maximum gas inventory in the Kelvin S and S-1 sands of the Chalk Creek Storage Field was limited to 1,800,000 Mcf of gas at 14.73 psia. Petitioner states that both of these limitations need to be raised.

Petitioner indicates that the Chalk Creek Field is a complex storage reservoir, the mechanics of which are not fully understood. Several theories have been advanced to explain its peculiar operating characteristics but as yet it has not been possible to test any of them, it is said. Petitioner states that intensive studies are under way to determine its most promising future course of action to define the physical extent and optimum operational capabilities of this storage reservoir. It is indicated that in spite of its complexity Chalk Creek is becoming increasingly critical to Petitioner's operations because of its location and high deliverability characteristics, and Petitioner's other storage reservoirs cannot substitute for Chalk Creek because Coalville (CP75-215), which is still under development at this point in time, lacks the necessary deliverability and Leroy (CP73-43), which is considerably removed from Petitioner's principal market area, is needed for base load requirements. Petitioner states that in the absence of Chalk Creek, with its short term high deliverability, Leroy would have to be maintained at maximum pressure until late in the heating season and that this would limit Petitioner's use of Leroy and would jeopardize or restrict the possibility of emergency deliveries to other companies. Thus, the limitations ordered by the Commission pose a threat to current and future Chalk Creek operations, it is asserted.

The Chalk Creek reservoir is a very valuable peak shaving facility of both hourly and daily load equation because of its high deliverability rate and close proximity to the major portion of Petitioner's service area, it is said. It is stated that the over 50,000 Mcf per day rate comes from a single well (Government No. 1 MFS Co.), and unfortunately, the volume of gas immediately accessible to this well completed in the Kelvin "S" sand is relatively small and this high rate can be maintained for only two or three days. Some gas migrates from the "S" sand to the "S-1" sand about 400 feet above it, and such gas is periodically withdrawn from the Government No. 3 well and delivered to the transmission pipeline or reinjected into Government No. 1, it is said. It is stated that all other wells are for observation only.

Petitioner indicates that in order to maintain the required working gas volume, it has found it necessary to inject more gas than it withdraws. It is stated that while the volume of working gas has remained fairly uniform, the volume of cushion gas has increased more or less steadily until on June 30, 1977 it amounted to 1,748,464 Mcf (14.73

psia). Thus with the current volumetric limitation of 1,800,000 Mcf on gas inventory, there is practically no working gas available, it is said. Petitioner states that the reasons for this gradual increase in cushion gas inventory have not yet been determined, although there is not any apparent leakage from the reservoir to surface. Petitioner further states that it is now time to start filling Chalk Creek for the 1977-78 season storage operations, but Petitioner needs authorization to inject gas beyond the 1,800,000 Mcf limitation before such injection operations can be effectively commenced. Furthermore, the 50,000 Mcf per day limitation on deliverability makes no provision for simultaneous withdrawal from the Government No. 1 and No. 3 wells, it is indicated.

Accordingly, Petitioner asserts that in order to provide a reasonable operating margin for working gas and deliverability during the next two years, Petitioner requests that the limitation on the maximum inventory be increased to 3,000,000 Mcf and that the deliverability limitation be increased to 70,000 Mcf per day. Applicant also requests authorization to replace the 4-inch pipeline to the No. 3 well with a 6-inch pipeline. Additional metering and control facilities would also be needed and an additional dehydration unit at the No. 3 well would be required, it is said. The cost of these facilities would amount to about \$159,000, it is indicated.

Petitioner asserts that the above facilities and operating parameters would solve its short term problem with the Chalk Creek storage reservoir. Petitioner states that the long term problem must await the conclusion of the current Chalk Creek reservoir studies with their recommendations. Petitioner further states that it is anticipated that additional geological, seismic and drilling work would be required to determine the precise operating characteristics of this structure and the reasons for the large cushion gas requirement.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practices and Procedures (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary

[FR Doc 77-29547 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. R177-68]

MULLINS & PRICHARD**Order Granting Special Relief**

SEPTEMBER 30, 1977.

On May 2, 1977 Mullins & Prichard (Petitioners) filed a petition for special relief pursuant to Section 2.76 of the Commission's Statements of General Policy and Interpretations (18 CFR 2.76), for the sale of gas to Trunkline Gas Company (Trunkline) from The Citrus Land Co., Inc. Well No. 1-A, located in Section 2-T18S-R11E, Shell Island Pass Field, St. Mary Parish, Louisiana. Petitioners request the rate for the subject gas from the currently applicable 30.0908 cents per Mcf plus 7 cents per Mcf tax reimbursement, to a rate of \$1.20 per Mcf plus 7 cents per Mcf tax reimbursement. Trunkline filed a petition to intervene on May 24, 1977, but stated no position with regard to the merits of the petition. On August 5, 1977 petitioners amended their petition to seek a rate of \$1.10 per Mcf plus any applicable severance tax. The amended petition was noticed by the Commission on August 19, 1977, with interventions or protests due September 12, 1977. No protests or petitions to intervene have been filed.

Petitioners are currently making the 1968, pursuant to a small producer certificate issued in Docket No. C169-152. On file in Docket No. C169-152. On April 21, 1977 Petitioners and Trunkline executed an amendment to their contract authorizing a rate of \$1.20 per Mcf exclusive of applicable Louisiana severance taxes.

Petitioners state that in order to prevent premature abandonment it will be necessary to rework the well and install a compressor.

Petitioners estimate the investment necessary to rework the well to be \$379,665 and the purchase and installation cost of the compressor to be \$129,699. Thus Petitioners' proposed investment is \$509,364. Petitioners calculate their current investment at \$96,500. Based on its analysis of data submitted, Staff accepts Petitioners' current and proposed investment. Petitioners estimate annual production expense of \$53,268. Staff accepts this estimate, and applies a five per cent inflation factor in projecting total estimated production expenses of \$383,372.

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Petitioners have requested a rate exclusive of state severance tax in anticipation of a change in the method of computing such tax. Staff estimates that there are 1,099,987 Mcf of gas remaining to be recovered over 6.166 years, and concludes that 916,619 Mcf are attributable to Petitioners' 83.33% net working interest.

Staff has used the above costs along with 916,619 Mcf of reserves in a traditional cost study using the modified Btu method to allocate costs between gas and liquids. The results of this analysis indicate that \$1.10 per Mcf exclusive of severance tax will be required to allow Petitioners to recover their costs, including a 15 percent rate of return over a 6.166 year life. Staff therefore concludes that the requested rate appears to be cost supported.

Upon consideration of the date submitted by Petitioners and Staff's analysis thereof, we conclude that the proposed rate is justified.

The Commission orders: (A) The petition of Mullins and Prichard for special relief is granted.

(B) Mullins & Prichard are authorized to collect a rate of \$1.10 per Mcf at 15.025 psia including adjustments, plus state severance tax for the sale of gas sold to Trunkline from the Citrus Land Co., Inc. Well No. 1-A, Section 2-T18S-R11E, Shell Island Pass Field, St. Mary Parish, Louisiana, effective on the date of issuance of this order or on the date of completion of the proposed work, whichever occur later. This authorization is contingent upon Mullins & Prichard's filing within 30 days of the effective date set forth above a statement signed by Trunkline that the proposed work has been completed to Trunkline's satisfaction.

(C) Mullins & Prichard shall file a Notice of Independent Producer Rate Change in Docket No. CS72-194 within 30 days of the issuance of this order.

(D) Mullins & Prichard shall file a Notice of Independent Producer Rate Change in Docket No. CS72-194 reflecting any change in rate resulting from any change in the existing Louisiana severance tax within 30 days of the enactment of any such change.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A—Sheet 1 of 3, Mullins & Prichard, docket No. R177-68, well No. 1-A, Shell Island Pass Field, St. Mary Parish, La.

[Unit cost of gas]		
Line No.	Item (a)	Amount (b)
1	Net working interest:	
2	Gas—Mcf at 15.025 ¹	916,619
3	Liquids—barrels ²	27,117
4	Cost of production:	
5	Return ³	\$20,773
6	DDCA ⁴	570,047
7	Production expense ⁵	388,372
8	Subtotal	1,199,192
9	Allocated to gas ⁶	1,010,711
10	Regulatory expense ⁷	912
11	Total cost of production	1,011,623
12	Unit cost of gas (cents per 1,000 cubic feet):	
13	Cost ⁸	1.10
14	Total unit cost of gas ⁹	1.19

¹ 1,099,987 times 0.8333.
² 32,340 times 0.8333.
³ Line 11 of sheet 3 times 0.15 times 6.166 yr of productive life.
⁴ Line 7 of sheet 2.
⁵ Based on an estimated base year of \$53,268 calculated 5 per cent per year for 5 yr.
⁶ Line 13 of sheet 2 times line 8.
⁷ Line 2 times 0.16 per 1,000 cubic feet per opinion No. 749.
⁸ Line 11 divided by line 2.
⁹ This does not include a component for State severance tax due to applicant's allegation that the future value of this component is unknown at the present time.

APPENDIX A—Sheet 2 of 3, Mullins & Prichard, docket No. R177-68, well No. 1-A, Shell Island Pass Field, St. Mary Parish, La.

[Investment and allocation of costs]		
Line No.	Item (a)	Amount (b)
1	Investment:	
2	Remaining net book value	\$96,500
3	Compressor installation	129,699
4	Rework well	379,665
5	Total investment	605,864
6	Less salvage ¹	35,817
7	Depreciable investment	570,047
8	Depreciation per unit of production (cents) ²	62,1802
9	Allocation of costs:	
10	Gas—MMBtu ³	\$921,502
11	Liquids—MMBtu ⁴	163,512
12	Total—MMBtu	1,085,014
13	Percentage allocated to gas ⁵	81.92

¹ From filing.
² Line 7 divided by 916,619 MCF.
³ Modified Btu method per opinion No. 749.
⁴ 916,619 times 1,005,000 Btu/MCF.
⁵ 12,660 Bbls. of lease condensate times 5,418,000 Btu per barrel times 1.5 modifier; plus 14,457 barrels of plant liquids times 4,154,000 Btu per barrel.
⁶ Line 10 divided by line 12.

NOTICES

APPENDIX A—Sheet 3 of 3, Mullins & Prichard, docket No. R177-68 well No. 1-A Shell Island Pass Field, St. Mary Parish, La.

[Average investment and annual rate base]					
Line No.	Year	Annual new working interest (Mcf) ¹	Beginning of year investment	End of year investment	Average investment ²
(a)	(b)	(c)	(d)	(e)	(f)
1	Average investment:				
2	1977	275,839	\$605,864	\$171,545	\$443,315
3	1978	277,061	434,319	128,772	305,547
4	1979	155,415	305,547	96,553	208,994
5	1980	116,635	208,994	72,573	136,421
6	1981	57,584	136,421	54,469	81,952
7	1982	65,744	81,952	40,886	40,966
8	1983	18,281	40,966	5,149	35,817
9	Total	916,619		570,047	1,497,748
10	Average annual investment ³				14,719
11	Annual rate base:				
12	Average annual investment				14,719
13	Average annual working capital allowance ⁴				7,873
14	Total annual rate base				226,592

¹ Col. (b) times line 8 of sheet 2.
² Col. (c) plus col. (e) divided by 2.
³ 2 mo. of production.
⁴ Col. (f) of line 9 divided by 6.1666 yr of productive life.
⁵ 0.125 times line 7 of sheet 1 divided by 6.1666 yr of productive life.
[FR Doc. 77-29552 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. ER77-566]

NEW ENGLAND POWER CO.

Order Accepting for Filing and Suspending Revised Tariff Sheets, Providing for Hearing, Establishing Procedures and Granting Intervention

SEPTEMBER 30, 1977.

On August 26, 1977, as amended on August 31, 1977, New England Power Co. (NEPCO) tendered for filing revised supplements to its FPC Electric Service Tariff Number 1. The tariff provisions contain the terms and conditions for continuation of contract demand (CD) service after October 31, 1981. The currently effective provisions regarding CD Service expire in accordance with their own terms on October 31, 1981. NEPCO requests an effective date of not later than October 1, 1977.

In support of its filing NEPCO states that the current tariff authorizes the Company, at any time after October 15, 1976, to file a revised CD tariff to cover CD Service commencing November 1, 1981. NEPCO states that the principal

provision contained in the revised Terms and Conditions governing CD Service, is the provision that permits the Company's CD customers to continue to reduce their primary power takings from NEPCO after 1981.

Similarly, as stated by NEPCO, in accordance with its policy of attempting to manage its load so as not to require additional generating capacity with its attendant cost, NEPCO reserves the right to reduce the amount of primary power which it will provide to the Customer, lacking a similar reduction on the Customer's part. Both NEPCO and Customers are limited to an orderly guideline of twenty percent per year.

NEPCO states that it is necessary that the tariff provisions become effective not later than October 1, 1977, in order that both Customers and the Company may comply with the notice provisions contained in the revised tariff. Customers must notify the Company by October 1, 1977 of their desires with respect to CD Service for the power year commencing November 1, 1981. For subsequent power years, a five year and one month notice provision applies. The Company must notify Customers by October 31, 1977 of its intent (if any) to reduce CD takings for the power year commencing November 1, 1981. A five year notice provision applies to the Company in regard to subsequent power years. No rates are being submitted in the instant filing.

Notice of the filing was issued on September 6, 1977, with protests or petitions to intervene due on or before September 12, 1977. On September 12, 1977, the NEPCO Customer Rate Committee and the Unaffiliated Resale Customers (Cus-

tomers) filed a protest, petition to intervene and request for five month suspension of tariff supplements. In support of their petition Customers state that they are essentially the only entities taking service under the CD Tariff and that their existing purchases from NEPCO under the tariff are substantial. In support of the five month suspension Customers state that the substantial advance notice of purchases under this tariff to commence after November 1, 1981, is not justified, that it cannot be substantiated because the Company currently has substantial reserve capacity and that the present state of the construction program would not justify the advance notice requested. The Committee and Customers claim they must be afforded adequate time to evaluate power supply alternatives to the CD rate and that the notice requested by NEPCO would deter such evaluations. Customers claim that the notice provision could have anticompetitive effects since it might oblige the Customers to forfeit alternative power supply arrangements to meet the revised notice requirement.

On September 16, 1977, NEPCO filed a response to the protest and request for suspension. NEPCO states that the questions raised are clearly appropriate for hearing and, therefore, does not oppose a one day suspension, but vigorously opposes the request for a five month suspension period. NEPCO submits that (1) the long lead time inherent in present day construction of generating facilities makes its notice provision eminently reasonable, and (2) that intervenors' difficulties are no different from the difficulties of others engaged in the power supply business and constitute no ground for suspension. NEPCO states that if this filing is suspended for more than one day, NEPCO will have been precluded from implementing its initial four year notice provisions.

On September 21, 1977, Customers filed an answer to NEPCO's response and a supplement to their protest, petition and request for five months suspension. Customers now ask that the Commission reject NEPCO's application as a section 205 filing, and accept it, to become effective in such fashion as is ultimately found to be just and reasonable, after hearing. Customers raise issues as to the sufficiency of the information submitted by NEPCO, and submit that NEPCO should not be allowed to require Customers to make projections of need now, in advance of necessary additional information, and in a manner which is inconsistent with the operation of NEPOOL.

The Commission's review of all pleadings in this case indicates that the proposed tariff supplements have not been shown to be justified and may be unjust, unreasonable, unduly discriminatory or otherwise unlawful. Timely resolution of the issues in these filings is necessary, in order to give the Company and the Customers adequate opportunity for the future planning of power supply. We be-

lieve that the best assurance of a timely determination on NEPCO's instant filing lies in an expedited proceeding under section 205 of the Federal Power Act. Accordingly, the Commission shall accept for filing the proposed tariff supplements and suspend them for five months. In order to assure a determination on the issues raised by Customers prior to the date the tariff supplements will go into effect, we shall establish a hearing schedule to conclude the proceedings within the five month suspension period.

The Commission finds: (1) It is necessary and proper in the public interest and to aid in the enforcement of the provisions of the Federal Power Act that the Commission enter upon a hearing concerning the lawfulness of the revised supplements to its FPC Electric Service Tariff Number 1 tendered by NEPCO on August 31, 1977, establishing procedures for that hearing, and that the revised supplements be accepted for filing, suspended, and the use thereof deferred, all as hereinafter ordered.

(2) The participation in this proceeding of Customers may be in the public interest.

(3) Good cause exists to establish expedited hearing procedures in this proceeding.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by the Federal Power Act, particularly sections 205, 206, 301, 307, 308, and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the Regulations Under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of the revised tariff provisions proposed by NEPCO in this proceeding.

(B) Pending such hearing and decision thereon, the proposed tariff revisions filed by NEPCO on August 31, 1977, and identified in Appendix A attached hereto, are hereby accepted for filing, suspended and the use thereof deferred until March 1, 1978, when they shall become effective.

(C) Customers are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission: *Provided, however, That* participation of intervenors shall be limited to the matters affecting asserted rights and interests specifically set forth in the petition to intervene; and *Provided, further, That* the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved by any orders entered in this proceeding.

(D) NEPCO shall file its case-in-chief in this proceeding on or before October 21, 1977. Intervenor and staff shall file their testimony, if any, on or before November 18, 1977. Rebuttal testimony shall be filed on or before December 2, 1977.

(E) A Presiding Administrative Law Judge to be designated by the Chief Administrative Law Judge for that pur-

pose (See, Delegation of Authority, 18 CFR 3.5(d)), shall convene a hearing in this proceeding on December 6, 1977 at 10 a.m. (ET) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426.

(F) Nothing contained herein shall be construed as limiting the rights of parties to this proceeding regarding the convening of conferences or offers of settlement pursuant to section 1.18 of the Commission's rules of practice and procedure.

(G) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

NEW PENN. AND POWER CO., DOCKET NO. 1977-29548

DATED: Undated

FILED: August 31, 1977.

EFFECTIVE: October 1, 1977.

(1) Second Revised Sheet No. 1 under FPC Electric Tariff Original Vol. No. 1 (Table of Contents), (Supersedes 1st Revised Sheet No. 1).

(2) Original Sheet Nos. 1 through 5 under Schedule III-E under FPC Electric Tariff Original Vol. No. 1.

[FR Doc. 77-29548 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. RP76-158]

NORTH PENN GAS CO.

Order Approving Settlement Agreement

SEPTEMBER 30, 1977.

On May 9, 1977, North Penn Gas Company (North Penn) submitted a proposed settlement agreement in resolution of all issues in this proceeding, accompanied by a motion requesting Commission approval.¹ The New York Public Service Commission (PSNY) reserved the right to oppose or to comment on certain aspects of the agreement. On May 13, 1977, presiding Administrative Law Judge Graham W. McGowan certified the record to the Commission. The Stipulation and Agreement results in an annual increase in revenues of W. McGowan certified to this Commission the record containing the agreement. North Penn's evidence and Staff's top sheet on all issues in the proceeding. The Stipulation and Agreement results in an annual increase in revenues of \$951,605 based on the 12 month period ending May 31, 1976, as adjusted through February 28, 1977, for known and measurable changes. This represents a decrease of \$388,185 from the annual revenues initially claimed by North Penn.

¹ The settlement reflects an agreement reached by the parties of record, namely, North Penn, Conning Natural Gas Corporation, New York State Electric and Gas Corporation, PSNY, and the Commission Staff.

The settlement total cost of service is \$36,451,056. For the reasons stated herein, the Commission will approve the settlement agreement as certified to the Commission.

On September 30, 1976, North Penn tendered for filing proposed changes to its FPC Gas Tariff, First Revised Volume No. 1, to be effective November 1, 1976.² The proposed changes in rates would increase annual revenues from jurisdictional sales and service by \$1,339,790 based on data for the 12 month period ending May 31, 1976, as adjusted for known and measurable changes through February 28, 1977.

By order issued October 29, 1976, the Commission suspended the proposed increase in rates for five months until April 1, 1977, directed the Commission Staff to prepare and serve top sheets on all parties for settlement purposes on or before February 1, 1977 (subsequently extended to March 1, 1977), and directed the Administrative Law Judge to convene a settlement conference after service of the top sheets. Pursuant to the order of Administrative Law Judge McGowan, a prehearing conference was convened on March 17, 1977.

Informal settlement conferences held on March 17 and May 2, 1977 culminated in the filing of a settlement agreement on May 9, 1977. The Commission's Secretary issued a notice of the certification of the agreement, and allowed interested parties to comment on the settlement agreement on or before July 15, 1977. Staff filed comments in support of the settlement agreement. In its timely comments to the Commission, PSNY opposed the 13.35 percent rate of return on common equity and 10.45 percent overall rate of return allowed by the settlement agreement. PSNY contends that this return level is excessive and "is outside the zone of reasonableness for a company with as thick an equity ratio (44.64 percent) as North Penn."³ PSNY advocates a rate of return on equity of 12.75 percent. North Penn filed comments in response to PSNY's arguments on July 15, 1977.

The record before us is a limited one, comprised only of North Penn's initial filing, the settlement agreement, and the official stenographer's report of the settlement conferences before Judge McGowan. Neither Staff nor any other parties to the proceeding introduced any testimony or exhibits in evidence.

North Penn's witness Joseph F. Brennan presented a detailed analysis of historical market data, current circumstances and trends by which the immediate future of the market can be projected.⁴ Mr. Brennan calculated North Penn's capital structure, estimated at June 30, 1977, as follows:

² Thirty-Fourth Revised Sheet No. PGA-1.

³ Comments of PSNY, at 2.

⁴ Item C by Reference, Statement P, Testimony and Exhibits of Joseph F. Brennan.

	Amount	Ratio (percent)	Cost rate (percent)	Weighted cost (percent)
Long term debt.....	\$14,340	52.2	8.24	4.30
Common equity.....	13,139	47.8	15 to 15.5	7.17 to 7.41
Total.....	27,479	100.0		11.47 to 11.71, use 11.6

North Penn states that "In order to keep the controversial issues to a minimum and thereby to enhance the prospect of expedited resolution of the proceeding" the company based its proposed rate increase on the following capital structure and costs:

	Ratio (percent)	Cost rate (percent)	Weighted cost (percent)
Long term debt.....	52.2	8.04	4.20
Common equity.....	47.8	13.71	6.55
Total.....			10.75

For purposes of settlement, North Penn presented a capital structure as of May 31, 1976, and a rate of return agreed to by all parties, including Staff, with the exception of PSNY:

	Amount	Ratio (percent)	Cost rate (percent)	Weighted cost (percent)
Long term debt.....	\$14,925	55.36	8.11	4.49
Common equity.....	12,637	44.64	13.35	5.96
Total.....	26,562	100.00		10.45

PSNY raises two arguments to support its recommendation of a 12.75% rate of return on common equity. PSNY first argues that the settlement rate of return on common equity, which is "agreed to by Staff is out of line in comparison to rates of return recommended by the Commission Staff on similar capital structures."⁵ PSNY cites Staff's recommendation of an 11.8 percent rate of return on equity in *Natural Gas Pipeline Company of America*, Docket No. RP74-96. In Opinion No. 762, issued on May 21, 1976 in that proceeding, the Commission found a return of 13.5 percent on common equity was reasonable.⁶ PSNY also relies upon Staff's recommendation of twelve percent return on equity for *Tennessee Gas Pipeline Company* (Tennessee) in Docket Nos. RP75-13, RP75-113 and RP76-137.⁷ The Commission allowed Tennessee 13.75 percent rate of return

⁵ Ibid., testimony at 38-39, exhibit (JFB-1), schedules 10, 11, and 19.

⁶ North Penn's Reply Comments, at 3.

⁷ Exhibit (JFB-1), schedule 10; statement P-2 of North Penn's filing.

⁸ Stipulation and agreement, app. B.

⁹ Comments of PSNY, at 1.

¹⁰ Natural's capital structure consisted of 54.14 percent long term debt, 9.48 percent preferred stock, and 36.38 percent common equity.

¹¹ Comments of PSNY, at 1, footnote 1, in which PSNY refers to Tennessee as "Tennessee Natural Gas Company."

on common equity in the most recent Commission opinion determining just and reasonable rates for Tennessee.¹²

Even if the capital structures of Natural and Tennessee were similar to that of North Penn (and the data presented here shows they are not similar), the Commission notes that North Penn differs from the Natural and Tennessee systems in several respects. Natural and Tennessee are much larger pipelines, drawing revenues of \$929,000,000 and \$1,495,000,000, respectively, in 1976, as compared to North Penn's revenues of \$36,000,000.¹³ North Penn's facilities consist mainly of storage, with little production of its own.¹⁴ North Penn is dependent upon its storage to supply fluctuating requirements of its customers, whereas Natural and Tennessee operate long-line pipelines. North Penn therefore faces the risk of not accurately forecasting its storage requirements and thereby failing to obtain the maximum efficient use of its storage. Furthermore, Natural and Tennessee are both subsidiaries of larger, more diversified companies.

The Commission finds PSNY's first argument comparing the settlement to other recent Staff rate of return recommendations to be inadequate in attempting to justify its recommendation of a 12.75 percent return on equity for North Penn.

PSNY further argues that a 13.35 percent rate of return on equity is outside the zone of reasonableness for a small company such as North Penn, with a thick equity ratio of 44.64 percent. As noted by North Penn in its comments to PSNY's remarks,¹⁵ the thickness of the equity component in a capital structure is only one of many factors to be considered in assessing the risks which an investor incurs in purchasing a utility's

¹² *Tennessee Gas Pipeline Company*, Docket Nos. 73-113, Opinion No. 769 issued on July 9, 1976. Tennessee's capital structure was comprised of 51.05 percent debt, 11.86 percent preferred stock, and 37.09 percent common equity.

¹³ FPC Form 2 for Natural, Tennessee, and North Penn for the year 1976. Data for Tennessee are taken from the Form 2 for Tennessee, Inc.

¹⁴ Statements G and I of North Penn's filing. North Penn refers to its higher degree of risk resulting from its storage and production operations, as compared to the flexibility of operations afforded pipelines with large transmission facilities. North Penn's facilities are comprised of 0.7 percent production, 67.0 percent storage, and 32.3 percent transmission. (North Penn's Reply Comments, at 2.)

¹⁵ North Penn's Reply Comments, at 2.

common stock.¹⁶ In consideration of the risk factors outlined by North Penn's witness Brennan, the company states that there are "important offsetting factors to the relative equity in its capitalization."¹⁷

The settlement agreement filed by North Penn reflects compromises negotiated by parties interested in these proceedings, including Staff. The rate of return on common equity is merely one aspect of the agreement taken as a whole. In its brief comments, PSNY fails to provide record support for its position but only seeks to compare North Penn's return on common equity with Staff's recommended rate of return on common equity for Natural and Tennessee in other proceedings before the Commission. Not only is this comparison inappropriate for the reasons above but it fails to recognize that settlements involve give-and-take compromises on particular issues by the parties so as to achieve an overall result which is just and reasonable. Further, the Commission agrees with North Penn that comparisons based on common equity ratios alone are insufficient.

Based upon a review of the record in this proceeding including the settlement itself and the pleadings, evidence, and comments submitted in support thereof, the Commission finds that the proposed settlement, taken as a whole, represents a reasonable resolution of the issues in this proceeding in the public interest and that the settlement agreement should accordingly be approved and adopted, as hereinafter ordered.

The Commission finds: (1) The Applicant, North Penn Gas Company, is a "natural gas company" subject to the provisions of the Natural Gas Act, and the sales of natural gas subject to the order which follows as a part of this decision are sales of natural gas in interstate commerce for resale subject to the jurisdiction of the Commission.

(2) It is necessary and proper in the administration of the Natural Gas Act to accept the proposed Stipulation and Agreement tendered in these proceedings.

(3) Applicant's rates, which have been in effect in this docket subject to refund, have not been shown to be just and reasonable or otherwise lawful under the provisions of the Natural Gas Act in the respects noted above, and Applicant should therefore be required to file tariff sheets reflecting just and reasonable rates as necessary to conform to this order.

¹⁶ See, for example, *Pacific Gas Transmission Company*, Docket No. RP75-57, Opinion No. 811 issued on July 8, 1977, mimeo at 4, and *Consolidated Gas Supply Corporation*, Docket Nos. RP73-107, RP74-90, and RP75-91, Order Granting in Part and Denying in Part Application for Rehearing, issued August 29, 1977.

¹⁷ North Penn's Reply Comments, at 2.

The Commission orders: (A) The Stipulation and Agreement certified to the Commission in this proceeding is hereby accepted.

(B) Within 15 days of the issuance of this order, North Penn shall file revised tariff sheets in accordance with the terms of the settlement agreement and of this order.

(C) Within 30 days from the date of this order, North Penn shall file revised tariff sheets together with interest at the rate of 9 percent per annum, pursuant to the terms of the settlement. Within 15 days thereafter North Penn shall submit a compliance report of such refunds to the Commission. A copy of such report shall also be furnished to each state commission within whose jurisdiction the wholesale customers distribute and sell natural gas at retail.

(D) This order, to the extent that it approves the settlement of issues agreed to by all parties herein, is without prejudice to any finding or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against North Penn or any person or party.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 29540 Filed 10-6 77:8:45 am]

[6740-02]

[Docket No. CP70-7 (Phase II)]

SOUTHERN NATURAL GAS CO. Petition To Amend

SEPTEMBER 30, 1977.

Take notice that on September 26, 1977, Southern Natural Gas Company (Petitioner), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP70-7 a petition to amend the Commission's order of October 29, 1969, as amended, issued in the instant docket (42 FPC 944), pursuant to section 7 of the Natural Gas Act so as to provide for an increase in Petitioner's contract demand sales of natural gas to Atlanta Gas Light Company (Atlanta) to 739,550 Mcf per day, the delivery of such additional gas at the delivery point formerly used to serve the City of Jackson, Georgia, and to permit the abandonment of Petitioner's sales of natural gas to the City of Jackson, Georgia, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner indicates that pursuant to the Commission's order of October 29, 1969, it was authorized, inter alia, to sell and deliver to Atlanta contract demand volumes aggregating 737,500 Mcf. and

that it was also authorized to sell and deliver to the City of Jackson, Georgia, a contract demand of 2,050 Mcf.

It is indicated that Atlanta has purchased from the City of Jackson the gas system of the City of Jackson and as part of such purchase the gas contract demand of the City of Jackson of 2,050 Mcf of natural gas per day as assigned to Atlanta.

It is indicated that Atlanta has requested that Petitioner amend the currently effective service agreement between the two parties to include therein a new delivery point with a contract demand of 2,050 Mcf at the City of Jackson to reflect Atlanta's assumption of the City of Jackson's service agreement. It is indicated that the new delivery point with 2,050 Mcf of contract demand would be offset by the elimination of service to the City of Jackson.

Accordingly Petitioner requests authorization to sell to Atlanta an additional contract demand of 2,050 Mcf per day, that it be authorized to deliver this gas to Atlanta at the delivery point formerly utilized by the City of Jackson, and that it be permitted to abandon sales and deliveries to the City of Jackson.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 29540 Filed 10-6 77:8:45 am]

[6740-02]

[Docket No. CP77-630]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

SEPTEMBER 30, 1977.

Take notice that on September 23, 1977, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-630 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas from additional sources for Public Service Electric and Gas Company (Public Service), and existing resale customer of Applicant served under Rate Schedule CD-3, construction and

operation of metering and regulating facilities to effectuate such transportation service, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that Applicant is presently transporting on an interruptible basis for Public Service quantities of natural gas that Public Service purchases from its production affiliate Energy Development Corporation (EDC) in the Colorado Delta Field, Brazos Area, offshore Matagorda County, Texas. Such transportation takes place pursuant to an agreement between Applicant and Public Service dated September 14, 1973, as amended.

Applicant indicates that EDC now has production in the Spring Ridge Field, Caddo Parish, Louisiana and the East Deer Islands Field, Terrebonne Parish, Louisiana which would be sold to Public Service, and which Applicant proposes to transport for Public Service pursuant to the September 14, 1973 agreement, as amended, as further amended by an agreement between Applicant and Public Service dated June 6, 1977. Applicant states that Public Service would arrange to have the gas from the Spring Ridge Field delivered to Texas Gas Transmission Corporation (Texas Gas) for subsequent transportation to Applicant at a mutually agreeable existing authorized point of exchange between Texas Gas and Applicant. It is stated that Public Service would further arrange for gas from the East Deer Island Field to be delivered to a mutually agreeable point on Applicant's Southeast Louisiana Gathering System in Terrebonne Parish, Louisiana, as that applicant would redeliver the transportation quantities, less 4.4 percent for compressor fuel and line loss make-up, to existing points of delivery to Public Service in New Jersey.

To effectuate such transportation from the East Deer Island Field, Applicant would construct metering and regulating facilities at a total estimated cost of \$97,000, and Public Service would reimburse Applicant for the actual cost of the facilities installed, it is indicated.

Applicant states that it would provide the proposed transportation services under its Rate Schedule X-71, which currently provides a rate of 31.5 cents per dekatherm (dt) equivalent transported.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate

as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 29550 Filed 10-6-77; 8:45 am]

[6740-02]

[Docket No. CP77-639]

TRUNKLINE GAS CO. Application

SEPTEMBER 30, 1977.

Take notice that on September 26, 1977, Trunkline Gas Company (Applicant), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP77-639 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 700 Mcf of natural gas per day for South Jersey Exploration Company (South Jersey), who is acting as agent for eight existing customers of Transcontinental Gas Pipe Line Corporation (Transco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is indicated that the eight customers of (Transco) which South Jersey is acting as agent for are as follows:

Piedmont Exploration Company, Inc.
Eastern Shore Natural Gas Co.
Tar Heel Energy Corp.
Delmarva Energy Corp.
Rockingham Exploration Co.
U.C.G. Finance Corp.
South Jersey Gas Co.
NCG Exploration Corp.

Applicant requests authorization to transport gas for South Jersey acting as agent for the proposed eight customers, pursuant to an agreement dated August 2, 1977, between Applicant and South Jersey. Applicant states that the gas would be produced from the South Tomball Field in Harris County, Tex., approximately 3/4 mile from Applicant's pipeline, that Applicant would receive the gas at a point on its 31-B-100 pipe-

line, located in Harris County, Texas, and would redeliver the gas to Transco at an existing interconnection near the tailgate of the Cow Island Processing Plant of Mobil Oil Corporation in Vermilion, Parish, Louisiana. The term of the proposed transportation is 10 years and thereafter on an annual basis unless cancelled on six months' written notice by either party, it is said.

Applicant indicates that it would construct certain facilities required to receive and measure the gas at the point of receipt, and that South Jersey would reimburse it for the full cost of the construction.

Applicant further indicated that it would be paid a monthly charge of \$840.00 for the transportation, which charge is subject to increase or decrease pursuant to Applicant's rate proceedings. Such monthly charge would be adjusted upward or downward by 3.96 cents per Mcf for any day in which Applicant accepts more than or is unable to accept 700 Mcf, respectively, it is said. Applicant states that it would retain 1 percent of the volumes of fuel so transported for fuel usage.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 29551 Filed 10-6-77; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77F-0284]

BETZ LABORATORIES, INC.

Notice of Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: Betz Laboratories, Inc. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a certain copolymer in the manufacture of paper and paperboard for food-contact use.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-5690).

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786 (21 U.S.C. 348(b) (5))), notice is given that a petition (FAP 6B3202) has been filed by Betz Laboratories, Inc., Somerton Rd., Trevo, Pa. 19047, proposing that § 176.170 Components and paper and paperboard in contact with aqueous and fatty foods (21 CFR 176.170) be amended to provide for the safe use of diethyl (2-hydroxyethyl) methylammonium methyl sulfate, acrylate, polymer with acrylamide as a retention and drainage aid employed prior to the sheet-forming operation in the manufacture of paper and paperboard for food-contact use.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m., and 4 p.m., Monday through Friday.

Dated: September 29, 1977.

HOWARD R. ROBERTS,
Acting Director, Bureau of Foods.

[FR Doc 77-29307 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket No. 75N-0223; DESI 597, 3265, 4681]

CERTAIN ANTICHOLINERGIC DRUGS IN CONTROLLED-RELEASE DOSAGE FORM

Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration.

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ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug applications for certain anticholinergic drug products in controlled-release form on the basis of lack of substantial evidence of effectiveness. The drug products have been used in the treatment of various gastrointestinal disorders (for example, ulcers).

EFFECTIVE DATE: October 17, 1977.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the appropriate DESI number and directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of November 11, 1975 (40 FR 52651), the Director of the Bureau of Drugs offered an opportunity for hearing on a proposal to issue an order withdrawing approval of the new drug applications for certain anticholinergic drugs in controlled-release dosage form, based upon lack of substantial evidence of effectiveness. The conclusion of lack of effectiveness for the controlled-release products was based upon the lack of any data demonstrating a prolonged duration of effect as compared with the products in conventional dosage form. The notice was not directed to related or similar products that are not in controlled-release dosage form. Such products were eligible to remain on the market provided their sponsors agreed to conduct the studies necessary to determine effectiveness in accordance with another notice published in the FEDERAL REGISTER of November 11, 1975 (40 FR 52644). Since the holders of the new drug applications described below did not contest the proposed action, approval of the new drug applications is now being withdrawn.

DESI 597

Bentyl Repeat Action Tablets with Phenobarbital containing dicyclomine hydrochloride and phenobarbital; Merrell-National Laboratories, Division of Richardson-Merrell, Inc., 110 E. Amity Rd., Cincinnati, Ohio 45215 (NDA 9-311).

Tral with Phenobarbital Gradumets (controlled-release tablets) containing hexocyclium methylsulfate and phenobarbital; Abbott Laboratories, Abbott Park, 14th and Sheridan Rd., North Chicago, Ill. 60064 (NDA 11-200).

DESI 3265

Tral Gradumets (controlled-release tablets) containing hexocyclium meth-

ylsulfate; Abbott Laboratories (NDA 11-200).

DESI 4681

Prantal Repetabs (controlled-release tablets) containing diphemanyl methylsulfate; Schering Corp., Galloping Hill Rd., Kenilworth, N.J. 07033 (NDA 8-638).

The notice of opportunity for hearing also included Scopalamine Methyl Bromide Prolongsules (NDA 10-404) containing methscopolamine bromide, previously marketed by Richlyn Laboratories Inc., 3725 Castor Ave., Philadelphia, Pa. 19124. As stated in the notice, approval of that NDA had previously been withdrawn on the ground of failure to submit required reports under section 505(j) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(j)). The purpose of including Scopalamine Methyl Bromide Prolongsules in the November 11, 1975, notice was to state the conclusion that this drug in a controlled-release dosage form lacks substantial evidence of effectiveness for its various labeled indications and to offer interested persons the opportunity to request a hearing concerning all issues relating to the legal status of identical, related, or similar drugs.

All drug products that are identical, related, or similar to the drugs named above, are not being studied for effectiveness under the conditions specified in the November 11, 1975, notice (40 FR 52644), and are not the subject of an approved new drug application are covered by the new drug applications reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

Also named in the November 11, 1975 notice were the following new drug applications:

DESI 597

Pathilon with Phenobarbital Sequels (controlled-release capsules) containing trihexethyl chloride and phenobarbital; Lederle Laboratories, Division American Cyanamid Co., P.O. Box 500, Pearl River, N.Y. 10965 (NDA 11-940).

DESI 3625

Pathilon Sustained Release Capsules containing trihexethyl chloride; Lederle Laboratories (NDA 11-889).

The holder of these two new drug applications and the sponsors of the related products named below have submitted requests for a hearing and data concerning their drug products. The requests for hearing and data are under review.

DESI 597

Donnatal Extentabs containing hyoscyamine sulfate, atropine sulfate, hyoscyne hydrobromide, and phenobarbital; A. H. Robins Co., Inc., 1407 Cummings Dr., Richmond, Va. 23220 (no NDA).

DESI 4681

Prydon Spansules containing belladonna alkaloids; Smith Kline & French

Laboratories, 1500 Spring Garden St., Philadelphia, Pa. 19101 (no NDA).

Marketing of those drug products for which hearing requests are under review may continue pending a ruling on the requests.

No other person filed a written appearance of election as provided for by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drug under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the above listed drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of new drug applications Nos. 9-311, 11-200, and 8-638 and all amendments and supplements applying thereto, is withdrawn effective October 17, 1977.

Shipment in interstate commerce of the above products or of any identical related, or similar product that is not the subject of an approved new drug application, except for the ones described above that may continue to be marketed pending rulings on the requests for a hearing, will then be unlawful.

Dated: September 28, 1977.

RICHARD A. TERSELEC,

Acting Director, Bureau of Drugs.

[FR Doc 77-29182 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket No. 76N-0465; DESI 64]

CERTAIN BARBITURATE-ANALGESIC COMBINATION DRUG FOR ORAL USE

Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application for a certain barbiturate-analgesic combination drug product. The product has been used for relief of pain in various conditions.

DATES: Effective October 17, 1977.

ADDRESS: Requests for an opinion of the applicability of this notice to a specific drug product should be directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 64, Docket No. FDC-D-574 (now Docket No. 76N-0465)) published in the FEDERAL REGISTER of October 12, 1973 (38 FR 28312), the Commissioner of Food and Drugs offered the opportunity for a hearing on a proposal to issue an order withdrawing approval of the new drug application for the drug product described below. The basis of the proposed action was the lack of substantial evidence that the product is effective for its labeled indications.

NDA 8-734; Algonson Tablets containing sodium butabarbital 7.5 mg and acetaminophen 300 mg; formerly marketed by McNeil Laboratories, Inc., Camp Hill Rd., Fort Washington, Pa. 19034.

By letter of November 3, 1973, McNeil Laboratories elected not to avail itself of the opportunity for a hearing with respect to Algonson Tablets because of the possibly suboptimal dose of sodium butabarbital contained in the combination product.

All drug products that are identical to Algonson as well as products similar or related to it that contain 7.5 milligrams or less of sodium butabarbital or an equivalent amount of other barbiturate (since such an amount is regarded as inadequate in any such product), are covered by the new drug application reviewed and are subject to this notice. Other analgesic/barbiturate combination products containing in excess 7.5 milligrams of sodium butabarbital or an equivalent amount of other barbiturate will be dealt with in a future FEDERAL REGISTER notice. Any person who wishes to determine whether a specific product is covered by this notice should write the Division of Drug Labeling Compliance (address given above).

In response to the October 12, 1973 notice, requests for a hearing were submitted for the following related drug products:

1. Butigetic Tablets containing butabarbital sodium, acetaminophen, phenacetin, and caffeine; McNeil Laboratories, Inc., Camp Hill Rd., Fort Washington, Pa. 19034.

2. Fiorinal Tablets and Capsules containing butalbital, caffeine, aspirin, and phenacetin; Sandoz Pharmaceuticals, Route 10, Hanover, N.J. 07936.

3. Indogesic Tablets containing acetaminophen, salicylamide, and butabarbital; Century Pharmaceuticals, Inc., 4553 Allisonville Rd., Indianapolis, Ind. 46205.

4. Phenaphen Tablets and Capsules containing aspirin, phenacetin, and phenobarbital; A. H. Robins Co., Inc., 1407 Cummings Dr., Richmond, Va. 23220.

These drug products are not affected by this notice and will be the subject of a future FEDERAL REGISTER notice.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053,

NOTICES

as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore, pursuant to the foregoing finding, approval of new drug application No. 8-734 and all amendments and supplements applying thereto, is withdrawn effective October 17, 1977.

Shipment in interstate commerce of Algonson or of any identical product, or of any similar or related product containing 7.5 milligrams or less of sodium butabarbital or equivalent amount of another barbiturate, not the subject of an approved new drug application, will then be unlawful.

Dated: September 29, 1977.

RICHARD A. TERSELEC,

Acting Director,

Bureau of Drugs.

[FR Doc 77-29184 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket No. 75N 0186; DESI 597]

CERTAIN COMBINATION DRUGS CONTAINING AN ANTICHOLINERGIC WITH A BARBITURATE

Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of new drug applications and pertinent parts of new drug applications pertaining to certain combination drugs containing an anticholinergic with a barbiturate, on the basis of lack of substantial evidence of effectiveness. The drug products have been used in the treatment of the various gastrointestinal disorders (for example, ulcers).

EFFECTIVE DATE: October 17, 1977.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 597 and directed to the Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of November 11, 1975 (40 FR 52653),

the Director of the Bureau of Drugs offered an opportunity for hearing on a proposal to issue an order withdrawing approval of the new drug applications (NDA's) described below. Since the NDA holder who requested a hearing on the proposal later withdrew his request, and no other NDA holder contested the proposal, approval of those NDA's, or pertinent parts of them, is now being withdrawn. As stated in that notice, a basis for the proposed action was that, as formulated, each dosage unit of the products described below, except Pamine-PB Drops (Pediatric), contains what is regarded as an inadequate amount of the barbiturate. Although the barbiturate content in Pamine-PB Drops (Pediatric) is not regarded as inadequate, the drug product was included in the November 11, 1975 notice since the holder of the new drug application had informed the Food and Drug Administration that additional studies would not be undertaken to determine effectiveness of the product as a fixed combination. The notice was not directed to related or similar products that contain an adequate amount of barbiturate. Such products were eligible to remain on the market provided their sponsors agreed to conduct the studies necessary to determine effectiveness in accordance with another notice published in the FEDERAL REGISTER of November 11, 1975 (40 FR 52644).

1. That part of NDA 8-919 pertaining to Co-Elorine 25 Pulvules containing tri-cyclamol hydrochloride 25 mg and amobarbital 8 mg; Eli Lilly and Co., P.O. Box 618, Indianapolis, Ind. 46206.

2. That part of NDA 13-430 pertaining to Valpin-PB Tablets containing anisotropine methylbromide 10 mg and phenobarbital 8 mg; Endo Laboratories, Inc., 1000 Stewart Ave., Garden City, Long Island, N.Y. 11533.

3. NDA 13-431: Valpin-PB Elixir containing anisotropine methylbromide 10 mg per 5 cc and phenobarbital 8 mg per 5 cc; Endo Laboratories.

4. That part of NDA 8-942 pertaining to Pamine-PB Half-Strength Tablets containing methscopolamine bromide 1.25 mg, and phenobarbital 8 mg; The Upjohn Co., 7171 Portage Rd., Kalamazoo, Mich. 49002.

5. NDA 9-260; Pamine-PB Drops (Pediatric) containing methscopolamine bromide 0.5 mg per cc and phenobarbital 20 mg per cc; The Upjohn Co.

6. NDA 9-261; Pamine-PB Elixir and Paminal Elixir containing methscopolamine bromide 1.25 mg per 5 cc and phenobarbital 8 mg per 5 cc; The Upjohn Co.

All drug products that are identical, related, or similar to a drug product named above and are not being studied for effectiveness under the conditions specified in the FEDERAL REGISTER of November 11, 1975 (40 FR 52644) and not the subject of an approved new drug application, are covered by the new drug applications reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice

should write to the Division of Drug Labeling Compliance at the address given above.

In response to the November 11, 1975 notice of opportunity for hearing, Endo Laboratories submitted a request for a hearing on the original Valpin-PB Tablets and Elixir formulations, but subsequently withdrew its request by letter of January 19, 1976. The firm has supplemented its new drug application (NDA 13-430) to revise the formulation and labeling of the original Valpin-PB Tablets, and this notice does not apply to that part of NDA 13-430 pertaining to the reformulated Valpin-PB Tablets (Valpin 50-PB). No other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the applications were approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in the labeling.

Therefore, pursuant to the foregoing finding, approval of new drug applications 8-919, 13-430, 13-431, 8-942, 9-260, and 9-261 (or those parts of the applications providing for the drug products named above), and all amendments and supplements applying thereto, is withdrawn effective October 17, 1977. This notice does not apply to that part of NDA 13-430 pertaining to the reformulated Valpin 50-PB Tablets.

Shipment in interstate commerce of the above products or of any identical, related, or similar product (as qualified above), not the subject of an approved new drug application, will then be unlawful.

Dated: September 28, 1977.

RICHARD A. TERSELIC,
Acting Director,
Bureau of Drugs.

[FR Doc. 77-29183 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket No. 76N-0056; DESI 1626]

CERTAIN COMBINATION PREPARATIONS CONTAINING XANTHINE DERIVATIVES

Withdrawal of Approval of New Drug Applications

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of new drug applications and per-

manent parts of new drug applications pertaining to certain combination preparations containing xanthine derivatives. The basis for the withdrawal is lack of substantial evidence of effectiveness. The products have been used in the treatment of bronchospastic disorders.

EFFECTIVE DATE: October 17, 1977.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 1626 and directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Wilson, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice published in the FEDERAL REGISTER of April 9, 1976 (41 FR 15051), the Director of the Bureau of Drugs offered an opportunity for hearing on a proposal to issue an order withdrawing approval of the new drug applications described below. Since the holders of the new drug applications did not contest the proposal, approval of the new drug applications or pertinent parts thereof is now being withdrawn. Combination drug products containing up to 2 grains of a xanthine derivative, ephedrine, and not more than 8 milligrams of phenobarbital are not affected by this notice; they were the subject of another notice published in the FEDERAL REGISTER of April 9, 1976 (41 FR 15053).

NDA 3-832, Aminophyllin with Phenobarbital Tablets containing aminophylline (3 gr) and phenobarbital (1/4 gr); G. D. Searle & Co., P.O. Box 5110, Chicago, Ill. 60680.

That part of NDA 6-333 pertaining to Synophylate with Phenobarbital Tablets containing theophylline sodium glycinate (325 mg) and phenobarbital (16 mg); The Central Pharmaceutical Co., 116-128 E. Third St., Seymour, Ind. 47274.

That part of NDA 6-158 pertaining to Theophyllinate with Racephedrine and Phenobarbital Tablets containing theophylline sodium glycinate (5 gr), phenobarbital (1/4 gr), and racephedrine hydrochloride (1/8 gr); Brayten Pharmaceutical Co., 1715 W. 38th St., Chattanooga, Tenn. 37409.

NDA 6-359; Nethaphyl Regular Strength Capsules containing ambuphylline (120 mg), etafedrine hydrochloride (50 mg), and phenobarbital (15 mg) and Nethaphyl Half Strength Capsules containing ambuphylline (60 mg), etafedrine hydrochloride (25 mg), and phenobarbital (8 mg); Merrell-National Laboratories, Division of Richardson-Merrell, Inc., 110 E. Amity Rd., Cincinnati, Ohio 45215.

NDA 4-084, Aminophylline, Ephedrine & Phenobarbital Tablets containing aminophylline (1 1/2 gr), ephedrine sulfate (3/4 gr), and phenobarbital (1/4 gr); Kremers-Urban Co., 5600 W. County Line Rd., P.O. Box 2038, Milwaukee, Wis. 53201.

That part of NDA 6-374 pertaining to Gynazan Tablets containing theophylline sodium glycinate (5 gr), racephedrine hy-

drochloride (1/4 gr), and phenobarbital (1/4 gr), and Gynazan Tablets containing theophylline sodium glycinate (5 gr) and phenobarbital (1/4 gr); First Texas Pharmaceuticals, Inc., 1810 N. Lamar St., P.O. Box 5026, Dallas, Tex. 75222.

That part of NDA 9-268 pertaining to Cholelyl with Phenobarbital Tablets containing oxtriphylline (200 mg) and phenobarbital (15 mg); Nepera Laboratories, Division of Warner-Lambert Pharmaceutical Co., 201 Tabor Rd., Morris Plains, N.J. 07950.

NDA 3-523; Asminyl Tablets (2 products) containing theophylline sodium salicylate (3 gr), sodium phenobarbital (1/4 and 1/2 gr), and ephedrine sulfate (1/2 gr); Cole Pharmaceutical Co., Inc.

All drug products that are identical, related, or similar to the drug products named above and are not the subject of an approved new drug application are covered by the new drug applications reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific drug product is covered by this notice should write to the Division of Drug Labeling Compliance at the address given above.

The following drugs were reviewed by the National Academy of Sciences-National Research Council, Drug Efficacy Study Group. Although the drugs were never actually approved in the NDA's listed below, they were associated with the NDA numbers in the submission to the Academy. They are regarded as related drugs (21 CFR 310.6) and are subject to this notice.

Cholorace Tablets containing oxtriphylline (200 mg), racephedrine hydrochloride (20 mg), and pentobarbital (27.5 mg); Warner-Chilcott Laboratories, Division of Warner-Lambert Pharmaceutical Co., 210 Tabor Rd., Morris Plains, N.J. 07950 (associated with NDA 10-888).

Aminophylline (1 1/2 gr) with Phenobarbital (1/4 gr) Tablets; Cole Pharmaceutical Co., Inc., 3721 Laclede Ave., St. Louis, Mo. 63108 (associated with NDA 4-096).

Asminyl Siosol Pink Tablets containing theophylline (2 gr), sodium phenobarbital (1/2 gr), and ephedrine sulfate (1/2 gr); Cole Pharmaceutical Co., Inc. (associated with NDA 3-523).

Asminyl Liquid, each 5 milliliters containing theophylline sodium salicylate (4 1/2 gr), sodium butabarbital (1/8 gr), and ephedrine sulfate (1/2 gr); Cole Pharmaceutical Co., Inc. (associated with NDA 3-523).

Arteminyl Tablets containing theophylline (2 gr), isoproterenol hydrochloride (in coating) (10 mg), sodium phenobarbital (1/4 gr), and ephedrine sulfate (1/2 gr); Cole Pharmaceutical Co., Inc. (associated with NDA 3-523).

Theoglycinate with Phenobarbital Tablets containing theophylline sodium glycinate (5 gr) and phenobarbital (1/4 gr); Brayten Pharmaceutical Co. (associated with NDA 6-158).

The sponsors of the related products named below have requested hearings concerning their drug products. The requests for hearing are under review.

Amesec Enseals and Pulvules containing aminophylline, ephedrine hydrochloride, and amobarbital; Eli Lilly and Company, Box 618, Indianapolis, Ind. 46206 (no NDA).

Aminophylline and Amytal Pulvules containing aminophylline and amobarbital; Eli Lilly and Company (no NDA).

Dainite Tablets containing aminophylline, pentobarbital sodium, ephedrine hydrochloride, dried aluminum hydroxide gel, and

benzocaine; Mallinckrodt Pharmaceuticals, Division of Mallinckrodt Inc., 2nd and Mallinckrodt St., St. Louis, Mo. 63147 (no NDA).

Dainite-KI Tablets containing aminophylline, phenobarbital, ephedrine hydrochloride, potassium iodide, dried aluminum hydroxide gel, and benzocaine; Mallinckrodt Pharmaceuticals (no NDA).

Lufyllin-EPG Tablets and Elixir containing ephedrine hydrochloride, dyphylline, phenobarbital, and guaifenesin; Mallinckrodt Pharmaceuticals (no NDA).

Luftodil Tablets containing phenobarbital, theophylline, ephedrine hydrochloride, and guaifenesin; Mallinckrodt Pharmaceuticals (no NDA).

Quadrinal Tablets containing ephedrine hydrochloride, phenobarbital, theophylline calcium salicylate, and potassium iodide; Knoll Pharmaceutical Company, 30 North Jefferson Rd., Whippany, N.J. 07981 (no NDA).

Quibron Plus Capsules and Elixir containing ephedrine hydrochloride, theophylline, butabarbital, and guaifenesin; Mead Johnson Laboratories, Division Mead Johnson and Company, 2404 Pennsylvania St., Evansville, Ind. 47721 (no NDA).

Marketing of those drug products for which hearing requests are under review may continue pending a ruling on the requests.

No other person filed a written appearance of election as provided for by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when applications were approved, there is a lack of substantial evidence that the above listed drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of new drug applications numbers 3-832, 6-333, 6-158, 6-359, 4-084, 6-374, 9-268, and 3-523 (or those parts of the applications providing for the drug products named above) and all amendments and supplements applying thereto, is withdrawn effective October 17, 1977.

Shipment in interstate commerce of the above products or of any identical, related, or similar prescription product, not the subject of an approved new drug application, except for the ones described above that may continue to be marketed because of a hearing request or an exemption, will then be unlawful.

Dated: September 30, 1977.

RICHARD A. TERSELIC,
Acting Director,
Bureau of Drugs.

[FR Doc. 77-29313 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket Nos. 76N-0377, 76N-0356; DESI Nos. 7661, 1543]

CERTAIN DRUGS CONTAINING FLUOX- MESTERONE AND ETHINYL ESTRADIOL; DIETHYLSTILBESTROL AND METHYL- TESTOSTERONE; CHLOROTRIANISENE AND METHYLTESTOSTERONE; OR TESTOSTERONE ENANTHATE AND ESTRADIOL VALERATE; AND CERTAIN ESTRO- GEN-CONTAINING DRUGS FOR ORAL OR PARENTERAL USE

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing; Amendment

AGENCY: Food and Drug Administration.

ACTION: Amended notice.

SUMMARY: This notice amends DESI notices 7661 and 1543, that were published in the FEDERAL REGISTER of September 29, 1976, to resolve inconsistencies in the statements of conditions for approval and marketing injectable drug products containing estradiol valerate in a sterile oleaginous solution.

DATE: Effective October 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-3650).

SUPPLEMENTARY INFORMATION: DESI notices 7661 and 1543 were published in the FEDERAL REGISTER of September 29, 1976 (41 FR 43112 and 43114). In the statement of conditions for marketing the affected products, both notices require any current holder of a new drug application (NDA) for an injectable preparation containing estradiol valerate sterile oleaginous solution to submit a supplement with full manufacturing information. Inadvertently, however, they contained inconsistent requirements for new applicants: DESI 7661 requires a new applicant to submit an abbreviated new drug application (ANDA), whereas DESI 1543 requires a new applicant to submit a full NDA.

DESI 7661, in paragraph 3, *Marketing status*, refers to conjugated estrogen preparations in DESI 7661.

The Food and Drug Administration concludes that the inconsistency should be resolved by amending the marketing status sections of both notices to require a new applicant for an injectable product containing estradiol valerate sterile oleaginous solution to submit an ANDA with full manufacturing information, and to delete from DESI 7661 the erroneous reference to conjugated estrogen preparations. Accordingly, the September 29, 1976 notices are amended as follows:

1. DESI 7661 is amended on page 43113 by revising paragraph B.3.a.(i) to delete

reference to conjugated estrogen preparations, and by revising paragraph B.3.c. to read as follows:

c. Approval of an abbreviated new drug application must be obtained prior to marketing any such product. The abbreviated application shall contain the information specified in 21 CFR 314.1(f), except that applications for products containing testosterone enanthate and estradiol valerate in a sterile oleaginous solution shall include full manufacturing information as required by Items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of the new drug application form FD-356H (21 CFR 314.1(c)). Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

2. DESI 1543 is amended on page 43116 by deleting paragraphs B.3.c and d and inserting the following:

c. Approval of an abbreviated new drug application must be obtained prior to marketing any such product. The abbreviated application shall contain the information specified in 21 CFR 314.1(f), except that applications for conjugated estrogens and for estradiol valerate sterile oleaginous solution shall include full manufacturing information as required by Items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of the new drug application form FD-356H (21 CFR 314.1(c)). Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Director, Bureau of Drugs (21 CFR 5.82).

Dated: September 29, 1977.

RICHARD A. TERSELIC,
Acting Director,
Bureau of Drugs.

[FR Doc. 77-29312 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket No. 76N-0339; DESI 10598]

COMBINATION DRUG CONTAINING DOX- YLAMINE SUCCINATE AND PRYDOL- XINE HYDROCHLORIDE

Drugs for Human Use; Drug Efficacy Study Implementation

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice states the conditions for marketing the combination drug product containing doxylamine succinate 10 milligrams and pyridoxine hydrochloride 10 milligrams for the indication for which it is regarded as effective, and allows for the submission of abbreviated new drug applications.

DATE: Supplements to approved new drug applications due on or before December 6, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 10598, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (Identify with NDA number): Division of Neuropharmacological Drug Products (HFD-120), Room 10E-34, Bureau of Drugs.

Original abbreviated new drug applications or supplements thereto (Identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 10598) published in the FEDERAL REGISTER of January 28, 1977 (42 FR 5422), the Director of the Bureau of Drugs announced the agency's conclusion that the following combination product is effective for nausea and vomiting of pregnancy.

NDA 10-598: that part pertaining to Bendectin Tablets containing doxylamine succinate 10 milligrams and pyridoxine hydrochloride 10 milligrams; Merrell-National Laboratories, Inc., 110 East Amity Rd., Cincinnati, Ohio 45215.

Merrell-National Laboratories had supplemented its new drug application to provide for the reformulated Bendectin Tablets described above. This product was approved on November 9, 1976, through the supplemental new drug application procedures. Based on all data and information available, the Director concludes that abbreviated new drug applications are acceptable for such a product as stated below.

Bendectin Tablets, as a three-ingredient combination product containing dicyclamine hydrochloride, doxylamine succinate and pyridoxine hydrochloride, was previously concluded to lack substantial evidence of effectiveness, and a notice withdrawing its approval was published in the FEDERAL REGISTER of July 29, 1977 (42 FR 38643).

The notice that follows pertains only to the combination product containing doxylamine succinate 10 milligrams and pyridoxine hydrochloride 10 milligrams.

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise

the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder of the new drug application specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical to the drug product named above. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion on the applicability of this notice to a specific drug product he manufactures or distributes that may be identical to the drug product named in this notice by writing to the Division of Drug Labeling Compliance (address given above).

A. *Effectiveness classification.* The Food and Drug Administration has reviewed all available evidence and concludes that the drug is effective for the indication in the labeling conditions below.

B. *Conditions for approval and marketing.* The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. *Form of drug.* The drug is in tablet form suitable for oral administration.

2. *Labeling conditions.* a. The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

b. The drug is labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. The indication is as follows: For nausea and vomiting of pregnancy.

3. *Marketing status.* a. Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before December 6, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application form FD-356H (21 CFR 314.1 (c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

b. Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new drug application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502,

505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the authority delegated to the Director of the Bureau of Drugs (21 CFR 5.70)).

Dated: September 29, 1977.

RICHARD A. TERSELCIC,
Acting Director,
Bureau of Drugs.

[FR Doc. 77-29185 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket No. 76N-0202, DESI 8614]

COMBINATION DRUG PRODUCTS CONTAINING ASPIRIN, ACETAMINOPHEN, PHENOBARBITAL, AND BELLADONNA ALKALOIDS, WITH AND WITHOUT CODEINE

Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application for certain combination products containing aspirin, acetaminophen, phenobarbital, and belladonna alkaloids, with and without codeine on the grounds of lack of substantial evidence of effectiveness. The drug products, which have been used as analgesics, are no longer marketed.

DATE: Effective October 17, 1977.

ADDRESSES: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 8614 and directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 8614; Docket No. 76N-0202) published in the FEDERAL REGISTER of July 6, 1976 (41 FR 27769), the Director of the Bureau of Drugs offered an opportunity for a hearing on his proposal to issue an order withdrawing approval of the following drug products:

NDA 8-614: Anadol Tablets containing aspirin 3½ gr, acetaminophen 2½ gr, phenobarbital ¼ gr, hyoscyamine sulfate 0.0004 gr, scopolamine hydrobromide 0.00008 gr, and atropine sulfate 0.00002 gr; and Anadol with Codeine Tablets containing aspirin 3½ gr, acetaminophen 2½ gr, phenobarbital ¼ gr, hyoscyamine sulfate 0.0004 gr, scopolamine hydrobromide 0.00008 gr, atropine sulfate 0.00002 gr, and codeine phosphate ¼ gr, or ½ gr; Bard-Petersburg, Inc., Division of Bard Pharmaceuticals, Inc., 99-101 Saw Mill River Rd., Yonkers, N.Y.

10701. (The July 6, 1976, notice incorrectly stated that Bard-Petersburg, Inc., is a Division of The Purdue Frederick Co.)

The basis of the proposed action was the lack of substantial evidence that the products are effective for their labeled indications. Bard-Petersburg, Inc., which became the holder of the new drug application through acquisition of another firm, stated that they have never manufactured or marketed these products. The proposed action was not contested and approval of the products is now being withdrawn.

All drug products that are identical, related, or similar to a drug named above, not the subject of an approved new drug application, are covered by the new drug application reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write the Division of Drug Labeling Compliance (address given above).

Neither the holder of the new drug application nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under authority delegated to him (21 CFR 5.82), finds that on the basis of new information before him with respect to the drug products, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug products will have the effects they purport or are represented to have under the conditions of use prescribed, recommended, or suggested in their labeling.

Therefore, pursuant to the foregoing finding, approval of new drug application No. 8-614, and all amendments and supplements applying thereto, is withdrawn effective October 17, 1977.

Shipment in interstate commerce of the above listed products or of any identical, related, or similar products, not the subject of an approved new drug application, will then be unlawful.

Dated: September 29, 1977.

RICHARD TERSELCIC,
Acting Director,
Bureau of Drugs.

[FR Doc. 77-29186 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket No. 77F-0304]

GENERAL ELECTRIC CO.

Notice of Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The General Electric Co. has filed a petition (FAP 6B3237) propos-

ing that the food additive regulations concerning catalysts and cross-linking agents for epoxy resins be amended to include the morpholine salt of para-toluene sulfonic acid as a catalyst for epoxy resins.

FOR FURTHER INFORMATION CONTACT:

John J. McAuliffe, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C., 20204, (202-472-5690).

SUPPLEMENTARY INFORMATION: Pursuant to provisions of the Federal Food, Drug, and Cosmetic Act (sec. 409 (b) (5), 72 Stat. 1786 (21 U.S.C. 348(b) (5))), notice is given that a petition (FAP 6B3237) has been filed by General Electric Co., 305 Eastern Ave., Chelsea, Mass. 02150, proposing that § 175.300 Resinous and polymeric coatings (21 CFR 175.300) be amended by including the Morpholine salt of para-toluene sulfonic acid as a catalyst for epoxy resins.

The environmental impact analysis report and other relevant material have been reviewed, and it has been determined that the proposed use of the additive will not have a significant environmental impact. Copies of the environmental impact analysis report may be seen in the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: September 28, 1977.

HOWARD R. ROBERTS,
Acting Director,
Bureau of Foods.

[FR Doc. 77-29309 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket No. 77N-0079; DESI 552]

HEPARIN SODIUM

Drugs for Human Use; Drug Efficacy Study Implementation; Followup Notice and Opportunity for Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice offers an opportunity for a hearing on certain indications previously stated to lack substantial evidence of effectiveness for heparin sodium. It announces the conditions for marketing the drug for the indications for which it continues to be regarded as effective, allowing for the submission of abbreviated new drug applications. It further sets forth a revised Indications and Dosage and Administration section to include provisions for an additional low-dose prophylactic use.

DATES: Hearing requests due on or before November 7, 1977, supplements to approved new drug applications due on or before December 6, 1977.

ADDRESSES: Communications forwarded in response to this notice should be identified with the reference number DESI 552, directed to the attention of the appropriate office named below, and addressed to the Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

Supplements (Identify with NDA number): Division of Cardio-Renal Drug Products (HFD-110), Rm. 16B-30, Bureau of Drugs.

Original abbreviated new drug applications and supplements thereto (Identify as such): Division of Generic Drug Monographs (HFD-530), Bureau of Drugs.

Requests for Hearing (Identify with Docket number appearing in the heading of this notice): Hearing Clerk, Food and Drug Administration (HFC-20), Rm. 4-65.

Requests for the report of the National Academy of Sciences-National Research Council: Public Records and Document Center (HFC-18), Rm. 4-62.

Requests for opinion of the applicability of this notice to a specific product: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs.

Requests for labeling guidelines: Division of Cardio-Renal Drug Products (HFD-110), Bureau of Drugs.

Other communications regarding this notice: Drug Efficacy Study Implementation Project Manager (HFD-501), Bureau of Drugs.

FOR FURTHER INFORMATION CONTACT:

William R. Durbin, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 552) published in the FEDERAL REGISTER of October 24, 1970 (35 FR 16608), the Food and Drug Administration announced its conclusions concerning the drug products described below as follows: (1) Effective for prophylaxis and treatment of venous thrombosis and its extension; for prophylaxis and treatment of pulmonary embolism; in atrial fibrillation with embolization; for diagnosis and treatment of chronic consumptive coagulopathies (coagulation consumption coagulopathy); as an anticoagulant in blood transfusions and in blood samples for laboratory purposes; for prevention of clotting in arterial and heart surgery; and for prevention of cerebral thrombosis in the evolving stroke; (2) probably effective for prophylaxis and treatment of peripheral arterial embolism; for prevention of recurrent arterial embolism; as an adjunct in the treatment of coronary occlusion with myocardial infarction; and for arterial occlusion due to embolism; (3) lacking substantial evidence of effectiveness for use in the treatment of cerebral thrombosis and for the reduction of thrombotic complications of asthma; and (4) possibly effective for other labeled indications.

A followup notice published in the FEDERAL REGISTER of January 12, 1972 (37 FR 492) reclassified to effective the probably effective indication and the possibly effective indication "as an anticoagulant in extracorporeal circulation and dialysis procedures." The other possibly effective indications were reclassified to lacking substantial evidence of effectiveness. No opportunity for a hearing was offered at that time for those indications. The holders of the new drug applications had previously deleted all less-than-effective indications from the labeling of the drug products.

The notice that follows does not pertain to the indications stated in the October 24, 1970, notice to lack substantial evidence of effectiveness. An opportunity for hearing was given in that notice for those indications. A hearing was not requested and they are no longer allowable in labeling. Any such product labeled for those indications is subject to regulatory action.

1. NDA 0-552; Liqueamin Sodium Aqueous Solution; Organon, Inc., 357 Mount Pleasant Ave., West Orange, N.J. 07052.
2. NDA 0-552; Liqueamin Sodium "200" in Gelatin Menstruum; Organon, Inc.
3. NDA 3-895; Heparin Sodium Injection; Lederle Laboratories, Division American Cyanamid Co., Pearl River, N.Y. 10965.
4. NDA 4-570; Heparin Sodium Sterile Solution; The Upjohn Co., 7171 Portage Rd., Kalamazoo, Mich. 49002.
5. NDA 5-264; Panheprin; Abbott Laboratories, 14th and Sheridan Rd., North Chicago, Ill. 60064.
6. NDA 5-521; Heparin Sodium Injection; Eli Lilly & Co., P.O. Box 618, Indianapolis, Ind. 46206.

Accordingly, the October 24, 1970, notice is amended to read as follows:

Such drugs are regarded as new drugs (21 U.S.C. 321(p)). Supplemental new drug applications are required to revise the labeling in and to update previously approved applications providing for such drugs. An approved new drug application is a requirement for marketing such drug products.

In addition to the holder(s) of the new drug application(s) specifically named above, this notice applies to all persons who manufacture or distribute a drug product, not the subject of an approved new drug application, that is identical, related, or similar to a drug product named above, as defined in 21 CFR 310.6. It is the responsibility of every drug manufacturer or distributor to review this notice to determine whether it covers any drug product he manufactures or distributes. Any person may request an opinion of the applicability of this notice to a specific drug product he manufactures or distributes that may be identical, related, or similar to a drug product named in this notice by writing to the Division of Drug Labeling Compliance at the address given above.

A. **Effectiveness classification.** The Food and Drug Administration has reviewed all available evidence and concludes that the drugs are effective for the indications in the labeling conditions below. The drug products lack substantial evidence of effectiveness for all other labeled indications.

B. **Conditions for approval and marketing.** The Food and Drug Administration is prepared to approve abbreviated new drug applications and abbreviated supplements to previously approved new drug applications under conditions described herein.

1. **Form of drug.** Heparin sodium preparations are in a sterile aqueous or gelatin solution form suitable for parenteral administration.

2. **Labeling conditions.** (a) The label bears the statement, "Caution: Federal law prohibits dispensing without prescription."

(b) The drug products are labeled to comply with all requirements of the act and regulations, and the labeling bears adequate information for safe and effective use of the drug. Labeling guidelines for the drugs are available from the Food and Drug Administration on request (address given above). The indications are as follows:

Heparin sodium injection is indicated for anticoagulant therapy in prophylaxis and treatment of venous thrombosis and its extension; in low-dose regimen for prevention of postoperative deep venous thrombosis and pulmonary embolism in patients undergoing major abdomino-thoracic surgery who are at risk of developing thromboembolic disease (see Dosage and Administration section); for prophylaxis and treatment of pulmonary embolism; in atrial fibrillation with embolization; for diagnosis and treatment of acute and chronic consumptive coagulopathies (disseminated intravascular coagulation); for prevention of clotting in arterial and cardiac surgery; and for the prevention of cerebral thrombosis in evolving stroke.

Heparin sodium is indicated as an adjunct in treatment of coronary occlusion with acute myocardial infarction, and in prophylaxis and treatment of peripheral arterial embolism.

Heparin sodium may also be employed as an anticoagulant in blood transfusions, extracorporeal circulation, dialysis procedures, and in blood samples for laboratory purposes.

Method of administration	Frequency	Recommended dose (based on 150-lb (68 kg) patient)
1. By deep subcutaneous (intrafat) injection.	Initial dose	5,000 units by intravenous injection followed by 10,000-20,000 units of a concentrated solution subcutaneously.
	Every 8 hr. Or every 12 hr.	8,000-10,000 units of a concentrated solution.
	Initial dose	15,000-20,000 units of a concentrated solution.
	Every 4 to 6 hr.	10,000 units either undiluted or in 50-100 p.p.t. isotonic sodium chloride injection.
	Initial dose	5,000-10,000 units, either undiluted or in 50-100 p.p.t. isotonic sodium chloride injection.
	Continuous	20,000-40,000 units in 1,000 ml of isotonic sodium chloride solution for infusion per day.

1. **By deep subcutaneous (intrafat) injection.** After an initial I.V. injection of 5,000 units, inject 10,000 to 20,000 units of a concentrated heparin sodium solution subcutaneously, followed by 8,000 to 10,000 units of a concentrated solution subcutaneously every 8 hours, or 15,000 to 20,000 units of a concentrated solution every 12 hours. A different site should be used for each injection to prevent the development of a massive hematoma.

2. **By intermittent intravenous injection.** 10,000 units initially, then 5,000 to 10,000

Dosage and administration are as follows: Heparin sodium is not effective by oral administration and should be given by deep subcutaneous (intrafat, i.e. above iliac crest or into the abdominal fat layer) injection, by intermittent intravenous injection, or intravenous infusion. The intramuscular route of administration should be avoided because of the frequent occurrence of hematoma at the injection site.

The dosage of heparin sodium should be adjusted according to the patient's coagulation test results, which, during the first day of treatment, should be determined just prior to each injection. (There is usually no need to monitor the effect of low-dose heparin in patients with normal coagulation parameters.) Dosage is considered adequate when the whole blood clotting time is elevated approximately 2.5 to 3 times the control value.

When heparin sodium is administered by continuous intravenous infusion, coagulation tests should be performed approximately every four hours during the early stages of therapy. When it is administered intermittently by intravenous or deep subcutaneous (intrafat) injection, coagulation tests should be performed before each injection during the early stages of treatment and daily thereafter.

When an oral anticoagulant of the coumadin or similar type is administered with heparin sodium, coagulation tests and prothrombin activity should be determined at the start of therapy. For immediate anticoagulant effect, administer heparin sodium in the usual therapeutic dosage. When the results of the initial prothrombin determination are known, administer the first dose of an oral anticoagulant in the usual initial amount. Thereafter, perform a coagulation test and determine the prothrombin activity at appropriate intervals. A period of at least 5 hours after the last intravenous dose and 24 hours after the last subcutaneous (intrafat) dose of heparin sodium should elapse before blood is drawn if a valid prothrombin time is to be obtained. When the oral anticoagulant shows full effect and prothrombin activity is in the desired therapeutic range, heparin sodium may be discontinued and therapy continued with the oral anticoagulant.

Therapeutic anticoagulant effect with full-dose heparin: Although dosage must be adjusted for the individual patient according to the results of suitable laboratory tests, the following dosage schedules may be used as guidelines:

units every 4 to 6 hours. These amounts may be given either undiluted or diluted with 50 to 100 milliliters of isotonic sodium chloride injection.

3. **By continuous intravenous infusion.** After an initial I.V. injection of 5,000 units of heparin sodium, add 20,000 to 40,000 units to 1,000 milliliters of isotonic sodium chloride solution for infusion. For most patients, the rate of flow should be adjusted to deliver approximately 20,000 to 40,000 units in 24 hours.

Surgery of the heart and blood vessels: Patients undergoing total body perfusion for open heart surgery should receive an initial dose of not less than 150 units of heparin sodium per kilogram of body weight. Frequently a dose of 300 units of heparin sodium per kilogram of body weight is used for procedures estimated to last less than 60 minutes; or 400 units per kilogram for those estimated to last longer than 60 minutes.

Low-dose prophylaxis of postoperative thromboembolism: A number of well-controlled clinical trials have demonstrated that low-dose heparin prophylaxis, given just prior to and after surgery, will reduce the incidence of postoperative deep vein thrombosis in the legs, as measured by the I-125 fibrinogen technique and venography, and of clinical pulmonary embolism. The most widely used dosage has been 5,000 units 2 hours before surgery and 5,000 units every 8 to 12 hours thereafter for 7 days or until the patient is fully ambulatory; whichever is longer. The heparin is given by deep subcutaneous injection in the arm or abdomen with a fine needle (25-26 gauge) to minimize tissue trauma. A concentrated solution of heparin sodium is recommended. Such prophylaxis should be reserved for patients over 40 undergoing major surgery. Patients with bleeding disorders, those having neurosurgery, spinal anesthesia, eye surgery, or potentially sanguinous operations should be excluded, as well as patients receiving oral anticoagulants or platelet-active drugs (see Warnings in complete package insert). The value of such prophylaxis in hip surgery has not been established. The possibility of increased bleeding during surgery or postoperatively should be borne in mind. If such bleeding occurs, discontinuance of heparin and neutralization with protamine sulfate is advisable. If clinical evidence of thromboembolism develops despite low-dose prophylaxis, full therapeutic doses of anticoagulants should be given unless contraindicated. All patients should be screened prior to heparinization to rule out bleeding disorders, and monitoring should be performed with appropriate coagulation tests just prior to surgery. Coagulation test values should be normal or only slightly elevated. There is usually no need for daily monitoring of the effect of low-dose heparin in patients with normal coagulation parameters.

3. **Marketing status.** (a) Marketing of such drug products that are now the subject of an approved or effective new drug application may be continued provided that, on or before December 6, 1977, the holder of the application submits, if he has not previously done so, (i) a supplement for revised labeling as needed to be in accord with the labeling conditions described in this notice, and complete container labeling if current container labeling has not been submitted, and (ii) a supplement to provide updating information with respect to items 6 (components), 7 (composition), and 8 (methods, facilities, and controls) of new drug application for FD-356H (21 CFR 314.1(c)) to the extent required in abbreviated applications (21 CFR 314.1(f)).

(b) Approval of an abbreviated new drug application (21 CFR 314.1(f)) must be obtained prior to marketing such product. Marketing prior to approval of a new application will subject such products, and those persons who caused the products to be marketed, to regulatory action.

C. **Notice of opportunity for hearing.** On the basis of all the data and information available to him, the Director of the Bureau of Drugs is unaware of any adequate and well-controlled clinical investigation, conducted by experts qualified by scientific training and experience, meeting the requirements of section 505 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355) and 21 CFR 314.111 (a) (5), demonstrating the effectiveness of the drug(s) for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A of this notice.

Notice is given to the holder(s) of the new drug application(s), and to all other interested persons, that the Director of the Bureau of Drugs proposes to issue an order under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)), withdrawing approval of the new drug application(s) and all amendments and supplements thereto providing for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A of this notice on the ground that new information before him with respect to the drug product(s), evaluated together with the evidence available to him at the time of approval of the application(s), shows there is a lack of substantial evidence that the drug product(s) will have all the effects it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in the labeling. An order withdrawing approval will not issue with respect to any application(s) supplemented, in accord with this notice, to delete the claim(s) lacking substantial evidence of effectiveness.

In addition to the ground for the proposed withdrawal of approval stated above, this notice of opportunity for hearing encompasses all issues relating to the legal status of the drug products subject to it (including identical, related, or similar drug products as defined in 21 CFR 310.6), e.g., any contention that any such product is not a new drug because it is generally recognized as safe and effective within the meaning of section 201(p) of the act or because it is exempt from part or all of the new drug provisions of the act pursuant to the exemption for products marketed prior to June 25, 1938, contained in section 201(p) of the act, or pursuant to section 107(c) of the Drug Amendments of 1962; or for any other reason.

In accordance with the provisions of section 505 of the act (21 U.S.C. 355) and the regulations promulgated thereunder (21 CFR Parts 310, 314), the applicant(s) and all other persons who manufacture or distribute a drug product which is identical, related, or similar to a drug product named above (21 CFR 310.6), are hereby given an opportunity for a hearing to show why approval of the new drug application(s) providing for the claim(s) involved should not be withdrawn and an opportunity to raise, for administrative determination, all issues relating to the legal status of a drug

product named above and all identical, related, or similar drug products.

If an applicant or any person subject to this notice pursuant to 21 CFR 310.6 elects to avail himself of the opportunity for a hearing, he shall file (1) on or before November 7, 1977, a written notice of appearance and request for hearing, and (2) on or before December 6, 1977, the data, information, and analyses on which he relies to justify a hearing, as specified in 21 CFR 314.200. Any other interested person may also submit comments on this proposal to withdraw approval. The procedures and requirements governing this notice of opportunity for hearing, a notice of appearance and request for hearing, a submission of data, information, and analyses to justify a hearing, other comments, and a grant or denial of hearing, are contained in 21 CFR 314.200.

The failure of an applicant or any other person subject to this notice pursuant to 21 CFR 310.6 to file timely written appearance and request for hearing as required by 21 CFR 314.200 constitutes an election by such person not to avail himself of the opportunity for a hearing concerning the action proposed with respect to such drug product and a waiver of any contentions concerning the legal status of such drug product. Any such drug product labeled for the indication(s) lacking substantial evidence of effectiveness referred to in paragraph A of this notice may not thereafter lawfully be marketed, and the Food and Drug Administration will initiate appropriate regulatory action to remove such drug products from the market. Any new drug product marketed without an approved NDA is subject to regulatory action at any time.

A request for a hearing may not rest upon mere allegations or denials, but must set forth specific facts showing that there is a genuine and substantial issue of fact that requires a hearing. If it conclusively appears from the face of the data, information, and factual analyses in the request for the hearing that there is no genuine and substantial issue of fact which precludes the withdrawal of approval of the application, or when a request for hearing is not made in the required format or with the required analyses, the Commissioner will enter summary judgment against the person(s) who requests the hearing, making findings and conclusions, denying a hearing.

All submissions pursuant to this notice of opportunity for hearing shall be filed in quintuplicate. Such submissions, except for data and information prohibited from public disclosure pursuant to 21 U.S.C. 331(j) or 18 U.S.C. 1905, may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 502, 505, 52 Stat. 1050-1053, as amended (21 U.S.C. 352, 355)) and under the au-

thority delegated to the Director of the Bureau of Drugs (21 CFR 5.82).

Dated: September 29, 1977.

RICHARD A. TERSELIC,
Acting Director, Bureau of Drugs.
[FR Doc. 77-29306 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket No. 76N-0209; DESI 10070]

PANCREATIC DORNASE

Withdrawal of Approval of New Drug Application

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice withdraws approval of the new drug application for pancreatic dornase on the basis of lack of substantial evidence of effectiveness. The drug has been used for reducing viscosity of pulmonary secretions in bronchopulmonary infections.

EFFECTIVE DATE: October 17, 1977.

ADDRESS: Requests for opinion of the applicability of this notice to a specific product should be identified with the reference number DESI 10070 and directed to: Division of Drug Labeling Compliance (HFD-310), Bureau of Drugs, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Herbert Gerstenzang, Bureau of Drugs (HFD-32), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857 (301-443-3650).

SUPPLEMENTARY INFORMATION: In a notice (DESI 10070) published in the FEDERAL REGISTER of May 27, 1977 (42 FR 27299), the Director of the Bureau of Drugs offered an opportunity for hearing on a proposal to issue an order withdrawing approval of the following drug product, based upon the lack of substantial evidence of effectiveness.

NDA 10-070; Dornavac Powder containing pancreatic dornase for inhalation or irrigation; Merck Sharp & Dohme, Division of Merck & Co., Inc., West Point, PA 19486.

All drug products that are identical, related, or similar to the drug named above and are not the subject of an approved new drug application are covered by the new drug application reviewed and are subject to this notice (21 CFR 310.6). Any person who wishes to determine whether a specific product is covered by this notice should write to the Division of Drug Labeling Compliance (address given above).

Neither the holder of the new drug application nor any other person filed a written appearance of election as provided by said notice. The failure to file such an appearance constitutes election by such persons not to avail themselves of the opportunity for a hearing.

The Director of the Bureau of Drugs, under the Federal Food, Drug, and Cosmetic Act (sec. 505, 52 Stat. 1052-1053, as amended (21 U.S.C. 355)), and under the authority delegated to him (21 CFR 5.82), finds that, on the basis of new information before him with respect to the drug product, evaluated together with the evidence available to him when the application was approved, there is a lack of substantial evidence that the drug product will have the effect it purports or is represented to have under the conditions of use prescribed, recommended, or suggested in its labeling.

Therefore pursuant to the foregoing finding, approval of new drug application 10-070, and all amendments and supplements applying thereto, is withdrawn effective October 17, 1977.

Shipment in interstate commerce of the above product or of any identical, related, or similar product that is not the subject of an approved new drug application will then be unlawful.

Dated: September 29, 1977.

RICHARD A. TERSELIC,
Acting Director, Bureau of Drugs.
[FR Doc. 77-29311 Filed 10-6-77; 8:45 am]

[4110-03]

[Docket No. 77N-0238]

PROPOSED MODEL VENDING OF FOOD AND BEVERAGES ORDINANCE

Notice of Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Commissioner of Food and Drugs is making available for comment a proposed revision of the Model Vending of Food and Beverages Ordinance. The purpose of the ordinance is to provide the vending industry with sanitary standards and the State and local governments with a comprehensive model law.

DATE: Comments by January 5, 1977.

ADDRESS: Written comments to the Hearing Clerk (HFC-20), Room 4-65, Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

A. Sidney Davis, Bureau of Foods (HFF-220), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C Street SW., Washington, D.C. 20204 (202-245-1511).

SUPPLEMENTARY INFORMATION: As the vending of foods expanded in the 1940's and early 1950's, the need for a uniform ordinance was recognized by both State and local regulatory agencies and the vending industry.

In 1954, the Public Health Service, with the assistance of industry, began work on a uniform ordinance and, in

1957, published the first vending ordinance to be recommended nationally for adoption by all regulatory agencies.

By the mid 1960's, technology and the advances in operations achieved by the vending industry necessitated a revision of the 1957 recommended ordinance and code. Published in 1965, this revision was titled "The Vending of Food and Beverages, A Sanitation Ordinance and Code, 1965 Recommendations of the Public Health Service." The greatest attribute of this ordinance and code has been the provision of uniform guidelines for manufacturers and operators.

The 1965 vending ordinance and code revision has been adopted by at least 25 States, 64 municipalities, and 3 military departments.

In June 1969, the responsibility to provide assistance to State and local regulatory agencies in the establishment and maintenance of food sanitation programs was transferred to the Food and Drug Administration (21 CFR 5.1) from another unit of the Public Health Service.

During the 12 years since the 1965 vending ordinance and code revision was published, there have been many changes in vending machine design, industry practices, and products vended. For example, bulk milk machines have been phased out, pre-mix soft drink machines are being phased out, post-mix drink machines are being manufactured free of copper tubing and microwave ovens have reduced the use of heated perishable food machines.

Therefore, the Commissioner of Food and Drugs, recognizing the need for an updated vending ordinance which will provide State and local regulatory agencies with a comprehensive model law, has determined that a revision of the 1965 vending ordinance is necessary.

The Food and Drug Administration has received and incorporated in this proposal suggestions from State regulatory agencies, industry representatives, and a testing laboratory.

Copies of these proposed revisions are being distributed to the Federal, State, and industry groups who will most directly affected to provide an opportunity for their comments.

Other persons interested in obtaining copies of the proposed revisions should write to the Bureau of Foods (HFF-220), Food and Drug Administration, 200 C Street, SW., Washington, D.C. 20204. A copy is also on display in the office of the Hearing Clerk.

Interested persons may, on or before January 5, 1978, submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this proposal. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday. All submissions will be considered

prior to finalization of the revised model ordinance.

Dated: September 22, 1977.

WILLIAM F. RANDOLPH,
Acting Associate Commissioner
for Compliance.
[FR Doc. 77-29465 Filed 10-6-77; 8:45 am]

[4310-70]

DEPARTMENT OF THE INTERIOR

National Park Service

[Order No. 3]

ADMINISTRATIVE OFFICER, VICKSBURG NATIONAL MILITARY PARK, MISSISSIPPI

Delegation of Authority

SECTION 1. *Administrative officer.* The administrative officer may execute, approve, and issue purchase orders not in excess of \$10,000 for supplies, equipment, or services in conformity with applicable regulations and statutory authority and subject to the availability of appropriated funds.

SEC. 2. *Revocation.* This order supercedes Order No. 2 dated January 7, 1975, and published in 40 FR 7954 on February 24, 1975.

(National Park Service Order No. 77 (38 FR 7478) as amended; Southeast Region Order No. 5 (37 FR 7721), as amended.)

Dated: July 27, 1977.

DANIEL E. LEE,
Superintendent, Vicksburg
National Military Park.
[FR Doc. 77-29469 Filed 10-6-77; 8:45 am]

[4310-70]

SLEEPING BEAR DUNES NATIONAL LAKESHORE, MICHIGAN

Establishment

Notice is given, pursuant to section 2 of the Act of October 21, 1970 (84 Stat. 1075) that there has been acquired within the boundaries of Sleeping Bear National Lakeshore an acreage, including all land required to be donated by the State of Michigan, which is efficiently administrable for the purposes of said Act, and therefore the Lakeshore is hereby established.

As established, the Lakeshore comprises the area within the boundaries delineated on a map entitled "A proposed Sleeping Bear Dunes National Lakeshore Boundary Map," dated May 1969, and numbered NL-SBD-91,000, which map is on file in the Office of the Superintendent of the Lakeshore and in the Offices of the National Park Service, Department of the Interior, Washington, D.C.

Dated: October 21, 1977.

ROBERT HERBST,
Assistant Secretary
of the Interior.
[FR Doc. 77-29487 Filed 10-6-77; 8:45 am]

[4510-24]

DEPARTMENT OF LABOR

Bureau of Labor Statistics

LABOR RESEARCH ADVISORY COUNCIL COMMITTEES

Meetings and Agenda

The regular fall meetings of committees of the Labor Research Advisory Council will be held on October 25, 26, and 27 in Room 4454, General Accounting Office Building, 441 G Street NW., Washington, D.C.

The Labor Research Advisory Council and its committees advise the Bureau of Labor Statistics with respect to technical matters associated with the Bureau's programs. Membership consists of union research directors and staff members.

The schedule and agenda of the meetings are as follows:

TUESDAY, OCTOBER 25

9:30 A.M.—COMMITTEE ON PRICES AND LIVING CONDITIONS

1. Family Budgets—Status Report.
2. Consumer Price Index Revision Status Report.
3. Industrial Price (Wholesale Price) Revision—Ruggles Report.
4. International Price Program—Status Report.
5. Cost of Living Research Project—Summary of Findings.

WEDNESDAY, OCTOBER 26

9:30 A.M.—COMMITTEE ON WAGES AND INDUSTRIAL RELATIONS

1. Work in Progress.
2. Report of the LRAC subcommittee on long-range program planning.
3. Status of program proposals for Fiscal Year 1979.

1:30 P.M.—COMMITTEE ON FOREIGN LABOR AND TRADE

Status reports on work in the following areas:

1. International comparisons of employment and unemployment.
2. Manufacturing productivity and labor cost comparisons.
3. Trade Statistics Monitoring System.

THURSDAY, OCTOBER 27

9:30 A.M.—COMMITTEE ON MANPOWER AND EMPLOYMENT

1. Local Area Unemployment Statistics.
2. Job Vacancies.
3. National Occupational Information Coordinating Committee (NOICC).
4. Collection of weekly earnings in the Current Population Survey.
5. Information on the labor force activity of individuals as members of families (person-family relationships).
6. Modifications in the definition of "household head."

1:30 P.M.—COMMITTEE ON PRODUCTIVITY, TECHNOLOGY AND GROWTH

1. The role of the National Academy of Science's Productivity Measurement Review Committee.
2. Discussion of production functions and implications for productivity measures.
3. Results of the BLS 1990 economic growth projections.

The meetings are open. It is suggested that persons planning to attend as observers contact Joseph P. Goldberg, Executive Secretary, Labor Research Advisory Council on (Area Code 202) 523-1247.

Signed at Washington, D.C. this 29th day of September 1977.

JULIUS SHISKIN,
Commissioner of Labor Statistics.

[FR Doc. 77-29559 Filed 10-6-77; 8:45 am]

[4510-30]

Employment and Training Administration EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with

particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any

Applications received during the week ending Sept. 30, 1977

Name of applicant	Location of enterprise	Principal product or activity
Emmett's Valley Health Care Facility, Inc.	Lansford, Md.	Nursing home.
Edgcomb Steel & Aluminum Corp.	Cumberland County, N.J.	Iron and steel products.
Edgcomb Steel Corp.	Edgcomb, N.J.	Manufacturing of steel forgings, quality billets and bars.
Edgcomb Manufacturing Corp.	Edgcomb, N.J.	Manufacturing of garden plows, lawn mowers, and hand trucks.
Edgcomb Components Inc.	Edgcomb, N.J.	Machine shop work and electric designing.
Edgcomb Capital Partnerships	Edgcomb, N.J.	Restaurant.
AAA Wood Products, Inc.	Abbeville, Ala.	Sawmill.
J. B. Truck Stop & Restaurant	Smithfield, N.C.	Truck stop and restaurant.
Deery Plywood Corp.	Aberdeen, N.C.	Manufacturing hardwood plywood furniture parts.
Edgcomb Mfg. Inc.	Edgcomb, N.J.	Manufacturing of commercial car parts.
The Edgcomb Corp.	Edgcomb, N.J.	Sales of grain, fertilizer and chemicals.
Yoder Truck & Manufacturing Co. Inc.	Edgcomb, N.J.	Manufacturing of automatic brake actuators.
Edgcomb Properties Inc.	Edgcomb, N.J.	Sale of timeshare condominiums and operation of supper club.
Edgcomb Hollow Publishers, Inc.	Edgcomb, N.J.	Produce and publish newspaper and magazines.
Lindsay Downs, Inc.	Edgcomb, N.J.	Quarter-horse race track.
Edgcomb Coal Co.	Edgcomb, N.J.	Strip mining of bituminous coal.
Edgcomb Fertilizer Inc.	Edgcomb, N.J.	Production of dry and liquid fertilizer.
Edgcomb Lumber Co.	Edgcomb, N.J.	Manufacturing of dimension lumber.

FR Doc 77 29474 Filed 10-6-77 8:45 am]

[4510-01]

Employment and Training Administration FEDERAL SUPPLEMENTAL BENEFITS (EMERGENCY UNEMPLOYMENT COMPENSATION)

Ending of Federal Supplemental Benefit Period in California

This notice announces the ending of the Federal Supplemental Benefit Period in the State of California, effective on October 8, 1977.

BACKGROUND

The Emergency Unemployment Compensation Act of 1974 (Pub. L. 93-572, enacted December 31, 1974) created a temporary program of supplementary unemployment benefits (referred to as Federal Supplemental Benefits) for unemployed individuals who have exhausted their rights to regular and extended benefits under State and Federal unemployment compensation laws. Federal Supplemental Benefits are payable during a Federal Supplemental Benefit Period in a State which has entered into an Agreement under the Act with the United States Secretary of Labor. A Federal Supplemental Benefit Period is triggered on in a State when un-

employment in the State or in the State and the nation reaches the high levels set in the Act. During a Federal Supplemental Benefit Period the maximum amount of Federal Supplemental Benefits which are payable to eligible individuals is up to 13 weeks. A Federal Supplemental Benefit Period commenced in the State of California on January 5, 1975.

The Act also provides that a Federal Supplemental Benefit Period in a State will trigger off when the rate of insured unemployment in the State averages less than 5.0 percent over a period of thirteen consecutive calendar weeks. The benefit period actually terminates at the end of the third week after the week for which there is an "off" indicator, if the benefit period will have been in effect for a minimum duration of 13 weeks.

DETERMINATION OF "OFF" INDICATOR

The employment security agency of the State of California has determined under the Act and 20 CFR 618.19(b) (published in the FEDERAL REGISTER on March 23, 1976, at 41 FR 12151, 12157) that the average rate of insured unemployment in the State for the period consisting of the week ending on September 17, 1977, and the immediately preceding twelve weeks, was less than 5.0 percent.

Therefore, I have determined in accordance with the Act and 20 CFR 618.19(b), and as authorized by the Secretary of Labor's Order 4-75, dated April 16, 1975 (published in the FEDERAL REGISTER on April 28, 1975, at 40 FR 18515), that there was a Federal Supplemental Benefit "off" indicator in the State of California for the week ending September 17, 1977, and that the Federal Supplemental Benefit Period in that State terminates on October 8, 1977.

INFORMATION FOR CLAIMANTS

Any individual to whom Federal Supplemental Benefits or Federal-State Extended Benefits were payable in the State (whether or not any payment actually was made), for any portion of the last week of the Federal Supplemental Benefit Period, will have an additional eligibility period beginning immediately following the end of the Federal Supplemental Benefit Period. During the additional eligibility period the individual will be entitled to Federal Supplemental Benefits to the same extent as if the Federal Supplemental Benefit Period continued to be in effect. The additional eligibility period will have a duration of 13 weeks, unless it is terminated sooner by reason of the beginning of a new Federal Supplemental Benefit Period in the State.

Individuals currently filing claims for Federal Supplemental Benefits will receive written notices from the California Employment Development Department of the end of the Federal Supplemental Benefit Period in that State and its effect on their entitlement to Federal Supplemental Benefits. The notice to any individual who will have an additional eligibility period following the Federal Supplemental Benefit Period will include information concerning potential entitlement to Federal Supplemental Benefits during the additional eligibility period.

Persons who wish information about their rights to Federal Supplemental Benefits in the State of California should contact the nearest Human Relations Agency of the California Employment Development Department in their locality.

Signed at Washington, D.C., on October 3, 1977.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

FR Doc 77 29560 Filed 10-6-77 8:45 am]

[4510-28]

Office of the Secretary

[TA-W-2224]

EDGCOMB STEEL & ALUMINUM CORP. Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2224: Investigation regarding certi-

fication of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on July 25, 1977 in response to a worker petition received on July 22, 1977 which was filed by the International Brotherhood of Teamsters, Chauffeurs, Warehousemen and Helpers of America and unorganized white collar employees on behalf of workers and former workers engaged in the distribution and processing of metals at Edgcomb Steel and Aluminum Corp., Hillside, N.J.

The notice of investigation was published in the FEDERAL REGISTER on August 9, 1977 (42 FR 40286). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Edgcomb Steel and Aluminum Corp. and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

Edgcomb Steel and Aluminum Corp. is a distributor and processor of steel and aluminum. Edgcomb purchases coils from steel producers, slits or levels the steel to customer specification, and sells the processed steel to their customers. All employees were engaged in employment related to the processing (slitting and leveling), shipping and distribution of steel and aluminum, and performed no production functions.

Edgcomb Steel and Aluminum Corp. does not produce an article within the meaning of Section 222(3) of the Act and this Department has already determined that the performance of services are not covered by the adjustment assistance program. See Notice of Determination in *Pan American World Airways, Incorporated* (TA-W-153, 40 FR 54639). Edgcomb Steel and Aluminum performed a service, the processing, shipping, and distribution of steel and aluminum.

CONCLUSION

After careful review of the issues, I have determined that services of the kind provided by Edgcomb Steel and Aluminum Corp., Hillside, N.J. are not "articles" within the meaning of Section 222 (3) of the Trade Act of 1974. The petition for trade adjustment assistance is, therefore, denied.

Signed at Washington, D.C. this 12th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

FR Doc 77 29558 Filed 10-6-77 8:45 am]

[4510-28]

[TA-W-1915]

SHAEFFER TAILORING CO., INC.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1915: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 28, 1977, in response to a worker petition received on March 24, 1977, which was filed by the Amalgamated Clothing and Textile Workers Union on behalf of workers and former workers producing men's suits and sportcoats at Shaeffer Tailoring Co., Inc., Cincinnati, Ohio.

The Notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19178). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Shaeffer Tailoring Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed im-

portantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Shaeffer Tailoring Co., Inc., was founded as a family operation in 1925. The company became incorporated in 1954. Shaeffer Tailoring produced men's suits and sportcoats. The company closed in December 1976.

Production and sales by Shaeffer Tailoring Co., Inc., increased 27 percent and 1 percent, respectively, in 1976 from 1975. Compared to the same quarter of the previous year, production increased 30 percent during the second quarter of 1976, 46 percent during the third quarter of 1976, and 50 percent during the fourth quarter of 1976.

Employment of all workers at Shaeffer Tailoring Co. increased 10 percent in 1976 from 1975. Compared to the same quarter of the previous year, employment increased 13 percent during the second quarter of 1976, 20 percent during the third quarter of 1976, and 22 percent during the fourth quarter of 1976. No layoffs occurred at Shaeffer Tailoring in 1976 prior to the closing of the company in December 1976.

Shaeffer Tailoring Co. shifted production from a moderately-priced line of suits and sportcoats in 1975 to a lower-priced line in 1976. The majority of Shaeffer's customers in 1975 consisted of small independent tailoring shops and stores. During 1976 the majority of Shaeffer's sales went to one large retail department store.

Customers surveyed who decreased purchases from Shaeffer Tailoring in 1976 from 1975 did not purchase imported men's suits and sportcoats during the same period. Purchases by the major retail store accounted for more than 70 percent of total sales by Shaeffer Tailoring in 1976. This major customer increased purchases from Shaeffer Tailoring in 1976 from 1975.

The quantity of production at Shaeffer Tailoring increased more than the value of sales in 1976 due to the reduced number of steps involved in the production of the lower-priced suits and sportcoats. After approximately one year of production in this new product line, officials at Shaeffer Tailoring Co. determined that they would not be able to profitably manufacture a lower-priced product without a proportionate decrease in unit labor cost. Shaeffer Tailoring Co. closed in December 1976 after company and union officials failed to reach agreement concerning employee wage rates. The large retail department store for whom Shaeffer was producing the lower-priced product shifted its purchases to another domestic producer—not to imports.

CONCLUSION

It is therefore concluded that imports of articles like or directly competitive with men's suits and sportcoats produced at Shaeffer Tailoring Co., Inc., Cincinnati,

nati. Ohio, did not contribute importantly to the closing of the firm.
Signed at Washington, D.C., this 28th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration and Planning.
[FR Doc 77-29557 Filed 10-6-77; 8:45 am]

[4510-01]

Office of the Secretary

STATE OF NEW HAMPSHIRE DEPARTMENT OF EMPLOYMENT SECURITY

Hearing

This notice announces an opportunity for hearing for the Department of Employment Security of the State of New Hampshire on the question of whether the State of New Hampshire has fulfilled its commitments under an agreement with the Secretary of Labor as described in section 239 of the Trade Act of 1974. On the basis of the proceedings in this matter, it will be decided whether there shall be a reduction of 15 percent in the tax credits allowable to New Hampshire employers pursuant to section 3302 of the Internal Revenue Code of 1954 for taxable year 1977.

Now, therefore, pursuant to section 3302(c)(3) of the Internal Revenue Code of 1954, and section 91.63(c) of Title 29, Code of Federal Regulations, notice is hereby given that a hearing will be held beginning at 10 o'clock in the morning on October 13, 1977, in Courtroom 13, Third Floor, United States Courthouse and Post Office Building, Post Office Square, Boston, Mass. 02109, on the question stated above.

RULES OF PROCEDURE

The proceedings on the question stated above will be conducted in accordance with the following rules:

- (1) An Administrative Law Judge will be designated by the Chief Administrative Law Judge, U.S. Department of Labor, to preside over the hearing and perform the functions required by these rules.
- (2) The parties of record shall be the New Hampshire Department of Employment Security, and the U.S. Department of Labor.
- (3) Any State employment security agency, individual worker, or employer, or any organization or association of workers, employers, or the public, having an interest in these proceedings, may be permitted by the presiding Administrative Law Judge to participate in these proceedings. Participation by any such interested person shall be limited to the presentation of oral argument as provided in paragraph (10) below and to the submission of a brief as provided in paragraph (11) below. Any State employment security agency, person, organization, or association described above, may apply for permission to participate in these proceedings as an interested person, by filing in the office of the Chief Administrative Law Judge, U.S. Department of Labor, Room 720, Vanguard Building, 1111 20th Street NW., Washington, D.C. 20036, prior to the date of the hearing, a written or telegraphic request setting forth the applicant's name and address and the name and address of any person or group who will represent the applicant. The presiding Administrative Law Judge shall

rule on all applications and inform the applicants and the parties of his rulings.

(4) The hearing will be conducted in an informal but orderly and expeditious manner. The presiding Administrative Law Judge will regulate all matters pertaining to the course and conduct of the proceedings.

(5) The representative of the U.S. Department of Labor will make an opening statement as to the nature of the hearing and the matters in issue. The representative of the New Hampshire Department of Employment Security then will be offered an opportunity to make an opening statement.

(6) The parties of record shall have the opportunity to present oral and documentary evidence, and cross-examine witnesses, with the U.S. Department of Labor proceeding first. Technical rules of evidence shall not apply. The presiding Administrative Law Judge will rule upon offers of proof and the admissibility of evidence, and receive all relevant evidence. He may exclude irrelevant, immaterial, or unduly repetitious evidence, and may examine witnesses. All written statements, charts, tabulations, and similar data offered in evidence at the hearing shall, upon a showing satisfactory to the presiding Administrative Law Judge of their authenticity, relevancy, and materiality, be received in evidence.

(7) During the hearing the presiding Administrative Law Judge may require the production and introduction of further evidence upon any matter. After the hearing is closed, no further evidence shall be taken except at the direction of the Secretary of Labor, unless provision has been made at the hearing for the later receipt of such evidence for the record.

(8) The proceedings at the hearing shall be recorded verbatim. Copies of the transcript of the record of hearing may be obtained by the parties of record and any interested person permitted to participate in the proceedings at cost.

(9) When any document is received in evidence, one additional copy thereof shall be submitted to the presiding Administrative Law Judge.

(10) At the conclusion of the receipt of evidence, the presiding Administrative Law Judge shall hear oral argument presented by the parties of record and interested persons permitted to participate in the proceedings. Oral arguments shall be in the following order: Opening argument for the U.S. Department of Labor, unless waived; opening argument for the New Hampshire Department of Employment Security, unless waived; argument of each of the interested persons who wishes to present oral argument, in such order as the presiding Administrative Law Judge shall determine; closing argument for the New Hampshire Department of Employment Security, unless waived; and closing argument for the U.S. Department of Labor, unless waived. Oral argument by an interested person shall not be longer than 15 minutes. All oral arguments shall be transcribed and made a part of the record.

(11) The parties of record and any interested person permitted to participate in these proceedings shall be permitted to file a brief on the matters in issue. Briefs shall be filed with the presiding Administrative Law Judge (at the address stated in paragraph (3) above) not later than 5 days after the date of the hearing. Parties of record shall submit one copy with the original of any brief filed, and proof of service, and shall serve a copy on the other party of record. Interested persons shall submit one copy with the original of any brief filed, and proof of service, and shall serve a copy on each of the parties of record.

(12) Within seven days after the time has expired for the filing of briefs, the presiding

Administrative Law Judge shall prepare a proposed recommended decision. Copies of the proposed recommended decision shall be mailed to the parties of record who may within 14 days after such decision was mailed to them, file with the presiding Administrative Law Judge, in an original and one copy, a statement in writing setting forth any exceptions they may have to the proposed recommended decision, and proof of service. A copy of any statement filed by a party of record shall be served on the other party of record.

(13) The presiding Administrative Law Judge, with due consideration of the exceptions filed by the parties of record in accordance with paragraph (12) above, shall prepare a recommended decision within five days after the time has expired for filing exceptions. He shall promptly certify to the Secretary of Labor his recommended decision and the entire record of the proceedings, and forward a copy of his certification and recommended decision to each party of record.

(14) Following the certification to him in accordance with paragraph (13) above, the Secretary of Labor shall render his decision in the matter, in writing, and shall cause the parties of record and the interested parties permitted to participate in the proceedings to be notified thereof.

(15) Briefs and other papers filed with the presiding Administrative Law Judge under these rules shall be deemed to be filed on the date they are received in the office of the presiding Administrative Law Judge. If the last day of a time limit for filing briefs or other papers falls on a Saturday, Sunday, or a Federal legal holiday, the time limit shall be extended to the next official business day. Briefs and other papers filed with the presiding Administrative Law Judge shall be accepted subject to timely filing and sufficient proof of service upon the parties as required by these rules.

Signed at Washington, D.C., on October 5, 1977.

RAY MARSHALL,
Secretary of Labor.

[FR Doc 77-29558 Filed 10-6-77; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION
ADVISORY COMMITTEE FOR CHEMISTRY
Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemistry.

Date and time: October 27 and 28, 1977, 9 a.m. to 5 p.m. each day.

Place: Room 543, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Part open.

Contact person: Dr. Richard S. Nicholson, Division Director for Chemistry, Room 340, National Science Foundation, Washington, D.C., telephone 202-632-4262.

Purpose of committee: To provide advice and recommendations concerning support for research in chemistry.

Agenda: October 27, 1977, 9 a.m. to 5 p.m.—Closed. Review of grant and decli-

nation proposal jackets involving requests for support for major items of instrumentation.

October 28, 1977, 9 a.m. to 5 p.m.—Open. Discussion of topics of concern to the Division of Chemistry and Advisory Committee including the status of the National Resource for Computation in Chemistry (NRCC), grant longevity, support for instrumentation, the new Directorate for Science and Engineering Applications, and the Division's budget for fiscal year 1978.

Reason for closing: The Committee will be reviewing grants and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declined proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Acting Director, NSF, on October 3, 1977, pursuant to provisions of section 10(d) of Pub. L. 92-463.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

[FR Doc 77-29568 Filed 10-6-77; 8:45 am]

[7555-01]

ADVISORY COMMITTEE FOR RESEARCH
APPLICATIONS POLICY
Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Research Applications Policy.

Date: October 26 and 27, 1977.
Place: Metropolitan Hotel, 1143 New Hampshire Avenue NW., Washington, D.C.

Type of meeting: Part open: Open sessions—October 26, 9 a.m. to 4 p.m.; October 27, 9 a.m. to 4 p.m. Closed session—October 26, 4 p.m. to 5 p.m.

Contact person: Ms. Darleen F. Morano, Executive Secretary, Advisory Committee for Research Applications Policy, Room 537, National Science Foundation, Washington, D.C. 20550, telephone 202-632-7424.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of committee: To provide recommendations concerning the reorganization of the NSF Research Applications Directorate.

Agenda: October 26, 1977, 9 a.m. to 4 p.m.—Open session. 9—Introductory remarks. 9:30—Presentation, discussion of draft on the final report from the Science Applications Task Force (SATF). 12—Recess. 1—NSF Director's recommendation to the NSB on the findings of the SATF.

October 26, 1977, 4 p.m. to 5 p.m.—Closed session. 4—Fiscal year 1979 budget plans. 5—Adjourn.

October 27, 1977, 9 a.m. to 4 p.m.—Open session. 9—Proposed organizational rationale and objectives. 9:30—Discussion of problem focused research applications. 10:30—Discussion of applied research. 11:30—Discussion of problem oriented basic research. 12:30—Recess. 1:30—Discussion of problem definitions. 4—Adjourn.

Reason for closing: The fiscal year 1979 budget plans for the proposed Science and Engineering Applications Directorate will be presented to the Advisory Committee. The premature disclosure of the figures contained in the budget presentation could significantly frustrate the confidential submission of the fiscal year 1979 budget to the President for its transmission to Congress.

Authority to close meeting: The Director, NSF, made a written determination, in accordance with section 10(d) of the Federal Advisory Committee Act, Pub. L. 92-463, as amended, that this portion of the meeting was within exemption 9(b) of the Government in the Sunshine Act, 5 U.S.C. 552b(c).

M. REBECCA WINKLER,
Acting Committee
Management Officer.

OCTOBER 4, 1977.

[FR Doc 77-29571 Filed 10-6-77; 8:45 am]

[7555-01]

SUBCOMMITTEE ON GEOGRAPHY AND
REGIONAL SCIENCE OF THE ADVISORY
COMMITTEE FOR SOCIAL SCIENCES
Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Geography and Regional Science of the Advisory Committee for Social Sciences.

Date and time: October 27 and 28, 1977, 9 a.m. to 5 p.m. each day.
Place: Room 536, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Part open.
Contact person: Ms. Patricia McWethy, Associate Program Director, Geography and Regional Science Program, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-634-6683.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in geography and regional science.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
October 28, 1977, 9 a.m. to 12 noon—Open portion. To discuss current and new areas of geographic and regional science research and to discuss funding needs for both research programs.

Reason for closing: The proposals being reviewed include information of a

proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

[FR Doc 77-29567 Filed 10-6-77; 8:45 am]

[7555-01]

SUBCOMMITTEE FOR HISTORY AND
PHILOSOPHY OF SCIENCE OF THE
ADVISORY COMMITTEE FOR SOCIAL
SCIENCES
Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for History and Philosophy of Science of the Advisory Committee for Social Sciences.

Date and time: October 27, 1977, 9 a.m. to 5 p.m.

Place: Room 628, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Ronald J. Overmann, Associate Program Director for History and Philosophy of Science, Room 312, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4182.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in history and philosophy of science.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

[FR Doc 77-29569 Filed 10-6-77; 8:45 am]

[7555-01]

SUBCOMMITTEE TO REVIEW THE
THEORETICAL PHYSICS PROGRAM

Meeting

In accordance with Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Physics Subcommittee to Review the Theoretical Physics Program.

Date and time: October 26 and 27, 1977, 9 a.m. to 5 p.m. each day.

Place: Room 340, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Dr. Marcel Bardon, Acting Division Director for Physics, Room 341, National Science Foundation, Washington, D.C. 20550, telephone 202-632-4310.

Purpose of subcommittee: To provide program oversight concerning NSF support for research in theoretical physics.

Agenda: To review NSF theoretical physics program documentation as part of the program oversight function.

Reason for closing: The meeting will deal with a review of grants and declarations in which the team will review materials containing the names of applicant institutions and principal investigators and privileged information from the files pertaining to the proposals. The meeting will also include a review of the peer review documentations pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Acting Director, NSF, on October 3, 1977, pursuant to provisions of section 10(d) of Pub. L. 92-463.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

[FR Doc 77-29570 Filed 10-6-77; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE
COMMISSION

NATIONAL MARKET ADVISORY BOARD

Meeting

This is to give notice, pursuant to Section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 1 10(a), that the National Market Advisory Board will conduct open meetings on October 17 and 18, November 14 and 15, and December 12 and 13, 1977, in Room 776, 500 North Capitol Street, Washington, D.C. Initial notice of the October meeting was published in the FEDERAL REGISTER on September 1, 1977.

The summarized agenda for the November and December meetings will be published in the FEDERAL REGISTER at a later date. The summarized agenda for the October meeting is as follows:

1. Discussion of one or more Board letters to the Commission regarding:
 - a. Trading rules to be considered in connection with the proposed removal of off-board trading restrictions.
 - b. Initial principal facilities of a national market system.
 - c. Governance or administration of a national market system.
2. Discussion of such other matters as may be properly brought before the Board.

Further information may be obtained by writing Martin L. Budd, Executive Director, National Market Advisory Board Staff, Securities and Exchange Commission, Washington, D.C. 20549.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 29, 1977.

[FR Doc 77-29518 Filed 10-6-77; 8:45 am]

[8010-01]

[Rel. No. 9951 (812-3839)]

AETNA VARIABLE ANNUITY LIFE INSURANCE CO. AND VARIABLE ANNUITY ACCOUNT C OF AETNA VARIABLE ANNUITY LIFE INSURANCE CO.

Notice of Application

Notice is hereby given that Aetna Variable Annuity Life Insurance Co. ("AVAR"), a Connecticut stock life insurance company, and Aetna Variable Annuity Life Insurance Co., 151 Farmington Avenue, Hartford, CT 06156 Separate Account C ("Account C"), a separate account of AVAR registered under the Investment Company Act of 1940 ("Act") as a unit investment trust (hereinafter collectively referred to as "Applicants"), filed an application on July 14, 1975, and amendments thereto on February 1, 1977, and August 30, 1977, pursuant to Section 6(c) of the Act for an order exempting Applicants from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance by Applicants with certain provisions of the Education Code of the State of Texas. All interested persons are referred to the application on file with the Commission for a statement of the representations therein which are summarized below.

Account C is a separate account established by AVAR, a registered broker-dealer under the Securities Exchange Act of 1934 and a wholly-owned subsidiary of Aetna Life and Casualty Co. All amounts allocated to Account C are invested in shares of Aetna Variable Fund, Inc. ("Fund") or Aetna Variable Encore Fund, Inc. ("Encore Fund"), both open-end management investment companies registered under the Act. AVAR acts as investment adviser to both the Fund and Encore Fund. Also, AVAR is the depositor of Account C. Among the variable annuity contracts offered by AVAR are Retirement Planning Variable Annuity Contracts (the "Contracts"). The Contracts participate in Account C and are designed to fund the benefits provided by annuity purchase plans adopted by public school systems and

certain tax-exempt organizations for their employees and qualifying for tax-deferred treatment under Section 403(b) of the Internal Revenue Code of 1954, as amended.

In 1967, the State of Texas directed the governing boards of all Texas institutions of higher education to make available to certain employees an Optional Retirement Program ("Program"), codified as Subchapter G of Chapter 51 of the Texas Education Code. The statute provides as the funding media for the Program fixed or variable annuity contracts purchased from any insurance or annuity company qualified to do business in Texas. In 1973, the Texas legislature made two amendments in the Program legislation, which amendments became effective on June 14, 1973. The statutory definition of the Program was amended to provide that the benefits of such annuities are to be available only upon termination of employment in the Texas public institutions of higher education, retirement, death or total disability of the participant. The other amendment added a new Section 51.358 to Subchapter G which also provides that the benefits of such annuities will be available only if the participant dies, terminates his employment due to total disability, accepts retirement, or terminates employment in the Texas public institutions of higher education.

Because of uncertainty regarding the effect of these amendments, the University of Texas System ("System") requested the opinion of the Attorney General of Texas with respect to several questions concerning such amendments. The Attorney General rendered an opinion dated February 18, 1975, in response to the System's letter. The Attorney General interpreted Section 51.358 to prohibit provisions in a variable annuity contract issued in connection with the Program on or after June 14, 1973, which provide for making available the redemption value of such contract prior to the occurrence of one of the conditions specified in the statute, i.e., termination of employment, retirement, death or total disability. Moreover, the opinion further stated that the prohibitions of Section 51.358 were impliedly in effect upon the establishment of the Program (in 1967) and that notwithstanding any language which may be contained in existing contracts, a participant in the Program has never had the right to redeem his annuity contract otherwise than in accordance with the limitations described above. The opinion did not affect the right of a participant to transfer the redemption value of his annuity contract from one carrier to another; accordingly, the granting of the relief requested in the application would not affect such right.

SECTION 27(c)(1), 22(e) AND 27(d)

Section 27(c)(1) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or

underwriter for such company, to sell any such certificate unless such certificate is a redeemable security. Section 2(a)(32) of the Act defines "redeemable security" to mean any security under the terms of which the holder upon its presentation to the issuer or to a person designated by the issuer is entitled to receive approximately his proportionate share of the issuer's current net assets, or the cash equivalent thereof.

Section 22(e) of the Act provides that no registered investment company shall suspend the right of redemption or postpone the date of payment or satisfaction upon redemption of any redeemable security in accordance with its terms for more than seven days after the tender of such security to the company or its agent designated for that purpose for redemption except in certain prescribed circumstances.

Section 27(d) of the Act makes it unlawful for any registered investment company issuing periodic payment plan certificates, or for any depositor of or underwriter for such company, to sell any such certificate unless the certificate provides that the holder thereof may surrender the certificate at any time within the first eighteen months after the issuance of the certificate and receive in payment thereof, in cash, the sum of (1) the value of his account, and (2) an amount, from such underwriter or depositor, equal to that part of the excess paid for sales loading which is over 15 per centum of the gross payments made by the certificate holder.

Applicants request exemptions from the provisions of Sections 22(e), 27(c)(1) and 27(d) of the Act to the extent necessary to permit compliance with Section 51.358 as it pertains to (i) redemption values under Contracts issued to participants in the Program subsequent to the date of such exemptive order and (ii) redemption values under Contracts issued prior thereto but attributable to payments made subsequent to the date of such order.

Applicants assert that if such exemptions are not granted, persons participating in the Program effectively will be denied an opportunity to select as a funding medium for their retirement benefits one of two funding media (the other being fixed annuity contracts) specifically provided in the Texas statute for such purpose. Additionally, participants will be unable to obtain the State's matching contributions for the purchase of an equity-based retirement vehicle. In this respect, the Attorney General's opinion indicated that these matching contributions will encourage participation in the retirement plan but that unrestricted withdrawals prior to retirement might be detrimental to an effective retirement vehicle. In view of the foregoing, Applicants assert that the Commission should grant the requested exemptions because: (1) the limited restriction on redemption would be voluntarily assumed by participants, i.e.,

eligible employees are not required to participate in the Program; (2) the restrictions were not formulated nor suggested by Applicants; and (3) participants' relinquishment of the full right of redemption is a reasonable requirement in exchange for the benefits bestowed by the matching contributions of the State of Texas.

Applicants will ensure that appropriate disclosure is made to persons who consider participation in the Program, informing them of the restriction on the availability of redemption values under Contracts to be issued to them. This disclosure will take the form of an appropriate reference in each Prospectus to the restrictions on redemption of those Contracts, as well as requiring each participant, as a part of the determination that the sale of these Contracts is suitable for that participant, to sign a statement indicating that he/she is aware that these restrictions will be placed on his/her Contract when it is issued. In addition, Applicants will review all sales literature that is to be used in conjunction with the sales of these contracts for the existence of material representations that are inconsistent with the restrictions to be placed on these contracts and will instruct the salespeople involved in soliciting in this market specifically to bring this restriction to the attention of the potential participants.

Section 6(c) authorizes the Commission to exempt any person, security or transaction or any class or classes of persons, securities or transactions, from the provisions of the Act and Rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than October 25, 1977, at 5:30 p.m. submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in the case of an attorney at law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following October 25, 1977, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing

(if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority:

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-29519 Filed 10-6-77; 8:45 am]

[8010-01]

[Rel. No. 9949 (812-478)]

BANKERS SECURITY LIFE INSURANCE
SOCIETY ET AL.

Notice of Filing of Application

SEPTEMBER 28, 1977.

Notice is hereby given that Bankers Security Life Insurance Society ("Bankers Security"), a New York stock life insurance company and Bankers Security Variable Annuity Fund A ("Separate Account A"), Bankers Security Variable Annuity Fund B ("Separate Account B"), Bankers Security Variable Annuity Fund C ("Separate Account C"), Bankers Security Variable Annuity Fund D ("Separate Account D"), Bankers Security Variable Annuity Fund E ("Separate Account E"), Bankers Security Variable Annuity Fund F ("Separate Account F"), and Bankers Security Variable Annuity Fund G ("Separate Account G"), unit investment trusts registered under the Investment Company Act of 1940 ("Act"), Oppenheimer Fund, Inc., Oppenheimer A.I.M. Fund, Inc., Oppenheimer Time Fund, Inc., Oppenheimer Income Fund of Boston, Inc., Oppenheimer Special Fund, Inc., Oppenheimer Monetary Bridge, Inc., Oppenheimer Option Income Fund, Inc. ("Option Fund") and Oppenheimer Tax-Free Bond Fund, Inc. (hereinafter sometimes referred to as the "Funds"), diversified open-end investment companies registered under the Act, and Oppenheimer Systematic Capital Accumulation Program ("OSCAP"), Oppenheimer Time Fund Systematic Capital Accumulation Program ("TIMECAP"), and Oppenheimer A.I.M. Fund Systematic Capital Accumulation Program ("AIMCAP"), unit investment trusts registered under the Act (hereinafter collectively referred to as "Applicants"), filed an application on August 22, 1977, and Amendment No. 1 thereto on September 28, 1977, pursuant to section 11 of the Act for an amended order approving certain offers of exchange, and pursuant to section 6(c) of the Act for an amended order of exemption from section 27(a)(3) and Rule 27a-2 thereunder, sections 27(d), 27(e), 27(f), and Rules 27e-1 and 27f-1 thereunder, section 26(a) and section 27(c)(2). All interested persons are referred to the Application on file with the Commission for a statement of the representations therein which are summarized below.

Previously, by application dated October 3, 1975, and amendments thereto, the Applicants, with the exception of the recently formed Separate Account G, the Oppenheimer Option Income Fund, Inc.,

and the Oppenheimer Tax-Free Bond Fund, Inc., applied for an order approving the certain offers of exchange described in the application and for exemptions from the above-named sections and rules.

On February 17, 1976, a notice was issued of the filing of said application Investment Company Act Release No. 9160 and an order was issued on March 19, 1976, granting the relief requested in the application Investment Company Act Release No. 9212.

The purpose of this application is to amend the aforementioned Order solely to add Separate Account G, the Oppenheimer Option Income Fund, Inc., and the Oppenheimer Tax-Free Bond Fund, Inc., as participants in the offers of exchange in order that these new Applicants may receive the benefits of exemptions previously granted to the other described applicants. There is no additional relief requested.

Separate Account G was established by Bankers Security Life Insurance Society on July 7, 1977, and is included in the unit investment trust which now consists of Separate Accounts D, E, and F. The assets of Separate Account G are to be invested at net asset value in shares of the Oppenheimer Option Income Fund, Inc.

Shareholders purchasing shares of the Option Fund in its initial offering may, at any time after the shares have been registered in the investor's name, exchange their Option Fund shares for shares in any of the following Oppenheimer Funds: Oppenheimer Fund, Inc., Oppenheimer A.I.M. Fund, Inc., Oppenheimer Time Fund, Inc., Oppenheimer Income Fund of Boston, Inc., Oppenheimer Special Fund, Inc., Oppenheimer Monetary Bridge, Inc., and Oppenheimer Tax-Free Bond Fund, Inc.

The exchanges are on the basis of relative net asset value per share at the time of the exchange without sales charge. A fee of \$5 is charged for handling each exchange. Six months after the commencement of the continuous offering of the Option Fund shares, shares of each of the other Oppenheimer funds other than Oppenheimer Monetary Bridge, Inc., and Oppenheimer Tax-Free Bond Fund, Inc., may be exchanged for shares of the Option Fund on the same terms as set forth above for the exchange of shares of Option Fund for the shares of the other Oppenheimer Funds. Shares of Oppenheimer Monetary Bridge, Inc., or Oppenheimer Tax-Free Bond Fund, Inc., acquired in exchange for shares of the Option Fund or one of the other Oppenheimer Funds or acquired through the reinvestment of dividends or distributions may also be exchanged at net asset value for shares of the Option Fund on the same basis as set forth above.

SECTION 11

Section 11(a) makes it unlawful for any registered open-end investment company or principal underwriter therefor to make an offer to the holder of a secu-

rity of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) of the Act provides that, irrespective of the basis of exchange, the provisions of section 11(a) shall be applicable to any type of offer of exchange of the securities of registered unit investment trusts for the securities of any other investment company.

Applicants propose to amend the Order set forth in Investment Company Act Release No. 9212 by offering certain additional exchange privileges as follows:

First exchange right. Bankers Security and Separate Account G propose to offer participations in Separate Account G through non-qualified, immediate or deferred individual single payment variable annuity contracts to: (i) all shareholders of Oppenheimer Option Income Fund, Inc., Oppenheimer Fund, Inc., Oppenheimer A.I.M. Fund, Inc., Oppenheimer Time Fund, Inc., and Oppenheimer Income Fund of Boston, Inc. (hereinafter collectively referred to as the "Funds") and individually as a "Fund"; and (ii) planholders of OSCAP, TIMECAP, and AIMCAP, registered unit investment trusts (collectively referred to as "Oppenheimer Unit Trusts") in exchange for shares of the Funds held directly, and indirectly in the case of the Oppenheimer Unit Trusts. Such exchange would take place on the following basis:

Regarding a shareholder of a Fund, the exchange would be initiated by written request of a shareholder and delivery of any issued share certificates to the Transfer Agent. In the order, there was a requirement that a shareholder hold his shares for a period of at least 90 days prior to exchange. The Applicants seek to amend the Order by deleting the 90 day holding period because administratively the Applicants no longer deem such a holding period to be necessary.

The exchange would be accomplished by the redemption of the Fund shares at net asset value next determined after receipt of the request for exchange and the reinvestment of the proceeds without a sales charge in accumulation units of Separate Account G at a value next determined after receipt of the assets for purchase of an individual variable annuity contract. If a deferred variable annuity is purchased, a deduction of 0.25 percent would be made as a premium for the minimum death benefit. Except for this minimum death benefit premium, no fee is charged for this exchange. Any prior charge which was specified in the original application has been waived on all exchanges.

Any holder of (A) a single payment plan issued by any of the Oppenheimer Unit Trusts, or (B) a systematic plan of TIMECAP, or (C) a systematic plan

issued by any of the other Oppenheimer Unit Trusts who had held his plan for at least 18 months, may exchange his plan for an individual variable annuity certificate. The exchange would be initiated by the written request of the plan holder and delivery of the plan certificate to the agent of the custodian of the plan. The exchange would be accomplished by terminating the plan, redeeming the Fund shares held under that plan at the net asset value next determined after receipt of the request for exchange and reinvesting the proceeds without a sales charge in accumulation units of Separate Account G at their value next determined after such receipt. For a deferred variable annuity, there would be a deduction of 0.25 percent of such proceeds as a premium for the minimum death benefit. For the reason noted above, the reference to the 90 day holding period for (A) and (B) are deleted. The \$5 exchange fee previously imposed has also been waived for all future exchanges.

Applicants assert that the purpose of the First Exchange Right is to permit a shareholder or planholder who desires to carry on his investment in an investment medium managed by Oppenheimer pursuant to a variable annuity contract rather than directly or through his Plan to do so without paying a sales charge.

Applicants contend that no charges should be imposed on an exchange of securities issued by the Funds or an Oppenheimer Unit Trust for variable annuity contracts issued by Separate Account G because, except on the sale of securities issued by the Oppenheimer Monetary Bridge Fund and the Oppenheimer Tax-Free Bond Fund, sales charges have already been assessed. In addition, shareholders and certificateholders of the Funds and the Oppenheimer Unit Trusts already are familiar with the managers of the investment company which serves as the underlying investment medium of Separate Account G. As a result, any selling effort in connection with the transfer will be reduced.

Second exchange right. Applicants propose to permit, without imposition of a sales load, exchange of deferred variable annuity contracts issued by Separate Accounts D, E, F, and G and sold by Bankers Security, on the basis of the accumulated values thereof, for other deferred variable annuity contracts sold by Bankers Security of the same type and class.

Non-tax-qualified contracts will be issued by Separate Accounts D, E, F, and G. Thus, a contract owner holding a contract under Separate Account D would have the option of exchanging his contract, without additional sales load, for a contract issued by Separate Accounts E, F, or G on the basis of the net asset values of each Separate Account. Because Separate Accounts A, B, and C are tax-qualified accounts, transfers from one of these accounts can only be made to another of these tax-qualified Separate Accounts. Similarly, because Separate Accounts D, E, F, and G are

non-tax-qualified, transfers from one of these accounts can only be made to another of these non-tax-qualified Separate Accounts.

With respect to the Second Exchange Right, Applicants contend that such exchange right is consistent with the protection of variable annuity contract owners or participants and the purposes clearly intended by the policy and provisions of the Act. The only purpose of exercising this exchange provision is to provide such contract owners and participants the right to obtain a contract which invests in shares of an investment company which operates under investment objectives more closely aligned with such contract owner's or participant's financial needs. This provides such contract owner or participant with greater flexibility in planning for his financial future.

SECTION 27(a)(3) AND RULE 27a-2

Section 27(a)(3) of the Act provides that no registered investment company issuing periodic payment plan certificates and no depositor of or underwriter for such company may sell any such certificate if the amount of sales load deducted from any one of the first twelve monthly payments exceeds proportionately the amount deducted from any other such payment, or if the amount deducted from any subsequent payment exceeds proportionately the amount deducted from any other subsequent payment. Rule 27a-2 under the Act exempts a registered separate account, and any depositor of or underwriter for such account, from section 27(a)(3) if the proportionate amount of sales load deducted from any payment during the contract period does not exceed the proportionate amount deducted from any prior payment during the contract period.

Applicants state that where a no-load transfer from one Separate Account to another Separate Account takes effect, there will be a subsequent continuation of periodic payments subject to the sales load deductions. Accordingly, Applicants request an exemption from section 27(a)(3) and Rule 27a-2 thereunder to the extent necessary to permit such practice.

Applicants state that deductions will have already been made against past purchase payments and that the transfer from one Separate Account to another will be based on net accumulated values thereof, after these deductions were made. Applying net accumulated values from one Separate Account to another will not involve additional sales activities as to require imposition of an additional sales charge an allowing no-load transfers in the manner proposed will avoid an unnecessary imposition of charges. Applicants further state that granting the requested exemption will not conflict with the purpose of section 27(a)(3) which was to curb abuses associated with front-end load arrangements on mutual fund contractual plans by, in part, lessening the possible loss which could be incurred upon early termination

of such a plan. Since the deductions for sales expenses under the Contracts do not involve the kind of front-end load arrangement at which section 27(a)(3) is directed, Applicants submit that the deductions cannot lead to the abuses intended to be curbed by section 27(a)(3). Applicants state further that the circumstances in which charges for sales and administrative expenses are applicable will be fully disclosed so that it is unlikely that any person will be misled or confused.

SECTION 27(d), 27(e), 27(f), AND 27e-1 AND 27f-1

Under sections 27(d), 27(e), and 27(f) of the Act, as here relevant, the holder of certain periodic payment certificates is given, respectively: (1) the right to surrender the certificate at any time within the first 18 months after its issuance and to receive, in cash, the value of his account and an amount equal to that part of the excess paid for sales loading which is over 15 percent of the gross payments made by the certificate holder; (2) the right to be informed in writing, in the event that he has missed a certain number of payments, required to be made pursuant to the plan, that he may surrender his certificate and receive the aforementioned payments; and (3) the right, within forty-five days after the mailing of notice of the charges to be deducted from the projected payments on the certificate and his right of withdrawal, to exercise such right of withdrawal by surrendering his certificate and receive the value of his account and the difference between the gross payments made and the net amount invested.

Applicants represent that under the terms of the First Exchange Right, exchanges would not be permitted until after the expiration of the time in which a Planholder could withdraw and receive a refund under his old plan. Applicants contend that while an exchange would, in form, involve the issuance of a new plan, in substance the exchange would result in a continuation of the original plan with a new underlying investment medium. Applicants submit that the protection of investors and the purposes of section 27 do not require that an exchanging planholder, who no longer has any refund or withdrawal rights under his old plan, have such rights with respect to his new plan.

Applicants further request that exemptions be granted from the provisions of Rules 27e-1 and 27f-1. Rule 27e-1 sets forth requirements for notices to be mailed to certain purchasers of periodic payment plan certificates sold subject to section 27(d) and Rule 27f-1 sets forth requirements for the notice of the right of withdrawal required to be mailed to periodic payment plan certificate holders and exempts from section 27(f) certain periodic payment plan certificates. If exemptions from the provisions of sections 27(d), 27(e), and 27(f) are granted, Applicants assert that exemptions from the

provisions of Rules 27e-1 and 27f-1 would be appropriate since these Rules are designed only to implement provisions of these sections.

SECTIONS 26(a) AND 27(c)(2)

Sections 26(a) and 27(c)(2), as here pertinent, provide in substance that a registered unit investment trust and any depositor of and underwriter for such trust are prohibited from selling periodic payment plan certificates unless the proceeds of all payments, other than amounts deducted for sales load, are deposited with a qualified bank as trustee or custodian and held under an indenture or agreement containing specified provisions. Such agreement must provide, in part, that (i) the custodian bank shall have possession of all the property of the unit investment trust and shall segregate and hold the same in trust; (ii) the custodian bank shall not resign until either the unit investment trust has been liquidated or a successor custodian has been appointed; (iii) the custodian may collect fees from the income, and if necessary, from the corpus of the trust for services performed and for reimbursement of expenses incurred; and (iv) that no payment to the depositor or principal underwriter shall be allowed the custodian bank as an expense, except a fee, not exceeding such reasonable amount as the Commission may prescribe, as compensation for performing bookkeeping and other administrative services normally performed by the custodian.

Applicants have requested an exemption pursuant to section 6(c) of the Act from sections 26(a) and 27(c)(2) of the Act to allow Bankers Security to be the custodian of the assets for Separate Account G; such assets will be held in the safekeeping of the Bank of Commerce in New York. The portion of the purchase payments under the Contracts allocated to the Separate Account G will be invested in shares of the Option Fund which is available as the underlying investment medium for the Separate Account. These shares will be issued under an open account arrangement without the use of stock certificates. Their ownership will be shown on the books and records of the underlying Option Fund and Separate Account G.

Bankers Security is subject to extensive supervision and control by the New York Insurance Department. Such control and supervision, Applicants contend, provide assurance against misfeasance and afford the essential protection of trusteeship. Under New York law, Bankers Security may not abrogate its obligations under the Contracts.

Under the foregoing circumstances, the Applicants contend that the dangers against which sections 26(a) and 27(c)(2) are directed are not present in this situation and an exemption therefrom is requested.

Applicants consent to the exemptions requested herein from sections 26(a) and 27(c)(2) being made subject to the following conditions: (1) that the charges

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[8010-01]

[Administrative Proceeding File No. 3-5253;
File No. 81-287]

LAKELANDS RACING ASSOCIATION, INC.

Notice of an Order for Hearing on
Application for Exemption

August 25, 1977.

Notice is hereby given that Lakelands Racing Association, Inc. (the "Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "Act"), for an order exempting the Applicant from the provisions of Section 12(g) of the Act.

Section 12(g) of the Act requires the registration of the securities of every issuer which is engaged in interstate commerce or in a business affecting interstate commerce, or whose securities are traded by use of the mails or any means or instrumentality of interstate commerce, and on the last day of the fiscal year has total assets exceeding \$1 million and a class of equity securities held of record by 500 or more persons. Registration is terminated 90 days after the issuer files a certification with the Commission that the number of holders of the registered class of securities is fewer than 300 persons.

Section 12(h) empowers the Commission to exempt, in whole or in part, any issuer or class of issuers from the registration, periodic reporting, proxy solicitation and other requirements of the Act, if the Commission finds by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer, or otherwise, that such exemption is not inconsistent with the public interest or the protection of investors.

The application states in part:

1. The Applicant is a Pennsylvania corporation with total assets as of October 31, 1976, its fiscal year end, of \$5,127,914. It has 524 shareholders of its Class A non-voting common stock and 25 shareholders of its Class B voting common stock. Of the Class B shareholders, 22 also hold Class A shares.

2. There has been no significant trading in the stock for the past several years.

3. Financial information is provided to shareholders and available from the State Horse Racing Commission.

4. The preparation and filing of a registration statement under Section 12(g) and compliance with the reporting and proxy solicitation requirements of the Act would significantly increase the expenses of the company.

It is ordered, Pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended, that a hearing on the application of Lakelands Racing Association, Inc. for an exemption from the provisions of Section 12(g) of that Act be held November 16, 1977, at 10 a.m., at the offices of the Securities and Ex-

change Commission, 1100 L Street NW., Room 2416, Washington, D.C. An Administrative Law Judge will be designated to preside at the hearing. Any person desiring to be heard is directed to file with the Secretary of the Commission his request as provided for by Rule 9(c) of the Commission's Rules of Practice, setting forth any issues of fact or law which he desires to controvert and/or setting forth any additional issues which he feels should be considered.

The Division of Corporation Finance advises that it has made a preliminary examination of the application and that, on the basis thereof, the following matters and questions are to be presented for consideration in this proceeding:

1. Whether the number of public investors and the amount of trading interest, actual or potential, in the Applicant's securities justify the requested exemption;

2. Whether information which is or may be available to investors concerning the Applicant is adequate to justify the requested exemption; and

3. Whether representations by the Applicant provide adequate investor protection to justify the requested exemption; and

4. Generally, whether the requested exemption is consistent with the public interest and with the protection of investors.

It is further ordered, That the Secretary of the Commission shall give notice of the aforesaid hearing by mailing a copy of this Notice and Order by certified mail to Lakelands Racing Association, Inc., and its attorneys and that notice to all other persons be given by publication of this Notice and Order in the FEDERAL REGISTER, and that a general release of this Commission in respect to this Notice and Order be distributed to the press.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-29521 Filed 10-6-77; 8:45 am]

[8010-01]

[Release No. 34-13998; File Nos. SR-MCC-77-5 and SR-MSTC-77-10]

MIDWEST CLEARING CORP. AND
MIDWEST SECURITIES TRUST CO.
Self-Regulatory Organizations; Proposed
Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 12, 1977, the above-mentioned self-regulatory organizations filed with the Securities and Exchange Commission proposed rule changes as follows:

Text of proposed rule changes; proposed
MST system pricing

	Current charges	Proposed charges
Monthly fees:		
Service account.....	\$100.00	*\$250.00
Distribution.....	50.00	0
Trade recording:		
1. Specialist:		
1 to 1000 items.....	.83	.83
1,001 to 2000 items.....	.74	.74
2,001 to 4000 items.....	.65	.65
4,001 to 8000 items.....	.56	.56
8,001 and over items.....	.47	.47
2. Firm sides:		
Round lots—P & S origi-		
nating in the MST		
system (i.e., MSE		
floor, Cincinnati and		
OCC sides).....	.50	.50
P & S originating else-		
where and taped to		
MCC (i.e., 1 account		
settlement and cor-		
respondent market).....	.50	*.25
Odd lots.....	.20	.20
3. Surecharges:		
Interface-Incoming.....	0	0
Interface-Outgoing.....	.50	0
Other exchange trades.....	.10	0
Deliveries/deposits:		
MSTC afternoon.....	.35	.35
Morning (MSTC or DIS).....	.60	*.70
Last 1/2 h.....	5.00	5.00
OTC envelope.....	1.00	1.00
SSM delivery:		
Item charge.....	1.00	1.00
Value charge (maximum		
\$3.50).....	(1)	(1)
Trade-for-trade delivery.....	1.00	1.00
Ex-CNS loan items.....	1.00	1.00
Bank delivery.....	2.00	2.00
MSTC depository delivery in-		
struction.....	.65	*.70
MSTC 3d party DDI.....	1.25	*.70
Legal deposits: Legal registrations		
accepted as delivery.....	15.00	15.00
Receipts/withdrawals:		
3d party DDI.....	1.25	*.70
Demand withdrawal request.....	2.00	*2.50
Street withdrawal request.....	1.75	*2.00
DDI allocation option:		
Regular account monthly.....	25.00	25.00
Z account monthly.....	50.00	50.00
Automatic segregation allo-		
cation—monthly.....	25.00	25.00
OTC envelope.....	.50	.50
SSM movement.....	1.00	1.00
Trade-for-trade.....	.50	.50
Ex-CNS loan items.....	.50	.50
Standing withdrawal instruc-		
tions:		
Primary account monthly.....	200.00	200.00
Secondary account monthly.....	50.00	50.00
MSTC depository delivery		
instruction.....	.65	*.70
Standing DDI instruction:		
Primary account monthly.....	200.00	200.00
Secondary accounts		
monthly.....	50.00	50.00
Transfers:		
MSTC Withdrawal.....	.95	.95
Accommodation transfer.....	2.50	*2.50
Legal accommodation transfer.....	7.00	*10.00
Member-to-member stock loan		
service:		
Request.....	5.00	5.00
Mandatory.....	10.00	*15.00
Collateral loan service:		
Monthly service charge for		
nonspecialist.....	25.00	25.00
Loan pledge or release item.....	1.50	1.50
Automatic stock loan service:		
Daily average loan value posi-		
tion.....	.0015	.0015
Participant delivery program		
(PDI):		
Trade recording.....	.50	*0
Input or acknowledgement.....	0	0
Depository:		
Safekeeping (maximum \$3,000		
monthly):		
Shares.....	(1)	(1)
Free or pledge position.....	.45	*.45
Interactivity.....	0.50	*0.70
Reorganizations.....	(1)	*6.00
Reclamation/correction.....	5.00	5.00
Manual correction.....	1.50	1.50
Pledge loan program:		
Pledge bank—monthly serv-		
ice.....	100.00	100.00
Loan pledge or release item.....	.35	*.40
Institutional pledge account		
monthly.....	50.00	50.00
Institutional pledge or release		
item.....	.65	.65

	Current charges	Proposed charges
Dividend items: Automatic entry.....	.25	.25
Dividend settlement service.....	.50	.50
Claimant item.....	.25	.25
Recipient item.....	.25	.25
Correspondent delivery and col-		
lection:		
Delivery and collection		
(CDCS item).....	5.00	5.00
Receipt and payment service		
(CRPS item):		
CRPS item in Chicago.....	5.00	5.00
CRPS item in New York.....	10.00	*5.00
Underwriting service:		
Chicago or New York (per		
transaction).....	15.00	15.00
Signature distribution program:		
Insurance charge—yearly cost.....	60.00	60.00
Maintenance charge—yearly		
cost.....	11.00	11.00
First signature on each card—		
yearly cost.....	30.00	30.00
Each additional signature—		
yearly cost.....	15.00	15.00
Tape output:		
Daily net position and activity		
reports monthly.....	175.00	175.00
Daily net position only—		
monthly fee.....	100.00	100.00
Daily activity only—monthly		
fee.....	100.00	100.00
Individual request for net		
position or activity.....	25.00	25.00
Reports produced at New York		
center:		
Regular account only New		
York printing—monthly.....	30.00	30.00
Regular account both New		
York and Chicago—monthly		
.....	60.00	60.00
Z account both New York and		
Chicago—monthly fee.....	30.00	30.00
Z account either New York or		
Chicago—monthly.....	0	0
Rebilled items: Telephone and		
shipping charges rebilled at cost.....		

* Changes.
1. 4 cents per \$1,000.
2. 1.5 cents per \$1,000.
3. Free.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule changes are as follows:

The proposed rule changes are new Midwest Clearing Corp. ("MCC") and Midwest Securities Trust Co. ("MSTC") pricing schedules that eliminate inter-face charges and make other changes that are designed to reduce the costs of those firms who choose to settle their trades in MCC/MSTC. Other changes in the pricing schedules include the following:

(1) Reduction of the Third Party Depository Delivery Instruction ("DDI") from \$1.25 to \$0.70.

(2) Increase in the Interactivity charges from \$0.50 to \$0.70.

(3) Reduction in the charges to those firms (Correspondent Marketplace and RIO-in trades) who submit compared trades by tape from \$0.50 to \$0.35.

(4) An increase in the morning deposit charges to \$0.70 from \$0.60. There will be no increase in afternoon deposits.

(5) An increase in Depository Delivery Instructions from \$0.65 to \$0.70.

(6) An increase in the Street and Demand Withdrawals to \$2.50 and \$2, respectively.

(7) A reduction in the Correspondent Receipt and Payment Service in New York from \$10 to \$5.

(8) A new fee of \$5 for each Reorganization item handled by MSTC.

(9) An increase in the monthly basic account in the Midwest Clearing Corp.

from \$40 to \$100 with the elimination of out of town distribution charges for Midwest Clearing Corp. and Midwest Securities Trust Co. combined, from \$50 to zero dollars.

The proposed rule changes represent an equitable allocation of reasonable dues, fees, and other charges among participants in MCC/MSTC. The increase in street and demand withdrawals arose as a result of their very labor intensive nature. Also, the new \$5 reorganization fee reflects the labor intensive nature of this service.

The proposed rule changes were presented to the MST System Advisory Board at a meeting and the consensus of the Board was favorable to these changes.

The Midwest Clearing Corp. and the Midwest Securities Trust Co. believe that no burdens have been placed on competition.

The foregoing proposed rule changes have become effective, pursuant to Section 19(b)(3)(A) of the Securities Exchange Act of 1934. At any time within sixty days of the filing of such proposed rule changes, the Commission may summarily abrogate such rule changes if it appears to the Commission that such action is necessary or appropriate in the public interest for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filings with respect to the foregoing and of all written submissions will be made available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filings will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organizations. All submissions should refer to the file numbers referenced above and should be submitted on or before October 28, 1977.

For the Commission by the Division of Market Regulations, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

SEPTEMBER 27, 1977.

[FR Doc. 77-29531 Filed 10-6-77; 8:45 am]

[8010-01]

[Rel. No. 14009 (SR-MSE-77-20)]

MIDWEST STOCK EXCHANGE, INC.
Order Approving Proposed Rule Change

SEPTEMBER 30, 1977.

On June 27, 1977, the Midwest Stock Exchange, Inc., 120 South LaSalle Street, Chicago, Ill. 60603 ("MSE"), filed with the Commission, pursuant to section

19(b) of the Securities Exchange Act of 1934, and Rule 19b-4 thereunder, copies of a proposed rule change. The purpose of the proposed rule change is to prescribe the circumstances under which the registration of an odd-lot dealer may be suspended or terminated. On September 12, 1977, the MSE submitted an amendment to the proposed rule change to provide odd-lot dealers the opportunity to apply to the Commission for a stay of any summary suspension imposed pursuant to the proposed rule.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13728 (July 8, 1977)) and by publication in the FEDERAL REGISTER (42 FR 36575 (July 15, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered. Pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on June 27, 1977, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77 29524 Filed 10-6-77; 8:45 am]

[8010-01]

[Rel. No. 14008 (SR-MSE-77-16)]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 30, 1977.

On May 23, 1977, the Midwest Stock Exchange, Inc. ("MSE"), 120 South LaSalle Street, Chicago, Ill. 60603, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934, and Rule 19b-4 thereunder, copies of a proposed rule change. The purpose of the proposed rule change is to define the authority of the President of the Exchange and members of the Committee on Floor Procedure in matters concerning apparent violations of Exchange Rules or the Federal securities laws by specialists, co-specialists or relief specialists. On September 12, 1977, the MSE submitted an amendment to the proposed rule change to provide specialists, co-specialists and relief specialists the opportunity to apply to the Commission for a stay of any summary suspension imposed pursuant to the proposed rule.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13576 (May 27, 1977)) and by publica-

tion in the FEDERAL REGISTER (42 FR 29133 (June 7, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered. Pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on May 23, 1977, be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77 29523 Filed 10-6-77; 8:45 am]

[8010-01]

[Rel. No. 14007 (SR-MSE-77-23)]

MIDWEST STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 30, 1977.

On July 11, 1977, the Midwest Stock Exchange, Inc. ("MSE"), 120 South LaSalle Street, Chicago, Ill. 60603, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change provides procedures relating to the suspension or termination of the registration of "special registrants" for unsatisfactory performance of their responsibilities as defined in the Federal securities laws and the rules and policies of the MSE.

Notice of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13755 (July 15, 1977)) and by a statement of the terms of substance in the FEDERAL REGISTER (42 FR 33031 (July 26, 1977)).

On August 22, 1977, the MSE filed an amendment to the subject rule proposal which designated section 6(b) as the basis under the Act for the proposed rule change. Notice of filing of the amendment was given by publication of a Commission Release (Securities Exchange Act Release No. 13894 (August 26, 1977)) and is expected to be made in the FEDERAL REGISTER during the week of October 3, 1977.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

Further, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the amendment thereto. The Commission finds approval at this time to be in the

public interest and for the protection of investors because: (1) the procedures which are the subject of the proposed rule change are necessary to implement other MSE proposals (SR-MSE-77-16 and 20) which were approved by the Commission today and will better enable the MSE to enforce compliance by "special registrants" with the Federal securities laws and MSE rules and policies, and (2) the substance of the rule proposal was published for public comment more than thirty days prior to the date of this order and the amendment thereto relates only to the basis under the Act for the proposed rule change.

It is therefore ordered. Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77 29522 Filed 10-6-77; 8:45 am]

[8010-01]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

[Rel. No. 14005 (File No. SR-NASD-77-14)]

Order Approving Proposed Rule Change

SEPTEMBER 29, 1977.

On August 23, 1977, the National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street NW., Washington, D.C. 20006, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, copies of a proposal (the "Proposal") to refund, on a pro-rata basis, \$1,000,000 to NASDAQ subscribers. The refund, which arises from a revision of the previously approved rate level for fiscal year 1977 (ending September 30, 1977), will be made by NASDAQ, Inc., a wholly-owned subsidiary of the NASD which owns and operates the NASDAQ system, and will be payable to NASDAQ Level 1, 2, and 3 subscribers based on NASDAQ billings for that fiscal year.

Notice of the Proposal, together with the terms of substance thereof, was given by publication of a Commission Release (Securities Exchange Act Release No. 13896, August 26, 1977) and by publication in the FEDERAL REGISTER (42 FR 44859, September 7, 1977).

The Commission finds that the Proposal is consistent with the requirements of the Act and the applicable rules and regulations thereunder, and, in particular, the requirements of Section 15A of the Act and the rules and regulations thereunder. In making that finding, the Commission has relied on the NASD's representation that it and NASDAQ, Inc., expect to have sufficient assets, independent of the amount included in the refund, to meet reasonably foreseeable expenses in connection with possible modifications or expansion of the

NASDAQ system and fulfillment of self-regulatory obligations. Further, the Commission finds good cause for approving the Proposal prior to the thirtieth day after publication of notice of filing thereof. Such approval would facilitate prompt payment of the refund.

It is therefore ordered. Pursuant to Section 19(b)(2) of the Act, that the Proposal be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77 29526 Filed 10-6-77; 8:45 am]

[8010-01]

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

[Rel. No. 14004 (File No. SR-NASD-77-12)]

Order Approving Proposed Rule Change

SEPTEMBER 29, 1977.

On August 24, 1977, the National Association of Securities Dealers, Inc. ("NASD"), 1735 K Street NW., Washington, D.C. 20006, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act") and Rule 19b-4 thereunder, copies of a proposed rule change (the "Proposal") to codify the authority of the NASD Board of Governors, subject to Commission approval, to refund NASDAQ charges to subscribers.

Notice of the Proposal, together with the terms of substance thereof, was given by publication of a Commission Release (Securities Exchange Act Release No. 13895, August 26, 1977) and by publication in the FEDERAL REGISTER (42 FR 44858, September 7, 1977).

The Commission finds that the Proposal is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the NASD, and, in particular, the requirements of Section 15A of the Act and the rules and regulations thereunder. Further, the Commission finds good cause for approving the Proposal prior to the thirtieth day after the date of publication of notice of filing thereof. Such approval is a prerequisite to Commission approval of a related submission (File No. SR-NASD-77-14) in which the NASD proposed to make a specific refund to NASDAQ Level 1, 2, and 3 subscribers based on NASDAQ billings for the fiscal year ending September 30, 1977.

It is therefore ordered. Pursuant to Section 19(b)(2) of the Act, that the Proposal be, and it hereby is, approved.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-29525 Filed 10-6-77; 8:45 am]

[8010-01]

PHILADELPHIA STOCK EXCHANGE, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 29, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Ranger Oil (Canada) Ltd., Common Stock, No Par Value, File No. 7-4999.

Upon receipt of a request, on or before October 15, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77 29528 Filed 10-6-77; 8:45 am]

[8010-01]

PHILADELPHIA STOCK EXCHANGE, INC.

Notice of Application for Unlisted Trading Privileges and of Opportunity for Hearing

SEPTEMBER 29, 1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to Section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Curtis Noll Corporation, Common Stock, No Par Value, File No. 7-4995.

Upon receipt of a request, on or before October 15, 1977 from any interested person, the Commission will determine whether the application with respect to the company named shall be set down for hearing. Any such request should state briefly the title of the security in which he is interested, the nature of the interest of the person making the request, and the position he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549 not later than the date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77 29527 Filed 10-6-77; 8:45 am]

[8010-01]

[Rel. No. 14006 (SR-PHLX-77-13)]

PHILADELPHIA STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

SEPTEMBER 30, 1977.

On September 16, 1977, the Philadelphia Stock Exchange, Inc. ("PHLX"), 17th Street and Stock Exchange Place, Philadelphia, Pennsylvania 19103 filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to amend PHLX Rule 1010 to provide that the Exchange may apply to the Commission for permission to strike from listing and registration any option series or class which is not exclusively traded on the PHLX if the Exchange determines that such action is in the interest of maintaining a fair and orderly market or for the protection of investors.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act ("SEA") Release No. 13994, September 26, 1977) and by publication in the FEDERAL REGISTER (42 FR 51687, September 29, 1977).

The Commission finds that the proposed rule change is consistent with the

requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

The rule proposal is substantively identical to the Pacific Stock Exchange Incorporated ("PSE") proposal respecting delisting of non-exclusively listed options which the Commission previously approved (File No. SR-PSE-76-37). The PSE has applied this rule on several occasions to delist non-exclusively listed options and the Commission is not aware of any problems in connection with such application. Since the PSE rule was previously published for comment with no comments received thereon, and since no issues are presented by the PHLX proposal which the Commission did not consider in connection with the PSE proposal, the Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-29529 Filed 10-6-77; 8:45 am]

[8010-01]

[Administrative Proceeding File No. 3-5218,
File No. 24NY-8038]

RISERS' VENTURE MANAGEMENT CO., INC.

Order Temporarily Suspending Exemption,
Statement of Reasons Therefor, and
Notice of Opportunity for Hearing

I

AUGUST 30, 1977.

Risers' Venture Management Co., Inc. ("Risers" or "issuer") 10 East 45th Street, New York, N.Y. is a Delaware corporation located at 10 East 45th Street, New York, New York. It was organized on April 11, 1974, primarily to engage in the business of providing venture management consulting services.

On August 16, 1976, Risers' filed a Notification pursuant to Regulation A in connection with a proposed offering of 100,000 shares of its \$.01 par value common stock at \$5.00 per share. The offering was to be conducted on a "best efforts" basis by the issuer through its officers and directors without the aid of an underwriter, for an offering period of up to 120 days initially. In the event that at least 25% of the shares offered are sold within that time, the offering would

¹ File No. SR-PSE-76-37 was published for comment as SEA Release No. 13058, December 10, 1976; 41 FR 3236, January 17, 1977.

be continued for a maximum of nine months; otherwise, all funds would be returned to subscribers. No commencement date for the offering has been established.

II

The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe that:

A. The Notification, offering circular and sales literature filed by Risers' contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made in light of the circumstances under which they were made, not misleading in the following respects:

1. The failure to disclose in the Notification and offering circular the issuance by an affiliate of unregistered convertible debt securities in violation of Section 5(a) of the Act;

2. The failure to disclose in the offering circular the possible adverse impact of such offering by its affiliate on the issuer's control of the affiliate;

3. The failure to disclose in the offering circular the default by such affiliate in the payments required by the terms of such securities;

4. The unqualified statement in the offering circular that an affiliate's profit for a certain period was \$172,525.82 when \$150,000 of such figure represents extraordinary income;

5. The statement in the issuer's sales literature that a certain company is a "Risers' Company," which gives the misleading impression that such company was affiliated with Risers' when, in fact, it was not.

B. The terms and conditions of Regulation A have not been met by Risers' in that the issuer has omitted and misrepresented certain material facts in its Notification and offering circular and in that it has failed to amend its Notification and offering circular to disclose its delinquency in meeting obligations undertaken in connection with a rescission offer.

C. The offering, if made, would be in violation of Section 17 of the Securities Act of 1933, as amended.

III

It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of the issuer under Regulation A be temporarily suspended.

It is ordered, pursuant to Rule 261(a) of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and hereby is, temporarily suspended;

It is further ordered, pursuant to Rule 7 of the Commission's Rules of Practice, that the issuer file an answer to the allegations contained in this order within thirty days of the entry thereof;

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty days after the entry of this order; that within twenty days after receipt of such request the Commission

will, or at any time upon its own motion may, set the matter down for a hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for the said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-29530 Filed 10-6-77; 8:45 am]

[4710-01]

DEPARTMENT OF STATE

[Public Notice CM-7/116]

ADVISORY COMMITTEE ON INTERNATIONAL INTELLECTUAL PROPERTY

Notice of Meeting

The International Industrial Property Panel of the Department of State's Advisory Committee on International Intellectual Property will meet in open session on October 25, 1977, at the Department of State in Conference Room 1408 from 9:30 a.m. to 1 p.m.

The purpose of this open meeting will be to discuss the following topics:

1. The proposed revision of the Paris Industrial Property Convention;
2. The UNCTAD Committee of Experts on Industrial Property;
3. The UNCTAD Code of Conduct on Transfer of Technology.

The public attending may, as time permits and subject to the instructions of the Chairman, participate in the discussions or may submit their views in writing to the Chairman prior to or at the meeting for later consideration by the Committee.

Members of the public who plan to attend the meeting will be admitted up to the limits of the conference room's capacity. Entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Members of the general public who plan to attend the meeting are requested to provide their name, affiliation, and address to Mr. L. Stuart Allan, Office of Business Practices, Department of State, telephone 202-632-3491, prior to October 21, 1977. All non-government attendees at the meeting should use the C Street entrance to the building.

Dated: September 28, 1977.

L. STUART ALLAN,
Economic/Commercial Officer.

[FR Doc. 77-29321 Filed 10-6-77; 8:45 am]

[4710-01]

[Public Notice CM-7, 119]

SHIPPING COORDINATING COMMITTEE Meeting

The October 27, 1977, meeting of the Shipping Coordinating Committee, published in the FEDERAL REGISTER on September 27, 1977 (Vol. 42, No. 187, page 49539), has been cancelled. Preparations for the ninth extraordinary session of the Council of the Intergovernmental Maritime Consultative Organization (IMCO) will instead be discussed, together with preparations for the tenth session of the IMCO Assembly, at the meeting of the Shipping Coordinating Committee on Friday, October 28, 1977.

As previously announced, the October 28 meeting of the Shipping Coordinating Committee will be held at 9:30 a.m. in Room 8236 of the Department of Transportation.

Requests for further information should be directed to Captain R. A. Biller, United States Coast Guard. He may be reached by telephone at 202-426-3280.

Dated: October 4, 1977.

CARL TAYLOR, JR.,
Acting Director,
Office of Maritime Affairs.

[FR Doc. 77-29553 Filed 10-6-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 493]

ASSIGNMENT OF HEARINGS

OCTOBER 4, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-F 13140, Marty's Express, Inc.—Purchase—Krusse Trucking Co., and MC 39249, Marty's Express, Inc., now assigned October 3, 1977, at Philadelphia, Pa., is cancelled, application dismissed.

MC 141804 (Sub-No. 43), Western Express, Division of Interstate Rental, Inc., and MC 141804 (Sub-No. 46), Western Express, Division of Interstate Rental, Inc., now assigned November 4, 1977, at Columbus, Ohio, is postponed indefinitely.

MC-F-13129, Kaw Transport Co.—Control—Royal Transport, Inc., now being assigned January 30, 1978 (1 week), at Kansas City, Mo., in a hearing room to be later designated.

CORRECTION¹

MC 142957 (Sub 1), Network Transportation Systems, Inc., now being assigned January 31, 1978 (1 day), at New York, N.Y., in a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-29506 Filed 10-6-77; 8:45 am]

[7035-01]

[AB 19 Sub-No. 36,]

BALTIMORE & OHIO RAILROAD CO.

Abandonment Near Willard and Sandusky and Abandonment of Operations Over Line Jointly Owned With Norfolk & Western Railway and Trackage Rights Over Consolidated Rail Corp. Near Sandusky in Huron and Erie Counties, Ohio

SEPTEMBER 26, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-24564 Filed 10-6-77; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 4, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1100.40) and filed on or before October 25, 1977.

FSA No. 43441—Joint Rail-Water Container Rates—Portuguese Line. Filed by Portuguese Line (No. 1), for itself and interested rail carriers. Rates on general commodities, from rail terminals at U.S. Pacific Coast ports, to ports and terminals in Europe.

¹ This notice corrects the hearing date.

MC 114632 (Sub 107), Apple Lines, Inc., now being assigned January 26, 1978 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 113678 (Sub 650), Curtis, Inc., now being assigned January 24, 1978 (2 days), at Kansas City, Mo., in a hearing room to be later designated.

MC 114457 (Sub-No. 285), Dart Transit Co., now assigned October 12, 1977, at Chicago, Ill., will be held in Room 204A, Everett McKinley Dirksen Building, 219 S. Dearborn Street.

MC 123407 (Sub-No. 348), Sawyer Transport, Inc., now assigned October 13, 1977, at Chicago, Ill., will be held in Room 3255A, 230 South Dearborn Street.

MC 720 (Sub-No. 23), Bird Trucking Co., Inc., now assigned October 14, 1977, at Chicago, Ill., will be held in Room 204A, Everett McKinley Dirksen Building, 219 S. Dearborn Street.

MC-F-12274, Takin Bros. Freight Line, Inc.—Purchase (Portion)—Chl-Fil, Inc., now assigned October 17, 1977, at Chicago, Ill., will be held in Room 204A, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 720 (Sub-No. 31), Bird Trucking Co., Inc., now assigned October 20, 1977, at Chicago, Ill., will be held in Room 2119, 219 South Dearborn Street, instead of Court Room 704, Federal Building, 610 South Canal Street.

MC 138144 (Sub-No. 20), Fred Olson Co., Inc., now assigned October 18, 1977, at Chicago, Ill., will be held in Room 2119, 219 South Dearborn Street, instead of Court Room 704, Federal Building, 610 South Canal Street.

MC 112989 (Sub 47), West Coast Truck Lines, Inc., now being assigned January 16, 1978 (1 week), at Salem, Oreg., in a hearing room to be later designated.

MC 93235 (Sub 10), Indiana Trucking, Inc., now assigned October 17, 1977, at Chicago, Ill., in Court Room 704, Federal Building, 610 South Canal Street, is being transferred to Room 3610, 230 South Dearborn Street.

MC 134286 (Sub-No. 26), Illinois Express, Inc.; MC 140024 (Sub-No. 73), J. B. Montgomery, Inc.; and MC 115826 (Sub-No. 268), W. J. Digby, Inc., now being assigned November 14, 1977 (1 week), for hearing in Denver, Colo., in a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-29505 Filed 10-6-77; 8:45 am]

[7035-01]

[Notice No. 494]

ASSIGNMENT OF HEARINGS

OCTOBER 4, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Grounds for relief—Water competition.

Tariff—Portuguese Line tariff No. 1, I.C.C. No. 1, P.M.C. No. 15.

Rates are published to become effective on November 1, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77 29563 Filed 10-6-77; 8:45 am]

[7035-01]

IRREGULAR ROUTE MOTOR COMMON CARRIERS OF PROPERTY—ELIMINATION OF GATEWAY LETTER NOTICES

SEPTEMBER 30, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR Part 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before October 17, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 2607 (Sub-No. E84), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in New York, to points in Kent and Queen Annes Counties, Md. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 2607 (Sub-No. E87), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in New York, to points in Cecil County, Md. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 2607 (Sub-No. E89), filed June 4, 1974. Applicant: BERRY VAN LINES,

747 North Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in New York, to points in Kent and Sussex Counties, Del. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 2607 (Sub-No. E90), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in New Jersey on and north of a line beginning at the New Jersey-Pennsylvania State line, thence along New Jersey Highway 57 to junction New Jersey Highway 24, thence along New Jersey Highway 24 to Morristown, N.J., thence along New Jersey Highway 510 to Newark, N.J., thence along U.S. Highway 1 to the Hudson River, to points in Cecil County, Md. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 2607 (Sub-No. E93), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in New Jersey on and north of a line beginning at Trenton, N.J., thence along U.S. Highway 206 to junction New Jersey Highway 524, thence along New Jersey Highway 524 to junction New Jersey Highway 539, thence along New Jersey Highway 539 to junction New Jersey Highway 530, thence along New Jersey Highway 530 to the Atlantic Ocean, to points in Kent County, Md. The purpose of this filing is to eliminate the gateways of points in Caroline County, Md.

No. MC 2607 (Sub-No. E101), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Kent and Sussex Counties, Del., to points in Rhode Island. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 2607 (Sub-No. E102), filed June 4, 1974. Applicant: BERRY VAN

LINES, 747 North Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Kent and Sussex Counties, Del., to points in New York. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 2607 (Sub-No. E121), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Pennsylvania, to points in Queen Annes County, Md. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 2607 (Sub-No. E122), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Pennsylvania on, north and west of a line beginning at the Maryland-Pennsylvania State line, thence along U.S. Highway 15 to Harrisburg, Pa., thence along U.S. Highway 22 to the New Jersey-Pennsylvania State line, to points in Kent County, Md. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 2607 (Sub-No. E123), filed June 4, 1974. Applicant: BERRY VAN LINES, 747 North Dupont Highway, Dover, Del. 19901. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned or preserved foodstuffs* (except commodities in bulk), from points in Pennsylvania, to points in Kent and Sussex Counties, Del. The purpose of this filing is to eliminate the gateway of points in Caroline County, Md.

No. MC 60014 (Sub-No. E147), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, which by reason of size or weight, require the use of special equipment, from points in Pennsylvania to points in Kentucky, Alabama, and those in Tennessee

on and west of a line beginning at the Tennessee-Virginia State line and extending along Tennessee Highway 63 to junction U.S. Highway 25W, thence along U.S. Highway 25W to junction Tennessee Highway 95, thence along Tennessee Highway 95 to junction U.S. Highway 11, thence along U.S. Highway 11 to junction Tennessee Highway 30, thence along Tennessee Highway 30 to junction U.S. Highway 411, thence along U.S. Highway 411 to the Tennessee-Georgia State line. The purpose of this filing is to eliminate the gateway of Wheeling, W. Va.

No. MC 60014 (Sub-No. E148), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, by reason of their size or weight, require the use of special equipment, between those points in Illinois on and north of Interstate Highway 80, on the one hand, and, on the other, those points in Virginia on and east of a line beginning at the West Virginia-Virginia State line and extending along Virginia Highway 311 to junction Interstate Highway 81, to junction Virginia Highway 693, thence along Virginia Highway 693 to junction Virginia Highway 100, thence along Virginia Highway 100 to junction U.S. Highway 52, thence along U.S. Highway 52 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateways of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, and Brooke, Hancock, Marshall, and Ohio Counties, W. Va.

No. MC 60014 (Sub-No. E311), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, the transportation of which, by reason of their size or weight, require the use of special equipment or handling, between points in Indiana, on the one hand, and, on the other, points in New Hampshire, Rhode Island, those points in Massachusetts within 35 miles of Boston, and those points in Connecticut on and east of a line beginning at the Massachusetts-Connecticut State line extending along Connecticut State Highway 83 to junction Connecticut Highway 190, thence along Connecticut Highway 190 to junction Connecticut Highway 32, thence along Connecticut Highway 32 to Long Island Sound. The purpose of this filing is to eliminate the gateway of Columbiana, Cuyahoga, Mahoning, Summit, and Trumbull Counties, Ohio, points in Pennsylvania on and west of a line extending from the Pennsylvania-Maryland State line north along unnumbered highway to York, Pa., thence along Interstate Highway 83 (formerly U.S. Highway 111) to Harrisburg, thence

north along Pennsylvania Highway 147 (formerly portion Pennsylvania Highway 14) to junction U.S. Highway 220, thence along U.S. Highway 220 to junction U.S. Highway 15; thence along U.S. Highway 15 to Trout Run, thence along U.S. Highway 15 to the Pennsylvania-New York State line; New York; and points in Massachusetts within 35 miles of Boston.

No. MC 60014 (Sub-No. E312), filed June 4, 1974. Applicant: AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: William J. Rorison (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities*, requiring special equipment, restricted so that, or provided that, the loading or unloading which necessitate the special equipment, is performed by the consignor or consignee, or both, between points in Pennsylvania, on the one hand, and, on the other, those points in Massachusetts on and east of a line beginning at the Connecticut-Massachusetts State line and extending along U.S. Highway 5 to junction Interstate Highway 90, thence along Interstate Highway 90 to junction Massachusetts Highway 32, thence along Massachusetts Highway 32 to junction U.S. Highway 202, thence along U.S. Highway 202 to the Massachusetts-New Hampshire State line. The purpose of this filing is to eliminate the gateway of points in New York within 10 miles of Greenwich, Conn.

No. MC 106603 (Sub-No. E57), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such roofing and roofing materials* as are building contractors' materials, from those points in Illinois on, south, east, and north of a line beginning at the Illinois-Indiana State line and extending west on Illinois Highway 114 to junction Illinois Highway 17, thence westerly to junction Interstate Highway 57, thence south on Interstate Highway 57 to junction U.S. Highway 36, thence westerly on U.S. Highway 36 to junction U.S. Highway 51, thence southerly along U.S. Highway 51 to junction U.S. Highway 50, thence easterly on U.S. Highway 50 to junction Interstate Highway 57, thence northerly on Interstate Highway 57 to junction Interstate Highway 70, thence on Interstate Highway 70 to the Illinois-Indiana State line, to those points in Ohio on and north of a line beginning at the Ohio-Indiana State line and extending east along Interstate Highway 80 to junction U.S. Highway 20, thence easterly on U.S. Highway 20 to junction Ohio Highway 18, thence easterly on Ohio Highway 18 to junction Interstate Highway 77, thence southerly on Interstate Highway 77 to junction U.S. Highway 224, thence easterly on U.S. Highway 224 to junction Ohio Highway 14A, thence southeasterly on Ohio Highway 14A to junction Ohio Highway 45, thence southeasterly on Ohio Highway 45 to the Ohio-Pennsylvania State line, to those points in Illinois on, south, east, and north of a line beginning at the Illinois-Indiana State line and extending west on Illinois Highway 114 to junction Illinois Highway 17, thence westerly to junction Interstate Highway 57, thence south on Interstate Highway 57 to junction U.S. Highway 36, thence westerly on U.S. Highway 36 to junction U.S. Highway 51, thence southerly on U.S.

thence southeasterly on Ohio Highway 45 to the Ohio-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Whiting, Ind.

No. MC 106603 (Sub-No. E58), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, 200 Colrain Street SW., Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and roofing materials* from points in Illinois on, south, east, and north of a line beginning at the Illinois-Indiana State line extending west on Interstate Highway 70 to junction Interstate Highway 57, thence southerly on Interstate Highway 57 to junction U.S. Highway 50, thence easterly on U.S. Highway 50 to the Illinois-Indiana State line, to points in Ohio on and east of a line beginning at Lake Erie extending southeasterly on U.S. Highway 422 to the Ohio-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Whiting, Ind. (2) *Insulated brick siding*, from those points in Illinois on, south, east, and north of a line beginning at the Illinois-Indiana State line extending west on Interstate Highway 70 to junction Interstate Highway 57, thence along Interstate Highway 57 to junction U.S. Highway 50, thence along U.S. Highway 50 to the Illinois-Indiana State line, to those points in Ohio on and east of a line beginning at Lake Erie and extending southeasterly on U.S. Highway 422 to the Ohio-Pennsylvania State line. The purpose of this filing is to eliminate the gateway of Lowell, Ind.

No. MC 106603 (Sub-No. E59), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and roofing materials*, (1) from those points in Ohio on and north of a line beginning at the Ohio-Indiana State line and extending along east Interstate Highway 80 to junction U.S. Highway 20, thence easterly on U.S. Highway 20 to junction Ohio Highway 18, thence easterly along Ohio Highway 18 to junction Interstate Highway 77, thence southerly on Interstate Highway 77 to junction U.S. Highway 224, thence easterly on U.S. Highway 224 to junction Ohio Highway 14A, thence southeasterly on Ohio Highway 14A to junction Ohio Highway 45, thence southeasterly on Ohio Highway 45 to the Ohio-Pennsylvania State line, to those points in Illinois on, south, east, and north of a line beginning at the Illinois-Indiana State line and extending west on Illinois Highway 114 to junction Illinois Highway 17, thence westerly to junction Interstate Highway 57, thence south on Interstate Highway 57 to junction U.S. Highway 36, thence westerly on U.S. Highway 36 to junction U.S. Highway 51, thence southerly on U.S.

Highway 51 to junction U.S. Highway 50, thence easterly on U.S. Highway 50 to junction Interstate Highway 57, thence northerly on Interstate Highway 57 to junction Interstate Highway 70, thence on Interstate Highway 70 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of Whiting, Ind. (2) *Insulated brick siding*, from those points in Ohio on and north of a line beginning at the Ohio-Indiana State line and extending east along Interstate Highway 80 to junction U.S. Highway 20, thence easterly on U.S. Highway 20 to junction Ohio Highway 18, thence easterly on Ohio Highway 18 to junction Interstate Highway 77, thence southerly on Interstate Highway 77 to junction U.S. Highway 224, thence easterly on U.S. Highway 224 to junction Ohio Highway 14A, thence southeasterly along Ohio Highway 14A to junction Ohio Highway 45, thence southeasterly on Ohio Highway 45 to the Ohio-Pennsylvania State line, to those points in Illinois on, south, east, and north of a line beginning at the Illinois-Indiana State line and extending along Illinois Highway 114 to junction Illinois Highway 17, thence westerly to junction Interstate Highway 57, thence south on Interstate Highway 57 to junction U.S. Highway 36, thence westerly on U.S. Highway 36 to junction U.S. Highway 51, thence southerly on U.S. Highway 51 to junction U.S. Highway 50, thence easterly on U.S. Highway 50 to junction Interstate Highway 57, thence northerly on Interstate Highway 57 to junction Interstate Highway 70, thence on Interstate Highway 70 to the Illinois-Indiana State line. The purpose of this filing is to eliminate the gateway of Lowell, Ind.

No. MC 107002 (Sub-No. E19), filed May 31, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, Miss. 39205. Authority to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (a) *Petroleum and petroleum products*, as described in Appendix XIII of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, (except liquefied petroleum gases), in bulk, in tank vehicles, from points in Mississippi on and east and south of a line beginning at the Louisiana-Mississippi State line, and extending along Mississippi Highway 27 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 49, thence along U.S. Highway 49 to junction U.S. Highway 49-E, thence along U.S. Highway 49-E to junction Mississippi Highway 12, thence along Mississippi Highway 12 to junction Mississippi Highway 19 to the Mississippi-Alabama State line, to points in Arkansas. The purpose of this filing is to eliminate the gateway of Crupp, Miss.; Friars Point, Miss.; Greenville, Miss.; Rogerslacy, Miss.; Union County, Miss.; thence Shelby County, Tenn.; and Washington County, Miss.

(b) *Petroleum products*, in bulk, in tank vehicles, from points in Mississippi on and east and south of a line beginning at the Louisiana-Mississippi State line, and extending along Mississippi Highway 27 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 49 to U.S. Highway 49-E, thence along U.S. Highway 49-E to junction Mississippi Highway 12 to junction Mississippi Highway 19 to the Mississippi-Alabama State line, to points in Florida. The purpose of this filing is to eliminate the gateway of Mobile, Ala.

(c) *Petroleum products*, in bulk, in tank vehicles, from points in Mississippi on and east and south of a line beginning at the Louisiana-Mississippi State line and extending along Mississippi Highway 27 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 49 to U.S. Highway 49-E, thence along U.S. Highway 49-E to junction Mississippi Highway 12 to junction Mississippi Highway 19 to the Mississippi-Alabama State line, to points in Georgia. The purpose of this filing is to eliminate the gateways of Mobile and Tuscaloosa, Ala. (d) *Petroleum products and petroleum*, as described in Appendix XIII of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except asphalt) in bulk, in tank vehicles, from points in Mississippi on and east and south of a line beginning at the Louisiana-Mississippi State line, and extending along Mississippi Highway 27 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 49 to U.S. Highway 49-E, thence along U.S. Highway 49-E to junction Mississippi Highway 12, to junction Mississippi Highway 19, to the Mississippi-Alabama State line, to points in Illinois and Indiana. The purpose of this filing is to eliminate the gateway of Washington County, Miss.

(e) *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in Mississippi on and east and south of a line beginning at the Louisiana-Mississippi State line, and extending along Mississippi Highway 27 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 49 to U.S. Highway 49-E, thence along U.S. Highway 49-E to junction Mississippi Highway 12 to junction Mississippi Highway 19 to the Mississippi-Alabama State line, to points in Kentucky. The purpose of this filing is to eliminate the gateways of Lynn Park, Ala., and Washington County, Miss.

(f) *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in Mississippi on and east and south of a line beginning at the Louisiana-Mississippi State line, and extending along Mississippi Highway 27 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 49, thence

along U.S. Highway 49 to junction U.S. Highway 49-E, thence along U.S. Highway 49-E to junction Mississippi Highway 12, to junction Mississippi Highway 19 to the Mississippi-Alabama State line, to points in Louisiana. The purpose of this filing is to eliminate the gateways of Adams County, Pike County, Vicksburg and Lumberton, Miss. (g) *Petroleum and petroleum products*, in bulk, in tank vehicles, from points in Mississippi on and east and south of a line beginning at the Louisiana-Mississippi State line and extending along Mississippi Highway 27 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 49 to U.S. Highway 49-E, thence along U.S. Highway 49-E to junction Mississippi Highway 12 to junction Mississippi Highway 19 to the Mississippi-Alabama State line, to points in North Carolina and South Carolina. The purpose of this filing is to eliminate the gateway of Tuscaloosa, Ala. (h) *Petroleum and petroleum products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 (except asphalt), in bulk, in tank vehicles, from points in Mississippi on and east and south of a line beginning at the Louisiana-Mississippi State line and extending along Mississippi Highway 27 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 49 to U.S. Highway 49-E, thence along U.S. Highway 49-E to junction Mississippi Highway 12 to junction Mississippi Highway 19 to the Mississippi-Alabama State line, to points in Ohio and Oklahoma. The purpose of this filing is to eliminate the gateway of Washington County, Miss.

(i) *Petroleum and Petroleum products*, as described in Appendix XIII of the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in bulk, in tank vehicles, from points in Mississippi on and east and south of a line beginning at the Louisiana-Mississippi State line and extending along Mississippi Highway 27 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 49 to U.S. Highway 49-E, thence along U.S. Highway 49-E to junction Mississippi Highway 12 to junction Mississippi Highway 19 to the Mississippi-Alabama State line, to points in Tennessee. The purpose of this filing is to eliminate the gateways of Washington County, Miss.; Rogerslacy, Miss.; Crupp, Miss.; Friars Point, Miss.; thence the site of the pipeline terminal of the Oklahoma-Mississippi River Products Line, Inc., near West Memphis, Ark.; Cordova, Ala.; and Tuscaloosa, Ala. (j) *Petroleum products*, in bulk, in tank vehicles, from points in Mississippi on and east and south of a line beginning at the Louisiana-Mississippi State line, and extending along Mississippi Highway 27 to junction Interstate Highway 55, thence along Interstate Highway 55 to junction U.S. Highway 49 to U.S. Highway 49-E, thence along U.S. Highway 49-E to junction Mississippi Highway 12 to junction Mississippi Highway

19 to the Mississippi-Alabama State line, to points in Texas. The purpose of this filing is to eliminate the gateways of Harrison County, Miss., and Natchez, Miss. Restriction: Restricted to transportation of commodities described in Appendix XIII, 61 M.C.C. 209 to points in Arkansas, Illinois, Indiana, Missouri, Ohio, and Oklahoma, and against the transportation of Asphalt to points in Illinois, Indiana, Missouri, Ohio, and Oklahoma and liquefied petroleum gases to points in Arkansas.

No. MC 126632 (Sub-No. E1), filed June 4, 1974. Applicant: AVION FREIGHTWAYS, INC., Box 2508, Kansas City, Mo. 64142. Applicant's representative: H. B. Foster (same as above). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Feed* (except in bulk) from the plantsite of Protein Blenders, Inc., near Iowa City, Iowa, to points in the Chicago, Ill., commercial zone. (Chicago, Ill.) (2) *Feed* (except in bulk), (A) from points in Kansas to points in Illinois in and north of Henderson, Warren, Knox, Peoria, Woosford, Livingston and Kankakee Counties, Ill. (B) from points in Kansas in and west of Republic, Cloud, Ottawa, Saline, McPherson, Harvey, Sedgwick and Sumner Counties, to points in Hancock, McDonough, Fulton, Mason, Loga, DeWitt, Platt, Champaign, Vermillion, Tazewell, McLean, Ford and Iroquois Counties, Ill. (C) from points in Kansas in and north and west of Greeley, Wichita, Logan, Thomas, Rawlins, and Decatur Counties, to points in Schuyler, Cass, Menard, Sangamon, Christian, Shelby, Cumberland, Clark, Macon, Moultrie, Douglas, Coles, and Edgar Counties, Ill. (3) *Feed* (except in bulk), (a) from points in Missouri in and east of Scotland, Knox, Shelby, Monroe, Randolph, Howard, Boone, Moniteau, Miller, Pulaske, Texas and Howell Counties, to points in South Dakota. (b) from points in Schuyler, Adair, Macon, Chariton, Cooper, Morgan, Camden, Laclede, Wright, Douglas and Ozark Counties, Mo., to points in and north of Custer, Pennington, Haakon, Stanley, Hughes, Hyde, Hand, Beadle, Kingsbury, and Brookings Counties, S. Dak. (c) from points in Putnam, Sullivan, Linn, Livingston, Carroll, Saline, Pettis, Benton, Hickory, Polk, Dallas, Green, Webster, Christian, Stone and Toney Counties, Mo., to points in and north of Harding, Perkins, Corson, Walworth, Edmunds, Brown, Day and Roberts Counties, S. Dak. (4) *Feed* (except in bulk), from points in Illinois (except Chicago, Danville, East Moline, Forest Park, Galesburg, Moline, Peru, Rock Island, Silvis and Sullivan, Ill.) to points in South Dakota.

(5) *Feed* (except in bulk), (a) from points in Nebraska to points in Illinois in and north and east of Mercer, Warren, Fulton, Mason, Logan, Macon, Shelby, Effingham, Clay, Richland, Edwards, and Wabash Counties, (b) from points in Thayer, Saline, and Lancaster Counties, Nebraska, to points in Henderson, Han-

cock, McDonough, Schuyler, Cass, Menard, Scott, Morgan, Sangamon, Greene, Calhoun, Jersey, Madison, St. Clair, Monroe, Randolph, Jackson, Union, Alexander, Pulaski, Massac, Pope, Hardin, Gallatin, White, Wayne, Marion, Fayette, Montgomery, and Christian Counties Ill., and those points located in the area bounded by these counties, (c) from points in Nebraska in and north and west of Nuckolls, Clay, Fillmore, York, Seward, Butler, Saunders and Sarpy Counties, to points in Adams, Brown and Pipe Counties, Ill. (6) *Feed* (except in bulk), (a) from points in Illinois in and south of Rock Island, Henry, Bureau, LaSalle, Grundy and Kankakee Counties (except Chicago, Forest Park, Danville, East Moline, Galesburg, Moline, Peru, Rock Island, Silvis and Sullivan, Ill.) to points in Minnesota, (b) from points in Whiteside, Lee, Kendall, Will, DuPage and Cook Counties, Ill. (except Chicago and Forest Park, Ill.) to points in and west of Lake of the Woods, Beltrami, Cass, Crow Wing, Morrison, Benton, Sherburne, Anoka, Washington, Ramsey, Hennepin, Scott, Rice, Steele, Dodge, Olmstead and Fillmore Counties, Minn. (c) from points in Jo Daviess, Stephenson, Winnebago, Carroll, Ogle, Boone, DeKalb, Kane, McHenry and Lake Counties, Ill., to points in and south and west of Traverse, Big Stone, Lac Qui Parle, Chippewa, Yellow Medicine, Red Wood, Brown, Watonwan and Martin Counties, Minn. (7) *Feed* (except in bulk), (a) from points in Minnesota to points in and south of Rock Island, Henry, Bureau, LaSalle, Grundy, and Kankakee Counties, Ill. (b) from points in Minnesota in and west of Lake of the Woods, Beltrami, Cass, Crow Wing, Rison, Benton, Sherburne, Anoka, Washington, Ramsey, Hennepin, Scott, Rice, Steele, Dodge, Olmstead and Fillmore Counties, to points in Whiteside, Lee, Kendall, Will, DuPage and Cook Counties, Ill., and (c) from points in and south and west of Traverse, Big Stone, Lac Qui Parle, Chippewa, Yellow Medicine, Red Wood, Brown, Watonwan, and Martin Counties, Minn., to points in Jo Daviess, Stephenson, Winnebago, Carroll, Ogle, Boone, DeKalb, Kane, McHenry and Lake Counties, Ill.

(8) *Feed* (except in bulk), (a) from points in and north and west of Ralls, Audrian, Montgomery, Gasconade, Crawford, Dent, Reynolds, Carter, and Ripley Counties, Mo., to points in and north and west of Rick Island, Whiteside, Lee, Ogle and Winnebago Counties, Ill. (b) from points in and north and west of Marion, Monroe, Randolph, Boone, Cole, Miller, Camden, Dallas, Greene, Christian and Taney Counties, Mo., to points in Boone, DeKalb, McHenry, Kane, Lake, Cook and DuPage Counties, Ill., and (c) from points in and north and west of Cass, Jackson, Clay, Clinton, DeKalb, Davies and Harrison Counties, Mo., to points in Henderson, Warren, Knox, Peoria, Woodford, La Salle, Grundy, Kankakee, Mercer, Henry, Bureau, Stark, Putnam, Marshall, Kimball and Will Counties,

Ill. (9) *Feed* (except in bulk), (a) from points in Mercer, Henry, Bureau, Stark, Putnam, Marshall, Kimball, Will and Kankakee Counties, Ill. (except Galesburg and Peru, Ill.), to points in and north and west of Cass, Jackson, Clay, Clinton, DeKalb, Davies, and Harrison Counties, Mo., (b) from points in Boone, McHenry, Lake, DeKalb, Kane, DuPage and Cook Counties, Ill. (except Chicago and Forest Park, Ill.), to points in and north and west of Marion, Monroe, Randolph, Boone, Cole, Miller, Camden, Dallas, Greene, Christian, and Taney Counties Mo., and (c) from points in and north and west of Rock Island, Whiteside, Lee, Ogle and Winnebago Counties, Ill. (except East Moline, Moline, Rock Island, and Silvis, Ill.), to points in and north and west of Ralls, Audrian, Montgomery, Gasconade, Crawford, Dent, Reynolds, Carter and Ripley Counties, Mo. (10) *Feed* (except in bulk), (a) from points in and north of Whiteside, Lee, DeKalb, Kane, DuPage, and Cook Counties, Ill. (except Chicago and Forest Park, Ill.), to points in Hancock and Adams Counties, Ill. (b) from points in Hancock and Adams Counties, Ill., to points in and north of Whiteside, Lee, DeKalb, Kane, DuPage and Cook Counties, Ill. (11) *Feed* (except in bulk), (a) from points in and south of Greeley, Wichita, Scott, Lane, Ness, Rush, Barton, Ellsworth, Saline, Dickinson, Geary, Riley, Pottawatomie, Jackson and Atchison Counties, to points in St. Louis, Clark Lake, Cook, Goodhue, Wabasha, Winona, and Houston Counties, Minn. (b) from points in and south and east of Morton, Stevens, Seward, Meade, Clark, Kiowa, Pratt, Kingman, Sedgwick, Butler, Chase, Lyon, Osage, Douglas, Johnson, and Wyandot Counties, Kans., to points in Koochiching, Itaska, Aitkin, Carlton, Mille Lacs, Kanabec, Pine, Isanti and Chisago Counties, Minn. (c) from points in and South and east of Wyandotte, Johnson, Douglas, Osage, Coffey, Greenwood, Elk, and Cowley Counties, Kans., to points in Kittson, Roseau, Lake of the Woods, Marshall, Pennington, Beltrami, Clear Water, Hubbard, Cass, Crow Wing, and Morrison Counties, Minn., and (d) from points in and south of Morton, Stevens, Seward, Meade, Clark, Kiowa, Kingman, Sedgwick, Butler, Chase, Lyon, Coffey, Woodson, Allen, Neosho, and Crawford Counties, Kans., to points in Anoka, Hennepin, Ramsey, Washington, Dakota, Dodge, Olmstead, Mower, and Fillmore Counties, Minn.

(12) *Feed* (except in bulk), (a) from points in and north and west of Sarpy, Saunders, Lancaster, Saline, and Jefferson Counties, Nebr., to points in and east of Lincoln, St. Charles, St. Louis, Jefferson, St. Francois, Madison, Bollinger, Stoddard, and Dunklin Counties, Mo., (b) from points in and north of Perkins, Lincoln, Dawson, Buffalo, Hall, Merrick, Polk, Butler, Saunders and Douglas Counties, Nebr., to points in Clark, Lewis, Marion, Ralls, Pike, Montgomery, Warren, Franklin, Washington,

Iron, Reynolds, Carter, Ripley, Wayne and Butler Counties, Mo., and (c) from points in and north of Sioux, Box Butte, Sheridan, Cherry, Brown, Rock, Holt, Knox, Cedar, Dixon, and Dakota Counties, Nebr., to points in Schuyler, Adair, Macon, Randolph, Boone, Cole, Miller, Pulaski, Texas, Howell, Scotland, Knox, Shelby, Monroe, Audrain, Callaway, Osage, Maries, Gasconade, Phelps, Crawford, Dent, Shannon, and Oregon Counties, Mo. (13) *Feed* (except in bulk), (a) from points in Scotland, Knox, Phelps, Crawford, Dent, Shannon, Oregon, Shelby, Monroe, Audrain, Callaway, Osage, Maries, Gasconade, Schuyler, Adair, Macon, Randolph, Boone, Cole, Miller, Pulaski, Texas, and Howell Counties, Mo., to points in and north of Sioux, Box Butte, Sheridan, Cherry, Brown, Rock, Holt, Knox, Cedar, Dixon and Dakota Counties, Nebr., (b) from points in Wayne, Butler, Clark, Lewis, Marion, Ralls, Pike, Montgomery, Warren, Franklin, Washington, Iron, Reynolds, Carter and Ripley Counties, Mo., to points in and north of Perkins, Lincoln, Dawson, Buffalo, Hall, Merrick, Polk, Butler, Saunders and Douglas Counties, Nebr., and (c) from points in and east of Lincoln, St. Charles, St. Louis, Jefferson, St. Francois, Madison, Bollinger, Stoddard and Dunklin Counties, Mo., to points in and north and west of Sarpy, Saunders, Lancaster, Saline, and Jefferson Counties, Nebr. (14) *Feed* (except in bulk), (a) from points in Illinois (except Chicago, Danville, East Moline, Forest Park, Galesburg, Moline, Peru, Rock Island and Silvis and Sullivan, Ill.), to points in Nebraska in and north and west of Nuckolls, Clay, Fillmore, York, Seward, Butler, Saunders and Sarpy Counties, (b) from points in Illinois (except those in Adams, Brown and Pike Counties, and except Chicago, Danville, East Moline, Forest Park, Galesburg, Moline, Peru, Rock Island, Silvis, and Sullivan, Ill.), to points in Thayer, Saline, and Lancaster Counties, Nebr., and (c) from points in Illinois in and north and east of Mercer, Warren, Fulton, Mason, Logan, Macon, Shelby, Effingham, Clay, Richland, Edwards and Wabash Counties (except Chicago, Danville, East Moline, Forest Park, Galesburg, Moline, Peru, Rock Island, Silvis and Sullivan) to points in Cass, Otoe, Jefferson, Gage, Johnson, Pawnee, Nemaha and Richardson Counties, Nebr.

(15) *Feed* (except in bulk) (a) from points in Missouri to points in Minnesota in and north and east of Koochiching, Itasca, Aitkin, Mille Lacs, Isanti, and Chisago Counties, and Goodhue, Wabasha, Winona, and Houston Counties, (b) from points in Missouri in and south and east of Putnam, Sullivan, Linn, Chariton, Saline, Pettis, Henry, St. Clair, and Vernon Counties, to points in Minnesota in Kittson, Marshall, Polk, Clay, Becker, Wadena, Cass, Morrison, Benton, Sherburne, Wright, Carver, Scott, Rice, Steel, Mower, Pennington, Red Lake, Mannomen, Dodge, Dakota, Washington, Ramsey, Anoka, Hennepin,

Crow Wing, Hubbard and Clear Water Counties, and (c) from points in Missouri in and east of Scotland, Knox, Shelby, Monroe, Randolph, Howard, Cooper, Morgan, Camden, Dallas, Webster, Douglas and Ozark Counties, to points in Minnesota in and south and west of Wilkin, Otter Tail, Todd, Stearns, Meeker, McLeod, Sibley, Le Sueur, Waseca and Freeborn Counties. (16) *Feed* (except in bulk), (a) from points in Minnesota in and north and east of Koochiching, Itasca, Aitkin, Mille Lacs, Isanti, and Chisago Counties, and points in Goodhue, Wabasha, Winona, and Houston Counties, to points in Missouri, (b) from points in Dodge, Dakota, Washington, Ramsey, Anoka, Hennepin, Crow Wing, Hubbard, Clear Water, Kittson, Marshall, Polk, Pennington, Red Lake, Mannomen, Fillmore, Olmstead, Clay, Becker, Wadena, Cass, Morrison, Benton, Sherburne, Wright, Carver, Scott, Rice, Steel and Mower Counties, Minn., to points in and south and east of Putnam, Sullivan, Linn, Chariton, Saline, Pettis, Henry, St. Clair and Vernon Counties, and (c) from points in Minnesota in and south and west of Wilkin, Otter Tail, Todd, Stearns, Meeker, McLeod, Sibley, Le Sueur, Waseca and Freeborn Counties, to points in Missouri in and east of Scotland, Knox, Shelby, Monroe, and Randolph, Howard, Cooper, Morgan, Camden, Dallas, Webster, Douglas and Ozark Counties. The purpose of this filing is to eliminate the gateway of the plant-site of Protein Blenders, Inc., near Iowa City, Iowa, in parts 2 through 16.

(17) *Feed* (except in bulk), (a) from points in Minnesota in and north and west of Jackson, Cottonwood, Watonwan, Blue Earth, Le Sueur, Rice, Goodhue, Counties, to points in Des Moines, Lee Counties, Iowa, (b) from points in Minnesota in and north and west of Lincoln, Lyon, Yellow Medicine, Chippewa, Kandiyohi, Pope, Douglas, Todd, Morrison, Crow Wing, Aitkin, Itasca, and Koochiching Counties, to points in Scott and Henry Counties, Iowa. (18) *Feed* (except in bulk), (a) from points in Kansas in and west of Decatur, Sheridan, Gove, Lane, Finney, Gray, Haskell and Seward Counties, to points in Jones, Cedar, Muscatine, Louisa, Des Moines Counties, Iowa, (b) from points in Kansas in and west of Smith, Osborne, Lincoln, Saline, McPherson, Marion, Chase, Greenwood, Elk, Montgomery and Labette Counties, to points in Iowa in Jackson County, and in Dubuque County on and south of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 20 to junction Iowa Highway 416, thence along Iowa Highway 416, thence along unnumbered highway (formerly portion of U.S. Highway 20), thence along unnumbered highway through Epworth, Iowa, to junction Iowa Highway 418, thence along Iowa Highway 418 to junction U.S. Highway 20, thence along U.S. Highway 20 to Dubuque-Delaware County line, (c) from points in Kansas in and south and west of Washington, Riley, Pottawatomie, Shawnee, Osage, Franklin, Anderson,

and Linn Counties, to points in Clinton and Scott Counties, Iowa. (19) *Feed* (except in bulk), (a) from points in Nebraska in and west of Sheridan, Garden and Deuel Counties, to points in Iowa in Jackson, Lee, Des Moines, Louisa, Muscatine, Cedar and Jones Counties, and that part of Dubuque County on and south of a line beginning at the Illinois-Iowa State line and extending along U.S. Highway 20 to junction Iowa Highway 416, thence along Iowa Highway 416 to junction unnumbered highway (formerly portion of U.S. Highway 20), thence along unnumbered highway through Epworth, Iowa, to junction Iowa Highway 418, thence along Iowa Highway 418 to junction U.S. Highway 20, thence along U.S. Highway 20 to Dubuque-Delaware County line, (b) from points in Nebraska located in and west of Boyd, Holt, Wheller, Boone, Platte, Polk, York, Seward, Saline, and Gage Counties, to points in Clinton and Scott Counties, Iowa. The purpose of this filing is to eliminate the gateway of the plant site of Protein Blenders, Inc., near Iowa City, Iowa, and Galesburg, Ill., in parts 17, 18 and 19. (20) *Feed*, (except in bulk), from points in Kansas to points in the Chicago, Ill., commercial zone. The purpose of this filing is to eliminate the gateways of the plant-site of Protein Blenders, Inc., near Iowa City, Iowa, and Chicago, Ill. (21) *Feed*, (except in bulk), from points in Missouri in and west of Clark, Lewis, Shelby, Macon, Randolph, Boone, Monticau, Morgan, Benton, Hickory, Polk, Dade, Lawrence, and Barry Counties, to points in the Chicago, Ill., commercial zone. The purpose of this filing is to eliminate the gateway of the plant-site of Protein Blenders, Inc., near Iowa City, Iowa, and Hazel Crest, Ill. (in Chicago, Ill., commercial zone). (22) *Feed* (except in bulk), from points in Nebraska to points in the Chicago, Ill., commercial zone. The purpose of this filing is to eliminate the gateways of the plant-site of Protein Blenders, Inc., near Iowa City, Iowa, and Chicago, Ill.

(23) *Feed* (except in bulk), from points in Minnesota in and west of Koochiching, Itasca, Aitkin, Kanabec, Isanti, Anoka, Washington, Dakota, Goodhue, Olmstead, and Fillmore Counties, to points in the Chicago, Ill., commercial zone. The purpose of this filing is to eliminate the gateway of the plant-site of Protein Blenders, Inc., near Iowa City, Iowa, and Hazel Crest, Ill. (in Chicago, Ill., commercial zone). (24) *Feed*, (except in bulk) from Danville, Galesburg, Peru, and Sullivan, Ill., to points in Minnesota. (25) *Feed* (except in bulk), from Peru, Galesburg, Sullivan, and Danville, Ill., to points in Nebraska and South Dakota. (26) *Feed* (except in bulk), (a) from Galesburg, Ill., to points in Missouri in and west of Mercer, Grundy, Davies, Caldwell, Ray, Jackson, Cass, Bates, Vernon, Barton, Jasper, Newton, and McDonald Counties, (b) from Peru, Ill., to points in Missouri in and west of Clark, Knox, Macon, Randolph, Howard, Cooper, Morgan, Benton, Hickory, Dallas, Greene, Christian and Taney Counties.

ties. The purpose of this filing is to eliminate the gateway of the plant-site of Protein Blenders, Inc., near Iowa City, Iowa, in parts 24, 25, and 26. (27) *Livestock*, (a) from points in Missouri to Madison, Wis., and (b) from points in Missouri in and west of Clark, Lewis, Marion, Ralls, Pike, Lincoln, Warren, Franklin, Washington, Iron, Wayne, Butler, and Dunklin Counties, to Milwaukee, Wis. (28) *Livestock*, (a) from points in Rock Island, Mercer, Henderson, Hancock, Adams, Pike, Greene, Calhoun, Jersey, Madison, St. Clair, Randolph, Jackson, Union, Alexander and Pulaski Counties, Ill., to Madison, Wis., and (b) from points in Mercer, Henderson, Hancock and Adams Counties, Ill., to Milwaukee, Wis. The purpose of this filing is to eliminate the gateways of Muscatine, Iowa (within 35 miles of Iowa City, Iowa) in parts 27 and 28. (29) *Livestock* from points in Nebraska to Madison and Milwaukee, Wis. The purpose of this filing is to eliminate the gateway of Iowa City, Iowa. (30) *Livestock* from points in Illinois in and north of Henderson, Warren, Knox, Peoria, Woodford, Livingston, Ford and Iriquois Counties, to points in the Kansas City, Kans., commercial zone. The purpose of this filing is to eliminate the gateway of Muscatine, Iowa (within 35 miles of Iowa City, Iowa). (31) *Livestock* from points in and north and west of Ralls, Adrian, Callaway, Osage, Miller, Pulaski, Texas, and Howell Counties, Mo., to Chicago, Ill., and its commercial zone. (32) *Livestock* from points in Rock Island, Mercer, Henderson, Hancock and Adams Counties, Ill., to points in the Chicago, Ill., commercial zone. The purpose of this filing is to eliminate the gateway of Muscatine, Iowa (within 35 miles of Iowa City and within 40 miles of Lowden, Iowa), in parts 31 and 32. (33) *Livestock* from points in Nebraska to points in the Chicago, Ill., and its commercial zone. The purpose of this filing is to eliminate the gateway of Iowa City, Iowa (within 40 miles of Lowden, Iowa). (34) *Livestock* from points in Nebraska to points in Illinois within 50 miles of Chicago, Ill. The purpose of this filing is to eliminate the gateway of Iowa City, Iowa (within 40 miles of Lowden, Iowa) and Western Springs, Ill. (within Chicago, Ill., commercial zone).

(35) *Livestock* (a) from points in Missouri and north and west of Jackson, Clay, Clinton, DeKalb, Gentry, and Worth Counties, to points in Illinois within 50 miles of Chicago, Ill., in Kankakee and Grundee Counties, (b) from points in Missouri in and north and west of Schuyler, Adair, Sullivan, Linn, Chariton, Saline, Pettis, Benton, St. Clair, Cedar, Barton, Jasper, Newton and McDonald Counties, to points in Illinois within 50 miles of Chicago, Ill., in Kendall and Will Counties, (c) from points in Missouri in and north and west of Clark, Knox, Shelby, Macon, Randolph, Boone, Cole, Miller, Camden, Dallas, Greene, Christian, and Stone Counties, to points in Illinois within 50 miles of Chicago, Ill., in DeKalb and Kane Counties.

ties, and (d) from points in Missouri in and north and west of Ralls, Audrain, Callaway, Osage, Maries, Pulaski, Laclede, Wright, Douglas and Howell Counties, to points in Illinois within 50 miles of Chicago, Ill., in and north of Boone, McHenry, Cook and DuPage Counties. The purpose of this filing is to eliminate the gateways of Muscatine, Iowa (within 35 miles of Iowa City), and Western Springs, Ill. (in Chicago, Ill., commercial zone). (36) *Livestock* from Iowa City, Iowa, and points within 35 miles of Iowa City, to points in the Chicago, Ill., commercial zone. The purpose of this filing is to eliminate the gateway of Chicago, Ill. (37) *Livestock* from Lowden, Iowa, and points in Iowa within 40 miles of Lowden, Iowa, to points in Kankakee, Will, DuPage, Lake and Cook Counties, Ill., and within 50 miles of Chicago, Ill. The purpose of this filing is to eliminate the gateway of Western Springs, Ill. (in the Chicago commercial zone). (38) *Feed* (except in bulk), (a) from points in the Chicago, Ill., commercial zone, to points in Hancock and Adams Counties, Ill., (b) from points in the Chicago, Ill., commercial zone to points in Minnesota in and west of Lake of the Woods, Beltrami, Cass, Crow Wing, Mille Lacs, Isanti, Anoka, Washington, Ramsey, Hennepin, Scott, Rice, Dodge, Olmstead, and Fillmore Counties, Minn., including the Minneapolis commercial zone, (c) from points in the Chicago, Ill., commercial zone, to points in Missouri in and west of Clark, Lewis, Marion, Monroe, Audrain, Callaway, Cole, Miller, Camden, Dallas, Green, Christian and Taney Counties. (39) *Feed* (except in bulk) from points in the Chicago, Ill., commercial zone to points in Nebraska and South Dakota. The purpose of this filing is to eliminate the gateways of the plant-site of Protein Blenders, Inc., near Iowa City, Iowa, in parts 38 and 39. (40) *Livestock* from points in the Chicago, Ill., commercial zone, to points in Missouri in and south and west of Ralls, Audrain, Callaway, Osage, Miller, Pulaski, Texas and Howell Counties. The purpose of this filing is to eliminate the gateway of Muscatine, Iowa (within 40 miles of Lowden, Iowa), and within 35 miles of Iowa City, Iowa. (41) *Livestock* from points in the Chicago, Ill., commercial zone to points in Nebraska. The purpose of this filing is to eliminate the gateway of Iowa City, Iowa (within 40 miles of Lowden, Iowa). (42) *Livestock* from points in the Chicago, Ill., commercial zone, to points in Rock Island, Mercer, Henderson, Hancock and Adams Counties, Ill. The purpose of this filing is to eliminate the gateway of Muscatine, Iowa (within 35 miles of Iowa City, Iowa and 40 miles of Lowden, Iowa).

(43) *Livestock* from points in the Chicago, Ill., commercial zone to points in the Kansas City, Kans., commercial zone. The purpose of this filing is to eliminate the gateway of Iowa City, Iowa (within 40 miles of Lowden, Iowa). (44) *Culvert Pipe* (except commodities in bulk, those of unusual value, and commodities requiring special equipment),

(a) from points in the Chicago, Ill., commercial zone to points in Minnesota on and south of a line beginning at the Minnesota-South Dakota State line and extending along U.S. Highway 12, thence along U.S. Highway 12 to the Minnesota-Wisconsin State line, (b) from points in the Chicago, Ill., commercial zone, to points in Wisconsin in and west of Bayfield, Sawyer, Barron, Dunn, Pepin, Buffalo, Trumpealeau, La Crosse, Vernon, Crawford, and Grant Counties. The purpose of this filing is to eliminate the gateway of Clinton, Iowa (within 40 miles of Lowden, Iowa). (45) *Petroleum and petroleum products* as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in containers (except those of unusual value, commodities in bulk, and those requiring special equipment), from points in the Chicago, Ill., commercial zone to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of Berwyn, Ill. (in the Chicago, Ill., commercial zone). (46) *Feed* (except in bulk) (a) from points in Kankakee, Will, DuPage, Cook, Lake, Grundy and Kane Counties, Ill., and within 50 miles of Chicago, Ill., to Cedar Rapids, Iowa, (b) from points in Kankakee, Will, DuPage, Cook and Lake Counties, Ill., within 50 miles of Chicago, Ill., to Clinton and Charlotte, Iowa, and (c) from points in Kankakee, Will, Grundy, Kendall, Kane, DuPage and Cook Counties, Ill., and within 50 miles of Chicago, Ill., to Waterloo, Iowa. The purpose of this filing is to eliminate the gateway of Western Springs, Ill. (in the Chicago, Ill., commercial zone). (47) *Livestock* from points in the Chicago, Ill., commercial zone, to Iowa City, Iowa, and points within 35 miles of Iowa City, Iowa. The purpose of this filing is to eliminate the gateway of Joliet, Ill. (within 50 miles of Chicago, Ill.). (48) *General commodities* (except those of unusual value, classes A and B explosives, alcoholic beverages, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), from points in Lake County, Ill., and points within 50 miles of Chicago, Ill., to points in Iowa within 40 miles of Lowden, Iowa. The purpose of this filing is to eliminate the gateway of Des Moines, Ill. (in the Chicago, Ill., commercial zone). (49) *General commodities* (except those of unusual value, classes A and B explosives, alcoholic beverages, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), (a) from points in Will County, Ill., on and east of U.S. Highway 45 and within 50 miles of Chicago, Ill., to points in Iowa within 40 miles of Lowden, Iowa, (b) from points in Iowa in Will County, Ill., west of U.S. Highway 45 and within 50 miles of Chicago, Ill., to points in Iowa within 40 miles of Lowden, Iowa, and in and west of Dubuque, Jones, Cedar and Muscatine Counties, Iowa. The purpose

of this filing is to eliminate the gateway of Tinley Park, Ill. (in Chicago, Ill.).

(50) *General commodities* (except those of unusual value, Classes A and B explosives, alcoholic beverages, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading), from points in Kankakee County, Ill., and points within 50 miles of Chicago, Ill., to points in Iowa within 50 miles of Lowden, Iowa. The purpose of this filing is to eliminate the gateway of Hazel Crest, Ill. (in Chicago, Ill., commercial zone). (51) *General commodities* (except those of unusual value, Classes A and B explosives, alcoholic beverages, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading) (a) from points in Kane County, Ill., on and north and east of U.S. Highway 20, and within 50 miles of Chicago, Ill., to points in Iowa within 40 miles of Lowden, Iowa, (b) from points in Kane County, Ill., south and west of U.S. Highway 20 and within 50 miles of Chicago, Ill., to points in Iowa within 40 miles of Lowden, Iowa, and in and west of Delaware, Linn, and Johnson Counties, Iowa. The purpose of this filing is to eliminate the gateway of Western Springs, Ill. (in Chicago, Ill., commercial zone). (52) *General commodities* (except those of unusual value, Classes A and B explosives, alcoholic beverages, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), from points in Grundy County, Ill., and within 50 miles of Chicago, Ill., to points in Iowa within 40 miles of Lowden, Iowa, and in and west of Dubuque, Jackson, Jones, Cedar and Johnson Counties, Iowa. The purpose of this filing is to eliminate the gateway of Tinley Park, Ill. (in Chicago, Ill., commercial zone). (53) *General commodities* (except those of unusual value, Classes A and B explosives, alcoholic beverages, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), from points in DuPage County, Ill., and within 50 miles of Chicago, Ill., to points in Iowa within 40 miles of Lowden, Iowa. The purpose of this filing is to eliminate the gateway of Western Springs, Ill. (in the Chicago, Ill., commercial zone). (54) *General commodities* (except those of unusual value, Classes A and B explosives, alcoholic beverages, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment and those injurious or contaminating to other lading), from points in Cook County, Ill., and points within 50 miles of Chicago, Ill., to points in Iowa within 40 miles of Lowden, Iowa. The purpose of this filing is to eliminate the gateway of Willow Springs, Ill. (in the Chicago, Ill., commercial zone). (55) *Livestock* from

points within 50 miles of Chicago, Ill., to points in Nebraska. The purpose of this filing is to eliminate the gateways of Western Springs, Ill. (in Chicago, Ill., commercial zone), and Owa City, Iowa (within 40 miles of Lowden, Iowa.).

(56) *Livestock* (a) from points in Kankakee and Grundy Counties, Ill., within 50 miles of Chicago, Ill., to points in Missouri in and north and west of Jackson, Clay, Clinton, DeKalb, Gentry and Worth Counties, (b) from points in Will and Kendall Counties, within 50 miles of Chicago, Ill., to points in Missouri in and north and west of Schuyler, Adair, Sullivan, Linn, Chariton, Saline, Pettis, Benton, St. Clair, Cedar, Barton, Jasper, Newton and McDonald Counties, (c) from points in DeKalb, and Kane Counties, Ill., within 50 miles of Chicago, Ill., to points in Missouri in and north and west of Clark, Knox, Shelby, Macon, Randolph, Boone, Cole, Miller, Camden, Dallas, Greene, Christian and Stone Counties, (d) from points in and north of Boone, McHenry, Cook, and Dupage Counties, Ill., within 50 miles of Chicago, Ill., to points in Missouri in and north and west of Ralls, Audrain, Callaway, Osage, Maries, Pulaski, Le Clede, Wright, Douglas and Howell Counties. The purpose of this filing is to eliminate the gateways of Western Springs, Ill. (Chicago, Ill., commercial zone) and Muscatine, Iowa (within 40 miles of Lowden, Iowa, and within 35 miles of Iowa City, Iowa). (57) *Livestock* from points in Illinois within 50 miles of Chicago, Ill., to Kansas City, Kans., and its commercial zone. The purpose of this filing is to eliminate the gateways of Chicago, Ill., and Iowa City, Iowa. (58) *Culvert pipe* (except commodities in bulk, Classes A and B explosives, commodities requiring special equipment), (a) from points in and south of Cook, DuPage, Will, Kendall, and La Salle Counties, Ill., within 50 miles of Chicago, Ill., to points in Minnesota on and south of a line beginning at the Minnesota-Wisconsin State line and extending along U.S. Highway 12 to the Minnesota-South Dakota State line, (b) from points in Kane County, Ill., within 50 miles of Chicago, Ill., to points in Minnesota on and south of U.S. Highway 12 and in and west of Hennepin, Scott, Rice, Steele, Dodge, and Mower Counties, (c) from points in Lake and DeKalb Counties, within 50 miles of Chicago, Ill., to points in Minnesota on and south of U.S. Highway 12 and in and west of Big Stone, Lac Qui Parle, Yellow Medicine, Redwood, Cottonwood and Jackson Counties. The purpose of this filing is to eliminate the gateways of Western Springs, Ill. (the Chicago, Ill., commercial zone) and Clinton, Iowa. (59) *Culvert pipe* (except commodities in bulk, Classes A and B explosives, commodities requiring special equipment, and those injurious or contaminating to other lading), from points in DuPage, Cook, Will, Kankakee and Grundy Counties, Ill., within 50 miles of Chicago, Ill., to points in and west of Bayfield, Sawyer, Washburn, Barron, Dunn, Pepin, Buffalo, Trempealeau, La Crosse, Vernon, Crawford, and Grant Counties, Wis. The pur-

pose of this filing is to eliminate the gateways of Western Springs, Ill. (in Chicago commercial zone), and Clinton, Iowa.

(60) *Petroleum and Petroleum Products*, as described in Appendix XIII to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209, in containers, from points in Illinois within 50 miles of Chicago, Ill., to points in North Dakota and South Dakota. The purpose of this filing is to eliminate the gateway of Berwyn, Ill. (in Chicago commercial zone). (61) *Building and roofing material* (except in bulk, commodities requiring special equipment), from points in the Chicago, Ill., commercial zone, to points in Iowa. The purpose of this filing is to eliminate the gateway of Lockport, Ill. (62) *Culvert pipe*, from Lockport, Ill., to points in Minnesota on and south of a line beginning at the Minnesota-Wisconsin State line and extending along US Highway 12 to the Minnesota-South Dakota State line. (63) *Culvert pipe*, from Lockport, Ill., to points in and west of Iron, Price, Rusk, Chippawa, Eau Claire, Trempealeau, La Crosse, Vernon, Crawford, and Grant Counties, Wis. The purpose of this filing is to eliminate the gateway of Clinton, Iowa, in parts 62 and 63. (64) *Empty packages and containers*, except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), from points in North Dakota and South Dakota, to points in the Chicago, Ill., commercial zone. (65) *Empty packages and containers* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment), from points in North Dakota and South Dakota, to points in Illinois within 50 miles of Chicago, Ill. The purpose of this filing is to eliminate the gateway of Berwyn, Ill. (in Chicago commercial zone), in parts 64 and 65.

By the Commission.

H. GORDON HOME,
Acting Secretary.

[FR Doc. 77-29370 Filed 10-6-77; 8:45 am]

[7035-01]

[Notice No. 232]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 7, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules, 49 CFR Part 1132:

No. MC-FC 77326. By application filed September 27, 1977, MEEUWSEN PRODUCE & GRAIN, INC., 9525 Ransom, Zeeland, Mich. 49464, seeks temporary authority to transfer the operating rights of Rodger Cooper, an individual, d.b.a. O. R. Cooper & Son, 1217 Paula Street, Champaign, Ill. 61802, under section 210a(b). The transfer to Meeuwsen Produce & Grain, Inc., of the operating

rights of Rodger Cooper, an individual, d.b.a. O. R. Cooper & Son, is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29562 Filed 10-6-77; 8:45 am]

[7035-01]

[ICC Order No. 10, Amdt. 3; Rev. S.O. 1252]

SAN DIEGO & ARIZONA EASTERN RAILWAY CO.

Rerouting or Diversion of Traffic

Upon further consideration of ICC Order No. 10 (San Diego & Arizona Eastern Railway Co.) and good cause appearing therefor:

It is ordered, That:
ICC Order No. 10 be, and it is hereby, amended by substituting the following paragraph (g) for paragraph (g) thereof:

(g) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1978, unless otherwise modified, changed, or suspended.

It is further ordered, That this amendment shall become effective at 11:59 p.m., September 30, 1977, and that this order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that it be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., September 26, 1977.

INTERSTATE COMMERCE
COMMISSION,
JOEL E. BURNS,
Agent.

[FR Doc. 77-29561 Filed 10-6-77; 8:45 am]

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sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6570-06]

1

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, October 11, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part of the meeting will be open to the public, and part will be closed to the public.

MATTERS-TO BE CONSIDERED:

Part open to the public:

Freedom of Information Act Appeal No. 77-8-FOIA-160, concerning a request by the National Steelworkers Rank and File Committee for the 1974 and 1977 Employment Survey (EEO-1) reports of the nine major steel companies who are parties to the steel industry consent decree.

Part closed to the public:

Briefing on litigation matters, closed to the public under Sec. 1612.13(a)(3) of the Commission's regulations (42 FR 13830, March 14, 1977).

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat, at 202-634-6748.

This Notice Issued October 4, 1977.

[S-1520-77 Filed 10-4-77; 12:11 pm]

2

[6210-01]

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, October 12, 1977. The closed portion of the meeting will commence at the conclusion of the open discussion.

PLACE: 20th Street and Constitution Avenue, NW., Washington, D.C. 20551.

STATUS: Part of the meeting will be open; part will be closed.

MATTERS TO BE CONSIDERED:

Open portion:

1. Policy statement concerning procedures for the early filing of retention applications or divestiture plans by bank holding companies with limited grandfather privileges.

2. Proposed amendment to Subpart C of Regulation J (Collection of Checks and Other Items by Federal Reserve Banks), to be published for comment, proposing a regulatory framework for financial depository institutions using Federal Reserve automated clearing house facilities.

3. Report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of Bank of Oglethorpe, Oglethorpe, Georgia, with The Citizens Bank of Montezuma, Montezuma, Georgia.

4. Any agenda items carried forward from a previously announced meeting.

Closed portion:

1. Federal Reserve Bank and Branch director appointments.

2. Personnel appointments within the Board's staff.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, (202-152-3204).

Dated: October 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[S-1521-77 Filed 10-4-77; 4:54 pm]

[6320-01]

3

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., October 6, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

SUBJECT: Notices of deletion of item from the October 6, 1977 meeting agenda.

18. Docket 26368 et al., Petition for reconsideration of Board decision (Order 77-8-89) to review initial decision approving settlement of Part 252 violations

in Eastern Air Lines, Inc., Enforcement Proceeding (Memo No. 7357-A, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, (202-673-5068).

SUPPLEMENTARY INFORMATION: Agency business requires that item 18 on the October 6, 1977 agenda, the petition for reconsideration of Board decision (Order 77-8-89) to review initial decision approving settlement of Part 252 violations in *Eastern Air Lines Enforcement Proceeding*, Docket 26368 et al., be deleted from the agenda so that this item may be considered at the same time the Board considers that final regulation amending Part 252 "Provision of Designated 'No Smoking' Areas Aboard Aircraft Operated by Certificated Air Carriers." Accordingly, the following Members have voted that agency business requires the deletion of item 18 from the October 6, 1977 meeting and that no earlier announcement of this deletion was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1522-77 Filed 10-4-77; 4:54 pm]

[6320-01]

4

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., October 6, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

SUBJECT: Notice of Addition of Items to the October 6, 1977 meeting agenda: 1a. Docket 31363, Passenger Fares filed by Pan American, Trans World Airlines, British Airlines, et al. and the President's September 26, 1977 letter regarding them (OGC, OCA, OEA, BFR, BOR, BOE, BIA). 1b. Dockets 31317, 31313, 31325, 31176, 31048, 31092, and 31452, Charter liberalization, including emergency relief (OGC, OCA, OEA, BFR, BOR, BOE, BIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, (202-673-5068).

SUPPLEMENTARY INFORMATION: Because of the President's September 26,

1977 decision regarding the passenger fares filed by Pan American, Trans World Airlines, British Airways, et al. in Docket 31363, the following Members voted at the September 30, 1977 Board meeting that agency business requires the addition of these two items to the Board's October 6, 1977 meeting agenda on less than seven days' notice and that no earlier announcement of the additions was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard T. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1523-77 Filed 10-4-77; 4:54 pm]

[6320-01]

5

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., October 6, 1977.

PLACE: Room 1027, 1825 Connecticut Ave., NW., Washington, D.C. 20428.

Notice of Addition of item to the October 6, 1977 meeting agenda.

SUBJECT: 3a. Docket 31261, Request by Pan American to hold discussions on U.S./U.K. cargo rates (BFR, BIA).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, (202-673-5068).

SUPPLEMENTARY INFORMATION: At its September 16, 1977 meeting following the oral argument on British Airways' contract cargo rates, the Board decided to suspend the rates to insure that the U.S. carriers would be able to offer effective competitive responses if the contract rates are permitted to take effect. On August 9, 1977, Pan American filed a petition for renewed authority to engage in intercarrier discussions on U.S./U.K. cargo matters. Consideration of this request as soon as possible will enable the carriers to seek an early resolution to the matter. Accordingly, the following Members have voted that agency business requires the addition of this item to the October 6, 1977 agenda and that no earlier announcement of this addition was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J. O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1524-77 Filed 10-4-77; 4:54 pm]

SUNSHINE ACT MEETINGS

6

[6720-01]

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., October 12, 1977.

PLACE: 320 First Street, NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, (202-376-3012).

MATTERS TO BE CONSIDERED:

Branch Office Application—First Federal Savings and Loan Association of Hendersonville, Hendersonville, N.C.

Request for Further Extension of Time to Open a Branch Office—Detroit Federal Savings and Loan Association, Detroit, Mich.

Request for Extension of Time to Open a Branch Office—Dearborn Federal Savings and Loan Association, Dearborn, Mich.

No. 77, October 4, 1977.

[S-1525-77 Filed 10-5-77; 8:57 pm]

[8120-01]

7

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 2 p.m., October 11, 1977.

PLACE: Conference Room B-32, West Tower, 400 Commerce Ave., Knoxville, Tenn.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Mr. Donald T. Chunn's request that TVA immediately acquire his property located near Columbia, Tennessee, for the Columbia portion of the Duck River project.

CONTACT PERSON FOR MORE INFORMATION:

John Van Mol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information is also available at TVA's Washington Office, 202-343-4537.

Dated: October 4, 1977.

[S-1526-77 Filed 10-5-77; 8:57 am]

[6740-02]

8

OCTOBER 4, 1977.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. No. 94-409), 5 U.S.C. 552b:

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: October 11, 1977, 10 a.m.

PLACE: 825 North Capitol Street, NE.

STATUS: Open.

MATTERS TO BE CONSIDERED: (Agenda) *Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, Room 1000.

POWER AGENDA, 4TH MEETING, OCTOBER 11, 1977, REGULAR MEETING

P-1.—Docket No. ER76-90, Boston Edison Company.
P-2.—Docket No. ER77-514, Central Power & Light Company.
P-3.—Docket No. ER77-583, Kansas Power & Light Company.
P-4.—Docket No. ER77-541, Public Service Company of Oklahoma.

MISCELLANEOUS AGENDA, 4TH MEETING, OCTOBER 11, 1977, REGULAR MEETING

M-1.—Alaska Natural Gas Transportation Act.
GAS AGENDA, 4TH MEETING, OCTOBER 11, 1977, REGULAR MEETING
G-1.—Docket Nos. RP73-107, RP74-90 and RP75-91, Consolidated Gas Supply Corporation.
G-2.—Docket No. RP77-110, Alabama-Tennessee Natural Gas Company.
G-3.—Docket No. RP77-17, Eastern Shore Natural Gas Company.
G-4.—Docket No. RI73-60 (Phase III), Mitchell Energy Corporation.
G-5.—Docket No. CI77-721, Harkins & Company (Operator), et al. Docket No. CI77-758, Amerada Hess Corporation.
G-6.—Docket No. CP77-413, Algonquin LNG, Inc. and Algonquin Gas Transmission Company.
G-7.—Docket No. CP77-645, Consolidated Gas Supply Corporation, Texas Eastern Transmission Corporation and Equitable Gas Company.

KENNETH F. PLUMB,
Secretary.

[S-1528-77 Filed 10-5-77; 10:41 am]

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FRIDAY, OCTOBER 7, 1977

PART II



DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and
Conservation Service and
Commodity Credit Corporation

COTTON

Proposed Determinations Regarding
1978 Crop Loan and Payment Programs,
National Program Acreage, Allocation
Factor, etc.

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[3410-05]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 722]

1978 UPLAND COTTON PROGRAM

Proposed Determinations Regarding National Program Acreage, Program Allocation Factor, Set-Aside, Additional Diversion, and Limitation on Planted Acreage

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1978 crop of upland cotton: a. Established (target) price; b. National program acreage; c. Program allocation factor; d. Whether there should be a set-aside requirement and, if so, the extent of such requirement; e. Whether there should be a limitation on planted acreage and, if so, the extent of such limitation; f. Whether there should be a provision for additional diversion and, if so, the extent of such diversion and the payment therefor. The above determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977. The effect of these determinations is to determine for the 1978 crop of upland cotton the established price, national program acreage, program allocation factor, whether there should be a set aside, additional diversion or limitation on planted acreage, the extent of any such set aside, diversion or limitation and the payment for any additional diversion. This notice invites written comments on these proposed determinations.

DATES: Comments must be received on or before October 21, 1977.

ADDRESSES: Mail comments to Director, Production Adjustment Division, ASCS, U.S. Department of Agriculture, Room 3630, South Building, P.O. Box 2415, Washington, D.C. 20013. Comments will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS), (202-447-5953).

SUPPLEMENTARY INFORMATION: The Food and Agriculture Act of 1977, effective October 1, 1977, (Pub. L. 95-113) added a new subsection (f) to section 103 of the Agricultural Act of 1949, as amended. The following determinations with respect to the 1978 crop of upland cotton are to be made pursuant to this new subsection:

a. *Established (target) price.* Section 103(f)(4) provides that the established price for the 1978 crop shall be the established price for the 1977 crop (47.80

cents per pound) adjusted to reflect any change in the average adjusted cost of production for the two crop years 1976 and 1977 from the average adjusted cost of production for the two crop years 1975 and 1976. The adjusted costs of production for each of such years shall be determined by the Secretary on the basis of such information as he finds necessary and appropriate and shall be limited to (1) variable costs, (2) machinery ownership costs, and (3) general farm overhead costs, allocated to the crops involved on the basis of the proportion of the value of the total production derived from each crop. In no event, however, shall the established price for the 1978 crop be less than 52 cents per pound.

b. *National program acreage.* Section 103(f)(7) requires the Secretary to announce a national program acreage for the 1978 crop by December 15, 1977. Such national program acreage may, however, be subsequently revised for purposes of determining the allocation factor if the Secretary determines it necessary based on the latest information. Any revision shall be announced as soon as it has been made. The national program acreage shall be the number of harvested acres the Secretary determines, based on the estimated weighted national average of the farm program yields for the 1978 crop, will produce the estimated quantity (less imports) that will be utilized domestically and for export during the 1978-79 marketing year (which begins August 1, 1978). The Secretary may make such adjustment in the national program acreage as he determines necessary, taking into consideration the estimated carryover supply, to provide for an adequate but not excessive total supply of cotton for the 1978-79 marketing year. In no event, however, shall the national program acreage be less than 10 million acres.

c. *Program allocation factor.* Section 103(f)(8) requires the Secretary to determine a program allocation factor for the 1978 crop. The allocation factor (not to exceed 100 percent) shall be determined by dividing the national program acreage for the 1978 crop by the estimated harvested acreage for such crop.

d. *Whether there should be a set-aside requirement and, if so, the extent of such requirement.* Section 103(f)(11)(A) requires the Secretary to provide for a set-aside of cropland if he determines that the total supply of upland cotton will, in the absence of such a set-aside, likely be excessive, taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. If a set-aside of cropland is in effect, then as a condition of eligibility for loans, purchases, and payments on upland cotton, producers must set aside and devote to conservation uses an acreage of cropland equal to such percentage of the acreage of upland cotton planted for harvest during the 1978 crop year as the Secretary determines (not to exceed 28 percent).

e. *Whether the acreage planted to upland cotton should be limited and, if so,*

the extent of such limitation. Section 103(f)(11)(A), also provides that the Secretary may limit the acreage planted to upland cotton and requires that any such limitations be applied on a uniform basis to all cotton producing farms. Producers on a farm who knowingly plant cotton in excess of the permitted cotton acreage for the farm shall be ineligible for cotton loans or payments on that farm.

f. *Whether there should be a provision for additional diversion and, if so, the extent of such diversion and the payment therefor.* Section 103(f)(11)(B) provides that the Secretary may make land diversion payments to producers of upland cotton, whether or not a set-aside for upland cotton is in effect, if he determines that such payments are necessary to assist in adjusting the total national acreage of upland cotton to desirable goals. Such land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm in accordance with land diversion contracts entered into by the Secretary with such producers. The amounts payable to producers under such contracts may be determined through the submission of bids for such contracts by producers or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary is required to limit the total acreage to be diverted under agreements in any county or local community so as not to adversely affect the economy of the county or local community.

Signed at Washington, D.C., on October 3, 1977.

RAY FITZGERALD,
Administrator, Agricultural
Stabilization and Conservation
Service.

[FR Doc 77-29365 Filed 10-6-77; 8 45 am]

[3410-05]

Commodity Credit Corporation

[7 CFR Part 1427]

COTTON

Proposed Determinations Regarding 1978-Crop Loan and Payment Programs

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1978 crops of upland cotton and extra long staple cotton (referred to as "ELS cotton"): a. Loan level for upland lint cotton; b. Loan level and payment rate for ELS lint cotton; c. Specifications for bale packaging materials; d. Whether a seed cotton loan program should be offered and, if so, the loan levels for such seed cotton. The above determinations are

authorized by the Agricultural Act of 1949, as amended, and the Commodity Credit Corporation Charter Act, as amended. The effect of these determinations is to determine, for the 1978 crops, the loan level for upland cotton, the loan level and payment rate for ELS cotton, the specifications for bale packaging materials, and whether a seed cotton loan program should be offered and the loan levels for seed cotton if a program is offered. This notice invites written comments on these proposed determinations.

DATES: Comments must be received on or before October 21, 1977.

ADDRESSES: Mail comments to Director, Production Adjustment Division, ASCS, U.S. Department of Agriculture, Room 3630, South Building, P.O. Box 2415, Washington, D.C. 20013.

Comments will be made available for public inspection at the office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT:

Charles V. Cunningham (ASCS), (202-447-5953).

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1978 crop are to be made pursuant to the Agricultural Act of 1949 (63 Stat. 1051, 7 U.S.C. 1421), as amended by the Food and Agriculture Act of 1977 (Pub. L. 95-113) (hereinafter referred to as the "Act"):

a. *Loan level for upland lint cotton.* Section 103(f)(1) of the Act requires the Secretary to determine and announce the loan level for the 1978-crop by November 1, 1977, and provides that such loan level shall not thereafter be changed. Such loan level must reflect for Strict Low Middling 1 $\frac{1}{8}$ inch upland cotton (micro-naire 3.5 through 4.9), at average location in the United States the smaller of (1) 85 percent of the average price

(weighted by market and month) of such quality of cotton as quoted in the designated United States spot markets during the four year period ending July 31, 1977, or (2) 90 percent of the average, for the first two full weeks of October 1977, of the five lowest priced growths of the growths quoted for Strict Middling 1 $\frac{1}{8}$ inch cotton, C.I.F. Northern Europe (adjusted downward by the average difference during the period April 15, 1977 through October 15, 1977 between such average Northern Europe price quotation for such quality of cotton and the market quotations in the designated United States spot markets for Strict Low Middling 1 $\frac{1}{8}$ inch cotton (micro-naire 3.5 through 4.9)).

b. *Loan level and payment rate for ELS lint cotton.* Section 101 (f) of the Act requires that price support shall be made available to cooperators for the 1968 and each subsequent crop of ELS cotton, if producers have not disapproved marketing quotas therefor, through loans at a level which is not less than 50 percent or more than 100 percent in excess of the loan level established for Strict Low Middling 1 $\frac{1}{8}$ inch upland cotton of such crop at average location in the United States (except that such loan level for ELS cotton shall in no event be less than 35 cents per pound). Section 101 (f) also provides for price support payments at a rate which, together with the loan level established for such crop, shall be not less than 65 percent or more than 90 percent of the parity price for ELS cotton as of the month in which the payment rate provided for is announced. Section 401 of the Act requires that, in determining the level of support in excess of the minimum level prescribed for ELS cotton, consideration shall be given to the supply of the commodity in relation to the demand therefor, the price levels at which other commodities are being supported, the availability of funds, the perishability of the commodity, the importance of the commodity to agricul-

ture and the national economy, the ability to dispose of stocks acquired through a price support operation, the need for offsetting temporary losses of export markets, and the ability and willingness of producers to keep supplies in line with demand.

c. *Specifications for bale packaging materials.* The specifications for bale packaging materials used for cotton tendered to Commodity Credit Corporation under its cotton loan program are being reviewed for 1978. The latest revision of the bale packaging specifications was published in the FEDERAL REGISTER on June 10, 1977 (42 FR 29849). Consideration will be given to amending the specifications as recommended by the Cotton Industry Bale Packaging Committee.

The following determinations are to be made pursuant to Section 5(a) of the Commodity Credit Corporation Charter Act (15 U.S.C. 714c):

a. *Whether a seed cotton loan program should be offered.* The Department is not required to offer a seed cotton loan program. However, such a program—providing for recourse-type loans—was instituted by Commodity Credit Corporation for 1971-crop seed cotton and has been renewed each crop year since. The program is being reviewed to determine whether it should be continued for 1978.

b. *Loan levels for seed cotton if program offered.* Consideration is being given to the levels at which loans should be made available for seed cotton under the 1978 program.

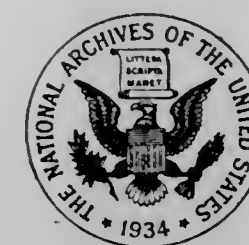
Signed at Washington, D.C., on October 3, 1977.

RAY FITZGERALD,
Administrator, Agricultural Sta-
bilization and Conservation
Service and Executive Vice
President, Commodity Credit
Corporation.

[FR Doc 77-29366 Filed 10-6-77; 8:45 am]

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FRIDAY, OCTOBER 7, 1977
PART III



ENVIRONMENTAL PROTECTION AGENCY

WASTEWATER TREATMENT PONDS

Suspended Solids Limitations

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[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL
PROTECTION AGENCY

SUBCHAPTER D—WATER PROGRAMS

[FRL 769-4]

PART 133—SECONDARY TREATMENT
INFORMATIONSuspended Solids Limitations for
Wastewater Treatment PondsAGENCY: Environmental Protection
Agency.

ACTION: Final rule.

SUMMARY: This rule amends the Secondary Treatment Information regulation to allow less stringent suspended solids limitations for wastewater treatment ponds. The amendment is based on the fact that properly designed and operated wastewater treatment ponds are a form of secondary treatment which may not be capable of achieving the suspended solids limitations contained in the Secondary Treatment Information regulation without supplemental treatment processes for removal of suspended solids (primarily algae).

EFFECTIVE DATE: November 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Alan Hais, Municipal Construction Division (WH-547), Office of Water Program Operations, Environmental Protection Agency, Washington, D.C. 20460 (202-426-8976).

SUPPLEMENTARY INFORMATION: On September 2, 1976, notice was published in the FEDERAL REGISTER that the Environmental Protection Agency was proposing the amendment of the Secondary Treatment Information regulation (41 FR 37222). The Secondary Treatment Information regulation contains effluent limitations in terms of biochemical oxygen demand, suspended solids and pH which must be achieved by municipal wastewater treatment plants (publicly owned treatment works) in accordance with section 301(b)(1)(B) of the Federal Water Pollution Control Act Amendments of 1972 (FWPCA). The Secondary Treatment Information regulation was promulgated pursuant to section 304(d)(1) of the FWPCA on August 17, 1973 (38 FR 22298), and amended for deletion of the fecal coliform bacteria limitations and clarification of the pH requirement on July 26, 1976 (41 FR 30786).

Fifty-five (55) of the sixty (60) comments received in response to the proposed amendment supported adjusting the suspended solids limitations for wastewater treatment ponds. The final amendment is substantially the same as proposed, with the only significant change noted below. A number of the commenters, while agreeing in principle with the proposal, requested clarification on certain points. The responses to these and the other major comments are also discussed below.

DISCUSSION OF MAJOR COMMENTS

MAXIMUM FACILITY DESIGN CAPACITY

The proposed amendment (§ 133.103(c) (special considerations) indicated, in part, that the suspended solids limitations could be adjusted for wastewater treatment ponds with a maximum facility design capacity of one million gallons per day (mgd) or less. This provision was included because the Agency believes that the supplemental treatment methods, which are often needed to achieve the suspended solids limitations of § 133.102(b) with wastewater treatment ponds, unavoidably add to the complexity of designs and may strain the operational capabilities of small communities where the vast majority of wastewater treatment ponds are used. The one million gallons per day maximum facility design capacity was based on a population of 10,000 and an average wastewater flow of 100 gallons per capita per day. A number of comments were received which indicated specific instances where wastewater flows to wastewater treatment ponds in communities of 10,000 population or less exceed one mgd. In recognition of the fact that there may be valid reasons for wastewater flows to exceed 100 gallons per capita per day, the final rule has been changed to indicate that the suspended limitations may be adjusted for wastewater treatment ponds with a maximum facility design capacity of two mgd or less.

A number of comments were also received which requested a clarification of the term "maximum facilities design capacity." As the term implies, it is the flow rate which is used as the design basis for sizing wastewater treatment facilities. In most instances design capacities are expressed in terms of annual average flows, even though there may be seasonal variations in flow rates which obviously must be accounted for in the sizing of treatment facilities.

APPLICABILITY OF THE REGULATION

A number of comments questioned whether the suspended solids requirements for privately or Federally owned ponds treating sanitary wastewater could be adjusted as a result of the change to 40 CFR 133. It is clear that section 304(d)(1) of the FWPCA requires promulgation of standards directly applicable to publicly owned treatment works only and therefore 40 CFR 133 is not directly applicable to private or Federal wastewater treatment ponds. However, EPA has authority under section 402 of the Act to issue permits where no effluent limitation standards have been promulgated and to fashion conditions on a case-by-case basis premised on EPA's best technical judgment. In fashioning such conditions, EPA may consider any available information. Accordingly, the provisions of § 133.103(c) may be considered as guidance in conjunction with other information in determining individual NPDES permit requirements for privately and Federally owned sewage treatment plants which are not

subject to effluent limitation guidelines proposed or promulgated under sections 301, 304, and 306 of the FWPCA.

COMMENTS WHICH DID NOT SUPPORT
THE RULE CHANGE

One commenter stated that the amendment is not consistent with the FWPCA because section 304(d) contemplates secondary treatment limitations that do not vary for different treatment processes. Two of the comments which objected to the rule change indicated that the amendment is not needed because technology is available to enable small communities to comply with the existing requirements of 40 CFR 133. Two comments also stated an objection to the amendment on the grounds that some small communities already comply or are in the process of complying with the original requirements.

The legislative history of the FWPCA indicates that secondary treatment may be considered to represent a range of removals (H. Rep. 92-911, p. 101, Leg. Hist. p. 788). Based on this concept of range, there are different subcategories of treatment technologies within the broad category of secondary treatment. In this instance which is clearly supported by historical, technical and economic data, EPA is exercising its authority to define secondary treatment through categorization. Wastewater treatment ponds, without supplemental suspended solids removal processes, have traditionally been considered a form of secondary treatment for small communities. Moreover, wastewater treatment ponds have been extensively used by small communities in such applications primarily because of their low cost and operational simplicity.

As stated in the preamble to the proposed rulemaking, methods for removing excessive suspended solids (algae) from wastewater treatment pond effluents have been developed but have not been widely demonstrated in all climatic regions of the country. The Agency was faced with the fact that there was a lack of confidence both in the capabilities of conventional pond systems and in the use of supplementary devices which would effectively rule out the continued use of wastewater treatment ponds to achieve the secondary treatment requirements in many sections of the country. The Environmental Protection Agency believes that wastewater treatment ponds play a vital role in the Nation's water pollution control strategy and that, because of their advantages of simplicity, low cost and minimal energy requirements, ponds should be retained as an option for smaller communities. The Agency also recognizes that suspended solids due to live algae in pond effluents have fundamentally and substantially different characteristics than sewage solids or solids from other treatment processes. It is for these reasons the final rulemaking is being adopted substantially as proposed. Viewed in other terms, adoption of the amendment for ponds will result in

significant economic benefits, particularly for small communities. It is estimated that the projected savings in capital construction costs alone will be in excess of one billion dollars nationwide.

In promulgating this amendment to 40 CFR 133 for small wastewater treatment ponds, however, the Environmental Protection Agency does not intend to imply that supplemental treatment devices such as rock filters or intermittent sand filters are not acceptable methods for upgrading pond performance. In many instances where ponds presently do not meet discharge requirements pursuant to specific quality standards, upgrading can be economically accomplished while generally preserving the basic concept of simplified operation. The Agency strongly believes that any large scale approach to replace ponds with mechanical plants would be ill-advised because the previously mentioned advantages of ponds for small communities must be sacrificed.

RELATIONSHIP TO INDUSTRIAL EFFLUENT
LIMITATIONS

Comments were received which supported the position that less stringent suspended solids limitations should also be applied to industrial wastewater treatment ponds. Section 304(d)(1) of the FWPCA requires that EPA "publish information . . . on the degree of effluent reduction attainable through application of secondary treatment." The factors to be considered in setting effluent limitations for industrial discharges pursuant to section 304(b) of the FWPCA are distinct from the section 304(d)(1) criteria. In consideration of these statutory differences, EPA clearly has authority to establish different effluent limitations for municipal and industrial discharges with regard to the control of one or more pollutant parameters.

ADJUSTMENT OF THE BIOCHEMICAL OXYGEN
DEMAND (BOD) LIMITATIONS FOR PONDS

A number of comments suggested that an adjustment of the BOD limitations of 40 CFR 133 should also be allowed for wastewater treatment ponds. An equal number of commenters supported the position that the suspended solids limitation of 40 CFR 133 is the only parameter that properly designed and operated ponds cannot meet.

While there is not an extensive amount of routine monitoring data available to precisely define wastewater treatment pond performance, the majority of the State Agencies with responsibilities in this area expressed the belief during the development of the amendment that wastewater treatment ponds are generally capable of meeting the BOD requirements of 40 CFR 133.102. The Agency believes that adoption of the amendment, as proposed, will effectively ensure the continued acceptability of wastewater treatment as a secondary treatment process. It is important to recognize, however, that many of these facilities will still have to be

upgraded to meet the BOD limitations of 40 CFR 133, which remain unchanged.

THE USE OF SUSPENDED SOLIDS AS A
REGULATORY PARAMETER FOR WASTEWATER
TREATMENT PONDS

Comments received from four State Agencies indicated that suspended solids limitations should be eliminated entirely as a regulatory parameter for wastewater treatment ponds. The Environmental Protection Agency recognizes that, because suspended solids limitations set in accordance with § 133.103(c) are to be based on a sampling of ponds which meet the BOD requirements of 40 CFR 133, BOD removal capability will be the major factor used in determining the adequacy of wastewater treatment pond designs. However, the statutory history of the FWPCA has been interpreted to require that standards for publicly owned treatment works include limitations on both BOD and suspended solids. Furthermore, EPA considers suspended solids to be a pollutant parameter for which regulatory control is important.

AVAILABILITY OF SUSPENDED SOLIDS
MONITORING DATA

Several comments were received which supported the view that there is insufficient suspended solids monitoring data available to reliably establish alternative limitations for ponds in accordance with § 133.103(c). A number of other commenters provided actual monitoring data or indicated that such data is currently available. During the period of time since the amendment was proposed, the EPA Regional Offices have been requested to begin compiling data which could be used to establish suspended solids limitations for ponds in accordance with § 133.103(c). Efforts to date have indicated that sufficient data is available. Furthermore, preliminary determinations have demonstrated a reasonable degree of consistency nationwide.

REQUESTS FOR CLARIFICATION

Comments were received which requested clarification of the following aspects of the rule change:

(1) What types of wastewater treatment ponds are covered by § 133.102(c)? As indicated in § 133.102(c), adjustment of the suspended solids limitations may be made in cases where waste stabilization ponds are the sole process used for secondary treatment. Determination of the types of facilities to which § 133.103(c) can be applied will be in accordance with the terminology section of the EPA technical bulletin, "Wastewater Treatment Ponds" (EPA 430/9-74-011). Specifically included are photosynthetic and aerated ponds. The amendment is not applicable to polishing or holding ponds which are preceded by other biological or physical/chemical treatment processes capable of secondary treatment.

(2) Do the provisions of § 133.103(c) apply to new facilities? Yes, the sus-

pended solids limitations for new wastewater treatment ponds can be set in accordance with the provisions of § 133.103(c). It must be recognized, however, design standards for new wastewater treatment ponds may be more stringent than those used in the determination of "best waste stabilization pond technology" in cases where the States or the EPA Regional Offices determine that such design standards are important for the overall reliability of new pond systems in that area.

(3) Does the amendment apply to the criteria for best practicable waste treatment technology? Yes, the criteria for best practicable waste treatment technology contained in Alternative Waste Management Techniques for Best Practicable Waste Treatment (EPA 430/9-75-013, October 1975), states that "publicly owned treatment works employing treatment and discharge into navigable waters shall, as a minimum, achieve the degree of treatment attainable by the application of secondary treatment as defined in 40 CFR 133." Unless specific revisions to the best practicable waste treatment criteria are published, or other applicable regulations are promulgated, the standards contained in 40 CFR 133, including the provisions of this amendment, will continue as the minimum requirements for treatment and discharge alternatives.

(4) Will specific guidance on implementation of the rule change be issued? As indicated previously, the EPA Regional Offices have been working on preliminary determinations for establishment of suspended solids limitations for wastewater treatment ponds in accordance with the proposed provisions of § 133.103(c). In most cases these efforts have been coordinated with the appropriate State Agencies. Draft guidance on procedures for actual implementation of the rule change has been circulated to the Regional Offices and will be finalized upon adoption of the amendment.

In consideration of the foregoing, Part 133 of Chapter I of Title 40 of the Code of Federal Regulations is amended as set forth below (section 304(d)(1) and 301(b)(1)(B) of the Federal Water Pollution Control Act Amendments of 1972 (33 U.S.C. 1342, 1345 and 1361)).

Dated: September 28, 1977.

DOUGLAS M. COSTLE,
Administrator.

1. Section 133.103 is amended by adding paragraph (c) as follows:

§ 133.103 Special considerations.

(c) The Regional Administrator (or, if appropriate, the State subject to EPA approval) is authorized to adjust the minimum levels of effluent quality set forth in paragraphs (b)(1), (b)(2), and (b)(3) of § 133.102 for treatment works subject to this part, to conform to the suspended solids concentrations achievable with best waste stabilization pond technology, provided that: (1) waste stabilization ponds are the sole process used

RULES AND REGULATIONS

for secondary treatment; (2) the maximum facility design capacity is two million gallons per day or less; and (3) operation and maintenance data indicate that the requirements of paragraphs (b) (1), (b) (2), and (b) (3) of § 133.102 cannot be achieved. The term "best waste stabilization pond technology" means a suspended solids value, determined by the Regional Administrator (or, if appropriate, the State Director subject to EPA approval), which is equal to the effluent concentration achieved 90 percent of the time within a State or appropriate contiguous geographical area by waste stabilization ponds that are achieving the levels of effluent quality established for biochemical oxygen demand in § 133.102(a).

[FR Doc 77-29316 Filed 10-5-77; 8:45 am]

FRIDAY, OCTOBER 7, 1977

PART IV



OFFICE OF MANAGEMENT AND BUDGET

DEFERRALS OF FISCAL
YEAR 1978 FUNDS

Registered
Federal

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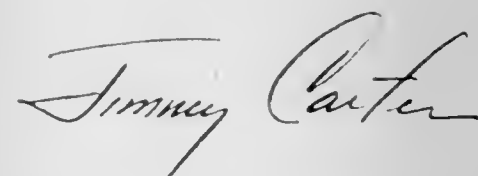
OFFICE OF MANAGEMENT AND BUDGET

DEFERRALS OF FISCAL YEAR 1978 FUNDS

TO THE CONGRESS OF THE UNITED STATES:

In accordance with the Impoundment Control Act of 1974, I herewith report 42 deferrals of fiscal year 1978 funds totaling \$1480.6 million. The deferrals are primarily routine in nature and do not, in most cases, affect program levels.

The details of each deferral are contained in the attached reports.



The White House, October 3, 1977.

FEDERAL REGISTER, VOL. 42, NO. 195—FRIDAY, OCTOBER 7, 1977

Summary of Proposed Deferrals
(in thousands of dollars)

Defer- ral #	Item	Budget Authority	Defer- ral #	Item	Budget Authority
D78-1	Department of Agriculture: Foreign Agricultural Service Salaries and expenses (special foreign currency program).....	988	D78-20	Department of Justice: Federal Prison System Buildings and facilities.....	42,245
D78-2	Agricultural Stabilization and Conservation Service Commodity Credit Corporation.....	2,871	D78-21	Department of Justice: Bureau of Prisons Construction, construction, and improvements.....	13,031
D78-3	Forest Service Permanent appropriations, Expenses, brush disposal.....	31,312	D78-22	Federal Aviation Administration Construction, Metropolitan Washington Airports.....	1,010
D78-4	Permanent appropriations, Licensee programs.....	141	D78-23	Civil aeronautics aircraft development termination.....	134
D78-5	Department of Commerce: Economic Development Administration Local public works program.....	4,000	D78-24	Facilities and equipment (Airport and airway trust fund).....	320,650
D78-6	Financial and technical assistance..... National Oceanic and Atmospheric Administration Operations, research, and facilities.....	3,900	D78-25	Federal Highway Administration Trust fund share of other highway programs.....	74,880
D78-7	Promote and develop fishery products and research pertaining to American fisheries. Fisheries loan fund.....	3,750	D78-26	Department of the Treasury: Office of the Secretary Antirecession financial assistance fund..	8,184
D78-8	Fishermen's guaranty fund.....	5,429	D78-27	State and local government fiscal assistance fund.....	45,996
D78-9	Department of Defense - Military: Military construction, all services.....	6,177	D78-28	State and local government fiscal assistance fund.....	391 1/2
D78-10	Department of Defense - Civil: Military construction, all services.....	716	D78-29	Bureau of the Mint Construction of mint facilities.....	5,730
D78-11	Military construction, all services.....	438,439	D78-30	Energy Research and Development Administration: Operating expenses (Gas cooled reactors)...	15,000
D78-12	Military construction, all services.....	438	D78-31	Operating expenses (Plenum P11 experiment).....	1,500
D78-13	Department of Health, Education, and Welfare: Office of Education Higher education.....	3,740	D78-32	Plant and capital equipment (Clean boiler fuel from coal project).....	46,660
D78-14	Social Security Administration Limitation on construction.....	13,865	D78-33	Plant and capital equipment (Fusion material test facility).....	7,500
D78-15	Department of the Interior: Bureau of Land Management Oregon and California grant lands.....	31,200	D78-34	Plant and capital equipment (Intense neutron source facility).....	11,300
D78-16	Bureau of Outdoor Recreation Land and water conservation fund.....	30,000	D78-35	Plant and capital equipment (Intersecting storage ring accelerator).....	5,000
D78-17	Geological Survey Payments from proceeds, sale of water.....	34	D78-36	Plant and capital equipment (Molten salt breeder reactor project).....	1,500
D78-18	Bureau of Mines Miscellaneous appropriations Drainage of anthracite mine.....	3,500	D78-37	General Services Administration: Rare earth dollar program.....	1,710
D78-19	Office of Territorial Affairs Trust territory of the Pacific Islands.....	12,000	D78-38	Federal Preparedness Agency State and local preparedness.....	80
			D78-39	Foreign Claims Settlement Commission Payment of Vietnam prisoner of war claims.....	10,738

1/ Outlays only.

FEDERAL REGISTER, VOL. 42, NO. 195—FRIDAY, OCTOBER 7, 1977

SUMMARY OF SPECIAL MESSAGES
FOR FY 1978
(amounts in thousands of dollars)

Deferral #	Item	Budget Authority
D78-40	Interstate Commerce Commission Payment for directed rail service.....	13,700
D78-41	United States Information Agency Salaries and expenses (special foreign currency program).....	1,153
D78-42	United States Railway Association Payment for purchase of Conrail securities.....	260,000
	Total, deferrals.....	1,480,612

Rescissions	Deferrals
Second special message.....	1,480,612
Previous special messages.....	---
Total amount proposed in special messages.....	1,480,612
(in 1 rescission proposal)	(in 42 deferrals)

NOTE: All amounts listed represent budget authority except for \$391,000 consisting of one general revenue sharing deferral (of outlays only).

FEDERAL REGISTER, VOL. 42, NO. 195—FRIDAY, OCTOBER 7, 1977

Deferral No. D78-2

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency U.S. Department of Agriculture Bureau Agricultural Stabilization and Conservation Service	New budget authority (P.L. _____) Other budgetary resources 39,800,000
Appropriation title & symbol Commodity Credit Corporation Administrative Expenses, 1978 1/ 1284336	Total budgetary resources 39,800,000
	Amount to be deferred: Part of year \$ 2,871,000 Entire year
OMB identification code: 12-4336-0-3-351	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act <input checked="" type="checkbox"/> Other P.L. 95-97
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other
Type of account or fund: <input checked="" type="checkbox"/> Annual <input type="checkbox"/> Multiple-year (expiration date) <input type="checkbox"/> No-year	

JUSTIFICATION:

The Agriculture and Related Agencies Appropriation Act, 1978 (P.L. 95-97), provides that not less than 7 percent of the total authorization for administrative expenses of the Commodity Credit Corporation shall be placed in reserve and used only in such amounts and at such times as may be necessary to carry out program operations.

ESTIMATED EFFECTS:

This deferral will have no programmatic impact and its economic and budgetary impact will be negligible.

OUTLAY EFFECTS:

There is no outlay effect resulting from this deferral.

1/ This account was the subject of a similar deferral during FY 1977.

Deferral No. D78-1

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency U.S. Department of Agriculture Bureau Agricultural Service Foreign	New budget authority (P.L. _____) Other budgetary resources 1,742,928
Appropriation title & symbol Salaries and expenses (Special Foreign Currency Program) 1/ 12X2901	Total budgetary resources 1,742,928
	Amount to be deferred: Part of year \$ 987,928 Entire year
OMB identification code: 12-2901-0-1-352	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act <input type="checkbox"/> Other
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other
Type of account or fund: <input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year	

Justification

Title I, Sec. 104 of P.L. 480, the Agricultural Trade Development and Assistance Act of 1954 authorizes the use of foreign currencies (acquired from the sale of U.S. farm products under Title I) to carry out programs for developing new markets for U.S. agricultural commodities. The funds appropriated are used to purchase excess foreign currencies necessary to carry out the program. The funds are available until expended, and the unused balance is carried over into the next year. The amount of funds used each year is dependent upon the availability of the U.S.-owned currencies and the availability of worthwhile market development projects in the foreign countries. Current indications are that no more than \$755,000 of the reserved balances brought forward can be utilized effectively in FY 1978. This deferral action is taken under provisions of the Antideficiency Act (31 U.S.C. 665) that authorize the establishment of reserves for contingencies.

Estimated Effects

No programmatic or budgetary impact results from this deferral action. Since the funds are used to purchase currencies already owned by the U.S., any outlays shown under this account would be offset by the receipt of a like amount in another account.

Outlay Effects

There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.

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Deferral No: D78-3

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 95-544

Agency	Department of Agriculture	New budget authority (P.L. 95 USC 490)	\$34,290,000
Bureau	Forest Service	Other budgetary resources	31,362,165
Appropriation title & symbol	Expenses, Brush Disposal 1/ 12X5206	Total budgetary resources	65,652,165
		Amount to be deferred:	
		Part of year	\$
		Entire year	31,312,165
OMB identification code: 12-9922-0-2-302		Legal authority (in addition to sec. 1013):	
		<input checked="" type="checkbox"/> Antideficiency Act	
		<input type="checkbox"/> Other	
Grant program <input type="checkbox"/> fee <input checked="" type="checkbox"/> No		Type of budget authority:	
Type of account or fund:		<input checked="" type="checkbox"/> Appropriation	
<input type="checkbox"/> Annual		<input type="checkbox"/> Contract authority	
<input type="checkbox"/> Multiple-year (expiration date)		<input type="checkbox"/> Other	
<input checked="" type="checkbox"/> No-year			

Justification

Purchasers of National Forest timber deposit the estimated cost to the Forest Service of disposing of brush and other debris resulting from their cutting operations pursuant to 16 USC 490. The amounts becoming available in the current year are estimated and the related disposal operations are planned for the following year. Efficient program planning and accomplishment is facilitated by operating a stable program well within the amount available in any one year for this purpose. An apportionment of \$34.3 million has been requested by the Forest Service for this program in the current fiscal year compared with \$33.0 million in 1977 and \$32.0 million in 1976. The current fiscal year reserve of \$31.3 million was established pursuant to the Antideficiency Act (31 USC 665) as a reserve for contingencies compared with reserves of \$22.3 million in 1977 and \$25.1 million in 1976.

Disposal operations related to deposits made during certain periods of the year cannot be initiated until weather conditions permit. Thus, seasonal factors frequently require deferring use of deposits until the following fiscal year.

1/ This account was the subject of a similar deferral during FY 1977.

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NOTICES

Deferral No: D78-4

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 95-544

Agency	Department of Agriculture	New budget authority (16 USC 711)	\$ 321,000
Bureau	Forest Service	Other budgetary resources	145,665
Appropriation title & symbol	License Programs, Forest Service 1/ 12X5214	Total budgetary resources	466,665
		Amount to be deferred:	
		Part of year	\$
		Entire year	140,665
OMB identification code: 12-9922-0-2-302		Legal authority (in addition to sec. 1013):	
		<input checked="" type="checkbox"/> Antideficiency Act	
		<input type="checkbox"/> Other	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		Type of budget authority:	
Type of account or fund:		<input checked="" type="checkbox"/> Appropriation	
<input type="checkbox"/> Annual		<input type="checkbox"/> Contract authority	
<input type="checkbox"/> Multiple-year (expiration date)		<input type="checkbox"/> Other	
<input checked="" type="checkbox"/> No-year			

Justification

Royalties collected under licenses for use of the characters "Smoky Bear" and "Woody Owl" are permanently appropriated and utilized for furthering the nationwide forest fire prevention campaign and promoting the wise use of the environment as provided by the Act of May 23, 1952 (16 USC 711), and for Woodway Owl, (31 USC 488b-3-6). The total budgetary resources available in this program for fiscal year 1978 consist of \$145,665 in estimated receipts carried forward to fiscal year 1978 from fiscal year 1977 and \$321,000 in receipts anticipated for fiscal year 1978. Receipts with routine financial management practices maintained over the years, \$140,665 of the total budgetary resources available has been reserved. The reserve is justified on two grounds: (1) the reserve contributes to a consistent stable program level from year-to-year which, in turn, promotes more efficient operations; (2) the reserve contributes to a consistent stable program level from year-to-year which, in turn, promotes more efficient operations. For fiscal year 1978 program being funded, in part, from reserved balances carried forward from fiscal year 1977, the program is partially funded by the estimated receipts being deferred in fiscal year 1978; and (2) reservation of funds is required to avoid the possibility of a violation of the Antideficiency Act (31 USC 665, (a), (b), (h)). A violation of the sections cited could occur if all the estimates of receipts now deferred were made available and obligated while estimated receipts were not fully realized.

This reserve action is taken under provisions of the Antideficiency Act that authorize the establishment of reserves for contingencies (31 USC 665(c) (2)).

1/ This account was the subject of a similar deferral during FY 1977.

Estimated Effects

The funds made available are sufficient to carry out 1978 program objectives. If the deferred funds were made available for use and obligated in 1978, the 1979 program level would be below that conducted in the current year because some portion of 1978 receipts normally carried forward into the next fiscal year would not be available.

Release of deferred funds would necessitate development of a plan for an expanded 1978 program.

Outlay Effect

No effect on outlays results from this deferral action.

FEDERAL REGISTER, VOL. 42, NO. 195—FRIDAY, OCTOBER 7, 1977

Deferral No: D78-5
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce Bureau Economic Development Administration Appropriation title & symbol Local Public Works Program 1/ 137/92052	New budget authority (P.L. 95-86) Other budgetary resources Total budgetary resources Amount to be deferred: Part of year Entire year Legal authority (in addition to sec. 1013): Antideficiency Act Grant program <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Type of account or fund: <input type="checkbox"/> Annual <input checked="" type="checkbox"/> Multiple-year September 30, 1979 (expiration date) <input type="checkbox"/> No-year	New budget authority (P.L. 95-86) Other budgetary resources Total budgetary resources Amount to be deferred: Part of year Entire year Legal authority (in addition to sec. 1013): Antideficiency Act Grant program <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other	\$ 11,000,000 11,000,000 11,000,000 \$ 4,000,000 4,000,000 Legal authority (in addition to sec. 1013): Antideficiency Act Grant program <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other
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Justification:
 Public Law 95-29, the Economic Stimulus Appropriations, 1977, authorized \$15 million for administration of the Local Public Works program to remain available until September 30, 1979. Of the \$11 million deferred from FY 1977, \$7 million is to be used in 1978 and the remaining \$4 million is to be used in 1979. These funds are being deferred to assure prudent financial management of the Local Public Works program in subsequent years. The funds could not be used effectively during the current year even if made available for obligation.

Estimated Effects:

The effect of deferring \$4 million beyond the current fiscal year will be to ensure that adequate funds will remain available to effectively administer the Local Public Works program and to provide funds for program evaluation.

Outlay Effect:

There is no outlay effect since the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.

These funds were appropriated under the Trade Expansion Act of 1962 which has been superseded by the Trade Act of 1974. The remaining balance in this account is being used only for the care and preservation of collateral and honoring guarantees made in prior years. The \$3.9 million being deferred will provide for continued care and protection of collateral in future years and provide a contingency for protection of the government's investment through the purchase of senior liens. These amounts could not be used effectively if made available for obligation.

Estimated Effects:

The effect of deferring \$3.9 million beyond 1978 will be to insure that adequate funds are available to cover costs of protecting collateral and to honor guarantees made under the Trade Expansion Act of 1962.

Outlay Effect:

There is no outlay effect of this deferral.

FEDERAL REGISTER, VOL. 42, NO. 195—FRIDAY, OCTOBER 7, 1977

Deferral No: D78-7
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DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce Bureau National Oceanic and Atmospheric Administration Appropriation title & symbol Operations, Research and Facilities 1/ 131450	New budget authority (P.L. 95-86) Other budgetary resources Total budgetary resources Amount to be deferred: Part of year Entire year Legal authority (in addition to sec. 1013): Antideficiency Act Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Type of account or fund: <input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year	New budget authority (P.L. 95-86) Other budgetary resources Total budgetary resources Amount to be deferred: Part of year Entire year Legal authority (in addition to sec. 1013): Antideficiency Act Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Type of budget authority: <input type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other	\$607,506,000 70,300,000 677,806,000 \$ 3,750,000 3,750,000 Legal authority (in addition to sec. 1013): Antideficiency Act Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No Type of budget authority: <input type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other
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Justification:
 This part-of-year deferral of funds will delay initiation of construction of a fishery research vessel for the National Oceanic and Atmospheric Administration (NOAA) from the first quarter of 1978 to the third quarter of 1978. The proposed deferral is in the ship support services activity in the amount of \$3,750,000. These funds were originally appropriated in 1977 but deferred for the entire year because the expenditure of funds was not actually needed at that time to provide additional ship-days to conduct fisheries activities. This FY 1978 deferral will permit further review by the Administration of the overall NOAA ship requirements for fiscal years 1979 and 1980.

Estimated Effects:

The proposed deferral will result in the delay in construction of a Class IV fisheries research vessel for a half year. This will delay the estimated delivery date from February 1979 to August 1979. During the period construction is delayed, resource surveys in the Northwest Atlantic will continue to be conducted through existing NOAA and charter vessels and there should be no adverse impact on fisheries activities.

1/ This account was the subject of a similar deferral during FY 1977.

Outlay Effect (estimated in millions of dollars)

Comparison with President's 1978 Budget:
 1. Budget outlay estimate for 1978: \$607.1
 2. Outlay savings, if any, included in the budget outlay estimate: -0-
 Current Outlay Estimates for 1978:
 3. Without deferral: 607.1
 4. With deferral: 605.1
 5. Current outlay savings (line 3 minus line 4): 2.0
 Outlay Savings for 1979: -2.0

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Deferral No: D78-9
DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce Bureau National Oceanic and Atmospheric Administration Appropriation title & symbol	New budget authority (P.L.) Other budgetary resources Total budgetary resources	\$ 6,772,030 6,772,030
Fisheries Loan Fund 1/ 137/04317	Amount to be deferred: Part of year Entire year	\$ 6,177,030
OMB identification code: 13-4317-0-3-403	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input checked="" type="checkbox"/> Other 16 U.S.C. 742c	
Type of account or fund: <input type="checkbox"/> Annual <input checked="" type="checkbox"/> Multiple-year September 30, 1980 (expiration date) <input type="checkbox"/> No-year		

Justification:

This fund was established pursuant to the Fish and Wildlife Act of 1956, as amended (16 U.S.C. 742c). Its purpose is to provide funds for loans to segments of the fishing industry unable to obtain commercial loans on reasonable terms for financing the cost of purchasing, constructing, equipping, maintaining, repairing or operating new or used fishing vessels or gear.

In 1965, the Act was amended to require the National Oceanic and Atmospheric Administration (NOAA) to pay interest to the Treasury on the difference between the available funds and the cash balance at the end of the year. The current program covers the 1978 interest liability of \$575,000 and provides \$20,000 for care and preservation of collateral throughout the year. Of the total budgetary resources in the fund, only these amounts are presently planned for expenditure in 1978 to support the estimated program requirements.

On February 20, 1973, the Administrator of NOAA declared a moratorium on accepting further loan applications effective March 1, 1973, due to a level of loans outstanding and loan applications pending which exceeded the Fund's capital. Additionally, the General Accounting Office concluded in a report issued February 22, 1973, that loans made from the Fisheries Loan Fund (1) allowed the continued use of inefficient vessels rather than improving vessels and equipment for more efficient and profitable fishing, and (2) maintained or added vessels to segments of the fishing industry which were considered to have excess, but not necessarily efficient harvesting capacity. GAO

1/ This account was the subject of a similar deferral during FY 1977.

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Deferral No: D78-8

DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce Bureau National Oceanic and Atmospheric Administration Appropriation title & symbol	New budget authority (est.) (7 U.S.C. 612c) Other budgetary resources Total budgetary resources	\$12,984,035 1,689,838 14,673,873
Promote and Develop Fishery Products and Research Pertaining to American Fisheries 1/ 13X5139	Amount to be deferred: Part of year Entire year	\$ 5,428,873
OMB identification code: 13-5139-0-2-403	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input checked="" type="checkbox"/> Other 7 U.S.C. 612c	
Type of account or fund: <input type="checkbox"/> Annual <input checked="" type="checkbox"/> Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year		

Justification:

An amount equal to 30% of the gross receipts from custom duties on fishery products is appropriated for fishery products research and assessment, and American fisheries resource management and development. These funds supplement the funds appropriated to National Oceanic and Atmospheric Administration for the same purposes under the Operations, research, and facilities appropriation.

The amount being deferred, \$5,428,873, represents the excess amount of receipts over the cost of currently planned program activities in FY 1978. Because no plans have been developed for use of these funds, they are requested for deferral at this time. The deferred funds are being reserved in accordance with the Antideficiency Act (31 U.S.C. 665). These funds could not be used effectively even if made available for obligation.

Estimated effects:

This deferral has no effect on the program as currently planned for FY 1978.

Outlay Effect:

There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.

D78-9

recommended that the Secretary of Commerce develop criteria for evaluating vessel efficiency and priorities for directing these program funds.

The Department has determined that legislative clarification of the Act is needed to establish criteria for directing the Fund. Draft legislation is being prepared. This reserve is in accordance with the Antideficiency Act (31 U.S.C. 665). The funds could not be used effectively until there is clarification of legislative intent.

Estimated Effects:

Under the existing laws and regulations the proposed deferral has no effect on the Fisheries Loan Fund activities as planned for FY 1978.

Outlay Effect:

No outlay effect results from this deferral action.

Deferral No: D78-10

DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Commerce Bureau National Oceanic and Atmospheric Administration Appropriation title & symbol	New budget authority (P.L.) Other budgetary resources Total budgetary resources	\$ 908,626 908,626
Fishermen's Guaranty Fund 1/ 13X4318	Amount to be deferred: Part of year Entire year	\$ 715,926
OMB identification code: 13-4318-0-3-403	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input checked="" type="checkbox"/> Other 82 Stat. 729	
Type of account or fund: <input type="checkbox"/> Annual <input checked="" type="checkbox"/> Multiple-year (expiration date) <input type="checkbox"/> No-year		

Justification:

The Fishermen's Protective Act of 1967, as amended, provides compensation of vessel owners and crews for financial losses resulting from the seizure of United States fishing vessels by foreign governments on the high seas or on the basis of foreign rights or claims to territorial waters not recognized by the United States. Capital for this fund beginning in FY 1978 is derived from fees paid by vessel owners at rates established by the Secretary of Commerce.

The current program will finance the administrative expenses of this fund and payment of all anticipated claims leaving \$715,926 that can be deferred to cover any future seizures and subsequent claims. This reserve is in accordance with the Antideficiency Act. These funds could not be used even if made available for obligation.

Estimated Effects:

Deferral of these funds will have no effect on the Fishermen's Guaranty Fund program as currently planned for FY 1978.

Outlay Effect:

There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.

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Deferral No: D78-11

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Defense - Military	New budget authority (P.L. 93-101)	\$ 3,092,060,000
Bureau	Other budgetary resources	1,909,726,887
Appropriation title & symbol	Total budgetary resources	5,001,786,887
See Coverage section below	Amount to be deferred:	
	Part of year	\$ 438,438,904
	Entire year	

OMB identification code:
See Coverage section belowGrant program ☐ Yes ☒ NoType of account or fund:
☒ Annual ☐ Multi-year☐ Multi-year (expiration date)☒ No-yearLegal authority (in addition to sec. 1013):
☒ Antideficiency ActType of budget authority:
☒ Appropriation
☐ Contract authority
☐ Other

Coverage 2/	Appropriation Symbol	OMB Identification code	Deferred
Military Construction, Army	21X2050	21-2050-0-1-051	\$160,056,000
Military Construction, Navy	17X1205	17-1205-0-1-051	25,346,904
Military Construction, Air Force	57X3300	57-3300-0-1-051	57,543,000
Military Construction, Defense Agencies	97X0500	97-0500-0-1-051	60,787,000
Military Construction, Army National Guard	17X2085	17-2085-0-1-051	44,377,000
Military Construction, Air National Guard	57X3830	57-3830-0-1-051	37,300,000
Military Construction, Army Reserve	21X2086	21-2086-0-1-051	41,390,000
Military Construction, Naval Reserve	17X1235	17-1235-0-1-051	11,639,000
Military Construction, Air Force Reserve	57X3730	57-3730-0-1-051	-0-
Family Housing, Defense	97X0700	97-0701-0-1-051	-0-
	97X0700	97-0701-0-1-051	\$438,438,904

Justification

The above amounts in the listed no-year appropriations are currently deferred under provisions of the Antideficiency Act (31 U.S.C. 665) which authorizes the establishment of reserves for contingencies.

1/ None of these funds are deferred.
2/ These accounts were the subject of a similar deferral during FY 1977.

NOTICES

Due to the long period of time required to construct facilities, the Congress makes appropriations for this purpose available until expended. The above funds are deferred due to administrative delays, which prevent the object class not being completed and incomplete construction of projects with either other Federal agencies or local government agencies. Funds will be apportioned for individual projects throughout the year upon completion of project design and/or coordination.

Estimated FY 78:

These deferrals have no programmatic or budgetary effect because the funds could not be obligated at this time, even if they were made available.

Outlay Effect:

There is no outlay effect resulting from this deferral since the funds could not be used if made available.

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Deferral No: D78-12

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Defense - Civil	New budget authority (P.L. 93-101)	\$ 840,000
Bureau	Other budgetary resources	458,399
Appropriation title & symbol	Total budgetary resources	1,298,399
See Coverage section below	Amount to be deferred:	
	Part of year	\$ 458,399
	Entire year	

OMB identification code:
97-9922-0-2-303Legal authority (in addition to sec. 1013):
☒ Antideficiency ActType of budget authority:
☒ Appropriation
☐ Contract authority
☐ OtherType of account or fund:
☐ Annual
☒ Multi-year (expiration date)☒ No-year

Coverage 1/	Appropriation Symbol	Deferral Symbol
Wildlife Conservation, etc., Military Reservations, Army	71X5095	71X5095
Wildlife Conservation, etc., Military Reservations, Navy	17X5095	17X5095
Wildlife Conservation, etc., Military Reservations, Air Force	57X5095	57X5095
		\$458,399

Justification

These are permanent appropriations. The budgetary resources consist of anticipated receipts and unobligated balances generated from hunting and fishing fees collected on military reservations, pursuant to 16 U.S.C. 670. They may be used only in accordance with the purpose of the law—to carry out a program of natural resource conservation.

Since appropriations have been made for all known program requirements, prudent financial management requires the deferral of the balance of the funds, which could not be used effectively during the current year even if made available for obligation. These funds are being deferred under the provisions of the Antideficiency Act (31 U.S.C. 665). Full apportionment is not requested by the Services because (1) installations may be accumulating funds over a period of time to fund a major project, and (2) there is a seasonal relationship between the collection of fees and their subsequent expenditure. Most of the fees are collected during the winter and spring months, while most of the program work is performed during the summer and fall months. This necessitates that funds collected in a prior year be deferred in order to be available to finance the program during the summer and fall months. Additional amounts will be apportioned if program requirements are identified.

1/ These accounts were the subject of a similar deferral during FY 1977.

ESTIMATED EFFECTS

These deferrals have no programmatic or budgetary effect because the funds could not be obligated if made available.

OUTLAY EFFECT

There is no outlay effect of this deferral because the funds could not be used if made available.

NOTICES

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Deferral No: D78-13
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health, Education, & Welfare Bureau of Education	New budget authority (P.L. 93-344) Other budgetary resources 280,780,098 Total budgetary resources 280,780,098
Appropriation title & symbol Higher Education 1/ 75X0293	Amount to be deferred: Part of year \$ 3,740,098 Entire year
OMB identification code: 75-0293-0-1-502	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other
Type of account or fund: <input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year	Justification:

JUSTIFICATION
 The amount shown as deferred results from adjustments of prior year obligations of education activity construction grants. As projects are completed the estimated obligations are adjusted to reflect actual experience. No new funds have been appropriated for this program since 1969, and there are no program plans to utilize the funds. It is possible that such funds may be needed to cover obligation adjustments.

ESTIMATED EFFECTS
 This action has no program effect, since it includes only funds that were recovered in prior years and not needed for current funding.

OUTLAY EFFECTS
 There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.

NOTICES

Funds provided under the limitation on construction of the Social Security Administration (SSA) remain available until expended in recognition of the long lead time between the provision of funds and their use in carrying out authorized construction projects. A total of \$13,865,200 is to be deferred for FY 1978. The amounts involved fall into two categories as discussed below.

District Office Projects

A balance of \$19,100,000 remains from funds appropriated since 1965 for district office construction projects. Of this amount, \$5,750,000 is planned for obligation in FY 1978 and \$13,350,000 is being deferred for obligation in subsequent years.

SSA has developed, with GSA and HEW, a new program for construction of district offices which will shorten the time required to construct by using pre-designed buildings. GSA has almost completed the prototype designs and site selection activities will begin for five offices in 1978. SSA will obligate about \$750,000 in 1978 for these offices. The remaining 1978 funds will be used to expand previously constructed district offices. The deferred funds will be needed in subsequent years to construct the five offices started in 1978, complete expansion of offices, and select sites and construct additional offices.

1/ This account was the subject of a similar deferral during FY 1977.

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Deferral No: D78-14
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health, Education, & Welfare Bureau of Education	New budget authority (P.L. 93-344) Other budgetary resources 280,780,098 Total budgetary resources 280,780,098
Appropriation title & symbol Higher Education 1/ 75X0293	Amount to be deferred: Part of year \$ 3,740,098 Entire year
OMB identification code: 75-0293-0-1-502	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other
Type of account or fund: <input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year	Justification:

JUSTIFICATION
 The amount shown as deferred results from adjustments of prior year obligations of education activity construction grants. As projects are completed the estimated obligations are adjusted to reflect actual experience. No new funds have been appropriated for this program since 1969, and there are no program plans to utilize the funds. It is possible that such funds may be needed to cover obligation adjustments.

ESTIMATED EFFECTS
 This action has no program effect, since it includes only funds that were recovered in prior years and not needed for current funding.

OUTLAY EFFECTS
 There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.

D78-14

2

Funds for Headquarters Construction

In 1977, the Congress approved the use of \$2.1 million previously authorized for district office construction for use in the headquarters construction activity. This amount was to cover General Services Administration (GSA) project management costs through completion in 1979 of the two headquarters buildings—the computer building in Woodlawn and the Metro West building in downtown Baltimore. These buildings are being constructed under the purchase contract method, but purchase contract funds do not cover project management. Normally such costs are paid from GSA's Federal Buildings Fund and recovered by GSA through the Standard Level User Charges (SLUC). Since the Congress has indicated that SSA should pay only actual costs—not SLUC, SSA is billed directly for these charges. In FY 1978, \$606,800 will be obligated. The \$515,200 deferred will be obligated in FY 1979 as construction of the buildings continues.

Estimated Effects:

The funds intended to be apportioned for obligation in FY 1978 will permit SSA to carry out its authorized construction program in an orderly manner. No currently planned construction would be delayed by this deferral.

Outlay Effect:

There is no outlay effect of this deferral because the funds could not be used if made available.

NOTICES

The Interior and Related Agencies Appropriation Act for 1978 includes an indefinite no-year appropriation equivalent to 25 percent of timber sale receipts from revested Oregon and California Railroad grant lands. The appropriated receipts provide for management, development, and protection of Federal Oregon and California grant lands including the construction and maintenance of roads. Because the appropriation is based on receipts collected in the same fiscal period and the receipts are based on the timber harvested, the total amount which will be available for obligation can only be estimated. Not only may actual receipts vary from estimates, but receipts for the last two months of the fiscal period are not known in time to make programmatic adjustments to offset a possible shortfall between estimated and actual amounts. Deferral is planned to cushion fluctuating receipt levels. This deferral is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

Receipts for FY 1977 are now estimated at \$225 million with an estimated unobligated balance of \$26,400,000 carried forward into FY 1978. New budget authority available in 1978 under terms of the appropriation is estimated to equal \$45,000,000. Total resources for this program equal \$71,400,000. The FY 1978 obligation program of \$40,200,000 is consistent with the FY 1978 President's Budget and results in a deferral of \$31,200,000.

1/ Estimated. The appropriation is for "an amount equivalent to 25 percent of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands."

2/ This account was the subject of a similar deferral during FY 1977.

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Deferral No: D78-16
DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior Bureau	New budget authority (16 USC 4601, P.L. 95-74)	\$630,000,000
Appropriation title & symbol Land and Water Conservation Fund 1/ 14X5005	Other budgetary resources	126,382,000
	Total budgetary resources	756,382,000
	Amount to be deferred:	\$
	Part of year	
	Entire year	30,000,000
OMB identification code: 14-5005-0-2-303	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Other	
Type of account or fund: <input checked="" type="checkbox"/> Annual (The deferred funds have a one year availability) <input type="checkbox"/> Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input checked="" type="checkbox"/> Contract authority <input type="checkbox"/> Other	

Justification: Under the law (16 USC 4601 (10a)), \$30 million of contract authority becomes available each fiscal year to the Land and Water Conservation Fund in addition to the \$600 million appropriation enacted for FY 1978. The authority is made available by the Congress specifically as an "Antideficiency Act" measure in purchasing authorized Federal recreation land (P.L. 90-401, Senate Report 90-1071, to accompany S.1401). This authority was last used in 1969 and 1970. Thus, the contract authority is spent in fiscal years 1971-1977. The funds will be utilized in the future, as in the past, on a special case basis for emergency situations consistent with our understanding of congressional intent.

In accordance with provisions of the Antideficiency Act (31 USC 665), the \$30 million has been deferred. This contract authority lapses at the end of each fiscal year in which it is not used. An equal amount becomes available at the beginning of the next fiscal year.

The other funds in this account are the FY 1978 appropriation and estimated prior-year balances of direct appropriations that have been made available for obligation.

Estimated Effects:

This reserve for contingencies has no fiscal, economic or budgetary effect in the current year. The funds would be made available and obligated only in unforeseeable circumstances.

1/ This account was the subject of a similar deferral during FY 1977.

Estimated Effects:

There will be no programmatic impact in FY 1978.

Outlay Effect:

There is no outlay effect of this deferral.

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DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior Bureau Geological Survey	New budget authority (P.L. _____)	\$
Appropriation title & symbol Payments from Proceeds, Sale of Water, Mineral Leasing Act of 1920, Sec. 40(d) 1/ 14X5662	Other budgetary resources (est.)	34,000
	Total budgetary resources	34,000
	Amount to be deferred:	\$
	Part of year	
	Entire year	34,000
OMB identification code: 14-5662-0-2-301	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Other	
Type of account or fund: <input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year	Type of budget authority: <input type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input checked="" type="checkbox"/> Other—permanent, indefinite, special	

Justification

Section 40(d) of the Mineral Leasing Act of 1920 (30 U.S.C. 229(a)) provides that when lessees or operators drilling for oil or gas on public lands strike water, water wells may be developed by the Department from the proceeds from sale of water from existing wells. Receipts have been accruing to this permanent account at the rate of about \$1,500 per year. At the start of fiscal year 1965, the account had an unobligated balance of \$16,000. It is estimated that by the start of fiscal year 1978 the unobligated balance will be \$34,000. None of these receipts have been obligated over the past ten years and none are planned for obligation in fiscal year 1978 because the total available is too small to be put to practical use for the purpose designated by law. Deferral is planned because funds could not be used effectively during the current period even if made available for obligation. This reserve action is taken pursuant to the Antideficiency Act [31 U.S.C. 665 (c)].

Estimated Effects

There will be no programmatic or outlay impact in fiscal year 1978 since the receipts will continue to accrue but will remain unobligated until such time as an amount is available which can be used for effective purposes.

Outlay Effect

There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.

Outlay Effect:

There is no outlay effect of this deferral because the funds would not be used if made available.

NOTICES

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Deferral No: D78-18

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Interior	New budget authority (P.L. 93-344)	\$ 110,444,000
Bureau Office of Territorial Affairs	Other budgetary resources	24,000,000
Appropriation title & symbol	Total budgetary resources	134,444,000
Drainage of Anthracite Mines 1/	Amount to be deferred:	
14X0956	Part of year	\$ 12,000,000
	Entire year	
OMB identification code: 14-9911-0-1-306	Legal authority (in addition to sec. 1013):	
Grant program <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Antideficiency Act	
Type of account or fund: <input checked="" type="checkbox"/> Annual <input type="checkbox"/> Multiple-year (expiration date)	<input checked="" type="checkbox"/> Matching grant provision of Other P.L. 94-219, 469 Stat 460	
Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other		

Justification: Funds totaling \$200,000 have been apportioned for this account to match funds anticipated to be made available by the Commonwealth of Pennsylvania for water monitoring stations and for sealing and other public health and safety projects. The remaining unobligated balance is being deferred because the Commonwealth of Pennsylvania is not expected to provide further matched funding during the year.

Estimated Effects: No FY 78 program impact will result from this deferral. A change in the matching provision of the original legislation would be required if the Congress desired to make available the funds currently being deferred. These funds are anticipated to be deferred through September 30, 1978.

Outlay Effect: There is no outlay effect of this deferral because the funds could not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.

NOTICES

Justification: The FY 1978 Department of the Interior appropriation act provided \$12,000,000 in construction funds for an airport in the Kosrae District of the Trust Territory of the Pacific Islands. As no transportation needs survey has been done for the Kosrae District, the Administration is not convinced that the \$17,000,000 airport that this appropriation would initiate is necessary or cost effective in meeting the needs of this District (with a population of 4,000). The Office of Management and Budget has requested the Department of the Interior to evaluate the District's transportation needs and to propose alternative airport designs to meet those needs at reduced costs, if such reductions are feasible and cost effective. Until the evaluation is completed, the \$12,000,000 will be deferred.

Estimated Effects: This deferral will delay the advertising of the airport construction contract for a period of three to six months.

Outlay Effect: If the full \$17,000,000 airport is funded and constructed an estimate of \$1,000,000 in outlays would be shifted from 1978 to 1979 as a result of this deferral. Outlays would be reduced by an undetermined additional amount if a lower cost facility is ultimately chosen.

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Deferral No: D78-40

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Interstate Commerce Commission	New budget authority (P.L. 93-344)	\$ 14,610,000
Bureau	Other budgetary resources	14,610,000
Appropriation title & symbol	Total budgetary resources	14,610,000
Directed Rail Service 1/	Amount to be deferred:	
30X0103	Part of year	\$ 13,700,000
	Entire year	
OMB identification code: 30-0103-0-1-404	Legal authority (in addition to sec. 1013):	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Antideficiency Act	
Type of account or fund: <input type="checkbox"/> Annual <input checked="" type="checkbox"/> Multiple-year (expiration date)	<input type="checkbox"/> Other	
Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other		

Justification: The directed rail service program provides subsidy funds to maintain rail service for up to eight months over the lines of any carrier not able to provide service due to bankruptcy or other reasons. The funds to be deferred would be used for continuation of Rock Island Rail Service (or other railroads). Subsidy funds are payable 90 days following completion of the service; therefore, the funds are not expected to be needed at this time since the Rock Island remains operational. (Section 1 (16)(b) of the Interstate Commerce Act.)

Estimated Effects:

There will be no programmatic, fiscal, budgetary or economic impact since the budget authority may only be utilized at the direction of the Commission when rail carriers discontinue service. No such discontinuations are anticipated at this time, but should the need arise, there would be a lead time of 11 months prior to required outlay of these funds. This budget authority was sought on a contingency basis to allow the Commission to enter into subsidy obligations when and if necessary.

Outlay Effect:

There is no outlay effect of this deferral because the funds are not expected to be needed.

1/ This account was the subject of a similar deferral during FY 1977.

NOTICES

Deferral No: D78-21

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 93-344)	\$26,000,000
Bureau U.S. Coast Guard	Other budgetary resources	33,435,000
Appropriation title & symbol	Total budgetary resources	269,435,000
Acquisition, Construction, and Improvements	Amount to be deferred:	
699/00240	Part of year	\$ 13,031,000
	Entire year	
OMB identification code: 69-0240-0-1-406	Legal authority (in addition to sec. 1013):	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Antideficiency Act	
Type of account or fund: <input type="checkbox"/> Annual <input checked="" type="checkbox"/> Multiple-year (expiration date)	<input type="checkbox"/> Other	
Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other		

Justification: Funds totaling \$13.0 million are being deferred in order to provide for completion, outfitting, and furnishing in future years of projects started in 1978. Included in this amount is \$8 million for the Puget Sound, Vessel Traffic Service improvement project which is being deferred because of a requirement for prior agreement by the United States and Canada on the project's system configuration. This agreement has not yet been accomplished. The deferral will permit full development of system specifications while allowing sufficient time for contract award subsequent to the joint agreement. Also included is \$3.1M for follow-on work related to the Medium Endurance Cutter replacement program.

Estimated Effects: The deferral will have no significant programmatic, fiscal or economic impact.

Outlay Effect

There is no outlay effect of this deferral since the funds could not be efficiently used if made available.

1/ This account was the subject of a deferral during FY 1978.

Deferral No: D78-23
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 95-344

Agency Department of Transportation	New budget authority (P.L. 95-344)	\$
Bureau Federal Aviation Administration	Other budgetary resources	134,293
Appropriation title & symbol	Total budgetary resources	134,293
Civil Supersonic Aircraft Development 1/	Amount to be deferred:	
Termination, 69X0106	Part of year	\$
Civil Supersonic Aircraft Development, 1/	Entire year	134,293
69X1358	Legal authority (in addition to sec. 1013):	
OMB identification code: 69-0106-0-1-405	<input checked="" type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Other	
Type of account or fund:	Type of budget authority:	
<input type="checkbox"/> Annual	<input checked="" type="checkbox"/> Appropriation	
<input type="checkbox"/> Multiple-year (expiration date)	<input type="checkbox"/> Contract authority	
<input checked="" type="checkbox"/> No-year	<input type="checkbox"/> Other	

Coverage	Total Budgetary Resources	Amount Deferred
Civil Supersonic Aircraft Development		
Termination.....	\$80,344	\$80,344
Civil Supersonic Aircraft Development....	53,949	53,949
Total.....	\$134,293	\$134,293

Justification
 This account finances the termination of the supersonic transport development program. The total cost of settlement of contractor claims and closeouts, airline refunds, completion of specifically designated technology programs, and necessary governmental administrative costs incidental to these activities is included. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1971 and 1972. Because of the difficulty in ending such a complex and massive undertaking, termination has taken a number of years. Settlement is being accomplished as quickly as possible consistent with the legitimate claims of the contractors and the protection of government interests.

Estimated Effects
 This deferral action has no programmatic or budgetary effect.

Outlay Effect
 There is no outlay effect of this deferral because the funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.

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D78-41

2

It is now estimated that the 1978 beginning-of-year unobligated balance for this account, plus anticipated recoveries and reimbursements from other agencies, will amount to \$3,756,000, or \$1,058,000 more than the sum estimated in the 1978 Budget. The additional unobligated balances were realized primarily from program reductions in India and added recovery of prior year obligations. Other resource adjustments will further reduce requirements in 1978 by \$95,000, resulting in a total program of \$9,660,000. Since total availabilities of \$10,813,000 in this account for 1978 exceed program requirements by \$1,153,000, that amount has been deferred for the entire year. These funds will be available for use in 1979, reducing the need for new appropriations in 1979 accordingly. These funds are being reserved in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects

None. The amount deferred could not be obligated before fiscal year 1979.

Outlay Effect

There is no outlay effect of this deferral, because the funds would not be obligated if made available.

NOTICES

Deferral No: D78-20
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 95-344

Agency Department of Justice	New budget authority (P.L. 95-344)	\$38,850,000
Bureau Federal Prison System	Other budgetary resources	58,992,330
Appropriation title & symbol	Total budgetary resources	97,842,330
Building and Facilities 1/	Amount to be deferred:	
15X1003	Part of year	\$
OMB identification code: 15-1003-0-1-753	Entire year	42,245,000
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Legal authority (in addition to sec. 1013):	<input checked="" type="checkbox"/> Antideficiency Act
Type of account or fund:	<input type="checkbox"/> Other	
<input type="checkbox"/> Annual	Type of budget authority:	
<input type="checkbox"/> Multiple-year (expiration date)	<input checked="" type="checkbox"/> Appropriation	
<input checked="" type="checkbox"/> No-year	<input type="checkbox"/> Contract authority	
	<input type="checkbox"/> Other	

Justification
 This appropriation finances planning, acquisition of sites, and construction of new penal and correctional facilities as well as construction, remodeling, and equipping of necessary buildings and facilities at existing penal and correctional institutions. Projects are undertaken to reduce overcrowding, close old and antiquated penitentiaries, and provide a safe and humane environment for staff and inmates. These funds were appropriated in the Department of State, Justice, and Labor, Due to the time required for planning, site acquisition, design efforts, and selection of contractors, it is not possible to complete the construction, renovation, and rehabilitation associated with these projects during FY 1978. This deferral is consistent with the congressional intent to provide no-year funding for the total cost of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects

The amount deferred could not be economically used, if made available, in fiscal year 1978, because of the planned and phased procurement, construction and installation cycle.

Outlay Effect

In FY 1978 there is no outlay effect of this deferral.

1/ This account was the subject of a deferral during FY 1977.

Estimated Effects:

This deferral action is consistent with normal operation for this program. The amount deferred could not be economically used if made available in FY 1978 because of the planned multi-year procurement, construction, and installation cycle.

Outlay Effect:

There is no outlay effect of this deferral because the funds could not be used if made available.

NOTICES

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Deferral No: D78-22
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 95-85)	\$ 5,500,000
Bureau Federal Aviation Administration	Other budgetary resources	14,130,944
Appropriation title & symbol	Total budgetary resources	19,630,944
Construction, Metropolitan Washington Airports 1/	Amount to be deferred:	
69X1333 697/91333	Part of year	\$
696/81333 698/01333	Entire year	1,010,000
C&G identification code: 69-1333-0-1-405	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Other	
Type of account or fund: <input type="checkbox"/> Annual 696/81333 Sept. 30, 1978 2/ <input checked="" type="checkbox"/> Multiple-year 697/91333 Sept. 30, 1979 <input checked="" type="checkbox"/> No-year 698/01333 Sept. 30, 1980 (expiration date)	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other	

Justification:

This appropriation finances construction of major improvements and expansion of facilities at Washington National and Dulles International Airports. Projects are undertaken to insure capability of these airports to adequately, safely, and efficiently meet air travel needs of the public and to promote development of aviation. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Act of 1978 and in previous years. Due to the time required for engineering studies, design efforts, and the selection of the engineering consulting firms, it is not possible to complete the construction effort associated with these projects during FY 1978. This deferral is consistent with the Congressional intent to provide multi-year funding for total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

The amount deferred could not be economically used, if made available, in fiscal year 1978, because of the planned multi-year procurement, construction, and installation cycle.

Outlay Effect:

There is no outlay effect of this deferral.

- 1/ The account was the subject of a deferral during FY 1977.
 2/ None of these funds are deferred.

NOTICES

(In thousands of dollars)

Origin of contract authority	1974	1975	1976	TQ	1977	1978	Total
1973 Highway Act:							
Trust Fund	10,000	25,000	25,000				60,000
General Fund	10,000	10,000	10,000				30,000
1976 Highway Act:							
Trust Fund				6,250	25,000	25,000	56,250
TOTALS	20,000	35,000	35,000	6,250	25,000	25,000	146,250
Trust Fund	(10,000)	(25,000)	(25,000)	(6,250)	(25,000)	(25,000)	(116,250)
General Fund	(10,000)	(10,000)	(10,000)				(30,000)

In fiscal year 1976, \$90,000,000, the full amount of contract authority available at that time, was apportioned for use and allocated to the States (with the exception of a \$10 million for discretionary reserve).^{4/} However, as of September 30, 1977, it is estimated that the States will have obligated only \$21,370,000 (\$10,747,000 Trust Fund and \$10,623,000 General Fund).

A deferral of \$74,880,000 of contract authority is proposed for several reasons:

- State plans for fiscal year 1978 indicate that no more than \$50,000,000 (\$30,623,000 Trust Fund and \$19,377,000 General Fund) will be obligated, falling short of the total amount available by \$74,880,000 (Trust Fund).
- This \$74,880,000 is clearly not needed at this time and should be deferred.
- The \$50,000,000 obligation level is considered adequate for this program.

Estimated Effects:

This deferral will have no programmatic effect. Current plans indicate that the amount deferred would not be obligated by the States this fiscal year.

Outlay Effect:

There is no outlay effect of this deferral because the funds would not be expected to be used if made available.

^{4/} Some States may be unable to obligate, in a timely fashion, all funds allocated to them. Therefore, if DOT allocated the entire \$90 million among the States, some of the funds might lapse. The DOT discretionary authority was established to provide the States with funds to obligate, which would make the entire program in obligating their allocated funds (and, thereby, reducing the risk of a funding lapse).

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Deferral No: D78-24
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 95-85)	\$ 209,000,000
Bureau Federal Aviation Administration	Other budgetary resources	332,050,484
Appropriation title & symbol	Total budgetary resources	541,050,484
Facilities and Equipment (Airport and Airway Trust Fund), FAA 1/ 69X8107 696/88107 697/98107 698/08107	Amount to be deferred:	\$
	Part of year	
	Entire year	320,650,484
OMB identification code: 69-8107-0-7-405	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Other	
Type of account or fund: <input type="checkbox"/> Annual 697/98107 Sept. 30, 1978 2/ <input checked="" type="checkbox"/> Multiple-year 698/08107 Sept. 30, 1980 (expiration date)	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other	

Justification:

Funds from this account are used to procure specific Congressionally approved facilities and equipment for the expansion and modernization of the national airway system. Projects financed from this account include construction of buildings and purchase of equipment for new or improved air traffic control towers, automation of the en route airway control system and improvement in the navigational and landing aid systems. These funds were appropriated in the Department of Transportation and Related Agencies Appropriation Acts of 1978 and prior years. The estimated total cost for each project is included in the budget submission and appropriation for the year in which it is requested. Because of the lengthy procurement and construction time for interrelated new facilities and complex equipment systems, it is not possible to obligate all funds necessary to complete each project in the year funds are appropriated. Therefore, it is necessary to apportion funds so that sufficient resources will be available in future periods to complete these projects. This deferral action is consistent with the Congressional intent to provide multi-year funding for the total costs of these projects and is taken under provisions of the Antideficiency Act (31 U.S.C. 665) which authorize the establishment of reserves for contingencies.

- 1/ This account was the subject of a similar deferral during FY 1977.
 2/ None of these funds are deferred.

NOTICES

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Deferral No: D78-25
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Transportation	New budget authority (P.L. 94-280)	\$ 25,000,000
Bureau Federal Highway Administration	Other budgetary resources	80,270,000
Appropriation title & symbol Trust Fund Share of Other Highway Programs 2/ (Great River Road) 69X8009	Total budgetary resources	105,270,000 1/
	Amount to be deferred:	
	Part of year	\$
	Entire year	74,880,000
OMB identification code: 69-8009-0-7-404	Legal authority (in addition to sec. 1013):	
	<input type="checkbox"/> Antideficiency Act	
Grant program <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Other	
Type of account or fund:	Type of budget authority:	
<input type="checkbox"/> Annual Sept. 30, 1978 \$24,020,000 3/	<input type="checkbox"/> Appropriation	
<input checked="" type="checkbox"/> Multiple-year Sept. 30, 1979 \$25,000,000	<input checked="" type="checkbox"/> Contract authority	
<input type="checkbox"/> No-year Sept. 30, 1981 \$25,000,000	Other	

JUSTIFICATION

The National Scenic and Recreation Highway (Great River Road) was authorized by the Federal-Aid Highway Act of 1973 for the purpose of constructing a two-lane scenic highway in the ten States bordering the Mississippi River. The Great River Road spans over 2,000 miles. The contract authority provided for this program is liquidated through both the Highway Trust Fund and the General Fund. A total of \$146,250,000 in contract authority has been made available through fiscal year 1978 for the program. Of this total, \$90,000,000 was made available in the Federal-Aid Highway Act of 1973, and \$56,250,000 was made available in the Federal-Aid Highway Act of 1976. The Highway Trust Fund Share of the \$146,250,000 total is \$116,250,000 (\$74,880,000 of this amount to be deferred), with the balance of \$30,000,000 constituting the General Fund Share. The following table displays the origin of the \$146,250,000 in contract authority provided through 1978.

- 1/ This amount is the portion of "Trust Fund Share of Other Highway Programs" made available for the Great River Road. Total funds available to the "Trust Fund Share of Other Highway Programs" is \$137,937,896.
 2/ This account was the subject of a similar deferral during FY 1977. While each portion of contract authority is available for four years, the cash to liquidate the contract authority is available until expended.
 3/ None of these funds are deferred.

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Outlay Effect (Estimated in millions of dollars):

Comparison with President's FY 1978 Budget:
 1. Budget outlay estimate for FY 1978..... \$6,813.9
 2. Outlay savings, if any, included in the budget outlay estimate..... -0-
 Current Outlay Estimates for FY 1978:
 3. Without deferral..... 46.0 3/
 4. With deferral..... 10.6
 5. Current outlay savings (line 3 - line 4)..... 35.4
 Outlay savings for FY 1979..... -17.7
 Outlay savings for FY 1980..... -17.7

- 3/ Does not include outlays from the regular 1978 general revenue sharing appropriation which had not been enacted at the time this report was prepared.

Deferral No: D78-26

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Treasury	New budget authority (P.L. 94-369)	\$ 180,311,000
Bureau Office of the Secretary	Other budgetary resources	180,311,000
Appropriation title & symbol Antirecession Financial Assistance Fund 1/ 207/80108	Total budgetary resources	180,311,000
	Amount to be deferred:	
	Part of year	\$ 8,184,000
	Entire year	
OMB identification code: 20-0108-0-1-852	Legal authority (in addition to sec. 1013):	
	<input checked="" type="checkbox"/> Antideficiency Act	
Grant program <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	Other	P.L. 94-369, P.L. 95-30
Type of account or fund:	Type of budget authority:	
<input type="checkbox"/> Annual	<input checked="" type="checkbox"/> Appropriation	
<input checked="" type="checkbox"/> Multiple-year September 30, 1978	<input type="checkbox"/> Contract authority	
<input type="checkbox"/> No-year	Other	

JUSTIFICATION

This deferral represents that remaining portion of the transition quarter and FY 1977 appropriation which the Secretary of the Treasury must hold in reserve to meet valid claims from State and local governments that past antirecession financial assistance payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 22,930 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing has withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for the transition quarter and FY 1977.

This cumulative unobligated reserve, totaling \$8.2 million, is available to the Secretary of the Treasury to satisfy legitimate claims against the fund for prior entitlement periods. The unobligated amount retained in the fund will be reduced whenever the Secretary determines that a lesser amount is adequate to meet foreseeable liabilities against the fund. This reduction will be made by paying the additional amount to recipients as part of a regular distribution of other funds provided for this program.

Estimated Effect:
 This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program. The entire amount of this reserve is expected to be paid out before the end of fiscal 1978.

- 1/ This account was the subject of a similar deferral during FY 1977.

Deferral No: D78-29

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Treasury	New budget authority (P.L. 95-161)	\$ 5,729,883
Bureau Bureau of the Mint	Other budgetary resources	5,729,883
Appropriation title & symbol Construction of Mint Facilities	Total budgetary resources	5,729,883
20X1617	Amount to be deferred:	
	Part of year	\$ 5,729,883
	Entire year	
OMB identification code: 20-1617-0-1-803	Legal authority (in addition to sec. 1013):	
	<input type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Other	
Type of account or fund:	Type of budget authority:	
<input type="checkbox"/> Annual	<input checked="" type="checkbox"/> Appropriation	
<input checked="" type="checkbox"/> Multiple-year (expiration date)	<input type="checkbox"/> Contract authority	
<input type="checkbox"/> No-year	Other	

JUSTIFICATION

This appropriation provides for construction of buildings and acquisition of new furnishings and equipment for new mint facilities. Currently, construction of new mint facilities is being delayed until the proposed changes to the U.S. coinage system are resolved, a delay which has caused the need for a new mint, and the authorizing legislation to construct new mint facilities is enacted. The Bureau of the Mint has instructed the General Services Administration to defer any construction expenditures until these issues are resolved.

Estimated Effects:

This action will delay the construction program pending authorization to construct a new mint.

Outlay Effect: (estimated in millions of dollars)

Comparison with President's 1978 Budget:
 1. Budget outlay estimate for 1978..... .05
 2. Outlay savings, if any, included in the budget outlay estimate.. 0
 Current outlay estimate for 1978
 3. Without deferral..... .05
 4. With deferral..... .05
 5. Current outlay savings (line 3-line 4)..... .05 1/
 Outlay savings for 1979..... 0

- 1/ These outlays will be made once the issues delaying construction are resolved. Therefore, there are no permanent outlay savings related to this deferral.

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Deferral No: D78-31
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Bureau	Research and Development Administration Bureau	New budget authority (P.L. 95-96 and 95-74)	\$5,107,933,000
		Other budgetary resources	1,935,840,000
		Total budgetary resources	7,043,773,000
Appropriation title & symbol	Operating Expenses 1/ 2/		
Amount to be deferred:			
Part of year			\$ 1,500,000
Entire year			
(Plenum Fill Experiment)			
OMB identification code:	89-0100-0-1-999		
Legal authority (in addition to sec. 1013):	Antideficiency Act		
Grant program	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Type of account or fund:			
<input type="checkbox"/> Annual			
<input type="checkbox"/> Multiple-year (expiration date)			
<input checked="" type="checkbox"/> No-year			
Type of budget authority:			
<input type="checkbox"/> Appropriation			
<input type="checkbox"/> Contract authority			
<input type="checkbox"/> Other			

Justification

It has been determined that the Plenum Fill project, an experimental fission reactor research facility, is not needed as part of the overall energy program. The deferred funds were provided for this experiment in prior years. The deferral is planned to be maintained while the desirability of future funding for related experiments is studied during the 1979 budget review process. Depending on the outcome of the review, the funds will either be proposed for reprogramming or rescission.

Estimated Effect

Since there has been no activity on this project since FY 1976, this deferral action has no effect on current program plans.

Outlay Effect

There is no outlay effect resulting from this deferral.

1/ This account is the subject of another deferral, D78-30.

2/ This account, although not this project, was the subject of deferrals during FY 1977.

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 Deferral No: D78-27
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Bureau	Department of the Treasury Office of the Secretary	New budget authority (P.L. 95-96 and 95-74)	\$ 45,996,000
		Other budgetary resources	45,996,000
		Total budgetary resources	45,996,000
Appropriation title & symbol	State and Local Government Fiscal Assistance Trust Fund 1/ 2/		
Amount to be deferred:			
Part of year			\$ 10,550,000
Entire year			35,446,000
(20X8111)			
OMB identification code:	20-8111-0-7-851		
Legal authority (in addition to sec. 1013):	Antideficiency Act		
Grant program	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Type of account or fund:			
<input type="checkbox"/> Annual			
<input type="checkbox"/> Multiple-year (expiration date)			
<input checked="" type="checkbox"/> No-year			
Type of budget authority:			
<input type="checkbox"/> Appropriation			
<input type="checkbox"/> Contract authority			
<input type="checkbox"/> Other			

Justification

The Secretary of the Treasury must hold in reserve an amount to meet valid claims from State and local governments that past general revenue sharing payments to them were too small. Because the total amount appropriated for all governments is fixed, the alternative to such a reserve is recurring recomputations of entitlements of 39,170 governments for prior entitlement periods. Accordingly, the Office of Revenue Sharing withheld from obligation an amount equal to one-half of one percent of the amounts appropriated for each entitlement period through FY 1975. In addition, one-half of one percent of the \$4,991,111 appropriation for general revenue sharing in the Economic Stimulus Appropriations Act, 1977 (Public Law 95-29) was also withheld from obligation.

This cumulative unobligated reserve is available to the Secretary of the Treasury to satisfy legitimate claims against the Trust Fund for prior entitlement periods. The unobligated amount of \$46 million retained in the Trust Fund will be reduced whenever the Secretary determines the amount is adequate to meet foreseeable liabilities against the Trust Funds. The reduction will be made by paying the additional amount to recipients as part of a regular distribution of other funds provided for this program.

Estimated Effect

This action will postpone distribution of the amount of the reserve until necessary adjustments and corrections have been identified. It will also avoid substantial confusion and complexities in the administration of the program.

1/ This account is the subject of another deferral, D78-28.

2/ This account was the subject of a similar deferral during FY 1977.

 Deferral No: D78-28
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Bureau	Department of the Treasury Office of the Secretary	New budget authority (P.L. 95-96 and 95-74)	\$ 45,996,000
		Other budgetary resources	45,996,000
		Total budgetary resources	45,996,000
Appropriation title & symbol	State and Local Government Fiscal Assistance Trust Fund 1/ 2/		
Amount to be deferred:			
Part of year			\$ 391,000
Entire year			
(20X8111)			
OMB identification code:	20-8111-0-7-851		
Legal authority (in addition to sec. 1013):	Antideficiency Act		
Grant program	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No		
Type of account or fund:			
<input type="checkbox"/> Annual			
<input type="checkbox"/> Multiple-year (expiration date)			
<input checked="" type="checkbox"/> No-year			
Type of budget authority:			
<input type="checkbox"/> Appropriation			
<input type="checkbox"/> Contract authority			
<input type="checkbox"/> Other			

Justification

The State and Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of general revenue sharing funds. Scheduled payments to State and local governments are made on a quarterly basis. This deferral represents payments which have been withheld from various governments involved in annexations or disincorporations and for reasons of noncompliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Estimated Effect

The release of these funds is contingent upon adherence by the various governments to the compliance regulations, and determinations as to which higher level of government is eligible to receive those funds withheld because of annexations and disincorporations.

Outlay Effect

There is no outlay effect of this deferral because the funds will be made available this fiscal year.

1/ This account is the subject of another deferral, D78-27.

2/ This account was the subject of a similar deferral during FY 1977.

3/ Outlays only. The outlays being deferred were obligated in fiscal year 1977 and, therefore, are not reflected in the total budgetary resources available for obligation in fiscal year 1978.

 Deferral No: D78-33
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Bureau	Energy Research and Development Admin.	New budget authority (P.L. 95-96 and 95-74)	\$ 1,692,819,000
		Other budgetary resources	65,960,000
		Total budgetary resources	1,758,779,000
Appropriation title & symbol	Plant and Capital Equipment 1/ 2/		
Amount to be deferred:			
Part of year			\$ 7,500,000
Entire year			
(89 x 0103 (Fusion Material Test Facility))			
OMB identification code:	89-0103-0-1-999		
Legal authority (in addition to sec. 1013):	Antideficiency Act		
Grant program	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
Type of account or fund:			
<input type="checkbox"/> Annual			
<input type="checkbox"/> Multiple-year (expiration date)			
<input checked="" type="checkbox"/> No-year			
Type of budget authority:			
<input checked="" type="checkbox"/> Appropriation			
<input type="checkbox"/> Contract authority			
<input type="checkbox"/> Other			

Justification

The amount deferred was appropriated in the Public Works for Water and Power Development and Energy Research Appropriation Act, 1978, for the Fusion Material Test Facility project. The Administration has not yet fully reviewed the role of this project in the context of the overall fusion program nor the construction plans and cost estimates for this specific facility. Such a review is being conducted as part of the 1979 budget review process. The deferral is planned to be in effect until the review is completed.

Estimated effect

This deferral action is being taken to allow for normal program reviews which must be accomplished before funds are obligated for the facility. The deferral will have no adverse effect on current plans for the project.

Outlay effect

There is no outlay effect resulting from this deferral since it will be maintained for only a short period of time.

1/ This account is the subject of other deferrals, D78-32, D78-34,

D78-35, and D78-36.

2/ This account, although not this project, was the subject of deferrals during FY 1977.

Deferral No: D78-30
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Energy Research and Development Administration Bureau	New budget authority (P.L. 95-56 and 95-74) Other budgetary resources	\$1,107,933,000 1,935,840,000
Appropriation title & symbol Operating expenses 1/2/ 89 X 0100 (Gas Cooled Reactors)	Total budgetary resources	7,043,773,000
Amount to be deferred: Part of year Entire year		\$ 15,000,000
OMB identification code: 89-0100-0-1-999	Legal authority (in addition to sec. 1013): <input type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other	
Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year		

Justification
 These funds are part of a larger amount appropriated in the Public Works for Water and Power Development and Energy Research Appropriation Act, 1978, for the Gas Cooled Reactor program. Since detailed program plans and financial arrangements with private sector participants in the Gas Cooled Reactor program have not yet been developed and coordinated, this budget authority, totaling \$15,000,000, is deferred. This deferral will provide the time required to assure that these funds are utilized in an effective and efficient manner.

Estimated Effect
 The planning and necessary administrative coordination is not expected to take more than a few weeks. This delay is not expected to affect the Gas Cooled Reactor program significantly.

Outlay Effect
 No outlay effect is expected from this deferral, since it will be in effect for only a short time.

1/ This account is the subject of another deferral, D78-31.
 2/ This account, although not this project, was the subject of deferrals during FY 1977.

NOTICES

Justification
 The amount deferred was appropriated in the Public Works for Water and Power Development and Energy Research Appropriation Act, 1978, for the Intersecting Storage Ring Accelerator project. The Administration has not yet fully reviewed the role of this project in the context of the overall high energy physics program nor the construction plans and cost estimates for this specific facility. Such a review is being conducted as part of the 1979 Budget review process. The deferral is planned to be in effect until the review is completed.

Estimated effect

This deferral action is being taken to allow for normal program reviews which must be accomplished before funds are obligated for the facility. The deferral will have no adverse effect on current plans for the project.

Outlay effect

There is no outlay effect resulting from this deferral since it will be maintained for only a short period of time.

1/ This account is the subject of other deferrals, D78-32, D78-33, D78-34, and D78-36.
 2/ This account, although not this project, was the subject of deferrals during FY 1977.

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Deferral No: D78-30
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Energy Research and Development Administration Bureau	New budget authority (P.L. 95-56 and 95-74) Other budgetary resources	\$1,107,933,000 1,935,840,000
Appropriation title & symbol Operating expenses 1/2/ 89 X 0100 (Gas Cooled Reactors)	Total budgetary resources	7,043,773,000
Amount to be deferred: Part of year Entire year		\$ 15,000,000
OMB identification code: 89-0100-0-1-999	Legal authority (in addition to sec. 1013): <input type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other	
Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year		

Justification
 These funds are part of a larger amount appropriated in the Public Works for Water and Power Development and Energy Research Appropriation Act, 1978, for the Gas Cooled Reactor program. Since detailed program plans and financial arrangements with private sector participants in the Gas Cooled Reactor program have not yet been developed and coordinated, this budget authority, totaling \$15,000,000, is deferred. This deferral will provide the time required to assure that these funds are utilized in an effective and efficient manner.

Estimated Effect
 The planning and necessary administrative coordination is not expected to take more than a few weeks. This delay is not expected to affect the Gas Cooled Reactor program significantly.

Outlay Effect
 No outlay effect is expected from this deferral, since it will be in effect for only a short time.

1/ This account is the subject of another deferral, D78-31.
 2/ This account, although not this project, was the subject of deferrals during FY 1977.

NOTICES

Justification
 The amount deferred was appropriated in the Public Works for Water and Power Development and Energy Research Appropriation Act, 1978, for the Intersecting Storage Ring Accelerator project. The Administration has not yet fully reviewed the role of this project in the context of the overall high energy physics program nor the construction plans and cost estimates for this specific facility. Such a review is being conducted as part of the 1979 Budget review process. The deferral is planned to be in effect until the review is completed.

Estimated effect

This deferral action is being taken to allow for normal program reviews which must be accomplished before funds are obligated for the facility. The deferral will have no adverse effect on current plans for the project.

Outlay effect

There is no outlay effect resulting from this deferral since it will be maintained for only a short period of time.

1/ This account is the subject of other deferrals, D78-32, D78-33, D78-34, and D78-36.
 2/ This account, although not this project, was the subject of deferrals during FY 1977.

NOTICES

Deferral No: D78-37
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency General Services Administration Bureau	New budget authority (P.L. 95-56 and 95-74) Other budgetary resources	\$ 2,110,000 2,110,000
Appropriation title & symbol Rare Silver Dollar Program 1/ 47X0101	Total budgetary resources	2,110,000
Amount to be deferred: Part of year Entire year		\$ 1,710,000
OMB identification code: 47-0701-0-1-999	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other	
Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year		

Justification
 This deferral action is taken under the provisions of the Antideficiency Act (31 U.S.C. 655), which authorizes the establishment of reserves for contingencies. Funds were appropriated in 1972 and 1973, without fiscal year limitation, for operating costs for disposal of rare silver dollars. To date, roughly \$60.4 million (gross receipts) of silver dollars have been sold, with approximately \$26.5 million still available for sale. However, current sales procedures severely restrict the amount of remaining coins which may be sold under the existing appropriation. The contingency of \$1,710,000 reflects revised disposal plans suspending all coin sales until legislation is passed revising current sales methods. Sales using past procedures are no longer deemed economically feasible, and consideration is being given to the effects of alternative terms and conditions on future Government sales of the coins as well as on the coin market in general.

Estimated Effects

The deferral of funds for operating expenses will have no adverse effect on the silver dollar sales program since current sales procedures have limited the amount of marketable coins. New legislation has been proposed to provide revised sales methods.

1/ This account was the subject of a similar deferral during FY 1977.

Deferral No: D78-32
 DEFERRAL OF BUDGET AUTHORITY
 Report Pursuant to Section 1013 of P.L. 93-344

Agency Energy Research and Development Administration Bureau	New budget authority (P.L. 95-56 and 95-74) Other budgetary resources	\$1,692,819,000 65,960,000
Appropriation title & symbol Plant and Capital Equipment 1/2/ 89 X 0103 (Clean Boiler Fuel from Coal Project)	Total budgetary resources	1,758,779,000
Amount to be deferred: Part of year Entire year		\$ 46,660,000
OMB identification code: 89-0103-0-1-999	Legal authority (in addition to sec. 1013): <input type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other	
Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year		

Justification
 The amount deferred is made up of unobligated balances appropriated for 1977 and prior years for the Clean Boiler Fuel from Coal Project (Coalcon). These balances are not required for obligation in FY 1978 due to technical difficulties which prevent further work on the project. These funds will be held in reserve pending a decision on reprogramming options. Funds not needed for reprogramming to other activities will be proposed for reacquisition in FY 1978.

Estimated Effect

There are no programmatic or budgetary effects resulting from the deferral. Funds are not now planned to be obligated because the project is undergoing a technical review.

Outlay Effect

Since technical difficulties with the project prevent the use of these funds, no outlay savings are attributable to this deferral action.

1/ This account is the subject of other deferrals, D78-33, D78-34, D78-35, and D78-36.
 2/ This account was the subject of a similar deferral during FY 1977.

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Agency Energy Research and Development Administration	Deferral No. <u>D18-24</u>
Bureau	
Appropriation title & symbol Plant and Capital Equipment <u>1/ 2/</u>	
89 x 0103	
(Intense Neutron Source Facility)	
ONS identification code: 89-0103-0-1-999	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
Type of account or fund: <input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year (expiration date) _____	
Agency Energy Research and Development Administration	New budget authority (P.L. 95-96 and 95-74) <u>\$1,692,819.00</u> Other budgetary resources <u>\$5,950.00</u> Total budgetary resources <u>\$1,778,779.00</u>
	Amount to be deferred: <u>\$ 11,300.00</u> Part of year _____ Entire year _____
	Legal authority (in addition to sec. 1013): <input type="checkbox"/> Antideficiency Act <input type="checkbox"/> Other _____ Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other _____

Justification

The Administration believes that project 76-5-b, 14 MEV intense Neutron Source, Los Alamos Scientific Laboratory, New Mexico, is not needed as part of its Magnetic Fusion Energy Program. The Administration's proposed FY 1978 authorization bill for the Energy Research and Development Administration (ERDA) includes a provision to eliminate the existing authorization for appropriations for this project. Pending final congressional action, the ERDA FY 1978 authorization bill will provide for the continuing project use of additional funds while the authorization bill is being considered.

Estimated effects

The project is currently in the architectural engineering phase. This deferral will have no effect on these activities. The effect of the deferral on total project costs and the project completion date cannot be determined pending resolution of project funding; the authorized funding is insufficient to complete the project and no funds have been appropriated for FY 1978.

Outlay effect

Outlay effects resulting from the deferral cannot now be gauged since they are dependent upon the time required for enactment of the FY 1978 ERDA Authorization Act.

Subject to the subject of other deferrals, D78-32, D78-33, D78-35,

and D78-36. The account was the subject of a similar deferral during FY 1977.

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Agency Energy Research and Development Administration		New budget authority (P.L. 95-96 and 95-74)	\$1,692,819,000
Bureau		Other budgetary resources	65,960,000
Appropriation title & symbol		Total budgetary resources	1,758,779,000
Plant and Capital Equipment <u>1/ 2/</u>		Amount to be deferred:	\$ 1,500,000
89 x 0103		Part of year	_____
(Molten Salt Breeder Reactor Project)		Entire year	_____
OMB identification code: 89-0103-0-1-999		Legal authority (in addition to sec. 1013): <input type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Other _____	
Type of account or fund: <input type="checkbox"/> Annual		Type of budget authority: <input checked="" type="checkbox"/> Appropriation	
<input type="checkbox"/> Multiple-year _____ (expiration date)		<input type="checkbox"/> Contract authority	
<input checked="" type="checkbox"/> No-year		<input type="checkbox"/> Other _____	

Justification: The Administration believes that completion of the Molten Salt Breeder Reactor Project is not necessary for the overall energy program. The Administration's proposed FY 1978 authorization bill for the Energy Research and Development Administration (ERDA) includes a provision to eliminate the existing authorization for appropriations for this project. The funds previously appropriated for the project are deferred pending congressional action on the ERDA FY 1978 authorization bill.

Estimated effect:

Estimated Effect:
Since there has been no activity on this project since FY 1976, this deferral action has no effect on current program plans.

Outlay Effect: effect resulting from this deferral action.

Outlay Effect:

Outlay Effect:
There is no outlay effect resulting from this deferral action.

1/ This account is the subject of other deferrals, D78-32, D78-33, D78-34, and D78-35. Although not this project, was the subject of deferrals during FY 1977.

1/ This account is the subject of other deferrals, D/8-32, D/8-33, D/8-34, and D/8-35. It should be noted that this project was the subject of deferrals during FY 1977.

DEFERRAL OF BUDGET AUTHORITY Report Pursuant to Section 1013 of P.L. 93-344		Deferral No: <u>078-39</u>
Agency <u>Foreign Claims Settlement Commission</u> Bureau <u>Bureau</u>	New budget authority (P.L. <u> </u>) <u>11,188,000</u> Other budgetary resources <u>11,188,000</u> Total budgetary resources <u> </u>	\$ <u> </u> \$ <u> </u>
Appropriation title & symbol Payment of Vietnam Prisoner of War Claims <u>1/</u> 79X0104	Amount to be deferred: Part of year <u> </u> Entire year <u> </u>	\$ <u> </u> \$ <u>10,738,000</u>
OMB identification code: <u> </u> 79-0104-0-1-152	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act <input type="checkbox"/> Other <u> </u>	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other <u> </u>	
Type of account or fund: <input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year <u> </u> (expiration date) <input checked="" type="checkbox"/> No-year		

Justification: Public Law 91-289, approved June 24, 1970, authorizes the Foreign Claims Settlement Commission to adjudicate and attempt to pay the claims of American military and civilian personnel who were killed during the Vietnam conflict, or their survivors. Pending claims are paid during the Vietnam conflict, or the appropriate military services must determine the individual's POW status and, in the case of claims by survivors of missing persons where evidence of captivity exists, it also must determine the date of death. Such determinations have been delayed pending the results of efforts to account for missing United States servicemen. On August 16, 1977, however, it was announced that status review of servicemen still listed as prisoners of war or missing action would be resumed.

A total of \$16,565,000 was appropriated during 1971, 1972, and 1973 for the Vietnam POW claims program to remain available until expended. The Commission now has certified \$5,377,000 for the payment of claims. Of the \$11,188,000 remaining available, \$450,000—the amount estimated to be necessary to pay prisoner of war claims resulting from new status determinations anticipated in 1978—has been apportioned for 1978 and \$10,738,000 has been reserved. This deferral of 1978 budgetary resources is necessary to achieve the most economical use of appropriations (31 U.S.C. 665(c)(1)) and to provide for contingencies after 1978 (31 U.S.C. 665(c)(2)).

Estimated Effects No savings result from the deferral, since claims cannot be

Estimated Effects. No savings result from the deferral, since claims cannot be adjudicated or certified for payment by the Commission until final status determinations are made by the military services.

Outlay Effect No effect on outlays results from this deferral action.

⁷ This account was the subject of a similar deferral during FY 1977.

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Deferral No: D78-41
DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 95-344

Agency	U.S. Information Agency	New budget authority (P.L. 95-86)	\$ 7,057,000
Bureau		Other budgetary resources	3,756,000
Appropriation title & symbol	Salaries and Expenses 1/ (Special Foreign Currency Program)	Total budgetary resources	10,813,000
67X0103		Amount to be deferred: Part of year	\$
		Entire year	1,153,000
OMB identification code:	67-0103-0-1-153	Legal authority (in addition to sec. 1013):	<input checked="" type="checkbox"/> Antideficiency Act
Grant program	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority:	<input checked="" type="checkbox"/> Appropriation
Type of account or fund:	<input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year (expiration date)		<input type="checkbox"/> Contract authority
	<input checked="" type="checkbox"/> No-year		<input type="checkbox"/> Other

JUSTIFICATION

The United States Information Agency is authorized by the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), Reorganization Plan No. 8 of 1953, the Mutual Education and Cultural Exchange Act of 1961 (22 U.S.C. 2451 et seq.), and Executive Order No. 11034 of June 25, 1962, as amended, to carry out international information activities abroad by the dissemination of information about the United States, its people, and its policies.

The Foreign Relations Authorization Act, Fiscal Year 1978 (P.L. 95-105, approved August 17, 1977) authorized to be appropriated for fiscal year 1978, \$269,286,000 for "Salaries and expenses" and "Salaries and expenses (special foreign currency program)" for USA. The Departments of State, Justice, and Commerce, the Judiciary, and Related Agencies Appropriation Act, 1978, (P.L. 95-86, approved August 2, 1977) appropriated \$7,057,000 to remain available until expended, for the "Salaries and expenses (special foreign currency program)" account. The account is used for payment of USA local program expenses in U.S.-owned foreign currencies in those countries where the Department of the Treasury determines that the supply of currencies is in excess of the normal requirements of the U.S. Government. In fiscal year 1978 the "excess" currency countries are: Burma, Guinea, India, Pakistan, and Egypt. It was estimated in the 1978 Budget that additional budgetary resources of \$2,698,000 would be available for 1978 from prior year unobligated balances brought forward, recovery of prior year obligations, and anticipated reimbursements from other agencies. Thus, total obligations of \$9,755,000 were planned for 1978 in the 1978 Budget.

1/ This account was the subject of a similar deferral during FY 1977.

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D78-37 2

Outlay Effects (estimated in millions of dollars)
Comparison with President's 1978 Budget:

1. Budget outlay estimate for 1978: 0.2
 2. Outlay savings, if any, included in budget outlay estimate: -
 3. Without deferral: 2.1
 4. With deferral: 0.4
 5. Current outlay savings (line 3 minus line 4): 1.7
- Outlay savings for 1979: 1.7

D78-38 2

Outlay Effects (estimated in millions of dollars)

Comparison with President's 1978 Budget:

1. Budget outlay estimate for 1978: 0.1
 2. Outlay savings, if any, included in budget outlay estimate: -
 3. Without deferral: 0.1
 4. With deferral: 0.1
 5. Current outlay savings (line 3 minus line 4): 0
- Outlay savings for 1979: 0

Deferral No: D78-42
DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 95-344

Agency	United States Railway Association	New budget authority (P.L. 94-252)	\$ 425,000,000
Bureau		Other budgetary resources	435,000,000
Appropriation title & symbol	Payments for Purchase of Conrail Securities 1/ 98X0111	Total budgetary resources	860,000,000
		Amount to be deferred? Part of year	\$
		Entire year	260,000,000
OMB identification code:	98-0111-0-1-404	Legal authority (in addition to sec. 1013):	<input checked="" type="checkbox"/> Antideficiency Act
Grant program	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Type of budget authority:	<input checked="" type="checkbox"/> Appropriation
Type of account or fund:	<input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year (expiration date)		<input type="checkbox"/> Contract authority
	<input checked="" type="checkbox"/> No-year		<input type="checkbox"/> Other

JUSTIFICATION

Funds were appropriated in Public Law 94-252 to be used by the U.S. Railway Association to purchase securities of the Consolidated Rail Corporation (Conrail) pursuant to the Regional Rail Reorganization Act, as amended. Although appropriated, these funds are not required at this time to support the rehabilitation program and working capital needs of Conrail. The amount deferred is not expected to be needed during the current fiscal year. These funds are being reserved in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

This deferral action has no effect on the program as currently planned in FY 1978.

Outlays Effects:

There is no outlay effect for this deferral since, under present projections, funds would not be used if made available.

1/ This account was the subject of a similar deferral during FY 1977.

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Deferral No: D78-40

DEFERRAL OF BUDGET AUTHORITY
Report Pursuant to Section 1013 of P.L. 95-344

Agency Interstate Commerce Commission	New budget authority (P.L. _____)	\$ 14,610,000
Bureau	Other budgetary resources	14,610,000
Appropriation title & symbol	Total budgetary resources	14,610,000
Directed Rail Service 1/ 30X0103	Amount to be deferred:	\$
	Part of year	
	Entire year	13,700,000
OMB identification code: 30-0103-0-1-404	Legal authority (in addition to sec. 1013): <input checked="" type="checkbox"/> Antideficiency Act	
Grant program <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Other	
Type of account or fund: <input type="checkbox"/> Annual <input type="checkbox"/> Multiple-year (expiration date) <input checked="" type="checkbox"/> No-year	Type of budget authority: <input checked="" type="checkbox"/> Appropriation <input type="checkbox"/> Contract authority <input type="checkbox"/> Other	

Justification:

The directed rail service program provides subsidy funds to maintain rail service for up to eight months over the lines of any carrier not able to provide service due to bankruptcy or other reasons. The funds to be deferred would be used for continuation of Rock Island Rail Service (or other railroad). Subsidy funds are payable 90 days following completion of the service; therefore, the funds are not expected to be needed at this time since the Rock Island remains operational. (Section 1 (16)(b) of the Interstate Commerce Act.)

Estimated Effects:

There will be no programmatic, fiscal, budgetary or economic impact since the budget authority may only be utilized at the direction of the Commission when rail carriers discontinue service. No such discontinuations are anticipated at this time, but should the need arise, there would be a lead time of 11 months prior to required outlay of these funds. This budget authority was sought on a contingency basis to allow the Commission to enter into subsidy obligations when and if necessary.

Outlay Effect:

There is no outlay effect of this deferral because the funds are not expected to be needed.

1/ This account was the subject of a similar deferral during FY 1977.

NOTICES

It is now estimated that the 1978 beginning-of-year unobligated balance for this account, plus anticipated recoveries and reimbursements from other agencies, will amount to \$3,756,000, or \$1,058,000 more than the sum estimated in the 1978 Budget. The additional unobligated balances were realized primarily from program reductions in India and added recovery of prior year obligations. Other resource adjustments will further reduce requirements in 1978 by \$95,000, resulting in a total program of \$9,660,000. Since total availabilities of \$10,813,000 in this account for 1978 exceed program requirements by \$1,153,000, that amount has been deferred for the entire year. These funds will be available for use in 1979, reducing the need for new appropriations in 1979 accordingly.

These funds are being reserved in accordance with the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

None. The amount deferred could not be obligated before fiscal year 1979.

Outlay Effect:

There is no outlay effect of this deferral, because the funds would not be obligated if made available.

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federal register

FRIDAY, OCTOBER 7, 1977
PART VDEPARTMENT OF
LABOREmployment Standards
AdministrationMINIMUM WAGES FOR
FEDERAL AND FEDERALLY
ASSISTED CONSTRUCTION

General Wage Determination Decisions

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MODIFICATIONS P. 8

DECISION NO. NM77-4218	CHANGE:	Fringe Benefits Payments				Education and/or Appr. Tr.
		Basic Hourly Rates	H & W	Pensions	Vacation	
DECISION NO. NM77-4218 - Mod. #1 (42 FR 26109 - May 20, 1977) Statewide, New Mexico	CHANGE DESCRIPTION OF WORK TO READ "Secret & Ester and Highway Construction"					
	DECISION NO. NM77-4218 - Mod. #2 (42 FR 42069 - September 9, 1977) Statewide, New Mexico					
	CHANGE DESCRIPTION OF WORK TO READ "Building and Heavy Construction"					
	CHANGE:					
	PAINTERS - ZONE III					
	Zone 3-A	\$ 8.01	.30			.02
	Zone 3-B	8.43	.30			.02
	Zone 3-C	8.155	.30			.02
	Zone 3-D	8.43	.30			.02
	Zone 3-E	8.86	.30			.02
	PLUMBERS-PIPEFITTERS:					
	Area I	11.20	.63	1.42		.16
	Area II	11.70	.63	1.42		.16
	Area III	12.95	.63	1.42		.16
	Specific Area	11.83	.63	1.42		.16
	POWER EQUIPMENT OPERATORS:					
	AREA I - RESIDENTIAL AND BUILDING CONSTRUCTION					
	Zone I					
	Group 1	8.08	.50			.11
	Group 2	8.62	.60			.11
	Group 3	8.70	.60			.11
	Group 4	8.76	.60			.11
	Group 5	8.82	.60			.11
	Group 6	8.92	.60			.11
	Group 7	9.02	.60			.11
	Group 8	9.20	.60			.11
	Group 9	10.00	.60			.11
	Zone II					
	Group 1	9.33	.60			.11
	Group 2	9.87	.60			.11
	Group 3	9.95	.60			.11
	Group 4	10.01	.60			.11
	Group 5	10.07	.60			.11
	Group 6	10.17	.60			.11
	Group 7	10.27	.60			.11
	Group 8	10.45	.60			.11
	Group 9	11.25	.60			.11
	Zone III					
	Group 1	9.58	.60			.11
	Group 2	10.12	.60			.11
	Group 3	10.26	.60			.11
	Group 4	10.26	.60			.11
	Group 5	10.32	.60			.11
	Group 6	10.42	.60			.11
	Group 7	10.52	.60			.11
	Group 8	10.70	.60			.11
	Group 9	11.50	.60			.11

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MODIFICATIONS P. 7

DECISION NO. NM77-4218	CHANGE:	Fringe Benefits Payments				Education and/or Appr. Tr.
		Basic Hourly Rates	H & W	Pensions	Vacation	
DECISION NO. NM77-4218 - Mod. #1 (42 FR 26109 - May 20, 1977) Statewide, New Mexico	CHANGE DESCRIPTION OF WORK TO READ "Secret & Ester and Highway Construction"					
	DECISION NO. NM77-4218 - Mod. #2 (42 FR 42069 - September 9, 1977) Statewide, New Mexico					
	CHANGE DESCRIPTION OF WORK TO READ "Building and Heavy Construction"					
	CHANGE:					
	BRICKLAYERS-STONEMASONS:					
	Zone I-A	\$10.01	.57	.50		.10
	Zone I-B	11.01	.57	.50		.10
	Zone I-C	11.51	.57	.50		.10
	Zone I-D	9.86	.57	.30		.10
	Zone I-E	10.71	.57	.30		.10
	Zone II	10.16	.57	.30		.10
	Zone III	10.91	.57	.30		.10
	Zone IV	10.36	.57	.30		.10
	Zone V	10.16	.57	.30		.10
	Zone VI	10.36	.57	.30		.10
	Zone VII	10.16	.57	.30		.10
	Zone VIII	10.44	.67	.20		.10
	Zone IX	9.44	.67	.20		.10
	CEMENT MASONS:					
	Area I - Area II, Zone I and Heavy	8.77	.57	.50		.02
	CEMENT MASONS, Composition and Machine Operators:					
	Area I & Area II-Zone I	9.02	.57	.50		.18
	GLAZIERS - Zone I	7.29	.30	1.00		.02
	IRONWORKERS:					
	Zone I - Area I	10.75	.55	1.00		.18
	Zone 1	10.75	.55	1.00		.18
	Zone 2	11.50	.55	1.00		.18
	Zone 3	12.25	.55	1.00		.18
	Zone 4	12.25	.55	1.00		.18
	LABORERS(BUILDING & HEAVY CONST.):					
	Group I	6.61	.53	.67		.05
	Group II	6.91	.53	.67		.05
	Group III	6.91	.53	.67		.05
	Group IV	7.21	.53	.67		.05
	Group V	7.36	.53	.67		.05
	LATHERS - Zone I	9.605	.57			.02
	MARBLE, TILE & TERRAZZO WORKERS	8.25	.67			
	MARBLE, TILE & TERRAZZO FINISHERS	6.68	.67			
	TERRAZZO MACHINE OPERATORS	6.93	.67			
	PAINTERS (INDUSTRIAL WORK)ZONE I					
	Brush, roller, sandblast and grinder operators	9.82	.35	.20		.05
	Spray	10.32	.35	.20		.05
	Pot tender	8.82	.35	.20		.05

MODIFICATIONS P. 9

DECISION NO. NM77-4218	CHANGE:	Fringe Benefits Payments				Education and/or Appr. Tr.
		Basic Hourly Rates	H & W	Pensions	Vacation	
DECISION NO. NM77-4218	POWER EQUIPMENT OPERATORS (CONT'D) RESIDENTIAL AND BUILDING CONST.					
	Area I					
	Group 1	8.08	.60	.60		.11
	Group 2	8.62	.60	.60		.11
	Group 3	8.70	.60	.60		.11
	Group 4	8.76	.60	.60		.11
	Group 5	8.82	.60	.60		.11
	Group 6	8.92	.60	.60		.11
	Group 7	9.02	.60	.60		.11
	Group 8	9.20	.60	.60		.11
	Group 9	10.00	.60	.60		.11
	POWER EQUIPMENT OPERATORS HEAVY CONSTRUCTION - AREA I					
	Group I					
	Zone 1	7.93	.60	.60		.11
	Zone 2	8.93	.60	.60		.11
	Group II					
	Zone 1	8.47	.60	.60		.11
	Zone 2	9.47	.60	.60		.11
	Group III					
	Zone 1	8.55	.60	.60		.11
	Zone 2	9.55	.60	.60		.11
	Group IV					
	Zone 1	8.61	.60	.60		.11
	Zone 2	9.61	.60	.60		.11
	Group V					
	Zone 1	8.67	.60	.60		.11
	Zone 2	9.67	.60	.60		.11
	Group VI					
	Zone 1	8.77	.60	.60		.11
	Zone 2	9.77	.60	.60		.11
	Group VII					
	Zone 1	8.87	.60	.60		.11
	Zone 2	9.87	.60	.60		.11
	Group VIII					
	Zone 1	9.05	.60	.60		.11
	Zone 2	10.05	.60	.60		.11
	Group IX					
	Zone 1	9.85	.60	.60		.11
	Zone 2	10.85	.60	.60		.11
	ROOFERS					
	SOFT FLOOR LAYERS - Zone 2	8.25	.35	.40		.02

DECISION NO. NM77-4218

DECISION NO. NM77-4218	CHANGE:	Fringe Benefits Payments				Education and/or Appr. Tr.
		Basic Hourly Rates	H & W	Pensions	Vacation	
DECISION NO. NM77-4218	POWER EQUIPMENT OPERATORS (CONT'D) HEAVY CONSTRUCTION - AREA II					
	Group I					
	Zone 1	7.93	.60	.60		.11
	Zone 2	8.68	.60	.60		.11
	Zone 3	8.93	.60	.60		.11
	Group II					
	Zone 1	8.47	.60	.60		.11
	Zone 2	9.22	.60	.60		.11
	Zone 3	9.47	.60	.60		.11
	Group III					
	Zone 1	8.55	.60	.60		.11
	Zone 2	9.55	.60	.60		.11
	Zone 3	9.55	.60	.60		.11
	Group IV					
	Zone 1	8.61	.60	.60		.11
	Zone 2	9.36	.60	.60		.11
	Zone 3	9.61	.60	.60		.11
	Group V					
	Zone 1	8.67	.60	.60		.11
	Zone 2	9.42	.60	.60		.11
	Zone 3	9.67	.60	.60		.11
	Group VI					
	Zone 1	8.77	.60	.60		.11
	Zone 2	9.52	.60	.60		.11
	Zone 3	9.77	.60	.60		.11
	Group VII					
	Zone 1	8.87	.60	.60		.11
	Zone 2	9.62	.60	.60		.11
	Zone 3	9.87	.60	.60		.11
	Group VIII					
	Zone 1	9.05	.60	.60		.11
	Zone 2	9.80	.60	.60		.11
	Zone 3	10.00	.60	.60		.11
	Group IX					
	Zone 1	9.85	.60	.60		.11
	Zone 2	10.60	.60	.60		.11
	Zone 3	10.85	.60	.60		.11
	ROOFERS					
	SOFT FLOOR LAYERS - Zone 2	8.25	.35	.40		.02

MODIFICATIONS P. 10

DECISION NO.	CHANGE:	Fringe Benefits Payments				Education and/or Appr. Tr.
		Basic Hourly Rates	H & W	Pensions	Vacation	
DECISION NO. NM77-4218	POWER EQUIPMENT OPERATORS (CONT'D) HEAVY CONSTRUCTION - AREA II					
	Group I					
	Zone 1	7.93	.60	.60		.11
	Zone 2	8.68	.60	.60		.11
	Zone 3	8.93	.60	.60		.11
	Group II					
	Zone 1	8.47	.60	.60		.11
	Zone 2	9.22	.60	.60		.11
	Zone 3	9.47	.60	.60		.11
	Group III					
	Zone 1	8.55	.60	.60		.11
	Zone 2	9.55	.60	.60		.11
	Zone 3	9.55	.60	.60		.11
	Group IV					
	Zone 1	8.61	.60	.60		.11
	Zone 2	9.36	.60	.60		.11
	Zone 3	9.61	.60	.60		.11
	Group V					
	Zone 1	8.67	.60	.60		.11
	Zone 2	9.42	.60	.60		.11
	Zone 3	9.67	.60	.60		.11
	Group VI					
	Zone 1	8.77	.60	.60		.11
	Zone 2	9.52	.60	.60		.11
	Zone 3	9.77	.60	.60		.11
	Group VII					
	Zone 1	8.87	.60	.60		.11
	Zone 2	9.62	.60	.60		.11
	Zone 3	9.87	.60	.60		.11
	Group VIII					
	Zone 1	9.05	.60	.60		.11
	Zone 2	9.80	.60	.60		.11
	Zone 3	10.00	.60	.60		.11
	Group IX					
Zone 1	9.85	.60	.60		.11	
Zone 2	10.60	.60	.60		.11	
Zone 3	10.85	.60	.60		.11	
Group X						
Zone 1	8.00	.25				
Zone 2	8.25	.35		.40	.02	

Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
\$10.73	\$11.33	\$11.58	\$12.03	\$12.43

CEMENT MASONS (Cont'd)
Power Tools
FRINGE BENEFITS:
Health & Welfare
Pensions
Apprenticeship Training
*For definition of zones, see Power Equipment Operators - Area 1

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
\$9.17	.74	.65	.70	.15	
9.37	.74	.65	.70	.15	
10.42	.74	.65	.70	.15	
10.62	.74	.65	.70	.15	
10.75	.70	.38+.50		.18	
10.80	.70	.38+.50		.18	
12.13	.57	.18+.40		.02	
12.53	.57	.18+.40		.02	
10.90	.75	.38+.50		.18	
11.99	.75	.38+.50		.18	
11.95	.545	.35	.38+.50	.02	
708JR	.545	.35	.38+.50	.02	
508JR					

Remaining Counties and Idaho County (south of 46th Parallel) (Cont'd):

*Zone 1:
Cement Masons
Power trowel; Power grinder; Grind and composition floor layer
Zone 2:
Cement Masons
Power trowel; Power grinder; Grind and composition floor layer
*For definition of zones, see POWER EQUIPMENT OPERATORS - AREA 2.

ELECTRICIANS:
Ada, Adams, Boise, Canyon, Elmore, Gen, Owyhee, Payette, Valley, Washington Counties

Electricians
Cable Splicers
Beneviah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties
Electricians
Cable Splicers
Beneviah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Remaining Counties:
Electricians; Technicians
Cable Splicers
Beneviah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

ELEVATOR CONSTRUCTORS:
Beneviah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties
Elevator Constructors
Elevator Constructors
Helpers
Elevator Constructors
Helpers (Prob.)

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
\$ 10.555	.745	.56	.38+.50	.025	
7.39	.745	.56	.38+.50	.025	
5.28					
9.30	.35	.30			
8.03	.40	.25	.38+.50		
10.49	.35	.10	.38+.50		
7.62	.21				
11.85	.93	1.00		.05	
\$ 10.90	.58	1.00	.25	.05	
10.69	.65	1.15		.02	

ELEVATOR CONSTRUCTORS: (Cont'd)
Remaining Counties, except Adams, Lemhi, Valley, Washington Counties:
Elevator Constructors
Helpers
Elevator Constructors
Helpers (Prob.)
CLAZZERS:
Ada, Adams, Boise, Canyon, Elmore, Gen, Gooding County (western part of County from a line running north and south through the eastern limits of the City of Bliss), Idaho County (southern part of County from a line running east and west through the north limits of Elk City), Owyhee, Payette, Valley, Washington Counties
Beneviah, Clearwater, Idaho County (north of 46th Parallel), Latah, Lewis, Nez Perce Counties
Bonner, Boundary, Kootenai, Shoshone Counties
Remaining Counties
IRONWORKERS:
Ornamental: Reinforcing:
Structural:
Beneviah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties
Those portions of Adams, Idaho, Valley, Washington Counties located south of the 46th Parallel and north of the Weiser-Gibbonsville Line
Remaining Counties and those portions of Adams, Idaho, Valley, Washington Counties located south of the Weiser-Gibbonsville Line

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
10.35	.50				
10.15	.75	1.10			
8.95	.50	.50			
9.75	.65	.70		.04	
11.01					
8.75	.45	.30		.07	
9.75	.45	.30		.07	
8.71	.35	.10		.005	
9.16	.35	.10		.005	
10.52	.40	.80		.02	
10.77	.40	.80		.02	
10.87	.40	.80		.02	
10.92	.40	.80		.02	

LATHERS:
Beneviah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties
MARBLE SETTERS:
Ada, Adams, Boise, Canyon, Elmore, Gen, Owyhee, Payette, Valley, Washington Counties
Bannock, Bear Lake, Bingham, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding (except the City of Bliss and western third of County), Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton, Twin Falls Counties
Brush Roller, Perforator
Structural Steel; Swing Stage; Spray
Beneviah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties
Brush
Spray; Steel; Steam Cleaning; Rollers (over 9" or 10" handle); Finish Drywall
Taper
Swing Stage; Over 30 ft. high
Bitumastic; Sand Blast; Bridge Towers; Stacker Steeples; Tanks on legs

Painters and Tapers
Elmore (Mt. Home AFB):
Painters and Tapers
Bannock, Bear Lake, Bingham, Blaine, Bonneville, Butte, Camas, Caribou, Cassia, Clark, Custer, Franklin, Fremont, Gooding (except the City of Bliss and western third of County), Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Oneida, Power, Teton, Twin Falls Counties
Brush Roller, Perforator
Structural Steel; Swing Stage; Spray
Beneviah, Bonner, Boundary, Clearwater, Idaho County (north of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties
Brush
Spray; Steel; Steam Cleaning; Rollers (over 9" or 10" handle); Finish Drywall
Taper
Swing Stage; Over 30 ft. high
Bitumastic; Sand Blast; Bridge Towers; Stacker Steeples; Tanks on legs

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
10.13	.70	.85			
8.83	.74	.45	.70		
\$ 8.60	.65	.70		.02	
12.66	.75	1.26		.12	
10.87	.69	.90		.10	
8.90	.60	.30	.50		
10.90	.60	.30	.50		
9.15	.40	.75		.02	
9.69	.60	.75		.02	
10.05					
\$ 10.52	.41	.25+.22		.08	
12.70	.61	1.14		.14	
10.94	.57	.52		.14	

PLASTERERS:
Beneviah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties
Remaining Counties
PLASTERERS' TENDERS:
Beneviah, Bonner, Boundary, Clearwater, Idaho County (north of 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties
PLUMBERS:
Beneviah, Bonner, Boundary, Clearwater, Kootenai, Latah, Nez Perce, Shoshone Counties
Remaining Counties and Idaho County (south of the 46th Parallel):
Plumbers
ROOFERS:
Ada, Adams, Boise, Camas, Canyon, Custer, Elmore, Gen, Idaho County (south of the 46th Parallel), Lemhi, Owyhee, Payette, Valley, Washington Counties:
Roofers working with coal tar and pitch products
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Franklin, Fremont, Jefferson, Madison, Oneida, Power, Teton Counties
Beneviah, Bonner, Boundary, Kootenai, Shoshone Counties
Clearwater, Idaho (north of the 46th Parallel), Latah, Lewis, Nez Perce Counties
Roofers; Kettlemen
SHIERS: METALWORKERS:
Bannock, Bear Lake, Bingham, Bonneville, Butte, Caribou, Clark, Custer, Franklin, Fremont, Jefferson, Lemhi, Madison, Oneida, Power, Teton Counties
Beneviah, Bonner, Boundary, Clearwater, Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties
Remaining Counties

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SOFT FLOOR LAYERS:
Ada, Adams, Boise, Canyon,
Elmore, Gem, Gooding County
(western third of County
including City of Bliss),
Idaho County (south of the 46th
Parallel), Owyhee, Payette,
Valley, Washington Counties
Beneviah, Bonner, Boundary,
Clearwater, Idaho County
(north of the 46th Parallel),
Kootenai, Latah, Lewis, Nez
Perce, Shoshone Counties
Remaining Counties:
7.26

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
7.26	.49	.10		.10
9.79	.40	.60		
11.36	.65	.95		.08
9.60	.75	1.10		
8.95	.50	.50		
11.01	.65	.70		.04

WELDERS: Receive the rate prescribed
for craft performing operation to
which welding is incidental.

FOOTNOTES:

a. Employer credits 44 basic hourly rate of employee with over 5 years' service,
2 1/2 basic hourly rate for 6 months' to 5 years' service, to Vacation plan.
Six Paid Holidays: A through F.

b. All employees who have been employed for a period of one year shall have
2 weeks' vacation with pay. Also 7 Paid Holidays: A, B, C, E, F, plus
Veterans' Day and the Day after Thanksgiving.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

LINE CONSTRUCTION WORKERS:

(AREA 1):
Beneviah, Bonner, Boundary,
Clearwater, Idaho, Kootenai,
Latah, Lewis, Nez Perce,
Shoshone Counties;
Cable Splicers; Leadman Pole
Sprayer; Pole Sprayer; Heavy
Line Equipment Man; Certified
Line Equipment Rider
Tree Trimmer
Line Equipment Man
Head Groundman (chipper);
Head Groundman; Powderman;
Jackhammer Man
Groundman; Tree Trimmer
Helper
8.18

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 12.78	.45	.38	.10	1/28
11.54	.45	.38	.10	1/28
10.42	.45	.38	.10	1/28
9.95	.45	.38	.10	1/28
8.69	.45	.38	.10	1/28
8.18	.45	.38	.10	1/28

ZONE PAY:
Each classification will receive the base rate plus Zone A - \$1.25,
Zone B - \$2.00, Zone C - \$2.75, Zone D - \$4.00.

BASE ZONE - 0 to 3 miles from geographical center of towns listed below.

ZONE A - 3 to 20 miles radius from geographical center of towns listed
below

ZONE B - 20 to 35 miles radius from geographical center of towns listed
below

ZONE C - 35 to 50 miles radius from geographical center of towns listed
below

ZONE D - in excess of 50 miles from geographical center of towns listed below

Spokane
Orofino
(AREA 2)
Sand Point
Kellogg
Lewiston

Remaining Counties:

All work over 34.5 KV and all
work on steel towers and/or
multiple wood structures and
all substations of 1,000 KVA
or greater capacity, all
communications, underground work,
34.5 KV, streets and highway
lighting and motor traffic
controls;
Groundman
Equipment Operator
Cable splicers
Line
Liner
All power construction over 34.5
KV and under when performed
for an operating utility.
Street lighting when performed
for an operating utility or
municipality;
Groundman
Equipment Operator
Liner

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 7.48	.45	.38		1/28
9.05	.45	.38		1/28
10.06	.45	.38		1/28
9.94	.45	.38		1/28
7.22	.45	.38		1/28
8.47	.45	.38		1/28
9.41	.45	.38		1/28

LABORERS: Building Construction

(AREA 1)
Beneviah, Bonner, Boundary,
Clearwater, Idaho County
(north of the 46th Parallel),
Kootenai, Latah, Lewis, Nez
Perce, Shoshone Counties;
Group 1
Group 2
Group 3
Group 4
Group 5-A
Group 5-B
Group 5-C
Group 5-D

Group No.	Zone				
	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	\$8.80	\$9.40	\$9.65	\$10.10	\$10.50
2	9.05	9.65	9.90	10.35	10.75
3	9.30	9.90	10.15	10.61	11.00
4	9.55	10.15	10.40	10.85	11.25
5-A	9.50	10.10	10.35	10.80	11.20
5-B	9.55	10.15	10.40	10.85	11.25
5-C	9.95	10.55	10.80	11.25	11.65
5-D	10.00	10.60	10.85	11.30	11.70

LABORERS (AREA 1)
Beneviah, Bonner, Boundary, Clearwater, Idaho County (north
of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce
Shoshone Counties
Heavy and Highway Construction

Group No.	Zone				
	Zone 1	Zone 2	Zone 3	Zone 4	Zone 5
1	\$8.80	\$9.40	\$9.65	\$10.10	\$10.50
2	9.05	9.65	9.90	10.35	10.75
3	9.30	9.90	10.15	10.61	11.00
4	9.55	10.15	10.40	10.85	11.25
5-A	9.50	10.10	10.35	10.80	11.20
5-B	9.55	10.15	10.40	10.85	11.25
5-C	9.95	10.55	10.80	11.25	11.65
5-D	10.00	10.60	10.85	11.30	11.70

PRIME BENEFITS:

Health & Welfare

Pensions

Apprenticeship Training

*For definition of zones, see POWER EQUIPMENT OPERATORS - AREA 1.

LABORERS (AREA 1)

Beneviah, Bonner, Boundary, Clearwater, Idaho County (north of 46th
Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 1: Brush Hog Feeder; Concrete Crewman; Concrete Signalman;
Crusher Feeder; Demolition; Dumpman; Fence Erector; Flagman;
General Laborer; Grout Machine Tender; Nipper; Riprap Man;
Scaffold Erector; Wood Machine Header Tender; Stake Jumper; Structural
Mover; Tailhoesman (water nozzle); Timber Bucker and Faller (by hand);
Track Laborer (HR); Truck Loader; Well-point Man; Window Cleaner

LABORERS (AREA 1) (Cont'd)

Beneviah, Bonner, Boundary, Clearwater, Idaho County (north of 46th
Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 2: Asphalt Raker; Asphalt Roller, walking; Carpenter Tender;
Cement Finisher Tender; Cement Handler; Concrete Saw, walking; De-
molition Torch; Dope Pot Fireman, non-mechanical; Form Cleaning
machine, feeder, stacker; Form Setter, paving; Grade Checker using
level; Jackhammer Operator; Nozzleman (squeeze and flo-crete nozzle);
Nozzleman, water, air or steam; Pavement Breaker; Pipelayer, con-
crete metal Culvert; Pipelayer, multi-section; Pot Tender; Power
Buggy Operator; Power Tool Operator, gas, electric, pneumatic; Rail-
road equipment, power driven except dual mobile power spike or puller;
Railroad power spike or puller, dual mobile; Rodder and Spreader;
Sandblast Tailhoesman; Trencher; Trencher, Shawnee; Tugger Operator;
Vibrator, under 4 inches; Wagon Drills; Water Pipe Liner; Wheelbarrow,
power driven

Group 3: Air Track Drill; Brush Machine; Caisson Worker, free air;
Chain Saw Operator and Faller; Concrete Stack; Gunter; High Scaler;
Hod Carrier; Laser Beam Operator; Monitor Operator, Air Track or
similar mounting; Mortar Mixer; Nozzleman (jet blasting nozzle),
over 1200 lbs., jet blast machine power-propelled, sandblast nozzle;
Pipelayer (working topman, caulker, collarman, joiner, mortarmen,
rigger, jacket, shorer, valve or meter installer); Pipewraper; Vibrator,
4 inches and over

Group 4: Drills with dual mast; Powderman; Welder, electric,
manual or automatic

TUNNEL AND SHAFT, Free Air

Group 5: Bull Gang; Pump Crete Crewman, including distributing
Pipe, Assembling and dismantle and Nipper

Class A: Miner and Nozzleman for concrete and Laser Beam
Operator on tunnels

Class B: Miner and Nozzleman for concrete and Laser Beam
Operator on tunnels

Class C: Miner and Nozzleman for concrete and Laser Beam
Operator on tunnels

Class D: Miner and Nozzleman for concrete and Laser Beam
Operator on tunnels

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
7.66	.75	.97	.30	.10
8.91	.75	.97	.30	.10
9.01	.75	.97	.30	.10
9.11	.75	.97	.30	.10
9.21	.75	.97	.30	.10
9.26	.75	.97	.30	.10
8.01	.75	.97	.30	.10
8.26	.75	.97	.30	.10
8.51	.75	.97	.30	.10
9.76	.75	.97	.30	.10

LABORERS:

(AREA 2)

Remaining Counties and Idaho
County (south of the 46th
Parallel)

Group 1
Group 2
Group 3
Group 4
Group 5
Group 6
Group 7

DECISION NO. 1D77-5088

TRUCK DRIVERS (Cont'd)

(AREA 1)

Renewah, Bonner, Boundary, Clearwater, Idaho County (North of the 46th Parallel), Kootenai, Latah, Lewis, Nez Perce, Shoshone Counties

Group 1: Buggy Mobile and similar; Bulk Cement Tanker; Oil Tank Driver; Power operated Sweeper; Semi-trailer, Low Bed, Truck and Trailer; Straddle Carrier (Ross, Hyster and similar); Trucks, Mixers and Trucks hauling concrete (3 yds. and under); Trucks, side, end and bottom dump (under 6 yds.); Water Tank Truck (1,801 to 4,000 gallons)

Group 4: Auto Crane - 2,000 lbs. capacity; Bulk Cement Spreader; Dumper (6 yds. and under); Flaherty Spreader, Box Driver; Flat Bed Truck (using power take off); Fork Lift (over 3,000 lbs.); Oil Distributor Driver (road, bootperson, leverperson helper); Rubber-tired Tunnel Jumbo; Scissor Truck; Slurry Truck Driver; Transit Mixers and Trucks hauling concrete (over 3 yds. to 6 yds.); Water Tank Truck (4,001 to 6,000 gallons); Wrecker and Tow Trucks

Group 5: Low Boy (under 50 tons); Service Greaser; Tireperson No. 2; Truck, side, end and bottom dump (over 6 yds. to 12 yds.)

Group 6: A-Frame (Swedish Crane, Iowa 3,000, Hydrolift); Water Tank Truck (over 6,001 to 8,000 gallons)

Group 7: Dumper (over 6 yds.); Transit Mixers and Trucks hauling concrete (6 yds. to 10 yds.); Trucks, side, end and bottom dump (over 12 yds. including 20 yds.)

Group 8: Low Boy (over 50 tons); Water Tank Truck (8,001 to 10,000 gallons)

Group 9: Transit Mixers and Trucks hauling concrete, (10 yds. to 15 yds.); Trucks, side, end and bottom dump (over 20 yds. including 30 yds.); Water Tank Trucks (10,001 to 12,000 gallons)

Group 10: Mechanic, field

Group 11: Tournarocker, D.W.'s and similar, with 2 or 4 wheel power tractor with trailer, gallonage or yardage scale, which is greater; Transit Mixers and Trucks hauling concrete (15 yds. to 40 yds.); Trucks, side, end and bottom dump (over 30 yds. to 40 yds.); Water Tank Truck (12,001 to 14,000 gallons)

Group 12: Transit Mixers and Trucks hauling concrete (over 20 yds.); Trucks, side, end and bottom dump (over 40 yds. to 50 yds.)

Group 13: Truck, side, end and bottom dump (over 50 yds. to 100 yds.)

Group 14: Helicopter Pilot hauling employees or material; Trucks, side, end and bottom dump (over 100 yds.)

TRUCK DRIVERS (Cont'd)

(AREA 2)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 1: Leverman loading at Bunkers; Pilot Car or Escort Driver

Group 2: Flat Bed - 2 axle and pickup hauling materials; Water Tank Truck (1,800 gallons and under); Fork Lift (3,000 and under)

Group 3: Flat Bed - 3 axle; Fuel Truck (1,000 gallons and under); Greaser; Tireman; Serviceman; Buggy; Man Haul (Shuttle Truck or Bus)

Group 4: Transit Mix Truck - 3 yds. and under; Truck Helpers; Slurry or concrete pumping Truck

Group 5: Flat Bed using power takeoff; Water Tank Truck (over 1,800 to 4,000 gallons); Semi-trailer - Low Boy - up to 96,000 lbs. GVW; Bulk Cement Tanker - up to 96,000 lbs. GVW; Fork Lift - over 3,000 lbs. (Bull Lift, Hydro Lift); Ross, Hyster and similar straddle equipment; "A" Frame Truck (Swedish Crane, Iowa 3,000, Hydro-lift)

Remaining Counties and Idaho County (South of the 46th Parallel)

Group 6: Transit Mix Truck, over 3 yds. - 6 yds.

Group 7: Water Tank Truck - (over 4,000 gallons); Fuel Truck - over 1,000 gallons; Distributor or Spreader Truck

Group 8: Transit Mix Truck - over 6 yds. - 8 yds.; Dumpsters; Field Tireman; Serviceman

Group 9: Transit Mix Truck - over 8 yds. to 10 yds.; Snow Plow (truck mounted)

Group 10: Low Boy - 96,000 lbs. GVW and over; Bulk Cement Tanker - 96,000 lbs. GVW and over

Group 11: Transit Mix Truck - over 10 yds.

Group 12: Tournarocker and similar equipment

Group 13: Truck - side, end and bottom dump

Class A: 6 yds. and under

Class B: Over 6 yds. - including 12 yds.

Class C: Over 12 yds. - including 20 yds.

Class D: Over 20 yds. - including 30 yds.

Class E: Over 30 yds. - including 40 yds.

Class F: Over 40 yds. - including 50 yds.

Class G: Over 50 yds. - including 75 yds.

Class H: Over 75 yds. - including 100 yds.

Class I: Over 100 yds.

Group 14: Truck Mechanic

SUPERSEDEAS DECISION

STATE: Massachusetts

DECISION NO.: MA77-3069

COUNTY: Middlesex

DATE: Date of Publication

Supersedes Decision No. MA76-2102, dated September 3, 1976 in 41 FR 37479.

DESCRIPTION OF WORK: Building construction (including residential), heavy and highway construction and marine construction.

BUILDING, HEAVY AND HIGHWAY CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vocelon	
ASBESTOS WORKERS	10.26	.80	.80		.01
BOTTLERMAKERS	10.00	.60	10%		.01
BRICKLAYERS, STONEMASONS: Ashland, Framingham, Holliston, Hopkington, Hudson, Sherborn, and Stow	9.65	1.20	1.00		.08
Action, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Pt. Devens, Groton, Littleton, Lowell, N. Acton, Pepperell, Shirley, S. Acton, Tewksbury, Townsend, Tyngsboro, W. Acton, Westford and Wilmington	10.25	.90	.70		.06
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use: Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Ft. Devens, Groton, Littleton, Lowell, N. Acton, Pepperell, Shirley, S. Acton, Tewksbury, Townsend, Tyngsboro, W. Acton, Westford & Wilmington	8.71 10.10	.90 .60	.70 1.15		.06 .08
Belmont, Burlington, Concord, Lexington, Lincoln, Stoneham, Sudbury, Waltham, Wayland, Weston, Winchester & Woburn	10.10	.75	1.00		.06
All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use: Acton, Ashby, Ayer, Bedford, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Ft. Devens, Groton, Littleton, Lowell, N. Acton, Pepperell, Shirley, S. Acton, Tewksbury, Townsend, Tyngsboro, W. Acton, Westford & Wilmington	8.76	.75	1.00		.06

DECISION NO. MA77-3069	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vocelon	
Arlington, Cambridge, Everett, Malden, Melrose, Melrose and Somerville	9.90 10.20	.85 .60	1.10 1.10		.05 .07
CARPENTERS & SOFT FLOOR LAYERS: All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use: Carpenters; Bedford, Concord, Dover, Lincoln, Natick, Newton, Sudbury, Waltham, Watertown, Wayland, Weston	8.76	.50	1.00		.07
Acton, Billerica, Boxboro, Carlisle, Chelmsford, Dracut, Dunstable, Littleton, Lowell, Tewksbury, Tyngsboro, Westford	8.50	.60	1.00		.07
CEMENT MASONS: Bedford, Burlington, Lowell, Billerica, Tyngsboro, Westford, Tewksbury, Acton, Littleton, Dracut, Wilmington, Dunstable, Chelmsford and Carlisle	9.80	.90	.70		.02
Arlington, Cambridge, Everett, Malden, Medford, Melrose, Somerville, Stoneham, Wakefield, Winchester and Woburn	10.45 9.69	.95 .70	.50 .75		.10
Reading, N. Reading, Ashby, Ayer, Boxboro, Groton, N. Acton, Pepperell, Shirley, S. Acton, Townsend and W. Acton	9.45	.65	.70		.05
Ashland, Framingham, Holliston, Hopkington, Hudson, Marlboro, Maynard, Natick, Sherborne, Stow	8.95 9.15	1.00 .60	.70 .90		.05 .05
Newton	9.40	.75	.50		.05
Belmont, Concord, Lexington, Sudbury, Waltham, Watertown, Wayland and Weston					

DECISION NO.: MA77-3069	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
PLASTERERS (CONT'D) All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use: Plasterers: Bedford, Burlington, Lowell, Tyngsboro & Westford N. Reading, Reading PLASTERERS' TENDERS PLUMBERS: Acton, Ayer (except portion lying west of the Greenville Branch of the Boston & Maine RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford & Wilmington All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use: Acton, Ayer (except portion lying west of the Greenville Branch of the Boston & Maine RR), Bedford, Billerica, Boxboro, Burlington, Carlisle, Chelmsford, Dracut, Dunstable, Graniteville, Hudson, Littleton, Lowell, Pepperell, Tewksbury, Tyngsboro, Westford & Wilmington Ayer (portion lying west of the Greenville Branch of the Boston & Maine RR), Ft. Devens, Groton, Shirley and Townsend	7.31 8.05 7.75 7.31 7.35 7.75 10.52 8.94 10.02	.55 .365 .60 .55 .30 .70 1.10 1.10 .60	.30 .70 .60 .65	.10 .02 .05		
DECISION NO.: MA77-3069	Basic Hourly Rates	H & W	Pensions	Vacation		Education and/or Appr. Tr.
PLUMBERS (CONT'D) Ashland, Belmont, Concord, Framingham, Holliston, Hopkinton, Lexington, Lincoln, Marlboro, Maynard, Natick, Sherborn, Stow, Sudbury, Waltham, Wayland & Weston All work, including demolition, repair and alteration of any existing structure which is intended for predominantly residential use: Ashland, Belmont, Concord, Framingham, Holliston, Hopkinton, Lexington, Lincoln, Marlboro, Maynard, Natick, Sherborn, Stow, Sudbury, Waltham, Wayland and Weston Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, N. Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester and Woburn ROOFERS: Journeyman roofers Re-roofing and repairs Pitch work SHEET METAL WORKERS SPRINKLER FITTERS STEAMFITTERS: Acton, Arlington, Cambridge, Everett, Malden, Medford, Melrose, Newton, N. Reading, Reading, Somerville, Stoneham, Wakefield, Watertown, Winchester & Woburn	11.22 9.54 11.20 9.75 9.20 10.75 10.23 11.63 11.76	.98 .98 1.02 .70 .70 .70 1.16 .65 .94	.85 .85 1.28 .60 .60 .60 1.10 .95 1.20	.05 .05 .05 .03 .03 .03 .06 .08 .07		

FEDERAL REGISTER, VOL. 42, NO. 195—FRIDAY, OCTOBER 7, 1977

DECISION NO.: MA77-3069	
PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day.	
FOOTNOTES: a. Employer contributes 4% of basic hourly rate for 5 years or more of service or 2% of basic hourly rate for 6 months to 5 years of service as vacation pay credit. b. Holidays: A through F. c. Holidays: A through F, Washington's Birthday, Good Friday & Christmas Eve, provided the employee has worked at least 45 full days during the 120 calendar days immediately prior to the holiday and the regular scheduled work days immediately preceding and following the holiday. d. Holidays: A through F & Bunker Hill Day, provided the employee has been employed 5 working days prior to any one of the listed holidays. e. Employer pays \$5.00 per day extra above the brush rate.	
CLASSIFICATION	
CLASS I Carpenter tenders, cement finisher tenders, laborers, wrecking laborers	
CLASS II Asphalt takers, fence and guard rail erectors, laser beam op., mason tender, pipe layer, pneumatic drill op., wagon drill op.	
CLASS III Air track op., block pavers, rammers, curb setters	
CLASS IV Blowers, powdermen	

FEDERAL REGISTER, VOL. 42, NO. 195—FRIDAY, OCTOBER 7, 1977

DECISION NO.: MA77-3069

BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS:

CLASS I
CLASS II
CLASS III
CLASS IV
CLASS V
CLASS VI

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
10.61	1.10	.80	a	.02
10.49	1.10	.80	a	.02
8.86	1.10	.80	a	.02
7.67	1.10	.80	a	.02
7.84	1.10	.80	a	.02
8.32	1.10	.80	a	.02

CLASSIFICATIONS

CLASS I - Cranes, shovels, truck cranes, cherry pickers, draglines, trench hoes, backhoes, three drum machines, derricks, pile drivers, elevator towers, hoists, gradalls, shovel dozers, front end loaders, fork lifts, augers, boring machines, rotary drills, post hole hammers, post hole diggers, pumpcrete machines, asphalt plant (on site), concrete batching and/or mixing plant (on site), crusher plant (on site), paving concrete mixers, timber jacks, boom over 150', including jib - additional \$.35 per hour; Boom over 185' including jib - additional \$.70 per hour; Boom 210' including jib - additional \$1.00 per hour; Boom over 250' including jib - additional \$1.50 per hour; Boom over 295' including jib - additional \$2.00 per hour.

CLASS II - Sonic or vibratory hammers, graders, tandem scrapers, concrete pumps, bulldozers, tractors, yolk rakes, mulching machines, portable steam boiler, portable steam generators, rollers, spreaders, tampers (self propelled or tractor drawn), asphalt pavers, mechanics maintenance, paving spread machines, stationary steam boilers, paving concrete finishing machines, cal trucks, ballast regulators, switch tampers, rail anchor machinery, tire trucks (when operated by the employer on the job site).

CLASS III - Pumps (1-3 grouped), compressors, welding machines (1-3 grouped), generators, concrete vibrators, lighting plants, heaters (power driven 1-5), well-point systems (operating and installing), syphons-pulmonometers, concrete mixers, valves controlling permanent plant air or steam, conveyors, Jackson type tampers, single displacement pump, lighting plants.

CLASS IV - Assistant Engineers (Firemen)

CLASS V - Oilers and apprentices (other than truck cranes and gradalls)

CLASS VI - Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTE: a. Holidays: A through F, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO.: MA77-3069

HEAVY & HIGHWAY CONSTRUCTION

POWER EQUIPMENT OPERATORS

Group 1 - Hourly premium for boom lengths including jib - Over 150 feet + \$.45
Over 185 feet + .80
Over 210 feet + 1.15
Over 250 feet + 1.75
Over 295 feet + 2.50

Group 2
Group 3
Group 4
Group 5
Group 6

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
10.61	1.10	.80	a	.02
10.49	1.10	.80	a	.02
8.86	1.10	.80	a	.02
7.67	1.10	.80	a	.02
7.84	1.10	.80	a	.02
8.32	1.10	.80	a	.02

CLASSIFICATIONS

Group 1 - Power shovels, cranes, truck cranes, derricks, pile drivers, trenching machines, mechanical hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, three drum machines, pumpcrete machines, Uke loaders, shovel dozers, front end loaders, mulching machines, shaft hoists, steam engines, backhoe, gradalls, cable ways, fork lifts, cherry pickers, boring machines, rotary drills, post hole hammers, post hole diggers, asphalt plant on job site, concrete batching and/or mixing plant on job site, crusher plant on job site, paving concrete mixers, timber jacks.

Group 2 - Sonic or vibratory hammers, graders, scrapers, tandem scrapers, bulldozers, tractors, mechanic maintenance, yolk rakes, mulching machines, paving pumps, stationary steam boilers, paving concrete mixers, rollers, spreaders, asphalt pavers, locomotives or machines used in place thereof, tampers, self propelled or tractor drawn, cal tracks, ballast regulators, rail anchor machines, switch tampers.

Group 3 - Pump (1-3 grouped), compressors, welding machine (1-3 grouped), generator, lighting plant, heaters (power driven) (1-5), syphons-pulmonometers, concrete mixers, valves controlling permanent plant air steam, conveyors, wellpoint systems (operating and installing)

Group 4 - Assistant Engineers (Firemen)

Group 5 - Oilers (Other than truck cranes & gradalls)

Group 6 - Oilers (on truck cranes & gradalls)

FOOTNOTE: A. 10 Paid Holidays - New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, Washington's Birthday, Columbus Day, Veterans Day and Patriots Day.

DECISION NO.: MA77-3069

MARINE CONSTRUCTION

POWER EQUIPMENT OPERATORS:

GROUP I
GROUP II
GROUP III
GROUP IV
GROUP V
GROUP VI
GROUP VII
GROUP VIII

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
10.61	1.10	.80	a	.02
11.61	1.10	.80	a	.02
10.56	1.10	.80	a	.02
10.49	1.10	.80	a	.02
8.86	1.10	.80	a	.02
9.67	1.10	.80	a	.02
7.84	1.10	.80	a	.02
8.32	1.10	.80	a	.02

GROUP I - Shovels, cranes, truck cranes, cherry pickers, derrick, pile drivers two or more drum machines, lighters, derricks boats, trenching, mechanics hoist pavement breakers, cement concrete pavers, draglines, hoisting engines, pumpcrete machines, elevating graders, shovel dozers, front end loaders, backhoes, gradalls, cable ways, boring machines, rotary drills, post hole hammers, post hole diggers, fork lifts, timber jacks, asphalt plant (on site), concrete batching &/or mixing plant (on site), crusher plant, (on site), paving concrete mixers; Booms over 150' including jib - additional \$.45 per hour-Booms over 185' including jib - additional \$.80 per hour; Booms over 210' including jib - additional \$1.15 per hour; Booms over 250' including jib - additional \$1.75 per hour; Booms over 295' including jib additional \$2.50 per hour

GROUP II - Master mechanic

GROUP III - Swinger engines

GROUP IV - Portable steam boilers, portable steam generators, sonic or vibratory hammers, graders, scrapers, tandem steam pumps, bulldozers, tractors yolk rakes, mulching machines, rollers, spreaders, tampers self-propelled or tractor drawn, asphalt pavers, concrete mixers with side loaders, mechanics - maintenance, cal tracks, ballast, regulator, switch tampers, rail anchor machines, tire trucks

GROUP V - pumps, compressors, welding machines, heaters (power driven), valves controlling permanent plant air or steam, well point systems, augers - powered by independence engines & attached to pile drivers, hydraulic saws, generators, lighting plants, syphons-pulmonometer, concrete mixers, conveyors

GROUP VI - Assistant engineers (firemen)

GROUP VII - Oilers and apprentices (other than truck cranes and gradalls)

GROUP VIII - Oilers and apprentices on truck cranes and gradalls

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; E-Thanksgiving Day; F-Christmas Day

DECISION NO.: MA77-3069

BUILDING AND HEAVY AND HIGHWAY CONSTRUCTION

TRUCK DRIVERS:

CLASS I
CLASS II
CLASS III
CLASS IV
CLASS V
CLASS VI
CLASS VII

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
7.94	.695	.725	a+b	
8.09	.695	.725	a+b	
8.14	.695	.725	a+b	
8.24	.695	.725	a+b	
8.34	.695	.725	a+b	
8.59	.695	.725	a+b	
8.84	.695	.725	a+b	

CLASSIFICATIONS

CLASS I - Station wagons, panel trucks and pickup trucks

CLASS II - Two axle equipment; helpers on low bed when assigned at the discretion of the employer, warehousemen, forklift operators

CLASS III - Three axle equipment and tiremen

CLASS IV - Four and five axle equipment

CLASS V - Specialized earth moving equipment under 35 tons other than conventional type trucks, low bed, vachual, mechanics, paving restoration equipment, mechanics

CLASS VI - Specialized earth moving equipment over 35 tons

CLASS VII - Trailers for earth moving equipment, (double hookup)

PAID HOLIDAYS: A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day

FOOTNOTES: a. One half day's pay each month in which an employee has worked 15 days provided he has been employed for 4 months.

b. Holidays: A through F, Washington's Birthday, Columbus Day, Veteran's Day and Patriots' Day provided an employee works two days of the calendar week in which the holiday falls.

SUPERSEDES DECISION

STATE: NEW JERSEY LOCATION: BERGEN, ESSEX,
HUDSON & PASSAIC COUNTIES
DECISION NO.: NJ77-3092 DATE: DATE OF PUBLICATION
Supercedes Decision NO. NJ76-3252, dated October 29, 1976 in 41 FR 47827
DESCRIPTION OF WORK: Residential construction consisting of single family
homes and garden type apartments up to and including 4 stories.

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Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vocation		
AIR CONDITIONING & REFRIGERATION MECHANICS: Installation of refrigeration equipment for any type of building where the combined compressor tonnage does not exceed 5 tons; installation of water-cooled air conditioning that does not exceed 10 tons (includes the piping of component system and the erection of the water tower); Installation of air-cooled air conditioning that does not exceed 15 tons					
ASHBESTOS WORKERS	\$ 8.35	.065	.31	1	.04
BOILERMAKERS	10.25	.92	1.03	1.74	.04
BOILERMAKERS HELPERS	10.57	.88	208+.25	108	.01
BRICKLAYERS, STONEMASONS, CEMENT MASONS & PLASTERERS:	10.04	.88	208+.25	108	.01
AREA 1	11.20	.72	.45		.05
AREA 2	11.25	1.07	1.35		.03
AREA 3	11.35	.84	.65		.02
AREA 4					
Bricklayers & Stonemasons	12.06	.87	.75		
Cement Masons	10.60	.75	1.00		.05
Plasterers	10.60	.75	1.00		.05
AREA 5	11.30	.75	.70		.02

AREAS COVERED BY BRICKLAYERS & STONEMASONS

AREA 1 - Bergen, (North Arlington, Lyndhurst - east of Ridge Rd. and north to Rutherford Avenue and B. Ry's Creek west of the Hackensack River); Essex (except Millburn Township); Hudson (that portion west of the Hackensack River) Counties.

AREA 2 - Bergen (except Wallington, part of East Patterson, Garfield, North Arlington, part of Lyndhurst) County.

AREA 3 - Bergen (remainder of county) and Passaic Counties.

AREA 4 - Hudson (remainder of county) County.

AREA 5 - Essex (Millburn Township) County.

AREAS COVERED BY CARPENTERS, INSULATORS & MILLWRIGHTS

AREA 1 - Essex County
AREA 2 - Passaic County
AREA 3 - Bergen (east of Hackensack River including but not limited to Cliffside, Port Lee, Grantwood, Palisades Park, Ridgefield, Edgewater, Fairview, Leonia & Coatesville) and Hudson Counties.
AREA 4 - Bergen (remainder of county) County.

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vocation		
DOCKBUILDERS & PILEDRIVERS DRYHALL TAPERS & FINISHERS ELECTRICIANS & CABLE SPICERS; Family residence construction not to exceed 4 unit apartments Other residential construction: Essex County Bergen & Hudson Counties Passaic County ELEVATOR CONSTRUCTORS: Construction Mechanics Helpers Probationary Helpers	11.45 10.60 7.32 13.24 12.68 13.33 10.12 7.59 5.06	1.40 1.10 68 78 62 62 495 495 5.06	1.78 .50 38 108 8+.58 88 324a 324a b+c b+c	.76 .10 .05 1/2 of 12	.02 .10 .05 1/2 of 12 .02 .02

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DECISION NO. NJ77-3092

CLASSIFICATION DEFINITIONS FOR LABORERS

AREA 1 - Group 1 - Laborers, air tool operators (jackhammers, vibrators), mason tenders, mortar mixers, pipelayers (concrete & clay) & plasterer tenders.
AREA 2 - Group 1 - Laborers, air tool operators (jackhammers, vibrators), mason tenders, mortar mixers, pipelayers (concrete & clay), plasterer tenders, wrecking & excavation.
AREA 3 - Group 1 - Regular laborers
AREA 3 - Group 2 - Mortar mixers, scaffold men & pneumatic hammer operators.
AREA 6 - Group 1 - Unskilled laborers, air tool operators, mason tenders, mortar mixers & pipelayers (concrete & clay).

AREAS COVERED BY LABORERS

AREA 1 - Bergen (Garfield, Passaic & Wallington Townships, Lodi, Lodi Boro. and East Patterson) and Passaic Counties.
AREA 2 - Bergen (remainder of county) County.
AREA 3 - Essex (City of East Orange, Townships of South Orange and Maplewood) County.
AREA 4 - Essex (Orange & Montclair) County.
AREA 5 - Essex (Millburn Township) County.
AREA 6 - Essex (remainder of county) and Hudson (Kearny, East Newark and Harrison) Counties.
AREA 7 - Hudson (remainder of county) County.

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Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vocation		
ELEVATOR CONSTRUCTORS: (CONT'D) Modernization Mechanics Helpers Probationary Helpers Contract Repairs Mechanics Helpers Probationary Helpers GLAZIERS: Bergen & Passaic Counties Essex & Hudson Counties IRONWORKERS - STRUCTURAL, ORNAMENTAL & REINFORCING LABORERS: AREA 1 Group 1 AREA 2 Group 1 AREA 3 Group 1 Group 2 AREA 4 Unskilled Laborers AREA 5 Unskilled Laborers AREA 6 Group 1 AREA 7 Unskilled Laborers	\$ 9.35 7.01 5.06 8.50 6.38 5.06 9.77 11.35 10.82 7.80 7.70 8.55 8.80 8.35 8.10 8.20 7.05	.495 .495 .495 .495 .495 .495 .60 .85 74 .75 1.00 .60 .60 .65 .70 .70 .75	.324a .324a .324a .324a .324a .324a 1.10 1.25 23% .85 .70 .40 .40 .40 .60 .70 .75	b+c b+c b+d b+d b+d b+d 10% 10% 10% .85 .70 .40 .40 .40 .60 .70 .90	.02 .02 .02 .02 .02 .02 .03 .05 1% .02 .02 .02 .02 .02 .02 .02 .02

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DECISION NO. NJ77-3092		Fringe Benefits Payments			
Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
\$10.90	.15	.40	e	.02	
10.75	.40	.25		.01	
13.24	7%	10%			
13.33	6%	8%			
14.41	6%	8%			
9.33	6%	8%			
12.68	5%	8 1/2%		3/4 of 1%	
10.00	1.13	1.19	f		
10.73	1.21	1.50			
9.15	.80	2.10			
8.28	1.09	1.23	f		
9.49	.76	1.95			
9.00	.84	.51			
8.80	.95	1.60		.06	
10.00	.95	1.60		.06	
11.00	.95	1.60		.06	
11.55	.95	1.60		.06	
11.55	.95	1.60		.06	

DECISION NO. NJ77-3092

LAYERS

LEADBURNERS

LINE CONSTRUCTION:

Essex County:

Linemen, Cable Splicers, Line

Equipment Operators, Line Truck

Operators & Groundmen

Passaic County:

Linemen & Equipment Operators

Cable Splicers

Groundmen

Bergen & Hudson Counties:

Linemen, Cable Splicers,

Equipment Operators & Ground-

men

Marble Setters, Terrazzo Workers

& Tile Setters:

Marble Setters

Terrazzo Workers

Tile Setters

Marble Setters, Terrazzo Workers

& Tile Setters, Finishers:

Terrazzo Workers' Finishers

Tile Setters' Finishers

PAINTERS: Passaic Counties:

New & Old construction of one &

two family houses:

Painters & Tapers

Other residential construction:

Painters & Tapers

Steel Outside

Spray & Sandblasting

Rollers on vitreous and/or

exotic coatings

DECISION NO. NJ77-3092		Fringe Benefits Payments			
Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
\$ 9.85	.70	.55	.30	.05	
8.90	.70	.55	.30	.05	
9.50	.70	.55	.30	.05	
10.00	.70	.55	.30	.05	
9.05	.70	.55	.30	.05	
10.45	.70	.55	.30	.05	
9.85	.90	1.75	.50		
8.80	.90	1.75	.50		
10.00	.90	1.75	.50		
11.00	1.10	.80	1.00	.25	
11.50	.70	.75	1.00	.20	
10.55	.76	.75	1.00	.02	
11.95	.75	1.35		.20	

DECISION NO. NJ77-3092

PAINTERS: (CONT'D)

Essex & Hudson (West half of

County) Counties:

Painters on New Construction

and Major Alterations

Painters on Repaint Work

Spraying or application of

hazardous or dangerous

materials on repaint work

-Exterior work exceeding 3

stories in height for painting

or open work on steel and

concrete for which requires

scaffolding higher than 20' above

the ground or floor

Repaint work as described above

Spraying or application of

hazardous or dangerous

materials

Hudson (remainder of county)

County:

Painters

Sprayers, tapers, coverers & a

Painters

Painters

PIPEFITTERS:

Bergen & Hudson Counties

AREA 1

AREA 2

AREA 3

DECISION NO. NJ77-3092

AREA COVERED BY PLUMBERS

AREA 1 - Bergen (Alpine, Bergenfield, Bogota, Carlstadt, Closter, Gresskill, Demarest, Dumont, East Rutherford, Emerson, Englewood Cliffs, Hackensack, Harrington Park, Hasbrouck Heights, Haworth, Hillsdale, Leonia, Little Ferry, Lynhurst, Maywood, Montvale, Moonachie, North Arlington, Northvale, Norwood, Old Tappan, Roseland, Rochelle Park, Paramus, Park Ridge, Ridgefield Park, River Edge, Ridgewood, Rockledge, Rutherford, Saddle Brook, Saddle River, South Hackensack, Tenack, Tenafly, Teterboro, Upper Saddle River, Warren Point, Washington Twp., Westwood, Woodcliff Lake and Wood-Ridge) County.

AREA 2 - Bergen (Cliffside Park, Edgewater, Fairview, Fort Lee, Morsemer and Ridgefield) and Hudson (Guttenberg, North Bergen, Secaucus, Weehawken and West New York) Counties.

AREA 3 - Hudson (Cities of Hoboken, Bayonne and Jersey City) County.

DECISION NO. NJ77-3092		Fringe Benefits Payments			
Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
\$12.425	.65	1.00		.15	
10.51	.65	1.00	10%	.05	
10.05	.675	1.36	1.00	.04	

PLUMBERS & GASFITTERS:

Essex (except all of the Oranges,

Livingston & Maplewood) & Hudson

(Harrison, East Newark &

Kearny) Counties

PLUMBERS & PIPEFITTERS:

AREA 1

AREA 2

AREA 3

AREA COVERED BY PLUMBERS AND PIPEFITTERS

AREA 1 - Essex (Orange, West Orange, East Orange, South Orange, Maplewood and Livingston) County

AREA 2 - Bergen (East Paterson, Fairlawn, Glen Rock, Ridgewood, Midland Park, Hoboken, Mahwah, Allendale, Upper Saddle River Twp., Ramsey, Oakland, Franklin Lakes and Mahwah) & Passaic (Paterson, West Paterson, Little Falls, Totowa Boro., Wayne, North Haledon, Haledon, Hawthorne, Pompton Lakes, West Milford Twp., Ringwood Boro, Boro of Manaque, Bloomingdale, Mountain View, Part of Clifton and Clinton) Counties.

DECISION NO. NJ77-3092

DECISION NO. NJ77-3092		Fringe Benefits Payments			
Basic Hourly Rates	H & W	Pensions	Vacation	Education and/or Appr. Tr.	
8.75	.65	1.00		.25	
11.00	1.20	.80	1.00	.10	
11.67	.65	1.00	.75	.06	
11.25	.78	1.01	1.13	.3%	
15.31	7%	15%	8	3%	
13.49	7%	15%	8	3%	
12.61	7%	15%	8	3%	
12.50	7%	15%	8	3%	
12.27	7%	15%	8	3%	
11.78	7%	15%	8	3%	
11.49	7%	15%	8	3%	
11.32	7%	15%	8	3%	
11.27	7%	15%	8	3%	
11.15	7%	15%	8	3%	
11.10	7%	15%	8	3%	
10.86	7%	15%	8	3%	
10.46	7%	15%	8	3%	
10.29	7%	15%	8	3%	
9.95	7%	15%	8	3%	
7.97	7%	15%	8	3%	

PLUMBERS & STEAMFITTERS:

Bergen (Lodi, Garfield &

Wallington) & Passaic (Passaic)

County:

Plumbers

Steamfitters

Essex (Short Hills & Millburn)

County (remainder of county)

Essex (remainder of county)

Steamfitters

POWER EQUIPMENT OPERATORS:

GROUP 1

GROUP 2

GROUP 3

GROUP 4

GROUP 5

GROUP 6

GROUP 7

GROUP 8

GROUP 9

GROUP 10

GROUP 11

GROUP 12

GROUP 13

GROUP 14

GROUP 15

GROUP 16

GROUP 1 - Helicopter pilot/engineer.

GROUP 2 - Autograde-combination subgrader base MTL spreader & base trimmer (CHI & similar type); autograde slip form paver (CHI & similar types); back hoe (all types); including all combination hoe loaders; central power plants (all types); concrete paving machines; cranes (all types), including overhead & straddle travelling type; cranes/gentry; derricks - land or floating (building & heavy construction rate only); drillmaster, quarry master (down the hole drill); draglines; elevator graders; engines, large diesel (1625 HP) and staging pump; front end loaders (5 yds & over); gradalls; grader, tago; helicopters co-pilot and communication engineer; Jacks, screw air hydraulic power operated unit or console type (not hand Jack or pile load test type); locomotive (large); mucking machines; pavers (21E and over); paver, resinous. Broymill; pavement and concrete breaker (i.e. superhammer); pavement breaker truck mounted; piledriver; scooper (loader and shovel) Koehring; shovels; treechopper with boom; trench machines.

GROUP 3 - Pump, staging.

GROUP 4 - A-frame, boom attachment on loaders; boring & drilling machines; brush chopper, chipper & shredder; cableways; carryalls; cherry pickers - 6 tons & under (over 6 tons - crane rate applies); concrete pump; concrete pump system, pumpcrete, squeezeconcrete & similar types; conveyors, 125' & over; econobiles (hilo, lull, hystor similar type equipment); forklifts; front end loaders (2 yds but less than 5 yds); groove cutting machines (ride or type); heater planet; hoist (Chicago Boom); Pans. LeTourneau, DM's. Ukes, pumpcrete-unit type; pumpcrete machines, squeezeconcrete & concrete pumping; scrapers-LeTourneau. DM's Ukes; side booms; squeezeconcrete; "straddle" carrier, Ross and similar types; winch trucks (hoisting).

GROUP 5 - Aerial platform (used as hoist); hoists all types except Chicago Boom type (building & heavy construction rate only); elevator or house cars (building and heavy construction rate only); roof hoists.

GROUP 6 - Asphalt spreaders; bridge deck finisher; grader, finish only; rollers-blacktop.

GROUP 7 - Asphalt curbing machine; asphalt plant engineer; autograde tube finisher & texturing machine (CHI & similar types); autograde concrete machine (CHI & similar types); autograde curb trimmer & sidewalk shoulder, slipform (CHI & similar types); barbending machines (power); batchers, batching plant & crusher on site; belt conveyer or systems; boilers and steam machines (building & heavy construction rate only); boom type skimmer machines (building & heavy construction rate only); car dumpers (railroad); compressor and blower type units; concrete breaking machines; concrete finishing machines; concrete saws & cutters (ride on type); concrete spreaders-netzel, reonatic & similar types; concrete vibrators (highway, road, street & sewer construction rate only); conveyors, under 125 ft.; crushing machines; ditching machine, small (ditch witch or similar); drill motor (duties include dust collector); dope pots (mechanical with or without pump); dumpsters; fine grade machine (large type); front end loaders (1 yd & over but less than 2 yds) - highway, road, street & sewer construction rate only; front end loaders (under 2 yds) - building and heavy construction rates only; generators; giraffe graders; graders and motor patrol; gummite machines (excluding nozzle); hammer vibratory (in conjunction with generator); hoppers; hopper doors (power operated); loaders (motorized) - building & heavy construction rate only; laddervator; lights, portable generating light plants; locomotive (dinky type); mechanic; mixers, portable paving mixers; motor patrols & graders; pavers (under 21E); pavement breakers - small, self-propelled ride on type (also maintains compact or hydraulic unit); pipe bending machine (power); pitch pump; plaster pump (regardless of size) - building & heavy construction rate only; plate hole digger; rod bending machines (power); scales, power; seaman; pulverizing mixer; silos; skimmer machines (boom type) - highway, road, street & sewer construction rate only; steam jennies and boilers; steel cutting machines, services & maintains; vibrating plants (used in conjunction with unloading); welder and repair mechanic.

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GROUP 8 - Compressors (2 or 3 within a total distance of 100' constitutes a battery) - building & heavy construction rate only; welding machines, gas or electric converters of any type - (2 or 3 in battery) - building and heavy construction rates only; welding system, multiple (rectifier transformer type) - building & heavy construction rate only.

GROUP 9 - Brooms & sweepers; bulldozer, D5 and over; fireman; sprinkler and water pump trucks (used on job site or in conjunction with jobsite); stone spreaders; sweepers & brooms; tractors, D8 & over; water and sprinkler trucks (used on job site or in conjunction with job site); Field Engineer: Party chief.

GROUP 10 - Compressors (2 or 3 within a total distance of 100' constitutes a battery) - highway, road, street and sewer construction rate only.

GROUP 11 - Front end loaders (under 1 yd.) - highway, road, street & sewer construction rate only.

GROUP 12 - Bulldozer under D5; rollers - grade fill or stone base; tractors, under D8.

GROUP 13 - Compressor (single); heaters (Nelson or other type including propane, natural gas or flow type units); pumps (4 inch suction & over including submersible pumps); pumps (2 of less than 4 inch suction including submersible pumps); pumps, diesel engine & hydraulic (immature of power) - highway, road, street & sewer construction rate only; temporary heating plant (Nelson or other type, including propane, natural gas or flow type units); welding machines, gas or electric converters of any type - single (building & heavy construction rate only); welding machines, gas or electric converters of any type (2 or 3 in battery) - highway, road, street & sewer construction rate only; wellpoint systems (including installation and maintenance).

GROUP 14 - Concrete spreaders, (small type) conveyer or loaders (not including elevator graders) - highway, road, street & sewer construction rate only; farm tractors (highway, road, street & sewer construction rate only); fertilizing equipment; fine grade machine (small type) - highway, road, street and sewer construction rate only; form line graders (small type) - highway, road, street & sewer construction rate only; grease, gas, fuel and oil supply trucks; mixers, concrete small (highway, road, street and sewer construction rate only); mucking equipment; road finishing machines (small type) - highway, road, street and sewer construction rate only; seeding equipment; tamping machines, vibrating self-propelled; welding machines, gas or electric converters of any type-single (highway, road, street and sewer construction rate only).

GROUP 15 - Assistant engineer/oiler; mechanics helper; tire repair and maintenance; field engineer; transit/instrument man.

GROUP 16 - Field engineer; rodman/chairman.

CLASSIFICATION DEFINITIONS

DECISION NO. NJ77-3092	Fringe Benefits Payments				Education and/or Appr. Tr.
	Basic Hourly Rates	H & W	Pensions	Vacation	
ROOFERS: Bergen & Passaic Counties: Composition Composition Helpers Slate & Tile Slate & Tile Helpers Essex County: Composition, Damp & Waterproofing Slate & Tile Hudson County: Composition, Damp & Water- proofing, the Hackensack River East of the Hackensack River Slate & Tile Slate & Tile Helpers SHEET METAL WORKERS: Bergen & Hudson Counties Essex & Passaic Counties SOFT FLOOR LAYERS SPRINKLER FITTERS TRUCK DRIVERS: Bergen, Hudson & Passaic Counties: GROUP 1 GROUP 2 GROUP 3 GROUP 4 GROUP 5 Essex County: GROUP 1 GROUP 2 GROUP 3 GROUP 4 GROUP 5 WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.	\$10.35 9.00 9.45 7.70 11.82 10.40 9.30 11.82 9.85 10.40 9.30 10.17 11.00 8.99 12.58 7.27 7.50 7.55 7.65 7.75 8.52 8.75 8.80 8.90 9.00	.68 .68 .70 .70 .80 .70 .70 .80 1.59 .70 .70 54+.164h 47+.29 6% .65 .68 .68 .68 .68 k k k k k	1.00 1.00 1.00 1.00 1.00 .30 .30 1.00 2.65 .30 .30 54+.10 47+.06 8% .95 .75 .75 .75 .75 .96 .96 .96 .96 .96	.65 47+.06 8% .95 .02 .03 .07	

GROUP 1 - Mechanic Helper

GROUP 2 - Drivers on the following type vehicles: Straight Dumps, Flats, Floats, Pickups, Container Haulers, Fuel, Water Sprinkler, Road Oil, Stringer, Head, Hot Pass, Bus, Dumpcrete, Transit Mixer, Agitator Mixer, Half Truck, Winch Truck, Side-o-Ratic, Dynamite, Powder, X-Ray, Welding, Skid, Jeep, Station Wagon, Stringer, A-frame, All Dual Purpose Trucks, Trucks with mechanical tail gates, Asphalt Distributor, Batch Trucks, Seeding, Mulching, Fertilizer, Air Compressor Trucks (intrinsit), Parts Chaser, Escort, Scissor, Hi-lift, Telescope, Concrete Breaker, Gin Pole, Stone, Sand, Asphalt Distributor & hose & nozzle-entire unit), Team Drivers, Vacuum or Vac-all Trucks (entire unit), Skid Truck (debris container - entire unit), concrete Mobile Trucks (entire unit), Expediter (parts chaser), Belterete Trucks, Pump Crete Trucks, Line Truck, Reel Truck, Wreckers, Utility Trucks, Tack Trucks, Warehousemen, Warehouse Parts-Men, Yardmen, Lift Truck in Warehouse, Helper when required on Lift Truck in Warehouse, Warehouse Clerk, Parts Man, Material Checkers, Receivers, Shippers, Binning Men (Materials), Cardex Man, Helper when required on Broyhill Coal Tar Epoxy Truck & Asphalt & Bituminous Distributor Truck, Drivers on the following type vehicles: Broyhill Coal Tar Epoxy Trucks, Little-Ford Bituminous Distributor, Slurry Seal Truck or Vehicle, Thickol Truck Master Pickup (Swamp Cat Pickup), Bucket Loader Dump Truck & any Rubber Tired Tractor used in pulling & towing Farm Wagons & Trailers of any description, similar type vehicles, Off-site & On-site Repair Shop.

GROUP 3 - Drivers on straight 3-Axle Materials: Trucks & Floats.

GROUP 4 - Drivers on all Euclid Type Vehicles: Euclids, International Harvesters, Wabcos, Caterpillar, Koehring, Tractors & Wagons, Dumpsters, Straight, Bottom, Rear & Side Dumps, Carryalls & Scrapers (not self loading-leading over the top), Water Sprinkler Trailers, Water Palls & similar types of Vehicles; Drivers on Tractors & Trailer type vehicles: Flat, Floats, 1-Beams, Low Beds, Water Sprinkler, Bituminous Transit Mix, Road Oil, Fuel, Bottom Dump Hopper, Rear Dump, Office, Shanty, Epoxy, Asphalt, Agitator Mixer, Mulching, Stringer, Seeding, Fertilizing Pole, Spread, Bituminous Distributor, Water Palls (entire unit) (Tractor Trailer), Reel Trailer, and similar types of vehicles.

GROUP 5 - Winch Trailers Drivers

DECISION NO. NJ77-3092

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
E-Thanksgiving Day; F-Christmas Day.

FOOTNOTES:

- Employer contributes \$8.00 per day per employee to an Annuity Fund.
- Holidays: A through F; plus Lincoln's Birthday, Washington's Birthday, Columbus Day, Election Day & Armistice Day.
- Employees with 6 months of service but less than 5 years of service receive 2 weeks vacation; 5 or more years of service receive 3 weeks vacation.
- Employees with 6 months of service but less than 5 years of service receive 2 weeks vacation; 5 years but less than 15 years of service receive 3 weeks; 15 or more years of service receive 4 weeks.
- Holidays: A through F; plus Washington's Birthday, Good Friday and Christmas Eve, providing the employee has worked 45 full days for the employer during 120 calendar days immediately prior to the holiday, and the employee works his regularly scheduled work days immediately preceding and following the holiday.
- Holiday: St. Patrick's Day.
- Holidays: A through F; plus Washington's Birthday, Presidential Election Day and Veterans' Day providing the employee works any of the 3 days in the 5 days preceding the holiday and the first work day after the recognized holiday.
- Employer contribution of 3% based on the basic hourly rate plus health & welfare plus pension plus vacation fringes.
- Holidays: A through F; plus Lincoln's Birthday, Washington's Birthday, Good Friday, General Election Day, Columbus Day and Veterans' Day provided the employee has been assigned to work or "shapes" one day of the calendar week during which the holiday falls.
- Employees working or receiving pay for 80 days within a year receive one week's vacation (48 hours); 126 days receive two weeks vacation (96 hours); 145 days receive 15 days (120 hours); 15 years seniority and 145 days receive 4 weeks vacation (160 hours).
- Employer contribution of \$116.00 per month per employee to Health & Welfare Funds.
- Holidays: A through F, plus Armistice Day and Washington's Birthday.

SUPERSEDES DECISION

STATE: Tennessee
 DECISION NUMBER: TN77-1129
 DATE: Date of Publication
 SUPERSEDES DECISION NO.: TN77-1080 dated July 22, 1977 in 42 FR 17764
 DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments or less), and Heavy Construction.

*Counties: Hamilton (Building and Heavy Construction); Marion, Polk & Rhea (Building Construction ONLY).

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Asbestos workers	10.00	.45	.20			.01
Boilermakers	9.50	.75	1.00			.02
Bricklayers						
Bricklayers; Stonemasons;						
Blocklayers	8.25					
Polk County	8.85	.45	.30			
All other counties						
Carpenters	8.68	.45	.40			.03
Carpenters, soft floor layers	8.505	.45	.40			.03
Piledrivers	9.13	.45	.40			.03
Millwrights						
Cement masons	8.25					
Polk County	8.70					
All other counties						
Electricians	9.35	.65	3%+.45			1%
Electricians	9.60	.65	3%+.45			1%
Cable splicers	9.095	.545	.35	4%+.45		.02
Elevator constructors	70&JR	.545	.35	4%+.45		.02
Elevator constructors' helpers						
Elevator constructors' helpers (prob.)	50&JR			4%		
Glaziers	8.47	.55	.60			1%
Ironworkers	9.16					.01
Lathers	8.95	.35		d		
Leadburners	10.25					
Marble, Tile, & Terrazzo						
Hamilton, Marion, & Rhea Counties	9.85	.45	.30			
Painters	7.75	.15	.30			
Commercial	8.00	.15	.30			
Industrial; Paperhanging & Drywall	8.25	.15	.30			
Sandblasting	8.25	.15	.30			
Plasterers	8.25					
Polk County	9.05					
All other counties	10.06	.45	.50	f		.08
Plumbers, pipefitters, steamfitters						
Roofers	8.80					
Composition, damp & water-proofing	9.00	.10				
Shale and tile	8.40	.10				
Kettlemen						

PAID HOLIDAYS WHERE APPLICABLE:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day; F-Christmas Day; G-Washington's Birthday; H-Good Friday; J-Christmas Eve.

FOOTNOTES:

- Holidays: A through F.
- Employer contributes 4% of regular hourly rate to vacation pay credit for employer who has worked in business more than 5 years, and 2% for employee who has worked less than 5 years.
- Employee who has worked more than 1, but less than 5 years, 2% of gross wages; 5 years or more, 4% of gross wages.
- Holidays, A through J, providing employee has worked 45 full days during the 120 calendar days prior to the holiday, and the regularly scheduled work days immediately preceding and following the holiday.
- \$21.50 per week for each employee.
- Paid Holiday: D-Provided employee has been on payroll for (2) two weeks prior to the holiday and works the regular scheduled work days immediately preceding & following the holiday.
- \$18.00 per week for each employee.

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TN77-1129 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Sheet metal workers:	9.72	.58	.66			.04
Hamilton County	10.07	.58	.66			.04
All other counties	10.35	.65	.95			.08
Sprinkler fitters						
Truck Drivers:	6.71	e	g			
Up to 3 tons	6.86	e	g			
3 to 5 tons	7.01	e	g			
5 to 7 tons	6.66	e	g			
Helpers and warehousemen	7.21	e	g			
Special equipment						
Welders - receive rate for craft to which welding is incidental.						

TN77-1129 (Cont'd)

BUILDING & HEAVY CONSTRUCTION

LABORERS	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
GROUP A	6.25	.20	.20			
GROUP B	6.35	.20	.20			
GROUP C	6.45	.20	.20			
GROUP D	6.55	.20	.20			
GROUP E	6.60	.20	.20			
GROUP F	6.90	.20	.20			
GROUP G	6.95	.20	.20			
GROUP H	6.65	.20	.20			
GROUP I	6.80	.20	.20			
GROUP J	6.80	.20	.20			
GROUP K	7.05	.20	.20			

GROUP A: Concrete laborers, general laborers, carpenter tenders, window and floor cleaners, and flagman on road and street crossings, form strippers, handling of rope to clam bucket, grout men, laborers working on demolition work, handling cleaning and pulling of nails from materials

GROUP B: Powder man helpers, vibrator operators, tenders to all trowel trades and terrazzo work, carrying reinforced steel, operating motorized wheel barrows, doping and painting of pipe, railroad track laborers, air spade operators, snake men on pipe work.

GROUP C: Sanitary and storm pipe layers or any other pipe outside of foundation, grade checker, yartner and pot man, steel form setters, mortar mixers by hand or machine, power saw operators, jackhammer, operator, pavement breaker operator, air tool operators, regular air tamp operators, wacker tamp operator, chipping hammer operator, hand operated ditching machine operator, concrete grinder, floor sweeping machine operator, concrete buffer and grinder power operator, concrete pumping machine operator.

GROUP D: Asphalt taker, wagon drill operator, sand blasting, track drill operator, concrete saw operator, using cutting torch or burner on demolition work, flagging of rigs.

GROUP E: Barco tamp operator and specially designed tamp operator, black top or concrete curbing machine operator

GROUP F: Powderman, motorized post hole digger operator and terrazzo machine grinder

GROUP G: Pneumatic concrete gun operator and nozzleman

FREE AIR SHAFTS AND TUNNELS

GROUP H: Tunnel laborers

GROUP I: Chuck tender

GROUP J: Top lander on Shaft Work

GROUP K: Tunnel miner, including men required to go in pier holes drilled by machines.

TN77-1129 - (Cont'd)

POWER EQUIPMENT OPERATORS:

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
GROUP A	8.55	.30	.30			.05
GROUP B	7.55	.30	.30			.05
GROUP C	7.15	.30	.30			.05
GROUP D	6.85	.30	.30			.05

GROUP A: Backhoes; cableways; ross carrier; clamshells; cranes; derricks; draglines; turnpills; pans; scrapers; scoops; head tower machines; end-loaders; locomotives (over 20 tons); shovels; dozers; fork-lifts (over 8' lift); core drills; foundation drills; graders; mechanics; welders; winch truck with A-frame; skimmer scoops; locomotive cranes; overhead cranes; skid rigs; piledrivers; side boom tractors; euclid loaders; derrick boat; dredge boats; hoist (any size handling steel or stone); engines used in connection with hoists material; mucking-machines; cherry-pickers; tower cranes; skylift; gradall.

GROUP B: Tractors; farm type tractors (with attachments); central compressor plants; elevators (used for hoisting building materials); central mixing plants; hoists (not handling steel or stone); pump-crete machine; concrete pumps; backfillers (other than cranes); tractors; crushing plant; elevating graders; earth augers; forklifts; (8' lift or under); paving machines (blacktop/concrete); boat operator or engineer (30 tons or over); blacktop rollers; switchman; locomotive (under 20 tons); maintainers.

GROUP C: Asphalt plant; barbet-green type loader; engine tender (other than steam); mixers (over 2 bags, not to include central plants); pumps (not more than 3); surfers; spreader box (bituminous); asphalt mixers; portable compressors (not more than 3); roller; sub-grader machine; tractors (farm type without attachments); cable head tower engine; dredge booster pump; boat operator or engineers (under 30 tons); finishing machines; fireman & oiler (Combination); motor crane oiler & driver; welding machines (not more than 3); heaters (stationary or portable, not more than 5); compressors (portable, not more than 3); greaser or fuel truck.

GROUP D: Air compressor (1 portable); fireman; portable crushers; welding machine (1); conveyors; pump (1); oiler; heater (1).

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SUPERSEDES DECISION

STATE: Tennessee COUNTY: Shelby
 DECISION NUMBER: TN77-1132 DATE: Date of Publication
 SUPERSEDES DECISION No.: TN77-1074 dated August 12, 1977, in 42 FR-41091
 DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments up to and including 4 stories) and heavy construction

TN77-1132 - (Cont'd)

BUILDING CONSTRUCTION	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Asbestos workers	11.20	.75	.50			.02
Boilemakers	9.50	.75	1.00			.02
Bricklayers; stonemasons	10.20	.43	.30			.10
Carpenters; pifedriermen; soft floor layers	9.55	.30	.30			.065
Concrete masons	8.875	.45	.55			.10
Cement masons	9.125	.45	.55			.10
Cement masons machine operator	10.48	.75	34.40			.58
Electricians	10.58	.75	34.40			.58
Cable splicers	9.43	.545	.35	48+3+b		.02
Elevator constructors	708JR	.545	.35	48+3+b		.02
Elevator constructors' helpers (prob.)	508JR	.75	.40			.125
Glaziers	9.60	.65	.70			.01
Ironworkers	9.30	.25		c		.01
Lathers	10.50	.40	.25			.01
Leadburners	9.88	.75	18+.40			3/88
Line Construction:	7.41	.75	18+.40			3/88
Special equipment operator	3.95	.75	18+.40			3/88
Groundmen:	4.94	.75	18+.40			3/88
1st year	8.65	.45	.20			.05
2nd year	4.05	.56	.40			.06
Marble setters; Terrazzo workers; tile setters	9.65	.40	.45			.075
Marble, Tile, Terrazzo finishers and shopmen	9.10	.40	.45			.075
Millwrights	9.35	.40	.45			.01
Painters:	9.90	.75	.30			.03
Commercial	11.52	34+.55	.25	.55		.02
Industrial; spray; sandblast	9.71	.65	.95			.08
Plasterers	10.35					
Plumbers						
Roofers						
Sheetmetal workers						
Sprinkler fitters						

NOTICES

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
10.97	.55	.30			
6.10		d			
6.50		d			

Steamfitters; air conditioning mechanic; pipefitters
 truck drivers:
 Up to 5 tons
 5 tons & over incl., special equipment

Welders, riggers, & riveters:
 rate prescribed for craft to which operation is incidental.

BUILDING CONSTRUCTION

LABORERS:

GROUP A
 GROUP B
 GROUP C
 GROUP D
 GROUP E
 GROUP F

Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
	H & W	Pensions	Vacation		
6.375	.25	.30			
6.475	.25	.30			
6.525	.25	.30			
6.725	.25	.30			
6.925	.25	.30			
7.05	.25	.30			

GROUP A: General and common laborers, concrete laborers, track laborer walkers, cement finisher helper, plumber helpers, carpenters tenders, asphalt rakers tarpers, form strippers, roofing helpers.

GROUP B: Well driller helpers, storm and sanitary pipe layers, mat weavers, motor buggie operators.

GROUP C: Chain saw operator, jackhammer, vibrator and electric hammer and all air tool and pneumatic tools.

GROUP D: Deep hole men

GROUP E: Powdermen, toolroom attendant, torchman on demolition and salvage, sand hog (free air).

GROUP F: Hod carriers, mason tenders and plasterers tenders.

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BUILDING CONSTRUCTION

POWER EQUIPMENT OPERATORS:

CLASS A	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
CLASS A	9.175	.40	.50			
CLASS B	8.745	.40	.50			
CLASS C	8.045	.40	.50			
CLASS D	7.645	.40	.50			

CLASS A: Shovels, backhoes, draglines, cranes, gantries, gradall, winch with boom, motor paticl, trenching machine (18" & over), pile driver, tug boat operator, mechanics (heavy), central mixing plant, locomotive engineer, straddle carriers, core drills (over 3"), tower cranes, hydro cranes, Austin western (and similar type cranes), drilling of piling, tugger, earth freeing equipment, 3 drum hoist, side boom, dredge operator (engineer), hopper, pumpcrete, mucking machines, cableways, central compressor plant, derrick boat, concrete pump, welders (men from the craft), helicopter operator, well point system, sweeper, bulldozers, pans, scrapers, excavators, fork lift, front end loader.

CLASS B: Trenching machines (18" and smaller), tandem rollers, pavers, mobile mixers (rubber tired, mobile, mixed on job), back filler, blade graders, dinky operator over 10 tons, elevating graders, winches (operated from trucks or tractors, without booms and powered by other than the truck), distributors, bituminous surfaces, 1 and 2 drum hoist, grout pumps, motor boat, switchman, earth compactors (motorized-Buffalo-Springfield type)

CLASS C: Locomotive fireman (on boilers 100 h.p. and over), operator, air compressor (stationary), earth drills, scale operators, tractors (40 h.p. and less), motor crane driver and oiler, pumps (larger than 4"), dinky operators (10 tons and less), oilers on gantries, greasers

CLASS D: Air compressor operator, mechanic helper, locomotive fireman, welding machine operators, deck hand, elevator operators.

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HEAVY CONSTRUCTION

CLASS A	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
CLASS A	6.85					
CLASS B	5.70					
CLASS C	5.70					
CLASS D	6.60					
CLASS E	5.45					
CLASS F	6.10					

Bricklayers
 Carpenters
 Cement masons
 Electricians
 Ironworkers, reinforcing
 Ironworkers, structural
 Laborers

Laborers, (unskilled); flagman
 chain saw operator; concrete
 tapper; pipelayer; air tool
 operator

Plasterer
 Concrete edge operator
 Concrete saw operator; fence
 erector; guard rail erector

Asphalt taker
 Sign erector
 Form setter
 Powderman

Nozzelman or gunman (gunnite)
 Painter; sand blaster
 Truck driver:
 2 & 3 axles
 4 & 5 axles or more or heavy
 duty off-the-road trucks

Welders - rate for craft.

POWER EQUIPMENT OPERATORS:

Pump; welder helper
 Ditch paver; mechanic helper
 Curb machine
 Motor crane driver; mulcher or
 seeder; scalae
 Tractor
 Concrete mixer (less than 1 yd)
 earth drill
 Track drill
 Dozer or loader - stock pile
 only
 Oiler; roller (other than
 finish)

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HEAVY CONSTRUCTION
POWER EQUIPMENT OPERATORS
(CONT'D):

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Distributors (bituminous)	4.65				
Crawler; utility	4.70				
Spreaders (self-propelled)	4.80				
Asphalt paver; central mixing					
(asphalt or concrete); concrete					
finishing (Class II); motor					
patrol (finish); roller	5.00				
(finish); soil cement machine					
machine	5.15				
Bulldozer or push dozer;	5.70				
scraper;					
Backhoe; concrete paver;					
crane; end loader (other than					
stock pile); (Class I);					
motor patrol (finish); pile-	5.70				
driver; shovel					

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SUPERSEDES DECISION

STATE: Tennessee
DECISION NUMBER: TN77-1133
Supersedes Decision No.: TN77-1082 dated July 8, 1977, in 42 FR-35603
DESCRIPTION OF WORK: Building construction (does not include single family homes and garden type apartments of 4 stories or less).

*Counties: All of Knox and Monroe, and those portions of Anderson & Roane which comprise the Oak Ridge Energy Research and Development Administration site.

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
Asbestos workers	10.00	.45	.20		.02
Boilermakers	9.30	.95	1.00		.02
Bricklayers	9.92		.40		.02
Carpenters	8.42				
Cement masons	7.74				
Electricians:					
Knox & Monroe Counties:					
Electricians	9.05	.40	38+.40		0.5a
Linemen	9.05	.40	38+.40		0.5a
Cable splicers	9.45	.40	38+.40		0.5a
Anderson & Roane Counties:					
Electricians	9.16	.40	38+.40		0.5a
Linemen	9.16	.40	38+.40		0.5a
Cable splicers	9.66	.40	38+.40		0.5a
Elevator constructors:					
Elevator constructors	8.625	.545	.35	48+arb	.02
Elevator constructor helpers	7.042	.545	.35	48+arb	.02
Elevator constructor helpers (prob.)	5.042		.25		.005
Glaziers	5.75				
Ironworkers:					
Structural, ornamental, & fence erector	8.34	.50	.50		.02
Reinforcing	8.20	.50	.50		.02
Lathers	8.66	.40	.20		.01
Leadburners	10.50				
Marble setters	9.92		.40		
Millwrights	9.06		.35		.03
Painters:					
Commercial	8.20		.35		.03
Industrial	8.55		.40		.02
Piledrivers	8.67		.40		.02
Plasterers	8.85				
Plumbers & steamfitters:					
Knox County	9.15	.40	.70	.35	.05
Outstate Knox County	9.45	.40	.70	.35	.05
Roofers:					
Knox County	7.63		.25		
Sheet metal workers:	5.76		.25		
Knox County	9.72	.58	.66		.04
Monroe, Anderson, & Roane Counties	10.22	.58	.66		.04
Soft floor layers	8.42		.40		.02
Sprinkler fitters	10.35	.65	.95		.08
Stonemasons	9.92				

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TN77-1133

Tile & terrazzo workers

Truck drivers:
Up to 3 tons, incl. 4 yd. dump
3 to 5 tons, incl. 6 yd. dump
over 5 tons, incl. dump truck
over 6 yds., ready mix concrete truck, tank trucks, floats, lowboys, winch trucks, semi trailer, any truck pulling or towing equipment

9.92

5.10

.25

d

5.45

.25

d

PAID HOLIDAYS:
A-New Year's Day, B-Memorial Day, C-Independence, D-Labor Day, E-Thanksgiving Day, F-Christmas Day, G-Washington's Birthday, H-Good Friday, J-Christmas Eve

FOOTNOTES:

a. Holidays: A through F.

b. Employer contributes 4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

c. 9 Paid Holidays: A through J, providing employee has worked 45 full days during the 120 calendar days prior to the holidays, and the regular scheduled work days immediately preceding and following the holidays.

d. \$ 14.00 per week for each employee.

LABORERS

	Basic Hourly Rates	Fringe Benefits Payments			
		H & W	Pensions	Vacation	Education and/or Appr. Tr.
GROUP A	5.14	.15	.15		.01
GROUP B	5.29	.15	.15		.01
GROUP C	5.29	.15	.15		.01
GROUP D	5.32	.15	.15		.01
GROUP E	5.44	.15	.15		.01

GROUP A: Construction laborer

GROUP B: Mortar mixer, plasterer tender

GROUP C: fied carriers, power buggies, yarder, potman, grademan, snake man, form setter & strippers, pipelayers, asphalt raker, jackhammer op., air tool operator, vibrator operator, chain saw operator, barco

GROUP D: Acetylene burner

GROUP E: Mason drill operator

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777-1133 - (Cont'd)

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	Basic Hourly Rates	Fringe Benefits Payments			Education Appr. Tr.
		H & W	Pensions	Vacation	
GROUP A	8.19	.30	.30		.05
GROUP B	7.61	.30	.30		.05
GROUP C	6.36	.30	.30		.05
GROUP D	5.84	.30	.30		.05

GROUP A: Backhoes; cable ways; ross carrier; clamshells; cranes; derricks; draglines; tounapulls; pans; scrapers; scoops, etc.; head tower machines; locomotives (over 20 tons); shovels; mechanics & welders; winch trucks with A-frame; skid boom tractors; locomotive cranes; over-head cranes; pile drivers; skid rigs; sid boom tractors; euclid loaders; hoist (any size handling steel or stone); derrick boats; dredge boats; engine engines; mucking machines; hi-lift material with an attached device on tower cranes; tower cranes; skylift & or end loaders; finish graders; cherry-pickers; tower cranes; core drill & gradall; dozers; earth auger; and pole machine operators; core drill & foundation drills

GROUP B: Tractors, farm type tractors with attachments; central compressor plants; elevators, used for hoisting building material, central mixing plants; hoist; pump crane machines; concrete pumps; trenching machines; backfillers (other than cranes); crushing plant operators; elevating graders; paving machines (black top); fork-lift; paving machines, concrete; boat operator or engineer (30 tons or over); tractors; maintainers; blacktop roller; switchman; locomotive under 20 tons

GROUP C: Asphalt plant operators; barber green type loaders; engine tender other than steam; mixers, over 2 bags not include central plants; pumps, 2 not more than 3; scarifiers; spreader box (bituminous); asphalt mixers; portable compressors, 2 not more than 3; rollers; sub-grader machine; tractors, farm type without attachments; cable head tower engineman; dredge booster pump operators; boat operator or engine, under 30 tons; finishing machine; fireman & oiler (combination); motor crane oiler & driver; welding machine; 2 not more than 3; heaters, stationary or portable (to 3); compressors (portable 2 not more than 3); greaser or fuel trucks

GROUP D: Air compressor (1 portable); fireman; portable crushers; welding machine (1); conveyors; pumps (1); oiler; heater (1)

[FR Doc.77-29238 Filed 10-8-77;8:45 am]

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federal register

FRIDAY, OCTOBER 7, 1977
PART VI



PRIVACY ACT ISSUANCES, ANNUAL PUBLICATION

Department/ Agency	FR Page Numbers	
	Systems of Records	Rules
Commodity Futures Trading Commission.....	54742	—
Housing and Urban Development Department.....	54756	—
National Science Foundation....	54780	—

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

PRIVACY ACT OF 1974

Systems of Records; Annual Publication

Action. Publication of annual notice of the existence and character of each system of records it maintains which contains information about individuals and proposed new routine use.

Summary. The purpose of this notice is to announce the existence and character of the systems of records of the Commodity Futures Trading Commission as required by the Privacy Act of 1974, Pub. L. 93-579, 5 U.S.C. 552a.

Pursuant to 5 U.S.C. 552a(f), the Commission, on September 4, 1975, promulgated rules relating to records maintained by the Commission concerning individuals [40 FR 41056]. The rules, as amended, [17 CFR Part 146] deal with an individual's right to know what information the Commission has in its files concerning him, his right to have access to these records, his right to petition the Commission to have inaccurate or incomplete records amended or corrected, and his right not to have personal information disseminated to unauthorized persons. [1]

Under 5 U.S.C. 552a(e)(4), the Commission is required to publish annually a notice of the existence and character of each system of records it maintains which contains information about individuals. This notice implements this requirement and, when read together with the Commission's rules, will provide individuals with the information they need fully to exercise their rights under the Privacy Act.

In addition, 5 U.S.C. 552a(e)(11) requires each agency to publish in the Federal Register notice of any new use of the information contained in a system of records and to provide an opportunity for interested persons to submit written data, views or arguments to the agency concerning such use. The Commission is proposing adoption of an additional routine use in a number of systems of records which will authorize the Commission to disclose personal information to national securities exchanges and national securities associations registered with the Securities and Exchange Commission, for use in meeting the responsibilities assigned to these organizations under the Securities Exchange Act of 1934, 15 U.S.C. 78a, et seq. In many cases the securities and commodity futures business are closely related, with firms operating in both areas, and personnel transferring from one area to the other. The Commission has previously listed as a routine use disclosure to contract markets designated by the Commission if the disclosure is expected to assist the contract market in carrying out its self-regulatory responsibilities under the Commodity Exchange Act. This routine use is now being expanded to encompass the securities-related organizations. See routine use (3) listed under the General statement of routine uses set forth below.

Comments on the Commission's proposal should be submitted to: Office of the Secretary, Commodity Futures Trading Commission, 2033 K Street NW, Washington, D.C. 20581.

by November 7, 1977. Unless notice to the contrary is published in the Federal Register, the amendment to the third routine use proposed by the Commission will become effective thirty days after the date that this notice is published in the Federal Register (November 7, 1977).

The Commission in publishing its system notices this year has established two new systems of records: CFTC-28, Exchange Disciplinary Action File, and CFTC-29, Customer Reparations Complaints. The complete text of these systems is contained in this notice.

Content of System Notices

Each system notice contains the following information:

1. The name of the system;
2. The categories of individuals on whom records are maintained in the system;
3. The categories of records maintained in the system;
4. Each routine use of the records contained in the system, including the categories of users and the purpose of each use;
5. The policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records.

[1] The full text of the Commission's rules implementing the Privacy Act should be consulted for a detailed description of the procedures to be followed.

6. The title and business address of the agency official who is responsible for the system of records;

7. The agency procedures by which an individual can find out whether the system of records contains a record pertaining to him;

8. The agency procedures by which an individual can find out how he may gain access to any record pertaining to him contained in the system of records, and how he can contest the content of the records; and

9. The categories of sources of records in the system. [2]

The Location of Systems of Records

The first and sixth items described above call for the address of the Commission Office involved. The Commission maintains offices in the following locations:

2033 K Street, NW,
Washington, D.C. 20581
Telephone: (202) 254-8630.

233 South Wacker Drive
46th Floor
Chicago, Illinois 60606

4901 Main Street
Room 208
Kansas City, Missouri 64112

One World Trade Center
Suite 4747
New York, New York 1004

Two Embarcadero Center
Suite 700
San Francisco, California 94111

510 Grain Exchange Building
Minneapolis, Minnesota 55415

Where multiple locations are involved in a system notice, rather than listing each address the notice merely identifies the offices and refers to this introductory section for each address. In the system notice, the Washington office is referred to as the "principal office," the Chicago, Kansas City and New York offices as the "regional offices," and all offices collectively are described as "all CFTC offices."

In many cases records within a system will not all be available at each of the offices listed in the system notice. For example, investigation files are basically maintained in the office where the investigation is being conducted, but certain information may be maintained in other offices as well. Similarly, many but not necessarily all employee records are maintained in the particular office where the employee works. In addition, the Commission's computer is physically located in Chicago, although information in computer printout form may be available in any office.

Of course, it will be the Commission's responsibility, unless otherwise specified in the system notice, to determine where the particular records being sought are located. However, if the individual seeking the records in fact knows the location, it would be helpful to the Commission if he would indicate that location.

Scope and Content of Systems of Records

The Privacy Act applies to personal information about individuals; it does not apply to the extent that the individual is acting in an entrepreneurial capacity. Since the Commission's responsibilities pertain to the regulation of business entities or to individuals who are acting in a business capacity, much of the information contained in the Commission's records does not come within the purview of the Privacy Act.

On the other hand, personal information subject to the provisions of the Privacy Act may sometimes be found in a system of records that might appear to relate solely to commercial matters. For example, the system of records entitled "registration of futures commis-

[2] Two systems of records, one relating to investigatory material compiled for law enforcement purposes and the other relating to confidential information obtained during employee background investigations, have been exempted from the Commission's rules from certain requirements of the Privacy Act, as authorized under the Privacy Act, 5 U.S.C. 552a(K). Among the requirements from which these systems have been exempted is the requirement that the information listed under items (7), (8), and (9) above, be furnished.

sion merchants" [3] contains essentially business information. However, the application for registration contains a few items of personal information concerning key personnel of the registrant firm. Since the capability exists through the Commission's computer to retrieve information from this system of records not only by use of the name of the futures commission merchant but also by the use of the name of these individuals this information is within the purview of the Privacy Act. [4]

Such a capability would generally not exist, however, in a Commission staff investigation of the activities of the futures commission merchant. Thus, if the investigation were opened under the name of the futures commission merchant, information would be retrievable only under that name. Accordingly, information about principals of a firm under investigation which might be developed during the investigation would generally not be retrievable by the name of the individual, and the provisions of the Privacy Act would not apply.

General Statement of Routine Uses

A principal purpose of the Privacy Act is to restrict the unauthorized dissemination of personal information concerning the individual. In this connection, the Privacy Act and the Commission's rules prohibit all dissemination except for specific purposes. [5]

The Act and the rules specifically provide that disclosure may be made with the consent of the individual to whom the record pertains. Disclosure may also be made to those officers and employees of the Commission who need the record in the performance of their duties. In addition, disclosures are authorized if they are made pursuant to the terms of the Freedom of Information Act, 5 U.S.C. 552.

In addition, the Privacy Act and the Commission's rules permit disclosure of individual records if it is for a "routine use," which is defined as a use of a record which is compatible with the purpose for which it was collected. The system notice for each system of records is required to list each of these routine uses.

Many of the routine uses of Commission records are applicable to a number of systems. These include the following:

1. The information in the system may be used by the Commission in any administrative proceeding before the Commission, in any injunctive action authorized under the Commodity Exchange Act or in any other action or proceeding in which the Commission or any member of the Commission or its staff participates as a party or the Commission participates as amicus curiae, and may be disclosed in response to a subpoena issued in the course of a proceeding to which the Commission is not a party.

2. The information may be given to the Justice Department, the Securities and Exchange Commission, the United States Postal Service, and the Internal Revenue Service, the Department of Agriculture, the Civil Service Commission and to other federal, state or local law enforcement or regulatory agencies for use in meeting responsibilities assigned to them under the law, or made available to any member of Congress who is acting in his capacity as a member of Congress.

3. The information may be given to any board of trade designated as a contract market by the Commission if the Commission has reason to believe this will assist the contract market in carrying out its responsibilities under the Commodity Exchange Act, 7 U.S.C. 1, et seq., and to any national securities exchange or national securities association registered with the Securities and Exchange Commission, to assist those organizations in carrying out their self-regulatory responsibilities under the Securities Exchange Act of 1934, 15 U.S.C. 78a, et seq.

4. At the discretion of the Commission staff, the information may be given or shown to anyone during the course of a Commission investigation if the staff has reason to believe that the person to whom it is disclosed may have further information about the matters discussed therein, and those matters appear relevant to the subject of the investigation.

5. The information may be included in a public report issued by the Commission following an investigation, to the extent that this is authorized under Section 8 of the Commodity Exchange Act, 7

[3] A futures commission merchant is someone engaged in soliciting or in accepting orders for the purchase or sale of commodity futures in the manner defined in section 2(a) of the Commodity Exchange Act, 7 U.S.C. 2.

[4] See definition of system of records in footnote 1.

[5] Individuals should refer to the full text of the Privacy Act, 5 U.S.C. 552a(b) and to the Commission's rules for a complete list of authorized disclosures. Only those arising most frequently have been mentioned herein.

U.S.C. 12, section 8 authorizes publication of such reports but contains restrictions on the publication of certain types of sensitive business information developed during an investigation. In certain contexts some of this information might be considered personal in nature.

6. The information may be disclosed to a federal agency in response to its request in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information may be relevant to the requesting agency's decision on the matter.

7. The information may be disclosed to a prospective employer in response to its request in connection with the hiring or retention of an employee, to the extent that the information is believed to be relevant to the prospective employer's decision in the matter.

8. The information may be disclosed to any person, pursuant to section 12(a) of the Commodity Exchange Act, 7 U.S.C. 16(a), when disclosure will further the policies of that Act or of other provisions of law. Section 12(a) authorizes the Commission to cooperate with various other government authorities or with "any person."

To avoid unnecessary repetition of these routine uses, where they are generally applicable the system notice refers the reader to the above description. Unless otherwise indicated, where the system notice contains a reference to the foregoing routine uses all of the eight routine uses listed above apply to that system.

System Notices

The Commission's system of records are set forth below. For further information contact:

Privacy Unit
Commodity Futures Trading Commission
2033 K Street NW
Washington, D.C. 20581

CFTC-1

System name: Complaint Register and Complaint Indices—CFTC

System location: Records in this system are maintained in the Commission's principal office and in each of the regional offices. Addresses and telephone numbers of these offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: a. Persons alleged to have violated or suspected of having violated the Commodity Exchange Act or the rules and regulations adopted thereunder.

b. Persons lodging complaints with the Commission.

Categories of records in the system: The records in this system include:

a. The complaint register, a summary of complaints received from the public concerning an individual (or business entity) as well as a summary of leads as to possible areas of violation which were developed from other sources. A complaint number is assigned to each case and the record is filed according to that number. The register also, among other matters, names the individual complained about, his employer, the name of the complainant, the type of complaint, the date received, the disposition, the date closed and the investigator assigned.

b. The complaint index, which contains a summary of the same information as the complaint register, but is maintained alphabetically by the name of the person who is the subject of the complaint.

c. The complaint index, which contains a summary of the same information as the complaint register but is maintained alphabetically by the name of the complainant.

Authority for maintenance of system: Section 8 of the Commodity Exchange Act, 7 U.S.C. 12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are, set forth in the introduction to these system notices under the caption "general statement of routine uses."

Storage: Paper records in file folders, in looseleaf binders, or on index cards.

Retrievability: Information in the register is retrievable by assigned complaint number. This is cross-indexed to the individual's name through the complaint index and complainant index.

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Safeguards: Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and Disposal: The index is maintained indefinitely. The register is maintained on the premises for 5 years, then in the Federal Records Center for 5 years before being destroyed.

System manager(s) and address: The Director of the Division of Enforcement in the Commission's principal office and the Regional Director of each of the regional offices. Addresses of these offices are set forth in the introduction of these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Persons submitting complaints to the Commission, other miscellaneous sources including customers, other law enforcement and regulatory agencies, commodity exchanges, various trade sources, and items generated internally by the Commission staff.

CFTC—2

System name: Correspondence Files—CFTC

System location: These records are maintained in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals: Persons corresponding with the Commission, directly or through attorneys or other representatives. Persons discussed in correspondence to or from the Commission.

Categories of records in the system: This system contains incoming and outgoing correspondence and indices of correspondence, and certain internal reports and memoranda related to the correspondence.

This system does not include all Commission correspondence, but only those records which are part of a general correspondence file maintained by the office involved. It does not include correspondence indexed by subject matter, by date or by assigned number, unless there is a cross indexing capability by individual name. It does, however, include correspondence files maintained by the Office of Public Information relating to requests by individuals under the Freedom of Information Act and the Privacy Act.

CFTC—3

System name: Docket Files—CFTC

System location: The records are maintained in the Office of Hearings and Appeals in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals: Parties and other persons involved in any CFTC proceeding.

Categories of records in the system: The records in this system include all pleadings, motions, applications, stipulations, affidavits, transcripts and documents introduced as evidence, briefs, orders, findings, opinions, and other matters which are part of the record of an administrative proceeding. They also contain related correspondence and indices.

Authority for maintenance of system: The Commission is authorized or required to conduct hearings under several provisions of the Commodity Exchange Act. The maintenance of these files is a necessary concomitant for the conduct of orderly hearings. See also 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These are public records, except to the extent the Commission or the assigned hearing officer determines they may be treated as non-public consistent with the provisions of the Freedom of Information Act and that for good cause they should be treated as non-public. Non-public portions

may be used for any purpose specifically authorized by the hearing officer who ordered non-public treatment or by the Commission.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: These records are filed by the docket number and cross-indexed by the respondent's name, and his attorney's name.

Safeguards: The information in these files is in most cases a matter of public record. Those items which the Commission or the hearing officer has directed be kept non-public are segregated and precautions are taken to assure that access is restricted only to authorized personnel.

Retention and Disposal: These records are maintained in the files of the Commission indefinitely.

System manager(s) and address: Chief Administrative Law Judge, Office of Hearing and Appeals, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 252-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Commission staff members; opposing parties and their attorneys; witnesses in the proceeding; and other miscellaneous sources.

CFTC—4

System name: Employee Leave, Time and Attendance—CFTC

System location: These records are maintained by all CFTC offices at the addresses set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: All CFTC employees.

Categories of records in the system: This system includes various records reflecting a breakdown of time and attendance of CFTC employees, and a record of leave status.

Authority for maintenance of system: 5 U.S.C. 6301-6323; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. In response to legitimate requests, this information may be provided to other federal agencies for the purpose of hiring or retaining employees, and may be provided to other prospective employers, to the extent that the information is relevant to the prospective employer's decision in the matter.

b. The information may be provided to the Justice Department or other federal agencies or used by the Commission in connection with any investigation, or administrative or legal proceeding involving any violation of any federal law or regulation thereunder.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders or on index cards.

Retrievability: By the name of the employee or by the employee number, cross-indexed by name.

Safeguards: The records are maintained in locked cabinets.

Retention and Disposal: Records for current employees are maintained for three years; the final record of former employees is maintained for ten years, then destroyed.

System manager(s) and address: For employees of the Commission's principal office records are maintained by the Budget Officer. For regional office employees, records are maintained by the administrative officer in each of the regional offices. Addresses of these offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 252-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the record is maintained.

CFTC—5

System name: Employee Personnel Records—CFTC

System location: These records are maintained in the principal office and in each of the regional offices. Addresses and telephone numbers of these offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: All CFTC employees.

Categories of records in the system: Miscellaneous records relating to personnel matters. Information maintained at the local level includes among other matters: a. the service record, containing the employee's name, birth date, social security number, veterans preference, tenure group, service computation date, insurance information, retirement, current residence and phone number, marital status, and emergency phone number; b. other unofficial files including the employment application and related employment papers, copies of Government ID cards such as motor vehicle operator's license, applications for bond withholding, tax withholding and records of other withholdings such as life insurance and health benefits.

The records maintained in the principal office for all employees include: a. forms required and records maintained under the Commission's rules of conduct; b. pre-employment inquiries not included within "exempted employee background investigation materials;" c. various summary materials received in computer printout form from the National Finance Center—U.S. Department of Agriculture based on information provided by the Commission from its personnel records; d. card indices reflecting various information contained in other personnel records.

The official personnel records maintained by the Commission are described in the system notices published by the Civil Service Commission, and are not included within this system.

Authority for maintenance of system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. In response to legitimate requests, this information may be provided to other federal agencies for the purpose of hiring or retaining employees, and may be provided to other prospective employers, to the extent that the information is relevant to the prospective employer's decision in the matter. b. the information may be provided to the Justice Department, the Civil Service Commission or other federal agencies or used by the Commission in connection with any investigation, or administrative or legal proceeding involving any violation of federal law or regulation thereunder.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and on index cards.

Retrievability: By the name of the employee.

Safeguards: The records are maintained in lockable cabinets.

Retention and Disposal: The records are maintained in the current file until the employee is terminated or separated, retained for 2 years thereafter, and then destroyed.

System manager(s) and address: The Personnel Officer of the Commission is the system manager for all records maintained in the Commission's principal office. The system manager for records maintained in the regional offices is the administrative officer in each regional office. Addresses of these offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their

inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Individual on whom the record is maintained; personnel office records; and other miscellaneous sources.

CFTC—6

System name: Employee Travel Records—CFTC

System location: These records are maintained by all CFTC offices at the addresses set forth in the introduction to these systems notices under the caption "location of systems of records."

Categories of individuals: Any Commission member or employee or any member of an Advisory Committee who travels on official business for the Commission.

Categories of records in the system: Contains the name, address, destination, itinerary, mode and purpose of travel, dates, expenses, amounts advanced, amounts claimed, amounts reimbursed. Includes travel authorizations, travel vouchers, copies of government transportation requests, receipts and other records.

Authority for maintenance of system: Budget and Accounting Act of 1921, 31 U.S.C. 1 et seq.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information may be provided to the Justice Department or other federal agencies or used by the Commission in connection with any investigation, or administrative or legal proceeding involving any violation of federal law or regulation thereunder.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By the name of the employee; by employee number.

Safeguards: The records are maintained in lockable cabinets.

Retention and Disposal: Records are maintained for three years and then destroyed.

System manager(s) and address: For employees in the Commission's principal office the records are maintained by the Budget Officer. For other employees, records are maintained by the administrative officer in each regional office. Addresses of these offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the record is maintained.

CFTC—7

System name: Employee Records maintained by the National Finance Center/USDA—CFTC.

System location: National Finance Center, U.S. Department of Agriculture, New Orleans, Louisiana 70160.

Categories of individuals: All CFTC employees.

Categories of records in the system: The National Finance Center is used by the Commission to provide data processing capability for various personnel, payroll and accounting related matters. The records in the system include:

a. General records relating to the employee including information from the notification of personnel action (Form 350 and 350A) prepared and submitted by the CFTC, and other related sources. The information includes the name, social security or other employee number, birth date, veteran's preference, tenure, leave group, insurance coverage, retirement coverage, type of employ-

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ment, date service commenced and ended, grade and step, base salary, duty station, various computation dates, leave codes and status, employing office and other miscellaneous information.

b. Various payroll related information for CFTC employees, including payroll and leave data for each employee relating to rate and amount of pay, leave, and hours worked, and leave balances, tax and retirement deductions, life insurance and health insurance deductions, savings allotments, savings bond and charity deductions, mailing addresses and home addresses. This includes copies of the CFTC time and attendance reports as well as authorizations relating to deductions.

c. Travel vouchers and related material.

Authority for maintenance of system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from these records is transmitted to the U.S. Treasury to effect reimbursement of travel expenses and issuance of paychecks, as well as distribution of pay to other sources according to employee instructions. Appropriate information from these records is also forwarded to taxing authorities and others receiving proceeds from the employee's pay.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders; magnetic tape.

Retrievability: Indexed by social security number or equivalent employee number and by name of employee.

Safeguards: Protection is afforded by limiting access to the offices where the records are maintained. Certain records are kept in lockable file cabinets.

Retention and Disposal: Records are maintained indefinitely on tape; paper records are sent to the Federal Records Center after an appropriate period.

System manager(s) and address: Director, National Finance Center, U.S. Department of Agriculture, Office of Management and Finance, New Orleans, Louisiana 70160.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Records furnished by the CFTC.

CFTC—8

System name: Employment Applications—CFTC

System location: These records are maintained in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals: Applicant for positions with the CFTC.

Categories of records in the system: Contains the application form (SF-171) and/or the resume of the person applying.

Authority for maintenance of system: 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information about these records is used in making inquiries concerning the qualifications of the applicant.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Indexed by the name of the applicant; cross-indexed by interest.

Safeguards: These records are maintained in a locked file cabinet.

Retention and Disposal: Applications are maintained two years, then destroyed.

System manager(s) and address: Personnel Officer, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the record is maintained.

CFTC—9

System name: Exempted Employee Background Investigation Material—CFTC.

System location: These records are maintained in the Personnel Office of the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals: Employees and prospective employees of CFTC.

Categories of records in the system: The records in this system contain investigatory material compiled for the purpose of determining suitability, eligibility, or qualifications for employment with the CFTC which were obtained under an express promise that the identity of the source would be held in confidence, or which were obtained prior to September 28, 1975, under an implied promise of confidentiality.

Authority for maintenance of system: 44 U.S.C. 3101; 5 U.S.C. 552a(k)(5).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses" except that general routine use number (3) is not applicable. Disclosure pursuant to the other routine uses may be subject to the consent of the person furnishing the information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By the name of the employee.

Safeguards: The records are maintained in lockable cabinets in secured offices or in secured buildings.

Retention and Disposal: These records are maintained for 3 years, then destroyed.

System manager(s) and address: Personnel Officer, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Systems exempted from certain provisions of the Act: The records in this system have been exempted by the Commission from certain provisions of the Privacy Act, 5 U.S.C. 552a(k)(5), and the Commission's rules promulgated thereunder, 17 C.F.R. 146.12. These records are exempt from the notification procedures and record access procedures and record contest procedures set forth in the system notices of other record systems, and from the requirement that the sources of records in the system be described.

CFTC—10

System name: Exempted Investigatory Records—CFTC

System location: These records are maintained in the Commission's principal offices and in each of the regional offices. The address and telephone number of each of these offices is set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: a. Individuals whom the staff of the Commission has reason to believe have violated, are violating, or are about to violate the Commodity Exchange Act and the rules, regulations and orders promulgated thereunder.

b. Individuals whom the staff of the Commission has reason to believe may have information concerning violations of the Commodity Exchange Act and the rules, regulations and orders promulgated thereunder.

c. Individuals involved in investigations authorized by the Commission concerning the activities of members of the Commission or its employees based upon formal complaint or otherwise.

d. Individuals filing Form 4 R (registration as an associated person) or Form 94 (biographical information questionnaire) in connection with an application for registration with the Commission.

Categories of records in the system: The records in this system consist of investigatory materials compiled for law enforcement purposes whose disclosure the Commission staff has determined could impair the effectiveness and orderly conduct of the Commission's regulatory and enforcement program, or compromise Commission investigations. This exemption could include all or any part of the records developed during the investigation or inquiry.

Authority for maintenance of system: Section 8 of the Commodity Exchange Act, 7 U.S.C. 12; 44 U.S.C. 3101; 5 U.S.C. 552a(k)(2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses" except that general routine use number (5) is not applicable.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: The records are maintained by assigned case number or by the title of the case. Cases filed by number are cross-indexed by case title.

Safeguards: In addition to normal office and building security, certain of those records are maintained in locked file cabinets. All employers are aware of the sensitive nature of the information gathered during investigations.

Retention and Disposal: The records are maintained in this system until it is determined that exemption is no longer necessary. They are then returned to the appropriate non-exempt system.

System manager(s) and address: Director of the Office of Enforcement, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Systems exempted from certain provisions of the Act: The records in this system have been exempted by the Commission from certain provisions of the Privacy Act of 1974 pursuant to the terms of the Privacy Act, 5 U.S.C. 552a(k)(2) and the Commission's rules promulgated thereunder, 17 CFR 146.12. These records are exempt from the notification procedures, record access procedures and record contest procedures set forth in the system notices of other record systems.

CFTC—11

System name: Fitness Files—CFTC

System location: These files are maintained in the Commission's regional offices, at the addresses set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: Applicants for and registrants as: (1) floor brokers; (2) general partners, sole proprietors, officers, major stockholders, directors, branch office managers, and agents of futures commission merchants; (3) partners, sole proprietors, officers, directors of and persons performing similar functions for commodity trading advisors; (4) partners, sole proprietors, officers, directors, and persons performing similar functions for commodity pool operators.

Categories of records in the system: Contains various information pertaining to the fitness of the above-described persons to engage in business subject to the Commission's jurisdiction. The system includes the biographical information questionnaire (form 94) received from applicants and registrants as part of the registration process (see the system notices for the various types of registration under the Commodity Exchange Act.) It also includes correspondence between the Commission and the applicant, the commodity exchanges, other government agencies and other persons relating to the individual's fitness. In addition, certain ancillary records, such as card indices, are maintained summarizing the status and result of fitness checks.

Authority for maintenance of system: Sections 8a(2)(B) and 4n(1) of the Commodity Exchange Act, 7 U.S.C. 12a(2)(B) and 7 U.S.C. 6n(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

ble to this system of records are set forth in the introduction to these uses under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and on index cards.

Retrievability: By name of the individual.

Safeguards: Protection of records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained to lockable file cabinets.

Retention and Disposal: Primary records are maintained permanently on the premises as long as the individual is registered or is associated with a registrant in one of the capacities specified in the previous description of the category of individuals. These records are updated periodically. Other records are maintained on the premises for five years, then held in the Federal Records Center for five years before being destroyed.

System manager(s) and address: The Regional Director of the region where the records are located. Addresses of these offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the record is maintained, his employer, commodity and stock exchanges, other government agencies, and other persons with relevant information concerning an individual's fitness.

CFTC—12

System name: Fitness Investigations—CFTC

System location: These records are located in the Division of Trading and Markets in the Commission's principal offices at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals: Applicants for and registrants as: (1) partners, sole proprietors, officers, directors, major stockholders, branch office managers and agents of futures commission merchants; (2) associated persons of futures commission merchants or their agents; (3) floor brokers; (4) partners, sole proprietors, officers, directors, and persons performing similar functions for commodity trading advisors; (5) partners, sole proprietors, officers, directors, persons performing similar functions for commodity pool operators.

Categories of records in the system: Contains various information pertaining to the fitness of the above-described persons to engage in business subject to the Commission's jurisdiction. The file includes the application for registration as an associated person (Form 4-R) or the biographical information questionnaire (Form 94). It also includes correspondence, reports and memoranda reflecting information developed from various sources outside the agency. This system contains records reflecting a somewhat more in-depth investigation than does the regional office inquiry included in the "Fitness Files" and "Registration and Fitness of Associated Persons" systems of records.

Authority for maintenance of system: Section 8a(2)(B) of the Commodity Exchange Act, 7 U.S.C. 12a(2)(B).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By the name of the individual.

Safeguards: Records are maintained in locked cabinets. Further protection is afforded by limiting access to the office where the record is maintained to those whose official duties require access.

Retention and Disposal: The records are maintained on the premises for 5 years, then held in the Federal Records Center for 5 years before being destroyed.

System manager(s) and address: Director, Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the record is maintained, his employer, federal, state and local regulatory and law enforcement agencies, commodity and stock exchanges, National Association of Security Dealers, and other miscellaneous sources.

CFTC—13

System name: Interpretation Files—OGC—CFTC

System location: These files are maintained in the Office of the General Counsel, 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals: Persons who have requested the Office of the General Counsel to provide them with its interpretation of provisions of the Commodity Exchange Act or various rules and regulations adopted by the Commission. The requests may have been made directly by the individual, or through his attorney or other representative.

Categories of records in the system: This file contains the interpretation letters furnished, the request for an interpretation, and any related internal memoranda and supporting documents.

Authority for maintenance of system: Section 2(a)(4) of the Commodity Exchange Act, 7 U.S.C. 4a(c); 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: a. Interpretation letters and the related requests for interpretation which discuss matters of general applicability may be made public and may be published by the Commission, or the Commission may otherwise make information public concerning matters raised therein. However, portions of such letters or information will be deleted or omitted to the extent necessary to prevent a clearly unwarranted invasion of personal privacy or to the extent they otherwise contain material considered nonpublic under the Freedom of Information Act and the Commission's rules implementing that Act.

b. Information in these files may be used as a reference in responding to later inquiries from the same party or in following up on earlier correspondence involving the same persons.

c. Other routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: The records are maintained under the name of the futures commission merchant, floor well as the attorney's own experience and information developed from other sources.

CFTC—14

System name: Investigation Files—CFTC

System location: These records are maintained in the Commission's principal office and in the regional offices. Files concerning pending investigations may be located in other Commission offices when the investigation is being conducted by those offices. Addresses of Commission offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: a. Individuals whom the staff of the Commission has reason to believe have violated, are violating, or are about to violate the Commodity Exchange Act and the rules, regulations, and orders promulgated thereunder, or the rules and regulations of any board of trade designated as a contract market.

b. Individuals whom the staff of the Commission has reason to believe may have information concerning violations of the Commodity Exchange Act and the rules, regulations, and orders promulgated thereunder, or the rules and regulations of any board of trade designated as a contract market.

c. Individuals involved in investigations authorized by the Commission concerning the activities of members of the Commission or its employees based upon formal complaint or otherwise.

Categories of records in the system: Contains anything obtained during the course of an investigation, including data from Commission reporting forms, account statements and other trading records, exchange records, bank records and credit information, business records, reports of interviews, transcripts of testimony, exhibits to transcripts, affidavits, statements by witnesses, contracts and agreements. Also contains internal memoranda, reports of investigation, subpoenas, warning letters, stipulations of compliance, correspondence and other miscellaneous matters. The nature of the personal information contained in these files varies according to what is considered relevant to the attorney assigned to the case based on the circumstances of the particular case under investigation. For example, the file may contain personal background information about the individual involved, his education and employment history, information on prior violations, and a wide variety of financial information, as well as detailed examination of the individual's activities during the period in question.

Authority for maintenance of system: Section 8 of the Commodity Exchange Act, 7 U.S.C. 12; 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction of these system notices under the caption "general statement of routine uses." In addition, information concerning traders and their activities may be disclosed and made public by the Commission to the extent permitted by law when deemed appropriate to further the practices and policies of the Commodity Exchange Act. Furthermore, information collected during the investigation may be included in a public report to be issued by the Commission following an investigation, to the extent that this is authorized under Section 8 of the Commodity Exchange Act, 7 U.S.C. 12.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by assigned case number, cross referenced to case name. Except where the name of the individual is included in the case name, information about individuals involved in the investigation is not retrievable by name.

Safeguards: In addition to normal office and building security, certain of these records are maintained in locked file cabinets. All employees are aware of the sensitive nature of the information gathered during investigations.

Retention and Disposal: Regional office records are maintained on the premises for 5 years, then sent to the Federal Records Center for 5 years, before being destroyed. The records in the Office of the General Counsel are generally maintained until the investigation is closed and any action arising therefrom has been completed, including all review at the appellate level. Thereafter, certain basic information may be retained and sent to the Federal Records Center, while the remaining information is either returned to the person from whom it was obtained or destroyed.

System manager(s) and address: The General Counsel and the Director of the Division of Enforcement in the Commission's principal office. The Regional Director of the Region where the investigation is being conducted. Addresses of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their

inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: a. Reporting forms and other information filed with the Commission; b. boards of trade; c. futures commission merchants, commodity trading advisors, commodity pool operators, floor brokers; d. federal, state and local regulatory and law enforcement agencies; e. banks, credit organizations and other institutions, pursuant to subpoena or otherwise; f. corporations, pursuant to subpoena or otherwise; g. individuals having knowledge of the facts, pursuant to subpoena or otherwise; h. attorneys; i. publications; j. courts; and k. other miscellaneous sources.

CFTC—15

System name: Large Trader Report Files—CFTC

System location: Copies of original reports and related correspondence are maintained in the CFTC office where they are filed. See further description below. Ancillary records and information in computer printout form may be located in some or all CFTC offices. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of records in the system: 1. Reports filed by the individual holding the reportable position:

a. Statements of Reporting Trader (CFTC Form 40). Contains information described in Part 18 of the Commission's rules and regulations, including the name, address, number, and principal occupation of the reporting trader, the kind of commodity futures account, and information about his business associates.

b. Large trader reporting form (Series 03 Form). Contains information described in Part 18 of the Commission's rules and regulations, including the trader's identifying number, his previous open contracts, his trades and deliveries that day, his open contracts at the end of the day, and his classification as to speculation or hedging.

c. Large trader reporting form (Series 04 Form). Contains information described in Part 19 of the Commission's rules and regulations, to be filed by merchants, processors and dealers in certain commodities who hold positions equal to federally imposed speculative position limits in those commodities on any futures market with the exception that CFTC 304 reports for cotton are required to be filed when the trader's position equals to 50 contract reporting level, rather than at a level equal to the federal speculative position. Includes trader's identifying number, stocks owned, unfilled fixed price sale commitments. These reports are filed in the CFTC office in the city where the reporting trader is located. If there is no CFTC office in that city, the reports are filed according to specific instructions of the CFTC.

Categories of records in the system: 2. Reports to be filed by futures commission merchants and foreign brokers.

a. Identification of "Special Accounts" (CFTC Form 102). Contains material described in Part 17 of the Commission's rules and regulations. Includes the name, address, and occupation of a customer whose accounts have reached the reporting level.

Also includes the account number which the futures commission merchant uses to identify this customer on the firm's 01 report (see next paragraph), and whether the customer has control or manages accounts of other traders.

b. Large trader reporting from (Series 01 Form). Contains material described in Part 17 of the Commission's rules and regulations, for each "special account." Shows customer account number and reportable position held in each commodity future. These reports are filed in the CFTC office in the city where the contract market involved is located. If there is no CFTC office in that city, they are filed in the office where the CFTC instructs that they be filed.

Categories of records in the system: 3. Computer records prepared from information on the forms described in items (1) and (2) above. The computer system is located in Chicago. Printouts may be located in some or all of the Commission's offices and suboffices.

Categories of records in the system: 4. Correspondence and memoranda of telephone conversation between the Commission and the individual or between the Commission and other agencies dealing with matters of official business concerning the individual.

Categories of records in the system: 5. Other miscellaneous information, including intra-agency correspondence and memoranda

concerning the individual and documents relating to official actions taken by the Commission against the individual.

Authority for maintenance of system: Sections 4g, 4i, and 8 of the Commodity Exchange Act, 7 U.S.C. 6g, 6i and 12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information concerning traders and their activities may be disclosed and made public by the Commission to the extent permitted by law when deemed appropriate to further the practices and policies of the Commodity Exchange Act. Other routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders, computer records in computer memory and in computer printout form.

Retrievability: Form 40, Form 102, correspondence and other miscellaneous information are maintained directly under the name of the reporting trader. The Series 01, 03, and 04 forms are maintained by identifying code number. However, information from these forms is included in the computer and retrievable by individual name from the computer.

Safeguards: Protection of records is afforded by general office security measures, with recent trading reports stored in lockable file cabinets. Access is limited to those whose official duties require access.

Retention and Disposal: CFTC Form 40, CFTC Form 102, correspondence, memoranda, etc. are retained on the premises until the account has been inactive for 10 years and then destroyed. Form 01, 03 and 04 reports are maintained for 2 years on the premises and then held at the Federal Records Center for 3 years before being destroyed. The computer file is maintained for 10 years for Form 01, 03 and 04 reports. The computer memory on other items of information is maintained indefinitely.

System manager(s) and address: The regional Director of the region where the records are located. Addresses of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630. The individual should include the code number assigned to him by the Commission for filing such reports, the name of the futures commission merchant through whom he trades, and the time period for which information is sought.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual on whom the record is maintained and futures commission merchants through whom the individual trades. Correspondence and memoranda prepared by the Commission or its staff. Correspondence from firms, agencies, or individuals requested to provide information on the individual.

CFTC—16

System name: Litigation Files—CFTC

System location: Files in this system of records are maintained in the Commission's principal office and in the regional offices. For pending litigation, files may also be located in other offices participating in the litigation. Addresses and telephone numbers of CFTC offices are set forth in the introduction to the system notices under the caption "location of systems of records."

Categories of individuals: Persons or firms against whom the Commission has issued a complaint based on violations of the Commodity Exchange Act or the rules and regulations promulgated thereunder.

Categories of records in the system: The file contains copies of various papers filed by or with the Commission or the courts in connection with administrative proceedings or injunctive actions brought by the Commission. It includes, as a minimum, a copy of the complaint and the final decision and order, and may contain other documents as well.

Authority for maintenance of system: The maintenance of these files is necessary to the orderly and effective conduct of various litigation authorized under the Commodity Exchange Act and other Federal statutes. See e.g., Section 6c of the Commodity Exchange Act, 7 U.S.C. 13a-1, authorizing injunctive actions, and various provisions in that Act authorizing administrative actions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in these files is generally a matter of public record and may be disclosed without restriction. In other cases the routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in folders or binders.

Retrievability: Administrative proceedings are maintained by docket number, cross-indexed by the name of the individual or firm named as respondent, and by the section of the Commodity Exchange Act which has been violated. Other actions are filed alphabetically by the caption of the case.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access.

Retention and Disposal: These files are maintained indefinitely, although when the action is completed they are usually reduced to only the complaint and the final decision and order.

System manager(s) and address: These records are maintained by the Director of the Division of Enforcement at the Commission's principal office and by the Regional Director for the region where the records are located. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The information is generally obtained from the parties or their attorneys, or from the Commission's Office of Hearings and Appeals or the relevant court.

CFTC-17

System name: Litigation Files—OGC—CFTC

System location: Files in this system are maintained in the Office of the General Counsel in the Commission's principal office at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals: Parties involved in litigation with the Commission or litigation in which the Commission has an interest including, but not limited to:

- administrative proceedings before the Commission;
- injunctive actions brought by the Commission;
- other federal courts cases to which the Commission is a party;
- litigation in which the Commission is participating as amicus curiae;
- other cases involving issues of concern to the Commission, including those brought by other law enforcement and regulatory agencies and those brought by private parties.

Categories of records in the system: These files consist primarily of papers comprising or included in the record of the case and briefs and correspondence related to that action. There may be included also other documents pertaining to the matter being litigated, including internal memoranda.

Authority for maintenance of system: The Commodity Exchange Act, 7 U.S.C. 1 et seq. entrusts the Commission with broad regulatory responsibilities over commodity futures transactions. In this connection, the Commission is authorized to bring both administrative proceedings and injunctive actions where there appear to have been violations of the Act. Furthermore, to effectuate the purposes

of the Act, it is necessary that the Commission staff be familiar with developments in other actions brought by others which have implications in the commodity law areas.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in these files is generally a matter of public record and may be disclosed without restriction. In other cases the routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Cases are classified according to type, i.e., administrative proceedings, injunctive actions brought by the Commission, and other litigation. Within those classifications, actions are filed by caption of the case.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access.

Retention and Disposal: The record is maintained until the action is completed, including final review at the appellate level. Thereafter, a skeletal record of pleadings, briefs, findings and opinions and other particularly relevant papers may be maintained indefinitely. Other materials are generally destroyed except insofar as a copy of some of the documents may be kept in the office's "precedent files" for use in later legal research or preparation of filings in other matters.

System manager(s) and address: General Counsel, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The information is generally obtained from the court or regulatory authority before whom the action is pending or from the attorneys for one of the parties named in the action, although it may on occasion come from other sources.

CFTC-18

System name: Logbook on Speculative Limit Violations—CFTC

System location: Records in this system are located in the Commission's regional offices in Chicago and New York. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: Individuals who have exceeded speculative limits in a particular fiscal year.

Categories of records in the system: This record consists of a listing, by year, of the violations of speculative limits imposed by the Commission and the exchanges. It includes the trader's assigned code number, the commodity involved, the name of the trader, the type of violation, the date of violation, the date the violation ceased, and the action taken. Copies of warning letters and replies pertaining to the violations listed are maintained with the logbook.

Authority for maintenance of system: Sections 4(i) and 8 of the Commodity Exchange Act, 7 U.S.C. 6i and 7 U.S.C. 12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Listed by fiscal year, and within each year may be retrieved by the name of the violator.

CFTC-20

System name: Registration of Commodity Pool Operators—CFTC

System location: The primary files are maintained in the New York office. All CFTC offices have summary information in computer printout form. Addresses and telephone numbers of these offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: Partners, sole proprietors, officers, directors and persons performing similar functions for a commodity pool operator.

Categories of records in the system: Contains various information pertaining to registration as a commodity pool operator. The New York office maintains the application for registration (Form 60R) and supplements, as well as all correspondence between the individual and the agency relating to registration. A computer system is maintained by the Chicago office. The computer memory consists of name, firm affiliations, title, date of birth, place of birth, social security number, fitness and address of each individual engaged as partner, sole proprietor, officer, and director and persons performing similar functions. Computer printouts prepared quarterly list all individuals so engaged. This printout, as well as non-confidential portions of the application for registration, are considered public records and available to any person for inspection and copying.

Authority for maintenance of system: Section 4n(1) of the Commodity Exchange Act, 7 U.S.C. 6n(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manual form in file folders, in computer memory, and in computer printout form.

Retrievability: The application, correspondence and other primary records are filed by the name of the commodity pool operator. The computer records are maintained by the name of the individual officer, partner, proprietor, etc. The computer serves as a cross-index by the name of the individual to the relevant commodity trading advisor file.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and Disposal: Applications and correspondence are maintained on the premises for 3 years from the end of calendar year, then held in Federal Records Center for 7 years before being destroyed. The computer memory is maintained permanently on the premises and updated periodically as long as the individual remains associated with a registered commodity pool operator. The printouts are maintained on the premises for six months and destroyed.

System manager(s) and address: The Regional Director of the region where the records are located. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The application is submitted by the commodity pool operator. Correspondence is generally prepared either by the Commission or its staff or by the commodity pool operator or its representative. The computer record is prepared from the application, and from the biographical information questionnaire (Form 94), and other information in the fitness files (see "Fitness Files" system of records).

CFTC-19

System name: Petitions and Rulings

System location: These records are maintained in the Office of Hearings and Appeals in the Commission's principal office located at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals: All persons named in an Application for Institution of a Proceeding before the CFTC or its predecessors.

Categories of records in the system: This system contains the application and supporting documentation of the person submitting the application.

Authority for maintenance of system: The maintenance of these records is ancillary to the Commission's authority to institute administrative proceedings. See also 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: The records in this system are maintained by the number and caption assigned to the application. Generally, the caption will be the name of a firm, organization, or person against whom the applicant complains.

Safeguards: Protection against unauthorized disclosure is afforded by limiting access to the office where the record is maintained.

Retention and Disposal: The files are retained indefinitely.

System manager(s) and address: Chief Administrative Law Judge, Office of Hearings and Appeals, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Persons submitting an Application for Institution of a Proceeding.

CFTC—21

System name: Registration of Commodity Trading Advisors—CFTC

System location: Primary files are maintained in the New York office. All CFTC offices have summary information on computer printouts. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: Partners, sole proprietors, officers, directors and persons performing similar functions for a commodity trading advisor.

Categories of records in the system: Contains various information pertaining to registration as a commodity trading advisor. The New York office maintains the application for registration (Form 50R) and supplements, as well as all correspondence between the commodity trading advisor and the Commission relating to registration. A computer system is maintained by the Chicago office. The computer memory consists of name, firm affiliations, title, date of birth, place of birth, social security number, fitness, and address of each individual engaged as partner, sole proprietor, officer, and director and persons performing similar functions. Computer printouts prepared quarterly list all such individuals so engaged. This printout, as well as non-confidential portions of the application for registration, are considered public records and are available to any person for inspection and copying.

Authority for maintenance of system: Section 4n(1) of the Commodity Exchange Act, 7 U.S.C. 6n(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manual form in file folders, in computer memory, and in computer printout form.

Retrievability: The applications, correspondence and other related matters are filed under the name of the commodity trading advisor. The computer records are maintained in the name of the individual partner, officer, director, etc. The computer serves as a cross-index by the name of the individual to the relevant commodity trading advisor file.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and Disposal: Applications and correspondence are maintained on the premises for 3 years from the end of the calendar year, then held in Federal Records Center for 7 years before being destroyed. The computer memory is maintained permanently on the premises and updated periodically as long as the individual remains associated with a registered commodity trading advisor. Computer printouts are maintained on the premises for six months and destroyed.

System manager(s) and address: The Regional Director of the region where the primary records and the computer are located. Addresses and telephone numbers of these offices are set forth in these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records.

CFTC—22

System name: Registration of Floor Brokers—CFTC

System location: The primary records are maintained by that regional office which has territorial jurisdiction over the floor broker's place of business. All CFTC offices have summary information in computer printout form. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: Persons who have applied to the Commission for registration as floor brokers.

Categories of records in the system: Contains various information pertaining to registration as a floor broker. The system includes the application for registration (Form 20R), plus supplements and all correspondence between the floor broker and the Commission relating to registration. A computerized system, consisting primarily of information taken from the application is maintained by the Chicago office. The computer memory includes the name, date of birth, place of birth, social security number, fitness, membership affiliations, business address, and residence address of each registered floor broker. Computer printouts, prepared monthly, list the names, business addresses, and membership affiliations of all registered floor brokers. This printout, as well as non-confidential portions of the application for registration are considered public records and available to any person for inspection and copying. In addition certain ancillary records, such as card indexes, are maintained, summarizing information contained in the system regarding each floor broker.

Authority for maintenance of system: Section 4(1) of the Commodity Exchange Act, 7 U.S.C. 6(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manual form in file folders and on index cards, computer memory, and in computer printout form.

Retrievability: By the name of the floor broker.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and Disposal: Applications for registration and related correspondence are maintained on the premises for 3 years. Records are then held in the Federal Records Center for 7 years and destroyed. The computer memory is maintained permanently on the premises and updated periodically as long as the individual is registered. Printouts and indices are maintained on the premises for 5 years and then in the Federal Records Center for 5 years before being destroyed.

System manager(s) and address: The Regional Director of the region where the records are located. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The application is submitted by the floor broker on whom the record is maintained. The computerized record is prepared from the application, including supplements, and from information contained in other systems of records, including the fitness files (see "Fitness Files" system of records). Correspondence is generally prepared either by the Commission or by the floor broker or his representative.

CFTC—23

System name: Registration of Futures Commission Merchants—CFTC

System location: The primary records are maintained by that regional office which has territorial jurisdiction over the state where the firm's principal office is located, or where the audit is performed. All CFTC offices have summary information in computer printout form. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: Officers, partners, sole proprietors, branch office managers, agents, or 10 per cent stockholders of a futures commission merchant.

Categories of records in the system: Contains various information pertaining to registration as a futures commission merchant. The system includes the application for registration (Form 10R), plus supplements, and all correspondence between the futures commission merchant and the Commission relating to registration. A computerized record is maintained for each individual engaged as an officer, partner, sole proprietor, branch office manager, agent or 10 per cent stockholder of a futures commission merchant, as listed in the application. The computer memory consists of the name, firm affiliation, title, date and place of birth, social security number, fitness, and business address of each individual. Quarterly printouts are prepared listing all individuals currently engaged in the capacities indicated above. This printout, as well as non-confidential portions of the application for registration, are considered public records, and are available to any person for inspection and copying.

Authority for maintenance of system: Section 4f(1) of the Commodity Exchange Act, 7 U.S.C. 6f(1).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manual form in file folders, in computer memory, and in computer printout form.

Retrievability: Applications, correspondence, and other related matters are filed under the name of the registrant futures commission merchant. Computer records are maintained by the name of the individual officer, partner, shareholder, etc., and serve as a cross-index to the primary registration file.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and Disposal: Applications for registration and related correspondence are maintained on the premises for three years. Records are then held in the Federal Records Center for seven years and destroyed. The computer memory is maintained permanently on the premises and updated periodically as long as the individual remains associated as a principal with a registered futures commission merchant. Printouts are maintained on the premises for six months and destroyed.

System manager(s) and address: The regional Director of the region where the records are located. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The application is submitted by the futures commission merchant. The computerized record is prepared from the application, including supplements, and from information contained in other systems of records, including the fitness files (see "Fitness Files" system of records). Correspondence is generally prepared by the Commission or by the futures commission merchant or its representatives.

CFTC—24

System name: Registration and Fitness of Associated Persons—CFTC

System location: The primary files are maintained in the Chicago office. All CFTC offices have summary information in computer

printout form. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: Persons who have applied to the Commission for registration as a person associated with a futures commission merchant or with any agent of a futures commission merchant. This includes partners, officers, or employees acting in any capacity which involves the solicitation or acceptance of customers' orders for futures contracts or supervision of individuals so engaged. It also includes anyone occupying a similar status or performing similar functions.

Categories of records in the system: Contains various information pertaining to the applicant's registration as an associated person. The system includes the application for registration (Form 4-R) and supplements, as well as correspondence between the associated person and the Commission. It also includes correspondence relating to the fitness of the individual to be engaged in the business. A computerized record is kept of information concerning each registrant. This includes his name, firm affiliation, date of birth, place of birth, social security number, education, fitness, experience, and home address. Regular computer printouts show the name and firm affiliation of all individuals engaged as associated persons. This printout, as well as non-confidential portions of the application for registration, are considered public records and are available to any person for inspection and copying.

Authority for maintenance of system: Section 4k(2) of the Commodity Exchange Act, 7 U.S.C. 6k(2).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these notices under caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained in manual form in file folders, in computer memory, and in computer printout form.

Retrievability: By the name of the associated person. The computer cross-indexes the record to the name of the futures commission merchant with whom the individual is associated.

Safeguards: Protection of non-public records is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access. In appropriate cases the records are maintained in lockable file cabinets.

Retention and Disposal: Applications and correspondence are maintained on the premises for three years. They are then held in the Federal Records Center for seven years and destroyed. The computer memory is maintained permanently on the premises and updated periodically as long as the individual is registered. Computer printouts are maintained on the premises for five years, then held in the Federal Records Center for five years, and then destroyed.

System manager(s) and address: Regional Director, Commodity Futures Trading Commission, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The application is submitted by the associated person. Correspondence may be prepared by the Commission, the associated person, the commodity exchanges, other government agencies, and other persons having knowledge about the individual. The computer record is prepared from the application and supplement, and from information developed during the fitness inquiry.

CFTC—25

System name: Stipulation of Compliance File—CFTC

System location: Records in this system are maintained by the Division of Enforcement in the Commission's principal office and by regional offices. Addresses and telephone numbers of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: Any person or firm who has signed a stipulation of compliance with the Commission.

Categories of records in the system: This system consists of stipulations of compliance and related indices.

Authority for maintenance of system: The obtaining of stipulations of compliance is ancillary to the duties and responsibilities of the Commission to enforce the provisions of the Commodity Exchange Act and the rules and regulations adopted thereunder. See also 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None. The stipulations of compliance are a matter of public record.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders or three-ring binders.

Retrievability: The records are filed according to a stipulation of compliance number. They are cross-indexed to the name of the person signing the stipulation or on whose behalf the stipulation is signed.

Safeguards: Protection is afforded by general office security measures. Records are located in secured rooms or on secured premises with access limited to those whose official duties require access.

Retention and Disposal: The records are maintained indefinitely on the premises, unless otherwise ordered by the System Manager.

System manager(s) and address: The Director of the Division of Enforcement in the Commission's principal office, and the Regional Director of each of the regional offices. Addresses of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The individual signing the stipulation of compliance.

CFTC-26

System name: Subpoena File—CFTC

System location: Records in this system are maintained in the Commission's New York Regional Office at One World Trade Center, Suite 4747, New York, New York 10048, and in the Chicago Regional Office at 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606.

Categories of individuals: Individuals who have been subpoenaed by the Commission.

Categories of records in the system: This file contains copies of subpoenas issued to individuals and a covering memorandum explaining the purpose of subpoena. It also contains other memoranda, correspondence, and miscellaneous materials relating to the subpoena.

Authority for maintenance of system: Section 6(b) of the Commodity Exchange Act, 7 U.S.C. 15.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: By the name of the person to whom the subpoena was issued.

Safeguards: Protection is afforded by general office security measures. Records are located in secured rooms or in secured premises with access limited to those whose official duties require access.

Retention and Disposal: The records are retained for 5 years, and then destroyed.

System manager(s) and address: Regional Director, Commodity Futures Trading Commission, 233 South Wacker Drive, 46th Floor, Chicago, Illinois 60606. Regional Director, Commodity Futures Trading Commission, One World Trade Center, Suite 4747, New York, New York 10048.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Subpoenas and related memoranda prepared by the Commission staff. Correspondence between the Commission and the person to whom the subpoena was issued or his attorney or other representative.

CFTC-27

System name: Violation Follow-up Files—CFTC

System location: Records in this system are maintained by the Division of Enforcement in the Commission's principal office and by the regional offices. Addresses of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Categories of individuals: Persons who have had criminal, civil or administrative action take against them, or who have been sent compliance or warning letters regarding violations of the Commodity Exchange Act or the rules and regulations thereunder.

Categories of records in the system: This system of records contains various documentation relating to official actions taken against individuals based on violations of the Commodity Exchange Act and the rules and regulations adopted thereunder. These include:

1. Copies of indictments and records of conviction or other disposition in criminal actions.
2. Decisions and orders in administrative proceedings before the Commission.
3. Warning letters, compliance letters, and stipulations of compliance.
4. permanent and preliminary injunctive and temporary restraining orders based on complaints filed by the Commission.
5. Exchanged findings of violations of the Commodity Exchange Act and rules and regulations adopted thereunder. As part of the system a cross-index of violations is also maintained, listing all administrative and criminal actions instituted against the individual.

Authority for maintenance of system: The maintenance of these records is ancillary to the Commission's responsibility to enforce the provisions of the Commodity Exchange Act. See also 44 U.S.C. 3101.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "general statement of routine uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders and in looseleaf binders.

Retrievability: By the name of the individual violator.

Safeguards: Protection against unauthorized disclosure is afforded by limiting access to the office maintaining the record, to those whose official duties require access.

Retention and Disposal: The records are retained on the premises for 10 years and then destroyed unless otherwise ordered by the System Manager. The index is maintained indefinitely.

System manager(s) and address: The Director of the Division of Enforcement in the Commission's principal office, and the Regional Director of each of the regional offices. Addresses of CFTC offices are set forth in the introduction to these system notices under the caption "location of systems of records."

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: The issuing courts; the parties to the action or their attorneys or their representatives; the exchanges; the official files of the Commission's Office of Hearings and Appeals; the Commission staff, based on results of investigations, audits and any other pertinent action taken.

CFTC-28

System name: Exchange Disciplinary Action File—CFTC

System location: Records in this system are maintained in the Office of Public Information at the Commission's principal office and by the regional offices.

Categories of individuals: Persons who have been suspended, expelled, or disciplined, or denied access to or by an Exchange.

Categories of records in the system: Letters of notification of disciplinary or other adverse action taken by an Exchange which include the name of the person against whom such action was taken, the action taken and the reasons therefor.

Authority for maintenance of system: Section 8c(1)(B) of the Commodity Exchange Act, 7 U.S.C. A12c(1)(B).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The information in these files is made public at the discretion of the Commission after a review of the information and a finding that no reason to withhold the information exists. In other cases the routine uses applicable to this system of records are set forth in the introduction to these system notices under the caption "General Statement of Routine Uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Looseleaf binders.

Retrievability: Notices are classified in chronological order according to the Exchange which took the disciplinary or other adverse action which is the subject of the notice.

Safeguards: Protection of non-public records is afforded by general office security measures.

Retention and Disposal: The records are retained indefinitely.

System manager(s) and address: Division of Trading and Markets, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their

inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Exchanges notifying the Commission of disciplinary or other adverse action which they have taken.

CFTC-29

System name: Customer Reparations Complaints—CFTC

System location: These records are located in the Reparations Unit, Division of Enforcement, in the Commission's principal office at 2033 K Street, NW., Washington, D.C. 20581.

Categories of individuals: Individuals filing customer reparations complaints, as well as the firms and individuals named in the complaints.

Categories of records in the system: These files consist of reparations complaints, answers, correspondence, and miscellaneous motions filed with the Reparations Unit.

Authority for maintenance of system: Section 14 of the Commodity Exchange Act, 7 U.S.C. A18.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: These records are used in the conduct of the Commission's reparations program. In addition, these records can be used as set forth in the introduction to these system notices under the caption "General Statement of Routine Uses."

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Reparations files are maintained by case number and are cross-indexed by the name of the complainant.

Safeguards: The information in these files is a matter of public record. The records are maintained in file boxes or cabinets.

Retention and Disposal: At the present time records are maintained for an indefinite time period. After a case is forwarded to the Office of Hearings and Appeals, however, the records are included in the Commission's docket files and the Reparations Unit only maintains certain case records such as complaints, answers, and decisions and orders.

System manager(s) and address: Supervisor of the Reparations Unit, Division of Enforcement, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581.

Notification procedure: Individuals seeking to determine whether this system of records contains information about them should address their inquiries to the Privacy Unit, Commodity Futures Trading Commission, 2033 K Street, NW., Washington, D.C. 20581. Telephone: (202) 254-8630.

Record access procedures: Individuals seeking access to records about themselves in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Contesting record procedures: Individuals contesting the content of records about themselves contained in this system of records should address their inquiries to the Privacy Unit at the address listed in the notification section above.

Record source categories: Persons filing reparation complaints or answers.

Issued in Washington, D.C. on September 23, 1977, by the Commission.

William T. Bagley,

Chairman, Commodity Futures Trading Commission.

[FR Doc. 77-28569 Filed 9-29-77; 8:45 am]

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**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF THE SECRETARY
PRIVACY ACT OF 1974**

Systems of Records; Annual Publication

Agency: Department of Housing and Urban Development
Action: Annual Publication of Systems of Records
Summary: This Notice publishes an up-to-date version of the existence and character of the Department's systems of records.
For further information contact:

Mr. Harold Rosenthal
Departmental Privacy Act Officer
Room 3176
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410
(202) 755-5192

Supplementary information: Minor editorial changes have been made in individual notices to clarify and standardize terminology. For example, the term "Privacy Officer" was changed to "Privacy Act Officer." No change in substance was made. The Department has determined that an Environmental Impact Statement is not required with respect to this Notice. A copy of the finding of Inapplicability is available for inspection in the Office of the Rules Docket Clerk, Room 5218, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

It is hereby certified that the economic and inflationary impacts of this Notice have been carefully evaluated in accordance with OMB Circular A-107. Accordingly, the Secretary publishes this Notice.

Authority: 5 U.S.C. 552a, 88 Stat. 1896; sec. 7(d) Department of HUD Act (42 U.S.C. 3535 (d)).

Issued at Washington, D.C., September 20, 1977.

Patricia Roberts Harris,
Secretary of Housing and Urban Development.

The last annual compilation of systems of records was published at 41 FR 50600. Additions, deletions and amendments regarding individual systems of records were published at 41 FR 44557 and 42 FR 19406, 21323, 40487, 43455, 45385 continue in effect. This Notice is published in compliance with the requirements of 5 U.S.C. 552a(e)(4) as added by section 3 of the Privacy Act of 1974.

1. General Statement of Routine Uses.

Routine Use—Law Enforcement

In the event that a system of records maintained by this Department to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

Routine Use—Disclosure When Requesting Information

A record from a system of records maintained by this Department may be disclosed as a routine use to a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

Routine Use—Disclosure of Requested Information

A record from a system of records maintained by this Department may be disclosed to a federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

Routine Use—Disclosure to OMB

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Routine Use—Disclosure Pursuant to Congressional Inquiry

Disclosures may be made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

2. Listing of Systems of Records Within Coverage of Act.

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HUD/DEPT—1

System name: Accidents, Employees and/or Government Vehicles

System location: Most Department Offices, including the Headquarters Office. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD employees in on-the-job accidents, including accidents involving government-owned vehicles; other individuals who have sustained injury/illness as a result of such accidents.

Categories of records in the system: Details of how accidents occurred and injuries were sustained; property damage incurred.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: the records are used by the Department of Labor when personal injury occurs and/or compensation is involved. GSA uses the records when accidents involve motor vehicles and the repair of those vehicles.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Primarily looseleaf folders; Standard Forms 91, 91A; free text.

Retrievability: Filed by name.

Safeguards: The systems records are kept in lockable file cabinets, desks, and in locked rooms.

Retention and disposal: Procedural disposal follows HUD Handbook General Records Schedule.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual and supervisor; Federal Government agencies; law enforcement agencies; current or previous employers; accident investigation officers.

HUD/DEPT—2

System name: Accounting Records

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagees; mortgagees; grant/project and loan applicants and recipients; HUD personnel; vendors; brokers; bidders; managers; tenants; individuals within Disaster Assistance Programs; local housing authorities.

Categories of records in the system: Lease and loan collection register; schedules of payments receivable and received; premiums due; claim files and fee billing statements; escrow and Certificates of Deposit files; cash flow and budget control files; earnest money

register; purchase order log; imprest fund; area managers' accounting records; restitution, maintenance and market expenses; distributive shares records; salary; savings bonds; bills of lading; vouchers; invoices; receipts; cancelled checks.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: U.S. Treasury—for disbursements and adjustments thereof; GAO, GSA and local housing authorities—for audit, accounting and financial reference purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Desks; safes; locked file cabinets, central files; bookcases; ledger trays and binders; tables.

Retrievability: By Social Security number; name; case file number; schedule number; audit number; control number; receipt number; voucher number; contract number; address.

Safeguards: Security checks; limited authorization and access; security guards.

Retention and disposal: GSA schedules of retention and disposal; destruction after six months; transfer to either a Federal Records Center or Archives.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A, (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; financial institutions; government agencies; HUD personnel; current and previous employers; private firms and corporations doing business with HUD.

HUD/DEPT—3

System name: Appraisal Review Files

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Fee appraisers on FHA-insured single-family properties, HUD staff appraisers and appraisal supervisors; HUD staff architects and supervisors; builders, contractors, developers, and realtors on urban renewal projects whose data is used by FHA appraisers.

Categories of records in the system: Field review of appraisals by staff and fee appraisers; architectural inspection review; review of urban renewal project appraisals.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on Standard Form 1038, and sometimes free text, stored in binders.

Retrievability: Primarily by name, sometimes by case file.

Safeguards: Primarily kept in lockable file cabinets.

Retention and disposal: Primarily active files, some historical material, 1038 forms destroyed after 2 years.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410.

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Mortgagors of appraised properties; field reviews; correspondents.

HUD/DEPT—4

System name: Appraisals/Appraisers Files

System location: Most HUD area and insuring offices maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Fee appraisers for single family and multifamily properties, single family credit examiners; applicants for positions as fee examiners; builders, contractors, realtors dealing with appraised property; HUD appraisers and certifiers; correspondents; Social Security recipients in FHA-appraised homes.

Categories of records in the system: Roster of fee appraisers, qualifications; fee appraiser applications and certification; financial interest and employment statements; appraiser work records; appraisal fee, date, approving officer; HUD staff certifiers of fee appraisers; correspondence and inquiries on housing appraisals; application for appraisal; comparison valuation data on housing sales; appraisal of property held by Social Security recipients.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to fee appraisers—for voucher preparation; to VA, mortgagors, mortgagees—notice of FHA action, billing; to local government officials—for code enforcement, health and wetlands clearance; to Environmental Protection Agency—for environmental clearance; to Social Security Administration—for research.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Name, case file number (in some cases).

Safeguards: Lockable file cabinets and desks.

Retention and disposal: Primarily active information; also mixed historical and active. Social Security appraisals are historical data. Disposal in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For inquiry about existence of records, contact the Privacy Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Officer at the appropriate location. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate locations. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; other individuals; financial institutions; firms; federal agencies; non-federal agencies; employers; credit bureaus; law enforcement agencies.

HUD/DEPT—5

System name: Architects and Engineers

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Certified architects and engineers dealing with HUD, both directly and on a consultant basis.

Categories of records in the system: Engineering surveys, engineers' letters of map amendment, engineering reviews, established architectural reports, field reviews and performance ratings, job log files, fee and bond schedules, professional insurance policy records, and general work files.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to General Accounting Office—investigation and annual audit; to the U.S. Forest Service, Bureau of Indian Affairs, Corps of Engineers, HEW, and Farmers Home Administration for reference and information; to builders and other individuals dealing with HUD—for planning and specifications review.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Blueprints and specifications in free text form, on standard forms, or in file folders.

Retrievability: Name, by persons' assigned number, case file number, and indexes.

Safeguards: Files are kept in file cabinets, in desks and on shelves. Access is limited by locks, by security checks, or by authorized individuals.

Retention and disposal: Most files are kept active and up-to-date. Some files are partly current and partly historical. Files are destroyed per regulation or stored at a federal records center one year after last date of commitment.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Individual architect or engineer, professional organization, local housing authorities, government agencies, law enforcement agencies, state boards certifying professional competency.

HUD/DEPT—6

System name: Audits and Financial Reports Files

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Builders; developers, real estate firms; contractors; appraisers; mortgagors; mortgagees; grant/project applicants; individuals in EO and Disaster Assistance files; individuals writing to HUD; HUD personnel; bidders; management firms; project sponsors.

Categories of records in the system: Audit findings and reports; audit control measures; condominium housing and low rent reports.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: local housing authorities—for reference and verification of local finance audits; private developers and builders—for financial verification.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Reports are stored in free text on standard forms in file folders.

Retrievability: By name, case file number or audit number.

Safeguards: Locked file cabinets; desks; safes; central files.

Retention and disposal: Files are periodically reviewed and either destroyed or removed to Federal Records Center.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; current or previous employers; project sponsors; independent and government auditors; credit bureaus and financial institutions; governmental agencies; law enforcement agencies; private individuals; builders; developers; brokers; managers.

HUD/DEPT—7

System name: Board of Contract Appeals Files

System location: Headquarters.

Categories of individuals covered by the system: Contractors, including sole proprietorships and partnerships, who have appealed to the HUD Board of Contract Appeals.

Categories of records in the system: Files contain correspondence, motions, pleadings and official documents relevant to the appeal, including copy of contract and letter of termination.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to private attorneys—to review material on cases where they are providing representation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Each contract appeal is filed in chronological order using a case file number. Cross-index to files exists.

Safeguards: Records filed in lockable file cabinets.

Retention and disposal: After a case has been adjudicated, the relevant file is removed to an inactive file.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Contractors; HUD Office of General Counsel.

HUD/DEPT—8

System name: Builder, Contractor and Developer Evaluations—Workmanship Adjustment Records

System location: Most area and insuring offices maintain files of this type. For a complete listing of these, with addresses, see Appendix A.

Categories of individuals covered by the system: Builders and contractors of single-family housing; subdivision developers.

Categories of records in the system: Workmanship adjustment records are based on information provided by inspectors on quality of workmanship, management and attitude of builders, contractors and developers in construction of single-family housing and development of subdivisions. The quality of workmanship is compared to that considered normal. Builder's level of activity is checked.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: individual workmanship ratings may be disseminated to the general public. Inquiries on past experience of builders, contractors and developers provided to the Veterans' Administration and the Farmers Home Administration (in the Department of Agriculture).

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Generally on HUD Standard Forms 2012 (Workmanship Adjustment Record) and 224g (Performance Record, Accelerated Standard Program).

Retrievability: Usually by name of builder, contractor, developer.

Safeguards: Lockable file cabinets.

Retention and disposal: Generally removed from files if builders/contractors are inactive for more than six months. Files on restricted builders are retained.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject and other individuals; Federal and non-federal government agencies; law enforcement agencies; credit bureaus; financial institutions; current and previous employers; corporations or firms; EO counselors and witnesses.

HUD/DEPT-9

System name: Casualty/Hazard Insurance

System location: A few HUD area and insuring offices maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors and mortgagees under single-family insurable programs; HUD certifiers; insurers.

Categories of records in the system: Certification of casualty damage/repairs, certification of unavailability of hazard insurance; referral lists of insurers.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Veterans' Administration for information on veterans' participation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Name; case file.

Safeguards: Stored in lockable file cabinets.

Retention and disposal: Primarily active information, some mixed historical and active. Disposed of in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Mortgagors; subject individuals, rehabilitation contractor.

HUD/DEPT-10

System name: Construction Complaints Files

System location: Almost all area and insuring offices maintain files of this type. For a complete listing with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors, builders, developers, and contractors under HUD programs.

Categories of records in the system: Complaints regarding construction and defects; inspection reports; records of complaint status and disposition; compliance reports; related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to the person or firm complained about—for resolution of the complaint; to IRS—for investigation; to Farmers Home Administration, Veterans Administration; Better Business Bureau and local agencies—for notice of restriction of builders; to state agencies—for investigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Name of subject individual; case file number, property location.

Safeguards: Records filed in lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Records are partly current and partly historical; disposal is in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh St., S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subjects and other individuals, current and previous employees, credit bureaus and financial institutions; federal and non-federal agencies.

HUD/DEPT-11

System name: Contractors—Adverse Actions

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Individuals or firms debarred or suspended from participation in HUD programs; corporations, companies or individuals determined to be unsatisfactory risks; suspended, debarred or ineligible grantees; builders of single-family homes whom HUD will not insure; individuals and firms disqualified from doing business with HUD; individuals and firms on the no-business list; mortgagors writing to HUD concerning complaints; builders who fail to adjust valid construction complaints; individuals and firms debarred by executive agencies; dealers and contractors in home improvements and repairs; individuals and firms subject to precautionary measures for practices not consistent with the standards and objectives of the FHA Property Improvement Program; defaulted contractors; developers and contractors who have allegedly not paid prevailing wage rates; individual workers underpaid by a contractor on a HUD project.

Categories of records in the system: Date of action; type of action; termination date and authority under which the action was taken; inspection reports; unsound credit; unsatisfactory past experiences; investigation reports; approvals of mortgages; home improvements to existing single-family homes; evidence of fraudulent or criminal conduct; grand jury indictments and convictions; certifications by builders and subcontractors later found to be in non-compliance; complaints from individuals; precautionary measures.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: VA—to verify acceptability of applications for mortgage insurance; Department of Labor—for review of compliance; urban renewal authorities—to approve contractors on HUD-assisted projects; state labor departments—for review of compliance; state real estate examining boards—to check on builders, contractors, developers and real estate firms with unsatisfactory ratings; Better Business Bureaus—for answering inquiries from consumers; agencies deemed eligible by the Office of Investigation—to acquire information; congressional delegations—to provide information concerning the status of complaints; complainant and his attorney—for review of complaint file for status and information; builder and his attorney—for review of complaint file for status and information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum; computer print-outs; file folders; binders; card files.

Retrievability: Name; case file number; names of individuals cross-indexed with names of known affiliated firms; identification number; type of program.

Safeguards: Records maintained in desks and lockable file cabinets. Access restricted to authorized personnel only.

Retention and disposal: Obsolete records are destroyed or retained in storage area, as space permits.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Information, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; other individuals; current or previous employers; credit bureaus; financial institu-

tions; other corporations or firms; Federal government agencies; non-federal (including foreign, state and local) government agencies; law enforcement agencies.

HUD/DEPT-12

System name: Contractors', Brokers' and Management Agents, Qualifications and Bidders' Lists

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Qualified bidders, current and past contractors to the Department and to mortgagors and housing authorities. Included are builders, architects, repair and maintenance contractors, developers, real estate firms, brokers, management agents, etc. The Headquarters Office file contains additional categories, such as consultants, data processing firms, research organizations, etc.

Categories of records in the system: Qualified bidders in Disaster Assistance are listed in Disaster Assistance Files (see separate notice). Qualifications of individuals/firms interested in bidding on HUD contracts and in being considered for HUD-approved lists of contractors. Headquarters Office files include data on minority and 8(a) status of firms. Business data may be included, such as number of years in business, areas of interest, number of employees, financial status, management experience. Sometimes includes evaluation of past performance.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Office of Inspector General and IRS—for investigative purposes; to mortgage lenders and property sellers—for selection of contractors from an approved list.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Material in binders and file folders. Material frequently presented on Standard Form 129. Cassette tapes used by Headquarters Office.

Retrievability: Filed by firm's/contractor's name.

Safeguards: Material generally filed in lockable file cabinets.

Retention and disposal: Records are discarded when businesses cease to operate or request they be removed from lists. Retrieval also takes place when no new Standard Form 129 is filed upon request. Obsolete records may be sent to Federal Records Center.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals/firms, credit bureaus, financial institutions, surety corporations, other federal agencies.

HUD/DEPT-14

System name: Credit Processing

System location: Most area and insuring offices maintain files of this type. For a complete listing of these, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors, repair contractors, management contractors and other contractors and builders under single-family and multi-family housing programs.

Categories of records in the system: Credit reports, trade references, bank references, factual data reports, balance sheets and other information related to financial reliability.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO—for audits and investigation; to IRS—for investigation; to Mortgagors—for a record of processing activity.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file cabinets.

Retrievability: Filed by name, project name and case file number.

Safeguards: Records filed in lockable metal file cabinets with access limited to authorized personnel.

Retention and disposal: Files are partly historical and partly active; disposal is according to HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal and non-federal government agencies.

HUD/DEPT—15

System name: Equal Opportunity-Housing Complaints

System location: Housing discrimination files are located at the office where originated and may also be transferred to associated area and/or regional offices, or the Headquarters Office. For a complete listing of these, with addresses, see Appendix A.

Categories of individuals covered by the system: Individuals filing housing discrimination complaints; individuals, officials, and organizations complained about; managers; grant or project applicants; builders; developers; contractors; appraisers; property owners; mortgagors; candidates for positions; witnesses; attorneys; individuals in disaster and EO files; Title VI, VIII and IX complainants. Does not include files on HUD employee complaints regarding their employment. Notices regarding these inquiries under the Privacy Act are published by the U.S. Civil Service Commission.

Categories of records in the system: Allegations of housing discrimination; names of complainant and persons or organizations complained about; investigation information; details of discrimination cases; compliance reviews; marketing activity; complaints under Titles VI, VIII and IX; conciliation files; correspondence; affidavits; complaint status reports.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to non-federal

EO-concerned agencies, the U.S. Department of Justice (including the FBI), the U.S. Department of Labor (including the Office of Federal Contract Compliance), U.S. Courts, the Veterans Administration, the Farmers' Home Administration, complainants, respondents and attorneys—for investigation, preparing litigation, and monitoring compliance.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records kept in lockable desks and file cabinets and magnetic tape/disc/drum.

Retrievability: Usually retrievable by name of complainant and, in some instances, by case file number.

Safeguards: Manual records are stored in lockable file cabinets; computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: HUD handbooks establish procedures for retention and disposition of records. Generally retained for two years, then transferred to Federal Records Centers for an additional five years.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject and other individuals, Federal and non-federal government agencies, law enforcement agencies, credit bureaus, financial institutions, current and previous employers, corporations or firms, EO counselors and witnesses.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(2), all investigatory material, including conciliation files, in records contained in this System which meet the criteria of these sub-sections is exempted from the notice, access, and contest requirements (under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4), (G), (H), and (I), and (f)) of the agency regulations in order for the Department's Fair Housing and Equal Opportunity and legal staffs to perform their functions properly.

HUD/DEPT—16

System name: Equal Opportunity Programs—Construction

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Builders; contractors; developers; brokers.

Categories of records in the system: Affirmative action plans; affirmative fair housing marketing plans, applications, and certifications; construction programs; approval letters; pre-construction conference reports; participation records; complaints; compliance reviews; records of consent decrees; monitoring reports; minority contractor lists; related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Department of

Labor, Office of Federal Contract Compliance—for monitoring and investigation; to state and local governments and agencies—for compliance review and investigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: Name of subject individual; case file number.

Safeguards: Records stored in lockable file cabinets.

Retention and disposal: Files are current and active; disposal is in accordance with HUD handbook procedures.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject and other individuals, firms, federal and non-federal agencies.

HUD/DEPT—17

System name: Experimental Housing Allowance Program—Participant Files

System location: Division of Housing Assistance Research, Assistant Secretary for Policy Development and Research, Headquarters Office.

Categories of individuals covered by the system: Applicants for housing allowances; participants and landlords under Experimental Housing Allowance Program.

Categories of records in the system: Socio-economic, financial and demographic data on EHAP participants.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to EHAP contractors—analysis for research purposes in accordance with program objectives.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Hard copy survey instruments stored in folders, microform, computer printout, punched cards, and magnetic tape/disc.

Retrievability: Manual files by name, social security number, personnel characteristics and case file number. Automated files have been stripped of all personal identifiers and are statistical only.

Safeguards: Access to manual files limited to survey subcontractors. No access to these records by prime contractors and HUD personnel. Records kept in secured areas and vaults.

Retention and disposal: In accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate

location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; current and previous employers.

HUD/DEPT—18

System name: Fellowship Files, Urban Studies

System location: Headquarters.

Categories of individuals covered by the system: Recipients of HUD fellowships in urban studies, and their alternates.

Categories of records in the system: Applications; financial statements; correspondence; policy statements; press releases.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Free text in file folders.

Retrievability: By name of award recipient and alternate.

Safeguards: Files are stored in lockable metal file cabinets.

Retention and disposal: Files are inactive and historical only. There are no established procedures for disposal of these records.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Individual awardees and alternates, educational institutions.

HUD/DEPT—19

System name: Grant and Loan Contracts

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Grant and loan contracts and related documents; status of grants and loans; personal information on grantee personnel; property descriptions; assignment records; grantee reports; related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO and private accountants—for audit purposes; to loan creditors—for loan servicing; to National Science Foundation and research institutes—for evaluation and review of research grant proposals.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape.

Retrievability: Name; case file number.

Safeguards: Records are stored in lockable file cabinets; access to automated files is obtained by passwords and coded ID's.

Retention and disposal: Records are primarily active, with some historical material. Disposal in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject and other individuals; financial institutions, firms; federal and non-federal agencies.

HUD/DEPT—20

System name: Homeownership Assistance and Recertification Application (HARAS)

System location: Headquarters

Categories of individuals covered by the system: Participants in Section 235 Homeownership Assistance Program.

Categories of records in the system: Historical profile of participant group.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum.

Retrievability: Name. Application and recertification tables produced quarterly. No output automated system interfaces or terminal inquiry capability.

Safeguards: Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: Records system is active and kept up-to-date.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Applications; recertifications; Single-family Statistical Reporting System.

HUD/DEPT—21

System name: Housing Assistance Applicants

System location: Many HUD regional, area, and insuring offices maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Individual and organizational applicants, builders, individual correspondents; mortgagors and mortgagees.

Categories of records in the system: Applications of those seeking housing grants and the review of those applications. Applicant's name, address and amount of grant. Also includes correspondence and requisitions for advances.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to local communities—in assessing Community Development Block grants.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Lockable file drawers.

Retrievability: Name; case file number.

Safeguards: Access to authorized personnel only.

Retention and disposal: In accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; corporations or firms; federal and non-federal government agencies.

HUD/DEPT—22

System name: Housing Counselling

System location: Many regional, area, insuring and service offices; as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Primarily individual mortgagors and prospective homebuyers seeking advice,

information and assistance regarding housing. Individuals with housing problems.

Categories of records in the system: Dates counseling, summaries of aid furnished to inquirers, correspondence. Sometimes includes certificate of completion of counseling, standard forms or letters, financial data.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: Occasionally used by HUD-approved counseling agencies in providing supportive counseling services such as money management and housekeeping training.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: HUD Forms 9906/9907, stored in file folders.

Retrievability: Always retrievable by name. Occasionally files are in chronological order or can be retrieved by case file number on address of property.

Safeguards: Data maintained in lockable desks and file cabinets. In some cases, files are restricted to use by counsellors.

Retention and disposal: A few records are active and kept up-to-date. Older records are treated according to HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Records usually furnished by subject individual. Occasionally received from other individuals, current or previous employers, credit bureaus, financial institutions, non-federal government agencies, counselling offices, community organizations and mortgage credit examiners.

HUD/DEPT—23

System name: Insured and terminated Single-family cases

System location: Headquarters Office

Categories of individuals covered by the system: Single-family mortgagors.

Categories of records in the system: Sample of single-family home cases for most recent five-year period.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum.

Retrievability: Name; case file number; property address.

Safeguards: Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: Records system is active and kept up-to-date.

System manager(s) and address:

Director

Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; financial institutions; federal government agencies.

HUD/DEPT—24

System name: Investigation Files

System location: Headquarters

Categories of individuals covered by the system: HUD program participants and HUD employees under investigation, including mortgagors, mortgagees, grant and project applicants, builders, developers, real estate firms, contractors and appraisers.

Categories of records in the system: Files contain information concerning investigation of alleged irregularities in connection with HUD programs and include initial complaints filed against subjects alleging violations, reports of investigation, findings of HUD officials and recommendations and disposition to be made.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Department of Labor—for investigative research; as a data source for management information for production of summary descriptive statistics and analytical studies in support of the function for which the records are collected and maintained, or for related personnel management functions or manpower studies. Files may also be used to respond to general requests for statistical information (without personal identification of individuals) under the Freedom of Information Act, or to locate specific individuals for personnel research or other personnel management functions.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed by name, investigation file number, case number.

Safeguards: Records are maintained in locked file cabinets or in metal file cabinets in secured rooms or premises with access limited to those whose official duties require access.

Retention and disposal: Records are primarily active, with destruction of some records after three years and some after five years.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; corporations or firms; law enforcement agencies.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these sub-sections is exempted from the notice, access, and contest requirements under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of the agency regulations in order for the Department's legal staff to perform its functions properly.

HUD/DEPT—25

System name: Legal Actions Files

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Litigants; potential and past claimants against the government.

Categories of records in the system: Threatened, pending and past litigation involving HUD as a party; summons; writs; indictments; pleadings; decisions; legal memoranda; litigation reports; depositions; deficiencies on court judgments; notices of levy; settlement negotiations; legal rulings, claims against the government; employee claims.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Justice Department—information for purposes of litigation, and representation of HUD before the courts and performance of all legal work incident thereto; to HEW—for investigation and litigation; to IRS—for investigation, litigation and collection of levies; to Local Housing Authorities—for investigation and litigation; to local governments—for investigation and litigation; to parties to litigation—to provide status and facts in litigation; to private individuals and corporations—to assist co-defendants or to provide documents and information as required by the Federal Rules of Civil Procedure; various uses under the Freedom of Information Act.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file cabinets.

Retrievability: Name; case names; case numbers assigned by courts.

Safeguards: Records maintained in locked and lockable metal file cabinets with access limited to authorized personnel.

Retention and disposal: Files are partly active and partly historical; disposal in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting:

(i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; financial institutions; firms and corporations; Federal government agencies; non-Federal government agencies; and Federal, state, and local courts.

Systems exempted from certain provisions of the act: Pursuant to 5 U.S.C. 552a(k)(2) and (k)(5), all investigatory material in the record which meets the criteria of these sub-sections is exempted from the notice, access, and contest requirements under 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H) and (I) and (f) of the agency regulations in order for the Department's legal staff to perform its functions properly.

HUD/DEPT—26

System name: Loan Management Files

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors under single-family; multi-family and college housing projects, mortgagees who service insured mortgages; builders of multi-family projects.

Categories of records in the system: Legal documents; correspondence and other information relating to loan servicing.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to United States Attorney—for eviction purposes on foreclosed properties.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Name; case number.

Safeguards: Files maintained in lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Files are primarily active with periodic removal of inactive files in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; other individuals; credit bureaus; corporations and firms; federal government agencies; non-federal government agencies.

HUD/DEPT—27

System name: Local Housing Mortgage Insurance

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors and mortgagees in FHA-insured single- and multi-family housing; applicants for grant programs; HUD loan management personnel.

Categories of records in the system: Mortgage insurance certifications; special agreements with FHA mortgagors; compliance control cards; listing of areas ineligible for mortgage insurance; advisory information; applicants for mortgage insurance; mortgage data (amount, interest rate, monthly payment, Housing Act section).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Primarily by case file. By name in some cases.

Safeguards: Lockable file cabinets and desks.

Retention and disposal: Primarily active information. Disposed of in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; financial institutions; credit bureaus; other individuals; firms; local and federal government agencies.

HUD/DEPT—28

System name: Property and Mobile Home Improvement and Rehabilitation Loans—Delinquent/Default

System location: Headquarters and most area and insuring offices maintain files of this type. For a complete listing, with addresses, see Appendix A.

Categories of individuals covered by the system: Mobile home, home improvement, and rehabilitation loan debtors; builders and contractors under mobile home, home improvement and rehabilitation programs.

Categories of records in the system: Names, credit applications, and case histories of borrowers; records of payments; financing statements; delinquent and defaulted loan records and account cards; collection and field reports; records of claims and chargeoffs; creditor requests for collection assistance; justifications for closing collection action; related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO—for audit purposes; to private employers and other Federal agencies—for the purpose of collecting government-owned debts; and to the Department of Justice and U.S. Attorney's offices—for collection purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: By name and case file number of individual covered.

Safeguards: Files are stored in lockable file cabinets.

Retention and disposal: Files are partly active and partly historical and are disposed of in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; current and previous employers; credit bureaus; financial institutions; firms; federal and non-federal agencies; law enforcement agencies.

HUD/DEPT—29

System name: Mobile Home, Home Improvement Loans and Rehabilitation Grants and Loans

System location: Most area and insuring offices maintain files of this type. For a complete listing of these, with addresses, see Appendix A.

Categories of individuals covered by the system: Mobile home, home improvement and rehabilitation loan debtors; rehabilitation grantees, builders, dealers and contractors under mobile home, home improvement and rehabilitation loan and grant programs.

Categories of records in the system: Names of borrowers, builders, dealers and contractors; loan and grant applications and eligibility information; loan and grant documents; payment records; registration records; collection records; complaint records; related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to dealers and contractors—for settling complaints; to lenders—for loan servicing; to tax assessors—for assessment of property; to local agencies—for monitoring and carrying out programs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: By name and case file number of individual covered.

Safeguards: Records stored in lockable file cabinets.

Retention and disposal: Records are primarily active with some historical information; disposal is in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

PRIVACY ACT ISSUANCES

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W. Washington, D.C. 20410.

Record source categories: Financial institutions, subject and other individuals; federal and non-federal agencies; firms, current and previous employers; law enforcement agencies.

HUD/DEPT-31

System name: Mortgage Servicing Files on HUD-Held Properties

System location: All HUD area and insuring offices. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Project sponsors; inspectors; tenants; landlords; local housing authorities; private accountants and auditors; management agents; mortgagee institutions; cooperative members; service contractors and brokers; mortgage assignees and assignors.

Categories of records in the system: Project servicing dockets; management reviews of sponsor qualifications; review of mortgagee defaults and mortgagee foreclosure; individual and organizational case studies; register of home mortgage commitments; mortgage assignments and transfers.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to GNMA and FNMA for financial referral to the Department of Justice; to General Accounting Office for purposes of investigation and potential foreclosures; to local tenant groups and Legal Aid for review of proposed rental increases; to the general public for reference.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Free text; standard forms; computer print-outs; binders and file folders.

Retrievability: By name, case file number, organizational code, project number, chronologically.

Safeguards: Files are kept in desks, file cabinets (locked and unlocked), safes and bookshelves. Access is limited to authorized personnel by locks and limited security checks.

Retention and disposal: Files are mostly active and kept up to date; and are both partly current and partly historical.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Inspectors; financial institutions; subject landlords; tenants; law enforcement agencies; local housing authorities; government agencies; private contractors and managers; private cooperatives and corporations.

HUD/DEPT-32

System name: Mortgages—Delinquent/Default

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors under single- and multi-family housing programs seeking assistance in preventing foreclosures; mortgagors whose mortgages are held by the Secretary; mortgagors whose payments are delinquent; mortgagors complaining about loan servicing; mortgagees servicing defaulted loans; banks lending money; builders, developers and other firms under multi-family housing programs; contractors, developers or lien holders under multi-family programs; builders, developers, real estate firms, contractors, appraisers, other corporations and firms making repair bids; defaulted borrowers; project owners; project managing agents; former owners; tenants; area managers; HUD personnel in area and regional offices.

Categories of records in the system: Foreclosure reports; bankruptcy reports; audit reports; inventory reports; monthly accounting records; credit documents; financial statements; mortgage delinquencies; records of collection efforts on defaulted loans; payment records of mortgagors under Section 234 of the National Housing Act; recertification of Section 235 National Housing Act; recertification violations of Section 235 mortgagors; loan servicing; assistance for mortgagors in lowering payments of helping to make mortgage payments; geographic location of single-family mortgagors in default; project fiscal data; project processing activities that may have led to projects going into default; properties conveyed to HUD; property information supplied by HUD area managers; proposed transfers of physical assets; managing plans; present management capabilities; repair bids; fire inspections; post-closing complaints; congressional inquiries resulting from mortgagor complaints.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to FHA—for insurance investigations; to IRS and GAO—for investigations; to state banking agencies—to aid in processing mortgagor complaints; to state housing and redevelopment agencies—for follow-up servicing; to mortgagees—to check on the status of cases and referrals of complaints; to counseling agencies—for counseling; to Legal Aid—to assist mortgagors.

Storage: Free text; Standard Forms 2068 and 2068S; binders; notebooks; magnetic tapes, drums, and discs.

Retrievability: Name; Social Security number; case file number; name of mortgagee; property address.

Safeguards: Records maintained in desks and lockable file cabinets; access to automated systems is by passwords and code identification cards; access limited to authorized personnel.

Retention and disposal: Obsolete records destroyed or shipped to Federal Records Center in compliance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

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information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; Federal Government agencies; non-federal government (including foreign, state and local) agencies; law enforcement agencies.

HUD/DEPT-34

System name: Pay and Leave Records of Employees

System location: All Department offices. For a complete listing of offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD employees.

Categories of records in the system: Name, Social Security number and employee number, grade, step and salary; organization, retirement or FICA data as applicable; Federal, state and local tax deductions; regular and optional Government life insurance deduction(s), health insurance deduction and plan or code; cash award data; jury duty data; military leave data; pay differentials; union dues deductions; allotments, by type and amount; financial institution code and employee account number; leave status and data of all types (including annual, compensatory, jury duty, maternity, military, retirement disability, sick, transferred, and without pay); time and attendance records, including leave applications and reports, individual daily time reports, adjustments to time and attendance, overtime reports, supporting data, such as medical certificates, number of regular, overtime, holiday, Sunday and other hours worked; pay period number and ending dates; cost of living allowances; mailing address; coowner and/or beneficiary of bonds, marital status and number of dependents; and "Notification of Personnel Action."

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: Transmittal of data to U.S. Treasury to effect issuance of paycheck to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions and other authorized purposes. Annual reporting of W-2 statements to Internal Revenue Service, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local governments, except Social Security numbers will be reported only to such authorities that have satisfied the requirements set forth in Section 7(a)(2)(B) of the Privacy Act of 1974. To the Civil Service Commission concerning pay, benefits, retirement deductions, and other information necessary for the Commission to carry on its Government-wide personnel functions; to GAO - for audit; to other Federal government agencies - to facilitate employee transfers; and to State agencies - to verify workmen's compensation injury claims.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Manual, machine-readable and magnetic media.

Retrievability: Name of employee; Social Security Number.

Safeguards: Physical, technical, and administrative security is maintained with all storage equipment and/or rooms locked when not in use. Admittance, when open, is restricted to authorized personnel only. All payroll personnel and computer operators and programmers are instructed and cautioned on the confidentiality of the records. Manual files kept in lockable desks, file cabinets and safes.

Retention and disposal: Retained on site until after GAO audit, then disposed of, or transferred to Federal Records Storage Centers in accordance with fiscal records program approval by GAO, as appropriate, or General Record Schedules of GSA.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with procedures in 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals, supervisors, timekeepers, official personnel records, previous employers, or other Federal government agencies.

HUD/DEPT-35

System name: Personnel Medical Records

System location: In most HUD offices. For a complete list of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD personnel and individuals writing to the Department.

Categories of records in the system: Pre-employment medical records and individual medical records of HUD employees including standard medical forms completed by doctors at time of entrance of duty.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to federal agencies—for review when considering hiring and upon transfer to another agency.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In lockable file cabinets.

Retrievability: By name.

Safeguards: Records kept in locked file cabinet with access by authorized personnel only.

Retention and disposal: Active, kept up-to-date, partly historical. Maintained until retirement, resignation or transfer. Forwarded with official personnel folder when sent out for disposition according to HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Primarily from subject individual.

HUD/DEPT-37

System name: Personnel Travel System

System location: All Department offices maintain employee travel records, and several maintain driver permit application records. For

a complete listing of offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD personnel.

Categories of records in the system: All travel records, including vouchers, requests, advances, receipts for requests, orders, applications for Federal vehicles, driver permits, U.S. Government driver's licenses, driver's physical fitness forms, motor pool records, monthly motor vehicle use records, and GSA vehicle mileage reports. Applications for parking space.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Treasury—for payment of vouchers; driver's license information transmitted to Department of Transportation for verification with National Driver Register, vouchers and receipts are available to GAO and GSA for audit purposes and vouchers are verified by private transporters.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Files generally stored on standard Government forms in individual file folders or binders.

Retrievability: Almost always retrievable by name, occasionally by Social Security number, and rarely by numerical or chronological sequence or by organization or vehicle.

Safeguards: Kept in lockable desks or file cabinets.

Retention and disposal: Records are active and kept up-to-date. Files purged in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location; A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual and supervisors.

HUD/DEPT—38

System name: Pre-Construction Plans, Bids and Contracts.

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Bidders; contracting builders; developers; service agents and management dealers; local housing authorities; appraisers; project applicants and recipients.

Categories of records in the system: Building permits, pre-construction analysis files, precautionary files, bid tabulation controls, rotation schedules and reviews, rebid invitations, procurement bidding, contract files, fee schedules, manufactured housing records; interstate land sales; compliance and exemption records; sewage data and street improvements.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to General Accounting Office, IRS, Federal Trade Commission, Securities and Exchange Commission, U.S. Postal Service, Department of Transportation, Department of Labor and various state agencies for purposes of investigations. To financial institutions for reference in assignment of accounts receivable and contract rights. To local builders and contractors—for determination of compliance with local building codes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Free text; standard forms; file folders; binders; cards; books and ledgers.

Retrievability: Name; case file number; project number; organizational code.

Safeguards: Files are maintained in file cabinets, desks, safe and on file shelves. Access is generally limited to authorized persons with keys within security bounds.

Retention and disposal: Most files are active and kept up-to-date; partly current and partly historical; files are disposed of in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Bidders; appraisers; contractors; inspectors; financial institutions; government agencies; law enforcement officials; architectural and engineering professional organizations; project sponsors; developers; dealers and brokers; individuals dealing with HUD.

HUD/DEPT—40

System name: Property Inspection Reports System.

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: HUD inspectors; architects under single-family programs; construction analysts; single-family mortgagors; single-family mortgagors writing complaints.

Categories of records in the system: Record and evaluation of field inspectors' performance; requests for inspections; assignment schedules; builders' workmanship adjustment records; training schedules; latent defect inspections; individual complaints.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to mortgagors—for information on eligibility of property for FHA insurance; to auditors, architects, contractors and project sponsors—for information on inspections and necessary follow-up actions; to FNMA and GNMA—correspondence relating to inspection.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Name of inspector, case file number; project number, program type; subdivision number; ASP number.

Safeguards: Lockable file cabinets; locked desks. Only authorized persons have access. Buildings secured after hours.

Retention and disposal: Some files sent to Records Center after one year; some destroyed when outdated or when case closed; some destroyed in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Financial institutions; FHA architect supervisors; HUD inspectors.

HUD/DEPT—42

System name: Public Housing Rent Subsidy Programs.

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Low-rent housing applicants and recipients; HUD personnel; local housing authorities; mortgagors; mortgagors and financial institutions; realty brokers; construction contractors and builders; area managers; local service contractors.

Categories of records in the system: Section 236 Applications and Recertifications; rent supplement applications/vouchers/schedules; monthly reports of excess collections; subsidized tenant move-out records; requests for reservations; and permission-to-occupy certifications.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to General Accounting Office—for purposes of audit; to IRS—for investigation; to local and state housing authorities—for reference purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Free text; standard forms; computer print-outs; file folders.

Retrievability: Name; case file number according to project; organizational program; building number.

Safeguards: Limited access; locked file cabinets; security checks and limited authorization.

Retention and disposal: Files are active and kept up-to-date; partly current and partly historical. Files are either sent to GSA Federal Records Center for storage or disposed in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal government agencies; non-federal government agencies; project and project managers.

HUD/DEPT—43

System name: Real Estate Files.

System location: Many regional areas, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Management brokers appointed to manage HUD-acquired property; management agents for single-family and multi-family projects; real estate brokers who are area managers for HUD-acquired properties; real estate brokers selling repossessed homes for FHA; real estate brokers selling HUD properties; real estate brokers involved in management of HUD-owned single-family and multi-family projects; brokers who have signed non-discrimination statements; builders and contractors under property disposition programs; bidders on property; purchasers of HUD homes with structural defects; potential buyers.

Categories of records in the system: HUD single-family property disposition; real estate activity in urban renewal projects and public housing; management of acquired, insured projects; performance under terms of contract; contractors' qualifications and prior experience; development proceeds; local authority budgets; authorized proclaimers; credit; profit and loss; financial transactions; repairs to property in inventory; property acquisition and disposition; exhibits submitted by developers; information on purchasers of HUD homes with structural defects; information on development of new subdivisions; market needs and available maximum market rent and environment assessment; complaints against real estate brokers.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to IRS—for auditing income tax returns; to insurance companies—to file claims for amounts due; to mortgagors—to review the credit of prospective purchasers; to local public authorities—to check on acquisition, re-use and prices of real estate.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Free text; Standard Form 955b; card file; file folders; binders.

Retrievability: Name; Social Security number; personal characteristics; case file number; contract number; geographic area; identification number.

Safeguards: Desk; lockable file cabinet; safe; central file.

Retention and disposal: Obsolete records are destroyed or sent to storage facility.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate locations. A list of all locations is given in Appendix A.

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Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; current or previous employers; credit bureaus; financial institutions; other corporations or firms; federal government agencies; non-federal (including foreign, state and local) government agencies.

HUD/DEPT-44

System name: Relocation Assistance

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Displaced persons; relocation claimants and applicants; builders; developers; contractors and appraisers under relocation programs.

Categories of records in the system: Names of relocation claimants; personal and family financial data; relocation needs and problems; claims; documentation and evaluation of claims; recommendations; inquiries and grievances; responses to grievances; audits.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to GAO—for audit purposes; to the Department of Justice—for investigation and prosecution; to local public agencies—for processing, training and monitoring purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: By name and case file number of subject individual.

Safeguards: Stored in lockable file cabinets; access limited to authorized personnel.

Retention and disposal: Files are partly active and partly historical; disposal is in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject and other individuals; current and previous employers; credit bureaus and financial institutions; firms; federal and non-federal agencies; law enforcement agencies.

HUD/DEPT-45

System name: Repair and Maintenance Contractors

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Repair and maintenance contractors; mortgagors whose property is repaired or maintained.

Categories of records in the system: Names of contractors; records of repair and maintenance contracts; successful bidders; amounts of bids; contract price; completion dates; descriptions of property; certifications of repairs completed; letters to proceed; mortgagor personal data; mortgage notes; requests for repair; credit reports; purchase order records; related correspondence.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to IRS—for verification of payments and investigation; mortgages—for mortgage servicing purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders.

Retrievability: By name and case file number of subject individual.

Safeguards: Records stored in lockable file cabinets.

Retention and disposal: Records are partly current and partly historical; disposal is in accordance with HUD Handbook procedures.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject and other individuals; current and previous employers; credit bureaus; financial institutions; firms; federal and non-federal agencies.

HUD/DEPT-46

System name: Single Family Case Files

System location: Many regional, area, insuring and service offices, as well as the Headquarters Office, maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Mortgagors; mortgagees; builders; developers; contractors; appraisers and real estate firms in connection with single family housing programs of the department.

Categories of records in the system: Files contain standard records used for day-to-day maintenance of single-family mortgage cases, including daily case control, mortgage servicing, payment records, loan recommendations, information concerning borrowers' inability to make payments, cancellations and monies returned. Also, requests for refinancing, income and employment information used in determination of applicant eligibility, insurance documents, sales agreements, conditional and firm commitments, owner requests for appraisals, property descriptions, correspondence and complaints.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Welfare agencies—for fraud investigation; to VA—for coordination with HUD in processing construction complaints. Congressional delegation—providing information concerning status of complaints. Complainants and attorneys representing them—review of complainant file for status and information. Builders and attorneys representing them—review of complainant file for status information.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and computerized tape, disc and drum.

Retrievability: Filed by name of individual and case file number.

Safeguards: Records maintained in locked and lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Records are primarily active with some historical data. Inactive files are normally disposed after a two-year period.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; current or previous employers; credit bureaus and financial institutions; corporations and firms and federal and non-federal government agencies.

HUD/DEPT-47

System name: Spanish-Speaking Program

System location: Central Office

Categories of individuals covered by the system: Spanish-speaking applicants for employment; Spanish-speaking Equal Opportunity complainants; Spanish-speaking firms and groups.

Categories of records in the system: Equal Opportunity grievances by Hispanics; capability statements of Hispanic firms and groups for contracting and grants; Hispanics seeking employment.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders

Retrievability: Name; personal characteristics.

Safeguards: Files are maintained in locked and lockable file cabinets and desks with access limited to authorized personnel.

Retention and disposal: Files are partly current and partly historical with no special disposal techniques.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; other individuals; corporations or firms; federal government agencies; non-federal government agencies.

HUD/DEPT-48

System name: Subdivision files

System location: Almost all HUD area and insuring offices maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Sponsors; developers and builders of subdivisions; planners, engineers, and architects; mortgagees for single-family housing; builders of single-family and multi-family housing; real estate contractors involved in subdivision processing; developers involved in HPMC subdivision activity; mortgagees, builders, developers, real estate firms, contractors and other individuals who are involved in establishing approved subdivisions; developers of single-family tracts and planned unit developments and condominiums using short-cut processing.

Categories of records in the system: Contracts and notes involving land and lot purchases by builders and developers; financial statements on sponsors; subdivision proposals; status of processing of subdivision proposals; land ownership; information on new applicants; analysis and approval of new subdivisions; HUD-FHA specialist reports from state and area clearing houses; memos from appraisers about conditions of subdivisions; engineering documents; recorded plat covenants; grading and drainage elevations; subdivision feasibility analysis; planned unit development; subdivision improvements; multi-family projects; developer's subdivision plans; trade styles under which sponsors' organization has operated; bid condition approvals; proposed selling prices; zoning regulations; flood, mud, water and sewer hazards; plans and exhibits of subdivisions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Veterans Administration—for use in determining acceptance under VA programs and for appraisals; to Farmers Home Administration—for use in determining acceptance under FHA programs and for appraisals; Soil Conservation Service—to Members of Congress—for answering inquiries and responding to complaints; mortgagees—for determining application acceptability before submission; to developers, builders, mortgagees, real estate firms, contractors and other individuals—for assisting sponsors in land planning and getting information on the status of processing of specific subdivision proposals; to state agencies—for review; to municipalities—for review; to developers, builders, mortgagees, real estate firms, contractors and other individuals—for assisting sponsors in land planning and getting information on the status of processing of specific subdivision proposals; to state agencies—for review; to municipalities—for review; to developers, builders, mortgage companies and banks—for making financing decisions; to the U.S. Army Corps of Engineers—to make flood plain determinations; to regional planners—for studies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Standard forms; file binders; card files.

Retrievability: Name; case file number; subdivision name, ASP

PRIVACY ACT ISSUANCES

number of SPO numbers; city name

Safeguards: Records are stored in desks, card files and lockable file cabinets; access restricted to authorized personnel.

Retention and disposal: Obsolete files are destroyed or shipped to the Federal Records Center for storage

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; other individuals; financial institutions; other corporations or firms; federal agencies; non-federal (including foreign, state and local) government agencies; standard forms.

HUD/DEPT-49

System name: Wage Complaints and Compliance

System location: Most HUD area and insuring offices maintain files of this type. For a complete listing of these offices, with addresses, see Appendix A.

Categories of individuals covered by the system: Construction and maintenance employees of builders and contractors working on HUD-assisted projects.

Categories of records in the system: Wage and fringe benefits complaints by employees and unions; Pre-construction conferences; records on labor standards and related acts on federally-assisted projects; wage surveys and payrolls submitted by prime and sub-contractors; wage violation data and Department of Labor wage determinations on site interviews; compliance reports, enforcement reports; certification records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Department of Labor—for investigation and data compilation; to IRS and state commissions—for investigation; to unions, contractors and mortgage companies—for information and compliance; to attorneys—for litigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders.

Retrievability: Case file number (project, mortgage, grant, etc.); name; Social Security number; individual's address; employer.

Safeguards: Primarily in lockable metal file cabinets; some in safes.

Retention and disposal: Disposition in accordance with HUD Handbook.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Individual employees and employers; federal and other state agencies; Unions.

HUD/DEPT-51

System name: Standards of Conduct File

System location: Headquarters, Office of General Counsel.

Categories of individuals covered by the system: HUD employees.

Categories of records in the system: Financial statements; statements of employment.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to the Department of Justice, the Federal Bureau of Investigation, and the Internal Revenue Service for purposes of investigation.

Storage: File folders and standard forms.

Retrievability: Name.

Safeguards: Locked file cabinets.

Retention and disposal: Files are active and kept up-to-date; partly current and partly historical.

System manager(s) and address:

Assistant General Counsel for Finance and Administrative Law
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals.

HUD/DEPT-52

System name: Privacy Act Requesters.

System location: Headquarters, Regional, Area, and Insuring Offices maintain files of this type. See Appendix A for a complete listing of these offices.

Categories of individuals covered by the system: Individuals inquiring about existence of records about them, and requesting access to and correction of such records under provisions of the Privacy Act.

Categories of records in the system: Personal identification of requester, nature of request, and disposition of the request by the Department.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Storage: In file holders.

Retrievability: Filed by case number and name of individual.

Safeguards: Records maintained in locked and lockable file cabinets with access limited to authorized personnel.

Retention and disposal: Records are primarily active. Inactive files are normally disposed of after a one-year period.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) In relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals.

HUD/HM-1

System name: Housing Management Section 8 Management Information

System location: Headquarters Office.

Categories of individuals covered by the system: Tenants in Section 8 Program.

Categories of records in the system: Tenant characteristics.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum.

Retrievability: Name of tenant. Inquiry capability by HUD management. Output interface with HPMC Section 8 MIS (occupancy characteristics).

Safeguards: Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

Retention and disposal: Records system is active and kept up-to-date.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing

access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; landlords.

HUD/HM-2

System name: HUD Temporary Housing File

System location: Contact appropriate Regional Offices for locations of field offices. For a complete listing of Regional Offices, see Appendix A.

Categories of individuals covered by the system: The files relate to disaster assistance functions. The files concern: builders, developers, real estate firms and other vendors, such as: mobile homes, furniture and truck rental, utility supplies and towing contractors; grant/project applications for aid (individuals and organizations); equal opportunity; qualified bidders on procurements; HUD personnel and candidates for temporary and permanent positions, some of which are on response cadre; past, present and inactive tenants; candidates for permanent or temporary housing in facilities such as mobile homes, or who withdrew from such housing, victims of natural disaster (fire, flood, tornado) and their case files.

Categories of records in the system: Personal information is contained, such as name, address, sex, Social Security number, telephone number, wages, job location, family income, insurance data (relating to homes) as pertaining to some applicants, and disapproval or approval of applicants for aid or employment. There is general correspondence concerning complaints, plaudits, reinstatement in jobs or housing, requests for disbursement of payments and inquiries from tenants and landlords in regard to aid. Files also include general administrative and fiscal information, including payroll, payment schedules and forms, travel vouchers, time and attendance records, applications, termination notices, individual and family grant programs, damage and relocation information, leases, contracts, disaster cadre registers, listings of emergency repairs given as a result of specific natural disasters, reasons for tenant eviction or denial of aid, sales information on homes after tenant purchase, listings of debarred contractors, and status of dispositions of applicants for housing.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to the FBI—for investigation of possible Small Business Administration loan frauds; to GAO—for the investigation of files and to verify family composition, income and sources of housing plans; to the Small Business Administration—to verify household composition and actual disaster assistance; forwarding of addresses; information concerning contracts, to Local Departments of Public Assistance—for verification of occupancy of victims, their income and relocation; to House of Representatives—specific tenant information is given in response to a Congressional inquiry; to Post Office—in regard to location of individuals; to Departments of Motor Vehicles and State Tax Departments—to find serial number and cost of mobile homes and vehicles; to Local Housing Authorities and departments of community affairs (by state) and the Committee on Economic Opportunity—to determine family compositions, income and sources of income and housing plans concerning relocation; to law enforcement agencies—for relocation information; to Local Housing Authorities and local township police—concerning the forwarding of addresses; to utility companies—in regard to lease dates and forwarding addresses; to Defense Department Investigating Service—concerning mobile home occupancy dates; to county investigating services—to verify address and number of people within households; to local relief and government agencies—information on victims and housing; property ownership; tax rebates; to disaster victims—in regard to disaster assistance and its termination.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

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PRIVACY ACT ISSUANCES

Storage: Some files are in free text form, such as notes, memos, ledger cards, printed cards and 3 x 5 cards, as well as daily reports. Other files are on Standard Forms Nos. SF 171, SF 52, SF 50, 491.1 or various certification forms relative to the need for assistance, or computer print-outs (some of which concern summaries of payments). Other forms of storage are file folders and Disaster Management Information Systems. Any computer files are controlled and reported at the Headquarters Office.

Retrievability: Administrative files systems are filed alphabetically and geographically by name and then by case file number. Direct Reimbursement Number, lease number, some are cross-referenced by Social Security number, application number, personal characteristics (e.g., age, marital status, GS level, etc.); subject matter; designated disaster and area; functional assignment cards, accession to record group number. Most correspondence written in free text is filed by title of office and office designation. Some active files are within the program subject file classification method.

Safeguards: Records exist in cardboard boxes, lockable desks, in notebooks in bookcases, in tape-disc libraries, in lockable file cabinets or in central files outside local offices. Records are kept in buildings which are secured after work hours, and most offices are locked when unattended. Confidential files are seen only by authorized personnel (in Regional Emergency Offices). Other files are seen only by personnel authorized to enter offices (whose names are posted on lists) and who are overseen by Disaster Assistance employees. In military installations, the records are maintained in locked areas; only authorized personnel have keys to files or offices. Computer and data files are stored in computer facilities which are secured and accessible only to authorized personnel; all files are stored in a secured area. Technical constraints are employed with regard to access and the methods employed in order to maintain security include the use of unique account codes; file qualifiers; file names; read/write protection keys; site identification codes; run identification codes; and password codes.

Retention and disposal: Some files are active and kept up-to-date, but usually only when an individual is receiving assistance. Other files are inactive and historical only, unless a follow-up on a case is needed within one year after the close-down of the Disaster Field Office. Other files are partly current and partly historical. Some files are permanently retained, others destroyed by shredding according to appropriate schedules concerning disposal authority. When Disaster Field Offices are actively functioning, inactive case files are placed in inactive files. When Disaster Field Offices are inactive, case files are stored at record centers. However, when a Disaster Field Office has been audited and closed out, any pertinent records are shipped to Regional Offices. There is a periodic review of some files, which includes the removal of obsolete information. Once a tenant is terminated or has vacated a temporary residence, his or her records are placed in a "vacate file". Some files are eventually sent to the archives for permanent retention.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the appropriate location. A list of all locations is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Social service and other state and city agencies; subject individuals; current or previous employers; credit

bureaus; financial institutions; corporation or firms; Federal Government agencies; non-Federal Government agencies; law enforcement agencies; Disaster Field Offices; various numbered HUD forms; unnumbered survey forms; authorizations and statements.

HUD/FIA-1

System name: Federal Crime Insurance

System location: Headquarters.

Categories of individuals covered by the system: Federal crime insurance policyholders.

Categories of records in the system: Names of policyholders; addresses of insured premises; type of premises; class of business; annual gross receipts; amounts and types of insurance desired; annual premiums; claims information; record of claim payments; record of premium payments; payments of commissions to agents.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: to Safety Management Institute for billing, verification of coverage, claims adjusting and issuance of policies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files in metal cabinets, tape/disc library.

Retrievability: By name and Social Security number of policyholders.

Safeguards: Access limited to authorized personnel.

Retention and disposal: Information partly current and partly historical; no procedures for removal of obsolete information.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individual; police reports (for verification of claims data); servicing companies (for verification of claims data).

HUD/HPMC-1

System name: Housing Production and Mortgage Credit Monitoring System

System location: Headquarters.

Categories of individuals covered by the system: Single-family mortgagors.

Categories of records in the system: Cross-indexes (used to support studies and investigations).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape/disc/drum.

Retrievability: Name; case file number.

Safeguards: Computer facilities are secured and accessible only by authorized personnel, and all files are stored in a secured area. Technical restraints are employed with regard to accessing the computer and data files.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

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Retention and disposal: Records system is active and kept up-to-date.

System manager(s) and address:

Director
Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. A list of all locations is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials, by the individual concerned, appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

Record source categories: Subject individuals; current or previous employers; credit bureaus; financial institutions; corporations; firms; federal government agencies.

HUD/PD&R-1

System name: Urban Homesteading Evaluation Data

System location: Cambridge, Massachusetts.

Categories of individuals covered by the system: Urban homesteaders, other residents of Urban Homesteading Demonstration (UHD) target neighborhoods, and unsuccessful applicants for UHD properties.

Categories of records in the system: Demographic, socioeconomic, housing characteristics, and housing costs.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraphs in prefatory statement. Other routine uses: none.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Survey questionnaires stored in file folders; punch cards, magnetic tape/disc/drum stored in facilities with limited access.

Retrievability: Code number; address.

Safeguards: File folders stored in locked cabinets; machine-readable files stored in secured areas and technical restraints are employed with regard to accessing the computer and machine-readable files. All material accessible only by authorized personnel.

Retention and disposal: Questionnaires are retained for about one month to permit conversion of data into machine-readable format; machine-readable records will be disposed of in approximately three years, early 1980.

System manager(s) and address:

Director, Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street SW.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the Headquarters location, in accordance with 24 CFR Part 16. This location is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at the Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Ap-

pendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Urban homesteaders, other residents of UHD target neighborhoods, and unsuccessful applicants for UHD properties.

HUD/PD&R-2

System name: Solar Energy Demonstration Survey Files

System location: Headquarters.

Categories of individuals covered by the system: Purchasers and renters of solar heated or cooled housing under the demonstration program; comparative purchasers of conventional heated and cooled housing; prospective purchasers of housing marketed under the demonstration program.

Categories of records in the system: Housing characteristics, reason for moving, utility expenditures, neighborhood characteristics, perception of housing and subdivision, housing costs and financing characteristics, marketing attitudes toward solar energy, operating experience with heating and cooling systems, socioeconomic information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Routine Uses paragraph in the prefatory statement. Other routine uses: Real Estate Research Corporation (Chicago, Ill.) for analysis and evaluation of solar energy use and its acceptance by the public.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In file folders and on magnetic tape/disc/drum.

Retrievability: Name; address; code number; and index.

Safeguards: Computer facilities are secured and accessible only to authorized personnel. The name-address index file will be kept in the Department in lockable file cabinets, with access limited to key authorized personnel.

Retention and disposal: Records will be maintained until follow-up interviews have been completed. Records of survey participants will be destroyed as each cycle ends or the participants leave the program. Hard copy questionnaires will be destroyed after they are encoded into machine readable format. All records will be destroyed at the conclusion of the study, scheduled to end in approximately five years.

System manager(s) and address:

Director, Office of Organization and Management Information
Department of Housing and Urban Development
451 Seventh Street, S.W.
Washington, D.C. 20410

Notification procedure: For information, assistance, or inquiry about existence of records, contact the Privacy Act Officer at the appropriate location, in accordance with 24 CFR Part 16. A list of all locations is given in Appendix A.

Record access procedures: The Department's rules for providing access to records to the individual concerned appear in 24 CFR Part 16. If additional information or assistance is required, contact the Privacy Act Officer at Headquarters. This location is given in Appendix A.

Contesting record procedures: The Department's rules for contesting the contents of records and appealing initial denials by the individual concerned appear in 24 CFR Part 16. If additional information or assistance is needed, it may be obtained by contacting: (i) in relation to contesting contents of records, the Privacy Act Officer at the Headquarters location. This location is given in Appendix A; (ii) in relation to appeals of initial denials, the HUD Departmental Privacy Appeals Officer, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410.

Record source categories: Subject individuals.

APPENDIX-A-OFFICIALS TO RECEIVE INQUIRIES, REQUESTS FOR ACCESS AND REQUESTS FOR CORRECTION OR AMENDMENT

HEADQUARTERS

Privacy Act Officer, 451 Seventh Street, S.W., Washington, D.C. 20410

Region I

Regional Administrator, Room 800, John F. Kennedy Federal Building, Boston, Mass. 02203

Area Offices

Director, One Financial Plaza, Hartford, Conn. 06103
 Director, Bullfinch Building, 15 New Chardon Street, Boston, Mass. 02114
 Director, Norris Cotton Federal Building, 275 Chestnut, Manchester, N.H. 03103

Insuring Offices

Director, Federal Building and Post Office, 202 Harlow Street, Post Office Box 1357, Bangor, Me. 04401
 Director, 330 Post Office Annex, Providence, R.I. 02903
 Director, Federal Building, Elmwood Avenue, Post Office Box 989, Burlington, Vt. 05401

Region II

Regional Administrator, 26 Federal Plaza, Room 3541, New York, NY 10007

Area Offices

Director, The Parkade Building, 519 Federal Street, Camden, NJ 08103
 Director, Gateway One Bldg., Raymond Plaza, Newark, NJ 07102
 Director, Statler Bldg., 107 Delaware Ave., Buffalo, NY 14202
 Director, 666 Fifth Avenue, New York, NY 10019

Commonwealth Area Office

Administrator, Federal Office Bldg., Room 428, Carlos Chardon Ave., Hato Rey, San Juan, Puerto Rico 00917.

Insuring Office

Director, Leo W. O'Brien Federal Bldg., North Pearl Street and Clinton Ave., Albany, N.Y. 12207.

Region III

Regional Administrator, Curtis Building, 6th and Walnut Streets, Philadelphia, PA 19106.

Area Offices

Director, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C. 20009.
 Director, Two Hopkins Plaza, Mercantile Bank and Trust Bldg., Baltimore, MD 21201.
 Director, Curtis Bldg., 625 Walnut St., Philadelphia, PA 19106.
 Director, Two Allegheny Ctr., Pittsburgh, Penna. 15212.
 Director, 701 East Franklin Street, Richmond, Virginia 23219.

Insuring Offices

Director, Farmers-Bank Bldg., 14th Floor, 919 Market St., Wilmington, Dela. 19801.
 Director, New Federal Bldg., 500 Quarrier St., Post Office Box 2948, Charleston, West Virginia 25330

Region IV

Regional Administrator, Room 211, Pershing Point Plaza, 1371 Peachtree Street, N.E., Atlanta, GA 30309

Area Offices

Director, 15 South 20th Street, Birmingham, ALA 35233.
 Director, Peninsular Plaza, 661 Riverside Avenue, Jacksonville, FLA 32204
 Director, Peachtree Center Bldg., 230 Peachtree Street, N.W., Atlanta, GA 30303
 Director, Children's Hospital Foundation Bldg., 601 South Floyd Street, Post Office Box 1044, Louisville, KY 40201
 Director, 101 C Third Floor Jackson Mall, 300 Woodrow Wilson Avenue, West, Jackson, Mississippi 39213.
 Director, 415 North Edgeworth Street, Greensboro, NC 27401.
 Director, 1801 Main Street, Jefferson Square, Columbia, SC 29202
 Director, One Northshore Bldg., 1111 Northshore Drive, Knoxville, Tenn. 37919

Insuring Offices

Director, 3001 Ponce de Leon Blvd., Coral Gables, FLA 33134
 Director, Federal Bldg., 700 Twiggs Street, Tampa, FLA 33601
 Director, 28th Floor, 100 North Main Street, Memphis, Tenn. 38103

Director, U.S. Courthouse, Federal Bldg. Annex, 801 Broadway, Nashville, Tenn. 37203.

Service Office

Director, Porterfield Bldg., 3191 Maguire Blvd., Post Office Box 20200, Orlando, FLA 32802.

Region V

Regional Administrator, 300 South Wacker Drive, Chicago, ILL. 60606.

Area Offices

Director, 1 North Dearborn Street, Chicago, ILL. 60602.
 Director, Willowbrook Five Bldg., 4720 Kinsway Drive, Indianapolis, IND 46205.
 Director, Patrick V. McNamara Federal Bldg., 477 Michigan Ave., Detroit, MI 48226.
 Director, 6400 France Ave., S. Minneapolis, MINN 55435
 Director, New Federal Bldg., 200 North High Street, Columbus, OH. 43215.
 Director, 744 North Fourth Street, Milwaukee, WIS 53203

Insuring Offices

Director, Lincoln Tower Plaza, 524 South Second St., Room 600, Springfield, ILL. 62701.
 Director, Northbrook Bldg., No. 11, 2922 Fuller Ave., N.E., Grand Rapids, MI 49505.
 Director, Federal Office Bldg., 550 Main St., Rm. 9009, Cincinnati, OH 45202.
 Director, 777 Rockwell, Cleveland, OH 44114.

Region VI

Regional Administrator, Room 14C2, Earle Cabell Federal Bldg., U.S. Courthouse, 1100 Commerce St., Dallas, TEX 75242.

Area Offices

Director, Room 1490, One Union National Plaza, Little Rock, ARK 72201.
 Director, Plaza Tower, 1001 Howard Avenue, New Orleans, LA 70113.
 Director, 200 N.W. Fifth Street, Oklahoma City, OK 73102
 Director, 2001 Bryan Tower, 4th Floor, Dallas, TEX 75201.
 Director, Kallison Bldg., 410 South Main Avenue, Post Office Box 9163, San Antonio, TEX 78285.

Insuring Offices

Director, New Federal Bldg., 500 Fannin, 6th Floor, Shreveport, LA 71120.
 Director, 625 Truman Street, N.E., Albuquerque, NM 87110
 Director, 1708 Utica Square, Tulsa, OK 74152.
 Director, 819 Taylor Street, Room 13A01 Federal Bldg., Fort Worth, TEX 76102.
 Director, Two Greenway Plaza East, Suite 200, Houston, TEX 77046.
 Director, Courthouse and Federal Office Bldg., 1205 Texas Avenue, Post Office Box 1647, Lubbock, TEX 79408

Service Office

Director, Mills Building 303 North Oregon, El Paso, TEX 79901.

Region VII

Regional Administrator, Federal Office Bldg., 300, 911 Walnut Street, Kansas City, MO 64106

Area Offices

Director, Two Gateway Center, 4th and State Streets, Kansas City, Kansas 64101.
 Director, 210 North 12th Street, St. Louis, MO 63101.
 Director, Union Bldg., 7100 West Center Rd., Omaha, NEB 68106

Insuring Offices

Director, 10 Walnut Street, Rm. 259, Federal Bldg., Des Moines, Iowa 50309.
 Director, 424 S.E. Quincy Street, Room 330, Topeka, Kansas 66683

Region VIII

Regional Administrator, Executive Tower, 1405 Curtis Street, Denver, Colorado 80202.

Insuring Offices

Director, 4th Floor, Title Bldg., 909—17th Street, Denver, Colorado 80202.
 Director, 616 Helena Avenue, Helena, Montana 59601.
 Director, Federal Bldg., 653 Second Avenue, North, Post Office Box 2483, Fargo, ND 58102.
 Director, 119 Federal Bldg., U.S. Courthouse, 400 S. Phillips Ave., Sioux Falls, SD 57102.
 Director, 125 South State St., Post Office Box 11009, Salt Lake City, Utah 84147.
 Director, Federal Office Bldg., 100 East B Street, Post Office Box 580, Casper, Wyoming 82601.

Region IX

Regional Administrator, 450 Golden Gate Avenue, Post Office Box 36003, San Francisco, CA 94102.

Area Offices

Director, 2500 Wilshire Blvd., Los Angeles, CA 90057.
 Director, One Embarcadero Center, Suite 1600, San Francisco, CA 94111.
 Director, 300 Ala Moana Blvd., Suite 3318, Honolulu, Hawaii 96850.

Insuring Offices

Director, 244 West Osborn Rd., Post Office Box 13468, Phoenix, Arizona 85002.
 Director, 801 Eye Street, Post Office Box 147, Sacramento, CA 95809.
 Director, Federal Office Bldg., 880 Front St., San Diego, CA 92112.
 Director, 34 Civic Center Plaza, Room 614, Santa Ana, CA 92701.
 Director, 1050 Bible Way, Post Office Box 4700, Reno, NEV 89505.
 Director, Federal Building, U.S. Courthouse, 1130 "O" Street, Fresno, CA 93721.

Region X

Regional Administrator, Arcade Plaza Bldg., 1321 Second Ave., Seattle, WA 98101.

Area Offices

Director, 520 Southwest Sixth Ave., Portland, Oregon 97204.

Director, Arcade Plaza Bldg., 1321 Second Ave., Seattle, Washington 98101.

Insuring Offices

Director, 334 West Fifth Ave., Anchorage, Alaska 99501.

Director, 419 North Curtis Road, Post Office Box 32, Boise, Idaho 83707.

Director, West 920 Riverside Ave., Spokane, WA 99201.

Federal Disaster Assistance Administration**Region I**

Director, Room 2203-E, John F. Kennedy Federal Building, Boston, Mass. 02203.

Region II

Director, 26 Federal Plaza, New York, NY 10007.

Region III

Director, Curtis Bldg., 7th Floor, 6th and Walnut Streets, Phila., PA 19106.

Region IV

Director, 1375 Peachtree St., N.E., Suite 750, Atlanta, GA 30309.

Region V

Director, 300 South Wacker Dr., Room 520, Chicago, IL 60606.

Region VI

Director, Federal Bldg., Room 13C28, 1100 Commerce Street, Dallas, TX 75202.

Region VII

Director, Federal Office Bldg., Room 407, 911 Walnut Street, Kansas City, MO 64106.

Region VIII

Director, Lincoln Tower Bldg., Room 1140, 1860 Lincoln, Denver, Colorado 80203.

Region IX

Director, 120 Montgomery Street, San Francisco, CA 94104.

Region X

Director, Arcade Bldg., Room M-16, 1319 Second Avenue, Seattle, WA 98101.

These are permanent offices. For location of the nearest temporary field office, contact the appropriate Regional FDAA Office.

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PRIVACY ACT ISSUANCES

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NATIONAL SCIENCE FOUNDATION

PRIVACY ACT OF 1974

Systems of Records: Annual Publication

The purpose of this document is to give notice that the systems of records maintained by the National Science Foundation are published in the FEDERAL REGISTER at 41 CFR 101-11.6 (101-11.6) and 42 CFR 101-11.6 (101-11.6) continue in effect. This notice is published in compliance with the requirements of 5 U.S.C. 552a(e)(4) as added by section 1 of the Privacy Act of 1974.

Dated September 26, 1977

Richard C. Atkinson,
Director

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11. Equal Employment Opportunity Case File
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43. Roster and Surveys of Doctorate Holders in the United States
44. Visiting Women Scientists Roster

NSF-1

System name: Employment Inquiries and Background Information

System location: Decentralized—There are numerous separate files maintained by individual NSF Offices: National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Individuals inquiring about opportunities for employment at the Foundation who apply resumes, standard form 171's or other background information either on their own or at the request of Foundation personnel. This system covers only information submitted as general background for use in the event vacancies should occur as opposed to formal applications (e.g. SF 171's) with respect to positions for which the Foundation is actively recruiting. In the latter case, applications are filed with the announcement folders and are not a part of this system of records, but the applications may become part of NSF System No. 25 if the applicant does obtain employment with the Foundation.

Categories of records in the system: Records contain letters, resumes, and information contained on SF 171.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records may be kept as received originally or in some cases index cards with names of persons applying are kept (as at NSF Personnel Office) and the application or letters are returned or destroyed.

Retrievability: Filed alphabetically by last name of individual.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty.

Retention and disposal: Varies with offices. In some cases the records are destroyed or returned to individual. In others they are retained for a period of time for future references as vacancies occur.

System manager(s) and address: Head of particular offices maintaining file.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613. The NSF Office of Program of Interest must be specified in any request.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is received from individual applicants.

NSF-2

System name: Applicants to Committee on the Challenges of Modern Society Fellowship Programme (NATO).

System location: National Science Foundation, Division of Scientific Personnel Improvement, Fellowships and Traineeship—W 478, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Applicants for above described program.

Categories of records in the system: Application/proposal of applicant.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Sent through State Department to NATO. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by last name of applicant.

Safeguards: Building and room in which records are kept is locked during non-business hours.

Retention and disposal: Records are transferred to NATO. NSF maintains for a limited time, those files on applicants not recommended for award.

System manager(s) and address: Division Director, Scientific Personnel Improvement

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is received from applicants and references.

Systems exempted from certain provisions of the act: NSF at 45 CFR 613.6 has claimed an exemption as to the disclosure of the identity of references in accordance with 5 USC 552a (k)(5).

NSF-3

System name: Application and account for Advance of Funds (SF 1038)

System location: National Science Foundation, Division of Financial and Administrative Management, Voucher Unit, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF employees (including Consultants)

Categories of records in the system: Record includes individual's name and address, amount requested, and voucher number.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Voucher and Schedule of Payments (SF 1166) to the Department of Treasury.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in 5 x 8 files.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Destroyed four years after settlement of advance.

System manager(s) and address: Director, Division of Financial and Administrative Management

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is received from individual and his office.

NSF-4

System name: Confidential Statement of Employment and Financial Interests

System location: National Science Foundation, Director, Division of Personnel and Management, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF Employees (including Consultants)

Categories of records in the system: Records contain the following information: name, title, employment and financial interest, creditors, interests in real property.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None, although information is submitted to CSC in the form of statistical reports.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by name of employee.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. Records are stored in key locked file cabinet.

Retention and disposal: Records are maintained until the separation of the employee and then destroyed.

System manager(s) and address: Director, Division of Personnel and Management

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is received from individual employees.

NSF-5

System name: Congressional Contact Files

System location: National Science Foundation, Congressional Liaison Branch, Office of Government and Public Programs, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Members of Congress and Congressional Staff.

Categories of records in the system: Files contain records of phone calls, meetings, letters, and other information related to individual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by last name of individuals.

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Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Indefinite.

System manager(s) and address: NSF Congressional Liaison Officer

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: In addition to actual correspondence and communications at meetings, information is obtained from newspapers, magazines and other such public sources.

NSF-6

System name: Doctorate Records File

System location: National Academy of Sciences, 2101 Constitution Avenue, NW, Washington, D.C. 20418.

Categories of individuals covered by the system: Approximately 99 percent of those individuals who have received earned doctorates from United States institutions.

Categories of records in the system: Personal data, education, marital status, post grad plans, sex, citizenship, race, etc.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: 1. Information is given to the institution awarding degree. 2. Certain information (name, year, and field of degree) is given to the institution that awarded degrees and to other organizations for address searches and statistical studies. No other routine uses have been identified although data is given to other organizations without identifying particulars for statistical purposes.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tapes and questionnaires are kept by the NAS.

Retrievability: Alphabetically by last name of individual.

Safeguards: Building employs security guard. Room in which records are kept is locked during non-business hours. Questionnaires in locked cabinets.

Retention and disposal: Destroyed after 75 years.

System manager(s) and address: Division Director, Science Resources Studies

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information obtained from individual.

NSF-7

System name: Earnings and Tax Statement (W-2)

System location: National Science Foundation, Director, Division of Financial and Administrative Management, Payroll Section, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF Employee (including consultants)

Categories of records in the system: Gross Earnings, Federal Tax Withheld, State Tax Withheld, FICA Wager and FICA Tax Withheld, marital status, name, address, and Social Security Number.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Magnetic tape is sent to IRS. A copy is sent to State of Residence and/or other taxing authority.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper record maintained in card file.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Building employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Destroyed three years after year of issuance.

System manager(s) and address: Director, Division of Financial and Administrative Management

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Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information obtained through computer payroll system.

NSF-8

System name: Employee Grievance and Appeals File

System location: National Science Foundation, Director, Division of Personnel and Management, 1800 G Street, NW, Washington, D.C. 20550

Categories of individuals covered by the system: NSF Employees

Categories of records in the system: These files contain all records pertaining to grievances filed by NSF employees. A few files on appeals initiated prior to September 9, 1974, are also included in this system, although all appeals are now handled directly by the Civil Service Commission (AS to those later appeals see CSC notice entitled "CSC Appeals, Grievances and Complaints Records").

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: 1. Civil Service Commission has access during routine examinations and audits conducted by it. 2. Information or records may be disclosed to state or Federal Courts in connection with litigation. 3. Information from these files may be used to respond to a request from a member of Congress regarding the status of an appeal, complaint, or grievance if the Congressman is acting on the basis of a request from the individual involved.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by the last name of employee.

Safeguards: Building employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: The records are maintained up to two years after the completion of the action and then transferred to the National Personnel Records Center, St. Louis, Missouri. They are destroyed by the Federal Records Center when they are seven years old.

System manager(s) and address: Director, Division of Personnel and Management.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information from the employee, supervisors, hearing examiner, witnesses, and others providing input to the particular case.

NSF-9

System name: Employees Locator Record Card

System location: Records are maintained in two locations: Director, Division of Personnel and Management, and the individual offices to which the employee is assigned. National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF Employees—present and past.

Categories of records in the system: Records contain name, address, telephone and next of kin of employees.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information used for locating employee for outside callers and for updating NSF and NSA Center telephone directories.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in 5x8 card files.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Destroyed two years after separation of employee.

System manager(s) and address: Director, Division of Personnel and Management.

Notification procedure: The NSF Privacy Act officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information received from individual employees.

NSF-10

System name: Employee's Payroll Jacket.

System location: National Science Foundation, Director, Division of Financial and Administrative Management, Payroll Section, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF Employees (including Consultants).

Categories of records in the system: Personnel actions, Federal and State Withholding Certificates, Bond Authorizations, Health Benefits Forms, Life Insurance Forms, Allotment Forms, and other similar items related to an employee's pay and deductions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Copies of Health Benefits Forms sent to Carrier.

2. Charity Allotment Forms are sent to other agencies upon transfer of employee.

3. Data from some records is used as input data for NSF Payroll System which is described in another notice and the routine uses listed there are also applicable to this record system.

4. To the extent any of these records are duplicative of those described in the notice of official Personnel Folders the routine uses described therein are also applicable.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folder.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Destroyed five years after termination of employment.

System manager(s) and address: Director, Division of Financial and Administrative Management.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: NSF Personnel Office and individual employees or consultants.

NSF-11

System name: Equal Employment Opportunity Case File

System location: National Science Foundation, Office of Equal Employment Opportunity, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF employees and applicants for employment with the Foundation.

Categories of records in the system: Records contain the complaint of the individuals, deposition taken and statement from individuals and all records pertaining to complaint. 1. When case is closed a duplicate file goes to the Civil Service Commission. 2. Civil Service Commission has access during routine examinations and audits conducted by it. 3. Information or records may be disclosed to State or Federal courts in connection with litigation. 4. Information from these files may be used to respond to a request from a member of Congress regarding the status of an appeal, complaint, or grievance if the Congressman is acting on the basis of a request from the individual involved.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper record maintained in file folders.

Retrievability: Filed alphabetically by last name of individual.

Safeguards: Building employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. Records are maintained in locked, supreme cabinets.

Retention and disposal: Records are maintained up to two years and then transferred to the National Personnel Records Center, St. Louis, Missouri. They are destroyed by the Federal Records Center when the records are seven years old.

System manager(s) and address: NSF Equal Employment Director.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is obtained from the individual complainant, supervisors, Hearing Examiners, witnesses and others providing input to the particular case.

NSF-12

System name: Fellowship and Traineeship Filing System.

System location: Records that make up this system are kept in three places, (1) Fellowships and Traineeships Section, Division of Science Manpower Improvement, NSF 5225 Wisconsin Ave., NW, Washington, D.C. (2) National Academy of Sciences, Joseph Henry Building, 2100 Pennsylvania Avenue, NW, Washington, D.C., and (3) National Academy of Sciences, 2101 Constitution Avenue, NW, Washington, D.C.

Categories of individuals covered by the system: Persons applying for and/or receiving fellowships of various types awarded by NSF, and persons receiving traineeships under NSF traineeship grant programs. Note applicants for fellowships from the NATO Committee on the Challenges of Modern Society are covered under a separate system of records described in another system notice, but NATO Senior and Postdoctoral Fellows are included in this system.

Categories of records in the system: Information varies depending on type of fellowship or traineeship. Normally the information includes personal information supplied with the application; reference reports; transcripts and Graduate Record Examination scores to the extent required during the application process; selection process results and administrative data and correspondence accumulating during fellows tenure. There is a cumulative index of all persons applying or receiving NSF and NATO fellowships and NSF Traineeships.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: (1) A list of applicants for certain fellowships is sent to the Educational Testing Service, Princeton, N.J. for annotation of GRE scores and returned to NAS for use in application processing. (2) Information from the system is used and may be merged with other computer files in order to carry out statistical studies for NSF or other Government agencies. The results of such studies are statistical in nature and do not identify individuals. (3) In the case of Faculty Fellowships in Science records go to the American Council for Education for purposes of evaluating applicants. ACE returns the applications to NSF and such records that it does maintain are not kept by the name of the applicant. (4) Copies of the records of persons receiving traineeships will be sent to the institution awarding the traineeship in the event such institution should request a copy (as where it has lost its own copy). (5) Certain information is given to the institution the fellow is attending or planning to attend for purposes of administrative of fellowships, including, its many cases, for payment of stipends. (6) In the case of Fellows receiving stipends directly from the Government, information is transmitted to the Department of Treasury for preparation of check. (7) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records kept by the NAS are on computer tapes. All original application materials are kept at NSF. However, microfilms of application materials received prior to 1963 are kept at NAS.

Retrievability: Filed alphabetically by applicant's name.

Safeguards: Building is locked during non-business hours. Records at NSF are kept in rooms that are locked during non-business hours. Records kept at NAS are kept in similar rooms and some records are locked in cabinets.

Retention and disposal: NAS tapes are kept indefinitely. Records at NSF are transferred to the Federal Records Center and destroyed 10 years after completion of Fellowship.

System manager(s) and address: Division Director, Division of Science Manpower Improvement.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613. It would expedite your request if the fellowship or traineeship program about which you are interested was identified in your request. For example, indicate your applied for or received a "Graduate Fellowship" or a "Faculty Fellowship in Science" as opposed to merely saying you want a copy of your fellowship.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information supplied by individuals applying or receiving fellowships or traineeships, references, the Education Testing Service, educational institutions supplying transcripts, and administrative data developed during selection process and award tenure.

Systems exempted from certain provisions of the act: NSF at 45 CFR 613.6 has claimed an exemption as to the disclosure of the identity of references in accordance with 5 USC 552a(k)(5).

NSF-13

System name: Fellowship Payroll

System location: National Science Foundation, Division of Financial and Administrative Management, Payroll Section, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Fellows under certain NSF Fellowship Programs being paid directly by the Government.

Categories of records in the system: Copies of fellowship award letter, acceptance form, starting certificates, and records of payments of stipends.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Transfer of information to Department of Treasury for preparation of checks.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by last name of Fellow.

Safeguards: Building employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Destroyed four years after cut-off.

System manager(s) and address: Director, Division of Financial and Administrative Management.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information obtained from Fellow through Education Directorate.

NSF-14

System name: Grants to Individuals

System location: This is a decentralized system. With respect to all successful applicants for support, records are kept at the National Science Foundation, Division of Grants and Contracts, 1800 G Street, NW, Washington, D.C. 20550. Separate records are also kept at the various program offices of the Foundation which manage the particular programs involved. These records may cover both successful and unsuccessful applicants.

Categories of individuals covered by the system: Individuals applying for and/or receiving support from the National Science Foundation.

Categories of records in the system: Application for support and NSF grant documents.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Some information is released to Congress in the form of a daily listing of grants.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by last name of awardee.

Safeguards: Building employs guards. Building is locked during non-business hours when guard is not on duty. Rooms in which

records are kept are locked during non-business hours. The Division of Grants and Contracts records are kept in locked power files.

Retention and disposal: Records are transferred to the Federal Records Center two years after close of case; destroyed eleven years after close of case.

System manager(s) and address: Director, Division of Grants and Contracts as to Grant and contract files and head of the particular program involved as to the remainder.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613. In addition, your request should state (1) the type of grant and program involved and (2) whether you were a recipient of an award or an unsuccessful applicant.

Contesting record procedures: See "Notification" above.

Record source categories: Information obtained from individuals and from various NSF offices and programs.

NSF-15

System name: Health Service Medical Records

System location: National Science Foundation, Health Service, 1800 G Street, NW, Washington, D.C. 20550

Categories of individuals covered by the system: Employees of NSF, Secret Service, Office of Telecommunication Policy, ERDA, and Office of Special Representatives for Trade Negotiations.

Categories of records in the system: Medical information from physical examinations or other visits to Health Service.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None, although records are sometimes given to personal physicians and insurance companies with written approval of employee.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: To employee upon separation or with employee's instructions, to Health Service of new place of employment to employee's private physician or retained six years after separation, then transferred to the Federal Records Center.

System manager(s) and address: Director, NSF Health Service.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information received from examining physician, individual, and from other physicians with permission of individual.

NSF-16

System name: Individual Retirement Record (SF2806).

System location: National Science Foundation, Division of Financial and Administrative Management, Payroll Section, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF employees (including some consultants).

Categories of records in the system: Salary, grade, status changes, yearly and year to date retirement deductions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: 1. Transferred to CSC when employee separates. 2. Copies transferred to CSC once a year after close-out for payroll year.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed by employee's payroll number.

Safeguards: Building employee security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. Records are in combination lock, fire-proof cabinet.

Retention and disposal: Retained until employee is separated then transferred to CSC.

System manager(s) and address: Director, Division of Financial and Administrative Management.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information obtained from the Personnel Office on Payroll Summaries prepared each two weeks showing year-to-date amounts.

NSF-17

System name: Intergovernmental Personnel Act Assignment Agreements.

System location: National Science Foundation, Division of Grants and Contracts, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Employees on temporary assignment under the Intergovernmental Personnel Act.

Categories of records in the system: The information in these records is that normally found on the SF 171 and a Personnel Qualification Assignment Agreement.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information necessary for coordination with the institution which the employee is affiliated may be disclosed to such institution.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Transferred to the Federal Records Center and destroyed ten years after separation of employee.

System manager(s) and address: Director, Division of Grants and Contracts

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is received from the individual and the individual's home institution.

NSF-18

System name: Manpower Management Subsystem.

System location: National Science Foundation, Division of Personnel and Management, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF employees (including consultants).

Categories of records in the system: Individuals personal particular including such items as education, appointment and position information, training and development data, organization and job identification information, committee assignment and salary data, pay change data, carpool information, leave data, deductions from pay.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Records or information may be disclosed to the Civil Service Commission (a) as required by law or civil service rules and regulations, (b) in connection with adjudicatory type activities of the CSC, (c) as part of CSC audits and reviews of NSF personnel procedures and practices, (d) to provide data for the Central Personnel Data File and to provide data to update Federal automated Career Systems (FACS), Executive Inventory File, and security investigations index on new hires, adverse actions, and terminations.

2. Records of information may be disclosed to a Federal Agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

3. Records or information may be referred, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of

investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

4. Records or information may be disclosed to the CSC or other Federal agencies for the purpose of conducting security clearances.

5. Certain information may be transferred to organizations (including Federal agencies) conducting training programs attended by NSF employees as necessary for the administration or conduct of the training.

6. Upon employee's transfer to another Federal agency, records are transferred to the Civil Service Commission or the new agency.

7. Certain records or information may be disclosed or transferred to the Office of Workers' Compensation Programs, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, military retired pay programs, and Federal civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system.

8. Earnings information may be transferred under the Civil Service Retirement System to the Internal Revenue Service as required by the Internal Revenue Code of 1954, as amended.

9. Information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance Program may be transferred to the Office of Federal Employees' Group Life Insurance, 4 East 24th Street, New York, NY 10010.

10. Information necessary to support a claim of health insurance benefits under the Federal Employees Health Benefits Program may be transferred to a health insurance carrier or plan participating in the program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records are maintained on disc with tape.

Retrievability: Records are retrieved by Social Security Number or Employee Number.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. A password is necessary to access the computer.

Retention and disposal: Records are maintained until the separation of employee.

System manager(s) and address: Director, Division of Personnel and Management.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information for this system of records is received from the NSF Personnel Office.

NSF-19

System name: Medical Examination Records for Service in Antarctica

System location: Holmes and Narver, Inc., 400 E. Orangethorpe, Anaheim, California 92810

Categories of individuals covered by the system: All civilians entering Antarctica through United States auspices.

Categories of records in the system: Results of medical examination to determine fitness for entering Antarctica.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Copy of record is given to the Force Medical Officer, U.S. Navy Support Force, Antarctica.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by last name of individual.

Safeguards: Kept in locked file.

Retention and disposal: After one year those records of Holmes and Narver employees are transferred to H&N personnel files. System is only two years old and length of retention for records of others has not been determined.

System manager(s) and address: Administrative Manager, Antarctic Field Services, Holmes and Narver, Inc., 400 E. Orangethorpe, Anaheim, California 92801.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information obtained from examining physician and individual.

NSF-20

System name: Minority Applicants for Employment

System location: National Science Foundation, Office of Equal Employment Opportunity, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Minority applicants seeking employment with the Foundation.

Categories of records in the system: Records contain resume and information contained on SF 171.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is sometimes disclosed to other Federal agencies requesting minority recruitment assistance in scientific areas.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by last name and discipline.

Safeguards: Building employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Maintained indefinitely.

System manager(s) and address: NSF Equal Employment Director.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is received from individual submitting application and information received by the Personnel Office from previous employer of applicant if applicant is considered for employment.

NSF-21

System name: Nominees for and Recipients of the National Medal of Science.

System location: National Science Foundation, Office of the Director, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Persons who have been nominated for or received National Medal of Science.

Categories of records in the system: Biographical information concerning past employment, education, achievements, and other similar personal data.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None, although biographical information on recipients is released to the White House for presentation of awards. Name and affiliation is released to the press. No information is released on other nominees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system: Paper records maintained in file folders.

Retrievability: The folders for nominees are filed alphabetical within four broad categories of science—Biological, Engineering, Physical, and Mathematics. Recipients are arranged alphabetically by year of award.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: After five years, records are transferred to the Federal Records Center.

System manager(s) and address: Director, National Science Foundation.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures at 45 CFR Part 613. Your request must specify whether you are interested in nominee or recipient records. If you are interested in records concerning recipients the year you received the Medal should be specified. If you are interested in nominee records, you should note that only

persons nominated within the last five years are considered for any given years award. Therefore, unless your request otherwise specifies, it will be assumed to cover only records for the last five years preceding the request. If you are interested in earlier years, your request should also specify your scientific field or fields of activity.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Nominees, Universities, Societies, National Academy of Science and National Academy of Engineering.

NSF-22

System name: NSF Payroll System.

System location: National Science Foundation, Division of Financial and Administrative Management, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF Employees (including consultants).

Categories of records in the system: Computer System consisting of data base with all information necessary to prepare NSF payroll, purchase of savings bonds, compute leave balances, prepare W-2s, and other similar uses. Also various programs to provide outputs including information to the Department of Treasury for preparation of payroll and various reports and other forms.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: 1. Prepare W-2 forms for transmittal to IRS and State and local Governments. 2. Prepare various listings, tapes, and schedules for transfer to the Department of Treasury for issuance of salary payments. 3. Listing of monies sent to Financial Organizations (Banks and savings institutions) bi-weekly. 4. Quarterly report to IRS. 5. No other routine uses have been identified, however, data is aggregated to prepare various reports to CSC, the Treasury, and other agencies, but such reports do not include information by name or other identifying number or characteristics.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer records maintained on cards, tapes and disc.

Retrievability: May be retrieved by employee number, social security number or last name.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. A password is necessary to access the computer.

Retention and disposal: Varies; Employee information is deleted at the end of the year in which he leaves the Foundation. Information on the master tapes is destroyed after five years.

System manager(s) and address: Director, Division of Financial and Administrative Management.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is taken from forms prepared by individuals, the Personnel Office and Time and Attendance Reports.

NSF-23

System name: NSF Staff Biography

System location: National Science Foundation, Office of Government and Public Programs, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: High level NSF staff (Office Heads and above).

Categories of records in the system: Biographical information, Position held, education, memberships, publications, home address.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Distributed upon request to newspapers, magazines, professional journals, and others.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Buildings employ security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Record on individuals destroyed when they leave Foundation except in cases of extremely high level staff.

System manager(s) and address: Director, Office of Government and Public Programs.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Notification procedure: See "Notification" above.

Record source categories: Information is received from individual.

NSF-24

System name: Official Passports

System location: National Science Foundation, Travel Service Section, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF Employees (some wives) and consultants.

Categories of records in the system: Date of birth, place of birth, nationality, next of kin, height, color of hair and eyes, and picture.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Passport may be sent to Embassy for Visas. Passports are returned to the State Department for cancellation once they have expired, also when employee leaves the Foundation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Filed in passport folders.

Retrievability: Filed alphabetically by last name.

Safeguards: Building employees security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. Passports are kept in combination lock safe.

Retention and disposal: Passports expire after five years and are then sent to the State Department for Cancellation. Should employee retire or leave the Foundation, passports are returned to the State Department for proper disposition.

System manager(s) and address: Director, Division of Financial and Administrative Management.

Notification procedure: The NSF Privacy Act Officer should be notified in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is received from individual.

NSF-25

System name: Official Personnel Folders. Note the Civil Service Commission has issued a notice of a system of records entitled "CSC-General Personnel Records (Official Personnel Folder and records related thereto)." To the extent there are any inconsistencies this notice shall take precedence as to records maintained at NSF.

System location: Division of Personnel and Management, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF Employees

Categories of records in the system: This system consists of a variety of records relating to personnel actions and determinations made about an individual while employed in the Federal service including his application (Form 171) and any references received. These records contain information about an individual relating to birth date; Social Security Number; veteran preference; tenure; handicap; past and present salaries; grades, and position titles; letters of commendation, reprimand; charges, and decision on charges; notice of reduction-in-force; locator files; personnel actions, including but not limited to, appointment, reassignment, demotion, detail, promotion, transfer, and separation; training; minority group designator; records relating to life insurance, health benefits, and designation of beneficiary; training; performance ratings, data documenting the reasons for personnel actions or decisions made about an individual; awards; and other information relating to the status of the individual.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

1. Records or information may be disclosed to the Civil Service Commission (a) as required by law or civil service rules and regulations, (b) in connection with adjudicatory type activities of the

NSF-26

System name: Personnel Security Control Cards

System location: National Science Foundation, Division of Personnel and Management, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF Employees

Categories of records in the system: Cards contain listing of employees Clearance level, date, etc.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Clearances granted are disclosed either orally or in writing to Security Officers of other Federal Agencies.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in Kardex files.

Retrievability: Filed alphabetically by last name of employee

Safeguards: Building employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Destroyed after separation of employee.

System manager(s) and address: Personnel Security Officer, NSF, Division of Personnel and Management.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Refelets NSF Clearance Determination from CSC Reports.

NSF-27

System name: Presidential Internships in Science and Engineering

System location: National Science Foundation, Division of Scientific Personnel Improvement, Fellowships and Traineeships Section — W 478, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Persons receiving internships from federally funded R&D laboratories under the Presidential Internships in Science and Engineering Program. (Program is no longer operating.)

Categories of records in the system: Personal information on interns and administrative data received from laboratories making awards.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Filed alphabetically by last name of individual.

Safeguards: Building and room in which records are kept is locked during non-business hours.

Retention and disposal: Destroyed ten years after termination of Fellowship.

System manager(s) and address: Division Director, Division of Scientific Personnel Improvement.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: NSF Form 668 completed by intern and NSF Form 667 and 669 completed by coordinating official of laboratory.

NSF-28

System name: Principal Investigator/Project Director Files

System location: Decentralized. There are numerous separate files maintained by individual NSF offices and programs. National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Principal investigators, project directors and proposed principal investigators and project directors.

Categories of records in the system: Many programs within the Foundation keep cards filed by the name of the principal investigator or proposed principal investigators. Usually only minimal ad-

CSC, (c) as part of CSC audits and reviews of NSF personnel procedures and practices, (d) to provide data for the Central Personnel Data File and to provide data to update Federal Automated Career Systems (FACS), Executive Inventory File, and security investigations index on new hires, adverse actions, and terminations.

2. Records of information may be disclosed to a Federal Agency, in response to its request, in connection with the hiring or retention of an employee, the letting of a contract, or issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

3. Records on information may be referred, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

4. Records or information may be disclosed to the CSC or other Federal agencies for the purpose of conducting security clearances.

5. Certain information may be transferred to organizations (including Federal agencies) conducting training programs attended by NSF employees, as necessary for the administration or conduct of the training.

6. Upon employees transfer to another Federal agency, records are transferred to the Civil Service Commission or the new agency.

7. Certain records or information may be disclosed or transferred to the Office of Workers Compensation Programs, Veterans Administration Pension Benefits Program, Social Security Old Age, Survivor and Disability Insurance and Medicare Programs, military retired pay programs, and Federal civilian employee retirement systems other than the Civil Service Retirement System, when requested by that program or system or by the individual covered by this system of records, for use in determining an individual's claim for benefits under such system.

8. Earnings information may be transferred under the Civil Service Retirement System to the Internal Revenue Service as required by the Internal Revenue Code of 1954, as amended.

9. Information necessary to support a claim for life insurance benefits under the Federal Employees' Group Life Insurance Program may be transferred to the Office of Federal Employees' Life Insurance, 4 East 24th Street, New York, NY 10010.

10. Information necessary to support a claim for health insurance benefits under the Federal Employees Health Benefits Program may be transferred to a health insurance carrier or plan participating in the program.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Records maintained in file folders.

Retrievability: Records are filed alphabetically by last name of employee.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. Records are located in lockable power files in rooms with access limited to those whose official duties require access.

Retention and disposal: The Official Personnel Folder (OPF) is retained indefinitely. The OPF is sent to the National Personnel Records Center within 30 days of the date of the employee's separation from the Federal service. Some records such as letters of reprimand, indebtedness, and vouchers are maintained for two years or destroyed when an individual resigns, transfers, or is separated from the Federal service. Letters of reference may be destroyed shortly after appointment.

System manager(s) and address: Director, Division of Personnel and Management.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information comes from the individual, investigators (CSC and others), and supervisors or other agency officials.

Systems exempted from certain provisions of the act: NSF at 45 CFR 613.7 has claimed an exemption as to the disclosure of the identity of references in accordance with 5 USC 552a(k)(5).

information is included such as proposal and award number, the fact that the proposal was declined and the date of decline.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information on these records may be disclosed to other Government agencies, which often are from the same principal investigators in order to coordinate national and international scientific programs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in card files throughout the Foundation.

Retrievability: Individual files are maintained alphabetically by name of individual submitting proposal.

Safeguards: Buildings employ security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: File is cumulative and retention periods:

System manager(s) and address: Head of particular program or office maintaining records.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613. However, the program or office with which the requester is concerned must be identified.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is taken from submitted proposals and project folders.

NSF-29

System name: Principal Investigator/Project Director Subsystem.
System location: National Science Foundation, Division of Information Systems, Systems Support Services Branch, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Each individual that requests support from the National Science Foundation, and Principal Investigators or Project Directors from institutions requesting NSF support.

Categories of records in the system: Data on the disposition of each application or proposal submitted to the National Science Foundation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information may be released to other government agencies, which often receive proposals from the same Principal Investigator in order to coordinate national and international programs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer records on disc and tapes.

Retrievability: Can be retrieved by last name or Social Security Number of the individual requesting support.

Safeguards: Building employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. A password is necessary to access the computer.

Retention and disposal: File is cumulative and is maintained indefinitely.

System manager(s) and address: Chief, Systems Support Services Branch.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is taken from submitted proposals and project folders.

NSF-30

System name: Reviewer, Consultant and Panelist Files.

System location: Decentralized—There are numerous separate files maintained by individual NSF offices and programs, National Science Foundation, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Members of advisory panels, individual reviewers, consultants, and members of panels reviewing and evaluating proposals for support from NSF.

Categories of records in the system: Information kept varies but normally includes the individuals field of expertise and other biographical information. Some files may include correspondence with individual. In case of paid consultant much of the material may be duplicative of material in the System of Records entitled "Official Personnel Folders" which is described in another notice.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Other Government agencies needing names of potential reviewers or specialists in particular fields may be given information from this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in various forms throughout the Foundation and some computerized (MIO Review/Panelist Information Subsystem).

Retrievability: In some cases by name. Those in the MIO Review/Panelist Information Subsystem are not retrievable by name or identifying number in all cases. They are retrievable by identifying number only if office involved has retained a list of transaction numbers when data is entered into the system.

Safeguards: Buildings employ security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. Password must be used to access computer files.

Retention and disposal: Records are transitory and are purged periodically.

System manager(s) and address: Head of particular office or program maintaining such records.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613. However, the request must specify the NSF Office or Program about which the requester is concerned.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Individual reviewers and panelists, other reviewers, consultants and panelists, project folders, project managers, newspaper clippings, correspondence, Biographical works such as American Men of Science, and other such miscellaneous sources.

NSF-31

System name: Science Education Applicant Information Subsystem.

System location: National Science Foundation, Science Education Directorate, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Applicants to several NSF sponsored Science-E Science Education programs.

Categories of records in the system: Personal identification, title, employment/experience data and institution affiliation.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: There has been no activity in this system of records for two years. Information has been and may be released to institutions coordinating the Science Programs involved. Information may be released to the Department of Justice in connection with law enforcement activities related to these programs.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer files on tape.

Retrievability: Information in this system may be retrieved both by the Social Security Number and the last name of the applicant.

Safeguards: Building employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. A password is necessary to access the computer.

Retention and disposal: File is cumulative and is maintained indefinitely.

System manager(s) and address: Staff Assistant, Science Education Directorate.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is obtained from the individual applicant.

NSF-32

System name: Separated Employees Service Record (SF 7).

System location: National Science Foundation, Division of Personnel and Management, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: Former Employees (including Consultants).

Categories of records in the system: Records contain the dates and types of personnel actions.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information is sometimes given as verification of former employment to outside inquiries.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in KARDEX File.

Retrievability: Filed alphabetically by last name of employee.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Destroyed three years after separation of employee.

System manager(s) and address: Director, Division of Personnel and Management.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information transfers from Employee Personnel Folder (201 file).

NSF-33

System name: Student Science Training Program Participant Information.

System location: Information sheets are maintained at: National Science Foundation, Division of Scientific Personnel Improvement W-400, 1800 G Street, NW, Washington, D.C. 20550. Computer tapes are maintained at: Exotech Inc., Gaithersburg, Maryland.

Categories of individuals covered by the system: Participants in the Student Science Training Program.

Categories of records in the system: Personal data on information sheet; name, address, date of birth, social security number, etc. and education information.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: May be released to appropriate organizations for statistical or evaluation studies. Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records and computer tapes.

Retrievability: Building and room in which records are kept is locked during non-business hours. A password is necessary to access the computer.

Retention and disposal: Not established.

System manager(s) and address: Director, Division of Scientific Personnel Improvement.

Notification procedure: The NSF Privacy Act Officer should be notified in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above. HQSee "Notification" above.

Record source categories: Information is received from individual participant.

NSF-34

System name: Time and Attendance Reports.

System location: National Science Foundation, Division of Financial and Administrative Management, Payroll Section, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF Employees (including Consultants).

Categories of records in the system: Cards with attendance, leave, and overtime recorded thereon.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information from this system is incorporated into the "NSF Payroll System" described in another notice and the routine uses listed in the notice of that system are applicable to this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Punch cards filed in computer card files.

Retrievability: Filed by employee number during current pay year, and alphabetically by last name, thereafter.

Safeguards: Building employs security guards. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Destroyed three years after current year.

System manager(s) and address: Director, Division of Financial and Administrative Management.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information obtained from timekeepers and supervisors in individual offices.

NSF-35

System name: Travelers Vouchers Folders (SF 1012).

System location: National Science Foundation, Director, Division of Financial and Administrative Management, 1800 G Street, NW, Washington, D.C. 20550.

Categories of individuals covered by the system: NSF Employees, Consultants, and invitational travel.

Categories of records in the system: Name and address, schedule of expenses and amounts claimed.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Information may be disclosed to State or Federal Courts in connection with litigation.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Filed alphabetically by last name of traveler.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Retained for four years then destroyed.

System manager(s) and address: NSF Financial Management Officer.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR, Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information is received from individual traveler.

NSF-36

System name: U.S. Antarctic Research Program Personal Information.

System location: National Science Foundation, Division of Polar Programs, 1800 G Street, NW, Washington, D.C., and Holmes and Narver, Inc., 400 E. Orangethorpe, Anaheim, California 92801.

Categories of individuals covered by the system: Civilians entering Antarctica under U.S. auspices.

Categories of records in the system: Name, address, next of kin, dependents, education societies membership, honors received, military experience, special equipment, anticipated departures and returns, persons to notify in event of accident, excess baggage, passport number.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: In the event of accidents, information from these records may be used in news releases.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

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Retrievability: Filed alphabetically by last name of individual with separate files for each year.

Safeguards: Records at Holmes & Narver are stored in locked files. Records at NSF, Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours.

Retention and disposal: Not determined.

System manager(s) and address: Director, Division of Polar Programs for record at NSF. All others: Administrative Manager, Antarctic Field Service, Holmes and Narver, Inc., 400 E. Orangethorpe, Anaheim, California 92801.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613. Interested individuals should specify the year about which you are interested.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information obtained from individual.

NSF-37

System name: United States Antarctic Research Program Field participants

System location: Division of Polar Programs, 1800 G Street, NW., Washington, D.C. 20550, and Holmes and Narver, Inc., 400 E. Orangethorpe, Anaheim, California 92801.

Categories of individuals covered by the system: NSF employees, grantees (U.S. and foreign nationals), grantees' assistants, and contractor employees.

Categories of records in the system: Curriculum vitae, medical information, emergency information (next of kin, etc), correspondence, messages, and memoranda dealing with an individual's deployment to Antarctica or Antarctic Ocean areas under auspices of the United States Antarctic Research Program.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For official use during possible litigation resulting from death, injuries, wage disputes, etc., occurring during or resulting from an individual's development to Antarctica.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders in cardboard boxes.

Retrievability: Records are filed alphabetically by last name of individual. Alphabetical files are grouped in periods of one year or longer as determined by time of deployment to Antarctica.

Safeguards: Buildings have security guards during non-business hours. Records are in locked rooms after business hours. Access is limited to persons whose official duties require their use.

Retention and disposal: Records are held at NSF or at Holmes and Narver approximately two years after completion of individual's deployment to Antarctica. Records are deposited with the Federal Records Center, generally every two years. Records are destroyed 10 years after individual's last deployment to Antarctica.

System manager(s) and address: Director, Division of Polar Programs, for record at NSF. All others: Administrative Manager, Antarctic Field Service, Holmes and Narver, Inc., 400 E. Orangethorpe, Anaheim, California 92801.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613. Supply individual's full name and years of deployment to Antarctica.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: The individual, NSF officials, Holmes and Narver officials, medical doctor, field personnel in United States Antarctic Research Program.

NSF-38

System name: Alien Applications for Consideration of Waiver of Two-Year Foreign Residence Requirements—NSF.

System location: NSF Division of International Programs, 1800 G Street, NW., Washington, D.C. 20550.

Categories of individuals covered by the system: Aliens subject to conditions of Section 212(c) of the Immigration and Nationality Act, seeking waiver of two-year foreign residence requirements, in order to apply for immigrant or temporary worker status.

Categories of records in the system: Curriculum vitae, next of kin, correspondence and employment data.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records may be made available to Department of State.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records in file folders.

Retrievability: Records are filed alphabetically by last name of alien.

Safeguards: Building has security guards during non-business hours. Records are in locked rooms after business hours. Access is limited to persons whose official duties require their use.

Retention and disposal: Records are held at NSF approximately two years after close out of case. Records are destroyed 10 years after close of alien case folder.

System manager(s) and address: Director, Division of International Programs.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: The individual and U.S. host institution (employer).

NSF-39

System name: Reviewer/Panelist Information Subsystem. (Note this system differs from NSF System No. 30 in that the system 39 is used to collect information concerning reviewers used by Foundation officers, whereas No. 30 is used as an aid in the selection of reviewers.)

System location: Division of Information Systems, 1800 G Street, NW., Washington, D.C. 20550.

Categories of individuals covered by the system: Members of advisory panels, individuals, consultants, NSF staff, members of review panels and other individuals from whom reviews or evaluation of proposals for support from NSF are solicited or received.

Categories of records in the system: The individual's field of expertise and address. Also contains information concerning the proposals reviewed and NSF Identification Number.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Other Government agencies needing names of potential reviewers or specialists in particular fields may be given information from this system. List of reviewers used by NSF will be published annually.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer records on disc and tapes.

Retrievability: Records are retrieved alphabetically by last name.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. A password must be used to access computer files.

Retention and disposal: File is cumulative and is maintained indefinitely.

System manager(s) and address: Director, Division of Information Systems.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with the procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Individual reviewers and panelists, other reviewers, consultants and panelists, project folders, project managers, newspaper clippings, correspondence, biographical works such as American Men of Science, and other such miscellaneous sources.

NSF-40

System name: NSF Innovation Guide Mailing List.

System location: Capital Systems Group, Inc., 6110 Executive Boulevard, Suite 850, Rockville, Maryland 20852 and Word/One Computer Center, Bowne Time Sharing, 345 Hudson Street, New York, New York 10014.

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Categories of individuals covered by the system: Recipients of the Innovation Guide and other individuals potentially interested in the Innovation Guide project or in improving communications of scientific and technical information.

Categories of records in the system: Name, address (institution or place of business), scientific/professional group categorization, and correspondence records.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Identification of individuals for personal referrals in response to inquiries from interested readers. Other Government agencies or private organizations may be given information from this system.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer records on disc pack and/or archive tape file.

Retrievability: Alphabetically by last name.

Safeguards: Cannot be accessed by persons who do not have the computer sign-on passwords and the "get" or access word to the document.

Retention and disposal: Maintained indefinitely.

System manager(s) and address: Director, Division of Science Information Service.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Individual inquiries, response to press releases, referrals from other organizations, and identification through directories.

NSF-41

System name: Dissertation Advisers File.

System location: National Academy of Sciences, 2101 Constitution Avenue, NW., Washington, D.C. 20418.

Categories of individuals covered by the system: Dissertation Advisers of Ph. D.'s from U.S. universities, from 1963 forward. Data are given in the Doctorate Records File, a separate system of records (see NSF-6).

Categories of records in the system: Advisee's serial number, institution, field, year, and month of graduation. Adviser's name and Doctorate Records File ID No., if available.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Records may be transferred to other Federal agencies to enable them to conduct statistical studies. No other routine uses have been identified, although data from this system is used in the preparation of statistical studies. For example, information from the file is used along with other records to provide statistical information on career achievements of individuals who may have been supported by Federal Government agencies for part of their training, or for other statistical purposes. The results of these studies do not reveal the identities of individuals.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: The records are kept by the National Academy of Science on computer tapes.

Retrievability: Alphabetically by last name of individual.

Safeguards: Buildings employ security guards. Buildings are locked during non-business hours. Records are kept in locked room during non-business hours.

Retention and disposal: Records are kept indefinitely.

System manager(s) and address: Division Director, Division of Science Resources Studies.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Doctorate Records File, NSF System of Records No. 6.

NSF-42

System name: Nominees for and Recipients of the Alan T. Waterman Award Nomination File.

System location: National Science Foundation, Office of Planning and Resources Management, 1800 G Street, NW., Washington, D.C. 20550.

Categories of individuals covered by the system: Persons who have been nominated for or who have received the National Science Foundation's Alan T. Waterman Award.

Categories of records in the system: Biographical information concerning past employment, education, achievements, and other similar personal data.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: None, although name, affiliation and other pertinent information is released to the press on awardees. No information is released on other nominees.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper records maintained in file folders.

Retrievability: Folders for nominees are filed alphabetically. Recipients are arranged alphabetically by year of award.

Safeguards: Building employs security guard. Building is locked during non-business hours when guard is not on duty. Room in which records are kept is locked during non-business hours. Folders are maintained in locked file.

Retention and disposal: After five years, records are transferred to the Federal Records Center.

System manager(s) and address: Director, Office of Planning and Resources Management.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613. Your request must specify whether you are interested in nominee or recipient records. If you are interested in records concerning recipients the year you received the award should be specified. If you are interested in nominee records, you should note that only persons nominated within the past last five years are considered for any given year's award. Therefore, unless your request otherwise specifies, it will be assumed to cover only records for the last five years preceding the request. If you are interested in earlier years, your request should also specify your scientific field or fields of activity.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Nominees, Universities, and Societies.

NSF-43

System name: Roster and Surveys of Doctorate Holders in the United States

System location: National Academy of Sciences, 2101 Constitution Avenue, NW., Washington, D.C. 20418.

Categories of individuals covered by the system: The Roster includes individuals holding earned doctoral degrees and located in the United States. The surveys are directed to samples of this population. Currently the areas of science, engineering and the humanities are included.

Categories of records in the system: Demographic, educational and professional characteristics of doctoral holders. Included are such parameters as age, race, geographic location, earned degrees, major subject of degree, employment status, type of employer, primary work activity and salary.

Routine uses of record maintained in the system, including categories of users, and the purposes of such uses: The Roster is used as a panel for the selection of sample populations to be queried by approved non-power surveys. Data provided by respondents to surveys are released only in the form of statistical summaries in response to data request. No other routine uses have been identified.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer tapes and questionnaires are kept by the National Academy of Sciences.

Retrievability: Alphabetically by name of individual.

Safeguards: Building employs security guard. Room in which records are kept is locked during non-business hours. Questionnaires in locked cabinets.

Retention and disposal: Destroyed after 75 years.

System manager(s) and address: Director, Science Resources Studies, NSF, 2000 L Street, N.W., Washington, D.C. 20550.

Notification procedures: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Contesting record procedures: See "Notification" above.

Record source categories: Information obtained from individuals and from other sources available to the general public.

NSF-44

System name: Visiting Women Scientists Roster.

System location: Research Triangle Park, N.C. 27709.

Categories of individuals covered by the system: Women scientists who have applied to visit high schools as part of NSF's Visiting Women Scientists Program.

Categories of records in the system: Name, address, ID number, science field, present occupation, previous positions, degrees and year of award, race, marital status, and amount of time available for participation in the program.

Routine uses of record maintained in the system, including categories of users, and the purposes of such uses: Information will be used by Research Triangle Institute project staff to select women scientists to visit a group of high schools.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system.

Storage: Names, addresses, ID numbers, science fields and present occupations will be stored on computer disk; additional information will be on paper records maintained in file folders.

Retrievability: Computer records retrievable by ID number, name, geographic location, science field, type of occupation; paper records retrievable by ID number.

Safeguards: The records are kept secure in a locked vault-like room in a building which has controlled sign entry and is monitored by a security force.

Retention and disposal: Maintained at the Research Triangle Institution until completion of program; then turned over to NSF for disposition.

System manager and address: Director, Division of Scientific Personnel Improvement, National Science Foundation, 1800 G St. N.W., Washington, D.C. 20550.

Notification procedure: The NSF Privacy Act Officer should be contacted in accordance with procedures found at 45 CFR Part 613.

Record access procedures: See "Notification" above.

Records Source categories: Information obtained from individuals and professional organizations.

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If your agency's name does not appear above, GPO may not have received your printing and binding requisition (Standard Form 1). Your documents can not be printed in the FEDERAL REGISTER without a billing code.

INFORMATION AND ASSISTANCE: Mr. William Rose, 202-275-2867.

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NEW BILLING PROCEDURES FOR AGENCIES

As part of the new billing procedures announced in the FEDERAL REGISTER of August 24, 1977, and to insure that each agency is correctly billed for only its own documents, the Office of the Federal Register requests agencies to insert the proper billing code on all of their documents. The six-digit billing code should be typed or handwritten in ink at the top of the first page on all three copies of documents submitted to the Office of the Federal Register for publication, as follows:

BILLING CODE: 0000-00

The list of agency billing codes assigned by the Government Printing Office follows:

Department	Billing Code	Department	Billing Code
Action	6050-01	Federal Maritime Commission	6730-01
Administrative Conference of the United States	6110-01	Federal Mediation and Conciliation Service	6732-01
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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
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DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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reminders

(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

FCC—Emergency position indicating radiobeacons on frequencies 121.5 and 243 MHz; clarification and modification 44986; 9-8-77
FM broadcast station in Hoisington, Kans.; change in table of assignments 43849; 8-31-77

FM broadcast station in Yakutat, Alaska; changes in table of assignments 43847; 8-31-77
ICC—Information required on receipts and bills; remittance address on principal place of business address. 40860; 8-12-77
Interior/FWS—Threatened status and critical habitat for five species of southeastern fisheries 45526; 9-9-77

Labor/ESA—Longshoremen's and harbor workers' compensation 45300; 9-9-77

List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of Public Laws.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES),¹ DEPARTMENT OF AGRICULTURE

PART 26—GRAIN STANDARDS

Supervision Fees

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Final rulemaking.

SUMMARY: This action revokes the regulations governing the payment of supervision fees to the FGIS by delegated and designated agencies. The regulations were made obsolete by recently enacted legislation.

EFFECTIVE DATE: This rulemaking is effective on October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

David R. Gallart (Program Operations), USDA, FGIS, 14th and Independence Avenue SW., South Agriculture Building, Room 1628, Washington, D.C. 20250 (202-447-9164).

SUPPLEMENTARY INFORMATION: The U.S. Grain Standards Act of 1976 (Pub. L. 94-582), when enacted, required the payment of supervision fees by delegated and designated agencies. The fees were for use in financing the FGIS cost of supervising the inspection and weighing activities performed by the agencies. The regulations (7 CFR Part 26) implementing the supervision fee requirements generally became effective February 1, 1977 (42 FR 1019-1022).

In May 1977, supplemental funds were appropriated by the Congress for use in financing the FGIS cost of supervising the inspection and weighing activities performed by delegated and designated agencies during fiscal year 1977. In appropriating the funds, the Congress directed the FGIS to forego the charging or collection of fees from the agencies for supervision costs for the entire fiscal year 1977. In September 1977, the Act was amended to delete the supervision fee requirements and to authorize the appropriation of funds for use in financing the FGIS cost of supervising the inspection and weighing activities performed by delegated and designated agencies.

As a result of the appropriation of the supplemental funds by the Congress for

¹ Includes matters within the responsibility of the Federal Grain Inspection Service.

fiscal year 1977, and the deletion by the Congress of the supervision fee requirements, the Part 26 regulations with respect to the payment of supervision fees by delegated and designated agencies were made obsolete and no longer applicable. Therefore, good cause is found for making the following amendments of the Part 26 regulations effective on October 11, 1977.

RULEMAKING

Pursuant to the authority in section 16 of the United States Grain Standards Act (7 U.S.C. 87e, as amended by Pub. L. 94-582 (90 Stat. 2884)), the following Part 26 regulations (7 CFR Part 26) are hereby revoked:

1. Section 26.71(b) in its entirety.
2. Section 26.73(d)(3) in its entirety.
3. The following sentence in § 26.73(e): "Bills for fees assessed to delegated State agencies, designated official agencies, and other agencies or persons under § 26.71(b), will be issued as provided in § 26.71(b)(5)."
4. The following parenthetical phrase in § 26.73(f): "(except those under paragraph (d)(3))."
5. The following wording in § 26.73(1): "or the fee assessed against any delegated State agency or any designated official agency or other agency or person under § 26.71(b)."

Dated: September 30, 1977.

L. E. BARTELT,
Administrator.

[FR Doc. 77-29683 Filed 10-7-77; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

[Valencia Orange Reg. 575, Amdt 1]

PART 908—VALENCIA ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final Rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period September 30 to October 6, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period September 30–October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: *Findings.* (1) Pursuant to the amended marketing agreement and Order No. 908, as amended (7 CFR Part 908), regulating the handling of Valencia oranges grown in Arizona and designated part of California, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(a) *Order, as amended.* The provisions in paragraph (a)(1)(i), and (ii) of § 908.875 Valencia Orange Regulation 575 (42 FR 51603) are hereby amended to read as follows:

§ 908.875 Valencia Orange Regulation 575.

(a) * * * (1)

(i) District 1: Unlimited;
(ii) District 2: Unlimited.

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(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).)

Dated: October 4, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-29633 Filed 10-7-77;8:45 am]

[3410-02]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1977-78 fiscal period, to be collected from handlers to support activities of the Lemon Administrative Committee which locally administers the Federal marketing order covering lemons grown in California and Arizona.

EFFECTIVE DATES: August 1, 1977, through July 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-3545.

SUPPLEMENTARY INFORMATION: On September 9, 1977, notice was published in the FEDERAL REGISTER (42 FR 45334) inviting written comments not later than September 24, 1977, on proposed expenses and rate of assessment, under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. None was received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

After consideration of all relevant matter presented, including the proposals in the notice, it is found that:

§ 910.215 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Lemon Administrative Committee during the period August 1, 1977, through July 31, 1978, will amount to \$396,000.

(b) The rate of assessment for said period payable by each handler in accordance with § 910.41 is fixed at \$0.033 per carton of lemons.

It is further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) as the order requires that the rate of assessment for a fiscal period shall apply to all assessable lemons handled from the beginning of the period.

RULES AND REGULATIONS

(Secs. 1-19, 48 Stat. 31, as amended; (7 U.S.C. 601-674).)

Dated: October 5, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-29722 Filed 10-7-77;8:45 am]

[3410-02]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Addition of Australia to the List of Countries To Which Reserve Raisins May Be Exported

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule makes Australia eligible for sales of reserve raisins under the Federal marketing order for California raisins. This would provide raisin handlers with another available export outlet for reserve raisins, additional flexibility in selling such raisins overseas, and could facilitate exports of California raisins. The rule was recommended by the Raisin Administrative Committee.

EFFECTIVE DATE: November 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, telephone 202-447-3545.

SUPPLEMENTARY INFORMATION: The September 15, 1977, issue of the FEDERAL REGISTER contained a notice of proposed rulemaking to revise the list of countries to which raisin handlers may sell reserve raisins to permit sales to Australia (42 FR 46320). This list is contained in § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.201-989.231). The Subpart is operative pursuant to the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 42 FR 37200), regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received.

Currently, all countries outside of the Western Hemisphere except Australia are eligible outlets for reserve raisins. The Western Hemisphere is defined to exclude Greenland. Rather than prepar-

ing a list containing hundreds of countries, the countries are specified by hemisphere. Section 989.67(c) of the order requires the Committee to review the list of countries annually and recommend changes as conditions warrant. It recommended that Australia be made eligible for sales of reserve raisins to provide raisin handlers another available export outlet for reserve raisins, additional flexibility in selling such raisins overseas, and to facilitate exports of California raisins.

After consideration of all relevant matter presented, including that in the notice, the recommendation of the Committee, and other available information, it is found that to revise the list of countries to which sales of reserve raisins may be made as hereinafter set forth, will tend to effectuate the declared policy of the act.

Accordingly, § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.201-989.231) is revised to read as follows:

§ 989.221 Countries to which sale in export to reserve raisins may be made by handlers.

The countries to which sale in export of reserve raisins may be made by handlers shall be all of those countries outside of the Western Hemisphere. For purposes of this section "Western Hemisphere" means the area east of the international dateline and west of 30 degrees W. longitude but excluding all of Greenland. All of the countries covered by this section to which sale in export of reserve raisins may be made shall be deemed listed in this section for the purposes of § 989.67(c).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: October 5, 1977.

CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.

[FR Doc.77-29721 Filed 10-7-77;8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 17064; Amdt. 39-3055]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Dart Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections for cracking and replacement, if necessary, of flame tube bridge suspensions on Rolls Royce Dart Engines. The amendment was prompted by

reports of serious engine failures due to overheating and failure of the high pressure turbine disc caused by loss of flame tube suspension and subsequent burner stem failure.

DATES: Effective, November 11, 1977. Compliance schedule, as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Rolls Royce, Ltd., P.O. Box 31, Derby DE 2 8BJ, England.

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: A notice proposing to amend Part 39 of the Federal Aviation Regulations to require inspections for cracking and replacement, if necessary, of flame tube bridge suspensions on Rolls Royce Dart Engines was published in the FEDERAL REGISTER at 42 FR 39398 on August 4, 1977. The proposal was prompted by reports of serious engine failures due to overheating and failure of the high pressure turbine disc caused by loss of flame tube suspension and subsequent burner stem failure.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objections were received. Accordingly, the proposal is adopted without change.

The principal authors of this document are R. E. Follensbee, Western Region, R. F. Nugent and F. H. Kelley, Flight Standards Service, and R. Lane, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

ROLLS ROYCE AERO, LTD. Applies to Dart Engines Series 527, 528, 529, 531, 532, 533, 534, 535, 536, 550, 542-4, 542-10, and 543-10 that have modified 1425 incorporated and are installed on, but not necessarily limited to, Nihon YS-11, Convair 600 and 640, Handley Page Herald, Fokker F27, Fairchild F27, Grumman Gulfstream I, and Hawker Siddeley 748 series aircraft.

Compliance is required as indicated.

To prevent overheating and failure of high pressure turbine discs, accomplish the following:

(a) Within the next 500 hours engine time in service after the effective date of this AD and thereafter at intervals not to exceed 1500 hours engine time in service, inspect the flame tube bridge pieces for cracking of the support legs in accordance with the instructions contained in paragraph 4.C of Rolls

RULES AND REGULATIONS

Royce Dart Service Bulletin Da 72-420, dated October 1975 (hereinafter referred to as the Bulletin), or an equivalent approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region, FAA c/o American Embassy, APO New York, NY 09667 (hereinafter referred to as FAA-approved equivalent).

(b) If, during an inspection required by this AD, flame tube bridge piece cracking is detected, replace the affected part with a serviceable part before further flight (except that the aircraft may be flown in accordance with FAR 21.197 and 21.199 to a base where the work can be performed), and continue to inspect in accordance with either paragraphs (c) or (d) of this AD, as applicable.

(c) If, during an inspection required by paragraph (a) of this AD, flame tube bridge piece leg cracking is found, establish a repetitive inspection interval for all engines in the fleet in accordance with paragraph 4.A.(3)(b) of the Bulletin or an FAA-approved equivalent and continue to inspect the fleet in accordance with paragraph (a) of this AD within the fleet repetitive inspection interval established under this paragraph.

(d) If, during a repetitive inspection conducted in accordance with this paragraph or paragraph (c) of this AD, a cracked bridge piece leg of any flame tube in the fleet is found, establish a further reduced repetitive inspection interval for all engines in the fleet in accordance with paragraph 4.B.(3) of the Bulletin or an FAA-approved equivalent and continue to inspect the fleet in accordance with paragraph (a) of this AD within the fleet repetitive inspection interval established under this paragraph.

This amendment becomes effective November 11, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354 (a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 29, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-29712 Filed 10-7-77;8:45 am]

[4910-13]

[Docket No. 77-EA-55; Amdt. 39-3051]

PART 39—AIRWORTHINESS DIRECTIVES

AVCO Lycoming Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to AVCO Lycoming O-320-H type engines. It requires an inspection and replacement where necessary of rocker arms, tappets and cam lobes. It also requires the installation of new oversize rocker arm retaining studs. The amendment is needed to preclude engine damage and stoppage.

EFFECTIVE DATE: October 12, 1977. Compliance is required within 50 hours of service.

ADDRESSES: AVCO Lycoming Service Bulletins may be obtained from the manufacturer at AVCO Lycoming Division, Williamsport, Pa. 17701. A copy of each service bulletin is contained in the docket at the Office of Regional Counsel, FAA Eastern Region, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

E. Manzi, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: There have been reports of engine problems resulting from loose rocker arm retaining studs and spalling of hydraulic tappets on AVCO Lycoming O-320 type aircraft engines. These problems have resulted in engine failures and forced landings. Since this condition is likely to exist or develop in other aircraft engines of similar type design, an airworthiness directive is being issued which will require an inspection and replacement where necessary of rocker arms, tappets and cam lobes. It also requires the installation of new oversize rocker arm retaining studs. Since a situation exists which requires the expeditious adoption of this rule, notice or public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are E. Manzi, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive as follows:

AVCO Lycoming Applies to O-320-H series engines, Serial Numbers 101-76 thru 2182-76

Compliance required within the next 50 hours in service after the effective date of this AD, unless previously accomplished.

To prevent hazards in flight associated with loose rocker arm retaining nuts and failure of the hydraulic tappets, accomplish the following:

(a) Remove all rocker box covers, rocker arms, fulcrums, spacer washers, and push rods.

(b) Inspect the fulcrum seating surface in the rocker arm for wear steps in excess of .003 inches. Replace all parts found to have such indications.

(c) Remove all rocker arm retaining studs P. N. 31-16 from cylinder head and install new oversize rocker arm retaining studs in accordance with the instruction in paragraph 3 of Lycoming Service Bulletin No. 412, dated July 8, 1977, or FAA-approved equivalent.

(d) On engine Serial Numbers 191-76 thru 1976-76, remove the shroud tube springs, shroud tubes, and hydraulic tappets.

(e) Inspect the face of the tappets and the cam lobes for spalling, chipping, or loss of metal. Replace all parts found to have such indications. (AVCO Lycoming Service Bulletin No. 413 refers to this subject.)

(f) Equivalent methods of compliance may be approved by the Chief, Engineering & Manufacturing Branch, FAA Eastern Region.

(g) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering & Manufacturing Branch, FAA Eastern Region, may adjust the compliance time specified in this AD.

Effective date: This amendment is effective October 12, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on September 28, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 77-29713 Filed 10-7-77; 8:45 am]

[4910-13]

[Docket No. 77-EA-62; Amdt. 39-3052]

PART 39—AIRWORTHINESS DIRECTIVES Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) amends AD 77-09-09 applicable to Piper PA-11, PA-12, PA-14, PA-16, PA-18, PA-20, and PA-22 type airplanes. It has been determined that Piper J-3, J-4, and J-5 type airplanes may also have the defective venting system as well as the PA-16 which had been inadvertently omitted. Therefore, the AD is being amended to include additional types.

EFFECTIVE DATE: October 12, 1977.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 17745. A copy of the service bulletin is contained in the docket in the Office of Regional Counsel, FAA, Eastern Region, Jamaica, N.Y.

FOR FURTHER INFORMATION CONTACT:

F. Covelli, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: There had been reports of inadequate fuel flow in certain Piper airplanes which was attributable to faulty venting in the fuel tank cap. AD 77-09-09 was issued to correct that deficiency. In the interim, it has been determined that additional Piper airplanes may be subject to the same problem and thus are being added to the AD. In view of the effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are F. Covelli, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 77-09-09, as follows:

Revise applicability paragraph to read: Piper—Applies to all series J-3, J-4, J-5, PA-11, PA-12, PA-14, PA-16, PA-18, PA-20, and PA-22 type aircraft.

Effective date: This amendment is effective October 12, 1977.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended, 49 U.S.C. 1354(a), 1421, and 1423; Sec. 6(c), Department of Transportation Act, 49 U.S.C. 1655(c); and 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, N.Y., on September 12, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 77-29714 Filed 10-7-77; 8:45 am]

[4910-13]

[Docket No. 77-SO-47]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Redesignation of Control Zone, Greenville, Miss.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Aviation Regulations by increasing Greenville, Mississippi, control zone operating hours from 0700 to 2200 hours local time to 0600 to 2200 hours local time. This is necessary to accommodate IFR operations at Greenville International Airport.

EFFECTIVE DATE: 0901 G.m.t., December 1, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7947.

SUPPLEMENTARY INFORMATION: The U.S. Air Force has developed a long term schedule for IFR training flights to be conducted at Greenville International Airport, Greenville, Mississippi, to begin at 0600 hours local time. Therefore, it is necessary to increase the effective hours of the control zone to accommodate the increased volume of IFR operations. Since this alteration is minor in nature, notice and public procedure hereon are not considered necessary.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, December 1, 1977, as hereinafter set forth.

In Subpart F, § 71.171 (42 FR 355), the Greenville, Mississippi, control zone is amended as follows:

" * * * effective from 0700 to 2200 hours * * * " is deleted and " * * * effective from 0600 to 2200 hours * * * " is substituted therefore.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in East Point, Georgia, on September 29, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 77-29710 Filed 10-7-77; 8:45 am]

[4910-13]

[Airspace Docket No. 76-AL-15]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Colored Federal Airways, Reporting Points and Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments realign three colored Federal Airways and one jet route in the area of the Aleutian Island/Alaskan Peninsula. Also reporting points are designated or rescinded as required because of the route realignments. The U.S. Air Force is decommissioning seven of its air navigation aids upon which those routes are designated. These actions substitute navigation aids which permit the continuation of route structures in the same general area.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-3715.

SUPPLEMENTARY INFORMATION:

HISTORY

On September 1, 1977, the FAA published for comment a proposal to alter several airways, reporting points and a jet route in Alaska (42 FR 43990). Interested persons were invited to participate in the rule making proceeding by submitting written comments on the proposal to the FAA. No comments were received.

THE RULE

These amendments to Parts 71 and 75 of the Federal Aviation Regulations (FARs) will accomplish the following:

1. Realign a segment of Green 8 airway between Shemya and Kachemak, Alaska.

2. Realign a segment of Green 11 airway between Cold Bay, Alaska, and Port Heiden, Alaska.

3. Realign a segment of Red 99 airway between King Salmon, Alaska, and Kachemak, Alaska.

4. Add Dutch Harbor NDB as an Alaskan Low Altitude Reporting Point and as an Alaskan High Altitude Reporting Point.

5. Delete DEPTH, Big Mountain NDB, and Nikolski NDB low altitude reporting points and Nikolski NDB high altitude reporting point.

6. Realign a segment of Jet Route No. 115 between Adak and Cold Bay, Alaska.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (42 FR 301 and 706) are amended, effective December 1, 1977, as follows:

§ 71.103 [Amended]

1. In § 71.103 (42 FR 305) G-8 is amended to read as follows:

G-8. From Shemya, Alaska, NDB, 20 AGL Akak, Alaska, NDB; 20 AGL Dutch Harbor, Alaska, NDB; 20 AGL INT Dutch Harbor NDB 043° and Cold Bay, Alaska, NDB 253° bearings; 20 AGL Cold Bay NDB; King Salmon, Alaska, NDB; INT King Salmon NDB 055° and Kachemak, Alaska, 263° bearings; Kachemak NDB; Wildwood, Alaska, NDB; INT Wildwood NDB 034° and Campbell Lake, Alaska, NDB 254° bearings; Campbell Lake NDB; INT Campbell Lake NDB 032° and Skwentna, Alaska, NDB 111° bearings; Glenallen, Alaska, NDB; INT Glenallen NDB 052° and Nabesna, Alaska, NDB 252° bearings; Nabesna NDB.

2. In § 71.103 (42 FR 305) G-11 is amended to read as follows:

G-11. From Cold Bay, Alaska, NDB via INT Cold Bay NDB 041° and Port Heiden, Alaska, NDB 246° bearings, 20 AGL Port Heiden NDB; 73 miles 85 MSL, 101 miles 65 MSL, 37 miles 20 AGL, to Woody Island, Alaska, NDB.

§ 71.107 [Amended]

3. In § 71.107 (42 FR 306) R-99 is amended to read as follows:

R-99. From King Salmon, Alaska, NDB via Iliamna, Alaska, NDB; to Kachemak, Alaska, NDB.

§ 71.211 [Amended]

4. In § 71.211 (42 FR 638):

"Dutch Harbor, Alaska, NDB" is added. "Big Mountain, Alaska, NDB" is deleted. "DEPTH;" title and text is deleted. "Nikolski, Alaska, NDB" is deleted.

§ 71.213 [Amended]

5. In § 71.213 (42 FR 640):

"Dutch Harbor, Alaska, NDB" is added, also "Nikolski, Alaska, NDB" is deleted.

§ 75.100 [Amended]

6. In § 75.100 (42 FR 707):

Jet Route No. 115 "Nikolski, Alaska, NDB;" is deleted and "Dutch Harbor, Alaska, NDB;" is substituted therefor.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.69.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on September 29, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 77-29509 Filed 10-7-77; 8:45 am]

[4910-13]

[Docket No. 15379; Amdt. 73-4]

PART 73—SPECIAL USE AIRSPACE

Restricted Area Utilization Reports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reduces the scope and amount of information that a using agency of a restricted area must include in its annual utilization report. By eliminating the need to compile and report information that is not routinely needed by the FAA for its evaluation, this amendment will reduce the burden on using agencies in complying with the reporting requirement.

DATES: Effective date, December 11, 1977. Initial compliance required for the report covering the period ending September 30, 1977.

ADDRESSES: Director, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

John Watterson, Airspace Regulations Branch, ACT-230, Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to reduce the scope and amount of information included in the report of utilization required annually from the using agency of each restricted area designated in that part.

HISTORY

This amendment is based upon a notice of proposed rulemaking (Notice No. 76-2) published in the FEDERAL REGISTER on February 19, 1976 (41 FR 7516). Interested persons have been afforded the opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

THE RULE

Section 73.19 of Part 73 requires each using agency to report to the FAA once a year, in duplicate, information on the utilization of each restricted area for which it is the using agency. The data required in the annual report assists the FAA in determining whether the type and amount of hazardous activity contained therein justifies the continued designation of the restricted area. The data currently required in the report is detailed and very extensive, and certain items such as geographical locations usually remain the same from year to year. It appeared that certain items of required information could be eliminated from the annual report, including the annual submission of a chart showing all details of firing patterns, bomb runs and impact areas if there is no change of activities, locations or altitudes, detailed data on the hours and altitudes used, type of equipment, and time schedules. All of this information may be obtained by further inquiry if a question arises after examining the annual report required under paragraphs (a) and (b) of

§ 73.19, as amended below. Paragraph (c) has been added to clarify the proposed requirement for supplementary reports.

Additionally, under § 73.19(a) a four-month period is allowed for preparation of the report between the end of the period covered by the report and the final date of receipt of the report in Washington, D.C., by the Director, Air Traffic Service. Considering the additional time needed for sending the report back to the region for review and recommendation, the data may be out of date when a final judgment is made whether to continue or alter the designation. Accordingly, the notice proposed that one copy of the report be submitted to the appropriate regional office, and the other copy sent to the Director, Air Traffic Service to eliminate the time required to send a copy of the report to the region, and back to the Director in Washington, D.C., with comments or recommendations. Six comments were received in response to the notice, and all supported adoption of the amendment, as proposed.

DRAFTING INFORMATION

The principal authors of this document are John Watterson, Air Traffic Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, effective December 11, 1977 to read as follows:

Subpart B—Restricted Areas

§ 73.19 Reports by using agency.

(a) Each using agency shall prepare a report on the use of each restricted area assigned thereto during any part of the preceding 12-month period ended September 30, and transmit it by the following January 31 of each year to the Chief, Air Traffic Division in the regional office of the Federal Aviation Administration having jurisdiction over the area in which the restricted area is located, with a copy to the Director, Air Traffic Service, Federal Aviation Administration, Washington, D.C. 20591.

(b) In the report under this section the using agency shall:

(1) State the name and number of the restricted area as published in this part, and the period covered by the report.

(2) State the activities (including average daily number of operations if appropriate) conducted in the area, and any other pertinent information concerning current and future electronic monitoring devices.

(3) State the number of hours daily, the days of the week, and the number of weeks during the year that the area was used.

(4) For restricted areas having a joint-use designation, also state the number of hours daily, the days of the week, and the number of weeks during the year that the restricted area was released to the controlling agency for public use.

(5) State the mean sea level altitudes or flight levels (whichever is appropriate)

used in aircraft operations and the maximum and average ordinate of surface firing (expressed in feet, mean sea level altitude) used on a daily, weekly, and yearly basis.

(6) Include a chart of the area (of optional scale and design) depicting, if used, aircraft operating areas, flight patterns, ordnance delivery areas, surface firing points, and target, fan, and impact areas. After once submitting an appropriate chart, subsequent annual charts are not required unless there is a change in the area, activity or altitude (or flight levels) used, which might alter the depiction of the activities originally reported. If no change is to be submitted, a statement indicating "no change" shall be included in the report.

(7) Include any other information not otherwise required under this part which is considered pertinent to activities carried on in the restricted area.

(c) If it is determined that the information submitted under paragraph (b) of this section is not sufficient to evaluate the nature and extent of the use of a restricted area, the FAA may request the using agency to submit supplementary reports. Within 60 days after receiving a request for additional information, the using agency shall submit such information as the Director of the Air Traffic Service considers appropriate. Supplementary reports must be sent to the FAA officials designated in paragraph (a) of this section.

(Secs. 307 and 313(a), Federal Aviation Act of 1958 (49 U.S.C. §§ 1348 and 1354(a)); and sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major action requiring the preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on October 3, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc.77-29711 Filed 10-7-77;8:45 am]

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-122, Amdt. 64]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NON-HEARING MATTERS

Delegation of Authority to the Director, Bureau of Operating Rights, To Act Upon Certain Interaffiliate Transactions Filed With the Board

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule delegates to the Director, Bureau of Operating Rights, authority to act upon specified transaction agreements filed with the Board pursuant to the Air Carrier Reorganization Investigation. The Board has initiated this rule since acting on routine agreements places an undue administrative burden on the Board and its staff.

DATES: Effective: September 30, 1977. Adopted: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Rules Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202-673-5442).

SUPPLEMENTARY INFORMATION: In the Air Carrier Reorganization Investigation (ACRI), the Board adopted a Regulatory Plan in order to monitor specified intercompany transactions with, or affecting, the air carrier, among affiliates of each of three parent air carrier companies, Brantiff Airways, Inc., The Flying Tiger Line Inc., and United Air Lines, Inc. The Regulatory Plan stated that these carriers shall not engage in certain intercompany transactions except in accordance with the Transaction Agreement on file with the Board, which has not been disapproved in whole, or in part, by the Board. The Transaction Agreement itself may be amended by the carrier provided the amendment is filed with the Board thirty days prior to its effective date, and is not disapproved or deferred within that thirty-day period.

In accordance with the ACRI decision, the three air carriers have filed approximately 255 transaction agreements between March 13, 1976, and March 1, 1977, all of which have been submitted for our direct consideration. A large majority of the agreements concerned routine, uncomplicated intercompany arrangements which have little or no substantive impact on the air carrier. Examples of such routine agreements included Joint Use of Employee Time, Joint Use of Assets and Facilities, and Leases of Property and Equipment.

The volume of this type of transaction agreement, including revisions and renewals, when processed for our direct attention, places an unnecessary administrative burden on the Board staff, as well as on the Board itself. Much of this burden could be relieved by delegating authority to the Director, Bureau of Operating Rights, to act on these routine agreements, and to submit to the Board only those agreements of a substantial nature which warrant our direct consideration. Examples of agreements which would be submitted for our attention include those involving Tax Allocations, Loans and Advances, and Corporate Reorganizations and Acquisitions. This delegation would both alleviate the administrative problem as well as maintain the overview objective of the ACRI decision.

¹ Orders 75-10-65/66, served October 17, 1975, as amended by Order 75-12-51, dated December 11, 1975, and by Order 76-1-121, dated January 30, 1976.

² See, ACRI, supra, Appendix A, Regulatory Plan.

Since this amendment is of an administrative nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedures are unnecessary, and that the rule may become effective immediately.

Accordingly, the Board hereby amends Part 385 of its Organization Regulations (14 CFR Part 385) as follows:

Amend § 385.13 by adding a new paragraph, "(kk)", to read as follows:

§ 385.13 Delegation to the Director, Bureau of Operating Rights.

(kk) With respect to interaffiliate transactions with or affecting the air carrier, and revisions, refilings, renewals or amendments, which have been filed pursuant to a Board order permitting such intercompany transactions unless after such filing, an order is issued disapproving or deferring action in whole or in part with respect to such filing, within a period of thirty days:

(1) By inaction permit such intercompany transaction to become effective thirty days after such filing;

(2) Issue orders disapproving in whole or in part such intercompany transaction;

(3) Issue orders deferring in whole or in part such intercompany transaction; and

(4) For good cause shown, waive the thirty-day effectiveness date of such interaffiliate transaction: *Provided, however*, That such waiver does not extend beyond the filing date of the intercompany transaction: *And provided, further*, That this authority shall not extend to interaffiliate transactions which involve dividends, loans and advances, tax allocations, and corporate reorganizations or acquisitions.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; (49 U.S.C. 1324). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; (49 U.S.C. 1324 (note)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29723 Filed 10-7-77;8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-249]

PART 159—LIQUIDATION OF DUTIES

Chains and Parts Thereof, of Cast Iron or Steel From Italy

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Imposition of Countervailing Duties and Suspension of Liquidation.

SUMMARY: This notice is to inform the public that it has been determined that the Government of Italy has given benefits which constitute bounties or grants within the meaning of the Countervailing Duty Law upon the manufacture,

production or exportation of chains and parts thereof, of cast iron, iron or steel. Consequently, a countervailing duty in the amount of these benefits will be set in addition to duties normally due on shipments of this merchandise. Information recently supplied by the principal Italian exporter of this product to the U.S. indicates that they may not receive bounty or grant. Pending verification of this situation, the liquidation of all entries of chains and parts thereof covered by this order shall be suspended.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald W. Eiss, Economist, U.S. Treasury Department, Office of Tariff Affairs, 15th Street and Pennsylvania Ave. NW., Washington, D.C. 20220 (202-566-8256).

SUPPLEMENTARY INFORMATION:

On April 13, 1977, a "Preliminary Countervailing Duty Determination" was published in the Federal Register (42 FR 19410). The notice stated that it preliminarily had been determined that benefits conferred by the Government of Italy upon the manufacture, production or exportation of chains and parts thereof, of cast iron, iron or steel, including terminal and connecting links, hooks, rollers, pivots and plates, constitute the payment of a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) referred to in this notice as "the Act".

These chains and parts are provided for in the Tariff Schedules of the United States under item numbers 652.24, 652.27, 652.30, 652.33, and 652.35.

The notice stated that these benefits have been conferred by reason of certain tax rebates under Italian Law 639.

The program involves the rebate calculated to cover customs duties, indirect taxes and a number of stamp taxes assessed on the manufacture of certain steel products, including the subject chain.

Certain portions of the Italian Law 639 rebates, which are the subject of this investigation, have been determined in previous proceedings under the Act to constitute bounties or grants within the meaning of the Act.

The preliminary notice provided interested parties 30 days from the date of publication to submit relevant data, views, or arguments, in writing, with respect to the preliminary determination.

After consideration of all information received, and on the basis of information received since the preliminary determination, it is hereby determined that bounties or grants are being paid or bestowed, directly or indirectly, on exports of certain chains and parts thereof from Italy within the meaning of section 303 of the Act.

However the principal exporter of the subject merchandise to the U.S. has informed the Treasury that although they receive rebates under Law 639, they pay customs duties and indirect taxes which

are not rebated upon export in amounts greater than the 639 rebate and which offset that rebate. Further investigation will be required to investigate the validity of this manufacturer's submission.

Accordingly, notice is hereby given that chains and parts thereof, of cast iron, iron or steel, including terminal and connecting links, hooks, rollers, pivots and plates, covered under TSUS numbers 652.24, 652.27, 652.30, 652.33, 652.35, which are imported directly or indirectly from Italy, if entered, or withdrawn from warehouse, for consumption on or after October 11, 1977, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act, until further notice the net amount of such bounties or grants has been estimated and declared to be 15 lire per kilo.

Effective on October 11, 1977, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable chains and parts thereof, covered under TSUS numbers 652.24, 652.27, 652.30, 652.33, 652.35, imported directly or indirectly from Italy, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

The liquidation of all entries for consumption or withdrawals from warehouse for consumption of such dutiable chain of iron or steel and parts thereof imported directly or indirectly from Italy which benefit from these bounties or grants and are subject to the order shall be suspended pending further declaration of the net amount of the bounties or grants paid. The estimated countervailing duty shall be required at the time of entry for consumption or withdrawal from warehouse for consumption.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of such chains or parts thereof from Italy.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)), is amended by inserting after the last entry from Italy the words "Certain chains and parts thereof" in the column this Treasury Decision in the column headed "Commodity," the number of this Treasury Decision in the column headed "Treasury Decision," and the words "Bounty declared—Rate" in the column headed "Action."

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised November 2, 1954 and § 159.47(d) of the Customs Regulations (19 CFR 159.47(d)), insofar as

they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

OCTOBER 4, 1977.

[FR Doc.77-24661 Filed 10-7-77;8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 77C-0126]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Annatto; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of August 19, 1977, of a regulation concerning the use of annatto in coloring externally applied drugs and in coloring cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye.

DATE: Effective date confirmed: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerard L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-5740).

SUPPLEMENTARY INFORMATION: A regulation published in the Federal Register of July 19, 1977 (42 FR 36993) amended § 73.1030 (21 CFR 73.1030) and added new § 73.2030 (21 CFR 73.2030) to Subparts B and C, respectively, of Part 73 (21 CFR Part 73) to provide for the safe use of annatto in coloring externally applied drugs and in coloring cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye. The regulation also amended § 81.1 (g) (21 CFR 81.1(g)) by deleting annatto from the provisionally listed colors.

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d)), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the regulation of July 19, 1977. Accordingly, the amend-

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ments promulgated thereby became effective on August 19, 1977.

Dated: October 3, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-29616 Filed 10-7-77;8:45 am]

[4110-03]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0263]

PART 330—OVER-THE-COUNTER (OTC) HUMAN DRUGS WHICH ARE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

Amendment of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the regulations to extend the time within which interested persons may submit comments on proposed monographs for OTC drug products. Because of the length of most such documents, the present provision for a 60-day comment period is usually not adequate; therefore, the agency is providing for a 90-day comment period.

DATES: Effective November 10, 1977; comments on or before November 10, 1977.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4960).

SUPPLEMENTARY INFORMATION: The OTC drug review regulations in § 330.10(a)(6) (21 CFR 330.10(a)(6)) provide that, after publication of a proposed monograph, interested persons have 60 days within which to file written comments. Because of the voluminous and detailed data appearing in these reports, however, the 60-day comment period has proven to be an unreasonably short time for many persons. Accordingly, the Commissioner of Food and Drugs is extending the comment period on such documents to 90 days.

In consideration of the foregoing, the Commissioner finds for good cause that notice and public procedure is unnecessary because the modification effected by this rule is minor and noncontroversial, and public comment on it is therefore unlikely to be received. Interested persons may, on or before the effective date, file with the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, four copies of written comments, identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the

Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), § 330.10 Procedures for classifying OTC drugs as generally recognized as safe and effective and not misbranded, and for establishing monographs is amended in paragraph (a)(6) (iv) in the third sentence of the undesignated paragraph and in paragraph (a)(10) (i) in the first sentence by changing "60" to "90."

Effective date. This amendment shall be effective November 10, 1977.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: October 3, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-29615 Filed 10-7-77;8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

Tetracycline Phosphate Complex and Sodium Novobiocin Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application filed by the Upjohn Co., providing revised labeling for a combination new drug used to treat certain upper respiratory tract infections in dogs.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3420).

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the act (21 U.S.C. 360b(i)), Part 546 is amended to reflect approval of a supplemental new animal drug application (NADA 65-099V) filed by the Upjohn Co., Kalamazoo, Mich. 49001.

The original application, approved prior to the Animal Drug Amendments of 1968, was the subject of a National Academy of Science/National Research Council Drug Efficacy Review (NAS/NRC DESI 107NV), published in the FEDERAL REGISTER of August 12, 1970 (35 FR 12791). The Academy evaluated this

product as probably not effective for treating bacterial infections in dogs and cats in that each disease claim was not properly qualified as to a specific pathogen, that substantial evidence was not presented to establish that each active ingredient contributes to the total effect, and that the recommended dosage regimen was not properly supported by substantial evidence of safety and efficacy. The firm responded by presenting evidence based upon adequate and well-controlled studies to support the revised conditions of use that were deemed to be effective by the Academy and the Food and Drug Administration.

In accordance with the freedom of information regulations and § 514.11(e)(2) (ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 546 is amended by adding new § 546.180g to read as follows:

§ 546.180g Tetracycline phosphate complex and sodium novobiocin capsules.

(a) *Requirements for certification.*—(1) *Standards of identity, strength, quality, and purity.* The product is a gelatin capsule containing tetracycline phosphate complex and sodium novobiocin with or without one or more suitable and harmless lubricants and fillers. Each capsule contains the equivalent activity of 60 milligrams of tetracycline hydrochloride and 60 milligrams of novobiocin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the labeled amount of tetracycline hydrochloride and novobiocin. Its loss on drying is not more than 9.0 percent. The tetracycline phosphate complex used conforms to the standards prescribed by § 446.82(a)(1) of this chapter. The sodium novobiocin used conforms to the standards prescribed by § 455.51(a) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) *Results of tests and assays on:* (a) The tetracycline phosphate complex used in making the batch for potency, safety, moisture, pH, absorptivity, crystallinity, and identity.

(b) The sodium novobiocin used in making the batch for potency, safety, loss on drying, pH, residue on ignition,

specific rotation, crystallinity, and identity.

(c) The batch for tetracycline hydrochloride content, novobiocin content, and loss on drying.

(ii) *Samples required:* (a) The tetracycline phosphate complex and sodium novobiocin used in making the batch: 10 packages each, each containing approximately 500 milligrams.

(b) The batch: A minimum of 80 capsules.

(b) *Tests and methods of assay.*—(1) *Potency.*—(i) *Tetracycline content.* Proceed as directed in § 436.106 of this chapter, except use test organism J in lieu of organism A and prepare the sample as follows: Place a representative number of capsules in a high-speed glass blender jar with sufficient 0.1 N hydrochloric acid to give a stock solution of convenient concentration. Blend 3 to 5 minutes. Further dilute an aliquot of stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(ii) *Novobiocin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules in a high-speed blender jar containing 1.0 milliliter of polysorbate 80 and sufficient 0.1 M potassium phosphate buffer, pH 8.0 (solution 3), to obtain a stock solution of convenient concentration. Blend 3 to 5 minutes. Further dilute an aliquot of the stock solution with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 0.5 microgram of novobiocin per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(c) *Conditions of marketing.*—(1) *Specifications.* Meets the requirements of paragraph (a) of this section.

(2) *Sponsor.* No. 000009 in § 510.600(c) of this chapter.

(3) *Special considerations.* The quantities of antibiotics refer to the activity of the antibiotic master standards.

(4) *Conditions of use.* It is used orally in dogs as follows:

(i) *Amount.* 10 milligrams of each per pound of body weight (1 capsule for each 6 pounds) every 12 hours.

(ii) *Indications for use.* It is used in treatment of acute or chronic canine respiratory infections such as tonsillitis, bronchitis, and tracheobronchitis when caused by pathogens susceptible to tetracycline and/or novobiocin, such as *Staphylococcus* spp. and *Escherichia coli*.

(iii) *Limitations.* Treatment should be continued for at least 48 hours after the temperature has returned to normal and all evidence of infection has disappeared. As with all antibiotics, appropriate in vitro culturing and susceptibility tests of samples taken before treatment should be conducted. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date, October 11, 1977.

(Sec. 512 (i) and (n), 82 Stat. 347 (21 U.S.C. 360b (i), (n))).

Dated: September 30, 1977.

C. D. VAN HOUWELING,
Director, Bureau of
Veterinary Medicine.

[FR Doc.77-29741 Filed 10-7-77;8:45 am]

[4110-03]

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

Tetracycline Hydrochloride and Sodium Novobiocin Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application filed by the Upjohn Co., for use of a combination new drug used for treating certain upper respiratory infections in dogs.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3420).

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the act (21 U.S.C. 360b(i)), Part 546 of the regulations is amended to reflect approval of a new animal drug application (NADA 55-076V) filed by the Upjohn Co., Kalamazoo, Mich. 49001.

In accordance with the freedom of information regulations and § 514.11(e)(2) (ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 546 is amended by adding new § 546.180h to read as follows:

§ 546.180h Tetracycline hydrochloride and sodium novobiocin tablets.

(a) *Requirements for certification.*—(1) *Standards of identity, strength, quality, and purity.* The product is a tablet containing tetracycline hydrochloride and sodium novobiocin with one or more suitable binders, fillers, lubricants, expanders, and coloring agents. Each tablet

contains the equivalent activity of 60 milligrams of tetracycline hydrochloride and 60 milligrams of novobiocin. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the labeled amount of tetracycline hydrochloride and novobiocin. Its loss on drying is not more than 6.0 percent. The tablets disintegrate within 60 minutes. The tetracycline hydrochloride used conforms to the standards of § 446.81a, 1 of this chapter, except for § 446.81a, 1 (i), (iv), and (v). The sodium novobiocin used conforms to the standards prescribed by § 455.51(a) (1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) *Results of tests and assays on:* (a) The tetracycline hydrochloride used in making the batch for potency, safety, loss on drying, pH, absorptivity, and identity.

(b) The sodium novobiocin used in making the batch for potency, safety, loss on drying, pH, residue on ignition, specific rotation, crystallinity, and identity.

(c) The batch for tetracycline hydrochloride content, novobiocin content, loss on drying, and disintegration time.

(ii) *Samples required:* (a) The tetracycline hydrochloride and sodium novobiocin used in making the tablets: 10 packages each, each containing approximately 300 milligrams.

(b) The batch: A minimum of 80 tablets.

(b) *Tests and methods of assay.*—(1) *Potency.* (i) *Tetracycline content:* Proceed as directed in § 436.106 of this chapter, except use test organism J in lieu of organism A and prepare the sample as follows: Place a representative number of tablets in a high-speed glass blender jar with sufficient 0.1 N HCl to give a stock solution of convenient concentration. Blend 3 to 5 minutes. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(ii) *Novobiocin content:* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets in a high-speed glass blender jar with 1.0 milliliter of polysorbate 80 and sufficient 0.1 M potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend 3 to 5 minutes. Further dilute an aliquot of the stock solution with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 0.5 microgram of novobiocin per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter, using

the procedure described in paragraph (e)(1) of that section.

(c) *Conditions of marketing.*—(1) *Specifications.* Meets the requirements of paragraph (a) of this section.

(2) *Sponsor.* No. 000009 in § 510.600(c) of this chapter.

(3) *Special considerations.* The quantities of antibiotic refer to the activity of the antibiotic master standards.

(4) *Conditions of use.* It is used orally in dogs as follows:

(i) *Amount.* Ten milligrams of each per pound of body weight (1 tablet for each 6 pounds) every 12 hours.

(ii) *Indications for use.* It is used in the treatment of acute or chronic canine respiratory infections such as tonsillitis, bronchitis, and tracheobronchitis when caused by pathogens susceptible to tetracycline and/or novobiocin, such as *Staphylococcus* spp. and *Escherichia coli*.

(iii) *Limitations.* Treatment should be continued for at least 48 hours after the temperature has returned to normal and all evidence of infection has disappeared.

As with all antibiotics, appropriate in vitro culturing and susceptibility tests of samples taken before treatment should be conducted. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. October 11, 1977.

(Secs. 512 (i) and (n), 82 Stat. 347 (21 U.S.C. 360b (i) and (n)).)

Dated: September 30, 1977.

C. D. VAN HOUWELING,
Director, Bureau of
Veterinary Medicine.

[FR Doc. 77-29743 Filed 10-7-77; 8:45 am]

[4110-03]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document approves safe and effective use of tylosin premix for subsequent manufacture of complete feed to be fed to swine for increased rate of weight gain and improved feed efficiency. Feed Specialties Co. filed an application for this use. The Commissioner of Food and Drugs is amending the animal drug regulations to reflect this approval.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-5247).

SUPPLEMENTARY INFORMATION: Feed Specialties Co., 1877 NE. 58th Ave., Des Moines, Iowa 50313, filed a supplemental new animal drug application (97-

289V) to provide for safe and effective use of a 4 grams of tylosin (as tylosin phosphate) per pound premix.

In accordance with the freedom of information regulations and § 514.11(e) (2) (ii) of the animal drug regulations (21 CFR 514.11(e) (2) (ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) § 558.625 is amended by revising paragraph (b) (1) to read as follows:

§ 558.625 Tylosin.

(b) * * *

(1) To 017274: 4, 8, and 10 grams per pound; paragraph (f) (1) (vi) (a) of this section.

Effective date. This regulation becomes effective on October 11, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i)).)

Dated: October 3, 1977.

FRED J. KINGMA,
Acting Director, Bureau of
Veterinary Medicine.

[FR Doc. 77-29742 Filed 10-7-77; 8:45 am]

[4510-27]

Title 29—Labor

Subtitle A—Office of the Secretary of Labor

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

AGENCY: Department of Labor.

ACTION: Final procedural rule.

SUMMARY: With the change in the fiscal year to October 1 through September 30, the periods covered by the semiannual enforcement reports are changed to October 1 through March 31 and April 1 through September 30. The reported material, with this change, will then continue to be submitted on a fiscal year basis, increasing its utility.

EFFECTIVE DATES: October 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Dorothy Come, Director, Division of Government Contract Regulations, Wage and Hour Division, Room S-3518, 200 Constitution Avenue NW.,

Washington, D.C. 20210, telephone 202-523-7541.

SUPPLEMENTARY STATEMENT: Section 5.7(b) of Part 5 requires submission of semiannual reports by agencies concerning their enforcement activities. These reports covered July 1 through December 31 and January 1 through June 30, thus coinciding with the Federal fiscal year, i.e., July 1 through June 30. With the change of the fiscal year to October 1 to September 30, it was advantageous to change the semiannual reports to coincide with the new fiscal year. All Government Contracting Agencies of the Federal Government and the District of Columbia were notified by DB Memorandum No. 126 dated October 20, 1976, of the above change, and agencies were requested to submit a short report covering July 1 through September 30, 1976, in order that reports could be received without interruption.

The present document changes § 5.7 (b) of Part 5 so that it conforms to the DB Memorandum No. 126 of October 20, 1976.

As agencies have been complying with DB Memorandum No. 126, this does not result in a change in procedure, but conforms Part 5 to current practice.

This document was prepared under the direction and control of Dorothy Come, Director, Division of Government Contract Regulations, Wage and Hour Division, Room S-3518, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-7541.

Part 5 is amended as set forth below. Section 5.7 is amended as follows:

§ 5.7 Reports to the Secretary of Labor.

(b) *Semi-annual enforcement reports.* To assist the Secretary in fulfilling his responsibilities under Reorganization Plan No. 14 of 1950, Federal agencies shall furnish to the Secretary by April 30 and October 31 of each calendar year semi-annual reports on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and its related acts covering the periods of October 1 through March 31 and April 1 through September 30, respectively. Such reports shall be prepared in the manner prescribed in circular memoranda of the Secretary.

Signed at Washington, D.C., on this 30th day of September, 1977.

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

[FR Doc. 77-29586 Filed 10-7-77; 8:45 am]

[4810-25]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE,

DEPARTMENT OF THE TREASURY

PART 214—DEPOSITARIES FOR FEDERAL TAXES

Federal Reserve Banks as Federal Tax Depositaries

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule prescribes amendments affecting the form of payment of a Federal tax deposit being made at a Federal Reserve Bank or Branch. These amendments are intended to increase the efficiency of that segment of the Federal Tax Deposit System. These amendments do not affect regulations governing the deposit of Federal taxes at authorized commercial bank depositaries.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Kilcoyne, Assistant Fiscal Assistant Secretary (Banking), Office of the Secretary, U.S. Treasury Department, Washington, D.C. 20220 (202-566-2553).

SUPPLEMENTARY INFORMATION: On July 29, 1977, the Fiscal Service published in the FEDERAL REGISTER (42 FR 38602) for comment the proposed amendments to 31 CFR Part 214. A number of telephone inquiries were received in response to the proposal requesting clarification as to whether the proposed amendments affect deposits of Federal taxes made at authorized commercial bank depositaries. The proposed amendments affect only the regulations governing the deposit of Federal taxes at Federal Reserve Banks and Branches, and accordingly, do not affect deposits of Federal taxes at authorized commercial banks.

In addition, two written replies were received. One reply provided comments which are not relevant to the proposal and suggested regulatory changes concerning tax due dates which are not within the authority of the Fiscal Service. That reply will be forwarded to the appropriate office for further consideration. The second response enumerated a number of points, several of which are not relevant to the changes in the rules. Three of the points are relevant and warrant comment. The three comments and the Fiscal Service responses are as follows:

1. *Comment.* The proposed amendments would, in effect, penalize a tax depositor for electing to deposit his tax payment with a Federal Reserve Bank. Any rule finally adopted should not discriminate against such use in favor of the primary use of commercial banks. The treatment accorded each should be equal.

Response. The Fiscal Service does not agree that it would be inappropriate to treat the two segments of the system differently if such treatment was necessary to ensure the system accomplishes its overall purposes. The system accomplishes two major purposes: It permits the Federal Government to insulate the nation's monetary system from the impact of Treasury's highly irregular daily cash flows, and it provides a simple and efficient collection system for approximately 70 percent of the Federal Government's gross annual revenues. The system, by design, accomplishes the above-mentioned purposes most efficiently and effectively when tax depositors make their tax deposits, payable under the

system, with authorized commercial banks depositaries as compared to Federal Reserve Banks and Branches. The preferred method of deposit is with the tax depositor's commercial bank, if that bank is an authorized depositary.

It should be noted, however, that the amended rules place a tax depositor making a tax deposit at a Federal Reserve Bank or Branch on an almost equivalent basis with a tax depositor making a tax deposit at an authorized commercial bank depositary. In our opinion, the amended rules do not have an unfavorable impact on a tax depositor making a deposit at a Federal Reserve Bank or Branch as compared to a tax depositor making a deposit at an authorized commercial bank depositary.

2. *Comment.* The proposed rulemaking would mitigate against the use of Federal Reserve Banks or Branches by creating such uncertainties concerning the timeliness of deposits that a taxpayer who elected such use would be exposed to certain penalties as a direct result of circumstances of mailing and/or collection over which he has little or no control.

Response. The Fiscal Service does not agree with this comment. Currently regulations require that a tax deposit made at a Federal Reserve Bank or Branch be dated with the date on which the tax deposit is received by the Bank or Branch. This date serves as the standard for determining the timeliness of the tax payment. Under the amended rules, if a tax deposit, in the correct form, is mailed by the taxpayer and is received and dated by the Federal Reserve Bank or Branch after the prescribed due date, the provisions of 26 U.S.C. 7502 apply. These provisions provide that such a tax deposit is considered timely if mailed by the tax depositor on or before the second day before the prescribed due date. (The provisions of 26 U.S.C. 7502 also apply when deposits are mailed to authorized commercial bank depositaries. Such deposits are not affected by these amended rules.) Accordingly, the amendments are consistent with past procedures and do not expose the tax depositor to penalties as a direct result of circumstances of mailing. The exception to the foregoing is when a taxpayer does not follow the prescribed procedures for making a tax deposit with a Federal Reserve Bank or Branch. An example would be when the tax deposit is not in the prescribed form of payment. Under such circumstances, the tax payment will be processed by the receiving Federal Reserve Bank or Branch rather than returned to the depositor and will be dated as paid based upon the date when the proceeds of the accompanying payment instrument are collected by the receiving Federal Reserve Bank and Branch.

3. *Comment.* Since employers are non-compensated collectors of vast amounts of payroll taxes for Treasury, unreasonable restrictions should not be placed on them. Also, with governmental reporting requirements increasing and becoming more complex almost daily, this is no time to add additional burdens. The use of Federal Reserve Banks or Branches

has served a reasonable purpose and should not be discontinued.

Response. The regulations governing the deposit of Federal taxes at authorized commercial banks and Federal Reserve Banks and Branches are not intended to provide a means for offsetting costs incurred by tax depositors in the collection and deposit of such tax payments. Since the Congress, in passing the statutes requiring the collection of payroll taxes, made no specific provision for compensation, the Fiscal Service believes that if compensation were due, such compensation should be provided through Congressional authorization. The Fiscal Service agrees that Federal Reserve Banks and Branches have provided a useful purpose in the collection of taxes. The proposed changes are not intended to discontinue their usefulness as part of that system. The proposed amendments provide for greater uniformity of deposit regulations and increase the efficiency of collecting tax deposits through Federal Reserve Banks and Branches.

After consideration of all comments received, it is our opinion that no comments were presented which warrant changes in the proposed rules as published. Accordingly, 31 CFR Part 214 is amended as follows:

§ 214.2 [Amended]

1. By adding the definition for an "immediate credit item" to § 214.2 to read as follows: "Immediate credit item" means a check or other payment instrument for which immediate credit is given in accordance with the check collection schedule of the receiving Federal Reserve Bank or Branch.

2. By revising paragraphs (b), (b) (1), and (b) (3) of § 214.6 to read as follows:

§ 214.6 Handling of deposits of Federal taxes.

(b) *Deposits with Federal Reserve Banks.* When handling Federal tax deposits, a Federal Reserve Bank, through any of its offices, shall comply with the following requirements:

(1) A Federal Reserve Bank shall accept a tax deposit directly from a taxpayer when such tax deposit is:

(i) Mailed or delivered by a taxpayer located within that Bank's territorial boundaries and,

(ii) In the form of cash, a check drawn to the order of that Bank and considered to be an immediate credit item by that Bank, a postal money order drawn to the order of that Bank, or Treasury Bills, as authorized in Part 309 of this chapter, covering an amount to be deposited as Federal taxes and,

(iii) Accompanied by a Federal tax deposit form on which the amount of the tax deposit has been properly entered in the space provided.

(3) When a deposit of Federal taxes is made in accordance with the requirements of paragraphs (b) (1) of this section, a Bank shall place in the space

provided on the face of each Federal tax deposit form accepted directly from a taxpayer, a stamp impression reflecting the name of the Bank and the date on which the tax deposit was received by the Bank so that the timeliness of the Federal tax payment can be determined. However, if such a deposit is mailed to a Bank, it is subject to the "Timely mailing treated as timely filing and paying" clause of section 7502 of the Internal Revenue Code (26 U.S.C. 7502).

3. By adding a new paragraph (b) (4) to § 214.6 to read as follows:

§ 214.6 Handling of deposits of Federal taxes.

(b)

(4) When a deposit of Federal taxes is not in accordance with the requirements governing form of payment set forth in paragraph (b) (1) of this section, a Bank shall place in the space provided on the face of each Federal tax deposit form a stamp impression reflecting the name of the Bank and the date on which the proceeds of the accompanying payment instrument are collected by the Bank. This date shall be used for the purpose of determining the timeliness of the Federal tax payment.

Dated: October 3, 1977.

DAVID MOSCO,
Fiscal Assistant Secretary.

[FR Doc. 77-29735 Filed 10-7-77; 8:45 am]

[8320-01]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 17—MEDICAL

Grants for Exchange of Medical Information

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: These amendments apply standards for obtaining consistency and uniformity among Federal agencies in the administration of grants. The amendments incorporate requirements of the Office of Management and Budget. In addition, organizational titles have been updated, the title of the subcommittee has been changed to the Subcommittee on Academic Affairs, and minor editorial changes have been made to reflect agency policy of using precise terms denoting gender.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert B. Shamaskin, Deputy Director, Learning Resources Service (142A), Office of Academic Affairs, 810 Vermont Ave., NW, Washington, D.C. 20420, (202-389-3811).

SUPPLEMENTARY INFORMATION: On page 39409 of the FEDERAL REGISTER

of August 4, 1977, there was published a notice of proposed regulatory development to amend Part 17 relating to grants for exchange of medical information. These regulations incorporate requirements of Office of Management and Budget Circular A-110.

Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposed regulations. No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

NOTE: The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Approved: October 3, 1977.

MAX CLELAND,
Administrator.

1. Sections 17.261 and 17.262 are revised to read as follows:

§ 17.261 The Subcommittee on Academic Affairs.

There is established within the Special Medical Advisory Group authorized under the provisions of 38 U.S.C. 4112(a) a Subcommittee on Academic Affairs, and the Subcommittee shall advise the Administrator, through the Chief Medical Director, in matters pertinent to achieving the objectives of programs for exchange of medical information. The Subcommittee shall review each application for a grant and prepare a written report setting forth recommendations as to the final action to be taken on the application.

§ 17.262 Ex Officio Member of Subcommittee.

The Assistant Chief Medical Director for Academic Affairs shall be an ex officio member of the Subcommittee on Academic Affairs.

2. In § 17.266, paragraph (e) is revised to read as follows:

§ 17.266 Applications.

Each application for a grant shall be submitted to the Chief Medical Director on such forms as shall be prescribed and shall include the following evidence, assurances, and supporting documents:

(e) *To include assurance records will be kept.* Each application shall include sufficient assurances that the applicant shall keep records which fully disclose the amount and disposition of the proceeds of the grant, the total cost of the project or undertaking in connection with which the grant is made or used, the portion of the costs supplied by non-Federal sources, and such other records as will facilitate an effective audit. All such records shall be retained by the applicant (grantee) for a period of 3 years after the submission of the final expenditure report, or if litigation, claim or audit is started before the expiration of the 3-

year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved, and

3. In § 17.270, the introductory portion preceding paragraph (a) and paragraph (a) are revised to read as follows:

§ 17.270 Awards procedures.

Applications for grants for planning or implementing agreements for the exchange of medical information or information facilities shall be reviewed by the Chief Medical Director or designee. If it is determined approval of the grant is warranted, recommendations to that effect shall be made to the Administrator in writing and shall be accompanied by the following:

(a) The recommendation for approval shall be accompanied by the written recommendation of the Subcommittee on Academic Affairs, and

4. Sections 17.281 and 17.285 are revised to read as follows:

§ 17.281 Authority to approve applications discretionary.

Notwithstanding any recommendation by the Subcommittee on Academic Affairs of the Special Medical Advisory Group, or any recommendation by the Chief Medical Director or designee, the final determination on any application for a grant rests solely with the Administrator.

§ 17.285 Suspension and termination procedures.

Termination of a grant means the cancellation of Veterans Administration sponsorship, in whole or in part, under an agreement at any time prior to the date of completion. Suspension of a grant is an action by the Veterans Administration which temporarily suspends Veterans Administration sponsorship under the grant pending corrective action by the grantee or pending a decision to terminate the grant by the Veterans Administration.

(a) *Posttermination appeal.* The following procedures are applicable for reviewing postaward disputes which may arise in the administration of or carrying out of the Exchange of Medical Information Grant Program.

(1) *Reviewable decisions.* The Veterans Administration reserves the right to terminate any grant in whole or in part at any time before the date of completion, whenever it determines that the grantee has failed to comply with conditions of the agreement, or otherwise failed to comply with any law, regulation, assurance, term, or condition applicable to the grant.

(2) *Notice.* The Veterans Administration shall promptly notify the grantee in writing of the determination. The notice shall set forth the reason for the determination in sufficient detail to enable the grantee to respond, and shall inform the grantee of his or her opportunity for review by the Assistant

Chief Medical Director as provided in this section.

(3) *Request for appeal.* A grantee with respect to whom a determination described in paragraph (a) (1) of this section has been made, and who desires review, may file with the Assistant Chief Medical Director for Academic Affairs an application for review of such determination. The grantee's application for review must be post-marked no later than 30 days after the postmarked date of notification provided pursuant to paragraph (a) (2) of this section.

(4) *Contents of request.* The application for review must clearly identify the question or questions in dispute, contain a full statement of the grantee's position in respect to such question or questions, and provide pertinent facts and reasons in support of his or her position. The Assistant Chief Medical Director for Academic Affairs will promptly send a copy of the grantee's application to the Veterans Administration official responsible for the determination which is to be reviewed.

(5) *Effect of submission.* When an application for review has been filed no action may be taken by the Veterans Administration pursuant to such determination until such application has been disposed of, except that the filing of the application shall not affect the authority which the constituent agency may have to suspend the system under a grant during proceedings under this section or otherwise to withhold or defer payments under the grant.

(6) *Consideration of request.* When an application for review has been filed with the Assistant Chief Medical Director for Academic Affairs, and it has been determined that the application meets the requirements stated in this paragraph, all background material of the issues shall be reviewed. If the application does not meet the requirements, the grantee shall be notified of the deficiencies.

(7) *Presentation of case.* If the Assistant Chief Medical Director for Academic Affairs believes there is no dispute as to material fact, the resolution of which would be materially assisted by oral testimony, both parties shall be notified of the issues to be considered, and take steps to afford both parties the opportunity for presenting their cases, at the option of the Assistant Chief Medical Director for Academic Affairs, in whole or in part in writing, or in an informal conference. Where it is concluded that oral testimony is required to resolve a dispute over a material fact, both parties shall be afforded an opportunity to present and cross-examine witnesses at a hearing.

8. *Decision.* After both parties have presented their cases, the Assistant Chief Medical Director for Academic Affairs shall prepare an initial written decision which shall include findings of fact and conclusions based thereon. Copies of the decision shall be mailed promptly to each of the parties together with a notice informing them of their right to appeal the decision of the Administrator, or to the officer or employee

to whom the Administrator has delegated such authority, by submitting written comments thereon within a specified reasonable time.

(9) *Final decision.* Upon filing comments with the Administrator, or designated officer or employee, the review of the initial decision shall be conducted on the basis of the decision, the hearing record, if any, and written comments submitted by both parties. The decision shall be final.

(10) *Participation by a party.* Either party may participate in person, or by counsel pursuant to the procedures set forth in this section.

(b) *Termination for convenience.* The Veterans Administration or the grantee may terminate a grant in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Veterans Administration shall allow full credit to the grantee for the Veterans Administration share of the noncancellable obligations, properly incurred by the grantee prior to termination.

(c) *Suspension procedures.* When a grantee has failed to comply with the terms of the grant agreement and conditions or standards, the Veterans Administration may, on reasonable notice to the grantee, suspend the grant and withhold further payments, prohibit the grantee from incurring additional obligations of funds, pending corrective action by the grantee, or make a decision to terminate as described in paragraph (a) of this section. The Veterans Administration shall allow all necessary and proper costs that the grantee could not reasonably avoid during the period of suspension provided that they meet the provisions of the applicable Federal cost principles.

§ 17.286 [Revoked]

5. Section 17.286 is revoked.

6. Sections 17.287 and 17.290 are revised to read as follows:

§ 17.287 Recoupments and releases.

In any case where the Veterans Administration's or a grantee's obligations under an exchange of information agreement implemented by grant funds are terminated, or where grant-financed equipment or facilities cease to be used for the purposes for which grant support was given, or when grant-financed property is transferred, the grantee shall return the proportionate value of such equipment or facility as was financed by the grant. When it is determined the Veterans Administration's equitable interest is greater than proportionate value, then a claim in such greater amount shall be asserted. If it is determined an amount less than proportion-

[4310-03]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 31—GRANTS AND ALLOCATIONS FOR RECREATION AND CONSERVATION USE OF ABANDONED RAILROAD RIGHTS-OF-WAY

AGENCY: Bureau of Outdoor Recreation, Interior.

ACTION: Interim regulations.

SUMMARY: This document prescribes policies and procedures for administering the funding of projects for the recreation and conservation use of abandoned railroad rights-of-way under the Railroad Revitalization and Regulatory Reform Act of 1976. These regulations will furnish applicants, grantees, and the public with an explicit statement of grant award and administration requirements.

DATES: These interim regulations are effective on October 11, 1977. However, interested parties are encouraged to submit written comments, views, or data concerning these regulations by December 15, 1977.

ADDRESSES: Comments should be sent to the Director, Bureau of Outdoor Recreation, 18th and C Streets NW., Washington D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland T. Bowers, Division of State Programs, Bureau of Outdoor Recreation, Washington, D.C. 20240 (202-343-7801).

SUPPLEMENTARY INFORMATION: Title VIII, section 809(b) (2) and (3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 145) provides that the Secretary of the Interior shall provide financial, educational, and technical assistance to local, State, and Federal governmental entities for programs involving the conversion of abandoned railroad rights-of-way to recreational and conservation uses. Such assistance shall include the making of grants to State and local governmental entities to enable them to plan, acquire, and develop recreational and conservation facilities on abandoned railroad rights-of-way and the allocating of funds to other Federal programs concerned with recreation or conservation in order to enable abandoned railroad rights-of-way to be included in or made into national parks, national trails, national recreation areas, wildlife refuges, or other national areas dedicated to recreational or conservation uses.

The primary author of this document is Mr. Rowland T. Bowers, Division of State Programs, Bureau of Outdoor Recreation, Washington, D.C. 20240 (202-343-7801).

[FR Doc. 77-29670 Filed 10-7-77; 8:45 am]

The Bureau of Outdoor Recreation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 5, 1977.

BOB HERBST,
Assistant Secretary of the Interior.

In accordance with the foregoing, a new Part 31 is added to 43 CFR Subtitle A to read as follows:

- | | |
|-------|--|
| Sec. | Purpose. |
| 31.1 | Definitions. |
| 31.2 | Applicability and authority. |
| 31.3 | Scope. |
| 31.4 | Eligible projects. |
| 31.5 | Application procedures. |
| 31.6 | Project selection and funding procedures. |
| 31.7 | Project selection criteria. |
| 31.8 | Project costs (State and local projects). |
| 31.9 | Matching share. |
| 31.10 | Project performance. |
| 31.11 | Standards for grantee financial management systems. |
| 31.12 | Performance reports. |
| 31.13 | Project inspections. |
| 31.14 | Financial reporting requirements and reimbursements. |
| 31.15 | Retention and custodial requirements for records. |
| 31.16 | Project termination and settlement procedures. |
| 31.17 | Retention and use. |
| 31.18 | |

AUTHORITY: Sec. 809(b) (2) and (3), 90 Stat. 145, Pub. L. 94-210.

§ 31.1 Purpose.

The purpose of these guidelines is to prescribe policies and procedures for administering the funding of projects involving the conversion of abandoned railroad rights-of-way to recreation and conservation uses. Because of the limited funding available, it is the Bureau of Outdoor Recreation's intent to select a few projects which effectively demonstrate the conversion of abandoned railroad rights-of-way for recreation and conservation purposes in a timely manner.

§ 31.2 Definitions.

(a) **Abandoned Railroad Rights-of-Way.** An abandoned railroad right-of-way is the real property used for or formerly used for the operation of railroad trains by a common carrier railroad, upon which the railroad company has, or will cease operations and sell, or otherwise dispose of the company's interest in the real property.

(b) **Project Applicant.** Federal, State, or local governmental agencies.

§ 31.3 Applicability and authority.

The policies and procedures contained herein are applicable to the making of grants to State and local governments and to the making of allocations to Federal agencies under the provisions of Title VIII, section 809(b) (2) and (3)

of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210) (90 Stat. 145). The Secretary of the Interior in consultation with the Secretary of Transportation is responsible for providing financial assistance in accordance with section 809(b) (2) and (3). The Secretary of the Interior's responsibility has been delegated to the Bureau of Outdoor Recreation.

§ 31.4 Scope.

(a) Funding assistance authorized by section 809(b) (2) shall be provided to State and local governmental entities to enable them to acquire and develop abandoned railroad rights-of-way for recreation and conservation purposes and to plan for such acquisition and development. As provided for by law, grants shall be made for not more than 90 percent of the cost of the particular project for which funds are sought.

(b) Allocations authorized by section 809(b) (3) shall be made to Federal agencies to enable them to acquire abandoned railroad rights-of-way. Such allocations shall be made for an amount up to the price paid to the owner of the real property proposed for acquisition plus expenses incidental to acquisition such as title work, surveys, appraisals and relocation.

§ 31.5 Eligible projects.

(a) Abandoned railroad projects will be for recreation and/or conservation purposes including the acquisition of the rights-of-way involved and will be sponsored by a project applicant who has authority to carry out public recreation or conservation programs. Eligible project elements for State and local governmental entities may include:

(1) The acquisition of fee or less than fee interests including long term leases of not less than 25 years and easements which will secure for the project applicant the right to develop and use the property for public recreation and/or conservation purposes.

(2) The development of facilities which are necessary for making rights-of-way usable for public recreation and conservation purposes.

(b) Allocations made to Federal agencies will be made for the acquisition of lands or interests in lands, including incidental acquisition expenses, located in existing areas where such acquisition is authorized by law and the land is usable for public recreation and conservation purposes.

(c) Abandoned railroad rights-of-way projects proposed by State and local governmental entities and Federal agencies shall be in accordance with the State comprehensive outdoor recreation plan for the State in which the project is located.

§ 31.6 Application procedures.

State and local units of government applying for grants under this program will comply with the regulations, policies, guidelines, and requirements of OMB Circular No. A-95 (Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects),

Federal Management Circulars 74-4 (Cost Principles Applicable to Grants and Contracts with State and Local Governments) and OMB Circular No. A-102 (Uniform Administrative Requirements for Grants-in-Aid to State and local governments).

(a) **Preapplications.** A preapplication will be used to initially screen and select those projects for which a final application may be submitted for assistance. The preapplication will include:

(1) A Standard Form 424 (may be obtained from applicable Regional Offices of the Bureau of Outdoor Recreation).

(2) A map showing the location of the property to be acquired and/or developed and its relation to surrounding land uses including other recreation/conservation resources.

(3) A program narrative statement.

(i) Where acquisition is involved the number of acres and real property interest to be acquired. Attach a copy of the abandonment notice.

(ii) The type of recreational/conservation use planned for the project site including the type of development to be included in the project (if a site plan is available it should be submitted).

(iii) A statement indicating separately the estimated acquisition and development costs.

(iv) A time schedule for completing the acquisition and development.

(v) A brief discussion of how the project embodies the selection criteria outlined in section 31.8.

(4) Indicate any known problems that will occur in obtaining clear title to the right-of-way.

(5) Because of the limited funds available applicants are encouraged to provide an alternative plan indicating a viable segment of the overall project which could possibly be funded at a lower amount in lieu of the complete project.

(b) **Applications.** For those State and local projects selected the applicant shall submit the standard application provided for in Attachment M of OMB Circular A-102. An application package developed for this program will be available from the Bureau of Outdoor Recreation Regional Offices. The following application requirements will apply (information submitted with the preapplication will not be required again):

(1) **A-95 Clearinghouse Review.** The applicant will obtain and include in the application, State and areawide clearinghouse comments in accordance with OMB Circular A-95.

(2) **National Environmental Policy Act of 1969 (Pub. L. 91-190).** The Bureau of Outdoor Recreation will review the environmental information developed by the Interstate Commerce Commission relative to the abandonment to determine if additional information is required to adequately assess the environmental impact of the project and determine the need for an environmental impact statement. Where necessary the applicant will provide additional information from which the Bureau can assess the environmental impact. The format for such information will be provided by the Bureau.

(3) **National Historic Preservation Act of 1969 and Executive Order 11593.** The applicant shall provide the State's Historic Preservation Officer with a copy of the project proposal and allow him 30 days in which to comment on the effect of the proposed project. Such comments will indicate whether the project will have any effect on a site in, or eligible for nomination to the National Register of Historic Places. The comments of the SHPO will be included with the application.

(4) **Flood Disaster Protection Act of 1973 (Pub. L. 93-234).** Applicants will be required to purchase flood insurance for acquisition or development of insurable improvements located in a flood plain area identified by the Secretary of Housing and Urban Development as an area which has special flood hazards.

(5) **Corps of Engineers Permits Requirements.** For development projects requiring a Corps of Engineers permit under Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Federal Water Pollution Control Act of 1972, applicants will include evidence in the application that action has been initiated to obtain such permit.

(6) **Section 7 of the Endangered Species Act of 1973.** The applicant, through the submission of environmental information, and in consultation with the Bureau of Outdoor Recreation Regional Office will indicate any known project conflict with section 7 of the Endangered Species Act of 1973.

(7) **Plans and Maps.** Each application will include copies of State, county, or city maps showing the geographic location of the project and its relation to surrounding land uses including other recreation/conservation resources. Where development is included in the project, a site plan of the proposed improvements will be provided along with a breakdown of the estimated development costs. For the acquisition, the application will include a schedule listing the parcels to be acquired, estimated linear mileage and acreage of each, the estimated value of each parcel and the estimated date of acquisition.

(8) In addition to the narrative required by Part IV of the standard application, the following information will be provided:

(i) The type of recreation/conservation activity intended for the project site.

(ii) The time schedule for completing the project and plans for operation and maintenance; and

(iii) A brief discussion of how the project embodies the selection criteria outlined in section 31.8.

(c) **Content of the Proposal by Federal Agencies.** Each proposal should include the following minimum information (preapplication not required):

(1) Identification and description of the property proposed for acquisition.

(2) A statement indicating the recreational and/or conservation use planned for the acquired rights-of-way and the relationship of such use to land now administered by the Federal agency proposing acquisition.

(3) A map showing the location of the property in relation to land now administered by the Federal agency proposing acquisition.

(4) The real property interest proposed for acquisition.

(5) An environmental assessment of the acquisition and subsequent development, if proposed.

(6) A citation of the statutory or other authority under which the land would be acquired and a discussion of how the proposed acquisition is in accord with the authority for acquisition.

(7) The funds being requested for the project including a summary of the estimated cost of the land and costs incidental to acquisition.

(8) A discussion of how acquisition of the rights-of-way and subsequent development embodies the selection criteria outlined in section 31.8.

(d) *Preapplication.* (1) Projects sponsored by State, local, or Federal applicants shall be submitted to the appropriate Bureau of Outdoor Recreation Regional Office.

(2) Projects will be considered for funding on a quarterly basis until available funds have been obligated to approved projects. The first project submission quarter will begin with the first of the fiscal year. Funds not utilized in one quarter will be available for the next. Once all funds have been obligated, projects will not be accepted until additional appropriations become available.

§ 31.7 Project selection and funding procedures.

(a) The Bureau of Outdoor Recreation Regional Office will review all preapplications and Federal proposals to insure application completeness and eligibility. A copy of eligible preapplications or Federal proposals and supporting information and data will be submitted to the Washington Office of BOR for final review and selection. An information copy of each project preapplication and proposal will be submitted to the State Liaison Officer designated to coordinate Land and Water Conservation Fund activities.

(b) The Washington Office of the Bureau of Outdoor Recreation will evaluate all projects submitted by the Regional Offices. Final selection of projects to be funded shall be by the Director of the Bureau of Outdoor Recreation.

(c) State and local projects selected for funding will be approved and funds obligated by the appropriate Bureau of Outdoor Recreation Regional Director. Funds will not be obligated until the Bureau has met with the applicant to discuss the terms, conditions, and procedures required by the grant.

(d) Federal agency sponsored projects will be funded by transfer of funds from the Bureau of Outdoor Recreation to the sponsoring agency up to the amount of the project cost as shown in the agency's approved application.

§ 31.8 Project selection criteria.

Those projects which best meet the following criteria will be selected to receive assistance:

(a) Projects which have cleared abandonment procedures and for which sufficient control and tenure of land can be assured, in order that the project can be accomplished shortly after project approval.

(b) Projects which are located or originate in Standard Metropolitan Statistical Areas.

(c) The degree to which the project results in a facility which demonstrates maximum beneficial public use of the property acquired. (For example, the diversity of recreation/conservation opportunities provided.)

(d) The ease of accessibility to large numbers of potential users.

(e) The effectiveness of the project in enhancing existing Federal, State, or local recreation/conservation resources. (For example, the ability of the project to tie together existing recreation/conservation resources.)

(f) Whether use of the right-of-way for recreation/conservation purposes has been identified in existing State, Federal, or local plans.

(g) The degree to which the project advances new ideas in recreation/conservation use and promotes nonmotorized forms of transportation such as commuting by bicycle.

(h) The recreation/conservation potential of the environment traversed by the right-of-way.

(i) The energy conservation potential of using the right-of-way for recreation and/or commuting.

(j) The urgency of the acquisition as reflected by the plans of the owner of record to sell the property to persons other than the project sponsor.

(k) The degree to which Federal, State or local land use controls will protect the recreation and conservation values of the right-of-way from encroachment by conflicting uses of surrounding land.

(l) State and local projects involving the development of abandoned railroad rights-of-way which do not include the acquisition of the rights-of-way will be given lower funding priority than projects involving both acquisition and development.

§ 31.9 Project costs (state and local projects).

To be eligible, acquisition and development costs must be incurred after the date of project approval and during the project period. The project period will be indicated in the project application. Waivers will be granted to proceed with the acquisition prior to project approval if the applicant can show there is a need for immediate action.

Development costs are first incurred at the start of actual physical work on the project site. Acquisition costs are incurred on the date when the applicant makes full payment or accepts the deed or other appropriate conveyance. Project-related planning costs outlined in

subparagraph 31.9(a)(3), may be incurred prior to project approval. The date from which they were incurred must be indicated in the project application.

(a) The types of project costs that are eligible for funding under this program are:

(1) Acquisition costs will be assisted on the basis of the price paid or the appraised fair market value, whichever is less. Costs incurred pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, appraisal costs and other reasonable incidental costs associated with the acquisition.

(2) Construction costs associated with developing the right-of-way for recreation use.

(3) Project-related planning required for the acquisition, development and use of the abandoned rights-of-way including master planning, the preparation of development plans and specifications and surveys.

(4) Legal costs, audit costs, inspection fees, and project administration costs.

(b) Cost overruns will not be eligible for reimbursement. This means that no additional funding will be extended once a project is approved. Any cost overrun incurred on a project must be funded by the grantee.

(c) Principles and standards for determining costs applicable to State and local grants are found in Federal Management Circular 74-4 and Part 670 of the Bureau of Outdoor Recreation Manual.

§ 31.10 Matching share.

The State or local applicant's matching share may consist of cash, or in-kind contributions consistent with guidelines set forth in Attachment F of OMB Circular A-102.

§ 31.11 Project performance.

The State or local applicant shall be responsible for insuring the project is carried through to stages of completion acceptable to the Bureau of Outdoor Recreation with reasonable promptness. Financial assistance may be terminated upon determination by the Bureau of Outdoor Recreation that satisfactory progress has not been maintained.

(a) *Acquisition Procedures.* All acquisition must conform to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, as set forth in the Bureau of Outdoor Recreation Manual, Part 645.

Real property must be appraised before the initiation of negotiations, and the property owner given a statement of just compensation for his property. In no event can the amount established as just compensation for his property. In no case value established by the approved appraisal.

(1) *Appraisals.* The State or local applicant should secure at least one appraisal of the appropriate type by a qualified professional appraiser for each parcel to be acquired. Standards for ap-

praisals shall be consistent with the current Uniform Appraisal Standards for Federal Land Acquisition, published by the Land Acquisition Conference and as set forth in Bureau of Outdoor Recreation Manual, paragraph 675.2.5.

(2) *Appraisal Review.* The appraisal will be reviewed and approved by a qualified staff or fee appraiser prior to the initiation of negotiations. The Bureau reserves the right to review all appraisal documentation prior to or after the acquisition.

(3) *Record Retention.* All documentation supporting the acquisition of land and improvements, or interests therein, must be kept available for examination by duly authorized representatives of the Bureau, the Department of the Interior and the General Accounting Office. All such records shall be retained and be available for inspection for a period of three years after final payment by the Federal Government.

(b) *Development Procedures.* Development work may be accomplished by contract or by force account. Allowable construction costs cover all necessary construction activities, from site preparation to completion of the facility.

(1) *Construction by Force Account.* Labor costs charged to a project for force account work will be based on payrolls documented and approved in accordance with generally accepted accounting practices of the State or local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employee chargeable to more than one cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort. Costs for equipment owned by the participant may be charged against the project based on an equipment use rate developed by the participant in accordance with guidelines provided by the Bureau of Outdoor Recreation. Other costs such as material costs will be charged to a project as outlined in OMB Circular A-102 and the Bureau of Outdoor Recreation Manual, Part 670.

(2) *Construction by Contract.* (i) *Bids and Awards.* Competitive open bidding shall be required for contracts in excess of \$10,000 in accordance with Attachment O of OMB Circular A-102.

(ii) *Equal Employment Opportunity.* All construction contracts awarded by recipients and their contractors, or subgrantees having a value of more than \$10,000 shall contain a provision requiring compliance with Executive Order No. 11246, entitled "Equal Employment Opportunity" as supplemented in Department of Labor Regulations (41 CFR, Part 60). Equal employment contract compliance requirements for "Home-town" or "Imposed" Plan areas will be followed.

(iii) The State or local applicant will comply with all other procurement standards set forth in Attachment O of OMB Circular A-102.

(3) *Construction Planning Services.* The applicant is responsible for:

(i) Providing all engineering services necessary for all design and construction of Fund-assisted projects.

(ii) Providing an internal technical review of all construction plans and specifications.

(iii) Insuring that construction plans and specifications meet applicable health and safety standards of the State.

(iv) The Bureau reserves the right to require the submission of plans and specifications for any development project prior to project approval.

(v) All construction plans, specifications, contracts, and change orders shall be retained by the participant for a period of three years after final payment on a project is made by the Bureau, or for a longer period of time if so requested by the Bureau.

(4) All facilities developed will be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped" Number A117.1-1961, as modified (41 CFR 101-17.703). The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

§ 31.12 Standards for grantee financial management systems.

The grantees' Financial Management Systems shall meet the minimum standards set forth in OMB Circular A-102, Attachment G.

§ 31.13 Performance reports.

Performance reports shall be submitted quarterly for all active projects. The performance reports shall briefly present the following:

(a) The status of the work required under the project scope.

(b) Other pertinent information including, when appropriate, time schedule delays and other similar problems encountered and their expected impact on the project, etc.

§ 31.14 Project inspections.

All State and local projects will receive a final inspection by the Bureau. Final inspections will be conducted prior to final payment of Federal funds. Progress inspections will be conducted as deemed necessary by the Bureau. Preapproval inspections will also be conducted prior to project selection at the discretion of the appropriate Bureau Regional Office.

§ 31.15 Financial reporting requirements and reimbursements.

Payments to applicants will either be by reimbursement by Treasury check or advance by Treasury check.

(a) *Reimbursement by Treasury Check.* The Outlay Report and Request for Reimbursement (OMB Circular A-102, Attachment H) is the standard form to be used for requesting reimbursement for acquisition and development. Requests for reimbursement shall be submitted by "the grantee" not more frequently than monthly. The requests for reimbursement shall be submitted by the grantee in an original and three copies to the appropriate Regional Office. The

Regions will forward to the Division of Budget and Finance in Washington, D.C., the original and two copies.

(b) *Advance by Treasury Check.* The Request for Advance or Reimbursement (OMB Circular A-102, Attachment H) is the standard form for all requests for advance. An advance by Treasury check is a payment made by Treasury check to a grantee upon its request, or through the use of a predetermined payment schedule. Advances shall be limited to the minimum amounts needed and shall be timed to be in accord with only the actual cash requirements of the grantee in carrying out the purpose of the approved project. Advances shall be limited to one month's cash requirements. The request for advance shall be submitted by the grantee in an original and three copies to the appropriate Regional Office. The Region will forward to the Division of Budget and Finance in Washington, D.C., the original and two copies.

Grantees must submit an "Outlay Report and Request for Reimbursement for Construction Programs" monthly showing expenditures made the previous month from the funds advanced.

Upon Bureau acceptance of the expenditures involved, these reports shall be used as the basis for liquidating obligations, reducing the advance account, and making charges to the appropriate cost account.

(c) *Report of Federal Cash Transactions (OMB Circular A-102, Attachment H).* When funds are advanced with Treasury checks, the grantee shall submit a report to monitor the cash advance. Grantees shall submit the original and three copies no later than 15 working days following the end of each quarter.

§ 31.16 Retention and custodial requirements for records.

(a) Financial records, supporting documents, statistical records, and other records pertinent to a grant program shall be retained for a period of three years after final payment. The records shall be retained beyond the three-year period if audit findings have not been resolved.

(b) The Secretary of the Interior and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the State and local governments and their subgrantees which are pertinent to a specific project for the purpose of making audit, examinations, excerpts, and transcripts.

§ 31.17 Project termination and settlement procedures.

Project Termination and Settlement Procedures will be in accord with Bureau of Outdoor Recreation Manual, Chapter 675.8.

§ 31.18 Retention and use.

Property acquired or developed by State and local governments with section 809(b) assistance will be available to the general public and retained for recreation/conservation use. The acquiring agency will cause to have placed in the

legal title to the property a restriction which precludes its conversion to other than public recreation/conservation use without the consent of the Secretary of the Interior.

The Secretary shall not permit conversion to any use that would preclude future reactivation of rail transportation on such right-of-way.

[FR Doc. 77-29630 Filed 10-7-77; 8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND REGULATED ACTIVITIES

[Docket No. 76-40; General Order No. 38]

PART 531—PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

AGENCY: Federal Maritime Commission.

ACTION: Adoption of final rules.

SUMMARY: Part 531 has been substantially revised, updated and renumbered. Most changes were for the purpose of clarifying existing Commission practices, but several new requirements and procedures have been added. The major changes include: specific regulations for through intermodal transportation; a requirement that tariffs be published on standard sized paper in loose-leaf, rather than bound form; a requirement that carriers promulgate 15 "minimum" tariff rules and publish them in a specific sequence; a requirement that tariff matter filed with the Commission be simultaneously served upon tariff subscribers; a requirement that special permission applications be filed upon five days notice except in extraordinary circumstances; specific procedures for the filing of project rates; additional definitions to govern certain terms commonly appearing in tariffs (especially terms which affect intermodal transportation); and more detailed procedures governing the "adoption" of another carrier's tariff.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, 1100 L Street NW., Washington, D.C. 20573 (202-523-5725).

SUPPLEMENTARY INFORMATION: This proceeding was commenced by a Notice of Proposed Rulemaking (Notice) inviting comments on a proposal to revise, update and republish the Commission's domestic tariff regulations which included amendments adding to and significantly altering existing tariff filing requirements (41 FR 32899, August 6, 1976). Comments were received from Mr. L. A. Parish; the Institute of International Container Lessors (IICL); Matson Navigation Company (Matson); the Military Sealift Command (MSC); Household Goods Carriers' Bureau

See footnotes at end of article.

(HGCB); Puerto Rico Maritime Shipping Authority (PRMSA); Sea-Land Service, Inc. (Sea-Land); the Commission's Bureau of Hearing Counsel (Hearing Counsel); and Trailer Marine Transport Corporation (TMT). Reply Comments were submitted by Matson, IICL, HGCB, and MSC.

A total of 53 sections or subsections were objected to in the initial round of comments, but Hearing Counsel proposed modifications to the original proposal which eliminated the stated objections to 29 of the challenged provisions. These reconciliatory Hearing Counsel proposals have been employed in the final regulations. The remaining controverted points, identified by the section numbers designated in the original proposal, are discussed below.

A central purpose in proposing the Part 531 amendments was to eliminate tariff practices which are overly complex or of marginal utility in light of modern transportation conditions. Steamship tariffs and the Commission's regulations alike should be readily understandable to all persons seeking transportation by sea and not just to established tariff publication specialists. Further revisions may well be required before this goal is reached, but we have striven today to adopt rules which are both thoroughly and clearly stated. Most of the original section numbers were reordered in the version of the rules which has been adopted (final version). This renumbering was undertaken as a clarifying measure and not to substantively change the regulations. Similarly, the final version contains a number of editorial changes intended to simplify or clarify language employed in the original proposal and not to alter its meaning.

1. *Section 531.0. Scope and Exemptions.* The Notice defined the Commission's interstate commerce jurisdiction in such a way as to omit the Alaska and Hawaii trades. Matson and Hearing Counsel both recognized this omission, but were unable to agree upon the wording of a substitute version. We have essentially separated original section 531.0 into two different sections. The final version of section 531.0 is considerably shorter than the original proposal and states that Part 531 applies to all transportation (including through intermodal transportation) offered by common carriers subject to the Shipping Act and defines these "domestic offshore carriers" in non-statutory terms. Through transportation to Alaska and Hawaii offered under tariffs on file exclusively with the Interstate Commerce Commission (ICC) pursuant to 49 U.S.C. 36(c), 905(b) or 1018 has been included as an exemption in final section 531.1, thereby eliminating a second Matson objection.

2. *Section 531.1. Definitions.* Mr. Parish objected to the absence of a specific statement restricting the application of the proposed definitions to "this regulation only," but neglected to explain why such a disclaimer was necessary. Although these definitions are not intended to limit the activities of domestic offshore carriers outside of the tariff promulgation

sphere, neither does the Commission intend for them to be applied restrictively. Accordingly, final section 531.2 states that the definitions are to be used in interpreting tariffs filed pursuant to Part 531 as well as to the Part 531 regulations themselves.

3. *Section 531.1(m) and Section 531.14. Intermodal Transportation.* Sea-Land states that the Commission lacks jurisdiction over through routes formed in conjunction with carriers other than the "common carriers by water" mentioned in Intercoastal Shipping Act section 2. TMT contends that the Commission has authority to "accept intermodal joint rates" between FMC regulated domestic offshore carriers and carriers regulated by other agencies. The latter view must prevail in domestic offshore commerce just as it has in foreign commerce, see *Commonwealth of Pennsylvania v. Interstate Commerce Commission*, — F. 2d —, D.C. Cir. No. 76-1558, June 20, 1977, 16 SRR 195, and the final rules require the filing of through intermodal tariffs (final section 531.8). The acceptance of such tariffs and the regulation of practices clearly ancillary to the all water transportation of domestic offshore carriers does not represent an attempt to assert substantive authority over inland activities within the exclusive jurisdiction of the ICC or the Civil Aeronautics Board (CAB). The Commission's responsibilities to prevent unfair and unreasonable rates and practices pursuant to Shipping Act sections 16 First and 18(a) and Intercoastal Shipping Act sections, 2, 3, and 4, is sufficient to support the requirement that domestic offshore carriers file their entire through rate with the FMC as well as their port-to-port rates when they provide through transportation to the public. Shipping Act section 33 does not prohibit the Commission from obtaining tariff information which is also submitted to the ICC. *Alabama Great Southern Railroad Company v. Federal Maritime Commission*, 379 F. 2d 100 (D.C. Cir. 1967); we do not intend to "concurrently regulate" the inland rates and practices of participating overland carriers.

4. *Section 531.1(t) and Section 531.5(m). Filing of Project Rates.* The proposed rules permitted the filing (without special permission) of project rates which met certain specifications. Governmental and charitable shipments were not included within the definition of "project rates," however, and MSC objected to this exclusion. Matson stated that project rates should be banned in principle because they allegedly result in the "subsidization" of project shippers. The final rule has been modified to include major, one time only, governmental and charitable construction or relief projects otherwise eligible for project rates under the standards of final section 531.6(m). Matson's fear that project rates will unfairly subsidize project shippers is unwarranted inasmuch as the rule requires each such rate to be accompanied by a showing that the rate covers all of the carriers' variable costs and makes more than a *de minimis* contribution to fixed expenses.

5. *Section 531.1(u). Proportional Rates.* The proposed rule defined "proportional rates" as those which are "predicated on a prior or subsequent movement." Matson proposed that the definition be limited to rates for cargo "moving beyond the carrier's own line" without indicating why such a limitation was necessary or desirable. Final section 531.1(p) contains essentially the same definition as the original proposal, but has been modified for the sake of clarity.

6. *Section 531.1(v). Definition of Substituted Service.* The proposed definition limited the use of "substituted service" to the occasional use of other carriers or other modes of transportation necessitated by unexpected operating exigencies. Matson claimed that this limitation is inconsistent with present industry practices and suggested an amendment allowing "substitute service" to be offered on a regular basis. We have rejected Matson's proposal. It is our intention to alter industry practices in this regard. Regular arrangements for serving a locality indirectly on a single bill of lading by substituting the facilities of another carrier must be treated as joint through transportation (whether intermodal or not), and not as the through service of a single carrier.

7. *Section 531.1(z) 531.1(aa). Definitions of Through Rate and Through Route.* Matson objected to the original proposal's failure to state that certain joint through rates in the Alaska and Hawaii trades are exclusively regulated by the ICC. Our revisions to the Scope and Exemptions sections (final sections 531.0 and 531.1) specifically mention 49 U.S.C. 316(c) and further reference is unnecessary. We have, however, deleted the requirement that a through route be offered under a single through bill of lading in response to Mr. Parish's observations on that point. Otherwise, final sections 531.1(v) and (w) reflect our original proposal despite considerable modifications of an editorial nature. Final section 531.1(w) defines "through route" as an offering of a single domestic offshore carrier, two or more FMC regulated water carriers, or a domestic offshore carrier and one or more other carriers. Whether a "through rate" is formed by combining local or proportional rates is, by itself, irrelevant for tariff purposes, and requirements relating to such combinations have been deleted from final section 531.1(v).

8. *Section 531.1(bb). Definition of Transshipment.* Mr. Parish contended that the original proposal should expressly disclaim any applicability to cargo transfers between commonly controlled carriers. Such an exclusion was intended and should have been evident from the proposed definition which spoke in terms of cargo transfers between "different common carriers by water." We have, however, modified the original proposal in a manner which narrows this exclusion in some respects. The final rule defines "transshipment" as the physical transfer of cargo from a vessel operating domestic offshore carrier to any other carrier (section 531.1

See footnotes at end of document.

(x)) and the definition of "carrier" has been modified to indicate that commonly owned or controlled carriers operating in different transportation modes shall be considered separate carriers for tariff filing purposes (section 531.1(c)). We have also provided that ICC regulated Part III carriage shall be considered a different "mode" of transportation than domestic offshore water carriage for tariff filing purposes (section 531.1(u)). These regulations are intended to key the Commission's through intermodal tariff rules to the ICC's interpretation of "transshipment" under section 302(i)(3)(B) of the Interstate Commerce Act, where the term has critical jurisdictional significance. See generally *Sacramento-Yolo Port District*, 341 I.C.C. 105, 111-113 (1972).

9. *Section 531.1(i). Definition of Cargo Interchange.* The proposed definition of "interchange" has been deleted from the final rules because the term was not employed in the regulations and because part of the original definition was incorporated into the final definition of "transshipment." It is assumed, however, that "interchange" will be employed in tariffs to describe cargo transfers which are not "transshipments" (i.e., transfers between vessels of the same carrier or transfers between non-FMC regulated carriers).

10. *Section 531.1(m). Definition of Port.* The proposed subsection defined a port as "a place where actual water transportation subject to the Shipping Act commences or terminates as to any particular movement of cargo." Matson commented that the terms "commence" or "terminate" could be construed as omitting the situation where an ocean going vessel transships its cargo during through transportation. In order to eliminate any confusion on this point, we have made modifications incorporating Matson's suggestion as well as editorial changes of our own. The final definition (section 531.1(m)) now specifically states that ocean carriage can originate or terminate by "transshipment" as well as by other methods. In the case of non-vessel operating carriers, it is assumed that "actual ocean carriage" begins when the cargo is tendered to the underlying vessel operating carrier.

11. *Section 531.2(b). Series Designation for Government Tariffs.* Matson argued that the repeal of former section 6 of the Intercoastal Shipping Act (Pub. L. 93-487, October 26, 1974) effectively prohibits the publication of tariffs exclusively for government cargo in domestic offshore commerce. This position is clearly erroneous. Section 6 dealt only with the level of government rates. Carriers may, but are not required to, continue offering rates for U.S. Government cargoes provided that any discounts or other privileges provided are reasonable and cost justified under accepted Shipping Act standards.

12. *Section 531.2(c). Thirty Days Notice of Effective Date.* Matson opposed the proposed elimination of two existing Part 531 regulations which permitted carriers the option of "posting" (filing)

tariffs 45 days prior to their effective date and thereby obtaining a longer period to respond to protests pursuant to section 502.67(b) and at least two days notice of any rate suspensions imposed by the Commission. We have adopted the original proposal with editorial changes. Final section 531.3(f) requires tariff filings to provide a minimum of 30 days notice. Carriers are free to file tariffs which furnish a greater period of notice if they wish, but the procedures employed to protest tariffs (section 502.67(a)) shall remain the same in each instance. Uniform procedures for protesting tariffs allow for greater efficiency in the Commission's administration of Intercoastal Act section 3 and should eliminate a present source of confusion to shippers and carriers alike.

On several occasions shippers have failed to observe the special "25 days before effective date" deadline for filing protests now specified for "posting date" tariffs.

13. *Section 531.2(d) and (3). Service of Tariff Filings on Tariff Subscribers.* PRMSA claims it is unreasonable that PRMSA be required to mail tariff matter to its "large number" of tariff subscribers on or before the time it submits its filing with the Commission. PRMSA further states that a simultaneous service requirement could delay its rate changes for as long as three days while it is preparing subscriber mailings. No other carrier objected to the simultaneous service requirement, and Sea-Land specifically stated that it had no objection to it. Final section 531.3(h) incorporates the original proposal. Although some carriers may find it necessary to begin planning their tariff filings somewhat earlier than they do now, there is no reason to believe such advance planning will cause inefficiencies or hardships as a general rule. Simultaneous service will, however, maximize the notice period provided to tariff subscribers and facilitate their participation in the ratemaking process. Should a situation arise where simultaneous service would result in a significant hardship to a carrier, relief can be readily obtained through the special permission process (final section 531.18).

14. *Section 531.2(g). Tariff Filing Receipts.* Matson claimed that the Commission should pay the postage for mailing carriers a receipted copy of their tariff filing transmittal letters because the government enjoys a franking privilege. Final section 531.3(j) incorporates the original proposal—receipts will be provided only to carriers which furnish a stamped self-addressed envelope. The Commission does not have a franking privilege and pays the regular rates of the U.S. Postal Service. Moreover, the primary purpose for requiring carrier provided envelopes is to free the Commission's relatively small staff to work on more substantive matters than the typing of envelopes to receipt what frequently exceeds 100 different tariff filings per week.

15. *Section 531.2(m)(3). Tariffs Must Be "Posted" 30 Days Prior to Their Effective Date.* HGCB argues that the

practice of posting tariffs in advance of their effective date, i.e., making them available for public inspection, would confuse the public, cause delays in effectuating rate changes, and generally impose an unnecessary burden upon carriers. Final section 531.3(o) (3) incorporates the original proposal. Although an express posting requirement was not present in the Commission's previous domestic tariff rules, Intercoastal Shipping Act section 2 unmistakably requires 30 days advance posting, and HGCB has not provided us with detailed or compelling reasons why an exemption from this statutory requirement should be granted. Posting is the only practical method for non-tariff subscribers to obtain the advance notice of tariff changes which is integral to the statutory scheme of carrier initiated rates reflected in the Shipping Act. A well informed shipping public will generally advance the purposes of the Shipping Act and assist the Commission in accomplishing its regulatory duties. Modifications were made in the final rule in response to HGCB's comments, however. These modifications more clearly indicate that "posting" refers to the maintenance of complete and up-to-date tariffs for public inspection during ordinary business hours, and require tariff material which is filed, but not yet effective, to be maintained in a manner which indicates its prospective nature. Carriers are also required to provide members of the public with sufficient access to informed carrier personnel to permit interested persons to accurately ascertain the carrier's present and proposed rates as expressly set forth in the applicable tariff or tariffs.

16. Section 531.3(a). Uniform Tariff Format. HGCB opposed the proposal to change the size of tariff pages from 8 by 11 inches to 8½ by 11 inches and the standard format from bound to loose-leaf because HGCB wishes to avoid the expense of republishing its present tariff. Final section 531.4(a) adopts the original proposal. HGCB represents an extreme minority view in tariff filing matters. Its bound tariff (FMC-1) has rarely been modified since its initial submission in 1949, because HGCB's members essentially offer through transportation service between interior points, and accomplish rate changes by altering their overland charges—charges which are exempt from ICC regulation pursuant to 49 U.S.C. 1002(b) (2). For the Commission's staff and for most carriers and shippers, the use of standard sized paper and a loose-leaf format minimizes difficulties in printing, circulating and maintaining tariff material in an accurate, up-to-date and useful manner. To the extent that HGCB can demonstrate good cause for the waiver of the new format requirements, relief is freely available via the special permission process articulated in final section 531.18. Section 531.19 contemplates that special permission to file bound tariffs will be granted in some instances, and prescribes standards to be followed in such tariffs. Final section 531.19(b) has been altered in response to another HGCB comment to specify

See footnotes at end of document.

cally provide that "saddle stitching" is an acceptable method of fastening bound tariffs.

17. Section 531.4(b) (3). Street Address of Freight Receiving and Disbursing Stations. Mr. Parish and HGCB disapproved the proposal that tariffs list the street addresses of all freight receiving or disbursing stations employed by the filing carrier. Mr. Parish perceived this requirement as an attempt by the Commission to restrict carriers to the use of specific pier facilities, while HGCB complained that its 54 member carriers employ a large number of such stations and HGCB would be required to frequently amend its tariff to reflect changes in these facilities. Final sections 531.5 (b) (3) and (4) incorporate the original proposal with modifications which more clearly indicate that the purpose of the rule is not to require carriers to use a particular facility within a port district, but only to provide shippers with the actual street address of any freight stations which are used. To the extent HGCB can demonstrate that it would be unreasonable to require them to furnish the street addresses of the freight stations employed by their individual members, they may obtain special permission to file tariffs which omit such information.

18. Section 531.4(b) (7) (ii). Effective Date of Rate Changes for Through Intermodal Transportation. Matson claimed the original proposal was unduly vague in its use of the terms "intermodal shipment" and "originating carrier." Final section 531.5(b) (8) (ii) modifies the proposed rule so that it applies to all joint through routes (but not single carrier transportation featuring pickup and delivery service), while retaining the essential requirement that shippers be charged the rate in effect on the day the first (or initiating) carrier takes possession of the cargo.

19. Section 531.4(b) (7) (iv). Container Description Rule. IICL argued for a longer, more precise definition of "container" and claimed that the proposed rule should expressly permit carriers to employ conversion tables which assess proportionately higher rates for the use of nonstandard sized containers. Matson wanted the proposed definitions deleted, or, alternatively, that the definition of "container" be modified to include boxes "with or without wheels"—apparently to accommodate specific provisions in Matson's present tariff. Final section 531.5(b) (7) (xv) has been revised to more clearly state that its intended objective is only to require an adequate description of all equipment used as basis for assessing rates. The rules does not require the use of any particular type of equipment. We find no specific fault with IICL's proposed definition of "container" from a substantive viewpoint, but it is overly complex for our present purpose. The final rule distinguishes "containers" from "trailers" in a simple fashion. Carriers are then required to described each type of container or trailer for which they chose to make rates available. Final section 531.5(b) (7) (xv)

does not forbid the use of conversion tables which discriminate against non-standard equipment. However, any deviations from uniform treatment will be closely scrutinized by the Commission to assure that the discriminatory charges are justified by cost differences or other legitimate transportation considerations.

20. Section 531.5(c). Options as to Applicable Rates Forbidden. MSC found the proposed rule confusing as applied to commodities which may move under either government or civilian cargo classifications, and sought assurances that certain "options" presently available to military cargo which are under investigation in FMC Docket No. 75-20 will continue to be permitted under the new Part 531 regulations. Final section 531.6 (a) contains a simplified version of the original proposal which is not intended to directly address the validity of shipper "options" such as the choice between a genuine "FAK" rate or a specific commodity rate. The final rule merely forbids the filing of rates which are clearly duplicative, conflicting or ambiguous. The possibility that a tariff allows a given commodity to qualify (upon meeting expressly stated conditions for carriage) for more than one rate when the different rates in question reflect bona fide differences in transportation conditions is not grounds for rejection or cancellation.

21. Section 531.8(g) (6). Notarization of Special Permission Applications. PRMSA objected to the original proposal because Puerto Rican law allows only attorneys to be notary publics and, PRMSA claims, attorneys charge too much for notarial services. MSC suggested that formal attestation be replaced with a signed "unsworn declaration under penalty of perjury" pursuant to recently enacted Pub. L. 94-550, 28 U.S.C. 1746. Final section 531.18(e) (3) incorporates MSC's suggestion.

22. Section 531.9(a). Collections or Absorptions of Terminal Charges. Matson contended that the proposed regulation was unclear and unworkable to the extent it required the "dollar amounts" of collections or absorptions to be stated in the carrier's tariff, primarily because the exact amounts involved often vary from day to day. Final section 531.9 has been modified and reorganized to eliminate the features complained of by Matson. The final rule requires a full description of all terminal services provided as part of a tariffed transportation service, whether charged for separately or included in the line haul rate. Dollar amounts must be stated only when the carrier collects a separate charge for services it performs itself (or through agents) or offers shippers a terminal allowance in lieu of performing specified services—i.e., when the carrier can control the dollar amounts involved. When a third party (not the carrier or its agents) performs terminal services which are charged against the cargo, the tariff must advise the shipper of this fact, but may refer to a terminal tariff or other governing publication for an exact statement of the charges in question.

23. Section 531.14(d) (1). Publication of Exact Rate Divisions Received For Through Intermodal Transportation. TMT claimed that the rate divisions received by participating carriers do not interest through route shippers, and the public availability of such information would only aggravate local shippers who pay higher rates for local transportation between the same points. The ICC permits joint through route carriers to file rate divisions on a confidential basis and TMT suggests that the Commission adopt the same policy. Final section 531.8(a) (5) contains the original proposal, modified by editorial changes and by the addition of a requirement that "charges" applicable to the through transportation in question also be broken out on a port-to-port basis. This Commission has always required public disclosure of through route rate divisions (although not always in tariff form) and has found that public reaction to such divisions is valuable in assessing the fairness and usefulness of the through rate. No valid reason occurs to us for deviating from this practice in the case of through intermodal transportation, especially since it involves rate divisions subject to the regulatory jurisdiction of different administrative agencies.

24. Section 531.1(s). Definition of Tariff Posting. No comments were received concerning the original proposal, but modifications were made which limit the applicability of "post" to the maintenance of tariffs for public inspection, thereby more clearly distinguishing the term from "filing" which is the submission of tariff matter to the Commission.

25. Section 531.16(a) (2). Seasonal Transportation. No comments were received concerning the original proposal, but subparagraph (a) (2) has been deleted to more clearly indicate that tariffs which are filed without an express reference to their seasonal nature are subject to rejection.

26. Sections 531.17(c) (3) and (4); section 531.17(d). Arrangement of Tariffs in an Index of Tariffs. No comments were received concerning the original proposal, but modifications were made in final section 531.16(c) to simplify the proposed requirements. The final rule now requires Tariff Indices to be arranged by type of tariff, listed in the order of their FMC series and number designations. Paragraph (d) was modified to require Tariff Indices to be amended within 30 days after any change in the information contained therein, rather than by the periodic reissuance of the Index.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 552); sections 15, 16, 18(a), 21, and 43 of the Shipping Act, 1916 (46 U.S.C. 814-815, 817(a), 820, and 841a); and sections 2, 3, and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844-845a), *It is ordered*, That the Commission's Domestic Commerce Tariff Rules (46 CFR Part 531) are amended as set forth in the attached Appendix; and

It is further ordered, That the aforesaid amendments shall take effect on

See footnotes at end of article.

January 1, 1978, provided that General Accounting Office clearance pursuant to 44 U.S.C. 3512 is obtained prior to that date. New or reissued tariffs tendered for filing on or after January 1, 1978 shall be fully subject to the new regulations. Tariff amendments submitted on or after the effective date will, however, continue to be accepted in the same format as the tariff being amended until January 1, 1979. By the latter date, all tariff material employed by carriers engaged in domestic offshore commerce shall conform to the requirements of revised Part 531. Tariffs on file at that time which do not meet these requirements shall be cancelled; and

It is further ordered, That the aforesaid amendments to Part 531 be designated as General Order 38; and

It is further ordered, That the exemption from the Shipping and Intercoastal Shipping Acts granted to Foss Launch & Tug Co., Foss Alaska Line, Inc., Puget Sound Tug & Barge Co., and Alaska Barge & Transport, Inc., through December 31, 1978 (41 FR 6070, Feb. 11, 1976) shall not be affected by the adoption of the aforesaid amendments; and

It is further ordered, That existing grants of special permission excusing compliance with domestic commerce tariff filing requirements shall continue according to their original terms until further action of the Commission; and

It is further ordered, That the "Motion to Accept Late Filed Comments" of Trailer Marine Transport Corporation is denied.

By Order of the Commission.

FRANCIS C. HURNEY,
Secretary.

46 CFR Part 531 is revised to read as follows:

Sec.	Scope.
531.0	Scope.
531.1	Exemptions.
531.2	Definitions.
531.3	Filing of tariffs; general.
531.4	Form and preparation of tariffs.
531.5	Contents of tariffs.
531.6	Statement of rates and charges.
531.7	[Reserved].
531.8	Tariffs containing provisions for through intermodal transportation.
531.9	Terminal rules, charges and allowances.
531.10	Amendments to tariffs.
531.11	Supplements to tariffs.
531.12	Cancellation of tariffs.
531.13	Suspension of tariff matter.
531.14	Governing tariffs.
531.15	Tariffs applicable to seasonal transportation service.
531.16	Index of tariffs.
531.17	Transfer of operations, transfer of control, and changes in carrier name.
531.18	Applications for special permission.
531.19	Special rules for bound tariffs filed pursuant to special permission authority.

AUTHORITY: Sections 15, 16, 18(a) and 43 of the Shipping Act, 1916 (46 U.S.C. 814-815, 817(a) and 841a); Sections 2, 3 and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844-845a).

§ 531.0 Scope.

These regulations govern the publication, filing, and posting of tariffs for the transportation of property or passengers performed by common carriers by water in interstate commerce which are subject to the Shipping Act, 1916, as amended, including through transportation offered in conjunction with one or more common carriers not subject to said Shipping Act. Common carriers subject to the Shipping Act are those vessel operating and nonvessel operating carriers providing transportation by water between: (a) Any of the 48 contiguous states or the District of Columbia and Alaska or Hawaii; (b) any state or the District of Columbia and any territory, commonwealth, possession or district (excluding the District of Columbia); (c) Alaska and Hawaii; (d) any territory, commonwealth, possession or district (excluding the District of Columbia) and any other such territory, commonwealth, possession, or district; and (e) places in the same district, territory, commonwealth or possession (excluding the District of Columbia); and which are not solely engaged in transportation subject to 49 U.S.C. 316(c), 49 U.S.C. 905(b), or 49 U.S.C. 1018.

§ 531.1 Exemptions.

The following services are exempt from the tariff filing requirements of the Act and the rules of this Part:

(a) Transportation subject to 49 U.S.C. 316(c), 49 U.S.C. 905(b), or 49 U.S.C. 1018;

(b) Round trip passenger excursion voyages;

(c) Transportation by vessels with a cargo carrying capacity of 100 tons or less, or with an indicated horsepower of 100 or less; *Provided*, That such vessels: (1) Are not employed by or under the common control or management of a domestic offshore carrier which operates vessels in excess of these limits; (2) are not operated as part of a through route with another domestic offshore carrier; and (3) are not performing lighterage services in connection with or on behalf of another domestic offshore carrier;

(d) Transportation of passengers, commercial buses carrying passengers, personal vehicles and personal effects by vessels operated by the State of Alaska between Seattle, Washington, and ports in Southeastern Alaska; *Provided*, That said personal vehicles and personal effects are not transported for the purpose of sale, lease, or other commercial activities;

(e) Transportation between the continental United States and Puerto Rico of bulk liquid cargoes in quantities of not less than 200,000 gallons per shipment (i.e., a single shipper to a single consignee); such shipments are carried in tank vessels designed exclusively for bulk liquid cargoes and certified under regulations approved by the Coast Guard pursuant to 46 U.S.C. 391(a).

§ 531.2 Definitions.

The following shall apply to the regulations of this Part and to all tariffs filed pursuant to them:

(a) *Amendment.* Any change, alteration, correction or modification of an existing tariff, including tariff supplements.

(b) *Act.* The Shipping Act, 1916, as amended (including the Intercoastal Shipping Act, 1933, and the Transportation Act of 1940).

(c) *Carrier.* Any common carrier in interstate commerce. Commonly owned or controlled carriers operating in different transportation modes shall be considered separate carriers for purposes of this Part (see § 531.2(u)).

(d) *Class Rates.* Transportation rates applied to specific groups or classes of commodities which are established in accordance with a governing commodity classification scheme.

(e) *Classification.* A publication (not a rate tariff) establishing a scheme for grouping or classifying commodities and for applying an accompanying class rate tariff (or a section of a tariff containing class rates) to the various commodity classes established.

(f) *Commission.* The Federal Maritime Commission.

(g) *Commodity Rates.* Transportation rates applied to commodities specifically named or described in the tariff in which the rates are published.

(h) *Domestic Offshore Carrier.* A common carrier by water in interstate commerce as defined by section 1 of the Act.

(i) *File, Filed, Filing (of Tariff Matter).* The actual receipt by the Federal Maritime Commission at its offices in Washington, D.C., during regular business hours.

(j) *Joint Rates.* Rates agreed upon by two or more carriers for transportation jointly offered over all or part of the routes of each participating carrier.

(k) *Local Rates.* Rates for transportation between two points over the route of a single carrier, the application of which is not contingent upon a prior or subsequent movement of the cargo or passengers carried.

(l) *Person.* Includes individuals, firms, partnerships, associations, companies, corporations, joint stock associations, trustees, receivers, agents, assignees and personal representatives.

(m) *Port.* A place at which a domestic offshore carrier originates or terminates (by transshipment or otherwise) its actual ocean carriage of property or passengers as to any particular transportation movement.

(n) *Post, Posted, Posting (Of Tariff Matter).* The maintenance of a complete, up-to-date tariff at local and general offices of the carriers party to the tariff under conditions assuring its availability for inspection by members of the public.

(o) *Project Rates.* Rates applicable to the transportation of materials and equipment to be employed in the construction or one-time development of a named facility used for a major government project.

See footnotes at end of article.

mental, charitable, manufacturing, resource exploitation, public utility, or public utility, or public service purpose, and also including disaster relief projects. Such construction or development must be undertaken by either the shipper or consignee named on the bill of lading and none of the materials or equipment covered shall be transported for the purpose of resale or other commercial distribution.

(p) *Proportional Rates.* Transportation rates conditioned upon a prior or subsequent movement of the cargo or passengers carried.

(q) *Round Trip Excursion Voyage.* A single voyage which originates and terminates at the same port, does not permanently disembark passengers at any intermediate port, and does not call at any port outside of the United States, its territories, commonwealths, districts or possessions.

(r) *Substituted Service.* The occasional use of transportation facilities different from those which the publishing carrier normally and regularly offers to the public; those instances where transportation is performed by someone other than the publishing carrier due to unexpected operating exigencies. The offering or performing of a regular service by means of overland or air transportation over part of the publishing carrier's route, or by using a waterborne service not under the operational control of the publishing carrier, is an arrangement for through transportation and may not be described as substituted service.

(s) *Tariff.* A written document containing all existing and proposed rates, fares, charges, classifications, rules, regulations and practices governing the transportation of passengers or property all or a segment of which is performed by a domestic offshore carrier (includes rate tariffs, governing tariffs, and all current amendments thereto).

(t) *Tariff Matter, Tariff Material, Tariff Publication.* A tariff or any portion thereof tendered for filing with the Commission pursuant to this Part.

(u) *Through Intermodal Transportation.* Transportation at joint rates over a through route by two or more carriers, at least one of which is, and one of which is not, a domestic offshore carrier. Through transportation entirely by water may be intermodal transportation for purposes of this Part when one or more participating carrier is subject to rate regulation pursuant to Part III of the Interstate Commerce Act, 49 U.S.C. 901, et seq.

(v) *Through Rate.* A total charge for transportation from origin to destination. It may be a local rate, a joint rate, or a combination of separately established rates.

(w) *Through Route.* Continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by (1) a single domestic offshore carrier offering service between port terminal areas; (2) two or more domestic offshore carriers; or (3) one or more domestic

offshore carriers in connection with one or more other carriers.

(x) *Transshipment.* The physical transfer of cargo from one carrier to another in the course of a through route where at least one of the exchanging carriers is a vessel operating domestic offshore carrier.

§ 531.3 Filing of tariffs; general.

(a) Every domestic offshore carrier shall file with the Commission and keep open to public inspection tariffs showing its actual rates, fares and charges for or in connection with transportation between all points on its own route, and all points on any through route established in conjunction with other carriers. Such tariffs shall plainly show the places between which freight or passengers will be carried and shall contain any classification of freight and passenger accommodations affecting or determining the rates applicable to such transportation and shall state separately each terminal or other charge, privilege, or facility granted or allowed to shippers or passengers and any rules or regulations which in anywise change, affect, or determine any part of the total rates, fares or charges assessed or the value of service rendered to consignors, consignees or passengers.

(b) Tariff matter tendered for filing which fails to comply with the Act, the rules of this Part, or an order of the Commission is subject to rejection. The Commission also may at any time direct the reissuance or cancellation of tariff matter which does not conform to the Act or the rules of this Part.

(c) Tariffs may be filed only by a responsible official of or a tariff agent appointed by a domestic offshore carrier participating in the transportation offered therein. When a tariff agent is employed, a delegation of authority from each participating domestic offshore carrier must either be on file with the Commission or submitted with the tariff matter tendered for filing.

(1) Delegations of tariff filing authority shall be written on the letterhead and signed by a responsible official of the carrier on whose behalf the agent is to act. Such letters of appointment shall state that a tariff agent has been appointed as of a particular date, identify the agent by name and business address. Indicate whether and under what circumstances any other person is authorized to serve as an alternate agent, and specifically set forth the agent's powers and duties to act for the carrier in tariff matters. Only one alternate agent may be appointed.

(2) More than one delegation of authority covering any one tariff is prohibited; *Provided*, That governing tariffs filed pursuant to § 531.14 of this Part may be the subject of separate delegations. Submission of a subsequent delegation of authority covering a tariff, governing tariff or group of tariffs shall automatically revoke any earlier delegation as to that tariff or tariffs on the day the subsequent delegation is filed, as

evidence by the Commission's receipt notation.

(3) A delegation of authority to tariff agent may be revoked in whole or in part by filing a letter of revocation which clearly identifies the delegation of authority and the particular powers and duties being revoked, said letter of revocation to be in the same format as the letter appointing the agent.

(d) Tariffs filed under this Part shall be numbered consecutively, with a carrier's initial filing in any particular series being designated No. 1. Freight, passenger, and government tariffs shall be numbered in separate series. Freight tariffs shall be designated as Tariff FMC-F No. —; passenger tariffs shall be designated as Tariff FMC-P No. —; tariffs governing government cargo or passengers shall be designated as Tariff FMC-G No. —; and tariff indices shall be designated FMC-I No. —.

(1) Tariff submissions which are not so numbered may be accepted for filing on an occasional basis if accompanied by a letter clearly explaining the purpose and need for the deviation.

(e) Tariff matter may only be filed during the regular business hours of the Commission's Washington, D.C. office, as provided in § 502.2 of the Commission's Rules.

(f) Unless otherwise provided by the Act, the Commission or the rules of this Part, all tariff matter tendered for filing (including the tariffs of carriers entering a trade for the first time), shall bear an effective date which permits at least 30 days notice of the filing.

(1) The 30 day notice period between filing date and effective date shall commence at 12:01 a.m. of the day of filing, as evidenced by the Commission's receipt notation; the tariff may take effect at 12:01 a.m. of the 31st day.

(g) Except as otherwise provided, tariff matter shall be transmitted to the Commission in duplicate, with both copies contained in a single package or envelope and with all postage or other delivery charges prepaid.

(h) Tariff matter tendered for filing shall be transmitted to each subscriber to the publishing carrier's tariff by first-class mail, not later than the time the tendered material is transmitted to the Commission.

(1) Copies of individual tariff publications or regular subscriptions to an entire tariff filed pursuant to this Part shall be promptly made available to any person requesting the same in writing. Subscriptions to a given tariff shall include all special permission requests which pertain to that tariff. Except as otherwise provided by the rules of this Part, carriers may assess a reasonable charge for tariff copies and tariff subscriptions, i.e., not greater than the full cost of reproduction and delivery of the material's in question.

(2) The governor of any state, commonwealth or territory served by a domestic offshore carrier may request a carrier in writing to furnish a designated governmental official or office no more than two (2) copies of any tariff matter

See footnotes at end of article.

filed by the carrier which pertains to trades affecting the state, commonwealth or territory in question. Upon receipt of such a request, the carrier shall promptly provide the designated official or office with the requested copies of its existing tariff(s) and add the official or office to its list of tariff subscribers. No charge shall be made for this service, but such officials and officers shall be treated in the same fashion as paid subscribers in all other respects and are considered tariff subscribers for purposes of this Part.

(1) Tariff matter tendered for filing must be accompanied by a letter of transmittal not to exceed 8½ inches by 11 inches in size, which shall:

(A) Fully identify the filing party (i.e., the publishing carrier or its tariff agent) including its name, business address and business telephone;

(B) Fully identify each tariff publication tendered, including the following information in tabular form: Carrier Name, Tariff No., Revision/Page/Supplement No.;

(C) Describe the specific effect of each tariff change implemented by each tariff publication listed in subparagraph (2), above;

(D) Include or attach such certifications as are required by Part 512 of the Commission's Rules;

(E) Certify compliance with the requirements of section 531.3(h); and

(F) Include or attach a delegation of authority from the publishing carrier(s) appointing the tariff filing agent (applicable only if the filing party is a tariff agent and an appropriate delegation of authority is not already on file).

(j) Letters of transmittal shall be tendered in duplicate. One copy will be receipted and returned to the filing party, provided that a self-addressed, stamped envelope is enclosed for that purpose.

(k) No domestic offshore carrier may publish any tariff matter which duplicates or conflicts with any other tariff or tariff provision to which said carrier is a party.

(l) Tariff matter which fails to meet the requirements of the Act, the rules of this Part, or an order of the Commission may be rejected after filing. The filing party shall be notified in writing of the reason for the rejection and one copy of the rejected material will be returned to it.

(1) Rejected tariff material is void and its use is unlawful. The revision number or, in the case of an entire tariff, the series number, of a rejected tariff publication shall not be used again, nor shall the rejected publication be referenced in any subsequent tariff publication as being, or having been, cancelled, amended, or withdrawn. Tariff matter tendered in place of rejected material must bear the notation:

Issued in lieu of (identify the rejected material) rejected by the Federal Maritime Commission.

and must cancel any prior publication which the rejected material was originally intended to cancel.

(m) Acceptance of tariff matter does not establish the legality of the rates and practices described therein. The mere filing of a tariff does not excuse the publishing carrier from the obligations of the Act or the Commission's Rules, regardless of whether these obligations preceded or followed the acceptance of the tariff in question.

(n) Tariff matter filed with the Commission shall not be surrendered to or withdrawn by the publishing carrier.

(o) Domestic offshore carriers shall maintain their tariffs in a complete, accessible and usable form and shall keep them available for inspection by any member of the public during ordinary business hours.

(1) There shall be posted at each facility at which a domestic offshore carrier receives freight or passengers for transportation, or at which it employs a general or sales agent, a copy of all of that carrier's tariffs governing transportation to and from the facility in question.

(2) There shall be posted at the principal place of business of a domestic offshore carrier all of the tariffs under which that carrier offers transportation service subject to this Part.

(3) Tariff publications shall be posted a minimum of 30 days prior to their effective date unless otherwise provided for by the Act, the Commission, or the rules of this Part. Amendments (including supplements) which have been filed, but are not yet effective, shall be posted in a fashion which clearly identifies their prospective nature and shall not physically replace existing tariff matter until said amendments reach their effective date. The maintenance of a presently effective tariff in one binder and all filed, but not yet effective, tariff matter affecting that tariff in a second "proposed tariff changes" binder is recommended. Persons requesting to inspect a carrier's tariffs shall, upon reasonable notice, be provided sufficient instruction or assistance to allow them to ascertain both the present and proposed rates and practices of the carrier.

(p) Only tariffs of persons engaged in common carriage by water shall be filed. Tariffs shall not contain terms such as "Taken by Special Agreement or Arrangement only," "Subject to Carrier's Option of Acceptance," or "Carried at Cargo Owner's Risk," which (unless accompanied by sufficient qualifying language explaining a more limited interpretation) are clearly inconsistent with the legal responsibilities of a common carrier towards the shipping public.

(1) Tariff publications shall not contain rules purporting to limit their liability in a manner not authorized by law;

(2) The tariffs and delegations of authority of a carrier which ceases operations in a trade for more than 30 days (other than seasonal discontinuances as provided by § 531.15 of this Part) shall be cancelled within 60 days after the cessation of operations.

§ 531.4 Form and preparation of tariffs.

(a) Tariffs shall be published in loose-leaf form. Pages shall be 8½ by 11 inches

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in size, and plainly and legibly printed, mimeographed, planographed or otherwise durably reproduced on paper equivalent to, or better than, offset book paper, Sub. 100. Pages shall be printed on one side only, using not less than 8-point bold or full face type except that 6-point type may be used for reference marks, explanations, column headings, or bills of lading. Original typewritten or proof sheets shall not be used for filing or posting.

(b) Tariff matter tendered for filing or used for posting shall not contain erasures or original alterations of any nature.

(c) A margin, without any printing or tariff matter thereon, of not less than three-quarters of an inch is required on the top, bottom, and binding edges of all tariff pages. A similar blank margin of not less than 1/4 of an inch is required on the nonbinding edge of all pages.

(d) Tariff matter containing rates will be arranged in an orderly columnar fashion with vertical ruling separating columns of rates, rate bases, and commodity/item descriptions. Horizontal groupings will be done in a manner which clearly defines the rates, terms, conditions, etc., applicable to a given com-

modity or item, with no more than six horizontal lines of type without a page-wide break or horizontal ruling. Exhibit I following this section demonstrates the required format.

(e) The first page of every tariff shall be the Title Page (see Exhibit II following section 531.5), and all pages subsequent to the Title Page shall be consecutively numbered beginning with Page 1. The first edition of a page shall be designated as "Original Page No. ----" with subsequent revisions to be designated as "(Show Revision No.) Revised Page No. ----". Revisions of individual pages are to be published in a numerically consecutive order. Departures from such consecutive ordering may be accepted for filing on an occasional basis if accompanied by a letter clearly explaining the purpose and need for the deviation.

(f) Each tariff page shall be identified by printing the publishing carrier's name and the applicable FMC tariff designation at the top of the page.

(g) The page number, revision number and effective date of each page shall be printed in the upper right-hand corner of the page.

§ 531.5 Contents of tariffs.

(a) The Title Page of every tariff shall contain the following information (Exhibit II following this section illustrates the required format):

(1) The operating name of the publishing carrier (or group of carriers) followed by an annotation identifying it as either a nonvessel operating common carrier (NVOC) or a vessel operating common carrier (VOCC).

(2) The FMC file number of all section 15 agreements pertaining to the transportation service offered.

(3) The tariff series and number assigned pursuant to § 531.3(d).

(4) A designation of any tariffs cancelled by the instant tariff (see § 531.12 (a)). Cancellation designations shall be printed immediately under the assigned tariff number unless there are so many cancellations as to make this impractical. In such case, the designations of cancelled tariffs shall be shown on an interior page which is referenced on the Title Page in the position where the cancellation designations would otherwise appear.

(5) All ports or points from, to, or between which transportation is offered, or a reference to the interior page where a list of such ports or points can be found. Cities, towns or communities are to be listed, not street addresses.

(6) A description of each type service offered, e.g., direct (no change of vessel), transshipment.

(7) A description of each type of rate offered, i.e., local, proportional, joint, through, class, commodity, or combinations thereof.

(8) Identification of any governing tariffs or reference to an internal tariff page containing this information (see § 531.14).

(9) (i) An effective date. When a revised Title Page is submitted, the effective date of the original Title Page shall also be shown.

(ii) An expiration notice (when applicable). If the tariff contains provisions which expire at a specific time, the expiration date shall be shown in the tariff items to which it applies and the existence of such an expiration date shall be indicated on the Title Page with a reference to the affected tariff item.

(10) The name, title and mailing address of the filing party.

(11) The operating name of all carriers participating in the tariff and the full address of their principal place of business, or a reference to an internal tariff page containing this information.

(12) A list of all supplements currently applicable to the tariff (see § 531.11).

(b) The body of the tariff shall contain, in the exact order named below, the following information:

(1) A table of contents and a complete index showing the location of all information necessary to accurately determine the complete rates, fares and charges applicable to the services offered by the tariff. Such index will list all such subjects of information alphabetically and show the item or rule number as well as the page number where they can be found.

(2) An alphabetically arranged list of carriers participating in the tariff by operating name. The full legal name (when different from the operating name) and the full address of its principal place of business shall also be shown for each participating carrier. The FMC numbers of all approved section 15 agreements applicable to the transportation offered shall appear after the name of each carrier party to the agreement.

(3) A list of the ports or points from, to, or between which service shall be provided.

(4) The full street address of a receiving/disbursing freight station(s) at which cargo is or may be tendered/claimed by shippers using the service.

(5) A single, complete, alphabetically arranged index of all commodities for which rates are published, showing the page or item number where each rate can be found. A commodity index may be omitted where commodity rates are published in an alphabetical arrangement and the descriptions employed are sufficiently specific as to require no further breakdown besides that required to delineate different minimums or valuations.

(6) A full explanation of any symbols, reference marks, or abbreviations employed. The following standard symbols and explanations are required for the purposes indicated:

(i) Δ to denote reductions;
(ii) ∇ to denote increases;
(iii) Δ to denote changes resulting in neither increases nor reductions in rates or charges;
(iv) \bullet to denote no change in rate;
(v) \square to denote reissued matter; and
(vi) \oplus to denote deletions.

These symbols shall not be used for any other purpose nor shall any other symbol be used for the above purposes.

(7) An alphabetical list of other tariff publications which govern the service being offered in any manner (see section 531.14), including their series and number designations.

(8) The rules and regulations affecting the transportation being offered. Specific rules shall be published to govern at least the following matters:

(i) Application of rates. A clear and definite statement of all services provided to shippers as being included in the published rates.

(ii) Effective date. A clear and definite statement of the time at which tariff changes become applicable to any particular shipment. In the case of joint rates (including those for through intermodal transportation), the rate applicable to any particular cargo movement shall be that rate which is in effect on the day the initiating carrier takes possession of the shipment.

(iii) Heavy lift practices and charges.
(iv) Extra length practices and charges.

(v) Minimum bill of lading charges.
(vi) Payment of freight charges. A clear and definite statement of the terms of payment for transportation services rendered, e.g., C.O.D., prepaid only. If

See footnotes at end of article.

credit is extended, the rule must describe the credit terms offered and the conditions under which credit will be extended.

(vii) Bills of lading. A specimen copy of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement between carrier and shipper shall be provided, unless a governing bill of lading tariff has been filed pursuant to section 531.14 of this Part. Such shipping contracts shall indicate that they are subject to the terms and conditions of the carrier's Federal Maritime Commission tariffs and shall not contain provisions which are more stringent than, or otherwise conflict with, the terms of such tariffs.

(viii) Freight forwarder compensation. A statement of the exact rate or rates, if any, to be paid independent ocean freight forwarders (see also § 510.24(f) of the Commission's Rules).

(ix) Application of surcharges and arbitrators. A clear and definite statement of the method by which surcharges, arbitrators, or other similar charges are to be applied, e.g., in aggregate, by compounding.

(x) Minimum quantity rates (alternation of rates). When two or more rates are applicable to the same commodity, depending upon the quantities shipped, there shall be a tariff rule stating:

When two or more freight rates are named for the carriage of goods of the same description, and the application is dependent upon the quantity of the goods shipped, the charges assessed against the smaller shipment shall not exceed those for any larger quantity.

(xi) Ad valorem rates. When an ad valorem rate is published, the exact method of computing the charge and the additional liability, if any, assumed by the carrier in consideration thereof shall be specified.

(xii) Transshipment service. When transshipment service is offered pursuant to agreements subject to section 15 of the Act, any tariff provisions required by the agreement itself or by Part 524 of the Commission's Rules shall be stated.

(xiii) Hazardous cargo. When rates for explosive, inflammable, corrosive or other dangerous materials are published (or the published rate tariff does not specifically prohibit carriage of such materials), rules governing their carriage shall be clearly stated unless a governing rules tariff has been filed pursuant to § 531.14 of this Part.

(xiv) Automobile measurement. When rates for automobiles are published (or the published rate tariff does not specifically prohibit carriage of automobiles), the basis for applying these rates must be stated in terms of either weight or measurement, but not both. One of the following rules (i.e., (A) or (B)) must be employed in their entirety:

(A) Automobiles shall be rated by measure. The cubic measurement for the five most recent model years will be those prescribed by the manufacturer of the particular make and model as shown on pages ----- to ----- herein (Alternatively, the carrier may state "as shown in Federal Maritime Commission Publi-

cation No. 1, 'Automobile Manufacturers' Measurements'.")

(1) Automobiles whose measurements are not shown above, shall be individually measured by the carrier. This fact shall be noted on the bill of lading.

(2) Automobiles which, because of additional accessories or equipment, vary in dimensions from the standard measurements shown above, shall be individually measured by the carrier. This fact shall be noted on the bill of lading along with the actual variation (in cubic feet) from the standard measurements.

(B) Automobiles shall be rated by weight. Each vehicle tendered for shipment shall be individually weighed on the carrier's scale. Where the carrier does not possess weighing facilities, the shipper shall have the vehicle weighed by a certified weighmaster and furnish the weighmaster's signed statement to the carrier.

(xv) Container description. When rates or charges for containerized or trailerized cargo are based upon the use of a standard size, type, or capacity container/trailer, or upon the use of specifically identified container/trailers, then the tariff shall:

(A) State the exact size, type, capacity and identity of the container/trailer upon which said rates are based; and

(B) Include a conversion formula or table which readily adjusts the rates or charges applicable to standard container/trailers to those applicable to other container/trailers which might be provided by shippers or consignees or by the carrier itself; *Provided*, that no conversion formula or table need be included when a tariff expressly precludes carrier and shipper/consignee alike from using nonstandard container/trailers. If referenced by the applicable tariff rule, this information may be set forth in a rate item or in a governing tariff filed pursuant to section 531.14 of this Part.

(C) For purposes of this subdivision, "container" shall mean a demountable freight carrying unit transported on ocean going vessels without wheels attached; "trailer" shall mean a wheeled vehicle, on or in which freight can be carried, transported by ocean going vessels without removing its wheels; "capacity" shall mean the maximum cargo measure or weight available to a shipper using a given container/trailer; and "identity" shall mean the specific serial number(s) or code marking(s) affixed to the container/trailers of a given carrier.

(9) Additional tariff rules shall immediately follow the mandatory rules and shall be numbered consecutively beginning with Rule No. 16.

(i) Special rules affecting particular items, rates or charges shall be expressly referenced in the item, rate or charge affected.

(10) Exceptions to classifications, rules, rates or charges shall be enumerated in the tariff to which they apply. Exceptions to particular items, rates, rules or charges must be set forth within each item, rate, rule or charge affected. General tariff exceptions may be published in a separate rule entitled "Exceptions to the Application of this Tariff."

EXHIBIT 1			
1. TONALOTTA FREIGHT, INC.			
Tariff FMC-F No. 5			
BETWEEN: United States Pacific Coast and Hawaii Ports of Call		Orig/Pov	Page
AND: Pago Pago, American Samoa		1st Revised	22
		Canceled	Page
		Original	22
		Effective Date	
		January 31, 1977	
		Cont. No.	105
SECTION 7 - COMMODITY PAGES - IN CENTS			
(EXAMPLE ONE - "PAGE WIDE BREAK")			
ARTICLES	Per Cu. Ft.	Per CWT	ITEM NO.
Adhesives, NOS; VIZ: Adhesive Cement or Paste	151	348	75
Advertising Matter, NOS	140	358	77
Agricultural Implements or Parts thereof	160	383	78
Alkane, in bulk: Minimum 1,000 lbs or 40,000 cu. ft.	175	400	80
Aluminum Articles, NOS	153	360	81
Aluminum Articles, VIZ: Billets, Ingots or Pigs	169	326	82
Aluminum Articles, VIZ: Plate or Sheet	109	297	83
Aluminum Articles, VIZ: Cups, Trays or Pots etc...	109	...	84
(EXAMPLE TWO - "HORIZONTAL RULING")			
Adhesives, NOS; VIZ: Adhesive Cement or Paste	151	348	75
Advertising Matter, NOS	140	358	77
Agricultural Implements or Parts thereof	160	383	78
Alkane, in bulk: Minimum 1,000 lbs or 40,000 cu. ft.	175	400	80
Aluminum Articles, NOS	153	360	81
Aluminum Articles, VIZ: Billets, Ingots or Pigs	169	326	82
Aluminum Articles, VIZ: Plate or Sheet	109	297	83
Aluminum Articles, VIZ: Cups, Trays or Pots etc...	109	...	84
For Explanation of Abbreviations and Reference Marks, See Page 10			

See footnotes at end of article.

EXHIBIT 11

[531.5(a)(1)] [531.5(a)(2)]	Original Title Page Effective Date: July 26, 1960
[531.5(a)(3)]	FMC-F No. 5 CANCFLS
[531.5(a)(4)]	FMC-F No. 4
1. IOWA/TOTTA FREIGHT, INC.	
[531.5(a)(1)]	Vessel Operating Common Carrier Tariff
[531.5(a)(7)]	Local and Proportional Commodity Rates
	Between
[531.5(a)(8)]	U.S. Pacific Coast and Hawaii Ports of Call as
	stated on page 4 herein and Pago Pago, American Samoa
	via
[531.5(a)(6)]	Transshipment at Guam
[531.5(a)(8)]	Governing Tariff: Rules Tariff FMC-F No. 2
[531.5(a)(2)]	Applicable Agreements: DC-YX; UC-XIX
[531.5(a)(12)]	Applicable Supplements: Supplements 1, 3 & 6
	contain all changes.
[531.5(a)(11)]	Participating Carriers: See Page No. 3 herein
[531.5(a)(10)]	I. Gottapen, Traffic Mgr. P.O. Box XVII Northland, New York 22222
[531.5(a)(9)(ii)]	Expiration Notice: The following contain expiration dates: Supplement No. 6, Item No. 10

§ 531.6 Statement of rates and charges.

(a) All rates and charges shall be stated in a systematic and straight forward manner. Rates, charges, rules, regulations or classifications shall not be duplicative, conflicting or otherwise ambiguous when compared with items in the same tariff or in any other tariff to which the publishing carrier is a party.

(b) The correct application of rates shall be clearly and definitely stated in terms of an established unit of freight (e.g., per 100 pounds, ton of 2,000 pounds, ton of 2,240 pounds, cubic foot).

(c) Rates stated as "per barrel" or "per package" shall define the exact type, size, and capacity of the package unit entitled to the stated rate. Clearly worded rules for correctly determining the weights or measurements of such package units shall be included in the tariff.

(d) Rates which vary with the manner in which cargo is packed or delivered for shipment (e.g., loose, crated, palletized) shall include a clear statement governing their application.

(e) Rates published on a "weight or measurement" basis shall state whether the basis producing the greater or the lesser revenue to the carrier shall apply.

(f) Commodity rates shall displace any class rates which would otherwise be applicable. Commodity rates must be specific and shall not apply by implication, or otherwise, to analogous articles.

(g) Commodities and generic commodity groups on which rates are stated shall be listed alphabetically. When item numbers are published alongside commodities in the index, the item number shall be shown with the appropriate commodity wherever else the commodity appears in the tariff.

(h) A commodity item may establish rates for several articles without naming them; *Provided*, That it references an item or rule in the same tariff (or a governing classification filed pursuant to § 531.14 of this Part) which does name the affected commodities.

(i) Rates for or to designated ports may be established by applying an arbitrary or differential charge based upon the rate applicable to a specified "base port;" *Provided*, That any such arbitrary or differential is clearly defined and is referenced in the rate item affected.

(j) Commodity rates subject to minimum quantity requirements shall include a clear statement of such requirements in the commodity item description to which they apply.

(k) Rates for the transportation of different, separately rated articles in mixed lots where no specific mixture of articles is required ("mixed shipment") shall be established by a general tariff rule which clearly defines such rates and the basis for their application.

(l) Rates for the transportation of different, separately rated articles in specified proportions as a single generic commodity (not mixed shipments) shall be established by a general tariff rule which clearly describes the mixture of articles required.

(1) Such rule shall require that the composition of the qualifying shipment be shown on the face of the bill of lading governing the movement; *Provided*, That if the shipment contains a greater number of different commodities than is required to qualify for the generic rate, the bill of lading description need show the shipment's composition only to the extent necessary to so qualify.

(m) Tariffs purporting to establish project rates shall:

(1) Include an exact description of the project which demonstrates that it is entitled to be designated a "project rate" within the meaning of § 531.1(c) of this Part;

(2) Include a list of the commodities to be transported under the project rate;

(3) Include a statement of the exact date upon which the project rate will expire;

(4) Include a statement that only proprietary materials actually employed in the project are eligible for the project rate and provide for the use of a bill of lading clause on all project rate cargo which states that: "All materials included in this bill of lading are of a wholly proprietary nature and shall not be resold or otherwise commercially distributed at destination."

(5) Be accompanied by a separate economic justification demonstrating that the project rate will cover the carrier's variable costs and contribute to its fixed expenses; and

(6) Be accompanied by a separate certificate of service reciting the names of all domestic offshore carriers with FMC tariffs for transportation between the project rate ports (if no such carriers exist, then a statement is required to that effect) and stating that said carriers

have been simultaneously mailed a copy of the tariff filing (exclusive of economic justification).

(n) Proportional rates must be accompanied by a clear statement of the circumstances under which, and the points between which, they shall apply. When no such statement is provided, a proportional rate shall be available in connection with any other rate to or from the proportional rate point in question.

(o) Tariffs published subject to a governing classification shall not state rates as a percentage of a base rate, but shall publish a specific rate for each class or percentage thereof for which service is proposed.

§ 531.7 [Reserved]

§ 531.8 Tariffs containing provisions for through intermodal transportation.

(a) In addition to the other rules of this Part, tariffs containing rates, charges, rules or regulations for through intermodal transportation shall:

(1) Contain a Title Page stating that the tariff pertains to through intermodal transportation.

(2) List, either on the Title Page or on an interior page referenced on the Title Page, all ports or points to, from and between which the rates apply and the ports through which cargo originating or terminating in such places shall move. Ports or points served shall be described by the name of the city or town which commonly identifies the actual area where freight or passengers are picked up or delivered.

(3) Describe the mode of transportation provided by each participating carrier, i.e., highway, railroad, air, water (FMC), and water (non-FMC).

(4) Contain a rule setting forth the liability and responsibility of each participating carrier, together with a specimen of the bill of lading or other contract of affreightment governing the intermodal service offered.

(5) State all through intermodal rates together with the port-to-port proportion rate collected by the domestic offshore carrier for ocean transportation. The port-to-port proportional rate may be shown in either:

(i) A column adjacent to the column containing the applicable through rate; or

(ii) Directly under the commodity description or the through rate.

(6) Separately state all charges collected by the domestic offshore carrier.

(b) When through intermodal rates are constructed by combining domestic offshore rates with inland rates published in effective Interstate Commerce Commission (ICC) or Civil Aeronautics Board (CAB) tariffs, copies of the actual ICC or CAB tariff material may be incorporated into the required FMC tariff as a separate informational tariff section.

(1) The tariff format requirements of this Part shall not apply to ICC and CAB tariff material tendered as a section of a through intermodal tariff; *Provided*, That each page thereof is clearly marked

See footnotes at end of article.

to indicate that it is for informational purposes only and that the pages also bear the tariff series and number designations of the FMC tariff to which they belong. Whenever the ICC or CAB tariff being incorporated is amended, cancelled or otherwise altered, the corresponding informational sections of the FMC tariff shall be simultaneously and identically altered.

(c) A memorandum of every agreement or arrangement between a domestic offshore carrier and any other carrier establishing through intermodal transportation, but not subject to prior approval pursuant to section 15 of the Act, shall be filed concurrently with the filing of any through intermodal transportation tariffs based upon such agreement or arrangement.

§ 531.9 Terminal rules, charges and allowances.

(a) All terminal privileges, facilities or services (hereinafter jointly referred to as "terminal services" for purposes of this section) provided to shippers, consignees or passengers shall be fully and completely described in the carrier's tariff, regardless of whether such services result in charges separately assessed and collected as additions to the carrier's basic transportation rate or are simply included within the basic transportation rate without differentiation.

(b) When additional charges are assessed for terminal services provided by the carrier or its agents, the carrier's tariff shall contain an appropriate provision separately stating the exact amount of such charges.

(c) When terminal services are performed or made available by a third party (not the carrier or its agents), and charges for such services are assessed against the account of the cargo or passenger, the carrier's tariff shall contain an appropriate provision advising cargo interests/passengers of this fact. This provision shall describe the terms and conditions under which such services will be made available and performed, and specify how and by whom all applicable charges will be collected. References to an appropriate terminal tariff or other governing publication shall be sufficient to satisfy the requirements of this paragraph.

(d) When allowances or discounts are paid or otherwise made available to shippers, consignees or passengers in lieu of furnishing a terminal service, the carrier's tariff shall contain an appropriate provision separately stating and fully describing all such allowances or discounts. The exact amount of the allowances or discounts and the terms and conditions under which they are paid shall be included in the required tariff provision.

§ 531.10 Amendments to tariffs.

(a) All changes, additions, or deletions from a tariff shall be known as amendments and shall be filed in the manner prescribed by this section unless otherwise provided by the Commission or the Rules of this Part.

(b) Amendments establishing new or initial rates, or changing rates, charges,

rules, or other tariff provisions, shall be filed and posted at least 30 days prior to their effective date; *Provided*, That:

(1) Amendments extending actual service to additional ports at rates or fares already in effect for similar service at the ports being added may take effect on the same day they are filed and posted;

(2) Amendments adopting a tariff pursuant to section 531.17 of this Part may take effect on the same day they are filed and posted;

(3) Amendments completely cancelling a tariff pursuant to § 531.12(a) (2) of this Part due to a cessation of all service by the publishing carrier between the ports or points listed in the cancelled tariff, may take effect on the same day they are filed and posted;

(4) Amendments changing only the name or address of the filing party may be filed and posted on not less than one day's notice;

(5) Amendments in terminal rates, charges and provisions over which the carrier has no control may be filed and posted on not less than ten days' notice; *Provided*, That the filing occurs within 30 days after the changed terminal practice is actually implemented by the controlling party. Such amendments shall be accompanied by a justification statement fully describing the underlying action of a third party not subject to the carrier's control which makes a short notice tariff change necessary.

(i) If based upon a change in the rates of a terminal operator, the name, series, and number designation, page number, item number and the effective date of the operator's terminal tariff shall be cited.

(6) Carriers may file and post on not less than one day's notice, amendments establishing additional terminal facilities for loading or discharging cargo at ports or harbors already served; *Provided*, That the rates to be charged at such facilities are the same as those currently applicable to comparable facilities of the carrier at the same port or harbor.

(7) Amendments announcing seasonal discontinuance or restoration of service may be filed and posted on not less than ten days' notice. Such amendments shall contain a brief statement announcing the date of discontinuance/restoration and may include no other tariff matter.

(c) Amendments shall be made by re-printing the entire page upon which the changed tariff matter will be found. Amended pages shall be designated, in the upper right-hand corner, as revised pages and shall cancel the preceding edition of the same page; i.e.,

1st revised page 10 cancels original page 10.

(d) Amendments to existing tariff provisions shall be indicated by the use of the symbols specified in § 531.5(b) (5) of this Part:

(1) When the same change is made in all, or substantially all, the rates or fares in an entire tariff (or in those printed on a single tariff page), the nature of the change may be indicated in

boldface type at the top of the Title Page (or individual tariff page) in substantially the following form: "All rates or fares in this tariff (or supplement or on this page) are increases (reductions), except as otherwise indicated."

(2) When amendments deleting existing tariff matter alter the amount paid by the shipper/consignee, the effect of this change shall be indicated as required by § 531.5(b)(5) (i) and (ii) of this Part. In addition, the amendment shall state the provisions, if any, still applicable to the tariff matter affected by the deletion.

(3) When deleted tariff material is republished on a different page, the page from which it is deleted shall contain a specific reference to the page on which the relocated provisions can be found.

(e) Amendments effective upon lesser notice periods than those provided by paragraph (b) of this section (i.e., after receipt of special permission authority granted by the Commission), shall contain the notation required by § 531.18(i) of this Part.

(f) If amendments require the addition of pages at the end of a tariff, such pages shall be numbered consecutively with the last existing tariff page and shall be designated as "Original Page--- (insert next following page number)."

§ 531.11 Supplements to tariffs.

(a) A supplement is a particular type of tariff amendment which may be filed to accomplish the following tariff changes only:

(1) General rate changes applicable to all, or substantially all, commodities listed in the tariff;

(2) Transfers of operations or changes in carrier control or name pursuant to § 531.17 of this Part;

(3) Implementation of a Commission suspension order pursuant to § 531.13(b) of this Part;

(4) Changes in effective dates affecting an entire tariff;

(5) Cancellations of either an entire tariff or previous supplements to a tariff; partial cancellations of any type are not to be filed as supplements.

(b) No more than one active supplement affecting any given tariff item shall be permitted at any given time; e.g., only one general rate increase supplement may be on file at any one time.

(c) Tariffs shall contain no more than four active supplements.

(d) Supplements shall contain either a list of participating carriers which conforms with section 531.5(b)(2) of this Part or a statement that the participating carriers are "as shown in the tariff" or "as shown in tariff amended as follows."

(e) Tariff matter brought forward without change from one supplement to another shall be designated "reissued" and shall show the original effective date and the number of the supplement from which it was reissued.

(f) Supplements shall be numbered consecutively with the first to be issued designated number one; e.g., Supplement No. 1 to FMC-F No. 3.

See footnotes at end of article.

(g) The first page of every supplement shall:

(1) Contain the operating name of the publishing carrier as shown on the Title Page of the tariff being amended;

(2) Set out, in the upper right-hand corner and in the following order:

(i) the number of the supplement;

(ii) the series and number of the tariff being amended;

(iii) a statement (if applicable) that the supplement cancels a previous supplement or an entire tariff;

(iv) a statement indicating the numbers of all supplements currently in effect.

E.g., Supplement No. 5 to FMC-F No. 3 cancels Supplement No. 2 FMC-F No. 3. Supplement Nos. 3, 4, and 5 contain all changes.

(3) Publish, in the upper right-hand corner, an effective date which conforms with § 531.10(b) of this Part.

(h) The issuance of a supplement shall require the revision of the Title Page of the tariff being amended (see § 531.5(a)(12)).

(i) Supplements containing more than one page shall be consecutively numbered (with the first page being page number one), shall be bound firmly at the left-hand edge, and may be printed on both sides of the page.

§ 531.12 Cancellation of tariffs.

(a) An entire tariff may be cancelled by:

(1) The issuance of a similar tariff to take its place which contains a cancellation notice printed on the Title Page in accordance with § 531.5(a)(4) of this Part;

(2) The issuance of a consecutively numbered supplement which contains a cancellation notice printed on its first page in accordance with § 531.11(h)(2) of this Part.

(b) Cancellation of an entire tariff automatically cancels all amendments or supplements thereto. Cancellation by supplement is permitted even if the tariff being cancelled contains the maximum number of active supplements allowed by § 531.11(d)(1).

(c) A cancelling publication shall state the tariff(s) applicable to those services, if any, offered under the cancelled tariff which will continue to be offered by the participating carrier(s) and state where these continued services may be found in such tariff(s). If cancellation changes the rates or charges for any continued services, each change shall be indicated on the cancelling publication by the uniform symbols of § 531.5(b)(5) (i-iii) of this Part.

(d) Should the Commission subsequently cancel all or any part of a previously suspended tariff publication, the publishing carrier shall effectuate the cancellation by filing upon not less than one day's notice (or such other period as the Commission may specify), a supplement or revised page stating the date upon which such suspended matter was ordered cancelled.

(e) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(f) Suspension, vacating and cancellation supplements issued pursuant to

(g) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(h) Suspension, vacating and cancellation supplements issued pursuant to

(i) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(j) Suspension, vacating and cancellation supplements issued pursuant to

(k) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(l) Suspension, vacating and cancellation supplements issued pursuant to

(m) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(n) Suspension, vacating and cancellation supplements issued pursuant to

(o) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(p) Suspension, vacating and cancellation supplements issued pursuant to

(q) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(r) Suspension, vacating and cancellation supplements issued pursuant to

(s) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(t) Suspension, vacating and cancellation supplements issued pursuant to

(u) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(1) bears an effective date coinciding with that of the applicable suspension order;

(2) contains a notice which specifically indicates the suspended portion(s) of the publication;

(3) contains a notice which specifically states any tariff provisions which remain effective in lieu of the suspended provisions;

(4) reproduces those portions of the order directed by the Commission to be so published, or, in the absence of such direction, reproduces the suspension order in its entirety.

(c) Neither suspended matter nor matter continued in effect as a result of a suspension, may be amended, deleted or withdrawn except by order or special permission of the Commission; *Provided, however*, That a tariff affected by a suspension order may be amended during the suspension period if the amendment does not affect the suspended materials.

(1) All post suspension amendments shall be accompanied by a notation immediately following the cancellation notation (see §§ 531.10(c) and 531.11(h)(iii) which states: " * * * except portions under suspension in Docket No. -----"

(d) If, prior to receiving a suspension order, a carrier files an amendment reissuing, deleting, cancelling or amending any tariff matter named in a subsequent suspension order, the suspension supplement required by paragraph (b) of this section shall specifically cancel from such intervening amendment the reissued, deleted, cancelled or amended material in question.

(e) Should the Commission vacate a suspension order earlier than the date to which the subject tariff publication was originally suspended, the filing carrier may file a vacating supplement stating the date upon which the previously suspended tariff matter will take effect.

(1) Vacating supplements, unless otherwise provided by the Commission, may take effect on one day's notice. Should a carrier elect not to publish a vacating supplement, the suspended provisions will take effect on the date to which they were originally suspended.

(2) Should an order suspending a tariff in its entirety be vacated, the vacating supplement shall contain no tariff material other than the notice of vacating.

(f) Should the Commission subsequently cancel all or any part of a previously suspended tariff publication, the publishing carrier shall effectuate the cancellation by filing upon not less than one day's notice (or such other period as the Commission may specify), a supplement or revised page stating the date upon which such suspended matter was ordered cancelled.

(g) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(h) Suspension, vacating and cancellation supplements issued pursuant to

(i) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(j) Suspension, vacating and cancellation supplements issued pursuant to

(k) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(l) Suspension, vacating and cancellation supplements issued pursuant to

(m) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(n) Suspension, vacating and cancellation supplements issued pursuant to

(o) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(p) Suspension, vacating and cancellation supplements issued pursuant to

(q) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(r) Suspension, vacating and cancellation supplements issued pursuant to

(s) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(t) Suspension, vacating and cancellation supplements issued pursuant to

(u) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(v) Suspension, vacating and cancellation supplements issued pursuant to

(w) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(x) Suspension, vacating and cancellation supplements issued pursuant to

(y) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(z) Suspension, vacating and cancellation supplements issued pursuant to

(aa) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(ab) Suspension, vacating and cancellation supplements issued pursuant to

(ac) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(ad) Suspension, vacating and cancellation supplements issued pursuant to

this section may be issued without regard to the requirements of § 531.11(d)(1) of this Part.

§ 531.14 Governing tariffs.

(a) When it is impractical to include governing rules (e.g., bills of lading/contracts of affreightment, classifications of freight, equipment registers, hazardous cargo rules and similar lengthy tariff matter) in a single rate tariff, these may be separately published and filed as one or more rules tariffs.

(1) Governing tariffs may be used only when expressly referenced by name and series/number designation in the governed tariff of rates or fares as prescribed by §§ 531.5(a)(8) and 531.5(b)(6) of this Part.

(b) Governing tariffs shall conform with all applicable provisions of § 531.5 of this Part.

(c) A rule or regulation affecting freight rates or passenger fares may appear in only one governing tariff.

(d) A governing tariff containing a classification of commodities shall list all commodities in an orderly manner and a specific rating must be shown in connection with each commodity description employed. Rules applying to the classification must precede the list of commodities and shall be separately numbered. Such a classification is valid only in connection with and to the extent expressly provided for in the rate tariff(s) it governs.

§ 531.15 Tariffs applicable to seasonal transportation service.

Tariffs naming rates, fares or rules applicable to all water routes which are closed to navigation during part of a year shall:

(a) Either: (1) Expressly provide for their own expiration at the close of the navigation season; or

(2) Provide for a discontinuance/restoration of service by the publication, either on the Title Page or by an internal rule referenced on the Title Page, of provisions governing such seasonal discontinuance/restoration.

(b) Publish provisions governing the handling of shipments which may arrive at the publishing carrier's facilities after the date service is discontinued.

§ 531.16 Index of tariffs.

(a) Carriers participating in five or more active tariffs, either published in their own names or otherwise, shall publish, post and file an index of such tariffs designated as FMC-I No. No notice period is required for tariff indices; they may take effect upon filing.

(b) The Title Page of an Index of Tariffs shall follow the requirements of § 531.5 of this Part, except that it shall not contain the material required by § 531.5(a)(5), (6), (7), (9), and (11)—scope, statement of service, statement of rate types, effective or expiration date, and list of participating carriers. In addition, the Title Page shall bear the following notation:

See footnotes at end of article.

This index contains a list of tariff publications in effect on (show publication date).

(c) The body of an Index of Tariffs shall list the following types of tariffs, as applicable, in the following order: specific commodities tariffs; general commodities tariffs; class tariffs; passenger tariffs; rules tariffs; miscellaneous tariffs.

(d) Each tariff listed in an Index of Tariffs shall be accompanied by the following information, as applicable, arranged in a columnar manner: FMC series and number designation; operating name of publishing carrier; type of service and type of rates offered; and ports or points from, to and between which the tariff applies.

(1) Tariffs of each type named in paragraph (c) of this section shall be arranged in numerical order by FMC series and number designation.

(e) Indices shall be revised to reflect tariff changes within 30 days from the effective date of the addition or cancellation involved, either by filing and posting a supplement or by filing and posting a reissued index.

(1) Supplements to an Index of Tariffs shall be numbered consecutively, shall be arranged in the same order as the index, and shall show additions, modifications and cancellations by reference to the page and item numbers of the changed entries. Each new supplement shall bear the following notation on its Title Page:

Supplement Nos. and contain changes in effect on date hereof, or which have been filed to become effective at a later date as shown within.

§ 531.17 Transfer of operations, transfer of control and changes in carrier name.

(a) Whenever a carrier performing an ongoing service pursuant to duly posted and filed tariffs either: sells its common carrier operations to another person; transfers working control of its business to another person; or changes its operating or legal name, the person legally entitled to control the ongoing common carrier operation (the "adopting carrier") shall simultaneously file:

(1) A one-page adoption notice numbered in the adopting carrier's FMC series, which states:

FMC-F (or -P or -G) No.

(operating name of adopting carrier)

Adoption Notice

The (operating name of adopting carrier) hereby adopts, ratifies, and makes its own, in every respect and as if the same had been originally filed and posted by it, all freight (or passenger, rules or other) tariffs, notices, divisions, authorities, delegations of authority, or other instruments whatsoever, including supplements or amendments thereto, filed with the Federal Maritime Commission by, or heretofore adopted by, the (operating name of the carrier previously performing the adopted service) prior to (effective date of change in operating control).

(b) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(c) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(d) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

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(f) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(g) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

Issued by (Issuing Official as per § 531.3(d) of this Part).

Effective Date (see § 531.10(b)(2)).

(2) A consecutively numbered, revised Title Page to each tariff being adopted, which contains the following statement:

Effective (insert date) this tariff became the tariff of (insert operating name of adopting carrier) pursuant to its adoption notice published in its Tariff FMC- (insert series and number designation).

(i) such revised Title pages shall be accompanied by a letter of concurrence from an appropriate officer (not a tariff agent) of the previous carrier, stating the full details of the transaction necessitating the adoption, and the previous carrier's concurrence therein.

(b) Tariffs adopted under this section shall be cancelled in their entirety within 90 days and shall not be supplemented or amended subsequent to adoption other than to accomplish said cancellation.

(1) The adopting carrier shall publish replacement tariffs under its own operating name and bearing its own consecutive FMC series and number designation to be effective the date following the last effective day of the cancelled tariff. The new tariff shall provide 30 days notice of its effective date (see § 531.3(f)), and shall also cancel the adoption notice filed pursuant to paragraph (a) of this section.

(c) Tariffs naming participating carriers shall be amended within 90 days whenever any participating carrier transfers its operations, transfers control of its business, or changes its name, and the adopting carrier continues to participate in the service. The amendment shall delete all references to the adopted carrier (or old name) and substitute references to the adopting carrier (or new name) in their place. Similarly, all delegations of authority adopted by a new carrier (or affected by a name change) shall be replaced within 90 days by new delegations of authority issued by and numbered in the series of the new carrier.

(1) Such amendments shall provide 30 days notice of their effective date (see § 531.3(f)).

(d) Should a carrier enter receivership, or otherwise come under the control of a trustee, the notices, cancellations and tariffs required by paragraphs (a) and (b) of this section shall be filed in the FMC series of the previous carrier by the receiver or trustee appointed. When the receivership/trusteeship is terminated, the successor to the ongoing common carrier operations (if any) shall also publish all notices, cancellations and tariffs required by paragraphs (a) and (b).

(e) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(f) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

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(h) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

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(t) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(u) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(v) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(w) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(x) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(y) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(z) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(aa) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(ab) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(ac) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

(ad) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

tariff(s) upon the 30 days notice required for any new service (see § 531.3 (f)).

§ 531.18 Applications for special permission.

(a) Upon a showing of good cause, the Commission may permit rate changes or the issuance of new or initial rates to take effect on short notice, and otherwise waive the requirements of this Part.

(1) Special permission requests for authority to correct typographical errors must specify the error involved, include a full statement of the attending circumstances, and be presented with reasonable promptness after issuance of the defective tariff publication.

(2) Other special permission requests shall state the specific rules from which relief is requested, the special circumstances requiring relief, and the beneficial results to be obtained from the requested waiver.

(b) Special permission authority shall not be granted to:

(1) allow a carrier to change rates or other tariff provisions on less than full notice for the purpose of meeting competition, where the competitor in question altered its rates/provisions on full notice.

(2) modify a formal order of the Commission; such modifications may be accomplished only by petitioning the Commission.

(c) Authority granted by special permission must be used in its entirety and only in the manner set forth in such special permission.

(d) Special permission authority must be applied for by the same person that filed the tariff publication for which special permission is sought.

(e) In addition to the information required by subparagraph (a) of this section, an application for special permission shall contain:

(1) An exact copy of the tariff matter the applicant proposes to file, clearly designated as an exhibit to the application, but otherwise in the form required by the rules of this Part. If the proposed amendment consists of rate changes, all points of origin and destination must be stated in the application if not otherwise included in the exhibit.

(i) Tariff series and number designations (including supplements, if applicable) and all cancellations which would be made must be shown.

(2) The names of carriers known to maintain provisions competitive to those for which the applicant seeks relief and a certification signed by the filing party that all such carriers have been served with a copy of the special permission application. Service by first class mail, postpaid prepaid, correctly addressed to the intended recipient's principal place of business, and posted no later than the date of filing, is acceptable where personal service is impractical.

(3) The entire application shall be signed and its accuracy sworn to by the filing party at a place within the United States, its commonwealths, territories, or possessions, pursuant to 28 U.S.C. 1746

(Pub. L. 94-550). Immediately following the text of the application and immediately preceding the signature of the filing party, there shall appear the statement:

I declare under penalty of perjury that the foregoing is true and correct. Executed at _____ on _____
(insert place of execution) (insert date of execution).

(f) Special permission applications (including attachments) thereto shall be filed in duplicate.

(g) Special permission applications shall be filed in substantially complete form at least five working days prior to the effective date of the proposed tariff filing; *Provided*, That petitions for waiver of this requirement may be granted if they are sworn to in the manner of subparagraph (e) (3) of this section and demonstrate that a genuine emergency justifying a shorter notice period exists.

(h) The Commission may, upon the application of interested persons, or upon its own motion, establish or rescind special permission authorities as it sees fit.

(i) Tariff publications filed pursuant to a grant of special permission shall publish the following notation at the bottom of each page of such publication (at the bottom of the first page only in the case of supplements):

Published under authority of Federal Maritime Commission Special Permission No. _____

§ 531.19 Special rules for bound tariffs filed pursuant to special permission authority.

(a) Such bound tariffs as may be permitted to be filed by special permission are subject to these rules in addition to those other rules in the Part which govern tariff filing generally.

(b) All pages of bound tariffs shall be firmly and permanently fastened together on the left edge by an appropriate binding method. The simple insertion of one or two staples in the binding edge shall not suffice to meet this requirement, but the binding process known as saddle stitching is acceptable.

(c) Section 531.4(a) of this Part is waived to the extent it requires bound tariff pages to be printed on only one side.

(d) Section 531.4(g) of the Part is waived to the extent it requires an effective date to be published on pages other than the title page of a bound tariff.

(e) Section 531.5(a) and Section 531.11 of this Part are waived to the extent they require the title page of a bound tariff to reflect all supplements either issued or in effect.

(f) Supplements shall be the only method of amending bound tariffs. In addition to the requirements of section 531.11, the following shall apply to bound tariff supplements:

(1) They shall refer specifically to the page and item designation of the tariff/supplement item to be amended;

(2) Amendments to a numbered or otherwise designated item must publish the amended item in its entirety;

(3) Amendments to items shall bear the same designation as the item being amended, with a consecutive letter suffix, and shall show the cancellation of the prior item edition, e.g., Item 10-A cancels Item 10; Item 10-B cancels Item 10-A, etc.

FOOTNOTES

¹ TMT's Comments were filed over 30 days late and were accompanied by a "Motion for Leave to File" which failed to state reasonable grounds for waiving the filing deadline as required by section 502.102 of the Commission's Rules. Accordingly, TMT's motion will be denied and only its Reply Comments considered by the Commission.

² Certain items initially appearing in section 531.0 which pertained to the substantive content of tariffs were placed in final section 531.3(p).

³ To more clearly distinguish interstate commerce subject to the Shipping Act from interstate commerce subject to the Interstate Commerce Act, the Commission has adopted the term "domestic offshore commerce" to refer to the former. See final section 531.2(h).

⁴ Appropriate editorial changes were made in final section 531.8 to conform it to the modified definition of "through intermodal transportation" contained in final section 531.2(u). See also Items 8 and 10, *infra*.

⁵ Not all government or charity shipments fall within this relatively narrow category.

⁶ Final section 531.6(m) (5) states that a project rate must contribute to the carrier's fixed expenses, but does not prescribe on exact percentage or standard for measuring this contribution. Proposed rates will be examined on a case-by-case basis to determine if a genuine, commercially realistic contribution is being made.

⁷ 49 U.S.C. 902 (1) (3) (B).

[FR Doc. 77-29591 Filed 10-7-77; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-675]

Part 0—COMMISSION ORGANIZATION

Designating and Establishing the New Compliance and Litigation Task Force of the Common Carrier Bureau

AGENCY: Federal Communications Commission.

ACTION: Amendment of rules.

SUMMARY: The purpose of this amendment is to change the rules to reflect the establishment of the Compliance and Litigation Task Force within the Common Carrier Bureau.

EFFECTIVE DATE: October 18, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

H. Walker Feaster, III, Office of Executive Director, 632-7513.

SUPPLEMENTARY INFORMATION:

Adopted: September 15, 1977.

Released: October 7, 1977.

Order. In the matter of amendment of Part 0 Subpart A of the Commission's Rules and Regulations concerning Orga-

nization of the Commission and the Common Carrier Bureau.

1. On September 15, 1977, the Commission approved the establishment of the Compliance and Litigation Task Force within the Common Carrier Bureau to coordinate the review of major tariff filings, and cost of service studies filed pursuant to recent Commission ratemaking decisions. These filings and studies are of such a precedential nature and complexity that it appears appropriate to establish a separate organizational unit reporting directly to the Bureau Chief.

2. This Order is issued to designate and establish the new Compliance and Litigation Task Force.

3. Because this amendment relates to internal Commission organization and practice, the prior notice and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C., 553 do not apply.

4. Authority for the amendment adopted herein is contained in sections 4(i) and 5(b) of the Communications Act as amended.

5. Accordingly, it is ordered, That effective October 18, 1977, Part 0 of the Commission's rules and regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

1. In § 0.92, paragraph (i) is added to read as follows:

§ 0.92 Units in the Bureau.

(i) Compliance and Litigation Task Force.

2. In § 0.101 the headnote and text are amended to read as follows:

§ 0.101 Compliance and Litigation Task Force.

Responsible for coordinating the review of major tariffs filed pursuant to the direction and guidelines established in:

Docket No. 18128—Private Line Services.

Docket No. 19129—Message Telecommunications Services (MTS).

Docket No. 19989—Wide Area Telecommunications Services (WATS).

Docket No. 20097—Regulatory Policies Concerning Resale and Shared Use of Common Carrier Services and Facilities.

Docket No. 20288—Dataphone Digital Service (DDS).

Other tariff filings assigned to it by the Chief, Common Carrier Bureau. Members of the Task Force also serve as the nucleus of, or as a special separated trial staff in the event any issues are designated for hearing. The Compliance and Litigation Task Force will:

(a) Coordinate the review of new and revised tariff schedules filed pursuant to Commission direction and guidelines to determine whether the charges, practices, classifications, and regulations contained therein are lawful, just, reasonable, and not unduly discriminatory.

(b) Recommend appropriate action on tariffs including acceptance, rejection or suspension, or designation for hearing.

(c) Define issues, conduct preliminary fact-finding studies, and prepare necessary orders.

(d) Serve as the nucleus of, or as separated trial staff for issues designated for hearing.

(1) Prepare cases for trial, including pre-trial discovery procedures such as interrogatories, depositions and motions to produce.

(2) Arrange for staff or contractor studies where necessary in connection with trial work on questions regarding rates, rate bases, rate levels and structures, investment costs and expenses, cost of service studies, rates of return and carrier regulations concerning terms and conditions of service.

(3) Examine witnesses during hearings; prepare proposed findings and conclusions; and prepare exceptions to initial or recommended decisions and briefs.

(4) Participate in oral arguments before appellate bodies within the Commission.

(e) Coordinate with other organizational units within the Bureau in interpreting and implementing the Docket No. 18128 and other relevant Commission decisions previously noted.

3. A new § 0.102 is added to read as follows:

§ 0.102 Field Offices.

Common Carrier Bureau field offices are located in Room 1309-X, 90 Church Street, New York, N.Y. 10007; and Room 546, 210 Twelfth Street, St. Louis, Mo. 63101.

[FR Doc. 77-29703 Filed 10-7-77; 8:45 am]

[6712-01]

PART 17—CONSTRUCTION, MARKING AND LIGHTING OF ANTENNA STRUCTURES

Editorial Amendments Adopting Metric System of Measurements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends the Commission's rules by converting the customary English units of measurement to the International System of Units (SI) as contained in the Metric Conversion Act of 1975 (Pub. L. 94-168). No actual measurements are being changed at this time, however, and the English values will continue to govern until such time as new metric values may be established. Other minor or editorial changes in keeping with the conversion to the metric system are included in this Order.

EFFECTIVE DATE: October 17, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Joseph G. Thomas, Antenna Survey Branch, Telephone 202-632-7521.

Adopted: September 30, 1977.

Released: October 6, 1977.

Order. In the matter of amendment of Part 17 rules and regulations to adopt Metric System of Measurements and make other editorial changes.

1. The Amendments herein are in accord with the Commission's announced program, adopted July 28, 1976, for converting to the International System of Units (SI) as contained in the Metric Conversion Act of 1975 (Pub. L. 94-168). Metric units of measurement will replace the customary English units as the primary measurement system.

2. The metric equivalents are being added to Part 17 rules and regulations to inaugurate the eventual conversion to the full metric system. No actual measurements are being changed at this time, however, and the English values in parenthesis will continue to govern until such time as new metric values are established.

3. To some extent, all subparts of Part 17 are affected by the amendment, and since Part 17 is being extensively revised in this respect, other minor or editorial changes in keeping with the conversion to the metric system are included. The required intensities to be attained by red obstruction lights for example, are expressed in candela—to insure their visibility to aircraft under prescribed meteorological minimums.

4. Finally, relief is being afforded those licensees employing dual obstruction lighting (red for nighttime and white for daytime) by enabling the use of the omnidirectional antenna obstruction light in both the red and white modes.

5. For the reasons set forth above, we conclude that the adoption of these amendments will serve the public interest. Prior notice and effective date provisions of the Administrative and Judicial Review Act (5 U.S.C. 553) are not applicable. Therefore, it is ordered, That pursuant to sections 4(i) and 303(q) of the Communications Act of 1934, as amended and § 0.231 of the Commission's rules, Part 17 of the Commission's rules and regulations is amended effective October 17, 1977, as set forth below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

Part 17 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 17.4 [Amended]

1. In § 17.4(f) change "20 feet" in lines 2 and 3 to "6.10 meters (20 feet)".

§ 17.7 [Amended]

2. In § 17.7(a) change "200 feet" to "0.96 meters (200 feet)".

In § 17.7(b) (1) change "20,000 feet" to "6.10 kilometers (20,000 feet)" in line

changed to "594.36 meters (1,950 feet)" and "2,100 feet" is changed to "460.08 meters (2,100 feet)".

In § 17.37(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading:

(a) The steady burning intensity shall not be less than 2,000 candelas (in red). . . .

Section 17.37(a)(3) is amended by deleting the last word, "structure" and replacing with "tower at each level."—ending the sentence. A second sentence is added reading:

(a) The intensity of each lamp shall not be less than 32.5 candelas.

Section 17.37(a)(4) is amended to read as follows:

(a) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illumination on a vertical surface falls to a level of not less than 367.74 lux (35 fc) and turned off when the north sky illumination on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.38 [Amended]

21. In § 17.38, in the headnote and in the single paragraph which follows, "2,100 feet" is changed to "640.08 meters (2,100 feet)".

22. In the Sub-Title preceding § 17.39 and in the "Note" immediately following, the word "white" is inserted between the words "high intensity" and "obstruction lighting" in the sub-title and in line 2 of the Note. The final sentence of the Note is rewritten and a new paragraph added reading as follows:

NOTE.—A white capacitor discharge omnidirectional light is mounted on or adjacent to the apurtenance, if more than 6.10 meters (20 feet), to complement the lighting system.

Where a dual lighting system is employed, i.e., high intensity white obstruction lighting during daylight and red obstruction lighting at night, the omnidirectional high intensity light, if equipped with an aviation red color filter for nighttime illumination, may be used in lieu of the 300 mm top beacon specified in § 17.24(a) and subparagraph (a)(1) in §§ 17.25 through 17.37.

§ 17.39 [Amended]

22. In § 17.39 the headnote and the introductory statement are amended by changing "300 feet" to "91.44 meters (300 feet)".

In § 17.39(b) change "20 feet" to "6.10 meters (20 feet)" where it appears in lines 2 and 10.

In § 17.39(c)(1) change "60 footcandles" and "30 footcandles" to "645.84 lux (60 fc)" and "322.92 lux (30 fc)" respectively.

In § 17.39(c)(2) change "5 footcandles" and "2 footcandles" to "53.82 lux (5 fc)" and "21.53 lux (2 fc)" respectively.

§ 17.40 [Amended]

In § 17.40 the headnote and the introductory statement are amended by changing "300 feet" to "91.44 meters (300 feet)" and "600 feet" to "182.88 meters (600 feet)".

In § 17.40(c) change "20 feet" to "6.10 meters (20 feet)" where it appears in lines 2 and 10.

In § 17.40(d)(1) change "60 footcandles" and "30 footcandles" to "645.84 lux (60 fc)" and "322.92 lux (30 fc)" respectively.

In § 17.40(d)(2) change "5 footcandles" and "2 footcandles" to "53.82 lux (5 fc)" and "21.53 lux (2 fc)" respectively.

§ 17.41 [Amended]

24. In § 17.41 the headnote and the introductory statement are amended by changing "600 feet" to "182.88 meters (600 feet)" and "1,000 feet" to "304.80 meters (1,000 feet)".

In § 17.41(c) change "20 feet" to "6.10 meters (20 feet)" where it appears in lines 2 and 10.

In § 17.41(d)(1) change "60 footcandles" and "30 footcandles" to "645.84 lux (60 fc)" and "322.92 lux (30 fc)" respectively.

In § 17.41(d)(2) change "5 footcandles" and "2 footcandles" to "53.82 lux (5 fc)" and "21.53 lux (2 fc)" respectively.

§ 17.42 [Amended]

In § 17.42 the headnote and the introductory statement are amended by changing "1,000 feet" to "304.80 meters (1,000 feet)".

In § 17.42(b) change "1,000 feet" and "1,400 feet" in line 6 to "304.80 meters (1,000 feet)" and "426.72 meters (1,400 feet)" respectively, and in line 7 change "400 feet" to "121.92 meters (400 feet)".

In § 17.42(c) change "20 feet" to "6.10 meters (20 feet)" where it appears in lines 2 and in line 10.

In § 17.42(d)(1) change "60 footcandles" and "30 footcandles" to "645.84 lux (60 fc)" and "322.92 lux (30 fc)" respectively.

In § 17.42(d)(2) change "5 footcandles" and "2 footcandles" to "53.82 lux (5 fc)" and "21.53 lux (2 fc)" respectively.

§ 17.45 [Amended]

26. In § 17.45, the word "red" is inserted between the words "which" and "obstruction" in line 2. A new sentence is inserted after the word "structure" in the first sentence to read as follows:

. . . . The intensity of each lamp shall not be less than 32.5 candelas. . . .

Also, in § 17.45, the last sentence is amended to read as follows:

. . . . If practical, the permanent obstruction lights may be installed and operated at each required level as construction progresses.

27. Section 17.54 is amended, with the exception of the headnote, to read as follows:

§ 17.54 Rated lamp voltage.

To insure the necessary lumen output by obstruction lights, the rated voltage of incandescent lamps used shall correspond to be within 3 percent higher than the voltage across the lamp socket during the normal hours of operation.

[FR Doc. 77-29702 Filed 10-7-77; 8:45 am]

[6712-01]

PART 73—RADIO BROADCAST SERVICES

Providing Revised Period for Construction of Subscription Television Stations

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Section 73.642(c) of the Commission's rules is amended to specify 18 instead of 8 months as the time period within which holders of subscription television authorizations must complete construction of their transmitting facilities. This change was inadvertently omitted when the Commission amended § 1.598 of the rules to provide an 18 instead of 8 month time period within which construction of a new television broadcast station must be completed.

EFFECTIVE DATE: October 12, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Order. In the matter of amendment of § 73.642(c) of the Commission's rules to provide a revised period for construction of subscription television stations.

Adopted: September 23, 1977.

Released: September 30, 1977.

1. Under consideration here is that part of § 73.642(c) of the Commission's rules which provides that "holders of subscription television authorizations shall complete construction of subscription television ("STV") transmitting facilities within a period of 8 months after issuance of the authorization unless otherwise determined by the Commission upon proper showing in any particular case."

2. In 1970, the Commission in a Report and Order, 23 F.C.C. 2d 274, amended its rules to specify in § 1.598 new construction periods for various classes of broadcast stations. At that time, the period for construction of a new television station was lengthened from 8 to 18 months. In 1974, this rule was revised to clearly state that the time allowed for completion of construction applies not only to new construction but to changes in existing stations as well (FCC 74-653). Another § 73.642(c), governed the period for constructing STV facilities. When the other time periods

were changed, however, the Commission inadvertently failed to amend the then recently enacted § 73.642(c) of the Commission's rules to provide the same 18-month time period for construction of STV facilities. By implication, if it were a new station that was designed for an STV operation, the 18-month period from § 1.598 applied. However, such would not be the case if it were an existing station that was establishing STV facilities. It was not the Commission's intention to make such a distinction, nor had it done so in regard to other kinds of television construction. In order to correct this disparity, we are herein amending § 73.642(c) to conform with § 1.598 of the rules.¹

3. Since the Commission has already considered the reasons for and against extending the time period for construction of television stations in Docket No. 18763, in which § 1.598 was amended, it is unnecessary to issue a notice of proposed rule making to cover what essentially would be the same material again. See the Administrative Procedure provisions of section 553(b)(3)(B) of Title 5 of the U.S. Code.

4. Because we believe that the new time period provided by amending § 73.642(c) should and will minimize the number of requests for extensions of time to construct STV transmitting facilities, as it has for other types of stations, we are deleting, as unnecessary, the provision in that sub-section to the effect that extensions may be had on proper showings in particular cases. As with other types of authorizations, such extension requests are governed by § 1.534 of the rules.

5. In accordance with the foregoing: It is ordered, That effective October 12, 1977, § 73.642(c) of the Commission's rules and regulations is amended to read as set forth below. Authority for the action proposed herein is set out in Sections 4(i), 5(d)(1), 303(r) and 319 of the Communications Act of 1934, as amended and Section 553(b)(3)(B) of Title 5 of the U.S. Code.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

In § 73.642 paragraph (c) is amended to read as follows:

§ 73.642 Licensing policies.

(c) Holders of subscription television authorizations shall complete construction of subscription television transmitting facilities within a period of 18 months after issuance of the authorization. The holder of a subscription television authorization shall file a report in the ninth month after the grant of the authorization setting forth the progress made toward building the subscrip-

¹As with other 18-month permits, a report must be filed during the 9th month after the date of the grant of the STV authorization setting forth the status of construction.

tion television facility. During the process of construction of the subscription television facilities, the holder of the authorization, after notifying the Commission and the Engineer in Charge of the radio district in which the station is located, may, without further authority of the Commission, conduct equipment tests for the purposes of such adjustments and measurements as may be necessary to assure compliance with the terms of the authorization, the technical provisions of the application therefor, and the rules and regulations. The Commission may notify the holder of the authorization not to conduct tests if such tests appear to be contrary to the public interest, convenience, and necessity. Upon completion of the construction, the holder of the authorization shall submit a detailed showing that compliance with the terms of the authorization, the technical provisions of the application therefor, and the rules and regulations has been achieved. No subscription television operation shall commence until requirements of this paragraph have been fulfilled and operation has been specifically authorized by the Commission.

[FR Doc. 77-29601 Filed 10-7-77; 8:45 am]

[6712-01]

PART 91—INDUSTRIAL RADIO SERVICES

Designating 489.6625 MHz as a New Starting Point for Assigning Frequencies in Business Radio Service in the Houston, Texas, Metropolitan Area in the 470-512 MHz

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Fifth Report and Order in Docket 18261 provided for designating new starting points for frequency assignments as channels become filled in certain cities. This Order designates 489.6625 MHz as the new starting point for frequency assignments in the Business Radio Service at Houston.

EFFECTIVE DATE: October 17, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

A. C. King, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, 202-632-6497.

Adopted: September 30, 1977.

Released: October 3, 1977.

Order. In the matter of the designation of 489.6625 MHz as a new starting point for assigning frequencies in the Business Radio Service in the Houston, Texas, metropolitan area in the 470-512 MHz band.

1. In the Fifth Report and Order in Docket 18261 the Commission provided a flexible frequency assignment plan for the 470-512 MHz band frequencies available in Dallas and Houston, Texas, and in Miami, Florida. "Land Mobile/UHF-

TV Sharing Plan," 48 FCC 2d 360 (1974). In Paragraph 12 of that Report and Order, the Commission said, ". . . since all of the frequencies are to be available in all eligible radio services, the frequencies in which the first assignments are to be made do not necessarily set out the boundaries for frequency availability in a particular radio service. A new starting frequency may be assigned by the staff for any of the various groups when the frequencies available to it in sequence are exhausted. Also, should any group fail to use its assigned frequency, that base line may be moved." "Land Mobile/UHF-TV Sharing Plan," supra, at p. 364.

2. The frequencies available in sequence in the Business Radio Service in Houston in the 470-512 MHz band are now occupied and are substantially loaded. Therefore, in accordance with Paragraph 12 of the Report and Order in Docket 18261, an additional starting point is being established. That starting frequency will be 489.6625 MHz. Assignments will be made sequentially in ascending and descending order from this frequency until all available contiguous channels are occupied.

3. This action is taken pursuant to the authority contained in Section 4(i) of the Communications Act of 1934, as amended, and to authority delegated by the Commission in the "Fifth Report and Order" in Docket 18261 previously cited. The amendment to § 91.114(f)(3) is for conformity with substantive matters which were previously decided in the "Fifth Report and Order" and which are being implemented herein. Therefore, compliance with the prior notice requirements prescribed by 5 U.S.C. 553 is unnecessary.

4. Accordingly, it is ordered, That effective October 17, 1977, § 91.114(f)(3) of the Commission's rules is amended as shown below.

(Secs. 4, 303, 48 Stat., as amended, 1066, 1082; (47 U.S.C. 154, 303).)

VERNON A. SPRING,
Acting Chief, Safety and Special
Radio Services Bureau.

Part 91 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 91.114(f)(3) is amended to read:

§ 91.114 Frequencies in the band 470-512 MHz.

(f)
(3) Base station frequencies for the Business Radio Service will be assigned serially beginning at 472.3625 MHz for Miami, 484.3625 MHz for Dallas, and 489.6625 MHz and 498.3625 MHz for Houston and progressing, a channel at a time, upward and downward from those points. Mobile station frequencies are 3 MHz higher than the corresponding base station frequencies. Normally, each channel shall be substantially filled before the next channel will be assigned.

[FR Doc. 77-29705 Filed 10-7-77; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1280]

PART 1033—CAR SERVICE

Substitution of Hopper Cars for Covered Hopper Cars or Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1280).

SUMMARY: There is a shortage of covered hopper cars for shipments of grain and soybeans and their products. Supplies of open hopper cars can be made available to shippers willing to substitute those cars for covered hoppers or for boxcars. However, in some instances, the rates are applicable only to shipments loaded into covered hopper cars or boxcars. Service Order No. 1280 authorizes railroads, subject to the consent of the shipper, to substitute open hopper cars for covered hopper cars or boxcars ordered for shipments of these commodities.

DATES: Effective 12:01 a.m., October 4, 1977. Expires 11:59 p.m., November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

C.C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION:

The Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 4th day of October, 1977.

There is an acute shortage of covered hopper cars and boxcars for transporting shipments of grain, grain screenings, soybeans, or grain products in certain sections of the country. Some carriers have adequate supplies of open hopper cars. Use of these cars for transporting grain, grain screenings, soybeans or grain products is precluded by certain tariff provisions requiring the use of covered hopper cars or boxcars, thus curtailing shipments of grain, grain screenings, soybeans, or grain products and creating great economic loss. In the opinion of the Commission, present regulations and practices with respect to the use, supply, control, movement, and distribution of covered hopper cars and boxcars are ineffective, and an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists

for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1280 Substitution of Hopper Cars for Covered Hopper Cars or Boxcars.

(a) Each common carrier by railroad subject to the Interstate Commerce Act shall observe, enforce, and obey the following rules, regulations, and practices with respect to its car service:

(1) *Substitution of Cars*—Subject to the concurrence of the shipper, the carrier may substitute open hopper cars for shipments of grain, grain screenings, soybeans, or grain products, whether from the point of origin or from an intermediate in-transit point, regardless of tariff provisions requiring the use of covered hoppers or boxcars.

(2) *Minimum Weights*—The minimum weights per shipment of grain, grain screenings, soybeans, or grain products transported in open hopper cars substituted for covered hopper cars or boxcars shall be the minimum weights specified in the tariffs for shipments made in covered hopper cars or boxcars regardless of the number of open hopper cars required to be used to secure the minimum weight.

(3) In shipping grain, grain screenings, soybeans, or grain products in open hopper cars in lieu of covered hopper cars or boxcars as provided herein, the shipper shall be deemed to have acknowledged the terms and conditions of the contract of carriage embodied in the bill of lading that the carrier shall not be liable for injury, loss, or damage to the lading resulting from a defect or vice in such property.

(4) Bills of lading covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1280.

(5) The term "open hopper cars" means all cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "HFA", "HK", "HM", "HMA", "HT", or "HTA".

(6) The term "covered hopper cars" means all cars listed in the Official Railway Equipment Register, I.C.C. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "LO".

(7) The term "boxcars" means all cars listed in the Official Railway Equipment Register, I.C.C. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "XM", or "XMI".

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

(c) *Application.* The provisions of this order shall apply to interstate, interstate, and foreign commerce.

(d) *Effective date.* This order shall become effective at 12:01 a.m., October 5, 1977.

(e) *Expiration date.* The provisions of this order shall expire at 11:59 p.m., November 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1 (12), (15), (16) and 17(2).)

It is further ordered, That a copy of this order and direction shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this order be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29720 Filed 10-7-77; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Valentine National Wildlife Refuge, Nebr., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Valentine National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: September 17, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebr. 69201; Telephone: 402-376-3789.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on Valentine National Wildlife Refuge, Nebr., is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colo. 80215. Hunting shall be in accordance with all State regulations covering the hunting of deer.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

SEPTEMBER 14, 1977.

ROBERT M. ELLIS,
Refuge Manager.

[FR Doc.77-29667 Filed 10-7-77; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Valentine National Wildlife Refuge, Nebr., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of Valentine National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Cock Pheasant: November 5, 1977 through December 31, 1977. Grouse: September 17, 1977 through October 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebr. 69201; Telephone: 402-376-3789.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of pheasant and grouse on Valentine National Wildlife Refuge, Nebr., is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colo. 80215. Hunting shall be in accordance with all State regulations covering the hunting of pheasant and grouse.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement

under Executive Order 11949 and OMB Circular A-107.

ROBERT M. ELLIS,
Refuge Manager.

SEPTEMBER 14, 1977.

[FR Doc.77-29668 Filed 10-7-77; 8:45 am]

[3410-37]

Title 9—Animals and Animal Products

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

Rate Increase for Inspection Service

AGENCY: Food Safety and Quality Service.

ACTION: Final rule.

SUMMARY: The rates for overtime inspection, identification, certification, or laboratory service rendered to operators of official meat or poultry establishments, importers, or exporters by the Food Safety and Quality Service, Meat and Poultry Inspection Program, are changed to reflect the recent Federal pay raise.

EFFECTIVE DATE: October 9, 1977.
FOR FURTHER INFORMATION CONTACT:

June P. Blair, Acting Director, Finance Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. (202-447-6653).

Pursuant to the statutory authorities cited below, the fees relating to overtime and holiday inspection, identification, certification, or laboratory service rendered to operators of official meat or poultry establishments, importers, or exporters by the Food Safety and Quality Service, Meat and Poultry Inspection Program, are hereby amended to reflect increase in Federal employees' salaries authorized by the Federal Pay Comparability Act of 1970, and Executive Order 12010, dated September 28, 1977, to a level that will more adequately cover the cost of the service provided.

Accordingly, the Meat and Poultry Inspection Regulations in 9 CFR are amended as set forth below:

1. The rate for overtime or holiday inspection, identification, or certification service rendered, as the case may be in accordance with the provisions of this chapter, is changed from \$13.20 per hour to \$14.12 per hour in §§ 307.5(a), 351.8, and 381.38(a).

PART 350—SPECIAL SERVICES RELATING TO MEAT AND OTHER PRODUCTS

2. Section 350.7(c) is amended to read as follows:

§ 350.7 Fees and charges.

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rate of \$14.12 per hour for base time, \$14.12 per hour for overtime including Saturdays, Sundays, and holidays, and \$21.32 per hour

for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include but will not be limited to the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

PART 351—CERTIFICATION OF TECHNICAL ANIMAL FATS FOR EXPORT

3. Section 351.9(a) is amended to read as follows:

§ 351.9 Charges for examinations.

(a) The hourly fees to be charged and collected by the Administrator shall be \$14.12 per hour for examinations, as provided for in § 351.14, and \$21.32 per hour for any laboratory service required to determine the eligibility of any technical animal fat for certification under the regulations in this part. Such fees shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith.

PART 354—VOLUNTARY INSPECTION OF RABBITS AND EDIBLE PRODUCTS THEREOF

4. Section 354.101 (b) and (c) are amended to read as follows:

§ 354.101 On a fee basis.

(b) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be \$14.12 for base time and \$14.12 for overtime or holiday work.

(c) Charges for any laboratory analysis or laboratory examination of rabbits under this part related to the inspection service shall be \$21.32 per hour.

PART 362—VOLUNTARY POULTRY INSPECTION REGULATIONS

5. Section 362.5(c) is amended to read as follows:

§ 362.5 Fees and charges.

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rate of \$14.12 per hour for base time, \$14.12 per hour for overtime including Saturdays, Sundays, and holidays, and \$21.32 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including but not limited to the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

It has been determined that in order to cover these increased costs of the services, the hourly fees charged in connection with the performance of the services must be increased as soon as

practicable as provided herein. The need for the increase and the amount thereof are dependent upon facts within the knowledge of the Food Safety and Quality Service. Therefore, under 5 U.S.C. 553, it is found that notice and other public procedure with respect to these amendments are impracticable and unnecessary and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on October 7, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety
and Quality Service.

[FR Doc.77-29850 Filed 10-7-77;11:20 am]

[6820-14]

Title 41—Public Contracts and Property Management

CHAPTER 105—GENERAL SERVICES ADMINISTRATION

PART 105-63—PRESERVATION AND PROTECTION OF AND ACCESS TO THE PRESIDENTIAL HISTORIC MATERIALS OF THE NIXON ADMINISTRATION

Subpart 105-63.3—Access to Materials by Former President Nixon, Federal Agencies, and for Use in Any Judicial Proceeding

SPECIAL ACCESS REGULATIONS

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment to the Nixon materials Special Access Regulations clarifies which officials within Federal agencies or departments in the executive branch may request access to the Nixon materials on behalf of that agency or department. The intent of this rule is to limit the number of officials who may request access, thereby assisting the Administrator of General Services in determining whether requests are for a lawful Government use and are necessary for the conduct of ongoing Government business.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald P. Young, Assistant General Counsel, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405 (202-566-1460).

SUPPLEMENTARY INFORMATION: On August 12, 1977, the General Services Administration issued revised regulations (42 FR 40858) which in part pertained to special access to the Presidential historical materials of the Nixon Administration in accordance with sections 102 and 103 of Title I of the Presidential Recordings and Materials Preservation Act (Pub. L. 93-526). Revised § 105-63.302 pertained to access by Federal agencies or departments in the executive branch. The purpose of this amendment is to limit the number of executive branch officials who may request access to the Nixon materials in accordance with that section. Limiting the number of officials who may request access will assist the Administrator of General Services in determining that requests are for a lawful Government use and are necessary for the conduct of ongoing Government business.

Accordingly, the General Services Administration hereby revises § 105-63.302 to read as follows:

§ 105-63.302 Access by Federal agencies.

In accordance with the provisions of Subpart 105-63.2, any Federal agency or department in the executive branch shall have access for lawful Government use to the Presidential historical materials in the custody and control of the Administrator to the extent necessary for ongoing Government business. The Administrator will only consider written requests from heads or agencies or departments, deputy heads of agencies or departments, or heads of major organizational components or functions within agencies or departments.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Secs. 103 and 104 of Pub. L. 93-526; 88 Stat. 1695; 44 U.S.C. 2107 note.)

NOTE.—The General Services Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 7, 1977.

JOEL W. SOLOMON,
Administrator of
General Services Administration.

[FR Doc.77-29918 Filed 10-7-77;3:38 pm]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-30]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 220]

FORMULATED GRAIN-FRUIT PRODUCTS

Extension of Public Comment Period

AGENCY: Food and Nutrition Service, USDA.

ACTION: Extension of public comment period.

SUMMARY: This notice extends the public comment period regarding the proposed withdrawal of authorization for the use of a class of products referred to as "formulated grain-fruit products" in the School Breakfast Program.

DATES: The close of comment date announced in 42 FR 40911 (August 12, 1977), was September 26, 1977. The revised date is October 11, 1977.

ADDRESS: Comments may be addressed to the Director, Child Nutrition Division, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Grace L. Ostenso, Nutrition and Technical Services Staff, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250 (202-447-9081).

SUPPLEMENTARY INFORMATION: On March 27, 1974 (39 FR 11249) the Food and Nutrition Service published regulations authorizing the use of formulated grain-fruit products which were believed to provide a nutritious, convenient alternatives breakfast pattern when served with milk.

The Department published a proposed rule, 42 FR 40911, on August 12, 1977, which would delete the authorization for use of these products. The Department has received requests from interested parties to extend the comment period beyond September 26. It is the Department's policy to maximize public participation in the rulemaking process. Therefore, it is considered in the public interest to extend the comment period to October 11, 1977.

Dated: October 6, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-29792 Filed 10-7-77;8:45 am]

[3410-02]

Agricultural Marketing Service

[7 CFR Part 1049]

[Docket No. AO-319-A28]

MILK IN THE INDIANA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the order based on industry proposals considered at a public hearing on July 26, 1977. The proposed amendments would add four Michigan counties to the marketing area and make a limited change in the classification of milk. The amendments are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

FOR FURTHER INFORMATION CONTACT:

Irving E. Sutlin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-4829).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued June 22, 1977; published June 29, 1977 (42 FR 33040). Recommended Decision—Issued September 6, 1977; published September 9, 1977 (42 FR 45335).

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Indiana marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Indianapolis, Indiana on July 26, 1977, pursuant to notice thereof issued on June 22, 1977 (42 FR 33040).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Program Operations, on September 6, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issues on the record relate to:

1. Expansion of the marketing area; and
2. Classifying the shrinkage of non-fat milk solids used in modifying fluid milk products.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Expansion of the marketing area.* The Indiana marketing area, now comprised of 64 Indiana counties, should be expanded to include the four Michigan counties of Berrien, Branch, Cass, and St. Joseph. About three-quarters of the route disposition in each of the four counties is from eight Indiana order pool plants. The remaining route disposition in the four counties is from five Southern Michigan order pool plants and from a plant regulated under the Chicago order.

The handling of milk in the enlarged marketing area is in the current of interstate commerce and directly burdens, obstructs or affects interstate commerce in milk and its products.

The four-county area, which is in southwestern Michigan, borders on the northern boundary of the present Indiana marketing area. Two of the four counties, St. Joseph and Branch, are bounded on the north by Kalamazoo and Calhoun Counties, respectively, which counties are in the southwestern corner of the Southern Michigan order marketing area. The 1970 census population of the four counties is 292,000. For each county the population is: Berrien, 164,000; Branch, 38,000; Cass, 43,000; and St. Joseph, 47,000.

Expansion of the marketing area, which was proposed by McDonald Dairy Cooperative Association, was favored by the major cooperatives in the Indiana market. There was no opposition to the proposal.

McDonald operates a pool distributing plant in Benton Harbor (in Berrien County) Mich. The route disposition from that plant in the four Michigan counties proposed to be added to the marketing area is greater than from any other plant. In May 1977 about 27 percent of the Benton Harbor plant's route disposition was in the Indiana marketing area and about 23 percent in the Southern Michigan marketing area. The remaining route disposition from the plant was in a presently unregulated five-county area—four proposed counties and Van

Buren County, Mich., which attaches to the northern boundary of Berrien and Cass counties.

Although the Benton Harbor plant has been qualifying each month for pooling under both the Indiana and Southern Michigan orders, it has been pooled continuously under the Indiana order. This is because its route disposition each month in the Indiana marketing area has been greater than in the Southern Michigan marketing area. However, in some recent months the total route disposition in the Southern Michigan marketing area has been close to that in the Indiana marketing area.

For May 1977 it appeared that the Benton Harbor plant's route disposition in the Southern Michigan marketing area was greater than in the Indiana marketing area. Only after an audit was made by the market administrator was it determined that the route disposition from the plant was greater in the Indiana marketing area than in the Southern Michigan area.

The McDonald spokesman stated that unless the four counties are included in the marketing area, and the Benton Harbor plant's distribution therein becomes route disposition in the marketing area, regulation of the plant could shift back and forth between the Indiana and Southern Michigan orders. This is because in some months the plant's route disposition in the present Indiana marketing area could be less than in the Southern Michigan marketing area, which would result in the Benton Harbor plant being regulated for the month under the Southern Michigan order.

Including the four proposed counties in the Indiana marketing area will result in the Benton Harbor plant having substantially more sales each month in the foreseeable future in the Indiana marketing area than in the Southern Michigan marketing area. This would remove any uncertainty regarding the order under which the plant would be regulated.

The Indiana order provides for a "takeout-payback" fall production incentive plan that withholds 20 cents per hundredweight from the payments otherwise due producers for their deliveries in April-July. This money is distributed to producers on the basis of their production in the payback months of September-December. Under the Southern Michigan order, producers are paid on a base-excess plan throughout the year. The base on which each producer is paid is determined by his deliveries in the preceding August-December. If regulation of a plant shifted back and forth between orders, the producers involved could lose the benefits of the producer payment plan in the order under which their milk was usually pooled without obtaining the comparable benefits realized by producers regularly associated with the other order. Without the inclusion of the proposed four counties in the Indiana marketing area, producers supplying the Benton Harbor plant could find themselves in such a situation.

Including in the Indiana marketing area the proposed four counties, wherein Indiana order handlers are the principal distributors, will contribute to market stability. Particularly, it would serve as a safeguard against disruptive marketing conditions and the inequities among producers that would result if regulation of the plant they supplied shifted back and forth between the Indiana and Southern Michigan orders.

The provisions of the existing order as herein proposed to be amended are equally appropriate for the expanded marketing area.

2. *Classifying the shrinkage of nonfat milk solids used in modifying fluid milk products.* When fluid milk products are modified by adding nonfat milk solids (i.e., nonfat dry milk, condensed skim milk, or similar products), shrinkage in Class III up to two percent of the fluid equivalent of the quantity of nonfat milk solids added should be allowed.

Fluid milk products modified by the addition of nonfat milk solids, commonly called fortified products, represent a significant Class I disposition of handlers. Such a modified product must be accounted for under the order as Class I in a quantity equal to the weight of an equal volume of the same unmodified product. The small increase in volume due to the addition of the nonfat milk solids is accounted for when the modified product is disposed of as Class I. The remainder of the fluid equivalent of nonfat milk solids added but not represented by a volume increase in the modified product is classified as Class III.

The market administrator's laboratory tests the modified milk products of a handler to determine their total nonfat milk solids content. From that total he subtracts the nonfat milk solids content of milk utilized by the handler in making the modified milk products to determine the quantity of solids added.

The quantity of nonfat milk solids determined by the market administrator to have been added to the modified product is the basis for computing the fluid equivalent of the nonfat milk solids to be accounted for and classified.

The handler who proposed the change adopted in this decision complained that the order makes no allowance for the loss of nonfat dry milk solids used in fortification. He testified that, in addition to the loss incurred in processing fluid milk products, losses result from spillage and from nonfat dry milk sticking to the bags in which it is received at the plant.

Some disappearance of nonfat milk solids may be due to a lack of detailed records for each batch of fluid milk products fortified with added nonfat milk solids. For example, when more of a fortified fluid milk product is made than is needed for packaging on a particular day, the excess would be diverted for use in another product at the plant. It may not always be practicable for a handler to maintain a complete and accurate record of the nonfat milk products from each batch of a fortified product so diverted.

When the amount of nonfat milk solids in modified fluid milk products is determined by the market administrator's laboratory testing, a reasonable basis exists for computing a shrinkage allowance for nonfat milk solids used in the fortification process. A Class III shrinkage allowance of not more than two percent of the fluid equivalent of the quantity of nonfat milk solids so used, which is adopted in this decision, is appropriate for this purpose. This is the same rate for Class III shrinkage allowance applicable to milk received from producers.

The loss of nonfat milk solids associated with the fortifying process should be treated separately from the shrinkage allowances applied to receipts of fluid milk products. The shrinkage allowance in this case should be a part of the classification procedure of the specific modified fluid milk product disposed of.

The present classification provisions specify how much of the fluid equivalent of the nonfat milk solids in a fortified product may be classified in Class III. The shrinkage allowance provided herein would be a quantity of Class III milk in addition to the quantity now calculated under the present provision.

Any disappearance of nonfat milk solids in excess of the two percent limit would enter into the total plant accounting for receipts and disposition under the present order provisions applicable to shrinkage.

RULINGS ON PROPOSED FINDINGS AND CONCLUSIONS

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. The briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

GENERAL FINDINGS

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which

affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the order as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1049.85 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

RULINGS ON EXCEPTIONS

No exceptions were filed.

MARKETING AGREEMENT AND ORDER

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Indiana marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

DETERMINATION OF PRODUCER APPROVAL AND REPRESENTATIVE PERIOD

July 1977 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Indiana marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 4, 1977.

ROBERT H. MEYER,
Assistant Secretary for
Marketing Services.

Order Amending the Order, Regulating the Handling of Milk in the Indiana Marketing Area

FINDINGS AND DETERMINATIONS

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Indiana marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1049.85.

¹ This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Indiana marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Program Operations, on September 6, 1977, and published in the FEDERAL REGISTER on September 9, 1977 (42 FR 45335) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. Section 1049.2 is revised as follows:

§ 1049.2 Indiana marketing area.

"Indiana marketing area" (hereinafter referred to as the "marketing area") means all of the territory within the boundaries of the following counties, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

(a) In Indiana, the counties of:

Adams	La Porte
Allen	Lawrence
Bartholomew	Madison
Blackford	Marion
Boone	Marshall
Brown	Miami
Cass	Monroe
Clay	Montgomery
Clinton	Morgan
Decatur	Noble
De Kalb	Owen
Delaware	Parke
Elkhart	Porter
Fayette	Putnam
Fountain	Randolph
Franklin	Ripley
Fulton	Rush
Grant	St. Joseph
Hamilton	Shelby
Hancock	Starke
Hendricks	Steuben
Henry	Switzerland
Howard	Tipton
Huntington	Union
Jackson	Vermillion
Jay	Vigo
Jefferson	Wabash
Jennings	Warren
Johnson	Wayne
Kosciusko	Wells
Lagrange	Whitley
Lake	

(b) In Michigan, the counties of:

Berrien	Cass
Branch	St. Joseph

2. In § 1049.40, paragraph (c) (6) is revised as follows:

§ 1049.40 Classes of utilization.

(c) . . .
(6) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1049.15, plus the fluid equivalent of loss of nonfat

milk solids occurring in the process of modification in any case where determination of the quantity of added nonfat milk solids disposed of in such products is based upon laboratory analysis by the market administrator, such loss allowable pursuant to this subparagraph not to exceed two percent of the fluid equivalent of the quantity of added nonfat milk solids so determined to be added; and

[FR Doc.77-29728 Filed 10-7-77;8:45 am]

[3410-34]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 92]

IMPORTATION OF ANIMALS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the animal import regulations to delete optional pre-entry diagnostic screening tests for equine piroplasmosis, to clarify in-bond transit requirements for animals from Canada and add provisions to the regulations whereby animals of United States origin may transit Canada and re-enter the United States without meeting certain importation requirements. The intended effect of these actions is to reduce unnecessary time and expense associated with the importation of animals.

DATE: Comments on or before November 10, 1977.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Rd., Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, Md. 20782, (301-436-8170).

SUPPLEMENTARY INFORMATION: A negative test for equine piroplasmosis has been required as a prerequisite for importation of horses into the United States since October 1970. Since availability of antigen for testing and laboratory capability required to conduct the tests were limited to the United States at that time, the Department made available optional pre-entry diagnostic screening tests whereby blood from horses intended for importation into the United States could be tested and their equine piroplasmosis disease status determined prior to their departure from their country of origin. This was done to eliminate to the extent possible the refusal of entry of horses which were found to be reactors to the equine piroplasmosis test upon arrival in the United States and the expense and inconvenience to importers associated therewith. The method of preparing equine piro-

plasmosis antigen has now been made available to laboratories in other countries and the Department has trained laboratory technicians from several countries including France, Great Britain, Chile, and Argentina in procedures necessary to produce the required antigen and to conduct the equine piroplasmosis test. It has now been determined that there is no longer a need for the Department to conduct courtesy screening tests, at Department expense, on horses prior to their shipment to the United States and the provision for providing such tests would be deleted from the regulations.

The proposal would also permit animals of United States origin to transit Canada under specified conditions and return to the United States through a different land border port without a Canadian health or test certificate when accompanied by a copy of the United States export health certificate properly issued and endorsed. In view of the health measures which the Canadian government has employed to control and eradicate communicable diseases of animals, these changes will not endanger the health of the animals in the United States. These changes will, on the other hand, conserve time and expense with respect to re-entry of animals from Canada.

The proposed docket would also specify that a permit is required for in-bond shipments of animals from Canada which are transiting the United States for immediate export. This is proposed for the purposes of clarification and for the purpose of conforming the provisions of § 92.25 with those of § 92.2(d).

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations in the following respects:

§ 92.11 [Amended]

1. In § 92.11 (d), the last two sentences would be deleted.

2. In § 92.25, paragraph (a) would be redesignated as (a) (1), a new paragraph (2) would be added and redesignated paragraph (a) (1) would be amended to read:

§ 92.25 Special provisions.

(a) In-bond shipments from Canada. (1) Cattle, sheep, goats, swine, horses, and poultry and birds from Canada transported in-bond through the United States for immediate export shall be inspected at the border port of entry and, when accompanied by an import permit obtained under § 92.4 of this Part and all conditions therein are observed, shall be allowed entry and shall be otherwise handled as provided in paragraph (d) of § 92.2. Animals not accompanied by a permit shall meet the requirements of this Part in the same manner as animals

destined for importation into the United States, except that the Deputy Administrator, Veterinary Services, may permit their inspection at some other point when he finds that such action will not increase the risk that communicable diseases of livestock and poultry will be disseminated to the livestock or poultry of the United States.

(2) *In-transit shipments through Canada.* Animals (including poultry) originating in the United States and transported directly through Canada may re-enter the United States without Canadian health or test certificates when accompanied by copies of the United States export health certificates properly issued and endorsed in accordance with regulations in Part 91 of this chapter; *Provided that*, to qualify for entry, the date, time, port of entry, and signature of the Canadian Port Veterinarian that inspected the animals for entry into Canada shall be recorded on the United States health certificate that accompanies the animals. In all cases it shall be determined by the veterinary inspector at the United States port of entry that the animals are the identical animals covered by said certificate.

§ 92.34 [Amended]

3. In § 92.34 (c), the last two sentences would be deleted.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 821, Hyattsville, Md., during regular hours of business (8:00 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 5th day of October 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-29724 Filed 10-7-77;8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR Part 202]

[Reg. B; Docket No. R-0117]

EQUAL CREDIT OPPORTUNITY

Proposed Definition of Adverse Action

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: In response to requests for clarification of the definition of adverse action, the Board proposes to amend

that definition. A number of creditors and two government agencies have raised the question of whether some or all point of sale or loan refusals or failures to authorize an extension of credit that would not exceed the account limit are adverse action and therefore require notice to the customer. The Board is seeking public comment in order to determine what regulatory course best implements the Equal Credit Opportunity Act.

DATE: Comments must be received on or before November 15, 1977.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All comments should refer to Docket No. R-0117.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Manager, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-3946).

SUPPLEMENTARY INFORMATION: The Equal Credit Opportunity Act and Regulation B require that notification be given to an applicant when adverse action occurs. Section 202.2(c) of Regulation B provides that adverse action occurs in three instances. First, it occurs when there is a refusal to grant credit in substantially the amount or on substantially the terms requested by an applicant, unless the applicant uses or expressly accepts the amount or terms that the creditor offers.

Second, adverse action occurs if there is a termination of an account or an unfavorable change in its terms that does not affect all or a substantial portion of a classification of the creditor's accounts. Third, it occurs when there is a refusal to increase the amount of credit available to an applicant who has requested the increase in accordance with the creditor's procedures for that type of credit.

The regulation specifically excludes five events from the definition of adverse action, including a creditor's refusal to extend credit at point of sale or loan because the credit requested would exceed a previously established credit limit on the account. Therefore, no notice of adverse action need be given when the use of a credit card would exceed the limit on the account. However, the Act and regulation are not explicit as to whether adverse action occurs and, thus, whether notice must be given, when the attempted use would not exceed the credit limit on the account.

In response to requests for clarification of this ambiguity, an official staff interpretation of § 202.2(c) was issued (EC-0008, 42 FR 21605, April 28, 1977). The interpretation states that a creditor's refusal or failure to authorize the use of an open-end account when such use would not exceed the account limit does not constitute adverse action and, therefore, does not require that the applicant be notified of the reasons for

the refusal. The staff of the Federal Trade Commission and the Justice Department have asked for reconsideration of this interpretation.

The Board proposes to amend § 202.2 (c) in order to resolve this ambiguity in the definition of adverse action. Board staff's official interpretation, EC-0008, remains in effect in the interim.

Two proposals are offered for comment. Proposal A would amend § 202.2(c) to provide that a refusal or failure to authorize the use of an account at a point of sale or loan is not adverse action unless such refusal or failure: (1) Occurs in connection with a request to increase the credit limit on the account in accordance with the procedures established by the creditor, (2) is a termination of the account, or (3) is an unfavorable change in the terms of an account that does not affect all or a substantial portion of a classification of a creditor's accounts. In addition, the term "application" would be substituted for "applicant" in subsection (1) (i) of the current definition, and language would be inserted to emphasize that § 202.2(c) (2) takes precedence over § 202.2(c) (1). The effect of adopting this proposal would be that all point of sale or loan refusals or failures to authorize use of an account are not adverse action, except in the three cases described immediately above.

Proposal B, on the other hand, would amend § 202.2(c) (2) to provide that a refusal or failure to authorize the use of an account at point of sale or loan would not be adverse action if occasioned by the customer's failure to present a credit card or required identification, the customer's presentation of an expired credit card, or the fact that the authorization center was closed or known to the merchant to be malfunctioning. All other point-of-sale refusals of credit would be adverse action requiring notice. The effect of adopting proposal B would be to limit the events that would not require a notice to those specifically exempted. Notices would still be required, for example, when an applicant presents a card reported lost or stolen, when an applicant attempts to use an account on which that applicant has disclaimed responsibility, or when the equipment at point of sale is malfunctioning. Similarly, a notice would be necessary if the use of the card did not fit into the applicant's previous pattern of card use or if the use of the card exceeded the credit limit for cash advances, for a particular kind of purchase, or for a geographic area. These are generally considered security control mechanisms.

To aid in consideration of this proposed rulemaking by the Board, interested persons are invited to submit relevant data, comments, or analyses. Any such information should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 15, 1977. All material submitted should include the Docket No. R-0117. Such information

will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Board's rules regarding availability of information (12 CFR 261.6(a)).

The following proposed amendments are published pursuant to the Board's authority under section 703(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691(b)).

PROPOSAL A

§ 202.2 Definitions and rules of construction.

(c) *Adverse action.* (1) For the purpose of notification of action taken, statement of reasons for denial, and record retention, the term means:

(i) A refusal to grant credit in substantially the amount or on substantially the terms requested in an application unless the creditor offers to grant credit other than in substantially the amount or on substantially the terms requested by the applicant and the applicant uses or expressly accepts the credit offered; or

(2) The term does not include:

(iii) A refusal or failure to authorize the use of an account at a point of sale or loan, except when the refusal is caused by a termination or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a classification of the creditor's accounts or when the refusal results in the denial of an application to increase the amount of credit available under the account; or

(3) When a particular action falls within the definitions of both paragraphs (c) (1) and (c) (2) of this section, the provisions of paragraph (c) (2) of this section control.

PROPOSAL B

§ 202.2 Definitions and rules of construction.

(c) *Adverse action.* . . .

(2) The term does not include:

(vi) A refusal to extend credit because an applicant fails to present a credit card or presents an expired credit card; or

(vii) A refusal to extend credit because an applicant fails to present the required identification; or

(viii) A refusal to extend credit because the credit card issuer's authorization center is closed or known to the merchant to be malfunctioning.

By order of the Board of Governors, effective September 28, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-29629 Filed 10-7-77;8:45 am]

[4910-13]

DEPARTMENT OF
TRANSPORTATION

[14 CFR Part 71]

[Airspace Docket No. 77-EA-76]

PROPOSED ALTERATION OF
TRANSITION AREA, ELMIRA, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to alter the Elmira, N.Y., Transition Area, over Chemung County Airport, Elmira, N.Y. The extension based on the 237° VOR radial will be widened and lengthened. This results from the development of a revised VOR runway 6 approach procedure.

DATES: Comments must be received on or before November 10, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, Telephone (212) 995-3391. The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA-7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

COMMENTS INVITED

Interested parties may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before November 10, 1977, will be considered before action is taken on the proposed amendments. The proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Chief, Airspace & Procedures Branch, AEA-530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling (212) 995-3391. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing

PROPOSED RULES

list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedures.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the transition area over Chemung County Airport, Elmira, New York. The area will be altered by increasing the width of the 237° VOR radial extension from 2 to 4.5 miles each side of the radial, and increasing the length from 8 to approximately 11.5 miles. The designation of the navigational aid is changed from VOR to VORTAC.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Elmira, N.Y., 700-foot floor transition area by deleting "within 2 miles each side of the Elmira VOR 237° radial extending SW from the 12-mile radius area for 8 miles SW of the VOR" and by inserting, "within 4.5 miles each side of the Elmira VORTAC 237° radial, extending from the 12-mile radius area to 11.5 miles SW of the VORTAC", in lieu thereof.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1343(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Issued in Jamaica, N.Y., on September 27, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc. 77-29715 Filed 10-7-77; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY
COMMISSION

[16 CFR Part 1302]

EXTREMELY FLAMMABLE CONTACT
ADHESIVES

Extension of Time for Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of time for promulgation of rule.

SUMMARY: The purpose of this notice is to extend from September 12, 1977,

until December 12, 1977, the period in which the Consumer Product Safety Commission must publish in the FEDERAL REGISTER a consumer product safety rule to declare that certain extremely flammable contact adhesives are banned hazardous products under section 8 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057) or to withdraw the rule proposed on July 13, 1977.

DATES: The deadline for publishing the rule is extended to December 12, 1977.

ADDRESSES: Nonapplicable.

FOR FURTHER INFORMATION CONTACT:

Phillip Bechtel, Office of the General Counsel, 202-634-7770.

SUPPLEMENTARY INFORMATION:

The purpose of this notice is to extend from September 12, 1977, until December 12, 1977, the period in which the Consumer Product Safety Commission must publish in the FEDERAL REGISTER a consumer product safety rule to declare that certain extremely flammable contact adhesive are banned hazardous products under section 8 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057) or to withdraw the rule proposed on July 13, 1977.

Based on information gathered by the Commission staff and information contained in a petition (HP 76-9) filed by Barbara Peters on March 12, 1976, the Commission preliminarily determined that extremely flammable contact adhesives and similar products in containers of more than one-half pint are being and will be distributed in commerce and present an unreasonable risk of burn injury from explosive vapor ignition and flashback fire. The Commission also preliminarily determined that no feasible standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with the product. On July 13, 1977, the Commission proposed a ban under the CPSA of this product (42 FR 35984). The FEDERAL REGISTER notice proposing the ban invited interested persons to submit, on or before September 12, 1977, written comments regarding the proposal. The FEDERAL REGISTER notice also invited interested persons to make an oral presentation concerning the proposal at a proceeding that was conducted August 29, 1977.

The Commission has received approximately twenty-five written comments concerning the proposed ban as well as eight oral presentations concerning the proposal. Many of these comments and presentations concern technical issues that must be reviewed by the Commission staff. Since the comment period expired recently, the Commission staff will require additional time to analyze these comments and brief the Commission.

Accordingly, pursuant to § 9(a) (1) of the CPSA (15 U.S.C. 2058(a) (1)) the period of time in which the Commission must publish a consumer product safety rule declaring that certain extremely

flammable contact adhesives are banned hazardous products or withdraw the rule proposed on July 13, 1977, is extended to December 12, 1977. This period may be further extended for good cause by notice published in the FEDERAL REGISTER.

Dated: October 3, 1977.

SADYE E. DUNN,
Deputy Secretary,
Consumer Product Safety Commission.
[FR Doc. 77-29592 Filed 10-7-77; 8:45 am]

[6351-01]

COMMODITY FUTURES TRADING
COMMISSION

[17 CFR Parts 1, 166]

PROTECTION OF COMMODITY
CUSTOMERSStandards of Conduct for Commodity
Trading Professionals; Public Hearing

AGENCY: Commodity Futures Trading Commission.

ACTION: Public hearing.

SUMMARY: The Commodity Futures Trading Commission will hold a public hearing on Wednesday, October 19, 1977, to receive oral comments on its Customer Protection Rules.

DATE: 10 a.m., October 19, 1977.

ADDRESS: Dirksen Building, Room 204-A, 219 South Dearborn Street, Chicago, Ill.

FOR FURTHER INFORMATION CONTACT:

Marcia Carlson, Commodity Futures Trading Commission, 233 South Wacker Drive, Chicago, Ill. (312-353-9018).

SUPPLEMENTARY INFORMATION: The Commission's proposed Customer Protection Rules were published in the FEDERAL REGISTER on September 6, 1977 (42 FR 44742). Persons wishing to appear at this hearing should notify Ms. Carlson by Friday, October 14, 1977.

Issued in Washington, D.C., on October 5, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity
Futures Trading Commission.
[FR Doc. 77-29636 Filed 10-7-77; 8:45 am]

[1505-01]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 16, 20, 860]

[Docket No. 77N-0155]

MEDICAL DEVICES

Classification Procedures

Correction

In FR, Doc. 77-26388, appearing at page 46028 in the issue of Tuesday, Sep-

PROPOSED RULES

tember 13, 1977, make the following changes.

1. On page 46033, second column, the number "515(b)" should be inserted between the fourth and fifth lines of the first full paragraph.

2. On page 46034, second column, the fourth line of the second paragraph should read "90 Stat. 540-559, 564-574 (21 U.S.C. 360c)".

3. On page 46036, third column, the word "age" should be inserted between the second and third complete words in line three of § 860.7(f) (1) (ii) (c).

4. On page 46037, first column, the third word in the fifth line of § 860.7(f) (1) (iv) (d) should read, "or".

[1505-01]

[21 CFR Part 299]

[Docket No. 77N-0155]

DRUGS; OFFICIAL NAMES

Proposed Amendment of Designation of
Official Names

Correction

In FR Doc. 77-26572, appearing at page 45938 in the issue of Tuesday, September 13, 1977, an indented line should be added above the first column on page 45940, reading, "Interested persons may, on or before".

[4110-03]

[21 CFR Part 700]

[Docket No. 77N-0105]

PRESERVATION OF COSMETICS COMING
IN CONTACT WITH THE EYEIntent to Propose Regulations and Request
for Information

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice of intent to propose regulations.

SUMMARY: This document announces the agency's intention to propose regulations regarding microbial preservation of cosmetics that may come in contact with the eye under intended or customary conditions of use. The Commissioner of Food and Drugs is inviting the submission of comments and information concerning microbiological testing methods and standards of performance suitable to assure that such cosmetics do not become contaminated with microorganisms during manufacturing, subsequent storage and/or use by consumers.

DATES: Comments by December 12, 1977.

ADDRESSES: Written comments, data, or information to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Heinz J. Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-1530).

SUPPLEMENTARY INFORMATION: FDA has received several reports of corneal ulceration associated with the use of cosmetic mascaras containing pathogenic microorganisms. These reports illustrate the importance of having adequate preservatives in mascaras and other eye contact cosmetics to reduce the risk of microbial contamination and eye injury. Mascaras can become contaminated with various microorganisms when the consumer uses the product and re-inserts the applicator wand into the container after application of the mascara to the eye lashes. The re-insertion of the applicator wand into the mascara is part of the intended or customary conditions of use of the products. Without an adequate preservative system, microorganisms introduced into the mascara with the applicator wand can survive and multiply inside the container. When the mascara is used again, if the microorganisms on the applicator wand come into contact with a scratched or damaged cornea, the eye may become infected. The healthy cornea is a formidable barrier against microbial insults. However, a cornea scratched inadvertently with a mascara wand, fingernail, contact lens, or otherwise damaged by chemical or physical trauma may readily become infected with microorganisms.

The reported incidents all involve mascaras in which the microorganism *Pseudomonas aeruginosa* has been found. *Pseudomonas aeruginosa* is an ubiquitous bacterium that may be present on the skin as a transient microorganism. It may readily grow in a cosmetic unless the cosmetic contains a preservative adequate to prevent contamination. *Pseudomonas aeruginosa* infections, if not recognized and treated immediately, can cause corneal ulceration that leads to partial or total blindness in the injured eye. Thus, particular attention should be given to the microorganism *Pseudomonas aeruginosa* in developing an adequate preservative system for all cosmetics that may come in contact with the eye during intended or customary conditions of use.

The Commissioner believes that the preservative systems used in mascara and other eye-contact products should be adequate not only to prevent the further growth of microorganisms introduced during use but also to reduce significantly the number of microorganisms introduced during use. The Commissioner expects to promulgate all-inclusive regulations delineating good manufacturing practice for cosmetics at some point, and he intends to propose regulations regarding microbial preservation of cosmetics coming in contact with the eye as a first step. The proposal will include not only a requirement for preservation sufficient to protect a cosmetic

[4710-01]

DEPARTMENT OF STATE

[22 CFR Part 51]

[Docket No. SD-134]

PASSPORTS

Denial of Passports

AGENCY: Department of State.

ACTION: Proposed rule.

against likely contamination during manufacture, processing, packing or holding, but also the requirement that a cosmetic be adequately preserved to withstand contamination under intended or customary conditions of use. The contemplated rulemaking will consider all the applicable legal requirements governing inadequately preserved eye-area cosmetics.

The Commissioner invites interested persons to submit comments, data, or other information regarding the contemplated rule. Of particular interest are data or other information on microbiological testing methods and performance standards which can be adopted as laboratory testing procedures for the determination that a preservation system is effective under customary manufacturing and use conditions. Any recommended performance standard should be supported and validated by actual experiences under customary conditions of use to assure meaningful correlation between laboratory tests and preservation effectiveness under customary use conditions.

The Commissioner also advises that he considers inadequately preserved cosmetics to be in violation of the act. Under section 601 of the act, a cosmetic is considered adulterated if it is prepared under conditions whereby it may have been rendered injurious to health, as well as if it bears any poisonous or deleterious substance that may render it injurious to users under the conditions of use. Furthermore, under sections 201(n), 601, and 602 of the act and 21 CFR 740.10, the label must bear any warning statements that are necessary or appropriate to prevent a health hazard that may be associated with the product. Manufacturers and distributors should be advised that FDA intends to take whatever regulatory action is necessary to remove from the market any cosmetic that poses an unreasonable risk of injury because of inadequate preservation to withstand contamination under customary conditions of use. FDA does not intend to await the completion of the rule making proceeding announced in this notice of intent before taking needed regulatory action.

Any comments or scientific data relating to the requested information should be forwarded on or before December 12, 1977, to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 3, 1977.

JOSEPH P. HILE,
Associate Commissioner for
Compliance.

[FR Doc.77-29614 Filed 10-7-77;8:45 am]

SUMMARY: The Department of State is proposing new regulations under Pub. L. 95-45 to provide assistance to U.S. nationals incarcerated abroad to whom private funds are not available and who need emergency medical treatment and certain other dietary assistance on a short-term basis. This assistance will be provided on a normally reimbursable basis whereby prisoners will execute notes promising to repay the loan(s) through the account of the Treasurer of the United States and agree not to be furnished passports for travel, except for direct return to the United States, until repayment of the loan(s).

DATES: Comments must be received on or before November 10, 1977.

ADDRESS: Send comments to the Director, Office of Special Consular Services, Room 1803, Bureau of Consular Affairs, Department of State, 2201 C Street NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

James L. Ward, 202-632-7871.

SUPPLEMENTARY INFORMATION: The Secretary's authority to limit the issuance or extension of passports, § 51.70, Title 22, Code of Federal Regulations, provides in part, that persons who have not repaid a loan received from the United States to effectuate their return from a foreign country in the course of travel abroad, may be refused passports. Similarly, persons who have received assistance from the United States under Pub. L. 95-45 dated June 15, 1977, Assistance for Americans Incarcerated Abroad, who have executed promissory notes to repay their loans in full may be refused passports, except for direct return to the United States.

It is therefore proposed to amend the Department's passport regulations by adding a new subparagraph (6) under § 51.70(a) to read as follows:

§ 51.70 Denial of passports.

(a) A passport, except for direct return to the United States, shall not be issued in any case in which:

(6) The applicant has not repaid a loan received from the United States as prescribed under § 71.10 and § 71.11 of this Chapter.

(Sec. 1, 44 Stat. 887; sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658, 270); E.O. 11295, 36 FR 10603; 3 CFR 1966-1970 Comp., page 507; Pub. L. 95-45 (91 Stat. 221)).

For the Secretary of State.

ROBERT T. HENNEMEYER,
Acting Assistant Secretary
for Consular Affairs.

OCTOBER 5, 1977.

[FR Doc.77-29740 Filed 10-7-77;8:45 am]

[4710-01]

[22 CFR Part 71]

[Docket No. SD-135]

PROTECTION AND WELFARE OF CITIZENS AND THEIR PROPERTY

Emergency Medical/Dietary Assistance for U.S. Nationals Incarcerated Abroad

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: This document contains proposed regulations under Pub. L. 95-45 relating to emergency medical/dietary and other assistance for U.S. nationals incarcerated abroad who are otherwise unable to obtain such services. The regulation will enable prisoners to receive appropriate emergency medical treatment and care, when required, in order to sustain an acceptable standard of life while they are imprisoned and private funds are unavailable. The regulations also establish procedures for providing the assistance on a reimbursable basis to the extent possible.

DATES: Comments must be received on or before November 10, 1977.

ADDRESS: Send comments to the Director, Office of Special Consular Services, Room 1803, Bureau of Consular Affairs, Department of State, 2201 C Street NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

James L. Ward, 202-632-7871.

SUPPLEMENTARY INFORMATION: Under Pub. L. 95-45, dated June 15, 1977, the Department is authorized to provide U.S. nationals incarcerated abroad with medical/dietary and other emergency assistance, on a reimbursable basis if private funds are not otherwise available to do so.

There are U.S. nationals incarcerated abroad who, as a result of their incarceration, cannot secure the minimum medical treatment or diet necessary to sustain an acceptable standard of life. This rule will enable these prisoners to receive appropriate medical care and other emergency services when required through the Department's consular officers at Foreign Service posts.

The assistance includes: (1) Providing emergency medical treatment of prisoners; (2) providing full feeding on a

short-term basis for prisoners in holding jails or similar detention, where meals are not furnished by the incarcerating authorities; and (3) providing dietary supplements to prisoners whose diets do not provide the minimum requirements necessary to sustain adequate health while incarcerated. Provisions (1) and (2) will require efforts to obtain the necessary funds from private sources to be undertaken first; if private funds are not available, these services will be provided on a reimbursable basis and the prisoners will be required to execute appropriate promissory notes for repayment of the money expended. Provision (3) does not require reimbursement.

Accordingly, it is proposed to amend Part 71 and 22 CFR by designating the heading General Activities as Subpart A and adding a new Subpart B to read as follows:

Subpart B—Emergency Medical/Dietary Assistance for U.S. Nationals Incarcerated Abroad

Sec.
71.10 Emergency medical assistance.
71.11 Short-term full diet program.
71.12 Dietary supplements.

AUTHORITY: Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658, 2670); Pub. L. 95-45 (91 Stat. 221).

Subpart B—Emergency Medical/Dietary Assistance for U.S. Nationals Incarcerated Abroad

§ 71.10 Emergency medical assistance.

(a) *Eligibility criteria.* A U.S. national incarcerated abroad is considered eligible to receive funded medical treatment under the following general criteria:

(1) Adequate treatment cannot or will not be provided by prison authorities or the host government;

(2) All reasonable attempts to obtain private resources (prisoner's family, friends, etc.) have failed, or such resources do not exist;

(3) There are medical indications that the emergency medical assistance is necessary to prevent, or attempt to prevent, the death of the prisoners, or failure to provide the service will cause permanent disablement.

(b) *Services covered.* Funds, once approved, may be expended for:

(1) Medical examination, when required;

(2) Emergency treatment;

(3) Non-elective surgery;

(4) Medications and related medical supplies and equipment required on a routine basis to sustain life;

(5) Preventive or protective medications and medical supplies and equipment (vaccinations, inoculations, etc.) required to combat epidemic conditions (general or intramural);

(6) Childbirth attendance, including necessary medical care of newborn children; and

(7) Within the consular district, transportation for the U.S. national and attendant(s) designated by incarcerating officials between the place of incar-

ceration and the place(s) of treatment.

(c) *Consular responsibility.* As soon as the consular officer is aware that a U.S. national prisoner in the consular district faces a medical crisis, the officer should take the following actions, setting forth the order of priority based on an evaluation of the facts received:

(1) Make every effort to contact the ill or injured prisoner as soon as possible;

(2) Take steps to obtain a professional medical diagnosis and prognosis of the ill or injured prisoner;

(3) Determine as accurately as possible the estimated costs of recommended treatment or surgery;

(4) Obtain the names and addresses of family or friends who might serve as a source of private funds for medical services, and attempt to obtain the necessary funds;

(5) Request the prisoner to execute a promissory note, since funds expended by the Department to cover medical services normally are on a reimbursable basis; and

(6) Submit the above information, along with recommendations and evaluations, to the Department for approval and authorization.

(d) *Emergency expenditure authorization.* When a medical emergency prohibits the delay inherent in contacting the Department and receiving authority to expend funds, the consular officer can expend up to an amount to be established by the Department without prior Departmental approval if:

(1) Symptoms determine eligibility for emergency medical treatment; or

(2) An immediate medical examination is warranted in order to verify the alleged abuse of a U.S. national prisoner by arresting or confining authorities; or

(3) Immediate emergency medical treatment or surgery is necessary to prevent death or permanent disablement, and there is insufficient time to explore private funds or obtain Department approval; and

(4) A promissory note already has been executed by the prisoner, or if the circumstances warrant, by the consular officer without recourse.

§ 71.11 Short-term full diet program.

(a) *Eligibility criteria.* A prisoner is considered eligible for the short-term full diet program under the following general criteria:

(1) The prisoner is to be or has been held in excess of one day in a holding jail or other facility;

(2) Incarcerating officials do not provide the prisoner food, and food is not available from any other sources, including private funding from family or friends; and

(3) If the funds exceed an amount to be established by the Department, the prisoner signs a promissory note for funds expended, since the assistance is on a normally reimbursable basis.

(b) *Consular responsibility.* As soon as the consular officer is aware that a U.S.

national is incarcerated in a facility wherein food is not routinely provided, the consular officer should:

(1) Contact the prisoner in accordance with existing procedures;

(2) Determine the normal cost of basic diet and best method of effecting payment;

(3) Attempt to secure funds from private sources such as family or friends;

(4) Because funds expended by the Department to cover the short-term full diet program normally are on a reimbursable basis, have the prisoner execute a promissory note; and

(5) Contact the Department, providing the above information, for approval and authorization.

(c) *Emergency expenditure authorization.* Since an immediate need for a short-term full diet program often prohibits the delay inherent in contacting the Department and receiving authority to expend funds, the consular officer can expend up to an amount to be established by the Department without prior Departmental approval if the prisoner's case meets the criteria established in § 71.11(a). Expenditures above the predetermined limit must receive the prior approval of the Department.

§ 71.12 Dietary supplements.

(a) *Eligibility criteria.* A prisoner is considered eligible for the dietary supplement program under the following general criteria:

(1) An evaluation by a private physician, prison doctor, or other host country medical authority reveals that the prison diet does not meet the minimum requirements to sustain adequate health; or

(2) If the evaluation in subparagraph (1) of this paragraph is not available, an evaluation by either a regional medical officer or Departmental medical officer reveals that the prison diet does not provide the minimum requirements to sustain adequate health.

(b) *Consular responsibility.* (1) When the consular officer is aware that the U.S. prisoner's diet does not provide the minimum requirements to sustain adequate health, the consular officer shall obtain the necessary dietary supplements and distribute them to the prisoner on a regular basis.

(2) As soon as the consular officer believes that dietary supplements are being misused, the consular officer shall suspend provision of the dietary supplements and report the incident in full to the Department.

For the Secretary of State.

ROBERT T. HENNEMEYER,
Acting Assistant Secretary
for Consular Affairs.

OCTOBER 5, 1977.

[FR Doc.77-29739 Filed 10-7-77;8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 4]

[Re: Notice No. 304, amended]

LABELING AND ADVERTISING OF WINE

Appellation of Origin, Grape Type Designation, etc.; Change in Duration of Hearing

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Proposed rule; change in duration of San Francisco, California hearing.

SUMMARY: This notice changes the length of the previously scheduled public hearing to be held in San Francisco, California as published in the FEDERAL REGISTER on July 29, 1977 (42 FR 38602, FR Document 77-22010).

DATES: Submit requests to present oral testimony at the San Francisco, California hearing by October 18, 1977. Submit written comments by December 3, 1977.

ADDRESS: Submit comments and requests to testify to Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226.

FOR FURTHER INFORMATION CONTACT:

The principal author:

D. R. Royce, Coordinator, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Ave. NW., Washington, D.C. 20226, (202-566-7626).

SAN FRANCISCO HEARING

The public hearing, concerning the proposal to amend 27 CFR Part 4 with respect to "appellation of origin", "viticultural area", and "estate bottled" wine, scheduled for November 1-3, 1977 (42 FR 38602) will be held as scheduled beginning at 10 a.m. at the Sheraton Palace Hotel, 639 Market Street at New Montgomery Street, in the Comstock Room, San Francisco, Calif. 94105 on November 1, 1977.

However, due to the requests to testify received thus far, it is anticipated that the hearing can be held to two and one-half days without limiting the speaking time of any witness. Therefore, this notice is to advise that the hearing will be terminated by noon on Thursday, November 3, if possible. Persons who have requested an opportunity to present testimony are hereby advised that they should plan to testify on either November 1, 2, or by the opening of the session beginning at 10 a.m. on November 3.

Signed: October 4, 1977.

STEPHEN E. HIGGINS,
Acting Director.

[FR Doc.77-29729 Filed 10-7-77; 8:45 am]

[1410-03]

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77-4]

RECORDATION AND CERTIFICATION OF COIN-OPERATED PHONORECORD PLAYERS

Proposed Rulemaking

AGENCY: Library of Congress, Copyright Office.

ACTION: Proposed Regulation.

SUMMARY: The purpose of this notice is to inform the public that the Copyright Office of the Library of Congress is considering the adoption of a new regulation to implement section 116 of the Act for General Revision of the Copyright Law. This section prescribes conditions under which operators of coin-operated phonorecord players may obtain a compulsory license for the public performance of non-dramatic musical works. The proposed regulation establishes requirements governing applications for the compulsory license. This notice announces and invites participation in a public hearing intended to elicit comment, views, and information to assist the Copyright Office in formulating a final regulation.

DATES: The hearing will be held on October 25, 1977, commencing at 9:30 a.m. Members of the public desiring to testify should submit written requests to present testimony before October 14, 1977, to the address given below. The request should clearly identify the individual or group requesting to testify and the amount of time desired.

All witnesses are requested to provide 10 copies of a written statement of their testimony to the Office of the General Counsel at the address given below by October 19, 1977.

The record of the proceedings will be kept open until November 9, 1977, for receipt of written supplemental statements.

ADDRESSES: The hearing will be held in Room 910, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

Requests to present testimony and written statements should be addressed to:

Office of the General Counsel, Copyright Office, Library of Congress, Call No. 2999, Arlington, Va. 22202.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, 703-557-8731.

SUPPLEMENTARY INFORMATION: Section 116 of the first section of Pub. L. 94-553 (90 Stat. 2541) establishes condi-

tions under which operators of coin-operated phonorecord players—commonly referred to as "jukeboxes"—may obtain a compulsory license for the public performance of nondramatic musical works.

A compulsory license permits the use of a copyrighted work without the consent of the copyright owner, if certain conditions are met and royalties paid. Conditions of the compulsory license for coin-operated phonorecord players are set forth in section 116(b)(1) as follows:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available on that particular phonorecord player, the operator shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and deposit with the Register of Copyrights a royalty fee for the current calendar year of \$8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be \$4.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by such operator under subclause (A) of this clause with respect to that phonorecord player.

Section 116(b)(1) thus requires the Register of Copyrights to prescribe regulations governing the compulsory license application and to develop a form of certificate to be affixed to licensed phonorecord players.

To assist the Copyright Office in formulating proposed regulations, on March 30, 1977, the Office published in the FEDERAL REGISTER (42 FR 16838) an Advance Notice of Proposed Rulemaking. In response to the advance notice twelve comments and replies were received.

A discussion of the major comments follows. In addition to these matters, and the proposed regulation in general, testimony is specifically invited on the following issue: What special provisions, if any, should the Copyright Office make in its regulations covering applications to be submitted and certificates to be issued for systems embodying multiple "wall

boxes" operating from a remote master unit?

1. WHAT INFORMATION SHOULD BE IN THE APPLICATION?

Section 116(b)(1)(A) of the Act requires that the application include the name and address of the operator, and the manufacturer and serial number or other explicit identification of the coin-operated phonorecord player.

Comments suggested that the application also include a list of the selections available on the player, charge per play, capacity of the player and the location of establishments in which the players are located. Each of these elements had been required in earlier versions of copyright revision bills, but none are maintained in the Act. Accordingly these elements are not generally required by the proposed regulation. (However, we do propose to require the capacity and charge per play for players having no serial number.)

Other comments suggested that the application include the address of the manufacturer, the name of the record distributor, and the name and address of phonorecord player lessee. These suggestions have not been adopted in the proposed regulation. The address of the manufacturer will generally be readily available. The need for identification of the record distributor is not apparent. The need for including the name and address of the phonorecord player lessee, if different from the operator, is also doubtful since the lessor would probably be making the required payment.

We have proposed that the application include the legal name of the operator, together with any relevant fictitious or assumed name, the full address of the operator's place of business, the manufacturer's name, and the serial number or certain explicit identification of players having no serial number. As suggested in one comment, we have proposed that the "address" of the operator include the number and street name or rural route of the operator's place of business. The use of a post office box will not be sufficient.

One comment suggested that we assign a unique number to each player instead of the manufacturer and serial number; however, since the latter information is required by the statute, we have not adopted this suggestion. Another comment urged the Copyright Office to assign a unique license number in order to set up a renewal system similar to state automobile licenses. The Copyright Office does plan to establish a reminder system for renewals of licenses. This system would not require use of an assigned unique number, and if we were to assign such a number when it is not required for the reminder system it would only add to our operating costs and diminish the royalties payable to copyright owners.

¹Of course, the reminder system will not relieve operators of their statutory obligation to make annual applications for compulsory license.

For players having no serial number the proposed regulation sets out certain other elements of identification. These pertain to the model designation and capacity of the player, the type of sound system employed, and the charge per play.

One comment suggested that the application should be sworn to in compliance with federal law. However, consistent with our plans with respect to other applications to be filed in the Copyright Office, we plan to reproduce section 116 (d) of the Act on the application. This section prescribes criminal penalties for false representations in the application and may be sufficient for the purpose.

2. MAY A SINGLE APPLICATION COVER MULTIPLE PLAYERS OWNED OR CONTROLLED BY A PARTICULAR OPERATOR?

In response to a question raised in the Advance Notice of Proposed Rulemaking, one comment suggested that a separate application be filed for each player owned or controlled by a particular operator. However, other comments agreed that a single application could be used for multiple players. In order to minimize paperwork for both the Copyright Office and the operators and to gain efficiency in our administration of the regulation, we have proposed to accept single applications for multiple players owned or controlled by a particular operator, assuming that all identifying information for each player is given and that the appropriate aggregate fee is paid.

3. SHOULD REPLACEMENT CERTIFICATES BE PROVIDED, AND IF SO, AT WHAT CHARGE?

In accordance with a general consensus among the comments, we have proposed that replacement certificates will be supplied upon receipt of specified affidavits attesting to the loss or destruction of the original certificate and payment of an appropriate fee. There was disagreement among the comments as to the fee to be charged. We do not believe we can impose an additional \$8 license fee for replacement certificates under section 116. Instead, our proposal establishes a \$4 fee under section 708(11) of the Act for the service of providing replacements.

4. WHAT PROVISIONS, IF ANY, SHOULD BE MADE FOR THE SALE OR TRANSFER OF A LICENSED PHONORECORD PLAYER DURING THE LICENSE PERIOD?

One comment suggested that every sale or transfer of ownership of a player should require a new application and issuance of a certificate. Another comment argued that the compulsory license should be freely transferable, subject only to due notice to the Copyright Office of changes in ownership. A third suggestion was that transfers should be handled like assignments of copyrights and made subject of recordation. Our proposed regulation does not adopt any of these proposals. The compulsory license under section 116 of the Act attaches to "particular phonorecord players" section 116(b)(1)(A) and (C)).

Also, section 116(e)(2) of the statute indicates that the "operator" who obtains the license may be a person other than the owner of the player. Since sales or transfers affect the ownership of the player, and not the player itself, our proposal does not require any action to be taken upon the sale or transfer of a player during the license period.

5. MISCELLANEOUS COMMENTS

The following matters pertain to internal Office practices and questions of format which will not be prescribed by regulation.

(a) Our plans call for the certificate issued by the Copyright Office to be a colored adhesive label, and the application to be computer codable. Since the purpose of the certificate is to show that a particular phonorecord player has been licensed, the certificate will contain all of the identifying information given on the application for the particular player.

(b) Comments suggested that the Copyright Office compile a catalog of all the information on the applications and make applications and certificates available for public inspection. Completed applications will be available for public inspection after processing. Since the certificates will be printed from punch cards or tapes, copies of the certificates will not be available. We are considering the possibility of providing, for a fee, cataloged information compiled from applications.

We propose to amend Part 201 of 37 CFR Chapter II by adding a new § 201.16 to read as follows:

§ 201.16 Recordation and Certification of Coin-Operated Phonorecord Players.

(a) *General.* This regulation prescribes the procedures to be followed by operators of coin-operated phonorecord players who wish to obtain a compulsory license for the public performance of nondramatic musical works, and by the Copyright Office in issuing certificates, under section 116 of title 17 of the United States Code as amended by Pub. L. 94-553. The terms "operator" and "coin-operated phonorecord player" have the meanings given to them by paragraph (e) of that section.

(b) *Form and content of applications.* (1) Each application for a compulsory license under this section shall be on a form prescribed by the Copyright Office and shall contain the following information:

(i) The legal name of the operator, together with any fictitious or assumed name used by the operator for the purpose of conducting the business relating to the coin-operated phonorecord player for which the application is made.

(ii) The full address of the operator's place of business, including a specific number and street name or rural route. A post office box number or similar designation will not be accepted.

(iii) The name or a specified designation of the manufacturer of the coin-

operated phonorecord player for which the application is made.

(iv) The serial number of the coin-operated phonorecord player for which the application is made. If a serial number does not appear on that player, all the information required by paragraph (b) (2) of this section shall be given.

(v) The name, address and telephone number of an individual who may be contacted by the Copyright Office for further information about the application.

(vi) The signature of the operator or the duly authorized agent of the operator. If a business entity is identified as the operator, the signature should be that of an officer if the entity is a corporation or of a partner if the entity is a partnership.

(2) If a serial number is not present on the coin-operated phonorecord player for which the application is made, the application shall also contain the following information for that player:

- Its model number;
- Its model year and name, if known;
- Whether the sound system employed in the player is nonaural, stereophonic, quadraphonic, or other;
- The maximum number of phonorecords it is capable of holding; and
- The charge to the public for each play.

(3) Each application shall be accompanied by the fee prescribed by statute in the form of a certified check, cashier's check or money order.

(4) A single application may be submitted for multiple players owned or controlled by a particular operator if all the identifying information is given for each player and the proper aggregate fee is submitted for all players covered by the application.

(c) *Certificate.* (1) After receipt of the prescribed form and fee, the Copyright Office will issue a certificate containing the information set forth in paragraphs (b) (1) (i) through (iv) and (b) (2) of this section, together with the date of issuance of the certificate and the date of expiration of the license.

(2) In the case of the loss or destruction of a certificate issued for a particular coin-operated phonorecord player, a replacement certificate may be obtained upon submission of a fee of \$4, in the form of a certified check, cashier's check or money order, and an affidavit under the official seal or any officer authorized to administer oaths within the United States, or a statement in accordance with section 1746 of title 28 of the United States Code, made and signed by an operator or agent in accordance with paragraph (b) (1) (vi) of this section. The affidavit or statement shall describe the circumstances of the loss or destruction and give all the information required by paragraphs (b) (1) (i) through (v) and (b) (2) of this section pertaining to the player for which a replacement certificate is desired.

(d) *Sale or transfers.* The sale or transfer of a coin-operated phonorecord player during a period for which the cer-

tificate has been issued will not require a new application.

(17 U.S.C. 107; and under the following sections of Title 17 of the U.S. Code as amended by Pub. L. 94-553: 116; 702; 708(11).)

Dated: September 30, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN
Librarian of Congress.

[FR Doc.77-29693 Filed 10-7-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[PP5F1628 and 5F1629/P52 (FRL 802-5)]

PESTICIDE PROGRAMS

Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerances for the Pesticide Chemical 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to establish tolerances for residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one. The proposal was submitted by the Mobay Chemical Corporation. This proposed rule would establish maximum permissible levels for residues of the subject herbicide on various raw agricultural commodities.

DATE: Comments must be received on or before November 10, 1977.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency (202-426-2632).

SUPPLEMENTARY INFORMATION: On June 18, 1975, notice was given (40 FR 48680) that Mobay Chemical Corp., P.O. Box 4913, Hawthorn Road, Kansas City, Mo. 64120, had filed a petition (PP 5F1628) with the EPA. This petition proposed to amend 40 CFR 180.332 by establishing tolerances for combined residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one and its triazinone metabolites in or on the raw agricultural commodities alfalfa, grass, and sainfoin hay at 7 ppm; green alfalfa, grass, and sainfoin at 2 ppm; wheat straw at 0.2 ppm; asparagus and wheat grain at 0.05

ppm and by increasing the tolerances for residues in meat, fat, and meat by-products of cattle, goats, hogs, horses, poultry, and sheep from 0.2 to 0.7 ppm.

Also on June 18, 1975, notice was given (40 FR 48680) that Mobay Chemical Corp., had filed a petition (PP 5F1629) with the EPA proposing to amend 40 CFR 180.332 by establishing tolerances for combined residues of the subject pesticide and its triazinone metabolites in or on the raw agricultural commodities fresh corn including sweet corn (kernels plus cob with husk removed) and corn grain at 0.05 ppm and corn fodder and forage at 0.1 ppm. Subsequently, Mobay amended the petition by proposing that the established tolerance of 0.01 ppm in milk be increased to 0.05 ppm.

Because these amendments to the petitions might result in increased human exposure to the pesticide, the requests are being issued as a proposed rulemaking notice pursuant to 40 CFR 180.32. No comments were received in response to these notices of filing.

The scientific data submitted in the petitions and other relevant material have been evaluated, and it has been determined that the proposed tolerances will protect the public health. The main scientific considerations in the Agency's determination were that the metabolism of the subject pesticide in plants and animals is adequately understood, and so there is no need for additional characterization of water soluble and extractable residues found in plants and animals. The available toxicity data on the pesticide satisfy the lifetime-feeding, reproduction, teratogenicity, and mutagenicity requirements of the Agency. The demonstrated no-effect level would support an acceptable daily intake (ADI) in man (based on rat-feeding studies) of 0.15 mg/kg of body weight/day. An adequate enforcement method (gas chromatographic technique with electron capture detector) for the tolerances is available.

The manufacturer has submitted analytical data which demonstrate that no detectable levels (less than 0.1 ppm) of the postulated nitrosamines of this herbicide are present in the finished formulation.

Tolerances have previously been established for the pesticide in or on potatoes at 0.6 ppm; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.2 ppm; sugarcane and soybeans at 0.1 ppm; and eggs and milk at 0.1 ppm. The established tolerance for residues in eggs is adequate to cover secondary residues resulting from the proposed uses and the tolerances established by amending 40 CFR 180.332 will be adequate to cover residues that would result in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep as delineated in 40 CFR 180.6(a) (1).

It has been determined that the pesticide is useful for the purpose for which the tolerances are sought. Therefore it is proposed that the tolerances be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein, may request, on or before November 10, 1977, that this rule-making proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject and the petition document control number, "PP5F1628 & 5F1629/P52". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 13, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Section 408(d) (2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 34a(d) (2)])

It is proposed that Part 180, Subpart C, § 180.332 be amended by (a) alphabetically inserting tolerances of 7 ppm on alfalfa, grass, and sainfoin hay; 2 ppm on green alfalfa, grass, and sainfoin; 0.2 ppm on wheat straw; 0.1 ppm on corn fodder and forage; and 0.05 ppm on asparagus, fresh corn including sweet corn (kernels plus cob with husk removed), corn grain, and wheat grain, (b) increasing the established tolerances of 0.2 ppm in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep to 0.7 ppm and 0.01 ppm in milk to 0.05 ppm, and (c) revising the section in its entirety to editorially restructure the section into an alphabetized columnar listing to read as follows.

§ 180.332 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one; tolerances for residues.

Tolerances are established for combined residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4H)-one and its triazinone metabolites in or on the following raw agricultural commodities:

Commodity:	Parts per million
Alfalfa, green.....	2
Alfalfa, hay.....	7
Asparagus.....	.05
Cattle, fat.....	.7
Cattle, mbyp.....	.7
Cattle, meat.....	.7
Corn, fodder.....	.1
Corn, forage.....	.1
Corn, fresh (inc. sweet K+CWHR).....	.05
Corn, grain (inc. popcorn).....	.05
Eggs.....	.01
Goats, fat.....	.7
Goats, mbyp.....	.7
Goats, meat.....	.7

Grass.....	2
Grass, hay.....	7
Hogs, fat.....	.7
Hogs, mbyp.....	.7
Hogs, meat.....	.7
Horses, fat.....	.7
Horses, mbyp.....	.7
Horses, meat.....	.7
Milk.....	.05
Potatoes.....	.6
Poultry, fat.....	.7
Poultry, mbyp.....	.7
Poultry, meat.....	.7
Sainfoin.....	2
Sainfoin, hay.....	7
Sheep, fat.....	.7
Sheep, mbyp.....	.7
Sheep, meat.....	.7
Soybeans.....	.1
Sugarcane.....	.1
Wheat, grain.....	.05
Wheat, straw.....	.2

[FR Doc.77-29726 Filed 10-7-77; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21383; RM-2814]

FM BROADCAST STATION IN CAMP LEJEUNE, N.C.

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments to the Notice of Proposed Rule Making concerning the proposed assignment of a Class C FM channel to Camp Lejeune, N.C., or in the alternative, assignment of a Class A FM channel to Cherry Point, North Carolina. Petitioner states that the additional time is needed so that it can prepare an adequate response to the economic and engineering aspects of the questions raised in the Notice.

DATES: Comments must be filed on or before November 16, 1977, and reply comments must be filed on or before December 7, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

ORDER EXTENDING TIME FOR FILING COMMENTS AND REPLY COMMENTS

Adopted: October 4, 1977.

Released: October 4, 1977.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Camp Lejeune, N.C.), Docket No. 21383, RM-2814.

1. On August 30, 1977, the Commission adopted a Notice of Proposed Rule Making, 42 FR 45002, concerning the above captioned proceeding. The dates for filing comments and reply comments are October 17 and November 7, 1977, respectively.

2. On September 19, 1977, Beasley Broadcast Group of Jacksonville, Inc., licensee of Stations WJNC and WRCM (FM), Jacksonville, N.C., by counsel, filed a request seeking an extension of time for filing comments to and including November 16, 1977. Counsel states that the complexities of the issues presented in the Notice, particularly in regard to its economic and engineering aspects, as well as the press of business in other proceedings before the Commission, prevents its meeting the current filing date. He adds that the additional time will enable him to adequately respond to the questions raised in the Notice.

3. Francon, Incorporated, proponent in this proceeding, interposes no objection to the granting of the requested extension.

4. We are of the view that the public interest would be served by this extension so that Beasley Broadcast Group of Jacksonville, Inc., may file any information which may be helpful to the Commission in resolving the issues before it. Because of this extension in the date for filing comments, a postponement in the deadline for reply comments is also required. Accordingly, it is ordered. That the time for filing comments and reply comments in Docket 21383, RM-2814, is extended to and including November 16, and December 7, 1977, respectively.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-29704 Filed 10-7-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1004]

[Ex Parte No. 55 (Sub-No. 27)]

DUAL OPERATIONS OF MOTOR CARRIERS

Proposed Implementation of Proposal No. 18 Regarding the Handling of Motor Carrier Applications

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes to implement the recommendations of ICC proposal No. 18 (Dual Operations) in the report of the Commission's Staff Task Force on improving motor carrier entry control, dated July 6, 1977, regarding handling of motor carrier applications

which, if granted, will result in dual operations as both a common and a contract carrier. It is anticipated that the decision in this proceeding will approve future dual operations. Guidelines would be established by which dual operations may be brought in issue in a specific case.

DATES: Written comments should be filed with the Commission on or before December 12, 1977.

ADDRESSES: Send comments to Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423; Phone: 202-275-7292.

SUPPLEMENTARY INFORMATION: Section 210 of the Interstate Commerce Act requires that dual operations be approved as a condition to any new grant of authority to a carrier, or affiliated carriers holding both common and contract carrier rights. Approval may be granted if dual operations satisfy the standard of consistency with the public interest and the national transportation policy. Heretofore, evaluation of compliance with the requirements of section 210 has been on a case-by-case basis. As motor carrier operations continue to expand and diversify reflecting growth and technological changes in the economy, applications to operate contemporaneously in both the common and contract mode have increased dramatically. To facilitate disposition of these cases and improve agency resource allocation, recommendation No. 18 of the Staff Task Force report proposes that in a proceeding analogous to a prospective licensing rulemaking, the Commission enter a general finding that the holding of dual authority satisfies the standard of section 210 absent a specific showing that abuses are likely to result. Also, it advocates submission of legislation ultimately repealing the considered statutory provision in light of the availability of sanctions set forth in section 218(b) of the Act.

The hypothesis on which the above recommendation rests is that instances of rate discrimination or other abuses traceable to the holding of dual authority are virtually nonexistent. If no practical or legal impediments are shown to exist, it is anticipated that the decision in this proceeding will prospectively approve dual operations as has been proposed. Concurrently, guidelines would be established by which the propriety of dual operations may be brought in issue in a specific case. To insure the viability of the general finding of consistency with the public interest the proposed guidelines impose affirmative burdens on any party advocating disapproval of dual operations.

DATES: Written comments should be filed with the Commission on or before December 12, 1977. Comments are requested from interested parties concerning the question of whether discrimination or preference is likely where dual operations exist under current economic and regulatory conditions. These comments should also address the issue of whether alternate means exist to dispose of dual operations proposals more expeditiously, and they may include suggested rules regarding the type of showing required to compel an assessment of dual operations in a specific proceeding.

Section 210 of the Act provides in pertinent part that:

Unless, for good cause shown, the Commission shall find, or shall have found, that both a certificate and permit may be so held consistently with the public interest and the national transportation policy . . . (1) no person . . . shall hold a certificate . . . if such person . . . holds a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory; and (2) no person . . . shall hold a permit . . . if such person holds a certificate . . . for the transportation of property . . . over the same route or within the same territory (49 U.S.C. 310, August 9, 1935, amended September 18, 1940).

Decisions of the Commission interpreting this section of the Act have, until recently, taken an increasingly strict view of when dual operations may be approved. Results, however, have not been uniform even in relatively similar factual settings, and much time and energy has been devoted to an often highly theoretical analysis of whether unlawful or undesirable practices could be indulged in if dual operations approval were to be granted. Since such efforts are unrelated to the evaluation of the issue of public need in application proceedings, the public interest should be greatly advanced by our reducing the amount of resources devoted to disposing of such peripheral matters. It is axiomatic that any regulation adopted in this proceeding must be consistent with the requirements of the Act and carry out its objectives. Accordingly, brief consideration is warranted at this point of the meaning and purpose of section 210, as they are currently understood.

HISTORICAL DEVELOPMENT OF STANDARDS RELATING TO DISPOSITION OF DUAL OPERATIONS PROPOSALS

It is well established that at the time of the adoption of the Motor Carrier Act of 1935, its supporters were not favorably disposed to concurrent motor carrier operations as both a common and contract carrier. Their concern was that such operations would enable the exercise of preference, discrimination, and other undesirable practices. An earlier bill from which the Act was ultimately derived even went so far as to prohibit dual operations entirely. There is no

legislative history which would indicate that the drafters considered the adoption of the language appearing above, which allows the Commission to approve dual operations on making certain findings, to be a significant departure from their original proposal.

Provisions of section 210 have remained relatively unchanged since their enactment (the only major change has been the bringing of common control within the scope of this rule in 1940); however, the Commission's approach to evaluating applications subject to its terms has varied through the years. In the initial stages of motor carrier regulation the Commission demonstrated considerable leniency in approving dual operations, basing such findings solely on disparity of commodities and territories, if present. After 1940, however, this agency became concerned that the relationship of the parties involved could give rise to opportunities for the exercise of preference or discrimination regardless of other factors in a case. This trend began with the entry of the decision in *Canada Common Carrier Application*, 26 M.C.C. 563 (1940), wherein it was concluded that the "mere possibility" that improper practices could occur was enough to warrant disapproval of dual operations. Thereafter service proposals were frequently disapproved not only where dual service could clearly be provided for the same shipper, but even where there was only a remote chance that the same person would be served as both common and contract carrier. Ultimately, in *Zern-Purchase-Nettles*, 57 M.C.C. 627 (1951), possible overlapping service for merely the same consignee was found a sufficient ground on which to base a determination that dual operations would not be in the public interest.

The adoption of the standard in the *Canada* case did not result in the denial of all subsequently filed applications seeking to engage in dual service. Frequently, where a remote chance of dual service was found, it was possible to restrict the scope of the involved common carrier service, or to limit the involved contract carrier application, to satisfy whatever objections may have existed with regard to an outright grant of the service proposal in question. Also, in certain specified classes of cases, such as those involving proposals to transport cash letter, or to perform small parcel service, dual operations were approved even though under existing standards and precedent such operations would have been considered not in the public interest. On the whole, though, the trend became established to disapprove operations as both a common and contract carrier in as many situations as possible, and on the most theoretical of bases.

The "mere possibility" approach to analysis of applications subject to section 210 was followed with relative consistency until the entry of the decision in *Delaware Express Co. v. Milford Express, Inc.*, 119 M.C.C. 499 (1973) (*Delaware I*). In this proceeding it was found

that under the circumstances presented, no reasonable likelihood existed that dual operations by commonly controlled carriers to the same consignees would violate the considered statutory provision or be contrary to the public interest. Subsequently, in a report on reconsideration in the same case, printed at 126 M.C.C. 462 (1977) (*Delaware II*), Division I rejected the "mere potential or opportunity" standard as overly restrictive. It then ruled that where there does not exist a "realistic possibility" of discrimination as a result of a grant of dual operating authority, such operations should be found consistent with the public interest and the national transportation policy. The subsequent evaluation of facts in *Delaware II* fairly supports the conclusion that in only rare instances of so-called consignee overlap will dual operations approval be withheld. See also *Cargo Contract Carrier Corp. v. Ert.*, 126 M.C.C. 874, 876-880 (1977), and *Wayne Daniel Truck, Inc. v. Ert.*, 128 M.C.C. 1, 9-10 (1977).

After the second *Delaware* decision, Division I in *Charter Exp., Inc. v. Ert.*, 126 M.C.C. 671 (1977), adopted the position that a more realistic evaluation of facts is necessary in all proceedings which could result in multimodal motor carrier operations. Factors or criteria alluded to in *Delaware II* were found suitable for appraisal of applications seeking dual operations approval, and the prior, speculative approach to resolution of the considered issue was substantially rejected. Since these decisions are of recent vintage, it is not possible to state with any certainty their effect on dual operations. Because of the emphasis on reasonable analysis and concern for real world effects, it is anticipated that approval will be granted with somewhat greater frequency than before.

PURPOSE AND NEED FOR PRESENT RULEMAKING

If a rule such as the Staff Task Force contemplates were adopted, disapproval of dual operations should occur only infrequently. It is recognized that such liberalization would be contrary to views held at the time the Motor Carrier Act was adopted. This is not felt to be an impediment to implementation of the considered proposal, however, for several reasons. The first is that when Congress revised section 210 in 1940 to extend it to common control situations, no other efforts were made to tighten its provisions, even though dual operations were being routinely approved at that time. An even more significant consideration is the fact that in 1940, present section 218(b) was added to the Act, affording the Commission disciplinary power with respect to the rates and practices of contract carriers. This grant of regulatory power should have obviated the concern of the drafters of the Act that rebates and concessions could be offered by a contract carrier as a means of inducing use of its common carrier service. If

abuses of dual operations grants were to occur, the latter cited statutory section, and others prohibiting unlawful practices by common carriers remain available to enable the Commission to bring about their termination and protect the public interest. A side benefit would be a reduction in reliance on the entry control mechanism to ensure lawful, fair and competitive rate practices.

The proposal would eliminate in most instances the need to address the issue of dual operations in individual proceedings, which remains necessary even under the *Charter-Delaware II* line of decisions. Because of the startling increase in motor carrier application filings during 1977, we believe any suggestion to reduce the time for handling cases warrants investigation, not only to ease the burden on the agency's staff, but more importantly because more responsive regulatory action will result.

COMMENTS REQUESTED

Comments are requested from interested parties concerning the question of whether discrimination or preference is likely where dual operations exist under current economic and regulatory conditions. These comments should also address the issue of whether alternate means exist to dispose of dual operations proposals more expeditiously, and they may include suggested rules regarding the type of showing required to compel an assessment of dual operations in a specific proceeding.

Accordingly, the Commission proposes to add to part 1004 of the Code of Federal Regulations a new § 1004.3, as follows:

§ 1004.3 [Added]

(a) Where an application for motor common or contract carrier authority will result in dual operations as defined in section 210 of the Interstate Commerce Act, a finding will be entered that "in accordance with the decision in Ex Parte No. 55 (Sub-No. 27) dual operations may be performed by applicant (and its affiliate) consistent with the public interest and the national transportation policy." Consideration will not otherwise be afforded the dual operations issue in any particular proceeding unless a party introduces facts indicating a reasonable likelihood that rate preferences will be extended or that discrimination will be practiced or solicited. To satisfy this requirement it will not be sufficient for a party advocating litigation of the lawfulness of dual operations to merely establish that dual service may or will be provided for the same shipper or consignee.

(b) Where the question of whether dual operations would be consistent with the public interest and national transportation policy is raised in a specific proceeding, the party raising the issue should address the following relevant factors: (1) Identification of shippers to be served as both a common and contract carrier, (2) the relationships of the involved commodities, (3) the realities of economic control of the shippers over the

carriers, (4) the economic leverage which any potential consignors or consignees would have on the carriers, (5) the actual incentive which the involved carrier or carriers would have to engage in discriminatory behavior, and (6) the actual product distribution patterns of the traffic involved.

(c) Any grant of authority enabling dual operations by an applicant (or by an applicant and its affiliate) will include a condition expressly reserving to the Commission the right to impose such terms, conditions, or limitations in the future as it may find necessary to insure that the applicant's operations shall conform to section 210 of the Act.

This notice of initiation of a rulemaking is promulgated under the authority contained in 49 U.S.C. 304 and 310, and 5 U.S.C. 553 and 559, and was adopted formally at a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 3d day of October, 1977.

By the Commission (Commissioner Brown did not participate).

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc 77-26717 Filed 10-7-77; 8:45 am]

[7035-01]

[49 CFR Part 1062]

[Ex Parte No. MC-110]

SPECIAL APPLICATION PROCEDURES Service at New Plantsites

AGENCY: Interstate Commerce Commission.

ACTION: Initiation of Rulemaking Proceedings.

SUMMARY: The Interstate Commerce Commission is initiating this rulemaking proceeding to investigate the feasibility of permitting motor carriers to serve newly opened plantsites without the necessity of going through formal application procedures presently required under the Commission's Rules of Practice. This proceeding was prompted by recommendation number 12 of the Staff Task Force report on improving motor carrier entry regulation.

DATES: Comments due on or before December 12, 1977.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-7292.

SUPPLEMENTARY INFORMATION: On July 6, 1977, a specially appointed Commission Staff Task Force submitted its report to the Commission on recommendations for improving motor carrier entry regulation. One of the recommen-

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dations dealt with the situation where new plantsites are opened and applications are filed by motor carriers seeking to provide transportation services from the new plantsite.

When a plantsite opens, many applications are filed by carriers seeking to provide service. Although protestants may hold paper authority to provide some or all of the needed service, they have never served the new plantsite. It is difficult to see how these protestants will be harmed by grants of operating authority to serve the new plantsite. We question the necessity of requiring applicants to apply formally for authority to serve the new plantsite when existing carriers cannot be harmed.

We suggest that a carrier (presently authorized or new entrant) could apply to serve a new plantsite during a specified period prior to or after its opening. The carrier would be required only to demonstrate its fitness, to submit a brief affidavit of shipper support, and, possibly

to submit certain other basic information. Comments are requested on this or any alternative procedure.

Among the questions that should be addressed are:

(1) Is the proposal likely to lead to over-capacity at new plantsites?

(2) Should existing carriers have standing to protest?

(3) For what period of time prior to or after the opening of a "new plantsite" should these shortened procedures be operative?

(4) How would implementation of such a proposal affect existing precedents?

(5) What is meant by "new plantsite"?

(6) Is this proposal a fair and equitable one?

(7) Are there alternative implementation procedures?

PUBLIC COMMENTS INVITED

Interested persons are invited to comment on the proposal and suggest alternatives.

This document is promulgated under the authority of 49 U.S.C. 204, 206, and 207; and 5 U.S.C. 553, and was adopted at a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 28th day of September, 1977.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

Commissioner Stafford, dissenting: This rulemaking proceeding is premature. I would wait until the current nationwide hearings are concluded before instituting this matter. By postponing action we would have the benefit of public comment that can assist in the formulation of proposed rules. This might help to resolve at the initial level potential problems unforeseen by the circulated notice.

[FR Doc. 77-29719 Filed 10-7-77; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-02]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Georgia Grain Inspection Points

Statement of considerations. The Georgia Department of Agriculture, Atlanta, Ga., is designated to operate as an official agency in accordance with the provisions of section 7(f) of the U.S. Grain Standards Act (7 U.S.C. 79(f)). The Georgia Department of Agriculture has been providing official inspection service for approximately 6 years at Gainesville and Valdosta, Ga., and for approximately 10 years at Atlanta, Ga., as designated inspection points. A designated inspection point is defined as a city, town, or other location assigned under the regulations to an official inspection agency for the conduct of official inspections, and within which the official inspection agency, or one or more of its licensed inspectors, is located (7 CFR 26.1(b)(13)).

The Georgia Department of Agriculture has requested that the assignment of inspection points under its designation be amended to add Swainsboro and Bronwood, Ga., as designated inspection points in accordance with § 26.99(b) of the regulations (7 CFR 26.99(b)).

As a point of clarification, it should be noted that the U.S. Grain Standards Act (7 U.S.C. 71 et seq.), herein-after referred to as the "Act," has been amended by Pub. L. 94-582, effective November 20, 1976, to extensively modify the official inspection system. The amended Act provides, in part, that the Administrator of the newly created Federal Grain Inspection Service (FGIS), after conducting investigations and other studies, will designate official agencies at the various interior points. In implementing these provisions, FGIS is currently in the process of reviewing the designations of all agencies or persons presently designated to provide official inspection services. The amended Act further provides that existing agencies may continue to operate without a designation under the new law until the Administrator either grants or denies such designation to them or sets a period of time for their termination, not to exceed 2 years from the effective date of the amended Act.

Accordingly, the amendment of assigned inspection points would, if approved by the Department, not alter the existing designation of the applicant as an official inspection agency which continues until the Administrator of FGIS

either grants or denies an official designation under the amended Act or sets a period of time for its termination.

Other interested persons are hereby given opportunity to submit written views and comments with respect to this matter and/or to make application for designation to operate as an official agency at Swainsboro and/or Bronwood, Georgia, pursuant to the requirements set forth in the U.S. Grain Standards Act and regulations.

NOTE.—Section 7(f) of the Act (7 U.S.C. 79(f)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

All such views, comments, or applications should be submitted in writing to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All materials should be in duplicate and mailed to the Hearing Clerk not later than November 10, 1977. All materials submitted pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views, comments, or applications that are filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

(Sec. 7, 82 Stat. 764, as amended 90 Stat. 2870, (7 U.S.C. 79); sec. 3A, 90 Stat. 2868 (7 U.S.C. 75a).)

Done in Washington, D.C., on September 30, 1977.

L. E. BARTELT,
Administrator.

[FR Doc. 77-29635 Filed 10-7-77; 8:45 am]

[3410-11]

Forest Service

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Notice of Meeting

The Deschutes National Forest Advisory Committee will meet at Lenny's Steakhouse, North Highway 97, Bend, Oreg. 97701, at 8 p.m. on Thursday, October 27, 1977.

The subject of the meeting will be a review and discussion of the five alternative plans as proposed in the recently published Draft Environmental Statement for the Forest Land Management Plan.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor or Kay Coyner

at 211 NE Revere, Bend, Oreg. 97701, telephone (503) 382-6922. Written statements may be filed with the Committee before or after the meeting.

EARL E. NICHOLS,
Forest Supervisor.

SEPTEMBER 30, 1977.

[FR Doc. 77-29604 Filed 10-7-77; 8:45 am]

[3410-11]

UPPER CISPUS PLANNING UNIT LAND MANAGEMENT PLAN

Availability of Draft Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a draft environmental statement for the Upper Cispus Planning Unit, Gifford Pinchot National Forest, Wash., USDA-FS-R6-DES (Adm)-78-1.

The environmental statement concerns a proposed land management plan for the Upper Cispus Planning Unit. The proposed action describes how the various resources of the Unit would be used and what the output for each resource is expected to be.

The draft environmental statement was transmitted to CEQ on October 3, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. & Independence Ave. SW., Washington, D.C. 20013.
USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, Oreg. 97204.
USDA, Forest Service, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

A limited number of single copies are available upon request to Forest Supervisor Robert Tokarczyk, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

Copies of the environmental statement have been sent to various Federal, state and local agencies as outlined in the CEQ guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information

mation should be addressed to Forest Supervisor Robert D. Tokarczyk, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660. Comments must be received by December 2, 1977, in order to be considered in the preparation of the final environmental statement.

JOHN A. POPPINO,
Acting Regional Environmental
Coordinator, Planning, Pro-
graming and Budgeting.

October 3, 1977.

[FR Doc. 77-29645 Filed 10-7-77; 8:45 am]

[3410-16]

Soil Conservation Service BAITING BROOK WATERSHED PROJECT, MASSACHUSETTS Notice of Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Baiting Brook Watershed project, Middlesex County, Mass.

The environmental assessment of this Federal action indicates that the project may cause local, regional, or national impacts on the environment. As a result of these findings, Dr. Benjamin Isgur, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment supplemented by one floodwater retarding structure, 0.4 mile of channel work consisting of cleanout and enlargement in the vicinity of three highway bridges of which 0.3 mile is an ephemeral flowing stream and 0.1 mile is a perennial stream, and flood plain management measures for reducing flood damages.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Dr. Benjamin Isgur, State Conservationist, Soil Conservation Service, P.O. Box 848, 29 Cottage Street, Amherst, Mass. 01002.

Dated: September 29, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and

NOTICES

Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

JOSEPH W. HAAS,
Assistant Administrator for Wa-
ter Resources, Soil Conserva-
tion Service, U.S. Department
of Agriculture, Washington,
D.C.

[FR Doc. 77-29646 Filed 10-7-77; 8:45 am]

[6820-01]

CIVIL AERONAUTICS BOARD

[Docket 31402]

BRITISH AIRWAYS LTD.

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 7, 1977, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on October 4, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 4, 1977

RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc. 77-29681 Filed 10-7-77; 8:45 am]

[6820-01]

[Order 77-10-3; Dockets 31377, 31379]

BRITISH AIRWAYS

Contract Cargo Rates; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of October 1977.

On September 6, 1977, British Airways filed with the Board a tariff,¹ effective October 6, 1977, proposing general "Contract Cargo Rates" (CCR3) in U.K.-U.S. directional markets. Under the CCR3 scheme, a shipper would enter into a contract with British Airways to tender 800,000 kilograms of cargo for a one-year

¹ International Cargo Contract Rates Tariff No. 6, C.A.B. No. 29, John M. Sampson, Agent, Trans World Airlines, Inc. and Seaboard World Airlines, Inc., have filed matching tariffs. International Local and Joint Air Cargo Contract Rates Tariff No. CR-2, C.A.B. No. 318, Trans World Airlines, Inc.; International Cargo Contract Rates Tariff No. 3, C.A.B. No. 32, Seaboard World Airlines, Inc.

term, and in certain minimum consignment sizes, CCR3 cargo enjoys steeply discounted rates, which vary on the basis of market, containerization, and day of tender. CCR3 cargo, furthermore, is carried on a space-available basis for 48 hours after tender. Should a shipper fall short of his annual cargo tender commitment, he is charged an amount equal to his shortfall times 35 pence per kilogram.

Complaints against CCR3 were filed by Seaboard World Airlines, Inc., and Pan American World Airways, Inc. Oral argument on this matter was heard by the Board on September 16, 1977. On September 23, 1977, the Board sent a draft order to the President recommending that CCR3 be suspended for one year pending investigation, but anticipating that the suspension would be vacated upon acceptance by the British Government of appropriate competitive responses from U.S. carriers. By letter dated October 3, 1977, the President approved the suspension of CCR3 only for a 90-day period, expecting that the issue of competitive responses to CCR3 would be resolved within that time.

We are therefore amending our initial order suspending and investigating CCR3 to shorten the suspension period to 90 days, as directed by the President.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404(b), 801, and 1002 (f) and (j) thereof,

It is ordered, That:

1. The suspension ordered by Order 77-10-2, October 4, 1977, shall expire on January 3, 1978; and

2. Copies of this order shall be filed with the tariffs referenced in paragraph 1 of Order 77-10-2, October 4, 1977, and be served upon British Airways, Trans World Airlines, Inc., Seaboard World Airlines, Inc., Pan American World Airways, Inc., and The Flying Tiger Line Inc.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board,²

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-29690 Filed 10-7-77; 8:45 am]

[6820-01]

[Order 77-10-2; Docket 31377, 31379]

BRITISH AIRWAYS

Contract Cargo Rates; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of September, 1977.

² All members concurred except Member West who did not participate.

NOTICES

On September 6, 1977, British Airways filed with the Board a tariff,¹ effective October 6, 1977, proposing general "Contract Cargo Rates" (CCR3) in U.K.-U.S. directional markets.² Under the CCR3 scheme, a shipper would enter into a contract with British Airways to tender 800,000 kilograms of cargo for a one-year term, and in certain minimum consignment sizes.³ CCR3 cargo enjoys steeply discounted rates, which vary on the basis of market,⁴ containerization,⁵ and day of tender.⁶ CCR3 cargo, furthermore, is carried on a space-available basis for 48 hours after tender. Should a shipper fall short of his annual cargo tender commitment, he is charged an amount equal to his shortfall times 35 pence per kilogram.

In support of the tariff, British Airways generally asserts that the U.K.-U.S. cargo market is characterized by excess capacity and declining traffic, such that a stimulative cargo rate is needed; that CCR3, at yields of 16-20 pence per kilogram, will be highly generative, attracting to air transport approximately 2 percent of the total U.K.-U.S. cargo traffic that now moves by surface mode, which would represent a doubling in size of the U.K.-U.S. air cargo market; that CCR3 will be so generative as to be remunerative based upon industry average noncapacity costs, even assuming 50-percent diversion from higher rated air traffic that CCR3 is not unjustly discriminatory within the intent of section 404(b) of the Federal Aviation Act of 1958, and that in any case application of section 404(b) to discrimination alleged to take place between British shippers, and practices by a British carrier with the approval of the British Government, would be a violation of comity.

Complaints against CCR3 have been filed by Seaboard World Airlines, Inc., (Seaboard) and Pan American World Airways, Inc. (Pan Am). Seaboard claims that CCR3 is uneconomic, in that the rates are "demonstrably below the costs of the most efficient freighter operator

in the market"; that CCR3 will be almost totally diversionary and dilutionary, based upon Seaboard's marked traffic loss between January and June 1977, when British Airways was illegally charging contract rates in the U.K.-U.S. market; that CCR3 will at first divert air cargo traffic from Europe and then spread there, destroying the economics of Seaboard's freighter aircraft; that British Airways is seeking to drive Seaboard, the competitive spur, from the market by charging a rate below fully allocated freighter costs, which Seaboard must cover, and subsidizing its losses from passenger and government subsidy revenue; that CCR3, by driving all-cargo aircraft from the North Atlantic, will bring the availability of these aircraft for the U.S. Civil Reserve Air Fleet to an end, thereby weakening the national defense; and that CCR3 is unjustly discriminatory, citing Order 76-12-162, December 17, 1976.

Pan Am states that CCR3 is uneconomic, falling below Pan Am's 747F cost per revenue ton-mile; that British Airways' generation estimate for CCR3 is invalid, since CCR3 rates are about five times higher than surface rates; that CCR3, whatever its virtues as a market stimulus, is unnecessary in light of the "healthy pace" of recent growth of the U.K.-U.S. cargo market; and that CCR3 is unjustly discriminatory, citing Order 76-12-162.

Oral Argument on this matter was heard by the Board on September 16, 1977. The Board finds that CCR3 may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. Furthermore, the Board finds that CCR3 should be suspended pending investigation.

We do not find that the CCR3 rates are uneconomic.⁷ The fact that they do not cover the fully allocated costs of "the most efficient freighter operator in the market" is not determinative in this regard. Further, there has been no showing, nor any reason to believe, that the rates do not cover the marginal costs of British Airways. The Board recognizes the need for stimulation of the U.K.-U.S. air cargo market in view of its low load factors. While the evidence on the generative effect of CCR3 rates is far from conclusive,⁸ it is not unreasonable to as-

⁷ In Order 76-12-162 we noted that British Airways original CCR (CCR1) proposed rates would yield from 13.5¢ to 17.56¢ per RTM. Evidence submitted in this proceeding shows that the rate levels of CCR3 are higher than CCR1 and that the average yield per RTM is 19.6¢. Another distinguishing feature is that in CCR3 British Airways has introduced a peak-off-peak concept.

⁸ In this regard, the opposing carriers point to the failure of British Airways to provide detailed data relating to its experience during the time that it was illegally charging CCR1 rates (January-June 1977). While this information might have been helpful, the record indicates that a growth in traffic in the market coincided with the CCR1 offering.

sume that some generation will take place. We are not prepared to say that the market is as unresponsive to price reductions as Pan Am appears to contend; on this issue, the judgment of British Airways' management is entitled to a test in the marketplace. As an aside, Seaboard's contention that the U.S. Civil Reserve Air Fleet will ultimately be weakened by the effects of CCR3 is not persuasive, particularly absent a representation to this effect from the Department of Defense.

CCR3 does raise substantial questions of unjust discrimination under section 404(b) of the Federal Aviation Act of 1958. These questions are virtually identical to those which caused the Board to suspend an earlier version of British Airways' contract rates in Order 76-12-162. In essence, we found then, and find now, no considerations of value of service to the shipper or cost savings to the carrier which justify charging lower rates to a shipper who has agreed to tender an aggregate amount of cargo over a long period of time and in different markets. Furthermore, some features of CCR3 which might in and of themselves justify lower rates, i.e., the off-peak tender discount and the 48-hour space available rule, nonetheless appear clearly discriminatory as part of CCR3 because they are unjustifiably made available only to contract shippers. Nevertheless, we are aware that the unjust discrimination in question occurs in a direct sense only among British shippers, that these rates are supported by the British Government, notwithstanding their discriminatory aspects, and that no showing has been made in this case that U.S. nationals are subject to unjust discrimination from these rates. In light of these circumstances, and the fact that section 1002(f) of the Federal Aviation Act of 1958 does not command us to eliminate all rates and practices in foreign air transportation which would be unjustly discriminatory under section 404(b),⁹ we would not be inclined to exercise our suspension powers in this case, were it not for the considerations described below.

We are greatly concerned that the contract feature of CCR3 would be very destructive of the effective competition, particularly from efficient wide-body freighters, which is clearly required in the North Atlantic cargo markets. The effect, if not the intent, of this contract

⁹ Under section 1002(d) of the Act, when the Board finds that a carrier in interstate or overseas air transportation is charging rates or is engaging in practices which are unjustly discriminatory then "the Board shall determine and prescribe" the lawful rate or practice. Under section 1002(f) of the Act, when the Board finds that a carrier in foreign air transportation is charging rates or is engaging in practices which are unjustly discriminatory then "the Board may alter the same to the extent necessary to correct such discrimination" (emphasis added).

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rate is to preserve and expand the market share of British Airways by "locking in" large-volume shippers with long-term contracts in return for which they receive lower rates.⁹ Since the CCR3 rates of British Airways would go into effect before any matching rates filed by competitors, British Airways would have a measurable head-start in locking up large portions of the market. By the time matching rates go into effect, the market share available for competitors would be very much diminished. British Airways' advantage in time is compounded by its past advocacy of contract rates, its strong national identity in Great Britain, and its admittedly extensive marketing efforts on behalf of CCR3 rates. Accordingly, the most effective response of U.S. carriers would be to offer discount rates without the contract feature. For example, wide-body freighter operator may propose high weightbreak discounts, aimed at the very largest shippers and peculiarly suited to the lift capabilities and cost advantages of wide-body freighters. The crux of the matter is that if we now let CCR3 go into effect, and the U.K. Civil Aviation Authority does not later act favorably on such non-matching competitive responses by the U.S. carriers, then under the terms of the U.S.-U.K. air services agreement we could face substantial problems in restoring competition to the market by suspending CCR3.¹⁰ The damage to competition will have been done, and may well be irreparable. Therefore, until we know that effective, not necessarily matching, competitive responses to CCR3 by U.S. carriers will be permitted by our British counterparts, we will not let a market-closing rate such as CCR3 begin its work.

Finally, this order suspends CCR3 for the usual 365 days, pending an investi-

⁹ Our evaluation of CCR3 as anticompetitive is reinforced by its very strong resemblance to discount-induced exclusive dealing arrangements prohibited under section 3 of the Clayton Act, 15 U.S.C. § 14 (1970). See 1 *CCIL Trade Reg. Rep.* ¶ 2010.18, .95 (1971). CCR3 perhaps is not technically violative of that provision of the antitrust laws, since it has been held not to apply to contracts for services. *MDC Data Centers, Inc. v. IBM Corp.*, 342 F. Supp. 502 (E.D. Pa. 1972). Nonetheless, for example, the Board's evaluation of the competitive effect of agreements under section 412 of the Federal Aviation Act of 1958 "involves considering the policies of the antitrust laws rather than adjudicating specifically whether such laws are violated." *Local Cartage Agreement Case*, 15 C.A.B. 850, 854 (1952) (emphasis added).

¹⁰ Trans World Airlines has matched CCR3 and not filed a complaint against it. Seaboard has matched CCR3 "under protest" and has complained against it. Pan Am has complained, and has not matched CCR3.

¹¹ Seaboard has been trying to introduce such high weightbreak rates in this market since 1972, but its tariffs have been prevented from becoming effective by the United Kingdom authorities. Further, TWA's advance purchase cargo rates, which the Board accepted in April of this year, have been prevented from becoming effective by U.K. government action.

gation. It is the Board's expectation, however, that the issue of U.K. acceptance of competitive responses by U.S. carriers can be resolved shortly, either through unilateral acceptance by the U.K. authorities of U.S. carrier tariffs or through intergovernmental consultations. In such event, the Board will act forthwith to vacate this suspension. If it appears that controversy over competitive tariff filings cannot be resolved expeditiously, the Board intends to move forward promptly with a formal investigation of CCR3.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 401(b), 801, and 1002 (f) and (j) thereof,

It is ordered, That: 1. An investigation be instituted to determine whether the rates, charges, and provisions on Original Title Page, and Original Pages 1 through 8 of Tariff CAB No. 29, issued by John M. Sampson, Agent; Original Title Page, and Original Pages 1 through 8 of Tariff CAB No. 318, issued by Trans World Airlines, Inc.; and Original Title Page, and Original Pages 1 through 8 of Tariff C.A.B. No. 32, issued by Seaboard World Airlines, Inc.; and rules, regulations, and practices affecting such rates, are or will be unjust, unreasonable, unduly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to take appropriate action to prevent the use of such rates and rules, regulations, or practices;

2. Pending hearing and decision by the Board, the tariff provisions specified in paragraph 1 above be suspended and their use deferred from October 6, 1977, to and including October 6, 1978, unless otherwise ordered by the Board, and that no changes may be made therein during the period of suspension except by order or special permission of the Board;

3. This order shall be submitted to the President,¹² and shall become effective on October 4, 1977.

4. The investigation ordered herein shall be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated;

5. Copies of this order shall be filed with the aforesaid tariffs, and be served upon British Airways, Trans World Airlines, Inc., Seaboard World Airlines, Inc., Pan American World Airways, Inc., and the Flying Tiger Line Inc.; and

6. Except to the extent granted herein, the complaints in Dockets 31377 and 31379 be dismissed.

This order shall be published in the *FEDERAL REGISTER*.

By, the Civil Aeronautics Board,"

PHYLIS T. KAYLOR,
Secretary.

[FR Doc. 77-29689 Filed 10-7-77; 8:45 am]

¹² This order was submitted to the President on September 23, 1977. A letter from the President on this matter was filed as a part of the original document.

¹³ All members concurred.

[6820-01]

[Docket 26838]

PRIORITY RESERVED AIR FREIGHT RATE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on October 25, 1977, at 10 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, N.W., Washington, D.C., before the undersigned administrative law judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on October 18, 1976, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 4, 1977.

RONNIE A. YODER,
Administrative Law Judge.

[FR Doc. 77-29688 Filed 10-7-77; 8:45 am]

[6335-01]

STATES COMMISSION ON CIVIL RIGHTS

ILLINOIS ADVISORY COMMITTEE

Cancellation of Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission a notice previously published in the *FEDERAL REGISTER* Tuesday, September 27, 1977, (FR Doc. 77-28134) on page 49493 has been cancelled.

Dated at Washington, D.C., October 5, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 77-29637 Filed 10-7-77; 8:45 am]

[6335-01]

NEW YORK ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee (SAC) of the Commission will convene at 4:30 p.m. and will end at 7:30 p.m. on November 3, 1977, at Phelps Stokes Fund, 10 East 87th Street, New York, N.Y.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program and project recommenda-

tions to new regional advisory structure and develop plans for completion of some projects.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 5, 1977.

JOHN I. BINKLEY,
Advisory Committee
Management Officer.

[FR Doc. 77-29638 Filed 10-7-77; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION

OFFICE OF MANAGEMENT AND BUDGET

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Office of Management and Budget to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Associate Director for Management and Operations, Office of the Associate Director for Management and Operations, Executive Office of the President.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,

Executive Assistant
to the Commissioners.

[FR Doc. 77-29707 Filed 10-7-77; 8:45 am]

[3510-11]

DEPARTMENT OF COMMERCE

Bureau of the Census

SURVEY OF 1977 RECEIPTS, CAPITAL EXPENDITURES, FIXED ASSETS, PAYROLL AND OTHER OPERATING EXPENSES FOR SELECTED SERVICE INDUSTRIES

Notice of Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to repeat in 1978 the quinquennial Survey of Selected Service Industries which is conducted under title 13, United States Code, sections 131, 193, 195, 224 and 225. This survey would be conducted in order to collect data for operations in calendar year 1977 covering receipts, capital expenditures, fixed assets, payroll and other operating expenses as supplemental data for the 1977 Census of Service Industries.

Information and recommendations received by the Bureau of the Census indicate that the data will have significant application to the needs of the public and governmental agencies and are not available from public or governmental sources.

Since the data to be requested in this survey are required only for the United States as a whole, reports will be required from only a sample of selected service firms in the United States. The sample will provide, with measurable

validity, statistics on the aforementioned subjects.

Such a survey, if conducted, will not begin until at least November 10, 1977.

Copies of the proposed report forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any written suggestions or recommendations concerning the subject matter of the proposed survey submitted to the Director of the Bureau of the Census within on or before November 10, 1977 will receive consideration.

Dated: October 5, 1977.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc. 77-29692 Filed 10-7-77; 8:45 am]

[3510-25]

Domestic and International Business Administration

STATE UNIVERSITY OF NEW YORK, DOWNSTATE MEDICAL CENTER ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before October 31, 1977.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments. A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket No. 77-00354. Applicant: State University of New York, Downstate Medical Center, Department of Anatomy & Cell Biology, 450 Clarkson Avenue, Brooklyn, New York 11203. Article: JEM 100C/SEG Electron Microscope with eucentric goniometer stage and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in conducting the following research projects:

i. The ultrastructure of membrane fusion sites during myodifferentiation.

ii. The structure and chemistry of cytofilament insertions at plasma membranes of developing skeletal and cardiac muscle, platelets, and leukocytes.

iii. The structure of newly formed intercellular junctions in embryonic cardiac muscle.

iv. The mapping of membrane antigens potentially involved in cellular recognition of various embryonic cell types.

v. The analysis of Rous sarcoma virus (RSV) attachment, entry and release in cultured, embryonic muscle.

vi. The structure of isolated contractile filaments from embryonic muscle, heart and platelets.

Most of the cell biology experiments will concentrate on various aspects of membrane structure and function. In all the projects, the objectives of the studies will be to provide structural bases for important physiological processes. In addition, the article will be used for advanced graduate study in Cell Biology 201, a laboratory course open to Ph.D. candidates in the School of Graduate Studies and to M.D. students who elect to do advanced work in cells biology. Application received by Commissioner of Customs: August 30, 1977.

Docket No. 77-00355. Applicant: The Pennsylvania State University, Department of Biology, 208 Life Sciences I, University Park, PA 16802. Article: Model M85 microdensitometer with compilan and microplan objectives. Manufacturer: Vickers Instruments Inc., United Kingdom. Intended use of article: The article is intended to be used to measure samples which are being developed and to inspect the final samples themselves. Microradiographs of the samples will be made to detect other than surface features. The article will be used to measure both absorption and area, providing two parameters for each sample measured. Application received by Commissioner of Customs: August 31, 1977.

Docket No. 77-00356. Applicant: Indiana University, 1101 East 17th Street, Bloomington, Ind. 47401. Article: Complete Polarized Ion Source System. Manufacturer: ANAC, LTD., New Zealand. Intended use of Article: The article is intended to be used to provide a directed beam of spin-polarized hydrogen or deuterium ions of high intensity and high degree of polarization which are injected in a two-stage cyclotron accelerator system for acceleration to 200 MeV and directed onto suitable targets in order to study nuclear reactions with polarized beams. The objectives to be pursued in the course of the investigation are (a) to obtain detailed information on the spin-dependent components of the nuclear forces involved in the scattering or reaction processes and (b) to determine properties of nuclear states selectively excited by the spin-polarized ion beams. The article will also be used by graduate students in physics as part of their post-graduate education and training in Ph.D. level research in nuclear physics. Application received by Commissioner of Customs: September 1, 1977.

Docket No. 77-00357. Applicant: Indiana University, Purchasing Department, 1101 East 17th Street, Bloomington, IN 47401. Article: Electron Microscope, Model EM 301 with Goniometer Stage and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The

article is intended to be used for the investigation of ultrastructural organization of eukaryotic gene activity. The temporal sequence involved in the assembly of ribosomal proteins during RNA transcription and ribosome biogenesis will be studied using high resolution immune electron microscopy, histochemistry and autoradiography. In addition, the article will be used to teach graduate students who are working towards their Ph.D.'s and M.S.'s as well as post-doctoral fellows in various programs that are conducted by the Department of Biology. Application received by Commissioner of Customs: September 1, 1977.

Docket No. 77-00358. Applicant: University of Kansas, 2095 Ave. A—Campus West, Lawrence, Kans. 66044. Article: Flow Microcalorimeter. Manufacturer: Techniurop Inc., Canada. Intended use of article: The article is intended to be used to study the thermodynamics of bile and micellar solution, and to determine the variation of these properties with the structure of the bile salt. The enthalpy and heat capacity of these complex micellar solutions will be measured as a function of temperature, bile salt structure and added electrolyte. These investigations are conducted to obtain a better understanding of the nature of bile salt—lecithin solutions and their role in the dissolution of lipids, cholesterol and drug substances. The article will also be used in "Undergraduate Research in Pharmaceutical Chemistry", "Doctoral Dissertation" and "Postdoctoral Research in Pharmaceutical Chemistry" to train students to do independent research. Application received by Commissioner of Customs: September 1, 1977.

Docket No. 77-00359. Applicant: The University of Chicago, Dept. of Pharmacol. & Physiol. Sciences, 951 East 58th Street, Chicago, Ill. 60637. Article: Electron Microscope, Model EM 201, Plate Camera and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for fine structural studies of the brain, by a group of neurobiologists. Thin sections of the central nervous system in which particular neuronal processes have been labeled by chemical or degenerative techniques will be studied, looking especially at the contact relationships that are established by the fine neuronal processes. The article will also be used in the training of senior level undergraduate students, graduate students and post-doctoral fellows in methods and concepts of contemporary neurobiology. Application received by Commissioner of Customs: September 1, 1977.

Docket No. 77-00360. Applicant: University of Utah, University of Utah Medical Center, Salt Lake City, Utah 84132. Article: Electron Microscope, Model JEM-100S with sheet film camera and SP1 specimen position indicator and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine various types of biological specimens, principally, pathological and normal tissues obtained from experimental animals

from biopsy or autopsy. The article will also be used to examine delicate freeze-fracture replicas and negatively stained preparations of isolated large molecules. The various objectives to be pursued in these investigations are: (a) To determine the biological effects and hazards of internally deposited radiolabeled isotopes including plutonium and radium, (b) to better understand the normal physiology and morphology of the skeleton, particularly the adult skeleton and mineral metabolism, (c) to determine the biological events and sequences of radiation induced cancer, particularly leukemia and osteosarcomas, (d) to understand the role of the cell surface in immune recognition and escape in cancer cells, and (e) to determine membrane and junctional changes due to radiation and effect on cancer induction. Application received by Commissioner of Customs: August 31, 1977.

Docket No. 77-00361. Applicant: University of Utah, Department of Anatomy, College of Medicine 2C110, Salt Lake City, Utah 84132. Article: LKB 8800A Ultratome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for ultrathin sectioning of specimens of differing hardness during studies of cell and tissue ultrastructure. The principle courses in which the article will be used are entitled Ultrastructure and Cytochemistry which involve a study of the general principles on techniques and use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. In addition, the article will be used for preparing material for demonstration to medical students. Application received by Commissioner of Customs: September 2, 1977.

Docket No. 77-00362. Applicant: The Pennsylvania State University, University Park, Pa. 16802. Article: Goniometer Stage Assembly for EM-300; PW6500/C-300 and Scanning Attachment for EM-300 and Adapter; PW6570/00C. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The articles are accessories to an existing electron microscope which will allow analysis of suitably prepared thin sections of biological samples for a large array of chemical elements. Some of the tissue and cells to be studied are bone (cells and matrix), avian oviduct mucosa, intestinal mucosa, enamel organ. Cells and tissues in different stages of physiological activity will be analyzed with the EDAX system for several elements such as calcium, potassium, sodium and magnesium. In addition, the article will be used in the courses: Biophysics 585, Biological Ultrastructure and Biophysics 600. Research. Application received by Commissioner of Customs: September 2, 1977.

Docket No. 77-00364. Applicant: DH EW, National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 37, Room 2B23, Bethesda, Md. 20014. Article: LKB 8800A Ultratome III Ultramicrotome. Manufacturer:

LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of tumor cells and tumor tissues following treatments with various agents (e.g. enzymes, hormones, metabolic inhibitors, etc.). Investigations will involve cyto- and histochemical studies on tumor cells and tumor tissues treated with various chemical and physical agents. The studies will include (a) localization of antigen and complement binding sites, (b) fine structure analysis of membranes, and (c) subcellular changes in the cells. The objectives pursued in the course of the investigations is to understand the alterations which take place in tumor cells following various treatments and to correlate these changes with susceptibility to immune attack. Application received by Commissioner of Customs: September 12, 1977.

Docket Number: 77-00365. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Scanning Transmission Electron Microscope, Model HB5 with electron energy loss spectrometer and accessories. Manufacturer: VG Microscopes Ltd., United Kingdom. Intended use of article: The article is intended to be used to aid a number of research workers in their understanding of the influence of microstructure and microchemistry, on the properties of the materials, e.g., metal-fibre composites; metals containing hydride, oxide, nitride, carbide, or other second phase precipitate; small molecular clusters of catalytic materials; sequentially deposited thin organic films; and polymers. Graduate students will use the article in conducting the various research projects. Application received by Commissioner of Customs: September 7, 1977.

Docket Number: 77-00366. Applicant: Rochester Institute of Technology, One Lomb Memorial Drive, Rochester, N.Y. 14623. Article: Phase Control Unit and DC-DC Conversion Unit. Manufacturer: University of Toronto, Canada. Intended use of article: The article is intended to be used for experiments to be conducted in the areas of high power controlled rectification and solid-state DC-DC conversion. These experiments will provide the student exposure to and on-hand experience in the area of solid-state control of high power. The courses in which the article will be used are EEEE 535 Introduction to Power Conditioning, EEEE 532 Electrical Machines and EEEE 721 Thyristor Power Control and Conditioning. Application received by Commissioner of Customs: September 8, 1977.

Docket Number: 77-00367. Applicant: University of Hawaii, High Energy Physics Group, Watanabe Hall, 2505 Correa Rd., Honolulu, Hawaii 96822. Article: Model 1 Sweepnik Optics Unit and Model 1 Sweepnik Electronics Rack and Accessories. Manufacturer: Laser-Scan Ltd., United Kingdom. Intended use of article: The article is intended to be used for bubble chamber experiments which involve bombarding the 15'

bubble chamber with multi-billion volt neutrinos produced by the highest energy accelerator in the world. The purposes of these experiments is to discover new particles, examine the properties of a class of particles called "quarks", and to understand a new and strange property possessed by certain elementary particles whimsically called "charm." Specifically, the article will be used to measure the trajectories of charged particles produced by neutrinos in the bubble chamber to an accuracy of 2 millioths of a meter on the 70 mm film. Application received by Commissioner of Customs: September 8, 1977.

Docket Number: 77-00368. Applicant: National Animal Disease Center, USDA, ARS, Bldg. No. 11, R.R. 2, Dayton Avenue, P.O. Box 70, Ames, Iowa 50010. Article: Electron Microscope, Model H-500 and Accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used in studies to identify the intracellular parasites, such as viruses and chlamydia, associated with economically important diseases of livestock and to determine the ultrastructure, mode of replication, and pathogenetic mechanisms of such agents. In addition, various immunologic phenomena, particularly as they relate to virus- and chlamydia-induced animal diseases, will be studied at the ultrastructural level. During the course of these studies a wide variety of specimens, such as suspensions of virus, body fluids, tissues, cell cultures, etc., will be examined. The objectives of such research are to determine the particular agents associated with infectious diseases and the way in which the agents affect tissues and cells to cause disease. This information is used, whenever possible, to control diseases by methods such as vaccination, development of resistant strains of livestock, altered husbandry, etc. Application received by Commissioner of Customs: September 9, 1977.

Docket Number: 77-00369. Applicant: University of Rochester Medical Center, 601 Elmwood Avenue, Rochester, N.Y. 14642. Article: LKB 2128 Ultratome IV Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of tissue from animal and human central nervous system. Investigations will include studies on normal human central nervous system at various developmental stages, as well as abnormal tissue from brain tumors and animals that have been exposed to methyl mercury. Experimental methods will include immunohistochemistry and autoradiography. Application received by Commissioner of Customs: September 12, 1977.

Docket Number: 77-00370. Applicant: University of California, 3175 Miramar Road, La Jolla, Calif. 92093. Article: Electron Microscope, Model H-500-5 and Accessories. Manufacturer: Hitachi, Japan. Intended use of article: As part of ongoing extensive studies on the role of silicon in cellular metabolism the ar-

ticle will be used to define the composition of newly discovered silicon-containing granule in mitochondria of the diatom and animal cells which may have an important role in the processes of biological mineralization, e.g., bone formation, production of kidney calculi, etc. Another project involves the study of the nucleation and condensation behavior of refractory materials in which it is important to be able to characterize the composition, structure and morphology of these grains to compare with theoretical prediction. A third research project involves the study of manganese oxidizing bacteria and the characterization of viruses which attach to marine bacteria. Application received by Commissioner of Customs: September 12, 1977.

Docket Number: 77-00371. Applicant: Auburn University, 103 Textile Building, Auburn, Ala. 36830. Article: Rothschild Solid-State Tensiometer, Model No. R1192 with High-Speed Recorder, Model No. HE 16 and 100 gram Full Scale Measuring Head. Manufacturer: Rothschild, Switzerland. Intended use of article: The article is intended to be used for the study of yarn manufacturing, yarn preparatory and fabric manufacturing systems as to the effect of various parameters, including yarn tensions, on process efficiency and product quality. These studies include: (1) The effect of traveler speed in ring spinning on resultant tension and yarn properties; (2) The effect of winding speed on resultant tension, yarn package hardness and yarn properties, and (3) Generally, specific studies of this type in other yarn and fabric processes. Application received by Commissioner of Customs: September 12, 1977.

Docket Number: 77-00374. Applicant: Clark University, Department of Chemistry, Jeppson Laboratory, Worcester, Mass. 01610. Article: Nuclear Resonance Pulse Spectrometer, Model SXP 22/100. Manufacturer: Bruker, West Germany. Intended use of article: The article is intended to be used to study the following:

- Spin dynamics in one-dimensional Heisenberg systems with ¹H magnetic resonance.
- Enzyme structure and mechanism with ¹³C and ¹⁵N magnetic resonance.
- Biosynthetic pathways with ¹H magnetic resonance.
- Structure of natural products and compounds of biomedical significance with ¹H and ¹³C magnetic resonance.
- Chain dynamics in synthetic polymers with ¹H, ¹³C, and ¹⁹F magnetic resonance.
- Conformational and dynamic aspects of biological macromolecules with ¹H, ¹³C, and ¹⁹F magnetic resonance.
- Dynamics and shielding of small solute molecules in aqueous media with ¹H, ¹³C, and ¹⁹F magnetic resonance.

The article will also be used in the course Chemistry 300, "Research" by students studying for a Ph.D. or M.A. Undergraduates enrolled in Chemistry

214 "Special Topics" will also be using the article. Courses on the theory of magnetic resonance complementing the actual instruction and utilization of the instrument are also taught at the graduate student level in Chemistry 361 "Molecular Structure". Application received by Commissioner of Customs: September 14, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director,

Special Import Programs Division.

[FR Doc. 77-29603 Filed 10-7-77; 8:45 am]

[3510-24]

Economic Development Administration
HILF BAG CO., INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Hilf Bag Co., Inc., 14 East 32nd Street, New York, N.Y. 10016, a producer of ladies' handbags and accessories, was accepted for filing on September 29, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of October 21, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification
Division, Office of Planning
and Program Support.

[FR Doc. 77-29641 Filed 10-7-77; 8:45 am]

[3510-24]

J. S. ZULICK CO., INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by J. S. Zulick Co., Inc., South Warren Street, Orwigsburg, Pa. 17961, a producer of footwear for children, was accepted for filing on September 30, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Com-

merce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter.

A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of October 21, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification
Division, Office of Planning
and Program Support.

[FR Doc.77-29642 Filed 10-7-77;8:45 am]

[3510-24]

LITTLE FALLS FOOTWEAR, INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Little Falls Footwear, Inc., 17 Hough Street, St. Johnsville, N.Y. 13452, a producer of slippers and casual shoes for men, women and children, was accepted for filing on September 30, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter.

A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of October 21, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification
Division, Office of Planning
and Program Support.

[FR Doc.77-29639 Filed 10-7-77;8:45 am]

[3510-24]

NORWICH SHOE CO.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Norwich Shoe Co., Hale Street Extension, Norwich, N.Y. 13815, a

producer of footwear for men, children and infants, was accepted for filing on September 30, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter.

A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of October 21, 1977.

JACK W. OSBURN, JR.,
Chief, Trade Act Certification
Division, Office of Planning
and Program Support.

[FR Doc.77-29640 Filed 10-7-77;8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

NORMANDEAU ASSOCIATES, INC.

Notice of Receipt Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take an endangered species of fish for scientific purposes as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant: a. Name Normandeau Associates, Inc. b. Address Nashua Road, Bedford, N.H. 03102.
2. Type of Permit: Scientific Purposes.
3. Name and Number of Animals: shortnose sturgeon (*Acipenser brevirostrum*), undetermined.
4. Type of Activities: Shortnose sturgeon may be taken from Hampton Seabrook Estuary, New Hampshire, Piscataqua River-Great Bay System, New Hampshire/Maine, New Haven Harbor and adjacent sound waters, Connecticut, and Penobscot River, Maine.
5. Location of Activities: Shortnose sturgeon may be taken from Hampton Seabrook Estuary, New Hampshire, Piscataqua River-Great Bay System, New Hampshire/Maine, New Haven Harbor and adjacent sound waters, Connecticut, and Penobscot River, Maine.
6. Period of Activities: Until December 31, 1980.

The data collected from these occasionally captured specimens will be provided to other researchers who are conducting more extensive work on shortnose sturgeon.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven St. NW., Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm St., Gloucester, Mass. 01930.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 10, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: October 3, 1977.

MORRIS M. PALLOZZI,
Acting Assistant Director for
Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-29686 Filed 10-7-77;8:45 am]

[3510-12]

SOUTHWEST FISHERIES CENTER, NATIONAL MARINE FISHERIES SERVICE

Notice of Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name Southwest Fisheries Center National Marine Fisheries Service. b. Address P.O. Box 271, La Jolla, California 92038.
2. Type of Permit: Scientific Research.
3. Name and number of Animals:
Spotted dolphin (*Stenella attenuata*) 150,000
Spinner dolphin (*Stenella longirostris*) 100,100
Common dolphin (*Delphinus delphis*) 75,000
Striped dolphin (*Stenella coeruleoalba*) 50,000
Bottlenosed dolphin (*Tursiops truncatus*) 50,000
Rough-toothed dolphin (*Sicno bredanensis*) 5,000
Fraser's dolphin (*Lagenodelphis hosei*) 1,000
Pygmy killer whale (*Feresa attenuata*) 250
Melon-headed whale (*Peponocetophala electra*) 250
Risso's dolphin (*Grampus griseus*) 1,000

Tagging techniques will be initially monitored on the following animals currently maintained by cooperative public display facilities prior to any research activities in the wild.

- Atlantic bottlenosed dolphin (*Tursiops truncatus*) 50
Pacific bottlenosed dolphin (*Tursiops gillii*) 50

Common dolphin (*Delphinus delphis*) 50
Spinner dolphin (*Stenella longirostris*) 50
Spotted dolphin (*Stenella attenuata*) 50

4. Type of Activity: To capture, tag/mark, identify, and release. The animals will be tagged/identified by names of streamer and disc tags, thermal and cryogenic marks.

5. Location of Activity: 1. 100 Spinner dolphins will be tagged off the West Coast of Oahu, Hawaii;

2. Up to 250 animals will be tagged of different species being maintained in cooperative public display facilities; and

3. The remaining numbers of species will be taken in the eastern tropical Pacific Ocean.

6. Period of Activity: Five years.

The purpose of this tagging program is to collect data on stocks of small cetaceans involved in the eastern tropical Pacific yellowfin tuna fishery and other areas where there is an incidental catch of small cetaceans, to assess the impact of the incidental mortalities and injuries on the cetacean stocks.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven St., Northwest, Washington, D.C.; and
Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry St., Terminal Island, Calif. 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 10, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

Dated: October 3, 1977.

MORRIS M. PALLOZZI,
Acting Assistant Director for
Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-29685 Filed 10-7-77;8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

REGULATION OF TOXIC AND HAZARDOUS SUBSTANCES

Interagency Agreement

CROSS REFERENCE: For the text of an interagency agreement among the Consumer Product Safety Commission, the Environmental Protection Agency, the Food and Drug Administration, Department of Health, Education, and Welfare,

and the Occupational Safety and Health Administration, Department of Labor on the regulation of toxic and hazardous substances, see FR Doc. 77-29605, appearing under the Environmental Protection Agency in the Notices section of this FEDERAL REGISTER.

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

AIR FORCE ACADEMY BOARD OF VISITORS

Meeting

SEPTEMBER 29, 1977.

The Air Force Academy Board of Visitors is tentatively scheduled to meet at the Air Force Academy, Colorado Springs, Colo., during the period October 28-29, 1977. This meeting is pursuant to the Board's statutory charge (10 USC 9355) to meet at the Academy and to inquire into matters of morale, discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy which the Board decides to consider.

The tentative agenda calls for portions of the meeting to be open for public attendance on 28 September from 8:15 AM to 11:15 AM and from 3:15 PM to 4:15 PM in the Superintendent's Conference Room, Harmon Hall. Among the items on the tentative agenda during the open portions of the meeting are briefings to the Board on the following subjects: Update on Academic Program, New Military Science Curriculum, Basic Cadet Training for the Class of 1981, Cost per Graduate, Progress of Women Cadets, General Accounting Office Report on Contracting, and Construction Proposals for the Academy Cadet Chapel and Library. In addition to these open portions of the meeting, a press conference which will be open to the public has been scheduled for 9:15 AM on 29 September in Arnold Hall.

Portions of this meeting are tentatively scheduled to be closed to the public as matters to be discussed pertain to those listed in subsections (2) and (6) of section 552b(c), Title 5, United States Code. These closed portions include discussions with groups of cadets, faculty, and staff involving personal information and opinions, the disclosure of which would be a clearly unwarranted invasion of personal privacy. Also included are the executive deliberations of the Board involving discussion of such personal information.

If additional information is desired, contact Headquarters, U.S. Air Force (DPPA), Washington DC 20330, at 202-697-7116.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-29647 Filed 10-7-77;8:45 am]

[3710-08]

Department of the Army

ROCKY MOUNTAIN ARSENAL, COLORADO

Notice of Filing of Final Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on 7 October 1977 provided the Council on Environmental Quality with the Final Environmental Impact Statement concerning Disposal of Chemical Agent Identification Sets at Rocky Mountain Arsenal, Colorado and Addendum.

Copies of the statement and addendum have been forwarded to concerned Federal, State and local agencies. Interested organizations or individuals may obtain copies from Project Manager, Chemical Demilitarization and Installation Restoration, Building E-4585, ATTN: DRCPM-DR-T (Mr. G. Anderson), Aberdeen Proving Ground, MD 21010, phone 301-671-2270.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, phone 202-694-1163.

Dated: October 3, 1977.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army, (Civil Works).

[FR Doc.77-29684 Filed 10-7-77;8:45 am]

[3810-70]

Office of the Secretary

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, December 6, 1977; Tuesday, December 13, 1977; Tuesday, December 20, 1977; and Tuesday, December 27, 1977 at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory

Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and
Directives, OASD (Comptroller).

OCTOBER 5, 1977.

[FR Doc. 77-29665 Filed 10-7-77; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY PRIVACY ACT OF 1974

Transfer of Systems of Records Existing and Proposed

AGENCY: Department of Energy

ACTION: Notice.

SUMMARY: There are hereby transferred to the Secretary of Energy (the Secretary) and the Federal Energy Regulatory Commission (FERC), as appropriate to their respective functions, those systems of records or portions thereof either (i) established and in existence or (ii) proposed prior to October 1, 1977, under the Privacy Act of 1974 and other requisite authority vested in the departments, agencies and commissions which established or proposed such systems, as relate to the functions of any department, agency, commission, or component thereof which is either (i) transferred to the Department of Energy (DOE) by the Department of Energy Organization Act (Pub. L. 95-91) to either the Secretary or to FERC or (ii) delegated to the FERC by the Secretary.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Treanor, Office of Administration, Room 2121, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9840).

William D. Luck, Office of General Counsel, Room 6144, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-926).

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) was established by the Department of Energy Organization Act (Pub. L. 95-91) (the Act), which is made effective October 1, 1977 by Executive Order 12009, dated September 13, 1977 (42 FR 46267, September 15, 1977) (The Executive Order). The Act consolidated in DOE various energy functions previously performed by several federal agencies, so that federal energy policy and programs may be effectively coordinated and administered. The Act transfers to, and vests in, the Department and the independent collegial body within the Department, the Federal Energy Regulatory Commission (FERC), the functions of the former Federal Energy Administration, the Energy Research and Development Administration, the Federal Power Commission, and certain functions previously performed by the Interstate Commerce Commission, the Department of the Interior, the Department of Housing and Urban Development, the Department of the Navy, the Department of Commerce, and the Naval Reactor and Military Application Programs (established under the Atomic Energy Act of 1954).

Section 704 of the Act sets forth a provision to transfer listed items incidental to the transfers of functions affected by the Act. Section 704 of the Act states:

The Director of the Office of Management and Budget, in consultation with the Secretary and the Commission, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, as he may deem necessary to accomplish the purposes of this Act.

Additionally, Section 2 of the Executive Order states that:

The Director of the Office of Management and Budget, in consultation with the Secretary of Energy and the Federal Energy Regulatory Commission, as appropriate, shall take all steps necessary or appropriate to ensure or effectuate the transfer of functions provided for in the Department of Energy Organization Act, to the extent required or permitted by law, including transfers of funds, personnel and positions, assets, liabilities, contracts, property, records and other items related to the transfer of functions, programs, or authorities.

The departments, agencies and commissions, or components thereof, which,

prior to the Act, discharged the functions which the Act vests in the DOE, established and proposed certain systems of records in accordance with the Privacy Act of 1974 and other authority vested in them. Since these systems were established or proposed in furtherance of functions which are now vested in the DOE, the DOE has reason to have possession and control of these systems.

Accordingly, pursuant to the cited authority vested in the Director of the Office of Management and Budget (OMB), and additional guidance received from OMB, there are hereby transferred to the Secretary and to FERC, as appropriate to their respective functions, those systems of records or portions thereof either (i) established and in existence or (ii) proposed prior to October 1, 1977, under the Privacy Act of 1974 and other requisite authority vested in departments the agencies and commissions which established or proposed such systems, as relate to the functions of any department, agency, commission, or component thereof, which is either (i) transferred to the DOE by the Act to either the Secretary or to FERC or (ii) delegated to the FERC by the Secretary.

This notice is not a rulemaking requiring the opportunity for public comment. However, written comments will be accepted and should be directed to the following address:

Department of Energy, John M. Treanor, Office of Administration, Room 2121, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

(Department of Energy Organization Act; Executive Order 12009; Privacy Act of 1974.)

Issued in Washington, D.C. on October 1, 1977.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc. 77-29759 Filed 10-7-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 802-3]

REGULATION OF TOXIC AND HAZARDOUS SUBSTANCES Interagency Agreement

Interagency agreement among U.S. Consumer Product Safety Commission; U.S. Environmental Protection Agency; Department of Health, Education, and Welfare; Food and Drug Administration; and Department of Labor, Occupational Safety and Health Administration; relating to the regulation of toxic and hazardous substances.

I. PURPOSE

As principal regulatory agencies charged with protecting the public and the environment from the adverse effects of toxic and hazardous substances, we hereby agree to increase our on-going efforts to cooperate with each other as far as is practicable to make the most efficient use of resources, achieve consistent

regulatory policy, and improve the protection of the public health and environment.

Interagency cooperation is already taking place between various segments of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, and Occupational Safety and Health Administration. This Interagency Agreement is intended to supplement these activities.

II. STATUTES

This agreement is entered into within the limits of the statutory authorities of the four agencies.

III. ITEMS OF AGREEMENT

A. The four agencies shall establish interagency communications channels at appropriate levels to facilitate the exchange of information and to explore options for increasing cooperation and coordination.

B. Each of the four agencies shall designate a liaison officer to coordinate the participation of that agency in this agreement.

C. In order to carry out the purpose of this agreement and to the extent consistent with the statutory responsibilities of the agencies which are parties to this agreement, such agencies will endeavor to develop common, consistent, or compatible:

1. Testing protocols, criteria for interpretations, quality assurance procedures, and other policies relating to the testing of toxic and hazardous substances;
2. Epidemiological practices and procedures;
3. Approaches to the assessment of risk presented by a toxic or hazardous substance and to the estimation of benefits associated with a substance;
4. Methods of obtaining, analyzing, storing, and exchanging information which might be of mutual interest;
5. Research and development policies, possibly including methods of sharing costs and facilities;
6. Regulations and regulatory development activities where a hazard can be most effectively controlled by joint participation or by use of the statutory authorities of more than one agency, e.g., joint public hearings or rulemaking action;
7. Compliance and enforcement procedures and policies;
8. Public communication and education programs, and informational services to industry;
9. Other activities as may be applicable.

D. The four agencies may initiate mutual training programs, personnel exchange programs, and other personnel policies which may further the purposes of this agreement.

E. The four agencies may enter into jointly sponsored contracts or award jointly sponsored grants to further the purposes of this agreement.

IV. SUPPLEMENTARY AGREEMENTS

This agreement may be further carried out by supplementary agreements of the following types:

A. Authorized representatives of the four agencies may amplify or otherwise

For the Food and Drug Administration.

DONALD KENNEDY,
Commissioner.

For the Environmental Protection Agency.

DOUGLAS M. COSTLE,
Administrator.

For the Occupational Safety and Health Administration.

EULA BINGHAM,
Assistant Secretary of Labor.

SEPTEMBER 26, 1977.

[FR Doc. 77-29695 Filed 10-7-77; 8:45 am]

[6560-01]

[FRL 803-6]

TOXIC SUBSTANCES CONTROL ACT

Extension of Comment Period for Proposed Guidance on Notification of Substantial Risk Under Section 8(e)

On September 9, 1977 the Environmental Protection Agency (EPA) proposed in the FEDERAL REGISTER guidance on "Notification of Substantial Risk under Section 8(e)" of the Toxic Substances Control Act (42 FR 45362). In that action, EPA proposed its policy concerning the provisions of Section 8(e) (which are already in effect), soliciting comments on this proposed policy prior to publishing final guidance.

This notice extends the deadline for comments on the proposed guidance from October 15 to October 31, 1977. EPA wishes to point out that the extended comment period coincides with that for the Consumer Product Safety Commission's regulation proposed on September 16, 1977 concerning substantial product hazards (42 FR 46720).

Written comments on EPA's proposed guidance should bear the document control number OTS-080004 and should be submitted in triplicate to the U.S. Environmental Protection Agency, Office of Toxic Substances (WH-557), 401 M Street SW., Washington, D.C. 20460, attention: Joan Urquhart.

Dated: October 6, 1977.

ANDREW BREIDENBACH,
Acting Assistant Administrator
for Toxic Substances.

[FR Doc. 77-29799 Filed 10-7-77; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-626; RM-2764]

TELEVISION BROADCASTER TRANSLATORS ON SECONDARY USE BASIS

Memorandum Opinion and Order Denying Petition for Rule Making

Adopted: September 15, 1977.

Released: September 28, 1977.

In the matter of petition to amend the Commission's rules to restore UHF chan-

nels 70-83 for additional assignments to television broadcast translators on a secondary use basis, RM-2764.

1. On October 5, 1976, the Council for UHF Broadcasting (CUB) petitioned the Commission for rulemaking to amend § 2.106 and Part 74 of the Commission's rules to allow new television broadcast translators to utilize UHF channels 70-83 (806-890 MHz) on a secondary use basis. CUB was joined in the petition by the Public Broadcasting Service, Corporation for Public Broadcasting, National Association of Broadcasters, Association of Maximum Service Telecasters, Inc., Joint Council on Educational Telecommunications, National Association of Educational Broadcasters, and Association of Independent Television Stations, Inc. Comments on the petition were filed by the American Telephone and Telegraph Co. and the GTE Service Corporation. CUB also filed a reply comment.

2. In 1970, the Commission ruled in Docket No. 18262¹ that channels 70-83 were to be re-allocated to the land mobile radio service and that no new television translators would be assigned to these channels. Translators already assigned in the channel 70-83 band were allowed to remain indefinitely on a secondary use basis, however. The Commission subsequently decided in Docket No. 18861² that new translators would be authorized on channels 55-69 where possible, and on channels 14-54³ if it is not possible to operate on channels 55-69. High-power translators were also authorized to operate on unused UHF television channels listed in the television Table of Assignments⁴ in § 73.606(b) of the rules.

3. CUB contends that the rapid growth of UHF television translators since the decisions in Dockets Nos. 18262 and 18861 has resulted in congestion in the channel 55-69 band, and has forced nearly 30 new translator assignments into the band below channel 55. A continuation of the present arrangement, it says, will inevitably lead to a spectrum conflict in the channel 14-54 band between translators and primary UHF TV stations.⁵ This eventuality, it maintains, coupled with the limited use of land mobile radio in sparsely populated areas where most translators are required, justifies the relief requested in the petition.

4. The only parties to file comments on the petition—the American Telephone

¹ Translators retransmit the signals of television broadcast stations by means of direct frequency conversion and amplification of the incoming signal without significantly altering other characteristics of the signal.

² First Report and Order and Second Notice of Inquiry, 35 FR 8644.

³ Report and Order, 36 FR 19588.

⁴ Currently, channel 37 is unavailable, as it is reserved for the radio astronomy service.

⁵ A channel listed in the television Table of Assignments will hereinafter be referred to as an "allotted" channel.

⁶ Primary stations as used herein mean regular television broadcast stations, as contrasted with translator stations.

and Telegraph Co. and the GTE Service Corp.—oppose it on the grounds that granting of the petition could hinder the development of land mobile radio, and that there has been no substantive showing of need by CUB for additional frequencies for translator use. CUB, in a reply comment, states that there is no reason for land mobile radio development to be inhibited since it (land mobile radio) will remain as the primary user of the band, and again cites the rapid growth of UHF television translators as justifying the petition.

DISCUSSION OF ISSUES AND DECISION

5. As CUB points out, there has been a rapid growth of television translators on channels 55-69. Currently, the Commission has issued some 490 licenses and construction permits in this band, with about another 100 new applications on file. However, we note that in the channel group 70-83, which contains one less channel than 55-69, there are presently over 700 translator assignments which were issued before our Docket 18861 decision. Even though we recognize the taboo restrictions in the UHF band, it should be noted that there are over 2,400 translators on the 12 VHF channels, which also accommodate some 625 primary TV stations as opposed to about 30 primary stations on channels 55-69.

6. Thus, relative to other channels available for translator use, channels 55-69 would appear to have considerable potential for future growth of both TV primary and translator stations. This does not mean, however, that some congestion does not or will not exist in certain geographical areas in the future, which require the assignment of channels below channel 55. In fact, some 34⁷ translators have already been authorized below channel 55 on channels not listed in the Television Table of Assignments. All of these 34, however, are in rural areas where the UHF spectrum below channel 55 is very lightly utilized and could readily accommodate additional translators.

7. In summary, it would appear that in the vast majority of areas in the United States additional translator assignments on channels 14-69 could be made without conflict with existing or planned primary TV service, and in most areas additional translator assignments could be made on channels 55-69 without such conflict. Furthermore, the only areas where channel shortages now exist or might arise in the foreseeable future are the major cities where future requirements of the primary land mobile service preclude additional secondary translator operations on channels 70-83. Thus, we do not agree that a general re-opening of channels 70-83 for new secondary translator operations is justified on the basis of actual or potential

congestion on TV channels 69 and below or is otherwise in the public interest. We prefer at this time to retain the full potential of the 806-890 MHz band (channels 70-83) for the future growth and development of land mobile services, and we re-affirm our policies as established in Dockets 18262 and 18861 pertaining to the limited use of these channels by translators.

8. If, however, the actual spectrum requirements for translators in certain areas in the future exceed that which can be met by efficient use of channels 14-69, we will, of course, consider other means of satisfying such requirements, including increased secondary use of channels 70-83. Because we expect such instances to be few in number, we believe they can best be handled on a case-by-case waiver basis taking into account the existing and foreseeable needs of the primary land mobile service in the particular areas involved.

9. By taking the above course of action, the Commission is in no way limiting its flexibility at the 1979 World Administrative Radio Conference concerning future use of the 806890 MHz band, nor is it impacting the work of its UHF Task Force, which is studying future requirements in the UHF band. Rather, the Commission is simply stating that under present circumstances, it perceives no need to authorize additional general translator use of 806890 MHz. Since, however, conditions could change over the long time periods that both the WARC and the UHF Task Force are addressing, the Commission retains its options concerning the future use of this band.

10. Accordingly, it is ordered, That the above referenced petition for rulemaking, filed by the Council for UHF Broadcasting, is denied.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-29602 Filed 10-7-77;8:45 am]

[6712-01]

[Report No. I-394]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

OCTOBER 3, 1977.

The Applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications if, upon further examination, it is determined they are defective and not in conformance with the Commission's Rules, Regulations and its Policies. Final action will not be taken on any of these applications earlier than 31 days following the date of this notice. Section 309(d)(1).

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

SATELLITE COMMUNICATIONS SERVICES

AL, 696-DSE-P/L-77 Live Line, Inc., Jasper, AL. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 33°50'40" N., Long. 87°18'27" W. Rec. freq.: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

WI, 697-DSE-P/L-77 Total TV, Inc., Janesville, WI. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 42°44'34" N., Long. 88°58'53" W. Rec. freq.: 3700-4200 MHz. Emission (none listed). With a Scientific Atlanta Model 8008B Antenna. (5 meter assumed.)

AL, 698-DSE-P/L-77 R. E. James, d.b.a. Wiregrass Broadcasting Co., Enterprise, AL. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 31°18'10" N., Long. 85°50'14" W. Rec. freq.: 3700-4200 MHz. Emission (none listed). With a 6 meter antenna.

SC, 699-DSE-P-77 South Carolina Educational Television Commission, Beauford, SC. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 32°42'48" N., Long. 80°40'50" W. Rec. freq.: 3700-4200 MHz. Emission 36000F9. With a 10 meter antenna.

AZ, 700-DSE-P/L-77 Western Tele-Communications, Inc., Phoenix, AZ. For authority to construct, own and operate a domestic communications satellite Earth station for Message/Data and Video Transmit and Receive, at this location. Lat. 33°20'43" N., Long. 112°09'07" W. Rec. freq.: 3700-4200 MHz. Trans. freq.: 5925-6425 MHz. Emission 36000F9. With a 10 meter antenna.

MI, 701-DSE-P-77 Cable Vision, Inc., Mt. Pleasant, MI. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 43°33'50" N., Long. 84°48'48" W. Rec. freq.: 3700-4200 MHz. Emission (none listed). With a 5 meter antenna.

VA, 702-DSE-P/L-77 Sammons Communications of Virginia, Inc., Petersburg, VA. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 37°14'35" N., Long. 77°22'05" W. Rec. freq.: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

TE, 703-DSE-P/L-77 Sammons Communications, Inc., Bristol, TE. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 36°35'09" N., Long. 82°11'47" W. Rec. freq.: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

FL, 704-DSE-P/L-77 Teleprompter Corp., Brandon, FL. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 27°55'39" N., Long. 82°18'05" W. Rec. freq.: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

MI, 705-DSE-P/L-77 Canton Cablevision, Inc., Canton, MI. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 42°36'40" N., Long. 90°02'29" W. Rec. freq.: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

NV, 706-DSE-P/L-77 TV Pix, Inc., Carson City, NV. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 39°10'18" N., Long. 119°45'35" W. Rec. freq.: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

CA, 707-DSE-P/L-77 TV Pix, Inc., South Tahoe, CA. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 38°56'47" N., Long. 119°57'55" W. Rec. freq.: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

AR, 708-DSE-ML-77 CPI Satellite Telecommunications, Inc., Texarkana, AR (KE79). Modification of license to utilize a 6 meter antenna instead of the original 5 meter one licensed.

LA, 709-DSE-ML77 Alpine Cablevision, Inc., Alexandria, AL (KD43). Modification of license to permit the reception of signals from the Madison Square Garden Events.

LA, 710-DSE-ML-77 Houma Cablevision, Inc., Houma, LA (KD81). Modification of license to permit the reception of signals from the Madison Square Garden Events.

NC, 711-DSE-ML-77 Cable Television Co., Wilmington, NC (WD41). Modification of license to permit the reception of signals from the Madison Square Garden Events.

NV, 712-DSE-P/L-77 Tonopah TV Inc., Tonopah, NV. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 38°04'31" N., Long. 117°14'01" W. Rec. freq.: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

NJ, 713-DSE-R-77 ITT Space Communications, Inc., Ramsey, NJ (WB80). Renewal of this developmental Earth station license to: May 13, 1979.

Amendment 586-DSE-P/L-77, West Texas Microwave Co., Midland, TX. Amended to provide additional information and data necessary to obtain authority to utilize a 6 meter antenna instead of the 10 meter antenna originally applied for.

VA, SSA-16-77 Western Union Telegraph Co., McLean, VA. Request for a 3 month extension, but not beyond January 31, 1978, of the temporary authority to operate a temporary earth station in McLean, Va., for the purpose of providing television relay service to and from subscribers in the Washington, D.C. area.

26-CSS-LA-77 Communications Satellite Corp., 60° East Longitude. Request authority for the launch, positioning, and in-orbit testing of the INTELSAT IV-A (F-3) communications satellite which will serve as the spare-in-orbit for the Indian Ocean Region Primary satellite, and will be located at 60° East Longitude.

[FR Doc.77-29666 Filed 10-7-77;8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 232]

BASS FINANCIAL CORP., ET AL.

Receipt of Application

OCTOBER 5, 1977.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Bass Financial Corp. through its subsidiary institution, Unity Savings Association, ("Unity"), Chicago, Ill., for approval of a bulk purchase acquisition by "Unity" of the Wabash Building and Loan Association, Louisville, Ill., an uninsured association, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730(e)), and section 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected through the bulk purchase of all of the assets of Wa-

bash Building and Loan Association. Comments on the proposed acquisition should be submitted to the Director, or Deputy Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552 on or before November 10, 1977.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.77-29706 Filed 10-7-77;8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder
License No. 1051]

OHANNESON FREIGHT FORWARDING CO.

Order of Revocation

By letter dated September 2, 1977, Ms. Elizabeth A. Ohannesson, Ohannesson Freight Forwarding Co., P.O. Box 2116, San Francisco, Calif. 94126, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1051 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before October 1, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission, General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Ohannesson Freight Forwarding Co. has failed to furnish a valid surety bond. By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 210.1 (Revised), section 5.01 (c), dated June 30, 1975:

It is ordered, That Independent Ocean Freight Forwarder License No. 1051 issued to Ohannesson Freight Forwarding Co. be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1051 be and is hereby revoked effective October 1, 1977.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Ohannesson Freight Forwarding Co.

LEROY F. FULLER,
Director, Bureau of
Certification and Licensing.

[FR Doc.77-29593 Filed 10-7-77;8:45 am]

[6730-01]

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO AND NEW YORK SHIPPING ASSOCIATION, INC.

Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as

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amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before October 18, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

DOMATO CURISO, Esquire, Lorenz, Finn, Giardino & Lambos, The Cunard Building, 25 Broadway, New York, N.Y. 10004.

Agreement No. T-3007-3, which is between the International Longshoremen's Association, AFL-CIO (ILA) and the New York Shipping Association, Inc. (NYSA), modifies the parties' basic agreement, as amended, which is intended to provide the funds for NYSA to meet its obligations for ILA pension, welfare and clinics, guaranteed annual income, vacations, holidays and other fringe benefits incurred under the October 1, 1974-September 30, 1977, NYSA-ILA Collective Bargaining Agreement. The purpose of the modification provided for by Agreement No. T-3007-3 is to extend the termination date of the basic agreement, as amended, from September 30, 1977, until either: (a) December 31, 1977; or (b) until the Commission approves a new assessment agreement between the parties superseding Agreement No. T-3007, as amended, whichever first occurs.

Dated: October 5, 1977.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY, Secretary.

[FR Doc. 77-29631 Filed 10-7-77; 8:45 am]

[8410-01]

OHIO RIVER BASIN COMMISSION GREEN RIVER BASIN COMPREHENSIVE COORDINATED JOINT PLAN Availability of Adopted Plan

Pursuant to section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89-80), the Ohio River Basin Commission has adopted the Green River Basin Comprehensive Coordinated Joint Plan for transmittal to the President and the Congress through the Water Resources Council.

Copies are available on request to the Ohio River Basin Commission, 36 East Fourth Street, Cincinnati, Ohio 45202.

FRED E. MORR, Chairman.

[FR Doc. 77-29653 Filed 10-7-77; 8:45 am]

[6740-02]

FEDERAL POWER COMMISSION

[Docket Nos. R177-64; C177-238]

FRIO PRODUCTION CO.

Order Granting Petition for Special Relief; Permitting Intervention; and Terminating Proceeding

SEPTEMBER 30, 1977.

On May 5, 1977, Frio Production Co. (Frio) filed a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations. Frio requests a total rate of \$1.60 per Mcf at 14.65 psia for the sale of its 100 percent working interest in the gas produced from the Nos. 5, 7, and 9 Hinnant wells in the Ramerino Field of Live Oak County, Tex., to United Gas Pipe Line Co. (United).

The petition was noticed on June 29, 1977, with the period for filing petitions to intervene or protests closing on July 19, 1977. On July 13, 1977, United filed a petition to intervene, but stated no position.

The Commission Staff made an analysis of the economics of this project. The results of this analysis, attached hereto as Appendix A, indicate that the requested rate is cost supported.

The Proposal. Frio proposes to overhaul a compressor at a cost of \$18,000 and to construct an access road at a cost of \$11,285. These expenditures will enable it to produce an additional 60,000 Mcf at 14.65 psia during the remaining one year productive life, as estimated by Frio.

Background. Frio is making this sale under its small producer certificate issued in Docket No. CS72-701 and under its contract dated August 24, 1972, with United. United is willing to give Frio an Amended Agreement to the contract supporting any rate the Commission may allow up to \$1.60 per Mcf. Frio is presently receiving 35 cents/Mcf plus the usual adjustments.

Detail. The proposed expenditures of \$18,000 for compressor repair and \$11,-

285 for the construction of a new access road have been accepted by Staff as reasonable. Frio has a remaining net book value of \$30,968 for the lease and equipment. Staff accepts as reasonable Frio's estimate of \$25,000 as the salvage value of the compressor at the end of the estimated 1 year production life.

Frio estimates operating and maintenance expenses for the next year to be \$24,600, gross recoverable gas reserves to be 60,000 Mcf, and deliverability to be one year. Staff estimates that 4,000 Mcf of the gross recoverable gas reserves will be required for compressor fuel.

Staff has used the above costs along with Frio's estimated 42,393 Mcf of gas attributable to its 75.70143 percent net working interest in remaining production in a study to determine the rate required which would allow Frio to recoup all costs associated with this project and earn a 15 percent rate of return. This study followed traditional methodology. The results of this study, attached hereto as Appendix A, indicate that a rate of \$1.6866 per Mcf is required. Thus, Frio's requested rate of \$1.60 per Mcf appears to Staff to be cost supported.

Frio did not request an allowance for possible income tax liability. Cost support of the rate proposed has been established without consideration of any possible tax liability. Also, Staff has reviewed the information in the Commission's files relating to Frio. It is its opinion that Frio has total gas production that is so small that it will continue to be able to claim a statutory depletion allowance under the Tax Reform Act of 1975.

On January 21, 1977, Frio filed an application to abandon the sale involved in this proceeding because of the economics involved. The granting of the petition for special relief would obviate the need for such abandonment.

After reviewing the costs to be incurred and the reserves to be recovered, we determine that Frio's petition for special relief is warranted and that it is in the public interest to grant this petition.

The Commission finds: (1) The petition for special relief of Frio is hereby granted.

(2) Frio's application to abandon in Docket No. C177-238 should be denied.

The Commission orders: (A) The petition for special relief of Frio is hereby granted.

(B) Frio is authorized to collect \$1.60 per Mcf for gas from its Nos. 5, 7, and 9 Hinnant wells in the Ramerino Field of Live Oak County, Tex., effective upon the date that the proposed work is completed or the date of the Commission's order herein, whichever is later.

(C) This authorization is subject to the following conditions: (1) Frio must file, within 30 days of issuance of this order, an appropriate rate change filing in accordance with § 154.94 of the Commission's Regulations under the Natural Gas Act (18 CFR 154.94) and an executed contract amendment providing for payment of the approved rate; (2)

within 30 days of the effective date provided in Ordering Paragraph (B) above for the rate authorized herein. Frio must file a statement signed by United that the overhaul of the compressor and the construction of the access road have been completed to its satisfaction.

(D) United is permitted to intervene in the above-entitled proceeding, subject to the Rules and Regulations of the Commission; *Provided, however*, That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further*, That the admission of United in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that it agrees to accept the record as it now stands.

(E) Frio's application for abandonment in Docket No. C177-238 is hereby denied and that proceeding is terminated.

By the Commission.

KENNETH F. PLUMB, Secretary.

APPENDIX A.—Schedule 1, Frio Production Co., Docket No. R177-64

[Unit cost of gas]

Line No.	Item	Amount
(a)	(b)	
1	Net working interest volumes:	
2	Gas—Mcf at 14.65 psia ¹	42,393
3	Liquids—barrels	0
4	Cost of production:	
5	Return on rate base at 15 pct ²	\$6,844
6	DDA ³	35,253
7	Production expense ⁴	24,000
8	Subtotal	66,097
9	Regulatory expense ⁵	42
10	Total cost of production	66,139
11	Unit cost of gas (cents per 1,000 cubic feet)	
12	Cost of production ¹	146.01
13	Production tax ⁷	12.65
14	Total unit cost	168.66

¹ 60,000 Mcf—4,000 Mcf estimated compressor fuel
X75.70143 net new working interest.

² Line 7 of schedule 2, Frio Pet.
³ From line 7 of schedule 2.
⁴ Estimated by applicant.
⁵ Line 2X0.16/per 1,000 cubic feet per opinion No. 719.
⁶ Line 104-line 2.
⁷ 7.5 pct of line 14.

APPENDIX A.—Schedule 2, Frio Production Co., Docket No. R177-64

[Investment]

Line No.	Item	Amount
(a)	(b)	
1	Investment:	
2	Remaining net book value, Feb. 1, 1977	\$30,968
3	Overhaul compressor	18,000
4	Construct new access road	11,285
5	Total investment	60,253
6	Less salvage value ¹	25,000
7	Depreciable investment	35,253
8	Depreciation per unit of production ²	.831576

¹ Estimated by applicant.

² Line 7÷42,393 Mf.

APPENDIX A.—Schedule 3, Frio Production Co., Docket No. R177-64

[Average investment and annual rate base]

Line No.	Year	Annual new working interest production (1,000 cubic feet)	Beginning of year investment	Depreciation ¹	End of year investment	Average investment ¹
(a)	(b)	(c)	(d)	(e)	(f)	
1	Average investment:					
2	1	42,393	\$60,253	\$35,253	\$25,000	\$42,627
3	Average annual investment					42,627
4	Annual rate base:					
5	Average annual investment					42,627
6	Average annual working capital allowance					3,000
7	Total annual rate base					45,627

¹ Col. (b) X line 8 of schedule 2.

² Col. (e) ÷ col. (f) + 2.

³ Col. (f) of line 2.

⁴ 12.5 pct X line 7 of schedule 1.

[FR Doc. 77-29478 Filed 10-7-77; 8:45 am]

[6740-02]

[Docket No. RP72-89]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Motion for Approval of Certain Proposed Curtailment Tariff Revisions Having Unanimous Wholesale Customer Support

SEPTEMBER 30, 1977.

Take notice that on September 28, 1977, Columbia Gas Transmission Corp. (Columbia) filed, pursuant to section 1.12 of the Commission's Rules of Practice and Procedure, a motion requesting the Commission's approval of certain proposed revised curtailment procedures as embodied in the proposed tariff provisions contained in Appendix A thereto.

In its motion Columbia states that on August 3, 1977, as supplemented September 9, 1977, it submitted for filing certain tariff sheets incorporating proposed changes to sections 14.3 and 14.7 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1, relating to daily curtailment procedures and the disposition of penalties. According to the motion, certain modifications of the proposed procedures set forth in the August 3 filing were agreed upon by Columbia and its participating wholesale customers and not opposed by the Commission Staff at an informal conference, and are set forth in the attached Appendix A. Columbia states that the proposed tariff provisions as modified are supported by all of its participating wholesale customers as well as the Public Service Commission of New York, the Public Utilities Commission of Ohio, and three indirect customers, with no objection by the Commission Staff.

Upon receipt of a Commission order approving the revised procedures contained in Appendix A, Columbia agrees to withdraw its August 3 tariff filing and, in lieu thereof, file tariff sheets incorporating the agreed upon curtailment procedures with a proposed effective date of November 1, 1977.

The motion is on file with the Commission and is available for public in-

spection. It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of answers to the aforesaid motion. Therefore, answers or objections to the motion may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before October 7, 1977.

KENNETH F. PLUMB, Secretary.

[FR Doc. 77-29672 Filed 10-7-77; 8:45 am]

[6740-02]

[Docket No. CP77-636]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

SEPTEMBER 30, 1977.

Take notice that on September 26, 1977, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP77-636 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide certain of its wholesale customers with natural gas storage service in accordance with the provisions of a new Rate Schedule CSS, which Applicant proposes to incorporate in its FDC Gas Tariff, Original Volume No. 1, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that pursuant to the Commission's order of March 21, 1977, in Docket No. CP73-302, it was authorized to construct and operate the first phase of Crawford storage field in Fairfield and Hocking Counties, Ohio. Applicant states that development of the first phase of Crawford would provide it with an estimated additional storage capacity of 31,812,000 Mcf, of which 19,088,000 Mcf would be utilized to store the necessary volumes of base gas, and that the remaining 12,724,000 Mcf of storage capacity would be available to

accommodate routine injections and withdrawals. Applicant further states that construction of the Crawford storage facility is now well underway, and Applicant presently anticipates that the first phase development would be essentially complete by April 1, 1980, which is the first day of the 1980 summer injection season. Applicant contemplates, however, that during the first phase development, Crawford can be utilized for the withdrawal of volumes of gas in the amounts of 1,700,000 Mcf and 6,500,000 Mcf during the 1978-79 and 1979-80 winter seasons, respectively, it is said.

Applicant asserts that the proposed storage would provide its customers with additional flexibility in the utilization of their available gas supplies, particularly during the more critical winter heating season when such flexibility is needed most.

Applicant states that for the reason stated above and as a result of the interest exhibited by its customers, Applicant prepared a precedent agreement for storage service, which agreement constituted a firm offer by Applicant to render a storage service, subject to the Commission's approval. Applicant further states that the agreement was sent to each of its eligible wholesale customers, and that seventeen of its customers elected to participate in the proposed storage service, thirteen of which indicated a desire to purchase additional storage service. The seventeen customers which elected to participate in Applicant's proposed service are: Baltimore Gas & Electric Co., Cincinnati Gas & Electric Co., Union Light, Heat & Power Co., The Dayton Power & Light Co., Elizabethtown Gas Co., Lancaster, City of, Orange & Rockland Utilities, Inc., Penn Gas, Inc., Roanoke Gas Co., UGI Corp., Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., and Columbia Gas of West Virginia, Inc. It is indicated that Applicant prepared an amendment dated August 3, 1977, to the precedent agreement for storage service, which amendment provided that the storage service capacity initially offered by Applicant but not accepted by certain of its customers was reallocated among the thirteen customers.

Applicant indicates that no facilities other than those previously authorized in Docket No. CP73-302 would be required to render the storage service contemplated.

It is stated that pursuant to Applicant's proposed Rate Schedule CSS, each participating customer would furnish its allocated share of the volume to be injected as base gas out of its authorized monthly volumes, determined in accordance with Applicant's then effective curtailment plan, and that the volume of gas to be injected and stored for subsequent withdrawal would be paid for by each participating customer under Applicant's Rate Schedule CSD.

G, or SGS in the month in which such customer requests injections to be made for its account.

Applicant indicates that its proposed storage service would enable its participating customers to reserve a portion of their summer season allocations from Applicant for delivery to their essential high-priority markets during subsequent winter heating seasons.

Applicant urges the Commission to act on this application before February 1, 1978, in order that Applicant can timely file and implement Rate Schedule CSS so that injection of the volumes of gas to be stored for the account of its customers can commence as scheduled on April 1, 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. It is a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29673 Filed 10-7-77; 8:45 am]

[6740-02]

[RP77-113, RP77-135-1, RP77-135-2]

EL PASO NATURAL GAS CO. ET AL.

Notice of Petition for Extraordinary Relief and of Consolidation of Proceedings

SEPTEMBER 30, 1977.

In the matter of El Paso Natural Gas Company, RP77-113, El Paso Natural Gas Company (City of Denver City Utili-

ties), RP77-135-1, El Paso Natural Gas Company (Community Public Service Company), RP77-135-2.

Take notice that on August 22, 1977, City of Denver City Utilities (Denver City), P.O. Box J, Denver City, Tex. 79323, filed pursuant to Section 2.78(b) of the Commission's General Policy and Interpretations (18 CFR 2.78(b)) in Docket No. RP77-135-1, a petition for relief from the curtailment plan currently in effect on the system of El Paso Natural Gas Company (El Paso). Take further notice that on September 14, 1977, Community Public Service Company (CPSC), 501 West St., Forth Worth, Tex. 76102, filed in Docket No. RP77-135-2 a similar petition for relief from El Paso's curtailment plan and that, concurrently therewith, CPSC filed a motion to consolidate for Commission consideration SPSC's petition with the petition for extraordinary relief filed by El Paso on July 21, 1977, in Docket No. RP77-113.¹ The foregoing requests of Denver City and CPSC are more fully set forth in their pleadings which are on file with the Commission and open to public inspection.

Denver City states that its present winter season Priority 1 base volume under El Paso's tariff is 199,206 Mcf. Denver City claims that the winter season upon which the base volume was based was very mild and that it has attached 75 to 100 more customers since that base winter—1973-74. Accordingly Denver City requests relief of at least 15,000 Mcf to supplement its 1977-78 Priority 1 winter season base volumes under El Paso's tariff. Denver City states that it joins in the petition for extraordinary relief filed by El Paso in Docket No. RP77-113 on behalf of certain of its distribution customers, including Denver City. However, El Paso's petition forecasts a need to augment Denver City's 1977-78 winter season base volumes by 10,873 Mcf rather than the 15,000 Mcf requested by Denver City. Denver City's petition also notes that it is continuing to attach new customers.

CPSC states that its present summer and winter season Priority 1 base volumes under El Paso's tariff are:

Summer season	Winter season
60,376	197,915

CPSC claims that the following, rather than the foregoing, volumes accurately reflect its system requirements:

Summer season	Winter season
87,351	284,005

CPSC states that the difference in requirements is not due to recent load growth but instead is due to the following factors. First, the historical base period, consisting of the 12 months ended October 31, 1974, was not representative of normal conditions in that the base period occurred at a time of severe

¹ Notice of El Paso's petition for extraordinary relief in Docket No. RP77-113 was issued on August 3, 1977 (42 FR 40238).

[6740-02]

[Docket No. CP77-267]

MID LOUISIANA GAS CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Granting Rehearing, Providing for Formal Hearing, and Establishing Procedures

SEPTEMBER 30, 1977.

On August 15, 1977, Transcontinental Gas Pipe Line Corporation (Transco) filed pursuant to section 19(a) of the Natural Gas Act an application for rehearing of the Commission's order issued July 14, 1977, in Docket No. CP77-267 pursuant to section 7 of the Natural Gas Act. On September 14, 1977, the Commission issued an order granting a rehearing for the limited purpose of further consideration.

The order of July 14, 1977, authorized Mid Louisiana Gas Company (Mid Louisiana) to abandon by sale to Transco, its Hester Storage Field in St. James Parish, Louisiana, and 8.8 miles of 12-inch connecting pipeline and to abandon the storage service it renders to Transco. Further, said order issued a certificate of public convenience and necessity authorizing Transco to acquire and operate the Hester Field and related connecting pipeline, to provide Mid Louisiana a storage service comparable to its existing use of the Hester Field, and to construct and operate certain facilities at Hester. Additionally, Transco and Mid Louisiana were authorized to transport and exchange natural gas under a new agreement to reflect the subject changes. Transco is to pay Mid Louisiana \$8,500,000 for the Hester Storage facility, including approximately \$8,000,000 Mcf of cushion gas and the connection pipeline between the storage field and the Transco Southeast Louisiana Gathering System.

The amount of \$8,500,000, which Transco will pay for the Hester facility, exceeds Mid Louisiana's net book value of this property by \$832,244. In its certificate application, Transco proposes that the difference between the purchase price of \$8,500,000 and Mid Louisiana's net book cost be amortized by periodic charges to Account 406, Amortization of Gas Plant Acquisition Adjustments. In the order of July 14, 1977, however, the Commission states that its:

Policy is to require that such amortization be charged to Account 425, Miscellaneous Amortization unless the applicant can demonstrate that specific dollar benefits to its customers offset the amounts paid in excess of net book value.

No such showing was made in Transco's application. Consequently, ordering paragraphs (F) and (G) of the July 14, 1977, order provide as follows:

(F) Transco's [sic] proposed method of accounting for the purchase is approved except that the acquisition adjustment shall be amortized by charges to Account 425, Miscellaneous Amortization rather than to Account 406, Amortization of Plant Acquisition Adjustments.

(G) Transco's transportation and storage charges to Mid Louisiana shall be subject to

elimination of all amounts relating to the acquisition adjustment and shall also be subject to the rate of return as determined proper in Transco's rate proceeding in Docket No. RP75-136.

In its application for a rehearing, Transco argues that the Commission's rejection of Transco's proposed accounting treatment of the amount by which the purchase price of the Hester facility exceeds its net book value is erroneous because (1) the Commission failed to recognize that there is no significant profit to Mid Louisiana from the proposed sale, (2) the Hester Field's substantial cushion gas inventory results in specific dollar benefits to Transco's customers, and (3) the Commission erroneously denied Transco its right to a hearing.

Concerning the first of these arguments, Transco maintains that the excess over net investment to be paid by Transco represents "almost entirely the amount required to make Mid Louisiana 'whole' by virtue of the substantial income tax (\$795,000) which must be paid by Mid Louisiana upon disposal of the field by sale to Transco." Transco says that this tax is caused by the excess of tax depreciation over book depreciation as a result of using "liberalized tax depreciation." Earlier tax reduction was flowed through to Mid Louisiana's customers. Consequently, says Transco, "there is no significant profit to Mid Louisiana from the proposed sale and the gas consuming public as a whole will not be paying rates higher than those based upon net investment." Transco therefore maintains that the rule against charging consumers for utility property "write ups" does not apply.

Transco also argues that even if the purchase price of the Hester Field does exceed Mid Louisiana's net investment, the acquisition and operation of the field by Transco will yield significant monetary benefits to Transco's customers. In support of this assertion, Transco has attached an appendix to its application for rehearing which purports to show that the 8,000,000 Mcf of injected cushion gas in the Hester Field is being acquired at a substantial savings to Transco's customers that would offset the excess of cost over Mid Louisiana's net investment.

The Commission finds that Section 7(c) of the Natural Gas Act entitles Transco to a hearing on its application for a certificate. Transco is incorrect in supposing, however, that Section 7(c) entitles it to a hearing limited to the specific issues of real profit to Mid Louisiana and specific dollar benefits to Transco's customers. Accordingly, the Commission will grant a rehearing and provide for a formal hearing, which will include all issues raised by the application for a certificate of public convenience and necessity and for an order permitting and approving abandonment in Docket No. CP77-267.

The Commission finds: Good cause exists to grant rehearing, provide for a formal hearing, and establish the procedures for such hearing all as herein-after ordered.

The Commission orders: (A) The application for rehearing filed herein by Transco on August 15, 1977, is hereby granted.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held commencing November 21, 1977 at 10 a.m. (EDST) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the propriety of issuing a certificate of public convenience and necessity and an order permitting and approving abandonment.

(C) On or before October 25, 1977, Transco, Mid Louisiana, and any other party in support of issuing a certificate of public convenience and necessity and permitting and approving abandonment shall file with the Secretary of this Commission and serve upon all parties to this proceeding, its testimony and exhibits comprising its case-in-chief in support of its petition.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR § 3.5 (d)) shall preside at the hearing in this proceeding with authority to establish and change all procedural dates and to rule on all motions (with sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29675 Filed 10-7-77; 8:45 am]

[6740-02]

[Dockets Nos. CP76-285, CP76-388, CP76-389, CP77-289, CP77-511, CP77-512]

MOUNTAIN FUEL RESOURCES INC. ET AL.

Order Consolidating Applications, Granting Temporary Certificates, Granting Interventions, Providing in Part for Formal Hearing and Prescribing Procedures

SEPTEMBER 30, 1977.

In the matter of Mountain Fuel Resources, Inc., Docket No. CP76-285, Mountain Fuel Supply Co., Docket No. CP76-388, Northwest Pipeline Corp., Docket No. CP76-389, El Paso Natural Gas Co., Docket No. CP77-289, Northwest Pipeline Corp., Docket No. CP77-511, Clay Basin Storage Co., Docket No. CP77-512.

The above-captioned applications represent both an underlying long-term plan for the development and use of storage facilities with short-term transportation arrangements and, a limited interim project. The area in question is the Clay Basin Storage Field (Field), Daggett County, Utah, specifically the Dakota Formation which began produc-

tion in 1935 and was nearly depleted by March of 1976. Geographically, the Field site is near the Utah-Wyoming-Colorado border.

THE UNDERLYING PROJECT

On March 3, 1976, Mountain Fuel Resources, Inc., (Resources), a wholly-owned subsidiary of Mountain Fuel Supply Company (Supply), filed an application in Docket No. CP76-285, pursuant to Section 7(c) of the Natural Gas Act to acquire, construct and operate facilities necessary to convert the Field into a gas reservoir and to render storage service. The Application involved a pipeline to connect the storage field to Northwest Pipeline Corporation's (Northwest) mainline, in addition to compressors and field gathering lines connecting seven (7) existing and eight (8) additional wells at a total estimated cost of \$15,437,000. The application was noticed March 18, 1976 (41 FR 12340, March 25, 1976).

On June 10, 1976, Northwest filed an application in Docket No. CP76-389, pursuant to Section 7(c) to seek authorization to engage in storage arrangements with Resources whereby Northwest would deliver to Supply during the summer of 1976 for credit on its account with Resources for storage. This was to transfer title to all existing gas within the Field to the account of Northwest. Northwest also anticipated construction of a tap valve, meter station, and mainline looping and compressor by 1978, as well as injections of cushion gas. The application was noticed on July 2, 1976 (41 FR 28587, July 12, 1976).

Also on June 10, 1976, Supply filed an application in Docket No. CP76-388, pursuant to section 7(c) to render short-term displacement arrangements (described above) and to temporarily install a compressor. The application was noticed on June 30, 1976 (41 FR 28020, July 8, 1976).

Resources and Northwest anticipated a 30-well facility by 1978-1979 with withdrawal capacity of 150,000 Mcf/d at an estimated facilities cost of \$25,449,000 (\$31,308,000 by Northwest's estimate) together with an estimated cost of \$33,384,000 for purchase of Canadian summer gas. Resources proposed a \$7,530 per month charge as the cost of operations, a 1.0 cent per Mcf transportation charge, with an 8 percent depreciation rate and a 12 percent annual return on cost of service.

In order to reflect minor modifications in the facilities, schedules, amounts of injections, and to provide additional information, various supplements and amendments to the applications were filed. Temporary certificates were issued to Resources on July 19, 1976, and February 10, 1977; to Supply on July 19, 1976 and November 26, 1976; and to Northwest on July 19, 1976, November 26, 1976, and February 10, 1977.

THE INTERIM PROJECT

On March 8, 1977, El Paso Natural Gas Company (El Paso) filed an application

in Docket No. CP77-289, pursuant to Section 7(c) together with Resources Third Amendment on March 10, and an Amendment of Northwest on March 9, 1977.¹

Under the newly proposed arrangement, Northwest would receive gas from El Paso at certain points of interconnection in San Juan County, New Mexico, transport it to the existing interconnection between Northwest and Resources would inject the gas for the account of Clay Basin Storage Company (Clay Basin). Clay Basin would hold title to all the gas for later predetermined sales to four (4) of El Paso's East-of-California (EOC) Distributors; Arizona Public Service Company (APS), Southern Union Company (Southern Union), Southwest Gas Corporation (Southwest), and Tucson Gas and Electric Company (TG&E).² Withdrawal would be accomplished whereby Northwest would deliver equivalent volumes to El Paso in La Plata County, Colorado, and would take title to the gas in storage by displacement. El Paso would then transport the gas to the EOC Distributors who had previously purchased the gas. The gas which would be delivered as needed to protect service to the EOC Priority 1 and 2 customers would have been husbanded through storage of gas otherwise sold to lower priorities.

Clay Basin filed an application in Docket No. CP77-512 pursuant to section 7(c) on July 19, 1977. Clay Basin is an independent holding company created by El Paso for the sole purpose of facilitating the financial arrangements in this project. Clay Basin's financing scheme involves loans not to exceed \$25 million at 110 percent of the prime rate as well as a 0.5 percent commitment fee on unused amounts and a facility fee of 10 percent of the prime rate of the total commitment. The remaining borrowing of 13.87 percent and \$10,000 in stock to be issued to El Paso.

El Paso anticipates selling 16.7 Bcf of gas to Clay Basin during the period continuing through April 30, 1978, to receive gas necessary to transport and redeliver gas to EOC Distributors as needed. El Paso seeks to construct and operate pipeline to connect the El Paso and Northwest pipelines, to modify and relocate a check-meter, and to construct and operate plant piping and aerial gas heat exchangers. The proposed cost is \$450,000 to be financed from funds on hand.

Northwest requests authority to deliver larger amounts of gas for storage and withdrawal over the level approved on February 10, 1977, on a best efforts basis in order to meet the expected needs of the 1977-1978 heating season.³

By April 30, 1978, all planned deliveries by El Paso to Northwest for

¹ Docket No. CP77-511 was not filed until July 18, 1977.

² Hereafter referred to as the EOC Distributors.

³ Third and Fourth Amendment to CP76-389.

injections to storage will cease. If, at any time after October 31, 1977, the total gas stored in the Field exceeds 27,000,000 Mcf, then all or a portion of that excess may be used to protect Priority 1 and 2 requirements of El Paso and Northwest customers. The interim arrangement is scheduled to expire by December 31, 1979, and if at that time, any surplus gas remains in Clay Basin's account, it will be returned as protection to EOC Priority 1 and 2 customers.

All parties seek temporary as well as permanent authorization for this project.

CONSOLIDATION AND INTERVENTIONS

The public convenience and necessity as well as the expeditious management of these applications dictate that the six (6) above-captioned dockets be consolidated and we so find.

Notices of Interventions or petitions to intervene in support, either directly or indirectly, of the long-term and interim projects were filed by:

1. El Paso Natural Gas Co.
2. Clay Basin Storage Co.
3. Asarco Inc., Compania Minera de Cananea, S.A. de C.V., Inspiration Consolidated Copper Co., and Kennecott Copper Corp.
4. Salt River Project Agricultural Improvement and Power District.
5. Southern Union Co.
6. Northwest Natural Gas Co.
7. Washington Natural Gas Co.
8. Cascade Natural Gas Corp.
9. Idaho Public Utilities Commission.
10. Pacific Gas and Electric Co.
11. Arizona Public Service Co.
12. Southern California Gas Co.
13. Colorado Interstate Gas Co.
14. Washington Utilities and Transportation Commission.
15. Washington Water Power Co.
16. Southwest Gas Corp.
17. The People of the State of California and the Public Utilities Commission of the State of California.
18. Tucson Gas and Electric Co.
19. San Diego Gas and Electric Co.
20. Public Utility Commissioner of Oregon.
21. Intermountain Gas Co.
22. Wyoming Industrial Gas Co.
23. Utah Gas Service Co.
24. Public Service Co. of Colorado, Western Slope Gas Co., and Cheyenne Light Fuel & Power Co.

One petitioner filed requesting a hearing; Arizona Electric Power Cooperative and the city of Willcox, Ariz. (AEPCCO).

PROCEDURES AND ISSUES FOR HEARING

We find that applications relating to the underlying project should be set for hearing. The following two specific issues are of particular concern to Staff:

1. What is the proper percentage depreciation that should be applied over the life of the Field, and, what is the duration of that life?

2. What is the proper percentage rate of return that should be applied to the operation of the services of the Field?

We will, therefore, establish a date for the filing of testimony by the parties and supporting intervenors. Subsequent to the filing of direct testimony and opportunity for Staff to review thereof, a pre-

hearing conference shall be convened to establish procedures to expedite the orderly conduct of the formal hearing and to further define the issues.

TEMPORARY AUTHORIZATION AND DENIAL OF HEARING ON INTERIM PROJECT

As stated in the filings, the urgency of this project is apparent in that the project envisions injections during the summer season of 1977 for withdrawal during the heating season of 1977-78 for the protection of EOC High-Priority customers. Previous arrangements to protect EOC Priority 1 and 2 customers have ceased and as that protection has been found to be needed (discussed infra), and as the instant proposal represents the needed additions to the protection afforded by the Rhodes Storage facility; it is abundantly clear that an emergency does exist and the public convenience and necessity require that temporary certificates be issued in Docket Nos. CP76-285, CP76-389, CP77-289, CP77-511, and CP77-512.

Said temporary authorization in Docket No. CP77-512 however, should be conditioned as follows.

1. The facility fee on bank credit be eliminated.
2. The interest rate of 13.87 percent on subordinated debentures be reduced to 9.71 percent as most recently allowed for overall return to El Paso in Docket No. RP77-18.
3. The return on the \$10,000 of common equity be set at the most recently allowed return of 14.75 percent in Docket No. RP77-18.
4. The proposal be limited to the expiration date of the bank credit agreement; March 31, 1980.

On August 23, 1977, AEPCCO filed a "Protest, Petition to Intervene and Motion for Consolidated Hearing", and either expressly or by reference, have applied that pleading to all the above referenced proceedings. As noted above, the intervention of AEPCCO is proper, however, the overall tenor and specific allegations presented by AEPCCO appears to be beyond the accepted bounds of advocacy. In its answer filed on September 6, 1977, El Paso argues that it should be stricken pursuant to Section 1.15 (f) of the Commission's Rules of Practice and Procedure.⁴ While this argument may have merit, we will assume that this filing is unique and its inherent difficulties will not reoccur. We will address each issue raised therein to show that each is the concern of on-going proceedings and thus vitiating any need for hearing in the instant proceeding other than as provided for herein.⁵

⁴ Southwest Gas Corp., Southern Union Co. and Arizona Public Service Co. filed replies to AEPCCO's Protest stating in part that no copy of this filing was ever served on them.

⁵ September 21, 1977, Northwest filed an Answer to AEPCCO's Protest in Docket Nos. CP76-389 and CP77-511. Northwest primarily argues that the El Paso system is not involved in the underlying project and thus the protest should be disallowed as it applies to the Northwest system.

There are presently three on-going proceedings involving the El Paso system and in which AEPCCO has intervened and is participating: RP72-6 the "Flame Stabilization" phase of the curtailment proceeding; SP76-38 and RP72-6, the consolidated proceeding involving the AEPCCO complaint and system-wide curtailment plan; and CP73-334, CP74-289, and CP75-360, the Rhodes Storage Reservoir Project. Several issues raised by AEPCCO in the instant petition to intervene are presently being litigated in one of the aforementioned proceedings.⁶

AEPCCO raise the issues of the "alleged" deficiency and need of this project for the protection of Priority 1 and 2 EOC customers as well as challenging the load equation and nominations of gas by distributors. Similar considerations are present in the proposed Settlement and Termination filed August 19, 1977, by El Paso pursuant to Commission directive set forth in Opinion Nos. 800 and 800-A. The matter of the broadness of the tariff for storage will also be considered therein.

Deficiencies, nominations by distributors, tracing of gas from storage, double-counting, and the load equation are a concern of the consolidated complaint/system-wide curtailment proceeding as well as subjects within the ambit of *City of Willcox, et al., supra.*, note 6. These matters would also include the consideration of the proper classification of storage gas. However, these issues must be reviewed in the context of this proposed underlying project herein set for hearing.

We find that an emergency is shown for the heating season 1977-78 as well as the future and that the issues that are raised by intervenors are the concern of on-going proceedings.⁷ We also find that any detrimental effect that may be occasioned by this project can be easily remedied by the above-cited, on-going, system-wide proceedings.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented as hereinbefore described and limited.

(2) Participation in these proceedings by the listed intervenors may be in the public interest and that permitting the filing of the late petitions to intervene

⁶ Relevant to the above-cited proceedings, Commission and Judicial History involve Opinion Nos. 800 and 800-A, issued May 23 and July 20, 1977, as well as *City of Willcox, et al., v. F.P.C., et al.*, 444 F.2d 1111 (D.C. Cir. 1977) (No. 74-2123, Decided June 30, 1977) which remanded Opinion Nos. 697 and 697-A, the presently effective curtailment plan.

⁷ Clay Basin Storage Project is also an integral part of the proposed settlement in CP73-334, et al., (Opinion Nos. 800, 800-A) filed August 19, 1977.

⁸ AEPCCO filed on September 26, 1977, a "Reply" to the Answers to their Protest. Said reply does not add materially to the original protest and maintains the same objectionable tenor.

will not delay the proceedings and may be in the public interest.

(3) The public convenience and necessity as well as the expeditious management of these proceedings require the consolidation of the six (6) above-indicated docket numbers.

(4) An emergency does exist for which the public convenience and necessity require that temporary authorization be issued as hereinbefore conditioned.

The Commission orders: (A) The applications filed in Docket No. CP76-235 by Mountain Fuel Resources, Inc., in Docket No. CP76-388 by Mountain Fuel Supply Co., in Docket No. CP76-389 by Northwest Pipeline Corp., in Docket No. CP77-289 by El Paso Natural Gas Co., in Docket No. CP77-511 by Northwest Pipeline Corp., and in Docket No. CP77-512 by Clay Basin Storage Co., are hereby consolidated and set for hearing with Docket No. CP76-285, Mountain Fuel Resources, Inc.

(B) All parties and all supporting intervenors shall file direct testimony and exhibits comprising their cases-in-chief on all issues set forth in this Order on or before November 29, 1977.

(C) The temporary certificates requested shall be issued subject to the conditions as hereinbefore described.

(D) A prehearing conference is to be convened on November 15, 1977, at the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 to discuss procedural and substantive issues. The Presiding Judge has authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss) as provided for in the Rules of Practice and Procedure.

(E) The above-mentioned petitioners are permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however*, That participation of such petitioners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene, and *Provided, further*, That the admission of such petitioners shall not be construed as recognition by the Commission that they might be aggrieved because of any Order of the Commission entered in this proceeding.

(F) The tendered tariff sheets of Storage Company and Northwest in Docket Nos. CP77-512 and CP77-511, respectively, shall be accepted and the temporary authorization accept the tariff sheets with waiver of the notice and certificate requirements of Sections 154.22 and 154.51 of the Commission's Regulations and permit such tariff sheets to become effective as of the date of authorization. The tariff sheets tendered by El Paso in Docket No. CP77-289 should be accepted for filing subject to any surcharge modifications based on the above recommended financial conditions. Further, El Paso should file within 15 days tariff sheets reflecting the appropriate changes resulting therefrom.

(G) The Secretary shall cause prompt publication of the Order to be made in the FEDERAL REGISTER.

By the Commission,

KENNETH F. PLUMB,
Secretary.

APPENDIX A

TENDERED TARIFF SHEETS

Storage Company

Original Sheet Nos. 1 through 26 to its Natural FPC Gas Tariff, Original Volume No. 1.

Northwest

Original Sheet Nos. 233 through 257 to its FPC Gas Tariff, Original Volume No. 2.

EL PASO

Original Volume No. 1

Sixth Revised Sheet No. 63-C.2.
Fifth Revised Sheet No. 63-C.3.
Fourth Revised Sheet No. 63-C.4.
Sixth Revised Sheet No. 63-C.5.
Fifth Revised Sheet No. 63-C.6.
First Revised Sheet No. 63-C.7.
First Revised Sheet No. 63-C.8.
First Revised Sheet No. 63-C.9.
Original Sheet No. 63-C.9A.
Original Sheet No. 63-C.9B.
Original Sheet No. 63-C.9C.
Original Sheet No. 63-C.9D.
Original Sheet No. 63-C.9E.

Third Revised Volume No. 2

Sixth Revised Sheet No. 1-M.2.
Fifth Revised Sheet No. 1-M.3.
Fourth Revised Sheet No. 1-M.4.
Sixth Revised Sheet No. 1-M.5.
Fifth Revised Sheet No. 1-M.6.
First Revised Sheet No. 1-M.7.
First Revised Sheet No. 1-M.8.
First Revised Sheet No. 1-M.9.
Original Sheet No. 1-M.9A.
Original Sheet No. 1-M.9F.
Original Sheet No. 1-M.9C.
Original Sheet No. 1-M.9D.
Original Sheet No. 1-M.9E.
Original Sheet Nos. 900 through 933.

Original Volume No. 2A

Sixth Revised Sheet No. 7-MM.2.
Fifth Revised Sheet No. 7-MM.3.
Fourth Revised Sheet No. 7-MM.4.
Sixth Revised Sheet No. 7-MM.5.
Fifth Revised Sheet No. 7-MM.6.
First Revised Sheet No. 7-MM.7.
First Revised Sheet No. 7-MM.8.
First Revised Sheet No. 7-MM.9.
Original Sheet No. 7-MM.9A.
Original Sheet No. 7-MM.9B.
Original Sheet No. 7-MM.9C.
Original Sheet No. 7-MM.9D.
Original Sheet No. 7-MM.9E.

[FR Doc.77-29676 Filed 10-7-77 8:45 am]

[6740-02]

[Docket No. CP77-642]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

SEPTEMBER 30, 1977.

Take notice that on September 26, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-642 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public

convenience and necessity authorizing the construction and operation of storage facilities to enable Applicant to withdraw up to 740,000 Mcf of natural gas per day and 82,800,000 Mcf for any 12-month period from the North Lansing Storage Field, Harrison County, Texas, and the establishment of a maximum inventory limit of 132,500,000 Mcf (inclusive of native gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that it filed applications and received authorization in Docket Nos. CP74-286 and CP77-29 to construct and operate facilities for the underground storage of natural gas in the North Lansing Field, Harrison County, Texas. The authorized inventory limit for the field is 85,000,000 Mcf (inclusive of native gas), and at this inventory limit Applicant would have available approximately 15,000,000 Mcf of gas for withdrawal during the winter heating season, and over a 12-month period a net of 46,750,000 Mcf of gas could be withdrawn. It is indicated.

It is stated that North Lansing is utilized by Applicant on a year round basis to provide protection against major supply outages, and as a scheduled source of supply during the winter season. It is further stated that Applicant relies heavily on its sources of supply from the offshore areas of Louisiana and Texas to maintain existing service to its customers.

Applicant indicates that it projects a maximum inventory of 132,500,000 Mcf of natural gas to complete the development of the field, which initial development phase was authorized in Docket No. CP74-286 and further development in Docket No. CP77-29. Applicant further indicates that the increment of development proposed would enable it to reach said maximum inventory of 132,500,000 Mcf which would provide Applicant with the capability to withdraw 57,500,000 Mcf of gas during the winter heating season. However, because Applicant proposes to utilize the North Lansing Field on a year-round basis as a source of supply to offset outages, Applicant requests authorization to establish a maximum inventory level of 132,500,000 Mcf of gas (inclusive of native gas), which would provide Applicant with the capability of withdrawing a net of 82,800,000 Mcf of gas over any 12-month period when Applicant reaches said maximum limit. It is indicated. Applicant states that in addition, at said limit it would have the capability of withdrawing up to 740,000 Mcf per day.

It is stated that these increases in peak day and annual withdrawal authorizations would provide Applicant with additional flexibility to maximize the utilization of its field storage facilities in enhancing the reliability of existing service, and that it would assist Applicant in meeting customer entitlements, thus avoiding deeper and unexpected curtailment, but would not be utilized to support any new or increased service to Applicant's customers.

Applicant indicates that to effectuate the proposal, it proposes to construct and operate:

- (1) 12,000 BHP of compression; and
- (2) Approximately 5.2 miles of 6-inch and 8-inch gathering pipelines, the drilling and connection of 15 wells for injection and withdrawal use and other miscellaneous facilities, all at Applicant's North Lansing Field storage in Harrison County, Tex.

Applicant further indicates that the estimated cost of constructing the proposed facilities is \$11,638,000. Applicant also proposes to construct and operate pursuant to Section 2.55(a) of the Commission's General Policy and Interpretations (18 CFR 2.55(a)) downhole protection devices, dehydration, line heaters, and other miscellaneous facilities at a cost of \$1,700,000. Applicant states that it would finance the total estimated cost of the facilities of \$13,338,000 through interim and permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29678 Filed 10-7-77;8:45 am]

[6740-02]

[Docket No. CP77-625]

RMNG GATHERING CO.

Notice of Application

SEPTEMBER 30, 1977.

Take notice that on September 21, 1977, RMNG Gathering Co. (Applicant), 420 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203, filed in Docket No. CP77-625 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for and exchange of natural gas with Northwest Pipeline Corporation (Northwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport for and exchange natural gas with Northwest pursuant to a gas purchase, transportation and exchange agreement dated February 2, 1977, as amended September 12, 1977, with Northwest. The subject agreement is for a term of 10 years. Applicant states that it has a need for additional gas supplies in order to serve the requirements of its parent, Rocky Mountain Natural Gas Company, Inc., and would exchange natural gas with Northwest to the extent provided by the subject agreement in order to acquire the right to purchase up to 25 percent of the volumes of gas to be delivered to Applicant by Northwest.

It is indicated that pursuant to a gas purchase contract dated January 25, 1977, between Northwest and Palmer Oil and Gas Company, Northwest has acquired a new source of gas supply in the Bar-X field area of Garfield County, Colorado which is remote from Northwest's existing transmission system, and that in order to make the volumes of natural gas to be purchased from Palmer Oil and Gas Company available to Northwest's transmission system at the least possible investment, Northwest has entered into the agreement with Applicant.

Applicant states that it would receive from Northwest the volumes of natural gas purchased by Northwest from Palmer Oil and Gas Company in the Bar-X field Garfield County area, at a mutually agreeable point on its gathering facilities located in or near Garfield County, Colorado. It is estimated that initially the total volumes received at the point would be approximately 260 Mcf per day. It is stated that the volumes of natural gas which Northwest would deliver to Applicant would be gathered by Northwest and transported to the facilities of Applicant. Northwest proposes to construct the necessary gathering facilities pursuant to a certificate authorization issued to it on October 19, 1976 in Docket No. CP76-459, it is indicated.

Applicant states that it would receive for exchange such volumes as are purchased by Northwest from Palmer Oil and Gas Company and would redeliver equivalent volumes, subject to Applicant's option to purchase up to 25 percent of the volumes delivered for exchange, at an existing point of interconnection between the facilities of Applicant and Northwest in or near Mesa County, Colorado, where Northwest is currently authorized to exchange volumes of natural gas with Applicant. The volumes of gas so delivered and received for exchange would be balanced on a BTU basis and such balancing, to the extent possible, would be achieved monthly, it is said.

It is stated that by a letter dated February 2, 1977, Applicant has notified Northwest of its intent to purchase up to 25 percent of the natural gas delivered to Applicant. It is further stated that the price to be paid by Applicant for the gas Northwest proposes to sell to Applicant would be equal to the purchase gas cost paid by Northwest to Palmer Oil and Gas Company, which current price is \$1.46 per Mcf adjusted for BTU, including adjustments, taxes or other charges permitted under Opinion No. 770-A.

Applicant states that Northwest would pay Applicant its transportation cost of service, including a reasonable rate of return, all costs incurred from the delivery point to the point of redelivery to Northwest, which initial transportation charge would be 8 cents per Mcf comprised of 5.0 cents gathering and 3.0 cents for compression.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its

own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-29077 Filed 10-7-77; 8:45 am]

[6740-02]

[Docket No. R177-14]

S.S.C. GAS PRODUCING CO.

Order Approving Settlement Proposal and Granting Special Relief

SEPTEMBER 30, 1977.

On November 24, 1976, S.S.C. Gas Producing Co. (Petitioner) filed a petition for special relief pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76). Petitioner requested authorization to increase its rate from the presently allowed 37.8 cents/Mcf to 76 cents/Mcf, inclusive of production taxes. Petitioner is selling its gas to Trunkline Gas Co. (Trunkline) under its small producer certificate issued in Docket No. CS72-258, January 31, 1972.

Petitioner stated that no additional investment is proposed to be made in order to recover the subject gas from 3 wells located in Bee County, Tex., but that the presently authorized rate made the production uneconomical and "will precipitate its abandonment."

The Commission, in its April 25, 1977, order setting this case for a hearing stated that this petition did not meet the requirements of section 2.76 because no additional investment was proposed to be incurred, and therefore it more properly was one under section 2.56b(h) (18 CFR § 2.56b(h)) and directed Petitioner to demonstrate that its out-of-pocket expenses incurred in the operation of the subject wells are greater than the revenues obtained from the sales of the gas, as the condition precedent to it being authorized a special relief rate (Order at 2).

A hearing was held on June 23, 1977, before a Presiding Administrative Law Judge. At the close thereof, the parties agreed to discuss possible settlement once again, and as a result the instant settlement proposal was agreed upon.

The proposal, filed by Petitioner on July 25, 1977, stated that it (Petitioner) would receive a total rate of 48 cents/Mcf for the sale of gas from the subject wells. Commission Staff filed comments in support of the settlement proposal on August 5, 1977. Staff concluded that the

rate of 48 cents/Mcf was cost supported. (See Appendix A.) No other party was heard from.

Therefore, based upon our consideration of the petition, and the formal record in this case, including Staff's study and analysis, we conclude that the proposed settlement rate is cost justified and in the public interest. Trunkline will continue to receive this gas for its customers' benefit at a total rate of 48 cents/Mcf at 14.65 psia.

The Commission orders: (A) The settlement proposal submitted by S.S.C. Gas Producing Co. on July 25, 1977, in this docket is approved, authorizing Petitioner to collect a total rate of 48 cents/Mcf at 14.65 psia for the sale of the subject gas effective on this Commission order, subject to paragraphs (B) and (C) below.

(B) The special rate authorized in ordering paragraph (A) shall not become effective as provided therein unless Petitioner files, within 30 days of the issuance of this order, a notice of Independent Producer rate change in Docket No. CS72-258, designating this special relief rate.

(C) This order is without prejudice to any finding or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against S.S.C. Gas Producing Co. or any person or party.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—Sheet 1 of 2, S.S.C. Gas Producing Co., docket No. R177-14, M. M. Murphy No. 1 Well, and Cyrus Fox No. 1 Well, Byrne Field and Fox Fields respectively, Bee County, Tex.

[Summary of cost of gas]

Line No.	Description	Amount
(a)	(b)	(c)
1	Volumes (new working interest):	
2	Gas—1,000 cubic feet at 14.65 lb./cu. ft.	50,340
3	Liquids—barrels	0
4	Cost of production:	
5	Production expenses	\$36,313
6	Total cost of production	26,313
7	Unit cost of gas (cents per 1,000 cubic feet)	
8	Cost of production	44.34
9	Production tax at 7.5 pct	3.60
10	Unit cost of gas, do	47.94
	Rounded to	48.00

NOTE.—The above calculations are based on representations of the applicant contained in his filings as supplemented by responses to staff inquiries.
Line 2: See sheet 2, line 2, col. (c).
Line 5: See sheet 2, line 12, col. (c).
Line 8: Line 6 divided by line 2.
Line 9: Line 6 divided by line 2.

APPENDIX A.—Sheet 2 of 2, S.S.C. Gas Producing Co., docket No. R177-14, M. M. Murphy No. 1 Well, and Cyrus Fox No. 1 Well, Byrne Field and Fox Fields respectively, Bee County, Tex.

[Summary of support data]

Line No.	Description	Amount G.W.L.	Amount N.W.L.
(a)	(b)	(c)	(d)
1	Total volumes recoverable in 24 Yr.		
2	Gas—1,000 cubic feet at 14.65 lb./cu. ft.	70,793	129,340
3	Liquids		
4	Cash production expenses estimated to be incurred:		
5	Compressor expense	\$10,263	
6	Contract gaging	5,495	
7	Lease repairs and supplies		1,248
8	Ad valorem taxes		392
9	Supervision and overhead	8,256	
10	Regulatory expense	1.59	
11	Total cash production expenses		26,313

1. SST's net working interest is 84.667%.

2. These expenses are based on the average of the most recent 24 mo. expenses projected over the 24 yr. productive life of the wells. Staff allowed a 5 pct inflation factor annually in projecting costs.

3. Line 2, col. (c) \$0.14 per 1,000 cubic feet. This 0.14 per 1,000 cubic feet is the regulatory expense allowance used in opinion Nos. 749 and 749 A.

[FR Doc 77-29671 Filed 10-7-77; 8:45 am]

[6740-02]

[Docket No. CP77-628]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

SEPTEMBER 30, 1977.

Take notice that on September 22, 1977, Texas Gas Transmission Corp. (Applicant), 3800 Federica Street, Owensboro, Ky. 42301, filed in Docket No. CP77-628 an application pursuant to section 7(c) of the Natural Gas Act and section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation, on an interruptible, for 2 years of up to 340 Mcf of natural gas at 14.73 psia for the Quaker Oats Co. (Quaker Oats), an existing industrial customer of Jackson Utility Division, City of Jackson, Tenn. (Jackson), one of Applicant's resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport gas for Quaker Oats pursuant to a transportation service agreement, dated September 12, 1977, between Applicant and Quaker Oats. It is stated that Quaker Oats has entered into a contract for the purchase of volumes of natural gas to be produced from certain leasehold interests in Lincoln Parish, La., and that such natural gas would be delivered to Applicant by means of a dispatching arrangement at the tailgate of the Kerr-

McGee Gasoline Plant located near Dubach in Lincoln Parish, La., on Applicant's Lisbon-Guthrie 20-inch line. Applicant states that it would simultaneously redeliver volumes of natural gas up to 340 Mcf per day to Jackson at an existing point or points of delivery for Quaker Oats' account for use in Quaker's Jackson, Tenn., plant.

It is indicated that Quaker Oats operates a frozen food manufacturing plant in Jackson, Tenn., and that the plant manufacturing operation consists of 24 ovens for waffle production and 4 ovens for french toast. It is further indicated that the availability of natural gas is essential to the continued operation of the plant, and that there is no technologically feasible alternate fuel due to the contamination of food products.

Applicant indicates that it would retain a volume equal to 1.58 percent of the volume of natural gas delivered to Jackson for the account of Quaker Oats as makeup for compressor fuel and line loss, which percentage was calculated on an incremental basis for pipeline throughput to and within the rate zone in which the delivery by Applicant would be made, i.e., Zone 1. Applicant states that it would collect an initial charge of 11.36 cents per Mcf for all quantities of gas transported and delivered to Jackson for the account of Quaker Oats.

It is indicated that Applicant would purchase the subject gas from Harvey Broyles, et al. (Broyles, et al.), for a price as follows:

	Per Mcf
From the date of first delivery through the first contract year	\$1.80
Commencing with the first day of the second contract year and during such second contract year	2.00

It is indicated that Broyles, et al., is unwilling to make any sales from Tremont Field located in Lincoln Parish, La., to interstate pipelines for resale or be subject to any form of present or proposed federal regulations on the price of gas sold from such field as a result of such sales. Absent the present arrangements, Broyles, et al. would sell gas produced from the Tremont Field to one of the intrastate purchasers who have expressed interest in the subject gas, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29679 Filed 10-7-77; 8:45 am]

[6740-02]

[FR Docket No. CP77-275]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

SEPTEMBER 30, 1977.

Take notice that on September 26, 1977, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. 1396, Houston, Tex. 77001 filed in Docket No. CP77-275 an application pursuant to Section 7(c) of the Natural Gas Act and Section 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) for a certificate of public convenience and necessity authorizing the transportation of up to 3,000 Mcf of natural gas per day on an interruptible basis for PPG Industries, Inc. (PPG), an existing industrial customer of the City of Lexington, N.C. (Lexington) and the City of Shelby, N.C. (Shelby), two of Applicant's resale customers served under Rate Schedule CD-2, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that pursuant to the Commission's telegram of April 14, 1977, it received temporary authorization to render the proposed service to PPG. Applicant now requests permanent authorization to render the proposed service for 2 years for PPG pursuant to a transportation agreement dated March 18, 1977 among Applicant, PPG, Lexington and Shelby.

Applicant states that PPG has purchased from David S. Towner, d.b.a. David S. Towner Enterprises (Towner) the subject gas, which gas was produced from Guernsey and Nobel Counties, Ohio. It is stated that under the agreement between them PPG would pay Towner for the gas as follows:

PRICE

(a) During the term of this Agreement, Buyer shall pay for the following:

	Per MCF
First delivery to April 30, 1977	\$2.20
May 1 thru October 31, 1977	\$2.05
Nov. 1, 1978, thru April 30, 1979	\$2.40
May 1 thru October 31, 1978	\$2.15
Nov. 1, thru April 30, 1979	\$2.40
May 1, thru October 31, 1979	\$2.25
Nov. 1, 1979, thru April 30, 1980	\$2.50
May 1 thru October 31, 1980	\$2.35
Nov. 1, 1980, thru April 30, 1981	\$2.60

(b) If the contract is continued beyond April 30, 1981, the parties hereto shall mutually agree to renegotiate volumes and prices. It is indicated that the subject gas has never been sold in interstate commerce.

It is stated that PPG would arrange to have the subject gas delivered to Columbia Gas Transmission Corp. (Columbia) and Columbia would deliver the gas to Applicant at Dranesville, Va., by backing off on its takes from Applicant at that delivery point. Applicant would then deliver the transportation volumes at existing points of delivery to Lexington and Shelby for the account of PPG, and Lexington and Shelby would transport such quantities of natural gas to PPG's Lexington and Shelby, N.C. plants where Fiberglas is manufactured, it is said. It is indicated that all of the natural gas to be transported would be consumed in priority 2 service category, (process and plant protection uses at both Shelby and Lexington). The units are known at the furnace hearths, refiners and cannals and certain other miscellaneous fiber conditioning equipment which all require the constant flame temperature characteristics of a gaseous fuel, it is indicated.

Applicant states that it would charge PPG, initially 8.57 cents per Dekatherm (dt) equivalent for all quantities delivered. This initial rates reflects the average cost per dt of moving gas within Applicant's Rate Zone 2, and such rate was determined by using the same method that was utilized in the development of the Zone 3 intra-zone rate of 9.55 cents per dt, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 14, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Fed-

eral Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FER Doc.77-29680 Filed 10-7-77;8:45 am]

[6740-02]

[Docket No. RP-72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Availability of the Final Report of the Data Verification Committee

OCTOBER 3, 1977.

Take notice that on September 30, 1977, Transcontinental Gas Pipe Line Corp. (Transco) filed copies of a document entitled, "Report to the Federal Power Commission of Data Verification Committee Review of Revised Base Period Market Data and Resulting Recommendations" (DVC Final Report). The DVC Final Report makes the following recommendations:

1. That any multifamily use in excess of 50 Mcf per day within individual dwelling units (for example, heating, cooking, etc.), whether or not master metered, be classified as a Priority 1 usage and any central (for example, a central boiler) multifamily usage with a total use in excess of 50 Mcf per day be classified in the appropriate commercial category based on size and use.

2. That intercompany transfers during the base period be "sprinkled" in the selling company's markets based on the end use market profile of the purchasing company (intercompany transfer question).

3. That the Commission review the volume of gas classified as Priority 2 (feedstock and process) requirements attributed to Farmers Chemical Association in North Carolina Natural Gas Corporation's market data.

4. That Carolina Pipe Line Co. and Virginia Pipeline Co. be allowed to assign to each pipeline supplier, 100 percent of those markets which are served only by the respective supplier and which are physically isolated from the remainder of the respondent's systems (proration of isolated markets question).

5. That in order to classify loads on the basis of size, loads are to be classified on the basis of the total consumption of each customer and not segregated by use (load splitting question).

6. That any industrial space heating requirement over and above that required for plant protection should continue to be classified in the appropriate category as non-process and non-plant protection usage.

7. That requirements which indicate having oil or coal as an alternate fuel should continue to be classified as a non-process requirement in the appropriate priority based on size.

8. That industrial requirements for make-up air heaters should continue to be classified as a non-process use in the appropriate priority based on size.

9. That any industrial water heating loads should continue to be classified as non-process loads in the appropriate priority depending on size.

10. That any Transco customer that presented specific data changes to the DVC to up-grade markets to correct classification errors contained in the original data be allowed to make such changes when approved by the DVC.

Attached to the DVC Final Report are dissenting or minority views of various individual members of the DVC. Filed concurrently with the DVC Final Report are six copies of the minutes and corrections to the minutes of the DVC meetings.

Transco has also filed, in the instant docket, the final revised "raw" base period market data and the revised base period end use market profile of its CD, ACQ and Firm Direct Industrial customers.

The final revised "raw" base period market data, containing customers' affidavits, reflects each respondents' modification of its market data consistent with the recommendations in the DVC Final Report.

The revised end use market profile reflects the recommendations of the DVC, as well as the data manipulations (e.g. storage sprinkling and imputed ACQ markets) called for in Opinion Nos. 778 and 778-A. This profile would serve as the basis for allocation of available gas supplies on the Transco system upon acceptance of the recommendations in the DVC Final Report.

Copies of (a) the Final Report of the Data Verification Committee, (b) the minutes and corrections to the minutes of the DVC meetings, (c) the minority reports and dissenting views of individual members of the DVC, (d) final revised "raw" base period market data, and (e) revised base period end use market profiles are on file and available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426. Any person desiring to be heard or to comment on the filed report and its supporting material, should file written comments with the Federal Energy Regulatory Commission, Washington, D.C. 20426, on or before October 12, 1977.

KENNETH F. PLUMB,
Secretary.

[FER Doc.77-29682 Filed 10-7-77;8:45 am]

[6740-02]

[Docket Nos. CP77-638 and CP77-635]

WEIPENN GAS CO.

Notice of Petition for Declaratory Order or Alternatively Application To Abandon

SEPTEMBER 30, 1977.

Take notice that on September 23, 1977, Weipenn Gas Co. (Weipenn), through its successor-in-interest, Bazzle Gas Co. (Bazzle or Petitioner), 2821 NW 50th Street, Oklahoma City, Okla. 73112, filed in Docket Nos. CP77-638 and CP77-635, respectively, a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7 (c)) for a declaratory order disclaiming jurisdiction over certain acts and operations performed by Petitioner, and the facilities used to effectuate such operations; or in the alternatively an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon its pipeline facilities located in Braxton County, W. Va., and the transportation service rendered to Equitable Gas Co. (Equitable) through such facilities, all as more fully set forth in the petition an application which is on file with the Commission and open to public inspection.

Petitioner indicates in Docket No. CP77-638 that the facilities over which it requests the Commission to disclaim jurisdiction extends from the so-called Engle Farm in Otter District, Braxton County, W. Va., to Equitable's Burnsville Compressor Station in Salt Lick District, Braxton County, W. Va., a distance of approximately twelve miles, and that the facilities consist of approximately 65,882 feet of 6, 8, and 10-inch line, together with 57,481 feet of 2, 4, and 6-inch line. Petitioner states that pursuant to the terms of a gathering agreement executed April 26, 1963, between Weipenn and Equitable, Petitioner collects gas purchased by Equitable for various producers at points all along the system, and delivers such gas to Equitable at the Burnsville terminus, it is said.

It is indicated that pursuant to the Commission's order of July 13, 1964, in Docket No. CP64-183, et al., Weipenn received authorization to acquire the subject facilities from Cumberland and Allegheny Gas Co. (Cumberland) to sell and deliver natural gas to Equitable, and to transport natural gas for Equitable. Pursuant to the subject order, Cumberland was also granted authorization to abandon the subject facilities by sale to Weipenn. Cumberland, a regulated Class A pipeline, had sold the subject facilities to Weipenn by agreement dated September 20, 1962. Cumberland had filed an abandonment application to permit the sale to Weipenn and Weipenn, at the same time had filed an application for certificate authorization to acquire them, it is said. It is indicated that pursuant to the Commission's order of July 13, 1964, the Commission found that the

facilities were used in the transportation and sale of natural gas in interstate commerce, and issued the requested certificates and abandonment authorizations.

Petitioner states that it has since acquired the facilities of Weipenn through a series of assignments, which facilities are said to total 123,363 feet of pipeline, and constitute all of the facilities which were authorized by the Commission's order of July 13, 1964.

Petitioner states in Docket No. CP77-368 that the facilities and service in question are non-jurisdictional by reason of the production and gathering exemption contained in Section 1(b) of the Natural Gas Act. Petitioner further states that it is not engaged in the transportation of natural gas in interstate commerce, but rather is engaged merely in the gathering of natural gas with respect to the service rendered to Equitable. Petitioner maintains that this conclusion is required due primarily to three major factors: (1) the nature and extent of the operations and service rendered to Equitable; (2) the intent of the underlying agreement between Weipenn and Equitable as evidence by its specific terminology; and (3) the structure and design of the subject facilities.

In regards to the nature of service, Petitioner indicates that the mere size of facilities is not by itself an important factor for purposes of determining whether the nature of the operations is gathering only or is transportation. Petitioner's facilities are, by any comparison, minute, it is indicated. The largest pipeline involved is ten inches in diameter, and of the 25 or so miles of total pipeline involved in this petition, approximately 6 miles consist of 2 to 4-inch pipeline, with the remainder ranging from 6 to 10 inches, it is said. Petitioner asserts that should the Commission disagree with the relief requested herein and assert jurisdiction over the facilities and transportation service being rendered, Petitioner would have the dubious distinction of being the smallest interstate pipeline over which the Commission has ever asserted jurisdiction. Petitioner states that the entire facilities are located within the State of West Virginia, and the Petitioner owns no other natural gas pipeline facilities either within the State of West Virginia or in any other State.

It is indicated that while a separate agreement between Weipenn and Equitable executed concurrently with the gathering agreement provided for the sale of certain volumes of natural gas, that agreement was wholly incidental to the gathering agreement. Most significantly, the nature of the gathering service was in no way contingent upon or defined by the trivial sales involved, and that notwithstanding the contingency of such sales, the delivery service on behalf of Equitable was and remains gathering only, in the strictest legal sense of the word, it is asserted.

Petitioner states that even if one assumes that the facilities were jurisdictional at that time they were operated by the previous owners, the Commission has recognized that a change in ownership by itself can render previously jurisdictional facilities nonjurisdictional. Petitioner further states that it is apparent that the Commission certificated the facilities by its July 13, 1963, order only because Cumberland was an otherwise jurisdictional natural gas company with extensive interstate facilities operations, and as such was required to receive abandonment authorization for the sale to Weipenn. It is stated that for reasons not apparent, the questions of Commission jurisdiction over Weipenn was never raised in the prior proceedings; however, the provision in Paragraph (D) of the July 13 order, that the certificate would be effective only during the time of Weipenn's ownership indicates that the Commission itself believed jurisdiction attached only because of the prior ownership and subsequent sale by Cumberland. Petitioner states that the Commission by that provision specifically intended for the certificate to expire at the time Weipenn no longer operated the facilities as authorized, and that the Commission intended to terminate its jurisdiction at such time.

Petitioner indicates that the second important criteria to take into consideration for purposes of determining the status of the service performed for Equitable must be the underlying agreement executed between Weipenn and Equitable, which agreement repeatedly refers to the service being performed as gathering, and never as transportation.

Petitioner states that in the final analysis, the structure, or physical design of the facilities must be the determinative factor deciding the jurisdictional question. In every prior Commission decision on this issue, great weight has been given to the specific design involved, since each case ultimately has to turn on the physical factors involved, it is asserted. Petitioner further states that judged by this traditional criterion of the physical structure of the system, Petitioner is demonstrably engaged in gathering only, within the meaning of Section 1 (b) of the Act. It is stated that Petitioner collects gas for Equitable at all points along the system, and makes delivery at Burnsville, where Petitioner's facilities terminate. It is stated that there is no intermediate pipeline, there is no last point of delivery beyond which no more gas is commingled, and there is in essence, no central point on the Petitioner's system, and jurisdiction therefore does not attach.

Petitioner indicates that it is not engaged predominantly, or at all, in the transportation of gas in interstate commerce. It is indicated that Petitioner performs functions in the production of natural gas and sale of that gas in intrastate commerce, and, with respect to the operations rendered for Equitable, is engaged in the gathering of gas produced

by other producers and delivery to Equitable's interstate transmission line.

In Docket No. CP77-635 Bazzle requests permission and approval to abandon its pipeline facilities located in Braxton County, W. Va., and the transportation service rendered to Equitable through such facilities. Bazzle indicates that the pipelines are deteriorating, and that since their construction in 1915, the subject pipeline has required increasing maintenance and repair operations and expenditures in recent years. This has resulted in total expenses of \$25,157 for the first half of 1977, against an income of \$18,228, resulting in a loss on operations of \$6,929, it is said. Bazzle states that because of the additional work required to service the pipeline and provide more facilities, Bazzle approached Equitable in an effort to renegotiate the underlying transportation charge of 2.0 cents per Mcf, which has been in effect from the time of the underlying agreement dated April 26, 1963. Bazzle further states that while recognizing the increased transportation costs being incurred by it, and the resultant need for an increase in revenues in order to maintain the pipeline, Equitable declined to enter into any agreement for an increased transportation charge due to the availability of Equitable's own pipeline in the vicinity of the Bazzle line. It is indicated that there would be no significant decrease in Equitable's service to its customers if the requested abandonment is granted, since Equitable would continue to purchase similar quantities from their current sources.

Accordingly, Petitioner states that in the event the Commission determines that Petitioner's facilities, and the service rendered on behalf of Equitable, are subject to Commission's jurisdiction, Petitioner, in the alternative, request hereby that the Commission grant Bazzle permission and approval to abandon the subject facilities.

Any person desiring to be heard or to make any protest with reference to said application and petition should on or before October 21, 1977, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protesters parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without

further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

PR Doc 77 29681 Filed 10-7-77; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

THE ALFRED I. DU PONT TESTAMENTARY TRUST AND FLORIDA NATIONAL BANKS OF FLORIDA, INC.

Statement in Connection With Order Approving Designation of Purchaser of Shares of Florida National Banks of Florida, Inc.

By letter dated August 25, 1977, Florida National Associates, Inc., Jacksonville, Fla. ("FNA"), requested, pursuant to the provisions of the Plan of Divestiture ("Plan") submitted by the Alfred I. duPont Testamentary Trust ("duPont Trust") with respect to its 2,330,638 shares (the "Shares") of Florida National Banks of Florida, Inc., Jacksonville, Fla. ("Florida National"), the approval of the Board of FNA's designation of Florida National as purchaser of the Shares. The Plan was approved by the Board on December 10, 1974. By order dated September 21, 1977, the Board approved FNA's designation of Florida National as purchaser of the Shares, and in connection with such approval, and acting pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act (the "Act") (12 U.S.C. § 1844(b)), the Board directed Florida National to comply with certain requirements set forth in the order designed to insure the effective and complete separation of Florida National's banking and related interests from the nonbanking interests of the duPont Trust that was mandated by Congress in 1966.

The Alfred I. duPont Testamentary Trust was established in 1935 with assets of about \$27 million, consisting mainly of shares in E.I. duPont de Nemours & Co., Florida real estate and properties, and controlling interests in a number of banks in Florida. Mr. Edward Ball, Mr. duPont's brother-in-law, was named as one of the four original trustees of the duPont Trust and continued to manage the Florida properties owned by the Trust as he had done prior to Mr. duPont's death. With Mr. Ball serving, in effect, as managing trustee, the Trust expanded its bank holdings to include

some 30 banks located throughout the State of Florida. Together these banks constituted the largest banking organization in Florida prior to 1970. The Trust's nonbanking interests, which continued to expand after Mr. duPont's death, included among others, the St. Joe Paper Company and the Florida East Coast Railway Co.

As originally enacted in 1956, the Bank Holding Company Act did not include testamentary trusts, such as the duPont Trust, as companies subject to the Act's prohibitions against the ownership of nonbanking interests by firms that controlled banks. In 1966, however, focusing primarily upon the extensive banking and industrial interests in the duPont Trust, Congress amended the Act's definition of "company" to include long-term trusts and it removed the Act's exemption for religious, charitable and educational institutions.

The 1966 Amendments to the Act required that within 5 years (that is, by July 1, 1971), the duPont Trust either divest its nonbanking interests or cease to be a bank holding company. In 1970, the duPont Trust submitted to the Board its plan to comply with the 1966 Congressional mandate. It proposed: (1) to transfer the Trust's banking interests to a newly formed bank holding company in return for stock in the holding company, and (2) thereafter to reduce the Trust's interest in the new holding company to less than 25 percent of its voting shares.

On August 13, 1970, the Board approved, as the first step in the Trust's compliance with the 1966 Amendments, the application of Florida National to become a bank holding company through an exchange of its own shares for all of the shares of the 30 banks owned by the duPont Trust. In its order approving the reorganization, the Board advised the duPont Trust that in order to comply with the Act, the Trust would have to eliminate all relationships with Florida National that would enable the Trust to exercise control or a controlling influence over the holding company or its subsidiary banks.

On February 11, 1971, Florida National consummated its acquisition of nearly all of the shares of the 30 banks owned by the duPont Trust. The duPont Trust thereby acquired 59.6 percent of Florida National's outstanding shares. Officers, directors, and employees of the Florida National banks acquired almost 9 percent. Mr. Ball personally acquired 6.4 percent, and the estate of Mr. Ball's sister, Jessie Ball duPont, acquired 4.5 percent. On June 24, 1971, the duPont Trust sold over 3 million of its Florida National shares to the public, thereby reducing the Trust's holding of Florida National's voting shares to 24.9 percent.

In May 1971, Mr. Ball resigned his position as Coordinator of the Florida National banks, as well as all other official positions he held with Florida National and its subsidiary banks, including his seats on the boards of directors of four of the subsidiary banks.² By early 1972,

all interlocking officers and directors between the duPont Trust and its subsidiaries, on the one hand, and Florida National and its subsidiary banks, on the other hand, were terminated.

In September 1971, the Board adopted, as an amendment to its Regulation Y, certain presumptions of control designed to implement the expanded definition of "control" brought about by the 1970 Amendments to the Act.³ One of the rebuttable presumptions (12 CFR § 225.2(b)(2)) provided, in effect, that shares of a bank holding company held by officers, directors, or trustees of a second company would be considered to be indirectly controlled by the second company where the second company itself owned or controlled more than 5 percent of the holding company's shares and the combined stock ownership in the holding company of the second company and its officers, directors and trustees together amounted to 25 percent or more of the holding company's shares. Under this provision, the duPont Trust's 24.9 percent interest in Florida National coupled with Mr. Ball's 6.4 percent gave rise to the presumption that the duPont Trust continued to control Florida National, and thus indicated a finding that the duPont Trust's divestiture of its banking interest had not been complete or effective.

On July 5, 1973, acting pursuant to the procedures set forth in Regulation Y, the Board issued a preliminary determination that the duPont Trust exercised control and/or a controlling influence over the management or policies of Florida National and its subsidiary banks and, therefore, had failed to divest control of Florida National and its subsidiary banks as required by the 1966 Amendments to the Act. The Board's preliminary determination was based on six factors:

1. The duPont Trust's ownership of over 24 percent of Florida National's shares.
2. The apparent continuation, after July 1, 1971, of pre-existing relationships between the duPont Trust and its trustees and Florida National.
3. Trustee Ball's service for 20 years as Coordinator of the Florida National banks.
4. Trustee Ball's ownership of Florida National's shares.
5. The ownership of 4.5 percent of Florida National's shares by the Estate of Mrs. duPont (Trustee Ball's sister), the executors of which were individuals who served as trustees of the duPont Trust.
6. The fact that no person (other than the Trust and Trustee Ball) owned more than 5 percent of the voting shares of Florida National.

The duPont Trust did not contest the preliminary determination of control and indicated to the Board its willingness to divest itself of its entire interest in Florida National. By Order dated October 15, 1973, the Board made final its determination that the duPont Trust had continued after July 1, 1971, to exercise control and/or a controlling influence over Florida National and, therefore, had remained a bank holding company. Accordingly, the Board ordered the duPont

Trust to terminate its control and/or controlling influence over Florida National and to divest the 2,330,638 shares of Florida National held by the duPont Trust no later than December 31, 1974. The duPont Trust was further ordered to submit a specific plan of divestiture.

By letter dated December 10, 1974, the Board approved a plan of divestiture that provided for the immediate and irrevocable transfer of custody, title, and voting rights to the Shares to the Peoples First National Bank of Miami Shores, Fla. ("Miami Bank"), as trustee under an Irrevocable Living Trust. Under the terms of the Irrevocable Trust, the Miami Bank was required to sell the Shares at \$18 per share or the publicly quoted bid price per share for such stock on a date 60 days after the day on which the sale of such stock by the duPont Trust pursuant to the Plan was approved by the Board, whichever price was greater,⁴ to FNA, a corporation organized by the presidents of five of Florida National's subsidiary banks, provided FNA qualified within 33 months after the effective date of the Irrevocable Trust as financially able to purchase the Florida National Shares.

Under the Plan, the stock of FNA was to be offered to officers, directors and employees of Florida National and its subsidiaries and certain customers of Florida National's subsidiaries. However, FNA had the right under the Plan to elect not to purchase the Shares itself and instead to designate a person or persons to purchase the Shares by "private placement," provided that such purchaser was approved by the Board within the 33 month period. If FNA failed to qualify as financially able to purchase the Shares or failed to designate a purchaser approved by the Board within that period, FNA's rights under the Plan were to terminate, and the Miami Bank was required to sell the Shares at public sale. At such public sale, persons affiliated with the duPont Trust, its trustees, or any of the subsidiaries of the duPont Trust were to be prohibited from purchasing the Shares.

During 1977, it became clear to FNA that it would not be able to demonstrate its financial capacity to purchase the Shares by the time its purchase rights were to expire under the Plan. Accordingly, FNA elected to exercise its rights under the Plan to designate a purchaser and on August 25, 1977, FNA requested Board approval of its designation of Florida National.⁵ Florida National proposed to purchase the Shares, which will be held in its treasury, for \$18 per share, or an aggregate of approximately \$42 million cash, all of which will be borrowed. Florida National anticipates that approximately \$17 million of the principal amount will be repaid early in 1978 with funds available to Florida National as the result of mergers among several of its subsidiary banks. Florida National, with 32 subsidiary banks having aggregate assets of \$1.6 billion (as of December 31, 1976) is the fourth largest banking organization in Florida. Florida

National's financial and managerial resources are regarded as satisfactory and its future prospects appear favorable. While the purchase of the Shares by Florida National will result in a significant increase in the company's debt, the Board believes that Florida National has sufficient resources to service the debt and still remain a source of financial strength to its subsidiary banks.

Following receipt of FNA's August 25, 1977, designation of Florida National as purchaser of the Shares, an extensive field investigation was conducted by staff of the Board and the Federal Reserve Bank of Atlanta to determine the extent to which, if at all, the duPont Trust or any of its trustees or any other person affiliated with the duPont Trust may have continued after December 10, 1974 (the date the Board approved the duPont Trust Plan of Divestiture), to exercise control or a controlling influence over the affairs of Florida National and its subsidiary banks, and to assess the effect that a purchase of the Shares by Florida National might have with respect to any existing or potential control relationship between the duPont Trust and Florida National.⁶ The investigation indicated that following the transfer of the Shares to the Miami Bank under the Irrevocable Living Trust, the previous control relationship between the duPont Trust and Florida National began to dissipate substantially. Management of Florida National and its subsidiary banks assumed working control over Florida National, new directors were added to the Florida National board who had no prior affiliation with the Trust or its trustees, and substantial operational and policy changes were effected independent of and without consultation with, or review, influence or control by the duPont Trust, its individual trustees or any subsidiary or affiliate of the duPont Trust. With the exception of the duPont Trust's contacts with Florida National's lead bank, Florida First National Bank of Jacksonville, Jacksonville, Fla. ("Jacksonville Bank"), in its capacity as corporate trustee of the duPont Trust, the investigation disclosed no evidence of efforts by or on behalf of the Trust to influence the day-to-day operations or policies of Florida National. The lack of such evidence, in the Board's view, was significant indication of Florida National's ability to carry on its operations independent of the duPont Trust or any of its related interests.⁷

While it thus appeared to the Board that the 1974 divestiture of the Shares by the duPont Trust to the Miami Bank was substantially effective in terminating the control relationship between Florida National and the duPont Trust, the Board was concerned that if Florida National were to purchase the Shares, certain other relationships between the duPont Trust and Florida National might provide the duPont Trust with the potential ability to influence the affairs of Florida National and its subsidiary banks in a manner inconsistent with the objec-

tives sought by Congress in the 1966 Amendments to the Act. This potential would, of course, have been significantly lessened if the Shares had been sold to FNA, or to a third party block purchaser because a countervailing ownership force would thereby have been created and the purchaser's very substantial equity investment in the Shares would have created a strong incentive on the part of the purchaser to act in its own interest and independent of the duPont Trust.

Because Florida National's purchase of the Shares would eliminate the possible creation of such an independent ownership interest, it was necessary, in the Board's view, that an approval of that purchase be accompanied by the imposition of protective restraints that would assure an effective and permanent separation of Florida National's banking and related interests from the duPont Trust's nonbanking interests in order to carry out the 1966 mandate of Congress. The requirements imposed in the Board's Order of September 21, 1977, were designed and are intended by the Board to remove any remaining potential for the duPont Trust to exert control or a controlling influence over Florida National and its subsidiary banks. These protective requirements should also strengthen the ability and resolve of the management of Florida National to continue to operate the holding company independent of the duPont Trust. The Order directs the termination of all remaining relationships between the duPont Trust and Florida National, and prohibits the creation of future relationships that offer the potential for a continuation or reestablishment of the duPont Trust in a control relationship with respect to Florida National.

Significant among the relationships that the Board has directed be terminated, is the continued service of the Jacksonville Bank as corporate trustee of the duPont Trust. So long as the Jacksonville Bank remained a trustee of the duPont Trust it not only shared legal title to the nonbanking assets held in the trust,⁸ but potentially held a position as the deciding and controlling vote in the event of disagreements among the individual trustees.⁹ In view of the continuing disagreement and litigation among the individual trustees, the significance of the Jacksonville Bank's position in this regard could have provided an incentive for the Trust or individual trustees to attempt to exert influence over Florida National with regard to the administration of the affairs of the Trust. In the Board's judgment, these factors, as well as the desirability in general of separating the Jacksonville Bank from involvement with the business interests of the Trust, weighed heavily for removal of the Jacksonville Bank as corporate trustee.

Although the Board's Order does not contain provisions addressed directly to the personal stock ownership in Florida National of Mr. Ball or the Estate of Jessie Ball duPont, the Board recognizes that at present these interests together

represent the largest single block of stock in Florida National. The Board believes, however, that the protective provisions contained in the Order are fully adequate to insure that this stock interest cannot be used to reestablish a control relationship between the duPont Trust and Florida National.

The Board intends to monitor closely the operations of Florida National and relationships between Florida National and the duPont Trust and its representatives and it will not hesitate to take action to insure compliance with the terms and purposes of this Order. In this regard, the Board emphasizes that the officers and directors of Florida National and its subsidiaries, and particularly those directors who are not also officers, bear a heavy responsibility for assuring that both the letter and spirit of the Order are faithfully observed.

Board of Governors of the Federal Reserve System, October 3, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

FOOTNOTES

¹ Prior to July 1, 1971, Mr. Ball, through the Coordinator's Office, which he headed, dominated completely the management, operations, and policies of the 30 Florida National banks owned by the duPont Trust.

² Mr. Ball did, however, select the president for Florida National (a position equivalent to that of Coordinator held by Mr. Ball until May 1971) and all of its initial directors. The Coordinator's Office formed the nucleus of Florida National. The staff of the Coordinator's Office became basically the staff of Florida National.

³ The 1970 Amendments added § 2(a) (2) (c) to the Act, which defined "control" to include the exercise of a controlling influence over the management or policies of another firm.

⁴ Since the quoted market price of Florida National stock has at no time been as high as \$18 per share since the Board's approval of the Plan, \$18 was, in effect, the minimum sale price fixed by the Irrevocable Trust.

⁵ In connection with its analysis of FNA's designation of Florida National, Board staff reviewed FNA's designation of Duke University, Durham, N.C., as alternative purchaser of the Shares, as well as the offers to purchase the Shares submitted to FNA by Combanks Corp., Winter Park, Fla. However, the Duke designation was withdrawn by FNA, and was in any event not to be considered by the Board unless it disapproved the Florida National designation, and FNA did not accept Combanks's offers. Accordingly, the Board was not called upon to consider the merits of these proposals. However, the documents relating to these proposals were in the record before the Board.

⁶ In the course of the investigation, the Board's representatives personally interviewed all of the trustees of the duPont Trust, all of the FNA officers, senior officials, and directors of Florida National and its subsidiary banks, as well as a number of other persons whose interests were known to be adverse to those of the duPont Trust, Mr. Ball or FNA.

⁷ Section 4(c) (4) of the Act exempts from the Act's prohibitions against ownership or control of nonbanking assets by a bank holding company shares held in good faith in a fiduciary capacity, except where such shares

are held under a trust that itself constitutes a "company" as defined in the Act. Since the duPont Trust is a "company" within the Act's definition, this exemption is not available to Florida National.

⁸ As corporate trustee, the Jacksonville Bank had power not only to break a tie vote among the individual trustees, but to vote in such a way as to create a tie vote among the trustees and then to vote again to break the tie.

[FR Doc 77-29627 Filed 10-7-77; 8:45 am]

[6210-01]

JACKSON HOLE BANKING CORP.

Order Denying Formation of Bank Holding Company

Jackson Hole Banking Corp., Jackson, Wyo., has applied for the Board's approval under § 3(a) (1) of the Bank Holding Company Act (12 U.S.C. § 1842 (a) (1)) of formation of a bank holding company through acquisition of 91.3 percent of the common voting shares of The Jackson State Bank, Jackson, Wyo. ("Bank"). Applicant also proposes to acquire nonvoting preferred shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant is a nonoperating Wyoming corporation organized for the purpose of becoming a bank holding company through the acquisition of Bank (\$44.2 million in deposits).¹ Upon acquisition of Bank, Applicant would control the 10th largest banking organization in the State of Wyoming and approximately 2.4 percent of total deposits in commercial banks in the State.

Bank is the larger of the two banks located in Teton County, which approximates the relevant banking market, and holds approximately 81.7 percent of the total commercial bank deposits in the market.

The proposed transaction involves the transfer of ownership of Bank from individuals to a corporation owned by the same individuals. Since Applicant has no other subsidiaries, consummation of the proposal would not have any adverse effect upon existing or potential competition nor would it increase the concentration of banking resources. Thus, the Board concludes that the competitive effects of the instant proposal are not adverse and are consistent with approval.

The Board has indicated on previous occasions that a holding company should constitute a source of financial and managerial strength to its subsidiary bank(s), and that the Board will closely examine the condition of an applicant in each case with this consideration in

¹ Unless otherwise indicated, all banking data are as of December 31, 1976.

mind.² Having examined such factors in light of the record in this application, the Board concludes that the record presents adverse considerations as they relate to the applicant bank holding company that warrant denial of the proposal to place the ownership of Bank into corporate form.

The president of Bank, along with members of his family, are the principal shareholders of Bank and, under this proposal, would become the president and principal shareholders of Applicant. The president of Bank has served in that capacity for approximately ten years. Material in the record reflects that Bank's earnings and capital position have generally been lower than those of similarly situated banks in the State. Such results appear to be attributable to the policies and practices currently in evidence in Bank's operations. Inasmuch as no management changes are contemplated by Applicant and this proposal would continue and enhance management's control of bank, the Board is of the view that the record of Bank's operations indicates that managerial factors are an adverse consideration.

With respect to financial considerations, the Board notes that Applicant would incur a sizable debt in connection with the proposed acquisition of Bank's shares. Applicant proposes to service this debt over a 12-year period through dividends to be declared by Bank and tax benefits to be derived from filing consolidated tax returns. The projected earnings for Bank contained in the application are higher than Bank has generally enjoyed in the past, as well as being higher than other banks in the area. In addition, the projected asset growth of Bank is much less than that experienced in recent years. Based upon more realistic earnings and growth projections, it is the Board's judgment that Applicant would not have the necessary financial resources to meet its annual debt servicing requirements, maintain adequate capital at Bank, and meet any unexpected problems that might arise at Bank. It is true that Applicant's plan calls for it to incur debt for the purpose of injecting capital into Bank; however, a more appropriate means of achieving capital improvement considering Bank's

² The Bank Holding Company Act is clear in its mandate that the Board, in acting on an application to acquire a bank, inquire into the financial and managerial resources of an applicant. While this proposal involves the transfer of the ownership of Bank from individuals to a corporation owned by essentially the same individuals, the Act requires that before an organization is permitted to become a bank holding company and thus obtain the benefits associated with the holding company structure, it must secure the Board's approval. Section 3(c) of the Act provides that the Board must, in every case, consider, among other things, the financial and managerial resources of both the applicant company and the bank to be acquired. The Board's action in this case is based on a consideration of such factors.

present condition would be a retention of earnings and a curtailing of dividends. In sum, the Board does not view Applicant's overall financial plan as one that would enable it to serve as a source of strength to Bank or one that would enhance Bank's prospects. Therefore, the Board concludes that considerations relating to financial resources and future prospects weigh against approval of this application.

No significant changes in Bank's operations or in the services offered to customers are anticipated to follow from consummation of the proposed acquisition. Consequently, convenience and needs factors lend no weight towards approval of this proposal.

On the basis of the circumstances concerning this application, the Board concludes that the banking considerations involved in this proposal present adverse factors bearing upon the financial and managerial resources and future prospects of Applicant and Bank. Such adverse factors are not outweighed by any procompetitive effects or by benefits that would result in better serving the convenience and needs of the community. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the application should be denied.

On the basis of the facts of record, the application is denied for the reasons summarized above.

By order of the Board of Governors, effective September 30, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-29608 Filed 10-7-77; 8:45 am]

[6210-01]

MANUFACTURERS HANOVER CORP.

Proposed Acquisition of First Credit Corporation and First Credit Corporation of Georgia

Manufacturers Hanover Corp., New York, N.Y., has applied, pursuant to § 4 (c) (8) of the Bank Holding Company Act (12 U.S.C. § 1843(c) (8)) and § 225.4 (b) (2) of the Board's Regulation Y (12 CFR § 225.4(b) (2)), for prior approval of the indirect acquisitions by Applicant (through its wholly-owned subsidiary, Ritter Financial Corporation) of direct or indirect ownership, control or power to vote, of shares of a de novo corporation and to acquire substantially all the assets of First Credit Corp., Whiteville, N.C., and First Credit Corporation of Georgia, Fayetteville, Ga. Notice of the applications was published on the following dates in newspapers circulated as indicated: with respect to First Credit Corporation, on July 30, 1977, in Star-News Newspapers, New Hanover County, N.C., on August 1, 1977, in The Wallace

³ Voting for this action: Vice Chairman Gardner and Governors Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governors Wallich and Coldwell.

[6210-01]

ORBANCO, INC.

Proposed Retention of Shares of Northwest Acceptance Corporation and, Indirectly, Northwest Industrial Loan Company

Orbanco, Inc., Portland, Ore., has applied, pursuant to § 4(c) (8) of the Bank Holding Company Act (12 U.S.C. § 1843(c) (8)) and § 225.4(b) (2) of the Board's Regulation Y (12 CFR § 225.4 (b) (2)), for permission to retain voting shares of Northwest Acceptance Corporation and, indirectly, Northwest Industrial Loan Company, both of Portland, Ore. Notice of the application was published on August 16, 1977, in The Anchorage Daily Times, Anchorage, Alaska; on August 17, 1977, in The Sacramento Bee, Sacramento, Calif., Arizona Daily Star, Tucson, Ariz., The Wichita Eagle, Wichita, Kans., The Houston Chronicle, Houston, Tex., The Louisville Times, Louisville, Ky., The State, Columbia, S.C., The Florida Times-Union, Jacksonville, Fla., The Wall Street Journal, West Coast Edition and Southwest Edition; on August 18, 1977, in The Oregonian, Portland, Ore., San Francisco Chronicle, San Francisco, Calif., The Idaho Statesman, Boise, Idaho, The Arizona Republic, Phoenix, Ariz., Great Falls Tribune, Great Falls, Mont., The Kansas City Times, Kansas City, Missouri, Tulsa Tribune, Tulsa, Okla., The Birmingham News, Birmingham, Ala., The Charlotte Observer, Charlotte, N.C., The Wall Street Journal, East Coast Edition, and San Antonio Light, San Antonio, Tex.; on August 19, 1977, in Seattle Post-Intelligencer, Seattle, Wash., Casper Star-Tribune, Casper, Wyo., Albuquerque Journal, Albuquerque, N. Mex., Dallas Times Herald, Dallas, Tex., Spokane Daily Chronicle, Spokane, Wash., and Commercial Appeal and Press, Memphis, Tenn.; on August 22, 1977, in The Richmond Times-Dispatch, Richmond, Va., The Atlanta Constitution, Atlanta, Ga., The Atlanta Journal, Atlanta, Ga., and The Oregonian, Portland, Ore.; on August 24, 1977, in Los Angeles Times, Los Angeles, Calif., The Mobile Press, Mobile, Ala., and Savannah Evening Press, Savannah, Ga.; on August 25, 1977, in Daily Oklahoman, Oklahoma State; on August 26, 1977, in the Billings Gazette, Billings, Mont., Eugene Register-Guard, Eugene, Ore., and Salt Lake City Tribune, Salt Lake City, Utah; on August 31, 1977, in Las Vegas Review-Journal, Las Vegas, Nev., and The Denver Post, Denver, Colo.; and on September 9, 1977, in The Nashville Banner, Nashville, Tenn.

Applicant states that the proposed subsidiary would engage in the following activities: Making or acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company; servicing loans and other extensions of credit for any person and acting as an agent or broker for the sale of credit related life and accident and health insurance which is related to extensions of credit made and acquired by Ritter Financial Corp. and/or its direct and indirect subsidiaries. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Banks of New York, Atlanta and Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 1, 1977.

Board of Governors of the Federal Reserve System, October 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-29609 Filed 10-7-77; 8:45 am]

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 1, 1977.

Board of Governors of the Federal Reserve System, October 4, 1977.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc 77-29410 Filed 10-7-77; 8:45 am]

[6210-01]

SAN BANCORP.

Formation of Bank Holding Company

San Bancorp., Sanborn, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Sanborn Savings Bank, Sanborn, Iowa. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than October 31, 1977.

Board of Governors of the Federal Reserve System, October 3, 1977.

Griffith L. Garwood,
Deputy Secretary of the Board.

[FR Doc 77-29311 Filed 10-7-77; 8:45 am]

[6210-01]

[Docket No. TCR 76-110]

WORLD AIRWAYS, INC.

Prior and Final Certifications Pursuant to the Bank Holding Company Tax Act of 1976

World Airways, Inc., Oakland, Calif. ("Airways"), has requested a prior cer-

tification pursuant to section 6158(a) of the Internal Revenue Code (the "Code"), as amended by section 3(a) of the Bank Holding Company Tax Act of 1976 (the "Tax Act"), that its sale on January 16, 1974, of 1,360,950 shares of First Western Bank & Trust Co., Los Angeles, Calif. ("Bank"), indirectly owned and controlled by it through its wholly-owned subsidiary, Worldamerica Investors Corp., Oakland, Calif. ("Worldamerica"), to Lloyds First Western Corp., Wilmington, Del. ("First Western"), a subsidiary of Lloyds Bank Limited, London, England ("Lloyds"), was necessary or appropriate to effectuate the policies of the Bank Holding Company Act (12 U.S.C. § 1841 et seq.) ("BHC Act"). Airways has also requested a final certification pursuant to section 6158(c)(2) of the Code that it has (before the expiration of the period prohibited property is permitted under the BHC Act to be held by a bank holding company) ceased to be a bank holding company.¹

In connection with these requests, the following information is deemed relevant for purposes of issuing the requested certifications:²

1. Airways is a corporation organized under the laws of the State of Delaware on March 29, 1948. Worldamerica is a corporation organized under the laws of the State of California on June 8, 1968. Airways acquired all of the outstanding voting shares of Worldamerica on June 8, 1968.

2. On June 8, 1968, Airways acquired indirect ownership and control, through Worldamerica, of 1,360,950 shares, representing 99.48 per cent of the outstanding voting shares, of Bank.

3. Airways became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its direct ownership and control at that time of more than 25 per cent of the outstanding voting shares of Worldamerica, and by virtue of its indirect ownership and control at that time, through Worldamerica, of more than 25 per cent of the outstanding voting shares of Bank, and it registered as such with the Board on

¹ Pursuant to sections 2(d)(2) and 3(e)(2) of the Tax Act, in the case of any sale that takes place on or before December 31, 1976 (the 90th day after the date of the enactment of the Tax Act), the certification described in section 6158(a) shall be treated as made before the sale, and the certification described in section 6158(c)(2) shall be treated as made before the close of the calendar year following the calendar year in which the last such sale occurred, if application for such certification was made before the close of December 31, 1976. Airways' application for such certifications was received by the Board on December 20, 1976.

² This information derives from Airways' correspondence with the Board concerning its requests for certification, Airways' Registration Statement filed with the Board pursuant to the BHC Act, and other records of the Board.

November 26, 1971.³ Airways would have been a bank holding company on July 7, 1970, if the BHC Act Amendments of 1970 had been in effect on such date, by virtue of its direct and indirect ownership and control on that date of more than 25 per cent of the outstanding voting shares of Worldamerica and Bank, respectively.

4. On December 10, 1973, the Board issued an Order pursuant to § 3(a)(1) of the BHC Act approving the applications of Lloyds and First Western to become bank holding companies through the acquisition of control of Bank. On January 16, 1974, Airways sold all of the 1,360,950 shares of Bank indirectly owned and controlled by it, through Worldamerica, to First Western for cash.

5. On January 16, 1974, Airways held property acquired by it on or before July 7, 1970, the disposition of which would, but for the proviso of section 4(a)(2) of the BHC Act, have been necessary or appropriate to effectuate section 4 of the BHC Act if Airways were to remain a bank holding company beyond December 31, 1980, and which property would, but for such proviso, have been "prohibited property" within the meaning of sections 6158(f)(2) and 1103(c) of the Code. Section 1103(g) of the Code provides that any bank holding company may elect, for purposes of section 6158 of the Code, to have the determination whether property is "prohibited property" made under the BHC Act as if such Act did not contain the proviso of section 4(a)(2) thereof. Airways has represented that it will make such an election.⁴

6. Neither Airways nor any subsidiary of Airways holds any interest in Bank, Lloyds, or any other subsidiary of Lloyds, or in any other bank or any holding company that controls a bank.

7. Neither Lloyds nor any subsidiary of Lloyds, including Bank, holds any interest in Airways or any subsidiary of Airways.

8. No officer, director (including honorary or advisor director) or employee with policy-making functions of Airways or any subsidiary of Airways also holds any such position with Lloyds, or any subsidiary of Lloyds, including Bank.

³ Worldamerica similarly became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its direct ownership and control of more than 25 per cent of the outstanding voting shares of Bank, and it registered as such with the Board on November 26, 1971.

⁴ Section 1103(g) of the Code requires that an election thereunder be made "at such time and in such manner as the Secretary [of the Treasury] or his delegate may by regulations prescribe." Any such election, once made is irrevocable. As of this date no such regulations have been promulgated. An election made under this subsection does not apply unless the final certification referred to in section 6158(c)(2) of the Code includes a certification by the Board that the bank holding company "has disposed of either all banking property or all nonbanking property."

or with any other bank or any company that controls a bank.

9. Airways does not control in any manner the election of a majority of directors, or exercise a controlling influence over the management or policies, of Lloyds or any subsidiary of Lloyds, including Bank, or of any other bank or company that controls a bank.

On the basis of the foregoing information, it is hereby certified that:

(A) at the time of its sale, through Worldamerica, of the 1,360,950 shares of Bank to First Western, Airways was a qualified bank holding corporation, within the meaning of section 6158(f)(1) and subsection (b) of section 1103 of the Code, and satisfied the requirements of those sections;

(B) the shares of Bank that Airways sold to First Western through Worldamerica were all or part of the property by reason of which Airways controlled (within the meaning of section 2(a) of the BHC Act) a bank or bank holding company;

(C) the sale of the shares of Bank was necessary or appropriate to effectuate the policies of the BHC Act;

(D) Airways has (before the expiration of the period prohibited property is permitted under the BHC Act to be held by a bank holding company) ceased to be a bank holding company; and

(E) Airways has disposed of all banking property.

This certification is based upon the representations made to the Board by Airways and upon the facts set forth above, and is conditioned upon Airways making the election required by section 1103(g) of the Code at such time and in such manner as the Secretary of the Treasury or his delegate may by regulation prescribe. In the event the Board should hereafter determine that facts material to this certification are otherwise than as represented by Airways, or that Airways has failed to disclose to the Board other material facts, it may revoke this certification.

By order of the Board of Governors, acting through its General Counsel, pursuant to delegated authority (12 CFR § 265.2(b)(3)), effective October 3, 1977.

Theodore E. Allison,
Secretary of the Board.

[FR Doc. 77-29612 Filed 10-7-77; 8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on October 3, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency

sponsoring the proposed collection of information, the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before October 31, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff (202-275-3532).

CIVIL AERONAUTICS BOARD

The CAB requests an extension without change clearance of Passenger Origin-Destination Survey Report, Form 2787. This Survey, conducted continuously on the basis of a 10 percent sample, is a cooperative effort by the U.S. certificated route air carriers, the Air Transport Association of America and the Civil Aeronautics Board. All U.S. certificated route air carriers, except helicopter and intra-Alaska carriers, participate in the survey which provides information on the individual passenger's journey and choice of routing and air carrier. CAB estimates approximately 26 certificated route air carriers are respondents and that reporting burden averages 1,000 hours per quarterly response.

John M. Lovelady,
Acting Assistant Director,
Regulatory Reports Review.

[FR Doc. 77-29533 Filed 10-7-77; 8:45 am]

[6820-27]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

COMPILATION OF AGENCY SUBMISSIONS FOR THE FIFTH ANNUAL REPORT OF THE PRESIDENT ON FEDERAL ADVISORY COMMITTEES COVERING CALENDAR YEAR 1976⁴

Availability of Microfilm

This compilation has been microfilmed and accessioned by the National Archives. It is available for viewing in the reading rooms of the National Archives Building, Washington, D.C., and the 11 Regional Archives Branches. In addition, copies of the two roll 16 mm microfilm set may be ordered at a total cost of \$24 from the National Archives and Records Service (NEPS), Washington, D.C. 20408, by requesting Micro Copy No. A-1199.

Dated: September 27, 1977.

James B. Rhoads,
Archivist of the United States.

[FR Doc. 77-29648 Filed 10-7-77; 8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of November 1977:

EPIDEMIOLOGIC STUDIES REVIEW COMMITTEE

November 3-4, 9:00 a.m. Thomas Paine Room, Sheraton-Park Hotel, 2660 Woodley Road NW., Washington, D.C. 20008. Open: November 3, 9:00-10:00 a.m. Closed: Otherwise. Contact, Edna Frazier, Parklawn Building, Room 10C-09, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3374).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities in the field of epidemiology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-10:00 a.m., on November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S.C. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

DEVELOPMENTAL PROBLEMS RESEARCH REVIEW COMMITTEE

November 3-4, 9:00 a.m. Lobby Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Md. 20015. Open: November 3, 9:00-10:00 a.m. Closed: Otherwise. Contact: Mrs. Diana Souder, Parklawn Building, Room 10-104, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3566).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the developmental growth of juveniles and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-10:00 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Council for final review.

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RESEARCH SCIENTIST DEVELOPMENT REVIEW COMMITTEE

November 3-5, 9:00 a.m. Capitol Room, Dupont Plaza Hotel, Connecticut and Massachusetts Avenue NW., Washington, D.C. 20036. Open: November 3, 9:00-10:00 a.m. Closed: Otherwise. Contact: Jeannette Raley, Parklawn Building, Room 9C-24, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4347).

Purpose. The Committee is charged with the initial review of grant applications for Research Scientist Development Awards administered by the National Institute of Mental Health and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-10:00 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of section 552b(c) (6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

MINORITY GROUP MENTAL HEALTH PROGRAMS REVIEW COMMITTEE

November 3-5, 9:00 a.m.-Quality Inn, Cabinet Suite, 415 New Jersey Avenue NW., Washington, D.C. 20001. Open: November 3, 9:00-11:00 a.m. Closed: Otherwise. Contact: Edna M. Hardy Hill, Parklawn Building, Room 7-102, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3724).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to minority mental health research and training and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-11:00 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determinations by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c) (6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

SOCIAL SCIENCES RESEARCH REVIEW COMMITTEE

November 3-5, 9:00 a.m. Executive Room, Dupont Plaza Hotel, Dupont Circle NW., Washington, D.C. 20036. Open: November 3, 9:00-9:30 a.m. Closed: Otherwise. Contact: Marilyn Andersen, Parklawn Building, Room 10-95, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3936).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National

Institute of Mental Health relating to social science research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-9:30 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c) (6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

CLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

November 7-8, 9:00 a.m. Lobby Room, Holiday Inn Hotel, 5520 Wisconsin Avenue, Chevy Chase, Md. 20014. Open: November 7, 9:00-10:00 a.m. Closed: Otherwise. Contact: Toni Bragg, Parklawn Building, Room 9-104, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3568).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical psychopharmacology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-10:00 a.m., November 7, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c) (6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

EXPERIMENTAL PSYCHOLOGY RESEARCH REVIEW COMMITTEE

November 7-9, 9:00 a.m., Suite B-120, Shoreham Americana Hotel, 2500 Calvert Street NW., Washington, D.C. 20008. Open: November 7, 9:00-9:30 a.m. Closed: Otherwise. Contact: John T. Hammack, Parklawn Building, Room 10-95, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3936).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to experimental psychology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-9:30 a.m., November 7, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and

will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c) (6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

SOCIAL PROBLEMS RESEARCH REVIEW COMMITTEE

November 10-12, 9:00 a.m. Lobby Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Md. 20015. Open: November 10, 9:00-9:30 a.m. Closed: Otherwise. Contact: Mrs. Vi Kemp, Parklawn Building, Room 10-104, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4843).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the field of social problems and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-9:30 a.m., November 10, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c) (6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

BIOLOGICAL SCIENCES TRAINING REVIEW COMMITTEE

November 11-12, 8:30 a.m. Conference Room, Quality Inn, 616 Convention Way, Anaheim, Calif. 92802. Open: November 11, 8:30-9:30 a.m. Closed: Otherwise. Contact: Donna Spain, Parklawn Building, Room 9C-09, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3855).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to biological sciences research training and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 8:30 a.m.-9:30 a.m., November 11, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c) (6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

NEUROPSYCHOLOGY RESEARCH REVIEW COMMITTEE

November 11-13, 9:00 a.m. California IV Room, Quality Inn, 616 Convention Way, Anaheim, Calif. 92802. Open: November 11,

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9:00-10:00 a.m. Closed: Otherwise. Contact, Eileen Nugent, Parklawn Building, Room 10C-06, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3942).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-10:00 a.m., November 11, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(c) (6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

RAPE PREVENTION AND CONTROL ADVISORY COMMITTEE

November 14-15, 9:30 a.m., Conference Room C, Parklawn Building, Rockville, Md. 20857. Open: November 14-15. Contact, Ms. Elizabeth S. Kütze, Parklawn Building, Room 10C-03, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-1910).

Purpose. The Rape Prevention and Control Advisory Committee advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.

Agenda. The entire meeting will be open to the public. During the two-day meeting the Advisory Committee will provide input on the National Center's fiscal year 1977 program and fiscal year 1978 planning to develop the Advisory Committee's report to the Secretary.

MENTAL HEALTH SMALL GRANT COMMITTEE

November 17-19, 1:00 p.m. The Oak Room and Parlor A, Burlington Hotel, 1120 Vermont Avenue NW., Washington, D.C. 20005. Open: November 17, 4:00-5:00 p.m. Closed: Otherwise. Contact, Mary E. Enyart, Parklawn Building, Room 10C-14, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4337).

Purpose. The Committee is charged with the initial review of small grant applications for Federal assistance in all disciplines relevant to the National Institute of Mental Health and for small grant projects submitted for support to the other Institutes of the Alcohol, Drug Abuse, and Mental Health Administration, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda. From 4:00 p.m.-5:00 p.m., November 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c) (6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

CLINICAL PROGRAM-PROJECTS RESEARCH REVIEW COMMITTEE

November 18-19, 9:00 a.m. Arlington Hyatt House, 1325 Wilson Boulevard, Arlington, Va. 22209. Open: November 18, 9:00-10:00 a.m. Closed: Otherwise. Contact, Dr. Jack Lasky, Parklawn Building, Room 10C-23B, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4707).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-10:00 a.m., November 18, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c) (6), Title 5 U.S. Code and section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

COMMUNITY ALCOHOLISM SERVICES REVIEW COMMITTEE

November 3-6, 9:00 a.m. Sheraton-Silver Spring Motor Inn, 8727 Colesville Road, Silver Spring, Md. 20910. Open: November 3, 9:00-10:00 a.m. Closed: Otherwise. Contact, Mr. Sidney Leopold, Parklawn Building, Room 11-10, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-1374).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to alcoholism services activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda. From 9:00 a.m.-10:00 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c) (6),

Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Parklawn Building, Room 15-105, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3600). The NIAAA Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Parklawn Building, Room 11A-17, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3306).

Dated: October 5, 1977.

CAROLYN T. EVANS,
Committee Management Officer,
Alcohol, Drug Abuse, and
Mental Health Administration.

[FR Doc.77-29736 Filed 10-7-77; 8:45 am]

[4110-03]

Food and Drug Administration
REGULATION OF TOXIC AND HAZARDOUS
SUBSTANCES

Interagency Agreement

CROSS REFERENCE: For the text of an interagency agreement among the Consumer Product Safety Commission, the Environmental Protection Agency, the Food and Drug Administration, Department of Health, Education, and Welfare, and the Occupational Safety and Health Administration, Department of Labor on the regulation of toxic and hazardous substances, see FR Doc. 77-29605, appearing under the Environmental Protection Agency in the Notices section of this FEDERAL REGISTER.

[4110-83]

Health Resources Administration
ADVISORY COMMITTEE
Notice of Meeting

In accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1977:

Name: National Advisory Council on Health Professions Education.

Date and time: November 15-16, 1977, 8:30 a.m.

Place: Center Building, Room 7-32, 3700 East-West Highway, Hyattsville, Md. 20782.

Open for entire meeting.

Purpose: The Council advises the Secretary with respect to the preparation of general regulations and with respect to policy matters in the administration of programs of financial assistance for the

health professions and makes recommendations based on its review of applications requesting such assistance.

Agenda: The Council will meet to review draft program specifications prepared for use in implementing Pub. L. 94-484, Health Professions Educational Assistance Act of 1976, and 1978 budget update.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mrs. Lynn Stevens, Bureau of Health Manpower, Room 4-22, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6508.

Agenda items are subject to change as priorities dictate.

Dated: October 3, 1977.

JAMES A. WALSH,
Associate Administrator for
Operations and Management.

[FR Doc.77-29663 Filed 10-7-77;8:45 am]

[4110-08]

National Institutes of Health

CANCER SPECIAL PROGRAM ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Special Program Advisory Committee, National Cancer Institute, October 27-28, 1977, Holiday Inn, Bethesda, Pennsylvania Room, 8120 Wisconsin Avenue, Bethesda, Md. 20014. This meeting will be open to the public on October 27, 1977, from 9 a.m. to 10 a.m., to consider minutes of the last meeting, future meeting dates and other information items. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 27, 1977, from 10 a.m. to 5:00 p.m., and on October 28 from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301-496-5708), will provide summaries of the meeting and rosters of committee members.

Dr. William R. Sanslone, Executive Secretary, Cancer Special Program Advisory Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Md. 20014 (301-496-7565), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.392, National Institutes of Health.)

Dated: October 5, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29829 Filed 10-7-77;10:35 am]

[4110-08]

National Heart, Lung, and Blood Institute

THROMBOTIC PROCESS IN ATHEROGENESIS

Notice of Workshop

Notice is hereby given of the Workshop on the Thrombotic Process in Atherogenesis sponsored by the Division of Blood Diseases and Resources and the Division of Heart and Vascular Diseases of the National Heart, Lung, and Blood Institute in conjunction with the Councils on Arteriosclerosis and Thrombosis of the American Heart Association. The Workshop will be held on the following dates:

Sunday, October 16, 1977, 8:30 a.m.-9 p.m.
Monday, October 17, 1977, 8:30 a.m.-3 p.m.
Tuesday, October 18, 1977, 8:30 a.m.-9 p.m.
Wednesday, October 19, 1977, 8:30 a.m.-1 p.m.

The meetings will be held at the International Conference Center of the Sheraton Inn in Reston, Va.

This Workshop will be open to the public. Attendance by the public will be limited to space available. Advance registration is required.

Mrs. Sally Simpson, Conference Coordinator, Kappa Systems, Inc., 150 Wilson Boulevard, Arlington, Va. 22209 (703-527-4500), will provide additional information.

Dated: October 6, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29829 Filed 10-7-77;8:45 am]

[7536-01]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

ADVISORY COMMITTEE RESEARCH GRANTS PANEL

Meeting

SEPTEMBER 29, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 a.m. to 5:30 p.m. on October 27 and 28, 1977.

The purpose of the meeting is to review the applications submitted to the Research Tools Program of the National Endowment for the Humanities, for projects in the fields of music, art,

literature, and film beginning October 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's delegation of authority to close advisory committee meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee
Management Officer.

[FR Doc.77-29590 Filed 10-7-77;8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

EARTHQUAKE HAZARDS REDUCTION ADVISORY GROUP

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Earthquake Hazards Reduction Advisory Group.

Date: October 26, 1977.

Time: 9 a.m. to 4 p.m.

Place: Room 3104, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C.

Type of meeting: Open.

Contact person: Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-4692.

Summary minutes: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

Purpose of advisory committee: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends in science and technology and relate these to their impact on the achievement of national goals and objectives, is reviewing the activities and plans appropriate to the Federal, State, local governmental units, and the private sector for the implementation of actions derived from a comprehensive program of research in earthquake prediction, earthquake hazards assessment, and earthquake disaster mitigation.

Agenda: 9 a.m. to 4 p.m., a discussion of draft materials prepared as part of the policy review process for the President.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc.77-29652 Filed 10-7-77;8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 31682, 31686, 31687, 31689, 31692, and 31693]

NEW MEXICO

Notice of Applications

SEPTEMBER 30, 1977.

Notice is hereby given that, pursuant to section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 17, SE¼NW¼;
Sec. 18, SE¼SW¼;
Sec. 19, NE¼NW¼, SE¼SW¼ and SW¼SE¼;
Sec. 30, NW¼NE¼ and NE¼NW¼.
T. 30 N., R. 8 W.,
Sec. 26, SE¼NE¼ and E¼SE¼.
T. 29 N., R. 9 W.,
Sec. 8, SE¼NW¼.
T. 30 N., R. 9 W.,
Sec. 28, E¼SE¼ and SW¼SE¼;
Sec. 33, NE¼NE¼.

These pipelines will convey natural gas across 1.676 miles of public lands in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N.Mex. 87107.

FRED E. PADILLA,
Chief, Branch of
Lands and Minerals Operations.

[FR Doc.77-29649 Filed 10-7-77;8:45 am]

[4310-84]

OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALES

List of Restricted Joint Bidders

Pursuant to the authority vested in the Director of the Bureau of Land Manage-

ment by the provisions of 43 CFR 3302.3-2(a), the following companies shall be restricted from bidding jointly with any other company on this same list at Outer Continental Shelf oil and gas lease sales held during the bidding period of November 1, 1977, through April 30, 1978:

Amoco Production Co.
BP Alaska Exploration, Inc.
Chevron U.S.A., Inc.
Exxon Corp.
Gulf Oil Corp.
Mobil Oil Corp.
Shell Oil Co.
Standard Oil Co. of California
Texaco, Inc.

ARNOLD E. PETTY,
Acting Associate Director,
Bureau of Land Management.

SEPTEMBER 30, 1977.

[FR Doc.77-29691 Filed 10-7-77;8:45 am]

[4310-70]

National Park Service

JOHN D. ROCKEFELLER, JUNIOR, MEMORIAL PARKWAY

Establishment

Public Law 92-404 authorized the Secretary of the Interior to establish the John D. Rockefeller, Junior, Memorial Parkway to consist of lands and interest in lands, in Teton County, Wyo., as generally depicted on a drawing entitled "Boundary Map, John D. Rockefeller, Junior, Memorial Parkway, Wyoming," Numbered PKY-JDRM-20,000, and dated August 1971.

The National Park Service has acquired all lands authorized under Pub. L. 92-404.

Now, therefore, I, Cecil D. Andrus, Secretary of the Interior, hereby give notice of the establishment of John D. Rockefeller, Junior, Memorial Parkway, Wyo., consisting of 23,777 acres.

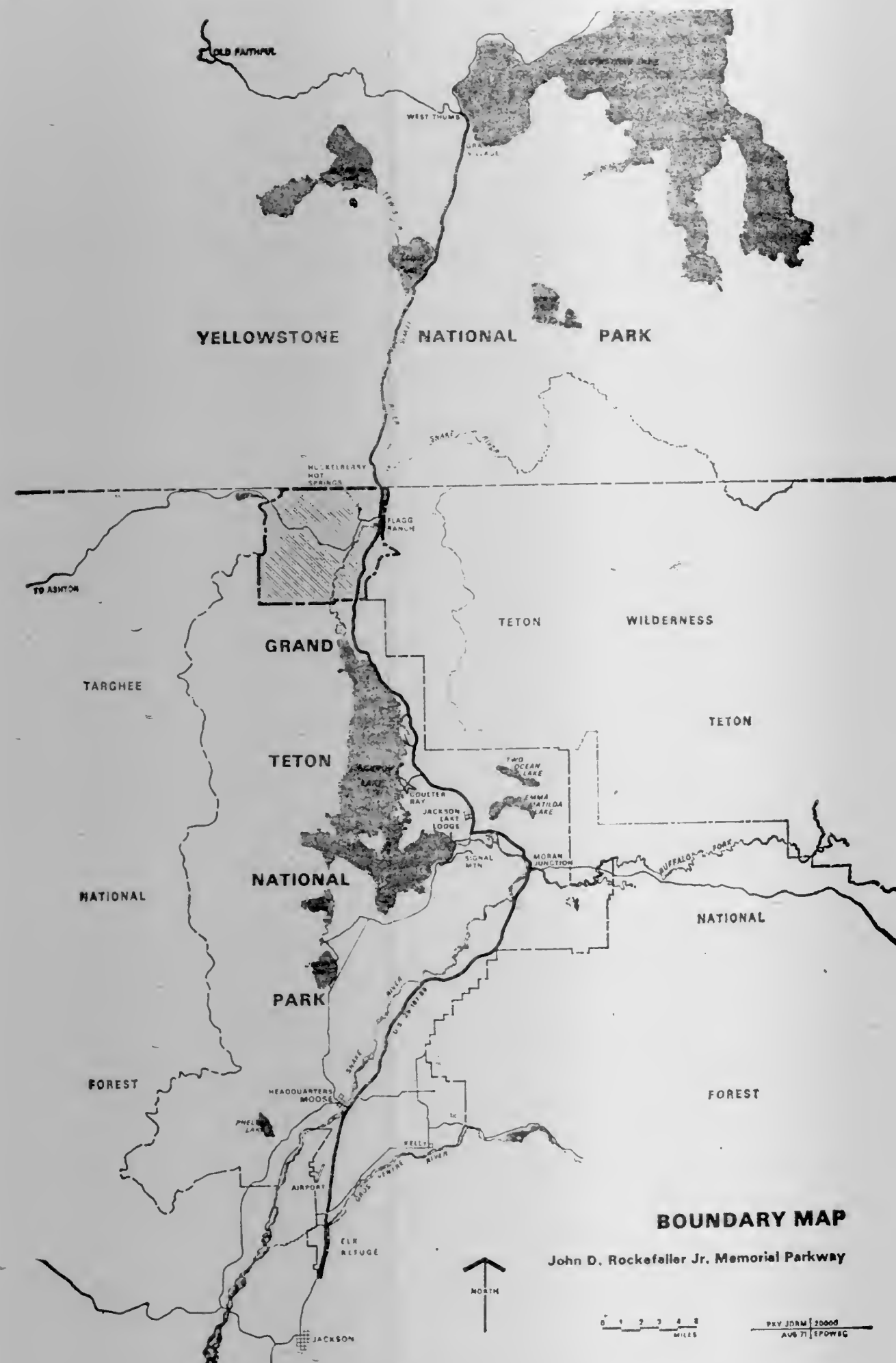
The boundaries of the parkway, which encompass an area generally identical to that referred to in Pub. L. 92-404, are shown on the attached map numbered PKY-JDRM-20,000, August 1971.

Adjustments may be subsequently made in the boundaries of the area by publication of the amendments to the boundary description, thereof, in the FEDERAL REGISTER, as provided for in section 1(a) of Pub. L. 92-404.

John D. Rockefeller, Junior, Memorial Parkway, will be administered in accordance with the Act of August 25, 1972 (86 Stat. 619), and in accordance with the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented.

Dated: September 30, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.



[FR Doc. 77-29470 Filed 10-7-77; 8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 196—TUESDAY, OCTOBER 11, 1977

[4310-70]

National Park Service
NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 29, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by October 17, 1977.

RONALD M. GREENBERG,
Acting Keeper
of the National Register.

ALASKA

Juneau Division

Juneau, Alaska Steam Laundry 174 S. Franklin St.

CALIFORNIA

Monterey County

Pebble Beach, Olvida Penas, 1061 Majella Rd.

San Diego County

San Diego, Independent Order of Odd Fellows Building, 526 Market St. HABS.

FLORIDA

Broward County

Plantation vicinity, Lock No. 1, North New River Canal, S of Plantation on FL 84.

Clay County

Green Cove Springs, St. Mary's Church, St. Johns Ave.

Hillsborough County

Tampa Hutchinson House, 304 Plant Ave. Tampa, Tampa Theater and Office Building, 711 Franklin St.

Leon County

Tallahassee, St. John's Episcopal Church, 211 N. Monroe St.

MASSACHUSETTS

Essex County

Salem, Ward, Joshua, House, 148 Washington St.

Plymouth County

Brockton, Old Post Office Building, Crescent St.

Worcester County

Oxford vicinity, Hudson House, NE of Oxford on Hudson Rd.

MISSOURI

Jackson County

Kansas City, Shelley, William Francis, House, 3601 Baltimore Ave.

NEW MEXICO

Bernillo County

Tijeras, Holy Child Church, off 140 U.S. 66.

NEW YORK

Suffolk County

Smithtown, First Presbyterian Church, 175 E. Main St.

NORTH CAROLINA

Chatham County

Pittsboro, Pittsboro Masonic Lodge, East and Masonic Sts.

Pittsboro, Pittsboro Presbyterian Church, N. East St.

Dare County

Duck vicinity, Caffery Inlet Lifesaving Station, N of Duck on SR 1200.

Forsyth County

Winston-Salem, Smith, W. F., and Sons Leaf House and Brown Brothers Company Building, 4th St. between Patterson and Linden Sts.

Gaston County

Oaktonia, Jenkins, David, House, 1017 Church St.

Guilford County

Greensboro, Sherwood, Michael, House, 426 W. Friendly Ave.

Wake County

Raleigh, Capitol Area Historic District, capitol building and environs.

OHIO

Athens County

Athens vicinity, Blackwood Covered Bridge, S of Athens on SR 46.

Brown County

Georgetown vicinity, Thompson-Bullock House, W of Georgetown on OH 221.

Butler County

Hamilton vicinity, Fitz Randolph-Watson House, E of Hamilton off OH 4.

Middleton, South Main Street District, 34-704 S. Main St.

Clark County

Springfield vicinity, Hertzler, Daniel, House, W of Springfield off OH 4.

Springfield, Warder Public Library, E. High and Springs Sts.

Clermont County

Goshen vicinity, Devanney Site, W of Goshen.

Clinton County

Clarksburg vicinity, Harvey, Eli, House, 1133 Lebanon Rd.

Cuyahoga County

Cleveland, St. Stephen Church, 1930 W. 54th St.

Independence vicinity, Terra Vista Archeological District, N of Independence.

Franklin County

Columbus, Columbus Near East Side District, roughly bounded by Parson Ave. Broad and Main Sts., and the railroad.

Jackson County

Coalton, Miner's Supply Store (Wood Hardware Store), Main and 2nd Sts.

Lawrence County

Burlington vicinity, Macedonia Church, N of Burlington on Burlington-Macedonia Rd.

Ironton, Fifth and Lawrence Streets Residential District, 5th and Lawrence Sts.

Lucas County

Toledo, Burt's Theater, 719-723 Jefferson St.

Miami County

New Carlisle vicinity, Baumgardner, William, House and Farm Buildings, 8390 National Rd.

Montgomery County

Dayton vicinity, Arnold Homestead, N. of Dayton on OH 201.

Perry County

New Reading vicinity, Bowman Mill Covered Bridge, S. of New Reading on SR 86.

Portage County

Kent, Kent, Charles, House, 125 N. Pearl St.

Seneca County

Tiffin, Downtown Tiffin Historic District, roughly bounded by Riverside Dr., Jefferson, Monroe, Sycamore, and Coe Sts.

Trumbull County

North Bloomfield vicinity, Greene Township Center, E. of North Bloomfield on OH 87.

Warren County

Oregonia vicinity, Taylor Mound and Village Site, N. of Oregonia.

Washington County

Belpre, Stone, Capt. Jonathan, House, 612 Blennerhassett Ave.

Marletta vicinity, Hildreth Covered Bridge, 5 mi. E. of Marletta off OH 26.

Wood County

Bowling Green vicinity, Dodge Site, N. of Bowling Green.

Perrysburg vicinity, MacNichol Site, SW. of Perrysburg.

OKLAHOMA

Cleveland County

Norman, Sooner Theatre Building, 101 E. Main St.

Roger Mills County

Hammon vicinity, Ailee Site, W. of Hammon.

Hammon vicinity, Lamb-Miller Site, NW. of Hammon.

Wagoner County

Porter vicinity, Van Tuyl Homeplace, N. of Porter.

OREGON

Jackson County

Ashland, Carter, H. E., House, 91 Gresham St.

Lake County

Valley Falls vicinity, East Lake Abert Archeological District, N. of Valley Falls on U.S. 395.

Lane County

Eugene vicinity, Spores, Jacob C., House, N. of Eugene off I-5.

Junction City, Lee, Dr. Norman L., House, 655 Holly St.

Union County

Union, Eaton, Abel E., House, 464 N. Main St.

Wallowa County

Joseph, First Bank of Joseph, 2nd and Main Sts.

Yamhill County

McMinnville, Pioneer Hall, Linfield College, Linfield College campus.

SOUTH CAROLINA

Berkeley County

Hanahan vicinity, Otranto Plantation, 18 Basilica Ave.

FEDERAL REGISTER, VOL. 42, NO. 196—TUESDAY, OCTOBER 11, 1977

Charleston County

with the Commission a written statement concerning the matters to be the base of the Pittsburgh coalbed which will prevent any natural gas from enter-

ment of the Interior, 4015 Wilson Boulevard within the tracts of the Pittsburgh petition are available for inspection at

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Charleston County
 Charleston, Bennett, Gov. Thomas, House,
 69 Barre St.
 Charleston, Lucas, Jonathan, House, 286
 Calhoun St. HABS.

Greenville County
 Greenville, Wesley, John Methodist Episcopal
 Church, 101 E. Court St.

Laurens County
 Laurens, Orange, John Calvin, House, 787
 W. Main St.

McCormick County
 Bradley vicinity, Sylvania, S. of Bradley off
 SC 10 221.

Sumter County
 Pinewood vicinity, St. Mark's Church, W. of
 Pinewood on SR 51.

Union County
 Carlisle vicinity, Hillside, NW of Carlisle on
 SC 215.

Fork County
 York, Witherspoon-Hunter House, 15 W
 Liberty St.

SOUTH DAKOTA

Stanley County
 Fort Pierre, Old Fort Pierre School, 2nd Ave.
 and 2nd St.
 Fort Pierre, Stockgrowers Bank Building,
 Deadwood and Main Sts.
 Fort Pierre, Sumner, Gaylord, House, 2nd
 and Wandel Sts.
 Fort Pierre, United Church of Christ, Con-
 gregational, 2nd Ave. and Main St.

TEXAS

Bexar County
 San Antonio, Salado Battlefield and Ar-
 chaeological Site, 1006 Hubbrook Rd.

WISCONSIN

Rock County
 Clinton vicinity, Jones, Samuel S., Cobble-
 stone House, E. of Clinton on Milwaukee
 Rd.
 Edgerton vicinity, Kinney Farmstead/Tay-
 le-dah Site, E. of Edgerton at Maple Beach.
 [FR Doc 77-29538 Filed 10-7-77; 8:15 am]

[4310-70]

GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION Meeting

Notice is hereby given in accordance
 with the Federal Advisory Committee
 Act that a meeting of the Golden Gate
 National Recreation Area Advisory
 Commission will be held at 9:30 a.m., on
 Saturday, October 22, 1977, at West
 Marin School, Point Reyes Station, Calif.

The Advisory Commission was estab-
 lished by Pub. L. 92-589 to provide for the
 free exchange of ideas between the Na-
 tional Park Service and the public and
 to facilitate the solicitation of advice
 or other counsel from members of the
 public on problems pertinent to the Na-
 tional Park Service System in Marin and
 San Francisco counties.

The major item on the agenda will be
 an update on the Point Keyes National
 Seashore proposals.

The meeting will be open to the pub-
 lic. Any member of the public may file

with the Commission a written state-
 ment concerning the matters to be
 discussed.

Persons wishing further information
 concerning this meeting or who wish to
 submit written statements may contact
 Jerry L. Schober, Acting General Mana-
 ger, Bay Area National Parks, Fort Ma-
 son, San Francisco, Calif. 94123, tele-
 phone 415-356-2920.

Minutes of the meeting will be avail-
 able for inspection four (4) weeks after
 the meeting at the Office of the General
 Manager, Bay Area National Parks, Fort
 Mason, San Francisco, Calif.

Dated: October 5, 1977.

ROBERT M. LANDAU,
 Assistant for Advisory Boards
 and Commissions, National
 Park Service.

[FR Doc. 77-29644 Filed 10-6-77; 8:43 am]

[4310-10]

Office of Hearings and Appeals

[Docket No. M 77-258]

CONSOLIDATION COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accord-
 ance with the provisions of section 301(c)
 of the Federal Coal Mine Health and
 Safety Act of 1969, 30 U.S.C. § 861(c)
 (1970), Consolidation Coal Co., c/o Alan
 B. Molohan, Suite 300, 818 Connecti-
 cut Avenue NW., Washington, D.C. 20006,
 has filed a petition to modify the appli-
 cation of 30 CFR 75.1700, oil and gas
 wells, to its Mine No. 20, located in
 Marion County, W. Va.

The substance of Petitioner's state-
 ment is as follows:

1. The large majority of oil and gas
 wells in Mine No. 20 were drilled (and
 many were also abandoned), between
 1890 and 1920 when no standards for
 drilling and plugging existed. Oil and gas
 sands are now nearly depleted, hence no
 appreciable volume of gas comes from
 petroleum reservoirs.

2. In lieu of the provision to establish
 and maintain barriers around oil and gas
 wells, it is proposed that the Pittsburgh
 coal seam be sealed from surrounding
 strata at the affected wells, and to this
 end the Petitioner proposes to do the
 following:

(a) Petitioner will plug the wells which
 are to be intersected in Mine No. 20 using
 a proven technique developed through a
 series of cooperative agreements between
 the United States Bureau of Mines, the
 Energy Research and Development Ad-
 ministration, the Mining Enforcement
 and Safety Administration, and the coal
 industry. The attached, Exhibit "A," is
 a schematic drawing illustrating this
 technique.

(b) The procedure essentially involves
 the placing of plugs in the wellbore below

* The attached exhibit is available for in-
 spection at the address listed in the last
 paragraph of this petition.

the base of the Pittsburgh coalbed which
 will prevent any natural gas from enter-
 ing the mine after the well is mined
 through.

(c) Before the well is filled to the
 Pittsburgh coalbed, Petitioner may run a
 directional survey on the well to deter-
 mine the coalbed; but if it does not, and if
 it does not penetrate the wellbore in min-
 ing, Petitioner shall continue mining un-
 til the well is located. Gamma ray neu-
 tron and caliper logs shall be run in the
 well to determine the exact depth of the
 coalbed, the most competent formation
 for setting a mechanical bridge plug if
 needed, and the wellbore diameter for
 calculating the cement requirements. An
 automatic tracer injector unit of sulfur
 hexafluoride will be placed in the well.

(c) The well will be plugged back to the
 base of the Pittsburgh coalbed using an
 expandable cement and fly-ash-gel water
 slurry. A 50 percent fly-ash-cement mix
 will be used to fill the wellbore from the
 base of the Pittsburgh coalbed to the
 surface.

(e) Petitioner will, during its normal
 mining cycle, mine through and remove
 that segment of the plug existing between
 the mine pavement and roof. During this
 operation and for a period of six (6)
 months thereafter, Petitioner, in coop-
 eration with the Mining Enforcement
 and Safety Administration, will monitor
 the mine atmosphere for traces of gas. A
 Federal mine inspector shall be present
 during the mining through operations.

(f) Petitioner shall instruct all person-
 nel in the affected area to proceed with
 caution when mining into and through
 the well-support pillar, and especially
 diligent efforts shall be made to assure a
 gas-free atmosphere in the affected
 areas. Petitioner will cooperate with the
 Mining Enforcement and Safety Admin-
 istration to sample for gas immediately
 before, during and immediately after
 mining through each well.

(g) In addition to the methane testing
 procedures set forth in 30 CFR Part 75,
 methane examinations shall be made by
 qualified personnel using approved meth-
 ane detection equipment at least once
 during each shift, during development
 and retreat mining, and the date and
 time of such examinations shall be re-
 corded on a fireboss dateboard which
 shall be placed in the area.

3. The alternate proposal as above-
 described will at all times provide no less
 than a greater measure of safety than
 intended by the Act, as the alternate
 proposal will affect:

(a) The elimination of possible gas
 flow path;

(b) The simplification of the mine
 ventilation system; and

(c) The improvement of subsidence
 control in second mining.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may
 request a hearing on the petition or fur-
 nish comments on or before November 10,
 1977. Such requests or comments must be
 filed with the Office of Hearings and Ap-
 peals, Hearings Division, U.S. Depart-

ment of the Interior, 4015 Wilson Boule-
 vard, Arlington, Va. 22203. Copies of the
 petition are available for inspection at
 that address.

DAVID TORBETT,
 Acting Director, Office of
 Hearings and Appeals.

SEPTEMBER 30, 1977.

[FR Doc. 77-29650 Filed 10-7-77; 8:45 am]

[4310-10]

[Docket No. M 77-259]

QUARTO MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accord-
 ance with the provisions of section 301
 (c) of the Federal Coal Mine Health and
 Safety Act of 1969, 30 U.S.C. § 861(c)
 (1970), Quarto Mining Co., % Fred S.
 Souk, 1100 Connecticut Avenue NW.,
 Washington, D.C. 20036, has filed a pe-
 tition to modify the application of 30
 CFR 75.1700, oil and gas wells, to its
 Powhatan No. 4 Mine, located in Monroe
 County, Ohio.

The substance of Petitioner's state-
 ment is as follows:

1. Petitioner's Powhatan No. 4 Mine
 has a number of oil/gas wells located
 within its boundaries, which were
 plugged and abandoned from 1900 to
 the early 1950's when oil in a commercial
 quantity was exhausted. The wells pen-
 etrate the Pittsburgh No. 8 coal seam
 where Petitioner intends to mine.

2. The barrier around the wells, re-
 quired by 75.1700, interferes with Peti-
 tioner's (1) maintenance of effective roof
 control by requiring a hazardous and
 time-consuming relocation of the shield
 supports in the longwall sections; (2)
 simplification of the mine ventilation
 system in the continuous miner sections
 by requiring unnecessary air course
 changes; and, (3) improvement of min-
 ing safety and conservation by requiring
 a barrier of coal when more efficient and
 secure methods to prevent well gas leaks
 are available.

3. Extensive research conducted by
 the U.S. Bureau of Mines and U.S. En-
 ergy Research and Development Admin-
 istration ("ERDA") has developed fea-
 sible and safety methods to plug aban-
 doned oil/gas wells and eliminate the
 need for coal barriers around such wells.
 MESA Informational Report 1052 (At-
 tachment 1*) has concluded that certain
 plugging methods can effectively prevent
 well gases from entering the mine during
 regular mining operations and allow ad-
 ditional safety and operational benefits
 that are not possible under 75.1700.
 These methods, which Petitioner pro-
 poses to follow, guarantee no less than
 the same measure of protection afforded
 miners as 75.1700.

4. In lieu of 75.1700, Petitioner pro-
 poses (1) to plug all of the oil/gas wells

* The enclosed attachment is available for
 inspection at the address listed in the last
 paragraph of this petition.

lying within the tracts of the Pittsburgh
 No. 8 coal seam assigned to its No. 4
 Mine that are necessary in the mining
 of said coal tracts by one of the tech-
 niques described in said Report 1052 de-
 pending upon conditions discovered on
 reopening the borehole, and (2) to mine
 through part of the plugged borehole in a
 normal mining cycle. Petitioner will
 notify the Mining Enforcement and
 Safety Administration ("MESA") before
 any plugging and mining activity is con-
 ducted in this regard. At MESA's option,
 such activity will be conducted in the
 presence and under the supervision of
 its personnel. Any changes in the pro-
 cedures set forth in MESA Informational
 Report 1052 will be made only on ap-
 proval of MESA's District Manager or
 his delegate.

5. The following procedures, as more
 specifically set forth in MESA Informa-
 tional Report 1052, will be followed for
 plugging the wells: Petitioner will at-
 tempt to reopen a well to its total depth.
 Petitioner will take gamma ray, neutron,
 and caliper logs to determine respectively
 the depth of all coalbeds, the most com-
 petent formation for the placement of
 certain plugs, and the wellbore diameter.
 A directional survey will be conducted to
 determine the location of the intersec-
 tion of each wellbore with the coal seam.
 A tracer unit of sulfur hexafluoride (an
 inert, permeable, and easily detectable
 gas) will be placed in the well and a
 mechanical bridge plug or other device
 set above it to provide a secure base for
 subsequent plugs. Expanding cement,
 flyash cement, and/or gaswater slurry
 will be injected to various depths in the
 remainder of the borehole, depending on
 geologic conditions.

6. The following procedures will be
 followed for mining through a plug: All
 mining operations within one hundred
 and fifty (150) feet of the well will be
 conducted with the utmost caution and
 in a nonexplosive atmosphere. In addi-
 tion to the methane testing procedures
 in 30 CFR Part 75, a fireboss dateboard
 will be established in the affected area
 and methane examinations made and
 recorded at least once per shift by a
 qualified examiner. Petitioner will take
 air samples immediately before, during,
 and after mining through the concrete
 section of the plug between the mine
 floor and roof. Mining operations will be
 conducted during Petitioner's normal
 mining cycle, and, at MESA's option, in
 the presence and under the supervision of
 MESA personnel. In cooperation with
 MESA, Petitioner will monitor the mine
 atmosphere for traces of sulfur hexafluor-
 ide for six (6) months after mining
 through a plugged well.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may
 request a hearing on the petition or fur-
 nish comments on or before November 10,
 1977. Such requests or comments must
 be filed with the Office of Hearings and
 Appeals, Hearings Division, U.S. Depart-
 ment of the Interior, 4015 Wilson Boule-
 vard, Arlington, Va. 22203. Copies of the

petition are available for inspection at
 that address.

DAVID TORBETT,
 Acting Director, Office of
 Hearings and Appeals.

SEPTEMBER 30, 1977.

[FR Doc. 77-29651 Filed 10-7-77; 8:45 am]

[7035-01]

INTERNATIONAL TRADE COMMISSION

[337-TA-30]

CERTAIN DISPLAY DEVICES FOR PHOTOGRAPHS AND THE LIKE

Order Concerning Procedure for Commission Action

Notice is hereby given that—

On August 31, 1977, the Presiding Of-
 ficer in investigation No. 337-TA-30
 [Certain Display Devices for Photo-
 graphs and the Like], an investigation
 being conducted by the United States
 International Trade Commission under
 the authority of section 337 of the Tariff
 Act of 1930, issued his recommended de-
 termination that:

1. The Commission determine that there
 is a violation of section 337 in the importa-
 tion or sale in the United States of display
 devices for photographs and the like meeting
 the claims of U.S. Letters Patent 3,774,332;
 and, further

2. The Commission grant complainant's
 and the investigative staff's motion for sum-
 mary determination [Motion Docket No.
 30-5] under Commission rule 210.50 on all
 issues; and, further

3. The Commission dismiss certain enu-
 merated respondents in the investigation for
 the reason that they are not presently im-
 porting infringing products, or were not ef-
 fectively served.

The Presiding Officer has certified the
 evidentiary record to the Commission for
 its consideration. Copies of the Presid-
 ing Officer's recommended determina-
 tion may be obtained by interested per-
 sons by contacting the Office of the Sec-
 retary to the Commission, 701 E Street
 NW., Washington, D.C. 20436, telephone
 202-523-0161.

The United States International Trade
 Commission will hold a hearing begin-
 ning at 10 a.m., e.d.t., October 31, 1977,
 in the Commission's Hearing Room,
 Room 331, 701 E Street NW., Washing-
 ton, D.C., for the purpose of (1) hearing
 oral argument with respect to the recom-
 mended determination of the presiding
 officer concerning whether, in this mat-
 ter, there is a violation of section 337 of
 the Tariff Act of 1930; (2) hearing oral
 argument concerning appropriate relief
 in the event that the Commission deter-
 mines that there is a violation of section
 337, and determines that there should be
 relief; and (3) receiving information
 and hearing oral argument, as provided
 for in § 210.14(a) of the Commission's
 Rules of Practice and Procedure [19 CFR
 210.14(a)], concerning relief and the
 public interest factors set forth in sec-
 tions 337(d) and (f) of the Tariff Act of
 1930 which the Commission is to con-

sider in the event it determines there is
 a violation of section 337 and determines
 that there should be relief.

For the purpose of this hearing, par-

reason to believe the new facility is be-
 ing established with the intention of
 closing down an operating facility.

The Act also prohibits such assistance

3. The potential effect of the new fa-
 cility upon the local labor market, with
 particular emphasis upon its potential
 impact upon competitive enterprises in

ments received will be available for pub-
 lic inspection in the Public Documents
 Room of Pension and Welfare Benefit
 Programs, U.S. Department of Labor,

arate accounts. Life insurance compan-
 ies issue contracts that contain provi-
 sions for allocating amounts received
 under the contracts to separate ac-

action provisions which bar an employee
 benefit plan from engaging in certain
 specified transactions, among others,
 loans, leases, sales, or exchanges of prop-

sider in the event it determines there is a violation of section 337 and determines that there should be relief.

For the purpose of this hearing, parties wishing to make oral argument with respect to the recommended determination shall be limited to no more than 30 minutes time per party, 10 minutes of which may be reserved by complainant for rebuttal; and parties wishing to make oral argument with respect to relief shall be limited to no more than 15 minutes time per party.

The Commission will receive information and hear oral argument concerning relief and the public interest factors from all parties and interested persons and agencies. Each participant will be limited to no more than 30 minutes time in making his or her presentation, and each participant will be permitted an additional 5 minutes time for closing arguments after all of the 30 minute presentations have been concluded.

Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington no later than the close of business October 26, 1977. Requests should indicate the part of the hearing (i.e., with respect to the recommended determination; relief; or relief and the public interest) in which the requesting person desires to participate.

Notice of the Commission's institution of the investigation was published in the FEDERAL REGISTER of February 18, 1977 [42 FR 10073-10074].

Issued: October 5, 1977.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc.77-29716 Filed 10-7-77;8:45 am]

[4510-30]

DEPARTMENT OF LABOR

Employment and Training Administration EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no

reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.

Applications received during the week ending Oct. 7, 1977

Name of applicant	Location of enterprise	Principal product or activity
Crushed Aggregates, Ltd.	New Haven, Conn.	Manufacture of railroad ties—concrete.

[FR Doc.77-29777 Filed 10-7-77;8:45 am]

[4510-26]

Occupational Safety and Health Administration REGULATION OF TOXIC AND HAZARDOUS SUBSTANCES

Interagency Agreement

CROSS REFERENCE: For the text of an interagency agreement among the Consumer Product Safety Commission, the Environmental Protection Agency, the Food and Drug Administration, Department of Health, Education, and Welfare, and the Occupational Safety and Health Administration, Department of Labor on the regulation of toxic and hazardous substances, see FR Doc. 77-29605, appearing under the Environmental Protection Agency in the Notices section of this FEDERAL REGISTER.

[4830-01]

Pension and Welfare Benefit Programs DEPARTMENT OF THE TREASURY Internal Revenue Service

CERTAIN TRANSACTIONS INVOLVING INSURANCE COMPANY POOLED SEPARATE ACCOUNTS REQUESTED BY AMERICAN COUNCIL OF LIFE INSURANCE AND OTHERS (APPLICATION NO. D-039)

Pendency of Proposed Class Exemption
AGENCIES: Department of Labor; Department of the Treasury Internal Revenue Service.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 6th day of October 1977.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

ACTION: Notice of pendency of exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor and the Internal Revenue Service (hereinafter collectively referred to as the Agencies) of a proposed class exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed class exemption would exempt prospectively and retroactively to January 1, 1975, certain transactions engaged in by insurance company pooled separate accounts in which an employee benefit plan or plans have an interest, if certain specified conditions are met and would exempt certain holdings by employee benefit plans of employer securities and employer real property if specified conditions are met. The proposed exemption, if granted, would affect participants and beneficiaries of employee benefit plans, their employers, insurance company separate accounts, and other persons engaging in the described transactions.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 10, 1977.

ADDRESS: Send comments and requests for a hearing (at least six copies) to: Office of Regulatory Standards and Exemptions, Pension and Welfare Benefit Programs, Room C-4526, U.S. Department of Labor, Washington, D.C. 20216, Attention: Application No. D-039. The application for exemption and the com-

ments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Mary S. Champagne of the Department of Labor, 202-523-8299, or Carol D. Gold of the Internal Revenue Service, 202-566-6761. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Agencies of an application filed jointly by the American Council of Life Insurance, The Prudential Life Insurance Co. of America, The Equitable Life Assurance Society of the United States, John Hancock Mutual Life Insurance Co., and Connecticut General Life Insurance Co. (hereinafter collectively referred to as the applicants) for a class exemption from the restrictions of sections 406 and 407(a) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code. The application was filed pursuant to section 408(a) of the Act and section 4975(c) (2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722. The application contains representations with regard to the pending class exemption, which are summarized below. Interested persons are referred to the application on file with the Agencies for the complete representations of the applicants.

In general, the applicants represent that numerous transactions engaged in by an insurance company pooled separate account in which an employee benefit plan has an interest might constitute prohibited transactions under sections 406 and 407(a) of the Act and section 4975(c) (1) of the Code if the assets of the separate account are considered to be plan assets.¹ Although it is the view of the applicants that the assets of pooled separate accounts are not plan assets for purposes of the fiduciary responsibility and prohibited transaction provisions of the Act and the Code, the Agencies have rejected this view.² Accordingly, the applicants have applied for the proposed class exemption set forth herein.

The applicants represent that separate accounts are established and maintained by insurance companies pursuant to the provisions of state laws relating to sep-

¹ The term "separate account" is defined in section 3(17) of the Act as "an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company."

² See section 401(b) (2) (B) of the Act and section 4975(g) (1) of the Code.

arate accounts. Life insurance companies issue contracts that contain provisions for allocating amounts received under the contracts to separate accounts. The principal feature of contracts funded by a separate account is that the contract holder, not the insurance company, bears the investment risk with respect to the assets held in the separate account. The results of favorable or adverse investment experience, including changes in the market value of the assets, are periodically credited or charged to the accounts of the contract holders and, in the case of a variable annuity, are reflected in the annual amounts paid to the annuitant.

The applicants further represent that most life insurance company separate account assets are held in pooled accounts. A pooled account holds assets which fund obligations under several contracts, the holders of which have interests or units of participation in the pooled account. Pooled separate accounts used by tax qualified plans would be investment companies subject to registration and regulation under the Investment Company Act of 1940, but for the exception set forth in section 3(c) (11) of that Act. Under that section, a separate account is not an investment company if all of its assets are derived from contributions of pension or profit-sharing plans meeting the requirements of section 401 of the Code or the requirements for deduction of employer contributions of section 404(a) (2) of the Code and advances made by an insurance company in connection with the operation of the separate account.³

The applicants state that pooled separate accounts typically are distinguishable from each other by investment objective and, consequently, by types of assets which are purchased and held for investment. Pooled separate accounts may invest in, among other things, stocks and publicly traded debt obligations, real estate equity interests and debt obligations that are not publicly traded. The applicants represent that life insurance company pooled separate accounts often make major investments in the 500 to 1000 largest U.S. corporations through the purchase of equity and debt obligations of these corporations. Additionally, real property owned by pooled separate accounts may be leased to these corporations. The pension funds of these same 500 to 1000 companies are the principal purchasers of contracts funded by life insurance company pooled separate accounts.

Section 406(a) (1) of the Act and section 4975(c) (1) (A), (B), (C), and (D) of the Code contain prohibited trans-

³ Section 3(a) (2) of the Securities Act of 1933 exempts from the provisions of that Act any interest or participation in a separate account which interest or participation is issued in connection with certain stock bonus, pension or profit-sharing plans qualified under section 401 of the Code, or annuity plans which meet the requirements for the deduction of employer contributions under section 404(a) (2) of the Code.

action provisions which bar an employee benefit plan from engaging in certain specified transactions, among others, loans, leases, sales, or exchanges of property or provision of services, whether direct or indirect, with a party in interest (or disqualified person). Sections 406(a) (2) and 407(a) of the Act prohibit certain acquisitions and holdings by an employee benefit plan of employer securities and employer real property. The term "employer security" is defined in section 407(d) (1) as a security issued by an employer of employees covered by the plan, or by an affiliate of the employer. The term "employer real property" is defined in section 407(d) (2) as real property (and related personal property) which is leased to an employer of employees covered by the plan, or to an affiliate of the employer.

Section 406(b) of the Act and section 4975(c) (1) (E) and (F) of the Code prohibit a fiduciary with respect to a plan from engaging in certain types of self-dealing and conflicts of interest described in those sections. The term fiduciary is defined in section 3(21) of the Act and section 4975(e) (3) of the Code; an insurance company maintaining a separate account in which an employee benefit plan invests is a fiduciary with respect to the employee benefit plan. The term party in interest, which is defined in section 3(14) of the Act, and the term disqualified person, which is defined in section 4975(e) (2) of the Code, include, among others, employers any of whose employees are covered by the plan.

Accordingly, because assets held in a separate account to fund obligations under contracts purchased by employee benefit plans are plan assets, numerous transactions between an insurance company pooled separate account in which a plan has an interest and a party in interest (or disqualified person) with respect to that plan will be prohibited under sections 406 and 407(a) of the Act and section 4975 of the Code.

The applicants state that the application of the prohibited transaction rules to these transactions would be likely to restrict seriously potential high-quality investments for pooled separate accounts and impede plans from placing funds with pooled separate accounts. The application states that these transactions recur on a continuous basis and that undoubtedly transactions of the type described have occurred after January 1, 1975, the effective date of the prohibited transaction provisions. Thus, the applicants have requested a class exemption effective for periods on and after January 1, 1975. Life insurance companies intend to enter into transactions of the type described in the application in the future if the class exemption is granted.

In support of the requested class exemption, the applicants represent that the transactions described in the application are customary in the sense that life insurance companies managing pooled separate accounts do not ordinarily distinguish between participating

contract holders and others as potential

company or its affiliate to provide real

(2) The exemptions proposed in sec-

at the time of the transaction, acqui-

ployer securities or employer real prop-

plan shall be considered to own the same

contract holders and others as potential lessees, borrowers, providers of services, etc. Instead, in making investment and other decisions, life insurance companies search for the best yield commensurate with sound investment risks. The application states that denial of the requested exemption would virtually preclude large, multile employer plans from participating in some pooled separate accounts.

The applicants represent that the proposed class exemption is in the interests of plans and of their participants and beneficiaries. In this regard, the applicants believe that it is vital that private pension plans and their participants have available for prudent use as many optional methods of obtaining sound investments as possible. It is equally important that pooled separate accounts in which plans participate not be needlessly subject to restrictions that are burdensome to administer, thereby unnecessarily increasing expenses of administration and impairing the investment flexibility of the accounts.

SCOPE OF THE PROPOSED EXEMPTION

In general, where a plan's participation in a pooled separate account does not exceed a specified percentage of the total assets in the pooled separate account, the proposed exemption would permit the pooled separate account to engage in transactions which otherwise might be prohibited under sections 406 and 407(a) of the Act and section 4975(c)(1) of the Code with persons who are parties in interest (disqualified persons) with respect to the plan. Certain transactions involving multiple employer plans and certain acquisitions and holdings of employer real property and employer securities by pooled separate accounts which do not meet the requirements of the basic exemption may, nevertheless, be exempt if other specified conditions are met. The basic exemption also exempts certain acquisitions or holdings by employee benefit plans of qualifying employer real property or qualifying employer securities in excess of the ten percent limitation of section 407(a) of the Act.

In addition to the basic exemption, three specific exemptions are proposed which cover certain transactions engaged in by pooled separate accounts. The first would permit the pooled separate account to engage in transactions involving the furnishing of goods in connection with real property investments and the leasing of real property between the pooled separate account and persons who are parties in interest (disqualified persons) with respect to a plan which has an interest in the pooled separate account. If the amount involved in the transaction does not exceed a specified amount. The second exemption would exempt transactions between a pooled separate account and persons who are parties in interest (disqualified persons) with respect to a plan by virtue of being service providers. The third specific exemption would permit the insurance

company or its affiliate to provide real property management services to the pooled separate account as long as these services are provided at cost.

The applicants also requested an exemption for the furnishing of services by a regulated public utility to an insurance company pooled separate account where the regulated public utility is a party in interest with respect to an employee benefit plan which has an interest in the separate account. The Agencies have not proposed such an exemption because they believe that it is not necessary. Section 408(b)(2) of the Act and section 4975(d)(2) of the Code, and the regulations adopted thereunder, provide a statutory exemption from the prohibitions of section 406 of the Act and section 4975(c)(1) of the Code which effectively grants the applicants the relief which they seek for the provision of services and incidental goods by a regulated public utility as described above. See 29 CFR 2550.408b-2, 42 FR 32389 (June 24, 1977), and 26 CFR 54.4975d-2, 42 FR 32384 (June 24, 1977).

Nothing in the proposed exemption permits an insurance company that maintains a pooled separate account in which a plan has an interest to receive any consideration for its own account from any party dealing with the pooled separate account in connection with a transaction involving the assets of the plan. Except to the extent provided in sections I and II of the proposed exemption, nothing in the exemption permits the insurance company to (1) deal with the assets of the pooled separate account in its own interest or for its own account, or in the interest of any other separate account of the insurance company, or (2) act in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the pooled separate account or the plan.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interests of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The exemptions proposed in section I of the pending exemption do not extend to transactions prohibited under section 406(b)(1) and 406(b)(3) of the Act and section 4975(c)(1)(E) and (F) of the Code. The exemption proposed in section II of the pending exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Agencies must find that the exemption is administratively feasible, in the interests of the plan or plans and of their participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan or plans.

(4) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(5) If granted, the pending class exemption will be applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(6) All interested persons are invited to submit written comments or requests for a hearing on the pending class exemption to the address and within the time period set forth above. All comments will be made part of the record. Comments and requests should state the reasons for the person's interest in the pending class exemption. Comments received and the application for exemption will be available for public inspection at the address set forth above.

PENDING EXEMPTION

Based on the application referred to and summarized above, the Agencies have under consideration the granting of the following class exemption pursuant to the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

SECTION I—Basic exemption. Effective January 1, 1975, the restrictions of sections 406(a), 406(b)(2), and 407(a) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A), (B), (C), or (D) of the Code, shall not apply to transactions described below if the applicable conditions set forth in section III are met.

(a) **General exemption.** Any transaction between a party in interest (or disqualified person) with respect to a plan and an insurance company pooled separate account in which the plan has an interest, or any acquisition or holding by the pooled separate account of employer securities or employer real property of an employer with respect to the plan, if

at the time of the transaction, acquisition or holding—

(1) The assets of the plan (together with the assets of any other plans maintained by the same employer or employee organization) in the pooled separate account do not exceed—

(i) 10 percent of the total of all assets in the pooled separate account, if the transaction occurs prior to (date, 60 days after publication in the FEDERAL REGISTER of the grant of this exemption); (ii) or

5 percent of the total of all assets in the pooled separate account, if the transaction occurs on or after (date, 60 days after the publication in the FEDERAL REGISTER of the grant of this exemption), and

(2) The party in interest (or disqualified person) is not the insurance company which holds the plan assets in its pooled separate account, any other separate account of the insurance company, or any affiliate of the insurance company.

(b) **Multiple employer plans exemption.** Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiple employer plan and an insurance company pooled separate account in which the plan has an interest, or any acquisition or holding by the pooled separate account of employer securities or employer real property of the employer, if at the time of the transaction, acquisition or holding—

(1) In the case of a transaction occurring prior to (date, 60 days after publication of the grant of the exemption), the employer is not a substantial employer with respect to the plan (within the meaning of section 4001(a)(2) of the Act); or

(2) In the case of a transaction occurring on or after (date, 60 days after publication in the FEDERAL REGISTER of the grant of this exemption),

(i) The assets of the multiple employer plan in the pooled separate account do not exceed 10 percent of the total assets in the pooled separate account, and the employer is not a substantial employer with respect to the plan (within the meaning of section 4001(a)(2) of the Act); or

(ii) The assets of the multiple employer plan in the pooled separate account exceed 10 percent of the total assets in the pooled separate account, and the employer would not be a substantial employer with respect to the plan within the meaning of section 4001(a)(2) of the Act if "5 percent" were substituted for "10 percent" in that definition.

(c) **Excess holdings exemption for employee benefit plans.** Any acquisition or holding of qualifying employer securities or qualifying employer real property by a plan (other than through a pooled separate account) if—

(1) The acquisition or holding contravenes the restrictions of sections 406(a)(2) and 407(a) of the Act solely by reason of being aggregated with em-

ployer securities or employer real property held by an insurance company pooled separate account in which the plan has an interest, and

(2) The requirements of either paragraph (a) or paragraph (b) of this section are met.

(d) **Employer securities and employer real property.** Any acquisition or holding of employer securities or employer real property by the insurance company pooled separate account which does not meet the requirements of paragraphs (a) or (b) of this section, if no commission is paid to the insurance company or any person who is an affiliate of the insurance company or to the employer or any affiliate of the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property, and—

(1) In the case of employer real property—

(i) Each parcel of employer real property and the improvements thereon held by the pooled separate account are suitable (or adaptable without excessive cost) for use by different tenants, and

(ii) The property of the pooled separate account, which is leased or held for lease to others, in the aggregate, is dispersed geographically.

(2) In the case of employer securities—

(i) The employer security is a bond, debenture, note, certificate, or other evidence of indebtedness (such security is hereinafter referred to as an "obligation");

(ii) The insurance company in whose pooled separate account the obligation is held is not an affiliate of the issuer of the obligation, and either

(iii) The pooled separate account already owns the obligation at the time the plan acquires an interest in the separate account and interests in the pooled separate account are offered and redeemed in accordance with valuation procedures of the pooled separate account applied on a uniform or consistent basis, or

(iv) Immediately after acquisition of the obligation: (A) Not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by the plan, and (B) at least 50 percent of the aggregate amount referred to in (A) is held by persons independent of the issuer. The insurance company, its affiliates and any separate account of the insurance company shall be considered persons independent of the issuer: *Provided*, That the insurance company is not an affiliate of the issuer.

Provided, That, in the case of any plan which is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), immediately after such acquisition the aggregate fair market value of employer securities and employer real property owned by the plan does not exceed 10 percent of the fair market value of the assets of the plan. For purposes of compliance with the conditions imposed by this paragraph, each

plan shall be considered to own the same fractional share of each asset (or portion thereof) in the pooled separate account as its fractional share of total assets in the pooled separate account on the most recent preceding valuation date of the account.

Sec. II—Specific exemptions. Effective January 1, 1975, the restrictions of section 406(a) and 406(b)(1) and (2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A), (B), (C), (D) or (E) of the Code shall not apply to the transactions described below provided that the conditions of section III are met.

(a) **Small leases and goods.** The furnishing of goods to an insurance company pooled separate account by a party in interest (or disqualified person) with respect to the plan, which plan has an interest in the pooled separate account, or the leasing of real property of the pooled separate account to a party in interest (or disqualified person), if—

(1) In the case of goods, they are furnished to the pooled separate account in connection with the real property investments of the pooled separate account;

(2) The party in interest (or disqualified person) is not the insurance company, any other pooled separate account of the insurance company, or an affiliate of the insurance company; and

(3) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the pooled separate account with the same party in interest (or disqualified person), or any affiliate thereof) does not exceed the greater of \$25,000 or .025 percent of the fair market value of the assets of the pooled separate account on the most recent valuation date of the account prior to the transaction.

(b) **Transactions with persons who are parties in interest to the plan by virtue of being service providers.** Any transaction between an insurance company pooled separate account and a person who is a party in interest (or disqualified person) with respect to a plan, which plan has an interest in the pooled separate account, if—

(1) The person is a party in interest (or disqualified person) (including a fiduciary) by reason of providing services to the plan, or by reason of a relationship to a service provider described in section 3(14)(F), (G), (H), or (I) of the Act (or section 4975(e)(2)(F), (G), (H), or (I) of the Code), and the person exercised no discretionary authority, control, responsibility, or influence with respect to the investment of plan assets in the pooled separate account and has no discretionary authority, control, responsibility, or influence with respect to the management or disposition of the plan assets held in the pooled separate account; and

(2) The person is not an affiliate of the insurance company.

(c) *Management of real property.* Any services provided to an insurance company pooled separate account (in which a plan has an interest) by the insurance company or its affiliate in connection with the management of the real property investments of the pooled separate account, if the compensation paid to the insurance company or its affiliate for the services does not exceed the cost of the services to the insurance company or its affiliate.

Sec. III. *General conditions.* (a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of the insurance company, the terms of the transaction are not less favorable to the pooled separate account than the terms generally available in arm's length transactions between unrelated parties.

(b) The insurance company maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the insurance company, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest or disqualified persons shall be subject to the civil penalty which may be assessed under section 502(d) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c) Notwithstanding anything to the contrary in subsections (a) (2) and (b) of section 504 of the Act, the records referred to in paragraph (b) are unconditionally available at their customary location for examination during normal business hours by (1) the Department of Labor, (2) the Internal Revenue Service, (3) except for trade secrets or commercial or financial information which is privileged or confidential, any fiduciary of a plan who has authority to acquire or dispose of the interests of the plan in the separate account, any contributing employer to the plan, and any participant or beneficiary of the plan, and (4) any duly authorized employees or representatives of a person described in (1) through (3) of this paragraph.

Sec. IV.—*Definitions.* For purposes of sections I through IV above.

(a) The term "multiple employer plan" means an employee benefit plan which satisfies at least the requirements of section 3(37) (A) (i), (ii), and (v) of the Act and section 414(f) (1) (A), (B), and (E) of the Code.

(b) An "affiliate" of a person includes—

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, partner, employee (including, in the case of an insurance company, any representative thereof, whether or not such person is a common law employee of the insurance company), or relative of such persons; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e) (6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(e) Generally, the time as of which any transaction, acquisition, or holding occurs for purposes of this exemption is the date upon which the transaction is entered into (or the acquisition is made) and the holding commences. Thus, for purposes of this exemption, if any transaction is entered into, or an acquisition is made, on or after January 1, 1975, or a renewal which requires the consent of the insurance company occurs on or after January 1, 1975, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, or at the time the acquisition is made or renewed, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the securities or property so acquired. This exemption also applies to any transaction or acquisition entered into, or holding commencing, prior to January 1, 1975, if either the requirements of this exemption would have been satisfied on the date the transaction was entered into or acquisition was made (or on which the holding commenced), or the requirements would have been satisfied on January 1, 1975, if the transaction had been entered into, acquisition was made, or if the holding had commenced, on January 1, 1975. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of section I(a) above at such time as the interest of the plan in the pooled separate account exceeds the percentage interest limitation of section I(a), if the excess results solely from an increase in the amount of consideration allocated to the pooled separate account by the plan.

Signed at Washington, D.C., this 5th day of October 1977.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, United States Department of Labor.

ALVIN D. LURIE,
Assistant Commissioner, Employee Plans and Exempt Organizations, Internal Revenue Service.

[FR Doc. 77-29733 Filed 10-6-77; 9:33 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR PUBLIC UNDERSTANDING OF SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Public Understanding of Science.

Date and time: October 27, 1977—2 p.m. to 5 p.m.; October 28, 1977—9 a.m. to 5 p.m.

Place: Room 651, National Science Foundation, 5225 Wisconsin Avenue NW., Washington, D.C. 20550.

Type of meeting: Part open: October 27, 1977—Open, October 28, 1977—Closed.

Contact person: Mr. George W. Tressel, Program Director, Public Understanding of Science, Office of Science and Society, National Science Foundation, Washington, D.C. 20550, telephone (202) 282-7770.

Purpose of panel: To provide advice and recommendations concerning direction and priorities for Public Understanding of Science Program. To provide advice and recommendations concerning support for projects in Public Understanding of Science.

Agenda: Review 1977 grants. Review and evaluate proposals as part of the selection process of awards. Thursday, October 27 (open), 2-3 p.m. Review of grants made in fiscal year 1977; 3-5 p.m. Discussion of PUOS future program plans. Friday, October 28 (closed), 9 a.m. Review and evaluate proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc. 77-29659 Filed 10-7-77; 8:45 am]

[7555-01]

COMPREHENSIVE ASSISTANCE TO UNDERGRADUATE SCIENCE EDUCATION (CAUSE)

Project Directors' Meeting

A project directors' meeting will be held from 7:30 p.m. to 9 p.m., on October 27, 1977, and from 8:30 a.m. to 5 p.m. on October 28-29, 1977 at the Sheraton Park Hotel, 2660 Woodley Road NW., Washington, D.C.

The purpose of this meeting is to give project directors of the Comprehensive Assistance to Undergraduate Science Education program an opportunity to become better informed regarding appropriate methods for conducting internal project evaluation and to allow the CAUSE staff to set into motion mechanisms for monitoring projects.

The meeting will be chaired by Dr. John A. Maccini. Because of space limitation, members of the public who wish to attend should call 202-282-7777 regarding attendance at any of these meetings.

WALTER L. GILLESPIE,
Director, Division of Science Education Resources Improvement.
[FR Doc. 77-29658 Filed 10-7-77; 8:45 am]

[7555-01]

FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION MANAGERS

Meeting

The next meeting of the Federal Scientific and Technical Information Managers will be held on Wednesday, October 12, 1977, from 9:30 a.m. to 12 noon, at the New Executive Office Building, 17th and H Streets NW., Washington, D.C., Conference Room 2010. The theme of this meeting will be "Major Development in Federal Information Policy."

These meetings, sponsored by the National Science Foundation, provide a forum for the interchange of information concerning common problems and coordination in the areas of Federal scientific and technical information and communications.

These meetings are designed solely for the benefit of Federal employees and officers, and do not fall under the provisions of the Federal Advisory Committee Act (P.L. 92-463). However, this meeting is believed to be of sufficient importance and interest to the public to be announced in the FEDERAL REGISTER.

Any persons wishing to attend this meeting or requiring further information should contact me, Division of Science Information, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632-5824.

LEE G. BURCHINAL,
Director.

OCTOBER 4, 1977.
[FR Doc. 77-29660 Filed 10-7-77; 8:45 am]

[7555-01]

SUBCOMMITTEE FOR THE MATHEMATICAL SCIENCES OF THE ADVISORY COMMITTEE FOR MATHEMATICAL AND COMPUTER SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee for the Mathematical Sciences of the Advisory Committee for Mathematical and Computer Sciences.

Date: October 27 and 28, 1977.

Time: 9 a.m. to 5 p.m. each day.

Place: October 27, 1977, Room 304; October 28, 1977, Room 628, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

NOTICES

Type of meeting: Part Open—Open: October 27—9 a.m.—5 p.m., October 28—10 a.m.—5 p.m., closed: October 27—9 a.m.—10 a.m. Contact person: Dr. William H. Pell, Head, Mathematical Sciences Section, Room 304, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-7377.

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in the Mathematical Sciences.

Agenda: October 27: 9-12—Open—Introductory remarks and discussions of current budget developments. 1-5—A review of NSF staff will present their program. The review team for modern analysis and probability will present its preliminary report, followed by discussion of the program and the report. October 28: 9-10—Closed—Closed for discussion of specific proposals. 10-3—Open—Long range planning discussion for the mathematical sciences, including status reports on major program thrusts, and other topics of interest to the subcommittee. 3-5—Recent progress in algebra.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc. 77-29656 Filed 10-7-77; 8:45 am]

[7555-01]

SUBCOMMITTEE ON SENSORY PHYSIOLOGY AND PERCEPTION OF THE ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Sensory Physiology and Perception of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: October 27 and 28, 1977—9 a.m. to 5 p.m. each day.

Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed. Contact person: Dr. Sherman L. Guth, Program Director, Sensory Physiology and Perception, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 634-1624.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in sensory physiology and perception.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc. 77-29657 Filed 10-7-77; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

Issuance of Amendment to Provisional Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (the facility), located in San Diego County, California. The amendment is effective of its date of issuance.

The amendment revises the Technical Specifications to (1) add a specific provision to Appendix A, Section 6.3 "Facility Staff Qualifications" requiring that the Chemical Radiation Protection Engineer shall meet or exceed the minimum qualifications of Regulatory Guide 1.8, September 1975; and (2) delete Subsection 3.1.2a(1)D, "Intertidal Studies" in Appendix B.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for deletion of the provision in the Technical Specifications relating to "Intertidal Studies" and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant envi-

ronmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendment dated May 13, 1977, (2) Amendment No. 27 to License No. DPR-13, (3) the Commission's related Environmental Impact Appraisal, and (4) the Commission's letter to Southern California Edison Company dated September 22, 1977. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Mission Viejo Branch Library, 24651 Chrisanta Drive, Mission Viejo, Calif. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd day of September 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors
Branch No. 1, Division of Operating Reactors.

[FR Doc.77-29464 Filed 10-7-77;8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON FIRE PROTECTION

Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Working Group on Fire Protection, will hold an open meeting on October 26, 1977 at the Airport Marina Hotel, 2910 Yale Blvd., SE., Albuquerque, N. Mex. 87119. The purpose of this meeting is to review the NRC Office of Nuclear Regulatory Research Fire Protection Research Program.

The agenda for subject meeting shall be as follows:

WEDNESDAY, OCTOBER 26, 1977

10:00 A.M. UNTIL CONCLUSION OF BUSINESS

The Working Group with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will meet to hear presentations by representatives of the NRC Staff and their consultants, and will hold discussions with them pertinent to this review.

At the conclusion of this session, the Working Group may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working

Group is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 copies to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than October 19, 1977, addressed to Mr. R. L. Wright, Jr., ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Working Group will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on October 25, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1919, Attn: Mr. R. L. Wright, Jr.) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be asked only by members of the Working Group, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the

meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after November 2, 1977 and January 26, 1978, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: October 4, 1977.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc.77-29588 Filed 10-7-77;8:45 am]

[7590-01]

[Docket Nos. STN 50-502 and 50-503]

WISCONSIN ELECTRIC POWER COMPANY, ET AL.

Notice of Availability of an Addendum to the Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that an Addendum to the Draft Environmental Statement (DES) prepared by the Commission's Office of Nuclear Reactor Regulation has been issued for the Koshkonong Nuclear Plant, Unit Nos. 1 and 2 located in Jefferson County, Wisconsin.

On August 4, 1977, the Wisconsin Electric Power Company advised the presiding Atomic Safety and Licensing Board that a decision had been made to relocate the proposed plant from the Koshkonong site to a site designated as Haven located in Sheboygan County, Wisconsin. As a result, the NRC Staff has ceased all review activity associated with the Koshkonong project. This Addendum to the DES is intended to present, for the information of the public, the comments received by the NRC from public and private agencies and certain individuals on the DES during the comment period.

The Addendum is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., the Dwight-Foster Public Library, P.O. Box 88, Fort Atkinson, Wis. 53538, and the Madison Public Library, Room 103-B, City-County Building, Madison, Wis. 53709. The document is also being made available at the Bureau of Planning and Budget, Wisconsin

Department of Administration, 1 West Wilson St., State Office Building, Madison, Wis. 53701.

Notice of the availability of the Commission's Draft Environmental Statement was published in the FEDERAL REGISTER on August 20, 1976 (41 FR 35213).

Single copies of the Commission's Addendum to the DES may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland this 3rd day of October 1977.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects
Branch 1, Division of Site
Safety and Environmental
Analysis.

[FR Doc.77-29589 Filed 10-7-77;8:45 am]

[7590-01]

[Docket No. 50-321]

GEORGIA POWER CO., ET AL.

Issuance of Amendment To Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 to Facility Operating License No. DPR-57 issued to Georgia Power Company, Oglethorpe Electric Membership Corporation, Municipal Electric Association of Georgia and City of Dalton, Georgia, which revised Technical Specifications for operation of the Edwin I. Hatch Nuclear Plant, Unit No. 1, located in Appling County, Georgia. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Environmental Technical Specifications which requires operation of the hydrogen monitor in the offgas system and an alarm setpoint of 4 percent hydrogen concentration by volume.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated October 1972.

For further details with respect to this action, see (1) the application for amendment dated August 2, 1977, (2) Amendment No. 44 to License No. DPR-57, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, D.C. and at the Appling County Public Library, Parker Street, Baxley, Georgia 31513. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 4th day of October 1977.

GEORGE LEAR,
Chief, Operating Reactors
Branch No. 3, Division of
Operating Reactors.

[FR Doc.77-29597 Filed 10-7-77;8:45 am]

[7590-01]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO., ET AL.

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications to increase DAEC's maximum average planar linear heat generation rates (MAPLHGR).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on July 28, 1977 (42 FR 38442). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for

amendment dated June 24, 1977, as supplemented by letter dated July 29, 1977, (2) Amendment No. 39 to License No. DPR-49, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Cedar Rapids Public Library, 426 Third Avenue SE., Cedar Rapids, Iowa 52401. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this, 30th day of September 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors
Branch No. 3, Division of Operating Reactors.

[FR Doc.77-29598 Filed 10-7-77;8:45 am]

[7590-01]

[Docket Nos. STN 50-522 and STN 50-523]

PUGET SOUND POWER & LIGHT COMPANY, ET AL. (SKAGIT NUCLEAR POWER PROJECT, UNITS 1 AND 2)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this construction permit proceeding:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Michael C. Farrar

Dated: October 3, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-29599 Filed 10-7-77;8:45 am]

[7590-01]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Issuance of Amendment To Facility Operating License and Negative Declaration

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation (the licensee) which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility), located near Vernon, Vermont. The amendment is effective as of its date of issuance.

The amendment authorizes use of once-through cooling, subject to certain limitations and monitoring requirements, for the period October 1, 1977, through

May 31, 1978, to permit the acquisition of additional environmental information on the effects of using this mode of cooling. It also conforms the license with earlier actions taken by New Hampshire and Vermont.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application dated August 8, 1977, (2) Amendment No. 38 to License No. DPR-28, and (3) the Commission's Environmental Impact Appraisal. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Brooks Memorial Library, 224 Main St., Brattleboro, Vt. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 30th day of September 1977.

For the Nuclear Regulatory Commission.

MORTON B. FAIRFIELE,
Acting Chief, Operating Reactors
Branch No. 4, Division of
Operating Reactors.

[FR Doc. 77-29600 Filed 10-7-77; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON FLUID/HYDRAULIC DYNAMIC EFFECTS Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on Fluid Hydraulic Dynamic Effects will hold an open meeting on October 26, 1977 at the Rodeway Inn, 7101 NE. 82nd Ave., Portland, Ore. 97220. The purpose of this meeting is to continue discussion on the effects of blowdown forces on reactor vessel supports.

The agenda for subject meeting shall be as follows:

WEDNESDAY, OCTOBER 26, 1977

8:30 A.M. UNTIL 8:45 A.M.

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

8:45 A.M. UNTIL CONCLUSION OF BUSINESS

The Subcommittee will meet to hear presentations by representatives of the NRC Staff, the Babcock and Wilcox Company, Combustion Engineering, and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than October 19, 1977, addressed to Dr. Richard P. Savio, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(b) Persons desiring to make an oral statement at the meeting should make

a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on October 25, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1319, Attn: Dr. Richard P. Savio) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be asked only by members of the Subcommittee, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after November 2, 1977 and January 26, 1978, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: October 4, 1977.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc. 77-29594 Filed 10-7-77; 8:45 am]

[7590-01]

[Docket No. 50-341A]

THE DETROIT EDISON CO., ET AL. Receipt of Attorney General's Advice and Time for Filing of Petitions to Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, the following additional advice from the Attorney General of the United States, dated September 30, 1977:

You have requested our further advice pursuant to Section 105c of the Atomic Energy Act of 1954, as amended, with respect to the above-cited application. By letter to you dated August 16, 1971, we rendered ad-

vice with respect to Detroit Edison Company's application to construct the Enrico Fermi Unit No. 2, 36 F.R. 17883. You have now asked us to review the application of Northern Michigan Electric Cooperative, Inc., and Wolverine Electric Cooperative, Inc. to participate in this unit. Under an agreement with Detroit Edison entered into February 8, 1977, Northern Michigan would purchase and own 11.22% of the unit and Wolverine Electric would purchase and own 8.78%.

Northern Michigan, headquartered in Boyne City, Michigan, is a generation and transmission cooperative which has three distribution cooperative members. Northern Michigan with an estimated 1977 peak load of 116 MW, is projected to quadruple its load over the next 15 years. Northern Michigan meets its bulk power requirements through a mix of small-scale self-generation and wholesale power purchases.

Wolverine, headquartered in Big Rapids, Michigan, is a generation and transmission cooperative, which has four distribution cooperative members. Wolverine, with a 1977 estimated peak load of 90 MW, is projected to triple its load over the next 15 years. Wolverine meets its bulk power requirement through a mix of small-scale self-generation and wholesale power purchases.

We have examined the information submitted by Northern Michigan and Wolverine in connection with the application, as well as other information relevant to competitive relationships in Michigan. Our review of this information has disclosed no antitrust problems which would require a hearing by your Commission on the instant application.

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a hearing on the antitrust aspects of the application. Petitions for leave to intervene and requests for hearing shall be filed by November 10, 1977, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Attention: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity
Group, Nuclear Reactor Regulation.

[FR Doc. 77-29595 Filed 10-7-77; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS -Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittee on Seismic Activity, the Skagit Nuclear Project, the Pebble Springs Nuclear Plant, and the Washington Public Power Supply System (WPPSS) Nuclear Projects, will hold a meeting on October 27 and 28, 1977 at the Rodeway Inn, 7101 NE. 82nd Avenue, Portland, Ore. 97220. The purpose of this meeting is to continue ACRS review

of regional tectonics of the Pacific Northwest and of the 1872 earthquake and the implications regarding nuclear plants in the Pacific Northwest, and to continue review of (1) the application of the Portland General Electric Co. for a permit to construct the Pebble Springs Nuclear Plant, Units 1 and 2 and (2) the application of the Puget Sound Power and Light Co. for a permit to construct the Skagit Nuclear Plant.

The agenda for subject meeting shall be as follows:

THURSDAY OCTOBER 26 AND FRIDAY, OCTOBER 27, 1977

8:30 A.M. UNTIL 9:00 A.M. EACH DAY (OPEN)

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

9:00 A.M. UNTIL CONCLUSION OF BUSINESS EACH DAY (OPEN)

The Subcommittees will meet to hear presentations by representatives of the NRC Staff, the United States Geological Survey (USGS), the Portland General Electric Co., the Puget Sound Power and Light Co., the Washington Public Power Supply System, and their consultants, and will hold discussions with these groups pertinent to this review.

The Subcommittees, in connection with the above meeting, may hold one or more open Executive Sessions with their consultants in order to explore their opinions and recommendations.

At the conclusion of these sessions, the Subcommittees may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered.

In addition, it may be necessary for the Subcommittees to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c) (4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of this meeting is empowered to conduct it in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incomplete open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering

procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 copies to Mr. Ragnwald Muller or Dr. Richard P. Savio at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy to Mr. Ragnwald Muller or Dr. Richard P. Savio, ACRS, NRC, Washington, D.C. 20555. Copies postmarked no later than October 20, 1977 will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room 1717 H Street NW., Wash., D.C. 20555; the Sedro Wooley Library, 802 Ball Avenue, Sedro Wooley, Wash. 98294 (regarding the Skagit Nuclear Plant); the records Office, City Hall, Arlington, Ore. 97812 (regarding the Pebble Springs Nuclear Plant); the Richland Public Library, Swift and Northgate Streets, Richlands, Wash. 99352 (regarding WPPSS 1, 2, and 4 Nuclear Plants); and the W. H. Abel Memorial Library, 125 Main Street, South, Montesano, Wash. 98563 (regarding WPPSS 3 and 5 Nuclear Plants).

(b) Persons desiring to make an oral statement at the meeting should make a request to do so prior to the meeting, identifying the topics and desired presentation time so that appropriate arrangements can be made. The Subcommittees will receive oral statements on topics relevant to their purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefore can be obtained by a prepaid telephone call on October 25, 1977 to the Office of the Executive Director of the Committee (Attention: Mr. Ragnwald Muller, telephone 202/634-1413 or Dr. Richard P. Savio, telephone 202/634-1919) between 8:15 a.m. and 5 p.m., EST.

(d) Questions may be asked only by members of the Subcommittees, their consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and

after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Ragnwald Muller or Dr. Richard P. Savio, of the ACRS office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portions of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after November 4, 1977 and January 30, 1978, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555; the Sedro Wooley Library, 802 Ball Avenue, Sedro Wooley, Wash. 98294 (regarding the Skagit Nuclear Plant); the Records Office, City Hall, Arlington, Oreg. 97812 (regarding the Pebble Springs Nuclear Plant); the Richland Public Library, Swift and Northgate Streets, Richland, Wash., (regarding WPPSS 1, 2, and 4 Nuclear Plants); and the W. H. Able Memorial Library, 125 Main Street, South, Montezano, Wash. 98563 (regarding WPPSS 3 and 5 Nuclear Plants).

Copies may be obtained upon payment of appropriate charges.

Dated: October 4, 1977.

JOHN C. HOYLE,
Advisory Committee
Management Officer.

[FR Doc 77-29596 Filed 10-7-77; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5128]

CHICKASAW CAPITAL CORP.

Issuance of License to Operate as a Small Business Investment Company

On June 2, 1977, a notice was published in the FEDERAL REGISTER (42 FR 28197) stating that Chickasaw Capital Corporation, located at 67 Madison Avenue, Memphis, Tenn. 38147, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1977) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business June 17, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 04/04-5128 to Chickasaw Capital Corporation, on August 30, 1977, to operate as a small business investment company, pursuant to section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 29, 1977.

PETER F. McNEISH,
Deputy Associate Administrator
for Investment.

[FR Doc.77-29617 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area 1353
Amdt. 1]

FLORIDA

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 40802), is amended by extending the termination date for filing for physical damage until the close of business on December 30, 1977. The termination date for economic injury is June 30, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29618 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area 1372]

ILLINOIS

Declaration of Disaster Loan Area

Cumberland and Shelby Counties and adjacent counties within the State of

Illinois constitute a disaster area as a result of damage caused by severe storms, tornadoes, high winds, and heavy rains which occurred on August 21, 1977. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 17, 1977, and for economic injury until the close of business on June 16, 1978, at:

Small Business Administration, District Office, 219 South Dearborn Street, Chicago, Ill. 60604.

Small Business Administration, Branch Office, Illinois National Bank Building, One North Old State Capitol Plaza, Springfield, Ill. 62701.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29619 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1285;
Amdt. 1]

MICHIGAN

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 6434), is amended by extending the filing date for physical damage until the close of business on November 30, 1977, and for economic injury until the close of business on March 31, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29620 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1308;
Amdt. 2]

MICHIGAN

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 17930), and Amendment No. 1 (See 42 FR 39173) are amended by extending the filing date for physical damage until the close of business on November 30, 1977, and for economic injury until the close of business on March 31, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29621 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1316;
Amdt. 1]

MICHIGAN

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 21340), is amended by extending the filing date for physical damage until the close of business on November 30, 1977, and for economic injury until the close of business on March 31, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29622 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1373]

MINNESOTA

Declaration of Disaster Loan Area

Hennepin County and adjacent counties within the State of Minnesota constitute a disaster area as a result of damage caused by torrential rainfall and flooding which occurred on August 30, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 17, 1977, and for economic injury until the close of business on June 16, 1978, at:

Small Business Administration, District Office, Plymouth Building, Room 530, 12 South Sixth St., Minneapolis, Minn. 55402.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29623 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1375]

MISSOURI

Declaration of Disaster Loan Area

As a result of the President's declaration of September 14, 1977, and Federal Disaster Assistance Administration's designation of Clay, Jackson, Lafayette, Platte and Ray counties within the State of Missouri, I find that these counties constitute a disaster area because of damage resulting from severe storms and flooding beginning about September 11, 1977. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above-named counties, and adjacent counties within the State of Missouri. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 14, 1977, and for economic

injury until the close of business on June 14, 1978, at:

Small Business Administration, District Office, 12 Grand Building, 5th Floor, 1150 Grand Ave., Kansas City, Mo. 64106.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: September 22, 1977.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc.77-29624 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1378]

TENNESSEE

Declaration of Disaster Loan Area

The Counties of Franklin, Giles, Hamilton, Hardeman, Haywood, Lauderdale, Lincoln, Maury, Moore and adjacent counties within the State of Tennessee, constitute a disaster area as a result of drought which caused severe crop losses during the 1976 crop year and continuing into the 1977 crop year. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on December 30, 1977 and for economic injury until the close of business on June 28, 1978 at:

Small Business Administration, District Office, Parkway Towers Room 1012, 404 James Robertson Parkway, Nashville, Tenn. 37219.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 28, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29625 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area
No. 1381]

WISCONSIN

Declaration of Disaster Loan Area

Oneida County and adjacent counties within the State of Wisconsin, constitute a disaster area as a result of drought, causing dry wells, which occurred June 17, 1976 through September 9, 1977. Eligible persons, firms and organizations may file applications for physical damage until the close of business on November 28, 1977 and for economic injury until the close of business on June 29, 1978 at:

Small Business Administration, District Office, 122 West Washington Ave., Room 700, Madison, Wis. 53703.

Small Business Administration, Post-of-Duty Station, Federal Office Bldg. and U.S. Courthouse, 500 South Barstow St., Room B9AA, Eau Claire, Wis. 54701.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29626 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1383]

WISCONSIN

Declaration of Disaster Loan Area

Marathon County and adjacent counties within the State of Wisconsin constitute a disaster area because of physical damage resulting from a tornado which occurred on August 31, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 28, 1977, and for economic injury until the close of business on June 29, 1978, at:

Small Business Administration, District Office, 122 West Washington Ave., Room 700, Madison, Wis. 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29627 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1379]

WISCONSIN

Declaration of Disaster Loan Area

The downtown business district on Main Street in the City of Waupun, Fond du Lac County, Wis., constitutes a disaster area because of damage resulting from a fire which occurred on September 7, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 28, 1977 and for economic injury until the close of business on June 28, 1978 at:

Small Business Administration, District Office, 122 West Washington Ave., Madison, Wis. 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 27, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29628 Filed 10-7-77; 8:45 am]

[4710-01]

[Public Notice CM-7/117]

DEPARTMENT OF STATE

SHIPPING COORDINATING COMMITTEE,
SUBCOMMITTEE ON SAFETY OF LIFE
AT SEA

Notice of Meeting

The Panel on Bulk Cargoes of the working group on Subdivision and Stability, a part of the Subcommittee on Safety of Life at Sea (SOLAS) of the Shipping Coordinating Committee (SHC), will conduct an open meeting at 10 a.m., Monday, November 1, 1977, in Suite 2737 of the National Cargo Bureau, Inc., One World Trade Center, New York, N.Y. 10048.

The purpose of the meeting is to review the report of the last session of the Subcommittee on Containers and Cargoes of the Intergovernmental Maritime Consultative Organization (IMCO).

Requests for further information should be directed to Mr. Edward H. Middleton, United States Coast Guard, Washington, D.C., telephone: (area code 202) 426-2170, or Capt. S. Fraser Sammis, National Cargo Bureau, Inc., New York, N.Y., telephone: (area code 212) 432-1230.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, JR.,

Acting Director,

Office of Maritime Affairs.

SEPTEMBER 30, 1977.

[FR Doc.77-29654 Filed 10-7-77;8:45 am]

[4710-01]

[Public Notice CM-7/118]

STUDY GROUP 3 OF THE U.S. NATIONAL
COMMITTEE FOR THE INTERNATIONAL
TELEGRAPH AND TELEPHONE CON-
SULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces that Study Group 3 of the U.S. National Committee for the International Telegraph and Telephone Consultative Committee (CCITT) will hold a meeting November 1, 1977 at 2 p.m. in Room 1406, Department of State, 2201 C Street NW., Washington, D.C.

Study Group 3 is responsible for considering U.S. Government and Industry views, and preparing contributions as appropriate, for meetings of those international CCITT Study Groups examining non-regulatory aspects of telegraph and telephone operations.

The purpose of the meeting on November 1 will be to discuss questions relating to analogue and digital equipment for facsimile telegraphy, and to consider views to be put forward at a meeting of CCITT Study Group XIV to be held in Geneva, Switzerland November 14-18, 1977.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the

Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to October 26, 1977, members of the general public who plan to attend the meeting inform Mr. Arthur L. Freeman, Office of International Communications Policy, Department of State, telephone 202-632-1007, of their intention. All non-Government attendees must use the C Street entrance to the building.

Dated: September 29, 1977.

ARTHUR L. FREEMAN,

Chairman,

U.S. National Committee.

[FR Doc.77-29655 Filed 10-7-77;8:45 am]

[4710-02]

Agency for International Development

PROVISION OF PESTICIDES TO SAHEL
REGION OF AFRICA

Waiver of Certain Requirements

On August 22, 1977, the Agency for International Development (A.I.D.) pro-

vided notice in the FEDERAL REGISTER (42 FR 42272) of the intention to waive certain requirements for provision of pesticides as set forth in the Interim Pesticide Procedures ("Interim Regulations") published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1297). The reasons for the waiver were set forth in the notice, and the public was requested to provide comments on or before September 12, 1977.

In response, the Environmental Defense Fund and the National Audubon Society objected to A.I.D.'s financing the procurement of the pesticide lindane for use on the crops sorghum and millet. No other comments have been received.

For the reasons set forth in the above mentioned notice published in the FEDERAL REGISTER on August 22, 1977 (42 FR 42272) and having taken into consideration the comments of the Environmental Defense Fund and the National Audubon Society, I approve, under section (a) of the Interim Regulations, the financing by A.I.D. of the following pesticides and uses and I determine that the benefits of using such pesticides for the purposes intended outweigh the potential adverse effects and that no preferable alternative is available:

Crop	Pesticide	Pests
Maize	Diazinon, malathion, malathion, trichlorfon	Heliothis armigera-corn ear worm, sesamia calamistis-stem borer, sesamia botropha-stem borer, chilo oryzae-cockle-bush worm of bud worm, buscola fusca-stem borer
Cowpeas	Diazinon	Acanthosoma horrida-plant bug, acanthosoma tomentosus-plant bug, helopeltis schoutedeni-plant bug, tenebrio sp. leaf-feeding beetle, Mylabris sp. leaf-feeding beetle
Groundnuts	Diazinon, malathion, trichlorfon	Spodoptera littoralis-leaf worm, Aleochara dentipes-weevil, systates spp.-weevil, Heliothis armigera-leaf worm, Maruca testulalis-stem borer
Rice	Malathion	Chaetognema pulla-beetle, sesselia pusilla-beetle, trichipsa sricana, Africa rice hispa, diopis thornia-castor-borer, chiloartellus spp.-maize borer
Sorghum	Diazinon, dinathion, malathion	Buscola spp.-stem borers, Sesamia spp.-stem borers, atherigona spp.-sorghum shoot fly, masalia species-leaf feeding caterpillars
Millet	Sesamia sorghum	Sesamia sorghum
Wasteland	Fenitrothion	African migratory locust, Grasshoppers

This determination has been made in consultation with the Environmental Protection Agency as required under Section (b) of the Interim Regulations.

Dated: September 28, 1977.

JOHN J. GILLIGAN,

Administrator,

Agency for International Development.

[FR Doc.77-29613 Filed 10-7-77;8:45 am]

[4910-14]

DEPARTMENT OF
TRANSPORTATION

Coast Guard

[77-186]

SHIP STRUCTURE SUBCOMMITTEE

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Subcommittee to be held Thursday, October 27, 1977 at 10:00 a.m. in the

Conference Room, 23d Floor, American Bureau of Shipping, 55 Broad Street, New York, N.Y. The agenda for this meeting is as follows: The research program in sea structures for the next fiscal year will be formulated; the status of current research projects will be reviewed.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from LCDR T. H. Robinson, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20590 (202-426-2205). Any member of the public may present a written statement to the Committee at any time.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard,
Chief, Office of Merchant Ma-
rine Safety.

[FR Doc.77-29708 Filed 10-7-77;8:45 am]

[4910-14]

[77-187]

SHIP STRUCTURE COMMITTEE

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Committee to be held Friday, October 28, 1977 at 9:30 a.m. in the Conference Room, 23d Floor, American Bureau of Shipping, 55 Broad Street, New York, N.Y. The agenda for this meeting is as follows: To discuss present and future operations and research programs of the Committee.

Attendance is open to the interested public. With the Approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from LCDR T. H. Robinson, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20590 (202-426-2205). Any member of the public may present a written statement to the Committee at any time.

W. M. BENKERT,
Rear Admiral, U.S. Coast Guard
Chief, Office of Merchant Ma-
rine Safety.

[FR Doc.77-29709 Filed 10-7-77;8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 77-312; Reference:

ATF O 1100.66A]

ASSISTANT DIRECTOR (TECHNICAL AND
SCIENTIFIC SERVICES) OF AUTHORI-
TIES OF THE DIRECTOR IN FORMULAS
FOR DENATURED ALCOHOL AND RUM

Delegation of Authority

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 212, to the Assistant Director, Technical and Scientific Services.

2. *Cancellation.* ATF O 1100.66, Delegation Order—Authorities of the Director in 27 CFR Part 212, Formulas for Denatured Alcohol and Rum Regulations, dated August 16, 1976, (41 FR 35540), is canceled.

3. *Background.* The Director has authority, under current regulations, to take final action on matters relating to the formulation of completely denatured alcohol, specially denatured alcohol and specially denatured rum; to the specifications for denaturants; and to uses of denatured spirits. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 212, Formulas for Denatured Alcohol and Rum

Regulations, belong to a lower organizational level and should be delegated.

4. *Delegations.* Pursuant to the authority vested in the Director by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director, Technical and Scientific Services, the authority to take final action on the following matters relating to 27 CFR Part 212, Formulas for Denatured Alcohol and Rum Regulations:

a. To approve or disapprove ATF 1479-A describing manufacturing processes in which stocks of specially denatured alcohol formulas no longer authorized in this part will be used up, pursuant to 27 CFR 212.3(b).

b. To authorize the addition of odorants, rust inhibitors or dyes to completely denatured alcohol, under 27 CFR 212.10.

c. To receive notices from DSP proprietors who have added odorants or perfume material to denaturants authorized for completely denatured alcohol, including the names and properties of such odorants or perfume materials, under 27 CFR 212.10.

d. To authorize, pursuant to ATF F 1479-A, the use of any formula of specially denatured alcohol or specially denatured rum for uses not specifically authorized in this part, under 27 CFR 212.15(b).

e. To authorize, pursuant to ATF F 1479-A, the use of Specially Denatured Alcohol Formula No. 2-B in other than closed and continuous systems, under 27 CFR 212.17(c).

f. To authorize, pursuant to ATF F 1479-A, the use of Specially Denatured Alcohol Formula No. 2-C in other than closed and continuous systems, under 27 CFR 212.18(c).

g. To approve applications to use chemicals other than acetaldehyde or ethyl acetate as denaturants in Specially Denatured Alcohol Formula No. 29, under 27 CFR 212.39(a).

h. To approve or disapprove applications to use other essential oils or substances as denaturants in Specially Denatured Alcohol Formula No. 38-B, and to be furnished specifications, assay methods and samples of such denaturants, under 27 CFR 212.48(a).

5. *Coordination with other offices.* The authority delegated under paragraphs 4c and 4h of this order shall be carried out in coordination with the Chief, Industry Control Division (Regulatory Enforcement) in Bureau Headquarters.

6. *Redelegation.* The authorities delegated herein may be redelegated in Bureau Headquarters but not below the level of chemist in the Chemical Branch.

Effective date. This order becomes effective on October 11, 1977.

Signed: October 4, 1977.

STEPHEN E. HIGGINS,
Acting Director.

[FR Doc.77-29732 Filed 10-7-77;8:45 am]

[4810-22]

Customs Service

GRAIN ORIENTED SILICON ELECTRICAL
STEEL FROM ITALY

Final Countervailing Duty Determination
AGENCY: U.S. Customs Service, Treas-
ury Department.

ACTION: Final countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a final determination that a producer and exporter to the United States of grain oriented silicon electrical steel has not received from the Government of Italy benefits which are bounties or grants under the countervailing duty statute (19 U.S.C. 1303).

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Richard B. Self, Office of Tariff Affairs,
Department of Treasury, 15th & Penn-
sylvania Ave. NW., Washington, D.C.
20220 (202-566-8585).

SUPPLEMENTARY INFORMATION: On April 15, 1977, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 19934). The notice stated that it had been preliminarily determined that benefits had not been received by TERNI Società per l'Industria e l'Elettricità, S.P.A. (TERNI) which constitute bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act").

Grain oriented silicon electrical steel is provided for in the Tariff Schedules of the United States under item numbers 608.88 and 609.07.

The preliminary determination discussed the various items which were alleged to constitute bounties or grants and indicated that further inquiry would be made regarding certain of them. Interested parties were invited to submit relevant data, views or arguments in writing with respect to the preliminary determination.

After consideration of all information received, including information received since publication of the preliminary determination, it is hereby determined that TERNI has not received, directly or indirectly, bounties or grants on its exports of grain oriented silicon electrical steel within the meaning of section 303 of the Act. The alleged benefits determined not to constitute bounties or grants include:

1. STOCK PURCHASES BY THE HOLDING
COMPANY

TERNI is an Italian corporation, 98 percent of whose outstanding share capital is owned by FINSIDER, S.P.A., an Italian corporation, 58 per cent of whose stock is in turn owned by the Istituto per la Ricostruzione Industriale (IRI),

an agency of the Italian Government under the Ministry for State Participations. (The balance of Finsider's stock is held by otherwise unidentified parties, including non-governmental, persons and entities.)

Finsider, Terni's parent, has made substantial purchases of Terni stock in recent years. The issuance of share capital by Terni to enable necessary expansion of plant facilities has taken place during a period of substantial financial losses by the company. Only through Finsider's decisions to purchase share capital could Terni have undertaken its expansion. However, as 98 percent of Terni's stock is owned by Finsider, for the purposes of the countervailing duty law they are regarded as a single entity. The determination of whether a "bounty or grant" has been bestowed is, therefore, to be based on whether funds from the Italian Government were provided to Finsider, from which it invested in Terni's expansion. Such funds could have been provided through purchases of stock or of conversions of debt to equity by Finsider's parent, IRI. However, the available evidence indicates that no such transaction has occurred since 1965, a date deemed too remote from Terni's expansion to have impact on its current exports. The evidence indicates that to the extent Finsider has invested in Terni since 1965, it has done so from funds internally generated or raised in the capital markets on commercial terms. Therefore, even if its recent decisions to expand Terni were made at the suggestion or direction of the Italian Government, no "bounty" or "grant" within the meaning of the law exists. Of course if, in the future, the Italian Government should, either through IRI or otherwise, increase Finsider's available funds.

On other than terms that may reasonably be regarded as commercial, this conclusion may require reconsideration.

2. PREFERENTIAL FINANCING AND CREDIT AVAILABILITY

During the period of capital expansion, Terni has substantially increased its borrowings, mostly from IRI-controlled banks. A comparative analysis of the short-term rates charged by IRI banks and private lenders to Terni shows that the IRI banks gave Terni no more favorable terms. Even the interest rates charged by "ILLIC", a Finsider subsidiary, have been consistently above those imposed by private banks. While Terni may have enjoyed a greater access to credit than might normally be expected for a corporation in Italy of comparable size and recent profit performance, that, alone, is not considered to be a bounty or grant in the absence of evidence that Terni benefited from preferential or favorable terms mandated by the Government. That banks regarded Terni as credit-worthy in the absence of government direction or guarantees provides no basis for countervailing.

3. ELECTRICITY SUBSIDIES

Alleged below-cost electricity rates charged Terni by the state-owned elec-

trical corporation, ENEL, reflect the terms of a compensation agreement between Terni and ENEL concluded in 1963, when ENEL assumed ownership of Terni's electrical facilities. Terni, then a private corporation, received compensation for the government's taking of its property in the form of both cash and a commitment that it would be charged by ENEL for delivered power at a stable rate for 30 years. This compensation for an expropriated asset cannot be regarded as a bounty or grant in the absence of evidence that the compensation formula was, at the time of its negotiation, on terms significantly more generous than comparable proceedings equivalent to eminent domain takings.

Terni is also exempted from the surcharge imposed by ENEL on power users to offset fuel cost increases. The exemption is based on the fact that Terni is deemed to fall within a class of manufacturers who produce at least 70 percent of the power they consume. By Italian court ruling, Terni qualified for this exemption, since the hydroelectric power supplied by the facility Terni formerly owned, and now owned by ENEL, met this test. In view of the purpose of the surcharge and the general exemption for which Terni qualifies, this does not constitute a bounty or grant to Terni.

4. REBATES OF TAXES UNDER ITALIAN LAW 639

The relevant provision of this law grants rebates to "manufactured-products obtained from sheets, coils or pipes in either iron or steel which are neither referred to nor included elsewhere." Grain oriented silicon steel, exported in its raw form, is not a manufactured product within the meaning of Italian Law 639 and, accordingly, is not entitled to the rebate under the law. No evidence such rebates were given has been produced.

5. PREFERENTIAL SHIPPING RATES

Terni has never used the Finsider owned shipping line, Sidemar, for shipments of grain oriented silicon steel to the United States, since such shipments have been too small to justify the use of the larger Sidemar carriers. The information presently available indicated that Sidemar is not used by Terni for the shipment of raw materials to Terni's facilities. There is, thus, no evidence that Terni received benefits, directly or indirectly, from favorable shipping rates.

6. PREFERENTIAL EXPORT FINANCING TO FOREIGN PURCHASERS UNDER ITALIAN LAW 131

The available evidence indicates Terni has never utilized loans under this law for shipments to the United States.

7. PREFERENTIAL RATES OF INSURANCE PROVIDED BY THE STATE

The available evidence indicates Terni has never received preferential insurance rates from any State-participation company.

8. PRIVILEGED AVAILABILITY AND PREFERENTIAL RATE FOR SCRAP

The information available indicates that CPR, the scrap company which is part of the Finsider Group, makes sales to Terni of scrap it purchases at market prices plus commission. Sales from its own stocks to Terni are made at the prices CPR paid. It thus appears that scrap purchases by Terni from CPR represent no subsidy, since the sales are made on an intra-company transfer price at no apparent loss to the supplier.

In view of the foregoing, a final determination is hereby made in this proceeding that no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production or exportation from Italy of grain oriented silicon steel manufactured by Terni, S.p.A.

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provision of Treasury Department and No. 165, Revised, November 2, 1954, and 159.47(d) of the Customs Regulations (19 CFR 159.47(d)), insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

OCTOBER 4, 1977.

ROBERT H. MUNDHEIM,
General Counsel,
of the Treasury.

[FR Doc.77-29662 Filed 10-7-77; 8:45 am]

[4810-22]

[T.D. 77-246]

STYROFOAM WORM TRAYS

Instruments of International Traffic

OCTOBER 4, 1977.

Amendment to Treasury Decision 77-214 wherein Styrofoam trays used for the transportation of worms were designated as instruments of international traffic.

It has been established to the satisfaction of the U.S. Customs Service that the worm trays designated as instruments of international traffic in Treasury Decision 77-214 (42 FR 43470) are composed of foamed polystyrene rather than Styrofoam, a material which is subject to a trademark. Accordingly, Treasury Decision 77-214 is hereby amended by deleting all references to "Styrofoam" and substituting in its place the words "foamed polystyrene". This action is taken under the authority of 10.41(a) (1), Customs Regulations (19 CFR 10.41(a)(1)). (103046.) (BOR-7-07.)

J. P. TEBEAU,
Director, Carriers, Drawback
and Bonds Division.

[FR Doc.77-29669 Filed 10-7-77; 8:45 am]

[8320-01]

VETERANS ADMINISTRATION

ADMINISTRATOR'S EDUCATION AND REHABILITATION ADVISORY COMMITTEE Meeting

The Veterans Administration gives notice that a meeting of the Administrator's Education and Rehabilitation Advisory Committee, authorized by section 1792, title 38, United States Code, will be held at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C., on October 27 and 28, 1977, at 9:30 a.m. The meeting will be for the purposes of reviewing the Veterans Administration's educational programs and developing recommendations pertinent thereto.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity and the need for building security, it will be necessary for those wishing to attend to contact Mr. C. L. Dollard, Deputy Director, Education and Rehabilitation Service, Veterans Administration Central Office (phone 202-389-2152), prior to October 24.

Interested persons may attend, appear before, or file statements with the committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 1:30 p.m. on October 28, 1977.

Dated: October 4, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-29643 Filed 10-7-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[AB 18 (Sub-No. 15)]

THE CHESAPEAKE AND OHIO RAILWAY CO.

Abandonment Portion Armitage Branch Between Oldtown and Nelsonville, in Hocking and Athens Counties, Ohio

SEPTEMBER 30, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29665 Filed 10-7-77; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 5, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before October 26, 1977.

FSA No. 43442—*Newsprint Paper from Beauport, Quebec, Canada*. Filed by Traffic Executive Association—Eastern Railroads, Agent (E.R. No. 3058), for interested rail carriers. Rates on paper, newsprint, in carloads, as described in the application, from Beauport, Quebec, Canada, to Miami, Florida.

Grounds for relief—Water competition.

Tariff—Supplement 73 to Canadian Freight Association tariff No. 760, I.C.C. No. 325. Rates are published to become effective on November 4, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29697 Filed 10-7-77; 8:45 am]

[7035-01]

[Notice No. 127TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 30, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 903 (Sub 37TA), filed September 21, 1977. Applicant: FALWELL FAST FREIGHT, INC., P.O. Box 937, Lynchburg, Va. 24505. Applicant's representative: Wilmer B. Hill, attorney at law, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Petro-chem products*, in bulk, in tank vehicles, from Wilmington, N.C., to Farmville, Forest, Lynchburg, Moneta and South Boston, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Exxon Company, U.S.A., P.O. Box 2180, Houston, Tex. 77001. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 1977 (Sub-No. 27TA) (Correction), filed August 15, 1977, published in the FEDERAL REGISTER issue of September 8, 1977, and republished this issue. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe St., Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600, Lincoln Center Bldg., Denver, Colo. 80264. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities*, except household goods as defined by the Commission, between Boise, Pocatello, Idaho Falls and Blackfoot, Idaho, on the one hand, and, on the other, points in the Idaho Counties of Washington, Payette, Gem, Canyon, Ada, Boise, Elmore, Owyhee, Gooding, Twin Falls, Lincoln, Jerome, Minidoka, Cassia, Power, Oneida, Bannock, Blaine, Caribou, Franklin, Bear Lake, Bonanza, Jefferson, Madison and Fremont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Applicant seeks to tack this with Authority held in MC 109236. Supporting shipper: There approximately one-hundred and seventy-four (174) statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202. The purpose of this republication is to include tacking statement which was previously omitted.

No. MC 35831 (Sub-No. 12TA) (Correction), filed July 25, 1977, published in the FEDERAL REGISTER issue of August 12, 1977, and republished this issue. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, Tex. 76060. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone, in bags*, from the plantsites of Texas Lime Company, at or near Cleburne, Tex., to points in New Mexico, Oklahoma, Louisiana, Arkansas, Kansas and Colo., for 180 days. Supporting shipper: Texas Lime Company, P.O. Box 851, Cleburne, Tex., 76031. Send protests to: Robert J. Kirspe, District Supervisor, Rm. 9A27 Federal Building, 819 Taylor St., Fort Worth, Tex. 76102. The purpose of this republication is to include territory and State's descriptions, which was previously omitted.

No. MC 60014 (Sub-No. 55TA) (Correction), filed August 5, 1977, published in the FEDERAL REGISTER issue of September 19, 1977, and republished this issue. Applicant AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cement, containing asbestos fibre and fittings therefor*, from the plantsite of Cement Asbestos Products Company (subsidiary of ASARCO Incorporated), at or near Ragland, Alabama, to all points in the states of Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Cement Asbestos Products Company, Subsidiary ASARCO Incorporated, 611 Olive St., Suite 1755, St. Louis, Mo. 63101. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222. The purpose of this republication is to correct State description to read "Michigan," in lieu of Miami, which was previously typed in error.

No. MC 103926 (Sub-No. 60TA), filed September 20, 1977. Applicant: W. T. MAYFIELD SONS TRUCKING CO., P.O. Box 947, Mableton, Ga. 30059. Applicant's representatives: Wm. H. Driskell (same address as applicant), K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, which because of size or weight require the use of special equipment or handling, from Savannah, Ga., to points in Alabama, Florida, Georgia,

Kentucky, Mississippi, North Carolina, South Carolina, Tennessee and Virginia, for 180 days. Supporting shippers: Georgia Ports Authority, 235 Peachtree St., Suite 1200, Atlanta, Ga. 30303. The Hapage Company, Inc., P.O. Box 1786, Savannah, Ga. 31402. E. L. Mobley, Inc., P.O. Box 1686, Savannah, Ga. 31402. John S. James Company, P.O. Box 2166, Savannah, Ga. 31402. Anderson Shipping Company, Two Whitaker St., Savannah, Ga. 31401. D. J. Powers Co., Inc., P.O. Box 9239, Savannah, Ga. 31402. Valiant Steel and Equipment, Inc., Number 1, Hatchcover Road, Savannah, Ga. 31402. Universal Steel & Construction Materials, Inc., P.O. Box 7115, Savannah, Ga. 31408. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 300, Atlanta, Ga. 30309.

No. MC 109533 (Sub-No. 96TA), filed September 20, 1977. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Ave., Richmond, Va. 23224. Applicant's representative: C. H. Swanson, P.O. Box 1216, Richmond, Va. 23209. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Charleston, W. Va. and Huntington, W. Va., serving all intermediate points: From Charleston over Interstate Highway 64 to Huntington and return over same routes, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: No supporting shippers. Application due to the closing of the Huntington, W. Va. bridge by the West Virginia Highway Department. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Interstate Commerce Commission, 400 North 8th St., Richmond, Va. 23240.

No. MC 120761 (Sub-No. 30TA), filed September 14, 1977. Applicant: NEWMAN BROS. TRUCKING COMPANY, P.O. Box 18728, 6551 Midway Rd., Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation board*, from the facilities of Johns-Manville Sales Corporation at or near Natchez, Miss., to points in Texas, Oklahoma and Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Johns-Manville Sales Corporation, Ken-Caryl Ranch, Denver, Colo. 80217. Send protests to: Robert J. Kirspe, District Supervisor, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 112539 (Sub-No. 18TA), filed September 19, 1977. Applicant: PER-

CHAK TRUCKING, INC., P.O. Box 811, Rt. 309, Hazle Village, Hazleton, Pa. 18201. Applicant's representative: Joseph F. Hoary, 121 South Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beryl ore*, from Hazleton, Pa., to Delta, Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kaweck-Beryco Industries, Inc., P.O. Box 429, Hazleton, Pa. 18202. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 114569 (Sub-No. 191TA), filed September 20, 1977. Applicant: SHAFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address and applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal grass stops (in rolls) metal shovels; and building materials: sheet metal pipe, duct, fittings, and parts for heating, cooling, and ventilating equipment; sheet metal down spouts, gutters, fittings and fasteners* therefore; and advertising matter relative to and when moving in the same vehicle with above named commodities, not single piece to weigh more than 2,000 pounds. From Philadelphia, Pa. and its commercial zone to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin. Note: This application is directly related to Petition for Modification filed May 2, 1977 and published June 16, 1977, in MC 114569 (Sub-No. 30) granted May 15, 1972 and (Sub-No. 60) granted June 4, 1964, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (S) Rainalre Products, Inc. Camden, N.J. Southwark Metal Manufacturing Company, Philadelphia, Pa., Adelta Manufacturing Co., Inc., Philadelphia, Pa. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 118989 (Sub-No. 164TA), filed September 20, 1977. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, 53221. Applicant's representative: Rolland K. Draves (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty plastic containers*, from Burlington, Wis.; to Jeffersonville, Ind.; Bloomfield, and Jersey City, N.J.; for the account of Continental Diversified Industries, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Diversified Industries, Highway 83S Burlington, Wis. 53105. Send protests to:

Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 123329 (Sub-No. 32TA), filed September 15, 1977. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, 4056 Ogden Road SE., Calgary, Alberta, Canada. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Surfactants (Alkali)* in bulk, in tank vehicles, from Willow Island, W. Va., to ports of entry on the United States-Canada Boundary line at or near Portal, N. Dak., for furtherance to points in Alberta, British Columbia and Saskatchewan, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): G. Durant, Traffic, Van Waters & Rogers, Ltd. 12425-149 Street, Edmonton, Alberta, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 124251 (Sub-No. 40TA), filed September 19, 1977. Applicant: JACK JORDAN, INC., Highway 41 South, P.O. Box 689, Dalton, Ga. 30720. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St., NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid plastic*, in bulk in pressure containers, in special van trailers, from Whitefield County, Ga., to points in Kansas, Pennsylvania, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Latex and Chemical Corp., of Georgia, 1206 Lamar St., Dalton, Ga. 30720. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 300, Atlanta, Ga. 30309.

No. MC 128256 (Sub-No. 23TA), filed September 2, 1977. Applicant: BLOSSER TRUCKING, INC., d.b.a. BLOSSER TRUCKING, 215 North Main St., Middlebury, Ind. 46540. Applicant's representative: G. D. Gerardi Jr., 215 North Main St., Middlebury, Ind. 46540. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from Norfolk, Va., to Elkhart, Ind., and Pontiac, Mich., for 180 days. Supporting shipper(s): Plywood Panels, Inc., P.O. Box 12678, Norfolk, Va. 23502. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 129878 (Sub-No. 2TA), filed September 19, 1977. Applicant: FLOUR TRANSPORT, INC., 4325 Fruitland Ave., Los Angeles, Calif. 90058. Applicant's

representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from points in Los Angeles County, Calif. to points in San Diego County, Calif. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Pillsbury Company, 5471 Ferguson Dr., Los Angeles, Calif. 90022. Send protests to: Interstate Commerce Commission, Irene Carols, Transportation Assistant, Room 1321 Federal Building, 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 138157 (Sub-No. 43TA), filed September 18, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, Tenn. 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting and yarn* from the facilities of Berven Carpets Corp., Berven Rug Mills and Veridye Corp., Fresno, Calif., to points in Bartow, Catonsville, Cherokee, Chattooga, Dade, Fannin, Floyd, Gilmer, Gordon, Murray, Pickens, Walker and Whitfield Counties, Ga., Restricted to traffic originating at the named origin and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Berven Rug Mills, Inc., 2600 Ventura Ave., Fresno, Calif. 93717. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 138479 (Sub-No. 2TA), filed September 20, 1977. Applicant: C & C CARTAGE, INC., 740 W. Ireland Rd., South Bend, Ind. 46114. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl skirting, vinyl siding, asphalt siding and steel siding* from the facilities of Mastic Corporation at or near Stuarts Draft, Va., to points in Arkansas, Connecticut, Delaware, Florida, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, Wisconsin, Vermont and the District of Columbia, restricted to a transportation service to be performed under a continuing contract or contracts with Mastic Corporation, for 180 days. Supporting shipper: Mastic Corporation, 131 Taylor St., South Bend, Ind. 46626. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 141500 (Sub-No. 5TA), September 20, 1977. Applicant: SUPERIOR

TRUCKING CO. INC., P.O. Box 35, Kewaskum, Wis. 53040. Applicant's representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal* from Davenport and Dubuque, Iowa to Buda, Fulton and Scioto Mills, Ill.; and points within the Commercial Zones of each destination City, as defined by the Commission, under a continuing contract with The C. Reiss Coal Company, for 180 days. Supporting shipper: The C. Reiss Coal Company, Sheboygan, Wis. 53081. Send protests to: Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 142296 (Sub-No. 1TA), filed August 31, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: Lawrence A. Winkle, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Clothing and wearing apparel* from Paris, Tex., and Arkadelphia, Ark., to Memphis, Tenn.; and (2) *Raw materials* utilized in the manufacture and production of clothing and wearing apparel from Memphis, Tenn., to Arkadelphia, Ark., and Paris, Tex., under a continuing contract or contracts with Munsingwear, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Munsingwear, Inc., 718 Glenwood Avenue, Minneapolis, Minn. 55405. Send protests to: Opal M. Jones Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 142887 (Sub-No. 2TA) (Correction), filed August 31, 1977, published in the FEDERAL REGISTER issue of September 20, 1977, and republished this issue. Applicant: NEW ENGLAND BULK TERMINAL, INC., 390 Southbridge St., Worcester, Mass. 01610. Applicant's representative: John F. O'Donnell, Barrett and Barrett, P.O. Box 238, 60 Adams St., Milton, Mass. 02187. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic dry*, in bulk, in tank vehicles, from Worcester and Leominster, Mass., to Dover, N.H.; Pownal, Vt.; Pawtucket, R.I.; Rochester, Granville, Schenectady, Yonkers, Hauppauge, Brooklyn, N.Y.; Bethel, Conn.; Avenel, Edison, Tenton, Clarksville, Burlington, N.J.; Scranton and Lancaster, Pa.; and Winchester, Va., for 180 days. Supporting shipper: Borden Chemical, Division of Borden, Inc., 180 E. Broad St., Columbus, Ohio 43215. Send protests to: J. D. Perry, Jr., District Supervisor, Interstate Commerce Commission, 436 Dwight St., Rm. 338, Springfield, Mass. 01103. The purpose of this republication is correct

'MASS' and Avenel' in lieu of Ma. and Avenuel, which was previously typed in error.

No. MC 143547 (Sub-No. 1TA) (Correction), filed August 19, 1977, published in the FEDERAL REGISTER issue of September 12, 1977, and republished in this issue. Applicant: Grady Walker, d.b.a. GRADY WALKER USED CARS, Northeast 28th St., Fort Worth, Tex. 76117. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Used passenger automobiles*, from Boston, Mass.; Detroit, Mich.; and Chicago, Ill., to Dallas, Tex., under a continuing contract, or contracts, with Texas Vehicle Management, Inc., and E. K. Arledge, Inc., in Truck-away Service, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texas Vehicle Management, Inc., 3504 Belt Line Rd., Dallas, Tex. 75234. E. K. Arledge, Inc., 525 N. Interurban, Richardson (Dallas) Tex. 75080. Send protests to: Robert J. Kirspeil, District Supervisor, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102. The purpose of this republication is to include supporting shipper which was previously omitted.

No. MC 143562 (Sub-No. 1TA), filed September 19, 1977. Applicant: Donald R. Ford, d/b/a Service Transport, P.O. Box 37, 204 Poplar St., Burbank, Washington 99323. Applicant's representative: Boyd Hartman, attorney at law, Suite 210, Seattle Trust Bldg., 10655 NE Fourth Street, Bellevue, Wash. 98004. Authority sought to operate as a *Contract Carrier* by motor vehicle over irregular routes, transporting meats, meat products and meat by-products and articles distributed by meat packinghouses as described in Section A and C of Appendix I, to the Report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766. From the plant sites and/or storage facilities utilized by Columbia Foods, Inc., in Walla Walla County, Washington, to points in California, Idaho, Montana, Oregon and Washington under a continuing contract with Iowa Beef Processors, Inc. for 180 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, Nebr. 68731. Send protests to: Transportation Specialist, 858 Federal Building, 915 Second Ave., Seattle, Wash. 98174.

No. MC 143625 (Sub-No. 1TA), filed August 31, 1977. Applicant: REUNION TRANSPORT COMPANY, INC., 1087 Bourbon Place, Memphis, Tenn. 38106. Applicant's representative: Mr. John E. Madison, 1087 Bourbon Place, Memphis, Tenn. 38106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste chemicals*, from Memphis, Tenn., to Wilsonville, Ill.; Deer Park, Tex.; Baton Rouge, La.; Centerville, Miss.; Calvert City, Ky.; El Dorado, Ark.; and Kansas City, Mo., for 180 days. Applicant

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has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lilly Industrial Coating, 2632 Channel Ave., Memphis, Tenn. 38113. Buckman Laboratories, Inc., 1256 N. McLean Blvd., Memphis, Tenn. 38108. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, Tenn. 38103.

No. MC 143639 (Sub-No. 1TA), filed September 20, 1977. Applicant: SMITH AND SMITH, INC., 4361 Headquarters Road, Charleston Heights, S.C. 29405. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in dump vehicles, from Charleston, S.C., commercial zone to Wilmington, Goldsboro, Lumberton, Monroe, and Statesville, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. R. Grace & Co., Agricultural Chemicals Group, P.O. Box 368, Wilmington, N.C. 28401. Send protests to: E. E. Strotheid, ICC, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 143654 (Sub-No. 1TA), filed September 19, 1977. Applicant: DOYLE BRANT, An Individual, 4701 Valley Lane, St. Joseph, Mo. 64503. Applicant's representative: Doyle Brant (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, animal or poultry*, in bag, in bulk or in bag/bulk combined, and *animal health aids and sanitation products*, also animal or poultry feed ingredients, between Elwood, Kans. commercial zone and points in Missouri, Iowa, and Nebraska, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Allied Mills, Inc., West Des Moines, Iowa. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 143734 (Sub-No. 1TA), filed September 19, 1977. Applicant: CALVIN DRAGANO, INC., Box 361, Milton, Pa. 17847. Applicant's representative: Christian V. Graf, Esquire, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, from Bloomsburg, Milton, and Temple, Pa., and Vineland, N.J., to Sparrows Point, Md., under a continuing contract with Vulcan Materials Co. of Birmingham, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vulcan Materials Co., One Metroplex Drive, Birmingham, Ala. 35209. Send

protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 143743 TA, filed September 19, 1977. Applicant: FULTON TRUCKING CO., INC., 1195 Milton Terrace SE., Atlanta, Ga. 30315. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, commodities in bulk, class A and B explosives and commodities which because of size or weight require the use of special equipment), between Atlanta, Ga., and Ellerslie, Ga. as follows: From Atlanta, Ga., over Interstate Highway 75 to junction Georgia State Highway 85, thence over Georgia State Highway 85 to junction Georgia State Highway 85W and 85E, thence over either Georgia State Highway 85W and 85E and Alternate U.S. Highway 27 to junction Georgia State Highway 85, thence over Georgia State Highway 85 to Ellerslie, Ga., and return over the same route serving all intermediate points and the off route points of Brooks, Woolsey, McDonough, Jonesboro, Stockbridge, Hampton, and Lovejoy, Ga. with the right to serve the commercial zones of all authorized points for 180 days. Supporting shipper(s): There are approximately 26 statements of support attached to application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies, thereof may be examined at the field office below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, Ga. 30309.

No. MC 143744 TA, filed September 19, 1977. Applicant: DOUGLAS TRANSPORT, Rt. 1, Box 165B, Poulan, Ga. 31781. Applicant's representative: Laverne Johnson, 306 E. Kelly Street, Sylvestor, Ga. 31791. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal cans, plastic containers, and canning machines*, from Baltimore, Md., to Eastpoint, Fla., for 180 days. Supporting shipper: Southern Can Distributor, P.O. Box 625, Eastpoint, Fla. 32328. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, ICC, Box 35008, 400 West Bay Street Jacksonville, Fla. 32202.

No. MC 143745 TA, filed September 19, 1977. Applicant: APPLE'S TRANSPORT SERVICE, 11703 Gard Avenue, Norwalk, Calif. 90650. Applicant's representative: Leonard O. Apple (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Overhead sprinkler systems and components* thereof, between Santa Fe Springs, Calif., on the one hand, and, on the other, the States of Oregon, Washington, Colorado, Utah, Nevada,

and Arizona, for 180 days. Supporting shipper: Automatic Sprinkler Corp. of America, 13100 E. Firestone Blvd., Santa Fe Springs, Calif. 90670. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143746 TA, filed September 20, 1977. Applicant: MARVIN Y. NEELY & NANCY B. NEELY, doing business as SHUN PIKE TOURS, 100 South County Line Road, Telford, Pa. 18969. Applicant's representative: Dennis Helf, Esq., Grim & Grim, 6th Street and Chestnut St., Perkasie, Pa. 18944. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, including baggage* of passengers in the same vehicle with passengers, transporting not more than 12 passengers in one vehicle, between Bucks, Montgomery, Lehigh, and Northampton Counties, Pa., and the Port of New York, and airports located in the city of New York, N.Y. for 180 days. Supporting shippers: There are approximately 13 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29696 Filed 10-7-77; 8:45 am]

[7035-01]

[Notice No. 128]

MOTOR CARRIER TEMPORARY
AUTHORITY APPLICATIONS

OCTOBER 3, 1977.

The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with

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the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 25708 (Sub-No. 28TA), filed September 19, 1977. Applicant: LANEY TANK LINES, INC., P.O. Box 2729, Chapel Hill, N.C. 27514. Applicant's representative: Richard A. Mehley, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Lancaster, S.C., and points within 15 miles thereof, to points in North Carolina and Georgia, for 180 days. Supporting shipper(s): Southern Energy, Inc., P.O. Box 100, Lancaster, S.C. 29720. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 30884 (Sub-No. 23TA), filed September 14, 1977. Applicant: JACK COOPER TRANSPORT CO., INC., 3501 Manchester Trafficway, Kansas City, Mo. 64129. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, except trailers, in initial movements, in truckaway service, from the plant sites or storage facilities of General Motors Corporation located at Detroit, Mich., to points in Arkansas, Iowa, Kansas, Missouri, Nebraska, and Oklahoma, under a continuing contract, or contracts, with General Motors Corp., for 180 days. Supporting shipper(s): General Motors Corp., 30007 Van Dyke Avenue, Warren, Mich. 48090. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 30884 (Sub-No. 24TA), filed September 14, 1977. Applicant: JACK COOPER TRANSPORT CO., INC., 3501 Manchester Trafficway, Kansas City, Mo. 64129. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, except trailers, in initial movement, in truckaway service, from the plant sites or storage facilities of General Motors Corp. located at Kansas City, Mo., to

points in Michigan, under a continuing contract, or contracts, with General Motors Corp., for 180 days. Supporting shipper(s): General Motors Corp., 3007 Van Dyke Avenue, Warren, Mich. 48090. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 51146 (Sub-No. 528TA), filed September 19, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Milwaukee, Wis., to Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Polycron Industries, 1940 S. Hilbert, Milwaukee, Wis. (Berle Blitstein.) Send protests to: Gail Dougherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 47583 (Sub-No. 54TA), filed September 13, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kans. 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiber glass products and fiber glass roving, yarn, matting, and chopped strand*, from the plantsite and storage facilities of Certain Teed Corp. at or near Wichita Falls, Tex., to all points and places in the states of Arkansas, Colorado, Iowa, Illinois, Kansas, Minnesota, Missouri, Michigan, Nebraska, North Dakota, Oklahoma, South Dakota and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): MIA Chemical Ltd., 9300 Marshall Drive, Lenexa, Kans. 66215. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 84265 (Sub-No. 250TA), filed September 19, 1977. Applicant: BONNEY MOTOR EXPRESS, INC., Rte. 460, P.O. Box 305, Windsor, Va. 23487. Applicant's representative: William K. Gainey, Rte. 460, P.O. Box 305, Windsor, Va. 23487. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Chicago, Ill., to points in Virginia, restricted to shipments originating from the plant site of Fasano Pie Co., Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fasano Pie Co., 6201 West 65th

Street, Chicago, Ill. 60638. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 10-502 Federal Building, 400 North 8th Street, Richmond, Va. 23240.

No. MC 107496 (Sub-No. 1108TA), filed September 19, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fufural*, in bulk, in tank vehicles, from Cedar Rapids, Iowa, to Charleston, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Quaker Oats Co., P.O. Box 3514, Chicago, Ill. 60654. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 108633 (Sub-No. 13TA), filed September 12, 1977. Applicant: BARNES FREIGHT LINE, INC., P.O. Box 369, Bankhead Hwy., Carrollton, Ga. 30117. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, those requiring special equipment because of size or weight, Classes A and B explosives, and household goods as defined by the Commission), between Birmingham, Ala., and Memphis, Tenn. From Birmingham, Alabama over U.S. Highway 78 to Guin, Ala., thence over U.S. Highway 45 and Alternate U.S. Highways 45-278 to Tupelo, Mo., thence over U.S. Highway 78 and Tennessee State Highway 4, to Memphis, Tenn., and return, serving all intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 23 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 108633 (Sub-No. 14TA), filed September 12, 1977. Applicant: BARNES FREIGHT LINE, INC., P.O. Box 369, Bankhead Highway, Carrollton, Ga. 30117. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, those requiring special equipment because of size or weight, Classes A and B explosives, and house-

hold goods as defined by the Commission), (1) between Atlanta, Ga., and LaGrange, Ga., from Atlanta over Interstate Highway 85, U.S. Highway 27 and U.S. Highway 29 to LaGrange, serving the intermediate points of Hogansville, with closed doors, between Atlanta and Hogansville, and return, and (2) between Franklin, Ga., and LaGrange, Ga., from Franklin over U.S. Highway 27 to LaGrange, and return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 19 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Sara F. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 110525 (Sub-No. 1210TA), filed September 20, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, P.O. Box 200, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Otto Fuel Composition, Chemicals NOIBN, in bulk, in specially adapted trailers, from the Naval Ordnance Station, Indianhead, Md., to the Naval Weapons Station, Yorktown, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Department of Defense, Department of the Army, Office of Staff Judge Advocate, Washington, D.C. 20315. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 11366 (Sub-No. 118TA), filed September 13, 1977. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: Daniel R. Smetanick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry acrylic resin*, in bulk, in tank vehicles, from ports of entry between the United States and Canada located at Buffalo and Niagara Falls, N.Y., to Conyers, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chemacryl Plastics, Ltd., a subsidiary of CY/RO Industries, Berdan Avenue, Wayne, N.J. 07470. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 113908 (Sub-No. 407TA), filed September 9, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S.,

Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead, 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors*, in bulk, (a) from ports of entry between the United States and the Republic of Mexico, located in Texas, New Mexico, Arizona, and California, and (b) from ports of entry between the United States and Canada located in New York, Pennsylvania, Washington, Detroit, and Port Huron, Mich., and Toledo, Ohio, to Burlingame, Calif., and (2) *alcohol and alcoholic liquors*, in bulk, from points in New York, New Jersey, Pennsylvania, and Maryland, to Burlingame, Calif., and (b) between the following points, Delavan and Peoria, Ill., Scobeyville, N.J., Burlingame and San Francisco, Calif., and Detroit, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hiram Walker & Sons, Inc., Foot of Edmund Street, Peoria, Ill. 61601. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 11398 (Sub-No. 408TA), filed September 9, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead, 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors*, in bulk, and (2) *alcoholic liquors and alcohol and wines*, in bulk, from ports of entry between the United States and the Republic of Mexico, located in Texas, New Mexico, and Arizona, to points in the United States, between points in Indiana, Kentucky, Tennessee, and Pennsylvania, on the one hand, and, on the other, points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Schenley Distillers, Inc., 36 East Fourth Street, Cincinnati, Ohio 45202. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 114273 (Sub-No. 299TA), filed September 19, 1977. Applicant: CRST, Inc., P.O. Box 68, 3930 16th Avenue, Cedar Rapids, Iowa 52460. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen bakery goods*, from the plantsite and facilities of Midwest Biscuit Co., at or near Burlington, Iowa, to Denver, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

Supporting shipper(s): Midwest Biscuit Co., 300 Mount Pleasant Street, Burlington, Iowa. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 118696 (Sub-No. 8TA), filed September 19, 1977. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, Ind. 46324. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet padding and mattress cores*, from Marion, Ind., to points in Georgia, Ohio, Kentucky, Maryland, Pennsylvania, Illinois, Minnesota, Wisconsin, Michigan, Missouri, New York, Connecticut, Iowa, and South Dakota, for 180 days. Supporting shipper(s): The General Tire & Rubber Co., Joseph S. Vatalaro, Corporate Director of Transportation, No. 1 General Street, Akron, Ohio 44329. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 119619 (Sub-No. 115TA), filed September 15, 1977. Applicant: DISTRIBUTORS SERVICE CO., 2000 West 43rd Street, Chicago, Ill. 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, N.Y. 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas and agricultural commodities* exempt from economic regulation under Section 203(b) of the Interstate Commerce Commission Act, when transported in mixed loads with bananas, from Philadelphia, Pa., and points in the Philadelphia, Pa., Commercial Zone as defined by the Commission, to points in and including the Commercial Zones thereof as defined by the Commission, Cleveland, Cincinnati, and Youngstown, Ohio; Detroit and Grand Rapids, Mich.; Indianapolis and Terre Haute, Ind.; Chicago, Ill.; Pittsburgh, Pa.; and St. Louis, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pacific Fruit, Inc., Bernard Swedelson, Sales Manager, 19 Rector Street, New York, N.Y. 10006. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 121639 (Sub-No. 6TA), filed September 15, 1977. Applicant: OKMULGEE EXPRESS, INC., 207 North Cincinnati, Tulsa, Okla. 74103. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23rd Street, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodi-*

ties (except classes A and B explosives, commodities in bulk, articles of unusual value, household goods), between Henryetta, Okla., and McAlester, Okla.; between McAlester, Okla., and Poteau, Okla.; between Poteau, Okla., and the Oklahoma-Arkansas State line; between Wister, Okla., and Hodgens, Okla.; between Hodgens, Okla., and Poteau, Okla.; and between Okla., and Henryetta, Okla., for 180 days. Supporting shipper(s): There are approximately 23 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 Northwest 3rd Street, Oklahoma City, Okla. 73102.

No. MC 124071 (Sub-No. 12TA), filed September 15, 1977. Applicant: LIVE-STOCK SERVICE, INC., P.O. Box 944, 1420 Second Avenue South, St. Cloud, Minn. 56301. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Robel Beef Packers, Inc., St. Cloud, Minn., to Seattle, Wash.; Portland, Oreg.; Oakland, Los Angeles, and Wilmington, Calif.; Phoenix and Tucson, Ariz.; Los Vegas, Nev.; Albuquerque, N. Mex.; Denver, Colo.; Augusta and Atlanta, Ga.; Miami and Ft. Lauderdale, Fla.; Aiken and Columbia, S.C.; Charlotte and Raleigh, N.C.; Roanoke and Suffolk, Va.; Grand Junction, Colo., under a continuing contract, or contracts, with Robel Beef Packers, Inc., for 180 days. Supporting shipper(s): Robel Beef Packers, Inc., St. Cloud, Minn. 56301. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 124947 (Sub-No. 74TA), filed September 15, 1977. Applicant: MACHINERY TRANSPORTS, INC., 608 Cass Street, P.O. Box 2338, East Peoria, Ill. 61611. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Idaho, Montana, Oregon, and Washington, to points in Minnesota, Wisconsin, Michigan, Iowa, Illinois, Indiana, Ohio, Missouri, and Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 80 days of operating authority. Supporting shipper(s): There

are approximately 23 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 Northwest 3rd Street, Oklahoma City, Okla. 73102.

No. MC 12994 (Sub-No. 27TA), filed September 19, 1977. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Salt Lake City, Utah 84107. Applicant's representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated pipe and pipe fittings*, from Fontana, Calif., to points in Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pacific Corrugated Pipe Co., P.O. Box 37, Lehi, Utah 84043 (N. T. Bingham, Director, Utah Operations). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 126371 (Sub-No. 27TA), filed September 19, 1977. Applicant: CONCORD TRUCKING CO., INC., 1 Scout Avenue, South Kearny, N.J. 07032. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount department stores, for the account of Lady Rose Division, between the facilities of Lady Rose Division, at or near Westbury, N.Y., on the one hand, and, on the other Austin, Houston, and San Antonio, Tex., under a continuing contract, or contracts, with Lady Rose Division, Westbury, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lady Rose Division, 725 Summa Avenue, Westbury, N.Y. 11590. Send protest to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 138420 (Sub-No. 21TA), filed September 19, 1977. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, Wis. 53015. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* from Poynette, Wis., to points in Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oconomowoc, Canning Co., P.O. Box 248, Oconomowoc, Wis. 53066 (Patrick F. Muller). Send protests to: Gail Daugherty, Transportation Assistant,

Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 139434 (Sub-No. 3TA), filed September 16, 1977. Applicant: MID-AMERICA EXPRESS, INC., 1826 F Street, Gothenburg, Nebr. 67138. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of Armour & Co. and warehouse facilities utilized at or near Omaha, Nebr., to Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): D. A. Chute, Manager Transportation and Distribution, Armour Food Co., Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 139577 (Sub-No. 9TA), filed September 13, 1977. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, 204 E. Winnebago Street, Friesland, Wis. 53935. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Canned vegetables*, from Clintonville, Antio, Cambria, Markesan, Wis., to Alabama, Florida, Georgia, North Carolina, South Carolina, Tennessee, Virginia, Mississippi, Texas, Massachusetts, New York, and Connecticut, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fall River Canning Co., P.O. Box 68, Fall River, Wis. 53932. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 302, Madison, Wis. 53703.

No. MC 139850 (Sub-No. 11TA), filed September 13, 1977. Applicant: FOUR STAR TRANSPORTATION, INC., 301-12 Park Bldg., Council Bluffs, Iowa 51501. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by American Beef Packers, Inc., located at or near Oakland, Iowa, to points in Alabama,

Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tenn., restricted to traffic originating at the named origin and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kenneth Hering Traffic Manager, American Beef Packers, Inc., P.O. Box 518, Oakland, Iowa. 51560. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 No. 14th St., Omaha, Nebr. 68102.

No. MC 139973 (Sub-No. 27TA), filed September 19, 1977. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment, and parts and pole-line hardware*, between Olean, N.Y.; East Stroudsburg and Cannonsburg, Pa.; and Zanesville, Ohio, on the one hand, and, on the other all points in the United States (except Alaska and Hawaii), restricted to traffic at or destined to the facilities of McGraw-Edison Company, for 180 days. Supporting shipper(s): McGraw-Edison Company, Corporate Logistics & Distribution, P.O. Box U, Columbia, Mo. 65201. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 140665 (Sub-No. 16TA), filed September 15, 1977. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, Mo. 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Color or color additives, paint, chemicals, fiberglass materials, furnaces or kilns, and materials and supplies used in the process of ceramic or enameling manufacturing, plastic materials and plastic articles*, from Plymouth, Ind., and Chicago, Bartlett, Ill., to points in Arizona, California, Colorado, Nevada, New Mexico, Utah, Wyoming, Montana, Idaho, Oregon and Wash., for 180 days. Supporting shipper(s): Ferro Corporation, One Erieview Plaza, Cleveland, Ohio 44114. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 140665 (Sub-No. 17TA), filed September 13, 1977. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, Mo. 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Welding equipment and welding supplies*, from Troy, Ohio to points in the States of Texas, Louisiana, Oklahoma, Mississippi, and Ark., for 180 days. Supporting shipper(s): Hobart Brothers Company, Troy,

Ohio 54373. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 143679 (Sub-No. 1TA), filed September 13, 1977. Applicant: William Graf, d.b.a. Wm. GRAF TRUCK LINE, Streeter, N. Dak. 58483. Applicant's representative: Charles E. Johnson, 418 East Rosser Ave., P.O. Box 1982, Bismarck, N. Dak. 58501. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Hay stackers, grain drills, rock pickers, tub grinders, and insulation manufacturing plants*, from Jamestown, N. Dak., to points in South Dakota, Nebraska, Kansas, Texas and New Mexico, and (2) *iron and steel articles*, from Minneapolis, Minn., to Jamestown, N. Dak., restricted to a transportation service to be performed under a continuing contract, or contracts, with Haybuster Manufacturing, Inc., Jamestown, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Haybuster Manufacturing, Inc., P.O. Box 1008, Jamestown, N. Dak. 58401. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 143681 (Sub-No. 1TA), filed September 19, 1977. Applicant: S & S CONTRACT CARRIER, INC., P.O. Box 797, Royce City, Tex. 75089. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Hand blown glassware for lighting fixtures*, from the facilities of Decatur Glass Works, at Decatur, Tex., to Linden, N.J., and Philadelphia, Pa., under a continuing contract, or contracts, with Decatur Glass Works, Div. Kidde Consumer Durables Corp., Decatur, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Decatur Glass Works, Div. Kidde Consumer Durables Corp., P.O. Box 502, Decatur, Tex. 76234. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 143714TA, filed September 13, 1977. APPLICANT: ACACIA VAN & STORAGE CO., 56 West 15th Street, Merced, Calif. 95340. Applicant's representative: William A. Booth, 707 Wilshire Blvd., Suite 1800, Los Angeles, Calif. 90017. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points within Merced, Madera and Mariposa Counties, and the City of Turlock in Stanislaus County, Calif., restricted to the transportation of traffic having prior or subsequent movement in interstate or foreign commerce, further restricted to

the performance of pick up and delivery service in connection with packing, crating, containerization, or unpacking, uncrating and decontainerization of such traffic, for 180 days. Supporting shipper(s): Bekins International Lines, Inc., 820 East "D" Street, Wilmington, Calif. 90744. Higa Fastpack, Inc., 465 California Street, Suite 530, San Francisco, Calif. 94104. Send protests to: Michael M. Butler, District Supervisor, 211 Main St., Suite 500, San Francisco, Calif. 94105.

No. MC 143738TA, filed September 20, 1977. Applicant: DONALD D. HAVE-LICK, Pado Company, 7902 Husky Way, SE., Olympia, Wash. 98503. Applicant's representative: Henry Winters, 15 So. Grady Way, Suite 235, Renton, Wash. 98055. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages and return of malt beverage containers*, between Busch-Fairfield, Calif., Seattle and Vancouver, Wash., and Sandpoint, Idaho, under a continuing contract, or contracts, with Frank's Distributors, for 180 days. Supporting shipper(s): Frank's Distributors, P.O. Box 1067, Sandpoint, Idaho 83864. Send protests to: Hugh H. Chaffe, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.

No. MC 143739TA, filed September 19, 1977. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, Minn. 56077. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs and nondurable food products*, in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co., at Bettendorf, Iowa, to points in Colorado, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Terminal Ice & Cold Storage Co., P.O. Box 938, Bettendorf, Iowa 52766. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29698 Filed 10-7-77; 8:45 am]

[7035-01]

[Notice No. 129TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 6, 1977.

The following are notices of filing of applications for temporary authority un-

der Section 210 a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 19311 (Sub-No. 35TA), filed September 22, 1977. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Rd., Sterling Heights, Mich. 48077. Applicant's representative: Walter N. Bieneman, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment serving the plant site of Central Foundry Division of General Motors Corporation at Bedford, Ind., as an off route point in connection with otherwise authorized service, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): GM Logistics Operations, General Motors Corporation, 30007 Van Dyke Avenue, Warren, Mich. 48090. E. R. Wiseman, Director, Transportation Economics, Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building & U.S. Courthouse, 231 West Lafayette Blvd., Detroit, Mich. 48226.

No. MC 50307 (Sub-No. 90TA), filed September 19, 1977. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, N.Y. 10001. Applicant's representative: Arthur Libenstein, 167 Fairfield Rd., P.O. Box 1409, Fairfield, N.J. 07006. Authority sought to

operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials, supplies and equipment used in the manufacture of wearing apparel*, except commodities in bulk, between New York, N.Y., on the one hand, and, on the other, Petersburg, W. Va., and between Petersburg, W. Va., on the one hand, and, on the other, points in Pennsylvania for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Edinburg Manufacturing Corp., 131 West 35th Street, New York, N.Y. 10001. Send protests to: Maria B. Keiss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 82063 (Sub-No. 85TA), filed September 21, 1977. Applicant: KLIPSCH HAULING CO., 10795 Watson Rd., Sunset Hills, Mo. 63127. Applicant's representative: W. E. Klipsch (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid plastic resins*, in bulk, in tank vehicles, from Monticello, Ark., to all points in the United States (except Decatur, Ala.; Jeffersonville, Ind.; Louisville, Ky.; New Orleans, La.; Houston, Tex.; Alaska and Hawaii), for 180 days. Supporting shipper(s): Chemetics Systems, Inc., 2006 Gladwick Street, Compton, Calif. 90220. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 94265 (Sub-No. 252TA), filed September 23, 1977. Applicant: BONNEY MOTOR EXPRESS, INC., Rte 460, P.O. Box 305, Windsor, Va. 23487. Applicant's representative: William K. Gainey, Rte 460, P.O. Box 305, Windsor, Va. 23487. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products, and articles distributed by meat packinghouses*, as described in Section A of Appendix I to the Report in Descriptions of Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except commodities in bulk), from Smithfield, Va., to Greenville, South Carolina, Atlanta and Thomasville, Ga., and Montgomery and Birmingham, Ala., for 18 days. Supporting shipper(s): ITT, Gwaltney, Inc., P.O. Box 489, Smithfield, Va. 23430. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, Va. 23240.

No. MC 103993 (Sub-No. 902TA), filed September 22, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani, 28651 U.S. 20 West, Elkhart, Ind. 46514. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Trucks*, in secondary movements, in truckaway service, from the plantsites and warehouse facilities of Midas International

Corp., and its Divisions, located at points in Elkhart County, Ind., to points in Indiana, Illinois, Kentucky, Michigan, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, Pennsylvania, Massachusetts, Connecticut, Delaware, New York, New Jersey, Maryland, Rhode Island, Georgia and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Frolic Division of Midas International Corp., County Road 15 South, Elkhart, Ind. 46514. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 111170 (Sub-No. 242TA), filed September 21, 1977. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 N. West Ave., El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore, P.O. Box 1718, El Dorado, Ark. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Liquid plastic resins*, in bulk, in tank vehicles, from Monticello, Ark. to points in the United States (except Alaska and Hawaii), for 180 days. Supporting shipper(s): Chemetics Systems, Inc., 2006 Gladwick Street, Compton, Calif. 90220. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 113908 (Sub-No. 412TA), filed September 15, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead, 2105 East Dale St., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alcohol, alcoholic liquors, neutral spirits, distilled spirits, wine and wine products*, in bulk, from points in California, to Long Prairie, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Minnesota Distillers, Inc., 609 6th Street, NE, Long Prairie, Minn. 56347. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 113908 (Sub-No. 414TA), filed September 12, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale St., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alcohol, alcoholic liquors, neutral spirits, distilled spirits, wines, brandies, fruit juice and concentrates thereof*, in bulk, from points in California, to points in Kentucky, Missouri and New York, and from points in Kentucky, to points in

Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. Perelli Minetti & Sons Wineries, P.O. Box 818, Delano, Calif. 93215. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 113908 (Sub-No. 415TA), filed September 12, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale St., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors*, in bulk, from ports of entry on the United States, Republic of Mexico boundary line located in Texas, New Mexico and Arizona, to Weston, Mo., and (2) *alcoholic liquors*, in bulk, from points in New York, New Jersey, Pennsylvania, Maryland, Virginia and Delaware, to Weston, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): McCormick Distilling Company, P.O. Box 38, Weston, Mo. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 113908 (Sub-No. 416TA), filed September 12, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Alcohol, alcoholic liquors, neutral spirits, distilled spirits, wine, wine products, brandies, fruit juice and concentrates thereof*, in bulk, from points in California, to points in Arkansas, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Missouri, New Jersey, New Mexico, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin, for 180 days. Supporting shipper(s): A. Perelli Minetti & Sons Wineries, P.O. Box 818, Delano, Calif. 93215. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 115654 (Sub-No. 69TA), filed September 22, 1977. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 1193, No. 1 Candy Lane, Nashville, Tenn. 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, 425 13th Street NW, Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products, chocolate syrup, and cocoa*, in mechanically refrigerated equipment, except in bulk, from Atlanta, Ga., and its com-

mercial zone to that part of Alabama south of U.S. Highway 80, for 180 days. Supporting shipper(s): Hershey Foods Corporation, P.O. Box 47517, Atlanta, Ga. 30340. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 116073 (Sub-No. 364TA), filed September 22, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett, P.O. Box 919, Moorhead, Minn. 56560. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Travel trailers*, including fifth wheel trailers, tent and pickup campers, from the plant site of AMF Skamper Corp. at or near Bristol, Ind., to points and places in the United States, excluding Alaska and Hawaii, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): AMF Skamper Corp., Box 328, Bristol, Ind. 46507. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116077 (Sub-No. 386TA), filed September 21, 1977. Applicant: ROBERTSON TANK LINES, INC., 2000 W. Loop South, Suite 1800, Houston, Tex. 77027. Applicant's representative: John C. Browder (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Caustic potash*, liquid, in bulk, in tank vehicles, from Corpus Christi, Tex., to Atlanta, Ga., and Goodyear, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): PPG Industries, Inc., Pittsburgh, Pa. 15222. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Building, 515 Rusk Avenue, Houston, Tex. 77002.

No. MC 116457 (Sub-No. 23TA), filed September 23, 1977. Applicant: GENERAL TRANSPORTATION INC., 1804 S. 27th Avenue, P.O. Box 6484, Phoenix, Ariz. 85009. Applicant's representative: D. Parker Crosby, 1710 S. 27th Avenue, P.O. Box 6484, Phoenix, Ariz. 85005. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Logs* that are pre-cut, milled, and notched for use in construction and erection of log buildings and building materials, hardware, and accessories necessary for the erection of log buildings, poles, railings, and posts for erection of fences, from Navajo and Apache Counties, Ariz., to points in the United States except Alaska and Hawaii, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Log Homes, 4409 N.

Saddlebag Trail, Scottsdale, Ariz. 85251. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 117613 (Sub-No. 21TA), filed September 21, 1977. Applicant: D. M. BOWMAN, INC., Route 9, Box 26, 15 East Oak Ridge Drive, Hagerstown, Md. 21740. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Insulation and insulating materials*, between Charlottesville, Va., Kingston, N.Y., Elmswood Park, N.J., and Allentown, Pa., and their respective commercial zones, on the one hand, and, on the other, points in Maryland, Virginia, Pennsylvania, and West Virginia, under a continuing contract, or contracts, with Bow Lighting and Supply, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bow Lighting and Supply, 806 Frederick Street, Hagerstown, Md. 21740. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, D.C. 11423.

No. MC 117730 (Sub-No. 19TA), filed September 21, 1977. Applicant: KOU-BENEC MOTOR SERVICE, INC., Route 47, Huntley, Ill. 60142. Applicant's representative: Albert A. Andrin, 180 N. La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Industrial sand*, in bulk, in conveyor equipment, from Aurora, Ill., to all states in the United States in and east of Montana, Wyoming, Colorado, and New Mexico, for 180 days. Supporting shipper(s): Faskure Coated Sand, Division of Aurora Metals, Inc., John Smillie, General Manager, 1019 Jericho Road, Aurora, Ill. 60506. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386.

No. MC 119741 (Sub-No. 85TA), filed September 20, 1977. Applicant: GREEN FIELD TRANSPORT CO., INC., P.O. Box 1235, R.F.D. No. 2, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, Iowa 50501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Food, food products, and food ingredients*, in vehicles equipped with mechanical refrigeration, from the plant and storage facilities of Archer Daniels Midland Co., Decatur, Ill., to points in Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Archer Daniels Midland Co., P.O. Box 1470, 4666 Faries Parkway,

Decatur, Ill. 62525. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 123255 (Sub-No. 121TA), filed September 21, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of the International Paper Co. at or near Jay and Livermore Falls, Maine, to points in the states of Arizona, California, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, New Mexico, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Wisconsin, and those in New York on and west of Interstate 81, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Paper Co., 220 East 42nd Street, Room 300, New York, N.Y. 10017. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 123255 (Sub-No. 122TA), filed September 22, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic products*, from the facilities of Amoco Plastic Products Co., Division of Amoco Chemical Corp., at or near Seymour, Ind., to points in the states of Alabama, Florida, Georgia, Maryland, Michigan, North Carolina, Ohio, South Carolina, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Amoco Chemical Corp., 200 East Randolph Drive, Chicago, Ill. 60601. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 125368 (Sub-No. 23TA), filed September 23, 1977. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, N.C. 28445. Applicant's representative: C. W. Fletcher, P.O. Box 26, Holly Ridge, N.C. 28445. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from the plant sites and storage facilities of Pepperidge Farm, Inc., at Downers Grove, Ill., to points in Connecticut, Delaware, Florida, Georgia, Massachusetts, Maryland, New Jersey, New York, Pennsylvania, and South Carolina, for 180 days. Supporting shipper(s): Pepperidge Farm, Inc., 595 Westport

Avenue, Norwalk, Conn. 06851. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 310 New Bern Avenue, 624 Federal Building, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 125368 (Sub-No. 24TA), filed September 23, 1977. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26 Holly Ridge, N.C. 28445. Applicant's representative: C. W. Fletcher, P.O. Box 26, Holly Ridge, N.C. 28445. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, Meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant sites and storage facilities of Swift plants located at or near Omaha, Nebr.; Des Moines, Sioux City, Glenwood, and Marshalltown, Iowa, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, and from Grand Island, Nebr., to points in Alabama, for 180 days. Supporting shipper(s): Swift Fresh Meats Co., a Division of Swift & Co., 115 W. Jackson Boulevard, Chicago, Ill. 60604. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 126118 (Sub-No. 53TA), filed September 23, 1977. Applicant: CRETE CARRIER CORP., P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages*, in containers, from Detroit, Mich., and its commercial zone to North Wilkesboro, N.C., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Boggs Distributing Co., David C. Boggs, President, 300 Boggs Lane, Johnson City, Tenn. 37601. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 127539 (Sub-No. 60TA), filed September 26, 1977. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, Wash. 98421. Applicant's representative: Michael D. Duppenthaler, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plant site and facilities of Leslie Foods, a Division of Leslie Salt Co., Inc., located at or near Oakland, San Jose, and Sunnyvale, Calif., to points in Oregon and Washington, for 180 days. Supporting shipper(s): Leslie Foods, a Division of Leslie Salt Co., Inc., 575 Independent Road, Oakland, Calif. 94621. Send pro-

tests to: Hugh H. Chaffee, District Supervisor, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 128290 (Sub-No. 5TA), filed September 20, 1977. Applicant: EARL HAINES, INC., P.O. Box 841, Winchester, Va. 22601. Applicant's representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Springs Road, Atlanta, Ga. 30339. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiber mulch and wood cellulose insulation*, from Baltimore County, Md., to points in the states of Kentucky, Virginia, West Virginia, Maryland, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, New Hampshire, Vermont, Maine, Ohio, Massachusetts, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Florida, Texas, Mississippi, Louisiana, Arkansas, Oklahoma, Michigan, Illinois, Indiana, and the District of Columbia; and recycled cardboard and recycled newsprint, on return, for 180 days. Supporting shipper(s): Superior Fiber Products Co., Suite 501, Executive Plaza II, Hunt Valley, Md. 21031. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, D.C. 20423.

No. MC 134150 (Sub-No. 14TA), filed September 20, 1977. Applicant: SOUTH-WEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, Tenn. 37412. Applicant's representative: Patrick E. Quinn, 2931 South Market Street, P.O. Box 9596, Chattanooga, Tenn. 37410. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Medical, dental and consumer care products*, from Chattanooga, Tenn., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico, restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed, under a continuing contract, or contracts, with Cutter Laboratories, Inc., for 180 days. Supporting shipper(s): Cutter Laboratories, Inc., Berkeley, Calif. 94710. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 134494 (Sub-No. 8TA), filed September 16, 1977. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, Mo. 65712. Applicant's representative: Harry Ross, Jr., 58 South Main Street, Winchester, Ky. 40391. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries*, from Belmont, Hayward, San Francisco, and Los Angeles, Calif., to Robinson, Ill.; Denver, Colo., and Kansas City, Mo., restricted to service at Denver, Colo., and Kansas City, Mo., limited to partial delivery of shipments which require final delivery at Robinson, Ill., under a continuing contract, or contracts, with L. S. Heath & Sons, Inc., for 180 days. Supporting shipper(s): L. S. Heath & Sons, Inc., 206 S. Jackson, Robinson, Ill. 62454. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 134740 (Sub-No. 6TA), filed September 23, 1977. Applicant: JACK BAULOS, INC., P.O. Box 71, Oak Lawn, Ill. 60454. Applicant's representative: Stephen H. Loeb, 180 N. La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Artificial Christmas trees and related Christmas novelties thereof*, from the facilities of American Tree & Wreath, a Division of American Technical Industries, Inc., at Aurora, Ill., to points in Iowa, Indiana, Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, under a continuing contract, or contracts, with American Tree & Wreath, a Division of American Technical Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Tree & Wreath, a Division of American Technical Industries, Inc., Charles Nadler, Mid-West Sales Manager, 5500 W. Touhy Avenue, Skokie, Ill. 60076. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 136228 (Sub-No. 31TA), filed September 22, 1977. Applicant: LUISI TRUCK LINES, INC., P.O. Box H, New Walla Walla Highway No. 11, Milton-Freewater, Ore. 97862. Applicant's representative: Philip G. Skofstad, P.O. Box 594, Gresham, Ore. 97030. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of the Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Wallula, Wash., to points in Arizona, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Columbia Foods, Inc., a subsidiary of Iowa Beef Processors, Inc., Dakota City, Nebr. 68731. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Court-house, Portland, Ore. 97204.

No. MC 136379 (Sub-No. 2TA), filed September 26, 1977. Applicant: JAY WATERS, INC., 1529 North Broadway, Everett, Wash. 98201. Applicant's representative: Michael D. Duppenthaler, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shakes and shingles*, from points in Clallam, Jefferson, Grays Harbor, Pacific, King, and Lewis Counties, Wash., to points in California, for 180 days. Supporting shipper(s): Robinson Plywood & Timber Co., P.O. Box 840, Everett, Wash. 98206. Hinchey Bros. Shake Inc., Box 1216, Forks, Wash. 98331. Send protests to: Hugh H. Chaffee, District Supervisor, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 138420 (Sub-No. 22TA), filed September 22, 1977. Applicant: CHIZEK ELEVATOR AND TRANSPORT, INC., P.O. Box 147, Cleveland, Wis. 53063. Applicant's representative: Wayne W. Wilson, 329 W. Wilson Street, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials and supplies and malt beverage dispensing equipment* when moving therewith, from Detroit, Mich., to St. Louis, Mo., and (2) *rejected shipments and empty malt beverage containers*, from St. Louis, Mo., to Detroit, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mid-America Beer Dist., Inc., 4400 Gustine Avenue, St. Louis, Mo. 63116. (Gerald R. Woodward.) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 139858 (Sub-No. 11TA), filed September 20, 1977. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Avenue, Hamilton, Ohio 45015. Applicant's representative: Chandler L. Van Orman, 704 Southern Building, Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper products and printed materials*, from Evansville, Ind., to California, Illinois, Kentucky, Missouri, Ohio, Tennessee, and Baltimore, Md., and *paper*, from Illinois, Ohio, Tennessee, Alabama, Louisiana, Mississippi, North Carolina, Pennsylvania, and Texas, to Evansville, Ind., and *scrap paper*, from Evansville, Ind., to Illinois and Ohio, restricted to traffic originating at or destined to the facilities of American Standard Inc., and limited to a transportation service to be performed, under a continuing contract, or contracts, with American Standard Inc., of New Brunswick, N.J., for 180 days. Supporting shipper(s): James P. Nelligan, General Traffic Manager, American Standard Inc., P.O. Box 2003, New Brunswick, N.J. 08903. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 139756 (Sub-No. 4TA), filed September 22, 1977. Applicant: HOWARD HERLEE LISK d.b.a. HOWARD LISK, 305 Park Road, Wadesboro, N.C. 28170. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Fly ash*, in bulk, in tank and hopper-type vehicles, from the facilities of Amax Resource Recovery Systems, Inc., located at or near Roxboro and Terrell, N.C., to points in South Carolina and Virginia, under a continuing contract, or contracts, with Amax Resource Recovery Systems, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Amax Resource Recovery Systems, Inc., 2708 Church Street, Greensboro, N.C. 27405. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Room CC516, Charlotte, N.C. 28205.

No. MC 140484 (Sub-No. 24TA), filed September 22, 1977. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, 2671 E. Edison Avenue, Fort Myers, Fla. 33902. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, chinaware, earthenware, porcelainware, stoneware and plastic bowls, cups, dishes or plates and accessories*, from Lake City, and Jeannette, Pa., and Sebring and Bedford Heights, Ohio to points in Alabama, Georgia, Florida, and Tennessee, for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): Jeannette Corp., Bullitt Avenue, Jeannette, Pa. 15644. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 140553 (Sub-No. 3TA), filed September 20, 1977. Applicant: ROGERS TRUCK LINE, INC., P.O. Box 125, Webster City, Iowa 50595. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I. Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Sioux City and Des Moines, Iowa, to points in Alabama, Georgia, Florida, Tennessee, North Carolina, and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift Fresh Meats Co., a division of Swift & Co., 115 W. Jackson Boulevard, Chicago, Ill. 60604. Siouxland Beef Packers, Inc., P.O. Box 2371, Sioux City, Iowa 51107. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 140572 (Sub-No. 2TA), filed September 20, 1977. Applicant: R. C. MOORE, INC., Box 346, Waldboro, Maine 04572. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood and plastic products, toothpick dispensers and sporting goods and accessories*, from Wilton and Strong, Maine, to points in Pennsylvania, Delaware, Maryland, and the District of Columbia, to points in New Jersey located on and south of U.S. Highway 130 and New Jersey Highway 33 and points in New York (except New York, N.Y.), and Nassau and Suffolk Counties, N.Y.), under a continuing contract, or contracts, with Forster Manufacturing Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Forster Manufacturing Co., Inc., Depot Street, Wilton, Maine 04294. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 142065 (Sub-No. 8TA), filed September 23, 1977. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F., Mulberry, Ark. 72947. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Ark. 72756. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and food ingredients* (except in bulk), in vehicles with mechanical refrigeration, from Crozet, Va., to points in New Jersey, New York and Pennsylvania, under a continuing contract, or contracts, with Mortons Frozen Foods, Division ITT Continental Baking Co., Inc., of Charlottesville, Va., for 180 days. Supporting shipper(s): Mortons Frozen Foods, Division ITT Continental Baking Co., Inc., 2007 Earhart Street, Charlottesville, Va. 22906. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 142864 (Sub-No. 2TA), filed September 21, 1977. Applicant: RAY E. BROWN TRUCKING, INC., 1266 Stuart Street, NW., P.O. Box 501, Massillon, Ohio 44646. Applicant's representative: Jerry B. Sellman, Muldoon, Pemberton, & Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from the facilities and plantsite of Kitchens of Sara Lee located at or near Deerfield and Chicago, Ill., to points in Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, Ill. 60015. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 143753TA, filed September 22, 1977. Applicant: BOLES & FRANKLIN, INC., Rt. 2, Box 169, Weaverville, N.C. 28787. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Bell, Clay, Harlan, Knox, Laurel, and Whitley Counties, Ky., and points in Anderson, Campbell, Grainger, and Morgan Counties, Tenn., to points in Buncombe, Burke, Haywood, and McDowell Counties, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kincaid Coal Co., P.O. Box 45, Thru Hill, Tenn. 37881. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Room CC516, Charlotte, N.C. 28205.

No. MC 143754TA, filed September 22, 1977. Applicant: MACZUK INDUSTRIES, INC., Route 2, New Haven, Mo. 63068. Applicant's representative: Robert L. Hawkins, Jr., 312 East Capitol Avenue, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, liquid feed, and liquid feed ingredients*, in bulk, in tank vehicles, from New Haven, Mo., to points in Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc., P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 143755TA, filed September 20, 1977. Applicant: GLOUCESTER NEW COMMUNITIES COMPANY, INC., R. D. 2, Box 76A, Kings Highway, Swedesboro, N.J. 08085. Applicant's representative: Eldon M. Chorney, R. D. 2, Box 76A, Kings Highway, Swedesboro, N.J. 08085. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Residents of applicant's housing development in Woolwich and Logan Townships*, Gloucester County, N.J., between Woolwich and Logan Townships, Gloucester County, N.J., and Philadelphia, Pa., under a continuing contract, or contracts, with Beckett Homeowners Association, for 180 days. Supporting shipper(s): Beckett Homeowners Association, R. D. No. 2, Box 76A, Kings Highway, Swedesboro, N.J. 08085. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-20699 Filed 10-7-77; 8:45 am]

[7035-01]

[Notice No. 234]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 11, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-77339. By application filed September 30, 1977, JERRY J. KOBS, INC., R.R. No. 2, Walnut, IA 51577, seeks temporary authority to transfer a portion of the operating rights of IOWA PACKERS XPRESS, INC., P.O. Box 231, Spencer, IA 51301, under section 210a(b). The transfer to JERRY J. KOBS, INC., of a portion of the operating rights of IOWA PACKERS XPRESS, INC., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29700 Filed 10-7-77; 8:45 am]

[7035-01]

[Notice No. 233]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before November 10, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-76638, filed October 2, 1977. Transferee: BROWN LINES, INC., 22 First St. West, Kalispell, Mont. 59901. Transferor: Lyle H. Hacke, doing business as Brown Bus Lines, 606 Montana Ave., Libby, Mont. 59923. Applicants' representative: John B. Dudis, Jr., Attorney at Law, P.O. Box 759, Kalispell, Mont. 59901. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 123481, issued July 14, 1971, as follows: *Passengers and their baggage, and express and newspapers in the same vehicle with passengers, between Bonners Ferry, Idaho, and Kalispell, Mont., serving all intermediate points from Bonners Ferry over U.S. Highway 2 to Kalispell and return over same route.* Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC-FC-77271, filed September 29, 1977. Transferee: Colorado-Wyoming Transfer Co., Inc., 2850 Blake St., Denver, Co. 80205. Transferor: Burge Moving and Storage, Inc., 2850 Blake St., Denver, Co. 80205. Applicants' representative: Truman A. Stockton, Jr., Attorney at Law, The 1650 Grant St. Bldg., Denver, Co. 80203. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 121247 (Sub-No. 2), issued April 9, 1969, as follows: *Commodities, the transportation of which because of their size or weight require the use of special equipment or special handling, between Cheyenne, Wyo., and Denver, Colo., restricted to shipments originating at Cheyenne, Wyo. and destined to Denver, Colo., or originating at Denver, Colo., and destined to Cheyenne, Wyo.* Transferee presently holds authority from this Commission under Certificate No. MC 136504. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77313, filed September 19, 1977. Transferee: Kenneth A. Roushey, R. D. 1, Wapwallopen, Pa. 18660. Transferor: Russell J. Haele, doing business as A & H Trucking Co., 55 Ashley St., Ashley, Pa. 18706. Applicant's representative: Thomas F. Kilroy, Attorney at Law, Suite 406, Executive Bldg., 6901 Keene Mill Rd., Springfield, Va. 22150. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 134245 (Sub-No. 1), issued April 29, 1971, as follows: *Shredded paper and polyurethane foam, from West Pittston, Pa., to Leitchfield, Ky., Stamford, Conn., New York, N.Y., Elizabeth, N.J., Chicago, Ill., Framingham, Mass., Baltimore, Md., and Columbus and Dayton, Ohio, with no transportation for compensation on return except as otherwise authorized.* Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77316, filed September 19, 1977. Transferee: Panther Valley Car-

riers, Inc., R. D. No. 3, Tamaqua, Schuylkill County, Pa. 18252. Transferor: William N. Stegmeier, doing business as Panther Valley Carriers, R. D. No. 3, Tamaqua, Schuylkill County, Pa. 18252. Applicant's representative: Ronald T. Derenzo, Zimmerman, Lieberman & Derenzo, Attorneys, 200 Mahantongo Street, Pottsville, Schuylkill County, Pa. 17901. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 21720 and MC 21720 Sub 4, issued July 18, 1966, and May 14, 1964, respectively, as follows: *Over regular routes, Malt beverages, from Northampton, Pa., to Charleston, S.C., over specified highways, serving no intermediate points, and Empty malt beverage containers on return over the above-specified route, serving no intermediate points; irregular routes, Agricultural commodities, from points in Lehigh and Northampton Counties, Pa., to points in New York, New Jersey, Delaware, Maryland and the District of Columbia; Malt beverages, from Northampton, Pa., to Baltimore, Md., New York, N.Y., and points on Long Island, N.Y., and those in New Jersey and the District of Columbia, and return; from Mahanoy City, Pa., to the District of Columbia and points in New Jersey, New York, Ohio, Delaware, Maryland, and Virginia.* Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77321, filed September 21, 1977. Transferee: DIXON LEASING CO., INC., Old Egg Harbor Road, Lindenwold, N.J. 08021. Transferor: GEORGE WASHINGTON BOYER, doing business as GEORGE W. BOYER TRUCKING, 684 Sunrise Drive, Avalon, N.J. 08202. Attorney for transferee: Robert B. Einhorn, Esquire, 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, Pa. 19107. Attorney for transferor: John H. Mead, Esquire, 20 Decatur Street, P.O. Box 376, Cape May, N.J. 08204. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 49071 issued April 10, 1971, as follows: *Refractory products, aggregate materials, bonding materials and coatings, castables, gunning materials, insulation materials, metal anchors, clips and castings, and plastics and ramming mixes, from Philadelphia, Pa., to points in Connecticut, Delaware, Massachusetts, New Jersey, New York, and Rhode Island, and points in those parts of Maryland and Virginia on and east of U.S. Highway 15; Raw materials used in the manufacture of refractory products, from New York, N.Y., Worcester, Mass., points in Delaware and New Jersey, and points in that part of Maryland on and east of U.S. Highway 15, to Philadelphia, Pa.; Fire clay, from Crossmans, Perth Amboy, South River, Woodbridge, in Middlesex County, Millville, in Cumberland County, Trenton, in Mercer County in Winslow Junction, in Camden County, N.J., to Philadelphia, Pa.; Fire brick and clay, from Philadelphia, Pa., to Baltimore, Md., Wilmington and Dover, Del., New*

York, N.Y., and points in New Jersey. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC-FC-77323 filed September 23, 1977. Transferee: Harold R. Prigmore, doing business as J & D Towing Company, 3371 South 500 West Street, P.O. Box 15439, Salt Lake City, Utah 84115. Transferor: Gerald R. Davis and Harold R. Prigmore, a partnership, doing business as J & D Towing, 3371 South 500 West Street, Salt Lake City, Utah 84115. Applicants' representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 123605, issued September 18, 1975, as follows: *Wrecked or disabled motor vehicles, except passenger automobiles, in truckaway service, by means of heavy duty wrecker equipment only, between points in Davis, Salt Lake, and Weber Counties, Utah, on the one hand, and, on the other, points in Arizona, Colorado, Idaho, Montana, Nevada, Utah, and Wyoming.* Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77325, filed September 23, 1977. Transferee: Swiss Ski Tours, Inc., 65-03 Myrtle Ave., Glendale, N.Y. Transferor: Swiss Ski Tours, Inc., 67-50 Thornton Pl., Forest Hills, N.Y. Applicant's representative: Gerald E. Paley, Attorney at Law, 285 Madison Ave., New York, N.Y. 10017. Authority sought for purchase by transferee of the brokerage rights of transferor, as set forth in License No. MC 12820, issued June 4, 1964, authorizing a service to be performed in connection with transportation by motor vehicle in interstate or foreign commerce as follows: *Passengers and their baggage, in round trip tours, beginning and ending at Glendale, Queens County, N.Y., and extending to points in Maine, Massachusetts, New Hampshire, and Vermont.* Transferor is authorized to engage in the above-specified operations as a broker at Glendale, Queens County, N.Y. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77328, filed September 27, 1977. Transferee: William H. Ott, Inc., doing business as Texas Hot Shot Company, 3815 Irvington Blvd., Houston, Tex. 77009. Transferor: William H. Ott, doing business as Texas Hot Shot Company, 3815 Irvington Blvd., Houston, Tex. 77009. Applicant's representative: Mike Cotton, P.O. Box 1143, Austin, Tex. 78767. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 106941 and MC 106941 (Sub-No. 2) and MC 106941 (Sub-No. 3) issued April 24, 1952, December 21, 1962, and July 19,

1967 as follows: *Machinery, equipment, materials, and supplies, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment, and supplies, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines including the stringing and picking up thereof, between Houston, Tex., on the one hand, and, on the other, points in Louisiana. From Houston, Tex., to points in Texas with no transportation for compensation on return except as otherwise authorized. Machinery, equipment, materials, and supplies, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main pipe lines, between Houston, Tex., on the one hand, and, on the other, points in Oklahoma. Machinery, equipment, materials, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights way of way, from Houston, Tex., to points in Texas, with no transportation for compensation on return except as otherwise authorized. Between Houston, Tex., on the one hand, and, on the other, points in Louisiana and Oklahoma. Earth drilling machinery and equipment, and machinery, equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment. (b) the completion of holes or wells drilled. (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between Houston, Tex., on the one hand, and, on the other, points in Louisiana and Oklahoma. From Houston, Tex., to points in Texas, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority section 210a(b).*

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29701 Filed 10-7-77; 8:45 am]

[7035-01]

[Ex Parte No. MC-88 (Sub-No. 2)]

DETENTION OF MOTOR VEHICLES
Shipments of Uncrated New Furniture,
Fixtures, and Appliances

In the order of the Commission served August 31, 1977, petitions for a stay of the prescribed uniform nationwide detention rules pending reconsideration, reopening, and judicial review were denied. On September 2, 1977, the United States Court of Appeals for the Third Circuit stayed the effectiveness of the prescribed rules.

In the order of August 31, 1977, the effectiveness of the prescribed rules was stayed with respect to "shipments of uncrated, uncartoned new furniture, fixtures, and appliances requiring inside strapping, wrapping, bracing, and other loading devices similar to those of the household goods moving industry." In staying the effectiveness of the rules, it was stated that a subnumbered proceeding would be instituted immediately "to receive evidence on the issue of an exemption or other handling." Accordingly, this proceeding will be instituted and the participants are requested to address such issues as:

(1) The current detention practices with respect to these shipments;

(2) The nature of the specific shipments and the reasons why the detention rule, in its current form, 126 MCC 803, as modified by the decision and order of the Commission served September 15, 1977, should not apply to them; and

(3) Alternative suggestions directed at modifying the prescribed rule in lieu of totally exempting specific shipments.

It is ordered: A proceeding is instituted to determine whether an exemption or other modified treatment is warranted with respect to shipments of uncrated, uncartoned new furniture, fixtures, and appliances.

This order will be served upon all interested persons and parties to Ex Parte No. MC 88, Detention of Motor Vehicles—Nationwide, North American Van Lines, Inc., Mural Transport, Inc., Office Furniture Distribution Management Association, Inc., National Furniture Traffic Conference, Inc., Hamilton Industries, The Store Kraft Manufacturing Co., Hobart Corp., Ozite Corp., Elsters, Inc., and Speed Queen, and be published in the FEDERAL REGISTER.

No oral hearing will be scheduled for receiving testimony in this proceeding unless a need should later appear, but any interested persons may participate in this proceeding by submitting for consideration written statements of facts, views, or arguments on the issues mentioned above, or any other subjects pertaining to those issues.

Any person intending to participate actively in this proceeding shall notify the Commission by filing the original and one copy of a statement of intent to participate, as well as the position it intends to take, with the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on

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or before October 31, 1977. The Office of Proceedings shall then prepare and make available to all persons a list containing the names and addresses of all parties to this proceeding, upon whom copies of all statements must be served. At the time of transmittal of the service list, the Commission will fix the time within which initial statements and reply statements must be filed.

Decided: October 3, 1977.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-29694 Filed 10-7-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6715-01]

1

FEDERAL ELECTION COMMISSION.
FEDERAL REGISTER: No. 1492.
PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, October 6, 1977, at 10 a.m.
PLACE: 1325 K Street NW., Washington, D.C.
CHANGE IN MEETING: Please add: Office accounts—Commission's Regulation, Part 113, letter from U.S. House of Representatives Select Committee on Ethics.
PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, press officer.

MARJORIE W. EMMONS,
Secretary to the Commission.
[S 1529-77 Filed 10-5-77;11:49 am]

[6740-02]

2

FEDERAL ENERGY REGULATORY COMMISSION.
FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: To be published October 7, 1977.
PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 11, 1977, 10 a.m.
CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No. and Company

G-8—CP77-419, et al., Tennessee Gas Pipeline Co., a division of Tenneco Inc., et al.

G-9—RP72-133 (PGA77-2), United Gas Pipe Line Co.

KENNETH F. PLUMB,
Secretary.

[S 1530-77 Filed 10-6-77;10:12 am]

[6210-01]

3

FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 52601, September 30, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 5, 1977.

CHANGES IN THE MEETING: Addition of the following closed items to the meeting:

1. Organizational issues relating to the Board's staff.

2. The Board's building project involving enclosure of the Martin Building podium area. (The previously announced meeting included consideration of any agenda items carried forward from a previous meeting; this matter was originally scheduled for a meeting on September 28, 1977.)

Previously announced closed items:

1. Proposed statement to be presented to the Senate Committee on Banking, Housing, and Urban Affairs regarding the Federal Reserve's role in the payments mechanism.

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 6, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S 1532-77 Filed 10-6-77;12:35 pm]

[7590-01]

4

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, October 12.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10 a.m.—1. Briefing on BWR Mark I, II, III containment designs. 2. Briefing on steam generator tube leaks.

3 p.m.—1. Meeting with KMC representatives on physical search requirements. 2. Affirmation of: Proposed order in Seabrook (tentative); conflict of interest exemption.

NOTE:—The affirmations will consist of votes on matters previously reviewed individually by the Commissioners and are expected to take no more than 5 minutes.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: October 5, 1977.

WALTER MAGEE,
Office of the Secretary.

[S 1531-77 Filed 10-6-77;10:12 am]

[7590-01]

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, October 11, 1977.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Briefing on reactor licensing schedules.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: October 4, 1977.

WALTER MAGEE,
Office of the Secretary.

[S 1527-77 Filed 10-5-77;9:53 am]

Registered for

TUESDAY, OCTOBER 11, 1977

PART II



INTERSTATE COMMERCE COMMISSION

■

STANDARDS FOR
DETERMINING
COMMUTER RAIL
SERVICE CONTINUATION
SUBSIDIES AND
EMERGENCY
OPERATIONS PAYMENTS

Proposed Rulemaking and Order

V42-196

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[7035-01]

INTERSTATE COMMERCE
COMMISSION

[49 CFR Part 1127]

[Ex Parte No. 293 (Sub-No. 8)]

STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

Proposed Rulemaking and Order

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Proposed Rulemaking.

SUMMARY: In response to a petition of the Southeastern Pennsylvania Transportation Authority, the Office is reopening rulemaking in Ex Parte No. 293 (Sub-No. 8) to consider whether the commuter rail service subsidy standards should be revised to limit the subsidizer's responsibility for personal injuries and property damage.

DATES:

Comments filed by: November 10, 1977.
Reply Comments filed by: November 25, 1977.

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ADDRESS: Submit statement to:

Rail Services Planning Office, Interstate Commerce Commission, Washington, D.C. 20423.

SUPPLEMENTAL INFORMATION: The Rail Services Planning Office (the Office) presently has under consideration a petition filed June 3, 1977, by the Southeastern Pennsylvania Transportation Authority (SEPTA) seeking a reopening of the above-referenced rulemaking proceeding to consider amendment of the Standards for Determining Commuter Rail Service Continuation Subsidies and Emergency Operating Payments (49 CFR Part 1127). On June 10, 1977, the Consolidated Rail Corporation (ConRail) filed an opposition to SEPTA's request, and on June 16, 1977, SEPTA filed a reply.

SEPTA urges reconsideration of certain aspects of the Commuter Standards on the premise that regulations "implementing a new and rather general legislative mandate, should, no matter how carefully considered and drafted, give way to later insights developed through negotiations and dealings between the parties". ConRail opposes reopening because three of the four areas of SEPTA's concern "were not only specifically considered in the proceedings leading to promulgation of the Standards, but were also expressly reaffirmed by RSPO following mediation proceedings held February 24, 1977, at the request of SEPTA and ConRail". Should the Office decide to consider SEPTA's request on its merits, ConRail does suggest two additional areas of concern which it feels should be revisited.

The Office agrees with SEPTA that the public interest will be served by reviewing

PROPOSED RULES

the rights and responsibilities of the commuter authorities, the operator, and the Federal Government under the commuter rail service continuation program. Upon such review, the Office has concluded that rulemaking should be instituted to consider limited revision of the standards. The prospective modification and the issues raised by SEPTA and ConRail are discussed below.

I. FINANCIAL COMMITMENTS AND RESPONSIBILITY

Failure of Federal Funding. Whether the burden of financial responsibility should be shifted from the subsidizer to the operator in the event the Urban Mass Transportation Administration (UMTA) fails to make advance payments under § 1127.8(h) of the Standards.

SEPTA observes that it is entirely dependent on Federal, State, and local grants for funds to continue subsidizing commuter rail service; that it has no taxing authority or other assured source of revenue; that it provides transportation services (bus, trolley, and subway) besides commuter rail; that in the event of default under its commuter rail agreement, the assets, grant moneys and revenues pertaining to these other services would be subject to levy by ConRail; and that at least in the event of a failure of Federal funding "it is simply impossible to believe that Congress could have intended such a result."

SEPTA, therefore, proposes to qualify the subsidizer's obligation to make monthly payments by amending § 1127.8(h) of the standards as follows:

Notwithstanding any other provision of this part, in the event that the Secretary (of Transportation) shall fail to pay any such monthly amount in advance to the subsidizer, the subsidizer's obligation to make monthly payments to the railroad for continuation of commuter rail service shall be reduced by the amount of, and for the duration of, said non-payment, unless said non-payment is occasioned by a default by the subsidizer under any Federal agreement.

There is considerable merit to SEPTA's proposed amendment of § 1127.8(h). The difficulty is that the RRR Act confers upon ConRail the right to discontinue commuter service if "an applicable rail service continuation payment . . . is not paid when it is due" (Section 304(e)(2)(C) (emphasis supplied)). The Office is concerned about the propriety of insulating the subsidizer from service discontinuance when payments are not made on time. On the other hand, the Office recognizes that in conferring this discontinuance right on ConRail, Congress also imposed a parallel obligation on the Secretary to reimburse subsidizers for the additional costs they incur in continuing the commuter service. The Office agrees that it is patently unfair to penalize the subsidizer solely because the Federal Government does not fulfill its statutory responsibility, and in a recent ruling (Interpretation No. 5) has affirmed that UMTA is obligated to reimburse the subsidizer for the interest payable to the railroad on overdue Federal assistance.

The Office also recognizes that the statute does not call for monthly payments, much less payments in advance of service. Thus, it would arguably be a reasonable exercise of administrative discretion to excuse the subsidizer from making monthly payments solely because UMTA had not met its advance payment obligation. On balance, however, the Office believes that the public interest will best be served by preserving the existing rights and responsibilities of the parties. To date, ConRail has not elected to assert its discontinuance rights although the Federal Government has not dispersed emergency assistance funds for nearly a year. The Office presumes that ConRail has sufficient working capital to await compensation (with interest) from UMTA and that if its circumstances materially change, it will afford the subsidizers and UMTA a reasonable opportunity to bring the subsidy payments up to date. The Office also reiterates its belief expressed in the mediation summary that the public interest will be disserved unless the subsidizers and ConRail resolve their differences by spelling out mutually satisfactory discontinuance procedures in the subsidy agreement.

Failure of Local Funding. Whether the funds and assets necessary to the continuation of SEPTA's transportation services other than commuter rail should be insulated from judgment and levy if there is a failure of local funding.

SEPTA in effect acknowledges that in the event of a default in payments, ConRail is entitled to pursue its discontinuance rights and to obtain a judgment and levy against any funds which SEPTA "may have received for the continuation of commuter rail service and which SEPTA is legally authorized to pay over to ConRail . . ." (emphasis supplied). SEPTA asserts, however, that to avoid adverse impact upon public health and safety, the funds and assets necessary to the continuation of its other transportation services should not be jeopardized by judgment and levy. SEPTA suggests that the Office has reached a contrary conclusion in its summary of the mediation session and has ruled that ConRail is entitled to judgment and levy in the event of a failure of local funding. SEPTA argues that Congress contemplated offers of financial assistance from subsidizers which are unable to pledge the full faith and credit of a governmental body with taxing authority and that this decision is "tantamount to a recognition that ConRail might have to bear some risk of loss." It further argues that by permitting entities such as SEPTA to offer subsidy, Congress did not intend to jeopardize the other facets of SEPTA's regional transportation system or to permit commuter rail service to be subsidized by other services. SEPTA, therefore, proposes that § 1127.3(e) be amended by adding the following clause at the end of the first sentence:

• • • Provided, however, That the liability of the subsidizer for any payment to (the railroad) shall be limited to the funds which the subsidizer shall have received for the

continuation of rail service and which the subsidizer shall be legally authorized to pay to (the railroad).

Upon consideration of the contentions of the parties, the Office has concluded that it would be inappropriate to insulate by administrative regulation SEPTA's non-rail commuter assets and revenues from levy and judgment in the event of default. Section 304(e) contemplates that commuter rail service will be continued without the consent of ConRail only upon offers to make subsidy payments by financially responsible persons. Congress did not limit the liability of these persons in any respect, but on the contrary, affirmatively obligated them to make the subsidy payments when due. The statute (Section 205(d)) also directed the Office to adopt regulations "which avoid cross subsidization among commuter, intercity, and freight rail services." A regulation which effectively shifts the ultimate liability for commuter service from SEPTA to ConRail would be facially inconsistent with this statutory principle.

Contrary to SEPTA's contention, the Office did not rule in its summary of the mediation session that ConRail was entitled to judgment and levy on all its revenues and assets. This is a question of state law on which the Office expresses no opinion. The Office does believe that the parties could fashion reasonable restrictions on their judicial remedies in negotiating the operating agreement. However, in the absence of a statutory directive, the Office does not view SEPTA's proposed regulation as consistent with rail continuation provisions of the RRR Act.

SEPTA's Underlying Financial Commitments. Whether the responsibility for determining the validity of a subsidy offer should in effect be shifted from the Office to the subsidizer.

SEPTA asserts that in negotiating the operating agreement, ConRail has insisted upon receiving specific written commitments from each and every one of the state and local governments upon which SEPTA relies for funds. SEPTA argues that ConRail has effectively required commitments guaranteeing payment by the subsidizer, whereas § 1127.3(c) only requires subsidy offers to contain "information demonstrating that the prospective subsidizer has or will have the financial resources to subsidize the service and otherwise fulfill its contractual obligations." SEPTA expresses the belief that its latest subsidy offer, on which the operating agreement was negotiated, went well beyond the information required by RSPO regulations. Acknowledging, however, that ConRail apparently disagrees, SEPTA proposes to eliminate any uncertainty by amending § 1127.3(e)(3) to require that the subsidy offer contain:

• • • Information supporting the prospective subsidizer's reasonable belief that it has or will have available financial resources adequate to pay the rail service continuation subsidy, as reasonably estimated by the subsidizer (emphasis supplied).

PROPOSED RULES

In its opposition, ConRail disputes SEPTA's claim that it has insisted upon "guarantees" from SEPTA's constituent governments, asserting that the letters of commitments themselves refute such an assertion. The Office will not undertake to construe the commitments made by SEPTA's constituent governments. It does reiterate the opinion expressed in the summary of the mediation session "that ConRail cannot dictate the nature and extent of SEPTA's underlying financial commitments." Thus, while SEPTA is obligated "to demonstrate through guarantees, security arrangements or other appropriate measures that it has the capacity to fulfill its commitments," ConRail has no right to dictate the form by which SEPTA manifests its financial responsibility.

The Office is also not persuaded that SEPTA's proposed amendment of § 1127.3(e)(3) is consistent with the service continuation provisions of the RRR Act. SEPTA's proposed regulation would effectively shift the duty for determining whether a person is "financially responsible" from the Office to the subsidizer. Although the Office has not been called upon to rule on the validity of any subsidy offer, under the statutory scheme, such a determination would be within its administrative discretion.

II. INTEREST AND PENALTIES

Whether SEPTA should be required to pay interest on late payments in the absence of ConRail's agreement to penalty provisions which SEPTA feels are necessary to insure a satisfactory level of service.

Section 1127.3(e) of the Commuter Standards requires the subsidized to pay interest to the railroad on overdue subsidy payments. In contrast, § 1127.5(n) permits, but does not require, the imposition of negotiated penalties for inferior performance. SEPTA asserts that during negotiations, while ConRail insisted upon its "right" to receive interest on late payments (as reflected in § 9.01(c) of the operating agreement), it refused to agree to penalties for inferior performance without cash incentives (as an addition to avoidable cost) for superior performance.

In SEPTA's view, the imposition by regulation or agreement of interest on late subsidy payments is the equivalent to a liquidated damage arrangement. SEPTA does not quarrel with the concept of liquidated damages, but believes that RSPO lacks the power to impose them, particularly upon one party only. SEPTA argues that the analogous liquidated damage provision applicable to ConRail's obligations would be a penalty clause for specified breaches of the performance standards. However, because the Standards make penalties permissive rather than mandatory, SEPTA says that it is not in a position of comparable strength with ConRail to negotiate liquidated damages provisions. Therefore, SEPTA proposes that the RSPO Standards be amended as follows:

1. Replace the third sentence of § 1127.3(e) with the following sentence:

The subsidy agreements may include reasonable provisions as agreed upon by the parties for the accrual of interest on overdue subsidy payments, at a fixed rate or a rate determinable by reference to prevailing interest rates, for such period as they remain unpaid and the railroad has not terminated the service.

2. Amend the first sentence of § 1127.5(n) to read:

The subsidy agreements may include reasonable provisions as agreed upon by the parties for penalties for service inferior to stipulated performance standards or incentive payments for superior performance, or both.

In its opposition, ConRail points out that the Standards impose interest not only on late payments by subsidizers, but also on overpayments which are to be adjusted after the end of the subsidy year. ConRail argues that "similarly, penalties should be charged to ConRail only to the extent that it may equally benefit from performance incentives" and suggests that "SEPTA's goals would be better served by the give-and-take of negotiations on appropriate penalties and incentives than by attempting to restructure the basic financial guidelines of the Standards."

The Office is sympathetic with SEPTA's desire to negotiate penalty provisions to induce a satisfactory level of service. The Office acknowledges, too, its observation during rulemaking that the assessment of interest is "in the nature of a penalty to discourage late payments, rather than a return on investment" (see 41 FR at 20108). Nevertheless, in adopting the interest provision, the final standards provided that interest on overdue payments would accrue only "for such period as the operator agrees to waive any rights to terminate service" (41 FR at 26939). Thus ConRail's forbearance from exercising its statutory right of discontinuance when payments are not made "when due" (Section 304(e)) constitutes the quid pro quo for late payment charge. The imposition of interest on late and overpayments is also consistent with the no cross subsidization principle of Section 205(d). For these reasons, the Office adheres to its conclusion that the present interest provision should be retained.

III. RESPONSIBILITY FOR PERSONAL INJURIES AND PROPERTY DAMAGE

Whether the responsibility for losses arising from personal injuries and property damage, which are not necessarily and reasonably sustained, should be shifted from the subsidizer to the railroad.

SEPTA asserts that it should not be responsible for reimbursing ConRail for losses caused by ConRail's own wilful, reckless or negligent conduct. SEPTA argues Congress did not intend that ConRail could intentionally injure persons or destroy a subsidizer's property, yet require the subsidizer to bear the consequent financial burden. It believes the concept of "avoidable cost" was not intended to protect ConRail against losses caused by ConRail's recklessness or negligence, and submits that "the

absence of any incentive to operate the commuter service in the manner necessary to minimize personal injuries and property damage is plainly against public policy." It argues, therefore, that ConRail must be required to bear at least part of the financial responsibility for third party claims and damage to SEPTA's facilities which are not covered by insurance where there is good reason to believe that such costs are not "reasonably and necessarily sustained." To implement this principle, SEPTA recommends that the first section of § 1127.5 (b)(13) be replaced with the following sentences:

The subsidizers shall be responsible for costs incurred under these accounts resulting from the operation of the commuter service up to a level determined by reference to past loss experience in the operation of the commuter service. The level determined, expressed as a percentage of total costs, shall be equal to the losses experienced, expressed as a percentage of costs, for the reference period, except to the extent that adjustments are appropriate to reflect changes in the character of the service, the type of equipment used, or similar factors. The railroad shall be responsible for all costs in excess of the level so determined.

Under this approach, while the casualty reserve fund would continue to serve as a "savings account," the existence of such savings would have no effect in determining whether SEPTA or ConRail would ultimately bear a particular loss. Rather, the fund would only be available for reimbursement to the extent that aggregate losses did not exceed past losses for the level of service provided.

The necessity for such a provision has, in SEPTA's view, already been demonstrated by an accident in May 1977, when a three-car commuter train was derailed after having struck a car door which had fallen from a ConRail freight train. There were no personal injuries, but damage to the three cars is estimated at \$50,000, none of which is covered by insurance. SEPTA asserts that this is obviously a case in which at least an inference of ConRail negligence can be drawn from the presence of a freight car door on the tracks.

ConRail opposes any change in the casualty loss regulations, relying upon the following ruling of the Director during the mediation proceedings:

This matter was exhaustively considered by the Office in the rulemaking in which the regional freight standards were adopted (41 FR at 3402). In my opinion, no casualties would occur, or liabilities accrue, but for the provision of subsidized commuter or freight service. In these circumstances, the ultimate responsibility for personal injury and property damage must be borne by the subsidizer and, in the absence of ConRail's consent, cannot be shifted to the operator of the contract service. This is not to say that ConRail is entitled to an indemnification provision in its Subsidy Agreement with SEPTA; however, under the standards, (§ 1127.5(k)(13)), SEPTA is responsible for any costs incurred for personal injury and property damage resulting from the operation of its commuter service. The standards make provision for insurance to underwrite these losses, and, at SEPTA's option, require ConRail to establish a casualty reserve fund for the purpose

of holding SEPTA harmless for personal injury and property liability. Should, however, insurance and or such fund prove insufficient, SEPTA must bear ultimate responsibility for these liabilities. See Rulings, p. 7.

The casualty loss issue, which arises under both the Commuter and Freight Standards, has been a serious and difficult one to resolve. Under both standards, the ultimate responsibility for personal injury and property damage is imposed upon the subsidizer on the premise that no casualties would occur, or liabilities accrue, but for the provision of subsidized service (see 41 FR at 32533 and 41 FR at 3402). At the present time, subsidizers are acting as self-insurers for per claim casualty liabilities under \$2,000,000 and ConRail has obtained insurance protecting them against claims between \$2,000,000 and \$50,000,000. ConRail has no insurance for catastrophic losses in excess of \$55,000,000. Thus, in the event of catastrophe, claims over \$50,000,000 would have to be paid out of the casualty reserve fund, and, if the fund were exhausted, must be borne ultimately by the subsidizer. To ameliorate this problem, Senator Harrison A. Williams, Jr., has introduced the Commuter Rail Passenger Service Continuation Act of 1977 (S. 1890), Section 301 of which would reduce the subsidizers' ultimate exposure to claims under \$2,000,000 and over \$50,000,000 by authorizing the United States Railway Association to reimburse them for uninsured casualty losses in amounts not to exceed \$50,000,000 for any single occurrence.

In view of the pending legislation, the Office believes that the public interest would be served by soliciting the views of the parties on the casualty loss issue. Those desiring to express their views should brief the following questions:

1. Whether the railroad should be responsible for its own wilful, reckless or negligent conduct.
2. Whether Issue 1 should be resolved differently, if the railroad's conduct causes direct personal injury or property damage to the subsidizer, as distinguished from third parties.
3. Whether the railroad should be responsible for excess losses as measured by past loss experience in the operation of a similar level of commuter service.
4. Whether the railroad or the subsidizer should be responsible for losses arising from unintentional accident or act of God.
5. Whether the ultimate responsibility for catastrophic loss should be shifted from the subsidizer to the federal government.

IV. REQUIRED DETAIL IN SUBMITTING SUBSIDY ESTIMATES AND FINANCIAL STATUS REPORTS

Whether the Standards should be amended to require more detail regarding the subsidy estimate and the revenues earned and expenses incurred in the actual commuter operation.

SEPTA asserts that ConRail's subsidy estimate cannot be meaningfully assessed because ConRail is not required to elucidate, and the subsidizer is not permitted to evaluate, the factual assumptions on which the estimate is based. SEPTA further asserts that the financial status report is not sufficiently de-

tailed to enable it to make a reasonably competent determination that the reported costs reflect ConRail's actual experience in the operation of the commuter service. SEPTA says the Standards become meaningless if a subsidizer is required to rely entirely not only upon ConRail's good faith, but also upon the accuracy of ConRail's bookkeeping and calculations.

SEPTA urges that the subsidy estimate and financial status report be more detailed, so that it will be in a better position to explain and justify the levels of funding to its financial sources and so it will be in a position to determine how the operation of the commuter service may be made more efficient. SEPTA, therefore, proposes the following changes in § 1127.3 (d) and (f):

- (1) An explanation of how the "projected" amounts in the financial status reports are arrived at, i.e., whether by proration of the amounts in the annual estimate or otherwise;
- (2) Under passenger revenues, amounts attributable to fare increases and to pass rider allowances;
- (3) Under other revenues, amounts attributable to leases, parking lots, advertising, lockers, telephones, and other concessions;
- (4) Under costs for maintenance of way and structures, maintenance of equipment, and transportation, separate amounts for material, labor and any other cost category;
- (5) Inclusion of fringe benefits under the various "labor" amounts, rather than as a separate item;
- (6) Under transportation, an amount for the cost of power (electric power and diesel fuel); and
- (7) Under the labor amounts, numbers of employees utilized, as compared to the Manpower Utilization Plan.

ConRail opposes the foregoing revisions, believing that specific informational requests should be handled individually during the course of the negotiation of the subsidy agreements, rather than attempting through rulemaking to harmonize the disparate information demands of the several subsidizers. ConRail affirms that it is willing to confer with subsidizers and to provide them such additional financial information they may deem necessary, subject only to the receipt of appropriate reimbursement therefor. And, although it opposes the attempt to utilize the subsidy estimate and quarterly financial status reports to assess the efficiency of particular commuter lines, it is prepared to cooperate with the subsidizer in developing information designed to quantify real cost savings.

Section 1127.9 of the Standards provides that the subsidizer shall have reasonable access, at a time and a place mutually agreeable to the parties, to inspect, audit and copy the records of the railroad. SEPTA has not asserted that its right of access is in any way deficient or that ConRail has refused to cooperate in supplying information. Hence, the Office cannot agree that SEPTA must rely not only upon ConRail's good faith but the accuracy of its bookkeeping and calculations.

It should be recognized that the initial subsidy estimates were necessarily based

on "best available data" (§ 1127.3(b)). Future estimates will, however, be predicted on actual operating experience under the subsidy program; therefore, by instituting the appropriate auditing procedures, SEPTA should be in a position to make a meaningful assessment of future subsidy estimates. In any event, the Office assumes that ConRail would respond to reasonable requests to explain the factual basis upon which future estimates are based. If this assumption proves incorrect, the subsidizer can petition the Office for relief.

V. ACKNOWLEDGEMENT OF DISCONTINUANCE RIGHT

Whether a subsidizer must acknowledge the exclusivity of the railroad's Federal discontinuance rights in the subsidy agreement.

ConRail argues that in its petition SEPTA has asserted that "ConRail be required to choose between alternative remedies of discontinuance of service or actual reimbursement of cost." In such circumstances ConRail believes that the subsidizer must acknowledge that ConRail's right of discontinuance is exclusively governed by Section 304(e and a) of the RRR Act.

The Office perceives no reason to change the opinion expressed by its Director in the summary of the mediation session:

ConRail correctly perceives Congressional intent to set forth exclusive discontinuance procedures in Section 304(a) of the RRR Act for rail passenger service mandated under Section 304(e). Nevertheless, I do not believe that an acknowledgment by SEPTA of this statutory interpretation is an integral provision of the Subsidy Agreement. I firmly believe, however, that the public interest will be disserved unless the parties resolve this issue, and strongly recommend that the parties spell out mutually satisfactory discontinuance procedures in the Subsidy Agreement.

VI. RESPONSIBILITY FOR PERFORMANCE BY AMTRAK

ConRail asserts that in its petition SEPTA is urging that ConRail be required to accept penalties for inferior service without being entitled to parallel incentives in the event of superior performance. ConRail argues that should "such a one-sided provision" be adopted, those commuter services necessarily delegated to Amtrak should not be included within any such mandatory penalty provisions.

ConRail's arguments regarding its responsibility for performance by Amtrak were carefully considered in the mediation session and the Office perceives no reason to change its view. In any event, contrary to ConRail's belief, SEPTA has not asserted in its rulemaking petition that penalty provisions should be made mandatory.

Persons interested in expressing their views on the casualty loss issues (Part III above) should submit an original and six copies of their statements on or before November 10, 1977 to:

Rail Services Planning Office, Interstate Commerce Commission, Washington, D.C. 20423.

Reply statements may be submitted on or before November 25, 1977.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Issued October 5, 1977, by Alan M. Fitzwater, Director, Rail Services Planning Office.

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29604 Filed 10-7-77;8:45 am]

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TUESDAY, OCTOBER 11, 1977
PART III



DEPARTMENT OF
HEALTH,
EDUCATION,
AND WELFARE

Office of Education

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GRADUATE AND
PROFESSIONAL STUDY
FELLOWSHIPS AND
INSTITUTIONAL GRANTS

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DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 179]

GRADUATE AND PROFESSIONAL STUDY
FELLOWSHIPS AND INSTITUTIONAL
GRANTSProposed Rules, Procedures and Criteria
AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commissioner proposes new regulations (45 CFR Part 179) to establish rules, procedures, and criteria governing the award of fellowships for graduate and professional study and the award of institutional grants to expand or improve graduate or professional study programs.

DATES: Comments on or before November 10, 1977.

ADDRESSES: Comments should be sent to Bureau of Higher and Continuing Education, Division of Training and Facilities, U.S. Office of Education, Room 3066, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202. Comments will be available for public inspection at the above office, between 8:30 a.m. and 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Dr. Donald Bigelow, Bureau of Higher and Continuing Education, 7th and D Streets SW., Regional Office Building No. 3, Room 3709, Washington, D.C. 20202. Telephone 202-245-2347.

SUPPLEMENTARY INFORMATION: Subject to funds being made available through enactment of the Labor-HEW Appropriations Act, public meetings will be held in three cities. (If necessary, a timely notice of cancellation will be published in the FEDERAL REGISTER.)

The date and time for each meeting follow:

DATES

October 18, 1977, New York City, N.Y., 1:30 p.m. to 4:30 p.m.

October 20, 1977, Denver, Colo., 1:30 p.m. to 4:30 p.m.

October 26, 1977, Atlanta, Ga., 1:30 p.m. to 4:30 p.m.

ADDRESSES

The public meetings will be held at the following locations:

New York City, in Room 109 of Warren Weaver Hall, New York University, 251 Mercer Street, 10012

Denver, Colorado, in the Auditorium of the Main Post Office Building, 1823 Stout Street, 80202

Atlanta, Georgia, in Davage Auditorium, Haven-Warren Hall, Clark College, 240 Chestnut Street, SW., 30314

FOR FURTHER INFORMATION CONTACT

WASHINGTON, D.C.

Donald N. Bigelow, telephone: 202-245-2347.

PROPOSED RULES

NEW YORK CITY, N.Y.

Francis M. Hammond, Office of Education, DHEW, 26 Federal Plaza, 10007, telephone: 212-264-4025.

DENVER, COLORADO

Norbert K. Baumgart, Office of Education, DHEW, Federal Building, 19th and Stout Streets, 80294, telephone: 303-837-3733.

ATLANTA, GEORGIA

Ken A. Brunner, Office of Education, DHEW, 50 Seventh Street, NE., 30323, telephone: 404-257-2891.

Pub. L. 94-482, The Education Amendments of 1976, amended Title IX-B of the Higher Education Act of 1965, to enlarge the scope of the program to provide fellowships for graduate study to permit the award of fellowships for professional study as well. The Commissioner is proposing regulations to govern the award of those fellowships. Conjointly, the Commissioner is also proposing regulations to govern the award of institutional grants authorized under Title IX-A to strengthen and improve the quality of graduate and professional programs.

SUMMARY OF COMMENTS AND RESPONSES

In the Notice of Intent to issue regulations published in the FEDERAL REGISTER of December 22, 1976 (41 FR 55749), the Commissioner invited comments on several issues arising from the 1976 Education Amendments concerning the graduate and professional study programs. The following is a summary of the comments received and the responses of the Office of Education:

Comment. The statute requires that the State Commission have an opportunity to comment on an application for an institutional grant. One respondent recommended that the State Commission have the right to comment after the application is received in Washington but before a decision is made on funding. Another suggested that an applicant provide assurances that it has sent a copy of the application to the State Commission. The Commission could then provide comments to the institution and the Commissioner.**Response.** The Commissioner proposes that an applicant provide assurances in the application that the State Commission has been given an opportunity to offer recommendations on the application to the applicant and to the Commissioner.**Comment.** The statute requires that a program described in an application for an institutional grant be consistent with State, regional, or national priorities. One commenter recommended that the applicant assume the burden of demonstrating consistency with priorities. Another person suggested that the panels reviewing the applications should be familiar with State, regional, and national priorities and that their judgment about consistency should be accepted.**Response.** The Commissioner agrees that the applicant should demonstrate consistency with State or regional, or national priorities and that the review-

ing panels should consider the degree of consistency when evaluating applications. The proposed criterion in § 179.26 (b) (4) and (b) (5) reflects this decision.

Comment. The statute authorizes grants for the development of proposed graduate and professional programs. One person recommended that the Commissioner give highest priority to proposals for innovation in existing programs or for re-direction of those programs. Another commenter advised caution in allocating funds for new, innovative, and expanded graduate programs since there are already a large number of strong graduate programs. One respondent urged that a substantial portion of the funds be used to enhance and maintain the quality of traditional programs, but that some funds be used to develop or revise doctoral programs to prepare students for nonacademic or nontraditional employment.**Response.** The Commissioner agrees that a balance is required among awards and criteria will be developed which will assure this result in the light of national needs as determined, from time to time, by the Commissioner, and published in the FEDERAL REGISTER.**Comment.** Section 923 of the Higher Education Act, as amended, requires the Commissioner to award fellowships only to individuals who are enrolled in a course of study leading to a doctor of philosophy, doctor of arts, or an equivalent degree. One respondent suggested that "equivalent degree" means the terminal degree that is appropriate and acceptable for senior faculty appointment in a field of study. Another suggested that the Commission adopt the definition used by the Association of Graduate Schools or the Council of Graduate Schools. One commenter contended that the juris doctor (J.D.) should be considered as equivalent to a Ph. D. Another person suggested that the regional accrediting associations certify to the equivalence of the professional degree work in question.**Response.** The Commissioner will interpret "equivalent degree" to mean the usual terminal degree awarded in a discipline or a professional field. However, the Commissioner will not award fellowships to individuals pursuing a degree from which funds from other Federal programs are available, or to those pursuing a degree from a school or department of divinity.**Comment.** Several commenters offered suggestions about how the Commissioner should award the fellowships. Most of those who commented recommended that the Commissioner allocate the fellowships to institutions.

The institution would recommend to the Commissioner qualified students to receive the fellowships. One person recommended that at least one-third of the fellowships be awarded on the basis of merit in a national competition. Another suggested that ten percent of the fellowships be awarded through national competition.

Response. The Commissioner believes that the statutory requirements intend that fellowships be awarded to individ-

uals with varied backgrounds and experiences; therefore that by allocating fellowships to institutions, this requirement can better be fulfilled. The Commissioner believes this method will provide greater opportunity for more students from traditionally underrepresented groups and in different areas of the country, since the Commissioner can allocate fellowships to those institutions, which demonstrate an ability to provide training for those students. This process will also encourage the development of strong graduate and professional programs in all geographical areas of the United States, making programs more accessible to most students.

Comment. The statute requires the Commissioner to determine present and projected personnel needs in all areas of education beyond the high school and in other career fields of high national priority. The majority of respondents stated that there is no need for further manpower studies. Some suggested that the Commissioner obtain information from the Department of Labor, the National Science Foundation, the Research Council's Commission on Human Resources, and various professional associations. One commenter contended that there should be a balance between training for immediate national needs and training in the traditional basic academic fields. Another contended that there is a strong national interest in training professionals to serve in certain areas of the law.**Response.** The Commissioner will use all available information on manpower needs from appropriate organizations, associations, and government agencies. The Commissioner also plans to convene a broad-based group of knowledgeable individuals from inside and outside of the Federal government to assist in determining those academic and other career fields "of importance to the national interest," and to publish these priorities in the FEDERAL REGISTER.**Comment.** When awarding fellowships the Commissioner must consider the need to prepare a larger number of individuals from minority groups which have been traditionally underrepresented in colleges and universities. However, a graduate or professional institution may not grant preference or disparate treatment to minorities in the administration of the fellowship program. Regarding the definition of minority groups, one respondent noted that Federal agencies had already established a definition. Another wrote that the term should not be defined since the law prohibits preferential or disparate treatment and that financial need should be an eligibility criterion. Another suggested that minority status should be one factor in a weighted formula for allocation of fellowships. One person recommended that women be considered as a minority.**Response.** The Commissioner will be guided by current practices in programs in the Department of Health, Education, and Welfare for special groups. When evaluating an application from an institution for an allotment of fellowships,

the Commissioner will consider the institution's plans for considering the needs of the traditionally underrepresented.

Comment. The statute requires the Commissioner to set rates for fellowship stipends and institutional allowances which are comparable to those prevailing under other Federal fellowship programs. Two commenters suggested that the rates paid by the fellowship program under the National Institutes of Health and the National Science Foundation serve as a guide.**Response.** The Commissioner will consider the rates paid by those programs and others in making his final decision. The maximum amount which a student may receive and the amount of the institutional allowance are announced in the attached Notice of Proposed Rule Making and in the application materials.

Title 45 of the Code of Federal Regulations is amended by adding a new Part 179 to read as set forth below.

NOTE.—The Office of Education has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

(Catalog of Federal Domestic Assistance Number 13.580 Graduate and Professional Study Fellowships and Institutional Grants)

Dated: July 7, 1977.

ERNEST L. BOYER,
United States Commissioner
of Education.

Approved: September 29, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education,
and Welfare.

Title 45 of the Code of Federal Regulations is amended by adding a new Part 179 to read as follows:

Sec. Subpart A—General Provisions

179.1 Introduction.

179.2 Purpose.

179.3 Definitions.

179.4 Review of applications.

Subpart B—Institutional Grants

179.21 Purpose.

179.22 Eligible institutions.

179.23 Application contents.

179.24 Authorized activities.

179.25 Grant limitations.

179.26 Criteria for institutional grants.

179.27 Duration of program assistance.

179.28 General provisions regulations.

Subpart C—Graduate and Professional Fellowship Program

179.41 Purpose.

179.42 Approved programs.

179.43 Fellowship award procedures.

179.44 Criteria for allocating fellowships.

179.45 Length of fellowships.

179.46 Eligibility for fellowships.

179.47 Fellowship conditions.

179.48 Interruption of fellowship tenure.

179.49 Vacated fellowships.

179.50 Amount of the fellowship.

179.51 Institutional allowance.

179.52 Payment procedures.

179.53 Records and reports.

AUTHORITY: Title IX (Parts A and B) of the Higher Education Act of 1965, secs. 901-904; 921-925, as amended (20 U.S.C. 1134-1134h), unless otherwise noted.

PROPOSED RULES

Subpart A—General Provisions

§ 179.1 Introduction.

These regulations govern the award of institutional grants for graduate and professional programs under Title IX-A of the Higher Education Act, as amended, and of fellowships for graduate and professional programs under Title IX-B of the Higher Education Act, as amended.

(920 U.S.C. 1134-1134b; 1134d-1134h)

NOTE.—Institutional grants for public service programs under Title IX-A are governed by 45 CFR Part 194, and fellowship grants for public service under Title IX-C are governed by 45 CFR Part 195.

§ 179.2 Purpose.

The Commissioner is authorized:

(a) To make awards to institutions of higher education to strengthen, improve, and expand the quality of graduate and professional programs leading to an advanced degree (other than a medical degree); or

(b) To award fellowships to be used in approved graduate or professional programs at institutions of higher education; or

(c) Both.

(20 U.S.C. 1134-1134b; 1134b-1134h)

§ 179.3 Definitions.

As used in this part:

(a) "Academic career" beyond high school means a career at some level of postsecondary education as a teacher, administrator, or educational specialist.

(b) "Act" means the Higher Education Act, as amended.

(c) "Fellow" is a fellowship recipient.

(d) "Fellowship" is an award by the Commissioner to a person for graduate or professional study under Title IX-B of the Act.

(e) "Graduate study" means study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree.

(f) "Institution" means an institution of higher education as defined in section 1201(a) of the Act.

(20 U.S.C. 1141(a))

(g) "Professional study" means any post-baccalaureate study leading to the recognized terminal degree in a career field.

(h) "Project" means the activity or a combination of activities proposed and carried out under an institutional grant.

(i) "Title IX-A" means Title IX-A of the Act, which authorizes grants for institutional support at both the graduate and undergraduate levels related to graduate and professional study programs.

(j) "Title IX-B" means Title IX-B of the Act, which authorizes fellowships for graduate and professional study in approved programs in institutions of higher education.

(20 U.S.C. 1134; 1134d)

§ 179.4 Review of applications.

(a) Applications for institutional grants for graduate and professional

study programs under Title IX-A will be reviewed in accordance with the criteria in § 179.26.

(b) Applications for allocations of fellowships to approved programs under Title IX-B will be reviewed in accordance with the criteria in § 179.44.

(c) Applications will be received and reviewed only in response to a Notice of Closing Date which the Commissioner publishes in the FEDERAL REGISTER.

(20 U.S.C. 1134-1134b; 1134d-1134h)

Subpart B—Institutional Grants

§ 179.21 Purpose.

The Commissioner makes grants to institutions of higher education under Title IX-A to strengthen and improve graduate and professional programs leading to advanced degrees (other than medical degrees). The Commissioner also makes grants to strengthen undergraduate programs when he determines that strengthened undergraduate programs will contribute to the purposes of Title IX-A.

(20 U.S.C. 1134(a) (1) and (3))

§ 179.22 Eligible institutions.

Only institutions of higher education as defined in § 179.3 are eligible to receive grants under this subpart.

(20 U.S.C. 1134a)

§ 179.23 Application contents.

An application, under this subpart must:

(a) Describe a graduate or professional study program and propose activities for conducting the program which are likely to make substantial progress towards achieving the program goals;

(b) Provide an assurance that the State Commission established or designated under Section 1202 of the Act has been given an opportunity to offer recommendations on the application both to the institution and to the Commissioner; and

(c) Include information which enables the Commissioner to evaluate it on the basis of the criteria in § 179.26.

(20 U.S.C. 1134a)

§ 179.24 Authorized activities.

(a) Funds may be used for activities:

- (1) To strengthen, expand, and improve academic programs of graduate and professional education; and
- (2) To strengthen undergraduate programs when the Commissioner determines that strengthened undergraduate programs will contribute to the purposes of Title IX-A.

(b) Eligible activities are:

- (1) Faculty improvement;
- (2) Expansion of graduate and professional programs of study;
- (3) Acquisition of appropriate instructional equipment and materials;
- (4) Cooperative arrangements among graduate and professional schools;
- (5) Strengthening graduate and professional school administration;
- (6) Development of proposed graduate and professional programs; and

(7) Needed innovation in graduate and professional programs.

(20 U.S.C. 1134b(a))

§ 179.25 Grant limitations.

No funds provided under this subpart may be used for:

(a) Payment in excess of 66⅔ percent of the total cost of the project or activity described in the institution's application;

(b) Payment in excess of 50 percent of the cost of the purchase or rental of books, audiovisual aids, scientific apparatus, or other materials or equipment, less any percent of that cost, as determined by the Commissioner, which is paid from sums received (other than those under this part) as Federal financial assistance;

(c) Sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity;

(d) Construction or renovation of buildings, or the cost of leasing space; or

(e) Fellowship assistance to students.

(20 U.S.C. 1134b(c))

§ 179.26 Criteria for institutional grants.

The Commissioner shall take into account the following considerations when evaluating applications for institutional grants:

(a) The extent to which the funding helps to provide, as far as practicable, a wide distribution of graduate and professional study programs throughout the United States.

(b) The extent to which the proposed project ranks high on the criteria set forth below, with maximum point scores for each criterion as shown. The criteria replace the general criteria for direct project grant and contract programs contained in 45 CFR 100a.26(b).

(1) The project proposes activities which would be of assistance in providing graduate and professional education to persons with varied backgrounds and experiences including, but not limited to, underrepresented and minority groups (20);

(2) Procedures are incorporated in the project scheme to evaluate its effectiveness (5);

(3) The estimated budget is sufficient in relation to the project objectives and is adequate to support its successful completion (10);

(4) The project is consistent with State or regional priorities (10);

(5) The project includes new programmatic arrangements related to the thrust of the program. These may be arrangements involving undergraduate, professional, or other graduate units within the institution, or arrangement with outside institutions or agencies (10);

(6) The educational and other related experiences of the personnel conducting the project qualify them to participate, and the director is given clear responsibility, ample time, and sufficient authority (15);

(7) The project provides activities as part of the course of studies which are

innovative or clearly enhance the program emphasis (5); and

(8) The overall graduate or professional academic program of the institution is strong enough to assure the success of the project when measured by criteria such as the following:

(i) The academic requirements are sufficient to support a high quality program (10);

(ii) Institutional resources such as facilities, equipment, and libraries are adequate (5);

(iii) The program offers opportunities for relevant, supervised practicums or other comparable experiences (10).

(20 U.S.C. 1134b)

§ 179.27 Duration of program assistance.

(a) Grant awards made pursuant to this subpart will be for a period of one year.

(b) A grant application may be filed proposing a program with a duration in excess of one year. This application must be accompanied by an explanation of the need for multi-year support, an overview of the objectives and activities proposed for each year, and budget estimates to attain these objectives in any subsequent year. If the Commissioner finds that the application demonstrates that multi-year support is needed to carry out the proposed program, he may, in the initial notification of grant award, indicate an intention to assist the program on an appropriate multi-year basis through continuation grants.

(c) Continuation grants are subject to availability of funds and, consequently, are made only in response to an application in each subsequent fiscal year and upon a determination by the Commissioner that:

(1) The grantee has complied with the grant terms and conditions, the Act, and the regulation;

(2) The program has met its original goals to date; or will do so as the result of constructive changes proposed by the on-going evaluation.

(20 U.S.C. 1134)

§ 179.28 General provisions regulations.

Assistance under Title IX-A for institutional grants for graduate and professional study programs is subject to provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 1134-1134b)

Subpart C—Graduate and Professional Fellowship Program

§ 179.11 Purpose.

The purpose of this program is to award fellowships for study leading to an advanced degree in a graduate or professional study program approved by the Commissioner.

(20 U.S.C. 1134e and 1134f)

§ 179.12 Approved programs.

The Commissioner allocates fellowships to institutions of higher education

which have programs approved by the Commissioner. The Commissioner approves a program if:

(a) The program enables persons to prepare for academic careers, or for other careers in professional fields of importance to the national interest, and

(b) The institution:

(i) Gives consideration, in accepting persons into the program, to meeting the need to prepare a larger number of individuals from minority groups, especially from among such groups who have been traditionally underrepresented in colleges and universities; and

(ii) Offers satisfactory assurance that the institution will provide special orientations and practical experiences designed to prepare fellowship recipients for academic careers or for other professional careers in fields of importance to the national interest, as noted in § 179.43.

(20 U.S.C. 1134f)

§ 179.13 Fellowship award procedures.

(a) The Commissioner, from time to time, identifies and publishes in the FEDERAL REGISTER a list of academic and professional career fields of high national priority in which he proposes to award fellowships.

(b) Institutions of higher education may apply for an allocation of fellowship awards for graduate and professional programs in these fields.

(c) Institutions receiving an allocation (usually 5-15 fellowships) recommend eligible students to the Commissioner for the award of fellowships.

(20 U.S.C. 1134e)

§ 179.14 Criteria for allocating fellowships to institutions of higher education.

The Commissioner evaluates applications for fellowship allocations in accordance with the following considerations:

(a) The extent to which an application requests fellowships for continuation of support for individuals awarded fellowships in a previous year;

(b) The extent to which funding the application will assist in attaining a wider distribution of graduate and professional study programs throughout the United States; and

(c) The extent to which the program for which an allocation of fellowships is requested ranks high, based on the maximum point scores as shown, on the following criteria:

(1) The objectives of the program clearly meet the requirements of § 179.12 and are justified in the application (15);

(2) Procedures are planned to measure the effectiveness and success of the program (5);

(3) Institutional resources such as facilities, equipment, and libraries are adequate to support the program (5);

(4) The director of the program is given clear responsibility, ample time, and sufficient authority (5);

(5) The academic requirements are sufficient to support a high quality program (10);

(6) The institution provides sufficient evidence that it gives consideration, in accepting persons into the program, to meeting the need to prepare a larger number of individuals from minorities which have been traditionally underrepresented in colleges and universities (15);

(7) The institution's plan for recruiting individuals for fellowships will provide opportunities to persons who:

(i) Have demonstrated their competence outside of higher education for at least two years subsequent to the completion of their undergraduate studies; or

(ii) Have varied backgrounds and experiences from other than academic settings (10);

(8) The likelihood that the institution's plan to nominate fellowship candidates will enable these students to overcome financial hardship and other barriers (10);

(9) The relevant aspect of the special orientations and practical experiences to be provided the fellows; (15) and

(10) The background, education, research interests, and experiences of the faculty qualify them to design, implement, and carry on a successful program (10).

(20 U.S.C. 1134f)

§ 179.15 Length of fellowships.

(a) Fellowship awards are for a period not in excess of twelve months.

(b) Fellows who maintain satisfactory proficiency in their course of study may have their fellowships renewed subject to the availability of funds, but no fellow may receive more than 36 months of support except as noted in paragraph (c) of this section.

(c) The Commissioner may award a fellowship for an additional 12 month period beyond the initial 36 months in special circumstances when the Commissioner determines that the extension would serve the purposes of the fellowship programs.

(20 U.S.C. 1134e)

§ 179.16 Eligibility for fellowships.

A recipient of a fellowship under this part must:

(a) Have been accepted or enrolled for post-baccalaureate study leading to an advanced degree of doctor of philosophy, doctor of arts, or an equivalent degree, or a terminal post-baccalaureate professional degree, at an institution of higher education that has received an allocation of fellowship;

(b) Plan to pursue an academic career or some other professional career of importance to the national interest as determined by the Commissioner; and

(c) Be a national of the United States or be in the United States for other than a temporary purpose and intend to become a permanent resident, or be a permanent resident of the Trust Territories of the Pacific Islands.

(20 U.S.C. 1134f(a))

§ 179.17 Fellowship conditions.

In order to continue to receive payments under a fellowship, a fellow must:

(a) Maintain satisfactory proficiency as determined by the institution;

(b) Devote essentially fulltime to study or research in the field in which the fellowship was awarded; and

(c) Not engage in gainful employment during the period of the fellowship, except on a part-time basis in teaching, research, or similar activities approved by the Commissioner.

(20 U.S.C. 1134h)

§ 179.18 Interruption of fellowship tenure.

(a) A fellow may take a leave of absence for a period up to 12 months for the purpose of work, travel, or independent study away from the campus, if:

(1) The leave of absence is approved by the institution at which the fellow is enrolled and by the Commissioner; and

(2) The work, travel, or independent study is supportive of the fellow's academic program.

(b) The Commissioner makes no payments to the fellow or the institution during this period.

(20 U.S.C. 1134e(c))

§ 179.19 Vacated fellowships.

(a) If a fellowship is vacated prior to the end of a period for which it was awarded, the institution to which the fellowship is allocated may recommend to the Commissioner another individual to receive the fellowship. This individual must meet all the eligibility requirements and be chosen in accordance with the institution's fellowship award procedures.

(b) The duration of the reawarded fellowship shall be for the completion of the period remaining in the vacated fellowship.

(c) A fellow awarded a vacated fellowship may apply for renewal of the fellowship in the same manner and to the same extent as the original fellow.

(20 U.S.C. 1134e (a) and (b))

§ 179.50 Amount of the fellowship.

(a) The maximum stipend to any fellow is \$3900 for a twelve month year payable at the monthly rate of \$325 for any period the fellow is enrolled in the program.

(b) The fellow earns entitlement to the stipend on a monthly basis. A fellow who is enrolled in the program for less than twelve months receives a pro rata share of the stipend. A fellow who is enrolled in the program for the entire academic year (including summer sessions) shall be considered to be enrolled in the program for the full twelve months.

(20 U.S.C. 1134g(a); 1134h(a))

§ 179.51 Institutional allowance.

(a) The Commissioner pays an institutional allowance to an institution of higher education that is equal to the total sum of stipends paid to fellows attending that institution.

(b) This allowance is intended to pay for the instructional costs of the fellows.

PROPOSED RULES

The institution may not charge fellows tuition or nonrefundable fees. If the institution charges a fellow for tuition or nonrefundable fees which are required by the institution as part of the fellow's instructional program, the Commissioner will deduct that amount from the institutional allowance.

(c) Although the institutional allowance accrues on a monthly basis, the institution is entitled to claim one-half of this amount as soon as the fellow has been enrolled for two weeks. It is entitled to claim the remaining amount when the fellow has been enrolled for six and one-half months.

(20 U.S.C. 1134g(b))

§ 179.52 Payment procedures.

(a) The Commissioner pays to the institution the fellowship stipends and the institutional allowances. The institution

is responsible for disbursing stipends to the fellows.

(b) The institution determines the frequency with which payments of the stipend will be made to fellows, except that no fewer than two payments a year shall be made.

(c) If a fellow, for any reason, fails to complete the period of study for which any payment under the fellowship has been made, the institution is responsible for recovery of excess payments.

(d) If a vacated fellowship is not re-awarded to another qualified student, the institution must refund to the Federal government the pro rata share of the institutional allowance.

(20 U.S.C. 1134g(a); 1134h(a))

§ 179.53 Records and reports.

(a) Each institution of higher education which receives an allocation of fel-

lowships under this part shall make such reports as are required by 45 CFR 100a.-432.

(b) Each individual who is awarded a fellowship shall keep such records and submit such reports as are required by the Commissioner. Such reports shall include a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that the fellow is making satisfactory progress in and is devoting essentially full time to the program for which the fellowship was awarded.

NOTE.—Such certification from the institution should indicate that the fellow is not engaging in gainful employment other than part-time employment (approved by the institution) in teaching, research, or similar activities.

(20 U.S.C. 1134h)

[FR Doc. 77-29718 Filed 10-7-77; 8:45 am]

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Title 3—The President

Executive Order 12013

October 7, 1977

Relating to the Transfer of Certain Statistical Policy Functions

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Reorganization Plan No. 2 of 1970 (5 U.S.C. App. II), Section 202 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 581e), and Section 301 of Title 3 of the United States Code, and as President of the United States of America, in order to transfer certain functions from the Director of the Office of Management and Budget to the Secretary of Commerce and for other purposes, it is hereby ordered as follows:

SECTION 1. Section 1 of Executive Order No. 11511 of July 1, 1970, is amended by adding thereto the following new subsection:

"(c) The delegation to the Director of the Office of Management and Budget, pursuant to subsection (a) of this Section, of the functions vested in the Director of the Bureau of the Budget by Section 103 of the Budget and Accounting Procedures Act of 1950 (31 U.S.C. 18b) and subsequently transferred to the President by Part I of Reorganization Plan No. 2 of 1970 (5 U.S.C. App. II), is terminated on October 9, 1977."

SEC. 2. Executive Order No. 10253 of June 11, 1951, is amended as follows:

(a) "Director of the Bureau of the Budget" is deleted in Section 1 and "Secretary of Commerce" is substituted.

(b) "Director" is deleted wherever it appears in Sections 1, 2, 4, 5, and 6 and "Secretary" is substituted therefor.

(c) "Bureau of the Budget" is deleted in Section 6 and "Department of Commerce" is substituted.

(d) A new Section 8 is added as follows:

"Sec. 8. The performance of the functions vested in the Secretary by this Order shall be subject to any authority or responsibility vested in the Director of the Office of Management and Budget, including Chapter 35 of Title 44 of the United States Code (the Federal Reports Act)."

SEC. 3. Executive Order No. 10033, as amended, is further amended as follows:

(a) "Director of the Bureau of the Budget" is deleted in Section 1 and "Secretary of Commerce" is substituted.

(b) "Director" is deleted wherever it appears in Sections 1, 2(a), 2(b), 2(c), 3, 4, and 5 and "Secretary" is substituted therefor.

(c) A new Section 7 is added as follows:

"Sec. 7. The performance of the functions vested in the Secretary by this Order shall be subject to any authority or responsibility vested in the Director of the Office of Management and Budget, including Chapter 35 of Title 44 of the United States Code (the Federal Reports Act)."

SEC. 4. Section 4 of Executive Order No. 11961 of January 19, 1977, is amended by deleting

"the Council on International Economic Policy shall perform the function of making periodic reports to the Committees of the Congress as set forth in Section 4 a (3) of the Act"

and substituting therefor

"the Secretary of Commerce shall perform the functions set forth in Sections 4 a (3) and 5 c of the Act."

SEC. 5. The records, property, personnel, and unexpended balances of appropriations, available or to be made available, which relate to the functions transferred or reassigned from the Director of the Office of Management and Budget to the Secretary of Commerce by the delegations made in this Order, are hereby transferred to the Secretary of Commerce.

SEC. 6. The Director of the Office of Management and Budget shall make such determinations, issue such orders, and take all steps necessary or appropriate to ensure or effectuate the transfers or reassignments provided by this Order, including the transfer of funds, records, property, and personnel.

SEC. 7. The Secretary of Commerce shall provide advice to the Director of the Office of Management and Budget with respect to the review and preparation of that portion of the annual Budget of the U.S. Government dealing with the gathering, interpreting, and disseminating of statistics and statistical information.

SEC. 8. (a) There is hereby established the Statistical Policy Coordination Committee, hereinafter referred to as the Committee, which shall be composed of the following members, and such other heads of Executive agencies as the President may designate:

- (1) The Secretary of Commerce, who shall be the Chairman.
- (2) The Secretary of State.
- (3) The Secretary of the Treasury.
- (4) The Secretary of Defense.
- (5) The Attorney General.
- (6) The Secretary of the Interior.
- (7) The Secretary of Agriculture.
- (8) The Secretary of Labor.
- (9) The Secretary of Health, Education, and Welfare.

(10) The Secretary of Housing and Urban Development.

(11) The Secretary of Transportation.

(12) The Secretary of Energy.

(13) The Chairman, Council of Economic Advisers.

(14) The Director of the Office of Management and Budget.

(15) The Chairman, Board of Governors of the Federal Reserve System is invited to be a member.

(b) The Chairman may designate any other member to act as Chairman during the absence of the Chairman. Each member of the Committee may designate an alternate to serve whenever the regular member is unable to attend any meeting. The Chairman may invite the heads of other Executive agencies or their alternates to participate in Committee deliberations whenever matters which affect the interests of such agencies are to be considered.

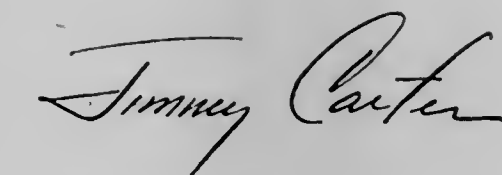
(c) The Committee shall advise and assist the President with respect to the improvement, development, and coordination of Federal and other statistical services, and shall perform such other related duties as the President may prescribe.

(d) The Secretary of Commerce, to the extent permitted by law, shall provide such administrative support and such funds as may be necessary to support the functions of the Committee.

(e) Executive agencies shall, to the extent permitted by law, provide such information and assistance as the Committee or the Chairman may request to assist in carrying out the functions of the Committee.

SEC. 9. Any rules, regulations, orders, directives, circulars, or other actions taken pursuant to the functions transferred or reassigned from the Director of the Office of Management and Budget to the Secretary of Commerce by the delegations made in this Order, shall remain in effect until amended, modified, or revoked pursuant to the delegations made in this Order.

SEC. 10. This Order shall be effective October 9, 1977.



THE WHITE HOUSE,
October 7, 1977.

[FR Doc. 77-29975 Filed 10-11-77; 11:59 am]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-02]

Title 7—Agriculture

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

PART 966—TOMATOES GROWN IN FLORIDA

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses of \$119,500 and establishes a rate of assessment of 0.35 cent (\$0.0035) per 30-pound equivalent of tomatoes for the functioning of the Florida Tomato Committee. The regulation will enable the committee to collect assessments from first handlers on all assessable tomatoes handled and to use the resulting funds for its expenses.

EFFECTIVE DATE: August 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202-447-3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 125 and Order No. 966, both as amended, regulate the handling of tomatoes grown in designated counties in Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

Notice was published in the September 20 FEDERAL REGISTER (42 FR 47209) regarding the proposals. It afforded interested persons an opportunity to file written comments not later than October 4, 1977. None was filed.

After consideration of all relevant matters, including the proposals in the notice, it is found that the following expenses and rate of assessment should be approved.

It is further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) because this part requires that the rate of assessment for a particular fiscal period shall apply to all assessable tomatoes from the beginning of such period.

The regulation is as follows:

§ 966.214 Expenses and rate of assessment.

(a) The reasonable expenses that are likely to be incurred during the fiscal period ending July 31, 1978, by the Florida Tomato Committee for its maintenance and functioning and for such other purposes as the Secretary may determine to be appropriate will amount to \$119,500.

(b) The rate of assessment to be paid by each handler in accordance with this part shall be 0.35 cent (\$0.0035) per 30-pound container or equivalent quantity, of tomatoes handled by him as the first handler thereof during the fiscal period.

(c) Unexpended income in excess of expenses for the fiscal period may be carried over as a reserve.

(d) Terms used in this section have the same meaning as when used in the marketing agreement and this part.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.)

Dated: October 5, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 77-29745 Filed 10-11-77; 8:45 am]

[1505-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

PART 210—FORM AND CONTENT OF FINANCIAL STATEMENTS, SECURITIES ACT OF 1933, SECURITIES EXCHANGE ACT OF 1934, PUBLIC UTILITY HOLDING COMPANY ACT OF 1935, AND INVESTMENT COMPANY ACT OF 1940

CFR Correction

In Title 17 of the Code of Federal Regulations, revised as of April 1, 1977, Part 210 is corrected as follows:

1. In § 210.3-17(c), appearing on page 271, the reference to "§ 210.3-16(g)" is changed to read "§ 210.3-16(q)".

2. In § 210.5-02, under caption "26. Accounts and notes payable.", appearing on page 277, paragraph (c) is reinstated as follows:

(c) The amount and terms (including commitment fees and the condition under which lines may be withdrawn) of unused lines of credit for short-term financing shall be disclosed, if significant, in the notes to the financial statements. The amount of these lines of credit which support a commercial paper borrowing arrangement or similar arrangements shall be separately identified.

3. In § 210.6-03, appearing on page 285, under caption "8. Investments—other

than securities.", the reference to "§ 210.06-02(f)" is changed to "§ 210.6-02(f)".

4. In § 210.9-05, appearing on page 315, in paragraph (a), line 2, the word "furnished" is corrected to read "furnished". The fourth line "ules of banks shall be furnished in sub-" should be deleted.

5. In § 210.11-02, appearing on page 317, the first sentence is corrected to read as follows:

"A summary shall be given for each class of other stockholders' equity as set forth in the related balance sheet." and, in caption "3. Other additions.", the second line consisting of the words "forth in the related balance sheet.", should be removed.

6. In § 210.12-08, appearing on page 321, at the beginning of footnote 3, add the following sentence: "Show by major classifications in each part, such as franchises, goodwill, etc.", before the sentence beginning with the word "If".

7. In § 210.12-12, appearing on page 323, in footnote 1, the second sentence, change the second word "of" to "or", following the word "consolidation".

8. In § 210.12-33, appearing on page 328, in footnote 5, the word "If" should appear at the beginning of the third sentence.

[6740-02]

Title 18—Conservation of Power and Water Resources

CHAPTER I—FEDERAL POWER COMMISSION

SUBCHAPTER D—APPROVED FORMS, FEDERAL POWER ACT

[Docket No. RM77-19; Order No. 554-A]

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

Parallel Reporting Extension

AGENCY: Federal Power Commission.

ACTION: Final Rule.

SUMMARY: On September 15, 1976, the Commission issued Order No. 554 in Docket No. RM76-16, 41 FR 41687, requiring a limited period of parallel reporting of Form No. 3-P or other electric bill data used to compute the Consumer Price Index (CPI) in both a format existing at that time and in a new format. The parallel reporting is to insure continuity in data at a time when the Bureau of Labor Statistics (BLS) is revising the Consumer Price Index. In September 1976 it was expected that parallel reporting would be terminated in September 1977. Due to delays in implementing the revised CPI, BLS asked the Commission to order an additional fifteen months of parallel reporting from September 1977 through December 1978. Order No. 554-A implements BLS' request.

EFFECTIVE DATE: September 30, 1977.
FOR FURTHER INFORMATION CONTACT:

William Graban, Bureau of Power,
 202-275-4731.

This order amends Order No. 554¹ by directing an addition in the length of time certain information is to be reported to the Commission monthly on Form No. 3-P. The amendment does not involve altering 18 CFR 141.28 which specifies the information to be completed on Form No. 3-P.

The Bureau of Labor Statistics (BLS) is revising the Consumer Price Index (CPI). The revisions include some changes in the information to be collected as well as some changes in the individual utilities required to submit reports. To insure continuity, in April, 1976 BLS requested the Commission to institute a parallel reporting system. Utilities previously submitting CPI data on the existing schedule of Form No. 3-P were to continue submitting that information through September 1977. At the same time, utilities chosen to submit data for the revised CPI were to commence reporting on the revised schedule of Form No. 3-P immediately. Because some of the utilities already submitting CPI data on the existing schedule were also to submit data to the revised CPI, a certain amount of parallel reporting was expected to occur. The Commission ordered such parallel reporting in Order No 554.

KENNETH F. PLUMB,
 Secretary.

[FR Doc. 77-29737 Filed 10-11-77; 8:45 am]

[1505-01]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE

[T.D. 77-241]

GENERAL PROVISIONS; VESSELS IN FOREIGN AND DOMESTIC TRADES; TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT; CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE; ENTRY OF MERCHANDISE; PERSONAL DECLARATIONS AND EXEMPTIONS

NOTE.—The following document was originally published at 42 FR 54274, October 5, 1977. It is being republished today to correct various editorial and stylistic errors.

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule revises the Customs Regulations setting forth the gen-

¹ Issued September 15, 1976 in Docket No. RM76-16, 41 FR 41687.

² This Order was approved at the Meeting of July 20, 1977.

eral provisions relating to the operation of the United States Customs Service. This revision, which is part of the general revision of the Customs Regulations, follows a new format and contains changes or additions to language to clarify the former provisions.

EFFECTIVE DATE: November 4, 1977.
FOR FURTHER INFORMATION CONTACT:

Richard M. Belanger, Attorney, Regulations and Legal Publications Division, United States Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8237).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On August 13, 1976, a notice of proposed rulemaking which would revise the Customs Regulations setting forth general provisions relating to the operation of the Customs Service was published in the Federal Register (41 FR 34261). The revision is part of the general revision of the Customs Regulations, and replaces Part 1 with a new Part 101. Part 101 follows a new format, and contains changes or additions to language to clarify the former provisions. No substantive changes were proposed. Interested parties were given until October 12, 1976, to submit data, views, or arguments in regard to the proposal.

DISCUSSION OF COMMENTS

The Customs Service received comments which pointed out several clerical or typographical errors. These have been corrected. Other comments involved substantive changes to the Customs Regulations and, consequently, were beyond the scope of this revision. These comments will be considered separately at a later time as possible amendments to new Part 101.

After review of the proposed revision, the following changes have been made:

1. The table in § 101.3 is updated to include the following changes in Customs regions, districts, and ports: Orlando, Fla., Battle Creek, Mich., and Grand Rapids, Mich., have been designated ports of entry; the port limits of Charleston, S.C., Mobile, Ala., Progreso, Tex., Dayton, Ohio, and Erie, Pa., have been extended; Richmond County, N.J., has been transferred from Region III to Region II; and the district of St. Albans, Vt., has been reorganized.

2. The table in § 101.4 is updated to reflect the transfer of supervision over the Customs station at Los Ebanos, Texas, from Hidalgo to Rio Grande City, and the reorganization of the St. Albans, Vt., district.

3. Sections 101.6 (Assignment of Customs regions to regional directors, internal affairs), 101.7 (Office of Investigations), and 101.8 (Customs laboratories) of the proposed revision are deleted. The matter formerly contained in these sections will be published annually in a

notice in the Federal Register in accordance with 5 U.S.C. 552(a)(1).

4. Section 101.0, relating to the scope of this part of the Customs Regulations, is changed to eliminate references to the subject matter of the deleted sections referred to in the previous paragraph.

5. Sections 101.9, 101.10, and 101.11 of the proposed revision are respectively redesignated §§ 101.6, 101.7, and 101.8. The index and Appendix I to Part 101 are changed to reflect these deletions and redesignations. Appendix I is further changed by adding a parallel reference table listing in order the old section numbers and their corresponding new section numbers.

In addition to the above changes, a number of editorial corrections have been made to the text of the provisions originally proposed. Further, conforming changes have been made to other sections of the Customs Regulations necessitated by this revision.

Accordingly, Part 1 is deleted, conforming changes are made to Parts 4, 18, and 24, and new Part 101 is adopted, as set forth below.

DRAFTING INFORMATION

The primary author of this revision was Richard M. Belanger, Attorney, Regulations and Legal Publications Division, Office of Regulations and Rulings, United States Customs Service (202-566-8237). However, personnel from other offices of the United States Customs Service participated in the development of the revision, both in matters of substance and style.

G. R. DICKERSON,
 Acting Commissioner of Customs.

Approved: September 22, 1977.

BETTE B. ANDERSON,
 Under Secretary of the
 Treasury.

PART 1—GENERAL PROVISIONS

Chapter I of Title 19, Code of Federal Regulations, is amended by deleting Part 1.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 4—VESSELS IN FOREIGN AND DOMESTIC TRADES

§ 4.6 [Amended]

Section 4.6(b) is amended by substituting "101.1(b)" for "1.1".

§ 4.81 [Amended]

Section 4.81(g) (6) is amended by substituting "101.4 (a) and (b)" for "1.3 (b) and (c)".

§ 4.96 [Amended]

Sections 4.96 (d) and (e) are amended by substituting "101.4" for "1.2(b)" wherever it appears therein.

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 18—TRANSPORTATION IN BOND AND MERCHANDISE IN TRANSIT

§ 18.13 [Amended]

Section 18.13(a) is amended by substituting "101.4" for "1.2".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

§ 24.17 [Amended]

Section 24.17(a) (4) is amended by substituting "101.4" for "1.2" and "101.4 (b)" for "1.2(c)".

(R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

Chapter I of Title 19, Code of Federal Regulation, is amended by adding a new Part 101 to read as follows:

PART 101—GENERAL PROVISIONS

- Sec.
 101.0 Scope.
 101.1 Definitions.
 101.2 Authority of Customs officers.
 101.3 Customs regions, districts and ports.
 101.4 Entry and clearance of vessels at Customs stations.
 101.5 Customs preclearance offices in foreign countries.
 101.6 Hours of business.
 101.7 Customs seal.
 101.8 Identification cards.

AUTHORITY: R.S. 251, as amended, sec. 624, 46 Stat. 759, 77A Stat. 14, 79 Stat. 1317; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (Gen. Hdnote 11), 1624, Reorganization Plan 1 of 1965; 3 CFR 1965 Supp. Additional authority and statutes interpreted or applied are cited in the text or following the section affected.

§ 101.0 Scope.

This part sets forth general regulations governing the authority of Customs officers, and the location of Customs regions, districts, and ports of entry, and of Customs stations. It further sets forth regulations concerning the entry and clearance of vessels at Customs stations and a listing of Customs preclearance offices in foreign countries. In addition, this part contains provisions concerning the hours of business of Customs offices, the Customs seal, and the identification cards issued to Customs officers and employees.

§ 101.1 Definitions.

As used in this chapter, the following terms shall have the meanings indicated unless either the context in which they are used requires a different meaning or a different definition is prescribed for a particular part or portion thereof:

(a) *Area*. "Area" refers to any of the three administrative areas created in the Customs district of New York City, New York, which is coextensive with Customs Region II, New York City, New York, and identified as Kennedy Airport Area, Newark Area, and New York Seaport Area, each of which is under the jurisdiction of an area director of Customs.

(b) *Customs district*. A "Customs district" is the geographical area under the

jurisdiction of a district director of Customs.

(c) *Customs region*. A "Customs region" is the geographical area under the jurisdiction of a regional commissioner of Customs.

(d) *Customs station*. A "Customs station" is any place, other than a port of entry, at which Customs officers or employees are stationed, under the authority contained in article IX of the President's Message of March 3, 1913 (T.D. 33249), to enter and clear vessels, accept entries of merchandise, collect duties, and enforce the various provisions of the Customs and navigation laws of the United States.

(e) *Customs territory of the United States*. "Customs territory of the United States" includes only the States, the District of Columbia, and Puerto Rico.

(f) *Date of entry*. The "date of entry" or "time of entry" of imported merchandise shall be the effective time of entry of such merchandise, as defined in § 141.68 of this chapter.

(g) *Date of exportation*. "Date of exportation" or "time of exportation" shall be as defined in § 152.1(c) of this chapter.

(h) *Date of importation*. "Date of importation" means, in the case of merchandise imported otherwise than by vessel, the date on which the merchandise arrives within the Customs territory of the United States. In the case of merchandise imported by vessel, "date of importation" means the date on which the vessel arrives within the limits of a port in the United States with intent then and there to unload such merchandise.

(i) *Duties*. "Duties" means Customs duties and any internal revenue taxes which attach upon importation.

(j) *Entry or withdrawal for consumption*. "Entry or withdrawal for consumption" means entry for consumption or withdrawal from warehouse for consumption.

(k) *Importer*. "Importer" means the person primarily liable for the payment of any duties on the merchandise, or an authorized agent acting on his behalf. The importer may be:

- (1) The consignee, or
- (2) The importer of record, or
- (3) The actual owner of the merchandise, if an actual owner's declaration and superseding bond has been filed in accordance with § 141.20 of this chapter, or
- (4) The transferee of the merchandise, if the right to withdraw merchandise in a bonded warehouse has been transferred in accordance with subpart C of Part 144 of this chapter.

(l) *Port and port of entry*. The terms "port" and "port of entry" refer to any place designated by Executive order of the President, by order of the Secretary of the Treasury, or by Act of Congress, at which a Customs officer is authorized to accept entries of merchandise to collect duties, and to enforce the various provisions of the Customs and navigation laws. The terms "port" and "port of entry" incorporate the geographical area under the jurisdiction of a port director

when such port is one other than a district headquarters port. (The Customs District of the Virgin Islands, although under the jurisdiction of the Secretary of the Treasury, has its own Customs laws (48 U.S.C. 1406(i)). This district, therefore, is outside the Customs territory of the United States and the ports thereof are not "ports of entry" within the meaning of these regulations.)

(m) *Principal field officer*. A "Principal field officer" is an officer in the field service whose immediate supervisor is located at Customs Service Headquarters.

§ 101.2 Authority of Customs officers.

(a) *Supremacy of delegated authority*.

Action taken by any person pursuant to authority delegated to him by the Secretary of the Treasury, whether directly or by subdelegation, shall be valid despite the existence of any statute or regulation, including any provision of this chapter, which provides that such action shall be taken by some other person. Any person acting under such delegated authority shall be deemed to have complied with any statute or regulation which provides or indicates that it shall be the duty of some other person to perform such action.

(b) *Consolidation of functions*. Any reorganization of the Customs Service or consolidation of the functions of two or more persons into one office which results in the failure of a designated customs officer to perform an action required by statute or regulation, shall not invalidate the performance of that action by any other Customs officer.

§ 101.3 Customs regions, districts and ports.

(a) *Redesignation of Customs districts and ports of entry*. The Under Secretary of the Treasury, pursuant to authority delegated by the Secretary of the Treasury, is authorized from time to time, as the needs of the Customs Service may require, to rearrange or consolidate the Customs districts, to discontinue ports of entry by abolishing them and establishing others in their place, and to change the location of the headquarters in any Customs district as the needs of the Customs Service may require.

(b) *Customs regions, districts and ports of entry listed*. The following is a list of Customs regions and districts, with a list of the ports in each district. (The Customs region of New York City, New York, is coextensive with the Customs district of New York City, New York). The first-named port in each district, listed in capital letters, is the headquarters port. Many of the ports listed were created by the President's message of March 3, 1913, concerning a reorganization of the Customs Service pursuant to the Act of August 24, 1912 (37 Stat. 434; 19 U.S.C. 1). Subsequent orders of the President or of the Secretary of the Treasury which affected these ports, or which created (or subsequently affected) additional ports, are cited following the name of the ports.

RULES AND REGULATIONS

Region		Districts		
No.	Head-quarters	Name and headquarters	Area Ports of entry	
II	New York City, N. Y.	New York City, N. Y.	The counties of Sussex, Passaic, Hudson, Bergen, Essex, Union, Middlesex, and Monmouth, in the State of New Jersey and that part of the State of New York not expressly included in the districts of Buffalo and Ogdensburg. (The district is divided into 3 areas; namely, Kennedy Airport area, Newark area, and New York seaport area, the limits of which are described in T.D. 71-19 and T.D. 76-59).	NEW YORK, N. Y., including territory described in E.O. 4265, Apr. 15, 1925; T.D. 53786, Albany, N. Y. Perth Amboy, N. J.
III	Baltimore, Md.	Philadelphia, Pa.	The State of Pennsylvania except the county of Erie, the State of Delaware, and that part of the State of New Jersey not included in the district of New York City.	PHILADELPHIA, PA., including Camden and Gloucester City, N. J., and territory described in E.O. 7840, Mar. 15, 1935; 3 F.R. 687; T.D. 53738 and T.D. 51303. Chester Pa. (E.O. 7706, Sept. 11, 1937; 2 F.R. 1848). Harrisburg, Pa. (T.D. 71-233). Pittsburgh, Pa. including the territory described in T.D. 67-167. Wilkes-Barre-Scranton, Pa., including the territory described in T.D. 75-64. Wilmington, Del., including territory described in T.D. 51202; E.O. 4496, Aug. 12, 1926.
	Baltimore, Md.	Baltimore, Md.	The State of Maryland except the counties of Montgomery and Prince Georges.	BALTIMORE, MD., including territory described in T.D. 68-123. Annapolis, Md. Cambridge, Md. (E.O. 3888, Aug. 13, 1923). Crisfield, Md.
	Washington, D. C.	Washington, D. C.	The District of Columbia, the counties of Montgomery and Prince Georges, in the State of Maryland; the counties of Loudoun, Fairfax, and Arlington, and the city of Alexandria, in the State of Virginia, including any independent cities and towns within the boundaries of such counties.	WASHINGTON, D. C., including the territory described in E.O. 3888, Aug. 13, 1923. Alexandria, Va. (T.D. 68-67).
	Norfolk, Va.	Norfolk, Va.	The State of Virginia except the counties of Loudoun, Fairfax, and Arlington, and the city of Alexandria, including any independent cities and towns within the boundaries of such counties, and the State of West Virginia.	NORFOLK AND NEWPORT NEWS including the waters and shores of Hampton Roads. Cape Charles City. Charleston, W. Va., including the territory described in T.D. 73-221. Reedville. Richmond-Petersburg, including the territory described in T.D. 68-479.
IV	Miami, Fla.	Wilmington, N. C.	The State of North Carolina.	WILMINGTON, including townships of Northwest, Wilmington, and Cape Fear (E.O. 7561, Dec. 3, 1937; 2 F.R. 2673, and territory described in E.O. 10012, Mar. 10, 1949; 14 F.R. 11557). Beaufort-Morehead City (T.D. 55637). Charlotte (T.D. 56079). Durham (E.O. 4876, May 3, 1928), including territory described in E.O. 9433, Apr. 6, 1944; 9 F.R. 3761. Rosedale (E.O. 5159, July 18, 1929), including territory described in E.O. 9433, Apr. 6, 1944; 9 F.R. 3761. Winston-Salem (E.O. 2366, Apr. 21, 1916). CHARLESTON, including territory described in T.D. 76-142. Greenville. Greenville-Spartanburg, S.C., including territory described in T.D. 70-148.
	Charleston, S. C.	Charleston, S. C.	The State of South Carolina.	SAYANSAH, including territory described in E.O. 8367, Mar. 5, 1940; 5 F.R. 985. Atlanta, including territory described in T.D. 55548. Brunswick.
	Savannah, Ga.	Savannah, Ga.	The State of Georgia, except the north shore of the St. Marys River and the city of St. Marys, Ga.	TAMPA, including territory described in T.D. 68-91. Boca Grande. Fernandina Beach, including St. Marys, Ga. (T.D. 53033). Jacksonville (T.D. 69-45). Orlando (T.D. 76-306). Port Canaveral, Fla., including territory described in T.D. 66-212. St. Petersburg (E.O. 7928, July 14, 1938; 3 F.R. 1779, including territory described in T.D. 53941).
	Tampa, Fla.	Tampa, Fla.	The north shore of the St. Marys River and the city of St. Marys, Ga., and all the State of Florida lying east of the east bank of the Ocklawaha River except the counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, and Dade.	MIAMI, FLA., including territory described in T.D. 53514. Key West, including territory described in T.D. 53664. Fort Everglades (E.O. 5770, Dec. 31, 1931), including territory described in T.D. 53514. Miami Fort Lauderdale, Fla. West Palm Beach (E.O. 4321, Oct. 15, 1925), including territory described in T.D. 53515.
	Miami, Fla.	Miami, Fla.	The counties of Hendry, Indian River, St. Lucie, Martin, Okeechobee, Palm Beach, Collier, Broward, Monroe, and Dade in the State of Florida.	

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RULES AND REGULATIONS

Region		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
V	San Juan, P.R.	The Commonwealth of Puerto Rico.	SAN JUAN, including territory described in T.D. 51017.	Aspidula.
				Camden.
				Humboldt, including the territory described in T.D. 76157.
				Jones (E.O. 992, May 13, 1912).
V	Charlotte Amalie, St. Thomas, V.I.	All of the Virgin Islands of the United States.	CHARLOTTE AMALIE, ST. THOMAS, V.I.	Mayaguez (T.D. 2365).
				Ponce, including territory described in T.D. 51017.
				San Juan, including territory described in T.D. 51017.
				St. Thomas, including territory described in T.D. 51017.
V	Mobile, Ala.	The State of Alabama and that part of the State of Mississippi lying south of lat. 31° N. and that part of the State of Florida lying west of the east bank of the Ochlockonee River.	MOBILE, ALA., including territory described in T.D. 51017.	Abbeville, S.C.
				Birmingham, Ala.
				Carmichael, Fla. (E.O. 7968, Dec. 11, 1934; 1 F.R. 2476).
				Galveston, Tex.
V	New Orleans, La.	The States of Tennessee, Arkansas, and Louisiana, except the parishes of Cameron and Calcasieu and that part of the State of Mississippi lying north of lat. 31° N.	NEW ORLEANS, LA., including territory described in T.D. 51017.	Bayou La Pate, La. (E.O. 5083, Jan. 13, 1933).
				Bayou La Pate, La. (E.O. 5083, Jan. 13, 1933).
				Bayou La Pate, La. (E.O. 5083, Jan. 13, 1933).
				Bayou La Pate, La. (E.O. 5083, Jan. 13, 1933).
VI	Houston, Tex.	That part of the State of Texas lying north of the north boundary line of Shelby County; west to Naches River; down river to the shore of said river to north boundary of Jefferson County; westerly along said boundary to east boundary of Liberty County; south to Gulf also the parishes of Cameron and Calcasieu in the State of Louisiana.	HOUSTON, TEX., including territory described in T.D. 51017.	Bayou La Pate, La. (E.O. 5083, Jan. 13, 1933).
				Bayou La Pate, La. (E.O. 5083, Jan. 13, 1933).
				Bayou La Pate, La. (E.O. 5083, Jan. 13, 1933).
				Bayou La Pate, La. (E.O. 5083, Jan. 13, 1933).
VI	Galveston, Tex.	The counties of Galveston, Matagorda, Chambers, Calhoun, Refugio, Brazoria, San Patricio, Nueces, and Aransas in the State of Texas.	GALVESTON, including Port Bolivar and Texas City.	Corpus Christi (E.O. 8288, Nov. 22, 1939; 4 F.R. 1890).
				Freeport (E.O. 7632, June 15, 1937; 2 F.R. 1012).
				Port Lavaca (Port Comfort, Tex. (T.D. 51115)).
				Port Lavaca (Port Comfort, Tex. (T.D. 51115)).
VI	Houston, Tex.	That part of the State of Texas lying north of 33° N. and that part of the State of Texas lying east of long. 97° W. except the territory occupied in the Port Arthur and Galveston districts. Also, the counties of Bolivar and Tarrant in the State of Texas.	HOUSTON, TEX., including territory described in T.D. 51017.	Amador, Tex. (T.D. 5120).
				Dallas Fort Worth, Tex., including territory described in T.D. 5120.
				Oklahoma City, Okla., including territory described in T.D. 5120.
				Tulsa, Okla. (T.D. 5120).
VI	Laredo, Tex.	That part of the State of Texas lying west of long. 97° W. and east of the Pecos River except that territory included in the Houston and Galveston districts.	LAREDO.	Brownsville, Tex., including territory described in T.D. 51000.
				Del Rio.
				Yagle Pass.
				Hidalgo (E.O. 3009, Jan. 9, 1922).
VI	El Paso, Tex.	That part of the State of Texas lying west of the Pecos River and the States of New Mexico and Colorado.	EL PASO, TEX. (T.D. 51007).	Albuquerque, N. Mex., including the territory described in T.D. 74304.
				Columbus, N. Mex.
				Denver, Colo.
				El Paso, Tex. (E.O. 1829, May 1, 1928).

RULES AND REGULATIONS

Region		Districts		
No.	Headquarters	Name and headquarters	Area	Ports of entry
VII	Los Angeles, Calif.	Nogales, Ariz.	The State of Arizona.	NOGALES, including the territory described in T.D. 71-196.
				Douglas, including territory described in E.O. 9382, Sept. 25, 1943; 8 F.R. 13083.
				Lukeville (E.O. 10088, Dec. 3, 1949; 14 F.R. 7287).
				Naco.
VII	San Diego, Calif.	The counties of San Diego and Imperial in the State of California.	SAN DIEGO, including the territory described in T.D. 65-229.	Phoenix, Ariz. (T.D. 71-103).
				San Luis (E.O. 5322, Apr. 9, 1930).
				Sasabe (E.O. 5608, Apr. 22, 1931).
				SAN DIEGO (T.D. 54741), including the territory described in T.D. 65-229.
VII	Los Angeles, Calif.	That part of the State of California lying south of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, except the counties of San Diego and Imperial and that part of the State of Nevada comprising Clark County.	LOS ANGELES-LONG BEACH, including the territory described in T.D. 55341; T.D. 56383.	Andrade (E.O. 4780, Dec. 13, 1927).
				Calexico.
				Teate (E.O. 4780, Dec. 13, 1927).
				LOS ANGELES-LONG BEACH, including the territory described in T.D. 55341; T.D. 56383.
VIII	San Francisco, Calif.	San Francisco, Calif.	That part of the State of California lying north of the northern boundaries of the counties of San Luis Obispo, Kern, and San Bernardino, and the State of Nevada except Clark County.	Las Vegas, Nev., including the territory described in T.D. 73-55.
				Port San Luis.
				SAN FRANCISCO-OAKLAND, CALIF., including all points on San Francisco Bay and territory described in E.O. 10042, Mar. 10, 1949; 14 F.R. 1155; and T.D. 5378 and including territory described in T.D. 56020.
				Eureka, Calif.
VIII	Honolulu, Hawaii.	The State of Hawaii.	HONOLULU, including the territory described in T.D. 73-56.	Fresno, Calif., including the territory described in T.D. 74-18.
				Reno, Nev., including the territory described in T.D. 73-56.
				Salt Lake City, Utah (T.D. 69-76).
				HONOLULU (T.D. 53514).
VIII	Portland, Oreg.	The State of Oregon and that part of the State of Washington which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° W.	PORTLAND, OREG., including the territory described in T.D. 73-338.	Hilo.
				Kahului.
				Nawiliwili-Port Allen (E.O. 4385, Feb. 25, 1929), including the territory described in T.D. 56124.
				Columbia River (Portland, Astoria, Longview), including territory described in T.D. 73-338.
VIII	Seattle, Wash.	The State of Washington except that part which embraces the waters of the Columbia River and the north bank of the said river west of long. 119° W.	SEATTLE, WASH., including the territory described in T.D. 75-130.	Cos Bay, Oreg. (E.O. 4094, Oct. 28, 1924).
				E.O. 5193, Sept. 14, 1929; E.O. 5445, Sept. 16, 1930; E.O. 9533, Mar. 23, 1945; 10 F.R. 3173).
				Newport, Oreg.
				PUGET SOUND (Seattle, Anacortes, Bellingham, Everett, Friday Harbor, Neah Bay, Olympia, Port Angeles, Port Townsend, Tacoma), including the territory described in T.D. 75-130.
VIII	Anchorage, Alaska.	The State of Alaska.	ANCHORAGE, ALASKA (T.D. 53205; T.D. 68-50).	Aberdeen, including territory described in T.D. 56223.
				Blaine (E.O. 5835, Apr. 13, 1942).
				Boundary (T.D. 67-65).
				Danville.
VIII	Great Falls, Mont.	The States of Montana, Idaho, and Wyoming.	GREAT FALLS, MONT., including the territory described in T.D. 73-121.	Perry.
				Frontier (T.D. 67-65).
				Laurier.
				Lynden (E.O. 7632, June 15, 1937; 2 F.R. 1012).
VIII	Anchorage, Alaska.	The State of Alaska.	ANCHORAGE, ALASKA (T.D. 53205; T.D. 68-50).	Metairie Falls (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				Nighthawk.
				Oroville (E.O. 5206, Oct. 11, 1929).
				South Bend-Raymond (T.D. 53576).
VIII	Anchorage, Alaska.	The State of Alaska.	ANCHORAGE, ALASKA (T.D. 53205; T.D. 68-50).	Spokane.
				Sumas.
				ANCHORAGE, ALASKA (T.D. 53205; T.D. 68-50).
				Alcan, Alaska (T.D. 71-210).
VIII	Anchorage, Alaska.	The State of Alaska.	ANCHORAGE, ALASKA (T.D. 53205; T.D. 68-50).	Fairbanks (E.O. 8064, Mar. 9, 1939; 1 F.R. 1191).
				Juneau.
				Ketchikan, Alaska, including the territory described in T.D. 74-102.
				Kodiak, Alaska (T.D. 55206).
VIII	Anchorage, Alaska.	The State of Alaska.	ANCHORAGE, ALASKA (T.D. 53205; T.D. 68-50).	Pelican (E.O. 10238, Apr. 27, 1951; 16 F.R. 3627).
				Petersburg (E.O. 4132, Jan. 21, 1925).
				Sand Point (T.D. 53514).
				STICKA, including territory described in T.D. 55600.
VIII	Anchorage, Alaska.	The State of Alaska.	ANCHORAGE, ALASKA (T.D. 53205; T.D. 68-50).	Skagway.
				Wrangell, including territory described in T.D. 56120.
				GREAT FALLS, MONT., including the territory described in T.D. 73-121.
				Butte, Mont., including the territory described in T.D. 73-121.
VIII	Anchorage, Alaska.	The State of Alaska.	ANCHORAGE, ALASKA (T.D. 53205; T.D. 68-50).	Del Bonita, Mont. (E.O. 7947, Aug. 9, 1938; 3 F.R. 1965; Mail: Cut Bank, Mont.).
				Eastport, Idaho.
				Morgan, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042; Mail: Loring, Mont.).
				Opheim, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
VIII	Anchorage, Alaska.	The State of Alaska.	ANCHORAGE, ALASKA (T.D. 53205; T.D. 68-50).	Piegan, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042; Mail: Babb, Mont.).
				Porthill, Idaho.
				Raymond, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1012).
				2 F.R. 1012).

Region		Districts		
No.	Head-quarters	Name and headquarters	Area	Ports of entry
IX	Chicago, Ill., Pembina, N. Dak.		The States of North Dakota and South Dakota and the counties of Kittson, Roseau, Lake of the Woods, Marshall, Beltrami, Polk, Red Lake, and Teton in the State of Minnesota.	Rossville, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Mail: Eureka, Mont. Socley, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Sweetgrass, Mont. Turner, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042). White Tail, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Whitlash, Mont. (E.O. 7632, June 15, 1937; 2 F.R. 1042).
				PAMBINA, N. DAK. Ambrose, N. Dak. (E.O. 5835, Apr. 13, 1932). Antler, N. Dak. Baudette, Minn. (E.O. 4142, Apr. 19, 1926). Carbury, N. Dak. (E.O. 5137, June 17, 1929). Dunseith, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Fortuna, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Hannah, N. Dak. Hassboun, N. Dak. Majda, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Neebe, N. Dak. Norman, N. Dak. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Northgate, N. Dak. Noyes, Minn. (E.O. 5835, Apr. 13, 1932). Dietz, Minn. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Portai, N. Dak. Roseau, Minn. (E.O. 7632, June 15, 1937; 2 F.R. 1042). Salem, N. Dak. Sherwood, N. Dak. St. John, N. Dak. (E.O. 5835, Apr. 13, 1932). Walhalla, N. Dak. Warroad, Minn. Westhorne, N. Dak. (E.O. 4236, June 1, 1925).
				MINNEAPOLIS-ST. PAUL, including the territory described in T.D. 69-13.
				DULUTH, MINN., AND SUPERIOR, WIS., including the territory described in T.D. 55204.
				Ashland, Wis. Grand Portage, Minn. (T.D. 56973).
				International Falls-Rainier, Minn., including the territory described in T.D. 66-246.
				MILWAUKEE, including the territory described in T.D. 72-165.
				Green Bay, including the townships of Ashwaubenon, Allouez, Preble, and Howard, and the city of De Pere (T.D. 54957).
				Manitowish, including Menominee, Mich. Racine, including the city of Kenosha and the townships of Mt. Pleasant and Somers (T.D. 51881).
				Shelbygan, including the territory described in T.D. 71-121.
	Chicago, Ill.		The State of Illinois lying north of lat. 39° N.; that part of the State of Indiana north of lat. 41° N.; and the States of Iowa and Nebraska.	Des Moines, Iowa, including the territory described in T.D. 75-104. Omaha, Neb., including the territory described in T.D. 73-228. Peoria, Ill., including the territory described in T.D. 72-130.
				CLEVELAND, OHIO, including the territory described in T.D. 77-232.
				Akron, Ohio (E.O. 4397, Feb. 25, 1927), including the territory described in T.D. 77-232.
				Ashland, Ohio, including the territory described in T.D. 77-232.
				Cincinnati, Ohio, including the territory described in T.D. 75-114.
				Columbus, Ohio.
				Dayton, Ohio, including the territory described in T.D. 76-77.
				Eric, Pa., including the territory described in T.D. 77-5.
				Evansville, Ind.
				Indianapolis, Ind., including Greendale (E.O. 6634, Mar. 7, 1934).
	Cleveland, Ohio.		The States of Ohio, Kentucky, that part of the State of Indiana lying south of lat. 41° N., and the county of Erie in the State of Pennsylvania.	Louisville, Ky., including the territory described in T.D. 77-232.
				Sandusky, Ohio.
				Toledo, Ohio, including the territory described in T.D. 71-157.
				ST. LOUIS, MO., including the territory described in T.D. 69-224.
				Kansas City, Mo., including Kansas City, Kans., and North Kansas City, Mo. (E.O. 828, Aug. 27, 1940), including the territory described in T.D. 67-56.
				St. Joseph, Mo.
				Warrens, Kans., including the territory described in T.D. 74-93.

Region		Districts		
No.	Head-quarters	Name and headquarters	Area	Ports of entry
		Detroit, Mich.	The State of Michigan except the island of Isle Royale and the county of Menominee, Mich.	DETROIT, including the territory described in E.O. 9073, Feb. 23, 1942; 7 F.R. 1888; and T.D. 53738. Battle Creek (T.D. 76-233). Grand Rapids (T.D. 77-4). Muskegon (E.O. 8315, Dec. 22, 1939), including territory described in T.D. 56230. Port Huron, including territory described in T.D. 53576. Saginaw-Bay City (T.D. 53738). Sault Ste. Marie.
<p>§ 101.4 Entry and clearance of vessels at Customs stations.</p> <p>(a) <i>Entry at Customs station.</i> A vessel shall not be entered or cleared at a Customs station, or any other place that is not a port of entry, unless entry or clearance is authorized by the district director for the district in which such station or place is located pursuant to the provisions of section 447, Tariff Act of 1930, as amended (19 U.S.C. 1447).</p> <p>(b) <i>Authorization to enter.</i> Authorization to enter or be cleared at a Customs station shall be granted by the district director for the district in which such station or place is located provided the district director is notified in advance of the arrival of the vessel concerned and the following conditions are met:</p> <p>(1) Such Customs supervision as may be necessary can be provided.</p> <p>(2) All applicable Customs and navigation laws and regulations are complied with.</p> <p>(3) The owner, master or agent of a vessel sought to be entered at a Customs station reimburses the Government for the salary and expenses of the Customs officer or employee stationed at or sent to such Customs station or other place which is not a port of entry for services rendered in connection with the entry or clearance of such vessel, and</p> <p>(4) Except as otherwise provided by these regulations, the Government is reimbursed by the interested parties for the expenses, including any per diem allowed in lieu of subsistence, but not the salary of a Customs officer or employee for services rendered in connection with the entry or delivery of merchandise.</p> <p>(c) <i>Customs stations designated.</i> The Customs stations and the ports of entry having supervision thereof are listed below:</p>				
District		Customs stations		Port of entry having supervision
Portland, Maine.		Bucksport, Maine.		Bellast.
		Calais, Maine.		Calais.
		Easton, Maine.		Fort Fairfield.
		Forest City, Maine.		Houlton.
		Hamlin, Maine.		Van Buren.
		Knoxford Line (Mars Hill).		Bridgewater.
		Monticello, Maine.		Houlton.
		Orient, Maine.		Do.
		Beebe Plains, Vt.		Derby Line.
		Canaan, Vt.		Beecher Falls.
St. Albans, Vt.		East Richford, Vt.		Richford.
		Newport, Vt.		Derby Line, Vt.
		North Troy, Vt.		Do.
		Pittsburg, N.H.		Beecher Falls.
		West Berkshire, Vt.		Richford.
		Provincetown, Mass.		Plymouth.
		Cannons Corners, N.Y.		Moore.
		Chatham, N.Y.		Chateaugay.
		Hogansburg, N.Y.		Massena.
		Jamieson's Line, N.Y.		Trout River.
Ogdensburg, N.Y.		Morristown, N.Y.		Ogdensburg.
		Waddington, N.Y.		Do.
		Atlantic City, N.J.		Philadelphia.
		Lewes, Del.		Do.
		Port Norris, N.J.		Do.
		Tuckerton, N.J.		Do.
		Salisbury, Md.		Baltimore.
		Fort Pierce, Fla.		West Palm Beach.
		Biloxi, Miss.		Mobile.
		Gramercy, La.		New Orleans.
Houston, Tex.		Honma, La.		Moreau City.
		Muskogee, Okla.		Tulsa, Oklahoma.
		Amistad Dam, Tex.		Del Rio.
		Falcon Dam, Tex.		Roma.
		Los Ebanos, Tex.		Rio Grande City.
		Antelope Wells, N. Mex. (mail: Hachita, N. Mex.).		Columbus.
		Fort Hancock, Tex.		Fabens.
		Marathon, Tex.		El Paso.
		Lochiel, Ariz.		Nogales.
		Tucson, Ariz.		Do.
San Diego, Calif.		Campo, Calif.		Tecate.
		Port Huene, Calif.		Los Angeles.
		Monterey, Calif.		San Francisco.
		Seattle, Wash.		Blaine.
		Annette Island, Alaska.		Ketchikan.
		Eagle, Alaska.		Fairbanks.
		Haines, Alaska.		Skagway.
		Hyder, Alaska.		Ketchikan.
		Tok, Alaska.		Fairbanks.
		Wild Horse, Mont.		Great Falls.
Great Falls, Mont.		Willow Creek, Mont.		Do.
		Grand Forks, N. Dak.		Pembina.
		Lancaster, Minn.		Noyes.
		Oak Island, Minn.		Warroad.

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District	Customs stations	Port of entry having supervision
Duluth, Minn.	Crane Lake, Minn.	International Falls/Ranier.
	Ely, Minn.	Grand Portage.
Cleveland, Ohio	Fairport, Ohio	Cleveland.
	Huron, Ohio	Sandusky.
	Lorain, Ohio	Cleveland.
	Marblehead-Lakeside, Ohio	Sandusky.
	Put-in-Bay, Ohio	Do.
Detroit, Mich.	Algonac, Mich.	Port Huron.
	Alpena, Mich.	Saginaw-Bay City.
	Detour, Mich.	Sault Ste. Marie.
	Escanaba, Mich.	Do.
	Grand Haven, Mich.	Muskegon.
	Houghton, Mich.	Sault Ste. Marie.
	Marine City, Mich.	Port Huron.
	Marquette, Mich.	Sault Ste. Marie.
	Roberts Landing, Mich. (mail: Route 1, Algonac, Mich.)	Port Huron.
	Rogers City, Mich.	Saginaw-Bay City.

(d) *Temporary Customs stations.* Customs stations may be designated for a temporary time only, to provide Customs facilities where needed because of certain large-scale operations. Because these designations change from time to time they are not listed. However, current information as to the existence of such stations in any district may be obtained from the district director.

§ 101.5 Customs preclearance offices in foreign countries.

Listed below are the preclearance offices in foreign countries where United States Customs officers are stationed and the Customs districts under which they function:

Customs office	Customs district having supervision
Montreal, Quebec	St. Albans, Vt.
Toronto, Ontario	Buffalo, N.Y.
Kindley Field, Bermuda	Kennedy Airport area, Jamaica, N.Y.
Nassau, Bahama Islands	Miami, Fla.
Vancouver, British Columbia	Seattle, Wash.
Prince Rupert, British Columbia	Anchorage, Alaska.
Winnipeg, Manitoba	Pembina, N. Dak.

§ 101.6 Hours of business.

Except as specified in paragraphs (a)-(g) of this section, each Customs office shall be open for the transaction of general Customs business between the hours of 8:30 a.m. and 5 p.m. on all days of the year:

(a) *Saturdays, Sundays and national holidays.* In addition to Saturdays, Sundays, and any other calendar day designated as a holiday by Federal statute or Executive order, Customs offices shall be closed on the following national holidays:

- (1) The first day of January.
- (2) The third Monday of February.
- (3) The last Monday of May.
- (4) The fourth day of July.
- (5) The first Monday of September.
- (6) The second Monday of October.
- (7) The fourth Monday of October.
- (8) The fourth Thursday of November.
- (9) The twenty-fifth day of December.

If a holiday falls on Saturday, the day immediately preceding such Saturday will be observed. If a holiday falls on Sunday, the day immediately following such Sunday will be observed. (5 U.S.C. 6103(b) (1); (E.O. No. 11582, January 1, 1971; 34 FR 2957; 3 CFR Ch. 11)

(b) *Local conditions requiring different hours.* If, because of local conditions, different but equivalent hours are required to maintain adequate service, such hours shall be observed provided the Commissioner of Customs approves them and provided further that a notice of business hours is prominently displayed at the principal entrance and in each public room of the Customs office.

(c) *Firing of hours.* At each port or station where there is no full-time Customs employee, the appropriate district director shall, with the approval of the regional commissioner of Customs, fix the hours during which the Customs office will be open for the transaction of general Customs business. Notice of such hours shall be prominently displayed at the principal entrance of the office.

(d) *State and local holidays.* Each Customs office shall be open for the transaction of business on all state and local holidays occurring on days other than Saturdays, Sundays, and national holidays listed in paragraph (a) of this section. The appropriate principal field officer may excuse any employee(s) without charge to leave when a state or local holiday interferes with the performance of his work in a Customs office.

(e) *Services performed outside a Customs office.* Customs services required to be performed outside a Customs office shall be furnished between the hours of 8 a.m. and 5 p.m. (or between the corresponding hours at ports where different but equivalent hours are required for the maintenance of adequate service and are approved by the Commissioner of Customs) on all days when the Customs office is open for the transaction of general Customs business. The regional commissioner of Customs shall, from time to time, and upon reasonable advance notice to the principal local officer concerned, issue instructions for the furnishing of such services on Saturdays.

(f) *Customs services not within prescribed hours.* Where there is a regularly recurring need for Customs services outside the hours prescribed in paragraphs (a)-(e) of this section and the volume and duration of the required services are uniformly such as to require, of themselves or in immediately consecutive combination with other essential Customs activities of the port, the full time of one or more Customs employees, the necessary number of regular tours of duty to

furnish such services on all days of the year except Sundays and national holidays may be established with the approval of the Commissioner of Customs.

(g) *Customs services furnished private interests.* Other than as specified in this section, Customs services shall be furnished private interests only in accordance with the provisions of section 24.16 of this chapter.

§ 101.7 Customs seal.

(a) *Design.* According to the design furnished by the Department of the Treasury, the Customs seal of the United States shall consist of the seal of the Department of the Treasury surrounded by an outer circle in which appear the words "Treasury" at the top and "U.S. Customs Service" at the bottom.

(b) *Use of the Customs seal.* The Customs seal currently in official use, including the dies, rolls, plates, and like devices now in the possession of the Bureau of Engraving and Printing, shall continue to be equally effective as the official seal of the United States Customs Service and shall continue to be so used by each Customs officer and employee having possession of the seal until that particular device requires replacing and is replaced. Use of the United States Customs seal shall be restricted in the following manner:

(1) The Customs seal of the United States shall be impressed upon all official documents requiring the impress of a seal. It shall be impressed upon all marine documents and landing certificates, certificates of weight, gauge, or measure, and similar classes of documents for outside interests.

(2) The impress of the seal is not necessary on documents passing within the Customs Service nor shall the seal be used in the manner of a notary seal to indicate authority to administer oaths.

§ 101.8 Identification cards.

Each Customs employee shall be issued an appropriate identification card with that employee's photograph and signature, signed by the appropriate issuing officer.

PART 141—ENTRY OF MERCHANDISE

§ 141.62 [Amended]

Section 141.62(a) is amended by substituting "101.6" for "1.7". (R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

PART 148—PERSONAL DECLARATIONS AND EXEMPTIONS

§ 148.22 [Amended]

Section 148.22 is amended by substituting "101.5" for "1.4". (R.S. 251, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624).)

APPENDIX I—PARALLEL REFERENCE TABLES

(This table shows the relation of revised Part 101 to superseded 19 CFR Part 1.)

Revised Part 101, section:	Superseded 19 CFR: section
101.0	New.
101.1(a)	New.
101.1(b)	1.2(a).
101.1(c)	1.2(a).
101.1(d)	1.3(a), footnote 5.
101.1(e)	New.
101.1(f)	1.11.
101.1(g)	1.11.
101.1(h)	1.11.
101.1(i)	1.11.
101.1(j)	1.11.
101.1(k)	1.11.
101.1(l)	1.2(b), footnote 2.
101.1(m)	New.
101.2(a)	1.1(a), (b).
101.2(b)	1.1(c).
101.3(a)	Footnote 1 to 1.2(b).
101.3(b)	1.2(c), footnote 3.
101.4(a)	1.3(b).
101.4(b)	1.3(b) and (c).
101.4(c)	1.3(d).
101.4(d)	Footnote 7 to 1.3(d).
101.5	1.4.
101.6(a)	1.7(a), footnote 10.
101.6(b)	1.7(b).
101.6(c)	1.7(c).
101.6(d)	1.7(d).
101.6(e)	1.7(e).
101.6(f)	1.7(f).
101.6(g)	1.7(g).
101.7(a)	1.8(a).
101.7(b)	1.8(a).
101.7(b) (1)	1.8(b).
101.7(b) (2)	1.8(b) and (c).
101.8	1.9.

(This table shows the relation of the old sections of Part 1 to the new sections in revised Part 101.)

Old Section	New Section
1.1(a)	101.2(a)
1.1(b)	101.2(a)
1.1(c)	101.2(b)
1.1(d)	None
1.1(e)	None
1.2(a)	101.1(b), (c)
1.2(b)	101.1(d)
footnote 1	101.3(a)
footnote 2	101.1(1)
1.2(c)	101.3(b)
footnote 3	101.3(b)
1.3(a)	101.1(d)
footnote 5	101.1(d)
1.3(b)	101.4(a), (b)
footnote 6	None
1.3(c)	101.4(b)
1.3(d)	101.4(c)
footnote 7	101.4(d)
1.4	101.5
1.4(a)	None
1.5	None
1.6	None
1.7(a)	101.6(a)
1.7(b)	101.6(a)
1.7(c)	101.6(b)
1.7(d)	101.6(c)
1.7(e)	101.6(d)
1.7(f)	101.6(e)
1.7(g)	101.6(f)
1.8(a)	101.7(a), (b)
1.8(b)	101.7(b) (1), (2)
1.8(c)	101.7(b) (2)
1.9	101.8
1.10	None
1.11	101.1(f)-(k)

[FR Doc. 77-29176 Filed 10-4-77; 8:45 am]

[4110-07]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Income, Resources, and Exclusions

EXCLUSION OF HOUSING ASSISTANCE PAYMENTS FROM COUNTABLE INCOME OR RESOURCES

AGENCY: Social Security Administration, HEW.

ACTION: Final rules.

SUMMARY: The Administration amends its regulations concerning the exclusion of certain housing assistance payments from consideration as income or a resource for purposes of the Supplemental Security Income program. These amendments implement specific provisions of the Housing Authorization Act of 1976, effective October 1, 1976. The amendments provide that the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act of 1949, or title V of the Housing Act of 1949 may not be considered as income or a resource for the purpose of determining the eligibility of, or the amount of benefits payable to, any person living in such a unit for assistance under title XVI of the Social Security Act.

EFFECTIVE DATE: The amendments shall be effective October 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. S. J. Weissman, Legal Assistant, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7341.

SUPPLEMENTARY INFORMATION: On March 28, 1977, these amendments were published in the FEDERAL REGISTER (42 FR 16380) as interim regulations.

Interested parties were given the opportunity to submit within 45 days data, views, or arguments pertaining to the interim regulations. No adverse comments were received. Accordingly, the amendments are hereby adopted without change as set forth below.

(Secs. 1102, 1611, 1612, 1613, 1631, Social Security Act, 49 Stat. 647, as amended, 86 Stat. 1466, 86 Stat. 1468, 86 Stat. 1470, 86 Stat. 1475 (42 U.S.C. 1302, 1382, 1382a, 1382b, 1383); sec. 2(h) of Pub. L. 94-375, 90 Stat. 1068.)

(Catalog of Federal Domestic Assistance Program No. 13.807, Supplemental Security Income Program.)

NOTE.—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: July 22, 1977.

DON WORTMAN,
Acting Commissioner
of Social Security.

Approved: October 3, 1977.

JOSEPH A. CALIFANO, Jr.,
Secretary of Health,
Education, and Welfare.

Part 416 of Chapter III of Title 20 of the Code of Federal Regulations is amended as set forth below:

1. Section 416.1146 is amended by revising the material preceding paragraph (a) and by revising paragraph (k) to read as follows:

§ 416.1146 Exclusions from income; provided by other statutes.

For the purpose of § 416.1145(a), payments or benefits provided under a Federal statute other than title XVI of the Social Security Act where exclusion from income is required by such statute include:

(k) Effective October 1, 1976, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title V of the Housing Act of 1949, as provided by section 2(h) of Pub. L. 94-375 (90 Stat. 1068).

2. Section 416.1236 is amended by revising the introductory text of paragraph (a) and adding new paragraph (a)(12) to read as follows:

§ 416.1236 Exclusions from resources; provided by other statutes.

(a) For the purpose of § 416.1210(j), payments or benefits provided under a Federal statute other than title XVI of the Social Security Act where exclusion from resources is required by such statute include:

(12) Effective October 1, 1976, the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, or title V of the Housing Act of 1949, as provided by section 2(h) of Pub. L. 94-375 (90 Stat. 1068).

[FR Doc. 77-29793 Filed 10-11-77; 8:45 am]

[4410-01]

Title 21—Food and Drugs

CHAPTER II—DRUG ENFORCEMENT ADMINISTRATION, DEPARTMENT OF JUSTICE

PART 1316—ADMINISTRATIVE FUNCTIONS, PRACTICES, AND PROCEDURES

Confidentiality of Research Subjects and Exemption From Prosecution for Researchers

AGENCY: Drug Enforcement Administration.

ACTION: Final rule.

SUMMARY: The effect of this order is to limit the authority of the Drug Enforcement Administration, in granting confidentiality of identity of research subjects, to those areas specified in 21 U.S.C. 872(a), and to provide discretionary authority in granting exemption from prosecution for researchers as provided in 21 U.S.C. 872(d). In addition, more detailed information is required of petitioners under both sections to better enable the Drug Enforcement Administration to evaluate requests received pursuant to these sections.

DATES: Effective date, October 12, 1977.
FOR FURTHER INFORMATION CONTACT:

Craig E. Richardson, Attorney, Office of Chief Counsel, Drug Enforcement Administration, telephone 202-633-1404.

SUPPLEMENTARY INFORMATION: A notice was published in the *Federal Register* on Tuesday, June 21, 1977, proposing the amendment of §§ 1316.21 and 1316.22 of Title 21 of the Code of Federal Regulations. All interested persons were given until July 18, 1977, to submit their comments or objections in writing regarding this proposal.

One comment was received in response to the proposal from the Director of the Alcohol and Drug Abuse Institute of the University of Washington, Seattle, Wash. The comment was considered and in light of its contents no changes were made in the proposed regulations. No further comments or objections were received, nor were there any requests for a hearing, and in view thereof, the Administrator of the Drug Enforcement Administration finds that:

1. The regulations as amended will limit the authority of the Drug Enforcement Administration to grant confidentiality of identity of research subjects to those areas of research specified in 21 U.S.C. 872(a) (2-6).

2. The regulations as amended will provide the Drug Enforcement Administration with more detailed information to better enable DEA to evaluate requests received pursuant to these sections.

3. The regulations as amended will provide the Drug Enforcement Administration with discretionary authority to grant exemption from prosecution for researchers in accordance with 21 U.S.C. 872(d).

Therefore, under the authority vested in him by the Act and by the regulations of the Department of Justice, the Administrator of the Drug Enforcement Administration hereby orders that §§ 1316.21 and 1316.22 of Title 21 of the Code of Federal Regulations (CFR) be amended to read as follows:

§ 1316.21 Confidentiality of identity of research subjects.

(a) Any person conducting a bona fide research project directly related to the enforcement of the laws under the jurisdiction of the Attorney General concerning drugs or other substances which

are or may be subject to control under the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801) who intends to maintain the confidentiality of the identity of those persons who are the subjects of such research may petition the Administrator of the Drug Enforcement Administration for a grant of confidentiality; *Providing*, That: (1) The Attorney General is authorized to carry out such research under the provisions of Section 502(a) (2-6) of the Controlled Substances Act of 1970 (21 U.S.C. 872(a) (2-6)); and the research is being conducted with funds provided in whole or part by the Department of Justice; or

(2) The research is of a nature that the Attorney General would be authorized to carry out under the provisions of Section 502(a) (2-6) of the Controlled Substances Act (21 U.S.C. 872(a) (2-6)), and is being conducted with funds provided from sources outside the Department of Justice.

(b) All petitions for Grants of Confidentiality shall be addressed to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537, and shall contain the following:

(1) A statement as to whether the research protocol requires the manufacture, production, import, export, distribution, dispensing, administration, or possession of controlled substances, and if so the researcher's registration number or a statement that an application for such registration has been submitted to DEA;

(2) The location of the research project;

(3) The qualifications of the principal investigator;

(4) A general description of the research or a copy of the research protocol;

(5) The source of funding for the research project;

(6) A statement as to the risks posed to the research subjects by the research procedures and what protection will be afforded to the research subjects;

(7) A statement as to the risks posed to society in general by the research procedures and what measures will be taken to protect the interests of society;

(8) A specific request to withhold the names and/or any other identifying characteristics of the research subjects; and

(9) Statements establishing that a grant of confidentiality is necessary to the successful completion of the research project.

(c) The grant of confidentiality of identity of research subjects shall consist of a letter issued by the Administrator, which shall include:

(1) The researcher's name and address.

(2) The researcher's registration number, if applicable.

(3) The title and purpose of the research.

(4) The location of the research project.

(5) An authorization for all persons engaged in the research to withhold the

names and identifying characteristics of persons who are the subjects of such research, stating that persons who obtain this authorization may not be compelled in any Federal, State, or local civil, criminal, administrative, legislative, or other proceeding to identify the subjects of such research for which this authorization was obtained.

(6) The limits of this authorization, if any.

(7) A statement to the effect that the grant of confidentiality of identity of research subjects shall be perpetual but shall pertain only to the subjects of the research described in the research protocol, the description of the research submitted to DEA, or as otherwise established by DEA.

(d) Within 30 days of the date of completion of the research project, the researcher shall so notify the Administrator. The Administrator shall issue another letter including the information required in paragraph (c) of this section and stating the starting and finishing dates of the research for which the confidentiality of identity of research subjects was granted; upon receipt of this letter, the researcher shall return the original letter of exemption.

§ 1316.22 Exemption from prosecution for researchers.

(a) Upon registration of an individual to engage in research in controlled substances under the Controlled Substances Act (84 Stat. 1242; 21 U.S.C. 801), the Administrator of the Drug Enforcement Administration, on his own motion or upon request in writing from the Secretary or from the researcher or researching practitioner, may exempt the registrant when acting within the scope of his registration, from prosecution under Federal, State, or local laws for offenses relating to possession, distribution or dispensing of those controlled substances within the scope of his exemption. However, this exemption does not diminish any requirement of compliance with the Federal Food, Drug and Cosmetic Act (21 U.S.C. 301).

(b) All petitions for Grants of Exemption from Prosecution for the Researcher shall be addressed to the Administrator, Drug Enforcement Administration, 1405 I Street NW., Washington, D.C. 20537 and shall contain the following:

(1) The researcher's registration number if any, for the project;

(2) The location of the research project;

(3) The qualifications of the principal investigator;

(4) A general description of the research or a copy of the research protocol;

(5) The source of funding for the research project;

(6) A statement as to the risks posed to the research subjects by the research procedures and what protection will be afforded to the research subjects;

(7) A statement as to the risks posed to society in general by the research procedures and what measures will be

taken to protect the interests of society:

(8) A specific request for exemption from prosecution by Federal, State, or local authorities for offenses related to the possession, distribution, and dispensing of controlled substances in accord with the procedures described in the research protocol;

(9) A statement establishing that a grant of exemption from prosecution is necessary to the successful completion of the research project.

(c) Any researcher or practitioner proposing to engage in research requesting both exemption from prosecution and confidentiality of identity of research subjects may submit a single petition incorporating the information required in §§ 1316.21(b) and 1316.22(b).

(d) The exemption shall consist of a letter issued by the Administrator, which shall include:

(1) The researcher's name and address;

(2) The researcher's registration number for the research project;

(3) The location of the research project;

(4) A concise statement of the scope of the researcher's registration;

(5) Any limits of the exemption; and

(6) A statement that the exemption shall apply to all acts done in the scope of the exemption while the exemption is in effect. The exemption shall remain in effect until completion of the research project or until the registration of the researcher is either revoked or suspended or his renewal of registration is denied. However, the protection afforded by the grant of exemption from prosecution during the research period shall be perpetual.

(e) Within 30 days of the date of completion of the research project, the researcher shall so notify the Administrator. The Administrator shall issue another letter including the information required in paragraph (d) of this section and stating the date of which the period of exemption concluded; upon receipt of this letter the researcher shall return the original letter of exemption.

Dates: October 6, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement
Administration.

[FR Doc.77-29794 Filed 10-11-77;8:45 am]

[4830-01]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER A—INCOME TAX [T.D. 7512]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Deduction for Alimony in Determining Adjusted Gross Income

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulation.

SUMMARY: This document contains amendments to the income tax regulations relating to the allowance of deductions for alimony. Changes in the applicable tax law were made by the Tax Reform Act of 1976. These regulations affect taxpayers who are making deductible alimony payments and provide them with the guidance needed to comply with the law.

DATE: The amendment applies to taxable years beginning after December 31, 1976.

FOR FURTHER INFORMATION CONTACT:

Kyllikki Kusma of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, Attention: CC:LR:T, 202-566-3671, not a toll-free call.

SUPPLEMENTARY INFORMATION:

BACKGROUND

This document contains amendments to the Income Tax Regulations (26 CFR Part 1) under section 62 of the Internal Revenue Code of 1954 in order to conform such regulations to the provisions of section 502 of the Tax Reform Act of 1976 (90 Stat. 1559).

Under prior law a deduction for qualifying alimony payments was to be taken in the year paid as an itemized deduction from adjusted gross income in arriving at taxable income. Section 502(a) of the Tax Reform Act of 1976 changes the deduction for qualifying alimony payments from an itemized deduction to a deduction from gross income in arriving at adjusted gross income. Therefore, a deduction for alimony will be available to taxpayers who do not elect to itemize their deductions because their zero bracket amount is more than their itemized deductions as well as those who elect to itemize their deductions. In addition, section 502(b) of the Tax Reform Act of 1976 enables the taxpayer to take qualifying alimony deductions into consideration in estimating withholding allowances.

DRAFTING INFORMATION

The principal author of this regulation was Kyllikki Kusma of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

ADOPTION OF AMENDMENTS TO THE REGULATIONS

Accordingly, the regulations under section 62 of the Internal Revenue Code of 1954 (26 CFR Part 1) are amended as follows:

§ 1.62 [Deleted]

Paragraph 1. Section 1.62 is deleted. Par. 2. Section 1.62-1 is amended by

inserting a new paragraph (c) (16) after paragraph (c) (15), to read as follows:

§ 1.62-1 Adjusted gross income.

(c)

(16) For taxable years beginning after December 31, 1976, the deduction for alimony and separate maintenance payments allowed by section 215.

Because this amendment merely conforms the regulations to changes in the Code made by section 502 of the Tax Reform Act of 1976, no notice of proposed rulemaking need be made prior to the promulgation of the proposed Treasury decision.

(Sec. 7805, Internal Revenue Code of 1954 (68A Stat. 917; (26 U.S.C. 7805)).)

WILLIAM E. WILLIAMS,
Acting Commissioner
of Internal Revenue.

Approved: September 30, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary of the
Treasury.

[FR Doc.77-29774 Filed 10-11-77;8:45 am]

[3810-71]

Title 32—National Defense

CHAPTER VI—DEPARTMENT OF THE NAVY

SUBCHAPTER B—NAVIGATION

PART 706—CERTIFICATIONS AND EXEMPTIONS UNDER THE INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972

Miscellaneous Amendments

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The purpose of this rule is to amend Part 706 to reflect that the Secretary of the Navy has determined that *USS Memphis (SSN 691)* and *USS Omaha (SSN 692)* are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS) without interfering with their special functions. The intended effect of this rule is to warn mariners on international waters.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Lieutenant M. D. Seiders, JAGC, USN, Admiralty Division, Office of the Judge Advocate General, Navy Department, Washington, D.C. 20370, (202-694-5188).

SUPPLEMENTARY INFORMATION: This amendment to Part 706 provides notice that the Secretary of the Navy has certified that *USS Memphis (SSN 691)* and *USS Omaha (SSN 692)* are

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vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS: Rule 21(a) regarding the arc of visibility of the masthead light; Rule 21(b) regarding the arc of visibility and location of sidelights; Rule 21(c) regarding the arc of visibility and location of the stern light; Annex I, section 2(a) (i), regarding the height of the masthead light; and Annex I, section 2(k), regarding the height of the anchor lights, without interfering with their special functions. The Secretary of the Navy has also certified that the above-mentioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

This amendment also provides notice that the Secretary of the Navy has exempted *USS Memphis* and *USS Omaha* from full compliance with certain provisions of the 72 COLREGS pursuant to 72 COLREGS Rule 38. The Secretary of the Navy has determined that the keels of these ships were laid prior to July 15, 1977, and that the ships comply with the requirements of the International Regulations for Preventing Collisions at Sea, 1960. These ships are members of the SSN 688 class; therefore, the exemptions granted for that class in the existing tables in § 706.3 are applicable.

Since this amendment pertains to a military and foreign-affairs function of the United States, the rule making requirements of 5 U.S.C. 553 do not apply.

Accordingly, 32 CFR Part 706 is amended as follows:

§ 706.2 [Amended]

1. The third Table One of § 706.2 is amended by inserting the following between "*USS Philadelphia SSN-690 6.10*" and "*USS George Washington SSN-598 4.11*":

Vessel	No.	Distance in meters of forward masthead light below minimum required height, Sec. 2(a) (i) annex I
U.S.S. Memphis	SSN-691	6.10
U.S.S. Omaha	SSN-692	6.10

2. The fourth Table Three of § 706.2 is amended by inserting the following between "*USS Philadelphia SSN-690 236° 115' 552° 4.2 6.1 2.0 1.6 below*" and "*USS George Washington SSN-598 240° 118° 255° 3.8 46.0 2.1 0.6 below*":

Vessel	No.	Masthead light, arc of visibility; rule 21(a) (in degrees)	Side lights, arc of visibility; rule 21(b) (in degrees)	Stern light, arc of visibility; rule 21(c) (in degrees)	Side lights, distance inboard of ship's sides in meters; sec. 3(b), annex I	Stern light, distance forward of stern in meters; rule 21(c)	Forward anchor light, height above hull in meters; sec. 2(k), annex I	Anchor lights, relationship of aft light to forward light in meters; sec. 2(k), annex I
U.S.S. Memphis	SSN-691	236	115	252	4.3	6.1	2.0 1.6 below.	Do.
U.S.S. Omaha	SSN-692	236	115	252	4.2	6.1	2.0	Do.

Effective date: The effective date of this amendment will be October 5, 1977.
Dated: October 5, 1977.

W. GRAHAM CLAYTOR, JR.,
Secretary of the Navy.

[FR Doc.77-29863 Filed 10-11-77; 8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Parts 905, 944]

HANDLING OF ORANGES, GRAPEFRUIT, TANGERINES, AND TANGELOS GROWN IN FLORIDA; IMPORTS

Proposed Rulemaking

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rules.

SUMMARY: This notice invites written comment on a proposal that would continue through September 24, 1978, current minimum grade and size requirements for Florida oranges, grapefruit, tangerines and tangelos and imported grapefruit. The regulation will expire on November 13, 1977, unless extended. The proposed action is designed to assure shipment of ample supplies of fruit of acceptable grades and sizes in the interest of growers and consumers.

DATES: Comments must be received on or before October 25, 1977.

PROPOSED EFFECTIVE DATE: November 14, 1977.

ADDRESS: Send two copies of comments to: Hearing Clerk, United States Department of Agriculture, Room 1077 South Building, Washington, D.C. 20250, where they will be made available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-3545.

SUPPLEMENTARY INFORMATION: The Department is considering extension of the regulations, as hereinafter set forth, effective under the marketing agreement, and Order No. 905 (7 CFR Part 905), regulating handling of oranges, grapefruit, tangerines, and tangelos grown in Florida, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and to a conforming extension of the regulation for imported grapefruit, effective pursuant to Section 8e of the act. The proposed action is based upon recommendations of the Growers Administrative Committee and Shippers Advisory Committee, established under the marketing order.

The proposed action reflects the committees' appraisal of the need for regulation of shipments of the specified varieties of fruits during the period November 14, 1977, through September 24, 1978, based on the supply and current and prospective market conditions. The ac-

tion is designed to assure shipment of ample supplies of fruit of acceptable grades and sizes in the interest of growers and consumers.

The proposal is as follows:

1. The proposed requirements for the specified varieties shipped from the production area to points in the United States, Canada or Mexico (domestic) and from the production area to destinations outside the Continental United States, Canada or Mexico (export) are the same as those contained in §§ 905.565 (Orange Regulation 76), 905.566 (Grapefruit Regulation 78), 905.567 (Tangerine Regulation 49) and 905.568 (Tangelo Regulation 49), 42 FR 47547-47550.

The proposed new regulation would read as follows:

§ 905.301 Orange, Grapefruit, Tangerine, and Tangelo Regulation 301.

Order. (a) During the period specified in Column (2) of Table I no handler shall ship between the production area and any point outside thereof in continental United States, Canada, or Mexico, any variety of fruit listed in Column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in Column (3) and (4) of such table.

TABLE I

Variety	Regulation period	Minimum grade	Minimum size (diameter)
(1)	(2)	(3)	(4)
Oranges			
Early and mid-season	Sept. 26, 1977 to Sept. 24, 1978	U.S. No. 1	2 1/8
Navel	do	U.S. No. 1 Golden	2 1/8
Valencia and other late type	do	U.S. No. 1	2 1/8
Temple	do	do	2 1/8
Murcott honey	do	Florida No. 1	2 1/8
Grapefruit			
Seeded, except pink	do	U.S. No. 1	3 1/8
Seeded, pink	do	do	3 1/8
Seedless, except pink	do	Improved No. 2	3 1/8
Seedless, pink	do	do	3 1/8
Tangerines, Dancy and similar, including Robinson	do	U.S. No. 1	2 1/8
Tangelos, Tangelos	do	do	2 1/8

(b) During the period specified in Column (2) of Table II no handler shall ship to any destination outside the continental United States, other than Canada or Mexico, any variety of fruit listed in Column (1) of such table unless such variety meets the applicable minimum grade and size (with tolerances for size as specified in paragraph (c) hereof) specified for such variety in Columns (3) and (4) of such table.

Variety	Regulation period	Minimum grade	Minimum size (diameter)
(1)	(2)	(3)	(4)
Oranges			
Early and mid-season	Sept. 26, 1977 to Sept. 24, 1978	U.S. No. 1	2 1/8
Navel	do	U.S. No. 1 Golden	2 1/8
Valencia and other late type	do	U.S. No. 1	2 1/8
Temple	do	do	2 1/8
Murcott honey	do	Florida No. 1	2 1/8
Grapefruit			
Seeded, except pink	do	U.S. No. 1	3 1/8
Seeded, pink	do	do	3 1/8
Seedless, except pink	do	Improved No. 2	3 1/8
Seedless, pink	do	do	3 1/8
Tangerines, Dancy and similar, including Robinson	do	U.S. No. 1	2 1/8
Tangelos, Tangelos	do	do	2 1/8

(c) **Size Tolerances:** In the determination of minimum size as prescribed in Tables I and II, the following tolerances are permitted (1) for oranges, as set forth in § 51.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos, except that such tolerances for other than Navel, Temple, and Murcott Honey Oranges shall be based only on the oranges in the lot measuring

2 1/8 inches or smaller in diameter, and the tolerance for Murcott Honey oranges shall be as specified in § 51.1818 of the U.S. Standards for Grades of Florida Tangerines; (2) for grapefruit, as specified in § 51.761 of the U.S. Standards for Grades of Florida Grapefruit; (3) for tangerines, as specified in § 51.1818 of the U.S. Standards for Grades of Florida Tangerines; and (4) for tan-

gelos, as set forth in § 51.1152 of the U.S. Standards for Grades of Florida Oranges and Tangelos.

(d) Terms used in the marketing order, including Improved No. 2 grade for grapefruit, when used herein, mean the same as is given to the terms in the order; Florida No. 1 grade for murcotts means the same as provided in Rule No. 20-35.03 of the Regulations of the Florida Department of Citrus, and terms relating to grade, except Improved No. 2 grade for grapefruit, and diameter shall mean the same as is given to the terms in the revised U.S. Standards for Grades of Florida Oranges and Tangelos (7 CFR 51.1140-51.1180), the revised U.S. Standards for Florida Tangerines (7 CFR 51.1810-51.1835), or the revised U.S. Standards for Grades of Florida Grapefruit (7 CFR 51.750-51.784).

2. The proposed action for imported grapefruit would be accomplished by redesignating § 944.114 (Grapefruit Regulation 18; 42 FR 47550-47551) as § 944.101 (Grapefruit Regulation 1) and amending the provisions of paragraph (a) thereof to read as follows:

§ 944.101 Grapefruit Regulation 1.

(a) *Applicability to imports.* Pursuant to section 8e of the act and Part 944—Fruits; Import Regulations, during the period specified in Column (2) of Table I, specified in § 905.301, the importation into the United States of any variety of grapefruit listed in Column (1) of said table is prohibited unless such variety meets the applicable minimum grade and size specified for such variety in Columns (3) and (4) of said table. In the determination of minimum size as prescribed in Table I, a tolerance is permitted as specified in paragraph (c) of § 905.301.

Dated: October 4, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-29634 Filed 10-11-77; 8:45 am]

[3410-02]

[7 CFR Part 929]

CRANBERRIES GROWN IN CERTAIN STATES

Proposed Expenses, Rate of Assessment, and Carryover of Unexpended Funds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on proposed expenses and a rate of assessment for the 1977-78 fiscal period, to be collected from handlers to support activities of the Cranberry Marketing Committee which locally administers the Federal marketing order covering cranberries.

DATES: Comments must be received on or before October 27, 1977. Proposed effective dates: September 1, 1977, through August 31, 1978.

ADDRESSES: Sent two copies of comments to the Hearing Clerk, U.S. Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be available for public inspection during business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-3545.

SUPPLEMENTARY INFORMATION: The proposals under consideration were submitted by the committee, established under Marketing Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), as the agency to administer its terms and provisions. The proposals are:

(a) Expenses that are reasonable and likely to be incurred by the Cranberry Marketing Committee during the period September 1, 1977, through August 31, 1978, will amount to \$75,835.56.

(b) The rate of assessment for said period payable by each handler in accordance with § 929.41 is fixed at \$0.03 per barrel or equivalent quantity of cranberries.

(c) Unexpended assessment funds in excess of expenses incurred during the fiscal period ended August 31, 1977, shall be carried over as a reserve in accordance with § 929.42.

Dated: October 6, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-29813 Filed 10-11-77; 8:45 am]

[3410-02]

[7 CFR Part 999]

FILBERT IMPORTS

Proposed Grade and Size Standard Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed regulation.

SUMMARY: This proposal would require that all filberts imported into the United States meet the same grade and size standards required of filberts grown in Oregon and Washington. This regulation would implement a recent amendment to the Agricultural Marketing Agreement Act of 1937.

DATES: Written comments to this proposal must be received by December 16, 1977.

ADDRESSES: Written comment should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions

will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: This proposal would regulate the importation of filberts as required by section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674; and as further amended by Public Law 95-113 approved September 29, 1977), hereinafter referred to as the "act".

Section 8e of the act provides, in part, that whenever a marketing order issued by the Secretary of Agriculture pursuant to section 8c of the act (7 U.S.C. 608c) contains any terms or conditions regulating the grade, size, quality, or maturity of filberts produced in the United States, the importation of filberts into the United States shall be prohibited during the period of time the order is in effect, unless the imported commodity complies with the grade, size, quality, and maturity provisions of the order or comparable restrictions promulgated under section 8e. Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington (hereinafter referred to as the "order"), contains terms and conditions regulating the grade and size of filberts. Virtually all commercially produced U.S. filberts are grown in these two States.

The proposal contains grade and size requirements identical to those for filberts grown in Oregon and Washington and handled under the order. All inshell filberts shall be of a quality equal to or better than the requirements of U.S. No. 1 grade and medium size as defined in the U.S. Standards for Filberts in The Shell. This requirement is identical to Oregon No. 1 grade and medium size as defined in the Oregon Standards Filberts In Shell and prescribed for inshell filberts under the order.

All shelled filberts shall be of a quality equal to or better than the requirements prescribed in Exhibit A of the import regulation. These requirements are identical to the requirements for Oregon No. 1 whole and broken grade for shelled filberts as contained in Oregon Grade Standards for Filbert (Hazelnut) Kernels, and prescribed for shelled filberts under the order.

Also included in the proposal are other requirements which pertain to the importation of filberts (e.g., inspection and certification, reconditioning, exemptions and compliance).

The proposal is as follows:

§ 999.400 Regulation governing the importation of filberts.

(a) *Definitions.*—(1) "Filberts" means filberts or hazelnuts.

(2) "Inshell filberts" means filberts, the kernels or edible portions of which are contained in the shell.

(3) "Shelled filberts" means the kernels of filberts after the shells are removed.

(4) "Person" means any individual, partnership, corporation, association, or other business unit.

(5) "USDA inspector" means a Federal or Federal-State inspector, Fruit and Vegetable Quality Division, Food Safety and Quality Service, United States Department of Agriculture, or any other duly authorized employee of the USDA.

(6) "Importation" means release from custody of the United States Bureau of Customs.

(b) *Grade and size requirements.*—Except as provided in paragraph (d) of this section, no person shall import into the United States any lot of filberts unless the filberts meet the following requirements, which are identical to those for filberts grown in Oregon and Washington and handled pursuant to Order No. 982, as amended (7 CFR Part 982):

(1) *Inshell filberts.* All inshell filberts shall be of a quality equal to or better than the requirements of U.S. No. 1 grade and medium size as defined in the U.S. Standards for Filberts in The Shell (7 CFR 51). The U.S. No. 1 grade, medium size is identical to the Oregon No. 1 grade, medium size (as defined in the Oregon Grade Standards Filberts in Shell) and prescribed for inshell filberts under Order No. 982, as amended.

(2) *Shelled filberts.* All shelled filberts shall be of a quality equal to or better than the requirements prescribed in Exhibit A of this section. These requirements are identical to the requirements for Oregon No. 1 whole and broken grade for shelled filberts (as contained in Oregon Grade Standards for Filbert (Hazelnut) Kernels and prescribed for shelled filberts under Order No. 982, as amended).

(c) *Inspection and certification requirements.*—(1) *General.* Compliance with the grade and size requirements of paragraph (b) of this section shall be determined on the basis of an inspection and certification by a USDA inspector.

(2) *Inspection.* Inspection shall be performed by USDA inspectors in accordance with the Regulations Governing the Inspection and Certification of Fresh Fruits and Vegetables and Related Products (7 CFR Part 51). The cost of each such inspection and related certification shall be borne by the applicant. Whenever filberts are offered for inspection, the applicant shall furnish any labor and pay any costs incurred in moving and opening containers as may be necessary for proper sampling and inspection. The applicant shall also furnish the USDA inspector the entry number and such other identifying information for each lot as he may request. Inspection must be completed prior to the importation of filberts. The applicant should make advance arrangements with the USDA inspection office to avoid delay in scheduling the inspection.

(3) *Certification.* Each lot of filberts inspected in accordance with subparagraph (1) of this paragraph shall be covered by an inspection certificate. Each such certificate shall set forth, among other things, the following:

(i) The date and place of inspection.
(ii) The name of the applicant.
(iii) The name of the importer.
(iv) The quantity, and identifying marks of the lot inspected.

(v) The statement, if applicable: "Meets U.S. import requirements under section 8e of the AMA Act of 1937".

(vi) If the lot fails to meet the import requirements, a statement to that effect and the reasons therefor.

(d) *Exemptions.* Notwithstanding any other provisions of this section, the importation of any lot of filberts which does not exceed 115 pounds in net weight shall be exempt from the requirements of this section.

(e) *Reconditioning prior to importation.* Nothing contained in this section shall be deemed to preclude reconditioning filberts prior to importation, in order that such filberts may be made eligible to meet the applicable grade and size regulations prescribed in paragraph (b) of this section.

(f) *Other restrictions.* The provisions of this section do not supersede the Federal Plant Quarantine Act of 1912, the Federal Food, Drug, and Cosmetic Act, or any other applicable laws or regulations or the need to comply with applicable food and sanitary regulations of city, county, State, or Federal agencies.

(g) *Compliance.* Any person who violates any provision of this section shall be subject to a forfeiture in the amount prescribed in section 8a(5) of the Agricultural Marketing Agreement Act of 1937, as amended (Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674), or, upon conviction, a penalty in the amount prescribed in section 8c(14) of said act, or to both such forfeiture and penalty. False representations to any agency of the United States on any matter within its jurisdiction, knowing it to be false, is a violation of 18 U.S.C. 1001 which provides for a fine or imprisonment or both.

EXHIBIT A

GRADE REQUIREMENTS FOR SHELLED FILBERTS

Filbert kernels or portions of filbert kernels shall meet the following requirements:

- (1) Well dried; and
- (2) Clean.
- (3) Free from:
 - (i) Foreign material;
 - (ii) Mold;
 - (iii) Rancidity; or
 - (iv) Insect injury
- (4) Free from serious damage caused by:
 - (i) Serious shriveling; or
 - (ii) Other means.
- (5) Size; No size requirements.

TOLERANCES

In order to allow for variation incident to proper grading and handling the following tolerances, by weight, are permitted as specified:

- (1) For foreign material: 0.02 of one percent, for foreign material.
- (2) For defects: Five percent for kernels or portions of kernels which are below the requirements of this grade; including not

more than one percent for moldy, rancidity or insect injury.

APPLICATION OF STANDARDS

The grade of a lot of filbert kernels shall be determined on the basis of a composite sample drawn from containers in various locations in the lot. However, any container or group of containers in which the filberts are obviously of a quality, type, or size materially different from that in the majority of containers shall be considered a separate lot, and shall be sampled separately.

DEFINITIONS

Similar type

"Similar type" means that the kernels are of the same general type and appearance. For example, kernels of the round type shall not be mixed with those of the long type. Color of the kernels shall not be considered, since there is often a marked difference in skin color of kernels of similar type.

Well dried

"Well dried" means that the kernels are firm and crisp, not containing more than 6 percent moisture.

Clean

"Clean" means practically free from plainly visible adhering dirt or other foreign material.

Foreign material

"Foreign material" means any substance other than the filbert kernel, or portions of kernels. (Loose skins, pellicles or corky tissue which have become separated from the kernels shall not be considered as foreign materials; provided that this material does not exceed .02 of one percent by weight).

Serious damage

"Serious damage" means any specific defect described in this section; or an equally objectionable variation of any one of these defects, or any other defect, or any combination of defects, which seriously detracts from the appearance or the edible or marketing quality of the individual portion of kernel or of the lot as a whole. The following defects shall be considered as serious damage:

(a) "Serious Shriveling" means when the kernel is seriously shrunken, wrinkled and tough.

(b) "Moldy" means that there is a visible growth of mold either on the outside or inside of the kernel.

(c) "Rancidity" means that the kernel is noticeably rancid to the taste. An oily appearance of the flesh does not necessarily indicate a rancid condition.

(d) "Insect injury" means that the insect, frass or web is present, or the kernel or portion of kernel show definite evidence of insect feeding.

Dated: October 6, 1977.

FLOYD F. HEDLUND,

Director,

Fruit and Vegetable Division.

[FR Doc.77-29814 Filed 10-11-77; 8:45 am]

[3410-05]

Commodity Credit Corporation

[7 CFR Part 1464]

TOBACCO LOAN PROGRAM

1977 Burley Tobacco Grade Loan Rates

AGENCY: Commodity Credit Corporation, USDA.

PROPOSED RULES

ACTION: Proposed Rule.

SUMMARY: This proposal would establish the grade loan rates to be applied to the various grades of 1977 crop burley tobacco to provide price support as required by the Agricultural Act of 1949, as amended. This action will provide producers with appropriate levels of support for the various grades of tobacco.

DATES: Comments must be received by November 11, 1977, to be sure of consideration.

ADDRESSES: Send comments to the Director, Price Support and Loan Division, ASCS, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Robert P. Hieronymus, 202-447-5753.

SUPPLEMENTARY INFORMATION: Section 106 of the Agricultural Act of 1949, as amended, requires that the 1977 crop of burley tobacco be supported at the level of 117.3 cents per pound. The average level of support for burley tobacco is increased by 7.3 percent over the 1976 level. It is anticipated that price support will be provided through loans to producer associations which will receive the tobacco from the producers and advance to the producers the support price for the tobacco received. In accordance with Section 403 of the Act, the price support advances will be based on grade loan rates which will average the required level of support when weighted by the anticipated grade percentages.

The public is invited to submit written data, views and recommendations to the Director, Price Support and Loan Division, Agricultural Stabilization and Conservation Service, USDA, P.O. Box 2415, Washington, D.C. 20013.

All written submissions made pursuant to this notice will be made available for public inspection at the Office of the Director during regular business hours (8:15 a.m. to 4:45 p.m.).

PROPOSED RULE

Under the Tobacco Loan Program published in this Part, Commodity Credit Corporation proposes to establish loan rates by grades for the 1977 crop of burley tobacco, type 31, as set forth herein. These proposed rates are calculated to provide the level of support of 117.3 cents per pound as determined under Section 106 of the Agricultural Act of 1949 (7 U.S.C. 1445). Accordingly, it is proposed that 7 CFR 1464.21 be revised to read as follows:

¹ Only the original producer is eligible to receive advances. Tobacco graded "U" (unsound), "W" (wet), "No-G" (no-grade), or scrap will not be accepted. Cooperatives are authorized to deduct \$1 per hundred pounds to apply against overhead costs.

§ 1464.21 1977 Crop Burley Tobacco, Type 31, Loan Schedule.¹

[Dollars per 100 lb, farm sales weight]

Grade	Loan rate	Grade	Loan rate	Grade	Loan rate
B1F	180	T1F	117	C1V	119
B2F	178	T2F	111	C2V	117
B3F	156	T3FR	119	C3V	111
B4F	153	T4FR	118	C4G	107
B5F	114	T5FR	109	C5G	101
B6FR	158	T6FR	114	N1L	128
B7FR	157	T7R	111	N2L	127
B8FR	155	T5R	105	N3L	125
B9FR	122	T4D	101	N1L	120
B10FR	118	T3D	100	N3L	115
B11R	155	T1K	102	N1F	125
B12R	151	T5K	99	N2F	127
B13R	122	T1VF	112	N3F	125
B14R	119	T5VF	106	N1F	120
B15R	113	T1VR	105	N5F	115
B16D	109	T5VR	101	N1M	117
B17D	104	T1GF	101	N5M	107
B18K	118	T5GF	96	N1G	107
B19K	116	T1GR	97	N6G	99
B20K	110	T5GR	92	M1F	110
B21M	150	C1L	129	M2F	109
B22M	116	C2L	128	M3F	108
B23M	107	C3L	126	M1F	106
B24VF	125	C4L	123	M5F	104
B25VF	117	C5L	119	M6FR	106
B26VF	114	C1F	129	M4FR	104
B27VR	117	C2F	128	M5FR	100
B28VR	113	C3F	128	N1L	100
B29VR	110	C4F	123	N2L	93
B30FR	112	C5F	119	N1F	96
B31FR	110	C6K	118	N1R	93
B32FR	106	C1K	115	N2R	87
B33FR	106	C5K	109	N1G	87
B34GR	104	C6M	121	N2G	79
B35GR	101	C1M	119		
T3F	122	C5M	111		

Signed at Washington, D.C., on October 4, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.

[FR Doc.77-29632 Filed 10-11-77;8:45 am]

[3410-37]

Food Safety and Quality Service

[7 CFR Part 2852]

PREPARATION FOR UPDATING THE U.S. STANDARDS FOR GRADES OF GRAPEFRUIT JUICE

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Solicitation of Views and Comments.

SUMMARY: Take notice that the Fruit and Vegetable Quality Division of the Food Safety and Quality Service, U.S. Department of Agriculture, is encouraging citizens' participation in updating the standards for grapefruit juice. These standards are used to assign a quality grade (A, B or Substandard) to grapefruit juice. The quality grade is based on three factors: (1) Color of the juice; (2) absence of defects (seed particles, specks, membrane particles, core and peel); and (3) flavor of the juice (naturally occurring sugar, added sugar, naturally occurring acid, sugar-acid balance and bitterness).

DATE: Comments must be received on or before January 10, 1978.

ADDRESS: Send comments to: Chief, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250. Comments will be available for public inspection at the same address during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Dale C. Dunham, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-4693).

SUPPLEMENTARY INFORMATION: Two color types of grapefruit are grown in the United States—white (white-fleshed grapefruit) and pink (pink or red-fleshed grapefruit). Each color type is used in the commercial production of grapefruit juice.

Grapefruit juice varies in color because: (1) The juice is made from all white-fleshed grapefruit; (2) the juice is made from all pink-fleshed grapefruit; (3) the juice is made from mixed white-fleshed grapefruit and pink-fleshed grapefruit; or (4) the juice is processed from grapefruit harvested in the fall, winter or spring months (natural pigments in grapefruit change color as the fruit ripens).

Good color does not necessarily indicate good flavor in grapefruit juice. Just the opposite occurs in fully-ripened white-fleshed grapefruit—the juice is more amber color and less bright while the flavor is generally considered at its peak. Currently, the U.S. standards assign a lower quality grade to grapefruit juice which is amber color and somewhat dull. The color is usually the only reason for the lower quality grade. There is reason to believe that the standards should be changed if this is a fault.

On the other hand there is also reason to believe that if color is reduced in importance for determining the quality grade, less desirable fruit such as hybrids (cross between grapefruit and other citrus fruits), could be added in small amounts and receive a "grade A" quality grade. The possibility that this situation could occur would be greatest during the fall crop. There would be less chance of it occurring during the winter and spring crops because of availability of the hybrid fruit.

The USDA has been requested to update the U.S. standards for grades of grapefruit juice. The following are options relative to the grapefruit juice standards:

PROPOSED RULES

Choice	Suggested advantages	Suggested disadvantages
Retain the current U.S. standards unchanged.	Either poor color or poor flavor limits juice to lower quality grades.	Color is given too much importance. Mixed juice (white and pink) is limited to a lower quality grade. Juice from properly ripened grapefruit may be assigned a lower quality grade only because of color. Hybrid fruit could be added in small amounts.
Option No. 1—Revise the current U.S. standards by making color non-limiting in grade A and grade B.	More accurately evaluate the quality of juice from ripe grapefruit by putting more emphasis on flavor and less emphasis on color. Permits blending of juice from white grape fruit and pink grapefruit.	Only flavor would limit juice which has both poor color and poor flavor to lower quality grades. Hybrid fruit could be added in small amounts.
Option No. 2—Revise current U.S. standards by partial limiting rule for color (permits top grade B color in "grade A" quality grade).	do	Difficult to determine top "grade B" color from bottom "grade B" color with the trained eye. Only an instrument can make the determination.
Option No. 3—Revise the current U.S. standards by partial limiting rule for color and flavor (permits poorer color only when accompanied by better flavor).	do	The critical cutoff point between low A and high A flavor is difficult to judge.
Option No. 4—Revise current U.S. standards by eliminating color as a quality factor.	Color could be determined by an instrument and reported as either white or pink. Very equitable.	Ignores color as a factor in the quality grade of grapefruit juice.

Comments, suggestions, and recommendations will be welcome until January 10, 1978, and should be sent to:

Chief, Processed Products Branch, Fruit and Vegetable Quality Division, FSQS, U.S. Department of Agriculture, Washington, D.C. 20250.

The response would be used to develop a formal notice of proposed rulemaking at a later date.

Dated: October 3, 1977.

ROBERT ANGELOTTI,
Administrator.

[FR Doc.77-29579 Filed 10-11-77;8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 416]

[Regs. No. 16]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Referral of Blind and Disabled Individuals For Appropriate Rehabilitation Services

AGENCY: Social Security Administration, HEW.

ACTION: Notice of Proposed Rule Making.

SUMMARY: This proposed rule implements amendments to the Social Security Act which were enacted and effective October 20, 1976 relating to the supplemental security income for the aged, blind, and disabled program. This legislation requires the Secretary of Health, Education, and Welfare to (1) refer blind or disabled individuals age 16 or over and under age 65 who are receiving Supplemental Security Income benefits to the appropriate State Agency administering the State plan for vocational rehabilitation, and (2) to refer blind and disabled children under age 16 who are receiving Supplemental Security Income benefits, to the agency administering the State plan for crippled children's serv-

ices under title V of the Social Security Act or to another agency (which administers programs providing services to disabled children and which the Governor of the State has determined is capable of administering the State plan in a more efficient and effective manner) for appropriate services. Also, the law as amended no longer requires that all blind and disabled persons must accept vocational rehabilitation services in order to be eligible for benefits. Under the amended law, this requirement applies only to persons age 16 or over. The proposed amendments to the regulations reflect these changes in the law.

DATES: Comments must be received on or before November 28, 1977.

ADDRESSES: Prior to final adoption of the proposed amendments to the regulations, consideration will be given to any data, views, or arguments pertaining thereto which are submitted in writing to the Commissioner of Social Security, Department of Health, Education, and Welfare, P.O. Box 1585, Baltimore, Md. 21203. Copies of all comments received in response to this notice will be available for public inspection during regular business hours at the Washington Inquiries Section, Office of Information, Social Security Administration, Department of Health, Education, and Welfare, North Building, Room 5131, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Harry Short, Legal Assistant, 6401 Security Boulevard, Baltimore, Md. 21235, telephone 301-594-7414.

SUPPLEMENTARY INFORMATION: Prior to passage of Pub. L. 94-566, title XVI of the Social Security Act (Supplemental Security Income For The Aged, Blind, and Disabled (SSI)) provided for referral of all individuals (including children) receiving SSI benefits because of blindness or disability, to the State agency administering the State plan for vocational rehabilitation services ap-

proved under the Vocational Rehabilitation Act of 1973 (29 U.S.C. Chapter 16). There was no provision in the law for rehabilitation services specifically suitable for children.

As required by section 501(b) of Pub. L. 94-566, medical criteria for determining disability (as defined in section 1614(a)(3) of the Social Security Act (42 U.S.C. 1382c)) of children under age 18 were published as final regulations on March 16, 1977, in the FEDERAL REGISTER (42 FR 14705). Regulations relating to vocational rehabilitation services for children under age 16 and the criteria for approval of State plans and any other regulations necessary to the proper administration of the program will be issued at a later date.

The proposed amendments are to be issued under the authority of sections 1102 and 1615 of the Social Security Act, as amended; 49 Stat. 647, as amended; 86 Stat. 1474, as amended; 42 U.S.C. 1302, and 1382d.

(Catalog of Federal Domestic Assistance Program No. 13.807—Supplemental Security Income Program.)

NOTE:—The Social Security Administration has determined that this document does not contain a major proposal requiring preparation of an inflation impact statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 2, 1977.

J. B. CARDWELL,
Commissioner of Social Security.

Approved: September 29, 1977.

JOSEPH A. CALIFANO, JR.,
Secretary of Health, Education,
and Welfare.

Part 416, Subpart Q of Chapter III of Title 20 of the Code of Federal Regulations is amended to read as follows:

1. Section 416.1703 is revised to read as follows:

§ 416.1703 Referral of blind and disabled individuals for appropriate services.

(a) *Individuals age 16 or over.* A disabled or blind individual age 16 or over and under age 65 who is receiving benefits under this part is referred to the appropriate State agency administering the State plan for vocational rehabilitation services approved under the Rehabilitation Act of 1973 (see also 45 CFR 401.120ff published at 39 FR 25436, July 10, 1974) for a review of that individual's need for and utilization of available vocational rehabilitation services.

(b) *Individuals under age 16.* A disabled or blind individual who has not attained age 16 is referred for appropriate services to (1) the State agency administering the State plan for crippled children's services under title V of the Social Security Act, or (2) another agency providing services to disabled children which the Governor of the State has determined is capable of administering the State plan in a more efficient and effective manner.

(c) Such referrals are made:

(1) At the time it is determined that an individual is eligible for benefits based on disability or blindness; and

(2) At such other times as may be scheduled according to individual circumstances.

2. Section 416.1705 is revised to read as follows:

§ 416.1705 Ineligibility for benefits because of refusal to accept vocational rehabilitation services.

A disabled or blind individual age 16 or over and under age 65, who is receiving benefits under this part, and who has been referred to an appropriate State agency administering a State plan for vocational rehabilitation shall not be eligible for benefits for any month in which he or she refuses, without good cause (see § 416.1707), to accept vocational rehabilitation services available to him or her under a State plan approved under the Rehabilitation Act of 1973 (see § 416.1328(a) regarding suspension of benefits).

[FR Doc.77-29820 Filed 10-11-77;8:45 am]

[8320-01]

VETERANS ADMINISTRATION

[38 CFR Part 21]

VETERANS EDUCATION

Prompt Refunds

AGENCY: Veterans Administration.

ACTION: Proposed Rule.

SUMMARY: This amendment is intended to provide a definition of "prompt refund" to correct a problem arising from unreasonable delay by some schools in making refunds. It is hoped that the schools will be more expeditious and uniform in their refunds.

An error is also corrected which has erroneously told the schools to refund the portion of the tuition earned and to keep the portion not earned. The rule is correctly stated in all places except one where this erroneous phrasing is longstanding.

The Veterans Administration also makes editorial changes which reflect the agency's policy of using precise terms for gender in its regulations.

DATES: Comments must be received on or before November 11, 1977. It is proposed to make this amendment effective the date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue NW., Washington, D.C. 20420.

Comments will be available for inspection at the address shown above during normal business hours until November 21, 1977.

FOR FURTHER INFORMATION CONTACT:

June C. Schaeffer, Assistant Director for Benefits and Facilities, Education

and Rehabilitation Service, Department of Veterans Benefits, Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420 (202-389-2092).

SUPPLEMENTARY INFORMATION: Section 21.4255 is based upon an earlier Korean Conflict regulation. At some point in time in the past the Korean Conflict regulation contained the language regarding refunds currently found in § 21.4254(c) (13). It was then amended to include elsewhere in its provisions, the same principles stated in § 21.4255(e), at which time the author apparently mistakenly referred to the "refund" rather than "charge" to be made upon pro rata refund determinations. The effect of the shift in language is to require the school to refund to the student the amount of tuition earned by the school and to keep the amount of the tuition not earned by the school. Obviously, this is the reverse of the correct result.

A new paragraph (f) is added to provide for nonaccredited courses the same definition of "prompt" refund provided in § 21.4256 for correspondence courses. The same problem regarding delay in the payment of refunds to the students as existed in correspondence courses exists in the case of nonaccredited courses. The intent is to make clear to the parties involved what minimum delay will be acceptable.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, D.C. 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays), until November 21, 1977. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

ECONOMIC IMPACT: The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Approved: October 4, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

It is proposed to amend 38 CFR Part 21 as follows:

In § 21.4255, paragraphs (d) and (e) are revised and paragraph (f) is added so that the revised and added material reads as follows:

§ 21.4255 Refund policy; nonaccredited courses.

A refund policy will meet the requirements of § 21.4254(c) (13), if it provides that the amount charged for tuition, fees, and other charges for a portion of the course does not exceed the approximate pro rata portion of the total charges for tuition, fees, and other charges that the length of the completed portion of the course bears to the total length when the school makes provision for refund within the following limitations:

(d) *Books, supplies, and equipment.* Where the veteran or eligible person purchases his or her books, supplies, and equipment from a bookstore or other source, and the cost of such items is separate and independent from the charge made by the school for tuition and fees, he or she may retain or dispose of such items at his or her own discretion. Where the school furnishes the books, supplies, and equipment, with the cost thereof included in the total charge payable to the school for the course, and the veteran or eligible person withdraws or is discontinued prior to the completion of the course, refund will be made in full for the amount of the charge for the unissued books, supplies, and equipment. Issued items may be disposed of at the discretion of the veteran or eligible person.

(e) *Tuition and other charges.* Where the school either has or adopts an established policy for the refund of the unused portion of tuition, fees, and other charges subject to proration, which is more favorable to the veteran or eligible person than the approximate pro rata basis as provided in this section, such established policy will be applicable. Otherwise, the school may charge a sum which does not vary more than 10 percent from the exact pro rata portion of such tuition, fees, and other charges that the length of the completed portion of the course bears to its total length. The exact proration will be determined on the ratio of the number of days of instruction completed by the student to the total number of instructional days in the course.

(f) *Prompt refund.* In the event that the veteran, spouse, surviving spouse or child fails to enter the course or withdraws or is discontinued therefrom at any time prior to completion of the course, the unused portion of the tuition, fees and other charges paid by the individual shall be refunded promptly. Any institution which fails to forward any refund due within 40 days after such a change in status, shall be deemed, prima facie, to have failed to make a prompt refund, as required by this section.

[FR Doc.77-29761 Filed 10-11-77;8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-05]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation UNIFORM GRAIN STORAGE AGREEMENT

Proposed Uniform Storage and Handling Rate System

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: Notice is given that The Commodity Credit Corporation (CCC) is considering returning to a National uniform rate system for handling and storage of grain under the Uniform Grain Storage Agreement (UGSA) and rice under The Uniform Rice Storage Agreement (URSA) for the 1978-79 contract year beginning July 1, 1978. The proposed uniform rate system which was used from 1940 to 1974 would replace the offer rate system now in use under the UGSA and the URSA. The proposal is prompted by problems encountered in the administration of the Department's loan and inventory management programs through use of the offer rate system.

DATES: Comments must be received by November 11, 1977.

ADDRESS: Written comments should be directed to Paul W. King, Acting Director, Inventory Management Division, Agricultural Stabilization and Conservation Service, U.S. Department of Agriculture, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Tyrus Matsuoka (ASCS), 202-447-4068 P.O. Box 2415, Washington, D.C. 20013.

SUPPLEMENTARY INFORMATION: The uniform rate or rates would be based on current costs of storage and handling of grains and rice throughout the United States, and updated by taking into consideration known indices which reflect changes in the cost of doing business. CCC would pay receiving, loadout, and storage charges on CCC-owned, forfeited and extended loan grain and rice based on uniform rates incorporated into the UGSA and the URSA. The uniform rate(s) will continue in effect until superseded at a subsequent renewal date (July 1) as provided in sections 31 of the UGSA and the URSA. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Acting Director (Room 5768

of South Building) during regular business hours, 8:15 a.m. to 4:45 p.m.

Signed at Washington, D.C., on October 5, 1977.

RAY FITZGERALD,
Executive Vice President,
Commodity Credit Corporation.
[FR Doc.77-29812 Filed 10-11-77;8:45 am]

[3410-11]

Forest Service

NATIONAL FOREST MANAGEMENT ACT COMMITTEE ON SCIENTISTS Meeting

The Committee of Scientists will meet at 8:30 a.m., on October 27-28, at the Travelodge Motel at the Wharf, 250 Beach Street, San Francisco, Calif.

The purpose of this meeting will be to review and work on proposed regulations for the Land Management Planning Process.

The meeting will be open to the public. Persons who wish to attend should notify Charles R. Hartgraves, Forest Service, area code 202-447-5933. Written statements may be filed with the Committee before or after the meeting. Please send written statements to Charles R. Hartgraves, Forest Service, Land Management Planning, P.O. Box 2417, Washington, D.C. 20013.

Dated: September 29, 1977.

J. W. DEINEMA,
Deputy Chief.

[FR Doc.77-29746 Filed 10-11-77;8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

WESLEYAN UNIVERSITY ET AL. Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C.

20230, on or before November 1, 1977.

Amended regulations issued under cited Act (15 CFR Part 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00344. Applicant: Wesleyan University, Hall Atwater & Shanklin Laboratories, Lawn Avenue, Middletown, Conn. 06457. Article: LKB 2107-010 Batch Microcalorimeter and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to determine the heats of binding of small molecules to single sites on the allosteric enzyme aspartate transcarbamylase. Enthalpies of binding derived will be correlated with binding data obtained spectroscopically or by equilibrium dialysis or gel filtration. These measurements are needed to establish thermodynamic criteria which can be used to define the regulatory mechanism of this protein. In addition, the article will be used occasionally in a course in Biomedical Techniques. Application received by Commissioner of Customs: August 29, 1977.

Docket Number: 77-00345. Applicant: National Institutes of Health, National Cancer Institute, Building 37, Room 1B23, 9000 Rockville Pike, Bethesda, Md. 20014. Article: LKB 8800A Ultratome III Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article will be used for sectioning vertebrate and invertebrate animal specimens. Investigations will include ultrastructural studies on normal pathologic tissues, cyto and histochemical studies on enzyme and subcellular organelle localization in cells and tissues, membrane interactions at host-parasite interfaces, and subcellular changes in cells induced by changes in their biochemical and physical environments. Application received by Commissioner of Customs: August 29, 1977.

Docket Number: 77-00346. Applicant: National Jewish Hospital & Research Center, 3800 East Colfax, Denver, Colo. 80206. Article: LKB 8800A Ultratome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for sectioning human, animal, and bacteriological specimens which have been embedded in hardened epoxy resins. Investigations will include ultrastructural studies on normal and pathologic human and animal tissues, membrane-membrane interactions, and ultrastructural changes in cells induced

by changes in their biochemical and physical environments. Educational use of the article will include preceptor training of post-doctoral research fellows in electron microscopy techniques. Application received by Commissioner of Customs: August 29, 1977.

Docket Number: 77-00347. Applicant: National Animal Disease Center, P.O. Box 70, Ames, Iowa 50010. Article: LKB 8800A Ultratome III Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of normal and diseased animal tissue. Tissues will be prepared in various embeddings and will vary in density, consistency and tensile strength for ultrathin sectioning. Experiments will be conducted to elucidate the pathogenesis of economically important diseases of livestock and as a consequence provide means for control and eventual eradication of such diseases. Application received by Commissioner of Customs: August 29, 1977.

Docket Number: 77-00348. Applicant: Wayne State University, School of Medicine, 540 E. Canfield, Detroit, Mich. 48201. Article: LKB 8800A Ultratome III Ultramicrotome and Modular Table Complete, Model 2128-720. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for investigation of the fine structure of the retina and the mode of function of its constituent cells specifically the maintenance and renewal of photoreceptor elements. Animals maintained under controlled dark-light cycles will be studied at different intervals to establish the means by which the phagocytic removal of the outer segment material is accomplished. The article will also be used by a number of investigators with independent programs many of which involve the same sort of cytochemical localization and specificity as the above and include the localization (in retina) of those sites where acetylcholine serves as the effective neurotransmitter; localization of free (non-membrane) phospholipids in the female reproductive tract; characterization of membrane structure in lens fiber cells as well as other projects. In addition, the article will be used in the courses Cell and Tissue Ultrastructure, Microscopic Anatomy, Human Reproduction, and individualized Research and Directed Study Courses, all relating to the application of fine structure study techniques involving sectioning of plastic embedded tissues prior to light and electron microscopy. Application received by Commissioner of Customs: August 29, 1977.

Docket Number: 77-00349. Applicant: City College of New York Research Foundation, 138 St. and Convent Ave., New York, N.Y. 10031. Article: Spin Lock CPS-2 NMR Pulse Spectrometer and Accessories. Manufacturer: Spin-Lock Electronics Co., Canada. Intended use of article: The article will provide capabilities for detecting and quantitating the formation of each of the ternary enzyme-metal-PRPP complexes and the quaternary enzyme-metal-

PRPP-nitrogenous substrate complexes using water-proton relaxation rate enhancement techniques. Application received by Commissioner of Customs: August 29, 1977.

Docket Number: 77-00350. Applicant: University of Massachusetts, Department of Polymer Science and Engineering, Amherst, Mass. 01003. Article: Electron Microscope, Model JEM-100CX/SEG BST and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the investigation of the microstructure, including distribution of phases, crystal structure; phase transformations and distribution of elements using X-ray microanalysis. The materials to be studied are crystalline and non-crystalline solids including polymers and biopolymers, metal alloys, minerals, ceramics. Experiments to be conducted include: low dose STEM imaging of radiation sensitive polymer crystal and spherulites; BF-DF studies of phase distribution in polymer blends; lattice imaging high resolution defect studies of metal alloys; X-ray microanalysis of phases in polymers, minerals, metals, frozen microemulsion, frozen biological tissues for spatial distribution maps of elements ($Z \geq 11$); crystal structure determination of fine second phases using micro diffraction; secondary electron imaging of fracture surfaces. In addition, the article will be used for educational purposes in the courses: PSE 721. Electron Microscopy and Diffraction and PSE 722. Electron Microscopy Laboratory. Application received by Commissioner of Customs: August 29, 1977.

Docket Number: 77-00351. Applicant: The University of California at San Diego, La Jolla, Calif. 92093. Article: Electron Microscope, Model EM 10A and Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use of article: the article is intended to be used in the study of the morphology and function of structures involved in meiotic crossing-over by comparing wild-type (crossover proficient) and crossover deficient mutants in *Drosophila melanogaster* females. Specific experiments to be conducted involve reconstruction analysis of the synaptonemal complex of the recombination nodule performed in wild-type and in each of the 10 crossover defective mutants. Various crossover-defective mutants are being used as probes into the function of the two known structures involved in meiotic crossing-over by determining whether and how these mutants alter the quantitative and qualitative parameters; they are also being used as probes for other structures by asking whether they affect any structures not presently thought to be involved in meiotic crossing-over. Also, the cytological phenotype of the mutants will be used to further elucidate the defect in the mutants themselves. The article will also be used in the training of predoctoral students in Biology 203A and Biology 299. Application received by Commissioner of Customs: August 29, 1977.

Docket Number: 77-00352. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: IMS-3F Ion Microprobe. Manufacturer: Cameca Instruments, France. Intended use of article: The article will be used to determine the trace element concentrations and isotopic ratios on small (1-10 μ) sample areas of natural minerals and ores and synthetic laboratory minerals. Experiments will be conducted to obtain an understanding of the processes governing geochemical distribution of the elements in terrestrial and lunar materials. In particular, the article will be used (a) to study the fine-scale (micron) distribution of trace elements (<10 ppm) between coexisting phases (minerals) in natural and laboratory samples, and (b) fine scaled variations in isotopic ratio caused either by fractionation or radiogenic processes. The article will also be used by graduate students doing Ph. D. thesis studies. Application received by Commissioner of Customs: August 29, 1977.

Docket Number: 77-00353. Applicant: New York Zoological Society, Weston Road, Lincoln, Mass. 01733. Article: Continuous Recording Oscilloscope Camera, Model PC-3A and Accessories. Manufacturer: Nihon Kohden, Baytronix, Ltd., Canada. Intended use of article: The article is intended to be used in a comparative study of songs of humpback whales throughout the world to gain a better understanding of vocal behavior as it elucidates the social structure, migratory paths, behavior and their extraordinary and little known system of communication conservation. Application received by Commissioner of Customs: August 30, 1977.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special
Import Programs Division.

[FR Doc.77-29765 Filed 10-11-77;8:45 am]

[6315-01]

COMMUNITY SERVICES ADMINISTRATION PUBLIC POLICY FORUMS

Future Programs and Priorities in CSA's War Against Poverty; Notice of Hearing, Roanoke, Va.

Roanoke, Va. will be the site of a Public Policy Forum held by the Community Services Administration, the Federal anti-poverty agency.

CSA's legislation, the Economic Opportunity Act of 1964 as amended, requires that CSA be an advocate on behalf of the poor; that it be a "national laboratory" for developing new or more effective ways to combat poverty in America; and that it provide direct services to poor people who are not served, or who are under-served, by other agencies.

Through the Public Policy Forum CSA wants to learn, especially from the poor

themselves, what people believe the Agency should do to meet its legislative mandate in the future. For example, what should CSA do differently which will help poor people in such areas as housing, energy, economic development, and aging? What should CSA's priorities be in the next three years?

CSA wishes to hear from its constituents on these questions. Therefore, the public residing within the area of Federal Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia) is invited to participate in these public hearings to be held October 14 and 15, 1977, in Roanoke, Va. Anyone interested can participate by registering and speaking or submitting a written statement if unable to appear personally. Each participant will have an opportunity to make a five minute statement which will be followed by a short discussion with the CSA panel which will be chaired by CSA's Deputy Director, William W. Allison.

CSA also invites and welcomes the attendance of the general public at this hearing.

If you wish to present your views and ideas to the panel, please call Ted Edlich or Charlene Chambers, Total Action Against Poverty in Roanoke Valley (TAP), Roanoke, Va., 703-345-6781.

SUMMARY INFORMATION

Time: October 14, 1977, 9 a.m.-12 noon, 3 p.m.-7 p.m.; October 15, 1977, 10 a.m.-2 p.m.
Place: Roanoke Civic Center, Exhibit Hall Parlor B, 710 Williams Rd. NE., Roanoke, Va.
Registration: October 14, 8 a.m.; October 15, 9 a.m.

GRACIELA (GRACE) OLIVAREZ,
Director.

[FR Doc.77-29904 Filed 10-11-77;8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 803-3]

SCIENCE ADVISORY BOARD, ECOLOGY ADVISORY COMMITTEE

Open Meeting

Under Pub. L. 92-463, notice is hereby given that a meeting of the Ecology Advisory Committee of the Science Advisory Board will be held on October 31 and November 1, 1977, beginning at 9 a.m., in the Administrator's Conference Room (Room 1101), Waterside Mall West Tower, 401 M Street SW., Washington, D.C.

This is the fourteenth meeting of the Ecology Advisory Committee. The agenda includes a report on Science Advisory Board activities; discussions on the collection and maintenance of scientific specimens, integrated pest management, river drainage basin ecosystem research, and activities of the Office of Research and Development; consideration of the need for long-term ecological research on coastal waters; briefing on the feasibility study of the possible containment or removal of kepone contaminants in

the James River; items for the Committee's future consideration; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. J. Frances Allen, Executive Secretary, Ecology Advisory Committee, 703-557-7720.

Dated: October 5, 1977.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

[FR Doc.77-29731 Filed 10-11-77;8:45 am]

[6560-01]

[FRL 803-2]

SCIENCE ADVISORY BOARD EXECUTIVE COMMITTEE, SUBCOMMITTEE ON SCIENTIFIC CRITERIA FOR PHOTO- CHEMICAL OXIDANTS

Meeting

Under Pub. L. 92-463, notice is hereby given that a two-day meeting of the Subcommittee on Scientific Criteria for Photochemical Oxidants of the Science Advisory Board will be held on November 10 and 11, 1977, in Conference Room A (Room 1112), Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va. The meeting will start at 9 a.m. on November 10, 1977.

The purpose of the meeting will be to provide advice and consultation on air quality criteria for photochemical oxidants and, specifically, to review and comment on a draft document entitled, "Air Quality Criteria for Photochemical Oxidants and Oxidant Precursors," prepared by the Agency's Office of Research and Development.

The meeting will be open to the public. Any member of the public wishing to attend or submit a paper should contact the Secretariat, Science Advisory Board (A-101), U.S. Environmental Protection Agency, Washington, D.C. 20460, by c.o.b., November 3, 1977. Please ask for Mrs. Ilene F. Stein, or Ms. Barbara Robinson.

The telephone number is 703-557-7720.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

OCTOBER 4, 1977.

[FR Doc.77-29730 Filed 10-11-77;8:45 am]

[6560-01]

[FRL 803-7]

STATE OF MINNESOTA

Determination of Primary Enforcement Responsibility

This public notice is issued under section 1413 of the Safe Drinking Water Act, Pub. L. 93-523, December 16, 1974, and § 142.10 of the National Interim Primary Drinking Water Regulations, published in the FEDERAL REGISTER on January 20, 1976.

A submission, dated May 20, 1977, has been received from the Commissioner of Health, requesting a determination that the Minnesota Department of Health has met requirements for primary enforcement responsibility for public water systems in the State of Minnesota, in accordance with the provisions of this Act.

In response, I determined on July 22, 1977, that the Minnesota Department of Health has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Minnesota. The State—

(1) Has adopted drinking water regulations which are no less stringent than the National Interim Primary Drinking Water Regulations;

(2) Has adopted and will implement adequate procedures for the enforcement of such State regulations, including adequate monitoring and inspections;

(3) Will keep such records and make such reports as required;

(4) Will issue variances and exemptions in accordance with the provisions of the National Interim Primary Drinking Water Regulations;

(5) Has adopted and can implement an adequate plan for the provision of safe drinking water under emergency circumstances.

A copy of my preliminary determination was published in the FEDERAL REGISTER on August 5, 1977. At that time I asked for public comment and scheduled a public hearing to consider this application. The hearing was held on August 31, 1977. No comments adverse to my preliminary decision have been received, either during the public comment period or at the public hearing.

Therefore, I am affirming my determination that the Minnesota Department of Health has met all conditions of the Safe Drinking Water Act and subsequent regulations for the assumption of primary enforcement responsibility for public water systems in the State of Minnesota.

Dated: September 26, 1977.

GEORGE R. ALEXANDER, JR.,
Regional Administrator, Region V,
Environmental Protection Agency.

[FR Doc.77-29811 Filed 10-11-77;8:45 am]

[6560-01]

[FRL 804-3]

RESOURCE CONSERVATION COMMITTEE Public Meeting

The Resource Conservation Committee is the cabinet level interagency committee set up under Section 8002(j) of the Resource Conservation and Recovery Act. The Committee is responsible for studying and making recommendations on a wide range of resource conservation policies.

This Committee is attempting to gather public comments and input on the issue of Federal legislation for beverage container deposits. It is charged with the responsibility of reporting to the Presi-

dent and the Congress late this year on the subject. Input from the public is solicited to assist and guide this committee in reaching a position on beverage container deposit legislation. As one method of gathering pertinent information, a public meeting has been scheduled on October 19, 1977, 9 a.m. at the Department of Commerce, 14th and Constitution Avenue, NW., Main Auditorium.

This meeting will provide an opportunity for a brief oral presentation. The following questions highlight the issues for which public input is sought:

1. What should the Resource Conservation Committee recommend regarding the development of Federal beverage container legislation? Should the Federal Government set general guidelines or develop specific container legislation?
2. What alternatives to beverage container deposit legislation will accomplish similar results and what are their relative impacts on pollution and energy and materials consumption?
3. Should there be more guidelines for the States to develop their own respective legislation? If Federal legislation were developed, should it supersede State and local laws?

4. What are the economic consequences, both positive and negative, of resource conservation as it relates to beverage container legislation or guidelines? Should there be compensation for economic losses and, if so, how should this be accomplished? Should any requirements be levied on unrefunded deposits?
6. What are the environmental impacts, both positive and negative, which may occur as a result of beverage container legislation or guidelines?
7. Is additional research on this subject necessary prior to a legislative proposal or the promulgation of guidelines? What should such research focus upon?
8. What are the key elements that should appear in beverage container guidelines or legislation?
9. To what extent should this committee consider the type of beverage container charge? Should charges be focused upon the type of beverages or should they be focused on the type of container? Should the Committee consider containers other than beverage containers?

10. What should be the limits on the deposits considered? Should they focus upon the size, the value of the container, the solid waste management costs, including litter pickup, the incentive necessary to assure high rates of return, or other factors? To what degree should container guidelines or legislation develop requirements on issues such as pull-top containers, or the standardization of containers? Where in the distribution chain is the best point for a deposit to originate?
11. If beverage container deposit legislation is to be considered by the committee, how should its implementation be developed? To what extent are cost data available for the variety of State and local programs addressing beverage container legislation?

Interested parties who are unable to attend or wish to make more extended comment, are encouraged to submit written comments, with the assurance that they will receive equally complete consideration by the Committee. Written comments must be received by Susan Mann by November 2, 1977.

Comments and questions should be directed to Susan B. Mann, Public Participation Liaison, Resource Conservation Committee (WH-463), 401 M Street SW., Washington, D.C. 20460 (202) 755-9145.

Dated: October 7, 1977.

THOMAS C. JORLING,
Acting Deputy Administrator,
Environmental Protection
Agency.

[FR Doc. 77-29937 Filed 10-11-77; 9:24 am]

[6560-01]

[FRL 804-4]

INTERAGENCY TESTING COMMITTEE REPORT

Receipt and Request for Comments

AGENCY: Environmental Protection Agency (EPA).

SUMMARY: EPA has received from the Interagency Testing Committee established under section 4(e) of the Toxic Substances Control Act (TSCA) a report identifying chemical substances and mixtures which the Committee recommends that EPA give priority consideration for promulgation for testing rules under section 4 of the Act. This report appeared October 12, 1977, in the Federal Register. In accordance with section 4(e)(1)(B), the Agency is providing a 90-day period in which interested persons are invited to submit comments on the Committee's report.

BACKGROUND: Section 4 of TSCA authorizes the EPA Administrator to promulgate regulations requiring testing of chemicals in order to develop data relevant to a determination of the risks which such chemicals may present to human health and the environment.

Section 4(e) establishes an Interagency Testing Committee and requires the Committee to submit its initial recommendations as to testing priorities by October 1, 1977. These recommendations are required to be in the form of a list of chemicals or groups of chemicals, together with the Committee's reasons for each recommendation. The Agency is required to initiate rulemaking for these chemicals within 12 months of their inclusion on the priority list or to publicly state its reasons for not doing so.

AVAILABILITY: The Committee's report appeared October 12, 1977, in the Federal Register. Persons wishing to receive additional copies should call or write to:

Mrs. Phyllis Tucker, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006, 202-633-7074.

In developing its report, the Testing Committee relied almost exclusively on published or other generally available information. A number of general references are given in the report; references for specific chemicals are expected to be included in the dossiers which the Testing Committee plans to provide to EPA in the next few weeks. Results of the Testing Committee's scoring of chemicals for their exposure and biological activity are available for public inspection at the EPA library, 401 M Street SW., Washington, D.C. 20460, between 8:30 a.m. and 4:30 p.m., weekdays. Public comments on the Testing Committee's preliminary list, published in July 1977, are also available at the EPA library.

REQUEST FOR COMMENTS: EPA invites all interested persons to submit comments on all aspects of the Testing Committee's report, including its recommendations. In view of the statutory deadline for initiating rulemaking (or stating reasons for not doing so), the Agency requests that comments be submitted no later than January 12, 1978.

Comments should bear the identifying notation OTS-040002 and should be submitted in triplicate to the U.S. Environmental Protection Agency, Office of Toxic Substances (WH-557), Federal Register Section, 401 M Street, SW., Washington, D.C. All written comments will be available for public inspection in Room 619, East Tower, at the same address, between 8:30 a.m. and 4:30 p.m., weekdays.

Dated: October 7, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc. 77-29938 Filed 10-11-77; 9:24 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-664; CSR-1095, etc.]

FREMONT CABLE TV, INC.

Declaratory Ruling and Order

Adopted: September 21, 1977.

Released: October 5, 1977.

In re: Fremont Cable TV, Inc., Fremont, Calif., CSR-1095, CSC-174 (CA010), petition for special relief, petition for order to show cause.

1. Section 76.55 of the Commission's rules provides, in part:

(a) Where a television broadcast signal is required to be carried by a community unit, pursuant to the rules in this subpart:

(2) The signal shall, on request of the station licensee or permittee, be carried on the system on the channel number on which the station is transmitting, except where technically infeasible;

At issue in the above-captioned matters is whether the arrangement of the channel selector provided by Fremont Cable TV, Inc. to the subscribers of its cable

television system at Fremont, Calif., is in compliance with this rule.

2. The cable television system has a 30-channel capacity. Subscribers select the desired signal to view by using a channel selector provided by the cable system, rather than using the channel selector on their television receivers. The face of this channel selector is rectangular in shape and includes 15 channel selection buttons arranged horizontally. In order to utilize 30 channels using only 15 selector buttons, two signals are controlled by each button. Above the buttons is a label indicating in two rows the channel numbers and call signs of the stations which may be received. Another switch determines whether the subscriber will view the signals designated on the top row of the label or the signals designated on the bottom row of the label. (Although not so designated on the channel selectors, petitioners refer to these as the A and B banks or bands.) Thus, to select a particular signal to view, the subscriber depresses the appropriate one of the 15 buttons and adjusts a second switch, in either order. (See appendix)

3. Petitioners are two television broadcast stations each of whom contends that it is not located at the appropriate position on the channel selector. In CSR-1095, Miami Valley Broadcasting Corp., licensee of Station KTVU (Ind., Channel 2), Oakland, Calif., requests a ruling that it is entitled to be carried at the second position on the "A" (top) band, rather than elsewhere. In CSC-174, Chronicle Broadcasting Co., licensee of Television Broadcast Station KRON (NEC, Channel 4), San Francisco, Calif., requests that the cable system be ordered to cease and desist from violation of the Rules because the signal of Station KRON is not located on the channel selector at the fourth position on the "A" (top) band. In each proceeding, Fremont Cable TV filed opposition comments to which petitioner replied. KTVU also filed a statement in support of KRON's petition.

ARGUMENTS

4. Station KTVU, Channel 2, appears at the first position of the second row of the label on the channel selector. It requests to be carried on channel "2A" rather than channel "1B." KTVU argues that its current carriage position thwarts its interest in developing and maintaining its identity and results in viewer confusion as to its channel identity. Its concern is in possible audience error in identifying KTVU in audience surveys. Moreover, it argues that carriage of its signal on channel "2B" would also violate the rule. It contends that the rule was designed to make channel configurations on cable systems resemble off-air configurations. It notes that the

¹KTVU notes that the Commission's decision in this matter would serve as precedent for a number of other area cable television systems where on-channel carriage of its signal via converters is subject to the same attack.

other market VHF stations, its competitors, are carried on the "A" band; yet its signal is relegated to the "B" band along with specialty stations whose programming is of limited appeal and less attractive. Thus, it states that it is at a competitive disadvantage. The rule, it argues, was designed to maintain the same local competitive situation; "on channel carriage" includes "on band" carriage. Therefore, it argues that its signal is carried off-channel contrary to the rule.

5. Station KRON, Channel 4, appears at the 12th position of the first row of the label on the channel selector ("12A"). Since it is not being carried on channel "4A," it contends that it is being carried off-channel; thus an order to show cause should be issued.

6. Fremont Cable TV argues that it is in strict compliance with § 76.55(a)(2). The cable system has done specifically what the rule required. The signal is available to all subscribers. Every station is labeled as clearly as possible. The channel selection buttons are not identified by number. It argues that there is no possible confusion for any subscriber. The cable system states that no subscriber, if asked, would suggest that he was watching "channel 1B."

7. Fremont Cable TV further argues that petitioners have not shown themselves adversely affected by the status quo. Yet granting the petitions would impose a substantial burden on the cable system. Change might require relicensing the microwave facilities which use AML-delivered frequencies. Also, the existing channel traps, used to prevent non-paying subscribers from receiving the pay-TV signal, can be used on only one channel. Redesignating the channel used for pay-TV would necessitate the purchase and installation of 4,000 new traps (at \$8 each), and pay-TV operations would have to cease during the conversion period due to agreements with pay-TV program suppliers.

8. In reply, Station KTVU stresses that the cost of complying with the rule does not excuse non-compliance, and thus provides no basis for denial of the request. Yet the status quo places KTVU at a competitive disadvantage with its VHF market competitors. KTVU again argues that § 76.55(a)(2) requires on-channel on-band carriage. The "B" band is less attractive and can result in viewer confusion and a decline in KTVU's local channel identity. The purpose of the rule is to maintain off-air channel configurations.

9. In its reply, Station KRON states that there is no factual dispute, nor is there controlling Commission precedent. KRON notes that the first four channel positions are reserved for use by the cable system. Two stations on the top row are not in normal sequence: Station KCRA-TV, Channel 3, is at the sixth position; Station KRON, Channel 4, is at the 12th position. It states that there is no technical reason for KRON to be at the 12th position rather than the fourth position. It summarizes Fremont's argument to be

that compliance with the rule exists upon the posting of a channel number and call sign on any button, irrespective of where the button is located on the converter. Yet, KRON argues, the sequence followed by the ordinary viewer in selecting a program would be like that used in reading or writing, i.e., proceeding from left to right on the first row before repeating the procedure for the second row.² KRON contends that, were the Commission to agree with the cable system's argument, then a cable system using a circular dial could rearrange the channel numbers out of sequence and in any manner, so long as the correct channel number appeared. Such an argument, it suggests, would quickly be rejected.

DECISION

10. The cable television system has complied with the rule. The purpose of the rule was to assure, wherever possible, that the channel number indicated on the channel selector corresponded with the number designation of the channel whose signal appeared on the screen of the television receiver. Here, the selection buttons are not numbered. The only numbers on the channel selector are those of the corresponding television channels. The rules does not refer to sequence of numbering. What one station might believe to be the proper layout for numbering on a particular channel selector might be inappropriate to another station. Here, others may believe the preferred location to be that nearest the selection buttons. Moreover, here the channel selector not only indicates the correct corresponding channel number as provided by the rule, but also the call sign of the station. It serves little purpose for the Commission to examine each type of channel selector which may appear when the purpose of the rule has been met. In discussing the language of this rule in regard to rules which preceded the current rule, the Commission stated: "So long as the requirements of the rules are met, the CATV operator should be free to decide how the channels on its cable are to be utilized." Para. 70, "Second Report and Order in Docket 14895," FCC 66-220, 2 FCC 2d 725, 754 (1966); see also paras. 133-35, "First Report and Order in Docket 14895," 38 FCC 683, 732-33 (1965). The cable operator should, of course, exercise good faith to assure that the purpose and spirit of the rule are met. The petitions will be denied.

In view of the foregoing, a grant of the petitions would not be consistent with the public interest.

Accordingly, it is ordered, That the petition (CSR-1095) filed by Miami Valley Broadcasting Corp. on December 21, 1976, is denied.

It is further ordered, That the "Petition for Order to Show Cause" (CSC-

²Petitioner notes that the habit of writing from left to right supplanted the earlier forms of writing in the fifth century. "The New International Encyclopedia," Vol. I, page 463.

174) filed by Chronicle Broadcasting Co. on March 28, 1977, is denied.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc. 77-29770 Filed 10-11-77; 8:45 am]

[6712-01]

NATIONAL INDUSTRY ADVISORY COMMITTEE BROADCAST SERVICES SUBCOMMITTEE

Meeting

Pursuant to the provisions of the Pub. L. 92-463, announcement is made of a public meeting of the Broadcast Services Subcommittee of the National Industry Advisory Committee to be held Thursday, October 27, 1977. The Subcommittee will meet at the FCC building, 1919 M Street, NW., Washington, D.C., Room 847 at 10 a.m.

PURPOSE: To consider proposals related to the Emergency Broadcast System (EBS).

AGENDA ITEMS:

- Chairman's opening remarks.
- Defense Civil Preparedness Agency demonstration of a "public emergency alerting technique".
- Consideration of a Defense Civil Preparedness Agency proposal to include National Warning System (NAWAS) terminals at control points of the emergency broadcast system.
- Consideration of a proposed basic emergency broadcast system (EBS) plan.
- New Business, closing comments and adjournment.

Any member of the general public may attend or file a written statement with the Committee either before or after the meeting. Any member of the public wishing to make an oral statement must consult with the committee prior to the meeting. Those desiring more specific information about the meeting may telephone the Emergency Communications Division, FCC, (202) 632-7232.

FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc. 77-29771 Filed 10-11-77; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION UNITED STATES LINES, ET AL.

Agreements Filed

Notice is hereby given that the following agreements have been filed with

* Attachment filed as a part of the original document. Chairman Wiley not participating. Commissioner Fogarty concurring in the result.

the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreements at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreements at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, P.R. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 1, 1977. Any person desiring a hearing on the proposed agreements shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreements (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreements filed by:

Mr. Stuart R. Bredbart, Corporate Counsel, United States Lines, Inc., One Broadway, New York, N.Y. 10004.

Agreement No. DC-123, between United States Lines, Inc., (USL) and Matson Navigation Co. (Matson), is a memorandum of agreement whereby USL and Matson agree to jointly and severally employ the services of an independent party for: (a) Cargo inspections; (b) the issuing of freight corrections; and (c) the billing and collecting of storage and detention charges in Guam. USL and Matson agree to meet from time-to-time to discuss and attempt to reach agreement on tariff matters solely covering free time, demurrage, detention and rules covering inspection and administrative fees to apply against misdeclarations of description, weight, mixture provisions or cube.

Agreement No. DC-124, among USL, Matson, and The Adherence Group International, N.V. (TAG), provides for USL and Matson each to appoint and employ TAG to act as its exclusive independent contractor for inspection of cargo, documentation examination, billing and collecting legal charges due for free time, demurrage and detention at the Territory of Guam for all cargo between ports and points in the Continental U.S.A. and ports and points in the Territory of Guam. As compensation for

its service, USL and Matson shall separately pay TAG \$50,000 per year.

Dated: October 5, 1977.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 77-29704 Filed 10-11-77; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM HUNTINGTON BANCSHARES, INC. Acquisition of Bank

Huntington Bancshares, Inc., Columbus, Ohio, has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent (less directors' qualifying shares) of the voting shares of the successor by merger to the Franklin National Bank, Franklin, Ohio. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Cleveland. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than October 25, 1977.

Board of Governors of the Federal Reserve System, October 5, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-29747 Filed 10-11-77; 8:45 am]

[6210-01]

JOHN-WADE CO.

Formation of Bank Holding Company

John-Wade Co., Santa Ana, Calif., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by retaining 59 percent of the voting shares of Coast Bancorp, Long Beach, Calif., a bank holding company that owns directly 99 percent of the voting shares of Coast Bank, Long Beach, Calif. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received no later than November 2, 1977.

Board of Governors of the Federal Reserve System, October 5, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc. 77-29748 Filed 10-11-77; 8:45 am]

[6210-01]

LEDONK INVESTMENT CO.

Formation of Bank Holding Company

LeDonk Investment Co., McLaughlin, S. Dak., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 92.2 percent or more of the voting shares of the First State Bank of McLaughlin, McLaughlin, S. Dak. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 31, 1977.

Board of Governors of the Federal Reserve System, October 5, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc. 77-29749 Filed 10-11-77; 8:45 am]

[6210-01]

UB FINANCIAL CORP.

Order Approving Retention of an Office of H. S. Pickrell Co.

UB Financial Corp., Phoenix, Ariz., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to retain an office of H. S. Pickrell Co., Phoenix, Ariz., located in Mesa, Ariz., and continue to engage in mortgage banking activities, including originating, selling, and servicing mortgage loans. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(1) and (3)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 39478). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)).

Applicant is the fourth largest banking organization in Arizona and controls one bank, United Bank of Arizona. H. S. Pickrell Co. ("Pickrell") is engaged in the mortgage banking business and makes, sells, and services loans secured by mortgages or deeds of trust on real

property, and arranges for such loans by insurance companies, savings and loan associations, commercial and savings banks, pension funds, and other institutional investors. Pickrell has its main office in Phoenix and maintains other offices in Tucson and Mesa, Ariz., and Albuquerque, N. Mex.

By Order of March 28, 1972, Applicant received the Board's approval to retain Pickrell. In April 1972, Pickrell opened a new office in Mesa, Ariz., without the prior approval of the Board. Applicant has indicated that it was in the process of completing its assimilation of Pickrell and was unaware that the Mesa office had been newly established. Thus, Applicant's approval from the Board to retain Pickrell did not include the Mesa office and the operation of that office would constitute a violation of the Board's Regulation Y.

In acting on applications pursuant to section 4(c)(8) of the Act to retain offices in situations where the necessary prior approval of the Board was not obtained for such offices, the Board applies the same standards as it does to applications to establish such offices initially. In addition, the Board considers the competitive effects of such proposals as of the time that the offices were established.

At the time that it approved Applicant's application to retain Pickrell, the Board noted that only a slight amount of existing competition existed between Applicant and Pickrell. Neither Applicant nor Pickrell had more than a minor share of the mortgage banking business in any local market in Arizona, or in the State as a whole. The Board concluded at that time that Applicant's acquisition of Pickrell would have no adverse effects on competition and would strengthen Pickrell's competitive position in the State. Inasmuch as the Mesa office of Pickrell that is the subject of this application was opened de novo, it appears that Applicant's retention of that office would likewise have no adverse effects upon either potential or existing competition. Moreover, there is no evidence in the record indicating that retention of this office would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects on the public interest.

As indicated above, the subject application is an after-the-fact request for the Board's approval to conduct operations at an office that was opened in violation of the Board's Regulation Y. It is the Board's view, on the basis of the facts and circumstances of the subject application, that the violation was inadvertent. In acting on this application the Board has taken into consideration the fact that Applicant, upon becoming aware of the existence of the violation, took steps to conform its operations to the Act by filing the subject application. In addition, Applicant's management has taken steps to prevent violations from occurring in the future, including

¹ See 12 CFR 225.4(c)(2).

the initiation of an affirmative program under the direction of one of its officers to ensure that the management of Applicant's subsidiaries is aware of its responsibilities under the Bank Holding Company Act. The Board expects that these actions will assist Applicant in avoiding a recurrence of similar violations. In light of the above and other information in the record evidencing Applicant's intent to comply with the requirements of the Bank Holding Company Act, the Board has determined that the circumstances of the above violation do not warrant denial of the application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,² effective October 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc. 77-29750 Filed 10-11-77; 8:15 am]

[6210-01]

UB FINANCIAL CORP.

Order Approving Credit-Related Insurance Activities

UB Financial Corp., Phoenix, Ariz., a bank holding company within the meaning of the Bank Holding Company Act, has applied for the Board's approval, under section 4(c)(8) of the Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR 225.4(b)(2)), to recommence through its subsidiary, H. S. Pickrell Co., the activity of acting as broker or agent for the sale, by mail solicitation, of credit-related life and accident and health insurance, solely in connection with extensions of credit by H. S. Pickrell Co. Such activities have been determined by the Board to be closely related to banking (12 CFR 225.4(a)(9)).

Notice of the application, affording opportunity for interested persons to submit comments and views on the public interest factors, has been duly published (42 FR 39478). The time for filing comments and views has expired, and the Board has considered the application and all comments received in the light of the public interest factors set forth in section 4(c)(8) of the Act (12 USC 1843(c)(8)).

² Voting for this action: Chairman Burns and Governors Gardner, Wallach, Coldwell, Jackson, Partee, and Lilly.

Applicant is the fourth largest banking organization in Arizona and controls one bank, United Bank of Arizona. H. S. Pickrell Co. ("Pickrell") is engaged in the mortgage banking business and makes, sells, and services loans secured by mortgages or deeds of trust on real property, and arranges of such loans by insurance companies, savings and loan associations, commercial and savings banks, pension funds, and other institutional investors. Pickrell has its main office in Phoenix and maintains other offices in Tucson and Mesa, Ariz., and Albuquerque, N. Mex.

By Order of March 28, 1972, the Board approved Applicant's application to retain Pickrell. The Board's Order was limited to an approval for Applicant to acquire Pickrell and engage in mortgage banking activities. It appears that in addition to mortgage banking activities, Pickrell has participated in certain credit life and credit accident and health insurance activities which were not included in Applicant's application to retain Pickrell.

Pickrell provided lists of its mortgagees to an unaffiliated third party insurance company which solicited the purchase of credit life insurance. In those instances where a mortgagor elected to purchase such insurance, the insurance company forwarded the necessary forms to Pickrell to allow Pickrell to impound and pay the insurance premiums out of the mortgagor's monthly payment. Pickrell received a share of the premiums for handling the payments. Pickrell also mailed material prepared by the insurance company to the mortgagor describing the availability of credit accident and health insurance. If the mortgagor elected to purchase that insurance, Pickrell again handled the premium payments in return for a share of the premium.

In the Board's view, Pickrell's actions constitute engaging in credit insurance activities. Since Applicant's approval from the Board did not include engaging in insurance activities, Pickrell's participation in those activities constituted a violation of the Board's Regulation Y.¹

In acting on applications pursuant to section 4(c)(8) of the Act to continue to engage in activities in situations where the necessary prior approval of the Board was not obtained for such activities, the Board applies the same standards as it does to applications to commence such activities initially. In addition, the Board considers the competitive effects of such proposals as of the time that the activity was commenced.

The credit insurance Pickrell offers is a supplementary service and has no competitive significance independent of the mortgage credit extended by Pickrell. Credit insurance is readily available from other financial institutions in the market. It does not appear that Applicant's engaging in insurance activities would have any significant adverse effect on existing or future competition. Moreover, there is no evidence in the record

¹ See 12 CFR 225.4(c)(2).

indicating that approval of this proposal would result in any undue concentration of resources, unfair competition, conflicts of interests, unsound banking practices or other adverse effects on the public interest.

As indicated above, the subject application is an after-the-fact request for the Board's approval to engage in activities that were commenced in violation of the Board's Regulation Y. It is the Board's view, on the basis of the facts and circumstances of the subject application, that the violation was the result of a misinterpretation of the Act. In acting on this application the Board has taken into consideration the fact that Applicant, upon becoming aware of the existence of the violation, immediately ceased the activity and took steps to conform its operations to the Act by filing the subject application. In addition, Applicant's management has taken steps to prevent violations from occurring in the future, including the initiation of an affirmative program under the direction of one of its officers to ensure that the management of Applicant's subsidiaries is aware of its responsibilities under the Bank Holding Company Act. The Board expects that these actions will assist Applicant in avoiding a recurrence of similar violations. In consideration of the above and other information in the record evidencing Applicant's intent to comply with the requirements of the Bank Holding Company Act, the Board has determined that the circumstances of the above violation do not warrant denial of the application.

Based upon the foregoing and other considerations reflected in the record, the Board has determined that the balance of the public interest factors the Board is required to consider under section 4(c)(8) is favorable. Accordingly, the application is hereby approved. This determination is subject to the conditions set forth in § 225.4(c) of Regulation Y and to the Board's authority to require such modification or termination of the activities of a holding company or any of its subsidiaries as the Board finds necessary to assure compliance with the provisions and purposes of the Act and the Board's regulations and orders issued thereunder, or to prevent evasion thereof.

By order of the Board of Governors,² effective October 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.
[FR Doc. 77-29751 Filed 10-11-77; 8:45 am]

[6210-01]

AMERICAN HOLDING CO. OF LINDSAY, INC.

Formation of Bank Holding Company
American Holding Company of Lindsay, Inc., Lindsay, Okla., has applied for the Board's approval under section 3(a)

² Voting for this action: Chairman Burns and Governors Gardner, Wallach, Coldwell, Jackson, Partee, and Lilly.

(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of American Exchange Bank, Lindsay, Okla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than October 31, 1977.

Board of Governors of the Federal Reserve System, October 5, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.
[FR Doc. 77-29797 Filed 10-11-77; 8:45 am]

[6210-01]

FEDERAL OPEN MARKET COMMITTEE Authorization for Domestic Open Market Operations

On September 30, 1977, the Federal Open Market Committee voted to increase from \$2 billion to \$3 billion the limit on Federal Reserve Bank holdings of special short-term certificates of indebtedness purchased directly from the Treasury, specified in paragraph 2 of the Authorization for Domestic Open Market Operations, effective immediately. The amended paragraph reads as follows:

2. The Federal Open Market Committee authorizes and directs the Federal Reserve Bank of New York, or, under special circumstances, such as when the New York Reserve Bank is closed, any other Federal Reserve Bank, to purchase directly from the Treasury for its own account (with discretion, in cases where it seems desirable, to issue participations to one or more Federal Reserve Banks) such amounts of special short-term certificates of indebtedness as may be necessary from time to time for the temporary accommodation of the Treasury: *Provided*, That the rate charged on such certificates shall be a rate $\frac{1}{4}$ of 1 percent below the discount rate of the Federal Reserve Bank of New York at the time of such purchases; and *provided further*, That the total amount of such certificates held at any one time by the Federal Reserve Banks shall not exceed \$3 billion.

NOTE.—For paragraph 2 the Authorization see 40 FR 10660.

By order of the Federal Open Market Committee, October 6, 1977.

ARTHUR L. BROIDA,
Secretary.
[FR Doc. 77-29796 Filed 10-11-77; 8:45 am]

[6210-01]

PARISH NATIONAL CORP.

Formation of Bank Holding Company
Parish National Corp., Bogalusa, La., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81 percent or more of the voting shares of Parish National Bank, Bo-

galusa, La. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than November 4, 1977.

Board of Governors of the Federal Reserve System, October 5, 1977.

ROBERT E. MATTHEWS,
Assistant Secretary of the Board.
[FR Doc. 77-29798 Filed 10-11-77; 8:45 am]

[1505-01]

GENERAL SERVICES ADMINISTRATION

[FPR Temporary Reg. 41]

AGENCY PROCUREMENT REQUESTS FOR AUTOMATED DATA PROCESSING EQUIP- MENT, SOFTWARE, MAINTENANCE SERVICES, AND SUPPLIES

General Services Administration Action Correction

In FR Doc. 77-29101 appearing on page 54009 in the issue for Tuesday, October 4, 1977, the Temporary Regulation number in the headings was printed as "FPMR Temporary Reg. 41." It should read "FPR Temporary Reg. 41," as set forth above.

[FPR Temporary Reg. 42]

CHANGES IN THE SMALL BUSINESS ACT BY PUB. L. 95-89

Correction

In FR Doc. 77-29102 appearing on page 54009 in the issue for Tuesday, October 4, 1977, the Temporary Regulation number in the headings was printed as "FPMR Temporary Reg. 42." It should read "FPR Temporary Reg. 42," as set forth above.

[4110-12]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

ADVISORY COMMITTEE ON NATIONAL HEALTH INSURANCE ISSUES

Meetings

Notice of the establishment of the Advisory Committee on National Health Insurance Issues was published in the April 21, 1977 FEDERAL REGISTER (Vol. 42, No. 77, Pages 20675 and 20676).

Pursuant to Pub. L. 92-463, notice is hereby given of one meeting of the Advisory Committee to be held on Friday, October 21, 1977 from 9 a.m. until 12:30 p.m. and from 1:30 p.m. until 5:30 p.m. in the HEW North Building Auditorium at 330 Independence Avenue SW., Washington, D.C.

The purpose of this meeting will be to hear from selected national organizations on the potential impact of National Health Insurance.

A second meeting is to be held on Friday, November 4, 1977 from 9 a.m. until 12:30 p.m. and from 2 p.m. until 5:30 p.m. and another on Saturday, November 5, 1977 from 9 a.m. until 1 p.m. in the HEW South Portal Building Auditorium at 200 Independence Avenue SW., Washington, D.C.

The purpose of this meeting will be to discuss major issues related to the development of an National Health Insurance proposal.

These meetings will be open to the public.

Further information on these meetings may be obtained from Dr. James J. Mongan on 202-245-6275.

Dated: October 6, 1977.

JAMES J. MONGAN,
Deputy Assistant Secretary for
Health, National Institutes of
Health.

[FR Doc. 77-29763 Filed 10-11-77; 8:45 am]

[4110-12]

PRESIDENT'S COMMITTEE ON MENTAL RETARDATION Meeting

The President's Committee on Mental Retardation was established by Executive Order to provide advice and assistance in the area of mental retardation to the President including evaluation of the adequacy of the national effort to combat mental retardation; coordination of activities of Federal agencies; provision of adequate liaison between foundations and other private organizations; and development of information designed for dissemination to the general public.

The Committee will meet on October 28, 29, and 30, 1977, 9 a.m. to 5 p.m., at the Chateau Motor Hotel, 201 Lake Street, Shreveport, Louisiana. At the meeting, the Committee will discuss full citizenship rights, humane service systems, trends in residential facilities, public awareness, and prevention of mental retardation.

These meetings are open to the public. Further information on the President's Committee on Mental Retardation may be obtained from Mr. Fred J. Krause, Executive Director, President's Committee on Mental Retardation, Room 2614, ROB No. 3, 7th and D Streets, SW., Washington, D.C. 20201, telephone Area Code 202-245-7634.

Dated: September 26, 1977.

FRED J. KRAUSE,
Executive Director, President's
Committee on Mental Retar-
dation.

[FR Doc. 77-29257 Filed 10-11-77; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[S 46]

CALIFORNIA

Application

OCTOBER 3, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Standard Pipe Line Co. of Oildale, Calif., has filed an application to amend its existing pipeline right-of-way S 46, granted September 15, 1966, for the purpose of transporting crude oil across the public lands, from a 6" on surface pipeline to a 10" buried pipeline, and to include within the right-of-way, two 6" gas pipelines, one 6" water line and an access road across the following described public lands:

MOUNT DIABLO MERIDIAN

T. 30 S., R. 22 E.,
Sec. 22, NE $\frac{1}{4}$.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the undersigned at E-2841 Federal Office Building, 2800 Cottage Way, Sacramento, Calif. 95825.

VIOLA ANDRADE,
Acting Chief, Lands Section,
Branch of Lands and Min-
erals Operations.

[FR Doc. 77-29766 Filed 10-11-77; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 77-14]

DAVID BROTHERS, T/A BLUE HILL DRUG CO.

Revocation of Registration

On March 28, 1977, the Administrator of the Drug Enforcement Administration (DEA), directed to Mr. David Brothers, as pharmacist and owner of Blue Hill Drug Co. (Respondent) an Order to Show Cause requesting the Respondent to show why his DEA registration AB-1949809 should not be revoked for the reason that on December 15, 1976, in the Municipal Court of Dorchester District within the County of Suffolk, Mass., David Brothers was convicted of a violation of 94(c) Section 32, of the Massachusetts General Laws a felony relating to the distribution of controlled substances. On April 4, 1977, the Respondent, through his attorney, requested a

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hearing on the proposed revocation. At the conclusion of prehearing matters, a formal hearing was conducted on July 28, 1977, before Administrative Law Judge Francis L. Young.

Judge Young certified the entire record with his recommended findings of fact and conclusions of law and decision to the Administrator pursuant to 21 CFR 1316.65 on September 20, 1977. The Administrator, pursuant to 21 CFR 1316.66, hereby publishes the final order in this matter.

Judge Young found, inter alia, that Respondent pleaded guilty to a felony offense, as alleged in the Government's Order to Show Cause dated March 28, 1977, which provided a lawful basis for revoking Respondent's DEA registration pursuant to 21 U.S.C. 824(a)(2). Judge Young also found that on March 18, 25, May 28, July 2, August 19, and September 14, 1977, Respondent dispensed controlled substances without a prescription in violation of Massachusetts General Laws. Furthermore, he found that an audit supervised by Special Agent Robert Sampson of the Drug Enforcement Administration during an accountability investigation at Blue Hill Drug Co. on October 28, 1976, revealed shortages of Dexamyl spansules No. 2, Biphentamine 20 caps, Dexamyl tablets, Eskatrol spansules, Tylenol with codeine No. 3 tabs, Doriden tablets, Noludar caps, Tussar II SF pints, and Tussar II pints.

Judge Young stated in his discussion that Respondent's illegal sales of controlled substances to Detective Jackson were not isolated incidents. This was evidenced by Respondent's conduct during the drug purchases and the shortages in controlled substances revealed in the accountability investigation at Blue Hill Drug Co. He concluded that Respondent had flagrantly violated his trust and responsibility as a pharmacist registered to handle and dispense controlled substances and recommended to the Administrator that Respondent's registration be revoked.

The Administrator adopts the findings and recommendations of the Administrative Law Judge and upon consideration of the entire record and pursuant to the authority vested in the Attorney General and redelegated to the Administrator of the Drug Enforcement Administration, the Administrator hereby orders that the registration issued to Blue Hill Drug Co., David Brothers, Proprietor, under registration No. AB1949809 be revoked, effective November 11, 1977.

Dated: October 6, 1977.

PETER B. BENSINGER,
Administrator.

[FR Doc. 77-29772 Filed 10-11-77; 8:45 am]

[4410-01]

[Docket No. 76-36]

ROBERT O'NEAL MOODY

Denial of Application for Registration

On September 15, 1976, the Administrator of the Drug Enforcement Ad-

ministration (DEA) directed to Robert O'Neal Moody, trading as Moody Drugs, Florence, Ala. (hereinafter, "Respondent"), an Order to Show Cause why Respondent's application should not be denied, pursuant to 21 U.S.C. 823, for the reason that on January 27, 1975, in the United States District Court for the Northern District of Alabama, Respondent was convicted on three counts of violations of 21 U.S.C. 841(a)(1); all felonies relating to distributing, dispensing, and possessing with the intent to distribute, controlled substances. By an undated correspondence posted on September 29, 1976, addressed to and received by the Administrator on October 4, 1976, Respondent, through his attorney, requested a hearing on the Order to Show Cause.

After various preliminary activities, including preparation of prehearing statements and their submission, and the holding of a prehearing conference by telephone and the making of various disclosures and inspection of documents by both sides, a hearing was held on May 24, 1977, in the United States Tax Court Courtroom, Memphis, Tenn. Administrative Law Judge Francis L. Young presiding. On September 14, 1977, Judge Young certified to the Administrator, pursuant to 21 CFR 1316.65, his recommended findings of fact and conclusion of law, a recommended decision, and the record of the proceedings in this matter. The Administrator has fully considered the foregoing and, pursuant to 21 CFR 1316.66, hereby publishes his final order in this proceeding based upon the record, and upon the findings of fact and conclusion of law set forth below.

The Administrative Law Judge found, inter alia, that Respondent was convicted, on his plea of guilty, of all three counts of a three count indictment of unlawfully distributing or dispensing controlled substances, to wit: Phentermine, cocaine, and sodium pentobarbital. Accordingly, Judge Young concluded that there was a lawful basis for denying Respondent's pending application for registration. The Administrative Law Judge further found that an audit of Respondent's pharmacy, conducted by DEA compliance investigators and other drug law enforcement officials subsequent to Respondent's arrest for the above-referred crimes, disclosed significant shortages and overages in Respondent's controlled substance inventory, and that this audit further disclosed that Respondent failed to record "loans" of controlled substances made by him to others, contrary to applicable regulations.

The Administrator adopts these findings of fact and conclusion of law and, therefore, concludes that the registration of Robert O'Neal Moody, trading as Moody Drugs, should be denied.

In so concluding, the Administrator is mindful of the entire record in this matter. In it, the evidence most favorable to Respondent appears as numerous affidavits by his townspeople which purport to relate how they and the community regard Respondent. The frequent refrain

in these affidavits and included in the Administrative Law Judge's findings of fact was that Respondent's arrest was the work of an overzealous drug abuse agent, and that despite Respondent's arrest for selling drugs he was a good citizen and pharmacist and should be allowed to continue to operate his pharmacy business as before.

While the sentiment of Respondent's hometown community may be helpful in appropriate cases where that is an overriding concern, in the present matter it offers no help in predicting whether Respondent will now comply with drug control regulations and abstain from further criminal drug activities. What does help in forecasting Respondent's future controlled substance activities is his past experiences; in the present matter they include numerous significant overages and shortages in his controlled substance inventory; occasions where, in violation of the Act and DEA regulations, he supplied controlled substances to others while retaining no adequate records reflecting the transactions; and, most importantly, he has on three separate occasions personally sold cocaine and other controlled substances in illegal drug deals.

Thus, there is evidence that Respondent not only lacks the ability to prevent diversion, but that he has actually created it through his direct criminal involvement in illegal drug sales.

In light of the record in this matter, Respondent does not appear to be an acceptable applicant for the granting of a DEA registration to dispense controlled substances in compliance with the law, and accordingly, under the authority vested in the Attorney General and delegated to the Administrator of DEA, the Administrator hereby orders that the application for registration dated December 4, 1975, submitted by Respondent be, and the same hereby is, denied, effective immediately.

Dated: October 6, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement
Administration.

[FR Doc. 77-29773 Filed 10-11-77; 8:45 am]

[7536-01]

NATIONAL FOUNDATION ON THE
ARTS AND THE HUMANITIES

National Endowment for the Arts
MEDIA ARTS ADVISORY PANEL
Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a closed meeting of the Media Arts Advisory Panel (American Film Institute) to the National Council on the Arts will be held on October 29, 1977, from 9 a.m. to 6 p.m., in Room 1422, Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and

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recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants in accordance with the determination of the Chairman published in the FEDERAL REGISTER of March 17, 1977. These sessions may be closed to the public pursuant to subsection (c) (4), (6), and 9(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6377.

ROBERT M. SIMS,
Administrative Officer, National
Endowment for the Arts, Na-
tional Foundation on the Arts
and the Humanities.

[FR Doc. 77-29768 Filed 10-11-77; 8:45 am]

[7536-01]

SPECIAL PROJECTS ADVISORY PANEL
Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Special Projects Advisory Panel to the National Council on the Arts will be held on October 26, 1977, from 9:30 a.m. to 5:30 p.m., October 27, 1977, from 9:30 a.m. to 5 p.m., and on October 28, 1977, from 9:30 a.m. to 3:45 p.m., in the Eugene O'Neill Theatre Center, 305 Great Neck Road, Waterford, Conn. 06385.

This meeting will be open to the public. Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-634-6378.

ROBERT M. SIMS,
Administrative Officer, National
Endowment for the Arts.

[FR Doc. 77-29769 Filed 10-11-77; 8:45 am]

[7536-01]

VISUAL ARTS ADVISORY PANEL
Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the Visual Arts Advisory Panel to the National Council on the Arts will be held on October 27-28, 1977, from 9:30 a.m. to 5:30 p.m., in Room 1115, Columbia Plaza Building, 2401 E Street NW., Washington, D.C. 20506.

A portion of this meeting will be open to the public on October 27, 1977, from 9:30 a.m. to 5:30 p.m., and October 28, 1977, from 11 a.m. to 5:30 p.m. The

agenda for these sessions will include a discussion on policy.

The remaining sessions of this meeting on October 28, 1977, from 9:30 a.m. to 11 a.m., are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the FEDERAL REGISTER March 17, 1977, these sessions will be closed to the public pursuant to subsections (c) (4), (6), and 9(B) of section 552(b) of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. Robert M. Sims, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call 202-624-6377.

ROBERT M. SIMS,
Administrative Officer, National
Endowment for the Arts, Na-
tional Foundation on the Arts
and the Humanities.

[FR Doc. 77-29767 Filed 10-11-77; 8:45 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION
OFFICE OF SCIENCE AND SOCIETY, ETHICS
AND VALUES IN SCIENCE AND
TECHNOLOGY PROGRAM

Experts Meeting

An experts meeting on "Professional Ethics and Engineering Students" will be held from 8 a.m. until 4:30 p.m. on Friday, October 28, 1977, at Howard University, 2400 6th St. NW., Washington, D.C.

The purpose of the meeting is to advance the EVIST program objective of introducing ethical and value issues into the informal education of engineering students, by identifying the major issues, engineering students' needs, and mechanisms likely to meet those needs.

While this meeting is not considered to be a meeting of an "advisory committee" as that term is defined in Section 3 of the Federal Advisory Committee Act (Pub. L. 91-463), the meeting is believed to be of sufficient importance and interest to the general public to be announced in the FEDERAL REGISTER as a meeting open for public attendance.

The meeting will be chaired by Dr. William A. Blanpied, Director of the EVIST program, and coordinated by Dr. Taft Broome, Department of Civil Engineering, Howard University. Because of space limitations, members of the public who wish to attend this meeting should call 202-282-7770 no later than October 25, 1977.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

[FR Doc. 77-29784 Filed 10-11-77; 8:45 am]

[7555-01]

SUBCOMMITTEE ON LAW AND SOCIAL
SCIENCES OF THE ADVISORY COMMIT-
TEE FOR SOCIAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Law and Social Sciences of the Advisory Committee for Social Sciences.

Date and time: October 28, 1977—9:00 a.m. to 5:00 p.m.

Place: Room 321, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Part Open—Open portion from 9:00 a.m. to 12:00 noon. Closed portion from 12:00 noon to 5:00 p.m.

Contact person: Dr. H. Laurence Ross, Program Director, Law and Social Sciences Program, Room 316, National Science Foundation, Washington, D.C. 20550, telephone (202-632-6816).

Summary minutes: May be obtained from the Committee Management Coordinator, Division of Personnel and Management, Room 248, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Purpose of subcommittee: To provide advice and recommendations concerning support for research in law and social sciences.

Agenda: October 28, 1977—9:00 a.m. to 12 noon—Open meeting to discuss grants policy. 12 noon to 5:00 p.m. closed, to review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee
Management Officer.

[FR Doc. 77-29785 Filed 10-11-77; 8:45 am]

[7555-01]

SUBCOMMITTEE ON SOCIAL AND DEVELOPMENTAL PSYCHOLOGY OF THE
ADVISORY COMMITTEE FOR BEHAVIORAL
AND NEURAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Social and Developmental Psychology of the Advisory Committee for Behavioral and Neural Sciences.

Date and time: October 31-November 1, 1977—9 a.m. to 5 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.

Type of meeting: Closed.

Contact person: Kelly G. Shaver, Program Director for Social and Developmental Psychology, Room 317, National Science Foundation, Washington, D.C. 20550, telephone (202-632-5714).

Purpose of subcommittee: To provide advice and recommendations concerning support for research in social and developmental psychology.

Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.

Reason for closing: The proposals and projects being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,

Acting Committee Management Officer.

[FR Doc.77-29783 Filed 10-11-77;8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14025; File No. SR-Amex-77-16]

AMERICAN STOCK EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. 94-29, 16 (June 4, 1975), notice is hereby given that on September 15, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission Amendment No. 1 to a rule change proposal published previously (42 FR 37262 (July 20, 1977)).

Text of Amendment No. 1 to SR-Amex-77-16 (Brackets indicate deletions; italicizing indicates new material)

REPORTING OF OPTIONS POSITIONS

Rule 906. (a) Each member and member organization shall file with the Exchange a report with respect to each account in which the member or member organization has an interest, each account of a partner, officer, director, or employee of such member organization, and each customer account, which has (i) an aggregate long position, or (ii) an aggregate short position or (iii) an aggregate uncovered short position, in option contracts of any class of options dealt in on the Exchange in excess of such number of option contracts as shall be fixed from time to time by the Exchange as requiring reporting pursuant to this Rule. Such report shall identify the person or persons having an interest in such account and shall identify separately the total number of option con-

tracts of each such class comprising the long position, short position and uncovered short position, in such account, established an aggregate position of 200 or more option contracts (whether long or short) of the put class and the call class on the same side of the market covering the same underlying security, combining for purposes of this rule (i) long positions in put options with short positions in call options, and (ii) short positions in put options with long positions in call options. The report shall be in such form as may be prescribed by the Exchange and shall be filed no later than the close of business on the next business day following the day on which the transaction or transactions requiring the filing of such report occurred. Whenever a report shall be required to be filed with respect to an account pursuant to this paragraph, the member or member organization filing the same shall file with the Exchange such additional periodic reports with respect to such account as the Exchange may from time to time prescribe.

(b) (No Change)

(c) Every member and member organization shall file with the Exchange a report reflecting the aggregate uncovered short positions in each [option contract of a class] series of options dealt in on the Exchange in (1) each account in which the member or member organization has an interest, (2) all accounts of partners, principal executive officers and directors of such member organization and (3) all accounts of customers. Such report shall be made as of the 15th of each month (or more frequently if required by the Exchange) and shall be submitted not later than the second business day following the date as of which the report is made.

*** Commentary

[.01] The Exchange will notify members and member organizations of the reporting limits established pursuant to this Rule.

[.02] .01 A clearing member organization which clears Exchange transactions for another member organization in a single omnibus account, need not file the reports specified in this Rule with respect to positions in such account [However] provided the member organization whose Exchange option transactions are cleared through such omnibus account [must] file the reports required by this Rule. However, a clearing member organization which clears Exchange option transactions for a non-member in a single omnibus account must file the reports required by this Rule.

[.03] .02 A member organization shall not be required to file the reports specified in this Rule with respect to positions in the accounts of specialists or specialist units, registered traders or options principals cleared by such member organization provided such positions are reported pursuant to Rules 191 and 958B.

[.04] .03 All reports required by this Rule shall be filed with the Membership [Compliance] Surveillance Division of the Exchange, on forms prescribed by the Exchange. [All such reports shall include the name, address and social security or taxpayer identification number of the person or persons having an interest in the account.]

[.05] With respect to open exercise positions see reporting requirements under Rule 983.]

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change, and Amendment No. 1 thereto, is to change the manner in which certain information is reported to the Exchange

by Amex member firms pursuant to Amex Rule 906. Under its proposals, the Amex seeks to require its members to report options positions of accounts utilizing "same side of the market" computations. Reporting of positions would be required initially when an account establishes a position of 200 or more put and/or call contracts in an underlying stock on the same side of the market. Additional information with respect to underlying stock positions will also be required to be filed with the Exchange for accounts which need to file options positions reports.

Amendment No. 1 is comprised of proposed changes in Amex Rule 906 designed to conform the text of Rule 906 to the new reporting forms proposed previously pursuant to Commission Rule 19b-4.

The basis for the proposed rule change and Amendment No. 1 thereto is found in Section 6(b)(5) of the Securities Exchange Act of 1934 ("the 1934 Act"), as amended, which provides, in pertinent part, that the rules of the Exchange be designed to promote just and equitable principles of trade and protect investors and the public interest.

No comments were received or solicited with respect to the proposed change.

The Amex has determined that neither the proposed rule change nor Amendment No. 1 impose any burden on competition.

On or before November 16, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change; or (b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 2, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 4, 1977.

[FR Doc.77-29800 Filed 10-11-77;8:45 am]

[8010-01]

[Rel. No. 20198; 70-6059]

APPALACHIAN POWER CO.

Proposed Issue and Sale of First Mortgage Bonds at Competitive Bidding

OCTOBER 5, 1977.

In the matter of Appalachian Power Co., 40 Franklin Road, Roanoke, Va. 24009.

Notice is hereby given that Appalachian Power Co. ("Appalachian"), an electric utility subsidiary company of American Electric Power Co., Inc. ("AEP"), a registered holding company, has filed an application with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Section 6(b) of the Act and Rule 50 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

Appalachian proposes to issue and sell, subject to the competitive bidding requirements of Rule 50 under the Act, up to \$26,000,000 principal amount of First Mortgage Bonds (the "new bonds"), to mature in not less than 5 years and not more than 30 years. The interest rate (which will be a multiple of 1/8 of 1%) and the price (which will be not less than 100%, unless Appalachian shall authorize a lower percentage not less than 99%, and shall not exceed 102.75% of the principal amount of the bonds thereof) will be determined by competitive bidding. The terms of the bonds will preclude Appalachian from redeeming any such bonds prior to November 1, 1982, if such redemption is for the purpose of refunding such bonds with proceeds of funds borrowed at a lower effective interest cost. The bonds will be issued under and secured by the Mortgage and Deed of Trust, dated as of December 1, 1940, to Banker Trust Co., and a new Supplemental Indenture thereto which will be dated as of the first day of the month in which the Bonds are to be issued. Appalachian shall notify prospective bidders no later than 72 hours prior to the time designated for the submission of bids of the maturity date of the bonds.

The proceeds of the offering will be used to pay at maturity, or to reimburse Appalachian's treasury for the payment at maturity of, Appalachian's 3 1/8% Series Bonds, due December 1, 1977, of which \$26,586,000 was outstanding on August 31, 1977. It is stated that since the proceeds of sale will aggregate less than the principal amount of said 3 1/8% Series, Appalachian will utilize other funds, to the extent required, to provide for such payment at maturity.

The fees and expenses to be incurred in connection with the proposed issue and sale of the new bonds and the fees and expenses of counsel for the underwriters, to be paid by the successful bidders, will be supplied by amendment. It

is stated that the State Corporation Commission of Virginia and the Tennessee Public Service Commission have jurisdiction over the proposed transaction and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Note is further given that any interested person may, not later than October 31, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as filed or as it may be amended, may be granted as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-29801 Filed 10-12-77;8:45 am]

[8010-01]

[File No. 500-1]

BERNARD SCREEN PRINTING CORP.

Suspension of Trading

OCTOBER 4, 1977.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Bernard Screen Printing Corp. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 10 a.m. (EDT) on October 4, 1977, through October 13, 1977.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-29802 Filed 10-11-77;8:45 am]

[8010-01]

[Release No. 14020; SR-BSE-77-2]

BOSTON STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

OCTOBER 3, 1977.

In the matter of Boston Stock Exchange, Inc., 53 State Street, Boston, Mass. 02109.

On June 9, 1977, the Boston Stock Exchange, Inc. filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to amend a number of its Constitutional provisions concerning its Board of Governors (Art. II), Exchange committees (Art. IX), transfer of membership (Art. XIII), Exchange Presidents' duties (Art. XV), the binding effect of its rules (Art. XVII), meetings (Art. XXI), associate membership (Art. XXII), and market maker membership (Art. XXV).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13642 (June 14, 1977)) and by publication in the Federal Register (42 FR 32598 (June 27, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the

¹ The BSE filed Amendment No. 1 to this rule filing on August 17, 1977. That amendment adds in several provisions a general cross-reference to the provisions of the Act concerning disciplinary actions and also deletes BSE Article XVII, Section 3 (concerning the binding effect of the Bylaws and Rules of the Boston Stock Exchange Clearing Corporation).

² The Commission notes that minor changes are being made in BSE Article XXII, Section 1 which currently provides for a limited class of membership without voting rights, known as associate members. This class of membership is created through reciprocal agreements between the BSE and the Philadelphia Stock Exchange, Inc., and the BSE and the Montreal Stock Exchange. The Commission has raised questions as to the consistency of this provision with the Act. (See Securities Exchange Act of 1934 Rel. No. 13027, December 1, 1976.) In addition, the Commission at some future date may, in its continuing review of self-regulatory rules, determine that this provision does not provide "fair representation" for associate members in accordance with Section 6(b)(3) of the Act, or that this class of membership is too limited. Accordingly, the Commission finding that the amendments to Article XXII, Section 1 which are contained in this proposal are consistent with the requirements of the Act is subject to such limitations.

above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-29803 Filed 10-11-77; 8:45 am]

[8010-01]

[Release No. 34 14023; File No. SR-CBOE-1977-17]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organization; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 12, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

(Brackets indicate deletions; italicizing indicates additions)

REPORTS RELATED TO POSITION LIMITS

Rule 4.13(a). Each member shall file with the Department of Compliance on each business day a report, in such form as may be prescribed, giving the name, address, and social security or tax identification number of any customer who, on the previous business day, held (aggregate long or short positions of 100 or more options of any single class of options dealt in on the Exchange) an options position in excess of such number of options contracts as shall be fixed by the Board from time to time. [The report shall indicate for each such class of option contracts the number of option contracts comprising each such position and, in the case of short positions, whether covered or uncovered.]

(b) No change.

(c) No change.

• • • Interpretations and Policies:

.01 The Exchange has determined that an aggregate position of 400 option contracts for the same underlying security on the same side of the market (combining for this purpose long positions in put options with short positions in call options, and short positions in put options with long positions in call options) shall be reported pursuant to paragraph (a) of this Rule.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to make the reporting requirements of this rule consistent with recent changes in the position limits rule which make that rule applicable to positions on the "same side of the market." This change will also eliminate the necessity for additional changes in the text of the rule should the language of the position limits rule again be modified.

Additionally, it has become apparent to the Exchange that the position reporting level as previously set resulted

in a volume of reports so high as to be of little surveillance value. Therefore, the reporting level specified in Interpretation .01 has been adjusted based on careful study and consideration of the Exchange's experience with the past reporting level, the potential surveillance value of new reporting levels and the effect of put option trading on such reporting.

The basis for the proposed rules change is contained in those provisions of Section 6(b)(5) of the Act which require that the Exchange's rules provide for the promotion of just and equitable principles of trade, and protection of investors and the public interest.

Comments have not been solicited regarding these proposed rules change.

The Exchange believes that no burden will be imposed upon competition by this proposed rule change.

On or before November 16, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 2, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 4, 1977.

[FR Doc.77-27804 Filed 10 11 77; 8:45 am]

[8010-01]

[Rel. No. 20195; 70-6060]

INDIANA & MICHIGAN ELECTRIC CO.

Proposed Agreement With Municipal Authority for Construction of Pollution Control Equipment Financed by Sale of Revenue Bonds

OCTOBER 4, 1977.

Notice is hereby given that Indiana & Michigan Electric Company ("I&M"), an electric utility subsidiary company of

American Electric Power Company, Inc., a registered holding company, has filed an application-declaration with this Commission designating Sections 9(a) and 12(d) of the Public Utility Holding Company Act of 1935 ("Act") and Rule 44(b)(3) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

I&M states that in order to comply with prescribed environmental quality control standards of the State of Indiana it has been and will be necessary to construct certain high efficiency electrostatic precipitators ("Project") for particulate emission control and related facilities at its Breed Plant. By resolution of December 5, 1973, the City of Sullivan, Indiana ("City"), determined that it would authorize and issue one or more series of its pollution control revenue bonds ("Revenue Bonds") to finance the cost of engineering, design, acquisition, and construction of the Project and to reimburse or repay I&M in connection with I&M's expenditures relating to the Project.

I&M proposes to enter into an agreement of sale ("Agreement") with the City whereby the City will construct and equip the Project. To finance the Project, the City will issue Revenue Bonds in an initial principal amount of up to \$25,000,000 ("Series A Bonds") and additional Revenue Bonds in principal amounts presently estimated not to exceed \$20,000,000, sufficient to cover construction costs of the Project. The proceeds from the sale of the Series A Bonds will be deposited by the City with the Trustee ("Trustee") under an indenture to be entered into between the City and such Trustee (the "Indenture") pursuant to which the Series A Bonds are to be issued and secured. Such proceeds will be applied to payment of the cost of construction of the project. The Agreement also will provide for the sale of the Project to I&M, the payment by I&M of the purchase price of the Project in semi-annual installments over a term of years, and the assignment and pledge to the Indenture Trustee of the City's interest in, and of the monies receivable by the City under, the Agreement.

The Agreement will provide that each installment of the purchase price for the Project payable by I&M will be in such an amount (together with other monies held by the Trustee under the Indenture for that purpose) as will enable the City to pay, when due, (i) the interest on the Revenue Bonds, any additional bonds and any refunding bonds, (ii) the principal amount of the Revenue Bonds, any additional bonds and any refunding bonds payable at the time of their respective stated maturities and (iii) amounts, including any accrued interest, payable in connection with any mandatory redemption of the Revenue Bonds, any additional bonds or any refunding bonds. The Agreement also obligates I&M to pay the fees and charges

of the Trustee, as well as certain administrative expenses of the City. The Agreement further provides that I&M may prepay the purchase price of the Project (i) by paying, under certain conditions, amounts sufficient to redeem all the Revenue Bonds then outstanding and all other amounts payable under the Indenture or (ii) at any time by depositing in the Indenture's Bond Fund or delivering to the Trustee amounts sufficient to provide for the release of the Indenture. Upon prepayment, I&M may terminate the Agreement.

I&M proposes to convey equipment previously constructed (the "Existing Facilities"), subject to I&M's First Mortgage Lien to the City and I&M will receive out of the Revenue Bond proceeds, an amount equal to I&M's original cost of the Existing Facilities. The Existing Facilities will be included in the Project which I&M will repurchase from the City pursuant to the Agreement. The proceeds realized from the sale of the Existing Facilities will be used to retire unsecured short-term debt of I&M, including the financing of part of its construction program. As of August 31, 1977, there were notes payable to banks and commercial debt outstanding in the amount of \$49,100,000 and it is expected that I&M will have short-term debt outstanding not to exceed \$65,000,000 at the time of the transfer of the Existing Facilities. The estimated cost of I&M's construction program for 1977 is \$146,000,000, exclusive of construction costs in connection with the Donald C. Cook Nuclear Plant by I&M's wholly owned subsidiary, Indiana & Michigan Power Company. Said costs for the Cook plant are estimated at \$84,000,000 for 1977. I&M had expended \$14,250,000 for the Existing Facilities as of June 30, 1977; and it is estimated that it will have expended \$19,000,000 at the time of the transfer of these facilities. It is estimated that the Project will in the aggregate cost approximately \$46,000,000.

It is contemplated that the Revenue Bonds will be sold by the City pursuant to arrangements with a group of underwriters represented by E. F. Hutton & Company, Inc. In accordance with the laws of the State of Indiana, the interest rate to be borne by the Revenue Bonds will be fixed by the common council of the City. While I&M will not be a party to the underwriting arrangements for the Revenue Bonds, the Agreement will provide that the terms of the Revenue Bonds and their sale by the City shall be satisfactory to I&M.

I&M has been advised that the annual interest rates on obligations, interest on which is tax exempt, historically have been and can be expected at the time of issue of the Revenue Bonds to be 1½ percent to 2½ lower than the rates on obligations of like tenor and comparable quality, interest on which is fully subject to federal income tax.

[8010-01]

[Administrative Proceeding No. 3-5274; File No. 24LA-0036]

MAJOR RESOURCES, INC.

Order Temporarily Suspending Exemption Statement of Reasons Therefor, and Notice of Opportunity for Hearing

OCTOBER 4, 1977.

I

Major Resources, Inc. ("Major") is a Florida corporation located at 9700 Gandy Boulevard, Suite 311, St. Petersburg, Florida, 33702. It was organized on June 17, 1976. It plans to engage in the business of acquiring businesses or situations with a large growth potential that requires capital and management. The company has acquired an 80 percent interest in Rhenium Corporation, a Florida corporation which owns or has mineral rights to two contiguous mine properties located in Octane, Arizona.

On April 29, 1977, Major filed a Notification pursuant to Regulation A in connection with the proposed public offering of 100,000 shares of its 5 cent par value Class B common stock at \$1.25 per share with the Los Angeles Regional Office. The filing has not been cleared by the Los Angeles Office.

II

The Commission, on the basis of information reported to it by its staff, has reasonable cause to believe:

A. The Regulation A exemption is not available to the Issuer because an Order of Permanent Injunction in connection with the purchase or sale of securities was issued by the 6th Circuit Court of Miami, Pinellas County, Florida on January 12, 1968 against Robert C. Miller ("Miller"), a promoter, affiliate, predecessor, officer, director, and principal shareholder of the Issuer, who continues to be active in its affairs.

B. The Notification and Offering Circular of Major Resources contain untrue statements of material facts and omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading in the following respects:

1. Item 6(b) of the Issuer's Notification contains false statements with respect to actions against the Issuer, its predecessor or Affiliated Issuers, and actions against directors and officers.

2. The failure to disclose that Miller is the subject of an injunction involving violations of the Florida securities laws.

C. The offering would be made in violation of Section 17 of the Securities Act of 1933.

III

It appearing to the Commission that it is in the public interest and for the protection of investors that the exemption of Major Resources, Inc. under Regulation A be temporarily suspended:

The Series A bonds will be dated on or about the first day of the month in which they are issued, will bear interest semi-annually and will mature at a date or dates not more than 30 years from the date of their issuance. It is expected that the Series A bonds will not be redeemable at the option of the City within 10 years from their issue date except under certain circumstances and terms specified in the Indenture.

The application-declaration states that the fees and expenses incident to the proposed disposition of the Existing Facilities and the acquisition of the Project (as distinguished from and excluding fees and expenses incident to the sale of the Revenue Bonds by the City payable out of the proceeds of such sale) will be supplied by amendment. It is stated that the execution of, delivery of and performance under the Agreement of I&M, the disposition of the Existing Facilities and the acquisition of the Project is possibly subject to the jurisdiction of the Michigan Public Service Commission and the Public Service Commission of Indiana, and that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 28, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed, or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-29805 Filed 10-11-77; 8:45 am]

It is order, pursuant to Rule 261 of the General Rules and Regulations under the Securities Act of 1933, as amended, that the exemption of the issuer under Regulation A be, and hereby is temporarily suspended.

It is further ordered, pursuant to Rule 7 of the Commission's Rules of Practice, that the issuer file an answer to the allegations contained in the order within thirty days of the entry thereof.

Notice is hereby given that any person having any interest in the matter may file with the Secretary of the Commission a written request for a hearing within thirty days after the entry of this order; that within twenty days after receipt of such request, the Commission will, or at any time upon its own motion may, set the matter down for hearing at a place to be designated by the Commission for the purpose of determining whether this order of suspension should be vacated or made permanent, without prejudice, however, to the consideration and presentation of additional matters at the hearing; and that notice of the time and place for the said hearing will be promptly given by the Commission. If no hearing is requested and none is ordered by the Commission, the order shall become permanent on the thirtieth day after its entry and shall remain in effect unless it is modified or vacated by the Commission.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-29806 Filed 10-11-77;8:45 am]

[8010-01]

[Administrative Proceeding File Nos. 3 5246;
81-262]

MPB CORP.

Application and Opportunity for Hearing OCTOBER 5, 1977.

Notice is hereby given that MPB Corporation ("Applicant") has filed an application pursuant to Section 12(h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), that Applicant be granted an exemption from the provisions of Sections 13 and 15(d) of that Act.

Sections 13 and 15(d) of the 1934 Act require that issuers of securities registered pursuant to Section 12 or issuers that have filed a registration statement that has become effective pursuant to the Securities Act of 1933, must file certain periodic reports with the Commission for the protection of investors and to insure fair dealing in the security.

Section 12(h) of the 1934 Act empowers the Commission to exempt in whole or in part, any issuer or class of issuers from the provisions of Sections 13 and 15(d), if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities and nature and extent of the activities of the issuer, income or assets of the issuer or otherwise, that such exemption is not inconsistent with the pub-

lic interest or the protection of investors.

The Applicant states, in part: 1. Applicant is subject to the reporting provisions of Sections 13 and 15(d) of the 1934 Act.

2. On November 16, 1976, the Applicant became a wholly-owned subsidiary of Wheelabrator-Frye Inc. As a result, all of Applicant's outstanding securities are now owned by Wheelabrator.

In the absence of an exemption, Applicant would be subject to the periodic reporting requirements of Sections 13 and 15(d) of the 1934 Act through March 27, 1977.

The Applicant contends that there would be no useful purpose served by the filing of continued reports for the fiscal year ending March 27, 1977, in view of the fact it has but one stockholder.

For a more detailed statement of the information presented, all persons are referred to the Application which is on file in the offices of the Commission at 500 North Capitol Street NW., Washington, D.C. 20549.

Notice is further given that any interested person not later than October 31, 1977 may submit to the Commission in writing his views or any substantial facts bearing on this Application or the desirability of a hearing thereon. Any such communication or request should be addressed to: George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the Application which he desires to controvert. At any time after that date, an order granting the Application in whole or in part may be issued upon request or upon the Commission's own motion.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-29807 Filed 10-11-77;8:45 am]

[8010-01]

[Release No. 20193; 70-6058]

MONONGAHELA POWER CO., ET AL.

Proposed Issuance of Promissory Notes to County in Connection With Financing of Pollution Control Facilities

OCTOBER 3, 1977.

Monongahela Power Co. ("Monongahela"), 1310 Fairmont Avenue, Fairmont, W. Va. 26554, The Potomac Edison Co. ("Potomac"), Downsville Pike, Hagerstown, Md. 21740, and West Penn Power Co. ("West Penn"), 800 Cabin Hill Drive, Greensburg, Pa. 15601, each wholly owned electric utility subsidiaries of Allegheny Power System, Inc., a registered holding company, have filed a declaration and amendments thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a) and 7

of the Act and Rule 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

Monongahela, Potomac, and West Penn (collectively, the "Companies") propose to finance certain air and water pollution control equipment and facilities including a flue gas desulfurization system, associated sludge disposal and handling facilities, lime unloading handling and storage facilities, precipitators, fly ash handling systems, cooling water facilities, waste water treatment facilities and associated land, interests in land and equipment (collectively, the "Facilities") now under construction at the Pleasants Power Station ("Pleasants") located in Pleasants County, W. Va. The Facilities are required to meet air and water quality standards in effect under federal and state regulations. Pleasants will have, when completed, two 626,000 kw (net) steam electric generating units which are scheduled for commercial operation in March of 1979 and March of 1980. Pleasants is owned jointly by Monongahela, Potomac, and West Penn as tenants in common. Monongahela owns 25%, Potomac owns 30%, and West Penn owns 45% of Pleasants. It is stated that the estimated cost of the Facilities, when completed, is expected to be in excess of \$200 million. As of December 31, 1977, the Companies expect to have expended approximately \$70 million in connection with the Facilities.

To finance construction of the Facilities, the Companies propose to issue nonnegotiable secured pollution control notes (collectively, the "Notes") pursuant to a Pollution Control Financing Agreement ("Agreement") with Pleasants County, W. Va. ("County"). The County will issue and sell its tax-exempt pollution control revenue bonds (the "Bonds") in an aggregate principal amount not to exceed \$100,000,000 and the issues in respect of Monongahela's, Potomac's, and West Penn's interest in Pleasants will not exceed \$25,000,000, \$30,000,000, and \$45,000,000, respectively. The Bonds will be issued and sold in one or more series with a maturity of not less than five nor more than forty years. The Bonds in respect of each Company's interest will be issued under separate trust indentures (collectively, the "Indentures") between the County and a trustee, and will be sold in one or more series, at such times, in such principal amounts, at such interest rates, and for such prices as shall be approved by that Company. The Indentures provide that the proceeds of the sale of the Bonds shall be applied to the cost of the Facilities. The proceeds to be received by each Company from the sale of the Bonds will be added to each Company's general funds to reimburse the treasury of each Company for expenditures made or to be made in connection with the Facilities.

It is stated that concurrently with the issuance of each series of Bonds, each

Company will execute and deliver its nonnegotiable pollution control note or notes corresponding to such series of Bonds with respect to principal amount, interest rate and redemption provisions. Installments of principal on such notes will correspond to mandatory sinking fund payments and stated maturities with respect to the Bonds. Payments on the Notes will be made to the trustees under the Indentures and applied by the trustees to pay the maturing principal, interest, redemption prices and other costs on the Bonds as the same become due. The Companies also propose to pay trustees fees or other expenses incurred by the County. Each Company's notes will provide for prepayment of principal corresponding with the redemption provisions of the related bonds. The obligations of each Company to pay for its interest in the Facilities is several and not joint, and the notes delivered by each Company are the obligations solely of that Company. Each Company's notes will be secured by a lien on that Company's portion of the Facilities. Said lien will be created by a separate Deed of Trust and Security Agreement ("Deed of Trust") between each Company and a trustee, will be for the benefit of the holders of the Bonds, and will be subject to the lien of such Company's first mortgage, as supplemented and amended.

It is stated that the Bonds will bear interest semi-annually at rates to be determined. The Bonds will be secured by the Notes and by the assignment, pursuant to the Indentures, of the County's right, title and interest in the Agreement. The Bonds will be issued pursuant to the Indentures. It is proposed that the Bonds will be subject to redemption at any time on or after 10 years from the date of issuance, in whole or in part, at the option of the Companies, initially with a premium of 3% of the principal amount and declining by 1/2 of 1% thereafter. The Bonds will be entitled to the benefit of mandatory redemption sinking funds calculated to retire prior to maturity not less than 25% of the aggregate principal amount of the bonds in respect of each Company.

It is not possible to ascertain in advance precisely the interest rate which may be obtained in connection with the issuance of the Bonds. However, the Companies have been advised that tax-exempt bonds such as these have historically carried an annual interest rate approximately two percent lower than comparable taxable long-term corporate bonds. The maximum amount of Bonds that are expected to be sold to finance the Facilities and, consequently, the principal amount of the pollution control notes may be adjusted downward prior to the date of issue.

It is expected that the County will engage Goldman, Sachs & Co. to provide financial advice and, together with such other underwriters as may be designated, underwrite the sale of the Bonds. Fees, commissions, and expenses of the underwriters and legal counsel will be included in the total cost of the Facilities. The

Companies have been informed that the County has legal authority to issue tax exempt revenue bonds in accordance with the proposed documents.

The Companies request exception from the competitive bidding requirements of Rule 50 for the proposed issuance of the Notes pursuant to paragraph (a)(5) thereof.

The Public Utilities Commission of Ohio has jurisdiction over the proposed issuance of the pollution control notes by Monongahela; the Public Utility Commission of Pennsylvania has jurisdiction over the proposed issuance of the pollution control notes by West Penn; the State Corporation Commission of Virginia and the Public Service Commission of Maryland has jurisdiction over the proposed issuance of the pollution control notes by Potomac; the Public Service Commission of West Virginia has jurisdiction over the proposed execution and delivery of a Deed of Trust by Monongahela and Potomac. The Air Pollution Control Commission of the State of West Virginia will be required to certify that the Facilities are being constructed and installed for water and air quality purposes. No other State or Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

A statement of the fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment.

Notice is further given that any interested person may, not later than October 28, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarant at the above stated addresses, and proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations permitted under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-29808 Filed 10-11-77;8:45 am]

[8010-01]

[Release No. 34-14024; File No. SR-PSE-77-28]

PACIFIC STOCK EXCHANGE INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 16, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Inc. ("PSE") hereby requests to amend Section 7 of Rule VI of the Rules of its Board of Governors as follows (brackets indicate deletions and italicizing indicates additions):

RULE VI

EXCHANGE OPTIONS TRADING

Reporting of Options Positions

Sec. 7. (a) Each member organization shall file with the Exchange a report with respect to each account in which a member organization has an interest, each account of a partner, officer, director, or employee of such member organization, and each customer account which has (i) an aggregate long position, or (ii) an aggregate uncovered short position or (iii) an aggregate uncovered short position, in option contracts of any class of options dealt in on the Exchange in excess of 100 contracts, *an aggregate position on the same side of the market (long call and/or short put or short call and/or long put) in option contracts on the same underlying security dealt in on the Exchange in such number of option contracts as shall be determined from time to time by the Exchange.* Such report shall identify the person or persons having an interest in such account, *and shall identify separately the total number of option contracts of each such class comprising the (long position, short position and uncovered short position in such account.) reportable position in such account, and any other information requested by the Exchange.* The report shall be in such form as may be prescribed by the Exchange and shall be filed no later than the close of business on the next business day following the day on which the transaction or transactions requiring the filing of such report occurred. Whenever a report shall be required to be filed with respect to an account pursuant to this paragraph, the member organization filing the same shall file with the Exchange such additional periodic reports with respect to such account as the Exchange may from time to time prescribe.

(b) No change.
(c) No change.

Commentary: 01. [The Exchange will notify member organizations of the reporting limits established pursuant to this Section.] *The Exchange has determined that a report shall be filed pursuant to this Section for any account which has 200 or more option contracts on the same side of the market in the same underlying security.*

02 No change.
03 No change.
04 with respect to open exercise positions see reporting requirements under Section 33.1

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change in reporting requirements for options positions was prompted by the commencement of put option trading.

Under current rules, accounts are limited to maximum positions of 1,000 call and/or put contracts on the same side of the market on the same underlying security and reports are required when an account establishes an option position of 100 or more contracts. The Exchange now proposes to obtain similar useful information with respect to such call and/or put positions by establishing initial reporting requirements when an account establishes a position of 200 or more contracts on the same side of the market. Thus, the Exchange will obtain, in some cases, information with respect to accounts that it otherwise would not obtain under the present requirements. For example, if an account has a long position of 500 put options and a short position of 60 call options on the same underlying security, such account would be in violation of the position limits rule since the total number of contracts on the same side of the market exceeded 1,000. Today a firm need only report the long put position. Under the new reporting requirements, the total long put/short call positions indicated in the above example would be reported to the Exchange. Thus, the proposed rule change would enable the PSE to more effectively monitor current position limits, and potential position limits violations.

It should be noted that under the prior position limit rule concerning 500 contracts of the same class and the same expiration month, a firm was required to report to the Exchange all accounts which had options positions of 100 contracts or more, in essence, a 20 percent report-to-limit ratio. Under the new position limits rule (1,000 option contracts on the same side of the market in the same underlying security) an increase in the reporting requirements to 200 contracts would maintain the same 20 percent report-to-limit ratio.

The basis for the proposed rule change is to enable the PSE to promote just and equitable principles of trade and to protect investors and the public interest.

Comments have neither been solicited nor received from members on the proposed rule change.

The proposed rule change imposes no burden upon competition.

On or before November 16, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW, Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 2, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 4, 1977.

[FR Doc.77-29809 Filed 10-11-77;8:45 am]

[8010-01]

[Rel. No. 20196; 70-6032]

WEST TEXAS UTILITIES CO. AND PUBLIC SERVICE CO. OF OKLAHOMA

Proposed Purchase of Computer Services From Associate Company

OCTOBER 5, 1977.

Notice is hereby given that West Texas Utilities Co. ("WTU"), P.O. Box 841, Abilene, Tex. 79604, and Public Service Co. of Oklahoma ("PSO"), P.O. Box 201, Tulsa, Okla. 74102, electric utility subsidiaries of Central and South West Corp. ("CSW"), a registered holding company, have filed an application-declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 12(b) and 13 of the Act and rules 86, 87, 90, and 91, promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, as amended, which is summarized below, for a complete statement of the proposed transaction.

WTU proposes to purchase, at a cost determined in accordance with section 13 of the Act and the applicable rules

thereunder, electronic data processing services from PSO by using the excess capacity of automatic computing facilities which PSO already operates and by paying PSO an allocated cost which reflects WTU's use.

The computer services proposed to be provided by WTU by PSO include processing of customer billing, revenues and statistics, payroll, property accounting, general accounting and load flow, and cash forecasts. WTU will continue to perform all of its own keypunch and printing operations, maintain and revise its programs and contract with nonaffiliates, when necessary, for the processing of its urgent load flow studies. PSO and WTU state that the computing equipment involved in the proposed transaction will not be used in the dispatch of electric power or energy.

In order to compute the cost of services purchased by WTU, PSO has identified the sources of its overall costs, including (a) personnel; (b) rental of software, services and hardware; (c) prices for purchased hardware; and (d) general supplies. These sources are combined in varying proportions in each of the services which PSO would supply to WTU.

Each service has been analyzed to determine its cost components and their relative significance. WTU and PSO state that they have designated the "computer resource unit" ("CRU") as a dimensionless measurement which will relate all the various services on a single scale. For example the following table illustrates the CRU equivalents of computer services:

Service	CRU equivalent
1 CPU-second (one second of use of the central processing unit) -----	1
1 CPU-minute (or sixty CPU-seconds) -----	60
1 kilobyte of memory times CPU-minute -----	1262
1 Disc EXCP (where EXCP is a unit of execution; here, one occasion of withdrawal of data from a disc of data) -----	0.00309
1 Tape EXCP -----	0.01162
1 Tape mount -----	124
1 Print EXCP (where EXCP is a unit of execution; here, one line of print) -----	0.0442
1 Card read EXCP (here, reading one card) -----	0.209
1 Approximate.	

Each CRU has an initial value of \$0.02065. WTU and PSO state that this value is based on budgeted 1977 costs and that billings will be adjusted retroactively on the basis of actual costs. PSO states that its billings to WTU will reflect the relevant cost components of each service provided, measured on a common basis, while also ensuring that WTU will pay only the costs of the services provided it. The billing procedure will also enable PSO to retain a means for monitoring the efficiency of the work performed.

PSO and WTU that the computer sharing will permit both companies to process information at a lower cost than would be possible were WTU to maintain

its own smaller-scale data processing facilities or to purchase such services from outside the CSW System. PSO and WTU state that they selected the arrangement proposed herein based on anticipated mutual savings forecast by the results of a joint study conducted by FAIM Information Services, Inc., a non-affiliated consulting firm, which compared the costs and benefits of prior computer operations with the alternatives of (i) time-sharing and (ii) consolidation of the two companies hardware and software.

PSO and WTU further state that the annual savings of this proposed consolidation arrangement is estimated to be initially at least \$50,000 for WTU and \$50,000 for PSO.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction with respect to the proposed transaction. Fees and expenses to be incurred in connection with the proposed transaction are estimated at \$2,500, including \$450 in legal fees.

Notice is further given that any interested person may, not later than October 31, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended, or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rule 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-29810 Filed 10-11-77;8:45 am]

[4710-01]

DEPARTMENT OF STATE

Agency for International Development HOUSE GUARANTY PROGRAM FOR THE REPUBLIC OF KOREA

Information for Investors

The Agency for International Development (AID) has authorized a guaranty of an amount not to exceed \$15,000,000 for a housing guaranty program for the Republic of Korea to be carried out by the Korea National Housing Corporation (KNHC). KNHC desires to receive proposals from eligible U.S. investors, as defined below, for a loan to KNHC not to exceed \$15,000,000, the repayment of which would be guaranteed by AID as to the principal and interest on such loan. The KNHC desires to discuss with interested eligible U.S. investors, the terms on which such a loan investment would be made. The eligible U.S. investor and the terms of the loan must be acceptable to AID and disbursements of the loan would be subject to certain conditions required of KNHC by AID. The guaranty will be backed by the full faith and credit of the United States of America and would be issued pursuant to authority in section 221 of the Foreign Assistance Act of 1961, as amended. Proceeds of the loan will be used for the financing of lower income housing projects in the Republic of Korea. This project is referred to as 489-HG-007.

Eligible investors are invited to submit proposals for the project. However, proposals should state clearly the project number to which a specific proposal relates.

Eligible investors interested in extending a guaranteed loan to KNHC should communicate promptly with counsel for KNHC:

Duncan Cameron, Esq., Cameron, Hornbostel, and Adelman, 1707 H Street NW., Washington, D.C. 20006.

Investors eligible to receive a guaranty are those specified in section 238(c) of the Act. They are: (1) U.S. citizens; (2) domestic corporations, partnerships, or associations substantially beneficially owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens; and (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for a guaranty, the loan must be repayable in full no later than the thirtieth anniversary of the first disbursement of the principal amount thereof and the interest rate may be no higher than the maximum rate to be established by AID.

The KNHC projects a schedule of disbursements covering approximately 12 months from the date of the loan agreement and prospective investors should consider this in proposing a guaranteed loan to the KNHC. In addition, the in-

vestor must provide for the servicing of his loan, i.e., recordation and disposition of loan payments received from the KNHC.

Information as to eligibility of investors and other aspects of the AID housing guaranty program can be obtained from:

Director, Office of Housing, Agency for International Development, Room 625, SA-12, Washington, D.C. 20523.

This notice is not an offer by AID or by the KNHC. The KNHC and not AID will select an investor and negotiate the terms of the proposed plan.

Dated: October 4, 1977.

PETER M. KIMM,
Director, Office of Housing.

[FR Doc.77-29877 Filed 10-11-77;8:45 am]

[4910-61]

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

ADVISORY BOARD

Meeting

Pursuant to Section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 10 a.m., November 11, 1977, in the Offices of the Corporation at 800 Independence Avenue SW., Washington, D.C. 20591. The agenda for this meeting is as follows: Opening Remarks; Approval of Minutes; Administrator's Report; Review of Public Comments on Proposed Revision of Tariff of Tolls; Closing Remarks.

Attendance is open to the interested public but limited to the space available. Reservations and further information may be obtained from Robert D. Kraft, Deputy General Counsel, Saint Lawrence Seaway Development Corporation, 800 Independence Avenue SW., Washington, D.C. 20591 (202-426-3574).

Issued at Washington, D.C., October 5, 1977.

D. W. OBERLIN,
Administrator.

[FR Doc.77-29762 Filed 10-11-77;8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 313; Reference: ATF O 1100.67A]

AUTHORITIES OF THE DIRECTOR; DISTRIBUTION AND USE OF DENATURED ALCOHOL AND RUM REGULATIONS

Delegation Order

1. Purpose. This order is being issued to delegate certain authorities now

vested in the Director by regulations in 27 CFR Part 211, to the Assistant Director, Technical and Scientific Services.

2. *Cancellation.* ATF O 1100.67, Delegation Order—Authorities of the Director in 27 CFR Part 211, Distribution and Use of Denatured Alcohol and Rum Regulations, dated August 16, 1976 (41 FR 35541), is canceled.

3. *Background.* The Director has authority, under current regulations, to take final action on matters relating to denatured distilled spirits and the procurement, use, disposition, and recovery of denatured alcohol, specially denatured rum, and articles containing denatured spirits. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 211, Distribution and Use of Denatured Alcohol and Rum Regulations, belong at a lower organizational level and should be delegated.

4. *Delegations.* Pursuant to the authority vested in the Director by the Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701-9, there is hereby delegated to the Assistant Director, Technical and Scientific Services, the authority to take final action on the following matters relating to 27 CFR Part 211, Distribution and Use of Denatured Alcohol and Rum Regulations:

a. Approval or disapproval of containers, other than those specified in regulations, for the conveyance of large quantities of denatured spirits or articles, under 27 CFR 211.11.

b. Approval or disapproval of all formulas and processes submitted on ATF F 1479-A except formulas for rubbing alcohol and rubbing alcohol base, under 27 CFR 211.23.

c. Approval or disapproval of new labels or facsimiles for adopted formulas, under 27 CFR 211.62.

d. Requests for the submission of samples of (1) any ingredient included in formulas submitted on ATF F 1479-A, and (2) proprietary antifreeze solutions containing completely denatured alcohol, under 27 CFR 211.107.

e. Restrictions on ATF F 1479-A covering the size of containers in which an article may be sold, the maximum quantity which may be sold to any person at one time, the class of vendee to which an article may be sold and the specific use for which an article may be sold, under 27 CFR 211.108.

f. To require that samples of labels, or facsimiles or sketches of such labels, be attached to each copy of ATF F 1479-A covering articles which do not contain denatured spirits, and to require that manufacturers and reproducers submit advertising matter for articles, under 27 CFR 211.106.

g. Approval of other suitable materials for packages containing more than 5 gallons of completely denatured alcohol, under 27 CFR 211.116.

h. Approval or disapproval of extraneous matter to be printed on labels for completely denatured alcohol, under 27 CFR 211.121.

i. Approval of other suitable materials as containers for packaging proprietary antifreeze solutions, under 27 CFR 211.123.

j. Approval or disapproval of ATF F 1479-A covering the manufacture or proprietary solvent formulations, under 27 CFR 211.170.

k. Approval or disapproval of ATF F 1479-A covering the use of proprietary solvents in the manufacture of articles for sale, under 27 CFR 211.172.

l. Approval or disapproval of ATF F 1479-A covering the manufacture of special industrial solvent formulations, under 27 CFR 211.180.

m. Approval or disapproval of ATF F 1479-A covering the use of special industrial solvents in the manufacture of articles for sale, under 27 CFR 211.182.

n. Approval or disapproval of labels for products specified under paragraph 211.191, under 27 CFR 211.197.

o. Approval or disapproval of ATF F 1479-A covering the reprocessing of duplicating and printing fluids containing 1 percent or more by weight of a glycol ether and 10 percent or more by weight of methyl alcohol into printing ink for sale, under 27 CFR 211.200.

p. Approval or disapproval of ATF F 1479-A covering the manufacture of solvents for own use (but not for sale), under 27 CFR 211.200.

q. Action to impose label requirements on containers of articles, other than those specified in this part, containing specially denatured alcohol, under 27 CFR 211.201 and 27 CFR 211.103.

4. *Coordination with other offices.* The authority delegated under paragraphs 3a, 3g, and 3i of this order shall be carried out in coordination with the Chief, Industry Control Division (Regulatory Enforcement) in Bureau Headquarters.

5. *Redelegation.* The authorities delegated herein may be redelegated in Bureau Headquarters but not below the level of chemist in the Chemical Branch.

Effective date: This order becomes effective on October 12, 1977.

STEPHEN E. HIGGINS,
Acting Director.

OCTOBER 4, 1977.

[FR Doc.77-29734 Filed 10-11-77;8:45 am]

[4810-25]

Office of the Secretary

[Supplement to Dept. Circular Public Debt Series—No. 23-77]

TREASURY NOTES OF SERIES F-1982 Interest Rate

OCTOBER 6, 1977.

The Secretary of the Treasury announced on October 5, 1977, that the interest rate on the notes described in Department Circular—Public Debt Series—No. 23-77, dated September 28, 1977, will be 7½ percent per annum. Accordingly, the notes are hereby redesignated 7½ percent Treasury Notes of Series F-1982. Interest on the notes

will be payable at the rate of 7½ percent per annum.

DAVID MOSCO,
Fiscal Assistant Secretary.

[FR Doc.77-29795 Filed 10-11-77;8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 495]

ASSIGNMENT OF HEARINGS

OCTOBER 6, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 106497 (Sub No. 141), Parkhill Truck Co., now assigned November 1, 1977, at Louisville, Ky., is canceled and transferred to Modified Procedure.

MC 130444, Nancy H. Nagle, now assigned November 21, 1977, at Richmond, Va., is canceled and transferred to Modified Procedure.

MC 60066 (Sub-No. 11), Bee Line Motor Freight, Inc., now assigned November 1, 1977, at Lincoln, Nebr., will be held in the Sixth Floor Hearing Room, New State Office Building, 391 Centennial Mall South.

MC 2202 (Sub-No. 528), Roadway Express, Inc., now assigned November 1, 1977, at Atlanta, Ga., will be held in Room 305, 1252 West Peachtree Street NW.

MC 140612 (Sub-No. 19), Robert F. Kazimour, now assigned November 2, 1977, at St. Louis, Mo., will be held in Court Room 3, 5th Floor, U.S. Courthouse & Customs, 1114 Market St.

MC 119792 (Sub-No. 61), Chicago Southern Transportation Co., now assigned November 3, 1977, at St. Louis, Mo., will be held in Court Room 3, 5th Floor, U.S. Courthouse & Customs, 1114 Market Street.

AB 43 (Sub-No. 27), Illinois Central Gulf Railroad Co., Abandonment Between Seely And Mande In Williamson County, Ill. and F.D. 28360, American Rail Heritage, Ltd.—Acquisition And Operation—Over The Illinois Central Gulf Railroad Co. Located In Williamson County, Ill., now assigned November 7, 1977 (1 week), will be held at the City Hall, 100 Tower Square Plaza, Marion, Ill., on November 7, 8, 10, and 11, 1977, and November 9, 1977, at the Marion Carnegie Library, 206 South Market Street, Marion, Ill.

MC 133025 (Sub-No. 157), Texas Continental Express, Inc., now being assigned January 17, 1978 (1 day) at Albuquerque, N. Mex. in a hearing room to be later designated.

MC 118130 (Sub-No. 76), South Eastern Xpress, Inc., now being assigned January 19, 1978 (2 days) at Dallas, Tex., in a hearing room to be later designated.

MC-F 13182, Newman Bros. Trucking Co.—Purchase—E.M. Keller & Co., Inc., and MC 120761 (Sub-No. 21), Newman Bros. Trucking Co., now being assigned January 23,

1978 (1 week) at Dallas, Tex., in a hearing room to be later designated.

MC 112801 (Sub-No. 193), Transport Service Co., now assigned October 13, 1977 in Chicago, Ill., is canceled and application dismissed.

MC 48315 (Sub-No. 7), Hopkins Motor Coach, Inc., now being assigned November 28, 1977 (1 week) for hearing in Salisbury, Md., in a hearing room to be later designated.

MC 134817 (Sub-No. 2), Owenton Express, Inc., now being assigned January 16, 1978 at Frankfort, Ky., in a hearing room to be later designated.

MC-F 13196, LTL Perishables, Inc.—Purchase—Benson Transport, Inc., and MC 135874 Sub 83, LTL Perishables, Inc., now being assigned January 25, 1978 (3 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 114211 (Sub-No. 297), Warren Transport, Inc., now being assigned January 23, 1978 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 142715 (Sub-No. 5), Lenertz, Inc., now being assigned January 19, 1978 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 133689 (Sub-No. 110), Overland Express, Inc., and MC 134477 (Sub-No. 160), Schanno Transportation, Inc., now being assigned January 17, 1978 (2 days), at St. Paul, Minn., in a hearing room to be later designated.

MC 42000 (Sub-No. 5), Texas Interstate Motor Express, Inc., now being assigned January 16, 1978 (1 week), at Austin, Tex., in a hearing room to be later designated.

MC 107912 (Sub-No. 18), Rebel Motor Freight, Inc., now being assigned December 12, 1977 (1 week), at Jackson, Miss., in a hearing room to be later designated.

MC 121630 (Sub-No. 5), Lemore Transportation, Inc., d.b.a. Royal Trucking Co., now being assigned November 21, 1977 (1 day), for continued hearing, in a hearing room to be later designated.

MC 119777 (Sub-No. 338), Ligon Specialized Hauler, Inc., now assigned October 13, 1977, at Dallas, Tex., is canceled and application dismissed.

AB 10 (Sub-No. 10), Wabash Railroad Co. & Norfolk & Western Railway Co., Abandonment Portion of Moberly Division and—Abandonment of Trackage Rights & Joint Trackage—Over Connecting Lines in the Counties of Brown, Adams & Hancock, Ill. and the city of Keokuk, Iowa now assigned November 2, 1977 at Carthage, Ill., will be held in Hancock County Cooperative Extension Service, 550 North Materson.

MC 112304 (Sub-No. 117), Ace Doran Hauling & Rigging Co., now assigned November 7, 1977 at St. Louis, Mo., will be held in Court Room 3 5th Floor, U.S. Courthouse & Customs, 1114 Market St.

MC 113325 (Sub-No. 146), Slay Transportation Co., Inc., now assigned November 8, 1977, at St. Louis, Mo., will be held in Court Room 3, 5th Floor, U.S. Courthouse & Customs, 1114 Market street.

MC 119619 (Sub-No. 98), Distributors Service Co., now assigned November 9, 1977, at St. Louis, Mo., will be held in Court Room 3, 5th Floor, U.S. Courthouse & Customs, 1114 Market Street.

MC 124511 (Sub-No. 30), John F. Oliver, now assigned November 10, 1977, at St. Louis, Mo., will be held in Court Room 3, 5th Floor, U.S. Courthouse & Customs, 1114 Market Street.

MC 133005 (Sub-No. 156), Texas-Continental Express, Inc., and MC 136786 (Sub-No. 115), Robco Transportation, Inc., now being assigned December 6, 1977 (1 day), for hearing in Omaha, Nebr., in a hearing room to be later designated.

MC 139876 (Sub-No. 4), A B C Transit Co., Inc., now being assigned December 7, 1977

(1 day), for hearing in Omaha, Nebr., in a hearing room to be later designated.

MC 140829 (Sub-No. 43), Cargo Contract Carrier Corp., now being assigned December 8, 1977 (2 days), for hearing in Omaha, Nebr., in a hearing room to be later designated.

MC 28060 (Sub-No. 34), Willers, Inc., d.b.a. Willers Truck Service, MC 107515 (Sub-No. 1069), Refrigerated Transport Co., Inc., and MC 140829 (Sub-No. 42), Cargo Contract Carrier Corp., now being assigned December 12, 1977 (2 days), for hearing in Omaha, Nebr., in a hearing room to be later designated.

MC 125951 (Sub-No. 21), Silvey Refrigerated Carriers, Inc., now being assigned December 14, 1977 (3 days), for hearing in Omaha, Nebr., in a hearing room to be later designated.

MC 41098 (Sub-No. 42), Global Van Lines, Inc., now assigned November 1, 1977, at Los Angeles, Calif., and will be held in Court Room 8529, U.S. Customs Court House, 300 North Los Angeles Street.

MC 142532 (Sub-No. 1), Sunshine Cartage Corp., now assigned November 28, 1977, at Miami, Fla., and will be held in the Florida Public Service Commission, Room 121, 8400 NW 52d Street.

AB 19 (Sub-No. 34), The Pittsburg And Western Railroad Co. and The Baltimore & Ohio Railroad Co. Abandonment Near Parker Landing and Mc. Jewitt In Armstrong, Clarion, Forest, Elk, and McKean Counties, Pa., now assigned November 7, 1977, at Kane, Pa., is canceled and application dismissed.

MC 112822 (Sub-No. 419), Bray Lines, Inc., now being assigned January 4, 1978 (3 days), at San Francisco, Calif., in a hearing room to be later designated.

MC 113388 (Sub-No. 109), Lester C. Newton Trucking Co., now being assigned November 14, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 113678 (Sub-No. 659), Curtis, Inc., now being assigned January 9, 1978 (2 weeks), at San Francisco, Calif., in a hearing room to be later designated.

MC 108676 (Sub-No. 103), A. J. Mettler Hauling & Rigging, Inc., and MC 123407 (Sub-No. 365), Sawyer Transport, Inc., now assigned November 1, 1977, at Buffalo, N.Y., will be held in Room 1440, Federal Building, 111 West Huron Street.

MC 116677 (Sub-No. 3), Sheridan Travel Bureau, Inc., now assigned November 2, 1977, at Buffalo, N.Y., will be held in Room 1440, Federal Building, 111 West Huron Street.

MC 116519 (Sub-No. 40), Frederick Transport Ltd., now assigned November 7, 1977, at Buffalo, N.Y., will be held in Room 1440, Federal Building, 111 West Huron Street.

MC 139579 (Sub-No. 4), George H. Golding, Inc., now assigned November 10, 1977, at Buffalo, N.Y., will be held in Room 1440, Federal Building, 111 West Huron Street.

MC 129600 (Sub-No. 28), Polar Transport, Inc., now assigned November 8, 1977 at Miami, Fla., and will be held in Room 228, Federal Office Building, 51 Southwest 1st Avenue.

MC 107012 (Sub-No. 232), North American Van Lines, Inc., now assigned November 14, 1977, at Omaha, Nebr., and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 124211 (Sub-No. 284), Hilt Truck Line, Inc., now assigned November 9, 1977 at Omaha, Nebr., and will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th and Dodge.

MC 142978, W. L. Davis, Inc., now assigned November 8, 1977, at Omaha, Nebr., and

will be held in Room 616, Union Pacific Plaza, 110 North 14th Street, 14th & Dodge.

MC 42710 (Sub-No. 13), Ben's Transfer & Storage Co., Inc., now assigned November 8, 1977, at Boise, Idaho, and will be held in Room 214, Bankruptcy Court, U.S. Post Office, North 8th & Bannock Streets.

No. 36616, Agrico Chemical Co., et al v- Seaboard Coast Line Railroad Co., now assigned November 16, 1977 at Tampa, Fla. and will be held in Room 412, Federal Building, 500 Zack Street.

MC 118159 (Sub-No. 205), National Refrigerated Transport, Inc., now assigned November 15, 1977, at Tampa, Fla., and will be held in Room 412, Federal Building, 500 Zack Street.

MC 115491 (Sub-No. 133), Commercial Carrier Corp., now assigned November 14, 1977, at Tampa, Fla., and will be held in Room 412, Federal Building, 500 Zack Street.

MC 105813 (Sub-No. 219), Belford Trucking Co., Inc., now assigned November 9, 1977, at Miami, Fla., and will be held in Room 228, Federal Office Building, 51 Southwest 1st Avenue.

MC 121644 (Sub-No. 2), S & W Freight Lines, Inc., now being assigned November 14, 1977 (1 week), for continued hearing at Sheraton North Lake Inn, I-285 and La Vista Road, Tucker (Atlanta), Ga.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-29781 Filed 10-11-77;8:45 am]

[7035-01]

[Notice No. 496]

ASSIGNMENT OF HEARINGS

OCTOBER 6, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

Correction¹

MC 134035 Sub 18, Douglas Trucking Co., now being assigned October 17, 1977 (2 days) at Dallas, Texas and will be held in Room 5A15-17, Federal Building, 1100 Commerce Street.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-29782 Filed 10-11-77;8:45 am]

[7035-01]

[Finance Docket Nos. 27972, 28164]

LOUISVILLE AND NASHVILLE RAILROAD CO.

Draft Environmental Impact Statement

SEPTEMBER 30, 1977.

Finance Docket No. 27972, Louisville and Nashville Railroad Company track-

¹ This notice corrects the number of hearing days.

age rights over Grand Trunk Western Railroad Company South Bend Subdivision between Munster, Lake County, Indiana and Thornton Junction, Cook County, Illinois; Finance Docket No. 28464, Louisville and Nashville Railroad Company construction of connecting track over Grand Trunk Western Railroad Company at Munster, Lake County, Indiana.

On August 30, 1977, the Commission's Section of Energy and Environment issued a draft environmental impact statement for the subject proceedings. Comments on the draft statement were requested on or before October 24, 1977.

Section 303 of the Railroad Revitalization and Regulatory Reform Act of 1976 requires that evidentiary hearings in Commission rail proceedings be completed within 180 days. The Commission may, in its discretion, extend the time period for a period of not more than 90 days.

In view of the above statutory time limitations, requests for extensions of the October 24, 1977, commenting period will not be possible.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-29779 Filed 10-11-77; 8:45 am]

[7035-01]

[Notice No. 235]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 12, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and transfer rules. 49 CFR Part 1132:

No. MC-FC 77309. By application filed October 3, 1977, MILLER FREIGHTWAYS, INC., 160 Governor Street, East Hartford, Conn. 06108, seeks temporary authority to transfer the operating rights of Wm. H. Mino Express, Inc., 160 Governor Street, East Hartford, Conn. 06108, under section 210a(b). The transfer to MILLER FREIGHTWAYS, INC., of the operating rights of Wm. H. Mino Express, Inc., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-29780 Filed 10-11-77; 8:45 am]

[7035-01]

[AB 12 (Sub-No. 56)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Brentham and Giddings in Washington, Fayette and Lee Counties, Tex.

SEPTEMBER 30, 1977.

The Interstate Commerce Commission hereby gives notice that: 1. The Commission's Section of Energy and Environment has prepared an environmental threshold assessment survey in the above-entitled proceeding in which it was concluded that the proceeding does not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321, et seq.

2. A notice setting forth this conclusion was served August 3, 1977, and no substantive comments in opposition, of an environmental nature, have been received by the Commission in response to said notice.

3. This proceeding is now ready for further disposition within the Office of Hearings or the Office of Proceedings as appropriate.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-29778 Filed 10-11-77; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[6210-01]

1

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Sent to FEDERAL REGISTER on October 4, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 12, 1977.

CHANGES IN THE MEETING: Postponement of the following open item until an undetermined date:

Proposed amendment to Subpart C of Regulation J (Collection of Checks and Other Items by Federal Reserve Banks), to be published for comment, proposing a regulatory framework for financial depository institutions using Federal Reserve automated clearing house facilities.

As so modified, the previously announced open items for this meeting are:

1. Policy statement concerning procedures for the early filing of retention applications or divestiture plans by bank holding companies with limited grandfather privileges.

2. Report to the Federal Deposit Insurance Corporation regarding the competitive factors involved in the proposed merger of Bank of Oglethorpe, Oglethorpe, Ga., with The Citizens Bank of Montezuma, Montezuma, Ga.

3. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

Dated: October 6, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S-1533-77 Filed 10-6-77; 2:41 pm]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 11, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th Floor Hearing Room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

1. Economic Analysis of the MidAmerica Changer Operation.

2. Projection of November Commission Agendas.

Portions closed to the public:

Enforcement Matters.

CONTACT PERSON FOR MORE INFORMATION:

Jean Webb, 254-6314.

[S-1538-77 Filed 10-6-77; 3:47 pm]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., October 14, 1977.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Surveillance Briefing.

CONTACT PERSON FOR MORE INFORMATION:

Jean Webb, 254-6314.

[S-1539-77 Filed 10-6-77; 3:47 pm]

[6712-01]

4

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 13, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

General—1—Amendment of the summary decision procedure (§ 1.251) to permit the fil-

ing of a motion at any time, with the permission or upon the invitation of the presiding officer.

General—2—Position Reallocation for Fiscal Year 1978.

General—3—Petition for waiver of the importation cutoff date in Section 15.115, filed by L.J.N. Toys, Ltd.

Safety and Special Radio Services—1—Revision of rules in the Personal Radio Services (Docket No. 20120).

Common Carrier—1—Tariff filings for SCAN and Series 6000.

Common Carrier—2—Waiver request filed by A.T. & T. on July 1, 1977 in response to the Commission's decision in Docket No. 18128, Private Line Rate Case, 61 FCC 2d 587 (1976) regarding the carrier's Series 1000 (Private Line Telegraph) service wherein A.T. & T. seeks permission to depart from establishing a full-cost-rate structure envisioned in Docket No. 18128.

Common Carrier—3—Petitions for reconsideration of grants to Arizona Mobile Telephone Co., et al., for Domestic Public Land Mobile Radio Service facilities and Application for review of order staging the grants.

Common Carrier—4—Reconsideration of Section 214 Grants for Dataphone Digital Service and Dataphone Switched Digital Service.

Common Carrier—5—Reconsideration of Docket No. 20452, A.T. & T. Interconnection Facilities for IRCs, and petitions to reject and suspend A.T. & T. tariffs filed to implement Commission's Decision in Docket No. 20452.

Cable Television—1—Order adopting rules of procedure relating to petitions for orders to show cause involving cable television systems.

Cable Television—2—Petition for modification of Mass. Cablevision, Inc. Certificate of Compliance and/or Further Proceedings filed by Cape Cod Cablevision Co., franchised cable operator at Falmouth, Mass.

Cable Television—3—Petition for special relief filed jointly by KMIR-TV and KPLM-TV, Palms Springs, Calif. (CSR-1087).

Cable Television—4—Petition for special relief filed by Springfield Television Broadcasting, Inc., licensee of Television Broadcast Station WRLP, Greenfield, Mass. (CSR-680).

Assignment of License and Transfer of Control—1—Application for the voluntary transfer of control of Rocket Radio, Inc., licensee of station WPPM, Fort Valley, Ga., from Paul Reehling, Mary Jo Reehling, and Mary Suelzer to Radio Fort Valley, Inc. (BTC-8253).

Renewal—1—Report on the processing of renewals under employment reporting and processing standards.

Aural—1—Application for construction permit filed by Grindstone Broadcasting Corp. (WDEA-FM), Ellsworth, Maine (BPH-10083); petition to deny filed by Penobscot Broadcasting Corp. (WPBC), Bangor, Maine.

Aural—2—Application for construction permit filed by Por Favor, Inc. (KUKA), San Antonio, Tex.

Aural—3—Applications for deleted facilities of Station KISN, Vancouver, Wash.

Aural—4—Applications for the AM facilities of former station KOIL, Omaha, Nebr.; ap-

lications for new FM station to operate on the channel formerly assigned to KEFM, Omaha, Neb.

Revision—1—Application of Margaret S. Downey for a CP for a new 100-watt UHF translator in Springfield, Mass.; petitions to deny by 3 cable television systems (BFTT-3079).

Broadcast—1—Report and Order amending Section 74.1266 to permit unattended operation of FM translator stations (Docket No. 21020).

Broadcast—2—Application for review of the Report and Order which granted an FM channel assignment to Ogallala, Neb. (Docket No. 20070).

Broadcast—3—Order of Clarification designating frequency offset for Altoona, Pa., drop-in (Docket No. 20418).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone 202-632-7260.

Issued: October 6, 1977.

[S-1536-77 Filed 10-6-77;3:46 pm]

[6712-01]

5

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: Follows 9:30 a.m. Open Meeting, Thursday, October 13, 1977.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Applications for review, filed by Melvin Pulley and by the Broadcast Bureau in the Guitman, Miss., FM proceeding (Docket Nos. 20196 and 20197).

Hearing—2—Briefs filed pursuant to Commission's Memorandum Opinion and Order accepting a late waiver of hearing in the San Diego, Calif., program production show cause proceeding (Docket No. 20130).

Hearing—3—Motion for special relief in the San Jose, Calif., comparative renewal FM proceeding (Docket Nos. 20611-12).

Hearing—4—Application for review of the Review Board's Decision granting the renewal application of International Fueling Co., Inc. (International), denying the application of Technical Aeroservice, Inc. (Technical), and dismissing the application of Jenney Beechcraft, Inc. (Jenney), for an Aeronautical Advisory Station to serve L. G. Hanscom Field, Bedford, Mass.; and Motion to Strike Safety and Special Radio Services Bureau's Comments (Docket Nos. 20853, 20854, and 20855).

Hearing—5—Two applications for review in the Sumiton, Ala., new standard broadcast station proceeding (Docket No. 19204).

Hearing—6—Draft Decision in the Apple Valley, Calif., revocation proceeding involving BIA Enterprises, licensee of KAVR and KAVR FM (Docket No. 19344).

General—1—Application for review of a letter from the General Counsel to White Mountain seeking orders to ask the Court for a remand of appeal pending *White Mountain Broadcasting Co. Inc. v. FCC*, D.C. Cir. No. 76-2099.

Common Carrier—1—Closure of Common Carrier Bureau Office in St. Louis, Mo.

Renewal—1—Petitions to deny renewal ap-

plication of Lee Broadcasting Corporation, licensee of standard broadcast station WTUP, Tupelo, Miss., filed by North Mississippi Coalition for Better Broadcasting (NMCBB) and Jack Benney et al. (Benney).

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, telephone 202-632-7260.

Issued: October 6, 1977.

[S-1537-77 Filed 10-6-77;3:46 pm]

[6715-01]

6

FEDERAL ELECTION COMMISSION.

DATE AND TIME: Thursday, October 13, 1977, at 2 p.m.

PLACE: 1325 K Street NW., Washington, D.C.

STATUS: Portions of this meeting will be open to the public and portions will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

- I. Future meetings.
- II. Correction and approval of minutes—September 29, 1977.
- III. Appropriations and budget.
- IV. 2 U.S.C. section 455, Commission Memorandum No. 1487.
- V. Pending legislation.
- VI. Classification actions.
- VII. EEO plans.
- VIII. Liaison with other Federal agencies.
- IX. Report on pending litigation.
- X. Routine administrative matters.

Portions closed to the public (executive session):

- Audit matters.
- Compliance.
- FOIA appeal.
- Personnel.

PERSON TO CONTACT FOR INFORMATION:

David Fiske, Press Officer, telephone 202-523-4065.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1535-77 Filed 10-6-77;3:46 am]

[6740-02]

7

OCTOBER 1, 1977.

FEDERAL ENERGY REGULATORY COMMISSION.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552b.

TIME AND DATE: October 1, 1977, 12:40 p.m.

PLACE: 825 North Capitol Street NE.

STATUS: Open.

MATTER TO BE CONSIDERED: Approval of regulations to be issued jointly with the Secretary of Energy relating to the transfer of pending proceedings.

CONTACT PERSON FOR MORE INFORMATION:

Lois D. Cashell, Acting Secretary, telephone 202-275-4166.

[S-1541-77 Filed 10-6-77;4:46 am]

[6740-02]

8

OCTOBER 1, 1977.

FEDERAL ENERGY REGULATORY COMMISSION.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552b.

TIME AND DATE: October 3, 1977, 10 a.m.

PLACE: 825 North Capitol Street NE.

STATUS: Open.

MATTER TO BE CONSIDERED:

1. Announcement of appointments.
2. Approval of continuity document.
3. Approval of delegations to staff.
4. Other administrative matters.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

[S-1542-77 Filed 10-6-77;4:46 pm]

[6740-02]

9

OCTOBER 3, 1977.

FEDERAL ENERGY REGULATORY COMMISSION.

The following notice of meeting is published pursuant to Section 3(a) of the Government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552b.

TIME AND DATE: October 5, 1977, 10 a.m.

PLACE: 825 North Capitol Street NE.

STATUS: Open.

MATTER TO BE CONSIDERED: Agenda.

NOTE.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information, room 1000.

GAS AGENDA, REGULAR MEETING,
OCTOBER 5, 1977

G-1.—Docket No. RP72-133 (PGA77-2), United Gas Pipe Line Co.

G-2.—Docket Nos. CP77-419, et al., Tennessee Gas Pipeline Co., a division of Tenneco Inc., et al.

G-3.—Dockets Nos. CP76-492, et al., National Fuel Gas Supply Corp., et al.

D-4.—Docket No. CP77-603, Trunkline Gas Co.

G-5.—Docket No. CP77-410, Sea Robin Pipeline Co. Docket No. CP77-494, Texas Eastern Transmission Corp. and Columbia Gulf Transmission Co.

G-6.—Docket No. CP75-287, Northwest Pipeline Corp. Docket No. CP75-110, Washington Natural Gas Co.

G-7.—Docket No. CP-77508, Northern Natural Gas Co.

POWER AGENDA, REGULAR MEETING,
OCTOBER 5, 1977

P-1.—Docket No. ER77-581, Kansas Gas & Electric Co.

P-2.—Docket No. ER76-285, Public Service Co. of New Hampshire.

A-1.—Other administrative matters.

KENNETH F. PLUMB,
Secretary.

[S-1543-77 Filed 10-6-77;4:47 pm]

[6720-01]

10

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 192, page 54056, Tuesday, October 4, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., October 6, 1977.

STATUS: Open Meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

CHANGES IN THE MEETING:

THE FOLLOWING ITEM HAS BEEN CHANGED FROM THE OPEN TO THE CLOSED PORTION OF THE MEETING:

Consideration of Cost-of-Living Adjustment for Bank Retirees.

THE FOLLOWING ITEM HAS BEEN ADDED TO THE AGENDA FOR THE OPEN PORTION OF THE MEETING:

Consideration of Indianapolis Bank move to Merchants Plaza.

THE FOLLOWING ITEM HAS BEEN WITHDRAWN FROM THE AGENDA FOR THE OPEN MEETING:

Application to Increase Accounts of an Insurable Type (Merger); Cancellation of Membership and Insurance—United Savings and Loan Association of Palestine, Palestine, Illinois into Illinois Guarantee Savings and Loan Association, Effingham, Illinois.

No. 78, October 6, 1977.

[S-1544-77 Filed 10-7-77;8:45 am]

[6750-01]

11

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 42, October 6, 1977, Page No. 54526.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 12, 1977.

CHANGES IN THE AGENDA: The Federal Trade Commission has added the following matters to the agenda of its October 12, 1977, open meeting to begin at 9 a.m.

- (1) Consideration of Proposed Trade Regulation Rule on Disclosure Requirements and Prohibitions Concerning Franchising, Previously Published in 39 FR 30360 (August 22, 1974).
- (2) Report from General Counsel on Congressional Matters.

[S-1534-77 Filed 10-6-77;2:41 pm]

[7545-01]

12

NATIONAL LABOR RELATIONS BOARD.

TIME AND DATE: 10 a.m., Wednesday, October 12, 1977.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue NW., Washington, D.C. 20570.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public:

Status of Task Force recommendations.

Portions closed to the public:

Consideration of applicant qualified for appointment to Administrative Law Judge.

Consideration of conversion of Subregion 38 (Peoria, Ill.) to full region status.

Consideration of supervisory training conference for Board supervisors.

Procedures in respect to three-year employee commitment.

Consideration of personnel matters in Office of Executive Secretary.

CONTACT PERSON FOR MORE INFORMATION:

John C. Truesdale, Esq., Executive Secretary, Washington, D.C. 20570. Telephone Number 202-254-9430.

[S-1540-77 Filed 10-6-77;4:06 pm]

[8010-01]

13

SECURITIES AND EXCHANGE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENTS: 42 FR 53717, October 3, 1977 (and issue to be printed on October 6, 1977).

PREVIOUSLY ANNOUNCED TIMES AND DATES: Thursday, October 6, 1977, 1:30 p.m. Wednesday, October 12, 1977, at 10 a.m.

CHANGES IN THE MEETING: Rescheduling of closed meeting agenda.

The following item originally scheduled for the closed meeting at 1:30 p.m. on October 6, 1977 has been rescheduled for 9 a.m. on October 12, 1977: Discussion of regulatory matters bearing enforcement implications.

Additional staff consideration of the matter is required.

In addition, the closed meeting previously scheduled for 10 a.m. on Wednesday, October 12, 1977, will be held at 9 a.m. on Thursday, October 13, 1977, subject to the deletion of the following items:

Institution of administrative proceedings.

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel, voted to approve the above changes and determined that no earlier notice thereof was possible.

OCTOBER 6, 1977.

[S-1546-77 Filed 10-7-77;11:01 am]

[8120-01]

[Meeting No. 1182]

14

TENNESSEE VALLEY AUTHORITY.

TIME AND DATE: 10:30 a.m., Thursday, October 13, 1977.

PLACE: Conference Room B-32, West Tower, 400 Commerce Avenue, Knoxville, Tenn.

STATUS: Open.

MATTERS TO BE CONSIDERED:

A—PERSONNEL ACTIONS

1. Change of status—Harry S. Fox from Acting Director to Director of Power Production, Office of Power, Chattanooga, Tenn.

2. Change of status from temporary to permanent—Jack R. Calhoun, Assistant Director of Power Production (Nuclear), Office of Power, Chattanooga, Tenn.

3. Change of status from temporary to permanent—Clem C. Schonhoff, Assistant Director of the Division of Power Production, Office of Power, Chattanooga, Tenn.

B—CONSULTING AND PERSONAL SERVICE CONTRACTS

1. Consulting contract with John B. Glude, Seattle, Wash.—Division of Forestry, fisheries, and Wildlife Development.

2. Renewal of consulting contract with Dr. Kenneth L. Dickson, Christiansburg, Va.—Division of Forestry, Fisheries, and Wildlife Development.

3. Renewal of consulting contract with Dr. John Cairns, Jr., Blacksburg, Va.—Division of Forestry, Fisheries, and Wildlife Development.

4. Renewal of consulting contract with Dr. Ulrich C. Luft, Albuquerque, N. Mex.—Division of Medical Services.

5. Renewal of consulting contract with Dr. Leonard A. Sagan, Palo Alto, Calif.—Division of Environmental Planning.

6. Consulting contract with Dr. Khalil Hosny Mancy, Ann Arbor, Mich.—Division of Environmental Planning.

7. Renewal of consulting contract with Sheppard T. Powell Associates, Baltimore, Md.—Office of Engineering Design and Construction.

8. Renewal of consulting contract with Weston Geophysical Engineers, Inc., Weston, Mass.—Office of Engineering Design and Construction.

C—PURCHASE AWARDS

1. Req. No. 551325—Necessary labor, materials, tools, equipment, supplies, and services to construct pumping stations for South Chickamauga Creek.

2. Req. No. 822048—Electrical penetrations for Hartsville and proposed Phipps Bend Nuclear Plants.

3. Req. No. 543371—Indefinite quantity term contract for carbon steel, warehouse quantities for any TVA nuclear project.

4. Amendment to Contract 76X72-71332—Indefinite quantity term contract for carbon steel, warehouse quantities for any TVA nuclear project.

5. Amendment to Contract 73X39-62032—Rental, purchase, and maintenance of Xerox equipment, accessories, and supplies for any TVA project or warehouse.

6. Contract No. B-553581—Rental, purchase, and maintenance of Xerox equipment, accessories, and supplies for any TVA project or warehouse.

7. Req. No. 145677—Tractor-scraper units for Allen, John Sevier, Kingston, and Shawnee Steam Plants.

8. Req. No. 145939—Indefinite quantity term contract for light distillate oil for Colbert, Johnsonville, Gallatin, and Allen Steam Plants.

9. Amendment to Contracts 73060-75210 and 75K60-84840-1 with General Electric Co., Chattanooga, Tenn., for nuclear steam supply systems for Hartsville and the proposed Phipps Bend Nuclear Plants.

10. Req. No. 822718—Flexible hose assemblies for Sequoyah and Watts Bar Nuclear Plants.

11. Amendment to Contract 76K50-87403 with J.E. Serrine Co. for architect-engineering services for design of office and service buildings for Hartsville Nuclear Plant.

12. Req. No. 820719—Relief valves for Hartsville and proposed Phipps Bend Nuclear Plants.

13. Amendment to Contract 75X38-76352-5—Indefinite quantity term contract for WABCO Construction and Mining Equipment replacement parts for any TVA project or warehouse.

14. Req. No. 822107—Butterfly valves for Hartsville and proposed Phipps Bend Nuclear Plants.

15. Amendment to Contract 77P34-539829—Indefinite quantity term contract for genuine Diamond Power soot blower parts for any TVA project or warehouse.

16. Amendment to Contract 75K3-55479 with Control Data Corp., Rockville, Md., for computer time sharing and

remote batch processing services for Computing Services Branch.

17. Req. No. 822373—Air-conditioning units for Hartsville and proposed Phipps Bend Nuclear Plants.

18. Req. No. 542725—Air separation plant including installation for ammonia from coal projects, National Fertilizer Development Center, Muscle Shoals, Ala.

19. Req. No. 821985—2-inch and under gate, globe, check, and plug valves for Hartsville and proposed Phipps Bend Nuclear Plants.

20. Req. No. 144822—Indefinite quantity term contract for services of turbine and generator service engineers, mechanics, etc., for various power plants.

21. Req. No. 144874—Indefinite quantity term contract for services of turbine and generator service engineers, mechanics, etc., for various power plants.

22. Req. No. 551313—Construction pool equipment.

23. Amendment to indefinite quantity term Contract 7P70-141329 with Amoco Oil Co. for light distillate oil for Colbert, Johnsonville, Gallatin, and Allen Steam Plants.

24. Req. No. 554653—Steel sheet piling for Pickwick Landing lock.

25. Req. No. 820559—6.9-kV station service bus system for Hartsville and proposed Phipps Bend Nuclear Plants.

26. Req. No. 821952—Water chillers for Hartsville and proposed Phipps Bend Nuclear Plants.

27. Amendment to Contract 69P-87-T1 with Peabody Coal Co. for coal for TVA steam plants, to provide for construction and operation of coal preparation plant.

28. Amendments to Contract 72P-40-T18 with Falcon Coal Co., Inc., including purchase of additional coal.

29. Req. No. 529813—Coal for the Division of Chemical Operations.

30. Req. No. 42—Coal for TVA steam plants.

31. Req. No. 98-42—Movement of coal by rail, rail-to-barge transfer services, and barging services for Shawnee, Johnsonville, and Widows Creek Steam Plants.

D—PROJECT AUTHORIZATIONS

1. No. 3273—Muscle Shoals Reservation wastewater treatment system.

2. No. 3274—Assessment of load management potential for residential water heating and space conditioning on the TVA system.

E—FERTILIZER ITEMS

None.

F—POWER ITEMS

1. Letter agreement with city of Florence, Ala., and deed to city of Florence, Ala.—Sale of portion of TVA's Elgin 161-kV substation site.

2. Letter agreement with The Carborundum Co., Jacksboro, Tenn., and deed and bill of sale to The Carborundum Co.—Sale of TVA's Jacksboro 161-kV substation.

3. Lease and amendatory agreement with Lawrenceburg, Tenn., covering arrangements for 46-kV delivery at TVA's Lawrenceburg district substation.

4. Lease and amendatory agreement with Tusculum, Ala., covering arrangements for 46-kV delivery at TVA's Tusculum 46-kV substation.

5. New power contract with Joe Wheeler Electric Membership Corp.

6. Amendment to letter agreement with The Mead Corp.—Firm contract demand increase.

7. Letter agreement with East Kentucky Power Cooperative for short-term power.

8. Supplement to letter agreement with Nuclear Regulatory Commission covering arrangements for use of TVA reactor simulator facilities for training purposes.

G—REAL PROPERTY TRANSACTIONS

1. Resolution relating to sale of 50-year easement for an office building site, affecting approximately 0.5 acre of Muscle Shoals Reservation land—tract X2NPT-7B.

2. Resolution relating to grant of permanent easement for water transmission line, affecting approximately 0.92 acre of Upper Bear Creek Dam Reservation land—tract XTBCUR-2P.

3. Resolution relating to reconveyance of easement over tract XCR-672SP and grant of permanent easement over tract XCR-675SP for sewer line, water line, and lift station—Chickamauga Reservoir.

4. Resolution relating to reconveyance to TVA of public access area on Watts Bar Reservoir from the State of Tennessee—tract XTWBR-7.

5. Resolution relating to grant of permanent easements to the city of Tullahoma, Tenn., affecting approximately 37.58 acres of Normandy Reservoir land—tracts XTNRMR-3P and XTNRMR-1WT.

6. Agreement with Southern Railway Co., relating to track relocation and construction at Roane County, Tenn., 500-kV substation.

7. Bill of sale and quitclaim deed to the city of Columbus, Miss.—section of TVA's West Point-Columbus No. 1 (de-energized) 46-kV transmission line.

8. Supplemental agreement with Monroe County, Tenn.—Highway adjustments in Tellico Reservoir.

9. Filing of condemnation suits.

H—UNCLASSIFIED

1. Resolution relating to reports to Nuclear Regulatory Commission.

2. Interagency agreement between the U.S. Environmental Protection Agency and the Tennessee Valley Authority—mussel study.

3. Resolution relating to expenditures for entertainment of official visitors.

4. Resolution authorizing the Comptroller to write off certain uncollectible accounts receivable.

5. Resolution relating to contribution rates to the TVA Retirement System for fiscal year 1978.

6. Resolution relating to payment from power proceeds for fiscal year 1977 to the Treasury of the United States.

7. Resolution relating to short-term borrowing from the Treasury.

8. Approval of plans of Marshall County Board of Education for construction of outfall at Tennessee River Mile 363.0R for a sewage treatment system.

9. Agreement with Environmental Research and Technology, Inc., concerning sulfur oxide pollution study.

10. Supplement to agreement with the Beech River Watershed Development Authority relating to the water control system on the Beech River and future regional development.

11. Revised policy statement—Selection.

12. Interim budget plan for fiscal year 1978.

CONTACT PERSON FOR MORE INFORMATION:

[S-1545-77 Filed 10-7-77; 9:48 am]

John Van Hol, Director of Information, or a member of his staff can respond to requests for information about this meeting. Call 615-632-3257, Knoxville, Tenn. Information also is available at TVA's Washington Office, 202-566-1401.

Dated: October 6, 1977.

Registered
Federal Paper

WEDNESDAY, OCTOBER 12, 1977
PART II



DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE

Office of Education

■

DIRECT, DISCRETIONARY
GRANT PROGRAMS

Closing Dates for Receipt of Applications
for Fiscal Year 1978

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DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Office of Education

DIRECT, DISCRETIONARY GRANT
PROGRAMSClosing Dates for Receipt of Applications
for Fiscal Year 1978

The purpose of this notice is to inform potential applicants of closing dates for the receipt of applications for grants by the U.S. Office of Education. For the convenience of potential applicants, this notice includes most programs for which grant applications are filed with the Office of Education. Closing dates are also included for the limited number of programs in which non-procurement contracts are awarded on the basis of applications. The only programs omitted from this notice are those for which it is not yet possible to specify a closing date because program regulations governing the award of grants are still being developed. Closing dates for these programs will be published as soon as possible.

Closing dates for a limited number of programs listed in this notice have been published previously. These closing dates are being republished in this notice, without change, so that potential applicants will be provided a single, comprehensive listing of as many program closing dates as possible. Under heading I, programs listed that have previously published their closing dates are designated by an asterisk.

Program closing dates are set forth in this notice in chronological order.

Applicants which decide to apply under one or more programs covered by this notice should take care to follow the instructions set forth under the closing date for each program, under heading III below. Closing dates and specific procedures vary from program to program. The instructions under each program's closing date inform applicants of (1) how to obtain application forms; (2) the regulations which govern the program; (3) whom to contact for additional information; and (4) other procedures to follow.

The Office of Education suggests that applicants consider sending applications by registered or certified mail. Under heading III below, separate dates are specified under each program for the use of registered or certified mail. Each of these dates is in advance of the regular closing date (specified under heading I, below) for each program. If the application is sent by registered or certified mail by the appropriate advance date specified for the use of registered or certified mail for each program under heading III below, the applicant is protected from unexpected circumstances causing the application to arrive late. If registered or certified mail is not used, and a new application arrives late, it cannot be accepted, no matter what unforeseen circumstances may have caused its lateness.

Under heading I below, a list is set forth of all closing dates contained in this notice. Specific instructions related

to each of these closing dates are set forth under heading III below, with programs listed in the same order as under heading I. Under heading II is a list of programs for which closing dates are not being announced at this time because program regulations governing applications are still being developed. Closing dates for these programs will be published as soon as possible.

The U.S. Office of Education is publishing this single notice of closing date to make it easier for applicants to submit their applications. In connection with this attempt to simplify its procedures, OE is also concerned with removing some of the often burdensome reporting requirements placed on grantees. Consequently, the Commissioner of Education has established a policy which limits the frequency of reporting in 108 of the Office of Education's discretionary programs to one annual fiscal report, one annual program report, and one final report, except where otherwise specifically required by statute or regulation. A study will be undertaken in FY 1978 to determine if any programs should be given an exemption to this policy. Upon its conclusion, OE will publish in the FEDERAL REGISTER any necessary regulation amendments and a list of all programs authorized for annual data collection only, accompanied by the approved form numbers, as well as a list of the authorized exemptions stipulating how frequently those exempted programs are authorized to collect fiscal and/or program data. The authorized forms associated with these exemptions will also be published at the same time. In a further effort to reduce reporting burdens to local educational agencies, State educational agencies, and institutions of higher education, the Commissioner has also directed a study of the most appropriate dates for requesting this information. Reporting dates determined as a result of this study will also be published in the subsequent announcement. Fiscal and program reports provided for in the subsequent notice will be the only such reports authorized by the Office of Education, and educational officials who are asked to provide information which is inconsistent with the notice should immediately contact the Executive Deputy Commissioner for Support Services to determine whether the additional data and information requested has been authorized by the Commissioner of Education.

The Office of Education anticipates that the second announcement will be published in the FEDERAL REGISTER in the second half of FY 1978.

I. New closing dates and closing dates announced previously

CFDA No.	Program title	Closing date
*13.434A and B	Handicapped personnel preparation	Oct. 14, 1977
*13.435, 13.436 and 13.437, 13.438	Fulbright-Hays training grants	Nov. 4, 1977
*13.439	Handicapped research and demonstration (1st cycle)	Nov. 8, 1977
*13.440	Handicapped research and demonstration (2nd cycle)	Mar. 17, 1978
*13.441A	Handicapped children's early education program (new awards)	Nov. 9, 1977
*13.441B	Bilingual education—basic programs (new awards and noncompeting continuations)	Nov. 15, 1977
*13.442E	Bilingual education—training program (new awards and noncompeting continuations)	Do.
*13.443G	Bilingual education—support services (new awards and noncompeting continuations)	Do.
*13.444F	Bilingual education—fellowship program (new awards and noncompeting continuations)	Do.
*13.445H	Bilingual education—contracts for coordination of technical assistance by State educational agencies (noncompeting continuations)	Do.
*13.446H	Graduate and undergraduate—international studies program (new awards)	Nov. 18, 1977
*13.447C	Gifted and talented model projects (competitive contracts)	Nov. 21, 1977
*13.448A	Program for the gifted and talented	Do.
*13.449A	Gifted and talented (competitive continuations)	Do.
*13.450A and B	Handicapped children's early education program—outreach projects (noncompeting continuations)	Nov. 29, 1977
*13.451A and B	Vocational education graduate leadership development program: Institutional applications	Nov. 28, 1977
*13.452A	Individual applications	Feb. 6, 1978
*13.453	Handicapped research and demonstration field initiated studies	Dec. 7, 1977
*13.454	Library training program	Dec. 9, 1977
*13.455	Library research and demonstration program	Do.
*13.456	Metric education program	Dec. 12, 1977
*13.457	Consumer education program	Dec. 16, 1977
*13.458	Foreign language and area studies fellowship program	Dec. 20, 1977
*13.459	Ethnic heritage studies program	Do.
*13.460	Arts education program	Dec. 29, 1977
*13.461	Educational opportunity centers	Jan. 1, 1978
*13.462	Special services for disadvantaged students	Do.
*13.463	Talent search	Do.
*13.464	Upward bound	Do.
*13.465	Foreign language and area studies research program	Jan. 6, 1978
*13.466A and B	Follow through—local project grants and sponsor grants	Jan. 9, 1978
*13.467	Follow through—technical assistance	Do.
*13.468	Community education program	Jan. 11, 1978
*13.469	Women's educational equity act program (New awards)	Jan. 14, 1978
*13.470	(Noncompeting continuations)	Apr. 11, 1978
*13.471	Bilingual vocational instructor training program	Jan. 13, 1978
*13.472A and B	International studies centers and graduate and undergraduate international studies programs (noncompeting continuations)	Jan. 16, 1978
*13.473	Public service fellowships and institutional grants	Do.
*13.474	Cooperative education program	Jan. 17, 1978
*13.475H	Right to Read state leadership and training program	Jan. 18, 1978
*13.476	Career education program	Jan. 20, 1978
*13.477	Environmental education program	Jan. 23, 1978
*13.478	Indian fellowship program	Jan. 25, 1978
*13.479	Bilingual vocational training program	Do.

CFDA No.	Program title	Closing date
13.435 A & B	Special programs and projects to improve educational opportunities for Indian children	Jan. 27, 1978
13.436	Indian education—grants to non-local educational agencies	Do.
13.437	Special programs relating to adult Indian education	Jan. 31, 1978
13.438G	Right to read reading improvement projects (new awards)	Feb. 3, 1978
13.439	Indian elementary and secondary school assistance—grants to local educational agencies	Feb. 10, 1978
13.440	Vocational education teacher certification fellowship program	Feb. 17, 1978
13.441	College library resources program	Feb. 21, 1978
13.442A	Handicapped children's early education model demonstration projects (noncompeting continuations)	Feb. 24, 1978
13.443B	Handicapped children's early education program—outreach projects (new awards)	Mar. 1, 1978
13.444	Handicapped children's early education program—state implementation grants	Mar. 13, 1978
13.445	Domestic mining and mineral and mineral fuel conservation—fellowships	Mar. 17, 1978
13.446	Right to read reading academy program (noncompeting continuations)	Apr. 3, 1978
13.447	Right to read reading improvement projects (noncompeting continuations)	Do.
13.448	Strengthening research library resources program	Apr. 11, 1978
13.449	Handicapped children's early education program—state implementation grants (new awards and noncompeting continuations)	Apr. 14, 1978
13.450	Teacher corps "Twelfth Year" projects	May 26, 1978

*Closing date previously announced.

II. Closing dates for the following programs are not announced in this notice because program regulations and application packages are being developed

CFDA No.	Program title
13.450	Graduate and professional study fellowships and institutional grants
Number to be assigned	Law clinical assistance program
13.406	Civil Rights Act—Title IV
13.525, 526, 528, 529, 530, 532, 589, 590, 13.445D	Emergency school aid programs
13.446A	Handicapped research and demonstration model centers
13.447	Handicapped media services and captioned films
13.448A	Handicapped special learning disabilities
13.449	Handicapped regional education program (noncompeting continuations)
Number to be assigned	Service learning centers
13.416	Teacher centers program
13.454	Strengthening developing institutions
13.457	Community services and consulting education
13.458A and B	Educational broadcast ing
13.489C	Teacher corps

III. NOTICES OF CLOSING DATES FOR A MAJORITY OF OE DISCRETIONARY GRANT PROGRAMS.

CFDA 13.451 HANDICAPPED PERSONNEL PREPARATION

Closing Date—October 14, 1977

Notice is hereby given that, pursuant to the authority contained in sections 631, 632, and 634 of the Education of the Handicapped Act (20 U.S.C. 1431, 1432, and 1434), the U.S. Commissioner of Education has established a closing date of October 14, 1977, for receipt of applications for new and continuation training grants under Part D of the Act.

Applications must be received by the U.S. Office of Education Application Control Center on or before the aforementioned date.

A. Availability of funds and estimated number and amount awards. The estimated total amount of funds available under this grant program for Fiscal Year 1978 is \$45,750,000. An estimated 775 grants will be awarded, with an average totaling \$62,000.

B. Applications sent by mail. An application sent by mail should be addressed

as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.451. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than October 11, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the Office of Education.

C. Hand-delivered applications. An application to be hand-delivered must be delivered to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted by the Application Control Center after 4 p.m., Washington, D.C., time on the closing date.

D. Program information and forms. Information and applications may be obtained from the Division of Personnel Preparation, Bureau of Education for the Handicapped, U.S. Office of Education, Washington, D.C. 20202.

E. Applicable regulations. Awards under the Handicapped Personnel Preparation program will be governed by the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the regulations which apply specifically to this program.

(45 CFR Parts 121 and 121f. Amendments to Part 121f were published in the FEDERAL REGISTER on April 19, 1977, 42 FR 20298-20300.)

(20 U.S.C. 1431, 1432, and 1434.)

CFDA-13.438A, 13.439A, 13.440A, 13.441A—
FULBRIGHT-HAYS TRAINING GRANTS

Closing Date—November 4, 1977

Notice is hereby given that pursuant to the authority contained in section 102 (b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2452(b)(6)), applications are being accepted from eligible institutions for Fulbright-Hays training grants.

Eligible applicants for Fulbright-Hays training grants are as follows:

A. For the Faculty Research Abroad program, accredited institutions of higher education.

B. For the Doctoral Dissertation Research Abroad program, accredited institutions of higher education which offer doctoral programs in the fields of foreign languages and area studies.

C. For the Group Projects Abroad program, accredited institutions of higher education. State departments of education, private non-profit educational organizations, and consortiums of such entities.

D. For the Foreign Curriculum Consultants program, accredited institutions of higher education. State departments of education, local public school systems, private non-profit educational organizations, and consortiums of such entities.

Applications must be received by the U.S. Office of Education Application Control Center on or before November 4, 1977.

A. Applications sent by mail. An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.438A Faculty Research Abroad; 13.439A Foreign Curriculum Consultants; 13.440A Group Projects Abroad; or 13.441A Doctoral Dissertation Research Abroad. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail no later than October 31, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

B. Hand-delivered applications. An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C., time except

Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. Program information and forms. Information and application forms may be obtained from the International Studies Branch, Division of International Education, Bureau of Higher and Continuing Education, Office of Education, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202.

D. Estimated Distribution of Program Funds. The amount of funds available for the Fulbright-Hays Training programs for Fiscal Year 1978 will be approximately \$3,000,000 in addition to the equivalent of \$1,830,000 in special foreign currencies. The tentative number of awards for each program and their estimated average costs are as follows: Faculty Research Abroad—90 fellowships at an average cost of approximately \$10,400; Doctoral Dissertation Research Abroad—125 fellowships at an average cost of approximately \$9,300; Group Projects Abroad—45 grants at an average cost of approximately \$52,600; and Foreign Consultants—25 grants at an average cost of \$13,000.

The above statement with regard to the expected distribution of funds is an estimate and is for information purposes only; it does not bind the Office of Education except as may be required by applicable statute and regulation.

E. Applicable regulations. Awards made pursuant to this notice will be subject to the Office of Education General Provisions Regulations (45 CFR Part 100a) and the regulations for Modern Foreign Language Training and Area Studies (45 CFR Part 148).

(22 U.S.C. 2452(b) (6).)

CFDA-13.443A—HANDICAPPED RESEARCH AND DEMONSTRATION

Closing Dates—First Cycle, November 8, 1977; Second Cycle, March 17, 1978

Notice is hereby given that, pursuant to the authority contained in Sections 641 and 642 of Part E of the Education of the Handicapped Act (20 U.S.C. 1441, 1442), applications are being accepted for support for research and related purposes related to education of the handicapped. This announcement covers applications for new awards only for the Student Research program.

Under the Student Research program, the Office of Education is interested in a broad range of student initiated and directed research and research-related projects focusing on the education of handicapped children. Two award cycles are planned for Fiscal Year 1978. Proposals received for the first cycle will not be held over for the second cycle, but may be resubmitted.

Applications must be received by the U.S. Office of Education Application Control Center on or before the following dates: First Cycle, November 8, 1977; and for the Second Cycle, March 17, 1978.

A. Availability of funds and estimated number and amount of awards. The estimated total amount of funds available

for support of Student Research projects is \$250,000. Based on a median grant amount in recent years of approximately \$5,000, we anticipate that about 33 new grants will be awarded. The range of funding for student projects has been from \$350 to over \$20,000. However, the large majority of awards have been for under \$7,500.

B. Multiple year awards. While there is no legal limit on the duration of projects, the vast majority of student directed projects are for one year or less due to the limited tenure of students at applicant institutions. In the event that assistance is provided for multiple year projects, grant awards will be made for budget period of a single year's duration with continuation awards made on a non-competitive basis subject to satisfactory performance as determined pursuant to 45 CFR 121h.4(b) and the availability of funds in future fiscal years.

C. Applications sent by mail. An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202. Attention: 13.443A. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 3, 1977 for First Cycle, and March 13, 1978 for Second Cycle, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mailrooms in Washington, D.C. (in establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mailrooms or other documentary evidence or receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

D. Hand-delivered applications. An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. Washington, D.C., time on the closing date.

E. Program information and forms. Further information and application forms may be obtained from the Research Projects Branch, Bureau of Education for the Handicapped, Office of Education, 400 Maryland Avenue SW. (Donohoe, 3165), Washington, D.C. 20202.

F. Applicable regulations. The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the regulations governing Re-

search in the Education of the Handicapped (45 CFR Parts 121 and 121h). (20 U.S.C. 1441, 1442.)

CFDA-13.444A—HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM

Closing Date—November 9, 1977

Notice is hereby given that pursuant to the authority contained in sections 623 and 624 of the Education of the Handicapped Act (20 U.S.C. 1423, 1424), the U.S. Commissioner of Education has established a final closing date of November 9, 1977 for receipt of applications. Applications for New Model Demonstration Projects (13.444A) must be received on or before the above date. The notice of closing for non-competing continuations will be published separately.

The funding level of the Handicapped Children's Early Education Program in Fiscal Year 1978 is expected to be \$22,000,000. These funds will be made available for new and non-competing continuation demonstration projects, technical assistance support activities, and outreach projects. The approximate number of new demonstration awards is 70. During previous years of the program, funding for new demonstration projects has averaged between \$60,000 and \$70,000.

Projects approved for funding under this program will be for a three-year period with annual review of progress. The funding level and distribution of project funds are predicated upon the allotment of funds and may vary according to the final appropriation made available during a specific fiscal year.

Applications must be received by the U.S. Office of Education Application Control Center on or before November 9, 1977.

A. Applications sent by mail. An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202. Attention: 13.444A. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail no later than November 4, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. Hand delivered applications. An application to be hand delivered must be delivered to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4

p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted by the Application Control Center after 4 p.m. Washington, D.C., time on the closing date.

C. Program information and forms. Information and applications may be obtained from the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, Rm. 3100 Donohoe Building, 400 Maryland Avenue SW., Washington, D.C. 20202. Applications will be available on or about September 12, 1977.

D. Applicable regulations. The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the applicable program regulations (45 CFR Parts 121, 121d).

(20 U.S.C. 1423, 1424.)

CFDA-13.403D—BILINGUAL EDUCATION Basic Programs of Bilingual Education—Initial Awards

Closing Date—November 15, 1977

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Act, of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for initial awards of assistance for basic programs of bilingual education are being accepted from local educational agencies (including certain organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Department of Interior) and from institutions of higher education applying jointly with such agencies. Funds are available for grants to new applicants for basic programs.

Closing date, November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403D, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

D. Program information. The amount of funds which is expected to be available in fiscal year 1978 for the continuation of basic programs of bilingual education is \$22,500,000. The anticipated number of initial awards of assistance for basic programs of bilingual education is 136 with an expected average amount for the majority of initial awards at \$166,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact: The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Applicable regulations. Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart B of 123—§§ 123.11-123.20 relating to Basic Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13)

CFDA-13.403C—BILINGUAL EDUCATION Basic Programs of Bilingual Education—Non-Competing Continuation Awards

Closing Date—November 15, 1977

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Act, of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for the noncompeting continuation of assistance for basic programs of bilingual education are being accepted from local edu-

cational agencies (including certain organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Department of the Interior) and from institutions of higher education applying jointly with such agencies. Funds are available for grants to continue programs presently in operation pursuant to an approved project period in excess of one year.

Closing date; November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403C, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original

receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in fiscal year 1978 for the continuation of basic programs of bilingual education is \$22,500,000. The anticipated number of initial awards of assistance for basic programs of bilingual education is 136 with an expected average amount for the majority of initial awards at \$166,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act.

CFDA-13.403B—BILINGUAL EDUCATION Basic Programs of Bilingual Education—Non-Competing Continuation Awards

Closing Date—November 15, 1977

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Act, of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for the noncompeting continuation of assistance for basic programs of bilingual education are being accepted from local edu-

cational agencies (including certain organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Department of the Interior) and from institutions of higher education applying jointly with such agencies. Funds are available for grants to continue programs presently in operation pursuant to an approved project period in excess of one year.

Closing date; November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403C, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in fiscal year 1978 for the continuation of basic programs of bilingual education is \$22,500,000. The anticipated number of initial awards of assistance for basic programs of bilingual education is 136 with an expected average amount for the majority of initial awards at \$166,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act.

E. For further information contact: The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Applicable regulations. Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart B of 123—§§ 123.11-123.20 relating to Basic Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13)

CFDA-13.403C—BILINGUAL EDUCATION Basic Programs of Bilingual Education—Non-Competing Continuation Awards

Closing Date—November 15, 1977

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Act, of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for the noncompeting continuation of assistance for basic programs of bilingual education are being accepted from local edu-

cational agencies (including certain organizations of Indian tribes which operate schools for Indian children, and schools for Indian children on reservations which are operated or funded by the Department of Interior) and from institutions of higher education applying jointly with such agencies. Funds are available for grants to continue programs presently in operation pursuant to an approved project period in excess of one year.

Closing date; November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403D, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977 as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original

receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in fiscal year 1978 for the continuation of basic programs of bilingual education is \$22,500,000. The anticipated number of initial awards of assistance for basic programs of bilingual education is 136 with an expected average amount for the majority of continuation awards at \$166,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act.

E. For further information contact: The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Applicable regulations. Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart B of 123—§§ 123.11-123.20 relating to Basic Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13)

applicable regulations, and appropriation acts.

E. *For further information contact:* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., Reporter's Building, Room 421, Washington, D.C. 20202 (202-245-2600).

F. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart B of Part 123—§§ 123.11-123.20 relating to Basic Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13.)

CFDA-13.403E—BILINGUAL EDUCATION

Training Programs—Initial Awards

Closing Date—November 15, 1977

Pursuant to the authority contained in Section 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for initial awards of assistance for training programs are being accepted from one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State educational agencies. Funds are available for grants to new applicants for training programs.

Closing date. November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. *Hand delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *Program information.* The amount of funds which is expected to be available in Fiscal Year 1978 for initial awards of training programs is \$6,800,000. The anticipated number of initial awards for training programs is 68, with an expected average amount for initial awards at \$100,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. *For further information contact.* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., Reporter's Building, Room 421, Washington, D.C. 20202 (202-245-2600).

F. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart D of Part 123—§§ 123.31-123.40 relating to Training Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13.)

CFDA-13.403—BILINGUAL EDUCATION

Training Programs—Non-Competing Continuation Awards

Closing Date—November 15, 1977

Pursuant to the authority contained in Section 723 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that applications for the non-competing continuation of training programs are being accepted from one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State Educational agencies. Funds are available for grants to continue programs presently in operation pursuant to an approved project period in excess of one year.

Closing date. November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but

are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403E, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays.

D. *Program information.* The amount of funds which is expected to be available in Fiscal Year 1978 for continuation of training programs is \$4,200,000. The anticipated number of non-competing continuation awards for training programs is 42, with an expected average amount of continuation awards at \$100,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. *For further information contact.* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., Reporter's Building, Room 421, Washington, D.C. 20202 (202-245-2600).

F. *Applicable Regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' at-

tention is directed in particular to Subpart D of Part 123—§§ 123.31-123.40 relating to Training Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13.)

CFDA-13.403G—BILINGUAL EDUCATION

SUPPORT SERVICES

Closing date—November 15, 1977

Pursuant to the authority contained in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-13), the Commissioner of Education hereby gives notice that:

(1) Applications for initial awards of assistance for Training Resource Centers are being accepted from one or more local educational agencies; one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State educational agencies.

(2) Applications for initial awards of assistance for Materials Development Centers are being accepted from one or more local educational agencies; or an institution of higher education which applies jointly with one or more local educational agencies.

(3) Applications for initial awards of assistance for Dissemination/Assessment Centers are being accepted from one or more local educational agencies; or an institution of higher education which applies jointly with one or more local educational agencies.

(4) Applicants considering a joint application are advised to follow all instructions to verify joint applicant status, as well as to complete Form OE 4561, "Certification Signatures for Bilingual Education Joint Application".

(5) Under § 123.22(d) of the program regulations, (45 CFR § 123.22(d) (1)), no more than one award for a training resource center, one award for a materials development center, and one award for a dissemination/assessment center will be made in a fiscal year in each service area designated under § 123.22 (a), (b), and (c), unless the Commissioner determines that additional awards are required to meet needs for such activities in a service area. Also, the Commissioner may award one or more specific projects without regard to the designated service area to meet the needs for such activities or to carry out the purposes of this subpart most effectively.

(6) Applicants that propose authorized activities without regard to the designated service area must set forth special justification of need for not following the service area designation.

(7) Potential applicants for initial awards, in order to assess their own chances for funding, should be aware of those service areas in which projects have already been approved in a prior fiscal year and will be reviewed for continuation on a non-competitive basis in FY 1978, in accordance with § 123.04 of the regulation (45 CFR § 123.04).

With respect to the training resource center activity, service areas 5 and 7 (45 CFR § 123.22(a) (1-8)), have training resource centers in operation which will be reviewed for refunding on a non-competitive basis.

With respect to the materials development center activity, service areas 1 and 7 (45 CFR § 123.22(b) (1-7)), have materials development centers in operation which will be reviewed for refunding on a non-competitive basis.

With respect to the dissemination/assessment center activity, service area 2 (45 CFR § 123.22(c) (1-3)), has a dissemination/assessment center in operation which will be reviewed for refunding on a non-competitive basis.

Closing date: November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403G, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *Program information.* The amount of funds which is expected to be available in Fiscal Year 1978 for initial awards of assistance for support services for programs of bilingual education is \$14,600,000.

Funds expected to be available in FY 1978 for new competing awards for Re-

source Training Centers are estimated at \$6,800,000. Funds expected to be available in FY 1978 for new competing awards for Materials Development Centers are estimated at \$6,800,000. Funds expected to be available in FY 1978 for new competing awards for Dissemination/Assessment Centers are estimated at \$1,200,000.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. *For further information contact:* The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW., Reporter's Building, Room 421, Washington, D.C. 20202 (202-245-2600).

F. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart C of Part 123—§§ 123.21-123.30 relating to Support Services for Programs of Bilingual Education.

(20 U.S.C. 880b-880-13.)

CFDA-13.403G—BILINGUAL EDUCATION

SUPPORT SERVICES

Non-Competing Continuation Awards

Closing Date—November 15, 1977

Pursuant to the authority contained in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-13), the Commissioner of Education hereby gives notice that:

(1) Applications for the non-competing continuation of training resource centers are being accepted from one or more local educational agencies; one or more institutions of higher education which apply after consultation with, or jointly with, one or more local educational agencies; or one or more State educational agencies, and

(2) Applications for the non-competing continuation of materials development centers and dissemination/assessment centers are being accepted from one or more local educational agencies; one or more institutions of higher education which apply jointly with one or more local educational agencies.

Funds are available for grants to continue centers presently in operation pursuant to an approved project period in excess of one year.

Closing date: November 15, 1977.

A. *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403G Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays.

D. Program information. The amount of funds which is expected to be available in Fiscal Year 1978 for continuation awards for support services for programs of bilingual education is \$3,400,000. The anticipated number of non-competing continuation awards for support services is six. Two resources training centers; three materials development centers; and one dissemination/assessment center.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriation acts.

E. For further information contact the Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Applicable regulations. Grant awards made pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act, published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, to the Office of Education General Provisions Regulations in 45 CFR Parts 100, 100a, 100c, and 100d. In preparing applications, applicants' attention is directed in particular to Subpart C of 123—

§§ 123.11-123.20 relating to Support Services for Programs of Bilingual Education.

(20 U.S.C. 880b-880b-13.)

CFDA-13.403F—BILINGUAL EDUCATION
New Requests for Participation in Fellowship Program

Closing Date—November 15, 1977

Pursuant to the authority contained in section 723(a)(2) in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that new requests for participation in the program of fellowships for trainers of bilingual education teachers are being accepted from institutions of higher education, after consultation with, or jointly with, one or more local educational agencies.

Closing date: November 15, 1977.
A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and programs information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Request for participation sent by mail. A request for participation sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Attention: 13.403F, Washington, D.C. 20202. A request for participation must be received by the Application Control Center on or before the closing date.

A request for participation sent by mail will be considered to be received on time by the Application Control Center if:

(1) The request for participation was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The request for participation is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. Hand-delivered requests for participation. A request for participation to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered requests for participation will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. Program information. The amount of funds which is expected to be available in FY 1978 for new Bilingual Fellowship Programs is \$1,650,000. It is anticipated that approximately 20 institutions of higher education will be approved for the Bilingual Education Fellowship to individuals may be awarded, with an average amount of \$6,700 per fellowship awarded.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act applicable regulations, and appropriation acts.

E. For further information contact: The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600). Information required to be included in requests for participation is set out in the Bilingual Education Regulations at 45 CFR 123.42(a).

F. Applicable regulations. The Bilingual Education Fellowship Program will be subject to the regulations in 45 CFR Part 123—Subpart E, §§ 123.41-123.50—relating to Fellowships for Preparation of Teacher Training published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862).

(20 U.S.C. 880b-880b-13.)

CFDA-13.403—BILINGUAL EDUCATION
Continued Participation From Non-Competing Continuation Fellowship Programs

Closing Date—November 15, 1977

Pursuant to the authority contained in section 723(a)(2) in the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), the Commissioner of Education hereby gives notice that requests for participation for the non-competing continuation of fellowship programs for trainers of bilingual education teachers are being accepted from institutions of higher education, after consultation with, or jointly with, one or more local educational agencies.

Closing date: November 15, 1977.
A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Request for participation sent by mail. A request for participation sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Attention: 13.403, Washington, D.C. 20202. A request for participation should be received by the Application Control Center on or before the closing date.

A request for participation sent by mail will be considered to be received on time by the Application Control Center if:

(1) The request for participation was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The request for participation is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. Hand-delivered requests for participation. A request for participation to be hand-delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered requests for participation will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays.

D. Program information. The amount of funds which is expected to be available in FY 1978 for the non-competing continuation Bilingual Education Fellowship Programs is \$3,350,000. It is anticipated that 23 institutions of higher education will continue to participate in the Bilingual Education Fellowship Program. An estimated 500 fellowships to individuals may be awarded, with an average amount of \$6,700 per fellowship award.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act applicable regulations, and appropriation acts.

E. For further information contact: The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600). Information required to be included in requests for participation is set out in the Bilingual Education Regulations at 45 CFR 123.42(a).

F. Applicable regulations. The Bilingual Education Fellowship Program will be subject to the regulations in 45 CFR Part 123—Subpart E, §§ 123.41-123.50—relating to Fellowships for Preparation of Teacher Training published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862).

(20 U.S.C. 880b-880b-13.)

CFDA-13.403H—BILINGUAL EDUCATION
Non-Competing Assistance Contracts for Coordination of Technical Assistance by State Educational Agencies for Programs of Bilingual Education

Closing Date—November 15, 1977

Pursuant to the authority contained in section 721 of the Bilingual Education Act, Title VII of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 93-380 (20 U.S.C. 880b-880b-13), notice is hereby given that applications for noncompeting assistance contracts for the coordination of technical assistance are being accepted from State Educational Agencies in the State where programs of bilingual education assisted under the Bilingual Education Act operated during the fiscal year preceding the fiscal year for which assistance is sought.

Funds made available pursuant to this notice shall be used for the coordination of technical assistance to programs of bilingual education assisted under the Bilingual Education Act and operated by local educational agencies in the State of the applicant.

The amount paid to any State educational agency pursuant to this notice shall not exceed five percent of the aggregate of the amounts paid under Part A of the Bilingual Education Act to local educational agencies in the State of such agency in the fiscal year preceding the fiscal year for which assistance under this subpart is sought.

Closing date: November 15, 1977.

A. Application forms and information. Application forms are being prepared but are not yet available. We anticipate that application forms and programs information packages will be ready for mailing on or about September 15, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.403H, Washington, D.C. 20202. Application should be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 10, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before November 15, 1977, by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained

by the Department of Health, Education, and Welfare or the U.S. Office of Education.

C. Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education, D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays.

D. Program information. The amount of funds available in Fiscal Year 1978 for assistance contracts for coordination of technical assistance is \$4,375,000. Awards are made annually on a noncompetitive basis as assistance contracts to State educational agencies in states where programs of bilingual education assisted under the Bilingual Education Act operated during the fiscal year preceding the fiscal year for which assistance is sought. Forty-six states are eligible for Fiscal Year 1978 funds. Awards shall not exceed five percent of the aggregate of the amounts under Part A of the Bilingual Education Act to local educational agencies in the State for Fiscal Year 1977.

This statement on the availability of funds is only an average and does not bind the Office of Education to any particular pattern of distribution, except as required by the Bilingual Education Act, applicable regulations, and appropriations acts.

E. For further information contact: The Office of Bilingual Education, Office of Education, 400 Maryland Avenue SW. (Reporter's Building, Room 421), Washington, D.C. 20202 (202-245-2600).

F. Applicable regulations. Assistance contracts awarded pursuant to this notice will be subject to the regulations in 45 CFR Part 123, relating to the Bilingual Education Act published in the FEDERAL REGISTER on June 11, 1976 (41 FR 23862), and except where inconsistent with Part 123, the Office of Education General Provisions Regulations in 45 CFR Part 100b. In preparing applications, applicants' attention is directed in particular to Subpart F of Part 123—§§ 123.51-123.60 relating to Coordination of Technical Assistance by State Educational Agencies.

(20 U.S.C. 880b-880b-13.)

CFDA-13.435B—GRADUATE AND UNDERGRADUATE INTERNATIONAL STUDIES PROGRAMS

Closing Date—November 18, 1977

Notice is hereby given that pursuant to the authority contained in section 601 (a) of Title VI of the National Defense Education Act of 1958, as amended (20 U.S.C. 511(a)), applications are being accepted from institutions of higher education for initial grants under the Graduate and Undergraduate International Studies Programs.

A separate Notice of Closing Date is published for applications for continuing grants under the Graduate and Undergraduate International Studies Programs.

Closing Date: November 18, 1977.

A. *Application forms and information.* Application forms and program information packages are available and will be mailed upon the publication of this notice in the FEDERAL REGISTER.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.435B, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 14, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *Program information.* The amount of funds available for initial grants under the Graduate and Undergraduate International Studies Programs will be approximately \$731,000 for Fiscal Year 1978. Under the Graduate International Studies Program, it is expected that five to ten initial grants will be awarded at an average of approximately \$40,000. Under the Undergraduate International Studies Program it is expected that ten to sixteen initial grants will be awarded at an average cost of \$35,000. Grants for either Graduate or Undergraduate Programs will not exceed \$45,000 for a single institution or \$70,000 for a consortium.

The above statement with regard to the expected distribution of funds is basically for informational purposes and does not bind the Office of Education except as may be required by the applicable statute and regulation.

E. *For further information contact:* Dr. Richard Thompson, Chief, International Studies Branch, U.S. Office of Education, 7th and D Streets SW., Washington, D.C. 20202. Telephone 202-245-2356.

F. *Applicable regulations.* Awards pursuant to this notice will be subject to the Office of Education General Provisions Regulations (45 CFR Parts 100-100a) and the regulations for Modern Foreign Language and Area Studies (45 CFR Part 146 published in the FEDERAL REGISTER on May 23, 1977 at 42 FR 26209).

(20 U.S.C. 511.)

CFDA 13.562C—(GIFTED AND TALENTED MODEL PROJECTS)

Programs for Gifted and Talented Competitive Continuation Assistance Contracts

Closing Date—November 21, 1977

Notice is hereby given that pursuant to the authority contained in Section 404(g) of Pub. L. 93-380 (20 U.S.C. 1863(g)), applications are being accepted for continuation contracts of assistance from public and private agencies to continue and operate model projects. Applications for continuation awards are competitive with other applications for continuation awards in the same year (45 CFR 160b.4 (c)(2)). Funds are available for contracts to continue the operation of model projects presently in operation pursuant to an approved project period in excess of one year. Continuation applications must be received by the U.S. Office of Education Application Control Center on or before November 21, 1977.

A. *Application sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.562C. Applications sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 16, 1977 as evidenced by the U.S. Postal Service Postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand-delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* The amount of funds which is expected to be available in Fiscal Year 1978 for the continuation of Gifted and Talented programs is \$1,328,360, out of which

\$210,000 is projected for Model Projects. The anticipated number of continuation assistance contracts for Gifted and Talented Model Projects is five. The funding level of multi-year Model Projects has been in the approximate range of \$40,000 in the past operational year. It is projected that many of these continuation projects may be funded at the same level this Fiscal Year.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any pattern of distribution, except as required by the applicable provision of the Gifted and Talented regulations, and appropriation acts.

Further information and application forms may be obtained from the Office of Gifted and Talented, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

D. *Applicable regulations.* Assistance contract awards made pursuant to this notice are subject to the Regulations published in the FEDERAL REGISTER on May 6, 1976 (41 FR 18660, 45 CFR Part 160b, Subpart F) and the Office of Education General Provision Regulations (45 CFR Part 100a).

CFDA-13.562A—PROGRAM FOR THE GIFTED AND TALENTED

Closing Date—November 21, 1977

Pursuant to the authority contained in Section 404 (c) and (d) of Pub. L. 93-380, the Education Amendments of 1974 (20 U.S.C. 1863), the U.S. Commissioner of Education hereby gives notice that applications for initial awards will be accepted from: (1) State and local educational agencies for State-wide and locally based programs for gifted and talented children (20 U.S.C. 1863(c); 45 CFR Part 160b, Subpart C); and (2) State agencies for State personnel training projects (20 U.S.C. 1863(d); 45 CFR Part 160b, Subpart D).

Applications must be received by the U.S. Office of Education Application Control Center on or before November 21, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.562A for both State and local educational agency programs for gifted and talented children and State personnel training projects. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 16, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained

by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. *Hand-delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* The funding level and distribution of project funds vary according to the final appropriation made available during a specific fiscal year. The amount of funds available to the Program for Gifted and Talented during fiscal year 1978 is \$2.56 million. The projected allocation for initial awards is \$1,231,640. The allocation for continuations of current projects for which applications are being invited pursuant to separate notices of closing dates is \$1,328,360. It is expected that the funding level for specific categories of initial awards generally will not exceed \$1,011,640 for projects under Section 404(c), 45 CFR 160b, Subpart C; \$220,000 for projects under section 404(d), 45 CFR 160b, Subpart D. There is no fixed level of funding or number of grants projected. However, approximately thirty-five new projects and nineteen continuation projects are expected to be funded. The funding level for the past operational year has ranged between \$6,762 and \$190,000. Further information and application forms may be obtained from the Office of Gifted and Talented, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

D. *Applicable regulations.* Grant awards made pursuant to this notice will be subject to the regulations published in the FEDERAL REGISTER on May 6, 1976 (41 FR 18660, 45 CFR Part 160b) and the Office of Education General Provisions Regulations (45 CFR Part 100a).

(20 U.S.C. 1863(c)(d).)

CFDA-13.152 A AND B—PROGRAM FOR THE GIFTED AND TALENTED

Closing Date—November 21, 1977

Pursuant to the authority contained in section 404 (c), (d), and (e) of Pub. L. 93-380, the Education Amendments of 1974 (20 U.S.C. 1863), the U.S. Commissioner of Education hereby gives notice that applications for the continuation of assistance are being accepted (1) from State educational agencies for statewide activities under § 160b.22 and Subpart D of the program regulation (45 CFR Part 160b; § 160b.22 and Subpart D), and (2) from colleges and universities and other non-profit institutions and agencies for graduate programs for leadership personnel, for internships, and for training institutions (45 CFR 160b.42(b) (1), (2), and (3)). Funds are available for grants to continue programs presently in operation pursuant to an approved project

period in excess of one year. Applications for continuation awards are competitive with other applications for continuation awards in the same year (45 CFR 160b.4 (c)(2)).

Applications must be received by the U.S. Office of Education Application Control Center on or before November 21, 1977.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.562A (from State Educational Agencies), and 13.562B (from colleges and universities, and other non-profit institutions and agencies). An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 16, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

B. *Hand-delivered applications.* An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

C. *Program information and forms.* The amount of funds which is expected to be available in Fiscal Year 1978 for continuation grants for Gifted and Talented programs under Subpart C, D, and E of 45 CFR Part 160b is approximately \$1,118,360 of which \$693,360 is projected for grants for Statewide activities and \$425,000 is projected for leadership personnel training programs. The anticipated number of continuation awards for these programs is fourteen. The funding level of continuation awards has ranged in the past operational year between \$13,000 and \$190,000. It is projected that many of these continuation projects may be funded at the same level this fiscal year.

This statement on the availability of funds is only an estimate and does not bind the Office of Education to any pattern of distribution, except as required by applicable provisions of Gifted and Talented regulations, and appropriation acts.

Further information and application forms may be obtained from the Office of Gifted and Talented, U.S. Office of Edu-

cation, 400 Maryland Avenue SW. (Donohoe Building, Room 4100), Washington, D.C. 20202.

D. *Applicable regulations.* Grant awards made pursuant to this notice are subject to the regulations published in the FEDERAL REGISTER on May 6, 1976 (41 FR 18660, 45 CFR Part 160b) and the Office of Education General Provisions Regulations (45 CFR Part 100a).

(20 U.S.C. 1863(d), and (e).)

CFDA-13.444B—HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM

Noncompeting Continuation Applications

Closing Date—November 23, 1977

Notice is hereby given that, pursuant to the authority contained in sections 623 and 624 of the Education of the Handicapped Act (20 U.S.C. 1423, 1424), the U.S. Commissioner of Education has established a final closing date of November 23, 1977, for receipt of applications for noncompeting continuation grants for Handicapped Children's Early Education Program Outreach Projects (13.444B). Applications should be received on or before the above date.

Eligible applicants are those grantees whose projects have completed one or more years of outreach funding. (Potential applicants for support for new demonstration projects under the Handicapped Children's Early Education Program should apply under a separate program (13.444A).)

The funding level for the Handicapped Children's Early Education Program is expected to be approximately \$22 million for fiscal year 1978. Funding for outreach projects under 13.444B has averaged between \$50,000 and \$150,000. The approximate number of noncompeting continuation grants is 42.

A. *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.444B. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than November 18, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

B. *Hand-delivered application.* An application to be hand delivered must be delivered to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C.

NOTICES

Hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays.

C. Program information and forms. Information and applications may be obtained from the Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202. Applications will be available on or about September 23, 1977.

D. Applicable regulations. The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the applicable program regulations (45 CFR Parts 121 and 121d).

(20 U.S.C. 1423, 1424.)

CFDA-13.503 — VOCATIONAL EDUCATION GRADUATE LEADERSHIP DEVELOPMENT PROGRAM

Closing Dates — Institutional Applications, November 28, 1977; Individual Applications, February 6, 1978

(a) Application forms and information. Application forms are being prepared but are not yet available. We anticipate the institutional application forms and program information packages will be ready for mailing on or about October 11, 1977, and the individual application forms and program information packages on or about December 2, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) Applications sent by mail. Applications sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.503A for institutions and 13.503B for individuals, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to have been received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail (a) not later than November 23, 1977 for institutional applications, and (b) not later than February 1, 1978, for individual applications as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand-

delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) Program information. Applications are being accepted from (1) schools of graduate study in the institutions of higher education to participate in the Vocational Education Graduate Leadership Development Program and (2) individuals to receive Leadership Development Awards for the program.

Potential applicants should be aware of the amount of funds available for the program for Fiscal Year 1978. The combined institutional support and individual stipend and dependency allowances will be approximately \$11,344 per individual for a total of approximately \$1,650,000. It is estimated that there will be approximately 145 individual awards and 24 institutional awards. All grants will be new awards. Leadership Development Awards will be made for a period not to exceed 36 months, and payments to individuals after the first year of the award period (in case of awards made for a period exceeding twelve months) are subject to the continued availability of Federal funds under section 172 of the Act.

(e) List of approved institutions. A list of institutions whose leadership development programs have been approved will be published in the FEDERAL REGISTER approximately January 6, 1978. Each individual applying for an award must indicate the first, second, and third choice of institution on the individual application form.

(1) Institutional applications. Institutions of higher education must submit applications for program approval under the Vocational Education Graduate Leadership Development Program directly to the U.S. Office of Education. These applications must be received in the U.S. Office of Education Application Control Center in Washington, D.C., on or before November 28, 1977.

(2) Individual applications. Applications from individuals for Leadership Development Awards must be received in the U.S. Office of Education, Application Control Center in Washington, D.C. on or before February 6, 1978. The applicant must submit one copy of the application to the State board for vocational education for the State in which the applicant is a resident, on or before January 20, 1978. The State board for vocational education must review each application, collect advice as to the merits of each application, and forward all applications and statements of advice to the Vocational Education Graduate Leadership Development Program (see address in paragraph (f) below), postmarked on or before February 3, 1978.

(f) For further information and forms contact. Vocational Education Graduate Leadership Development Program, Vocational Education Personnel Development, Division of Research and Demonstration, Bureau of Occupational

and Adult Education, U.S. Office of Education, 400 Maryland Avenue, SW., (Room 5652, ROB No. 3), Washington, D.C. 20202.

(g) Applicable regulations. The regulations applicable to these programs are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Vocational Education Graduate Leadership Development Program Regulation (45 CFR Part 105, Sections 301-312) which is included in the application package.

(20 U.S.C. 2402; 45 CFR Part 105, Sections 301-312.)

CFDA-13.443C—HANDICAPPED RESEARCH AND DEMONSTRATION

Closing Date—December 7, 1977

Notice is hereby given that, pursuant to the authority contained in sections 641 and 642 of Part E of the Education of the Handicapped Act (20 U.S.C. 1441, 1442), applications are being accepted for support for research and related purposes related to education of the handicapped. This announcement covers applications for new awards only for the Field Initiated Studies program. Under this program, the Office of Education is interested in a broad range of research-related projects focusing on the education of handicapped children.

Applications must be received by the U.S. Office of Education, Application Control Center on or before December 7, 1977.

A. Availability of funds and estimated number and amount of awards. The estimated total amount of funds available for support of new Field Initiated Studies projects is \$3,000,000. Based on a mean grant amount in recent years of approximately \$90,000, we anticipate that about 33 new grants will be awarded. The range of funding for 1977 projects was from \$8,496 to \$286,231 per year. However, the large majority of awards have been for under \$100,000 per year.

B. Multiple-year awards. While there is no legal limit on the duration of projects, the vast majority of Field Initiated projects are for one to three years.

In the event that assistance is provided for multiple year projects, grant awards will be made for a budget period of a single year's duration with continuation awards made on a non-competitive basis subject to satisfactory performance as determined pursuant to 45 CFR 121h.4 (b) and the availability of funds in future fiscal years.

C. Applications sent by mail. An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Washington, D.C. 20202, Attention: 13.443C. An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 2, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. (In establishing the date of receipt, the Commissioner will rely on the time-date of such mailrooms or other documentary evidence or receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.)

D. Hand-delivered applications. An application to be hand delivered must be taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted by the Application Control Center after 4:00 p.m., Washington, D.C. time, on the closing date.

E. Program information and forms. Further information and application forms may be obtained from the Research Projects Branch, Bureau of Education for the Handicapped, Office of Education, 400 Maryland Avenue SW., (Donohoe, 3165), Washington, D.C. 20202.

F. Applicable regulations. The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the applicable program regulations (45 CFR Parts 121 and 121h.)

(20 U.S.C. 1441, 1442.)

CFDA-13.468—LIBRARY TRAINING PROGRAM

Closing Date—December 9, 1977

(a) Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about October 5, 1977.

Application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.468, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The Application was sent by registered or certified mail not later than December 5, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education

mail rooms in Washington, D.C. In establishing the date of the receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) Program information. Applications are being accepted from institutions of higher education and library organizations and agencies for library training grants for institutes, fellowships, and traineeships.

In formulating proposals, potential applicants should be aware of the amount of funds available for the program for Fiscal Year 1978. It is anticipated that the total amount of funds available for the library training program specified in 45 CFR Part 132 will be \$2,000,000. It is also expected that for Fiscal Year 1978 (October 1, 1977-September 30, 1978), approximately 62 awards will be made (40 for fellowships and traineeships and 22 for institutes), and that the average amount of each grant will be approximately \$35,000. During Fiscal Year 1977, 92 applications were received from colleges and universities, and library organizations and agencies. A total of 62 grants was awarded: 37 for fellowships, 3 for traineeships, and 22 for institutes. In the fellowship category, the average grant was \$27,593, in the traineeship category, \$29,717, and in the institute category, \$40,341. All grants will be new awards.

no funds are reserved for continuation awards. This statement on the availability of funds does not bind the Office of Education to any particular pattern of distribution except as required by the Higher Education Act, applicable regulations, and appropriations.

(e) For further information and forms contact. Frank Stevens, Division of Library Programs, Office of Libraries and Learning Resources, Attention: 13.468, Bureau of Elementary and Secondary Education, U.S. Office of Education, 400 Maryland Avenue, SW., (Room 3622, ROB No. 3), Washington, D.C. 20202. (202) 245-9530.

(f) Applicable regulations. The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a, and appendices) and the Library Training Program Regulations (45 CFR Part 132) published on May 17, 1974 in the FEDERAL REGISTER.

(20 U.S.C. 1021, 1031, and 1033.)

NOTICES

CFDA-13.475—LIBRARY RESEARCH AND DEMONSTRATION PROGRAM

Closing date—December 9, 1977

(a) Application forms and information. Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about October 5, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) Applications sent by mail. An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.475, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 5, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mailrooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare or the U.S. Office of Education.

(c) Hand-delivered applications. An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) Program information. Applications are being accepted from institutions of higher education and other public or private agencies, institutions, and organizations that are nonprofit for grants for research and demonstration projects relating to the improvement of libraries or the improvement of the training in librarianship.

In formulating proposals, potential applicants should be aware of the amount of funds available for the program for Fiscal Year 1978. It is anticipated that grants will be awarded in each of the categories specified in 45 CFR Part 133, that the total amount of funds available for the Library Research and Demonstration Program will be about \$1,000,000, and that 15-18 awards will be made. The average amount of each grant will be from \$50,000 to \$70,000. During Fiscal Year 1977, 180 applications were

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received from institutions of higher education and other public or non-profit agencies and organizations. A total of 18 grants was awarded; the average grant was \$55,500. All grants will be new awards, no funds are reserved for continuation awards. This statement on the availability of funds does not bind the Office of Education to any particular pattern of distribution except as required by the Higher Education Act, applicable regulations, and appropriations. Rather, actual figures may vary widely from those given.

(c) *For further information and forms contact:* Paul Janaske, Division of Library Programs, Office of Libraries and Learning Resources, Attention 13.475, Bureau of Elementary and Secondary Education, U.S. Office of Education, 400 Maryland Avenue, SW. (Room 3124, ROB No. 3), Washington, D.C. 20202, (202) 245-9687.

(f) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Library Research and Demonstration Program Regulations (45 CFR Part 133) published on May 17, 1974 in the FEDERAL REGISTER, and revised in the FEDERAL REGISTER on February 6, 1976.

(20 U.S.C. 1021, 1031, and 1033.)

CFDA-13.561—METRIC EDUCATION PROGRAM
Closing Date—December 12, 1977

Notice is hereby given that, pursuant to authority contained in section 403 of the Education Amendments of 1974, Pub. L. 93-380 (20 U.S.C. 1862), applications are being accepted for the Metric Education Program. This program is authorized to make grants and contracts to State education agencies, local educational agencies, institutions of higher education, and public and private nonprofit agencies, organizations, and institutions for the development, continuation, and expansion of metric education projects. Processing of these proposals will be subject to the availability of funds.

Closing date: December 12, 1977.

A. *Application forms and information.* Application forms and program information packages are available and will be mailed upon the publication of this Notice in the FEDERAL REGISTER.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention 13.561, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than Wednesday, December 7, 1977, as evidenced by the U.S. Postal Service post-

mark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *State comment.* A local educational agency (LEA) must provide a copy of its application to the State educational agency (SEA) of the State within which the applicant is located concurrently with its submission of the application to the Office of Education. For verification of submission to the SEA, the LEA applicant must enclose, in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the SEA. State educational agencies wishing to submit advice and comments on any application originating within their State may do so by forwarding such advice and comments to the Metric Education Program, U.S. Office of Education, Room 5640, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202. Advice and comments received from SEAs no later than Tuesday, December 27, 1977, will be considered in reviewing applications.

E. *Program information.* In formulating proposals, potential applicants should be aware of the amount of funds expected to become available for the program for Fiscal Year 1978 which will total \$2,090,000. The program has no legislatively prescribed priorities, therefore, all eligible agencies may compete for the available funds. It is expected that awards of State and multi-State metric education planning grants will generally be in the range of \$25,000-\$40,000 and \$50,000-\$110,000, respectively; the school-based metric instructional pilot and model project grants will generally be in the range of \$25,000-\$35,000; the national technical support effort will generally be in the range of \$175,000-\$225,000; and the grants for purposes of conducting preservice and inservice teacher development projects will generally be in the range of \$20,000-\$30,000. Public and private nonprofit organizations are eligible to apply for grants in all four areas. During the 1977 fiscal year, 614 applications were received from SEA's, LEA's, IHE's, and NONPROFIT's.

A total of 75 grants were awarded: 6, totaling \$189,167, went to State education agencies; 34, totaling \$873,550, to local education agencies; 27, totaling \$740,986, to institutions of higher education; and 8 totaling \$286,297, to non-profit public and private institutions. Applicants should be aware that funds are generally available only to cover educational cost as specified in section 160a.29 and other sections of the regulation. All grants will be new awards, no funds are reserved for continuation awards. A current grantee may apply for a new award on the same basis as an applicant not previously funded. Projects are for one year in duration.

F. *For further information contact:* Metric Education Program, U.S. Office of Education, Room 5640, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202.

G. *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Part 100a) and the Metric Education Program Regulation (45 CFR 160a) published on April 21, 1975, in the FEDERAL REGISTER included in the application package.

(20 U.S.C. 1862; 45 CFR Part 160a.)

CONSUMERS' EDUCATION PROGRAM

CFDA—13.654

Closing Date—December 16, 1977

Notice is hereby given that, pursuant to the authority contained in Section 811 of the Elementary and Secondary Education Act of 1965, as enacted by Section 505 of the Education Amendments of 1972, Pub. L. 92-318, 20 U.S.C. 887d, applications for grants are being accepted from institutions of higher education, local educational agencies, State educational agencies, and other public and private non-profit organizations and institutions (including libraries) for the support of research, demonstration, and pilot projects designed to provide consumers' education to the public.

Closing Date—December 16, 1977

A. *Application forms and information:* Application forms and program information packages are available and will be mailed upon publication of this Notice in the FEDERAL REGISTER.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

B. *Applications sent by mail:* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention 13.564, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 12, 1977 as evidenced by the U.S. Postal Service postmark on the

wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of such mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *Hand-delivered application.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal Holidays. Applications will not be accepted after 4:00 p.m. on the closing date.

D. *State comment:* A local educational agency must provide a copy of its application to the State educational agency of the State within which the applicant is located concurrently with its submission of the application to the Office of Education. For verification of submission to the SEA, the LEA applicant must enclose, in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the SEA. A State educational agency wishing to submit advice and comments on any LEA application originating within its State may do so by forwarding such advice and comments to the Office of Consumers' Education, U.S. Office of Education. (See address under "For Further Information Contact.") Advice and comments received from SEA's not later than January 6, 1978 will be considered in reviewing applications.

E. *Program information:* The amount of funds available under this program is \$4,068,000, with approximately \$3.6 million going for grant awards for applications submitted in response to this notice, and the balance for procurement contracts. It is estimated that a total of approximately 80 new grants will be awarded during Fiscal Year 1978. The average grant is expected to be about \$45,000, though no minimum or maximum amounts have been predetermined.

F. *For further information contact:* Dustin W. Wilson, Jr., 7th & D Sts., SW., Washington, D.C. 20202 (202-245-0636).

G. *Applicable regulations:* Awards made pursuant to this notice will be subject to (1) The Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) published in the FEDERAL REGISTER on November 6, 1973 and, (2) the regulation for the Consumers' Education Program published in the FEDERAL REGISTER on May 24, 1976 (41 FR 21191-21199).

(20 U.S.C. 887d.)

CFDA-13.434—FOREIGN LANGUAGE AND AREA STUDIES FELLOWSHIP PROGRAM

Closing Date—December 20, 1977

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about October 14, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.434A, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 15, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted from institutions of higher education for quotas of fellowships under the Foreign Language and Area Studies Fellowship program. Fellowships may be awarded through approved institutions to individuals undergoing advanced training in modern foreign languages and related area studies.

In formulating proposals potential applicants should be aware of the amount of funds available for Fiscal Year 1978. The Fellowship Program will be funded at approximately \$4,560,000 for an estimated 800 awards at an approximate unit cost of \$5,700. The tentative allocation of fellowships among language and area centers/programs according to world area is as follows: Africa 89; East Asia 193; Eastern Europe and the

U.S.S.R. 140; Latin America 75; Middle East 140; South Asia 88; Southeast Asia 70; and Western Europe 5. All grants will be new awards; no funds are reserved for continuation awards. A current grantee may apply for a new award on the same basis as an applicant not previously funded. Projects are for one year in duration.

(e) *For further information contact:* Mrs. Merion Kane, Fellowships Program Officer, International Studies Branch, Division of International Education, Bureau of Higher and Continuing Education, Office of Education, 400 Maryland Avenue SW. (Room 3669, ROB No. 3), Washington, D.C. 20202 (202-245-9808).

(f) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Modern Foreign Language and Area Studies Program Regulations (45 CFR Part 146) published on May 23, 1977 in the FEDERAL REGISTER, also included in the application package.

(20 U.S.C. 511(b); 45 CFR Part 146, Subpart D.)

CFDA-13.549—ETHNIC HERITAGE STUDIES PROGRAM

Closing Date—December 20, 1977

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about October 20, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed as follows: U.S. Office of Education, Application Control Center, Attention: 13.549, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 15, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be

taken to the U.S. Office of Education Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted from public and private nonprofit educational agencies, institutions, and organizations for grants under the Ethnic Heritage Studies Program.

The Ethnic Heritage Studies appropriation for fiscal year '78 is expected to be \$2,300,000. The program expects to award 50 major grants averaging approximately \$37,500 in size. Contingent upon receipt of eligible competitive applications, support may be given to establishing two regional clearinghouses for the dissemination of information on ethnic studies. The amount of the award for these clearinghouses is expected to be about \$100,000 each. In addition, the program expects to award approximately 15 mini-grants not to exceed \$15,000 in size. The applications for all grants will be evaluated competitively under the funding criteria in 45 CFR 184.31. There are no continuation grants in the Ethnic Heritage Studies Program for this year and awards will be made for a 1-year project period.

The above statement with regard to the expected distribution of funds is basically for informational purposes and does not bind the Office of Education, except as may be required by the applicable statute and regulation.

(e) *For further information and forms contact:* Chief, Ethnic Heritage Studies Branch, Division of International Education, Bureau of Higher and Continuing Education, Office of Education, 400 Maryland Avenue SW. (Room 309, ROB No. 3), Washington, D.C. 20202 (202-245-9506).

(f) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Part 100, 100a) and the Ethnic Heritage Studies Program regulations published in the FEDERAL REGISTER on May 20, 1975.

(20 U.S.C. 900 to 900a-5.)

CFDA-13.566—ARTS EDUCATION PROGRAM

Closing date—December 29, 1977

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about October 26, 1977.

Applications must be completed and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.566, Washington, D.C. 20202. Applica-

tions must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 27, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered application will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for the Arts Education Program, which is authorized to make grants to State educational agencies (SEAs) and to local educational agencies (LEAs) for programs in which the arts are an integral part of elementary and secondary school education.

It is expected that \$750,000 in grants will be awarded to State and local educational agencies during fiscal year 1978. The distribution of funds between State and local educational agencies may vary from the initial reservation in § 160g.5 of the Arts Education regulation (published April 26, 1976 in the FEDERAL REGISTER at 17390), depending upon overall quality of applications and amounts requested for each type of program. In fiscal year 1976, State and local educational agencies each received approximately one-half of the total funds; in fiscal year 1977, LEAs received about 60 percent, or \$450,000, and SEAs 40 percent, or \$300,000.

During the 1977 fiscal year, 315 applications were received from LEAs and 51 from SEAs. A total of 77 grants was awarded: 47 to LEAs and 30 to SEAs. For fiscal year 1978, it is anticipated that about the same number of awards will be made and that grants will range from \$5,000 to \$10,000. All grants will be new awards; no funds are reserved for continuation awards. A current grantee may apply for a new award on the same basis as an applicant not previously funded. Projects are for 1 year in duration.

(e) *State comment.* A local educational agency must provide a copy of its application to the State educational agency of the State within which the applicant

is located at the same time it submits an application to the Office of Education. The LEA applicant must include, in its application to the Commissioner, a statement that this has been accomplished. The State educational agency, in consultation with the State Alliance for Arts Education Committee, if one exists, has an opportunity to review and comment on the application. A State educational agency wishing to submit advice and comment on an LEA application originating within its State may do so by forwarding that advice and comment to the Arts and Humanities Staff, (see address in paragraph (f)). Advice and comments received from SEAs not later than 30 days after the closing date will be considered in reviewing applications.

(f) *For further information and forms contact:* Arts and Humanities Staff, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3728, Donohoe Building), Washington, D.C. 20202 (202-245-8912 or 245-9097).

(g) *Applicable regulations.* The regulations applicable to the Arts Education Program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a, and appendices) and the regulation for the Arts Education Program (45 CFR Part 160g), published in the FEDERAL REGISTER on April 26, 1976.

(20 U.S.C. 1867.)

CFDA-13.543—EDUCATIONAL OPPORTUNITY CENTERS PROGRAM

Closing date—January 4, 1978

(a) *Application forms and information.* Application forms and program information packages are being prepared. They will be available for mailing on or about October 27, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.543A, Washington, D.C. 20202. Applications for new awards must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 30, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must

be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Each applicant for new awards should submit an original application and two copies. Educational Opportunity Centers will have \$5,000,000 for fiscal year 1978. The programs expects to award 10 new grants and 12 noncompeting continuation grants averaging \$227,000 for each project.

The applications for new grants will be evaluated competitively under the published funding criteria for new awards for Educational Opportunity Centers (45 CFR 154.6(c)).

Applicants may apply for a 1- or 2-year project period. Therefore, applications submitted for more than one year must contain a work program and budget to cover the entire period of the request. Those applications which are recommended for a multi-year project will be given a 2-year noncompeting grant, though funds will be awarded on a yearly basis.

The above statement with regard to the expected distribution of funds and number of projects to be funded is basically for informational purposes and does not bind the Office of Education, except as may be required by the applicable statutes and regulations.

(e) *For further information and forms contact:* Special Programs Branch, Division of Student Services and Veterans Programs, Bureau of Higher and Continuing Education, Office of Education, 400 Maryland Avenue SW. (Room 3514, ROB No. 3), Washington, D.C. 20202 (202-245-2511).

The Office of Education automatically mails information and application forms to the presidents of institutions that participate in the Federal Financial Aid Programs for Student Assistance. Application Preparation Workshops will be held throughout the United States. Please request further information as to the time and place of these workshops from the Special Programs Branch.

(f) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a), and the regulation for Educational Opportunity Centers (45 CFR Part 154) published in the FEDERAL REGISTER on April 29, 1974 and May 14, 1976.

(20 U.S.C. 1070d-1070d-1.)

CFDA-13.482—SPECIAL SERVICES FOR DISADVANTAGED STUDENTS; 13.488—TALENT SEARCH; 13.492—UPWARD BOUND

Closing date—January 4, 1978

(a) *Application forms and information.* Application forms and program information packages are being prepared.

They will be available for mailing on or about October 27, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.482 (Special Services for Disadvantaged Students), 13.488 (Talent Search), 13.492 (Upward Bound), Washington, D.C. 20202. (Applications for National Demonstration projects use the suffix "A" with the number; all other applications use the suffix "B".) Applications for new awards must be received by the Application Control Center on or before the closing date. In order to be assured of consideration for funding, projects which are currently awarded multiyear grants should submit a request for noncompeting continuation funds on or before the closing date.

Each applicant for a new award must submit an original application and four copies. All applications are to be submitted to the Office of Education, Washington, D.C. Applications will not be accepted at the Regional Offices.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than December 30, 1977, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* The appropriation for Special Programs for Students from Disadvantaged Backgrounds for fiscal year 1978 is \$115,000,000. Of this total, \$44,000,000 will be allocated to Upward Bound, \$11,000,000 to Talent Search, and \$49,000,000 to Special Services for Disadvantaged Students. The Special Programs expects to award approximately 356 new grants and 755 noncompeting continuation grants. The Search, and \$49,000,000 to Special Services for Disadvantaged Students. The Special Programs expects to award ap-

proximately 356 new grants and 755 noncompeting continuation grants. The breakdown of these awards is as follows: 55 new and 312 noncompeting continuation Upward Bound grants averaging \$119,600; 40 new and 106 noncompeting continuation Talent Search grants averaging \$75,000; and 261 new and 337 noncompeting continuation Special Services grants averaging \$81,818. The applications for the new grants will be evaluated competitively under the published funding criteria for new awards in each program (Upward Bound—45 CFR 155.8(c), Talent Search—45 CFR 159.7(c), and Special Services—45 CFR 157.6(c)).

Applicants may apply for a 1- or 2-year project period. Therefore, applications submitted for more than 1 year must contain a work program and budget to cover the entire period of the request. Those applications which are recommended for a multiyear project will be given a 2-year noncompeting grant, though funds will be awarded on a yearly basis.

The above statement with regard to the expected distribution of funds and number of projects to be funded is basically for informational purposes and does not bind the Office of Education, except as may be required by the applicable statutes and regulations.

(e) *For further information and forms contact:* Special Programs Branch, Division of Student Services and Veterans Programs, Bureau of Higher and Continuing Education, Office of Education, 400 Maryland Avenue SW. (Room 3514, ROB No. 3), Washington, D.C. 20202 (202-245-2511).

The Office of Education automatically mails information and application forms to the presidents of institutions that participate in the Federal Financial Aid Programs for Student Assistance. Application Preparation Workshops will be held throughout the United States. Please request further information as to the time and place of these workshops from the Special Programs Branch.

(f) *Applicable regulations.* The regulations applicable to these programs include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a), and the regulations for Upward Bound (45 CFR 155), Special Services for Disadvantaged Students (45 CFR 157), and Talent Search (45 CFR 159) published May 24, 1977 in the FEDERAL REGISTER.

(20 U.S.C. 1070d-1070d-1.)

CFDA-13.436—FOREIGN LANGUAGE AND AREA STUDIES RESEARCH PROGRAM

Closing date—January 6, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 4, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms in-

cluded in the program information packages.

(b) *Applications sent by mail:* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.436, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 3, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Under this program the Commissioner is authorized to award contracts or grants for studies and surveys to determine the need for increased or improved instruction in modern foreign languages and related fields, to conduct research in training methods for use in those languages and fields, and to develop specialized materials for use in training students and language teachers. The Foreign Language and Area Studies Research appropriation for Fiscal Year 1978 is \$1,000,000. The program expects to use approximately \$202,000 to supplement seven ongoing research projects and to fund about twenty-eight new projects at an average cost of \$28,500 each. Projects which exceed eighteen months should be planned and budgeted in yearly phases.

The above statement with regard to the expected distribution of funds is basically for informational purposes and does not bind the Office of Education, except as may be required by the applicable statute and regulation.

(e) *For further information and forms contact:* Mrs. Julia A. Petrov, Chief, Research Program, International Studies Branch, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3671, ROB No. 3), Washington, D.C. 20202 (202-245-9819).

(f) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the regulations for Modern Foreign Language and Area Studies (45 CFR Part 146), published in the FEDERAL REGISTER on May 23, 1977.

(20 U.S.C. 512.)

CFDA-13.433 A AND B—FOLLOW THROUGH—LOCAL PROJECT GRANTS AND SPONSOR GRANTS

Closing Date—January 9, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about October 14, 1977.

Applications must be prepared and submitted in accordance with the regulations instructions and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.433A, for Follow Through projects, and 13.433B for demonstration (sponsors) projects, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 4, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays.

(d) *Program information.* Applications are being accepted for Follow Through grants or assistance contracts in the following two categories: (1) Non-competing continuation grants for carrying out Follow Through projects, and (2) Non-competing continuation grants or assistance contracts for demonstration (sponsors). In Fiscal Year 1978, all awards for carrying out Follow Through projects and for sponsors will be non-competing continuations. No new awards

will be made in either category. Processing of all applications will be subject to the availability of funds. In Fiscal Year 1978, for the 1978-79 school year, it is expected that an estimated 143 refundings under the first category of grants and an estimated 20 refundings under the second category will be made.

(e) *Eligibility requirements.* Reference is made to § 158.11 of the Follow Through regulations (42 FR 33148) concerning eligible agencies for carrying out Follow Through projects and to § 158.51 of the Follow Through regulations (42 FR 33152) concerning eligible agencies for becoming a Follow Through sponsor. An examination of these sections may provide useful guidance to parties planning to file an application for either of these purposes.

(f) *For further information and forms contact:* Ms. Rosemary C. Wilson, Director, Division of Follow Through, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3624, ROB-3) Washington, D.C. 20202.

(g) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the Follow Through regulations (45 CFR Part 158) published in the FEDERAL REGISTER on June 29, 1977.

(Title V, Parts B and C of the Economic Opportunity Act, as amended by Pub. L. 93-644, Section 8(a), 42 U.S.C. 2929 et seq.)

CFDA-13.433C—FOLLOW THROUGH—TECHNICAL ASSISTANCE

Closing Date—January 9, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about October 14, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.433C, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 4, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the De-

partment of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for Follow Through grants or assistance contracts for technical assistance to Follow Through projects. In Fiscal Year 1978 it is anticipated that up to 52 new awards will be made. During the 1977 Fiscal Year 40 applications were received from State educational agencies (SEAs). No other agencies applied for funds; 37 SEAs received grants. The grants ranged from \$6,299 to \$55,333. All grants will be new awards. A current grantee may apply for a new award on the same basis as an applicant not previously funded. Grants are for one year in duration.

(e) *Eligibility requirements.* Reference is made to § 158.41 of the Follow Through regulations, 42 FR 33152 (June 29, 1977) concerning which agencies are eligible to apply for Follow Through technical assistance grants. An examination of this paragraph may provide useful guidance to agencies planning to file for Follow Through technical assistance applications.

(f) *For further information and forms contact:* Ms. Rosemary C. Wilson, Director, Division of Follow Through, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3624, ROB No. 3), Washington, D.C. 20202 (202-245-2500).

(g) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Follow Through Regulations (45 CFR Part 158) published in the FEDERAL REGISTER on June 29, 1977.

(Title V, Parts B and C of the Economic Opportunity Act, as amended by Pub. L. 93-644, Section 8(a), 42 U.S.C. 2929 et seq.)

CFDA-13.563—COMMUNITY EDUCATION PROGRAM

Closing date—January 11, 1978

(a) *Application forms and information.* Application forms are available and are now being mailed.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.563, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 6, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Pre-application.* No pre-application will be required for Fiscal Year 1978.

(e) *State comment.* A local educational agency must provide a copy of its application to the State educational agency of the State within which the applicant is located concurrently with its submission of the application to the Office of Education. This information copy should be submitted to the State Coordinator for Community Education, as designated by the Chief State School Officer. For verification of submission to the SEA, the LEA applicant must enclose, in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the SEA. State educational agencies wishing to submit advice and comments on any application originating within their State may do so by forwarding such advice and comments to the Community Education Program, U.S. Office of Education (see address in paragraph (h) below). Advice and comments received from SEAs no later than February 1, 1978 will be considered in reviewing applications.

(f) *Program information.* Applications are being accepted for the Community Education Program. This program is authorized to make grants to State educational agencies (SEAs) and to local educational agencies (LEAs) to pay the Federal share of the cost of establishing, expanding, and maintaining community education programs. The program is also authorized to make grants to institutions of higher education (IHEs) to develop and establish or expand programs which will train persons to plan and operate community education programs.

In formulating proposals, potential applicants should be aware of the amount

of funds available for the program for Fiscal Year 1978. Of \$3,553,000 expected to be appropriated for the program for Fiscal Year 1978, \$1,564,000 is available for grants to SEAs; \$1,564,000 is available for grants to LEAs; and \$425,000 is available for grants to institutions of higher education (IHEs). During Fiscal Year 1977, 355 applications were received from LEAs, 38 from SEAs, and 64 from IHEs. A total of 92 grants was awarded: 48 to LEAs, 33 to SEAs, and 11 to IHEs. In the LEA category, the average grant was \$32,500; in the SEA category, \$43,400; and in the IHE category, \$38,600. Applicants should be aware that funds are generally available only to cover leadership, administrative, and coordinating costs as specified in section 160c-10(c) and other sections of the regulation. All grants will be new awards; no funds are reserved for continuation awards. A current grantee may apply for a new award on the same basis as an applicant not previously funded. Projects are for one year in duration.

(g) *LEA eligibility requirements.* Reference is made to the preamble to the Community Education Program Regulation, 40 FR 57926 (December 12, 1975), particularly pages 57927 through 57928, for a discussion of the term "local educational agency" as used in that regulation. An examination of this discussion may provide useful guidance to parties planning to file an application for assistance under the program.

(h) *For further information and forms contact:* Dr. Paul Tremper, Acting Director, Community Education Program, U.S. Office of Education, 400 Maryland Avenue SW., (Room 5622, ROB No. 3), Washington, D.C. 20202 (202-245-0691).

(i) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR 100, 100a), and the Community Education Program Regulation (45 CFR Part 160c), published on December 12, 1975 in the FEDERAL REGISTER, which are included in the application package.

(20 U.S.C. 1864; 45 CFR Part 160c.)

CFDA-13.565—WOMEN'S EDUCATIONAL EQUITY ACT PROGRAM

Closing Dates—New Grants—January 12, 1978

Continuation Grants Only—April 14, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 11, 1977.

They will be sent directly to everyone on the Women's Educational Equity Act Program's mailing list. Persons not on the mailing list can obtain the material from the Women's Program Staff (see address in paragraph (g) below).

Applications must be prepared and submitted in accordance with the regula-

tions, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.565A for general grants and 13.565B for small grants, Washington, D.C. 20202.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 9, 1978, for new grants, and April 10, 1978, for continuations, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new grants will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications for general and small grant awards for the Women's Educational Equity Act Program are being accepted from public agencies, private nonprofit organizations, or individuals to promote educational equity for women under 45 CFR Part 160f. Applications for general grants are being accepted both from new applicants and from current multi-year grantees seeking continuations of their projects. Applications for new general and small grants must be received by the Application Control Center on or before the closing date. Continuation applications should be received by the Application Control Center on or before the closing date in order to be assured of consideration for funding.

In Fiscal Year 1978, \$8,085,000 will be available for approximately 30 small grants, 35 new general grants and 14 continuing projects. Small grants are not to exceed \$15,000 each; general grant awards will range from approximately \$35,000 to \$175,000, with the average award expected to be about \$95,000. It is expected that approximately one-half of all awards will be single-year grants, and one-half will be multi-year grants. Nothing in this paragraph is intended as a limitation binding the Office of Education to any particular pattern of distribution, except as may be required by statute or regulation.

(e) *Pre-application.* No pre-application will be required for Fiscal Year 1978.

(f) *State comment.* Concurrently with the submission of its application to the Commissioner, a local educational agency (LEA) must provide a copy of its application to the State educational agency (SEA) of the State in which the LEA is located. For verification of submission to the SEA, the LEA applicant must enclose in its application to the Office of Education a copy of the dated cover letter used to forward a copy of its application to the SEA. An SEA wishing to submit advice and comment on any LEA application originating within its State may do so by forwarding that advice and comment to the Women's Program Staff (see address in paragraph (g) below). Advice and comments received from SEAs will be considered in reviewing applications if they are received no later than January 27, 1978, for LEA applications for new general and small grants, and no later than April 26, 1978, for LEA applications for continuation general grants.

(g) *For further information and forms contact:* Women's Program Staff, U.S. Office of Education, Room 2145, 400 Maryland Avenue SW., Washington, D.C. 20202. (202) 245-2181.

(h) *Applicable regulations.* The regulations applicable to this program include (1) the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and (2) the Women's Educational Equity Act Program Regulations (45 CFR Part 160f, 42 FR 33005 (June 28, 1977)).

(20 U.S.C. 1066.)

CFDA-13.406—COLLEGE LIBRARY RESOURCES INSTRUCTOR TRAINING PROGRAM

Closing Date—January 13, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 11, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.586, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 9, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail

rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp or these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for the Bilingual Vocational Instructor Training Program, which is authorized to make grants and award assistance contracts to:

- (1) State agencies;
- (2) Public and private nonprofit educational institutions;
- (3) Private for profit educational institutions which are eligible only for contracts.

Twenty-five percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or contracts for the cost of operating programs designed to carry out the purposes set forth in section 186 of the Act.

It is anticipated that a total of about 4 awards will be made with Fiscal Year 1978 funds; twenty-five percent of the appropriation is \$700,000.

All awards will be new; no funds are reserved for continuation awards. A request for funding by an application who has had a prior award should include an evaluation of the prior award.

Projects are normally one year in duration; the maximum awards will not exceed 12 months.

(e) *For further information and forms contact:* Dr. Doris V. Gunderson, U.S. Office of Education, 400 Maryland Avenue SW. (Room 5026, ROB No. 3), Washington, D.C. (202-245-2614).

(f) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Bilingual Vocational Instructor Program Regulation (45 CFR Part 105, Sections 611-617) which is included in the application package.

(20 U.S.C. 2416; 45 CFR Part 105, Sections 611-617.)

CFDA-13.435—INTERNATIONAL STUDIES CENTERS AND GRADUATE AND UNDERGRADUATE INTERNATIONAL STUDIES PROGRAMS (NON-COMPETING CONTINUATIONS)

Closing Date—January 16, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about October 21, 1977.

Applications should be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.435A, for International Studies Centers, or Attention 13.435B, for Graduate and Undergraduate International Studies Programs, Washington, D.C. 20202. In order to be assured of consideration for funding from Fiscal Year 1978 appropriations, applications for non-competing continuations should be received by the U.S. Office of Education Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 11, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays.

(d) *Program information.* Applications are being accepted from institutions of higher education for non-competing continuation grants under the International Studies Centers Program and the Graduate and Undergraduate International Studies Programs.

The amount of funds available for non-competing continuation grants under the International Studies Centers program will be approximately \$8,000,000 for Fiscal Year 1978. It is anticipated that 80 continuation grants will be awarded at an average of approximately \$100,000, with a range between \$35,000 and \$180,000. No new Center grants will be awarded for Fiscal Year 1978.

The amount of funds available for non-competing continuation grants under the Graduate and Undergraduate International Studies Programs will be approximately \$709,000 for Fiscal Year 1978. Under the Graduate International Studies Program, it is expected that seven grants will be awarded at an average of approximately \$40,000. Under the Undergraduate International Studies Program it is expected that twelve grants will be awarded at an average cost of

\$35,000. A separate Notice of Closing Date of November 18, 1977 for new awards was published in the FEDERAL REGISTER on September 16, 1977 for Fiscal Year 1977-78 under the Graduate and Undergraduate International Studies Programs.

The above statement with regard to the expected distribution of funds is basically for informational purposes and does not bind the Office of Education except as may be required by the applicable statute and regulation.

(e) *For further information and forms contact:* For Centers and Graduate International Studies Program: Dr. Ann Schneider; for Undergraduate International Studies Programs: Mrs. Susanne Easton, International Studies Branch, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3923, ROB No. 3), Washington, D.C. 20202 (202-245-9588).

(f) *Applicable regulations.* Awards pursuant to this notice will be subject to the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the regulations for Modern Foreign Language and Area Studies (45 CFR Part 146) published in the FEDERAL REGISTER on May 23, 1977.

CFDA-13.555—PUBLIC FELLOWSHIPS AND INSTITUTIONAL GRANTS

Closing Date—January 16, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 14, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.555, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 11, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be

taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications for the 1978-79 academic year will be accepted from institutions of higher education for a fellowship allocation and/or institutional grant under the Public Service Programs. The purpose of these programs is to establish or improve graduate public service programs in institutions of higher education and to provide fellowships for graduate study to students who plan public service careers. Processing of applications will be subject to the availability of an appropriation for these programs.

During the 1977-78 academic year, a total of 312 fellows, consisting of 110 continuations and 202 new fellows, will be supported at 74 institutions with \$2,202,200 of Fiscal Year 1977 funds. Institutional grants to 86 institutions totalled \$1,785,300. Although there has not yet been an appropriation for Fiscal Year 1978, it is anticipated that there will again be an appropriation of \$4,000,000 for the two programs. Appropriated funds will be obligated to support fellowships and institutional grants during the 1978-79 academic year; it is expected that the funds will again be divided to support similar numbers of fellows and institutional grants at comparable numbers of institutions.

An institution may apply for a specified number of fellowships and/or an institutional grant. The single application form and instructions pertaining to both programs will be contained in the application package to be sent to all interested applicants.

The Commissioner will give students who are making satisfactory progress in their studies in this program in the 1977-78 academic year high priority for reappointment to a fellowship for the 1978-79 academic year. It is expected that there will be about 100 such continuing students. It is also anticipated that in the 1978-79 academic year, there will be about 50 institutions which will receive funds to continue projects funded by institutional grants in 1977-78, and about 25 to 30 institutions with new projects.

(e) *State Commission comment.* An application for an institutional grant must provide assurances that the institution has notified the appropriate State Commission (established or designated under section 1202 of the Higher Education Act of 1965, as amended), and that the State Commission has been given the opportunity to offer recommendations on the application to the institution and to the Commissioner.

(f) *For further information and forms contact:* Dr. Louis J. Venuto, Bureau of Higher and Continuing Education, U.S. Office of Education, 400 Maryland Ave-

nue SW. (Room 3060, ROB No. 3), Washington, D.C. 20202, (202-245-8082).

(g) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Regulations for Public Service Education Programs (45 CFR Part 194) published on August 9, 1977, in the FEDERAL REGISTER.

(20 U.S.C. 1134-1134c; 1134i-1134m; 45 CFR Part 194)

CFDA-13.510—COOPERATIVE EDUCATION PROGRAM

Closing Date—January 16, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 10, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.510, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 11, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted from institutions of higher education for cooperative education program grants, and from institutions of higher education and other public or nonprofit private agencies for grants for training and research projects. From Fiscal Year 1973 through Fiscal

Year 1976, Congress appropriated \$10,750,000 for the program each year. In Fiscal Year 1977, this appropriation was \$12,250,000. For Fiscal Year 1978, although the final bill is not yet law, both Houses of Congress have approved \$15,000,000. We expect this amount to be available for 327 grants totalling \$13,750,000 for planning, establishing, and strengthening Cooperative Education programs, and for 20 grants totalling \$1,250,000 for training, research, and demonstration. No grant for planning, establishing, or strengthening any Cooperative Education program may exceed \$175,000 to any one institution in any one year.

For the Fiscal Year 1977, 652 valid applications were received. Of these, 247, totalling \$11,250,000, were approved for planning, establishing, and strengthening Cooperative Education programs; 14, totalling \$725,000, were approved for the training of Cooperative Education personnel; and 5, totalling \$275,000, were approved for research or demonstration. All grants are for a period of twelve months. Although institutions are eligible for five years of Federal support for the administration of programs, a new application must be submitted each year.

(e) *For further information and forms contact:* Dr. John L. Chase, Chief, Cooperative Education Branch, Division of Training and Facilities, Office of Education, 400 Maryland Avenue SW. (Room 3053, ROB No. 3), Washington, D.C. 20202 (202-245-2146 or 202-245-2280).

(f) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a), and the proposed regulations for the Cooperative Education Program (45 CFR Part 182) published September 9, 1977, in the FEDERAL REGISTER, and included in the application package. Applicants should base applications on the Notice of Proposed Rulemaking. Applicants will be permitted to amend their applications if the final regulation reflects changes which relate to the preparation of the application.

(20 U.S.C. 1087a-1087c.)

CFDA-13.533B—RIGHT TO READ STATE LEADERSHIP AND TRAINING PROGRAM

Closing Date—January 17, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 16, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.533B, Washington, D.C. 20202. Applications for new awards must be received by the Application Control Center on or before the closing date. In order to be

assured of consideration, non-competing continuation applications should be received on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 12, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8:00 a.m. and 4:00 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4:00 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for new grants and non-competing continuation grants under the Right to Read State Leadership and Training Program. In formulating proposals, potential applicants should be aware of the amount of funds available for the program for Fiscal Year 1978. Of \$27 million appropriated for the program for Fiscal Year 1978, \$5.5 million is available for grants to SEAs. The majority of grants are expected to range from \$75,000 to \$115,000. However, nothing in this paragraph shall be construed to limit the size of any particular grant award. Grant awards will be made upon approval by the Commissioner for a grant period commencing no earlier than July 1, 1978 and terminating no later than June 30, 1979.

(1) *Competing New Applications:* To facilitate review of applications, applicants are encouraged to present information in the sequence of topics that are contained in § 162.61 (Nature of projects; funding requirements) and § 162.62 (Evaluation Criteria) of the program regulation. The attention of applicants is particularly directed to § 162.61(b) of the regulation which requires each applicant to set forth a plan to provide for carrying out and integrating all activities in the State Leadership and Training Program.

Applicants who wish to prepare a multi-year application must include, as indicated in § 162.63(b), an explanation of the need for multi-year support (a three-year project duration may be requested), an overview of the objectives and activities proposed, and budget estimates to attain these objectives

in any proposed subsequent year. Continuances of multi-year projects will be contingent upon the continued authorization of the program and the availability of funds.

(2) *Non-competing Continuation Applications:* As provided under § 162.63(e) of the program regulation, a continuation application will be reviewed, in part, on the basis of the project's effectiveness to date, or any constructive changes proposed as a result of a grantee's ongoing evaluation. Applicants are encouraged to review their initial applications, as well as the requirements and criteria in §§ 162.61 and 162.62, in developing information on how they will conduct their projects in the second and third years.

The Office of Education stresses that State educational agency officials who have authority and responsibility to plan and implement this program realize the extent of the agency commitment that is needed and the need for high expectations for outcomes in the agency to carry out successfully State Leadership and Training projects. The Office of Education strongly encourages applicants to take particular care in defining clearly and sharply the objectives of the project in accordance with the specific requirements of § 162.61(c)(1) of the program regulations.

(e) *For further information and forms contact:* Program Operations Branch, Right to Read Office, U.S. Office of Education, 400 Maryland Avenue, SW., (Room 1187, Donohoe Building), Washington, D.C. 20202, (202) 245-7950.

(f) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a). The regulation governing the State Leadership and Training Program was published in the FEDERAL REGISTER on May 26, 1976 (General Provisions, 45 CFR Part 162, Subpart A, and State Leadership and Training Program, 45 CFR Part 162, Subpart F) and will govern the operation of this program.

(20 U.S.C. 1964.)

CFDA-13.554—CAREER EDUCATION PROGRAM

Closing Date—January 18, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. It is anticipated that the application forms and program information packages will be ready for mailing on or about October 21, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.554, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 13, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, S.W., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted from State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, associations, institutions, and individuals for grants and assistance contracts to support projects to demonstrate the most effective methods and techniques in career education and to develop exemplary career education models (including models in which handicapped children receive appropriate career education either by participation in regular or modified programs with nonhandicapped children or, where necessary, in specially designed programs for handicapped children whose handicaps are of such severity that they cannot benefit from regular or modified programs).

In formulating applications, potential applicants should be aware of the amount of funds available for career education grants and assistance contracts for Fiscal Year 1978. It is anticipated that grants and assistance contracts will be awarded in each of the categories specified in 45 CFR 160d.5, with the total amount of the awards in each category being approximately as follows: (a) incremental improvements in K-12 career education programs—\$1,000,000, (b) demonstrations in such settings as the senior high school—\$250,000, the community college—\$150,000, adult and community education agencies—\$150,000, and institutions of higher education—\$150,000, (c) demonstrations for such special segments of the population as handicapped—\$75,000, gifted and talented—\$400,000, minority youth—\$600,000, low income youth—\$600,000, and to reduce sex stereotyping in career choices—\$500,000, (d) demonstrations of the training and retraining of persons for conducting career education programs—\$1,000,000, and (e) communication of career education philosophy, methods, program activities, and evaluation re-

sults to career education practitioners and to the general public—\$1,200,000. It is expected that a total of about 75 awards will be made in the above categories, and that the average amount per award will be approximately \$90,000.

All of these will be new awards; no funds are reserved for continuation awards. Projects are normally one year in duration.

In addition to the grants and assistance contracts awarded pursuant to this notice, it is anticipated that approximately \$3,385,000 worth of procurement contracts in career education will be awarded during Fiscal Year 1978. Requests for proposals for these procurement contracts will be published in the Commerce Business Daily at a later date.

(e) *State comment.* All applicants must furnish an information copy of their application to the State educational agency of the State within which the applicant is located. This information copy must be submitted to the State Coordinator of Career Education, as designated by the Chief State School Officer, concurrently with the submission of the application to the U.S. Office of Education. The application submitted to the U.S. Office of Education must contain a statement that this has been accomplished. State educational agencies wishing to submit advice and comment on any application originating within their State may do so by forwarding that advice and comment to the Office of Career Education, at the address in paragraph (f) below.

(f) *For further information and forms contact:* Dr. Sidney C. High, Jr., Office of Career Education, U.S. Office of Education, 400 Maryland Avenue, SW., (Room 3100, ROB No. 3), Washington, D.C. 20202; (202) 245-2331.

(g) *Applicable regulations.* The regulations applicable to the Career Education Program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a, and appendices), the regulation for the Special Projects Act (45 CFR Part 160, especially Part III in the Appendix) published in the FEDERAL REGISTER on July 15, 1976, and the regulation for the Career Education Program (45 CFR Part 160d), published in the FEDERAL REGISTER on May 13, 1976.

(20 U.S.C. 1851-1853 and 1865; 45 CFR Part 160 and Part 160d.)

CFDA-13.522—ENVIRONMENTAL EDUCATION PROGRAM

Closing Date—January 20, 1978

(a) *Application forms and information.* Application forms and program information packages are available and are being mailed.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.522, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 16, 1978, as evidenced by the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Street SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for the Environmental Education Program from institutions of higher education, State and local educational agencies, regional research organizations, and other public and private nonprofit agencies, organizations, and institutions for environmental education project grants. In formulating proposals, potential applicants should be aware that approximately 100 projects will be funded in Fiscal Year 1978, including new awards and competing continuation projects. Grants averaging \$50,000 for General Project activities and not exceeding \$10,000 for Minigrant activities will be awarded for a 12-month period. Minigrants are available for community workshops, conferences, symposia, or seminars on a local environmental problem.

(e) *State and areawide clearinghouse review (OMB Circular A-95).* Applications under the Environmental Education Program are subject to the clearinghouse procedures required by OMB Circular A-95, the regulations for facilitating coordinated planning under the Intergovernmental Cooperative Act. State/areawide clearinghouse procedures are applicable. Applicants should check with the appropriate Federal Regional Office to obtain the name(s) and address(es) of the clearinghouse(s) if unknown. Indian tribe applicants need not notify "clearinghouses" unless a tribal, formalized procedure has been established through the Office of Management and Budget. All applicants, other than Indian tribes, must provide evidence of compliance with clearinghouse review requirements in the application to the Commissioner. Evidence of compliance may consist of:

(1) A State application identifier number obtained from the clearinghouse and

comments from clearinghouses, if available.

(2) Certification by the applicant that either or both State and areawide clearinghouses have been provided with the opportunity to review the application, and no comments have been received.

Clearinghouse comments received by the applicant after the submission of the application to the U.S. Office of Education must be forwarded to the Office of Environmental Education, U.S. Office of Education (see address in paragraph (g) below). Clearinghouse comments received by the Office of Environmental Education no later than February 20, 1978 will be considered in reviewing applications.

(f) *State education agency comment.* The regulations for the Environmental Education Program, in accordance with the statute, require that a local educational agency provide a copy of its application to the State educational agency of the State within which the applicant is located, concurrently with its submission of the application to the Office of Education. For verification of the submission to the State educational agency, the local educational agency applicant must enclose, in its application to the Commissioner, a copy of the dated cover letter used to forward a copy of its application to the State educational agency. State educational agencies wishing to submit advice and comments on any local educational agency application originating within their State may do so by forwarding their advice and comments to the Office of Environmental Education, U.S. Office of Education (see address in paragraph (g) below). Advice and comments received from SEAs no later than February 21, 1978, will be considered in reviewing applications.

(g) *For further information and forms contact:* Walter J. Bogan, Jr., Office of Environmental Education, Bureau of Elementary and Secondary Education, Room 2025, 400 Maryland Avenue SW., Washington, D.C. 20202, (202) 245-9231.

(h) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Environmental Education Regulations published in the FEDERAL REGISTER on May 21, 1974, as amended March 24, 1975 (45 CFR Part 183).

(20 U.S.C. 1531-1536.)

CFDA-13.569—INDIAN FELLOWSHIP PROGRAM

Closing Date—January 23, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 18, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail:* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.569, identified as new or continuing. Washington, D.C. 20202. Applications for new fellowships must be received by the U.S. Office of Education Application Control Center on or before the closing date. In order to be assured of consideration, applications for noncompeting continuation fellowships should be received by the U.S. Office of Education Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 18, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted from eligible applicants for purposes of the program described below.

(1) *Subpart H awards.* (CFDA No. 13.569). Pursuant to 45 CFR 187.71, Subpart H, an Indian who is in attendance, or who has been accepted for admission, as a full-time student at an institution of higher education for study in a graduate or professional program may apply for a fellowship. The applicant's program of study must be one of not less than three nor more than four academic years and provide a professional or graduate degree in engineering, medicine, law, business, forestry, or a field related to one of these areas.

Applicants in the fields of business, engineering or forestry may be entering the first year of undergraduate study. Applicants in the fields of medicine or law must be entering at a level not lower than the first year of medical school or law school, whichever is applicable.

Criteria for the Indian Fellowship Program are set forth in 45 CFR 187.73. Priorities are set forth in 45 CFR 187.74.

(2) *Availability of funds and estimated number of awards.* The estimated total

amount of funds which will be available for the Indian Fellowship Program is \$1.3 million. Of this amount, approximately one million dollars has been committed to continue fellowship awards which began with Fiscal Year 1977 funds. Based on an average fellowship award of \$6,400, approximately 50 new fellowship awards will be made. This statement on the availability of funds does not bind the Office of Education to any particular pattern of distribution except as required by the Indian Education Act, applicable regulations, and appropriations. Rather, actual figures may vary widely from those given.

(e) *For further information and forms contact:* Office of Indian Education, Division of Special Projects and Programs, U.S. Office of Education, Room 2158, Maryland Avenue, SW., Washington, D.C. 20202, (202) 245-2975.

(f) *Applicable regulations.* Awards under this program will be subject to the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a, except 100a.26(b)) and the Indian Education Act, Part B program regulations (45 CFR Part 187) published in the FEDERAL REGISTER on June 28, 1977.

(20 U.S.C. 887c-2.)

CFDA-13.558—BILINGUAL VOCATIONAL TRAINING PROGRAM

Closing Date—January 25, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 11, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail:* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.558, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 20, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of the receipt, the Commissioner will rely on the time-date documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information:* Applications are being accepted for the Bilingual Vocational Training Program, which is authorized to make grants or award assistance contracts to:

(1) Local educational agencies;

(2) State educational agencies;

(3) Postsecondary educational institutions;

(4) Private nonprofit vocational training institutions; and

(5) Nonprofit educational or training organizations especially created to serve a group whose language as normally used is other than English.

Sixty-five percent of the funds available under section 183 of the Act may be used by the Commissioner to award grants or assistance contracts for the cost of operating programs designed to carry out the purposes set forth in section 184 of the Act.

It is anticipated that a total of about 14 awards will be made with fiscal year 1978 funds; 65 percent of the appropriation is \$1,820,000.

Projects are normally 1 year in duration; the maximum awards will not exceed 12 months.

All awards will be new: no funds are reserved for continuation awards. A request for funding by an applicant who has had a prior award(s) should include an evaluation of the prior award(s).

(e) *State board for vocational education comment.* An applicant must provide a copy of the application to the State board at the same time it is submitted to the Office of Education. The State board shall submit comments upon the application within thirty days after the closing date for applications.

(f) *For further information and forms contact:* Dr. Doris V. Gunderson, U.S. Office of Education (Room 5026, ROE No. 3), 7th and D Streets SW., Washington, D.C. 20202 (202-245-2614).

(g) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Bilingual Vocational Training Program Regulation (45 CFR Part 105, sections 601-607) which is included in the application package.

(20 U.S.C. 2414; 45 CFR Part 105.)

CFDA-13.535—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN

Closing Date—January 27, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program in-

formation packages will be ready for mailing on or about November 14, 1977.

(b) *Applications sent by mail:* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.535A or 13.535B, Washington, D.C. 20202. Applications for new awards must be received by the Office of Education Application Control Center on or before the closing date. In order to be assured of consideration, noncompeting continuation applications (multiple year awards made in fiscal year 1976 and fiscal year 1977) should be received on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 23, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours 8 a.m. and 4 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted from eligible applicants for purposes of the programs listed below. An eligible applicant may submit applications for one or more programs.

(1) *Subpart B awards.* (CFDA No. 13.535A). Pursuant to 45 CFR 187.11 of the regulations, State and local educational agencies; federally supported elementary and secondary schools for Indian children; and Indian tribes, Indian organizations, and Indian institutions may submit applications for grants to support planning, pilot, and demonstration projects for improving educational opportunities for Indian children. Criteria for this program are set forth in 45 CFR 187.12. Priorities are set forth in 45 CFR 187.13.

(2) *Subpart C awards.* (CFDA No. 13.535A). Pursuant to 45 CFR 187.21 of the regulations, State and local educational agencies, and tribal and other Indian community organizations may submit applications for programs to provide educational services to improve the edu-

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educational opportunities for Indian children. Criteria for this program are set forth in 45 CFR 187.22. Priorities are set forth in 45 CFR 187.23.

(3) *Subpart D awards.* (CFDA No. 13.535A). Pursuant to 45 CFR 187.31 of the regulations, State and local educational agencies, and tribal and other Indian community organizations may submit applications for programs to provide exemplary programs and centers to improve the educational opportunities for Indian children. Criteria for this program are set forth in 45 CFR 187.32. Priorities are set forth in 45 CFR 187.33.

(4) *Subpart E awards.* (CFDA No. 13.535A). Pursuant to 45 CFR 187.41 of the regulations, public agencies and institutions, Indian tribes, Indian institutions, and Indian organizations may apply for assistance for dissemination, evaluation, and training and technical assistance programs. Criteria for this program are set forth in 45 CFR 187.42. Priorities are set forth in 45 CFR 187.43.

(5) *Subpart F awards.* (CFDA No. 13.535B). Pursuant to 45 CFR 187.51 of the regulations, institutions of higher education and State and local educational agencies in combination with institutions of higher education, may apply for grants to prepare persons to serve Indian children as teachers, teacher aides, social workers, or ancillary educational personnel, or to improve the qualifications of those persons serving Indian children in those capacities. Criteria for this program are set forth in 45 CFR 187.53. Priorities are set forth in 45 CFR 187.54.

(6) *Subpart G awards.* (CFDA No. 13.535B). Pursuant to 45 CFR 187.61 of the regulations, institutions of higher education, Indian tribes, and Indian organizations may apply for grants to prepare individuals for teaching in or administering special programs and projects designed to meet the special educational needs of Indian children, or to provide in-service training for persons already teaching in those programs and projects; or both. Criteria for this program are set forth in 45 CFR 187.63. Priorities are set forth in 45 CFR 187.64.

(7) *Subpart H awards.*—Indian Fellowship Program. (CFDA No. 13.569). Applications for Subpart H, 45 CFR 187.71 are explained separately below.

(8) *Multiple-year awards.* Under 45 CFR 187.6, applicants may submit applications for projects which will require more than 1 year for completion. Consideration will be given to providing support for projects of 2 to 3 years on a case-by-case basis. Where assistance is provided for multiple year projects, grant awards will be made for budget periods of 1 year with continuation awards made on a noncompetitive basis subject to satisfactory performance as determined pursuant to 45 CFR 187.6(d) and the availability of funds in future fiscal years.

(9) *Availability of funds and estimated number and amount of awards.* The estimated total amount of funds which will be available for the above activities is \$13 million. Of this amount,

approximately two-thirds or \$8.8 million has been committed to continue multiple year grants which began with fiscal year 1976 or 1977.

Based on a \$110,000 average grant it is estimated that, with the remainder of the fiscal year 1978 funds (\$4.2 million), approximately 38 new grants will be awarded.

This statement on the availability of funds does not bind the Office of Education to any particular pattern of distribution except as required by the Indian Education Act, applicable regulations, and appropriations. Rather, actual figures may vary widely from those given.

(e) *For further information and forms contact:* Office of Indian Education, Division of Special Projects and Programs, U.S. Office of Education, Room 2158, 400 Maryland Avenue SW., Washington, D.C. 20202.

(f) *Applicable regulations.* Awards under these programs will be subject to the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a, except 100a.26(b)) and subject to the Indian Education Act Part B program regulations (45 CFR 187) published in the FEDERAL REGISTER on June 28, 1977.

CFDA-13.551—INDIAN EDUCATION—GRANTS TO NON-LOCAL EDUCATIONAL AGENCIES

Closing date—January 27, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 14, 1977. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail:* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13-551, Washington, D.C. 20202. Applications for new awards must be received by the Office of Education Application Control Center on or before the closing date. In order to be assured of consideration, noncompeting continuation applications (multiple year awards made in fiscal year 1976 and fiscal year 1977) should be received on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 23, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health,

Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted from schools located on or near reservations which are not local educational agencies, or have not been local educational agencies for more than 3 years. A nonlocal educational agency is defined in 45 CFR 186.2. Eligibility factors, found in 45 CFR 186.32(a) are: (1) Whether the governing body of the school or school system was selected by, is representative of, and is solely responsible to the Indian tribe or Indian community which that school or school system serves; and (2) whether the governing body derives authority from such community to carry out such functions as: (i) employing, managing, and terminating personnel; (ii) developing and revising curricula; (iii) establishing attendance, academic, and other relevant standards; (iv) developing and approving budgets; (v) establishing operational policies; and (vi) raising funds.

Section 303(b) authorizes the Commissioner to provide financial assistance to support applicants for programs designed to meet the special educational needs of Indian students. Assistance may be used for the purposes of planning and developing elementary and secondary school programs and for meeting costs incurred in connection with the establishment, maintenance, and operation of such programs.

(e) *Awards.* Applicants who received assistance last fiscal year for a project period of one year and eligible applicants for new grants will compete for funds appropriated by Congress. Applicants who wish to continue their multiyear programs will submit applications for continuations which will not compete against other applications for new awards. Approximately \$3,531,818 is available of which approximately \$3,380,000 will be for the continuation of present multiyear awards. Approximately two grant awards for an average amount of \$125,500 will be made for new grants, continuation of 1 year awards or expansions of multiyear awards.

This statement on the availability of funds does not bind the Office of Education to any particular pattern of distribution except as required by the Indian Education Act, applicable regulation and appropriations. Rather, actual figures may vary widely from those given.

(f) *For further information and forms contact:* Office of Indian Education, Division of Special Projects and Programs, Elementary and Secondary Special Projects Branch, U.S. Office of Education,

Room 2153, 400 Maryland Avenue SW., Washington, D.C. 20202.

(g) *Applicable regulations.* Awards under section 303(b) of the Indian Education Act will be subject to the requirements of the Act and to relevant provisions of 45 CFR Part 186. Assistance under this program is also subject to applicable provisions in 45 CFR Parts 100, 100a. Criteria for the selection of applications are contained in 45 CFR 100a.26 (b) and in 45 CFR 186.33.

(20 U.S.C. 241bb(b).)

CFDA-13.536—SPECIAL PROGRAMS RELATING TO ADULT INDIAN EDUCATION

Closing Date—January 31, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 17, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.536, Washington, D.C. 20202. Applications for new awards must be received by the U.S. Office of Education Application Control Center on or before the closing date. In order to be assured of consideration, noncompeting continuation applications (multiple year awards made in fiscal year 1977) should be received on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 26, 1978, as evidenced by the Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for the Adult Indian Education Program as described below.

NOTICES

(1) *Demonstration, basic literacy and high school equivalency, research and development, and dissemination and evaluations.* Applications are being accepted from State educational agencies; local educational agencies; and Indian tribes, institutions, and organizations for planning, pilot, and demonstration projects described in the following paragraphs of the regulations published in the FEDERAL REGISTER on June 28, 1977.

(i) *Demonstration.* 45 CFR 188.5(a). Projects to test and demonstrate the effectiveness of Adult Indian Education programs;

(ii) *Basic literacy and high school equivalency.* 45 CFR 188.5(b). Projects that establish and operate programs for basic literacy training and high school equivalency;

(iii) *Research and development.* 45 CFR 188.5(c). Projects to support a major research and development program to develop innovative and effective techniques for achieving literacy and high school equivalency; and

(iv) *Dissemination and evaluation.* 45 CFR 188.5(e). Projects for dissemination and evaluation of materials on Adult Indian Education.

Applications received in the areas described above will be evaluated against the criteria in § 188.15. Priority points will be awarded in accordance with § 188.17.

(2) *Basic surveys.* Applications are being accepted from State and local educational agencies; and Indian tribes, institutions, and organizations for basic surveys on the problems of illiteracy and lack of completion of high school on Indian reservations as described in 45 CFR 188.5(d), published in the FEDERAL REGISTER on June 28, 1977.

Applications received in this area will be evaluated against the criteria in § 188.15 (a), (c), (d), (e), and (f) plus the criteria in § 188.16. Priority points will be awarded in accordance with § 188.17.

(3) *Dissemination and evaluation.* Applications are being accepted from public agencies and institutions, and Indian tribes, institutions and organizations for projects which evaluate the effectiveness of federally assisted programs in which adult Indians may participate and disseminate information concerning adult Indian education as described in 45 CFR 188.6, published in the FEDERAL REGISTER on June 28, 1977.

Applications received in this area will be evaluated against the criteria in § 188.15 (a), (c), (d), (e), and (f) plus the criteria in § 188.16. Priority points will be awarded in accordance with § 188.17.

(4) *Multiple-year project grants:* Applicants may submit applications for projects which will require more than one year for completion as authorized by 45 CFR 188.11. Consideration will be given to providing support for projects of 2 to 3 years on a case-by-case basis. Where assistance is provided for multiple year project grants, grant awards will be made for a budget period of 1 year with continuation awards made

on a noncompetitive basis subject to satisfactory performance (as determined pursuant to 45 CFR 188.11(d)) and the availability of funds in future fiscal years.

(5) *Availability of funds and estimated number and amount of awards:* The estimated total amount of funds which will be available for the above activities is \$4,410,000. Of this amount, approximately \$621,639 has been committed to continue multiple year grants which began with fiscal year 1977. During fiscal year 1977, 167 applications were received under Subpart 188.15 with 51 grants awarded; 15 applications were received under Subpart 188.16 with 2 grants awarded. The approximate range of award amounts is from \$20,000 to \$100,000.

(e) *For further information and forms contact:* Division of Special Projects and Programs, Office of Indian Education, U.S. Office of Education, Room 2158, 400 Maryland Avenue SW., Washington, D.C. 20202 (202-245-2975).

(f) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a, except 45 CFR 100a.26(b)) and the regulations for awarding Financial Assistance for the Improvement of Educational Opportunities for Adult Indians published in the FEDERAL REGISTER on June 28, 1977.

(20 U.S.C. 1211a.)

CFDA-13.535G—RIGHT TO READ READING IMPROVEMENT PROJECTS (NEW AWARDS)

Closing Date—February 3, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 16, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.533G, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than January 30, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documents.

tary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for new, competing grants under the Right to Read Reading Improvement Program (45 CFR Part 162, Subpart B).

In accordance with § 162.11 of the program regulations, eligible applicants for elementary projects are local educational agencies, State educational agencies, or both. Eligible applicants for preelementary projects are local educational agencies, State educational agencies, and other nonprofit, educational, or child care institutions. Any current grantee under the program which is not eligible to receive a noncompeting, continuation grant may compete for a new grant award.

Current grantees are eligible to receive a noncompeting continuation award if their grant award in fiscal year 1977 indicated the Commissioner's intention to fund them for a 24-month project period. A notice of closing date for noncompeting, continuation applications is being published separately.

Based on the fiscal year 1977 grants competition experience (when 29 preelementary projects and 75 elementary projects were funded out of 572 applications with a total of \$6 million for new projects), it is anticipated that competition for the Federal funds under the Reading Improvement Program will be stiff.

Section 162.15 of the program regulations provides that, in approving applications, the Commissioner will, to the maximum extent feasible, assure an equitable distribution of funds throughout the United States and among urban and rural areas.

It is estimated that, for fiscal year 1978, approximately \$3.9 million will be available for new grant awards in the Reading Improvement Program. For elementary projects, it is anticipated, as provided in § 162.18(a), that most grants will range between \$15,000 and \$125,000, with most of the awards made at the lower half of this range. In conformity with § 162.11(b)(1), elementary schools in the project must have large numbers of students or 50 percent or more of students in grades two through eight, or in project classes, reading 1 or more years below appropriate grade level. Nothing in this section shall be construed to limit the size of any particular grant award.

As stated in § 162.18(a), it is anticipated that most pre-elementary grants will be awarded in the range between \$5,000 and \$25,000, with most of the awards made at the lower half of this range. The attention of prospective applicants is directed to § 162.11(b)(1)(ii) of the program regulations which provides that Federal funds for preelementary projects will be awarded to schools located in geographic areas where there are elementary schools with large numbers or 50 percent or more of the students in grades two through eight reading 1 or more years below appropriate grade levels.

The Office of Education found, in reviewing applications in fiscal year 1977, that many applicants had failed to address, or address adequately, one or more of the requirements for grant awards, and their applications were disqualified. Therefore, the Office of Education cautions applicants to review carefully each of the requirements in the regulations and to address each in the application.

The Commissioner wants to bring special attention to the statement of objectives in the application. Applicants are strongly urged to see that each project objective specify (1) what is to be done, (2) how it is to be done, (3) who is to do it, (4) when it is to be done, and (5) how the activities will be measured. Also, applicants are urged in accordance with the criterion in § 162.14(b)(2)(i), to carry out the program with existing staff rather than hiring additional staff members with Federal funds. The reason the Office of Education suggests this is that often, when Federal funds are withdrawn, the additional personnel are not continued with local funds, and the program is not carried on.

In accordance with § 162.17(b), if an applicant wishes to propose a 2-year project, the applicant must explain in the application the need for 2-year Federal support, provide an overview of the objectives and activities proposed for 2 years, and budget estimates for a 24-month period.

Approximately 60 new grants will be awarded nationally under this program. Budget periods are tentatively scheduled for projects commencing no earlier than July 1, 1978, and terminating no later than June 30, 1979.

(e) *Guidance to applicants.* Based upon the experience of the Office of Education in reviewing applications under this program in fiscal year 1977, special guidance has been given in this notice on the preparation and submission of applications and in their review by State educational agencies. In particular, the attention of prospective applicants has been directed to application requirements in the program regulation which may not have been adequately addressed in a number of fiscal year 1977 applications.

However, this notice does not cover all application requirements in the regulation, nor does it state fully the specific regulation provisions which it does mention. Applicants are responsible for reading and complying with all requirements

in the program regulation. Guidance in this notice relating to the regulation is given for the purpose of directing applicants to the regulation; not for the purpose of being used in place of the regulation.

Applicants and State educational agencies should also understand that provisions in this notice which involve suggestive language (e.g., "It is suggested," "Applicants are urged") are only suggestions given for the purpose of guidance or to facilitate review of applications. These suggestive provisions are not requirements, and failure of an applicant or SEA to follow them will not in any way prejudice the application.

(f) *State review and approval.* In accordance with § 162.13(b) of the program regulation, an applicant other than the State educational agency (SEA) must provide a copy of the completed application (and, it is suggested, two additional copies) to the State educational agency for the State within which the applicant agency is located on or before January 19, 1978. Unless the State educational agency has specified differently, it is suggested that these copies be submitted to the State Right to Read Director's office within the respective State educational agency. For verification of submission to the SEA, the applicant agency is encouraged to submit a copy of the dated cover letter used to forward its application to the SEA or to submit some other piece of verification in its application to the Commissioner. Under § 162.13, the Commissioner is not authorized to approve a Reading Improvement Project application unless the State educational agency has (1) established an advisory council on reading, (2) authorized and provided the opportunity to the council to receive and designate priorities among applications for grants, and (3) first approved the application.

Section 162.13(c) provides that failure by the SEA to indicate its approval in writing to the Commissioner within a period specified by the Commissioner shall be deemed a disapproval of the application by the SEA, and the application will not be considered for funding by the Commissioner.

(g) *Cut-off date for receipt of SEA approval of applications.* The cut-off date established for receipt by the Commissioner of written approval by the SEAs of applications within their State is February 15, 1978. These written approvals should be forwarded to: Program Operations Branch, Right to Read Office, U.S. Office of Education, 400 Maryland Avenue SW., (Room 1169, Donohoe Building), Washington, D.C. 20202. In addition to the approval list, the SEA must also send by that date the information required by 45 CFR 162.13(d)(2)(i) and (ii). In accordance with 45 CFR 162.14(a)(11), the Commissioner may attribute as many as 50 points (out of 195 total points for elementary projects and 230 for pre-elementary projects) to the ranking of an application by the State advisory council. It should be made

clear, however, that high rankings by the State advisory council do not assure an automatic selection for funding by the Commissioner.

It is suggested that SEA's judge and rank the pre-elementary applications separately from the elementary ones, and that they forward copies of any written reviews of the applications.

As indicated in § 162.13(e), State educational agencies are strongly urged to approve no more than ten applications.

(h) *For further information and forms contact:* Program Operations Branch, Right to Read Office, U.S. Office of Education, 400 Maryland Avenue SW., (Room 1187, Donohoe Building), Washington, D.C. 20202 (202-245-7950).

(i) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a). The regulation governing the Reading Improvement Projects was published in the FEDERAL REGISTER on May 26, 1976 (General Provisions, 45 CFR Part 162, Subpart A, and Reading Improvement Projects, 45 CFR Part 162, Subpart B) and will govern the operations of this program.

(20 U.S.C. 1921.)

CFDA-13.534—INDIAN ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE—GRANTS TO LOCAL EDUCATIONAL AGENCIES

Closing Date—February 10, 1978

(a) *Application forms and information.* Application forms are being prepared, but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about December 7, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.534, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than February 6, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. 20202. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications for assistance are being accepted from local educational agencies with the required number of enrolled Indian students, for grants pursuant to Section 305 of the Act (20 U.S.C. 241dd). Section 305 enables the Commissioner to provide financial assistance to eligible local educational agencies for programs that meet the special educational needs of Indian children, based upon the Indian student enrollment as certified by the State educational agency.

Assistance under section 305 of the Act may be used for the purpose of planning, operating, and evaluating elementary and secondary school programs specially designed to meet the special educational needs of Indian students, with the involvement of the Indian community and parents of the Indian children to be served.

Awards under section 305 of the Act will be subject to the requirements of the Act and to regulations set forth in 45 CFR Part 186. Requirements for approval of applications for grant assistance are contained in the regulations published in the FEDERAL REGISTER of July 6, 1973.

(e) *For further information and forms contact:* Division of Local Educational Agency Assistance (Part A), Office of Indian Education, 400 Maryland Avenue SW., Room 2167, Washington, D.C. 20202.

(f) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) which are included in the Indian Education Act, Part A application package, and the Part A Regulations (45 CFR Part 186).

(20 U.S.C. 241aa-241ff).

CFDA-13.578—VOCATIONAL EDUCATION TEACHER CERTIFICATION FELLOWSHIP PROGRAM

Closing Date—February 17, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about December 16, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13-

578, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to have been received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than February 13, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for the Vocational Education Teacher Certification Fellowship program. These include (a) receipt of individual application for a fellowship award under the Vocational Education Teacher Certification Fellowship Program; and (b) advisement on the merits of an individual application from the State board for vocational education for the State in which the individual is seeking certification.

Potential applicants should be aware that approximately \$1,850,000 is available for the program for Fiscal Year 1978 to pay the cost of fellowship awards. The estimated cost of each fellowship award is \$9,844 which includes the institutional allowance, individual stipend costs, and dependency allowance costs. All grants will be new awards. Vocational Education Teacher Certification Fellowships will be made for a period not to exceed 24 months. Fellowship payments to individuals after the first year of the fellowship period (in case of awards made for a period exceeding twelve months) are subject to the continued availability of Federal funds under section 172 of the Act.

(e) *Teaching fields in need of additional vocational education teachers.* A listing, by State, of vocational fields in which there are a shortage of teachers, will be published in the FEDERAL REGISTER approximately November 23, 1977, and will be included in the application package. The law requires that the Commissioner, to the maximum degree possible, award fellowships to applicants seeking certification in the areas listed.

(f) *State comment.* An additional copy of the application must be submitted to the State board for vocational education in the applicant's State of residence on or before January 27, 1978. The State board for vocational education must review each application, collect advice as to the merits of each application, and forward all applications and statements of advice to: Teacher Certification Program, Vocational Education Personnel Development, Division of Research and Demonstration, Bureau of Occupational and Adult Education, U.S. Office of Education (Room 5652, ROB No. 3), 400 Maryland Avenue SW., Washington, D.C. 20202, postmarked on or before February 14, 1978.

(g) *For further information and forms contact:* Teacher Certification Program, Vocational Education Personnel Development, Division of Research and Demonstration, Bureau of Occupational and Adult Education, U.S. Office of Education (Room 5652, ROB No. 3), 400 Maryland Avenue SW., Washington, D.C. 20202.

(h) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Vocational Education, Teacher Certification Fellowship Program Regulation (45 CFR Part 105, Sections 431-443) which is included in the application package.

(20 U.S.C. 2402; 45 CFR Part 105, Sections 431-443.)

CFDA-13.406—COLLEGE LIBRARY RESOURCES PROGRAM

Closing Date—February 21, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about December 16, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.406, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than February 16, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* In order to assist institutions of higher education in the acquisition of library materials, applications for Basic grants are being accepted from institutions of higher education (applying on their own behalf or on behalf of branches), combinations of those institutions, new institutions of higher education (as defined in 45 CFR 131.2), and other public and private non-profit library agencies whose primary function is to provide library and information services to institutions of higher education on a formal cooperative basis.

In formulating proposals, potential applicants should be aware of the amount of funds available for the program for Fiscal Year 1978. It is anticipated that the total amount of the awards for the basic grant category specified in 45 CFR Part 131 will be \$9,975,000. It is also expected that approximately 2,650 awards will be made in this category, and that the average amount per award will be approximately \$3,800. All of these will be new awards; no funds are reserved for continuation awards. Grants will support projects to be carried out in Fiscal Year 1979 (October 1, 1978-September 30, 1979). In light of the number of Basic grant applications expected, it is anticipated that grant funds will not be available in Fiscal Year 1978 for supplemental and Special Purpose grants which are also specified in 45 CFR Part 131.

(e) *For further information and forms contact:* Frank Stevens, Division of Library Programs, Office of Libraries and Learning Resources, Attention: 13.406, Bureau of Elementary and Secondary Education, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3622, ROB No. 3), Washington, D.C. 20202 (202-245-9530).

(f) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a, and appendices) and the College Library Resources Program Regulations (45 CFR Part 131) published on November 18, 1974, in the FEDERAL REGISTER.

(20 U.S.C. 1021-1028)

CFDA-13.444A—HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM—MODEL DEMONSTRATION PROJECTS (NON-COMPETING CONTINUATIONS)

Closing Date—February 24, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about October 14, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.444A, Washington, D.C. 20202. In order to be considered, the applications should be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than February 20, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays.

(d) *Program information.* The funding level of the Handicapped Children's Early Education Program in Fiscal Year 1978 is expected to be \$22,000,000. These funds will be made available for new and non-competing continuation demonstration projects, technical assistance support activities, and outreach projects. The approximate number of grants for non-competing demonstration continuation grant awards is 90. During previous years of the program, funding for second and third year demonstration non-competing continuation projects has averaged between \$80,000 and \$150,000.

Continuation of funding for the second year of the project will depend upon satisfactory performance by the grantee as reviewed by the funding agency and availability of funds. The funding level and distribution of project funds are predicated upon the allotment of funds and may vary according to the final appropriation made available during a specific fiscal year.

(e) *For further information and forms contact:* Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3100, Donohoe Building), Washington, D.C. 20202.

(f) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the applicable program regulations (45 CFR Parts 121 and 121d).

(20 U.S.C. 1423, 1424.)

CFDA-13.444B—HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAMS—OUTREACH PROJECTS

Closing Date—March 1, 1978

(a) *Application forms and information.* Application forms and program information packages are available and are being mailed at this time.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13-444B, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than February 27, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Eligible applicants are those grantees whose projects have completed a three year demonstration phase under the Handicapped Children's Early Education Program. The program regulations (45 CFR 121d) specify that parties which have received assistance for early education demonstration projects for three years may apply for assistance for activities which will assist other agencies in meeting the early educational needs of handicapped children (45 CFR 121d.40). The regulations also provide that direct services

provided by the project during the prior demonstration phase must be continued by the applicant and supported from funds other than funds from the Handicapped Children's Early Education Program to meet the eligibility requirements for grants for new HCEEP Outreach Projects (45 CFR 121d.41(a)). The regulations contain other requirements regarding the content of the application (45 CFR 121d.41).

The notice of closing date for non-competing continuation grants was published earlier. (Potential applicants for support for new demonstration projects under the Handicapped Children's Early Education program apply under a separate program (CFDA No. 13.444A).)

The funding level for the Handicapped Children's Early Education Program is expected to be approximately \$22 million for Fiscal Year 1978. There will be approximately 15 new outreach projects funded under this program. Funding for new outreach projects has averaged between \$50,000 and \$150,000.

(e) *For further information and forms contact:* Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue SW. (Room 3100, Donohoe Building), Washington, D.C. 20202.

(f) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the applicable program regulations (45 CFR Parts 121 and 121d).

(20 U.S.C. 1423, 1424.)

CFDA-13.588—CONTRACT PROGRAM FOR INDIAN TRIBES AND INDIAN ORGANIZATIONS

Closing Date—March 13, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 11, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.588, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than March 8, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for the Contract Program for Indian Tribes and Indian Organizations, which is authorized to award assistance contracts to Indian Tribal organizations of Indian tribes which are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975 or under the Act of April 16, 1934.

An award will not exceed three fiscal years. Continuation funding is contingent upon satisfactory performance. Applications for multi-year awards shall have a detailed budget for the current year and total budget figures for the subsequent years.

A request for continuation of a project beyond the project period will be considered a new application and will be reviewed competitively with all other applications. In order for the Commissioner to make this determination, an applicant who has had a prior contract under this program shall include an evaluation of the previous project.

It is anticipated that a total of 35 awards will be made with Fiscal Year 1978 funds, and that the average amount per award will be approximately \$150,000. The total amount of the awards will be \$5,218,476.

(e) *Bureau of Indian Affairs and State Board comment.* An applicant shall submit a copy of the application directly to the Commissioner of the Bureau of Indian Affairs and the State Board for Vocational Education at the same time it submits an application to the Office of Education.

(f) *For further information and forms contact:* Dr. Doris V. Gunderson, U.S. Office of Education, 400 Maryland Avenue SW. (Room 5026, ROB No. 3), Washington, D.C. 20202 (202-245-2614).

(g) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Contract Program for Indian Tribes and Indian Organizations Regulation (45 CFR Part 105, Sections 201-214) included in the application Package.

(20 U.S.C. 2303; 45 CFR Part 105, Sections 201-214.)

fare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp by the Department of Health, Education, Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C., time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for the Contract Program for Indian Tribes and Indian Organizations, which is authorized to award assistance contracts to Indian Tribal organizations of Indian tribes which are eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination and Education Assistance Act of 1975 or under the Act of April 16, 1934.

An award will not exceed three fiscal years. Continuation funding is contingent upon satisfactory performance. Applications for multi-year awards shall have a detailed budget for the current year and total budget figures for the subsequent years.

A request for continuation of a project beyond the project period will be considered a new application and will be reviewed competitively with all other applications. In order for the Commissioner to make this determination, an applicant who has had a prior contract under this program shall include an evaluation of the previous project.

It is anticipated that a total of 35 awards will be made with Fiscal Year 1978 funds, and that the average amount per award will be approximately \$150,000. The total amount of the awards will be \$5,218,476.

(e) *Bureau of Indian Affairs and State Board comment.* An applicant shall submit a copy of the application directly to the Commissioner of the Bureau of Indian Affairs and the State Board for Vocational Education at the same time it submits an application to the Office of Education.

(f) *For further information and forms contact:* Dr. Doris V. Gunderson, U.S. Office of Education, 400 Maryland Avenue SW. (Room 5026, ROB No. 3), Washington, D.C. 20202 (202-245-2614).

(g) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Contract Program for Indian Tribes and Indian Organizations Regulation (45 CFR Part 105, Sections 201-214) included in the application Package.

(20 U.S.C. 2303; 45 CFR Part 105, Sections 201-214.)

CFDA-13.567—DOMESTIC MINING AND MINERAL AND MINERAL FUEL CONSERVATION—FELLOWSHIPS

Closing Date—March 17, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about January 12, 1978.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.567, Washington, D.C. 20202. Applications must be received on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than March 13, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications will be accepted from institutions of higher education for a fellowship allocation under the Domestic Mining and Mineral and Mineral Fuel Conservation Fellowship Program. The purpose of this program is to assist graduate students of exceptional ability who demonstrate a financial need for advanced study in domestic mining and mineral and mineral fuel conservation including oil, gas, coal, oil shale, and uranium. Processing of applications will be subject to the availability of an appropriation for this program.

During the 1977-78 academic year, 424 one-year fellowships and 76 two-year fellowships at 52 participating institutions will be supported by a Fiscal Year

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1977 appropriation of \$4,500,000. Though there is no final appropriation for Fiscal Year 1978, currently we expect an appropriation of \$4,500,000. This would again permit a number of similar awards for both one-year and multi-year fellowships for the 1978-79 academic year. An applicant institution will apply for an allocation of a specified number of fellowships. Only one application per institution will be accepted. Students currently receiving assistance under this program who were making satisfactory progress in their courses of study will be given high priority for reaward of a fellowship for the 1978-79 fellowship year. It is expected that about half of the 500 fellows supported in 1977-78 will continue on into 1978-79.

(e) *For further information and forms contact:* Dr. Clarence B. Lindquist, Bureau of Higher and Continuing Education, U.S. Office of Education, 400 Maryland Avenue SW., (Room 3060, ROB No. 3), Washington, D.C. 20202 (202-245-2347).

(f) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions (45 CFR Parts 100, 100a) and the regulations for Domestic Mining and Mineral and Mineral Fuel Conservation Fellowships (45 CFR Part 196) published on August 3, 1977 in the FEDERAL REGISTER.

(20 U.S.C. 1134n-1134r.)

CFDA-13.533E—RIGHT TO READ READING ACADEMY PROGRAM (NON-COMPETING CONTINUATIONS)

Closing Date—April 3, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 16, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.533E, Washington, D.C. 20202. Applications should be received by the Application Control Center on or before the closing date in order to be assured of consideration for funding.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than March 29, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date

stamp of these mail rooms or other documentary evidence of receipt date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays.

(d) *Program information.* Applications are being accepted for non-competing continuation grants under the Right to Read Reading Academy Program (45 CFR Part 162, Subpart E). It is not expected that funds will be available in Fiscal Year 1978 for new grants under the Reading Academy Program. Therefore, applications for new projects will not be accepted.

It is anticipated that \$4.3 million will be available for the Reading Academy Program during Fiscal Year 1978. This amount will permit the Commissioner to fund for fourteen months those existing projects whose funds were curtailed to ten months during Fiscal Year 1977 and to continue the other existing projects for a twelve-month period.

In formulating proposals, applicants should be aware of the applicable project period. For the projects funded for ten months in Fiscal Year 1977, that project period will be from July 1, 1978 through August 31, 1979. For the projects funded for twelve months in Fiscal Year 1977, that project period will be from September 1, 1978 through August 31, 1979.

(e) *For further information and forms contact:* Thomas R. Hill, Office of Right to Read, U.S. Office of Education, 400 Maryland Avenue SW., (Room 1154, Donohoe Building), Washington, D.C. 20202 (202-245-8214).

(f) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions (45 CFR Parts 100, 100a) and the Reading Academy Program Regulation which was published in the FEDERAL REGISTER on May 26, 1976 (General Provisions, 45 CFR Part 162, Subparts A and E), and which are included in the Right to Read Program application package.

(20 U.S.C. 1963.)

CFDA-13.533G—RIGHT TO READ READING IMPROVEMENT PROJECTS (NON-COMPETING CONTINUATIONS)

Closing Date—April 3, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 16, 1977.

Applications must be prepared and submitted in accordance with the regu-

lations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.533G, Washington, D.C. 20202. In order to be assured of consideration for support, applications should be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than March 29, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time, except Saturdays, Sundays, or Federal holidays.

(d) *Program information.* Non-competing applications are being accepted from current grantees who submitted applications for multi-year funding in Fiscal Year 1977 for continuation grants under the Right to Read Reading Improvement Program. This program is authorized to make grants to State educational agencies (SEAs) and to local educational agencies (LEAs), or both, to encourage SEAs and LEAs to undertake projects to strengthen reading instructional programs in elementary grades. In addition, the program is authorized to make grants to SEAs, LEAs, or non-profit educational or child care institutions to establish and improve pre-elementary school programs in language arts and reading.

In accordance with § 162.17(c) of the program regulations, Subpart B of 45 CFR Part 162, only those current grantees who in Fiscal Year 1977 received written notice on their notification of grant award to the effect that the Commissioner intended a twenty-four month project period may apply for a non-competing continuation grant award.

In accordance with § 162.18(a), it is expected that most continuation awards will range between \$15,000 and \$125,000, with most awards made at the lower half of this range. Nothing in this paragraph shall be construed to limit the size of any particular grant award.

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Continuation grant awards will be made under this notice for projects commencing no earlier than September 1, 1978, and terminating no later than August 31, 1979. Since continuation applicants are applying for the last half of their twenty-four-month project, applicants may apply for a non-competitive continuation award for the indicated remaining project period of only twelve months. It is estimated that, for Fiscal Year 1978, approximately \$4.2 million will support the non-competing grants under section 705, Reading Improvement Projects.

(e) *Guidance to applicants.* In particular, the attention of non-competing applicants is directed to § 162.17(e) which describes the basis on which a continuation application will be reviewed.

(f) *State review and approval.* In accordance with § 162.13(b) of the applicable regulation, an applicant other than the State educational agency (SEA) must provide a copy of the completed application (and, it is suggested, two additional copies) to the State educational agency for the State within which the applicant agency is located on or before March 20, 1978. Unless the State educational agency has specified differently, it is suggested that these copies be submitted to the State Right to Read Director's office within the respective State educational agency. For verification of submission to the SEA, the applicant agency is encouraged to submit a copy of the dated cover letter used to forward its application to the SEA or some other piece of verification in its application to the Commissioner.

Under § 162.13, the Commissioner is not authorized to approve a Reading Improvement Project application unless the State educational agency has (1) established an advisory council on reading, (2) authorized and provided the opportunity to the council to receive and designate priorities among applications for grants, and (3) first approved the application.

Section 162.13(c) provides that failure by the SEA to indicate its approval in writing to the Commissioner within a period specified by the Commissioner shall be deemed a disapproval of the application by the SEA, and the application will not be considered for funding by the Commissioner.

(g) *Cut-off date for receipt of SEA approval of applications.* The cut-off date established for receipt by the Commissioner of written approval by the SEAs of applications within their State is April 12, 1978. These written approvals should be forwarded to: Program Operations Branch, Right to Read, U.S. Office of Education, 400 Maryland Avenue, S.W. (Room 1187, Donohoe Building), Washington, D.C. 20202. In addition to the approval list, the SEA must also send by that date the information required by 45 CFR 162.13(d) (2) (i) and (ii).

(h) *For further information and forms contact:* Program Operations Branch, Right to Read Office, U.S. Office of Education, 400 Maryland Avenue, S.W.

(Room 1187, Donohoe Building), Washington, D.C. 20202; (202) 245-7950.

(i) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a). The regulation governing the Reading Improvement Projects was published in the FEDERAL REGISTER on May 26, 1976 (General Provisions, 45 CFR Part 162, Subpart A, and Reading Improvement Projects, 45 CFR Part 162, Subpart B) and will govern the operation of this program.

(20 U.S.C. 1921.)

CFDA-13.533H—RIGHT TO READ SPECIAL EMPHASIS PROJECTS

Closing Date—April 3, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about November 16, 1977.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.533H, Washington, D.C. 20202. Applications for new awards must be received by the Application Control Center on or before the closing date. In order to be assured of consideration, non-competing continuation applications should be received on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than March 29, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications for new awards will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications are being accepted for new and

non-competing continuation contracts under the Right to Read Special Emphasis Projects (45 CFR Part 162, Subpart D). It is expected that funds will be available in Fiscal Year 1978 for only one new contract.

It is anticipated that \$1,000,000 will be available for the Special Emphasis Program during Fiscal Year 1978. This amount will permit the Commissioner to fund existing non-competing projects for a twelve-month period and one new project. The project period will be from September 1, 1978 through August 31, 1979.

(c) *Review and approval by State educational agencies.* (1) Under the regulation for the program (§ 162.39(a)(2)) applicants must provide a copy of their application to the State educational agency (SEA) of the State in which they are located concurrently with the submission of the application to the Commissioner.

(2) Under section 721(b)(2) of the statute and § 162.39, of the regulations, the Commissioner will not approve a Special Emphasis project under section 721 unless the State educational agency has approved the project. Section 162.39(a)(3) provides that failure by the SEA to indicate its approval in writing to the Commissioner within a period specified by the Commissioner shall be deemed a disapproval of the application by the SEA, and the application will not be considered for funding by the Commissioner.

(f) *Cut-off date for receipt of SEA approval of applications.* The cut-off date established for receipt by the Commissioner of written approval by the SEAs of applications within their States is April 18, 1978. Written approvals should be addressed to the Director, Right to Read Program, U.S. Office of Education, 400 Maryland Avenue, SW. (Room 1169, Donohoe Building), Washington, D.C. 20202.

(g) *For further information and forms contact.* Ms. Helen O'Leary, Right to Read Office, U.S. Office of Education, 400 Maryland Avenue, SW. (Room 1157, Donohoe Building), Washington, D.C. 20202; (202) 245-8008.

(h) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a). The regulation governing the Special Emphasis Projects was published in the FEDERAL REGISTER on May 26, 1976 (General Provisions, 45 CFR Part 162, Subpart A, and Special Emphasis Projects CFR 162, Subpart D) which are included in the Right to Read Program application package and will govern the operation of this program.

(20 U.S.C. 1961.)

CFDA-13.576—STRENGTHENING RESEARCH LIBRARY RESOURCES PROGRAM

Closing Date—April 11, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about February 9, 1978.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.576, Washington, D.C. 20202. Applications must be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than April 6, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* Applications for grants are being accepted from public or private nonprofit institutions, including the library resources of institutions of higher education, independent research libraries, and State and other public libraries which serve as major research libraries as defined in § 136.04 of the regulation.

The purpose of the new discretionary grant program is to promote research and education of higher quality throughout the United States by providing financial aid to eligible major research libraries to help maintain and strengthen their collections, and to make these collections available to researchers and scholars beyond their primary users and to other libraries whose users have need for research materials. In formulating proposals, potential applicants should be aware of the amount of funds available for the program for Fiscal Year 1978. It is anticipated that the total amount of the awards for the grants will be \$5 million. All of these will be new awards. (Grants will support projects to be carried out in Fiscal Year 1979 (October 1, 1978–September 30, 1979)).

(e) *For further information and forms contact:* Paul Janaske, Division of Library Programs, Office of Libraries and Learning Resources, Attention 13.576, Bureau of Elementary and Secondary

Education, U.S. Office of Education, 400 Maryland Avenue, SW. (Room 3124, ROB No. 3), Washington, D.C. 20202; (202) 245-9687.

(f) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a, and appendices) and the Strengthening Research Library Resources regulation when it is published in final and takes effect. The Strengthening Research Library Resources regulation was published as a notice of proposed rulemaking in the FEDERAL REGISTER on June 6, 1977 (proposed 45 CFR Part 136).

(20 U.S.C. 1041-1046.)

CFDA-13.444C—HANDICAPPED CHILDREN'S EARLY EDUCATION PROGRAM—STATE IMPLEMENTATION GRANTS

Closing Date—April 14, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and program information packages will be ready for mailing on or about February 10, 1978.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13-444C, Washington, D.C. 20202. Applications for new awards must be received by the Application Control Center on or before the closing date. In order to be assured of consideration, non-competing continuation applications should be received on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than April 10, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand-delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, and Federal holidays. Applications for new awards will not be accepted after 4 p.m. on the closing date.

(d) *Program information.* The amount of funds expected to be available to the State Implementation Grants under the Handicapped Children's Early Education Program is \$2 million during Fiscal Year 1978. Approximately 35 new projects and non-competing continuation projects are expected to be funded. The funding level for each of these projects has averaged between \$50,000 and \$100,000.

New projects approved for funding under this program will be for a two-year period subject to annual review of progress and the availability of funds. Non-competing continuation projects will receive funds for the final year of the project subject to that same criteria.

(e) *For further information and forms contact.* Division of Innovation and Development, Bureau of Education for the Handicapped, U.S. Office of Education, 400 Maryland Avenue, SW. (Room 3100, Donohoe Building), Washington, D.C. 20202.

(f) *Applicable regulations.* The regulations applicable to this program include the Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a) and the applicable program regulations (45 CFR Parts 121 and 121d).

(20 U.S.C. 1424.)

CFDA-13.489E—TEACHER CORPS "TWELFTH CYCLE" PROJECTS

Closing Date—May 26, 1978

(a) *Application forms and information.* Application forms are being prepared but are not yet available. We anticipate the application forms and pro-

gram information packages will be ready for mailing on or about March 22, 1978.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

(b) *Applications sent by mail.* An application sent by mail should be addressed to: U.S. Office of Education, Application Control Center, Attention: 13.489B, Washington, D.C. 20202. In order to be assured of consideration for support, applications should be received by the Application Control Center on or before the closing date.

An application sent by mail will be considered to be received on time by the Application Control Center if:

(1) The application was sent by registered or certified mail not later than May 22, 1978, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or,

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

(c) *Hand-delivered applications.* An application to be hand-delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building Three, 7th and D Streets, SW., Washington, D.C. Hand-

delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m. Washington, D.C. time except Saturdays, Sundays, or Federal holidays.

(d) *Program information.* Applications are being accepted from institutions of higher education and local educational agencies for non-competing continuation grants for the second year of "Twelfth Cycle" Teacher Corps projects began in Fiscal Year 1977. Although the appropriation for Fiscal Year 1978 has not yet been made, the appropriation is anticipated to allow the funding of 113 grants within 58 project sites. The average amount to be awarded to each project site (2 grants) will be \$235,000.

(e) *For further information and forms contact:* The Teacher Corps Program, Office of Education, 400 Maryland Avenue, SW. (Room 1700, Donohoe Building), Washington, D.C. 20202; (202) 472-2582.

(f) *Applicable regulations.* The regulations applicable to this program are the Office of Education General Provisions Regulations (45 CFR Parts 100, 100a) and the Teacher Corps regulation when it is published in final and takes effect. The Teacher Corps regulation was published as a notice of proposed rulemaking in the FEDERAL REGISTER on September 20, 1977.

(20 U.S.C. 1101-1107a.)

(20 U.S.C. 1221e.)

Dated: October 5, 1977.

ERNEST L. BOYER,
Commissioner of Education.

[FR Doc. 77-29738 Filed 10-11-77; 8:45 am]

Registered
Federal Paper

WEDNESDAY, OCTOBER 12, 1977
PART III



DEPARTMENT OF
COMMERCE

Office of the Secretary

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NATIONAL VOLUNTARY
LABORATORY
ACCREDITATION
PROGRAM

Thermal Insulation Materials; Final
Finding of Need and Establishment of
Criteria Committee

V42-197

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[3510-19]

DEPARTMENT OF COMMERCE

Office of the Secretary

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Final Finding of Need To Accredite Testing Laboratories That Test Thermal Insulation Materials

AGENCY: Assistant Secretary of Commerce for Science and Technology, Commerce.

ACTION: Notice of final finding of need.

SUMMARY: Pursuant to the Procedures for a National Voluntary Laboratory Accreditation Program (15 CFR Part 7), this notice announces the Secretary's final finding of need to accredit testing laboratories that test thermal insulation materials, and thereby establishes a voluntary laboratory accreditation program to accredit such laboratories. The notice also sets out the basis for the finding of need and identifies applicable product standards, test methods and recommended practices for which testing laboratories would be required to demonstrate competence in order to be accredited. In addition, the notice advises that a separate notice is being published simultaneously with this notice announcing the establishment by the Secretary of Commerce of a National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials to develop and recommend general and specific criteria for use in accrediting testing laboratories that test thermal insulation materials.

EFFECTIVE DATE: October 12, 1977.

FOR FURTHER INFORMATION CONTACT:

Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3221).

SUPPLEMENTARY INFORMATION: On March 10, 1977, the Department announced in the FEDERAL REGISTER (42 FR 13326-13336) the issuance of a preliminary finding of need to accredit testing laboratories that test thermal insulation materials as required by the 45 specification standards set out in Appendix 3 to that notice. The test methods, including recommended practices, which were referenced in those 45 specification standards, were those listed in Appendix 9 to that notice. These standards include only those sections of such standards concerned with thermal, mechanical, vapor barrier, or fire properties of thermal insulation materials.

The notice invited interested persons desiring to comment on the preliminary finding of need to submit their comments to the Assistant Secretary for Science and Technology by April 11, 1977. Further, the notice advised that any person desiring to express his or her views in an informal hearing relative to the mentioned preliminary finding should

communicate that desire by March 25, 1977, to the Assistant Secretary for Science and Technology.

Following publication of the March 10 notice, written statements were received from six respondents, none of whom objected to the preliminary finding of need. Of the written comments received, two were from individual producers, one was from an association of commercial, independent testing laboratories, one was from an individual testing laboratory, one was from a technical association representing the pulp and paper industry, and one was cosigned by the three trade associations who submitted the initial request that resulted in the issuance of the preliminary finding of need in this matter and who represent approximately 90 percent of the producers of thermal insulation materials. The written comments of these six respondents are part of the public record which is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 5319, Main Commerce Building, 14th Street between E Street and Constitution Avenue NW., Washington, D.C. 20230. The Department received no requests for an informal hearing.

The comments on the preliminary finding of need have been carefully considered and evaluated. In addition, the Department re-examined the preliminary finding and the basis on which it was issued. A summary and analysis of the public's comments and recommendations for a final finding of need has been prepared by the Department. The summary and analysis document also reflects the Department's internal review of the preliminary finding of need. This document, which lists those members of the public that provided written comments, also is available for inspection and copying at the Department's Central Reference and Records Inspection Facility mentioned above.

Of the six written comments received from the public, only two raised substantive points. These are discussed below.

In connection with the first of the substantive points raised, it should be noted that Appendix 3 to the preliminary finding of need lists 45 thermal insulation material specifications that would serve as a basis of reference for the program for which a preliminary finding of need was made. Testing of thermal, mechanical, fire, and vapor barrier properties of thermal insulation material, as required by these specifications, would comprise the scope of the accreditation program. The applicable test methods and recommended practices are listed in Appendix 9 to the preliminary finding.

Dow Chemical U.S.A. contends that the testing of moisture and freeze-thaw resistance of thermal insulation materials is also important and the accreditation of such testing service should be added to the scope of the proposed program. This respondent proposes one additional test method (ASTM C666), but indicates that there is no existing

product specification that requires such a freeze-thaw test. Dow contends, however, that a requirement for freeze-thaw testing will become a part of various specifications in the near future.

Inclusion of a freeze-thaw test within the scope of the accreditation program without reference to an existing specification that requires such testing would be contrary to the provisions of the NVLAP procedures for such action would constitute the development of a product standard or the modification of an existing product standard. Section 7.7 (e) (2) and (3) of the NVLAP procedures prohibit such action. Accordingly, this respondent's proposal cannot be considered until such time as product specifications are developed that require the testing of freeze-thaw properties of thermal insulation materials.

The Technical Association of the Pulp and Paper Industry (TAPPI) commented regarding several tests for paper as listed in Appendix 9 to the preliminary finding of need; namely, ASTM standards D591, D826, D781, D828, D2020, and D777. TAPPI states that it is the recognized primary source for test methods in the pulp and paper area and recommends that its standards be referenced, or that both TAPPI and ASTM standards be jointly referenced in the final finding of need.

Although there are certain exceptions, it is generally agreed that existing TAPPI standards are essentially equivalent to the cited ASTM standards listed in the preceding paragraph. However, TAPPI's recommendation that its standards be referenced instead of ASTM standards is not feasible. The ASTM standards listed in Appendix 9 to the preliminary finding of need are those required by the product specification standards proposed for the accreditation program (listed in Appendix 3 to that preliminary finding). Referencing other test standards in lieu of those required by the product specifications would constitute a modification of the product standards which is prohibited by section 7.7(e)(3) of the NVLAP procedures.

TAPPI's alternate recommendation that its standards be referenced jointly with the ASTM standards cited above would seem reasonable, as long as the standards jointly referenced continue to be equivalent. As pointed out in the summary and analysis document referenced earlier herein, users of standards (and thus potential users of an accreditation program) generally use, or reference, the current issues of such documents. Therefore, it is essential that the product specification and test standards to be included in this final finding of need be referenced without dates. In this way, the accreditation program will continually be based upon referenced standards currently in effect. At this time, there is no assurance that reissues of TAPPI standards will remain essentially equivalent to reissues of ASTM standards. Accordingly, only ASTM test standards required by the product specifications are being listed in this final finding of need.

In addition to the two substantive points discussed above, several relatively minor corrections and clarifications have been made relative to the preliminary finding of need. One such correction requires the deletion of ASTM Specification C391 (Amosite Asbestos Thermal Insulation for Pipes) in Appendix 3 to the preliminary finding for the reason that this specification will be withdrawn by ASTM in November 1977. This deletion reduces the number of product standards that were set out in that Appendix 3 from 45 to 44. The list of the 44 product standards included in the scope of this program is set out in Appendix 1 to this notice. Another correction pertains to the deletion and replacement of Federal Specification HH-C-561 (Cork, compressed (corkboard) for thermal insulation) in Appendix 3 to the preliminary finding for the reason that it has been superseded by Federal Specification HH-I-525 (insulation board, thermal, cork).

There also was a need to include two test methods, ASTM method C136 (Sieve or Screen Analysis of Fine and Coarse Aggregates) and ASTM method C356 (Test for Linear Shrinkage of Preformed High Temperature Thermal Insulation Subjected to Soaking Heat) which were inadvertently omitted from Appendix 9 to the preliminary finding. A final correction results from a conclusion that ASTM test method C168 (Definition of Terms Relating to Thermal Insulating Materials) and ASTM test method C390 (Preformed Thermal Insulation Sampling) listed in Appendix 9 to the preliminary finding are not test methods or recommended practices and are not appropriate to serve as a basis for development of accreditation criteria. Therefore they are deleted from this final finding of need.

With respect to the matter of clarification, one of the items relates to whether there is a need to date product specification and test standards. It is concluded that the referenced standards indicated in the final finding of need would be the current standards in issue on the effective date of this final finding of need. Thereafter, the dates of the referenced standards would be those currently in issue.

The various corrections and clarifications referred to above are discussed in some detail in the summary and analysis document which, as was stated earlier, is available for inspection and copying at the Department of Commerce. One of the issues addressed in the summary and analysis document concerns the limitations of ASTM Test Method E84 in its ability to test the fire hazards of thermal insulation materials. Although E84 is commonly used to test the fire properties of thermal insulation materials, it is generally considered inadequate for measuring the fire hazards of such materials. Accordingly, the accreditation criteria promulgated under this program to accredit testing laboratories that test thermal insulation materials will include a statement concerning the limitations of E84 that accredited testing

laboratories will be required to use in reporting E84 test results.

FINAL FINDING OF NEED

The joint request of Thermal Insulation Manufacturers Association, Inc., Mount Kisco, N.Y.; the National Mineral Wool Insulation Association, Inc., Summit, N.J., and the National Cellulose Insulation Manufacturers Association, Inc., Elk Grove Village, Ill., that the Secretary of Commerce find that there is a need to accredit testing laboratories which render services in the field of thermal insulation has been carefully examined and evaluated. Moreover, the earlier issued preliminary finding of need in this matter, together with the written comments submitted by interested parties in response thereto, have been carefully reviewed and analyzed. On the basis of that review and analysis, including the corrections and clarifications that have been made as a result thereof, it is hereby found that a need exists to accredit testing laboratories that test thermal insulation materials. The basis for this finding is as follows:

(a) Thermal insulation materials production exceeds \$1 billion in value of annual shipments. A large percentage of this output is produced to meet requirements of 44 product standards included in the scope of this program. These product standards specify the physical properties that thermal insulation materials must have to be acceptable for insulation purposes. In addition, these product standards identify the test methods and recommended practices that laboratories will use to determine that the physical properties of thermal insulation materials meet the specified requirements. Therefore the product standards included in the scope of this program are important to commerce and consumer well-being.

(b) The 37 test methods and recommended practices included in the scope of this program are specified for use by the product standards noted above. These standard methods and practices are important to energy conservation efforts. They are used to measure those physical properties of thermal insulation materials necessary for determination of insulation effectiveness and compliance with building code requirements. Thus they serve energy conservation purposes. To the extent that they serve such purposes, the test methods and recommended practices are valid and theoretically sound. No claim is made or implied that the methods and practices are valid for serving other needs, such as health, safety, and noise abatement.

(c) Measurement of the physical properties of thermal insulation materials are prone to significant error unless the test methods and recommended practices noted above are carefully and expertly employed. As reliance is placed on such measurements for determination that the physical properties of thermal insulation materials meet requirements, such errors result in the production and use of inadequate thermal insulation materials that adversely affect the public.

(d) Increased assurance that testing laboratories correctly employ such test methods and recommended practices can be realized by the establishment of an accreditation program for laboratories that test thermal insulation materials. No accreditation program having this purpose exists either in the government or the private sector. Under procedures of the National Voluntary Laboratory Accreditation Program, a mechanism now exists to develop and promulgate nationally recognized criteria for evaluation and accreditation of testing laboratories that test thermal insulation materials, using as a basis of reference the requirements of the important product and test standards included in the scope of this program. Furthermore, experience of on-going laboratory evaluation activities in other areas indicates that site inspection and proficiency test sample services that may be required can be provided to large numbers of testing laboratories on a continuing basis, and that laboratories do request and pay costs for such services. It has also been ascertained that the costs to the government and the participating laboratories would have no major inflationary impact. Therefore it is concluded that it is practical and feasible to establish this accreditation program for the purpose of increasing assurance that testing laboratories have the competence and capability to properly conduct the test methods and recommended practices required by product standards important to the production and use of thermal insulation materials. As there is a public tendency to utilize accredited services when such services are available, it is concluded that this increased assurance of adequate testing capability will lead directly to increased availability in the marketplace of thermal insulation materials having reliably known properties.

(e) Residential and industrial use of thermal insulation materials is increasing significantly due to increasing fuel costs and interest in energy conservation. Federal and State governments are promoting increased use of thermal insulation materials through energy conservation legislation, aid to low-income families, tax rebate plans and requirements of building codes and home loan guarantee programs. Availability of competent testing services, which in turn will result in increased availability in the marketplace of thermal insulation materials with accurately stated properties, will benefit the public interest. Availability of thermal insulation materials having properties as specified will assist consumer information and guideline programs, aid the professional installer and designer of insulation systems, promote equitable trade conditions for producers and distributors, and help assure value received for expenditure of public funds. The resultant enhancement of energy conservation efforts, fuel cost savings and advantages to commerce and consumer well-being constitute the benefit to the public interest.

In view of the above finding of need, the Department hereby establishes a vol-

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untary laboratory accreditation program to accredit testing laboratories that test the product, thermal insulation materials. The purpose of this accreditation program is presently limited to evaluating and accrediting testing laboratory facilities to determine their capability to conduct tests required by the applicable product standards, only to the extent that such requirements concern the acceptability and effectiveness of thermal insulation materials for use in conserving energy. The fire property test, ASTM E84, is included as a reference test method, not because it may or may not serve the needs of the public safety, but because its test results are commonly required by authorities who establish rules for the acceptability and use of thermal insulation materials. To the extent that E84 test ratings serve this latter purpose, the test method is important to the objective of conserving energy.

The applicable standards are those 44 product standards set out in Appendix 1 to this notice. The 37 test methods, including recommended practices, are those set out in Appendix 2. The applicable product standards, test methods and recommended practices included in this finding are those which are in effect on the date on which this final finding of need is published in the FEDERAL REGISTER. Thereafter, such applicable product standards, test methods and recommended practices shall be those versions that are then currently in effect. The applicable product standards include only those sections of such standards concerned with thermal, mechanical, vapor barrier or fire properties of thermal insulation materials.

The applicable test methods and recommended practices include only those sections required by the applicable product standards. Other product standards, test methods and recommended practices, not specifically referenced in this final finding of need, are part of this finding to the extent that they are referenced by and are essential to the requirements of the applicable product standards, test methods and recommended practices.

The specific sections of the applicable product standards, test methods and recommended practices, as well as those other product standards, test methods and recommended practices not specifically referred to in this final finding of need, as noted above, that will be pertinent to this accreditation program, will be set out when accreditation criteria are published in the FEDERAL REGISTER in accordance with section 7.8 of the NVLAP procedures.

Being published simultaneously with this notice is a separate notice in the FEDERAL REGISTER which announces the establishment by the Secretary of a National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials pursuant to the provisions of the Federal Advisory Committee Act (5

U.S.C. App. 1 (Supp. V, 1975)). The function of that Committee will be to develop and recommend to the Secretary general and specific criteria for use in accrediting testing laboratories that test thermal insulation materials.

NOTE.—The Department of Commerce has determined that this document does not contain a major proposal requiring preparation

of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and Office of Management and Budget Circular No. A-107.

Issued: October 6, 1977.

FRANCIS W. WOLEK,
Acting Assistant Secretary for
Science and Technology.

APPENDIX 1.—Product standards applicable to final finding of need¹

Federal specifications:	Title
HH-B-100	Barrier material vapor (for pipe, duct and equipment thermal insulation).
HH-I-525	Insulation board, thermal, cork.
HH-I-521	Insulation blankets, thermal (mineral fiber, for ambient temperatures).
HH-I-515	Insulation thermal (loose fill for pneumatic or poured application) cellulosic or wood fiber.
HH-I-545	Insulation, thermal and acoustical (mineral fiber, duct lining material).
HH-I-558	Insulation, blocks, boards, blankets, felts, sleeving (pipe and tube covering), and pipe fitting covering, thermal (mineral fiber, industrial type).
HH-I-574	Insulation, thermal (perlite).
HH-I-585	Insulation, thermal (Vermiculite).
HH-I-578	Insulation pipe covering and block, thermal, (Vermiculite).
HH-I-1030	Insulation, thermal (mineral fiber, for pneumatic or poured application).
HH-I-1252	Insulation, thermal, reflective (aluminum foil).
HH-I-524	Insulation board, thermal (polystyrene).
HH-I-530	Insulation board, thermal (urethane).
HH-I-560	Insulation sleeving, thermal (urethane).
Military specifications:	
MIL-Stnd-769	Thermal insulation requirements for machinery and piping.
LLL-I-535	Insulation board, thermal and insulation block, thermal.
MIL-I-742	Insulation board, thermal, fibrous glass.
MIL-I-2781	Insulation, pipe, thermal.
MIL-I-2818	Insulation blanket, thermal, fibrous mineral.
MIL-I-2819	Insulation block, thermal.
MIL-I-15475	Insulation felt, thermal, fibrous glass, semirigid.
MIL-I-22023	Insulation felt, thermal and sound absorbing felt, fibrous glass, flexible.
MIL-I-22344	Insulation, pipe, thermal, fibrous glass.
MIL-I-23128	Insulation blanket, thermal, refractory fiber, flexible.
Maritime specifications:	
32-MA-1	Insulation: Mineral fiber, blanket type (3-8 lb/ft ³).
32-MA-3	Insulation: Felt, thermal, fibrous glass.
32-MA-4	Plastic material: Thermal, cellular, urethane, rigid.
32-MA-8	Insulation: Pipe covering, urethane, thermal, rigid.
ASTM specifications:	
C262	Mineral fiber batt insulation (industrial type).
C516	Vermiculite loose fill insulation.
C517	Diatomaceous earth block and pipe thermal insulation.
C533	Calcium silicate block and pipe thermal insulation.
C549	Perlite loose fill insulation.
C553	Mineral fiber blanket and felt insulation (industrial type).
C592	Mineral fiber blanket insulation and blanket-type pipe insulation (metal-mesh covered) (industrial type).
C610	Expanded Perlite block and pipe thermal insulation.
C640	Corkboard and cork pipe insulation for low-temperature thermal insulation.
C665	Mineral fiber blanket thermal insulation for wood frame and light construction buildings.
C728	Perlite thermal insulation board.
C764	Mineral fiber loose fill thermal insulation.
C739	Cellulosic fiber (wood-base) loose-fill thermal insulation.
C578	Preformed, block-type cellular polystyrene thermal insulation.
C591	Rigid preformed cellular urethane thermal insulation.
C532	Structural insulating formboard (cellulosic fiber).

¹ Excluding requirements other than those related to testing of thermal, mechanical, fire and vapor barrier properties.

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APPENDIX 2.—ASTM test methods, and recommended practices applicable to final finding of need

ASTM designation:	Title
C177	Steady-state thermal transmission properties by means of the guarded hot plate.
C518	Steady-state thermal transmission properties by means of the heat flow meter.
C335	Thermal conductivity of pipe insulation.
C236	Thermal conductance and transmittance of built-up sections by means of the guarded hot box.
C653	Recommended practice for determination of thermal resistance of low-density mineral fiber blanket-type building insulation.
C687	Recommended practice for determination of thermal resistance of low-density fibrous loose fill-type building insulation.
C167	Tests for thickness and density of blanket- or batt-type thermal insulating materials.
C302	Test for density of preformed pipe-covering-type thermal insulation.
C303	Test for density of preformed block-type thermal insulation.
C519	Test for density of fibrous loose fill building insulations.
C520	Test for density of granular loose fill insulations.
D1622	Test for apparent density of rigid cellular plastics.
C136	Sieve or screen analysis of fine and coarse aggregates.
C585	Recommended practice for inner and outer diameters of rigid thermal insulation for nominal sizes of pipe and tubing (NPS system).
C356	Test for linear shrinkage of preformed high-temperature thermal insulation subjected to soaking heat.
C355	Tests for water vapor transmission of thick materials.
D2842	Test for water absorption of rigid cellular plastics.
D2126	Test for response of rigid cellular plastics to thermal and humid aging.
D591	Test for starch in paper.
C272	Test for water absorption of core materials for structural sandwich constructions.
D756	Tests for resistance of plastics to accelerated service conditions.
C411	Test for hot-surface performance of high-temperature thermal insulation.
C450	Recommended practice for prefabrication and field fabrication of thermal insulating fitting covers for NPS piping, vessel lagging, and dished-head segments.
C165	Test for compressive strength or preformed block-type thermal insulation.
C203	Test for breaking load and calculated flexural strength of preformed block-type thermal insulation.
C446	Test for breaking load and calculated modulus of rupture of preformed insulation for pipes.
D1621	Test for compressive properties of rigid cellular plastics.
D781	Tests for puncture and stiffness of paperboard, corrugated and solid fiberboard.
D828	Test for tensile breaking strength of paper and paperboard.
C209	Testing insulating board (cellulosic fiber), structural and decorative.
C273	Shear test in flatwise plane of flat sandwich constructions or sandwich cores.
E84	Test for surface burning characteristics of building materials.
E136	Test for noncombustibility of elementary materials.
E96	Test for water vapor transmission of materials in sheet form.
D2020	Tests for mildew (fungus) resistance of paper and paperboard.
C445	Test for normal total emittance of surfaces of materials 0.01 in or less in thickness at approximately room temperature.
D777	Test for flammability of treated paper and paperboard.

[FR Doc.77-29776 Filed 10-11-77;8:45 am]

[3510-19]

NATIONAL VOLUNTARY LABORATORY ACCREDITATION PROGRAM

Establishment of Criteria Committee for Thermal Insulation Materials

In a separate notice appearing in this issue of the FEDERAL REGISTER, the Department of Commerce announced the issuance of a final finding of need to accredit testing laboratories that test thermal insulation materials. Accordingly, pursuant to paragraph (h) (3) of section 7.4 of the Procedures for a National Voluntary Laboratory Accreditation Program (15 CFR Part 7) and the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. V, 1975)) notice is hereby given that the Secretary of Commerce has determined, after consultation with the Office of Management and Budget, that the establishment of the National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials is in the public interest in connection with the performance of duties imposed on the Department by law.

The Committee's duties will be to develop and recommend to the Secretary general and specific criteria to accredit testing laboratories that test thermal insulation materials. The factors to be considered by the Criteria Committee in the development of such recommended criteria will be those set forth in paragraphs (a) (1) and (2) of section 7.7 of the referenced Procedures. The criteria developed by the Committee will be in accordance with the terms and conditions set out in subsections (b), (c), and (d) of section 7.7 of the Procedures. Furthermore, in accordance with subsection 7.8(c) of the referenced Procedures, the Committee will provide to the Secretary its evaluation and recommendations regarding written and oral comments submitted by interested parties on the proposed criteria published by the Secretary in the FEDERAL REGISTER.

The Committee will consist of twenty-one members from the government and private sectors. For balanced membership the Committee will have the following composition:

Federal agency interests.....	6
State or local government interests.....	4
Private sector interests (producers, distributors, users, consumers, academia, testing laboratories, general interest groups).....	10
Department of Commerce (Chairman).....	1
Total membership.....	21

Private sector Committee members will be appointed by the Secretary for two-year terms. Individuals representing Federal or State or local government in-

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terests will be appointed by the head of the agency or organization concerned for two-year terms. The Committee Chairman will be the Department's Deputy Assistant Secretary for Product Standards.

Members of the Committee will be selected on the basis of their specialized experience relating to the manufacture and use or knowledge of thermal insulation materials. Persons desiring to serve on this Criteria Committee should submit a letter to Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230. The letter should include a statement of the applicant's qualifications in terms of education and experience in the field of

thermal insulation materials and the affected interest that such applicant would wish to represent.

Members of the Committee will not be compensated for their services. They shall, upon request, be paid travel expenses incurred in the performance of their duties for the Committee as authorized by the Department of Commerce travel regulations. The Committee will meet as often as necessary to perform its functions within the time limits established by the Secretary under subsections 7.6(d) and 7.8(c) of the referenced Procedures. It is estimated that the Committee will meet at least four times during the first year.

The Committee will function solely as an advisory body, and in compliance with the provisions of the Federal Ad-

visory Committee Act. Its charter will be filed under the Act 15 days from the date of publication of this notice.

Interested persons are invited to submit comments regarding the establishment of the National Laboratory Accreditation Criteria Committee for Thermal Insulation Materials. Such comments, as well as any inquiries, may be addressed to Dr. Howard I. Forman, Deputy Assistant Secretary for Product Standards, Room 3876, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-3221).

Issued: October 5, 1977.

GUY W. CHAMBERLAIN, JR.,
Acting Assistant Secretary
for Administration.

[FR Doc.77-29775 Filed 10-11-77;8:45 am]

WEDNESDAY, OCTOBER 12, 1977

PART IV



COUNCIL ON ENVIRONMENTAL QUALITY

TSCA INTERAGENCY TESTING COMMITTEE

Initial Report to the Administrator,
Environmental Protection Agency

Registered
Federal

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COUNCIL ON ENVIRONMENTAL
QUALITYTSCA INTERAGENCY TESTING
COMMITTEEInitial Report to the Administrator,
Environmental Protection Agency

As required by section 4(e) of the Toxic Substances Control Act (TSCA), presented herein is the first official report of the Interagency Testing Committee. The Committee has the statutory responsibility to identify and recommend to the Administrator of EPA chemical substances which should be tested to determine their hazard to human health or the environment.

This report reflects the consensus of representatives from all eight member agencies: ten substances and categories of substances are recommended as high priority for testing and designated for consideration by EPA within twelve months.

As required by the statute, the Committee will continue its review process, reporting to the EPA Administrator within six months from the date of this report such additional recommendations

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as the Committee finds desirable during that period.

Dated: October 5, 1977.

WARREN R. MUIR,
Chairman TSCA Interagency
Testing Committee.

EXECUTIVE OFFICE OF THE PRESIDENT,
COUNCIL ON ENVIRONMENTAL QUALITY,
Washington, D.C., October 4, 1977.

Hon. DOUGLAS M. COSTLE,
Administrator,
Environmental Protection Agency,
Washington, D.C.

DEAR MR. COSTLE: The enclosed document is the first official report submitted to you by the Interagency Testing Committee pursuant to Section 4(e) of the Toxic Substances Control Act (TSCA). It reflects the consensus of representatives from all eight member agencies: that the ten listed substances and categories of substances be recommended as high priority for testing under TSCA and designated for consideration by EPA within twelve months.

The report describes the process employed by the Committee in making its recommendations and the rationale for each designation. A supporting dossier

for each designation will be forwarded to the Office of Toxic Substances in the next few weeks.

Only a portion of the compounds identified in the July preliminary report has been considered to date. The first revision of our recommendations will be based largely upon further review of those chemicals previously identified. Because this is a continuing process, we will, of course, identify additional chemicals for such review as information becomes available to us.

The Committee has been hampered in its deliberations by the lack of a readily available and consolidated source of data on the many chemicals to which man and the environment are exposed. Other activities under TSCA, e.g., development of coordinated data systems, inventory reporting, and other information collection under Section 8, should be of considerable value in future Committee efforts. Therefore, we expect that a number of additional substances will be listed and integrated in our future reports.

We hope our analysis and recommendations will be helpful to EPA in its implementation of the Toxic Substances Control Act.

Sincerely,

WARREN R. MUIR, Ph. D.,
Chairman, TSCA Interagency
Testing Committee.

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INITIAL REPORT OF THE TSCA INTERAGENCY TESTING COMMITTEE

TO THE

ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

October 1, 1977

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TSCA INTERAGENCY TESTING COMMITTEEStatutory Member Agencies

<u>Council on Environmental Quality</u>	<u>National Institute of Environmental Health Sciences</u>
Warren R. Muir, Member and Committee Chairman	Hans L. Falk, Member
	Warren T. Piver, Alternate
<u>Department of Commerce</u>	<u>National Institute for Occupational Safety and Health</u>
Sidney R. Galler, Member	Norbert P. Page, Member
Bernard Greifer, Alternate	Jean G. French, Alternate
<u>Environmental Protection Agency</u>	<u>National Cancer Institute</u>
William M. Upholt, Member	James M. Sontag, Member
James R. Beall, Alternate	
<u>National Science Foundation</u>	<u>Occupational Safety and Health Administration</u>
Marvin E. Stephenson, Member and Committee Vice Chairman	Grover C. Wrenn, Member
Carter Schuth, Alternate	James M. Vail, Alternate

Liaison Agencies (non-Voting)

<u>Department of Defense</u>	<u>Department of Interior</u>
Seymour L. Friess	Charles R. Walker
<u>Food and Drug Administration</u>	<u>U.S. Consumer Product Safety Commission</u>
Allen E. Heim	Robert M. Hehir
	Joseph McLaughlin

Committee Staff

Secretary: Phyllis D. Tucker

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ACKNOWLEDGMENTS

The Committee wishes to acknowledge the important contributions of the many individuals and groups who have significantly aided us in our work. These include:

- Clement Associates, Inc., technical support contractor;
- the National Science Foundation, for funding and managing the technical support contract and the National Cancer Institute and National Institute of Environmental Health Sciences for assisting in that funding;
- government experts who assisted in the scoring of biological activity and test needs, including Laurence Fishbein of the National Center for Toxicological Research, Elizabeth Weisburger of the National Cancer Institute, and a number of experts from the Department of Interior;
- EPA staff members who assisted the Committee in a variety of activities, and particularly:
 - Donald Barnes, Office of Toxic Substances
 - Joyce Dain, Interim Secretary to the Committee
 - John Lyon, Office of General Counsel
 - Joseph Merenda, staff support to EPA member
 - Lamar Miller, interim staff support to EPA member
 - Ralph Northrop, Jr., Office of Toxic Substances
- the numerous experts who prepared presentations and materials for the Committee; and
- the many individuals and organizations who submitted comments on the Committee's Preliminary List.

SUMMARY

The Toxic Substances Control Act (TSCA) established the TSCA Interagency Testing Committee, giving it the continuing responsibility to identify and recommend to the Administrator of the Environmental Protection Agency chemical substances and mixtures which should be tested to determine their hazards to human health and the environment. The Committee's initial recommendations are to be published in the Federal Register and transmitted to the EPA Administrator within nine months of the effective date of TSCA. The Committee is to consider additions to its recommendations at least every six months.

In meeting its charge, the Committee has, with the assistance of a technical support contractor, carried out a multi-step screening procedure to identify for its detailed review a limited number of substances and categories of substances likely to have priority for testing to determine their effects on human health and the environment. A number of substances and categories identified by this process have been reviewed by the Committee, which has given careful consideration to each of the eight factors specified in Section 4(e)(1)(A) of TSCA. The Committee has also considered such factors as test programs currently in progress, the current status of regulatory action with respect to a substance, and the need for test data on all members of certain categories rather than on one or more individual members of the category.

In July, 1977, the Committee published a Preliminary List of 330 substances and categories of substances along with a background document describing the methods used by the Committee in making those selections. The Preliminary List included substances and categories selected primarily on the basis of potential for human exposure and environmental release. Public comments received on the Preliminary List were reviewed by the Committee and considered in the development of the Committee's initial recommendations.

Subsequently, the chemicals on the Preliminary List and chemicals added to the Preliminary List based on the public comments were further screened by the Committee based primarily on their potential for adverse human and/or environmental effects, but also continuing to consider their exposure potential. Available data on and potential for carcinogenic, mutagenic, teratogenic and chronic toxic effects, as well as their ability to bioaccumulate or cause deleterious environmental effects were considered. A scoring system which took into account both available information and the lack of it for these factors was used in this process. Using these scoring results and its scientific judgment, the Committee further narrowed the list under consideration to about 80 substances and categories. Aided by information dossiers prepared by its contractor, the Committee reviewed about half of these compounds and has selected for inclusion in its initial recommendations to the EPA Administrator four individual substances and six categories of substances. Each is being

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designated by the Committee for consideration by EPA within the next 12 months. They are (arranged alphabetically):

Substance or Category	Testing Recommended
Alkyl Epoxides	Carcinogenicity, mutagenicity, teratogenicity, other chronic effects, environmental effects, and epidemiological study
Alkyl Phthalates	Environmental effects
Chlorinated Benzenes, Mono- and Di-	Carcinogenicity, mutagenicity, teratogenicity, other chronic effects, environmental effects, and epidemiological study
Chlorinated Paraffins	Carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects
Chloromethane	Carcinogenicity, mutagenicity, teratogenicity, and other chronic effects
Cresols	Carcinogenicity, mutagenicity, teratogenicity, other chronic effects, and environmental effects
Hexachloro-1,3-butadiene	Environmental effects
Nitrobenzene	Carcinogenicity, mutagenicity, and environmental effects
Toluene	Carcinogenicity, teratogenicity, other chronic effects, and epidemiological study
Xylenes	Mutagenicity, teratogenicity, and epidemiological study

The Committee's reasons for each recommendation and a more detailed definition of each of the categories are presented in Section 3.2. The Committee expects that the precise definition of each category will be considered further by EPA in the course of developing testing rules. The Committee also recognizes that certain members of a category may already have been adequately tested for one or more of the effects for which testing of the category has been recommended. In that case, no further testing for that combination of substance and effect would be needed.

A dossier summarizing the information considered by the Committee in selecting each substance or category will be forwarded to EPA in the next few weeks. The Committee will continue its review of the remaining substances and categories already selected for detailed review, and may identify and review others, in anticipation of its next report.

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INITIAL REPORT OF THE TSCA INTERAGENCY TESTING COMMITTEE
TO THE
ADMINISTRATOR, ENVIRONMENTAL PROTECTION AGENCY

October 1, 1977

CHAPTER 1. INTRODUCTION

1.1 BACKGROUND

Section 4(e) of the Toxic Substances Control Act (P.L. 94-469, hereafter referred to as TSCA) established the TSCA Interagency Testing Committee. That Committee has the continuing responsibility to identify and recommend to the Administrator of the Environmental Protection Agency chemical substances or mixtures which should be tested to determine their hazard to human health or the environment. The statute provides that the Committee shall make its initial recommendations to EPA by October 1, 1977.

To carry out this responsibility, the Committee has developed and executed a multi-step screening procedure to identify for its detailed review a number of chemical substances and categories of chemical substances expected to have a high priority for testing based on the criteria set forth in Section 4(e)(1)(A) of TSCA. The Committee received extensive technical support in this screening, and in the gathering of data on substances and categories selected for detailed review, from Clement Associates, Inc. under a contract with the National Science Foundation. After reviewing the information available to it on each candidate, including public comments submitted in response to the Committee's July, 1977, publication of a preliminary list of substances under consideration, the Committee has selected the ten substances and categories being recommended to the EPA Administrator in this report. As required by the statute, the Committee will continue its review process, reporting to the EPA Administrator within six months from the date of this report such additional recommendations as the Committee finds desirable during that period.

This report documents the procedures used by the Committee in selecting those substances and categories now being recommended for testing, and, as required by the statute, provides the Committee's reasons for making each such recommendation. In addition to the material contained in this report, the Committee is now finalizing a series of dossiers developed by its technical support contractor which will summarize all of the non-confidential information considered by the Committee in deciding to recommend each substance or category for testing. These dossiers will be transmitted to the EPA in a few weeks.

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1.2 COMMITTEE ESTABLISHMENT AND RESPONSIBILITIES

The Committee, as established by Section 4(e) of TSCA, has eight members, appointed by the eight Federal agencies identified for membership in Section 4(e)(2)(A) of the Act. In addition, a number of alternates have been designated as permitted by Section 4(e)(2)(B)(i). The Committee has adopted the name "TSCA Interagency Testing Committee", which is frequently shortened in this report to "Committee". As provided by Section 4(e)(2)(B)(iii), it has selected a chairman from among its members. The Committee has also invited several other Federal agencies with programs related to the control of toxic substances, but which were not included in the statutory membership of the Committee, to designate liaison representatives to attend Committee meetings. Current Committee members, alternates, and liaison representatives are identified in the frontispiece.

The Committee's testing priority recommendations are required by Section 4(e) to be published in the Federal Register and transmitted to the EPA Administrator within nine months of the January 1, 1977, effective date of TSCA. At least every six months thereafter, the Committee is required to review its recommendations and make such revisions as are necessary.

The Committee's recommendations are to be in the form of a list of chemical substances or mixtures set forth, either individually or in groups, in the order in which the Committee determines the EPA Administrator should consider taking action under Section 4(a) in developing and promulgating testing regulations. The Committee is authorized to designate up to 50 of these substances or groups for which the EPA Administrator must within 12 months either initiate rulemaking requiring their testing or publish reasons for not taking such action.

In developing its recommendations, the Committee is directed by Section 4(e)(1)(A) of TSCA to consider, along with all other relevant factors: the production volume, environmental release, occupational exposure, and non-occupational human exposure to the substance or mixture; the similarity of the substance or mixture in question to others known to present unreasonable risk of injury to health or the environment; the extent of data on the effects of the substance or mixture in question on health or the environment and the extent to which additional testing of the substance or mixture may produce data from which effects can reasonably be determined or predicted; and the reasonably foreseeable availability of facilities and personnel for performing the testing being recommended. The Committee is also directed by Section 4(e) to give priority attention in establishing its list of recommendations to substances or mixtures which are known or suspected to cause or contribute to cancer, gene mutations, or birth defects.

The Committee's specific reasons for including each substance or mixture in its recommendations are required to be published in the Federal Register and transmitted to the EPA Administrator along with the priority list.

While Section 4(e) refers to the Committee's recommendations as a list of "chemical substances and mixtures", Section 26(c)(1) authorizes the EPA Administrator to take actions (including the promulgation of Section 4(a) testing regulations) with respect to categories of chemical substances or mixtures as well. A category is defined in TSCA as a group whose members are similar in molecular structure; in physical, chemical, or biological properties; in use; in mode of entrance into the human body or into the environment; or in any other way, so long as the grouping is not based solely on its members being "new chemical substances" as defined in the Act. Since the EPA Administrator is authorized to promulgate testing regulations for categories of chemical substances or mixtures, the Committee has concluded that its recommendations to the EPA Administrator may also include categories (or groups) of chemical substances or mixtures, as well as individual substances and mixtures. This conclusion is consistent with Section 4(e) which states that the Committee's recommendations for testing "shall be in the form of a list of chemical substances and mixtures which shall be set forth, either by individual substance or mixture or by groups of substances or mixtures... ."

In order to maintain consistency in this report and in keeping with its meaning in TSCA, the term "category" will be used to reflect groupings of substances. "Substance" will be used to refer to both individual chemicals as well as mixtures.

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CHAPTER 2. DEVELOPMENT OF THE COMMITTEE'S INITIAL RECOMMENDATIONS

2.1 SELECTION OF THE COMMITTEE'S BASIC APPROACH

Estimates of the number of chemical substances and mixtures subject to TSCA range from tens of thousands to over 100,000; the number and identities of these substances and mixtures will not be established until after the completion of the chemical inventory under Section 8(b) of TSCA. Nevertheless, all of these substances and mixtures, together with others which may be manufactured in the future, are subject to the promulgation of testing rules under Section 4(a) and are thus within the purview of the Interagency Testing Committee.

At the same time, Section 4(e) of TSCA specifies a number of factors which the Committee is to consider in determining whether to recommend a substance for testing. Careful consideration of these factors requires the collection and review of a substantial amount of data concerning the production, use, chemical and biological activity, and previous testing of each substance or category of substances under consideration.

As a result, because of the lack of a comprehensive and readily accessible data base on current chemicals, the large number of potential candidates for the Committee's consideration, and the statutory deadline for the Committee's initial recommendations to EPA, the Committee has had to select for its detailed consideration only a small subset of the possible candidates.

In considering alternative approaches to selecting a limited number of substances for detailed review, the Committee met with a number of experts on chemical data systems and chemical characterization. Several possible approaches were identified. One was a nomination approach in which Committee members or other experts would nominate specific chemicals for consideration. Another was to use structure-activity relationships to identify for review substances chemically similar to others of known hazard. Yet another approach was to focus the Committee's attention on those substances known to have high levels of production volume, environmental release, or human exposure.

After considering these alternatives, the Committee decided to adopt a combined strategy employing features of each. This resulted in a multi-step screening process wherein a relatively large number of substances were considered initially and at each subsequent step a smaller subset was selected for collection of more data and more intensive review.

The basic steps in the process adopted by the Committee, which are illustrated in Figure 1 and are described in more detail in subsequent sections, were as follows:

- a. Establishment of an INITIAL LISTING of about 3,650 substances and categories of substances previously identified as potential hazards to human health or the environment,
- b. Compilation of a smaller MASTER FILE (about 1,700 substances and categories) through elimination from the INITIAL LISTING of substances not in commercial production or used predominantly as pesticides, food additives, or drugs,
- c. Selection of a PRELIMINARY LIST of about 330 substances and categories for further consideration based on evaluation of the production volume, environmental release, occupational exposure, and general human exposure levels of the substances in the MASTER FILE,
- d. Selection of about 80 substances and categories for detailed review based on evaluation of the potential biological activity and need for health and ecological effects testing of substances appearing on the PRELIMINARY LIST,
- e. Selection of substances and categories recommended for testing after review of preliminary dossiers prepared by the Committee's contractor, public comments on the PRELIMINARY LIST, and other pertinent information available to the Committee from various agencies,
- f. Documentation of the Committee's reasons for including each substance or category in its list of recommendations and completion of a final dossier summarizing the information considered by the Committee in reaching its decision.

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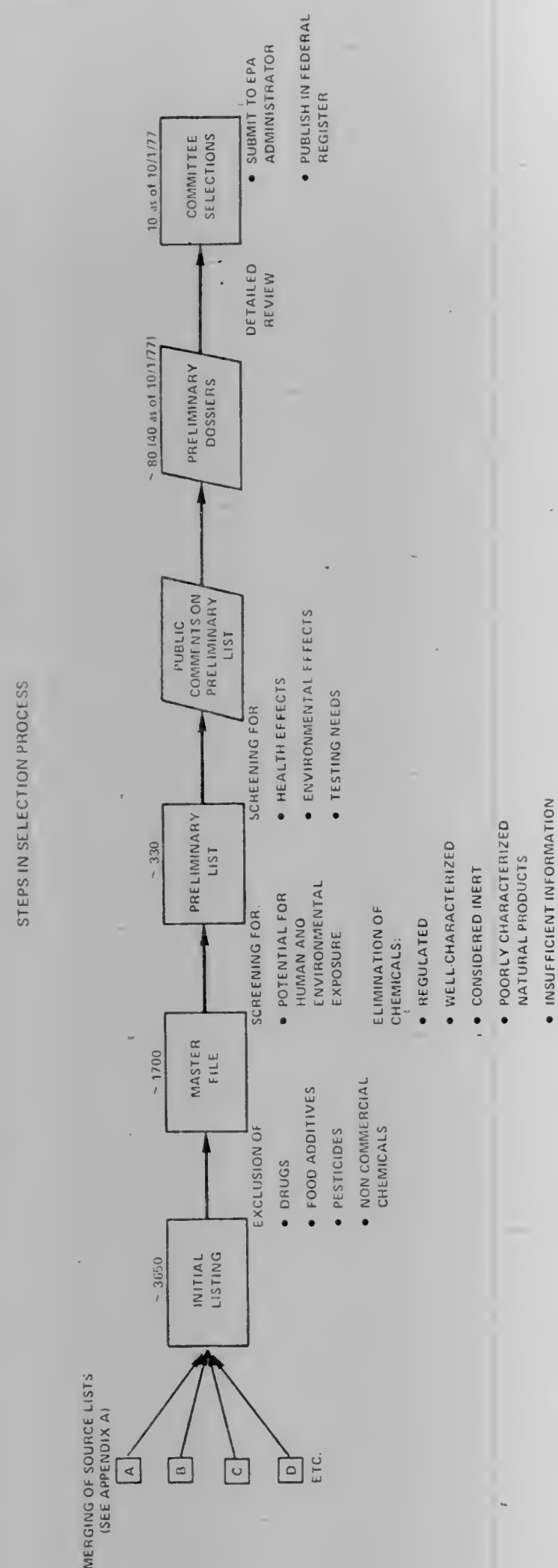


FIGURE 1. SELECTION SCHEME USED BY THE TSCA INTERAGENCY COMMITTEE IN SELECTING ITS INITIAL RECOMMENDATIONS TO THE EPA ADMINISTRATOR (OCTOBER 1977)

FEDERAL REGISTER, VOL. 42, NO. 197—WEDNESDAY, OCTOBER 12, 1977

Carrying out this multi-step process required the collection, review, coding, and analysis of data on a large number of chemical substances, as well as the application of scientific judgment in many areas where adequate data were unavailable. The Committee was supported extensively in these efforts by Clement Associates, Inc. under a contract with the National Science Foundation (Contract No. NSF ENV77-15417 with partial funding by the NIEHS and NCI. The contractor employed expert consultants from a variety of disciplines in carrying out its tasks under the contract. In addition, many U.S. Government agencies made data and expertise of their employees available to the Committee for these efforts.

Several of the steps of the Committee's procedure employed quantitative scoring of the substances under consideration. Members of the Committee used their professional expertise and judgment in applying these scores to the decisions at each step.

2.2 ESTABLISHMENT OF THE INITIAL LISTING

In order to focus its initial attention on substances likely to require health and/or ecological effects testing, and for which sufficient preliminary data were likely to be available to permit more detailed reviews at later steps, the Committee chose to limit its initial consideration to substances or categories of substances which had already been identified in previous reviews as being of concern because of potential adverse effects on human health or the environment or as having large production volumes and a potential for substantial human exposure or environmental release. Nineteen separate source lists of this type were identified by the Committee and pooled to produce the INITIAL LISTING of about 3,650 substances, mixtures, and categories. The individual source lists are identified and described briefly in Appendix A.

2.3 REDUCTION TO THE MASTER FILE

The INITIAL LISTING included a number of substances having pesticide, food additive, or drug uses, all of which are regulated under other Federal statutes and are exempted from regulation by TSCA. To identify them, the INITIAL LISTING was compared with lists of pesticides prepared by the EPA and lists of food additives and drugs prepared by the Food and Drug Administration, using Chemical Abstracts Service (CAS) Registry Numbers. This initial purge of substances subject to other statutes was incomplete, since some entries on source lists did not include CAS numbers. To compensate for this, a further manual purging was required. Consideration was also given to the fact that a substance used as a pesticide, food additive or drug may also have other uses that are subject to the authority of TSCA. Since pesticides, food additives, and drugs are generally produced in limited volumes, substances identified as such but having annual production over 10 million pounds were considered likely to have other uses as well and were retained on the truncated list for further review of their uses. Substances identified as pesticides, food additives, or drugs but known to the Committee or its contractor to have other uses within the jurisdiction of TSCA were also retained.

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The resulting file was reduced further by the elimination of chemicals which were judged not likely to be in commercial production. This was accomplished by comparing the file against EPA's Candidate List of Chemical Substances, prepared by the Office of Toxic Substances (dated April 1977). Again, the basis of comparison for this purge was an assigned CAS number. Consequently, this purge did not affect those chemicals on source lists for which no CAS number was given. In an attempt to eliminate substances which are not in commercial production, the following rule was adopted: any substance not identified by a CAS number which appeared on the NIOSH Registry (Source List 13 of Appendix A) and on none of the other source lists was judged not likely to be in commercial production. This decision was based on the fact that the NIOSH Registry lists any substance for which toxic effects have been reported, including research chemicals. A scan of the substances eliminated by the application of this rule demonstrated its usefulness: few of the purged substances were recognized to be in commercial production.

As a result of the purges described above, a MASTER FILE of approximately 1700 substances emerged.

2.4 SELECTION OF THE PRELIMINARY LIST

Having developed a MASTER FILE of substances to be considered for possible recommendation to EPA for testing, the Committee began to apply the eight factors explicitly identified for its consideration in Section 4(e)(1)(A). While recognizing that there would be advantages to applying all of the first seven factors* simultaneously in evaluating the relative priorities for detailed review of the substances under consideration, the Committee concluded that assembling and evaluating the necessary data for all substances on the MASTER FILE would not be feasible within the time schedule established by statute, considering the limitations of current chemical information systems and the number of professional judgments which would have to be made. Evaluation of the fifth, sixth, and seventh factors (relating to chemical similarity to substances of known hazard, existing health and environmental effects data, and need for testing) was anticipated to require more independent review and judgment and to be the more time-consuming portion of the task. Hence, the Committee decided to further reduce the number of substances under consideration before explicitly evaluating those factors which had, to some extent, already been reflected in the choice of source lists.

* The eighth factor, the reasonably foreseeable availability of facilities and personnel for performing the needed testing, was considered principally by the Committee in terms of the aggregate facilities and personnel needs for carrying out all of the Committee's recommendations. See Section 2.8 for further discussion of this factor.

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This reduction, which resulted in the selection of the PRELIMINARY LIST, was based principally on evaluation of the first four factors identified for the Committee's consideration in Section 4(e)(1)(A) of TSCA. These are:

- (i) quantity of the substance produced annually
- (ii) amount of the substance released into the environment
- (iii) number of individuals occupationally exposed and duration of their exposure
- (iv) extent to which the general population will be exposed.

Using a combination of published data and judgment, the Committee's contractor made an attempt to score each substance in the MASTER FILE for these four factors. Appendix B describes in more detail how scores were assigned to substances. Information on the use or uses of a substance was critical to the assignment of scores for environmental release and general population exposure, and scores for those factors could not be assigned if use information could not be found by the contractor. For about 1,000 of the 1,700 substances in the MASTER FILE this was the case; as a result, for only about 700 of the substances was it possible to assign scores. By combining the scores for the four factors, as described in Appendix C, a rank-ordered list of the scored substances was prepared for the Committee's consideration.

In selecting the approximately 330 substances and categories included on the PRELIMINARY LIST, the Committee considered all of the scored substances and eliminated from current consideration a number of them which in the Committee's professional judgment were found to be:

- a. Currently under stringent regulation or of lower priority for the Committee's purposes because their hazard is reasonably well characterized (e.g., vinyl chloride and mercury);
- b. Essentially inert materials (e.g. certain polymers) or substances reasonably well characterized as having low toxicity (e.g., methane);
- c. Covered by testing requirements under food, drug and cosmetic or pesticide legislation (e.g., citric acid); or
- d. Certain natural products (e.g., asphalt) whose consideration should be deferred pending better characterization for testing purposes.

Others of the scored substances were specifically selected by the Committee for inclusion on the PRELIMINARY LIST based on judgment of members that further review was needed. The remainder of the scored substances were considered for inclusion on the PRELIMINARY LIST based on their relative ranking in the scoring process.

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In addition to the scored substances, the Committee also considered in selecting the PRELIMINARY LIST the unscored substances from the MASTER FILE and a limited number of additional substances recommended by Committee members or the Committee's contractor. A number of substances from these sources were included on the PRELIMINARY LIST based on the Committee's knowledge of the substance and its uses or the Committee's professional judgment that the substance should be further evaluated.

In reviewing substances for possible inclusion on the PRELIMINARY LIST, the Committee also considered the desirability of grouping substances into categories. In several cases the Committee grouped chemically-related substances from the MASTER FILE while in other cases the Committee retained groups which had already appeared in one of the source lists. About 15% of the entries on the PRELIMINARY LIST were categories.

2.5 PUBLIC COMMENT ON THE PRELIMINARY LIST

The PRELIMINARY LIST, together with a background document describing its development, was published by the Committee in July, 1977. Notice was published by the Committee in the Federal Register (42 FR 30531 and 42 FR 40756) announcing the availability of the list and background document and requesting public comment. Comments were specifically requested on:

- a. The methodology used by the Committee in developing the PRELIMINARY LIST;
- b. Substances not appearing on the PRELIMINARY LIST which commentators might recommend for consideration by the Committee and the commentator's reasons for the recommendation;
- c. Substances appearing on the PRELIMINARY LIST which commentators might recommend that the Committee not consider further and the reasons for that recommendation; and
- d. Comments on the needs for and relative priority of testing of the substances being considered by the Committee.

As an additional aid to commentators and others interested in the Committee's activities, copies of the list of substances comprising the MASTER FILE and a tabulation of the scores for production volume, environmental release, and occupational and general population exposure considered by the Committee in selecting the PRELIMINARY LIST were made available for public inspection at the headquarters and regional offices of the Environmental Protection Agency.

Comments on the PRELIMINARY LIST were received from about 65 industrial firms, trade associations, environmental organizations, government agencies, and individuals. About two-thirds of the

commentators recommended deletion from the Committee's further consideration of one or more substances or categories appearing on the PRELIMINARY LIST, while four commentators recommended additional substances for the Committee's consideration. About one-fifth of the commentators included comments on the methodology employed by the Committee in developing the PRELIMINARY LIST and about one-third included comments on other issues related to the Committee's activities. Such issues were the use of categories in the Committee's recommendations to EPA, documentation of the Committee's reasons for its decisions with respect to specific substances, and provision of opportunity for public comment on the Committee's actions.

Public comments on the PRELIMINARY LIST have been reviewed by the Committee and considered in the development of the Committee's initial recommendations. Four of the seven additional substances recommended by commentators were added to the PRELIMINARY LIST for consideration in selecting substances and categories for detailed review. Because of the large number of comments recommending deletions of substances from the Committee's consideration and the limited time available under the statutory deadline, pertinent comments were considered on a substance-by-substance or category-by-category basis during the Committee's review of preliminary dossiers and consideration of reasons for and against recommending testing. Comments on the Committee's methodology have been reviewed and will be considered in subsequent activities of the Committee. In the Committee's judgment, the recommended changes in methodology would not, if implemented, alter its initial recommendations. Comments dealing with use of categories, documentation of the Committee's reasons for actions, and other more general issues were also reviewed and considered in the development of the Committee's recommendations.

2.6 SELECTION OF SUBSTANCES FOR DETAILED REVIEW

This step of the Committee's procedure extended the scoring of the substances under consideration to factors (v) through (vii) of Section 4(e)(1)(A). These factors are:

- (v) the extent to which the substance or mixture is closely related to a chemical substance or mixture which is known to present an unreasonable risk of injury to health or the environment;
- (vi) the existence of data concerning the effects of the substance or mixture on health or the environment; and
- (vii) the extent to which testing of the substance or mixture may result in the development of data upon which the effects of the substance or mixture on health or the environment can reasonably be determined or predicted.

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To accomplish this, each substance on the PRELIMINARY LIST was scored for each of seven biological activity factors by a number of experts available through the Committee's contract. The factors were: carcinogenicity, mutagenicity, teratogenicity, acute toxicity, other toxic effects such as reproductive effects or organ-specific toxicity, bioaccumulation, and ecological effects. After reviewing a summary of information on the biological activity of the substance developed by the contractor based on the open literature, each of the contractor's scorers assigned a score to the substance for the effect(s) for which that scorer was responsible.

A total of nine scorers was used by the contractor, with two or three scorers separately evaluating each effect in most cases. Each scorer considered both the summary information provided by the contractor and his personal knowledge of the substance and chemically-related substances in assigning scores. Any substantial discrepancies among individual scorers were identified, discussed among the scorers, and a consensus reached; in the case of minor discrepancies in the scores for any factor, the scores of the several scorers were averaged.

In addition, three of the effects (carcinogenicity, mutagenicity, and ecological effects) were separately scored by government experts from the National Cancer Institute, National Center for Toxicological Research, and Department of Interior, respectively. These scores were averaged with those of the contractor's scorers.

Scores assigned for the various effects took the form of either a numerical score (generally 0, 1, 2, or 3) or a letter score (generally x, xx, or xxx). Assignment of a numerical score indicated a judgment that further testing of the substance is not needed for the effect under consideration, while the magnitude of the score indicated the degree to which the effect had been confirmed or the dose level at which it had been found. Assignment of a letter score, on the other hand, indicated a judgment that further testing should be carried out, with the number of "x's" assigned reflecting a judgment as to the level of numerical score that might be anticipated after testing. For example, in scoring a substance for carcinogenicity a score of 3 meant that the substance is well established as a carcinogen in humans or experimental animals, while a score of xxx meant that the substance is strongly suspected of carcinogenic activity but has not been adequately tested. In averaging the scores assigned to a substance by the several scorers for a given factor, no mixing of numerical and letter scores was permitted. Any discrepancies between scorers in choosing the numerical or letter scale were discussed among the scorers and resolved. The criteria applied by the scorers in assigning scores for the various factors are described in more detail in Appendix D.

Categories of substances appearing on the PRELIMINARY LIST were not generally scored as entities, but rather, scores were assigned separately for each of the example substances listed under the category heading in the list.

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Using these scores, the contractor provided the Committee a series of lists of the substances appearing on the PRELIMINARY LIST ranked according to various criteria. These included separate lists for each factor ranked by the average score a substance received for that factor (identifying those substances judged most in need for testing for a single effect) and a list ranked by the sum of the letter scores received by a substance for all factors (identifying substances requiring testing for a number of effects). Also tabulated on each list was an exposure index for each substance which was derived from the earlier scoring of production volume, environmental release, and occupational and general population exposure. For the human health effects factors and total letter score lists the exposure index used was the sum of the production volume, occupational exposure, and general population exposure scores, while for the bioaccumulation and ecological effects factors, the exposure index was the sum of the production volume and environmental release scores. The Committee also received from its contractor a list of those substances evaluated by the scorers which were known or might be anticipated to have additional adverse health or environmental effects as a result of contaminants appearing in the commercial product or degradation products of the substance under consideration.

The Committee's selection of substances and categories from the PRELIMINARY LIST to be carried forward for detailed review used the various lists provided by its contractor as guides, but reflected the independent judgments of the members of the Committee. First, the scores themselves were reviewed, with any major discrepancies between the contractor's scores and those of the government scorers or the judgments of individual Committee members being considered. Then, the Committee turned to the various ranked lists, reviewing in turn the substances ranked most in need of testing on the sum-of-letter-scores list or the lists for the individual factors. Each substance appearing in the top 75 to 100 positions on one or more of these lists was considered by the Committee and a decision made whether to select it for detailed review.

Particular attention was paid by the Committee to substances known or suspected to be carcinogens, mutagens, or teratogens, in keeping with the statutory guidance provided the Committee in Section 4(e)(1)(A) of TSCA. This emphasis was reflected not only in the Committee's consideration of individual substances and categories, but also in its structuring of the review process, since these effects were scored individually and, in effect, received greater attention than did other effects scored in groups (e.g., other toxic effects or ecological effects).

Categories of substances appearing on the PRELIMINARY LIST were also reviewed in terms of the scoring of their example members and the Committee's judgment as to retaining them. A number of decisions to modify previous categories or define new categories were made by the Committee during this review process.

In reviewing these lists, more than two-thirds of the individual substances scored by the contractor were explicitly considered by the Committee. Approximately eighty substances and categories were selected by the Committee for the drafting of preliminary dossiers and further detailed review. Of these, about half were individual substances and half categories.

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2.7 CONSIDERATION FOR LISTING AND DESIGNATION

For each of the approximately eighty substances and categories selected for detailed review, preliminary dossiers have been (or are being) prepared by the Committee's contractor. Within the time period allowed by the statute for development of the Committee's initial recommendations, preliminary dossiers were drafted for about one-half of the substances and categories for detailed review. Consideration of these and other information resulted in the initial recommendations transmitted by this report. Consideration of the remaining substances and categories already selected for detailed review, and others which may subsequently be selected, will continue and will be reflected in subsequent recommendations to EPA by the Committee.

The preliminary dossiers summarized information obtained from the open literature relating to the identification, relevant chemical and physical properties, production volume, uses, environmental release, and exposure to the substance under consideration as well as information on the nature and findings of previous studies of its human health and environmental effects. Information on the biological activity of other chemically similar substances was also included where available. Preliminary dossiers for categories of substances included these types of information for specific members of the category, generally the example members identified in the PRELIMINARY LIST.

Using the information summarized in the preliminary dossier, together with information submitted in public comments on the PRELIMINARY LIST, information available to the Committee from various Federal agencies, and the members' individual knowledge, the Committee reviewed each substance or category. Each of the factors specified in Section 4(e)(1)(A), as well as any other relevant factors identified by the Committee on a case-by-case basis, was considered. In particular, in considering factor (vi) of Section 4(e)(1)(A), the existence of data concerning the effects of the substance on health or the environment, the Committee considered test programs currently in progress, as well as data already generated. Another factor considered in certain instances was the status of current regulatory action relative to the substance. In each case where a category of substances was under consideration the appropriate definition of the category and the need for data on all members of the category were considered. Where relevant to the particular type of testing under consideration for a substance or category, factor (viii) of Section 4(e)(1)(A), the availability of test facilities and personnel, was discussed on a case-by-case basis. In general, however, this factor was considered in the aggregate after the Committee's tentative recommendations for all substances and categories had been identified. The Committee's consideration of this factor is discussed further in section 2.8 of this report.

After reviewing and thoroughly discussing the information available to the Committee on the substance or category under consideration, a decision was made regarding whether to recommend the development of test rules by EPA and, if so, for which effects. Subsequently, one or more Committee members participated in the drafting of the supporting reasons for each recommendation and these reasons were again reviewed by the Committee. A final decision to recommend the substance or category for testing represents a consensus by the Committee members that such testing is needed to evaluate the effects of the substance (or of each individual substance falling within the definition of a category) on human health and the environment, and that priority attention should be given by EPA to requiring the conduct of such testing. The Committee recognized, of course, that some members of recommended categories may have already been adequately tested for the effects of concern and would not require further testing.

Several substances and categories reviewed by the Committee were deferred for further consideration because of insufficient information to adequately define the categories or to determine the needs for testing.

Assignment of priority order to the substances and categories recommended for testing was also considered. The Committee concluded that all of the substances and categories being recommended at this time should be given equal priority in EPA's development of test rules. Factors contributing to this decision were the limited number of recommendations being made, the Committee's decision to designate all recommended substances and categories for consideration by EPA within 12 months, and the Committee's understanding of EPA's plans to develop its test rules for various effects, e.g., carcinogenicity, rather than for individual substances or categories. The Committee recommends that these substances and categories be included in the first applicable "effects rule".

2.8 CONSIDERATION OF AVAILABILITY OF TESTING FACILITIES AND PERSONNEL

One of the criteria listed in Section 4(e)(1)(A), that the Committee was required to consider, is the reasonably foreseeable availability of facilities and personnel for performing the testing it recommends. The Committee reviewed the results of recent surveys of toxicology testing capabilities conducted by the Society of Toxicology (SOT) and the DHEW Committee to Coordinate Toxicology and Related Programs (CCTRP). While the SOT surveyed general toxicology testing capabilities, the CCTRP specifically assessed inhalation test capabilities. The Committee also reviewed the capabilities and plans of the National Center for Toxicological Research (NCTR), the possible impact of the FDA's Good Laboratory Practices, and the logistics and practical considerations for carcinogenicity, mutagenicity, and reproductive effects testing. It also was briefed on ecological test capabilities and needs in that area.

Based upon these reviews, the Committee has concluded that there are sufficient toxicology testing capabilities in the U.S. to carry out the health effects testing recommended by the Committee in this report.

A more difficult area to assess was that of environmental or ecological testing. Capabilities for acute studies are probably adequate, but the National capability for conducting long-term tests of chemical pollution on the environment will be less certain until the test standards and protocols are defined through the rulemaking process. The Committee feels, however, that the testing burden likely to result from recommendations in this report is reasonable.

CHAPTER 3. RECOMMENDATIONS OF THE COMMITTEE

3.1 SUBSTANCES AND CATEGORIES OF SUBSTANCES RECOMMENDED FOR TESTING

As described in Chapter 2 of this report, the Committee has, with the assistance of a technical support contractor, carried out a multi-step screening procedure to identify for its detailed review a limited number of substances and categories of substances likely to have priority for testing to determine their effects on human health and the environment. A number of substances and categories identified by this process have been reviewed by the Committee, which has given careful consideration to each of the eight factors specified in Section 4(e)(1)(A) of TSCA. The Committee has also considered such other factors as it judged relevant on a case-by-case basis. Such additional factors have included test programs currently in progress, the current status of regulatory action with respect to a substance, and the need for test data on all members of certain categories rather than on one or more individual members of the category.

The eighth factor specified in Section 4(e)(1)(A) for the Committee's consideration, the reasonably foreseeable availability of facilities and personnel for performing the recommended testing, has (as described in Section 2.8 of this report) been considered by the Committee with respect to the aggregate requirements of all of the testing recommendations made here, as well as for each individual testing recommendation. In the Committee's judgment there are, or can be made available within the next few years, adequate facilities and personnel for conducting the testing now being recommended by the Committee. Furthermore, any specific limitations of facilities or personnel which cannot now be identified by the Committee would be expected to be short-term in nature and can be taken into account by EPA in establishing the time periods for submission of the test data under Section 4(b)(1).

In selecting substances and categories for inclusion in its initial recommendations, the Committee has also given priority attention to substances known or suspected to cause cancer, gene mutations, or birth defects.

Based on its consideration of the factors identified in Section 4(e)(1)(A) and all other relevant factors identified by the Committee, and using all of the information available to it, including the knowledge and professional judgment of its members, it is the consensus of the TSCA Interagency Testing Committee that the ten substances and categories of substances listed in the accompanying table should be given priority consideration by the Administrator of the Environmental Protection Agency for the promulgation of regulations under Section 4(a) requiring the conduct of the types of testing specified. Each of these substances and categories is designated by the Committee for consideration by EPA within the next 12 months.

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SUMMARY OF TESTING RECOMMENDATIONS
BY THE
TSCA INTERAGENCY TESTING COMMITTEE

Substance or Category	Types of Testing Recommended					
	Carcinogenicity	Mutagenicity	Teratogenicity	Other Chronic Effects	Environmental Effects	Epidemiological Study
Alkyl Epoxides	X	X	X	X	X	X
Alkyl Phthalates					X	
Chlorinated Benzenes, (Mono- and Di-)	X	X	X	X	X	X
Chlorinated Paraffins	X	X	X	X	X	
Chloromethane	X	X	X	X		
Cresols	X	X	X	X	X	
Hexachloro- 1,3-butadiene					X	
Nitrobenzene	X	X			X	
Toluene	X		X	X		X
Xylenes		X	X			X

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Table 1

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In listing and designating these ten substances and categories, the Committee has decided that all should be given equal priority by EPA in the development of test rules under Section 4(a) of TSCA. All are of high priority and should be included in the first applicable "effects rule" (e.g., carcinogenicity) developed by EPA.

In selecting categories of substances for inclusion in its recommendations, the Committee recognizes that some members of a category may have already been adequately tested for one or more of the effects listed; in such cases no additional testing would be required. The Committee also recognizes that the precise definition of each category will have to be considered and decided by EPA in developing its test rules.

The Committee's reasons for including each substance or category of substances on its list of recommendations, which are required by Section 4(e)(1)(B) to be submitted with the Committee's recommendations, are presented in the following section. In addition, the Committee will forward to EPA in the next few weeks a dossier on each substance or category included on the Committee's list of recommendations. These dossiers will summarize the information pertaining to each substance or category which was considered by the Committee in making its decision to recommend testing.

3.2 REASONS FOR RECOMMENDING TESTING OF THE SUBSTANCES AND CATEGORIES

The ten substances and categories which the Committee has designated for consideration by the EPA Administrator for development of test rules within twelve months are listed below with the Committee's reasons for recommending them.

3.2.A ALKYL EPOXIDES

TESTING RECOMMENDATIONS:

Carcinogenicity
Mutagenicity
Teratogenicity
Other Chronic Effects
Environmental Effects
Epidemiology

CATEGORY IDENTIFICATION: This category includes all noncyclic aliphatic hydrocarbons with one or more epoxy functional groups.

REASONS FOR RECOMMENDATIONS:

Production, Release and Exposure: Although these compounds are generally used as industrial intermediates, several alkyl epoxides are produced in very large quantities (e.g., ethylene oxide at over 4 billion pounds per year). The vast amounts produced thus raise concerns primarily with respect to workplace exposure. The reactivity of these compounds is such that environmental persistence is not anticipated; however, their reaction products may be of significance.

EFFECTS OF CONCERN: The epoxy structure is a relatively reactive functional group which is believed to be the source of the carcinogenic and mutagenic activity which is well characterized for several members reviewed (particularly the diepoxides). Thus, while some members of the group appear to be relatively well characterized as potential mutagens and/or carcinogens, these results and the presence of the epoxy functional group raise the need for testing other compounds in this group for these and other effects.

Carcinogenicity: Diepoxides are demonstrated carcinogens in animal studies. Ethylene oxide proved inactive while propylene oxide showed carcinogenic activity in mice. Other alkyl epoxides are less well tested. Because of the alkylating properties of these compounds it is recommended that alkyl epoxides be tested for carcinogenic potential. Mutagenicity of most members of this group tested provides further concern for carcinogenic potential.

Mutagenicity: Because most members of this group which have been tested proved to be mutagenic; other members of this group should be tested for this effect.

Teratogenicity: In general, these compounds have not been adequately tested for teratogenicity but should be, considering the reactivity of the epoxy group toward biological materials.

Other Chronic Effects: Because of the reactivity of epoxides with biological materials, they should be tested for specific chronic organ effects and behavioral changes.

Environment Effects: While the persistence of these compounds as epoxides is not great, concern is expressed for reaction products. In view of this possibility, the fate of epoxides in the environment should be determined through testing.

Epidemiology: Because of the large scale production of several of these compounds, and because of the strong toxicological evidence of possible carcinogenic and mutagenic effects, the Committee recommends that retrospective epidemiologic studies be required for two or three of the highest exposure compounds when suitable cohorts can be identified.

3.2.B ALKYL PHTHALATES

TESTING RECOMMENDATIONS:

Environmental Effects

CATEGORY IDENTIFICATION: This category consists of all high production (e.g., 10 million lbs/yr or greater) alkyl esters of 1,2-benzene dicarboxylic acid (orthophthalic acid).

REASONS FOR RECOMMENDATIONS:

Production, Release, and Exposure: Many of these compounds are produced in large volume, some of them over one hundred million pounds per year. Their use as plasticizers in a wide variety of products results in large volumes of alkyl phthalates reaching the aquatic environment either as wastes from formulating plants or from use and disposal of end products.

Effects of Concern:

Environmental Effects: Many of the alkyl phthalates are quite stable, breaking down only slowly to monophthalates or phthalic acid.

There has been a great deal of information published on their environmental fate and toxicity to aquatic organisms. Some are known to have considerable toxicity to fresh water fish. In view of the large volume in which they can be expected to reach the aquatic environment and persist and accumulate in aquatic organisms, it is important to have data on the toxicity to aquatic organisms of all high production alkyl phthalates. Each such compound should be tested for chronic toxicity to typical aquatic organisms, especially fish. Effects on reproduction (or population) should be included in this testing.

3.2.C CHLORINATED BENZENES, MONO- AND DI-

TESTING RECOMMENDATIONS:

Carcinogenicity
Mutagenicity
Teratogenicity
Other Chronic Effects
Environmental Effects
Epidemiology

CATEGORY IDENTIFICATION: This category consists of four closely-related chemical substances: monochlorobenzene (CAS No. 108-90-7), and ortho-, meta-, and paradichlorobenzene (CAS Nos. 95-50-1, 541-73-1, and 106-46-7).

REASONS FOR RECOMMENDATIONS:

Production, Release and Exposure: The chlorobenzenes are produced in large quantities, monochlorobenzene over 300 million pounds/year and ortho- and para-dichlorobenzene approximately 50 million pounds each. These chemicals are widely used in industrial processes, as solvents, and in many consumer products. Therefore, the exposure and potential for hazard is great, particularly in light of their high release rate and anticipated persistence in the environment.

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Effects of Concern:

Carcinogenicity: One very limited animal study suggested the induction of sarcomas following subcutaneous injections of para-dichlorobenzene. A possible association of several cases of leukemia with human exposure to mixtures of ortho- and para-dichlorobenzenes has also been reported. These studies, as well as other animal toxicity experiments, do not provide sufficient data on which to assess the carcinogenic potential of members of this class.

Mutagenicity: While a study has demonstrated back mutations in yeast exposed to ortho-dichlorobenzene, the data are inadequate to assess the potential mutagenic hazard. Additional testing is needed in view of the widespread release and exposure. The other chemicals in this class should also be tested for mutagenicity.

Teratogenicity: While teratogenic effects are suspected for certain higher chlorobenzenes, the mono- and dichlorobenzenes have not been adequately tested.

Other Chronic Effects: Liver, kidney, respiratory and neurological effects have been observed with high level exposures. Effects at lower levels cannot be characterized from existing data. Chronic studies should be undertaken.

Environmental Effects: The environmental fate of these compounds should be determined. Evidence exists for environmental pollution and bioaccumulation in aquatic life. The effects are unknown. Studies should be initiated to assess the impact of these chemicals on terrestrial and aquatic systems.

Epidemiology: A possible link has been made between exposure to ortho- and para-dichlorobenzene and leukemia. Further efforts to evaluate chronic effects should be made by the identification and evaluation of specific populations who are or have been exposed to either ortho- or paradichlorobenzene.

3.2.D CHLORINATED PARAFFINS, 35-64% CHLORINE

TESTING RECOMMENDATIONS:

Carcinogenicity
Mutagenicity
Teratogenicity
Other Chronic Effects
Environmental Effects

CATEGORY IDENTIFICATION: This category is comprised of a series of mixtures of chlorination products of materials known commercially as paraffin oils or paraffin waxes; those having a chlorine content of 35% through 64% by weight are included.

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REASONS FOR RECOMMENDATIONS:

Production, Release, and Exposure: The 1972 annual production of chlorinated paraffins was about 80 million pounds. The use of these materials in a wide variety of household and paint products, as well as adhesives and flame retardants, results in an estimated release rate of about 50 million pounds per year.

Effects of Concern:

Human Health Effects: A chronic study in mice showed evidence of degenerative changes in the liver and spleen; no data are available on the carcinogenicity, mutagenicity, teratogenicity, or other chronic effects of these mixtures. The Committee recommends that commercial products in this category be tested for such effects.

Environmental Effects: The occurrence of residues of chlorinated paraffins in fish indicates the need for critical assessment of the biological significance of this contamination of the aquatic environment. The persistence, environmental fate, and chronic effects on aquatic organisms of the chlorinated paraffins should be determined by appropriate testing.

3.2.E CHLOROMETHANE

TESTING RECOMMENDATIONS:

Carcinogenicity
Mutagenicity
Teratogenicity
Other Chronic Effects

SUBSTANCE IDENTIFICATION: CAS No. 74-87-3

REASONS FOR RECOMMENDATIONS:

Production, Release, and Exposure: The 1974 U.S. production of chloromethane was over 350 million pounds, most of this being used as a synthetic intermediate. However, it is estimated that about 5% of the annual production (over 15 million pounds per year) is released into the environment. NIOSH estimates that the number of workers exposed to chloromethane numbers about 31,000.

Effects of Concern:

Carcinogenicity: To date, chloromethane has not been the subject of a carcinogenicity study, although it is structurally related to chloroform, carbon tetrachloride, and iodomethane, all of which have been reported as being carcinogenic. Moreover, chloromethane has recently been reported as exhibiting mutagenic properties in the Salmonella mutagenic test with microsomal activation.

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Mutagenicity: The initial positive results in the Salmonella mutagenic test with microsomal activation should be supplemented with test data regarding chromosomal aberrations.

Teratogenicity: The absence of data in this area, coupled with known toxic effects, calls for the initiation of studies to determine the extent of the potential hazard to the reproductive system and the fetus.

Other Chronic Effects: Exposure to chloromethane has been implicated in damage to the central nervous system, liver, kidneys, bone marrow and cardiovascular systems. Effects on these systems should be examined in chronic toxicity tests.

3.2.F CRESOLS

TESTING RECOMMENDATIONS:

Carcinogenicity
Mutagenicity
Teratogenicity
Other Chronic Effects
Environmental Effects

CATEGORY IDENTIFICATION: This category consists of the three isomers of methyl phenol: ortho-cresol (CAS No. 95-48-7), meta-cresol (CAS No. 108-39-4), and para-cresol (CAS No. 106-44-5).

REASONS FOR RECOMMENDATIONS:

Production, Release, and Exposure: Cresols are produced in large quantities, having a combined U.S. production in 1975 of about 90 million pounds. An annual release rate of about 45 million pounds has been estimated. Their wide use as industrial solvents leads to substantial occupational exposure. NIOSH estimates that roughly two million workers are exposed to cresols. In addition, cresols are used in many consumer products, resulting in a large general exposure.

Effects of Concern:

Carcinogenicity: Cresols have not been evaluated for carcinogenicity. Because of widespread exposure and suggestive evidence of mutagenic effects in certain plants, cresols should be tested for carcinogenicity.

Mutagenicity: There is some suggestion of the mutagenic potential of cresols in certain plants, but its potential as a human mutagen has not been assessed. It is, therefore, recommended that further mutagenic studies be conducted.

Teratogenicity: The teratogenicity of the cresols has not been assessed, but such testing is needed in view of the evidence of biological activity of cresols (see Other Chronic Effects, below) and their widespread exposure.

Other Chronic Effects: Although toxic effects involving the central nervous system, lungs, kidneys, liver, pancreas, and spleen have been observed following acute exposure to cresol-containing products, adequate testing of cresols for chronic effects following prolonged exposure has not been reported and should be conducted.

Environmental Effects: There is evidence that creosote oils containing cresols are acutely toxic to fish and taint fish flesh at low concentrations. Because of their substantial release into the aquatic environment, cresols should be tested for chronic effects on fish and other aquatic organisms.

3.2.G HEXACHLORO-1,3-BUTADIENE

TESTING RECOMMENDATIONS:

Environmental Effects

SUBSTANCE IDENTIFICATION: CAS No. 87-68-3

REASONS FOR RECOMMENDATIONS:

Production, Release, and Exposure: Although the most recent (1974) data available indicate that this compound is no longer commercially manufactured in the U.S., it continues to be produced as a waste byproduct of various chlorination processes and is also imported into the U.S. for industrial solvent use. The release of hexachlorobutadiene into the environment has not been quantified, but there is good evidence of widespread distribution in the aquatic environment.

Effects of Concern:

Environmental Effects: Hexachlorobutadiene's human health effects are being studied in depth. It is a stable substance which is widely distributed in the aquatic environment and has been reported to bioaccumulate in fish and other aquatic organisms. These factors indicate that hexachlorobutadiene should be tested to determine its fate in aquatic systems and its effects on invertebrates, fish, higher vertebrates, and plant life in aquatic systems. Its appearance in some European agricultural products suggests that its uptake by plants and/or foraging species should also be studied.

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3.2.H NITROBENZENE

TESTING RECOMMENDATIONS:

Carcinogenicity
Mutagenicity
Environmental Effects

SUBSTANCE IDENTIFICATION: CAS No. 98-95-3

REASONS FOR RECOMMENDATIONS:

Production, Release, and Exposure: U.S. production of nitrobenzene in 1975 was about 400 million pounds. Its release to the environment has been estimated to be about 20 million pounds annually. Although its predominant use (97 percent of production) is in closed systems in aniline manufacture, nitrobenzene is also an industrial solvent and dye intermediate. General population exposure can arise from environmental release, and from dispersive uses such as perfume in soap; cleaner for woodwork, wood flooring and paneling; ingredient of metal polishes and shoe blacking. Nitrobenzene liquid and vapor penetrate intact skin readily, and the efficiency of vapor absorption by inhalation is high.

Effects of Concern:

Carcinogenicity: No information is available on the carcinogenicity of nitrobenzene. Since it is biologically active, producing cellular changes, nitrobenzene should be tested for carcinogenicity.

Mutagenicity: Although there is evidence of its biological activity, no mutagenicity testing has been reported for nitrobenzene. Mutagenicity testing should be performed.

Environmental Effects: Nitrobenzene is a relatively persistent substance in the environment. Its low volatility, stability to light, and low water solubility indicate that bioaccumulation is possible. Acute effects have been demonstrated in fish. Nitrobenzene inhibits oxygen utilization and hydrogen sulfide production in sewage microorganisms, inhibits growth in yeast, and is toxic to various soil bacteria and microorganisms. Additional data are needed to adequately characterize the persistence and fate of nitrobenzene and its metabolites in the aquatic environment. Testing is needed for such characteristics as well as to determine the effects of chronic exposure to nitrobenzene on fish, aquatic invertebrates, aquatic plant life, and waterfowl.

3.2.I TOLUENE

TESTING RECOMMENDATIONS

Carcinogenicity
Teratogenicity
Other Chronic Effects
Epidemiology

SUBSTANCE IDENTIFICATION: CAS No. 108-88-3

REASONS FOR RECOMMENDATIONS:

Production, Release and Exposure: Toluene is produced in large quantities with an annual production rate in excess of 5 billion pounds. Because of its widespread use as a solvent, as well as a multiplicity of other uses, toluene has an unusually high occupational exposure (over 1 million workers). Its presence in many consumer products leads to a large general exposure. Toluene is currently being substituted for many benzene-uses and has an annual release rate exceeding 1 billion pounds.

Effects of Concern:

Carcinogenicity: Previous studies based solely on skin application techniques in animals have demonstrated a carcinogenic potential for toluene. Some of these studies were limited in design and prevented an appropriate appraisal of the carcinogenic hazard of toluene. It is, therefore, recommended that testing be conducted in long-term animal experiments taking into consideration the appropriate route of exposure.

Teratogenicity: Information is lacking on the teratogenic hazard of this chemical, thus necessitating the initiation of studies to determine if toluene is teratogenic.

Other Chronic Effects: Liver, central nervous system and hematopoietic effects have been observed at high level exposures. Effects at lower levels cannot be characterized from existing data. Chronic studies to evaluate the effects of prolonged exposures are recommended.

Epidemiology: Occupational studies have been conducted predominantly on the acute toxic effects of toluene. There is little information on chronic effects in humans from exposure to low levels of toluene over an extended period of time. Because of its long-term use, high human exposure, and demonstrated effects in animals, epidemiological studies may be particularly important in assessing the human health effects of toluene.

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TESTING RECOMMENDATIONS:

Mutagenicity
Teratogenicity
Epidemiology

CATEGORY IDENTIFICATION: This category consists of the three isomers of dimethyl benzene: ortho-xylene (CAS No. 95-47-6), meta-xylene (CAS No. 108-38-3), and para-xylene (CAS No. 106-42-3)

REASONS FOR RECOMMENDATIONS:

Production, Release, and Exposure: In the aggregate, approximately 8 billion pounds of xylenes are produced each year. Approximately 900 million pounds are released to the environment each year. Mixed xylenes were ranked by NIOSH 13th out of approximately 7000 agents in terms of the number of workers exposed. Xylenes are also used in a wide variety of consumer products, resulting in general population exposures.

Effects of Concern:

Mutagenicity: Mutagenesis tests have not been reported for any of the xylenes, but should be conducted in view of widespread exposure and evidence of toxic effects to several organ systems.

Teratogenicity: Xylenes cross the placental barrier and, according to two Russian studies, are embryotoxic. Therefore, they should be tested for teratogenicity.

Epidemiology: Because of their long-term use, high human exposure, and demonstrated effects in animals, epidemiological studies may be particularly important in assessing the human health effects of xylenes and should be conducted.

APPENDIX A

DATA SOURCES USED FOR PREPARATION OF THE INITIAL LIST

01 Toxic Pollutants in Point Source Water Effluent Discharge

This list of 120 chemicals and categories consists of Appendices A and C of the settlement agreement dated 7 June 1976 between the Environmental Defense Fund and EPA. It is a priority list of toxic pollutants subject to regulations through point source effluent limitations (Section 307(a)) under the Federal Water Pollution Control Act.

02 Scoring of Organic Air Compounds, June 1976, MITRE, MTR-6248

This list of 337 chemicals and categories was compiled and documented by MITRE (September 1976) under contract to EPA. The relevant factors in selecting chemicals for the list were: (1) quantity produced, (2) potential for atmospheric release, and (3) toxicological effects.

03 Final Report of NSF Workshop Panel to Select Organic Compounds Hazardous to the Environment, April 1975

This list of 80 chemicals and categories was compiled and documented by Stanford Research Institute under contract to the National Science Foundation. The list consists of those chemicals having the greatest potential for environmental release, selected from the universe of manufactured organic chemicals with the highest calculated release rates.

04 Potential Industrial Carcinogens and Mutagens

This list of 88 chemicals has been compiled by the National Center for Toxicological Research. The list is made up of industrial compounds which are potential carcinogens and/or mutagens, and which have been selected based upon available data concerning activity, use, production, and population at risk.

05 Occupational Carcinogens for Potential Regulatory Action

This list of 116 chemicals and categories was compiled by OSHA from suspected carcinogens. Selection was based primarily upon data available through the NIOSH Registry (Source List 13).

07 Chemicals Tested or Scheduled for Testing at the Fish-Pesticide Research Laboratory, Department of Interior

This list consists of 174 toxic chemicals which are suspected of being hazardous to fish and wildlife.

08 Substances with Chronic Effects other than Mutagenicity, Carcinogenicity, or Teratogenicity; A Subfile of the NIOSH Registry

A subfile of the NIOSH Registry (Source List 13)

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- 09 Criteria Documents Prepared or Planned by NIOSH, February 24, 1977

This list of 127 chemicals and categories consists of substances for which criteria documents have been or will be prepared and delivered to the Department of Labor. In selecting these chemicals NIOSH considered: a) the number of workers exposed, b) known or suspected toxic effects, and c) physical and chemical properties.

- 10 Suspected Carcinogens; A Subfile of the NIOSH Registry

This is a list of 1,900 chemicals and categories which have been reported to have produced cancer in test animals. The list is included in Source List 13.

- 11 Suspected Mutagens; A subfile of the NIOSH Registry

This is a list of approximately 100 chemicals and categories which have been reported to have produced mutagenic effects in test systems. This list is included in Source List 13.

- 13 NIOSH Registry of Toxic Effects of Chemical Substances, 1976

This list of 21,543 chemicals and categories was compiled and documented in the NIOSH Registry. Only those substances which were on Source Lists 8, 10, 11, or 12 were included in the INITIAL LISTING.

- 17 The Ecological Impact of Synthetic Organic Compounds on Estuarine Ecosystems, September, 1976, EPA-1600/3-76-075

This list of 9 chemicals was compiled as part of a study of the impact of synthetic organic compounds on estuarine ecosystems. The effects of the 9 chemicals and a number of pesticides were analyzed and documented in the study.

- 18 Threshold Limit Values for Chemical Substances and Physical Agents in the Workroom Environment with Intended Changes for 1976, American Conference of Government Industrial Hygienists

This list of approximately 570 chemicals and categories was compiled by the ACGIH to give Threshold Limit Values for chemical substances and physical agents in the workroom environment.

- 19 National Occupational Hazard Survey (1972-1974)

This list of over 7,000 chemicals and other hazards has been compiled by NIOSH. These hazards are ranked according to the estimated number of workers exposed. Only the chemicals ranked among the top 500 hazards were included in the INITIAL LISTING.

- 20 Chemicals Being Tested for Carcinogenicity by the Bioassay Program, DCCP, National Cancer Institute, 1977

This list of 372 chemicals includes those which have been selected for bioassay by the National Cancer Institute.

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- 21 EPA/Office of Toxic Substances List of Priority Toxic Chemicals, 1977

This list of 162 chemicals was compiled by EPA/OTS from the NIOSH list of carcinogens (Source List 10).

- 22 A Study of Industrial Data on Candidate Chemicals for Testing, EPA Contract # 68-01-4109, November, 1976

This list of 650 chemicals and categories was compiled by Stanford Research Institute as part of the contracted effort to produce Source List 03. Production and calculated release data are included.

- 24 General List of Problem Substances, Environmental Contaminants Committee, Ottawa, Ontario, Canada, 1977

This list of 160 chemicals and categories of environmental concern was compiled by the Canadian government.

OTHER LISTS USED FOR REFERENCE BUT NOT USED AS SOURCE LISTS FOR THE INITIAL LISTING:

- 06 Survey of Compounds which have been Tested for Carcinogenic Activity (Index, 1970-1971), NIH/HEW

This list of 3,634 chemicals and categories is a cumulative index by CAS number of PHS 149 volumes through 1970-1971.

- 14 Research Project to Gather and Analyze Data and Information on Chemicals that Impact Man and the Environment

This list of 3,200 chemicals and categories was compiled and documented by Stanford Research Institute under contract to the National Cancer Institute. The documentation includes total production and calculated release data for each of the chemicals in nine hazard categories: (1) over-the-counter drugs, (2) prescription drugs, (3) cosmetics, (4) trade-sales paints, (5) water pollutants, (6) air pollutants, (7) soaps and detergents, (8) pesticide residues in food, and (9) intentional food additives.

- 16 Other Potential Modifiers of the Stratosphere, 1975

This list of 41 chemicals was compiled by the National Institute of Environmental Health Sciences from the universe of 275 manufactured chemicals ranked for release rate used by Stanford Research Institute in preparing Source List 03. This list identifies potential modifiers of the stratosphere and provides related information.

- 23 EPA/Office of Research and Development, Chemical Production

A set of production data compiled by EPA/ORD on approximately 140 chemicals.

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APPENDIX B

PRODUCTION, RELEASE, AND EXPOSURE SCORES

- A. The production, environmental release, occupational exposure, and general population exposure factors described in the text were scored in the following manner:

Factor 1: Production

Annual production data were collected from a number of sources:

- a. Scoring of Organic Air Compounds (Source List 02 of Appendix A)
- b. A Study of Industrial Data on Candidate Chemicals for Testing (Source List 22 of Appendix A)
- c. EPA/OR&D Chemical Production (Source List 23 of Appendix A)
- d. Synthetic Organic Chemicals, United States Production and Sale, 1975, United States International Trade Commission
- e. Chemical Economics Handbook, 1975 Stanford Research Institute
- f. Chemical and Engineering News: Vol. 52, No. 51, dated 12/23/74; Vol. 55, No. 18, dated 5/2/77; Vol. 55, No. 24, dated 6/13/77

The Factor 1 score assigned to a chemical was the common logarithm of the highest annual production value (in millions lbs/yr) found in any of the above sources. If an annual production value was not available for a chemical in any of these sources, a Factor 1 score of -0.5229 (corresponding to an assumed annual production of 300,000 pounds) was assigned.

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Factor 2: Quantity Released into the Environment

The quantity of chemical released into the environment was scored on a scale from 0 to 3 as follows:

Score	Release Rate	Estimate Based on Uses
3	30 percent	Mostly dispersive uses
2	3 to 30 percent	Some dispersive uses
1	.3 to 3 percent	Few dispersive uses; or primarily industrial chemical with propensity for leaks
0	.3 percent	Well contained industrial chemical

Estimates of release rates for a number of chemicals are given in Source List 22 of Appendix A. For those chemicals for which no release rates were given, an estimate was made on the basis of the dispersive nature of the chemical's uses as indicated in the above table.

An estimate was also made of the chemical's persistence according to the following table:

Score	Lifetime	Example
3	Infinite (years or greater)	Compounds of metals, freons, CCl ₄ , N ₂ O, SF ₆ , many polymers
2	Order of 1 year	Tetrachloroethylene, flame retardants, phthalate esters, silicones
1	Order of a few days	SO ₂
0	Hours or less	Reactive compounds

The sum of the scores of the two subfactors, release quantity and persistence, was taken as an indication of the environmental burden posed by the chemical.

Factor 3: Occupational Exposure

The source of data on occupational exposure to chemicals was the National Occupational Hazard Survey (NOHS) conducted by the National Institute for

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Occupational Safety and Health. In this survey, the approximately 7000 most common hazards occurring in the working place were rank ordered. To achieve an occupational exposure score with a range and direction similar to those of the other factors, the Factor 3 score assigned to a chemical was 3.8451 minus the common logarithm of its rank on the NOHS list. (3.8451 is the logarithm of 7000.) Chemicals which did not appear on the NOHS list were given a score of zero, equivalent to having been ranked number 7000 on the survey.

Factor 4: Extent to Which the General Population is Exposed

Four individual subfactors were scored and then summed to measure the general population exposure. The four subfactors were scored as follows:

SUBFACTOR 1 Number of people exposed to the chemical (exclusive of a workplace environment)

Score	No. of People	Example
3	20 X 10	Widely used household products (e.g., wearing apparel, shoe polish, certain surface coatings, common paints and their solvents, common plastics and their additives, detergents, furnishings and carpets, wood cleaning products, refrigerants, natural gas, nonfood packaging materials, flame proofers) General air, food and water contaminants Automotive products (e.g., gasoline and additives, rubber, surface coatings, plasticizers, flame proofers) Products used widely in commercial buildings (mostly same as household, including commercial cleaners, disinfectants)

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Score	No. of People	Example
2	2-20 X 10	Less widely used household products (e.g., uncommon paints, specialty apparel such as baby wear, hobby uses, arts and crafts, tools) Regional air and water pollutants, farm chemicals (exclusive of pesticides)
1	0.2-2 X 10	Specialty hobbies (e.g., photography), specialty products Neighborhood air and water pollutants from local industries
0	2 X 10	Chemical intermediates rarely found outside the workplace

SUBFACTOR 2 Frequency of exposure (to the typical person in ranking number of people exposed under Subfactor 1)

Score	Frequency	Examples
3	Daily or more often	General air, food and water contaminants, household products in regular use, material used inside automobiles, clothing
2	Weekly	Hobby crafts, household products used intermittently (e.g., certain cleaners), bleaches, gardening products
1	Monthly	Dry cleaning, certain solvents, house maintenance (e.g., polishes, certain cleaning agents), automobile maintenance
0	Yearly or less frequently	Application of household paints, specialty products

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SUBFACTOR 3 Exposure intensity. This is intended to reflect the total amount of material that comes into contact with the average or typical person whose exposure has been scored under subfactors 1 and 2. Scoring of this factor considered the number of grams of the material that makes contact with the average person in the course of one exposure (daily, weekly, monthly or yearly as scored in subfactor 2). Thus, for example, a trace pollutant may lead to exposure of a typical person of the order of micrograms per day every day; use of a specialty solvent might lead to exposure of a typical person of the order of grams per day once a year: these would be scored 3,0 and 0,3 respectively on subfactors 2 and 3.

Score	Intensity	Examples
3	High (10 or more grams per exposure)	Plastics, fabrics, surface coatings, volatile solvents in closed spaces, liquids contacting skin, high concentration gases
2	Medium (10 to 10 g per exposure)	Fabric additives, solvents in open spaces or outdoors, dusts, solutes, transitory exposures to vapors or aerosols
1	Low (10 to 10 g per exposure)	Low level indoor exposure, volatile substances from home furnishings and building materials (e.g., plasticizers, flame proofers), low volatility solvents, pigments
0	Very low (less than 10 g per exposure)	Environmental contaminants (low level air, food, and water contaminants), monomers in polymers

SUBFACTOR 4 Penetrability. This is a measure of the material that comes into contact with a person (whether by dermal, inhalation, or ingestion exposure) and that is expected to be absorbed into the body (even transitorily) with potential for interaction with cells.

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Score	Penetrability	Examples
3	High (10 to 100% absorption)	Organic solvents in liquid, mist, or aerosol form, vapors and gases if likely to be soluble in body fluids, respirable-sized particles, surface active agents, materials known to have high dermal systemic toxicity
2	Medium (1 to 10% absorption)	Solvents with low volatility and/or larger molecules, organic materials in water solution, waxes and polishes, coarse dusts
1	Low (0.01 to 1% absorption)	Certain solids, dermal exposure to most inorganic materials in water solution
0	Negligible (less than 0.01% absorption)	Polymers, metals

B. In making the judgments called for in scoring Factors 2 and 4 above, knowledge of the chemical's uses was necessary. Use information was collected from the following sources:

1. The Condensed Chemical Dictionary, Ninth Edition, Hawley, Van Nostrand Reinhold Company, New York, 1977.
2. The Merck Index, Ninth Edition, Merck and Company, Inc., Rahway, N.J., 1976.
3. Faith, Keyes, and Clark's Industrial Chemicals, Lowenheim and Moran, Fourth Edition, J. Wiley and Sons, Inc., New York, 1975.
4. Chemical Marketing Reporter, Schnell Publishing Company, Inc., New York.
5. Encyclopedia of Chemical Technology, Kirk-Othmer, Inter-Science Publishing Company, New York, 1972.

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APPENDIX C

ORDERING THE CHEMICALS BASED ON
PRODUCTION, RELEASE, AND EXPOSURE

A linear weighting scheme was used to rank order the chemicals. The rank of the j th chemical, r_j , was computed by the formula:

$$r_j = \sum_{i=1}^4 w_i \frac{f_{ij}}{s_i},$$

where w_i is the weight assigned to the i th factor,

f_{ij} is the i th factor score of the j th chemical,

and s_i is a scaling factor chosen to normalize the assigned scores.

The four scaling factors employed were:

$s_1 = \log 20,850 - 4.3191$; 20,850 million lb/yr being the maximum of all Factor 1 chemical production quantities.

$s_2 = 6$; 6 being the maximum of all Factor 2 environmental release scores.

$s_3 = 3.8451 - \log 3 = 3.3680$; third being the highest NOHS rank among the scored chemicals. (Ranked first and second on the NOHS list were continuous noise and mineral oil, the former not being a chemical hazard and the latter not being among the scored chemicals.)

$s_4 = 12$; 12 being the maximum of all Factor 4 general population exposure scores.

This choice of s_1, s_2, s_3, s_4 , guaranteed that for all i and j , and furthermore, that for each i ,

$$\frac{f_{ij}}{s_i} = 1 \quad \text{for at least one chemical } j.$$

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APPENDIX D

BIOLOGICAL AND ENVIRONMENTAL SCORES

A. The five human health effect factors and two environmental effect factors mentioned in the text were scored in the following manner:

Factor 1: Carcinogenicity

a. Numerical Scores Assigned:

- 3 Established carcinogen in humans or in 2 animal species, or in one animal species in well-replicated experiments
- 2 Established carcinogen in 1 animal species
- 1 Insufficient or inadequate experimental data for definite conclusions, but either (a) no experimental or structural reason for suspicion, or (b) good negative mutagenicity tests, or (c) low biological activity. (Note: some inert compounds -- examples, argon, nitrogen -- were given a score of zero on this factor despite not having been tested.
- 0 Adequately tested in animals with negative results in each of two species

b. Letter Scores Assigned*:

- xxx Needs testing, strongly suspect (close structural relationship to known carcinogen, positive result in validated in vitro test, inconclusive but suspicious positive animal test, etc.)
- xx Needs testing, suspect (structural resemblance to known carcinogen, etc.)
- x Needs testing, some reason for suspicion (potent organ-specific toxin, enzyme inducer, suspect co-carcinogen, etc.)

*Chemicals presently undergoing testing for carcinogenicity in the framework of the NCI bioassay program were scored as suspect carcinogens. Their special status was documented for the members of the Committee.

c. Criteria for Accepting Positive Test Results (scores 2 or 3)

Validated positive findings in animal studies consisted of any test results which clearly indicated treatment-related carcinogenicity or tumorigenic effects. This was based on the criteria set out in the report of the National Cancer Advisory Board, Subcommittee on Environmental Carcinogenicity, "General Criteria for Assessing the Evidence for Carcinogenicity of Chemical Substances (1976)".

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d. Criteria for Accepting Negative Test Results (including zero scores)

In general, the protocol of the test conformed to, or was reasonably consistent with the current NCI Guidelines (J.M. Sontag et al., Guidelines for Carcinogen Bioassay in Small Rodents, DHEW 76-801). It was recognized that many older tests do not conform to these guidelines. Therefore, good scientific judgment was applied to the evaluation of these tests in order to determine whether differences in protocols significantly weakened confidence in the reported negative results. In assigning a zero score, the guiding principle was the judgment that further testing was unnecessary.

Factor 2: Mutagenicity

a. Numerical Scores Assigned:

- 2 Mutagen in two or more test systems*
- 1 Mutagen in one test system
- 0 Tested in more than one system with negative results and no reason for suspicion (similar to inactive compounds, etc.)

*These and other scores were normalized to the 0-3 scale or x-xxx scale respectively for all factors involved.

b. Letter Scores Assigned:

- xxx Needs testing, strong reason for suspicion (structural similarity to known mutagen, reported carcinogenicity, teratogenicity, or other cellular toxicity)
- xx Needs testing, some reason for suspicion (structural similarity to known mutagens and/or carcinogens)
- x Needs testing, no reason to assign high priority

c. Examples of Short-Term Test Systems Considered for Scoring Were:

The Salmonella/microsome test, (Ames), E. coli WP2 uvr A, etc. test (Bridges, Witkin), B. subtilis M45 Rec⁻, etc. test (Kada), E. coli pol A+/pol A1- test (Rosenkranz), Yeast test (Zimmerman), Neurospora test (de Serres) and Drosophila test (Vogel). Mammalian cells in culture and in vitro transformations were also considered.

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Factor 3: Teratogenicity

a. Numerical Scores Assigned:

- 3 Confirmed teratogen in humans or in two appropriate animal species
- 2 Confirmed teratogen in 1 animal species
- 1 Insufficient or inadequate experimental data for definite conclusions, but either (a) no experimental or structural reason for suspicion, or (b) low biological activity
- 0 Adequately tested in two suitable animal species with negative findings for teratogenic activity

b. Letter Scores Assigned:

- xxx Needs testing, strongly suspect (close structural relationship to known teratogen, inconclusive but suspicious positive animal tests, etc.)
- xx Needs testing, suspect (equivocal result in animal test, etc.)
- x Needs testing, some reason for suspicion

c. Criteria for Acceptance of Teratogenicity Tests

Accepted teratogenicity tests conformed reasonably to the recommendations and principles outlined in "Principles for Evaluating Chemicals in the Environment," National Academy of Sciences, pp. 173-182, 1975; and "The Testing of Chemicals for Carcinogenicity, Mutagenicity, Teratogenicity," Department of Health and Welfare, Canada, pp. 137-176, March 1973.

Factor 4: Acute Toxicity

a. Numerical Scores Assigned:

- 3 extremely toxic: < 50 mg/kg
- 2 very toxic: 50-500 mg/kg
- 1 moderately toxic: 0.5-5 g/kg
- 0 very slightly toxic: > 5 g/kg

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b. Letter Scores Assigned:*

xx not tested, but suspected to be in range 2-3

x not tested, but suspected to be in range 0-1

*See factor 2 for normalized scored.

c. Criteria for Quantitation of Acute Toxicity

Standard systems of toxicity rating based on probably lethal dose in humans were used when available. Lowest lethal doses and LD50 values in various animal systems were also widely used.

Factor 5: Other Toxic Effects

a. Numerical Scores Assigned:

3 Effects at low doses (Guidelines: < 1 mg/kg/day)

2 Effects at moderate doses (Guidelines: 1-10 mg/kg/day)

1 Effects at high doses (Guidelines: > 10 mg/kg/day)

0 Very low or negligible biological activity (e.g., nitrogen, argon, etc.)

b. Letter Scores Assigned:

xxx Needs testing (structural similarity to another chemical which rates 2 or 3; questionable reports of effects which need confirmation, etc.)

xx Needs testing, some reasons for suspicion

x Needs testing, inadequate information available to give high priority

c. Criteria for Scoring

This factor includes both reversible and irreversible effects, delayed or cumulative toxicity, organ-specific effects, effects on reproduction, behavior, etc. The score entered reflects the toxic effects noted in animals (or in humans if data were available) at the lowest dose-range. If the chemical was reported or suspected to have more than one toxic effect, xxx or xx for one type of toxic effect superseded any numerical score for another. Also, x for one type of toxic effect superseded 2 or 1 for another. In many cases, reports of one type of effect at low doses engendered suspicion of the likelihood of others; in such cases the chemical was scored with the appropriate number of x's, unless thoroughly tested.

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Factor 6: Bioaccumulation

a. Numerical Scores Assigned:

3 High ($>10^4$)*

2 Appreciable (10^2 - 10^4)

1 Low ($<10^2$)

0 Experimental evidence for non-accumulation (<1); water soluble compounds

*The degree of bioaccumulation (more precisely, the tissue-specific storage factor) is defined as the concentration of the chemical in the tissues (at "steady state" or after prolonged exposure) divided by the concentration of the chemical in the ambient medium.

b. Letter Scores Assigned:

xxx Testing important, judged likely to be high

xx Testing important, judged not likely to be high, but likely to be appreciable

x Needs testing, little or no experimental data

c. Criteria for Scoring

Bioaccumulation is used here in its broad sense of the accumulation of a chemical in one or more tissues of an animal (or plant) to levels higher than those in the ambient medium. For purposes of screening chemicals, it was considered significant primarily in cases in which the accumulation in tissues represented an enhanced probability of effects, either on the organ in which the chemical was concentrated, or on animals which feed on the organism which accumulated the chemical. High degrees of bioaccumulation are usually found only in aquatic organisms. For these organisms, bioaccumulation is known to be dependent primarily on water solubility and it is empirically predicted by the octanol/water partition coefficient. Zero scores were assigned to completely water soluble organic chemicals.

Substances which are easily metabolized will not be bioaccumulated even if they have a high partition coefficient (example, chloroform). Thus ease of metabolism was a factor considered in evaluating the potential for bioaccumulation.

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Factor 7: Ecological Effects

a. Numerical Scores Assigned:

- 3 Effects at low concentrations (10^{-9} or less in air or water)*
- 2 Effects at moderate concentrations (10^{-7} - 10^{-9} in air or water)
- 1 Effects at high concentrations (10^{-6} or greater in air or water)
- 0 No reported effects that could justify priority for testing

*In air for gases or vapors: 1 part of chemical per billion parts air by volume (ppb). In water for liquids and solids: 10^{-9} gram per cubic meter (ng/m^3)

b. Letter Scores Assigned:*

- xx Testing needed, possibility of major or widespread effects
- x Testing needed, possibility of minor or local effects

*See factor 2 for normalized scores.

c. Criteria for Scoring:

Ecological effects considered included beside toxic effects on non-human animals and plants, ecosystem effects, effects on atmosphere and climate, ozone depletion, etc. Generally, numerical scores (established hazard) were assigned only to a limited number of thoroughly tested chemicals (e.g., pesticides, some metal containing compounds, or some specific chemicals). In other cases, the potential for ecological effects was judged according to availability of data on toxicity in particular, published information on specific tests, structural similarity to compounds of better known eco-toxicity, published data on depletion potential for stratospheric ozone. Zero scores were assigned only to compounds with low biological activity ($\text{LD}_{50} > 1 \text{ g/kg}$ or $\text{AQTR} > 100 \text{ ppm}$).

- B. An extra factor was scored if the presence of a contaminant in a commercial product was the major reason for concern, or if a trace degradation product was the major reason for concern (examples: dioxin, methyl mercury).

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Factor 8: Contaminants and Environmental Degradation or Conversion Products

a. Numerical or Letter Scores Assigned:

- 1 Contaminants, etc., known to be important
- 0 Contaminants, etc., not suspected, or known to be of no importance.
- x Contaminants, etc., suspect, needs testing

b. Criteria for Scoring:

The scores for this factor were not averaged. A letter score took priority over a numerical score at any time; if no letter score was assigned to a chemical, the numerical score 1 was overriding. A zero score was assigned only if it was scored unanimously by all scorers. The score for this factor was not added: (1) if the principal breakdown product was the major problem and it was the basis for scores on other criteria such as persistence and toxicity (examples: DDE, PAN); (2) for in vivo metabolism of carcinogens to active forms (e.g., arene oxides, activated nitrosamines, etc.).

- C. It is of relevance for the scoring method to add that in order to facilitate the inclusion of a zero score in a letter score average, the zero score was changed into 0.1X. Also, in some instances fractional numerical or letter scores were assigned by scorers.

- D. The following literature sources were extensively used by the scorers:

References of general interest

1. NIOSH Registry of Toxic Effects of Chemical Substances (1976)
2. Kirk-Othmer Encyclopedia of Chemical Technology. Edited by A. Standen, Interscience Publishers, New York (1963, 1972).
3. The Condensed Chemical Dictionary, 9th ed. Van Nostrand Reinhold Co., New York (1977).
4. The Merck Index, 9th ed. Merck & Co., Inc., Rahway, N.J. (1976).
5. Chemical Consumer Hazard Information System. Consumer Product Safety Commission, Washington, D.C. (1977).
6. A Study of Industrial Data on Candidate Chemicals for Testing. Stanford Research Institute, Palo Alto, California, (1976).

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7. The Encyclopedia of Chemistry. Hanpel & Hawley, 3rd ed. Van Nostrand Reinhold Co., New York (1973).
8. Brown, S.L., et al. Research Program on Hazard Priority Ranking of Manufactured Chemicals, Phase II- Final Report to National Science Foundation. Stanford Research Institute Menlo Park, California (1975).
9. Dorigan, J., et al. Scoring of Organic Air Pollutants, Chemistry, Production and Toxicity of Selected Synthetic Organic Chemicals, MITRE, MTR-6248 (1976).

1. References on Carcinogenicity

- C1. Survey of Compounds Which Have Been Tested for Carcinogenic Activity Through 1972-1973 DHEW Publication No. NIH 73-453, National Cancer Institute, Bethesda, Maryland
- C2. Suspected Carcinogens - A subfile of the NIOSH Toxic Substances List.
- C3. IARC Monographs on the Evaluation of Carcinogenic Risk of Chemicals to Man. Lyon, France. WHO, International Agency for Research on Cancer.
- C4. Chemicals Being Tested for Carcinogenicity by the Bioassay Program, DCCP. National Cancer Institute (1977).
- C5. Information Bulletin on the Survey of Chemicals Being Tested for Carcinogenicity, No. 6. WHO, Lyon, France (1976).

2,3. References on Mutagenicity and Teratogenicity

- MT1. Shepard, T.H. Catalog of Teratogenic Agents. Johns Hopkins University Press, Baltimore (1973).
- MT2. EMIC/Environmental Mutagenicity Information Center File, National Laboratories, Oak Ridge, Tennessee.

4,5. References on Acute Toxicity and Other Toxic Effects

- A01. Thienes, C.L. & Haley, T.J. Clinical Toxicology. Lea & Febiger, Philadelphia (1972).
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The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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[3195-01]

Title 3—The President

Memorandum of September 20, 1977

Decision on Cast-Iron Stoves Under Section 201 of the Trade Act of 1974

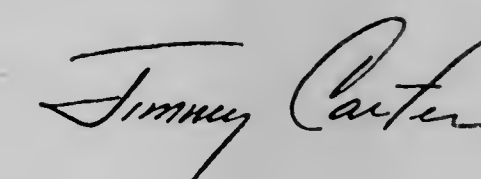
Memorandum for the Special Representative for Trade Negotiations

THE WHITE HOUSE,
Washington, September 20, 1977.

Pursuant to section 201 of the Trade Act of 1974 (P.L. 93-618, 88 Stat. 1978), I have reviewed the Report of the U.S. International Trade Commission (USITC) dated July 25, 1977, concerning the results of its investigation of a petition for import relief filed by several independent firms producing cast-iron stoves, parts and fireplace grates in the United States.

I have accepted the finding of Commissioners Bedell and Ablondi that cast-iron stoves are not being imported into the United States in such quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

This decision is to be published in the FEDERAL REGISTER.



[FR Doc.77-30064 Filed 10-11-77;4:20 pm]

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rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[3410-01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY PART 2—DELEGATION OF AUTHORITY BY THE SECRETARY OF AGRICULTURE AND GENERAL OFFICERS OF THE DEPARTMENT

Surface Mining Control and Reclamation; Implementation

AGENCY: Office of the Secretary, USDA.

ACTION: Final rule.

SUMMARY: This rule concerns the delegation of authority of the Secretary relating to his responsibilities in the implementation of the Surface Mining Control and Reclamation Act of 1977, to the Assistant Secretary of Agriculture for Conservation, Research and Education. This rule also contains a redelegation to the Administrator, Soil Conservation Service to administer the Abandoned Mine Reclamation Program for Rural Lands and certain other responsibilities assigned under the Surface Mining Control and Reclamation Act of 1977, except as to certain responsibilities assigned to the Forest Service and the Agricultural Research Service.

EFFECTIVE DATE: October 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Victor H. Barry, Deputy Administrator for Programs, Soil Conservation Service, USDA, Washington, D.C. 20250, (202-447-7245), or Bob Bergland, Secretary of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: On August 3, 1977, President Carter signed the Surface Mining Control and Reclamation Act of 1977. (Pub. L. 95-87, 91 Stat. 445). This act, among other things, directs the Secretary of Agriculture to take certain actions relating to the control of surface mining and surface mined areas in the United States. This rule provides the delegation of responsibilities to administer the Abandoned Mine Reclamation Program for Rural Lands and other responsibilities of the Secretary of Agriculture under the Act.

The signature of the Secretary of Agriculture appearing hereunder is approval of the delegation in 7 CFR 2.19(j). The signature of the Assistant Secretary for Conservation, Research and Education

is approval of the redelegation in 7 CFR 2.62(a)(9).

Dated: September 23, 1977.

BOB BERGLAND,
Secretary of Agriculture.

M. R. CUTLER,
Assistant Secretary of Agriculture
for Conservation, Research
and Education.

SEPTEMBER 21, 1977.

1. Section 2.19 is amended by adding paragraph (j) as follows:

§ 2.19 Delegations of authority to the Assistant Secretary for Conservation, Research, and Education.

(j) Related to Surface Mining Control and Reclamation, Administer responsibilities and functions assigned under the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, 91 Stat. 445 to the Secretary of Agriculture.

2. Section 2.62(a) is amended by adding paragraph (a)(9) as follows:

§ 2.62 Administrator, Soil Conservation Service.

(a) * * *

(9) Administer Abandoned Mine Reclamation Program for Rural Lands and other responsibilities assigned under the Surface Mining Control and Reclamation Act of 1977, Pub. L. 95-87, 91 Stat. 445 except as to responsibilities assigned to the Forest Service and the Agricultural Research Service.

[FR Doc. 77-29943 Filed 10-12-77; 8:45 am]

[6720-01]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER C—FEDERAL SAVINGS AND LOAN SYSTEM

[No. 77-599]

PART 545—OPERATIONS

Service Corporations

OCTOBER 6, 1977.

AGENCY: Federal Home Loan Bank Board.

ACTION: Final rule.

SUMMARY: The Board recently imposed restrictions on land acquisition and development activities by service corporations in which Federal savings and loan associations may invest. Ques-

tion has arisen whether the restrictions as to the cost of such activities and the time required for their completion apply also to any construction involved in a project. This rule clarifies the Board's intention that these restrictions apply to construction as well as preparation of land for construction.

EFFECTIVE DATE: November 14, 1977.
FOR FURTHER INFORMATION CONTACT:

Harry W. Quillian, Associate General Counsel, Federal Home Loan Bank Board, 320 First Street, NW., Washington, D.C. 20552, (202-376-3556).

SUPPLEMENTARY INFORMATION: By Board Resolution No. 77-337, dated June 1, 1977, and published in the FEDERAL REGISTER on June 9, 1977, (42 FR 29512), the Federal Home Loan Bank Board proposed to amend § 545.9-1 of the rules and regulations for the Federal Savings and Loan System (12 CFR 545.9-1) for the purpose of clarifying the Board's intention regarding restrictions on land acquisition and development activities. Present § 545.9-1 places certain cost and time restrictions on land acquisition and development activities by service corporations in which Federal associations may invest. It was the Board's intention in imposing such restrictions that they apply to construction as well as preparation of land for construction.

Although only 1 of 20 public comments received favored the proposal, the Board has decided that the amendments should be adopted as proposed, since they merely clarify the Board's intent regarding existing limitations which the Board believes are necessary and appropriate.

DISCUSSION OF MAJOR COMMENTS

Respondents opposing the proposed amendments generally found too restrictive and inflexible the requirement that a project be completed within 3 years after commencement of development and 5 years after acquisition of the land, and predicted that obtaining an extension of the time period by written application to the Board will prove to be an unnecessary nuisance for the Board and the applicant. Nine respondents argued that basing the pace of development on a regulatory deadline could hinder the success of a project. Respondents stated that management decisions should be based on market conditions rather than compliance with government regulations. Others stated that service corporations

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should not be required to force the market or carry expensive inventory needlessly.

The Board believes the prescribed time limits provide sufficient time for completion of a project while limiting the likelihood that a service corporation may become overextended in its acquisition of land for development. The time limitations are intended to limit the duration of a service corporation's involvement in a single project and to encourage prior planning based on such limitations.

Six respondents expressed concern about the effect of the proposal in view of increasing project delays caused by growing governmental requirements prior to commencement of development.

The Board believes that the 2 year period prior to commencement of development permitted by the regulation is normally sufficient to satisfy such government requirements.

Five respondents stated that the regulations force a service corporation into smaller projects regardless of its size and strength. Respondents asserted that smaller projects are potentially less desirable than projects large enough to create their own environment and that dealing with smaller builders may result in higher risks.

Although the regulations do not specifically limit the size of a project, but only the time permitted for completion, the Board believes that if a project is so large that it cannot be completed within the prescribed time period the potential loss from a failure of the project is unacceptable.

Four respondents objected to the regulation because it limits the flexibility of a service corporation during the various steps of development. Respondents argued that the regulations require decisions regarding the ultimate use of the land, before acquisition and without regard to later opportunities presented by changing economic conditions. Respondents also stated that the regulations prevent development in phases.

The intent of the limitations on land acquisition and development by service corporations is to encourage thorough investigation and planning prior to acquisition of land.

Respondents suggested various changes regarding the time limitations on development and construction, e.g., that a period of 5 years be allowed for completion of a project after commencement and that only some part of a project be required to be completed within the prescribed time period. One respondent suggested that projects expected at the outset to take longer than five years from the date of land acquisition to complete be submitted to the Board for approval.

The Board finds the period of time prescribed for completion reasonable and believes that a prescribed maximum is preferable to a determination by the Board on a case basis.

Ten respondents objected to the requirement that a service corporation report any project if the cost of the project to the service corporation will exceed 20

percent of its assets. Respondents asserted that practically all projects must be reported and that the paperwork burden is excessive.

The Board believes that providing the small amount of information required by the regulation should not place an excessive burden on any service corporation, and any inconvenience is outweighed by the value of having information available early in the development process.

One respondent urged that debt of a joint venture in which a service corporation is a limited partner be attributed to the service corporation only to the extent of its investment and, together with another respondent, urged that, since all debt of a partnership or joint venture in which a service corporation is a general partner or owns over 25 percent interest is presently attributed to the service corporation, assets should also be attributed to the service corporation on that basis.

The Board recently amended the service corporation debt limitations (12 CFR 545.9-1(b)(3)) to clarify that debt of service corporation subsidiaries must conform to such limitations and that consolidated debt of a service corporation must also so conform (42 FR 9386). The Board does not deem it advisable at this time to reverse the thrust of that amendment by, in effect, increasing debt limitations of service corporations. The Board also believes that interpretation of the term "assets" to include all assets of a joint venture would reduce the number of projects on which a service corporation would report and that such an interpretation would therefore be contrary to the Board's intention that all significant projects be reported.

The Board also takes this opportunity to delete from paragraph (a) of § 545.9-1 the obsolete reference to forms of charter.

Accordingly, the Board hereby amends § 545.9-1, effective November 14, 1977, to read as follows:

§ 545.9-1 Service corporations.

(a) *General service corporations.* Subject to the provisions of this section, a Federal association may invest in the capital stock, obligations, or other securities of any service corporation organized under the laws of the State, District, Commonwealth, territory, or possession in which the home office of such association is located if:

(4) Substantially all of the activities of such service corporation, performed directly or through one or more wholly-owned subsidiaries or joint ventures, consist of one or more of the following:

(iv) Acquisition of unimproved real estate lots, and other unimproved real estate, for the purpose of prompt development and subdivision, principally for construction of housing or for resale to others for such construction, or for use as mobile home sites. However, if the

total cost to the service corporation to purchase, develop, subdivide, and construct improvements on such real estate exceeds 20 percent of the assets of such service corporation, the service corporation shall notify the District Director-Examinations in whose district the parent association of the service corporation is located not later than 30 days after such acquisition. Such notification shall include the name and location of the project, the number of lots or acres involved, the total projected cost of the project including dollar involvement of the service corporation, and the estimated date of completion of the project.

(v) Development and subdivision of, and construction of improvements (including improvements to be used for commercial or community purposes, when incidental to a housing project) for sale or for rental on, real estate referred to in subdivision (iv) of this subparagraph. However, such development, subdivision, and construction of improvements must be completed within three years after commencement of development of such real estate and not later than five years after acquisition of such real estate, unless such period is subsequently extended by the Board upon written application by the service corporation. Acquisition of an option to purchase is not an acquisition for the purpose of determining such period.

(Sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464). Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1943-48 Comp., p. 1071.)

By the Federal Home Loan Bank Board.

J. J. FINN,
Secretary.

[FR Doc. 77-29942 Filed 10-12-77; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-SW-29, Amdt. 39-3054]

PART 39—AIRWORTHINESS DIRECTIVES
Bell Helicopter Textron Model 47 Series Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an inspection of the tail rotor drive input pinion shaft for proper size and surface treatment and requires replacement of the duplex bearing which supports this pinion shaft with a duplex bearing of an improved type for certain Bell Helicopter Textron Model 47 series helicopters. The AD is needed to prevent failure of the drive system for the tail rotor and subsequent loss of directional control.

DATES: Effective November 14, 1977. Compliance required within the next 100 hours time in service after the effective

RULES AND REGULATIONS

55085

DRAFTING INFORMATION

The principal authors of this document are Wilbur F. Wells, Aerospace Engineer, Flight Standards Division, and Joseph A. Kovarik, Regional Counsel, Southwest Region, FAA.

ADOPTION OF THE AMENDMENT

Pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

BELL HELICOPTER TEXTRON: Applies to all Model 47 helicopters with tail rotor gear boxes, part number 47-640-075-1 or 47-640-075-5, installed.

NOTE: Retrofit kits incorporating these gear boxes or the associated internal gears and bearings delivered from Bell Helicopter Textron after December 1, 1976, have been verified to be in compliance with this airworthiness directive and will not require inspection and/or further retrofit.

Compliance is required within the next 100 hours time in service after the effective date of this Airworthiness Directive, unless already accomplished.

To minimize the possibility of loss of directional control of the helicopter resulting from failure of the bearing, part numbers 47-620-529-3 or 47-620-629-5, or failure of the input pinion shaft, part number 47-645-205-3, located in the all rotor gear box, part number 47-640-075-1 or 47-640-075-7, conduct the inspection and replacement activities prescribed by paragraphs 1, 2, 2a, 2b, 3, and 4 of Bell Helicopter Textron Service Bulletin No. 47-77-1, dated February 14, 1977, or later FAA approved revision. Comments in paragraphs 5 and 6 of this bulletin involving warranties, replacement part sources, or reporting activities, are not a part of this Airworthiness Directive.

After accomplishment of paragraphs 1, 2, 3, and 4 of Service Bulletin No. 47-77-1, reassemble and reinstall the tail rotor gear box in accordance with the Maintenance and Overhaul Instruction for the applicable model helicopters.

The manufacturer's specifications and procedures identified and described in this directive are incorporated herein and made a part hereof, pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive, who have not already received these documents from the manufacturer, may obtain copies by requesting same from Service Manager, Bell Helicopter Textron, PO Box 482, Fort Worth, Texas, 76101. These documents may also be examined at Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, Tex., 76106, and the Federal Aviation Administration Headquarters, 800 Independence Avenue SW, Washington, D.C., 20591.

Equivalent means of compliance with the modifications prescribed by this Airworthiness Directive may be approved by the Chief, Engineering and Manufacturing Branch, Flight Standards Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Texas, 76101.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and CFR 11.85.)

NOTE:—The Federal Aviation Administration has determined that this document does

not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OBM Circular A-107.

Issued in Fort Worth, Tex. on September 26, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

NOTE:—The incorporation by reference in this document was approved by the Director of the Federal Register on June 19, 1967.

[FR Doc. 77-29755 Filed 10-12-77; 8:45 am]

[4910-13]

[Docket No. 17039, Amdt. 39-3061]

PART 39—AIRWORTHINESS DIRECTIVES

Messerschmitt-Bolkow-Blohm (MBB) Model BO-105A and BO-105C Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires replacement of three cable assemblies on certain Messerschmitt-Bolkow-Blohm (MBB) Model BO-105A and BO-105C helicopters. This modification is required in order to prevent a failure in the electrical system which has resulted in fire in these type rotorcraft.

EFFECTIVE DATE: November 14, 1977.

ADDRESSES: The applicable service bulletin may be obtained from: Messerschmitt-Bolkow-Blohm (MBB), Helicopter Division, 8000 Munchen-Ottobrunn, Federal Republic of Germany; or Boeing Vertol Company, Mail Stop P31-69, P.O. Box 16858, Philadelphia, Pa. 19142, telephone 215-522-2755.

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Ave. SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Donald C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, telephone 513.38.30.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring replacement of three cable assemblies on certain Messerschmitt-Bolkow-Blohm (MBB) Model BO-105A and BO-105C helicopters was published in the FEDERAL REGISTER at 42 FR 37416 on July 21, 1977. The proposal was prompted by reports of high contact resistance in connector plugs of the electrical power supply system that resulted in electrical fire, failure of the electrical system, and unscheduled landing of the helicopter.

Interested persons have been afforded an opportunity to participate in the making of the amendment. No objec-

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tions were received. Accordingly, the proposal is adopted without change.

The principal authors of this document are D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, J. Kisela, and F. H. Kelley, Flight Standard Service, and R. J. Burton, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) is amended by adding the following new airworthiness directive:

MESSERSCHMITT-BOLKOW-BLOHM (MBB). Applies to Model BO-105A and BO-105C helicopters. Serial Numbers V4 through V10, and S1 through S160, certificated in all categories.

Compliance required within the next 600 hours time in service after the effective date of this AD, unless already accomplished.

Remove socket connections 1 VED and 1 VEE from main relay box, remove plugs 110 VVa and 210 VVa together with associated receptacles and wiring bundles, and install generator wiring assembly, in accordance with subparagraph 2B of MBB Service Bulletin No. 90-11 dated April 17, 1975, or an FAA-approved equivalent.

This amendment becomes effective November 14, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended, (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on October 5, 1977.

R. P. SKULLY,
Director, Flight
Standards Service.

[FR Doc. 77-29913 Filed 10-12-77; 8:45 am]

[4910-13]

[Docket No. 77-EA-44, Amdt. 39-3056]

PART 39—AIRWORTHINESS DIRECTIVES
Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to Piper PA-36-285 type airplanes, which requires a repetitive inspection for cracks and replacement where necessary of the rudder assembly. Progression of such cracks could lead to loss of directional control through separation of the rudder.

EFFECTIVE DATE: October 18, 1977. Initial compliance is required within 50 hours of service and 100 hours thereafter.

ADDRESSES: Piper Service Bulletins may be obtained from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 17745. A copy of the pertinent Service Bulletin is contained in the docket in the Office of Regional Counsel, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

J. Maher, Airframe Section, AEA-212, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. Telephone 212-995-2875.

SUPPLEMENTARY INFORMATION: There had been reports of a few incidents of cracks occurring in the rudder spar at the hinge attachment points. Since this condition is likely to exist or develop in aircraft of similar type design, an airworthiness directive is being issued which requires an inspection of the area within 50 hours of service of the effective date and thereafter at intervals of 100 hours. An option for a permanent correction is included which terminates the need for further inspections. Since a situation exists which requires the immediate adoption of this regulation, notice or public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are J. Maher, Flight Standards Division, and Thomas C. Halloran, Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by a new airworthiness directive as follows:

Piper: Applies to Model PA-36-285, Serial Nos. 36-7360001 through 36-7760003 certificated in all categories

To prevent hazards in flight associated with rudder spar cracks, accomplish the following:

(a) Within the next 50 hours in service from the effective date of this AD unless previously accomplished within the past 50 hours in service and at intervals not to exceed 100 hours in service from the last inspection, inspect the rudder spar at hinge attachment points for cracks using a magnifying glass of at least ten power.

(b) If cracks exist replace the rudder assembly with a new rudder assembly Piper Part No. 98125-04 or equivalent.

(c) Upon the incorporation of rudder assembly, Piper Part No. 98125-04 or equivalent, compliance with the requirements of this AD may be dispensed with.

(d) Equivalent inspections and repairs must be approved by the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region.

(e) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering and Manufacturing Branch, FAA, Eastern Region may adjust the inspection intervals specified in this AD.

(Piper Service Bulletin No. 518 refers to this subject.)

Effective date: This amendment is effective October 18, 1977.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Jamaica, New York on October 4, 1977.

L. J. CARDINALI,
Acting Director, Eastern Region.

[FR Doc. 77-29756 Filed 10-12-77; 8:45 am]

[1505-01]

[Airspace Docket No. 76-AL-16]

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

Alteration of Reporting Points
Correction

In FR Doc. 77-28988 appearing at page 53598 in the issue of Monday, October 3, 1977, in the middle column the following material should be inserted before the authority citation:

In § 71.213 (42 FR 640) "MOCHA: Lat. 54°30'13" N., Long. 133°01'40" W. (INT Annette Island, Alaska, 237°, Sandspit, British Columbia, Canada, 331° radials)." is added.

[4910-13]

[Airspace Docket No. 77-WA-16]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of an Area High Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will alter Area High Route (J832R) in part by correcting the geographic location of the Whitman, Mass., waypoint to Lat. 42°03'46" N., Long. 70°59'01" W. This action is necessary in order to insure accurate waypoint definition for aircraft using this area high route.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. David F. Solomon, Airspace Regulations Branch (AAT-230), Airspace

and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591. Telephone 202-426-8530.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Subpart D of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) is to alter Area High Route (J832R) in part by correcting the geographic location of the Whitman, Mass., waypoint to Lat. 42°03'46" N., Long. 70°59'01" W. Subpart D of Part 75 of the Federal Aviation Regulations was republished in the Federal Register on January 3, 1977 (42 FR 722).

A recent review of airway accuracies has determined that the Whitman, Mass., waypoint description was erroneous in relation to its actual geographic location, thereby necessitating this corrective amendment.

Under the circumstances presented, the FAA concludes that this action is of benefit to the flying public and a minor matter on which the public would have no particular desire to comment. Therefore, notice and public procedure thereon are unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. David F. Solomon, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 75.400 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (42 FR 722) is amended, effective 0901 G.m.t., December 1, 1977, as follows: In J832R, the Whitman, Mass., location "42°03'28" N. 70°59'13" W." is deleted and "42°03'46" N. 70°59'01" W." is substituted therefor.

(Secs. 307(a) and 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.69.)

NOTE: The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on October 5, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 77-29757 Filed 10-12-77; 8:45 am]

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[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND RELATED ACTIVITIES
[General Order 37, Admt. 1]

PART 543—FINANCIAL RESPONSIBILITY FOR OIL POLLUTION—ALASKA PIPELINE

Approval of Reporting Requirements

AGENCY: Federal Maritime Commission.

ACTION: Final rule.

SUMMARY: Alaska Pipeline Oil Pollution rules are amended to reflect General Accounting Office clearance statement for reporting requirements contained therein. The amendment is necessary to comply with GAO regulations. The effect will be public notice of GAO's clearance.

EFFECTIVE DATE: October 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202-523-5725).

SUPPLEMENTARY INFORMATION: Pub. L. 93-153 (87 Stat. 593) requires the General Accounting Office to review certain collections of information from 10 or more persons undertaken by independent Federal regulatory agencies. This Commission has received clearance from the U.S. General Accounting Office for the reporting requirements contained in Part 543—Financial Responsibility for Oil Pollution—Alaska Pipeline (General Order 37).

Section 10.12, *Notification of General Accounting Office Action*, of Title 46 CFR requires that notice of such clearance appear in the agency's regulations. Accordingly, Part 543 of Title 46 CFR is amended by adding the following paragraph immediately after the authority citations:

NOTE.—The reporting requirements contained in § 543.6(a)(3) have been approved by the U.S. General Accounting Office under number B-180233 (R0462).

Effective Date: Notice, public procedure and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective on October 13, 1977.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 77-29934 Filed 10-12-77; 8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURES
[Ex Parte No. 290]

PART 1102—PROCEDURES GOVERNING RAIL CARRIER GENERAL INCREASE PROCEEDINGS

Procedures Governing Rail General Increase Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Rule; correction.

SUMMARY: The purpose of the document is to correct a previously published rule document relating to procedures governing rail carrier general increase proceedings which appeared at 42 FR 53602, October 3, 1977.

DATE: Service date of order, September 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janice M. Rosenak, Deputy Director, Section of Rates, Interstate Commerce Commission, Washington, D.C. 20423, phone No. 202-275-7693.

SUPPLEMENTARY INFORMATION: On September 28, 1977, the Commission served an order in the above-entitled proceeding, published on October 3, 1977, at 42 FR p. 53602. On page 53609, a clerical error was made by including in Schedule B (Part I), Columns (h) and (i), Forecast Year—Freight Service. These two Columns should be deleted.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29818 Filed 10-12-77; 8:14 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Certain National Wildlife Refuges to Hunting of Big Game; Arizona, California, New Mexico, Oklahoma, and Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain national wildlife refuges in Arizona, California, New Mexico, Oklahoma, and Texas, is compatible with the objectives for which the area was estab-

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lished, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. The name of each affected refuge and the special regulations for each refuge are set forth below.

EFFECTIVE DATES: See the dates listed for each refuge under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, as listed for each refuge under Supplementary Information below.

SUPPLEMENTARY INFORMATION: Cabeza Prieta National Wildlife Refuge.

DATES: December 3 through December 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Monte M. Dodson, Refuge Manager, Kofa Game Range, P.O. Box 1032, Yuma, Ariz. 85364. Telephone 602-261-2619.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of bighorn sheep on the Cabeza Prieta National Wildlife Refuge is permitted only in the Cabeza Prieta and Tule Mountains. The open bighorn sheep area, comprising 96,000 acres, is delineated on maps available at refuge headquarters, 356 First Street, Yuma, Ariz., and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of bighorn sheep subject to the following special conditions:

1. Bighorn sheep limited to one (1) permit issued by the Arizona Game and Fish Department.
2. Bighorn sheep hunting permitted only in the area designated on the permit.
3. Possession of transportation of any loaded firearm or strung bow within or on any motorized vehicle or its attachments is prohibited. A loaded firearm shall mean any firearm containing any cartridge or ammunition in its chamber, magazine or clip.
4. Possession or transportation of any uncased firearm within or on any motorized vehicle or its attachments is prohibited. An uncased firearm shall mean any firearm not encased in any holster, scabbard, or gun case (soft or hard).
5. Travel by vehicle is restricted to those roads or trails designated by the Refuge Manager. Maps showing these designated routes of travel are available to holders of Arizona Game and Fish Department permits to hunt sheep in this area.
6. An entry permit must be obtained each time prior to entering the refuge. Such permit may be obtained at the Yuma headquarters office or at the Ajo substation office, 1611 North 2nd Avenue.

HAVASU NATIONAL WILDLIFE REFUGE
DATES: December 3 through December 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Tyrus W. Berry, Refuge Manager, Havasu National Wildlife Refuge, P.O. Box A, Needles, Calif. 92363. Telephone 714-326-3853.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of bighorn sheep on the Havasu National Wildlife Refuge, Ariz., is permitted only on the area designated by signs as open to hunting. This hunt area Unit 16B, which includes portions of the Havasu National Wildlife Refuge, is delineated on maps available at refuge headquarters, 1405 Bailey Avenue, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of bighorn sheep subject to the following special condition:

1. Bighorn sheep limited to one (1) permit issued by the Arizona Game and Fish Department.

IMPERIAL NATIONAL WILDLIFE REFUGE
DATES: September 24 through November 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald E. Duncan, Refuge Manager, Imperial National Wildlife Refuge, Box 2217, Martinez Lake, Ariz. 85364. Telephone 602-783-3400.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Imperial National Wildlife Refuge, Arizona and California, is permitted only on the area designated by signs as open to hunting. This open area, comprising 16,500 acres, is delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting seasons are as follows: Arizona—from November 11 through November 20, 1977; California—from September 24 through November 6, 1977. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special condition:

1. Except as provided under the special regulations covering the hunting of small game, doves and migratory waterfowl on the Imperial National Wildlife Refuge, possession of any firearms other than a legal deer hunting firearm, as defined by State hunting regulations, is prohibited.

CIBOLA NATIONAL WILDLIFE REFUGE
DATES: August 21 through November 20, 1977.

FOR FURTHER INFORMATION CONTACT:

George M. Constantino, Refuge Manager, Cibola National Wildlife Refuge,

P.O. Box AP, Blythe, Calif. 92225. Telephone 714-922-4433.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on Cibola National Wildlife Refuge, Arizona and California, is permitted as follows: Arizona—bow and arrow, from October 22 through November 7, 1977; gun, from November 11 through November 20, 1977. California—bow and arrow, from August 21 through September 13, 1977; gun, from September 24 through November 6, 1977. The areas designated by signs as open to hunting comprise 7,500 acres and are delineated on maps available at refuge headquarters, 2nd floor, Post Office Building, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

1. Hunting is prohibited within one-fourth mile of any occupied dwelling or 250 yards of any farm field worker.
2. Open campfires are permitted only on the end of unvegetated jetties. Charcoal cooking fires in grills or other similar equipment are permitted in public use areas if all vegetation is cleared within a 10-foot radius of the fire. All fires must be extinguished before leaving the area.
3. Possession of all handguns and all .22 caliber rim-fire firearms is prohibited. Rifled firearms of legal caliber may be possessed on the refuge only during the legal deer hunting season.
4. Wildlife observation is permitted within the two closed hunting zones. Persons are permitted to use only established routes of travel.
5. Cibola Lake, located in Zone 3, is closed to fishing and boating from October 1 through March during the waterfowl use period.

KOFA GAME RANGE
DATES: October 22 through December 18, 1977.

FOR FURTHER INFORMATION CONTACT:

Monte M. Dodson, Refuge Manager, Kofa Game Range, P.O. Box 1032, Yuma, Ariz. 85464. Telephone 602-261-2619.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of bighorn sheep and deer is permitted on the 660,000-acre Kofa Game Range. The bighorn sheep season extends from December 3 through December 18, 1977. The deer season extends from October 22 through November 7, 1977, and from November 11 through November 20, 1977. This open hunting area is delineated on maps available at refuge headquarters, 356 First Street, Yuma, Ariz., and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of big-

horn sheep and deer subject to the following special conditions:

1. Bighorn sheep limited to ten (10) permits issued by the Arizona Game and Fish Department.
2. Bighorn sheep hunters may hunt only in those areas designated on their permits.
3. Deer limited to 800 permits issued by the Arizona Game and Fish Department.
4. Possession or transportation of any loaded firearm within or on any motorized vehicle or its attachments is prohibited. A loaded firearm shall mean any firearm containing any cartridge or ammunition in its chamber or magazine.
5. Possession or transportation of any uncased firearm within or on any motorized vehicle or its attachments is prohibited. An uncased firearm shall mean any firearm not encased in any holster, scabbard, or gun case (soft or hard).

BITTER LAKE NATIONAL WILDLIFE REFUGE
DATES: November 5 through November 22, 1977.

FOR FURTHER INFORMATION CONTACT:

LeMoyné B. Marlatt, Refuge Manager, Bitter Lake National Wildlife Refuge, P.O. Box 7, Roswell, N. Mex. 88201. Telephone 505-622-6755.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Bitter Lake National Wildlife Refuge is permitted only on the North Tract from November 5 through November 22, 1977. This hunting area, comprising approximately 12,000 acres, is delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, N. Mex., and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer.

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE
DATES: November 5 through November 22, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard W. Rigby, Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801. Telephone 505-835-1828.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Bosque del Apache National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising 20,200 acres, is delineated on maps available at refuge headquarters, 7 miles south of San Antonio, N. Mex., and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all

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applicable State regulations covering the hunting of deer subject to the following special conditions:

1. The open season for hunting deer on the refuge is November 5 and 6, 1977, November 9 through November 13, 1977, and November 16 through November 22, 1977.
2. Bag limit shall be one (1) antlered deer per season.
3. All hunters must leave the refuge by one hour after sunset.
4. Overnight camping is prohibited.
5. Center-fire rifles chambered for a center-fire rifle cartridge are the only legal weapons for the hunt.
6. Vehicular travel is restricted to established roads only.
7. Hunting and retrieval of kill must be by foot. Horses are strictly prohibited.
8. Fires are prohibited.

SAN ANDRES NATIONAL WILDLIFE REFUGE
DATES: October 1 through November 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard W. Rigby, Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801. Telephone 505-835-1828.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of desert bighorn sheep on the San Andres National Wildlife Refuge, Las Cruces, N. Mex., is permitted from October 1 through October 9, 1977, but only on the area designated by signs as open to hunting. This open area, comprising 57,215 acres, is delineated on maps available from the Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of desert bighorn sheep.

Public hunting of deer (either sex) on the San Andres National Wildlife Refuge, Las Cruces, N. Mex., is permitted from November 26 through November 27, 1977, but only on the area designated by signs as open to hunting. This open area, comprising 57,215 acres, is delineated on maps available from the Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State, Federal, and military regulations subject to the following special conditions:

1. Hunters must check in and out in person at the check station located on the Jornada road near U.S. 70. The check station will be open 24 hours a day. Hunters may check in during the afternoon of November 25, 1977. Time of entry into the hunting area will be at the discretion of the officers in charge. Any entry permits required by the military authorities will be available at the check

station. All hunters must check out no later than 10 p.m., November 27, 1977.

2. No entry into the hunting area from the west will be permitted north of the Rope Springs road. Hunters will not be permitted to enter the hunting area from the east side of the San Andres Refuge except at the discretion of the officers in charge.
3. The officers in charge may restrict the number of hunters entering any one area. If required by the firing schedule, hunters will be cleared from all areas where their safety is endangered.
4. Each hunting party will camp within an assigned area and within 100 feet of the road.
5. No open fires are permitted.
6. Vehicles are restricted to established roads.

TISHOMINGO NATIONAL WILDLIFE REFUGE
DATES: October 15 through November 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Ernest S. Jemison, Refuge Manager, Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Okla. 73460. Telephone 405-371-2402.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Tishomingo National Wildlife Refuge is permitted throughout the entire area except all of Section 23, the headquarters area, and farming Unit C, East Flats. This open area, comprising 15,494 acres, is delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of deer subject to the following special conditions:

1. The open season for archery deer (either sex) hunting on the Tishomingo Wildlife Management Unit (all Zones) extends from October 15 through November 4, 1977. No permits are required. The Unit will be closed to all other public use during the archery hunt.
2. The open season for gun deer (antlerless) hunting on the Tishomingo Wildlife Management Unit (all Zones) extends from November 14 through November 15, 1977. Hunting will be by permit only with 40 permits issued for each day's hunt. The Management Unit will be closed to all other public use during the gun hunt.
3. The open season for gun deer (antlerless) hunting on Tishomingo National Wildlife Refuge extends from November 14 through November 15, 1977. Hunting will be by permit only, with 40 permits issued for each day's hunt. Hunters will be assigned hunt areas within the area open to deer hunting. In addition, 50 permits per day will be issued to 25 hunter pairs to hunt an area accessible only by boat. Hunters will furnish their own boat transportation and will depart from Nida Point boat ramp on the morning of each hunt day. The Tishomingo

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National Wildlife Refuge will be closed to all other public use November 14, and 15, 1977.

4. Federal permits are not required for this hunt; however, only hunters holding computer-drawn permits from the State will be permitted to participate in the hunt. Hunters, upon entering and leaving, shall report at designated checking stations as may be established for the regulation of the hunting activity and shall furnish information pertaining to their hunting, as requested.

WICHITA MOUNTAINS WILDLIFE REFUGE
DATES: December 6 through December 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Karges, Refuge Manager, Wichita Mountains Wildlife Refuge, P.O. Box 448, Cache, Okla. Telephone 405-429-3222.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of elk on the Wichita Mountains Wildlife Refuge is permitted only in the Finchot, Graham Flat, North Mountains, Quanah-Elk Mountain, and Big Bull Pasture Units. This open area, comprising approximately 49,000 acres, is delineated on maps available at refuge headquarters, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the hunting of elk subject to the following special conditions:

1. Hunting days will be restricted to December 6, 7, 8, 13, 14, and 15 (Tuesdays, Wednesdays, and Thursdays), 1977.

2. No personnel of the U.S. Fish and Wildlife Service or of the Oklahoma Department of Wildlife Conservation are eligible to hunt.

3. Except as provided in special condition (4) below, the applicable portions of the Quanah-Elk Mountain Unit will be closed to all public use except elk hunting during hunt period.

4. Authorized hunters may retain approved, unloaded hunting rifles and camp overnight (in Camp Doris only) during this period when the Quanah-Elk Mountain Unit is closed to all other public use. Such camping hunters may be accompanied by, but not exceed, one camping companion who will be confined to Camp Doris or refuge headquarters during hunt period unless authorized by the Refuge Manager or his agent to assist with the removal of game.

5. Authorized hunters will comply with all official written refuge rules and regulations issued at mandatory hunter briefings. Violation of any of these rules or

regulations or of any Federal or State hunting law will terminate the hunt of the person(s) so involved.

LAGUNA ATASCOSA NATIONAL WILDLIFE REFUGE

DATES: October 14 through October 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Arthur R. Rauch, Acting Refuge Manager, Laguna Atascosa National Wildlife Refuge, P.O. Box 2683, Harlingen, Tex. 78550. Telephone 512-423-8328.

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on the Laguna Atascosa National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising 19,240 acres, is delineated on maps available at refuge headquarters, 306 East Jackson, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State regulations covering the archery hunt of deer subject to the following special conditions:

1. Hunting with, or possession of, weapons other than long bow is not permitted.

2. The open season for hunting deer on the refuge is from sunrise to 2 p.m., Fridays through Sundays, October 14, 15, 16, 21, 22, 23, 28, 29, and 30, 1977.

3. Hunting hours will close at 2:00 p.m. each day.

4. The bag limit is 2 buck deer.

5. Target and field arrows are not permitted.

6. Hunters must check in and out each day of the hunt at the Laguna Atascosa field office, which will be open one hour before sunrise to 2 p.m. Permits will be issued and collected at this point. Deer must be checked out at this checkpoint.

7. Vehicles will not be permitted off refuge roads or beyond blocked gates.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

W. O. NELSON, Jr.,
Regional Director,
Albuquerque, N. Mex.

OCTOBER 3, 1977.

[FR Doc. 77-29864 Filed 10-12-77; 8:45 am]

[3410-07]

Title 7—Agriculture

CHAPTER XVIII—DEPARTMENT OF AGRICULTURE, FARMERS HOME ADMINISTRATION

SUBCHAPTER E—ACCOUNT SERVICING

[FmHA Instruction 451.1]

PART 1861—ROUTINE

Subpart A—Account Servicing Policies
Moratorium on Payments, Sections 502 and 504 Rural Housing Loans

AGENCY: Farmers Home Administration.

ACTION: Interim Rule.

SUMMARY: In the December 2, 1976, issue of the FEDERAL REGISTER (41 FR 52888), the Farmers Home Administration (FmHA) published a notice of proposed rulemaking regarding § 1861.10 in 7 CFR 1861, "Account Servicing Policies," authorization for moratoria on principal and interest payments and cancellation of interest accrued during such moratoria to borrowers who, due to circumstances beyond their control, are unable to continue making payments when due, without unduly impairing their standard of living. This document supplements the notice by notifying the public that due to numerous comments received and considered as a result of the initial proposal, FmHA again presents for public participation revision of its regulation pertaining to moratoria on payments as an interim rule.

EFFECTIVE DATE: October 13, 1977. Comments must be received on or before November 14, 1977.

ADDRESSES: Submit written comments, to the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6316, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection at the address given above.

FOR FURTHER INFORMATION CONTACT:

Wesley L. Harris (202-447-4295).

SUPPLEMENTARY INFORMATION: The Farmers Home Administration (FmHA) of the Department of Agriculture proposes additional changes in § 1861.10 of Subpart A of Part 1861, Chapter XVIII of Title 7, Code of Federal Regulations (37 FR 13703; 39 FR 25313). The proposed changes now issued as an interim rule include additions and revisions and editorial changes as indicated; however, the major changes are as follows:

A. Paragraph (a)(2) definition of "unduly impaired standard of living" is broadened.

B. A new paragraph (b)(1) is added to indicate when a borrower should be

advised of the right to request a moratorium on payments.

C. Paragraphs (b)(1)(iii) and (d) are added to provide for a procedure for an appeal of any adverse action on a request for a moratorium on payments. Paragraph (b)(3) is also revised to replace Exhibits A and B (initially available in any FmHA office) with Forms FmHA 451-22 and 451-23, respectively.

D. A new paragraph (b)(4) is added to allow a retroactive period of up to 90 days for the effective date of the moratorium.

E. A new paragraph (b)(5) is added to authorize more than one moratorium on payments for a borrower.

F. Paragraph (c) is revised to provide that County Office personnel may assist the borrower in completing the application for a moratorium on payments.

G. Paragraph (e) is revised to clarify procedure for cancellation of interest accrued during the moratorium period, and to discontinue the quarterly report on moratoria granted.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are being published effective on an interim basis. This action is being taken to implement the amendment in the field and at the same time permit public participation in the rulemaking process. Any delay in implementing this amendment would be contrary to the public interest because the changes insure early notification to eligible borrowers of their right to request a moratorium on their sections 502 and 504 Rural Housing loans. Comments made pursuant to this notice will be considered in the development of the final rule.

Accordingly, § 1861.10 as proposed, reads as follows:

§ 1861.10 Moratorium on principal and interest payments on Sections 502 and 504 loans.

A moratorium on principal and interest payments shall be granted on sections 502 and 504 RH loans, as authorized under section 505 of the Housing Act of 1949, upon determination that, due to circumstances beyond the borrower's control, the borrower is unable to continue making scheduled payments without unduly impairing his or her standard of living. Cancellation of interest accrued during the moratorium period is also authorized in cases of extreme hardship.

(a) Definitions. As used in this paragraph:

(i) "Scheduled payments" means the amount of monthly or annual installment on a Rural Housing loan required by the promissory note as this amount may be modified by any outstanding Interest Credit Agreement, Supplementary Payment Agreement, Additional Partial Payment Agreement, or other written agreements between FmHA and the borrower.

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(2) "Unduly impaired standard of living" means that condition whereby the borrower due to circumstances beyond his/her control is unable to pay normal living expenses and scheduled payments as provided by the loan documents. The borrower must present evidence that the inability to repay the loan will probably last for a period of 6 months or more and that he/she will be able to resume payments after the moratorium period. The circumstances include but are not limited to the following:

(i) A substantial reduction of income which as a result will cause the payments for principal and interest on the Rural Housing loan, and the taxes and insurance on the dwelling to exceed the borrower's ability to make such payments after all interest credits authorized have been granted. (A moratorium based on loss or reduction of income will not be granted if the sum of the principal, interest, real estate taxes, and insurance payments is less than 30 percent of the borrower's adjusted income based on the next 12 months projected earnings. The fact that such payments would exceed 30 percent of the borrower's projected annual income does not by itself mean that the borrower is eligible for a moratorium.) Such reduction may result from:

(A) Unemployment or underemployment caused by circumstances beyond the borrower's control; or

(B) Loss or reduction in benefits which constituted a substantial part of the income as defined in § 1822.3(n) of this Chapter; or

(C) Illness, injury or death of the borrower or other adult who contributed to the annual income; or

(D) A situation in which a spouse is living apart from the borrower's family and away from the RH financed dwelling and legal papers have been filed with the appropriate court to commence divorce or legal separation proceedings provided: The remaining spouse is occupying the dwelling, owns a legal interest in the property, is liable for the debt, and the loan account is put in the remaining spouse's name only; or

(E) A situation in which a spouse has lived apart from the borrower's family and away from the RH financed dwelling for 6 months or longer and legal papers have not been filed to commence divorce proceedings, provided the conditions of paragraph (a)(2)(i)(D) of this section are met. (For purposes of the retroactive provisions of paragraph (b)(4), the moratorium may be effective 90 days prior to the end of the 6-month period or the filing of a request for moratorium, whichever is later.)

(ii) The need to pay certain essential family expenses which have or may become a lien on the borrower's dwelling, and which if not paid will likely result in loss of the dwelling. Such expenses may result from:

(A) Accident, illness or injury to the borrower or dependent member of the borrower's family; or

(B) Death of a member of the borrower's family; or

(C) Cost of repairs for uninsured damage to the security property if the loss occurred because adequate insurance coverage was not available.

(3) "Extreme hardship" means that condition as described in paragraph (a)(2) of this section, which has continued until interest accruing on the loan causes the amount of monthly or annual payments required on the unpaid balance of the debt to exceed the borrower's repayment ability if the debt is reamortized over the remaining term of the loan plus any extension authorized in paragraph (e)(1)(iii) of this section unless all or part of the interest which accrued during the moratorium period is cancelled.

(b) Policy guidelines in granting moratorium. (1) Applicants and borrowers will be advised of the moratorium provisions as follows:

(i) The interviewer during the interview required by § 1822.11(c) of this Chapter will inform the applicant(s) of moratorium provisions under this regulation.

(ii) The County Supervisor will advise borrowers in writing of the possible availability of a moratorium when any of the following conditions exist:

(A) The County Supervisor becomes aware of a change in the borrower's circumstances which likely would justify the granting of a moratorium; or

(B) The borrower fails to make payments as agreed and the County Supervisor sends a collection letter or writes to schedule an appointment to develop a new repayment agreement. The letter will include the following statement: "You may be interested in knowing that you may apply for a moratorium on payments if due to circumstances beyond your control you are unable to continue making scheduled payments on your Rural Housing loan account without unduly impairing your standard of living. Some of these circumstances are: Loss of your job, or sudden reduction of income from other sources; a loss of income or a substantial increase in expenses due to injury, illness or death in the family; or, under certain conditions, in cases of separation, when your spouse is living apart from the family and the RH financed dwelling."

(iii) A notice of acceleration and demand for payment (Exhibit C of Subpart A of Part 1955 of this Chapter) is sent to a borrower whose loan has been approved for forced liquidation because of monetary default. Paragraph 10 of the notice will be revised as follows: "HOWEVER, YOU HAVE THE OPPORTUNITY TO HAVE A MEETING BEFORE THIS FORECLOSURE TAKES PLACE. If you wish to make use of this opportunity to meet because you believe that the United States is in error in accelerating your account(s) and proceeding with the foreclosure, or because you have not been advised of your rights to request a moratorium on payments on your Rural Housing loan account, you should IMMEDIATELY contact the District Director."

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tor of the Farmers Home Administration in writing at the following address:

(2) Moratorium on principal and interest payments on an RH loan account may be granted provided:

(i) The borrower: (A) Has before experiencing the hardship, had a good repayment record, paid real estate taxes and property insurance premiums when due, and has complied with the other conditions of the loan documents; and

(B) Requests a moratorium on payments in accordance with paragraph (c) of this section and appropriately documents the conditions causing his unduly impaired standard of living.

(ii) The County Supervisor: (A) Has verified the accuracy of the information received with the request for a moratorium on payments from the borrower; and

(B) Has determined, after using all other alternatives such as granting all authorized interest credits, that a moratorium on payments is still necessary and the borrower is eligible for such moratorium on payments.

(3) The County Supervisor is authorized to approve or disapprove a request for a moratorium. The borrower will be notified of the action taken within 15 days after his request for a moratorium has been received in the County Office. The decision relative to a moratorium is made on Form FmHA 451-23, "Moratorium on Payments" (Section 502-504 RH Loans). The reasons and justification for approval or disapproval of the moratorium will be noted or attached as additional information. An original and two copies will be prepared and distributed in accordance with the Forms Manual Insert (FMI) for the form. If the moratorium is denied, the borrower will be notified by letter which will include the following:

(i) A statement of the action taken, a recitation of the facts upon which the decision is based and the specific reason(s) for the decision denying the moratorium; and

(ii) An invitation to call at the County Office to discuss the decision with the County Supervisor. If the borrower wishes to bring additional information or a representative to the meeting, he or she may do so.

(iii) A statement that the borrower may appeal the decision directly to the State Director instead of meeting with the County Supervisor. The statement should read as follows: "You may appeal the action concerning your eligibility for a moratorium on payments by writing to the FmHA State Director within 30 days of the receipt of this letter, giving the reasons why you believe your case should be reviewed. His address is, _____." The State Director will handle the appeal in accordance with paragraph (d) of this section.

(4) A moratorium may be granted for 6 months. The moratorium may be retroactive for up to but not more than 90 days prior to the date the request for a moratorium was received in the County

Office if the circumstances for which the moratorium is to be granted existed during that time.

(5) Immediately before the end of each 6-month period, or sooner if the County Supervisor becomes aware of the facts that substantially change the borrower's repayment ability, the justification for a moratorium will be reviewed by the County Supervisor and the moratorium terminated or extended for another 6-month period if the facts so warrant. The extension will be processed in accordance with paragraph (b) (3) of this section prior to the expiration date of the current moratorium. No moratorium plus extensions may exceed 3 years, and 5 years from the end of the moratorium plus extensions must elapse before another moratorium may be granted unless prior approval is received from the State Director. If the situation creating a hardship continues after 3 consecutive years of moratorium and the borrower is still unable to make scheduled payments even if the account were reamortized, all authorized interest credits were granted, and interest accrued during the moratorium were cancelled, the account must be liquidated in accordance with applicable FmHA regulations. If, at the end of the moratorium period and any extensions thereof, it is determined that the account will be continued (as modified by any interest credit or interest cancellation assistance), it will then be handled in accordance with paragraph (e) of this section.

(6) Interest will accrue during the moratorium at the rate shown on the promissory note as modified by any Interest Credit Agreement. Interest credits will be granted and renewed throughout the period a moratorium is in effect for all loans eligible for interest credits under Exhibit E of Subpart A of Part 1822 of this Chapter.

(7) Cancellation of any part or all of the interest accrued during the moratorium plus any extension thereof, will be granted only in cases of extreme hardship as defined in paragraph (a) (3) of this section. Cancellation will be made in accordance with paragraph (e) of this section.

(c) *Request for moratorium.* The County Supervisor will provide the borrower who wishes to apply for a moratorium on payments with two copies of Form FmHA 451-22. The borrower, who may be assisted by County Office personnel, will complete the applicable spaces on the form, and sign and return the original to the County Supervisor. The County Supervisor will retain the original in the borrower's case folder.

(d) *Borrower's appeal for review of adverse action.* The borrower may appeal to the State Director for review of adverse action taken by the County Supervisor within 30 days after the action was taken on the request for moratorium, extension, or cancellation of interest accrued during the moratorium. On receipt of a request for review from a borrower:

(1) The State Director will have a member of his Staff (usually the District Director) arrange for a meeting to be held within 30 days of the receipt of the borrower's request for review. If the borrower is unable to meet with the staff member within a 30 day period, a meeting will be arranged at some other time and place as is mutually convenient for the borrower and the Agency. The meeting will be an informal proceeding at which the borrower will be given an opportunity to provide whatever additional information he or she believes should be considered in reaching a decision concerning the case. The borrower may have an attorney or any other person at the meeting if desired.

(2) The staff member will submit the additional information provided by the borrower to the State Director with his recommendation concerning the case within 10 days of the meeting.

(3) Within 10 days of receipt of the staff member's report, the State Director will determine what action to take with regard to the borrower's appeal and:

(i) If the State Director determines that the decision should be reversed or modified, he will inform the borrower by letter of the action to be taken. He also will advise the County Supervisor.

(ii) If the State Director determines that the decision should be affirmed, he will inform the borrower by letter of his decision giving the reasons. He will send the County Supervisor a copy of the letter. The letter must contain the following statement:

"If you wish to have the decision on your eligibility for (a moratorium on payments) (a renewal of moratorium) (cancellation of interest accrued during the moratorium) reviewed, you may write to the Administrator of the Farmers Home Administration within 30 days explaining why you believe the decision is wrong. His address is: Administrator, Farmers Home Administration, United States Department of Agriculture, Washington, D.C. 20250."

(4) Upon receipt of a request from a borrower that the decision of the State Director be reconsidered, the Administrator will obtain a comprehensive report on the matter from the State Office. He will consider this information together with any additional information that may be provided by the borrower; and

(i) If the Administrator determines that the decision should be reversed or modified, he will inform the borrower of his determination. He will advise the State Director of the action taken.

(ii) If the Administrator determines that the State Director's decision was correct, he will inform the borrower by letter of his decision giving the reasons. He also will send the State Director a copy of the letter.

(iii) If no decision is reached within 30 days of the receipt of the request for review by the Administrator, the borrower will be informed that his request is being considered and given a specific date by which a decision will be made.

(e) *Action at the expiration of the final moratorium period.* (1) The County Supervisor at the end of the moratorium period will verify the borrower's annual income and obtain a current financial statement to determine the borrower's ability to repay the unpaid balance of the Rural Housing indebtedness. Interest cancellation, reamortization of the account, and repayment schedules will be determined in accordance with the following provisions:

(i) Borrowers who can repay within 2 years any principal and interest which were deferred during the moratorium period in addition to the regular scheduled installments, will execute Form FmHA 451-37 "Additional Partial Payment Agreement" to establish such a new repayment schedule.

(ii) For borrowers who cannot meet the repayment requirements of paragraph (e) (1) (i) of this section, the unpaid principal and interest balance of the loan will be reamortized within the remaining term of the loan.

(iii) For borrowers who cannot meet the repayment requirements of paragraph (e) (1) (ii) of this section, the loan account will be reamortized and the remaining term of the loan may be increased to the maximum legal term for the loan (33 years from the date of the note for a section 502 RH loan, or 20 years from the date of the note for a section 504 RH loan) plus a period not to

exceed the time the moratorium was in effect. State regulations will be issued for extending the term of the loan or advice will be obtained from the Office of the General Counsel on a case by case basis. The borrower must pay for title clearance and legal-services needed to assure that the Government's lien priority is retained.

(iv) If he determines that the borrower cannot make the scheduled payments on the balance owed under the terms of paragraph (e) (1) (iii) of this section without cancellation of part or all of the interest which accrued during the moratorium, the County supervisor will determine how much interest must be cancelled to enable the borrower to repay the loan during the time authorized in paragraph (e) (1) (iii) of this section. The County Supervisor will complete Section II of Form FmHA 451-23 indicating the amount of interest cancelled. Such amount will be deducted from the balance owed in determining a new repayment schedule.

(v) The borrower will be advised by letter of the action taken and the reasons for the action, the new repayment schedule, and that if the borrower does not agree with the action taken, that the borrower may appeal the action to the State Director as provided in paragraph (d) of this section.

(2) The County Supervisor, after a determination concerning the cancella-

tion of interest has been made, will prepare and submit to the Finance Office Form FmHA 451-21, "Request for Reamortization of Real Estate Loan," if the account is to be reamortized or Form FmHA 451-37 if reamortization is not planned.

(i) If Form FmHA 451-21 is submitted to the Finance Office for an insured loan, the account will be reamortized and a new promissory note will be executed in accordance with § 1861.9(e) (1) (ii) (a). For a direct loan, only an approved Form FmHA 451-21 will be sent to the Finance Office in accordance with § 1861.9(e) (1) (ii) (b).

(ii) If Form FmHA 451-37 is submitted, the County Supervisor will appropriately change his records to reflect the amount of the new installments.

(42 U.S.C. 1480; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The FmHA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 11, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

[FmHA Doc. 77-23980 Filed 10-12-77; 8:45 am]

RULES AND REGULATIONS

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 929]

HANDLING OF CRANBERRIES GROWN IN CERTAIN STATES

Hearing on Proposed Amendment of Marketing Agreement, as Amended, and Order, as Amended

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Public hearing on proposed rulemaking.

SUMMARY: The hearing is being held to consider proposed changes in the marketing order. The principal issue to be considered is updating allotment bases for producers.

DATES: The hearing will be held November 1, 3, 8, 11, 14, 1977, at the locations listed under supplementary information below.

ADDRESSES: See the list of locations under supplementary information below.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader (202-447-3545).

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public hearing to be held in the Holiday Inn, 500 Hathaway Road, New Bedford, Mass., beginning at 9 a.m., local time, November 1, 1977; in the Cherry Hill Inn, Route 38 and Haddonfield Road, Cherry Hill, N.J., beginning at 9 a.m., local time, November 3, 1977; in the McMillan Memorial Library, Wisconsin Rapids, Wis., beginning at 9 a.m., local time, November 8, 1977; in the Aero Club at the Bandon State Airport, Bandon, Oreg., beginning at 9 a.m., local time, November 11, 1977; and in the Long Beach Grange Hall, Long Beach, Wash., beginning at 9 a.m., local time, on November 14, 1977, with respect to proposed amendment of the marketing agreement, as amended, and Order No. 929, as amended, regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York.

The hearing is called pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

The purpose of the hearing is to receive evidence with respect to the economic and marketing conditions which relate to the proposed amendment, hereinafter set forth, and any appropriate modifications thereof, of the marketing agreement, as amended, and the order, as amended.

The proposed amendment, set forth below, has not received the approval of the Secretary of Agriculture.

PROPOSED BY THE CRANBERRY MARKETING COMMITTEE

PROPOSAL NO. 1

Revise § 929.20 (a) by deleting the first two sentences and substituting in lieu thereof the following. As amended § 929.20 reads as follows:

§ 929.20 Establishment and membership.

There is hereby established a Cranberry Marketing Committee consisting of seven members, each of whom shall have an alternate. Except as hereafter provided, members and their alternates shall be growers or employees, agents, or duly authorized representatives of growers. The committee may be increased by one public member and alternate nominated by the committee and selected by the Secretary. The public member and alternate shall be neither a grower nor a handler. The committee, with the approval of the Secretary, shall prescribe qualifications and the procedure for nominating the public member. . . .

PROPOSAL NO. 2

Revise § 929.32(a) to read as follows:

§ 929.32 Procedure.

(a) Five members of the committee, or alternates acting for members, shall constitute a quorum and any action of the committee shall require at least five concurring votes: *Provided*, That in the event of the addition of a public member to the committee, six members shall constitute a quorum and any action of the committee shall require at least six concurring votes.

PROPOSAL NO. 3

Revise § 929.48 by deleting paragraph (b), redesignating paragraph (c) as paragraph (d) and adding new paragraphs (b) and (c). As amended, § 929.48 reads as follows:

§ 929.48 Base quantities.

(a) . . .

(b) Periodically, but at least once each three years, the committee shall review the use being made of base quantities and recommended to the Secretary any

change in the formula for determining base quantities which may be deemed appropriate.

(c) (1) A reserve equal to 2 percent of the total base quantities shall be established annually: *Provided*, That such reserve shall include any base quantity that becomes available due to any reduction or invalidation because of non-use of base quantity under paragraph (c) (4) of this section. Such reserve may be used for the issuance of base quantities to new producers and adjustments in base quantities for producers with existing base quantities with 25 percent being made available for new producers and 75 percent available for adjustments for producers with existing base quantities. Any unallocated portion of the 25 percent available to new producers may at the discretion of the committee be prorated among producers with existing base quantities on an equitable basis.

(2) The committee shall recommend rules for establishing procedures whereby persons may apply for base quantities under paragraph (c) (1) of this section. Such rules shall be subject to approval by the Secretary. Rules may establish guides or standards for equitable and thorough consideration of pertinent factors relating to each case, including but not limited to, on-site inspection of applicant's acreage, past production of cranberries by applicant, acreage planted, average yields, and other economic and marketing factors.

(3) Each person filing an application hereunder for new base quantity or adjustment in an established base quantity shall be notified by the committee of its determination thereon.

(4) A condition for the continuing validity of a producer's base quantity is production of cranberries thereunder in a proprietary capacity. If no bona fide effort is made to produce and sell cranberries thereunder for five consecutive seasons, commencing with the 1978-79 season, the base quantity may be reduced or declared invalid due to lack of use and cancelled at the end of the fifth season of nonproduction. The committee shall establish criteria, subject to approval by the Secretary, whereby the committee may determine whether a bona fide effort has been made to produce and sell cranberries, including one that the producer must have sold at least 50 percent of his base quantity each year, unless prevented from doing so by acts of God or other circumstances beyond his control.

PROPOSAL NO. 4

Revise paragraph (a) of § 929.49 by deleting the fourth sentence and inserting in lieu thereof the following:

§ 929.49 Marketable quantity, allotment percentage, and annual allotment.

(a) *Marketable quantity and allotment percentage.* . . . No handler shall purchase or handle on behalf of any grower cranberries not within such grower's annual allotment: *Provided*, That such restriction shall not apply to cranberries transferred pursuant to paragraph (c) of this section or to cranberries purchased from or handled on behalf of any grower for disposition to such outlets as the committee, with the approval of the Secretary, finds are non-competitive with normal outlets for cranberries. . . .

PROPOSAL NO. 5

Revise paragraph (d) of § 929.56 to read as follows:

§ 929.56 Special provisions relating to withheld (restricted) cranberries.

(d) In the event any portion of the funds deposited with the committee pursuant to paragraph (a) of this section cannot, for reasons beyond the committee's control, be expended to purchase unrestricted (free percentage) cranberries to replace those released, such unexpended funds shall, after deducting expenses incurred by the committee in connection with the purchase and disposition of cranberries pursuant to paragraph (c) of this section, be offered and paid or credited proportionately to handlers on the basis of the volume of cranberries withheld by each handler. In the event that the offer is not accepted or directions given by a handler to credit the funds within 90 days, the funds will accrue to the committee's general account.

PROPOSED BY DECAS CRANBERRY COMPANY, INC.

PROPOSAL NO. 6

Revise § 929.48 by adding thereto the following paragraph:

§ 929.48 Base quantities.

Periodically, every three years, base quantities for all established acres be recomputed and issued to all growers, replacing their existing base quantities. This computation to be accomplished by averaging the two crop years from which the greatest sales were made during the six previous crop years. The first such computation shall be in a year to be decided by the Cranberry Marketing Committee, but not later than sometime prior to the harvest of 1980. Such computation shall be made and the results thereof made known to each respective grower not later than May 1st of the year decided upon by the Cranberry Marketing Committee, but not to exceed the date of May 1, 1980.

PROPOSAL NO. 7

Revise § 929.49 by deleting "May 1, 1974", in the last sentence of paragraph (b) and inserting in lieu thereof "September 1, 1978". As amended, such sentence reads as follows:

PROPOSED RULES

55095

§ 929.49 Marketable quantity, allotment percentage, and annual allotment.

(a)
(b) Issuance of annual allotments: On or before September 1, 1978, and by the same date each year thereafter, the committee shall issue to each grower an annual allotment determined by applying the allotment percentage established pursuant to paragraph (a) of this section to the grower's base quantity.

PROPOSED BY THE FRUIT AND VEGETABLE DIVISION AGRICULTURAL MARKETING SERVICE

PROPOSAL NO. 8

Make such changes as may be necessary to make the entire marketing agreement and the order conform with any amendment thereto that may result from this hearing.

Copies of this notice of hearing and the order may be obtained from the Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: October 7, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc. 77-29970 Filed 10-12-77; 8:45 am]

[3410-02]

[7 CFR Part 932]

[Docket No. AO-352-A3]

OLIVES GROWN IN CALIFORNIA

Recommended Decision and Opportunity To File Written Exceptions on Proposed Further Amendment of Marketing Agreement and Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision recommends certain changes in the marketing order regulating the handling of olives grown in California, based on industry proposals considered at a public hearing on April 5-6, 1977. The principal changes would: Provide authority to determine olive sizes by additional means other than a count-per-pound basis; change the name of the administrative committee; authorize addition of a public member to the committee; and provide that minimum standards for natural condition and packaged olives shall be those contained in the U.S. Standards for Grades of Canned Ripe Olives or modifications thereof. In addition, authority to make producer nominations to the committee by mail voting and to charge interest on overdue assessments is included. Other minor administrative changes would also be made.

DATE: Comments are due on or before December 12, 1977.

ADDRESS: Comments should be filed with the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-3545).

SUPPLEMENTARY INFORMATION: Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed further amendment of the marketing agreement, as amended, and Order No. 932, as amended (7 CFR Part 932), regulating the handling of olives grown in California (hereinafter, in the text of the Findings and Conclusions, collectively referred to as the "order").

Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before December 12, 1977. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The above notice of filing of the decision and of opportunity to file exceptions thereto is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR Part 900).

Preliminary statement. The proposed amendment of the marketing agreement, as amended, and order, as amended, was formulated on the record of a public hearing held at Fresno, Calif., on April 5-6, 1977. Notice of the hearing was published in the March 2, 1977, issue of the FEDERAL REGISTER (42 FR 12063). The proposals contained in the notice of hearing were submitted by the Olive Administrative Committee, Lindsay Olive Co., and Oberti Olive Co.

Material issues. The material issues of record are as follows:

1. Provide authority to determine olive size by methods other than the current count-per-pound method.
2. Change the name of the administrative agency to California Olive Committee.
3. Include "segmented" as a style of limited use olives.
4. Provide for addition of a public member to the committee.
5. Clarify nomination procedure for persons to fill producer member positions on the committee, including authority to conduct nominations by mail.
6. Broaden the authority for alternate members' attendance at meetings and authorize payment of expenses incurred by alternate members of the committee under specified circumstances.
7. Authorize changes in committee voting requirements when voting is by mail.
8. Authorize interest and late payment charges on overdue assessments.
9. Change reporting procedures on research projects.

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10. Provide that minimum size requirements for natural condition olives be the same as the size designations contained in the current U.S. Standards for Grades of Canned Ripe Olives, or such other sizes as may be recommended by the committee and approved by the Secretary.

11. Provide that canned ripe olives, other than those of the tree-ripened type, shall grade at least U.S. Grade C and conform to the size designations contained in the current U.S. Standards for Grades of Canned Ripe Olives, or such modifications thereof as may be recommended by the committee and approved by the Secretary.

12. Make conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of the hearing:

(1) Section 932.12 of the order defines "size" to mean the number of whole olives contained in a pound with the further specification that size may be referred to in terms of count ranges. Thus, under the order, determination of olive sizes is limited to this "count-per-pound" method and can be changed only by an amendment of the order. The record indicates that it may be desirable and practicable at a future time to determine olive sizes in terms of length, diameter, weight, volume, or a combination thereof.

There are objectionable features attached to the count-per-pound method of size determination. For example, such method requires that size for pitted olives be determined prior to pitting, whereas a determination based upon diameter could be made after the olives are pitted. A shift to diameter sizing or similar basis would provide greater flexibility in processing and timing of inspection which could lead to improved efficiency of operations. While proponents agreed that an acceptable method for sizing on a basis other than count-per-pound had not been perfected, they expressed confidence that difficulties associated with limitations of sizing machinery and variation in shapes within and among olive varieties could be resolved through research and testing. Work to resolve such difficulties is being undertaken and if it is successful the order should permit adoption through rulemaking without the delay involved in an amendment proceeding.

Opponents to this procedure indicated that successful development of sizing on a basis other than count-per-pound would likely involve a rather long period. Consequently, they expressed the view that amendment now to permit adoption on a basis other than an amendment proceeding would be premature.

However, addition of authority on a permissive basis with adoption contingent upon a recommendation by the committee based upon ample justification and approval by the Secretary appears to be reasonable. This would permit change on a timely basis if a satisfactory alternative is developed which

is acceptable to the industry and the Secretary. Participation in such development by the industry and opportunity for input by interested persons by the rulemaking process provided under the Administrative Procedure Act should assure that the interest of all concerned would be observed. Therefore, it is concluded that the order should be so amended.

(2) The order should be amended to change the name of the agency which administers the order from Olive Administrative Committee to California Olive Committee. All the olives regulated under the order are grown in California. It was advanced and supported that this should be reflected as the name of the committee. The name California Olive Committee would more clearly identify the agency and this should be helpful in activities relative to advertising and public relations work.

(3) The order should be amended to include segmented olives among the styles of limited use olives. In 1972, the olive industry developed a new style of olive into which limited use size olives could be made and which is referred to as "Quartered" or "Segmented" style. These olives are pitted and cut lengthwise into four (or more) approximately equal parts and this style of olive has been readily accepted in the market.

The order currently authorizes the committee to specify additional styles of limited use olives and establish any requirements applicable to such styles. Under this authority, the committee, with the approval of the Secretary, specified in an administrative rule (§ 932.110) quartered and segmented olives as additional styles which could be produced from limited use olives. The recommended amendment which is effected by revision of § 932.23a makes no substantive change but merely includes the segmented style in the basic provisions of the order among the other limited use styles. Since segmented style means the olive has been cut lengthwise into four or more approximately equal parts, the term "Quartered" is superfluous and is therefore not included in the recommended amendment.

(4) The order should be amended as hereinafter set forth to provide that a public member and alternate may be added to the committee. Relative thereto, provision should be made for appropriate eligibility requirements and procedures for nominating persons to fill the public member position under the order.

A public member could be helpful in bringing the viewpoint of the general public into the committee deliberations. Such viewpoint could be particularly valuable in planning, implementing, and evaluating the committee's market development plans. The public member should serve in the same capacity as any other member and thus would be able to initiate proposals to be considered by the committee; vote on committee actions; and should be reimbursed for expenses incurred in the performance of committee duties. A public member should not be engaged in the commercial

production, marketing, buying, grading, or processing of agricultural commodities. Nor should any such member be an officer, director, member, or employee of any firm engaged in those activities.

The procedure and guidelines for nominating persons to fill public member positions on the committee should be established as an administrative rule. Thus, prior to selection of a public member, the committee should recommend appropriate procedures and guidelines to the Secretary for his approval. Numerous methods were suggested for nominating the public member including establishment of a subcommittee to develop lists of potential nominees; nomination by committee members; solicitation of potential nominees through use of publications in the area; and request any interested person to attend a committee meeting and seek the nomination. The committee should weigh these and other appropriate suggestions and recommend a procedure and qualifications for establishment under the order that is designed to result in nomination of persons who could make a contribution in the role of a public member.

Under the order, the Secretary has discretion to select committee members from those persons nominated in accordance with order requirements, or from other eligible persons. This should apply to the public member. However, it is customary for nominations to be made by the industry, therefore, the committee should make specific nominations.

The term of office for public members insofar as possible should coincide with those of producer and handler members, that is, a two-year term beginning June 1 and ending on May 31 of odd numbered years. If the order is amended, the committee should, as soon as practicable, subsequent to completion of this amendatory action, recommend appropriate rules and procedures and nominate persons for public member for the remainder of the current term of office which would end May 31, 1979.

At the hearing questions were raised as to whether the vote of a public member should be considered as a producer vote or handler vote under § 932.36. This section, among other things, requires at least five affirmative votes by producer members and five affirmative votes by handler members to validate any recommendation to the Secretary relative to grade or size regulations. Since the public member is neither a producer nor a handler, the public member's vote should not be categorized into either group. Hence, the requirements of that section with respect to quorum and voting requirements should continue to relate to quorum and grower and handler members as specified.

The notice of hearing contained proposals to reduce from three to two the number of geographic districts from which producer members of the committee are to be nominated, and reallocate producer membership between these two districts. No evidence was offered in support of these proposals. Therefore, no

amendatory action is recommended with respect to such proposals.

The notice of hearing contained a proposal which would provide that not more than two producer member positions may be filled by growers who deliver olives to the same handler. At the hearing, modifications of this proposal were offered; one that the number of producer member positions be increased to three per single handler affiliation and another that the number be increased to four. The basis on which this proposal was advanced was that producer representation with regard to handler affiliation should be broadened. The implication was that in the consideration of issues under the order, grower members are inclined to reflect the position of the handler of their olives rather than a position arrived at independently.

Currently, the grower positions on the committee are allocated among three subdivisions of the production area (districts) without regard to handler affiliation. The districts are delineated so as to distribute membership geographically. The allocation is designed to assure consideration of variations in olives related to locality of production. Within districts, each grower, regardless of handler affiliation and similar considerations, is eligible to be nominated for a grower position on the committee. The primary criteria is that the candidate be a grower in the district from which nominees are to be chosen. Consistent with this, nominees for grower member positions of the committee have been elected by growers in the respective districts. Nominees thus have been considered by the growers and the Department on the basis of their competence and their apparent concern for the welfare of the industry.

A further complication suggested possible observance of the kind of handler—cooperative or independent—handling the growers' olives, indicating that some in the industry believe the organizational structure of the handler the growers employ should be taken into account in grower nominations.

It was advanced that a provision which requires identification of a grower member with a particular handler would be objectionable in that the impression could be created that the grower is obligated to the handler for the position on the committee. Concern was expressed that in such circumstances the grower member's vote could be unduly influenced by the handler, or should such member act at variance with the handler's views, the handler could terminate his contract with the grower. In recognition of the possible validity of such concern, it was suggested that secret ballots might be taken on controversial issues. However, this was deemed undesirable since it would not allow growers to know how they are being represented on such issues by grower members.

A brief analysis of committee voting in recent years was entered into the hearing record. This analysis indicated that from August 1973 through June of 1975, of 51 propositions before the com-

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mittee upon which votes were taken, 49 were decided by unanimous vote. From August 1975 through December 1976, 73 matters were voted upon and 67 were decided by a unanimous vote. Though the hearing record indicates divisions of opinion on the committee, it also indicates that a very great area of agreement must also exist. The record thus appears to reflect that the committee functions appropriately in reaching decisions. Hence, it is concluded that the evidence of record does not support a finding that allocating producer membership on the basis of handler affiliation would improve committee operation, or broaden producer participation and it could result in polarization among different groups of producers. The most recent producer nomination meetings resulted in significant changes as related to handler affiliation of nominees, thus indicating that when producers are sufficiently concerned, the present nomination procedures are amply accommodating. Therefore, adoption of the proposal to allocate producer positions on the committee on the basis of handler affiliation is not recommended.

(5) Currently, the order requires that nominees to fill grower member positions on the committee shall be elected at meetings of growers in the respective districts. At such meetings each grower may cast one vote for each member and alternate member nominee to be elected from that district. At the hearing, dissatisfaction was expressed concerning the lack of grower participation in nomination meetings. It was contended that to some extent participation was discouraged by permitting an individual to cast a vote for each of a number of producing entities in which he had a qualifying interest. It was advanced, without opposition, that the order should be amended to provide that each producer present should be permitted to cast not more than one ballot for each nominee to be elected regardless of the number of producing entities in which he has an interest. In other words, individual persons should be precluded from voting more than once on a specific nomination at a nomination meeting even though they may have an interest in more than one business entity which separately qualifies as a producer. This was not intended to deprive any producer of a vote, but each producer would be required to be represented at the meeting by a separate individual person.

The order permits individuals who have a proprietary interest in more than one producing entity to be represented at nomination meetings by their officers or employees. Hence, such growers can arrange to have an officer or employee attend and vote for each producer entity in which the individual has an interest. It is therefore concluded that the order should be so amended.

Further, in the matter of grower participation in grower nominations, it was advanced that such could be encouraged if growers were permitted to vote by mail. It was contended that requiring growers to attend and vote in person in some

instances worked a hardship in that some growers had to drive relatively long distances, and others often had conflicting business matters to attend to on the same date as the nomination meeting. It was indicated that if suitable procedures could be worked out for obtaining the names of prospective grower nominees in each district, and presenting such to growers on a ballot to be returned by mail, more growers would participate. It was agreed that greater participation in the grower nominee elections is desirable. A number of suggestions were made as to possible procedures for obtaining the names of candidates and for presenting the names to growers to be voted upon by mail. None of the suggestions were supported by a preponderance of evidence and each appears to require further definition and clarification. Therefore, it would not be practicable at this time to include a set procedure. Alternatively, however, such a procedure could be developed by the committee and recommended to the Secretary for adoption as an administrative rule. This would permit the necessary clarification and development and avoid the problems often associated with an untried, inflexible procedure in the basic provisions of the order, and the necessity of changing such through the process of order amendment. Thus, any needed changes can be effected through rulemaking procedures provided in the Administrative Procedure Act which does not involve a formal hearing.

While it is not certain that mail balloting would increase grower participation in the election of nominees for grower positions on the committee, it appears reasonable that it would do so. It would provide the grower more flexibility in voting, avoid travel hardships, and resolve conflicts with business demands. If for some reason such procedure should not prove successful or desirable, a shift can be made back to nominations at assembled meetings. It is therefore concluded that the order should be amended to authorize mail balloting by growers in election of nominees for grower member positions on the committee, contingent upon establishment through rulemaking of appropriate procedures for the conduct of such elections.

(6) The order should be amended to permit the committee or the committee chairman to request one or more alternate members to attend any or all committee meetings even though the respective member or members are in attendance at the same meeting, and to authorize the committee to pay expenses incurred by alternate members in attending committee meetings or performing other committee duties when such is so requested.

The order does not now specifically provide for reimbursement of an alternate member's expenses incurred in attending committee meetings when the member for whom that person is an alternate attends the same meeting. The evidence of record maintains that at times it is desirable to have both the

member and alternate attend meetings. For example, alternates serve on subcommittees. Later, when the committee is considering a recommendation of a subcommittee, attendance by the alternate members who participated in formulating the recommendation would be desirable. It may be appropriate also for the committee to pay expenses other than those incurred in attending committee meetings, incurred by members or alternates in attending technical training sessions such as the annual California Olive Association's Technical Conference, or similar type activities.

The authority to request attendance of alternate members at committee meetings should not be construed to mean that all alternate members should regularly attend all committee meetings and be reimbursed for expenses relative thereto. The payment of expenses of alternate members for attending meetings or performing service should be limited to those incurred when the attendance or performance of services has been requested by the committee or its chairman.

(7) Current provisions of the order specify that the committee may vote on issues by mail or telegram upon due notice to all members, providing that at least ten affirmative votes, of which at least five shall be grower member and five shall be handler member votes, shall be necessary for a vote to carry, provided that one dissenting vote shall prevent adoption of any proposition when voting is by the foregoing method.

Assembled meetings of the committee are not held according to a set schedule. They are called when the proposition before the committee is such that discussion of the issues is deemed to be necessary. Minor matters can be disposed of through a committee telegram or mail vote when the issues are clearly defined, and a fairly high degree of committee unanimity can be expected. The one dissenting vote rule, however, has hampered the use of this procedure which was intended to expedite decisions on minor matters. There have been a number of occasions when one dissenting vote has prevented adoption of a proposition submitted by mail ballot. This necessitated calling an assembled meeting of the committee. In recent years all propositions submitted to a mail ballot which failed because of one or more dissenting votes, were subsequently passed by the committee at an assembled meeting. It was generally agreed that use of mail balloting by the committee is desirable but should be confined to minor matters, and that such voting should be subject to safeguards to prevent abuse. However, it was also agreed that the one vote veto had proved impractical. It was advanced at the hearing that the order should be amended to require at least 14 affirmative votes, seven of which must be producer votes and seven of which must be handler votes, for adoption of any proposition on the basis of a mail or telegraphic vote, and the one vote veto provision should be deleted. Since there are only eight producer members and

eight handler members, serious concern was expressed that the 14 votes could prove to be more restrictive than the current requirement, i.e., five producer votes and five handler votes, with no dissenting votes. In such event, the use of the mail voting, with its attendant savings in committee meeting costs; to resolve minor administrative questions would be frustrated. Therefore, it is concluded that the amendment should also provide that if the committee finds the 14 affirmative vote requirement too stringent, it may recommend and the Secretary may approve changes in the number of affirmative votes required for a proposition submitted by mail balloting to carry, with the limitation that that number shall not be less than ten affirmative votes, of which five shall be grower member votes and five handler member votes. It is therefore concluded that the order should be amended consistent with the foregoing.

(8) The order should be amended to provide that the committee may levy interest or late payment charges on unpaid assessments. Such charge should be at a rate recommended by the committee and approved by the Secretary. In some instances handlers have not paid assessments on a timely basis. Thus, such handlers have the use of funds due the committee without interest. This is unfair to those handlers who pay their assessments promptly. Currently, the committee bills the handlers on a quarterly basis, with the first two quarters billed on December 1, with a due date of December 15; the third quarter billed on March 1, with a due date of March 15; and the fourth quarter billed on June 1, with a due date of June 15. Any interest or late payment charge levied by the committee should become effective from the day after the customary due date of such assessment.

Late payment of assessments is costly in time and effort on the part of the committee's administrative staff. Furthermore, handlers who do pay promptly are carrying an unfair share of the financial costs of the program for periods of time. An interest or late payment charge at levels approximating commercial rates in the area should discourage delinquencies.

The establishment of an interest rate or late payment charge, or a combination of the two, should be subject to a recommendation by the committee and approval by the Secretary. Any such rate established should continue in effect until such time as the committee recommends and the Secretary approves a change.

(9) Section 932.45 of the order should be amended to authorize the committee to prepare and mail reports on research projects to the Secretary on a timely basis as soon as such projects are completed. The order now requires the committee to prepare and mail such reports annually, as soon as practicable after the close of each crop year. No purpose is served by delaying the submission of such reports. Hence, they should be submitted as soon as they are available,

rather than waiting until after the end of the year. Therefore, the order should be amended accordingly. As in the past, copies of these reports on research projects should also be made available at the committee office for examination by producers, handlers, or other interested persons.

(10) Current provisions of the order provide that no handler shall process any lot of natural condition olives for use in the production of packaged olives which have not been size-graded, either by sample or by lot and classified into separate size designations in accordance with the size designations specified in the U.S. Standards for Grades of Canned Ripe Olives, or such sizes as may be recommended by the committee and established by the Secretary. Such provisions further provide that for purposes of the order two additional size designations set forth therein shall be considered to be included in said designations. The size designations are intended to indicate the value of the olives. Basically, within each given variety group, the larger the olives, the greater the value per ton. The incoming regulations also provide that each handler shall dispose of into non-canning use an aggregate quantity of olives equal to that which is shown on the inspection certificate to be smaller than a specified weight per pound. These minimum weights are specified by variety groups and vary according to the characteristics of the olives in each particular sub-variety group. This disposition provision recognizes that olives smaller than a specified minimum are relatively less desirable for canning as they produce a less satisfying product.

The notice of hearing contained a proposal to provide that the determination as to separate size designations for natural condition olives should at all times be consistent with those contained in the then current U.S. Standards for Grades of Canned Ripe Olives. At the hearing it was contended that it would be illogical to have standards under the order which do not coincide with the U.S. Standards.

However, this appears not to take into account the fact that the order establishes in § 932.51 a disposition obligation which involves sizes that are smaller than those included in the designations specified in the U.S. Standards. Similarly, under current provisions of the order certain sizes of olives which are not authorized for use in the whole or pitted styles of canned ripe olives may be made into the limited use styles. Size grading of a given lot of natural condition olives at the incoming level establishes the size composition of that lot. Thus, the volume of each size designation eligible for use in whole, whole pitted, limited use, and those required to be disposed of into non-canning outlets is determined. No evidence was presented to support a proposition that the provision with respect to size specified as non-canning in the order should be rescinded. Hence, it should be retained. Consequently, the size grading at the incoming level should be sufficient to establish handlers' non-canning obligation. To do so will require the retention

of the designations "Petite" and "Subpetite" now included in the order.

Currently, changes in provisions may be made by amendment of the order, or if authority to do so is provided in the order, through issuance of administrative rules. At the hearing it was maintained that changes in the size designation under the order should be allowed on the basis of a committee recommendation and approval of the Secretary as this would enable the committee to cope with changes in the olive marketing situation more expeditiously. While it has not been implemented heretofore, the present provision of the order does authorize the committee, with approval of the Secretary, to consider the olive situation in the light of the objectives of the order and to recommend such adjustments in size designations for natural condition olives as appear to be warranted by the prevailing circumstances. Such adjustments could be effected by issuance of an administrative rule in accordance with provisions of the Administrative Procedure Act. This procedure allows for input of interested persons during consideration by the committee and the Department. Currently, the order contemplates that any recommendation of the committee with respect to a change in size designations is to be based upon appropriate research and study, the results of which support the recommendation. In view of the objectionable inflexibility which would be introduced into the order by specifying that the size designations applicable to natural condition olives shall at all times be those contained in the U.S. Standards and the desirability of maintaining the committee's prerogatives under the order, it is concluded that the order should continue to provide not only for size designations specified in the U.S. Standards, but such other sizes as may be recommended by the committee and established by the Secretary under the order.

Change in the size designations required under the order could make it desirable to adjust the sizes required to be disposed of for non-canning use. Consequently, the order should be amended to provide for appropriate adjustments, and, in the event that sizes are specified in terms other than weight at some future time as discussed in connection with the proposed amendment of § 932.12, the order should permit the specification of disposition requirements in conformity with such terms. Therefore, it is concluded that the order should be so amended.

(11) Current provisions of the order specify that canned ripe olives (other than those of the tree-ripened type) shall grade at least U.S. Grade C as defined in the then current U.S. Standards for Grades of Canned Ripe Olives, or as modified by the committee with the approval of the Secretary. Such provisions also provide that processed olives for use in the production of whole and whole pitted styles of canned ripe olives shall conform to the size designations of single size or of the blended sizes "Family", "King", or "Royal" as set forth in said

U.S. Standards, but the olives in each varietal group shall be of a size not smaller than a specified size set forth in the order with allowable tolerances. Such provisions provide for modification of grade and changes in the allowable size tolerances, but no changes in the size designations or minimum sizes for outgoing olives are authorized.

The notice of hearing contained a proposal to amend the order to provide that processed olives for use in the production of canned ripe olives, other than those of the tree-ripened type, shall grade at least U.S. Grade C as such is defined in the then current U.S. Standards for Grades of Canned Ripe Olives, and that canned whole and pitted ripe olives, other than those of the tree-ripened type, must at all times conform to the applicable size designations set forth in such standards.

At the hearing it was observed that the U.S. Standards for Grades of Canned Ripe Olives were in the process of being revised. A notice of proposed rulemaking concerning the revision had been published in the FEDERAL REGISTER and the period for filing written comment for consideration in connection with final disposition had expired. It was pointed out that one of the principal objectives of the revision of U.S. Standards was to reduce the ten sizes specified in the current standards to five. According to the record, the size designations and their names in such standards has resulted in considerable criticism, are confusing to consumers and others, and if the designations are changed in the standards, the order should be changed in conformity therewith.

The record contains a considerable amount of speculative comment regarding the possible specifications of the revised standards, and how much specifications might affect the industry. The need for testing size designations differing from those now used was stressed, as was a need to resolve problems associated with pitting olives size graded in a wider size range than at present.

Proponents of the proposal to require size-grades at all times to coincide with those in the U.S. Standards averred that it would be illogical to continue a standard for outgoing olives under the order which might be materially different than that contained in the U.S. Standards. They stressed the desirability of reducing the number of size designations prescribed in the order to the number then expected to be set forth in the revised standards as soon as possible. However, they recognized that conforming the size designations of the order to the standards would require a changeover period during which the new designations of the standards or a modification of them could be tested. To facilitate such changeover they proposed an amendment to the exemption provisions of the order to allow the Secretary to relieve handlers from any or all order requirements for a period of time to allow orderly integration of the new size designations into the order whenever such are changed in the standards. It is observed that the order

contains a provision which permits exemption of olives from any or all order requirements to facilitate marketing research. Such provision contemplates research with control by the committee. However, wholesale exemption from order provisions to effect a changeover from one standard to another would be inconsistent with the purposes of the order which contemplates limitations to effect orderly marketing. From this viewpoint, providing such an exemption would be objectionable.

Concern was expressed over the possibility that persons other than those in the industry could influence specifications of the U.S. Standards to the detriment of the industry, particularly if the order were aligned automatically to the standards as proposed. Opponents of the proposal stated that for this and other reasons it would be preferable to have changes in size designations specified in the outgoing regulations contingent upon a recommendation of the committee with approval by the Secretary. Consistent with this, it was indicated that it would be appropriate to provide that the size designations therein would be those specified in the U.S. Standards or such other sizes as may be recommended by the committee and approved by the Secretary under the order. Thus, it was indicated, an orderly transition could be effected.

Currently, the order specifies twelve single size and three blended size designations for the packing of olives. In addition to the count-per-pound ranges denoting these designations, each such designation has a related name. Currently, the single size designations are Subpetite, Petite, Small (Select or Standard), Medium, Large, Extra Large, Mammoth, Giant, Jumbo, Colossal, Super Colossal, and Special Super Colossal. The blended size designations are Family, King, and Royal. Due to specification of Subpetite and Petite designations and the variations permitted by changes in the tolerances allowed for specified designations under order provisions, the size designations under the order have varied somewhat from those in the U.S. Standards.

The record indicates that changes in the size designations prescribed in the order are desirable to reduce the number of such designations and to relate names to them which are more meaningful. It would likewise appear desirable for the size designations under the order to be as closely aligned with those in the U.S. Standards as practicable. The record does not, however, reveal the specific size designations that would be specified in the revised U.S. Standards, although indications were that they likely would be those which had been proposed. However, one cannot draw a specific conclusion with regard to such size designations on the basis of an assumption.

A further complication is the fact that § 932.52(a)(2)(i-iv) specifies lower size limits by variety groups for canned whole ripe olives and paragraph (a)(3) of this section specifies the same size requirements for the whole pitted style. These requirements are not dealt with in the

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then current U.S. Standards and likely would not be dealt with in the proposed amended standards, and, in the circumstances, it is not possible to assess how such requirements would relate to the standards later issued. Further, in the proposed amended standards some of the names of the size designations would be eliminated. Hence, the absence from the record of revised standards which specify a reduced number of size designations obviously creates a degree of uncertainty in this proceeding. Amendment of the order to provide that the size designations of such revised standards, when and if issued, shall automatically become the size designations under the order would be highly questionable, inasmuch as growers and handlers did not know what the designations would be.

Changes currently are permitted under the order relative to the adjustment of tolerances and to the smaller sizes which may be authorized for limited use (halved, sliced, minced, and similar styles). A number of such changes have been effected in the form of administrative rules based upon recommendations of the committee and approval of the Secretary. This has proved an appropriate means of effecting such changes, and such method could be used to effect changes in the size designations under the order if such were authorized by order provisions. This method could provide for an orderly transition from one standard to another, and would avoid the problems involved in effecting a change when objectionable features are found in the standards and it would not require exemption while modification relative to new U.S. Standards could be effected. It would permit adoption of the size designations of the amended U.S. Standards or appropriate modifications thereof. It is therefore concluded that the order should be amended to provide that the size designations under the order should be those contained in the U.S. Standards, or appropriate modifications thereof, as recommended by the committee and approved by the Secretary as hereinafter set forth.

With respect to grades for canned ripe olives, § 932.52(a)(1) of the order currently provides that no handler shall use processed olives in the production of packaged olives or ship such packaged olives unless they grade at least U.S. Grade C, as such grade is defined in the then current U.S. Standards for Grades of Canned Ripe Olives, or as modified by the committee with the approval of the Secretary. In other words, the minimum grade for canned ripe olives is at all times U.S. Grade C, but authority is provided to modify that standard for marketing order purposes by means of rule-making. This authority to modify grade requirements has been utilized in the past by the committee, and resulting modifications are contained in § 932.149 of the rules and regulations. As previously noted, the notice of hearing included a proposal to amend the order to require that canned ripe olives grade at least U.S. Grade C, as such grade is defined in the then current U.S. Standards

for Grades of Canned Ripe Olives. As proposed, authority for the committee to modify, with the approval of the Secretary, such grade requirement would no longer be included in the order. No specific testimony was offered regarding amending the order to remove the authority which permits the committee to recommend modification of such minimum grade under the order.

In the circumstances, it appears that the current provisions of the order with respect to the minimum grade are appropriate, and it is concluded that no change should be made in such provisions.

(12) Some of the amendments to the order recommended for adoption make it necessary that a minor conforming change be made in § 932.52(a)(6) of the order. This subparagraph provides that size designations used in the outgoing regulations (§ 932.52) mean the same as those designations used in the incoming regulations (§ 932.51) and the provision currently includes a parenthetical phrase, "(mammoth, extra large, medium, etc.)". Changes in the descriptive terms used to designate olive sizes in the U.S. Standards for Grades of Canned Ripe Olives or in such terms used for marketing order purposes could result in different terms, thus making any reference to size designations in this subparagraph obsolete. Therefore, deletion of the parenthetical phrase in § 932.52(a)(6) is recommended.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed June 8, 1977, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing.

Briefs and proposed findings and conclusions were filed on behalf of certain interested persons. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth herein. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed;

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of olives grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, and as hereby proposed to be further amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) The marketing agreement and order prescribe, so far as practicable, such different terms applicable to different parts of the production area as are necessary to give due recognition to the difference in the production and marketing of olives grown in the production area; and

(6) All handling of olives grown in the production area as defined in the marketing agreement and order, as amended, and as hereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended amendment of the marketing agreement and order. The following amendment of the marketing agreement and order, as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. Section 932.12 is revised to read:

§ 932.12 Size.

"Size" means the number of whole olives contained in a pound and may be referred to in terms of size ranges: *Provided*, That, upon recommendation of the committee and approval of the Secretary, size may be specified in terms of weight, diameter, volume, length, or combinations thereof, of individual olives.

2. Section 932.18 is revised to read:

§ 932.18 Committee.

"Committee" means the California Olive Committee established pursuant to § 932.25.

3. Section 932.23a is revised to read:

§ 932.23a Limited use.

"Limited use" means the use of processed olives in the production of packaged olives of the halved, segmented, sliced, chopped, or minced styles, as defined in the then current U.S. Standards for Grades of Canned Ripe Olives, including modifications of the requirements for such styles under this part, and such additional styles (and the requirements applicable thereto) as may be specified pursuant to § 932.52(a)(7).

4. The center heading appearing between §§ 932.24 and 932.25 is revised to read:

CALIFORNIA OLIVE COMMITTEE

5. Section 932.25 is revised to read:

§ 932.25 Establishment and membership.

A California Olive Committee consisting of 16 members, with an alternate for each such member who shall have the same qualifications as the member for whom he is an alternate, is hereby established to administer the terms and provisions of this part. Eight of the members and their alternates shall be producers or officers or employees of producers, and eight of the members and their alternates shall be handlers or directors, officers, or employees of handlers. The eight members of the committee who are producers or officers or employees of producers are referred to in this subpart as "producer members" of the committee; and the eight members of the committee who are handlers or directors, officers, or employees of handlers are referred to in this subpart as "handler members" of the committee. In addition, there may be a "public member" and an alternate who shall not be a producer or handler nor an officer or employee or director of any producer or handler. District representation of the producer members shall be two from District 1, four from District 2, and two from District 3. Allocation of the handler members shall be four members to represent cooperative marketing organizations, herein referred to as "cooperative handlers", and four members to represent handlers who are not cooperative marketing organizations, herein referred to as "independent handlers": *Provided*, That whenever during the crop year in which nominations are made and in the preceding crop year, the cooperative handlers or the independent handlers, handled as first handler 65 percent or more of the total quantity of olives so handled by all handlers, allocation shall be five members to represent the group which so handled 65 percent or more of such olives and three members to represent the group which handled 35 percent or less. The public member or alternate public member shall be selected from any place within the area. The committee may, with the approval of the Secretary, provide such other allocation of producer or handler membership, or both, as may be necessary to assure equitable representation.

6. Section 932.28 is revised to read:

§ 932.28 Eligibility.

Each producer member of the committee shall, at the time of his selection and during his term of office, be a producer in the district for which selected and, except for producers who are members of cooperative handlers, shall not be engaged in the handling of olives either in a proprietary capacity, or as a director, officer, or employee of a handler. Each handler member of the committee shall, at the time of his selection and during his term of office, be a handler in the group he represents or a director, officer, or employee of such

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handler. Each public member and alternate public member of the committee shall at the time of selection and during the term of office not be engaged in the commercial production, marketing, buying, grading, or processing of any agricultural product nor shall such member or alternate be an officer, director, member, or employee of any firm engaged in such activities.

7. Section 932.29 is amended by revising paragraph (a), and adding a new paragraph (c), to read:

§ 932.29 Nominations.

(a) *Producer members.* (1) Nominations for producer members of the committee, and their respective alternates, shall be made at meetings of producers held by the committee at such times and places as it shall designate. The names of nominees shall be submitted to the Secretary prior to April 16 of the year in which nominations are made. The committee shall prescribe such procedure for the conduct of such meetings and voting on the candidates selected thereat as shall be fair to all persons concerned. In lieu of meetings for the purpose of nominating producer members of the committee, such nominations may be made by means of mail balloting. Prior to conducting producer nominations by mail balloting, the committee shall adopt, with approval of the Secretary, appropriate procedures to be observed.

(2) Only producers, including duly authorized officers or employees of producers, who are present shall participate in the nomination of producer members and alternate members when nominations are made at meetings. Each producer in attendance shall be entitled to cast only one vote, regardless of the number of business units he may represent, for each nominee to be selected in the district in which he produces olives. No producer shall participate in the selection of nominees in more than one district. If a producer produces olives in more than one district, he shall select the district in which he will so participate and notify the committee of his choice.

(b) . . .

(c) *Public member.* (1) Nominations for public member and alternate public member of the committee shall be made at a meeting called by the committee. The names of the nominees shall be submitted to the Secretary prior to April 16 of the year in which nominations are made. The committee shall prescribe such procedure for the selection and voting for each candidate as shall be fair to all persons concerned.

8. Section 932.30 is revised to read:

§ 932.30 Alternates.

An alternate for a member of the committee shall act in the place and stead of such member (a) during his absence, and (b) in the event of his removal, resignation, disqualification, or death, until a successor for such member's unexpired term has been selected and has

qualified. Except as otherwise specifically provided in this subpart, the provisions of this part applicable to members also apply to alternate members. The committee or the chairman of the committee may request one or more alternates to attend any or all meetings notwithstanding the expected or actual attendance of the respective member.

9. Section 932.36 is revised to read:

§ 932.36 Procedure.

Decisions of the committee shall be by majority vote of the members present and voting and a quorum must be present: *Provided*, That decisions requiring a recommendation to the Secretary on matters pertaining to grade or size regulations shall require at least five affirmative votes from producer members and five affirmative votes from handler members. A quorum shall consist of at least ten members of whom at least five shall be producer members and at least five shall be handler members. Except in case of an emergency, a minimum of five days advance notice shall be given with respect to any meeting of the committee. In case of an emergency, to be determined within the discretion of the chairman of the committee, as much advance notice of a meeting as is practicable in the circumstances shall be given. The committee may vote by mail or telegram upon due notice to all members, but any proposition to be so voted upon first shall be explained accurately, fully, and identically by mail or telegram to all members. When voted on by such method, at least 14 affirmative votes, of which seven shall be producer member votes and seven shall be handler member votes, shall be required for adoption. The committee may recommend and the Secretary may approve changes in the number of affirmative votes required for adoption of any proposition voted upon by means of a mail ballot: *Provided*, That the number of affirmative votes required for adoption shall not be less than ten, of which five shall be producer member votes and five shall be handler member votes.

10. Section 932.37 is revised to read:

§ 932.37 Compensation and expenses.

The members of the committee, and alternates when acting as members, shall serve without compensation; but they shall be reimbursed for necessary expenses, as approved by the committee, incurred by them in the performance of their duties under this part. An alternate member shall be reimbursed for necessary expenses, as approved by the committee, incurred in attending committee meetings at the request of the committee or its chairman, notwithstanding that the committee member for whom he serves as alternate also attends such meeting, and for performing other committee business at the request of the committee or its chairman.

11. Section 932.39 is revised by adding a new paragraph (c) which reads as follows:

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§ 932.39 Assessments.

(c) Any assessment not paid by a handler within a period of time prescribed by the committee may be subject to an interest or late payment charge, or both. The period of time, rate of interest, and late payment charge shall be as recommended by the committee and approved by the Secretary. Subsequent to such approval, all assessments not paid within the period of time prescribed shall be subject to the interest or late payment charge, or both.

12. Section 932.45(e) is revised to read as follows:

§ 932.45 Production research, and marketing research and development projects.

(e) The committee shall, as soon as practicable, prepare and mail reports on current production research and marketing research and development projects to the Secretary and make a copy of such reports available at the committee office for examination by producers, handlers, or other interested persons.

13. Section 932.51(a)(1) is amended to read as follows:

§ 932.51 Incoming regulations.

(a) *Minimum standards for natural condition olives.* (1) Except as otherwise provided in this section, no handler shall process any lot of natural condition olives for use in the production of packaged olives which has not first been:

(i) Weighed on scales sealed by the State of California Department of Weights and Measures, an official certified weight certificate issued thereon, and a copy of such certificate furnished to the Federal or Federal-State Inspection Service and the committee; and

(ii) Size-graded, either by sample or by lot, under the supervision of any such inspection service and classified into separate size designations and a certification issued with respect thereto by such inspection service. Such size designations shall be in accordance with those set forth in the then current U.S. Standards for Grades of Canned Ripe Olives or such modifications thereof as may be recommended by the committee and approved by the Secretary: *Provided*, That, for the purpose of this section, the size designations in said standards shall be deemed to include the following two additional size designations:

Designation(s)	Approximate count (per pound)	Average count (per pound)
Subpetite.....	151 and up.	
Petite.....	180 141 to 180, inclusive.	

Such certification shall show, in addition to the quantities by weight of the olives in the lot that are classified as being in each size or size designation, the quantity of olives classified as culls by the handler: *Provided*, That when the Secretary, upon the recommendation of the committee, issues a definition of and

classification for "culls", the aforesaid quantity of culls shall be determined on the basis of such definition and in accordance with such classification.

14. Section 932.52 is revised to read:

§ 932.52 Outgoing regulations.

(a) *Minimum standards for packaged olives.* No handler shall use processed olives in the production of packaged olives or ship such packaged olives unless they have first been inspected as required pursuant to § 932.53 and meet each of the following applicable requirements:

(1) Canned ripe olives, other than those of the "tree-ripened" type, shall grade at least U.S. Grade C, as such grade is defined in the then current U.S. Standards for Grades of Canned Ripe Olives or as modified by the committee, with the approval of the Secretary for purposes of this part.

(2) Canned whole ripe olives, other than those of the "tree-ripened" type, shall conform to the size designations set forth in the then current U.S. Standards for Grades of Canned Ripe Olives, or such other sizes by variety or variety group as may be recommended by the committee and approved by the Secretary.

(3) Subject to the provisions set forth in subparagraph (4) of this paragraph, processed olives to be used in the production of canned pitted ripe olives, other than those of the "tree-ripened" type, shall meet the same size requirements as prescribed pursuant to subparagraph (2) of this paragraph. Olives smaller than those so prescribed, as recommended by the committee and approved by the Secretary, may be authorized, including authorization by variety or variety groups, for limited use. Each such minimum size may also include a size tolerance (specified as a percent) as recommended by the committee and approved by the Secretary.

(4) The Secretary may, upon recommendation of the committee, restrict the total quantity of limited use size olives for limited use during any crop year. Such restricted quantity shall be apportioned among the handlers by applying a percentage established annually by the Secretary upon recommendation by the committee, to each handler's total receipts of limited use olives during such crop year.

(5) Canned ripe olives of the "tree-ripened" type and green olives shall meet such grade, size, and pack requirements as may be established by the Secretary based upon the recommendation of the committee or other available information.

(6) The size designations used in this section mean the size designations described in paragraph (a)(1)(ii) of § 932.51.

(7) For the purposes of this part the committee may, with the approval of the Secretary, specify the styles of olives, including the requirements with respect thereto, for limited use.

Signed at Washington, D.C. on October 7, 1977.

IRVING W. THOMAS,
Acting Administrator.

[FR Doc.77-29944 Filed 10-12-77; 8:45 am]

[4910-13]

DEPARTMENT OF
TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 77-GL-20]

GENERAL ELECTRIC CORP. CF6-6D
AND CF6-6D1 ENGINES

Proposed Airworthiness Directives

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) which would require modification of the 11-13 Stage Compressor Spool, Part Number (P/N) 9021M66 (all assembly part numbers) with General Electric Service Bulletin 72-682. This proposed AD is needed to prevent possible 13th stage rim failures due to fatigue failure. There have been seven failures of the 13th stage rim; three were uncontained, two of which resulted in under cowl oil fires.

DATES: Comments must be received on or before December 5, 1977.

ADDRESSES: Send comments on the proposal in duplicate to:

Federal Aviation Administration, Office of the Regional Counsel, Attention: Rules Docket (AGL-7), Docket No. 77-GL-20, 2300 East Devon Avenue, Des Plaines, Ill. 60018.

The applicable General Electric Service Bulletin 72-682 may be obtained from:

General Electric Co., Cincinnati, Ohio 45215.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Ill. 60018; and at the Rules Docket, Room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

M. Mixell, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 E. Devon Avenue, Des Plaines, Ill. 60018. Telephone 312-694-4500, extension 309.

SUPPLEMENTARY INFORMATION: There have been seven failures of the 13th stage rim, three of which were uncontained; two of these resulted in under cowl oil fires. Rim failures occur when a segment of the rim which has developed a fatigue crack extending between several bolt holes fails due to tensile overload. The fatigue crack is initiated by

fretting in the bolt holes of the 13th stage disc from contact with the bolts. This problem is not life related and has not been established as being related to maintenance or operating procedures.

Since this condition is likely to exist or develop in other engines of the same type design, the proposed airworthiness directive would require installation of bushings in the disc bolt holes in accordance with General Electric Service Bulletin 72-682 to prevent fretting and subsequently, high stress concentrations in the disc bolt holes.

Although failure mode and effect are known and suitable corrective action is available, specific details of the problem such as crack propagation rate, can only be estimated at this time. Accordingly, the ultrasonic inspection outlined in General Electric Service Bulletin 72-673 is not considered an adequate compliance action and is therefore not included in this proposal. When the crack propagation rate is determined, consideration will be given to revising the requirements of this proposal.

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, an evaluation of the anticipated impacts has been made and it is expected within a normal range of pertinent considerations the proposal will be neither costly or controversial.

DRAFTING INFORMATION

The principal authors of this document are M. Mixell, Flight Standards Division, Great Lakes Region, and J. Brennan, Office of the Regional Counsel, Great Lakes Region.

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

GENERAL ELECTRIC. Applies to CF6-6D and CF6-6D1 engines installed in aircraft certificated in all categories.

To prevent failure of the 11-13 Stage Compressor Spool, P/N 9021M66 (all assembly part numbers), thirteen stage rim modify the 11-13 Spool in accordance with General Electric Service Bulletin 72-682 not later than June 30, 1979.

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The manufacturer's specifications and procedures identified in this directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 553(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to General Electric Co., Cincinnati, Ohio 45215. These documents may also be examined at the Great Lakes Regional Office, 2300 East Devon Avenue, Des Plaines, Ill. 60018, and at FAA Headquarters, 800 Independence Avenue SW., Washington, D.C. 20591. A historical file of this airworthiness directive which includes incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and at the Great Lakes Region.

(Secs. 313(a), 601, 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, 1423); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.89.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on June 19, 1967.

Issued in Des Plaines, Ill., on September 30, 1977.

LEON C. DAUGHERTY,
Acting Director,
Great Lakes Region.

[FR Doc.77-29752 Filed 10-12-77; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-27]

FEDERAL AIRWAYS

Proposed Alteration and Extension; Withdrawal of Notice of Proposed Rulemaking

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The notice of proposed rulemaking (NPRM) concerning alteration and extension of airways in the San Antonio, Tex., area is withdrawn to permit its consolidation with additional proposed airway changes in a subsequent airspace docket.

DATES: October 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Ave. SW., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: On August 4, 1977, the FAA published for comment a proposal to alter several

airways in the San Antonio, Tex., area. Subsequent to the publication of this NPRM, additional airway changes have been planned which would affect some of the airway changes proposed in this docket. For this reason, it is advisable to include all of the proposed airway changes in this area in a single docket and to withdraw Airspace Docket No. 77-SW-27.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

WITHDRAWAL OF THE PROPOSAL

Accordingly, pursuant to the authority delegated to me by the Administrator, Airspace Docket No. 77-SW-27, notice of proposed rulemaking, (42 FR 39401), is hereby withdrawn.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) and 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on October 5, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc.77-29911 Filed 10-12-77; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 77-WA-14]

FEDERAL AIRWAY

Proposed Alteration; Withdrawal of Notice of Proposed Rule Making

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: The notice of proposed rulemaking (NPRM) concerning alteration of V-222 airway between Junction, Tex., and Industry, Tex., is withdrawn to permit its consolidation with additional proposed airway changes in a subsequent airspace docket.

DATES: Effective October 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Everett L. McKisson, Airspace Regulations Branch (AAT-230), Air Air Traffic Service, Federal Aviation Administration, 800 Independence Ave. S.W., Washington, D.C. 20591, telephone 202-426-3715.

SUPPLEMENTARY INFORMATION: On August 18, 1977, the FAA published for comment a proposal to realign a segment of V-222 between Junction, Tex., and Industry, Tex., to bypass the San Antonio, Tex., terminal. Subsequent to

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the publication of this NPRM, additional airway changes have been planned which would affect the route proposed in this airspace docket. For this reason, it is advisable to include the proposed change to V-222 in a single docket with other proposed airway changes in the San Antonio area and to withdraw Airspace Docket 77-WA-14.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Jack P. Zimmerman, Office of the Chief Counsel.

WITHDRAWAL OF THE PROPOSAL

Accordingly, pursuant to the authority delegated to me by the Administrator, Airspace Docket No. 77-WA-14, notice of proposed rule making, (42 FR 41648), is hereby withdrawn.

(Secs. 307(a), 313(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a) 1354(a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C. on October 5, 1977.

WILLIAM E. BROADWATER,
Chief, Airspace and Air
Traffic Rules Division.

[FR Doc. 77-29912 Filed 10-12-77; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-43]

TRANSITION AREA

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the Bay City, Tex., transition area to provide controlled airspace for aircraft executing the new NDB instrument approach procedure to the Bay City Municipal Airport,¹ using the newly established NDB located on the airport.

DATES: Comments must be received on or before November 14, 1977.

ADDRESSES: Send comments on the proposal to:

Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101.

The official docket may be examined at the following location:

Office of the Regional Counsel, Southwest Region, Federal Aviation Admin-

istration, 4400 Blue Mound Road, Fort Worth, Tex. 76106.

An informal docket may be examined at the Office of the Chief, Airspace and Procedures Branch, Air Traffic Division.

FOR FURTHER INFORMATION CONTACT:

John A. Jarrell, Airspace and Procedures Branch (ASW-535), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. Telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart G § 71.181 (42 FR 440) of FAR Part 71, the description of the Bay City, Tex., transition area reflects the controlled airspace provided for the present instrument approach procedure to the Bay City Municipal Airport. The new NDB instrument approach procedure will require alteration of the transition area to provide the necessary controlled airspace for this procedure.

COMMENTS INVITED

Interested persons may submit such written data, views, or arguments as they may desire. Communications should be submitted in triplicate to Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. 1689, Fort Worth, Tex. 76101. All communications received on or before November 14, 1977, will be considered before action is taken on the proposed amendment. No public hearing is contemplated at this time, but arrangements for informal conferences with Federal Aviation Administration officials may be made by contacting the Chief, Airspace and Procedures Branch. Any data, views, or arguments presented during such conferences must also be submitted in writing in accordance with this notice in order to become part of the record for consideration. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Chief, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101, or by calling 817-624-4911, extension 302. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should contact the office listed above.

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71)

¹ Map filed as part of original.

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[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21410; RM-2935]

FM BROADCAST STATION IN ALEXANDRIA, IND.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first FM channel to Alexandria, Indiana. Petitioner, Triplett Broadcasting Co., Inc., states that the proposed station would provide a vehicle for local advertising as well as public service, local news and entertainment programming.

DATES: Comments must be received on or before November 18, 1977, and reply comments must be received on or before December 8, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: October 4, 1977.

Released: October 7, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Alexandria, Ind.), Docket No. 21410, RM-2935.

1. Petitioner, proposal and comments. (a) Petition for rule making, filed July 25, 1977, by Triplett Broadcasting Co., Inc. ("petitioner"), proposing the assignment of Channel 244A to Alexandria, Indiana, as a first FM assignment to that community.

(b) The channel could be assigned in conformity with the minimum distance separation requirements with the transmitter site located 8 kilometers (5 miles) west of the community.

(c) Petitioner states that it is ready to file an application for the channel, if assigned.

2. Community Data—(a) Location. Alexandria, in Madison County, is located approximately 29 kilometers (18 miles) northwest of Muncie, Indiana.

(b) Population. Alexandria, 5,600; Madison County, 138,451.²

(c) Local Broadcast Service. Alexandria has no local aural broadcast service.

¹ Public Notice of the petition was given on August 12, 1977, Report No. 1070.

² Population figures are taken from the 1970 U.S. Census.

to alter the Bay City, Tex., transition area. The FAA believes this action will enhance IFR operations at the Bay City Municipal Airport by providing controlled airspace for aircraft executing instrument approach procedures established for the airport. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1977 (42 FR 440).

DRAFTING INFORMATION

The principal authors of this document are John A. Jarrell, Airspace and Procedures Branch, and Robert C. Nelson, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) by altering the Bay City, Tex., transition area as follows:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bay City Municipal Airport (28°58'23" N. latitude, 85°51'48" W. longitude) and within 3.5 miles either side of the 313° bearing from the NDB extending from the 5-mile radius to 11.5 miles northwest of the airport.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348 (a)); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

NOTE.—The FAA has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Fort Worth, Tex., on September 30, 1977.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 77-29753 Filed 10-12-77; 8:45 am]

[1505-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1930]

[Docket No. R-77-466]

FEDERAL CRIME INSURANCE PROGRAM Offer To Pay Finders Fee to Property and Life Insurance Agents, Brokers, and Certain Nonprofit Corporations and Organizations

Correction

In FR Doc. 77-29339 appearing in the issue of Thursday, October 6, 1977 on page 54432, the title and the signature at the end of the document on page 54434 should read as follows:

"JAY JANIS,
Under Secretary of
Housing and Urban Development."

PROPOSED RULES

3. *Economic data.* Petitioner states that Alexandria is located at the hub of Indiana's best farming area and has experienced a population growth of over 21 percent since 1970. It has submitted detailed social, economic and historical information to demonstrate the need for a first local broadcast service in Alexandria. Petitioner asserts that the proposed station would provide a vehicle for local advertising as well as public service, local news and entertainment programming.

4. In light of the above information and the fact that this request would provide the community with its first local full-time aural broadcast service, we believe consideration of the proposal to assign Channel 244A to Alexandria, Indiana, in a rulemaking proceeding is warranted.

5. Comments are invited on a proposal to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, for the community listed below:

City	Channel No.	
	Present	Proposed
Alexandria, Ind.		244A

6. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

7. Interested parties may file comments on or before November 18, 1977, and reply comments on or before December 8, 1977.

FEDERAL COMMUNICATIONS
COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b) (6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 77-29895 Filed 10-12-77; 8:45 am]

[6712-01]

[47 CFR Part 73]

[Docket No. 21412; RM-2902]

FM BROADCAST STATION IN ELIZABETH CITY, N.C.

Proposed Changes in Table of Assignments
AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a second FM channel to Elizabeth City, North Carolina. Petitioner, Campbell Broadcasting, Inc., states a second FM service, representing a second nighttime aural service, would be provided to a substantial area.

DATES: Comments must be filed on or before November 18, 1977, and reply comments must be filed on or before December 8, 1977.

ADDRESS: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: October 4, 1977.

Released: October 7, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Elizabeth City, N.C.), Docket No. 21412, RM-2902.

1. *Petitioner, proposal and comments.* (a) Petition for rulemaking, filed May 27, 1977, by Campbell Broadcasting, Inc. ("petitioner"), licensee of AM Station WGAI, Elizabeth City, North Carolina, proposing the assignment of Channel 244A to Elizabeth City as its second FM assignment.

(b) The channel may be assigned without affecting any existing FM assignments in the Table. There were no oppositions to the proposal.

(c) Petitioner states that it proposes to file immediately an application for the channel, if assigned.

2. *Community Data—(a) Location.* Elizabeth City, seat of Pasquotank County, is located approximately 64 kilometers (40 miles) south of Norfolk, Virginia.

(b) *Population.* Elizabeth City, 14,069; Pasquotank County, 25,824.²

(c) *Local broadcast service.* Elizabeth City is presently served by Class C FM Station WMYK on Channel 229; full-time AM Station WCNC, and full-time AM Station WGAI, which is licensed to petitioner.

(d) *Economic considerations.* Petitioner states that Elizabeth City's population increased between 1960 and 1970 and has experienced a steadily growing economy in recent years. We are told that agriculture has been the mainstay of the area's economy, the principal crops being soy beans, potatoes, and grain corn. It points out that Elizabeth City has become an increasingly popular tourism site, producing revenues of approximately five million dollars for the area in 1976.

3. *Preclusion studies.* Petitioner's engineering study showed that the only significant area of preclusion that would result from the proposed assignment would be on the co-channel. However, this area contains no communities of over 1,000 population. Petitioner states that no first FM service would be provided by the proposed assignment, but that second FM service would be provided to 1,824 persons in an area of 130 square kilometers.

¹ Public Notice was given of the petition on June 15, 1977 (Report No. 1053).

² Population figures are taken from the 1970 U.S. Census.

(50 square miles). It states that the second FM service would represent a second nighttime aural service.

4. *Additional considerations.* The proposed assignment would result in intermixing a Class A channel with a Class C channel. The Commission has a policy against intermixture of classes of FM channels, but an exception can be made when a Class C channel is unavailable and a petitioner is willing to apply for the channel in spite of the intermixture situation. Yakima, Wash., 45 F.C.C. 2d 548, 550 (1973); Key West, Fla., 45 F.C.C. 2d 142, 145 (1974). Since petitioner is willing to apply for and operate on Channel 244A at Elizabeth City, this assignment could be made.

5. In view of the above, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, with regard to Elizabeth City, North Carolina, as follows:

City	Channel Nos.	
	Present	Proposed
Elizabeth City, N.C.	229	229, 244A

6. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

7. Interested parties may file comments on or before November 18, 1977, and reply comments on or before December 8, 1977.

FEDERAL COMMUNICATIONS
COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.81(b) (6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply

comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 77-29896 Filed 10-12-77; 8:45 am]

[6712-01]

[47 CFR Part 73]

[Docket No. 21411; RM-2879; RM-2914]

FM BROADCAST STATIONS IN LOS BANOS AND DENAIR, CALIFORNIA

Proposed Changes in Table of Assignments
AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action herein substitution of a Class B channel for a Class A channel in Los Banos, California, and the assignment of a first Class A channel to Denair, California. Petitioner, John R. McAdam, states that he would be able to provide service to the increasing number of residents in the western portion of Merced County if he were permitted to operate on a Class B frequency. Petitioner, Denair Broadcasting Company, states that the proposed Class A channel for Denair would provide that community with its first full-time local aural broadcast service.

PROPOSED RULES

DATES: Comments must be filed on or before November 18, 1977, and reply comments on or before December 8, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau, (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: October 4, 1977.

Released: October 7, 1977.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Los Banos and Denair, Calif.), Docket No. 21411, RM-2879, RM-2914.

1. *Petitioner, proposals and comments.* (a) Notice of Proposed Rule Making is hereby given concerning amendment of the FM Table of Assignments (§ 73.202 (b) of the Commission's rules) as it relates to Los Banos and Denair, Calif.

(b) Petition for rule making¹ was filed on behalf of John R. McAdam ("KLBS"), licensee of Stations KLBS and KLBS-FM, Los Banos, California, proposing the substitution there of Class B Channel 284 for Channel 240A and modification of its license to specify operation on the new channel.

(c) A counterproposal² was filed by Denair Broadcasting Company ("DBC"), proposing the assignment of Channel 285A to Denair, Calif. The spacing requirements of the Commission's rules would preclude making both proposed assignments.

(d) On June 28, 1977, KLBS amended its petition by proposing, in addition to the substitution of assignments at Los Banos, the assignment of Channel 240A rather than Channel 285A at Denair, Calif.

(e) Both KLBS and DBC state they will apply for their respective channels, if assigned, and proceed at once to construct a station, if authorized.

2. *Demographic data—(a) Location.* Los Banos, in Merced County, is located approximately 161 kilometers (100 miles) southeast of San Francisco. Denair, an unincorporated community, in Stanislaus County, is situated 144 kilometers (90 miles) east of San Francisco.

(b) *Population.* Los Banos, 9,188; Merced County, 104,629; Denair, 1,128; Stanislaus County, 194,506.³

(c) *Local broadcast service.* Los Banos is presently served by one daytime-only AM Station (KLBS) and one FM station (KLBS-FM, Channel 240A), both licensed to petitioner John R. McAdam. Denair has no local aural broadcast service.

(d) *Economic considerations.* DBC states that Denair and the Stanislaus

¹ Public Notice was given of the petition on May 9, 1977 (Report No. 1044).

² Public Notice was given of the counterproposal on June 28, 1977 (Report No. 1058).

³ Population figures are taken from the 1970 U.S. Census.

PROPOSED RULES

County area are known for their agriculture and light industry. It points out that, although Denair is an unincorporated community, it has its own schools, chamber of commerce, fire department and shopping center.

3. KLBS states that farming is the largest activity in the Los Banos area with Merced County recording \$394 million in farming receipts in 1975, a 10 percent increase since 1974. It notes that livestock and related products accounted for 46 percent of the county's farming receipts in 1975. Further it states that processing, packaging, warehousing, and shipping of farm products also play an important part in the county's economy.

4. *Preclusion studies.* No preclusion study is required for Denair since the proposal is for a first FM assignment. Four communities (Merced, pop. 22,670; Atwater, pop. 11,640; Lone Pine, pop. 1,800 and Bishop, pop. 3,498), would be precluded as a result of the assignment of Channel 284 to Los Banos. Merced has two FM stations and two AM stations, one full-time and one daytime-only; Bishop has one FM and one full-time AM station; Lone Pine has no local aural broadcast service; and Atwater, which is 11 kilometers (7 miles) from Merced, also has no local service.

5. *Additional considerations.* KLBS states that, if it is to fulfill its obligation of providing service to the increasing number of residents of the western portion of Merced County, it must be permitted to operate on a Class B frequency. KLBS has submitted a showing of first and second FM service which would be provided. However, this showing utilized contours based on presently authorized power. Petitioner is requested to submit a proper Roanoke Rapids¹ showing based on a Class B station operating at Los Banos with KLB's proposed maximum facilities (50 kilowatts and 152 meters (500 feet) AAT), existing stations operating with reasonable facilities or greater in the event the station is already authorized greater facilities, and all unoccupied assignments in the area operating with reasonable facilities values. The above showing should include the extent of nighttime service provided by standard broadcast stations, so that it would be possible to see whether first and second aural service would be provided—see Anamosa-Iowa City, Iowa, 40 F.C.C. 2d 250 (1974). Petitioner KLBS should also show whether there are any alternate channels available for Lone Pine and Atwater.

6. DBC's counterproposal requests the assignment of Channel 285A to Denair, California, which is mutually exclusive with KLBS's proposal of Channel 284 to Los Banos (there is a 55 kilometer (34 mile) separation, whereas 105 kilometers (65 miles) is required). However, in its amended petition, KLBS states that its consulting engineer has studied DBC's counterproposal and has determined

that Channel 240A, presently assigned to KLBS-FM, could be assigned to Denair in conformity with the minimum distance separation requirements.

7. By deleting Channel 240A from Los Banos and assigning it to Denair, it would be possible to assign Class B Channel 284 to Los Banos. In the event Channel 284 is not assigned to Los Banos, Channel 285A could be assigned to Denair. Channels 284 and 240A could be assigned to Los Banos and Denair, respectively, in conformity with the minimum distance separation requirements, provided the transmitter site of Channel 284 is located approximately 8 kilometers (5 miles) southeast of Los Banos.

8. Regarding modification of KLBS-FM's license to Channel 284 if assigned, the Commission's policy, as expressed in Cheyenne, Wyoming, 62 F.C.C. 2d 63 (1976), is that the public interest is best served where other interested parties are afforded an opportunity to apply for such a Class B channel, newly assigned to a community. However, in the absence of such interest, the license could be modified. Since no person has yet expressed an interest in the proposed assignment of Channel 284 to Los Banos, we are proposing to modify the license of Station KLBS-FM. Should an opposition to the proposed modification, together with a proper expression of interest, be submitted in comments, appropriate consideration will be afforded to any competing application for the channel, if assigned. KLBS should indicate whether it would wish to pursue its proposal if such interest were expressed.

9. An Order to Show Cause to the petitioner will not be issued since assent of the licensee of the station whose authorization is to be modified is clearly indicated by its request for the rule making proceeding.

10. In view of the above, the Commission proposes to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules) with regard to the cities listed below as follows:

City	Channel No.	
	Present	Proposed
Denair, Calif.		240A
Los Banos, Calif.	240A	284
or		
Denair, Calif.		285A
Los Banos, Calif.	240A	210A

11. The Commission's authority to institute rulemaking proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

12. Interested parties may file comments on or before November 18, 1977, and reply comments on or before December 8, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

¹ Roanoke Rapids-Goldsboro, N.C., 9 F.C.C. 2d 672 (1967).

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), 307(b), and 316 of the Communications Act of 1934, as amended, and § 0.281(b) (6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420 (d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs; or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, NW., Washington, D.C.

[FR Doc.77-29889 Filed 10-12-77; 8:45 am]

[6712-01]

[47 CFR Part 73]

[Docket No. 21413; RM-2934]

FM BROADCAST STATION IN STONINGTON, CONN.

Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a first FM channel to Stonington, Conn. Petitioner, Blackmore Broadcasting, states that the proposed FM station would provide the community with a first full-time local aural broadcast service.

DATES: Comments must be filed on or before November 18, 1977, and reply comments must be filed on or before December 8, 1977.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: October 4, 1977.

Released: October 6, 1977.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Stonington, Conn.), Docket No. 21413, RM-2934.

1. *Petitioner, Proposal and Comments.* (a) Petition for rulemaking, filed July 25, 1977, by Blackmore Broadcasting ("petitioner"), proposing the assignment of Channel 272A as a first FM assignment to Stonington, Conn.

(b) The channel could be assigned in conformity with our minimum distance separation requirements. No responses to the petition were received.

(c) Petitioner states that, if the channel is assigned, it will inaugurate a first local broadcast voice in Stonington at the earliest possible date.

2. *Community Data.*—(a) *Location.* Stonington, in New London County, is located on the southeastern Connecticut shoreline.

(b) *Population.* Stonington—15,940; New London County—230,348.²

(c) *Local Broadcast Service.* There is no local broadcast service in Stonington.

3. *Economic Data.* Petitioner has furnished sufficient information regarding social and economic factors which demonstrates Stonington's need for an FM channel assignment. It appears that tourism plays an important role in the area's economy in addition to the usual industrial and retail activities. Petitioner notes that, according to the Town Plan-

¹ Public Notice of the petition was given on August 8, 1977, Report No. 1069.

² Population figures are taken from the 1970 U.S. Census.

PROPOSED RULES

ner of Stonington, the population of the area is now about 17,000 and has been growing at the steady rate of 1 percent a year for the past sixteen years. It adds that the 1974 retail trade of the Stonington area totalled \$44.7 million, \$2,692 per capita.

4. In light of the above information and the fact that the proposed FM station would provide the community with a first full-time local aural broadcast service, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, with regard to Stonington, Conn., as follows:

City	Channel No.	
	Present	Proposed
Stonington, Conn.		272A

5. The Commission's authority to institute rule making proceedings; showings required; cut-off procedures; and filing requirements are contained below and are incorporated herein.

NOTE.—A showing of continuing interest is required by paragraph 2 below before a channel will be assigned.

6. Interested parties may file comments on or before November 18, 1977, and reply comments on or before December 8, 1977.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

1. Pursuant to authority found in sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b) (6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in this notice of proposed rulemaking.

2. *Showings required.* Comments are invited on the proposal(s) discussed in this notice of proposed rulemaking. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rulemaking which conflict with the proposal(s) in this notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the

date for filing initial comments herein. If filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in this notice of proposed rulemaking. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc.77-29894 Filed 10-12-77; 8:45 am]

[4910-22]

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[49 CFR Part 395]

[Docket No. MC-78; Notice No. 77-7]

100-MILE EXEMPTION—DRIVER'S LOGS

Proposed Rulemaking

AGENCY: Federal Highway Administration; DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This Notice is issued to solicit comments on a proposed modification of the exemption presently provided for drivers of motor carriers who operate wholly within a 50-mile radius of their garage or terminal. As proposed, a driver need not complete a daily log if driving is performed within a 100-mile radius of the place where the driver reports for work. *Provided*, the driver returns to that place within 12 hours, and at least 8 consecutive hours off duty separates each 12 hours on duty. All comments will be considered before any final rulemaking action is taken.

DATES: Comments must be received on or before December 30, 1977.

ADDRESS: Submit comments (original and 2 copies) to: Robert A. Kaye, Director, Bureau of Motor Carrier Safety,

Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Principal Program Contact:

Gerald J. Davis, Chief, Driver Requirements Branch, Regulations Division, Bureau of Motor Carrier Safety, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590, (202-426-9767).

Principal Lawyer:

Attorney Gerald M. Tierney, Motor Carrier and Highway Safety Law Division, Office of the Chief Counsel, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590, (202-426-0824).

SUPPLEMENTARY INFORMATION:

On August 9, 1935, Congress enacted the Motor Carrier Act to the Department of the Interstate Commerce Commission to establish regulations regarding the maximum hours of service of motor carrier employees. That act was modified in 1967 by the DOT Act (49 U.S.C. 1655) which transferred responsibility for administering the safety provisions of the Motor Carrier Act to the Department of Transportation and Federal Highway Administration. A catalyst for this Congressional mandate was a high accident/death rate on our Nation's highways.

Today's hours of service limitations, modified somewhat over the years, provide that a driver shall not drive for periods in excess of 10 hours following 8 consecutive hours off duty, or drive for any period after having been on duty 15 hours following 8 consecutive hours off duty. On-duty time is limited to 60 hours in any 7 consecutive days, except that carriers operating every day of the week may permit drivers to remain on duty not more than 70 hours in any period of 8 consecutive days.

Since the establishment of the hours of service regulations approximately 40 years ago, a driver's daily log form has been used to aid motor carriers and drivers alike in their efforts to observe the hours of service regulations. The log has a grid format and is completed by the driver daily to record the hours for each duty status. The original log is submitted to the motor carrier and a copy (carbon or otherwise) is retained by the driver.

A motor carrier, simply by looking at the submitted log, may determine the number of hours available to the driver for on duty purposes. This is especially important for motor carriers which dispatch drivers from a terminal each day. By referring to the driver's log, the carrier can assign dispatches based on economy and safety of operations. Where a driver has infrequent contact with his terminal over a period of days, i.e., a cross country dispatch, the daily submission of the log via the mail permit the carrier to control its drivers and schedule future dispatches within the hours of service limitations.

The driver is the first line of defense in the area of highway safety and needs to know the number of hours available to be on duty and be confident that the maximum hours of service limitations will not be exceeded. The limitations are a general scale beyond which a driver is considered to be too fatigued to safely operate a commercial motor vehicle. A driver cannot remember the hours he was driving, on duty not driving, in the sleeper berth, or off-duty driving during the preceding 7 or possibly 8 days. Hence, the driver is required to prepare and to keep current his driver's daily log.

Currently, 2 types of operations are exempt from the daily log requirements. First, there are lightweight vehicle operations. Lightweight vehicles are defined in § 390.17 of 49 CFR as vehicles with a gross vehicle weight rating 10,000 pounds or less which neither transport passengers nor hazardous materials of an amount that requires placarding. This type vehicle is normally used in local operations characterized by numerous stops during the course of a tour of duty. Rarely does a work day exceed 10 hours.

The second operation is that conducted wholly within a 50-mile radius of the garage or terminal at which the regularly employed driver reports to work. Many times this type of operation is termed "local pick-up and delivery". Although exempted from the daily log requirements, the motor carrier which employs the driver must maintain accurate records for 1 year showing the total number of hours the driver is on duty each day and the time the driver reports for and is released from duty each day. These records normally are internal motor carrier documents such as delivery sheets and time/punch cards used for payment purposes.

Since the advent of the 50-mile exemption, numerous changes affecting pick-up and delivery operations have occurred. Among the most obvious changes have been: The improvement and increase in the number of limited access highways; improved highway designs; the expansion of most metropolitan areas; and improved truck and bus designs.

This Notice seeks comments regarding a proposed modification of the present 50-mile exemption from daily log preparation. The proposed modifications are:

1. Increase to 100 miles the exempted radius from the place the driver reports for work.
2. Make the exemption available to casual or intermittent drivers as well as regularly employed drivers.
3. Require that the records showing the total number of hours the driver is on duty to be maintained at the motor carrier's principal place of business, unless permission is received to maintain the records at another location.
4. Provide that a driver must return to the place he reported for work within 12 hours and that at least 8 consecutive hours off duty must separate each 12 hours on duty.

Motor carriers using a driver for the first time or intermittently will continue to obtain from the driver a signed statement giving the total time on-duty during the preceding 7 days, per § 395.8(r).

Previously, there has been some confusion regarding the location where the work records are to be maintained. To facilitate location uniformity and ease of access, all records related to the exemption provided in § 395.8(t) shall be forwarded to the carrier's principal place of business where they shall be maintained 12 months from the date of receipt. However, upon a written request to, and with the approval of the Director, Regional Motor Carrier Safety Office, for the region in which a motor carrier has its principal place of business, a motor carrier may forward and maintain such records at a regional or terminal office.

The hours of service recordkeeping procedures permitted by this exemption do not lend themselves to a ready determination of whether a driver is in a driving, on duty not driving, or off-duty status (sleeper berths normally are not used in pick-up and delivery operations). Further, pick-up and delivery operations normally do not exceed 10 hours. In order to insure the removal of fatigued drivers from highly congested city highways without restricting economy of operations, a limitation of a 12 consecutive hour work period is being proposed.

The essential purpose of hours of service regulations is to assure that drivers are alert and responsive to the demands and pressures of operating a commercial vehicle on public highways in mixed traffic with general motoring public. Because of the nature of their work, drivers engaged in commercial interstate operations are exempt from the maximum hours and overtime requirements of the Fair Labor Standards Act.

It is the policy of the Federal Government to minimize the information reporting burden, consistent with its needs for information to implement statutory objectives. The subject proposal is consistent with this policy.

NOTE.—This document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Accordingly, it is proposed that 49 CFR Chapter III be amended as follows:

§ 395.8 Driver's daily log.

- (t) Exemptions. (1) The rules in this section do not apply if:
 - (i) The driver does not operate, more than one day per month, beyond a 100-mile radius of the place at which the driver reports for work.
 - (ii) The driver returns to the place he/she reported for work within 12 hours;
 - (iii) At least 8 consecutive hours off-duty separates each 12 hours on duty;
 - (iv) The motor carrier which employs the driver maintains accurate and true records showing:

(A) The total number of hours the driver is on duty each day.

(B) The time at which the driver reports for duty each day.

(C) The time at which the driver is released from duty each day, and

(D) The total on duty time for the preceding 7 days in accordance with paragraph (r) of this section for drivers used first time or intermittently; and

(v) The records required in subdivision (iv) of this subparagraph, are retained in accordance with the retention requirements applicable to motor carriers for

daily logs set forth in paragraph (s) of this section.

(Sec. 204, Interstate Commerce Act, as amended, (49 U.S.C. 304), sec. 6, Department of Transportation Act (49 U.S.C. 1655), and the delegations of authority by the Secretary of Transportation and the Federal Highway Administrator at 49 CFR 1.48 and 301.60, respectively).

Issued on September 30, 1977.

KENNETH L. PIERSON,
Acting Director, Bureau
of Motor Carrier Safety.

[FR Doc. 77-29935 Filed 10-12-77; 8:45 am]

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notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

DESOTO TIMBER MANAGEMENT PLAN

Availability of Final Environmental Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Forest Service, Department of Agriculture, has prepared a final environmental statement for the DeSoto Timber Management Plan, DeSoto National Forest, Miss., USDA-FS-RS-FES (Adm.) 77-08.

Management actions include timber harvesting, and other timber management activities, road construction and reconstruction, prescribed burning and the use of pesticides. The unit contains 501,391 acres of National Forest land in Forest, George, Greene, Jackson, Jones, Pearl River, Perry, Stone, and Wayne Counties, Miss.

This final environmental statement was transmitted to CEQ on October 5, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, 12th Street and Independence Avenue SW., Washington, D.C. 20250.

USDA, Forest Service, 1720 Peachtree Street NW., Room 804, Atlanta, Ga. 30309.

USDA, Forest Service, 350 Milner Building, Box 1291, Jackson, Miss. 39205.

A limited number of single copies are available upon request to Forest Supervisor, B. F. Finison, Box 1291, Jackson, Miss., 39205.

Copies of the environmental statement have been sent to various Federal, State, and Local agencies as outlined in the CEQ guidelines.

Dated: October 5, 1977.

ROBERT F. WILLIAMS,
Regional Environmental
Coordinator.

[FR Doc.77-29875 Filed 10-12-77; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Order 77-10-23]

CHARTER TRIPS BETWEEN BELGIUM AND THE UNITED STATES

Order Granting Waivers

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of October, 1977.

By an exchange of diplomatic notes on June 23, 1977, and June 27, 1977, the United States and Belgium renewed an

Understanding governing, inter alia, the charterworthiness of passenger charter trips operated by the carriers of both countries between their respective territories. The Understanding is extended from July 1, 1977, through December 31, 1978, and is renewable thereafter.¹

In principal effect, the Understanding reinstates the provision that the Belgian civil aviation authorities will permit all United States carriers certificated to provide passenger charter service to and from Belgium to exercise the right to pick up and set down in Belgium such passenger charter traffic moving between a point or points in the United States and a point or points in Belgium (one way or round trip, nonstop or via intermediate countries, as well as to or from points beyond or behind) for all charter type traffic as is or may be authorized by the Civil Aeronautics Board.

Amendments relative to charterworthiness in the Understanding provide that:

1. The United States civil aviation authorities will accept as charterworthy passenger charter air traffic originated in Belgium and organized and operated in conformity with the charterworthiness rules of the Belgian civil aviation authorities applicable to charter flights to the United States.

2. The Belgian civil aviation authorities reserve the right to require the filing of a passenger list for each affinity charter group at least thirty days before the arrival of the flight.

The Understanding represents the recognition by both the Belgian aviation authorities and the United States Government that if passenger charter operations between their territories are to be facilitated, there must be an accommodation as to the differing rules governing charter operations in effect under the laws and regulations of the two countries. In some respects the Belgian charter rules are more restrictive than those applied by the Board, and in some respects they are more liberal, involving concepts which are contrary to those applied by the Board. However, considering the primary responsibility of the Belgian aviation authorities with respect to Belgium-originating charters (which are composed primarily of Belgian citizens), and the similar primary responsibility of the U.S. with respect to United States-originating charters, and the provisions of the agreement, the Board finds that the public interest requires waiver of those requirements of the U.S. charter

regulations which would otherwise preclude U.S. and Belgian carriers from operating Belgium-originating charters in accordance with Belgian regulations. This is not to say that the Board would necessarily conclude that the regulations applied by Belgium for Belgium-originating passenger charters would be satisfactory to meet Board requirements for U.S.-originating charters operated in accordance with U.S. regulations.

Under current Board charter regulations, U.S. carriers are required to conform to the U.S. charter rules for Belgium-originating as well as United States-originating charters, in the absence of the grant of a waiver or other exception in the regulations. The same is true with respect to the only Belgian carrier currently holding a foreign air carrier permit, SABENA. Each of the Board's charter regulations provides, nevertheless, for waiver of the requirements contained therein upon a finding that such waiver is in the public interest and that there are special or unusual circumstances warranting the grant of such a waiver.² The grant of waivers will, in accordance with section 1102 of the Act, implement the obligation assumed by the United States in the amended Understanding as renewed effective July 1, 1977.

In view of the foregoing, and in consideration of the renewed Understanding effectuated by the exchange of diplomatic notes of June 23, 1977 and June 27, 1977, the Board's responsibilities under section 1102 of the Act, and the effect of the Understanding in providing assurance that the United States-originating public will have the opportunity to travel to Belgium under charter rules found by the Board to be in the public interest, the Board finds that the provisions of the renewed Understanding represent a special circumstance which warrants an extension of waivers of the Board's various charter regulations to the extent necessary to permit U.S. certificated carriers and SABENA to operate charters originating in Belgium pursuant to the Belgian charter rules, and that the grant of such waivers would be in the public interest. Similarly, the Board finds that it is in the public interest to exempt U.S. indirect air carriers, pursuant to section 101(3) of the Act, from the provisions of Title IV of the Act insofar as is necessary to permit any such air carrier to organize Belgium-originating charters operated under Belgian rules pursuant to

¹ See secs. 207.16, 208.3a, 213.13, 214.3, 371.3, 372.3, 372a.3, 373.30, 378.30, and 378a.3 of the Board's Economic and Special Regulations.

the provisions of the renewed Understanding.³

In light of the renewed Understanding providing for acceptance as charterworthy those Belgium-originating charters operated pursuant to Belgian charter regulations, no useful purpose would be served by requiring waiver applications with respect to individual charter flights or series of flights. Accordingly, the Board finds that it is in the public interest to implement a blanket waiver from the charter regulations for all U.S. certificated carriers, and for Sabena, for the duration of the amended and renewed Understanding (or the Understanding as it may further be extended). The exemptions for indirect air carriers will apply for the same duration.⁴

Accordingly, it is ordered *That*: 1. To the extent respectively applicable, waivers of the provisions of sections 207.11, 208.6, and 212.8 of the Board's Economic Regulations (except with respect to the provisions of such sections governing charters to direct air carriers and direct foreign air carriers for commercial traffic), and of such other provisions of the Board's charter regulations as would otherwise be inconsistent with the waivers granted here, are granted for all U.S. air carriers authorized to provide passenger charter service (including off-route charter service) between Belgium and the United States,⁵ and Sabena (including its off-route charter service between Belgium and the United States), insofar as is necessary to permit such air carriers and the foreign air carrier Sabena to operate passenger charters originating in Belgium and destined for the United States in accordance with rules governing the charterworthiness of such charters as applied by the Belgian aviation authorities: *Provided, however*, That such waivers shall apply only to the extent contemplated by the renewed Understanding incorporated in the exchange of diplomatic notes between the United States and Belgium of June 23, 1977, and June 27, 1977 (or such Understanding as it may further be amended, modified, or extended); *And provided further*, That the waivers granted here

² The Board has declined to exercise jurisdiction over foreign indirect air carriers organizing foreign-originating charters. Accordingly, no additional authority is needed to permit Belgian indirect air carriers to organize Belgium-originating charters according to Belgian rules.

³ As noted, similar waivers were granted by the Board in Order 76-7-93 and 77-4-91 with respect to the United Kingdom and also had previously been granted with respect to Canadian-originating charters (Order 74-5-37, dated May 8, 1974) and Swiss-originating charters (Order 76-1-2, dated January 2, 1976), pursuant to a charter Agreement and Understanding with those countries.

⁴ Pursuant to sec. 401(e)(6) of the Act, and in the absence of any Board regulations precluding such operations, U.S. carriers holding certificates of public convenience and necessity issued by the Board pursuant to sec. 401(d)(1) of the Act are authorized to provide off-route charter service between Belgium and the United States in accordance with Board regulations.

shall not relieve such carriers from the requirements contained in Parts 207, 208, and 212 of the Board's Economic Regulations other than those relating to the charterworthiness of charters performed pursuant to those regulations.

2. All U.S. indirect air carriers of passengers be and they hereby are relieved, pursuant to section 101(3) of the Act, from the provisions of Title IV of the Act, insofar as is necessary to permit any such indirect air carrier to organize Belgium-originating passenger charters pursuant to the rules governing the charterworthiness of such charters as applied by the Belgian aviation authorities in accordance with the provisions of the renewed Understanding incorporated in the exchange of diplomatic notes between the United States and Belgium of June 23, 1977 and June 27, 1977.

3. This order may be modified, amended, or revoked by the Board without notice or hearing.

4. The waivers, exemptions, and authorization granted herein shall terminate upon the expiration of the Understanding on Passenger Charter Air Services incorporated in an exchange of diplomatic notes between the United States and Belgium of June 23, 1977 and June 27, 1977, or such Understanding as it may be amended, modified, or extended; and

5. This order shall be served upon all U.S. air carriers holding a certificate of public convenience and necessity issued by the Board, SABENA, the Departments of State and Transportation, and the Ambassador of Belgium.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

All Members concurred.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29923 Filed 10-12-77; 8:45 am]

[6320-01]

[Docket 31327; Order 77-10-13]

SABENA BELGIAN WORLD AIRLINES

Order Dismissing Complaint

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of October, 1977.

By tariff revisions¹ scheduled to become effective September 25, 1977, Sabena Belgian World Airlines (Sabena) proposes to establish a new specific commodity rate (SCR) for Item 0838 (endives) from Brussels to New York at 59 cents per kg. with a minimum weight of 1,200 kgs.²

A complaint requesting suspension and investigation of this rate has been filed by Seaboard World Airlines, Inc. (Seaboard). Seaboard asserts that Sabena

¹ Revisions to Tariff C.A.B. No. 50 issued by Air Tariffs Corp., Agent.

² The prevailing Brussels-New York SCR for this item is 81 cents per kg. with a minimum weight of 100 kgs.

has neither submitted economic justification for its proposal—other than to state that the rate filing has been made pursuant to an order of the Government of Belgium—nor alleged that the rate has any generative potential. Seaboard also states that the rate will yield only 17.36¢ per ton-mile, 12 percent below Seaboard's costs per available ton-mile (ATM) of 19.75¢ for the first quarter of 1977, and that, a fortiori, the rate will not cover Seaboard's costs per revenue ton-mile (RTM). Seaboard takes issue with Order 77-8-76, August 17, 1977,³ insofar as Seaboard assumes the Board's position is that, in an excess-capacity situation, newly generated westbound traffic need not bear a full share of capacity costs. Seaboard states that this position necessarily means U.S. east-bound shippers must defray carrier costs that are not covered by the westbound generated revenues if a carrier is to recover its full costs of operations; that, potentially, the Board's incremental costing theory can lead to disastrous economic results as greater amounts of traffic move at below-cost rates; and that specific commodity traffic represents Seaboard's single largest traffic group, and the Board should not promote a long-term policy which would preclude a carrier from covering its full costs of operations by encouraging below-cost pricing of such a significant segment of its traffic. Finally, Seaboard states that, during the first seven months of 1977, it achieved a westbound load factor of 63 percent, and the Board's finding of substantial excess capacity in this service is, therefore, questionable.

In answer to the complaint, Sabena states that its not providing justification for the rate is irrelevant since Sabena is not legally required to submit justification; that the rate's failure to cover Seaboard's costs is also irrelevant since Seaboard no longer serves Brussels; and that Seaboard's arguments against Order 77-8-76 represent an improper attempt to seek reconsideration of that order. Sabena reiterates that the filing has been made pursuant to an order by the Government of Belgium, and maintains that Seaboard's complaint completely fails to establish any grounds for suspension and, accordingly, should be dismissed.

The Board has decided to dismiss the complaint.

Seaboard has not alleged that implementation of the proposed rate will cause a loss of its traffic or even a dilution of its revenues. Rather, Seaboard challenges "the Board's incremental costing theory." We are not persuaded that the Board's policy, in dealing with rate proposals in situations of directional traffic imbalance and underutilized capacity, "will lead to disastrous economic results." Rather we expect it to afford carriers an opportunity to explore new revenue-generating possibilities. In such circumstances, the Board

³ Order 77-8-76 dismissed Seaboard complaints against various westbound North Atlantic cargo rates proposed by KLM-Royal Dutch Airlines.

favors pricing policies that seek to exploit potential new sources of service demand, so long as such prices reflect the costs of the particular service provided. While we do not necessarily disagree with Seaboard that an inordinate volume of cargo traffic now moves at questionable specific commodity rates, that "problem" cannot be resolved in the one-at-a-time review of particular specific commodity rates. The considerations raised by Seaboard go to the overall level and structure of North Atlantic rates and must be resolved in that context.

Seaboard does not serve the market for which the rate is intended; therefore, its experience bears little relevance to the matters of directional imbalance and excess capacity. A review of the proponent's experience is more appropriate. Information published by the International Air Transport Association reveals that, during the first five months of 1977, Sabena's westbound cargo tonnage was 68 percent of that moving eastbound. While Sabena has, in fact, failed to present any generation estimate, the proposed rate nevertheless has the potential for improving the economics of the carrier's cargo operation by generating new revenues and utilizing otherwise unused westbound capacity.

Accordingly, it is ordered That: The complaint of Seaboard World Airlines, Inc., in Docket 31327 be dismissed.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

All Members concurred.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-29924 Filed 10-12-77; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

NATIONAL CANCER INSTITUTE— NATIONAL INSTITUTES OF HEALTH Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00148. Applicant: National Cancer Institute, National Institutes of Health, Claims Review Section, Building 31, Room B1B-10, National Institutes of Health, Bethesda, Md. 20014. Article: Free Flow Electrophoresis, Model FF5. Manufacturer:

Garching Instruments, West Germany. Intended use of article: The article is intended to be used in studies of human leukemic cells to determine the RNA tumor virus information present in these cells and to develop biological markers for effective diagnosis and prognosis of the disease.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article is of unique design which provides free flow electrophoresis capable of achieving reproducible separations of large quantities of cells. The National Bureau of Standards advises in its memorandum dated September 15, 1977, that (1) the capabilities of the article as described above are pertinent to the applicant's intended purpose, and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc. 77-29881 Filed 10-12-77; 8:45 am]

[3510-25]

NATIONAL RADIO ASTRONOMY OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00276. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 North Forbes Boulevard, Suite 100, Tucson, Ariz. 85705. Article: Repair of Varian Klystron Type VRB2113A30 SN704414J6. Manufacturer: Varian Associates of Canada. Intended use of article: The article is intended to be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver. This receiver is used in conjunction with a microwave antenna to measure the intensity, polari-

zation frequency and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended to be used, is being manufactured in the United States.

Reasons: The foreign article provides a 105-111 gigahertz frequency range with 75 milliwatts guaranteed minimum output power. The National Bureau of Standards (NBS) advises in its memorandum dated September 1, 1977, that (1) the capability of the article described above is pertinent to the applicant's research purposes, and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc. 77-29879 Filed 10-12-77; 8:45 am]

[3510-25]

NATIONAL RADIO ASTRONOMY OBSERVATORY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897), and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00141. Applicant: National Radio Astronomy Observatory Associated Universities, Inc., 2010 N. Forbes, Suite 100, Tucson, Ariz. 85705. Article: Klystron, Model VRT-2123A14 SN70320. Manufacturer: Varian Associates of Canada, Ltd., Canada. Intended use of article: The article will be used as a phase-locked local oscillator in a millimeter wave radio astronomy receiver used in conjunction with a microwave antenna to measure the intensity, polarization, frequency and direction of cosmic radiation.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article for such purposes as this article is intended

to be used, is being manufactured in the United States.

Reasons: The foreign article provides a 110-140 gigahertz frequency range with 50 milliwatts guaranteed minimum output power. The National Bureau of Standards (NBS) advises in its memorandum dated August 25, 1977 that (1) the capability of the article described above is pertinent to the applicant's research purposes and (2) it knows of no domestic instrument of equivalent scientific value to the foreign article for the applicant's intended use.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc. 77-29882 Filed 10-12-77; 8:45 am]

[3510-25]

Office of Import Programs

ROCKFORD SCHOOL OF MEDICINE, UNIVERSITY OF ILLINOIS ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00227. Applicant: Rockford School of Medicine of the University of Illinois, 1601 Parkview Avenue, Rockford, Ill. 61101. Article: Electron Microscope, Model H-500 and Accessory. Manufacturer: Perkin-Elmer (Hitachi), Japan. Intended use of article: The article is intended to be used for studies of basic chemicals (i.e., Bence-Jones protein), viral particles and other organisms including bacteria, tissue being evaluated from research work on animals as well as from biopsy material obtained from humans. Specific projects to be conducted include the study of Bence-Jones protein, relationship of structure to clinical condition of patient and the evaluation of the fine structure of membrane alteration in the course of platelet aggregation. In addition, the article will be used for educational purposes in an elec-

tron microscopy course. Application received by Commissioner of Customs: May 5, 1977. Advice submitted by the Department of Health, Education, and Welfare on: August 10, 1977. Article ordered: September 15, 1976.

Docket Number: 77-00243. Applicant: Northern Regional Research Center, ARS-USDA, 1815 N. University Street, Peoria, Ill. 61604. Article: Electron Microscope, Model HU-12A and accessories. Manufacturer: Hitachi Ltd., Japan. Intended use of article: The article is intended to be used in support of the following research: (1) Study of the prevalence of fungal viruses in agriculturally important fungi; (2) examination of insect tissue in researching alternative biological methods for controlling pest insect populations; (3) examination of spore wall ornamentation on all Actinomyces in the Culture Collection (ca. 4,000 strains); (4) examination of two different aspects of yeast ultrastructures to clarify taxonomic and phylogenetic problems; and (5) study of the oval inclusion of the paraspore of *Bacillus thuringiensis*, to determine if the inclusion is structurally different or similar to the paraspore. Application received by Commissioner of Customs: May 12, 1977. Advice submitted by the Department of Health, Education, and Welfare on: August 11, 1977. Article ordered: August 13, 1976.

Docket Number: 77-00246. Applicant: Wayne State University, Detroit, Mich. 48202. Article: Electron Microscope, Model EM 301 with Resolution Stage and accessories. Manufacturer: Philips Electronics Instruments, NVD, The Netherlands. Intended use of article: The article is intended to be used for the study of the cytological fine structure of: (1) Gamete maturation in parasitic nematodes; (2) sperm/egg interaction prior to syngamy in nematodes; (3) membrane fusion events during (a) maturation of sperm, and (b) nematode fertilization of oocytes; (4) embryonic differentiation in amphibians; (5) hormone effects on cellular ultrastructure of receptor cells in teleosts and amphibians; (6) cellular architecture responsible for wide range of cellular and subcellular motility in both vertebrate and invertebrate species; (7) protein subunit identification of viral capsomeres; and (8) nucleic acid molecular structure following hybridization techniques. In addition, the article will be used to train doctorate researchers in critical high resolution work employing the latest biological techniques. Application received by Commissioner of Customs: May 23, 1977. Advice submitted by the Department of Health, Education, and Welfare on: August 11, 1977. Article ordered: May 12, 1977.

Docket Number: 77-00248. Applicant: The University of Oklahoma Health Sciences Center, Department of Anatomical Sciences, Biochemical Sciences Building, P.O. Box 26901, Oklahoma City, Okla. 73190. Article: Electron Microscope, Model Elmiskop 102 and accessories. Manufacturer: Siemens AG, West Germany. Intended use of article: The article is intended to be used to study the

ultrastructure of animal nervous tissue, endocrine glands, blood vessels, tumors, human carcinoma of the breast, and melanoma of the skin. The experiments to be conducted include testing of the cerebral vascular permeability (blood-brain barrier), changes in the endocrine secretion after various experimental modifications, atherosclerosis of the arteries including aorta, and pathogenesis of tumor formation in animals and humans. In addition, the article will be used to train graduate students to grasp the electron microscopic techniques and application, to interpret the electron micrographs, and to employ the knowledge and skill to attack the research problems. The courses will include: Advanced Cytology, Ultrastructure, Electron Microscopy, Research for Doctor's Dissertation, Anatomical Techniques, Advanced Histology, Advanced Embryology, Histochemistry, and Advanced Neuroanatomy. Application received by Commissioner of Customs: May 23, 1977. Advice submitted by the Department of Health, Education, and Welfare on: August 11, 1977. Article ordered: April 14, 1977.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for the purposes for which the articles are intended to be used, was being manufactured in the United States at the time the articles were ordered.

Reasons: Each foreign article has a specified resolving capability equal to or better than 3.5 Angstroms. The Department of Health, Education, and Welfare advises in the respectively cited memoranda, that the additional resolving capability of the foreign articles is pertinent to the purposes for which each of the foreign articles to which the foregoing applications relate is intended to be used. HEW advises that it knows of no domestic instrument which could provide the pertinent feature at the time the articles were ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc. 77-29832 Filed 10-12-77; 8:45 am]

[3510-25]

THAT MAN MAY SEE, INC.

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific

tific article pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00231. Applicant: That Man May See, Inc., 95 Kirkham Street, San Francisco, Calif. 94122. Article: Electron Microscope, JEM 100C/SEG with side entry goniometer, with eucentric goniometer stage and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for studies of the following materials and phenomena: (i) Ocular tissues from clinical and experimental studies in order to elucidate the pathogenesis of such diseases as glaucoma, retinitis pigmentosa, viral infections, tumors, etc.; (ii) the nature of junctional complexes forming the various ocular barriers will be studied with special attention given to the subcellular components of such junctions; and (iii) ocular tissues afflicted with diseases of unknown cause will be studied at high magnification searching for viruses or other causative organisms, etc. The experiments to be conducted have a two-fold objective: determination of the pathogenesis of such diseases as glaucoma and determination of better modes of therapy. In addition, the article will be used for teaching electron microscopy techniques to investigators, ophthalmology residents, and medical students.

Comments: No comments have been received with respect to this application. Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the article was ordered June 22, 1976.

Reasons: The foreign article has a specified resolving capability 5 Angstroms with its eucentric side entry goniometer stage. The Department of Health, Education, and Welfare (HEW) advises in its memorandum dated August 10, 1977 that the resolving capability of the foreign article described above is pertinent to the purposes for which the foreign article is intended to be used. HEW also advises that it knows of no domestic instrument which provides the pertinent feature of the article which was being manufactured in the United States at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc.77-29830 Filed 10-12-77;8:45 am]

[3510-25]

UNITED STATES MERCHANT MARINE ACADEMY

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00213. Applicant: U.S. Department of Commerce, Maritime Administration, U.S. Merchant Marine Academy, Steamboat Road, Kings Point, N.Y. 11024. Article: TD-35 Varimax Test and Research Engine Rig and accessories. Manufacturer: Tecquipment Ltd., United Kingdom. Intended use of article: The article is intended to be used for instruction of Marine Engineering students in the courses Internal Combustion Engines E 464 and Internal Combustion Engines E 465.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, was being manufactured in the United States at the time the foreign article was ordered (February 10, 1977).

Reasons: The foreign article provides variable valve adjustment and a variable engine compression ratio of at least 4.5:1 to 20:1 while the article is operating. The National Bureau of Standards advises in its memorandum dated September 12, 1977 that (1) the specifications of the article described above are pertinent to the applicant's intended educational purposes and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign article which was available at the time the article was ordered.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc.77-29880 Filed 10-12-77;8:45 am]

[3510-25]

UNIVERSITY OF MINNESOTA

Decision on Application for Duty-Free Entry of Scientific Article

The following is a decision on an application for duty-free entry of a scientific article pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301).

A copy of the record pertaining to this decision is available for public review during ordinary business hours of the Department of Commerce, at the Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00158. Applicant: University of Minnesota, Minneapolis, Minn. 55455. Article: Electron Microscope, Model JEM-100C/SEG, Haskris Water Recirculator and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article will be used for the following research purposes: BF-DF studies of phase distribution in metal alloys; lattice imaging high resolution defect studies of metal alloys; X-ray microanalysis of phases in minerals, metals, frozen microemulsion, frozen biological tissues for spatial distribution maps of elements (Z 11); crystal structure determination of fine second phases using micro diffraction; secondary electron imaging of fracture surfaces and catalytically poisoned surfaces; low dose STEM imaging of radiation sensitive polymer crystal and spherulites. The article will also be used in the courses Mat Sci 8520 Electron Microscopy and Diffraction and Mat Sci Electron Microscopy Laboratory in which students will be familiarized with techniques of use and interpretation in electron microscopy and the range of applications for transmission, scanning and scanning transmission electron microscopy and electron diffraction.

Comments: No comments have been received with respect to this application.

Decision: Application approved. No instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, is being manufactured in the United States, at the time the article was ordered (March 10, 1977).

Reasons: The description of the applicant's research and/or educational purposes establishes the fact that a conventional transmission electron microscope comparable to the foreign article is pertinent to the purposes for which the article

is intended to be used. We are advised by the National Bureau of Standards (NBS) in its memorandum dated August 19, 1977 that it knows of no conventional transmission electron microscope which was being manufactured in the United States at the time the foreign article was ordered. ("Conventional transmission electron microscopes" are not to be confused with "scanning electron microscopes" which were manufactured domestically at the time the article was ordered and are still being manufactured in the United States.)

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to the foreign article, for such purposes as this article is intended to be used, which was being manufactured in the United States at the time the article was ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc.77-29831 Filed 10-12-77;8:45 am]

[3510-25]

UNIVERSITY OF TEXAS MEDICAL BRANCH, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Ultramicrotomes

The following is a consolidated decision on applications for duty-free entry of ultramicrotomes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR Part 301). (See especially § 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00228. Applicant: University of Texas Medical Branch, Department of Physiology and Biophysics, Galveston, Tex. 77550. Article: Ultratome, Model LKB 2128-010 UM IV and Knifemaker, Model LKB 7800B and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used to prepare ultrathin sections of retinas (or part of them) which have been embedded in hardened epoxy resins such as Epon or Spurr media. The neuronal organizations in the vertebrate retinas are to be studied to correlate functions of retinal neurons with their structures. The article will also be used in a graduate program in neurophysiology in which students will be trained in the morphological (electron microscopic) functional identification of neurons in the central nervous system. Application received by Commissioner of Customs: May 5, 1977. Advice submitted by the Department of

Health, Education, and Welfare on: August 10, 1977.

Docket Number: 77-00229. Applicant: Auburn University, Department of Anatomy and Histology, School of Veterinary Medicine, Auburn, Ala. 36830. Article: Ultratome III Ultramicrotome, Model LKB 800A and Knifemaker, Model LKB 7800B and Accessories. Manufacturer: LKB 8800A and Knifemaker, Model LKB use of article: The article is intended to be used for studies of normal tissues, organs, and organ structures of major species of domestic animals and selected species of laboratory animals and wildlife. Comparative studies will be focused on determining, at the subcellular level, morphologic features of organs which contribute to the establishment of blood-organ barriers. Among the areas in this category to be investigated are the blood-retinal barrier, blood-thymic barrier, and blood-brain barrier. The article will also be used for educational purposes in the following courses:

VM 326 Microscopic Anatomy I.—Microscopic anatomy of the form, structure, and characteristics of the basic tissues of animals. VM 327 Microscopic Anatomy II.—Microscopic anatomy of the tissue, composition of organs and organ systems. VM 328 Microscopic Anatomy III.—Microscopic anatomy of the reproductive organs. VAH 570 Histological Techniques.—A detailed study of the techniques employed in the preparation of cytological and histological materials. VAH 623 Neuroanatomy.—Structure of the central and peripheral nervous systems. VAH 626 Anatomy of the Special Senses.—Study of taste, smell, sight, and hearing. VAH 627 Advanced Histology of Domestic Animals.—A detailed study of the basic tissues. VAH 628 Advanced Organology of Domestic Animals.—A detailed study of organs and organ systems, utilizing the light microscope and electron micrographs to interpret morphology.

Application received by Commissioner of Customs: May 6, 1977. Advice submitted by the Department of Health, Education, and Welfare on: August 10, 1977.

Docket Number: 77-00245. Applicant: East Texas Chest Hospital, P.O. Box 2003, 9 miles northeast on U.S. Highway 271, Tyler, Tex. 75710. Article: Ultramicrotome, Model LKB 8800A with Cryokit, 14800-1 and accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used in preparing thin sections, from frozen and plastic embedded tissues required for the study of chest related diseases. These studies will include morphology of normal tissues as well as adaption of animal models of respiratory diseases. The objectives pursued in the course of the investigations will consist of defining the pathogenesis, at the ultrastructural level of respiratory diseases, and through these understandings, contribute insight with regard to subcellular susceptibility. Application received by Commissioner of Customs: May 23, 1977. Advice submitted by the Department of Health, Education, and Welfare on: August 11, 1977.

Comments: No comments have been received with respect to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles for such purposes as these articles are intended to be used, is being manufactured in the United States.

Reasons: Each of the foreign articles provides a range of cutting speeds equal to or greater than 0.1 to 20 millimeters per second. The most closely comparable domestic instrument is the Model MT-2B ultramicrotome which is manufactured by Ivan Sorvall, Inc. (Sorvall). The Model MT-2B has a range of cutting speeds from 0.02 to 3.2 millimeters per second. The conditions for obtaining high-quality sections that are uniform in thickness, depend to a large extent on the hardness, consistency, toughness and other properties of the specimen materials, the properties of the embedding materials, and geometry of the block. In connection with a prior application (Docket Number 69-00665-33-46500), which relates to the duty-free entry of an article that is identical to those to which the foregoing applications relate, the Department of Health, Education, and Welfare (HEW) advised that "Smooth cuts are obtained when the speed of cutting, (among such other) factors as knife edge condition and angle, is adjusted to the characteristics of the material being sectioned. The range of cutting speeds and a capability for the higher cutting speeds is, therefore, a pertinent characteristic of the ultramicrotome to be used for sectioning materials that experience has shown difficult to section." In connection with another prior application (Docket Number 70-00077-33-46500) which also relates to an article that is identical to those described above, HEW advised that "ultrathin sectioning of a variety of tissues having a wide range in density, hardness, etc." requires a maximum range in cutting speed and, further, that the "production of ultrathin serial sections of specimens that have a great variation in physical properties is very difficult." Accordingly, HEW advises in its respectively cited memoranda, that cutting speeds in excess of 4 millimeters per second are pertinent to the satisfactory sectioning of the specimen materials and the relevant embedding materials that will be used by the applicants in their respective experiments.

For these reasons, we find that the Sorvall Model MT-2B ultramicrotome is not of equivalent scientific value to the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate, for such purposes as these articles are intended to be used, which is being manufactured in the United States.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc.77-29883 Filed 10-12-77;8:45 am]

[3510-25]

VIRGINIA POLYTECHNIC INSTITUTE, ET AL.

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

The following is a consolidated decision on applications for duty-free entry of electron microscopes pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651, 80 Stat. 897) and the regulations issued thereunder as amended (15 CFR 301). (See especially Section 301.11(e).)

A copy of the record pertaining to each of the applications in this consolidated decision is available for public review during ordinary business hours of the Department of Commerce, at the Special Import Programs Division, Office of Import Programs, Department of Commerce, Washington, D.C. 20230.

Docket Number: 77-00241. Applicant: Virginia Polytechnic Institute and State University, Biology Department, Derring Hall, Blacksburg, Va. 24061. Article: Electron Microscope, Model JEM-100C/SEG and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of the following materials:

(a) The gametophytic and sporophytic tissues of the fern *Dawsonia*; (b) the cultured callus tissue of *Nicotiana tabacum* (tobacco); and (c) Crystalline materials, mainly rock-forming silicates, especially those showing domain textures and exsolution. The article will also be used extensively in the following courses:

1. Introduction to Electron Microscopy—a graduate and advanced undergraduates level research course intended to acquaint potential investigators with the basic procedures of fixation, staining, embedding, sectioning, operation of a basic transmission microscope and ultrastructural interpretation.

2. General Cytology—an undergraduate/graduate course designed to familiarize biology students and those in other life sciences with basic cytological techniques.

3. Advanced Cytology—a graduate course concentrating on organelle structure and function.

4. Crystal Chemistry of the rock-forming Minerals; Crystallography and Crystal Structure Analysis—to teach methods of investigating atomic and unit-cell scale structures of crystalline matter, particularly rock-forming minerals and sulfides.

Application received by Commissioner of Customs: May 12, 1977. Advice sub-

mitted by the Department of Health, Education, and Welfare on: August 11, 1977. Article ordered: May 5, 1977.

Docket Number: 77-00242. Applicant: University of California, San Francisco, Department of Otolaryngology, Coleman Memorial Laboratory HSE-863, 3rd and Parnassus Streets, San Francisco, Calif. 94143. Article: Electron Microscope, Model JEM-100S with plate camera and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine biological material including mammalian cochlea, the organ of Corti and adjacent nuchal tissue in the spiral ganglion in order to study the interrelationship of cochlear hair cells and their neural projections. The article will also be used in an introductory course to biological electron microscopy for residents and research fellows in otolaryngology to teach techniques of specimen preparation and transmission electron microscope operation. Other students, postdoctoral fellows, and faculty will be trained on an informal basis. Application received by Commissioner of Customs: May 12, 1977. Advice submitted by the Department of Health, Education, and Welfare on: August 11, 1977. Article ordered: March 4, 1977.

Comments: No comments have been received in regard to any of the foregoing applications.

Decision: Applications approved. No instrument or apparatus of equivalent scientific value to the foreign articles, for such purposes as these articles are intended to be used as being manufactured in the United States at the time the articles were ordered.

Reasons: Each article provides a eucentric goniometer stage with ± 60 degree tilt and a guaranteed resolution of 7 Angstroms point to point. The Department of Health, Education, and Welfare (HEW) advises in the respectively cited memoranda, that the features described above are pertinent to the purposes for which each of the foreign articles to which these applications relate is intended to be used. HEW also advises that it knows of no domestic instrument which provided the pertinent features of each article at the time of order.

The Department of Commerce knows of no other instrument or apparatus of equivalent scientific value to any of the foreign articles to which the foregoing applications relate for such purposes as these articles are intended to be used, which was being manufactured in the United States at the time the articles were ordered.

(Catalog of Federal Domestic Assistance Program No. 11.105, Importation of Duty-Free Educational and Scientific Materials.)

RICHARD M. SEPPA,
Director, Special Import
Programs Division.

[FR Doc.77-29833 Filed 10-12-77;8:45 am]

NOTICES

[3510-24]

Economic Development Administration

ROUND TWO OF THE LOCAL PUBLIC WORKS CAPITAL DEVELOPMENT AND INVESTMENT PROGRAM

Architect-Engineer Fees: Eligibility for Reimbursement When Performed by Force Account

Notice is hereby given, pursuant to authority contained in the Local Public Works Capital Development and Investment Act (Act), as amended (42 U.S.C. 6701), that certain architectural and engineering expenses incurred by recipients of grants under this program are eligible for reimbursement from grant funds even when performed directly by the recipient (that is, by "force account"). The Economic Development Administration (EDA) is publishing this notice because a number of questions have been raised on this matter. This notice announces EDA's formal position and previous documents inconsistent with this notice are no longer in effect.

As required by section 106(e) of the Act, no part of the construction (including demolition and other site preparation activities), renovation, repair, or other improvement of any public works project for which a grant is made under Round II may be performed directly by any department, agency, or instrumentality of any State or local government. Any costs incurred by grantees for construction activities which were performed directly by the grantee (by force account) are not eligible for reimbursement.

The prohibition against the use of grant funds to reimburse expenses incurred by force account extends to all expenses incurred from "construction activities". Architectural and engineering work or related planning may be reimbursed from grant funds when performed by force account when the grantee had already undertaken architectural design or preliminary engineering or related work but was required to undertake additional architectural or engineering work or related planning in order to permit construction of the project. Such "additional" architectural and engineering (A/E) work which is necessary to update plans and specifications is not part of "construction activities" and is not, consequently, subject to the prohibition of force accounts set forth in 13 CFR 317.18(e). "Additional A/E work" includes A/E work performed after submission of an application under Round I of the Local Public Works program. "Additional A/E work" may also include work performed to update plans and specifications any time before the grantee accepts bids for construction of the project. After the grantee accepts bids, A/E work will be considered as "additional A/E work" only if the grantee has modified the project with

EDA's approval and must perform "additional" A/E work or related planning to permit construction of the project as modified.

Other A/E work, such as inspection fees and test borings, are "construction activities" and subject to the prohibition of force accounts and other relevant regulations. Such work may be reimbursed, but only if performed by contract in compliance with the regulations and grant agreement.

Dated: October 4, 1977.

ROBERT T. HALL,
Assistant Secretary for
Economic Development.

[FR Doc.77-29834 Filed 10-12-77;8:45 am]

[3510-25]

Foreign-Trade Zones Board

[Docket No. 10-77]

FOREIGN-TRADE ZONE—SPARTANBURG COUNTY, SOUTH CAROLINA

Application and Public Hearing

Notice is hereby given that an application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Carolina State Ports Authority, Charleston, S.C., requesting authority to establish a general-purpose foreign-trade zone within the Greenville-Spartanburg Customs Port of Entry. The proposed zone would be located on a 20 acre parcel situated on the south side of U.S. 29, one-half mile west of Interstate 85 in Spartanburg County, S.C. Some 9.5 miles from the City of Spartanburg's center, the site is bounded on the west by South Carolina Highway 63 and on the south by South Carolina Highway 316. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act of 1934, as amended (19 U.S.C. 81), and the regulations of the Board (15 CFR Part 400). It was formally filed on October 3, 1977. The Ports Authority, an agency of the State of South Carolina, is authorized to make the application under Section 54-3-230 of the Code of Laws of South Carolina (1976).

The South Carolina Ports Authority is the sponsor of Foreign-Trade Zone No. 21, Dorchester County, S.C., approved in 1975, within the Charleston Customs port of entry. Owned by Carolina Trade Zone, Inc., (CTZ) the Charleston area facility is operated under contract with the Ports Authority. In response to interest expressed by the South Carolina Piedmont area's civic and business communities in providing zone services in that part of the State, the Ports Authority has engaged CTZ to operate a second zone facility on a site which the latter has under option to purchase near the City of Spartanburg. As with the State's original zone, the project is actively supported by the South Carolina State Development Board.

Plans call for the initial construction of 96,000 square feet in warehouse type facilities with expansion possibilities of up to 366,000 square feet. Well situated in terms of highway transportation con-

nections and motor carrier service, the proposed zone site is also served by three trunk line railroads, with a rail spur of the Southern Railway already available at the site. The Greenville-Spartanburg Airport, with modern air cargo handling capabilities, is 10 miles from the proposed facility.

The application includes economic data and information concerning the need for zone services in the area. Several firms have indicated their intention to use the zone for storage, assembly, processing and distribution. Among the products involved are textile machinery and parts, textiles, electronic controls and measuring devices, tires and rubber, and electrical products.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report thereon to the Board. The committee consists of Hugh J. Dolan (Chairman), Office of the Secretary, U.S. Department of Commerce, Washington, D.C. 20230; James R. Cahill, Director, Inspection and Control Division, U.S. Customs Region IV, 7370 NW, 36th Street, Miami, Fla. 33166; and Colonel William W. Brown, District Engineer, U.S. Army Engineer District, Charleston, P.O. Box 919, Charleston, S.C. 29402.

In connection with its investigation of the proposal, the examiners committee will hold a public hearing on November 9, 1977, beginning at 2 p.m., in the East Courtroom, Spartanburg County Courthouse, Magnolia Street, Spartanburg, S.C. The purpose of the hearing is to help inform interested persons about the proposal, to provide them with an opportunity to express their views, and to obtain information useful to the committee.

Interested persons or their representatives will be given the opportunity to present their views at the hearing. Such persons should by November 2 notify the Board's executive secretary in writing at the address below of their desire to be heard. In lieu of an oral presentation, written statements may be submitted to the examiners committee, care of the executive secretary, at any time from the date of this notice through December 9, 1977. Evidence submitted during the post-hearing period is not desired unless it is clearly shown that the matter is new and material and that there are good reasons why it could not be presented at the hearing. A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Customs Service, Route 5, Greenville-Spartanburg Airport, Greer, S.C. 29651.
Office of the Executive Secretary, Foreign Trade Zones Board, U.S. Department of Commerce, Room 6886-B, Washington, D.C. 20230.

Dated: October 7, 1977.

JOHN J. DA PONTE, JR.,
Executive Secretary,
Foreign-Trade Zones Board.

[FR Doc.77-29884 Filed 10-12-77;8:45 am]

NOTICES

[3510-12]

National Oceanic and Atmospheric Administration

CARIBBEAN FISHERY MANAGEMENT COUNCIL

Statement of Organization, Practices, and Procedures

Pursuant to section 302(f) (6) of the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265), each Regional Fishery Management Council is responsible for determining its organization and prescribing its practices and procedures for carrying out its functions under the Act in accordance with such uniform standards as are prescribed by the Secretary of Commerce. Further, each Council must publish and make available to the public a statement of its organization, practices, and procedures. As required by the Act, the Caribbean Fishery Management Council has prepared and is hereby publishing its Statement of Organization, Practices, and Procedures.

Dated: October 7, 1977.

JACK W. GEHRINGER,
Deputy Director, National
Marine Fisheries Service.

CARIBBEAN FISHERY MANAGEMENT COUNCIL,
SUITE 806, BANCO DE PONCE BUILDING, HATO
REY, P.R. 00918

STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES

1. *Name of Council:* Caribbean Fishery Management Council.

2. *Location:* The permanent offices of the Council are located at Suite 806, Banco de Ponce Building, Hato Rey, P.R. 00918. Postal address: P.O. 1001, Hato Rey, P.R. 00919. Telephones: FTS 753-4926, 753-4927, 753-4928; Commercial 753-6910.

3. *Council Legal Authority:* The legal authority or basis for the existence of the Caribbean Fishery Management Council is Pub. L. 94-265, otherwise known as Fishery Conservation and Management Act of 1976. Specifically, Section 302(a)(4) of the Act establishes the Caribbean Council as one of eight Regional Fishery Management Councils.

4. *Purpose:* The purpose of the Caribbean Fishery Management Council is to exercise its responsibilities and functions in accordance with the Fishery Conservation and Management Act of 1976 (Pub. L. 94-265:16 USC1601), and any other applicable law.

5. *Council Composition:* The Caribbean Fishery Management Council shall consist of the Territory of the United States Virgin Islands and the Commonwealth of Puerto Rico, and shall have authority over the fisheries in the Caribbean Sea and Atlantic Ocean seaward of such States.

The Caribbean Council shall have 7 voting members, including 4 appointed by the Secretary of Commerce pursuant to Section 302, Subsection (b)(1) (at least one of whom shall be appointed from each such State).

The non-voting members of the Council shall be those established on Section 302(a) (A)(B)(D) of Pub. L. 94-265.

6. *Officers and Term of Office:* A Chairman and a Vice-Chairman are elected from the voting members of the Caribbean Council. Both officers serve for a period of one year

¹ Wherever the term "State" is used in this document it shall be interpreted as defined by Pub. L. 94-265, under Section 3, Definitions (21).

They may succeed themselves if elected. Elections will be held at the first Council meeting after new members take office in August.

7. *Staff.* The voting members of the Caribbean Fishery Management Council will hire an Executive Director and other support staff as deemed necessary, for carrying out the decisions and desires of the Council.

A. *Functions—Executive Director:* The Executive Director directs the organizational and administrative aspects of Council operations, including hiring and supervising of support staff. Serves as the Chief Liaison Officer for the Council in contacts with government and private agencies. He is responsible for the implementation of Council policies and decisions. Under Council supervision, he accounts for and controls resources allocated to the Council. He is responsible for developing agenda for Council and public meetings, and for the preparation of reports. Represents the Council before public or official groups when required, and coordinates incoming and outgoing communications with all Council members.

B. *Functions—Other Staff:* To be provided. C. *Experts and Consultants:* The Council may contract with experts, consultants, and other personnel, as needed, to provide technical assistance.

D. *Details of Government Employees:* The Council may request the head of any Federal agency to detail to the Council, on a Reimbursable basis, any personnel of such agency to assist the Council in the performance of its functions under the Act.

The length of such details shall be mutually determined by the Council, the Federal employee, and his or her agency. Federal employees so detailed retain all benefits, rights and status as they are entitled to their regular employment. The Council may negotiate arrangements with States or local government to utilize employees of those governments.

The Executive Director shall negotiate and the Council shall approve any such agreement.

F. Employment Practices:

(1) *Nondiscrimination.*—All activities supported in whole or in part by Federal funds must operate under a policy of equal employment opportunity. Council staff positions shall be filled solely on the basis of merit, fitness, competence, and qualifications. Employment actions shall be free from discrimination based on race, religion, color, national origin, sex, age, or physical handicap.

(2) *Personnel Actions.*—Subject to these instructions, and within budgetary constraints, the Council may establish positions, recruit, hire, compensate and dismiss personnel. Involuntary separation shall be for cause alone, with reasonable advance notice given to the employee.

(3) *Salary and Wage Administration.*—In setting rates to pay for Council staff, the principle of equal pay for substantially equal work should be followed. Variations in basic rates of pay should be in proportion to substantial differences in the difficulty and responsibilities of the work performed. Overtime payment shall be in accordance to the Federal Labor Standards Act.

The duties of any new position shall be contained in a brief description to be submitted to the NOAA Personnel Office servicing NMFS Regional Office assigned to the Council prior to the submission of a budget in which the salary of that position is requested. The Council will be provided a salary range appropriate to the position. The Council may fill the position at any salary level within that range. However, it shall be the policy of the Council to pay

persons so hired at the beginning rate; Provided, that exceptionally qualified individuals may be considered for a higher salary, at the discretion of the Council. The annual pay for any staff position may not exceed the equivalent of the top step of GS-15 of the Federal General Schedule at any time. After a position has been filled, the employee may be promoted annually and recognized for superior performance within the specific salary ranges in accordance with Council policies.

(4) *Leave.*—Paid annual leave shall be granted to Council staff members at the same rate used by the Federal Government for its employees. For leave purposes only, credit shall be given to prior State, Federal or military service, not to exceed a total of twelve (12) years.

(5) *Holidays.*—The following official holidays will be observed by the Council.

- (a) New Year's Day (January 1)
- (b) Three Kings Day (January 6)
- (c) Good Friday
- (d) Washington's Birthday (February)
- (e) Memorial Day (last Monday in May)
- (f) Independence Day (July 4)
- (g) Puerto Rican Constitution Day (July 25)

(h) Labor Day (first Monday in September)

(i) Columbus Day (second Monday in October)

(j) Veteran's Day (fourth Monday in October)

(k) Puerto Rican Election Day (November 7)

(l) Thanksgiving Day (fourth Thursday in November)

(m) Christmas Day (December 25)

(In addition to recognized federal holidays, the above holidays account for days on which the Council's staff will not have access to its offices because of standard office building management procedures in the location of the Council's offices. However, if such a local holiday should fall during a Council meeting it shall not be observed as an official holiday of the Council.)

In addition to the above, the Executive Director is authorized to grant administrative leave to the Council staff on any local holiday when normal routine would make performance of staff functions impracticable, if such is consistent with the current workload of the staff.

Business will be conducted from 8 a.m. to 4:30 p.m.

(6) *Employee Benefits.*—The Council shall provide its employees the opportunity to participate in group medical insurance, life insurance and retirement plans and pay a reasonable proportion of the cost of such plans.

(7) *Standards of Conduct.*—The Council is responsible for maintaining high standards of ethical conduct among themselves and their staff. Such standards include the following principles:

No employee of the Council shall use his or her official authority or influence derived from his or her position with the Council for the purpose of interfering with or affecting the result of an election to or a nomination for any national, state, county or municipal elective office.

No employee of the Council shall be deprived of employment, position, work, compensation, or benefit provided for or made possible by the Act on account of any political activity or lack of such activity in support of or in opposition to any candidate or any political party in any national, state, county, or municipal election or on account of his or her political affiliation.

No Council member or employee shall pay, or offer, or promise, or solicit, or receive from any person, firm, or corporation, either as a

political contribution or a personal emolument any money, or anything of value in consideration of either support, or the use of influence, or the promise of support, or influence in obtaining for any person, any appointive office, place or employment under the Council.

No employee of the Council shall have a direct or indirect financial interest that conflicts with the fair and impartial conduct of his or her Council duties.

No Council member or employee of the Council shall use or allow the use, for other than official purposes, of information obtained through or in connection with his or her Council employment which has not been made available to the general public.

No Council member or employee of the Council shall engage in criminal, infamous, dishonest, notoriously immoral or disgraceful conduct prejudicial to the Council.

No Council member or employee of the Council shall use Council property on other than official business. Such property shall be protected and preserved from improper or deleterious operation or use.

(8) *Personnel Files.*—A file for each Council member containing appointment papers, security reports, biographical data and other official papers will be centrally maintained at Council Headquarters under security and safeguard conditions required of files subject to the Privacy Act. This file will be available to the member, and to other persons only pursuant to the Privacy Act.

(9) *Security Investigations.*—When it is anticipated that security classified information will be kept or handled in the Council offices, certain employees shall be designated by the Executive Director to be permitted access to the information in accordance with Federal standards and shall receive appropriate security clearance from the Office of Investigations and Security of the Department of Commerce.

F. *Line Authority:* Council members must submit all requests for task performance that they desire to be carried out by the Executive Director or his Staff to the Council Chairman for his approval and transmittal. The Chairman of the Council, or the Vice-Chairman in his absence, are the only ones so designated to exercise line supervision over the Executive Director.

Similarly, the other members of the Executive Staff receive their line supervision solely from the Executive Director. Council members needing assistance from the Staff in the performance of their duties, should clear the availability of personnel and services with the Executive Director.

A. *Standing Committees of Council Members:*

A. *Names:* The Caribbean Fishery Management Council shall establish the following Standing Committees:

- (1) Finance Committee.
- (2) Grievance Committee.

B. Composition:

(1) The Standing Committee on Finance shall be composed of three voting members; provided that Council Chairman shall automatically be a member of this Committee. The remaining two members of said Committee shall be selected by Council vote.

(2) The Grievance Committee shall be composed of three members of the Council (voting and or non-voting) who shall be selected by vote of the Council.

C. *Functions:* The functions of the above Standing Committees are as follows:

(1) *Finance Committee.*—In general, the Finance Committee is to exercise a planning and control function over Council expenditures and the budget. This responsibility extends to the establishment and monitoring of appropriate procedures in the areas of contract award and administration, procurement procedures, property management, and accounting and budgetary control. A report

shall be given by the Finance Committee to the Council quarterly.

(2) *Grievance Committee.*—In general, to hear grievances from public, members, and staff in all matters pertaining to Council functions.

9. Meetings:

A. General:

(1) The Council shall meet at least quarterly at the call of the Chairman of the Council or upon request of a majority of the voting members.

(2) Advisory bodies will meet with the approval of the Council.

(3) The Council shall comply with all the requirements of Pub. L. 92-463 (Federal Advisory Committee Act) and regulations issued by the Secretary of Commerce with respect to the conduct of meeting.

B. *Frequency and Duration:* The Council shall meet in a plenary session at least quarterly, or as needed. The workload of the Council will determine the duration of the Council meeting. Normally, a Council meeting will begin on the third Tuesday of the month at 9:00 a.m.; and end at noon on the following Thursday. However, Council members will be expected to arrive at the location of the meeting on the day before it begins to participate in Committee meetings to review materials for the meeting prepared by the staff.

The Chairman, Vice-Chairman, and other members of the Advisory Panel, and the Scientific and Statistical Committee, as designated by the Council Chairman may attend each plenary meeting.

C. *Location:* The meeting place of the Council should be large enough to accommodate the anticipated public attendance and be easily accessible to those interested in attending. It is desirable that any meeting or hearing conducted under the authority of the Council be held in the particular area of interest within the Council's jurisdiction, consistent with budgetary constraints.

D. *Agenda:* Suggested agenda for all Council meetings should be drawn up by the Executive Director and approved by the Chairman. The Chairman will be assisted in the task by the Vice-Chairman, the Executive Staff, and members of the Council who wish to contribute. The final agenda and supporting documents shall be distributed to the Council members for their review on the day before the meeting begins.

E. *Minutes of Meeting:* Detailed minutes of each meeting must be kept and their accuracy certified by the Executive Director. Suggested minimum contents of such minutes are listed below:

- (1) The time and place of meeting;
- (2) A list of Council or Advisory Panel members, Staff, and others present;
- (3) A complete and informative summary of matters discussed and conclusions reached;
- (4) A listing with copies of all reports and papers received, issued, or approved by the Council or Advisory Panel;

(5) An accounting of any portions of the meeting which were closed to the public;

(6) The names of members of the public who attend, the number or an estimate where a register is impractical or the members of the public decline to be identified;

(7) An explanation of the extent of public participation including a list of those presenting written or oral statements; and

(8) A copy of the agenda.

F. *Authority of the Chair:* All formal meetings will be conducted in accordance with *Robert's Rules of Order*.

10. A. Scientific and Statistical Committee:

(1) *General.*—The Caribbean Fishery Management Council is required to establish and maintain, and appoint the members of a Scientific and Statistical Committee to assist the Council in the development, collection, and evaluation of statistical, biological, economic, social and other scientific information as is relevant to the Council's development or amendment of any fishery management plan.

(2) *Committee name.*—Scientific and Statistical Committee of the Caribbean Fishery Management Council.

(3) *Composition.*—The Committee is a multidisciplinary body composed of scientists knowledgeable in the fisheries to be managed. The members of the Committee and a Chairman and Vice-Chairman are appointed by the Council.

(4) *Function.*—The Scientific and Statistical Committee provides expert scientific and technical advice to the Council on the development of fishery management policy, on the preparation of fishery management plans, and on the effectiveness of such plans once in operation. The Committee aids the Council in identifying scientific resources available for the development of plans, in establishing the objectives of plans, in establishing criteria for judging plan effectiveness, and in the review of plans.

B. Advisory Panel:

(1) *General.*—The Caribbean Fishery Management Council is required to establish such advisory panels as are necessary or appropriate to assist the Council in carrying out the functions of the Act. The Secretary of Commerce is authorized to pay the actual expenses of members of such panels while engaged in the performance of Council business.

(2) *Panel Names.*—The Caribbean Fishery Management Council has, to date, established one General Advisory Panel.

(3) *Composition.*—The composition of the above Advisory Panel is as follows: Sports fishermen, commercial fishermen, divers and fish dealers, and other interested individuals and is established to provide advice to the Council for each Fishery Management Plan developed by the Council or by the Secretary of Commerce. The Advisory Panel is geographically and functionally representative (including consumer representation) of the affected commercial industry and of the

recreational sector of the fishery. These individuals should be knowledgeable of, and interested in the conservation and management of the applicable fishery. Panel should be sufficient in number to permit a balance representation of interests.

(4) *Function.*—The following functions are identified for the Advisory Panel:

(a) The General Advisory Panel provides advice and guidance to the Council. The Panel aids the Council in establishing the goals, objectives, and procedures of the plan during its preparation and review; assists the Council and its other appointed committees and panels in generating the necessary data for the plan via their linkage to the fishing community; assists the Council in developing criteria for judging plan effectiveness; and serves as a communication link between the fishing community and the Council during the monitoring of plan effectiveness.

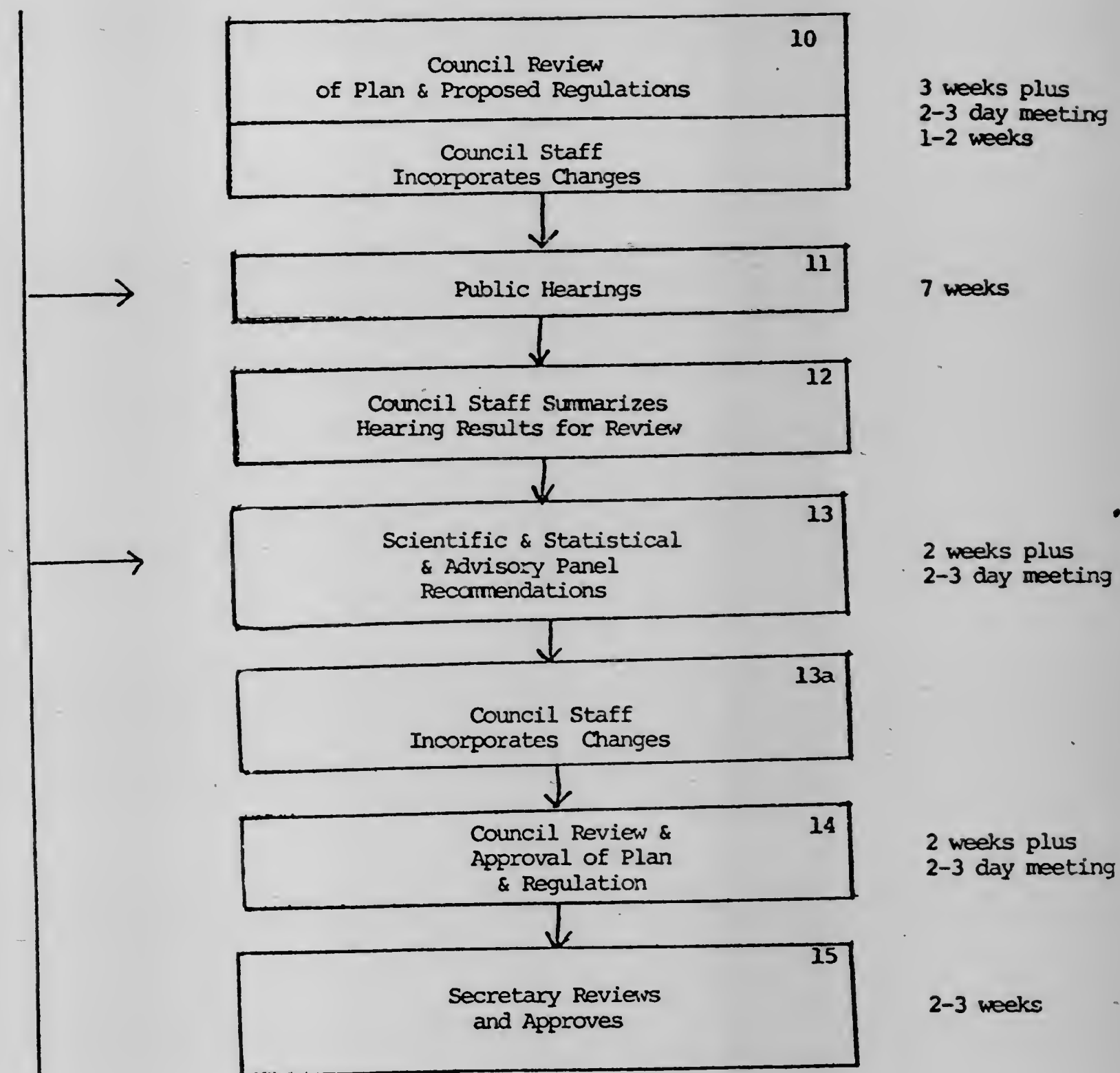
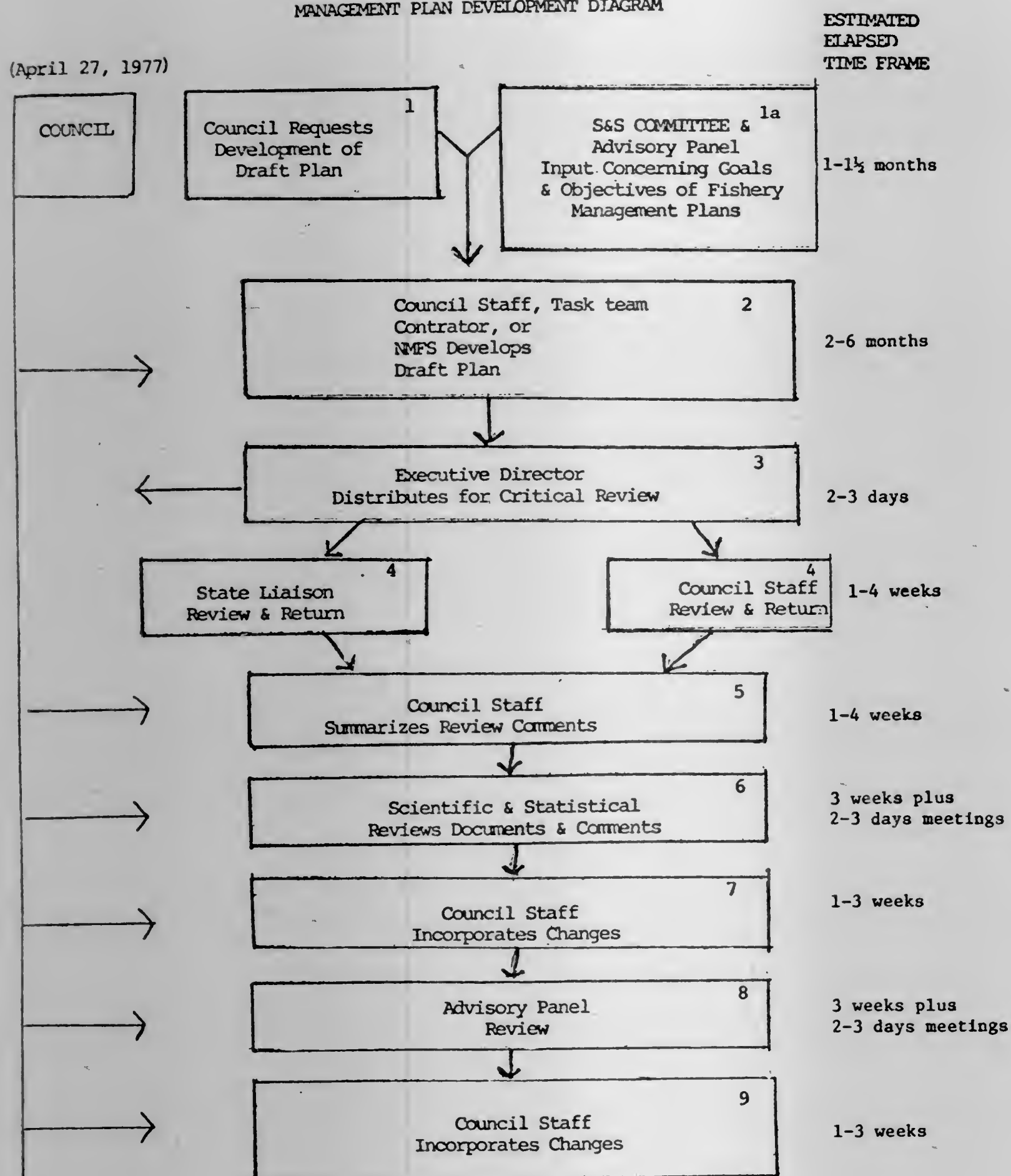
(b) The panel meets in the area encompassed by the Council's constituent States as deemed necessary by the Council. No staff is assigned to these panels, but the staff support may be requested from the Chairman of the Council or the Executive Director.

11. *Organization of Management Plan Development Teams:* Management plan teams will be organized for each fishery management unit identified by the Council. Team members will be selected from State and Federal conservation agencies, universities, and private institutions or individuals known to possess specific knowledge or expertise considered desirable in the preparation of management plans. The Scientific and Statistical Committee will submit to the Council a list of recommended members, participating agencies or institutions, and suggest a lead agency to direct the plan preparation. The Council will confirm the composition of a team and identify the lead agency, individual, or organization. Following formation of the management team and guidance from the Council concerning the general objectives and scheduling of plan preparation, the team will organize the plan and its contents in accordance with a standard outline. Scientific inputs to the plan will be drawn from published reports and papers of participating State and Federal agencies, universities and any other relevant data source, including information derived from oral testimonies. It will be the responsibility of the team leader to insure that the best available data is analyzed and use in drawing up draft plans.

The Team Leader will be responsible for scheduling meetings, typing and reproducing preliminary drafts, coordinating the activities of the team, and distributing tasks among its team members. After the team presents a Draft Fishery Management Plan to the Council, the plan development process will proceed as outlined in the following diagram and explanation.

MANAGEMENT PLAN DEVELOPMENT DIAGRAM

(April 27, 1977)



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MANAGEMENT PLAN DEVELOPMENT PROCEDURE

(1) The Council initiates a request for a management plan through the Executive Director. The Council staff prepares detailed documentation on the information requirements of a management plan for each management unit and sets of optional, tentative goals and objectives which are submitted to the Scientific and Statistical Committee and Advisory Panel for review and comment to the Council. The Scientific and Statistical Committee comments to the Council on the data requirements and makes recommendations on the agencies, institutions, or other entities which have the expertise to develop the draft management plan and recommends methods of preparation. The Council reviews, revises and adopts a set of goals and objectives and selects the group who will develop the draft.

(2) The Council authorizes its staff to begin negotiations for a contractual or other agreement with a person or organization to either prepare a plan, or to lead a task team in preparation of the plan. If the task team approach has been designated by the Council, upon the recommendation of the staff, the staff will also recommend a person or organization to act as team leader. A team leader will then recommend to the Council names of other individuals to serve on the team. The Council will have ultimate approval of any contract or other agreement, and of all team members. Consistent with applicable regulations, contracts may be let to individual team members for consulting services. In some fisheries, the Council staff may be utilized to prepare a draft plan. The contractor, staff, or Task Team develops a draft management plan according to requirements of P.L. 94-265, pertinent regulations and the goals and objectives as approved by the Council. This should include a draft environmental assessment, which should be in the form of a draft Environmental Impact Statement. Development of a set of proposed management regulations with optional alternatives may be requested by the Council as appropriate.

(3) The contractor, staff or group(s) completes the plan draft using the format required by the regulations and that for Environmental Impact Statement, and forwards the document to the Council through the Executive Director. The Executive Director distributes copies to the Council Management Committee for each fishery plan, the Council technical staff, and to the state liaison officers with the request for a critical review of the document. Copies are distributed to Council members.

(4) The reviewers are allowed three to four weeks for critical review of the document. The state liaison officers provide particular review emphasis on management applicability and omission of available technical data as well as a general critical review. Staff reviews applicability to requirements of P.L. 94-265 and the interim regulations as well as a general critical review of scientific content.

(5) Review comments are returned to Council staff who summarize them by reference page number and by source. Important omissions and possible errors noted are forwarded to contractor (if any) for comment and clarification. The plan may be revised to include this omitted information and the correction of errors by Council staff. Summarized comments and copies of the plan are forwarded to Scientific and Statistical Committee members three weeks prior to their scheduled meeting. The summarized comments are intended as a time-saving device to aid Scientific and Statistical Committee members in their own review.

(6) Scientific and Statistical Committee reviews draft plan and provides comment to

Council. Representatives from the appropriate Advisory Panel may be invited to participate in the meeting as requested by the staff, the Council, or the Scientific and Statistical Committee.

(7) The Council staff in cooperation with contractor, if any, the Scientific and Statistical Committee members and possibly specific consultants revise the plan considering Scientific and Statistical Committee's comments. The revised document now contains the best available scientific knowledge and is transmitted to members of the Advisory Panel at least three weeks prior to their scheduled meeting along with summarized lists of comments and changes. Council Management Committee reviews document changes.

(8) Advisory Panel reviews document, as amended, and provides comments. Representatives from the Scientific and Statistical Committee may also be invited to participate in the meeting as requested by the staff, the Council or the Advisory Panel. Council Management Committee participates in discussions.

(9) Council staff prepares document for Council review and provides sets of alternative regulations, summarizes all comments and areas of disagreement on scientific or operational aspects and adds draft EIS, if necessary.

(10) Chairman of the Scientific and Statistical Committee and the Advisory Panel advise Council on their review of document content. Council reviews and adopts a revised document and adopts proposed regulations if appropriate. Council staff revises the amended document according to the directives of the Council for public hearings. Appropriate distribution of the revised document will be made for the public hearings.

(11) Public hearings are duly held in appropriate locations. Management Committee members or other Council members designated by the Council Chairman, chair these public hearings.

(12) Council staff forwards a summary of the public hearing results to Scientific and Statistical Committee and Advisory Panels and the Council the weeks prior to scheduled meetings. Copies are also provided to Management Committee members.

(13) The Scientific and Statistical Committee and the Advisory Panel meet jointly, in whole or in part, as directed by the Council Chairman to review public comments and recommend changes in plan or regulations.

NOTE.—If the public hearing comments are such that a review and the development of recommendations by either or both of the Scientific and Statistical Committee and the Advisory Panel are not necessary, then the Council Chairman may direct that some or all members of these bodies meet with the Council and eliminate procedure step 13.

(14) The Council reviews the public comments and recommendations by the Advisory Panel and Scientific and Statistical Committee and instructs staff in revision of the plan. The approved revised plan is transmitted to the Secretary by the staff on instruction by the Council along with proposed regulations, if any.

12. Financial Management System: A financial management system will be maintained which follows the requirements of Office of Management and Budget Circular No. A-110, "Grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations: Uniform Administrative Regulations."

(1) Standards for code of employment conduct in contract awards and administration will be those in effect in the Federal Government.

(2) Procurement procedures are presented as Appendix "A".

(3) Property Management procedures will conform to Federal standards.

(4) Accounting and budgetary control procedures.

(a) Budgetary procedures will follow those prescribed in the Council Operations Handbook (Appendix D-1) and OMB and NMFS supplemental instructions.

(b) Accounting procedures will conform generally to those specified in Attachment F to OMB Circular A-110 and to the Model Accounting System suggested by the NMFS. The Council will strive to simplify and modify the accounting system as experience dictates such need, keeping in mind that it must include careful recording of transactions in a manner which will provide a clear track for audit both internally and by the Government.

13. Amendment: This statement of Organization, Practices and Procedures shall be adopted by a majority vote of the Council. Any amendment will go into effect upon publication in the FEDERAL REGISTER.

CARIBBEAN FISHERY MANAGEMENT COUNCIL, SUITE 806, BANCO DE PONCE BUILDING, HATO REY, P. R. 00918

STATEMENT OF ORGANIZATION, PRACTICES, AND PROCEDURES

Appendix "A" Procurement Procedures

I. General Provisions:

- .01 Definitions:
- (1) Business
- (2) Change Order
- (3) Construction
- (4) Contract
- (5) Conspicuously
- (6) Confidential Information
- (7) Contract Modification
- (8) Contractor
- (9) Debarment
- (10) Employee
- (11) Financial Interest
- (12) Gratuity
- (13) Immediate Family
- (14) Person
- (15) Procurement
- (16) Purchase Request
- (17) Subcontractor
- (18) Suspension
- (19) Supplies
- .02 Competition
- .03 Purchasing Procedures
- .04 Sources of Supply
- .05 Procurement from Government Sources
- .06 Determination of Need
- .07 Lease vs. Purchase
- .08 Specifications
- .09 Award
- .10 Non-Competitive Practices

II. Formal Advertising:

- .01 Use of Formal Advertising
- .02 Formal Advertising Defined
- .03 Late Bids, Modification of Bids, or Withdrawal of Bids
- .04 Mistakes on Bids
- .05 Rejection of Bids
- .06 Content of Invitation for Bids
- .07 Basis of Selection
- .08 Adequacy of Competition
- .09 Lists and Sources of Supply and Services
- .10 Price Analysis
- .11 Cost Principles and Procedures
- .12 Preaward Surveys

III. Sole Source Procurements:

- .01 Review by Executive Director or his Designee
- .02 Factors
- .03 Approval by NOAA

IV. Award:

- .01 Responsiveness of Bidder
- .02 Responsible Bidder

.03 Sources of Information Regarding Responsibility of Prospective Contractors

V. Contract Types:

- .01 Scope of Section
- .02 Cost Plus Percent of Cost Contracts
- .03 Fixed Price Contracts
- .04 Cost Reimbursement Type Contracts
- .05 Time and Materials and Labor Hour Contracts
- .06 Indefinite Delivery Type Contracts
- .07 Indefinite Quantity Contracts
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- .09 Purchase Orders

VI. Contract Administration:

- .01 Responsibility
- .02 Council Staff
- .03 Post-Award Orientation
- .04 Contractor Performance Reports and Request for Payment
- .05 Acceptance of Contract Deliverables
- .06 Delinquencies
- .07 Contract Modification
- .08 Approval Authority
- .09 Processing Contract Modifications
- .10 Constructive Changes
- .11 Contract Termination
- (1) Types of Termination
- (2) Procedures
- .12 Closing Contracts

VII. Protests, Contract Disputes, and Appeals:

- .01 Applicability of Section
- .02 Authority of Executive Director
- .03 Authority of Administrative Officer
- .04 Appeal to Council
- .05 Hearing Before Council
- .06 Bid Protests
- .07 Filing of Protest
- .08 Decision
- .09 Effect of Decision

VIII. Procurement Code of Conduct:

- .01 Statement of Policy
- .02 Conflict of Interest
- .03 Employees and Council Members Not to Benefit
- .04 Gratuities and Kickbacks Illegal
- .05 Covenants Relating to Contingent Fees
- .06 Restriction on Employment of Present and Former Council Employees
- .07 Use of Confidential Information

IX. Negotiated procurements:

I. General Provisions:

- .01 Definitions. The words and terms defined in this section shall have the meanings set forth below, unless (1) the context in which they are used clearly requires a different meaning, or (2) a different definition is prescribed for a particular Section or portion thereof.

(1) Business means any corporation, partnership, joint stock company, joint venture, or any legal entity through which goods or services are provided.

(2) Change Order means a written order signed by the Executive Director directing the contractor to make changes, which the Changes clause of the contract authorizes the Executive Director to order without the consent of the contractor.

(3) Construction means the erection, alteration, or repair of a building, structure, or other improvement to real property.

(4) Contract means all types of agreements and orders for the procurement, or disposal, or supplies, services, construction, or any other item. It includes awards and notices of award; contracts of a fixed price, cost, cost-plus-a-fixed-fee, or incentive types; letter contracts, and purchase orders. It also includes supplemental agreements with respect to any of the foregoing.

(5) Conspicuously means written in such special or distinctive format, print, or manner that a reasonable person against whom it is to operate ought to have noticed it.

(6) Confidential Information means any which is available to an employee only because of his status as an employee and is not a matter of public knowledge or available to the public on request.

(7) Contract Modification means any written alteration on the specification, delivery point, rate of delivery, contract period, price, quantity, or other contract provisions of any existing contract.

(8) Contractor shall mean any person having a contract with the Council.

(9) Debarment means the disqualification of a person to receive invitations to bid or requests for proposals, or the award of a contract by the Council for a specified period of time.

(10) Employee includes any individual drawing a salary from the Council and any nonsalaried or governmental employee performing services for the Council, and members of the Council's Scientific and Statistical Committee and Advisory Panel.

(11) Financial Interest shall mean:

(a) Ownership of any interest or involvement in any relationship from or as a result of which the owner has, within the past three years, received or is presently or in the future entitled to receive more than \$500.00 per year, or

(b) Ownership of more than a 1 percent interest in any business, or

(c) Holding a position in a business such as an officer, director, trustee, partner, employee or the like or holding any position of management.

(12) Gratuity means a payment, loan, subscription, advance, deposit of money, services, offer of employment, or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value is received.

(13) Immediate Family means a spouse, children, grandchildren, parents, and brothers, sisters, and in-laws.

(14) Person means any business, individual, union, committee, club or other organization or group of people.

(15) Procurement includes purchasing, renting, leasing or otherwise obtaining supplies or services. It also includes all functions that pertain to the obtaining of such supplies, services, and items, including description of requirements, selection and solicitation of sources, preparation and award of contract, and all phases of contract administration.

(16) Purchase Request means a document requesting that a contract be obtained for a described item.

(17) Subcontractor means any business which holds an agreement or purchase order to perform any part of the work or to make or furnish any article or service required for the performance of a Council-funded contract, or subcontract thereunder.

(18) Suspension means the disqualification of any person to receive invitations for bid or requests for proposals, or to be awarded a contract by the Council for a temporary period pending the completion of an investigation, and any legal proceedings that may ensue.

(19) Supplies includes all property except land or interest in land.

.02 Competition. All purchases and contracts except purchases from federal sources shall be made on a competitive basis to the maximum practicable extent. Purchases from non-federal sources shall be made by formal advertising or by negotiation.

.03 Purchasing Procedures. The following procedures are used by the Council for all procurements:

(1) Procurements Over \$2,500.—For procurements of \$2,500 or more the Administrative Officer shall solicit a sufficient number of prospective bidders in accordance with Section II so as to elicit adequate competi-

tive bids, open them simultaneously, and recommend award to the Executive Director of the responsible bidder whose bid is most advantageous to the Council, price and other factors considered.

(2) Procurements Less Than \$2,500.—For procurements ranging in value of less than \$2,500, but of \$500 or more, the Executive Director or his designee shall obtain quotations from at least two vendors and select the vendor whose quotation is most advantageous to the Council, price and other factors considered.

(3) Procurements of Less Than \$500.—Procurements of less than \$500 in value may be made directly by the Executive Director or his designee without quotations or bids.

(4) Records.—A record of all formal and informal quotations on bids shall be maintained by the Executive Director.

.04 Sources of Supply. Irrespective of whether the procurement of supplies or services from nonfederal sources is to be effected by formal advertising or negotiation, competitive proposals ("bids" in the case of procurement by formal advertising, "proposals" in the case of procurement by negotiation) shall be solicited from all such qualified sources as are deemed necessary by the Executive Director or his designee to assure such full and free competition as is consistent with procurement of types of supplies and services necessary to meet the requirements of the Council.

.05 Procurement From Government Sources. Prior to the award of any contract for the purchase of supplies, federal sources which are available to the Council shall be considered and when such sources are most advantageous to the Council's needs, price and other factors considered, the procurement shall be made from federal supply sources. Competitive bids or letters are not required when the procurement list established by the federal sources is based upon a competitive bid procedure.

.06 Determination of Need. When considering the necessity for a procurement, (either goods or services) the Executive Director or his designee shall:

(1) Certify the requirement with respect to need and extent.

(2) Ensure that the procurement is not duplicating work already undertaken by another Council or governmental agency.

(3) Be certain that the task cannot be accomplished by Council personnel.

(4) Determine that the requirement cannot be fulfilled using other available sources.

.07 Lease vs. Purchase. Leasing will be used where it is in the Council's interest. The criteria to be considered in deciding to lease rather than purchase include the following:

(1) The Council requirement is of a short duration, and purchase would be more costly than leasing.

(2) The probability that the equipment will become obsolete and that replacement within a short period will be necessary; and

(3) The equipment is special or technical, and the lessor will provide the equipment, as well as maintenance and repair services, at a lower cost than would otherwise be available to the Council.

Lease versus purchase decisions are based on an economic analysis and the Council's files shall be documented to support the final decision.

.08 Specifications. The work "specification" is a clear and accurate description of the technical requirements for material, product, or service, including the procedure by which it will be determined that the requirements have been met. Specifications for items or materials contain also preservation, packing, and marking requirements.

(1) Use of Federal Specifications. In all purchases of property by the Council, specific-

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cations promulgated by the General Services Administration or the United States Department of Commerce shall be used unless the Executive Director or his designee determines that such specifications are inappropriate for Council purposes.

(2) Use of Council Specifications. In the purchase of services such as consultants or technical advice the Council shall device specifications. Such specifications may be prepared by Council staff, which may seek the recommendations of Advisory Panel, Scientific and Statistical Committee, or other sources selected by the Council.

.09 Award. Unless all bids are rejected, award may be made by the Executive Director or his designee by written notice, within the time for acceptance specified in the bid, to that responsible bidder whose bid on the judgment of the Executive Director, conforms to the invitation for bids and will be most advantageous to the Council, price and other factors considered. Award shall be made by mailing or otherwise furnishing to the successful bidder a properly executed award document or notice of award. All provisions of the invitation for bids, including any acceptable changes or additions made by the bidder in the bid, shall be clearly and accurately set forth in the award document.

.10 Non-Competitive Practices. Non-competitive practices such as possible anti-trust violations and identical bids shall be reported by the Executive Director or his designee according to the procedures set out in Title 41 Code of Federal Regulations, Federal Procurement Regulations; Subpart 1-1.9 and 1-1.16.

II. Formal Advertising:
.01 Use of Formal Advertising. Contract for property and services are made by formal advertising in all cases in which the use of such method is feasible and practicable under the existing conditions and circumstances. Formal advertising is not required when government sources of supply are used, provided the procurement list established by the government source is based upon a competitive bid procedure.

.02 Formal Advertising Defined. Formal advertising means procurement by competitive bids and award. It involves the following basic steps:

(1) Preparation of the Invitation for Bids.—Preparation of the invitation for bids, describing the requirements of the Council clearly, accurately, and completely, but avoiding unnecessarily restrictive specifications or requirements which might unduly limit the number of bidders. The term "invitation for bids" means the complete assembly of related documents furnished prospective bidders for the purpose of bidding.

(2) Publicizing the Invitation for Bids.—In procurement activities using formal advertising the Executive Director or his designee will select the means which will make information available to potential suppliers. Such means may include but are not limited to publication in local trade newspapers and journals and publications in the "Daily Journal of Commerce." When notice is given by publication, the Executive Director or his designee will publish the notice at least 10 days before the issuance of the invitation for bids or requests for proposals.

(3) Receipt and Opening of Bids.—(a) Receipt. All bids received prior to the time set for opening shall be kept unopened in a locked receptacle. If a bid is opened by mistake, the person who opens the bid will immediately sign the envelope and deliver it to the Administrative Officer. The Administrative Officer shall immediately write on the envelope an explanation of the opening, the date and time opened, and sign the statement. No information shall be disclosed prior to the public bid opening.

(b) Opening. The Administrative Officer

shall decide when the set time for bid opening has arrived and shall so declare to those present. All bids received prior to the time set for opening shall then be publicly opened, recorded and when practicable, read aloud to the persons present. If impracticable to read the whole bid, the total amount bid shall be read. Bids may be examined by interested persons but original bids may not be allowed to pass out of the hands of Council employees.

(4) Awarding the Contract. After bids are publicly opened, they shall be tabulated and evaluated by the Administrative Officer and a recommendation shall be made to the Executive Director for award. Award shall be made to that responsible bidder whose bid conforms to the invitation for bids and will be not advantageous to the Council, price and other factors considered and notwithstanding any other provision hereof. However, all contracts for Fishery Management Plan preparation are subject to prior approval by the Council.

.03 Late Bids, Modification of Bids, or Withdrawal of Bids.

(1) Any bid received at the place designated in the solicitation after the exact time specified for receipt will not be considered unless it is received before award is made and either:

(a) It was sent by registered or certified mail not later than the fifth calendar day prior to the date specified for the receipt of bids; or

(b) It was sent by mail or telegram (if authorized) and it is determined by the Executive Director or his designee that the late receipt was due solely to mishandling by the Council staff after receipt in the designated place.

(2) Modification or withdrawal of bids are subject to the same conditions as set out in (a) above.

.04 Mistakes in Bids. Mistakes in bids shall be handled according to the provisions of Title 41, Code of Federal Regulations, Federal Procurement Regulations; part 1-2.5.1-2.406.

.05 Rejection of Bids. Bids may be rejected by the Executive Director or his designee as follows:

(1) Nonconforming Bids.—Any bid which fails to conform to the essential requirements of the invitation for bids shall be rejected as non-responsive.

(2) Debarred or Ineligible Bidders.—Bids received from any person or concern debarred or ineligible shall be rejected.

(3) Rejection of All Bids.—The Executive Director or his designee may reject any and all bids. Each bidder shall be notified of the reason why all bids were rejected.

.06 Content of Invitation for Bids. For supply and service contracts, invitations for bids shall contain the following information if applicable to the procurement involved:

(1) Name and address of Council
(2) Date of issuance
(3) Date, hour, and place of opening
(4) Number of pages
(5) A description of supplies or services to be furnished in sufficient detail to permit full and free competition

(6) The time of delivery or performance
(7) A statement in the invitation that "Bids must set forth full, accurate, and complete information as required by this invitation for bids (including attachments)."

(8) Bid guarantee, performance and payment bond requirements, if any

(9) A requirement that all bids must allow a period for acceptance by the Executive Director or his designee of not less than a minimum period stipulated in the invitation for bids and that bids offering less than the minimum stipulated acceptance period will be rejected.

(10) In the cases where bidders are required to have special technical qualifications due to the complexity of the equipment or service being procured, a statement of such qualification.

(11) Directions for obtaining copies of any documents, such as plans, drawings, and specifications which have been incorporated by reference.

(12) A statement of Council Policy regarding late bids, modification of bids, and withdrawal of bids.

.07 Basis of Selection. Records of formal advertised procurements will reflect the following as a basis of selection.

(1) Adequacy of Competition
(2) Responsiveness of Bidder
(3) Responsibility of Bidder

.08 Adequacy of Competition. Two or more capable sources must be available to assure full and free competition. Two sources are not adequate when there are more sources fully qualified to compete in the area.

.09 Lists and Sources of Supply and Services. Lists of bidders and sources of supply will be maintained by the Council and consulted prior to solicitations. Consideration will be given to the source lists available from the Small Business Administration under their 8-A Minority Set-Aside Program as well as the directories of minority business establishments published by the Department of Commerce, Office of Minority Business Enterprise.

.10 Price Analysis. When bids are received, the Council will conduct price analysis to determine the reasonableness of the bid price. The price analysis consists of an examination and evaluation of the prospective price without evaluating the separate cost elements such as labor, materials, overhead, etc., and proposed profit. Methods of price analysis include:

(1) The comparison of the price quotations submitted when the number of bids is adequate;

(2) The comparison of prior quotations and contract prices with current quotations for the same or similar items or services;

(3) The use of rough yardsticks (such as dollars per man years are specified) to point up apparent gross inconsistencies which should be subjected to greater pricing inquiry;

(4) The comparison of prices in published price lists issued on a competitive basis; and

(5) The comparison of proposed prices with estimates of cost independently developed by Council staff.

.11 Cost Principles and Procedures. Title 41 Code of Federal Regulations, Federal Procurement Regulations; Part 15, serves as a guide for contract cost principles and procedures.

.12 Preaward Surveys. A preaward survey is an evaluation of a prospective contractor's performance capability under the terms of a proposed contract. Such evaluation is used by the Council as an aid in determining responsibility.

The evaluation is accomplished by use of:

(1) Data on hand,

(2) Data from another purchaser such as State and Federal agencies,

(3) On site inspections of facilities to be used for performance of the proposed contract, or

(4) Any other means deemed advisable by the Council.

III. Sole Source Procurements:

.01 Review by Executive Director or his Designee. When a procurement will be non-competitive (i.e., sole source), the Executive Director or his designee shall review the proposed action for assurance that competitive procurement is not feasible. This action includes both examination of the reasons for the procurement being non-competitive

and steps to foster competitive conditions for subsequent procurements.

.02 Factors. Factors considered in approving a sole source procurement include but are not limited to:

(1) What capability does the proposed contractor have that is important to the specific effort and makes him clearly unique in comparison to another contractor in the same general field?

(2) What prior experience of a highly specialized nature does the proposed contractor have that is vital to the proposed effort?

(3) What facilities and equipment does the proposed contractor have that is specialized and vital to the effort?

(4) Does the proposed contractor have a substantial investment of some kind that would have to be duplicated at the Council's expense by another source entering the field?

(5) If schedules are involved, why are they critical and why can the proposed contractor best meet them?

(6) If lack of drawings or specifications is a guiding factor, why is the proposed contractor best able to perform under those conditions? Why are drawings and specifications lacking? What is the leadtime required to get drawings and specifications suitable for completion?

(7) Is the effort to be a continuation of a previous effort performed by the proposed contractor?

(8) Is competition precluded because of the existence of patent rights, copyrights, or secret processes?

(9) Are parts or components being procured as replacement parts in support of equipment especially designed by a manufacturer? Is the data available adequate to assure that another contractor's components will perform the same function in the equipment as those components being replaced?

.03 Approval by NOAA. Prior to the award of a sole source contract in excess of \$5,000, the Executive Director or his designee shall forward this review and justification to the appropriate NOAA Grants Officer for approval as required by OMB Circular A-110.

IV. Award:

.01 Responsiveness of Bidder. To be responsive, a bid should comply in all material respects with the invitation for bids, both as to the method and timeliness of submission and as to the substance of any resulting contract. If the offeror's bid is not in conformance with the invitation for bids, the deficiencies will be documented and the offeror's bid rejected. The determination will reflect the fact

.02 Responsible Bidder. A determination will be made and documented prior to award as to the responsibility of the bidder. This will be included in the procurement file.

A bidder is considered responsible when it has been established that he has the technical capability, financial capacity and manpower required to perform as he has bid. To be responsible an offeror should:

(1) Have adequate financial resources, or the ability to obtain such resources as required during performance of the contract;

(2) Be able to comply with the required or proposed delivery or performance schedule, taking into consideration all existing business commitments;

(3) Have a satisfactory record of performance;

(4) Have a satisfactory record of integrity and business ethics;

(5) Be otherwise qualified and eligible to receive an award under applicable public policy laws and regulations.

.03 Sources of Information Regarding Responsibility of Prospective Contractor. Examples of sources of information which may be used by the Council staff to determine responsibility include:

(1) Lists of debarred, suspended, or ineligible concerns or individuals;

(2) Representations and other information contained in or attached to bids and proposals; replies to questionnaires; financial data such as balance sheets, profit and loss statements, cash forecasts, and financial histories of the contractor and affiliated concerns; current and past production records; personnel records; lists of tools, equipment, and facilities; written statements or commitments concerning financial assistance and subcontracting arrangements; and analysis of operational control procedures. Where it is considered necessary, the Council staff may require prospective contractors to submit statements concerning their ability to meet any of the minimum standards;

(3) Other information existing within the Council's organization, including records on file and knowledge or personnel within the organization;

(4) Other sources such as suppliers, subcontractors, and customers of the prospective contractor; banks and financing institutions; commercial credit agencies; state and Federal Government agencies; purchasing and trade associations; better business bureaus and chambers of commerce; and

(5) The conduct of a preaward survey.

V. Contract Types:

.01 Scope of Section. This section prescribes policies and general principles for determining contract types to be used by the Council. It will serve as a guide for determining the type of contract appropriate for the particular procurement.

.02 Cost-Plus-Percent-Of-Cost Contracts. The cost plus a percentage of cost contract is prohibited by federal law and will not be used by the Council.

.03 Fixed Price Contracts. Fixed price contracts include the firm fixed price contract; the fixed price contract with escalation; and the fixed price contract with incentive. Only the firm fixed price contract and the fixed price contract with escalation can be used as a result of formal advertising. They may also be used in contracts achieved through negotiation where competition is adequate or a state or quasi-public agency is involved.

(1) Firm Fixed Price Contract.—The firm fixed price contract is the type of contract that results from either public advertising procurements with sealed bids or negotiated procurements which have had adequate competition or consideration for the work to be performed by the state or quasi-public agency. The fixed price contract is particularly suitable for construction and for procurements of standard commercial items, modified commercial items, or for items when specifications are reasonably definite. Price competition should exist, and costs should be predictable with reasonable certainty when this type of contract is used.

(2) Fixed Price Contract with Escalation.—When delivery or performance extends over a period of time, a contractor may seek to protect himself against unusual risk by listing a number of circumstances under which his offered price may need adjustment. This type of contract is used in the procurement of items that are directly affected by industry-wide wage rates for example.

(3) Fixed Price Incentive Contract.—An incentive contract is aimed at motivating the contractor to increase his efficiency and reduce his costs while producing the best possible item. A fixed price incentive contract will provide for establishment of the final contract price by application of an agreed upon formula relating profit to total actual contract costs. This type of contract should not be used where there is insufficient cost experience with the item or services being produced and where insufficient competition exists to ensure competitive pricing.

.04 Cost Reimbursement Type Contracts. The cost reimbursement type of contract provides for payment to the contractor of allowable costs incurred in the performance of the contract, to the extent prescribed in the contract. This type of contract establishes an estimate of total cost for the purpose of obligation of funds, and a ceiling reflected by the funds actually obligated which the contractor may not exceed (except at his own risk) without prior approval or subsequent ratification of the buyer. The use of cost-reimbursement type contracts should be documented by a determination that such a method of contracting is likely to be less costly than other methods; or that it is impractical to secure property or services of the kind or quality required without the use of such type of contract.

(1) Cost Contract.—This is the simplest of the cost reimbursement type of contract. Under this type of contract, the contractor receives no fee but the buyer agrees to reimburse the contractor for allowable costs. Cost contracts are usually entered into for work done by educational and other non-profit institutions and would include established indirect costs as determined acceptable for other federal contracts for each such entity.

(2) Cost-Plus-Fixed-Fee Contract.—The cost plus fixed fee contract is a cost reimbursement type of contract which provides for the payment of a fixed fee to the contractor. The fixed fee, once negotiated, does not vary with actual costs, but may be adjusted as a result of any subsequent changes in the work or services to be performed under the contract. This type of contract is appropriate when there is insufficient cost data upon which to base a fixed price.

(3) Cost-Plus-Incentive-Fee Contract.—This contract like the cost-plus-fixed-fee contract, provides for reimbursement of the contractor's allowable costs. But the cost incentive fee contract establishes a fee formula that rewards the contractor for cost underruns and penalizes for cost overruns of the target cost. A target cost, a target fee, a minimum and maximum fee and a fee adjustment formula are set forth in the contract. The target cost is the best estimate of the cost of completing the work. If the contractor's actual costs are less than the target cost, he receives a fee larger than the target fee; if his costs are greater than the target cost, his fee is adjusted downward.

(4) Cost-Plus-Award-Fee Contract.—This is a variation of the Cost-Plus-Incentive-Fee contract and is used in the procurement of technical services such as design, architecture, programming, and engineering when the work to be performed can be defined with sufficient detail at the outset to permit objective grading of the contractor's performance after completion. This type of contract closely resembles the CPIF in function in that each has a minimum and maximum fee between which the contractor receives a return based upon the level of performance achieved.

(5) Variations of Cost, Cost-Plus-Fixed Contracts.—Contracts may be considered by introducing Special Provisions. These provisions include:

(a) A limitation-of-cost provision to protect the Council from the contractor spending more money than authorized by the Contract. Ceilings on maximum contractor cost—at some percentage over the established cost, insuring a limit on the money that the contractor may spend and be reimbursed—could be used to indicate the maximum value of the project to the Council.

(b) A ceiling on overhead rates. Establishing a ceiling on a contractor's overhead, in a cost-reimbursement contract, is considered only after discerning that conditions prevail which warrant such an inclusion in a contract. For example:

- (1) a contractor who is just starting and has not yet established an overhead rate;
- (2) an established contractor who has not previously been

All requirements for a particular item or service, however, must be filled during the life of the contract for the ordering activities shown in the contract. Requirements contracts are used for commercial or modified commercial items which have a recurring demand. The advantages of this type of contract are:

- (1) Flexibility of quantity and delivery schedule;
- (2) orders are placed only after needs arise;
- (3) production lead time is not a factor, since the contractor anticipates demand and stocks the produce in anticipation of calls;
- (4) savings may be realized because of reduction in number of individual purchase actions; and
- (5) prompt availability of items from the vendor permit low-level stockage by the procuring organization.

.07 Indefinite Quantity Contract. This type of contract follows the same form as the previous two types and is used for the same categories of items. In this type contract, the buyer guarantees that he will order an agreed minimum quantity of the product or service during the contract period. In addition, there is a stated maximum quantity that will not be exceeded. Individual orders authorized under the contract may also be limited as to the maximum and minimum quantities.

.08 Letter Contracts. A letter contract is a written preliminary contractual instrument which authorizes immediate commencement of manufacture of supplies, or performance of service, including but not limited to, planning and the procurement of necessary materials. This type of contract is intended to service one essential purpose—to get the contractor started without delay, for in emergencies time may not permit negotiation of a definitive contract.

To protect the buyer's interest, letter contracts normally include agreement:

- (1) That the contractor will commence work without delay;
- (2) As to the extent and method of payment in case of contract termination for convenience or default;
- (3) That the contractor will not incur monetary obligations in excess of the limit set for them in the letter contract;
- (4) As to the anticipated type of definitive contract to be entered into at a later date;
- (5) As to certain definitive contract clauses;
- (6) That the contractor will be obligated to provide price and cost information that can be reasonably expected by the buyer within one month; and
- (7) That the contractor will enter into negotiations promptly and in good faith to arrive at a definitive contract with the buyer.

.09 Purchase Orders. Purchase orders are a simplified form of a definitive contract that normally contains preprinted contractual provisions. They are normally used when supplies or services are bought on a fixed-price basis, and the price does not exceed \$2,500.

VI. Contract Administration:

.01 Responsibility. Contract administration is the responsibility of the Executive Director or his designee. The Executive Director may act for the Council to award, amend or modify a contract or take any action to change a contractual commitment on behalf of the Council. The Executive Director and the Council staff see that administrative functions are performed to achieve the desired results and to protect the Council's interest. The Executive Director is also responsible for maintaining a complete file of documentation related to each contract.

The Executive Director shall designate a member of the Council staff to act as Contract Monitor upon the award of a contract.

.02 Council Staff. The Council staff is responsible for the technical and project managerial aspects of contract administration. They ensure compliance with the technical requirements of the contract, determine the degree and acceptability of progress by the contractor, and when appropriate, certify to such progress by the contractor. All correspondence between the contract monitor and the contractor should be coordinated with the Executive Director and a copy provided for the contract file. Duties of a staff member assigned to monitor a contract include:

- (a) Familiarization with the terms and conditions of the contract in order to assure compliance with the provisions thereof.
- (b) After award, the holding of discussions with the contractor to arrive at a common understanding of individual responsibilities and working arrangements. Such discussions should occur immediately after award and as required throughout the period of the contract performance. Such meetings are not meant to be negotiations of tasks to be performed. Tasks and their scope must be decided during formal contract negotiations prior to award.

(c) The arrangement of a schedule of operation in accordance with the contract requirements and certification, when appropriate, of satisfactory accomplishment on the contractor requests for progress and final payments. Performance reports should show work actually accomplished. The Executive Director should be promptly informed of delays in progress of work and of any problems encountered that may require contract amendments or other administrative action.

(d) Recommending to the Executive Director any proposed changes in specifications, extra work extensions in contract time or any other technical matter arising under the contract.

(e) The initiation and acquisition of approvals that may be necessary for changes in the statement of work requirements which would require a contract modification.

(f) Monitoring to assure that no work authorizations or orders to the contract, either oral or written, are issued unless authorized according to Council policy.

(g) The furnishing of Council material to the contractor as may be provided in the contract and authorized by the Executive Director.

(h) Obtaining and evaluating all technical and progress reports from the contractor required by the contract.

(i) Evaluating contractor progress.

(j) Reviewing the contract at least 90 days prior to scheduled completion date to determine any need for modification or renewal of the contract or extension of performance time. The Executive Director should be notified at least 60 days prior to scheduled completion of a contract if any extension of the contract period will be required or if a need for additional work under the contract is anticipated. The Executive Director should also be notified upon satisfactory completion of work under a contract.

(k) Recommending the disposition of any problems which might arise in the areas of rights in data, patents, Council property, and other subjects addressed in the contract provisions.

(l) Representing the best interests of the Council in all dealings with contractor.

.03 Post-Award Orientation.

(1) Before performance of the contract begins, the Contract Monitor designated by the Executive Director shall call a post-award conference to ensure that the contractor fully understands every contractual provision.

Subjects discussed should include as appropriate:

- (a) The statement of work content to ensure proper interpretation.
- (b) The specifications, when applicable.
- (c) The contractor's plan for the conduct of the contract.
- (d) The contractor's performance reports, content, and dates of submittal.
- (e) The contract provisions which are germane, for example, the key personnel clause, progress payments, etc.
- (f) Council furnished property.

(2) In less complex contracts, a post-award letter may be sufficient. When used, the letter is to identify the Contract Monitor and call attention to the reporting requirements.

.04 Contractor Performance Reports and Requests for Payment. The Contract Monitor should evaluate the contractor's performance at each interval when progress payments or performance reports are due. If the performance has been poor, or the contractor non-responsive, the Contract Monitor should arrange a discussion, in detail, with the contractor concerning performance shortcomings and proposed corrective action. Where contract requirements are not adequately met, final payment should be withheld until corrective action has been taken to the satisfaction of the Executive Director.

.05 Acceptance of Contract Deliverables. It is the Contract Monitor's responsibility to determine that the work is complete and conforms with the technical requirements of the contract. Once formal acceptance has been accomplished, the contractor is normally excused from further performance or correction of unsatisfactory work. The Contract Monitor should provide written notification to the Executive Director when the contract work has been judged complete and technically acceptable.

.06 Delinquencies. When a delinquency appears imminent, prompt action must be taken to protect the Council's rights. In administering a delinquent contract, Council staff should do nothing that might waive the Council's rights to terminate for default. In the event of a delinquency not of a minor nature, the Executive Director may take one of the following actions:

- (1) Extend the contract delivery schedule.
- (2) Terminate the contract for default.
- (3) Terminate the contract for the convenience of the Council.

(4) Terminate the contract on the basis of agreement for a no-cost settlement.

(5) Obtain a written agreement from the Contractor that the Council's consent to continued performance will not operate as a waiver of either its rights to terminate for the existing default, or any other of its rights.

.07 Contract Modification. A contract modification is considered to be any written alteration of contract provisions, i.e., work statement, specification, period of performance, time and rate of delivery, quantity, price, cost, fee, or other provisions of an existing contract whether accomplished in accordance with a contract provision or by mutual actions of the parties to the contract.

.08 Approval Authority. Only the Executive Director has the authority to approve a contract modification.

.09 Processing Contract Modifications. The Contract Monitor is responsible for monitoring the contract and recommending changes in existing contracts. In such capacity, he will generally be responsible for initiating the necessary documents involving technical changes. In preparing the documents, he shall review the statement of work and the applicable specification and then delineate the proposed changes there. The Contract Monitor should also evaluate

whether these proposed changes are within the general scope of the contract or are considered new procurement and set forth the rationale supporting his position. If the Contract Monitor believes the changes to be in the general scope, the proposed changes, recommendations, and rationale are forwarded to the Executive Director for concurrence.

If the modification is adjudged to be "new work" then the minimum standards for competition must be met as set forth in these regulations. New work cannot be added on to existing contracts without the appropriate considerations of procuring through competitive means.

.10 Construction Changes. A construction change occurs when a contractor is caused to react in a manner other than that which the contract requires. For example, a contractor may have painted all of a product blue since no color was specified. The Contract Monitor states that they should be red. The Contractor could claim the cost of the added materials and labor to comply with the directions of the Contract Monitor.

.11 Contract Termination.

(1) Types:

(a) Completion. Most contracts are in force until satisfactory completion, or in the case of cost reimbursement contracts, until other satisfactory results are achieved or the funds allocated for their performance have been exhausted.

(b) Termination for Convenience. The Executive Director may terminate for the convenience of the Council at any time during performance even though the contractor is performing properly; the Contractor assumes this risk under the contract terms, whenever he does business with a federal grantee. When the Council makes use of this right, however, it compensates the contractor for his cost and earned fee or profit for his preparations and for any completed and accepted work that relates to the terminated part of the contract. Termination for convenience would be used in cases where the Council has a change in requirements or a change in funding priority of projects. Other examples would be loss of key contractor scientific or engineering personnel, unsatisfactory progress, or changes in emphasis by the Council.

(c) Termination for Default. The Council may terminate for default when the contractor fails to perform his part of the bargain properly.

(2) Procedures.—Generally, the provisions of the contract will govern procedures to be followed in termination. It is the duty of the Contract Monitor to recommend the termination of a contract to the Executive Director. The Executive Director shall instruct the Contract Monitor in the settlement process with the contractor.

.12 Closing Contracts. Upon completion of the contract work, the Council shall close out the contract as rapidly and as effectively as possible and make final payment to the contractor. To this end, the Executive Director shall ensure that all work is promptly inspected to the extent necessary to determine acceptability. The Executive Director should also call upon the Contract Monitor to determine that the work is complete and conforms with the technical requirements of the contract, and that all items contractually required have been submitted and are acceptable.

VII. Protests, Contract Disputes and Appeals:

.01 Applicability of this Section. This section applies to claims arising out of contracts entered into the Council after the adoption of these rules.

.02 Authority of the Executive Director. The Executive Director is authorized to settle, compromise, pay or otherwise adjust any claim by or against, or any controversy with, a contractor or bidder relating to a contract

entered into by the Council, including a claim or controversy initiated after award of a contract, based on breach of contract, mistake, misrepresentation or other cause for contract modification or rescission. In the event a settlement or compromise involves or could involve adjustments and/or payments aggregating \$10,000 or more, then the Executive Director shall prepare written justification and obtain approval in advance, from the full Council and its legal advisor. When a claim cannot be resolved by mutual agreement, the Executive Director shall promptly issue a decision in writing. A copy of that decision shall be mailed or otherwise furnished to the contractor and shall state the reasons for the action taken on the claim, and shall inform the contractor of his right to administrative relief as provided in this section.

The decision of the Executive Director is final and shall be conclusive unless fraudulent, or the contractor appeals to the Council. If the Executive Director does not issue a written decision within one hundred and twenty (120) days after receipt of a claim, or within such longer period as might be established by the parties to the contract in writing, then the contractor may proceed as if an adverse decision has been received.

.03 Authority of the Administrative Officer. The Administrative Officer is authorized subject to the approval of the Executive Director of any settlement, to negotiate with contractors in order to settle any claim which may arise under a contract entered into by the Council.

.04 Appeal to the Council. The Council has jurisdiction over each controversy arising under, or in connection with, the interpretation, performance or payment of a contract of the Council provided that:

- (a) The contractor has not instituted action over such controversy in court, and
- (b) The contractor has mailed notice to the Council of his election to appeal within 90 days of his receipt of the decision from the Executive Director, or at the contractor's election, within a reasonable time after the Executive Director fails or refuses to issue a decision.

.05 Hearing Before Council. The Council shall hold appeal hearings to the fullest extent possible in an informal, expeditious, and inexpensive manner and shall issue a decision in writing or take other appropriate action on each appeal submitted and shall provide a copy of the decision to the contractor and the Executive Director to be included in the contract file.

.06 Bid Protests. The Council shall have authority to determine protests and other controversies of prospective bidders, bidders or contractors in connection with the solicitation or selection for award of a contract.

.07 Filing of Protest. Any prospective bidder, bidder or contractor who is aggrieved in connection with the solicitation of selection for award of a contract may file a protest with the Council. The protest or notice of other controversy must be filed promptly and in any event within two calendar weeks after such aggrieved person knows or should have known of the facts giving rise thereto. All protests or notices of other controversy must be in writing.

.08 Decision. The Council shall promptly issue a decision in writing and in no event more than thirty (30) calendar days after receipt of such protest or notice of other controversy, unless the parties agree in writing to a longer period. A copy of that decision shall be mailed or otherwise furnished to the aggrieved party and shall state the reasons for the action taken.

.09 Effect of Decision. The decision by the Council shall be final and conclusive.

VIII. Procurement Code of Conduct:

.01 Statement of Policy. It is the policy of the Caribbean Fishery Management Coun-

cil to purchase goods and services needed by the Council in a fair and impartial manner.

Employees and Council members shall discharge their duties and responsibilities in a manner which will inspire confidence in the integrity of the Council. Any effort to realize personal gain through Council activities or employment beyond remuneration provided by the Council, is a violation of a public trust, as is any conduct which would create a justifiable impression in the public that such trust is being violated.

.02 Conflict of Interest. It shall be improper for any employee or Council member to participate directly or indirectly through decision, approval, disapproval, recommendations, preparation of any part of a purchase request, influencing the content of any specification or purchase standard, rendering of advice, investigation, auditing, or otherwise, in any:

- (1) Proceeding or application;
- (2) Request for ruling or other determination;
- (3) Claim or controversy; or
- (4) Other matter pertaining to any contracts, grant, subcontract, or subgrant, and any solicitation or proposal therefor, where to his knowledge there is a financial interest possessed by:

(a) Himself or his immediate family;

(b) A business other than a public agency in which he or a member of his immediate family serves as an officer, director, trustee, partner, or employee; or

(c) Any person or business with whom he or a member of his immediate family is negotiating or has an arrangement concerning prospective employment. Notice of this prohibition shall be conspicuously set forth in every contract, and solicitations therefor.

.03 Employees and Council Members Not to Benefit.—(1) Disclosure of Benefits Received from Contracts. Any employee or Council member who has or obtains any benefit from any contract with a business in which the employee or Council member has a financial interest, shall report such benefit to the full Council. In the event that such employee or Council member knows or should have known of such benefit, and fails to report such benefit to the full Council, he shall be in violation of the ethical standards of this section. However, this provision shall not apply to a contract with a business where the employee's or Council's interest in the business has been placed in an independently managed trust.

(2) Notice. Notice of this prohibition shall be conspicuously set forth in every contract or solicitation therefor.

.04 Gratuities and Kickbacks Illegal.—(1) Gratuities.—It is improper for any person to offer, give or agree to give to any employee or Council member or for any employee or Council member to solicit, demand, accept or agree to accept from another person, anything of a pecuniary value for or because of:

- (a) An official action taken or to be taken, or which could be taken; or
- (b) A legal duty violated or to be violated, or which could be violated by such employee or former employee.

(2) Kickbacks. It is improper for any payment, gratuity, or benefit to be made by or on behalf of a subcontractor under a contract to the prime contractor or higher tier subcontractor or any person associated therewith as an inducement for the award of a subcontract or order.

(3) Notice. The prohibition against gratuities and kickbacks shall be conspicuously set forth in every contract, and solicitations therefor.

.05 Covenant Relating to Contingent Fees.—(1) Representation of Contractor. Every person, before being awarded a contract with this Council, shall represent that

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he has not retained a person to solicit or secure the contract with this Council upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, excepting for bona fide employees or bona fide established commercial selling agencies maintained by the person so representing for the purpose of securing business or an attorney rendering professional legal services, employed, consistent with applicable canons of ethics.

(2) *Intentional Violation Unlawful.* The intentional violation of the representation specified in Subparagraph (a) above is cause for termination of a contract.

(3) *Notice.* The representation prescribed in Subparagraph (a) shall be conspicuously set forth in all contracts, and solicitations therefor.

(6) *Restriction on Employment of Present and Former Council Employees.*

(1) *Contemporaneous Employment Prohibited.* It shall be improper for any Council employee or member to become or be an employee of a party contracting with the Council, while in the service of the Council. Notice of this provision shall be conspicuously set forth in every contract, and solicitations therefor. This provision may be waived by the Council to allow a member of the Scientific and Statistical Committee or the Advisory Panel to participate as an individual consultant on a task team preparing a draft Fishery Management Plan.

(b) *Disqualification of Former Employees in Matters Connected with Former Duties.*

(1) *Permanent Disqualification of Former Employees.* For a period of two years after Council employment, it shall be improper for a former employee to knowingly act as agent or attorney for anyone other than the Council in connection with any judicial or other proceeding, application, request for a ruling, or other determination, contract, grant, claim, controversy, charge, or other particular matter involving a contract where the Council is a party or has a direct and substantial interest and in which he participated personally and substantially as an employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise while so employed.

(2) *Post-Employment Restriction on Representation.* It shall be improper for a person having been an employee of the Council, within one year after his employment has ceased, to appear personally before the Council or its committees or membership in connection with any proceeding application, claim, request or other particular matter involving a contract where the Council is a party or directly and substantially interested and which was under his official responsibility as an employee, or member of the Council at any time within a period of one year prior to the termination of such responsibility.

The term "Official responsibility" as used herein, means the direct administrative or operating authority whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinate to approve, disapprove, or otherwise direct Council actions.

(3) *Disqualification of Partners.* It shall be unlawful for a person, being a partner of an employee, Council member, former employee or former Council member, to act as agent or attorney for anyone other than the Council, in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, grant, claim, controversy, charge, or other

particular matter involving a contract where the Council is a party or has a direct substantial interest and in which such employee or Council member participates or has participated personally and substantially as a Council employee or member through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, or which is or was the subject of his official responsibility.

(7) *Use of Confidential Information.*—It shall be improper for any employee, Council member, former employee, or former Council member of this Council to use confidential information for his actual or anticipated personal gain, or the actual or anticipated personal gain of any other person.

IX. *Negotiated Procurements:* Procurements may be negotiated if it is impracticable and unfeasible to use formal advertising. Generally, procurements may be negotiated by the Council through the Executive Director if:

(1) The public exigency will not permit the delay incident to advertising;

(2) The material or service to be procured is available from only one person or firm (sole-source);

(3) The aggregate amount does not exceed \$10,000;

(4) The contract is for personal or professional services or for any service to be rendered by a state or quasi-public agency including a university, college, or other educational institution;

(5) The material or services are to be procured and used outside the limits of the United States and its possessions;

(6) No acceptable bids have been received after formal advertising;

(7) The purchases are for highly perishable materials or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental, or research work, for supplies purchased for authorized resale, or for technical or specialized supplies requiring substantial initial investment for manufacture; or

(8) The procurements are otherwise authorized by law, rules, or regulations.

Notwithstanding the existence of circumstances justifying negotiations, competition shall be obtained to the maximum extent practicable.

[FR Doc.77-29940 Filed 10-12-77;8:45 am]

[3510-12]

SEA GRANT REVIEW PANEL Partially Closed Meeting

The Sea Grant Review Panel will meet on October 26 and 27, 1977 from 9 a.m. to 5 p.m. each day, in the I.G.P.P. Conference Room, Scripps Institution of Oceanography, University of California at San Diego, La Jolla, Calif.

The Panel was established in December 1976 under Section 209 of the National Sea Grant Program Act (Public Law 94-461), and advises the Secretary of Commerce with respect to:

(a) Applications or proposals for, and performance under, grants and contracts awarded under Sections 205 and 206 of the Act;

(b) The Sea Grant Fellowship Program, established under Section 208 of the Act;

(c) The designation and operation of Sea Grant Colleges and Sea Grant Regional Consortia, (which are provided for in Section 207 of the Act) and the operation of Sea Grant programs;

(d) The formulation and application of the planning guidelines and priorities established by the Secretary under Section 204(2) of the Act and applied by the Director in accordance with Section 204(c)(1); and

(e) Such other matters as the Secretary refers to the Panel for review and advice.

The Panel's meeting agenda is as follows:

OCTOBER 26, 1977: (9 A.M. TO 5 P.M.)

9 a.m. Preliminary Remarks and Discussion of Agenda.

9:15 a.m. A. Presentation by University of California.

11 a.m. B. Institutional and Coherent Area Program Discussion. University of Georgia, University of Alaska, University of Maryland, Virginia Institute of Marine Science, University of Maine/University of New Hampshire, State University System of Florida, Mississippi-Alabama Sea Grant Consortium, University of Washington, University of North Carolina, State University of New York/Cornell.

C. Sea Grant College Candidates Discussion. The following universities are eligible on the basis of time to be considered for designation as Sea Grant Colleges: University of Southern California, Louisiana State University, University of Georgia.

4 p.m. D. Closed Session Discussion regarding Agenda Items B and C.

5 p.m. Recess.

OCTOBER 27, 1977: (9 A.M. TO 5 P.M.)

9 a.m. E. Discussion of guidelines and plans respecting National Projects, International Projects and Fellowships.

F. Discussion of two-year grant cycle, steps taken to implement, and proposed method of operation.

G. Sea Grant record and future role with respect to Equal Employment Opportunity.

H. Discussion with Sea Grant Directors.

5 p.m. Adjourn.

All agenda items will be open to public attendance, except for Agenda Item D, a one hour portion at the end of the discussion of all institutions under Agenda Items B and C, in accordance with 5 U.S.C. 552b(c)(6), as determined by the Assistant Secretary for Administration, pursuant to subsection 10(d) of the Federal Advisory Committee Act (Public Law 92-463) as amended. Approximately twenty seats will be available to the public on a first-come, first-served basis. If time permits before the scheduled adjournment, the Chairman will solicit oral comments by the attendees. Written statements may be submitted at any time before or after the meeting.

Minutes of the meeting will be available 30 days thereafter on written request addressed to the National Sea Grant Program, 3300 Whitehaven Street NW., Washington, D.C. 20235.

FOR FURTHER INFORMATION CONTACT:

Dr. Hugh J. McLellan, Acting Associate Director for Programs, at above address. Telephone 202-634-4019.

Dated: October 7, 1977.

R. L. CARNAHAN,
Acting Assistant Administrator
for Administration, National
Oceanic and Atmospheric
Administration.

[FR Doc.77-29865 Filed 10-12-77;8:45 am]

[3510-25]

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

CERTAIN MAN-MADE FIBER TEXTILE PRODUCTS FROM MEXICO

Increasing Import Restraint Levels

OCTOBER 7, 1977.

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Increasing the levels of restraint applicable to Category 225 (body supporting garments) and Category 2338 (trousers, not knit) to account for unused carryforward granted during the agreement year which began on May 1, 1976.

SUMMARY: Paragraph 7(a)(ii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 12, 1975, as amended, between the Governments of the United States and Mexico provides for the application of carryforward to certain specific category ceilings. Carryforward is an amount borrowed from the level of restraint applicable to the affected category in the succeeding agreement year and is deducted from that year's level. The purpose of this notice is to advise that the levels of restraint established for Categories 225 and 238 during the agreement year which began on May 1, 1977 are being increased by increments of carryforward granted in those categories last year, but not used. The current year levels for both categories reflect reductions for the full amount of the carryforward.

EFFECTIVE DATE: October 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald R. Foote, International Trade Specialist, Office of Textiles, U.S. Department of Commerce, Washington, D.C. 20230 (202-377-5423).

SUPPLEMENTARY INFORMATION: On April 27, 1977, a letter, dated April 22, 1977, from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs was published in the FEDERAL REGISTER (42 FR 21506), which established the levels of restraint applicable to certain specific categories of man-made fiber textile products, produced or manufactured in Mexico and exported to the United States during the twelve-month period which began on May 1,

1977 and extends through April 30, 1978.

The notice which accompanied the letter, also dated April 22, 1977, stated that the levels of restraint established for Categories 225 and 238 had been reduced to account for carry-forward applied to those categories during the agreement year which began on May 1, 1976.

In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to increase the levels of restraint established for Categories 225 and 238 to the designated amounts.

ROBERT E. SHEPHERD,
Chairman, Committee for the
Implementation of Textile
Agreements, and Deputy As-
sistant Secretary for Re-
sources and Trade Assistance.

COMMITTEE FOR THE IMPLEMENTATION OF
TEXTILE AGREEMENTS

OCTOBER 7, 1977.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C.

Dear Mr. Commissioner: On April 22, 1977, the Chairman, Committee for the Implementation of Textile Agreements, directed you to prohibit entry of man-made fiber textile products in certain specified categories, produced or manufactured in Mexico and exported to the United States during the agreement year which began on May 1, 1977 in excess of designated levels of restraint. The Chairman further advised you that the levels of restraint are subject to adjustment.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, pursuant to paragraph 7(a)(ii) of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of May 12, 1975, as amended, between the Governments of the United States and Mexico, and in accordance with the provisions of Executive Order 11651 of March 5, 1972, you are directed to amend, effective on October 7, 1977, the levels of restraint established in the directive of April 22, 1977 for man-made fiber textile products in Categories 225 and 238 to the following amounts:

Category:	Amended 12-month level of restraint ¹
225 -----dozen-----	2,200,787
238 -----do-----	958,495

¹ The levels of restraint have not been adjusted to reflect any entries after April 30, 1977.

² The actions taken with respect to the Government of Mexico and with respect to

³ The term "adjustment" refers to those provisions of the Bilateral Cotton Wool and Man-Made Fiber Textile Agreement of May 12, 1975 as amended between the Governments of the United States and Mexico, which provide, in part, that: (1) Within the aggregate and applicable group limits, specific levels of restraints may be exceeded by designated percentages; (2) these levels may be increased for carryover and carryforward up to 11 percent of the applicable category limit; (3) consultation levels may be increased within the aggregate and applicable group limits upon agreement between the two governments; and (4) administrative arrangements or adjustments may be made to resolve minor problems arising in the implementation of the agreement.

imports of man-made fiber textile products from Mexico have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, being necessary to the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the FEDERAL REGISTER.

Sincerely,

ROBERT E. SHEPHERD,
Chairman, Committee for the
Implementation of Textile
Agreements, and Deputy As-
sistant Secretary for Re-
sources and Trade Assist-
ance.

[FR Doc.77-29878 Filed 10-12-77;8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

NATIONAL ADVISORY COMMITTEE FOR THE FLAMMABLE FABRICS ACT

Meeting

AGENCY: Consumer Product Safety Commission.

ACTION: Notice of Meeting: National Advisory Committee for the Flammable Fabrics Act.

SUMMARY: This notice announces a meeting of the National Advisory Committee on Monday, October 31, 1977 from 10:30 a.m. to 4 p.m., and Tuesday, November 1, 1977 from 9:30 a.m. to 4 p.m. The meeting on October 31 will be held at the National Bureau of Standards (NBS) in Gaithersburg, Maryland. On November 1, the meeting will be held in the 3rd Floor Conference Room, 1111 18th Street NW., Washington, D.C.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Dee Wilson, Assistant Secretary, Office of the Secretary, Suite 300, 1111 18th Street NW., Washington, D.C. 20207 (202-634-7700).

SUPPLEMENTARY INFORMATION: The National Advisory Committee provides advice and recommendations on Commission proposals and plans to reduce the frequency and severity of burn injuries involving flammable fabrics.

The meeting on Monday, October 31 will be devoted to an orientation session primarily for the benefit of new committee members combined with a tour of the NBS fire facilities with emphasis on textile flammability. On Tuesday, November 1, the following topics are scheduled for discussion: options for CPSC activities in the collection of fire/burn injury data; proposed amendments to children's sleepwear standard; and possible revisions in the draft upholstered furniture standard.

The meeting is open to the public; however, space is limited. Persons who wish to make oral or written presentations to the National Advisory Commit-

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tee should notify the Office of the Secretary (see address above) by October 24, 1977. The notification should list the name of the individual who will make the presentation, the person, company, group or industry on whose behalf the presentation will be made, the subject matter, and the approximate time requested. Time permitting, these presentations and other statements from the audience to members of the committee may be allowed by the presiding officer.

Dated: October 7, 1977.

SADYE E. DUNN,
Deputy Secretary.

[FR Doc. 77-29874 Filed 10-12-77; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force USAF SCIENTIFIC ADVISORY BOARD Change

SEPTEMBER 30, 1977.

The Scientific Advisory Board Meeting scheduled for October 11-12, 1977 as published in FR Vol. 42, No. 179, 26749, September 15, 1977 contains an incorrect reference to Title 5 of the United States Code. The reference should read Section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board 202-697-4648.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 77-29821 Filed 10-12-77; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD Meeting

SEPTEMBER 30, 1977.

The USAF Scientific Advisory Board Science and Technology Advisory Group, Air Force Systems Command, will hold meetings on November 1, 1977, from 9 a.m. to 5 p.m. and on November 2, 1977, from 9 a.m. to 12 p.m. at the Air Force Aero Propulsion Laboratory, Wright-Patterson AFB Ohio in the Main Conference Room, Building 18, Area B.

The Group will deliberate on Compressor Research Facility organization, operation and utilization.

The meeting will be unclassified and is open to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 77-29822 Filed 10-12-77; 8:45 am]

[3710-08]

DEPARTMENT OF DEFENSE

Department of the Army ARMY SCIENTIFIC ADVISORY PANEL Partially Closed Meeting

In accordance with Section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), the following meeting is announced:

Name of committee: Army Scientific Advisory Panel.
Date: October 31-November 1, 1977.
Place: The U.S. Army Armament Research and Development Command, Picatinny Arsenal, N.J.

MONDAY, OCTOBER 31, 1977

Agenda:
(0830-0900 hours) Open session. Chairman's welcome, Commander's welcome and Command briefing.
(0840-1700) Closed session. Presentation and discussions on "Combat Developments."

TUESDAY, NOVEMBER 1, 1977

(0830-0900) Open session. Systems Engineering presentation and discussion.
(0900-1500 hours) Closed session.
Panel Meeting: Ad Hoc Group Chairmen reports with Panel discussions on electronic warfare/intelligence, command and control, nuclear protection, and technology.

The presentations and discussions scheduled for 0900-1500 hours, October 31, will cover combat development activities which are classified in the interest of national defense. The 0900-1500 hours, November 1, panel meeting is for receiving and discussing reports containing classified material, inseparable portions of which are also classified in the interest of national defense. Therefore, under the provisions of exemptions contained in Section 552b(c) (1), Title 5, U.S.C., these portions are closed to the public.

The 0830-0900, October 31, and November 1, portions of the meeting will be open to the public. Any additional information concerning the meeting may be obtained from Dr. Marvin E. Lasser, Chief Scientist, Department of the Army, Executive Director, Army Scientific Advisory Panel, Washington, D.C. 20310, (202) 695-1447.

MARVIN E. LASSER,
Executive Director.

[FR Doc. 77-29901 Filed 10-12-77; 8:45 am]

[3810-70]

Office of the Secretary DEFENSE SCIENCE BOARD TASK FORCE ON NATIONAL/TACTICAL INTERFACE Advisory Committee Meeting

The Defense Science Board Task Force on National/Tactical Interface will meet in closed session on November 3 and 4, 1977 in the Office of the Assistant Secretary of Defense (Communications, Command, Control, and Intelligence), Di-

rectorate of Surveillance and Warning Systems, at the Pentagon.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the major issues concerning the interface between national and tactical intelligence systems and their potential for satisfying the requirements of tactical/theater military commanders and those of national authorities and agencies.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and
Directives OASD (Comptrol-
ler).

OCTOBER 7, 1977.

[FR Doc. 77-29893 Filed 10-12-77; 8:45 am]

[6170-01]

DEPARTMENT OF ENERGY FUEL OIL MARKETING ADVISORY COMMITTEE SUBCOMMITTEE Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770), notice is hereby given that an ad hoc subcommittee of the Fuel Oil Marketing Advisory Committee will hold meetings in accordance with the schedule set forth below.

Concern has been expressed that a problem exists in the heating oil jobber trade which currently manifests itself in a growing number of bankruptcies and other terminations of these businesses. The effect may be particularly acute among the smaller heating oil jobbers/retailers. The objective of the subcommittee is to conduct a study and make recommendations to the parent Committee concerning the relative competitive viability of marketers of heating oil. Some of the matters the subcommittee will be analyzing are: number of heating oil jobbers/retailers; the attrition rate of jobbers/retailers; and the factors that have caused problems concerning discounts, cash flow, and supplier jobber/retailer relationships.

Meetings will be held as follows:

Monday, October 17, 1977, 1:30 p.m., Room 2105, 2000 M Street NW., Washington, D.C.
Tuesday, November 1, 1977, 10 a.m., Cottonwood Room, Hyatt Regency, 1200 Louisiana Avenue, Houston, Tex.

Friday, November 18, 1977, 10 a.m., Room 2105, 2000 M Street NW., Washington, D.C.
Tuesday, November 29, 1977, 10 a.m., Studio 6, Barlizon Plaza Hotel, 106 Central Park, South, New York, N.Y.
Sunday, December 4, 1977, 1:30 p.m., Green Room, Fairmont Hotel, Atop Nob Hill, San Francisco, Calif.

It is imperative that a study of the situation be completed prior to the onset of the peak heating season. Accordingly, less than the normal 15-day notice is being given for the initial subcommittee meeting due to the urgency of completing the study in time to make recommendations to the parent Committee at their December 5, 1977 meeting and to submit the final report to the Deputy Secretary, Department of Energy, by December 20, 1977.

The meetings are open to the public. The Chairman is empowered to conduct the meetings in a manner that in his judgment will facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the subcommittee will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Georgia Hildreth, Advisory Committee Management Office (202) 566-9996 and reasonable provision will be made for their appearance on the agenda.

The transcripts of the meetings will be available for public review and copying at the Freedom of Information Public Reading Room, Room 2107, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C., between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. Any person may purchase a copy of the transcript from the reporter.

Issued at Washington, D.C., on October 7, 1977.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 77-29919 Filed 10-12-77; 8:45 am]

[6170-01]

Economic Regulatory Administration [FPC Doc. No. CP74-160, et al.]

PACIFIC INDONESIA LNG CO., ET AL. Oral Argument and Intent To Act on Proposal to Import Liquefied Natural Gas Into United States From Indonesia

On November 30, 1973, Pacific Indonesia LNG Co. (Pac Indonesia), filed with the Federal Power Commission (the FPC), an application pursuant to Section 3 of the Natural Gas Act for authority to import liquefied natural gas (LNG) into the United States from the Republic of Indonesia. Subsequently, Pac Indonesia, Western LNG Terminal Associates (Terminal Associates) and related companies filed various applications with the Commission, pursuant to Section 7 of the Natural Gas Act, to construct, own, and operate facilities for

the receipt, storage, and regasification of the LNG at Oxnard, Point Conception and/or Los Angeles on the coast of California and to deliver the resulting volumes of natural gas to customers within the State of California.

The FPC consolidated all of these various proceedings and allowed intervenors in any one of them to intervene in the consolidated proceeding. Hearings began on December 16, 1975, and were concluded on February 25, 1977. Judge Samuel Z. Gordon issued an initial decision on July 22, 1977, in which he approved, subject to conditions, the applications as amended of Pac Indonesia and Terminal Associates under Section 3 of the Natural Gas Act. All briefs on exceptions and opposing exceptions to the initial decision were filed with the FPC by September 16, 1977, so that as of October 1, 1977, the case was ripe for final action.

On October 1, however, the Department of Energy (DOE) was activated pursuant to Executive Order No. 12009, September 13, 1977 (42 FR 46267) and the function to approve natural gas importation under Section 3 of the Natural Gas Act was automatically transferred to and vested in the Secretary of Energy pursuant to sections 301 and 402(f) of the Department of Energy Organization Act (Pub. L. 95-91) (the Act). The Secretary immediately delegated to the Federal Energy Regulatory Commission (FERC) the authority to carry out this function with respect to pending cases assigned to FERC by rule (DOE Delegation Order No. 0204-1, para. 11, October 1, 1977). By a DOE Final Rule issued October 1, 1977, entitled "Transfer of Proceedings to the Secretary of Energy and the Federal Energy Regulatory Commission," this proceeding was to continue in effect under FERC jurisdiction until the forwarding of the record to the Secretary. The Final Rule requires FERC to forward the record of certain named proceedings, including PAC Indonesia, after the timely filing of all briefs on and opposing exceptions to the initial decision of the presiding Administrative Law Judge. On October 5, 1977, the record was forwarded in compliance with the Final Rule. Pursuant to paragraph 6 of DOE Delegation Order No. 0204-4, issued October 1, 1977, the Secretary has delegated the authority to issue a final order in this proceeding to the Administrator of the Economic Regulatory Administration (ERA).

The ERA is aware that the natural gas proceedings, including PAC Indonesia, and Pertamina, the state-owned oil and gas company of the Republic of Indonesia, contains provisions allowing termination or renegotiation of the contract if appropriate U.S. import authorizations are not obtained by October 6, 1977. However, in view of the recent transfers and delegations just detailed, the size and complexity of the record (there are more than 4,500 transcript pages and 200 exhibits) and the importance of the issues involved and their relation to na-

tional energy policy, additional time beyond October 6 is necessary and required by the public interest to issue a final order in this proceeding. It is my intention to issue such a final order in this proceeding, including pending motions, thirty (30) days from the conclusion of the oral argument next discussed.

I hereby give notice that the ERA will hear oral argument in this proceeding, to be held at Room 323, U.S. Courthouse, 312 North Spring Street, Los Angeles, Calif., on October 20, 1977, commencing at 9 a.m., and to continue the following day at the same time and location if necessary. All parties to this proceeding are invited to participate, and may present argument on any issue in this proceeding. The Administrator is particularly interested in argument on the following issues:

(1) The legal and practical relationship of Federal responsibilities over LNG terminal facility siting under the Natural Gas Act to State responsibilities in this area; and

(2) Whether it would be appropriate to achieve a coordinated Federal-State decision on the site-specific issue pursuant to the joint board procedure contained in Section 17 of the Natural Gas Act or some analogous procedure.

Persons who wish to participate in the oral argument must send or bring notice thereof to the Office of the Executive Secretariat, Department of Energy, Box No. QA, Room 3317, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, on or before October 14, 1977. This notice should indicate the issues which will be addressed, the argument time desired, and a person (with address and phone number) to accept ERA notification of the grant of argument time and the allotted time for argument. ERA will provide this notification by October 19, 1977.

ERA reserves the right to restrict the number of persons to be heard and to establish the procedures governing the conduct of the argument. Argument may be limited, based on the number of persons requesting argument time and the amount of time sought. The Administrator of ERA will be the presiding official at this argument and will determine, and announce at the commencement of the argument, further procedural rules. A transcript of the argument will be made and may be purchased from the official reporter.

For further information concerning procedures for oral argument, contact Robert C. Gillette, 2000 M Street NW., Room 2214B, Washington, D.C. 20461, or telephone 202-254-5201.

DAVID J. BARDIN,
Acting Administrator, Economic Regulatory Administration.

OCTOBER 6, 1977.

[FR Doc. 77-29910 Filed 10-12-77; 8:45 am]

[6170-01]

**PERUSAHAAN PERTAMBANGAN
MINYAK DAN GAS BUMI NEGARA**

Petition For Declaratory Order Authorizing
Importation of Natural Gas

AGENCY: Department of Energy, Eco-
nomic Regulatory Administration.

ACTION: Notice.

FURTHER INFORMATION:

Robert C. Gillette, 2000 M Street NW.,
Room 2214B, Washington, D.C. 20461.
(202-254-5201).

Notice is hereby given that on Octo-
ber 5, 1977, Perusahaan Pertambangan
Minyak Dan Gas Bumi Negara ("Per-
tamina"), an instrumentality of the
Government of Indonesia, filed a Peti-
tion for Declaratory Order Authorizing
Importation of Natural Gas with the
Economic Regulatory Administration of
the Department of Energy.

In its Petition, Pertamina indicates
that it can make available to United
States purchasers seven to nine billion
cubic feet of liquefied natural gas
("LNG") at a cost of \$3.88 per MMBtu.
The LNG would be delivered this winter
to appropriate facilities on the East
Coast. Pertamina further indicates that
standby arrangements have been made
for the delivery of four such tanker loads
of LNG with deliveries tentatively sched-
uled for December 1977 and January and
March 1978. The Pertamina Petition
states however that no actual arrange-
ments for the receipt or distribution of
the LNG involved have been made with
any East Coast terminal operator, im-
porter or purchaser. Pertamina requests
authorization to import the LNG in
question so that further steps may then
be taken by those firms that wish to
acquire the product.

Pertamina specifically requests im-
mediate authorization to import one ship-
load of LNG in December 1977, authori-
zation by October 27, 1977 to import one
shipload of LNG in January 1978, and
authorization by November 4, 1977 to
import two shiploads of LNG in March
1978.

Any person who wishes to comment on
the Pertamina Petition or to request that
a hearing be convened in connection
with the matter should file an appropri-
ate submission with the Office of Ad-
ministrative Review of the Economic
Regulatory Administration, Room 8002,
2000 M Street NW., Washington, D.C.
20461. All such submissions should be
filed on or before October 21, 1977.

Comments are specifically requested as
to the following issues: (i) Whether the
LNG which Pertamina proposes to ex-
port to the United States is needed to
satisfy current or future supply require-
ments; (ii) whether particular terminal
operators, marketers, distributors or
wholesale purchasers exist who would
be willing to purchase the LNG involved
under the terms and conditions that are
outlined in the Pertamina petition; (iii)
whether the price for the LNG as speci-
fied in the Pertamina petition should be

approved as consistent with the public
interest; and (iv) the precedential impli-
cations involved in the approval of the
type of submission which Pertamina has
filed in this matter. Copies of the Per-
tamina Petition (Case No. DEX-0001)
are available in the Public Docket Room
of the Office of Administrative Review,
Room B-120, 2000 M Street NW., Wash-
ington, D.C. 20461, Monday through Fri-
day, between the hours of 1 p.m. and 5
p.m., e.d.t., except Federal holidays.

Issued in Washington, D.C., October 6,
1977.

DAVID J. BARDIN,
Acting Administrator, Economic
Regulatory Administration.

[FR Doc.77-29941 Filed 10-12-77; 8:45 am]

[6560-01]

**ENVIRONMENTAL PROTECTION
AGENCY**

[FRL 804-2]

**POLYBROMINATED BIPHENYLS (PBBs)
Meeting**

AGENCY: Environmental Protection
Agency.

ACTION: Notice of intent; notice of
public meeting.

SUMMARY: A Work Group is being
formed, chaired by EPA, with inter-
agency participation to investigate the
control of PBBs. A public meeting is
scheduled for December 1, 1977, in Lan-
sing, Mich. to solicit comments and in-
formation from industry, environmen-
talists, and the public on PBBs.

DATE: The Public Meeting will be held
on December 1, 1977, at 9:30 a.m.

ADDRESSES: The meeting will be held
at the Olds Plaza Hotel, 125 West Michi-
gan, Lansing, Mich. Persons who wish to
make a presentation at the meeting
should write or call: Joni T. Respasch,
U.S. Environmental Protection Agency,
Office of Toxic Substances WH-557, 401
M Street SW., Washington, D.C. 20460.
Phone 202-426-9000 or 755-5482.

FOR FURTHER INFORMATION CON-
TACT:

Larry C. Dorsey, U.S. Environmental
Protection Agency, Office of Toxic
Substances WH-557, 401 M Street
SW., Washington, D.C. 20460. Phone
202-426-9000 or 755-5482.

SUPPLEMENTARY INFORMATION:
The following offices have been invited
to participate on the Work Group:
Office of Toxic Substances, Lead Office,
EPA Chairman, George F. Wirth
Office of Air and Waste Management,
EPA Air Quality Planning and Stand-
ards

Office of Water and Hazardous Mate-
rials, EPA Solid Waste Program
Office of Water and Hazardous Mate-
rials, EPA Office of Water Planning and
Standards
Office Research and Development, EPA
Health and Ecological Effects

Office of Enforcement, EPA Toxic Sub-
stances Branch

Office of Planning and Management,
EPA

Planning and Evaluation

Office of General Counsel, EPA

Office of Regional and Intergovernmen-
tal Operations, EPA

Regional Representatives, EPA—Region
II and V

Occupational Safety and Health Ad-
ministration

Consumer Product Safety Commission

National Institute of Occupational
Safety and Health

Center for Disease Control

Food and Drug Administration

The major issues, identified to date, con-
cerning the possible need to control
PBBs are listed below. Participants in the
public meeting are encouraged to address
and comment on these issues:

1. Should PBBs be used in any form or
should we restrict specific uses of PBBs?
2. If PBBs are not allowed to be used in
the U.S., should we allow PBBs to be manu-
factured for export?
3. What is the appropriate form of control?
Should control be a regulation restricting
production, end uses, etc?
4. What will be the impact on existing
State laws?
5. What type of controls, if any, should be
placed on articles containing PBBs?
6. What type of controls, if any, should be
placed on disposal of PBBs?

Tentative schedule

First work group meeting...	Oct. 4, 1977.
Work group meetings.....	Oct. 11, 1977.
First public participation meeting, EPA region V, to be held in Lansing, Mich.	Dec. 1, 1977.
Second public participation meeting, EPA region II.	Feb. 3, 1978.
Draft of regulation to Assist- ant Administrator for Of- fice of Toxic Substances.	Mar. 1, 1978.
Proposed PBB regulation to EPA Steering Committee.	Apr. 4, 1978.
Proposed PBB regulation to EPA Administrator.	Apr. 24, 1978.
Proposed PBB regulation published in the Federal Register and draft envi- ronmental impact state- ment to the Council on Environmental Quality.	May 1, 1978.
Informal hearing on pro- posed PBB regulation.	July —, 1978.
Promulgation of final regu- lation.	Sept. —, 1978.

1 Every following Tuesday.

Dated: October 6, 1977.

DOUGLAS M. COSTLE,
Administrator.

[FR Doc.77-29939 Filed 10-12-77; 8:45 am]

[1505-01]

[FRL 800-2; OPP-210010]

**PUBLIC HEARINGS ON TOXICOLOGY
DATA AUDITING PROGRAM**

Correction

In FR Doc. 77-28921, appearing at
page 53660, in the issue for Monday,
October 3, 1977, in the third column,

the hearing location for the Environ-
mental Protection Agency reading "401
N Street SW", should read "401 M
Street SW".

[6712-01]

**FEDERAL COMMUNICATIONS
COMMISSION**

[Report No. I-391]

**COMMON CARRIER SERVICES
INFORMATION**

**International and Satellite Radio,
Applications Accepted for Filing**

SEPTEMBER 26, 1977.

The Applications listed herein have
been found, upon initial review, to be ac-
ceptable for filing. The Commission re-
serves the right to return any of these
applications if, upon further examina-
tion, it is determined they are defective
and not in conformance with the Com-
mission's rules, regulations and its Pol-
icies. Final action will not be taken on
any of these applications earlier than 31
days following the date of this notice.
Section 309(d) (1).

**FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.**

**SATELLITE COMMUNICATIONS SERVICES
CORRECTIONS**

644-DSE-MP-77, report No. 385 9-6-77 Flor-
ida Central East Coast Educational Tele-
vision, Inc. The location should have been:
Orlando, Fla.

684-DSE-P/L-77, report No. 389 9-19-77
Teleprompter Corp., Bradenton, Fla. The
coordinates should have been: Lat. 27°28'-
15" N. Long. 82°34'29" W.

626-DSE-ML-77, report No. 388 9-12-77 In-
ternational Telemeter Corp., & Columbia
Cablevision, d.b.a. ATCO Missouri Earth
Station, a Joint Venture, Columbia, Mo.
Entry should have read: Mod license to per-
mit the reception of signals from the Chris-
tian Broadcasting Network and the Madis-
on Square Garden Events.

643-DSE-P/L-77, report No. 385 9-6-77 Lib-
erty Communications, Inc., Port Neches,
Tex. The name of the applicant should
have been: Liberty TV Cable, Inc.

AMENDMENT

587-DSE-P/L-77 Clearview Cablevision As-
sociates, Surfside Beach, S.C. Application
hereby amended to change type and size
antenna to a 5 meter Scientific-Atlanta an-
tenna.

NJ. SSA-14-77 Western Union Telegraph
Co. (WB20), Glenwood, N.J. Request for
Special Temporary Authority to conduct
Developmental Digital Radio Transmission
Tests from the Glenwood, N.J. (WB20)
earth station to four Receive-only small
aperture terminals.

PR. SSA-15-77 RCA American Communica-
tions, Inc., Cerramar Beach Hotel, San
Juan, P.R. Request for Special Temporary
Authority to originate transmissions of
audio and data from its facility at 60 Broad
Street, New York, N.Y. on behalf of the
Associated Press & United Press Interna-
tional. The transmissions will be relayed to
the RCA Vernon Valley, N.J. earth station
via the existing licensed microwave system
for relay via RCA Satcom II satellite to a
receive-only earth station to be located at
the Cerramar Beach Hotel, San Juan, P.R.

RCA proposes to set up and conduct these
demonstrations during 10-6 through 10-
13-77.

AZ. 687-DSE-P/L-77 Mesa Community
Cable Television, Inc., Mesa, Ariz. For au-
thority to construct, own and operate a
domestic communications receive-only
earth station at this location. Lat. 33°22'-
49" N. Long. 111° 53'25" W. Rec. freq:
3700-4200 MHz. Emission 36000F9. With a
5 meter antenna.

NE. 688-DSE-P/L-77 Added Attractions,
Inc., McCook, Nebr. For authority to con-
struct, own and operate a domestic com-
munications satellite receive-only earth
station at this location. Lat. 40°12'32" N.
Long. 100°39'37" W. Rec. freq: 3700-4200
MHz. 36000F9. With a 6 meter antenna.

FL. 689-DSE-P/L-77 Warner-CCC, Inc.,
Niceville, Fla. For authority to construct,
own and operate a domestic communica-
tions satellite receive-only earth station at
this location. Lat. 30°30'00" N. Long. 86°-
26'35" W. Rec. freq: 3700-4200 MHz. Emsi-
sion 36000F9. With a 6 meter antenna.

WY. 690-DSE-ML-77 Frontier Broadcasting
Co. d.b.a. Cable TV (KB61), Cheyenne,
Wyo. Modification of license to permit the
reception of signals from Micro-Cable Com-
munications Corp. which has agreed to
furnish the programming of the Madison
Square Gardens Events to Frontier.

MS. 691-DSE-ML-77 American Television &
Communications Corp. (WB46), Jackson,
Miss. Modification of license to permit the
reception of signals from the Madison
Square Garden Event.

TX. 692-DSE-ML-77 Valley Cable TV, Inc.
(KD33), Pharr, Tex. Modification of li-
cense to permit the reception of signals of
the Christian Broadcasting Network and
WYAH-TV, Ch. 27, Portsmouth, Va.

LA. 693-DSE-ML-77 American Television &
Communications Corp. (KD50), West Mon-
roe, La. Modification of license to permit
the reception of signals from the Madison
Square Garden Events.

FL. 694-DSE-ML-77 American Video Corp.
(WB65), Pompano Beach, Fla. Modifica-
tion of license to permit the reception of
signals from the Madison Square Garden
Events.

OK. 695-DSE-ML-77 Tulsa Cable Television,
Inc. (KB49), Tulsa, Okla. Modification of
license to permit the reception of signals
from the Madison Square Garden Events.

[FR Doc.77-29898 Filed 10-12-77; 8:45 am]

[6712-01]

[Report No. 878]

**COMMON CARRIER SERVICES
INFORMATION**

Applications Accepted for Filing

OCTOBER 3, 1977.

The applications listed herein have
been found, upon initial review, to be
acceptable for filing. The Commission re-
serves the right to return any of these
applications, if upon further examina-
tion, it is determined they are defective
and not in conformance with the Com-
mission's rules and regulations or its
policies.

Final action will not be taken on any
of these applications earlier than 31
days following the date of this notice,
except for radio applications not re-
quiring a 30 day notice period (See sec-
tion 309(c) of the Communications Act),
applications filed under Part 68, applica-
tions filed under Part 63 relative to small
projects, or as otherwise noted. Unless

specified to the contrary, comments or
petitions may be filed concerning radio
and Section 214 applications within 30
days of the date of this notice and within
20 days for Part 68 applications.

In order for an application filed under
Part 21 of the Commission's rules (Do-
mestic Public Radio Services) to be con-
sidered mutually exclusive with any
other such application appearing herein,
it must be substantially complete and
tendered for filing by whichever date is
earlier: (a) The close of business one
business day preceding the day on which
the Commission takes action on the pre-
viously filed application; or (b) within
60 days after the date of the public notice
listing the first prior filed application
(with which the subsequent application is
in conflict) as having been accepted for
filing. In common carrier radio services
other than those listed under Part 21,
the cut-off date for filing a mutually ex-
clusive application is the close of business
one business day preceding the day on
which the previously filed application is
designated for hearing. With limited ex-
ceptions, an application which is sub-
sequently amended by a major change
will be considered as a newly filed applica-
tion for purposes of the cut-off rule.
(See §§ 1.227(b) (3) and 21.30(b) of the
Commission's rules.)

**FEDERAL COMMUNICATIONS
COMMISSION,
VINCENT J. MULLINS,
Secretary.**

**APPLICATIONS ACCEPTED FOR FILING
DOMESTIC PUBLIC MOBILE RADIO SERVICE**

22207-CD-P-(3)-77 Otis L. Hale d.b.a. Mo-
billion Communications (KLB500) C.P. to
change antenna system operating on 152.21
MHz at Loc. No. 2 and to change antenna
system, replace transmitter and relocate fa-
cilities operating on 152.09 MHz, base and
459.05 MHz, repeater, from Loc. No. 2:
Shinnel Mountain, 9 miles WNW of Little
Rock, Ark.

22208-CD-P-(3)-77 Jim Mayfield (KLB-
710) C.P. for additional facilities to op-
erate on 152.06 MHz, base and 454.05 MHz,
repeater at a new site described as Loc.
No. 2: Atop Sierra Grande Mountain, 42.49
miles NW of Clayton, NM; and for addi-
tional facilities to operate on 459.025 MHz,
control to be located at a new site described
as Loc. No. 3: 420 South First Street, Clay-
ton, N. Mex.

22209-CD-AL-(2)-77 Paging, Inc. Consent
to Assignment of License from Paging, Inc.,
assignor to Radio Call Co. of Va., Inc.,
assignee. Stations: KU0626, Bristol, VA and
KU0570, Bristol, Tenn.

22210-CD-P-77 Empire Paging Corp. (KRS-
674) C.P. for additional facilities to op-
erate on 454.150 MHz to be located at a new
site described as Loc. No. 22: 0.55 mile
West of Milmay, N.J.

22218-CD-P-77 Answer, Inc. of San An-
tonio (KKG559) C.P. to change antenna
system and relocate facilities operating on
454.250 MHz from Loc. No. 1: 411 E. Du-
rango, San Antonio, Tex. to Loc. No. 3:
7711 Louis Pasteur Drive, San Antonio, Tex.

22219-CD-P-77 Airsignal of Nevada, Inc.
(KWT989) C.P. to relocate facilities op-
erating on 35.22 MHz at Loc. No. 1 to be
located at Cambridge Towers, 3890 South
Swenson, Las Vegas, Nev.

22220-CD-MP-(6)-77 Airsignal of Nevada,
Inc. (KOK334) M.P. to relocate facilities
operating on 152.09, 152.12, 152.15, 152.18

and 152.21 MHz at Loc. No. 4 to be located at Loc. No. 3: Cambridge Towers, 3890 South Swenson, Las Vegas, Nev.
22221-CD-P-77 Airtel of Nevada, Inc. (KOK334) C.P. to relocate facilities operating on 454.100 MHz at Loc. No. 3 to be located at Cambridge Towers, 3890 South Swenson, Las Vegas, Nev.

RURAL RADIO SERVICE

61402-CR-P/L-77 Wyoming Telephone Co., Inc. (new) C.P. and License for a new rural subscriber station to operate on 157.80 and 157.92 MHz to be located at Sublette, Wyo.
61403-CR-P/L-77 Wyoming Telephone Co., Inc. (new) C.P. and License for a new rural subscriber station to operate on 157.80 and 157.92 MHz to be located at Sublette, Wyo.

POINT TO POINT MICROWAVE RADIO SERVICE

TX, 3803-CF-P-77 Southwestern Bell Telephone Company (new) 608 Ave. E. Cisco, Tex. Lat. 32°23'19" N. Long. 98°58'52" W. C.P. for a new station on frequency 11035V MHz toward Harpersville, Tex. on azimuth 5.4°.

TX, 3804-CF-P-77 Same (new) Harpersville 13 miles South of Breckenridge, Tex. Lat. 32°34'40" N. Long. 98°57'36" W. C.P. for a new station on frequency 11485V MHz toward Cisco, Texas on azimuth 185.4° and 11325V MHz toward Breckenridge, Tex. on azimuth 15.4°.

TX, 3805-CF-P-77 Same (new) 220 N. Breckenridge, Breckenridge, Tex. Lat. 32°45'25" N. Long. 98°54'08" W. C.P. for a new station on frequency 10875V MHz toward Harpersville, Tex. on azimuth 195.4°.

NY, 3806-CF-P-77 RCA Global Communications, Inc. (WAH584) NY CTO 60 Broad St., New York, N.Y. Lat. 40°42'19" N. Long. 74°00'44" W. C.P. to add a new point of communication on frequency 2178.2V MHz toward Warren, N.J. on azimuth 257.7°.

NJ, 3807-CF-P-77 Same (new) Warren 204A Mount Horeb Rd., Warren Township, N.J. Lat. 40°37'17" N. Long. 74°30'15" W. C.P. for a new station on 2124.6V MHz toward Piscataway on azimuth 176.8° and 2128.2V MHz toward NY CTO on azimuth 77.4°.

NJ, 3808-CW-P-77 Same (new) 201 Centennial Avenue Piscataway, N.J. Lat. 40°32'39" N. Long. 74°29'48" W. C.P. for a new station on frequency 2174.6V MHz toward Warren, N.J. on azimuth 356.8°.

WY, 3809-CF-P-77 The Mountain State Telephone and Telegraph Co., (KXR 20) 1325 Sheridan Ave., Cody, Wyo. Lat. 44°31'33" N. Long. 109°03'38" W. C.P. to add a new point of communication on frequency 11115V MHz toward Cody P.R.I. Wyoming 99.2° and from passive reflector to Sunlight P.R. on azimuth 312.2° from Sunlight P.R. to Sunlight on azimuth 288.3°.

WY, 3810-CF-P-77 Same (new) Sunlight 24.9 miles Northwest of Cody, Wyo. Lat. 44°46'04" N. Long. 109°26'06" W. C.P. to add a new point of communication on frequency 11565V MHz toward Sunlight P.R. on azimuth 108.2° from passive reflector to Cody P.R.I. on azimuth 131.9° and from Cody P.R.I. to Cody on azimuth 279.2°.

KS, 3817-CF-P-77 Southwestern Bell Telephone Co. (KAY74) 805 First St., Dodge City, Kans. Lat. 37°45'13" N. Long. 100°01'04" W. C.P. to increase structure height, correct coordinate and change frequencies 11285V to 11265V; 11365V to 11585V and 1145V to 11505V MHz toward Ensign, Kansas replace transmitters move and replace antenna.

KS, 3818-CF-P-77 Southwestern Bell Telephone Co. (KAY75) 45 mile South of RR Station Ensign, Kans. Lat. 37°38'51" N. Long. 100°14'01" W. C.P. to change frequencies 10755V to 11055V; 10835V to 10895V; 10915H to 10815V MHz toward Dodge City and 10715H to 11055V; 10795V

to 10895V; 10875H to 10815V MHz toward Montezuma. Replace transmitters, move and replace antenna.

KS, 3819-CF-P-77 Same (KAY76) 2.5 miles NW of Montezuma, Kans. Lat. 37°38'04" N. Long. 100°27'49" W. C.P. to change location, increase structure height, a new point of communication on frequencies 11265V 11585V MHz toward Pierceville, Kans. on azimuth 319.6°, change frequencies 11285H to 11265V; 11365V to 11585V MHz toward Copeland, Kans. on azimuth 238.5° and 11245V to 11265V; 11325H to 11585V; 11405V to 11505V MHz toward Ensign, Kans. on azimuth 85.9°. Replace transmitters, move and replace antenna.

KS, 3820-CF-P-77 Same (KAY77) .65 mile N of RR Station Copeland, Kans. Lat. 37°33'10" N. Long. 100°37'51" W. C.P. to increase structure height, change frequencies 10755V to 11055V; 10835H to 10895V MHz toward Montezuma on azimuth 66.1° 10715V to 11055V; 10795H to 10895V MHz toward Sublette, Kans. on azimuth 246.2°. Replace transmitters, move and replace antenna.

KS, 3821-CF-P-77 Same (KAY78) 1.0 mile SW of Sublette, Kans. Lat. 37°28'28" N. Long. 100°51'11" W. C.P. to change location, increase height, change frequencies 11245H to 11265V; 11325V to 11585V MHz toward Copeland on azimuth 66.1° and 11365H to 11265V; 11445V to 11585V MHz toward Satanta on azimuth 250.3°. Replace transmitter, move and replace antenna.

KS, 3822-CF-P-77 Same (KAY79) .42 mile ST of RR Station Satanta, Kans. Lat. 37°26'18" N. Long. 100°58'46" W. C.P. to change frequencies 10755H to 11055V; 10915H to 10895V MHz toward Sublette, Kans. and 10715H to 11055V; 10875H to 10895V MHz toward Liberal Jct. Replace transmitters, move and replace antenna.

KS, 3823-CF-P-77 Same (KAY80) Liberal Jct. 10.5 miles SE of Moscow, Kans. Lat. 37°14'29" N. Long. 101°02'55" W. C.P. to change frequencies 11245V to 11265V; 11485H to 11585V MHz toward Hugoton, 11325H to 11265V; 11405V to 11585V MHz toward Satanta and 11285H to 11265V; 11365V to 11585V MHz toward Liberal. Replace transmitter, move and replace antenna.

KS, 3824-CF-P-77 Same (KAY82) 4th and Washington Liberal, Kans. Lat. 37°02'28" N. Long. 100°55'16" W. C.P. to increase structure height, change frequencies 10755V to 11055V; 10835H to 10895V MHz toward Liberal Jct. on azimuth 333.0°. Replace transmitters, move and replace antenna.

KS, 3825-CF-P-77 Same (KAY81) 1.16 miles ESE of RR Station, Hugoton, Kans. Lat. 37°10'40" N. Long. 101°20'04" W. C.P. to change frequencies 10795V to 11055V; 11035H to 10895V MHz toward Liberal Jct. Replace transmitters, move and replace antenna.

MO, 3869-CF-P-77 Southwestern Bell Telephone Co. (KCM90) 218 E. Washington St. Lat. 40°11'39" N. Long. 92°34'52" W. C.P. to add a new point of communication on frequencies 2112.0V MHz toward Martins-town on azimuth 326.7° and 2115.2H 2121.6 H 2128.0H MHz toward Willimthsvil on azimuth 45.9° and correct coordinates.

MO, 3870-CF-P-77 Same (new) .02 miles E of Martins-town, Missouri Lat. 40°24'32" N. Long. 92°45'58" W. C.P. for a new station on frequency 2162.0V MHz toward Kirksville on azimuth 146.6°.

MO, 3871-CF-P-77 Same (new) Corner Jct. RT A&J Willimthsvil, Missouri Lat. 40°19'36" N. Long. 92°24'14" W. C.P. for a new station on frequencies 2165.2H 2171.6 H 2178.0H MHz toward Kirksville on azi-

muth 226.1° and 2162.0V 2168.4V 2174.8V MHz toward Memphis on azimuth 49.7°.
MO, 3872-CF-P-77 Same (new) ¼ mile NW of Memphis, Missouri Lat. 40°28'13" N. Long. 92°10'56" W. C.P. for a new station on frequencies 2112.0V 2118.4V 2124.8V MHz toward Willimthsvil, Missouri on azimuth 229.8°.

NY, 3873-CF-P-77 New York Telephone Co. (new) Milton Avenue, Highland, N.Y. Lat. 41°43'03" N. Long. 73°57'53" W. C.P. for a new station on frequencies 10875H 10875V MHz toward Illinois Mt., New York on azimuth 274.78°.

NY, 3874-CF-P-77 Same (WCG283) 1.5 miles West of Highland, New York Lat. 41°43'10" N. Long. 73°59'45" W. C.P. to add a new point of communication on frequencies 11325V 11325H MHz toward Highland, N.Y. on azimuth 94.76°.

MD, 3875-CF-P-77 Radio Communications, Inc. (new) 206 Main Street, Prince Frederick, Md. Lat. 38°32'16" N. Long. 76°34'45" W. C.P. for a new station on frequency 2165.8V MHz toward Cambridge, Md. on azimuth 263.4°.

MD, 3876-CF-P-77 Same (new) N.E. Corner of Bay and Queen Anne, Cambridge, Md. Lat. 38°35'02" N. Long. 76°04'56" W. C.P. for a new station on frequency 2116.6V MHz toward Prince Frederick, Md. on azimuth 83.1°.

KS, 3826-CF-P-77 Southwestern Bell Telephone Co. (new) 5 miles SSE of Pierceville, Kans. Lat. 37°48'36" N. Long. 100°39'07" W. C.P. for a new station on frequencies 11055V 10895V MHz toward Montezuma on azimuth 139.5° and 11055V 10895V MHz toward Garden City, Kans. on azimuth 312.3°.

KS, 3827-CF-P-77 Same (new) 407 N 7th Garden City, Kans. Lat. 37°58'05" N. Long. 100°52'17" W. C.P. for a new station on frequencies 11265V 11585V MHz toward Pierceville, Kans. on azimuth 132.2°.

IN, 3833-CF-P-77 United Telephone Co. of Ind., Inc. (KSL93) 1 mile SSE of Plymouth, Ind. Lat. 41°19'28" N. Long. 86°17'56" W. C.P. to change frequencies 6234.3H 6412.2H to 6330.7V MHz toward Knox, Ind., replace transmitters and antenna.

IN, 3834-CF-P-77 Same (KSL92) 103 South Pearl Knox, Ind. Lat. 41°17'46" N. Long. 86°37'20" W. C.P. to change frequencies 5982.3H 6160.2H to 6049.0V MHz toward Plymouth and 5937.8H 6115.7H to 6137.9V MHz toward Winamac, replace transmitters and antenna.

IN, 3835-CF-P-77 Same (KSL91) 114 North Monticello Winamac, Ind. Lat. 41°03'07" N. Long. 86°36'10" W. C.P. to change frequencies 6189.8H 6367.7H to 6271.4V MHz toward Knox, replace transmitters and antenna.

WY, 3868-CF-P/ML-77 Chugwater Telephone Co. (WQQ55) Section Street Chugwater, Wyo. Lat. 41°45'23" N. Long. 104°49'23" W. C.P. and Mod of Lic to reinstate license on frequency 2170.0V MHz toward Chugwater Junction, Wyo. on azimuth 26.5°.

MN, 3629-CF-P-77 First Television Corp. (WBA 976) Maple Lake, 3 miles West of Route 25 on Route 106, Monticello, Minn. (Lat. 45°16'02" N. Long. 93°54'04" W.): Construction permit to add 11385V MHz toward St. Cloud, Minn. via power split, on azimuth 317.3°.

MN, 3630-CF-P-77 First Television Corp. (WBA 977) Rockford, Minn. (Lat. 45°02'21" N. Long. 93°42'55" W.): Construction permit to add 10875V MHz toward IDS Building, Minn. on azimuth 109.7°.

TX, 3669-CF-MP-77 Cablecom General, Inc. (WHT 90) 1 mile ESE of Sinton, Tex. (Lat. 28°01'28" N. Long. 97°29'21" W.): Construction permit to change receive sta-

tion location—6271.4H MHz toward Corpus Christi and 6390H MHz toward Corpus Christi and Tel-Corpus, both in Texas, via power split, on azimuths 164.7° and 158.5° respectively.

TX, 3670-CF-P-77 Cablecom General, Inc. (WHT 89) 4.5 miles NNW of Beeville, Tex. (Lat. 28°27'46" N. Long. 97°46'49" W.): Construction permit to change antenna system and to change receive station location—6019.3V and 6137.9V MHz toward Sinton, Tex., on azimuth 149.5°.

TX, 3671-CF-P-77 Cablecom General, Inc. (WHT 88) 1.5 mile SW of Karnes City, Tex. (Lat. 28°51'39" N. Long. 97°54'19" W.): Construction permit to change antenna system and to change receive station location—6271.4H and 6390.H MHz toward Beeville, Tex., in azimuth 164.5°.

MI, 3690-CF-P-77 Satellite Communications Carrier Corp., (new) Vining Road, Romulus, Mich. (Lat. 42°13'30" N. Long. 83°22'11" W.): Construction Permit for new station—11845V MHz toward Park Site, Mich., on azimuth 143.8°.

NY, 3797-CF-P-77 Eastern Microwave, Inc. (KEA 27) SW Corner of Swartz & Twnline Roads, Springwater, N.Y. (Lat. 42°38'21" N. Long. 77°39'34" W.): Construction permit to add 6226.9H MHz toward Rochester, N.Y., via power split, on azimuth 3.1°.

TF, 3798-CF-P/ML-77 American Telephone & Telegraph Co. (KEF 72) developmental Temporary fixed within the territory of the grantee. Construction permit and modification of license to add transmitter(s) on frequency bands 2110-2130, 2160-2180, 3700-4200 and 5925-6425 MHz.

MAJOR AMENDMENT

TX, 2991-CF-P-77 Grayson Enterprises, Inc. (KLV 73) 317 E. Third St., Amarillo, Tex. (Lat. 35°12'38" N. Long. 101°49'57" W.): Construction permit application amended to change frequency to 6301H MHz toward Canyon, Tex. on azimuth 202.6°.

CORRECTIONS

MN, 3723-CF-P-77 First Television Corp. (WBA 976) Maple Lake, Minn. (Lat. 45°16'02" N. Long. 93°54'04" W.): Construction permit to add 11035V MHz toward IDS Building, Minneapolis, Minn., on azimuth 123°. (This replaces entry on Public Notice of September 28, 1977.)

MN, 3724-CF-P-77 First Television Corp. (WBA 978) IDS Building, Minneapolis, Minn. (Lat. 44°58'32" N. Long. 93°16'18" W.): Construction permit to add 11545H MHz toward Fridley, Minnesota, on azimuth 50 seconds. (This replaces entry of Public Notice of September 28, 1977.)

2097-CF-P-77 Hargray Telephone Co., Inc. (WQQ45) Daufuskie Island 8 miles South of Bluffton, S.C. Lat. 30°06'59" N. Long. 80°44'06" W. C.P. to replace transmitter of authorized frequency 2162.4H MHz toward transmitting to Hilton Head Island, S.C. (WQQ45) and to increase the antenna structure height. (PN Dated 4/18/77, Report No. 854.)

2098-CF-P-77 Same (WQQ44) Highway 278 Hilton Head Island, S.C. Lat. 32°10'27" N. Long. 80°44'06" W. C.P. to replace transmitter on authorized frequency 2112.4H MHz transmitting to Daufuskie Island, S.C.

[FR Doc.77-29899 Filed 10-12-78; 8:45 am]

[6712-01]

[Docket Nos. 21414, 21415; File Nos. 8-A-RL-67, 186-A-L-67]

INLAND AIR LINES, INC. AND RAMP 66, INC.

Designating Applications for Consolidated Hearing on Stated Issues; Order

Adopted: October 6, 1977.
Released: October 7, 1977.

In re application of Inland Air Lines, Inc., North Myrtle Beach, South Carolina, Docket No. 21414, File No. 8-A-RL-67; Ramp 66, Inc., North Myrtle Beach South Carolina, Docket No. 21415, File No. 186-A-L-67; for an Aeronautical Advisory Station to serve Grand Strand Airport, North Myrtle Beach, S.C.

1. Inland Air Lines (hereinafter called Inland) and Ramp 66, Inc. (hereinafter called Ramp 66) have filed an application for authority to operate an aeronautical advisory station at the same airport. Inland seeks renewal of its current station license while Ramp 66 has filed for a new station authorization. In that § 87.251(a) of the Commission's rules provides that only one aeronautical advisory station may be authorized at a landing area, the above-captioned applications are mutually exclusive. Accordingly, it is necessary to designate these applications for comparative hearing in order to determine which, if any, should be granted.

2. In view of the foregoing: *It is ordered*, That pursuant to the provisions of Section 309(e) of the Communications Act of 1934, as amended, and § 0.331 of the Commission's rules, the above-captioned applications are hereby designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent order on the following comparative issues:

(a) To determine which applicant would provide the public with better aeronautical advisory service based on the following considerations:

(1) Location of the fixed-base operation and proposed radio station in relation to the landing area and traffic patterns;

(2) Hours of operation;

(3) Personnel available to provide advisory service;

(4) Experience of applicant and employees in aviation and aviation communications, including but not limited to operation of stations in the Aviation Services (Part 87) that may be or have been authorized to the applicant;

(5) Ability to provide information pertaining to primary and secondary communications as specified in Section 87.257 of the Commission's rules;

(6) Proposed radio system including control and dispatch points; and

(7) The availability of the radio facilities to other fixed-base operators;

(b) To determine the manner in which Inland has operated aeronautical advisory station KBF6 at Grand Strand Airport; and

(c) To determine in light of the evidence adduced on the foregoing issues which of the applications should be granted.

3. *It is further ordered*, That the burden of proof and the burden of proceeding with the introduction of evidence is on each applicant with respect to its application except issue (b) where the burdens are on Inland and issue (c) which is conclusory.

4. *It is further ordered*, That to avail themselves of an opportunity to be heard, Inland and Ramp 66, pursuant to § 1.221 (c) of the Commission's rules, in person or by attorney, shall within 20 days of the mailing of this Order, file with the Commission, in triplicate, a written appearance stating an intention to appear on the date set for hearing and present evidence on the issues specified in this Order. Failure to file a written appearance within the time specified may result in dismissal of the application with prejudice.

CHARLES A. HIGGINBOTHAM,
Chief, Safety and Special
Radio Services Bureau.

[FR Doc.77-29897 Filed 10-12-77; 8:45 am]

FEDERAL ENERGY REGULATORY COMMISSION

[6740-02]

[Docket No. ER76-819]

CENTRAL ILLINOIS LIGHT CO.

Settlement Conference

OCTOBER 6, 1977.

Take notice that a settlement conference concerning the proceedings in the above-noted docket will be held, without the presence of the Presiding Administrative Law Judge, on October 17, 1977, 11 a.m., 941 North Capitol Street, NE., Washington, D.C., 20426, Room 3200.

KENNETH B. PLUMBE,
Secretary.

[FR Doc.77-29843 Filed 10-12-77; 8:45 am]

[6740-02]

[Docket Nos. ER76-229, ER76-633, ER76-661]

CENTRAL LOUISIANA ELECTRIC CO.

Compliance Filing

OCTOBER 6, 1977.

Take notice that on September 27, 1977, Central Louisiana Electric Co. tendered for filing, pursuant to Ordering Paragraph (B) of the Commission's Order Approving Settlement Agreement issued September 15, 1977, in this proceeding, its revised Rate Schedule WR-1,

which is applicable to wholesale service for resale rendered by Central Louisiana Electric Co. (CLECO) on and after June 1, 1977.

CLECO also tendered for filing pursuant to that order a revised Service Schedule C-Supplemental Power, to the Electric System Interconnection Agreement between CLECO and Cajun Electric Power Cooperative, Inc. dated April 27, 1976.

Any person desiring to be heard or to protest said filing should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. on or before October 20, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 49844 Filed 10-12-77; 8:45 am]

[6740-02]

[Docket No. R177-136]

CHEVRON U.S.A. INC.

Petition for Order Authorizing Refund Payment Plan

OCTOBER 6, 1977.

Take notice that on September 26, 1977, Chevron U.S.A. Inc. (Chevron), filed a petition requesting the Commission to issue an order authorizing a plan for the payment of refunds owed by Chevron under Opinion No. 598. As provided in Opinion No. 598, which established just and reasonable rates for sales of gas from the Southern Louisiana Area, Chevron had elected to discharge its refund obligation by the commitment of gas reserves to the interstate market. Chevron states that it has not discharged entirely its refund obligation, and as of October 1, 1977, Chevron estimates that it will owe to interstate pipelines approximately \$21 million in refunds under Opinion No. 598.

In its petition Chevron proposes to make cash refunds on October 31, 1977 to seven interstate pipelines amounting to \$11,765,602. Chevron proposes to use the balance of the refunds owing, approximately \$9,673,555 owed to Tennessee Gas Pipeline Co. (Tennessee), to explore for and develop new gas reserves for sale to Tennessee in accordance with the provision of an agreement with Tennessee dated July 7, 1977. According to Chevron this agreement provides that Chevron will spend a total amount of money equal to 250 percent of its finally determined refund obligation to Tennessee to explore for and develop gas reserves. Forty percent of this amount will derive from the refunds owned to Tennessee by Chevron; the balance of the funds will be contributed by Chevron. If such funds are not expended by December 31, 1981, Chevron will refund to Tennessee an amount equal to Chevron's refund obligation to Tennessee, less forty

percent of the total amount spent by Chevron prior to December 31, 1981. Tennessee has the right to purchase the gas reserves found by Chevron on the leases.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 28, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77 29845 Filed 10-12-77; 8:45 am]

[6740-02]

[Project No. 2763]

CITY OF GOLDEN, COLO. AND VIDLER TUNNEL CO.

Meeting

OCTOBER 5, 1977.

Public notice is hereby given that a meeting will be held on October 18, 1977, at 10 a.m., at the Federal Energy Regulatory Commission in Room 5200, 825 North Capitol Street, Washington, D.C., respecting the application for preliminary permit for Project No. 2763, known as the Sheephorn Project, filed by the City of Golden, Colo. and the Vidler Tunnel Co. All parties have been notified of the meeting.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29836 Filed 10-12-77; 8:45 am]

[6740-02]

[Project No. 2765]

JEAN LARA AND MICHAEL HANAGAN Application of Minor License

OCTOBER 5, 1977.

Public notice is hereby given that an application was filed under the Federal Power Act, 16 U.S.C. §§ 791a-825r, on June 7, 1976, and revised on July 1, 1977, by Jean Lara and Michael Hanagan (Correspondence to: Mr. Harvey A. Katz, 294 New London Turnpike, Glastonbury, Conn. 06033) for a minor license for Project No. 2765 known as the Shafer Holdings Project. Project No. 2765 is located on the Scantic River in the Town of Somersville, Tolland County, Conn.

The Shafer Holdings Project, originally constructed in 1820, consists of: (1) a stone and concrete dam 15-feet high and 92-feet long which forms a pond with a storage capacity of 125 acre-feet;

(2) a 7-foot deep by 12-foot wide canal 270-feet long from an intake at the dam to the turbine; (3) one 140kW generator located in the basement of a small industrial building adjacent to the dam; and (4) an outlet canal from the turbine to the Scantic River. The project is operated as run-of-the-river. The project supplies electricity during the winter months for heating an industrial building where motorcycle parts are manufactured.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 12, 1977, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29837 Filed 10-12-77; 8:45 am]

[6740-02]

[Docket Nos. CP76-492, CP77-644]

NATIONAL FUEL GAS SUPPLY CORP. Application and Consolidation

OCTOBER 5, 1977.

Take notice that on September 27, 1977, National Fuel Gas Supply Corp. (NFG), 308 Seneca Street, Oil City, Pa., 16301, filed in Docket No. CP77-644 an application pursuant to Sections 7 (b) and (c) of the Natural Gas Act for a certificate of public convenience and necessity. Said application seeks authorization to construct and operate facilities, to abandon certain other facilities, and to transport gas through Potter and Cameron Counties, Pa., all as more fully set forth in the application on file with the Commission and open to public inspection.

NFG proposes to construct two segments of pipeline and a related 2,000 Hp compressor facility in order to replace the existing pipeline between Costello and Roulette, Pa., and in order to connect NFG's Storage Corp.'s East Independence-Ellisburg pipeline (as proposed in Docket No. CP76-492) with the facilities of Columbia Gas Transmission Corp. (Columbia) and Transcontinental Gas Pipe Line Corp. (Transco).

The proposed "North" pipeline segment would be approximately 25 miles long and 16 inches in diameter. Said segment, it is stated, would be used to transport gas formerly transported through the Costello-Roulette line which is proposed to be abandoned, and, to transport

gas for customers of NFG's Storage Corp. whose gas is being transported by Columbia or Transco.

The proposed "South" segment would be approximately 6 miles long and 12 inches in diameter and would connect existing facilities of Columbia with two proposed 1,000 Hp compressors to be installed at a new facility near Wharton, Pa.

Construction is planned to begin in June, 1978, and completed by October of the same year. The estimated total cost is \$9,153,378 and will be financed by sales of short-term securities in early calendar year 1978 and by later refinancing with long-term securities.

Applicant also proposes the short-term use of a 1,000 Hp compressor to supplement capacity on its existing 8" Roulette-Hebron line for the period April 1, 1978, to October 31, 1978. Said compressor, it is proposed, will be mounted on skids for easy removal and located sufficiently distant from existing residences to avoid noise disturbance.

NFG proposes to abandon in place 16 miles of 12-inch pipeline running between Costello and Roulette, Pa. It is stated that the pipeline was constructed nearly 30 years ago of reconditioned pipe and that its salvage value is not sufficient to warrant such an operation.

Rates for the proposed service, it is said, have been established through allocations of cost of service based on annual and peak day volumes to be used by NFG and customers of NFG's Storage Corp. It is proposed that the customers served through Transco will be charged 5.80 cents per Mcf for transportation in each direction in accordance with Rate Schedule T-2 of NFG. For those customers served through Columbia, a charge of 10.50 cents per Mcf will be charged for like service in accordance with Rate Schedule T-3. Several variations in rates for limited periods during two years beginning April 1, 1978, are also said to be necessary.

NFG additionally proposes to provide service to NFG's Storage Corp. during the period of construction through August of 1978. NFG requests authority to transport gas for Storage Corp. from Ellisburg, Pa., to the storage facilities in East and West Independence, Allegany County, N.Y. Transportation would flow through NFG's existing Penn-York line and the gas would be available to Storage Corp.'s customers at a cost of 12.94 cents per Mcf payable by Storage Corp. to NFG.

It also appears that the instant application may involve common questions of law and fact with the on-going proceeding in Docket No. CP76-492 and thus should be consolidated for hearing pursuant to our authority granted by Section 3.5(a) (6) of the Commission's Rules and Regulations.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 30 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should file

on or before October 20, 1977, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act, (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in the hearing therein must file a petition to intervene in accordance with the Commission's Rules. Persons who have heretofore filed in Docket No. CP76-492, et al., need not file again.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29838 Filed 10-12-77; 8:45 am]

[6740-02]

[Docket No. CP77-641]

NATURAL GAS PIPELINE CO. OF AMERICA

Pipeline Application

OCTOBER 6, 1977.

Take notice that on September 26, 1977, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP77-641 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for Sea Robin Pipeline Co. (Sea Robin) and to exchange gas with United Gas Pipe Line Co. (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that pursuant to a transportation agreement dated September 2, 1977, between Applicant and Sea Robin, Applicant proposes to transport for Sea Robin quantities of gas Sea Robin is entitled to purchase in the Eugene Island Block 305 Field area of offshore Louisiana. Applicant will transport Sea Robin's gas through its proposed 16-inch gathering pipeline from Eugene Island Block 305 to a point of connection with Sea Robin's existing offshore facilities in Eugene Island Block 295.

Applicant will charge Sea Robin an initial monthly rate of \$5,493 for all gas transported.

Applicant further states that pursuant to an exchange agreement dated August 16, 1977, between Applicant and United, Applicant will cause Sea Robin to deliver to United for Applicant's account near Erath, La., gas Applicant will purchase in the South Marsh Block 142, 143 area, the Eugene Island Block 333 area and the Eugene Island Block 305 area, offshore Louisiana. United will redeliver to

¹ Said pipeline is the subject of an application filed at Docket No. CP77-384.

Applicant equivalent volumes of gas at an existing delivery point between the parties in Vermilion Parish, La., and when required at an existing alternate delivery point in Cameron Parish, La.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 28, 1977, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29846 Filed 10-12-77; 8:45 am]

[6740-02]

[Docket No. ER77-619]

NORTHERN STATES POWER CO.

Cancellation

OCTOBER 5, 1977.

Take notice that Northern States Power Co. (Northern States), on September 28, 1977, tendered for filing notice of cancellation of FPC Rate Schedule No. 165, a Municipal Service Agreement dated February 20, 1964, as supplemented, between the City of Marshall, Minn., and Northern States. Northern States proposes an effective date of October 21, 1977, and therefore requests waiver of the Commission's notice requirements.

Northern States indicates that copies of this filing have been sent to the City of Marshall.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington,

NOTICES

D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29839 Filed 10-12-77; 8:45 am]

[6740-02]

[Docket No. ES77-63]

PACIFIC POWER AND LIGHT CO.

Application

OCTOBER 5, 1977.

Take notice that on September 30, 1977, Pacific Power & Light Co. (Applicant), a corporation organized under the laws of the state of Maine and qualified to transact business in the States of Oregon, Wyoming, Washington, California, Montana and Idaho, with its principal business office at Portland, Oreg., filed an application with the Federal Power Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing it to enter into a Financing Agreement (Financing Agreement) with the County of Sweetwater, Wyoming (County), pursuant to which Applicant will incur the obligation to make payments equal to the required payment of the principal, premium, if any, and interest on Pollution Control Revenue Bonds (Bonds) not to exceed \$55,000,000 in aggregate principal amount, to be issued by the County, pursuant to an Indenture of Trust (the Indenture) to be entered into between the County and a bank to be selected to act as Trustee (Trustee).

Any person desiring to be heard or to make any protest with reference to said application should, on or before October 27, 1977, file with the Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29840 Filed 10-12-77; 8:45 am]

[6740-02]

[Docket No. CP77-626]

SEA ROBIN PIPELINE CO.

Pipeline Application

OCTOBER 6, 1977.

Take notice that on September 21, 1977 Sea Robin Pipeline Co. (Sea Robin) filed an application in Docket No. CP77-626 pursuant to Section 7(c) of the Natural Gas Act, as amended, for a temporary and permanent certificate of public convenience and necessity authorizing the increase in delivery capacity to Columbia Gas Transmission Co., (Columbia) at Erath, Vermillion Parish, La.

Sea Robin states that prior to expiration of the current year it may be required to deliver a quantity of gas to Columbia in excess of its present capacity and requests authorization to increase the delivery capacity of its metering facilities serving Columbia from 100,000 Mcf per day to 200,000 Mcf per day. Sea Robin states that anticipated deliveries to Columbia's account and for the accounts of others will require the replacement of two existing 10-inch meter tubes with 12-inch meter tubes at metering facilities located at the terminus of Sea Robin's offshore transmission system near Erath. The cost of facilities required is estimated at \$27,100, all as more fully described in the application which is on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 25, 1977, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29847 Filed 10-12-77; 8:45 am]

[6740-02]

[Docket No. CP73-339; C175-45, et al.]

TENNESSEE GAS PIPELINE CO., A
DIVISION OF TENNECO INC.

Pipeline Application

OCTOBER 5, 1977.

Take notice that on September 28, 1977 Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee), Post Office Box 2511, Houston, Tex. 77001, filed in Docket No. CP73-339 an application to amend the order issued in said docket on March 7, 1977, by requesting authorization to add two additional delivery points to the transportation service authorized therein for Continental Oil Co. (Continental). The two proposed delivery points are at the outlet side of Continental's Egan Plant, located in Acadia Parish, La. and the point of intersection of Continental's and Tennessee's facilities located in Calcasieu Parish, La.

Continental will install minor facilities at the facilities at the proposed points. There will be no change in the rate per Mcf per 100 miles to be charged Continental for this transportation service.

Tennessee states that it has entered into an amendment with Continental, dated May 17, 1977, to an existing Gas Transportation Agreement, dated November 14, 1972. Tennessee states that the proposed service will not effect Tennessee's ability to serve its existing customers.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 19, 1977, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

tion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29841 Filed 10-12-77; 8:45 am]

[6740-02]

[Docket No. CP77-627]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC., COLUMBIA
GULF TRANSMISSION CO.

Pipeline Application

OCTOBER 5, 1977.

Take notice that on September 22, 1977 Tennessee Gas Pipeline Co., a division of Tenneco Inc. (Tennessee) and Columbia Gulf Transmission Co. (Columbia Gulf) filed a joint application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation by Tennessee and Columbia Gulf of compression and related facilities, all as more fully set forth in the application on file with the Commission and open to public inspection.

Specifically, Tennessee and Columbia Gulf request authorization to construct, operate, and own an undivided 2" and 3" interest, respectively, in a 1,310 horsepower compressor unit and related facilities to be situated on the existing producer platform in East Cameron Block 33, Offshore Louisiana, which platform is jointly owned by Continental Oil Co. (Continental), Cities Service Oil Co. (Cities), and Getty Oil Co. (Getty) and operated by Continental.

Tennessee and Columbia Gulf state that Continental, Cities, and Getty each own a one-third leasehold interest in the Block 33 reserves; that Continental's and Cities' reserves are committed to Tennessee and Getty's reserves are committed to Columbia Gas Transmission Co. (Columbia Gas) under Gas Purchase and Sales Agreements; that such agreements provide for Tennessee and Columbia Gas to furnish any compression facilities necessary for the delivery of such reserves; and that Tennessee and Columbia Gulf and Continental, as operator, have determined that compression on the Block 33 platform would be required to enable gas from Block 33 to enter Applicants' systems.

Tennessee and Columbia Gulf state that Tennessee's share of the direct cost of the compressor facilities will be \$694,000 and Columbia Gulf's share will be \$347,000.

NOTICES

Certificate

No.	Owner operator and vessels
01330...	Shell Tankers (U.K.) Ltd.: Erinna.
01423...	Charente Steamship Co. Ltd.: Adviser.
01428...	Ocean Transport & Trading Ltd.: Memnon.
01610...	C. F. Industries: CF 202.
01641...	The Bank Line Ltd.: Nessbank.
01890...	A/S Billabong: Star Abadan.
02039...	Gryf Deep Sea Fishing Co.: Parma.
02040...	Odra-Swinoujscie: Kolias.
02129...	Ore Carriers, Ltd.: Orenda.
02209...	Flota Mercante Grancolombiana S.A.: Rio Guayas.
02266...	Marina Mercante Nicaraguense S.A.: Carla.
02429...	G & C Towing Inc.: Wisconsin. Chotin 2967, CT-830, Eau Claire, Chippewa, Tennessee, Arkansas, SB-40, AOR-223, NBC-902.
02470...	La Crosse Dredging Corp.: BD 1
02474...	Pacific Towboat & Salvage Co.: PT & S 36.
02715...	Allied Towing Corp.: Stymo 92
02721...	Healy Tibbits Construction Co.: Barge No. 44.
02441...	Quebec and Ontario Transportation Co. Ltd.: Baie Comeau II.
02975...	Venture Shipping (Managers) Ltd.: Lagos Venture.
03273...	Dunlap Towing Co.: ZB 204.
03321...	Marunouchi Kisen Kabushiki Kaisha: Weipa Maru.
03355...	Sea Merchant Shipping Co.: Eairness.
03645...	Tidewater Morgan City Inc.: Tide Mar 21.
03690...	The Harbor Tug & Barge Co.: Isla Del Sol, C-44, 10, 21, 7.
03893...	Skaarup Shipping Corp.: Industry Trader.
04050...	A S Uglands Rederi: Sirena.
04289...	Dixie Carriers Inc.: Ett 124, C 1201, C 1603, C 1604, C 1602, C 1601, C 1605, C 1202, C 1203, C 1902, C 1901, C 901.
04398...	Hapag-Lloyd Aktiengesellschaft: Stuttgart Express.
04404...	Lar Ref. Johansen: Johol.
04422...	Hai Shang Navigation Corp.: Grand West.
04462...	Empresa Nacional Elcano de la Marina Mercante S.A.: Castillo de Tamarit.
04601...	American Tunaboat Association: Day Island.
05042...	State of Alaska: Aurora.
05098...	Esso Tankers Inc.: Esso Atlantic.
05520...	Union Carbide Corp.: USL-138, USL-140, USL-149.
05578...	Baltic Shipping Co.: Khudoshnik Pakhomov.
05704...	Murmansk Shipping Co.: Kapitan Dubinin.
05764...	Cerrahogullari Umumi Nakliyat Vapurculuk ve Ticaret T A S: M. Istanbul K.
05926...	Maritime Services G.m.b.H.: Scilla, Nordbalt.
05995...	Association of Maryland Pilots: Maryland.
05998...	Navarino Shipping & Transport Co. Ltd.: Fraternity.
06052...	Marukyo Suisan Kabushiki Kaisha: Nadayoshi Maru No. 10, Nadayoshi Maru No. 15.
06071...	Instituto de Fomento Industrial and/or Alcala de Colombia Alco Ltda: Planta de Mamonal, Planta de Betania, Salinas de Manauze, Julio Caro, Luis Angel Arango.
06092...	John W Stone Oil Distributor Inc.: S-6.

Any person desiring to be heard or to make any protest with reference to said application, on or before October 19, 1977, should file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-29842 Filed 10-12-77; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

CERTIFICATES OF FINANCIAL
RESPONSIBILITY (OIL POLLUTION)

Certificates Issued

Notice is hereby given that the following vessel owners and/or operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by Section 311(p)(1) of the Federal Water Pollution Control Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Oil Pollution) pursuant to Part 542 of Title 46 CFR.

In addition, notice is also given that the following operators have established evidence of financial responsibility, with respect to the vessels indicated, as required by subsection (c) of Section 204 of the Trans-Alaska Pipeline Authorization Act, and have been issued Federal Maritime Commission Certificates of Financial Responsibility (Alaska Pipeline) pursuant to Part 543 of Title 46 CFR.

Certificate No.	Owner/operator and vessels
06248...	Commercial Corp. "Sovrybnot": Surash, Selets, Stolin, Sokolovka.
06566...	Occidental Petroleum Corp.: NMS-1467.
06675...	Cobrecat: Sahara.
06818...	Globus Reederet G.m.b.H., Hamburg: Sable.
07366...	Compagnie Maritime des Chargeurs Reunis: Cap Camarat, Seatrain Concord.
08048...	Andros Trading Ltd.: Pelineon.
08617...	Fairmont Enterprises Ltd.: Olive Ace, Fiona I, Friendship.
08884...	Arctic Shipping Singapore (PTE) Ltd.: Tema.
09315...	Kaigai Gyogyo K.K.: Kaisei Maru No. 1, Seishu Maru No. 3.
09498...	Veba Chemie AG: Egmond, Faust, Clavigo, Bayern.
09760...	Amoco Transport Co.: Amoco Challenger.
09763...	Atlas Maritime Co. S.A.: Star Olympian.
09984...	Munster Shipping Co. Ltd.: Nissos Rhodos.
10299...	Productos Alimenticios del Mar S.A.: Delfin Azul.
10303...	Almare Società di Navigazione S.P.A.: Almare Sesta.
10857...	Sedco Inc.: Sedco 472, Sedco 445.
10945...	Alaska Bulk Carriers Inc.: Glacier Bay.
10996...	K.G.G. Co. S.A.: Sea Bird No. 31.
10997...	Spanocean Line Ltd.: Scottish Waza.
11680...	Murton Shipping Corp.: Diligence.
11987...	Carlguif Ltd.: Carl Trader.
12380...	Alabama River Towing Co. Inc.: Mary, Maggie, Roman.
12651...	Pepper Industries Inc.: Barge No. 2, Barge No. 4, Barge No. 5.
12705...	Kerkyra Shipping Corp.: Camellia B.
02798...	Teo Shipping Corp.: Blue Wave.
12811...	OHG Vineta Seereederet G.m.b.H. & Co.: Maritime Trader.
12870...	Aurora Reederet G.m.b.H. & Co. KG MS Maretanla: Maretanla.
12900...	Bergemita Shipping Co. Ltd.: Alakmon Leader.
12910...	INO Compania Naviera S.A.: Chantal.
12939...	Pesquera Costa de la Luz S.A.: Capitán Emilio.
12948...	Consolidated Mariners S.A.: Crowna.
12955...	United Tanker Corp.: Eagle Charger, Eagle Leader.
12974...	Kriti Shipping Corp.: KRITI.
12976...	Evangelistria Shipping Co. Ltd.: Yannis Nikolas.
12988...	Veba-Reederet G.m.b.H. & Co. KG: Libra.
12989...	Llane Navigation Co. Inc.: Global Maritime.
12990...	Gemini Maritime Corp.: Gemini Trader.
12991...	Cremorne Bay Shipping Co. Ltd.: United Concord.
12992...	Pacific Tanker Transport Inc.: Oriental Peace.
12993...	Lu's Brother Co. S.A.: Andy Lu.
12995...	Wakashio Suisan Kabushiki Kaisha: Wakashio Maru No. 58.
12997...	Pilio Shipping Corp.: Pilio.
12998...	Ventura Navigation Inc.: Stolt Avance.
12999...	Silverdee Shipping Ltd.: Silvera- won.
13000...	Natalie Tankships Corp.: Overseas Natalie.
13002...	Golden Fortune Steamship Inc.: Golden Fortune.
13003...	Atlantic Tanker Transport Inc.: Oriental Unity.

NOTICES

Certificate No.	Owner/operator and vessels
13004...	Cheames Maritime Corp.: Fotini.
13005...	Garber Bros. Inc.: Blue Shark.
13006...	Golden Tenny Steamship Inc.: Golden Tenny.
13007...	Litra Shipping Corp.: Plotinos.
13008...	Epacris Shipping Corp.: St. George.
13010...	Han Sung Enterprise Co. Ltd.: No. 21 Hansung.
13012...	Gasland Ltd.: Caribe I.
13013...	Earl Compania Naviera S.A.: Constantino.
13015...	Baronet Compania Naviera S.A.: Sklerion.
13017...	Cormorant Marine Corp.: Red Arrow.
13019...	Honam Tanker Co. Ltd.: Honam Jade, Honam Pearl, King Star, New Star.
13021...	Ivikos Maritime Corp. S.A.: Trias III.
13022...	Zea Shipping Co. S.A.: Angela-Mary.
13024...	Echo Shipping and Navigation Co. Ltd.: Green Echo.
13026...	Tiger Ltd.: Monique S.
13027...	Lethe Shipping Co.: Lethe.
13028...	Schiffahrtsgesellschaft MS Siggen MBH: Siggen.
13030...	Societe Italo Congolaise D'Arme- ment et Peche: Loango.
13031...	Green Bright Line S.A.: Green Bright.
13032...	Barcurea Compania Naviera S.A.: Little Nicos.
13033...	Mr. Masatsuo Takamatsu: Sholehi Maru No. 87.
13035...	Jason Tanker Navigation Ltd.: Margarita.
13036...	Fairplay Caribe Ltd. S.A.: Albert Friessecke.
13037...	Ino Shipping Co. S.A.: Ino.
13038...	Barba Maritime Corp.: Argonaut II.
13039...	Luhr Bros Inc.: Tallahatchie, Elco, L 1001 B.
13041...	Mr. Kiyoshi Futagawa: Ise Maru No. 21.
13042...	Pesquerias Gades S.A.: Manuel Gallardo Montestinos.
13044...	Partederiet Thermopylae: Thermopylae.
13045...	Asian Crusier Co. Inc.: Ocean VIP.
13046...	Stock Marine Co. Ltd.: Asian Hawk.
13047...	Marine Land Air Transportation S.A.: Shin Shien.
13049...	Adriana Shipping Co. Ltd.: Anadria.
13050...	International Tankship Corp.: Intermar Prosperity.
99002...	Intercontinental Bulk Tank Corp.: Overseas Alaska, Overseas Alice.
99003...	Overseas Bulk Tank Corp.: Overseas Arctic, Overseas Valdez, Overseas Juneau.
99004...	First Shipmor Associates: Overseas Chicago.
99005...	Natalie Tankships Corp.: Overseas Natalie.
99006...	Sun Transport Inc.: America Sun, Pennsylvania Sun.
99007...	Exxon Corp.: Exxon San Francisco, Exxon Baton Rouge, Exxon Philadelphia, Exxon Houston, Exxon New Orleans, Exxon Baltimore, Exxon Boston, Exxon Washington, Exxon Jamestown, Exxon Lexington, Exxon Newark, Exxon Florence.
99008...	American Trading Transportation Co. Inc.: Washington Trader.
99009...	Mathiasen's Tanker Industries Inc.: Soho Resolute, Soho Intrepid.
99010...	Aquila Shipping Co. Inc.: Aquila.
99011...	Globe Seaways Inc.: Overseas Anchorage.

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Certificate

Certificate No.	Owner/operator and vessels
99012...	Interocean Management Corp.: Massachusetts, New York, Maryland, Bradford Island.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29885 Filed 10-12-77;8:45 am]

[6750-01]

FEDERAL TRADE COMMISSION
PRIVACY ACT OF 1974Systems of Records; Annual Publication;
Correction

In FR Doc. 77-27339, appearing in FEDERAL REGISTER issue for Tuesday, September 20, 1977, pages 47403 through 47423, inclusive, the Federal Trade Commission published its Systems of Records under the Privacy Act of 1974. The following corrections are required.

Page 47403, column 2, paragraph 8 (FTC-35), line 14 should read "news media and special interest (i.e., organizations to be reached".

Page 47410, column 2, under FTC-17, lines 7 through 10: Categories of individuals covered by the system should read: "Individuals who have requested publications from the Los Angeles Regional Office, and individuals who receive local Call for Comment."

Page 47410, column 2, under FTC-17, lines 17 and 18: "call for comment" should read "Call for Comment".

Page 47417, column 1, under FTC-34, lines 11 and 12: the words "comoleted" and "comonay" should read "completed" and "company", respectively.

Page 47417, column 2, line 4: the word "oersonnel" should read "personnel."

Page 47417, column 2, lines 6 and 7 which read "Referral to experts, when considered appropriate by Commission staff" should be deleted.

Page 47420, column 1, under FTC-42, line 34: delete the asterik (*) after the word "Commission" and beneath the line "Federal Trade Commission" insert "6th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20580."

Page 47422, column 1, under FTC-49, line 1: the last word in the line "Appeal" should read "Appeals".

Page 47423, column 1, under FTC-52, line 3: insert after "Optimum Systems, Inc." the address "5615 Fishers Lane".

Dated: October 3, 1977.

CAROL M. THOMAS,
Secretary.

[FR Doc.77-29902 Filed 10-12-77;8:45 am]

[6820-25]

GENERAL SERVICES
ADMINISTRATION[Federal Property Management Regs.:
Temporary Reg. E-47, Supp. 3]

TELEPROCESSING SERVICES PROGRAM

OCTOBER 3, 1977.

1. Purpose. This supplement extends the mandatory provisions of the Teleprocessing Services Program (TSP) of September 30, 1978.

NOTICES

2. Effective date. This regulation is effective on October 13, 1977.

3. Expiration date. This regulation expires on September 30, 1978, unless sooner superseded or revised.

4. Explanation. The expiration date for TSP was September 30, 1977. Its mandatory provisions have been effective only since August 1, 1977, in accordance with Supplement 2 to E-47. Additional time is required to complete development of certain evolving features of TSP and to clarify existing procedures for the program before publishing a permanent regulation.

5. Effect on other issuances. Supplement 2 to FPMR Temporary regulation E-47 is canceled.

Dated: October 3, 1977.

JOEL W. SOLOMON,

Administrator of General Services.
[FR Doc.77-29971 Filed 10-12-77;8:45 am]

[6820-23]

GENERAL SERVICES
ADMINISTRATIONPublic Buildings Service
[Wildlife Order 133]DESECHEO ISLAND, MONO PASSAGE,
AGUADILLA, PUERTO RICO, W-PR-446A

Transfer of Property

Pursuant to section 2 of Pub. L. 537, Eightieth Congress, approved May 19, 1948 (16 U.S.C. 667c), notice is hereby given that:

1. By letter from the General Services Administration, New York, N.Y. Regional Office, dated November 17, 1976, approximately 360 acres of land improved with one building, identified as Desecheo Island, Mono Passage, Aguadilla, Puerto Rico, were transferred to the Department of the Interior for use by the Fish and Wildlife Service.

2. The above described property was conveyed for use as a migratory bird refuge in accordance with the provisions of Section 1 of said Pub. L. 537 (16 U.S.C. 667b), as amended by Public Law 92-432.

Dated: October 4, 1977.

JAMES B. SHEA, Jr.,
Commissioner,
Public Buildings Service.

[FR Doc.77-29936 Filed 10-12-77;8:45 am]

[4110-02]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Office of Education

NATIONAL ADVISORY COUNCIL ON
INDIAN EDUCATION

Schedule

AGENCY: The National Advisory Council on Indian Education.

ACTION: Notice.

SUMMARY: The notice sets forth the schedule and proposed agenda of the forthcoming meeting of the National Ad-

visory Council on Indian Education. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1, 10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Full Council Meeting: November 4-5, 1977, 9 a.m. to 5 p.m., and November 6, 1977, 9 a.m. to 3 p.m. Executive Committee Meeting: November 3, 1977, 7 p.m. to 10 p.m. Subcommittee Meetings: November 4-5, 1977, 7 p.m. to 10 p.m.

ADDRESS: Radisson St. Paul Hotel, 11 East Kellogg Blvd., St. Paul, Minnesota 55101.

FOR FURTHER INFORMATION CONTACT:

Stuart A. Tonemah, Executive Director, Office of the National Advisory Council on Indian Education, Suite 326, 425 13th Street NW., Washington, D.C. 20004 (202-376-8882).

The National Advisory Council on Indian Education is established under Section 442 of the Indian Education Act, Title IV of Pub. L. 92-318, (20 U.S.C. 1221g).

The Council is directed to:

(1) Submit to the Commissioner of Education a list of nominees for the position of Deputy Commissioner of the Office of Indian Education/OE;

(2) Advise the Commissioner of Education with respect to the administration (including the development of regulations and of administrative practices and policies) of any program in which Indian children or adults participate from which they can benefit, including Title III of the Act of September 30, 1950 (Pub. L. 81-874) and Section 810, Title VIII of the Elementary and Secondary Education Act of 1965 (as added by Title IV of Pub. L. 92-318 and amended by Pub. L. 93-380), and with respect to adequate funding thereof;

(3) Review applications for assistance under Title III of the Act of September 30, 1950 (Pub. L. 81-874), Section 810 of Title VIII of the Elementary and Secondary Education Act of 1965 as amended and Section 314 of the Adult Education Act (as added by Title IV of Pub. L. 92-318), and make recommendations to the Commissioner with respect to their approval;

(4) Evaluate programs and projects carried out under any program of the Department of Health, Education, and Welfare in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations.

(5) Provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(6) Assist the Commissioner in developing criteria and regulations for the administration and evaluation of grants made under Section 303(b) of the Act of September 30, 1950 (Pub. L. 81-875) as added by Title IV, Part A, of Pub. L. 92-318; and

(7) Submit to the Congress not later than March 31 of each year a report on its activities, which shall include any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate or

from which they can benefit, which report shall include a statement of the Council's recommendations to the Commissioner with respect to the funding of any such programs.

The meeting on November 3-6, 1977, will be open to the public. This meeting will be held at the Radisson St. Paul Hotel, St. Paul, Minn.

The proposed agenda includes: (1) Executive Director's Report; (2) action on previous meeting minutes; (3) committee reports and discussion; (4) special reports; (5) review the NACIE fiscal year 1978 budget; (6) plans for future NACIE activities; (7) regular council business.

Records shall be kept of all Council proceedings and shall be available for public inspection at the Office of the National Advisory Council on Indian Education located at 425 13th Street NW., Suite 326, Washington, D.C. 20004.

Dated: October 5, 1977.

STUART A. TONEMAH,
Executive Director, National
Advisory Council on Indian
Education.

[FR Doc.77-29848 Filed 10-12-77;8:45 am]

[1505-01]

Social Security Administration

AGREEMENTS WITH STATES FOR COVER-
AGE OF STATE OR LOCAL EMPLOYEES
UNDER TITLE II OF THE SOCIAL SECUR-
ITY ACT, AS AMENDEDRedelegation of Authority
Correction

In FR Doc. 28623 appearing on page 51667 in the issue of Thursday, September 29, 1977, on page 51668, in the 3rd column in paragraph "G. AUTHORITY" the citation should read, "... subsections (q) (4) (A) and (r) (2) (A) of section 218."

[4210-01]

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENTOffice of Assistant Secretary for Housing,
Federal Housing Commissioner

[Docket No. N-77-803]

THERMAL INSULATION, UREA-BASED,
FOAMED IN PLACE

Use of Materials Bulletin No. 74

AGENCY: Department of Housing and Urban Development, Office of Assistant Secretary for Housing, Federal Housing Commissioner.

ACTION: Notice.

SUMMARY: This Notice promulgates HUD's new Use of Materials Bulletin No. 74, which sets forth the conditions for acceptance of foamed urea-based insulation, and stipulates certain limitations for its use. The current shortage of conventional building insulation has stimulated a demand for foamed urea-based

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insulation whose reliability and performance has been controversial.

EFFECTIVE DATE: September 2, 1977.
FOR FURTHER INFORMATION CONTACT:

Donald K. Baxter, Chief Materials Acceptance Branch, Architecture and Engineering Division, Office of Technical Support, Department of Housing and Urban Development, Washington, D.C. 20410 (202-755-5929).

SUPPLEMENTARY INFORMATION:

1. Purpose.—HUD Use of Materials Bulletin No. 74, dated September 15, 1977, is being issued to provide HUD field offices with a basis for accepting urea-based, foamed in place thermal insulation.

2. Scope.—The Bulletin sets forth the physical properties, test methods, installation guidelines, and labeling requirements for urea based foam insulation, and stipulates that such insulation is limited for us only in enclosed building cavities such as walls, partitions and floors.

3. Background.—The recent demand for thermal insulating materials has strained the existing manufacturing facilities for conventional thermal insulations such as fibrous glass, mineral wool and cellulose insulations. Meanwhile, problems with foamed in place insulations have caused insulating contractors and the general public to become wary of job-applied foam insulations. Complaints included odors, excessive shrinkage, deterioration and collapse, corrosion of adjoining materials, and hazards to health.

4. Development.—The bulletin was developed in cooperation with the urea foam industry, the Canadian government and the National Bureau of Standards. As experience is gained the requirements may be revised. When a suitable industry standard or a Federal Specification becomes available, the bulletin will be withdrawn.

5. Requirements.—The detailed requirements of the bulletin are attached.

Issued at Washington, D.C., on October 7, 1977.

PAUL WILLIAMS,
Acting Assistant Secretary,
Housing—Federal Housing
Commissioner.

DEPARTMENT OF HOUSING AND URBAN
DEVELOPMENT

FEDERAL HOUSING ADMINISTRATION

Use of Materials Bulletin No. 74, Thermal Insulation, Urea-Based, Foamed in Place

Subject to good workmanship, compliance with local codes, and the methods of application listed herein, the materials described in the bulletin may be considered suitable for HUD Housing programs.

The eligibility of a property under these programs is determined on the property as an entity and involves the consideration of underwriting and other factors not indicated herein. Thus, com-

pliance with this bulletin should not be construed as qualifying the property as a whole, or any part thereof, as to its eligibility.

The methods of application for the materials listed herein are to be considered as part of the HUD Minimum Property Standards and shall remain effective until this bulletin is cancelled or superseded.

1. SCOPE

1.1 This is a provisional bulletin and applies to urea-based thermal insulation for use in walls in building constructions. This bulletin sets forth conditions of acceptance, which include material properties, test methods, installation guidelines, and material, application and labeling requirements for the use of foamed-in-place urea-based resin insulation. The material is accepted for use only in enclosed building cavities such as walls, partitions, and floors.

1.2 For more information on uses, see par. 7.3.

1.3 This provisional bulletin is prepared in S.I. units of measurement, often referred to as the metric system. The approximate equivalents in customary units are given in parenthesis. For assistance in converting between the two systems of measurement, the reader is referred to ASTM E 380.

2. APPLICABLE PUBLICATIONS

2.1 The following publications are applicable to this provisional bulletin.

2.1.1 American Society for Testing and Materials (ASTM).

C 177—Steady-State Thermal Transmission Properties by Means of the Guarded Hot Plate.

C 236—Thermal Conductance and Transmittance of Built-Up Sections by Means of the Guarded Hot Box.

C 518—Steady-State Thermal Transmission Properties by Means of the Heat Flow Meter.

D 257—D-C Resistance or Conductance of Insulating Materials.

D 1622—Apparent Density of Rigid Cellular Plastics.

E 84—Surface Burning Characteristics of Building Materials.

E 119—Fire Tests of Building Construction and Materials.

E 380—Metric Practice Guide.

2.1.2 National Fire Protection Association (NFPA).

89M—Heat Producing Appliance Clearances.

3. GENERAL REQUIREMENTS (ADDITIONAL REQUIREMENTS ARE GIVEN IN PAR. 7)

3.1 Acceptable material shall be urea-based thermosetting foam, suitable for filling closed cavities through small holes and suitable also for filling open cavities by trowelling during foaming prior to enclosure.

3.2 Manufacturers of the material shall provide to their distributors or applicators its effective thermal resistance values (par. 7.3.3).

3.3 Where urea-based foam is used to insulate the exterior walls of new construction, the interior face of the wall shall be covered with gypsum wallboard

complying with and mechanically fastened in accordance with the requirements of the Minimum Property Standards (MPS). The gypsum wallboard shall have a minimum thickness of 12.7mm (½ in.). Other suitable materials having a finish rating of 15 minutes (minimum) per ASTM E-119 may be used in lieu of gypsum wallboard.

Exterior walls of new construction, multi-story housing shall be firestopped at each floor level and at the ceiling of the uppermost story.

The urea-based insulation shall be installed with no portion exposed at the completion of construction or in existing construction. This requirement includes attention to architectural detailing at the base and ceiling, around doors and windows, and around openings penetrating the wall cavity for utilities or other purposes.

3.4 Adequate clearance between the insulation and heat sources shall be provided. Consult NFPA 90B, Warm Air Heating and Air Conditioning Systems Protection of insulation at penetrations (heat sources) is critical.

3.5 To assure quality control each manufacturer shall ship the resin in a pre-mixed liquid state in sealed containers to their distributors or applicators.

4. DETAIL REQUIREMENTS

4.1 Resin properties.

4.1.1 Free aldehyde content.—When tested as specified in par. 6.2.1, the free aldehyde content shall not exceed 1.0 percent.

4.2 Curing properties.

4.2.1 Setting time.—When tested as specified in par. 6.2.2, the foam shall set in not less than 20 s and not more than 60 s for application in closed cavities, and not less than 10 s and not more than 60 s for application in open cavities. At the setting time, the surface of the foam at the fracture shall be smooth and homogeneous.

4.2.2 Volume resistivity of fresh foam.—When tested as specified in par. 6.2.3, the volume resistance shall not be less than 5 kΩ-cm (5,000 ohms-centimeter).

4.2.3 Water drainage.—When tested as specified in par. 6.2.4, no water shall leak from the cavity.

4.2.4 Shrinkage during curing.—When tested as specified in par. 6.2.5, the linear shrinkage in any direction shall not be more than 4.0 percent.

4.2.5 Fungi growth inhibition.—When tested as specified in par. 6.2.6, the area of fungi growth in the test frame containing the foam specimen shall not be greater than 10 percent of that in the control test frame, and there shall be no fungi growth on the foam itself.

4.3 Dry foam properties.

4.3.1 Density.—When tested as specified in par. 6.1.4, the density of the dry foam shall be within the range of 10.4–15 kg/m³ (0.7–0.9 lb/ft³).

4.3.2 Thermal resistance.—When tested as specified in par. 6.2.7, the thermal resistance shall not be less than 2.2 m² °C/W (12 ft² h F/Btu).

4.3.3 Corrosiveness.—The material shall be tested as specified in par. 6.2.8. For aluminum, copper, and steel there shall not be any perforations when the metal specimens are observed over a chrome reflected 40 W appliance light bulb. For galvanized steel there shall be no pitting of the metal specimen and its loss in mass shall not exceed 0.2 g (0.01 oz).

4.3.4 Water absorption.

4.3.4.1 Floating test.—When tested as specified in par. 6.2.9.1, the water absorption shall not exceed 15 percent by volume.

4.3.4.2 Droplet test.—When tested as specified in par. 6.2.9.2, the drops of methyl violet solution applied to a horizontal surface of the foam shall not be absorbed within 1 h.

4.3.5 Surface burning characteristics.—When tested as specified in par. 6.2.10, the flame spread classification shall not exceed 25.

4.3.6 Ash content.—When tested as specified in par. 6.2.11, the volume of the ash shall not be more than 2 percent of the original volume of the foam.

4.3.3 Corrosiveness.—The material shall be tested as specified in par. 6.2.8. For aluminum, copper, and steel there shall not be any perforations when the metal specimens are observed over a chrome reflected 40 W appliance light bulb. For galvanized steel there shall be no pitting of the metal specimen and its loss in mass shall not exceed 0.2 g (0.01 oz).

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4.3.4.1 Floating test.—When tested as specified in par. 6.2.9.1, the water absorption shall not exceed 15 percent by volume.

4.3.4.2 Droplet test.—When tested as specified in par. 6.2.9.2, the drops of methyl violet solution applied to a horizontal surface of the foam shall not be absorbed within 1 h.

4.3.5 Surface burning characteristics.—When tested as specified in par. 6.2.10, the flame spread classification shall not exceed 25.

4.3.6 Ash content.—When tested as specified in par. 6.2.11, the volume of the ash shall not be more than 2 percent of the original volume of the foam.

5. LABELING

5.1 Containers of urea-based resin and foaming agent shall bear labels:

5.1.1 Identifying the manufacturer of the product.

5.1.2 Showing storage temperatures and corresponding dates (shelf-life) after which resin and foaming agent are not usable.

5.1.3 Including the following statement: This material shall be applied by licensed applicators only and in strict accordance with HUD/FHA Minimum Property Standards, HUD/FHA Use of Materials Bulletin No. 74, and the manufacturer's instructions.

5.1.4 Including a warning to minimize the risk to life and health involved in the application of the product, such as but not limited to: Warning! Avoid Contact With Eyes, Nose and Skin! If contact is made rinse thoroughly with quantities of water.

5.2 If a flame spread classification for the foam insulation is included on the label, the following classification statement shall also be included: Values of flame spread rating are not intended to reflect hazards presented by this or any other material under actual fire conditions.

6. TESTING

6.1 Specimen preparation.

6.1.1. Sampling.—Sampling shall be done at random.

6.1.2 Preparation of specimens.—Unless otherwise specified in the test procedure, the foam shall be prepared and applied in accordance with the manufacturer's instructions. The temperature of the unreacted materials prior to foaming shall be within the range 15–30° C (59–86° F).

Unless otherwise specified in the test procedure, specimen shall be foamed in closed cavities at ambient conditions of 23±2° C (73±4° F) and 50±5 percent RH.

6.1.3 Conditioning.—Specimens for

tests 6.2.7 to 6.2.10 inclusive shall be maintained in the closed cavities in the vertical position at 23±2° C (73±4° F) and 50±5 percent RH for 28 days prior to testing.

6.1.4 Density.—The density of the dry foam shall be within the range 11–15 kg/m³ (0.7–0.9 lb/ft³), when determined according to ASTM D 1622. Foam used for tests 6.2.2 to 6.2.6 inclusive shall be such that upon drying for 28 days at 23±2° C (73±4° F) and 50±5 percent RH a density within the above range would be realized.

6.2 Test procedures.

6.2.1 Free aldehyde content.—Prepare a standard sulphite solution as follows. Dissolve, without heating, approximately 250g Na₂SO₃·7H₂O in about 200 ml distilled water. Dilute to one litre. Adjust the pH of the sulphite solution to 8.9 with H₂SO₄ and NaOH solutions. The solution is stable only for a short period of time and it should be used immediately after adjustment of the pH. Place 20 ml distilled water in an Erlenmeyer flask. Accurately weigh approximately 2g resin solution (ready for foaming) and add it to the flask. Stir the mixture well, add approximately 10g crushed ice and mix thoroughly. Add 50.0 ml of the standard sulphite solution and titrate immediately with 0.01N H₂SO₄ to pH 8.9. Perform the procedure in duplicate and run a blank.

Calculate the percentage formaldehyde content of the resin as follows:

$$\text{percent formaldehyde} = \frac{3(A-B)D}{C}$$

where:

A = ml of 0.01N H₂SO₄ for the specimen
B = ml of 0.01N H₂SO₄ for the blank
C = mass of resin solution
D = normality of the H₂SO₄ solution

6.2.2 Setting time.—A conical specimen with a bottom diameter of approximately 30 cm (12 in) and a height of approximately 30 cm (12 in) shall be made by foaming from a hose. Start a stopwatch immediately after the cone has been formed and immediately commence slicing the cone with a spatula. Record the time when the foam no longer slices as if it were whipped cream but shears off leaving a smooth surface. This time is the setting time. Evaluate the surfaces of the slices visually for smoothness and homogeneity.

6.2.3 Volume resistivity of fresh foam.—Determine the volume resistivity of the foam in 15 min after foaming as specified in ASTM D 257 using metal plate electrodes, 90×90 mm (3.5×3.5 in) and voltage of 110 volts. The specimen shall be a cube of side 90 mm (3.5 in), and shall be prepared by applying foam between the electrodes.

6.2.4 Water drainage.—Prepare a cavity approximately 2440×400×90 mm (8 ft×16 in×3.5 in) from wood and plywood. Fill the cavity by foaming in place or trowelling. Leave the cavity with the long dimension in a vertical position for 24 h, during which time the bottom and underside of the wooden structure are examined for water. The cavity shall be built such that any free water from the

foam can easily run out at the bottom.

6.2.5 Shrinkage during curing.—Fill three cavities each measuring 480×480×90 mm (18×18×3.5 in) made from wood and plywood with foam. Maintain the cavities with the long dimensions in a vertical position for 28 days at 23±2° C (73±4° F) and 50±5 percent RH. Then open the cavities and measure the linear shrinkage in the two principal directions. Report the average of all six determinations as the linear shrinkage. If fractures in the specimens occur, the data should be discounted and the test repeated.

6.2.6 Fungi growth inhibition.—Prepare two test frames, measuring 480×480×90 mm (18×18×3.5 in) from Douglas Fir plywood and white spruce. Submerge the test frames in tap water for 48 h. Remove the test frames and dry the surface with paper towel. Drill a hole in one test frame and foam in the material under test. Maintain the two test frames in a vertical position for 28 days at 23±2° C (73±4° F) and 50±5 percent RH. Then open up both test frames and remove and examine the cured foam. Determine the area of fungi growth in the control and in the specimen test frame.

6.2.7 Thermal resistance.—The thermal resistance shall be determined as specified in ASTM C 177, ASTM C 518 or ASTM C 236, using a specimen 75 mm (3 in) thick, tested with a mean temperature differential across the specimen of 22±3° C (72±5° F). In cases of dispute, ASTM C 177 or ASTM C 236 shall be used. Specimen surfaces may be those obtained during foaming or they may be obtained by slicing the material to remove not more than 5 mm (0.2 in) from each side.

6.2.8 Corrosiveness.

6.2.8.1 Apparatus and Materials.

(a) An oven capable of maintaining 50±2° C (122±4° F) and another oven capable of maintaining 70±2° C (158±4° F).

(b) A small container, approximately 90×50 mm (3.5×2.0 in), made of inert material such as polypropylene and equipped with a lid so designed that water condensing on it will not drip but will run to the walls of the container.

(c) A large container capable of housing the small container in item (b) but which will fit inside the oven.

(d) Metal test specimens, approximately 50×50 mm (2×2 in) by 0.08 mm (0.003 in) thick free of tears, punctures or crimps as follows:

(i) 3003 bare aluminum.

(ii) ASTM B 152, type ETP, Cabra No. 110, soft copper.

(iii) Low carbon, commercial quality, cold rolled, shim steel.

(e) Test specimens, section of truss plates approximately 50×50 mm (2×2 in) by 1.0 mm (0.04 in) made from hot-dipped galvanized sheet-steel conforming to Grade A or B, ASTM 446 with a total zinc coating of 275 –0, +31 g/m² (0.9, –0, +0.1 oz/ft²). At least 40% of the zinc shall be on any one side of the test specimens. Test specimens shall have at least 6 perforations.

(f) Trichloroethylene, analytical reagent grade.

(g) Balance, capable of determining the mass of the galvanized specimen to an accuracy of 1 mg.

(h) 40 W appliance light bulb.
(i) Distilled water, nitric acid 15.9 N, ammonium hydroxide (sp gr 0.90), chromium trioxide, silver nitrate, hydrochloric acid, reagent grade chemicals.

(j) Several non-corrosive plastic supports and a 150 g (0.33 lb) mass.

6.2.8.2 Specimen of Insulation Material.

A representative sample of the insulation material shall be submitted for test, portions of which shall be used for each test.

6.2.8.3 Procedure.

6.2.8.3.1 Make two replicate tests for each determination.

6.2.8.3.2 Wash the metal specimens with trichloroethylene to remove any oil or grease. Dry at room temperature.

6.2.8.3.3 Prepare foam specimens from blocks obtained from the test in par. 6.2.5. Cut a specimen 60 mm×60 mm 2.4×2.4 in square and 15 mm (0.6 in) thick from the block such that one of the 60×60 mm (2.4×2.4 in) surfaces is that obtained from foaming and not slicing the foam. All other surfaces of the specimen shall be obtained by slicing the foam. Compress the specimen between flat, parallel, non-corrosive plastic surfaces for 2 min. at 700±70 kPa (102±10 psi) to form wafers. Prepare 16 such wafers, noting which surfaces have been obtained from foaming. These surfaces shall be placed adjacent to the metal specimens in the tests.

6.2.8.3.4 Weigh the galvanized specimen and record its mass.

6.2.8.3.5 Place a non-corrosive plastic screen support in the small container. Place a foam wafer on the support at least 5 mm (0.2 in) above the bottom of the container. Place the metal specimen on the wafer; put another wafer on the metal specimen and then place on top of the sandwich a non-corrosive plastic screen and the 150 g (0.33 lb) mass. The 150 g (0.33 lb) mass shall not block airflow to the top wafer. Cover with the lid of the small container such that the container is closed but not sealed.

6.2.8.3.6 Place the small container in the large container, add sufficient distilled water to the large container and close the large container but do not seal it.

6.2.8.3.7 Place the assembly in an oven at 70±2° C (158±4° F) for 24 h.

6.2.8.3.8 Remove the assembly from the 70° C (158° F) oven, seal the large container and transfer the assembly to an oven maintained at 50±2° C (122±4° F). Maintain the assembly at this temperature for 28 days.

6.2.8.3.9 Upon completion of the test remove the assembly from the oven and dismantle. The large container shall still have some water in it; if there is no water present at the end of the test, then results for those materials passing the test are suspect and the test should be repeated.

6.2.8.3.10 Thoroughly wash the metal specimens under running water and lightly brush them to remove loose corrosion products. Remove the remaining corrosion products from the aluminum,

copper and steel specimens by immersing them in a solution of 10 parts distilled water to 1 part 15.9 N nitric acid. Remove the remaining corrosion products from the galvanized specimens by the procedure recommended in ASTM G1 in the method for the chemical cleaning of zinc after testing. Rinse all metal specimens in distilled water and dry.

6.2.8.3.11 Examine the aluminum, copper and steel specimens over a chrome-reflected, 40 W appliance bulb for perforations.

6.2.8.3.12 Examine the galvanized specimen for pitting and weigh the specimen and its control. The control shall be a specimen having the same number of perforations, be of the same geometric form and be from the same batch of truss plates as the specimen. The control shall not be exposed in the oven but shall be cleaned identically to the specimen. Subtract the loss in mass of the control from the loss in mass of the specimen.

6.2.9 Water absorption.

6.2.9.1 Floating test.

Cut three cubes, each 180×180×180 mm (7×7×7 in) from a block of foam. Accurately weigh each cube and place it on a distilled water surface. After 7 days at 23±2° C (73±4° F) and 50±5 percent RH, remove the cubes and accurately weigh them. Calculate the percentage water absorption on a volume basis. The surface in contact with the water shall be that obtained from foaming.

6.2.9.2 Droplet test.

Prepare a 3 percent solution of methyl violet in distilled water. Apply 5 drops, each 0.03 ml, of the solution by means of a syringe to a freshly cut horizontal surface of the foam and to a surface obtained from foaming. Measure the time required for the drops to be completely absorbed through the surface of the foam. This point in time may be ascertained under direct lighting as the moment when the area to which the drop has been applied becomes dull. Perform the test at 23±2° C (73±4° F) and 50 percent RH.

6.2.10 Surface Burning Characteristics.—The flame spread classification* shall be determined according to ASTM E 84 on a specimen at least 50 mm (2 in) thick. The surface tested shall be that obtained from foaming.

6.2.11 Ash content.—A foam specimen of known volume is placed in a muffle furnace at ambient temperature. The temperature of the furnace is raised to 950±50° C (1740±90° F) and maintained at that temperature for 16 h. Upon cooling the specimen, the volume of the ash is measured, and calculated as a percentage of the volume of the original foam specimen.

7. ADDITIONAL REQUIREMENTS AND NOTES

7.1 Requirements.—The following requirements in this bulletin should be specified in its application:

(a) The application procedure (par. 7.2).

*Values of flame spread classification are not intended to reflect hazards presented by this or any other material under actual fire conditions.

(b) Resistance to combined high temperature and high humidity (par. 7.3.2).

(c) The effective thermal resistance required (par. 7.3.3).

7.2 Application.—The material shall be installed in accordance with the manufacturer's specific instructions and the general guidelines given in par. 8. Manufacturers shall provide to their distributors or applicators a copy of their instructions for application.

7.3 Intended uses.

7.3.1 The material is intended for use as thermal insulation in walls of building constructions, and is accepted for use only in enclosed building cavities such as walls, partitions, and floors.

7.3.2 Resistance to combined high temperature and high humidity.—Available research data have indicated that the stability of urea-based foam insulation may be suspect when the material is subjected to an environmental condition of combined high temperature and high humidity. The foam insulation should not be applied in areas which experience prolonged periods of high temperature and high humidity. Since prolonged periods of high temperature and high humidity may be encountered in attics and ceilings, urea-based foam insulation shall not be applied in these locations.

7.3.3 Effective thermal resistance.—Data gathered from limited field observations of urea-based foam insulations in building constructions has shown that shrinkage of foam insulations has been between 1 and 11 percent on a linear basis after installation. These data suggest that the average linear shrinkage of the foams is about 6 percent. Because of shrinkage a reduction in thermal insulating ability of installed foams is anticipated. The thermal insulating ability of installed foams is herein referred to as the effective thermal resistance. The effective thermal resistance of foam installed in empty cavity walls shall be determined according to the method described in par. 7.3.3.1 or 7.3.3.2.

7.3.3.1 If the average percent shrinkage of the foam expected to occur in building constructions over a period of at least 2 years has not been established, then the average expected shrinkage of 6 percent shall be used to determine the effective thermal resistance. In this case the effective thermal resistance of the foam is 72 percent of the thermal resistance that would be obtained on a laboratory specimen of the same thickness as that of the cavity. The effective thermal resistance value may be calculated from the following:

$$\text{effective thermal resistance (m}^2\text{-C/w)} = \frac{R (\text{m}^2\text{-C/w)} \times T (\text{cm}) \times 72}{750}$$

$$\text{effective thermal resistance (ft}^2\text{-h-F/Btu)} = \frac{R (\text{ft}^2\text{-h-F/Btu)} \times T (\text{in}) \times 72}{300}$$

where
T=the thickness of the cavity
R=the thermal resistance of the foam determined in accordance with par. 6.2.7.

NOTE.—A 3-inch specimen is used in par. 6.2.7 test. Thus 3×100 (300) in formula reduces the result to proper units and percentage, respectively.

7.3.3.2 If the average percent shrinkage of the foam expected to occur in building construction over a period of at least 2 years can be established by the manufacturer or the Department of Housing and Urban Development this value of average percent shrinkage may be used to determine the effective thermal resistance. The percent reduction in the thermal insulating ability of the installed foam corresponding to the established percent shrinkage is illustrated in figure 1. In this case, the effective thermal resistance of the foam can be determined by using the reduction factors corresponding to the percent shrinkage

given in table 1 and is calculated from the following:

$$\text{effective thermal resistance (m}^2\text{-C/w)} = \frac{R (\text{m}^2\text{-C/w)} \times T (\text{cm}) \times RF}{750}$$

$$\text{effective thermal resistance (ft}^2\text{-h-F/Btu)} = \frac{R (\text{ft}^2\text{-h-F/Btu)} \times T (\text{in}) \times RF}{300}$$

where
T=the thickness of the cavity
R=the thermal resistance of the foam determined in accordance with par. 6.2.7.
RF=the reduction factor corresponding to the average established percent shrinkage given in table 1.

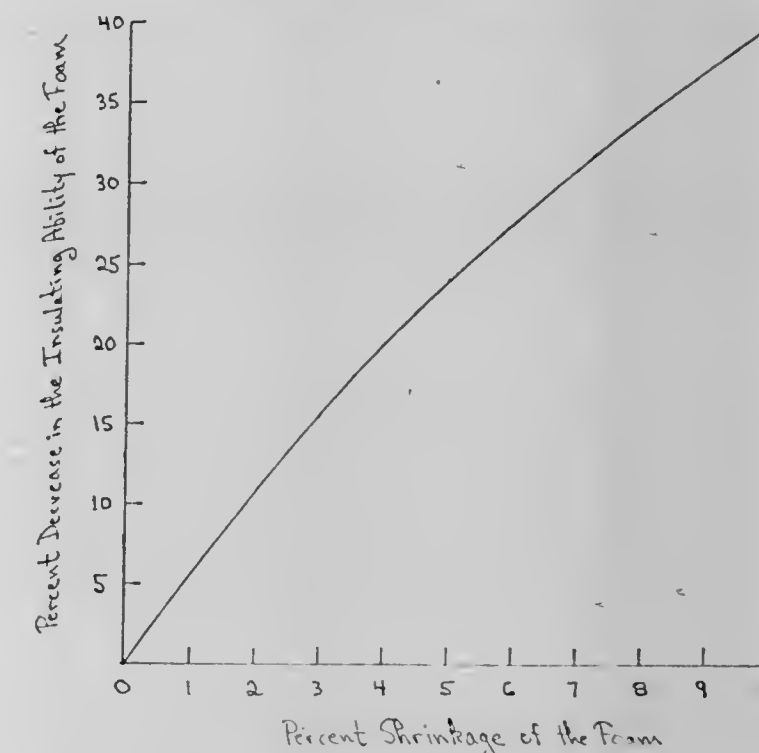


Figure 1. Relationship between shrinkage of the foam and the decrease in the thermal insulating ability of the foam

Established Average Percent Shrinkage	Reduction Factor (RF)
1	94
2	89
3	84
4	80
5	76
6	72
7	69
8	66
9	63
10	60

Table 1. Reduction factors for calculating the effective thermal resistance of ins the foam.

NOTICES

7.3.3.3 For applications where the foam is installed in cavity walls already containing a mineral fiber batt against one wall, shrinkage of the foam is also anticipated to reduce the expected thermal resistance of the resulting insulation system. The effective thermal resistance of this insulation system is not determined at this time.

7.4 The publications identified in par. 2.1.2 are available from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pa. 19103.

7.5 The publication identified in par. 2.1.2 is available from the National Fire Protection Association, 470 Atlantic Avenue, Boston, Mass. 02210.

8. GENERAL GUIDELINES FOR APPLICATION

Each manufacturer's recommended set of application instructions differs slightly from those of the other manufacturers because of variations in foam formulation and differences in design of the gun for applying the foam. It is not feasible to recommend a detailed set of application guidelines that would be universally applicable to each of the urea-based foam systems which are currently available in the United States.

This section presents a general set of guidelines to assist contractors, inspectors and users in ascertaining that the proper application procedures and certain safety precautions are being followed. These general guidelines should be used in conjunction with the manufacturer's specific instructions for application (par. 7.2).

The general set of guidelines includes: Foam installation should be performed by an applicator who has been trained or approved by the foam manufacturer. Installation by an inexperienced applicator may result in an unacceptable foam which may perform poorly.

Foams shall not be applied in ceilings or attics (par. 7.3.2).

Foams shall not be applied in exposed applications (par. 3.3). U.S. model building codes require that all foam plastics used on the inside of buildings in walls be protected by a thermal barrier of fire-resistant materials having a finish rating of not less than fifteen minutes. In addition, exposed urea-based foams may be subject to photodegradation.

Prior to the application of foams in warehouses or similar buildings where foodstuffs may be stored in the open, it should be determined if this type of application presents a safety hazard. Possible safety hazards presented by the application of foams to buildings which store foodstuffs in the open have not been addressed in this bulletin.

Foaming equipment should be kept clean and well-maintained. Manufacturers have cleaning and maintenance recommendations for their equipment.

Dates after which the resins and foaming agents are not usable should be clearly labeled on the resin and foaming-agent containers (par. 5.1.2). These dates (or shelf-lives), as recommended by the manufacturers, should never be exceeded.

The resins and foaming agents should be stored within the temperature range recommended by the manufacturer. Some U.S. manufacturers have recommended that 21 °C (70 °F) is the maximum storage temperature for their materials. The Canadian Government Specification Board has proposed a storage temperature range of 10 to 30 °C (50 to 86 °F). In general, as the storage temperature is increased the shelf-life is shortened.

The temperatures of the resins and foaming agents as they enter the foaming gun should normally be within the range of 15 to 30 °C (59 to 86 °F), unless otherwise specified by the foam manufacturer. One U.S. manufacturer recommends that his materials enter the gun at temperatures not less than 21 °C (70 °F). The maximum temperature of 30 °C (86 °F) should never be exceeded. For cold weather applications, the resins and foaming agents should be kept in a heated area (normally the applicator's van) during foam production, and the supply-lines from the storage containers to the foaming gun may have to be insulated.

The temperature of the exterior surface of the cavity in which foams are to be applied should be within the range of -5 to 30 °C (23 to 86 °F). It is recommended that these temperature limits should not be exceeded for a period of four days after application.

The resins and foaming agents should be pumped to the foaming gun at pressures recommended by the foam manufacturers.

Power lines in excess of 200 volts within cavities in which foams are to be applied should be shut off until the foams have dried or until the cavities are sealed.

Power lines in excess of 110 volts within cavities in which foams are applied should be shut off during application if foaming is performed with the applicator standing on wet ground or not electrically insulated from wet ground.

The appearance of the foams should be checked immediately before application. The foams should be fluffy with a warty surface. When the foams are sliced, the cells should be uniform.

The setting time of the foams should be determined before application and should be no less than 20 seconds and no longer than 60 seconds for application into closed cavities, and no less than 10 seconds and no longer than 60 seconds for applications into open cavities (par. 4.2.1).

The wet density of the foams should be determined before application and should lie within the manufacturer's specified range for the wet density. The normal wet density of the foams is approximately 40 kg/m³ (2.5 lb/ft³). Wet density is measured by filling a container of known weight and volume and then weighing the filled container.

If the foams are inadvertently sprayed on aluminum building components such as door frames, window frames, or awnings, the foams should be removed immediately and the aluminum component should be rinsed thoroughly with water.

In cases where it is anticipated that an aluminum component may be sprayed during application, the component should be protected before application begins.

Foams which are sprayed on glass should be removed by rinsing with water. Water present in the foams at application should be permitted to escape from the wall while the foams dry in the cavity. In cases where the two wall surfaces may restrict the water vapor transmission, the foam should not be applied unless provisions are provided to allow the water in the wall to escape.

In applying the insulation in exterior walls of homes which are located in geographic locations, having long cold winters, consideration should be given to applying a vapor barrier on the interior (warm side) surface of the wall. The absence of the vapor barrier on the interior of the insulated wall may cause condensation and the accumulation of excessive moisture within the wall. This may lead to problems such as blistering and peeling of paint, buckling of wood siding or in extreme cases, rotting of wood members within the wall. A vapor barrier may be created by applying a low permeability paint or vinyl wallpaper to the surface of the interior wall.

In retrofitting the walls of residences with any type of insulation, if the need arises to verify the completeness of filling the wall cavities, one method which can be used is infrared thermography.

9. CERTIFICATION

Each manufacturer shall certify that his approved applicators of urea-based foamed resin insulation are licensed as such and carry a current certificate of qualification and an identification card. [FR Doc.77-29925 Filed 10-12-77;8:45 am]

[1505-01]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[R 1663]

CALIFORNIA

Opportunity for Public Hearing and Republishing of Notice of Proposed Withdrawal

Correction

In FR Doc. 77-27669 appearing on page 47884 in the issue for Thursday, September 22, 1977, in the third line from the bottom of the fourth paragraph, middle column, "October 20, 1961" should read "October 20, 1991."

[4310-84]

[Serial No. I-9904]

IDAHO

Termination of Proposed Withdrawal and Reservation of Lands

Notice of an application, serial number I-9904, for withdrawal and reservation

of lands was published as FEDERAL REGISTER Document No. 75-25901 on page 44591 of the issue for September 29, 1975. The applicant agency has canceled its application insofar as it involved the lands described below. Therefore, pursuant to the regulations contained in 43 CFR, Subpart 2091, such lands will be at 10 a.m., on November 7, 1977, relieved of the segregative effect of the above mentioned application.

The lands involved in this notice of termination are:

BOISE MERIDIAN

CARIBOU NATIONAL FOREST

West Fork Mink Creek Research Natural Area

T. 8 S., R. 34 E.,

Sec. 1, S $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$;

Sec. 2, S $\frac{1}{2}$ S $\frac{1}{2}$ S $\frac{1}{2}$;

Sec. 10, E $\frac{1}{2}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 11, N $\frac{1}{2}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ SW $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, SE $\frac{1}{4}$;

Sec. 12, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$, N $\frac{1}{2}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$, NW $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$, SW $\frac{1}{4}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$.

The area described aggregates 1,050 acres in Bannock County.

EUGENE E. BABIN,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-29823 Filed 10-12-77;8:45 am]

[4310-84]

[NM 31716, 31718, 31747, and 31780]

NEW MEXICO

Applications

OCTOBER 4, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for four 4 $\frac{1}{2}$ -inch natural gas pipelines with related facilities rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 26 N., R. 7 W.,

Sec. 3, lot 1 and SE $\frac{1}{4}$ NE $\frac{1}{4}$.

T. 29 N., R. 9 W.,

Sec. 10, S $\frac{1}{2}$ SE $\frac{1}{4}$.

T. 30 N., R. 9 W.,

Sec. 31, NE $\frac{1}{4}$ SE $\frac{1}{4}$.

T. 32 N., R. 11 W.,

Sec. 13, NW $\frac{1}{4}$ SE $\frac{1}{4}$.

These pipelines will convey natural gas across 0.569 miles of public lands in Rio Arriba and San Juan Counties, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions. Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

STELLA V. GONZALES,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-29886 Filed 10-12-77;8:45 am]

[4310-84]

[NM 31744]

NEW MEXICO

Application

OCTOBER 3, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4 $\frac{1}{2}$ -inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 29 E.,

Sec. 7, S $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$.

This pipeline will convey natural gas across 0.475 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions. Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

STELLA V. GONZALES,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-29887 Filed 10-12-77;8:45 am]

[4310-84]

[Wyoming 61103]

WYOMING

Application

SEPTEMBER 29, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Powder River Pipeline Corp. of Casper, Wyo., filed an application for a right-of-way to construct a 6 $\frac{1}{2}$ -inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 44 N., R. 77 W.,

Sec. 2, lots 1 and 2.

T. 45 N., R. 77 W.,

Sec. 35 SE $\frac{1}{4}$ SE $\frac{1}{4}$.

The pipeline will transport crude oil from wells in section 36, T. 45 N., R. 77 W., to present facilities in section 16, T. 45 N., R. 77 W., Johnson County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions. Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 951 Union Boulevard, Casper, Wyo. 82601.

HAROLD G. STINCHCOMB,

Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-29824 Filed 10-12-77;8:45 am]

[4310-09]

Office of the Secretary

KLAMATH PROJECT, OREGON AND CALIFORNIA, TULELAKE DIVISION

Sale of Townsite Lots, Tulelake, California

Notice is hereby given that pursuant to and under the entitlement of the Acts of April 16, 1906 (43 Stat. 116), and June 27, 1906 (34 Stat. 519), and amendments thereto and regulations issued thereunder, that at 10 a.m., October 19, 1977, eight lots in the City of Tulelake, Calif., will be sold at public auction at the lot site to the highest bidder at not less than the appraised price. The lots are located south of the east-west road, between

NOTICES

ager, Bureau of Land Management, P. O. Box 6770, Albuquerque, N. Mex. 87107.

STELLA V. GONZALES,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-29886 Filed 10-12-77;8:45 am]

[4310-84]

[NM 31744]

NEW MEXICO

Application

OCTOBER 3, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for one 4 $\frac{1}{2}$ -inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 29 E.,

Sec. 7, S $\frac{1}{2}$ NE $\frac{1}{4}$ and NE $\frac{1}{4}$ SE $\frac{1}{4}$.

This pipeline will convey natural gas across 0.475 of a mile of public land in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions. Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

STELLA V. GONZALES,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-29888 Filed 10-12-77;8:45 am]

[4310-84]

[NM 31760]

NEW MEXICO

Application

OCTOBER 4, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4 $\frac{1}{2}$ -inch natural gas pipelines with related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 32 E.,

Sec. 33, NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 34, N $\frac{1}{2}$ SW $\frac{1}{4}$.

These pipelines will convey natural gas across 0.602 of a mile of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions. Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

STELLA V. GONZALES,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-29887 Filed 10-12-77;8:45 am]

[4310-84]

[NM 31744]

NEW MEXICO

Application

OCTOBER 3, 1977.

Notice is hereby given that, pursuant to Section 28 of the Mineral Leasing Act of 1920 (30 U.S.C. 185), as amended by the Act of November 16, 1973 (87 Stat. 576), El Paso Natural Gas Co. has applied for two 4 $\frac{1}{2}$ -inch natural gas pipelines with related facilities right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 18 S., R. 32 E.,

Sec. 33, NE $\frac{1}{4}$ SE $\frac{1}{4}$;

Sec. 34, N $\frac{1}{2}$ SW $\frac{1}{4}$.

These pipelines will convey natural gas across 0.602 of a mile of public land in Lea County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions. Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

STELLA V. GONZALES,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-29887 Filed 10-12-77;8:45 am]

[4310-84]

[Wyoming 61103]

WYOMING

Application

SEPTEMBER 29, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Powder River Pipeline Corp. of Casper, Wyo., filed an application for a right-of-way to construct a 6 $\frac{1}{2}$ -inch pipeline for the purpose of transporting crude oil across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYO.

T. 44 N., R. 77 W.,

Sec. 2, lots 1 and 2.

T. 45 N., R. 77 W.,

Sec. 35 SE $\frac{1}{4}$ SE $\frac{1}{4}$.

The pipeline will transport crude oil from wells in section 36, T. 45 N., R. 77 W., to present facilities in section 16, T. 45 N., R. 77 W., Johnson County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions. Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 951 Union Boulevard, Casper, Wyo. 82601.

HAROLD G. STINCHCOMB,

Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-29824 Filed 10-12-77;8:45 am]

[4310-09]

Office of the Secretary

KLAMATH PROJECT, OREGON AND CALIFORNIA, TULELAKE DIVISION

Sale of Townsite Lots, Tulelake, California

Notice is hereby given that pursuant to and under the entitlement of the Acts of April 16, 1906 (43 Stat. 116), and June 27, 1906 (34 Stat. 519), and amendments thereto and regulations issued thereunder, that at 10 a.m., October 19, 1977, eight lots in the City of Tulelake, Calif., will be sold at public auction at the lot site to the highest bidder at not less than the appraised price. The lots are located south of the east-west road, between

NOTICES

Park Street and the J-7 Lateral and extending south to the Tulalake-Butte Valley Fairgrounds.

Information concerning the sale of specific locations of the lots may be obtained from the Bureau of Reclamation's Klamath Project Office at the corner of Washburn Way and Joe Wright Road in Klamath Falls, Oreg.

Regional Director, Bureau of Reclamation, Department of the Interior, 2800 Cottage Way, Sacramento, Calif. 95825.

Dated: October 5, 1977.

DANIEL P. BEARD,
Deputy Assistant
Secretary of the Interior.

[FR Doc.77-29876 Filed 10-12-77;8:45 am]

[4810-25]

**JOINT BOARD FOR THE
ENROLLMENT OF ACTUARIES
ADVISORY COMMITTEE ON JOINT BOARD
ACTUARIAL EXAMINATIONS**

Meeting

Notice is hereby given that the Advisory Committee on Joint Board Actuarial Examinations will meet in the Continental Plaza Hotel, North Michigan at Delaware, Chicago, Ill. on October 31, 1977 at 9 a.m.

The purposes of the meeting are to discuss questions which may be recommended for inclusion in the Joint Board's examinations in actuarial mathematics and methodology referred to in Title 29 U.S. Code, Section 1242(a) (1) (B); to review other actuarial examinations in order to make recommendations regarding such examinations' adequacy to demonstrate the education and training in actuarial mathematics and methodology required for enrollment by Title U.S. Code, Section 1242(a) (1); and to review college degree programs in order to make recommendations regarding such programs' equivalence to programs leading to degrees in actuarial mathematics within the meaning of Title 29 U.S. Code, Section 1242(a) (1) (A).

A determination as required by Section 10(d) of the Federal Advisory Committee Act (Pub. L. 92-463) has been made that the portion of the meeting dealing with discussion of questions which may appear on the Joint Board's examinations will fall within the exceptions to the open meeting requirement set forth in Title 5 U.S. Code, Section 552b(c) (9) (B), and that the public interest requires that such portion be closed to public participation.

The portion of the meeting dealing with other actuarial examinations and college degree programs will commence at approximately 3:30 p.m. and will be open to the public as space is available. Time permitting, after discussion of agenda subjects by Committee members, interested persons may make statements germane to these subjects. Persons wishing to make oral statements should advise the Committee Management Officer in writing prior to the meeting to aid in scheduling the time available and should submit the written text, or, at a minimum, an outline of comments they propose to make orally. Such comments will be restricted to ten minutes in length. Any interested person may file a written statement for consideration by the Committee by sending it to Mr. Leslie S. Shapiro, Joint Board for the Enrollment of Actuaries, % U.S. Department of the Treasury, Washington, D.C. 20220.

LESLIE S. SHAPIRO,
Advisory Committee Management Officer, Joint Board for the Enrollment of Actuaries.

[FR Doc.77-29892 Filed 10-12-77;8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

**Bureau of Prisons
NATIONAL INSTITUTE OF CORRECTIONS
ADVISORY BOARD**

Meeting

Notice is hereby given that the National Institute of Corrections Advisory Board in accordance with section 10(a) (2) of the Federal Advisory Committee Act (Pub. L. 92-463; 86 Stat. 770), will meet on Sunday, November 27, 1977, starting at 5 p.m., and on Monday, November 28, 1977, starting at 8 a.m., in the Conference Room of the Federal Bureau of Prisons Regional Office, K.C.I. Bank Building, 8800 Northwest 112th Street, Kansas City, Mo.

This meeting has two primary purposes: (1) Board re-examination of the Institute's role in light of selected issues facing corrections today; and (2) preparation of a recommendation to the Attorney General on the appointment of a Director for the National Institute of Corrections.

Signed at Washington, D.C., this 5th day of October 1977.

JOHN A. WALLACE,
Acting Director.

[FR Doc.77-29825 Filed 10-12-77;8:45 am]

[4510-01]

**NATIONAL AERONAUTICS AND
SPACE ADMINISTRATION**

[No. 77-66]

**RESEARCH AND TECHNOLOGY ADVISORY
COUNCIL, SUBCOMMITTEE ON AVIATION
SAFETY REPORTING SYSTEM
(ASRS)**

Meeting

The above named Subcommittee will meet November 1-2, 1977, at the NASA Ames Research Center, Moffett Field, Calif., in the Committee Room of the Administration Building. The meeting will be open to the public on a first-come, first-served basis up to the seating capacity of the room (about 25 persons). All visitors must report to the Ames Research Center receptionist in the Administration Building.

The Subcommittee, which serves in an advisory capacity only, reviews ASRS

operations and NASA actions taken in response to subcommittee recommendations. The Chairman is John J. Winant. For further information, contact Gene Lyman, 202-755-2380, Executive Secretary of the Subcommittee, NASA Headquarters, Washington, D.C. 20546.

NOVEMBER 1, 1977

8:30 a.m.—Chairman's Opening Remarks
8:45 a.m.—Executive Secretary's Report.
10 a.m.—Management Report (administrative matters).
10:30 a.m.—Technical Report (safety reports submitted).
1 p.m.—Report on special studies on ASRS data base.
3:30 p.m.—Discussion (ASRS activities and formulation of recommendations).

NOVEMBER 2, 1977

8:30 a.m.—Program Planning and Future Directions.
11:30 a.m.—Discussion and Recommendation on Future ASRS Directions.
12 noon—Adjournment.

KENNETH R. CHAPMAN,
Assistant Administrator for
Department of Defense Interagency Affairs, National Aeronautics and Space Administration.

[FR Doc.77-29835 Filed 10-12-77;8:45 am]

[7590-01]

**NUCLEAR REGULATORY
COMMISSION**

[Docket No. 50-285]

**OMAHA PUBLIC POWER DISTRICT
Proposed Issuance of Amendment To
Facility Operating License**

The Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR-40 issued to Omaha Public Power District (the licensee), for operation of the Fort Calhoun Station, Unit No. 1, located in Washington County, Nebraska.

The amendment would revise the provisions in the Technical Specifications relating to (1) increasing the High Power trip from 106.5 percent to 107 percent rated power; (2) changing the method of calculating the peaking factors used for determining reactor core power distributions; (3) changing the operational insertion limits for various Control Element Assemblies (CEA) operability modes (i.e., untrippable, inoperable or misaligned); and, (4) removing the Turbine Runback (to 70 percent rated power) signals from both the CEA Insertion Limit Switches and the Power Range Nuclear Instrumentation, in accordance with the licensee's application for amendment, dated July 25, 1977.

Prior to issuance of the proposed license amendment, the Commission will have made the findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's rules and regulations.

By November 14, 1977, the licensee may file a request for a hearing and any person whose interest may be affected

by this proceeding may file a request for a hearing in the form of a petition for leave to intervene with respect to the issuance of the amendment to the subject facility operating license. Petitions for leave to intervene must be filed under oath or affirmation in accordance with the provisions of § 2.714 of 10 CFR Part 2 of the Commission's regulations. A petition for leave to intervene must set forth the interest of the petitioner in the proceeding, how that interest may be affected by the results of the proceeding, and the petitioner's contentions with respect to the proposed licensing action. Such petitions must be filed in accordance with the provisions of this FEDERAL REGISTER Notice and Section 2.714, and must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section, by the above date. A copy of the petition and/or request for a hearing should be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, and to Margaret R. A. Paradis, Esquire, LeBoeuf, Lamb, Leiby & MacRae, 1757 N Street, NW., Washington, D.C. 20036, the attorney for the licensee.

A petition for leave to intervene must be accompanied by a supporting affidavit which identifies the specific aspect or aspects of the proceeding as to which intervention is desired and specifies with particularity the facts on which the petitioner relies as to both his interest and his contentions with regard to each aspect on which intervention is requested. Petitions stating contentions relating only to matters outside the Commission's jurisdiction will be denied.

All petitions will be acted upon by the Commission or licensing board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel. Timely petitions will be considered to determine whether a hearing should be noticed or another appropriate order issued regarding the disposition of the petitions.

In the event that a hearing is held and a person is permitted to intervene, he becomes a party of the proceeding and has a right to participate fully in the conduct of the hearing. For example, he may present evidence and examine and cross-examine witnesses.

For further details with respect to this action, see the application for amendment dated July 25, 1977, which is available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Blair Public Library, 1665 Lincoln St., Blair, Nebr.

Dated at Bethesda, Md., this 5th day of October 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Operating Reactors Branch No.
3, Division of Operating Reactors.

[FR Doc.77-29945 Filed 10-12-77;8:45 am]

NOTICES

[3110-01]

**OFFICE OF MANAGEMENT AND
BUDGET**

**PRIVACY ACT OF 1974
Reports on New Systems**

The purpose of this notice is to list reports on new systems filed with the Office of Management and Budget to give members of the public the opportunity to make inquiries about them and to comment on them.

The Privacy Act of 1974 requires that agencies give advance notice to the Congress and the Office of Management and Budget of their intent to establish or modify systems of records subject to the Act (5 U.S.C. 552a(o)). During the period September 19 through September 30, 1977 the Office of Management and Budget received the following reports on new (or revised) systems of records.

**COMMODITY FUTURES TRADING
COMMISSION**

System names. (1) Exchange Disciplinary Action File. (2) Customer Repatriation Complaints.

Report date. September 13, 1977.

Point-of-contact. Mr. John G. Gaine, General Counsel, Commodity Futures Trading Commission, 2033 K Street NW., Washington, D.C. 20581.

Summary. The first system consists of letters of notification of disciplinary or other adverse action taken by an exchange against individuals; the second includes correspondence and papers related to claims against commodity industry professionals.

DEPARTMENT OF DEFENSE

System names. (1) ICBM Standardization and Evaluation Program. (2) Equipment Maintenance Management Program. (3) Passenger Reservation and Movement System.

Report date. September 14, 1977.

Point-of-contact. Mr. William Cavanaugh, Defense Privacy Board, Room 5H-023, Forrestal Bldg., 1000 Independence Ave., SW., Washington, D.C. 20314.

Summary. The first system will be used to record individuals' maintenance task performance results; the second, to maintain maintenance and management control of valuable precision measurement equipment; the third system will be used to prepare aircraft manifests for DOD-related passenger identification and movement and to manage and plan DOD-related air and travel.

System name. Marine Corps Institute Correspondence Training Records Systems.

Report date. September 16, 1977.

Point-of-contact. Mr. William Cavanaugh, Defense Privacy Board, Room 5H-023, Forrestal Bldg., 100 Independence Ave., SW., Washington, D.C. 20314.

Summary. The proposed system will identify enrollees, their addresses, and their progress in their studies, as well as final examination results.

DEPARTMENT OF THE INTERIOR

System. Pilot Flight Time Report.
Report date. September 22, 1977.

Point-of-contact. Mr. Wayne D. Garrett, Office of Aircraft Service, 3905 Vista Ave., Boise, Idaho 83705.

Summary. The system will provide Interior Department pilots and their supervisors with a monthly report on recent flight experience as required by the Federal Aviation Regulation (FARS).

VELMA N. BALDWIN,
Assistant to the Director
for Administration.

[FR Doc.77-29900 Filed 10-12-77;8:45 am]

[8010-01]

**SECURITIES AND EXCHANGE
COMMISSION**

[Release No. 20202, 70-57561]

**ARKANSAS-MISSOURI POWER CO. AND
ASSOCIATED NATURAL GAS CO.**

Proposal To Make Short-Term Borrowings From Banks; Exception From Competitive Bidding

OCTOBER 6, 1977.

In the Matter of Arkansas-Missouri Power Co. and Associated Natural Gas Co., 405 West Park Street, Blytheville, Ark. 72315.

Notice is hereby given that Arkansas-Missouri Power Co. ("Arkansas-Missouri"), a wholly-owned subsidiary of Middle South Utilities, Inc., a registered holding company, has filed a post-effective amendment to an application-declaration previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a) and 7 of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

Arkansas-Missouri proposes to make unsecured short-term borrowings from 37 commercial banks from time to time for a period of one year from the effective date of this post-effective amendment in an aggregate amount not to exceed \$7,750,000 at any one time outstanding. To effect such borrowings Arkansas-Missouri proposes issue and sell to the First National Bank in Little Rock, Little Rock, Ark., for the account of participating banks, an unsecured promissory note payable not more than 270 days from the date of issuance and which may be renewed from time to time but to mature not later than one year from the effective date of the post-effective amendment. The note will bear interest at the prime rate in effect from time to time at Chemical Bank, New York, N.Y. and no compensating balances will be required in connection with the proposed borrowings. Except as stated above, the terms and conditions

of these borrowings, including the form of the note to be issued by Arkansas-Missouri, applicable interest rate, and right of prepayment, will be the same as those set forth in the application-declaration and the Commission's order of November 26, 1975 and November 12, 1976 (HCAR Nos. 19264 and 19756). Such borrowings will be in addition to other bank borrowings by Arkansas-Missouri from Worthen Bank & Trust Co., Little Rock, Ark., which total \$5,000,000 at the present time, and may not exceed \$5,500,000 at any one time outstanding (HCAR Nos. 19511 and 19993, May 4, 1976 and April 19, 1977). The net proceeds of the borrowings will be applied to the payment at maturity of Arkansas-Missouri's presently outstanding bank borrowings previously authorized by the Commission. Arkansas-Missouri currently intends to repay the proposed borrowings from the proceeds of permanent financing or come available to Arkansas-Missouri.

It is stated that the issuance and sale of the note is exempted from the competitive bidding requirements of Rule 50 by reason of paragraph (a) (2) thereof. Arkansas-Missouri states that no separate or special expenses are anticipated in connection with the proposed transaction. It is further stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than October 31, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the post-effective amendment, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-29905 Filed 10-12-77; 8:45 am]

[8010-01]

[Release No. 34-14029; File No. SR-CBOE-1977-19]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b) (1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b) (1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 22, 1977 the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would repeal rule changes set forth in SR-CBOE-77-6 and approved by the Commission (Securities Exchange Act Release No. 13673 (June 24, 1977)). The rule changes proposed to be repealed provide, among other things, enabling authority for the award of board broker appointments on the basis of competitive bidding and for an assessment of exchange fees upon members who utilize board broker services. The text of the rules changes proposed to be deleted was published in Volume 42 of the FEDERAL REGISTER at pages 20871-2 (April 22, 1977).

STATEMENT OF BASIS AND PURPOSE

The purpose of the proposed rule change is to repeal those amendments to the Exchange's rules contained in SR-CBOE-1977-6 approved by the Securities and Exchange Commission on June 24, 1977. No action on the proposed rule change was taken by the Board of Directors and no other purpose was stated in the petition described above.

The proposed rules change would reestablish the rules under which the Exchange has been operating pending implementation of the rules contained in SR-CBOE-1977-6. Such rules have previously been approved by the Securities and Exchange Commission.

No comments have been solicited, nor have any comments been received from members on the proposed rules changes. The proposed rule changes will not impose any burden upon competition.

On or before November 17, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Sec-

retary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 3, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 6, 1977.

[FR Doc. 77-29921 Filed 10-12-77; 8:45 am]

[8010-01]

[Rel. No. 9952; 812-4172]

INVESTORS SYNDICATE OF AMERICA, INC. AND INVESTORS DIVERSIFIED SERVICES, INC.

Application for Exemption, Etc.

OCTOBER 6, 1977.

In the Matter of Investors Syndicate of America, Inc. and Investors Diversified Services, Inc., IDS Tower, Minneapolis, Minn. 55402.

Notice of filing of an application pursuant to section 6(c) of the Act for an Order of exemption from the provisions of sections 14(a) (1), 12(d) (1) (A), and 12(f), and for approval of an offer of exchange pursuant to Section 11(a) of the Act; and pursuant to Section 17(b) of the Act for order exempting certain proposed transactions between affiliated persons from Section 17(a); and pursuant to Section 17(d) and Rule 17d-1 for order permitting consummation of certain proposed transactions; and for continuation of certain outstanding orders; and for an order pursuant to Section 28 (c) of the Act approving a form of depository agreement relating to a face-amount certificate company.

Notice is hereby given that Investors Diversified Services, Inc. ("IDS"), a diversified financial services company which acts as a principal underwriter and investment adviser for its wholly-owned subsidiary, Investors Syndicate of America, Inc. ("ISA") and ISA, a face-amount certificate company registered under the Investment Company Act of 1940 ("Act") (hereinafter collectively "Applicants") filed an application on August 11, 1977, and an amendment thereto on September 13, 1977, pursuant to Section 6(c) of the Act for an order of exemption from the provisions of Sections 14(a) (1), 12(d) (1) (A), and 12(f); and for approval of an offer of exchange pursuant to Section 11(a) of the Act; and pursuant to Section 17(b) of the Act for an order exempting certain proposed transactions between affiliated persons from Section 17(a); and pursuant to Section 17(d) and Rule 17d-1 for an

order permitting consummation of certain proposed transactions; and for continuation of certain outstanding orders; and for an order pursuant to Section 28 (c) of the Act approving a form of depository agreement relating to a face-amount certificate company. All interested persons are referred to the Application on file with the Commission for a statement of the representations contained therein, which are summarized below.

IDS, the parent company of ISA, comprises with its subsidiaries a diversified financial service organization engaging in the businesses of selling and issuing face-amount investment certificates (through ISA); providing investment advisory and administrative services to, and distribution of the securities of, investment companies; life insurance and annuities; securities brokerage; mortgage operations (including providing advisory services to a real estate investment trust); ownership of real properties; and providing investment advisory services to pension funds and pools of privately-owned capital.

Applicants represent that the investment flexibility of ISA is limited by certain restrictions peculiar to investment companies incorporated in Minnesota. Applicants state that Minnesota imposes a "shares tax" on the capital surplus and undivided profit of domestic investment companies to the extent that such amounts exceed the value of qualifying Minnesota investments (bonds issued by Minnesota municipalities and interests in Minnesota real estate). Applicants further state that because of the high rate of this tax (currently about 4 percent per annum) and the fact that the tax is based upon asset values rather than earnings, an investment company incorporated in Minnesota is compelled to invest an amount at least equal to the sum of capital, surplus and undivided profit in Minnesota investments. Applicants assert that ISA currently maintains over 12 percent of its assets in Minnesota investments.

Applicants represent that, in order to achieve substantially greater flexibility in choosing investments, they desire to reincorporate ISA, a Minnesota corporation, by forming a subsidiary as a Delaware corporation ("ISA-Delaware"), and merging ISA into ISA-Delaware. Applicants represent that the merger of ISA into ISA-Delaware will be effectuated pursuant to a Plan and Agreement of Merger and in accordance with the requirements of Minnesota and Delaware law. Applicants further represent that this change of domicile (from Minnesota to Delaware) and resultant broadened investment flexibility can be expected to produce better overall investments bearing higher returns; and to the extent that a higher return is achieved, it will be a factor in ISA-Delaware's ability to pay higher additional credits to its certificate holders.

Applicants state that, solely for the purpose of the proposed statutory merger, ISA will organize and incorporate its subsidiary, ISA-Delaware with minimum paid in capital and with author-

ized capital stock sufficient to cover the subsequent exchange for ISA capital stock. Applicants represent that simultaneous with the consummation of the proposed merger ISA-Delaware will become registered as a face-amount certificate company under the Act. Applicants further state that, prior to the merger, ISA-Delaware will have no assets or liabilities other than the minimum paid-in capital. Applicants assert that, prior to the proposed merger, no business will be transacted by ISA-Delaware. Applicants further represent that, pursuant to the Plan and Agreement of Merger and in accordance with Delaware law, the surviving corporation, ISA-Delaware, will succeed to all the assets, liabilities, rights and obligations of ISA, including outstanding certificates. ISA-Delaware will have the same officers, directors, auditors and investment policies as ISA.

In order to effectuate the reincorporation discussed above, Applicants request exemptions from the following provisions of the Act to the extent noted below:

SECTION 14(a) (1)

Section 14(a) (1) of the Act provides, in pertinent part, that no registered investment company organized after the enactment of this title shall make a public offering of its securities unless such company has a net worth of at least \$100,000.

Applicants seek an exemption from the provisions of Section 14(a) (1) of the Act pursuant to Section 6(c) so as to permit Applicants to organize and incorporate its subsidiary, ISA-Delaware, with less than \$100,000 capital prior to the merger. Applicants represent that the exemption is appropriate here because, prior to the merger, no face-amount certificate will be issued or sold, and no business transacted by ISA-Delaware other than Delaware incorporation and qualification procedures necessary for the merger. Applicants further represent that since upon consummation of the merger ISA-Delaware will succeed to all the assets, liabilities, rights and obligations of ISA which substantially exceed the requirements of Sections 14 and 28 of the Act, ISA-Delaware will have adequate assets and reserves when it commences operations.

SECTION 11(a) AND 11(c)

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company, or any principal underwriter for such a company, to make, or cause to be made, an offer to the holder of a security of such a company, or of any other open-end investment company, to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) (2) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) shall be applicable to any type of offer of ex-

change of the securities of registered face-amount certificate companies for the securities of any other investment company.

As the Applicants' Plan and Agreement of Merger provides for the exchange of securities between two registered face-amount certificate companies, ISA and ISA-Delaware, the proposed transaction, in the absence of prior approval by the Commission, would be prohibited by Sections 11(a) and 11(c) (2) of the Act. Accordingly, Applicants request the approval of the Commission pursuant to Section 11(a) of the Act of an offer of exchange between ISA and ISA-Delaware to be made pursuant to the proposed Plan and Agreement of Merger described herein.

In support of the relief requested Applicants state that ISA intends to submit its Plan and Agreement of Merger for approval of IDS which holds 100 percent of the stock of ISA. Applicants further state that the shareholder and certificate holders of ISA will become respectively the shareholder and certificate holders of ISA-Delaware with their preferences and privileges remaining unchanged.

Applicants represent that no expenses will be incurred by the certificate holders in conjunction with the proposed transaction, the principal abuse to which Section 11(a) of the Act is directed, and there will be no substantive differences in the shareholder or certificate holders rights under Delaware law. Applicants further represent that no compensation will be paid to any sales representative in connection with any such exchange.

SECTIONS 12(d) (1) (A) AND 12(f)

As noted above, Applicants propose to change the domicile of ISA from Minnesota to Delaware by forming a subsidiary as a Delaware corporation, and merging ISA and ISA-Delaware pursuant to a Plan and Agreement of Merger. As this Plan and Agreement of Merger provides for the exchange of all the shares and face-amount certificates of ISA for all the shares and face-amount certificates of ISA-Delaware, the proposed transaction might be deemed to violate Sections 12(d) (1) and 12(f) of the Act. Therefore, Applicants seek an order of exemption from the provisions of Sections 12(d) (1) and 12(f) of the Act pursuant to Section 6(c).

Section 12(d) (1) of the Act provides that a registered investment company may not purchase or otherwise acquire securities issued by another investment company if, as a result of such transaction, the acquiring company would own in the aggregate: (1) more than 3 percent of the total outstanding voting stock of the acquired company; (2) securities issued by the acquired company having an aggregate value in excess of 5 percent of the value of the total assets of the acquiring company; or (3) securities issued by the acquired company and all other investment companies having an aggregate value in excess of 10 percent of the value of the total assets of the acquiring company.

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Section 12(f) states, in effect, that a registered face-amount certificate company can organize and acquire all or any part of the capital stock of another face-amount certificate company, within certain limitations pertaining to the aggregate cost of the capital stock of such organized face-amount company, provided such stock is acquired and held for investment.

Applicants represent that prior to the merger ISA will own all of the outstanding securities of ISA-Delaware which will not function as an operating company. Applicants further note that upon consummation of the merger the separate existence of ISA will cease and the surviving corporation, ISA-Delaware, will succeed to all the assets, liabilities, rights and obligations of ISA, including outstanding certificates.

Applicants state that, other than the change of domicile from Minnesota to Delaware, the structure of the face-amount certificate company will remain the same. As noted above, Applicants represent that ISA-Delaware will retain the same officers, directors and independent auditors as ISA. Applicants also represent that ISA-Delaware will follow the same investment policies as ISA and the character of the business of ISA will remain the same in ISA-Delaware. Applicants further represent that prior to the merger no management fee will be incurred by ISA-Delaware and, upon consummation of the merger the investment advisory and distribution contracts of ISA will terminate and identical ones entered into with the surviving corporation, ISA-Delaware. On the basis of the foregoing, Applicants submit that the proposed transaction will not result in the undue concentration of control of an investment company through pyramiding nor in the layering or duplication of management fees and costs, nor create complexities in the structure of an investment company, the principal abuses at which Section 12 of the Act is directed.

SECTION 6(c)

Section 6(c), in pertinent part, authorizes the Commission upon application to conditionally or unconditionally exempt any person, security or transaction, or any class or classes of persons, securities or transactions, from any provision of the Act or of any rule or regulation promulgated thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

The Plan and Agreement of Merger by which applicants propose to change the domicile of ISA from Minnesota to Delaware by forming a subsidiary as a Delaware corporation, and merging ISA into ISA-Delaware will be approved by IDS as the sole shareholder of ISA, ISA as the sole shareholder of ISA-Delaware, and by the boards of directors of ISA and ISA-Delaware. The Plan and Agreement of Merger provides that the stock of ISA will be exchanged for the stock of ISA-Delaware. Applicants represent that

simultaneous with the consummation of the proposed merger, ISA-Delaware will become a registered investment company under the Act. Applicants further represent that pursuant to the Plan and Agreement of Merger, and in accordance with Minnesota and Delaware law, the separate existence of ISA will cease and the surviving corporation, ISA-Delaware (as noted above), will succeed to all the assets, liabilities, rights and obligations of ISA, including outstanding certificates.

Section 17(a) of the Act, in pertinent part, prohibits an affiliated person of a registered investment company or any affiliated person of such an affiliated person, acting as principal, from knowingly selling any security or other property to such registered company or knowingly purchasing any security or other property from such registered company subject to certain exceptions.

Section 17(b) of the Act provides, however, that the Commission, upon application, may exempt a proposed transaction from the provisions of Section 17(a) of the Act if evidence establishes that the terms of the proposed transaction including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company concerned, and with the general purposes of the Act.

Section 17(d) of the Act and Rule 17d-1 thereunder provide, in pertinent part, that it shall be unlawful for any affiliated person of a registered investment company, or any affiliated person of such a person, acting as principal, to participate in or effect any transaction in connection with any joint enterprise or other joint arrangement in which such registered company, or company controlled by such registered company, is a participant unless an application regarding such joint enterprise or arrangement has been filed with the Commission and an order granting such application has been issued. In passing upon such application, the Commission will consider whether the participation of such registered or controlled company in such joint enterprise or joint arrangement on the basis proposed is consistent with the provisions, policies and purposes of the Act, and the extent to which such participation is on a basis different from, or less advantageous than that of other participants. A joint enterprise or other joint arrangement is defined in Rule 17d-1 as any written or oral plan, contract, authorization or arrangement, or any practice or understanding concerning an enterprise or undertaking whereby a registered investment company or a controlled company thereof, and any affiliated person of such person, have a joint or a joint and several participation, or share in the profits of such enterprise or undertaking.

IDS acts as the principal underwriter and investment adviser of its wholly-owned subsidiary, ISA. ISA, in turn, owns 100 percent of the stock of its subsidiary,

ISA-Delaware. Accordingly, IDS, ISA and ISA-Delaware are affiliated persons of each other within the meaning of Section 2(A) (3) of the Act.

Therefore, the proposed merger of ISA into ISA-Delaware might be deemed to constitute the sale of a security by a registered investment company to an affiliated person of such investment company and, concurrently, the purchase of a security by such investment company from an affiliated person thereof. Moreover, the incorporation of ISA-Delaware and the consent, adoption and implementation of the Plan and Agreement of Merger by IDS, ISA and ISA-Delaware might be deemed to constitute a "joint transaction" between a registered investment company and affiliated persons of such registered investment company. Accordingly, Applicants request an order exempting the proposed transactions from the provisions of Section 17(a) of the Act pursuant to Section 17(b) and permitting the consummation of the proposed transactions pursuant to Section 17(d) and Rule 17d-1.

Applicants represent that the incorporation of ISA-Delaware and its subsequent merger with ISA is proposed solely as a means for changing the domicile of ISA to Delaware. Applicants represent that upon consummation of the merger ISA-Delaware will essentially be the same company as ISA was prior to the merger. As noted above, Applicants represent that ISA-Delaware will retain the same officers, directors and independent auditors as ISA. Applicants represent that the investment policy of ISA-Delaware will be the same as ISA's investment policy recited in its registration statements and reports filed with the Commission. Applicants represent that the shareholders and certificate holders of ISA will become shareholders and certificate holders of ISA-Delaware with no change in their respective interests. Applicants represent that no expenses will be incurred by certificate holders and there will be no substantive differences in the rights of shareholders and certificate holders under Delaware law. Applicants represent that ISA and ISA-Delaware will be organized, operated and managed both before and after the merger in the best interests of all their security holders and not in the best interest of the directors, officers, investment advisers, depositors or affiliated persons thereof, nor in the interest of any special class of security holders.

Applicants submit on the basis of the foregoing that the terms of the proposed transactions are reasonable and fair and do not involve overreaching. Applicants further represent that the proposed transactions are consistent with ISA's investment policy and the purposes of the Act, and that the participation by IDS, ISA, and ISA-Delaware in the proposed transactions is not on a basis less advantageous than that of other participants.

SECTION 28(c)

Section 28(c) provides, among other things, that the Commission shall by

rule, regulation, or order in the public interest or for the protection of investors, require a registered face-amount certificate company to deposit and maintain, upon such terms and conditions as the Commission shall prescribe and as are appropriate for the protection of investors, with one or more institutions, having the qualifications required by Section 26(a) (1) of the Act for a trustee of a unit investment trust, all or any part of the investments maintained by such company as certificate reserve requirements under the provisions of Section 28(b) of the Act.

On November 16, 1940, the Commission issued an order (Investment Company Act Release No. 18) approving a general depository agreement ("Agreement") between ISA and the Marquette National Bank ("Bank") requiring ISA to deposit and maintain, in accordance with the terms and conditions set forth in the Agreement, with the Bank or with some other trustee or trustees having the qualifications required by paragraph 1 of Section 26(c) of the Act, qualified assets at least equal to the certificate reserve requirements of Section 28 of the Act for certain outstanding certificates. The Agreement further provided that the semi-annual and annual statements regarding the aggregate value of ISA's assets, required to be filed with the Bank in January and July of each year, be audited and certified by independent accountants. However, the Commission by an order dated September 16, 1977 (Investment Company Act Release No. 9935) approved an amendment to the Agreement between ISA and the Bank so as to only require annual rather than semi-annual certification of financial statements of ISA by an independent public accountant. The Commission has also issued orders, contained in Investment Company Act Release Nos. 792, 1895, 3105, 3552, 3751, 4390, 6810, 8551, 8821 and 9188, granting applications for amendments to the Agreement to include coverage of new series of securities proposed to be issued by ISA.

Applicants request an order pursuant to Section 28(c) of the Act approving a form of depository agreement between ISA-Delaware and the Bank.

In support of the application Applicants represent that, other than the change of domicile, the face-amount certificate company will remain the same after the merger; and that the surviving corporation, ISA-Delaware, will succeed to all the liabilities, rights and obligations of ISA, which include assets and reserves substantially in excess of those required by Section 28 of the Act. Applicants further represent that the depository agreement between ISA-Delaware and the Bank is identical to the existing depository agreement between ISA and the Bank, as amended by Investment Company Act Release No. 9335.

CONTINUATION OF CERTAIN OUTSTANDING EXEMPTIVE ORDERS

Applicants finally request that certain outstanding exemptive orders issued to ISA by the Commission be continued upon the consummation of the proposed

merger of ISA into ISA-Delaware, and be made applicable to ISA-Delaware. Applicants represent that these outstanding orders are contained in Investment Company Act Release Nos. 4192, 4178 and 2517. In support of the application, Applicants represent that, other than the change of domicile, the structure of the face-amount certificate company will remain the same after the merger.

Notice is further given that any interested person may, not later than October 31, 1977, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the address stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date, unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc.77-29906 Filed 10-12-77; 8:45 am]

[8010-01]

[Release No. 14030; SR-NYSE-77-22]

NEW YORK STOCK EXCHANGE, INC. Order Abrogating Proposed Rule Change OCTOBER 6, 1977.

On August 8, 1977, the New York Stock Exchange, Inc., 20 Broad Street, New York, N.Y. 10005, ("NYSE") filed, pursuant to Section 19(b) (3) (A) of the Act, a proposal to clarify the permissible scope of communications between NYSE specialists and listed company officials and to provide guidelines governing the types of information that may be discussed during the course of communications.¹ The NYSE states that the purpose

¹ Notice of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 1394 (September 20, 1977)) and by publication of a statement of the terms of substance in the FEDERAL REGISTER (42 FR 51684 (September 29, 1977)).

of the proposal is to "encourage liaison between listed companies and their specialists . . . to enable listed companies to achieve a greater awareness of auction market operations, while making clear that the disclosure of material nonpublic information relating to the company or to the market in its stock by either party to the other is prohibited."

The proposed rule change was submitted pursuant to Section 19(b) (3) (A) which permits certain proposed rule changes to take effect upon filing with the Commission:

Notwithstanding the provisions of paragraph (2) of this subsection, a proposed rule change may take effect upon filing with the Commission if designated by the self-regulatory organization as (i) constituting a policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule of the self-regulatory organization, (ii) establishing or changing a due, fee or other charge imposed by the self-regulatory organization or other matters which the Commission, by rule, consistent with the public interest and the purposes of this subsection, may specify as without the provisions of such paragraph (2).

Section 19(b) (3) (C) permits the Commission, within 60 days of filing of any proposed rule change made effective pursuant to paragraphs (A) or (B) of Section 19(b) (3), summarily to abrogate such rule and require refile and review pursuant to subsections 19(b) (1) and 19(b) (2) "if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act."

The Commission has determined that the NYSE proposal raises questions relating to the potential for communications between listed company officials and specialists to result in an exchange of material nonpublic information concerning the market in the stock or the affairs of the listed company, and in reciprocal abuse by a primary exchange specialist, on behalf of the issuer or issuer insiders, of the special market influence which he may exercise. Those questions also relate to the ability of the NYSE to assure that issuers and specialist members will adhere to the prescribed guidelines during the course of such communications.

In view of the nature of these questions, the Commission finds that it is necessary and appropriate in the public interest and for the protection of investors to abrogate the proposal at this time and require its resubmission and review pursuant to Section 19(b) (2) of the Act. Abrogation will thereby provide the Commission with the opportunity, before the proposal becomes finally effective, to evaluate comments from interested persons and discuss with the NYSE the impact of the proposal.

It is therefore ordered, Pursuant to Section 19(b) (3) (C) of the Act, that the proposed rule change filed with the Com-

² The provisions of Rule 19b-4, which implements Section 19(b) (3), are identical in substance to those of Section 19(b) (3) of the Act.

mission on August 8, 1977, be, and it hereby is, abrogated.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-29907 Filed 10-12-77; 8:45 am]

[8010-01]

[Release No. 34-14031; File No. SR-OCC-77-12]

OPTIONS CLEARING CORP.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on September 20, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed rule change would become effective with respect to series of options expiring nine or more months after the month in which the amendment becomes effective.¹ The amendment would (1) change the expiration time of such options from 5 p.m. Eastern Time to 11:59 p.m. Eastern Time on the expiration date, (2) alter OCC's provisions for the processing of exercise instructions on expiration dates, and (3) alter OCC's procedures for dealing with cases in which OCC is unable to complete expiration date exercise processing prior to the expiration time.

STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

The purpose of the proposed rule change is to provide more flexible procedures for the processing of exercise instructions on expiration dates and to improve OCC's procedures for dealing with emergencies which prevent OCC from following its normal expiration date processing procedures.

ARTICLE VI, SECTION 9 OF BY-LAWS

The proposed amendment to Article VI, Section 9 of OCC's By-Laws would change the expiration time for series of options expiring nine or more months after the month in which the amendment becomes effective from 5 p.m. Eastern Time to 11:59 p.m. Eastern Time on the expiration date. The purpose of the change is to give OCC and its Clearing Members additional time in which to complete expiration date processing in accordance with the revised procedures provided in the proposed amendment to Rule 805 described below.

¹ The proposed rule change is not to become effective until such time as a prospectus or prospectus supplement reflects its provisions.

NOTICES

RULE 805

Rule 805 prescribes deadlines for the issuance and return of Preliminary Exercise Reports and Final Exercise Reports on expiration dates. Under the Rule in its present form, those deadlines cannot be extended except in the event of an "unusual or unforeseen condition or event," within the meaning of Article VI, Section 18 of OCC's By-Laws. However, the volume of processing required to be performed by OCC and its Clearing Members on expiration dates on which large numbers of option contracts are expiring is such that the prescribed deadlines leave little margin for error. In addition, circumstances may arise which, while not properly classifiable as "unusual or unforeseen", would nonetheless make it necessary or desirable to extend the prescribed deadlines.

The proposed amendment to Rule 805 (which would apply to options expiring nine or more months after the month in which the amendment becomes effective) would permit OCC to extend the prescribed deadlines whenever it deemed an extension desirable, subject only to the requirement that all processing be completed by the new expiration time of 11:59 p.m. Eastern Time on the expiration date. Such extensions might be effected either by the issuance of appropriate timetables to Clearing Members in advance of an expiration date (which might be done when an unusual number of option contracts were due to expire), or by the issuance of extension notices during the course of an expiration date.

As a result of the extension of the expiration time from 4 p.m. Eastern Time to 11:59 p.m. Eastern Time, routine processing of exercise instructions on the expiration date would ordinarily end well before the expiration time. To avoid a "gap" during which unexpired options could nonetheless not be exercised, and to give Clearing Members the maximum possible time in which to correct inadvertent failures to exercise or to react to emergency situations which disrupt their normal procedures, the proposed amendment to Rule 805 would permit Clearing Members to exercise additional option contracts after the close of ordinary expiration date processing, up until the expiration time, by filing exercise notices with OCC. OCC's offices would remain open until the expiration time for the purpose of receiving such notices. However, in order to discourage noncompliance with OCC's ordinary procedures, the filing of an exercise notice after the close of routine expiration date processing (i.e. the deadline for the return of Clearing Members' Final Exercise Reports) would be subject to disciplinary action by OCC unless the late filing was the result of circumstances beyond the Clearing Member's reasonable control, such as a customer's inability to communicate exercise instructions to the Clearing Member, or the Clearing Member's inability to receive or process such instructions, in sufficient time to permit compliance with OCC's ordinary proce-

dures. Negligence on the part of the Clearing Member, notwithstanding its good faith, would not be regarded by OCC as a circumstance beyond the Clearing Member's reasonable control. The late exercise would be effective, but the negligent Clearing Member would be subject to disciplinary action by OCC.

ARTICLE VI, SECTION 18 OF BY-LAWS

Despite the additional working time on the expiration date provided by the proposed rule changes discussed above, there remains a possibility that OCC might under some circumstances, such as a protracted power failure, be unable to issue Preliminary Exercise Reports or Final Exercise Reports in sufficient time to permit the return of those reports prior to the expiration time. Delays of that type are currently dealt with in Article VI, Section 18(a) of OCC's By-Laws, which provides that if the issuance of any expiration date report is materially delayed by unusual or unforeseen conditions or events, the time prescribed for the return of the delayed report and the issuance and return of any subsequent reports will automatically be extended (beyond the expiration time if necessary) by a period equal to the period of the delay.

The proposed amendment to Article VI, Section 18(a) (which, like the rule changes described above, would apply to series of options expiring nine or more months after it becomes effective) would change that provision in three material respects. First, in view of the increased flexibility provided by the proposed rule changes described above, the provisions of Article VI, Section 18(a) would not come into effect unless a delay by OCC in issuing a Preliminary Exercise Report or a Final Exercise Report was of such a magnitude as to prevent the completion of expiration date processing before the new expiration time of 11:59 p.m. Eastern Time.

Second, in the event that such a delay did occur, the provisions of Article VI, Section 18(a) would come into effect regardless of the reason for the delay—not merely when the delay was attributable to an "unusual or unforeseen condition or event". While it is unlikely that any event which would cause such a delay would not be classifiable as "unusual or unforeseen," it is theoretically possible that such an event could occur. If such an event did occur, holders of profitable options might be unable to exercise them before expiration and suffer substantial damage. Accordingly, the proposed amendment to Article VI, Section 18(a) eliminates the concept of "force majeure" and permits the relief provisions of that Section to come into effect in the event of any delay of sufficient magnitude to prevent the completion of expiration date processing. For similar reasons, the concept of force majeure would be eliminated from Sections 18(b) and 18(c) of Article VI as well.

Finally, the proposed amendment to Article VI, Section 18(a) would establish a cut-off time of 12:00 midnight East-

ern Time on the calendar day following an expiration date. If a Preliminary Exercise Report or a Final Exercise Report had not been issued by that time, the report would not be issued thereafter. Instead, Clearing Members holding expiring options would be deemed, in the absence of contrary instructions, to have exercised all expiring options with exercise prices above (in the case of a put) or below (in the case of a call) the automatic exercise threshold provided in Rule 805, plus any additional expiring options which Clearing Members gave OCC written instructions to exercise (regardless of form) prior to the cut-off time. The purpose of establishing the cut-off time is to prevent the delayed exercise process from extending into a new trading day, when new market information would become available.

The proposed rule change contributes to the protection of investors and the public interest by providing more efficient procedures both for routine expiration date processing and for the handling of emergency situations, thereby minimizing the possibility that profitable option contracts may fail to be exercised before expiration.

Comments were not and are not intended to be solicited with respect to the proposed rule change.

OCC does not believe that the proposed rule change imposes any burden on competition.

On or before November 17, 1977, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(a) By order approve such proposed rule change; or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organizations. All submissions should refer to the file number referenced in the caption above and should be submitted on or before November 3, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 7, 1977.

[FR Doc. 77-29922 Filed 10-12-77; 8:45 am]

NOTICES

[8010-01]

[Release No. 2001; 70-6055]

SYSTEM FUELS, INC.

Proposed Financing Arrangements Related to the Purchase of Fuel by Nonutility Subsidiary for Use by Operating Companies

OCTOBER 6, 1977.

In the Matter of: System Fuels, Inc., 225 Baronne Street, New Orleans, La. 70112; Arkansas Power and Light Co., First National Building, Little Rock, Ark. 72203; Louisiana Power and Light Co., 142 Delaronde Street, New Orleans, La. 70174; Mississippi Power and Light Co., Electric Building, Jackson, Miss. 39205; New Orleans Public Service Inc., 317 Baronne Street, New Orleans, 70112.

Notice is hereby given that Arkansas Power and Light Co. ("Arkansas"), Louisiana Power and Light Co. ("Louisiana"), Mississippi Power and Light Co. ("Mississippi"), and New Orleans Public Service Inc. ("NOPSI") (collectively referred to as "Operating Companies"), all public utility subsidiary companies of Middle South Utilities, Inc. ("Middle South"), a registered holding company, and System Fuels, Inc. ("SFI"), a jointly-owned nonutility subsidiary company of the Operating Companies, have filed a declaration and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating Sections 6(a), 7, and 12(b) of the Act and Rules 45 and 50 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transactions.

By order dated December 30, 1976, the Commission approved an extension of the period through December 31, 1977, during which System Fuels, Inc. ("SFI") is authorized to make borrowings from the Operating Companies, parent companies of SFI, to finance its fuel supply business. (HCAR No. 19835). In that proceeding, SFI committed itself to endeavor to obtain funds from external sources under arrangements advantageous to SFI and the Middle South Utilities System, in lieu of borrowings from the Operating Companies, to meet SFI's expenditure requirements.

To assure the availability to the Operating Companies and Arkansas-Missouri Power Co., the other operating subsidiary of Middle South Utilities, Inc., of an adequate supply of fuel oil through 1978, SFI presently estimates that it will be necessary to maintain an inventory varying between 5,400,000 and 7,900,000 bbls., valued at as much as \$84,600,000. Such requirements will vary because of seasonal factors, availability of natural gas and other changes in conditions. To finance a portion of its requisite inventory of fuel oil through 1978, SFI proposes to enter into an Acceptance Facility Line of Credit Agreement ("Acceptance Agreement") with Citibank, N.A., New York, N.Y. ("Bank"), under which SFI may borrow and reborrow for a period of one year up to a maximum

aggregate amount not to exceed at any one time outstanding the lesser of \$25,000,000 or the acceptance base (defined in the Acceptance Agreement to mean an amount equal to 50 percent of the fair market value of SFI's fuel oil inventory then in storage at specified locations and hereinafter referred to as "Acceptance Base"). The proposed borrowings are in addition to other bank borrowings by SFI for the financing, among other things, of its fuel oil inventory under separate lines of credit aggregating \$65,080,000 with Hibernia National Bank in New Orleans (as described in File No. 70-5259) and Citibank, N.A. (as described in File No. 70-5415). (See HCAR Nos. 17797, 18097, 18679 and 19779; and 18378, 19484 and 19982.)

In order to effect borrowings under the Acceptance Agreement, SFI proposes to deliver to the Bank for acceptance from time to time commencing on the effective date of the Acceptance Agreement and continuing for one year thereafter one or more drafts ("Draft" or "Drafts"), duly executed by SFI and drawn on the Bank, each Draft to mature not more than 6 months from the date of its acceptance and to be in the face amount of \$100,000 or integral multiple thereof not exceeding \$1,000,000. Upon acceptance by the Bank, in its sole discretion in each instance, of any particular Draft so presented to it, the Bank will thereupon discount the Draft for SFI by paying to SFI in immediately available funds on the date of such acceptance an amount equal to the face amount of such Draft less a discount equal to (a) the bid rate ("Bid Rate") then in effect in the State of New York for acceptances by the Bank of commercial drafts or bills eligible for discount with Federal Reserve Banks and having the same maturity as such Draft, multiplied by (b) the face amount of such Draft.

The Acceptance Agreement will provide that as to each Draft accepted and discounted by the Bank, SFI will pay to the Bank (a) on the maturity date thereof and in immediately available funds, the face amount of such Draft and (b) on a monthly basis, an acceptance charge of 1 percent per annum of the face amount of such Draft for the period thereof, provided that if the period of such Draft is less than 60 days, the acceptance charge payable with respect thereto will be computed on the basis of a 60-day period.

The Acceptance Agreement will further provide that SFI may at any time prepay in full the face amount to be paid by it with respect to a particular Draft, and that if at any time the aggregate face amount of all Drafts then outstanding exceeds the Acceptance Base, SFI will prepay an amount equal to that by which such aggregate face amount exceeds the Acceptance Base.

Pursuant to the terms of the Acceptance Agreement and as security for the performance by SFI of its obligations to the Bank thereunder, SFI will (a) enter into a Security Agreement ("Security Agreement") whereby it will grant to

NOTICES

the Bank a security interest in SFI's fuel oil inventory in storage at specified locations in the States of Arkansas and Mississippi, and (b) enter into an Act of Collateral Chattel Mortgage ("Chattel Mortgage") and execute and deliver in pledge to the Bank a demand Louisiana Collateral Mortgage Note ("Louisiana Collateral Note") in the principal amount of \$25,000,000 pursuant to a Pledge Agreement ("Pledge Agreement") to grant to the Bank a security interest in SFI's fuel oil inventory in the State of Louisiana. The Security Agreement will also provide for assignment by SFI, as additional security, of the accounts receivable of SFI arising out of sales of its fuel oil inventory in storage at locations referred to above.

As an inducement to the Bank to enter into these financing arrangements with SFI, the Operating Companies propose to join with SFI as parties to the Acceptance Agreement and to covenant and agree with the Bank that (a) during the term of the Acceptance Agreement, the aggregate amounts of their investments in SFI (including the principal amounts of their loans or advances to SFI) will at all times be equal to at least 35 percent of the sum of such investments and other indebtedness for borrowed money of SFI maturing after one year, and (b) they will not (i) create, incur, assume or suffer to exist any indebtedness of SFI to them which, by its terms, matures or is required to be prepaid or repaid, in whole or in part, prior to termination of the Acceptance Agreement, (ii) accelerate or permit the acceleration of any indebtedness of SFI to them prior to such termination and (iii) during the term of the Acceptance Agreement, request or permit the prepayment of any indebtedness of SFI to them if an event of default under the Acceptance Agreement, or other event which with lapse of time or notice or both would become such an event of default, has occurred and is continuing, or if the prepayment of such indebtedness would create such an event of default or other event. Subject to the limitation in clause (a) above, SFI may at any time prepay any indebtedness to the Operating Companies, provided no such event of default or other event has occurred and is then continuing, and provided further that the prepayment of such indebtedness would not thereby create such an event of default or other event.

The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than October 31, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said declaration which he desires to controvert; or

he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as amended or as it may be further amended, may be permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc 77-29908 Filed 10-12-77; 8:45 am]

[1505-01]

SMALL BUSINESS
ADMINISTRATION

SBIC NATIONAL ADVISORY COUNCIL

Meeting

Correction

In FR Doc. 77-29444, appearing at page 54344 in the issue for Wednesday, October 5, 1977, in the first paragraph, in the fourth and fifth lines, the date "October 9" should have read "October 19".

[4910-13]

DEPARTMENT OF
TRANSPORTATIONFederal Aviation Administration
AIRPORTS FIELD OFFICE BECKLEY,
WEST VIRGINIA
Relocation

Notice is hereby given that on September 16, 1977, the Airports Field Office at Beckley, W. Va., was relocated to Raleigh County Memorial Airport, Beaver, W. Va. It will continue to provide services to the general aviation public without interruption from the new location. Communications to the Airports Field Office should be addressed as follows:

Airports Field Office, Department of Transportation, Federal Aviation Administration, Terminal Building, Raleigh County Memorial Airport, Route 9, Box 31-C, Beaver, W. Va. 25813.

(Sec. 313(a) of the Federal Aviation Act of 1958, 72 Stat. 752, (49 U.S.C. 1354).)

Issued in New York, N.Y., on September 28, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc 77-29758 Filed 10-12-77; 8:45 am]

[4910-13]

RADIO TECHNICAL COMMISSION FOR
AERONAUTICS (RTCA), SPECIAL COM-
MITTEE 132-AIRBORNE AUDIO SYS-
TEMS AND EQUIPMENT

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1), notice is hereby given of a meeting of the RTCA Special Committee 132 on Airborne Audio Systems and Equipment to be held November 7-10, 1977, RTCA Conference Room 261, 1717 H Street NW., Washington, D.C., commencing at 1 p.m. The Agenda for this meeting is as follows: (1) Chairman's Comments; (2) Approval of Minutes of Third Meeting held August 16-18, 1977; (3) Review Comments on Second Draft Report; (4) Discuss Cockpit Voice Recorder Microphone Requirements and Standards; and (5) Complete Drafting Report of Minimum Performance Standards for Audio Systems and Equipment.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from RTCA Secretariat, 1717 H Street NW., Washington, D.C. 20006 (202-296-0484). Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on October 6, 1977.

KARL F. BIERACH,
Designated Officer.

[FR Doc 77-29873 Filed 10-12-77; 8:45 am]

[4910-60]

Materials Transportation Bureau
EXEMPTION APPLICATIONSList of Applications for Renewal of or To
Become a Party

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials

Transportation Bureau has received the applications described herein.

DATES: Comments by November 21, 1977.

ADDRESSED TO: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Complete copies of the applications are available for inspection and copying

at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

NEW EXEMPTIONS				
Applica- tion No.	Applicant	Regulations affected	Nature of application	
7834-N	Magnaflux Corp., Chicago, Ill.	49 CFR 173.394, 173.395	To authorize shipment of sulfur hexafluoride, nonflammable gas in X-ray machines. (Modes 1 and 2.)	
7835-N	Air Products & Chemicals Inc., Allentown, Pa.	49 CFR 177.848 (a) loading and storage chart.	To authorize transportation of poisonous gases in the same motor vehicle as flammable gases and oxidizers. (Mode 1.)	
7836-N	Carns Chemical Co., Inc., La Salle, Ill.	49 CFR 173.194	To authorize shipment of potassium permanganate crystal in DOT 44C multiply paper bag. (Modes 1 and 2.)	
7837-N	Barber Steamship Lines Inc., New York, N.Y.	49 CFR 172.101	To authorize transportation of cigarette lighters charged with fuel or similar ignition devices in freight containers in vessel's upper tween deck. (Mode 3.)	
7838-N	Star-Kist Foods Inc., Terminal Island, Calif.	49 CFR 173.395	To authorize shipment of fish meal in bulk in 20 ft steel dry ISO-ASA containers. (Mode 3.)	
7839-N	Tetstar Chemical Corp., Kearny, N.J.	49 CFR 173.297	To authorize shipment of titanium sulfate 20 pct solution in DOT 21P28L and 21P29C containers. (Mode 1.)	
7840-N	Douglas Aircraft Co., Long Beach, Calif.	49 CFR 173.87	To authorize shipment of a charged oxygen cylinder attached to and packaged in the same outside package with an explosive release device class C. (Modes 1, 2, 3, 4, and 5.)	
7841-N	Mortell Co., Kankakee, Ill.	49 CFR 173.112 (b)	To authorize shipment of certain flammable liquids in DOT 11E drums converted to a removable head container. (Modes 1 and 2.)	
7842-N	Chemtron Corp., La Jorie, Tex.	49 CFR 173.6	To authorize shipment of phosphene in DOT 106A500 multi-unit tank car tanks which have no certificate of construction or no inspector's report. (Modes 1 and 2.)	
7843-N	Reliance Electric Co., Cleveland, Ohio	49 CFR 172.400	To authorize shipment of certain class B poisons in unlabeled packages. (Mode 1.)	
7844-N	Calspan Corp., Buffalo, N.Y.	49 CFR 172.101, 175.3	To authorize shipment of chemical kits containing forbidden corrosive liquids on passenger-carrying and cargo-carrying aircraft. (Modes 4 and 5.)	
7845-N	Livingston Containers Inc., Juneau, Alaska	49 CFR 172.101, 175.320	To authorize shipment of up to 2,500 lb of liquefied petroleum gas in 1 outside container in cargo-only aircraft. (Mode 4.)	

This notice of receipt of applications for new exemptions is published in accordance with Section 107 of the Hazardous Materials Transportation Act. (49 CFR U.S.C. 1806; 49 CFR 1.53(e).)

Issued in Washington, D.C., on October 4, 1977.

J. R. GROTHE,
Chief, Exemptions Branch,
Office of Hazardous Materials Operations.

[FR Doc 77-29890 Filed 10-12-77; 8:45 am]

[4910-60]

EXEMPTION APPLICATIONS

List of Applications for Renewals of or To
Become a Party

AGENCY: Materials Transportation Bureau, DOT.

ACTION: List of applications for renewal of exemption or application to become a party to an exemption.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Operations of the Materials Transportation Bureau has received the applications described herein.

DATES: Comments by November 4, 1977.

ADDRESSED TO: Dockets Section, Office of Hazardous Materials Operations, Department of Transportation, Washington, D.C. 20590. Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION:

Complete copies of the applications are available for inspection and copying at the Public Docket Room, Office of Hazardous Materials Operations, Department of Transportation, Room 6500, Trans Point Building, 2100 Second Street SW., Washington, D.C.

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Applica- tion No.	Applicant	Renewal of special permit or exemption
2650-X	FMC Corp., Philadelphia, Pa.	2650
2805-X	Great Lakes Chemical Corp., El Dorado, Ark.	2805
3500-X	Baroid Petroleum Services Division, N.L. Industries, Inc., Houston, Tex.	3499
3744-X	E. I. du Pont de Nemours & Co., Wilmington, Del.	3744
4450-X	Lafayette Survivair, Cambridge, Md.	4450
5234-X	Rouson Corp., Oglethorpe, Del.	5234
5600-X	Ozark-Mahoning Co., Tulsa, Okla.	5600
5652-X	Air Products and Chemicals Inc., Allentown, Pa.	5652
5662-X	Dow Chemical U.S.A., Midland, Mich.	5662
5662-X	Great Lakes Chemical Corp., El Dorado, Ark.	5662
5820-X	ICI United States Inc., Wilmington, Del.	5820
5876-X	FMC Corp., Philadelphia, Pa.	5876
6128-X	United States Navigation Inc., New York, N.Y.	6128
6253-X	United States Navigation Inc., New York, N.Y.	6253
6253-X	Barardi International Ltd., Hamilton, Bermuda.	6253
6256-X	American Cyanamid Co., Wayne, N.J.	6256
6256-X	Olin Corp., Stamford, Conn.	6256
6452-X	Pennwalt Corp., Buffalo, N.Y.	6452
6526-X	Dow Chemical U.S.A., Midland, Mich.	6526
6563-X	Mada Medical Products, Inc., Garfield, N.J.	6563
6583-X	Phillips Petroleum Co., Bartlesville, Okla.	6583
6589-X	Robertshaw Controls Co., Anaheim, Calif.	6589
6738-X	E. I. du Pont de Nemours & Co., Wilmington, Del.	6738
6757-X	Degussa, Frankfurt, Germany.	6757
6759-X	E. I. du Pont de Nemours & Co., Wilmington, Del.	6759
6759-X	Hercules Inc., Wilmington, Del.	6759
6759-X	E. I. du Pont de Nemours & Co., Wilmington, Del.	6759
6802-X	Fitch Industrial & Welding Supply, Lawton, Okla.	6802
6823-X	Dow Chemical Co., Findlay, Ohio	6823
6848-X	Cleveland Chemical Co., Cleveland, Miss.	6848
6848-X	Valley Chemical Co., Greenville, Miss.	6848
6858-X	Great Lakes Chemical Corp., El Dorado, Ark.	6858
6884-X	Anstun Powder Co., Cleveland, Ohio.	6884
7005-X	Pennwalt Corp., Philadelphia, Pa.	7005
7010-X	Great Lakes Chemical Corp., El Dorado, Ark.	7010
7042-X	Walter Kidde & Co. Inc., Melrose, N.C.	7042
7071-X	Philip A. Hunt Chemical Corp., Palisades Park, N.J.	7071
7244-X	United Airlines, Inc., San Francisco, Calif.	7244
7242-X	E. I. du Pont de Nemours & Co., Wilmington, Del.	7242
7280-X	Ugine Kuhlmann of America, Inc., Paramus, N.J.	7280
7491-X	Martin Marietta Chemicals, Charlotte, N.C.	7491
7507-X	Waco Chemical Corp., Richmond, Calif.	7507
7584-X	Orval Tank Containers, Paris, France.	7584
7611-X	Richfield, Inc., Richmond, Va.	7611
7724-X	Atmospheres Inc., Fresno, Calif.	7724
7801-X	International Proteins Corp., Fairfield, N.J.	7801
5883-P	PPG Industries, Inc., Pittsburgh, Pa.	5883
6016-P	Welding & Cutting Supply Co., Cleveland, Ohio.	6016
6330-P	Tennessee Valley Authority, Chattanooga, Tenn.	6330
6609-P	Kaukalemi Children Hospital, Honolulu, Hawaii.	6609
7015-P	Cities Service Co., Tulsa, Okla.	7015
7206-P	Georgia-Pacific Corp., Los Angeles, Calif.	7206
7470-P	Ozark-Mahoning Co., Tulsa, Okla.	7470
7773-P	Kerr-McGee Chemical Corp., Oklahoma City, Okla.	7773

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This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with Section 107 of the Hazardous Materials Transportation Act. (49 CFR U.S.C. 1806; 49 CFR 1.53(e).)

Issued in Washington, D.C., on October 5, 1977.

J. R. GROTHE,
Chief, Exemptions Branch, Office of Hazardous Materials Operations.

[FR Doc 77-20891 Filed 10-12-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 497]

ASSIGNMENT OF HEARINGS

OCTOBER 7, 1977.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

- MC 82492 (Sub-No. 152), Michigan & Nebraska Transit Co., Inc., now assigned November 10, 1977, at Columbus, Ohio will be held in Room 235, Federal Building, 85 Marconi Boulevard.
- MC 134599 (Sub-No. 155), Interstate Contract Carrier, now assigned November 8, 1977, at Columbus, Ohio will be held in Room 235, Federal Building, 85 Marconi Boulevard.
- MC 139495 (Sub-No. 193), National Carriers, Inc., now assigned November 3, 1977, at Columbus, Ohio will be held in Room 235, Federal Building, 85 Marconi Boulevard.
- MC 141124 (Sub-No. 3), Evangelist Commercial Corp., now assigned November 2, 1977, at Columbus, Ohio will be held in Room 235, Federal Building, 85 Marconi Boulevard.
- MC 69833 (Sub-No. 118), Associated Truck Lines, Inc., now assigned November 4, 1977, at Columbus, Ohio will be held in Room 235, 85 Marconi Boulevard.
- MC 109633 (Sub-No. 21), Abbott Truck Lines, Inc., now assigned November 4, 1977, at Columbus, Ohio will be held in Room 235, 85 Marconi Boulevard.
- MC 142931, Richard Kisting, now assigned November 1, 1977, at Columbus, Ohio will be held in Room 235, 85 Marconi Boulevard.
- MC 140829 (Sub-No. 46), Cargo Contract Carrier Corp., now assigned November 29, 1977, at Chicago, Ill. will be held in Room 4855A, John C. Kluczyński New Federal Building, 230 S. Dearborn Street.
- MC F-13131, Bee Line Transportation, Inc.—Purchase (Portion)—Hove Truck Line, now assigned November 30, 1977, at Chicago, Ill. will be held in Room 3855A, John C. Kluczyński New Federal Building, 230 S. Dearborn Street.
- MC-P-18104, North Shore & Central Illinois Freight Co.—Purchase (Portion)—Buske

- Lines, Inc., and MC 99680 (Sub-No. 4), North Shore & Central Illinois Freight Co., now assigned December 7, 1977, at Chicago, Ill. will be held in Room 3855A, John C. Kluczyński New Federal Building, 230 S. Dearborn Street.
- MC 110988 (Sub-No. 340), Schneider Tank Lines, Inc., now assigned December 5, 1977, at Chicago, Ill. will be held in Room 3855A, John C. Kluczyński New Federal Building, 230 S. Dearborn Street.
- MC-133591 (Sub-No. 35), Wayne Daniel Truck, Inc., now assigned November 29, 1977, at San Francisco, Calif. will be held in Room 510, 5th Floor, 211 Main Street.
- MC 134150 (Sub-No. 12), Southwest Equipment Rental, Inc., d.b.a. Southwest Motor Freight, now assigned December 1, 1977, at San Francisco, Calif. will be held in Room 510, 5th Floor, 211 Main Street.
- MC 115826 (Sub-No. 267), W. J. Digby, Inc., now assigned December 5, 1977, at San Francisco, Calif. will be held in Room 510, 5th Floor, 211 Main Street.
- MC 128273 (Sub-No. 256), Midwestern Distribution, Inc., now assigned December 5, 1977, at San Francisco, Calif. will be held in Room 510, 5th Floor, 211 Main Street.
- MC 35807 (Sub-No. 68), Wells Fargo Armored Service Corp., now assigned November 1, 1977, at Richmond Va. will be held in Room 1035, First Floor, 400 North H Street.
- MC 142207 (Sub-No. 8), Gulf Coast Truck Services, Inc., now assigned November 8, 1977, at Memphis, Tenn. will be held in the Tax Court Room, Room 1006, Federal Building, 167 N. Main Street.
- MC 114334 (Sub-No. 35), Builders Transportation Co., now assigned November 10, 1977, at Memphis, Tenn. will be held in the Tax Court Room, Room 1006, Federal Building, 167 N. Main Street.
- MC 82063 (Sub-No. 72), Kilpsch Hauling Co., now assigned November 14, 1977, at Little Rock, Ark. will be held in Room 3406, 700 W. Capitol Street.
- MC 118159 (Sub-No. 213), National Refrigerated Transport, Inc., now assigned November 8, 1977, at Boston, Mass., will be held on the Fifth Floor, 150 Causeway.
- MC 134872 (Sub-No. 10), Gosselin Express Ltd., now assigned November 14, 1977, at Albany, N.Y. will be held in Room 317, The New Leo W. O'Brien Federal Building, Corner of Clinton Avenue and No. Pearl St.
- MC 12794 Sub 9, P. Liedtka Trucking, Inc., now being assigned December 13, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.
- MC 127974 Sub 9, U. Liedtka Trucking, Inc., now being assigned December 15, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.
- MC 135084 Sub 36, Bass Transportation Co., Inc., now being assigned December 8, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.
- MC 116014 Sub 82, Oliver Trucking Co., Inc., and MC 30513 Sub 15, North State Motor Lines, Inc., now being assigned December 16, 1977, at the Offices of the Interstate Commerce Commission in Washington, D.C.
- MC 115162 Sub 367, Poole Truck Line, Inc., now being assigned January 4, 1978 (3 days) at Buffalo, N.Y. in a hearing room to be later designated.
- MC 113784 Sub 55, Laidlaw Transport Ltd., now being assigned January 9, 1978 (1 week) at Buffalo, N.Y. in a hearing room to be later designated.
- MC 113047 (Sub-No. 10), Buanno Transportation Co., Inc., now assigned November 16, 1977, at Albany, N.Y., will be held in Room 317, The New Leo W. O'Brien Federal Building, Corner of Clinton Avenue and North Pearl St.
- MC 117427 (Sub-No. 75), G. G. Parsons Trucking Co., Inc., now assigned November

- ber 9, 1977, at Boston, Mass. will be held on the Fifth Floor, 150 Causeway.
- MC 104421 (Sub-No. 20), Econolines, Inc., now assigned November 29, 1977, at Omaha, Nebr. is canceled and application dismissed.
- MC 125551 Sub 13, K & V Trucking Co., now assigned October 31, 1977 at Anchorage, Alaska is being postponed indefinitely.
- MC 142239 (Sub-No. 8), Washington Transportation Co., now being assigned November 29, 1977 (1 day), at Omaha, Nebr. in a hearing room to be later designated.
- MC 141164 Sub 2, John E. Cox now being assigned January 11, 1978 (3 days) at Boston, Mass. in a hearing room to be later designated.
- MC 143246 Sub 1, Land Transportation Corp., now being assigned January 9, 1978 (2 days) at Boston, Mass. in a hearing room to be later designated.
- MC 143333, Berry Transportation Co., Inc., now being assigned January 4, 1978 (3 days) at Portsmouth, N.H. in a hearing room to be later designated.
- No. 36579, Houston Lighting & Power Co. v. Burlington Northern Inc., et al., now being assigned October 26, 1977, at the Offices of the Interstate Commerce Commission, Washington, D.C. See 5a appl. No. 58 Amendment No. 2, Machinery Haulers Association Agreement, now being assigned November 15, 1977 at the Offices of the Interstate Commerce Commission, Washington, D.C.
- No. MC 143120 (Sub-No. 2), Far West Transporters, Inc., now being assigned November 30, 1977, (1 day) at Omaha, Nebr. in a hearing room to be later designated.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-29928 Filed 10-12-77; 8:45 am]

[7035-01]

[Ex Parte No. MC 96]

ENTRY CONTROL OF BROKERS

Petition for a Stay Pending Judicial Review

National Tour Brokers Association (NTBA), a participant in the above-entitled rulemaking proceeding, filed a motion for a stay of the effective date of the Commission's order served August 26, 1977, pending judicial review. At issue is the effectiveness of the Commission's new passenger broker regulations promulgated in this proceeding.

The United States Court of Appeals for the District of Columbia Circuit has recently refined the traditional standards for evaluating whether an agency should grant a stay of its own orders. *Washington Metropolitan Area Transit Commission v. Holiday Tours, Inc.*, No. 77-1379 (decided July 5, 1977). As that Court held, "[w]hat is fairly contemplated is that tribunals may properly stay their own orders when they have ruled on an admittedly difficult legal question and then the equities of the case suggest that the status quo should be maintained" (Slip op. 7). This agency has applied essentially the same anal-

NTBA describes itself in its motion as "the national trade association for the motor carrier passenger brokerage industry" (emphasis added). Obviously it has no standing to challenge that portion of the Commission's order that relates to regulations for property brokers, nor does it purport to do so in its petition.

ysis in the past, and I am persuaded that the Holiday Tours standard represents the proper approach in this case.

The Commission has promulgated new regulations governing entry control of passenger brokers. Although I do not believe that NTBA is likely to succeed on the merits in its court action, I recognize that the legal questions are difficult ones. Moreover, the fact that the Commission has regulated the broker industry under the presently existing standards since 1935 convinces me that the public will not suffer severe injury if implementation of the new regulations is delayed until judicial review is completed. I find that this case does not present a compelling urgency requiring immediate effectiveness of these regulations. Further, if the passenger broker regulations were implemented immediately and if the Court of Appeals ultimately set aside the Commission's order promulgating the regulations, the consequences would be seriously disruptive to this segment of the broker industry, to new passenger broker applicants, and to the public that requires this broker service.

It is ordered: Effectiveness of the Commission's order served August 26, 1977, only insofar as it adopts regulations for brokers of passengers, is stayed pending disposition of NTBA's petition for review. Regulations pertaining to brokers of property will become effective on October 17, 1977.

Decided October 5, 1977.

By the Commission. Chairman O'Neal.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-29927 Filed 10-12-77; 8:45 am]

[7035-01]

FOURTH SECTION APPLICATIONS FOR RELIEF

OCTOBER 7, 1977.

An application, as summarized below, has been filed requesting relief from the requirements of Section 4 of the Interstate Commerce Act to permit common carriers named or described in the application to maintain higher rates and charges at intermediate points than those sought to be established at more distant points.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the General Rules of Practice (49 CFR 1100.40) and filed on or before October 28, 1977.

FSA No. 43443—*Joint Rail-Water Container Rates—Baltic Shipping Company*. Filed by Baltic Shipping Company, (No. 105), for itself and interested rail carriers. Rates on general commodities, between rail carriers terminals on the U.S. Atlantic and Gulf Coasts, and Northern European ports.

Grounds for relief—Water competition.

Tariffs—Baltic Shipping Company tariffs I.C.C. Nos. 5 and 4, F.M.C. Nos. 33 and 34, respectively. Rates are published to become effective on November 6, 1977.

NOTICES

FSA No. 43444—*Joint Water-Rail Container Rates—Far Eastern Shipping Company*. Filed by Far Eastern Shipping Company, (No. 10), for itself and interested rail carriers. Rates on general commodities, between rail carriers terminals on the U.S. Atlantic and Gulf Coasts, and ports in Japan, Hong Kong, Australia, The Philippines, Singapore, Thailand, West Malaysia and South East Asia.

Grounds for relief—Water competition.

Tariffs—Far Eastern Shipping Company tariff I.C.C. No. 4, F.M.C. No. 16, and 4 other schedules named in the application. Rates are published to become effective on November 6, 1977.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-29931 Filed 10-12-77; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY

Elimination of Gateway Letter Notices

OCTOBER 7, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimination of any gateway herein described may be filed with the Interstate Commerce Commission on or before October 24, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successfully filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 61825 (Sub-No. E332), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between points in Stark County, Ohio, within 50 miles of Steubenville, Ohio, on the one hand, and, on the other, points in New York except Allegany, Cattaraugus, Chautauque, Erie, Genesee, Livingston, Monroe, Niagara, Ontario, Orleans, Schuyler, Steuben, Wayne, Wyoming and Yates Counties. The purpose of this filing is to eliminate the gateway of Weirton, W. Va.

No. MC 61825 (Sub-No. E429), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Iron and steel products*, between Sandusky, Ohio, on the one hand, and, on the other, points in Virginia beginning at the Virginia-North Carolina State line at the Atlantic Ocean and extending west along the Virginia-North Carolina State line to junction Virginia Highway 8, thence north along Virginia Highway 8 to junction Interstate Highway 81 and U.S. Highway 11 to Lexington, Va., thence east along U.S. Highway 60 to junction U.S. Highway 29 to junction Interstate Highway 64 and U.S. Highway 250 to junction Interstate Highway 64 to junction Virginia Highway 249 to junction Virginia Highway 33, thence east along Virginia Highway 33 to the Chesapeake Bay near Deltaville, Va., thence south along the Chesapeake Bay and the Atlantic Ocean to the point of beginning; including all points on the routes shown. The purpose of this filing is to eliminate the gateway of Weirton, W. Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E473), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Virginia on and east of a line beginning at the North Carolina-Virginia State line and extending along U.S. Highway 221 to junction Virginia Highway 94, thence north along Virginia Highway 94 to junction Virginia Highway 11, thence east along Virginia Highway 11 to junction Virginia Highway 100, thence north along Virginia Highway 100 to junction U.S. Highway 460, thence west along U.S. Highway 460 to the Virginia-West Virginia State line, to points in Louisiana. The purpose of this filing is to eliminate the gateway of Martinsville, Va., and points in Georgia.

No. MC 61825 (Sub-No. E476), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Virginia on and east of a line beginning at the Virginia-West Virginia State line and extending along U.S. Highway 21 to the Virginia-North Carolina State line, to points in Florida. The purpose of this filing is to eliminate the gateway of Martinsville, Va., and points in Georgia.

No. MC 61825 (Sub-No. E723), filed May 13, 1974. Applicant: ROY STONE

TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Arizona, Arkansas, California, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming to points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 52 to junction U.S. Highway 601, to junction U.S. Highway 52 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateway of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E724), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities in bulk, those of unusual value, household goods as defined by the Commission, and commodities requiring special equipment, from points in Minnesota on and north of a line beginning at the Minnesota-Wisconsin State line and extending along U.S. Highway 12 to junction U.S. Highway 169, to junction Minnesota Highway 60 to the Minnesota-Iowa State line, to points in Virginia on and bounded by a line beginning at the North Carolina-Virginia State line and extending along Virginia Highway 8 to junction Virginia Highway 40, to junction U.S. Highway 220, to junction Virginia Highway 419, to junction U.S. Highway 11, to junction U.S. Highway 33, to junction U.S. Highway 29, to junction U.S. Highway 17, to junction U.S. Highway 1, to junction Virginia Highway 630, to the Potomac River, to junction U.S. Highway 29, to junction U.S. Highway 211, to junction U.S. Highway 11, to junction Virginia Highway 42, to junction U.S. Highway 60, to junction U.S. Highway 220, to junction U.S. Highway 11, to junction Virginia Highway 100, to junction U.S. Highway 58, to junction Virginia Highway 89 to the North Carolina-Virginia State line and thence along the North Carolina-Virginia State line to the point of beginning. The purpose of this filing is to eliminate the gateway of Smyth County, Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E725), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities in bulk, those of unusual value, household goods as de-

fined by the Commission and commodities requiring special equipment, from points in Minnesota to points in Virginia on and south and east of a line beginning at the North Carolina-Virginia State line and extending along Virginia Highway 8 to junction Virginia Highway 40, to junction U.S. Highway 220, to junction Virginia Highway 419, to junction U.S. Highway 11, to junction U.S. Highway 33, to junction U.S. Highway 29, to junction U.S. Highway 17, to junction U.S. Highway 1, to junction Virginia Highway 630 to the Potomac River and thence to the Chesapeake Bay. The purpose of this filing is to eliminate the gateway of Smyth County, Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E1074), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, between points in Georgia on and east of a line beginning at the Florida-Georgia State line and extending along U.S. Highway 23, thence along U.S. Highway 23 to junction U.S. Highway 1, to junction Georgia Highway 57, to junction Georgia Highway 15, to junction Georgia Highway 77, to junction U.S. Highway 78, to junction Georgia Highway 22, to junction Georgia Highway 98, to junction Georgia Highway 106, to junction U.S. Highway 123 to the Georgia-South Carolina State line, on the one hand, and, on the other, points in Kansas on and north of a line beginning at the Kansas-Oklahoma State line, and extending along U.S. Highway 56 to junction Kansas Highway 150, to junction U.S. Highway 50, to junction Interstate Highway 35 to the Kansas-Missouri State line. The purpose of this filing is to eliminate the gateway of Smyth County, Va.

No. MC 61825 (Sub-No. E1075), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture* except commodities in bulk, those of unusual value, household goods as defined by the Commission, commodities requiring special equipment, from points in Washington on and west of a line beginning at the United States-Canada International Boundary line and extending south along Washington Highway 31 to junction U.S. Highway 2, to junction U.S. Highway 195, to junction Washington Highway 127, to junction U.S. Highway 125 to the Washington-Oregon State line, from points in Oregon on and west of a line beginning at the Oregon-Washington State line, and extending along Oregon Highway 11 to junction U.S. Highway 30, to junction U.S. Highway 395, to junction Oregon Highway 140, thence

along Oregon Highway 140 to the Oregon-Nevada State line, points in Nevada on and west of a line beginning at the Nevada-Oregon State line, and extending along Nevada Highway 140 to junction Nevada Highway 8A, to junction Nevada Highway 34, to junction Nevada Highway 48, to junction U.S. Highway 95, to junction U.S. Highway 6, thence along U.S. Highway 6 to the Nevada-California State line; points in California on and west of a line beginning at the California-Nevada State line, and extending along U.S. Highway 6 to junction U.S. Highway 395, to junction California Highway 58, to junction Interstate Highway 15, to junction Interstate Highway 10, to junction California Highway 111 to the United States-Mexico International Boundary line, to points in Virginia on and north of a line beginning at the Maryland-Virginia State line and extending along Virginia Highway 655 to junction U.S. Highway 15, to junction Virginia Highway 7, to junction U.S. Highway 340, to junction Virginia Highway 277, to junction Virginia Highway 628, to junction Virginia Highway 55 to the Virginia-West Virginia State line, and points in Virginia on and west of a line beginning at the West Virginia-Virginia State line and extending along Virginia Highway 311 to junction Virginia Highway 42, to junction Virginia Highway 100, to junction U.S. Highway 11, to junction Virginia Highway 100, to junction U.S. Highway 58, to junction Virginia Highway 89 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E1076), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities in bulk, those of unusual value, household goods as defined by the Commission, and commodities requiring special equipment, from points in Arizona, California, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming to points in Virginia on and east of a line beginning at the Maryland-Virginia State line and extending along Virginia Highway 655 to junction U.S. Highway 15, to junction Virginia Highway 7, to junction Virginia Highway 277, to junction Virginia Highway 628, to junction Virginia Highway 55 to the Virginia-West Virginia State line, thence south along the Virginia-West Virginia State line to junction Virginia Highway 311, to junction Virginia Highway 42 to junction Virginia Highway 100, to junction U.S. Highway 11, to junction Virginia Highway 100, to junction U.S. Highway 58, to junction Virginia Highway 89 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate

the gateway of Smyth County, Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E1077), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in California, Idaho, Montana, Nevada, Oregon, Utah, Wash-

ington, points in Minnesota on and west of a line beginning at the Canadian-United States International Boundary line and extending along U.S. Highway 71 to junction Minnesota Highway 1, to junction U.S. Highway 59, to junction Minnesota Highway 200, to junction U.S. Highway 75, to junction Interstate Highway 94, thence along Interstate Highway 94 to the Minnesota-North Dakota State line; points in North Dakota on and west of a line beginning at the North Dakota-Minnesota State line, and extending along Interstate Highway 94 to junction U.S. Highway 281 to the North Dakota-South Dakota State line; points in South Dakota on and west of a line beginning at the South Dakota-North Dakota State line, and extending along U.S. Highway 281 to junction U.S. Highway 83, to junction U.S. Highway 14, to junction South Dakota Highway 73, to junction U.S. Highway 18, to junction U.S. Highway 385, to the South Dakota-Nebraska State line; points in Nebraska on and west of a line beginning at the Nebraska-South Dakota State line and extending along U.S. Highway 385 to junction U.S. Highway 20, to the Nebraska-Wyoming State line; points in Wyoming on and west of a line beginning at the Wyoming-Nebraska State line, and extending along U.S. Highway 20 to junction U.S. Highway 85, thence along U.S. Highway 85 to the Wyoming-Colorado State line; points in Colorado on and west of a line beginning at the Colorado-Wyoming State line, and extending along U.S. Highway 85 to junction U.S. Highway 285, to junction Colorado Highway 291, to junction U.S. Highway 50, to junction U.S. Highway 550, thence along U.S. Highway 550 to the Colorado-New Mexico State line; those points in New Mexico on and west of a line beginning at the New Mexico-Colorado State line, and extending along U.S. Highway 550 to junction New Mexico Highway 504, thence along New Mexico Highway 504 to the New Mexico-Arizona State line; those points in Arizona on and west of a line beginning at the Arizona-New Mexico State line, and extending along U.S. Highway 160, to junction U.S. Highway 89, to junction Interstate Highway 17, to junction U.S. Highway 80, to junction New Mexico Highway 85 to the Mexico-United States International Boundary line to points in South Carolina on, and south and west of a line beginning at the North Carolina-South Carolina State line, and extending along U.S. Highway 21, to junction U.S. Highway 29, to junction U.S. Highway 276, to junction Interstate

Highway 26, to junction U.S. Highway 221, to junction South Carolina Highway 389, to junction South Carolina Highway 321, to junction South Carolina Highway 332, to junction U.S. Highway 601, to junction South Carolina Highway 64, to junction U.S. Highway 21, to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1078), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Arizona, California, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming, points in Minnesota on and west of a line beginning at the United States-Canadian International Boundary line, and extending along the Minnesota State line to the Minnesota-Wisconsin State line, to junction U.S. Highway 10, to junction U.S. Highway 61, to junction Minnesota Highway 55, to junction U.S. Highway 52, to junction Minnesota Highway 50, to junction Minnesota Highway 3, to junction Minnesota Highway 60, to junction U.S. Highway 65 to the Minnesota-Iowa State line, thence along the Iowa-South Dakota State line, to the Iowa-Nebraska State line, and extending along junction U.S. Highway 6, to junction U.S. Highway 183, thence along U.S. Highway 183 to the Nebraska-Kansas State line; points in Kansas on and west of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 183 to junction U.S. Highway 24 to junction U.S. Highway 83, to junction U.S. Highway 40, to junction Kansas Highway 27, to junction Kansas Highway 96, to the Kansas-Colorado State line; points in Colorado on and west of a line beginning at the Colorado-Kansas State line, and extending along Colorado Highway 96, to junction U.S. Highway 50, to junction Colorado Highway 71, to junction U.S. Highway 10, to junction U.S. Highway 160, to the Colorado-New Mexico State line; points in New Mexico on and west of a line beginning at the New Mexico-Colorado State line, and extending along U.S. Highway 285 to junction New Mexico Highway 4, to junction New Mexico Highway 44, to junction U.S. Highway 85, to junction New Mexico Highway 90, to junction U.S. Highway 80, to the United States-Mexico International Boundary line, to points in South Carolina on and bounded by a line beginning at the North Carolina-South Carolina State line, and extending along U.S. Highway 21 to junction South Carolina Highway 97, to junction U.S. Highway 521, to junction U.S. Highway 17-A, to the Winyah Bay, and thence to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

Highway 332, to junction U.S. Highway 321, to junction South Carolina Highway 389, to junction South Carolina Highway 39, to junction U.S. Highway 221, to junction Interstate Highway 26, to junction U.S. Highway 276, to junction U.S. Highway 29, to junction U.S. Highway 221 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to the point of beginning. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1079), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORPORATION, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Arizona, California, Colorado, Idaho, Kansas, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming on and west of a line beginning at the United States-Canadian International Boundary line and extending along the Minnesota State line to the Minnesota-Wisconsin State line, to the Minnesota-Iowa State line, to the Iowa-South Dakota State line, to the Iowa-Nebraska State line, to the Missouri-Nebraska State line, to the Missouri-Kansas State line, to the Missouri-Oklahoma State line, to points in Oklahoma beginning at the Arkansas-Oklahoma State line, extending along Oklahoma Highway 20, to junction Interstate Highway 44, to junction Oklahoma Highway 99, to junction Oklahoma Highway 1, to junction Oklahoma Highway 7, to junction U.S. Highway 77, to the Oklahoma-Texas State line; points in Texas on and west of a line beginning at the Texas-Oklahoma State line, and extending along U.S. Highway 77 to junction Texas Highway 51, to junction U.S. Highway 80, to junction Texas Highway 16, to junction U.S. Highway 377, to junction Texas Highway 42, to junction U.S. Highway 83, to junction Texas Highway 29, to junction U.S. Highway 277 to the United States-Mexico International Boundary line, to points in South Carolina on and north and east of a line beginning at the North Carolina-South Carolina State line, and extending along U.S. Highway 21 to junction South Carolina Highway 97, to junction U.S. Highway 521, to junction U.S. Highway 17-A to the Winyah Bay, and thence to the Atlantic Ocean. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1080), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St., NW., Washington, D.C. 20036. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *New furni-*

ture, from points in Arizona, California, Colorado, Idaho, Minnesota, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, on and west of a line beginning at the United States-Canadian International Boundary line and extending along the Minnesota State line to the Minnesota-Wisconsin State line, those points in Minnesota on and west of a line beginning at the Minnesota-Wisconsin State line, and extending along U.S. Highway 16, to junction U.S. Highway 63 to the Minnesota-Iowa State line, to the Iowa-Nebraska State line, to the Missouri-Nebraska State line, points in Kansas on and west of a line beginning at the Kansas-Missouri State line, and extending along Interstate Highway 70, to junction Interstate Highway 35, to junction Kansas Highway 99, to junction U.S. Highway 166, to the Kansas-Oklahoma State line; points in Oklahoma on and west of a line beginning at the Oklahoma-Kansas State line, and extending along U.S. Highway 75 to the Oklahoma-Texas State line; points in Texas on and west of a line beginning at the Texas-Oklahoma State line, and extending along U.S. Highway 75, to junction Interstate Highway 35, to junction U.S. Highway 77, to junction Interstate Highway 37 to the Gulf of Mexico, to points in North Carolina on and east of a line beginning at the Virginia-North Carolina State line and extending along North Carolina Highway 16 to junction U.S. Highway 221, to junction U.S. Highway 421, to junction North Carolina Highway 18, to junction U.S. Highway 321, to junction U.S. Highway Alternate 321, to junction U.S. Highway 321, to junction U.S. Highway 64-70, to junction North Carolina Highway 16, to junction U.S. Highway 21, to junction U.S. Highway 521 to the North Carolina-South Carolina State line. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub-No. E1081), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, from points in Arizona, California, Idaho, Montana, Nevada, North Dakota, Oregon, Utah, Washington and Wyoming, points in Minnesota, on and west of a line beginning at the United States-Canadian International Boundary line and extending along U.S. Highway 71 to junction Minnesota Highway 34, to junction U.S. Highway 59, to junction Minnesota Highway 210, to junction U.S. Highway 75, to junction U.S. Highway 12, to the Minnesota-South Dakota State line; points in South Dakota on and west of a line beginning at the South Dakota-Minnesota State line, and extending along U.S. Highway 12, to junction U.S. Highway 81, to junction South

Dakota Highway 28, to junction South Dakota Highway 25, to junction South Dakota Highway 34, to junction South Dakota Highway 37, to junction South Dakota Highway 44, to junction South Dakota Highway 47, to junction U.S. Highway 18, to junction U.S. Highway 183, thence along U.S. Highway 183 to the South Dakota-Nebraska State line; points in Nebraska on and west of a line beginning at the Nebraska-South Dakota State line, and extending along U.S. Highway 183 to junction U.S. Highway 20, to junction U.S. Highway 83, to junction U.S. Highway 30, thence along U.S. Highway 30 to the Nebraska-Wyoming State line, points in Wyoming on and west of a line beginning at the Wyoming-Nebraska State line, and extending along U.S. Highway 30 to junction U.S. Highway 385, thence along U.S. Highway 385 to the Wyoming-Colorado State line; points in Colorado on and west of a line beginning at the Nebraska-South Dakota State line, and extending along U.S. Highway 385 to junction U.S. Highway 40, to junction U.S. Highway 287, to junction Colorado Highway 96, to junction U.S. Highway 85, thence along U.S. Highway 85 to the Colorado-New Mexico State line; points in New Mexico State on and west of a line beginning at the New Mexico-Colorado State line, and extending along U.S. Highway 85 to junction U.S. Highway 64, to junction U.S. Highway 285, to junction U.S. Highway 54, thence along U.S. Highway 54 to the New Mexico-Texas State line; points in Texas on and west of a line beginning at the Texas-New Mexico State line and extending along U.S. Highway 54 to junction U.S. Highway 80, to junction U.S. Highway 90, to junction U.S. Highway 67 to the United States-Mexico International Boundary line, to points in North Carolina on and bounded by a line beginning at the Tennessee-North Carolina State line and extending along U.S. Highway 23 to junction U.S. Highway 25 to the North Carolina-South Carolina State line, thence east along the North Carolina-South Carolina State line to junction U.S. Highway 521, to junction U.S. Highway 21, to junction North Carolina Highway 16, to junction U.S. Highway 64-70, to junction U.S. Highway 321, to junction U.S. Highway Alternate 321, to junction North Carolina Highway 18, to junction U.S. Highway 421, to junction U.S. Highway 221 to the North Carolina-Virginia State line, thence along the North Carolina-Virginia State line to the North Carolina-Tennessee State line, thence along the North Carolina-Tennessee State line to the point of beginning. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

No. MC 61825 (Sub. No. E1082), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, ex-

cept commodities in bulk, household goods as defined by the Commission, from points in Kansas, on and west of a line beginning at the Kansas-Nebraska State line and extending along U.S. Highway 183 to junction U.S. Highway 56, thence to junction U.S. Highway 283, thence along U.S. Highway 283 to the Kansas-Oklahoma State line; points in Oklahoma on and west of a line beginning at the Oklahoma-Kansas State line, and extending along U.S. Highway 283 to junction U.S. Highway 64, to junction U.S. Highway 183, to junction U.S. Highway 270, to junction Interstate Highway 35, thence along Interstate Highway 35 to the Oklahoma-Texas State line; points in Texas on and west of a line beginning at the Texas-Oklahoma State line, and extending along Interstate Highway 35 to junction Interstate Highway 35-E, to junction Interstate Highway 20, to junction Interstate Highway 45, to the Gulf of Mexico, to points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending along Virginia Highway 102 to junction U.S. Highway 52, to junction Interstate Highway 77, to junction U.S. Highway 11, to junction Virginia Highway 94, to junction Virginia Highway 721, to junction Virginia Highway 89 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E1083), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities in bulk, household goods as defined by the Commission, from points in Arkansas, and those points in Kansas on and east of a line beginning at the Nebraska-Kansas State line, and extending along U.S. Highway 183 to junction U.S. Highway 56, to junction U.S. Highway 283, thence along U.S. Highway 283 to the Kansas-Oklahoma State line; points in Oklahoma on and east of a line beginning at the Oklahoma-Kansas State line, and extending along U.S. Highway 283 to junction U.S. Highway 64, to junction U.S. Highway 183, to junction U.S. Highway 270, to junction Interstate Highway 35, thence along Interstate Highway 35 to the Oklahoma-Texas State line; those points in Texas on and east of a line beginning at the Texas-Oklahoma State line, and extending along Interstate Highway 35-E, to junction Interstate Highway 20, to junction Interstate Highway 45, to the Gulf of Mexico, to points in Virginia on and east of a line beginning at the Virginia-West Virginia State line, and extending along Virginia Highway 311 to junction Virginia Highway 419, to junction U.S. Highway 220, to the Henry County-Franklin County line, to the Patrick County-Henry County line, to the Virginia-North Carolina State line. The purpose of this filing is to eliminate

the gateways of Smyth County, Va., and Lynchburg, Va.

No. MC 61825 (Sub-No. E1084), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities in bulk, household goods as defined by the Commission, from New York, N.Y., and points in New Jersey on and south of U.S. Highway 202, and points in Pennsylvania on and south of a line beginning at the Pennsylvania-New Jersey State line, and extending southwest along U.S. Highway 202 to junction U.S. Highway 422, to junction U.S. Highway 15 to junction U.S. Highway 15 Business, to junction U.S. Highway 15, and thence to the Pennsylvania-Maryland State line; points in Maryland on and north of a line beginning at the Pennsylvania-Maryland State line, and extending east along U.S. Highway 40 to junction U.S. Highway 40 Alternate to junction U.S. Highway 40, thence along U.S. Highway 40 to junction Maryland Highway 144 to Baltimore, Md., thence along the shores of the Chesapeake Bay and Elk River to the Chesapeake Bay and Delaware Canal, and thence to the Maryland-Delaware State line, to points in Louisiana. The purpose of this filing is to eliminate the gateways of Lynchburg, Va., and Smyth County, Va.

No. MC 61825 (Sub-No. E1085), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities in bulk, and household goods as defined by the Commission, between points in Maryland on and south of a line beginning at the Pennsylvania-Maryland State line and extending east along U.S. Highway 40 to Hagerstown, Md., thence along U.S. Highway 40 Alternate to junction U.S. Highway 40 near Frederick, Md., thence along U.S. Highway 40 to junction Maryland Highway 144 to Baltimore, Md., thence along the shores of the Chesapeake Bay and Elk River to the Chesapeake Bay and Delaware Canal, and thence to the Maryland-Delaware State line, the District of Columbia and those points in West Virginia on and east of a line beginning at West Virginia-Virginia State line, and extending north along West Virginia Highway 12 to junction West Virginia Highway 3, to junction West Virginia Highway 20, to junction West Virginia Highway 39, to junction U.S. Highway 19, to junction U.S. Highway 250, to junction West Virginia Highway 69, and thence to the West Virginia-Pennsylvania State line, on the one hand, and, on the other, points in Louisiana. The purpose of this filing is to eliminate the gateway of Lynchburg, Va. and Smyth County, Va.

No. MC 106401 (Sub-No. E23) (partial correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of November 7, 1974, and republished, as corrected, this issue. Applicant: JOHNSON MOTOR LINES, INC., P.O. Box 10877, Charlotte, N.C. 28234. Applicant's representative: Thomas G. Sloan (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, livestock, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading); (1) between Albany, Ga., and points in Georgia within 100 miles of Atlanta, Ga., on the one hand, and, on the other, points in West Virginia, on and north of a line from the Ohio-West Virginia State line along U.S. Highway 35 to the junction of U.S. Highway 60, thence along U.S. Highway 60 to Charleston, thence along U.S. Highway 119 to the junction of West Virginia Highway 4, thence along West Virginia Highway 4 to the Braxton County line, thence along the southern and eastern boundary of Braxton County to the Lewis County line, thence along the southern boundary of Lewis County to the Lewis-Upshur County line, thence along the southern boundary of Upshur County to the junction of unnumbered Highway east of Czar, thence along unnumbered highway via Blue Rock and Adolph to the junction of U.S. Highway 219, thence along U.S. Highway 219 to the junction of U.S. Highway 250, thence along U.S. Highway 250 to the junction of the Randolph County line, thence along the southern boundary line of Randolph County to the Randolph-Pendleton County line, thence along the Pendleton County line to the junction of West Virginia Highway 28, thence along West Virginia Highway 28 to the junction of U.S. Highway 33, thence along U.S. Highway 33 to the West Virginia-Virginia State line and all points in Pennsylvania on and west of U.S. Highway 219. The purpose of this filing is to eliminate the gateway of Belpre, Ohio.

NOTE.—The purpose of this partial correction is to state the correct territorial description. The remainder of this letter-notice remains as previously published.

No. MC 106603 (Sub-No. E61), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials*, from points in Indiana on and north of a line beginning at the Indiana-Illinois State line and extending east along U.S. Highway 24 to junction Indiana Highway 124, thence easterly on Indiana Highway 124 to the Indiana-Ohio State line (except the plant site of the Bethlehem Steel Corporation located at Burns Harbor, Porter County, Ind.),

to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Washington, D.C., West Virginia on and north of U.S. Highway 50 and Virginia on and east of U.S. Highway 21. The purpose of this filing is to eliminate the gateway of the plant site of Certain-teed Products Corporation at Avery, Ohio.

No. MC 106603 (Sub-No. E62), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials*, from points in Indiana on, south, and west, and north of a line beginning at the Indiana-Illinois State line and extending east on U.S. Highway 24 to junction Indiana Highway 124, thence easterly on Indiana Highway 124 to junction Indiana Highway 3, thence south on Indiana Highway 3 to junction Interstate Highway 70, thence westerly on Interstate 70 to the Indiana-Illinois State line, to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Washington, D.C., West Virginia, points in West Virginia on, east, and north of a line beginning at the West Virginia-Pennsylvania State line and extending south along U.S. Highway 19 to junction U.S. Highway 119, thence southerly U.S. Highway 119 to junction U.S. Highway 50, thence easterly on U.S. Highway 50 to the West Virginia-Maryland State line and points in Virginia on, north and east of a line beginning at the Virginia-West Virginia State line and extending southeasterly on U.S. Highway 33 to U.S. Highway 301, thence south on U.S. Highway 301 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateway of the plant site of Certain-teed Products Corporation at Avery, Ohio.

No. MC 106603 (Sub-No. E63), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roofing and building materials*, from points in Indiana on, south and west of a line beginning at the Indiana-Illinois State line and extending east on Interstate Highway 70 to junction Indiana Highway 3, thence south on Indiana Highway 3 to the Indiana-Kentucky State line, to points in Delaware, Maryland, New Jersey, New York, Pennsylvania, Washington, D.C., West Virginia on, north and east of a line beginning at the West Virginia-Pennsylvania State line and extending south on U.S. Highway 19 to junction West Virginia Highway 7, thence southeasterly on West Virginia Highway 7 to junction West Virginia Highway 72, thence southerly on West Virginia Highway 72 to junction U.S. Highway 50, thence easterly on U.S. Highway 50 to the West

Virginia-Virginia State line, and Virginia on north and east of a line beginning at the Virginia-West Virginia State line and extending southeasterly on U.S. Highway 50 to junction U.S. Highway 17, thence southeasterly on U.S. Highway 17 to the Virginia-North Carolina State line. The purpose of this filing is to eliminate the gateway of the plant site of Certain-teed Products Corporation at Avery, Ohio.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc 77-29933 Filed 10-12-77; 8:45 am]

[7035-01]

[Notice No. 130TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 6, 1977.

Important notice: The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 720 (Sub-No. 35TA), filed September 23, 1977. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, Wis. 53968. Applicant's representative: Michael J. Wyngaard, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meat, meat products and meat by-products, and articles distributed by meat packing houses, as*

described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant site and warehouse facilities of Hillshire Farm Company, located at or near New London, Wis., to Edison, Elizabeth, Englewood, Kearny, Perth Amboy, Westville and Woodbridge, N.J., and Bedford Heights, Cincinnati, Cleveland, Columbus and Englewood, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hillshire Farm Company, P.O. Box 227, New London, Wis. 54961 (Cedric E. Martin) Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 720 (Sub-No. 37TA), filed September 26, 1977. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227, Waupun, Wis. 53968. Applicant's representative: Michael J. Wyngaard, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Foodstuffs and materials, equipment and supplies used or useful in the manufacture, sale or distribution of foodstuffs, from Moosic, Pa., to Fall River, Brockton, Fitchburg, Baldwinville and Watertown, Mass.; Grand Rapids and Livonia, Mich.; Peoria, Chicago, Elks Grove Village and Franklin Park, Ill.; Newark, Camden and East Orange, N.J.; Baltimore, Md.; Lake Placid, Binghamton and New York City, N.Y.; Brooklyn Heights, Cleveland, Toledo and Canton, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mass Feeding Corporation, 2241 Pratt Boulevard, Elk Grove Village, Ill. 60007. (John C. Collier) Send protest to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.*

No. MC 9812 (Sub-No. 7TA), filed August 26, 1977. Applicant: C. F. KOLB TRUCKING COMPANY, INC., R.R. 1, Box 294, Mt. Vernon, Ind. 47620. Applicant's representative: Edwin J. Simcox, 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Roofing, shingles, exterior siding, floor tiles, and materials and supplies used in the installation thereof, from the plant and warehouse sites of GAF Corporation, Mt. Vernon, and Evansville, Ind., to points in Illinois, Kentucky, Ohio, and Tenn., for 180 days. Supporting shipper(s): GAF Corporation, General Traffic Manager, Building Materials Group, 1361 Alps Road, Wayne, N.J. 07470. Send protests to: William S. Ennis, District Supervisor, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio*

Street, Room 429, Indianapolis, Ind. 46204.

No. MC 65697 (Sub-No. 53TA), filed September 8, 1977. Applicant: THEATRES SERVICE COMPANY, P.O. Box 1695, Atlanta, Ga. 30301. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 Peachtree Street NW., Atlanta, Ga. 30309. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Tape recorders, record players, sound recordings, disc or tape, sound recording blank tapes, radios, and parts and accessories for such articles, between Atlanta, Ga., Duluth, Ga., and Nashville, Tenn., and the Commercial Zones thereof, on the one hand, and, on the other, points in Alabama, Georgia and Tenn., as defined in applicant's presently authorized regular route operations in Sub-Nos. 1 through 10, including off-route points, for 180 days. Supporting shipper(s): There are approximately 24 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 Peachtree Street NW., Room 300, Atlanta, Ga. 30309.*

No. MC 107496 (Sub-No. 1110TA), filed September 26, 1977. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Ink and ink ingredients, in bulk, in tank vehicles, between Lynchburg, Va., and Des Moines, Iowa, for 180 days. Supporting shipper(s): Meredith Printing Division, Meredith Corporation, 5701 Southwest Park Avenue, Des Moines, Iowa. 50321. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.*

No. MC 109124 (Sub-No. 34TA), filed September 14, 1977. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, Ohio 43619. Applicant's representative: James M. Burch, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Slag, granulated, in bulk, in dump vehicles, from the plant-site of H. B. Reed & Company, Inc., located at or near Cresap, W. Va., to the plant site of CertainTeed Corporation, located at or near Avery, Ohio, for 180 days. Supporting shipper(s): CertainTeed Corporation, P.O. Box 860, Valley Forge, Pa. 19482. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit St., Toledo, Ohio 43604.*

No. MC 113336 (Sub-No. 88TA), filed September 21, 1977. Applicant: PETRO-

LEUM TRANSIT COMPANY, INC., P.O. Box 921, Highway 211, Lumberton, N.C. 28358. Applicant's representative: Russell E. Stone, Route 3, Montplier Drive, Franklin, Tenn. 37064. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Motor oil, except in bulk, from New Kensington, Pa., to points and places in Alabama, Florida, Kentucky, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tennessee, for 180 days. Supporting shipper: Quaker State Oil Refining Corp., 255 Elm Street, P.O. Box 989, Oil City, Pa. 16301. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, N.C. 27611.*

No. MC 113651 (Sub-No. 229TA), filed September 8, 1977. Applicant: INDIANA REFRIGERATOR LINES, INC., Box 552, Riggins Rd., Muncie, Ind. 47305. Applicant's representative: Daniel C. Sullivan, Singer & Sullivan, 10 South LaSalle St., Suite 1600, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in by manufacturers of foodstuffs, in mechanically refrigerated trailers (except commodities in bulk), from the plant site and storage facilities of or utilized by The Nestle Company, Inc., at or near Fulton, Oswego, and Syracuse, N.Y., to Franklin Park and Elk Grove Village, Ill., Dearborn, Mich.; Columbus and Springfield, Ohio; Hazelwood, Missouri, and Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Nestle Company, Inc., 100 Bloomingdale Rd., White Plains, N.Y. 10605.*

No. MC 113908 (Sub-No. 413TA), filed September 15, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale St., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors, in bulk, from ports of entry on the United States-Canada Boundary Line located in New York and Pennsylvania, to Colonial Heights, Va., and (2) alcohol, alcoholic liquors, neutral spirits, distilled spirits, wines, brandies, grape and citrus juice and concentrates thereof, in bulk, from points in Calif., to Colonial Heights, Va., and; (3) alcohol, alcoholic liquors, in bulk, from points in New York, New Jersey, Pennsylvania, Maryland, Virginia and Delaware, to Colonial Heights, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Distilling Co., Inc., South Front Street, Pekin, Ill. 61554. Send protests to: John V. Barry District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut St., Kansas City, Mo. 64106.*

No. MC 113908 (Sub-No. 417TA), filed September 9, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale St., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wines, in bulk, from: points in California, to: Canandaigua, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Canandaigua Wine Company, Inc., 116 Buffalo Street, Canandaigua, N.Y. 14424. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, (BOP, 600 Federal Building, 911 Walnut St., Kansas City, Mo. 64106.*

No. MC 115654 (Sub-No. 63TA), filed September 13, 1977. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 1193, No. 1 Candy Lane, Nashville, Tenn. 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Bldg., Pennsylvania and 13th Street, NW., Washington, D.C. 20004. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products in mechanically refrigerated equipment, (except in bulk), from Atlanta, Ga., and its commercial zone to Knoxville, Tenn., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Deran Confectionery-Borden, Inc., 4300 Pleasantdale Road, Doraville, Ga. 30340. Acme Bonded Warehouse, Inc. 1240 Chattahoochee Ave., NW., Atlanta, Ga. 30325. Send protests to: Joe J. Tate District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.*

No. MC 115841 (Sub-No. 552TA), filed September 23, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., P.O. Box 168, Knoxville, Tenn. 37919. Applicant's representative: Chester G. Groebel, 9041 Executive Park Drive, Knoxville, Tenn. 37919. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Section A of Appendix I of the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Rockville, Mo., to points in Alabama, Georgia, North Carolina, South Carolina, and Tenn., restricted to shipments originating at the named origin points and destined to the above named destination points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): George A. Hornmel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: Joe J. Tate District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite*

A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 116763 (Sub-No. 394TA), filed September 26, 1977. Applicant: CARL SUBLER TRUCKING, INC., North West St., Versailles, Ohio 45380. Applicant's representative: H. M. Richters (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Plastic articles, containers, and woodpulp articles, dishes, plates and trays, from the facilities of Huntsman Container Corporation at or near Troy and Dayton, Ohio, to points in Connecticut, Delaware, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Vermont, Virginia and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Donald G. Leach Corporation Traffic & Distribution Manager, Huntsman Container Corporation, a wholly owned subsidiary of Keyes Fibre Company, Waterville, Maine 04901. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main St., Cincinnati, Ohio 45202.*

No. MC 117686 (Sub-No. 184TA), filed September 19, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: Robert Wichser (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Artificial turf, neoprene foam padding, floor coverings, and materials and supplies used in the installation, manufacture, packaging, distribution and sale of artificial turf, neoprene foam padding, and floor coverings, when moving in mixed shipments therewith, from points in that part of Georgia on and north of a line beginning at the Alabama-Georgia State boundary line and extending along Interstate Highway 20 to Atlanta, Ga., and thence along Interstate Highway 20 to the Georgia-South Carolina State boundary line, Landrum and Greenville, S.C., and Louisa, Ky., to points in Iowa, Minnesota, Nebraska, North Dakota and South Dakota, for 180 days. Supporting shipper(s): Custom Craft Distributors, Barton J. Levich, Traffic Manager, 910 Stueben Street, Sioux City, Iowa. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, Nebr. 68102.*

No. MC 123048 (Sub-No. 371TA), filed September 26, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, P.O. Box A, Racine, Wis. 53401. Applicant's representative: Paul C. Gartzke, 121 W. Doty St., Madison, Wis. 53703. Carl S. Pope (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transport-

ing: Plywood, particleboard, hardboard, moulding, plastic articles and accessories, used in the installation thereof, from Chesapeake, Va., to Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, West Virginia and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Weyerhaeuser Company, 201 Dexter Street, West Chesapeake, Va. 23324, (Gordon T. Adams) Send protests to: Gail Daugherty Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 123872 (Sub-No. 75TA), filed September 26, 1977. Applicant: W. & L. MOTOR LINES, INC., P.O. Box 2607, State Road 1148, Hickory, N.C. 28601. Applicant's representative: Allen E. Bowman, State Road 1148, P.O. Box 2607, Hickory, N.C. 28601. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Confectionery and confectionery products, in vehicles equipped with mechanical refrigeration, (except commodities in bulk), from the plantsite and storage facilities of M & M/Mars, division of Mars, Inc., at or near Chicago, Ill., to points in the states of Georgia, North Carolina, South Carolina, Tennessee, and Virginia restricted to traffic originating at named origin and destined to named states, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): M & M/Mars, Division of Mars, Inc., High Street, Hackensack, N.J. 07840. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Mart Office Bldg., Room CC516, Charlotte, N.C. 28205.

No. MC 124802 (Sub-No. 16TA), filed September 23, 1977. Applicant: ACE MOTOR FREIGHT, INC., Box 127, Summerville, Pa. 15864. Applicant's representative: Pope and Pope, 10 Grant Street, Clarion, Pa. 16214. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: Common and face brick, tile, sewer pipe and flue liners and the return of empty pallets and crates, from West Franklin Township, Armstrong County, Pa., to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Rhode Island, and Vermont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Logan Clay Products Co., Worthington, Pa. 16262. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 124896 (Sub-No. 27TA), filed September 20, 1977. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Thorne & Ralston Streets, Wilson, N.C. 27893. Applicant's representa-

tive: B. H. Williamson, 1107 Brookside Drive, Wilson, N.C. 27893. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packinghouses, as described in Sections A & C of Appendix I to the report in "Descriptions in Motor Carrier Certificates," 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plant sites and storage facilities of Swifts plants located at or near Grand Island and Omaha, Nebr.; Des Moines, Sioux City, Glenwood, and Marshalltown, Iowa, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift Fresh Meats Co., a Division of Swift & Co., 115 W. Jackson Boulevard, Chicago, Ill. 60604. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 126736 (Sub-No. 101TA), filed September 23, 1977. Applicant: FLORIDA ROCK & TANK LINES, INC., 155 East 21st Street, P.O. Box 1559, Jacksonville, Fla. 32201. Applicant's representative: L. H. Blow, 155 East 21st Street, P.O. Box 1559, Jacksonville, Fla. 32201. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Petroleum lubricating and process oils, in bulk, in tank vehicles, including insulated tanks, from Jacksonville, Fla., to all points in Alabama, for 180 days. No duplicate authority sought. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sun Petroleum Products Co., a Division of Sun Oil Co. of Pennsylvania, 1608 Walnut Street, Philadelphia, Pa. 19103. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, Fla. 32202.

No. MC 143773TA, filed September 26, 1977. Applicant: TOL-CO., INC., P.O. Box 489, Oakboro, N.C. 28129. Applicant's representative: Kenneth Malcolm (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Refractory and insulation material, tools, equipment and supplies related to installation and repair of boilers and connecting boiler components and accessories, between points in North Carolina, South Carolina, Georgia, Florida, Virginia, West Virginia, Tennessee, Alabama, Mississippi, Louisiana, Pennsylvania, Maryland, Ohio, New York, New Jersey, Connecticut, Rhode Island, Massachusetts, New Hampshire, Missouri, Indiana, Maine, the District of Columbia, Vermont, and Delaware, under a continuing contract or contracts with Flame Refractories, Inc., for 180 days. Supporting shipper: Flame Refractories, Inc., P.O. Box 24, Oakboro, N.C. 28129. Send protests to:

District Supervisor Terrell Price, Interstate Commerce Commission, 800 Briar Creek Rd., Mart Office Bldg., Rm. CC516, Charlotte, N.C. 28205.

No. MC 143778TA, filed September 27, 1977. Applicant: GARY J. SCHMIES & DENNIS J. NEUBAUER, doing business as COPPER TRUCKING, P.O. Box 438, Waupaca, Wis. 54981. Applicant's representative: Millcraft Housing Corp., Tower Road, Waupaca, Wis. 54981. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Miscellaneous building materials used in building homes, from Waupaca, Wis., to Clear Lake, Iowa, for 180 days. Supporting shipper: Mill Craft Housing Corp., P.O. Box 327, Tower Road, Waupaca, Wis. 54981 (Lee Kabat). Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77 29930 Filed 10-12-77; 8:45 am]

[7035-01]

[Notice No. 131TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 7, 1977.

Important notice: The following are notices of filing of applications for temporary authority under Section 210(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field office named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in

the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 109595 (Sub-No. 19TA), filed September 23, 1977. Applicant: REX TRANSPORTATION CO., Suite 207 Cleausen Building, 1520 North Woodward Avenue, Bloomfield Hills, Mich. 48013. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Cement, in bulk, in tank vehicles, from Detroit, Mich., to the International Boundary Line between the United States and Canada located at points on the Detroit and St. Clair Rivers, for furtherance to Windsor, Lemington, and Sarnia, Ontario, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cement Division, National Gypsum Co., P.O. Box 887, Southfield, Mich. 48037. Ernest Lubeck, General Traffic Manager. Send protest to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building & U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, Mich. 48226.

No. MC 110525 (Sub-No. 1211TA), filed September 21, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 E. Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid chemicals, in bulk, in tank vehicles from Waterford, N.Y., to Pittsfield, Mass., for 180 days. Supporting shipper: General Electric Co., Silicone Products Dept., Waterford, N.Y. 12188. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 112822 (Sub-No. 428TA), filed September 23, 1977. Applicant: BRAY LINES, INC., 1401 N. Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Jute, from Los Angeles, Calif., to the facilities of Cherokee Mills, at or near Lewisville, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cherokee Carpet Mills, Inc., P.O. Box 487, Lewisville, Ark. 71845. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office & Court House Building, 215 Northwest 3rd, Oklahoma City, Okla. 73102.

No. MC 113434 (Sub-No. 84TA), filed September 23, 1977. Applicant: GRABELL TRUCK LINE, INC., 679 Lincoln Avenue, P.O. Box 511, Holland, Mich. 49423. Applicant's representative: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich. 48226. Author-

ity sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Canned evaporated milk, from Maysville, Ky., to Chicago, Ill., and its Commercial Zone, Fort Wayne, Ind., and Charleston and Clarksburg, W. Va., and points in West Virginia within 25 miles of Charleston and Clarksburg, for 180 days. Supporting shipper: Carnation Co., Los Angeles, Calif. 90036. Send protests to: District Supervisor, C. R. Flemming, Interstate Commerce Commission, Bureau of Operations, 225 Federal Building, Lansing, Mich. 48933.

No. MC 114457 (Sub-No. 330TA), filed September 22, 1977. Applicant: DART TRANSIT CO., 2102 University Avenue, St. Paul, Minn. 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Malt beverages (except in bulk), from Pabst, Ga. (Houston County), to points in Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pabst Brewing Co., 917 W. Juneau Avenue, Milwaukee, Wis. 53201. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building & U.S. Court House, 110 S. 4th St., Minneapolis, Minn. 55401.

No. MC 127468 (Sub-No. 10TA), filed September 28, 1977. Applicant: LTD, INC., 3250 S. Western Avenue, Chicago, Ill. 60608. Applicant's representative: E. H. Bryce (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Electrical appliances and equipment, and materials and supplies used in the manufacture, sale and distribution of electrical appliances and equipment, from Chicago, Ill., to Holly Springs, Miss. and return to Chicago and from Holly Springs, Miss., to Dumas, Ark.; Coshatta, La.; Forest, Miss.; Elkin, N.C.; Denmark, Manning, and Orangeburg County, S.C.; Dayton and McMinnville, Tenn. and return to Chicago, Ill., under a continuing contract, or contracts, with Sunbeam Corporation, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sunbeam Corp., Neil F. Cunningham, Traffic Manager, 5400 W. Roosevelt Road, Chicago, Ill. 60650. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 128220 (Sub-No. 19TA), filed September 22, 1977. Applicant: RALPH LATHAM, d.b.a. LATHAM TRUCKING CO., P.O. Box 508, Burnside, Ky. 52519. Applicant's representative: Robert M. Pearce, P.O. Box 1899, Bowling Green, Ky. 42101. Authority sought to operate as

a common carrier, by motor vehicle, over irregular routes, transporting: (1) Charcoal, charcoal briquettes, fireplace logs, wood chips, lighter fluid, spices, sauces, and vermiculite, (except commodities in bulk), from Cotter, Ark., to points in the United States, (except Alaska and Hawaii), and (2) materials, supplies and equipment used in connection with the commodities described in (1) above, (except commodities in bulk), from points in the United States, (except Alaska and Hawaii), to Cotter, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kingsford Co., a Division of Clorox Co., 940 Commonwealth Building, P.O. Box 1033, Louisville, Ky. 40201. Send protests to: Linda H. Sypher, District Supervisor, Interstate Commerce Commission, 216 Bakhaus Building, 1500 West Main Street, Lexington, Ky. 40505.

No. MC 129387 (Sub-No. 37TA), filed September 22, 1977. Applicant: PAYNE TRANSPORTATION, INC., P.O. Box 1271, Huron, S. Dak. 57350. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dairy products, from the facilities utilized by Beatrice Foods Co.-Butter Division, located in Chicago, Ill., to points in Delaware, New York, New Jersey, Pennsylvania, and Virginia, for 180 days. Supporting shipper: Beatrice Foods Co.-Butter Division, 1526 S. State St., Chicago, Ill. 60605. Tom Kubek, Assistant Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, S. Dak. 57501.

No. MC 133689 (Sub-No. 152TA), filed August 24, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs and articles distributed by meat packing plants, (except hides and commodities in bulk), from the plantsites of Geo. A. Hormel & Co., at Austin, Minn., Fort Dodge, Iowa, and Fremont, Nebr., to points in Georgia, North Carolina, South Carolina, and Tennessee, restricted to products originating at the named origins and destined to the named points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Support shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, Minn. 55912. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

No. MC 134224 (Sub-No. 10TA), filed September 26, 1977. Applicant: HAUSER TRUCKING CORP., Box 241, Cobleskill, N.Y. 12043. Applicant's representative: Neil D. Breslin, 1111 Twin Towers, 99

NOTICES

Washington Avenue, Albany N.Y. 12210. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes transporting: *Shale aggregate*, from Cohoes, N.Y., to the ports of entry on the New York-Canadian Border, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Norlite Co. Corp., 628 South Saratoga Street, Cohoes, N.Y. 12047. Send protests to: Robert A. Radler, District Supervisor, P.O. Box 1167, Albany, N.Y. 12201.

No. MC 135797 (Sub-No. 83TA), filed September 13, 1977. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, U.S. Highway 71, Lowell, Ark. 72745. Applicant's representative: Don Garrison, 324 North Second, Rogers, Ark. 72756. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: (1) *Paper bags, plastic bags and bags constructed of paper and plastic combined*, from the plantsite of Great Plains Bag Corp., at or near Jacksonville, Ark., to points in Colorado, Idaho, Illinois, Iowa, Michigan, Minnesota, Missouri, Montana, Nebraska, North Dakota, South Dakota, Texas, Wisconsin, and Wyo., and (2) *machinery, materials* (except in bulk, used in or in connection with the manufacture, distribution, printing, processing or use of paper bags, plastic bags and bags constructed of paper and plastic combined, from points in Iowa and Tex., to the plantsite of Great Plains Bag Corporation, at or near Jacksonville, Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Great Plains Bag Corp., P.O. Box 957, Jacksonville, Ark. 72076. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 138104 (Sub-No. 47TA), filed September 8, 1977. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove Street, Fort Worth, Tex. 76106. Applicant's representative: Bernard H. English, 6270 Fifth Road, Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, from Baton Rouge, La., to Decatur, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Decatur Glass Works, Div. Kiddie Cons. Durable Corp., 431 E. Walnut Street, Decatur, Tex. 76234. Send protests to: R. J. Kirspe, District Supervisor, Room 9A27 Federal Building, 819 Taylor Street, Fort Worth, Tex. 76102.

No. 138512 (Sub-No. 22TA), filed September 26, 1977. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., d.b.a. WISCONSIN PROVISIONS EXPRESS, 9525 South 60th Street, Franklin, Wis. 53132. Applicant's representative: Allan J. Morrison (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle,

over irregular routes, transporting: *Cheese, barrels, containers and racks* incidental to the haul, between Bongards and Winsted, Minn., and Logan, Utah, under a continuing contract, or contracts, with L.D. Schreiber Cheese Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): L. D. Schreiber Cheese Co., Inc., 425 Pine Street, P.O. Box 610, Green Bay, Wis. 54305. (Robert Buchberger) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 139485 (Sub-No. 3TA), filed September 22, 1977. Applicant: TRANS CONTINENTAL CARRIERS, 169 E. Liberty Avenue, Anaheim, Calif. 92803. Applicant's representative: David P. Christianson, Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, Calif. 90017. Trans Continental Carriers seeks authority as a *contract carrier* by motor vehicle over irregular routes in the transportation of: *Polyester body filler (car repair materials)*, from Stark County and Ton, Ohio, to Los Angeles County and Martinez, Calif., under a continuing contract with U.S. Chemical & Plastics Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: U.S. Chemical & Plastics Co., 1446 Tuscarawas West, Canton, Ohio 44706. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 14615 (Sub-No. 21TA) filed September 22, 1977. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, Wis. 54494. Applicant's representative: Dennis C. Brown, P.O. Box 1116, Wisconsin Rapids, Wis. 54494. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polystyrene products and materials and supplies* used in the manufacture and distribution of Polystyrene Products from Webster, S. Dak., to points in the states of Minnesota and Wis., and from Jamesburg, N.J., Leominster, Mass., Kobuta and Monaca, Pa., and Peru, Ill., to Belgrade, Montana and Webster, S. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Webster Industries, Webster, S. Dak. 57274. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 139 W. Wilson Street, Madison, Wis. 53703.

No. MC 141245 (Sub-No. 3TA), filed September 23, 1977. Applicant: BARRETT TRUCKING CO., INC., 16 Austin Dr., Burlington, Vt. 05401. Appli-

cant's representative: Brian L. Troiana, Rea, Cross & Auchincloss, 700 World Center Bldg., 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from the facilities of Onondaga Imports at or near Syracuse, N.Y., to White River, Vt., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Twin State Fruit Corp., White River Junction, Vt. 05001. Send protests to: David A. Demers, District Supervisor, Interstate Commerce Commission, P.O. Box 548, 87 State Street, Montpelier, Vt. 05602.

No. MC 142513 (Sub-No. 3TA), filed September 22, 1977. Applicant: BIRK TRANSFER, INC., 360 Wheatland Ave., Conemaugh, Pa. 15909. Applicant's representative: William J. Lavelle, Wick, Vuono & Lavelle, 2310 Grant Bldg., Pittsburgh, Pa. 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Silicon carbide briquettes*, from the plantsites and storage facilities of American Metallurgical Products Company, Inc., located in Springdale Township, Allegheny County, and Shenango Township, Lawrence County, Pa., to the facilities of G. H. & R. Division of Dayton Malleable Iron Company located in Dayton, Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Metallurgical Products Company, Inc., 9800 McKnight Rd., Pittsburgh, Pa. 15237. Send protests to: Richard C. Gobbell, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Ave., Pittsburgh, Pa. 15222.

No. MC 142600 (Sub-No. 4TA), filed September 23, 1977. Applicant: DIXIE WEST EXPRESS, INC., P.O. Drawer L, Petal, Miss. 39465. Applicant's representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Resins and compounds and products thereof*, and such other commodities as are manufactured and distributed by chemical manufacturers (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Hercules Incorporated at or near Baton Rouge, La., to points in Arizona, California, Colorado, Oregon and Wash., under a continuing contract, or contracts, with Hercules Incorporated, for 180 days. Supporting shipper(s): Hercules Incorporated, One Maritime Plaza, San Francisco, Calif. 94111. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Bldg., Jackson, Miss. 39201.

No. MC 143762 (Sub-No. 1TA), filed September 22, 1977. Applicant: STEVE ALLEN, d.b.a. Riggs & Allen Transpor-

tation, 528 Harbor Blvd., West Sacramento, Calif. 95691. Applicant's representative: Ann M. Pougiales, Loughran & Hegarty, 100 Bush St., 21st Floor, San Francisco, Calif. 94104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Humboldt, Mendocino, Plumas, Shasta, Siskiyou, Sonoma, Tehama, Trinity, Los Angeles, Orange, San Bernardino, and San Diego Counties, Calif., to points in Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Inland Lumber Company, 21900 Main Street, P.O. Box 190, Colton, Calif. 92324. Send protests to: A. J. Rodriguez, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 211 Main Street, Suite 500, San Francisco, Calif. 94105.

No. MC 143772TA, filed September 23, 1977. Applicant: H & W TRUCKING CO., INC., Box 38, Ona, W. Va. 25545. Applicant's representative: John M. Friedman, 2930 Putnam Ave., Hurricane, W. Va. 25526. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Mine machinery and used machinery*, between the plant site of Stamler Corporation, Millersburg, Ky., on the one hand, and, on the other, points in Utah, Colorado, Wyoming, New Mexico, Illinois, Ohio, West Virginia, Virginia, Tennessee, Florida, Alabama and Pa., under a continuing contract, or contracts, with Stamler Corporation, for 180 days. Supporting shipper(s): Billy Jo. Hawkins Customer Service, Stamler Corporation, 6th and Trigg Streets, Millersburg, Ky. 40348. Send protests to: H. R. White, District Supervisor, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, W. Va. 25301.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29929 Filed 10-12-77;8:45 am]

NOTICES

[7035-01]

**TRANSPORTATION OF "WASTE"
PRODUCTS FOR REUSE OR RECYCLING**
Special Certificate Letter Notice(s)

The following letter notices request participation in a Special Certificate of Public Convenience and Necessity for the transportation of "waste" products for reuse or recycling in furtherance of a recognized pollution control program under the Commission's regulations (49 CFR 1062) promulgated in "Waste" Products, ex parte No. MC 85, 124 MCC 583 (1976).

An original and one copy of protests (including protestant's complete argument and evidence) against applicant's participation may be filed with the Interstate Commerce Commission on or before November 2, 1977. A copy must also be served upon applicant or its representative. Protests against the applicant's participation will not operate to stay commencement of the proposed operation.

If the applicant is not otherwise informed by the Commission, operations may commence on or before November 14, 1977, subject to its tariff publication effective date.

P-21-77 (Special certificate-waste products), filed July 25, 1977. Applicant: WARSAW CO., INC., 1102 West Winona, Warsaw, Ind. 46580. Applicant's representative: Sterling W. Hygema (same address as applicant). Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste products*, including waste paper, newspapers and magazines, polystyrene, secondary fibers, scrap metal and scrap iron, used drums, discarded and obsolete boxes, beer cases, used cartons, ground wood shavings, scrap wood, scrap cloth and rags, glass, glass cullett, scrap roofing felt, pressed box waste, shredded waste, construction materials, scrap containers, plastic products and by-products for reuse or recycling between points in Wisconsin, Iowa, Kansas, Missouri, Arkansas, Tennessee, Kentucky, Indiana, Illinois, Michigan, Ohio, Virginia, West Virginia, Pennsylvania, New Jersey, New York, Maryland, North Carolina, South

Carolina, Alabama, Delaware, Georgia, Mississippi, and the District of Columbia, in furtherance of a recognized pollution control program sponsored by (1) Alton Fox Board Company of Alton, Ill., for the purpose of transporting and recycling waste paper; and (2) Middletown Paperboard Co., of Middletown, Ohio for the purpose of transporting and recycling waste products.

No. P-22-77 (Special certificate-waste products), filed September 21, 1977. Applicant: DART TRUCKING COMPANY, INC., 61 Railroad St., Canfield, Ohio 44406. Applicant's representative: Paul F. Beery, 275 East State St., Columbus, Ohio 43215. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *waste products* for recycling and reuse between points in Ohio, Pennsylvania, and West Virginia, in furtherance of a recognized pollution control program sponsored by the General Electric Company, of Cleveland, Ohio for the purpose of recycling various types of litter.

P-23-77 (Special certificate-waste products), filed September 6, 1977. Applicant: BUILDER'S TRANSPORT, INC., 409-15th Street, SW., Great Falls, Mont. Applicant's representative: Irene Warr, 430 Judge Bldg., Salt Lake City, Utah 84111. Authority sought to operate pursuant to a certificate of public convenience and necessity authorizing operations in interstate or foreign commerce as a *common carrier*, over irregular routes, transporting: *Waste products* for recycling or reuse, from points in North Dakota, Wyoming, Utah, Idaho, Washington, and Oregon, to the plant site and facilities of Robinson Insulation, Inc., located at or near Great Falls, Mont., in furtherance of a recognized pollution control program sponsored by Robinson Insulation, Inc., of Great Falls, Mont., for the purpose of collecting and processing used newspapers in bundles or bales.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29932 Filed 10-12-77;8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-499), 5 U.S.C. 552b(e)(3).

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[6320-01]

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CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., October 11, 1977.

PLACE: Room 1027, 1825 Connecticut Ave. NW., Washington, D.C. 20428.

SUBJECT:

1. Dockets 31393, 31396, 31404, 31408, 31409 "Super Jackpot" Fares to Las Vegas Proposed by Trans World Airlines (BFR).

2. Docket 31085, Allegheny's exemption request to provide one daily Montreal-Newark flight via Albany (Memo No. 4723-B, BOR, BIA, OGC).

3. Dockets 29687 and 29758, Requests of Pan American and TWA to renew their Bahrain exemption authority (Memo No. 6479-B, BOR, BIA).

4. Docket 31192, Naples Airlines' Application to Add Punta Gorda, Florida to the List of Points at Which It May Use Large Aircraft (Memo No. 1268-D, BOR).

5. Docket 28599, Professional Patient Transportation, Inc., Motion for Leave to Withhold Certain Reporting Information (Memo No. 6129-A, BOR, BAS).

6. Docket 30257, Czechoslovak Airlines Application for Renewal of its Foreign Air Carrier Permit (Memo No. 5146-D, BIA, BOR, OGC).

7. Docket 30526, Jugoslovenski Aerotransport, Application for Renewal of Foreign Air Carrier Permit (Memo No. 4632-H, BIA, BOR).

8. Docket 13959, The Dallas-Fort Worth Regional Airport Investigation, Petition for Reconsideration (Memo No. 4038-B, OGC).

9. Docket 29632, Frontier Airlines, Inc. Subpart M Application (Albuquerque-Phoenix), Notice of Target Date (Memo No. 7468, OGC).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, (202-673-5068).

[S-1554-77 Filed 10-11-77;9:16 am]

[6351-01]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., October 17, 1977.

PLACE: 8th Floor, Conference Room, 2033 K Street, NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Judicial matters.

CONTACT PERSON FOR MORE INFORMATION:

Jean Webb, (254-6314).

[S-1555-77 Filed 10-11-77;9:43 am]

[6355-01]

3

CONSUMER PRODUCT SAFETY COMMISSION.

DATE AND TIME: October 13, 9:30 a.m.

LOCATION: 3rd Floor Hearing Room, 1111 18th St., NW., Washington, D.C.

STATUS: Part is Open; part is Closed.

MATTERS TO BE CONSIDERED:

A. Open to the Public, 9:30 a.m.:

1. *Fyrol FR-2: Public Meeting.* The Commission has invited interested members of the public to participate in this public meeting to discuss issues related to, and possible Commission action with regard to the fire-retardant chemical Fyrol FR-2.

2:00 p.m.:

2. *Petition on Fluorocarbon Refrigerants, CP 77-6.* In this petition, James C. Levangle has asked the Commission to issue a rule concerning the use of certain refrigerants used in commercial and residential refrigerating and air-conditioning units. Consideration of this petition, originally scheduled for the October 6 meeting, was deferred at the petitioner's

request, so that he could submit additional date.

3. *Possible Substantial Product Hazard: Carrier Corp. air-conditioners, ID 77-23.* At a previous meeting, the Commission deferred action on Carrier Corporation's proposed corrective action plan to deal with possible fire hazards in certain air-conditioners. The staff has provided additional information on the firm's notification plan to locate the units, and recommends that the Commission accept the corrective action plan.

4. *Draft Proposed Certification Regulation for Architectural Glazing Materials.* This draft FEDERAL REGISTER document would propose regulations under section 14(b) of the Consumer Product Safety Act establishing reasonable testing procedures which would serve as the basis for certifying that glazing complies with requirements of the Standard for Architectural Glazing Materials. Consideration of this item was originally scheduled for the October 6 Meeting.

5. *Proposed Ban of Asbestos Products: Identification Problem.* The staff has presented to the Commission an option paper on possible product identification problems which might arise from the Commission's proposed ban of certain asbestos-containing patching compounds and artificial fireplace ash.

6. *Amendment to the Meetings Policy.* At the October 6 Meeting, the Commission directed the staff to draft an amendment to the CPSC Meetings Policy which would facilitate staff attendance at certain interagency meetings attended solely by government officers and employees.

B. Closed to the public:

7. *Tris Enforcement Matters.* The Commission and its legal staff will discuss various issues related to CPSC action on the flame-retardant chemical Tris.

8. *Application of CPSC Section 4(g) (2).* The Commission will rule on a request from a Commission employee not to impose the post-employment restrictions contained in section 4(g) (2) of the Consumer Product Safety Act. The Commission considered this request at the October 6 Meeting.

CONTACT PERSON FOR ADDITIONAL INFORMATION:

Sheldon D. Butts, Assistant Secretary, Consumer Product Safety Commission, Suite 300, 1111 18th St., NW., Washington, D.C. 20207, telephone 202-534-7700.

[S-1552-77 Filed 10-11-77;9:16 a.m.]

SUNSHINE ACT MEETINGS

55173

[6570-06]

4

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: S-1520-77.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING:

9:30 a.m. (Eastern Time), Tuesday, October 11, 1977.

CHANGES IN THE MEETING:

The following item is added to the agenda for the open portion of the meeting:

REVISION OF PROCEDURAL REGULATIONS TO REFLECT HEADQUARTERS REORGANIZATION

A majority of the entire membership of the Commission determined by recorded vote that the business of the Commission required this change and that no earlier announcement was possible.

The vote was as follows: In favor of change:

Eleanor Holmes Norton, Chair
Ethel Bent Walsh, Commissioner
Daniel E. Leach, Commissioner
Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marle D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

This Notice issued October 6, 1977.

[S-1547-77 Filed 10-7-77;2:22 pm]

[6712-01]

5

FEDERAL COMMUNICATIONS COMMISSION.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., Thursday, October 13, 1977.

PLACE: Room 856, 1919 M Street, N.W., Washington, D.C.

STATUS: Open Commission Meeting.

CHANGES IN THE MEETING: The following agenda item should be deleted.

Agenda, Item No., and Subject
General-2—Position Reallocation for Fiscal Year 1978.

CONTACT PERSON FOR MORE INFORMATION:

Samuel M. Sharkey, FCC Public Information Officer, Telephone Number 202-632-7260.

Issued: October 7, 1977.

[S-1550-77 Filed 10-7-77;3:21 pm]

[6730-01]

6

FEDERAL MARITIME COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: October 5, 1977, 42 F.R. 54349-54357.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: October 11, 1977—10 a.m.

CHANGES IN THE MEETING: Addition of the following item to the closed session:

2. Docket No. 77-22—Actions to Adjust or Meet Conditions Unfavorable to Shipping in the Foreign Trade of the United States (Guatemalan Decree No. 41-71); Consideration of Comments on Proposed Rule

[S-1548-77 Filed 10-7-77;2:53 pm]

[6740-02]

7

FEDERAL REGULATORY COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (to be pub. 10/11/77).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 11, 1977, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company
P-4.—Project No. 2266, Nevada Irrigation District.
G-10.—CP77-374, United Gas Pipe Line Co.
G-11.—CI77-724, C & K Petroleum Inc., et al.
G-12.—CP75-362, El Paso Natural Gas Co.

KENNETH F. PLUMB,
Secretary.

[S-1549-77 Filed 10-7-77; 2:53 pm]

[7035-01]

8

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2:30 p.m., Monday, October 17, 1977.

PLACE: Room 5124, Interstate Commerce Building, 12th Street and Constitution Avenue, N.W., Washington, D.C.

STATUS: Notice of Open Meeting.

MATTER TO BE CONSIDERED: Division 3, Division Chairman Brown and Commissioners MacFarland and Christian voted unanimously to hold a meeting to consider the following agenda: 1. Review of present Division workload.
CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown.
Telephone: 202-275-7535.

[S-1553-77 Filed 10-11-77;9:16 am]

[4910-58]

9

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, October 20, 1977. [NM-77-34].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Railroad Accident Report.*—Derailment of Amtrack Train No. 315 on Louisville and Nashville Railroad, near New Castle, Alabama, January 16, 1977.

2. *Proposed Special Study.*—Alcohol—Alternatives I and II, Proposals for Phases I and III.

3. *Recommendation to Department of Transportation concerning Rockingham, North Carolina, railroad accident, March 31, 1977.*

4. *Discussion.*—Closeout of Safety Recommendations Nos. H-75-9, H-75-13, H-75-39, H-76-5, and H-76-8.

CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-755-4930.

[S-1551-77 Filed 10-7-77;3:21 pm]

[7590-01]

10

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: 4:00 p.m. Tuesday, October 11, 1977.

PLACE: Commissioners' Conference Room, 1717 H St., NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Discussion of Proposed Commission Testimony in Congressional Hearing on North Anna (to be given 10/13/77).

Note.—Time of meeting is approximate. Scheduling of this meeting is tentative and dependent on a Commission vote to hold on short notice (10 CFR 9.107).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, (202-634-1410).

Dated: October 7, 1977.

WALTER MAGEE,
Office of the Secretary.

[S-1556-77 Filed 10-11-77;9:54 am]

Registered
Federal

THURSDAY, OCTOBER 13, 1977

PART II



DEPARTMENT OF
TRANSPORTATION

Federal Aviation
Administration

■

CIVIL SUPERSONIC
AIRPLANES

Proposed Noise and Sonic Boom
Requirements

V42-198

OCT

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UMI

[4910-13]

DEPARTMENT OF
TRANSPORTATION

Federal Aviation Administration

[14 CFR Parts 21, 36, and 91]

[Docket No. 15376; Notice No. 77-23]

CIVIL SUPERSONIC AIRPLANES

Proposed Noise and Sonic Boom
Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (NPRM), and re-opening of comment periods.

SUMMARY: This NPRM supplements FAA's review of proposals for regulating the noise of civil supersonic airplanes (SSTs) submitted to the FAA by the U.S. Environmental Protection Agency (EPA) and previously published by the FAA pursuant to the Noise Control Act of 1972. These additional proposals would (1) require all SSTs except Concorde with flight time before January 1, 1980, to comply with the Stage 2 noise limits of Part 36 in order to operate in the United States; (2) prohibit modifications of current SST types that increase their noise; (3) place operational restrictions on SSTs that do not comply with the Stage 2 noise limits of Part 36; and (4) add procedures adapting the flight test conditions and noise limits of Part 36 to SSTs. A proposal to improve protection of the United States from sonic boom is also included. These proposals respond to the public need for the control of sonic boom and of the noise of SSTs.

DATES: Comments must be received on or before December 31, 1977. Public hearings will be held on dates to be announced later.

ADDRESS: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-24), Docket No. 15376, 800 Independence Avenue, SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Tedrick, Program Management Branch (AEQ-220), Environmental Technical and Regulatory Division, Office of Environmental Quality, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, D.C. 20591, telephone 202-755-9027.

SUPPLEMENTARY INFORMATION:

PUBLIC HEARINGS

Public hearings will be held on this rulemaking action. The details of the hearings will be outlined in a notice of public hearings to be published in the FEDERAL REGISTER. A draft environmental impact statement concerning the actions proposed in this NPRM will be available before the hearings.

PROPOSED RULES

COMMENTS INVITED

Interested persons are invited to participate in the making of the proposed rule by submitting written data, views, or arguments. Communications should identify the regulatory docket and notice number and be submitted in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket, AGC-24, 800 Independence Avenue, SW., Washington, D.C. 20591. Comments on the probable environmental, economic, and technological impacts of the proposals are specifically invited.

All communications received on or before the closing date of December 31, 1977, for comments will be considered by the Administrator before any action is taken on the proposed rules. The proposals contained in this notice may be changed in light of the comments received. All comments received, including comments received at the public hearing, will be available in the Rules Docket for examination by interested persons. A report summarizing each substantive public contact with DOT personnel concerned with this rule making will be filed in that Docket.

RE-OPENING OF COMMENT PERIODS

To ensure coordinated review of comments in response to this notice in concert with review of comments concerning STT noise proposals previously submitted to FAA by EPA, the comment periods for Notice 75-15, published in the FEDERAL REGISTER (40 FR 14093) on March 28, 1975, and Notice 76-1, published in the FEDERAL REGISTER (41 FR 6270) on February 12, 1976, are hereby re-opened for additional public comment through the closing date for comments concerning this NPRM. Any additional comments should be sent to Docket No. 15376. Information copies of all public comments may be sent to: Environmental Protection Agency, Office of Noise Control Programs, AW-571, 401 M Street, SW., Washington, D.C. 20460.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rule making (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling (202) 426-8058. Communications should identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

DISCUSSION OF PROPOSED RULES

I. SYNOPSIS

This NPRM contains proposed FAA actions that are being considered in addition to several options proposed to the FAA by the EPA for the purpose of regulating the noise of SSTs. The rules proposed in this NPRM would, if adopted, have the following effects:

1. The noise levels of the Concorde, which is the only SST for which application has been made for U.S. type certificate, would be limited to the minimum noise level that is technologically practicable and economically reasonable for that airplane type. Because there is no known technology which would reduce Concorde noise levels, the noise limit would, at this time, be the current noise levels of that airplane rather than the noise limits of Part 36 in effect on January 1, 1977 ("Stage 2 noise limits"). Any Concorde that had flight time before January 1, 1980, would be "grandfathered" for operation in the United States.

2. Except for the 16 Concorde expected to have flight time before January 1, 1970, all SSTs would have to comply with the Stage 2 noise limits of Part 36 in order to operate in the United States.

3. The noise test requirements and related flight test procedures of Part 36 (14 CFR Part 36) would be extended to SSTs.

4. The "acoustical change" concept of Part 36, which prohibits any design changes that increase the noise of subsonic airplanes that do not meet Stage 2, would be extended to the Concorde.

5. For SSTs that do not comply with the Stage 2 noise limits of Part 36, the scheduling of operations at U.S. airports between 10 p.m. to 7 a.m. local time would be prohibited.

6. The proposed rules would not in any way change the existing legal authority of each airport proprietor to regulate the noise at its airport in a manner which is not unjustly discriminatory and not unduly burdensome on commerce. For this reason, the proposed rules would not affect the question presently being litigated concerning whether the action of the Port Authority of New York and New Jersey in relation to the Concorde is unjustly discriminatory.

7. The operating restriction relating to sonic booms would be modified to assure that airplanes operating to or from U.S. airports do not, while operating outside U.S. airspace, produce sonic booms that reach land and waters in the United States.

II. PRIOR HISTORY

This supplemental notice relates to three prior notices of proposed rule making and to the demonstration of the Concorde at Dulles International Airport.

A. Notice No. 70-33. On August 4, 1970, the FAA issued Advance Notice of Proposed Rule Making No. 70-33, published in the FEDERAL REGISTER (35 FR 12555) on August 6, 1970. That notice initiated the public process of determining the nature and scope of the factors that must be considered in the development of noise ceilings for the SSTs. In that notice, the FAA requested public comment concerning several issues, including the extent to which noise standards and measurement procedures applicable to subsonic airplanes could be applied to SSTs; the extent to which SSTs should be divided into subclasses for the purpose of establishing noise ceilings and measurement concepts; the extent to which SSTs should be divided into subclasses for the purpose of assessing the economic impact and technological feasibility of proposed noise regulations; the extent to which the timing of type certification standards would itself affect the ability of the FAA to consider economic and technological factors; the manner in which the regulatory authority under section 611 of the Act may be optimally utilized with respect to SSTs without interfering with the existing legal authority of local airport proprietors to establish for their airports airplane noise requirements which are not unjustly discriminatory or unduly burdensome on commerce; the manner of insuring that noise limits established for type certification purposes will have maximum utility for the purposes of long-range airport development; and the development of economic incentives for reducing the noise levels of SSTs.

Notice No. 70-33 also stated FAA's intent to ensure that SSTs, like subsonic airplanes, are subject to type certification standards that require the application of all currently available noise reduction technology.

B. Notice No. 75-15. On February 27, 1975, EPA transmitted to FAA proposed regulations for the control and abatement of SST noise. These proposals were developed and submitted pursuant to section 611(c)(1) of the Act, as amended, which provides that EPA shall submit to the FAA proposed regulations to provide such control and abatement of aircraft noise and sonic boom as EPA determines is necessary to protect the public health and welfare, and that the FAA "shall consider such proposed regulations submitted by EPA and shall, within thirty days of its submission to the FAA, publish the proposed regulations in a notice of proposed rulemaking."

In accordance with this requirement, the FAA issued Notice No. 75-15 on March 25, 1975 (published in the FEDERAL REGISTER (40 FR 14093) on March 28, 1975), containing these EPA proposals. The FAA conducted public hearings on these EPA proposals in accordance with section 611(c)(1) in Los Angeles on May 16, 1975, and in Washington, D.C. on May 22, 1975.

The principal feature of the 1975 EPA proposal was the requirement that future design SSTs meet whatever noise level standards may be applicable to new type subsonic airplanes at the time an application for a type certificate is made.

As to existing types of supersonic airplanes (the Concorde and Russian TU-144), the EPA recommended two rules. First, airplanes upon which "substantive productive effort" had not commenced before the date of the EPA Notice would be obliged to meet the Stage 2 requirements of Part 36. The class of current SSTs already under production (at least nine, possibly sixteen, Concorde and an unknown number of TU-144s) was to be treated separately. The EPA did not, however, propose specific regulations for

that class. Instead, the Notice proposed eight alternative regulatory strategies for existing SSTs.

These options are: (1) Ban all Concorde and TU-144 operations in the United States; (2) impose Part 36 standards on existing Concorde and TU-144s exactly as they are imposed upon subsonic airplanes; (3) allow existing Concorde and TU-144s to operate at designated airports but impose certain restrictions on those operations; (4) allow market forces to determine which airports have service by Concorde and TU-144s and, as in option "3", impose restrictions on operations at those airports; (5) at SST airports (as determined in options "3" or "4"), impose certain operating restrictions on all operators, not only on Concorde and TU-144 operators; (6) impose increasingly stringent source noise requirements on existing SSTs, beginning with currently projected noise levels, or best efforts, on the first 20 airplanes, and proceeding in steps to Part 36 Stage 2 noise limits after the first 60 airplanes; (7) no regulations on existing Concorde and TU-144s; and (8) delay the adoption of regulations for those SSTs until an airport noise regulation has been adopted.

C. Notice No. 76-1. On January 19, 1976, EPA submitted additional proposed regulatory language to FAA, which was published by the FAA as Notice No. 76-1 (41 FR 6070), on February 12, 1976. A public hearing was held by FAA on this proposal on April 5, 1976, in Washington, D.C. EPA indicated that this proposal represented "a further development of the EPA's position on proposed noise requirements for civil supersonic airplanes" and was "intended to supplement" Notice No. 75-15. The additional EPA proposal would prohibit any SST which does not have flight time before December 31, 1974, from operating to or from an airport in the United States unless it complies with the Part 36 noise.

D. Concorde Demonstration Flights. On application of British Airways and Air France to operate the Concorde into the United States, former Secretary of Transportation, William T. Coleman, Jr. issued a decision on February 4, 1976, establishing two 12-month demonstration periods for the Concorde, one at Dulles International Airport and one at John F. Kennedy International Airport, each followed by a 4-month evaluation period.

This decision was made following analysis of comments and testimony presented at a public hearing in Washington, D.C., on January 5, 1976. Public hearings were also held by the FAA in Washington, D.C., on April 14 and 15, 1975, in New York City on April 18, 19, and 24, 1975, and in Sterling Park, Virginia, on April 21, 1975, concerning the draft environmental impact statement prepared prior to the decision.

The decision, which was reaffirmed in 1977 by Secretary of Transportation Brock Adams, is set forth below so that its relation to the current rulemaking can be fully appreciated.

PROPOSED RULES

THE DECISION

After careful deliberation, I have decided for the reasons set forth below to permit British Airways and Air France to conduct limited scheduled commercial flights into the United States for a trial period not to exceed 16 months under limitations and restrictions set forth below. I am thus directing the Federal Aviation Administrator, subject to any additional requirements he would impose for safety reasons or other concerns within his jurisdiction, to order provisional amendment of the operations specifications of British Airways and Air France to permit those carriers, for a period of no longer than 16 months from the commencement of commercial service, to conduct up to two Concorde flights per day into JFK by each carrier, and one Concorde flight per day into Dulles by each carrier. These amendments may be revoked at any time upon four months' notice, or immediately in the event of an emergency deemed harmful to the health, welfare or safety of the American people. The following additional terms and conditions shall also apply:

1. No flight may be scheduled for landing or take-off in the United States before 7 a.m. local time or after 10 p.m. local time.

2. Except where weather or other temporary emergency conditions dictate otherwise, the flights of British Airways must originate from Heathrow Airport and those of Air France must originate from Charles de Gaulle Airport.

3. Authorization of any commercial flights in addition to those specifically permitted by this action shall constitute a new major federal action within the terms of NEPA and therefore require a new Environmental Impact Statement. (A footnote indicates that "it is not contemplated that another EIS would be required to permit continuation beyond 16 months of the six flights for which provisional permission is now being granted.")

4. In accordance with FAA regulations (14 CFR 91.55), the Concorde may not fly at supersonic speed over the United States or any of its territories.

5. The FAA is authorized to impose such additional noise abatement procedures as are safe, technologically feasible, economically justified, and necessary to minimize the noise impact, including, but not limited to, the thrust cut-back on departure.

I am also directing the FAA, subject to Office of Management and Budget clearance and Congressional authorization, to proceed with a proposed High Altitude Pollution Program (HAPP), to produce the data base necessary for the development of national and international regulation of aircraft operations in the stratosphere.

I herewith order the FAA to set up monitoring systems at JFK and Dulles to measure noise and emission levels and to report the result thereof to the Secretary of Transportation on a monthly basis. These reports will be made public within 10 days of receipt.

I shall also request the President to instruct the Secretary of State to enter into immediate negotiations with France and Great Britain so that an agreement that will establish a monitoring system for measuring ozone levels in the stratosphere can be concluded among the three countries within three months. The data obtained from such monitoring shall be made public at least every six months. I shall also request the Secretary of State to initiate discussions through ICAO and the World Meteorological Organization on the development of international stratospheric standards for the SST.

The Concorde monitoring reports and the summary report have been docketed and otherwise made available to the pub-

lic. This comprehensive monitoring effort included the measurement of noise and emissions at Dulles and in the surrounding communities, sonic booms along the east coast of the United States near the planned Concorde flight tracks, low-frequency noise-induced structural vibration of buildings near Dulles, and local community response to the Concorde.

III. CONTINUED OPERATIONS AT DULLES AND JFK

A. *Dulles*. By the terms of the FAA operations specification issued to British Airways and Air France in April 1976, the sixteen month demonstration period at Dulles Airport ended September 24. After Secretary Adams announced this proposed rule on September 23, the two carriers were issued amendments to their operations specifications to permit the same number of Concorde operations (one flight per day per carrier) to continue pending promulgation of a final noise rule.

Monthly reports were issued through the first twelve months of flights; the remaining four months were used to assemble the data into a final report. The monitoring confirmed the FAA's predictions: The Concorde in takeoff is about twice as loud as the noisiest subsonic airplanes (B-707s and DC-8s), and on approach about as loud as the noisiest subsonics. Concorde noise levels measured at standard Part 36 takeoff and approach noise measuring points are in excess of the Stage 2 standards applicable to newly manufactured subsonic jets. During the demonstration, the Concorde operators showed that the Concorde is capable of precision operations maneuvers, such as the decelerating approach, that help reduce its noise impact. In 12 months, the Concorde generated 1387 telephone complaints from airport neighbors, an average of 2.25 per flight, about twenty percent of which came from eight families, and about eight percent of which came from one family. Nearly all of the complaints reflected actual flights, and they were most numerous when atmospheric conditions or unusual flight patterns did indeed cause greater noise impacts than normal.

Structural vibration was also monitored by the National Aeronautics and Space Administration. Vibration levels of windows, walls and floors were measured for both subsonic and Concorde operations. Vibration induced by Concorde was higher than for subsonic airplanes, while well below criteria levels for building damage and less than levels caused by common household events such as door and window closings.

Air pollution monitoring demonstrated that Concorde emissions were greater than those of subsonic airplanes, but were less than anticipated and were not cause for concern. Concorde emissions at Dulles dissipate to background levels less than two thousand feet from the airplane, long before reaching populated locations.

On August 25, 1977, British Airways and Air France applied to the FAA to

continue their present levels of operations at Dulles. Because the relatively limited impacts of the Concorde operations at Dulles have been no greater than had originally been anticipated, the question of continuing operations there can be addressed in the context of this rule making. Under these circumstances, the Administrative Procedures Act at 5 U.S.C. 558 provides a basic policy on the renewal of licenses:

• • • When [a] licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.

In accordance with customary licensing practice and in the absence of environmental consequences severe enough to warrant a contrary result, we have therefore permitted the two carriers operating Concorde each to continue up to one flight per day at Dulles, at least until the promulgation of a final rule pursuant to this rulemaking.

The complete Concorde Monitoring Summary Report is available from the FAA Office of Environmental Quality (AEQ-220), Federal Aviation Administration, 800 Independence Ave. SW., Washington, D.C. 20591, telephone (202) 426-3396. It will be incorporated in the docket for this rule making. Specific comments with respect to the Dulles demonstration flights are invited.

B. *Kennedy*. DOT continues to support a demonstration at JFK. However, neither the 1976 authorization of demonstration flights nor the rules proposed in this NPRM would in any way affect the long established rights of airport proprietors to limit airplane noise at their airports in a manner which is not unjustly discriminatory and not unduly burdensome on commerce. This was recognized by the United States Court of Appeals for the Second Circuit in its two recent decisions in *British Airways Board v. Port Authority*, litigation to compel the Port Authority to permit commercial service with the Concorde at Kennedy International Airport.

The original authorization to conduct a 16-month demonstration of up to two flights per day at JFK by both Air France and British Airways provided that the demonstration period at that airport begins when flights of either carrier begin at New York. If the Concorde does in fact begin serving there, the FAA will monitor Concorde noise levels in New York as it has at Dulles. Any information developed there will be relevant and useful in resolving this rulemaking. The 16-month New York authorization has accordingly been left in effect, until the final promulgation of a rule. This NPRM and related decisions should, therefore, not be an issue in any further New York litigation.

IV. CONSIDERATIONS UNDERLYING THE PROPOSED RULE

A. *General*. This NPRM is issued following FAA review of the noise impact data in the draft environmental impact statement prepared in relation to this

notice, and review of the year of monitoring Concorde arrivals and departures at Dulles. As discussed above, the Dulles demonstration confirmed that the noise impact of the Concorde is in excess of the noise impact of subsonic jets, as expected.

Because of the greater impact of Concorde noise levels, the FAA believes that its noise must be limited and controlled. As noted in the 1976 decision that provided federal authorization for the Concorde demonstrations at Dulles and JFK, noise regulatory proposals concerning SSTs must be subjected to a carefully considered weighing of domestic and international interests. The factors which must be considered here include:

1. The potential environmental impacts of the Concorde, including its air quality, climatic, ozone layer, noise and vibration and energy consumption impacts.
2. The need to maintain, to the maximum extent possible, the trend of reduced noise exposure around the nation's airports.

3. The economic and technical considerations that determine whether the proposed regulatory measures would produce discriminatory or other unfair burdens on international aviation.

4. The need to assure that U.S. regulatory measures affecting foreign airplanes are equitable in light of the treatment that has been afforded by foreign governments to airplanes manufactured in the United States.

5. The benefits that will result from SSTs with respect to improved international travel and communication, technological advances in aviation, and improved international relations.

6. The need to assure that domestic and foreign airplanes are treated equally by the United States, and the need to assure that the same type of treatment that has been afforded by the United States to subsonic airplanes is afforded to SSTs.

7. The need to develop regulatory measures that do not infringe upon the existing legal authority of airport proprietors to regulate noise at their airports in a non-discriminatory manner.

If, in taking all of these factors into account, it is decided to permit SSTs to operate in the United States, two additional considerations are relevant. The first consideration is that to the extent the noise impact can be reduced by operating restrictions, they should be imposed to do so. Second, the noise impact of current generation Concorde should not be increased by modification of the airplane.

Considering these factors, FAA is proposing a regulatory approach that will minimize the environmental impact of supersonic air transportation, preserve its significant benefits, and avoid unreasonable economic impact. Comments focusing on the relationships between noise regulatory decisions, international aviation relations and obligations, and other economic and technological aspects of the certification and operation of SSTs will be most helpful in the development of the final FAA response to the EPA proposals in Notice Nos. 75-15 and 76-1,

and in determining the optimal regulatory solution to the problems presented in this NPRM.

B. *New Design SSTs*. With respect to future design SSTs, the FAA has concluded that it does not have adequate technical information to use as a basis for establishing a new type certification standard at this time. No new design SSTs are now on the drawing boards, and research necessary to develop an environmentally acceptable supersonic engine is to our knowledge proceeding very slowly. It is, therefore, highly unlikely that the technology of new SST engines will be known for several years. The FAA will monitor this research closely, and will develop appropriate standards as soon as there is sufficient technological information. No SST other than the Concorde will be type-certificated until a new noise rule is developed. In addition, the United States will press in the Committee on Aircraft Noise at the International Civil Aviation Organization for the development of an international noise standard for future design SSTs.

The FAA's goal is not to certificate or permit to operate in the United States any future design SST that does not meet standards then applicable to subsonic airplanes. If it is technologically infeasible to produce such an airplane and there is an application for a type certificate, the FAA will consider setting a standard less stringent than existing subsonic rules (Stage 3 or better). Accordingly, in order to protect the public health and welfare, it is the FAA's intention not to permit operations in the United States of any future design SST unless the airplane utilizes the latest noise reduction technology which, at a minimum, will enable these airplanes to meet Stage 2 noise levels. Further, it is the FAA's intention to develop, consistent with § 611, noise certification standards for future design SSTs that incorporate the maximum possible noise reduction technology but in no event allow noise levels to exceed Stage 2. Potential SST developers are advised the FAA will work toward SST noise requirements stricter than Stage 2 and, when such requirements are developed, they will be applied to future design SSTs.

C. *Concorde*. These proposed rules would not require the Concorde with flight time before January 1, 1980, to satisfy the Stage 2 noise limits of Part 36 in order to obtain a U.S. type certificate. In relation to subsonic airplanes, deference has been shown for the long lead times required to develop a new type of airplane. The B-707s and DC-8s, manufactured before the promulgation of airplane noise rules, were initially "grandfathered" under our subsonic noise rules, and were not subject to those rules until 1974, when a manufacturing cutoff date was established to require newly manufactured B-707s and DC-8s to meet Stage 2 Part 36 requirements. Consistent with this treatment of subsonics, the rationale for the 1976 decision authorizing a limited number of Concorde demonstration flights is now a valid basis for

permitting the first few Concorde to operate in the U.S. without meeting the Stage 2 standards:

In order to design the aircraft, the British and French had to choose an engine and then design the aircraft around that engine's capabilities. Thus, the engine itself was a fixed quantity very early in the design process and attempts to reduce the engine's noise levels without unacceptable reductions in thrust were unsuccessful. The manufacturers of the Concorde would be unable to modify the engine or redesign the Concorde to meet restrictive noise levels. Since the Concorde is the only aircraft for which application to land has been made, and, therefore, to which a noise regulation might currently apply, the promulgation of such a rule, insofar as it had present applicability, would have been nothing more than a decision to grant or deny the Concorde the right to operate into the United States • • •

The 1976 decision also stated:

The statutes and historical pattern of aircraft noise regulation, and indeed of most environmental regulations in this country, demonstrate that the promulgation of noise standards has closely followed the development of feasible technology to control noise. FAR 36 was promulgated over a decade after the advent of commercial jet aviation, and 80 percent of the planes in service today still do not satisfy its standard. The regulation was initially written to exempt temporarily aircraft certificated before 1969, which could not comply, and was amended to cover new versions of those aircraft only after the technology became available. The Federal Aviation Act specifically requires the Administrator of the FAA to consider technological feasibility in promulgating regulations. All feasible steps have been taken to control the Concorde noise, and it cannot be modified further to abate the noise levels.

In order to assure that "grandfathered" subsonic airplanes were not modified in a manner that would increase their noise levels, the "acoustical change" provisions of Part 36 were promulgated. These provisions preclude the FAA approval of type design changes which (1) increase the noise levels of "grandfathered" subsonic airplanes; or

- (2) Increase the noise of complying airplanes above the Stage 2 limits. In analogous fashion, a revision to Part 36 is proposed which would extend this "acoustical change" provision to initially "grandfathered" Concorde. In addition, in order to extend the coverage to foreign registered airplanes which would not require a U.S. type certificate or U.S. type design change approval, a revision to Part 91 is proposed which would provide that no SST which does not meet the Stage 2 noise limits of Part 36 would be permitted to operate into a U.S. airport if it had a modification which increased its noise levels. This coverage reflects the policy decision that the factor of nationality should not create the right to increase noise through the further modification of SSTs that are already noisier than the Part 36 noise limits.

As noise suppression technology advanced, Part 36 was modified to provide that no U.S. standard airworthiness certificate would be granted after December 31, 1974, for subsonic turbojet airplanes if the airplane did not meet the

Stage 2 noise limits of Part 36, even though initially "grandfathered" by having been type certificated prior to the effective date of Part 36. In similar fashion, the proposed rules would establish January 1, 1980, as the compliance date in Part 36 for Concorde. This cutoff would be complemented by an operational prohibition in Part 91 which would preclude the operation into a U.S. airport of any SST, domestic or foreign, which does not comply with the Stage 2 noise limits of Part 36, with the exception of Concorde with flight time before January 1, 1980.

Thus, this would limit the noise impact of SSTs by permitting operation in the United States only of Concorde that have flight time before January 1, 1980, but by no other SST, foreign or domestic, which does not comply with the Stage 2 noise limits of Part 36. This proposal is intended to continue for SSTs the long-standing policy of equal treatment of all airplanes in international and domestic operations.

For purposes of this NPRM, the most important international agreements are the Convention on International Civil Aviation (Chicago Convention) which was negotiated in 1944, and the bilateral air transport agreements with the United Kingdom and France.

Chicago Convention. The Chicago Convention is concerned with ensuring the safety of international travel, through both the safety of the airplane itself and the safety of the ground navigational and air traffic control systems. The Chicago Convention also established the International Civil Aviation Organization (ICAO), with multiple functions relating to the facilitation of international air travel.

Under the Chicago Convention, the airplanes of each contracting state that have been certificated by that state as being airworthy are permitted to conduct non-scheduled, non-revenue flights into the territory of any other contracting state without obtaining prior permission. Thus, the United Kingdom and France have treaty rights to conduct such Concorde flights in the United States. However, under the Convention, no commercial service by a foreign carrier may be operated into any nation without the express permission of that nation.

Under article 37 of the Chicago Convention, ICAO may promulgate international standards on a wide variety of subjects, including airworthiness of airplanes. Nations which agree to be bound by those standards must then accept them as definitive regulations with respect to the airworthiness of airplanes in international service. In the absence of action by ICAO, the participating nations may establish appropriate airworthiness standards unilaterally. ICAO has not promulgated international noise standards for SSTs. With respect to operations, such international airworthiness standards, when established, would not preclude any country from regulating the operations of the Concorde for environmental reasons.

Bilateral Agreements. Article II(b) of the bilateral air services agreement between the United States and France contains the following provision:

... [t]he designated air carrier or carriers may be required to satisfy the aeronautical authorities of the Contracting Party granting the rights that it or they is or are qualified to fulfill the conditions prescribed by or under the laws and regulations normally applied to those authorities to the operations of commercial air carriers.

In addition, Article 4 of the July 23, 1977, bilateral agreement between the United States and the United Kingdom ("Bermuda 2"), in language similar to that found in the bilateral with France and the Chicago Convention, provides that:

... [t]he laws and regulations of one Contracting Party relating to admission to or departure from its territory of aircraft engaged in international air navigation, or to the operation and navigation of such aircraft while within its territory, shall be applied to the aircraft of the airline or airlines designated by the other Contracting Party and shall be complied with by such aircraft upon entrance into or departure from and while within the territory of the first contracting Party.

These provisions of the international agreements provide the United States the authority to establish uniform, non-discriminatory rules of the type proposed in this NPRM in relation to the Concorde, if unrestricted permission to operate would be inconsistent with the policies expressed in the environmental laws of the United States.

These international agreements are the principal ones that affect our actions with respect to the Concorde. They are entirely a matter of public record; no other bilateral or multilateral agreements exist that have any bearing on this rulemaking or the rights of airport proprietors to regulate operations at their airports.

Pursuant to these agreements, the Civil Aeronautics Board has certain authority, subject to the President's approval, to regulate foreign air carriers and in appropriate circumstances to suspend, reject or cancel unreasonable or discriminatory fares in foreign air transportation; and the FAA has authority to regulate aspects of aircraft operations that relate to safety.

D. Other Restrictions. Inasmuch as the rule as presently proposed would initially "grandfather" all Concorde with flight time before January 1, 1980, certain limitations are deemed appropriate to reduce the potential noise impact of these SSTs.

1. Airport Proprietor Approval. As noted above, the rules proposed here would not affect the existing legal authority of local airport proprietors to issue noise-related airport use restrictions that are not unjustly discriminatory and that do not impose an undue burden on air commerce.

The proposed rules would not determine the right of any Concorde operator to fly to a particular airport. American airports other than Dulles and Washington National are operated by authorities

independent of the Federal government, usually state or local governmental agencies. While the Congress has the power under the commerce clause of the Constitution to regulate the operations of such airports, it has chosen not to do so. This Congressional policy leaves airport proprietors responsible for the regulation of their airports for noise abatement purposes. The proprietors may limit or prohibit flights by particular airplanes, subject to the general Constitutional restrictions that their regulations are not unjustly discriminatory and do not impose an undue burden on interstate or foreign commerce. The Chicago Convention and bilateral air services agreements do not alter this basic feature of American aviation law.

This legal principle has most recently been upheld by the United States Court of Appeals for the Second Circuit in *British Airways Board vs. Port Authority*. In its second opinion on the matter (No. 287, September 29, 1977), the court reiterated:

Our initial opinion in this case delineated the extremely limited role Congress had reserved for airport proprietors in our system of aviation management. Common sense, of course, required that exclusive control of airspace allocation be concentrated at the national level, and communities were therefore preempted from attempting to regulate planes in flight. See *Allegheny Airlines vs. Village of Cedarhurst*, 233 F. 2d 812 (2d Cir. 1958); *American Airlines vs. Town of Hempstead*, 398 F. 2d 369 (2d Cir.), cert. denied, 393 U.S. 1017 (1969). The task of protecting the local population from airport noise, however, has fallen to the agency, usually of local government, that owns and operates the airfield. *Air Transport Ass. vs. Crotti*, 389 F. Supp. 58 (N.D. Cal. 1975) (three-judge court); *National Aviation vs. City of Hayward*, 418 F. Supp. 417 (N.D. Cal. 1976). It seemed fair to assume that the proprietor's intimate knowledge of local conditions, as well as his ability to acquire property and air easements and assure compatible land use, cf. *Griggs vs. Allegheny County*, 369 U.S. 84 (1962), would result in a rational weighing of the costs and benefits of proposed service. Congress has consistently reaffirmed its commitment to this two-tiered scheme, and both the Supreme Court and executive branch have recognized the important role of the airport proprietor in developing noise abatement programs consonant with local conditions.

FAA consideration of authorization of Concorde flights to particular airports will include environmental assessments for each airport. However, for the Concorde operations covered in the final environmental impact statement (EIS) for this proposed regulatory action, further environmental assessment under NEPA should not be necessary. Therefore, the public is specifically invited to review closely the airports, and numbers of Concorde flights at each airport, that are assessed in the draft EIS for this NPRM.

2. Curfew. In view of the greater single-event noise impact of the Concorde, a curfew on SST operations is proposed that would prohibit the scheduling of operations at any U.S. airport between 10 p.m. and 7 a.m. local time. Review of the noise data developed for the draft

EIS for this notice indicates that the community impact of night SST operations can be much greater than the impact of operations during the daylight hours.

3. Operational Compliance Date. As noise suppression technology advanced, Part 91 was modified to provide that no subsonic transport category turbojet weighing more than 75,000 pounds may operate in domestic commerce in the United States after January 1, 1985, unless it meets the Stage 2 limits of Part 36, irrespective of whether it was initially "grandfathered" by having been type certificated before 1969 or manufactured before 1974. In addition, the intent was expressed in the preamble of Amendment 91-136 to impose the same requirement on subsonic airplanes in foreign air commerce in the United States if ICAO standards are not developed. In parallel fashion, such an operational compliance date, while not presently proposed, would be considered for the "grandfathered" Concorde with flight time before January 1, 1980, when technologically practicable and economically reasonable, and in close concert with international processes through ICAO.

E. Evaluation of Impacts. As noted in the introduction to this notice, the final evaluation of the potential impacts of this NPRM will be accomplished as part of FAA's disposition of the EPA proposals contained in Notice Nos. 75-15 and 76-1. However, the assessment required by the regulatory reform procedures set forth in the Secretary's "Policies to Improve Analysis and Review of Regulations", issued on April 11, 1976, and published in the *Federal Register* (41 FR 16200) on April 16, 1976, has been conducted for this NPRM. These policies require development and analysis of the costs and benefits of rulemaking. This analysis indicates that the proposals in this NPRM would not, if adopted, significantly increase costs to the private sector, to consumers, or to Federal, State or local governments. However, the proposed rule is potentially controversial, primarily because of the anticipated environmental impact of the Concorde. Because of the sensitivity of this aspect of the proposals, a draft environmental impact statement has been prepared as stated above. It is available from the FAA Office of Environmental Quality by writing to Federal Aviation Administration, Office of Environmental Quality (AEQ-210), 800 Independence Avenue, SW., Washington, D.C. 20591, or by telephoning (202) 426-3396.

SECTION-BY-SECTION ANALYSIS

It is proposed to amend provisions in three parts of the Federal Aviation Regulations—Part 21 (14 CFR Part 21), which contains the procedural requirements for the certification of aeronautical products; Part 36 (14 CFR Part 36), which contains the substantive noise limits and related noise measurement and test procedures that must be complied with for the issuance of type certificates and airworthiness certificates; and Part 91 (14 CFR Part 91), which sets

forth the flight and other requirements that apply to the operation of aircraft. The paragraphing of the following discussion corresponds to that of the description of proposed rule changes.

I. CHANGES TO PART 21 (14 CFR PART 21)

A. Section 21.93(b) (1) and (2) would be amended by deleting the word "subsonic." The effect of this amendment would be to make the definition of the term "acoustical change" equally applicable to supersonic and subsonic transport category and turbojet powered civil airplanes. Under this amendment, for both supersonic and subsonic airplanes, an "acoustical change" would exist whenever a voluntary change in the type design of airplane is applied for that may increase the noise levels of the airplane. Therefore, for both supersonic and subsonic airplanes, the acoustical change provisions of Part 36 (§ 36.7) would have to be complied with prior approval of that type design change. See also the discussion of the proposed change to § 36.7 below. Inasmuch as this procedural provision covers only airplanes for which type design approval is requested under U.S. rules (Part 21), this change is supplemented with proposed new § 91.309(b) (1), which would extend the "acoustical change" concept to supersonic airplanes operated in the United States that are not covered by U.S. type certification requirements.

B. Section 21.183(c) (1) would be amended by deleting the word "subsonic." The effect of this would be that, for supersonic as well as subsonic airplanes, a standard airworthiness certificate (which is the class of airworthiness certificate required for U.S. air carrier operation and similar operations) would not be issued for airplanes that have not had flight time before the dates specified in Part 36 (§ 36.1(d)), unless compliance with the noise standards in Part 36 is shown. See also the discussion of the proposed revision of § 36.1(d). This would extend to SSTs the rules applied to subsonic airplanes in Amendment 36-2—popularly called the "new production" rule, issued on October 19, 1973, and published in the *Federal Register* (38 FR 29569) on October 26, 1973.

II. CHANGES TO PART 36 (14 CFR PART 36)

A.1. Section 36.1 would be amended by adding a new subparagraph (a) (3) extending the applicability of Part 36 to cover the issuance of a type certificate, and changes to that type certificate, and the issuance of standard airworthiness certificates, for the Concorde airplane.

A.2. Section 36.1(d) would be amended by deleting the word "subsonic," in the lead-in, by adding the word "subsonic" to the current subparagraphs containing compliance dates, and by adding a new compliance date for Concorde airplanes. This would require Concorde without flight time before January 1, 1980, to comply with the Stage 2 noise limits of Part 36 in effect on the date of publication of this NPRM, in order to obtain an original standard airworthiness certificate. It is noted that

the compliance dates in § 36.1(d) are related to "flight time." Part 1 of the Federal Aviation Regulations (14 CFR Part 1) defines "flight time" as the time for the moment the airplane first moves under its own power for the purpose of flight until the moment it comes to rest at the next point of landing. It is believed that the date of the first flight of an airplane is a clear basis for distinguishing which airplanes in a production series are subject to noise rules and which airplanes are not.

A.3. Section 36.1(f) would be amended by adding new definitions of "subsonic airplane" and "supersonic airplane." The dividing line between these classes would be Mach 1 in terms of the maximum operating limit speed, M_{MO} , as defined in Part 1. Note that these definitions would apply wherever the terms "subsonic airplane" and "supersonic airplane" are used in Part 36, and also where they are used in Part 91 because of the proposed change to § 91.301(d), discussed below. Technical comments concerning the definitions of these terms are specifically requested.

B. The proposed amendment to paragraph (a) of § 36.2 is editorial in nature. It consolidates repetitious language. The purpose of that paragraph, simply stated, is to supersede § 21.17 of Part 21, with respect to the designation of applicable type certification regulations, wherever Part 36 imposes type certification requirements that apply to airplanes for which the application for a type certificate has already been submitted.

C. It is proposed to amend § 36.7 by deleting the term "subsonic." The effect of this change (and of the deletion of the term "subsonic" from § 21.93, discussed above) would be to apply to SSTs the same acoustical change rules that currently apply to subsonic airplanes. Note that, under § 36.7, different regulatory concepts apply, depending on whether the airplane is a "Stage 1 airplane," a "Stage 2 airplane," or a "Stage 3 airplane." Currently operating Concorde are "Stage 1 airplanes" since they have not been shown to comply with the noise limits for "Stage 2 airplanes" or "Stage 3 airplanes." The Stage 1 acoustical change provisions of § 36.7(c) provide that the airplane may not exceed the noise levels created prior to the change in type design. This proposal would bring Concorde under this rule.

D. E. and F. These proposals together make it clear that Subpart B of Part 36 (which requires transport category large airplanes and turbojet powered airplanes to comply with Appendices A and B of Part 36) covers supersonic as well as subsonic airplanes.

G. and H. These proposals make it clear that Subpart C of Part 36, as amended, would apply only to subsonic transport category large airplanes and subsonic turbojet powered airplanes.

I. A new Subpart D, applying to SSTs would be added to Part 36. In this new subpart, new § 36.301, Noise limits: Concorde airplanes, would be added, containing requirements for Concorde cor-

responding to those for the first subsonic airplanes covered by current § 36.201. Like § 36.201, new § 36.301(a) would require that compliance with the applicable noise limits must be shown, for Concorde airplanes, with noise levels measured and evaluated as prescribed in Subpart B of Part 36. This would have the effect of requiring compliance with the detailed noise measurement requirements in Appendix A of Part 36 and the detailed requirements in Appendix B concerning the evaluation of noise data received in accordance with Appendix A. Compliance would have to be demonstrated at the same measuring points (i.e., takeoff, sideline, and approach) as are required under Appendix C for subsonic airplanes. See § C36.3 of Appendix C.

Paragraph (b) of new § 36.301 would provide that, for the Concorde airplane, it must be shown in accordance with the provisions of Part 36 in effect on the publication date of this NPRM, that the noise levels of that airplane are reduced to the lowest levels that are "economically reasonable, technologically practicable, and appropriate to the particular type design." This standard corresponds to considerations prescribed by the Congress in section 611 of the Federal Aviation Act of 1958, as amended by the Noise Control Act of 1972.

J. It is proposed to delete the term "subsonic" from § 36.1581(c). The effect of this change would be to make it clear that, for both supersonic and subsonic transport category large airplanes and turbojet powered airplanes, weights used in complying with the takeoff or landing noise limits of Part 36, if less than the maximum weight or design landing weight, respectively, must be furnished as operating limitations.

K. The proposed changes to §§ C36.7 and C36.9 are intended to incorporate, for the Concorde noise test, the concept of "reference speed" which is the speed presently used, instead of stalling speed, in the takeoff and landing test requirements for that airplane.

III. CHANGES TO PART 91 (14 CFR PART 91)

These changes would modify the current sonic boom provisions of § 91.55, and the noise abatement provisions of Subpart E, *Operating Noise Limits*, which was adopted on December 17, 1976, and published in the *Federal Register* (41 FR 56046) on December 23, 1976. Subpart E currently contains rules that require subsonic turbojet airplanes weighing more than 75,000 pounds to comply with Part 36, in accordance with a phased schedule ending on January 1, 1985.

A. and B. The proposed changes to §§ 91.55(3) and 91.55 are intended to protect the coastal areas of the United States from sonic boom. The current rule prohibits the creation of sonic boom by civil airplanes that are in the United States by prohibiting flight in excess of Mach 1 while the airplane is within U.S. territorial limits. However, in relation to airplanes approved for operation to U.S. airports from outside the United

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States, the current rule does not specifically address the problem of a sonic boom created by an airplane which is outside the United States but reaching the surface within the United States. This problem exists because the shock wave generated by supersonic flight can extend many miles from the airplane. In recognition of this phenomenon, the FAA established sonic boom recorders along the east coast of the United States to monitor Concorde sonic booms. Record-ers were placed at Coast Guard Stations nearest the planned Concorde flight track, i.e., Nantucket Island, Massachusetts; Shark River, New Jersey; and Cape May, New Jersey. While no pattern of sonic boom was experienced, one sonic boom, with no reported community reaction, was recorded at the Shark River station. It is estimated that the arriving airplane was 19 miles from the New Jersey coast. Since the airplane was not in the United States, no violation of § 91.55 was involved. The operator, however, changed its flight limitations to ensure that supersonic speed is not attained or maintained closer than 25 miles from the coast. If the number of supersonic operators requesting approval to operate to or from U.S. airports increases, the need for positive requirements to prevent a repetition of the Shark River sonic boom appears evident. It is, therefore, proposed to add a new § 91.55(b) conditioning approval to operate to or from U.S. airports upon compliance, with limitations like those voluntarily adopted by the aircraft operator following the Shark River sonic boom.

The proposal would require that information available to the flight crew include flight limitations that ensure that no sonic boom on the surface in U.S. territory will result from flights entering and leaving the United States. The operator would be required to comply with these limitations unless other limitations are issued to the operator in an authorization to exceed Mach 1 under Appendix B of Part 91. These authorizations are issued in the rare cases specified in that Appendix, for specific operations in designated flight test areas (such as flight testing of supersonic airplanes).

C. The proposed amendment of § 91.301 (a) would reflect the expansion of Subpart E of Part 91 to include SSTs. Subpart E—Operating Noise Limits, contains phased noise limits for subsonic turbojet airplanes, leading to full fleet compliance with Part 36 by January 1, 1985.

The proposed revision of § 91.301(a) is drafted to highlight the different scopes of each section in the revised subpart. Proposed § 91.301(a)(1) would make it clear that current §§ 91.303 through 91.307 would be limited to subsonic airplanes and to U.S. registered airplanes. No substantive change to §§ 91.303 through 91.307 is proposed in this notice.

Proposed § 91.301(a)(2) would provide that the newly proposed operating restrictions in § 91.309, for SSTs that do not comply with Part 36, would apply

to U.S. registered airplanes having standard airworthiness certificates, and foreign registered airplanes that would be required to have standard airworthiness certificates if they were registered in the United States. It would cover operations under Parts 91, 121, 123, 129, and 135.

D. This proposal would incorporate the Part 36 definitions of 'subsonic airplane' and 'supersonic airplane' in Subpart E of Part 91. Here also, public comment on the impact of those definitions (as discussed above) on all operators subject to Part 91 is requested.

E. and F. The proposed revisions of §§ 91.303 and 91.305 would make it clear that the current dates for phased and final compliance with Part 36, ending on January 1, 1985, apply only to subsonic airplanes. See proposed § 91.311 for application of Part 36 to Concordes.

G. A new § 91.309 would be added, containing operating rules that would apply to SSTs that operate to or from a U.S. airport but have not been shown to comply with the Stage 2 noise limits of Part 36 in effect on the publication date of this NPRM. Note that use of the trade-off provisions of Part 36 would be allowed. This section would apply equally to U.S. registered and foreign registered airplanes.

Proposed § 91.309(b) would prescribe the operational restrictions intended to protect airport environments from unnecessary SST noise. Proposed § 91.309 (b)(1) would require that no person may land or take off an airplane covered by the section if its noise has been increased through modification of the type design of the airplane. This operational counterpart of the acoustical change provisions of § 36.7 of Part 36 (see above discussion) is proposed because the acoustical change provisions of Part 36 (and Part 21) apply only to U.S. type certificated airplanes for which a type design change approval is requested under U.S. regulations. However, those certification rules do not cover foreign airplanes, for which a type design change approval by the FAA is not required or requested. These airplanes may, nevertheless, be "grown" or otherwise modified under the laws of other countries. The words "regardless of whether a type design change approval is applied for under Part 21 of this chapter" would extend the acoustical change concept to the operation of airplanes not covered by U.S. certification rules.

Proposed § 91.309(b)(2) would provide that no flight may be scheduled, or otherwise planned, for takeoff or landing at any U.S. airport after 10 p.m. and before 7 a.m., local time.

H. Proposed § 91.311 would provide that, except for Concorde airplanes having flight time before January 1, 1980, no SST may be operated in the U.S. that does not comply with the Stage 2 noise limits of Part 36 in effect on the publication date of this NPRM.

DRAFTING INFORMATION

The principal authors of this document are Richard Tedrick, Office of En-

vironmental Quality, and Richard Danforth, Office of the Chief Counsel.

PROPOSED RULE

In consideration of the foregoing, the FAA, hereby supplements the proposals in Notices 75-15 and 76-1 with the following proposals to amend Title 14 of the Code of Federal Regulations:

PART 21—CERTIFICATION PROCEDURES FOR PRODUCTS AND PARTS

I. Part 21 of the Federal Aviation Regulations (14 CFR Part 21) would be amended as follows:

§ 21.93 [Amended]

A. By amending § 21.93(b)(1) and (2) by deleting the word "subsonic" wherever it appears.

§ 21.183 [Amended]

B. By amending § 21.183(e)(1) by deleting the word "subsonic" wherever it appears.

PART 36—NOISE STANDARDS; AIRCRAFT TYPE AND AIRWORTHINESS CERTIFICATION

II. Part 36 of the Federal Aviation Regulations (14 CFR Part 36) would be amended as follows:

§ 36.1 [Amended]

1. By adding a new § 36.1(a)(3) to read as follows:

(a)
(3) A type certificate and changes to that certificate, and standard airworthiness certificates, for Concorde airplanes.

2. By amending § 36.1(d) to read as follows:

(d) Each person who applies for the original issue of a standard airworthiness certificate for a transport category large airplane or for a turbojet powered airplane under § 21.183 must, regardless of date of application, show compliance with the following provisions of this part, (including Appendix C)

(1) Part 36 as effective on December 1, 1969, for subsonic airplanes that have not had any flight time before—

(i) December 1, 1973, for airplanes with maximum weights greater than 75,000 lbs., except for airplanes that are powered by Pratt and Whitney Turbo Wasp JT3D series engines;

(ii) December 31, 1974, for airplanes with maximum weights greater than 75,000 lbs. and that are powered by Pratt and Whitney Turbo Wasp JT3D series engines;

(iii) December 31, 1974, for airplanes with maximum weights of 75,000 lbs. and less; and

(2) The Stage 2 noise limits of Part 36 as effective on (the publication date of this NPRM) for Concorde airplanes that have not had flight time before January 1, 1980.

3. By amending § 36.1(f) by adding new paragraphs (7) and (8) to read as follows:

(f)

(7) A "subsonic airplane" means an airplane for which the maximum operating limit speed, M_{mo} , does not exceed a Mach number of 1.

(8) A "supersonic airplane" means an airplane for which the maximum operating limit speed M_{mo} , exceeds a Mach number of 1.

B. By amending paragraph (a) of § 36.2 to read as follows:

§ 36.2 Special retroactive requirements.

(a) Notwithstanding § 21.17 of this chapter, and irrespective of the date of application, each person who applies for a type certificate for an aircraft covered by this part must show compliance with the applicable provisions of this part.

§ 36.7 [Amended]

C. By amending the section heading and paragraph (a) of § 36.7 by deleting the word "subsonic" wherever it appears.

D. By amending the heading of Subpart B to read as follows:

Subpart B—Noise Measurement and Evaluation for Transport Category Large Airplanes and Turbojet Powered Airplanes

§ 36.101 [Amended]

E. By amending § 36.101 by inserting the words "for transport category large airplanes and turbojet powered airplanes" before the words "the noise generated"

§ 36.103 [Amended]

F. By amending § 36.103 by inserting the words "for transport category large airplanes and turbojet powered airplanes," before the words "noise measurement information"

G. By amending the heading of Subpart C to read as follows:

Subpart C—Noise Limits for Subsonic Transport Category Large Airplanes and Subsonic Turbojet Powered Airplanes

§ 36.201 [Amended]

H. By amending paragraph (a) of § 36.201 by inserting the words "for subsonic transport category large airplanes and subsonic turbojet powered airplanes" before the words "compliance with"

I. By adding a new Subpart D to read as follows:

Subpart D—Supersonic Transport Category Airplanes

§ 36.301 Noise limits: Concorde airplanes.

(a) General. For the Concorde airplane, compliance with this subpart must be shown with noise levels measured and evaluated as prescribed in Subpart B of this part, and demonstrated at the measuring points prescribed in Appendix C of this part.

(b) Noise limits. It must be shown in accordance with the provisions of this part in effect (on the publication date of this NPRM) that the noise levels of the

airplane are reduced to the lowest levels that are economically reasonable, technologically practicable, and appropriate to the particular type design.

§ 36.1581 [Amended]

J. By amending paragraph (c) of § 36.1581 by deleting the word "subsonic" before the words "transport category"

K. By amending Appendix C as follows:

1. By amending § C36.7(f)(1) by inserting the words "for subsonic airplanes" before the words "the test day conditions."

2. By redesignating § C36.7(f)(2) as § C36.7(f)(3).

3. By adding a new § C36.7(f)(2) to read as follows:

§ C36.7 Takeoff test conditions.

(f)

(2) For Concorde airplanes, the test day speeds and the acoustic day reference speed must be the minimum approved value of V_{r+35} knots, or the all-engines-operating speed at 35 feet whichever speed is greater as determined under the regulations constituting the type certification basis of the airplane, except that the reference speed must not exceed 250 knots. These tests must be conducted at the test day speeds ± 3 knots. Noise values measured at the test day speeds must be corrected to the acoustic day reference speed.

4. By amending § C36.9(f)(1) by inserting the words "for subsonic airplanes" before the word "a steady."

5. By redesignating § C36.9(f)(2) as § C36.9(f)(3).

6. By adding a new § C36.9(f)(2) to read as follows:

§ C36.9 Approach test conditions.

(f)

(2) For Concorde airplanes a steady approach speed, that is either the landing reference speed ± 10 knots, or the speed used in establishing the approved landing distance under the airworthiness regulations constituting the type certification basis of the airplane, whichever speed is greater, must be established and maintained over the approach measuring point.

PART 91—GENERAL OPERATING AND FLIGHT RULES

III. Part 91 of the Federal Aviation Regulations (14 CFR Part 91) would be amended as follows:

§ 91.1 [Amended]

A. By amending § 91.1(b)(3) by deleting the reference to § 91.55 therefrom.

By amending § 91.55 by adding the words "in the United States" between the words "civil aircraft" and the words "at a", by designating the current text as paragraph (a), and by adding a new paragraph (b) to read as follows:

§ 91.55 Civil aircraft sonic boom.

(b) In addition, no person may operate a civil aircraft, capable of operating at a Mach number greater than 1, to or from an airport in the United States unless—

(1) Information available to the flight crew includes flight limitations that ensure that flights entering or leaving the United States will not cause a sonic boom to reach the surface within the United States; and

(2) He complies with the flight limitations prescribed in paragraph (b)(1) of this section or complies with conditions and limitations in an authorization to exceed Mach 1 issued to the operator under Appendix B of this Part.

C. By amending paragraph (a) of § 91.301 to read as follows:

§ 91.301 Applicability; relation to Part 36.

(a) This subpart prescribes operating noise limits and related requirements that apply, as follows, to the operation of aircraft in the United States:

(1) Sections 91.303, 91.305, and 91.307 apply to U.S. registered civil subsonic turbojet airplanes with maximum weights of more than 75,000 pounds and having standard airworthiness certificates. Those sections apply to operations under this part and under Parts 121, 123 and 135 of this chapter.

(2) Sections 91.309 and 91.311 apply to U.S. registered civil supersonic airplanes having standard airworthiness certificates, and foreign registered civil supersonic airplanes that, if registered in the United States, would be required by this chapter to have a U.S. standard airworthiness certificate in order to conduct the operations intended for the airplane. Those sections apply to operations under this part and under Parts 121, 123, 129 and 135 of this chapter.

§ 91.301 [Amended]

D. By adding the following new sentence at the end of paragraph (b) of § 91.301: "For the purpose of this subpart, the terms 'subsonic airplane' and 'supersonic airplane' have the meanings specified in Part 36 of this chapter."

§ 91.303 [Amended]

E. By amending § 91.303 by amending the section heading to read "Final compliance: subsonic airplanes" and by adding the word "subsonic" between the word "any" and the word "airplane."

§ 91.305 [Amended]

F. By amending § 91.305 by amending the section heading to read "Phased compliance under Parts 121 and 135: subsonic airplanes," and by adding the word "subsonic," in paragraph (a), between the word "operating" and the word "airplanes."

G. By adding a new § 91.309 to read as follows:

§ 91.309 Civil supersonic airplanes that do not comply with Part 36.

(a) Applicability. This section applies to civil supersonic airplanes that do not comply with the Stage 2 noise limits of Part 36, in effect on (the publication date of this NPRM), using applicable trade-off provisions.

(b) Airport use. Except in an emergency, the following apply to each person who operates a civil supersonic air-

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PROPOSED RULES

plane to or from an airport in the United States:

(1) Regardless of whether a type design change approval is applied for under Part 21 of this chapter, no person may land or take off an airplane, covered by this section, for which the type design is changed after (effective date of the final rule) in a manner constituting an "acoustical change" under § 21.93, unless the acoustical change requirements of Part 36 are complied with.

(2) No flight may be scheduled, or otherwise planned, for takeoff or landing after 10 p.m. and before 7 a.m. local time.

H. By adding a new § 91.311 to read as follows:

§ 91.311 Civil supersonic airplanes: Noise limits.

Except for Concorde airplanes having flight time before January 1, 1980, no person may operate a civil supersonic airplane that does not comply with the Stage 2 noise limits of Part 36 in effect on (publication date of this NPRM).

(Secs. 307, 313(a), 601(a), 603, 611, Federal Aviation Act of 1958, as amended (49 U.S.C. 1348, 1354(a), 1421(a), 1423, and 1431); sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Title I, National Environ-

mental Policy Act of 1969 (42 U.S.C. 4321 et seq.); Executive Order 11514, March 5, 1970; 14 CFR 11.45.)

NOTE.—The Federal Aviation Administration has determined that this document does not contain a major proposal requiring the preparation of an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Washington, D.C., on October 11, 1977.

CHARLES R. FOSTER,
Director, Office of
Environmental Quality.

[FR Doc.77-29972 Filed 10-12-77; 8:45 am]

Registered
prior
to
October
13, 1977

THURSDAY, OCTOBER 13, 1977
PART III



COMMUNITY SERVICES ADMINISTRATION

EMERGENCY ENERGY CONSERVATION PROGRAM

Waivers for Farmworker-Governed
Organizations

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[6315-01]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6143-3]

PART 1061—CHARACTER AND SCOPE OF SPECIFIC PROGRAMS

Subpart—Emergency Energy Conservation Programs; Waivers for Farmworker-Governed Organizations

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: The policy statement governing the funding of Emergency Energy Conservation Programs (CSA Instruction 6143-1a) currently imposes both a requirement that 90 percent of certain weatherization funds go toward purchase of materials and a non-Federal share requirement and CSA Notice 6143-2 requires that at least 70 percent of operational funds be used for weatherization. The Community Services Administration is waiving these requirements for the Emergency Energy Conservation Program when projects are operated by farm-worker-governed organizations. This rule eliminates requirements which were meant to be fulfilled by organizations with well developed ties in the community and whose clients are permanent residents.

DATES: Since this policy clearly benefits farmworker-governed organizations and because the application and funding processes are currently underway, the policy stated herein is effective October 13, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard Saul, Community Services Administration, Emergency Energy Conservation Programs, 1200 19th Street NW., Washington, D.C. 20506. Telephone 202-254-5240.

GRACIELA (GRACE) OLIVAREZ, Director.

45 CFR Part 1061 is amended by adding the following:

Sec.

1061.32-1 Applicability.

1061.32-2 Non-Federal Share Contribution.

1061.32-3 Materials Costs for Weatherization.

1061.32-4 Percentage of Funds to Weatherization.

AUTHORITY.—Sec. 602, 78 Stat. 530; (42 U.S.C. 2942).

§ 1061.32-1 Applicability.

This subpart is applicable to grants made with FY 77 funds to farmworker-

governed organizations under Section 222(a) (12) of the Economic Opportunity Act of 1964, as amended, when the assistance is administered by the Community Services Administration.

§ 1061.32-2 Non-Federal Share Contribution.

(a) Because of the relatively recent establishment of most farmworker-governed organizations, and the lack of opportunity to develop relationships with private sector, local governments, and other sources of non-Federal share contributions, CSA has determined that requirements of a non-Federal share for grants made under Section 222(a) (12) would be unreasonable.

(b) Therefore, the non-Federal share requirement is waived for those grants made with FY 77 funds under Section 222(a) (12) of the Economic Opportunity Act as amended to farmworker-governed organizations.

§ 1061.32-3 Material costs for weatherization.

For many of the same reasons that make it difficult for farmworker-governed organizations to raise non-Federal share, they have not been able to establish the kinds of relationships with CETA Prime Sponsors that would facilitate obtaining manpower resources to support weatherization activities. Consequently, in those cases where farmworker grantees have not been able to obtain special Migrant CETA funds under Title III, administering offices will consider individual requests for waivers of the requirement that 90 percent of weatherization funds under program account 21 go to weatherization materials and forward their recommendations to the funding official.

§ 1061.32-4 Percentage of funds to weatherization.

Many of the energy-related problems of farmworkers, particularly migrant farmworkers, relate to other than energy efficiency of housing. The need for adequate representation and advocacy for consumer interests of farmworkers in the energy field, and the transportation problems of farmworkers, are two examples. Consequently, and in recognition of this diversity of farmworker energy needs, only fifty percent (50%) of operational funds granted to farmworker-governed organizations need be for the support of weatherization activities under Program Account 21.

[FR Doc. 77-29920 Filed 10-12-77; 8:45 am]

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FRIDAY, OCTOBER 14, 1977



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DOT/FAA	USDA/REA		DOT/FAA	USDA/REA
DOT/OHMO	CSC		DOT/OHMO	CSC
DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/ADAMHA			HEW/ADAMHA
	HEW/CDC			HEW/CDC
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A Cumulative List of CFR Sections Affected is published separately at the end of each month. The guide lists the parts and sections affected by documents published since the revision date of each title.

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(The items in this list were editorially compiled as an aid to FEDERAL REGISTER users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.)

Rules Going Into Effect Today

NOTE: There were no items eligible for inclusion in the list of RULES GOING INTO EFFECT TODAY.

Rules Going Into Effect Oct. 15, 1977

Interior/FWS—Wapanocca National Wildlife Refuge; open to raccoon hunting. 38912; 8-1-77

Rules Going Into Effect Oct. 16, 1977

Labor/ETA—Disaster Unemployment Assistance Program..... 46711; 9-16-77

List of Public Laws

This is a continuing listing of public bills that have become law, the text of which is not published in the FEDERAL REGISTER. Copies of the laws in individual pamphlet form (referred to as "slip laws") may be obtained from the U.S. Government Printing Office.

S. 213..... Pub. L. 95-125
To amend the Accounting and Auditing Act of 1950 to provide for the audit, by the Comptroller General, of the Internal Revenue Service and of the Bureau of Alcohol, Tobacco, and Firearms. (Oct. 7, 1977; 91 Stat. 1104). Price: \$.50.

S. 1307..... Pub. L. 95-126
To deny entitlement to veterans' benefits to certain persons who would otherwise become so entitled solely by virtue of the administrative upgrading under temporarily revised standards of other than honorable discharges from service during the Vietnam era; to require case-by-case review under uniform, historically consistent, generally applicable standards and procedures prior to the award of veterans' benefits to persons administratively discharged under other than honorable conditions from active military, naval, or air service; and for other purposes. (Oct. 8, 1977; 91 Stat. 1106). Price: \$.50.

H.R. 6655..... Pub. L. 95-128
"Housing and Community Development Act of 1977". (Oct. 12, 1977; 91 Stat. 1111). Price: \$1.40.

S. 1435..... Pub. L. 95-127
To amend the Federal Election Campaign Act of 1971 to extend the authorization of appropriations contained in such Act. (Oct. 12, 1977; 91 Stat. 1110). Price: \$.50.

rules and regulations

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

[6325-01]

Title 5—Administrative Personnel
CHAPTER I—CIVIL SERVICE COMMISSION
PART 213—EXCEPTED SERVICE
United States Information Agency
AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The position of Policy Guidance Coordinator, Office of Policy and Plans, is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, (202-632-4533).

Accordingly, 5 CFR 213.3328(n) is added as set out below:

§ 213.3328 U.S. Information Agency.

(n) One Policy Guidance Coordinator, Office of Policy and Plans.
(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-29760 Filed 10-13-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE
Department of Health, Education, and Welfare

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: The following positions are excepted under Schedule C because they are confidential in nature: One position of Deputy Director, Office of State and Community Affairs, and one position of Attorney-Advisor (Special Assistant) to the General Counsel.

EFFECTIVE DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling, (202-632-4533).

Accordingly, 5 CFR 213.3316(n) (18) and (p) (4) are added as set out below:

§ 213.3316 Department of Health, Education, and Welfare.

(n) Office of the Assistant Secretary for Human Development.
(18) One position of Deputy Director, Office of State and Community Affairs.

(p) Office of the General Counsel.

(4) One Attorney-Advisor (Special Assistant) to the General Counsel.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-29914 Filed 10-13-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE
Department of State

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Special Assistant to the Assistant Secretary for Inter-American Affairs is established under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3304(aa) (1) is added as set out below:

§ 213.3304 Department of State.

(aa) Bureau of Inter-American Affairs.

(1) One Special Assistant to the Assistant Secretary.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-29916 Filed 10-13-77; 8:45 am]

[6325-01]

PART 213—EXCEPTED SERVICE
U.S. Arms Control and Disarmament Agency

AGENCY: Civil Service Commission.

ACTION: Final rule.

SUMMARY: One position of Private Secretary to the Counselor of the Agency is excepted under Schedule C because it is confidential in nature.

EFFECTIVE DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

William Bohling (202-632-4533).

Accordingly, 5 CFR 213.3364(m) is added as set out below:

§ 213.3364 U.S. Arms Control and Disarmament Agency.

(m) One Private Secretary to the Counselor of the Agency.

(5 U.S.C. 3301, 3302; EO 10577, 3 CFR 1954-1958 Comp., p. 218.)

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.77-29915 Filed 10-13-77; 8:45 am]

[3410-34]

Title 7—Agriculture
CHAPTER III—ANIMAL AND PLANT HEALTH INSPECTION SERVICE, DEPARTMENT OF AGRICULTURE
PART 301—DOMESTIC QUARANTINE NOTICES

Subpart—Mexican Fruit Fly

EXEMPTIONS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This document exempts from all requirements of the Mexican fruit fly quarantine and regulations the movement of any host fruits except for movements to or through specified citrus-producing areas. The restrictions on movements of host fruits not to or through citrus-producing areas are not necessary to prevent the spread of the Mexican fruit fly. Therefore, the issuance of limited permits and other restrictions with respect to the movement

of any host fruits except for movements to or through specified citrus-producing areas, will no longer be required.

FOR FURTHER INFORMATION CONTACT:

H. I. Rainwater, Regulatory Support Staff, Animal and Plant Health Inspection Service, Plant Protection and Quarantine Programs, U.S. Department of Agriculture, Hyattsville, Md. 20782, 301-436-8247.

SUPPLEMENTARY INFORMATION: The Mexican fruit fly is a dangerous insect that attacks citrus and other fruits. This fruit fly exists in a limited area in the Lower Rio Grande Valley, which has been designated as a regulated area. Bioclimatic studies have indicated that this fruit fly's ecological range in the United States is limited to warmer climates, i.e., citrus-producing areas. The Mexican fruit fly quarantine and regulations (7 CFR 301.64, 301.64-1 et seq.) regulate the interstate movement from infested areas of host fruits which pose a threat of spread of the insect to citrus-producing areas of the United States and specifies the host fruits and conditions under which movement of these fruits is allowed.

The quarantine and regulations have allowed noncertifiable host fruits to move interstate from regulated areas to specified destinations under limited permit. The only requirements for the movement of host fruits pursuant to a limited permit are that such permit indicates the place of destination and that the movement not be to or through a citrus-producing area.

Restrictions on the interstate movement of host fruits from a regulated area to or through citrus-producing areas are still necessary. However, interstate movements of host fruits from regulated areas which are not to or through citrus-producing areas do not require any restrictions because past experience has shown that the possibility of pest spread to citrus-producing areas by this means is negligible and the utilization of such limited permits creates unnecessary paperwork. Therefore, any interstate movement of host fruits is hereby exempted from all requirements under the quarantine and regulations, unless such movement is to or through a designated citrus-producing area.

Accordingly, § 301.64-2b of the regulations supplemental to the Mexican fruit fly quarantine (7 CFR 301.64-2b) is hereby amended to read as follows.

§ 301.64-2b Exemptions.¹

Any movement of host fruits shall be exempt from all requirements of this subpart unless such movement is to or through the following: Arizona; California; Florida; Hawaii; Jefferson, Or-

¹ The articles hereby exempted remain subject to applicable restrictions under other quarantines.

leans, Plaquemines, St. Bernard, and St. Charles Parishes in Louisiana; Puerto Rico; and the Virgin Islands of the United States.

(Secs. 8, and 9, 37 Stat. 318, as amended, sec. 106, 71 Stat. 33 (7 U.S.C. 161, 162, 150ee).)

This amendment relieves certain restrictions heretofore imposed, and should be made effective promptly in order to be of maximum benefit to the persons subject to the restrictions that are being relieved. Also, it does not appear that additional information would be made available to the Department by public participation in rulemaking proceedings on the amendment.

Accordingly, it is found, under the administrative procedure provisions of 5 U.S.C. 553, that notice and other public procedure with respect to this amendment are unnecessary, and good cause is found for making it effective less than 30 days after publication in the *FEDERAL REGISTER*.

NOTE.—The Plant Protection and Quarantine Programs, Animal and Plant Health Inspection Service, has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., this 29th day of September 1977.

JAMES O. LEE, JR.,
Deputy Administrator, Plant
Protection and Quarantine
Programs, Animal and Plant
Health Inspection Service.

[FR Doc. 77-30296 Filed 10-13-77; 8:45 am]

[3410-02]

CHAPTER IX—AGRICULTURAL MARKETING SERVICE (MARKETING AGREEMENTS AND ORDERS; FRUITS, VEGETABLES, NUTS), DEPARTMENT OF AGRICULTURE

**[Lemon Reg. 115; Lemon Reg. 314, Amdt. 1]
PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA**

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action establishes the quantity of California-Arizona lemons that may be shipped to the fresh market during the period October 16-22, 1977, and increases the quantity of such lemons that may be so shipped during the period October 9-15, 1977. Such action is needed to provide for orderly marketing of fresh lemons for the periods specified due to the marketing situation confronting the lemon industry.

DATES: The regulation becomes effective October 16, 1977, and the amendment is effective for the period October 9-15, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-3545.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona, effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of the recommendations and information submitted by the Lemon Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of lemons, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on October 11, 1977, to consider supply and market conditions and other factors affecting the need for regulation, and recommended quantities of lemons deemed advisable to be handled during the specified weeks. The committee reports the demand for lemons is good on 140's and larger, and easing on 165's and smaller.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days after publication in the *FEDERAL REGISTER* (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation and amendment are based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting, and the amendment relieves restrictions on the handling of lemons. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 910.415 Lemon Regulation 115.

1. *Order.* (a) The quantity of lemons grown in California and Arizona which may be handled during the period October 16, 1977, through October 22, 1977, is established at 205,000 cartons.

(b) As used in this section, "handled" and "carton(s)" mean the same as defined in the marketing order.

2. The provisions of paragraph (a) in § 910.414 Lemon Regulation 314 (42 FR 54555) is amended to read as follows: "The quantity of lemons grown in California and Arizona which may be handled during the period October 9, 1977, through October 15, 1977, is established at 230,000 cartons."

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: October 13, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable
Division, Agricultural
Marketing Service.

[FR Doc. 77-30389 Filed 10-13-77; 12:24 pm]

[3410-02]

PART 966—TOMATOES GROWN IN FLORIDA

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires fresh market shipments of tomatoes grown in certain counties in Florida to be inspected and meet minimum grade, size, pack, container and marking requirements. This should promote orderly marketing of such tomatoes by keeping less desirable sizes and qualities from being shipped to consumers.

EFFECTIVE DATE: October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202-447-3545.

SUPPLEMENTARY INFORMATION: Marketing Agreement No. 125 and Order No. 966, both as amended (7 CFR 966) regulate the handling of tomatoes grown in designated counties of Florida. It is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The Florida Tomato Committee, established under the order, is responsible for its local administration.

This regulation is based upon recommendations made by the committee at its public meeting in Palm Beach, Fla., on September 9, 1977. Notice was published in the September 21, 1977, *FEDERAL REGISTER* (42 FR 47560) regarding the proposals. It afforded interested persons an opportunity to file written comments not later than October 6, 1977. None was received.

The recommendations of the committee reflect its appraisal of the composition of the 1977-78 crop of Florida tomatoes and the marketing prospects for this season. The regulation is similar to those issued during past seasons. The grade and size requirements are necessary to prevent tomatoes of lower quality and undesirable sizes from being distributed in fresh market channels. Such tomatoes are usually of negligible economic value to producers. This will provide consumers with tomatoes of good quality and size throughout the season consistent with the overall quality of the crop. The requirements for containers, container net weights, and size classifications are necessary to standardize shipments in the interest of orderly marketing and to improve returns to growers.

Exceptions are provided to certain of these requirements to recognize special situations in which such requirements are inappropriate or unreasonable. Shipments are allowed to certain special purpose outlets without regard to minimum grade, size, container or inspection requirements provided that safeguards are used to prevent such tomatoes from reaching unauthorized outlets.

Tomatoes for canning are exempt under the legislative authority for this part. Since no purpose would be served by regulating tomatoes used for relief or charity purposes such shipments are also exempt. Because export requirements differ materially, on occasion, from domestic market requirements such shipments are exempt. The following types of tomatoes are exempt from these regulations: elongated types, commonly referred to as pear shaped or paste tomatoes, cerasiform type tomatoes commonly referred to as cherry tomatoes, hydroponic tomatoes and greenhouse tomatoes. Such types are generally of good quality, readily identifiable either by their distinctive shapes or container markings and usually comprise a very small part of the total crop. Tomatoes marketed within the regulated area are unregulated because of an increase in the u-pick type of harvest in Florida production areas close to urban areas and resulting difficulty in obtaining compliance with regulations. The minimum quantity exemption permits persons to handle up to 60 pounds of tomatoes per day without regard to the requirements of this part. This reduces the problem of enforcement on small shipments of essentially noncommercial nature. The requirements concerning special pack shipments are intended to help handlers in the production area compete on an equal basis with those outside the area by not requiring reinspection of previously inspected and certified tomatoes when repacked in consumer size packages.

After consideration of all relevant matters presented, including the above proposal recommended by the Florida Tomato Committee, established pursuant to said marketing agreement and order, it is hereby found and determined that the handling regulation, as hereinafter set forth, will tend to effectuate the declared policy of the act.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the *FEDERAL REGISTER* (5 U.S.C. 553) in that (1) shipments of 1977-78 crop tomatoes grown in the production area will begin on or about the effective date herein and the regulation should become effective at that time to maximize the benefits to producers; (2) information regarding the provisions of the recommendation by the committee has been disseminated among the growers and handlers of tomatoes in the production area; and (3) compliance with this section should not require any special preparation on the part of handlers subject thereto which cannot be completed by such effective date.

The regulation is as follows:
§ 966.316 Handling regulation.

During the period October 17, 1977, through June 17, 1978, no person shall

handle any lot of tomatoes for shipment outside the regulated area unless they meet the requirements of paragraph (a) or are exempted by paragraphs (b) or (d).

(a) *Grade, size, container and inspection requirements.*

(1) *Grade.* Tomatoes shall be graded and meet the requirements specified for U.S. No. 1, U.S. Combination, U.S. No. 2 or U.S. No. 3, of the U.S. Standards for Grades of Fresh Tomatoes. When not more than 15 percent of tomatoes in any lot fail to meet the requirements of U.S. No. 1 grade and not more than one-third of this 15 percent (or 5 percent) are comprised of defects causing very serious damage including not more than one percent of tomatoes which are soft or affected by decay, such tomatoes may be shipped and designated as at least 85 percent U.S. No. 1 grade.

(2) *Size.* (i) tomatoes shall be at least 2 1/2 inches in diameter and be sized in accordance with § 2851.1859 of the U.S. tomato standards.

(ii) Tomatoes of designated sizes may not be commingled unless they are over 2 1/2 inches in diameter and each container shall be marked to indicate the designated sizes.

(iii) Only the generic terms as defined in § 2851.1859 may be used to indicate size designations on containers of tomatoes; except that the following abbreviations may be used—SML for small, MED for medium, LG for large, EX LG for extra large, or MAX LG for maximum large.

(3) *Containers.* (i) Tomatoes shall be packed in containers of 20, 30 or 40 pounds designated net weights and comply with the requirements of § 2851.1863 of the U.S. tomato standards.

(ii) Each container shall be marked to indicate the designated net weight and must show the name and address of the shipper in letters at least one-fourth (1/4) inch high.

(iii) If the container in which the tomatoes are packed is not clean and bright in appearance without marks, stains or other evidence of previous use, the lid of such container shall be marked with the words "USED BOX" in letters not less than three-fourths (3/4) inch high.

(4) *Inspection.* Tomatoes shall be inspected and certified pursuant to the provisions of § 966.60. Each handler who applies for inspection shall register with the committee pursuant to § 966.113. Handlers shall pay assessments as provided in § 966.42. Evidence of inspection must accompany truck shipments.

(b) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, relief, charity or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(c) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, relief, charity or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

(d) *Special purpose shipments.* The requirements of paragraph (a) of this section shall not be applicable to shipments of tomatoes for canning, relief, charity or export if the handler thereof complies with the safeguard requirements of paragraph (c) of this section. Shipments for canning are also exempt from the assessment requirements of this part.

The regulation is as follows:

§ 966.316 Handling regulation.

During the period October 17, 1977, through June 17, 1978, no person shall

(c) *Safeguards.* Each handler making shipments of tomatoes for canning, relief, charity or export in accordance with paragraph (b) of this section shall:

(1) Apply to the committee and obtain a Certificate of Privilege to make such shipments.

(2) Prepare on forms furnished by the committee a report in quadruplicate on such shipments authorized in paragraph (b) of this section.

(3) Bill or consign each shipment directly to the designated applicable receiver.

(4) Forward one copy of such report to the committee office and two copies to the receiver for signing and returning one copy to the committee office. Failure of the handler or receiver to report such shipments by signing and returning the applicable report to the committee office within ten days after shipment shall be cause for cancellation of such handler's certificate and or receiver's eligibility to receive further shipments pursuant to such certificate. Upon cancellation of any such certificate, the handler may appeal to the committee for reconsideration.

(d) *Exemption.*—(1) For types. The following types of tomatoes are exempt from these regulations: Elongated types commonly referred to as pear shaped or paste tomatoes and including but not limited to San Marzano, Red Top and Roma varieties; cerasiform type tomatoes commonly referred to as cherry tomatoes; hydroponic tomatoes; and greenhouse tomatoes.

(2) For minimum quantity. For purposes of these regulations each person subject thereto may handle up to but not to exceed 60 pounds of tomatoes per day without regard to the requirements of these regulations but this exemption shall not apply to any shipment or any portion thereof of over 60 pounds of tomatoes.

(3) For special packed tomatoes. Tomatoes resorted, regarded and repacked by a handler who has been designated as a "Certified Tomato Repacker" by the committee are exempt from the tomato grade classifications of paragraph (a) (1) and the size classifications of paragraph (a) (2) except that the tomatoes shall be at least 2 1/2 inches in diameter and the container weight requirements of paragraph (a) (3) if such tomatoes comply with the inspection requirements of paragraph (a) (4).

(e) *Definitions.* "Hydroponic tomatoes" means tomatoes grown in solution without soil; "greenhouse tomatoes" means tomatoes grown indoors. A "Certified Tomato Repacker" is a repacker of tomatoes in the regulated area who has the facilities for handling, regrading, resorting and repacking tomatoes into consumer size packages and has been certified as such by the committee. "U.S. tomato standards" means the revised United States Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855-2851.1877), effective December 1, 1973, as amended, or variations thereof specified in this section (Title 7, Chapter I, Part

51 was redesignated Title 7, Chapter 28, Part 2851 on June 27, 1977). Other terms in this section shall have the same meaning as when used in Marketing Agreement No. 125, as amended, and this part, and the U.S. tomato standards.

(f) *Applicability to imports.* Under section 8e of the act and section 980.212 "Import regulations" (7 CFR 980.212) tomatoes imported during the effective period of this section shall be at least U.S. No. 3 grade and at least 2 1/2 inches in diameter. Not more than 10 percent, by count, in any lot may be smaller than the minimum specified diameter.

NOTE.—It is hereby certified that the economic and inflationary impacts of this proposed regulation have been carefully evaluated in accordance with OMB Circular A-107.

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: October 12, 1977, to become effective October 17, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 77-30243 Filed 10-13-77; 9:45 am]

[3410-02]

PART 980—VEGETABLES: IMPORT REGULATIONS

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation requires imports of tomatoes to be inspected and meet minimum grade and size requirements. The regulation should promote orderly marketing of such tomatoes by keeping less desirable qualities and sizes from being imported.

EFFECTIVE DATE: October 17, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, AMS, U.S. Department of Agriculture, Washington, D.C. 20250. Telephone: 202-447-3545.

SUPPLEMENTARY INFORMATION: Notice of rulemaking regarding proposed requirements on the importation of tomatoes into the United States to be made effective under Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), was published in the September 21 Federal Register (42 FR 47561). The notice afforded interested persons an opportunity to file written data, views or arguments in regard thereto not later than October 6, 1977. None was filed.

Section 8e of the act provides that whenever a Federal marketing order is in effect for tomatoes, the importation of tomatoes shall be prohibited unless they comply with the grade, size, quality

and maturity provisions of such order. The provisions hereinafter set forth comply with those which become effective under Marketing Order No. 966, as amended, for tomatoes grown in designated counties of Florida.

It is hereby found that good cause exists for not postponing the effective date of this regulation beyond the time specified (5 U.S.C. 553) in that (1) the requirements established by this regulation are mandatory under Section 8e of the act; (2) in fixing the effective date hereof consideration was given to the time required for transportation of the tomatoes and entry into the United States; and (3) such notice is in excess of the three day minimum required by the act.

The regulation is as follows:

§ 980.212 Import regulations; tomatoes.

(a) *Findings and determinations with respect to fresh tomatoes.* (1) Under Section 8e of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), it is hereby found that:

(i) Grade, size, quality and maturity regulations have been issued from time to time under Marketing Order No. 966, as amended;

(ii) The marketing of fresh tomatoes from Florida covered by Marketing Order No. 966, as amended, can reasonably be expected to occur during the months of October through June;

(2) Therefore, it is hereby determined that imports of fresh tomatoes during the months of October through June are in most direct competition with the marketing of fresh tomatoes produced in Florida covered by Marketing Order No. 966, as amended.

(b) *Grade, size, quality and maturity requirements.* On and after the effective date hereof no person may import fresh tomatoes except pear shaped, cherry, hydroponic and greenhouse tomatoes as defined herein, unless they are inspected and meet the following requirements:

(1) During the October-June period of each marketing year, whenever tomatoes grown in Florida are regulated under Marketing Order No. 966, imported tomatoes shall comply with the grade, size, quality and maturity requirements imposed under that order.

(c) *Minimum quantity exemption.* Any importation which in the aggregate does not exceed 60 pounds may be imported without regard to the provisions of this section.

(d) *Plant quarantine.* Provisions of this section shall not supersede the restrictions or prohibitions on tomatoes under the Plant Quarantine Act of 1912.

(e) *Designation of Governmental inspection service.* The Federal or the Federal-State Inspection Service, Food Safety and Quality Service, United States Department of Agriculture, and the Fruit and Vegetable Division, Production and Marketing Branch, Canada Department of Agriculture, are designated as governmental inspection services for certifying the grade, size, quality and maturity of tomatoes that are imported into

the United States under the provisions of section 8e of the act.

(f) *Inspection and official inspection certificates.* (1) An official inspection certificate certifying the tomatoes meet the United States import requirements for tomatoes under Section 8e (7 U.S.C. 608e-1), issued by a designated governmental inspection service and applicable to a specified lot is required on all imports of fresh tomatoes.

(2) Inspection and certification by the Federal or Federal-State Inspection Service will be available and performed in accordance with the rules and regulations governing certification of fresh fruits, vegetables and other products (7

Ports	Office	Advance notice
All Texas points.....	Officer-in-charge, 1301 West Expressway, Alamo, Tex. 78516, phone 512-787-4691 or 6881.	1 d.
All Arizona points.....	Officer-in-charge, P.O. Box 1614, Nogales, Ariz. 85621, phone 602-287-2902.	1 d.
All California points.....	Officer-in-charge, 784 South Central Ave., room 266, Los Angeles, Calif. 90021, phone 213-683-2489.	3 d.
All Hawaii points.....	Officer-in-charge, P.O. Box 22159 Pawaa substation Honolulu, Hawaii 96822, phone 808-941-3071.	1 d.
All Puerto Rico points.....	Officer-in-charge, P.O. Box 9112, Santurce, P.R. 00908, phone 809-783-2230 or 416.	2 d.
New York City, N.Y.....	Officer-in-charge, room 28A, Hunts Point Market, Bronx, N.Y. 10474, phone 212-991-7669 or 7668.	1 d.
New Orleans, La.....	Officer-in-charge, 3027 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans La. 70113, phone 504-389-6741 or 6742.	1 d.
Miami, Fla.....	Officer-in-charge, 1340 Northwest 12th Ave., room 530, Miami, Fla. 33136, phone 305-324-6116 or 6117.	1 d.
All other Florida points.....	Officer-in-charge, P.O. Box 1232, Winter Haven, Fla. 33880, phone 813-294-3311, ext. 33.	1 d.
All other points.....	Chief, fresh products branch, fruit and vegetable quality division, food safety and quality service, Washington, D.C. 20250, phone 202-447-3870.	3 d.

(4) Inspection certificates shall cover only the quantity of tomatoes that is being imported at a particular port of entry by a particular importer.

(5) Each inspection certificate issued with respect to any tomatoes to be imported into the United States shall set forth, among other things:

(i) The date and place of inspection;

(ii) The name of the shipper, or applicant;

(iii) The commodity inspected;

(iv) The quantity of the commodity covered by the certificate;

(v) The principal identifying marks on the containers;

(vi) The railroad car initials and number, the truck and trailer license number, the name of the vessel, or other identification of the shipment; and

(vii) The following statement, if the facts warrant: Meets import requirements of 7 U.S.C. 608e-1.

(g) *Reconditioning prior to importation.* Nothing contained in this part shall be deemed to preclude any importer from reconditioning prior to importation any shipment of tomatoes for the purpose of making it eligible for importation.

(h) *Definitions.* For the purpose of this section, "Importation" means release from custody of the United States Bureau of Customs. "Cherry tomatoes" means cerasiform types commonly referred to as "cherry tomatoes." "Pear shaped tomatoes" means elongated types, commonly referred to as pear shaped or paste tomatoes and include San Marzano, Red Top and Roma varieties.

"Hydroponic tomatoes" means tomatoes grown in solution without soil.

CFR Part 2851). Each lot shall be made available and accessible for inspection as provided therein. Cost of inspection and certification shall be borne by the applicant.

(3) Since inspectors may not be stationed in the immediate vicinity of some smaller ports of entry, importers should make advance arrangements for inspection by ascertaining whether or not there is an inspector located at their particular port of entry. For all ports of entry where an inspection office is not located, each importer must give the specified advance notice to the applicable office listed below prior to the time the tomatoes will be imported.

Ports	Office	Advance notice
All Texas points.....	Officer-in-charge, 1301 West Expressway, Alamo, Tex. 78516, phone 512-787-4691 or 6881.	1 d.
All Arizona points.....	Officer-in-charge, P.O. Box 1614, Nogales, Ariz. 85621, phone 602-287-2902.	1 d.
All California points.....	Officer-in-charge, 784 South Central Ave., room 266, Los Angeles, Calif. 90021, phone 213-683-2489.	3 d.
All Hawaii points.....	Officer-in-charge, P.O. Box 22159 Pawaa substation Honolulu, Hawaii 96822, phone 808-941-3071.	1 d.
All Puerto Rico points.....	Officer-in-charge, P.O. Box 9112, Santurce, P.R. 00908, phone 809-783-2230 or 416.	2 d.
New York City, N.Y.....	Officer-in-charge, room 28A, Hunts Point Market, Bronx, N.Y. 10474, phone 212-991-7669 or 7668.	1 d.
New Orleans, La.....	Officer-in-charge, 3027 U.S. Postal Service Bldg., 701 Loyola Ave., New Orleans La. 70113, phone 504-389-6741 or 6742.	1 d.
Miami, Fla.....	Officer-in-charge, 1340 Northwest 12th Ave., room 530, Miami, Fla. 33136, phone 305-324-6116 or 6117.	1 d.
All other Florida points.....	Officer-in-charge, P.O. Box 1232, Winter Haven, Fla. 33880, phone 813-294-3311, ext. 33.	1 d.
All other points.....	Chief, fresh products branch, fruit and vegetable quality division, food safety and quality service, Washington, D.C. 20250, phone 202-447-3870.	3 d.

"Greenhouse tomatoes" means tomatoes grown indoors. The terms relating to grade and size, as used herein, shall have the same meaning as when used in the U.S. Standards for Grades of Fresh Tomatoes (7 CFR 2851.1855-2851.1877; Title 7, Chapter I, Part 51 was redesignated Title 7, Chapter 28, Part 2851 on June 27, 1977).

(Secs. 1-19, 48 Stat. 31, as amended (7 U.S.C. 601-674).)

Dated: October 12, 1977 to become effective October 17, 1977.

CHARLES R. BRADER,
Acting Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 77-30242 Filed 10-13-77; 8:45 am]

[3410-07]

CHAPTER XVIII—FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

SUBCHAPTER B—LOANS AND GRANTS PRIMARILY FOR REAL ESTATE PURPOSES (FmHA Instruction 444.5)

PART 1822—RURAL HOUSING LOANS AND GRANTS

Subpart D—Rural Rental Housing Loan Policies, Procedures and Authorizations

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations concerning interest rate reductions on projects utilizing section 8 assistance

and makes additional editorial changes. This action is necessary to make current FmHA regulations concerning interest credits to profit organizations consistent with the HUD—FmHA Memorandum of Understanding on sections 8/515 assistance. The effect of this action will prevent profit organizations that receive Section 8 assistance from receiving a FmHA reduction in the effective interest rate.

EFFECTIVE DATE: September 20, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Paul R. Conn, 202-447-7207.

SUPPLEMENTARY INFORMATION:

Exhibits 0 and 0-1 of Subpart D Part 1822, Title 7, Code of Federal Regulations, are amended so that interest rate reductions applicable to Section 8 units will be at least one percentage point below the FmHA interest rate in effect for section 515 loans at the time of loan closing, but this interest rate reduction will not be provided to projects operated on a profit basis as defined in FmHA regulations and approved after the effective date of this amendment, Paragraphs II and IV A and B of Exhibit 0, and paragraph III A of Exhibit 0-1 are amended to make FmHA regulations consistent with changes being made simultaneously in the Memorandum of Understanding on the use of Section 8 of the United States Housing Act of 1937 and Section 515 of the Housing Act of 1949, by the Department of Housing and Urban Development (HUD) and FmHA. An editorial change is made in paragraph V C of Exhibit 0. It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. This amendment, however, is being published effective on September 20, 1977. Since this action is being taken to make FmHA regulations consistent with changes being concurrently made in the HUD and FmHA Memorandum of Understanding on Section 8/515 assistance, publication for prior comment being impracticable, is not necessary. As amended, paragraphs II, IV A and B and V C of Exhibit 0, and paragraph III A of Exhibit 0-1 read as follows:

EXHIBIT 0—RRH LOANS AND THE HUD SECTION 8 HOUSING AND ASSISTANCE PAYMENTS PROGRAM (NEW CONSTRUCTION)

I. General. The attached Exhibit 0-1 is the Memorandum of Understanding between the Department of Housing and Urban Development (HUD) and the Department of Agriculture, Farmers Home Administration (FmHA), concerning the application processing and operation of rural rental projects involving HUD Section 8 housing assistance payments. The Memorandum provides for a set aside of contract authority under Section 8 of the U.S. Housing Act of 1937 for new construction projects financed by FmHA under Section 515. Only units charged against this set aside are eligible under these procedures. This Exhibit and HUD's regulations published in 24 CFR Part 883 Subparts G and H contain the policies and procedures that will be followed by FmHA in imple-

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menting and carrying out the provisions of the Agreement.

II. *Establishment of Interest Rate for Section 8 Units.* FmHA will provide an interest reduction for all units under Section 8, except units in projects operated on a profit basis and approved after September 20, 1977. Since the advantage of this interest reduction must be passed through to the tenant in the form of lower rents, the budget for the Section 8 units should not reflect an excess of income over operating and maintenance expenses, debt repayment, reserve requirements, and for limited profit borrowers, a return on initial investment. If the borrower will operate the project on a non-profit or limited profit basis, the payment of interest on the RRH loan will be based on at least a 1 percent interest reduction below the established interest rate for RRH loans for the units of a project under HUD's Housing Assistance Payments Contract (Contract). However, when the budget is prepared on the basis of a 1 percent reduction and the proposed Contract Rents exceed the applicable Fair Market Rents, the State Director may approve an interest reduction of 2 percent below the note rate of interest for the units utilizing the HUD Housing Assistance Payments Program. The State Director, in making this determination, must be sure that the budget is accurate and reflects reasonable and typical costs for the area and is necessary to make the project feasible. If the reduction of 2 percent below the interest rate of the note does not result in rental rates which are equal to or less than the Fair Market Rate, the State Director will submit a request including the budget, a narrative budget analysis, and other supporting data, to HUD's Field Office Director for approval of higher Contract Rents. HUD may approve increases of up to 20 percent above the Fair Market Rents. The interest rate shown on the note, however, will be in accordance with FmHA Instruction 440.1, Exhibit B. This reduction in interest or interest credit will be accomplished in the manner indicated for Plan I and Plan II in Exhibit J of this Instruction and in accordance with paragraph IV of this Exhibit.

IV. Budgets and interest credit agreements.

A. *Total Project Under Section 8.* If a project is developed with all units of the project covered by Section 8, one budget will be prepared. The budget will be based on an interest rate which has been set for the project in compliance with paragraph II of this Exhibit. When applicable, an interest credit agreement will be entered into with the borrower to show the amount of interest reduction. Check Plan I of the agreement and show the amount of interest credit as the difference between the amortized payment at the note rate of interest and the amortized payment calculated at the effective interest rate. In addition to checking Plan I on the Form FmHA 444-7, "Interest Credit Agreement (RRH & RCH Loans)," type the following notation as an added paragraph until this change is incorporated into the form by revision:

"10. This interest credit agreement is submitted for a section 8/515 project. The interest credit to be applied is based on information contained in Part 1822 Subpart D Exhibit 0, paragraph IV A. The effective interest rate is (enter 1 or 2 percent) below the note rate of interest."

B. *Mixed Project for Profit.* If a mixed project is developed (a project with only a part of the units covered by Section 8 contract) and the borrower is operating on a profit basis, one budget will be prepared

based on market rent. The market rent and contract rent set must be the same. If the borrower agrees to operate on a limited profit or nonprofit basis, paragraph IV C of this exhibit will apply.

V. Compliance and Certification Required.

C. *Site and Neighborhood Standards.* The State Director will certify that the location of each project is in compliance with paragraph VIII Q of this Instruction. Exhibit 0-4 will be used to assist in determining compliance with this requirement. Exhibit 0-5 may be used until HUD supplies an appropriate form for the certification.

EXHIBIT 0-1—MEMORANDUM OF UNDERSTANDING ON USE OF SECTION 8 OF THE UNITED STATES HOUSING ACT OF 1937 AND SECTION 515 OF THE HOUSING ACT OF 1949

III. Contract and Fair Market Rents.

A. FmHA agrees to provide interest credit on any newly contracted Section 515 project to be assisted by Section 8 housing assistance payments. The effective interest rate applicable to the Section 8 units will be reduced by at least one percentage point below the FmHA interest rate in effect for Section 515 loans at the time of loan closing. The requirement that an interest credit be provided shall not apply to projects approved after the effective date of this paragraph and which are operated on a profit basis as defined by FmHA regulations.

(42 U.S.C. 1480; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 29, 1977.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 77-29982 Filed 10-13-77; 8:45 am]

[3410-07]

SUBCHAPTER G—MISCELLANEOUS REGULATIONS

[FmHA Instruction 440.3]

PART 1888—SPECIAL ASSISTANCE TO DROUGHT STRICKEN AREAS

Authorization for Reduction of Interest Rates

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulation to add provisions authorizing a reduction of interest rates on Emergency (EM) loans for actual losses. This is as a result of

Pub. L. 95-89, which was enacted August 4, 1977, authorizing new interest rates for EM loans for actual losses for disasters occurring on or after July 1, 1976, and prior to October 1, 1978. This action is intended to further aid disaster victims.

EFFECTIVE DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Jesse C. Joyner, (202-447-6257).

SUPPLEMENTARY INFORMATION: Sections 1888.4 and 1888.12 of Part 1888, Chapter XVIII, Subchapter G, "Miscellaneous Regulations," Title 7, Code of Federal Regulations (42 FR 19322; 42 FR 23158) are amended. The purpose of this amendment is to comply with Pub. L. 95-89 which provides that interest rates on EM loans for actual losses be set in the following manner:

1. For repair or replacement of the primary residence and personal property, 1-percent on the first \$10,000, 3-percent on the balance not to exceed \$40,000, and 5-percent above \$40,000.
2. For other actual loss loans, 3-percent up to \$250,000 and 5-percent above \$250,000.
3. For disasters occurring prior to July 1, 1976, the interest rate for actual losses will remain at 5-percent.

The law further provides that when a loan bears interest at different rates, repayment of principal and interest on the lowest interest rate portion of the loan will be scheduled for repayment before principal payments on those portions of the loan bearing higher interest rates.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the change is mandated by Pub. L. 95-89; therefore public procedure thereon is unnecessary. Accordingly, §§ 1888.4 and 1888.12 as amended, read as follows:

§ 1888.4 Areas of eligibility.

Loans and grants under this part are to be made in the following areas:

(a) Areas currently designated by the President, the Secretary of Agriculture, or the FmHA State Director as Emergency Loan (EM) areas because of drought.

(b) Areas subsequently designated because of drought in accordance with Subpart C of Part 1904 of this Chapter.

(c) Those rural communities requesting assistance under these provisions will be determined to be in an eligible area if they are in areas designated by paragraphs (a) or (b) of this section, or any other area designated by a Federal Agency administering programs of drought assistance. (This applies to water and waste disposal loan and grant programs only.)

§ 1888.5-1888.11 [Reserved]

§ 1888.12 Emergency loans.

(a) *Production losses.*—(1) *Drought production losses.* Farmers, ranchers and persons engaged in aquaculture (including private domestic corporations and partnerships) otherwise eligible may be eligible for 3-percent interest rate loss loans up to \$250,000 and 5-percent interest rate loss loans above \$250,000 under this provision when due to the drought. *Provided:*

(i) They are unable to plant all or a portion of their normal crops, including feed crops, or are unable to graze pastures; or

(ii) They will be unable to produce all or a portion of their normal perennial crops already growing such as fruits and nuts; or

(iii) They will be precluded from harvesting all or part of the crops they have planted.

(2) *Decrease in production.* Drought production losses must represent a decrease in production of at least 20 percent below normal in a basic farming enterprise to establish eligibility. See § 1904.170 of this Chapter.

(3) *Amount of EM loan.* The amount of the drought production loss will be calculated by determining normal income in accordance with § 1904.170 of this chapter and subtracting therefrom (i) the amount of any income that may be derived from the disaster-affected enterprise(s), plus (ii) the costs which will not be incurred because of the drought. Such costs will be derived from current crop enterprise budgets prepared by State Agricultural Extension Service economists which are based on normal farming conditions in the designated drought area.

(4) *Additional loans for actual production losses.* Additional loans for actual production losses later determined at the end of the crop season will be made at the 3-percent or 5-percent interest rate in accordance with § 1904.170 of this chapter. The amount of any drought loss loan must be deducted from any additional actual production loss loans made to borrowers based on losses from the same disaster to the same enterprise(s) for which an applicant later qualifies.

(5) *Physical loss loans.* Loans for physical losses may be made at the 1-percent, 3-percent or 5-percent interest rate in accordance with Subpart C of Part 1904 of this chapter.

(b) *Annual operating and major adjustment loans.* Farmers, ranchers, and persons engaged in aquaculture (including private domestic corporations and partnerships) found eligible for loss loans as prescribed in this regulation may be eligible for major adjustment and operating loans at the prevailing market rate of interest in accordance with § 1904.170 of this chapter.

(c) *Procedure for loan making and servicing.* Loans shall be made and serviced in accordance with § 1904.170

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of this chapter, except as modified in this subpart.

(7 U.S.C. 1989; delegation of authority by the Sec. of Agri., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 30, 1977.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc. 77-29980 Filed 10-13-77; 8:45 am]

[3410-07]

SUBCHAPTER I—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

[FmHA Instruction 1904-C]

PART 1904—LOAN AND GRANT PROGRAMS (INDIVIDUAL)

Subpart C—Farmer Program Loans SOIL AND WATER LOANS

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulation to accept applications for soil and water loans for actions stated prior to April 7, 1977: *Provided*, The action was undertaken for the express purpose of mitigating losses and damage resulting from the 1976-1977 drought period. The intended effect of this amendment is to make this assistance more available. Towards this end FmHA, herein also defines eligible loan purposes; eliminates the test for credit; extends the obligation period from September 30, 1977, to November 30, 1977; and extends the period for development of work from November 30, 1977, to January 31, 1978.

EFFECTIVE DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Denton E. Sprague, 202-447-4597.

SUPPLEMENTARY INFORMATION: Exhibit F of Subpart C of Part 1904, Chapter XVIII of Title 7, Code of Federal Regulations (42 FR 44691-44692) is amended. This amendment revises the procedure contained in FmHA's regulation including Attachment I of this Exhibit "Memorandum of Understanding Between the Bureau of Reclamation, Department of the Interior, and the Farmers Home Administration, Department of Agriculture" for making Bureau of Reclamation loans to irrigators in order to make the procedure consistent with legislation enacted by the Congress and signed by the President on August 17, 1977 (42 FR 45927). The new Pub. L. 95-107 amends the Bureau of Reclamation Emergency Drought Act of 1977 (Pub. L. 95-18 approved April 7, 1977) and provides additional time to perform

certain action under the Emergency Drought Act of 1977, and releases funds from the waterbank for other purposes.

Specifically, the revision of this Exhibit relieves necessity for the applicant to explore the availability of other credit before a loan is finalized; sets forth the purposes for equipment and services, and allows for consideration of applicant's loans whose development work was started or completed prior to date of application; extends the authorities of the Act from September 30, 1977 to November 30, 1977, extends the time for accomplishment of construction activities under those authorities from November 30, 1977, to January 30, 1978, and adds as Attachment II of this Exhibit F, "Amendatory Memorandum of Understanding Between the Bureau of Reclamation, Department of the Interior, and the Farmers Home Administration, Department of Agriculture" following Exhibit Attachment I published at 42 FR 44692.

Although the authorities of the Act have been extended until November 30, 1977, funds to carry out the provisions of the Act have been appropriated only for fiscal year 1977. In the absence of further action by Congress, all funds to be used under that authority must be obligated by September 30, 1977.

It is the policy of this Department that rules relating to public property, loans, grants, benefits or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. However, since this amendment is being made in order to assist farmers under the provisions of the Emergency Drought Act of 1977 and the new law extending these provisions. Any delay in implementing this amendment would be contrary to public interest because of the deadline set forth in the Act on the use of funds obligated and the nature of the farmers' current need. Accordingly, as amended, Exhibit F and Attachment II of Subpart C of Part 1904 read as follows:

EXHIBIT F

BUREAU OF RECLAMATION LOANS TO IRRIGATORS AND ADMINISTERED BY FARMERS HOME ADMINISTRATION

I. *General.* This Exhibit provides additional procedures for making and servicing Soil and Water (SW) type loans to individuals located within Reclamation Projects. Attachment 1 is a Memorandum of Understanding Between the Bureau of Reclamation (BR) and the Farmers Home Administration (FmHA) outlining the working relationship between the agencies for these loans. Attachment II is an Amendatory Memorandum to Attachment I. The Memorandum of Understanding establishes eligibility requirements, sets loan terms, and indicates the purposes for which these loans may be made. The FmHA County Supervisors can resolve any question about project boundaries, acreage limitations, loan purposes, or eligibility requirements by contacting the BR office having jurisdiction over the project area. County Supervisors are authorized to accept applications and consider loans for applicants whose development work was started or completed prior to the date of loan application so long as the work was undertaken for the express purpose of mitigating losses and damages resulting from

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drought which occurred during the 1976-1977 drought period and the applicant has not already obtained permanent financing.

II. *Objectives.* Provide BR financial assistance to irrigators as defined in Attachment 1 and for the purposes outlined therein.

III. *Purposes.* Loans may be made for:

A. Paying the cash costs for materials, supplies, equipment, and services related to water development such as:

1. Terraces, dikes, reservoirs, ponds, tanks, cisterns, wells, pipelines, pumping, and irrigation equipment, ditches and canals for irrigation and drainage, waterways, and erosion control structures.

2. Expenses incident to obtaining plans and making the loan, such as fees for legal, engineering, and other technical services which are required to be paid by the borrower and which he cannot pay from other funds. Loan funds also may be used to pay the borrower's share of Social Security taxes for labor hired by the borrower in connection with making any planned improvements.

B. The purchase of water stock or membership in an incorporated water users association.

C. The acquisition of a water right through appropriation, agreement, permit, or decree.

D. The purchase of land or an interest therein for sites or rights-of-way upon which a water or drainage facility will be located.

IV. *Other Credit.* The applicant will not be required to explore the availability of other credit for this loan.

V. *Procedures.* This regulation and other related FmHA regulations will be used in processing and securing the BR loans. Applicable FmHA forms will be used. The following modifications will be required: Form FmHA 410-1, "Application for FmHA Services"—In section 24 and after "Type of Loan Applied for" complete "other" by inserting "SW-BR". Form FmHA 427-1, "Real Estate Mortgage"—Wherever reference is made to "the Consolidated Farm and Rural Development Act" insert "and Pub. L. 95-18".

Form FmHA 440-1, "Request for Obligation of Funds"—Loans will be identified by typing "43" in block 7 of Part I.

Form FmHA 440-2, "County Committee Certification or Recommendation"—In the block entitled "type of assistance" check the block "other" and specify "SW-BR".

Form FmHA 440-15, (State) "Security Agreement (Insured Loans to Individuals)"—Where reference is made to rates of interest, insert "zero". In the center of page 1, strike "the Consolidated Farmers Home Administration Act, 1961, or Title V of the Housing Act of 1949; and" and insert "Pub. L. 95-18 and".

Form FmHA 440-16, "Promissory Note"—In the block "Kind of Loan" and after "type" "SW-BR"; after "Pursuant to" insert "Pub. L. 95-18". Where reference is made to the percent of interest, insert "zero". In the last paragraph on page 2, delete "the Consolidated Farm and Rural Development Act or Title V of the Housing Act of 1949" and insert "Pub. L. 95-18".

Form FmHA 441-1 "Promissory Note"—In the block "Kind of Loan" insert "SW-BR". Where reference is made to the rate of interest, insert "zero". In the next to the last paragraph on page 2, delete "subtitle B or C of the Consolidated Farm and Rural Development Act" and insert "Pub. L. 95-18".

VI. *Effective Period.* 1. The Drought Emergency Act of 1977, as amended (Pub. L. 95-18 as amended by Pub. L. 95-107) provides for the loan requests to be obligated by November 30, 1977. Funds have been appropriated for Fiscal Year 1977 only and unless further

action is taken by Congress, loan requests must be obligated by September 30, 1977.

2. Development financed under this authority must be completed by January 31, 1978.

VII. *Servicing.* These loans will be serviced by FmHA in accordance with servicing instructions applicable to Individual SW loans.

VIII. *Reimbursement.* BR shall pay to FmHA a charge of 5 percent of principal of each loan. The 5 percent charge shall be disbursed to FmHA by the Finance Office at the time of each loan advance.

EXHIBIT F—ATTACHMENT II

AMENDATORY MEMORANDUM OF UNDERSTANDING BETWEEN THE BUREAU OF RECLAMATION, DEPARTMENT OF THE INTERIOR AND THE FARMERS HOME ADMINISTRATION, DEPARTMENT OF AGRICULTURE

Whereas, the Bureau of Reclamation (BR) and the Farmers Home Administration (FmHA) consummated a Memorandum of Understanding on July 15, 1977, whereby BR would procure the services of FmHA pursuant to the terms of the Economy Act of 1932 (31 U.S.C. 686) to make and service loans to individual irrigators as authorized by section 8 of the 1977 Drought Emergency Act (Pub. L. 95-18); and

Whereas, item 3 of that Memorandum of Understanding provides in part that all loans shall be obligated not later than September 30, 1977, and any construction related to any loan must be completed by November 30, 1977; and

Whereas, Pub. L. 95-107, enacted on August 17, 1977, amends Pub. L. 95-18 to accomplish, among other things, an extension of the time for completing construction activities under the authorities of Pub. L. 95-18 from November 30, 1977, to January 31, 1978.

Now, therefore, the parties agree that the date November 30, 1977, in the last sentence of item 3 of the Memorandum of Understanding executed by BR on June 29, 1977, and FmHA on July 15, 1977, be revised to January 31, 1978, so that the sentence will read, "All loans shall be obligated not later than September 30, 1977, and any construction related to any loan must be completed by January 31, 1978."

Date of September 8, 1977.

BUREAU OF RECLAMATION,
DEPARTMENT OF THE INTERIOR,
R. KEITH HIGGINSON,
Commissioner.

FARMERS HOME ADMINISTRATION,
DEPARTMENT OF AGRICULTURE,
GORDON CAVANAUGH,
Administrator.

SEPTEMBER 7, 1977.

(7 U.S.C. 1989; 5 U.S.C. 301; Sec. 10 P.L. 93-357, 88 Stat. 392; delegation of authority by the Sec. of Agr., 7 CFR 2.23; delegation of authority by the Asst. Sec. for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 29, 1977.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc.77-29984 Filed 10-13-77; 8:45 am]

[3410-07]

SUBCHAPTER N—OTHER LOAN PROGRAMS

[FmHA Instruction 1980-B]

PART 1980—GUARANTEED LOAN PROGRAMS

Subpart B—Farmer Program Loans

AUTHORIZATION FOR REDUCTION OF INTEREST RATES

AGENCY: Farmers Home Administration, USDA.

ACTION: Final rule.

SUMMARY: The Farmers Home Administration amends its regulation to add provisions authorizing a reduction of interest rates on Emergency (EM) loans for actual losses. This is as a result of Pub. L. 95-89, which was enacted August 4, 1977, authorizing new interest rates for EM loans for actual losses for disasters occurring on or after July 1, 1976, and prior to October 1, 1978. This action is intended to further aid disaster victims.

EFFECTIVE DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Jesse C. Joyner, 202-447-6257.

SUPPLEMENTARY INFORMATION: Section 1980.170 of Subpart B of Part 1980, Chapter XVIII, Subchapter N, "Other Loan Programs," Title 7, Code of Federal Regulations (42 FR 44717) is amended. Paragraph (e) of this section is amended to add a new subparagraph (2); the present paragraphs (e) (2) and (3) are redesignated (3) and (4) respectively. The purpose of this amendment is to comply with Pub. L. 95-89 which provides that interest rates on EM loans for actual losses be set in the following manner:

1. For repair or replacement of the primary residence and personal property, 1 percent on the first \$10,000 3 percent on the balance not to exceed \$40,000, and 5 percent above \$40,000.

2. For other actual loss loans, 3-percent up to \$250,000 and 5-percent above \$250,000.

3. For disasters occurring prior to July 1, 1976, the interest rate for actual losses will remain at 5-percent.

The law further provides that when a loan bears interest at different rates repayment of principal and interest on the lowest interest rate portion of the loan will be scheduled for repayment before principal payments on those portions of the loan bearing higher interest rates.

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 553 with respect to such rules. These amendments, however, are not published for proposed rulemaking since the change is mandated by Pub. L. 95-89; therefore public procedure thereon is unnecessary. Accordingly, § 1980.170(e) as amended, reads as follows:

§ 1980.170 Emergency loans.

(e) *Interest rates and terms.*—(1) *Interest rates.*—Interest will be charged only on the actual amount of loan funds borrowed and for the actual time the loan is outstanding. The interest rate initially established for each loan will remain constant during the existence of the FmHA Guarantee thereon. Interest on protective advances made by the lender to protect the security may be charged at the rate specified in the security instruments. Interest rates are as follows:

(i) Except for disasters occurring on or after July 1, 1976, and prior to October 1, 1978, EM loans for actual losses will be at 5-percent.

(ii) For disasters occurring on or after July 1, 1976, and prior to October 1, 1978, interest rates for EM loans for actual losses will be as follows:

(A) For repair or replacement of the primary residence and personal property, 1-percent on the first \$10,000, 3-percent on the balance not to exceed \$40,000, and 5-percent above \$40,000.

(B) For other actual loss loans, 3-percent up to \$250,000 and 5-percent above \$250,000.

(iii) The interest rate for loans for other than actual losses will be the interest rate prevailing in the private market for similar loans as determined by the Secretary of Agriculture. The Secretary will review the interest rates periodically and may establish new rates. Lenders may ascertain the current established market rates for EM loans by telephoning any FmHA office.

(2) *Establishing repayment terms and delay of principal payments.* EM loans for actual losses where different interest rates are authorized as set forth in paragraph (e) (1) (i) of this section will be scheduled for repayment of the principal and interest on that portion of the loan bearing the lowest interest rate before principal payments are scheduled for portions of the loan bearing higher rates. However, interest must be collected on the portion of the principal deferred during the period principal payments are not scheduled. The portion of the loan bearing the lower interest rate should be repaid as soon as possible, consistent with the applicant's repayment ability. This deferral of principal does not apply to EM loans for other than actual losses.

(3) *Terms of loan repayment.* (1) EM loans will be scheduled for repayment at such time and periods as the lender may determine, consistent with the purpose of the loan as set forth below, and in accordance with the useful life of the security and the reasonable repayment ability of the applicant as determined by his plan of operation. However, there must be at least an annual installment unless a deferment of principal and/or interest is authorized in accordance

with paragraphs (e) (2) and (4) of this section.

(A) Loan terms for actual losses to crops, livestock, supplies, harvested or stored crops, livestock products on hand, and equipment; and items financed under § 1980.170(d) (3) (ii) will be for a period not to exceed 7 years.

(1) When conditions warrant, installments may vary in amounts. However, the final installment will not be larger than the amount which can then be financed by the lender without a guarantee or be repaid within a renewal period of not to exceed 5 years. The applicant must be advised before the loan is closed that the lender will review each case at the end of the initial loan terms and, together with FmHA will determine if a renewal is warranted. (Refer to § 1980.124.)

(2) Loans made for actual losses to crops and other property listed in paragraph (e) (3) (i) (A) of this section resulting from any disaster occurring after January 1, 1975, may be scheduled for a longer repayment period if the FmHA approval official determines that the needs of the applicant justify a longer repayment period than that scheduled for repayment within 7 years initially with a possible 5-year renewal. Such period may be approved as warranted but for not more than 20 years. Generally, real estate will be needed as security when the longer repayment period is authorized. When the longer period is used, renewal is not authorized.

(ii) The terms for actual losses to real estate and items financed under paragraph (d) (3) (i) of this section will be for a period not to exceed 40 years.

(iii) The term for loans for annual operating expenses financed under paragraph (d) (2) of this section will be as follows:

(A) Advances for annual recurring operating expenses or for paying bills incurred for such purposes for the operating or crop year being financed will be scheduled for payment when the principal income from the year's operations normally would be received.

(B) Advances to purchase or produce feed for productive livestock or livestock to be fed for the market, or to pay bills incurred for such purposes for the crop year being financed, will be scheduled for repayment when the principal income from the sale of such livestock or livestock products can be expected.

(4) *Deferment of installment.* When income sufficient to meet the scheduled installment will not be received by the borrower until the second or third year following the due date, the payment may be deferred to the second or third year as appropriate, providing any holders agree. The lender and FmHA must agree that the borrower can reasonably be expected to pay the total debt with a deferment.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; dele-

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gation of authority by the Assistant Secretary for Rural Development, 7 CFR 2.70.)

NOTE.—The Farmers Home Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: September 30, 1977.

JAMES E. THORNTON,
Associate Administrator,
Farmers Home Administration.

[FR Doc.77-29981 Filed 10-13-77; 8:45 am]

[3410-37]

CHAPTER XXVIII—FOOD SAFETY AND QUALITY SERVICE, DEPARTMENT OF AGRICULTURE

PART 2852—PROCESSED FRUITS, VEGETABLES, PROCESSED PRODUCTS THEREOF, AND CERTAIN OTHER PROCESSED FOOD PRODUCTS

Subpart—United States Standards for Grades of Canned White Potatoes¹

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Final rule.

SUMMARY: This rule will revise the grading standards for canned white potatoes. This action was initiated by the USDA and in response to verbal requests by the industry. The effect of the change will be to update the standards to more accurately reflect present packing practices and to improve the U.S. Standards for Grades of Canned White Potatoes.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Dale C. Dunham, Processed Products Branch, Fruit and Vegetable Quality Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202-447-4693).

SUPPLEMENTARY INFORMATION: Notice of a proposal to revise the United States Standards for Grades of Canned White Potatoes was published in the FEDERAL REGISTER of December 6, 1976 (41 FR 53341). Interested persons were allowed until January 31, 1977 in which to submit written data, views, or arguments concerning the proposed revision. Six letters were received in response to the notice. Brief summaries of the comments received along with the USDA's views and comments thereto and the reasons for such responses follow.

The Food and Drug Administration (FDA) expressed the comment that the proposed revision did not conflict with any of the FDA's rules, regulations, or standard of identity.

Compliance with the provisions of these standards shall not excuse failure to comply with the provisions of the Federal Food, Drug, and Cosmetic Act, or with applicable State laws and regulations.

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; dele-

A second letter was received in which the writer inquired only about the method that "was intended for measuring potato flavor."

Response: The proposed revision contains provisions for "good" and for "reasonably good" flavor and odor. The USDA acknowledges that there is a wide variation among individual taste preferences. There are no specific, distinctly measurable, objective levels as to what constitutes good or reasonably good flavor and odor in canned white potatoes set forth in the revision. Rather, general subjective detectable parameters are provided which will assure general acceptable classifications of flavor and odor while still permitting individual taste preferences.

As proposed, "good flavor" in canned white potatoes would, generally, include potatoes of acceptable raw product condition which have been properly prepared and properly processed (including seasoning and any possible effect from container condition) and which is characteristic and typical of "good potato flavor."

"Reasonably good flavor" would be assigned to containers of canned white potatoes which, for one reason or another, failed the general requirements for "good flavor," yet is not distasteful, offensive or objectionable. Examples of "reasonably good flavor" might be:

(1) Potatoes that have a slight "musty" odor and/or flavor due to prolonged storage of the raw product;

(2) Insufficient or slightly excessive salty flavor (if salt is declared on the label);

(3) Excessive tartness due to inadequate removal of acid if the potatoes have been subjected to a citric acid dip during processing;

(4) A "tinny" flavor possibly derived from tinplate deterioration of the container;

(5) Very, very slight (but detectable) "flat sour" odor and flavor; or

(6) Slightly excessive amounts of permitted additives such as calcium salts.

These descriptions and parameters are given in response to expressed consumer concerns that "flavor and odor" be given definite and important considerations in food grade standards.

A letter submitted by the Consumers Union, a nonprofit organization concerned with providing information, education, and counsel about consumer goods and services, expressed support of the proposed revision. A statement was also made that the "grades would be more meaningful if they also incorporated nutritional considerations."

Response: The USDA supports accurate and informative nutritional labeling. However, the Department cannot require nutritional labeling in its voluntary grade standards. Further, the nutritional levels of a given product would vary with the composition, amount, style and other factors. As a result, nutritional information for a certain product would best be provided by the processor who manufactures that product. This fact is being recognized more and more as shown by

the increasing use, by processors or manufacturers, of labels which declare the nutritional values of the contents of a container. It is anticipated that this trend will continue.

The following issues were raised in another comment:

(1) A recommendation that "fill-in weights" as an alternative to drained weights be provided;

(2) A suggestion that the specified sample unit size of 20 ounces of drained product be modified to permit slight deviations from this required size (because of the variations in size of individual units); and

(3) A reduction in the specified drained weight values for the different styles of the potatoes and various container sizes into which they are processed.

Response: The minimum drained weight values set forth in the proposed revision resulted from study and analyses of drained weight determinations that were made on the product after processing. No formal studies have been made on fill-weights for canned white potatoes. Therefore, in the absence of the necessary data to establish the relationship between "fill-weights" and "drained weights" for canned white potatoes, fill-weight criteria have not been set forth in the revision. Eventual accumulation of subsequent data by which accurate relationships between fill weights and drained weights can be developed could result in a future amendment of the grade standards for canned white potatoes so as to include fill weight values.

In the interim, the Department does not believe that this revision should be deferred until sufficient and necessary data are analyzed to provide the needed "fill-in" weights, particularly since such values would result in very few, if any, changes in minimum average drained weight values. Also, the time required for the collection and analyses of such data would unduly delay this revision.

The specified sample unit size of 20 ounces of drained weight of product is a means by which the quality evaluation of the product is not influenced by the size of the container. Because of the comparatively small units of the different styles of canned white potatoes, the Department believes that accurate sample unit sizes of 20 ounces of drained product can be achieved without distorting the random selection of the individual potato units which is necessary when formulating such sample units.

The average minimum drained weight values set forth in this revision are based on the weight of the white potato after the canned product has been allowed to equalize for 15 or more days after the product has been canned.

This provision was not specifically set forth in the notice of proposed rule-making, although it is customary that drained weight limits and determinations are based upon "equalized products." Therefore, specific reference is included in this revision that the average minimum drained weights are based on those determined after the product has been allowed to reach equalization.

Review of drained weight data, inspection records, and recent drained weight determinations of commercially available samples indicate that the average minimum drained weight criteria set forth in this revision reflect practical, well-controlled processing capabilities and should not be changed at this time.

A fifth letter was received in which it was expressed that the average minimum drained weight values for all styles of canned white potatoes in No. 10 containers were too high and that the specified drained weight values for the whole style should vary with the average size of the potato units.

Response: The Department does not have data to substantiate or justify the suggested reductions in minimum drained weights. Further comments about minimum drained weights are made elsewhere in this statement.

A final letter was received in which the following issues were presented:

(1) It was again stated that some of the average minimum drained weights were too high.

(2) The concept of the standard sample unit size was supported.

(3) A suggestion that the currently effective term of "normal" flavor and odor be used rather than "good" or "reasonably good" flavor and odor as proposed in this revision.

(4) A concern as to whether the change from "fairly good color" to "reasonably good color" would result in more restrictive color criteria for Grade B canned white potatoes.

(5) An objection that the separate allowance for peel that is included in the currently effective standards had been removed, thereby making the proposed standards unduly restrictive with respect to blemished units.

(6) Opposition to "reducing the number of points to cover a given grade span."

(7) A belief "that it would have been less confusing if the second grade (or the grade below the present 'Fancy') had been retained as 'C' rather than 'B,'" and that the letter 'D' be used to designate "Substandard" quality.

Response: The issue concerning minimum drained weights is discussed elsewhere in this statement.

The USDA believes that the term "normal" flavor and odor is a nebulous one inasmuch as there are no standards or criteria as to what constitutes or definitely defines "normal" flavor and odor in canned white potatoes. Further, the Department believes that most individuals can judge what is "good" flavor from that which is not as good, from that which is objectionable, even though individual taste preferences may vary slightly. Such distinctions are presented in this revision as "good," "reasonably good," and "off" flavor and odor. Further discussions involving flavor and odor are presented elsewhere in this statement.

The change from the term "fairly good color" to "reasonably good color" in order to coincide with the revised grade level nomenclature does not re-

sult in more restrictive color criteria for Grade B canned white potatoes. The provisions for Grade A color are the same as in the currently effective standards. Therefore, canned white potatoes which would fail the requirements for Grade A color, but would not be considered as having objectionable (Substandard) color, would be evaluated as having "reasonably good color" which is the term most often used in describing Grade B color of processed fruits and vegetables.

Current processing methods have lessened the frequency and amounts of peel in canned white potatoes. This revision provides for the occasional presence of peel on the potato units by classifying units thus affected as either "blemished" or "seriously blemished," depending upon the amount of the peel in relation to how it affects the appearance of the unit. The allowances for such "blemished" and "seriously blemished" units, the USDA believes, is adequate to provide sufficient "peel allowances" for the different quality grades of canned white potatoes.

The restructuring of allotted score points to allow a "10-point range" in each grade does not alter previous quality levels or imply more restrictive grading criteria, but does make it possible to have 90 points as the minimum cumulative score for a U.S. Grade A product; 80 points for U.S. Grade B and so on. Such realignment conforms with the current practice in most U.S. grade standards for processed fruits and vegetables.

The revision to U.S. Grade B, rather than U.S. Grade C, as the level of quality below U.S. Grade A is in conformance with the current practice by the USDA to adopt a uniform and consistent nomenclature and quality level in their new and revised grade standards for processed fruits and vegetables. Such changes, when effected, do not alter the quality levels between the various grades.

Studies have indicated consumer preferences for single letter designations to indicate different levels of quality for most processed fruits and vegetables and the letter "A" most clearly and easily identified a product as being of the best or superior quality; the letter "B" implied the next best quality, and so on.

Therefore, in recognition of this preference and in the interest of clarity and understanding, the USDA believes that in this, and future revised grade standards, that U.S. Grade B rather than Grade C, best designates the quality below U.S. Grade A.

Also, in view of this current practice, the USDA believes that the use of a designation of U.S. Grade C would give an implication that the canned white potatoes were of two quality levels below Grade A and would lead consumers to an erroneous supposition that three levels of quality of canned white potatoes were normally processed; that is, Grade A, B, and C. This is not so.

All products which fall minimal requirements of quality or other considerations are designated as "Substandard"

in order to singularly identify the product as falling some minimal requirement rather than assign a single letter designation which might imply a certain quality level or criteria to the product. This practice is customary and informative and is incorporated in many grade standards—both voluntary and mandatory.

Therefore, after careful consideration the revised standards for canned white potatoes are hereby adopted as proposed on December 6, 1976 and as set forth as follows.

Effective date: The revised U.S. Standards for Grades of Canned White Potatoes shall become effective December 1, 1977.

Sec.	Identify.
2852.1811	Styles.
2852.1812	Sizes of whole potatoes.
2852.1813	Grades.
2852.1814	Fill of container.
2852.1815	Minimum drained weights.
2852.1816	Sample unit size.
2852.1817	Determining the grade of a sample unit.
2852.1819	Determining the rating for the factors which are scored.
2852.1820	Color.
2852.1821	Uniformity of size and shape.
2852.1822	Defects.
2852.1823	Texture.
2852.1824	Determining the grade of a lot.
2852.1825	Determining size classification for whole potatoes.
2852.1826	Score sheet.

AUTHORITY: Agricultural Marketing Act of 1946, Sec. 203, 205, 60 Stat. 1087, as amended, 1090, as amended 7 U.S.C. 1624.

§ 2852.1811 Identity.

Canned white potatoes is the product purported to be as defined in the Definitions and Standards of Identity for Canned Vegetables (21 CFR 155.200), issued pursuant to the Federal Food, Drug and Cosmetic Act. The finished product is sufficiently processed by heat to assure its preservation in hermetically sealed containers. The procedure, or equivalent thereof, set forth in the Code of Federal Regulations, Title 21, Part 113 (21 CFR 113), issued pursuant to the Federal Food, Drug, and Cosmetic Act shall be used for such processing.

§ 2852.1812 Styles.

(a) **General.** For the purposes of this subpart, canned white potatoes shall be properly peeled prior to canning. A "unit" means an individual potato or portion thereof.

(b) **"Whole"** means that the canned white potatoes have the appearance of being essentially whole, irrespective of size.

(c) **"Slices"** or **"sliced"** means canned white potatoes that have been cut into slices of substantially uniform thickness.

(d) **"Dice"** or **"diced"** means canned white potatoes that have been cut into approximate cube-shaped units of substantially uniform size.

(e) **"Shoestring," "French Style,"** or **"Julienne"** means approximate rectangular canned white potato units having length measurements which are three (3) or more times the width measurements.

(f) **"Pieces"** means units of canned white potatoes of random size and/or shape or potatoes that have been cut into approximate quarters or wedge-shaped units similar to orange segments.

(g) Any combination of two or more of the foregoing styles constitutes a style and shall be considered as a mixture of the individual styles that comprise the combination.

§ 2852.1813 Sizes of whole potatoes.

The size of a whole potato is determined by measuring the greatest diameter through the center for round or nearly round potatoes. For elongated potatoes, the size is considered as the greatest diameter measured at right angles to the longitudinal axis of the unit. The word and number designations of the various sizes of canned whole potatoes are shown in Table I.

TABLE I.—Sizes of canned whole white potatoes

Word designation	No. designation	Diameter
Thy.....	Size 1.....	1 in or less (25.4 mm or less).
Small.....	Size 2.....	Over 1 in to, and including, 1½ in. (Over 25.4 mm to, and including, 38.1 mm.)
Medium.....	Size 3.....	Over 1½ in to, and including, 2 in. (Over 38.1 mm to, and including, 50.8 mm.)
Large.....	Size 4.....	Over 2 in. (Over 50.8 mm.)

§ 2852.1814 Grades.

(a) **"U.S. Grade A"** is the quality of canned white potatoes that has at least the following attributes:

- (1) Similar varietal characteristics;
- (2) Good color;
- (3) Reasonably uniform size and shape of the units;
- (4) Practically free from defects;
- (5) Good texture;
- (6) Good flavor and odor; and
- (7) Scores not less than 90 points when scored in accordance with the scoring system outlined in this subpart.

(b) **"U.S. Grade B"** is the quality of canned white potatoes that has at least the following attributes:

- (1) Reasonably good color;
- (2) May have considerable variation of size and shape of the units;
- (3) Reasonably free from defects;
- (4) Reasonably good texture;
- (5) Reasonably good flavor and odor; and

(6) Scores not less than 80 points when scored in accordance with the scoring system outlined in this subpart.

(c) **"Substandard"** is the quality of canned white potatoes that fails to meet the requirements of "U.S. Grade B."

§ 2852.1815 Fill of container.

The fill of container is not incorporated in the grades of the finished product since fill of container, as such, is not a factor of quality for the purposes of these grades. Each container shall be filled with white potatoes as full as practicable without impairment of quality and the product and packing medium shall occupy not less than 90 percent of the total capacity of the container. Total capacity of the container means the

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maximum weight of distilled water, at 68 degrees Fahrenheit (20 degrees Celsius), which the sealed container will hold.

§ 2852.1816 Minimum drained weights.

(a) *General.* (1) The minimum drained weight values are given in Table II. They are not incorporated in the grades of the finished product since drained weight, as such, is not a factor of quality for the purposes of these grades.

(2) The minimum drained weights are based on the weight of the white potatoes after the canned product has been allowed to equalize for 15 or more days after the product has been canned.

(b) *Method for determining drained weight.* The drained weight of canned white potatoes is determined by emptying the contents of the container upon

a U.S. Standard No. 8 circular sieve (or equivalent) of the proper diameter containing 8 measures to the inch (0.0937-inch (2.4 mm), ± 3 percent, square openings) so as to distribute the product evenly. Without shifting the product, incline the sieve to a 17 to 20 degree angle to facilitate drainage and allow to drain for two (2) minutes. The drained weight is the weight of the sieve and white potatoes less the weight of the dry sieve. The diameter of the sieve shall be 8 inches (20.3 cm), or equivalent, if the water capacity of the container is less than 3 pounds (1.36 kg) or 12 inches (30.5 cm), or equivalent, if such capacity is 3 pounds (1.36 kg) or more.

(c) *Compliance with minimum drained weight values.* Compliance with the minimum drained weight values in Table II is determined by averaging the

drained weights from all the containers in the sample which represent a specific lot. Such lot is considered as meeting the minimum drained weight values if the following criteria are met:

(1) The sample average (average of all the containers in the sample) meets the minimum average drained weight value (designated as " \bar{X}_d " in Table II); and

(2) The number of sample units which fail to meet the minimum drained weight value for individual containers (designated as "LL" in Table II) does not exceed the acceptance number specified in the applicable sample plan for Lot Inspection in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables and Related Products.

TABLE II - MINIMUM DRAINED WEIGHTS FOR CANNED WHITE POTATOES ENGLISH (AVOIRDUPOIS) SYSTEM

CONTAINER DESIGNATION	CONTAINER DIMENSIONS Diameter | Height (inches)		STYLES									
			Whole		Sliced		Diced		Julienne		Pieces	
			\bar{X}_d 1/	LL 2/	\bar{X}_d	LL	\bar{X}_d	LL	\bar{X}_d	LL	\bar{X}_d	LL
			ounces		ounces		ounces		ounces		ounces	
8Z Tall	2-11/16	3-4/16	5.5	4.8	5.5	5.0	5.6	5.1	5.3	4.8	5.5	4.8
No. 300	3	4-7/16	9.5	8.7	9.7	9.0	10.0	9.5	8.8	8.3	9.5	8.7
No. 303	3-3/16	4-6/16	10.2	9.3	10.2	9.4	10.5	9.8	9.3	8.6	10.2	9.3
No. 2	3-7/16	4-9/16	13.0	11.9	13.3	12.4	13.5	12.7	12.3	11.5	13.0	11.9
No. 2-1/2	4-1/16	4-11/16	19.0	17.7	19.5	18.4	20.0	19.0	18.3	17.3	19.0	17.7
No. 10	6-3/16	7	74.0	71.5	75.0	73.0	76.0	74.2	72.0	70.2	74.0	71.5

1/ " \bar{X}_d " means the minimum average drained weight from all the containers in the sample.
2/ "LL" means the minimum drained weight for individual sample units.

TABLE IIA - MINIMUM DRAINED WEIGHTS FOR CANNED WHITE POTATOES METRIC SYSTEM (SYSTEME INTERNATIONAL)

CONTAINER DESIGNATION	CONTAINER DIMENSIONS Diameter | Height (millimeters)		STYLES									
			Whole		Sliced		Diced		Julienne		Pieces	
			\bar{X}_d 1/	LL 2/	\bar{X}_d	LL	\bar{X}_d	LL	\bar{X}_d	LL	\bar{X}_d	LL
			grams		grams		grams		grams		grams	
8Z Tall	68.3	82.6	155.9	136.1	155.9	141.7	158.8	144.6	150.3	135.1	155.9	136.1
No. 300	76.2	112.7	269.3	246.6	275.0	255.1	283.5	269.3	249.5	235.2	269.3	246.6
No. 303	81.0	111.1	283.2	253.7	289.2	266.5	297.7	277.8	263.7	243.8	289.2	263.7
No. 2	87.3	115.9	358.5	337.4	377.0	351.5	382.7	360.0	348.7	326.0	368.5	337.4
No. 2-1/2	103.2	119.1	533.6	501.8	552.8	521.6	567.0	538.6	518.8	490.4	538.6	501.8
No. 10	157.2	177.8	2097.9	2027.0	2126.2	2069.5	2154.6	2103.5	2041.2	1990.1	2097.9	2027.0

1/ " \bar{X}_d " means the minimum average drained weight from all the containers in the sample.
2/ "LL" means the minimum drained weight for individual sample units.

§ 2852.1817 Sample unit size.

(a) *General.* Determination of compliance with requirements for factors of quality, except harmless extraneous material, of canned white potatoes shall be based on a sample unit consisting of 20 ounces (567 grams) of drained product. A sample unit may be comprised of:

- (1) The entire contents of a container;
- (2) A combination of the contents of two or more containers; or

(3) A representative portion of the contents of a container; *Provided*, That not more than one (1) sample unit is derived from any one single container.

(b) *Definition of a sample.* Any number of sample units used for the evaluation of the factors of quality, except harmless extraneous material, as outlined in this subpart.

(c) *Evaluating harmless extraneous material.* Determination of compliance

for harmless extraneous material will be based upon the total contents of all the containers used to comprise individual sample units.

§ 2852.1818 Determining the grade of a sample unit.

(a) *General.* The grade of a sample unit of canned white potatoes is determined by considering the factor of similar varietal characteristics, when appli-

cable, and the factor of flavor and odor which are not scored; the ratings for the factors of color, uniformity of size and shape, defects, and texture, which are scored; the total score; and the limiting rules which apply.

(b) *Definitions of flavor and odor.* (1) "Good flavor and odor" means a good, distinctive flavor and odor which is characteristic of properly prepared and properly processed canned white potatoes (including any permitted safe and suitable optional ingredient(s)) that are free from objectionable flavors or odors of any kind.

(2) "Reasonably good flavor and odor" means that the canned white potatoes (including any permitted safe and suitable optional ingredient(s)) may be lacking in good flavor and odor but are free from objectionable flavors or odors of any kind.

(c) *Factors rated by score points.* The relative importance of each factor which is scored is expressed numerically on the scale of 100. The maximum number of points that may be given each factor is:

Factors:	Points
Color	20
Uniformity of size and shape	20
Defects	30
Texture	30
Total score	100

§ 2852.1819 Determining the rating for the factors which are scored.

The essential variations within each factor which is scored are so described that a value may be determined for each factor and expressed numerically. The numerical range within each factor which is scored is inclusive (for example, "18 to 20 points" means 18, 19, or 20 points).

§ 2852.1820 Color.

(a) *General.* The evaluation of color of canned white potatoes is made as quickly as possible after opening the container. The evaluation of color is based upon the degree of brightness, intensity of color, and degree of uniformity.

(b) *Grade A.* Canned white potatoes that have a good color may be given a score of 18 to 20 points. "Good color" means that the canned white potatoes, exclusive of blemished areas, are practically free from oxidation or light greenish coloration, and have a bright, practically uniform, light color, typical of canned white potatoes processed from potatoes of similar varietal characteristics.

(c) *Grade B.* Canned white potatoes that have a reasonably good color may be given a score of 16 or 17 points. Canned white potatoes that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good color" means that the following conditions, singly or in combination, may be present, but not to the degree that the appearance of the sample unit is seriously affected:

- (1) Variation of color;

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(2) Slight oxidation or slight discoloration(s) which would not be considered as blemished;

(3) Greenish-white, grayish-white, yellow-white, or watery-white semi-translucent color;

(4) Dull, but not off color; or

(5) Any condition which adversely affects the color of the sample unit.

(d) *Substandard.* Canned white potatoes that fail to meet the requirements of U.S. Grade B shall be given a score of 0 to 15 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 2852.1821 Uniformity of size and shape.

(a) *Grade A.* Canned white potatoes that are practically uniform in size and

shape may be given a score of 18 to 20 points. "Practically uniform in size and shape" means that a sample unit of canned white potatoes does not exceed the allowances specified in Table III, as applicable.

(b) *Grade B.* Canned white potatoes that are reasonably uniform in size and shape may be given a score of 16 or 17 points. "Reasonably uniform in size and shape" means that a sample unit of canned white potatoes does not exceed the allowances specified in Table IV, as applicable.

(c) *Substandard.* Canned white potatoes that fail to meet the requirements of U.S. Grade B shall be given a score of 0 to 15 points and shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a partial limiting rule).

TABLE III.—Allowances for size and shape variations of canned white potatoes

(Grade A classification)

Styles	Measurements and/or shape of individual unit(s)	Uniformity within sample unit of 20 oz (567g) of drained product
Whole	Essentially whole potatoes, irrespective of size.	The weight of the largest whole potato is not more than 3 times the weight of the 2d smallest intact whole potato.
Sliced or slices	Diameter is the shortest diameter of the larger of the 2 cut surfaces of the slice. Maximum thickness, measured at the thickest portion, does not exceed 3/4 in (19 mm).	Diameter of largest slice does not exceed diameter of 2d smallest slice by more than 50 pct
Diced or dice	Approximate uniform cube-shaped units	Maximum 2 oz (56.7 g) total of units which are noticeably larger or smaller than representative prevalent cube size or which are irregular in shape.
"Shoestring" or "French-style" or "Julienne"	Approximate uniformly thick rectangular units having length measurements which are 3 or more times the width measurement.	Maximum 2 oz (56.7 g) less than 1/2 in (12.7 mm) in length.
Pieces	"Quartered" or wedge-shaped units resembling orange segments or units of random size and/or shape.	Not more than 1 oz (28.4 g) total of units may weigh less than 1/4 oz (7.1 g) and of all units 1/4 oz (7.1 g) or greater, the largest unit may not be more than twice the weight of the 2d smallest unit.

TABLE IV.—Allowances for size and shape variations of canned white potatoes

(Grade B classification)

Styles	Measurements and/or shape of individual unit(s)	Uniformity within sample unit of 20 oz (567 g) of drained product
Whole	Essentially whole potatoes, irrespective of size.	The weight of the largest whole potato is not more than 4 times the weight of the 2d smallest intact whole potato.
Sliced or slices	Diameter is the shortest diameter of the larger of the 2 cut surfaces of the slice. Maximum thickness, measured at the thickest portion of the slice, does not exceed 1 in (25.4 mm).	Diameter of the largest slice is not more than twice the diameter of the 2d smallest slice.
Diced or dice	Approximate uniform cube-shaped units	Maximum 5 oz (141.8 g) total of units which are noticeably larger or smaller than representative prevalent cube size or which are irregular in shape.
"Shoestring" or "French-style" or "Julienne"	Approximate uniformly thick rectangular units having length measurements which are 3 or more times the width measurement.	Maximum 5 oz (141.8 g) less than 1/2 in (12.7 mm) in length.
Pieces	"Quartered" or wedge-shaped units resembling orange segments or units of random size and/or shape.	Not more than 2 oz (56.7 g) total of units may weigh less than 1/4 oz (7.1 g) and of all units 1/4 oz (7.1 g) or greater, the largest unit may not be more than 4 times the weight of the 2d smallest unit.

§ 2852.1822 Defects.

(a) *General.* The factor of defects concerns the degree of freedom from defects as defined in paragraph (b) of this section or from any other defects present which detract from the appearance of the product.

(b) *Definitions of types of defects.* (1) "Insignificant imperfections" refer to

very slight abnormalities, scars, discolorations, or any other imperfections on the individual unit which may affect the appearance very slightly but which do not affect the edibility of the unit.

(2) "Blemished unit" means any unit which has any brown or black area(s) or any internal or external imperfection or discoloration which, singly or in the

aggregate, materially affect the appearance of the unit. Such units may include, but are not limited to, discolored eyes, unpeeled areas, hollow heart, or scab.

(3) "Seriously blemished unit" means any unit which has any black or dark brown area(s) or any internal or external imperfection or discoloration which, singly or in the aggregate, seriously affect the appearance of the unit. Such units may include, but are not limited to, those with pathological or insect injury.

(4) "Damaged by mechanical injury" means crushed, broken, or cracked units or units damaged by excessive trimming or gouges; or similarly damaged units.

(5) "Harmless extraneous material" means vegetable substances such as weeds, grass, or leaves or portions thereof which are harmless.

(6) "Sand, grit, or silt" means any kind of fine or coarse earthy material.

(c) Grade A. Canned white potatoes that are practically free from defects may be given a score of 27 to 30 points. "Practically free from defects" means that:

(1) Any defects, whether or not specifically defined or listed herein, and including any harmless extraneous material which may be present, do not materially affect the appearance of the sample unit;

TABLE V.—Allowances for defects in canned white potatoes grade A classification

[Maximum defects allowed in a sample unit of 20 oz (567 g) drained weight of product]¹

Type of defect	Style		
	Whole	Sliced or pieces	Diced or shoestring
Insignificant imperfections (evaluated collectively in each sample unit).	Do not materially detract from the appearance of the product.		
Damaged by mechanical injury; blemished units; and seriously blemished units. Total.	4 oz (113.4 g).....	3 oz (85 g).....	2 oz (56.7 g).....
Provided, That blemished and seriously blemished do not exceed.	2 oz (56.7 g).....	2 oz (56.7 g).....	0.8 oz (22.7 g).....
And, further provided, That seriously blemished do not exceed.	1 oz (28.4 g).....	0.5 oz (14.2 g).....	0.2 oz (5.7 g).....
Sand, grit, or silt.....	None.....	None.....	None.....
Harmless extraneous material individually or in combination with other defects.	Does not materially detract from the appearance or edibility of the product.		
Total of all defects, whether or not listed herein.....	4 oz (113.4 g).....	3 oz (85 g).....	2 oz (56.7 g).....
And or.....	Do not materially detract from the appearance or edibility of the product.		

¹ When applicable, permit the specified weight or one (1) normally shaped unit per sample unit, whichever is greater.

TABLE III.—Allowances for defects in canned white potatoes grade B classification

[Maximum defects allowed in a sample unit of 20 ounces (567 g) drained weight of product]¹

Type of defect	Style		
	Whole	Sliced or pieces	Diced or shoestring
Insignificant imperfections (evaluated collectively in each sample unit).	Do not seriously detract from the appearance of the product.		
Damaged by mechanical injury; blemished units; and seriously blemished units. Total.	6 oz (170.1 g).....	4.5 oz (127.6 g).....	3 oz (85 g).....
Provided, That blemished and seriously blemished do not exceed.	4 oz (113.4 g).....	3 oz (85 g).....	1.2 oz (34 g).....
And, further provided, That seriously blemished do not exceed.	2 oz (56.7 g).....	1 oz (28.4 g).....	0.4 oz (11.3 g).....
Sand, grit, or silt.....	Trace.....	Trace.....	Trace.....
Harmless extraneous material individually or in combination with other defects.	Does not seriously detract from the appearance or edibility of the product.		
Total of all defects, whether or not listed herein.....	6 oz (170.1 g).....	4.5 oz (127.6 g).....	3 oz (85 g).....
And or.....	Do not seriously detract from the appearance or edibility of the product.		

¹ When applicable, permit the specified weight or one (1) normally shaped unit per sample unit, whichever is greater.

(2) The sample unit complies with the allowances specified in Table V; and

(3) A sample average of not more than one (1) piece of harmless extraneous material per 60 ounces (1.7 kg) of net weight may be present.

(d) Grade B. Canned white potatoes that are reasonably free from defects may be given a score of 24 to 26 points. Canned white potatoes that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably free from defects" means that:

(1) Any defects, whether or not specifically defined or listed herein, and including any harmless extraneous material which may be present, do not seriously affect the appearance of the sample unit;

(2) The sample unit complies with the allowances specified in Table VI; and

(3) A sample average of not more than one (1) piece of harmless extraneous material per 20 ounces (567 grams) of net weight may be present.

(e) Substandard. Canned white potatoes that fail to meet the requirements of U.S. Grade B may be given a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 2852.1823 Texture.

(a) General. The factor of texture refers to the tenderness of the canned white potatoes and to the degree of freedom from sloughing and from hard or objectionably coarse units.

(b) Grade A. Canned white potatoes that have a "good texture" may be given a score of 27 to 30 points. "Good texture" means that the texture of the potatoes is practically uniform and is typical of properly prepared and properly processed potatoes and that the potatoes are firm and have a fine and even grain. There may be sloughing to a degree that does not more than slightly affect the appearance of the product.

(c) Grade B. Canned white potatoes that have a "reasonably good texture" may be given a score of 24 to 26 points. Canned white potatoes that fall into this classification shall not be graded above U.S. Grade B, regardless of the total score for the product (this is a limiting rule). "Reasonably good texture" means that the potatoes are reasonably tender, and may be variable in texture, ranging from somewhat soft to firm, but are not tough or hard nor mushy. There may be a moderate amount of sloughing that does not seriously affect the appearance of the product.

(d) Substandard. Canned white potatoes that fail to meet the requirements of U.S. Grade B may be given a score of 0 to 23 points and shall not be graded above Substandard, regardless of the total score for the product (this is a limiting rule).

§ 2852.1824 Determining the grade of a lot.

The grade of a lot of canned white potatoes covered by these standards is determined by the procedures set forth in the Regulations Governing Inspection and Certification of Processed Fruits and Vegetables, and Related Products, §§ 2852.1 through 2852.83.

§ 2852.1825 Determining size classification for whole potatoes.

(a) Sample units of 20 ounces (567 g) drained weight of whole potatoes are considered a single size if the following criteria are met:

(1) At least 16 ounces (453.6 g) of the whole potatoes are within the diameter dimensions of one of the sizes for whole potatoes set forth in these standards (See § 2852.1813);

(2) Not more than 2 ounces (56.7 g) of the whole potatoes may be of the next larger size classification except for Size 1 whole potatoes where 4 ounces (113.4 g) of the whole potatoes may measure up to, and including, 1½ inches (38.1 mm);

(3) None of the whole potatoes exceed the maximum diameter of the next larger size classification;

(4) Not more than 2 ounces (56.7 g) of the whole potatoes may be of the next smaller size; and

FOR FURTHER INFORMATION CONTACT:

John L. Walker, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202-452-2418).

SUPPLEMENTARY INFORMATION:

The Board of Governors, under the authority of § 11(k) of the Federal Reserve Act (12 U.S.C. § 248(k)), has amended its Rules Regarding Delegation of Authority to delegate to the Secretary of the Board authority to conform the Board's outstanding rules and regulations with changes in the administrative structure of the United States Government and agencies thereof, and to conform citations and references in the Board's outstanding rules and regulations with other regulatory or statutory changes adopted or promulgated by the Board, the United States Government and agencies thereof.

The provisions of § 553 of Title 5, United States Code, relating to notice, public procedure, and deferred effective date are not followed in connection with this amendment because the amendment prescribes rules of agency procedure and is therefore not subject to the requirements of that section. Effective immediately, § 265.2(a) (16) is amended to read as follows:

§ 265.2 Specific functions delegated to Board employees and Federal Reserve Banks.

(a) The Secretary of the Board (or, in the Secretary's absence, the Acting Secretary) is authorized:

(16) Under the provisions of section 11(i) of the Federal Reserve Act (12 U.S.C. § 248(i)) to conform references to administrative positions or units in outstanding rules and regulations of the Board with changes in the administrative structure of the Board, the Government of the United States and agencies thereof, and to conform citations and references in outstanding rules and regulations of the Board with other regulatory or statutory changes adopted or promulgated by the Board, the Government of the United States and agencies thereof.

By order of the Board of Governors, October 5, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 77-30068 Filed 10-13-77; 8:45 am]

[6210-01]

[Docket No. R-0118]

PART 265—RULES REGARDING DELEGATION OF AUTHORITY

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: In order to expedite and facilitate performance of certain of its functions, the Board of Governors has delegated to the Secretary of the Board authority to approve certain conforming changes in the Board's outstanding rules and regulations.

EFFECTIVE DATE: Immediately.

functions, the Board of Governors has amended its Rules Regarding Delegation of Authority. The amendment is intended to expand the scope of authority previously delegated to the Federal Reserve Banks regarding mergers of banks.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert E. Mannion, Assistant General Counsel (202-452-3274) or Julius L. Loeser, Senior Attorney (202-452-3236), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

SUPPLEMENTARY INFORMATION:

The Federal Deposit Insurance Act (12 U.S.C. § 1828(c)) generally prohibits, except with prior approval of the Board, the merger, consolidation, acquisition of assets, or assumption of liabilities of insured banks where the resulting bank would be a State-chartered bank that is a member of the Federal Reserve System. On April 23, 1973, the Board delegated authority to the Federal Reserve Banks to approve such mergers, consolidations, acquisitions of assets, and assumptions of liabilities pursuant to certain enumerated conditions including certain conditions related to competition (38 FR 10917 (1973)). The Board has now, by the instant amendment, expanded the scope of that delegated authority by excluding the applicability of the competitive criteria where the banks that are parties to a transaction are subsidiaries of the same bank holding company.

The provisions of section 553 of Title 5, United States Code, relating to notice, public participation, and deferred effective date are not followed in connection with the adoption of this amendment because the change involved is procedural in nature and does not constitute a substantive rule subject to the requirements of such section. The amendment is effective immediately.

In order to accomplish this delegation, § 265.2(f) (28) is amended to provide as follows:

§ 265.2 Specific functions delegated to Board employees and to Federal Reserve Banks.

(f) Each Federal Reserve Bank is authorized, as to member banks or other indicated organizations headquartered in its district, or under paragraph f(34) as to its own facilities:

(28) Under the provisions of section 18 (c) of the Federal Deposit Insurance Act (12 U.S.C. § 1828(c)), to approve a merger, consolidation, acquisition of assets, or assumption of liabilities, where the resulting bank is a State member bank, if all (or, in a case in which all of the banks involved in the transaction are subsidiaries of the same bank holding company, all except conditions v, vi, and vii) of the following conditions are met:

By order of the Board of Governors,
effective October 6, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 77-30069 Filed 10-13-77; 8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER B—FOOD FOR HUMAN CONSUMPTION

[Docket No. 75P-0164]

PART 146—CANNED FRUIT JUICES

Revocation of Stayed Regulations for Standards for Diluted Orange Juice Beverages

AGENCY: Food and Drug Administration.

ACTION: Revocation of stayed regulations.

SUMMARY: This document revokes certain regulations regarding establishing standards of identity for diluted orange juice beverages and other related products, which were stayed due to the filing of objections. The Commissioner of Food and Drugs believes that certain other regulations now in effect for orange juice products have achieved the goal of the stayed regulations by providing the consumer with the necessary labeling information.

EFFECTIVE DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Benjamin M. Gutterman, Bureau of Foods (HFF-402), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-1231).

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) proposed in the FEDERAL REGISTER of August 13, 1964 (29 FR 11621) to establish identity standards for diluted orange juice beverages under Part 146 (21 CFR Part 146, formerly 21 CFR Part 27). The final regulation ruling on that proposal was published in the FEDERAL REGISTER of May 7, 1968 (33 FR 6862). Objections were received which opposed every provision of the standards. Consequently, the Commissioner stayed the effective date of that final regulation pending resolution of the issues raised by the objections at a hearing. In an attempt to avoid an anticipated lengthy and costly hearing, the Commissioner granted a request by industry to postpone the scheduling of the hearing to allow representatives of the two major citrus industry associations (Florida Canners Association and the National Juice Products Association) time in which to resolve their differences at informal meetings. A number of sessions were held over a 2-year period, but the industry negotiators failed to reach full agreement. As a result, the associations

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submitted separate petitions proposing to amend the stayed standards for diluted orange juice beverages (21 CFR 146.155, 146.156, 146.158-146.161, 146.163-146.167) and to establish standards of identity for certain related products (21 CFR 146.168-146.172, 146.175-146.177). The two industry proposals along with one by the Commissioner were published in the FEDERAL REGISTER of September 9, 1971 (36 FR 18098). The final regulation ruling on the September 9, 1971 proposal was published in the FEDERAL REGISTER of March 11, 1972 (37 FR 5224). However, this final regulation met with essentially the same opposition as the May 7, 1968 final regulation. As a consequence, it was stayed in its entirety on March 14, 1973 (38 FR 6968). Along with the notice of stay, the Commissioner published in the FEDERAL REGISTER of March 14, 1973 (38 FR 6968) a final regulation establishing a common or usual name for diluted orange juice beverages (21 CFR 102.32), which required that the common or usual name include a statement of the percent of orange juice contained in the product.

In 1976 the Commissioner denied a petition (Docket No. 75P-0164) submitted by industry associations to remove the stay of the effective date of the standard of identity for water-extracted soluble orange solids (21 CFR 146.168). Subsequently, the petitioners requested that FDA withdraw its denial of the petition and take no official action on the issues involved until further research is completed. The Commissioner has denied this request and so notified the petitioners. This denial is, of course, without prejudice to their submitting a new petition proposing appropriate standards whenever the research they are conducting will support such action.

CONCLUSIONS

The Commissioner is of the opinion that the establishment of the common or usual name regulation has achieved the major goal of FDA in regard to these beverages by providing consumers the means to make a value comparison of the beverages at the time of purchase and by reducing the general consumer confusion that existed in connection with their names. Therefore, he is terminating the rule making proceedings in regard to establishing standards of identity for the following diluted orange juice beverages and certain related products: orange juice drink (21 CFR 146.155), concentrate for orange juice drink (21 CFR 146.156), powdered orange juice drink (21 CFR 146.158), orange juice drink blend (21 CFR 146.159), powdered orange juice drink blend (21 CFR 146.160), orange drink (21 CFR 146.161), concentrate for orange drink (21 CFR 146.163), powdered orange drink (21 CFR 146.164), orange flavored drink (21 CFR 146.165), concentrate for orange flavored drink (21 CFR 146.166), powdered orange flavored drink (21 CFR 146.167), water-extracted soluble orange solids (21 CFR 146.168), dehydrated water-extracted soluble orange solids (21 CFR 146.169), comminuted oranges (21

CFR 146.170), dehydrated comminuted oranges (21 CFR 146.171), extract of comminuted oranges (21 CFR 146.172), dehydrated extract of comminuted oranges (21 CFR 146.175), juicy orange pulp for manufacturing (21 CFR 146.176), and dehydrated juicy orange pulp for manufacturing (21 CFR 146.177). This action is without prejudice to interested persons submitting new petitions proposing reasonable standards that, if adopted, would promote honesty and fair dealing in the interest of consumers.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371 (e))) and under the authority delegated to the Commissioner (21 CFR 5.1), Part 146 is amended by revoking the following sections:

§§ 146.155, 146.156, 146.158, 146.159, 146.160, 146.161, 146.163, 146.164, 146.165, 146.166, 146.167, 146.168, 146.169, 146.170, 146.171, 146.172, 146.175, 146.176, and 146.177 [Revoked]

Sections 146.155 Orange juice drink, 146.156 Concentrate for orange juice drink, 146.158 Powdered orange juice drink, 146.159 Orange juice drink blend, 146.160 Powdered orange juice drink blend, 146.161 Orange drink, 146.163 Concentrate for orange drink, 146.164 Powdered orange drink, 146.165 Orange flavored drink, 146.166 Concentrate for orange flavored drink, 146.167 Powdered orange flavored drink, 146.168 Water-extracted soluble orange solids, 146.169 Dehydrated water-extracted soluble orange solids, 146.170 Comminuted oranges, 146.171 Dehydrated comminuted oranges, 146.172 Extract of comminuted oranges, 146.175 Dehydrated extract of comminuted oranges, 146.176 Juicy orange pulp for manufacturing, and 146.177 Dehydrated juicy orange pulp for manufacturing are revoked.

Effective date: October 14, 1977.

(Secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371 (e))).

Dated: October 5, 1977.

JOSEPH P. HILE,
Associate Commissioner
for Compliance.

[FR Doc. 77-29869 Filed 10-13-77; 8:45 am]

[4110-03]

[Docket No. 76P-0092]

PART 155—CANNED VEGETABLES

Standard of Identity for Canned Mushrooms; Confirmation of Effective Date of Amendment

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of the revised standard of identity for canned mushrooms. The revised standard was published in the FEDERAL REGISTER of June 14, 1977 (42 FR

30358) to provide for the optional use of safe and suitable organic acids in processing canned mushrooms where the inside of the container is fully enameled or in glass containers with fully enamel-lined caps.

EFFECTIVE DATE: This regulation became effective August 15, 1977.

FOR FURTHER INFORMATION CONTACT:

Prince G. Harrill, Bureau of Foods (HFF-411), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204, (202-245-1164).

SUPPLEMENTARY INFORMATION: The Commissioner of Food and Drugs issued in the FEDERAL REGISTER of June 14, 1977 (42 FR 30358) a final regulation revising the standard of identity (21 CFR 155.200) for certain canned vegetables. A correction was published in the FEDERAL REGISTER of June 21, 1977 (42 FR 31449). No objections to the final regulation were received.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701 (e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371 (e))) and under authority delegated to the Commissioner (21 CFR 5.1), notice is given that the revision of § 155.200(c) (12) as promulgated in the FEDERAL REGISTER of June 14, 1977 (42 FR 30358) became effective August 15, 1977.

Dated: October 5, 1977.

JOSEPH P. HILE,
Associate Commissioner
for Compliance.

[FR Doc. 77-29871 Filed 10-13-77; 8:45 am]

[4110-03]

[Docket No. 76N-0144]

PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

Labeling: Intermediate Mixes Containing Direct Human Food Ingredients Affirmed as GRAS

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This amendment eases certain labeling requirements for food ingredients affirmed as generally recognized as safe (GRAS). In response to manufacturers of intermediate food ingredients who maintain that labeling requirements create certain unnecessary hardships, this amendment provides alternative means of conveying the required information to food processors. The regulations for dill and its derivatives, garlic and its derivatives, acacia (gum arabic), a guar gum, locust (carob) bean gum, karaya gum (sterculia gum), and gum tragacanth are also being revised to reflect the changes in the labeling regulation.

DATES: Effective November 14, 1977.

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ADDRESSES: Written objections to Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Corbin I. Miles, Bureau of Foods (HFF-335), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-4750).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of December 7, 1976 (41 FR 53622) a proposal was published to revise § 184.1(f) (formerly § 121.104(f) prior to recodification published March 15, 1977 (42 FR 14302)), which relates to labeling requirements for human food ingredients affirmed as GRAS. The proposal was published in response to comments submitted on the numerous human food ingredients proposed for GRAS affirmation (see the FEDERAL REGISTER of September 23, 1974 (39 FR 34194)). The comments made clear, and the Commissioner of Food and Drugs concurs, that the labeling requirements of § 184.1(f) created certain difficulties for manufacturers of intermediate food ingredient mixes. The Commissioner has therefore adopted new language that will not require individual food ingredient and concentration labeling. The new regulation does, however, require adequate instructions for use of food ingredient mixtures and sufficient information to permit a food processor independently to determine that use of the mixture will be in accordance with any limitations prescribed for the individual ingredients.

Because of the labeling regulation changes, the regulations for dill and its derivatives (21 CFR 184.1282), garlic and its derivatives (21 CFR 184.1317), acacia (gum arabic) (21 CFR 184.1330), guar gum (21 CFR 184.1339), locust (carob) bean gum (21 CFR 184.1343), Karaya gum (sterculia gum) (1 CFR 184.1349), and gum tragacanth (21 CFR 184.1351), are amended to delete the exemption from labeling requirements in § 184.1(f). No comments were received in response to the proposal to revise § 184.1(f). The Commissioner therefore concludes that no change in the proposed revision of this section is warranted. Accordingly, it is promulgated without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended, (21 U.S.C. 321(s), 348, 371 (a))) and under authority delegated to the Commissioner (21 CFR 5.1), Part 184 is amended as follows:

1. In § 184.1 by revising paragraph (f) to read as follows:

§ 184.1 Substances added directly to human food affirmed as generally recognized as safe.

(f) The label and labeling of the ingredient and any intermediate mix of the ingredient for use in finished food shall bear, in addition to the other labeling required by the act:

(1) The name of the ingredient, except where exempted from such labeling in Part 101 of this chapter.

(2) A statement of concentration of the ingredient in any intermediate mix; or other information to permit a food processor independently to determine that use of the ingredients will be in accordance with any limitations and good manufacturing practice guidelines prescribed.

(3) Adequate directions for use to provide a final food product that complies with any limitations prescribed for the ingredient(s).

2. In § 184.1282, by deleting paragraph (e) and designating it "reserved."

§ 184.1282 Dill and its derivatives.

(e) [Reserved]

3. In § 184.1317, by deleting paragraph (e) and designating it "reserved."

§ 184.1317 Garlic and its derivatives.

(e) [Reserved]

4. In § 184.1330, by deleting paragraph (d) and designating it "reserved."

§ 184.1330 Acacia (gum arabic).

(d) [Reserved]

5. In § 184.1339, by deleting paragraph (d) and designating it "reserved."

§ 184.1339 Guar gum.

(d) [Reserved]

6. In § 184.1343, by deleting paragraph (d) and designating it "reserved."

§ 184.1343 Locust (carob) bean gum.

(d) [Reserved]

7. In § 184.1349, by deleting paragraph (d) and designating it "reserved."

§ 184.1349 Karaya gum (sterculia gum).

(d) [Reserved]

8. In § 184.1351, by deleting paragraph (d) and designating it "reserved."

§ 184.1351 Gum tragacanth.

(d) [Reserved]

Effective date: This regulation shall become effective November 14, 1977.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))).

Dated: October 4, 1977.

JOSEPH P. HILE,
Associate Commissioner
for Compliance.

[FR Doc. 77-29870 Filed 10-13-77; 8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS
[Docket No. 77N-0241]

PART 570—FOOD ADDITIVES

General Recognition of Safety and Prior Sanction for Ingredients in Animal Feeds and Pet Food

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Commissioner of Food and Drugs is amending the provisions for general recognition of safety and prior sanction for ingredients in animal feed and pet food to add provisions that were inadvertently omitted when revised regulations were promulgated.

EFFECTIVE DATE: November 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert S. Brigham, Bureau of Veterinary Medicine (HFV-238), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-6243).

SUPPLEMENTARY INFORMATION: In the FEDERAL REGISTER of September 23, 1974 (39 FR 34194), the Commissioner of Food and Drugs proposed to amend the food additive regulations regarding criteria for the determination of general recognition of safety (GRAS) and prior sanction of articles intended for use in human and animal food. However, the Food and Drug Administration on September 10, 1976 (41 FR 38618), recodified the then existing regulations covering these articles for their use in animal feed and pet food products as part of its program to provide space for the orderly development of future regulations and to provide the public with regulations that are easy to find, read, and understand. When the Commissioner issued in the FEDERAL REGISTER of December 7, 1976 (41 FR 53600), the final order amending the existing regulations for general recognition of safety and prior sanction for food ingredients, he inadvertently failed to amend the correspondingly recodified regulations for animal products. This order amends the corresponding regulation in Subchapter E of Title 21 to incorporate the pertinent provisions included in the December 7, 1976, order as they relate to food additives as ingredients in animal feed and pet food.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 402, 409, 701(a), 52 Stat. 1046-1047 as amended, 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 342, 348, 371 (a)) and under the authority delegated to the Commissioner (21 CFR 5.1), Part 570 is amended as follows:

1. In § 570.3 by revising paragraphs (f), (h), (i), and (k), and by adding new paragraphs (l) and (m) to read as follows:

§ 570.3 Definitions.

(f) "Common use in food" means a substantial history of consumption of a substance by a significant number of animals in the United States.

(h) "Scientific procedures" include those human, animal, analytical, and other scientific studies, whether published or unpublished, appropriate to establish the safety of a substance.

(i) "Safe" or "safety" means that there is a reasonable certainty in the minds of competent scientists that the substance is not harmful under the intended conditions of use. It is impossible in the present state of scientific knowledge to establish with complete certainty the absolute harmlessness of the use of any substance. Safety may be determined by scientific procedures or by general recognition of safety. In determining safety, the following factors shall be considered:

(1) The probable consumption of the substance and of any substance formed in or on food because of its use.

(2) The cumulative effect of the substance in the diet, taking into account any chemically or pharmacologically related substance or substances in such diet.

(3) Safety factors which, in the opinion of experts qualified by scientific training and experience to evaluate the safety of food and food ingredients, are generally recognized as appropriate.

(k) "General recognition of safety" shall be determined in accordance with § 570.30.

(l) "Prior sanction" means an explicit approval granted with respect to use of a substance in food prior to September 6, 1958, by the Food and Drug Administration or the United States Department of Agriculture pursuant to the Federal Food, Drug, and Cosmetic Act, the Poultry Products Inspection Act, or the Meat Inspection Act.

(m) "Food" includes human food, substances migrating to food from food-contact articles, pet food, and animal feed.

2. By revising § 570.30 to read as follows:

§ 570.30 Eligibility for classification as generally recognized as safe (GRAS).

(a) General recognition of safety may be based only on the views of experts qualified by scientific training and experience to evaluate the safety of substances directly or indirectly added to food. The basis of such views may be either (1) scientific procedures or (2) in the case of a substance used in food prior to January 1, 1958, through experience based on common use in food. General recognition of safety requires common knowledge about the substance throughout the scientific community knowledgeable about the safety of substances directly or indirectly added to food.

(b) General recognition of safety based upon scientific procedures shall require the same quantity and quality of scientific evidence as is required to obtain approval of a food additive regulation for the ingredient. General recognition of safety through scientific procedures shall ordinarily be based upon published studies which may be corroborated by unpublished studies and other data and information.

(c) General recognition of safety through experience based on common use in food prior to January 1, 1958, may be determined without the quantity or quality of scientific procedures required for approval of a food additive regulation. General recognition of safety through experience based on common use in food prior to January 1, 1958, shall ordinarily be based upon generally available data and information. An ingredient not in common use in food prior to January 1, 1958, may achieve general recognition of safety only through scientific procedures.

(d) The food ingredients listed as GRAS in Part 582 of this chapter do not include all substances that are generally recognized as safe for their intended use in food. Because of the large number of substances the intended use of which results or may reasonably be expected to result, directly or indirectly, in their becoming a component or otherwise affecting the characteristics of food, it is impracticable to list all such substances that are GRAS. A food ingredient of natural biological origin that has been widely consumed for its nutrient properties in the United States prior to January 1, 1958, without known detrimental effects, which is subject only to conventional processing as practiced prior to January 1, 1958, and for which no known safety hazard exists, will ordinarily be regarded as GRAS without specific inclusion in Part 582 of this chapter.

(e) A food ingredient that is not GRAS or subject to a prior sanction requires a food additive regulation promulgated under section 409 of the act before it may be directly or indirectly added to food.

(f) A food ingredient that is listed as GRAS in Part 582 of this chapter shall be regarded as GRAS only if, in addition to all the requirements in the applicable regulation, it also meets all of the following requirements:

(1) It complies with any applicable specifications, or in the absence of such specifications, shall be of a purity suitable for its intended use.

(2) It performs an appropriate function in the food or food-contact article in which it is used.

(3) It is used at a level no higher than necessary to achieve its intended purpose in that food or, if used as a component of a food-contact article, at a level no higher than necessary to achieve its intended purpose in that article.

(g) New information may at any time require reconsideration of the GRAS status of a food ingredient. Any change in status shall be accomplished pursuant to § 570.38.

(h) If a substance is affirmed as GRAS pursuant to § 570.35 and listed in a reg-

ulation with no limitation other than good manufacturing practice, it shall be regarded as GRAS if its conditions of use are not significantly different from those reported in the regulation as the basis on which the GRAS status of the substance was affirmed. If the conditions of use are significantly different, such use of the substance may not be GRAS. In such a case a manufacturer may not rely on the regulation as authorizing the use but must independently establish that the use is GRAS or must use the substance in accordance with a food additive regulation.

(i) If an ingredient is affirmed as GRAS pursuant to § 570.35 and listed in a regulation with specific limitation(s), it may be used in food only within such limitation(s) (including the category of food(s), the functional use(s) of the ingredient, and the level(s) of use). Any use of such an ingredient not in full compliance with each such established limitation shall require a food additive regulation.

(j) Pursuant to § 570.35, a food ingredient may be affirmed as GRAS and listed in a regulation for a specific use(s) without a general evaluation of use of the ingredient. In addition to the use(s) specified in the regulation, other uses of such an ingredient may also be GRAS. Any affirmation of GRAS status for a specific use(s), without a general evaluation of use of the ingredient, is subject to reconsideration upon such evaluation.

3. In § 570.35 by adding new paragraph (c) (6) to read as follows:

§ 570.35 Affirmation of generally recognized as safe (GRAS) status.

(c) * * *

(6) The notice of filing in the FEDERAL REGISTER will request submission of proof of any applicable prior sanction for use of the ingredient under conditions different from those proposed to be determined to be GRAS. The failure of any person to come forward with proof of such an applicable prior sanction in response to the notice of filing will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice of filing will also constitute a proposal to establish a regulation under this Subchapter E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the notice of filing.

4. In § 570.38 by adding a new paragraph (d) to read as follows:

§ 570.38 Determination of food additive status.

(d) If the Commissioner of Food and Drugs is aware of any prior sanction for use of the substance, he will concurrently propose a separate regulation covering such use of the ingredient under this Subchapter E. If the Commissioner is unaware of any such applicable prior sanction, the proposed regulation will

so state and will require any person who intends to assert or rely on such sanction to submit proof of its existence. Any regulation promulgated pursuant to this section constitutes a determination that excluded uses would result in adulteration of the food in violation of section 402 of the act, and the failure of any person to come forward with proof of such an applicable prior sanction in response to the proposal will constitute a waiver of the right to assert or rely on such sanction at any later time. The notice will also constitute a proposal to establish a regulation under this Subchapter E, incorporating the same provisions, in the event that such a regulation is determined to be appropriate as a result of submission of proof of such an applicable prior sanction in response to the proposal.

Effective date: These amendments shall be effective November 30, 1977.

(Secs. 201(s), 402, 409, 701(a), 52 Stat. 1046-1047 as amended, 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 342, 348, 371 (a)).)

Dated: October 5, 1977.

JOSEPH P. HILE,
Associate Commissioner
for Compliance.

[FR Doc. 77-29872 Filed 10-13-77; 8:45 am]

[4110-03]

SUBCHAPTER J—RADIOLOGICAL HEALTH

[Docket No. 76N-0492]

PART 1005—IMPORTATION OF ELECTRONIC PRODUCTS

Subpart C—Bonding and Compliance Procedures, Changes in Service Rates

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The agency is increasing the service rates charged for supervising the operations necessary to bring detained imported electronic products into compliance with the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968. The agency has found that the flat rates established in 1970 are inadequate today and, therefore, to update the fees and eliminate the continual revision of flat rates, the agency is amending the regulations to provide for computation of fees on a percentage of salary basis.

DATES: Effective November 14, 1977; comments by December 13, 1977.

ADDRESS: Written comments to the Hearl Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Harold R. Heiser, Accounting Branch (HFA-120), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-1766).

SUPPLEMENTARY INFORMATION: Section 360 of the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (42 U.S.C. 263h), requires that the cost of supervising the operations necessary to bring detained imported electronic products into compliance with the statute shall be paid by the owner or consignee who files an application requesting such action and executes a bond.

A study of the costs incurred by FDA in supervising such operations shows that the flat rates established in 1970 are now too low. To keep abreast of economic changes and also to eliminate the continual revision of flat rates, § 1005.24 (21 CFR 1005.24) is being amended to provide for the computation of costs as a percentage of the hourly rate of the average grade of the supervising officer (GS-11/4) or analyst (GS-12/4); the percentage includes administrative and laboratory support, as well as employee benefits paid by the government.

Since reimbursement for expenses incurred by FDA in providing these inspectional and analytical services is required by the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968, and since the amendment effected by this regulation simply establishes rates for these services, the Commissioner finds that notice and public procedure are unnecessary for this promulgation as authorized under 5 U.S.C. 553.

Therefore, under the Public Health Service Act, as amended by the Radiation Control for Health and Safety Act of 1968 (secs. 356, 360, 82 Stat. 1174-1176, 1181, 1182 (42 U.S.C. 263d, 263h)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 1005 is amended in § 1005.24 by revising paragraph (c) to read as follows:

§ 1005.24 Costs of bringing product into compliance.

(c) Service fees:

(1) The charge for the services of the supervising officer, which shall include administrative support, shall be computed at a rate per hour equal to 266 percent of the hourly rate of regular pay of a grade GS-11/4 employee, except that such services performed by a customs officer and subject to the provisions of the act of February 13, 1911, as amended (sec. 5, 36 Stat. 901, as amended (19 U.S.C. 267)), shall be calculated as provided in that act.

(2) The charge for the services of the analyst, which shall include administrative and laboratory support, shall be computed at a rate per hour equal to 266 percent of the hourly rate of regular pay of a grade GS-12/4 employee.

(3) The rate per hour equal to 266 percent of the equivalent hourly rate of regular pay of the supervising officer (GS-11/4) and the analyst (GS-12/4) is computed as follows:

RULES AND REGULATIONS

	Hours
Gross number of working hours in 52 40-hour weeks.....	2,080
Less:	
Nine legal public holidays—New Years Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, and Christmas Day.....	72
Annual Leave—26 days.....	208
Sick Leave—13 days.....	104
Total.....	384
Net number of working hours.....	1,696
Gross number of working hours in 52 40-hour weeks.....	2,080
Working hour equivalent of Government contributions for employee retirement, life insurance, and health benefits computed at 8 1/2% pct. of annual rate of pay of employee.....	176
Equivalent annual working hours.....	2,256
Support required to equal to 1 man-year.....	2,256
Equivalent gross annual working hours charged to Food and Drug appropriation.....	4,512
Note.—Ratio of equivalent gross annual number of working hours charged to Food and Drug appropriation to net number of annual working hours	$\frac{4512}{1696} = 2.66$ pct.

Interested persons may, on or before December 13, 1977 submit to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, written comments regarding this regulation. Four copies of all comments shall be submitted, except that individuals may submit single copies of comments, and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Effective date: This regulation shall become effective November 14, 1977.

(Secs. 358, 360, 82 Stat. 1174-1176, 1181-1182 (42 U.S.C. 263d, 263h).)

Dated: October 4, 1977.

JOSEPH P. HILE,
Associate Commissioner
for Compliance.

[FR Doc. 77-29868 Filed 10-13-77; 8:45 am]

[4310-53]

Title 30—Mineral Resources
CHAPTER VI—BUREAU OF MINES,
DEPARTMENT OF THE INTERIOR
SUBCHAPTER A—HELIUM AND COAL
PART 601—SALES OF HELIUM BY AND
RENTAL OF CONTAINERS FROM BUREAU OF MINES

Revised Fee Schedule

AGENCY: Department of the Interior.
ACTION: Final rule.

SUMMARY: This rule establishes a new list of the prices and charges associated with the sales of helium. The old list of prices and charges did not reflect the increase in cost for labor and materials that has occurred in the two years since the old list was established.

EFFECTIVE DATE: The effective date for the new schedule of charges and prices is the first day of the first month after 30 days from date of final publication in the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Ray D. Munnerlyn, Chief, Division of Helium, Columbia Plaza Office Building, 5th Floor, 2401 E Street NW., Washington, D.C. 20241 (202-634-4734).

SUPPLEMENTARY INFORMATION: On pages 20837 and 20838 of the FEDERAL REGISTER of Friday, April 22, 1977, there was published a notice of proposed amendment of Chapter VI, Subchapter A, Part 601 of Title 30 Code of Federal Regulations to replace the existing schedule of prices and charges which became effective April 14, 1975. Interested persons were given 30 days in which to submit comments.

Only one comment was received. The commentor objected to the minimum order each contract because of a lack of space for storing small cylinders. The commentor was advised that partial orders may be placed against the total order as needed.

Section 601.3(d) of the regulations requires that the minimum net charge under any one cylinder rental contract shall be one month's charge for 100 cylinders. The Proposed Revised Fee Schedule (30 CFR Part 601) that appeared on April 22, 1977 (42 FR 20837), failed to take into account this proviso. Thus, on page 20838 of that document, in the right hand column, line 5, the charge, "\$25", should have read "\$70". This also changes the initial cash advance for use of the cylinders. In line 9, the amount of the advance, "\$75", should have read "\$210"; and in line 12, the charge, "\$0.75 each", should have read "\$2.10 each". In the middle column, line 36, an error in the publication process which read "\$1.00 each round trip" should have read "\$1,000 each round trip".

We believe that the proposed increases in prices and charges are fully justified by the increases in the cost of labor and supplies since 1975 when the prices and charges were last changed. The objection of the one commentor does not provide sufficient grounds for revising the proposed schedule.

The primary author of this document is Billy J. King, Chief, Branch of Administration, Division of Helium, Helium Operations, Box H 4372 Herring Plaza, Amarillo, Tex. 79101, telephone FTS: 734-2608; A/C 806-376-2608, with assistance by Jerome E. Veen, Chief, Section of Finance, Helium Operations (same address), FTS: 734-2645; A/C 806 376-2645.

NOTE:—The Department of the Interior has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 7, 1977.

JOAN M. DAVENPORT,
Assistant Secretary of the Interior.

The proposed revised fee schedule is adopted with changes as set forth below.

APPENDIX

SCHEDULE OF PRICES AND CHARGES

Stencil special markings on cylinder:	
1st cylinder.....	\$20.35 each.
Additional cylinders in same lot with markings.....	\$0.70 each.
Wash and dry cylinders, includes reset valve.....	\$2.20 each.
Special cylinder tagging.....	\$0.20 each.
Special tagging of cylinder and port plug installed in valve.....	\$1.50 each.
Remove labels and decals from cylinder.....	\$0.30 each.
Seal cylinder—wire with crimped lead shipping seal.....	\$0.35 each.
Use of tank cars:	
Round trip mileage between helium plant and destination, and time at destination.....	\$25/d 1st 30 d, \$20/d 2d 30 d, \$15/d over 60 d.
Initial cash advance for use of each tank car:	
Contracts specifying a definite number of round trips.....	\$1,000 each round trip.
Contracts specifying an indefinite number of round trips.....	\$4,000.
Cash, bond, or insurance to guarantee return of containers:	
1 tank car.....	\$100,000.
2 or more but less than 5 tank cars.....	\$200,000.
Each tank car in excess of 4.....	\$20,000.
Use of semitrailers:	
Time in customer's service.....	\$20/d 1st 30 d, \$40/d 2d 30 d, \$50/d over 60 d.
Initial cash advance for use of each semitrailer:	
Contracts specifying a definite number of round trips.....	\$150 each round trip.
Contracts specifying an indefinite number of round trips.....	\$600.

APPENDIX—CONTINUED	
Cash, bond, or insurance to guarantee return of containers:	
1 trailer.....	\$40,000.
2 or more but less than 5 semitrailers.....	\$100,000.
Each trailer in excess of 4.....	\$10,000.
Use of standard type cylinders:	
Each cylinder.....	\$0.70 a mo.
Minimum each contract.....	\$70.00
Initial cash advance for use of cylinders:	
Contracts for 100 cylinders or less.....	\$210.00
Contracts for more than 100 cylinders.....	\$2.10
Cash, bond, or insurance to guarantee return of cylinders.....	\$40 each.
Additional charge for falling to return containers with minimum residual pressure of 15 lb/in ² of uncontaminated grade A helium.....	
Standard type cylinder, evacuating and purge:	
Tube trailer, tube banks, or tubes manifolded:	
Individual tube capacity 1,800 ft ³ or less:	
Purge.....	\$1 each tube.
Evacuate.....	\$1.20 each tube.
Individual tube capacity greater than 1,800 ft ³ :	
Purge.....	\$5.50 each tube.
Evacuate.....	\$6.60 each tube.
Tube trailer, tube banks, or tubes not manifolded:	
Individual tube capacity 1,800 ft ³ or less:	
Purge.....	\$2 each tube.
Evacuate.....	\$2.20 each tube.
Individual tube capacity greater than 1,800 ft ³ :	
Purge.....	\$8.30 each tube.
Evacuate.....	\$8.60 each tube.
Tank car:	
Purge.....	\$90 each tank car.
Evacuate.....	\$110 each tank car.
Use as storage container:	
Tank car.....	\$10 each day.
Palletizing cylinders for shipment:	
Bureau of Mines—furnished pallet.....	\$52 each.
Customer—furnished pallet.....	\$13 each.

¹ The advance shall also include the estimated amount for filling charges and the full amount of estimated charges for the services to be rendered.

[FR Doc. 77-30004 Filed 10-13-77; 8:45 am]

RULES AND REGULATIONS

[3810-70]

Title 32—National Defense
CHAPTER I—OFFICE OF THE
SECRETARY OF DEFENSE

[DOD Directive 1354.1]

PART 143—RELATIONSHIPS WITH ORGANIZATIONS WHICH SEEK TO REPRESENT MEMBERS OF THE ARMED FORCES IN NEGOTIATION OR COLLECTIVE BARGAINING

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule establishes departmental policies and procedures with respect to organizations whose objective is to organize or represent members of the Armed Forces on active duty, inactive duty training, or members of Reserve components serving in their military capacities, for purposes of negotiating or bargaining about terms or conditions of military service. These policies and regulations are needed to provide uniform direction and guidance to officials in the Department of Defense and members of the Armed Forces, and to ensure consistent and even-handed treatment of members of the Armed Forces and individuals, groups, organizations, and associations seeking or purporting to represent members of the Armed Forces for the purpose of such negotiating or bargaining.

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Captain Edward Boywid, United States Navy, 202-695-0625

SUPPLEMENTARY INFORMATION: This rule prohibits commanders and supervisors of the Department of Defense, acting on behalf of the United States, from engaging in negotiation or collective bargaining with members of the Armed Forces or with individuals, groups, organizations, or associations purporting to represent members of the Armed Forces for the purpose of resolving, bilaterally terms or conditions of military service. It also prohibits members of the Armed Forces from engaging in strikes, slowdowns, work stoppages, actions which obstruct or interfere with the performance of military assignments, and picketing for the purpose of causing any of the foregoing, when such actions are related to terms or conditions of military service. The rule proscribes efforts on military installations to recruit members of the Armed Forces into certain types of organizations and, in specific circumstances, prohibits membership by members of the Armed Forces in certain organizations. In addition to setting forth supplementary general prohibitions and enumerating activities specifically not prohibited, the rule vests responsibility for assuring compliance in the heads of the various departmental components.

Interested persons have been afforded an opportunity to participate in the making of this rule by a notice of proposed rulemaking published in the FEDERAL REGISTER on August 16, 1977 (42 FR 41306). All comments received, insofar as they relate to matters within the scope of the notice, were considered. Except for editorial changes and except as specifically discussed hereinafter, the proposed rule is adopted as final and the reasons therefor are the same as those contained in the notice.

General comments, while not specifically addressing the language or the purpose of the proposed rule, were submitted in support of or against unionization of the Armed Forces. Some were opposed to the rule in principle, others favored it and still others stated the rule was not strong enough and legislation was required.

Some comments challenged the rule as unconstitutional under the First Amendment and the equal protection and due process clauses. These comments were directed at the restrictions on membership and recruitment on military bases. Each of these comments was based on constitutional case law and scholarly commentary that had been considered by the Department of Defense prior to publishing the proposed rule for comment. The Department of Defense has concluded that applicable constitutional requirements are met.

Accordingly, 32 CFR Part 143 is revised as set forth below:

Sec.	
143.1	Purpose.
143.2	Applicability and Scope.
143.3	Policy.
143.4	Prohibited Activity.
143.5	Permissible Activity.
143.6	Administrative Provisions.
143.7	Definitions.
143.8	Guidelines.

AUTHORITY: 5 U.S.C. 301 and 10 U.S.C. 133, 3010, 5011, and 8010, and in accordance with 32 CFR 298.

§ 143.1 Purpose.

This part establishes policies and procedures with respect to organizations whose objective is to organize or represent members of the Armed Forces for purposes of negotiating or bargaining about terms or conditions of military service. The Part does not modify or diminish the existing authority of commanders to control access to, or maintain good order and discipline on, military installations; nor does it modify or diminish the obligations of commanders and supervisors pursuant to Executive Order 11491 with respect to organizations representing DoD civilian employees.

§ 143.2 Applicability and scope.

The provisions of this part apply to:

(a) The Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Unified and Specified Commands, and the Defense Agencies.

(b) All military and civilian personnel of the Department of Defense.

(c) Individuals and groups entering, using, or seeking to enter or use military installations.

§ 143.3 Policy.

The mission of the Department of Defense is to safeguard the security of the United States. Discipline, obedience to lawful orders, and loyalty on the part of members of the Armed Forces are essential to the combat readiness required to accomplish this mission. The interposition of collective or concerted action by any organization in the command relationships established by law and regulation for the government of the Armed Forces would:

(a) Erode the discipline of the Armed Forces;

(b) Interfere with the power of the Congress to make rules for the government and regulation of the land, air and naval forces, and interfere with the appropriate delegation of power to the Department of Defense to provide for the national defense;

(c) Impair the authority of the President as Commander in Chief of the Armed Forces and that of officers appointed by him to command the Armed Forces; and

(d) Impair the reliability, operational readiness, and combat effectiveness of the Armed Forces so as to threaten the security of the United States.

§ 143.4 Prohibited activity.

(a) *Negotiation or Collective Bargaining.* No commander or supervisor may engage in negotiation or collective bargaining.

(b) *Strikes and Other Concerted Activity.* No member of the Armed Forces may:

(1) Engage in any strike, slowdown, work stoppage, or other collective job-related action related to terms or conditions of military service; or

(2) Picket for the purpose of causing or coercing other members of the Armed Forces to engage in any strike, slowdown, work stoppage, or other collective job-related action to terms or conditions of military service.

(c) *Recruitment Efforts on Military Installations.*

(1) No person may conduct or attempt to conduct a demonstration, meeting, march, speechmaking, protest, picketing, leafleting or other similar activity on any part of a military installation for the purposes of forming, recruiting members for or soliciting money or services for an organization (or organizations) that:

(i) Engages or is substantially likely to engage in any activity prohibited by this Part; or

(ii) Proposes or holds itself out as proposing to engage in negotiation or collective bargaining on behalf of members of the Armed Forces; or

(iii) Proposes or holds itself out as proposing to represent members of the Armed Forces to the military chain of command with respect to terms or con-

ditions of military service when such representation would interfere with the military chain of command; or

(iv) Solicits or aids and abets a violation of this part by a member of the Armed Forces.

(2) No person may engage in any activity on any part of a military installation, including but not limited to individual contacts or the posting for public display of any poster, handbill or other writing, if that activity or the material displayed constitutes or includes an invitation to collectively engage in an act prohibited by this part.

(d) *Membership.* No member of the Armed Forces may become or remain an active member of any organization when:

(1) A determination has been made that the organization presents a clear danger to discipline, loyalty, or obedience to lawful orders because the organization, or any person on behalf of the organization:

(i) Engages in any act prohibited by this Part; or

(ii) Violates or conspires to violate, or solicits or aids and abets a violation of articles 82, 85, 86, 87, 89, 90, 91, 92, 94, 108, 109, 115, 116, 117, or 128 of the Uniform Code of Military Justice or of 18 U.S.C. 1382; and

(2) Such member of the Armed Forces knows that the organization, or any person on behalf of the organization, engages in the conduct upon which the determination in § 143.4(d)(1) is based and such member of the Armed Forces intends to promote such conduct.

(e) *General Prohibitions.*

(1) No member of the Armed Forces may solicit the commission of or conspire with or aid and abet any person or organization in the commission of any act prohibited by this Part.

(2) No member of the Armed Forces may attempt to engage in any act prohibited by this Part.

§ 143.5 Permissible activity.

This part does not prevent, among other things:

(a) Any member of the Armed Forces from presenting complaints or grievances over terms or conditions of military service through established military channels.

(b) Commanders or supervisors from giving due consideration to the views of any member of the Armed Forces presented individually or as a result of participation on command-sponsored or authorized advisory councils, committees or organizations for the purpose of improving conditions or communications at the military installation involved.

(c) Any member of the Armed Forces from petitioning Congress or communicating with any member of Congress, individually or collectively.

(d) Any member of the Armed Forces from being represented by qualified counsel, whether or not retained by an organization on his or her behalf, in any judicial or administrative proceeding with respect to which there is a right to counsel of choice.

(e) Any member of the Armed Forces from joining or being a member of any organization which engages in representational activities with respect to terms or conditions of off-duty employment.

(f) Any civilian employed at a military installation from joining or being a member of an organization that engages in representational activities with respect to terms or conditions of employment.

§ 143.6 Administrative provisions.

(a) *Responsibility.* Responsibility for assuring compliance with this Part is vested in the Heads of the DOD Components. Guidelines for this purpose are contained in § 143.8.

(b) *Application.* The Heads of the DOD Components (in the case of the Military Departments, the Secretaries of the Military Departments in consultation with their respective Chiefs of Staff) will determine on a case-by-case basis, whether § 143.4(c)(2), or § 143.4(d), or both of this Part are to be invoked in particular circumstances and will make the specific determinations required.

(c) *Reports.* The Heads of the DOD Components will report directly and expeditiously to the Secretary of Defense significant actions to be taken pursuant to this Part. The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) is the administrative point of contact in the Office of the Secretary of Defense for all matters relating to this Part.

§ 143.7 Definitions.

(a) *Aid and Abet.* To be present during the commission of any act prohibited by this Part and to assist, command, counsel, or otherwise encourage the commission of such act.

(b) *Collective Job-Related Action.* Any activity by two or more persons that is intended to and does obstruct or interfere with the performance of a military duty assignment.

(c) *Conspire.* To join or agree with one or more persons to commit any act prohibited by this Part.

(d) *DOD Components.* The Military Departments and the Defense agencies.

(e) *Member of the Armed Forces.* A person who is (1) serving on active duty or inactive duty training, or (2) a member of a Reserve component while serving in his or her military capacity, but not those members or former members who are receiving retired or retainer pay.

(f) *Military Installations.* For the purpose of this Part the term "military installation" includes installations, facilities, ships, aircraft and other property controlled by the Department of Defense.

(g) *Negotiation or Collective Bargaining.* A process whereby a commander or supervisor acting on behalf of the United States engages in discussions with a member or members of the Armed Forces (purporting to represent other such members), or with an individual, group, organization, or association purporting

to represent such members, for the purpose of resolving bilaterally terms or conditions of military service.

(h) *Solicit.* To use words or any other means to request, urge, advise, counsel, tempt, or command another to commit any act prohibited by this part.

(i) *Supervisor.* Any member of the Armed Forces or Department of Defense civilian employee responsible for directing subordinate members of the Armed Forces in the performance of their duties.

(j) *Terms or conditions of military service* means terms or conditions of military compensation or duty including but not limited to wages, rates of pay, duty hours, assignments, grievances, or disputes.

§ 143.8 Guidelines.

(a) The prohibitions in this Part will require that certain factual determinations be made by the Heads of the DOD Components (in the case of the Military Departments by the Secretaries of the Military Departments in consultation with their respective Chiefs of Staff) on the basis of particular facts that exist at particular installations. The guidelines for making these determinations are as follows:

(1) In making the determination that a person or an organization poses a clear danger to the discipline, loyalty or obedience of lawful orders because such person or organization engages in, solicits, or aids and abets any act prohibited in this Part (or in the statutory provisions identified in § 143.4(d)), the history and operations of the organization including the constitution and bylaws, if any, or person in question may be evaluated along with evidence with respect to the conduct constituting a prohibited act. In addition, there must be sufficient evidence to support a conclusion that the person or organization is substantially likely to engage in a prohibited act.

(i) In determining whether commission of a prohibited act by individual members can be imputed to the organization, examples of factors which should be considered include: the frequency of such act; the position in the organization of persons committing such act; whether the commission of such act was known by the leadership of the organization; whether the commission of such act was condemned or disavowed by the leadership of the organization.

(ii) Once it is determined by the Head of the DOD Component that an organization engages in any prohibited act, and is likely to do so in the future, the Head of the DOD Component may instruct affected installations to post conspicuously notices which clearly state that:

(A) Such organization poses a clear danger to discipline, loyalty, or obedience to lawful orders, and

(B) Knowing, active membership in any such organization by a member of the Armed Forces with intent to promote such prohibited conduct is not permitted.

(2) In making the decision that a member of the Armed Forces is an "ac-

tive" member of the organization in question, membership must be more than merely nominal or passive. Normally, a person can be considered an active member if he engages in certain kinds of conduct for the organization. This conduct includes solicitation or collection of dues, membership recruitment, distribution of literature, service as an officer of the organization, or frequent attendance at meetings or activities of the organization.

(3) In deciding that a member of the Armed Forces knows about the prohibited conduct engaged in by the organization, such knowledge may be inferred if the clear notice specified above has been posted conspicuously.

(b) Any information about persons and organizations not affiliated with the Department of Defense needed to make the determinations required by this Part shall be gathered in strict compliance with the provisions of DOD Directive 5200.27,¹ and in any event, shall not be acquired by counterintelligence or security investigative personnel. The organization itself will be considered a primary source of information.

MAURICE W. ROCHE,
Director, Correspondence and
Directives, Office of the As-
sistant Secretary of Defense
(Comptroller).

OCTOBER 11, 1977.

[FR Doc.77-30104 Filed 10-13-77; 8:45 am]

[6210-01]

Title 32A—National Defense, Appendix
CHAPTER XV—FEDERAL RESERVE
SYSTEM

[Docket No. R-0119]

PART 1505—LOAN GUARANTEES FOR
DEFENSE PRODUCTION (REG. V)

Change of Guaranteeing Agency

AGENCY: Board of Governors of the
Federal Reserve System.

ACTION: Final rule.

SUMMARY: Regulation V is being amended to reflect that the Department of Energy now possesses the authority formerly held by the Energy Research and Development Administration to guarantee V-loans.

EFFECTIVE DATE: This amendment is effective October 1, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Ralph C. Maurer, Credit Specialist,
Division of Federal Reserve Bank Op-
erations, Board of Governors of the
Federal Reserve System, Washington,
D.C. 20551 (202-452-3174).

SUPPLEMENTARY INFORMATION:
Effective October 1, 1977, the functions

¹ Filed as part of original. Single copies may be obtained, if needed, from U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120, Attention: Code 301.

vested by law in the Energy Research and Development Administration will be transferred to and vested in the Department of Energy. The purpose of this amendment is to reflect this transfer of functions by deleting the reference in Regulation V to the Energy Research and Development Administration as an agency authorized to guarantee V-loans and by substituting the Department of Energy as an agency authorized to guarantee V-loans. This action is taken pursuant to the Board's authority under the Defense Production Act of 1950 and Executive Order No. 10480 of August 14, 1953, as amended.

The change made by this amendment is a technical one designed to conform Regulation V with existing statutory authority. Therefore, the Board for good cause finds that the procedures prescribed by the provisions of § 553 of Title 5 United States Code, relating to notice, public procedure, and deferred effective date are unnecessary and would serve no useful purpose.

Effective October 1, 1977, § 1 of Regulation V (Loan Guarantees for Defense Production) of the Board of Governors is amended by deleting "Energy Research and Development Administration" and substituting "the Department of Energy" after "the Department of Agriculture".

By order of the Board of Governors,
October 5, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-30070 Filed 10-13-77; 8:45 am]

[8320-01]

Title 38—Pensions, Bonuses, and
Veterans' Relief

CHAPTER I—VETERANS
ADMINISTRATION

PART 17—MEDICAL

Authority to Furnish Emergency
Hospitalization

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This amendment provides that in the case of an emergency that existed at the time of admission to a non-Veterans Administration hospital an authorization may be deemed a prior authorization if an application is dispatched to the Veterans Administration for veterans in a noncontiguous State, territory or possession of the United States (not including Puerto Rico) within 72 hours after communication facilities become available for dispatch of such application. This amendment provides authority to extend the time limitation for filing of an application. This time limitation is extended because appropriate communication facilities are not always available outside the 48 contiguous States, territories or possessions of the United States (not including Puerto Rico).

EFFECTIVE DATE: October 6, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Joseph L. Erwin, Chief, Policies and Procedures, Medical Administration Service, Department of Medicine and Surgery, Veterans Administration, Washington, D.C. 20420 (202-389-3785).

SUPPLEMENTARY INFORMATION: At the present time, an authorization for hospital care at Veterans Administration expense may be deemed a prior authorization if the application for such care is dispatched within 72 hours of the hour and date of admission to the hospital. Appropriate communication facilities (telephone, telegraph, mail or other types of communication) are not always immediately available at points in a noncontiguous State, territory or possession of the United States (not including Puerto Rico). In the case of an emergency that existed at the time of admission, an authorization may be deemed a prior authorization if the application is dispatched to the Veterans Administration within 72 hours after such communications first became available to the applicant and/or his or her representative.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed regulation. No written comments have been received and the proposed regulation is hereby adopted without change and is set forth below.

NOTE:—The Veterans Administration has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 as amended by Executive Order 11949 and OMB Circular A-107.

Approved: October 6, 1977.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

Section 17.50d is revised to read as follows:

§ 17.50d Necessity for prior authorization.

(a) The admission of a veteran to a non-Veterans Administration hospital at Veterans Administration expense must be authorized in advance. In the case of an emergency which existed at the time of admission, an authorization may be deemed a prior authorization if an application, whether formal or informal, by telephone, telegraph or other communication, made by the veteran or by others in his or her behalf is dispatched to the Veterans Administration (1) For veterans in the 48 contiguous States and Puerto Rico, within 72 hours after the hour of admission, including in the computation of time Saturday, Sunday and holidays, or (2) For veterans in a noncontiguous State, territory or possession of the United States (not including Puerto Rico) if facilities for dispatch of application as described in this section are not available within the 72-hour period, provided the application was filed within 72 hours after facilities became available.

(b) When an application for admission by a veteran in one of the 48 con-

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tiguous States in the United States or in Puerto Rico has been made more than 72 hours after admission, or more than 72 hours after facilities are available in a noncontiguous State, territory or possession of the United States, authorization for continued care at Veterans Administration expense shall be effective as of the postmark or dispatch date of the application, or the date of any telephone call constituting an informal application.

[FR Doc.77-30013 Filed 10-13-77; 8:45 am]

[4910-06]

Title 49—Transportation

CHAPTER II—FEDERAL RAILROAD ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[FRA Economic Docket No. 5, Notice 4]

PART 268—MERGER AND CONSOLIDATION PROCEDURES

Final Rule; Correction

AGENCY: Federal Railroad Administration, DOT.

ACTION: Correction to final rule.

SUMMARY: This document corrects a final rule which revised Part 268 in FR Doc. 77-24550, appearing at page 43030 in the FEDERAL REGISTER for August 25, 1977.

EFFECTIVE DATE: August 25, 1977.

FOR FURTHER INFORMATION CONTACT:

Sander M. Bieber (202-426-8220).

SUPPLEMENTARY INFORMATION: The following changes should be made:

1. On page 43032, right column, § 268.17, first line, delete the comma after the word "shall" and insert a comma after the word "contain".
2. On page 43033, middle column, § 268.21(b)(6), second line, which now reads "mental financial assistance involved is in", should be changed to read "mental financial assistance is involved in".
3. On page 43034, right column, § 268.31(d) insert a comma at the end of the second line of subsection (d)(1) after the number "268.29"; and at the end of the second line of subsection (d)(3) after the number "268.27".

Dated: September 30, 1977.

ROBERT E. GALLAMORE,
Deputy Administrator,
Federal Railroad Administration.

[FR Doc.77-29974 Filed 10-13-77; 8:45 am]

[7035-01]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[10th Rev. S.O. 1234]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Tenth Revised Service Order No. 1234).

SUMMARY: Tariff provisions often require the use of cars having high weight carrying or cubic capacity. Many carriers have shortages of these high capacity cars but have ample supplies of similar cars of lesser capacity. Service Order No. 1234 authorizes railroads, with the consent of the shipper, to substitute sufficient smaller cars for larger cars ordered to transport specified kinds of freight subject to the minimum quantity per shipment required by the applicable tariffs.

DATES: Effective 12:01 a.m., October 10, 1977. Expires 11:59 p.m., March 31, 1978.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 7th day of October 1977.

There is an acute shortage of high capacity freight cars for transporting shipments of beet pellets, citrus pulp, citrus pellets, clay, fertilizer, phosphate (dried or ground, treated or untreated), fish meal, grain, grain products, salt, soybeans, soybean products, cottonseed hulls, peanut hulls, soybean hulls or sunflower seeds caused by certain tariff provisions specifying the minimum quantities that must be loaded into cars offered to the carriers for transport. At the same time smaller cars, suitable except as to capacity, are available for transporting these products. The inability of the carriers and shippers to utilize the smaller capacity cars in place of the larger cars required by tariff provisions is resulting in great economic loss to both shippers and carriers. In the opinion of the Commission, an emergency exists requiring immediate action to modify existing rules, regulations and practices with respect to car service to secure maximum utilization of the available supply of freight cars and to alleviate shortages of cars. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1234 Tenth Revised Service Order No. 1234.

(a) *Distribution of freight cars.* Subject to the concurrence of the shipper, carriers may substitute a sufficient number of smaller cars for larger cars ordered to transport shipments of beet pellets, citrus pulp, citrus pellets, clay, fertilizer, phosphate (dried or ground, treated or untreated), fish meal, grain, grain products, salt, soybeans, soybean products, cottonseed hulls, peanut hulls,

soybean hulls or sunflower seeds regardless of tariff requirements specifying minimum cubic or weight carrying capacity. (See paragraphs (b) and (c) of this section.)

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions requiring the use of twenty-five or more cars per shipment.

(c) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(d) *Rates and minimum weights applicable.* The rates to be applied and the minimum weights applicable to shipments for which cars smaller than those ordered have been furnished and loaded as authorized by paragraph (a) of this order shall be the rates and minimum weights applicable to the larger cars ordered.

(e) *Billing to be endorsed.* The carrier substituting smaller cars for larger cars as authorized by paragraph (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Car of (....) cu. ft. and of (....) lbs. or greater capacity ordered. Smaller cars furnished authority Tenth Revised ICC Service Order No. 1234.

(f) *Concurrence of shipper required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(g) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C. 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(h) *Rules and regulations suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order.

(i) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(j) *Effective date.* This order shall become effective at 12:01 a.m., October 11, 1977.

(k) *Expiration date.* This order shall expire at 11:59 p.m., March 31, 1978, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1 (12), (15), (16), 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by

¹ Addition.

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filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc.77-30107 Filed 10-13-77; 8:45 am]

[7035-01]

[Corrected S.O. 1278]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Corrected Service Order No. 1278).

SUMMARY: There is a shortage of 180,000 lbs. capacity hopper cars for shipments of phosphate rock from Garrison, Montana, to Kimberly, British Columbia. The Burlington Northern Inc., the originating carrier, has secured a supply of smaller cars (140,000 lbs. capacity) which are suitable, except for capacity for transporting this traffic. Service Order No. 1278 authorizes the Burlington Northern to substitute these smaller cars for the larger cars normally required because of tariff minimum weights of 180,000 lbs. per car. The rates applicable to the larger cars ordered are to be applied to the smaller cars loaded provided the cars are loaded to capacity.

DATES: Effective 12:01 a.m., September 30, 1977. Expires 11:59 p.m., November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7840, telex 89-2742.

SUPPLEMENTARY INFORMATION: The order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 30th day of September 1977.

There is a regular movement of phosphate rock in bulk from Garrison (Phosphate Spur), Montana, to Kimberly, British Columbia, Canada, originating on the Burlington Northern Inc. (BN) and routed BN-Sand Point-Spokane International-Kingsgate-CP Rail. These shipments are subject to tariff minimum weights of 180,000 lbs. per car. Because of heavy demands by various shippers, there is an acute shortage on the BN of open hopper cars capable of transporting shipments of these weights resulting in costly delays to the shipper and consignee because of interruptions in the regular flow of this traffic. The BN has secured an adequate supply of cars of 70-tons and greater capacity but less

than 90-tons capacity and is willing to transport this traffic in fully loaded cars of at least 70-ton capacity at the rates normally subject to the higher minimum weights specified in the applicable tariffs. Use of these smaller cars in place of 90-ton cars will alleviate the economic loss to shippers caused by the inability of the BN to supply sufficient high capacity cars and will provide the BN with additional hopper cars to meet the requirements of its shippers.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of hopper cars are ineffective to overcome these shortages of hopper cars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1278 Corrected Service Order No. 1278.

(a) *Distribution of freight cars.* Subject to the concurrence of the shipper, the Burlington Northern Inc. (BN), may substitute open hopper cars listed in the Official Railway Equipment Register, ICC-RER No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation Class "H" and capacity of 140,000 lbs. or greater but less than 180,000 lbs. for open hoppers, Class "H" capacity 180,000 lbs. or greater ordered for transporting shipments of phosphate rock from Garrison (Phosphate Spur), Montana, to Kimberly, British Columbia, Canada, and routed BN-Sand Point-Spokane International-Kingsgate-CP Rail subject to the conditions prescribed in paragraphs (b), (c), (d) and (e) of this order.

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(c) *Rates and minimum weights applicable.* The rates to be applied shall be those applicable to the size car ordered provided cars are loaded to the lesser of full visible or marked capacity.

(d) *Billing to be endorsed.* The carrier substituting smaller cars for larger cars as authorized by paragraph (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Car of (....) lb. capacity ordered. Smaller cars furnished authority ICC Service Order No. 1278.

(e) *Concurrence of Shipper Required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(f) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C., 20423. Requests for such exception

¹ Correction of route.

¹ Correction of route.

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must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and regulations suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order and insofar as they apply within the United States of America.

(h) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(i) *Effective date.* This order shall become effective at 12:01 a.m., September 30, 1977.

(j) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(12), (15), (16), 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-30105 Filed 10-13-77; 8:45 am]

[7035-01]

[S.O. 1281]

PART 1033—CAR SERVICE

Distribution of Freight Cars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1281)

SUMMARY: Because of a shortage of 90-ton hopper cars, the Delaware and Hudson Railway is authorized to furnish two 70-ton hopper cars for each 90-ton car ordered for shipments of iron ore tailings from North Creek, New York to Contrecoeur (Montreal), Quebec.

DATES: Effective 12:01 a.m., October 10, 1977. Expires 11:59 p.m., November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

C. C. Robinson, Chief, Utilization and Distribution Branch, Interstate Commerce Commission, Washington, D.C. 20423, Telephone 202-275-7840, Telex 89-2742.

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 7th day of October 1977.

There is a movement of iron ore tailings from North Creek, New York, to Contrecoeur (Montreal), Quebec, Canada, for further movement via water on the St. Lawrence River, and routed via the Delaware and Hudson Railway Company (DH) thence Canadian National Railways. These shipments must be completed before the close of navigation on the river because of freezing. These shipments are subject to tariff minimum weights of 180,000 lbs. per car. Because of heavy demands by various shippers, there is an acute shortage on the DH of open hopper cars capable of transporting shipments of these weights resulting in costly delays to the shipper and consignee because of interruptions in the regular flow of this traffic. The DH has secured an adequate supply of cars of 70-tons and greater capacity but less than 90-tons capacity and is willing to transport this traffic in fully loaded cars of at least 70-ton capacity at the rates normally subject to the higher minimum weights specified in the applicable tariffs. Use of these smaller cars in place of 90-ton cars will alleviate the economic loss to shippers caused by the inability of the DH to supply sufficient high capacity cars and will provide the DH with additional hopper cars to meet the requirements of its shippers.

In the opinion of the Commission, present regulations and practices with respect to the use and supply of hopper cars are ineffective to overcome these shortages of hopper cars and an emergency exists requiring immediate action. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1281 Service Order No. 1281.

(a) *Distribution of freight cars.* Subject to the concurrence of the shipper, the Delaware and Hudson Railway Company (DH), may substitute open hopper cars listed in the Official Railway Equipment Register, ICC-RER No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation Class "H" and capacity of 140,000 lbs. or greater but less than 180,000 lbs. for open hoppers, Class "H" capacity 180,000 lbs. or greater ordered for transporting shipments of iron ore tailings from North Creek, New York to Contrecoeur (Montreal), Quebec, Canada, for further movement via water, and routed via DH-Canadian National Railways subject to the conditions prescribed in paragraphs (b), (c), (d), and (e) of this order.

(b) *Exception.* This order shall not apply to shipments subject to tariff provisions which require that cars be furnished by the shipper.

(c) *Rates and minimum weights applicable.* The rates to be applied shall be

those applicable to the size car ordered provided cars are loaded to the lesser of full visible or marked capacity.

(d) *Billing to be Endorsed.* The carrier substituting smaller cars for larger cars as authorized by paragraph (a) of this order shall place the following endorsement on the bill of lading and on the waybills authorizing movement of the car:

Car of (....) lb. capacity ordered. Smaller cars furnished authority ICC Service Order No. 1281.

(e) *Concurrence of shipper required.* Smaller cars shall not be furnished in lieu of cars of greater capacity without the consent of the shipper.

(f) *Exceptions.* Exceptions to this order may be authorized to railroads by the Railroad Service Board, Washington, D.C., 20423. Requests for such exception must be submitted in writing, or confirmed in writing, and must clearly state the points at which such exceptions are requested and the reason therefor.

(g) *Rules and regulations suspended.* The operation of all rules, regulations, or tariff provisions is suspended insofar as they conflict with the provisions of this order and insofar as they apply within the United States of America.

(h) *Application.* The provisions of this order shall apply to intrastate, interstate, and foreign commerce.

(i) *Effective date.* This order shall become effective at 12:01 a.m. October 11, 1977.

(j) *Expiration date.* This order shall expire at 11:59 p.m., November 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

(49 U.S.C. 1(12), (15), (16), 17(2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms of that agreement and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael. Member John R. Michael not participating.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-30106 Filed 10-13-77; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

CHAPTER I—UNITED STATES FISH AND WILDLIFE SERVICE, DEPARTMENT OF THE INTERIOR

PART 32—HUNTING

Opening of Bear River Migratory Bird Refuge, Utah, to Hunting of Upland Game

AGENCY: Fish and Wildlife Service, Interior.

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ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of the Bear River Migratory Bird Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreation opportunity to the public.

DATES: November 5, 1977 through December 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Ned I. Peabody, P.O. Box 459, Brigham City, Utah 84302, Telephone 801-744-2488

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of pheasants is permitted on the Bear River Migratory Bird Refuge, Utah, only on the area designated by signs as being open to hunting. This area comprising 9,495 acres, is delineated "Area A" on maps available at the refuge headquarters, Brigham City, Utah and from the office of the Area Manager, Fish and Wildlife Service, Federal Building, Salt Lake City, Utah 84138. Hunting shall be in accordance with all applicable State and Federal regulations subject to the following special regulations:

(1) *Steel Shot.* The exclusive use of steel shot is required on all days in Hunting Area "A". The possession of lead shot within a refuge hunting area is prohibited, and having lead shot in one's possession will be considered prima facie evidence that the person possessing such shot is engaged in hunting with same.

(2) *Roads.* No hunting is permitted from roadways or within 100 yards of any roadway.

(3) *Hunter Check Station.* Each hunter who enters Area "A" is required to register at the checking station and check out before leaving the refuge.

(4) *Parking.* Hunters may park cars only at designated areas within the refuge.

(5) *Routes of Travel.* To reach open hunting areas, travel is permitted on foot or bicycle from refuge check station over roads between Units 1 and 2 and Units 2 and 3.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under

Executive Order 11949 and OMB Circular A-107.

Dated: October 3, 1977.

RODNEY F. KREY,
Acting Refuge Manager, Bear
River Migratory Bird Refuge,
Brigham City, Utah.

[FR Doc. 77-30005 Filed 10-13-77; 8:45 am]

[4310-55]

PART 32—MIGRATORY GAME BIRD HUNTING

Opening of Browns Park National Wildlife Refuge, Colorado, to Migratory Game Bird Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to migratory game bird hunting of Browns Park National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: Ducks, coots, mergansers—October 1 through October 14, 1977, inclusive, and November 5, 1977 through January 22, 1978, inclusive.

Geese—November 5, 1977, through December 11, 1977, inclusive.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Browns Park National Wildlife Refuge, Greystone Route, Maybell, Colorado 81640, telephone: 365-3695.

SUPPLEMENTARY INFORMATION:

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Migratory game bird hunting is permitted on the Browns Park National Wildlife Refuge, Colorado, only on the areas designated by signs as being open to hunting. These areas, comprising 1,775 acres, are delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, 10597 West 6th Avenue, P.O. Box 25486, Denver, Colo. 80215. Migratory game bird hunting shall be in accordance with all applicable State regulations subject to the following conditions:

(1) *Vehicle travel within the refuge* will be restricted to designated routes and parking areas.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 33. The

public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

JAMES A. CREASY,
Refuge Manager, Browns Park
National Wildlife Refuge,
Maybell, Colo.

SEPTEMBER 15, 1977.

[FR Doc. 77-30006 Filed 10-13-77; 8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Horicon National Wildlife Refuge, Wisconsin, to Deer Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to deer hunting of Horicon National Wildlife Refuge is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 19, 1977 through November 27, 1977.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Horicon National Wildlife Refuge, R.R. No. 2, Mayville, Wis. 53050, area code 414-387-2658.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

The public hunting of deer is permitted on the Horicon National Wildlife Refuge, Wisconsin, with designated firearms only, and only on the area designated by signs as being open to hunting. This area, comprising 20,000 acres, is delineated on maps available at the refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111. Deer hunting shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under

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Executive Order 11949 and OMB Circular A-107.

Dated: October 3, 1977.

JOHN E. TOLL,
Refuge Manager.

[FR Doc.77-30007 Filed 10-13-77;8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Muscatatuck National Wildlife Refuge, Indiana, to Upland Game Hunting
AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to upland game hunting of Muscatatuck National Wildlife Refuge to rabbit and quail hunting is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: November 11, 1977 through January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles E. Scheffe, Refuge Manager, Muscatatuck National Wildlife Refuge, P.O. Box 631, Seymour, Ind. 47274, telephone 812-522-4352.

SUPPLEMENTARY INFORMATION:
§ Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of rabbit and quail is permitted on the Muscatatuck National Wildlife Refuge, Indiana only on refuge lands lying south of Myers road, designated by signs as open to hunting. This area comprising 1,320 acres is delineated on a map available at the refuge headquarters and from the office of the Regional Director, United States Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111. Hunting of rabbits and quail shall be in accordance with all applicable State regulations.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50 Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Dated: October 5, 1977.

CHARLES A. HUGHLETT,
Acting Regional Director.

[RF Doc.77-30008 Filed 10-13-77;8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Oxbow National Wildlife Refuge, Massachusetts

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule adds Oxbow National Wildlife Refuge to the lists of refuge areas open for the hunting of migratory game birds, upland game and big game. The Director has determined that this action is compatible with the major purposes for which this refuge was established, with the principles of sound wildlife management and is in the public interest. Hunting, subject to annual special regulations, will provide additional public recreational opportunity.

EFFECTIVE DATE: October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

Ralph H. Town, Division of National Wildlife Refuges, U.S. Fish and Wildlife Service, Washington, D.C. 20240, telephone 202-343-4305.

SUPPLEMENTARY INFORMATION: Ralph H. Town is also the principal author of this final rule. On August 26, 1977, there was published (42 FR 43108) a notice of proposed rulemaking adding Oxbow National Wildlife Refuge, Massachusetts, to the list of refuge areas which are open for the hunting of migratory game birds, upland game and big game. As a general rule, most areas within the National Wildlife Refuge System are closed to hunting until officially opened by regulation.

The public was provided a 30-day comment period and was advised that an environmental assessment has been prepared on the proposal and was available for public inspection. One favorable comment was received on the proposed rulemaking.

Because of the time limitations involved to coordinate the State and Federal hunting regulations for the cooperative hunting program, and the rapid approach of the hunting seasons, the U.S. Fish and Wildlife Service has concluded that "good cause" exists within the meaning of section 553(d)(3) of the Administrative Procedure Act to expedite the implementation of this rulemaking. It was necessary to wait until the State established its 1977 hunting regulations before initiating the rulemaking process. Therefore this rulemaking will become effective October 14, 1977.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

Accordingly, 50 CFR Part 32 is amended by the addition of Oxbow National Wildlife Refuge as follows:

§ 32.11 List of open areas; migratory game birds.

MASSACHUSETTS

Oxbow National Wildlife Refuge

§ 32.21 List of open areas; upland game.

MASSACHUSETTS

Oxbow National Wildlife Refuge

§ 32.31 List of open areas; big game.

MASSACHUSETTS

Oxbow National Wildlife Refuge

Dated: October 4, 1977.

ROBERT S. COOK,
Acting Director, United
States Fish and Wildlife Service.
[FR Doc.77-30009 Filed 10-13-77;8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Certain National Wildlife Refuges to Hunting of Migratory Game Birds; Arizona, California, New Mexico, Oklahoma, Texas

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of certain national wildlife refuges in Arizona, California, New Mexico, Oklahoma and Texas, is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public. The name of each affected refuge and the special regulations for each refuge are set forth below.

EFFECTIVE DATES: See the dates listed for each refuge under Supplementary Information below.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, as listed for each refuge under Supplementary Information below.

SUPPLEMENTARY INFORMATION:
CIBOLA NATIONAL WILDLIFE REFUGE

DATES: October 1, 1977 through January 22, 1978.

FOR FURTHER INFORMATION CONTACT:

George M. Constantino, Refuge Manager, Cibola National Wildlife Refuge, Box AP, Blythe, Calif. 92225, telephone 714-922-4433.

§ 32.10 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, coots and gallinules on the Cibola National

Wildlife Refuge, Arizona and California, is permitted as follows: Ducks, coots and gallinules, from October 1 through November 13, 1977, and from December 5, 1977 through January 22, 1978; geese, from October 1 through November 13, 1977, and from December 5, 1977 through January 1, 1978; but only on the areas designated by signs as open to hunting. These open areas, comprising 8,900 acres, are delineated on maps available at refuge headquarters, Federal Building, Blythe, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots and gallinules subject to the following special conditions:

1. Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

2. Pits or permanent blinds are prohibited.

3. Hunting is prohibited within one-fourth mile of any occupied dwelling or 250 yards of any farm field worker.

4. Open campfires are permitted only on the end of unvegetated jetties. Charcoal cooking fires in grills or other similar equipment are permitted in public use areas if all vegetation is cleared within a 10-foot radius of the fire. All fires must be extinguished before leaving the area.

5. Hunters may not enter closed zones to retrieve game.

6. Possession of all handguns and all .22 caliber rim-fire firearms on the refuge is prohibited.

HAVASU NATIONAL WILDLIFE REFUGE

DATES: October 1, 1977 through January 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Tyrus W. Berry, Refuge Manager, Havasu National Wildlife Refuge, P.O. Box AP, Needles, Calif. 92363, telephone 714-326-3853.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, coots, gallinules and Wilson's snipe on the Havasu National Wildlife Refuge, Arizona and California, is permitted as follows: Ducks, coots and gallinules, from October 1 through November 13, 1977, and from December 5, 1977 through January 22, 1978; geese, from October 1 through November 13, 1977, and from December 5, 1977 through January 1, 1978; but only on the areas designated by signs as open to hunting. These open areas, comprising 13,200 acres, are delineated on maps available at refuge headquarters, 1406 Bailey Avenue, Needles, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots and

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of ducks, geese, coots, gallinules, and Wilson's snipe subject to the following special conditions:

1. Hunting on Pintail Slough Management Unit will be permitted only on Saturdays, Sundays, and Wednesdays. This Unit includes all refuge land north of the north dike.

2. An iron shot study program to evaluate field use of iron shot shells will be conducted by the U.S. Fish and Wildlife Service on Havasu National Wildlife Refuge.

3. Topock Marsh is the designated area for the iron shot hunt. The hunt area includes the Pintail Slough Management Unit and all marsh lands open to hunting north of the south dike.

4. The iron shot hunt will continue through the waterfowl season.

5. Use of lead shot shells for waterfowl hunting is prohibited in the Topock Marsh iron shot hunt area.

6. Hunters must use a 12-gauge shotgun while hunting in the iron shot hunt area, as iron shot shells are available only in 12 gauge.

7. All hunters may be required to fill out a post-hunt questionnaire at the end of each hunt. Questionnaires will be available at each of the hunt area entry points.

8. Hunters are required to enter the hunt areas by way of designated parking areas only.

9. Up to 2 dogs may be used in the hunt area for the purpose of hunting and retrieving.

10. The construction or use of pits or permanent blinds is prohibited.

11. Hunting is prohibited within one-fourth mile of any occupied dwelling or concession operation.

IMPERIAL NATIONAL WILDLIFE REFUGE

DATES: October 1, 1977 through January 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Gerald E. Duncan, Refuge Manager, Imperial National Wildlife Refuge, P.O. Box 2217, Martinez Lake, Ariz. 85364, telephone 602-783-3400.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, coots and gallinules on the Imperial National Wildlife Refuge, Arizona and California, is permitted as follows: Ducks, coots and gallinules, from October 1 through November 13, 1977, and from December 5, 1977 through January 22, 1978; geese, from October 1 through November 13, 1977, and from December 5, 1977 through January 1, 1978; but only on the area designated by signs as open to hunting. This open area, comprising 16,500 acres, is delineated on maps available at refuge headquarters, near Meers Point, Ariz., and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots and

gallinules subject to the following special condition:

1. The construction or use of permanent blinds or pits is prohibited.

BITTER LAKE NATIONAL WILDLIFE REFUGE

DATES: October 22, 1977 through January 29, 1978.

FOR FURTHER INFORMATION CONTACT:

LeMoyné B. Marlatt, Refuge Manager, Bitter Lake National Wildlife Refuge, Box 7, Roswell, N. Mex. 88201. Telephone 505-622-6755.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, coots, Wilson's snipe and lesser sandhill cranes on the Bitter Lake National Wildlife Refuge is permitted as follows: Ducks, coots and snipe, from November 1, 1977 through January 22, 1978; geese, from October 22, 1977 through January 22, 1978; lesser sandhill cranes, from October 29, 1977 through January 29, 1978; but only on the areas designated by signs as open to hunting. These areas consist of 1,600 acres on the North Refuge Unit (Area B) and 1,800 acres on the South Refuge Unit (Area C). Hunting areas are delineated on maps available at refuge headquarters, 13 miles northeast of Roswell, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, snipe and lesser sandhill cranes subject to the following special condition:

1. Steel (iron) shot shotgun ammunition only may be used for the taking of ducks, geese, coots, snipe and lesser sandhill cranes on the South Refuge Unit (Area C) during the duck season, which is from November 1, 1977 through January 22, 1978. Steel (iron) shot shotgun ammunition is available from two commercial outlets in Roswell, N. Mex.

BOSQUE DEL APACHE NATIONAL WILDLIFE REFUGE

DATES: November 19 through December 4, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard W. Rigby, Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801. Telephone 505-835-1828.

§ 32.12 Special regulations; migratory game birds; for individual wildlife refuge areas.

Public hunting only of snow, blue and Ross's geese on the Bosque del Apache National Wildlife Refuge is permitted from November 19 through December 14, 1977, but only on the area designated by signs as open to hunting. This open area (Units 9, 13 and 14), comprising 656 acres, is delineated on maps available at

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refuge headquarters, 5 miles south of San Antonio, N. Mex., and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of geese subject to the following special conditions:

1. An experimental program to evaluate field use of steel (iron) shot shells will be conducted this season by the U.S. Fish and Wildlife Service. Steel shot shells are available commercially only in 12 gauge.

2. Hunters are encouraged to obtain steel shot shells from commercial sources. The refuge will have a limited supply of steel shot shells for emergency purchase only. Hunters will be limited to the use of no more than 8 steel shot shells for each day's hunt. It will be illegal within the hunt area to possess any shells other than the 8 steel shot shells.

3. Hunters will be required to apply (by pre-season application) for hunting dates. Applications are available from the New Mexico Department of Game and Fish, Bosque del Apache National Wildlife Refuge, and the U.S. Fish and Wildlife Service's Regional Office, Albuquerque, N. Mex.

4. Hunters may apply as a party of 1, 2, or 3 persons. If the application is for a party of less than 3 persons, the vacancies may be filled from other applications or by a daily drawing. No substitutions for the original applicant will be allowed.

5. A hunter's name may appear on only one application each season. If an applicant's name appears on more than one application, all applications containing this name are void.

6. Applicants may indicate up to 4 choices of hunting days. The deadline for accepting applications will be 10 a.m., October 1, 1977.

7. All successful applicants and those wishing to participate on a stand-by basis will be required to attend a snow goose hunter training program, to be given by U.S. Fish and Wildlife Service personnel during October and early November in various locations throughout the state.

8. Blind spaces not filled by reservations resulting from applications may be filled by hunters on a stand-by basis.

9. Hunters selected to participate in each day's hunt will be assigned their blind by lot.

10. Hunting is permitted only from the assigned blind, with no more than 3 hunters per blind. Switching of blinds is prohibited.

11. Each hunter will pay a special hunter service recreation fee of \$3.00 on the day of the hunt. Holders of "Golden Age Passports" are entitled to a 50% discount on this \$3.00 fee.

12. The daily bag limit will be 4 of the permitted species, except that no more than one Ross's goose will be permitted in the daily bag.

13. Shooting hours will be from sunrise until 10 a.m.

14. Hunters will be permitted to use only snow geese decoys.

15. Hunters must check in through the middle refuge gate on N.M. Highway 1, 1½ miles south of the north refuge boundary, no later than 5 a.m. of the day they are to hunt and must check out through the hunter check station by 11 a.m. of that same day.

16. Dogs are prohibited.

SEVILleta NATIONAL WILDLIFE REFUGE
DATES: October 22, 1977 through January 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard W. Rigby, Refuge Manager, Bosque del Apache National Wildlife Refuge, P.O. Box 1246, Socorro, N. Mex. 87801. Telephone 505-835-1828.

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese and coots on the Seville National Wildlife Refuge, San Acacia, N. Mex. is permitted as follows: Ducks and coots, from November 1, 1977 through January 22, 1978; geese of the dard species (Canadas and white-fronts), from November 1, 1977 through January 22, 1978; geese of the light variety (snows, blues and Ross's), from October 22, 1977 through January 22, 1978, but only on the area designated by signs as open to hunting. This open area, comprising 1,992 acres, are delineated on maps available at refuge headquarters of the Bosque del Apache National Wildlife Refuge, 5 miles south of San Antonio, N. Mex., and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese and coots subject to the following special conditions:

1. No camping will be permitted.

2. Vehicle entry and parking will be restricted to areas as posted and designated on hunt map.

3. Entry to the hunt area will be no earlier than 2 hours before sunrise.

4. All hunters must be out of the hunt area by one-half hour after shooting hours.

5. Up to 2 dogs per hunter may be used for the purpose of hunting and retrieving.

6. Hunters may not enter closed areas to retrieve birds.

7. Hunting during the general waterfowl season will be permitted on Tuesdays, Thursdays, and Sundays, from 30 minutes before sunrise until 1 p.m. local time.

8. Construction of temporary blinds is permitted. Pits and permanent blinds are prohibited.

SEQUOYAH NATIONAL WILDLIFE REFUGE

DATES: October 17, 1977 through January 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Robert H. Stratton, Refuge Manager, Sequoyah National Wildlife Refuge, P.O. Box 398, Sallisaw, Okla. 74955. Telephone 918-775-4931.

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese, coots, snipe and woodcock on the Sequoyah National Wildlife Refuge is permitted on three areas designated by signs as open to hunting. These open areas, comprising 10,500 acres, are delineated on maps available at refuge headquarters, 412 N. Maple Street, Sallisaw, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting seasons are as follows: Ducks and coots, from October 22 through November 13, 1977, and from December 3, 1977 through January 3, 1978. Geese (snows and blues), from October 17 through November 20, 1977, and from December 3, 1977 through January 22, 1978 (Canadas and white-fronts), from October 17 through November 20, 1977, and from December 3, 1977 through January 22, 1978. Woodcock, from November 20, 1977 through January 22, 1978. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese, coots, snipe and woodcock subject to the following special conditions:

1. Hunting weapons of any kind are prohibited in areas not posted as open to public hunting, except the Kerr-McClellan Navigation Channel where weapons must be cased or broken down.

2. Camping or possession of firearms on the refuge at night is prohibited.

TISHOMINGO NATIONAL WILDLIFE REFUGE

DATES: November 5, 1977 through January 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Ernest S. Jemison, Refuge Manager, Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Okla. 73460. Telephone 405-371-2402.

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese and coots on the Wildlife Management Unit of the Tishomingo National Wildlife Refuge is permitted but only on the area designated by signs as open to hunting. These open areas, comprising 3,170 acres, are delineated on maps available at refuge headquarters, 6 miles southeast of Tishomingo, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese and coots subject to the following special conditions:

1. All waterfowl hunting on the Wildlife Management Unit of the Tishomingo National Wildlife Refuge during the 1977-78 waterfowl hunting season will be conducted as part of an experimental program to evaluate use of steel (iron) shot shells for waterfowl hunting. Steel (iron) shot shells are available in 12 gauge only; therefore, 12-gauge shotguns will be the only legal firearm permitted within the hunting areas. It will be illegal for waterfowl hunters to possess shot gun ammunition other than steel (iron) shot shells within the refuge waterfowl hunting areas during the waterfowl seasons, except shells furnished by the refuge for special experiments.

2. Ducks and coots may be hunted only in Management Unit Zones 1 and 2. Duck and coot hunting is restricted to the period of one-half hour before sunrise to 11:45 a.m. on Tuesdays, Thursdays, Saturdays, Sundays and national holidays, from November 5 through November 20, 1977, and from December 3, 1977 through January 3, 1978. Duck and coot hunting in Zone 2 will be restricted to hunters using retrieving dogs.

Eight duck blinds are provided in Zone 1, and hunters will be assigned to these blinds on a first-come-first-choice basis. Construction of temporary blinds is permitted in the "pothole" area of Zone 1. These blinds may be placed where desired after giving due consideration to safety and hunting opportunities of hunters already in the area. Blinds may not be constructed or used within 80 yards of a blind already in use.

3. Geese may be hunted in Zone 3 only. Goose hunting is restricted to the period of one-half hour before sunrise to 11:45 a.m. on Tuesdays, Thursdays, Saturdays, Sundays and national holidays, from November 5 through November 20, 1977, and from December 3, 1977 through January 8, 1978.

Thirty-five goose blinds are provided in Zone 3; all goose hunting must be from these blinds. Hunters must apply in writing to the Refuge Manager at the above address for blind reservations. Reservation requests for 5 dates may be submitted.

Hunt applications for specific dates will be processed in the order in which they are received at the refuge until available blind spaces are filled. Confirmations and rejections of applications will be made by mail if time permits.

Blind assignments to those whose applications have been accepted will be determined by a punchboard procedure just prior to each day's hunt.

Each hunter in Zone 3 will be limited to the possession of 6 shotgun shells.

4. The Management Unit will be closed to waterfowl hunting on November 15, 1977 for public safety due to a control deer hunt.

5. Hunters in Zones 1 and 3 must remain in blinds to which they have been assigned during the hunt except to place or adjust decoys and retrieve birds. Further, hunters may leave their blinds to pick up decoys and return to the check stations only at 9:30 a.m. and after 11:30 a.m.

6. All hunters in all Zones, upon entering or leaving the area, shall report at designated checking stations for the purpose of purchasing legal steel (iron) shot shells (locally available only through the refuge), blind assignment, and to furnish information on their hunting activities.

7. Sky-busting; i.e., firing at birds in excess of 45 yards from the hunter, is prohibited in all hunt Zones.

BRAZORIA NATIONAL WILDLIFE REFUGE

DATES: November 5, 1977 through January 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Jim E. Neaville, Acting Refuge Manager, Brazoria National Wildlife Refuge, Box 1088, Angleton, Tex. 77515. Telephone (713-849-6062).

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese and coots on the Brazoria National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,300 acres of Rattlesnake Island on the southeast side of the Intracoastal Waterway and adjacent to Bastrop, Christmas and Drum Bays, is delineated on maps available at refuge headquarters, 1014 N. Velasco Street, Angleton, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese and coots subject to the following special conditions:

1. The open season for hunting ducks and coots on the refuge extends from November 5 through November 27, 1977, and from December 22, 1977 through January 22, 1978.

2. The open season for hunting snow geese on the refuge extends from November 5, 1977 through January 22, 1978; and for Canada and white-fronted geese, from November 5 through December 14, 1977, and from December 22, 1977 through January 22, 1978.

3. Access to the hunting area must be entirely over public water routes. Travel across the refuge mainland will not be permitted to and from the area open to hunting.

4. Only temporary blinds may be constructed or used on the hunting area. Natural materials may be used for blind construction.

LAGUNA ATASCOSA NATIONAL WILDLIFE REFUGE

DATES: Closed to migratory game bird hunting for the 1977-78 hunting season.

FOR FURTHER INFORMATION CONTACT:

Arthur R. Rauch, Acting Refuge Manager, Laguna Atascosa National Wildlife Refuge, P.O. Box 2683, Harlingen, Tex. 78550. Telephone (512-423-8328).

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas.

The hunting of migratory game birds on the Laguna Atascosa National Wildlife Refuge is suspended for the 1977-78 hunting season. It has been determined that the entire refuge area is required for resource protection, especially in that the redhead, a bird in short supply, is a major wintering species.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

W. O. NELSON, Jr.,
Regional Director,
Albuquerque, New Mexico.

OCTOBER 7, 1977.

[FR Doc. 77-30010 Filed 10-13-77; 8:45 am]

[4310-55]

PART 33—SPORT FISHING

Closing of Tishomingo National Wildlife Refuge, Oklahoma, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the closing of specific parts of the Tishomingo National Wildlife is necessary to protect the waterfowl resource from disturbance on the loafing and roosting area.

DATES: October 1, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Ernest S. Jemison, Refuge Manager, Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Okla. 73460. Telephone: 405-371-2402.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations, sport fishing; for individual wildlife refuge areas.

Sport fishing on the Washita Arm of Lake Texoma within the Tishomingo National Wildlife Refuge will be closed during the fall and winter waterfowl use period for the following reason:

Recent years have seen increasing siltation of the western portion of the Washita Arm of Lake Texoma (Cumberland Pool). The western portion of this body of water has been closed to sport fishing during the waterfowl and winter use periods for a number of years to give protection to the waterfowl resource. Accelerated siltation of this portion of the lake has made it less attractive

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conducted as part of an experimental program to evaluate use of steel (iron) shot shells for waterfowl hunting. Steel (iron) shot shells are available in 12 gauge only; therefore, 12-gauge shotguns will be the only legal firearm permitted within the hunting areas. It will be illegal for waterfowl hunters to possess shot gun ammunition other than steel (iron) shot shells within the refuge waterfowl hunting areas during the waterfowl seasons, except shells furnished by the refuge for special experiments.

2. Ducks and coots may be hunted only in Management Unit Zones 1 and 2. Duck and coot hunting is restricted to the period of one-half hour before sunrise to 11:45 a.m. on Tuesdays, Thursdays, Saturdays, Sundays and national holidays, from November 5 through November 20, 1977, and from December 3, 1977 through January 3, 1978. Duck and coot hunting in Zone 2 will be restricted to hunters using retrieving dogs.

Eight duck blinds are provided in Zone 1, and hunters will be assigned to these blinds on a first-come-first-choice basis. Construction of temporary blinds is permitted in the "pothole" area of Zone 1. These blinds may be placed where desired after giving due consideration to safety and hunting opportunities of hunters already in the area. Blinds may not be constructed or used within 80 yards of a blind already in use.

3. Geese may be hunted in Zone 3 only. Goose hunting is restricted to the period of one-half hour before sunrise to 11:45 a.m. on Tuesdays, Thursdays, Saturdays, Sundays and national holidays, from November 5 through November 20, 1977, and from December 3, 1977 through January 8, 1978.

Thirty-five goose blinds are provided in Zone 3; all goose hunting must be from these blinds. Hunters must apply in writing to the Refuge Manager at the above address for blind reservations. Reservation requests for 5 dates may be submitted.

Hunt applications for specific dates will be processed in the order in which they are received at the refuge until available blind spaces are filled. Confirmations and rejections of applications will be made by mail if time permits.

Blind assignments to those whose applications have been accepted will be determined by a punchboard procedure just prior to each day's hunt.

Each hunter in Zone 3 will be limited to the possession of 6 shotgun shells.

4. The Management Unit will be closed to waterfowl hunting on November 15, 1977 for public safety due to a control deer hunt.

5. Hunters in Zones 1 and 3 must remain in blinds to which they have been assigned during the hunt except to place or adjust decoys and retrieve birds. Further, hunters may leave their blinds to pick up decoys and return to the check stations only at 9:30 a.m. and after 11:30 a.m.

6. All hunters in all Zones, upon entering or leaving the area, shall report at designated checking stations for the purpose of purchasing legal steel (iron) shot shells (locally available only through the refuge), blind assignment, and to furnish information on their hunting activities.

7. Sky-busting; i.e., firing at birds in excess of 45 yards from the hunter, is prohibited in all hunt Zones.

BRAZORIA NATIONAL WILDLIFE REFUGE

DATES: November 5, 1977 through January 22, 1978.

FOR FURTHER INFORMATION CONTACT:

Jim E. Neaville, Acting Refuge Manager, Brazoria National Wildlife Refuge, Box 1088, Angleton, Tex. 77515. Telephone (713-849-6062).

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas.

Public hunting of ducks, geese and coots on the Brazoria National Wildlife Refuge is permitted only on the area designated by signs as open to hunting. This open area, comprising 2,300 acres of Rattlesnake Island on the southeast side of the Intracoastal Waterway and adjacent to Bastrop, Christmas and Drum Bays, is delineated on maps available at refuge headquarters, 1014 N. Velasco Street, Angleton, and from the Regional Director, U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, N. Mex. 87103. Hunting shall be in accordance with all applicable State and Federal regulations covering the hunting of ducks, geese and coots subject to the following special conditions:

1. The open season for hunting ducks and coots on the refuge extends from November 5 through November 27, 1977, and from December 22, 1977 through January 22, 1978.

2. The open season for hunting snow geese on the refuge extends from November 5, 1977 through January 22, 1978; and for Canada and white-fronted geese, from November 5 through December 14, 1977, and from December 22, 1977 through January 22, 1978.

3. Access to the hunting area must be entirely over public water routes. Travel across the refuge mainland will not be permitted to and from the area open to hunting.

4. Only temporary blinds may be constructed or used on the hunting area. Natural materials may be used for blind construction.

LAGUNA ATASCOSA NATIONAL WILDLIFE REFUGE

DATES: Closed to migratory game bird hunting for the 1977-78 hunting season.

FOR FURTHER INFORMATION CONTACT:

Arthur R. Rauch, Acting Refuge Manager, Laguna Atascosa National Wildlife Refuge, P.O. Box 2683, Harlingen, Tex. 78550. Telephone (512-423-8328).

§ 32.12 Special regulations: migratory game birds; for individual wildlife refuge areas.

The hunting of migratory game birds on the Laguna Atascosa National Wildlife Refuge is suspended for the 1977-78 hunting season. It has been determined that the entire refuge area is required for resource protection, especially in that the redhead, a bird in short supply, is a major wintering species.

The provisions of these special regulations supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 32. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

W. O. NELSON, Jr.,
Regional Director,
Albuquerque, New Mexico.

OCTOBER 7, 1977.

[FR Doc. 77-30010 Filed 10-13-77; 8:45 am]

[4310-55]

PART 33—SPORT FISHING

Closing of Tishomingo National Wildlife Refuge, Oklahoma, to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the closing of specific parts of the Tishomingo National Wildlife is necessary to protect the waterfowl resource from disturbance on the loafing and roosting area.

DATES: October 1, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Ernest S. Jemison, Refuge Manager, Tishomingo National Wildlife Refuge, P.O. Box 248, Tishomingo, Okla. 73460. Telephone: 405-371-2402.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations, sport fishing; for individual wildlife refuge areas.

Sport fishing on the Washita Arm of Lake Texoma within the Tishomingo National Wildlife Refuge will be closed during the fall and winter waterfowl use period for the following reason:

Recent years have seen increasing siltation of the western portion of the Washita Arm of Lake Texoma (Cumberland Pool). The western portion of this body of water has been closed to sport fishing during the waterfowl and winter use periods for a number of years to give protection to the waterfowl resource. Accelerated siltation of this portion of the lake has made it less attractive

RULES AND REGULATIONS

tive for waterfowl loafing and roosting to the point that the deeper portion of the water area is now needed for this purpose.

1. The Washita Arm of Lake Texoma (Cumberland Pool) within the Tishomingo National Wildlife Refuge is closed to sport fishing and all public boating during the period from October 1 through December 31, 1977.

The provisions of this special regulation supplement the regulations which govern hunting on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

NOTE.—The U.S. Fish and Wildlife Service has determined that this document does not

contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11949 and OMB Circular A-107.

W. O. NELSON, JR.,
Regional Director,
Albuquerque, New Mexico.

OCTOBER 7, 1977.

[FR Doc.77-30011 Filed 10-13-77;8:45 am]

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

[3410-34]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 3]

ANIMAL WELFARE

Proposed Revision of Standards for Transportation, Handling, Care, and Treatment in Connection Therewith, of Dogs, Cats, Rabbits, Hamsters, Guinea Pigs, Nonhuman Primates, and Certain Other Warmblooded Animals

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes revisions of the transportation standards governing certain live warmblooded animals under the Animal Welfare Act published in the FEDERAL REGISTER on June 21, 1977 (42 FR 31556-31571). The revisions concern compliance with standards for primary enclosures used to transport certain animals in commerce by carriers and intermediate handlers, the use of certain primary enclosures to transport animals with ventilation openings on three walls, and the standards for the animal holding area of terminal facilities. These revisions of the transportation standards are proposed as a result of various petitions for reconsideration which were received by the Department after publication of the final transportation standards in the FEDERAL REGISTER on June 21, 1977, which made new facts and evidence available to the Department that appear to warrant such action.

DATE: Comments on or before October 31, 1977.

ADDRESSES: Comments to Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Rd., Hyattsville, Md. 20782. Comments available for inspection at the above address during regular hours of business (8:00 a.m. to 4:30 p.m. Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT:

Dr. Dale F. Schwindaman, Senior Staff Veterinarian, Animal Care Staff, Veterinary Services, Animal and Plant Health Inspection Service, United States Department of Agriculture, Room 703, Federal Building, 6505 Belcrest Rd., Hyattsville, Md. 20782, (301-436-8271).

SUPPLEMENTARY INFORMATION:

Present transportation standards (§§ 3.11, 3.112, 3.35, 3.36, 3.60, 3.61, 3.85, 3.86, 3.111 and 3.112) require that no carrier or intermediate handler accept for transportation or transport, in commerce, and that no dealer, research facility, exhibitor, or operator of an auction sale offer for transportation or transport, in commerce, any animal in a primary enclosure that does not conform to the requirements set forth in the standards. Section 14 of the Animal Welfare Act requires departments, agencies, and instrumentalities of the United States having laboratory animal facilities or exhibiting animals to comply with the standards promulgated under section 13 of the Act. In order for carriers and intermediate handlers to be sure that they are not violating the regulations and standards when they accept for transportation or transport any animal, they may have to open the primary enclosures containing all such animals in order to determine whether or not the primary enclosures meet the requirements of the standards for such animals. The Air Transport Association (ATA), which represents most of the major domestic airlines, and various airlines themselves, as well as the Pet Industry Joint Advisory Council (PIJAC), have filed petitions for reconsideration requesting that APHIS reconsider this requirement concerning carriers and intermediate handlers.

The air carriers believe that the obligation to affirm the adequacy of a shipping container or primary enclosure used for the transportation of live animals should be the responsibility of the consignor. The carriers' belief that the consignor should bear this responsibility is based on the carriers' alleged lack of personnel qualified to effect the inspection and verification procedures required for animal shipping containers. The carriers contend that serious disruption of the normal flow of passengers traveling with pet animals through airport facilities, as well as delayed processing of animal shipments which are not accompanied by an owner or consignor, will result from the required inspection of animal shipping containers. As the result of such delays in processing animals presented for transportation at airports, the animals will be required to spend additional time in their shipping containers. Such added time in transit subjects the transported animal to greater physical stress which lowers his resistance to various diseases.

The additional assurance of humane treatment to animals offered for transportation and transported by carriers

and intermediate handlers afforded by the actual inspection of primary enclosures, by such carriers and intermediate handlers as well as other persons and entities subject to the Act, prior to shipment does not appear to be warranted if it results in prolonging the time such animals are in transit or within their primary enclosures. Therefore, APHIS proposes to revise the transportation standards to allow carriers and intermediate handlers to accept for transportation and transport in commerce, any animal in a primary enclosure consigned by any licensed or registered dealer, research facility, exhibitor, operator of an auction sale or consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals, if such person or department, agency or instrumentality of the United States certifies that the primary enclosure meets the requirements of the standards for such animal. However, carriers and intermediate handlers would still be responsible for inspecting and assuring that primary enclosures for all other animals accepted for transportation or transported, in commerce, meet the requirements of the standards. It is proposed that such certification of primary enclosures be limited to departments, agencies or instrumentalities of the United States and to licensed or registered dealers, research facilities, exhibitors and operators of auction sales for ease of identification of such persons or entities by carriers and intermediate handlers and to prevent carriers and intermediate handlers from having to determine if, in fact, a consignor of an animal does not meet the definition of a dealer, research facility, exhibitor, or operator of an auction sale.

The present standards (§§ 3.12, 3.36, 3.61, 3.86 and 3.112) require that primary enclosures used to transport animals shall be constructed in such a manner that there are ventilation openings located on two opposite walls of the primary enclosure and such ventilation openings on each such wall are at least 16 percent of the total surface area of each such wall or there are ventilation openings located on all four walls of the primary enclosure and such ventilation openings are at least 8 percent of the total surface area of each such wall. APHIS did not propose a standard of ventilation with respect to ventilation openings located on three sides of such a primary enclosure and when such proposal was published in the FEDERAL REGISTER for public

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comment, no comments were received indicating that there was any need for such a standard. Therefore, APHIS did not promulgate and publish such a standard in the FEDERAL REGISTER. However, it has been pointed out by the petitioners that many of the primary enclosures presently used to transport dogs and cats, in commerce, which appear to provide adequate ventilation for the dog or cat contained therein have ventilation openings on three sides, and these enclosures do not meet the requirements of the standards.

Such primary enclosures have ventilation openings of approximately 10 percent of the surface area of each of two opposite walls and approximately 50 percent of a third wall. Information from petitioners indicates that approximately 700,000 of such primary enclosures with ventilation openings on three sides have been successfully used by consignors of animals to transport live dogs and cats in commerce. Information from such petitioners also indicates that after extensive use, no documented case or even a complaint of injury or death of a dog or cat occurred as the result of transporting such animals in such primary enclosures with ventilation openings on three walls. Therefore, APHIS is proposing to amend § 3.12 of the standards to allow the usage of primary enclosures for transporting live dogs and cats that have ventilation openings on two opposite walls that are at least 8 percent of the total surface area of each such wall and a ventilation opening on a third wall that is at least 50 percent of the total surface area of such third wall.

It has been noted by APHIS field personnel that some primary enclosures used to transport live animals in commerce are made of welded wire mesh and a solid bottom. In order to contain the bedding and excreta within the confines of such a primary enclosure, a partial wall extends part way up the sides of such primary enclosure. The present standards for providing ventilation in primary enclosures used to transport live animals requires that at least one-third of the total area providing ventilation for the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total area providing the ventilation for the primary enclosure shall be located on the upper one-half of the primary enclosure. Some persons have pointed out that such primary enclosure cannot meet the standards and contain excreta and bedding through the use of a partial wall on the lower one-half of such shipping container. Therefore, APHIS proposes that the standards be amended to provide that at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for the ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure.

Present standards require that carriers designate an indoor animal holding

area within terminal facilities which shall not be used for general cargo, but may be located within the general cargo area. Petitioners point out that this requirement prohibits the utilization of such an indoor animal holding area for storage of other cargo when animals are not present. They also contend that in temperate climates it is unnecessarily restrictive to require that such an animal holding area be indoors as long as there is compliance with the other standards. Because space is limited in many airport cargo areas, it appears that a restriction of the number of animal shipments would occur if minimal space would be designated as an indoor animal holding area to efficiently utilize the premium priced cargo storage space. Such result would not be an improved situation for the animals in transit, but rather would add restrictions which hinder the expeditious handling of the animals. Limiting the number of animals which may be transported by air carriers could force the consignors of animal shipments to use slower surface transportation methods resulting in additional stress and trauma to the animals because of long periods of confinement in their primary enclosures used for transportation. It could also delay shipments en route because there would not be sufficient space in the animal holding area at a down-line terminal facility for such animals even though there would be sufficient space for such animals on the next available flight. Such delays are not in the best interest of the animals so shipped.

Therefore, APHIS proposes in lieu of the present standards that carriers and intermediate handlers shall maintain all animal shipments in the same animal holding area of a terminal facility at any one time and animal shipments shall not be commingled with inanimate cargo at any terminal facility.

APHIS is also proposing that present paragraph (b) of §§ 3.16, 3.40, 3.65, 3.90 and 3.116 of the standards concerning shelter from sunlight, rain or snow and cold when animals are moved from primary conveyances to terminal facilities and from terminal facilities to primary conveyances be placed under "Handling" in §§ 3.17, 3.41, 3.66, 3.91 and 3.117 of the standards respectively for clarity and association of related topics; and that such standards concerning shelter from sunlight, when sunlight is likely to cause overheating or discomfort, and shelter from rain or snow be made applicable to all animal holding areas as a basic requirement whether such areas are indoors or outdoors.

The present standards require animal holding areas in terminal facilities to be cleaned and sanitized in a manner prescribed in the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard. While cleaning and sanitizing the animal holding area will reduce its attraction of various vermin and places for them to live and breed, it will not effectively control all insects, ectoparasites, and avian and

mammalian pests. Therefore, to clarify what is considered a vermin infestation and to effectively control insects, ectoparasites and avian and mammalian pests in animal holding areas, APHIS is proposing to require that an effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas.

Present transportation standards require that the ambient temperature in any animal holding area at any terminal facility of any carrier or intermediate handler not be allowed to fall below a minimum of 7.2°C. (45°F.) nor be allowed to exceed 29.5°C. (85°F.) for more than 4 hours and never exceed a maximum of 35°C. (95°F.), except in the case of guinea pigs, hamsters, and rabbits which cannot tolerate such warm temperatures. However, a question has been raised as to whether these standards are more restrictive than necessary to assure the humane treatment of animals during the course of their transportation. APHIS's primary concern is the welfare of the animal and the ambient temperatures to which it is subjected. Writing the standards in relation to the temperature in the animal holding area and requiring that such temperature not exceed 29.5°C. (85°F.) for more than 4 hours achieved that purpose, but, in cases where the temperature could not be controlled, it meant that no animals could be accepted after the animal holding area had exceeded 29.5°C. (85°F.) for 4 hours, even though it had not reached 35°C. (95°F.) and no animals were confined therein. This could needlessly delay the shipment of some animals with a consequent increase in the stress and trauma to which they were subjected.

Therefore, APHIS is proposing that the ambient temperature within an animal holding area for live dogs, cats, non-human primates, and other warmblooded animals covered by the Act, other than rabbits, hamsters, and guinea pigs, shall not be allowed to fall below 7.2°C. (45°F.) at any time, provided that no such live animals are subjected to an ambient temperature in such animal holding area in excess of 24.5°C. (85°F.) for more than 4 hours. APHIS is also proposing that auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be provided and used when the atmospheric temperature within the animal holding area is 29.5°C. (85°F.) or higher to increase the flow of air which will minimize the debilitating effect of high temperature as it approaches the critical temperature of 35°C. (95°F.).

Accordingly, the standards (9 CFR 3.11 et seq.) would be amended in the following respects:

PART 3—STANDARDS

1. Section 3.11(b) of the standards (9 CFR 3.11(b)) is amended to read as follows:

§ 3.11 Consignments to carriers and intermediate handlers.

(b) Any carrier or intermediate handler shall only accept for transportation

or transport in commerce, any live dog or cat in a primary enclosure which conforms to the requirements set forth in § 3.12 of the standards: *Provided, however*, That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live dog or cat consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.12 of the standards. A copy of the certificate shall accompany the shipment to destination.

2. Section 3.12(a)(4) of the standards (9 CFR 3.12(a)(4)) would be amended to read as follows:

§ 3.12 Primary enclosures used to transport live dogs and cats.

(a) . . . (4) except as provided in paragraph (h) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation opening on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings on three walls of the primary enclosure and the ventilation openings on two opposite walls of the primary enclosure shall be at least 8 percent of the total surface area of each such wall and the ventilation openings on the third wall of the primary enclosure shall be at least 50 percent of the total surface area of such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however*, That at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; . . .

3. Section 3.16 of the standards (9 CFR 3.16) would be amended to read as follows:

§ 3.16 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All live animal shipments shall be maintained in the same animal holding area of a terminal facility of any carrier or intermediate handler at any one time. All animal holding areas shall be cleaned and sanitized in a manner prescribed in § 3.7 of the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard. An effective program

for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live dogs or cats shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be provided for any animal holding area containing live dogs and cats and shall be used when the atmospheric temperature within such animal holding area is 29.5°C. (85°F.) or higher. The ambient temperature around any live dog or cat in any animal holding area shall not be allowed to fall below 7.2°C. (45°F.) nor be allowed to exceed 35°C. (95°F.) at any time: *Provided, however*, That no live dog or cat shall be subjected to ambient temperatures in excess of 29.5°C. (85°F.) for more than 4 hours at any time.

4. Section 3.17 of the standards (9 CFR 3.17) would be amended to read as follows:

§ 3.17 Handling.

(a) Carriers and intermediate handlers shall move live dogs and cats from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live dog or cat in an animal holding area of a terminal facility or in transporting any live dog or cat from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live dogs and cats from the direct rays of the sun.

(2) *Shelter from rain or snow.* Live dogs and cats shall be provided protection to allow them to remain dry during rain or snow.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live dogs and cats when the atmospheric temperature falls below 10°C. (50°F.).

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live dog or cat contained therein.

(c) Primary enclosures used to transport any live dog or cat shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

5. Section 3.35(b) of the standards (9 CFR 3.35(b)) is amended to read as follows:

§ 3.35 Consignments to carriers and intermediate handlers.

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live guinea pig or hamster in a primary enclosure which conforms to the requirements set forth in § 3.36 of the standards: *Provided, however*, That any carrier or intermediate handler may accept for transportation or transport, in commerce, any live guinea pig or hamster consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.36 of the standards. A copy of the certificate shall accompany the shipment to destination.

6. Section 3.36(a)(5) of the standards (9 CFR 3.36(a)(5)) would be amended to read as follows:

§ 3.36 Primary enclosures used to transport live guinea pigs and hamsters.

(a) . . . (5) except as provided in paragraph (1) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however*, That at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure;

7. Section 3.40 of the standards (9 CFR 3.40) would be amended to read as follows:

§ 3.40 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All live animal shipments shall be maintained in the same animal holding area of a terminal facility of any carrier or intermediate handler at any one time. All animal holding areas shall be cleaned and sanitized in a manner prescribed in § 3.31 of the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and

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avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live guinea pigs or hamsters shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. The ambient temperature around any live guinea pig or hamster shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time.

8. Section 3.41 of the standards (9 CFR 3.41) would be amended to read as follows:

§ 3.41 Handling.

(a) Carriers and intermediate handlers shall move live guinea pigs and hamsters from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live guinea pig or hamster in an animal holding area of a terminal facility or in transporting any live guinea pig or hamster from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live guinea pigs and hamsters from the direct rays of the sun.

(2) *Shelter from rain or snow.* Live guinea pigs and hamsters shall be provided protection to allow them to remain dry during rain or snow.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection from live guinea pigs and hamsters when the atmospheric temperature falls below 10° C. (50° F.).

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live guinea pig or hamster contained therein.

(c) Primary enclosures used to transport any live guinea pig or hamster shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

9. Section 3.60(b) of the standards (9 CFR 3.60(b)) is amended to read as follows:

§ 3.60 Consignments to carriers and intermediate handlers.

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live rabbit in the primary enclosure which conforms to the requirements set forth in § 3.61 of the standards: *Provided,*

however, That carriers or intermediate handlers may accept for transportation or transport, in commerce, any live rabbit consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with section 3.61 of the standards. A copy of the certificate shall accompany the shipment to destination.

10. Section 3.61(a)(4) of the standards (9 CFR 3.61(a)(4)) would be amended to read as follows:

§ 3.61 Primary enclosures used to transport live rabbits.

(a) . . . (4) except as provided in paragraph (h) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however,* That at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; . . .

11. Section 3.65 of the standards (9 CFR 3.65) would be amended to read as follows:

§ 3.65 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All live animal shipments shall be maintained in the same holding area of the terminal facility of any carrier or intermediate handler at any one time. All animal holding areas shall be cleaned and sanitized in a manner prescribed in § 3.56 of the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live rabbits shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. The ambient temperature around any live

rabbit in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 29.5° C. (85° F.) at any time.

12. Section 3.66 of the standards (9 CFR 3.66) would be amended to read as follows:

§ 3.66 Handling.

(a) Carriers and handlers shall move live rabbits from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live rabbit in an animal holding area of a terminal facility or in transporting any live rabbit from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live rabbits from the sun.

(2) *Shelter from rain or snow.* Live rabbits shall be provided protection to allow them to remain dry during rain or snow.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live rabbits when the atmospheric temperature falls below 10° C. (50° F.).

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live rabbit contained therein.

(c) Primary enclosures used to transport any live rabbit shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

13. Section 3.85(b) of the standards (9 CFR 3.85(b)) is amended to read as follows:

§ 3.85 Consignment to carriers and intermediate handlers.

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live nonhuman primate in a primary enclosure which conforms to the requirements set forth in § 3.86 of the standards: *Provided, however,* That carriers or intermediate handlers may accept for transportation or transport, in commerce, any live nonhuman primate consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.86 of the standards. A copy

of the certificate shall accompany the shipment to destination.

14. Section 3.86(a)(6) of the standards (9 CFR 3.86(a)(6)) would be amended to read as follows:

§ 3.86 Primary enclosures used to transport live nonhuman primates.

(a) . . . (6) except as provided in paragraph (h) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however,* That at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; . . .

15. Section 3.90 of the standards (9 CFR 3.90) would be amended to read as follows:

§ 3.90 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All live animal shipments shall be maintained in the same animal holding area of a terminal facility of any carrier or intermediate handler at any one time. All animal holding areas shall be cleaned and sanitized in a manner prescribed in § 3.81 of the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live nonhuman primates shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be provided for any animal holding area containing live nonhuman primates and shall be used when the atmospheric temperature within such animal holding area is 29.5° C. (85° F.) or higher. The ambient temperature around any live nonhuman primate in any animal holding area shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 35° C. (95° F.) at any time: *Provided, however,* That live nonhuman primate shall be subjected to ambient temperatures in excess of 29.5° C. (85° F.) for more than 4 hours at any time.

17. Section 3.111(b) of the standards (9 CFR 3.111(b)) is amended to read as follows:

§ 3.111 Consignments to carriers and intermediate handlers.

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live animal in a primary enclosure which conforms to the requirements set forth in § 3.112 of the standards: *Provided, however,* That carriers or intermediate handlers may accept for transportation or transport, in commerce, any live animal consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.112 of the standards. A copy of the certificate shall accompany the shipment to destination. . . .

PROPOSED RULES

16. Section 3.91 of the standards (9 CFR 3.91) would be amended to read as follows:

§ 3.91 Handling.

(a) Carriers and intermediate handlers shall move live nonhuman primates from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live nonhuman primate in an animal holding area of a terminal facility or in transporting any live nonhuman primate from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live nonhuman primates from the direct rays of the sun.

(2) *Shelter from rain or snow.* Live nonhuman primates shall be provided protection to allow them to remain dry during rain or snow.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live nonhuman primates when the atmospheric temperature falls below 10° C. (50° F.).

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live nonhuman primate contained therein.

(c) Primary enclosures used to transport any live nonhuman primate shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

17. Section 3.111(b) of the standards (9 CFR 3.111(b)) is amended to read as follows:

§ 3.111 Consignments to carriers and intermediate handlers.

(b) Any carrier or intermediate handler shall only accept for transportation or transport, in commerce, any live animal in a primary enclosure which conforms to the requirements set forth in § 3.112 of the standards: *Provided, however,* That carriers or intermediate handlers may accept for transportation or transport, in commerce, any live animal consigned by any department, agency, or instrumentality of the United States having laboratory animal facilities or exhibiting animals or any licensed or registered dealer, research facility, exhibitor, or operator of an auction sale if the consignor furnishes to the carrier or intermediate handler a certificate, signed by the consignor, stating that the primary enclosure complies with § 3.112 of the standards. A copy of the certificate shall accompany the shipment to destination. . . .

18. Section 3.112(a)(4) of the standards (9 CFR 3.112(a)(4)) would be amended to read as follows:

§ 3.112 Primary enclosures used to transport live animals.

(a) . . . (4) except as provided in paragraph (g) of this section, there are ventilation openings located on two opposite walls of the primary enclosure and the ventilation openings on each such wall shall be at least 16 percent of the total surface area of each such wall, or there are ventilation openings located on all four walls of the primary enclosure and the ventilation openings on each such wall shall be at least 8 percent of the total surface area of each such wall: *Provided, however,* That at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the lower one-half of the primary enclosure and at least one-third of the total minimum area required for ventilation of the primary enclosure shall be located on the upper one-half of the primary enclosure; . . .

19. Section 3.116 of the standards (9 CFR 3.116) would be amended to read as follows:

§ 3.116 Terminal facilities.

Carriers and intermediate handlers shall not commingle live animal shipments with inanimate cargo. All live animal shipments shall be maintained in the same animal holding area of a terminal facility of any carrier or intermediate handler at any one time. All animal holding areas shall be cleaned and sanitized in a manner prescribed in § 3.106 of the standards often enough to prevent an accumulation of debris or excreta, minimize vermin infestation and to prevent a disease hazard. An effective program for the control of insects, ectoparasites, and avian and mammalian pests shall be established and maintained for all animal holding areas. Any animal holding area containing live animals shall be provided with fresh air by means of windows, doors, vents, or air conditioning and shall be ventilated or air circulated by means of fans, blowers, or an air conditioning system so as to minimize drafts, odors, and moisture condensation. Auxiliary ventilation, such as exhaust fans and vents or fans or blowers or air conditioning shall be provided for any animal holding area containing live animals and shall be used when the atmospheric temperature within such animal holding area is 29.5° C. (85° F.) or higher. The ambient temperature shall not be allowed to fall below 7.2° C. (45° F.) nor be allowed to exceed 35° C. (95° F.) at any time: *Provided, however,* That no live animal shall be subjected to ambient temperatures in excess of 29.5° C. (85° F.) for more than 4 hours at any time.

20. Section 3.117 of the standards (9 CFR 3.117) would be amended to read as follows:

PROPOSED RULES

§ 3.117 Handling.

(a) Carriers and intermediate handlers shall move live animals from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility as expeditiously as possible. Carriers and intermediate handlers holding any live animal in an animal holding area of a terminal facility or in transporting any live animal from the animal holding area of the terminal facility to the primary conveyance and from the primary conveyance to the animal holding area of the terminal facility, including loading and unloading procedures, shall provide the following:

(1) *Shelter from sunlight.* When sunlight is likely to cause overheating or discomfort, sufficient shade shall be provided to protect the live animals from the direct rays of the sun.

(2) *Shelter from rain or snow.* Live animals shall be provided protection to allow them to remain dry during rain or snow.

(3) *Shelter from cold weather.* Transporting devices shall be covered to provide protection for live animals when the atmospheric temperature falls below 10° C. (50° F.).

(b) Care shall be exercised to avoid handling of the primary enclosure in such a manner that may cause physical or emotional trauma to the live animal contained therein.

(c) Primary enclosures used to transport any live animal shall not be tossed, dropped, or needlessly tilted and shall not be stacked in a manner which may reasonably be expected to result in their falling.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 703, Hyattsville, Md., during regular hours of business (8 a.m. to 4:30 p.m., Monday through Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 11th day of October 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

However, an economic impact statement has been drafted and a copy of said draft statement may be obtained by writing to the Deputy Administrator, USDA, APHIS, VS, Room 703, Federal Building, 6505 Belcrest Road, Hyattsville, Md. 20782.

E. A. SCHILF,
Acting Deputy Administrator,
Veterinary Services.

[FR Doc. 77-30065 Filed 10-13-77; 8:45 am]

[1505-01]

Food Safety and Quality Service

[9 CFR Parts 317 and 319]

STANDARDS AND LABELING REQUIREMENTS FOR TISSUE FROM GROUND BONE

In FR Doc. 77-29508 appearing at page 54437 in the issue for Thursday, October 6, 1977, in the summary of the Panel's recommendations on page 54439, in the third column, the last sentence of paragraph N should read: "The Panel further agreed that there was no need for health or safety reasons to make nutrition labeling mandatory for products containing MDM, although nutrition labeling of all food products should be encouraged."

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Part 241]

[EDR-335A; Docket No. 30240; dated October 11, 1977]

AIRLINE LOBBYING COSTS

Accounting and Reporting Requirements; Supplemental Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Notice of Proposed Rulemaking.

SUMMARY: This notice extends for 30 days the filing date for comments in a rulemaking proceeding concerning the accounting and reporting requirements for airline lobbying costs. The extension of the comment due date was requested by the Air Transport Association of America (ATA).

DATES: Comments by November 14, 1977.

ADDRESSES: Comments should be sent to: Docket 30240, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Rates and Agreements Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Ave. NW., Washington, D.C. 20428 (202-673-5436).

By Notice of Proposed Rulemaking EDR-335, 42 FR 46339, September 15, 1977, the Board proposed a rule which would require the carriers to report lobbying expenses in a separate non-operating account, thereby excluding these expenses from the costs allowable for ratemaking purposes.

On September 29, 1977 ATA filed a motion requesting a thirty-day extension for the filing of comments. In support, ATA advises that the additional time

will enable ATA and the carriers to conduct a thorough analysis of the proposal, and will permit the coordination and formulation of an industry response to certain issues.

Upon consideration of the foregoing, I find that good cause has been shown for the granting of the requested extension. Moreover, it does not appear that this extension will prejudice any party to the proceeding.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing comments is extended to November 14, 1977.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324).)

SIMON J. EILENBERG,
Associate General
Counsel Rules Division.

[FR Doc. 77-30156 Filed 10-13-77; 8:45 am]

[6320-01]

[14 CFR Parts 241, 399]

[EDR-336A, PSDR-50A; Docket No. 31333; dated October 11, 1977]

ACCOUNTING AND REPORTING REQUIREMENTS REGARDING AIRLINE ADVERTISING COSTS

Supplemental Advance Notice of Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Supplemental Advance Notice of Proposed Rulemaking.

SUMMARY: This notice extends for 30 days the filing date for comments in a rulemaking proceeding concerning the accounting and reporting requirements for airline advertising costs. The extension of the comment due date was requested by the Air Transport Association of America (ATA).

DATES: Comments by November 14, 1977.

ADDRESSES: Comments should be sent to: Docket 31333, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428. Comments may be examined at the Docket Section, Civil Aeronautics Board, Room 711, Universal Building, 1825 Connecticut Avenue, NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Richard Juhnke, Rates and Agreements Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428 (202-673-5436).

SUPPLEMENTARY INFORMATION: By Advance Notice of Proposed Rulemaking EDR-336/PSDR-50, 42 FR 46345, September 15, 1977, the Board asked interested parties to discuss: (1) An appropriate definition of institutional advertising; (2) whether institutional advertising should be treated as a non-operating expense and thus excluded

from costs for ratemaking purposes; (3) the merits of establishing a ratemaking standard for advertising expenses; and (4) the problems involved in deciding how much advertising is desirable in the air transportation industry.

On September 29, 1977, ATA filed a motion requesting a thirty-day extension for the filing of comments. In support, ATA advises that the additional time is required to formulate and coordinate an industry response to the complex and significant issues raised by the advance notice of proposed rulemaking.

Upon consideration of the foregoing, I find that good cause has been shown for the granting of the requested extension. Moreover, it does not appear that this extension will prejudice any party to the proceeding.

Accordingly, pursuant to authority delegated in § 385.20(d) of the Board's Organization Regulations (14 CFR 385.20(d)), the time for filing comments is extended to November 14, 1977.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743, (49 U.S.C. 1324).)

SIMON J. EILENBERG,
Associate General
Counsel, Rules Division.

[FR Doc. 77-30157 Filed 10-13-77; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[17 CFR Part 240]

[Release No. 34-14032]

CERTAIN RAILROAD ISSUERS

Withdrawal of Notice of Proposed Rulemaking Concerning Exemptions From Financial Statement Requirements

AGENCY: Securities and Exchange Commission.

ACTION: Withdrawal of advance notice of proposed rulemaking.

SUMMARY: The Commission announces that it no longer is considering the formulation of rules concerning a permanent exemption for lessor, switching and terminal company railroads from the financial reporting requirements of certain Commission forms. The Commission believes that exemptions from the reporting requirements are best considered in the context of applications filed under the provision of the Exchange Act permitting exemptions therefrom rather than through the adoption of a rule of general application.

EFFECTIVE DATE: October 5, 1977.

FOR FURTHER INFORMATION CONTACT:

Paul A. Belvin, Office of Disclosure Policy and Proceedings, Division of Corporation Finance, Securities and Exchange Commission, 500 North Capitol St., Washington, D.C. 20549, (202-755-1750).

SUPPLEMENTARY INFORMATION: In April, 1977, the Commission an-

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nounced¹ that it was considering the formulation of rules to provide a permanent exemption for lessor, switching and terminal railroad companies from the financial statement requirements of the Commission's periodic reporting forms under the Securities Exchange Act of 1934 ("Exchange Act") (15 U.S.C. 78a et seq., as amended by Pub. L. No. 94-29 (June 4, 1975)). That notice of proposed rulemaking and invitation for public comments stemmed from another Commission action which involved the repeal of Form 12-K under the Exchange Act and the adoption of related amendments;² the effect of these actions was to require certain registrants, including railroads, to file periodic reports with the Commission containing all the information specified by Forms 10-K and 10-Q, rather than to allow them to delete certain such information and file instead similar data prepared for other federal regulatory agencies.

Public comments received by the Commission in connection with the proposals to repeal Form 12-K suggested that certain lessor railroads and switching and terminal companies should be the subject of a broad exemption from the financial statement requirements of Form 10-K and Form 10-Q.³ In response to those comments the Commission published Release No. 34-13478, and invited interested persons to comment on the appropriateness of providing a permanent exemption from the financial statements requirements of Forms 10-K and 10-Q, and the proper form and content of any such exemptions.

Based on the comments received, and on its own review of lessor, switching and terminal railroad companies, the Commission believes that exemptions from the reporting requirements are best considered in the context of applications filed under Section 12(h)⁴ of the Exchange Act, rather than through the adoption of a rule of general application. It appears that relatively few issuers could be within the scope of any exemptive rule of the general type con-

¹ Securities Exchange Act Release No. 13478 (April 28, 1977) (42 FR 24071).

² Securities Exchange Act Release No. 13477 (April 28, 1977) (42 FR 24062).

³ Lessor railroads are substantially or wholly-owned subsidiaries of operating railroads whose facilities or trackbeds are operated under lease pursuant to which the parent railroad is the lessee. Generally, the income of the lessor subsidiary is determined pursuant to the lease arrangement based on the interest incurred, plus a fixed dividend, on the outstanding securities of the lessor. Switching and terminal companies are owned by operating railroads which share the expenses of operation on a user basis.

⁴ Under Section 12(h), the Commission, upon application and after notice and opportunity for hearing, may exempt in whole or in part any issuer from the provisions of Sections 12(g), 13, 14 or 15(d), if the Commission finds, by reason of the number of public investors, amount of trading interest in the securities, the nature and extent of the activities of the issuer, income or assets of the issuer, or otherwise, that such action is not inconsistent with the public interest or the protection of investors.

templated by the Commission, and it further appears that the types of information which should be disclosed in reports filed with the Commission by such persons may vary considerably from case to case.

Accordingly, the Commission hereby announces that it no longer is considering the formulation of rules to provide a permanent exemption from the periodic reporting requirements of Commission forms under the Exchange Act for lessor, switching and terminal railroad companies.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 7, 1977.

[FR Doc. 77-30189 Filed 10-13-77; 8:45 am]

[4110-03]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 101 and 501]

[Docket No. 77N-0292]

NET-WEIGHT LABELING OF FOOD

Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of Public Hearing.

SUMMARY: The Commissioner of Food and Drugs announces that public hearings will be held in San Francisco, California on December 8, 1977 and in Atlanta, Georgia on December 15, 1977. The hearings are for interested persons to give information and views about the need to modify current regulations on net-weight labeling of products, such as prepackaged flour, that may gain on loss moisture during good distribution practice.

DATES: The public hearings will be held on December 8 and 15, 1977 at 10 a.m. Written notice of participation must be filed by November 14, 1977.

ADDRESSES: Written notice of participation should be sent to the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Heinz G. Wilms, Federal State Relations (HFO-310), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-6200).

SUPPLEMENTARY INFORMATION: Under section 403(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 343(e)), a food is deemed to be misbranded:

(c) If in package form unless it bears a label containing . . . (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, That under clause (2) of this paragraph reasonable variations shall

be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Secretary.

Under section 403(e) of the act, § 101.105(q) (21 CFR 101.105(q)) was adopted to describe the "reasonable variations" mentioned in the proviso:

§ 101.105 Declaration of net quantity of contents when exempt.

(q) The declaration of net quantity of contents shall express an accurate statement of the quantity of contents of the package. Reasonable variations caused by loss or gain of moisture during the course of good distribution practice or by unavoidable deviation in good manufacturing practice will be recognized. Variations from stated quantity of contents shall not be unreasonably large.

The U.S. Department of Agriculture has a comparable regulation (9 CFR 317.2(h) (2)) to implement its authority under the Wholesome Meat Act of 1967 (21 U.S.C. 601(N) (5)), pertaining to net-weight statements on meat products. Both FDA and USDA monitor compliance with this requirement at the time of packaging. The States, however, check for compliance at the retail level.

Both FDA and USDA regulations permit two types of reasonable variations from the statement of net weight on packaged food:

(1) Those attributable to unavoidable deviations in good manufacturing practice; and

(2) Those attributable to loss or gain of moisture during good distribution practice.

Thus, for example, packaged flour that ordinarily contains 13 to 14 percent moisture at the time of packaging may lose or gain moisture during the distribution process. Flour distributed to a dry climate will lose moisture; flour distributed to a humid climate may gain moisture. The package of flour will contain equivalent amounts of flour, but the net weight of the package when weighed at the retail level may vary slightly depending on whether the product has gained or lost moisture.

Gains or loss of moisture during good distribution practice may cause an entire lot of packaged flour to be increased or reduced because the gain or loss of moisture will tend to affect each package. For example, a lot of flour with 13 percent moisture at the time of packaging that is distributed to a dry climate may weigh slightly less when the packages are at the retail level than the total of the stated net weight on each package.

Deviations during good manufacturing process—slight overfills or underfills of a package—will cluster around an average weight for a lot, and this average weight should equal the stated net weight of each package. Because overfills should balance out underfills during good manufacturing practice the total weight of the lot should not be reduced or increased.

The weights and measures laws of many States, including California, embody an interpretation of the word "ac-

curate" that differs from the Federal requirement. California law, for example, establishes a minimum weight requirement that makes no allowance for gain or loss of moisture during good distribution practice. Thus, when packages are checked by California inspectors at the retail level, the average weight of the packages must be at least the stated weight, or the packages will be ordered removed from the shelves.

In 1973, after the California County of Riverside Department of Weights and Measures, acting under California law, ordered "off-sale" flour packages it determined to be unlawfully underweight, three flour manufacturers sued the director of the department. The milling companies sought a declaratory judgment that the imposition of the State weight law on their products was unlawful and an injunction restraining the county officials from enforcing the State law against their products.

The case, *Jones v. The Rath Packing Co., et al.* (97 S. Ct. 1305), which involved the application of California law to both prepackaged bacon and flour and thus involved both FDA and USDA regulations, eventually reached the U.S. Supreme Court. The Supreme Court held that the California law as applied to bacon was preempted by the Wholesome Meat Act because it was "different than" the Federal requirement as reflected in USDA's regulations. The State and Federal law conflicted because California law makes no allowance for loss of weight due to moisture loss during good distribution practice, while the Federal regulations do.

The Supreme Court also held that FDA's regulations must prevail over the California system. The Court concluded that consumer value comparisons are facilitated by the Federal scheme of regulating flour because all flour when packaged will contain the same amount of flour solids and 13 to 14 percent moisture. Losses or gains of moisture will not, therefore, affect the quantity/price comparison.

Under the California system, however, the Court concluded that millers who distributed their products nationally would have to overpack their packages to ensure that any loss of moisture did not reduce the actual weight below the stated weight. Thus, under the California system, packages of flour would contain different amounts of flour solids. Since the consumer is interested in the amount of flour solids at a given price, and not the moisture content, value comparisons would be inhibited by the State system.

Since the Supreme Court's decision in *Rath*, many State and local agencies and a consumer group have written to FDA requesting that FDA reconsider its regulations regarding net-weight declarations. The States have also requested that USDA do the same. Copies of this correspondence are on file with, and available to the public from, the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. The writers believe that FDA (and USDA) should amend

their regulations to require accuracy on a lot average basis at the time of retail sale.

The Commissioner has considered these requests and concludes that this matter is appropriate for discussion at an informal, legislative-type, public hearing held in accordance with Part 15 of the FDA procedural regulations (21 CFR Part 15). The public hearing will provide an opportunity for all interested persons to present oral information and views on the alternative systems for ensuring the accuracy of net weight statements on packaged food subject to variation caused by unavoidable deviation in good manufacturing practice or by loss or gain of moisture during good distribution practice.

Persons who wish to submit information or views for the hearing record but who are unable to appear in person may submit information by sending their comments to the Hearing Clerk, Food and Drug Administration at the address below. Written comments should contain the docket number listed in the heading of this notice and be submitted by January 3, 1978.

The hearing in San Francisco, California will be held on December 8, 1977 starting at 10 a.m. in Rm. 1194, San Francisco State Building, 455 Golden Gate Ave. The hearing in Atlanta, Georgia will be held on December 15, 1977 and will begin at 10 a.m. in the Sheraton "C" Conference Room, Sheraton-Biltmore Hotel, 817 W. Peachtree St., NE. The presiding officer will be Donald Kennedy, Commissioner of Food and Drugs.

A written notice of participation should be filed with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, no later than November 14, 1977. The envelope containing the notice of participation should be prominently marked "NET WEIGHT HEARING." The notice of participation itself should be identified with Docket No. 77N-0292, contain the name, address, and telephone number of the person desiring to make a statement, along with any business affiliation, a summary of the scope of the presentation, and the approximate time requested for the presentation. A schedule of presentations for the hearing will be mailed to each person who files a notice of participation and will also be available from the Hearing Clerk. Individuals and organizations with common interests are urged to consolidate their presentations. Formal written statements (preferably four copies) may be presented to the presiding officer on the day of the hearing for inclusion in the hearing record of this proceeding.

The hearing will be open to the public. Any interested person who files a written notice of participation may be heard on relevant matters.

Dated: October 11, 1977.

DONALD KENNEDY,
Commissioner of Food and Drugs.

[FR Doc. 77-30158 Filed 10-13-77; 8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Assistant Secretary for Housing—
Federal Housing Commissioner

[24 CFR Part 200]

[Docket No. 77-467]

MINIMUM PROPERTY STANDARDS Proposed Revisions

AGENCY: Department of Housing and Urban Development.

ACTION: Proposed rule.

SUMMARY: HUD Minimum Property Standards are published in handbooks and incorporated by reference into the Code of Federal Regulations. This rule proposes a number of technical changes to the Minimum Property Standards for One- and Two-Family Dwellings, Multifamily Dwellings and Care-Type Housing and are required to be published in the FEDERAL REGISTER. The purpose or intended effect of the changes are shown below in the Supplementary Information.

DATES: Comments must be received on or before November 11, 1977.

ADDRESS: Comments should be addressed to the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and Urban Development, 451 7th Street SW., Washington, D.C. 20410. Copies of any comments received will be available for examination during business hours at this address.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard A. Gray, Acting Chief, Standards Branch, Office of Housing, Department of Housing and Urban Development, Washington, D.C. 20410, telephone 202-755-6590.

SUPPLEMENTARY INFORMATION: HUD Minimum Property Standards are published in handbooks. Minimum Property Standards for One- and Two-Family Dwellings in Handbook 4900.1, and Care-Type Housing in Handbook 4920.1. The Minimum Property Standards are incorporated by reference into 24 CFR 200.929. All changes in the Minimum Property Standards are required by 24 CFR 200.933 to be published in the FEDERAL REGISTER using the same procedure as for the publication of regulations. The Minimum Property Standards for which these changes are proposed are available for examination in all HUD Field Offices and in Room 6170 of the HUD Central Office at the above address during business hours.

A Finding of Inapplicability respecting the National Environmental Policy Act of 1969 has been made in accordance with HUD procedures. A copy of this Finding of Inapplicability will be available for public inspection during regular business hours in the Office of the Rules Docket Clerk, Office of the Secretary, Room 5218, Department of Housing and

Urban Development, 451 7th Street, SW., Washington, D.C. 20410.

NOTE:—It is hereby certified that the economic and inflationary effects of 24 CFR Part 200 Subpart S, have been carefully evaluated in accordance with Executive Order No. 11821.

For greater clarity, the Handbook section will be cited followed by the revised language, followed by a brief description of the nature of the change.

Accordingly, it is proposed to amend Handbooks 4900.1, 4910.1 and 4920.1 as follows:

Section 508-5.1 is changed to read:

General. In areas where experience indicates that condensation on windows is a problem, windows with insulating frames shall be used. Windows conforming to the recommendations of AAMA 1502.6 for the climatic conditions in the area, are considered as meeting this requirement. Where wood is used as the insulator, it shall be water repellent preservative treated.

This change incorporates a newly developed Architectural Aluminum Manufacturers Association Standard for thermally improved metal windows.

Section 515-3.1 is amended as shown below:

Duct Insulation. When supply and return air ducts used for heating, cooling, or both are installed in unconditioned spaces, they shall have the longitudinal and transverse seams taped to reduce air leakage and shall be insulated with or have thermal characteristics equivalent to: . . .

This is for the purpose of energy conservation.

Section 509-2 Rigid PVC (polyvinyl chloride) plastic siding PS-55 is added.

Reference to product standards is normal policy. Recognition of this one in the Minimum Property Standards cancels several Materials Releases.

Section 509-4 Ceramic tile standard TCA 137 replaces ANSI 137.1.

Section 509-5 Appendix C

This is substitution of a current performance standard for a discontinued specification type standard.

The following proposed technical changes apply to the Minimum Property Standards for Multifamily Dwellings, 4910.1 and Care-Type Housing, 4920.1.

Section 615-5.31 is amended as shown below:

Cold water piping installed in locations of the building subject to freezing temperatures, or where pipe sweating may create a problem shall be insulated and covered with a vapor barrier. All circulating domestic hot water piping shall be insulated with a material having a minimum C value of 0.45.

These changes are to prevent moisture condensation problems and to provide clarification.

The following proposed changes apply to the Minimum Property Standards for One- and Two-Family Dwellings, 4900.1 and Multifamily Dwellings, 4910.1.

Section 401-4.2a is amended as follows:

Each dwelling unit shall have one bathroom containing a bathtub with a minimum outside width of 30 in., a lavatory and water closet. In other bathrooms showers may be substituted for bathtubs. Bathrooms shall provide for comfortable access to, and use of, each fixture. Bathrooms shall be convenient to the bedrooms.

This requirement reestablishes a standard minimum bathtub width which currently does not exist in Federal or industry standards.

The following proposed changes apply to the Minimum Property Standards for One- and Two-Family Dwellings 4900.1.

Section 403-3 Requirements for minimum natural light glazed area and natural ventilation opening as a percentage of room floor area in living units are changed from 10 to 8% and 5% to 4% respectively.

This is an energy conservation measure.

Section 615-5.31 is amended to read as follows:

Cold water piping installed in locations of the building subject to freezing temperatures, or where pipe sweating may create a problem shall be insulated and covered with a vapor barrier.

This change is to prevent moisture condensation problems.

Section 615-9.6 Added requirement for 3 ft minimum from bottom of sub-surface absorption field to water table.

This change established a minimum and clarifies a point previously lacking explicit information.

(Sec. 7(d), Department of HUD Act (42 U.S.C. 3535(d))).

Issued at Washington, D.C., September 30, 1977.

MORTON A. BARUCH,
Deputy Assistant Secretary for
Housing — Deputy Federal
Housing Commissioner.

[FR Doc. 77-30175 Filed 10-13-77; 8:45 am]

[1505-01]

Federal Insurance Administration

[24 CFR Part 1917]

[Docket Nos. FI-3416, 3417]

Correction

In FR Docs. 77-28449 and 77-28450 appearing at page 53764 in the issue of Monday, October 3, 1977 the flood elevation maps appearing in the second column on page 53764 and the first column on page 53765 should be interchanged.

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 33]

EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Establishment of New Part

AGENCY: Bureau of Indian Affairs, Interior.

PROPOSED RULES

ACTION: Proposed rule.

SUMMARY: The purpose of this new part is to describe a program to assist adult Indians to obtain employment. This program contains support service options which may include vocational and employment counseling, housing and community adjustment assistance, job referrals, and assistance in moving to an urban or nonurban labor market or job site. It may also include financial assistance for transportation to the place of anticipated employment, subsistence until receipt of a full paycheck from employment, and medical and dental care for an initial adjustment period. This program has been in existence in some form since 1949 but has never been described in the CFR.

Another purpose is the elimination of grant expenditures for home purchase in off-reservation locations. This feature of the program is proposed to be eliminated because of the need to spend available funds for items of greater priority, and because the home purchase feature was more in harmony with the previous program emphasis on off-reservation relocation than with present trends to emphasize services on and near reservation areas.

DATE: Written comments, suggestions, or objections regarding the proposed revision must be received on or before November 14, 1977.

ADDRESS: Written comments, suggestions, or objections should be directed to: Assistant Secretary of the Interior for Indian Affairs, Attention: Division of Job Placement and Training, 1951 Constitution Avenue NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Mr. John Jollie, Division of Job Placement and Training, telephone 202-343-7408.

SUPPLEMENTARY INFORMATION: It is proposed to add a new Part 33 to Subchapter E, Chapter I of Title 25 of the Code of Federal Regulations to read as follows:

PART 33—EMPLOYMENT ASSISTANCE FOR ADULT INDIANS

Subpart A—Definitions and Scope of the Employment Assistance Program

- Sec. 33.1 Definitions.
33.2 Scope of the Employment Assistance Program.

Subpart B—Administrative Procedures

- 33.3 Filing applications.
33.4 Selection of applicants.
33.5 Program services and client participation.
33.6 Financial assistance for program participants.

Subpart C—Appeals

- 33.7 Appeals.

AUTHORITY: 42 Stat. 208; 25 U.S.C. 13.

Subpart A—Definitions and Scope of the Employment Assistance Program

§ 33.1 Definitions.

(a) "Appeal" means a written request for correction of an action or decision claimed to violate a person's legal rights or privileges as provided in Part 2 of this chapter.

(b) "Applicant" means an individual applying under this part.

(c) "Application" means the process through which a request is made for assistance or services.

(d) "Area Director" means the Bureau official in charge of an Area Office.

(e) "Assistant Secretary" means the Assistant Secretary of the Interior for Indian Affairs.

(f) "Indian" means an enrolled member of a federally recognized tribe.

(g) "Near reservation" means those areas or communities adjacent or contiguous to reservations which are designated by the Commissioner upon recommendation of the local Bureau Superintendent, which recommendation shall be based upon agreement with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: (1) Number of Indian people native to the reservation residing in the area.

(2) a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation, (3) geographical proximity of the area to the reservation, (4) administrative feasibility of providing an adequate level of services to the area. The Assistant Secretary shall designate each area and publish the designations in the FEDERAL REGISTER.

(h) "Reservation" means any federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

(i) "Secretary" means the Secretary of the Interior.

(j) "Tribal governing body" means the recognized governing body of an Indian tribe.

§ 33.2 Scope of the Employment Assistance Program.

The employment Assistance program services to eligible Indians, as provided in § 33.4, vocational counseling and employment services on reservations and at other home areas, in communities near reservations, and in off reservation areas. Support services designed to enable individuals to obtain and retain employment are also included, as provided in § 33.4.

Subpart B—Administrative Procedures

§ 33.3 Filing application.

Application for Employment services must be filed at Bureau of Indian Affairs agency offices. Agency offices are located on or near reservations or other geographic areas of eligibility. Applications are approved by the Agency Superintendent. An eligible applicant need not apply at the office serving primarily his original home area or tribal group, but may apply at the servicing office closest to his residence at the time of application. The applicant must be approved and funded, however, by the applicant's home agency, unless the originating agency is willing and able to provide funding. For clarity and uniformity, identical application forms, as prescribed by the Bureau of Indian Affairs, will be used by offices operated by the Bureau of Indian Affairs, and offices operated under contract with the Bureau.

§ 33.4 Selection of applicants.

(a) Applicants must be adult Indian enrolled members of Federally recognized tribes. They must be residing on or near Indian reservations under the jurisdiction of the Bureau of Indian Affairs.

(b) An applicant must be unemployed or substantially underemployed in order to receive employment services.

(c) Male and female applicants shall receive equal priority for services.

(d) Only those applicants who declare a desire and intent to accept and retain full time permanent employment at the employment location chosen shall be selected, with the exception of those individuals participating in the temporary summer placement program as provided in § 33.4.

(e) Normally eligible individuals shall be at least 18 years of age.

(f) Employment services involving no expenditure of financial grants shall be extended to eligible clients as often as requested and considered appropriate. However, repeat services involving expenditure of grant funds are to be determined on an individual basis, considering ability, prior performance, need and motivation. No client shall automatically be entitled to funded repeat services, but no specific limitation is placed upon the number of funded services, which can be provided. Approval of requests for repeat services within a six month period from the ending date of the last funded service shall be based upon special needs.

§ 33.5 Program services and client participation.

(a) When a request is made for employment services, the applicant shall be offered assistance to assess his or her job skills and work experience and to relate these to available employment opportunities. In many cases, applicants for placement services will already possess training, skills, and/or experience sufficient for entry into job placement.

In other cases, applicants may be encouraged to consider further education or training options as a preliminary to permanent employment. In any case, vocational counseling appropriate to the individual situation shall be made available.

(b) Services may be provided either with or without the expenditure of financial grants depending upon the type of service requested and the need for financial assistance. Funds shall not be provided to finance temporary employment except for the following:

(1) High school or college students participating in summer placement programs to gain work experience and temporary income may receive limited funding assistance as needed to enable such persons to secure and hold summer jobs.

(2) Persons who have moved to an off reservation area for permanent employment may at times be required to accept temporary employment until permanent employment is available. Such persons shall receive funds as needed within established limitations until permanent employment can be secured.

(c) Permanent employment shall normally be defined as employment which is generally known to be of one year or more in duration. Employment in the construction or other trades where moving from one job to another is generally required or persons engaged in such occupations shall be considered as permanent employment.

(d) In those cases where applicants apply and are selected for employment services in off-reservation urban locations where Bureau of Indian Affairs Employment Assistance offices are maintained, a variety of services may be provided, based upon individual client needs and requests for assistance. These may include advice in housing, shopping, money management, community adjustment, counseling, job placement and financial assistance, as well as health care and dental coverage for up to six months from the date of arrival if Indian Health Services are not available locally. For maternity benefits, health coverage may be provided up to fifteen months after arrival, if not otherwise covered. Continuing non-financial assistance as needed, particularly with repeat job placements and counseling, shall remain indefinitely available.

(e) Assistance as needed may be provided to enable clients who move for employment to an off-reservation urban or nonurban area to accept a specific job offer. In such cases, however, transportation or financial assistance may be provided only after confirmation has been obtained from the employer, giving details of employment, including the following: Job title, beginning wage, date to start work, first payday, first full payday, and a statement that the job is anticipated to be of a permanent nature. Financial assistance may be provided for transportation to interviews when such interviews are verified as required for job placement.

PROPOSED RULES

§ 33.6 Financial assistance for program participants.

Individuals or families with a family member participating in the employment assistance program may be granted financial assistance as needed, based upon rates established by the Area Directors for the respective areas or jurisdictions within those areas. Financial assistance may be provided for the following: Medical examination; transportation to the place of employment; job interviews; subsistence while seeking employment until the date of the first full paycheck from employment; personal appearance; housewares; furniture; health care; dental care; outpatient services related to mental health; tools needed for employment; special financial assistance for large family and solo parent clients; and emergency assistance, in accordance with the schedules and amounts established by the area offices. Marital status of applicants is not a consideration for determining eligibility for services, but this factor is a consideration in determining appropriate subsistence grants. Proof of a legal relationship requiring support shall be required as a basis for application of family subsistence rates. In the case of married persons, proof of marriage shall be required to satisfy this requirement. Emergency assistance is allowed in cases where verified emergencies justify such grants. Circumstances to be considered in determining emergencies shall include situations which seriously disrupt the progress of program goals for permanent employment and satisfactory social and community adjustment, or matters relating to illness or death.

Subpart C—Appeals

§ 33.7 Appeals.

The decision of any Bureau official under this part can be appealed pursuant to the procedures in Part 2 of this chapter.

This new part is proposed pursuant to the authority contained in the Act of November 2, 1921 (42 Stat. 208, 25 U.S.C. 13).

The primary author of this document is John Jollie, Chief, Division of Job Placement and Training, Office of Tribal Resources Development, Bureau of Indian Affairs, 202-343-7408.

(Catalog of Federal Domestic Assistance Program No. 15.108 Indian Employment Assistance.)

FORREST J. GERARD,
Assistant Secretary of the Interior
for Indian Affairs.

[FR Doc. 77-30018 Filed 10-13-77; 8:45 am]

[4310-02]

[25 CFR Part 34]

VOCATIONAL TRAINING FOR ADULT INDIANS

Proposed Revision of Program Description

SEPTEMBER 26, 1977.

AGENCY: Bureau of Indian Affairs.

ACTION: Proposed rule.

SUMMARY: The purpose of this revision is to update the authority statement for Part 34. Another purpose is to fully describe the eligibility criteria required for participation in the Bureau's program of Vocational Training for Adult Indians and to explain procedures for filing application for this program. Such information is not fully provided in the present edition of Part 34. In addition, certain changes in eligibility criteria are proposed, removing all practices of sex discrimination, defining the term "near reservation" as it shall apply to eligibility, replacing a blood quantum requirement with membership in a tribe, and regarding repeat services. Other program changes include provision of expenditures for dental health, mental health and emergency situations where necessary, a requirement for proof of dependent relationships to justify family subsistence rates, provisions for part time training, and elimination of grant expenditures for home purchase. Expenditures for home purchase were never reflected in the previous 25 CFR Part 34, but were for a time included in possible client benefits. This feature of the program is proposed to be eliminated because of the need to spend available funds for items of greater priority, and because the home purchase feature was more in harmony with the previous program emphasis on off-reservation relocation than with present trends to emphasize services on and near reservation areas where feasible.

DATE: Written comments, suggestions, or objections regarding the proposed revision must be received on or before November 14, 1977.

ADDRESS: Written comments, suggestions, or objections should be directed to: Assistant Secretary of the Interior for Indian Affairs, Attention: Division of Job Placement and Training, 1951 Constitution Ave. NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Mr. John Jollie, Division of Job Placement and Training, telephone 202-343-7408.

SUPPLEMENTARY INFORMATION: It is proposed to revise Part 34, Subchapter E, Chapter I, of Title 25 of the Code of Federal Regulations to read as follows:

PART 34—VOCATIONAL TRAINING FOR ADULT INDIANS

Subpart A—Definitions and Scope of the Vocational Training Program

- Sec. 34.1 Definitions.
34.2 Scope of the vocational training program.

Subpart B—Administrative Procedures

- 34.3 Filing application.
34.4 Selection of applicants.
34.5 Satisfactory progress during training.
34.6 Approval of courses for vocational training at institutions.
34.7 Approval of apprenticeship training.
34.8 Approval of on-the-job training.
34.9 Financial assistance for trainees.
34.10 Contracts and agreements.

Subpart C—Appeals

§ 34.11 Appeals.

AUTHORITY: Sec. 1, Pub. L. 84-959, 70 Stat. 986 (25 U.S.C. 309) as amended by Pub. L. 88-230, 77 Stat. 471 (25 U.S.C. 309).

Subpart A—Definitions and Scope of the Vocational Training Program

§ 34.1 Definitions.

(a) "Appeal" means a written request for correction of an action or decision claimed to violate a person's legal rights or privileges as provided in Part 2 of this chapter.

(b) "Applicant" means an individual applying under this part.

(c) "Application" means the process through which a request is made for assistance or services.

(d) "Full time" institutional training is an institutional trade or technical course requiring attendance of a minimum of 30 hours a week or an institutional undergraduate vocational course offered by a college or university or a quarter or semester hour basis requiring attendance of a minimum of 12 credit hours or its equivalent.

(e) "Area Director" means the Bureau official in charge of an Area Office.

(f) "Assistant Secretary" means the Assistant Secretary of the Interior for Indian Affairs.

(g) "Indian" means an enrolled member of a Federally recognized tribe.

(h) "Near reservation" means those areas or communities adjacent or contiguous to reservations which are designated by the Assistant Secretary upon recommendation of the local Bureau Superintendent, which recommendation shall be based upon agreement with the tribal governing body of those reservations, as locales appropriate for the extension of financial assistance and/or social services, on the basis of such general criteria as: (1) Number of Indian people native to the reservation residing in the area, (2) a written designation by the tribal governing body that members of their tribe and family members who are Indian residing in the area, are socially, culturally and economically affiliated with their tribe and reservation, (3) geographical proximity of the area to the reservation, and (4) administrative feasibility of providing an adequate level of services to the area. The Assistant Secretary shall designate each area and publish the designations in the FEDERAL REGISTER.

(i) "Reservation" means any Federally recognized Indian tribe's reservation, Pueblo, or Colony, including former reservations in Oklahoma, Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), and Indian allotments.

(j) "Secretary" means the Secretary of the Interior.

(k) "Tribal governing body" means the recognized governing body of an Indian tribe.

§ 34.2 Scope of the Vocational Training Program.

(a) The purpose of the vocational training program is to assist Indian

people to acquire the job skills necessary for full time satisfactory employment. Within that framework, the program provides testing, vocational information and counseling services to assist program participants to make career choices relating personal assets to training options and availability of jobs in the labor market. The program provides for institutional training in business, vocational or trade schools, or other institutions offering vocational programs, as provided in § 34.6. Apprenticeship and on-the-job training are also provided. For the full time participant, institutional or on-the-job training courses shall not exceed twenty-four months in length, with the exception that Registered Nurses training may be for periods not to exceed thirty-six months.

(b) Individual program recipients may not receive more than twenty-four months of full time institutional training, except that Registered Nursing students may receive not more than thirty-six months of institutional training. Part time participants shall receive no more than the full time equivalent of 24 months of institutional training.

Subpart B—Administrative Procedures

§ 34.3 Filing application.

(a) Applications for adult vocational training services must be filed at Bureau of Indian Affairs agency offices. Applications are approved by Agency Superintendents. Agency offices are located on or near reservations or other geographic areas of eligibility. An eligible applicant need not apply at the office serving primarily his or her original home area or tribal group, but may apply at the servicing office closest to his or her residence at the time of application. Applicant must be approved and funded, however, by the applicant's home agency unless the originating agency is willing and able to provide funding.

(b) For clarity and uniformity, identical application forms, as prescribed by the Bureau of Indian Affairs, will be used by offices operated by the Bureau and offices operated under contract with the Bureau.

§ 34.4 Selection of applicants.

Applicants are selected to participate in the vocational training program based on the following criteria:

(a) Applicants must be adult Indian enrolled members of Federally recognized tribes. They must be residing on or near Indian reservations under the jurisdiction of the Bureau of Indian Affairs.

(b) Normally eligible individuals shall be at least 18 years of age, except that Indian high school graduates or married Indians shall be eligible at the age of 17 years. Also, while the program is designed primarily for persons between the ages of 18 and 35, persons over the age of 35 shall be eligible, assuming training and permanent employment to be otherwise feasible in terms of health and physical capability.

(c) An applicant must be in need of training in order to obtain reasonable and satisfactory employment or to advance

in employment already held, and in need of financial assistance in order to obtain such training. It must also be feasible for the applicant to pursue training.

(d) Selection of applicants shall be made without regard to sex.

(e) Only one partner of a marriage shall receive first priority for training services. Such person shall be selected by the couple as the individual to receive first priority. Second priority for training, based upon availability of funds, shall be extended to the other spouse. Non-Indian spouses shall not be eligible for training.

(f) Repeat training services will be on a lower priority than the initial service and will be determined on an individual basis, considering need, ability, prior performance and present motivation of the applicant. In order to be in need of repeat institutional training, applicant must be unemployed or underemployed. Also, the previous training skill must be substantially below the skill acquisition potential of the applicant, or it must be considered unmarketable. Time spent on on-the-job training programs will be deducted from the possible maximum of institutional training eligibility.

(g) Only those applicants who willingly declare intent to accept full time employment as soon as possible after completion of training shall be selected. Plans may subsequently change, but the intent of the training program is preparation for employment, and this must be the initial intent of program participants. The program is not meant to serve as a preliminary to immediate further education.

§ 34.5 Satisfactory progress during training.

An individual who enters training pursuant to the provisions of this part is required to make satisfactory progress in training. Individuals in institutional vocational training courses are required to give evidence of progress by authorizing the institution attended to provide grade and/or progress reports to the appropriate Bureau of Indian Affairs office. Program participants shall maintain a reasonable standard of conduct. Failure to meet these requirements due to reasons within the trainee's control may result in termination of training benefits.

§ 34.6 Approval of courses for vocational training at institutions.

(a) A course of vocational training at any institution, public or private, offering vocational training may be approved by the Assistant Secretary; Provided,

(1) The institution is accredited by a recognized national or regional accrediting association; or

(2) The institution is approved for training by a state agency authorized to make such approvals; and

(3) It is determined that there is reasonable certainty of employment for graduates of the institution in their respective fields of training.

(b) Part-time practical work experiences included in the school curriculum during training time in many vocational courses are considered as valuable learning experiences. They shall be specifically allowed and encouraged.

(c) Vocational training courses offered through Indian tribal governments, need not be accredited but must show reasonable expectation of employment and be approved by the agency office.

§ 34.7 Approval of apprenticeship training.

A program of apprenticeship training may be approved when such training: (a) Is offered by a corporation or association which has furnished such training to bona fide apprentices for at least one year preceding participation in this program; and

(b) Is under the supervision of a State apprenticeship agency, a State Apprenticeship Council, or the Federal Apprenticeship Training Services; and

(c) Leads to an occupation which requires the use of skills that normally are learned through training on the job and employment which is based upon training on the job rather than upon such elements as length of service, normal turnover, personality, and other personal characteristics; and

(d) Is identified expressly as apprenticeship training by the establishment offering it.

§ 34.8 Approval of on-the-job training.

(a) On-the-job training may be approved when such training is offered by a corporation, small business, association, tribe, or tribal enterprise which provides an on-the-job training program offering definite potential for skilled permanent employment. Skilled employment shall be construed to be a job skill outlined by a contractual agreement between the Bureau and the contractor and based upon recognized occupational standards such as, but not limited to, the Dictionary of Occupational Titles.

(b) Yearly on-the-job training contractual agreements with a specific contractor shall not be renewed beyond the second year without review and written approval from the Central Office. Extension of contracts exceeding two years will be based upon a contractors demonstrated expansion of the enterprise, need for additional trainees and placement of trainees completing the program.

§ 34.9 Financial assistance for trainees.

(a) Individuals or families with a family member entering full-time training under this part may be granted financial assistance as needed, based upon rates established by the Area Directors for the respective Areas, or jurisdictions within those areas. Persons in training on a part-time basis may receive financial assistance only for necessary tuition, books, tools, supplies, transportation and child care. Trainees may be assisted to secure educational grants from other sources for which they

qualify, and such income shall be considered in computing amounts of financial assistance to be provided by the Bureau of Indian Affairs. Marital status of trainees is not a consideration for determining eligibility for training, but this factor is a consideration in determining appropriate subsistence grants. Proof of a legal relationship requiring support shall be required as a basis for application of family subsistence rates. In the case of married persons, proof of marriage shall be required to satisfy this requirement. Financial assistance may in some cases be provided for transportation to interviews when such interviews are absolutely required for acceptance for training. Financial assistance may further be provided for the following: Transportation to the place of training; medical examination; subsistence after training until the first full paycheck from employment has been received; personal appearance; housewares; furniture; health care; dental care; outpatient services related to mental health will be provided on an emergency basis only, for all other health services the Indian Health Service may be contacted; payments for required books; tools and supplies for training; child care; payment of tuition; related costs; shipment of household goods; security deposits; and other required expenses as deemed necessary; and emergency assistance in accordance with the schedules and amounts established. Emergency assistance is allowed in certain cases where verified emergencies justify such grants. Factors or circumstances to be considered in determining emergencies shall include situations which seriously disrupt the progress of program goals, or matters relating to illness or death.

§ 34.10 Contracts and Agreements.

Training facilities and services required for programs of vocational training may be arranged through contracts or agreements with agencies, establishments or organizations. These may include:

(a) Indian tribal governing bodies, or

(b) Appropriate Federal, State or local government agencies, or

(c) Public or private schools which have a recognized reputation in vocational education as successfully obtaining employment for graduates, in the fields of training approved by the Assistant Secretary or his authorized representatives for purposes of the program, or

(d) Educational firms to operate residential training centers, or

(e) Corporations and associations or small business establishments with apprenticeship or on-the-job training programs leading to skilled employment.

Regular and standard reports, as determined by the Bureau of Indian Affairs, must be a part of any contractual agreement.

Subpart C—Appeals

§ 34.11 Appeals.

The decision of any Bureau official under this part can be appealed pursuant to the procedures in Part 2 of this chapter.

This revision is proposed pursuant to the authority contained in the Act of August 3, 1956, Pub. L. 84-959 (70 Stat. 986, 25 U.S.C. 309) as amended by Act of December 23, 1963, Pub. L. 88-230 (77 Stat. 471, 25 U.S.C. 309).

The primary author of this document is John Jollie, Chief, Division of Job Placement and Training, Office of Tribal Resources Development, Bureau of Indian Affairs, 202-343-7408.

(Catalog of Federal Domestic Assistance Program No. 15.108 Indian Employment Association.)

FOREST J. GERARD,
Assistant Secretary of
the Interior for Indian Affairs.

[FR Doc.77-30019 Filed 10-13-77; 8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 181]

[Ref. Notice No. 309]

EXPLOSIVES MATERIALS
REGULATIONS

Extension of Comment Period

AGENCY: Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury.

ACTION: Extension of comment period. SUMMARY: Due to the technical nature and scope of the proposed regulations published in the FEDERAL REGISTER on August 3, 1977 (42 FR 39316), the Bureau is extending the comment period on the notice of proposed rulemaking for 60 days. This will give interested persons a better opportunity to respond to the proposals.

DATE: Comments must be received on or before December 2, 1977.

ADDRESS: Written data, comments, or suggestions should be submitted, in duplicate, to the Director, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Ave., NW., Washington, D.C. 20226, attention: Regulations and Procedures Division.

FOR FURTHER INFORMATION CONTACT:

Dorene F. Erhard, Research and Regulations Branch, (202-566-7626).

Signed: October 7, 1977.

REN D. DAVIS,
Director.

[FR Doc.77-30002 Filed 10-13-77; 8:45 am]

[4510-26]

DEPARTMENT OF LABOR

Occupational Safety and Health
Administration

[29 CFR Part 1952]

COLORADO

Approved State Plan

AGENCY: Occupational Safety and Health Administration.

ACTION: Proposed rule.

SUMMARY: This notice invites comments on a Supplement to the Colorado Occupational Safety and Health Plan involving legislation exempting small agricultural employers with 10 or fewer employees from coverage under the State Occupational Safety and Health Act. In addition, State standards promulgated for agriculture shall be no more stringent than those promulgated by the Occupational Safety and Health Administration (hereinafter referred to as OSHA).

DATES: Comments and requests for hearing should be submitted by November 14, 1977.

ADDRESS: Written comments and requests for hearing should be submitted to the Director, Federal Compliance and State Programs, Occupational Safety and Health Administration, Department of Labor, Room N-3112, 200 Constitution Avenue, NW., Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Charles Boyd, Office of State Programs, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N-3112, Washington, D.C. 20210.

A copy of the plan and its supplement may be inspected and copied during normal business hours at the following locations: Technical Data Center, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Room N-3620, Washington, D.C. 20210; Office of the Regional Administrator, Room 15010, Federal Building, 1961 Stout St., Denver, Colo. 80202; Department of Labor and Employment, 200 East Ninth Avenue, Denver, Colo. 80203.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The Colorado Occupational Safety and Health plan was approved under Section 18(c) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667(c)) (hereinafter called the Act) and Part 1902 of this Chapter on September 12, 1973 (38 FR 25172). On July 20, 1977, the State of Colorado submitted a supplement to the plan involving a State initiated change. Part 1953 of this Chapter provides procedures for the review and approval of State initiated change supplements by the Assistant Secretary of Labor for OSHA.

PROPOSED RULES

DESCRIPTION OF THE SUPPLEMENT

Colorado amended its Occupational Safety and Health Act on June 19, 1977 to exempt small agricultural employers with 10 or fewer employees from the requirements of the law at such time and under such conditions as any agricultural employers are exempted from coverage under the provisions of the Federal Occupational Safety and Health Act of 1970. In addition, State standards for agriculture shall be no more stringent than those promulgated by OSHA.

PUBLIC PARTICIPATION

Interested persons are given until November 14, 1977 to submit written data, views and arguments concerning whether the supplements should be approved. Such submissions are to be addressed to the Director, Office of Federal Compliance and State Programs at his address as set forth above where they will be available for inspection and copying.

Any interested person may request an informal hearing concerning the proposed supplement by filing particularized written objections within the time allotted for comments specified above. If in the opinion of the Assistant Secretary of Labor for OSHA substantial objections are filed which warrant public discussion, a formal or informal hearing on the subjects and issues involved may be held.

DECISION

The Assistant Secretary shall consider all relevant comments, arguments and requests submitted in accordance with this notice and shall thereafter issue her decision as to approval or disapproval.

Signed at Washington, D.C. this 7th day of October 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 77-30066 Filed 10-13-77; 8:45 am]

[4310-70]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 50]

NATIONAL CAPITAL PARK REGULATIONS

Demonstrations and Special Events

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposal would provide for waiver of the limitation on the number of people permitted to conduct a demonstration on the White House sidewalk. This is being proposed as a result of a decision by the National Park Service that an extension of the waiver procedures found in the current regulation is practicable.

DATES: Written comments, suggestions, or objections regarding this proposal will be accepted until November 14, 1977.

ADDRESSES: All comments should be addressed to Regional Director, National Capital Region, 1100 Ohio Drive SW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Page H. Jackson, Attorney-Advisor, Office of the Solicitor, Department of the Interior, Washington, D.C. 20240 (202-343-4338).

SUPPLEMENTARY INFORMATION: This rule is proposed pursuant to an Order on Mandate filed in *A Quaker Action Group v. Andrus*, No. 668-69 (D.D.C., July 15, 1977) which relates to demonstrations conducted on the White House sidewalk (south Pennsylvania Avenue sidewalk between East and West Executive Avenues NW.). It will extend the numerical limitation waiver procedures now applicable in Lafayette Park, to demonstrations on the White House sidewalk and will thereby permit under certain circumstances in excess of 750 persons to demonstrate there.

By its Order, the United States District Court for the District of Columbia held that the waiver procedure established for Lafayette Park (36 CFR 50.19(e)(2)) had been in effect for a reasonable time and, ordered the Department of the Interior to publish within 90 days a proposed amendment to 36 CFR 50.19 to extend the waiver procedure to the White House sidewalk, or proffer to the Court facts showing that such an extension is impractical. The Department of the Interior, after consultation with the United States Secret Service, believes such an extension is practical and is initiating this rulemaking process in accordance with the Court's Order on Mandate.

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they desire to have the Regional Director consider before the proposed amendment set forth below is issued in final form. All written comments received by the Regional Director on or before November 14, 1977, will be considered before the Director, National Park Service takes final action. The current proposed amendment may be changed in light of comments received.

All comments submitted will be available, both before and after the closing date, for examination in the Regional Director's office.

AUTHORITY

This action is being proposed under the authority of Section 3 of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); the Act of July 1, 1898, 30 Stat. 570 (8 D.C. Code 108 et seq.); and 245 DM-1 (42 FR 12931).

NOTE:—The National Park Service has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Statement under Executive Order 11821 and OMB Circular A-107.

WILLIAM J. WHALEN,
Director,
National Park Service.

PROPOSED RULES

It is proposed to amend 36 CFR 50.19 (e) by revising the introductory text and paragraphs (e) (1) and (2), redesignating paragraphs (e) (3) through (10) as (e) (4) through (11) and adding a new paragraph (e) (3), to read as follows:

§ 50.19 Demonstrations and special events.

(e) Issuance of permits shall be subject to the following limitations:

(1) No more than 750 persons shall be permitted to conduct a demonstration on the White House sidewalk at any one time.

(2) No more than 3,000 persons shall be permitted to conduct a demonstration in Lafayette Park at any one time.

(3) The Director may waive the 750 person and 3,000 person limitations upon a showing by the applicant that the proposed demonstration has been planned and will be patrolled in such a fashion as to render unlikely any substantial risk to legitimate public interests in the area. In making a waiver determination the Director shall consider and the applicant shall furnish the following information at least 15 days in advance of the proposed demonstration:

(i) Number of marshals to be furnished.

(ii) The training these marshals have received including a brief summary of that training.

(iii) The experience of these marshals in crowd situations including a brief summary of those experiences.

(iv) The equipment to be furnished marshals including number of portable radios, power and frequency.

(v) The means by which marshals shall be identified.

(vi) A summary of proposed marshal functions including emergency contingency plans.

(vii) List of emergency facilities to be provided including first aid and sanitary facilities.

[FR Doc. 77-29978 Filed 10-13-77; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION
AGENCY

[40 CFR Part 162]

[FRL 784-4]

SPECIAL PACKAGING OF PESTICIDES
Proposed Guidelines

AGENCY: Environmental Protection Agency, Office of Pesticide Programs.

ACTION: Proposed rule.

SUMMARY: This proposed rule would require the special packaging of certain pesticides and would set forth guidelines concerning the testing protocols to be followed in evaluating this packaging. The intent of this proposed rule is to decrease the number of hazardous exposures of a pesticide product to humans.

DATES: Comments must be received on or before December 13, 1977. Proposed

effective date: One year after publication of final rule.

ADDRESSES: Interested persons may participate in this proposed rulemaking by submitting written comments to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Rm 401, East Tower, 401 M St. SW., Washington, D.C. 20460. Comments should be filed in triplicate. The comments should bear the identifying notation "OPP-_____". All written comments filed will be available for public inspection at the Office of the Federal Register Section from 8:00 a.m. to 4 p.m. Monday through Friday. The proposal may be changed in light of the comments received.

FOR FURTHER INFORMATION CONTACT:

Maureen J. Grimmer, Project Leader, (WH-566), Office of Pesticide Programs, Environmental Protection Agency, 401 M St. SW., Washington, D.C. 20460, (202-755-8030).

SUPPLEMENTARY INFORMATION: These rules are designated § 162.16 and the guidelines are designated § 162.94 of Title 40 and are being written under the authority of Section 25(c)(3) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended in 1972 and 1975 (Pub. L. 92-516, 86 Stat. 983; Pub. L. 94-140, 89 Stat. 755; 7 U.S.C. 136 et seq.; hereinafter referred to as FIFRA).

Final regulations for the registration, reregistration and classification of pesticides were published in the *FEDERAL REGISTER* July 3, 1975, 40 FR 28242. Proposed Guidelines for registering pesticides were published in the *FEDERAL REGISTER* June 25, 1975, 40 FR 26802. These documents reserved sections concerning the pesticides requiring special packaging and the testing protocols for special packaging. The requirement of special packaging for certain pesticide products shall be incorporated into the pesticide registration process.

BACKGROUND

Since enactment of the Poison Prevention Packaging Act of 1970, the authority to administer the special packaging of pesticides has shifted among the Department of Health, Education, and Welfare (DHEW), the Consumer Product Safety Commission (CPSC), and the Environmental Protection Agency (EPA).¹ Presently, section 25(c)(3) of amended FIFRA authorizes the Administrator of EPA to:

Establish standards (which shall be consistent with those established under the authority of the Poison Prevention Packaging Act (Pub. L. 91-601)) with respect to the package, container, or wrapper in which a

¹ As of May 11, 1976, EPA has been vested with sole jurisdiction of the special packaging of pesticides under the executive authority of section 25(c)(3), FIFRA (Consumer Product Safety Commission Improvements Act of 1976, Pub. L. 94-284, 90 Stat. 503).

pesticide or device is enclosed for use or consumption, in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this Act as well as to accomplish the other purposes of this Act.

Section 2(q)(1)(B) of the amended FIFRA, states that a pesticide is misbranded if "it is contained in a package or other container or wrapping which does not conform to the standards established by the Administrator pursuant to section 25(c)(3)."

These proposed regulations were prepared after considering the comments to a September 14, 1972 DHEW proposal (37 FR 18629) for the special packaging of pesticides, reviewing the available accident statistics and scientific literature, and meeting with representatives of affected pesticide and packaging industries, concerned members of the general public, and officials of CPSC.

DISCUSSION OF MAJOR PROVISIONS AND
ISSUES

GENERAL

These regulations are intended to complement the registration and classification scheme of FIFRA section 3. Classification will take place over an extended period of time either by regulation or at the time of reregistration of a particular pesticide product. When a pesticide product is classified for restricted use, it may only be applied by or under the direct supervision of a certified applicator or pursuant to another regulatory restriction imposed by the Administrator under section 3(d)(1)(C)(ii) of FIFRA. Where use is by a certified applicator, his training, supplemented by the label of the specific pesticide product, should assure proper application, storage and disposal techniques. Where use is pursuant to any other regulatory restriction, the need for special packaging will be considered. These safeguards should significantly reduce the risk that any pesticide which is a candidate for restricted use is the cause of serious injury to children, adults or the environment.

These regulations provide that pesticide products intended for residential use must be specially packaged to protect children and adults (1) if the formulation of the product meets or exceeds certain criteria, or (2) if the Administrator determines there is a serious hazard based upon human toxicological data, use history, accident data or other available evidence.

At the time a pesticide product is classified, if it falls within the criteria for special packaging as set forth in this regulation and is specially packaged, generally the product will not be classified for restricted use. However, if EPA determines that special packaging will not sufficiently decrease exposure to the hazards associated with the product, the product will be classified for restricted use, and may or may not be required to be specially packaged. Alternatively, if the hazards indicated by the criteria of

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§ 162.16(c)(2) are not indicative of the hazards to man, it may be possible that special packaging would not be required for the product even if the product exceeds the criterion. For example, certain rodenticides that are highly toxic to rodents have a low toxicity in humans.

RESIDENTIAL APPLICATION

These regulations are primarily directed at safeguarding children and adults from accidental exposure to highly toxic pesticides intended for residential application. They do not apply to pesticides registered for agricultural or commercial application.

EPA estimates that most pesticide-related accidents occur in and around the home as a result of domestic use. For example, figures obtained from an EPA study¹ reveal that less than 30 percent of all pesticide-related hospital admissions between 1971 and 1973 were in the areas of agricultural or commercial pesticide application, in the formulating or manufacturing plant, or affected the farmer, commercial applicator, skilled or unskilled laborer, professional or semi-professional pest control operator, and the like. Approximately 70 percent of all pesticide incidents requiring some sort of hospital care occurred to persons applying pesticides in residential situations. Accordingly, the special packaging of certain pesticides intended for residential use should offer protection from most pesticide accidents.

The term "residential application" is defined at § 162.16(b)(2) and is new to this Section. The section 3 regulations speak in terms of domestic or nondomestic application. The term "domestic application," as defined at 40 CFR 162.3 (m), includes application of a pesticide in, on or around all structures associated with the household or homelife as well as patient care areas of health related institutions and areas where children spend time. The scope of the term "residential application" is included within the meaning of "domestic application," except that residential application does not include patient care areas of health related institutions, which is within the term "domestic application," because other adequate safeguards, including supervision and security of store-room areas, exist in these areas.

These regulations are directed at safeguarding children and adults from accidental exposure to pesticides through the use of special packaging. EPA believes that the purpose of special packaging is twofold, first, to prevent children from gaining access to the contents of a package, and second, to make adults aware that the contents of a package may be hazardous. Special packaging

discourages adults from carelessly exposing themselves to toxic pesticides.

The fact that a product has non-residential, as well as residential, uses on the label will not exempt it from the special packaging requirement, if the residential uses require special packaging. EPA hopes to encourage the separate packaging of the more toxic pesticides for residential and non-residential application.

CRITERIA FOR SPECIAL PACKAGING

The proposed regulations of the DHEW would have required special packaging only for those pesticides with an acute oral toxicity in EPA toxicity categories 1 or 2. EPA's proposed regulations expand the class of pesticides that may require special packaging. In addition, they reserve to the Administrator the discretion to regulate pesticides on a product by product basis. Although the acute oral toxicity of a pesticide is certainly important in determining whether or not special packaging should be required, it is not the only important criterion. The dermal and inhalation toxicity of the pesticide, as well as the skin and eye effects that can be anticipated from exposure, are also important considerations. Therefore, EPA is proposing that special packaging be required for any domestic use pesticide approved for residential application which falls within the criteria of § 162.16(c)(2). These criteria are in large part identical to the criteria of 40 CFR 162.11(c)(1)(i) which set forth indices to determine whether a domestic use product is a candidate for restricted use classification. The only differences from these criteria are that whereas 40 CFR 162.11(c)(1)(i)(E) sets forth an acute oral LD50 criterion greater than 1.5 for the formulation as diluted for use, § 162.16(c)(2)(v) applies the same criterion to the pesticide formulation.

In addition, § 162.16(c)(2)(vi) of these regulations provides for consideration of other data in addition to toxicological data in cases where these data are not truly indicative of human hazard. Pesticides which do not meet the criteria of § 162.16(c)(2) will require special packaging if human toxicological data, use history, accident data or any other evidence indicates the existence of a serious threat of accidental injury or illness to children. Pesticides meeting the criteria of § 162.16(c)(2) will not require special packaging if the toxicity is not indicative of a serious hazard to man. By not requiring special packaging for those pesticides which represent a significantly lesser hazard to man, the Agency hopes to encourage the development of relatively safer pesticides.

TESTING PROTOCOLS AND EFFECTIVENESS SPECIFICATIONS

The testing protocols set out in § 162.16(d)(3) and § 162.94 are directly intended to prevent children under the age of five years from opening the package. EPA chose this protocol for two reasons. First, EPA's Pesticide Episode Review

System (PERS) reveals that 40 percent of all human pesticide related accidents (excluding accidents relating to misuse of a product) occur to children under the age of five years. By comparison, children between the ages of five and seventeen are involved in approximately 5 percent of these accidents. Of these pesticide-related accidents involving children under five years, almost 70 percent may be directly related to the packaging of the pesticide product.²

Also, the Department of Health, Education, and Welfare reports that, of all accidents reported to Poison Control Centers from 1972-1974, between 82 percent and 86 percent involved children under five years.³

Secondly, section 25(c)(3) of the FIFRA provides that any special packaging standards for pesticides must be consistent with standards established under the authority of the Poison Prevention Packaging Act. Congress and EPA recognize the expertise of the Consumer Product Safety Commission in evaluating the effectiveness of safety packaging and in assessing the capabilities of the packaging industry. Accordingly, EPA has adopted the standards of the Consumer Product Safety Commission. (15 CFR 1700.15, 1700.20.) Duplicative effectiveness testing of packages intended for pesticidal and non-pesticidal purposes can thereby be avoided.

BENEFITS OF SAFETY PACKAGING

The prime benefits of special packaging is its record of effectiveness. The Consumer Product Safety Commission initiated safety packaging regulations with aspirin products, then the substance most frequently ingested by children according to the National Clearinghouse of Poison Control Statistics. The special packaging regulation for aspirin products became effective in 1973. In the three year period following the promulgation of this regulation, accidental aspirin ingestions decreased by 41 percent and aspirin-induced deaths of preschool children declined by 63 percent. The fact that poisonings from antifreeze ingestions has declined by 70 percent since instituting special packaging requirements provides additional proof of the effectiveness of special packaging regulations in reducing pediatric poisonings. Similar results were recorded when regulations encompassed all petroleum products. Those products that have not yet been required to utilize safety packaging (e.g., pesticides, perfumes, colognes) all

¹ "Distribution by Region of Pesticide Episodes Involving Children Under Five and Applicable to Childproof Packaging as Reported to PERS (1967 through September, 1976)." Pesticide Episode Response Branch, Operations Division, Office of Pesticide Programs, U.S. Environmental Protection Agency.

² National Clearinghouse for Poison Control Centers Bulletin, September, 1976, U.S. Department of Health, Education, and Welfare, Public Health Service, Food and Drug Administration.

³ National Study of Hospital Admitted Pesticide Poisonings, Epidemiologic Studies Program, Human Effects Monitoring Branch, Technical Services Division, Office of Pesticide Programs, U.S. Environmental Protection Agency, pp. 28-30, 76, 98, 120 (April, 1976). EPA assumes that any admission not included in the listed categories resulted from residential situations.

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show annual increases in the number of accidental poisonings.

PACKAGE SIZE AND TECHNOLOGY

The regulation proposed by the DHEW provided that the size of the pesticide container was to be a criterion in determining whether or not special packaging would be required. The almost unanimous comment to this provision was that package size would not necessarily be determinative of use and that such regulations would therefore impact heavily on pesticides intended for commercial use. There is no persuasive evidence that special packaging is not feasible for larger containers, per se, nor is there persuasive evidence that a slightly larger package is inherently protective of children. There is, however, evidence that child protective packaging is not presently feasible for certain sizes and types of pesticide containers. These situations will be dealt with on a case-by-case basis during the registration process.

EPA would specifically like to receive comments from persons who manufacture special packaging and pesticide registrants who will have to comply with these rules regarding both the technology available for special packaging and, specifically, the compatibility of the package and closures now available with pesticide formulations that will have to be so packaged.

The regulations, as proposed below, make no specific reference to the size of the pesticide container. The use(s) for which a product is sold, the channels of trade through which it moves, the labeling of the product and the promotional effort in marketing are all factors of considerable importance in distinguishing a pesticide approved for domestic residential application from a pesticide approved for domestic non-residential or non-domestic application. EPA believes that by placing the emphasis on product use, it better serves the purpose and intent of FIFRA.

However, the size of the pesticide container cannot be entirely disregarded. EPA has taken into account the variety of forms that special packaging might take and does not desire to limit in any way the development of new forms of special packaging. Therefore, the definition of special packaging encompasses not only child resistant closures, but also unit or such size packaging which would permit only non-harmful amounts of the pesticide to be obtained at one time. (See §§ 162.16(b)(3) and 162.16(b)(4).)

Although this regulation is primarily concerned with how easy or difficult it is to gain access to the contents of a package, neither the protocol nor this regulation is intended to cover the range of problems that may be associated with packaging, such as the capacity of the package to break or be punctured. These problems will be dealt with in detail at a later time in a separate regulation. However, under this regulation it is intended that the entire package be tested. Containers which, for example, use safety closures which are not compatible with the container body are not acceptable.

NON-COMPLYING PACKAGING

The Poison Prevention Packaging Act makes provision for non-complying packaging for the benefit of elderly and handicapped persons if the manufacturer or packer also supplies the substance in packages which comply with the special packaging standard. The Environmental Protection Agency recognizes the worthy purposes for allowing this non-complying packaging. Unfortunately, the marketing of non-complying packages could seriously deter efforts under the FIFRA to reduce the incidence of accidental pesticide poisoning in young children. The legislative history of the Poison Prevention Packaging Act makes clear that Congress intended special packaging to be the rule rather than the exception. Furthermore, those pesticide products which do not exceed the criteria for special packaging will continue to be available for use in regular packaging. Therefore, EPA has decided that all pesticides that fall within these criteria for special packaging must be specially packaged.

DEVICES

On November 30, 1976, the Agency published in the FEDERAL REGISTER a notice consolidating and clarifying requirements of the FIFRA applicable to pest control devices (40 FR 51065). In discussing the misbranding provisions of the Act, the notice provides that a device will be subject to enforcement action if its packaging or wrapping fails to conform with standards established pursuant to section 25(c)(3). The notice goes on to say "Such standards have not, as of this date, been issued by the Administrator; at such time as they are, the question of their applicability to devices will be addressed."

EPA does not now have sufficient information regarding the kinds of devices which should require special packaging. When EPA has sufficient cause to address a packaging requirement for devices, it will add such a provision to this regulation.

STATUTORY REVIEW

EPA received comments from the U.S. Department of Agriculture (Attachment I) which are published following the regulation together with EPA's response (Attachment II) according to Section 25 (a)(2)(A) of FIFRA. The FIFRA Scientific Advisory Panel reviewed the proposed regulation at a meeting on February 17, 1977 and unanimously concurs with the proposal. The SAP comments are published in Attachment III according to Section 25(d) of FIFRA.

EFFECTIVE DATE

The Consumer Product Safety Commission has available upon request a list entitled "Manufacturers of Safety Packaging Who Have Indicated That One or More Designs Have Passed the Testing Protocol." The list is not intended to indicate approval or endorsement of the listed firms. Some of these packages may be satisfactory for the packaging of many pesticides. EPA proposes a lead time of one year after publication of the

final regulations. Only products released for shipment by the producers after that date (regardless of the date manufactured) will be subject to these regulations. Products already in commerce on that date will not be recalled in order to comply with these regulations. EPA specifically solicits comments regarding the appropriate lead time for full effectiveness of these regulations. Applicants for new registrations must submit the information required under § 162.16(e) as part of the application. The required information for presently registered products must be submitted as an application for amended registration. We will be working closely with the Consumer Product Safety Commission in evaluating the feasibility, appropriateness and availability of special packaging for pesticides.

INFLATION IMPACT STATEMENT

The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Orders 11821 and 11949 and OMB Circular A-107.

Dated: October 6, 1977.

DOUGLAS M. COSTLE,
Administrator.

It is proposed that Part 162, Chapter I, Title 40 of the Code of Federal Regulations be amended by adding §§ 162.16 and 162.94 to be effective 12 months after publication of the final rule and to read as follows:

Sec.
162.16 Pesticides requiring special packaging.
162.94 Guidelines for special packaging of pesticides.

AUTHORITY.—Secs. 3, 25(c)(3), Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92-516, 86 Stat. 973; Pub. L. 94-140, 89 Stat. 755; 7 U.S.C. 136 et seq.).

§ 162.16 Pesticides requiring special packaging.

(a) General. Section 25(c)(3) of the Act authorizes the Administrator to establish standards with respect to the package container or wrapping in which a pesticide or device is enclosed for use or consumption in order to protect children and adults from serious injury or illness resulting from accidental ingestion or contact with pesticides or devices regulated by this Act.

(b) Definitions. Terms used in this section shall have the same meaning set forth in the Act and in § 162.3. In addition, as used in this section:

(1) The term "package" means the immediate container or wrapping in which any pesticide is contained for consumption use or storage. Package does not include:

(i) Any shipping container or wrapping used solely for the transportation of any pesticide in bulk or in quantity to manufacturers, packers or processors, or to wholesale or retail distributors thereof; or

(ii) Any shipping container or other wrapping used by retailers to ship or

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deliver any pesticide to consumers unless it is the only such container or wrapping.

(2) The term "residential application" means application of a pesticide directly to humans or pets or application of a pesticide in, on, or around all structures, vehicles or areas associated with the household or homelife or areas where children spend time including, but not limited to:

(i) Gardens, non-commercial green-houses, yards, patios, houses, pleasure marine craft, mobile homes, campers and recreational vehicles, non-commercial campsites, home swimming pools and kennels;

(ii) Articles, objects, devices or surfaces handled or contacted by humans or pets in all structures, vehicles or areas listed above; and

(iii) Educational, lounging and recreational areas of preschools, nurseries and day camps.

(3) The term "special packaging" means packaging that is designed and constructed to be significantly difficult for children under five years of age to open or to obtain a toxic or harmful amount of the substance contained therein within a reasonable time and that is not difficult for normal adults to use properly.

(4) The term "unit package" means a package that is labeled with directions to use the contents in a single application or which consists of individually packaged dosage units.

(c) *Pesticides requiring special packaging*—(1) *General*. In order to protect children from accidental handling, contact or ingestion, special packaging is required for pesticide products approved for residential application falling within the criteria set forth in subparagraph (2) of this paragraph: *Provided however*, That special packaging is not required for those pesticides for which the hazards indicated by the criteria in subparagraph (2) of this paragraph are not indicative of the hazards to man. Generally, at the time of classification a pesticide product which falls within the criteria set forth in subparagraph (2) of this paragraph and is specially packaged will not be classified for restricted use. The Agency may, on a case-by-case basis, classify a pesticide product which falls within the criteria set forth in subparagraph (2) of this paragraph and is specially packaged for restricted use.

(2) *Criteria for special packaging*. A pesticide product approved for residential application will require special packaging if the tests conducted for the pesticide formulation (as specified in the Registration Guidelines) on the appropriate test animals and pursuant to the test standards set forth in the Registration Guidelines indicate that the pesticide formulation:

(i) Has an acute dermal LD₅₀ of 2,000 mg/kg or less;

(ii) Has an inhalation LC₅₀ of 2 mg/liter or less;

(iii) Is corrosive to the eye or causes corneal opacity or irritation persisting for 7 days or more;

(iv) Is corrosive to the skin or causes severe skin irritation at 72 hours;

(v) Has an acute oral LD₅₀ of 1.5 g/kg or less; or

(vi) Has such characteristics that, based upon human toxicological data, use history, accident data or such other evidence as is available, the Administrator determines that there is a serious hazard of accidental injury or illness to children which special packaging could reduce.

(d) *Standards for special packaging*—

(1) *General requirements*. (i) The special packaging must continue to function with the effectiveness specifications set forth in subparagraph (2) of this paragraph when in actual contact with the substance contained therein. This requirement may be satisfied by appropriate scientific evaluation of the compatibility of the substance with the special packaging to determine that the chemical and physical characteristics of the substance will not compromise or interfere with the proper functioning of the special packaging and that the packaging will not be detrimental to the integrity of the product during storage and use.

(ii) The special packaging must continue to function with the effectiveness specifications set forth in subparagraph (2) of this paragraph for the number of times the package is opened and closed that is customary for its size and contents and throughout the reasonably expected lifetime of the package. This requirement may be satisfied by appropriate technical evaluation based on physical wear and stress factors, force required for activation and other such relevant factors which establish that, for the duration or normal use, the effectiveness specifications of the packaging would not be expected to lessen.

(2) *Effectiveness specifications*. The special packaging tested by the method referred to in subparagraph (3) of this paragraph, shall meet the following specifications:

(i) Child-resistant effectiveness of not less than 85 percent without a demonstration and not less than 80 percent after a demonstration of the proper means of opening such special packaging. In the case of unit packaging, child-resistant effectiveness of not less than 80 percent.

(ii) Adult-use effectiveness of not less than 90 percent without a demonstration.

(3) *Testing procedures*. Standards for special packaging shall be evaluated pursuant to the protocols specified in the Registration Guidelines (40 CFR 162.94).

(e) *Submission*. The registrant of a pesticide which requires special packaging shall submit the following information as an application for amended registration. An applicant for a new registration shall submit the following information at the time of his application for registration. The registrant or applicant is responsible for the accuracy and completeness of all the information submitted.

The registrant shall submit:

(1) A full description of the package including:

(i) A full description of the container including:

(A) Its dimensions; and
(B) Its material; and

(ii) A full description of the closure, if appropriate, including:

(A) The name of its manufacturer; and

(B) The manufacturers' designation (title), for the special packaging closure or, the physical working of the special packaging mechanism; and

(C) The explicit directions for proper use of the closure and the placement of these directions on the package;

(2) A report of the data resulting from the tests conducted in accordance with §§ 162.16(d) and 162.94 or proof that the closure has been previously tested with satisfactory results; and

(3) Data in support of the compatibility of the pesticide formulation with the entire package to determine that the chemical and physical characteristic of the substances will not compromise or interfere with the efficacy of the pesticide and the functioning of the pesticide product container and/or closure.

§ 162.94 Guidelines for special packaging.

The protocol for testing special packaging shall be as follows:

(a) Use 200 children between the ages of 42 and 51 months inclusive, evenly distributed by age and sex, to test the ability of the special packaging to resist opening by children. The even age distribution shall be determined by having 20 children (plus or minus 10 percent) whose nearest age is 42 months, 20 whose nearest age is 43 months, 20 at 44 months, etc., up to and including 20 at 51 months of age. There should be no more than 10 percent preponderance of either sex in each age group. The children selected should be healthy and normal and should have no obvious or overt physical or mental handicap.

(b) The children shall be divided into groups of two each. The testing shall be done in a location that is familiar to the children; for example their customary nursery school or regular kindergarten. No child shall test more than two special packages, and each package shall be of a different type. For each test, the paired children shall receive the same package simultaneously. When more than one special package is being tested, the designs tested shall be presented to the paired children in random order, and this order shall be recorded. The special package, each test unit of which, if appropriate, has previously been opened, and properly resealed by the tester, shall be given to each of the two children with a request for them to open it. (In the case of unit packaging, it shall be presented exposed so that the individual unit is immediately available to the child.) Each child shall be allowed up to 5 minutes to open the special package. For those children unable to open the special package after the first 5 minutes, a single visual demonstration, without verbal explanation, shall be given by the demonstrator. A second 5 minutes shall then be allowed for opening the special package. (In the case of unit packaging, a single visual demonstration, without verbal explanation, will be provided at the end of the first 5 minutes only for those test subjects who have not opened at least one unit package, and a second 5 minutes allowed for all subjects.) If a child fails to use his teeth to open the special package during the first 5 minutes, the demonstrator shall instruct him, before the start of the second 5-minute period, that he is permitted to use his teeth if he wishes.

(c) Records shall be kept on the number of children who were not able to open the special package, with and without demonstration. (In the case of unit packaging, records shall be kept on the number of individual units opened or gained access to by each child.) The percent of child-resistant effectiveness shall be the number of children tested, less the test failures, divided by two. A test failure shall be any child who opens the special package or gains access to its contents. In the case of unit packaging, however, a test failure shall be any child who opens or gains access to the number of individual units which constitute the amount that may produce serious personal injury or serious illness, or a child who opens or gains access to more than 8 individual units, whichever number is lower, during the full 10 minutes of testing. The determination of the amount of a substance that may produce serious personal injury or serious illness shall be based on a 25 pound child.

(d) In the testing of unit packaging to be opened by use of a tool, it is not necessary to provide the children with the tool needed to open the container unless the tool accompanies the container when offered for sale to consumers. In the adult phase of the test, where a tool is needed to open a special package, but does not accompany the container, the adult test subjects may be provided with the required tool, in addition to the instructions concerning the proper method of opening which are printed on the packaging.

(e) One hundred adults, age 18 to 45 years inclusive, with no overt physical or mental handicaps, and 70 percent of whom are female, shall comprise the test panel for normal adults. The adults shall be tested individually, rather than in groups of two or more. The adults shall receive only such printed instructions on how to open and properly resecure the special packaging as will appear on the package as it is delivered to the consumer. Five minutes shall be allowed to complete the opening and, if appropriate, the resecuring process.

(f) Records shall be kept on the number of adults unable to open and the number of other adults tested who fail to properly resecure the special packaging. The number of adults who successfully open and properly resecure the special package (if resecuring is ap-

propriate) is the percent of adult-use effectiveness of the special packaging. In the case of unit packaging, the percent of adult-use effectiveness shall be the number of adults who successfully open a single package. The unit package shall not be subject to the resecuring provision above.

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[FR Doc.77-30063 Filed 10-13-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1062]

[Ex Parte No. MC-109]

MOTOR CARRIERS; SPECIAL APPLICATION PROCEDURES FOR FOR-HIRE MOTOR CARRIERS

Applications Seeking Substitution of Single-Line Service for Existing Joint-Line Operations

AGENCY: Interstate Commerce Commission.

ACTION: Proposed regulations.

SUMMARY: The Interstate Commerce Commission is proposing to establish regulations which would govern application proceedings for operating rights where the applicant is a motor common carrier seeking authority to conduct a single-line service in lieu of an existing joint-line service. Under the proposed regulations an applicant would be required to identify clearly its proposal as one seeking authority to substitute a single-line service for its existing joint-line operations. Secondly, in addition to submitting that information which is presently required in operating rights applications proceedings, the applicant will be required to submit evidence demonstrating that it has been participating in the supporting shipper(s)' involved traffic in joint-line operations. This proposed rule is an outgrowth of recommendations contained in a Staff Task Force report suggesting improvements in the motor carrier regulation.

DATES: Written comments should be filed with the Commission on or before November 14, 1977.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Washington, D.C. 20423, phone 202-275-7292.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission is proposing to establish regulations which would govern application proceedings for operating rights where the applicant is a motor common carrier seeking authority to conduct a single-line service in lieu of an existing joint-line service. Under the proposed regulations an applicant would be required to identify clearly its proposal as one seeking authority to substitute a single-line service for its existing joint-line operations. Secondly, in addition to submitting that information which is presently required in operating rights applications proceedings, the applicant will be required to submit evidence demonstrating that it has been participating in the supporting shipper(s)' involved traffic in joint-line operations. This proposed rule is an outgrowth of recommendations contained in a Staff Task Force report suggesting improvements in the motor carrier regulation.

ing authority to substitute a single-line service for its existing joint-line operations. Secondly, in addition to submitting that information which is presently required in operating rights applications proceedings, the applicant will be required to submit evidence demonstrating that it has been participating in the supporting shipper(s)' involved traffic in joint-line operations. As has always been the case, opposing evidence of carriers participating in the existing joint-line service would be considered in reaching a determination of public convenience and necessity. However, if (1) the application was not opposed by any carrier which is a participant in the existing joint-line service, and (2) the applicant complied with the requirements discussed above, then the application would be granted. Accordingly, the parties not participating with applicant in the joint-line service would not have standing to oppose the application on the ground that the proposed service is not needed, and they could only oppose the application on the ground of applicant's fitness to conduct the proposed service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations.

On June 2, 1977, a Staff Task Force was established for the purpose of recommending to the Commission possible areas for improvement in motor carrier entry regulation. On July 6, 1977, the Staff Task Force issued a report containing 39 specific recommendations for improving motor carrier regulation. This proposed rule is an outgrowth of Recommendation No. 11 contained in the Staff Task Force report.

In acting upon this recommendation the Commission recognizes that there are certain types of applications for operating authority which normally are or should be granted notwithstanding the nature or scope of the opposition. It is the duty of this Commission to identify these cases, and, in a manner consistent with justice and fairness, to take responsive action to assure that transportation requirements of our society are adequately and expeditiously met.

The Commission is currently considering a number of proposals for modifying motor carrier entry regulation, including a number of recommendations advanced by the staff task force. Interested persons participating in, and wishing to advance similar arguments in, more than one of these proceedings need not file duplicative statements. Instead, they may incorporate by reference all or any part of a statement filed in one of these proceedings in this or any other of these proceedings.

DISCUSSION OF THE ISSUES

BENEFITS OF SINGLE-LINE SERVICE

In determining whether a proposed service is required by the public convenience and necessity, this Commission has traditionally examined applications for operating authority in light of the criteria enunciated in "Pan-American Bus Lines Operation," 1 M.C.C. 190

(1936). The question to be resolved is whether the proposed operations will serve a useful public purpose, responsive to a public demand or need; whether this purpose can or will be served as well by existing lines or carriers; and whether the new services can be instituted without endangering or impairing the operations of existing carriers contrary to the public interest and the national transportation policy.

The proposed regulations pertain to applications in which a motor common carrier seeks to institute a single-line service in lieu of an existing joint-line operation. The Commission has reviewed a substantial number of such applications and found that, in many instances, the benefits accruing to the public from granting such proposals are both plentiful and significant.¹

Initially it is important to note that this proposal would benefit only those applicants already participating through interline arrangements, in the available traffic so that they cannot be considered new entrants in the involved transportation market. Often the filing of applications of this kind is prompted by one carrier's desire to continue participating in a particular shipper's traffic where it is suddenly faced with the loss of access to a given origin or destination point due to the deterioration or cancellation of an interline connection. The applicant will frequently have invested capital in terminal facilities and equipment.

The loss of the interline service will obviously have an adverse impact upon the shippers which have come to rely upon it to meet their transportation requirements. In addition, the replacement of joint-line service by single-line service often engenders significant savings in mileage, fuel, time, and paperwork. Moreover, the Commission has, upon occasion, taken note of the competitive disadvantages of shippers which do not have single-line services available to meet their transportation requirements. It has recognized that joint-line service entails a higher risk of loss, damage, and delay than does single-line service.

It is fundamental that public convenience and necessity may be found in operating economies and in contributions to expedition and efficiency. These not only accrue to the affected carrier and shipper, but ultimately are passed onto the consuming public. Thus, the Commission in recognition of these factors has often authorized proposed service even where the services of existing carrier appear to be adequate.

WHO MAY PROTEST AN APPLICATION

In administering the Act, the Commission has not found that shippers are entitled to a single-line service merely as a matter of preference, nor would they be under the proposed regulations.

¹ See, for example, "Knox Motor Service, Inc., Ext.—Transformers," 126 M.C.C. 413 (1977), and "Tanksley Trucking, Inc., Ext.—Louisville, Ky.," 120 M.C.C. 793 (1974).

The Commission has always sought to encourage the use of joint-line services in those instances where such operations are shown to be adequate to meet the transportation requirements of the shipping public. Just as the applicant which is seeking to institute the single-line service has an interest to protect, so do those carriers which have been participating with applicant in the joint-line service. As noted above, "substitution applications" are ordinarily premised on the grounds that the joint-line service is in a state of deterioration or subject to cancellation. Whether in fact such is the case is an issue upon which the participating carriers may validly comment. In determining whether a public need exists for a proposed single-line service then, the Commission would consider the opposing evidence of these participating carriers and weigh the effect of a grant upon them since it is the traffic which they have been handling in conjunction with applicant which would be subject to diversion. In many instances, however, applications seeking "substituted service" are unopposed by those carriers which are, or have been, participating in the joint-line service. The failure of those carriers to appear in opposition can only be construed as probative of the applicant's contentions that the joint-line operations are in a state of deterioration.

At the outset of this discussion, it was pointed out that the applicant in these cases is not a new entrant into the involved transportation market but rather is an established competitor seeking to preserve its interest in the shipper's traffic. The effect, if any, of a grant of authority upon existing (non-participating) carriers then would be minimal. Accordingly, on the issue of public convenience and necessity, under the proposed regulations, the Commission would consider only the supporting evidence of the applicant and the opposing evidence only of carriers which are, or have been, participating in the joint-line operations with the applicant. "However, any interested person would be permitted to file a protest challenging an applicant's fitness to perform the proposed service."

In certain limited instances, any interested carrier would be permitted to file a protest to an application for "substituted service". The protest of any non-interlining carrier would be directed at relevant issues other than the need for service. For example, any protestant could challenge an applicant's fitness to perform the proposed service. Additionally, a protestant could challenge applicant's allegations that it has been engaged in joint-line operations for the supporting shipper.

THE APPLICATION AND NOTICE REQUIREMENTS

Implementation of the proposed regulations would entail minor modifications in the way operating rights applications are processed and reviewed under existing Commission regulations.

An applicant, under the rules, would be required to identify clearly its pro-

posal as one seeking substitution of single-line service for its existing joint-line operations. Since applicants are required, under existing Commission regulations, to prepare a FEDERAL REGISTER caption, affected applicants would need only to submit an additional sentence stating that "the purpose of the application is to substitute a single-line service for applicant's existing joint-line operations."

Notice of the applicant's proposal, and its purpose, would be published in the FEDERAL REGISTER in a manner consistent with prevailing Commission procedures. Additionally, protests would be filed in accordance with existing regulations subject to the considerations described in the preceding section of this notice of proposed rulemaking.

ENVIRONMENTAL IMPACT

It is not anticipated that the proposed regulations will constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. The number of carriers, and vehicles operated in any given transportation market would remain relatively stable whether or not applications of this kind were granted.

As noted previously, the probable effect of these regulations will be to enhance operating efficiencies. The authorization of single-line services could eliminate circuitous mileage and lead to savings in fuel.

REDESIGNATION OF 49 CFR 1062

Part 1062 of Title 49 of the Code of Federal Regulations is presently entitled "Special Regulations for For-Hire Motor Carriers Engaged in the Transportation for Recycling or Reuse of 'Waste' Products in Furtherance of Recognized Pollution Control Programs", and sets forth rules pertaining to the processing of applications for Special Certificates of Public Convenience and Necessity, in a unique transportation field.

The regulations proposed in this rulemaking also embrace special procedures for acquiring a certificate of public convenience and necessity. It is likely that additional regulations of the same nature will be proposed in the future. Accordingly, the Commission will redesignate Part 1062 as follows: "Regulations Governing Special Application Procedures for For-Hire Motor Carriers". Section 1062.2 would be added to this part if the proposed regulations are adopted.

Accordingly, it is proposed (1) that Part 1062 of Title 49 of the Code of Federal Regulations be re-entitled "Regulations Governing Special Application Procedures for For-Hire Motor Carriers" and (2) that § 1062.2 be added to this part to read as follows:

§ 1062.2 Special procedures governing applications in which applicants seek operating authority to provide a single-line service in lieu of their existing joint-line operations.

(a) Scope of special rules. These special rules govern the filing and handling

of applications in which an applicant is seeking to acquire a certificate of public convenience and necessity authorizing it to provide a single-line service from and to points it serves in conjunction with connecting carriers in joint-line operations.

(b) Filing of applications. A motor common carrier seeking to acquire a certificate of public convenience and necessity under this section shall, in addition to submitting that information otherwise required under existing Commission rules and regulations, include in its caption summary of the authority sought (prepared for publication in the FEDERAL REGISTER), a sentence indicating clearly that "the sole purpose of its application is to substitute a single-line service for its existing joint-line operations."

(c) Notice. Notice of a proposed service will be published in the FEDERAL REGISTER. This notice will indicate applicant's intention to substitute a single-line service for its existing joint-line operations.

(d) Protests. Protests may be filed (1) respecting the issue of the need for the proposed service only by those carriers which are, or have been, participating in the joint-line service for which applicant is seeking by its proposal to substitute in single-line service, and (2) by any interested carrier respecting applicant's fitness to provide the proposed service.

This notice of proposed rulemaking is promulgated under the authority contained in 49 U.S.C. 304 and 307 and 5 U.S.C. 553, and was adopted formally at a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 21st day of September 1977.

By the Commission.

H. G. HOMME, JR.,
Acting Secretary.

[FR Doc. 77-29817 Filed 10-13-77; 8:45 am]

[7035-01]

[49 CFR Part 1062]

[Ex Parter No. MC-109 (Sub. No. 1)]

SPECIAL APPLICATION PROCEDURES FOR FOR-HIRE MOTOR CARRIERS

Applications Seeking Substitution of For-Hire Service for Proprietary Operations

AGENCY: Interstate Commerce Commission.

ACTION: Proposed regulations.

SUMMARY: The Interstate Commerce Commission is proposing to establish regulations which would govern application proceedings for operating rights where the applicant is a motor common or contract carrier seeking authority to conduct a for-hire transportation service for a shipper that currently uses its own private transportation service (proprietary operations). Under the proposed regulations an applicant would be required to identify clearly the pur-

pose of its proposal, and to submit that information which is presently required in operating rights application proceedings. In addition, evidence concerning the extent of shipper's proprietary operations and the extent to which they would be replaced by applicant's for-hire service would be required. The proposed regulations stem from a Staff Task Force's recommendation to improve motor carrier regulations.

DATE: Written comments should be filed with the Commission on or before November 14, 1977.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Washington, D.C. 20423, Phone 202-275-7292.

SUPPLEMENTARY INFORMATION: The Interstate Commerce Commission is proposing to establish regulations which would govern application proceedings for operating rights where the applicant is a motor common or contract carrier seeking authority to conduct a for-hire transportation service for a shipper that currently uses its own private transportation service (proprietary operations). Under the proposed regulations an applicant would be required to identify clearly the purpose of its proposal, and to submit that information which is presently required in operating rights application proceedings.

In addition, evidence concerning the extent of shipper's proprietary operations and the extent to which they would be replaced by applicant's for-hire service would be required. In determining whether a proposed service should be authorized under applicable statutory standards, the Commission would continue to consider the opposing evidence and arguments of those for-hire carriers which are, or have been transporting traffic from the shipper's pertinent facilities, (i.e., in those instances where the shipper relies upon both proprietary and for-hire transportation services). However, if (1) the application is not opposed by any participating carrier and (2) the applicant complies with the requirements discussed above, then the application will be granted. Accordingly, parties not participating in the supporting shipper's traffic, which applicant sought authority to transport, would not have standing to oppose the application on the ground that the new service is not needed. They could oppose the application on the ground that applicant is not fit to provide the proposed service or to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations.

Recommendations concerning application proceedings in which a for-hire

service is sought to replace a shipper's existing proprietary operations have recently been under consideration by the Commission, in Ex Parte No. MC-103, Proceedings In Motor Carrier Application Proceedings Where For-Hire Carriage Is Substituted For Proprietary Operations. Ex Parte No. MC 103 was instituted in response to a petition seeking the initiation of a rulemaking, filed July 6, 1976, by Herman Bros., Inc., a motor common carrier. In its petition, Herman Bros. suggested specific procedures for the processing of applications of the nature discussed in this Notice.

Recognizing that this area of transportation is one worthy of serious consideration, the Commission received written representations and heard oral argument in No. MC 103. The Commission determined that the issues involved required additional analysis and further consideration in light of the July 6, 1977, recommendations of the Commission's Staff Task Force on improving motor carrier entry regulations. The proposed regulations stem from the Staff Task Force's recommendation. When the Commission ultimately determines what modifications to its procedures, if any, are necessary in this area, it will do so in light of the views already expressed in Ex Parte No. MC 103, and any additional information which may be submitted in response to this notice.

The Commission is currently considering a number of proposals for modifying motor carrier entry regulation, including a number of recommendations advanced by the staff task force. Interested persons participating in, and wishing to advance similar arguments in, more than one of these proceedings need not file duplicative statements. Instead, they may incorporate by reference all or any part of a statement filed in one of these proceedings in this or any other of these proceedings.

DISCUSSION OF THE ISSUES

BENEFITS STEMMING FROM FOR-HIRE CARRIAGE

Proprietary operations are exempt from economic regulation under the Interstate Commerce Act. In particular circumstances the benefits stemming from the using of private carriage outweigh attendant disadvantages. Often, however, shippers engaged in private operations find that such operations lack efficiency and cannot be cost justified. An example of this occurs where a shipper requires the transportation of its commodities in lengthy one-way movements, and is faced with extensive empty back-hauls. For this and other reasons, shippers engaged in proprietary operations may seek to acquire the services of for-hire motor carriers to meet their transportation requirements in whole or in part.

The efficient marketing of any shipper's commodities constitutes an integral part of its business' success. A shipper, having reached a decision to replace or augment its proprietary opera-

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tions, will seek out the service of a for hire carrier capable of rendering a transportation service at least as efficient and flexible as that which it has chosen to forego. Of no less importance to the shipper is whether the carrier it supports will acquire promptly the permanent authority sought from this Commission. The decision to replace or augment private operations ordinarily entails considerations of contractual obligations, personnel reassignments, and disposing of equipment.

The benefits stemming from the proposed regulations appear to be both significant and plentiful. The Commission has traditionally encouraged the use of for-hire motor carriage in lieu of proprietary operations, since it is the for-hire motor carriage industry which the American public has come to rely upon to meet its transportation needs. Regulated carriers which have invested substantial capital in their operations ordinarily undertake far greater risks than do shippers engaged in proprietary operations. Thus, the influx of additional traffic, previously transported in private operations, into the regulated trucking industry would presumably promote that industry's stability. It is also likely that substantial savings in fuel would result since empty backhauls attendant to many private operations could be largely eliminated and regulated motor carriers would be afforded an opportunity to balance their existing operations. As a consequence of these added efficiencies, transportation costs could be reduced and ultimately these benefits would inure to the consuming public.

Clearly the regulations proposed would benefit shippers desiring to supplant proprietary operations with for-hire services. As noted above, shippers often cannot afford to leave their transportation requirements to chance. They want to acquire the service of a carrier capable of providing a dependable, "quality" service. Since the proposed regulations would allow for more expeditious handling of applications and would limit the scope of the opposition respecting the issue of need, it is likely that shippers would be more inclined to support regulated carrier proposals.

WHO MAY PROTEST AN APPLICATION

Under the proposed regulations, the Commission would continue to consider the opposing evidence of carriers which are or have been participating in the supporting shipper's involved traffic, in determining whether the proposed service is required by the public convenience and necessity, or, in the case of contract proposals, if it is consistent with the public interest and the National Transportation Policy. Shippers engaged in proprietary operations at given origin facilities occasionally rely upon for-hire carriers to transport their involved traffic. Should a shipper support the proposed service of an applicant to supplant its proprietary operations, the traffic otherwise handled by participating mo-

tor carriers could certainly be subject to diversion. The Commission would consider whether a grant of authority would unjustifiably deprive these carriers of traffic they are handling or could handle in an adequate manner.

The proposed regulations would, however, preclude carriers from submitting protests regarding the issue of need for a proposed service if they are not, or have not been, participating in traffic of the supporting shipper which applicant seeks authority to transport. Since the purpose of the applicant's proposal is to transport traffic previously transported in private operations, a grant of authority could not result in any diversion of traffic transported by nonparticipating carriers. Thus, a grant of authority would not result in any material adverse effect upon the operations of such carriers.

However, any interested person may file a protest challenging applicant's fitness to provide the proposed service.

NOTICE REQUIREMENT

Implementation of the proposed regulations would entail minor modifications in the way operating rights applications are processed and reviewed under existing Commission regulations. An applicant would be required to indicate clearly the purpose of its proposal. This would be accomplished by adding a sentence to the FEDERAL REGISTER caption stating that "the purpose of the application is to substitute for-hire service for the shipper's existing proprietary operations."

Notice of the proposal and purpose thereof, would be published in the FEDERAL REGISTER in a manner consistent with prevailing Commission procedures. Protests would be filed in accordance with existing regulations subject to the considerations described above.

ENVIRONMENTAL IMPACT

It is not anticipated that the proposed regulations would constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. Traffic which would be transported by an applicant would be that moving in a shipper's private operations. The probable effect of these regulations would be to enhance operating efficiencies since empty backhaul movements should be substantially eliminated.

Accordingly, it is proposed that Part 1062 of Title 49 of the Code of Federal Regulations be amended by adding § 1062.3 as follows:

§ 1062.3 Special procedures governing applications in which applicants seek operating authority to provide a for-hire service in lieu of the supporting shippers' existing proprietary operations.

(a) *Scope of special rules.* These special rules govern the filing of applications in which an applicant is seeking to acquire a certificate or permit authoriz-

ing it to provide a for-hire service from and to points presently served by the supporting shipper in proprietary operations.

(b) *Filing of applications.* A motor carrier seeking to acquire a certificate or permit under this section shall in addition to submitting that information otherwise required under existing Commission rules and regulations, include in its caption summary of the authority sought (prepared for publication in the FEDERAL REGISTER), a sentence indicating clearly that "the sole purpose of its application is to substitute a for-hire service for the supporting shipper's proprietary operations". The territorial description should be appropriately limited to originate at or be destined to the facilities of the supporting shipper.

(c) *Notice.* Notice of a proposed service will be published in the FEDERAL REGISTER. This notice will indicate applicant's intention to substitute a for-hire service for the supporting shipper's proprietary operations.

(d) *Protests.* Protests may be filed (1) respecting the issue of need for the proposed service only by those carriers which are, or have been, participating in the supporting shipper's traffic at the involved origin facilities (i.e., conducting operations supplemental to shipper's proprietary carriage), and (2) by any interested carrier respecting applicant's fitness to provide the proposed service.

This notice of proposed rulemaking is promulgated under the authority in 49 U.S.C. 304, 303(a) (15), 309(b), and 307 and 5 U.S.C. 553, and was adopted formally at a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 21st day of September 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29816 Filed 10-13-77; 8:45 am]

[3410-05]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and Conservation Service

[7 CFR Part 728]

1978 WHEAT PROGRAM

Proposed Determinations Regarding National Program Acreage, Program Allocation Factor, Set-Aside, Diversion Payments, and Limitation on Planted Acreage

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Secretary of Agriculture proposes to make the following determinations with respect to the 1978 crop of wheat:

a. *National Program Acreage.* The Department is currently estimating wheat demand for the 1978-crop marketing year at 815 million bushels for domestic

use and 1,000 million bushels for export. Based on these estimates, less imports of 2 million bushels, divided by a proposed national weighted average farm program payment yield of 30.9 bushels the preliminary national program acreage would be 58.7 million acres. The national program acreage will be subject to revision as more information becomes available on expected utilization and establishment of farm program payment yields. The Department does not propose to adjust the national program acreage because of excessive carryover stocks.

b. *Program Allocation Factor.* This decision cannot be made until after the 1978-crop plantings have been determined. The Department proposes to make this determination following the August 1978 Crops Production Report.

c. *Whether there should be a set-aside requirement and if so, the extent of such requirements.* USDA press release 2444-77 issued August 29 announced the Department's intention for a 20 percent set-aside on the 1978 crop of wheat.

d. *Whether there should be provisions for land diversion payments and if so, the extent of such diversion and the payment therefor.* The Department proposes not to authorize land diversion payments under the 1978 program.

e. *Whether there should be a limitation on planted acreage and if so, the extent of such limitation.* The Department proposes not to place a limitation on the planted acreage of wheat for the 1978 program.

The above determinations are required to be made by the Secretary in accordance with provisions of the Agricultural Act of 1949, as amended.

DATES: This notice invites written comments on the proposed determinations. Comments must be received on or before November 14, 1977.

ADDRESSES: Acting Director, Production Adjustment Division, ASCS, USDA, Room 3630 South Building, P.O. Box 2415, Washington, D.C. 20013. Comments will be made available for public inspection at the Office of the Acting Director during regular business hours (8:15 a.m. to 4:45 p.m.).

FOR FURTHER INFORMATION CONTACT:

Bruce R. Weber, (ASCS), 202-447-4351.

SUPPLEMENTARY INFORMATION: The following determinations with respect to the 1978 crop of wheat are to be made pursuant to the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977 (Pub. L. 95-113).

a. *National Program Acreage.* Section 107A(d) (1) of the Agricultural Act of 1949, as amended by the Food and Agriculture Act of 1977, requires that the Secretary proclaim a national program acreage for wheat for each of the 1978 through 1981 crops not later than August 15 of each calendar year for the crop harvested in the next succeeding calendar year, except that in the case of the 1978 crop, the proclamation shall be

made as soon as practicable after enactment of the Food and Agriculture Act of 1977. Such national program acreage may, however, subsequently be revised for purposes of determining the allocation factor if the Secretary determines it necessary based on the latest information. Any revision shall be announced as soon as it has been made. The national program acreage shall be the number of harvested acres the Secretary determines (on the basis of the weighted national average farm program payment yield) will produce the quantity (less imports) that he estimates will be utilized domestically and for export during the marketing year for such crop. If the Secretary determines that carryover stocks are excessive or an increase in stocks is needed to assure a desirable carryover, he may adjust the national program acreage by the amount he determines will accomplish the desired decrease or increase in carryover stocks.

b. *Program Allocation Factor.* Section 107A(d) (2) requires the Secretary to determine a program allocation factor for each crop of wheat. The allocation factor shall be determined by dividing the national program acreage by the number of acres which the Secretary estimates will be harvested for such crop. The allocation cannot be more than 100 percent nor less than 80 percent.

c. *Whether there should be a set-aside requirement and if so, the extent of such requirement.* Section 107A(f) (1) requires the Secretary to provide for a set-aside of cropland if he determines that the total supply of wheat will, in the absence of such a set-aside, likely be excessive taking into account the need for an adequate carryover to maintain reasonable and stable supplies and prices and to meet a national emergency. The Secretary is required to announce any such set-aside not later than August 15, except that in the case of the 1978 crop, the announcement shall be made as soon as practicable after enactment of the Food and Agriculture Act of 1977. If a set-aside of cropland is in effect, then as a condition of eligibility for loans, purchases, and payments, the producers on a farm must set aside and devote to conservation uses an acreage of cropland equal to a specified percentage, as determined by the Secretary, of the acreage of wheat planted for harvest for the crop year for which the set-aside is in effect.

d. *Whether there should be provisions for land diversion payments and if so, the extent of such diversion for payment and the payment therefor.* Section 107A(f) (2) provides that the Secretary may make land diversion payments to producers of wheat, whether or not a set-aside for wheat is in effect, if he determines that such land diversion payments are necessary to assist in adjusting the total national acreage of wheat to desirable goals. Land diversion payments shall be made to producers on a farm who, to the extent prescribed by the Secretary, devote to approved conservation uses an acreage of cropland on the farm on the basis of land diversion contracts.

Amounts payable to producers under land diversion contracts may be determined through submission of bids for such contracts by producers in such manner as prescribed by the Secretary or through such other means as the Secretary determines appropriate. In determining the acceptability of contract offers, the Secretary shall take into consideration the extent of the diversion to be undertaken by the producers and the productivity of the acreage diverted. The Secretary shall limit the total acreage to be diverted under contracts in any county or local community so as not to affect adversely the economy of the county or local community.

e. *Whether there should be a limitation on planted acreage and if so, the extent of such limitation.* Section 107A(f) (1) also provides that the Secretary may limit the acreage planted to wheat. Such limitation shall be applied on a uniform basis to all wheat producing farms.

Prior to determining the 1978 national program acreage and allocation factor, consideration will be given to any data, views, and recommendations relative to the national average farm program yield, estimated domestic utilization of wheat, estimated exports, estimated carryover, estimated harvested acreage, and other data pertinent to the above determinations. Environmental and Economic Impact Statements are being prepared and will be available for public review and comment shortly.

Signed at Washington, D.C. on October 12, 1977.

STEWART N. SMITH,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 77-30274 Filed 10-13-77; 8:45 am]

[3410-05]

[7 CFR Part 792]

FEED GRAIN, RICE, WHEAT AND UPLAND COTTON PROGRAMS

Normal Crop Acreage and Set-Aside Acreage

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the normal crop acreage and set-aside acreage regulations to read as set below, requiring that normal crop acreages be established for farms instead of conserving bases. It would also require that the set-aside normally be land that was recently tilled, that the set-aside be protected by vegetative cover, and that harvesting or grazing of the cover be prohibited. These changes are proposed to make the set-aside more effective in controlling production and to assure that the set-aside is protected

PROPOSED RULES

from wind and water erosion. The material previously appearing under conserving base and designated set-aside acreage regulations would remain in effect for the programs to which they apply.

DATES: Comments must be received by November 14, 1977.

ADDRESSES: Send written comments to the Director, Production Adjustment Division, ASCS, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT:

Ernest Stevens (ASCS), 202-447-7633.

SUPPLEMENTARY INFORMATION: The Secretary is authorized by the Food and Agriculture Act of 1977 (Pub. L. 95-113) to require as a condition of eligibility for loans, purchases, and payments under the feed grain, rice, wheat, and upland cotton programs that cropland be set aside and devoted to conservation uses. He may also require, as a condition of eligibility for loans, purchases, and payments for any crop, that the acreage normally planted crops which he designates shall be reduced by the acreage of set-aside. The public is invited to submit written comments, suggestions, or objections regarding these proposed regulations. Each person writing shall include his name and address and should give reasons for any suggested changes. Copies of all written communications received will be available for examination by interested parties during regular business hours in Room 3617 South Building, U.S. Department of Agriculture, Washington, D.C.

It is proposed that 7 CFR Part 792 be revised to read as follows:

PART 792—NORMAL CROP ACREAGE AND SET-ASIDE ACREAGE

Sec.

- 792.1 Applicability.
- 792.2 Normal crop acreage.
- 792.3 Designation of set-aside acreage.
- 792.4 Care of set-aside acreage.
- 792.5 Use of set-aside acreage.
- 792.6 Cross compliance on the farm.
- 792.7 Offsetting compliance between farms.

AUTHORITY: Secs. 101(h), 103(f), 105A, 107A, Agricultural Act of 1949, as added by Pub. L. 95-113.

§ 792.1 Applicability.

This part provides the rules for determining the farm normal crop acreage and for designation, care and use of acreage set aside under the 1978-81 Feed Grain Program, Part 775 of this chapter, as amended; the 1978-81 Rice Program, Part 730 of this chapter, as amended; the 1978-81 Wheat Program, Part 728 of this chapter, as amended; the 1978-81 Upland Cotton Program, Part 722 of this chapter, as amended; and all other programs to which this part is made applicable by individual program regulations. The number of acres to be set aside for each program will be stated in the individual program regulations. In this part and in all instructions, forms and documents in connection with it, the words and phrases used shall, unless the con-

text or subject matter otherwise requires, have the meanings assigned to them in the regulations governing reconstitution of farms and allotments, Part 719 of this chapter, as amended, and in the regulations governing the programs to which this part is applicable.

§ 792.2 Normal crop acreage.

The normal crop acreage (herein called NCA) shall be acreage devoted in 1977 to the following crops for harvest, which for small grains shall be the acreage planted for harvest as grain and any volunteer acreage harvested for grain: barley, field corn, grain sorghum, rice, wheat, upland cotton, oats, rye, soybeans, flax, dry edible beans, sunflower, sugar beets, sugar cane, and any other major field crop significant acreage which is recommended by the State committee and approved by the Deputy Administrator, State and County Operations, ASCS. The 1977 acreage shall be determined, and adjusted when abnormal, in accordance with instructions issued by the Deputy Administrator.

§ 792.3 Designation of set-aside acreage.

(a) *Land eligible for designation.* Subject to the provisions of paragraph (b) of this section, the land eligible for designation as set-aside acreage must be cropland that was tilled within the previous three years in the production of a crop for other than hay or pasture, unless the county committee determines that the cropland was devoted in all of the previous three years to a hay crop that was in a normal rotation pattern with a small grain or row crop, or the cropland was designated as set-aside in any one year for which a set-aside program was in effect and was eligible when designated.

(b) *Land not eligible for designation.* Land will not be eligible for designation if it is:

- (1) Land which is designated as set-aside under any other program for the calendar year (year in which the set-aside is in effect).
- (2) Land for which a prevented planting or low yield payment is made for the calendar year.
- (3) Land which is harvested or grazed in the calendar year except as provided in § 792.5.
- (4) Land that is summer fallowed or clean tilled in the current year.
- (5) Turn rows, drainage ditches, wet low-flying areas, droughty knobs or banks, areas rejected by the county committee because of their small size or shape, or land in an orchard or vineyard and strips in skiprow planting patterns.
- (6) Land which at the time the set-aside acreage is designated is expected to be used in the current year or a later year for industrial development, housing, highway construction, or other non-farm use, and the land would not, in the absence of the program, be devoted in the current year to a crop for harvest.
- (7) Land devoted to nonagricultural use on or before September 30 of the current year, unless such land is acquired

by eminent domain and a representative of the State committee determines that it would not have been anticipated at the time of designation that the land would be devoted to nonagricultural use before the end of the current year.

(8) Land devoted to or considered devoted to a nonconserving use in the current year.

(9) Land from a receding lake or areas bordering a lake which the producer does not have title to or otherwise have authority to use for crops.

(10) Land planted to produce grain for wildlife on a State or National wildlife refuge.

(11) Land owned and operated by a State, county or local government unless the owner establishes to the satisfaction of the county committee that it has adequate equipment and other facilities readily available for the successful production of crops under a set-aside program and that the production of such crops is a normal practice for such land.

§ 792.4 Care of set-aside acreage.

(a) *Approved cover and practices.* The set-aside shall be devoted by the normal period for planting spring crops to one or more of the following approved covers:

(1) Annual, biennial, or perennial grasses and legumes, including volunteer stands other than weeds which meet the criteria set forth by the State committee, but excluding field and canning beans or peas, soybeans, and sweet sorghums.

(2) Small grains, including volunteer stands other than weeds which meet the criteria set forth by the State committee. They must be clipped to prevent seed formation except when approved for wildlife cover.

(3) Trees or shrubs planted for erosion control, shelterbelts, or other forestry purposes or for wildlife habitat during the current year or the fall of the preceding year, provided these practices are on designated set-aside acreage otherwise eligible under § 792.3.

(4) Terraces and sod waterways developed in the current year or the fall of the preceding year, provided these practices are on designated set-aside acreage otherwise eligible under § 792.3.

(5) Water storage developed for any purpose, including fish or wildlife habitat, during the current year or the fall of the preceding year, provided this practice is on designated set-aside acreage otherwise eligible under § 792.3.

(b) *Control of erosion, insects, weeds, and rodents.* The farm operator shall carry out such measures as are needed for the control of erosion, insects, weeds, and rodents on the set-aside acreage.

(c) *Land preparation for fall seeded crops.* Crops may be seeded on the set-aside acreage in the fall for harvest the next year. The land can be prepared in the fall and left bare only when recommended by the State Committee and approved by the Deputy Administrator.

§ 792.5 Use of set-aside acreage.

(a) *Restriction on harvesting.* No crop shall be harvested from the set-aside acreage in the current year, or after December 31 of the current year if the crop would normally mature and be harvested in the current year, except when approved under emergency situations in accordance with instructions issued by the Deputy Administrator. A crop may be harvested if the crop is one which matured in the year preceding the current year on land which was not designated as set-aside in such year and the harvesting was delayed because of adverse weather or other conditions beyond the control of the farm operator.

(b) *Restriction on grazing.* Grazing of set-aside acreage shall be prohibited except when approved under emergency situations in accordance with instructions issued by the Deputy Administrator.

§ 792.6 Cross compliance on the farm.

To qualify on the farm for loans, purchases, and payments authorized for crops included in the NCA, producers on a farm that produces one or more crops for which a set-aside requirement is in effect shall:

(a) Set aside the acreage required for each crop, and

(b) Limit the acreage of crops in the NCA to the NCA less the amount of the acreage which is required to be set aside.

§ 792.7 Offsetting compliance between farms.

(a) To qualify on any farm for loans, purchases, and payments authorized for crops included in the NCA, a landowner, landlord, or operator of a farm that produces one or more crops for which a set-aside is in effect shall assure that on each farm for which he is a landowner, landlord, or operator:

(1) The required acreage, if any, is set aside for each crop, and

(2) The acreage of crops in the NCA are limited to the NCA less the amount of the acreage which is required to be set aside.

(b) A landowner or landlord cannot escape responsibility for complying with paragraph (a) of this section by leasing for cash or other consideration all or part of a farm: *Provided*, That the landowner or landlord may be exempted from complying with paragraph (a) of this section if the county committee determines that a lease executed prior to October 3, 1977 prevents compliance.

(c) Any executor, trust officer, or farm manager responsible for the management of a farm shall be considered as the operator of the farm for purposes of paragraph (a) of this section when he receives a percentage of the farm income exceeding 10 percent of the crops or proceeds thereof for such management service.

(d) For purposes of paragraph (a) of this section, all persons or entities in each category listed below shall be considered as the same producer and fully responsible for the actions of any person or entity in that category:

PROPOSED RULES

(1) Husband and wife, except that the husband and wife may be considered as separate producers if the spouse receiving benefits does not share to any degree in crops or proceeds thereof from the other farm, ownership or managerial control of the other farm is not shared by such spouse, and there have been no changes in the ownership, operation, or managerial control of the other farm which would tend to defeat the purposes of paragraph (a) of this section;

(2) Minor children and the parent, guardian, or other person legally responsible for the minor unless the person does not occupy the same household as the minor and shares no interest in the farming operations of the minor;

(3) A partnership and any member of the partnership;

(4) A corporation and the majority stockholders of such corporation (in applying this rule, consider as the same producer a corporation and two or more stockholders with a combined majority interest in the corporation who do not comply with paragraph (a) of this section);

(5) An estate and heirs of the estate with over 50 percent interest in the estate (in applying this rule, consider as the same producer an estate and two or more heirs with a combined interest in the estate of over 50 percent who do not comply with paragraph (a) of this section);

(6) A trust and beneficiaries of the trust with over a 50 percent interest in the trust (in applying this rule, consider as the same producer a trust and two or more beneficiaries with a combined interest in the trust of over 50 percent who do not comply with paragraph (a) of this section);

(7) Different corporations, trusts or estates having common stockholders or beneficiaries with a combined majority interest.

(e) Notwithstanding the foregoing:

(1) Any person who places land in a trust the beneficiary of which is such person's parent, brother, sister, spouse, child or grandchild shall be considered the same producer as the trust for purposes of paragraph (a) of this section if he acts as the trustee or trust officer for the trust or in any other way retains management responsibility for the trust land even though he does not receive any share of the crops or proceeds thereof from the trust land;

(2) When the State committee, or the county committee with the approval of the State committee, determines that a corporation or trust was formed, modified, or used for the purposes of circumventing paragraph (a) of this section, the corporation and any stockholder of the corporation, or the trust and any beneficiary of the trust, shall be considered as the same producer and fully responsible for the actions of the corporation or trust or of any stockholder or beneficiary of the corporation or trust.

Issued at Washington, D.C., this 5th day of October 1977.

RAY FITZGERALD,
Administrator, Agricultural
Stabilization and Conservation
Service.

OCTOBER 5, 1977.

[FR Doc. 77-29977 Filed 10-13-77; 8:45 am]

[3410-02]

Agricultural Marketing Service

[7 CFR Part 982]

FILBERTS GROWN IN OREGON AND WASHINGTON

Proposed Free and Restricted Percentages for 1977-78 Marketing Policy Year

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposal would establish free and restricted percentages of 58 percent and 42 percent, respectively, for inshell filberts for the marketing policy year beginning August 1, 1977. The action is taken under the marketing order for filberts grown in Oregon and Washington to promote orderly marketing conditions.

DATES: Written comments to this proposal must be received by November 18, 1977.

ADDRESSES: Written comments should be submitted in duplicate to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250. All written submissions will be made available for public inspection at the office of the Hearing Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250, (202-447-3345).

SUPPLEMENTARY INFORMATION: This proposal was recommended by the Filbert Control Board. The Board is established under the marketing agreement, as amended, and Order No. 982, as amended (7 CFR Part 982), regulating the handling of filberts grown in Oregon and Washington. The amended marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The proposed percentages are based upon the following estimates by the Filbert Control Board for the 1977-78 marketing policy year:

Inshell supply:	Tons
(1) Total production.....	11,000
(2) Less substandard, etc.....	1,650
(3) Available supply.....	9,350
(4) Carryover August 1, 1977, of merchantable filberts.....	722

PROPOSED RULES

	Tons	Tons
Inshell supply—Con.		
(5) Total available supply (Item 3 plus Item 4)-----	10,072	
Inshell requirements:		
(6) Trade demand-----	5,400	
(7) Carryover July 31, 1978-----	700	
(8) Total-----	6,100	
(9) Less carryover August 1, 1977 not subject to 1977-78 regulation-----	722	
(10) Inshell requirement-----	5,378	
Percentages:		
(11) Free percentage (Item 10 divided by Item (3))-----	58	
(12) Restricted percentage (100 percent minus 58 percent)-----	42	

The free percentage prescribes that portion of the total merchantable supply which may be handled as inshell filberts. The restricted percentage prescribes that portion of the total merchantable supply which must be withheld from such handling. Restricted filberts may be shelled (for domestic or foreign consumption), exported, or disposed of in outlets determined by the Filbert Control Board to be noncompetitive with normal market outlets for inshell filberts.

The proposal is as follows:

§ 989.227 Free and restricted percentages for merchantable filberts during the 1977-78 marketing policy year.

The following percentages are established for merchantable filberts for the marketing policy year beginning August 1, 1977:

Free percentage ----- 58
Restricted percentage ----- 42

Dated: October 7, 1977.
CHARLES R. BRADER,
Deputy Director,
Fruit and Vegetable Division.
[FR Doc.77-29976 Filed 10-13-77;8:45 am]

[6170-01]

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[10 CFR Part 212]

AMENDMENTS TO THE MANDATORY PETROLEUM PRICE REGULATIONS—EXCHANGES

Extension of Public Hearing and Comment Period

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice to extend public hearing and comment period.

SUMMARY: On September 14, 1977, the Federal Energy Administration issued a Notice of Proposed Rulemaking and Public Hearing regarding refiner and reseller exchanges. A public hearing was scheduled in Washington, D.C. for October 13, 1977, 9:30 a.m.; and written comments were requested by October 11, 1977, 4:30 p.m. (42 FR 48342, September 23, 1977.)

The Economic Regulatory Administration ("ERA") of the Department of Energy ("DOE") has received several requests to extend the date for receipt of written comments and to reschedule the public hearing in order to give interested persons sufficient time to address the complex issues raised in the rulemaking.

The ERA believes that there is merit to these requests. Accordingly, ERA has determined to extend the hearing date, the comment period, and other related dates to provide additional time for interested persons to prepare comments. All dates as originally scheduled in the September 14 Notice are changed as set forth in the "DATES" Section of this Notice.

Each person selected to be heard will be so notified before 4:30 p.m., October 19, 1977 and must submit 100 copies of his or her statement to Regulations Management, Room 2214, 2000 M Street, NW., Washington, D.C., before 4:30 p.m., October 27, 1977. Any interested person may submit questions to be asked of any person making a statement at the hearings, to Executive Communications, DOE, before 4:30 p.m., October 27, 1977.

DATES: Comments by October 28, 1977, 4:30 p.m.; Requests to speak by October 17, 1977, 4:30 p.m.; Hearing date: October 31, 1977, 9:30 a.m.

ADDRESSES: Comments and requests to speak to: Executive Communications, Room 3317, Economic Regulatory Administration, Box PD, Washington, D.C. 20461; hearing location: Room 2105, 2000 M Street NW., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT:

Robert C. Gillette (Hearing Procedures), 2000 M Street, NW., Room 2214 B, Washington, D.C. 20461, 202-254-5201.

Issued in Washington, D.C. October 7, 1977.

DAVID J. BARDIN,
Acting Administrator, Economic Regulatory Administration,
Department of Energy.

[FR Doc.77-30280 Filed 10-13-77;10:27 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[6110-01]

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

COMMITTEE ON LICENSES AND AUTHORIZATIONS

Notice of Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of a meeting of the Committee on Licenses and Authorizations of the Administrative Conference of the United States, to be held at 11 a.m., October 25, 1977, in the offices of O'Melveny & Myers, 1800 M Street NW., Washington, D.C.

The Committee will meet to consider Professor Robert Hamilton's project on the regulatory use of consensus standards, and the status of Professor Marshall Breger's project of procedures for waivers and exemptions.

Attendance is open to the interested public, but limited to the space available. Persons wishing to attend should notify this office at least one day in advance. The Committee Chairman may, if he deems it appropriate, permit members of the public to present oral statements at the meeting; any member of the public may file a written statement with the Committee before, during or after the meeting.

For further information concerning this Committee meeting contact Joseph L. Scott, 202-254-7020. Minutes of the meeting will be available on request.

RICHARD K. BERG,
Executive Secretary.

OCTOBER 11, 1977.

[FR Doc.77-30067 Filed 10-13-77;8:45 am]

[3410-16]

DEPARTMENT OF AGRICULTURE

Soil Conservation Service

AUTHORIZATION OF FEDERAL ASSISTANCE IN THE INSTALLATION OF WORKS OF IMPROVEMENT

Federal assistance in the installation of works of improvement under the authority of the Watershed Protection and Flood Prevention Act (16 USC 1001-1008) has been authorized for the following watershed: 1. Avery Brook, Connecticut.

Date: September 29, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and

Flood Prevention Program—Pub. L. 83-566, 16 USC 1001-1008.)

JOSEPH W. HAAS,
Assistant Administrator for
Water Resources, Soil Conservation Service, U.S. Department of Agriculture.

[FR Doc.77-29985 Filed 10-13-77;8:45 am]

[6320-01]

[Order 77-10-35; Docket 30257]

CIVIL AERONAUTICS BOARD

CESKOSLOVENSKE AEROLINIE

Renewal of Foreign Air Carrier Permit; Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 11th day of October, 1977.

Pursuant to Order 75-11-85 approved by the President on November 20, 1975, the foreign air carrier permit held by Ceskoslovenske Aerolinie (CSA) authorizing the carrier to engage in foreign air transportation of persons, property, and mail between a point or points in Czechoslovakia and New York, via intermediate points, was extended with a termination date of December 31, 1976, which coincided with the expiration date of the United States-Czechoslovakia Air Transport Agreement of February 28, 1969, modified by Protocol dated May 24, 1972, and extended by Exchanges of Notes dated May 28, 1974, and July 29, 1975.

By Exchange of Notes dated August 12, 1977, the Agreement was extended to December 31, 1978. Before the expiration of its permit on December 31, 1976, CSA applied for permit renewal pursuant to terms that might be agreed in the extension of the Agreement. No person has filed an answer to the application. The Board finds that it is in the public interest to direct interested persons to show cause why applicant's foreign air carrier permit should not be renewed without hearing for a period terminating on December 31, 1978.

Since May 1970 CSA has continuously served the Prague-New York market with 1 or 2 weekly one-stop round-trip flights utilizing Russian-made IL-62 jet aircraft. The flights are usually routed over Amsterdam. On the basis of this history

¹ The permit was originally issued pursuant to Order 70-1-62, approved January 12, 1970. The specimen permit was filed as a part of the original document.

of successful operations, the Agreement extended by Note dated August 12, 1977, and the Board's findings in Orders 73-2-12, 75-5-105 and 75-11-85 with respect to the public interest and the carrier's fitness, we tentatively find and conclude that:

(a) Ceskoslovenske Aerolinie is fit, willing, and able properly to perform the foreign air transportation authorized by the specimen permit attached here and to conform to the provisions of the Act and the rules, regulations, and requirements of the Board thereunder;

(b) Ceskoslovenske Aerolinie is substantially owned and effectively controlled by nationals of the Czechoslovak Socialist Republic;

(c) It is in the public interest to renew the foreign air carrier permit of Ceskoslovenske Aerolinie for a period terminating on December 31, 1978;

(d) The public interest requires that the exercise of the privileges granted by this permit be subject to the terms, conditions, and limitations contained in the specimen permit attached here and to such other reasonable terms, conditions and limitations required by the public interest as may from time to time be prescribed by the Board;

(e) A hearing on the application of Ceskoslovenske Aerolinie is not required by the public interest; and

(f) The renewal of Ceskoslovenske Aerolinie's foreign air carrier permit is not a "major federal action significantly affecting the quality of the human environment" within the meaning of section 102(2)(C) of the National Environmental Quality Act of 1969, and will not be inconsistent with the policy objectives of the Energy Policy and Conservation Act of 1975 (EPACA).²

All interested persons will be given 21 days following the adoption of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to direct their objections, if any, to specific issues and to support such objections with detailed analyses. If an evidentiary hearing is requested, each objector should name the specific markets or other issues with respect to which a hearing is requested and should state, in detail, why such a hearing is necessary and what relevant and material facts he would ex-

² Since the permit does not provide for any change in existing service, there will be no negative impact on either the environment or fuel utilization.

pect to establish through such a hearing. Vague, general, or unsupported objections will not be entertained.

Accordingly, it is ordered that:

1. All interested persons be directed to show cause why the Board should not make final the tentative findings and conclusions here and why an order should not be issued, subject to approval by the President pursuant to section 801 of the Act, issuing a renewed foreign air carrier permit to Ceskoslovenske Aerolinie in the specimen form attached;

2. Any interested persons having objections to the issuance of an order making final the tentative findings and conclusions here or to the issuance of the proposed renewed foreign air carrier permit shall, within 21 days after adoption of this order, file with the Board and serve on the persons named in paragraph 5 a statement of objections specifying the part or parts of the tentative findings or conclusions objected to, together with a summary of testimony, statistical data, and such evidence expected to be relied upon to support the statement of objections;

3. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised before further action is taken by the Board: *Provided*, That the Board may proceed to enter an order in accordance with the tentative findings and conclusions here if it determines that there are no factual issues presented that warrant the holding of an evidentiary hearing;

4. In the event no objections are filed to this order, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions here; and

5. This order shall be served upon Ceskoslovenske Aerolinie, Pan American World Airways, Inc., the Ambassador of the Czechoslovak Socialist Republic, and the Department of State.

This order shall be published in the *FEDERAL REGISTER* and transmitted to the President.

By the Civil Aeronautics Board.¹

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-30074 Filed 10-13-77; 8:45 am]

[6320-01]

[Order 77-10-20; Docket Nos. 30487, 30673, 31491]

EASTERN AIR LINES, INC., ET AL.

Order Instituting an Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 7th day of October, 1977.

Application of Eastern Air Lines, Inc., for an amended certificate of public con-

¹ Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

² All members concurred.

venience and necessity for Routes 5 and 10, petition of the Louisville and Jefferson County Air Board, for institution of an investigation St. Louis-San Francisco/Oakland/San Jose nonstop route proceeding.

On February 14, 1977, Eastern Air Lines filed an application (Docket 30487) for nonstop authority in the St. Louis-San Francisco/Oakland/San Jose markets. On March 11, 1977, Eastern, filed a motion for hearing on its application in Docket 30487. Louisville and the Jefferson County Air Board (Louisville) filed a petition for an investigation of the air service needs of the Louisville-St. Louis and Louisville-San Francisco markets, including the issue of deleting the authority of Eastern and Trans World Airlines in the Louisville-St. Louis market. Contemporaneously, Louisville filed a motion to consolidate its petition with Eastern's application in Docket 30487.

In support of its motion, Eastern states that the St. Louis-San Francisco market, which had over 142,000 true O&D and interline connecting passengers or an average of 390 passengers per day in 1975, requires competitive service.¹ Eastern contends that TWA, the incumbent, is unable to handle the traffic demand of the market and cites several monthly nonstop load factors for the 12-month period ending June 30, 1976, which reached as high as 79 percent in December 1975. Eastern also contends that a large number of St. Louis-San Francisco passengers are forced to use one-stop service as a result of the limited nonstop seats available in the market. Eastern concludes that the market has a substantial potential for further growth and can support profitable competitive service.

Answers in support of Eastern's motion were filed by American Airlines, Louisville, and the St. Louis Authority-City of St. Louis. American urged the Board to consider removal of its one-stop restriction in the St. Louis-San Francisco market, alleging that it has already applied for such authority as part of its route realignment application, amended October 15, 1976, in Docket 28874.

An answer in support of the petition of Louisville was filed by Frontier Airlines, and an answer in opposition to Louisville's motion to consolidate was filed by TWA. Eastern, in a consolidated answer to Louisville's petition and motion to consolidate, urged dismissal of the petition and denial of the motion.

Answers in opposition to Eastern's motion were filed by Delta Air Lines, TWA, and the Port of Oakland. Delta argues that granting Eastern's request for St. Louis-San Francisco nonstop authority would divert a large amount of revenues from other carriers and that serious questions of third and fourth carrier

¹ TWA offers four daily nonstop round trips, 2½ daily one-stop round trips, and 1½ daily three-stop round trips in the market. American, subject to a one-stop restriction, provides three daily one-stop round trips. OAG, June 1, 1977.

competition are raised in the San Francisco-Atlanta/Jacksonville/Miami/Ft. Lauderdale/Orlando/Tampa markets.² TWA contends, that its load factors for the year ended December 1976 averaged 61 percent, that it will institute an additional nonstop round trip which will operate into San Jose and be extended into Oakland,³ that Eastern has no historic stake in the St. Louis-San Francisco market so that most of the revenue generated is diverted from incumbents, and that the diversion suffered by carriers such as TWA would not be offset by service benefits since Eastern's proposed service would duplicate service presently offered by TWA. Finally, Oakland opposes Eastern's motion because it believes, on the basis of Eastern's service proposal, that Eastern will serve only San Francisco and not Oakland if it receives the authority requested in the form of Oakland as one of a triple hyphenated point (San Francisco-Oakland-San Jose).

Upon consideration, we have decided to institute an investigation to consider the need for additional nonstop service in the St. Louis-San Francisco/Oakland/San Jose market. The market generated 142,140 true O&D and interline connecting passengers in 1975 and is one of the largest markets without competitive nonstop service. We believe that it offers the prospect of economic competitive nonstop service sufficient to require a priority hearing.

We will defer action on Louisville's petition for new or improved air service in the Louisville-St. Louis-San Francisco markets until after we reach a decision on priority of hearing standards.

If American files a timely application, we will consider removal of its one-stop restriction in the St. Louis-San Francisco market. We shall not, however, consolidate any portion of its realignment application in Docket 28874 into this proceeding.⁴ To ask the Board to extract single markets from route realignment requests whenever a particular route in the realignment application becomes the subject of a hearing would result in

² Delta's additional argument that Eastern's application should not be considered for hearing before the Daytona Beach and Sarasota/Bradenton petitions in Dockets 29113 and 29125, respectively, is moot. By Order 77-3-167, March 30, 1977, the Board instituted the *Atlanta-Daytona Beach/Sarasota-Bradenton Nonstop Proceeding* which consolidated both petitions.

³ TWA added this nonstop round trip which appears as flight 123 in the June 1, 1977, OAG.

⁴ The issues will include the question of whether the designation in the San Francisco area should include only one or more of the hyphenated cities.

⁵ Contrary to the carriers' assertion, it has not filed for removal of its one-stop restriction in Docket 28874. The St. Louis-San Francisco market is listed in Appendix F, page 8, of American's application in Docket 28874 as one of the "nonminor markets in which American is presently restricted and in which no improved authority is requested based on number of stops and circuitry."

unnecessary complications and confusion. In any event, if we were to consolidate part of Docket 28874 into this proceeding, we would be required by our rules to dismiss the remaining portion of the realignment application. See 302.12(d).

Finally, we will require all applicants who have not already done so to file information set forth in Part 312 of the Board's Procedural Regulations.⁴ All applicants will have 30 days from the date of adoption of this order to file their environmental evaluations.

Accordingly, IT IS ORDERED THAT:

1. The petition of the Louisville and Jefferson County Air Board in Docket 30673 be deferred;

2. The motion of Louisville and Jefferson County Air Board to consolidate its petition in Docket 30673 with Eastern's application in Docket 30487 be deferred;
3. The motion of Eastern Air Lines for hearing of its application in Docket 30487 be granted;

4. A proceeding to be known as the *St. Louis-San Francisco/Oakland/San Jose Nonstop Route Proceeding*, Docket 31491, be instituted and be set down for hearing before an administrative law judge of the Board at a time and place to be designated, as the orderly administration of the Board's docket permits;

5. The proceeding set for hearing in paragraph 4, above, shall include consideration of the following issues:

- (a) Do the public convenience and necessity require the certification of an air carrier or air carriers to engage in additional nonstop air transportation between St. Louis, Missouri, and San Francisco/Oakland/San Jose, California;

- (b) If the answer to (a) is in the affirmative, which carrier(s) should be authorized to engage in such transportation; and

- (c) What terms, conditions, and limitations, if any, should be placed upon the operation of such carrier(s)?

6. Any authority awarded in this proceeding shall be granted without eligibility for subsidy;

7. American Airlines, Delta Air Lines, Eastern Air Lines, Frontier Airlines, Trans World Airlines, Louisville and Jefferson County Air Board, the Port of Oakland, and the St. Louis Authority-City of St. Louis be made parties to this proceeding;

8. All carriers filing applications in this proceeding shall file environmental evaluations pursuant to section 312.12 of the Board's Procedural Regulations within 30 days from the date of adoption of this order; and

9. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed within twenty (20) days from the service date of this order

⁴ Eastern filed an environmental evaluation along with its motion for hearing.

⁵ This issue will include a consideration of whether the designation in the San Francisco area should include only one or more of the hyphenated cities.

and answers thereto shall be filed no later than fifteen (15) days thereafter.

This order shall be published in the *FEDERAL REGISTER*.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-30073 Filed 10-13-77; 8:45 am]

[6320-01]

[Order 77-10-21; Docket 30948]

RICH INTERNATIONAL AIRWAYS, INC. Order Granting Exemption and To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 6th day of October, 1977.

By application filed June 1, 1977, as amended July 27, 1977, Rich International Airways, Inc. (Rich), which holds a certificate of public convenience and necessity as a supplemental air carrier, requests an exemption from section 401 of the Federal Aviation Act of 1958, as amended (the Act), and from section 298.3 of the Board's Economic Regulations in order to permit it to operate one Cessna 402 aircraft (N-11RP)¹ as an air taxi operator under Part 298 of the Economic Regulations.²

In support of its application Rich observes that before it obtained its supplemental certificate, it was registered as a Part 298 air taxi operator, that the aircraft proposed for use here has a maximum passenger capacity of seven seats and a maximum payload capacity of 1,400 pounds; that use of this aircraft (or a comparably sized substitute aircraft) in on-demand air taxi services will add to the variety of services Rich offers as a fixed-base operator,³ that it occasionally receives requests by small groups for service to Ocean Reef, the Bahamas or other nearby locations for which the Cessna aircraft is ideally suited; that it anticipates that shippers will also occasionally use its on-demand service to ship small quantities of cargo; that the air taxi service will be insignificant in relation to Rich's supplemental cargo operations but will provide it an additional source of revenue; and that the air taxi service will be sufficiently distinct from its certificated operations to avoid any conflict between the two classes of operations.⁴ Rich states that

¹ All members concurred.

² Or to operate a substitute aircraft of similar size and operating characteristics.

³ Section 298.3 classifies an air taxi operator as a carrier that does not hold a certificate of public convenience and necessity.

⁴ Rich indicates that its fixed-base operations began in November 1976 and are currently limited to fueling aircraft, cleaning and waxing; packing and car rentals.

⁵ Rich states that in order to avoid the appearance of conflict it will qualify any air taxi advertising as "Services Provided with Light Twin Aircraft."

grant of this application will not have any of the results set forth in section 312.9(a)(2) of the Procedural Regulations.

No answers to the application have been filed.

We have considered Rich's application and have decided to grant the requested exemption for a two-year period, subject to conditions.

Rich's application is similar to applications granted by the Board in the past to supplemental air carriers. The Board has generally been willing to grant such exemptions when the scope of the air taxi authority has not exceeded the scope of the applicant's supplemental authority.⁵ This application seeks authority broader than generally authorized i.e., Rich's proposed air taxi authority is broader in scope than its supplemental certificate authority.⁶ Specifically, Rich desires to carry passengers in its air taxi service while its supplemental certificate restricts it to the carriage of property only. Also Rich has not limited its request for air taxi passenger and cargo authority to the same geographic area it is certificated to serve. The Board's concern in cases such as this has been that the holding of two different operating authorizations by the same person may create opportunities to circumvent the limitations contained in either authorization. However, in view of the limited extent of the air taxi operations contemplated, confined to the use of the a single aircraft with a maximum capacity of seven passengers or a 1,400 pound payload, and the great disparity between the payloads of the air taxi and the aircraft used by Rich in its certificated service, we believe that Rich's holding dual operating authority will not give rise to such problems. Nor do we believe that the holding of such authority would be adverse to the public interest. On the contrary, we believe that grant of the authority requested by Rich will enable that carrier to meet a limited public need by groups of 7 or less for air taxi charter service, or for the carriage of small loads of freight not readily suitable for carriage on certificated carrier charter services. The air taxi authorization will also be of benefit to Rich by generating additional operating revenues. Furthermore, grant of the authority would not be likely to have a harmful effect on

⁵ See, for example, *Modern Air Transport, Inc.*, Order E-20833, May 18, 1964, *Capitol Airways, Inc.*, Order 68-12-74, December 13, 1968 and *Evergreen Helicopters, Inc.*, Orders 75-10-23/24, September 26, 1975.

⁶ There have been several exceptions to the Board's general policy in this area. For example, by Order No. E-15485, dated June 30, 1960, Johnson Flying Service, Inc., was granted an exemption to conduct air taxi passenger service, on an infrequent and irregular basis, to Canada, although it was not certificated to engage in supplemental passenger air transportation to Canada. Also, by Order 71-2-32, dated February 5, 1971, McCulloch International Airlines, Inc., was granted an exemption to conduct a limited individually ticketed service.

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the operations of other air carriers, as is indicated by the absence of objections to the application. We note that Rich requested authority to perform only on-demand air taxi service. In order to clarify the nature of this service, and, further, in order to prevent any possible conflict between Rich's air taxi and supplemental operations, we will impose a condition restricting Rich's air taxi operations to charter trips, and we will require that any substitute aircraft used by Rich in its air taxi service have a maximum payload and passenger capacity no greater than that of the Cessna 402. We will also limit the authority granted here to a two-year period.⁸

In view of the above, the Board finds that enforcement of section 401 of the Act and section 298.3 of the Economic Regulations, insofar as they would otherwise prevent Rich from performing the air taxi operations authorized here, would be an undue burden on Rich because of the limited extent of, and unusual circumstances affecting, its operations, and would not be in the public interest.⁹ The Board further finds that this action is not a major Federal action within the meaning of the National Environmental Policy Act of 1969.

This action is not an endorsement by the Board that the proposed operation is a hardship which qualifies Rich for additional fuel allocation under the Mandatory Aviation Fuel Allocation Program administered by the Federal Energy Administration.

As a final matter, in reviewing the issues presented here by Rich's request for air taxi authority, we also reviewed an exemption which the Board granted Rich, prior to its becoming a certificated carrier, to conduct air taxi operations under Part 298 with C-46 aircraft in certain markets (Order 76-7-75, dated July 21, 1976). We have carefully considered the full extent of Rich's operating authority, and have tentatively concluded that the authority granted Rich by Order 76-7-75 became moot when Rich's supplemental certificate became effective, and should be revoked.

In support of our conclusions, we note that section 298.3 of the Economic Regulations defines an air taxi operator as a carrier that does not hold a certificate of public convenience and necessity or other economic authority from the Board. Thus, the blanket exemption granted to air taxis under Part 298 of the Economic

Regulations does not extend to a certificated carrier, such as Rich, unless the Board has specifically exempted that carrier from the requirements of Part 298. The Board did not so exempt Rich either in Order 76-7-75 or in the order awarding Rich a supplemental certificate (Order 77-1-100). Therefore, we tentatively find that Rich, as a certificated carrier, cannot conduct operations as an air taxi under the exemption to use C-46 aircraft conferred by Order 76-7-75; that, therefore, it is no longer in the public interest to continue the exemption authorization in Order 76-7-75; and that the exemption should be revoked.

However, before taking final action we will give interested persons 30 days from the date of service of this order to show cause why the tentative findings and conclusions set forth above should not be made final. We shall expect such persons to support any objections fully with detailed arguments of fact or law. General, vague, or unsupported pleadings will not be entertained.

Accordingly, it is ordered, That: 1. Rich be exempted from section 401 of the Act and section 298.3 of the Economic Regulations to permit Rich to perform charter trips as an air taxi operator, using one Cessna 402 aircraft (or a substitute aircraft that is not larger than the Cessna 402 in terms of maximum passenger or payload capacity);

2. In the conduct of this service Rich shall be deemed an "Air Taxi Operator" within the meaning of Part 298 of the Economic Regulations and shall comply with and be subject to all the provisions of that Part, including but not limited to, the registration, insurance and reporting requirements for air taxi operators;

3. These operations shall be conducted under the applicable safety requirements prescribed by the Administrator of the Federal Aviation Administration pursuant to an operating certificate and specifications issued by the Administration;

4. Rich shall submit any data requested of it by the Board's Bureau of Accounts and Statistics in accordance with the requirements of Part 241 for its air taxi operations;

5. The exemption granted in this order shall expire two years from the date of this order;

6. To the extent not granted in this order, the application of Rich in Docket 30948 be denied;

7. The authority conferred by this order may be amended or revoked at any time in the discretion of the Board without hearing;

8. All interested persons are directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here which would result in revocation of authority granted in Order 76-7-75;

9. Any interested person having objections to the issuance of an order making final such tentative findings and conclusions shall, within 30 days after the date of service of this order, file with the Board a statement of objections;

10. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues related before further action is taken by the Board; and

11. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.¹⁰

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-30072 Filed 10-13-77; 8:45 am]

[6320-01]

[Order 77-10-16; Docket 30976]

TRANS WORLD AIRLINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 6th day of October, 1977.

On June 9, 1976, Trans World Airlines (TWA) filed an application for an amendment of its certificate of public convenience and necessity for Route 147 for fill-up authority between the domestic coterminals of Boston and New York, Detroit and New York, and New York and Washington/Baltimore on flights operated in foreign or overseas air transportation. Contemporaneously, TWA filed a petition for issuance of an order to show cause.

In support of its petition, TWA states that its application meets the criteria for fill-up rights as enumerated in Order 77-4-153, April 29, 1977, in which it was tentatively concluded that Braniff, Northwest, and Pan American should receive fill-up authority between several domestic coterminals. The conditions set forth in Order 77-4-153 which TWA claims it fulfills are that: (1) It provides passenger service in the markets in issue; (2) it has provided service for a sustained period of time; (3) these markets are not under consideration in another proceeding; (4) TWA is operating with a high percentage of its capacity unfilled, and grant of fill-up authority will benefit it; (5) the grant of fill-up rights will not impose any substantial burden on the incumbent carriers in the markets involved because of the number of nonstop carriers, daily frequencies, and O&D plus interline connecting passengers in each market; and (6) it does not propose to add new services if it received the authority requested.

American Airlines filed an answer in opposition to TWA's petition. American claims that grant of fill-up rights to TWA will permit it to operate domestic service superior to what it can provide under its existing domestic authority, resulting in an important improvement

¹⁰ All members concurred.

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in its ability to compete in the markets in issue. In addition, American contends that fill-up authority will provide, by means of tacking, with many additional domestic routings not now available. As a result of gaining such valuable domestic traffic rights, TWA will have every incentive to exploit these flights. American argues, at the expense of its international service obligations. Finally, American questions whether the Detroit-New York market is appropriate for grant of fill-up authority because it is a medium rather than short-haul market and has only two carriers providing nonstop service.

TWA filed a timely reply to American's answer, which we will deny. We are becoming increasingly concerned about the number of unauthorized replies being filed by applicants merely because they want to have the last word. In this period of intensive route activity, these replies only increase the Board's workload; and where, as here, adequate justification for receiving the reply has not been shown (for example, TWA has not demonstrated that the answer contained new material which it could not have anticipated), we will not accept it.

We tentatively conclude that it is in the public interest to grant TWA fill-up authority in the New York-Boston/Detroit/Washington/Baltimore markets. In reaching this decision, we rely on the guidelines established in Order 77-4-153. We tentatively find that TWA is now providing service in each of the markets and has done so for at least three years.¹ Furthermore, we tentatively find that in light of TWA's load factors in each of the markets in issue, the grant of fill-up rights will benefit the carrier and the public.²

Also, we tentatively find that this grant will impose no substantial burden on the incumbent carriers. There are many of them, providing many nonstop frequencies in each of the markets, all of which are very large in terms of true O&D and interline connecting passengers. (O.A.G., North American Edition, July 15, 1977):

Market	BOS- NYC	DTW- NYC	NYC- WAS/ BAL
Number of nonstop carriers	5	12	11
Daily nonstop round trips	50	22	65
1976 true O&D plus interline connecting passengers	1,874,960	749,850	1,783,280

¹ United Air Lines holds dormant unrestricted authority.

² TWA provides two nonstop round trips per week in the New York-Boston market and one daily nonstop round trip in the New York-Detroit/Washington/Baltimore markets. O.A.G., North American Edition, July 15, 1977; O.A.G., International Edition, July 1977.

³ Total coach load factors for CY 1976 in each market were: 33.5 percent (New York-Boston), 48.13 percent (New York-Detroit), and 36.56 percent (New York-Washington/Baltimore).

TWA is unlikely to divert any significant amount of traffic from them, because it will serve Kennedy Airport in New York and Dulles Airport in its Washington/Baltimore services, and will have its flights tied to European points—in effect a long-haul restriction—which greatly reduces its ability to schedule increased frequencies as a result of obtaining fill-up rights. Finally, TWA will not be a new entrant in the three markets in issue because it is already authorized to provide service in those markets as part of its domestic authority (Route 2). Grant of fill-up rights will merely substitute long-haul restrictions to Europe for long-haul restrictions on its domestic authority.⁴

We disagree with American's assertion that TWA will gain a significant improvement in its ability to provide nonstop service between the cities in issue, that TWA will substantially improve its domestic authority, or that the Detroit-New York City market is unsuitable for fill-up authority. As we have already observed, TWA is unlikely to be able to increase its nonstop service between the cities involved because it must serve transatlantic points at least 2,895 miles east of New York. Nor will TWA significantly improve its domestic authority by tacking the fill-up rights with domestic routings. Although TWA will in theory be able to tack, in practice it will not be able to improve its domestic authority substantially. For example, even though it may be able to offer St. Louis-Detroit-New York service, its service would be tied to European services which significantly reduce its ability to offer more than a daily round trip in the market, and it can serve only Kennedy Airport, which lessens its appeal to the local traffic. The same rationale applies to any other tacking of domestic authority with the fill-up rights in issue. Finally, we find Detroit-New York is a suitable market for fill-up rights. The length of haul and the number of incumbent carriers offering nonstop service are not the only considerations in this decision.⁵ These are only two elements considered by the Board in assessing the impact that

⁴ TWA's authority (Route 2) in the three domestic routes is subject to the following restrictions: In the Boston-New York market, TWA's flights must originate or terminate at Dayton, Ohio, or a point west of Dayton; in the Detroit-New York market, TWA's flights must originate or terminate at Kansas City, Missouri, or a point west of Kansas City; and in the Baltimore/Washington-New York market, TWA's flights must also serve Tulsa or Oklahoma City, Oklahoma, or originate or terminate at Dayton, Ohio, or a point west of Dayton.

⁵ See Order 77-6-84, June 16, 1977, where the Board tentatively concludes that Pan American should receive fill-up authority in the New York-Dallas/Fort Worth market which is 1,391 miles compared to the New York-Detroit market which is 509 miles, C.A.B., Airport-to-Airport Mileages (26th ed.). Also, the New York-Dallas/Fort Worth market, like the New York-Detroit market, is served by only two unrestricted incumbent carriers.

fill-up authority will have on the incumbent carriers. In this case, we have tentatively concluded that the amount of diversion in each of the three markets concerned will be minimal because service between the domestic coterminals will be tied to service to European points, and will be via Kennedy Airport in New York and Dulles Airport in Washington/Baltimore.

Consequently, we tentatively find and conclude that the public convenience and necessity require that TWA be authorized to transport persons, property, and mail in interstate air transportation between New York, on the one hand, and Boston, Detroit, and Washington/Baltimore, on the other hand, on flights operated to overseas or foreign points pursuant to its certificate for Route 147.⁶

We also tentatively find that grant of fill-up rights to TWA in the three markets in issue will not be a "major Federal action significantly affecting the quality of the environment" within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969. The environmental evaluation accompanying TWA's petition stated that TWA does not intend to operate additional flights at Detroit Metropolitan Airport, Dulles Airport, Kennedy Airport, or Logan Airport if granted the fill-up authority it requests.

Interested persons will be given 30 days following adoption of this order to show cause why the tentative findings and conclusions set forth should not be made final. We expect such persons to direct their objections, if any, to specific markets, and to support such objections with detailed economic analysis. If an evidentiary hearing is requested, the objector should state, in detail, why such a hearing is necessary and what relevant and material facts he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, it is ordered, That: 1. Trans World Airlines motion for leave to file an unauthorized reply be denied;

2. All interested persons be directed to show cause why the Board should not issue an order making final the tentative findings and conclusions stated here and authorizing Trans World Airlines, Inc., to transport persons, property, and mail in interstate air transportation in the New York-Boston/Detroit/Washington/Baltimore markets on flights operated in foreign and/or overseas air transportation pursuant to its certificate for Route 147;

3. Any interested persons having objection to the issuance of an order making final the proposed findings, conclusions, and certificate amendments set

⁶ We further find that TWA is a citizen of the United States within the meaning of the Act, and is fit, willing, and able to perform properly the transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

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forth here shall, within 30 days after the date of adoption of this order, file with the Board a statement of objections together with a summary of testimony, statistical data, and such evidence as is expected to be relied upon to support the stated objections; answers may be filed 15 days thereafter;

4. If timely and properly supported objections are filed, full consideration will be accorded the matters or issues raised by the objections before further action is taken by the Board.

5. In the event no objections are filed, all further procedural steps will be deemed to have been waived, and the case will be submitted to the Board for final action; and

6. A copy of this order shall be served upon Trans World Airlines, Inc., and American Airlines, Inc.
This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.³

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 77-30071 Filed 10-13-77; 8:45 am]

[6325-01]

CIVIL SERVICE COMMISSION
DEPARTMENT OF DEFENSENotice of Grant of Authority To Make
Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission authorizes the Department of Defense to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Secretary (General Purpose Programs), Immediate Office, ODASD (General Purpose Programs), OASD (Program Analysis and Evaluation), Office of the Secretary of Defense.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc. 77-29866 Filed 10-13-77; 8:45 am]

[6325-01]

DEPARTMENT OF HEALTH, EDUCATION
AND WELFARENotice of Revocation of Authority to Make
a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Health, Education, and Welfare to fill by noncareer executive assignment in the excepted service the position of Deputy Director,

¹ All motions and/or petitions for reconsideration shall be filed within the period allowed for filing objections and no further motions, requests, or petitions for reconsideration of this order will be entertained.

² All members concurred.

Office of Consumer Affairs, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to
the Commissioners.

[FR Doc. 77-29867 Filed 10-13-77; 8:45 am]

[3510-12]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric
AdministrationRECEIPT OF APPLICATIONS FOR
CERTIFICATES OF EXEMPTION

Notice is hereby given that the following applicants have applied in due and timely form for Certificates of Exemption under Pub. L. 94-359, and the regulations issued thereunder (50 CFR Part 222, Subpart B), to engage in certain commercial activities with respect to pre-Act endangered species parts or products.

Applicants:

1. Mr. and Mrs. Tucker Lindquist, 7 Granite Street, Peabody, Mass. 01960.

Period of Exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(ii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from 30 sperm whale teeth.

2. Keith A. Henry, 310 Bayview Trailer Park, Middletown, R.I. 02840.

Period of Exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(ii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products consisting of 65 jewelry items and three etched whale teeth. Finished scrimshaw products to be made from three whale teeth.

3. James F. O'Connell & Beverly J. O'Connell, d/b/a The Scrimshaw Shop,

Main Street, Box 613, Dennisport, Mass. 02639.

Period of Exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products consisting of 162 finished jewelry items, 61 pieces of carved whale tooth and bone. Finished scrimshaw products to be made from 206 blanks and bits, 44 whale teeth and one whale jawbone containing 40 teeth.

4. Lucille Irene Barringer, 217 2nd Isle North, Port Richey, Fla. 33568.

Period of Exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from approximately 3,987 whale teeth.

5. Collector's World, Inc., Box 823, Route 6, Eastham, Mass. 02642.

Period of Exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products consisting of approximately 174 jewelry items and pieces of art, and 35 etched whale teeth. Finished scrimshaw products to be made from approximately 43 whale teeth.

6. Christos P. Alex, 44 Sugar Hill Drive, East Harwich, Mass. 02645.

Period of Exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products of approximately 29 etched whale teeth, and 2 items carved from whale jawbone.

7. William C. Mahoney, III, P.O. Box 1617, St. Augustine, Fla. 32084.

Period of Exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

(iii) The prohibitions, as set forth in section 9(a)(1)(F) of the Act, to sell or offer for sale in interstate or foreign commerce any such species part.

Parts or products exempted. Finished scrimshaw products to be made from 24 sperm whale teeth.

8. William F. Feeney, Tara Road, Matapalsett, Mass. 02739.

Period of Exemption. The applicant requests that the period of time to be covered by the Certificate of Exemption begin on the date of the original issuance of the Certificate of Exemption and be effective for a 3-year period.

Commercial activities exempted. (i) The prohibition, as set forth in section 9(a)(1)(A) of the Act, to export any such species part from the United States;

(ii) The prohibitions, as set forth in

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[3125-01]

COUNCIL ON ENVIRONMENTAL
QUALITYENVIRONMENTAL IMPACT STATEMENTS
Availability

The following is a list of environmental impact statements received by the Council on Environmental Quality from October 3 through October 7, 1977. The date of receipt for each statement is noted in the statement summary. Under Council Guidelines the minimum period for public review and comment on draft environmental impact statements is forty-five (45) days from this FEDERAL REGISTER notice of availability. (November 28, 1977) The thirty (30) day period for each final statement begins on the day the statement is made available to the Council and to commenting parties.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Errett Deck, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 307A, Washington, D.C. 20250, 202-447-6827.

Draft

Hiawatha National Forest Timber Plan, several counties, October 4: Proposed is a Timber Resource Plan for the Hiawatha National Forest for the period June, 1977 to June, 1987. The plan develops a potential yield of 1382 MCF; the initial programmed yield will be 53 percent of the planned potential yield. The plan also provides for the planting of 13,000 acres, seedling 12,200 acres, site preparation on 70,000 acres, TSI on 17,900 acres, and estimated 350 miles of road construction or reconstruction in the 10-year plan period. The Hiawatha National Forest is located in the state of Michigan and in the counties of Alger, Delta, Schoolcraft, Chippewa, and Mackinac. (ELR Order No. 71244.)

Gila National Forest Geothermal Leasing, Grant and Catron Counties, October 5: Proposed is the leasing under the Geothermal Act of 1970 of two Known Geothermal Resource Areas (8030 acres or 3251 hectares), and an area of noncompetitive leasing interest outside the KGRA (24,335 acres or 9852 hectares). This statement also covers a larger area (about 855,256 gross acres or 346,257 hectares) known as an area prospectively valuable for geothermal resources which includes both the Known Geothermal Resource Area and noncompetitive area. The major impacts on National Forest resources would involve volve soils, timber, outdoor recreation, natural beauty, water, forage, wilderness, and wildlife. (ELR Order No. 71253.)

Supplement

Teton-Jackson 115-kV Transmission Line (S-2), Teton County, October 4: This statement supplements a final EIS filed with CEQ in March of 1977 and a draft supplement filed in April of 1977. This final supplement provides additional discussion of the alternate Teton to Jackson transmission line routings that were covered in the final EIS. The Rural Electrification Administration intends to provide loan funds to Lower Valley Power and Light for an alternate route if the pro-

section 9(a)(1)(E) of the Act, to deliver, receive, carry, transport, or ship in interstate or foreign commerce, by any means whatsoever and in the course of a commercial activity any such species part;

Parts or products exempted. Finished scrimshaw products to be made from 50 pounds of whale teeth and 10 pounds of cross-cuts and scrap pieces of whale teeth.

Written comments on these applications may be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235 on or before November 14, 1977.

Dated: October 11, 1977.

MORRIS M. PALLOZZI,
Acting Assistant Director
for Fisheries Management.

[FR Doc. 77-30021 Filed 10-13-77; 8:45 am]

[6820-33]

COMMITTEE FOR THE PURCHASE
FROM THE BLIND AND OTHER
SEVERELY HANDICAPPED

PROCUREMENT LIST 1977

Proposed Addition

AGENCY: Committee for Purchase from the Blind and Other Severely Handicapped.

ACTION: Proposed Addition to Procurement List.

SUMMARY: The Committee has received a proposal to add to Procurement List 1977 a commodity to be produced by workshops for the blind or other severely handicapped.

COMMENTS MUST BE RECEIVED ON OR BEFORE: November 17, 1977.

ADDRESS: Committee for Purchase from the Blind and Other Severely Handicapped, 2009 14th Street North, Suite 610, Arlington, Virginia 22201.

FOR FURTHER INFORMATION CONTACT:

C. W. Fletcher, 703-557-1145.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2), 85 Stat. 77. If the Committee approves the proposed addition, all entities of the Federal Government will be required to procure the commodity listed below from workshops for the blind or other severely handicapped. It is proposed to add the following commodity to Procurement List 1977, November 18, 1976 (41 F.R. 50975):

Class 7210

Pillow, Bed, 7210-00-205-3205. For Supply Distribution Facilities in GSA Regions 1, 2, 3, 4, 5, 6, and 7 only.

C. W. FLETCHER,
Executive Director.

[FR Doc. 77-29986 Filed 10-13-77; 8:45 am]

posed route remains unavailable due to the lack of permits from the U.S. Department of the Interior. (ELR Order No. 71251.)

FOREST SERVICE

Draft

Upper Cispus Unit Plan, Gifford Pinchot National Forest, Lewis, Slamanian, and Yakima Counties, Wash. October 5: Proposed is the implementation of a comprehensive land use plan for the Upper Cispus Planning Unit, Gifford Pinchot National Forest. The Unit covers 183,960 acres of land, of which 114,630 acres lie in Lewis County, 64,930 acres lie in Skamania County, and 4,400 acres lie in Yakima County. Primary land allotments are for purposes of timber management, wilderness study, dispersed recreation, and allocation to key wildlife habitat. Adverse effects include those caused by additional people in the area. (ELR Order No. 71254.)

Final

Vernon Unit Plan, Kistatichie National Forest, Vernon County, Ia., October 5: Proposed is a 10-year management plan for the Vernon Unit, Kistatichie National Forest. The 81,874-acre unit is divided into 2 zones according to the degree of military use, ranging from "Intensive" to "Limited Use." This statement proposes timber management on 573 acres, site preparation on 437 acres, thinning on 2,500 acres, prescribed burning on 14,500 acres, and development of range facilities and trails. Adverse impacts include soil movement, stream siltation, and effects caused by timber harvesting. Comments made by: EPA, DOD, DOI, State and local agencies, and concerned individuals. (ELR Order No. 71259.)

Huston Park Sub-Unit, Medicine Bow National Forest, Carbon County, Wyo., October 5: Proposed is a revised land management plan for the 63,560 acre Huston Park Sub-Unit, Medicine Bow National Forest. The area has been divided into three management units with the primary resource values being a function of natural capability, managed suitability, resource availability and relative public needs. Adverse effects include the potential loss of wilderness characteristics within the 13,240 acres that could be developed for a variety of other resources and uses. Comments made by: AHP, DOI, USDA, State and local agencies, and concerned groups and individuals. (ELR Order No. 71261.)

DEPARTMENT OF COMMERCE

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

Draft

Massachusetts Coastal Zone Management Program, several counties, October 7: Proposed is the approval of the Coastal Management Program of the state of Massachusetts. Approval would permit implementation grants to be awarded to the state, and require that Federal actions be consistent with the program. The program will allow the state to better coordinate and more effectively implement existing state authorities for management of its coastal zone. Each coastal municipality will retain primary responsibility for managing land use along its coast. The program will entail irreversible commitment of some coastal resources. (ELR Order No. 71265.)

Final

Deletion of Exemption for Harvest of Bowhead Whale, October 7: Proposed is a recommendation by the International Whaling Commission which would delete the native exemption from the Commission's ban on the killing of bowhead whales. Bowhead whales have been completely protected from commercial whaling by the Marine Mammal Protection Act of 1972, the Endangered Species Act of 1973, and Convention on International Trade in Endangered Species of Wild Fauna and Flora. Conventions and Acts have allowed for native harvest of these whales. Deletion of this native exemption was recommended at the 29th Annual Meeting of the commission. This action will allow for the recovery of the species, if recovery is possible. Comments made by: DOC, SEQ, State and local agencies, and concerned groups and individuals. (ELR Order No. 71266.)

NOTICES

DEPARTMENT OF DEFENSE

ARMY CORPS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Arkansas-Red R. Basin Chloride Control, October 3: The proposed project calls for construction of a low-flow collection dam at river mile 25.3 on Salt Creek, a reinforced concrete pump-house structure, 2.3 miles of conveyance pipeline, access roads, and an off-stream evaporation pond system with 3 ponds. The project will reduce the natural pollution in Salt Creek by removing 150 tons of chloride per day, 10 tons of sulfates per day, and 6 tons of calcium per day. A total of 253 acres will be needed in fee and 112.5 will be needed in easement for the project. (Tulsa District.) (ELR Order No. 71233.)

St. Joseph Harbor Maintenance Operations, Michigan, October 4: Proposed are three maintenance activities for St. Joseph Harbor, Michigan: (1) maintenance dredging of the harbor and harbor entrance channel, (2) disposal of the dredged material, and (3) maintenance (rehabilitation) of the Federal structures. The proposed central disposal facility site would be located along the side of the Paw Paw River east of the North Shore Road and north of Klock Road. Maintenance dredging of sediments unsuitable for open water disposal would commence upon completion of the proposed disposal facility. Adverse effects include construction-related pollution and the long term suppression of benthic diversity. (Detroit District.) (ELR Order No. 71247.)

Frankfurt Harbor Operation & Maintenance, Benzle County, Mich., October 4: This statement proposes continued operation and maintenance of Frankfurt Harbor, Michigan, including dredging disposal of dredged material, and renovation of existing structures. It is also proposed that confined diked disposal facilities be constructed for containing 100,000 cubic yards of contaminated material from the commercial turning basin and the recreational anchorage area. Three sites are proposed for this purpose, two on the northern shore of Lake Betsie and the third on an upland site in the Fife Lake State Forest. (Detroit District.) (ELR Order No. 71248.)

Port Austin Harbor Operation & Maintenance, Michigan, October 4: Proposed is a project for dredging, facility maintenance operations, and structural repairs for Port Austin Harbor, Michigan. The proposed activities consist, specifically, of (1) maintenance dredging of the harbor and harbor entrance channel, (2) the disposal of the dredged material, and (3) rehabilitation of

the Federal structures. The proposed new island contained disposal facility would be located on the east side of the existing harbor, approximately 1,000 feet from the shoreline. Unavoidable adverse impacts of construction would include interference with road traffic and the attending safety hazard to residents, along with attendant noise and exhaust odors. (Detroit District.) (ELR Order No. 71249.)

Les Cheneaux Islands, Maintenance Dredging, Michigan, October 4: The proposed action is the construction of a confined disposal facility for contaminated dredged materials, and maintenance dredging of the Les Cheneaux Island channels. The disposal facility would be located inland, approximately two miles by road from the new village of Cedarville Marina. The channels to be maintained are approximately 40,000 feet in length and have previously been deepened to 7 feet and widened to 100 feet with additional enlargement where required. Adverse impacts include construction-related noise and air pollution, interference with recreational boating, and temporary loss of aquatic habitat. (Detroit District.) (ELR Order No. 71250.)

ENVIRONMENTAL PROTECTION AGENCY

Please refer to the separate notice published by EPA in this issue of the FEDERAL REGISTER for the appropriate EPA contact.

Draft

Wheel & Crawler Tractor Noise Emission Regulation, October 3: Proposed are the establishment of noise emission standards for newly manufactured wheel and crawler tractors and enforcement procedures to ensure that this equipment complies with the standard. The proposed regulation is intended to reduce the level of noise emissions from wheel and crawler tractors used in construction activities for loading and dozing operations. The regulation is also intended to establish a uniform national standard for this equipment distributed in commerce, thereby eliminating inconsistent state and local noise source emission regulations that may impose an undue burden on wheel and crawler tractor manufacturers. (ELR Order No. 71231.)

Truck-Mounted Solid Waste Compactors, Regulation, October 3: Proposed are the establishment of noise emission standards for newly manufactured compactors and procedures to ensure that this equipment complies with the standard. The proposed regulation is intended to reduce the level of noise emitted from truck mounted solid waste compactors used in collecting solid wastes. The regulation is also intended to establish a uniform national standard for this equipment distributed in commerce, thereby eliminating inconsistent state and local noise source emission regulations that may impose an undue burden on the truck solid waste compactor industry. (ELR Order No. 71232.)

Three Lakes Wastewater Treatment, October 4: The proposed project calls for the protection of the water quality of Grand Lake, Shadow Mountain Lake, Lake Granby, and their tributaries by the provision of wastewater collection and treatment facilities and the control of nonpoint pollution. The objective is also to provide these water quality controls while, at the same time, avoiding undesirable secondary impacts on area growth patterns, the Shadow Mountain National Recreation Area, water rights, and other aspects of the local environment. Six alternative wastewater treatment systems are analyzed, with one preferred system. (Region VIII.) (ELR Order No. 71243.)

Draft

Taunton R. Drainage Basin, 208 Plan, several counties in Massachusetts, October 3: This statement consists of the EPA Southeastern Regional Planning and Economic Development District's Section 208 Water Quality Management Plan for the Taunton River Drainage Basin area. It includes a discussion of the technical and management alternatives which have been considered to deal with water quality problems of the Taunton River Basin and Mt. Hope Bay from now through the next 20 years. (Region I.) (ELR Order No. 71236.)

Ten Mile R. Drainage Basin, 208 Plan, several counties in Massachusetts, October 3: This statement consists of the EPA Southeastern Regional Planning and Economic Development District's Section 208 Water Quality Management Plan for the Ten Mile River Drainage Basin. It includes a discussion of the technical and management alternatives which have been considered to deal with water quality problems of the Ten Mile River Basin from now through the next 20 years. (Region I.) (ELR Order No. 71237.)

Coastal Drainage Areas, 208 Wastewater Plan, several counties in Massachusetts, October 3: This statement consists of the EPA Southeastern Regional Planning and Economic Development District's Section 208 Water Quality Management Plan for the Coastal Drainage Areas. It includes a discussion of the technical and management alternatives which have been considered to deal with water quality problems of the Coastal Basin System from now through the next 20 years. (Region I.) (ELR Order No. 71238.)

Bus Noise Emission Regulation, October 4: Proposed are the establishment of noise emission standards for newly manufactured buses and enforcement procedures to ensure that these vehicles comply with the standard. The proposed regulation is intended to reduce the level of noise emitted from intercity, school, and urban transit buses. The regulation is also intended to establish a uniform national standard for such vehicles distributed in commerce, thereby eliminating inconsistent state and local noise emission regulations that may impose an undue burden on the bus manufacturing industry. (ELR Order No. 71246.)

Final

Upper Eagle Valley & Vail Wastewater Plan, Eagle County, Colo., October 4: Proposed is a 201 Wastewater Facilities Plan for the Upper Eagle Valley and Vail Region, Colorado. The plan has two component parts, one for 1985 and one for 1995. This statement relates to funding of the 1985 plan, which involves the following actions: upgrade of the Vail Treatment Plant and provision of flow equalization; enlargement of the Vail plant from 1.5 to 3.0 mgd capacity; upgrade of the Avon Plant (UEVSD) from 1.65 to 3.5 mgd capacity; and replacement of interceptors. Construction impacts include minor disturbance and/or destruction of vegetation and wildlife. (Region VIII.) Comments made by: USDA, FEA, DOI, HEW, DOT, and State and local agencies. (ELR Order No. 71245.)

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kaenders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, 202-566-0405.

Final

Federal Building, 1114 Commerce St., Dallas, Dallas County, Tex., October 6: The proposed project provides for major repair and

NOTICES

Improvement of 1114 Commerce Street in Dallas, Texas, which must be undertaken for its continued use as a Federal Building. Plans include: Improvement of existing air conditioning and heating systems, elevator replacement, modernization of office space, exterior repair work, replacement of windows, and installation of facilities for handicapped persons on all floors. The project will provide 220,000 occupiable square feet of improved office space for an estimated 1,500 persons. Short terms construction-associated inconveniences are anticipated. Comments made by: FPC, AHP, USDA, HEW, EPA, COE, DOI, DOD, State and local agencies, and concerned individuals. (ELR Order No. 71233.)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-6308.

Draft

Larchmont Natomas Development, Sacramento County, Calif., October 3: Proposed is the development of a residential development incorporating public and commercial land uses, containing 240 acres, 1,295 dwelling units, and an ultimate population estimated at 4,250. The project is located in the community of Rancho Cordova, Calif. The development of the project will have adverse impacts on air quality, transportation, noise, and energy consumption. (ELR Order No. 71241.)

The Meadows/Foothill Green, Jefferson County, Colo., October 5: Proposed is the acceptance for HUD/FHA mortgage insurance purposes of The Meadows and Foothill Green Developments in Jefferson County, Colo. The developers of The Meadows and Foothill Green are proposing to build 199 single family detached units, respectively, in their first filings in the southwest Denver Metropolitan area. The construction of both will adversely impact the Regions air quality in both the primary effect of increased fugitive dust and the secondary effects of transportation, commercial development, and industrial and utility services. (ELR Order No. 71255.)

Fairmont Park Subdivision, Harris County, Tex., October 5: Proposed is the acceptance for HUD/FHA mortgage insurance purposes of the Fairmont Park Subdivision in the city of La Porte, Tex. Approximately 470 acres remain to be developed in the existing planned community, totalling 1,179 acres; the project will provide housing for approximately 4,845 persons in single family homes. Adverse effects resulting from project implementation include increased groundwater consumption and increased demand for fossil fuels through dependence on the automobile for transportation. (ELR Order No. 71260.)

Bear Creek Village Subdivision, Harris County, Tex., October 5: The proposed action is for the Department of HUD to accept for HUD/FHA mortgage insurance purposes the 662-acre Bear Creek Village Subdivision located in Harris County, Texas. When completed in approximately five years, the subdivision will contain approximately 1,846 single-family homes plus some attached single-family and multi-family housing, and shopping and recreational facilities. Adverse impacts include the loss of agricultural land and in increased demand for fossil fuels through heavy dependence on the automobile for transportation. (ELR Order No. 71262.)

Final

The Oaks at Glenwood, Middlesex County, N.J., October 5: Proposed is the issuance of FHA mortgage insurance pursuant to Sec-

tion 221d4 of the U.S. Housing and Urban Development Act of 1965 for the development of a 1,224 unit garden apartment development, to include on-site recreation facilities and parking for 2,065 automobiles, located in Madison Township. Adverse effects include degradation of air and water quality. Thirty percent clearance of existing vegetation in the project area will result, with subsequent partial replacement by landscaping. Comments made by: DOI, USDA, DOT, NRC, COE, GSA, VA, AHP, ERDA, HUD, FPC, State and local agencies. (ELR Order No. 71252.)

Parkway Forest Subdivision, Harris County, Tex., October 3: Proposed is the approval, for mortgage insurance purposes, of the 543.42-acre Parkway Forest Subdivision in eastern Harris County, Tex. The development plan calls for construction of 2,680 housing units with additional acreage reserved for commercial, open space, and recreational uses. Plant and animal communities currently existing on the site will be disrupted. The action will also result in increases in automobile traffic, vehicle emissions, and noise levels. Comments made by: AHP, DOT, EPA, COE, USDA, DOI, State agencies, concerned groups. (ELR Order No. 71239.)

Atascocita Subdivision, Harris County, Tex., October 5: Proposed is the granting of HUD/FHA approval for the proposed Atascocita Subdivision for home mortgage insurance purposes. Johnson-Loggins, Inc. is developing the approximately 5,234 acre subdivision, and envisions the construction of approximately 16,255 dwelling units with additional acreage reserved for commercial, school, open space, and recreational use. Adverse effects include localized increases in air and noise pollution, and alternation of plant and animal communities in Atascocita. Comments made by: AHP, EPA, COE, DOI, State and local agencies, interest groups. (ELR Order No. 71258.)

Section 104(h)

The following are Community Development Block Grant statements prepared and circulated directly by applicants pursuant to section 104(h) of the 1974 Housing and Community Development Act. Copies may be obtained from the office of the appropriate local chief executive. (Copies are not available from HUD.)

Final

Yonkers, N.Y.—South Westchester Executive Park, Westchester County, N.Y., October 3: The proposed action is the construction of a new east-west vehicular thoroughfare in northwest Yonkers, N.Y. The new road will begin at Nepperhan Avenue, run parallel to and north of King Street, through the South Westchester Executive Park, and terminate at North Broadway. The 4-lane facility will replace Odell Avenue as the east-west truck route between Nepperhan Avenue and North Broadway and will serve as the major access route to Executive Park. Completion of the project will result in loss of vegetation, alteration of topography, and other construction related impacts. Comments made by: FPC, COE, DOT, DLAB, USDA, EPA, DOI, State and local agencies, concerned groups and individuals. (ELR Order No. 71238.)

DEPARTMENT OF THE INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Department of the Interior, Room 4256, Interior Bldg., Washington, D.C. 20240, 202-343-3891.

BUREAU OF RECLAMATION

Draft

New Melones 230-kV Transmission Line, several California counties, October 3: The

NOTICES

proposed project entails construction of about 23 miles of 230-kV electric transmission line from the New Melones Switchyard to the P.G. & E. Co. Bellot-Herndon No. 2 line near Oakdale, Calif. The line would be constructed in conformity with an agreement between the Bureau of Reclamation and the power company. It will deliver power into the P.G. & E. grid and on to the Bureau of Reclamation load center at Tracy Switchyard over power company facilities, crossing lands in Calaveras, Tuolumne, and Stanislaus Counties. About 285 acres of land will be devoted to transmission line right-of-way. (ELR Order No. 71234.)

DEPARTMENT OF LABOR

Contact: Mr. David R. Bell, Chief, Office of Environmental and Economic Impact Assessment, Occupational Safety and Health Administration, Room N-3673, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Draft

Toxic Substances 1.D., Class., and Reg. October 6: Proposed is a new general regulation of toxic substances in American workplaces that may pose a carcinogenic risk to workers. This broad rule-making proceeding is intended to establish: new procedures and a regulatory framework for regulating exposures to potential occupational carcinogens; OSHA's scientifically based policies concerning the identification and classification of potential occupational carcinogens; and three model standards for use in specific rulemakings involving such substances. (ELR Order No. 71264.)

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Howard Shapor, Office of General Counsel, Nuclear Regulatory Commission, Washington, D.C. 20555, 301-492-7308.

Supplement

Koshkonong Nuclear Plant, 1 and 2 (S-1), October 5: This statement supplements a draft EIS for the Koshkonong Nuclear Plant, Unit Nos. 1 and 2. On August 4, 1977, the Wisconsin Electric Power Co. advised the presiding Atomic Safety and Licensing Board that a decision had been made to relocate the proposed plant from the Koshkonong site to a site designated as Haven located in Sheboygan County, Wis. As a result, the NRC staff has ceased all review activity associated with the Koshkonong project. This document presents the comments received by the NRC on the draft EIS. (ELR Order No. 71257.)

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-4357.

Draft

T.H. 101 Shakopee By-Pass, Scott County, Minn. October 3: Proposed is the construction of relocated Minnesota Highway 101 (T.H. 101) in Scott County, Minn. The project begins at U.S. 169 in Jackson Township southeast of the city of Shakopee, proceeds easterly through Shakopee for 8.5 miles and ends on T.H. 101 at the west edge of the city of Savage. The action will provide a four-lane divided freeway with full access control, constructed to rural design standards. Of the 550 acres of additional right-of-way, 300 acres are agricultural and 8 acres are wetlands. (Region 5.) (ELR Order No. 71242.)

FEDERAL HIGHWAY ADMINISTRATION

Final

Project U160-2(14) Through Alamosa, Alamosa County, Colo., October 3: Proposed is the design and staged construction of a

highway facility or facilities from a point 2.5 miles west of the intersection of U.S. Highways 160 and 285 in the City of Alamosa, to a point approximately 2.5 miles east of the intersection of U.S. 160 and State Highway 17 east of Alamosa. The selected proposed alternate is a 4-lane rural primary highway facility with a proposed alignment of 8.2 miles. General impacts include the disturbance of the Rio Grande River during construction of bridges, and the temporary disturbance or destruction of vegetation. (Region 8.) Comments made by: EPA, DOI, HUD, USDA, HEW, COE, State and local agencies. (ELR Order No. 71240.)

Southern Tier Expressway, Hinsdale-Erie, Cattaraugus and Chautauque Counties, N.Y., October 3: Proposed is the completion of a 4-lane limited access highway within 12 alternate corridors through the terminal of Hinsdale, N.Y., and Erie, Pa. This action would complete the Development Highway originally proposed by the Appalachian Regional Commission as Corridor T, which extends from Binghamton, N.Y., to Erie, Pa., and which is commonly referred to as the Southern Tier Expressway. Construction sites for the recommended route lie in a 16-mile section between Allegheny and Salamanca, and a 28-mile section between Benus Point and Interstate 90. Adverse effects include increased air, noise, and water pollution. Comments made by: EPA, USDA, HEW, AHP, COE, DOT, State and local agencies. (ELR Order No. 71235.)

Seventeenth St. Extension, Altoona, Blair County, Pa., October 5: The statement concerns the relocation of Seventeenth Street to provide a 4-lane free access facility approximately one mile in length to serve as an artery into the downtown area from existing U.S. Route 220. The project will displace between 57 and 100 families, depending upon the alternate selected, and will subject another 13 to 33 residences to interior noise levels. Comments made by: USDA, DOI, EPA, ARC, State, and local agencies. (ELR Order No. 71256.)

NICHOLAS C. YOST,
Acting General Counsel.

[FR Doc. 77-30203 Filed 10-13-77; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force
ENVIRONMENTAL DETERMINATION

OCTOBER 7, 1977.

On April 19, 1976 the Department of the Air Force announced in the FEDERAL REGISTER (page 15038) its intent to prepare Environmental Impact Statements (EISs) on certain proposed management actions announced by Secretary of the Air Force Thomas C. Reed on March 11, 1976.

Among the actions for which an EIS was to be prepared was the transfer of KC-135 tankers to the Air Reserve Forces at General Billy Mitchell Field, Wis. After careful review of the Environmental Impact Assessment (EIA) it was determined that the proposed action was not a major Federal action significantly affecting the quality of the human environment nor was it likely to be highly controversial with regard to its environmental impacts. This conclusion is based on the following:

a. The proposed action would result in an increase of approximately 190 guards-

men including 40 air technicians who are full-time civilian employees of the unit. The personnel increase, being largely recruited from area residents, would not create any significant environmental impact. Construction and alterations to support the proposed action would amount to approximately \$2.2 million and would be confined to airport areas that have already been developed. There would be no significant impacts associated with the proposed construction and alterations.

b. KC-97Ls of the 128th ARG presently contribute less than 3.2% of the daily jet takeoffs and landings at General Mitchell Field. Military aircraft operations would decrease from approximately 3.5 KC-97 sorties/day to 2.3 KC-135 sorties/day or 2.9% of the present jet traffic at General Mitchell Field.

c. Analysis of the proposed new noise patterns, using worst case assumptions, indicates an increase of 649 acres impacted by noise levels of L_{50} 75 or greater. Of this acreage, 496 acres is on airport property or adjacent highways. Thirty-five acres are classified as conditionally compatible. Only 118 acres of the increased impacted area contains uses considered incompatible. This consists of 21 acres of low density and 81 acres of medium density residential development and 16 acres of the Clement Avenue School athletic field. These areas, currently falling within the 72-74 L_{50} contours, would lie within the 75-77 L_{50} contours as a result of the proposed action.

d. Under normal conditions, aircraft operations would be conducted during daytime hours (0730 to 2200 hours). Nighttime or Sunday flying would only occur very infrequently. At least half of the proposed 3.2 flights/day would be expected to occur before or after school hours, with no flights expected on Mondays. It is expected that a majority of the 128th ARG sorties departing Milwaukee would have a gross weight of 200,000 pounds or less. The noise calculations, (see para c above) being based on the worst case assumptions, used much heavier takeoff weight. The lighter weights would result in an increased rate of climb and a reduction in the actual noise impact on the ground.

e. The City of Milwaukee and General Mitchell Field lie within the Illinois-Indiana-Wisconsin Interstate Air Quality Maintenance Area for suspended particulates, photo-chemical oxidants and sulfur dioxide. Air pollutant emissions data from the Southeastern Wisconsin Regional Planning Commission shows General Mitchell Field to be a minor contributor to the Milwaukee County pollution emission levels. The Air Force Civil Engineering Center estimates that the proposed conversion would result in a decrease in emissions for all pollutants except SO_x , and visible smoke. SO_x emissions from National Guard aircraft would increase by 0.1 metric tons/year from 2.35 metric tons/year to 2.45 metric tons/year. Visible emission would increase; however, particulate emission levels

would decrease. Total hydrocarbons, precursors of photo-chemical oxidants would also decrease.

f. The proposed action has been widely publicized in the local area and has been discussed by Wisconsin Air National Guard officials, National Guard Bureau and Air Staff representatives with local authorities and civilian groups. No opposition or adverse concern has surfaced from these activities.

For the reasons outlined above, the United States Air Force has decided not to file a Draft Environmental Impact Statement with the Council on Environmental Quality (CEQ) but has prepared an Environmental Determination.

Inquiries or requests for copies of the Environmental Determination and the supporting documentation should be submitted to Dr. Carlos Stern, Deputy for Environment and Safety, (SAF/MIQ), Office of the Secretary, Department of the Air Force, Pentagon, Washington, D.C. 20330.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 77-29987 Filed 10-13-77; 8:45 am]

[3810-70]

Office of the Secretary
DEFENSE SCIENCE BOARD TASK FORCE
ON CRUISE MISSILES
Advisory Committee Meeting

The Defense Science Task Force on Cruise Missiles will meet in closed session on November 1 and 2, 1977 at the National Security Agency, Fort Meade, Md.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Director of Defense Research and Engineering on overall research and engineering policy and to provide long-range guidance to the Department of Defense in these areas.

The Task Force will provide an analysis of the major issues concerning strategic cruise missile employment, theater cruise missile employment, and potential defenses to the U.S. deployment of cruise missile systems.

In accordance with Section 10(d) of Appendix I, Title 5, United States Code, it has been determined that this Task Force meeting concerns matters listed in Section 552b(c) of Title 5 of the United States Code, specifically subparagraph (1) thereof, and that accordingly this meeting will be closed to the public.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

OCTOBER 8, 1977.

[FR Doc. 77-29988 Filed 10-13-77; 8:45 am]

NOTICES

[6740-02]

FEDERAL ENERGY REGULATORY COMMISSION

[Docket Nos. RP73-112, RP74-92 and RP75-88]

ALGONQUIN GAS TRANSMISSION CO.

Filing of Stipulation and Agreement in Settlement of Rate Proceeding

OCTOBER 6, 1977.

Take notice that on September 26, 1977, Algonquin Gas Transmission Corporation (Algonquin) and its "regular resale customers", Bay State Gas Company, et al., jointly filed a proposed Stipulation and Agreement "in settlement of all outstanding issues in the above-captioned proceedings." Algonquin requests that the Stipulation and Agreement be approved by the Commission as a basis for resolving and terminating these rate proceedings which are now pending before the Commission following issuance of initial decisions in each docket.

Any person desiring to be heard or comment upon the proposed Stipulation and Agreement should file initial comments on or before October 28, 1977. Reply comments, if any, should be filed on or before November 21, 1977. Such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30076 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket Nos. RP73-112, RP74-92 and RP75-88]

ALGONQUIN GAS TRANSMISSION CO.

Filing of Revised Service Agreements Under Rate Schedule SNG-1 Extending Term of Agreement

OCTOBER 6, 1977.

Take notice that Algonquin Gas Transmission Company ("Algonquin Gas") on September 26, 1977, tendered for filing revised executed service agreements for service under Rate Schedule SNG-1. Such revised service agreements are filed to implement a proposed Stipulation and Agreement, filed September 26, 1977, which if adopted will resolve all issues in Algonquin Gas' rate proceedings at Docket Nos. RP73-112, RP74-92, and RP75-88.

Algonquin Gas states that its Stipulation and Agreement in Docket Nos. RP73-112, et al., among other things, provides for a reduction of the basic

depreciation rate for the SNG plant, conditioned upon execution of new service agreements extending the term from the presently effective 10-year period to 14 years. The revised service agreements are substantively the same as the presently effective service agreements with each SNG customer, except for the extension of term of agreement.

The proposed effective date for the revised service agreements is as of the effective date of the Stipulation and Agreement in Docket Nos. RP73-112, et al.

Any person desiring to be heard or to make any protest with reference to said revised service agreement filing should on or before October 28, 1977, file with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing thereon must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30077 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. RP76-98]

ALGONQUIN GAS TRANSMISSION CO.

Rate Schedule SNG-1 Cost of Service Report

OCTOBER 7, 1977.

Take notice that on September 30, 1977, Algonquin Gas Transmission Co. ("Algonquin Gas") submitted its cost of service report ("Report") related to Rate Schedule SNG-1 for the 12 months of October 1, 1976 through September 30, 1977. This Report is filed pursuant to the provisions of Algonquin Gas' Purchased Feedstock Adjustment Clause ("PFAC") contained in Section 10.8 of Rate Schedule SNG-1 and the Commission's Order, issued May 23, 1977, in Docket Nos. RP76-15 and RP76-98, "Approving Settlement Agreement and Extending Purchased Feedstock Adjustment Clause for One Year".

The Report is based upon and conforms to a Stipulation and Agreement in settlement of Algonquin Gas' rate cases in Docket Nos. RP73-112, RP74-92, and RP75-88. Such Stipulation and Agreement was filed with the Commission on September 26, 1977.

The Report shows that the revenues exceed cost by \$219,702 under Rate Schedule SNG-1 during the 1976-1977 winter season.

Algonquin Gas states that a copy of this filing has been served on all affected customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 21, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30078 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-620]

CONNECTICUT LIGHT AND POWER CO.

Transmission Agreement

OCTOBER 6, 1977.

Take notice that on September 28, 1977, The Connecticut Light and Power Co. (CL&P) tendered for filing a proposed rate schedule with respect to the Transmission Agreement dated June 29, 1977 between (1) CL&P, The Hartford Electric Light Co. (HELCO) and Western Massachusetts Electric Co. (WMECO) and (2) Holden Municipal Light Department (HMLD).

CL&P states that the Transmission Agreement provides for a transmission service to HMLD during the period from July 1, 1977 to October 31, 1977.

CL&P further states that the transmission charge rate is a monthly rate equal to one-twelfth of the annual average cost of transmission service on the NU system determined in accordance with Section 13.9 (Determination of Amount of Pool Transmission Facilities (PTF) Costs) of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee, multiplied by the number of kilowatts which HMLD is entitled to receive.

CL&P requests an effective date of July 1, 1977 for the Transmission Agreement, and therefore requests waiver of the Commission's notice requirements.

CL&P indicates that copies of this rate schedule have been mailed or delivered to HELCO, Hartford, Conn.; WMECO, West Springfield, Mass. and HMLD, Holden, Mass.

Any person desiring to be heard or to protest said application should file a pe-

tion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30079 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. RP77-140]

CONSOLIDATED GAS SUPPLY CORP.

Proposed Changes in Rates and Charges

OCTOBER 7, 1977.

Take notice that Consolidated Gas Supply Corp. (Consolidated), pursuant to Section 4 of the Natural Gas Act and Section 154.63 of the Commission's Regulations thereunder, tendered for filing on September 30, 1977, proposed changes in its FPC Gas Tariff, Third Revised Volume No. 1 and Original Volume No. 2 to become effective on November 1, 1977.

The proposed rate changes would increase Consolidated's revenues from jurisdictional sales and services by \$79.5 million based on the twelve months ended June 30, 1977, adjusted for known changes for a nine-month period through March 31, 1978. The total increase reflects \$4.2 million of decreased gas supply costs from conventional suppliers. In addition the changed rates reflect costs of liquefied natural gas (LNG) not previously reflected in Consolidated's rates.

In addition to the costs of LNG, Consolidated states that the increased rates are required to recoup, inter alia, increased costs of transportation of gas by others, increased depreciation rates, increased rate base, and increased operating expenses. The rates proposed include an overall rate of return of 11.25 percent. In addition Consolidated proposes to change for billing and operating purposes from a volumetric (Mcf) to an energy basis expressed in dekatherms (dt). Consolidated has adopted full cost accounting for unsuccessful wells for the period January 1, 1973 through April 30, 1977 and provided for the normalization of intangible drilling costs incurred for the period January 1, 1973 through October 31, 1975 on leases acquired prior to October 8, 1969. Depreciation rates for certain production facilities located in Appalachian-West Virginia and Virginia are proposed to be changed from the

present rate of 2.41 percent to a unit of production rate.

In addition, Consolidated submits detailed studies to demonstrate that special circumstances exist which justify cost-of-service treatment for Consolidated's Appalachian production from leases acquired after October 8, 1969 and from wells connected after January 1, 1973 on leases acquired prior to October 7, 1969.

Finally, Consolidated states that Statement P will be filed within fifteen days of this filing.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 21, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30080 Filed 10-13-77; 8:45 am]

[Docket No. RP78-1]

[6740-02]

EAST TENNESSEE NATURAL GAS CO.

Petition for Advance Approval of Flow-Through of Emergency Gas Supply and Transportation Costs

OCTOBER 7, 1977.

Take notice that on October 3, 1977, East Tennessee Natural Gas Co. (East Tennessee) tendered for filing a petition for advance approval to flow-through under its PGA provision the purchased gas cost and transportation cost associated with an emergency purchase to be made pursuant to Section 2.68 of the Commission's General Policy and Interpretations.

East Tennessee states that it has contracted with an intrastate pipeline for an emergency purchase which will provide the East Tennessee system with gas volumes in the amount of up to 35,000 Mcf per day for the 60-day period beginning January 1, 1978 at a purchased gas price of \$2.35 per Mcf plus a transportation rate of 34 cents per Mcf.

East Tennessee requests that the Commission grant its petition by November 1, 1977 because the winter season is fast approaching and for planning purposes. It is necessary for East Tennessee and its customers to know whether these emergency volumes will be available.

Any person desiring to be heard or to make any protest with reference to said petition should on or before October 21, 1977, file with the Federal Energy Regu-

latory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30081 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ES77-62]

EL PASO ELECTRIC CO.

Application

OCTOBER 7, 1977.

Take notice that on September 29, 1977, El Paso Electric Co. (Applicant), filed an application with the Federal Power Commission (the "Commission") seeking authority pursuant to section 204 of the Federal Power Act to guarantee \$5,000,000 principal amount of Pollution Control Revenue Bonds to be issued by the City of Farmington, N. Mex., an incorporated municipality, and body politic and corporate, existing under the Constitution and laws of the State of New Mexico.

The Applicant is incorporated under the laws of Texas with its principal business office at El Paso, Tex., and is engaged in the electric utility business in Texas and New Mexico in an area in the Rio Grande Valley extending approximately 110 miles northwesterly from El Paso to the Caballo Dam in New Mexico and approximately 120 miles southeasterly from El Paso to Van Horn, Tex., with a population of approximately 480,000 of whom 365,000 reside in metropolitan El Paso.

It is proposed that the City of Farmington, N. Mex., will issue the \$5,000,000 principal amount Pollution Control Revenue Bonds, 1977 Series A (El Paso Electric Company Four Corners Project) in a private placement to defray Applicant's share of the cost of acquisition, construction and installation of certain air pollution control systems and facilities relating to Units 4 and 5 at the Four Corners Power Station located approximately twelve miles southwest of the City of Farmington, in San Juan County, N. Mex., an undivided 7% interest in which is owned by Applicant. Pursuant to an Installment Sale Agreement (the "Agreement") to be entered into between Applicant and the City of Farmington, the Applicant's 7% interest in the pollution control facilities will be purchased by the City from, and then sold by the City to, the Applicant.

According to the Applicant the Pollution Control Bonds will not constitute an indebtedness or obligation to which the full faith and credit of the City of Farmington will be pledged and shall never constitute or give rise to a pecuniary liability of the City of Farmington or a charge against its general credit or taxing powers. The City of Farmington shall be obligated to pay the principal of and premium, if any, and interest on the Pollution Control Bonds only out of the receipts and revenues of the City of Farmington from the Applicant under the Sale Agreement. The payments to be made by the Applicant pursuant to the Sale Agreement are to be sufficient, together with other funds available for such purpose, to pay the principal of and premium, if any, and interest on the Pollution Control Bonds. Pursuant to a separate Contingent Purchase Agreement, to be entered into between the Applicant and the purchaser of the Pollution Control Bonds, Applicant will unconditionally agree to repurchase the Pollution Control Bonds from the purchaser upon the happening of certain specified events.

Any person desiring to be heard or to make any protest with reference to said Application should, on or before October 17, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). The Application is on file and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30082 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-632]

INDIANA-KENTUCKY ELECTRIC CO.

Proposed Tariff Change

Take notice that Indiana-Kentucky Electric Corp. (IKEC), a wholly-owned subsidiary of Ohio Valley Electric Corp. (OVEC), on September 30, 1977, tendered for filing a proposed Modification No. 1 dated as of February 1, 1977 to the Power Agreement dated July 10, 1953 between OVEC and IKEC (the "Ikec Power Agreement").

IKEC indicates that the Proposed Modification No. 1 would extend the term of the IKEC Power Agreement until the later of (a) the satisfaction and discharge of OVEC's Mortgage and Deed of Trust dated as of July 1, 1953, as amended (the OVEC Mortgage) (which is scheduled to occur no later than January 1, 1982) or (b) the first to occur of (i) the sale or other disposition of all of the facilities of the generating stations of OVEC and IKEC; or (ii) the permanent cessation of operation of such facilities; or (iii) March 12, 2006. IKEC further indicates that the IKEC Power Agreement currently provides that it will terminate upon the satisfaction

and discharge of the OVEC Mortgage. An effective date of February 1, 1977 has been requested for the proposed Modification. Waiver of notice requirements is requested by IKEC.

A copy of the filing has been mailed to OVEC.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30083 Filed 10-14-77; 8:45 am]

[6740-02]

[Docket No. R177-26, Docket No. R177-100]

J & J ENTERPRISES, INC., ET AL. AND INDEPENDENT OIL & GAS ASSOCIATION OF WEST VIRGINIA

Conference

OCTOBER 7, 1977.

Take notice that on October 14, 1977, Staff is convening an informal conference of all interested persons to discuss the possibility of settling the issues in the above-captioned proceedings. The conference will be held in Room 8402 of the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, at 9:30 A.M.

All interested persons will be permitted to attend, but if such person have not previously been permitted to intervene by order of the Commission, attendance will not be deemed to authorize intervention as a party in these proceedings.

This conference will be for discussion purposes only without commitments.

Letters concerning this conference are being mailed to all parties to these proceedings.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30084 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-624]

MISSISSIPPI POWER & LIGHT CO.

Cancellation

OCTOBER 6, 1977.

Take notice that on September 28, 1977, Mississippi Power & Light Company

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(MP&L) tendered for filing a notice of cancellation of its Rate Schedule FPC No. 184, which provides for sales of electric power to Magnolia Electric Power Association at Fernwood, Miss. MP&L states that the load has been transferred to the Association's East McComb Substation.

MP&L requests that the cancellation be made effective as of October 31, 1977.

MP&L further states that copies of this filing have been sent to the City of McComb, Mississippi.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30085 Filed 10-14-77; 8:45 am]

[6740-02]

[Docket No. ER78-8]

NEW ENGLAND POWER POOL

Filing of Amendment to the New England Power Pool Agreement

OCTOBER 7, 1977.

Take notice that on October 3, 1977, the New England Power Pool (NEPOOL) filed an Agreement Amending the NEPOOL Power Pool Agreement (Amendment), dated August 1, 1977, which modifies the provisions of the New England Power Pool Agreement, dated as of September 1, 1971.

NEPOOL indicates that the amendment provides for revision of Section 9.4 (d) of the NEPOOL Agreement to provide for continued suspension of pool Capability Responsibility deficiency charges during the period from November 1, 1977, through October 31, 1978.

NEPOOL requests that the Commission waive its notice requirements to permit the Amendment to become effective as of November 1, 1977, the date upon which the current suspension of Section 9.4(d) would otherwise expire by its terms.

Any person desiring to be heard or to make any protest with reference to the Amendment should on or before October 25, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). Persons wishing to become parties to a proceeding or to participate as a party in

any hearing related thereto must file petitions to intervene in accordance with the Commission's Rules. All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30086 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. CP77-649]

NORTHERN NATURAL GAS CO.

Application

OCTOBER 7, 1977.

Take notice that on September 29, 1977, Northern Natural Gas Company (Applicant), 2223 Dodge Street, Omaha, Nebr. 68102, filed with the Federal Power Commission in Docket No. CP77-649 an application pursuant to Section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for a limited term for and exchange of natural gas with Columbia Gas Transmission Corp. (Columbia Gas) (all as more fully set forth in the application which is on file with the Commission and open to public inspection).

Applicant seeks authorization to transport natural gas for Columbia Gas pursuant to a gas transportation agreement dated September 23, 1977, between the two parties and to exchange natural gas with Columbia Gas pursuant to a letter agreement dated September 16, 1977, among Applicant Columbia Gas and Columbia Gulf Transmission Co. (Columbia Gulf).

Applicant indicates that within the provisions of the gas transportation agreement, it would, on a best efforts basis, receive from Delhi Gas Pipeline Corp. (Delhi) for Columbia Gas' account up to 60,000 Mcf of gas per day during the period October 1, 1977, through November 1, 1979. The gas delivered by Delhi to Applicant would be at an existing point of interconnection of the facilities of Applicant and Delhi located in Pecos County, Tex., it is indicated. Applicant states that it would transport and redeliver up to 28,000 Mcf of such gas per day, less 4.0 percent to be retained for compressor fuel to Panhandle Eastern Pipe Line Co. (Panhandle) for the account of Columbia Gas at an existing point of interconnection between the pipelines of Applicant and Panhandle near Mullinville, Kans. Applicant indicates that Columbia Gas would pay Applicant a transportation charge of 22.50 cents per Mcf for all gas transported and redelivered to Panhandle by Applicant.

Applicant states that it has acquired the right to purchase gas volumes produced in the offshore Gulf Coast area and is negotiation with producers for additional offshore volumes. Applicant further states that such gas acquisitions are remote from its system and, therefore, necessitate various transportation and exchange arrangements with other pipeline companies in order to cause delivery of Applicant's offshore gas to its system.

Applicant indicates that the volumes of gas received by it from Delhi for Columbia Gas' account that are not transported and redelivered to Panhandle would be exchanged with Columbia Gas. Applicant states that it would cause delivery of natural gas volumes, equivalent to the exchange volumes received in Pecos County, to Columbia Gulf for the account of Columbia Gas at the northern terminus of Sea Robin Pipeline Co.'s (Sea Robin) offshore pipeline system near Erath, Louisiana, and at the northern terminus of the Blue Water offshore pipeline near Egan, Louisiana.

Applicant indicates that if Columbia Gas does not have gas available in Pecos County, Tex., to exchange for Applicant's offshore gas, Columbia Gulf would receive for Columbia Gas' account Applicant's gas available at Erath, La., and Columbia Gas would cause Columbia Gulf to deliver equivalent volumes to Trunkline Gas Co. (Trunkline) for Applicant's account at a point of interconnection to be constructed between the facilities of Columbia Gulf and Trunkline near Egan, La. Applicant would make the necessary arrangements for the further transportation or exchange of such gas to its system, it is said.

Applicant states that the proposed exchange would be on an Mcf for Mcf basis and that there is no monetary consideration given by either party.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 25, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the

public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30087 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-633]

NORTHERN STATES POWER CO.

Proposed Municipal Resale and Transmission Service Agreement

OCTOBER 7, 1977.

Take notice that Northern States Power Co. (Northern States), on September 30, 1977, tendered for filing a Municipal Resale and Transmission Service Agreement, dated September 27, 1977, with the City of Olivia, Minn.

Northern States indicates that the Agreement provides for Northern States to furnish the City's requirements in excess of Bureau of Reclamation power and energy as Load Pattern Power. Northern States also indicates that the Agreement changes the wheeling rate from 2.3 mills per KWH to \$11.88 per KW per year.

Northern States requests waiver of the Commission's notice requirements to allow for an effective date of October 21, 1977.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30088 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-626]

NORTHERN STATES POWER CO.

Municipal Resale and Transmission Service Agreement

OCTOBER 7, 1977.

Take notice that Northern States Power Co. (NSPC) on September 30, 1977, tendered for filing a Municipal Re-

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sale and Transmission Service Agreement, dated September 27, 1977, with the City of East Grand Forks, Minn.

NSPC indicates that the agreement provides that NSPC furnish the City's requirements in excess of Bureau of Reclamation power and energy as Load Pattern Power. NSPC further indicates that the Agreement proposes to change the wheeling rate from \$533.33 plus 1.3 mills per KWH to \$2.70 per KW per year.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30089 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. RM77-14]

GAS RESEARCH INSTITUTE

Filing of Stipulation and Agreement

OCTOBER 7, 1977.

Take notice that on September 30, 1977, Gas Research Institute (GRI) tendered for filing a proposed Stipulation and Agreement with a Motion for Expedited Approval of Initial Application. A revision of the Stipulation and Agreement was filed on October 3, 1977.

GRI states that based upon the negotiations conducted and the understandings reached during the informal conference sessions, all active parties to this proceeding, including the Commission Staff and the California, Michigan, and New York state commissions, with the sole exception of a group of small municipal distributors, either support, or offer no objection to, the terms and conditions of the Stipulation and Agreement.

GRI states that the Stipulation and Agreement is submitted as a vehicle for expedited consideration and disposition of this proceeding. GRI requests in its Motion that, upon receipt of initial and reply comments filed in response to this notice, the Commission consider and approve without hearing GRI's application as filed on March 22, 1977.

Any person desiring to be heard or to protest said Stipulation and Agreement or to answer or object to said Motion should file comments with the Federal Energy Regulatory Commission, 825

North Capitol Street NE., Washington, D.C. 20426, on or before October 18, 1977. Reply comments should be filed on or before November 1, 1977. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of Gas Research Institute's filings are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30103 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-625]

NORTHERN STATES POWER CO.

Interconnection and Interchange Agreement

OCTOBER 7, 1977.

Take notice that Northern States Power Co. (NSPC) on September 30, 1977, tendered for filing an Interconnection and Interchange Agreement and a Supplement No. 1, both dated September 23, 1977, with the City of Redwood Falls, Minn.

NSPC indicates that the Interconnection and Interchange Agreement includes Service Schedules providing for transactions between the parties similar to those contained in Service Schedules under the Mid-Continent Area Power Pool Agreement. NSPC further indicates that Supplement No. 1 provides for the delivery of the City's Bureau of Reclamation power allocation.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8 and 1.10). All such petitions and protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30090 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-634]

NORTHERN STATES POWER CO.

Proposed Municipal Resale Transmission and Transformation Service Agreement

OCTOBER 7, 1977.

Take notice that Northern States Power Co. (Northern States), on September 30, 1977, tendered for filing a Municipal Resale Transmission and Transformation Service Agreement,

dated September 28, 1977, with the City of Sauk Centre, Minn.

Northern States indicates that the Agreement provides for Northern States to furnish Sauk Centre's requirements in excess of Bureau of Reclamation power and energy as Load Pattern Power. Northern States further indicates that the Agreement provides a transformation charge of 0.7 mill per KWH (the same as in the previous Agreement) and changes the wheeling rate from 2.3 mills per KWH to \$11.88 per KW per year.

Any person desiring to be heard or to protect said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions and protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77 30091 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-631]

NORTHWESTERN PUBLIC SERVICE CO. Initial Rate Filing

OCTOBER 7, 1977.

Take notice that on September 30, 1977, Northwestern Public Service Co. (NWPS) tendered for filing, in accordance with § 35.12 of the Commission's regulations, an initial rate schedule for supplemental sales to certain municipal and government operated systems within the State of South Dakota.

NWPS indicates that pursuant to the rate schedule NWPS will provide capacity and energy that applicable customers cannot obtain from their principal supplier, the United States Bureau of Reclamation (Bureau) due to certain load restrictions imposed by the Bureau to be effective November 1, 1977.

NWPS proposes an effective date of November 1, 1977.

NWPS states that it has served copies of the filing upon the State of South Dakota, the South Dakota Public Utilities Commission, and the participating municipalities.

Any person desiring to be heard or to make application with reference to said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10).

All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this Agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc 77-30092 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket Nos. ER76-149; E-9537]

PUBLIC SERVICE COMPANY OF INDIANA, INC.

Order Requiring Filing of Revised Tariff Sheets and Requiring Refunds

SEPTEMBER 30, 1977.

On March 2, 1977, the Commission Staff (Staff) filed a motion for summary dismissal of that portion of Public Service Company of Indiana, Inc.'s (PSI's) proposed rate of return of 9.75% which Staff claims allows PSI to earn a return on construction work in progress (CWIP). Responses to Staff's motion were filed on April 4, 1977, by PSI, the Intervenor Cooperatives and the Intervenor IMEA Cities.

On April 29, 1977, the Commission issued an Order Denying Without Prejudice Motion For Summary Dismissal and Requiring Limited Reopening of the Record. In its order the Commission concluded that the information in the record, as well as that provided in PSI's answer to Staff's motion, was insufficient for a proper determination of the amount of CWIP which may be associated with its overall rate of return. The Commission therefore required the Presiding Administrative Law Judge to reopen the record of the proceedings for the limited purpose of receiving evidence and conducting an investigation to determine how much, if any, CWIP is related to PSI's overall rate of return. Upon the close of the record the Presiding Judge was directed to certify the record related to this issue to the Commission for its review and for such disposition as may be required.

On August 15, 1977, Presiding Judge Stephen L. Grossman certified to the Commission the supplementary evidentiary record relating to the CWIP issue. In the same order Judge Grossman denied PSI's motion requesting oral hearing for the purpose of cross-examining the sponsors of the exhibits of Staff and Intervenor. The Judge concluded that no oral hearing is necessary because the parties' positions are clear, and no factual issues are in dispute. What is in dispute is the inference to be drawn from the record facts.

Based on the supplemented record, the Presiding Judge concluded:

(1) PSI, in attempting to support its rate filing, determined the total amount of money it believed necessary to collect.

(2) PSI's determination was based upon its conclusion that a return of 9.25 percent on total capital was necessary. This equates to an allowance on equity of 11.45 percent. PSI, applying the allowance on equity thus derived, calculates an overall return on rate base (i.e., total capital less CWIP and certain other adjustments) of 9.75 percent.

(3) Because of the manner of presentation (see particularly Tr. 865-86, 906-7, 909-11, 952-54, and 994), it appears possible that PSI has increased its sought overall rate of return to compensate for the absence of CWIP in its rate base. Stated differently, PSI could be considered to be requesting, through a higher sought return on rate base, the same dollar return, albeit of a smaller percentage, as it would achieve on total capital.

(4) Notwithstanding the above conclusion, it is equally possible that PSI is not seeking a return on CWIP, but, rather, is seeking that allowance on equity and overall return on rate base it would have sought in the absence of its novel attempt at justification of these figures.

PSI's rate of return witness, Dr. Langum, determined a fair rate of return on the total capital and calculated the return therefrom. PSI then computed the rate of return which, when multiplied by what the Company terms the "net original cost rate base," would produce the same dollars of turn as would the rate of return on the total capital. Dr. Langum explained his approach in his direct testimony, as quoted in PSI's Answer:

My judgment is that the fair rate of return on net original cost which Public Service Indiana should be afforded the opportunity to earn in its wholesale electric business is 9.75 percent. This gives effect to my judgment that the fair rate of return on total capital is 9.35 percent and to the extent that net original cost is less than the corresponding total capital involved. (Tr. 327)

The fair rate of return on total capital is 9.35 percent. The fair return is the number of dollars resulting from multiplication of the fair rate of return on total capital times total capital. It follows from elementary arithmetic that to produce that same fair return the fair rate of return applied to net original cost rate base must be somewhat more than 9.35 percent. That is 9.75 percent in my judgment, if net original cost is less than the corresponding total capital invested. (Tr. 327) (Emphasis added in PSI's Answer.)

As we pointed out in our April 29 order (mimeo p. 5), the validity of PSI's method of determining a just and reasonable rate of return, and of the supporting testimony and exhibits supplied by PSI, is not the subject of the motion before us. The Company's method and underlying numbers have been the subject of a hearing and will be ruled on initially by the Presiding Administrative Law Judge.

However, Staff and Intervenor claim that PSI's proposed rate of return provides a return on CWIP by increasing the

¹ PSI revised its rate of return from 9.35% to 9.25% to reflect the pro forma planned issue of \$40,000,000 of preferred stock in August 1976. See Exhibit 46, pages 44, 49, 50.

rate of return above the level justified by PSI's cost of capital evidence. Staff avers that this increase is due to factoring a return of CWIP into the rate of return component, and quotes the following testimony of Dr. Langum, PSI's rate of return witness (Tr. 6:953):

Q. And since I believe you stated in answer to some questions by Mr. Wise the difference between the total capital and net original cost rate base is essentially the construction work in progress, what you have done is adjusted the rate of return to provide a return on CWIP?

A. [By Dr. Langum] To make sure a return is provided on the capital invested in construction work in progress, yes.

This Commission has consistently held that utilities will not be allowed to base rates upon inclusion of CWIP in rate base. See, e.g., *Iowa Power and Light Co.*, Docket Nos. ER76-404 and ER76-658, issued July 15, 1976, and cases cited therein, slip opinion at 5. This basic policy was reaffirmed in Order No. 555, although an exception was made for CWIP associated with pollution control equipment and conversions and for extraordinary financial difficulty.² The Commission stated (Slip Opinion at 13):

We cannot emphasize too strongly, however, that we will not consider any inclusion of CWIP in rate base (apart from the exceptions noted above) absent a clear showing of severe financial difficulty which cannot be otherwise alleviated without materially increasing the cost of electricity to consumers.

For this reason we required the Presiding Judge to obtain additional information to enable us to determine the amount of CWIP on which PSI may improperly be earning a return. Additional testimony was filed by PSI witnesses Mr. Pennington and Dr. Langum (Exhibits 122, 125), by Staff witness Mr. Shulman (Exhibit 123), and by Intervenor's witness Dr. Livingstone (Exhibit 124).

On pages 1 and 2 of his additional testimony, Dr. Langum described once more the methodology by which he derived his recommended 9.75% rate of return:

The fair rate of return on total capital of 9.25% which I developed literally relates to total capital. It is the percentage rate of return which applied to total capital results in the fair return on total capital. Thus, the "right number of dollars", the fair return on total capital, \$104,388,840, is the result of multiplying the fair rate of return on total capital, 9.25%, by total capital, \$1,128,528,000.

When this "right number of dollars", the fair return on total capital, \$104,388,840, is related to the "net original cost rate base", \$1,066,440,000, the fair rate of return on rate base, 9.79%, is determined.

Stated otherwise:

$9.25\% \times \$1,228,528,000 = \$104,388,840$
 $\$104,388,840 / \$1,066,440,000 = 9.79\%$
(evened off to 9.75%)

Dr. Langum's rationale for PSI's rate of return methodology includes the following explanation (Exhibit 122, p. 2):

³ Relief under the "severe financial distress" exception is prospective only (Slip Opinion at 5).

Net original cost rate base, based on plant in service, is typically less than total capital because of exclusion of several items from rate base, one of which is construction work in progress, as demonstrated by Mr. Pennington. Yet capital must be attracted and serviced now to finance all of these several items, including construction work in progress. In these circumstances, the fair rate of return on total capital will not be and cannot be the fair rate of return on net original cost rate base. (Emphasis added.)

Based on both the mechanics and the rationale of PSI's method, the conclusion is inescapable that a proposed return of 9.25% was raised to 9.75% in order to compensate for the difference between rate base and capitalization. If CWIP had been included in rate base, then the adjustment to the 9.25% rate of return would not have been deemed appropriate by PSI. If the Company had made a filing which included CWIP, we would have ordered the Company to file revised rates reflecting a rate base excluding CWIP and a rate of return no greater than the 9.25% justified by Company witness Dr. Langum. PSI cannot earn a return on any items not properly in the rate base, in this case CWIP. This prescription cannot be circumvented by the expedient of increasing the rate of return so as to earn on the rate base the same dollars as the company wishes to earn on total capital.

Any attempt by PSI to earn a return greater than 9.25% (the rate which Dr. Langum states he can justify) of the rate base is an attempt to earn an improper return on CWIP⁴ and should be disallowed pursuant to authority cited, *supra*, on page 4. We shall therefore require PSI to file revised tariff sheets reflecting a cost of service based on a rate of return of 9.25% applied to PSI's electric rate base allocated to the wholesale customers (shown in Statement M, Schedule 1 of Exhibit 19).

In his Initial Decision the Presiding Judge is of course free to find that 9.75%, or any other rate of return, is just and reasonable for PSI. But regardless of which rate of return is ultimately approved for the Company, PSI's ultimately approved revenue increase may not surpass the revenue level which the Company filed for, minus the dollars hereby stricken from the filing for being improper return on CWIP. This result is analogous to our treatment of a rate increase filing which reflects the improper inclusion of CWIP in rate base. The Commission excludes the CWIP from rate base, and the resulting decreased proposed revenue level is the maximum which the company may ultimately collect, regardless of whether a higher return might be justified on an alternative basis: for example, by the granting of a rate of return higher than the company requested in its filing.

This treatment was applied in *Georgia Power Co.*, Docket No. E-9091, wherein

⁴ As Dr. Livingstone points out (Exhibit 124, p. 9), a deferred return is provided on CWIP by means of AFUDC (allowance for funds used during construction).

the Commission dismissed that portion of Georgia Power's rate filing reflecting inclusion of CWIP in rate base and required the Company to file revised tariff sheets and make appropriate refunds.⁵ On rehearing Georgia Power argued that the partial refund was premature, since the Company might ultimately justify on other grounds a rate level higher than that in effect after refunds. In its rehearing order September 19, 1975, the Commission defended its treatment of Georgia Power's filing by citing the Supreme Court's opinion in *FPC v. Tennessee Gas Transmission Co.*, 371 U.S. 145, 152-153 (1962). The Commission stated:

It is possible that Georgia Power may be unable to collect the full rate increase which could be found to be just and reasonable because it filed for a rate level premised on a rate base inflated with CWIP rather than on the highest justifiable rate of return or on an accurate projection of test period results. However, that possibility will not support postponement of refunds; it is a hazard which Georgia Power must shoulder under the theory of the relevant parts of the Natural Gas Act and the Federal Power Act, *Tennessee, supra* at 152-153.

Similarly, in *Northern States Power Company*, Docket No. E-9148, the Commission required refunds reflecting removal from the Company's rate filing of CWIP in rate base. In its order of October 14, 1975, the Commission stated:

In ordering Northern States to file revised tariff sheets reflecting removal of CWIP from rate base, we are in effect requiring the company to reduce its originally proposed rates by a fixed amount.

By our action herein we make no qualitative determination of whether or not Northern States should eventually be entitled to recover rates in excess of those specified in its December 2, 1974 filing, exclusive of CWIP. We merely pre-empt Northern States from doing so in this proceeding. . . . Northern States' appropriate remedy is the submission of additional tariff sheets in a new proceeding under Section 205. (Mimeo at 3-4, footnotes omitted.)⁶

Rather than to remand the matter in the instant docket to the Presiding Judge, we dispose of the issue immediately upon being apprised of the full facts, in order to make clear to PSI and to all other utilities which appear before us that we shall not tolerate attempts to circumvent our proscription against a current return on CWIP. In so doing we take note of the Supreme Court's discussion in *Tennessee, supra*, of the purpose of interim refunds. Although a company's collection of an improper rate is subject

⁵ Order of August 5, 1975, in Docket No. E-9091.

⁶ See also *New England Power Co.*, Docket Nos. E-9136 and E-9140, order issued August 5, 1975.

⁷ Faced with the same situation in *Minnesota Power & Light Co.*, Docket Nos. E-9499 and E-9502, the Commission wrote in its order of October 9, 1975: "The applicability of *Tennessee* requires that MP&L must stand on the rate level as filed in June 18, 1975 and as reduced by the exclusion of CWIP" (mimeo p. 2).

to eventual refund, the Court stated that it is the Commission's duty to issue interim orders directing payment of refunds "at the earliest possible moment consistent with due process" (371 U.S. 145, 155).

As Judge Grossman observed in his order certifying to us the supplemental record, there is no dispute as to the facts regarding the numbers and methods PSI has used in calculating its proposed rate of return. What is in dispute is the inference to be drawn from these facts. This Commission is authorized to summarily dispose of the CWIP issue in this proceeding, even though the parties place different interpretations on the underlying record facts. *Pennsylvania Gas and Water Co. v. FPC*, 463 F.2d 1242, 1252 (1972); *Citizens for Allegan County, Inc. v. FPC*, 414 F.2d 1125, 1128 (1969).

The Commission finds: Based on the record certified to us on August 15, 1977, in this proceeding, it is necessary and proper in the public interest and to enforce the Federal Power Act that PSI be required to file revised rates based on a 9.25 percent rate of return applied to PSI's allocated rate base.

The Commission orders: (A) Within 60 days of the date of issuance of this order, PSI shall file revised tariff sheets reflecting reduced rates consistent with our finding herein.

(B) Within fifteen (15) days after the rate schedules to be filed in compliance with Paragraph (A) above are accepted for filing, PSI shall refund all amounts collected in excess of the rates set forth in those rate schedules, together with interest calculated at 9 percent per annum.

(C) Within 15 days after refunds have been made PSI shall file with the Commission a compliance report showing monthly billing determinants and revenues under prior, present and herein ordered rates; monthly ordered rate change, monthly rate refund, and the monthly interest computation, together with a summary of such information for the total refund period. A copy of such report shall also be furnished to each state commission within whose jurisdiction the wholesale customer distributes and sells electric energy at retail.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30093 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-630]

PUBLIC SERVICE ELECTRIC AND GAS CO. Lower Delaware Valley Transmission System Agreement

OCTOBER 7, 1977.

Take notice that Public Service Electric and Gas Co. (PS) on September 30, 1977, tendered for filing proposed Lower Delaware Valley Transmission System Agreement dated September 30, 1977, between Public Service Electric and Gas

Co. (PS), Atlantic City Electric Co. (ACE), Delmarva Power & Light Co. (DPL), Jersey Central Power and Light Co. (JC), and Philadelphia Electric Co. (PE). (PS FPC Rate Schedule No. 46).

PS states that the reason for this filing is to provide a more definite agreement relating to ownership and investment responsibilities of the Lower Delaware Valley Transmission System.

PS requests that the filing be permitted to become effective November 1, 1977.

PS states that a copy of this filing has been sent to ACE, DPL, JC, PE and to the Board of Public Utilities of the State of New Jersey.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30094 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-629]

PUBLIC SERVICE ELECTRIC AND GAS CO. Proposed Revised Interconnection Agreement

OCTOBER 7, 1977.

Take notice that Public Service Electric and Gas Co. (PS) on September 30, 1977, tendered for filing proposed revised Schedules 1.03, 1.04, 2.01 and 3.04 to the existing Interconnection Agreement between PS and Jersey Central Power and Light Co. (JC) dated November 29, 1960, as supplemented (PS FPC Rate Schedule No. 28).

PS states that the reason for the filing is to include additional facilities and cost-sharing associated with the Kilmer Substation.

PS requests that the instant filing be permitted to become retroactively effective to May 1, 1974, and therefore requests waiver of the Commission's notice requirements.

PS includes with its filing a Certificate of Concurrence executed by JC assenting to and concurring with the above-mentioned Interconnection Schedules.

PS states that a copy of this filing has been sent to JC and to the Board of Public Utilities of the State of New Jersey.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30095 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-627]

PUBLIC SERVICE ELECTRIC AND GAS CO. Proposed Termination of Purchase Agreement

OCTOBER 7, 1977.

Take notice that Public Service Electric and Gas Co. (PS) on September 30, 1977, tendered for filing notification of termination of the Purchase Agreement, dated December 30, 1974 between PS and the Luzerne Electric Division of UGI Corp. (UGI), for the sale of a portion of the capacity and energy of one of its generating units to UGI, (PS FPC Rate Schedule No. 52).

PS states that the reason for this filing is to terminate the existing agreement.

PS requests that the instant filing be permitted to become retroactively effective to May 31, 1977, and therefore requests waiver of the Commission's notice requirements.

PS states that a copy of this filing has been sent to UGI and to the Board of Public Utilities of the State of New Jersey.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30096 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-628]

PUBLIC SERVICE ELECTRIC AND GAS CO. Smithburg Substation Supply Agreement

OCTOBER 7, 1977.

Take notice that Public Service Electric and Gas Co. (PS) on September 30, 1977, tendered for filing the Smithburg Substation Supply Agreement dated September 30, 1977 between Atlantic City Electric Co. (ACE), Delmarva Power & Light Co. (DPL), Jersey Central Power and Light Co. (JC) and Philadelphia Electric Co. (PE) and PS. (PS FPC Rate Schedule No. 46).

PS states that the reason for this filing is to provide additional use of the Lower Delaware Valley Transmission Facilities by Jersey Central Power and Light Co. by supplying capacity and energy from the Deans Substation to the Smithburg Substation.

PS requests that the filing be permitted to become effective November 2, 1977.

PS states that a copy of this filing has been sent to ACE, DPL, JC, PE and to the Board of Public Utilities of the State of New Jersey.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30097 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. ER77-59]

SUPERIOR WATER, LIGHT AND POWER CO.

Filing of Motion To Sever and Offer of Settlement

OCTOBER 7, 1977.

Take notice that on September 29, 1977, the Superior Water, Light and Power Co. (SWL&P) submitted a motion to sever the above-referenced proceeding from the proceeding in Minnesota Power & Light Co., Docket No. ER76-827, and, in addition, submitted an offer of settlement of all issues involved in the above-captioned docket.

SWL&P, a wholly-owned subsidiary of Minnesota Power & Light Co. (MP&L) furnishes electric, gas and water service to Superior, Wisconsin and adjacent areas. SWL&P purchases approximately

84% of its kilowatt-hour requirements from MP&L. The Commission in its order of December 15, 1976, concluded that the proceedings in Docket Nos. ER76-827 and ER77-59 involve common issues of law and fact and consolidated them for purposes of hearing and decision.

The Offer of Settlement provides for an increase in SWL&P's base rates for service to Dahlberg Light & Power Co. of \$9,500.00 over the level of base rates for such service as filed by SWL&P in FPC Docket No. ER76-20, plus the annualized increase in the cost of power purchased by SWL&P from MP&L under the rates finally approved by the Commission in Docket No. ER76-827. The Offer of Settlement also provides for a refund of amounts collected by SWL&P, subject to refund, in excess of the amounts determined to be the appropriate rate.

In addition, the Offer of Settlement provides that SWL&P shall refund to Dahlberg all amounts collected from Dahlberg under the cost of power adjustment clause contained in Rate Schedule W-5, as filed initially in this proceeding, in excess of amounts that would have been collected under the fuel cost adjustment clause as filed and made effective in Docket No. ER76-20.

Any person wishing to do so may submit comments in writing concerning the proposed Settlement Agreement to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 on or before November 1, 1977. The Offer of Settlement is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30098 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. CP73-297]

TEXAS EASTERN TRANSMISSION CORP. Petition To Amend

OCTOBER 7, 1977.

Take notice that on September 27, 1977, Texas Eastern Transmission Corp. (Petitioner), P.O. Box 2521, Houston, Tex., filed in Docket No. CP73-297 a petition to amend the order of December 10, 1973, as amended, issued in the instant docket (50 FPC 1850) so as to permit the deletion of an existing exchange point, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioner indicates that there is a currently effective exchange agreement between Natural Gas Pipeline Co. of America (Natural) and Petitioner dated November 11, 1972, as amended December 3, 1974, which provides for the exchange of natural gas on an Mcf for Mcf basis at numerous points between their systems including (and subject to the instant petition) a point near Carmona, Polk County, Tex. Petitioner further indicates that the order of December 10, 1973, as amended, and in particular, order issued

August 27, 1975, authorized the exchange under the subject agreement, and consequently the additional Polk County exchange point.

Petitioner indicates that on September 1, 1977, Natural filed at Docket Nos. CP73-289 and CP77-601 an application requesting permission and approval to abandon interstate gas transmission facilities consisting of its 4½-inch pipeline and 3-inch measuring facility in Polk and Trinity Counties, Tex. Petitioner states that since the Polk County exchange point is no longer necessary Petitioner has entered into an agreement dated September 10, 1976, to delete the exchange point from the existing exchange agreement.

Petitioner indicates that the Carmona Polk County exchange point has been inactive since October of 1975, and would remain inactive due to Natural's abandonment of its facilities at this location.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before October 31, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-30099 Filed 10-13-77; 8:45 am]

[6740-02]

[Docket No. CP77-654]

TEXAS GAS TRANSMISSION CORP. Application

OCTOBER 7, 1977.

Take notice that on September 30, 1977, Texas Gas Transmission Corp. (Applicant), 3800 Frederica Street, Owensboro, Ky. 42301, filed with the Federal Power Commission in Docket No. CP77-654 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 25,200 Mcf of natural gas on an interruptible basis, for Bay State Gas Supply, Inc.; Chattanooga Gas Co.; City of Fayetteville, Tenn.; The Southern Connecticut Gas Co., Inc.; Knoxville Utilities Board; Middle Tennessee Utility District of Cannon, Cumberland, Dekalb, Putnam, Rhea, Rutherford, Smith, Warren, White and Wilson Counties, Tenn.; Nashville Gas Co.; Natural Gas Utility

District of Hawkins County, Tenn.; United Cities Gas Co.; and Volunteer Natural Gas Co., Inc. (Customers), from April 1 through October 31 of each year of the term of a transportation service agreement dated July 29, 1977, among Applicant, Customers and Kentucky Gas Storage Co. (KGSC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport gas for Customers pursuant to the subject agreement, which gas Applicant would receive from Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Tennessee), at an existing point of interconnection in Washington County, Miss., and deliver such volumes of natural gas to KGSC for the account of Customers at a meter station to be constructed in Davess County, Ky.

Applicant indicates that it would construct and install the meter station and related facilities for KGSC, which would own the facilities, and that KGSC would lease the facilities to Applicant for the duration of the transportation agreement. Applicant further indicates that the estimated cost of the proposed facilities is \$65,000.

Applicant states that it would retain 5.27 percent of the volume it delivers to KGSC for the account of Customers as makeup for compressor fuel and line loss, which percentage was calculated on an incremental basis for pipeline throughput to and within the rate zone in which delivery by Applicant would be made, i.e., Zone 4. Applicant indicates that it would collect an initial charge of 17.81 cents per Mcf from Customers for all quantities of natural gas transported and delivered to KGSC.

The agreement of July 29, 1977, is for a primary term of 15 years, it is stated.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 25, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its

own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30100 Filed 10-13-77;8:45 am]

[6740-02]

[Docket No. RP75-74]

TRANSWESTERN PIPELINE CO. Rate Settlement Proposal on Rate of Return

OCTOBER 7, 1977.

Take notice that on September 22, 1977, Transwestern Pipeline Co. (Transwestern) filed with the Commission in Docket No. RP75-74 a settlement proposal which, if approved, will resolve the rate of return issue in the proceeding. The rate of return issue in the proceeding had been remanded by the Commission's order issued July 19, 1977, to the Administrative Law Judge for hearing and decision.

Any person wishing to comment in writing on the settlement proposal may do so. All comments should be addressed to the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426 and should be mailed or filed on or before October 14, 1977. Transwestern's settlement proposal is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30101 Filed 10-13-77;8:45 am]

[6740-02]

[Docket No. ER77-618]

WISCONSIN MICHIGAN POWER CO. Cancellation

OCTOBER 6, 1977.

Take notice that Wisconsin Michigan Power Co. (WMP) on September 26, 1977, tendered for filing notice of cancellation of FPC Rate Schedule No. 47, a contract for wholesale electric service, dated October 26, 1960, between WMP and the City of Norway, Mich. WMP proposes an effective date of October 26, 1977.

WMP states that copies of this filing have been sent to the City of Norway.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Prac-

tice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before October 17, 1977. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-30102 Filed 10-13-77;8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION EURO PACIFIC JOINT SERVICE Agreement Filed

Notice is hereby given that the following agreement, accompanied by a statement of justification, has been filed with the Commission for approval pursuant to Section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement and the statement of justification at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement and the statement of justification at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before October 21, 1977. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Edward M. Schmeltzer, Esq., Schmeltzer, Aptaker & Sheppard, Suite 305, 1150 Connecticut Ave. NW., Washington, D.C. 20006.

Agreement No. 9902-3 (Sub. 1) provides that the parties to Euro Pacific may operate one additional sailing in 1977 for the purpose of reducing the severe cargo backlog existing in the trade.

Dated: October 7, 1977.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29973 Filed 10-13-77;8:45 am]

[6730-01]

INDEPENDENT OCEAN FREIGHT FORWARDER LICENSE APPLICANTS

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of the Shipping Act, 1916 (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

AIT Forwarding Co., Inc., 30 Pulaski Street, Bayonne, N.J. 07002. Officers: Michael Gluck, Chairman of the Board, Alfred Perera, President, James Antonoff, Vice President, Vincent Mattamira, Secretary/Asst. Treasurer, John Briley, Vice President, Joseph Romeo, Vice President.

William L. Bliss, d.b.a. Superior Shipping Co., 13730 Oleoke, Houston, Tex. 77015. Charles Williams, 11127 South King Drive, Chicago, Ill. 60628.

Trans-American World Transit, Inc., P.O. Box 12608, Ft. Worth, Tex. 76116. Officers: John J. Rapp, President, George A. Rapp, Executive Vice President, Theodore A. Coulter, Vice President, J. R. Gavin, Secretary, Ann Rapp, Director.

Samaras International Corp., 6753 East 47th Avenue, Suite A, Denver, Colo. 80216. Officers: James P. Samaras, President, Mary J. Samaras, Secretary, Sharon Prager, Director.

Levent M. Bayraktaroglu, 2133 Cambridge Drive, Hurst, Tex. 76053.

American Caribbean, Inc., 8311 Northwest 70th Street, Miami, Fla. 33166. Officers: Norman R. Jackson, President/Treasurer, Rebecca L. Jackson, Vice President/Secretary.

Enrique T. Enriquez, 2100 Southwest 126th Court, Miami, Fla. 33175.

The Michelson Co. (Guy Bruce Michelson, d.b.a.) 220 42d Street, Manhattan Beach, Calif. 90266.

Impex International Brokerage, Inc., 6501 Northwest 36th Street, No. 360, Miami, Fla. 33166. Officers: Alberto del Cerro, President, Juan A. del Cerro, Vice President, Rene Alvarez, Treasurer, Herbert Wall, Director.

Aeromarine Cargo System, Inc., 225 Harris Ct., South San Francisco, Calif. 94080. Officers: Joseph Thomas Fegan, President, Charles James Wipff, Vice President, Patricia Gayle Fegan, Secretary, Kathleen Helen Wipff, Treasurer.

William M. Beldi, 618 5th Avenue, River Edge, N.J. 07661.

Moses E. Shamash, 6733 South Sepulveda Blvd., Suite E, Los Angeles, Calif. 90045.

Lawrence W. Miller, 4085 South 84th Street, 12 Bridges West, No. 7, Greenfield, Wis. 53228.

Vice (Victor Manuel Robles, d.b.a.) 45 Fair Avenue, San Francisco, Calif. 94110.

Jacky Maeder Ltd., 4530 Park Rd., Suite 336, Charlotte, N.C. 28209. Officers: A. J. Maeder, Director, T. Ernest, Director, R. Merz, Director, F. Ammann, Treasurer, R. O. Stofler, President, A. K. Peyer, Vice President, H. P. Rieder, Vice President, H. Studer, Vice President, G. Zehnder, Secretary.

S&Z International Air Forwarders, Inc., P.O. Box 8778, BWI Airport, Baltimore, Md. 21240. Officers: George Stern, President/Treasurer, Antonio Zoet, Vice President/Secretary.

Personal Forwarding, Inc., 122 East 42d Street, P.O. Box 2577, Grand Central Station, New York, N.Y. 10017. Officer: Anthony J. Diorio, President.

Consolidation Services International (Leonard A. Kanczuzewski, d.b.a.), 247 Dixie Way North, South Bend, Ind. 46637.

Empress Shipping Co. (Marcos H. Eddi, d.b.a.), 1765 East 7th Street, Brooklyn, N.Y. 11223.

Roehlig Forwarding, Inc., 32 Broadway, Suite 1600, New York, N.Y. 10004. Officers: Ruland W. Schmitz, President/Director, Herma M. Schmitz, Vice Pres./Treas./Director, John I. Dugan, Secretary, Hans Schackow, Director, Wolfgang Ronneburger, Director, Thomas Herwig, Director.

S. D. Ogden Associates (Scott D. Ogden, d.b.a.), P.O. Box 22154 AMP, 307 West 200 South, Crane Bldg., No. 2002, Salt Lake City, Utah 84122.

Pike Shipping Co., Inc., 624 Gravier Street, Suite 205, New Orleans, La. 70130. Officers: Patrick T. Bossetta, President, Van M. Brown, Vice President, Jerome B. Pipp, Vice President.

Intercontinental Export, Ltd., 7656 Twist Lane, P.O. Box 172, Springfield, Va. 22150. Officer: Kenneth S. Harris, President.

Omega Forwarding Co. (Cesar Justo Rizzoni, d.b.a.), 7921 Queenair Drive, Montgomery Air Park, Gaithersburg, Md. 20760.

By the Federal Maritime Commission.

Dated: October 11, 1977.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-30020 Filed 10-13-77;8:45 am]

[6740-02]

FEDERAL POWER COMMISSION

[Docket No. CS-7381, et al.]

MARION E. SPITLER, ET AL.

Notice of Applications for "Small Producer" Certificates¹

SEPTEMBER 30, 1977.

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before October 27, 1977, file with the Federal Power Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure.

¹This notice does not provide for consolidation for hearing of the several matters covered herein.

cedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

Docket No.	Date filed	Applicant
CS77-381	Sept. 12, 1977	Marion E. Spitler, 407 Crown Point Dr., El Paso, Tex. 79912
CS77-509	Sept. 1, 1977	Anne Moroney, executrix of the estate of Martin Luther "Luke" Walraven, Jr., deceased, Box 430, Okmulgee, Okla. 74447
CS77-579	Sept. 7, 1977	Mrs. Virginia Abbey Whelan, 303 Miller, Marshall, Tex. 75670
CS77-725	Aug. 29, 1977	Brammer Petroleum, Inc., Box 213, Gainesville, Tex. 76240
CS77-727	Aug. 4, 1977	C. E. Moody, Jr., 5330 Gulfport Dr., Houston, Tex. 77081
CS77-806	Sept. 1, 1977	Hoover & Bracken Energies, Inc., 2800 Liberty Tower, Oklahoma City, Okla. 73102
CS77-807	do.	Harold S. Winston, 401 Fort Worth Club Bldg., Fort Worth, Tex. 76102
CS77-808	do.	Texas No. Z Corp., 60 East 42d St., New York, N.Y. 10017
CS77-811	Sept. 6, 1977	Wood & Locker, Inc., 246 North Main, Midland, Tex. 79701
CS77-812	do.	Morris A. Barnes & Irene W. Barnes, Box 88, Wind Ridge, Pa. 15380
CS77-813	do.	Mr. Lawrence Barker, Jr., acting as individual, One Maritime Plaza, 2530 Alcoa Bldg., San Francisco, Calif. 94111
CS77-814	Sept. 7, 1977	Montreux Producing Co., C 103 Petroleum Center, 900 Northeast Loop 410, San Antonio, Tex. 78209
CS77-815	do.	Craig Natural Gas Co., 3270 West 4th St., Waterloo, Iowa 50601
CS77-816	do.	Cecil E. Plauger, Box 235, Route No. 2, Salem, W. Va.
CS77-810	Sept. 1, 1977	Araphoe Drilling Co., P.O. Box 26657, Albuquerque, N. Mex. 87125

Docket No.	Date Filed	Applicant
CS77-817	Sept. 8, 1977	Charles R. Bally, 55 South Washington St., Waynesburg, Pa. 15370.
CS77-818	Sept. 9, 1977	Aspen Oil Co. (successor in title to Petroleum Energy, Inc.), 2525 Northwest Expressway, suite 220, Oklahoma City, Okla. 73112.
CS77-819	Sept. 12, 1977	Robert H. Kieckhefer, Ltd., partner, for himself and the other limited partners of the Belco 1970, Oil & Gas Fund, Ltd., One Dag Hammarskjöld Plaza, New York, N.Y. 10017.
CS77-823	do.	Rex H. Moore, Jr., 230 Hightower Bldg., Oklahoma City, Okla. 73102.
CS77-824	do.	Moore & Miller, P.O. Box 1533, Oklahoma City, Okla. 73101.
CS77-825	do.	Harold S. Winston, 401 Fort Worth Club Bldg., Fort Worth, Tex. 76102.
CS77-826	do.	Delp and Harvison Investments, 2810 Glenda Ave., Fort Worth, Tex. 76117.
CS77-827	do.	Irwin Krauss, 5250 Trail Lake Dr., Fort Worth, Tex. 76133.
CS77-829	do.	Rial Oil Co., P.O. Box 82, Midland, Tex. 79702.
CS77-830	Sept. 13, 1977	McClellan Oil Corp., Box 649, Roswell, N. Mex. 88201.
CS77-831	do.	Byron A. Williams, II, Suite 540 Entex Bldg., Houston, Tex. 77002.
CS77-832	Sept. 12, 1977	Dr. Al G. Langford, 902 Sorrel Lane East, Midland, Tex. 79701.
CS77-833	Sept. 13, 1977	Industrial Gas Associates, P.O. Box 1610, Greenwich, Conn. 06830.
CS77-834	do.	Maylen Energy, Welch, Okla. 74369.
CS77-835	Sept. 16, 1977	T. M. Allen, 1699 Guaranty Bank Plaza, Corpus Christi, Tex. 78475.
CS77-836	do.	Marshall Oil Corp., 3001 Northwest 63d, Oklahoma City, Okla. 73116.
CS77-837	Sept. 19, 1977	Ronald L. Sawyer, 800 Johnson Bldg., Shreveport, La. 71101.
CS77-838	do.	Jerry R. Sawyer, 800 Johnson Bldg., Shreveport, La. 71101.
CS77-839	do.	The Ardmore Group, care of Mr. Roy B. Davis, Jr., 3610 One Shell Plaza, Houston, Tex. 77002.
CS77-840	do.	John M. Hoover, P.O. Box 7483, Houston, Tex. 77048.
CS77-841	do.	Curry Resources, Box 5596 Midland, Tex.
CS77-842	do.	3-M Estate, 5609 North Navarro, Victoria, Tex. 77901.
CS77-843	do.	John H. Ware, 3d, 55 South 3rd St., Oxford, Pa. 19363.
CS77-844	Sept. 20, 1977	Leonard J. Achenbach Rural Route 1, Hardiner, Kan. 67057.

[FR Doc.77-30075 Filed 10-14-77;8:45 am]

[4110-83]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration

ADVISORY COMMITTEE

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1977:

Name: Cooperative Health Statistics Advisory Committee.
Date and Time: November 10-11, 1977, 9:00 a.m.

Place: Sheraton-Silver Spring Motor Inn, 8727 Colesville Road, Silver Spring, Md. 20910.
Open for entire meeting.

Purpose. The Committee represents the interests of the people of the United States in providing advice and guidance to the Secretary and the National Center for Health Statistics on policies and plans in developing a major new national network of integrated or coordinated subsystems of data collections, processing, and analysis over a wide range of questions relating to general health problems of the population, health care resources, and the utilization of health care services.

Agenda. The Committee will discuss the immediate future of the Committee; the Cooperative Health Statistics System budget; the model Health Statistics Act; and the regional meetings of the CHSS. Reports will be received and reviewed from the Committee's task forces on Cost-Sharing and Applied Statistics Training Institute and the Technical Consultant Panel on Component Integration and Organizational Structure. In addition, there will be a report on the activities of the United States National Committee on Vital and Health Statistics.

The meeting is open to the public for observation and participation. Anyone wishing to participate, obtain a roster of members, or other relevant information, should contact Mr. James A. Walsh, National Center for Health Statistics, Room 2-12, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, Telephone (301) 436-7122.

Agenda items are subject to change as priorities dictate.

Dated: October 3, 1977.

JAMES A. WALSH,
Associate Administrator
for Operations and Management.

[FR Doc.77-29989 Filed 10-13-77;8:45 am]

[4110-83]

ADVISORY COMMITTEES

Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following National Advisory body scheduled to assemble during the month of October 1977:

Name: NATIONAL COUNCIL ON HEALTH PLANNING AND DEVELOPMENT
Date and Time: October 21, 1977, 9:00 a.m.—5:00 p.m.; 7:00 p.m.—Adjournment; October 22, 1977, 8:30 a.m.
Place: Room 727A, South Portal Building, 200 Independence Avenue SW., Washington, D.C. 20201
Open for entire meeting.

Purpose. The National Council on Health Planning and Development is responsible for advising and making recommendations with respect to (1) the devel-

opment of national guidelines under section 1501 of Pub. L. 93-641, (2) the implementation and administration of Title XV and XVI of Pub. L. 93-641; and (3) an evaluation of the implications of new medical technology for the organization, delivery and equitable distribution of health care services. In addition, the Council advises and assists the Secretary in the preparation of general regulations to carry out the purposes of section 1122 of the Social Security Act and on policy matters arising out of the implementation of it, including the coordination of activities under that section with those under other parts of the Social Security Act or under other Federal or federally assisted health programs. The Council considers and advises the Secretary on proposals submitted by the Secretary under the provisions of section 1122(d)(2) that health care facilities or health maintenance organizations be reimbursed for expenses related to capital expenditures notwithstanding that under section 1122(d)(1) there would otherwise be exclusion of reimbursement for such expenses.

Agenda. Agenda items include: (1) Review of the development of health planning program, (2) report on national guidelines for health planning, and (3) considerations of potential statutory changes.

The meeting is open to the public for observation. A portion of the meeting will be available for comments and public participation. Anyone wishing to participate, obtain a roster of members, minutes of meetings, or other relevant information should contact Mr. Daniel I. Zwick, Office of Planning, Evaluation and Legislation, Room 10-22, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, Telephone 301-436-7270.

Agenda items are subject to change as priorities dictate.

Dated: October 11, 1977.

DORIS F. DROKE,
Acting Associate Administrator
for Operations and Management.

NOTE.—The original notice of meeting signed September 30, 1977, listed only October 21, 1977, 9:00 a.m., was lost in the mail, thereby reducing time of public notice.

[FR Doc.77-30016 Filed 10-13-77;8:45 am]

[4110-08]

National Institutes of Health

ADVISORY COMMITTEES

Open Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of

Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301-496-5708), will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of Committee: Chemical Selection Subgroup of the Clearinghouse on Environmental Carcinogens.

Dates: November 1, 1977; 8:30 a.m.—adjournment.

Place: Building 31A, Conference Room 4, National Institutes of Health.

Times: Open for the entire meeting.

Agenda: To consider chemicals for bioassay and other matters relevant to chemical selection.

Executive Secretary: Dr. J. Dan Recer; address: Building 31, Room 4B35, National Institutes of Health; phone 301-496-2083.
Name of Committee: Experimental Design Subgroup of the Clearinghouse on Environmental Carcinogens.

Dates: November 2, 1977; 8:30 a.m.—adjournment.

Place: Building 31A, Conference Room 4, National Institutes of Health.

Times: Open for the entire meeting.

Agenda: To discuss experimental design for bioassay and other matters relevant to experimental design.

Executive Secretary: Dr. J. Dan Recer; Address: Building 31, Room 4B35, National Institutes of Health; Phone 301-496-2083.
Name of Committee: Data Evaluation and Risk Assessment Subgroup of the Clearinghouse on Environmental Carcinogens.

Dates: November 28, 1977; 8:30 a.m.—adjournment.

Place: Building 31C, Conference Room 6, National Institutes of Health.

Times: Open for the entire meeting.

Agenda: To review available bioassay reports and other matters relevant to data evaluation and risk assessment.

Executive Secretary: Dr. James M. Sontag; Address: Building 31, Room 3A16, National Institutes of Health; Phone 301-496-5108.

Dated: September 27, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 77-29858 Filed 10-13-77;8:45 am]

[4110-08]

COMMITTEE ON CANCER

IMMUNODIAGNOSIS

Cancellation of Meeting

Notice is hereby given of the cancellation of the meeting of the Committee on Cancer Immunodiagnosis, National Cancer Institute, National Institutes of Health, October 25, 1977, which was published in the FEDERAL REGISTER on September 9, 1977 (42 FR 45381). This meeting is cancelled because no contract proposals are scheduled for review at this time.

Dated: October 4, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29857 Filed 10-13-77;8:45 am]

[4110-08]

COMMITTEE ON CANCER
IMMUNOTHERAPY

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Committee on Cancer Immunotherapy, National Cancer Institute, November 17, 1977, Building 10, Room 4B14, National Institutes of Health. This meeting will be open to the public on November 17, 1977, from 1:15 p.m. to 1:45 p.m., to consider administrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 17, 1977, from 1:45 p.m. to adjournment, for the review, discussion, and evaluation of individual contract proposals. These proposals and the discussions could reveal personal information concerning individuals associated with the proposals.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301-496-5708), will provide a summary of the meeting and a roster of committee members.

Dr. George M. Steinberg, Executive Secretary, National Cancer Institute, Building 10, Room 4B09, National Institutes of Health, Bethesda, Md. 20014 (301-496-1791), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.395, National Institutes of Health.)

Dated: September 29, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29861 Filed 10-13-77;8:45 am]

[4110-08]

GENERAL CLINICAL RESEARCH

CENTERS COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the General Clinical Research Centers Committee, Division of Research Resources, November 14 and 15, 1977, Conference Room 9, Building 31C, National Institutes of Health, Bethesda, Md. 20014.

The meeting will be open to the public on November 14, 1977, from 9 a.m. to 11 a.m., to discuss administrative matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 14, from 11 a.m. to 5 p.m., and on November 15, from 9 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal

confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the application.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Building 31, Bethesda, Md. 20014 (301-496-5545), will provide summaries of the meeting and rosters of the Committee members. Dr. Ephraim Y. Levin, Executive Secretary of the General Clinical Research Centers Committee, Room 5B31, Building 31, National Institutes of Health, Bethesda, Md. 20014 (301-496-6595), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.333, National Institutes of Health.)

Dated: September 29, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.
[FR Doc.77-29854 Filed 10-13-77;8:45 am]

[4110-08]

NATIONAL DIABETES ADVISORY BOARD

Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Diabetes Advisory Board on October 18-19, 1977, which was published in the FEDERAL REGISTER on September 2, 1977, 42 FR 44290.

The location of the meeting has been changed from the South Portal Building to Conference Room 5051, HEW-North Building of Health, Education, and Welfare, at 330 Independence Avenue SW., Washington, D.C. The Executive Committee of the Board was to have convened at 8:30 a.m., but has been changed to 3:30-7 p.m., on October 18. The Board meeting remains as scheduled, 8:30 a.m. to 5 p.m., on October 19.

Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014 (301-496-6045), will provide summaries of the meeting.

Dated: October 6, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29853 Filed 10-13-77;8:45 am]

[4110-08]

NATIONAL DIABETES ADVISORY BOARD

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the National Diabetes Advisory Board on November 16, 1977, 8:30 a.m. to 5 p.m., in Conference Room 5051, HEW-North Building of Health, Education, and Welfare, at 330 Independence Avenue SW., Washington, D.C.

The meeting, which will be open to the public, is being held to continue review of the status and implementation of the long-range plan to combat diabetes formulated by the National Commission

on Diabetes. Attendance by the public will be limited to space available.

Mr. Raymond M. Kuehne, Executive Director of the Board, P.O. Box 30174, Bethesda, Md. 20014 (301-496-6045), will provide summaries of the meeting.

(Catalog of Federal Domestic Assistance Program No. 13.847, National Institutes of Health.)

Dated: September 26, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29851 Filed 10-13-77; 8:45 am]

[4110-08]

NEUROLOGY A STUDY SECTION

Amended Notice of Meeting

Notice is hereby given of a change in the meeting date of the Neurology A Study Section, Division of Research Grants, which was published in the FEDERAL REGISTER on September 9, 1977 (42 FR 45382-84).

The Neurology A Study Section was to have met November 3-5, 1977, but will meet November 2-5, 1977, at 9 a.m., at the Los Angeles Hilton, Los Angeles, Calif., the same time and location for which it was originally scheduled.

The meeting will be open to the public for approximately one hour at the beginning of the first session of the first day of the meeting.

Dated: October 6, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29856 Filed 10-13-77; 8:45 am]

[4110-08]

PRIMATE RESEARCH CENTERS ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Primate Research Centers Advisory Committee, Division of Research Resources, November 9, 1977, Conference Room 8, Bldg. 31, National Institutes of Health, Bethesda, Md. 20014.

The meeting will be open to the public on November 9 from 8:30 to 12 noon, during which time there will be a brief staff presentation on the current status of the Primate Research Centers Program. The Committee will select future meeting dates. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552b(c) (4) and 552b(c) (6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 9 from 12:00 noon to adjournment for the review, discussion, and evaluation of individual grant applications. These applications and discussions could reveal confidential trade secrets or commercial property such as patentable material,

and personal information concerning individuals associated with the applications.

Mr. James Augustine, Information Officer, Division of Research Resources, National Institutes of Health, Room 5B13, Bldg. 31, National Institutes of Health, Bethesda, Md. 20014, (301) 496-5545, will provide summaries of the meeting and rosters of the Committee members. Dr. Dennis O. Johnsen, Executive Secretary of the Primate Research Centers Advisory Committee, Room 5B55, Bldg. 31, National Institutes of Health, Bethesda, Md. 20014, (301) 496-5175, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Programs No. 13.306, National Institutes of Health.)

Dated: September 29, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29855 Filed 10-12-77; 8:45 am]

[4110-08]

RECOMBINANT DNA MOLECULE PROGRAM ADVISORY COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Recombinant DNA Molecule Program Advisory Committee at the Linden Hill Hotel, Terrace Room, 5400 Pooks Hill Rd., Bethesda, Md. 20014 on October 31, 1977 and November 1, 1977 from 9 a.m. to 5 p.m.

The entire meeting will be open to the public for consideration of proposed revisions of the NIH Guidelines for Research Involving Recombinant DNA Molecules, and other matters requiring necessary action by the Committee. Attendance by the public will be limited to space available.

Dr. William J. Gartland, Executive Secretary, Recombinant DNA Molecule Program Advisory Committee, National Institutes of Health, Building 31, Room 4A52, telephone 301-496-2323, will provide summaries of the meeting, rosters of committee members and substantive program information.

Dated: October 3, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29852 Filed 10-13-77; 8:45 am]

[4110-08]

REPORT ON BIOASSAY OF TETRACHLOROETHYLENE FOR POSSIBLE CARCINOGENICITY

Availability

Tetrachloroethylene has been tested for cancer-causing activity with rats and mice in the Carcinogenesis Program, Division of Cancer Cause and Prevention,

National Cancer Institute. A report is available to the public.

Summary: The bioassay of U.S.P. (United States Pharmacopoeia)-grade tetrachloroethylene for possible carcinogenicity was conducted using Osborne-Mendel rats and B6C3F1 mice. Tetrachloroethylene in corn oil was administered by gavage at either of two dosages to groups of 50 male and 50 female animals of each species, 5 days a week, over a period of 78 weeks followed by an observation period of 32 weeks for rats and 12 weeks for mice.

Initial dosage levels for the chronic bioassay were selected on the basis of a preliminary subchronic toxicity test. Subsequent dosage adjustments were made during the course of the chronic bioassay. The high and low time-weighted average dosages of tetrachloroethylene in the chronic study were 941 and 471 mg/kg/day for the male rats, 949 and 474 mg/kg/day for the female rats, 1072 and 536 mg/kg/day for the male mice, and 772 and 386 mg/kg/day for the female mice.

For each species, 20 animals of each sex were placed on test as vehicle controls. These animals were gavaged with corn oil at the same time that dosed animals were gavaged with tetrachloroethylene mixtures. Twenty animals of each sex were placed on test as untreated controls for each species. These animals received no gavage treatments.

No significant increased incidence of neoplastic lesions was observed in treated rats. In both dosed and control rats, respiratory disease was observed with increasing frequency for the latter part of the first year until termination of the bioassay. Lesions indicative of pneumonia were observed in nearly all rats at necropsy. A high incidence of toxic nephropathy was observed in treated rats. Toxic nephropathy was noted in rats that died early in the study (as early as week 20 for male rats and week 28 for female rats). Mortality of rats was dose-related. Fifty percent of the high dose males had died by week 44 and 50 percent of the high dose females had died by week 66.

In both male and female mice, administration of tetrachloroethylene was associated with a significantly increased incidence of hepatocellular carcinoma. Hepatocellular carcinomas were observed in 1/7 (12 percent) untreated control males, 2/10 (20 percent) vehicle control males, 3/10 (30 percent) low dose males, 27/48 (56 percent) high dose males, 2/10 (20 percent) untreated control females, 2/10 (20 percent) vehicle control females, 13/48 (27 percent) high dose females. Hepatocellular carcinomas metastasized to the kidney in one untreated control male and to the lung in three low dose males, one low dose female, and one high dose female. Toxic nephropathy, similar to that observed in rats, was also observed in treated but not control mice.

Fisher exact tests indicated a highly significant increased incidence of hepatocellular carcinoma for each dosed group compared to each control group.

Cochran-Armitage tests showed a highly significant positive association between increased dosage and elevated tumor incidence. Time-adjusted analyses, based on Kaplan and Meier survival curves, indicated that the estimated probability of observing hepatocellular carcinoma by week 91 was 1.00 in a dosed male mouse and 0.938 in a dosed female mouse.

Under the conditions of this study, tetrachloroethylene is a liver carcinogen in B6C3F1 mice of both sexes. The bioassay of Osborne-Mendel rats, however, is considered an inadequate test for carcinogenicity due to the high rate of early deaths among rats treated with tetrachloroethylene.

Single copies of the report are available from the Office of Cancer Communications, National Cancer Institute, Building 31, Room 10A21, National Institutes of Health, Bethesda, Md. 20014.

(Catalog of Federal Domestic Assistance Program Number 13.393, Cancer Cause and Prevention Research.)

Dated: October 3, 1977.

DONALD S. FREDRICKSON,
Director National
Institutes of Health.

[FR Doc.77-29849 Filed 10-13-77; 8:45 am]

[4110-08]

RESEARCH MANPOWER REVIEW COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Research Manpower Review Committee, National Heart, Lung, and Blood Institute, November 11, 1977, Conference Room C, 428 Landow Building, 7910 Woodmont Ave., Bethesda, Md.

This meeting will be open to the public on November 11, 1977 from 8 a.m. to approximately 9 a.m. to discuss administrative details and to hear reports concerning the current status of the National Heart, Lung, and Blood Institute.

In accordance with the provisions set forth in section 552b(c) (6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on November 11, 1977 from 9 a.m. until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal personal information concerning individuals associated with the applications.

Mr. York E. Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, NIH, Room 5A03, Building 31, Bethesda, Md. 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the committee members. Dr. Charles L. Turbyfill, Executive Secretary, NHLBI, NIH, Room 553, Westwood Building, Bethesda, Maryland 20014, phone (301) 496-7351, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.838, National Institutes of Health.)

Dated: September 29, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29862 Filed 10-13-77; 8:45 am]

[4110-08]

REVIEW OF CONTRACT PROPOSALS AND GRANT APPLICATIONS

Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be open to the public to discuss administrative details or other issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available.

These meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c) (4) and 552b(c) (6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, for the review, discussion and evaluation of individual contract proposals and grant applications, as indicated. These proposals and applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposals and applications.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301-496-5708) will furnish summaries of the meetings and rosters of committee members, upon request. Other information pertaining to the meeting can be obtained from the Executive Secretary indicated. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Md. 20014, unless otherwise stated.

Name of Committee: National Pancreatic Center Project Working Cadre.
Dates: November 2, 1977; 8:30 a.m.—adjournment.

Place: Continental Plaza Hotel, (Windsor Room), 909 N. Michigan Ave., Chicago, Ill.
Times: Open: November 2, 8:30 a.m.—9:30 a.m. Closed: November 2, 9:30 a.m.—adjournment.

Closure reason: To review research grant applications.

Executive Secretary: Dr. William Stralle; Address: Westwood Building, Room 853, National Institutes of Health, Phone 301-496-7194.

(Catalog of Federal Domestic Assistance Number 13.393, 13.394, 13.395, National Institutes of Health.)

Name of Committee: Cancer Clinical Investigation Review Committee.
Dates: November 7-9, 1977; 9 a.m.
Place: Building 31C, Conference Room 6, National Institutes of Health.

Times: Open: November 7, 9 a.m.—10 a.m. Open: November 8, 8:30 a.m.—12 noon.

Agenda/Open portion: (November 8) A mini-symposium on staging—clinical, operative, pathologic. Closed: November 7, 10 a.m.—5 p.m.; Closed: November 8, 12 noon—5 p.m.; Closed: November 9, 8:30 a.m.—adjournment.

Closure reason: To review research grant applications.
Executive Secretary: Mr. C. W. White; Address: Landow Building, Room C809, National Institutes of Health, phone 301-496-4471.

(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health.)

Name of Committee: Cancer Control Community Activities Review Committee.

Dates: November 10-11, 1977; 8:30 a.m.
Place: Building 31C, Conference Room 10, National Institutes of Health.

Times: Open: November 10, 8:30 a.m.—9 a.m.; November 10, 2 p.m.—5 p.m.; November 11, 8:30 a.m.—adjournment.

Closed: November 10, 9 a.m.—2 p.m.

Closure reason: To review research contract proposals and grant applications.
Executive secretary: Dr. Robert F. Brown; Address: Blair Building, Room 7A07, National Institutes of Health; phone 301-427-7944.

(Catalog of Federal Domestic Assistance Number 13.399, National Institutes of Health.)

Name of Committee: Combined Modality Committee.

Dates: November 14-15, 1977; 8:30 a.m.
Place: Building 31A, Conference Room 4, National Institutes of Health.

Times: Open: November 14, 8:30 a.m.—9 a.m.; Open: November 15, 8:30 a.m.—9 a.m.; Closed: November 14, 9 a.m.—5 p.m.; Closed: November 15, 9 a.m.—adjournment.

Closure reason: To review research contract proposals.

Executive secretary: Dr. Daniel Kisner; Address: Landow Building, Room C808, National Institutes of Health, phone 301-496-2522.

(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health.)

Name of Committee: Development Therapeutics Committee.

Dates: November 16, 1977; 9:30 a.m.—adjournment.

Place: Blair Building, Room 110, 8300 Colesville Rd., Silver Spring, Md. 20910.

Times: Open: November 16, 9:30 a.m.—12 noon.

Agenda/Open portion: Discussion of the Developmental Therapeutics Program and orientation of new members of the role of the committee in the review of contracts. Closed: November 16, 1:30 p.m.—adjournment.

Closure reason: To review research contract proposals.

Executive secretary: Dr. J. A. R. Mead; Address: Blair Building, Room 5A03A, National Institutes of Health, phone 301-427-7263.

(Catalog of Federal Domestic Assistance Number 13.395, National Institutes of Health.)

Name of Committee: Cancer Control Prevention, Detection, Diagnosis, and Pretreatment Evaluation Review Committee.

NOTICES

Dates: November 17-18, 1977; 8:30 a.m.
Place: Blair Building, Conference Room 110,
8300 Colesville Rd., Silver Spring, Md.
20910.
Times: Open: November 17, 8:30 a.m.-2 p.m.;
Closed: November 17, 2 p.m.-5 p.m.; Closed:
November 18, 8:30 a.m.—adjournment.
Closure reason: To review research contract
proposals and grant applications.
Executive secretary: Dr. Veronice Conley;
Address: Blair Building, Room 7A07, Na-
tional Institutes of Health, phone 301-
427-7941.

(Catalog of Federal Domestic Assistance
Number 13.399, National Institutes of
Health.)

Name of Committee: Cancer Center Support
Grant Review Committee.

Dates: November 18-19, 1977; 8:30 a.m.
Place: Building 31B, Conference Room 6,
National Institutes of Health.

Times: Open: November 18, 8:30 a.m.-10
a.m.; Closed: November 18, 10 a.m.-6 p.m.;
Closed: November 19, 8:30 a.m.—adjourn-
ment.

Closure reason: To review research grant ap-
plications.

Executive secretary: Dr. Robert L. Manning;
Address: Westwood Building, Room 803,
National Institutes of Health, phone 301-
496-7721.

(Catalog of Federal Domestic Assistance
Number 13.397, National Institutes of
Health.)

Dated: September 29, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29860 Filed 10-13-77;8:45 am]

[4110-08]

TWELFTH ANNUAL JOINT WORKING CON-
FERENCE OF THE VIRUS CANCER PRO-
GRAM

Meeting

Notice is hereby given of the Twelfth
Annual Joint Working Conference of the
Virus Cancer Program, Hershey Motor
Lodge, Hershey, Pa., November 2, 3, 4,
1977.

This meeting will be open to the public
from 9:00 a.m. to 5:30 p.m. November 2
and 3 and from 9 a.m. to 12:30 p.m. No-
vember 4, 1977 for presentation of sci-
entific papers. Attendance by the public
will be limited to space available.

For additional information, please con-
tact: Louis R. Sibal, Ph.D., Building 37,
Room 1A15, Division of Cancer Cause
and Prevention, National Cancer Insti-
tute, National Institutes of Health, Be-
thesda, Md. 20014, (301) 496-2796.

Dated: September 26, 1977.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc.77-29859 Filed 10-13-77;8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON
WOMEN'S EDUCATIONAL PROGRAMS

AGENCY: Office of Education National
Advisory Council on Women's Educa-
tional Programs.

ACTION: Notice of public hearing.

SUMMARY: This notice sets forth the
schedule of a forthcoming hearing on the
educational needs of displaced home-
makers, single parents and older women,
sponsored by the National Advisory
Council on Women's Educational Pro-
grams. It also describes the functions of
the Council. This document is intended
to notify the public of their opportunity
to attend.

DATE: October 28, 1977, 9:00 a.m. to
3:00 p.m.

ADDRESS: University of Nebraska at
Omaha, Milo Bail Student Center, Room
314.

FOR FURTHER INFORMATION CON-
TACT:

Carol Eliason, American Association of
Community and Junior Colleges, One
Dupont Circle, Suite 410, Washington,
D.C. 20036, Telephone: 202-293-7050.

The National Advisory Council on
Women's Educational Programs is es-
tablished pursuant to Pub. L. 93-380,
Section 408(f) (1). The Council is man-
dated to (a) advise the Commissioner
with respect to general policy matters
relating to the administration of the
Women's Educational Equity Act of
1974; (b) advise and make recommenda-
tions to the Assistant Secretary concern-
ing the improvement of educational
equity for women; (c) make recommen-
dations to the Commissioner with respect
to the allocation of any funds pursuant
to Section 408 of Pub. L. 93-380, includ-
ing criteria developed to insure an ap-
propriate distribution of approved pro-
grams and projects throughout the
Nation; (d) make such reports to the
President and the Congress on the activi-
ties of the Council as it determines ap-
propriate; (e) develop criteria for the es-
tablishment of program priorities; and
(f) disseminate information concerning
its activities under Section 408 of Pub. L.
93-380.

The hearing on the educational needs
of displaced homemakers, single par-
ents and older women is being coordi-
nated by the American Association of
Community and Junior Colleges under
contract to the National Advisory Coun-
cil on Women's Educational Programs.
It will be open to the public. Persons
wishing to make oral presentations or
to submit testimony should contact
Carol Eliason, American Association of
Community and Junior Colleges, One
Dupont Circle, Suite 410, Washington,
DC 2036. Telephone: (202) 293-7050.

Signed at Washington, D.C., on Octo-
ber 11, 1977.

KATHLEEN MAURER,
Administrative Officer.

[FR Doc.77-30014 Filed 10-13-77;8:45 am]

[4210-01]

DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT

Federal Disaster Assistance Administration

[Docket No. NFD-577; FDAA-3044-EM]

GEORGIA

Amendment to Notice of Emergency
Declaration

AGENCY: Federal Disaster Assistance
Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the No-
tice of emergency declaration for the
State of Georgia (FDAA-3044-EM),
dated July 20, 1977.

DATED: September 7, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Frank J. Muckenaupt, Chief, Program
Support Staff, Federal Disaster Assis-
tance Administration, Department of
Housing and Urban Development,
Washington, D.C. 20410, (202-634-
7825).

NOTICE: The Notice of emergency for
the State of Georgia dated July 20, 1977,
and amended on July 25, 1977, August 8,
1977, and August 16, 1977, is hereby fur-
ther amended to include the following
counties among those areas determined
to have been adversely affected by the
catastrophe declared an emergency by
the President in his declaration of
July 20, 1977:

The Counties of:

Baker	Chatham
Banks	Effingham
Bryan	Tattnall
Bulloch	

The purpose of this designation is to
provide emergency livestock feed assist-
ance only in the aforementioned areas
effective the date of this amended
Notice.

(Catalog of Federal Domestic Assistance No.
14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator Federal
Disaster Assistance Adminis-
tration.

[FR Doc.77-29954 Filed 10-13-77;8:45 am]

[4210-01]

[Docket No. NFD-573; FDAA-539-DR]

KANSAS

Major Disaster and Related
Determinations

AGENCY: Federal Disaster Assistance
Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the
Presidential declaration of a major dis-
aster for the State of Kansas (FDAA-
539-DR), dated September 20, 1977, and
related determinations.

NOTICES

DATE: September 20, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Frank J. Muckenaupt, Chief, Pro-
gram Support Staff, Federal Disaster
Assistance Administration, Depart-
ment of Housing and Urban Develop-
ment Washington, D.C. 20410 (202-
634-7825).

NOTICE: Pursuant to the authority
vested in the Secretary of Housing and
Urban Development by the President
under Executive Order 11795 of July 11,
1974, and delegated to me by the Secre-
tary under Department of Housing and
Urban Development Delegation of Au-
thority, Docket No. D-74-285; and by
virtue of the Act of May 22, 1974, en-
titled "Disaster Relief Act of 1974" (88
Stat. 143); notice is hereby given that
on September 20, 1977, the President
declared a major disaster as follows:

I have determined that the situation in
certain areas of the State of Kansas result-
ing from severe storms and flooding begin-
ning about September 11, 1977, is of suffi-
cient severity and magnitude to warrant a
major disaster declaration under Pub. L.
93-288. I therefore declare that such a ma-
jor disaster exists in the State of Kansas.

Notice is hereby given that pursuant
to the authority vested in the Secretary
of Housing and Urban Development un-
der Executive Order 11795, and dele-
gated to me by the Secretary under De-
partment of Housing and Urban De-
velopment Delegation of Authority,
Docket No. D-74-285, I hereby appoint
Mr. Francis X. Tobin of the Federal
Disaster Assistance Administration to
act as the Federal Coordinating Officer
for this declared major disaster. As Fed-
eral Coordinating Officer, he is author-
ized to: (1) Establish an Office of the
Federal Coordinating Officer; (2) form
emergency support teams of Federal per-
sonnel to be deployed in the area affected
by this major disaster; and (3) issue
mission assignments to other Federal
agencies for logistical support of the
Office of the Federal Coordinating Of-
ficer, Disaster Assistance Centers, and
emergency support teams. He is further
authorized to obligate funds from the
President's Disaster Relief Fund for the
accomplishment of the above-listed
functions.

I do hereby determine the following
areas to have been adversely affected by
this declared major disaster.

The counties of:

Atchison	Johnson
Brown	Leavenworth
Doniphan	Nemaha
Jackson	Shawnee
Jefferson	Wyandotte

(Catalog of Federal Domestic Assistance No.
14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal
Disaster Assistance Administration.

[FR Doc.77-29955 Filed 10-13-77;8:45 am]

[4210-01]

[Docket No. NFD-576; FDAA-538-DR]

MISSOURI

Major Disaster and Related Determinations

AGENCY: Federal Disaster Assistance
Administration, HUD.

ACTION: Notice.

SUMMARY: This is a Notice of the
Presidential declaration of a major dis-
aster for the State of Missouri (FDAA-
538-DR), dated September 14, 1977, and
related determinations.

DATE: September 14, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Frank J. Muckenaupt, Chief, Pro-
gram Support Staff, Federal Disaster
Assistance Administration, Depart-
ment of Housing and Urban Develop-
ment, Washington, D.C. 20410 (202-
634-7825).

NOTICE: Pursuant to the authority
vested in the Secretary of Housing and
Urban Development by the President
under Executive Order 11795 of July 11,
1974, and delegated to me by the Secre-
tary under Department of Housing and
Urban Development Delegation of Au-
thority, Docket No. D-74-285; and by
virtue of the Act of May 22, 1974, en-
titled "Disaster Relief Act of 1974" (88
Stat. 143); notice is hereby given that
on September 14, 1977, the President
declared a major disaster as follows:

I have determined that the situation in
certain areas of the State of Missouri result-
ing from severe storms and flooding begin-
ning about September 11, 1977, is of sufficient
severity and magnitude to warrant a major
disaster declaration under Pub. L. 93-288. I
therefore declare that such a major disaster
exists in the State of Missouri.

Notice is hereby given that pursuant
to the authority vested in the Secretary
of Housing and Urban Development under
Executive Order 11795, and delegated to
me by the Secretary under Department
of Housing and Urban Development De-
legation of Authority, Docket No. D-74-
285, I hereby appoint Mr. Francis X.
Tobin of the Federal Disaster Assistance
Administration to act as the Federal Co-
ordinating Officer for this declared major
disaster. As Federal Coordinating Of-
ficer, he is authorized to: (1) Establish an
Office of the Federal Coordinating Of-
ficer; (2) form emergency support teams
of Federal personnel to be deployed in
the area affected by this major disaster;
and (3) issue mission assignments to
other Federal agencies for logistical sup-
port of the Office of the Federal Co-
ordinating Officer, Disaster Assistance
Centers, and emergency support teams.
He is further authorized to obligate
funds from the President's Disaster
Relief Fund for the accomplishment of
the above-listed functions.

I do hereby determine the following
areas to have been adversely affected by
this declared major disaster.

The counties of:

Clay	Platte
Jackson	Ray
Lafayette	

(Catalog of Federal Domestic Assistance No.
14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal

Disaster Assistance Administration.

[FR Doc.77-29956 Filed 10-13-77;8:45 am]

[4210-01]

[Docket No. NFD-579; FDAA-3050-EM]

MONTANA

Amendment to Notice of Emergency
Declaration

AGENCY: Federal Disaster Assistance
Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the
Notice of emergency declaration for the
State of Montana (FDAA-3050-EM),
dated August 22, 1977.

DATE: September 21, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Frank J. Muckenaupt, Chief, Pro-
gram Support Staff, Federal Disaster
Assistance Administration, Depart-
ment of Housing and Urban Develop-
ment, Washington, D.C. 20410 (202-
634-7825).

NOTICE: The Notice of emergency for
the State of Montana dated August 22,
1977, and amended on September 1, 1977,
is hereby further amended to include the
following counties among those areas de-
termined to have been adversely affected
by the catastrophe declared an emer-
gency by the President in his declaration
of August 22, 1977:

The counties of:

Lincoln	Teton
Missoula	

The purpose of this designation is to
provide emergency livestock feed and
cattle transportation assistance only in
the aforementioned affected areas effec-
tive the date of this amended Notice.

(Catalog of Federal Domestic Assistance No.
14.701, Disaster Assistance.)

WILLIAM H. CROCKETT,
Acting Administrator, Federal
Disaster Assistance Administration.

[FR Doc.77-29957 Filed 10-13-77;8:45 am]

[4210-01]

[Docket No. NFD-578; FDAA-3049-EM]
NORTH CAROLINA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of North Carolina (FDAA-3049-EM), dated August 11, 1977.

DATE: September 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of North Carolina dated August 11, 1977, and amended on August 16, 1977, August 23, 1977, August 24, 1977, August 26, 1977, August 30, 1977, and September 1, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of August 11, 1977:

The counties of:

Bladen Edgecombe
Burke

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701 Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal
Disaster Assistance Administration.
[FR Doc.77-29958 Filed 10-13-77; 8 45 am]

[4210-01]

[Docket No. NFD-574 FDAA-3016-EM]
NORTH DAKOTA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of North Dakota (FDAA-3016-EM), dated July 21, 1977.

DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of North Dakota dated July 21, 1976, and amended on December 30, 1976, March 1, 1977, April 26, 1977, and June 14, 1977, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 21, 1976:

The counties of:

Burleigh Grant

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal
Disaster Assistance Administration.
[FR Doc.77-29959 Filed 10-13-77; 8:45 am]

[4210-01]

[Docket No. NFD-575; FDAA-3015-EM]
SOUTH DAKOTA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of South Dakota (FDAA-3015-EM), dated June 17, 1976.

DATE: September 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of South Dakota dated June 17, 1976, and amended on July 8, 1976, October 18, 1976, January 27, 1977, February 15, 1977, June 14, 1977, June 17, 1977, and August 30, 1977, is hereby further amended to include the following counties among those counties determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of June 17, 1976:

The counties of:

Meade Perkins

The purpose of this designation is to provide emergency cattle transportation

assistance in the aforementioned affected areas effective June 17, 1977.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

THOMAS P. DUNNE,
Administrator, Federal
Disaster Assistance Administration.
[FR Doc.77-29960 Filed 10-13-77; 8:45 am]

[4210-01]

[Docket No. NFD-580; FDAA-3046-EM]
VIRGINIA

Amendment to Notice of Emergency Declaration

AGENCY: Federal Disaster Assistance Administration, HUD.

ACTION: Notice.

SUMMARY: This Notice amends the Notice of emergency declaration for the State of Virginia (FDAA-3046-EM), dated July 25, 1977.

DATE: September 21, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank J. Muckenaupt, Chief, Program Support Staff, Federal Disaster Assistance Administration, Department of Housing and Urban Development, Washington, D.C. 20410 (202-634-7825).

NOTICE: The Notice of emergency for the State of Virginia dated July 25, 1977, and amended on August 1, 1977, August 16, 1977, August 18, 1977, and September 1, 1977, is hereby further amended to include the following counties among those areas determined to have been adversely affected by the catastrophe declared an emergency by the President in his declaration of July 23, 1977:

The counties of:

Bedford Grayson
Floyd Lunenburg

The purpose of this designation is to provide emergency livestock feed assistance only in the aforementioned affected areas effective the date of this amended Notice.

(Catalog of Federal Domestic Assistance No. 14.701, Disaster Assistance.)

WILLIAM E. CROCKETT,
Acting Administrator, Federal
Disaster Assistance Administration.
[FR Doc.77-29961 Filed 10-13-77; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR
Bureau of Land ManagementCOMMERCIAL WHITEWATER USE OF THE
SOUTH FORK AMERICAN, MERCED
AND STANISLAUS RIVERS

Allocation Meeting for 1978 Use Season

A meeting will be held for all interested commercial whitewater outfitters on Saturday, November 5, 1977, at 12:30 p.m. This meeting will be held at the Fol-

som District Office, Bureau of Land Management, 63 Natoma Street, Folsom, Calif 95630. At this meeting commercial allocation for the 1978 use season will be made for the Merced and Stanislaus Rivers. Allocation may also be made for commercial use of public lands along the South Fork of the American River. Those desiring to obtain a commercial use permit for one or all of the above listed rivers must attend this meeting and be prepared to sign an application and submit a \$10.00 (ten dollar) filing fee. Applications will be available at the meeting. Due to the limited number of permits than can be issued, failure to attend this meeting by an outfitter or his designated representative will preclude that outfitter from obtaining a commercial whitewater use permit on the Merced or Stanislaus River as well as the use of public lands along the South Fork of the American River for the 1978 use season. Questions regarding this meeting may be directed by telephone to (916) 985-4474 or written to the above stated address.

PERRY G. FRANCIS,
Acting District Manager.

[FR Doc.77-30012 Filed 10-13-77; 8:45 am]

[4310-84]

CRAIG, MONTROSE, CANON CITY-GRAND
JUNCTION TEAM LEADERS BRANCH OF
ADJUDICATION, DIVISION OF TECHNICAL
SERVICES COLORADO STATE
OFFICE

Redelegation of Authority; Correction

OCTOBER 7, 1977.
The redelegation of authority published September 15, 1977, in the FEDERAL REGISTER (42 FR 46418) is hereby corrected to read as follows: 1. Pursuant to the authority contained in redelegation of authority, published in FEDERAL REGISTER, 42 FR 41484, No. 159—Wednesday, August 17, 1977 (FR Doc. 77-23635 Filed 8-16-77; 8:45 a.m.). I hereby redelegate to the Leaders, Craig, Montrose, and Canon City-Grand Junction Teams, Branch of Adjudication, in the Division of Technical Services, authority to take action on the following matters: Sections 1.2 (b) and (e), 1.3(a), 1.5 (b) and (c), 1.6 (a) through (l), and 1.9 (a) through (f), (h) through (s), (u), (x), and (y) of Part I of the Bureau Order No. 701, of July 23, 1964, as amended.

2. Effective date. This redelegation will become effective October 15, 1977.

THOMAS HARDIN,
Chief, Branch of
Adjudication.

Approved:
DALE R. ANDRUS,
State Director.

[FR Doc.77-29990 Filed 10-13-77; 8:45 am]

[4310-84]

IDAHO

Filing of Plats of Survey

1. Plats of survey of the lands described below will be officially filed at the Idaho

State Office, Bureau of Land Management, Boise, Idaho, effective at 10:00 a.m. on November 16, 1977:

BOISE, MERIDIAN, IDAHO

T. 12 N., R. 15 E., unsurveyed Tract 39
T. 12 N., R. 16 E., unsurveyed
Sec. 34, Lot 1
Sec. 35, Lots 1 and 2
T. 12 N., R. 17 E., unsurveyed
Sec. 31, Lots 1 to 8 inclusive

2. The land in unsurveyed T. 12 N., R. 15 E., represents a dependent resurvey of a portion of Mineral Survey 2406, Idaho Placer, and the survey of Tract 39, executed at the request of Region IV, U.S. Forest Service to accommodate Land Exchange I-9364.

3. Both T. 12 N., R. 16 & 17 E. are embraced in the Challis National Forest. The lands involve a dependent resurvey of boundaries to restore corners in their original location according to the best available evidence and surveys of subdivisional lines. Survey performed at the request of and with funds provided by the Tuscarora Mining Company.

ROSE GASTELL,
Chief, Branch of Records,
Boise, Idaho.

[FR Doc.77-29991 Filed 10-13-77; 8:45 am]

[4310-84]

[NM 31870]

NEW MEXICO

Transfer of Jurisdiction of Acquired Indian Lands

1. Pursuant to Pub. L. 94-114 (89 Stat. 577) and Section 2 thereof, the lands described in paragraph three of this notice, together with all minerals underlying these lands, whether acquired or otherwise owned by the United States, are hereby declared to be held by the United States in trust for the use and benefit of the Navajo Tribe of Indians of New Mexico. These lands were submarginal lands acquired under Title II of the National Industrial Recovery Act of June 16, 1933 (48 Stat. 200), the Emergency Relief Appropriation Act of April 8, 1935 (49 Stat. 115), and Section 55 of the Act of August 24, 1935 (49 Stat. 750; 781). This notice is issued under the authority delegated to me by Bureau Order No. 701, dated July 23, 1946, as amended.

2. One existing mineral lease, which has been issued on a portion of this land will remain in force and effect in accordance with the terms and provisions of the Act under which the lease was issued. The lease file will be transferred to the Office of the Area Director, Bureau of Indian Affairs, Window Rock, Ariz. Future rentals for this lease will be paid to and collected by that office. Jurisdiction of this mineral lease is transferred from the Bureau of Land Management to the Bureau of Indian Affairs in trust for the Navajo Tribe of Indians.

3. NEW MEXICO PRINCIPAL MERIDIAN,
NEW MEXICO

T. 13 N., R. 17 W.,
Sec. 7, lots 1, 2, 3, 4, NE $\frac{1}{4}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 16, E $\frac{1}{2}$;
Sec. 18, lots 3, 4 and E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 20, SW $\frac{1}{4}$;
Sec. 21, E $\frac{1}{2}$;
Sec. 22, S $\frac{1}{2}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$, W $\frac{1}{2}$ SW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, E $\frac{1}{2}$ SE $\frac{1}{4}$ SW $\frac{1}{4}$, N $\frac{1}{2}$ SE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$ SE $\frac{1}{4}$, N $\frac{1}{2}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$ SE $\frac{1}{4}$.
Sec. 23, SE $\frac{1}{4}$;
Sec. 25, all;
Sec. 27, S $\frac{1}{2}$ N $\frac{1}{2}$ and SE $\frac{1}{4}$;
Sec. 28, NE $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$ and N $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 30, lots 1, 2, SE $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 32, NE $\frac{1}{4}$ SW $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$ and SE $\frac{1}{4}$ SE $\frac{1}{4}$;
Sec. 33, E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 35, all.
T. 12 N., R. 18 W.,
Sec. 2, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$, SE $\frac{1}{4}$ and SW $\frac{1}{4}$;
Sec. 3, lots 3, 4, S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$;
Sec. 4, lots 1, 2, 3, 4 and S $\frac{1}{2}$ N $\frac{1}{2}$;
Sec. 5, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$;
Sec. 6, lots 1, 2 and S $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 7, lots 1, 2, 3, 4, E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 8, N $\frac{1}{2}$, S $\frac{1}{2}$ SW $\frac{1}{4}$ and W $\frac{1}{2}$ SE $\frac{1}{4}$;
Sec. 9, all;
Sec. 10, NE $\frac{1}{4}$ and W $\frac{1}{2}$;
Sec. 19, lots 1, 2, NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$;
Sec. 20, N $\frac{1}{2}$ NE $\frac{1}{4}$;
Sec. 28, S $\frac{1}{2}$ SW $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 30, lots 1, 2, 3, 4, E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 31, lots 1, 2, 3, 4, E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 32, all;
Sec. 33, all.
T. 13 N., R. 18 W.,
Sec. 1, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$;
Sec. 3, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$;
Sec. 5, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$;
Sec. 6, lots 1, 2, S $\frac{1}{2}$ NE $\frac{1}{4}$ and SE $\frac{1}{4}$;
Sec. 7, lots 1, 2, 3, 4, E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 9, all;
Sec. 10, all;
Sec. 11, all;
Sec. 12, SW $\frac{1}{4}$;
Sec. 13, all;
Sec. 15, all;
Sec. 17, all;
Sec. 18, lots 1, 2, 3, 4, E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 19, lots 3, 4 and E $\frac{1}{2}$ SW $\frac{1}{4}$;
Sec. 20, all;
Sec. 21, all;
Sec. 22, all;
Sec. 23, all;
Sec. 24, all;
Sec. 25, all;
Sec. 26, N $\frac{1}{2}$ NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ and NW $\frac{1}{4}$ SW $\frac{1}{4}$;
Sec. 27, all;
Sec. 28, E $\frac{1}{2}$;
Sec. 29, all;
Sec. 31, lots 1, 2, 3, 4, E $\frac{1}{2}$ and E $\frac{1}{2}$ W $\frac{1}{2}$;
Sec. 33, all;
Sec. 34, S $\frac{1}{2}$;
Sec. 35, NW $\frac{1}{4}$ and S $\frac{1}{2}$;
T. 14 N., R. 18 W.,
Sec. 8, NE $\frac{1}{4}$ and E $\frac{1}{2}$ NW $\frac{1}{4}$;
T. 11 N., R. 19 W.,
Sec. 1, lots 1, 2, 3, 4, S $\frac{1}{2}$ N $\frac{1}{2}$ and S $\frac{1}{2}$;
Sec. 9, all;
Sec. 11, all;
Sec. 13, all;
Sec. 14, NE $\frac{1}{4}$, NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$ and SW $\frac{1}{4}$;
Sec. 15, all;
Sec. 17, all.

[4310-84]

OUTER CONTINENTAL SHELF NORTH ATLANTIC

Proposed Oil and Gas Lease Sale—No. 42 Oil and Gas Leasing

In connection with oil and gas leasing on the Outer Continental Shelf, the Secretary of the Interior has established a new policy relating to sale notices to further and enhance consultation with the affected coastal States. That policy includes providing the affected States with the opportunity to review the draft proposed sale notice prior to its final publication in the FEDERAL REGISTER. The following is a draft sale notice for proposed Sale No. 42 in the offshore waters of the North Atlantic area. This notice is hereby published as a matter of information to the public.

GEORGE L. TURCOTT,
Acting Director,
Bureau of Land Management.

Approved: October 7, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

DRAFT SALE NOTICE

1. *Authority.* This notice is published pursuant to the Outer Continental Shelf Lands Act (43 U.S.C. 1331-1343) and the regulations issued thereunder (43 CFR Part 3300).

2. *Filing of bids.* Sealed bids will be received by the Manager, New York Outer Continental Shelf (OCS) Office, Bureau of Land Management, either in person or by mail, for the oil and gas lease sale on tracts described in paragraph 13 herein, and located in the North Atlantic Outer Continental Shelf. Bids may be delivered either by mail or in person to the Federal Building, Suite 32-120, 26 Federal Plaza, New York, N.Y. 10007, until 4:30 p.m., e.s.t., January 1, 1978, or by personal delivery to (sale site to be announced) between the hours of 8:30 a.m., e.s.t. and 9:30 a.m., e.s.t., January 1, 1978. Bids received by the Manager other than during the times and dates specified above will be returned unopened to the bidders. Bids may not be modified or withdrawn unless written modification or withdrawal is received by the Manager before 9:30 a.m., e.s.t., January 1, 1978. All bids must be submitted and will be considered in accordance with applicable regulations, including 43 CFR Part 3300. The list of restricted joint bidders which applies to this sale was published in 42 FR 54881, October 11, 1977.

3. *Method of bidding.* A separate bid in a sealed envelope must be submitted for each tract and be labeled "Sealed Bid for Oil and Gas Lease (insert number of tract); not to be opened until 10 a.m., e.s.t., January 1, 1978." A suggested bid format appears in paragraph 17. Bidders are advised that tract numbers are assigned solely for administrative purposes during this sale and are not the

same as block numbers found on OCS Official Protraction Diagrams. All bids received shall be deemed submitted for a numbered tract. Bidders must submit with each bid one-fifth of the cash bonus in cash, cashiers check, certified check, bank draft, or money order payable to the order of the Bureau of Land Management. No bid for less than a full tract described in paragraph 13 will be considered. Bidders submitting joint bids must state on the bid form the proportionate interest of each participating bidder in a percent to a maximum of five decimal places, as well as submit a sworn statement that the bidder is qualified under 43 CFR 3302. The form for this statement appears in paragraph 18. Other documents required of bidders are listed under 43, CFR 3302.4. Bidders are warned against violation of 18 USC 1860, prohibiting unlawful combination or intimidation of bidders.

4. *Royalty bidding.* Bids on the following tracts must be submitted on a royalty bid basis with a fixed cash bonus as indicated. Leases which may be awarded on a royalty bid basis will provide for a yearly rental or minimum royalty payment of \$8 per hectare or fraction thereof. All royalty bids must be expressed in a percent to a maximum of five decimal places. Although a percentage could be expressed in other ways, it is requested that it be written as it is in the following example: 21.75698%. A suggested royalty bid form is shown in paragraph 17(a).

(a) A fixed cash bonus of ---- per hectare will be required on tracts 42- (tracts and terms to be listed).

(b) A fixed cash bonus of ---- per hectare will be required on tracts 42- (tracts and terms to be listed).

(c) A fixed cash bonus of ---- per hectare will be required on tracts 42- (tracts and terms to be listed).

(d) A fixed cash bonus of ---- per hectare will be required on tracts 42- (tracts and terms to be listed).

5. *Bonus bidding.* Bids on the remaining tracts to be offered at this sale must be on a cash bonus bid basis with a fixed royalty of 16% percent. Leases which may be issued will provide for a yearly rental payment or minimum royalty payment of \$8 per hectare or fraction thereof. A suggested cash bonus bid form is shown in paragraph 17(b).

6. *Equal opportunity.* Each bidder must have submitted by 9:30 a.m., e.s.t., January 1, 1978, the certification required by 41 CFR 60-1.7(b) and Executive Order No. 11246 of September 24, 1965, as amended by executive Order No. 11375 of October 13, 1967, on the Compliance Report Certification Form, Form 1140-8 (November 1973), and the Affirmative Action Representation Form, Form 1140-7 (December 1971).

7. *Bid opening.* Bids will be opened on January 1, 1978, beginning at 10 a.m., e.s.t., in the (sale site), at the address stated in paragraph 2. The opening of

: One Hectare equals 2.471 acres.

bids is for the sole purpose of publicly announcing and recording bids received; no bids will be accepted or rejected, at that time. If the Department is prohibited for any reason from opening any bid before midnight January 1, 1978, that bid will be returned unopened to the bidder as soon thereafter as possible.

8. *Deposit of payments.* Any cash, cashiers checks, certified checks, bank drafts, or money orders submitted with a bid may be deposited in a suspense account in the Treasury during the period the bids are being considered. Such a deposit does not constitute and shall not be construed as acceptance of any bid on behalf of the United States.

9. *Withdrawal of tracts.* The United States reserves the right to withdraw any tracts from this sale prior to the issuance of a written acceptance of a bid for that tract.

10. *Acceptance or rejection of bids.* The United States reserves the right to reject any and all bids for any tract. In any case, no bid for any tract will be accepted and no lease for any tract will be awarded to any bidder unless:

(a) The bidder has complied with all requirements of this notice and applicable regulations;

(b) His bid is the highest valid royalty bid on the designated royalty tracts or the highest valid cash bonus bid for the remaining tracts; and

(c) The amount of the bid has been determined to be adequate by the United States.

No bid will be considered for acceptance unless it offers a cash bonus in the amount of \$62 or more per hectare or fraction thereof on the tracts designated for cash bonus bidding and 12.50 percent or more royalty on the tracts designated for royalty bidding.

11. *Successful bidders.* Each person who has submitted a bid accepted by the United States will be required to execute copies of the lease specified below, pay the balance of the cash bonus bid together with the first year's annual rental and satisfy the bonding requirements of 43 CFR 3304.1 within the time provided in 43 CFR 3302.5.

12. *Protraction diagrams.* The tracts offered for lease described in paragraph 13, may be located on the following Outer Continental Shelf Official Protraction Diagrams which may be purchased for \$2 each from the Manager, New York Outer Continental Shelf Office at the address stated in paragraph 2:

(1) NK 19-8, (2) NK 19-9, (3) NK 19-11, (4) NK 19-12.

13. *Tract descriptions.* The tracts offered for bid are as follows:

NOTE.—There are gaps on the sequence of the numbers of the tracts listed. Some of the blocks identified in the final environmental

impact statement are not included in this notice.

008 official protraction diagram NK 19-8

[Approved Oct. 31, 1974]

Block	Description	Hectares
Tract:		
42-3	643 All	2,304
42-6	916 All	2,304
42-7	917 All	2,304
42-8	961 All	2,304
42-9	962 All	2,304
42-10	1,006 All	2,304

Official protraction diagram NK 19-9

[Approved Mar. 20, 1975]

Block	Description	Hectares
Tract:		
42-11	883 All	2,304
42-12	884 All	2,304
42-13	899 All	2,304
42-14	900 All	2,304
42-15	926 All	2,304
42-16	927 All	2,304
42-17	928 All	2,304
42-18	930 All	2,304
42-19	931 All	2,304
42-20	932 All	2,304
42-21	942 All	2,304
42-22	943 All	2,304
42-23	944 All	2,304
42-24	970 All	2,304
42-25	971 All	2,304
42-26	974 All	2,304
42-27	975 All	2,304
42-28	976 All	2,304
42-29	981 All	2,304
42-30	982 All	2,304
42-31	986 All	2,304
42-32	987 All	2,304
42-33	988 All	2,304
42-34	989 All	2,304

Official protraction diagram NK 19-11

[Approved Oct. 31, 1974]

Block	Description	Hectares
Tract:		
42-38	78 All	2,304
42-39	39 All	2,304
42-40	80 All	2,304
42-41	81 All	2,304
42-42	82 All	2,304
42-43	83 All	2,304
42-44	84 All	2,304
42-45	123 All	2,304
42-46	124 All	2,304
42-47	125 All	2,304
42-48	128 All	2,304
42-49	167 All	2,304
42-50	168 All	2,304
42-51	169 All	2,304
42-52	171 All	2,304
42-53	172 All	2,304
42-54	214 All	2,304
42-55	215 All	2,304
42-56	216 All	2,304
42-57	258 All	2,304
42-58	259 All	2,304
42-59	300 All	2,304
42-60	384 All	2,304
42-61	285 All	2,304
42-62	286 All	2,304
42-63	328 All	2,304
42-64	329 All	2,304
42-65	330 All	2,304
42-66	331 All	2,304
42-67	372 All	2,304
42-68	373 All	2,304
42-69	374 All	2,304
42-70	375 All	2,304

Official protraction diagram NK 19-12

[Approved Apr. 29, 1975]

Block	Description	Hectares
Tract:		
42-76	1 All	2,304
42-77	2 All	2,304
42-78	6 All	2,304
42-79	7 All	2,304
42-80	8 All	2,304
42-81	12 All	2,304
42-82	13 All	2,304
42-83	14 All	2,304
42-84	15 All	2,304
42-85	19 All	2,304
42-86	20 All	2,304
42-87	21 All	2,304
42-88	45 All	2,304
42-89	56 All	2,304
42-90	57 All	2,304
42-91	58 All	2,304
42-92	59 All	2,304
42-93	63 All	2,304
42-94	64 All	2,304
42-95	65 All	2,304
42-96	89 All	2,304
42-97	99 All	2,304
42-98	100 All	2,304
42-99	101 All	2,304
42-100	102 All	2,304
42-101	103 All	2,304
42-102	107 All	2,304
42-103	108 All	2,304
42-104	109 All	2,304
42-105	133 All	2,304
42-106	134 All	2,304
42-107	135 All	2,304
42-108	136 All	2,304
42-109	137 All	2,304
42-110	138 All	2,304
42-111	142 All	2,304
42-112	143 All	2,304
42-113	144 All	2,304
42-114	145 All	2,304
42-115	146 All	2,304
42-116	177 All	2,304
42-117	186 All	2,304
42-118	187 All	2,304
42-119	188 All	2,304
42-120	189 All	2,304
42-121	190 All	2,304
42-122	226 All	2,304
42-123	227 All	2,304
42-124	228 All	2,304
42-125	229 All	2,304
42-126	230 All	2,304
42-127	231 All	2,304
42-128	232 All	2,304
42-129	233 All	2,304
42-130	266 All	2,304
42-131	267 All	2,304
42-132	169 All	2,304
42-133	270 All	2,304
42-134	271 All	2,304
42-135	272 All	2,304
42-136	273 All	2,304
42-137	274 All	2,304
42-138	310 All	2,304
42-139	311 All	2,304
42-140	312 All	2,304
42-141	313 All	2,304
42-142	314 All	2,304
42-143	315 All	2,304
42-144	316 All	2,304
42-145	317 All	2,304
42-146	318 All	2,304
42-147	322 All	2,304
42-148	323 All	2,304
42-149	324 All	2,304
42-150	333 All	2,304
42-151	354 All	2,304
42-152	355 All	2,304
42-153	356 All	2,304
42-154	357 All	2,304
42-155	358 All	2,304
42-156	359 All	2,304
42-157	360 All	2,304
42-158	361 All	2,304
42-159	365 All	2,304
42-160	396 All	2,304
42-161	367 All	2,304
42-162	397 All	2,304
42-163	398 All	2,304
42-164	399 All	2,304
42-165	400 All	2,304
42-166	401 All	2,304
42-167	402 All	2,304

Block	Description	Hectares
42-168	403 AIL	2,304
42-169	409 AIL	2,304
42-170	410 AIL	2,304
42-171	411 AIL	2,304
42-172	413 AIL	2,304
42-173	415 AIL	2,304
42-174	417 AIL	2,304
42-175	419 AIL	2,304
42-176	421 AIL	2,304
42-177	423 AIL	2,304
42-178	425 AIL	2,304

14. *Lease terms and stipulations.* Leases issued as a result of this sale will be on Form 3300-1 (December 1976) available from the Manager, New York Outer Continental Shelf Office, at the address stated in paragraph 2. Except as otherwise noted, the following stipulations will be included in each lease resulting from this sale.

In the following stipulations the term Supervisor refers to the Atlantic area oil and gas Supervisor for operations of the Geological Survey and the term Manager refers to the Manager of the New York OCS Office of the Bureau of Land Management.

STIPULATION No. 1

If the Supervisor having reason to believe that a site, structure, or object of historical or archaeological significance hereinafter referred to as "cultural resource," may exist in the lease area, gives the lessee written notice that the lessor is invoking the provisions of this stipulation, the lessee shall upon receipt of such notice comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development on the lease, including but not limited to, well drilling and pipeline and platform placement, hereinafter in this stipulation referred to as "operation," the lessee shall conduct remote sensing surveys to determine the potential existence of any cultural resource that may be affected by such operations. All data produced by such remote sensing surveys as well as other pertinent natural and cultural environmental data shall be examined by a qualified marine survey archaeologist to determine if indications are present suggesting the existence of a cultural resource that may be adversely affected by any lease operation. A report of this survey and assessment prepared by the marine survey archaeologist shall be submitted by the lessee to the Supervisor and to the Manager for review.

If such cultural resource indicators are present the lessee shall: (1) Locate the site of such operation so as not to adversely affect the identified location; or (2) establish, to the satisfaction of the Supervisor, on the basis of further archaeological investigation conducted by a qualified marine survey archaeologist or underwater archaeologist using such survey equipment and techniques as deemed necessary by the Supervisor, either that such operation will not adversely affect the location identified or that the potential cultural resource suggested by the occurrence of the indicators does not exist.

A report of this investigation prepared by the marine survey archaeologist or underwater archaeologist shall be submitted to the Supervisor and the Manager for their review. Should the Supervisor determine that the existence of a cultural resource which may be adversely affected by such operation is sufficiently established to warrant protection, the lessee shall take no action that

may result in an adverse effect on such cultural resource until the Supervisor has given directions as to its disposition.

The lessee agrees that if any site, structure, or object of historical or archaeological significance should be discovered during the conduct of any operations on the leased area, he shall report immediately such findings to the Supervisor, and make every reasonable effort to preserve and protect the cultural resource from damage until the Supervisor has given directions as to its disposition.

STIPULATION No. 2

When an area or resource has been identified as biologically important, the Supervisor may give written notice that the lessor is invoking the provisions of this stipulation. The first definition of such areas will take place before exploration starts in the lease sale area. The area will be examined periodically by the lessor throughout the operating life of the field. The lessee shall, upon receipt of such notice, comply with the following requirements:

Prior to any drilling activity or the construction or placement of any structure for exploration or development of lease areas (hereinafter referred to as "operation") including, but not limited to, well drilling and pipeline and platform placement, the lessee shall conduct environmental surveys, as approved by the Supervisor, to determine the extent and composition of biological populations within the area covered by the lease.

Based upon results of the survey, the lessee may be required to: (1) relocate the site of such operations so as not to adversely affect the area identified; or (2) modify his operation in such a way as not to adversely affect the area identified; or (3) establish to the satisfaction of the Supervisor that, on the basis of the environmental survey, such operations will not adversely affect the area.

The lessee shall submit all data obtained in the course of environmental surveys, conducted pursuant to this stipulation, to the Supervisor, with the locational information for drilling or other activity. The lessee may take no action that may result in any effect on the biologically important areas until the Supervisor has given the lessee written directions with respect to the area.

If, during operations, any area of biological importance is identified, the lessee shall make every reasonable effort to protect and preserve all biological populations within the lease area until the Supervisor has given the lessee written directions with respect to the area of biological importance.

STIPULATION No. 3

If pipeline rights-of-way can be determined and obtained, and if laying such pipelines is technically and economically feasible and environmentally preferable, pipelines will be required. The lessor specifically reserves the right to require that any pipeline used for transporting production to shore be placed in certain designated management areas. Where feasible, all pipelines, including both flow lines and gathering lines for oil and gas, shall be buried to a depth suitable for adequate protection from water currents, sand waves, storm scouring, fisheries trawling gear, and other uses as determined by the Department of the Interior permitting agency. While the determination will be made on a case-by-case basis, the minimum desirable depth is 6 feet. Where burial is not feasible, pipelines shall be protected by shrouding.

Following the completion of pipeline installation, no crude oil production will be transported by surface vessel from offshore

production sites, except in the case of emergency. Determinations as to emergency conditions and appropriate responses to these conditions will be made by the Supervisor. All vessels used for carrying oil or gas to shore from the leased areas will conform with all standards established for such vessels by the Secretary of the Department in which the Coast Guard is operating.

STIPULATION No. 4

To provide information to coastal states and thus to assist them in planning for the impact of activities during exploration under this lease, the lessee shall submit, for review and comment, to the Governor of each affected state a "Notice of Support Activity for the Exploration Program" (herein called "Notice").

For the purpose of this stipulation, affected states include New York, Connecticut, Rhode Island, Massachusetts, New Hampshire, Maine, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia. The lessee shall not be required to include privileged information in this Notice. At his discretion, the lessee may submit a separate notice for each Exploration Plan submitted for one or more leases.

A copy of the Notice shall be submitted to the Supervisor simultaneously with, or prior to, the Exploration Plan with a certification that it has been submitted to the Governor of the State(s) that will be directly affected by activities under the Plan. If the lessee shall submit a Notice in connection with two or more Exploration Plans, he shall not be required to submit additional copies of the Notice, but may instead refer to that previous submission. Before the Supervisor approves or disapproves the Exploration Plan, he shall allow at least 30 days from the date of receipt of the certification for the Governor to submit comments on the Notice to him as well as to the lessee. Subsequent to the submission of the certification, significant changes in estimated support activities will be forwarded by the lessee as an amendment to the Notice to the Supervisor, and the Governor of the State(s) that will be directly affected by the program.

The Notice shall include with respect to the lessee and his contractors:

- (1) A description of the facilities, including site and size, that may be constructed, leased, rented or otherwise procured in affected areas;
- (2) The location and amount of acreage required within the State for facilities, including the need for storage of various supplies;
- (3) An estimate of the frequency of boat and aircraft departures and arrivals, on a monthly basis, and the onshore location of terminals;

(4) The approximate number of persons who are expected to be engaged in onshore support activities and transportation, the approximate number of local personnel who are expected to be employed for or in support of the exploration program, and the approximate total number of persons who are expected to be employed for the exploration program;

(5) Estimates of the approximate addition to the population on a county basis due to the exploration program and the approximate number of persons needing housing and other facilities;

(6) An estimate of any significant quantity of major supplies and equipment to be procured within the State; and

(7) The onshore addresses of the lessee's operation offices and of the offices of contractors involved with the exploratory operation.

STIPULATION No. 5

Drill cuttings and drilling muds shall be disposed of by shunting the material through a downpipe to a depth of 20-50 feet below the ocean surface or by transporting these materials to preselected disposal sites approved by the Supervisor, and the Environmental Protection Agency. Based upon the composition of produced formation waters, the Supervisor may require reinjection.

STIPULATION No. 6

Unless the lessee can demonstrate to the satisfaction of the Supervisor that it would not be in the interests of conservation all reservoirs underlying this lease which extend into one or more other leases, as indicated by drilling and other information, shall be operated and produced only under a unit agreement including the other lease(s) and approved by the Supervisor. Such a unit agreement shall provide for the fair and equitable allocation of production and costs. The Supervisor shall prescribe the method of allocating production and costs in the event operators are unable to agree on a method acceptable to him.

STIPULATION No. 7

All equipment which could be freed or lost overboard from rigs or platforms and which could not be classified as a hand tool will be indelibly marked with the owners' and/or operator's name or logo.

STIPULATION No. 8

(To be included only in the leases resulting from this sale for tracts 42-165, 42-166, 42-172, 42-173, 42-176, and 42-177): Portions of these tracts may be subject to mass movement (slumping) of sediments. Emplacement of structures (platforms) or seafloor wellheads for the production or storage of oil or gas will not be allowed on those portions of the tract which may be subject to mass movement of sediments unless or until the lessee has demonstrated to the Supervisor's satisfaction that the potential for mass movement of sediments does not exist or that structures (platforms), casing, and wellheads can be safely designed to withstand such mass movement at the proposed location of the structure.

STIPULATION No. 9

(To be included only in the lease resulting from this sale for tract 42-178): All of this tract may be subject to mass movement (slumping) of sediments. Emplacement of structures (platforms) or seafloor wellheads for production or storage of oil or gas will not be allowed within the area of mass movement of sediments unless or until the lessee has demonstrated to the Supervisor's satisfaction that the potential for mass movement of sediment does not exist or that structures (platforms), casing, and wellheads can be safely designed to withstand such mass movement at the proposed location of the structure. This may necessitate all exploration and development of oil or gas be performed from locations off this tract and outside of the area of potential mass movement of sediments.

STIPULATION No. 10

(To be included only in the lease resulting from this sale for tract 42-43): Portions of this tract may contain a shallow "Bright Spot" seismic anomaly which may be indicative of a gas deposit. Surface occupancy above this anomaly and drilling through the anomaly will not be allowed, unless the lessee can demonstrate to the Supervisor's satisfaction that a potential hazardous accumulation of shallow gas does not exist or

that structures (platforms), casing, and wellheads can be placed, or drilling plans designed to insure safe operations in the area above the anomaly.

STIPULATION No. 11

(To be included in any leases resulting from this sale for the royalty bidding tracts listed in Paragraph 4 of this notice.)

(1) The royalty rate on production saved, removed, or sold from this lease is subject to consideration for reduction under the same authority that applies to all other oil and gas leases on the Outer Continental Shelf (30 CFR 250.12(e)), except that the Director, Geological Survey may approve an application for a reduction in royalty on this lease only when it is necessary in order to increase the ultimate recovery of oil and gas and in the interest of conservation. The Director may grant a reduction for only one year at a time. Reduction of royalty rates will not be approved unless production has been underway for one year or more.

(2) Although the royalty rate specified in section 3(b)(1) of this lease or as subsequently modified in accordance with applicable regulations and stipulations is applicable to all production under this lease, not more than 16 2/3% of the production saved, removed or sold from the leased area may be taken as royalty in amount, except as provided in section 6(c) of this lease; the royalty on any portion of the production saved, removed or sold from the lease in excess of 16 2/3% may only be taken in value of the production saved, removed or sold from the leased area.

15. *Information to Lessees.* Some of the tracts offered for lease may fall in areas which may be included in fairways, precautionary zones, or traffic separation schemes. Corps of Engineers permits are required for construction of any structures in or over any navigable waters of the United States pursuant to section 10 of the River and Harbors Act of 1899 (33 U.S.C. 403), and for artificial islands and fixed structures located on the Outer Continental Shelf, in accordance with section 4 (f) of the Outer Continental Shelf Lands Act of 1953 (43 U.S.C. 1333(f)).

Bidders are referred to the Department's proposed regulations on development phase environmental impact statements which were published in 42 FR 49478, September 27, 1977.

In applying safety, environmental and conservation laws and regulations, the Supervisor will require the use of the best available and safest technology which are determined to be economically achievable. To the extent practicable, the Supervisor will consult with the relevant Federal agencies and the affected State(s) in the execution of these responsibilities.

Bidders are advised that the Department of the Interior and Transportation have entered into a Memorandum of Understanding dated May 6, 1976, concerning the design, installation, operation and maintenance of offshore pipelines. Bidders should consult both Departments for regulations applicable to offshore pipelines.

In the enforcement of the stipulation on biologically important areas, the Supervisor will consult a committee

composed of designated representatives of the Bureau of Land Management, U.S. Fish and Wildlife Service, U.S. Geological Survey, the National Marine Fisheries Service, the Environmental Protection Agency, and representatives of the affected States. This committee will remain in existence throughout the operating life of the field. The Supervisor will consult with the committee in identifying areas or resources of biological importance, on the conduct of the biological surveys by lessees, and on the appropriate course of action after the surveys have been conducted.

If nationally recommended routes for boat traffic lanes are established by the Coast Guard, lessees will be required to use them to transport supplies to the lease area.

16. *OCS Orders.* Operations on all leases resulting from this sale will be conducted in accordance with the provisions of all North Atlantic OCS Orders, as of their effective date.

17. *Suggested Bid Form.* It is suggested that bidders submit their bids to the Manager, New York OCS Office, in the following form:

(a) For the royalty bid tracts as described in Paragraph 4:

OIL AND GAS BID—ROYALTY

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf described below:

Tract No.	Percent royalty bid expressed to maximum of 5 decimals	Amount of fixed cash bonus submitted with bid
.....%		
Proportionate interest of company(s) submitting bid		
Qualification No. ....	.....%	Company
		Address
		Signature
(Please type signer's name under signature)		

(b) All tracts offered for cash bonus bidding:

OIL AND GAS BID

The following bid is submitted for an oil and gas lease on the tract of the Outer Continental Shelf specified below:

Tract No.	Total amount bid	Amount per hectare	Amount of cash bonus submitted with bid
.....			
Proportionate interest of company(s) submitting bid			
Qualification No. ....	.....%	Company	
		Address	
		Signature (please type signer's name under signature)	

18. *Required Joint Bidders Statement.* In the case of joint bids, each joint bidder must execute the following state-

ment before a notary public and submit it with his bid:

JOINT BIDDER'S STATEMENT

I hereby certify that.....(entity submitting bid) is eligible under 43 CFR 3302 to bid jointly with the other parties submitting this bid.

Signature

(Please type signer's name under signature.)

Sworn to and subscribed before me this ____ day of _____, 19____.

Notary Public

State of _____
(County) of _____

[FR Doc 77-29819 Filed 10-13-77; 8:45 am]

[1505-01]

OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALES

List of Restricted Joint Bidders

Correction

In FR Doc. 77-29691 appearing at page 54881 in the issue of Tuesday, October 11, 1977 the list of companies in the second column should be corrected to read as follows:

Amoco Production Company
BP Alaska Exploration Inc.
Chevron U.S.A. Inc.
Exxon Corporation
Gulf Oil Corporation
Mobil Oil Corporation
Shell Oil Company
Standard Oil Company of California
Texaco Inc.

[4310-70]

National Park Service
HISTORIC AMERICAN BUILDINGS
SURVEY ADVISORY BOARD

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Historic American Buildings Survey (HABS) Advisory Board will be held on November 14 and 15, at 9:15 a.m., in the North Oval Room of the Rotunda, at the University of Virginia, Charlottesville, Va.

The purpose of the HABS Advisory Board is to render advice on matters related to the task of documenting historic architectural monuments in the United States.

The present membership of the HABS Advisory Board is as follows:

Mr. John Drews Henderson, AIA, San Diego, California, Chairman.
Mr. George McMath, AIA, Portland, Oregon, Vice Chairman.
Dr. John Douglas Forbes, Hon. AIA, Charlottesville, Virginia, Secretary.
Mr. D. O. Davies, New Castle, Pennsylvania.
Mrs. Victorine Du Pont Homsey, FAIA, Wilmington, Delaware.
Ms. Barbara Wriston, Head, Museum Education, Art Institute, Chicago, Illinois.
Mr. John J. Cullinane (Chmn. AIA Historic

Resources Committee) Washington, D.C. (ex officio).
The Librarian of Congress (or his delegate) Washington, D.C. (ex officio).

Among other things, the Advisory Board agenda will consist of reports from the Chief of the Historic American Buildings Survey, staff reports on HABS projects and exhibitions.

The meeting is open to the public, and any person may file with the Board a written statement concerning the matters being discussed; however, facilities and space for accommodating members of the public are limited.

Further information concerning these meetings may be obtained from the Historic American Buildings Survey Division, National Park Service, Washington, D.C. (202) 523-5474. Minutes of the meeting may be acquired through the Executive Secretary of the Board, Mrs. Lucy Pope Wheeler, HABS, after the succeeding meeting.

REX L. WILSON,
Acting Chief, Office of Archeology
and Historic Preservation.

[FR Doc. 77-29969 Filed 10-13-77; 8:45 am]

[4310-10]

Office of the Secretary

[Order No. 3011]

FEDERAL LAND POLICY AND MANAGEMENT ACT OF 1976 (FLPMA)—COST RECOVERY

Implementation

SEC. 1 Purpose. The purpose of this Order is to implement the cost recovery provisions of FLPMA, Sections 304 and 504(g), 43 U.S.C. 1734, 1764(g) (Supp. 1977), as to application for monitoring of rights-of-way over the public lands.

SEC. 2 Implementation. Section 304 of FLPMA, 43 U.S.C. 1734, is hereby implemented as to applications for rights-of-way over public lands which were pending on October 21, 1976, or which have since been filed. This implementation shall also apply to all applications under Section 28 of the Mineral Leasing Act, 30 U.S.C. 185 pending on or filed subsequent to November 16, 1973, and to holder monitoring activity for applications which have been granted since that date. The regulations at 43 CFR 2802.1-2 (1976) shall be applicable to such applications or holder monitoring activity until new regulations implementing Title V of FLPMA become final. It is my finding that "reasonable costs" under Sections 304 of FLPMA for processing applications for rights-of-way over public lands and for monitoring right-of-way holder activity, are the actual costs incurred by the United States in performing statutory responsibilities necessitated by such applications or rights-of-way. The term "reasonable costs" means the same as the term "administrative and other costs" as used in the regulations at 43 CFR 2802.1-2(a) (1) (1976), and includes costs incurred in preparation of environmental impact statements.

SEC. 7 Effective Date. This Order is effective immediately. Its provisions shall remain in effect until regulations are promulgated implementing Title V of FLPMA, or until it is amended, superseded, or revoked, whichever occurs first.

Dated: September 29, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 77-29993 Filed 10-13-77; 8:45 am]

[4310-10]

JULIAN R. HAYDEN

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b) (6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.

This statement is made as of September 30, 1977.

Dated: August 26, 1977.

JULIAN RIED HAYDEN.

[FR Doc. 77-29994 Filed 10-13-77; 8:45 am]

[4310-70]

IDENTIFICATION OF MANDATORY CLASS I FEDERAL AREAS WHERE VISIBILITY IS AN IMPORTANT VALUE

Invitation for Public Comment and of Public Meetings

BACKGROUND: Section 128 of the Clean Air Act Amendments of 1977, Pub. L. 95-95, enacted August 7, 1977, declares as a national goal the prevention of visibility impairment from manmade air pollution and the restoration of natural visibility in mandatory Class I Federal areas. To attain this goal, the Congress has required:

(1) The Secretary of the Interior, in consultation with other Federal land managers, to identify those mandatory Class I Federal areas where visibility is an important value, by February 7, 1978;

(2) The Administrator of the Environmental Protection Agency (EPA), after consultation with the Secretary, to promulgate, by August 7, 1978, a list of mandatory Class I Federal areas in which he determines visibility is an important value;

(3) The Administrator of EPA, to complete a study and to report to Congress, by February 7, 1979, the available methods for implementing the national goal, including methods for preventing remedying manmade air pollution and the resulting visibility impairment; and

(4) The Administrator of EPA to promulgate by August 7, 1979, regulations which (1) assure reasonable progress to-

ward meeting the national goal and (2) require that each major stationary pollution source in operation for not more than 15 years on August 7, 1977, use the best available retrofit technology to control air pollutant emissions which may reasonably cause or contribute to impairment of visibility.

PURPOSES: The purposes of this notice are to (1) inform the public of the process by which the Secretary of the Interior will identify those mandatory Class I Federal areas where visibility is an important value, (2) publicize the dates and places of the related public meetings, and (3) invite public comment.

The Secretary has assigned the lead responsibility for the identification of those mandatory Class I Federal areas where visibility is an important value to the Assistant Secretary for Fish and Wildlife and Parks. The National Park Service is leading a task force consisting of representatives from the USDA Forest Service, the U.S. Fish and Wildlife Service, and the Bureau of Land Management to carry out this directive.

Objective criteria (Appendix 1) have been applied to make a preliminary determination of which mandatory Class I Federal areas possess visibility as an important value. After public meetings, receipt of public comment, and further analysis, the criteria will be revised where appropriate and a final identification of the mandatory Class I Federal areas where visibility is an important value will be made. At the public meetings, a workbook displaying the criteria as applied for each mandatory Class I Federal area will be available for public inspection.

Appendix 2 lists mandatory Class I Federal areas and indicates the preliminary determination of whether or not visibility is an important value for each area.

COMMENT: Public comment is especially requested on (1) the importance of visibility in Class I areas, (2) the preliminary criteria used by the Secretary (Appendix 1), and (3) the application of this criteria to identify areas in which visibility is an important value. If there are comments concerning other aspects of the visibility section of the Clean Air Act, they should be addressed to the Environmental Protection Agency or to the individual states, as appropriate.

Only written comments received by November 25, 1977, will become part of the formal agency record. These comments may be delivered to the moderator at the public meetings or mailed to the National Park Service at the following address:

Director, National Park Service. Attention: 460, Department of the Interior, Interior Building, 18th & C Streets, NW., Washington, D.C. 20240.

PUBLIC MEETINGS: At each of the six public meetings oral presentations may be limited to 10 minutes or less. The moderator will establish time limits for individual speakers when the number of prospective speakers is large and the time allotted for the public meeting becomes a constraint. Participants should submit written comments in order to assure that their interests are reflected in the formal agency record. The locations, dates, and times of the public meetings are specified below:

November 9—3-9 p.m.—Bonneville Power Administration Auditorium, 1002 NE Holaday Street, Portland, Oregon.
November 10—3-9 p.m.—Sheraton Hotel, Fishermans Wharf, 2500 Mason Street, San Francisco, California.
November 11—3-9 p.m.—Lakewood Senior High, 9700 West Eighth Avenue, Lakewood, Colorado.
November 14—3-9 p.m.—5th Floor, Federal Building, Fort Snelling, Minneapolis, Minnesota.
November 15—3-9 p.m.—4th Floor, National Park Service, Southeast Regional Office, 1895 Phoenix Boulevard, Atlanta (College Park), Georgia.
November 16—11:30 a.m.-6 p.m.—Interior Auditorium (use C Street entrance), Interior Building, 18th & C Street, NW., Washington, D.C.

GENERAL INFORMATION: Requests for general information on this notice should be addressed to John F. Byrne, National Park Service, Department of the Interior, Interior Building, 18th & C Street, NW., Washington, D.C. 20240, Phone 202-343-2163.

Dated: October 6, 1977.

ROBERT L. HERBST,
Assistant Secretary
of the Interior.

APPENDIX 1—CRITERIA USED TO DETERMINE IF VISIBILITY IS AN IMPORTANT VALUE

An analysis of the legislative history of the Visibility Protection Provision shows that Congress was primarily concerned about preserving "grand vistas" and "breathtaking panoramas" for the enjoyment of the public visiting Federal mandatory Class I areas possessed of such values. It is clear that the areas include those that are presently pristine and those that would have such values but for present air pollution impairment.

In order to identify an area where visibility is an important value, the following objective criteria were applied to each Federal mandatory Class I area:

1. Does the legislation for the area indicate that scenic value was an important consideration for establishing the area? or, Is the area possessed of scenic values that are important to public enjoyment?
2. Are scenic values of the area primarily in the form of panoramas, background, intermediate or foreground views?
3. Do natural sources of visibility impairment seriously affect the ability of the public to appreciate visibility as an important value?

4. For those areas in which natural sources of visibility impairment seriously affect public appreciation of scenic values, is the magnitude of scenic value sufficient to warrant protection from man-caused sources?

APPENDIX 2

FEDERAL CLASS I AREAS DESIGNATED UNDER PROVISION OF CLEAN AIR ACT SECTION 162(a)

(A star(*) preceding the area name indicates the preliminary determination that the area is not one where visibility is an important value).

Area Name ¹	State	Acreage	Establishing Public Law	Federal Land Manager
Sipsey Wild.	AL	12,646	93-622	USDA-FS
Bering Sea Wild.	AK	41,113	91-622	USDI-FWS
Mount McKinley NP	AK	1,939,493	64-353	USDI-NPS
Simeonof Wild.	AK	25,141	94-557	USDA-FWS
Tuxedni Wild.	AK	6,402	91-504	USDI-FWS
Chiricahua National Monument Wild.	AZ	9,440	94-567	USDI-NPS
Chiricahua Wild.	AZ	18,000	88-577	USDA-FS
Galiuro Wild.	AZ	52,717	88-577	USDA-FS
Grand Canyon NP	AZ	1,176,913	65-277	USDI-NPS
Mazatzal Wild.	AZ	205,137	88-577	USDA-FS
Mount Baldy Wild.	AZ	6,975	91-504	USDA-FS
Petrified Forest NP	AZ	93,493	85-358	USDI-NPS
Pine Mtn. Wild.	AZ	20,061	92-230	USDA-FS
Saguaro Wild.	AZ	71,400	94-567	USDI-NPS
Sierra Ancha Wild.	AZ	20,850	88-577	USDA-FS
Superstition Wild.	AZ	124,117	88-577	USDA-FS
Sycamore Canyon Wild.	AZ	47,757	92-241	USDA-FS
Caney Creek Wild.	AR	14,344	93-622	USDA-FS
Upper Buffalo Wild.	AR	9,912	93-622	USDA-FS
Agua Tibia Wild.	CA	15,934	93-632	USDA-FS
Caribou Wild.	CA	19,080	88-577	USDA-FS
Cucamonga Wild.	CA	9,022	88-577	USDA-FS
Desolation Wild.	CA	63,469	91-82	USDA-FS
Dome Land Wild.	CA	62,206	88-577	USDA-FS
Emigrant Wild.	CA	104,311	93-632	USDA-FS
Hoover Wild.	CA	47,916	88-577	USDA-FS
John Muir Wild.	CA	484,673	88-577	USDA-FS
Joshua Tree Wild.	CA	429,690	94-567	USDI-NPS
Kaiser Wild.	CA	22,500	94-577	USDA-FS
Kings Canyon NP	CA	459,994	76-424	USDI-NPS
Lassen Volcanic NP	CA	105,800	64-184	USDI-NPS
Lava Beds Wild.	CA	28,640	92-493	USDI-NPS
Marble Mtn. Wild.	CA	213,743	88-577	USDA-FS
Minarets Wild.	CA	109,484	88-577	USDA-FS

Area Name	State	Acreage	Establishing Public Law	Federal Land Manager
Mokelumne Wild.	CA	50,400	88-577	USDA-FS
Pinnacles Wild.	CA	12,952	94-567	USDI-NPS
Point Reyes Wild.	CA	25,370	94-544, 94-567	USDI-NPS
Redwood NP	CA	27,792	90-545	USDI-NPS
San Gabriel Wild.	CA	36,137	90-318	USDA-FS
San Geronio Wild.	CA	34,644	88-577	USDA-FS
San Jacinto Wild.	CA	20,564	88-577	USDA-FS
San Rafael Wild.	CA	142,722	90-271	USDA-FS
Sequoia NP	CA	386,642	26 Stat. 478 (51st Cong.)	USDI-NPS
South Warner Wild.	CA	68,507	88-577	USDA-FS
Thousand Lakes Wild.	CA	15,695	88-577	USDA-FS
Ventana Wild.	CA	95,152	91-58	USDA-FS
Yolla-Bolly- Middle-Eel Wild.	CA	109,091	88-577	USDA-FS
Yosemite NP	CA	759,172	58-49	USDI-NPS
Black Canyon of the Gunnison Wild.	CO	11,180	94-567	USDI-NPS
Eagles Nest Wild.	CO	133,910	94-352	USDA-FS
Flat Tops Wild.	CO	235,230	94-146	USDA-FS
Great Sand Dunes Wild.	CO	33,450	94-567	USDI-NPS
La Garita Wild.	CO	48,486	88-577	USDA-FS
Maroon Bells- Snowmass Wild.	CO	71,060	88-577	USDA-FS
Mesa Verde NP	CO	51,488	59-353	USDI-NPS
Mt. Zirkel Wild.	CO	72,472	88-577	USDA-FS
Rawah Wild.	CO	26,674	88-577	USDA-FS
Rocky Mountain NP	CO	263,138	63-238	USDI-NPS
Weminuche Wild.	CO	400,907	93-632	USDA-FS
West Elk Wild.	CO	61,412	88-577	USDA-FS
*Bradwell Bay Wild.	FL	23,432	93-622	USDA-FS
Chassahowitzka Wild.	FL	23,360	94-557	USDI-FWS
Everglades NP	FL	1,397,429	73-267	USDI-NPS
St. Marks Wild.	FL	17,745	93-632	USDI-FWS
Cohotta Wild.	GA	33,776	93-622	USDA-FS
Okefenokee Wild.	GA	343,850	93-429	USDI-FWS
Wolf Island Wild.	GA	5,126	93-632	USDI-FWS
Haleakala NP	HI	27,208	86-744	USDI-NPS
Hawaii Volcanoes	HI	217,029	64-171	USDI-NPS

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NOTICES

Area Name	State	Acreage	Establishing Public Law	Federal Land Manager
Craters of the Moon Wild. ¹	ID	43,243	91-504	USDI-NPS
Hells Canyon Wild. ²	ID	83,800	94-199	USDA-FS
Sawtooth Wild.	ID	216,383	92-400	USDA-FS
Selway-Bitterroot Wild. ³	ID	988,770	88-577	USDA-FS
Yellowstone NP ⁴	ID	31,488	17 Stat. 32 (42nd Cong.)	USDI-NPS
*Mammoth Cave NP	KY	51,303	69-283	USDI-NPS
Breton Wild.	LA	5,000+	93-632	USDI-FWS
Acadia NP	ME	37,503	65-278	USDI-NPS
*Moosehorn Wild. (Edmunds Unit)	ME	7,501 (2,782)	91-504	USDI-FWS
(Baring Unit)		(4,719)	93-632	
Isle Royale NP	MI	542,428	71-835	USDI-NPS
Seney Wild.	MI	25,150	91-504	USDI-FWS
Boundary Waters Canoe Area Wild.	MN	747,840	88-577	USDA-FS
Voyageurs NP	MN	114,964	99-261	USDI-NPS
Hercules-Glades Wild.	MO	12,315	94-557	USDA-FS
Mingo Wild.	MO	8,000	94-557	USDI-FWS
Anacbonda-Pintlar Wild.	MT	157,803	88-577	USDA-FS
Bob Marshall Wild.	MT	950,000	88-577	USDA-FS
Cabinet Mtns. Wild.	MT	94,272	88-577	USDA-FS
Gates of the Mtn Wild.	MT	28,562	88-577	USDA-FS
Glacier NP	MT	1,012,599	61-171	USDI-NPS
*Medicine Lake Wild.	MT	11,366	94-557	USDI-FWS
Mission Mtn. Wild.	MT	73,877	93-632	USDA-FS
Red Rock Lakes Wild.	MT	32,350	94-557	USDI-FWS
Scapegoat Wild.	MT	239,295	92-395	USDA-FS
Selway-Bitterroot Wild. ³	MT	251,930	88-577	USDA-FS
U.L. Bend Wild.	MT	20,890	94-557	USDI-FWS
Yellowstone NP ⁴	MT	167,624	17 Stat. 32 (42nd Cong.)	USDI-NPS

NOTICES

Area Name	State	Acreage	Establishing Public Law	Federal Land Manager
Jarbridge Wild.	NV	64,667	88-577	USDA-FS
Great Gulf Wild.	NH	5,552	88-577	USDA-FS
Presidential Range-Dry River Wild.	NH	20,000	93-622	USDA-FS
Brigantine Wild.	NJ	6,603	93-632	USDI-FWS
Bandelier Wild.	NM	23,267	94-567	USDI-NPS
Bosque del Apache Wild.	NM	30,850	93-632	USDI-FWS
Carlsbad Caverns NP	NM	46,435	71-216	USDI-NPS
Gila Wild.	NM	433,690	88-577	USDA-FS
Pecos Wild.	NM	167,416	88-577	USDA-FS
Salt Creek Wild.	NM	8,500	91-504	USDI-FWS
San Pedro Parks Wild.	NM	41,132	88-577	USDA-FS
Wheeler Peak Wild.	NM	6,027	88-577	USDA-FS
White Mtn. Wild.	NM	31,171	88-577	USDA-FS
Great Smoky Mtns. NP ⁵	NC	273,551	69-268	USDI-NPS
Joyce Kilmer- Slickrock Wild. ⁶	NC	10,201	93-622	USDA-FS
Linville Gorge Wild.	NC	7,575	88-577	USDA-FS
Shining Rock Wild.	NC	13,350	88-577	USDA-FS
Swanguarter Wild.	NC	9,000	94-557	USDI-FWS
Lostwood Wild.	ND	5,557	93-632	USDI-FWS
Theodore Roosevelt NMP	ND	69,675	80-38	USDI-NPS
Wichita Mtns. Wild.	OK	8,900	91-504	USDI-FWS
Crater Lake NP	OR	160,290	57-121	USDI-NPS
Diamond Peak Wild.	OR	36,637	88-577	USDA-FS
Eagle Cap Wild.	OR	293,476	88-577	USDA-FS
Gearhart Mtn. Wild.	OR	18,709	88-577	USDA-FS
Bells Canyon Wild. ²	OR	108,900	94-199	USDA-FS
Kalmiopsis Wild.	OR	76,900	88-577	USDA-FS
Mtn. Lakes Wild.	OR	23,071	88-577	USDA-FS
Mt. Hood Wild.	OR	14,160	88-577	USDA-FS

NOTICES

Area Name	State	Acreage	Establishing Public Law	Federal Land Manager
Mt. Jefferson Wild.	OR	100,208	90-548	USDA-FS
Mt. Washington Wild.	OR	46,116	88-577	USDA-FS
Strawberry Mtn. Wild.	OR	33,003	88-577	USDA-FS
Three Sisters Wild.	OR	199,902	88-577	USDA-FS
Cape Romain Wild.	SC	28,000	93-632	USDI-FWS
Badlands Wild.	SD	64,250	94-567	USDI-NPS
Wind Cave NP	SD	28,060	57-16	USDI-NPS
Great Smoky Mtns. NP ⁵	TN	241,207	69-268	USDI-NPS
Joyce Kilmer- Slickrock Wild. ⁶	TN	3,832	93-622	USDA-FS
Big Bend NP	TX	708,118	74-157	USDI-NPS
Guadalupe Mtns. NP	TX	76,292	89-667	USDI-NPS
Arches NP	UT	65,098	92-155	USDI-NPS
Bryce Canyon NP	UT	35,832	68-277	USDI-NPS
Canyonlands NP	UT	337,570	88-590	USDI-NPS
Capitol Reef NP	UT	221,896	92-507	USDI-NPS
Zion NP	UT	142,462	68-83	USDI-NPS
Lyle Brook Wild.	VT	12,430	93-622	USDA-FS
Virgin Islands NP	VI	12,295	84-925	USDI-NPS
James River Face Wild.	VA	8,703	93-622	USDA-FS
Shenandoah NP	VA	190,535	69-268	USDI-NPS
Alpine Lakes Wild.	WA	303,508	94-357	USDA-FS
Glacier Peak Wild.	WA	464,258	88-577	USDA-FS
Goat Rocks Wild.	WA	82,680	88-577	USDA-FS
Mount Adams Wild.	WA	32,356	88-577	USDA-FS
Mount Rainier NP	WA	235,239	30 Stat. 993 (55th Cong.)	USDI-NPS
North Cascades NP	WA	503,277	90-554	USDI-NPS
Olympic NP	WA	892,578	75-778	USDI-NPS
Pasayten Wild.	WA	505,524	90-544	USDA-FS
Dolly Sods Wild.	WV	10,215	93-622	USDA-FS
Otter Creek Wild.	WV	20,000	93-622	USDA-FS

NOTICES

Area Name	State	Acreage	Establishing Public Law	Federal Land Manager
*Rainbow Lake Wild.	WI	6,388	93-622	USDA-FS
Bridger Wild.	WY	392,160	88-577	USDA-FS
Fitzpatrick Wild.	WY	191,103	94-567	USDA-FS
Grand Teton NP	WY	305,504	81-787	USDI-NPS
North Absaroka Wild.	WY	351,104	88-577	USDA-FS
Teton Wild.	WY	557,311	88-577	USDA-FS
Washakie Wild.	WY	686,584	92-476	USDA-FS
Yellowstone NP ⁴	WY	2,020,625	17 Stat. 32 (42nd Cong.)	USDI-NPS

Area Name	Province	Acreage	Applicable U.S. Public Law
Roosevelt Campobello International Park ⁷	New Brunswick, Canada	2,721	88-363

- Wilderness is abbreviated as Wild., National Park as NP, and National Memorial Park as NMP.
- Hells Canyon Wilderness, 193,840 acres overall, of which 108,900 acres are in Oregon and 83,800 acres are in Idaho.
- Selway Bitterroot Wilderness, 1,240,618 acres overall, of which 988,770 acres are in Idaho and 25,930 acres are in Montana.
- Yellowstone National Park, 2,219,737 acres overall, of which 2,020,625 acres are in Wyoming, 167,624 acres are in Montana, and 31,488 acres are in Idaho.
- Great Smoky Mountains National Park, 514,577 acres overall, of which 273,551 acres are in North Carolina, and 241,207 acres are in Tennessee.
- Joyce Kilmer-Slickrock Wilderness, 14,033 acres overall, of which 10,201 acres are in North Carolina, and 3,832 acres are in Tennessee.
- Section 162(a) designates all international parks as mandatory Class I areas. This designation indicates Congressional intent to prevent visibility impairment from U.S. air pollution sources.

[FR Doc.77-29968 Filed 10-13-77; 8:45 am]

NOTICES

[4310-10]

GREGORY P. PREKEGES

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

- (1) No change.
- (2) Add Univac Corp.
- (3) No change.
- (4) No change.

This statement is made as of September 30, 1977.

Dated: August 29, 1977.

GREGORY P. PREKEGES.

[FR Doc 77-29995 Filed 10-13-77; 8:45 am]

[4310-70]

[INT REG 77-38]

PROPOSED WILDERNESS CLASSIFICATION FOR CEDAR BREAKS NATIONAL MONUMENT UTAH

Availability of Final Environmental Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act, the Department of the Interior has prepared a final environmental statement for proposed wilderness designation for Cedar Breaks National Monument, Utah.

The environmental statement considers the social, economic, and ecological effects of the proposal to designate 4,830 acres, or 78.5 percent, of the monument as wilderness.

Copies of the final environmental statement are available from or for inspection at the following locations:

Rocky Mountain Regional Office, National Park Service, 655 Parfet Street, Lakewood, Colorado 80225.
Superintendent, Cedar Breaks National Monument, Post Office Box 749, Cedar City, Utah 84720.
Superintendent, Zion National Park, Springdale, Utah 84767.
Utah State Office, National Park Service, 125 South State Street, Room 2208, Salt Lake City, Utah 84138.

Dated: September 16, 1977.

HEATHER L. ROSS,
Deputy Assistant Secretary
of the Interior.

[FR Doc 77-29979 Filed 10-13-77; 8:45 am]

[4310-10]

CLIFTON F. ROGERS

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken

place in my financial interests during the past six months:

- (1) No change.
- (2) No change.
- (3) No change.
- (4) No change.

This statement is made as of September 9, 1977.

Dated: August 29, 1977.

CLIFTON F. ROGERS.

[FR Doc 77-29996 Filed 10-13-77; 8:45 am]

[4310-10]

STANLEY M. SWANSON

Statement of Changes in Financial Interests

In accordance with the requirements of section 710(b)(6) of the Defense Production Act of 1950, as amended, and Executive Order 10647 of November 28, 1955, the following changes have taken place in my financial interests during the past six months:

- (1) None (No Change).
- (2) None (No Change).
- (3) None (No Change).
- (4) None (No Change).

This statement is made as of September 15, 1977.

Dated: September 16, 1977.

STANLEY M. SWANSON.

[FR Doc 77-29997 Filed 10-13-77; 8:45 am]

[4510-01]

DEPARTMENT OF LABOR

Employment and Training Administration
EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 USC 1924 (b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibits such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the avail-

ability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unless such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.
2. Employment trends in the same industry in the local area.
3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St. NW., Washington, D.C. 20213.

Signed at Washington, D.C. this 11th day of October, 1977.

ERNEST G. GREEN,
Assistant Secretary for
Employment and Training.

Applications received during the week ending Oct. 7, 1977

Name of applicant	Location of enterprise	Principal product or activity
Crushed Aggregates, Ltd.	New Haven, Conn.	Manufacturing of railroad ties—concrete.
Green Mountain Furniture Inc.	North Bennington, Vt.	Manufacturing of wood furniture and school furniture.
Cliffstar Corp.	Dunkirk, N.Y.	Bottling and canning of fruit and vegetables, juices, ketchup, jams, and jellies.
Power Hydraulics, Inc.	Marianna, Fla.	Manufacturing of hydraulic cylinders.
Swick-Guth, Inc.	City of Marianna, Fla.	Rebuild cast iron cylinder heads.
Gen Mac Industries, Inc.	Plymouth, Wis.	Manufacturing of protective film and paper.
The Eastman Helicopter Corp.	McQuinn, Mich.	Aircraft manufacturer—helicopters.
Michael Kral Industries Inc.	Painesville, Ohio.	Processing of ingots and preforms into semi-finished and finished solid hollow shapes.
Baton Lumber Co. Inc.	Natalbany, La.	Manufacturing of plywood.
Fairfield Communities, Inc.	Fairfield Bay, Ark.	Lodge—villa hotel and associated conference center.
The Farmers Co.	Schuyler, Neb.	Manufacturing of 50 percent protein meat and bone meal feed supplement.
Garlyn Enterprises	Sweet Springs, Mo.	Nursing home.
Larry D. Neff and Robert Foster	Neosho, Mo.	Motel—restaurant.

[FR Doc 77-30015 Filed 10-13-77; 8:45 am]

[4510-30]

INDIAN AND NATIVE AMERICAN ECONOMIC STIMULUS PROGRAM

Plans for Allocating Funds—Supplemental Information

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice provides for an extension of the proposal receipt deadline under the Fiscal Year 1978 Indian and Native American Economic Stimulus Program. This program was announced earlier in the FEDERAL REGISTER.

DATES: Proposals must be received, in the manner specified in the earlier FEDERAL REGISTER announcement, by 4:45 p.m. on October 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Alexander S. MacNabb, Director, Division of Indian and Native American Programs, Room 6402, 601 D Street, NW., Washington, D.C. 20213.

SUPPLEMENTARY INFORMATION: Basic plans for the Indian and Native American Economic Stimulus Program were announced on Tuesday, September 13, 1977, at 42 FR 26629. The proposal receipt deadline announced at that time of 4:45 p.m. on October 17, 1977, is now changed to October 31, 1977.

Signed in Washington, D.C. this 28th day of September 1977.

LAMOND GODWIN,
Administrator,
Office of National Programs.

[FR Doc 77-30023 Filed 10-13-77; 8:45 am]

[4510-30]

MIGRANT AND SEASONAL FARMWORKER PROGRAMS

Funding Requests Received

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice announces the funding requests received by the Employment and Training Administration

requesting title III section 303 funds under the Comprehensive Employment and Training Act of 1973 (CETA), as amended.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the following applicants have submitted funding requests pursuant to 29 CFR 97.214 to the Department of Labor to request funds under the Migrant and Other Seasonally Employed Farmworkers Programs. An eligible applicant which has submitted a pre-application by August 1, 1977, pursuant to 29 CFR 97.211(b) and a funding request by September 1, 1977, pursuant to 29 CFR 97.214 and is not listed below should notify the Department of Labor at the following address:

U.S. Department of Labor, Employment and Training Administration, Patrick Henry Building, Room 7122, 601 D Street, NW., Washington, D.C. 20213. Attn: Director, Office of Farmworker Programs.

APPLICATIONS FOR CETA FISCAL YEAR 1978
SECTION 303 FUNDS

REGION I

Connecticut

New England Farmworkers Council, 3502 Main Street, Springfield, Mass. 01107.

Maine

Penobscot Consortium, Training and Employment Administration, 166 Union Street, Bangor, Maine 04401.

Rhode Island

New England Farmworkers Council, Inc., 3502 Main Street, Springfield, Mass. 01107.

REGION II

New York

Program Funding, Inc., Suite 730, Powers Building, Rochester, N.Y. 14614.
State University of New York, College at Fredonia, Fredonia, N.Y. 14063.
Orange County, 168 Main Street, Goshen, N.Y. 10924.

Puerto Rico

Center of Development Opportunities of Puerto Rico, Inc., Las Violetas 2007, Apt. 6A, Santurce, Puerto Rico 00915.
Commonwealth of Puerto Rico, Department of Labor, 414 Barbosa Avenue, Hato Rey, Puerto Rico 00917.

REGION III

Delaware

Delmarva Ecumenical Agency, Rural Ministries, Blue Hen Mall, Dover, Del. 19901.
Migrant and Seasonal Farmworkers Association, 3929 Western Blvd., POB 33315, Raleigh, N.C. 27606.

Maryland

Migrant and Seasonal Farmworkers Association, 3929 Western Blvd., POB 33315, Raleigh, N.C. 27606.
State of Maryland Department of Human Resources, 1100 North Eutaw Street, Baltimore, Md. 21201.

Pennsylvania

Farm Labor Services Center, Inc., 633 West Girard Avenue, Philadelphia, Pa. 19122.
Farmworkers Corporation of New Jersey, 36 West Landis Avenue, Vineland, N.J. 08360.
Pennsylvania Council of Farmworkers, 1831 Hamilton Street, Allentown, Pa. 18102.
Operational Innovations, Inc., 508 Main Street, Bethlehem, Pa. 18016.

NOTICES

Philadelphia Opportunities Industrialization Center, Inc., 1231 North Broad Street, Fourth Floor, Philadelphia, Pa. 19122.
National Council on Agricultural Life and Labor Research Fund, Inc., 155 South Bradford Street, Dover, Del. 19901.

Virginia

Migrant and Seasonal Farmworkers Association, Inc., 3929 Western Blvd., POB 33315, Raleigh, N.C. 27606.
Virginia Employment Commission, 703 East Main Street, Richmond, Va. 23211.

West Virginia

State of West Virginia, Governor's Manpower Office, 5790-A MacCorkle Avenue, SE, Charleston, W. Va. 25304.

REGION IV

Florida

Florida Farmworker's Council, 1975 East Sunrise Blvd., Suite 850, Ft. Lauderdale, Fla. 33304.
Florida Department of Education, Vocational Education Division, Capitol Building, Tallahassee, Fla. 32304.

Georgia

Office of the Governor, Georgia Department of Labor, 501 Pulliam Street, SW., Atlanta, Ga. 30012.
Migrant and Seasonal Farmworkers Association, Inc., 3929 Western Blvd., POB 33315, Raleigh, N.C. 27606.
Supplemental Education Services, Inc., POB 793, Butler, Ga. 31006.

Kentucky

Tennessee Opportunity Programs for Seasonal Farmworkers, Inc., 2803 Foster Avenue, Nashville, Tenn. 37211.

Mississippi

Mississippi Delta Council for Farm Workers Opportunities, Inc., 1933 Fourth Street, Clarksdale, Miss. 38614.

North Carolina

Migrant and Seasonal Farmworker Association, Inc., 3929 Western Blvd., POB 33315, Raleigh, N.C. 27606.

South Carolina

Office of the Governor, 1800 St. Julian Place, INA Bldg., Columbia, S.C. 29204.
South Carolina Resources Development Corp., 3015 South Church Street, Spartanburg, S.C. 29301.

REGION V

Illinois

Illinois Migrant Council, 202 South State Street, Chicago, Ill. 60604.

Indiana

Office of Manpower Development, 150 West Market Street, 7th Floor, Indianapolis, Ind. 46204.
AMOS, Inc., 2802 North Delaware, Indianapolis, Ind. 46205.

Ohio

La Raza Unida de Ohio, 1007 Revere Drive, Bowling Green, Ohio 43402.

REGION VI

Arkansas

Arkansas Council of Farmworkers, 1200 Westpark Drive, POB 4241 Asher Station, Little Rock, Ark. 72214.

Oklahoma

ORO Development Corp., 1100 North Classen Drive, POB 60126, Oklahoma City, Okla. 73106.

Texas

Associated City-County Economic Development Corp., Inc., 1304 South 25th Street, Edinburg, Tex. 78539.
Governor's Office of Migrant Affairs, POB 12428, Capitol Station, Austin, Tex. 77327.

REGION VII

Kansas

American GI Forum of Kansas, 676 South 9th Street, Salina, Kans. 67401.
ORO Development Corp., 1100 North Classen Drive, POB 60126, Oklahoma City, Okla. 73106.

Missouri

Rural Missouri, Inc., 418 Madison Street, POB 204, Jefferson City, Mo. 65101.

Nebraska

Migrant Action Program, POB 778, 220 East State Street, Mason City, Iowa 50401.
State of Nebraska, Department of Labor, 124 North 11th Street, Lincoln, Neb. 68501.

REGION VIII

Colorado

Colorado Council on Migrant and Seasonal Agricultural Workers and Families, 665 Grant Street, Denver, Colo. 80203.

Montana

State of Montana Governor's Office, POB 169, State Capitol Bldg., Helena, Mont. 59601.

North Dakota

North Dakota Migrant Council, P.O. Drawer X, Grand Forks, N.D. 58201.

South Dakota

Minnesota Migrant Council, POB 1231, St. Cloud, Minn. 56301.

Utah

Utah Migrant Council, Inc., 12 East Center Street, Midvale, Utah 84047.

Wyoming

North-western Community Action Programs of Wyoming, Inc., POB 431, Worland, Wyo. 82401.

REGION IX

Arizona

MOOpportunities, Inc., 6611 South Central Avenue, Phoenix, Ariz. 85040.

California

Center for Employment and Training, Migrant Division, 1318 North Santa Fe Avenue, Vista, Calif. 92083.
National Farm Workers Service Center, Inc., POB 48, La Paz-Keene, Calif. 93531.
Kern & Ventura Educational Program, 710 Union Avenue, Bakersfield, Calif. 93307.
Proteus Adult Training, Inc., 1640 West Mineral King, POB 727, Visalia, Calif. 93277.
California Human Development Corp., 2462 Mendocino Avenue, Santa Rose, Calif. 95401.
Greater California Education Project, POB 11367, Fresno, Calif. 93783.
County of Kern, 1415 Truxtun Avenue, Bakersfield, Calif. 93301.
Tulare County, Human Services—Employment and Training, 160 West Mineral King No. D, Visalia, Calif. 93277.
Central Coast County Development Corp., 110 South "A" Street, Madera, Calif. 93673.
Campesinos Unidos, Inc., POB 203, Brawley, Calif. 92227.
Campesinos Progresistas, Inc., 160 North First Street, Dixon, Calif. 95620.

Inland Manpower Association, 336 North La Cadena Drive, Colton, Calif. 92324.

City of Stockton, Employment and Training Opportunity Department, City Hall, Stockton, Calif. 95202.

Center for Employment and Training, 11131 Clarissa, Garden Grove, Calif.
The Terrena Corp., 300 South C Street, Oxnard, Calif. 93030.

County of San Luis Obispo, Employment and Training Services, 303 Higuere, San Luis Obispo, Calif. 93401.

Center for Employment Training of the Central Coast Counties, 425 South Market Street, San Jose, Calif. 95113.

Centro De Entrenamiento Para Trabajo De Riverside/San Bernardino Counties, 84-915 Avenue 48, Coachella, Calif. 92236.

Hawaii

State of Hawaii, Department of Labor and Industrial Relations, 825 Milliani Street, Honolulu, Hawaii 96813.

REGION X

Idaho

Idaho Migrant Council, Inc., 415 South 8th Street, Boise, Idaho 83706.

Oregon

Oregon Rural Opportunities, 5103 Portland Road, NE, Salem, Oreg. 97303.

Washington

Northwest Rural Opportunities, Inc., 305 Euclid, Grandview, Wash. 98930.

Funding requests have also been received by the following sponsors who are operating programs in areas which were not opened for competition:

Alabama

Alabama Migrant and Seasonal Farm Workers Council, Inc., 404 East South Boulevard, Montgomery, Ala. 38105.

California

County of Los Angeles, Department of Community Development, 2999 West Sixth Street, Los Angeles, Calif. 90020.

Iowa

Migrant Action Program, Inc., 220 East State Street, POB 778, Mason City, Iowa 50401.

Louisiana

Motivation, Education, and Training, POB 1749, Cleveland, Tex. 77327.

Massachusetts

New England Farmworker's Council, 3502 Main Street, Springfield, Mass. 01107.

Michigan

United Migrants for Opportunity, Inc., 908 West Jefferson Street, Grand Ledge, Mich. 48337.

Minnesota

Minnesota Migrant Council, POB 1231, St. Cloud, Minn. 56301.

New Jersey

Farmworkers Corp. of New Jersey, 36 West Landis Avenue, Vineland, N.J. 08360.

New Mexico

Home Education Livelihood Program, 5000 Marble, N.E., Suite 222, Albuquerque, N. Mex. 87110.

Tennessee

Tennessee Opportunity Programs for Seasonal Farmworkers, 2803 Foster Avenue, Nashville, Tenn. 37211.

NOTICES

IV. ORDER

rail and toeboard. Section 1910.23(e) states that a standard guardrail shall consist of top rail, intermediate rail, and post and shall have a vertical height of 42 inches nominal from upper surface of top rail to floor, platform, runway, or ramp level. The purpose of the standard is to protect employees from falling into these particularly hazardous areas.

The facility affected by this application is as follows:

Frontier Hot-Dip Galvanizing, Inc., 1740 Elmwood Avenue, Buffalo, N.Y. 14207

Notice of the application, and of the granting of the interim order, was published in the FEDERAL REGISTER on February 18, 1977 (42 FR 10077). The notice invited interested persons, including affected employers and employees, to submit written data, views, and arguments regarding the grant or denial of the variance request. In addition, affected employers and employees were notified of their rights to request a hearing on the application for a variance. No written comments or requests for a hearing have been received.

II. FACTS

The applicant operates a galvanizing tank which has a 30 inch side height and 21½ inch ledge width. Modification of the ledge width has increased it to 24 inches.

The applicant asserts that the erection of a 42 inch guardrail around its galvanizing tank would seriously interfere with necessary work practices such as skimming the zinc and may create additional hazards of splashing hot zinc.

Instead of the standard guardrail and toeboard, the applicant has increased the ledge width by installing a protective angle bringing the dimensions to a 24 inch width and a 30 inch height.

III. DECISION

Section 1910.22(c) requires that guardrails be provided to protect personnel from the hazards of open pits, tanks, etc. Section 1910.23(c)(3) requires that regardless of height, open-sided floors, walkways, platforms or runways above or adjacent to dangerous equipment, pickling or galvanizing tanks, degreasing units or similar hazards shall be guarded with a standard railing and toeboard.

In the work area described, the 24 inch ledge width prevents an employee from accidentally stepping into the tank. The 30 inch side height is sufficient to allow an employee to right himself if he should fall towards the tank. The combination of side height and ledge width, combined with the applicant (1) assuring that no employee walks, steps or sits on the ledge around the tank and (2) training the employees regarding the proper performance of the operation and the hazards associated with walking, stepping, and sitting on the ledge around the tank, provides protection as safe as that which would be provided by use of a standard guardrail and toeboard.

Texas

Community Action Council of South Texas, 420 East Main Street, Drawer S, Rio Grande City, Tex. 78582.

Economic Opportunities Development Corporation of San Antonio and Bexar Counties, POB 9326, San Antonio, Tex. 78204.
Motivation, Education, and Training, POB 1749, Cleveland, Tex. 77327.

Signed in Washington, D.C., this 30th day of September 1977.

LAMOND GODWIN,
Administrator, Office of
National Programs.

[FR Doc.77-30022 Filed 10-13-77; 8:45 am]

[4510-26]

Occupational Safety and Health Administration

[V-77-3]

FRONTIER HOT-DIP GALVANIZING, INC.
Grant of Variance

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Grant of variance.

SUMMARY: This notice announces the grant of a variance to Frontier Hot-Dip Galvanizing, Inc., from the standards prescribed in 29 CFR 1910.22(c) and 1910.23(c)(3) concerning guardrails.

DATE: The effective date of the variance is October 14, 1977.

FOR FURTHER INFORMATION CONTACT:

James J. Concannon, Director, Office of Variance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 3rd and Constitution Avenue NW., Room N-3668, Washington, D.C. 20210, telephone: 202-523-7121.

or the following Regional and Area Offices:

U.S. Department of Labor, Occupational Safety and Health Administration, 1515 Broadway (1 Astor Plaza)—Room 3445, New York, N.Y. 10036.

U.S. Department of Labor, Occupational Safety and Health Administration, Leo W. O'Brien Federal Building, Clinton Avenue and North Pearl Street, Room 132, Albany, N.Y. 12207.

I. BACKGROUND

Frontier Hot-Dip Galvanizing, Inc., 1740 Elmwood Avenue, Buffalo, N.Y. 14207 made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance from the safety and health standards prescribed in 29 CFR 1910.22(c) and 1910.23(c)(3). Section 1910.22(c) requires that covers and/or guardrails shall be provided to protect personnel from the hazards of open pits, tanks, vats, ditches, etc. Section 1910.23(c)(3) requires that all galvanizing tanks be guarded with a standard guard-

Pursuant to authority in section 6(d) of the Occupational Safety and Health Act of 1970, and in Secretary of Labor's Order No. 8-76 (41 FR 25059), it is ordered that Frontier Hot-Dip Galvanizing, Inc., be, and it is hereby authorized to continue its operation while using its galvanizing tank having ledges (including the protective angle) 24 inches wide and sides 30 inches high, in lieu of the standard guardrail and toeboard required by 29 CFR 1910.22(c) and 1910.23(c)(3) provided that:

(1) No employee shall walk, step, or sit on the ledge around the tank.
(2) Training and information regarding the hazards associated with and the prohibition against walking, stepping or sitting on the ledge around the tank shall be provided for current employees within one week of the effective date of this variance, for new employees at the time of their initial assignment, and for all employees on a quarterly basis after their initial training.

As soon as possible, Frontier Hot-Dip Galvanizing, Inc., shall give notice to affected employees of the terms of this order by the same means required to be used to inform them of the application for variance.

This order shall become effective on October 14, 1977, and shall remain in effect until modified or revoked in accordance with section 6(d) of the Occupational Safety and Health Act of 1970.

Signed at Washington, D.C., this 7th day of October 1977.

EULA BINGHAM,

Assistant Secretary of Labor.

[FR Doc.77-30024 Filed 10-13-77; 8:45 am]

[4510-26]

[V-77-13]

P D M HYDROSTORAGE, INC.

Application for Variance and Interim Order

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTIONS: (1) Notice of application for variance and interim order. (2) Grant of interim order.

SUMMARY: This notice announces the application of P D M Hydrostorage, Inc. for a variance and interim order pending a decision on the application for a variance from the standard prescribed in 29 CFR 1926.451(a)(4), (5) and (10) concerning Scaffolding.

It also announces the granting of an interim order until a decision is rendered on the application for variance.

DATES: The effective date of the interim order is October 14, 1977. The last date for interested persons to submit comments is November 14, 1977. The last date for affected employers and employees to request a hearing on the application is November 14, 1977.

ADDRESSES: Send comments or requests for a hearing to: Office of Vari-

NOTICES

ance Determination, Occupational Safety and Health Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Room N3668, Washington, D.C. 20210.

FOR FURTHER INFORMATION CONTACT:

Mr. James J. Concannon, Director, Office of Variance Determination, at the above address, telephone: 202-523-7121;

or the following Regional and Area Offices:

U.S. Department of Labor—OSHA, Gateway Building, Suite 2100, 3535 Market Street, Philadelphia, Pa. 19104.
U.S. Department of Labor—OSHA, 1375 Peachtree Street NE., Suite 587, Atlanta, Ga. 30309.

U.S. Department of Labor—OSHA, 1600 Hayes Street, Suite 302, Nashville, Tenn. 37203.

U.S. Department of Labor—OSHA, 32nd Floor—Room 3263, 230 South Dearborn Street, Chicago, Ill. 60604.

U.S. Department of Labor—OSHA, 911 Walnut Street, Room 3000, Kansas City, Mo. 64106.

NOTICE OF APPLICATION

Notice is hereby given that P D M Hydrostorage, Inc. has made application pursuant to section 6(d) of the Occupational Safety and Health Act of 1970 (84 Stat. 1596; 29 U.S.C. 655) and 29 CFR 1905.11 for a variance, and an interim order pending a decision on the application for a variance, from the standards prescribed in 29 CFR 1926.451(a) (4), (5) and (10) Toeboards, Plank Spans and Guardrail Support Spans.

The address of the place of employment that will be affected by the application is as follows:

P D M Hydrostorage, Inc., Conference Drive, Franklin, Tenn. 37064.

The applicant certifies that employees who would be affected by the variance have been notified of the application by giving a copy of it to their authorized employee representative, and by posting a copy at all places where notices to employees are normally posted. Employees have also been informed of their right to petition the Assistant Secretary for a hearing.

In accordance with the regulation published in the FEDERAL REGISTER on June 16, 1976 (40 FR 25448-50) concerning Federal and State Variances from Identical Standards, the variance application was submitted (for review) to the States of Iowa, Kentucky, Minnesota, North Carolina, South Carolina, and Virginia. The States concur with the granting of an interim order.

Regarding the merits of the application, the applicant contends that it is providing a place of employment as safe as that required by § 1926.451(a) (4), (5) and (10). Section 1926.451(a) (4) and (5) reads as follows:

(4) Guardrails and toeboards shall be installed on all open sides and ends of platforms more than 10 feet above the ground or floor, except needle beams scaffolding and floats (see paragraphs (p) and (w) of this section). Scaffolds four to 10 feet in height having a minimum horizontal dimension in either direction of less than 45 inches, shall have standard guardrails installed on all open sides and ends of the platform.

(5) Guardrails shall be 2 x 4 inches, or the equivalent, approximately 42 inches high, with a midrail, when required. Supports shall be at intervals not to exceed 8 feet. Toeboards shall be a minimum of 4 inches in height.

The applicant states that its business is of a specialized nature involving steel plate erection.

The applicant contends that the scaffolds used in building tanks are mobile and are frequently raised as are the tank sections, in order to position the next set of steel plates. The scaffolds used do not have toeboards because tools are placed in well designed "loose tool" containers provided for that purpose. In addition, the applicant proposes to rope off the area directly below and in close proximity to the scaffold and to permit only those employees, and tools currently being used by them, on the scaffolds. The applicant states that because the scaffolds must be moved frequently, it would be more hazardous to constantly remove and replace toeboards.

The applicant also proposes to place guardrail supports at 10'6" intervals in lieu of the 8' requirement of § 1926.451(a) (5). This would allow consistent bracket spacing since the applicant further desires to use 10'6" spans for its scaffold planking although § 1926.451(a) (10) allows a maximum span of 10'. The planks proposed to be used are rough full-dimensioned 2" x 12" x 12' planks of Douglas Fir or Southern Yellow Pine of Select Structural Grade. The Douglas Fir has a fiber stress of 1,900 and a modulus of elasticity of 1,900,000, while the Southern Yellow Pine has a 2,300 fiber stress and a modulus of elasticity of 2,000,000. The applicant contends that the scaffolds he is using are safe, even though the span is one-half foot longer than the maximum length allowed, because of the increased strength of the wood.

GRANT OF INTERIM ORDER

It appears from the application for a variance and interim order as required by section 6(d) of the Act, that the proposed scaffolding described in the application with certain variations will provide to the affected employees a place of employment as safe as that which would be provided if the applicant complied with 29 CFR 1926.451(a) (4), (5), and (10). It further appears that an interim order is necessary to prevent undue hardship to the applicant and its employees pending a decision on the variance. Therefore it is ordered, pursuant to the authority in section 6(d) of

the Occupational Safety and Health Act of 1970, in 29 CFR 1905.11(c) and in Secretary of Labor's Order No. 8-76 (41 FR 25059), that P D M Hydrostorage, Inc. be, and it is hereby, authorized to use scaffolds in accordance with the following conditions in lieu of complying with the toeboard and span requirements in § 1926.451(a) (4), (5), and (10):

(a) The applicant's loose tools and equipment shall be kept in well-designed tool containers. This does not include fitup bars, key plates, key channels, or long handled maul which may be placed on the scaffold plank during the time they are required for work. The loose tool containers shall be secured to prevent their upset or dislodgement from the scaffold area.

(b) Areas beneath and far enough away from the base of the scaffold to contain anything that falls from above shall be roped off and posted with clearly visible signs stating: "Danger Overhead Work."

(c) The space between the innermost edge of the scaffold platform and the curved plate structure of the tank shell shall not exceed 12" without protective measures. A taut wire rope supported on scaffold brackets at plank level may be used to divide any space exceeding 12" in lieu of using a guardrail or tie-off system.

(d) Not more than 3 employees shall be working on a 10'6" span of scaffold planking at any time.

(e) The maximum distance between brackets to which scaffolding and guardrail supports are attached shall be 10'6". These brackets shall be welded to the steel plates.

(f) Scaffold planks of rough full-dimensioned 2"x12"x12' Douglas Fir or Southern Yellow Pine of Select Structural Grade or equivalent planking shall be used. The Douglas Fir shall have at least a 1,900 fiber stress and 1,900,000 modulus of elasticity, while the Yellow Pine shall have at least 2,300 fiber stress and 2,000,000 modulus of elasticity. Three planks with full thickness 2"x10"x12' dimensions may be used in lieu of two 2"x12"x12' planks provided that they are clamped or bonded together at the midpoint of the span, in order to spread the weight of the employees.

(g) All planking shall be secured from movement or overlapped in accordance with § 1926.451(a) (12).

(h) Guardrails shall be constructed of taut wire rope, and shall be supported by angle irons attached to brackets welded to the steel plates. These guardrails shall be at least of equivalent strength, stability and height as those required for the 8 foot span of 2"x4" wood rails by 29 CFR 1926.451(a) (5). Guardrail supports shall be located at no greater than 10'6" intervals.

P D M Hydrostorage, Inc. shall give notice of this interim order to employees affected thereby by the same means required to be used to inform them of the application for a variance.

This interim order shall remain in effect until a decision is rendered on the application for a variance.

Signed at Washington, D.C., this 7th day of October 1977.

EULA BINGHAM,
Assistant Secretary of Labor.

[FR Doc. 77-30025 Filed 10-13-77; 8:45 am]

[4510-28]

Office of the Secretary
[TA-W-2149]

ABC INDUSTRIES, PATERSON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2149: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 20, 1977 in response to a worker petition received on June 17, 1977 which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers engraving copper rollers and rotary screens at ABC Industries, Paterson, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on June 28, 1977 (42 FR 32853). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of ABC Industries, the Machine Printers and Engravers Association, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals there are no known imports of copper rollers or engraved rotary screens.

Engraved copper rollers would be imported under TSUSA number 668.3400, Print Blocks and Print Rollers. Unengraved rollers and engraved rotary screens would be imported under 668-5020, Parts of Textile Printing Machinery. Industry sources report there are no known imports of either engraved or unengraved rollers or engraved rotary screens. Shipping costs of imported rollers and engraved screens are prohibitive due to the special packaging required to protect the surface of the roller or screen, and quickly changing fashion trends make the time delays inherent in importation of engraved rollers and screens unprofitable.

Industry sources attribute the decline in copper roller and rotary screen printing to competition from other printing processes. Since 1970, three printing processes have been introduced which use computers to print designs. The new processes decrease the time required to produce a print. The time required to engrave rollers and screens makes the roller and screen printing processes less competitive in the volatile fashion industry than the faster, computerized processes.

ABC Industries, Incorporated is a multiplant corporation where copper rollers and rotary screens are engraved for use in printing fabric, plastic, vinyl, and cardboard. Plants are located in Paterson, New Jersey; Charlotte, North Carolina; and Rome, Georgia.

The Paterson, New Jersey plant of ABC Industries began operations in 1939. The plant is a two-story building of approximately 20,000 square feet of work space and storage area. The facilities include metal lathes, photo engraving machinery, and copper and chrome plating tanks. The Paterson, New Jersey plant was closed on June 30, 1977 for an indefinite period.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of copper rollers and rotary screens like or directly competitive with copper rollers and rotary screens engraved at ABC Industries, Paterson, New Jersey have not increased as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C. this 26th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc. 77-30028 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1929; TA-W-1930; TA-W-1931]

AMERICAN MOTORS CORP., SOUTHFIELD, MICHIGAN

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1929, 1930, and 1931 investigations regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation with regard to TA-W-1929 and 1930 was initiated on March 31, 1977 in response to worker petitions received on that date which were filed by the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW) on behalf of workers and former workers engaged in the production of AMC Pacer automobiles and components for such cars and subcompact, compact and intermediate size cars at two (2) plants of the American Motors Corporation (AMC), Southfield, Michigan. The Notice of Investigation was published in the FEDERAL REGISTER (42 FR 19937) on April 15, 1977.

The investigation with regard to TA-W-1931 was initiated on March 31, 1977 in response to a worker petition received on that date which was filed by the International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America (UAW) on behalf of workers and former workers engaged in employment related to production support for subcompact, compact and intermediate size cars at AMTEK, American Motors Corporation's technical center, Detroit, Michigan. The Notice of Investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19937).

On October 28, 1976 workers engaged in employment related to final assembly operations at the Kenosha, Wisconsin plant of American Motors Corporation were certified as eligible to apply for trade adjustment assistance (TA-W-999). The Notice of Determination was published in the FEDERAL REGISTER on November 5, 1976 (41 FR 48801). On November 17, 1976, workers engaged in employment related to the production of body assemblies at the Kenosha, Wisconsin plant of American Motors Corporation were certified as eligible to apply for trade adjustment assistance (TA-W-999). The Notice of Determination was published in the FEDERAL REGISTER on November 30, 1976 (41 FR 52558).

The information upon which the determinations were made was obtained principally from officials of American Motors Corporation, the U.S. Department of Commerce, the Motor Vehicle Manufacturers Association, Automotive News, Wards Automotive Reports, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eli-

gibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in such workers' firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

KENOSHA, WISCONSIN PLANT

Average employment of hourly workers engaged in the production of engines declined 5.3 percent in MY 1975 from MY 1974, decreased 16.8 percent in MY 1976 from 1975, and declined 23.7 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

Average employment of hourly workers engaged in the production of axles and gears declined 11.7 percent in MY 1975 compared to MY 1974, decreased 14.0 percent in MY 1976 from MY 1975, and declined 39.2 percent in the first two quarters of MY 1977 compared to the same period in MY 1976.

Average employment of hourly workers engaged in the production of stampings and forgings declined 0.9 percent in MY 1975 from MY 1974, declined 15.3 percent in MY 1976 from MY 1975, and decreased 23.2 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

Average employment of hourly workers engaged in the production of body assemblies declined 3.5 percent in MY 1975 from MY 1974, declined 29.9 percent in MY 1976 from MY 1975, and decreased 29.3 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

Average employment of hourly workers engaged in final assembly operations declined 1.9 percent in MY 1975 from MY 1974, declined 21.0 percent in MY 1976 from MY 1975, and decreased 38.1 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

Average employment of hourly workers engaged in production support functions declined 9.2 percent in MY 1976 from MY 1975 and declined 21.5 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

Average salaried employment for the Kenosha plant declined 8.4 percent in MY 1975 from MY 1974, declined 11.4

percent in MY 1976 from MY 1975, and decreased 11.2 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

SOUTH CHARLESTON STAMPING PLANT

All workers at the South Charleston Stamping plant are engaged in employment related to the production of automotive stampings.

Average employment of hourly workers increased 43.4 percent in MY 1976 compared to MY 1975 and increased 19.1 percent in the first two quarters of MY 1977 from the first two quarters of MY 1976.

Average employment of salaried workers increased 22.0 percent in MY 1976 from MY 1975 and increased 15.0 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

AMTEK

Workers at AMTEK are engaged in a wide variety of production support activities.

Average employment of hourly workers declined 16.3 percent in MY 1975 from MY 1974, increased 3.4 percent in MY 1976 compared to MY 1975, and decreased 3.3 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

Average employment of salaried workers declined 3.1 percent in MY 1975 from MY 1974, decreased 14.2 percent in MY 1976 from 1975, and declined 40.7 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

KENOSHA, WIS., PLANT

Annual total production of engines declined 10.7 percent in MY 1975 from MY 1974, declined 16.0 percent in MY 1976 from MY 1975, and declined 23.3 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

Annual total production of axles and gears declined 11.1 percent in MY 1975 from MY 1974, decreased 6.8 percent in MY 1976 from MY 1975, and declined 31.7 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

Annual total production of stampings and forgings declined 5.1 percent in MY 1975 from MY 1974, decreased 20.9 percent in MY 1976 from MY 1975, and declined 34.3 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

Annual total production of body assemblies declined 9.5 percent from MY 1974 to MY 1975, decreased 24.2 percent in MY 1976 from MY 1975 and declined 23.5 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

Annual total production of finished automobiles, all classes combined, increased 4.1 percent in MY 1975 from MY 1974, declined 23.3 percent in MY 1976 from MY 1975, and declined 38.9

percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

SOUTH CHARLESTON STAMPING PLANT

Total production of stampings and forgings increased 63.8 percent in the last three quarters of MY 1976 compared to the last three quarters of MY 1975 and increased 49.0 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

AMTEK

AMTEK is not involved directly with the production process but is broadly involved in production support activities. Employment at AMTEK is dependent upon the overall performance of American Motors Corporation.

INCREASED IMPORTS

SUBCOMPACT CAR MARKET

Imports of subcompact cars increased from 1393.4 thousand units representing 108.6 percent of U.S. production in MY 1974 to 1437.9 thousand units representing 180.0 percent of domestic production in MY 1975. In MY 1976, imports declined to 1325.4 thousand units representing 142.9 percent of domestic production. In the first quarter of MY 1977, imports of subcompact cars were 350.5 thousand units representing 260.8 percent of U.S. production, up from the first quarter of MY 1976, when imports were 301.3 thousand units representing 101.4 percent of domestic subcompact car production.

American Motors Corporation imports a subcompact car from Canada into the United States which is indistinguishable from domestically produced AMC subcompacts. In MY 1975, AMC imports of subcompact cars from Canada declined 71.0 percent from MY 1974, increased 36.4 percent in MY 1976 from MY 1975, and increased 54.9 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976. In the first two quarters of MY 1977, AMC imports of subcompact cars represented 41.2 percent of AMC's domestic production of subcompact cars, up from 16.4 percent in the first two quarters of MY 1976.

COMPACT CAR MARKET

Imports of compact cars declined from 325.5 thousand units representing 17.0 percent of domestic production in MY 1974 to 181.4 thousand units representing 9.6 percent of domestic production of compact cars in MY 1975. In MY 1976, imports of compact cars declined to 108.7 thousand units representing 4.2 percent of U.S. production. Compact imports declined to 19.5 thousand units representing 3.0 percent of domestic production in the first quarter of MY 1977, down from 23.3 thousand units representing 4.1 percent of domestic production in the first quarter of MY 1976.

American Motors Corporation imports a Hornet compact car from Canada into the United States which is indistinguishable from domestically produced Hornet

compact cars. Imports of AMC compact cars declined 11.8 percent from MY 1974 to MY 1975, increased 8.3 percent in MY 1976 from 1975, and declined 53.8 percent in the first two quarters of MY 1977 compared to the first two quarters of MY 1976.

INTERMEDIATE SIZE CAR MARKET

Imports of intermediate size cars were 346.1 thousand units in MY 1974 representing 16.5 percent of domestic production and declined to 304.6 thousand units in MY 1975, which represented 15.6 percent of domestic production in that year. In MY 1976, imports of intermediate size cars increased to 346.3 thousand units, representing 13.7 percent of domestic production, i.e. a declining share of the domestic market. In the first quarter of MY 1977, imported intermediate size cars were 83.8 thousand units, equal to 12.0 percent of domestic production, down from 90.3 thousand units representing 17.1 percent of U.S. production in the first quarter of MY 1976.

American Motors does not import an intermediate size car.

CONTRIBUTED IMPORTANTLY

The Department's previous investigations under TA-W-923, 997-999, revealed that (a) AMC's domestic production of its subcompact, compact and intermediate size cars at its Kenosha plant was adversely affected by increased aggregate imports or by increased imports of AMC cars from Canada in each of those car classes; (b) AMC's domestic production of subcompact, compact and intermediate body assemblies at its Milwaukee and Kenosha plants were adversely affected by increased aggregate imports of each of those car classes or by increased imports of AMC cars in the classes from Canada; (c) AMC's domestic production of stampings and forgings at the Milwaukee plant was adversely affected by increased imports of intermediate size cars but that AMC's domestic production of components at the Kenosha plant were not adversely affected by increased imports of subcompact, compact or intermediate size cars. Eligibility to apply for adjustment assistance for workers in the adversely affected subdivision cited above is currently in effect.

The Department's current investigation involves the AMC Pacer automobile and components for the AMC Pacer produced at the Kenosha, Wisconsin and South Charleston, West Virginia plants.

Under the previous determinations, employees at AMC engaged in employment related to the production of AMC Hornet compact cars were certified eligible to apply for adjustment assistance. (Hornet was the only AMC car in the compact class). The Department found that during the relevant time period AMC was increasing its imports of AMC Hornets from Canada. These imports were displacing AMC production of Hornets at its domestic Kenosha plant. The imported AMC Hornets were exactly identical to and displaced AMC Hornets produced in the U.S.

At the time of that decision, AMC's Pacer automobile was classified by the industry as a luxury small car. The luxury small category was abolished beginning with MY 1977 and the Pacer is now classified by the Department as a compact car. The reclassification was made on the basis of an amalgam of automobile characteristics, including wheel base, length, width, curb weight, base price, interior room, and EPA mileage estimates. The Department's classification of Pacer as a compact car is consistent with the classification systems adopted by Wards Automotive Reports, Automotive News, and the U.S. Environmental Protection Agency.

The AMC Pacer, beginning with MY 1977, has been classified as a compact car. Since its introduction in MY 1975, the Pacer has been produced solely in the U.S. Since the AMC Pacer is not produced outside the United States, the appropriate competitive market for the Pacer includes all imported compact cars. Both aggregate imports of compact cars and imports of compact cars from Canada declined absolutely and relatively from MY 1974 to MY 1975 and from MY 1975 to MY 1976.

The degree of competition among cars has been treated as a continuum running from perfect substitutability at one end (a Canadian built Hornet and a U.S. Hornet) to extreme low substitutability at the other end (a subcompact Chevette and a luxury Lincoln Continental) with a greater degree of competition being found within each class of car, e.g. compact, than as between cars in different classes. From MY 1975 to MY 1976, the sales of compact cars as a percentage of all cars sold declined from 25.8 percent to 21.3 percent as consumer tastes shifted purchases to other classes of cars. While compact cars as a class lost some of its market share, domestically produced compact cars increased their share of the domestic market from 91.4 percent in MY 1975 to 95.8 percent in MY 1976. However, during the same time period, AMC's share of the compact car market fell from 11.3 percent to 6.8 percent. Therefore, it is concluded that while imports were falling and other domestic manufacturers were increasing their share of a shrinking market, AMC was losing its share of the compact market to other domestic manufacturers.

Even if the Luxury Small category of automobile were still to exist, the Pacer would not be certified under that classification. Imports of luxury small cars both on an aggregate basis as well as from Canada declined absolutely and relatively from MY 1975 to MY 1976. Imports for the first quarter of MY 1977 while increasing somewhat from the first quarter of MY 1976 were below actual imports for MY 1976 based on a quarterly average. In addition the ratio of imports to domestic production ratio of imports to domestic production for the first quarter of MY 1977 was below the import to production ratio for MY 1976.

Under TA-W-999, employees engaged in employment related to the production

of components for compact and subcompact cars at the Kenosha plant were denied certification. The certification of AMC's subcompact cars and compact cars was based on increased imports of AMC's subcompact Gremlins and compact Hornets. Since AMC sources 100% of its components for these cars in the U.S., increased imports from Canada could not have contributed to the production declines in the U.S.

The South Charleston, West Virginia plant only produces components for AMC's subcompact and compact cars. Total production at the South Charleston Stamping plant increased, compared to the same quarter of the previous year, in the five consecutive quarters from the second quarter of MY 1976 through the second quarter of MY 1977.

Average employment of hourly workers at the South Charleston Stamping plant increased 43 percent in MY 1976 from MY 1975 and increased 43 percent in the first half of MY 1977 compared to the first half of MY 1976. Average salaried employment increased 22 percent in the MY 1976 from MY 1975 and increased 15 percent in the first half of MY 1977 from the first half of MY 1976.

Employees engaged in employment related to the production of AMC intermediate car components at the Kenosha plant were denied certification under TA-W-999 because plant production of these components did not constitute a substantial proportion of total plant production. Since that determination, plant production of intermediate components as a percentage of total production has declined.

AMTEK

Employees at AMTEK, American Motors Corporation's technical center, are engaged in a wide variety of technical and production support operations for all AMC workers. It is determined that such operations related to the production of domestic AMC intermediate cars do not constitute a substantial proportion of total operations. Therefore, the impact of increased imports of intermediate cars on the operations of the AMTEK facility is negligible.

CONCLUSION

After careful review of the facts obtained in the investigation I conclude that increases of imports of subcompact, compact or intermediate cars did not contribute importantly to the total or partial separation of workers engaged in employment related to the production of engines, axles, gears, stampings, and forgings and the AMC Pacer automobiles at the Kenosha, Wisconsin plant of American Motors Corporation, workers engaged in employment related to the production of stampings and forgings at the South Charleston Stamping plant, or workers involved in technical and production support operations at AMTEK, Detroit, Michigan.

Signed at Washington, D.C. this 28th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration and Planning.

[FR Doc 77-30029 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1891]

BASS MANUFACTURING, INC., PLYMOUTH, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1891: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 24, 1977 in response to a worker petition received on March 24, 1977 which was filed by the International Ladies' Garment Workers' union on behalf of workers and former workers producing children's dresses at the Plymouth, Pa. plant of Bass Manufacturing, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Bass Manufacturing, Incorporated, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Evidence developed in the Department's investigation reveals that manufacturers for whom Bass Manufacturing Incorporated performs contract work either did not contract work with foreign

sources or have increased contract work with Bass and all other sources in 1976 compared to 1975. Sales by these manufacturers increased from 1975 to 1976. Furthermore, the value of contract work at the Plymouth, Pennsylvania plant of Bass Manufacturing, Inc. increased 45.5 percent in 1976 compared to 1975. Average quarterly value of contract work increased in every quarter from the fourth quarter of 1975 through the fourth quarter of 1976 when compared with the same quarter of the prior year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with children's dresses produced by Bass Manufacturing, Incorporated, Plymouth, Pennsylvania have not contributed importantly to the decline in sales or production, or both, and to the total or partial separations of workers at the firm as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc 77-30030 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1496]

BETHLEHEM STEEL CORP., BETHLEHEM, PA.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1496: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976, in response to a worker petition received on December 15, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing iron and steel products at the Bethlehem, Pa., plant of the Bethlehem Steel Corp. The Department's investigation was later limited, at the request of the petitioner, to carbon steel structural shapes and bars. Evidence developed in the course of the subsequent investigation revealed that the only steel bars produced at the Bethlehem, Pa., plant were alloy steel bars. All workers producing such products were previously certified eligible to apply for adjustment assistance (TA-W-924).

The Notice of Investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2371). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Bethlehem

Steel Corporation, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974, must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of workers engaged in employment related to the production of carbon steel structural shapes declined 30.7 percent in the fourth quarter of 1975 compared to the like quarter in 1974 and 34.6 percent in 1976 as compared to 1975 before increasing 1.6 percent in the first half of 1977 as compared to the like period in 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECLINED ABSOLUTELY

Plant sales of carbon steel structural shapes declined 30.8 percent in the fourth quarter of 1975 compared to the like quarter in 1974 and 19.7 percent in quantity in 1976 as compared to 1975 before increasing 7.3 percent in the first half of 1977 as compared to the like 1976 period. Plant production declined 30.7 percent in the fourth quarter of 1975 compared to the like quarter in 1974 and 20.0 percent in 1976 as compared to 1975 before increasing 7.9 percent in the first half of 1977 as compared to the like period in 1976.

INCREASED IMPORTS

Imports of carbon steel structural shapes declined each year from 1,614,000 tons in 1972 to 804,900 tons in 1975 before increasing 67.9 percent to 1,351,400 tons in 1976. Imports continued to increase from 542,600 tons in the first half of 1976 to 716,300 tons in the first half of 1977.

The ratio of imports of carbon steel structural shapes to domestic shipments declined each year from 34.1 percent in 1972 to 19.5 percent in 1975 before increasing to 40.0 percent in 1976. The ratio

continued to increase from 30.2 percent in the first six months of 1976 to 40.2 percent in the first six months of 1977.

CONTRIBUTED IMPORTANTLY

The Department conducted a survey of customers that purchased carbon steel structural shapes from the Bethlehem, Pa., plant. Some of the respondents indicated that they had reduced purchases from the Bethlehem plant in 1976 and had increased purchases of imported structural shapes. Some of the respondents reported that imported structural shapes were adversely affecting the sales of domestically produced structural shapes.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with carbon steel structural shapes have contributed importantly to the total or partial separation of workers engaged in employment related to the production of structural shapes at the Bethlehem, Pa., plant of the Bethlehem Steel Corp. as required for certification.

In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of carbon steel structural shapes at the Bethlehem, Pa., plant of the Bethlehem Steel Corp. who became totally or partially separated from employment on or after November 15, 1975, and before January 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. Workers separated on or after January 1, 1977, are denied eligibility.

Signed at Washington, D.C., this 29th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc 77-30031 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-2152]

CLIFTEX ENGRAVERS, INC., PASSAIC, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2152: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 20, 1977, in response to a worker petition received on June 17, 1977, which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers engraving copper rollers at Cliftex Engravers, Inc., Passaic, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of copper rollers like or directly competitive with copper rollers engraved at Cliftex Engravers, Inc., Passaic, N.J., have not increased as required in Section 222 of the Trade Act of 1974. The petition is therefore denied.

Signed at Washington, D.C., this 26th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc 77-30032 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-2118]

COLT TILE, TARAZZO AND MARBLE CO., INC., TOTOWA, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2118: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 6, 1977, in response to a worker petition received on June 1, 1977, which was filed by the Riggers and Machinists Union Local 197 on behalf of workers involved in the installation of marble, granite, limestone and slate at job sites for the Colt Tile, Tarazzo and Marble Co., Inc., Totowa, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30937). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the Colt Tile, Tarazzo and Marble Co., Inc. and Local 197 of the Riggers' and Machinists' Union.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

28, 1977 (42 FR 32853). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Cliftex Engravers, Inc., the Machine Printers and Engravers Association, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals there are no known imports of copper rollers.

Engraved copper rollers would be imported under TSUSA number 668.3400. Print Blocks and Print Rollers. Unengraved rollers would be imported under 668.5020, Parts of Textile Printing Machinery. Industry sources report there are no known imports of either engraved or unengraved rollers. Shipping costs of imported rollers are prohibitive due to the special packaging required to protect the surface of the roller, and quickly changing fashion trends make the time delays inherent in importation of engraved rollers unprofitable.

Industry sources attribute the decline in copper roller printing to competition from other printing processes. Since 1970, three printing processes have been introduced which use computers to print designs. The new processes decrease the time required to produce a print. The time required to engrave rollers makes the roller printing process less competitive in the volatile fashion industry than the faster, computerized processes.

Cliftex Engravers, Inc. was founded in 1947 in Passaic, N.J. The company operates a single plant at which copper rollers used by textile manufacturers to print fabric are engraved.

The Cliftex plant is a single story building with 15,000 square feet of work space. Plant facilities include metal lathes, copper and chrome plating tanks, and photo engraving equipment.

If any of the above criteria is not satisfied, a negative determination must be made.

The Department of Labor has already determined that the performance of services is not included within the term "articles" as used in Section 222(3) of the Act. See Notice of Negative Determination in Pan American World Airways, Inc. (TA-W-153; 40 FR 54639).

Colt Tile, Tarrazo and Marble Co., Inc. is involved exclusively in the installation of marble, granite, limestone, and slate at job sites. The company is not involved in the production of an article within the meaning of Section 222(3) of the Act.

After careful review of the issues I have determined that services of the kind provided by Colt Tile, Tarrazo and Marble Co., Inc. are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974.

Signed at Washington, D.C., this 20th day of September 1977.

HARRY GRUBERT,
Director, Office of
Foreign Economic Research.

[FR Doc. 77-30033 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-2140]

COLUMBIAN CUTLERY CO., INC.,
READING, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-2140: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 13, 1977, in response to a worker petition received on June 13, 1977, which was filed by the United Steelworkers of America on behalf of workers and former workers producing hand tools, garden tools and shears at the Reading, Pa., plant of Columbian Cutlery Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on June 24, 1977 (41 FR 32328). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Columbian Cutlery Co., Inc. and the United Steelworkers of America.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Columbian Cutlery Co., Inc., located in Reading, Pa., manufactures hand cutting tools for lawns, gardens and farm use. The company's facilities include a manufacturing plant, administrative offices, and a warehouse. Its products are marketed through catalogues and by sales representatives.

Pursuant to the requirements of 20 CFR 90.2 total separations must be the equivalent to a total unemployment of five percent or 50 workers, whichever is less. Evidence developed in the Department's investigation revealed that the total involuntary separations which occurred during the period of possible coverage amounted to less than five percent of the workforce employed at the Columbian Cutlery Co., Inc. The total number of workers experiencing separations during the period May 15, 1976, one year prior to the signature date of the petition, to the present was less than 50 workers.

Pursuant to the requirements of 29 CFR 90.2, "partial separations" means, that the worker's hours of work have been reduced to 80 percent or less of the worker's average weekly hours at the firm or appropriate subdivision thereof. Evidence developed in the Department's investigation revealed that for each week of 1976 the average weekly hours of work were not reduced to 80 percent or less of the worker's average hours for the year 1976. Worker's average weekly hours of work did not change in the first six months of 1976 compared to the same period in 1977.

Company officials indicated that there is no imminent threat of separations from employment for workers at the Reading, Pa., plant of Columbian Cutlery.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at the Reading, Pa., plant of the Columbian Cutlery Co., Inc. have not become totally or partially separated, or threatened to become separated, as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1977.

GLORIA G. PRATT,
Director, Office of
Foreign Economic Policy.

[FR Doc. 77-30034 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1896]

CORONET FASHIONS, WILKES-BARRE, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1896: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 24, 1977 in response to a worker petition received on March 24, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's dresses at the Wilkes-Barre, Pa. plant of Coronet Fashions. The investigation revealed that Coronet Fashions also produced women's sportswear.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19175). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Coronet Fashions, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Coronet Fashions is a contractor producing women's dresses and sportswear for one manufacturer. Coronet ships goods upon completion and sales equal production. Coronet receives fabric that belongs to the manufacturer, cuts and sews it, and sends the finished garments to the manufacturer.

This manufacturer has no foreign contractors and does not buy any imported garments. This manufacturer's sales increased in 1976 compared to 1975. In the

first quarter of 1977, Coronet's sales increased 5.7 percent in quantity compared to the first quarter of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's dresses, skirts, blouses and jackets produced at the Wilkes-Barre, Pa. plant of Coronet Fashions did not contribute importantly to the absolute decline in sales or production or to the total or partial separations of the workers at that plant as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.
[FR Doc. 77-20038 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1356T]

DELAVAL TURBINES, INC., DELROYD
WORM GEAR DIVISION, TRENTON, N.J.

Termination of Certification of Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223(d) of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1356T: investigation regarding termination of certification of eligibility to apply for worker adjustment assistance as prescribed in Section 223(d) of the Act.

On March 31, 1977 workers engaged in employment related to the production of worm gears and speed reducers in the Delroyd Worm Gear Division of DeLaval Turbines, Inc., Trenton, N.J. were certified as eligible to apply for trade adjustment assistance. The Notice of Determination was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19180).

The investigation regarding termination of certification was initiated on June 7, 1977 to determine whether the group of workers specified above continue to meet the group eligibility requirements of Section 222 of the Act.

The Notice of Investigation was published in the FEDERAL REGISTER on June 21, 1977 (42 FR 31505). No public hearing was requested and none was held.

During the course of the investigation, information was obtained from officials of DeLaval Turbines, Inc. the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Whenever it becomes evident that any of the above criteria are no longer met, the certification as issued must be revised to include a termination date. The termination date would apply only with respect to total or partial separations occurring after this date as specified in the revised certification. The investigation reveals that the second criterion is no longer being met with respect to workers at the Delroyd Worm Gear Division, DeLaval Turbines, Inc., Trenton, N.J.

Sales of worm gears and speed reducers by the Delroyd Worm Gear Division, adjusted to constant 1974 dollars, declined 8.4 percent from 1975 to 1976 and then increased 23.0 percent in the first six months of 1977 compared to the first six months of 1976. Adjusted sales increased in each quarter from the third quarter of 1976 through the second quarter of 1977 when compared to the same period in the previous year.

Sales at the Delroyd Division are recorded as orders booked. Production is recorded as orders shipped. There is a six month lag between sales and production. This lag was extended by approximately three months in late 1976 when DeLaval chose, with customer approval, to extend delivery on orders booked until economic recovery was confirmed. Production of worm gears and speed reducers by the Delroyd Worm Gear Division declined 13.7 percent from 1975 to 1976 and then increased 4.4 percent in the first six months of 1977 compared to the same period in 1976. Production rose 16.7 percent in the second quarter of 1977 compared to the same quarter in 1976, reflecting the increase in sales which had begun in the third quarter of 1976.

Increased production in the second quarter of 1977 was reflected in rising employment levels in the same quarter. Employment of production workers increased 14.7 percent in the second quarter of 1977 compared to the same quarter in 1976. There have been no layoffs in the Delroyd Division since September 1976. Company officials have indicated that the company is actively seeking new employees for the Delroyd Division.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that total or partial separations of workers engaged in the production of worm gears and speed reducers at the Delroyd Worm Gear Division, DeLaval Turbines, Inc., Trenton, N.J., are no longer attrib-

utable to the conditions specified in Section 222 of the Trade Act of 1974. In accordance with Section 223(d) of the Act, I hereby revise the certification of March 31, 1977 to read as follows:

That all workers engaged in employment related to the production of worm gears and speed reducers at the Delroyd Worm Gear Division, DeLaval Turbines, Inc., Trenton, N.J., who became or will become totally or partially separated on or after November 1, 1975 and before October 14, 1977, be certified eligible to apply for trade adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All employees who become or will become totally or partially separated from employment related to the production of worm gears and speed reducers at the Delroyd Worm Gear Division on or after October 14, 1977 are denied certification of eligibility to apply for adjustment assistance.

Signed at Washington, D.C. this 4th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.
[FR Doc. 77-30036 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1935]

D' ROMA FASHIONS, COVINA, CALIF.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1935: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 31, 1977 in response to a worker petition received on that date which was filed on behalf of workers and former workers producing women's and misses' coats at D' Roma Fashions, Covina, Calif.

The Notice of Investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19937). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of David L. Maffei Co., its customers, D' Roma Fashions, the U.S. International Trade Commission, U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

NOTICES

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

) The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at D' Roma Fashions decreased 11 percent from 1974 to 1975, and then further decreased 20 percent from 1975 to 1976.

In 1976 the plant closed down for three weeks in March, the month of April, one week in May, two weeks in June, and four weeks in July.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales and production in quantity (units) of women's and misses' coats increased 15 percent from 1974 to 1975, decreased 39.6 percent from 1975 to 1976, and then increased 36.8 percent for the first quarter of 1977 compared to the same period in 1976.

D' Roma produces coats on a contract basis, therefore production is equivalent to sales.

INCREASED IMPORTS

Imports of women's and misses' coats increased in absolute terms, from 1972 to 1973, decreased from 1973 to 1974, and increased from 1974 to 1975. Imports increased absolutely 48 percent from 1975 to 1976 and increased absolutely 17 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratio of imports to domestic production and consumption increased from 35.4 percent and 26.1 percent, respectively, in 1975 to 52.2 percent and 34.3 percent, respectively in 1976.

CONTRIBUTING IMPORTANTLY

D' Roma Fashions produces exclusively for one manufacturer. The manufacturer reduced purchases from D' Roma Fashions from 1975 to 1976 because his sales had declined. Customers of the manufacturer, who were surveyed, have reduced purchases from the manufacturer and increased purchases of imported women's and misses' coats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with women's and misses' coats produced by D' Roma Fashions contributed importantly to the separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of D' Roma Fashions, Covina, Calif. who became totally or partially separated from employment on or after March 22, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc.77-30037 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-2155]

EXCEL IV, INC., ELMWOOD, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2155: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 20, 1977 in response to a worker petition received on June 17, 1977 which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers engraving copper rollers at Excel IV, Inc., Elmwood, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 28, 1977 (42 FR 32853). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Excel IV, Inc., the Machine Printers and Engravers Association, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals there are no known imports of copper rollers.

Engraved copper rollers would be imported under TSUSA number 668.3400,

Print Blocks and Print Rollers. Unengraved rollers would be imported under 668.5020, Parts of Textile Printing Machinery. Industry sources report there are no known imports of either engraved or unengraved rollers. Shipping costs of imported rollers are prohibitive due to the special packaging required to protect the surface of the roller, and quickly changing fashion trends make the time delays inherent in importation of engraved rollers unprofitable.

Industry sources attribute the decline in copper roller printing to competition from other printing processes. Since 1970, three printing processes have been introduced which use computers to print designs. The new processes decrease the time required to produce a print. The time required to engrave rollers makes the roller printing process less competitive in the volatile fashion industry than the faster, computerized processes.

Excel IV, Inc. was founded in August 1971 in Elmwood, N.J. The company operates a single plant at which copper rollers used by textile manufacturers to print fabric are engraved.

The Excel IV plant is a two story building with 20,000 square feet of work space. Plant facilities include office equipment, art department materials, photographic equipment, cameras, contact frames, a film processor, a photo composing machine, light tables, and photo layout equipment, roller polishing lathes, and chrome and copper plating tanks.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of copper rollers like or directly competitive with copper rollers engraved at Excel IV, Inc., Elmwood, N.J., have not increased as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C., this 26th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc.77-30038 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1881]

GAILS FASHIONS WILKES-BARRE, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1881: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 23, 1977 in response to a worker petition received on March 23, 1977 which was filed by the International Ladies' Garment Workers' Union on be-

half of workers and former workers producing misses' and juniors' dresses and pantsuits at Gails Fashions, Wilkes-Barre, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19176). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Gails Fashions, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That imports of articles like or directly competitive with articles produced by such workers' firm or an appropriate subdivision thereof, have increased either actual, or relative to domestic production, and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met, criterion one (1) has not been met.

The average number of production workers at Gails Fashions increased 42.9 percent from 1975 to 1976. In the first 6 months of 1977 the average number of production workers increased 5.6 percent over the same period of 1976. There is no indication that current workers are threatened with any involuntary separations.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number or proportion of the workers at Gails Fashions, Wilkes-Barre, Pa. have not become totally or partially separated as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1977.

GLORIA G. PRATT,
Director, Office of
Foreign Economic Policy.

[FR Doc.77-30039 Filed 10-13-77; 8:45 am]

NOTICES

[4510-28]

[TA-W-1949]

H. W. GOSSARD CO., BODY FOUNDATION DIVISION; ISHPERING, MICH.; LOGANS-PORT, IND.; SULLIVAN, IND.; PIGGOTT, ARK.; BATAVIA, ILL.

Revised Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 and in accordance with Section 223(a) of such Act, on July 22, 1977 the Department of Labor issued a certification of eligibility to apply for worker adjustment assistance applicable to workers and former workers engaged in employment related to the production of brassieres, girdles, and corsets at the Ishpeming, Mich.; Logansport, Ind.; Sullivan, Ind.; Piggott, Ark. plants and Batavia, Ill. warehouse of the Body Foundation Division of the H. W. Gossard Co. (TA-W-1949).

The Notice of Certification was published in the FEDERAL REGISTER on August 2, 1977 (42 FR 39164).

Subsequent to the publication of the original determination, the Office of Trade Adjustment Assistance received an inquiry regarding the eligibility of workers at the Piggott, Ark. plant for coverage under the certification issued for all workers in the Body Foundation Division of H. W. Gossard.

H. W. Gossard Co. is organized in two divisions: Body Foundations and Lingerie. Piggott is a cutting plant. That is, fabric is sent to Piggott, cut to specifications, and then shipped to company sewing plants for assembly into finished garments.

Further investigation revealed that all fabric cuttings produced at Piggott are used in the production of sleepwear and underwear in the Lingerie Division of H. W. Gossard Co. Fabric used in the production of brassieres, girdles, and corsets is cut, as well as assembled, at the sewing plants in the Body Foundation Division.

CONCLUSION

Based on the additional evidence, a review of the entire record and in accordance with the provisions of the Act, I have determined that the following certification is hereby made as follows:

All workers engaged in employment related to the production of ladies' brassieres, girdles, and corsets at the Ishpeming, Mich., and Logansport, Ind. plants and the Batavia, Ill. warehouse of H. W. Gossard Co., Chicago, Ill. who became totally or partially separated from employment on or after March 12, 1976 and at the Sullivan, Ind. plant of H. W. Gossard Co. who became totally or partially separated from employment on or after January 1, 1977 are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc.77-30040 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-2156]

GRAPHIC ENGRAVING CORP., PATERSON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2156: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 20, 1977 in response to a worker petition received on June 17, 1977 which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers engraving copper rollers at Graphic Engraving Corp., Paterson, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 28, 1977 (42 FR 32853). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Graphic Engraving Corp., the Machine Printers and Engravers Association, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals there are no known imports of copper rollers.

Engraved copper rollers would be imported under TSUSA number 668.3400, Print Blocks and Print Rollers. Unengraved rollers would be imported under 668.5020, Parts of Textile Printing Machinery. Industry sources report there are no known imports of either engraved or unengraved rollers. Shipping costs of imported rollers are prohibitive due to the special packaging required to protect the surface of the roller, and quickly changing fashion trends make the time delays inherent in importation of engraved rollers unprofitable.

Industry sources attribute the decline in copper roller printing to competition from other printing processes. Since 1970, three printing processes have been introduced which use computers to print designs. The new processes decrease the time required to produce a print. The time required to engrave rollers makes the roller printing process less competitive in the volatile fashion industry than the faster, computerized processes.

The Graphic Engraving Corp., Paterson, N.J. was founded in 1957 to engrave copper rollers used by textile manufacturers to print fabric.

The Paterson, N.J. plant is a two-story building with 80,000 square feet of work space. Plant facilities include metal lathes, copper and chrome plating tanks, and photo engraving equipment.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of copper rollers like or directly competitive with copper rollers engraved at Graphic Engraving Corp., Paterson, N.J. have not increased as required in Section 222 of the Trade Act of 1974. The petition is, therefore denied.

Signed at Washington, D.C. this 26th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc.77-30041 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1805]

GULF PIPER, ARKANSAS PASS, TEX. Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1805: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 15, 1977 in response to a worker petition received on March 10, 1977 which

was filed by three workers on behalf of workers and former workers engaged in the catching of shrimp with the trawler Gulf Piper located in Aransas Pass, Tex.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the U.S. Department of Commerce, the U.S. International Trade Commission, the trawler Gulf Piper and its customers, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

Evidence developed in the Department's investigation revealed that most customers who regularly submit bids on the open market indicated that they purchase imported shrimp. However, these customers stated that imported shrimp was purchased because their domestic suppliers had been unable to provide them with sufficient quantities to meet their requirements.

Furthermore, several factors acted to depress levels of shrimp production in 1976 and the first quarter of 1977 consequently reducing the quantities of shrimp made available to Gulf Piper's customers. These factors included adverse weather conditions, a lack of shrimp available in known fishing grounds in the first quarter of 1977 and the imposition of a 200 mile fishing restriction by the Mexican government which prevented domestic shrimpers from fishing within Mexican coastal waters.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that imports of articles like or directly competitive with the shrimp produced by the trawler Gulf Piper or Aransas Pass, Tex. have not contributed importantly to the total or partial separations of the workers of that company

as required for a certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc.77-30042 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-2157]

IMPERIAL TEXTILE ENGRAVING, INC., PATERSON, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2157: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 20, 1977, in response to a worker petition received on June 17, 1977, which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers engraving copper rollers at Imperial Textile Engraving, Incorporated, Paterson, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on June 28, 1977 (42 FR 32853). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Imperial Textile Engraving, Incorporated, the Machine Printers and Engravers Association, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

INCREASED IMPORTS

Imports of carbon steel pipe and tubing declined from 1768.1 thousand short tons in 1972 to 1574.6 thousand short tons in 1973. Imports increased to 1781.5 thousand short tons in 1974, decreased to 1542.5 thousand short tons in 1975, and then increased to 1820.7 thousand short tons in 1976. The ratio of imports to shipments increased from 22.8 percent in 1975 to 35.8 percent in 1976.

CONTRIBUTED IMPORTANTLY

A major customer of the Newport Works plant indicated that the reduced purchases of tubular products from Newport Works while import purchases had remained stable, thus increasing the ratio of import purchases to purchases from Interlake, Inc.

FLAT ROLLED PRODUCTS

CONTRIBUTED IMPORTANTLY

The category flat rolled products includes carbon and alloy steel sheet and plate both hot and cold rolled. Employees work interchangeably on these products.

Customers of the Newport Works plant who were surveyed indicated that either do not purchase imported flat rolled steel or they have increased purchases from the Newport plant.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with tubular products produced at the Newport Works, Kentucky plant of Interlake, Incorporated, contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers engaged in employment related to the production of tubular products at the Newport Works, Kentucky plant of Interlake, Incorporated, who became totally or partially separated from employment on or after December 20, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

I further conclude that increases of imports like or directly competitive with flat rolled products produced at the Newport Works, Kentucky plant of Interlake, Incorporated, did not contribute importantly to the total or partial separations of the workers at that plant. Therefore workers engaged in employment related to the production of flat rolled products at the Newport Works, Kentucky plant of Interlake Incorporated are denied eligibility to apply for adjustment assistance.

Signed at Washington, D.C., this 27th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc.77-30044 Filed 10-13-77; 8:45 am]

Evidence developed in the Department's investigation reveals there are no known imports of copper rollers.

Engraved copper rollers would be imported under TSUSA number 668.3400, Print Blocks and Print Rollers. Unengraved rollers would be imported under 668.5020, Parts of Textile Printing Machinery. Industry sources report there are no known imports of either engraved or unengraved rollers. Shipping costs of imported rollers are prohibitive due to the special packaging required to protect the surface of the roller, and quickly changing fashion trends make the time delays inherent in importation of engraved rollers unprofitable.

Industry sources attribute the decline in copper roller printing to competition from other printing processes. Since 1970, three printing processes have been introduced which use computers to print designs. The new processes decrease the time required to produce a print. The time required to engrave rollers makes the roller printing process less competitive in the volatile fashion industry than the faster, computerized processes.

The Imperial Textile Engraving, Inc., Paterson, N.J., was founded in 1947. The company operates a single plant at which copper rollers, used by textile manufacturers to print fabric, are engraved.

The Imperial Textile Engraving plant in Paterson, New Jersey is a one story building with 5,000 square feet of work space. Plant facilities include metal lathes, copper and chrome plating tanks, and photoengraving equipment.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of copper rollers like or directly competitive with copper rollers engraved at Imperial Textile Engraving, Incorporated, Paterson, New Jersey have not increased as required in Section 222 of the Trade Act of 1974. The petition is therefore denied.

Signed at Washington, D.C., this 26th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc.77-30043 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1476]

INTERLAKE, INC., NEWPORT WORKS NEWPORT AND WILDER, KY.

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1476: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 20, 1976, in response to a worker

petition received on December 20, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing flat rolled and tubular products at the Newport Works Kentucky plant of Interlake, Incorporated.

The notice of investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1534). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Interlake, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met for workers engaged in employment related to the production of tubular products which consist of line and spiral weld pipe and tubing.

The investigation has further revealed that for workers engaged in employment related to the production of flat rolled products which consist of carbon steel sheet and plate (hot and cold rolled), without regard to whether any of the other criteria have been met the fourth criterion has not been met.

TUBULAR PRODUCTS

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The category tubular products includes line and spiral weld pipe and tubing. Employees work interchangeably on these products.

Employment related to the products of tubular products declined 20.9 percent in 1973 compared to 1974 and decreased 11.3 percent in 1976 compared to 1975.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales of tubular products decreased 52.3 percent in terms of quantity in 1975 compared to 1974 and decreased 19.3 percent in terms of quantity from 1975 to 1976.

NOTICES

[4510-28]

[TA-W-1478]

INTERLAKE, INC. TOLEDO, OHIO

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1478: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 20, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing pig iron at the Toledo, Ohio plant of Interlake, Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on January 7, 1977 (42 FR 1534). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Interlake, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, criterion three (3) has not been met.

The Toledo, Ohio plant of Interlake, Inc. produces pig iron. Pig iron produced at the Toledo, Ohio plant is sold to various foundries and steel producers. Pig iron produced at the Toledo plant is not used by any other Interlake operation.

Evidence developed in the Department's investigation revealed that imports of pig iron decreased from 427,000 tons in 1975 to 370,000 tons in 1976. Imports decreased from 102,000 tons in the first quarter of 1976 to 39,000 tons in the first quarter of 1977. The ratio of imports to domestic production of pig iron decreased 0.5 percent in 1975 to 0.4 percent in 1976. The ratio decreased from

0.4 percent in the first quarter of 1976 to 0.2 percent in the first quarter of 1977.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with pig iron produced at the Toledo, Ohio plant of Interlake, Inc. have not contributed importantly to the decline in sales or production of the plant or to the total or partial separations of workers of that plant as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 29th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc. 77-30045 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1971]

JACOBSON MANUFACTURING CO., INC., KENILWORTH, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1971: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on April 11, 1977 in response to a worker petition received on that date which was filed by the International Automobile, Aerospace, Agricultural Implement Workers' Union, on behalf of workers and former workers producing nuts and washers at the Kenilworth, N.J. plant of Jacobson Manufacturing Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on April 29, 1977 (42 FR 21872). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Jacobson Manufacturing Company Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (1) has not been met.

The Jacobson Manufacturing Co., Inc., founded in the early 1950's is a wholly-owned corporation with production, warehousing and office facilities located in Kenilworth, N.J. Metal fasteners including nuts and washers are produced there for use by the automotive industry and electrical and other appliance manufacturers.

Pursuant to the requirements of 29 CFR 90.2 total separations must be the equivalent to a total unemployment of five percent or 50 workers; whichever is less. Evidence developed in the Department's investigation revealed that the total separations which occurred during the period of possible coverage amounted to less than five percent of the workforce employed at the Jacobson Manufacturing Co. The total number of workers experiencing separations during the period April 1, 1976, one year prior to the signature date of the petition to the present was less than 50 workers. There is no indication that current workers are threatened with any involuntary separations.

Pursuant to the requirements of 29 CFR 90.2, "partial separation" means, that the worker's hours of work have been reduced to 80 percent or less of the worker's average weekly hours at the firm or appropriate subdivision thereof. Evidence developed in the Department's investigation revealed that the worker's average weekly hours of work have remained constant in 1976 compared to 1975 and in the first half of 1977 compared to the same period of 1976.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that a significant number of proportion of the workers at the Kenilworth, New Jersey plant of the Jacobson Manufacturing Company have not become or threatened to become totally or partially separated as required for certification in Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc. 77-30046 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1942]

JOLIE'D COATS, GARDENA, CALIF.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of

Labor herein presents the results of TA-W-1942: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 31, 1977 in response to a worker petition received on that date which was filed by the International Ladies Garment Workers Union (ILGWU) on behalf of workers and former workers producing women's and misses' coats at Jolie'D Coats, Gardena, Calif.

The Notice of Investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19937). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of David L. Maffei Company, Jolie'D Coats, its manufacturer, customers of the manufacturer, National Cotton Council of America, the U.S., the International Trade Commission industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Average employment of production workers at Jolie'D Coats increased 6 percent from 1974 to 1975, and then decreased 20 percent from 1975 to 1976.

In 1976 the plant closed down for one week in February, three weeks in April, and one week in May.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Sales and production in quantity (units) of women's and misses' coats at the Jolie'D plant increased 19.6 percent from 1974 to 1975 decreased 30 percent from 1975 to 1976.

INCREASED IMPORTS

Imports of women's and misses' coats increased in absolute terms, from 1972 to 1973, decreased from 1973 to 1974, and

increased from 1974 to 1975. Imports increased absolutely 48 percent from 1975 to 1976 and increased absolutely 17 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 35.4 percent and 26.1 percent, respectively, in 1975 to 52.2 percent and 34.3 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

Evidence developed during the Department's investigation revealed that Jolie'D Coats produces exclusively for one manufacturer. The manufacturer stated that he reduced purchases from Jolie'D Coats because his sales had declined. Customers of the manufacturer have reduced purchases from the manufacturer, and increased purchases of imported women's and misses' coats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and misses' coats produced by Jolie'D Coats contributed importantly to the absolute decline in sales or production and to the total or partial separation of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers at Jolie'D Coats, Gardena, Calif. who become totally or partially separated from employment on or after March 22, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc. 77-30047 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-2158]

JULIET FOOTWEAR CO., INC., ELMWOOD PARK, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2158: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 20, 1977, in response to a worker petition received on June 17, 1977, which was filed by the United Shoe Workers of America on behalf of workers and former workers producing men's shoes at the Elmwood Park, N.J. plant of the Juliet Footwear Co., Inc.

The notice of investigation was published in the FEDERAL REGISTER on June 28, 1977 (42 FR 32853). No public

hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Juliet Footwear Company, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether the other criteria have been met, the investigation revealed that criterion two has not been met.

The Juliet Footwear Co., Inc., consists of one plant in Elmwood Park, N.J., engaged in the production of men's shoes.

Company sales, in value, increased 6.1 percent and 22.1 percent, respectively, in the third and fourth quarters of 1976 compared to the third and fourth quarters of 1975. Company sales increased 20.5 percent and 43.1 percent, respectively, in the first and second quarters of 1977 compared to the first and second quarters of 1976.

Company production, in quantity, increased 53.3 percent and 15.7 percent, respectively, in the third and fourth quarters of 1976 compared to the third and fourth quarters of 1975. Company production increased 9.7 percent and 13.3 percent, respectively, in the first and second quarters of 1977 compared to the first and second quarters of 1976.

As stated in the petition, the workers at the Juliet Footwear Co., Inc., are seeking adjustment assistance benefits for unemployment experienced in June 1975 and thereafter. Section 223(b)(1) of the Trade Act of 1974 states that a certification shall not apply to workers separated more than one year prior to the date of the petition. The petition in this case is dated June 10, 1977. Since May 1976, production and sales levels at the Juliet Footwear Co., Inc., have remained

¹ Company sales and production data are recorded on the basis of a fiscal year beginning on November 1st and ending October 31st.

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consistently higher than those of the preceding year.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales or production of men's shoes at the Elmwood Park, N.J., plant of the Juliet Footwear Co., Inc., have not decreased as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc. 77-30048 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-2159]

LES-CO ENGRAVING CO., LODI, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2159: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 20, 1977, in response to a worker petition received on June 17, 1977, which was filed by the Machine Printers and Engravers Association on behalf of workers and former workers engraving copper rollers at Les-Co Engraving Co., Lodi, N.J.

The notice of investigation was published in the FEDERAL REGISTER on June 28, 1977 (42 FR 32853). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Les-Co Engraving Co., the Machine Printers and Engravers Association, the U.S. International Trade Commission, the U.S. Department of Commerce, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or

threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (3) has not been met.

Evidence developed in the Department's investigation reveals there are no known imports of copper rollers.

Engraved copper rollers would be imported under TSUSA number 668.3400, Print Blocks and Print Rollers. Unengraved rollers would be imported under 668.5020, Parts of Textile Printing Machinery. Industry sources report there are no known imports of either engraved or unengraved rollers. Shipping costs of imported rollers are prohibitive due to the special packaging required to protect the surface of the roller, and quickly changing fashion trends make the time delays inherent in importation of engraved rollers unprofitable.

Industry sources attribute the decline in copper roller printing to competition from other printing processes. Since 1970, three printing processes have been introduced which use computers to print designs. The new processes decrease the time required to produce a print. The time required to engrave rollers makes the roller printing process less competitive in the volatile fashion industry than the faster, computerized processes.

The Les-Co Engraving Company was founded on October 2, 1945, in Lodi, N.J. The company operates a single plant at which copper rollers used by textile manufacturers to print fabric are engraved. The plant was temporarily closed in March 1977.

The Les-Co Engraving plant is a one-story building with 45,000 square feet of work space. Plant facilities include pantographic engraving machines, turning and polishing lathes, and manual cameras.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of copper rollers like or directly competitive with copper rollers engraved at Les-Co Engraving Co., Lodi, N.J., have not increased as required in Section 222 of the Trade Act of 1974. The petition is, therefore, denied.

Signed at Washington, D.C., this 26th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc. 77-30049 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1766]

LISA MANUFACTURING CO., INC., EGG HARBOR CITY, N.J.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of

Labor herein presents the results of TA-W-1766: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 7, 1977, in response to a worker petition received on March 3, 1977, which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's coats at the Egg Harbor City, N.J., plant of Lisa Manufacturing Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on March 25, 1977 (42 FR 16200). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Lisa Manufacturing, customers of Lisa's principal manufacturer and other manufacturers for whom Lisa performed contract work, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, National Cotton Council of America and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met.

- (1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all four criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers decreased 19.1 percent in the fourth quarter of 1976 compared to the same period of 1975. All workers were laid off when the plant closed in December 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production, in terms of quantity and value, decreased 11.5 percent and 2.2 percent, respectively, in the fourth quarter of 1976 compared to the same period of 1975. All production ceased when the plant closed in December 1976.

INCREASED IMPORTS

Imports of women's, misses' and children's coats and jackets increased from

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1,769 thousand dozen in 1972 to 1,807 thousand dozen in 1973. In 1974, the volume of imports decreased to 1,478 thousand dozen and in 1975 imports increased to 1,517 thousand dozen. Imports increased 48.5 percent from 1975 to 1976 to 2,252 thousand dozen. For the first quarter of 1977, imports reached 590 thousand dozen compared to 506 thousand dozen for the same period of 1976. The ratios of imports to domestic production and consumption increased from 35.4 percent and 26.1 percent, respectively, in 1975 to 52.2 percent and 34.3 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

Evidence developed during the course of the Department's investigation revealed that manufacturers which contracted work to Lisa Manufacturing Co., Inc., in 1975 and 1976 either have increased their purchases of imported coats or have increased their orders with foreign contractors. Lisa's principal manufacturer in 1976 experienced decreases in sales from 1975 to 1976 because customers have increased purchases from foreign manufacturers.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and misses' coats produced by Lisa Manufacturing Co., Inc., contributed importantly to the separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Lisa Manufacturing Co., Inc., Egg Harbor City, N.J., who became totally or partially separated from employment on or after October 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc. 77-30050 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1889]

L. P. SPORTSWEAR, INC., HILLDALE, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1889: Investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 23, 1977, in response to a worker petition received on March 22, 1977, by the International Ladies' Garment Workers Union on behalf of workers and

former workers producing girls' sportswear at the Hilldale, Pa., plant of L. P. Sportswear, Inc.

The notice of investigation was published in the FEDERAL REGISTER on April 12, 1977 (42 FR 19176). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of L. P. Sportswear, Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any other criteria have been met criterion (4) has not been met.

The Department's investigation has revealed that L. P. Sportswear is a contractor of girls' sportswear for a manufacturer of children's apparel. This manufacturer reported no foreign contractors are utilized and that the total dollars volume of work performed by its domestic contractors increased 42.9 percent in 1976 compared with 1975. Sales by L. P. Sportswear, Inc. in terms of 1974 dollars increased 4.7 percent in 1976 compared with sales in 1975.

CONCLUSION

After a careful review of the facts obtained in the investigation, I conclude that increased imports of articles like or directly competitive with girls' sportswear produced under contract by L. P. Sportswear, Inc. in Hilldale, Pa., have not contributed importantly to total or partial separations of workers at that firm as required for a certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc. 77-30051 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1399]

LUKENS STEEL CO., COATSVILLE, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1399: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 13, 1976 in response to a worker petition received on December 13, 1976, which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel plate and steel plate shapes at the Coatesville, Pa. plant of Lukens Steel Co. The investigation revealed that Lukens Steel also performs conversion service for domestic stainless steel producers.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 888). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from officials of Lukens Steel Co., its customers, the American Iron and Steel Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the above criteria have been met, criterion four (4) has not been met.

Evidence developed during the Department's investigation revealed that Lukens Steel Co. produced steel plates and steel plate shapes and performs conversion service for domestic stainless steel producers. Customers surveyed indicated that either they did not decrease purchases of steel plates and steel plate

shapes from Lukens Steel or that they decreased purchases from Lukens Steel but they do not purchase imported steel plate or steel plate shapes. Customers that decreased purchases from Lukens Steel cited poor business conditions as the reason.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that imports of articles like or directly competitive with steel plates and steel plate shapes produced at the Coatesville, Pa. plant of Lukens Steel Co. have not contributed importantly to the decline in sales or production of the firm or to the total or partial separations of workers of that firm as required for certification under section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 4th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc.77-30052 Filed 10-13-77;8:45 am]

[4510-28]

[TA-W-1678]

JOSEPH PETRILLI CO., INC.,
EGG HARBOR, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1678: investigation regarding certification of eligibility to apply for adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on February 24, 1977 in response to a worker petition received on February 17, 1977 which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's coats, blazers, and all-weather coats at the Egg Harbor, N.J. plant of the Joseph Petrilli Co., Inc.

The Notice of Investigation was published in the FEDERAL REGISTER on March 8, 1977 (42 FR 13088). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of the Joseph Petrilli Co., Inc., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have be-

come totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The Department conducted a survey of customers accounting for 100 percent of Petrilli's sales in 1975 and 1976. None of these switched purchases from Petrilli to imported sources. Customers who decreased purchases from Petrilli attributed their declines to an increase in purchases from other domestic sources, or a decline in sales. In addition, a study conducted by Department analysts indicated that of the total number of women's coats and jackets imported into the United States in 1976, only 0.18 percent of these fell into the category of "better" priced coats and jackets. The product which constituted the majority of Joseph Petrilli's sales in 1976 retailed at prices that fall clearly into that category.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's coats, blazers and all-weather coats produced at the Egg Harbor, N.J. plant of the Joseph Petrilli Co., Inc. did not contribute importantly to the total or partial separations of workers at the plant as required by Section 222 of the Trade Act of 1974.

Signed at Washington, D.C. this 27th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc.77-30053 Filed 10-13-77;8:45 am]

[4510-28]

[TA-W-1751]

RCA CORP. BLOOMINGTON, IND.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1751: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 3, 1977 in response to a worker petition received on February 25, 1977

which was filed by the International Brotherhood of Electrical Workers on behalf of workers and former workers producing monochrome and color television receivers and components at the Bloomington, Ind. facility of the RCA Corp., Consumer Electronics Division, Indianapolis, Ind.

The Notice of Investigation was published in the FEDERAL REGISTER on March 22, 1977 (42 FR 15477). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of RCA Corp., the Electronic Industries Association, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

The average number of production workers at the Bloomington facility declined 18.1 percent in the second half of 1976 compared to the same period of 1975 and declined 22.0 percent in the first quarter of 1977 compared to the same quarter of 1976.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Production of color and monochrome televisions and components at the Bloomington facility declined 6.0 percent in the second half of 1976 compared to the same period of 1975 and declined 3.6 percent in the first quarter of 1977 compared to the same quarter of 1976.

Production of eight television components was transferred from Bloomington to RCA's foreign facilities during 1976. Production of monochrome televisions was transferred from Bloomington to RCA's foreign facilities during the second quarter of 1977.

INCREASED IMPORTS

Imports of monochrome television receivers relative to domestic production increased from 157.7 percent in 1972 to 210.3 percent in 1974, declined to 193.8 percent in 1975, and increased to 311.3 percent in 1976. Imports increased from 2,975 thousand units in 1975 to 4,327 thousand units in 1976, and from 918 thousand units in the first quarter of 1976 to 1,033 thousand units in the first quarter of 1977.

Imports of color television receivers relative to domestic production increased in every year from 1972 to 1975, rising from 18.8 percent in 1972 to 23.4 percent in 1975, and then increased sharply to 55.0 percent in 1976. Imports increased absolutely from 1,021 thousand units in 1975 to 2,856 thousand units in 1976 and from 426 thousand units in the first quarter of 1976 to 606 thousand units in the first quarter of 1977.

CONTRIBUTED IMPORTANTLY

Assembly of television receivers remains a labor-intensive process. The vast majority of imported television receivers are manufactured in low-wage areas. In recent years, to remain competitive with imports, U.S. television manufacturers have utilized production facilities in low-wage countries. Of the twelve existing domestic television manufacturers, four are subsidiaries of foreign corporations and are essentially engaged in final assembly of imported components.

RCA Consumer Electronics Division opened its first overseas facility in 1969. Since then RCA has transferred numerous component manufacturing operations from its domestic to its overseas facilities. Under provisions of the Trade Expansion Act of 1962, facilities of the Consumer Electronics Division were found injured by increased company imports (TEA-144).

Imports of television components by the RCA Consumer Electronics Division increased 22.8 percent from 1975 to 1976, as the company transferred production of eight television components from Bloomington to its overseas facilities. Subsequently production and employment of production workers at Bloomington declined during the second half of 1976. The transfer of monochrome television production from Bloomington to RCA's foreign facilities in the second quarter of 1977 creates the threat of further declines in production and employment at the Bloomington facility.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with color and monochrome television receivers and components produced at the Bloomington, Ind. facility of the RCA Corp. contributed importantly to the total or partial separations of the workers of that facility. In accordance with provisions

of the Trade Act of 1974, I make the following certification:

All workers at the Bloomington, Ind. facility of the RCA Corp., Consumer Electronics Division who became totally or partially separated from employment on or after June 27, 1976, are eligible to apply for worker adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[4510-28]

[TA-W-1944]

SABRINA COAT, INC., S. EL MONTE, CALIF.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of TA-W-1944: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 31, 1977 in response to a worker petition received on that date which was filed by the International Ladies' Garment Workers' Union on behalf of workers and former workers producing women's and misses' coats at Sabrina Coat, Inc., S. El Monte, Calif.

The notice of investigation was published in the FEDERAL REGISTER on April 15, 1977 (42 FR 19937). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of David L. Maffei Company, its customers, Sabrina Coat, Inc., the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The Department's investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Average employment of production workers at Sabrina Coat, Inc. decreased 2.6 percent from 1974 to 1975, and then increased 13.2 percent from 1975 to 1976. In 1977 the plant closed for the entire month of January.

SALES, PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales and production in quantity (units) of women's and misses' coats by Sabrina Coat, Inc. decreased 13.1 percent from 1974 to 1975, decreased 1 percent from 1975 to 1976 and then decreased 56.7 percent for the first quarter of 1977 compared to the same period in 1976.

INCREASED IMPORTS

Imports of women's and misses' coats increased in absolute terms, from 1972 to 1973, decreased from 1973 to 1974, and increased from 1974 to 1975. Imports increased absolutely 48 percent from 1975 to 1976 and increased absolutely 17 percent in the first quarter of 1977 compared to the first quarter of 1976. The ratios of imports to domestic production and consumption increased from 35.4 percent and 26.1 percent, respectively, in 1975 to 52.2 percent and 34.3 percent, respectively, in 1976.

CONTRIBUTED IMPORTANTLY

Sabrina Coat, Inc. produces exclusively for one manufacturer. The manufacturer stated that he reduced purchases from Sabrina Coat, Inc. because his sales had declined in 1976 compared to 1975. Customers of the manufacturer have reduced purchases from the manufacturer, and increased purchases of imported women's and misses' coats.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with women's and misses' coats produced by Sabrina Coat, Inc. contributed importantly to the absolute decline in production and to the separation of workers at that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Sabrina Coat, Inc., S. El Monte, Calif. who became totally or partially separated from employment on or after January 1, 1977, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 4th day of October 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc.77-30042 Filed 10-13-77;8:45 am]

NOTICES

[4510-28]

[TA-W-2122]

TITAN MARBLE AND STONE CO., INC.,
TOWA, N.J.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-2122: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on June 6, 1977, in response to a worker petition received on June 1, 1977, which was filed by the Riggers and Machinists Union Local 197 on behalf of workers involved in the installation of marble, granite, limestone, and slate at job sites for the Titan Marble and Stone Company, Incorporated, Totowa, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on June 17, 1977 (42 FR 30937). No public hearing was requested and none was held.

The information upon which the determination was made was obtained from the Titan Marble and Stone Company, Incorporated and Local 197 of the Riggers' and Machinists' Union.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

If any of the above criteria is not satisfied, a negative determination must be made.

The Department of Labor has already determined that the performance of services is not included within the term "articles" as used in Section 222(3) of the Act. See Notice of Negative Determination in *Pan American World Airways, Incorporated* (TA-W-153; 40 FR 54639).

Titan Marble and Stone Company, Incorporated is involved exclusively in the installation of marble, granite, limestone, and slate at job sites. The company is not involved in the production of an

article within the meaning of Section 222(3) of the Act.

After careful review of the issues I have determined that services of the kind provided by Titan Marble and Stone Company Incorporated are not "articles" within the meaning of Section 222(3) of the Trade Act of 1974.

Signed at Washington, D.C. this 21st day of September 1977.

HARRY GRUBERT,
Director, Office of
Foreign Economic Policy.

[FR Doc. 77-30056 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1441]

U.S. STEEL CORP., JOLIET-WAUKEGAN
WORKS, JOLIET, ILL.

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor herein presents the results of investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on December 15, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing carbon steel rods and merchant wire at the Joliet-Waukegan Works, Joliet, Ill. of the U.S. Steel Corporation, Pittsburgh, Pa.

The Notice of Investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 899). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of U.S. Steel Corporation, its customers, the American Iron and Steel Institute, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important

but not necessarily more important than any other cause.

The investigation revealed that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL
SEPARATIONS

Average employment of hourly workers engaged in employment related to the production of carbon steel rod decreased 24.5 percent in 1975 compared to 1974. Employment decreased 24.2 percent in the first quarter of 1976 compared to the same period of 1975. Employment increased 8.9 percent from April through November 1976 compared to the same period of 1975.

Average employment of hourly workers engaged in employment related to the production of merchant wire decreased 37.2 percent in 1975 compared to 1974. Employment decreased 35.2 percent in the first quarter of 1976 compared to the same period of 1975. Employment decreased 2.0 percent from April through November 1976 compared to the same period of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE
DECREASED ABSOLUTELY

Sales of carbon steel rods decreased 50.3 percent in 1975 compared to 1974. Sales decreased 8.1 percent in the first quarter of 1976 compared to the same period of 1975. Sales increased 53.0 percent from April through November 1976 compared to the same period of 1975.

Sales of merchant wire decreased 58.1 percent in 1975 compared to 1974. Sales decreased 16.7 percent in the first quarter of 1976 compared to the same period of 1975. Sales increased 38.1 percent from April through November 1976 compared to the same period of 1975.

INCREASED IMPORTS

Imports of carbon steel wire rod decreased from 1,313,200 short tons in 1972 to 1,306,400 short tons in 1973, increased to 1,827,600 short tons in 1974, decreased to 1,027,600 short tons in 1975, and increased to 1,032,900 short tons in 1976.

Imports of carbon steel wire, which includes merchant wire, decreased from 515,300 short tons in 1972 to 433,200 short tons in 1973, increased to 553,800 short tons in 1974, decreased to 349,600 short tons in 1975 and increased to 371,800 short tons in 1976.

CONTRIBUTED IMPORTANTLY

A representative sample of the Joliet-Waukegan Works' carbon steel rod and merchant wire customers were surveyed. Many of the carbon steel rod customers who were surveyed indicated that they had increased purchases of imported carbon steel rod while decreasing purchases of carbon steel rod from the Joliet-Waukegan Works. The merchant wire customers who were surveyed indicated that they had increased purchases of imported merchant wire while decreasing purchases of merchant wire from the Joliet-Waukegan Works.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with carbon steel rods and merchant wire produced at the Joliet-Waukegan Works of the U.S. Steel Corporation contributed importantly to the absolute decline in sales and to the total or partial separations of the workers at the Joliet, Illinois plant. In accordance with the provisions of the Act, I make the following certification:

All workers at Joliet, Ill. plant of the Joliet-Waukegan Works of the U.S. Steel Corporation engaged in employment related to the production of carbon steel rods and merchant wire who became totally or partially separated from employment on or after November 15, 1975, and before April 1, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974. All workers separated after April 1, 1976, are denied certification.

Signed at Washington, D.C. this 29th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc. 77-30057 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1572]

WHEELING-PITTSBURGH STEEL CORP.,
MARTINS FERRY, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1572: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on January 1, 1977 in response to a worker petition received on January 1, 1977 which was filed by the United Steelworkers of America on behalf of workers and former workers producing galvanized coils and sheets. The petition incorrectly stated that the Martins Ferry plant produces carbon steel, specialty steel products, including piping, culvert pipe, galvanized containers and galvanized pipes, at the Martins Ferry, Ohio plant of Wheeling-Pittsburgh Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 28, 1977, (42 FR 5457). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wheeling-Pittsburgh Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of

eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL
SEPARATIONS

Average employment of production workers at the Martins Ferry plant declined 26 percent from 1974 to 1975, increased 8 percent from 1975 to 1976, and declined 22 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975.

SALES OR PRODUCTION, OR BOTH, HAVE
DECREASED ABSOLUTELY

Sales of galvanized coils and sheets, in quantity, declined 26 percent from 1974 to 1975, increased 20 percent from 1975 to 1976, and declined 10 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975.

Production of galvanized coils and sheets, in quantity, declined 29 percent from 1974 to 1975, increased 19 percent from 1975 to 1976, and declined 12 percent in the fourth quarter of 1976 compared to the fourth quarter of 1975.

INCREASED IMPORTS

Imports of galvanized steel sheet and strip declined in absolute terms, from 1972 to 1973, increased from 1973 to 1974, and declined from 1974 to 1975. Imports increased 99 percent from 1975 to 1976. The ratios of imports to domestic production and consumption increased from 19.9 percent and 16.7 percent, respectively, in 1975 to 28.3 percent and 22.2 percent, respectively in 1976.

CONTRIBUTED IMPORTANTLY

A sample of customers of the Martins Ferry plant responding to an OTAA survey indicated they had increased purchases of imported galvanized steel coils and sheets.

After careful review of the facts obtained in the investigation, I conclude that increases of imports like or directly competitive with galvanized steel coils and sheets produced at the Martins Ferry, Ohio plant of Wheeling-Pittsburgh Steel Corporation contributed importantly to the total or partial separation of the workers of that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Martins Ferry, Ohio plant of Wheeling-Pittsburgh Steel Corporation, who became totally or partially separated from employment on or after October 1, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 28th day of September 1977.

GLORIA G. PRATT,
Director, Office
of Foreign Economic Policy.

[FR Doc. 77-30058 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1398]

WHEELING-PITTSBURGH STEEL CORP.,
MONESSEN, PA.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1398: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated December 15, 1976 in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers at the Monessen, Pennsylvania plant of the Wheeling-Pittsburgh Steel Corporation.

The notice of investigation was published in the FEDERAL REGISTER on January 4, 1977 (42 FR 906). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wheeling-Pittsburgh Steel Corporation, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

- (1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;
- (2) That sales or production, or both, of such firm or subdivision have decreased absolutely;
- (3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and
- (4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (2) has not been met.

The Department's investigation revealed that the Monessen, Pennsylvania plant produces coke (which is used in the blast furnaces), iron (which is used in the basic oxygen furnaces), and steel ingots. The ingots are rolled into carbon steel slabs, billets, and rounds.

Total sales, in quantity, of carbon steel slabs, billets and rounds at the plant decreased 7 percent in 1974 from 1973, 24 percent in 1975 from 1974 and increased 19 percent in 1976 from 1975.

Total production, in quantity, of carbon steel slabs, billets and rounds at the plant decreased 8 percent in 1974 from 1973, 25 percent in 1975 from 1974 and increased 22 percent in 1976 from 1975.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that sales and production at the Monessen, Pennsylvania, plant of Wheeling-Pittsburgh Steel Corporation have not declined absolutely as required for certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 30th day of September 1977.

HARRY GRUBERT,
Director, Office of
Foreign Economic Research.

[FR Doc 77-30059 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1773]

WILSHIRE FASHIONS SOUTH RIVER, N.J. Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1773: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in Section 222 of the Act.

The investigation was initiated on March 7, 1977 in response to a worker petition received on March 4, 1977 which was filed by the International Ladies' Garment Workers Union on behalf of workers and former workers producing ladies' coats at Wilshire Fashions, South River, New Jersey.

The notice of investigation was published in the FEDERAL REGISTER on March 22, 1977, (42 FR 15479). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Wilshire Fashions, its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in the workers' firm or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

Evidence developed in the Department's investigation reveals that all four of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATION

Employment of production workers declined 7.1 percent in 1976 compared to 1975. Employment for the first quarter 1977 was 12.0 percent less than for the same period in 1976. The average hours worked declined 7.4 percent in 1976 compared to 1975. Hours worked declined 30.6 percent the first quarter 1977 compared to the first quarter 1976.

SALES OR PRODUCTION, OR BOTH HAVE DECREASED ABSOLUTELY

Production in terms of quantity declined 9.6 percent in 1976 compared to 1975. Production declined 51.8 percent in the first quarter of 1977 compared to the first quarter of 1976.

INCREASED IMPORTS

U.S. imports of women's, misses' and children's coats and jackets in thousand dozens increased from 1,769 in 1972 to 1,807 in 1973. Imports declined to 1,478 in 1974. In 1975 imports rose to 1,517 and increased 48.4 percent in 1976 to 2,252 over 1975. Imports for January through March 1977 increased to 590 thousand dozen compared to the 506 thousand dozen woven coats imported in the same period in 1976. The ratio of imports to domestic production increased from 35.4 percent in 1975 to 52.2 percent in 1976.

CONTRIBUTED IMPORTANTLY

Wilshire Fashions receive all customers orders from a single manufacturer. Customers of that manufacturer reported switching purchases to imports, due to their lower price and superior styling.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with ladies coats produced by Wilshire Fashions contributed importantly to the separations of workers of that firm. In accordance with the provisions of the Act, I make the following certification:

All workers of Wilshire Fashions, South River, New Jersey who became totally or partially separated from employment on or after February 28, 1976 are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C. this 30th day of September 1977.

HARRY GRUBERT,
Director, Office
of Foreign Economic Research.

[FR Doc 77-30060 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1813]

YEAMAN'S, INC., DOUG & NEIL, INC., ARANSAS PASS, TEX.

Negative Determination Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1813: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on March 15, 1977, in response to a worker petition received on March 14, 1977, which was filed by three workers on behalf of workers and former workers engaged in shrimp fishing aboard trawlers owned by Yeaman's, Inc. and Doug & Neil, Inc. of Aransas Pass, Tex. The original petition was filed on behalf of those workers and former workers employed by Doug and Neil Yeaman. The investigation revealed that Doug and Neil Yeaman are co-owners of Yeaman's, Inc. and Doug & Neil, Inc., each of which owns three trawlers aboard which the petitioners are engaged in shrimping.

The notice of investigation was published in the FEDERAL REGISTER on April 5, 1977 (42 FR 18155). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Doug & Neil, Inc., Yeaman's, Inc., and their customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of Section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separation, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important, but not necessarily more important than any other cause.

Without regard to whether any of the other criteria have been met, criterion (4) has not been met.

The evidence developed during the Department's investigation revealed that all shrimp caught and landed by Yeaman's, Inc. and Doug & Neil, Inc. is sold on the open market. Customers who regularly submit bids indicated that most do purchase imported shrimp although these purchases tend to fluctuate from year to year. However, these customers stated that imported shrimp was purchased because their domestic sources are unable to supply them with sufficient quantities to meet their requirements. Several factors were present to decrease shrimp production in 1976 and in the first quarter of 1977. These factors included adverse weather conditions in the Gulf of Mexico, a shortage of shrimp available in known fishing grounds during the first quarter of 1977, and the imposition of a 200-mile fishing restriction by the Mexican government which prevented domestic shrimpers from fishing within Mexican coastal waters.

CONCLUSION

After careful review of the facts obtained in the investigation, it is concluded that imports of articles like or directly competitive with the shrimp caught and landed by Yeaman's Inc. and Doug & Neil, Inc., Aransas Pass, Tex., have not contributed importantly to the total or partial separations of the workers of those companies as required for a certification under Section 222 of the Trade Act of 1974.

Signed at Washington, D.C., this 29th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc 77-30061 Filed 10-13-77; 8:45 am]

[4510-28]

[TA-W-1464]

YOUNGSTOWN SHEET & TUBE CO., YOUNGSTOWN PLANT, YOUNGSTOWN, OHIO

Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 the Department of Labor herein presents the results of TA-W-1464: investigation regarding certification of eligibility to apply for worker adjustment assistance as prescribed in section 222 of the Act.

The investigation was initiated on December 20, 1976, in response to a worker petition received on that date which was filed by the United Steelworkers of America on behalf of workers and former workers producing steel products at the Youngstown, Ohio, plant of the Youngstown Sheet & Tube Co.

The notice of investigation was published in the FEDERAL REGISTER on January 11, 1977 (42 FR 2381). No public hearing was requested and none was held.

The information upon which the determination was made was obtained principally from officials of Youngstown Sheet & Tube Co., its customers, the U.S. Department of Commerce, the U.S. International Trade Commission, industry analysts, and Department files.

In order to make an affirmative determination and issue a certification of eligibility to apply for adjustment assistance, each of the group eligibility requirements of section 222 of the Trade Act of 1974 must be met:

(1) That a significant number or proportion of the workers in such workers' firm, or an appropriate subdivision thereof, have become totally or partially separated, or are threatened to become totally or partially separated;

(2) That sales or production, or both, of such firm or subdivision have decreased absolutely;

(3) That articles like or directly competitive with those produced by the firm or subdivision are being imported in increased quantities, either actual or relative to domestic production; and

(4) That such increased imports have contributed importantly to the separations, or threat thereof, and to the decrease in sales or production. The term "contributed importantly" means a cause which is important but not necessarily more important than any other cause.

The investigation has revealed that all of the above criteria have been met.

SIGNIFICANT TOTAL OR PARTIAL SEPARATIONS

Workers were not separately identifiable by product. Average annual employment of production workers decreased 13.6 percent in 1975 compared to 1974. Employment decreased 0.6 percent in 1976 compared to 1975. Separations of workers associated with the announced phasedown of operations began in September 1977.

Workers producing galvanized steel sheet and electric weld pipe at the Youngstown, Ohio, plant of Youngstown Sheet & Tube Co. were separated more than one year prior to the date of the petition and are therefore excluded from coverage by Section 223(b)(1) of the Act.

SALES OR PRODUCTION, OR BOTH, HAVE DECREASED ABSOLUTELY

Sales of all products manufactured at the Youngstown plant of Youngstown Sheet & Tube Co. decreased 34.7 percent in 1975 compared to 1974. In the first half of 1977 sales increased slightly compared to the same period of 1976. Sales increased from 1975 to 1976 but remained 28.3 percent below the 1974 level due to the company's effort to complete orders before the plant's phasedown operations are completed at the end of 1977. Youngstown's ability to maintain high production levels was due to orders placed by Youngstown's customers in anticipation of the closing of the plant.

INCREASED IMPORTS

Imports of hot and cold rolled carbon steel sheet and strip declined in each year from 5,573,400 tons in 1972 to 3,620,000 tons in 1975 before increasing 11.9

percent to 4,052,200 tons in 1976. Imports increased from 1,767,600 tons in the first half of 1976 to 2,222,600 tons in the first half of 1977.

Imports of carbon hot and cold rolled steel bars decreased from 923.9 thousand tons in 1972 to 834.0 thousand tons in 1973 and decreased to 763.3 thousand tons in 1974. Imports further decreased to 484.4 thousand tons in 1975 and decreased to 439.4 thousand tons in 1976. Imports increased from 135.9 thousand tons in the first half of 1976 to 340.4 thousand tons in the similar period in 1977.

Imports of carbon steel plate decreased from 1,651.0 thousand tons in 1972 to 1,322.0 thousand tons in 1973, increased to 1,699.0 thousand tons in 1974 and decreased to 1,353.0 thousand tons in 1975 before increasing to 1,555.4 thousand tons in 1976. Imports increased from 690.3 thousand tons in the first half of 1976 to 793.0 thousand tons in the same period of 1977.

Imports of carbon steel pipe and tubing declined from 1,768.1 thousand short tons in 1972 to 1,574.6 thousand short tons in 1973. Imports increased to 1,781.5 thousand short tons in 1974, declined to 1,542.5 thousand short tons in 1975 and increased to 1,820.7 thousand short tons in 1976. Imports of pipe and tubing increased from 425.0 thousand tons in the first quarter of 1976 to 515.2 thousand tons in the same period of 1977.

CONTRIBUTED IMPORTANTLY

The Youngstown plant is aged and is not the most efficient of the company's steel making operations. The effects of price competition from readily available imports competitive with the plant's product line have been an important consideration in the company's decision not to undertake the necessary investment in new technologies that would meet environmental standards and make the plant competitive with imports and other domestic competitors.

For the products produced by the plant, imports in 1977 have increased both absolutely and as a proportion of total domestic shipments and total U.S. consumption.

The customer survey done in conjunction with this investigation reveals that imports are an important factor in the domestic market as evidenced by customer awareness of the availability and prices of foreign products and the fact that some major customers of the company have reduced purchases from the company and increased imports.

CONCLUSION

After careful review of the facts obtained in the investigation, I conclude that increases of imports of articles like or directly competitive with products produced at the Youngstown, Ohio, plant of Youngstown Sheet & Tube Co. contributed importantly to the total or partial separation of workers at that plant. In accordance with the provisions of the Act, I make the following certification:

All workers at the Youngstown, Ohio, plant of Youngstown Sheet & Tube Co. who be-

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came totally or partially separated from employment on or after July 30, 1976, are eligible to apply for adjustment assistance under Title II, Chapter 2 of the Trade Act of 1974.

Signed at Washington, D.C., this 27th day of September 1977.

JAMES F. TAYLOR,
Director, Office of Management,
Administration, and Planning.

[FR Doc.77-30062 Filed 10-13-77; 8:45 am]

[4510-28]

AMERICAN BILTRITE, INC.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1977.

assistance, at the address shown below, not later than October 24, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor,

200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 29th day of September 1977.

MARVIN M. FOOKS,
Director, Office of Trade
Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
American Biltrite, Inc. (workers).	Cambridge, Mass.	Sept. 26, 1977	Sept. 19, 1977	TA-W-2,397	Rubber and plastic products.
Bristol Clothing Manufacturers Inc. (workers).	New Bedford, Mass.	Sept. 28, 1977	Sept. 20, 1977	TA-W-2,398	Men's and students' suits.
Charnell Sportswear Co. (workers).	Boston, Mass.	Sept. 27, 1977	Sept. 23, 1977	TA-W-2,399	Ladies' sportswear.
D&H Sportswear (workers).	do	Sept. 28, 1977	Sept. 24, 1977	TA-W-2,400	Do.
Ford Motor Co. (UAW)	Pennsauken, N.J.	Sept. 26, 1977	Sept. 14, 1977	TA-W-2,401	Distribution of auto parts to Ford Motor dealerships.
Phillips Sportswear, Inc. (workers).	East Boston, Mass.	do	Sept. 21, 1977	TA-W-2,402	Ladies' jackets.
Seijito, Inc. (International Chemical Workers Union)	Atlanta, Ga.	Sept. 28, 1977	Sept. 23, 1977	TA-W-2,403	Thin lead mechanical pencil, ball point pens, refillable and disposable butane and naptha lighters, plated and plastic parts and thick lead mechanical pencils.

[FR Doc.77-29789 Filed 10-13-77; 8:45 am]

[4510-28]

BROWN SHOE CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of

29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 26th day of September 1977.

MARVIN M. FOOKS,
Director, Office of Trade
Adjustment Assistance.

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[4510-28]

CONTINENTAL GROUP, INC., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B of 29 CFR art 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 28th day of September 1977.

MARVIN M. FOOKS,
Director, Office of Trade
Adjustment Assistance.

APPENDIX

Petitioner: Union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Brown Shoe Co. (UAW)	Union, Mo.	Sept. 21, 1977	Sept. 14, 1977	TA-W-2,375	Heels, wedges, soles, and sock linings for men's, women's and children's shoes.
Brown Shoe Co. (workers).	Mountain Grove, Mo.	do	do	TA-W-2,376	Women's shoes.
Stride Rite Shoe Corp. (Shoe & Shoe Workers' Union)	Newburyport, Mass.	Sept. 20, 1977	Sept. 15, 1977	TA-W-2,377	Children's and girls' shoes.
Stride Rite Shoe Corp. (workers).	Boston, Mass.	Sept. 19, 1977	do	TA-W-2,378	Children's shoes.
Trio Dyeing & Finishing Co., Inc. (workers).	Paterson, N.J.	Sept. 22, 1977	Aug. 27, 1977	TA-W-2,379	Dyeing and finishing of piece goods.

[FR Doc.77-29786 Filed 10-13-77; 8:45 am]

[4510-28]

BUCKBEE MEAR CO., ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart

B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C., this 3rd day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade
Adjustment Assistance.

APPENDIX

Petitioner: union/ workers or former workers of—	Location	Date received	Date of petition	Petition No.	Articles produced
Buckbee Mear Co. (workers).	St. Paul, Minn.	Sept. 28, 1977	Sept. 21, 1977	TA-W-2,404	General masks for color televisions.
Chett Peabody & Co., Inc. (The Arrow Shirt Co. Division (ACT-WU).	Huntingdon, Pa.	Sept. 29, 1977	Sept. 24, 1977	TA-W-2,405	Men's dress and sport shirts.
Industrial Service Centers, Inc. (workers).	Cambridge, Mass.	Sept. 28, 1977	Sept. 14, 1977	TA-W-2,406	Buyers cuts and shapes and distributes stainless steel and aluminum sheet, plates, bars and structural.
Methuen International Mills, Inc. (company).	Methuen, Mass.	Sept. 26, 1977	Sept. 24, 1977	TA-W-2,407	Woven worsted and worsted-blend fabrics for menswear.
Store Decor, Inc. (workers).	Fairfield, N.J.	Sept. 28, 1977	Sept. 16, 1977	TA-W-2,408	Store fixtures.

[FR Doc.77-29790 Filed 10-13-77; 8:45 am]

NOTICES

APPENDIX

Petitioner (union/workers or former workers of—)	Location	Date received	Date of petition	Petition No.	Articles produced
The Continental Group, Inc. (USWA).	Paterson, N.J.	Sept. 23, 1977	Sept. 19, 1977	TA-W-2,389	Articles needed for packaging: steel cans, boxes, drums, etc.
Elec Dress Co., Inc. (workers).	New Bedford, Mass.	Sept. 6, 1977	Aug. 26, 1977	TA-W-2,390	Women's and misses' dresses.
Lanham Clothes (workers).	Lawrence, Mass.	Sept. 23, 1977	Sept. 19, 1977	TA-W-2,391	Men's and women's suits, jackets and pants.
F.V. Little Infant (workers).	Provincetown, Mass.	do	Sept. 16, 1977	TA-W-2,392	The catching and selling of fish.
Medford Knitwear Mills (workers).	Medford, N.J.	do	do	TA-W-2,393	Girls' sportswear.
Rupp Chevrolet Corp. (workers).	Lychbrook, N.Y.	Sept. 26, 1977	Sept. 15, 1977	TA-W-2,394	The selling of used cars.
Shirley & Roland Corp. (workers).	Provincetown, Mass.	Sept. 23, 1977	Sept. 16, 1977	TA-W-2,395	The catching and selling of fish.
John Vassquez Co. Corp. (workers).	do	do	do	TA-W-2,396	Do.

[FR Doc 77-29788 Filed 10-12-77; 8:45 am]

[4510-28]

FORT SMITH STRUCTURAL STEEL CO. ET AL.

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221 (a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of a significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Sub-

part B of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 24, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 27th day of September 1977.

MARVIN M. FOOKS,
Director, Office of Trade
Adjustment Assistance.

APPENDIX

Petitioner (union/workers or former workers of—)	Location	Date received	Date of petition	Petition No.	Articles produced
Fort Smith Structural Steel Co. (International Association of Bridge, Structural and Ornamental Iron Workers).	Fort Smith, Ark.	Sept. 22, 1977	Sept. 15, 1977	TA-W-2,380	Fabricated welded girder bridges and steel for processing, smelting and generating plants.
Do.	Van Buren, Ark.	do	do	TA-W-2,381	Do.
Fox Shoe Manufacturing Corp. (United Shoe Workers of America).	New York, N.Y.	Sept. 21, 1977	Sept. 14, 1977	TA-W-2,382	Ladies' shoes.
Frontier Steel Co., Inc. (International Association of Bridge, Structural and Ornamental Iron Workers).	Muskogee, Okla.	Sept. 22, 1977	Sept. 15, 1977	TA-W-2,383	Fabricated welded girder bridges.
Kerrametric, Inc. (USWA).	Blue Hill, Maine	Sept. 23, 1977	Sept. 13, 1977	TA-W-2,384	Copper and zinc concentrate.
Knopf Sportswear, Inc. (workers).	Lawrence, Mass.	Aug. 17, 1977	Aug. 15, 1977	TA-W-2,385	Leather coats and jackets for men.
McDonalds Enterprises, Inc. (workers).	Kansas City, Kans.	Sept. 19, 1977	Sept. 12, 1977	TA-W-2,386	Ladies' outerwear.
McGregor-Douglas, Inc. (workers).	New York, N.Y.	Sept. 23, 1977	Sept. 21, 1977	TA-W-2,387	Men's clothing.
Mernace Mining Co. (USWA).	Sullivan, Mo.	do	Sept. 14, 1977	TA-W-2,388	Iron pellets.

[FR Doc. 77-29787 Filed 10-13-77; 8:45 am]

FEDERAL REGISTER, VOL. 42, NO. 199—FRIDAY, OCTOBER 14, 1977

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[4510-28]

INVESTIGATIONS REGARDING CERTIFICATIONS OF ELIGIBILITY TO APPLY FOR WORKER ADJUSTMENT ASSISTANCE

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, has instituted investigations pursuant to Section 221(a) of the Act and 29 CFR 90.12.

The purpose of each of the investigations is to determine whether absolute or relative increases of imports of articles like or directly competitive with articles produced by the workers' firm or an appropriate subdivision thereof have contributed importantly to an absolute decline in sales or production, or both, of such firm or subdivision and to the actual or threatened total or partial separation of significant number or proportion of the workers of such firm or subdivision.

Petitioners meeting these eligibility requirements will be certified as eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act in accordance with the provisions of Subpart B

of 29 CFR Part 90. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

Pursuant to 29 CFR 90.13, the petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 28, 1977.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than October 28, 1977.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Bureau of International Labor Affairs, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210.

Signed at Washington, D.C. this 4th day of October 1977.

MARVIN M. FOOKS,
Director, Office of Trade
Adjustment Assistance.

APPENDIX

Petitioner (union/workers or former workers of—)	Location	Date received	Date of petition	Petition No.	Articles produced
Anamax Mining Co. (USWA).	Sahuarita, Ariz.	Sept. 30, 1977	Sept. 20, 1977	TA-W-2,409	Mining and selling of copper.
ASARCO, Inc., Silver Bell Plant (USWA).	Silver Bell, Ariz.	do	do	TA-W-2,410	Do.
ASARCO, Inc., Mission Mine (USWA).	Sahuarita, Ariz.	do	do	TA-W-2,411	Do.
Inspiration Consolidated Copper Co., Christmas Division (USWA).	Inspiration, Ariz.	do	do	TA-W-2,412	Crushing, leaching, concentrating, smelting, and fabricating raw copper.
Inspiration Consolidated Copper Co., Inspiration Operations Ox Hide Division (USWA).	Miami, Ariz.	do	do	TA-W-2,413	Do.
Magma Copper Co. (USWA).	San Manuel, Ariz.	do	do	TA-W-2,414	Mining and refining of copper.
Do.	Superior, Ariz.	do	do	TA-W-2,415	Mining of copper.
Mickey Madann Handbags, Inc. (workers).	New Bedford, Mass.	Sept. 29, 1977	Sept. 21, 1977	TA-W-2,416	Ladies' vinyl handbags.
Sersted Corp. (Laborers' Union).	Pittsburgh, Pa.	do	Sept. 22, 1977	TA-W-2,417	Repairing of coke ovens.

[FR Doc. 77-30027 Filed 10-13-77; 8:45 am]

[4510-27]

Wage and Hour Division

BIG RIVER MANUFACTURING CO. ET AL.
Certificates Authorizing the Employment of Learners at Special Minimum Wages

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act (52 Stat. 1062, as amended; U.S.C. 214), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004) and Administrative Order No. 1-76 (41 FR 18949), the firms listed in this notice have been issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable

under section 6 of the Act. For each certificate, the effective and expiration dates, number or proportion of learners and the principal product manufactured by the establishment are as indicated. Conditions on occupations, wage rates, and learning periods which are provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations; such conditions in certificates not issued under the supplemental industry regulations are as listed.

The following certificates were issued under the apparel industry learner regulations (29 CFR 522.1 to 522.9, as amended and 522.20 to 522.25, as amended). The following normal labor

turnover certificates authorize 10 percent of the total number of factory production workers except as otherwise indicated.

Big River Mfg. Co., Inc., Kittanning, Pa.; 8-31-77 to 8-30-78. (Boys' shirts.)
Caraway Apparel Co., Caraway, Ark.; 8-22-77 to 8-21-78; 10 learners. (Women's dresses.)
Chatham Knitting Mills, Inc., Chatham, Va.; 7-22-77 to 7-21-78; 8 learners. (Men's jackets.)

Cordele Uniform Co., Cordele, Ga.; 9-8-77 to 9-7-78. (Men's and women's service apparel.)

Crane Mfg. Co., Crane, Mo.; 8-1-77 to 7-31-78. (Women's and men's jeans.)

Elder Mfg. Co., Dexter, Mo.; 8-21-77 to 8-20-78. (Men's and boys' pants.)

Franklin Sportswear, Inc., Canon, Ga.; 9-15-77 to 9-14-78; 10 learners. (Women's and men's jeans.)

Giles Mfg. Corp., Narrows, Va.; 8-22-77 to 8-21-78. (Children's outerwear.)

Saf-T-Bak, Inc., Altoona, Pa.; 6-24-77 to 6-23-78. (Adults' and children's hunting clothes.)

Slidell Industries, Inc., Slidell, La.; 8-23-77 to 8-22-78. (Misses' jeans.)

Somerset Shirt & Pajama Co., Somerset, Pa.; 9-3-77 to 9-2-78. (Boys' nightwear.)

Soperton Mfg. Co., Soperton, Ga.; 9-10-77 to 9-9-78. (Men's shirts.)

Spencer California, Tehachapi, Cal.; 8-1-77 to 7-31-78; 5 learners. (Girls' and toddlers' sleepwear.)

The following plant expansion certificates were issued authorizing the number of learners indicated.

Crane Mfg. Co., Marionville, Mo.; 6-27-77 to 12-26-77; 40 learners for plant expansion purposes. (Ladies' and men's jeans.)

Flushing Shirt Mfg. Co., Inc., Waynesburg, Pa.; 7-23-77 to 1-24-78; 20 learners for plant expansion purposes. (Men's shirts.)

The following certificate was issued under the knitted wear industry regulations (29 CFR 522.1 to 522.9, as amended and 522.30 to 522.35, as amended.)

Junior Form Lingerie Corp., Boswell, Pa.; 6-23-77 to 6-22-78; 5 percent of the total number of factory production workers for normal labor turnover purposes. (Ladies' underwear and pajamas.)

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number of learners authorized to be employees are indicated.

G. F. Mills, Inc., Quebradillas, P.R.; 7-17-77 to 7-16-78; 58 learners for normal labor turnover in the occupations of: (1) knitting, for a learning period of 480 hours at the rate of \$1.95 an hour for the first 240 hours and \$2.12 an hour for the remaining 240 hours; (2) machine stitching-seaming for a learning period of 320 hours at the rate of \$1.95 an hour for the first 160 hours and \$2.12 an hour for the remaining 160 hours; (3) pressing, for a learning period of 320 hours at the rate of \$1.95 an hour for the first 160 hours and \$2.12 an hour for the remaining 160 hours; and (4) kettle handlers and dyers, for a learning period of 240 hours at the rate of \$1.95 an hour. (Sweaters and related products.)

WMSI-Puritan Caribbean Division, Aguas, P.R.; 7-21-77 to 7-20-78; 26 learners for normal labor turnover purposes in the occupation of machine knitting, for a learning period of 480 hours at the rate of \$1.95 an hour for the first 240 hours and \$2.12 an hour for the remaining 240 hours. (Sweaters and shirts.)

NOTICES

Each learner certificate has been issued upon the representations of the employer which, among other things were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. The certificate may be annulled or withdrawn as indicated therein, in the manner provided in 29 CFR Part 528. Any person aggrieved by the issuance of any of these certificates may seek a review or reconsideration thereof on or before October 31, 1977.

Signed at Washington, D.C., this 5th day of October 1977.

GORDON L. HIGGINS,
Authorized Representative
of the Administrator.

[FR Doc 77-29791 Filed 10-13-77; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (77-67)]

RESEARCH AND TECHNOLOGY ADVISORY COUNCIL INFORMAL COMMITTEE ON HYPERSONIC RESEARCH AND TECHNOLOGY

Meeting

The subject committee will meet on October 31 and November 1, 1977, at the NASA Langley Research Center, Hampton, Va. The meeting will be held in Conference Room 225 of Building 1219. The meeting will be open to the public with the exception of a closed session from 9:15-11:15 a.m. on October 31, 1977. The closed session will include discussions on DOD hypersonic aircraft and missile performance characteristics with respect to specified advanced missions. Since this session will be concerned with matters listed in 5 U.S.C. 552b(c) (1), it has been determined that it should be closed to the public. Members of the public will be admitted on a first-come first-serve basis up to the seating capacity of the room which is about 25 persons. All visitors must report to the Langley Research Center receptionist in Building 1219.

The subject committee serves in an advisory capacity only. The committee will assess the adequacy of the recently restructured hypersonics program to maintain NASA's in-house hypersonic program options. The Chairman is Professor S. M. Bogdonoff.

For further information, contact Arthur Henderson, 202-755-8501 or C. Robert Nysmith, Executive Secretary of the Research and Technology Advisory Council, 202-755-8550, NASA Headquarters, Washington, D.C. 20546.

OCTOBER 31, 1977

9:00 a.m.—Opening Remarks.
9:15 a.m.—Hypersonic Vehicles and Systems (Closed Session).
11:15 a.m.—Hypersonic Overview.

12:45 p.m.—Hypersonic Propulsion.
1:15 p.m.—Hypersonic Aerodynamics and Systems.
1:45 p.m.—Hypersonic Structures.
2:15 p.m.—Discussion and Facility Tour.
4:30 p.m.—Adjournment.

NOVEMBER 1, 1977

8:00 a.m.—Opening Remarks.
8:15 a.m.—NASA Planned Program.
8:45 a.m.—Hypersonic Propulsion.
10:00 a.m.—Hypersonic Aerodynamics and Systems.
11:15 a.m.—Hypersonic Structures.
1:30 p.m.—Committee Discussion and Formulation of Recommendations.
4:30 p.m.—Adjournment.

KENNETH R. CHAPMAN,
Assistant Administrator for
Department of Defense and
Interagency Affairs, National
Aeronautics and Space Administration.

OCTOBER 7, 1977.

[FR Doc 77-29952 Filed 10-13-77; 8:45 am]

[7510-01]

[Notice (77-68)]

SPACE SCIENCE STEERING COMMITTEE OUT-OF-ECLIPTIC (OOE) MISSION ADVISORY SUBCOMMITTEE

Meeting

A subgroup of the above named advisory Subcommittee will meet with an equivalent subgroup of the European Space Agency (ESA) Out-of-Ecliptic Mission Scientific Evaluation Committee, at the European Space Agency, 8-10 Rue Mario Nikis, Paris, on November 9, 10, and 11, 1977, in Room 114 from 9:00 am until 6:00 pm.

This joint NASA/ESA Committee will review and approve the preliminary NASA and ESA Subcommittee scientific evaluations and categorizations of proposals submitted to both agencies for participation in an Out-of-Ecliptic Mission Science Working Team and subsequently in the mission when it is officially approved as a joint NASA and ESA flight project (reference NASA meeting Notice 77-62).

Throughout the joint NASA/ESA Subcommittee sessions the professional qualifications of the proposers, the merits of their proposed flight investigations and the associated instrumentation, and the potential scientific contribution of the proposers to the mission will be candidly discussed and appraised. Discussion of these matters in a public session would invade the privacy of the proposers and other individuals involved.

Since the Subcommittee sessions will be concerned throughout with matters listed in 5 U.S.C. 552b(c) (6), it has been determined that the sessions should be closed to the public.

For further information please contact Dr. Adrienne F. Timothy, National Aeronautics and Space Administration, Washington, D.C. 20546, telephone 202-755-3821, or Dr. George P. Haskell, European Space Agency, 8-10 Rue Mario

Nikis, Paris, France, telephone 567-55-78, Extension 335.

KENNETH R. CHAPMAN,
Assistant Administrator for
DOD and Interagency Affairs.

OCTOBER 7, 1977.

[FR Doc 77-29953 Filed 10-13-77; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-41]

ACCIDENT REPORT; RESPONSES TO SAFETY RECOMMENDATIONS Availability and Receipt

Railroad/Highway Accident Report NTSB-RHR-77-1.—The National Transportation Safety Board has made public its investigation report on the grade crossing collision at Stratton, Neb., which on August 8, 1976, resulted in death to nine persons and injury to eight others.

The accident occurred when an east-bound Burlington Northern freight train struck a southbound bus at Stratton's Beaver Avenue crossing. The bus, driven by a minister, was en route to a local church where his 16 passengers were to attend Sunday school.

Probable cause of the accident, as determined by the Safety Board, was the failure of the busdriver to perceive the approaching train and to stop his vehicle short of the tracks. Contributing to the accident was the inadequacy of the grade crossing's obsolete wigwag warning signal as a warning device, the visual obstruction of the signal and partial obstruction of the train by parts of the bus, and the inadequacy of the train's horn as a reliable warning system.

As a result of the investigation of this accident, the Safety Board on August 23, 1977, recommended that the Federal Highway Administration and the Federal Railroad Administration combine efforts to develop and implement a uniform system of warning devices to attract the attention of motor vehicle drivers approaching railroad/highway grade crossings (recommendation H-77-9), and that the city of Stratton cooperate with Burlington Northern in installing an improved protection system at the Beaver Avenue crossing, following recommended practices of the Association of American Railroads (H-77-10). (See 42 FR 44044, September 1, 1977.)

Response from Federal Highway Administration to Highway Safety Recommendation H-77-6.—Letter of September 22 is in answer to the call for publication of an advisory warning to drivers of cargo tanks hauling liquid cargo regarding possible overturn due to lateral surge. This recommendation followed investigation of the overturn of a tractor cargo tank semitrailer, partially loaded with anhydrous ammonia, on May 11, 1976, in Houston, Tex. (See 42 FR 28195, June 2, 1977.)

FHWA reports that after conducting an engineering analysis of the lateral liquid surge phenomenon, it has been concluded that liquid surging of partially loaded tank truck combinations does not create an overturn stability problem that warrants issuing the recommended advisory publication. FHWA states that this analysis took note of the summary analytical material contained in the Safety Board's investigation report (HAR-77-1). FHWA asks whether the Safety Board has developed more detailed material on this matter and could provide calculations that might affect and possibly alter that conclusion. Pending receipt of such material and calculations, FHWA considers this recommendation in open status and will take further action in accordance with the additional analysis to be performed on the Safety Board data.

Response from U.S. Coast Guard to Marine Safety Recommendation M-72-17.—Letter of September 21 concerns a recommendation resulting from a 1972 special study, "Analysis of the Safety of Transportation of Hazardous Materials on the Navigable Waters of the United States," report No. NTSB-MSS-72-2.

As recommended, Coast Guard last April 25 published a notice of proposed rulemaking governing qualifications of personnel involved in the handling, transfer, and transportation of dangerous liquid cargoes in bulk aboard ships and barges (42 FR 21190). Coast Guard is now evaluating comments from 92 interested persons and expects to publish a final rule in the latter part of 1977.

Coast Guard reports that two of its research and development projects, "Recommendations for Qualifications of Liquefied Natural Gas Cargo Personnel" and "Qualification Standards for Personnel Responsible for Hazardous or Noxious Chemicals in Bulk," completed in April 1976 and May 1976, respectively, provide strong support for these proposed regulations.

Further, Coast Guard reports that the Intergovernmental Maritime Consultative Organization, Subcommittee on the Standards of Training and Watchkeeping, would meet for its 10th and final session in September 1977, before going to conference next spring, to consider the final draft recommendations of the Subcommittee; among the instruments considered: (1) Training and Qualifications of Masters, Officers, and Crews of Ships Carrying Liquefied Gases in Bulk, and (2) Training and Qualifications of Officers and Crews of Ships Carrying Hazardous or Noxious Chemicals in Bulk.

Response from Radio Technical Commission for Marine Services (RTCM) to Marine Safety Recommendation M-72-6.—Letter of September 27 concerns a recommendation resulting from another 1972 special study, "Collisions Within the Navigable Waters of the United States: Consideration of Alternative Preventive Measures," report No. NTSB-MSS-72-1.

The recommendation asked RTCM's Special Committee 65 to continue devel-

oping general standards or specifications for shipboard collision avoidance systems for use by the marine industry in evaluating the effectiveness of the various systems available or currently under development. RTCM previously responded to this recommendation last February 25; see 42 FR 14942, March 17, 1977, where M-72-6 was incorrectly referred to as M-72-16.

RTCM now provides two additional specifications for anticollision devices: Performance Specification for a Collision Assessment Device for Merchant Ships (RTCM Paper 82-77/EC-223/SC 65-240 [CAWG-95]), and Performance Specification for a Radar Perimeter Target Detection Device [Guard Zone] (RTCM Paper 129-77/EC-228/SC 65-245 [CAWG 100]).

RTCM states that because the U.S. Coast Guard recently proposed (42 FR 24871, May 16, 1977) that collision avoidance systems be made mandatory on vessels above 10,000 gross tons, RTCM's Paper 21-77/EC-214/SC 65-232, sent to the Safety Board last February 25, has been modified to refer additionally to collision avoidance systems. RTCM has provided a copy of the new paper; Resources Necessary for On-Board Preventive and Corrective Maintenance of Radar Equipment and Collision Avoidance Systems (RTCM Paper 139-77/EC-229/SC 65-246).

In view of the Safety Board's interest in minimum standards for manually processing radar data, expressed in report No. USCG/NTSB-MAR-77-1 (SS BAUNE and KEYTRADER collision in the lower Mississippi River, January 18, 1974; see 42 FR 39514, August 4, 1977), RTCM has also provided this specification: Manual Plotting Facilities for Shipborne Radar Paper 192-71/SC 65-69 Rev. 7-28-77.

Safety Board Reply to Aircraft Owners and Pilots Association (AOPA) Regarding Aviation Safety Recommendation A-77-24.—Letter dated October 3 is in answer to AOPA's August 29 petition for reconsideration and withdrawal of the recommendation issued last May 13 to the Federal Aviation Administration to amend 14 CFR 61.3 to include an implied consent clause which would be a condition for the issuance of a pilot certificate. (See 42 FR 25789, May 19, 1977.)

After careful consideration of AOPA's arguments, the Safety Board still believes its recommendation has merit and will enhance aviation safety. The Board has considered the feasibility, practicability and relevant safety implications of this recommendation. It was not the Board's intent to promote procedures which would infringe on pilot's rights; rather, the recommendation was based on the need to alleviate a known safety problem. The sole intent of the recommendation was to provide FAA enforcement personnel with a means to prevent pilots from flying while intoxicated. The Safety Board, however, cannot instruct FAA on what legal basis to proceed or how it might enforce such a rule.

NOTICES

The Safety Board notes than FAA has concurred with recommendation A-77-24 and has initiated a regulatory project on the subject matter (FAA's letter of June 30; see 42 FR 37460, July 21, 1977). FAA believes that the authority to obtain and use alcohol tests could be helpful in their enforcement of present rules and could also be a deterrent. Therefore, the Board finds no reason to rescind this recommendation.

NOTE.—The above notice consists of summaries of Safety Board documents made available, and recommendation responses received, during the week preceding publication of the notice in the FEDERAL REGISTER. The accident report in its entirety is available to the general public; single copies are obtainable without charge while limited supplies last. Copies of the full text of the response letters and Board correspondence may be obtained at a cost of \$4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by recommendation number and date of publication of this notice. Address inquiries to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

Multiple copies of the accident report may be purchased by writing to: National Technical Information Service, U.S. Department of Commerce, Springfield, Virginia 22151.

(Secs. 304(a) (2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

OCTOBER 7, 1977.

[FR Doc 77-29809 Filed 10-12-77; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on Oct. 7, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

Distribution of bituminous coal and lignite shipments, quarterly, distributors of over 50,000 tons of bituminous coal annually, Strasser, A., 395-5867.

Bituminous coal and lignite production and mine operation, annually, producers of over 1,000 tons of bituminous coal annually, Strasser, A., 395-5867.

Monthly coal report retail dealers—upper lake docks, monthly, retail dealers and upper lake docks, Strasser, A., 395-5867.

Weekly coal monitoring report—general industries, and blast furnaces, weekly, general industries and blast furnaces, Strasser, A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration (Medicare), employer's agreement, annual cost projection statement, statistical compensation statement, annual cost projection and fiscal year end cost statement, HCFA-977C, 9778, 9779, 9780, annually, MD'S and PE'S human resources division, Reese B. F., 395-3532.

Office of Human Development, home start evaluation forms, single time, individuals, human resources division, Reese B. F., 395-3532.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration, courts justice study, single time, public and subsamples of lawyers, judges, and community leaders, Richard Eisinger, 395-6140.

REVISIONS

VETERANS ADMINISTRATION

Veteran's application for program of education or training (under chapter 34, title 38, U.S.C.), 22-1990, on occasion, veterans, Caywood, D. P., 395-3443.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service regulations—donation of food commodities for use in United States (part 250), on occasion, State distributing agencies, Caywood, D. P., 395-3443.

Foreign Agricultural Service, trade opportunity referral questionnaire for U.S. suppliers PAS-529, on occasion, companies and or persons interested in exporting, Ellett, C. A., 395-5867.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education, Education Professions Development Act Program, instructions for application for Federal assistance OE 335, annually, LEA's, IHE's, SEA's, nonprofit, Indian Tribes, Laverne V. Collins, 395-5967.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary, coverage check of new mobile home dealers, C-MH-5, on occasion, business firms, Laverne V. Collins, 395-5867.

DEPARTMENT OF LABOR

Bureau of Labor Statistics:

ES 202 (unemployment insurance) industry class supplements, 3023 B-J, annually, ES-202 panel Strasser, A., 395-5867.

Recordkeeping requirements under the Occupational Safety and Health Act, OSHA 100, OSHA 101, OSHA 102, on occasion, employers in private sector with 11 or more employees, Strasser, A., 395-5867.

DEPARTMENT OF THE INTERIOR

Bureau of Mines, sand and gravel, 6-1274-A, annually, Commercial and Government producers of sand and gravel, Ellett, C. A., 395-5867.

REVISIONS

DEPARTMENT OF TRANSPORTATION

National Transportation Safety Board: passenger statement regarding aircraft accident, NTSB6120.9, on occasion, passenger involved in transportation accident, Strasser, A., 395-5867.

Aircraft accident report, NTSB6120.2, on occasion, aircraft operators, Strasser, A., 395-5867.

EXTENSIONS

DEPARTMENT OF DEFENSE

Department of the Air Force, signature and tally record, on occasion, carriers moving DOD shipments, Warren Topellus, 395-5972.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc.77-30224 Filed 10-13-77; 8:45 am]

[7715-01]

POSTAL RATE COMMISSION

[Docket No. MC76-5]

BASIC MAIL CLASSIFICATION REFORM SCHEDULE, 1976

Rescheduled Prehearing Conference and Conference

OCTOBER 7, 1977.

Notice is hereby given that the Presiding Officer has rescheduled both the Prehearing Conference and the Conference previously scheduled for Monday, October 17, 1977, and Tuesday, October 25, 1977, respectively, to Thursday, October 27, 1977, at 9:30 a.m., Hearing Room, Postal Rate Commission, Suite 500, 2000 L Street, NW., Washington, D.C., in the above-designated proceeding.

DAVID F. HARRIS,
Secretary.

[FR Doc.77-29998 Filed 10-13-77; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

LOS ANGELES DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Los Angeles District Advisory Council will hold a public meeting at 12:00 noon, Thursday, November 3, 1977, at the Rodger Young Center, 936 West Washington Boulevard, Los Angeles, California, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Stewart L. Rollins, District Director, U.S. Small Business Administration, 350 South Figueroa Street, Suite 600, Los Angeles, California 90071, 213-677-2977.

Dated: October 4, 1977.

(Ms.) K. DREW,
Deputy Advocate for
Advisory Councils.

[FR Doc.77-29999 Filed 10-13-77; 8:45 am]

[4710-10]

DEPARTMENT OF STATE

[Public Notice CM-7/120]

ADVISORY COMMITTEE TO THE UNITED STATES NATIONAL SECTION OF THE INTERNATIONAL COMMISSION FOR THE CONSERVATION OF ATLANTIC TUNAS

Meeting

Notice is hereby given, pursuant to the provisions of Pub. L. 92-463, that a meeting of the Advisory Committee to the United States National Section of the International Commission for the Conservation of Atlantic Tunas, will meet on October 26, 1977 in the Woodward Room of the National Wildlife Federation, 1414 Sixteenth Street, Washington, D.C. at 9:00 a.m. The meeting is to review the state of Atlantic bluefin tuna research and the status of those stocks, research on billfishes, yellowfin tuna research, research on other tuna species (albacore, bigeye and skipjack). The meeting will also review recent international meetings on billfish and Atlantic bluefin tuna. The status of the ICCAT scheme of international inspection will also be considered at this meeting. The meeting will be open to the public. Ample seating will be available for those wishing to attend and those present will be allowed to participate at the direction of the Chairman. Those desiring additional information regarding this meeting may contact Mr. Robert A. Monks at telephone number 202-632-2379.

Dated: October 4, 1977.

JOHN D. NEGROPONTE,
Deputy Assistant Secretary
for Oceans and Fisheries Affairs.

[FR Doc.77-30000 Filed 10-13-77; 8:45 am]

[4710-01]

[Public Notice CM-7/121]

SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on fire protection of the Subcommittee on Safety of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 10:00 a.m. on Tuesday, November 15, 1977 in Room 8238 of the Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590.

The purpose of the meeting is to review documents for the 21st Session of the Intergovernmental Maritime Consultative Organization's (IMCO) Subcommittee on Fire Protection, as well as discussing the results of the 20th Session. Particular items for discussion are:

Mobile Offshore drilling units
Special Purpose Ships
Fire Test Procedures
Tanker Safety

Requests for further information on the meeting should be directed to Mr. D. F. Sheehan, U.S. Coast Guard, Washington, D.C. 20590. He may be reached by telephone on area code 202-426-2197.

The Chairman will entertain comments from the public as time permits.

Dated: October 5, 1977.

CARL TAYLOR, Jr.,
Acting Director,
Office of Maritime Affairs.

[FR Doc.77-30001 Filed 10-13-77; 8:45 am]

[4910-59]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 1P77-11; Notice 1]

RENAULT USA INC.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

Renault USA Inc. of Englewood Cliffs, N.J., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1331 et seq.) for an apparent noncompliance with 49 CFR 571.124, Motor Vehicle Safety Standard No. 124, Acceleration Control Systems. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Standard No. 124 requires that whenever a component of the accelerator control system is disconnected at a single point, the throttle shall return to the idle position within 1 second on any vehicle whose Gross Vehicle Weight Rating is 10,000 pounds or less. Renault has determined that an unknown number of its passenger cars may fail to meet this requirement with the primary return spring removed. The vehicles in question are part of a total population of approximately 13,000 Renault 5, 12, 15, and 17 models manufactured from January 1975 to May 1977. Deterioration in throttle return performance appears caused by gumming that occurred as a consequence of ocean shipment, which resulted in the failure "by a small margin to return fully to the idle position or return within the required one second interval." Renault argues that the noncompliance is inconsequential for several reasons. Its primary argument is that the design of the throttle plate opener system is such that

With the engine running, the carburetor spiral spring is itself sufficient to bring the throttle control linkage back to the position imposed by the throttle plate opener. As a result, at speeds above 21 mph and even at speeds above 17 mph returning from a higher speed, there is no difference between the situation in which the carburetor spiral spring only is operative.

Renault also states that there have been no customer complaints or warranty problems associated with the condition. NHTSA's investigatory file number of this case is CIR 1619.

This notice of receipt of a petition is published under section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exer-

cise of judgment concerning the merits of the petition. Interested persons are invited to submit written data, views and arguments on the petition of Renault USA Inc. described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date: November 16, 1977.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on October 7, 1977.

ROBERT L. CARTER,
Associate Administrator,
Motor Vehicle Programs.

[FR Doc.77-30026 Filed 10-14-77; 8:45 am]

[4910-62]

Office of the Secretary

[OST File No. 54; Notice No. 77-12]

DISPOSITION OF RAILROAD PASSENGER EXPERIMENTAL ROUTE

Intent To Make Findings and Final Decision on the "Lake Shore Limited," a Railroad Passenger Experimental Route Between Boston, Mass., and Chicago, Ill.

Section 403(c) of the Rail Passenger Service Act ("the Act"), 45 U.S.C. 563(c), provides that "[t]he Secretary (of Transportation), in consultation with the Board of Directors (of Amtrak), shall terminate (an experimental) route if he finds that it has attracted insufficient patronage to serve the public convenience and necessity, or he may designate such route as a part of the basic system"

The "Lake Shore Limited" was designated by the Secretary under section 403(c) of the Act as an experimental route on June 27, 1974, and began operating on October 31, 1975. It has been operated by Amtrak continuously since that time. The passenger stations served along the route are Boston, Framingham, Worcester, Springfield, and Pittsfield in Massachusetts; Albany, Utica, Syracuse, Rochester, and Buffalo in New York; Erie, Pa.; Cleveland, Elyria, and Toledo in Ohio; Elkhart and South Bend in Indiana; and Chicago, Ill.

Notice is hereby given that the Secretary proposes to issue a decision whether to terminate or continue the "Lake Shore Limited" as a part of the basic system as required by section 403(c) of the Act.

Interested persons are invited to submit written data, views, arguments, or other comment to the Docket Clerk, OST

File No. 54, Office of the General Counsel, Department of Transportation, Washington, D.C. 20590. Each comment shall indicate the OST file number and the notice number shown on this notice, and shall state whether the person commenting supports termination or inclusion of the "Lake Shore Limited" within the basic system, and the reasons therefor.

Comments received prior to the deadline date will be considered in arriving at this decision. The deadline date is November 14, 1977. Copies of all written comments received will be available for examination by interested persons in Room 10100, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C., between the hours of 9 a.m. and 5:30 p.m. on Mondays through Fridays with the exception of Federal holidays.

For further information regarding this notice, interested persons may contact Natalie Bayless, U.S. Department of Transportation, Room 5101, 400 Seventh Street SW., Washington, D.C. 20590, telephone No. 202-426-8220.

Dated: October 11, 1977.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc.77-30259 Filed 10-13-77; 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Pendency of Temporary Class Exemption to Permit Plans to Purchase Customer Notes From Employers Maintaining Plans

AGENCIES: Department of the Treasury/Internal Revenue Service Department of Labor.

ACTION: Notice of pendency of exemption.

SUMMARY: This document contains a notice of pendency before the Internal Revenue Service (the Service) and the Department of Labor (the Department) of a temporary class exemption from certain restrictions of the Employee Retirement Income Security Act of 1974 (the Act) to permit employee benefit plans to purchase certain notes from employers any of whose employees are covered by the plan where the employers receive such notes from their customers in the ordinary course of their business and the notes are collateralized by chattel mortgages on the property purchased by the customers.

DATES: Written comments and requests for a public hearing must be received by the Internal Revenue Service on or before November 28, 1977.

ADDRESSES: Written comments and all requests for a hearing (preferably six copies) should be addressed to the Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C.

20224, Attention: E:EP:PT, Application No. D-639. All the applications for exemption which form the basis of this class exemption and all comments relating to this proposed exemption will be available for public inspection at the Internal Revenue Service National Office Reading Room, 1111 Constitution Avenue NW., Washington, D.C. 20224 and at the Public Documents Room of the Pension and Welfare Benefit Programs, Room N-4677, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Charles Scalera of the Prohibited Transactions Staff of the Employee Plans Division, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attention: E:EP:PT) (202-566-3045); Daniel J. Shapiro, Plan Benefits Security Division, Office of the Solicitor, Department of Labor, 200 Constitution Avenue NW., Washington, D.C. 20210 (202-523-7931). These are not toll free numbers.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Notice is hereby given of the pendency before the Internal Revenue Service (the Service) and the Department of Labor (the Department) (hereinafter referred to as the Agencies) of a class exemption from the restrictions of sections 406(a), 406(b) (1) and (2) and section 407(a) of the Employee Retirement Income Security Act of 1974 (the Act) and the taxes imposed by section 4975 (a) and (b) of the Internal Revenue Code of 1954 (the Code) by reason of section 4975(c)(1) (A) through (E) of the Code. This exemption is proposed pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

The Agencies have received over 35 applications which request individual exemptions to permit employee benefit plans to purchase customer notes from employers any of whose employees are covered by the plan. These individual applications form the basis for the proposed temporary class exemption.

The applications for individual exemption contain common representations with regard to the transactions described in the proposed class exemption which are summarized below. All transactions referred to in the individual exemption applications will be exempted if they satisfy the terms and conditions of the class exemption. Interested persons are referred to the applications on file with the Agencies for the complete representations of the applicants.

1. Prior to January 1, 1975, the effective date of the relevant provisions of the Act and the Code, it had been an established business practice in many industries for an employer to sell personal property (e.g., construction equipment) to a customer, for the customer to sign a conditional sales contract and note for

the amount due (hereafter referred to as "the note" or "the notes"), for the employer, in connection with its primary business activity, to accept such notes, collateralized by a chattel mortgage or equivalent security interest in the property so purchased, and then sell the notes to employee benefit plans in which its employees participate, as well as to unrelated third parties.

2. Plans which have invested in such notes have experienced very low default rates and rarely, if ever, experienced a loss because the employer or the principals of the employer, or both, have guaranteed payment of principal and interest.

3. The notes generally have varied in length from 36 to 60 months and have been fully secured by various types of equipment and vehicles covered by the conditional sales contracts.

4. Notes of similar quality to those sold to plans have been sold to unrelated financial institutions on the same terms, and the notes, as well as the underlying collateral, have been readily marketable.

5. The notes generally have provided greater returns to plans than the return that has been available from alternative investment opportunities.

Although there have been a substantial number of applications filed seeking individual exemptions for transactions of the subject type, no individual applicant or association or organization has requested a class exemption.

As noted above, representations contained in the individual applications contend that the practice of selling customer notes to plans has been in the interests of such plans and their participants as well as protective of the rights of participants and beneficiaries, because the notes provided higher yields and greater security than was otherwise available to plans through alternative investments. The Agencies are aware, however, that abuses can occur in this type of investment if employers sell customer notes to their plans which do not provide a rate of return as favorable to the plan as such notes sold in an arm's-length transaction with a third party would provide and are not adequately secured.

In an effort to prevent the disruption of customary and beneficial business practices the Agencies have attempted to develop guidelines which would enable them to consider, on an equitable and consistent basis, individual applications for exemption to permit plans to purchase customer notes from employers. However, the Agencies have determined that it may not be administratively feasible and in the interests of plan participants and beneficiaries to handle these applications on an individual basis and attempt to distinguish, at this time, among transactions which have common protections and safeguards.

Because the Agencies believe that adequate independent safeguards are available to protect plan participants and beneficiaries and that it would be administratively feasible to deal with these applications on a class basis, the Agencies, pursuant to section 3.01 of ERISA Procedure 75-1 and Rev. Proc. 75-26, on their own motion have determined to

group such applications in a class and to publish for comment notice of a class exemption.

The proposed exemption contains specific conditions to protect the interests of plan participants and beneficiaries, including requirements that the sale of such note be on arm's-length terms, that the employer guarantee repayment of the note, that no more than 25 percent of plan assets may be invested in customer notes of the employer, that the note be adequately secured, that the term of the note may not exceed a certain number of months, depending on the security of the note, and that insurance against loss or damage to the collateral be provided by the obligor until the note is repaid or repurchased by the employer.

Because the proposed exemption, if granted, would cover a wide range of transactions which present varying potentials for abuse and because the Agencies are in the process of developing experience in dealing with such transactions, the proposed exemption is a temporary class exemption which will expire on December 31, 1981. During the period of the temporary class exemption the Agencies will monitor the results of the exemption to determine whether the benefit such exemption provides outweighs the abuse potential that may exist, and whether the class exemption should be made permanent, modified, or be permitted to lapse.

So that the Agencies may properly monitor the operation of the exemption, certain information must be submitted by every plan which enters into transactions in reliance on the exemption. The proposed exemption also provides that the Agencies may require certain plans to submit additional information regarding the operation of the exemption.

Several applications requested exemptions for purchases of customer notes made by plans during a period after December 31, 1974, which were a continuation of a practice that existed prior to that date, were beneficial to such plans and provided adequate protection for plan participants. Accordingly, the proposed exemption includes a special exemption which provides an exemption for the purchase of notes before June 30, 1975, and for the continued holding of such notes. However, for the exemption for transactions occurring prior to June 30, 1975, to apply, the terms of the transaction must have been at least as favorable to the plan as an arm's-length transaction with an unrelated third party would have been and the plan must have received adequate security. In addition, to enable plans to divest themselves of any holdings of customers notes in excess of the limits established by the exemption, the exemption provides relief for the sale of customer notes to a party in interest or disqualified person if the sale is necessary to comply with the conditions of the exemption and the plan receives adequate consideration, provided the sale is consummated within 180 days of the grant of this exemption.

The proposed exemption will cover transactions involving sales of notes to plans secured by tangible personal property but will not exempt sales of unse-

cured notes or notes secured by real property because the Agencies have not received sufficient information to determine that a class exemption may be proposed with adequate safeguards against abuse. The Agencies will, however, consider such applications on an individual case-by-case basis.

Under the provisions of section 3.04 of ERISA Proc. 75-1 and Rev. Proc. 75-26, an application for an individual exemption would not ordinarily be considered separately if a class exemption which would encompass the transactions described in the application for an individual exemption is under consideration by the Agencies. Accordingly, the Agencies are notifying directly each applicant for an individual exemption of the fact that such applicant's application is not being considered separately from this class exemption, and that following the disposition of this proposed class exemption such application would ordinarily be closed, and, therefore, such applicant's comments with respect to this class exemption are sought by the Agencies.

Because all plan participants whose employers receive customer notes in the ordinary course of business could conceivably be considered interested persons, the only practical form of notice is publication in the FEDERAL REGISTER.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or party in interest or other disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act, nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The pending exemption, if granted, will not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Agencies must find that the exemption is administratively feasible, in the interest of the plan or plans and of their participants and beneficiaries, and protective of the rights of such participants and beneficiaries of such plan or plans;

(4) The class exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Fur-

thermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction;

(5) If granted, the pending class exemption will be applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption; and

(6) All interested persons are invited to submit written comments on this pending class exemption to the address and within the time period set forth above. In addition, any interested person may submit to the address and within the time period set forth above, a written request that a hearing be held relating to the pending class exemption. Such written request should state the reasons for such person's interest in the pending class exemption.

A list of individual applications which form the basis for this class exemption as well as the applications for exemption, all written comments and all requests for a hearing (preferably six copies) will be made part of the record and will be available for public inspection at the addresses set forth above.

PROPOSED EXEMPTION

Based on the applications hereinabove described, the Agencies have under consideration the granting of the following temporary class exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

Section I.—Definition of customer notes. For purposes of this exemption a customer note is a two-party instrument, executed along with a conditional sales contract for tangible personal property, which is accepted in connection with, and in the normal course of, the employer's primary business activity as a seller of such property. A two-party instrument is a promissory instrument used in connection with the extension of credit in which one party (the maker) promises to pay a second party (the payee) a sum of money.

Sec. II.—General exemption. Effective upon the granting of this exemption, the restrictions of sections 406(a), 406(b)(1) and (2), and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply until December 31, 1981, to the purchase and holding by employee benefit plans of customer notes (as defined in section I) acquired from employers any of whose employees are covered by such plans, provided that the following conditions are met:

A. Within three and one-half months after the close of a plan year during which a plan engages in a transaction in reliance on this class exemption, the trustees of the plan shall submit the following information in duplicate to Internal Revenue Service (E:EP:PT) 1111 Constitution Avenue NW., Washington, D.C. 20224 (Attn: Customer Notes):

1. Name and address of employer, 2.

employer's identification number, 3. name and address of plan administrator, 4. plan administrator's identification number, 5. plan name and number, 6. plan's balance sheet for the last plan year, and 7. number of plan participants at close of plan year.

B. Upon request by the Agencies, the trustee or other appropriate fiduciary of a plan which engaged in a transaction in reliance on this exemption shall submit to the Agencies such additional information regarding the transaction as may be requested. Any request for additional information shall be in writing and shall be signed by representatives of both Agencies.

C. Any sale of customer notes to the plan is on terms at least as favorable to the plan as an arm's-length transaction with an unrelated third party would be.

D. Immediately following the acquisition of the customer notes from the employer, not more than 25 percent of the current value (as the term is defined in section 3(26) of the Act) of the assets of the plan is invested in customer notes of the employer.

E. The employer guarantees in writing immediate repayment of the outstanding balance of the note and accrued interest in the event the note is more than 30 days in arrears, or the obligor on the note fails to comply with any terms or conditions of the note; or in the event the obligor shall become insolvent, commit an act of bankruptcy, make an assignment for the benefit of creditors, call a meeting of creditors, appoint a committee of creditors or a liquidating agent, offer a composition or extension to creditors, make a bulk sale; send notices of an intended bulk sale; or in the event any proceeding, suit or action at law, in equity or under any of the provisions of the Bankruptcy Act or of amendments thereto for reorganization, composition, extension, arrangement, receivership, liquidation, or dissolution shall be begun by or against obligor; or in the event of the appointment under any jurisdiction at law or in equity of any receiver of any property of the obligor; or in the event the condition of affairs of the obligor shall so change as to, in the opinion of the plan trustees, impair its security or increase its credit risk; or should the obligor fail to take proper care of the goods or abandon the same.

F. The plan receives adequate security for the note. For purposes of this exemption, the term adequate security means that the note is secured by a perfected security interest in the property purchased by the obligor on the note so that if the security is foreclosed upon or otherwise disposed of in default of repayment of the loan, the value and liquidity of the security is such that it may reasonably be anticipated that loss of principal or interest will not result. In no event shall adequate security mean an interest in intangible personal property, such as, but not limited to, accounts, contract rights, documents, instruments, chattel paper, and general intangibles.

G. Insurance against loss or damage to the collateral from fire or other haz-

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ards will be procured and maintained by the obligor until the note is repaid or repurchased by the employer, and the proceeds from such insurance will be assigned to the plan.

H. Repayment must be provided for in the following manner:

1. Where the note is secured by heavy equipment, the term shall in no event exceed 60 months. For purposes of this exemption, heavy equipment shall include machinery sold by equipment distributors such as, but not limited to, earth moving, material handling, pipe laying, power generation, and construction machinery manufactured according to standard specifications, such as, but not limited to, portable air compressors, backhoes, cranes, crushers, dozers, earth-boring machines, excavators, fork lifts, graders, hydraulic hammers, loaders, rollers, scrapers, tractors, trailers, trenchers, trucks over 10,000 pounds, and highway material handling equipment, but shall not include such equipment which has been specifically designed and manufactured to a user's specifications and which cannot reasonably be expected to be resold in the ordinary course of the equipment distributor's business.

2. Where the note is secured by passenger automobiles and light-duty highway motor vehicles, the term shall in no event exceed 48 months. For purposes of this exemption, passenger automobiles and light-duty highway motor vehicles are defined as vehicles which have a gross weight of 10,000 pounds or less, are propelled by means of their own motor and are a type used for highway transportation.

3. Where the note is secured by tangible personal property other than heavy equipment or motor vehicles, described in paragraph H 1 and 2 above, the term shall in no event exceed 36 months.

I. A plan which relies upon this exemption shall maintain or cause to be maintained for a period of six years from the date of such transaction such records as are necessary to enable the Agencies to determine whether the conditions of this exemption have been met, except that:

1. A prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the plan fiduciaries, such records are lost or destroyed prior to the end of such six year period; and

2. Such employer shall not be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if such records are not maintained, or are not available for examination as required by paragraph J below.

J. Notwithstanding anything to the contrary in subsections (a) (2) and (b) of section 504 of the Act, the records referred to in paragraph I above are unconditionally available at their customary location for examination during normal business hours by:

1. The Internal Revenue Service; 2. the Department of Labor; 3. plan participants and beneficiaries; 4. any employer of plan participants; 5. any em-

ployee organization any of whose members are covered by the plan; or 6. any duly authorized employee or representative of a person described in subparagraphs (1) through (5) of this paragraph.

Sec. III.—Special exemption. A The restrictions of sections 406(a) and 406 (b) (1) and (2), and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c) (1) (A) through (E) of the Code shall not apply to the purchase and holding by employee benefit plans of customer notes purchased before June 30, 1975, from employers any of whose employees are covered by such plan provided that the following conditions are met:

1. The terms of the purchase of the note by the plan were at least as favorable to the plan as an arm's-length transaction with an unrelated third party would have been; 2. the plan received adequate security as defined in section (II) (F) above; and 3. such purchases were ordinarily and customarily made by the plan prior to January 1, 1975.

B. The restrictions of sections 406(a) and 406(b) (1) and (2) of the Act and section 4975(c) (1) (A) through (E) of the Code shall not apply until (180 days after the grant of this exemption), to the sale, exchange, or other disposition of customer notes which are owned by the plan on October 14, 1977, to a disqualified person or party in interest if:

1. Such sale is made in order to comply with the conditions of this exemption; and 2. the plan receives not less than adequate consideration.

Signed at Washington, D.C., this 11th day of October 1977.

ALVIN D. LURIE,
Assistant Commissioner (Em-
ployee Plans and Exempt Or-
ganizations) Internal Revenue
Service.

IAN D. LANOFF,
Administrator of Pension and
Welfare Benefit Programs,
Labor Management Services
Administration, U.S. Depart-
ment of Labor.

[FR Doc. 77-29982 Filed 10-11-77; 10:14 am]

[8320-01]

VETERANS ADMINISTRATION ACTUARIAL ADVISORY COMMITTEE Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463) of October 6, 1972, that the VA Actuarial Advisory Committee has been renewed by the Administrator of Veterans Affairs for a two year period beginning September 24, 1977 through September 24, 1979.

Dated: October 6, 1977.

By direction of the Administrator.

JOHN J. LEFFLER,
Associate Deputy Administrator.
[FR Doc. 77-30003 Filed 10-13-77; 8:45 am]

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[7035-01]

INTERSTATE COMMERCE COMMISSION

[Notice No. 236]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under Section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before November 14, 1977. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopsis form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-FC-35475, filed September 15, 1977. Lessee: X-TRAN CORP., 75-11 Ditmars Blvd., Jackson Heights, N.Y. 11370. Lessor: Jersey Coast Freight Lines, Inc., 830 Old Corlies Ave., Neptune, N.J. 07753. Applicant's representative: Edward M. Alfano and Roy A. Jacobs, Attorneys at Law, 550 Mamaroneck Ave., Harrison, N.Y. 10528. Authority sought for lease by lessee of the operating rights of lessor, as set forth in Certificates No. MC 107417 and (Sub-No. 6), issued September 13, 1950, and December 14, 1965, respectively, as follows: *General commodities*, except those of unusual value, and except dangerous explosives, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, commodities in bulk, and commodities requiring special equipment, between New York, N.Y., on the one hand, and, on the other, points and places in Mercer, Monmouth, Ocean, Atlantic, Camden and Burlington Counties, and those in Middlesex and Somerset Counties, N.J., south of the Raritan

River. *Petroleum and petroleum products*, in tank vehicles, from Carteret, N.J., to Port Jervis, N.Y., with no transportation for compensation on return. *General commodities*, except those of unusual value, and except dangerous explosives, livestock, household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, and commodities in bulk, between points and places in Hudson and Essex Counties, N.J., on the one hand, and, on the other, points and places in Middlesex, Monmouth, Atlantic, and Ocean Counties, N.J. *General commodities*, except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, from New York, N.Y., to points in Cape May, Cumberland, Gloucester, and Salem Counties, N.J., with no transportation for compensation on return except as otherwise authorized. Lessee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77283, filed September 26, 1977. Transferee: LOOP FLEET SERVICE, INC., 1818 North Commerce Street, Milwaukee, Wis. 53212. Transferor: Fidelity Storage & Van Co., Inc., 1818 North Commerce Street, Milwaukee, Wis. 53212. Applicant's representative: James L. Sernovitz, Vice-president, 1818 North Commerce Street, Milwaukee, Wis. 53212. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 36738, issued September 25, 1975, as follows: *General commodities* with the usual exceptions between Omaha, Nebr. and Council Bluffs, Iowa. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 139077. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77308, filed September 14, 1977. Transferee: WORTH CONSOLIDATORS, INC., 3 Irving Dr., San Anselmo, Calif. 94960. Transferor: Tyler Consolidators, Inc., 3 Irving Dr., San Anselmo, Calif. 94960. Applicants' representative: Floyd L. Farano, Attorney at Law, 2555 East Chapman Ave., Suite 705, Fullerton, Calif. 92631. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 64719 and MC 64719 (Sub-No. 1), issued May 11, 1973 and June 27, 1973, as follows: *Household goods*, between points within 100 miles of San Francisco, Calif., including San Francisco. *Beans*, from Irvine, Calif., and points in Santa Barbara and Ventura Counties, Calif., to Los Angeles Harbor, Calif. From points in Santa Barbara and Ventura Counties, Calif. to Port Hueneme, Calif., with no transportation for compensation on return except as otherwise authorized. *Sugar*, from Oxnard, Calif., to Los Angeles Harbor, Calif., and Port Hueneme, Calif., with no transportation for

compensation on return except as otherwise authorized. *Lumber, corrugated iron, and fertilizer*, from Los Angeles Harbor, Calif., and Port Hueneme, Calif., to points in Ventura County, Calif., with no transportation for compensation on return except as otherwise authorized. *Household goods*, as defined by the Commission, between Oxnard, Calif., on the one hand, and, on the other, points in Ventura County, Calif. Between points in Ventura County, Calif. on the one hand, and, on the other, Los Angeles and Los Angeles Harbor, Calif. Between Ventura, Calif., on the one hand, and, on the other, points in Ventura County, Calif. Between Hueneme Harbor, Calif., on the one hand, and, on the other, points in Ventura County, Calif. (except Ventura, Calif.). Between Hueneme Harbor, Calif., on the one hand, and, on the other, points in Fresno, Inyo, Kern, Kings, Monterey, San Bernardino, San Luis Obispo, Santa Barbara, and Tulare Counties, Calif. Between Hueneme Harbor, Calif., on the one hand, and, on the other, Richmond and San Francisco, Calif., points on San Francisco Bay south of Richmond and San Francisco, and those in the Los Angeles Harbor, Calif., Commercial Zone as defined by the Commission, restricted to traffic moving between such points for immediate subsequent shipment by water carrier. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77309, filed September 28, 1977. Transferee: MILLER FREIGHTWAYS, INC., 160 Governor St., East Hartford, Conn. 06108. Transferor: WM. H. MNO EXPRESS, INC., 160 Governor St., East Hartford, Conn. 06108. Applicants' representative: John E. Fay, Attorney at Law, 630 Oakwood Ave. (Suite 127), West Hartford, Conn. 06110. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC 64770, issued April 19, 1956, as follows: *General commodities*, between points in Connecticut, Massachusetts, New York, and New Jersey. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

No. MC-FC-77310, filed September 14, 1977. Transferee: EARL FREEMAN and MARIE FREEMAN, d.b.a. MID-TENN EXPRESS, P.O. Box 101, Eagleville, Tenn. 37060. Transferor: Earl Freeman, d.b.a. Mid-Tenn Express, P.O. Box 101, Eagleville, Tenn. 37060. Applicants' representative: Robert L. Baker, Attorney at Law, 618 United American Bank Bldg., Nashville, Tenn. 37219. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 124117, issued July 6, 1962, MC 124117 (Sub-No. 1) issued January 7, 1977, MC 124117 (Sub-No. 4) issued October 28, 1970, MC 124117 (Sub-No. 6) issued October 16, 1975, MC 124117 (Sub-No. 7) issued October 4,

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1974, MC 124117 (Sub-No. 8) issued November 18, 1975, MC 124117 (Sub-No. 10) issued June 18, 1976, MC 124117 (Sub-No. 12) issued September 23, 1976, MC 124117 (Sub-No. 13) issued January 11, 1977, MC 124117 (Sub-No. 15) issued November 26, 1976, MC 124117 (Sub-No. 17) issued May 13, 1977 as follows: *Malt beverages, and related advertising materials*, from St. Louis, Mo., Peoria, Ill., Louisville, Ky., and Detroit, Mich., to points in a described part of Tennessee; from Milwaukee, Wis., and Evansville, Ind. to a described part of Tennessee; from Winston-Salem, N.C. to points in a described part of Tennessee; from Houston County, Ga., to Cookeville, Tenn., and to points in a described part of Tennessee from St. Joseph, Mo., and Newport, Ky., to points in a described part of Tennessee; from Belleville, Ill., to Columbus, Ohio, Fort Wayne, Ind., Baltimore, Md., New Orleans, La., and St. Paul, Minn., to points in a described part of Tennessee; from Belleville, Ill., and St. Paul, Minn., to points in Georgia; from New Orleans, La., St. Louis, Mo., Fort Wayne, Ind., and St. Paul, Minn., to points in Alabama; *Malt beverages*, from Evansville, Ind., to Memphis, Tenn., and to Chattanooga, Tenn.; from Detroit, Mich., and St. Joseph and St. Louis, Mo., to Dresden, Tenn., from Belleville, Ill., Detroit, Mich., Milwaukee, Wis., St. Joseph and St. Louis, Mo., and Winston-Salem, N.C., to Dyersburg, Tenn.; from Baltimore, Md., Detroit, Mich., Perry, Ga., and St. Louis, Mo., to Jackson, Tenn., from Milwaukee, Wis., Peoria, Ill., Perry, Ga., and St. Louis, Mo., to Martin, Tenn.; from Ft. Wayne, Ind., to Memphis, Tenn.; from points in Houston County, Ga., to Bowling Green, Henderson, Hopkinsville, Lebanon, and Richmond, Ky.; from Detroit, Mich., Milwaukee, Wis., St. Louis, Mo., Peoria, Ill., and Evansville, Ind., to Richmond, Ky.; from Ft. Wayne and Evansville, Ind., and Columbus, Ohio, to Bowling Green, Ky.; from Fort Wayne and Evansville, Ind., Detroit, Mich., St. Louis, Mo., and Milwaukee, Wis., to Frankfort, Ky.; from Peoria, Ill., and Evansville, Ind., to Henderson, Ky.; from Memphis, Tenn., Winston-Salem, N.C., and St. Joseph, Mo., to Hopkinsville, Ky.; from St. Joseph, Mo., Evansville, Ind., and Milwaukee, Wis., to Bardstown, Ky.; from Evansville, Ind., Belleville, Ill., and St. Joseph, Mo., to Louisville, Ky.; from Detroit, Mich., and Evansville, Ind., to Lexington, Ky.; from Jacksonville, Fla., to Cookeville, Pulaski, Cleveland, Dunlap, and Tullahoma; Tenn., and Huntsville, Ala.; from Evansville, Ind., to points in Georgia, Alabama; from Fort Worth and San Antonio, Tex., to Albany, Columbus, and Atlanta, Ga., Columbia, Memphis, Cookeville, Pulaski, Nashville, and Knoxville, Tenn., Eutaw, Opelika, Montgomery, Huntsville, and Dothan, Ala., and Bowling Green, Ky.; and *Scrap paper*, from Pulaski, Franklin, Mt. Pleasant, Sparta, Shelbyville, Lebanon, Nashville, and Fayetteville, Tenn., to Alton, Ill. Transferee presently holds no authority from this Commis-

sion. Application for temporary authority has not been filed under Section 210a(b).

No. MC-FC-77312 filed September 15 1977. Transferee: FISCHER MOTOR LINES, INC., 31207 Arrowhead, St. Clair Shores, Mich. 48083. Transferor: Fairall Trucking Co., 18472 Allen Road, Wyandotte, Mich. 48192. Applicants representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit Nos. MC 29883, MC 29883 (Sub-No. 7), and MC 29883 (Sub-No. 8), issued February 25, 1976, May 20, 1975, and February 25, 1976, respectively as follows: Empty containers, eggs, and groceries, between Detroit, Mich., and Chicago, Ill.; Such merchandise as is dealt in by wholesale, retail and chain grocery and food business houses, and in connection therewith, equipment, materials, and supplies used in the conduct of such business, between Detroit, Mich., on the one hand, and, on the other, Toledo and Cincinnati, Ohio, and Indianapolis, Ind.; brick and stone surfaced aluminum entryways, aluminum, stone, and brick siding, rain carrying equipment, shutters, and equipment, materials and supplies and accessories, used in the installation of all of these commodities, when moving at the same time and in the same vehicle therewith (except commodities which because of size or weight require the use of special equipment), from Southfield, Mich., to South Bend, Mishawaka, Elkhart, and Angola, Ind., and points in Cook, Lake, Kane, DuPage and Will Counties, Ill.; Foodstuffs, (except frozen foods, meats, meat products, and meat by-products and commodities in bulk), from the facilities of Nabisco, Inc., located at Chicago, Ill., to the facilities of Nabisco, Inc., located at Farmington, Mich.; and Paper and paper products, between Monroe, Mich., on the one hand, and, on the other, points in Ohio; Strawboard, fibreboard, corrugated board, and boxes, manufactured therefrom, from Monroe, Mich., to points in Illinois, those in Missouri in the St. Louis, Mo., Commercial Zone, as defined by the Commission in 1 M.C.C. 656, those in a specified area of Wisconsin and West Virginia, Raw materials used in the manufacture of the above-specified commodities, from the next-above-specified destination points to Monroe, Mich.; Paper and paper products, from Monroe, Mich., to Connorsville, Ind., and points in that part of Indiana on and north of U.S. Highway 40 to Monroe, Mich.; Raw materials used in the manufacture of paper and paper products, from Connorsville, Ind., and points in that part of Indiana on and north of U.S. Highway 40 to Monroe, Mich. Paper and paper products, from Monroe, Mich., to points in Ohio; to points in Ohio; to Monroe, Mich. Transferee presently holds no authority from this Commission. Application has been filed

for temporary authority under Section 210a(b).

No. MC-FC-77317 filed September 19, 1977. Transferee: GEORGE J. WEBB, JR., AND GEORGE J. WEBB, III, a partnership, d.b.a. WEBB TRUCKING, R.R. No. 2, McLeansboro, Ill. 62859. Transferor: Harry E. Clark, R.R. No. 4, McLeansboro, Ill. 62859. Applicant's representative: Robert T. Lawley, 300 Reich Bldg., Springfield, Ill. 62701. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 135636 (Sub-No. 2), issued July 18, 1972, as follows: *Lumber and lumber products*, from Poplar Bluff, Mo., to McLeansboro, Ill., and *nails, strapping, and steel dip tanks*, between Poplar Bluff, Mo., on the one hand, and, on the other, McLeansboro, Ill. The operations authorized are limited to a transportation service to be performed, under a continuing contract, or contracts, with Joseph G. Boldwell Company, of McLeansboro, Ill. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77319, filed September 20, 1977. Transferee: MUHLENHAUPT MOVERS, INC., P.O. Box 238, Northport, N.Y. 11768. Transferor: Mid-Island Van Lines Corp., Wantagh, N.Y. Applicant's representative: William J. Augello, Attorney at Law, 120 Main Street, Huntington, N.Y. 11743. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 103047 issued October 17, 1968, as follows: *Household goods* as defined by the Commission between points in Nassau and Suffolk Counties, N.Y., on the one hand, and, on the other, points in New York, Massachusetts, Rhode Island, Maine, New Hampshire, Vermont, Delaware, Maryland, Virginia, and the District of Columbia. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 110071 (Sub-No. 1). Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77324, filed September 23, 1977. Transferee: PHILIP THOMAS TRUCKING, INC., P.O. Box 742, Wynnewood, Okla. 73098. Transferor: Philip A. Thomas, d.b.a. Philip Thomas Trucking Co., P.O. Box 742, Wynnewood, Okla. 73098. Applicant's representative: T. M. Brown, 223 Ciudad Bldg., Oklahoma City, Okla. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 138916 (Sub-No. 2), issued July 9, 1976, as follows: *Asphalt*, in bulk, in tank vehicles, from the plant site of Kerr-McGee Corporation, at or near Wynnewood, Okla., to points in Anderson, Archer, Baylor, Bell, Bosque, Brown, Callahan, Camp, Cherokee, Clay, Coleman, Collin, Comanche, Cooke, Coryell, Dallas, Delta, Denton, Eastland, Ellis, Erath, Falls, Fannin, Franklin, Freestone, Grayson, Hamilton, Henderson, Hill, Hood, Hop-

kins, Hunt, Jack, Johnson, Kaufman, Lamar, Lampasas, Limestone, McLennan, Mills, Montague, Morris, Navarro, Palo Pinto, Parker, Rains, Red River, Rockwall, Shackleford, Smith, Somervell, Stephens, Tarrant, Throckmorton, Titus, Upshur, Van Zandt, Wichita, Wilbarger, Wise, Wood, and Young Counties, Tex., with no transportation for compensation on return except as otherwise authorized. Application has not been filed for temporary authority under Section 210a(b). Transferee presently holds no authority from this Commission.

No. MC-FC-77327, filed September 22, 1977. Transferee: R. E. GARRISON TRUCKING, INC., P.O. Box 186, Highway 278 East, Cullman, Ala. 35055. Transferor: Hunt Transportation, Inc., 10770 "T" Street, Omaha, Nebr. 68127. Applicants' representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Rd., Omaha, Nebr. 68106. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate Nos. MC 82841 (Sub-No. 47), and MC 82841 (Sub-No. 88), issued June 25, 1969, and June 15, 1972, respectively, as follows: Materials and equipment used in the production of eggs and poultry, except commodities in bulk, from the plant site of Pockman Manufacturing Company, Inc., in Morgan County, Ala., to points in Colorado, Indiana, Illinois, Kansas, Iowa, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, Wisconsin, Wyoming, and Utah. The operations are restricted to the transportation of traffic originating at the plant site of Pockman Manufacturing Company, Inc., in Morgan County, Ala.; Materials and equipment used in the production of eggs and poultry (except commodities in bulk), from the plant site of Pockman Manufacturing Company, Inc., located in Morgan County, Ala., to points in Arizona, Arkansas, California, Connecticut, Delaware, Florida, Georgia, Idaho, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Mississippi, Montana, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, Washington, West Virginia, and the District of Columbia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77329, filed September 27, 1977. Transferee: HORTON TRUCKING CORP., Box 224, Wytheville, Va. 24382. Transferor: Elwood Horton, Box 116, Ropplemead, Va. 24150. Applicant's representative: William Pendleton, President, Horton Trucking Corp., Wytheville, Va. 24382. Authority sought for purchase by transferee of the operating rights of transferors set forth in Certificate No. MC 134642 (Sub-No. 1) and MC 134642 (Sub-No. 4) issued June 9, 1971 and September 15, 1976 respectively, as follows: Crushed stone and asphalt, bituminous asphalt, and silica sand from specified

points in Virginia to specified counties in West Virginia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77334, filed September 27, 1977. Transferee: IMPALA COACH LINES (1974), LTD., d.b.a. Impala Coach Lines, 2219 Government St., Penticton, British Columbia, Canada. Transferor: Western Bus Lines of B. C., Ltd., d.b.a. Western Bus Lines, 944 8th Street, Kamloops, British Columbia, Canada. Applicant's representative: Michael B. Crutcher, attorney at law, 2000 IBM Bldg., Seattle, Wash. 98101. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 140341 (Sub-No. 2) issued July 21, 1976, as follows: Passengers and their baggage in round-trip charter operations beginning and ending at the ports of entry on the United States-Canada boundary line located at or near Sumas and Oroville, Wash., and extending to points in Washington, Oregon, Idaho, Nevada, and California. Transferee is presently authorized to operate as a common carrier under Certificate No. MC 135374 and subs thereafter. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77340, filed October 3, 1977. Transferee: DONALD L. SWEIGART, 1117 Ivy Dr., Lancaster, Pa. 17601. Transferor: Clarence M. Buch, Box 472, R.D. No. 3, New Holland, Pa. 17549. Applicants' representative: John M. Musselman, Esquire, Rhoads, Simon & Hendershot, 410 North Third St., Harrisburg, Pa. 17108. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 111019, issued April 19, 1974, as follows: Pulverized agricultural limestone from points in Lancaster County, Pa., to points (other than incorporated municipalities) in Delaware and Maryland. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

No. MC-FC-77376, filed September 27, 1977. Transferee: MEEUWSEN PRODUCE & GRAIN, INC., 9525 Ransom, Zeeland, Mich. 49464. Transferor: Rodger Cooper, d.b.a. O. R. Cooper & Son, 1217 Paula St., Champaign, Ill. 61820. Applicants' representative: Robert T. Lawley, attorney at law, 300 Reich Bldg., Springfield, Ill. 62701. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC 15894 issued June 14, 1972, as follows: Foodstuffs from the plantsites and storage facilities of Kraftco Corporation and Kraft Foods at or near Champaign, Ill. to points in Ohio, West Virginia, and the Lower Peninsula of Michigan, points in those parts of New York, Pennsylvania, and Maryland on and west of Interstate

Highway 81. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-30017 Filed 10-13-77; 8:45 am]

[7035-01]

[Volume No. 38]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

Petitions for Modification, Interpretation, or Reinstatement of Operating Rights Authority

OCTOBER 7, 1977.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket", "sub", and "suffix" (e.g. M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protest shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 103926 (Sub-No. 36) (M1) (Notice of filing of petition to add destination points), filed August 24, 1977. Petitioner: W. T. MAYFIELD SONS TRUCKING CO., INC., P.O. Box 947, Mableton, Ga. 30059. Petitioner's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Petitioner holds a motor common carrier certificate in No. MC 103926 (Sub-No. 36), authorizing transportation, over irregular routes, of *Construction machinery and equipment*, which because of size or weight, requires the use of special equipment or handling, and *related tools, accessories, parts and attachments*, moving incidentally thereto as part of the same shipment, from points in Kentucky, North Carolina, Virginia, and West Virginia, to West Palm

¹ Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

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Beach and Miami, Fla. By the instant petition, petitioner seeks to modify the above authority by adding Jacksonville, Tallahassee, and Tampa, Fla., as additional destination points.

No. MC 123061 (Sub-No. 49) (M1) (Notice for removal of restriction on tacking), filed September 1, 1977. Petitioner: LEATHAM BROTHERS, INC., P.O. Box 16026, Salt Lake City, Utah 84104. Petitioner's representative: Harry D. Pugsley, Suite 1200, 310 South Main Street, Salt Lake City, Utah 84101. Petitioner holds a motor common carrier certificate in No. MC 123061 (Sub-No. 49), issued November 27, 1970, authorizing transportation over irregular routes, of *Lumber and lumber products*, (1) from points in Clackamas, Deschutes, Douglas, Hood River, Jackson, Josephine, Klamath, and Wasco Counties, Oreg., to points in Utah, restricted against tacking or combining said authority with any authority held by carrier for the purpose of performing a through service, and (2) from points in Montana in and west of Ravalli, Deer Lodge, Silverbow, Powell, and Flathead Counties, to points in that part of Idaho south of the southern boundary of Idaho County, restricted to the transportation of shipments destined to points in Idaho and Utah. By the instant petition, petitioner seeks to delete the restriction in part (2). Petitioner states that removal of said restriction would permit the transportation of lumber and lumber products from counties in Montana in and west of Ravalli, Deer Lodge, Silverbow, Powell, and Flathead into California through the combining of such service with petitioners Sub 36 authority. In the alternative, petitioner asks that the Commission amend its Certificate No. MC 123061 (Sub-No. 49) by adding to the destination points of Idaho and Utah, the state of California.

No. MC 133590 (Sub-No. 2) (M1) (Notice of filing of petition to broaden territorial description), filed July 15, 1977. Petitioner: WESTERN CARRIERS, INC., 288 Franklin Street, Worcester, Mass. 01604. Petitioner's representative: David M. Marshall, 135 State Street, Suite 200, Springfield, Mass. 01103. Petitioner holds a motor contract carrier Permit in No. MC 133590 (Sub-No. 2), issued March 22, 1973, authorizing transportation, over irregular routes, of *Plastic articles*, except commodities in bulk, in tank vehicles, from Clinton and Leominster, Mass., to points in Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Ohio, Oklahoma, Pennsylvania (except points in Bucks, Carbon, Chester, Delaware, Lackawanna, Lehigh, Luzerne, Monroe, Montgomery, Northampton, Philadelphia, Pike, and Wayne Counties), Texas, West Virginia, and Wisconsin, with no transportation for compensation on return except as otherwise authorized: Restriction: The operations authorized herein are limited to a transportation service to be performed under a continuing contract, or

contracts with Amory Chemical & Plastics Co., Inc., of Clinton, Mass. By the instant petition, petitioner seeks to change the territorial description to read: between Clinton and Leominster, Mass., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract, or contracts with Amory Chemical & Plastics Co., Inc., of Clinton, Mass.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such pleading shall comply with Special Rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 50307 (Sub-No. 86) (Republication), filed November 22, 1976, published in the FEDERAL REGISTER issue of December 30, 1976, and republished this issue. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, N.Y. 10001. Applicant's representative: Herbert Burststein, One World Trade Center, Suite 2373, New York, N.Y. 10048. An Order of the Commission, Review Board Number 3, dated August 23, 1977, and served September 2, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: Wearing apparel, and materials and supplies used in the manufacture of wearing apparel, (1) between Morgantown, W. Va., on the one hand, and, on the other, points in New Jersey, New York, and Pennsylvania, and Woodsfield and Cleveland, Ohio, and (2) between Woodsfield, Ohio, on the one hand, and, on the other, points in New Jersey, New York, and Pennsylvania, that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the points in New Jersey, New York, and Pennsylvania in (1) above, as applicant's additional grant of authority.

No. MC 109595 (Sub-No. 17) (Republication), filed April 8, 1977, published in the FEDERAL REGISTER issue of May 12, 1977, and republished this issue. Applicant: REX TRANSPORTATION CO., a corporation, Suite 207 Clausen Building, 1520 North Woodward Avenue, Bloomfield Hills, Mich. 48013. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, Mich. 48080. An Order of the Commission, Review Board Number 3, dated August 31, 1977, and served September 26, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier* by motor vehicle, over irregular routes, transporting: *Cement* between Detroit, Mich., on the one hand, and on the other, ports of entry on the international boundary line between the United States and Canada, in Michigan located on the Detroit and St. Clair Rivers, restricted to the transportation of shipments moving toward from points in Ontario, Canada; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate a two-way radial movement, in lieu of a one-way radial movement, in applicant's actual grant of authority.

No. MC 141879 (Sub-No. 1) (Republication), filed June 29, 1976, published in the FEDERAL REGISTER issue of August 12, 1976, and republished this issue. Applicant: L. D. CHILDRESS AND KENNETH D. CHILDRESS doing business as CHILDRESS BROTHERS, P.O. Box 525, Briscoe, Tex. 79011. Applicant's representative: William D. Lynch, P.O. Box 912, Austin, Tex. 78767. An Order of the Commission, Review Board No. 3, dated August 17, 1977, and served September 2, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *contract carrier*, over irregular routes, in the transportation of: (1) Wooden mouldings and door-jams, from points in Hemphill County, Tex., to points in California, Colorado, Iowa, Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Mexico, Ohio, Oklahoma, Tennessee and Wisconsin; and (2) lumber, from points in Missouri, Tennessee and Wisconsin, to points in Hemphill County, Tex., under a continuing contract or contracts, with Canadian Millwork, Inc., of Canadian, Tex.; that applicant is fit, willing and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the additional grant of Iowa as a destination state in part (1) above.

No. MC 143131 (Republication), filed March 23, 1977, published in the Fed-

ERAL REGISTER issue of May 12, 1977, and republished this issue. Applicant: GODSEY BROTHERS, INC., 5804 Whitethorne Drive, Evansville, Ind. 47710. Applicant's representative: R. Cameron Rollins, 321 E. Center Street, Kingsport, Tenn. 37660. An Order of the Commission, Review Board No. 1, dated September 16, 1977 and served September 29, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of (1) cinder block, brick, clay products, and cement products (except commodities in bulk), (a) from Fairdale, Ky., to points in Indiana, and Illinois, and (b) from Evansville, Ind., to points in Illinois and Kentucky, and (2) materials and supplies used in the manufacture of brick, block tile, and concrete (except commodities in bulk), from points in Indiana and Illinois to Fairdale, Ky., under a continuing contract or contracts, with General Shale Products Corp. of Johnson City, Tenn., restricted in (2) above against the transportation of shipments of cement in bags; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the actual authority granted.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATION

NOTICE

The following applications are governed by Special Rule 247 of the Commission's General Rules of Practice (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy

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of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its applications shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 1756 (Sub-No. 32), filed August 26, 1977. Applicant: PEOPLES EXPRESS CO., a corporation, 497 Raymond Boulevard, Newark, N.J. 07105. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: (1) *Containers* and (2) *materials and supplies* used in the manufacture, distribution or sale of containers (except commodities in bulk, and steel in coil form) between points in Connecticut, Delaware, Maine, North Carolina, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, and Virginia in non-radial movement, restricted to the transportation of shipments originating at or destined to the facilities of American Can Co., Kaiser Aluminum and Chemical Corp., and National Can Corp.

NOTE.—Applicant now holds authority in various certificates to provide a portion of the service. If hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 9812 (Sub-No. 6) filed August 26, 1977. Applicant: C. F. KOLB TRUCKING CO., INC., R.R. 1, Box 294, Mt. Vernon, Ind. 47620. Applicant's representative: Edwin J. Simcox, 601 Chamber of Commerce Building, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing, shingles, exterior siding, floor tiles, and materials and supplies used in the installation thereof*, from the plant and warehouse sites of GAF Corporation, Mt. Vernon and Evansville, Ind. Savannah, Ga., Kansas City, Mo., Joliet, Ill., Mobile, Ala., and St. Louis, Mo., to points in Alabama, Arkansas, Florida, Georgia, Illi-

nois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Nebraska, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin; (2) *Materials, equipment, and supplies (except in bulk) used in the manufacture and distribution of roofing*, from points in the above-named destination States to the plant and warehouse sites of GAF Corp. in Mt. Vernon and Evansville, Ind., Savannah, Ga., Kansas City, Mo., Joliet, Ill., Mobile, Ala., and St. Louis, Mo.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Indianapolis, Indiana or St. Louis, Mo.

No. MC 32882 (Sub-No. 81), filed September 1, 1977. Applicant: MITCHELL BROS. TRUCK LINES, a corporation, P.O. Box 17039, Portland, Oreg. 97217. Applicant's representative: Lex F. Page (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Pipe and pipe fittings, couplings, connections, and accessories (except iron and steel and commodities, which because of size or weight require the use of special equipment), from the plant or warehouse sites of Armo Steel Corp., Metal Products Division, located in Madera County, Calif., to points in Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming. Restricted to traffic originating at the above plants or warehouse sites and destined to points shown above, and further restricted against the transportation of oilfield commodities as defined in Mercer-Extension-Oilfield Commodities, 74 M.C.C. 459.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco or Los Angeles, Calif.

No. MC 35706 (Sub-No. 6), filed August 26, 1977. Applicant: ATSL, INC., 6801 State Street, Philadelphia, Pa. 19135. Applicant's representative: Steven M. Tannenbaum, 135 N. 4th Street, Philadelphia, Pa. 19106. Authority sought to operate as a *common carrier* by motor vehicles over irregular routes; transporting new furniture, from the store and warehouse facilities of Home Line Furniture Industries, Inc. in Philadelphia, Pa. to points in Virginia, New York, Connecticut, Massachusetts, Rhode Island, Vermont, New Hampshire, Maine, and Maryland.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa. or Camden, N.J.

No. MC-43269 (Sub-No. 67), filed September 1, 1977. Applicant: WELLS CARGO, INC., 1775 East 4th Street, Reno, Nev. 89512. Applicant's representative: David N. Inwood, P.O. Box 1511, Reno, Nev. 89505. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Pipe and pipe fittings, couplings,

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connections, and accessories (except iron or steel and commodities because of size or weight require the use of special equipment), from the plant or warehouse sites of Armco Steel Corp., Metal Productions Division, in Madera County, Calif., to points in Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, and restricted to traffic originating at the above plants or warehouse sites and destined to points shown above and further restricted against the transportation of oil field commodities as defined in Mercer-Extension-Oilfield Commodity, 74 M.C.C. 459.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at San Francisco or Los Angeles, Calif.

No. MC 48959 (Sub-No. 138), filed August 30, 1977. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, Colo. 80216. Applicant's representative: Lee E. Lucero (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Meats, meat products and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in Iowa, Omaha, West Point, Dakota City, Scottsbluff, Schuyler, and Fremont, Nebr.; Holton, Emporia, and Kansas City, Kans.; and Kansas City, Mo., to points in Arizona, California, Colorado, New Mexico, and Utah.

NOTE.—If a hearing is deemed necessary, applicant request that it be held at Omaha, Nebr., or Denver, Colo.

No. MC 52932 (Sub-No. 32), filed September 2, 1977. Applicant: NORTH PENN TRANSFER, INC., Box 230, Lansdale, Pa. 19446. Applicant's representative: John W. Frame, Box 626, 2207 Old Gettysburg Road, Camp Hill, Pa. 17011. Authority sought to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment). (1) Between junction New Jersey Highway 23 at New York/New Jersey State line and Newark, N.J., serving all intermediate points. Beginning at the junction of the New York/New Jersey State line and New Jersey Highway 23 near Port Jervis, N.Y. thence in a southeasterly direction over New Jersey Highway 23 to Newark, and return over the same route. (2) Between Montague, N.J. and junction of U.S. Highway 206 and U.S. Highway 30, serving all intermediate points. Beginning at Montague, thence in a southerly direction over U.S. Highway 206 to its junction with U.S. Highway 30 near Hammonton, N.J., and return over the same route. (3) Between junction U.S. Highway 202 and the New York/New Jersey State line near Suffern, N.Y., and junction U.S. Highway 202 and 22, serving all intermediate points. Beginning at junction of U.S. Highway 202 and New York/New Jersey State line, thence in a southerly direction over U.S. Highway 202 to its junction with U.S. Highway 22, and return over the same route. (4) Between Interstate 80 and the Pennsylvania/New Jersey State line near Delaware Water Gap, Pa., and Fort Lee, N.J., serving all intermediate points. Beginning at the junction of I-80 and the Pennsylvania/New Jersey State line near Delaware Water Gap, thence in an easterly direction over I-80 to Fort Lee, and return over the same route. (5) Between junction U.S. Highway 206 and New Jersey Highway 15 and I-80, serving all intermediate points. Beginning at the junction of U.S. Highway 206 and New Jersey Highway 15, thence in a southerly direction over New Jersey Highway 15 to its junction with I-80 near Mount Arlington, N.J., and return over the same route. (6) Between junction New York/New Jersey State line and U.S. Highway 9W and Cape May, N.J., serving all intermediate points. Beginning at the junction of New York/New Jersey State line and U.S. Highway 9W, thence in a southerly direction over U.S. Highway 9W to its junction with U.S. Highway 9, thence in a southerly direction over U.S. Highway 9 to Cape May, and return over the same route. (7) Between Columbia, N.J. and Netcong, N.J., serving all intermediate points. Beginning at Columbia, thence in an easterly direction over U.S. Highway 46 to Netcong, and return over the same route. (8) Between Netcong, N.J. and East Orange, N.J., serving all intermediate points. Beginning at Netcong, thence in an easterly direction over New Jersey Highway 10 to East Orange, and return over the same route. (9) Between Northfield, N.J. and East Orange, N.J., serving all intermediate points. Beginning at Northfield, thence in an easterly direction over New Jersey Highway 508 to East Orange, and return over the same route. (10) Between Troy Hills, N.J. and Newark, N.J., serving all intermediate points. Beginning at Troy Hills, thence in an easterly direction over I-280 to Newark, and return over the same route. (11) Between Buttzville, N.J. and Trenton, N.J., serving all intermediate points. Beginning at Buttzville, thence in a southerly direction over New Jersey Highway 31 to Trenton, and return over the same route. (12) Between Phillipsburg, N.J. and Newark, N.J., serving all intermediate points. Beginning at Phillipsburg, thence in an easterly direction over U.S. Highway 22 to its junction with I-78, thence over I-78 to Newark, and return over the same route. (13) Between Annandale, N.J. and Somerville, N.J., serving all intermediate

points. Beginning at Annandale, thence in a southeasterly direction over U.S. Highway 22 to Somerville, and return over the same route. (14) Between North Brunswick, N.J. and Deepwater, N.J., serving all intermediate points. Beginning at North Brunswick, thence in a southwesterly direction over U.S. Highway 130 to Deepwater, and return over the same route. (15) Between Trenton, N.J. and Asbury Park, N.J., serving all intermediate points. Beginning at Trenton, thence in an easterly direction over New Jersey Highway 33 to Asbury Park, and return over the same route. (16) Between Robbinsville, N.J. and Tuckerton, N.J., serving all intermediate points. Beginning at Robbinsville, thence in a southeasterly direction over New Jersey Highway 539 to Tuckerton, and return over the same route. (17) Between Mansfield Square, N.J. and McGuire Air Force Base, Fort Dix, N.J., serving all intermediate points. Beginning at Mansfield Square, thence in a southeasterly direction over New Jersey Highway 68 to McGuire Air Force Base, and return over the same route. (18) Between Burlington, N.J. and junction New Jersey Highways 530 and 70, serving all intermediate points. Beginning at Burlington, thence in a southeasterly direction over New Jersey Highway 541 to Mount Holly, N.J., thence over New Jersey Highway 530 in an easterly direction to its junction with New Jersey Highway 70, and return over the same route. (19) Between junction Pennsylvania/New Jersey State line and New Jersey Highway 73 near Palmyra, N.J., and junction New Jersey Highway 73 and U.S. Highway 30, serving all intermediate points. Beginning at junction Pennsylvania/New Jersey State line and New Jersey Highway 73 near Palmyra, thence in a southeasterly direction over New Jersey Highway 73 to its junction with U.S. Highway 30, near Berlin, N.J., and return over the same route. (20) Between Camden, N.J. and South Amboy, N.J., serving all intermediate points. Beginning at Camden, thence over New Jersey Highway 70 in a northeasterly direction to its junction with New Jersey Highway 35, thence in a northerly direction over New Jersey Highway 35 to South Amboy, and return over the same route. (21) Between junction New Jersey Highways 70 and 72, and Ship Bottom, N.J., serving all intermediate points. Beginning at the junction of New Jersey Highways 70 and 72, thence in a southeasterly direction over New Jersey Highway 72 to Ship Bottom, and return over the same route. (22) Between junction New Jersey Highways 72 and 563, and Seaville, N.J., serving all intermediate points. Beginning at the junction of New Jersey Highways 72 and 563, thence in a southeasterly direction over New Jersey Highway 563 to its junction with New Jersey Highway 50 at Egg Harbor City, thence in a southerly direction over New Jersey

Highway 50 to Seaville, and return over the same route. (23) Between Camden, N.J. and Atlantic City, N.J., serving all intermediate points. Beginning at Camden, thence in a southeasterly direction over U.S. Highway 30 to Atlantic City, and return over the same route. (24) Between junction U.S. Highway 130 and New Jersey Highway 45, and Salem, N.J., serving all intermediate points. Beginning at the junction of U.S. Highway 130 and New Jersey Highway 45, thence in a southwesterly direction over New Jersey Highway 45 to Salem, and return over the same route. (25) Between junction U.S. Highway 130 and New Jersey Highway 47 and Wildwood, N.J., serving all intermediate points. Beginning at the junction of U.S. Highway 130 and New Jersey Highway 47 near Westville, N.J., thence in a southeasterly direction over New Jersey Highway 47 to Wildwood, and return over the same route. (26) Between junction U.S. Highway 326 and the Pennsylvania/New Jersey State line, and Atlantic City, N.J., serving all intermediate points. Beginning at the junction of Pennsylvania/New Jersey direction over U.S. Highway 322 to near Bridgeport, N.J., thence in an easterly direction over U.S. Highway 322 to its junction with U.S. Highway 40, near McKee City, thence over U.S. Highway 40/322 to Atlantic City, and return over the same route. (21) Between Deepwater, N.J. and Tuckahoe, N.J., serving all intermediate points. Beginning at Deepwater, thence in a southeasterly direction over New Jersey Highway 49 to Tuckahoe, and return over the same route. (28) Between Deepwater, N.J. and Atlantic City, N.J., serving all intermediate points. Beginning at Deepwater, thence in an easterly direction over U.S. Highway 40/322 to Atlantic City, and return over the same route. (29) Between Mullica Hill, N.J., and Bridgeton, N.J., serving all intermediate points. Beginning at Mullica Hill, thence in a southerly direction over New Jersey Highway 77 to Bridgeton, and return over the same route. (30) Between junction U.S. Highway 30 and New Jersey Highway 54, near Hammonton, N.J., and Buena, N.J., serving all intermediate points. Beginning at the junction of U.S. Highway 30 and New Jersey Highway 54, near Hammonton, thence over New Jersey Highway 54 in a southerly direction to Buena, and return over the same route, and serving those off-route points in Atlantic, Bergen, Burlington, Camden, Cape May, Cumberland, Essex, Gloucester, Hudson, Hunterdon, Mercer, Middlesex, Monmouth, Morris, Ocean, Passaic, Salem, Somerset, Sussex, Union and Warren Counties, in connection with the regular route descriptions in 1 through 30 above.

NOTE.—Applicant states it holds all of the above authority as irregular route authority under Docket No. MC 52932, Sub 29G. The purpose of this application is to convert said irregular route authority to regular route authority. Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Harrisburg, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Jacksonville, Florida or Atlanta, Georgia.

No. MC 63792 (Sub-No. 28), filed September 6, 1977. Applicant: TOM HICKS TRANSFER COMPANY, INC., P.O. Box 16006, Houston, Tex. 77002. Applicant's representative: C. W. Ferebee (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Air pollution, heating and cooling equipment, and parts and accessories* for such commodities, from Houston, Tex., to points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Montana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, Wyoming, and Utah; and (2) materials, supplies, parts and equipment used in the manufacture of air pollution, heating and cooling equipment, from points in the above named destination states to Houston, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Dallas or Houston, Tex.

No. MC 64932 (Sub-No. 574), filed August 29, 1977. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: Allan C. Zuckerman, 39 South LaSalle St., Room 600, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Bisphenol*, in bulk, in tank or hopper type vehicles, from the facilities of United States Steel Corporation, at Haverhill, Schlot County, Ohio to points in the United States (except Alaska and Hawaii); and (2) *returned and rejected shipments*, from the above named destination territory to the above named origin point.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 69116 (Sub-No. 192), filed September 6, 1977. Applicant: SPECTOR FREIGHT SYSTEM, INC., 1050 Kingery Highway, Bensenville, Ill. 60106. Applicant's representative: Edward G. Bazelon, 39 South La Salle St., Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials*, and materi-

als used in the installation and application of such commodities, from Franklin, Ohio, to points in Alabama, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, New York, Pennsylvania, Tennessee and Wisconsin; and (2) *materials, equipment and supplies* (except commodities in bulk) used in the manufacture, installation or application of roofing or building materials, from points in Alabama, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, New York, Pennsylvania, Tennessee and Wisconsin to Franklin, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Philadelphia, Pa.

No. MC 95876 (Sub-No. 208), filed September 6, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: C. Michael Trapp (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Gypsum and Gypsum products, and wallboard*, from points in Santa Fe County, N. Mex., to points in Arizona, California, and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo., or Albuquerque, N. Mex. Common control may be involved.

No. MC 95876 (Sub-No. 210), filed September 6, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: C. Michael Trapp (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, shavings, bark and sawdust* from points in Crook County, Wyoming, to points in Colorado, North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Kentucky and Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Gillette, Wyoming, or Rapid City, S. Dak.

No. MC 100666 (Sub-No. 365), filed September 6, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW, 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Laminated beams, lumber and lumber products*, from Cedar County, Missouri to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the production of laminated beams, lumber and lumber products (except commodities in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii) to Cedar County, Mo.

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No. MC 59150 (Sub-No. 106), filed September 6, 1977. Applicant: PLOOF TRUCK LINES, Inc., 1414 Lindrose St., Jacksonville, Fla. 32206. Applicant's representative: Marin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber*, from Greenville, Georgia, to points in Alabama, Tennessee, North Carolina and South Carolina.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Jacksonville, Florida or Atlanta, Georgia.

No. MC 63792 (Sub-No. 28), filed September 6, 1977. Applicant: TOM HICKS TRANSFER COMPANY, INC., P.O. Box 16006, Houston, Tex. 77002. Applicant's representative: C. W. Ferebee (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Air pollution, heating and cooling equipment, and parts and accessories* for such commodities, from Houston, Tex., to points in Alabama, Arizona, Arkansas, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Montana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, Nevada, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, Wyoming, and Utah; and (2) materials, supplies, parts and equipment used in the manufacture of air pollution, heating and cooling equipment, from points in the above named destination states to Houston, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Dallas or Houston, Tex.

No. MC 64932 (Sub-No. 574), filed August 29, 1977. Applicant: ROGERS CARTAGE CO., a corporation, 10735 South Cicero Ave., Oak Lawn, Ill. 60453. Applicant's representative: Allan C. Zuckerman, 39 South LaSalle St., Room 600, Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Bisphenol*, in bulk, in tank or hopper type vehicles, from the facilities of United States Steel Corporation, at Haverhill, Schlot County, Ohio to points in the United States (except Alaska and Hawaii); and (2) *returned and rejected shipments*, from the above named destination territory to the above named origin point.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 69116 (Sub-No. 192), filed September 6, 1977. Applicant: SPECTOR FREIGHT SYSTEM, INC., 1050 Kingery Highway, Bensenville, Ill. 60106. Applicant's representative: Edward G. Bazelon, 39 South La Salle St., Chicago, Ill. 60603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials*, and materi-

als used in the installation and application of such commodities, from Franklin, Ohio, to points in Alabama, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, New York, Pennsylvania, Tennessee and Wisconsin; and (2) *materials, equipment and supplies* (except commodities in bulk) used in the manufacture, installation or application of roofing or building materials, from points in Alabama, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, New York, Pennsylvania, Tennessee and Wisconsin to Franklin, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Philadelphia, Pa.

No. MC 95876 (Sub-No. 208), filed September 6, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: C. Michael Trapp (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Gypsum and Gypsum products, and wallboard*, from points in Santa Fe County, N. Mex., to points in Arizona, California, and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo., or Albuquerque, N. Mex. Common control may be involved.

No. MC 95876 (Sub-No. 210), filed September 6, 1977. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, Minn. 56301. Applicant's representative: C. Michael Trapp (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products, shavings, bark and sawdust* from points in Crook County, Wyoming, to points in Colorado, North Dakota, South Dakota, Nebraska, Kansas, Minnesota, Iowa, Missouri, Wisconsin, Illinois, Michigan, Indiana, Kentucky and Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Gillette, Wyoming, or Rapid City, S. Dak.

No. MC 100666 (Sub-No. 365), filed September 6, 1977. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, La. 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Bldg., 3535 NW, 58th Street, Oklahoma City, Okla. 73112. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) *Laminated beams, lumber and lumber products*, from Cedar County, Missouri to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the production of laminated beams, lumber and lumber products (except commodities in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii) to Cedar County, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Philadelphia, Pa.

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NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Kansas City, Mo.

No. MC 102567 (Sub-No. 201), filed September 6, 1977. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, La. 71111. Applicant's representative: Joe C. Day, 2040 N. Loop West, Suite 208, Houston, Tex. 77018. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste petroleum sulfide, in bulk*, in tank vehicles, from Union County, Arkansas to points in Alabama, Florida, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, Oklahoma, South Carolina, Tennessee, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas, Tex., or Memphis, Tenn.

No. MC 102616 (Sub-No. 937), filed August 31, 1977. Applicant: COASTAL TANK LINES, INC., 250 North Cleveland-Massillon Rd., P.O. Box 5555, Akron, Ohio. Applicant's representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Bldg., 666 Eleventh Street, NW, Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bisphenol*, in bulk, in tank or hopper type vehicles, from the facilities of United States Steel Corporation at Haverhill, Scioto County, Ohio, to points in the United States (except Alaska and Hawaii), and returned and rejected shipments from the above named destination territory to the above named origin point.

NOTE.—If a hearing is deemed necessary it is requested at Pittsburgh, Pa., or Washington, D.C.

MC 103051 (Sub-No. 407), filed September 1, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Flour*, in bulk, in tank or hopper-type vehicles, from Newton, North Carolina to Johnson City, Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Atlanta, Georgia or Nashville, Tenn.

Docket MC 103051 (Sub No. 408), filed September 1, 1977. Applicant: FLEET TRANSPORT COMPANY, INC., 934 44th Avenue, North, Nashville, Tenn. 37209. Applicant's representative: Russell E. Stone, P.O. Box 90408, Nashville, Tenn. 37209. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Animal fats, oils and blends thereof, in bulk*, in tank vehicles from Knoxville, Tennessee to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Ohio, South Carolina, Virginia and West Virginia.

NOTE.—If a hearing is deemed necessary applicant requests that it be held in either Atlanta, Georgia or Nashville, Tenn.

No. MC 106074 (Sub-No. 41), filed September 2, 1977. Applicant: B AND P MOTOR LINES, INC., Oakland Rd., P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville St., P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiberboard boards and sheets*, from Azusa, Buena Park, Corona, Los Angeles, Ontario, Rocklin and Sacramento, Calif., to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Louisiana, Maryland, Massachusetts, Mississippi, New Jersey, New York, North Carolina, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Charlotte, N.C., or San Francisco, Calif. Applicant holds contract carrier authority in MC 140842 Sub 1, therefore dual operations may be involved. Common control may also be involved.

No. MC 106074 (Sub-No. 42), filed September 6, 1977. Applicant: B AND P MOTOR LINES, INC., Oakland Rd., P.O. Box 727, Forest City, N.C. 28043. Applicant's representative: George W. Clapp, 109 Hartsville St., P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass fiber; glass fiber rovings, yarn and strand; glass fiber mats and matting; glass fiber fabric; and glass fiber waste*, from South Lexington and West Shelby, N.C., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Charlotte, N.C., or Pittsburgh, Pa. Applicant holds contract carrier authority in MC 140842 Sub 1, therefore dual operations may be involved. Common control may also be involved.

No. MC 106674 (Sub-No. 250), filed August 17, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe, and hydrants, valves, fittings, couplings and materials and supplies used in the installation thereof* from the facilities of Clow Corporation at or near Buckhannon, West Virginia to points in Illinois, Indiana, Iowa, Kentucky, Michigan, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, Virginia and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in either Chicago, Ill. or Indianapolis, Ind.

No. MC 107002 (Sub-No. 514) (Amendment), filed August 1, 1977, published in the FEDERAL REGISTER issue of September 8, 1977, and republished, as amended this

issue. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fuel oils, in bulk*, in tank vehicles, (A) From the facilities of Mobile Bulk Terminal, Inc., at or near Mobile, Ala., to points in Louisiana and points in Mississippi north of U.S. Highway 80. (B) From the facilities of Ergon, Inc., at or near Greenville, Miss., to points in Arkansas on east and south of a line beginning at the Arkansas-Texas State line and extending along U.S. Highway 67 to Malvern, Ark., thence U.S. Highway 270 to Sheridan, Ark., thence U.S. Highway 167 to Fordyce, Ark., thence U.S. Highway 79 to junction U.S. Highway 49, thence U.S. Highway 49 to the Arkansas-Mississippi State line, points in Louisiana on and north of U.S. Highway 84, and to the site of the United States Naval Air Station at or near Millington, Tenn. (C) From the facilities of Ergon, Inc., at or near Vicksburg, Miss., to points in Arkansas.

NOTE.—The purpose of this amendment is to show applicant's request in (B) for territory "in Arkansas on, east and south" in lieu of on, west and north as previously published. If a hearing is deemed necessary, applicant requests that it be held at Jackson, Miss. or Memphis, Tenn.

No. MC 107403, (Sub-No. 1034), filed September 6, 1977. Applicant: Matlock, Inc., Ten West Baltimore Ave., Lansdowne, Pa., 19050. Applicant's representative: Martin C. Hynes, Jr., (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting: (1) *Liquid sugar, high fructose corn syrup, corn syrup and blends of liquid sugar with high fructose corn syrup, or with corn syrup*, in bulk, in tank vehicles, from Supreme, Louisiana to points in the states of Alabama, Mississippi and Texas; and (2) *Liquid sugar, blends of liquid sugar, and corn syrups*, in bulk, in tank vehicles, from the plantsite of Southdown Sugars, Inc., Houma, La. to points in Arkansas, Alabama, Mississippi, Tennessee and Texas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, DC.

No. MC-107456 (Sub No. 24), filed September 1, 1977. Applicant: HARRY L. YOUNG AND SONS, INC., a corporation, 542 West Sixth South, Salt Lake City, Utah 84104. Applicant's representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings, couplings, connections, and accessories* (except iron or steel and commodities because of size and weight require the use of special equipment), from the plant or warehouse sites of Armcoc Steel Corporation, Metal Products Division, in Madera County, Calif., to points in Ari-

zona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and Wyoming, and restricted to traffic originating at the above plants or warehouse sites and destined to points shown above and further restricted against the transportation of oil field commodities as defined in Mercer-Extension-Oilfield Commodity, 74 M.C.C. 459.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either San Francisco, Calif., or Los Angeles, Calif.

No. MC 108313 (Sub-No. 14) (Correction), filed August 8, 1977, published in the FEDERAL REGISTER issue of September 15, 1977, and republished, as corrected, this issue. Applicant: CALEDONIA LINES, INC., P.O. Box 48, Caledonia, N.Y. 14423. Applicant's representative: S. Michael Richards, 44 North Ave., Webster, N.Y. 14580. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Compressed gases and liquid chemicals, in bulk (except liquefied petroleum gases)*, (a) from Houston, Tex., Moundsville, Charleston, and Natrium, W. Va., Lake Charles, Geismar, and Graneray, La., Brunswick, Ga., Acme, N.C., Evans City, Ala., Louisville, Ky., Tampa, Fla., Charleston, Tenn., and Edgemoor, Del., to Charlotte, N.C., Festus, Mo., Reserve, La., Milford, Va., Mobile, Ala., St. Petersburg, Jacksonville, and Fort Lauderdale, Fla., and (b) from Edgemoor, Del., to Beechgrove and Hammond, Ind., Orrington, Me., Wyandotte, Montague, Midland, and Ludington, Mich., Merrimack, N.H., Newark, Bayonne, and Linden, N.J., Niagara Falls, Syracuse, Buffalo, Warwick, Caledonia, Utica, Friendship, and Vestal, N.Y., Ashtabula, South Point, Barberton, and Columbiana, Ohio, and Erie, Pa.; and (2) *Chemicals, cleaners, detergents and wares, in containers and empty containers for those commodities*, between Mobile and Evans City, Ala., Denver, Col., Edgemoor, Del., St. Petersburg, Fort Lauderdale, Jacksonville, and Tampa Fla., Augusta and Brunswick, Ga., Danville, Ill., Beechgrove and Hammond, Ind., Calvert City and Louisville, Ky., Lake Charles, Plaquemine, Gramercy, Geismar, Baton Rouge, Taft, and Reserve, La., Orrington, Me., Curtis Bay, Md., Wyandotte, Montague, Midland, and Ludington, Mich., Festus, Mo., Merrimack, N.H., Newark, Bayonne, and Linden, N.J., Niagara Falls, Syracuse, Buffalo, Warwick, Caledonia, Utica, Friendship, and Vestal, N.Y., Charlotte and Acme, N.C., Ashtabula, South Point, Barberton, and Columbiana, Ohio, Erie, Pa., Charleston, Tenn., Houston, Tex., Milford, Hopewell and Norfolk, Va., Natrium, Moundsville and Charleston, W. Va., Hudson, Milwaukee, and Port Edwards, Wis., under a continuing contract or contracts with Jones Chemicals, Inc., of Caledonia, N.Y.

NOTE.—Applicant states it holds authority in No. MC 108313 (Sub-No. 1, 6, 7, 9, and 10) which partially duplicates the authority

sought herein, but it does not seek duplicating authority and will accept usual conditions if authority sought is granted. If a hearing is deemed necessary, applicant requests that it be held at Buffalo or Syracuse, N.Y. The purpose of this correction is to indicate the correct territory sought in part (1) of this application.

No. MC 108341 (Sub-No. 68), filed September 6, 1977. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon St., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles, and steel pole substation structures, equipment, supplies and materials*, (except commodities in bulk), from the facilities of Power Enterprises, Inc., Power Structures Division, at or near Belle Chasse, Louisiana to points in Alabama, Connecticut, Delaware, District of Columbia, Florida, Georgia, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee, Vermont, Virginia and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at New Orleans, La.

No. MC 110420 (Sub-No. 772), filed August 16, 1977. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, Wis. 53158. Applicant's representative: Joseph K. Reber (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid Chemicals*, in bulk, in tank vehicles, from Iowa City, Iowa to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill., or Cincinnati, Ohio. Common control may be involved.

No. MC 110525 (Sub-No. 1206), filed September 1, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from the plantsite of Farmland Industries, Inc., Farmland, La. (located near Pollock, La.), to points in Texas located east of U.S. Highway 281.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New Orleans, La.

No. MC 110525 (Sub-No. 1207), filed September 6, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over

irregular routes, transporting: *Hydrofluoric acid, in bulk*, in tank vehicles, from Houston, Tex. to points in Montana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Houston, Tex.

No. MC 110525 (Sub-No. 1208), filed September 2, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sugar*, in bulk, in tank vehicles, from Boston, Mass., and Philadelphia, Pa., to Canajoharie, N.Y.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa., or New York, N.Y.

No. MC 111231 (Sub-No. 218), filed September 6, 1977. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, Ark. 72764. Applicant's representative: Don A. Smith, Post Office Box 43, 510 North Greenwood, Fort Smith, Ark. 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are dealt in or used by wholesale or retail, discount, or variety stores* (except commodities in bulk): (1) Between White County, Ark., on the one hand, and, on the other, points in Arkansas, Illinois, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Oklahoma, Tennessee, and Texas; and (2) between Bentonville, Ark., on the one hand, and, on the other, points in Illinois, restricted to the transportation of shipments originating at or destined to the facilities of Wal-Mart Stores, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Little Rock, Ark. or Memphis, Tenn.

No. MC 112595 (Sub-No. 70), filed August 31, 1977. Applicant: FORD BROTHERS, INC., P.O. Box 727, Ironton, Ohio 45638. Applicant's representative: James W. Muldoon, 50 West Broad Street, Suite 1815, Columbus, Ohio 43215. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes in the transportation of: *Bisphenol*, in bulk, in tank or hopper type vehicles from the facilities of United States Steel Corp. at Haverhill, Scioto County, Ohio to points in the United States (except Alaska and Hawaii), and returned and rejected shipments from the above named destination territory to the above named origin point.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 112989 (Sub-No. 51), filed September 1, 1977. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, Ore. 97405. Applicant's representative: John W. White, Jr., 85647 Highway 99 South, Eugene, Ore. 97405. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

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routes, transporting: pipe and pipe fittings, couplings, connections, and accessories (except iron or steel and commodities because size and weight require the use of special equipment), from the plant or warehouse sites of Armco Steel Corp., Metal Products Division, in Madera County, Calif., to points in Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, and restricted to traffic originating at the above plants or warehouse sites and destined to points shown above and further restricted against the transportation of oil field commodities as defined in Merger-Extension-Oilfield Commodity, 74 M.C.C. 459.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Los Angeles or San Francisco, Calif. on a consolidated basis with other related applications.

No. MC 114045 (Sub-No. 475), filed September 1, 1977. Applicant: TRANSCOLD EXPRESS, INC., P.O. Box 61228, D/FW AIRPORT, Tex. 75261. Applicant's representative: J. B. Stuart (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Paper and paper products from Jay and Livermore Falls, Maine, to points in Arizona, Arkansas, California, Colorado, Idaho, Illinois, Indiana, Iowa, Kansas, Louisiana, Michigan, Minnesota, Missouri, Montana, Nebraska, Nevada, New Mexico, North Dakota, Ohio, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Chicago, Ill.

No. MC 114211 (Sub-No. 317), filed September 6, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a common carrier over irregular routes, by motor vehicle, transporting: Lumber, lumber mill products, forest and wood products and treated products from Colorado and Wyoming to points in Minnesota, Wisconsin, Michigan, Indiana, Illinois, Iowa, Missouri, Nebraska, Kansas, Texas, Oklahoma, Louisiana, Arkansas, and New Mexico.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo.

No. MC 114273 (Sub-No. 295), filed September 6, 1977. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, Iowa 52406. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packing-houses as described in Sections A and C of Appendix I to the report in Descrip-

tions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from St. Louis, Mo., to points in Connecticut, Delaware, Indiana, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia, restricted to traffic originating at the plantsite and storage facilities utilized by Krey Packing Co. at or near St. Louis, Mo. and destined to the above named points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Ill. or Washington, D.C.

No. MC 114632 (Sub-No. 121), filed September 26, 1977. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, S. Dak. 57042. Applicant's representative: Andrew Clark, 1000 First National Bank Bldg., Minneapolis, Minnesota 55402. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Foodstuffs, frozen meats, and non-edible foodstuffs, moving in mechanically refrigerated equipment from Bettendorf, Iowa to points in and east of Colorado, Nebraska, North Dakota, Oklahoma, South Dakota, and Texas except Iowa.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved. Hearing: Assigned November 14, 1977, at 9:30 a.m. local time, at Chicago, Ill.

No. MC 114696 (Sub-No. 57), filed August 15, 1977. Applicant: PUROLATOR SECURITY, INC., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Money Orders and Checks: From Indianapolis, Ind. to Detroit, Mich., under a continuing contract or contracts with First Federal Savings and Loan Association of Detroit.

NOTE.—Applicant holds common carrier authority in MC 140345, Sub-No. 1, and therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 115353 (Sub-No. 28), filed September 6, 1977. Applicant: LOUIS J. KENNEDY TRUCKING CO., a corporation, 342 Schuyler Avenue, Kearny, N.J. 07032. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: General commodities (except Classes A and B explosives, articles of unusual value, household goods as defined by the Commission, commodities in bulk and commodities which because of their size and weight require the use of special equipment), between points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana in non-radial movement. Restriction:

Service is restricted to the transportation of traffic originating at or destined to facilities of the United States Gypsum Co., under a continuing contract, or contracts, with the United States Gypsum Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 115557 (Sub-No. 15), filed September 2, 1977. Applicant: CHARLES A. McCAULEY, 308 Leasure Way, New Bethlehem, Pa. 16242. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, Pa. 15219. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Magnets and magnetic materials and equipment, materials and supplies, utilized in the manufacture of magnets and magnetic materials, between Duncanville, Tex., on the one hand, and, on the other, points in California, Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Detroit, Mich.

No. MC 115821 (Sub-No. 31), filed September 6, 1977. Applicant: FRANK BEELMAN, doing business as BEELMAN TRUCK CO. (no street address), St. Libory, Ill. 62282. Applicant's representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, Mo. 63101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Coal in bulk, in dump vehicles, from Saline, Franklin, Jefferson, Williamson, Gallatin, Marion, Hamilton, Hardin, Pope, Johnson, Union, Jackson, White, Wabash, Perry, and Washington Counties, Ill., to points in Vigo, Vermillion, Knox, Hamilton, Floyd, and Gibson Counties, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Springfield, Ill. or Evansville, Ind.

No. MC 115826 (Sub-No. 273), filed September 6, 1977. Applicant: W. J. DIGBY, INC., P.O. Box 5088 Terminal Annex, Denver, Colo. 80217. Applicant's representative: Charles J. Kimball, 35 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: hydraulic cylinders, parts, accessories, materials and supplies used in the manufacturing thereof: between the plantsite and storage facilities of United Hydraulics, Corp. at, or near, Hampton, Iowa on the one hand, and, on the other hand, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If an oral hearing is deemed necessary, applicant requests that it be held at Denver, Colo.

No. MC 115841 (Sub-No. 547), filed August 16, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite

110, Bldg. 100, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: meats, meat products and meat by-products and articles distributed by meat packing-houses from the plantsite and storage facilities of South Texas Packers at or near Alice, Tex. and the plantsite and storage facilities utilized by South Texas Packers (Alford's Refrigerated Warehouse) at or near Corpus Christi, Tex. to points in Alabama, Arkansas, California, Colorado, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Ohio, and Tennessee.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held in Houston, Tex.

No. MC 116077 (Sub-No. 384), filed August 16, 1977. Applicant: ROBERTSON TANK LINES, INC., 4550 Post Oak Place Drive, P.O. Box 1505, Houston, Tex. 77001. Applicant's representative: Pat H. Robertson, 500 West Sixteenth Street, P.O. Box 1945, Austin, Tex. 78767. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Products of corn, in bulk, from the plant site of CPC International, Incorporated, Corpus Christi, Texas, to points in the states of Arizona, New Mexico, Oklahoma, Arkansas, Louisiana, and Mississippi.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Dallas, Tex.

No. MC 117344 Sub-No. 261, filed August 29, 1977. Applicant: THE MAXWELL CO., a corporation, 10380 Evendale Drive, Cincinnati, Ohio 45215. Applicant's representative: James R. Stivers, 1396 West Fifth Avenue, Columbus, Ohio 43212. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting (1) Bisphenol, in bulk, in tank or hopper type vehicles, from the facilities of United States Steel Corp. located at Haverhill, Scioto County, Ohio, to points in the United States (except Alaska and Hawaii); and (2) returned and rejected shipments from the above-named destination territory, to the above-named origin point.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 117815 (Sub-No. 265), filed September 1, 1977. Applicant: PULLEY FREIGHT LINES, INC., 405 SE. 20th Street, Des Moines, Iowa 50317. Applicant's representative: Dewey Marselle, 405 SE. 20th Street, Des Moines, Iowa 50317. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Frozen foods, from the facilities of or utilized by The Pillsbury Co., located at or near Minneapolis, Minn., to points in Iowa, Kansas, Missouri, and Nebraska, restricted to the transportation of traffic

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originating at the above named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn., or Chicago, Ill.

No. MC 118159 (Sub-No. 224) (correction), filed August 19, 1977, published in the FEDERAL REGISTER issue of September 29, 1977, as No. MC 118159 (Sub-No. 229), and republished as corrected this issue. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Paper and paper products, (except commodities in bulk) from Medina, Ohio to points in New York (except points on and south of Interstate Highway 84); and (2) Materials and supplies used in the manufacture and distribution of paper and paper products, and paper (except commodities in bulk), from points in New York (except points on and south of Interstate Highway 84) to Medina, Ohio.

NOTE.—The purpose of this republication is to indicate the correct docket number assigned to this proceeding as No. MC 118159 (Sub-No. 224) in lieu of No. MC 118159 (Sub-No. 229) as previously published in error. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 118159 (Sub-No. 225), filed August 31, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366-Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Pulpboard and pulpboard articles, from Plymouth, Ind., to Memphis, Tenn.; Mobile, Ala., and points in Alabama on and north of U.S. Highway 78; points in Michigan on and south of Michigan Highway 21; points in New York on and north of Interstate Highway 84; points in Virginia on and west of Interstate Highway 95; and points in Arizona, Arkansas, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Carolina, Ohio, Oklahoma, South Carolina, Texas, Utah, Wyoming, and the District of Columbia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 119741 (Sub-No. 82), filed September 6, 1977. Applicant: GREEN FIELD TRANSPORT CO., INC., 3225 Fifth Avenue South, Fort Dodge, Iowa 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, Iowa 50501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products, and articles distributed by meat packing-houses (except hides and commodities in

bulk, in tank vehicles), as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from the facilities of Sioux-Preme Packing Co., at or near Sioux Center, Iowa, to points in Kansas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Sioux City, Iowa.

No. MC 119789 (Sub-No. 352) (correction), filed June 2, 1977, published in the FEDERAL REGISTER issue of July 14, 1977, and republished as corrected this issue. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr. (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Cleaning compounds, (except commodities in bulk), from Fort Bragg, Calif., to points in the United States east of U.S. Highway 85; and (2) materials and supplies used in the production and sale of cleaning compounds (except commodities in bulk), from points in the United States east of U.S. Highway 85, to Fort Bragg, Calif.

NOTE.—The purpose of this republication is to indicate the restriction in (1) and (2); and to indicate correct route description in (2) above as U.S. Highway 85 in lieu of U.S. Highway 82. If a hearing is deemed necessary, the applicant requests that it be held at San Francisco, Calif.

No. MC 119988 (Sub-No. 124), filed September 6, 1977. Applicant: GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901. Applicant's representative: Clayte Binion, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Portable and prefabricated horse farms and stalls and related materials, supplies, and equipment when moving in connection therewith, from Lufkin, Tex., to points in Oklahoma, Louisiana, Arkansas, Mississippi, and Kansas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Houston, Tex., or Dallas, Tex.

No. MC 120761 (Sub-No. 29), filed August 31, 1977. Applicant: NEWMAN BROS. TRUCKING CO., a corporation, 6559 Midway Road, P.O. Box 18728, Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: hardwood products, plywood and particle board from Dallas and Fort Worth, Tex., to points in Arkansas, Georgia, Kansas, Louisiana, Missouri, and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex. Common control may be involved.

No. MC 121366 (Sub-No. 4), filed September 2, 1977. Applicant: DALLAS SMITH TRANSPORT CORP., 1102 East

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Tonto Street, Phoenix, Ariz. 85034. Applicant's representative: Warren N. Grossman, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, Calif. 90014. Applicant seeks authority to engage in operation, in interstate or foreign commerce, as a common carrier by motor vehicle, over irregular routes, in the transportation of (1) new and used automobiles, in secondary movements, in truckaway service, between points in Arizona, New Mexico, Colorado, and Nevada; and (2) used automobiles, in secondary movements, in truckaway service, from points in New Mexico, Colorado, and Nevada, to Phoenix, Ariz.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Phoenix, Ariz.

No. MC 121656 (Sub-No. 4), filed August 4, 1977. Applicant: SPRINGFIELD EXPRESS, INC., P.O. Box 310, Springfield, Tenn. 37172. Applicant's representative: Walter Hardwood, P.O. Box 15214, Nashville, Tenn. 37215. Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: General commodities, except those of unusual value, household goods, classes A and B explosives, commodities in bulk, and articles requiring special equipment. Between Russellville, Ky. and Owensboro, Ky.; from Russellville, Ky. over U.S. Highway 431 to Owensboro, Ky. and return over the same route, serving no intermediate points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Central City or Louisville, Ky.

No. MC 121664 (Sub-No. 26), filed September 2, 1977. Applicant: G. A. HORNADY, CECIL M. HORNADY, and B. C. HORNADY, doing business as HORNADY BROTHERS TRUCK LINE, P.O. Box 846, Monroeville, Ala. 36460. Applicant's representative: W. E. Grant, 1702 1st Ave. South, Birmingham, Ala. 35233. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Asphaltum, building paper, prepared shingles, roofing asphalt, roofing cement, roofing paper, filter felt, coatings and roofing sealer, from (1) Tuscaloosa, Ala., and (2) Knoxville, Tenn. to points in Alabama, Arkansas, Florida, Georgia, Illinois, Kentucky, Louisiana, Mississippi, Missouri, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala. or Kansas City, Mo.

No. MC 123057 (Sub-No. 13), filed September 6, 1977. Applicant: JAMES RICCIARDI & SONS, INC., 389 East Inman Avenue, Rahway, N.J. 07065. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: (1) Steel studding from the plant and warehouse sites of Marino Industries

at or near Westbury, N.Y. to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia and (2) Materials, supplies and equipment used in the manufacture and distribution of steel studding (except in bulk) from the destination states named in (1) above to Westbury, N.Y., restricted to the transportation of traffic originating at or destined to the plant and warehouse sites of Marino Industries, Inc. at or near Westbury, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 123329 (Sub-No. 31), filed September 2, 1977. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta T2P 2P9, Canada. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid oxygen, nitrogen and argon, in cryogenic trailers, between points in Oregon and Washington on the one hand, and, on the other, ports of entry on the International Boundary line between the United States and Canada, located at or near Sumas, Blaine and Oroville, Wash., restricted to shipments destined to or originating at points in British Columbia and Alberta, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at any city in Montana. Common control may be involved.

No. MC 124027 (Sub-No. 18), filed September 6, 1977. Applicant: MIDWEST BULK, INC., 901 Lyndale Avenue, Neenah, Wis. 54956. Applicant's representative: Frank M. Coyne, 25 West Main Street, Madison, Wis. 53703. Authority sought to operate as a common carrier by motor vehicle, over irregular routes, transporting: Coke, in bulk, from Milwaukee, Wis., to Davenport, Iowa.

NOTE.—If a hearing is necessary, the applicant requests it be held in Chicago, Ill., or Milwaukee, Wis. Common control may be involved.

No. MC 124344 (Sub-No. 9), filed September 6, 1977. Applicant: HINER TRANSPORT, INC., 1317 South Jefferson St., Huntington, Ind. 46750. Applicant's representative: Robert W. Loser II, 1009 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: Ice cream, ice cream mix, ice milk, sherbet, water ices, milk products, and vegetable-fat frozen desserts, in containers, in mechanically refrigerated vehicles, and ice cream novelties, including water ice bars, fudge bars, ice cream bars, ice cream cups, ice cream sandwiches, ice cream cake rolls, ice cream pies, and articles of a like nature, in containers, in mechanically refrigerated vehicles, (1) from Huntington, Ind., to points in Florida; those points in Ken-

tucky (except Louisville, Lexington, and Hazard, Kentucky); those points in Illinois (except Chicago, Palatine, and Rockford, Illinois); those points in Michigan (except Benton Harbor, Detroit, Kalamazoo, New Buffalo, and Pontiac, Mich.); points in Missouri; those points in Ohio (except Edon, Delphos, Toledo, Cincinnati, Hamilton, and Columbus, Ohio, and points in that part of Ohio west of Interstate Highway 75); and points in Pennsylvania; and West Virginia; (2) from Peoria, Ill.; Detroit, Mich.; and Louisville, Ky., to Huntington, Ind.; (3) from Atlanta, Ga., to Farmdale, Ohio; and over-aged, rejected, or damaged merchandise on return; and, (4) fruits and fruit segments, in containers, from Cincinnati, Ohio, to Huntington, Ind. Restrictions: (1) the operations authorized herein are restricted to traffic originating at and destined to a plantsite or storage facility of Kraft Foods Dairy Group; and (2) the operations authorized herein are limited to a transportation service to be performed under a continuing contract or contracts with Kraft Foods Dairy Group (formerly Sealtest Foods Division, Kraftco Corporation), at Philadelphia, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind., or Chicago, Ill.

No. MC 124579 (Sub-No. 20), filed August 23, 1977. Applicant: WIKEL BULK EXPRESS, INC., Route 2, Huron, Ohio 44839. Applicant's representative: James Duvall, Post Office Box 97, 220 West Bridge St., Dublin, Ohio, 43017. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Dairy products, citrus drink and fruit punch products from the facilities of The Kroger Co. at or near Newark, Ohio, to Livonia, Michigan; Indianapolis, Indiana; Hazelwood, Missouri; those points in Pennsylvania on and west of U.S. Highway 219; and points in Kentucky, West Virginia, Virginia, North Carolina, and South Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 124692 (Sub-No. 180), filed September 2, 1977. Applicant: SAMMONS TRUCKING (a corporation), P.O. Box 4347, Missoula, Mont. 59806. Applicant's representative: J. David Douglas (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Plastic pipe and related parts, materials and supplies, from Faribault, Minn. to points in California, Idaho, Montana, North Dakota, Oregon, South Dakota, Utah, Washington and Wyoming restricted to traffic originating at Faribault, Minn.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn.

No. MC 124735 (Sub-No. 21) filed August 16, 1977. Applicant: R. C. KER-

CHEVAL, JR., 2214 Fourth Avenue South, Seattle, Wash. 98134. Applicant's representative: George R. LaBissoniere, 1100 Norton Bldg., Seattle, Wash. 98104.

To operate as a contract carrier by motor vehicle over irregular routes transporting: Parts of mobile homes and utility trailers, automotive springs, suspension and parts thereof, brake drums, and brake assemblies and parts thereof, tailgate hoists and parts thereof, wheels and wheel attaching parts, parts for motor vehicle chassis and motor vehicle undercarriages; From Henderson, Kentucky to points in Washington, Idaho, Utah, Oregon and Montana under a continuing contract or contracts with Motor Wheel and Parts, Inc. and Henderson Wheel and Supply.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 124939 (Sub-No. 14), filed August 23, 1977. Applicant: FOOD HAUL, INC., 1215 West Mound St., Rear, P.O. Box 23293, Columbus, Ohio 43223. Applicant's representative: Paul F. Beery, 275 East State St., Columbus, Ohio 43215. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) Dairy products and citrus drink and fruit punch products, from The Kroger Co.'s facility at or near Newark, Ohio, to Livonia, Michigan; Indianapolis, Indiana; Hazelwood, Missouri; those points in Pennsylvania on and west of U.S. Highway 219; and all points in Kentucky, Virginia, West Virginia, North Carolina, and South Carolina, and, (2) Equipment, materials and supplies used in the conduct of such business and (3) returned, rejected or refused shipments of the commodities named in (1) above from points in Illinois, Michigan, Indiana, West Virginia, Kentucky and those points in Pennsylvania on and west of U.S. Highway 219, to The Kroger Co.'s facility at or near Newark, Ohio, under a continuing contract or contracts with The Kroger Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio. Common control may be involved.

No. MC 124939 (Sub-No. 15), filed August 23, 1977. Applicant: FOOD HAUL, INC., 1215 West Mound St., Rear, P.O. Box 23293, Columbus, Ohio 43223. Applicant's representative: Paul F. Beery, 275 East State St., Columbus, Ohio 43215. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (A) such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses, and (B) equipment, materials, and supplies used in the conduct of such business (except commodities in bulk), in vehicles equipped with mechanical refrigeration, between the dairy and bakery manufacturing and meat processing facilities of The Kroger Co., at or near Indianapolis, Indiana, on the one hand, and, on the other points in Illinois, Kentucky, Michigan, Missouri, Ohio, and Pennsylvania, and Atlanta, Georgia; Roanoke, Virginia; Dallas and Houston,

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Texas; Little Rock, Arkansas; and Memphis and Nashville, Tennessee, under a continuing contract or contracts with The Kroger Co., of Cincinnati, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio. Common control may be involved.

No. MC 124947 (Sub-No. 68), filed August 16, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Rd., Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting particleboard, lumber and lumber mill products from Navajo, N. Mex. to points in Illinois, Indiana and Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo. or Salt Lake City, Utah.

No. MC 124947 (Sub-No. 76), filed September 23, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Rd., Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting aluminum and aluminum articles, from Benton, Arkansas to Wisconsin, Michigan, New York, Pennsylvania and Tennessee; from Sandusky, Ohio to Wisconsin, Michigan, New York and Pennsylvania; and between points in Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Columbus or Cleveland, Ohio.

No. MC 124947 (Sub-No. 77), filed September 23, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Rd., Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting industrial heat treating furnaces and parts and related equipment used with the furnace operations and incinerators and incinerator parts, between Meadville, Pennsylvania and points in the United States (including Alaska, but excluding Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Pittsburgh, Pa. or Salt Lake City, Utah.

No. MC 124947 (Sub-No. 78), filed September 23, 1977. Applicant: MACHINERY TRANSPORTS, INC., 116 Allied Rd., Stroud, Okla. 74079. Applicant's representative: David J. Lister, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Lumber, lumber products, wood products, building board, insulating materials and roofing materials, from points in Alabama, Florida, Georgia, South Carolina, North Carolina, Arkansas, Louisiana,

Mississippi, Oklahoma, Tennessee and Texas to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Houston, Tex.

No. MC 125433, (Sub-No. 121), filed September 1, 1977. Applicant: F-B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Rd., Salt Lake City, Utah 84104. Applicant's representative: David J. Lister, (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting pipe and pipe fittings, couplings, connections and accessories (except iron or steel and commodities which because of size and weight require the use of special equipment), from the plant or warehouse facilities of Armco Steel Corporation located in Madera County, California, to points in Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and Wyoming, restricted to traffic originating at the above plants or warehouse sites and destined to points shown above, and further restricted against the transportation of oilfield commodities as defined in Mercer, Extension 74 M.C.C. 459.

NOTE.—If a hearing is deemed necessary, the applicant requests a consolidated hearing with similar applications at either San Francisco or Los Angeles, Calif. Common control may also be involved.

No. MC 126118 (Sub-No. 50), filed August 29, 1977. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie, P.O. Box 81228, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Malt beverages, from Detroit, Michigan to Tennessee (except Knoxville and Johnson City).

NOTE.—Applicant holds contract carrier authority in No. MC 128375 (Sub-No. 1) and other subs, therefore, dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, Michigan or Lincoln, Nebr.

No. MC 126555 (Sub-No. 51), filed September 6, 1977. Applicant: UNIVERSAL TRANSPORT, INC., Box 3000, Rapid City, S. Dak. 57709. Applicant's representative: Truman A. Stockton, Jr., The 1650 Grant St., Bldg., Denver, Colo. 80203. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Bentonite, from points in Wyoming, to points in Colorado, restricted against the transportation of oil field commodities as described in Mercer Extension, Oil Field Commodities, 74 M.C.C. 459.

NOTE.—Applicant holds contract carrier authority in MC 125909 (Sub 3), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Denver, Colo.

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No. MC 126930 (Sub-No. 16), filed September 6, 1977. Applicant: BRAZOS TRANSPORT CO., a corporation, 339 East 34th St., Lubbock, Tex. 79404. Applicant's representative: Richard Hubbert, P.O. Box 2976, Lubbock, Tex. 79408. Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: (1) *Gypsum products*, from Medicine Lodge, Kans., to Lorain, Ohio and Clearance Center, N.Y.; (2) *gypsum products* from Akron, Genesee County, N.Y., to Medicine Lodge, Kans., and Fort Dodge, Iowa; and (3) *lime in bags*, from Gibsonburg, Ohio, to Medicine Lodge, Kans., and Fort Dodge, Iowa, restricted to movements between plantsites of National Gypsum Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Dallas or Lubbock, Tex. Common control may be involved.

No. MC 129124 (Sub-No. 15), filed September 1, 1977. Applicant: SAMUEL J. LANSBERRY, INC., P.O. Box 58, Woodland, Pa. 16881. Applicant's representative: S. Berne Smith, P.O. Box 1166, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, from points in the counties of Clearfield and Jefferson, Pa., to points in Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Pittsburgh, Pa., Harrisburg, Pa., or Washington, D.C.

No. MC 129455 (Sub-No. 26), filed September 6, 1977. Applicant: CARRETTA TRUCKING, INC., S. 160, Route 17 North, Paramus, N.J. 07652. Applicant's representative: Charles J. Williams, 1815 Front St., Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by retail stores of building material products* (except commodities in bulk), from points in Alabama (except Dothan); those points in Georgia (except Ashburn); points in North Carolina, South Carolina, those points in Tennessee (except Knoxville), and points in Virginia, to points in Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, and Vermont, under a continuing contract or contracts with L. Grossman's, a division of Evans Products Company, at Braintree, Mass.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 129455 (Sub-No. 27), filed September 6, 1977. Applicant: CARRETTA TRUCKING, INC., 160 S. Route 17, Paramus, N.J. 07652. Applicant's representative: Joseph Carretta (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Materials, supplies, parts, and equipment* used in the manufacture of garden sheds, (1) from points in California, to the points of entry on the International

Boundary Line, between the United States and the Republic of Mexico, located at Calexico, Calif., for furtherance into the Republic of Mexico; and (2) from points in Maryland, to Saddle Brook, N.J., under a continuing contract, or contracts, with Quaker City Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 129759 (Sub-No. 20), filed September 6, 1977. Applicant: TRIANGLE TRUCKING CO., a corporation, P.O. Box 490, McKees Rocks, Pa. 15136. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Such commodities as are dealt in by a manufacturer of pipe and conduit, insulated or plain, fittings and attachments therefor, plastic materials, and materials, equipment and supplies used in the conduct of such business* (except commodities in bulk, in tank vehicles). Between the plant and warehouse of North Star Fabricating, Division of TPCO, Inc., Subsidiary of Triangle Industries, Inc., located at or near Lake Bluff, Ill., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with North Star Fabricating, Division of TPCO, Subsidiary of Triangle Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 133099 (Sub-No. 5), filed September 2, 1977. Applicant: THE GLASGOW & DAVIS COMPANY, a corporation, Box 1717, South Division St., Salisbury, Md. 21801. Applicant's representative: Daniel B. Johnson, 4304 East-West Highway, Washington, D.C. 20014. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Detroit, Mich., to points in Maryland, Delaware and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 134755 (Sub-No. 111), filed August 16, 1977. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, Mo. 65804. Applicant's representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* (except frozen and except in bulk), from the plantsite of the Joan of Arc facilities at Belledeau and St. Francisville, La., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 138398 (Sub-No. 2) and other subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed nec-

essary, applicant requests it be held at either Kansas City, Mo. or Chicago, Ill.

No. MC 134922 (Sub-No. 235), filed August 29, 1977. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Polyurethane, polyurethane foam, synthetic fibers and compounds* (except in bulk), between Lynchburg, Miss., on the one hand, and on the other, points in the United States in and west of Idaho, Utah and Arizona (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Memphis, Tenn., or Washington, D.C.

No. MC 134922 (Sub-No. 236), filed August 29, 1977. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities as are manufactured or distributed by manufacturers or distributors of tile, and materials and supplies used in the manufacture of tile* (except commodities in bulk and those which because of size or weight require the use of special equipment), between Lansdale and Quakertown, Pa., and Olean, N.Y., on the one hand, and, on the other, points in Kentucky, Tennessee, Mississippi, Alabama, Georgia, Florida, South Carolina, Ohio, Louisiana, Arkansas, Missouri, Illinois, Indiana, Michigan, Wisconsin, Iowa, and Oklahoma.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 134922 (Sub-No. 237), filed August 29, 1977. Applicant: B. J. MCADAMS, INC., Route 6, Box 15, North Little Rock, Ark. 72118. Applicant's representative: Bob McAdams (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment and parts*, as defined by the Commission in Descriptions in Motor Carrier Certificates 61 M.C.C. 283, and materials used in the manufacture thereof (except commodities in bulk and those requiring special equipment), between Princeton, Ky., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Louisville, Ky., or Little Rock, Ark.

No. MC 135014 (Sub-No. 2), filed September 6, 1977. Applicant: SPEADMARK, INC., 360 West 31st Street, New York, N.Y. 10001. Applicant's representative: Morton E. Klei, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract*

carrier, by motor vehicle, over irregular routes, transporting: (1) *Wearing apparel*, from the terminal site of Spedmark, Inc., at New York, N.Y., to the stores of Abraham and Straus at points in Westchester County, N.Y. and Monmouth County, N.J.; (2) returned shipments of wearing apparel, from the stores of Abraham and Straus at the above described destination points to the terminal site of Spedmark, Inc. at New York, N.Y., under a continuing contract, or contracts, with Abraham and Straus.

NOTE.—If hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 135725 (Sub-No. 18), filed September 6, 1977. Applicant: FRY TRUCKING, INC., 507 West 5th Street, Wilton, Iowa 52778. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Ottumwa, Iowa 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed ingredients*, (1) from points in Texas and Maryland, to points in Illinois, Iowa, Minnesota, and Wisconsin; (2) from Midland, Mich., to points in Iowa and Rock Island, Ill.; and (3) from Milwaukee, Wis., to Rock Island, Ill., and points in Iowa and Missouri.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Chicago, Ill., or Des Moines, Iowa.

No. MC 135797 (Sub-No. 82), filed August 25, 1977. Applicant: J. B. HUNT TRANSPORT, INC., Post Office Box 200, Lowell, Ark. 72745. Applicant's representative: Paul A. Maestri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry medicinal health products* (except in bulk), from Norwich, N.Y., to Ashland, Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 136123 (Sub-No. 1), filed September 1, 1977. Applicant: MEAT DISPATCH, INC., 2103 17th St., East, Palmetto, Fla. 33561. Applicant's representative: S. Michael Richards, P.O. Box 225, 44 North Ave., Webster, N.Y. 14580. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *paper and paper products*, from Texarkana, Ark., and Port Edwards, Wisconsin Rapids, Brockaw, and Green Bay, Wis., to Rochester, N.Y.

NOTE.—Applicant holds motor contract carrier authority in No. MC 128555 (Sub-No. 1) and other subs, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Buffalo, Rochester or Syracuse, NY.

No. MC 136182 (Sub-No. 5), filed August 15, 1977. Applicant: B. & C. MOTOR FREIGHT, INC., P.O. Box 166, 350 Holland Avenue, Peru, Ind. 46790. Applicant's representative: Walter F. Jones, Jr., 601 Chamber of Commerce Building,

Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier* over irregular routes, transporting: *Dry and mixed fertilizer*, in bulk or in bags, from the plant sites of Kaiser Agricultural Chemicals at or near Peru and Butler, Ind., to points in Ohio.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Indianapolis, Ind., or Washington, D.C.

No. MC 136316 (Sub-No. 2), filed August 30, 1977. Applicant: JOHN W. SMITH, doing business as JOHN W. SMITH TRUCKING CO., R-4, Lancaster, S.C. 29720. Applicant's representative: Winston J. Smith (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) Iron and steel articles from Lancaster, S.C., to points in the United States on and west of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundaries of Itasca and Koochiching Counties, Minn., to the International Boundary line between the United States and Canada (except Alaska, Hawaii, Louisiana, and Texas); and (2) returned, rejected, and damaged articles described in its junction with the western boundaries in (1) above, on return, under a continuing contract, or contracts, with Lehigh-Lancaster, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Charlotte, N.C., or Columbia, S.C.

No. MC 136605 (Sub-No. 30), filed August 24, 1977. Applicant: DAVIS BROS. DIST., INC., P.O. Box 8058, Missoula, Mont. 59807. Applicant's representative: W. E. Seliski (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle over irregular routes, transporting: *Aluminum sulfate* (except in bulk, in tank vehicles) from the port of entry on the International Boundary line between the United States and Canada located at or near Sweetgrass, Montana, to points in Montana, Wyoming and North Dakota. Restricted to commodities originating in Alberta, Canada.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 138104 (Sub-No. 48), filed September 2, 1977. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove St., Fort Worth, Tex., 76106. Applicant's representative: Bernard H. English, 6270 Firth Rd., Fort Worth, Tex. 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trailers, semi-trailers, and trailer chassis* (other than those designed to be drawn by passenger automobiles) in initial movements, in driveway service, from the plantsite of Boyd Tank Trailers, Inc., located at or near Boyd, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fort Worth or Dallas, Tex.

No. MC 138313 (Sub-No. 27), filed September 2, 1977. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street SW., Great Falls, Mont. 59404. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animals and poultry feeds and animal and poultry feed ingredients*. From Culbertson, Montana to points in California, Colorado, Idaho, Oregon, North Dakota, South Dakota, Utah, Washington and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Billings, Montana or Washington, D.C.

No. MC 138413 (Sub-No. 8), filed September 6, 1977. Applicant: JOHN TOWNROW, d.b.a. JOHN TOWNROW TRUCKING, 4290 Elton St., Baldwin Park, Calif. 91706. Applicant's representative: K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: 1. *Scrap Plastic*, from points in the United States on and east of Highway 85, to Valencia, Calif.; 2. *Plastic sheeting*, from Newcomertown, Ohio, to Valencia, Calif.; 3. *Plastic granules*, from Farmingdale, Long Island, N.Y.; Paterson, N.J.; and Kingsport, Tenn., to Valencia, Calif.; 4. *Paper*, from Brownsville, N.Y., to Valencia, Calif.; and 5. *Plastic sheeting*, from Valencia, Calif., to points in the United States on and east of Highway 85, under a continuing contract or contracts with Lustrro Plastics Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif.

No. MC 138562 (Sub-No. 1), filed September 2, 1977. Applicant: CATES TRUCKING, INC., P.O. Box 518, Swayzee, Ind. 46986. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Canned goods*, from Milroy, Hartford City, Upland, Elwood, Port Isabel, and Swayzee, Ind., to points in North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Illinois, Wisconsin, Michigan, Kentucky, Tennessee, Alabama, Florida, Georgia, South Carolina, North Carolina, Virginia, West Virginia, Ohio, Pennsylvania, New York, Delaware, Maryland, New Jersey, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, and Rhode Island; and (2) *materials, equipment and supplies*, used in the manufacture of canned goods, from North Dakota, South Dakota, Nebraska, Kansas, Ohio, Texas, Minnesota, Iowa, Missouri, Arkansas, Louisiana, Mississippi, Illinois, Wisconsin, Michigan, Kentucky, Tennessee, Alabama, Florida, Georgia, South Carolina,

NOTICES

North Carolina, Virginia, West Virginia, Oklahoma, Pennsylvania, New York, Delaware, Maryland, New Jersey, Connecticut, Massachusetts, Vermont, New Hampshire, Maine, and Rhode Island, to Hartford City, Upland, Elwood, Swayzee and Port Isabel, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 139495 (Sub-No. 266), filed September 6, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, Md. 20910. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by discount and variety stores from Savannah, Ga. to points in Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Wisconsin.*

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 140612 (Sub-No. 31), filed September 6, 1977. Applicant: ROBERT F. KAZIMOUR, P.O. Box 2207, Cedar Rapids, Iowa 52406. Applicant's representative: A. J. Swanson, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Household, commercial, and institutional kitchen and laundry equipment, fixtures, appliances, and parts; electrical appliances, equipment and parts; and tools and hardware, (except commodities in bulk and commodities which, because of size or weight, require the use of special equipment).* From the facilities of the McGraw-Edison Company located at or near Chattanooga, Tennessee; Ripon, Wisconsin; Searcy, Arkansas; and Columbia and St. Louis, Missouri, to points in the United States in and west of Louisiana, Arkansas, Missouri, Illinois, and Wisconsin (except Alaska and Hawaii). Restriction: Restricted to the transportation of traffic originating at the named facilities and destined to points in the described destination area.

NOTE.—Applicant holds contract carrier authority in No. MC 138003 and subs thereunder, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at either Lincoln, Nebr., or Columbia, Mo.

No. MC 140615 (Sub-No. 20) filed August 15, 1977. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, Wis. 54494. Applicant's representative: Dennis C. Brown (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wire Goods, Metal, from Hanover and York, Pa. to Rice Lake, Wis.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Madison or Wausau, Wis.

No. MC 140768 (Sub-No. 7) filed September 1, 1977. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Applicant's representative: Eugene M. Malkin, Suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Paperboard (1) from Augusta and St. Mary's, Ga. and Demopolis, Ala. to Downingtown, Pa., and (2) from Amsterdam, N.Y., Holyoke, Mass. and Downingtown, Pa. to Richmond and Chester, Va. and Marietta, Ga., and (3) from Downingtown, Pa. to points in New York, and New Jersey, restricted against transportation to or from the premises of any person who has entered into a contract with American Trans-Freight, Inc. and/or any person who is served by it pursuant to any permit issued by the Interstate Commerce Commission.*

NOTE.—Applicant holds motor contract authority in MC 134404 and subs thereunder and, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y. or Washington, D.C.

MC 141532 (Sub-No. 13), filed September 1, 1977. Applicant: PACIFIC STATES TRANSPORT, INC., 35433 16th Avenue South, Federal Way, Wash. 98002. Applicant's representative: Michael J. Norton, P.O. Box 2135, Salt Lake City, Utah 84110. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Pipe and pipe fittings, couplings, connections and accessories (except iron or steel and commodities which because of size and weight require the use of special equipment), from the plant or warehouse facilities of Armco Steel Corporation in Madera County, Calif. to points in Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington and Wyoming. Restricted to traffic originating at the above plants or warehouse sites and destined to points shown above, and further restricted against the transportation of oilfield commodities as defined in Mercer, Extension, 74 M.C.C. 459.*

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in either San Francisco, Calif. or Los Angeles, Calif. on a consolidated basis with other related applications.

No. MC 141804 (Sub-No. 76), filed September 1, 1977. Applicant: WESTERN EXPRESS, division of INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Electrical; musical; sending, receiving and recording equipment; parts, supplies, and articles used in the manufacture and distribution thereof (except commodities in bulk and because of size or weight require special*

handling or equipment), from points in Los Angeles and Orange Counties, Calif., to the facilities utilized by Arvin Industries Inc., located at or near Princeton, Ky.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Cincinnati, Ohio or Louisville, Ky. Common control may be involved.

No. MC 141806 (Sub-No. 2), filed August 29, 1977. Applicant: Charles Kraft and Anthony Valvo, a partnership, d.b.a. VEE-KAY CARTAGE COMPANY, 2167 North Melvina Ave., Chicago, Ill. 60639. Applicant's representative: Philip A. Lee, 120 W. Madison, Chicago, Ill. 60602. Authority sought to operate as a contract carrier by motor vehicle over irregular routes transporting: *Molten metal, in fire brick lined tank vehicles, built especially for transportation of molten metals, from Chicago, Ill., to Madison, Sheboygan, Milwaukee, Fond-du-lac and Grafton, Wisconsin, under a continuing contract or contracts with Apex International Alloys.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 141914 (Sub-No. 14) (Correction), filed August 2, 1977, published in the FEDERAL REGISTER issue of September 8, 1977, and republished as corrected this issue. Applicant: FRANKS & SON, INC., Box 108-A, Big Cabin, Okla. 74332. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought by applicant to operate as a common carrier, by motor vehicle, in interstate and foreign commerce, over irregular routes, transporting: *Rubber piping, tubing and hose, including rubber hose, reinforced with fabric or steel, from the port of entry on the International Boundary Line between the United States and Canada, located at or near Stanhope, Quebec, Canada, to points in the United States (except Alaska and Hawaii), restricted to the transportation of traffic originating at the plant site of and facilities of IVG Rubber Canada Ltd., located at or near St. Alphonse de Granby, Quebec, Canada.*

NOTE.—The purpose of this republication is to indicate the port of entry as being located at or near Stanhope, Quebec, Canada, in lieu of at or near Stanhope, Vt. If a hearing is deemed necessary, it is requested that it be held at Tulsa, Okla.

No. MC 141925 (Sub-No. 2), filed August 25, 1977. Applicant: KOHN BEVERAGE, INC., d.b.a. KOHN TRANSPORT, 4850 Southway, SW., Canton, Ohio 44706. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Malt beverages (except in bulk) from Detroit, Michigan to Sharon, Pennsylvania and East Liverpool, Mingo Junction, and Youngstown, Ohio; restricted to service performed under continuing contract or contracts with The Bellas Co., d.b.a. Iron City Distributing*

Company; Kohn, Incorporated; and Shenango Beverage Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

Docket No. MC 142516 (Sub-No. 2), filed September 2, 1977. Applicant: ACE TRUCKING CO., INC., 1 Hackensack Ave., South Kearny, N.J. 07032. Applicant's representative: George A. Olsen, 69 Tonnele Ave., Jersey City, N.J. 07306. Authority sought to operate as a contract carrier, over irregular routes, transporting: (1) *Chemicals, softeners, paints and paint products, petroleum products, plasticizers, mercuric acetate and mercuric oleate, resins, oils, compounds; and (2) Materials, equipment and supplies, used in the manufacturing and sale of the foregoing commodities (except commodities in bulk), between New Brunswick, N.J., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under a continuing contract or contracts with Interstab Chemicals, Inc., at New Brunswick, N.J.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 142784 (Sub-No. 1), filed September 6, 1977. Applicant: RICHARD H. GRAVES, Box 223, Center Conway, N.H. 03813. Applicant's representative: Richard H. Graves (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Rough lumber, cut stock and rough glued panels, from points in Vermont, New Hampshire and Maine, to Honesdale, Pennsylvania, and Walton and Deposit, New York, under a continuing contract or contracts with S. J. Bailey & Sons, Inc., located at Clarks Summit, Pa.*

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Concord, New Hampshire or Portland, Me.

No. MC 142924 (Sub-No. 1), filed August 29, 1977. Applicant: Kenneth D. Stewart, d.b.a. STEWART'S CONTRACT SERVICE, Box 161, Kanona, N.Y. 14856. Applicant's representative: Roy D. Pinsky, 345 South Warren St., Syracuse, N.Y. 13202. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *New tires and tire tubes, from the plant and warehouse of Mowhawk Rubber Company, located at Memphis, Tenn., to points in New York (except New York, N.Y., and points in Nassau and Suffolk Counties) and points in Pennsylvania on and north of Interstate Highway 80, under a continuing contract or contracts with Mowhawk Rubber Company of Columbus, Ohio.*

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Syracuse, N.Y. or Washington, D.C.

No. MC 143047 Sub-No. 3, filed September 2, 1977. Applicant: C. W. Mitchell, Inc., d.b.a. MITCHELL TRANSPORT, 4401 North Westshore Blvd., Tampa, Fla. 33684. Applicant's representative: Rudy Yessin, 314 Wil-

kinson St., Frankfort, Ky. 40601. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Meats and meat products, packaged; From points in Kentucky, Indiana, Illinois, Wisconsin, Minnesota, Kansas, Oklahoma, Michigan, Georgia, Alabama and Mississippi to points in Florida, under a continuing contract, or contracts, with Peninsular Meat Co., Inc.*

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at Tampa or Miami, Fla.

No. MC 143077 (Sub-No. 1), filed August 30, 1977. Applicant: Gerard S. Reder, d.b.a. BERKSHIRE ARMORED CAR SERVICE, 343 Pecks Rd., Pittsfield, Mass. 02191. Applicant's representative: Morris J. Levin, 1620 Eye Street, NW., Washington, D.C. 20006. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Coin, currency, legal tender, monies, negotiable and non-negotiable instruments, securities, stamps, documents used in banking, and other valuable articles, in armored cars escorted by armed guards, between points in Massachusetts, New Hampshire and Vermont, under a continuing contract or contracts with banks, financial institutions, manufacturers and dealers of articles of unusual value.*

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at Boston, Mass.

No. MC 143436 (Sub-No. 4), filed September 2, 1977. Applicant: CONTROLLED TEMPERATURE TRANSIT, INC., 9049 Stonegate Rd., Indianapolis, Ind. 46227. Applicant's representative: Stephen M. Gentry, 1500 Main St., Speedway, Ind. 46224. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: 1. *Candy and confectionary items, in vehicles equipped with mechanical refrigeration; and 2. Paper materials and supplies, used by vending machine distributors when moving in mixed shipments with commodities named in one (1) above, from the warehouse facilities utilized by Consolidated Products Systems, Inc., located at or near Indianapolis, Ind., to points in Illinois, Kentucky, Michigan and Ohio.*

NOTE.—If a hearing is deemed necessary, the applicant requests it to be held at Indianapolis, Ind. or Chicago, Ill.

No. MC 143441 (Sub-No. 2), filed August 29, 1977. Applicant: AARDEMA CARTAGE, INC., P.O. Box 576, Midlothian, 60445. Applicant's representative: Philip A. Lee, 120 W. Madison, Chicago, Ill. 60602. Authority sought to operate as a common carrier by motor vehicle over irregular routes transporting: *Scrap splits, a material between hides and leather, (1) from Chicago, Ill., to Milwaukee, Wis., and (2) from Fond du lac, Milwaukee, Sheboygan, Wisconsin, and Redwing, Minn., to Chicago, Ill.*

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 143581 (Sub-No. 2), filed September 2, 1977. Applicant: R. E. ELLIS DRAYING CO., INC., 201 Alabama St., San Francisco, Calif. 94103. Applicant's representative: Daniel W. Baker, 100 Pine St., San Francisco, Calif. 94111. Authority sought to operate as a contract carrier by motor vehicle, over irregular routes for the transportation of: (1) *Such commodities as are dealt in by a packer manufacturer of foods and foodstuffs, and in connection therewith, equipment, materials and supplies used in conduct of such a business (except commodities in bulk), and (2) Commodities which are otherwise exempt from economic regulation under Section 203 (b) (6) of the Interstate Commerce Act, when moving in mixed loads with the commodities specified in (1) above (a) from San Francisco and Oakland, Calif., to the plantsite of Spice Islands at Sparks, Nev.; and (b) from the plantsite of Spice Islands at Sparks, Nev., to points in San Francisco, Marin, Sonoma, Napa, Solano, Contra Costa, Alameda, Santa Clara, San Mateo, Santa Cruz, Yolo, Sacramento, San Joaquin and Stanislaus Counties, Calif., under a continuing contract or contracts with Spice Islands, a Division of Specialty Brands, Inc.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at San Francisco, Calif.

No. MC 143646 filed August 25, 1977. Applicant: KEITH BOTKINS TRUCKING, INC., 112 West Rollins Street, Moberly, Mo. 65270. Applicant's representative: Thomas P. Rose, P.O. Box 205, Jefferson City, Mo. 65101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (a) *Coal, in bulk, in dump vehicles, from points in Audrain, Boone, Chariton, Howard, Macon and Randolph Counties, Mo. to points in Iowa, Illinois and Missouri, and (b) Fly Ash, in bulk in dump vehicles, from Randolph County, Mo. to points in Iowa, Illinois and Kansas.*

NOTE.—Applicant is in the process of acquiring contract carrier authority under Permit No. MC 142358 (Sub No. 3) and therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held in Moberly or Jefferson City, Missouri.

No. MC 143653, filed August 29, 1977. Applicant: NORMAN B. GEIB, d/b/a WHITE OAK VALLEY FARM, RD No. 5, Box 111, Mannheim, Pa. 17545. Applicant's representative: William H. Fitzgerald, 740 Hamilton Mall, Allentown, Pa. 18101. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Salt in bags, unpalletized from White Marsh, Md., to the feed plant of Agway, Inc. located at Mannheim, Lancaster County, Pa.; (2) minerals and dicalcium phosphate (feed grade), animal and poultry feed ingredients, in bags from Baltimore, Md., and East Aurora, N.Y. to the feed plant of Agway, Inc. located at Mannheim, Lancaster County, Pa., under a continu-*

ing contract or contracts in (1 and 2 above) with Agway, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Harrisburg, Pennsylvania or Washington, D.C.

No. MC 143665, filed August 30, 1977. Applicant: G. M. BURNS, d.b.a. G. M. BURNS WRECKER SERVICE, 6169 Edwards Street, Doraville, Ga. 30340. Applicant's representative: Ariel V. Conlin, 53 Sixth St. NE., Atlanta, Ga. 30308. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Wrecked, disabled or repossessed motor vehicles and trailers and replacements therefor, requiring the use of wrecker equipment*, between points in Georgia, on the one hand, and, on the other, points Alabama, Florida, Louisiana, Kentucky, Mississippi, North Carolina, South Carolina, Ohio, Tennessee, Texas, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Atlanta, Ga.

No. MC 143666, filed September 1, 1977. Applicant: BOB ZWEEGMAN, doing business as BZ ENTERPRISES, 184 E. Pole Rd., Lynden, Wash. 98264. Applicant's representative: Henry C. Winters, 235 Evergreen Building, 15 South Grady Way, Renton, Wash. 98055. Authority sought to operate as a contract carrier by motor vehicles over irregular routes transporting: (1) *Clay and brick*, between Everett, Wash., and the port of entry on the U.S.-Canada Boundary located at or near Sumas, Wash., on the one hand, and on the other, points in California, Idaho, Montana, Nevada, Oregon, Utah, and Washington; restricted to a transportation service to be performed under a continuing contract or contracts with Clayburn Industries, Ltd., of Abbotsford, B.C., and further restricted to the transportation of traffic originating at or destined to the plantsites and facilities of Clayburn Industries, Ltd., located at or near Everett, Wash., or Abbotsford, British Columbia, Canada; and (2) *rock and stone*, from points in California, Idaho, Montana, Nevada, Oregon, Utah, and Washington to the ports of entry on the United States-Canada Border at or near Blaine, Lynden, and Sumas, Wash., restricted to the transportation of traffic destined to plantsite or facilities of Quadra Stone Co., Ltd., in British Columbia, Canada; and further restricted to a transportation service to be performed under a continuing contract or contracts with Quadra Stone Co., Ltd., of British Columbia, Canada.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Seattle, or Bellingham, Wash.

No. MC 143672, filed September 2, 1977. Applicant: WILLIAM F. WOOD, d.b.a. FRANK WOOD MOVING CO., 3900 Engler Avenue, St. Louis, Mo. 63144. Applicant's representative: Joseph E. Rebman, 314 North Broadway, Suite 1330, St. Louis, Mo. 63102. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes,

transporting: *Engineering models; and equipment, materials, supplies and accessories used to complete or repair engineering models*, between the offices and shipping facilities of Monsanto Co., in the St. Louis, Mo.-East St. Louis, Ill., Commercial Zone, on the one hand and, on the other, Monsanto Co. locations, in the United States (except Alaska and Hawaii) under a continuing contract or contracts with Monsanto Company. If a hearing is deemed necessary, Applicant requests it be held at either St. Louis, Mo. or Washington, D.C.

No. MC 143683, filed September 6, 1977. Applicant: AMERICAN CONTRACT EXPRESS, INC., Route 1, Box 327, Sylacauga, Ala. 35150. Applicant's representative: Robert E. Tate, Post Office Box 517, Evergreen, Ala. 36401. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Textiles and textile products and equipment, materials and supplies*, used in, or in the operation of, textile mills between the plant sites and warehouses of Avondale Mills, at Sylacauga, Ala., on the one hand, and, on the other, points in Santa Rosa and Escambia Counties, Fla., under a continuing contract or contracts with Avondale Mills, at Sylacauga, Ala., restricted against the transportation of commodities in bulk, in tank vehicles.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at either Sylacauga, or Birmingham, Ala.

Docket No. MC 143711, filed: September 2, 1977, filed August 22, 1977. Applicant: MID-ATLANTIC TRANSPORTATION, INC., 379 Worcester Road, Framingham, Mass. 01701. Applicant's attorney: James E. Mahoney, 84 State Street, Boston, Mass. 02109. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Frozen citrus products*, from points in Florida, to Southboro and Westboro, Mass., under continuing contracts with Hendries Frozen Foods, Inc., and Winter Hill Frozen Foods, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, Mass. or Hartford, Conn.

PASSENGER

No. MC 143668, filed September 1, 1977. Applicant: LONG ISLAND AIRPORTS LIMOUSINE SERVICE CORP., 25 Newton Place, Hauppauge, N.Y. 11787. Applicant's representative: Arthur Wagner, 600 Madison Avenue, New York, N.Y. 10022. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, in the transportation of passengers and their baggage in the same vehicle in round trip, sightseeing and pleasure tours, in charter and special operations, beginning and ending at points in Nassau and Suffolk Counties, N.Y. and extending to points in the United States (including Alaska but excluding Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Hauppauge, N.Y.; Mineola, N.Y.; or New York, N.Y.

BROKER

No. MC 130456, filed October 3, 1977. Applicant: STANTRAN, INC., 9350 Wilshire Bl. No. 201, Beverly Hills, Calif. 90212. Applicant's representative: Veral Stanley Hackett, Jr. (same address as applicant). Authority sought to engage in operation, in interstate or foreign commerce, as a broker at Beverly Hills, Calif., to sell or offer to sell the transportation of general commodities (except household goods, Classes A and B explosives, and commodities in bulk), between points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant does not specify a location.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties, or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to Sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

MICHIGAN INTERSTATE RAILWAY CO., 425 Thirteenth Street NW., Suite 1212, Washington, D.C. 20004, represented by Mr. Charles W. Chapman, General Counsel, Michigan Interstate Railway Co., 425 Thirteenth Street NW., Suite 1212, Washington, D.C. 20004, hereby give notice that on the 26th day of September, 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the acquisition and operation of (a) a portion of the main line of the Ann Arbor Railroad System extending from Toledo, Ohio, to Ann Arbor, Mich., a distance of approximately 47.54 miles, and (b) a branch line of the Ann Arbor Railroad System known as the "Saline Branch" extending from East Pittsfield to Saline, Mich., a distance of approximately 5.6 miles, all in Washtenaw County, and intersecting the Toledo-Ann Arbor main line at Pittsfield, Mich., which application is assigned Finance Docket No. 28560.

The main line of railroad of the former Ann Arbor Railroad System proposed to be acquired and operated, extends from Toledo, Ohio (M.P. 0.00) in a northerly direction to Ann Arbor, Mich. (M.P. 47.54) in Lucas County in the State of Ohio and Monroe and Wash-

tenaw Counties, in the State of Michigan.

The "Saline Branch" of the former Ann Arbor Railroad System proposed to be acquired and operated extends from East Pittsfield (M.P. 0.80) in a westerly direction to Saline, Mich. (M.P. 6.40), intersecting the portion of the main line of the Ann Arbor Railroad System herein proposed to be acquired and operated at Pittsfield, Mich. (M.P. 50.50).

In the opinion of the applicant, Michigan Interstate Railway Co., the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.12) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

MICHIGAN INTERSTATE RAILWAY CO.

NOTICE

NORTH STRATFORD RAILROAD CORP., 126 Main Street, Littleton, N.H. 03561, represented by John M. A. Rolli, Esquire, North Stratford Railroad Corp., 126 Main Street, Littleton, N.H. 03561, hereby give notice that on the 9th day of September, 1977, it filed with the Interstate Commerce Commission at Washington, D.C., an application under Section 1(18) of the Interstate Commerce Act for an order approving and authorizing the operation of a line of railroad owned by the State of New Hampshire acting through its Department of Transportation (formerly through the New Hampshire Public Utilities Commission) upon a 23 mile segment of track formerly owned by the Maine Central Railroad Co. (abandonment docket No. AB-83) and subsequently purchased by the State of New Hampshire, between the Town of North Stratford, N.H., and the Town of Beecher Falls, Vt., along the Beecher Falls Branch, so-called, from its junction

with the Canadian National Railroad to its terminus at the Ethan Allen Furniture Co. more particularly described as from milepost 131.75 at North Stratford, N.H., to the end of the line at milepost 154.71 in Beecher Falls, Vt., at the Canadian Border a distance of 22.96 miles, which application is assigned Finance Docket No. 28553.

In the opinion of the applicant, North Stratford Railroad Corp., the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.12) in Ex Parte No. 55 (Sub-No. 4), Implementation—National Environmental Policy Act, 1969, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See Implementation—National Environmental Policy Act, 1969, supra at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue NW., Washington, D.C. 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

NORTH STRATFORD RAILROAD CORP.

No. MC-F-13276. (correction) (McCORMICK DRAY LINE, INC.—purchase (portion)—H. C. GABLER, INC.), published in the July 21, 1977, issue of the FEDERAL REGISTER, on page 37485. Previous notice should have read as follows: "Grass stop, in rolls, metal stove shovels, metal roofing and siding, and fabricated metal building products". . . .

No. MC-F-13280 (correction) (COURIER-NEWSOM EXPRESS, INC.—purchase (portion)—ASSOCIATED TRANSPORT, INC.), published in the July 28, 1977, issue of the FEDERAL REGISTER on page 38479. Previous notice excluded portions of the operating authority to be purchased which are: *General commodities*, except livestock, currency, coin, bank bills, deeds, drafts, valuable papers, postage or revenue stamps, or papers with such stamps affixed, precious metals or stones or articles manufactured therefrom, jewelry or other articles of extraordinary value, articles of great weight, bulk, or size, loose or bulk commodities, household goods as defined in Practices of Motor Common Carriers of

Household Goods, 17 M.C.C. 467, liquids in bulk, in tank trucks, and articles contaminating or injurious to other freight or equipment, Classes A and B explosives, between Knoxville, Tenn., and Asheville, N.C., serving all intermediate points, those within 10 miles of Knoxville, and off-route points in N.C., within 10 miles, from Knoxville over U.S. Highway 70 to Asheville, and return. After "Between Nashville, Tenn. and Knoxville, Tennessee" it should read "from Nashville over U.S. Highway 70 N to junction U.S. Highway 70S, thence over U.S. Highway 70 S to Crossville, thence over U.S. Highway 70 to Knoxville, and return over the same route." After "between Knoxville, Tenn. and Chattanooga, Tenn.", it should read "From Knoxville over U.S. Highway 129 to junction U.S. Highway 411, thence over U.S. Highway 411 to junction unnumbered highway, formerly Tennessee Highway 60, thence over unnumbered highway to Cleveland, and thence over U.S. Highway 11 to Chattanooga, and return over the same route." After "between Madisonville, Tenn. and Ducktown, Tenn.", it should read "From Madisonville over Tennessee Highway 68 to Ducktown, and return over the same route." After "between Benton, Tenn. and Copperhill, Tenn.", it should read "From Benton over unnumbered highway to Parksville, Tenn., thence over U.S. Highway 64 to Ducktown, Tenn., thence over Tennessee Highway 68 to Copper Hill, and return over the same route." "Serving the site of Melton Hill Inn of the Tennessee Valley Authority located southwest of Knoxville, Tenn. . . ." should have omitted the word "Inn.", and should have read as follows: "Serving the site of Melton Hill of the Tennessee Valley Authority located southwest of Knoxville, Tenn. . . ." After "between Nashville, Tenn. and Cumberland City, Tenn.", it should read "From Nashville over Tennessee Highway 12 to junction Tennessee Highway 49, thence over Tennessee Highway 49 to Erin, Tenn., thence over Tennessee Highway 149 to Cumberland City, and return over the same route."

No. MC-F 13295 (Correction) (Consolidated Freightways Corp. of Delaware—Purchase (Portion)—Eastern Express, Inc.), published in the August 18, 1977, issue of the FEDERAL REGISTER, on page 41723. Prior notice should have read as follows: "Serving all intermediate points and off-route points of Mayport and Seminole Beach" (2) "between Jacksonville and Atlantic Beach", and (3) "between Jacksonville and Miami, Fla., over U.S. Highway 1 and over Interstate Highway 10, U.S. Highway 301, and U.S. Highway 27 and over Interstate Highway 10, U.S. Highway 301, U.S. Highway 441, Sunshine State Parkway and access roads".

No. MC-F 13310. (Correction) (Ryder Truck Lines, Inc.—Control & Merger—Aito Trucking Company, Inc.), published in the September 29, 1977, issue of the FEDERAL REGISTER, on Pages 51719-51721.

Prior notice should have read as follows: (1) Page 51719, column 3, line 3 of the last paragraph, "Highway 39" should be "Highway 29". (2) Page 51720, column 3, line 7, after the word "Middlesex" should be "County Highway 1R6 to junction". On line 8 of the same page and column, after the words "New Jersey Highway 27" should be "thence over New Jersey Highway 1R6 to junction New Jersey Highway 27 thence over New Jersey Highway 27 to junction New Jersey Highway S28, . . .". (3) Page 51720, column 3, next paragraph, line 18, after the words "thence over", should be "Champlain Road to junction U.S.". On line 19 of the same paragraph, after the words "Highway 206" should be "thence over U.S. Highway 206", and it should read as follows: ". . . thence over Champlain Road to junction U.S. Highway 206 thence over U.S. Highway 206 to junction Somerset County Highway 3, . . .".

No. MC-F 13317. Authority sought for purchase by HOGLAND TRANSFER CO., 3221 Paine Street, Everett, Wash. 98201, of the operating rights and property of Arthur G. Thompson (deceased) and Chester D. Thompson, d.b.a. Thompson Brothers, 401 Union, Arlington, Wash. 98223, and for acquisition by Chester D. Thompson and Sena Thompson (as surviving spouse), both of 401 Union, Arlington, Wash. 98223, of control of such rights through the transaction. Applicants' attorney: Boyd Hartman, Suite 210, Seattle Trust Bldg., 10655 N.E. 4th, Bellevue, Wash. 98004. Operating rights sought to be transferred: General commodities, with exceptions as a common carrier over regular routes between Everett, Wash., and Darrington, Wash., and the intermediate and off-route points of Hazel, Oso, Arlington, Marysville, and Andron Camp, Wash.; From Everett over U.S. Highway 99 to Rex's Corner, Wash. thence over unnumbered highway to Darrington, and return over the same route. Transferee presently holds authority under its certificate MC 40505 to transport general commodities with the usual exceptions between Everett and Wenatchee via Highway 2 with certain intermediate points restrictions and general commodities between Everett and Seattle and between Everett and three miles thereof. Transferee also holds special commodity authority for household goods, heavy machinery and parts, Contractors' Equipment and Supplies, Steel and Iron. Size and weight commodities between Snohomish County and points west of Highway 97 in Oregon. Heavy Machinery between Seattle and Everett and points in Snohomish and Skagit Counties and other nonaffected, limited authority. The two authorities will be joined at Everett for through service. Application has not been filed for temporary authority.

No. MC-F 13245. Application under Section 5(1) of the Interstate Commerce Act for approval of an agreement be-

tween common carriers for the pooling of traffic. Applicants: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025 (MC 42487) with nine (9) carriers, namely, CRITES TRANSFER, P.O. Box 1598, Cumberland, Md. 21502 (MC 20084), (B) DUNMYRE MOTOR EXPRESS, INC., P.O. Box 289, Chicora, Pa. 16025 (MC 98748 Sub-No. 1), (C) NELSON'S EXPRESS, INC., 675 Market Street, Millersburg, Pa. 17061 (MC 76449), (D) SHEARER'S EXPRESS, INC., Box 596, Oneonta, N.Y. 13820 (MC 92371), (E) EDW. H. SHOLLENBERGER SONS, INC., West Penn Street, Schuylkill Haven, Pa. 17972 (MC 111077), (F) STERNS TRANSPORT, INC., P.O. Box 397, Bradley Beach, N.J. 07720 (MC 109881), (G) VAN AUKEN EXPRESS, INC., Box 176, Greenville, N.Y. 12083 (MC 105843), (H) ROOT'S EXPRESS, INC., 11 Karlada Drive, Binghamton, N.J. 13902, and (I) STAAT'S EXPRESS, INC., 507 South Street, Rensselaer, N.Y. 12144 (MC 58944), seeks to enter into an agreement for the pooling of traffic consisting of general commodities and various specified commodities moving to and from points in (A) Maryland, point of interchange, Cumberland, Md., points in Accident, Allegany, Altamont, Barreville, Barton, Bittinger, Bloomington, Charlestown (Allegany Co.), Crellin, Danville, Dawson, Deer Park, Eckhart Mines, Flintstone, Friendsville, Frostburg, Gilpin, Gortner, Grantsville, Hutton, Jennings, Kitzmiller, Lonaconing, Luke, McCoole, McHenry, Midland, Moscow, Mountain Lake Park, Mount Savage, Oakland, Oldtown, Picardy, Pinto, Rawlings, Redhouse, Rush, Sang Run, Swanton, Westernport, (B) points in Pennsylvania, Bruin, Chicora, Emlenton, Karns City, North Washington, Parker, Petrolia, (C) points in Pennsylvania, Amity Hall, Dauphin, Duncannon, Greenmount, Hanoverdale, Hegins, Kinokora Heights, Millerstown, New Buffalo, Newport (Perry Co.), Perdix, Rockville, Newport (Perry Co.), Perdix, Rockville, Speersville, (D) points in New York, Cobleskill, Oneonta, Warnersville, West Oneonta, (E) points in Pennsylvania, Bunker Hill, Cressona, Cumbola, Lansford, Minersville, Mount Carbon, New Ringgold, Palo Alto, Port Carbon, Port Clinton, Pottsville, St. Claire, Summit Hill, Schuylkill Haven, (F) points in New Jersey, Allenhurst, Asbury Park, Atlantic Highlands, Avon (Avon by the Sea), Belmar, Belmar, Bergen Hill, Bradley Beach, Deal, Deal Beach, East Keansburg, Eatontown, Elberon, Fair Haven, Fairview, Fort Hancock, Fort Monmouth, Highlands, Interlaken, Keansburg, Leonardo, Little Silver, Loch Arbour, Locust, Long Branch, Middletown, Monmouth Beach, Navesink, Navesink Beach, Neptune City, New Monmouth, North Long Branch, Oakhurst, Oak Shade, Ocean, Ocean Grove, Oceanport, Port Monmouth, Red Bank, Rumson, Sea Bright, Shark River Manor, Shorecrest, South Belmar, Tiltons Corners, Wanamassa, West Allenhurst, West Belmar, West Keansburg, West Long Branch, (G) points in New York, Athens, Catskill,

Clarksville, Coeymans, Coxsackie, Lawersville, Leeds, (H) Points of Interchange Binghamton, N.Y., points in Berkshire, Glen Castle, Newark Valley, Richford, Slaterville Springs, Sidney, (I) points in New York, Brookview, Castleton-On-Hudson, Claverack, East Scho-dack, Hudson, Schodack, Schodack Center, Schodack Landing, and Stottville. CONSOLIDATED FREIGHTWAYS CORPORATION OF DELAWARE is authorized to operate as a common carrier in all the States in the United States (except Hawaii). Applicants' representatives: G. T. West, Vice President—Traffic, 175 Linfield Drive, Menlo Park, Calif. 94025, and Robert M. Bowden, Commerce Supervisor, P.O. Box 3062, Portland, Ore. 97208.

No. MC-F 13347. Authority sought for merger by VALLERIE'S TRANSPORTATION SERVICE, INC., P.O. Box 880, Connecticut Avenue, Norwalk, Conn. 06582, of the operating rights and properties of THE DARCEY TRANSPORTATION CO., P.O. Box 880, Connecticut Avenue, Norwalk, Conn. 06582, and for acquisition by John E. Albert E., and Raymond R. Vallerie, all of Norwalk, Conn. 06582, of control of such rights through the merger. Applicants' attorney: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Operating rights sought to be merged: General commodities with exceptions as a common carrier over regular routes between Bridgeport, Conn., and Boston, Mass., as follows: From Bridgeport over Connecticut Highway 65 to Shelton, thence over Connecticut Highway 8 to Waterbury, thence over Connecticut Highway 14 to Middletown, thence over Connecticut Highway 10 to Plainville, Conn., thence over U.S. Highway 6 to Hartford, Conn., thence over U.S. Highway 5 to Springfield, Mass. (also from Hartford over Alternate U.S. Highway 5 to West Springfield, Mass., thence across the Connecticut River to Springfield), thence over U.S. Highway 20 via Larnedville, Mass., to junction Massachusetts Highway 12, thence over Massachusetts Highway 12 to Worcester, Mass., and thence over Massachusetts Highway 9 to Boston; from Bridgeport to Larnedville as specified above thence over U.S. Highway 20 to Boston, and return over these routes to Bridgeport; between Hartford, Conn., and New Bedford, Mass.; between Providence, R.I., and New Bedford, Mass.; between Coventry, Conn., and Providence, R.I.; between Providence, R.I., and Boston, Mass.; between Hartford, Conn., and North Wilbraham, Mass.; between points and places in Connecticut as follows: From Waterbury over Connecticut Highway 8 to Torrington; from Waterbury over Connecticut Highway 70 to Cheshire, Conn., and thence over Connecticut Highway 10 to New Haven; from Shelton over Connecticut Highway 8 to Stratford, Conn., and thence over U.S. Highway 1 to Bridgeport; from Naugatuck over Connecticut Highway 63 to New Haven; from Putnam over Connecticut Highway 91 to North Windham and return over

these routes to the above-specified origin points. Service is authorized to and from all intermediate points on the above-specified routes; and the off-route points to Fairfield, Milford, Oakville, Bristol, Kensington, S. Glastonbury, Devon, Watertown, Forestville, Berlin, Wethersfield, Middletown, Westport, Middlebury, Meriden, New Britain, Glastonbury, Wallingford, West Haven, Branford, East Haven, and Rockville, Connecticut, Indian Orchard, Warren, Southbridge, West Dudley, Whitinsville, North Grafton, Southboro, Maynard, Needham, Newton Lower Falls, Hyde Park, Arlington, Revere, Lynn, Winchester, Chicopee, Ludlow, North Brookfield, Webster, Clinton, Hopedale, Grafton, Framingham, Natick, Dover, Newton, Newtonville, Medford, Everett, Melrose, Quincy, Westfield, Holyoke, Ware, Spencer, Dudley, Westboro, Milford, Hudson, Ashland, Wellesley, Belmont, Newton Upper Falls, Brookline, Readville, Malden, Chelsea, Wakefield, Braintree, Attleboro, Attleboro Falls, Fairhaven, Bridgewater, Brockton, and Middleboro, Massachusetts, and Central Falls, Woonsocket, Bristol, Warren, East Greenwich, Hillsboro, Cranston, Pawtucket, Newport, Apponaug, Valley Falls, and Phillipsdale, R.I. General commodities, with exceptions over irregular routes between points and places in Connecticut, on the one hand, and, on the other, points and places in Massachusetts and Rhode Island. Vendee is authorized to operate as a common carrier in Connecticut, Massachusetts, New Jersey, New York, and Rhode Island. Application has not been filed for temporary authority under section 210a(b).

NOTE.—Vallerie's Transportation Service, Inc., was granted control of The Darcey Transportation Co. in No. MC-F 9924, served June 3, 1968.

No. MC-F 13348. Authority sought for control by DELTA CALIFORNIA INDUSTRIES, 46th Floor, 600 Montgomery Street, San Francisco, Calif. 94111 of THUNDERBIRD SOUTHWEST CORP. and THUNDERBIRD FREIGHT LINES, INC., both of 1515 South 22d Avenue, Phoenix, Ariz., 85009, and for acquisition by Thomas R. Dwyer, also of 46th Floor, 600 Montgomery Street, San Francisco, Calif. 94111 and Peter G. Dwyer and Francis H. Dwyer, P.O. Box 81, Grimes, Calif. 95950 of control of the operating rights of Thunderbird Freight Lines, Inc., through the transaction. Applicants' attorneys: Russell R. Sage and John M. Ballenger, Suite 400, Overlook Building, 6121 Lincoln Road, Alexandria, Va. 22312. Operating rights sought to be controlled: (A) General Commodities, with exceptions, as a common carrier over regular routes (1) between points in the Los Angeles, Calif., Commercial Zone and the Los Angeles Harbor, Calif., Commercial Zone, as defined by the Commission, on the one hand, and, on the other, Phoenix, Ariz., serving no intermediate points; (2) between St. Johns, Ariz., and Sanders, Ariz., serving all intermediate points; (3) serving

the plant site of Southwest Forest Industries, Inc., approximately 15 miles west of Snowflake, Ariz., as an off route point; (4) between Phoenix, Ariz., and Holbrook, Ariz., serving intermediate points between Globe and Holbrook and off route points within five miles of route; (5) between Globe, Ariz., and San Carlos, Ariz., serving all intermediate points and all off route points within five miles of route; (6) between Pinedale, Ariz., and Fort Apache, Ariz., serving all intermediate points and all off route points within five miles of route; (7) between Holbrook, Ariz., and Eager, Ariz., serving all intermediate points and all off route points within five miles of route; (8) between Show Low, Ariz., and Springerville, Ariz., serving all intermediate points and all off route points within five miles of route; (9) between Concho, Ariz., and junction Arizona Highway 61 and U.S. Highway 60 near Pinon, Ariz., serving all intermediate points and all off route points within five miles of route; (10) between Phoenix, Ariz., and Tucson, Ariz., serving all intermediate points, and serving the junction of U.S. Highway 60 and 70 and Arizona Highway 87, and Arizona Highway 87 and Arizona Highways 84 and 93 for the purpose of joinder only, restricted to the transportation of shipments originating at or destined to a point in Arizona; (11) between junction Arizona Highways 87 and 93 (near Serape, Ariz.), and junction Arizona Highway 93 and 84 (at Casa Grande, Ariz.), serving all intermediate points, restricted to the transportation of shipments originating at or destined to a point in Arizona; and (12) between points in the Los Angeles, Calif., Commercial Zone and the Los Angeles Harbor, Calif., Commercial Zone, as defined by the Commission, and Indio, Calif., serving no intermediate points beyond the eastern boundary of the Los Angeles, Calif., Commercial Zone, and serving Indio for joinder only; (B) General commodities, with exceptions, as a common carrier over irregular routes between Phoenix, Ariz., and a defined territory surrounding Phoenix, Ariz., restricted to shipments transported to and from points outside Arizona; (C) livestock, emigrant movables, and household goods as defined by the Commission as a common carrier over irregular routes between specified Arizona points; and (D) coal, lumber, cement, groceries, bricks, fire clay, hardware, automobile parts and supplies, dry goods, hay, grain, cottonseed cakes, and fresh fruits and vegetables, as a common carrier over irregular routes from St. John, Ariz., to points within 75 miles thereof. Delta California Industries presently controls Delta Lines, Inc., which is authorized to operate as a common carrier in the States of Arizona, California, Nevada, Oregon, and Washington. Application has not been filed for temporary authority under section 210a(b).

No. MC-F 13351. Authority sought for purchase by WEMCO, INC. (non-carrier), 10111 Mercer, Dearborn, Mich.

48120, of the operating rights of WYANDOTTE TRUCKING CORP., 18550, Allen Road, Wyandotte, Mich. 48192, and for acquisition by Farris M. Elgee, 10111 Mercer, Dearborn, Mich. 48120, of control of such rights through the transaction. Applicants' attorney: Wilhelmina Boersma, 1600 First Federal Building, Detroit, Mich., 48226. Operating rights sought to be transferred: Dry Chemicals, in bulk, in tank, hopper, or dump vehicles as a common carrier over irregular routes from the plant sites of the Wyandotte Chemicals Corp., at Wyandotte, Mich., to points in Delaware, Indiana, Iowa, Kentucky, Maryland, Minnesota, New Jersey, New York, Ohio (except dry chemicals in dump trucks to points in Duanhoga, Geauga, Portage, and Lorain Counties, Ohio, and dry chemicals in dump trucks and soda ash to points in Ohio within 40 miles of Monroe, Mich.), Pennsylvania, Tennessee (except points in that part of Tennessee on and east of U.S. Highway 27), Virginia, West Virginia, Wisconsin, Missouri, and Illinois (except points in those parts of Missouri and Illinois within the St. Louis, Mo.—East St. Louis, Ill., Commercial Zone, as defined by the Commission), with no transportation for compensation on return, except as otherwise authorized, with restrictions. Wemco, Inc., holds no authority from this Commission. However, it is affiliated with Lime, Inc., which has certain authority as described in MC 107636, to transport lime and limestone products from Marblehead Lime Co. in River Rouge, Mich., to points in Indiana, Illinois, Iowa, Kentucky, Ohio, Missouri, New York, Pennsylvania, Wisconsin, and West Virginia, and Weiss Trucking Co., Inc. which has authority described in MC 94430 and Subs. Weiss Trucking Co., Inc., is generally involved in the carriage of cement between certain points in Michigan, Indiana, and Ohio, and petroleum products, feeds and seeds, lumber, livestock, household goods, and farm machinery and implements, between certain points in Indiana and Michigan. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13352. Application under Section 5(1) of the Interstate Commerce Act for approval of an agreement between common carriers for the pooling of traffic. Applicants: CONSOLIDATED FREIGHTWAYS CORP. OF DELAWARE, 175 Linfield Drive, Menlo Park, Calif. 94025 (MC 42487) with six (6) carriers, namely, (A) JACKSONVILLE-SPRINGFIELD TRANSPORTATION CO., 303 West Lafayette Avenue, Jacksonville, Ill. (MC 54497), (B) LIBERTY-MIDDLETOWN EXPRESS, INC., P.O. Box 630, Liberty, N.Y. 12754, (MC 99340), (C) PUTNAM TRANSFER & STORAGE CO., 1502 Woodlawn Avenue, Zanesville, Ohio 43701 (MC 57311), (D) SOUTHERN MARYLAND TRANSPORTATION CO., 2931 Whittington Avenue, Baltimore, Md. 21230, (MC 96818), (E) GEORGE RIMES TRUCKING CO., 404 Washington Street, Chardon, Ohio 44024

NOTICES

(MC 5914), and (F) ROBERT R. STALSBERG d.b.a. STALSBERG EXPRESS, 330 South Main, Deep River, Conn. 06417 (MC 30285), seeks to enter into an agreement for the pooling of traffic consisting of general commodities and various specified commodities moving to and from points in Illinois, interchange Point-Jacksonville, Ill., points in Detroit, Florence, Pittsfield, Riggston, and Winchester, Ill.; (B) points in Bloomingburg, Cooks Falls, Cuddebackville, Deposit, Ferndale, Fish's Eddy, Godeffroy, Hale Eddy, Hancock, Horton, Liberty, Livingston Manor, Monticello, Otisville, Parksville, Peakville, Pine Bush, Rock Hill, Roscoe, Windsor, and Wurtsboro, N.Y.; (C) points in Brighton, Cambridge, Centerburg, Central College, Condit, Galena, Granville, LaFayette, Leonardsburg, Lockbourne, Mount Liberty, New Albany, New California, South Charleston, South Vienna, South Zanesville, Summerford, Vanatta, Vienna, Warsaw, York Center, Zanesville, and Zanesville North, Ohio; (D) Abell, Accokeek, Allens Fresh, Appeal, Aquasco, Arnold, Baden, Barstow, Bay Ridge, Beachville, Bel Alton, Benedict, Best Gate, Bolivar, Brandywine, Bristol, Britton, Broomes Island, Bryans Road, Bryantown, Budds Creek, Bushwood, California, Callaway, Cape St. John, Cedar Point, Cedarville, Chaneyville, Chapels Point, Chaptico, Charlotte Hall, Cheltenham, Chesapeake Beach, Churchton, Clarks Landing, Clements, Clinton, Cobb Island, Compton, Cove Point, Cove Point Beach, Crofton, Croom, Maryland, Crownsville, Cuckhold Creek, Dares Beach, Davisonville, Deale, Dentsville, Doncaster, Dowell, Drayden, Drury, Duley, Dunkirk, Dynard, Eastport, Edgewater, Edgewater Beach, Faulner, Fort Washington, Friendship, Galesville, Gambrills, Glymont (Charles Co.), Gotts, Grayton, Great Mills, Hall, Harwood, Helen, Herald Harbor, Hermanville, High Point, Hollywood (St. Mary's Co.), Hughesville, Huntingtown, Hurry, Indianhead, Ironsides, Island Creek, Issue, Jones, LaPlata, Laurel Grove, Leonardtown, Lexington Park, Long Beach, Lothian, Loveville, Lower Marlboro, Lusby, McConchie, Maddox, Malcom, Marbury, Marlboro, Marshall Hall, Mason Springs, Mayo, Mechanicsville (St. Mary's Co.), Mitchellville, Morgantown, Morganza, Mount Victoria, Mutual, Nanjemoy, Naylor, Newburg, Newport, North Beach, Oakley, Oakville, Olivet, Oraville, Owings, Palmers, Park Hall, Parole, Parran, Patuxent River, Piney Point, Piscataway, Pisgah, Plum Point Beach, Point Lookout, Pomfret, Pomonkey, Popes Creek, Port Republic, Port Tobacco, Prince Frederick, Randle Cliff, Ridge, Risson, Riva, Riverdale, Riverside, River Springs, Rock Point, Rosaryville, St. George's Island, St. Inigoes, St. Leonard, St. Mary's City, Scotland, Seiby-on-the-Bay, Severna Park, Shady Side, Sherwood Forest, Silesia, Solomons, South River, Spring Hill, Sunderland, Tall Timbers, Tomkinsville, Town Creek, Traceys Landing, U.S. Naval Air Station, Upper Marlboro, Valley Lee, Wal-

dorf, Waterbury, Wayside, Waysons Corner, Welcome, West Beach, Westwood, White Plains, Wilcomico, and Woodland Beach, Md.; (E) points in Auburn, Auburn Corners, Banbridge, Chagrin Falls, Chagrin Falls Park, Chesterland, Concord, Fowlers Mill, Moreland Hills, Mulberry Corners, Novelty, Parkman, South Russell, and Welshfield, Ohio; (F) points in Center Groton, Coast Guard Academy, Conning Towers, East Haddam, East Lyme, Giants Neck, Groton, Groton Heights, Groton Long Point, Hadlyme, Harrisons, Jordon Village, Laysville, Lyme, Millstone, Millstone Beach, Moodus, Mystic, Naval Submarine Base, Navy Heights, New London, Niantic, Noank, Ocean Beach, Old Lyme, Old Mystic, Pine Grove, Pleasant Valley, Pleasure Beach (New London County), Poquonock Bridge, Reeds Gap, Ridge-wood Park, South Lyme, Still River, Submarine Base, Thames View, U.S. Coast Guard Inst., Waterford, and West Mystic, Conn. Consolidated Freightways Corp. of Delaware is authorized to operate as a common carrier in all the States in the United States (except Hawaii). Applicants' representatives: G. T. West, Vice President-Traffic, 175 Linfield Drive, Menlo Park, Calif. 94025, and Robert M. Bowden, Commerce Supervisor, P.O. Box 362, Portland, Oreg. 97208.

No. MC-F-13353. Authority sought for purchase by GREAT WESTERN TRUCKING CO., INC., Highway 103 East, P.O. Box 1384, Lufkin, Tex. 75901, of a portion of the operating rights of South Eastern Xpress, Inc., 2020 Sycamore School Road, P.O. Box 6985, Fort Worth, Tex. 76115, and for acquisition by Bennie W. Haskins, an individual, Highway 103 East, Lufkin, Tex. 75901, of control of such rights through the purchase. Applicant's representative: Mert Starnes, P.O. Box 2207, Austin, Tex. 78768. Operating rights sought to be transferred: That portion of Certificate MC 118130 which authorizes the transportation of *malt beverages, drinking containers, beverage coolers, chests, and coasters, and bait buckets, as a common carrier over irregular routes*, from Fort Worth, Tex., to points in Mississippi, Arkansas (except Texarkana), and Alabama, with no transportation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier in all states except Alaska and Hawaii. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13355. Authority sought for merger by B&L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055, with PRUNTY MOTOR EXPRESS, INC., 430 29th Street, Parkersburg, W. Va. 26101, and for acquisition by The Capitol Corp., 140 Everett Avenue, Newark, Ohio 43055, of control of such rights through the transaction. Applicant's attorney: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Operating rights sought to be merged: *General commodities*, with ex-

ceptions as a *common carrier over irregular routes between points in Wood County, W. Va., on the one hand, and, on the other, points in Pennsylvania, Ohio, Maryland, and the District of Columbia; between points in Wood County, W. Va., on the one hand, and, on the other, points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified; between points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth, on the one hand, and, on the other, points in Maryland, Pennsylvania, and the District of Columbia. Vendee is authorized to operate as a common carrier in all the States including the District of Columbia (excluding Alaska and Hawaii). Application has not been filed for temporary authority under section 210a(b).*

NOTE.—Both Transferee and Transferor are under common control by the Capitol Corp., which was granted by the Commission in MC-F-12857. MC 123255 (Sub-No. 124) is directly related matter.

No. MC-F-13357. Authority sought for control by METRO HAULING, INC., 20848, 77th Avenue South, Kent, Wash. 98031, of Hayes Truck Lines, Inc., of 1701 Bay Street, Tacoma, Wash. 98401 and for acquisition by Mike Chimenti, 32231 25th Ave. SW., Federal Way, Wash. 98003 and Nick Jewett, 23232, 15th Ave., Bothell, Wash. 98011, of control of such rights through the transaction. Applicant's attorney: Jack R. Davis, 1100 IBM Building, Seattle, Wash. 98101. Operating rights sought to be controlled: *General commodities*, with exceptions as a *common carrier over irregular routes from Tacoma, Wash., to points in Pierce, King, Snohomish, Lewis, Thurston, Mason, and Grays Harbor Counties, Wash., and between points within 3 miles of Tacoma including Tacoma. General commodities with exceptions over regular routes as a common carrier between Winlock, Washington, and Portland, Oreg. Articles which because of size or weight require the use of special equipment, building materials and chlorine between points in Pierce, King, Snohomish, Lewis, Thurston, Mason, and Grays Harbor Counties, Wash., and between such counties on the one hand, and, on the other, points in Oregon; insulating materials from plantsite of U.S. Gypsum at Tacoma, Wash., to points in Washington and specified counties in Montana and Idaho. Vendee is authorized to operate as a common carrier in Washington and Oregon. Application has been filed for temporary authority under Section 210a(b).*

No. MC-F-13361. Authority sought for purchase by BEYOND EXPRESS, INC., 20 Fairview Place, Freeport, N.Y. 11520, of the operating rights of Robert W. Slott, Assignee for the Benefit of Creditors of Suf-City Trucking, Inc., 1230 Avenue of the Americas, New York, N.Y. 10020, of control of such rights through the purchase. Applicant's attorney: William J. Augello, Augello & Pezold, P.C., 120 Main Street, P.O. Box Z, Huntington, N.Y. 11743. Operating rights sought to be transferred: Under a certificate of Registration in Docket No. MC 121703, covering the transportation of *General Commodities*, with exceptions as a *common carrier between New York, N.Y., on the one hand, and, on the other, points in Suffolk County, N.Y., restricted: (1) against the transportation of household goods, and (2) against the transportation of commodities having a prior or subsequent movement by air. Vendee is authorized to operate as a common carrier New York. Application has been filed for temporary authority under section 210a(b).*

NOTE.—MC 135129 (Sub-No. 2) is a directly related matter. There is also a application pending before the Commission to convert transferors' present authority.

No. MC-F-13364. Authority sought for purchase by EVERETTE TRUCK LINES, INC., P.O. Box 145, Cherry Road, Washington, N.C. 27889 of the operating rights of N.C. Coastal Motor Lines, Inc., P.O. Box 30578, Raleigh, N.C. 37612, and for acquisition by Woodrow Everette, also of Washington, N.C., of control of the rights through the purchase. Applicant's attorney: Harry J. Jordan, 1000 16th Street NW., Washington, D.C. 20036. Operating rights to be purchased: *General commodities*, with exceptions, as a *common carrier over irregular routes*, from New York, N.Y., Newark, Bloomfield, and Seward, N.J., Biglerville and Philadelphia, Pa., Wilmington, Del., Baltimore, Md., and Winchester and Richmond Va., to points in North Carolina on and east of U.S. 1, and irregular routes specified commodities as more fully described in Docket No. MC 42919 and Sub-Nos. 4, 7, 8, and 10 thereof. Vendee is authorized to operate, pursuant to Certificate No. MC 109638 and Sub-Nos. thereof in North Carolina, New York, New Jersey, Pennsylvania, Delaware, Maryland, and Virginia among other states. Approval of this application will, therefore, result in minor duplications of authority. Application has also been filed for temporary authority to lease vendor's authority under Section 210a(b).

OPERATING RIGHTS APPLICATION(S) DIRECTLY RELATED TO FINANCE PROCEEDINGS

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act.

NOTICES

An original and two copies of protests to the granting of the authorities must be filed with the Commission within 30 days after the date of this FEDERAL REGISTER notice. Such protests shall comply with Special Rules 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 108461 (Sub-No. 128), filed September 1, 1977. Applicant: WHITFIELD TRANSPORTATION, INC., 821 East Pasadena, P.O. Box 7676, Phoenix, Ariz. 85011. Applicant's representative: William S. Richards, 48 Post Office Place, P.O. Box 2465, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, as follows: (a) *Irregular routes: General commodities over irregular routes*, within the entire State of Idaho; (b) *regular routes: general commodities* (except household goods as defined by the Commission, commodities in bulk and those requiring special equipment). Between Saint Anthony and Caldwell, Idaho, as follows: From Saint Anthony, Idaho, over U.S. Highways 20 and 191 to the junction of U.S. Highway 91 and Interstate 15 to Idaho Falls, Idaho; thence over U.S. Highway 91 and Interstate 15 to the junction of U.S. Highway 30 and Interstate Highway 15W at Pocatello, Idaho; thence over U.S. Highway 30 and Interstate Highway 15W to the junction of U.S. Highway 30 and Interstate Highway 80; thence over U.S. Highway 80 to Caldwell, Idaho, and return over the same route, serving all intermediate points. (c) Applicant seeks to tack the general commodities irregular route authority sought herein with the authority applicant is acquiring in Docket Nos. MC-F-12312 and MC 108461 (Sub-No. 123) directly related at Pocatello, Idaho Falls, and Mackay, Idaho. The authority sought in Docket No. MC-F-12312 is irregular route for the transportation of general commodities, except household goods, petroleum products, and commodities in bulk, between Salt Lake City and Ogden, Utah, on the one hand, and Pocatello, Idaho Falls, and Mackay, Idaho, on the other hand. By tacking this authority to the applied for authority, applicant will be able to serve between points in California, Arizona, Texas, New Mexico, Salt Lake City and Ogden, Utah, and all points in the State of Idaho. Applicant states that it does not seek duplicating authority; that common control may be involved and that this is a matter directly related to a Section 5 proceeding in MC-F-13311 published in the FEDERAL REG-

ISTER issue of September 8, 1977. If a hearing is deemed necessary, applicant requests it be held at Salt Lake City, Utah, and Boise, Idaho.

No. MC 123255 (Sub-No. 124), filed September 20, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: John P. McMahon, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fertilizer between points in Michigan and points in that part of Indiana east of U.S. Highway 31, on the one hand, and, points in Wood County, W. Va., Maryland, Pennsylvania, and the District of Columbia and that part of Ohio on and south of U.S. Highway 22. (Gateways to be eliminated: Columbus, Ohio and Wood County, W. Va.). (2) Sugar between New York, N.Y., on the one hand, and, points in Wood County, W. Va. and points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and south of a line extending along Interstate Highway 71 to Cincinnati. (Gateways to be eliminated: Columbus, Ohio and Wood County, W. Va.). (3) Oleomargarine, salad dressing, lard substitutes, salad oils, cooking oils, vegetable stearine, cheese, and machinery and equipment used in the manufacture of these commodities between Charleston and Huntington, W. Va., on the one hand, and points in Maryland, Pennsylvania and the District of Columbia. (Gateways to be eliminated: Columbus, Ohio). (4) Canned goods from Washington Court House, Ohio, to points in Maryland, Pennsylvania and the District of Columbia. (Gateways to be eliminated: Wood County, W. Va.). (5) Canned goods, from points in Maryland, Pennsylvania, the District of Columbia and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, to points in West Virginia, except points in Wood County, W. Va., and those points in West Virginia within 10 miles of the Ohio-West Virginia State line and Kentucky. (Gateways to be eliminated: Wood County, W. Va. and Washington Court House, Ohio.)*

(6) *Washing powder*, in bulk, from from Trenton, Mich., to points in Wood County, W. Va. (Gateway to be eliminated: Columbus, Ohio). (7) *Malt beverages* from Sheboygan and La Crosse, Wis., to points in Wood County, W. Va., and points in Maryland, Pennsylvania and the District of Columbia. (Gateways to be eliminated: Points in the southeastern quarter of Ohio). (8) *Malt beverages and wines and empty containers*, therefore, between St. Louis, Mo., and points in Illinois, Indiana, New Jersey, New York, Pennsylvania, and Wisconsin on the one hand, and, points

in Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified. (Gateways to be eliminated: Cleveland, Ohio and Wood County, W. Va.) (9) *Malt beverages and wines, and empty containers*, therefor, between Maryland and the District of Columbia on the one hand, and, on the other, St. Louis, Mo., and points in Illinois, Indiana, and Wisconsin. (Gateways to be eliminated: Cleveland, Ohio and Wood County, W. Va.) (10) *Malt and phosphated beverages, wines, cordials, and alcoholic liquors, and empty containers* therefor between points in Massachusetts, on the one hand, and points on or west of U.S. Highway 15 in Pennsylvania and Maryland and points in Wood County, W. Va. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (11) *Wine*, in containers from Hammondsport, N.Y. to points in Wood County, W. Va., and points in Pennsylvania on and west of U.S. Highway 219. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (12) *Empty wine containers* from points in Wood County, W. Va. and points in Pennsylvania on and west of U.S. Highway 219 to Hammondsport, N.Y. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (13) *Malt beverages* from St. Louis, Mo., to points in Wood County, W. Va., and points in Maryland, Pennsylvania, the District of Columbia, and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and south of a line beginning at Columbus and extending along Interstate Highway 71 to Cincinnati, Ohio. (Gateways to be eliminated: Columbus, Ohio and Wood County, W. Va.) (14) *Malt beverages* from Milwaukee, Wis., to points in Wood County, W. Va., and points in Maryland and the District of Columbia. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (15) *Malt beverages* from Chicago and Maywood, Ill., to points in Wood County, W. Va., and points in Maryland and the District of Columbia. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (16) *Empty malt beverage containers* from points in Wood County, W. Va., and points in Maryland, Pennsylvania, the District of Columbia and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified to St. Louis, Mo. (Gateways to be eliminated: Columbus, Ohio and Wood County, W. Va.) (17)

Empty beverage containers and cases from points in Wood County, W. Va., and points in Maryland, Pennsylvania, and the District of Columbia to Milwaukee, Wis., and Chicago and Maywood, Ill. (Gateway to be eliminated: Columbus, Ohio.) (18) *Wine* from Chicago, Ill., to points in Wood County, W. Va. (Gateway to be eliminated: Lorain, Ohio.) (19) *Malt beverages in containers and related advertising matter* when moving herewith from points in Wood County, W. Va., to Kansas City, Kans., and points in Mo. (except St. Louis, Mo.). (Gateway to be eliminated: Cleveland, Ohio.) (20) *Advertising matter, and beer can and bottle openers, in mixed shipments with malt beverages* from Milwaukee, Wis., Chicago and Maywood, Ill., and St. Louis, Mo., to points in Wood County, W. Va. and points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (21) *Malt beverages in containers and related advertising material, and beer can and bottle openers* from Peoria, Ill., to points in Wood County, W. Va., and points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (22) *Malt beverages, related advertising material, and beer can and bottle openers* from Ft. Wayne, Ind., to points in Wood County, W. Va., and points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (23) *Foodstuffs and food preparations*, except canned goods and fresh meats, from Detroit, Mich. and points in that part of Michigan within 10 miles of Detroit to points in Maryland, the District of Columbia, and points in Wood County, W. Va., and points in Pennsylvania except Pittsburgh, Pa. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (24) *Cereals* from Battle Creek, Mich., to points in Wood County, W. Va., and points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (25) *Dog Food*, packed other than in hermetically sealed containers, from Battle Creek, Mich., to points in Wood County, W. Va., and points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (26) *Canned goods* from points in Indiana and those in the Lower Peninsula of Michigan to points in Wood County, W. Va., and points in Maryland, the District of Columbia, and Pennsylvania, except Pittsburgh, Pa. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (27) *Foodstuffs and articles sold in grocery stores* from Louisville, Ky.; and Chicago, Ill., to points in Wood County, W. Va., and points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (28) *Foodstuffs, and articles sold in grocery stores*, from St. Louis, Mo., and

East St. Louis, Ill., to points in Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified. (Gateways to be eliminated: Sharon, Pa. and Bridgeport, Ohio.) (29) *Foodstuffs, and articles sold in grocery stores* from St. Louis, Mo., and East St. Louis, Ill., to points in Maryland, the District of Columbia, and points in Pennsylvania (except Beaver, Charleroi, McKeesport, Monessen, New Castle, Pittsburgh, and Sharon, Pa.). (Gateways to be eliminated: Sharon, Pa., and points in the southeastern quarter of Ohio.) (30) *Feed*, from Decatur, Ind., to points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, and points in Maryland, the District of Columbia, and points in Wood County, W. Va. (Gateways to be eliminated: Lafayette and Belpre, Ohio and Wood County, W. Va.) (31) *Feed*, from points in Maryland, the District of Columbia, and points in Pennsylvania on and south of U.S. Highway 22 and points in Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, to points in Indiana within 60 miles of Muncie, Ind. (Gateways to be eliminated: Belpre and Cincinnati, Ohio and Wood County, W. Va.) (32) *Feed ingredients*, from points in Maryland, the District of Columbia, and points in Pennsylvania, on and south of U.S. Highway 22, and points in Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, to Portland, Ind. (Gateways to be eliminated: Belpre and Cincinnati, Ohio and Wood County, W. Va.) (33) *Seeds*, from points in Maryland, the District of Columbia, Pennsylvania, and points in Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions

of the highways specified, to Muncie, Ind., and points in Indiana within 60 miles of Muncie, Ind. (Gateways to be eliminated: Belpre and Cincinnati, Ohio and Wood County, W. Va.) (34) *Dog food*, from Chicago and Mokenca, Ill., to points in Maryland, Pennsylvania, the District of Columbia, Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified. (Gateways to be eliminated: Cincinnati and Belpre, Ohio and Wood County, W. Va.) (35) *Tankage, meat scraps, and bone meal*, from points in Maryland, Pennsylvania, the District of Columbia, Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, to Decatur, Ind. (Gateways to be eliminated: Wood County, W. Va. and points in the southeastern quarter of Ohio.) (36) *Paper and paper products*, from points in Maryland, Pennsylvania, the District of Columbia, points in Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points in the indicated portions of the highways specified, to Indianapolis, Ind. (Gateways to be eliminated: Chillicothe, Ohio and Wood County, W. Va.)

(37) *Paper and paper products*, from points in Maryland, Pa., the District of Columbia, points in Wood County, W. Va. and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, to Dunkirk, Ind. (Gateways to be eliminated: Columbus, Ohio and Wood County, W. Va.) (38) *Mineral Wool*, from Alexandria, Ind., to points in Wood County, W. Va., and points in Pennsylvania, Maryland, the District of Columbia, and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated

portions of the highways specified. (Gateways to be eliminated: Columbus, Ohio and Wood County, W. Va.) (39) *Asphalt products*, from points in Maryland, the District of Columbia, points in Pennsylvania on and south of U.S. Highway 22, points in Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, to Kokomo, Ind. (Gateways to be eliminated: Wood County, W. Va. and Lockland, Ohio and points in the southeastern quarter of Ohio.) (40) *Building, insulating, paving, and roofing materials, and gypsum products* from points in Maryland, the District of Columbia, points in Pennsylvania on and south of U.S. Highway 22, points in Wood County, W. Va., points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, to Muncie, Ind., and points in that part of Indiana within 60 miles of Muncie, Ind. (Gateways to be eliminated: Wood County, W. Va.; and Lockland, Ohio; and points in the southeastern quarter of Ohio.)

(41) *Tin cans*, from points in Maryland, District of Columbia, points in Pennsylvania on and south of U.S. Highway 22, and points in Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, to Red Key, Ind. (Gateways to be eliminated: Wood County, W. Va. and Hamilton, Ohio and points in the southeastern quarter of Ohio.) (42) *Playground equipment and supplies*, from Kokomo, Ind., to points in Wood County, W. Va., and points in Maryland, Pennsylvania, the District of Columbia, and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified. (Gateways to be eliminated: Wood County, W. Va., and Belpre, Ohio, and points in the Covington, Ky., commercial zone located in Ohio.) (43) *Machinery, used in canning or preserving food, and parts, for such machinery*, between

Swayzee, Ind., on the one hand, and, on the other, points in Wood County, W. Va., and points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (44) *Glass, glassware, caps, and other closures, paper and fiberboard boxes, rubber jar rings, zinc dry battery shells, stripped zinc, and such materials, supplies and equipment as are used in the manufacture, packing, and shipping of glass, glassware, closures, paper and fiberboard boxes, rubber jar rings, zinc dry battery shells and stripped zinc*, between points in Indiana, (except Gas city, Ind.), Illinois, Ohio, those in the Lower Peninsula of Michigan, those in that part of Iowa within 10 miles of the Iowa-Illinois State line, those in that part of Missouri within 10 miles of the Missouri-Illinois State line, those in that part of Kentucky within 10 miles of the Kentucky-Illinois State line, the Kentucky-Indiana State line, and the Kentucky-Ohio State line, those in that part of West Virginia within 10 miles of the West Virginia-Ohio State line, on the one hand, and, on the other, points in Maryland, the District of Columbia, points in Wood County, W. Va., and points in Pennsylvania (except those in that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, and in Allegheny, Beaver, Butler, Lawrence, Mercer, and Washington Counties, Pa., and Jeannette, Schenley, and South Connellsville, Pa., and points within 10 miles of Jeannette, Schenley, and South Connellsville, Pennsylvania). Restriction: No shipments of the commodities authorized in the paragraph next above other than glass, glassware and closures shall be transported except those which originate or terminate at the site of a glass manufacturing plant. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (45) *Glass, glassware, caps, and other closures, paper and fiberboard boxes, rubber jar rings, zinc dry battery shells, stripped zinc, and such materials, supplies and equipment as are used in the manufacture, packing, and shipping of glass, glassware, closures, paper and fiberboard boxes, rubber jar rings, zinc dry battery shells and stripped zinc*, between points in that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, and in Allegheny, Beaver, Butler, Lawrence, Mercer, and Washington Counties, Pa., and Jeannette, Schenley, and South Connellsville, Pa. on the one hand, and, on the other, points in Maryland, and the District of Columbia. Restriction: No shipments of the commodities authorized in the paragraph next above other than glass, glassware and closures shall be transported except those which originate or terminate at the site of a glass manufacturing plant. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (46) *Rubber jar rings*, from points in Maryland, the District of Co-

lumbia, points in Pennsylvania on and south of U.S. Highway 22, and points in Wood County, W. Va., to points in Illinois, Indiana, Kentucky, the Lower Peninsula of Michigan, that part of Iowa within 10 miles of the Iowa-Illinois State line, that part of Missouri within 10 miles of the Missouri-Illinois State line, points in Marshall County, West Virginia, and that part of West Virginia within 10 miles of the West Virginia-Ohio State line. (Gateways to be eliminated: Wood County, W. Va. and Char-don, Ohio.) (47) *Salt*, from Cleveland and Fairport, Ohio, to points in Maryland, Pennsylvania and the District of Columbia. (Gateways to be eliminated: Wood County, W. Va.) (48) *Paper and paper articles*, as described in Appendix XI to the report in descriptions in Motor Carrier Certificates, 61 M.C.C. 209, from points in Maryland, Pennsylvania, the District of Columbia, and points in Ohio on and south of U.S. Highway 40, and points in Wood County, W. Va., to Detroit, Mich. (Gateways to be eliminated: Chillicothe, Ohio and Wood County, W. Va.) (49) *Materials used in the manufacture of paper*, from Detroit, Mich., to points in Maryland, Pennsylvania, the District of Columbia, and points in Ohio on and south of U.S. Highway 40, and points in Wood County, W. Va. (Gateways to be eliminated: Chillicothe, Ohio and Wood County, W. Va.)

(50) *Paper and paper products*, from points of Maryland, Pennsylvania, the District of Columbia, points in Ohio on and south of U.S. Highway 40, and points in Wood County, W. Va., to St. Louis, Mo., Louisville, Ky., and points in Indiana (except Indianapolis, Ind.), points in Illinois and those in the Lower Peninsula of Michigan, (except Detroit, Mich.). (Gateways to be eliminated: Chillicothe, Ohio and Wood County, W. Va.) (51) *Machinery, equipment, materials and supplies used in, or in connection with, in the manufacture of paper from St. Louis, Mo., Louisville, Ky., points in Indiana, (except Indianapolis, Ind.) points in Illinois, and those in the Lower Peninsula of Michigan, (except Detroit, Mich.) to points in Maryland, Pennsylvania, the District of Columbia, points in Ohio on and south of U.S. Highway 40, and points in Wood County, W. Va. (Gateway to be eliminated: Chillicothe, Ohio and Wood County, W. Va.) (52) *Corn products, inedible*, from Edinburg, Ind., to points in Maryland, the District of Columbia, points in Wood County, W. Va., and points in Pennsylvania (except those in that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, points in Allegheny, Beaver, Butler, Lawrence, Mercer and Washington Counties, Pa., and Jeannette, Schenley, and South Connellsville, Pa., and points within 10 miles thereof). (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (53) *Pickles*, from Croswell, Mich. to points in Maryland, the District of Columbia, points in that part of Ohio south of a line beginning*

at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, and points in Pennsylvania, (except Penn. Grove City, and Franklin, Pa.). (Gateways to be eliminated: Parkersburg, W. Va. and points in the southeastern quarter of Ohio.) (54) *Animal feed, packed*, other than in hermetically sealed containers, and *cereals*, from Battle Creek, Mich., and points within 15 miles of Battle Creek, Mich., to points in Maryland, the District of Columbia, and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, and points in Pennsylvania (except those in Allegheny, Beaver, Butler, Lawrence, Mercer and Washington Counties, Pa.), and to points within 10 miles of Jeannette, Greensburg, South Connellsville and Penn. Pa. (Gateway to be eliminated: Parkersburg, W. Va.)

(55) *Cereal food preparations and bakery goods*, from Fremont, Mich., to points in Maryland, the District of Columbia, points in Wood County, W. Va.; and points in Pennsylvania (except Pittsburgh, Pa.). (Gateways to be eliminated: Wood County, W. Va. and points in the southeastern quarter of Ohio.)

(56) *Equipment, materials and supplies* as are used or useful in the manufacture, packing, shipping and sale of cereal food preparations and bakery goods, from points in Maryland, Pennsylvania (except Pittsburgh), the District of Columbia; and points in Wood County, W. Va., to Fremont, Mich. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (57) *Empty tin containers*, from Elwood, Ind., to points in Maryland, Pennsylvania, the District of Columbia, points in Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified. (Gateways to be eliminated: Wood County, W. Va. and points in the southeastern quarter of Ohio.) (58) *Foodstuffs and food preparations*, except canned goods, from points in that part of Indiana on and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 224 to Peru, Ind., on and east of a line beginning at Peru and extending along U.S. Highway 31 to Columbus, Ind., and on and north of a line beginning at Columbus and extending along Indiana Highway 46 to the Indiana-Ohio State line, to points in Maryland, Pennsylvania,

the District of Columbia and points in Wood County, W. Va. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (59) *Foodstuffs and food preparations*, from points in that part of Illinois on and south of a line beginning at the Illinois-Indiana State line, and extending along U.S. Highway 6 to Peru, Ill., on and east of a line beginning at Peru, Ill., and extending along Illinois Highway 29 to Pekin, Ill., and on and north of a line beginning at Pekin, Ill., and extending along Illinois Highway 9 to the Illinois-Indiana State line, to points in Maryland, Pennsylvania, the District of Columbia, and points in Wood County, W. Va. (Gateway to be eliminated: Columbus, Ohio.) (60) *Foodstuffs and food preparations*, from points in those parts of Ohio on and west of U.S. Highway 21 south to U.S. Highway 22 to Zanesville, Ohio and thence along U.S. Highway 40 to Columbus and west of a line extending along U.S. Highway 23 from Columbus to Portsmouth, Ohio, to points in Maryland, Pennsylvania, and the District of Columbia. (Gateway to be eliminated: Parkersburg, W. Va.) (61) *Foodstuffs and food preparations*, from points in Maryland, Pennsylvania and the District of Columbia to points in Illinois, Indiana, the lower Peninsula of Michigan, St. Louis, Mo.; Louisville and Covington, Ky.; Davenport, Iowa; and those in West Virginia within 10 miles of the Ohio-West Virginia State line, and points in Ohio on and east of U.S. Highway 21 to junction U.S. Highways 21 and 50, and on and south of U.S. Highway 50 to the Indiana-Ohio State line. (Gateways to be eliminated: Wood County, W. Va. and Cambridge, Ohio.)

(62) *Foodstuffs and food preparations* (except commodities in bulk, in tank vehicles), from St. Louis, Mo., to points in Maryland, Pennsylvania, the District of Columbia, and Wood County, W. Va. (Gateway to be eliminated: Columbus, Ohio.) (63) *Such baby supplies* (except baby foods) as are sold or distributed by manufacturers of baby foods, from Fremont, Mich., to points in Maryland, the District of Columbia, and points in Wood County, W. Va., and points in Pennsylvania (except Pittsburgh, Pa.). (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (64) *Empty containers, sheet iron or steel, and parts thereof, and materials and supplies* used or useful in the manufacture, packing and shipping thereof, between points in Maryland, Pennsylvania, the District of Columbia, points in Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified, and points in that part of Indiana bounded by a line beginning at the Indiana-Ohio State line near Townley, Ind., and extending west along U.S. Highway 30 to junction U.S. Highway 35

near Hamlet, Ind., thence south along U.S. Highway 35 to Logansport, Ind., thence along Indiana Highway 29 to junction U.S. Highway 421, thence along U.S. Highway 421 to Indianapolis, Ind., thence along Indiana Highway 37 to Paoli, Ind., thence along U.S. Highway 150 to the Ohio River, and thence north along the Indiana-Kentucky and the Indiana-Ohio State lines to the point of beginning, including points on the indicated portions of the highways specified. (Gateways to be eliminated: Wood County, W. Va. and Hamilton, Ohio and points in the southeastern quarter of Ohio.) (65) *Used iron or steel barrels*, from points in Maryland, Pennsylvania, the District of Columbia, and points in Wood County, W. Va. to Kalamazoo, Mich. (Gateway to be eliminated: Chillicothe, Ohio.) (66) *Pepper*, in packages, in mixed shipments with salt, from Manistee, St. Clair, and Marysville, Mich., and points within 5 miles thereof, to points in Maryland, the District of Columbia, and points in Pennsylvania (except Allegheny, Beaver, Butler, Mercer and Washington Counties, Pa., and Jeannette, Schenley, and South Connellsville, Pa., and points within 10 miles thereof). (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (67) *Pulpboard shipping containers*, other than corrugated, from Seymour, Ind., to points in Maryland, Pennsylvania, the District of Columbia, and points in Wood County, W. Va. (Gateway to be eliminated: Columbus, Ohio.)

(68) *Plastic containers and tubing*, between Lapel, Ind., on the one hand, and on the other, points in Maryland, the District of Columbia, and points in Wood County, W. Va., and points in Pennsylvania (except that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, points in Allegheny, Beaver, Butler, Lawrence, Mercer and Washington Counties, Pa., and Brockway, Jeannette, North East, Schenley, and South Connellsville, Pa., and points within 10 miles of Jeannette, Schenley, and South Connellsville, Pa.) (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (69) *Plastic containers* from Rockdale, Ill., to points in Maryland, the District of Columbia, points in Wood County, W. Va., and points in Pennsylvania (except points in that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, points in Allegheny, Beaver, Butler, Lawrence, Mercer and Washington Counties, Pa., and Brockway, Jeannette, North East, Schenley, and South Connellsville, Pa.) (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (70) *Dressing and stuffing, bread base, with or without other ingredients, dry, bread crumbs, other than dust and meal, and bread cubes, in boxes*, from Battle Creek, Mich. to points in Maryland, the District of Columbia, points in Wood County, W. Va. and points in Pennsylvania (except that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, points in Allegheny, Beaver, Butler,

Lawrence, Mercer, and Washington Counties, Pa., and Jeannette, Schenley and South Connellsville, Pa., (Gateways to be eliminated: points in the southeastern quarter of Ohio.) (71) *Packaged individual servings of foodstuffs and condiments, in mixed loads with salt*, from St. Clair, Mich., to points in Maryland, Pennsylvania, the District of Columbia, and points in Wood County, W. Va. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (72) *Bakery goods*, from the plant site of the Kellogg Co. at Battle Creek, Mich., to points in Maryland, the District of Columbia and points in Wood County, W. Va. and points in Pennsylvania (except that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, points in Allegheny, Beaver, Butler, Lawrence, Mercer, and Washington Counties, Pa., and Jeannette, Schenley, and South Connellsville, Pa., and points within 10 miles of Jeannette, Schenley, and South Connellsville, Pa.). (Gateways to be eliminated: Points in the southeastern quarter of Ohio.)

(73) *Foodstuffs* (except butter and commodities in bulk), from Champaign, Ill., to points in Maryland, the District of Columbia, points in Wood County, W. Va.; and points in Pennsylvania (except points in that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, points in Allegheny, Beaver, Butler, Lawrence, Mercer and Washington Counties, Pa., and points within 10 miles of Jeannette, Schenley, and South Connellsville, Pa.). (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (74) *Metal containers*, from points in Maryland, Pennsylvania, the District of Columbia, and points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth, Ohio, to Detroit, Mich. and points in Indiana and those in Illinois (except those in the Chicago, Ill. commercial zone as defined by the Commission). (Gateways to be eliminated: The plant and warehouse sites of Crown Cork & Seal Co. located at or near Rossford, Ohio and points in the southeastern quarter of Ohio.) (75) *Matches*, from the plant site and storage facilities of Hunt Foods and Industries, Inc., near Rossford, Ohio, to points in Maryland, the District of Columbia, and points in Pennsylvania on and east of a line extending from the West Virginia State line along U.S. Highway 119 north to the junction of U.S. Highway 119 and U.S. Highway 22, and points on and south of U.S. Highway 22 to the Pennsylvania-New Jersey State line and points in Wood County, W. Va. (Gateway to be eliminated: Parkersburg, W. Va.) (76) *Cans and closures* therefor, from Sturgis, Mich., to points in Maryland, Pennsylvania, the District of Columbia, and points in Wood County, W. Va., and points in that part of Ohio south of a line beginning at Steubenville and ex-

tending along U.S. Highway 22 to Zanesville, thence along U.S. Highway 40 to Columbus, and east of a line beginning at Columbus and extending along U.S. Highway 23 to Portsmouth, Ohio, including points on the indicated portions of the highways specified. (Gateways to be eliminated: Columbus, Ohio and Wood County, W. Va.)

(77) *Wine*, in bottles, from the facilities of Mogen David Wine Corp., at Westfield, N.Y., to points in the District of Columbia, and points in Maryland, on and west of a line beginning at the Delaware-Maryland State line and extending south and east of U.S. Highway 301 to the Maryland-Virginia State line and points in Pennsylvania on and south of Interstate Highway 70 and 78 and points in Wood County, W. Va. (Gateway to be eliminated: Steubenville, Ohio.) (78)

Paper and paper products, from the plant and warehouse sites of International Paper Co. at or near Bastrop and Springhill, La., to St. Louis, Mo.; Louisville, Ky.; and points in Illinois, Indiana, the Lower Peninsula of Michigan, and Ohio. (Gateways to be eliminated: Points in Wood County, W. Va., and Chillicothe, Ohio.) (79) *Paper and paper products*, from the plant warehouse sites of International Paper Co. at or near Mobile, Ala., and Moss Point, Miss., to points in Maryland, Ohio, and the District of Columbia, and points in that part of Pennsylvania on the east of U.S. Highway 15, points in New Jersey, and points in that part of New York on and south of New York Highway 7 and on and east of New York Highway 30; Bridgeport, Danbury, and Waterbury, Conn.; Springfield, Mass.; and points in Delaware, Louisville, Kentucky, St. Louis, Mo.; and points in Illinois, Indiana, the Lower Peninsula of Michigan. (Gateways to be eliminated: Wood County, W. Va.; York, Pa.; Philadelphia, Pa.; and Chillicothe, Ohio.) (80) *Paper and paper products*, from plant and warehouse sites of International Paper Co. at or near Jay and Livermore Falls, Maine, to points in Illinois, Indiana, Michigan, Ohio, Louisville, Kentucky; and St. Louis, Mo. (Gateways to be eliminated: Wood County, W. Va., Midland, Pa., and Chillicothe, Ohio.) (81) *Malt beverages*, from Bensenville, Ill., to points in Maryland, Pennsylvania, the District of Columbia, and points in Wood County, W. Va. (Gateways to be eliminated: Points in the Southeastern quarter of Ohio.) (82) *Foodstuffs* (except in bulk, in tank vehicles, and in vehicles equipped with mechanical refrigeration), from Sayreville, N.J., to points in Ohio and points in Wood County, W. Va. (Gateways to be eliminated: Points in Pennsylvania west of U.S. Highway 15 and points in Wood County, W. Va.)

(83) *Paper and paper products*, from points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth, and points in Wood County, W. Va., to

Bridgeport, Danbury and Waterbury, Conn.; Springfield, Mass.; and points in New Jersey, Delaware and that part of New York in the New York, N.Y. Commercial Zone, as defined by the Commission. (Gateway to be eliminated: Philadelphia, Pa.) (84) *Paper and paper products*, from points in that part of Ohio on and west of a line beginning at the Ohio-West Virginia State line, thence along Interstate Highway 77 to junction U.S. Highway 36, thence along U.S. Highway 36 to Mount Vernon, thence along Ohio Highway 13 to Fredericktown, thence along U.S. Highway 23 to Carey, thence along Ohio Highway 15 to the Ohio-Indiana State line, to Bridgeport, Danbury and Waterbury, Conn.; Springfield, Mass.; and points in New Jersey, Delaware, and that part of the New York, N.Y. Commercial Zone, as defined by the Commission. (Gateway to be eliminated: Philadelphia, Pa.) (85) *Potato chips*, in boxes, when moving from the plants or retail or wholesale outlets of manufacturers or distributors of bakery products, from New York, N.Y., to points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth, Ohio, and points in Indiana, Illinois, the Lower Peninsula of Michigan, Ky.; Davenport, Iowa; and those in West Virginia within 10 miles of the Ohio-West Virginia State line. (Gateways to be eliminated: York, Pa.; points in Wood County, W. Va., points in those parts of Ohio (except Cleveland and Cincinnati) on and west of U.S. Highway 21 to junction U.S. Highway 21 and 50, and on and north of U.S. Highway 50 to the Indiana-Ohio State line.)

(86) *Potato chips*, in boxes, when moving from the plants or retail or wholesale outlets of manufacturers or distributors of bakery products, from New York, N.Y., to points in that part of Ohio on and west of a line beginning at the Ohio-West Virginia State line, thence along Interstate Highway 77 to junction U.S. Highway 36, thence along U.S. Highway 36 to Mount Vernon, thence along Ohio Highway 13 to Fredericktown, thence along U.S. Highway 23 to Carey, thence along Ohio Highway 95 to Marion, thence along Ohio Highway 15 to the Ohio-Indiana State line. (Gateway to be eliminated: York, Pa.) (87) *Bakery products* (including flour, cereals and dog biscuits), car-bracing material, and machinery, materials, supplies, and equipment (including office furniture and supplies) used in or incidental to the production packing, and sale of bakery products, between New York, N.Y., on the one hand, and, on the other, points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line

extending along U.S. Highway 23 from Columbus to Portsmouth. (Gateways to be eliminated: Allentown, Pa.; Forty Fort, Pa.; Harrisburg, Pa.; Lancaster, Pa.; Scranton, Pa.; Philadelphia, Pa.; Pottsville, Pa.; Reading, Pa.; York, Pa.; and Baltimore, Md.) (88) *Bakery products* (including flour and cereals), from New York, N.Y., to points in Indiana, Illinois, the Lower Peninsula of Michigan; St. Louis, Mo.; Louisville and Covington, Ky.; Davenport, Iowa; and those in West Virginia within 10 miles of Ohio-West Virginia State line. (Gateways to be eliminated: Allentown, Pa.; Forty Fort, Pa.; Harrisburg, Pa.; Lancaster, Pa.; Philadelphia, Pa.; Pottsville, Pa.; Reading, Pa.; Scranton, Pa.; York, Pa.; and Baltimore, Md.; and points in the southeastern quarter of Ohio.) (89) *Bakery products* (including flour, cereals and dog biscuits), car-bracing material, and machinery, materials, supplies, and equipment (including office furniture and supplies) used in or incidental to the production packing, and sale of bakery products, between New York, N.Y., on the one hand, and, on the other, points in that part of Ohio on and west of a line beginning at the Ohio-West Virginia State line, thence along Interstate Highway 77 to junction U.S. Highway 36, thence along U.S. Highway 36 to Mount Vernon, thence along Ohio Highway 13 to Fredericktown, thence along U.S. Highway 23 to Carey, thence along Ohio Highway 95 to Marion, thence along Ohio Highway 15 to the Ohio-Indiana State line. (Gateways to be eliminated: Allentown, Pa.; Harrisburg, Pa.; Lancaster, Pa.; Philadelphia, Pa.; and York, Pa.)

(90) *Bakery products* (including flour, cereals and dog biscuits), car-bracing material, and machinery, materials, supplies, and equipment (including office furniture and supplies) used in or incidental to the production, packing, and sale of bakery products, between Atlantic City, Phillipsburg, Trenton, N.J.; and Wilmington, Del., on the one hand, and, on the other, points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth. (Gateway to be eliminated: Philadelphia, Pa.) (91) *Bakery Products* (including flour and cereals) from Atlantic City, Phillipsburg, Trenton, N.J.; and Wilmington, Del., to points in Indiana, Illinois, and the Lower Peninsula of Michigan; St. Louis, Mo.; Louisville and Covington, Ky.; Davenport, Iowa; and those in West Virginia within 10 miles of Ohio-West Virginia State line. (Gateways to be eliminated: Philadelphia, Pa.; and points in that part of Ohio lying on and south of a line beginning at Cambridge extending along U.S. Highway 22 to Zanesville and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Chillicothe, Ohio, points north of a line extending east along U.S. Highway 50 to

the Ohio-West Virginia State line.) (92) *Bakery products* (including flour, cereals and dog biscuits), car-bracing material, and machinery, materials supplies, and equipment (including office furniture and supplies) used in or incidental to the production, packing, and sale of bakery products, between Atlantic City, Phillipsburg, Trenton, N.J.; and Wilmington, Del.; and points in that part of Ohio on and west of a line beginning at the Ohio-West Virginia State line, thence along Interstate Highway 77 to junction U.S. Highway 36, thence along U.S. Highway 36 to Mount Vernon, thence along Ohio Highway 13 to Fredericktown, thence along U.S. Highway 23 to Carey, thence along Ohio Highway 95 to Marion, thence along Ohio Highway 15 to the Ohio-Indiana State line. (Gateway to be eliminated: Philadelphia, Pa.) (93) *Paper and paper articles* (including paper boxes and advertising matter), between Beacon, N.Y.; Garfield, N.J.; and Milford, N.J., on the one hand, and on the other, points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth. (Gateways to be eliminated: Baltimore, Md.; Philadelphia, Pa.; and York, Pa.)

(94) *Paper and paper articles* (including paper boxes and advertising matter), from Beacon, N.Y.; Garfield, N.J.; and Milford, N.J., to St. Louis, Mo.; Louisville, Ky.; points in Indiana, Illinois, and the Lower Peninsula of Michigan. (Gateways to be eliminated: Baltimore, Md.; Philadelphia, Pa.; York, Pa.; and Chillicothe, Ohio.) (95) *Paper and paper articles* (including paper boxes and advertising matter), between Beacon, N.Y.; Garfield, N.J.; and Milford, N.J., on the one hand, and, on the other, points in that part of Ohio on and west of a line beginning at the Ohio-West Virginia State line, thence along Interstate Highway 77 to junction U.S. Highway 36, thence along U.S. Highway 36 to Mount Vernon, thence along Ohio Highway 13 to Fredericktown, thence along U.S. Highway 23 to Carey, thence along Ohio Highway 95 to Marion, thence along Ohio Highway 15 to the Ohio-Indiana State line. (Gateways to be eliminated: Philadelphia, Pa.; and York, Pa.) (96) *Chocolate, chocolate coating cocoa, and confectionery* from St. Louis, Mo., points in Indiana; Michigan; Chicago, Ill.; Louisville, Ky.; and points in that part of Illinois on and south of a line beginning at the Illinois-Indiana State line, and extending along U.S. Highway 6 to Peru, Ill., on, and east of a line beginning at Peru, Ill., and extending along Illinois Highway 29 to Pekin, Ill., and extending along Illinois Highway 9 to the Illinois-Indiana State line; points in that part of Ohio (except Cleveland and Cincinnati) on, and, west of U.S. Highway 21 to junction U.S. Highways 21 and 50, and on, and north of U.S. Highway 50

to the Indiana-Ohio State line, to New York, N.Y.; and Newark, N.J. (Gateways to be eliminated: Points in the Southeastern quarter of Ohio.) (97) *Paper and paper products* not including paper roofing and paper sheathing in rolls, from points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth to points in New Jersey and points in that part of New York on and south of New York Highway 7, and, on and east of New York Highway 30. (Gateway to be eliminated: York, Pa.) (98) *Paper and paper products* not including paper roofing and paper sheathing in rolls, from points in that part of Ohio on and west of a line beginning at the Ohio-West Virginia State line, thence along Interstate Highway 77 to junction U.S. Highway 36, thence along U.S. Highway 36 to Mount Vernon, thence along Ohio Highway 13 to Fredericktown, thence along U.S. Highway 23 to Carey, thence along Ohio Highway 95 to Marion, thence along Ohio Highway 15 to the Ohio-Indiana State line, to points in New Jersey and points in that part of New York on and south of New York Highway 7, and, on, and east of New York Highway 30. (Gateway to be eliminated: York, Pa.)

(99) *Machinery and machinery parts, and supplies*, used in the manufacture of paper and paper products, not including machinery and machinery parts, and supplies used in the manufacture of paper roofing. From points in New Jersey, and points in that part of New York on and south of New York Highway 7 and, on, and east of New York Highway 50, to points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth. (Gateway to be eliminated: York, Pa.) (100) *Machinery and machinery parts, and supplies*, used in the manufacture of paper and paper products, not including machinery and machinery parts, and supplies used in the manufacture of paper roofing, from points in New Jersey, and points in that part of New York on and south of New York Highway 7 and, on, and east of New York Highway 50, to points in that part of Ohio on and west of a line beginning at the Ohio-West Virginia State line, thence along Interstate Highway 77 to junction U.S. Highway 36, thence along U.S. Highway 36 to Mount Vernon, thence along Ohio Highway 13 to Fredericktown, thence along U.S. Highway 23 to Carey, thence along Ohio Highway 95 to Marion, thence along Ohio Highway 15 to the Ohio-Indiana State line. (Gateway to be eliminated: York, Pa.) (101) *Asphalt*, in containers, asphalt shingles, in bundles, paper roofing and paper sheathing in rolls, roofing cement,

and machinery and materials used in the manufacture of such commodities, from points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth, to points in New York and New Jersey. (Gateway to be eliminated: York, Pa.) (102) *Asphalt*, in containers, asphalt shingles, in bundles, paper roofing and paper sheathing in rolls, roofing cement, and machinery and materials used in the manufacture of such commodities, from points in that part of Ohio on and west of a line beginning at the Ohio-West Virginia State line, thence along Interstate Highway 77 to junction U.S. Highway 36, thence along U.S. Highway 36 to Mount Vernon, thence along Ohio Highway 13 to Fredericktown, thence along U.S. Highway 23 to Carey, thence along Ohio Highway 95 to Marion, thence along Ohio Highway 15 to the Ohio-Indiana State line, to points in New York and New Jersey. (Gateway to be eliminated: York, Pa.)

(103) *Machinery and machinery parts and supplies*, used or useful in the manufacture of roofing, from points in New York and New Jersey, to points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth. (Gateway to be eliminated: York, Pa.) (104) *Machinery and machinery parts and supplies*, used or useful in the manufacture of roofing, from points in New York and New Jersey, to points in that part of Ohio on and west of a line beginning at the Ohio-West Virginia State line, thence along Interstate Highway 77 to junction U.S. Highway 36, thence along U.S. Highway 36 to Mount Vernon, thence along Ohio Highway 13 to Fredericktown, thence along U.S. Highway 23 to Carey, thence along Ohio Highway 95 to Marion, thence along Ohio Highway 15 to the Ohio-Indiana State line. (Gateway to be eliminated: York, Pa.) (105) *Bakery products, flour, cereals, dog biscuits, potato chips, car-bracing materials and machinery, supplies and equipment* used in or incidental to the production, packing and sale of bakery products, between the site of National Biscuit Co. plant, at Fair Lawn, N.J., on the one hand, and on the other, points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth. (Gateways to be eliminated: Allentown, Pa.; Forty Fort, Pa.; Harrisburg, Pa.; Philadelphia, Pa.; Reading, Pa.; Lancaster, Pa.; Hershey, Pa.; and York, Pa.)

(106) *Bakery products, flour, cereals, dog biscuits, potato chips, car-bracing material and machinery, supplies and*

equipment used in or in incidental to the production, packing and sale of bakery products, between the site of National Biscuit Co. plant at Fair Lawn, N.J., on the one hand, and on the other, points in that part of Ohio on and west of a line beginning at the Ohio-West Virginia State line, thence along Interstate Highway 77 to junction U.S. Highway 36, thence along U.S. Highway 36 to Mount Vernon, thence along Ohio Highway 13 to Fredericktown, thence along U.S. Highway 23 to Carey, thence along Ohio Highway 95 to Marion, thence along Ohio Highway 15 to the Ohio-Indiana State line. (Gateways to be eliminated: Allentown, Pa.; Harrisburg, Pa.; Philadelphia, Pa.; Reading, Pa.; Lancaster, Pa.; Hershey, Pa.; and York, Pa.) (107) *Pretzels*, from Detroit, Mich., and points in that part of Michigan within 10 miles of Detroit: Chicago, Ill.; Louisville, Ky.; St. Louis, Mo.; the plantsite of Kellogg Co. at Battle Creek, Mich.; Champaign, Ill.; and points in that part of Illinois on and south of a line beginning at the Illinois-Indiana State line and extending along U.S. Highway 6 to Peru, Ill., on and east of a line beginning at Peru, Ill., and extending along Illinois Highway 29 to Pekin, Ill., and extending along Illinois Highway 9 to the Illinois-Indiana State line, points in that part of Indiana on and south of a line beginning at the Indiana-Ohio State line and extending along U.S. Highway 224 to Peru, Ind., on and east of a line beginning at Peru and extending along U.S. Highway 31 to Columbus, Ind., and on and north of a line beginning at Columbus and extending along Indiana Highway 46 to the Indiana-Ohio State line, to Belleville, Dunellen, Jersey City, Orange, Paterson, and Livingston, N.J. (Gateways to be eliminated: Points in the Southeastern quarter of Ohio and York, Pa.) (108) *Bakery products*, from Sayreville, N.J., to points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 22 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth, and Wood County, W. Va. (Gateway to be eliminated: Allentown, Pa.) (109) *Fertilizer*, from Louisville, Ky., to points in Maryland, Pennsylvania, and the District of Columbia. (Gateway to be eliminated: Columbus, Ohio.) (110) *Fertilizer*, from Chicago, Ill., to points in Maryland, Pennsylvania, District of Columbia, and points in Wood County, W. Va. (Gateway to be eliminated: Columbus, Ohio.) (111) *Fertilizer*, from East St. Louis, Ill., to points in Maryland, Pennsylvania, and the District of Columbia and points in Wood County, W. Va. (Gateway to be eliminated: Columbus, Ohio.) (112) *Fertilizer*, from points in Maryland, Pennsylvania, and the District of Columbia, to points in Illinois. (Gateway to be eliminated: Columbus, Ohio.) (113) *Canned foodstuffs and canned food preparations*, from points in Maryland; and points in that part of Pennsylvania, on and east and south of a line

beginning at the Pennsylvania-New Jersey State line, thence along U.S. Highway 15 to the Maryland-Pennsylvania State line to Green Bay, La Crosse, Milwaukee, Racine, Stevens Point, Wauwatosa, and Wausau, Wis. (Gateways to be eliminated: Points in that part of Ohio north and west of a line beginning at the Indiana-Ohio State line extending east along U.S. Highway 33, thence north along Interstate Highway 75 to Findlay, thence north and west along Ohio Highway 15 to the Ohio-Michigan State line.) (114) *Canned foodstuffs and canned food preparations*, from Rochelle, Mendota and De Kalb, Ill., to points in Maryland, Pennsylvania (except Pittsburgh), and the District of Columbia. (Gateways to be eliminated: Points in the Covington, Ky., Commercial Zone in Ohio.) (115) *Foodstuffs and food preparations (except canned goods)*, from Vandalia, Ill., to points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the southeastern quarter of Ohio.) (116) *Foodstuffs and food preparations (except canned goods)*, from Collinsville, Ill., to points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the Southeastern quarter of Ohio.) (117) *Foodstuffs and food preparations (except canned goods)*, from Millstadt and Trenton, Ill., to points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the Southeastern quarter of Ohio.) (118) *Glass containers*, from points in Maryland, and the District of Columbia and points in Pennsylvania (except that part of Pennsylvania within 10 miles of the Pennsylvania-Ohio State line, and points in Allegheny, Beaver, Butler, Lawrence, Mercer, and Washington Counties, Pa., and Jeannett, Schenley, and South Connellsville, Pa., and points within 10 miles of Jeannette, Shenley, and South

Connellsville, Pa.), to Memphis, Tenn. (Gateways to be eliminated: Points in the Southeastern quarter of Ohio.) (119) *Mineral wool roofing materials*, from Waukegan, Ill., to points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the Southeastern quarter of Ohio.) (120) *Mineral wool, building, insulating and roofing materials*, from Joliet, Ill., to points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the Southeastern quarter of Ohio.)

(121) *Mineral wool, building, insulation, and roofing materials*, from East St. Louis, Ill.; and Marseilles, Ill., to points in Maryland, Pennsylvania, and the District of Columbia. (Gateways to be eliminated: Points in the Southeastern quarter of Ohio.)

NOTE.—This application is directly related to MC-F 13355 B & L Motor Freight, Inc., Merger Prunty Motor Express, published in a previous section of this FEDERAL REGISTER; both carriers are now commonly controlled by The Capitol Corp. pursuant to authorization at MC-F 12857. Wherever the gateway to be eliminated is referred to above as "points in the Southeastern quarter of Ohio" the exact description of the gateway is "Points in that part of Ohio lying on and south of a line beginning at Steubenville and extending along U.S. Highway 23 to Zanesville, and thence along U.S. Highway 40 to Columbus, and on and east of a line extending along U.S. Highway 23 from Columbus to Portsmouth." If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 135129 (Sub-No. 2), filed September 27, 1977. Applicant: BEYOND EXPRESS, INC., 20 Fairview Place, Freeport, N.Y. 11520. Applicant's representative: William J. Augello, P.O. Box Z, Huntington, N.Y. 11743. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, explosives, com-

modities in bulk, those of unusual value, and those requiring special equipment, and commodities, baggage, or personal effects having a prior or subsequent movement by air), between points in Nassau County, Suffolk County, and the New York, N.Y., commercial zone, to eliminate the gateway of New York, N.Y.

NOTE.—This application is directly related to a finance proceeding in MC-F-13361, published in a previous section of this FEDERAL REGISTER. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

No. MC 135129 (Sub-No. 3), filed October 5, 1977. Applicant: BEYOND EXPRESS, INC., 20 Fairview Place, Freeport, N.Y. 11520. Applicant's representative: William J. Augello, P.O. Box Z, Huntington, N.Y. 11743. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *General commodities* (except household goods, explosives, commodities in bulk, those of unusual value and those requiring special equipment, and commodities, baggage, or personal effects having a prior or subsequent movement by air), between New York, N.Y., and Suffolk County, N.Y.

NOTE.—Applicant states the purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity, and to simultaneously expand the territorial scope of New York, N.Y., to include all points in the commercial zone of New York, N.Y. This is a matter related to a finance proceeding in MC-F-13361, published in a previous section of this FEDERAL REGISTER. If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-29926 Filed 10-13-77; 8:45 am]

sunshine act meetings

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409), 5 U.S.C. 552b(e)(3).

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[7020-02]

INTERNATIONAL TRADE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 53717, October 3, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: October 13, 1977, 9:30 a.m.

CHANGES IN THE MEETING: Additional item added to the agenda as follows:

11. Possible 337 complaint on steel.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1557-77 Filed 10-11-77; 2:22 pm]

[7020-02]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, October 20, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Light Shields (Inv. 337-TA-33)—see recommended determination by the Presiding Officer.
2. Briefing on Inv. 332-82—(Chief Weight-Chief Value).
3. Animal Glue and Inedible Gelatin Inv. AA 1921-169-172)—vote.
4. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1558-77 Filed 10-11-77; 2:22 pm]

[7020-02]

INTERNATIONAL TRADE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 18, 1977.

PLACE: Room 117, 701 E Street NW., Washington, D.C. 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratifications.
4. Reclosable Plastic Bags (Inv. 337-TA-22)—action by the Commission, if any, on the Presiding Officer's order of October 3, 1977.
5. Status report on the Equal Employment Opportunity.
6. Petitions and complaints—if necessary.
7. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth R. Mason, Secretary, 202-523-0161.

[S-1559-77 Filed 10-11-77; 2:22 pm]

[7030-01]

INDIAN CLAIMS COMMISSION.

TIME AND DATE: 10:15 a.m., October 19, 1977.

PLACE: Room 600, 1730 K Street NW., Washington, D.C.

STATUS: Open to the Public.

Docket 197, Nisqually.

Docket 206, Squaxin.

Docket 208, Steilacoom.

FOR MORE INFORMATION:

David H. Bigelow, Executive Director, Room 640, 1730 K Street NW., Washington, D.C. 20006, telephone 202-653-6174.

[S-1560-77 Filed 10-11-77; 2:22 pm]

[7715-01]

POSTAL RATE COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 42 FR 54079, October 4, 1977, and 42 FR 54357, October 5, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: October 5, 1977, 9:30 a.m.

CHANGES IN THE MEETING: Meeting date changed to October 12, 1977. "Open" portion of the meeting will begin at 9:30 a.m. to be followed by the "Closed" portion: Addition of the following items to the closed agenda:

Draft of Tentative Decision Concerning Officer of the Commission's Proposal to (1) Eliminate Single Piece Third-Class and (2) Expand Parcel Post to Include Pieces Weighing Less than One-Pound. (Docket Nos. MC76-3, MC76-4.)

CONTACT PERSON FOR MORE INFORMATION:

Ned Callan, Information Officer, Postal Rate Commission, Room 500, 2000 L Street NW., Washington, D.C. 20268, telephone 202-254-5614.

[S-1561-77 Filed 10-11-77; 2:22 pm]

[6320-01]

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: 9:30 a.m., October 18, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED:

Agency Office Application—Glendale Federal Savings & Loan Association, Glendale, Calif.

Branch Office Application—First Federal Savings & Loan Association of Vancouver, Vancouver, Wash.

Consideration of Report on Proposal to Eliminate "Definitive Form" FHLB Securities.

EFTS-RSU Application—Capitol Federal Savings & Loan Association, Topeka, Kans.

Determination and Adjustment of Over-Valued Assets; Definition of "Appraisal", "Market Value", and "Over-Valuation".

No. 79, October 11, 1977.

[S-1562-77 Filed 10-12-77; 10:06 am]

7

[6320-01]

FEDERAL HOME LOAN BANK BOARD.

TIME AND DATE: At the conclusion of the open meeting to be held at 9:30 a.m., October 18, 1977.

PLACE: 320 First Street NW., Room 630, Washington, D.C.

STATUS: Closed meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

MATTERS TO BE CONSIDERED:

Consideration of Request for Board Consent to Employ an Individual Pursuant to the Provisions of Section 5(d) (12) (B) of the Home Owners' Loan Act of 1933, as Amended.

No. 80, October 11, 1977.

[S-1563-77 Filed 10-12-77; 10:06 am]

8

[6210-01]

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM.

TIME AND DATE: 10 a.m., Wednesday, October 19, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed salary increases for Board employees. (This matter was originally announced for a meeting on September 28, 1977.)

2. Any agenda items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Joseph R. Coyne, Assistant to the Board, 202-452-3204.

THEODORE E. ALLISON,
Secretary of the Board.

OCTOBER 11, 1977.

[S-1564-77 Filed 10-12-77; 10:06 am]

9

[7035-01]

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, October 18, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open Regular Conference.

MATTERS TO BE CONSIDERED:

1. Ex Parte No. 331, *Expedition Procedures for Permitting Publication of Separate Rates for Rates for Distinct Rail Services*; see Section of Rates memorandum of September 6, 1977. For discussion only.

2. Issuance of stay orders and stay dandos in cases where no exceptions are filed (per Stafford memo of August 1, 1977) (for possible vote).

3. Ex Parte No. 272, *Investigation Into Limitations of Carrier Service on C.O.D. and Freight-Collect Shipments*. At the request of the Office of Proceedings, for briefing, discussion and straw vote.

4. Status Report by Chairman on Commission activities with respect to owner operators.

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone 202-275-7252.

The Commission's professional staff will be available to brief news media representatives on conference issues at the conclusion of the meeting.

[S-1565-77 Filed 10-12-77; 10:06 am]

10

[6730-01]

FEDERAL MARITIME COMMISSION.

TIME AND DATE: October 19, 1977—10 a.m.

PLACE: Room 12126, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Trailer Marine Corp.—Increased appliance rates in the U.S. Atlantic/Puerto Rico Trade.

2. Docket No. 77-9—*United Nations v. Hellenic Lines Limited*—Determination as to whether to hear oral argument.

CONTACT PERSON FOR MORE INFORMATION:

Francis C. Hurney, Secretary, 202-523-5727.

[S-1566-77 Filed 10-12-77; 10:06 am]

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[4410-01]

PAROLE COMMISSION.

National Commissioners (the three Commissioners presently maintaining offices at Washington, D.C., Headquarters).

TIME AND DATE: Wednesday, October 26, 1977; 9:30 a.m.

PLACE: Room 338, Federal Home Loan Bank Board Building, 320 First Street NW., Washington, D.C. 20537.

STATUS: Closed—Pursuant to 5 U.S.C. 552(b) (10) and 28 CFR 16.205(b) (1).

MATTERS TO BE CONSIDERED: Referrals from regional directors of approximately 20 cases in which inmates

of Federal Prisons have applied for parole or are contesting revocation of parole or mandatory release.

CONTACT PERSON FOR MORE INFORMATION:

Lee H. Chait, Analyst, 202-724-3094.

[S-1567-77 Filed 10-12-77; 10:06 am]

12

[6750-01]

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, October 19, 1977.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, October 19, 1977, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-1568-77; Filed 10-12-77; 10:23 am]

13

[6750-01]

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, October 18, 1977.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Nonadjudicative Matters: Approval of Minutes of Nonadjudicative Matters Considered at Meeting of October 11, 1977.

Adjudicative Matters Under Part 3 of the Rules of Practice: Discussion of the Status of Pending Part III Decisions.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-1569-77 Filed 10-12-77; 10:23 am]

14

[6750-01]

FEDERAL TRADE COMMISSION.

TIME AND DATE: 2 p.m., Monday, October 17, 1977.

PLACE: Room 532 (open), Room 540 (closed), Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to Public:

(1) Oral Argument in *Capax, Inc.*, et al. Docket No. 9058.

Portions closed to the Public:

(2) Consideration of Oral Argument in *Capax, Inc.*, et al., Docket 9058, in executive session following oral argument.

CONTACT PERSON FOR MORE INFORMATION:

Leonard J. McEnnis, Jr., Office of Public Information, 202-523-3830; recorded message, 202-523-3806.

[S-1570-77 Filed 10-12-77; 10:33 am]

15

[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 2 p.m. (Eastern Time), Thursday, October 13, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Columbia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Closed to the public.

MATTERS TO BE CONSIDERED:

FY 1978 Supplemental Budget Request and Amendment to FY 1979 Request.

A majority of the entire membership of the Commission determined by recorded vote that Commission business required that this meeting be called for this date, and that no earlier announcement was possible.

The vote was as follows:

In favor of change:

Eleanor Holmes Norton, Chair
Ethel Bent Walsh, Commissioner
Daniel E. Leach, Commissioner

Opposed: None.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

[S-1571-77 Filed 10-12-77; 11:13 am]

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[6570-06]

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION.

TIME AND DATE: 9:30 a.m. (Eastern Time), Tuesday, October 18, 1977.

PLACE: Chairman's Conference Room, No. 5240, on the fifth floor of the Colum-

bia Plaza Office Building, 2401 E Street NW., Washington, D.C. 20506.

STATUS: Part of the meeting will be open to the public, and parts will be closed to the public.

MATTERS TO BE CONSIDERED:

Part open to the public:

State and Local Agencies; Recommendations for Fiscal Year Allocation of Funds; Policy Recommendations; and Contract Provisions.

Parts closed to the public:

Litigation Authorization; General Counsel Recommendations; Matters closed to the public under Sec. 1612.13 (a) of the Commission's regulations (42 FR 13830, March 14, 1977).

Briefing on Litigation: Matters closed to the public under Sec. 1612.13(a) (3) of the Commission's regulations cited above.

NOTE.—Any matter not discussed or concluded may be carried over to a later meeting.

CONTACT PERSON FOR MORE INFORMATION:

Marie D. Wilson, Executive Officer, Executive Secretariat at 202-634-6748.

[S-1572-77 Filed 10-12-77; 11:13 am]

17

[8010-01]

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of October 17, 1977, in Room 825, 500 North Capitol Street, Washington, D.C.

A closed meeting will be held on Wednesday, October 19, 1977, at 2 p.m. An open meeting will be held on Thursday, October 20, 1977, at 10 a.m.

The Commissioners, their legal assistants, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4) (2) (9) A and (10) and 17 CFR 200.402(a) (8) (9) (i) and (10).

Chairman Williams, Commissioners Evans and Karmel determined to hold the aforesaid meeting in closed session.

The subject matter of the closed meeting scheduled for Wednesday, October 19, 1977, at 2 p.m. will be:

Formal orders of investigation.
Institution of injunctive actions.
Settlement of injunctive actions.

Institution of administrative proceedings.
Settlement of administrative proceedings.

FOR FURTHER INFORMATION CONTACT:

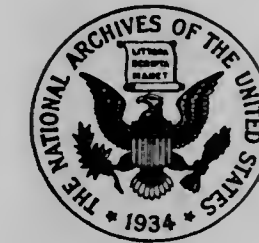
Sam Knight at 202-376-7130.

OCTOBER 12, 1977.

[S-1573-77 Filed 10-12-77; 12:15 pm]

Registered
Federal
Property

FRIDAY, OCTOBER 14, 1977
PART II



DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE

Health Services Administration

■

HOME HEALTH SERVICES

Availability of Project Grants

V42199

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[4110-84]

**DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE**

Health Services Administration

**ASSISTANCE UNDER PUBLIC LAW 94-63;
PROJECT GRANTS FOR HOME HEALTH
SERVICES**

Announcement of Availability of Grants

Notice is hereby given that competitive applications are being accepted for Home Health Services project grants under the authority of Section 602(a) of Pub. L. 94-63 (42 U.S.C. 1395x note). Section 602(a) authorizes grants to public and private nonprofit entities for support of the development and expansion of home health services.

Regulations governing such grants, published in the FEDERAL REGISTER on June 3, 1977 (42 FR 28692), stipulate that the Secretary will give preference to approvable applications for projects that will serve catchment areas in which a high percentage of the population is elderly, medically indigent, or both. (42 CFR 51e.107)

Applications which meet the preference criteria in accordance with the regulations can receive consideration for

funding during the first funding cycle. Completed applications must be received at the Regional Office by January 2, 1978. If funds are not exhausted at the end of the first funding cycle, grant applications to serve preference areas or other areas received at the Regional Office by June 1, 1978, will be considered for funding.

Application kits containing the necessary forms, instructions, and information may be obtained from the representative of the Home Health Services Grant Program at the appropriate Regional Office (listed below). The representative may be contacted for consultation and technical assistance relative to development of an application.

Dated: October 3, 1977.

GEORGE I. LYTHCOTT,
*Administrator, Health
Services Administration.*

Ms. Rita Pope, DHEW/PHS/Region I, Division of Health Services, Family Health Branch, Room 1401, John F. Kennedy Federal Building, Boston, Mass. 02203, (617-223-5845).

Mr. Robert Shaw, DHEW/PHS/Region II, Division of Health Services, Family Health Branch, 26 Federal Plaza, New York, N.Y. 10007, (212-264-2546).

Ms. Dorothy DeLoof, DHEW/PHS/Region III, Division of Health Services, Family Health Branch, P.O. Box 13716, Philadelphia, Pa. 19101 (215-596-1563).

Ms. Pat Atkinson, DHEW/PHS/Region IV, Division of Health Services, Family Health Branch, 50 Seventh St. NE, Room 764, Atlanta, Ga. 30323 (404-881-4231).

Ms. Susan Kamp, DHEW/PHS/Region V, Division of Health Services, Family Health Branch, 300 South Wacker Dr., Chicago, Ill. 60606 (312-353-1720).

Mrs. Vicki Wright, DHEW/PHS/Region VI, Division of Health Services, Family Health Branch, 1200 Main Tower Building, 17th Floor, Dallas, Tex. 75202 (214-655-3041).

E. June Smith, R.N., DHEW/PHS/Region VII, Division of Health Services, Family Health Branch, 601 E. 12th St., 5th Floor W., Kansas City, Mo. 64108, (816-374-2403).

Mr. Michael Oliva, DHEW/PHS/Region VIII, Division of Health Services, Family Health Branch, 11037 Federal Bldg., 19th and Stout Streets, Denver, Colo. 80202, (303-837-4781).

Ms. Mary Garcia, DHEW/PHS/Region IX, Division of Quality and Standards, Federal Office Bldg., Room 239, 50 United Nations Plaza, San Francisco, Calif. 94102, (414-556-3110).

Ms. Marilyn Thaden, DHEW/PHS/Region X, Division of Health Services, Family Health Branch, Arcade Plaza Bldg., Mall Stop 506, 1321 Second Ave., Seattle, Wash. 98101, (206-442-1020).

[FR Doc.77-29826 Filed 10-13-77;8:45 am]

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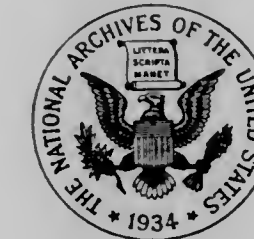
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Registered
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Drug
Control
Administration

FRIDAY, OCTOBER 14, 1977
PART III



DEPARTMENT OF
HEALTH,
EDUCATION,
AND WELFARE

Food and Drug Administration

■

AMPHETAMINES

Public Hearing

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[4110-03]

DEPARTMENT OF HEALTH,
EDUCATION, AND WELFARE

Food and Drug Administration

[Docket No. 77N-0273]

AMPHETAMINES

Public Hearing

AGENCY: Food and Drug Administration.

ACTION: Notice of Public Hearing.

SUMMARY: This is an announcement that a public hearing will be held on December 2, 1977 before the Commissioner of Food and Drugs to receive information and views from interested persons on the issue of the current patterns of medical use and abuse of amphetamines. Legally manufactured and marketed amphetamines continue to be abused at a level that constitutes an apparently significant public health problem. The Food and Drug Administration (FDA) contemplates undertaking new regulatory actions if the current level of abuse is confirmed, in the administrative record of this hearing, to be unacceptably high.

DATES: Notices of appearance by November 14, 1977; the hearing will be held on December 2, 1977.

ADDRESS: Written notices of appearance to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Ronald Kartzinell, Bureau of Drugs (HFD-120), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857, (301-443-4020).

SUPPLEMENTARY INFORMATION:

DEFINITION

For the purpose of this notice, the term amphetamine, the name ordinarily used to designate the racemic form of the drug, is used to cover several drugs or isomers within a class and the term d1-amphetamine is used when reference to the racemate is intended. The term amphetamine includes dextroamphetamine, d1-amphetamine, methamphetamine (which is used in this notice to cover both the dextro-isomer and the racemate), a mixture of dextroamphetamine and d1-amphetamine, and salts of the drugs unless otherwise stated in the text.

BACKGROUND

Among the earliest attempts to impose Federal controls on distribution of amphetamines in the United States were legislative proposals made in the early 1950's, culminating in congressional hearings in 1954. Although no legislation resulted, in the late 1950's FDA began taking enforcement action under the Federal Food, Drug, and Cosmetic Act ("the act"), as then written, against individuals who were diverting amphetamines from legitimate channels to illicit use, on the grounds that they were dispensing amphetamines without a prescription. During the debates leading to the Drug Amendments of 1962, legislation was again proposed to curb amphetamine usage, but again, no action was taken. A Presidential commission in the same period recommended strong Federal efforts against the diversion and use of amphetamines and other nonnarcotic drugs. Congress enacted the Drug Abuse Control Amendments of 1965 (DACA) which placed responsibility for law enforcement against diversion of nonnarcotic drugs in FDA. Shortly thereafter, FDA created a new unit, the Bureau of Drug Abuse Control (BDAC) whose exclusive mandate was to enforce DACA. In 1968, BDAC was transferred from FDA to the Department of Justice in a move to centralize all drug abuse law enforcement activities into one agency, the Bureau of Narcotics and Dangerous Drugs (BNDD). (In 1973, BNDD was renamed the Drug Enforcement Administration (DEA).)

Congress revised all the Federal statutes relating to narcotic and nonnarcotic drugs in 1970. The enactment of the Controlled Substances Act (CSA) repealed DACA and provided a new range of regulatory controls that could be imposed upon drugs of abuse by administrative, rather than legislative action. In 1971, BNDD and FDA worked together to transfer amphetamines from Schedule III to Schedule II of the CSA (which imposed the strictest regulatory controls possible over drugs having legitimate medical use in the United States). This action required that (1) prescriptions be in writing and be nonrefillable, (2) special order forms issued by BNDD be used for all sales of amphetamines other than those dispensed to patients on prescription, (3) manufacturers and wholesalers utilize stringent precautions to prevent the theft or diversion of amphetamines from their facilities, (4) the drugs not to be imported or exported across boundaries of the United States without prior permission of BNDD, and (5) the quantities that could be manufactured in any given year be subject to quotas imposed by the government.

Beginning in 1972, parallel to the CSA actions to restrict the availability of amphetamines, FDA undertook its anorectic review which included detailed statistical analyses of all of the controlled studies in FDA files regarding the effectiveness of these drugs in the treatment of obesity, as well as meetings with consultants and advisory groups. The scope of the review was extensive, involving over 1,100 volumes of data concerned with 12 anorectic drugs. The products in which these drugs were present, either alone or in combination with other drugs, were marketed by 40 firms. Over 200 double-blind and controlled studies on the effectiveness of the drugs were included in the review. These studies, which had been carried out on almost 10,000 subjects, were then evaluated by the medical staff of the Bureau of Drugs to determine whether there was, for each anorectic drug, substantial evidence that patients taking the drug sustained on the average a greater degree of weight loss over a 12-week period than patients taking a placebo. The 12-week period was selected because it was the longest period for which there were reasonably comparable data on all of the anorectic drugs in the review.

Since completion of the anorectic review and implementation of the Schedule II controls under the CSA in 1972, the following actions have been taken by the Federal government to restrict the availability of and reduce the abuse of amphetamines: (a) in the FEDERAL REGISTER of February 12, 1973 (38 FR 4249), FDA announced its findings of the anorectic review that single-entity oral-anorectic drug products containing dextroamphetamine and d1-amphetamine are effective as a short-term adjunct in the management of obesity; (b) dextroamphetamine, d1-amphetamine, and methamphetamine were the subject of a Drug Efficacy Study (DES) notice published in the FEDERAL REGISTER of July 19, 1974 (39 FR 26459) (in that notice, dextroamphetamine and d1-amphetamine were evaluated as effective for the treatment of narcolepsy and minimal brain dysfunction in children, and all the drugs included in the notice were determined to be effective as short-term adjuncts in the management of obesity); (c) all parenteral forms and all but a very few combination drug products containing amphetamines have been removed from the market; (d) all single-entity anorectic drug products were re-labeled to emphasize warnings about their potential for abuse and the limitations on their effectiveness in the treatment of obesity (this information was also publicized in a December 1972 issue of the "FDA Drug Bulletin"); (e) the production quotas for amphetamines were substantially reduced by DEA, thereby reducing the quantity of amphetamines produced in the United States; (f) all other prescription anorectic drugs were placed within the control system of the CSA to reduce the likelihood that they would replace amphetamines as primary stimulant drugs of abuse; (g) the advertising and promotion of anorectic drugs were under regular surveillance (including 27 regulatory actions in the last 4 years against inadequate or misleading information or implied claims of usefulness in the advertising of these products).

The Commissioner recognized and so stated in the February 12, 1973 notice that use of amphetamines for long periods of time may lead to drug dependence and abuse. The potential for abuse of these drugs is related to their action as a central nervous system stimulant; they can produce intense psychological dependence and severe social dysfunction. When the drugs were approved for use as an adjunct in the management of obesity, they were approved on a benefit/risk basis which took into consideration their potential for abuse. By limiting the use of these drugs to a short period of time and reducing the opportunity for misuse through regulatory action, the Commissioner concluded that

these drugs met the safety requirements of the act, and were appropriate, on a benefit/risk basis, for the treatment of obesity for a few weeks as an adjunct to a regimen of weight reduction based on caloric restriction. However, he also cautioned that persistent abuse of these drugs would necessitate taking further steps to restrict their availability and use.

The supply of these drugs has therefore been reduced, and labeling now restricts their use to a short-term period of time and requires a box warning regarding their potential for abuse. In addition, regulatory actions taken by FDA have removed from the market all injectable products and most combination products containing an amphetamine and/or methamphetamine hydrochloride, because of lack of safety or effectiveness. Those anorectic products now on the market which contain amphetamines are also in the most restricted schedule (Schedule II) under the CSA.

SUMMARY OF CURRENT ABUSE OF
AMPHETAMINES

Recent information made available to FDA has revealed that, in spite of the restrictions imposed over the last 5 years, there is evidence for the following conclusions:

1. Among prescription drugs, the anorectic agents are commonly used for nonmedical purposes.

2. Among the anorectic drugs, amphetamines account for more abuse episodes than other drugs in the class and also have the highest rate of abuse of all drugs in the class.

3. There has been no significant decrease in the rate of abuse of amphetamines over the past 3 years. The major reduction in the abuse of these agents appears to have taken place between 1970 and 1973 as a result of regulatory actions taken during that time, and little incremental change has occurred since then.

4. A significant amount of the amphetamines used for abuse purposes comes from supplies that are legally manufactured, shipped, or prescribed.

5. There is no new evidence to challenge the previous FDA conclusion that amphetamines have no advantage over the nonamphetamine anorectic drugs as an adjunct in the treatment of obesity.

Because of this continuing level of abuse of amphetamines, the Commissioner believes that, consistent with his stated intent in the February 12, 1973 notice, further action under the act may be necessary to protect the public health. The specific actions under consideration and their objectives are described later in this notice.

EVIDENCE RELATING TO THE CONTINUED
ABUSE OF AMPHETAMINES

The following sections describe the evidence available in support of the conclusions enumerated above. The relevant reports, studies, and testimony are summarized below, and full copies of the references have been placed on file with

the Hearing Clerk, Food and Drug Administration.

1. Among prescription drugs the anorectic agents are commonly used for nonmedical purposes. The National Institute on Drug Abuse (NIDA) has reported to FDA the results of a household survey conducted in 1975 and 1976 on drug use among a sample population in communities throughout the United

States (Ref. 1). Questions were asked of 2,590 adults (ages over 18 years) and 986 youth (ages 12 to 17 years) about drug use activity during their lifetimes. The percentages of those questioned who indicated that at some time in their lives they had used a prescription stimulant, tranquilizer, or sedative drug for a nonmedical purpose are given in Table 1 as follows:

TABLE 1.—Nonmedical drug use

Substance	Percent all youth 12 to 17 yr (N*=986)	Percent young adults 18 to 25 yr (N*=882)	Percent older adults 26+ yr (N*=1708)	Percent all adults 18+ yr (N*=2,590)
Rx stimulants.....	4.4	16.6	5.6	7.9
Rx tranquilizers.....	3.3	9.1	2.7	4.0
Rx sedatives.....	2.8	11.9	2.4	4.4

*N= Number of persons.

These data indicate that the non-medical use of prescription stimulants is greater than that for prescription sedatives and prescription tranquilizers in the population sampled. The greatest incidence occurs among young adults aged 18 to 25 years, where approximately one in every six persons reported having engaged in nonmedical use of a stimulant.

A second report was received in 1977 from NIDA from the Client Oriented Data Acquisition Process (CODAP) system (Ref. 2). In the CODAP system, a client is anyone presenting himself or herself to a NIDA-funded clinic for the treatment of drug abuse. The report was based on two studies exploring drug abuse treatment as it affects the rural population of eight States. To learn about the rural abuse client, "urban" clients (clients in communities of 500,000 or more) were compared with "rural" clients (clients in communities of 25,000 or less). Information was obtained through client profiles drawn from admission data on 10,279 persons in 110 treatment units in 8 States (Arizona, Colorado, Georgia, Iowa, Maine, Minnesota, Montana, and Vermont). Table 2 below taken from the report, shows the primary drug of abuse (the drug that has been abused by the client or, in the case of multiple drug users, the one for which the client was seeking treatment) at the time of a client's admission to a rural or urban treatment program. These data indicate that the anorectic stimulants are approximately equal to sedative/hypnotics as the primary drugs of abuse. In this study anorectic stimulants and sedative/hypnotics taken together (the category of prescription drugs of abuse) ranked first in rural settings and second only to opiates in urban settings.

Clients are not admitted to the treatment program when alcohol is the only substance of abuse. Therefore the figure for alcohol in Table 2 is a limited indicator as it represents only multiple drug users who are abusing alcohol as the "primary drug" along with other drugs.

TABLE 2.—Rural and urban admissions—
primary drug at admission

Substance reported	Rural communities of 25,000 or less (N*=2,262) percent of clients	Urban communities of 500,000 or more (N*=8,017) percent of clients
Opiates.....	8.1	65.7
Alcohol.....	5.7	3.8
Sedative/hypnotics.....	16.6	6.9
Anorectic stimulants.....	15.9	5.8
Cocaine.....	1.1	1.5
Marijuana.....	36.7	10.7
Hallucinogens.....	9.5	3.0
Inhalants.....	4.5	.6
Other.....	3.1	.6
None.....	2.6	1.4

*N= Number of persons.

A third report received in 1977 from NIDA stated that next to marijuana, amphetamines are the class of drugs used most commonly by a sample of 571 veterans and 384 nonveterans interviewed in late 1974 (Ref. 3). In addition, next to marijuana, amphetamines were reported to be the drugs most likely to be used more than once a week for a period of more than a month. The report also describes a striking correlation between the degree of amphetamine use in the last 2 years and current adjustment problems, for veterans and nonveterans. The adjustment problems included arrests, job problems, divorces and separations, credit difficulties, transiency, violence, and drinking problems. Not only was the relationship between amphetamine use and adjustment problems high, but for both groups, veterans and nonveterans, it was higher than the correlation between adjustment problems and other drugs investigated, including heroin, cocaine, barbiturates, cocaine, opium, methaqualone, peyote, mescaline, propoxyphene, chlordiazepoxide, LSD, and marijuana. Among regular users of amphetamines, whether veterans or nonveterans, about two-thirds reported using amphetamines to "get high," and one-third of both groups claimed they were only trying to stay awake or work better.

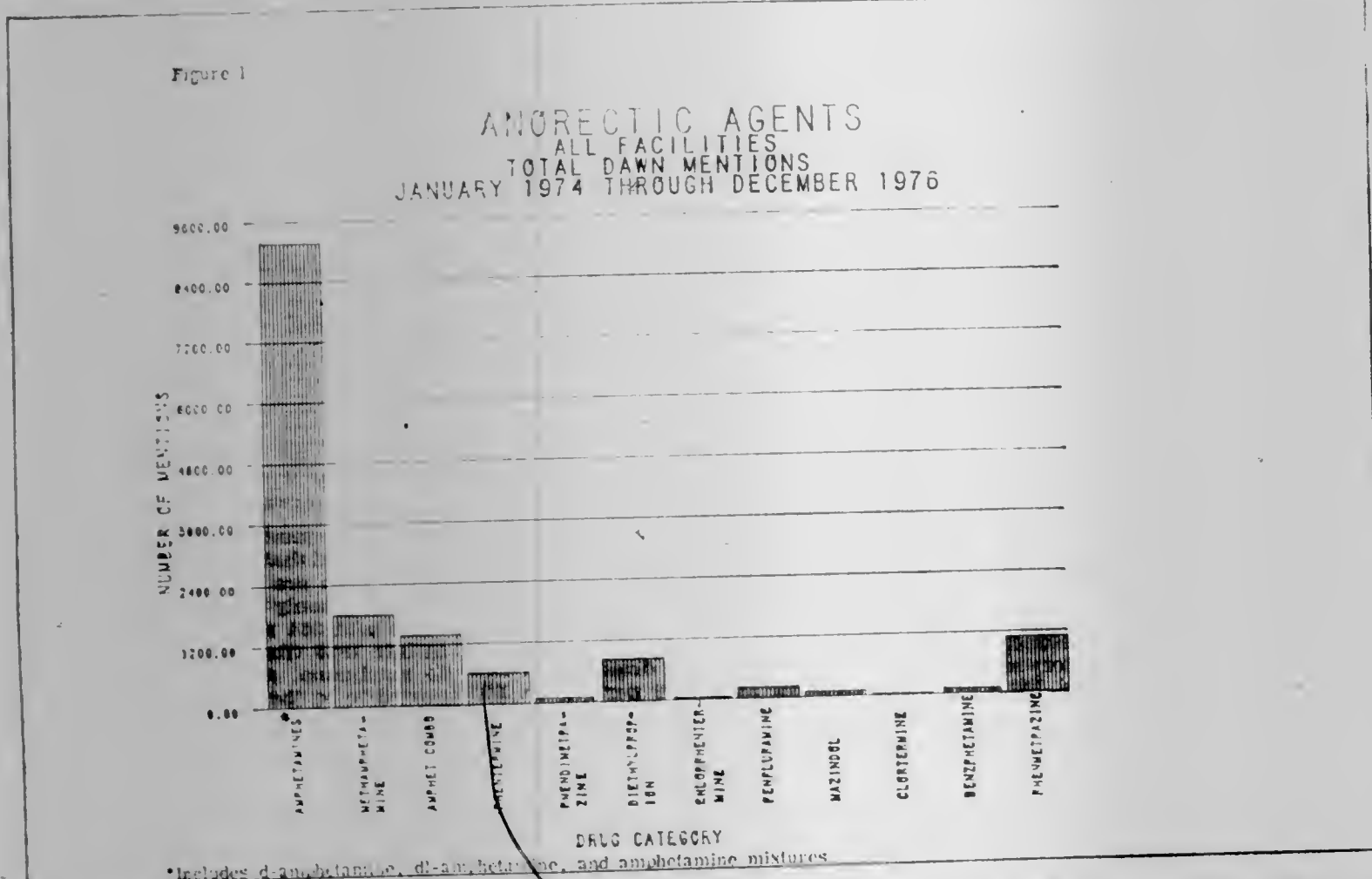
2. Among the anorectic drugs, amphetamines account for more abuse

episodes than other drugs in the class and also have the highest rate of abuse of all drugs in the class. Data have been provided to FDA by the DEA from the Drug Abuse Warning Network (DAWN) system showing the high degree and rate of abuse of amphetamines. The DAWN system is a large-scale data-collecting system, initiated in September of 1972 and operated on contract by IMS America, Ambler, PA. The data include monthly reports, special reports, and computer printouts, used to identify drugs currently abused and or associated with harm to the individual and society. The episodes reported within the DAWN

system are the result of nonmedical use of a drug for psychic effects, dependence, or self-destruction. The data collected by DAWN consist of the number of "mentions" of a drug, as recorded following contact with or treatment of individuals by three types of facilities: emergency rooms (ER) in non-Federal short-term general hospitals (as defined by the American Hospital Association), offices of medical examiners or coroners (ME), and crisis intervention centers (CC) in the continental United States. The "mention" of a drug may range from a telephone call to an overdose death.

Although the DAWN system was initiated in 1972, data obtained before January 1974 are unsuitable for making valid trends of drug abuse. The initial period from September 1972 through December 1973 involved feasibility studies and revisions with the DAWN system to determine the best methods of operation.

Figure 1 shows the number of total DAWN mentions from all facilities for all anorectic drugs for the period from January 1974 through December 1976. It is apparent that the amphetamines have accounted for many more total mentions in this system than any other anorectic drug during the past 3 years.

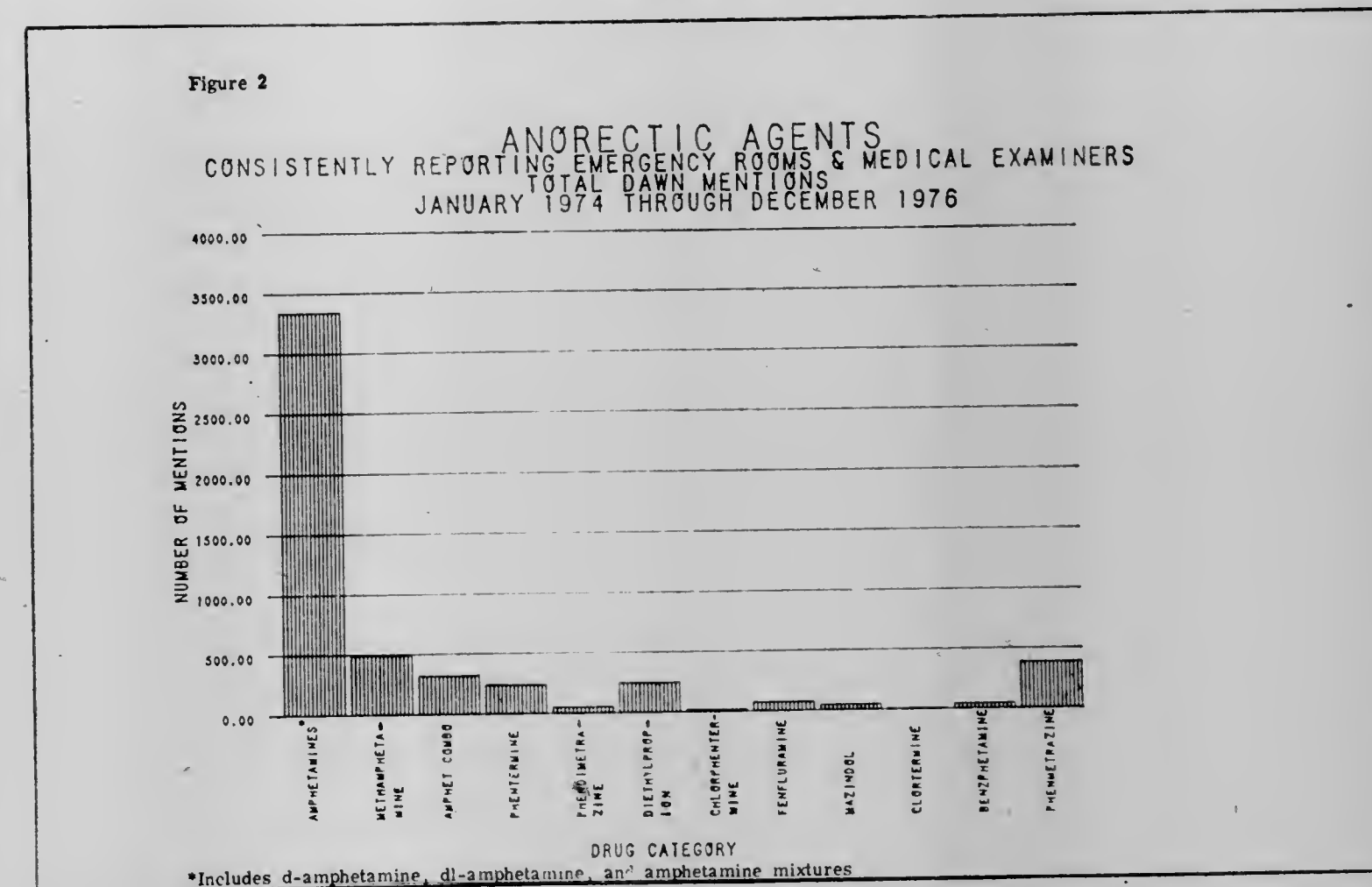


The use of total DAWN mentions from all facilities as a reliable index of the rate of anorectic drug abuse in our society can be criticized for the following reasons: (1) the category of total mentions includes everything from a telephone inquiry by a concerned parent to a report of a serious event like hospitalization; (2) in many DAWN episodes the name of the drug involved is reported in jargon terms such as "speed," "mini-bennies," and "joy pills," which makes it impossible to assign the mention precisely to a particular drug in the stimu-

lant class; (3) reporting from various crisis centers is erratic and is subject to considerable variation in reliability; and (4) the number and characteristics of the facilities in the DAWN system fluctuate. To minimize errors from these sources and stabilize the drug abuse mention base, FDA conducted an analysis of DAWN mentions for specially named anorectic drugs during the period from January 1974 through December 1976. The analysis of DAWN mentions includes only those mentions that came from emergency rooms and medical examiners

that have consistently reported since January 1974.

These data on consistently reported ER and ME mentions are shown below in Figure 2. Although the scale of the graph has changed relative to Figure 1 in that fewer mentions are involved, the general pattern illustrated in Figure 1 is the same. Whether one looks at total mentions or consistent ER and ME mentions, abuse episodes related to amphetamines are several times greater than for any other anorectic drug.



Figures 3 and 4 below are similar to Figures 1 and 2 except that the number of mentions has in each case been divided by the number of prescriptions (in millions) dispensed for each drug during the relevant time period from January 1974 through December 1976. The ratio of DAWN mentions to total pre-

scriptions is taken to be an index of abuse rate, i.e., of the degree of abuse per amount of drug available for abuse. The data for the number of prescriptions were obtained from the National Prescription Audit, a survey conducted by IMS America (Ref. 4). Figures 3 and 4 again illustrate the same pattern as seen

in Figures 1 and 2. Regardless of whether the numerator in these ratios is taken to be total mentions (Figure 3) or consistently reported ER and ME mentions, the single-entity amphetamines demonstrate a rate of abuse several times higher than that associated with any other anorectic drug.

Figure 3

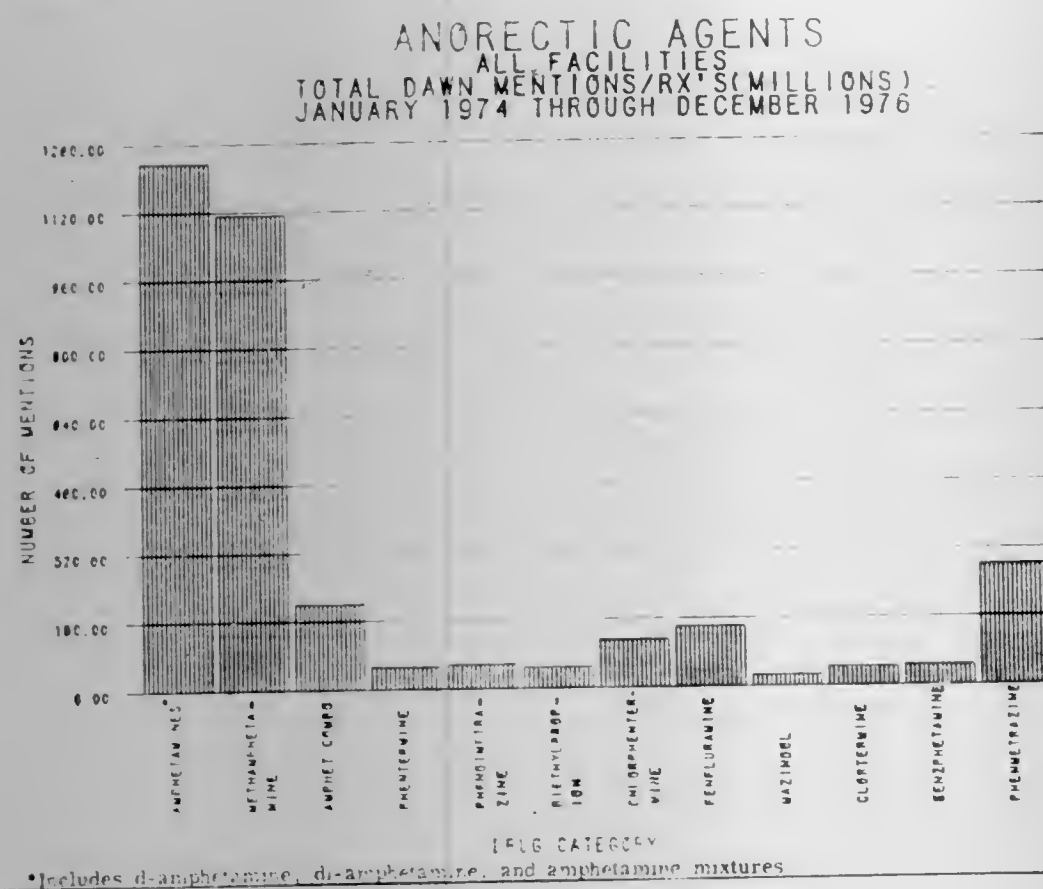
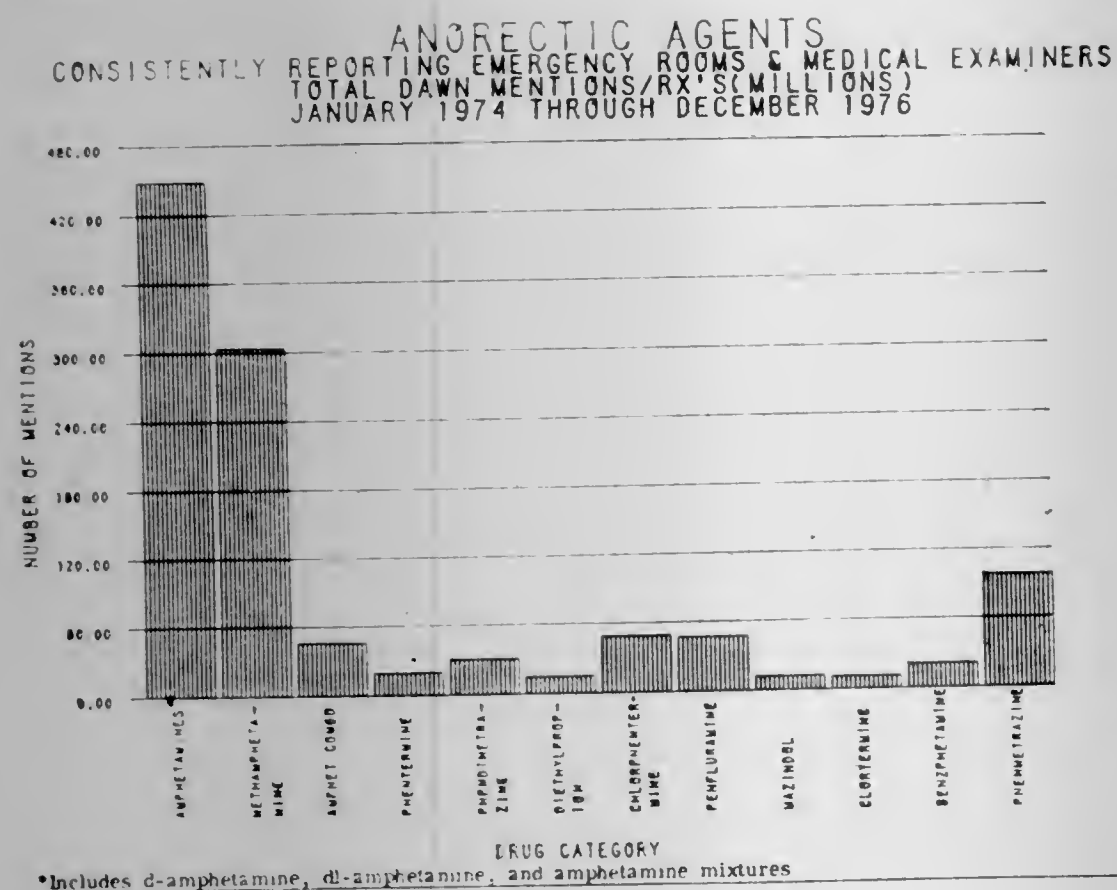
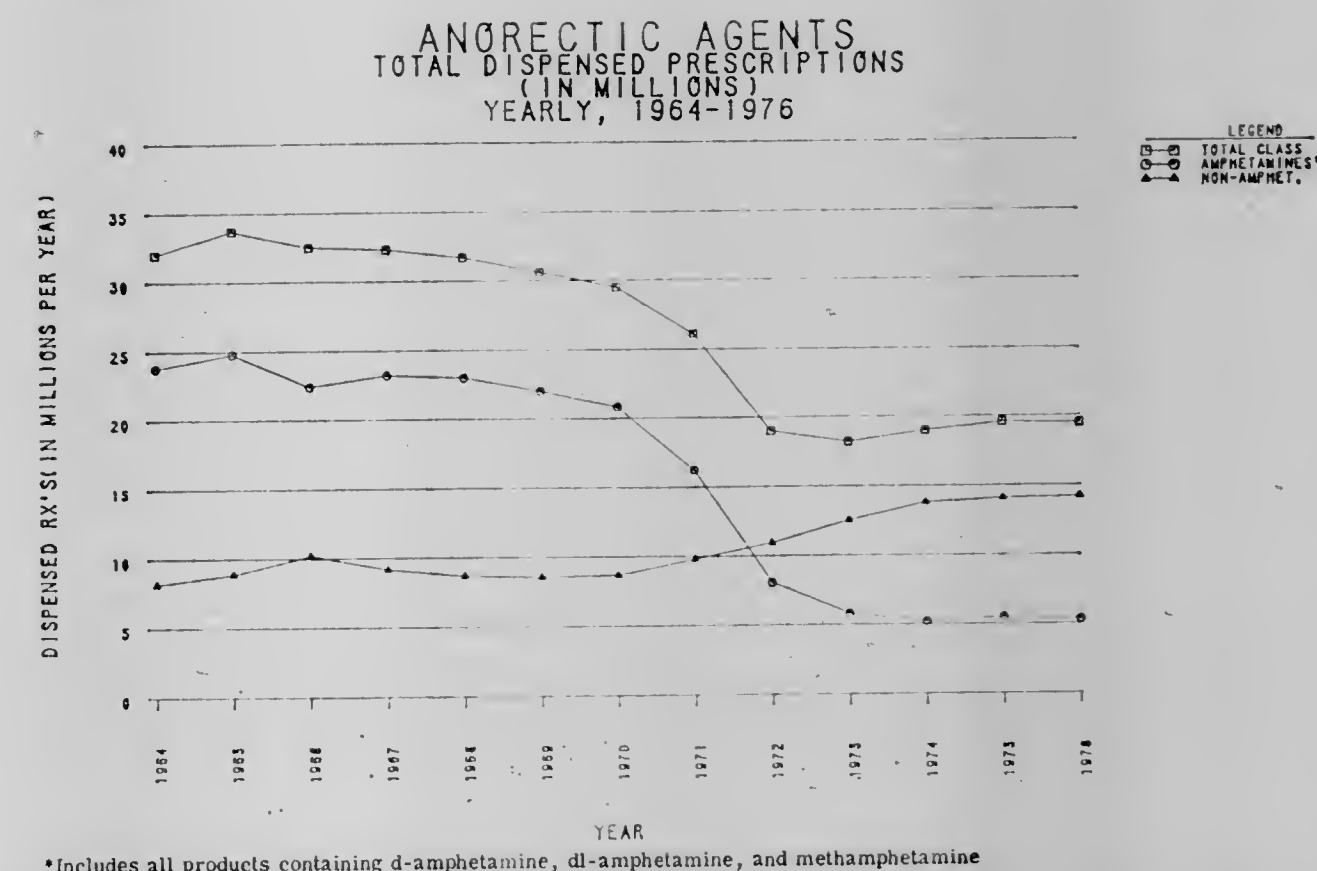


Figure 4



Although the abuse rate is higher for amphetamines, Figure 5 below indicates that the number of prescriptions prescribed for amphetamines is comparatively low in relation to the total prescriptions prescribed for anorectic drugs (amphetamines comprise only 25 percent of the total prescriptions prescribed for anorectic drugs in 1976).

Figure 5



3. There has been no significant decrease in the rate of abuse of amphetamines over the past 3 years. The major reduction in the abuse (and use) of these agents appears to have taken place between 1970 and 1973 as a result of their control under the CSA and the other regulatory actions cited. No significant change has occurred since 1973.

There is considerable evidence to indicate that the abuse of amphetamines is much reduced today by comparison with the problem that existed in the late 1960's and early 1970's. Many factors have undoubtedly contributed to this reduction, but certainly an important one is the reduced prescribing of amphetamines that has taken place in recent years. Figure 5 shows the number of prescriptions dispensed by retail pharmacies for the amphetamine class and for the class of other anorectic drugs for the 13-year period from 1964 through 1976. The major reduction in usage of the amphetamine class occurred between 1970 and 1973 after these drugs were placed in Schedule II of the CSA. The

withdrawal of parenteral methamphetamine and combination amphetamine products from the market, the revision of the package inserts to indicate that these drugs are effective only as adjunctive therapy for a short-term period, and the requirements that prescriptions be in writing and be nonrefillable have all probably contributed to this decline. Since 1974, prescription sales of amphetamines have remained relatively constant, as have the production quotas approved by DEA. Quotas for the years 1974, 1975, 1976, and 1977 are 3,657.1, 3,291.3, 3,586, and 3,564 kg respectively.

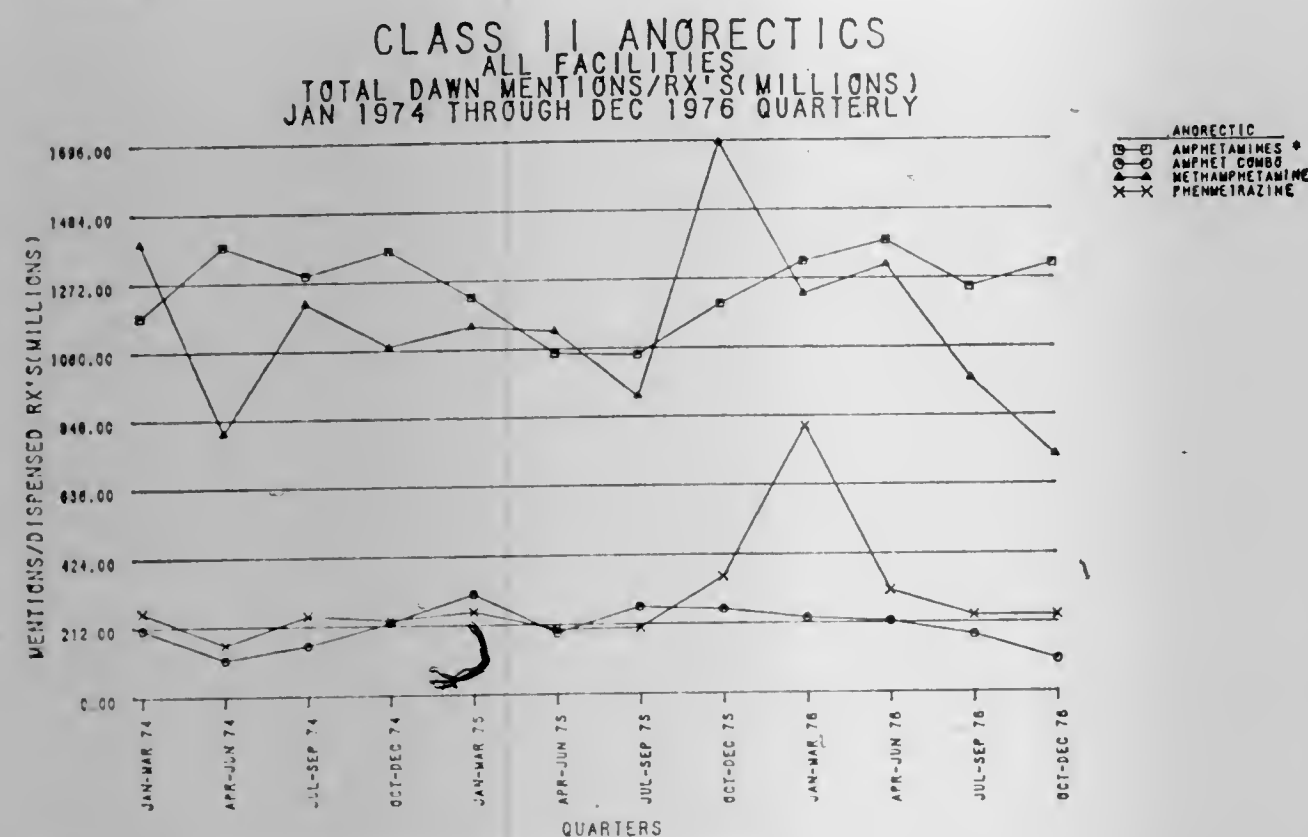
The decline in amphetamine usage since 1970 has been offset to a significant degree by an increase in the use of other anorectic drugs for the treatment of obesity so that overall prescribing of drugs in this class is reduced only moderately since the late 1960's (Figure 5).

It is not possible to quantitate the decline in abuse of amphetamines that has occurred since the 1960's because the DAWN system, which is the only national system providing such data, was

not established until 1972. (Data were not available until 1974 for making valid trends of drug abuse.) There is no reason to doubt, however, the generally held opinion of experts that the decline in prescribing amphetamines has been paralleled by a reasonably comparable decline in the amount of abuse. On the other hand, there is reason to believe from data collected by the DAWN system since 1974 that the rate of abuse of amphetamines is now reasonably stable, albeit at a rate lower than that which once prevailed in the United States.

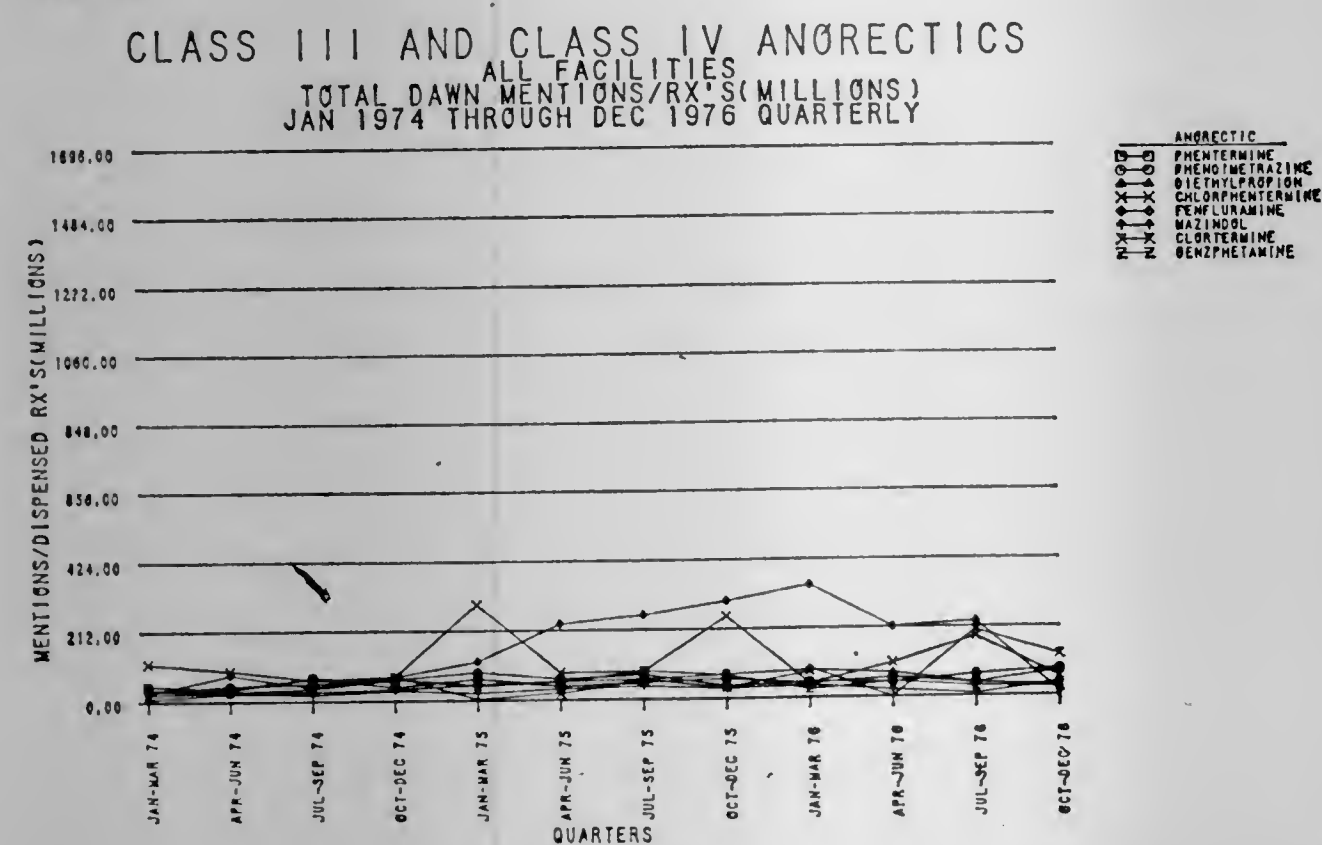
Figure 6A below shows total DAWN mentions from all facilities divided by prescriptions in millions for each quarter from January 1974 through December 1976 for the anorectic drugs in Schedule II of the CSA. Figure 6B below shows similar data for the anorectic drugs in Schedules III and IV. These figures basically show the data in Figure 3 broken out by quarter and illustrate that no significant change in this index of abuse has occurred over the past 3 years.

Figure 6A



*Includes d-amphetamine, dl-amphetamine, and amphetamine mixtures

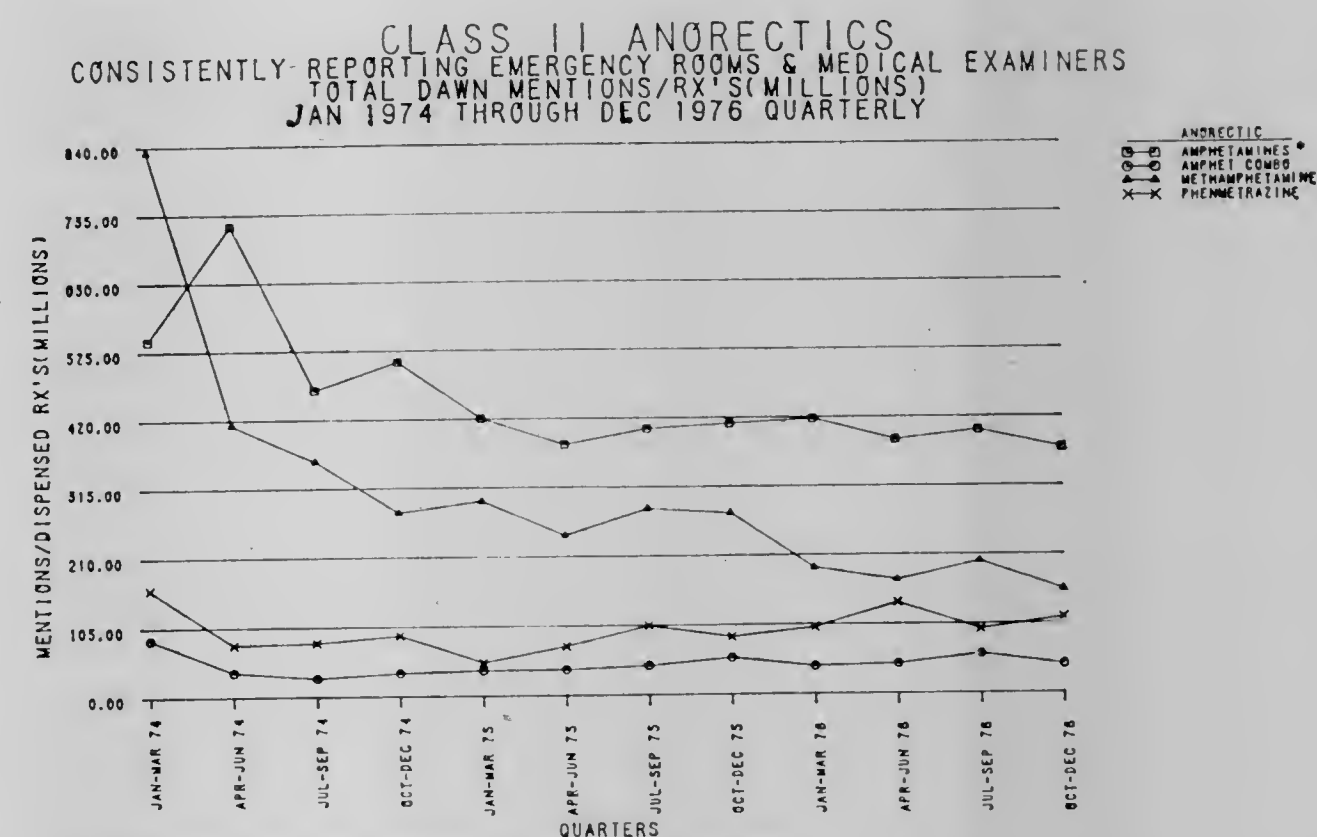
Figure 6B



FEDERAL REGISTER, VOL. 42, NO. 199—FRIDAY, OCTOBER 14, 1977

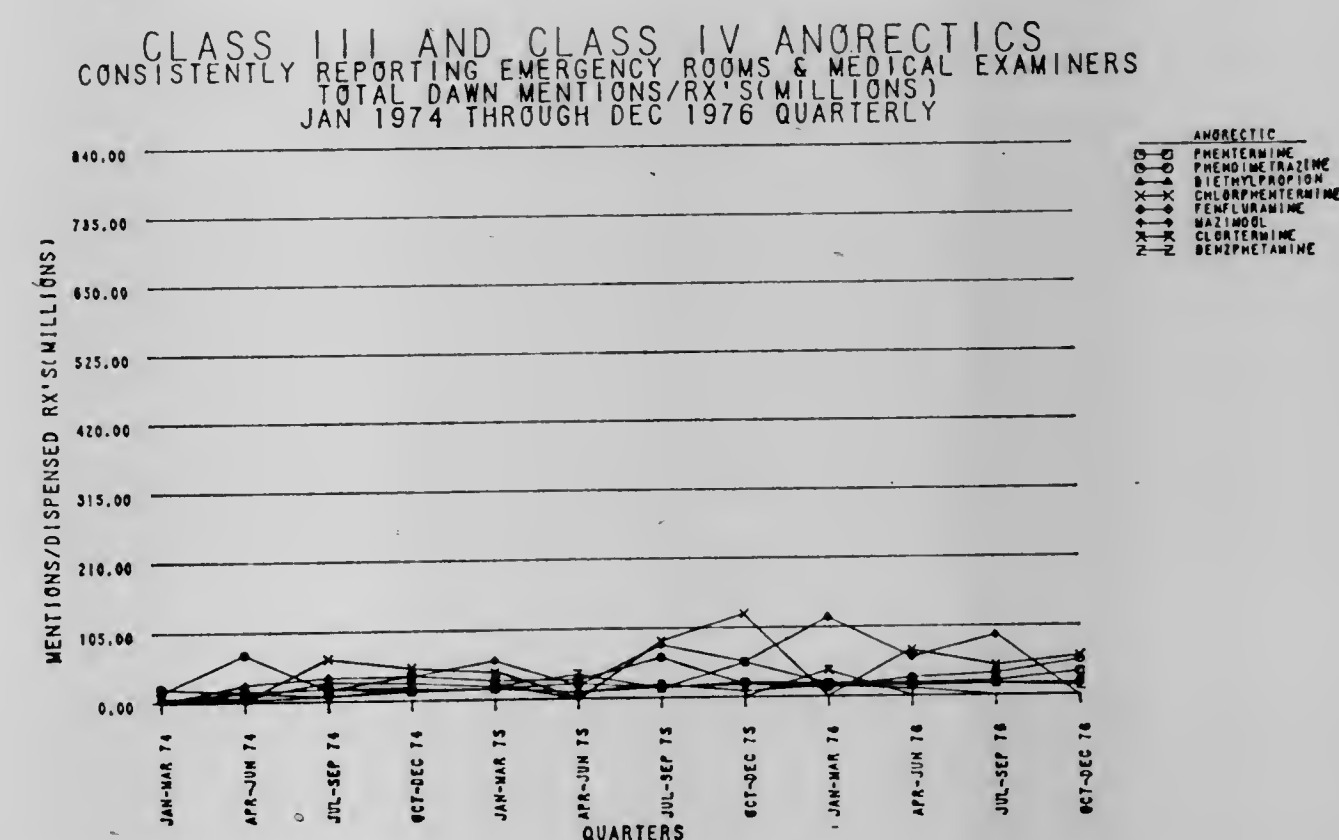
Figures 7A and 7B below are comparable to 6A and 6B, except in this instance the numerator of the ratios shown is consistently reported ER and ME mentions. Figures 7A and 7B thus show the data in Figure 4 broken out by quarter for the years 1974 through 1976, and again no significant time trend is evident.

Figure 7A



*Includes d-amphetamine, dl-amphetamine, and amphetamine mixtures

Figure 7B



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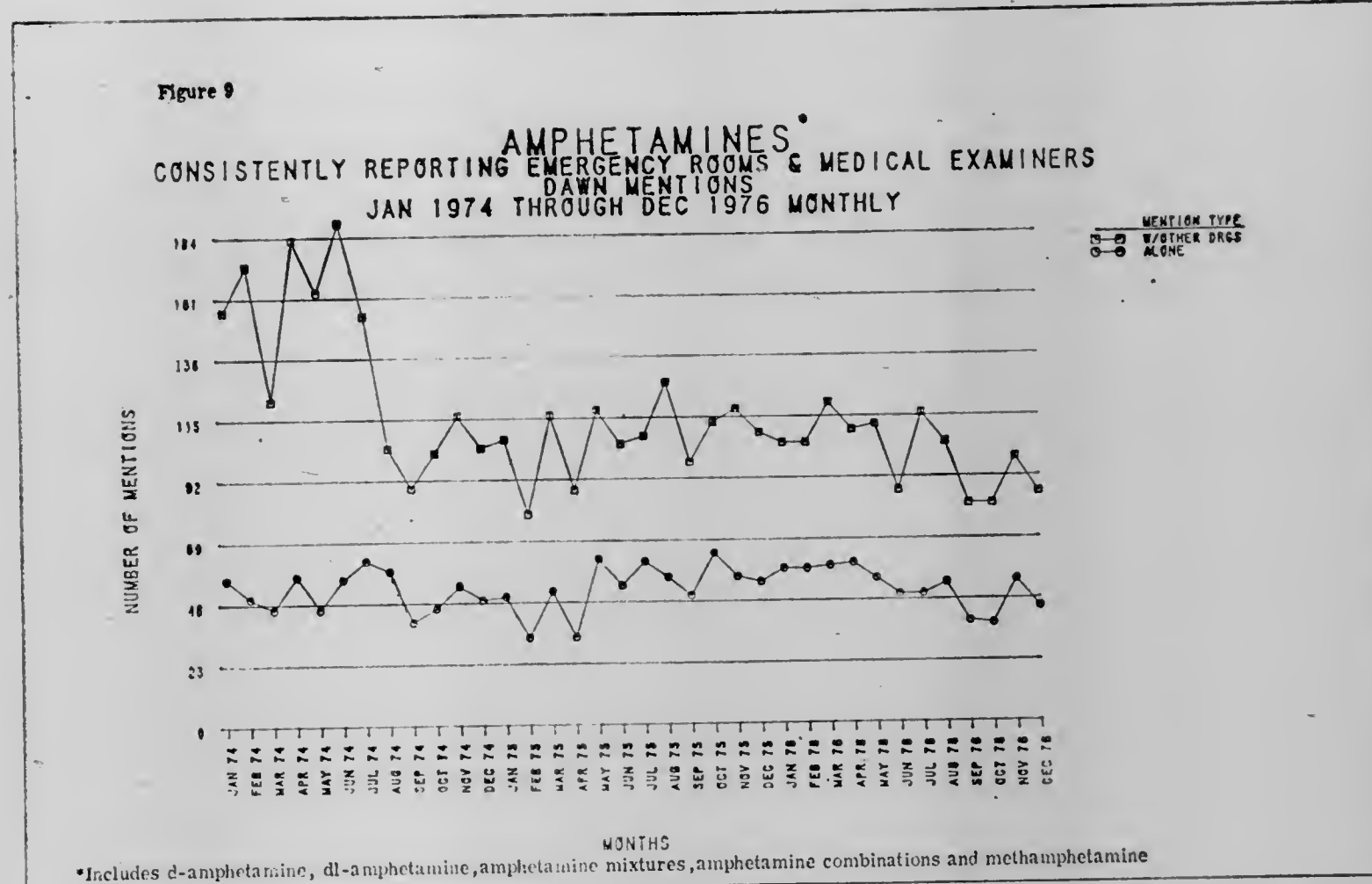
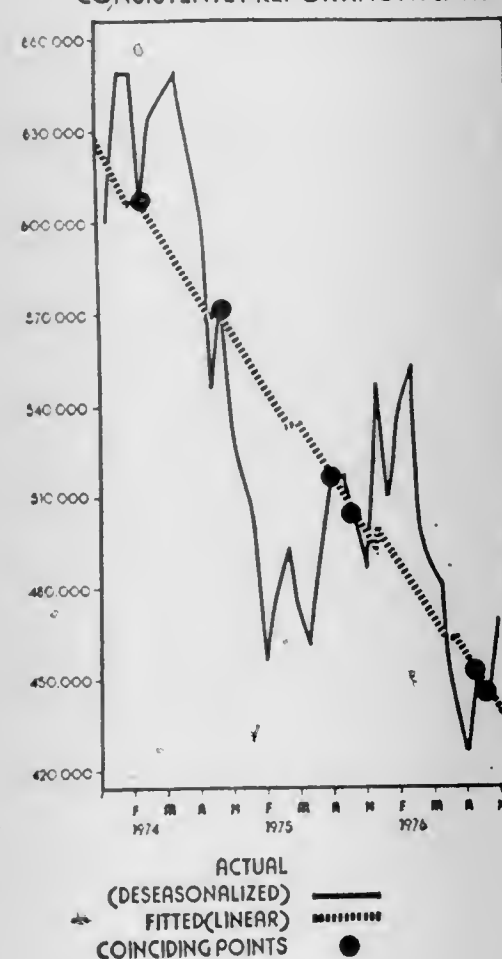
The conclusion that there has been no significant decline in the rate of abuse of amphetamines in the past 3 years is challenged by a report on prescription and drug abuse trends of the anorectic drugs developed by IMS America for the DEA (Ref. 5). Although the Bureau of Drugs and IMS America used the same data in making their analyses (data from DAWN and the National Prescription Audit), IMS America manipulated the data differently and thereby, in the opinion of the Bureau of Drugs, produced some misleading conclusions. In this report (Ref. 5), the conclusion was reached that there is a continuing rate of decline since 1974 in basically the same indices illustrated in Figures 6 and 7. The Bureau of Drugs considers this report to be erroneous in its conclusions for the following reasons:

1. The IMS report used different categories of anorectic drugs in its analysis. Specifically, "speed" (an unidentifiable jargon group) and phenmetrazine (a nonamphetamine) were added to the groups reflective of generic or trade name drugs, i.e., d-amphetamine, dl-amphetamine, amphetamine mixtures (containing more than one amphetamine), amphetamine combinations (containing another drug besides an amphetamine), and methamphetamine. Therefore, the IMS report cannot identify valid trends of abuse for amphetamines when other drugs are included in its analysis.

2. IMS applied a linear regression analysis to the time period from December 1973 through November 1976, thus providing the erroneous conclusion that amphetamine mentions are decreasing (Fig. 8 below). According to the analysis made in the Bureau of Drugs with information from DEA, there was a statistically decreasing trend from January 1974 through August 1974; however, no significant change is apparent after that time and the rate of DAWN mentions has remained relatively constant (Fig. 9

below). A possible explanation for the higher level of mentions in the first half of 1974 may be that amphetamines were being used secondarily with other drugs. If only those mentions are considered where amphetamines were the only drugs of abuse, there is no obvious trend from January 1974 through December 1976 (Fig. 9).

FIGURE 8
MENTIONS OF CSA II
DRUGS FROM ALL
CONSISTENTLY REPORTING FACILITIES



The conclusion that no significant reduction in the rate of abuse of amphetamines has occurred since January 1974 is supported by data from the National Clearinghouse for Poison Control Centers (Ref. 6). The National Clearinghouse records the collective experience of the 580 poison control centers throughout the United States. A standard reporting form, FD-2294, is sent to all centers with the request that it be filled out whenever treatment or response is made to telephone inquiries about poisoning.

Table 3 below summarizes Schedule II amphetamines and Schedule III and IV anorectic reports for the period of 1972 through 1975. These data agree with the DAWN findings; Schedule II drug products containing amphetamines were reported more often each year as causing injury to individuals than the total of the anorectics in Schedules III or IV.

TABLE 3.—Poison control centers

Reports	Number of reports			
	1972	1973	1974	1975
Schedule II amphetamines and methamphetamines	471	423	375	405
Schedule III anorectics	71	79	94	93
Schedule IV anorectics	115	135	138	162

4. A significant amount of the amphetamines used for abuse purposes comes from supplies that are legally manufactured, shipped, or prescribed. Of the total number of amphetamine mentions that are reported by the emergency facilities in the DAWN system, approx-

imately 25 percent identify the drug as having come from legal prescriptions, while the remaining 75 percent are attributed to drugs from other sources, e.g., "street buy," or stolen. Although amphetamines from other sources are not further broken down in the DAWN system as to whether they were legally or illegally manufactured, available information from DEA indicates that the amount of amphetamines diverted from legal sources constitutes a significant supply of these drugs for illicit use. According to the information from DEA, two major sources for the diversion of these drugs from legal sources are: (a) health professionals who engage in illegal or questionable practices with them, e.g., selling them without a prescription or prescribing them for nonmedical purposes, and (b) thefts from pharmacies, physicians, and suppliers.

Reports from Diversion Investigation Units (DIU) indicate that health professionals are involved in diverting a substantial amount of these legal drugs to illicit use (Ref. 7). Diversion Investigation Units are combined Federal-State task forces composed of State and local law enforcement personnel assisted by DEA and funded by the Law Enforcement Assistance Administration. These units identify and seek prosecution of practitioners and others involved in the illegal diversion and selling of legally manufactured drugs.

Of the DIU investigations reported from January 1975 to April 1977 that resulted in arrests, the following types

of health professionals were involved in the illegal diversion of amphetamines:

Category	Arrests in which amphetamine was involved	Arrests in which methamphetamine was involved
Medical doctors and doctors of osteopathy	22	6
Registered pharmacists	3	3
Dentists	1	1
Persons not employed in a health profession	42	17

In addition, the "Amphetamine Diversion" report transmitted to FDA on December 20, 1976 (Ref. 7) reveals the following:

1. There are physicians (cited in the report) who have ordered more than 3 million dosage units of amphetamines per year for their medical practice. This is sufficient to provide 15,000 12-week courses of therapy for the treatment of obesity, and proper use of such an amount would require that physicians initiate between 50 and 60 new patients on amphetamine therapy every day of every week during the year.

2. Some physicians are prescribing amphetamines to their patients for periods of up to 2 years. No substantial evidence of effectiveness for obesity exists after 90 days and significant evidence of tolerance and/or psychological dependence after prolonged use does exist.

3. A substantial amount of the illegal diversion of amphetamines by physicians occurs through the operation of "fat clinics" (a jargon term denoting that

the entire clinical practice is devoted to the treatment of obesity). The clinics usually order the amphetamines directly from the manufacturer or distributor and dispense them directly to the patient.

Currently, DEA is gathering additional information from its field staff to estimate with greater accuracy the amounts of amphetamines it believes are diverted through these mechanisms.

The other major source of diverted amphetamines is theft. Five million dosage units of these drugs were stolen from pharmacies, physicians, and suppliers in 1976 (Table 4 below; data from Ref. 4). The single greatest category of theft of anorectics in 1976 was theft of amphetamines from pharmacies. In fact, those

anorectic drugs in Schedule II of the CSA were stolen from pharmacies in greater amounts than the drugs in Schedules III and IV. A special case in 1976 was the theft of approximately 2 million dosage units of diethylpropion as a single theft of bulk powder from a truck, which accounts for the high figures attributed to this drug. For the amphetamines, about 10 percent of quantities stolen were at the manufacturer/distributor level, while 88 percent of the approximately 5 million dosage units stolen were taken at the retail level. These data indicate that amphetamines are the anorectic drugs most frequently desired by those who steal anorectic drugs to divert them to illicit use.

TABLE 4—Theft of anorectic drugs*—national totals for 1976

	Facility type				Totals
	Pharmacy	Doctor	Manufacturer/distributor	Other	
Schedule II					
Amphetamines	3,198,788	11,997	253,125	64,089	4,073,899
Methamphetamine	729,531	1	235,628	1,559	965,628
Phenmetrazine	711,666	14,708	38,028	3,286	767,690
Total					5,807,181
Schedule III					
Benzphetamine	22,810	0	43,300	4,100	70,210
Phendimetrazine	81,860	18,740	355,000	102,000	725,135
Mazindol	9,266	1	4,422	1,088	14,965
Chlorphentermine	4,304	1	4,700	570	9,974
Chlorfentermine	1,457	0	100	235	1,822
Total					822,106
Schedule IV					
Diethylpropion	42,083	14,828	2,674,031	433	2,731,375
Phentermine	97,572	12,322	265,796	7,196	322,886
Fenfluramine	4,277	720	2,400	876	8,073
Total					3,864,440
Grand total					10,513,727

* Numbers represent dosage units. Data from Ref. 4.

The available data from the DAWN systems indicate that approximately 25 percent of the amphetamines leading to DAWN mentions are from legal prescriptions, and the theft and DIU reports suggest that an additional increment of unknown magnitude can reasonably be attributed to diversion from the medical care system.

Additionally, DEA has provided data to FDA on anorectic drugs submitted to their laboratories for analysis between January 1974 and December 1976 (Ref. 8). Of the samples of 52 million tablets and capsules of anorectics submitted for analysis, only 2 percent (representing approximately 1 million dosage units) were produced by legitimate domestic manufacturers, while 90 percent (representing approximately 47 million dosage units) were identified as clandestinely manufactured. Because most drug samples sent to DEA laboratories are from investigations conducted to expose and prosecute clandestine manufacturing and illicit importation, the large percentage of illegitimate drugs from these laboratories is to be expected. These data, therefore, cannot reasonably be interpreted as suggesting that legally manufactured amphetamines do not con-

tribute significantly to the abuse problem associated with these drugs.

5. *There is no new evidence to challenge the previous FDA conclusion that amphetamines do not have any advantage over the nonamphetamine anorectic drugs as an adjunct in the treatment of obesity.* The anorectic review initiated by FDA in 1972 resulted in the conclusion that there are no significant differences among the anorectic drugs in their effectiveness in enhancing weight loss over the short-term as adjunctive treatments to diet in the management of obesity. Since that time no evidence has been presented to the agency to indicate that this conclusion was in error. Specifically, no adequate and well-controlled trials are known to the Bureau of Drugs which demonstrate that amphetamines carry any relative advantage over other anorectic drugs in the management of obesity.

RECENT EVENTS IN REGARD TO AMPHETAMINES

Testimony was given before the Subcommittee on Monopoly of the Select Committee on Small Business of the United States Senate, at hearings held November 9, 10, 11, 18, and 19, 1976, regarding the safety and effectiveness of

antiobesity drugs (Refs. 9 through 18). Experts brought before the subcommittee offered the following information and opinions:

Lester Grinspoon, M.D., Director of Information and Evaluation at the Massachusetts Mental Health Center, Boston, Mass., stated in response to a question as to whether or not some action should be taken concerning the amphetamines, "The near epidemic extent of amphetamine abuse which exists in this country today is at least in part a result of the medical community's basic unwillingness to recognize that fulfillment of its first responsibility is not always identical with the most immediate alleviation of pain and suffering." Dr. Grinspoon stated that in his opinion there seem to be few conditions that justify the prescribing of amphetamines. The exceptions are a very select group of patients suffering from certain varieties of narcolepsy and a number of truly hyperkinetic children. Dr. Grinspoon indicated that, in these cases, amphetamines should be prescribed only after a careful weighing of their potential dangers against their possible value.

Dr. Thaddeus E. Prout, Associate Professor of Medicine at Johns Hopkins University, Baltimore, Md., testified concerning the use of amphetamines for the treatment of obesity: "It has been demonstrated that the amphetamines and related compounds have such trivial effectiveness in the treatment of obesity that we should look again at questions of whether or not obesity should continue as an indication for their use. Obesity is the major medical excuse for the manufacture of amphetamines. It now seems reasonable to state that the risk of overproduction of the drugs and their excessive abuse far exceeds the benefits that might be cited in the treatment of obesity. Only a few patients believe that the so-called anorectic drugs in association with rigid dieting were the causative agent in their weight reduction. Most patients get no benefit from their use and risk the development of addiction. I would therefore recommend that obesity be withdrawn as an indication for the therapeutic use of these drugs."

Dr. Everett Ellingwood, Professor of Psychiatry at Duke University, stated at the hearing that the more potent stimulants, such as dextroamphetamine, methamphetamine and phenmetrazine currently under Schedule II should be considered for possible discontinuance as anorectics. Dr. Ellingwood also said that the chronic high-dose use of amphetamines, which leads to behavioral aberrations including psychosis, is considered by clinical observers to be a volatile state that is not infrequently implicated in violent or assaultive behavior.

Dr. John Henderson of Ottawa, Canada, representing the Canadian Medical Association, testified that on January 1, 1973, Canadian law designated five conditions as the only medical diagnoses for which the amphetamines could be prescribed. These five conditions were: narcolepsy, hyperkinetic disorders in children, minimal brain dysfunction, epi-

lepsy and Parkinsonism. The amphetamines were not indicated for weight reduction in Canada. Dr. Henderson stated that the Canadians did not feel that amphetamines should be used for the treatment of obesity, especially as other drugs were available for this purpose.

Dr. Thomas Gellert of Huntington, New York, testified that after Huntington physicians had evaluated scientific data concerning the use of amphetamines in the treatment of obesity, the physicians decided that amphetamines have no use in the practice of medicine except in the treatment of rare problems such as narcolepsy and in certain types of hyperactive children. Although the majority of the Huntington physicians cooperated in the implementation of a voluntary ban on the use of amphetamines in the treatment of obesity, Dr. Gellert stated that some physicians are still confining their practices to the treatment of obesity and dispensing an unusually excessive amount of legal amphetamines. According to his calculations, some of the doctors are prescribing more than a million dosage units of amphetamines a year. He felt that additional controls are needed for amphetamines to prevent injudicious distribution of legal amphetamines by a small number of physicians.

Dr. Barrett Scoville, former Director of the Division of Neuropsychopharmacological Drug Products of FDA, discussed the review of anorectic drugs and stated that in his opinion the efficacy decision was proper, but that the decision regarding safety appeared to need revision. Dr. Scoville stated that if the amphetamines continue to be abused, it would seem reasonable to withdraw approval of them for the obesity indication, for which safer drugs are available. Dr. Scoville believes the amphetamines to be the most dangerous class of anorectic drugs, but does not believe that obese patients should be deprived of all drugs for that indication.

Mr. Frederick Rody, Jr., Acting Deputy Administrator of the Drug Enforcement Administration, testified on the history of the control of anorectics under the CSA. Based on data available to DEA, Mr. Rody concluded that increasing amounts of abused amphetamines come from home supplies and these supplies are created largely through prescriptions and direct dispensing by physicians. He suggested that significant numbers of physicians are prescribing and dispensing in excess of the amount of the drug necessary to meet the patient's actual medical needs. Mr. Rody also discussed the problems of drugs that are manufactured within the United States, exported to another country, and then smuggled back into the United States for illicit sale.

Dr. J. Richard Crout, Director of the Bureau of Drugs, testified concerning the activities of FDA with respect to anorectic drugs. Dr. Crout stated that from 1971 through 1973 there was a dramatic decrease in the amount of amphetamines prescribed. However, since 1973 the use of amphetamines has remained fairly constant and at a rate about one-fifth

the use seen during the peak year of 1965. With regard to non-amphetamine anorectics, these drugs have increased in popularity since 1971 and are prescribed approximately twice as often as the amphetamines. Dr. Crout stated that, based on the DAWN data, the amphetamines and to a lesser extent phenmetrazine are associated with more DAWN contacts per number of sales than the other anorectics. Available information indicates that the Schedule II drugs are a greater problem than the other anorectics in Schedules III and IV of the CSA. Dr. Crout stated that FDA would further evaluate in more detail and decide whether definitive action should be taken regarding amphetamine drugs.

On February 3, 1977, the evidence relating to the use of dl-amphetamine, dextroamphetamine, and methamphetamine in the treatment of narcolepsy and of children with hyperkinesia and minimal brain dysfunction was reviewed by the Neurologic Drugs Advisory Committee of FDA (Ref. 19). Representatives of various parties, including the American Medical Association and several drug manufacturers, presented testimony at the meeting. The committee advised FDA that removal of the indication of narcolepsy from dl-amphetamine and dextroamphetamine would have a deleterious effect on patients with this condition. It was also the opinion of the committee that dl-amphetamine, dextroamphetamine, and methamphetamine were needed for the treatment of minimal brain dysfunction, in spite of the availability of methylphenidate and pemoline as alternatives, because not all children respond well enough to these drugs that the amphetamines can be replaced. The Bureau of Drugs has accepted these recommendations and will incorporate them into any plan for regulatory action in regard to this class of drugs.

REFERENCES

1. Director, National Institute on Drug Abuse, memorandum to Director, Bureau of Drugs, Food and Drug Administration, March 24, 1977, and attached reports: "Anorectics," 15 pp., "Anorectics II," 18 pp., "Anorectics III," 19 pp., tabulation "Drug Use Among High School Seniors in 1975 and 1976," 2 pp.
2. National Institute on Drug Abuse, "An Investigation of Selected Rural Drug Abuse Programs," DHEW Publication No. (ADM) 77-451, U.S. Government Printing Office, Washington, 1977, 20 pp.
3. Robins, L., "The Relationship of Amphetamine Use to Current Adjustment," unpublished paper, 1977, 13 pp.
4. "National Prescription Audit, Therapeutic Category Report," IMS America, Ambler, PA.
5. Drug Enforcement Administration, U.S. Department of Justice, "Study of Prescription and Drug Abuse Trends of CSA II, III, and IV Amphetamine and Other Anorectic Drugs, January 1, 1974–December 30, 1976," IMS America, Ambler, PA, 1977, 83 pp.
6. Food and Drug Administration data from Poison Control Center reports on anorectics for the years 1972, 1973, 1974, 1975, 4 pp.
7. Administrator, Drug Enforcement Administration, letter to Commissioner of Food and Drugs, December 20, 1976, and attached DEA report, "Amphetamine Diversion," 96 pp.

8. Drug Enforcement Administration, U.S. Department of Justice, "DEA Laboratory Analyses: Schedule II, III, & IV Anorectics," March 16, 1976, 36 pp.

9. Hearings before the Subcommittee on Monopoly of the Select Committee on Small Business, United States Senate, 94th Cong., 2d Sess., on Present Status of Competition in the Pharmaceutical Industry, U.S. Government Printing Office, 1977, Statement of J. R. Crout, Nov. 19, 1976, pp. 14,640–14,665.

10. Ibid. Statement of L. Grinspoon, M.D., November 10, 1976, p. 14,449.

11. Ibid. Statement of T. E. Prout, M.D., Nov. 10, 1976, p. 14,456.

12. Ibid. Statement of E. R. Jolly, M.D., Nov. 10, 1976, p. 14,495.

13. Ibid. Statement of E. H. Ellingwood, M.D., Nov. 10, 1976, p. 14,504.

14. Ibid. Statement of Edward King, Nov. 10, 1976, p. 14,524.

15. Ibid. Statement of John W. D. Henderson, M.D., Nov. 10, 1976, p. 14,531.

16. Ibid. Statement of T. M. Gellert, M.D., Nov. 10, 1976, pp. 14,551 and 14,556.

17. Ibid. Statement of B. Scoville, M.D., Nov. 10, 1976, pp. 14,961–14,965.

18. Ibid. Statement of F. A. Rody, Jr., Nov. 19, 1976, pp. 14,942–14,960.

19. Minutes of the Sixth Meeting, Neurologic Drugs Advisory Committee, Food and Drug Administration, Bureau of Drugs, Feb. 3–4, 1977, 24 pp.

20. "National Disease and Therapeutic Index—Drug File," IMS America, Ambler, PA.

21. Drug Enforcement Administration data on NPA drug list and Project DAWN code numbers, 9 pp.

22. Person, P. H., Jr., "The Drug Abuse Warning Network: A Statistical Perspective," Public Health Reports, 91(5):395–402, 1976.

CONSIDERATION OF ADDITIONAL REGULATORY ACTIONS RELATING TO THE AMPHETAMINES

In view of the evidence in the previous section, the Commissioner is considering initiating new administrative proceedings in regard to these drugs. The intent of such actions would be to limit the approved indications of amphetamines to those in which the drug serves an essential medical purpose and to inform patients taking these drugs of these indications. As a consequence of such actions, the production quotas for these drugs could be reduced to a fraction of their current level, thereby reducing the legal domestic supply available for diversion.

Specifically, the Commissioner is considering the initiation of proceedings intended to accomplish the following:

1. Remove the anorectic indication from the labeling of amphetamine products. Information on legitimate medical usage of Schedule II drugs is provided to DEA for use in setting production quotas. Because at least 88 percent of the legal medical usage of these drugs has been for weight reduction (Ref. 20), the recommended production quotas for amphetamines could be sharply reduced following such action.

2. Retain the indication of narcolepsy for dl-amphetamine and dextroamphetamine, and retain the indication of minimal brain dysfunction for dl-amphetamine, dextroamphetamine, and methamphetamine. These are the indications, other than obesity, for which these drugs are currently labeled.

3. Require patient labeling for amphetamine products. A short insert stating the warnings in layman's terms about using these drugs in weight reduction (and in the treatment of narcolepsy for methamphetamines) would be given to the patient when the drug is dispensed.

Other anorectic drug products, other than amphetamines, will remain on the market labeled for their anorectic indication. At the present time, available evidence from DEA and NIDA does not indicate an unacceptable level of abuse for any of these remaining anorectic drug products; however, these drugs will be reviewed periodically by the Controlled Substances Advisory Committee of FDA to determine whether additional controls are necessary.

If the steps outlined are ultimately taken and are successful in reducing the abuse level of amphetamines, it is possible that the abuse of one or more of these other anorectic drugs will increase. If any one drug in the class could then be shown to have a degree of abuse significantly higher than other drugs in the class (a situation similar to that which exists today with amphetamines), it is anticipated that action would be taken to remove that drug from the market. The regulatory action under consideration should therefore be seen not as an isolated proceeding against amphetamines but rather as the next step in a long-existing policy to take action, on relative safety grounds, against any anorectic drug that becomes abused at a rate substantially higher than other drugs in the class. Implementation of such a policy through the years should result in the long-term marketing of only those anorectic drugs which have the lowest potential for abuse.

PUBLIC HEARING

The Commissioner announces that a public hearing will be held to provide an open forum for comment and dis-

cussion on the information in this notice regarding the abuse of legally manufactured amphetamines. The hearing is open to all interested persons. Participants are invited to comment on the evidence presented in this notice, including the data relating to the abuse of amphetamines, any aspect of the regulatory plan proposed, and on the policies underlying this plan. He specifically seeks well-documented comment on the merits of the following possible course of action:

1. Removal of the anorectic indication from the labeling of amphetamine drug products.

2. Retention of the indication of narcolepsy for dextroamphetamine and dl-amphetamine products, and retention of the indication of minimal brain dysfunction for dextroamphetamine, dl-amphetamine and methamphetamine products.

3. Requiring patient labeling which would provide certain information on use and warnings concerning the potential for abuse of these drugs.

After the completion of the hearing, the Commissioner will consider the administrative record of the hearing to determine whether the abuse of legally manufactured and marketed amphetamines requires additional regulatory action. If a decision is made that additional action is required for these drugs, he will initiate proceedings on the basis of the administrative record of the hearing which includes the information cited in this notice.

The Commissioner advises that the evidence presented in this notice may be taken into account in recommending to DEA changes in the schedules of certain anorectic drugs under the CSA. Separate forums are available for these matters, however, and it is requested that participants not use this particular hearing for discussion of these issues.

The hearing will begin at 9 a.m. on December 2, 1977, in Conference Room E, third floor, Parklawn Building, 5600

Fishers Lane, Rockville, Md. 20857. The presiding officer will be J. Richard Crout, M.D., Director of the Bureau of Drugs.

Persons wishing to comment or present views at this hearing must file by November 14, 1977, a written notice of appearance under 21 CFR 15.21 with the Hearing Clerk (HFC-20), Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857. The envelope containing the notice should be prominently marked "Amphetamine Hearing." The notice of appearance shall contain the Hearing Clerk Docket No. (77N-0273); the name, address and telephone number of the person desiring to make a statement; business affiliation, if any; a summary of the presentation; and the approximate amount of time being requested for the presentation. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations. The Commissioner may require joint presentations by persons with common interests. He will allocate the time available for the hearing among the persons who properly file a notice of appearance and will make a schedule of the hearing available to such persons. Persons may use their allotted time on any aspect of the proposed action, consistent with the conduct of a reasonable and orderly hearing. Formal written statements on the issues may be presented to the presiding officer on the day of the hearing for inclusion in the record.

The hearing will be open to the public. At the discretion of the presiding officer, and as time permits, any interested person in attendance may be heard with respect to matters relevant to the issue under consideration.

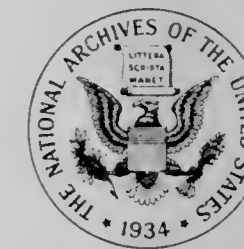
Dated: October 6, 1977.

SHERWIN GARDNER,
Acting Commissioner
of Food and Drugs.

[FR Doc. 77-29827 Filed 10-13-77; 8:45 am]

FRIDAY, OCTOBER 14, 1977

PART IV



EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

PROCEDURAL REGULATIONS

Authority Delegations and Miscellaneous
Amendments

Registered
Federal
Prepared

[6570-06]

Title 29—Labor

CHAPTER XIV—EQUAL EMPLOYMENT
OPPORTUNITY COMMISSIONPART 1601—PROCEDURAL
REGULATIONSDelegations of Authority and Other
AmendmentsAGENCY: Equal Employment Opportunity
Commission.

ACTION: Final rule.

SUMMARY: The Equal Employment Opportunity Commission published its procedural regulations on September 22, 1977 (42 FR 47828). Subsequent to the publication of the procedural regulations, the Commission adopted a plan for the reorganization of its headquarters offices. The regulations are herein amended to reflect appropriated delegations of authority stemming from the reorganization, and other, minor changes, as explained below.

EFFECTIVE DATE: October 25, 1977.

FOR FURTHER INFORMATION CON-
TACT:

Constance L. Dupre, Associate General Counsel, Legal Counsel Division, Office of the General Counsel, Room 2224, EEOC, 2401 E Street NW., Washington, D.C. 20506, a/c (202) 634-6460.

SUPPLEMENTARY INFORMATION: On August 19, 1977, the Equal Employment Opportunity Commission published a proposed revision of its procedural regulations (42 FR 42022) which appear at 29 CFR Part 1601. Those regulations were printed in final form on September 22, 1977 (42 FR 47828), effective September 23, 1977.

Subsequent to the publication of the procedural regulations, the Commission adopted a comprehensive plan for the reorganization of its headquarters offices in order to insure effective implementation of the new procedures. Consequently, certain delegations of authority have been changed. All references to the Director of the Office of Compliance Programs have been deleted and, with four exceptions, the Director of the Office of Field Services and the Director of the Office of Systemic Programs have been inserted. In §§ 1601.16(b) and 1601.56(b) the General Counsel has been inserted and in §§ 1601.70(a) and 1601.73 the Director of the Office of Field Services has been inserted.

Section 1601.5 has been changed to clarify the supervisory authority of the Director of the Office of Field Services over regional directors and directors of model offices.

Section 1601.13(d)(1)(ii) has been changed to delete the first sentence and modify the second sentence of the subsection. In order to expedite the processing of charges deferred to 706 Agencies, the Commission will not endeavor before deferral to obtain a charge meeting the requirements of § 1601.12(a). The 706 Agency will perform this function.

RULES AND REGULATIONS

Section 1601.50, and the title to Subpart G, have been modified to indicate expressly that Subpart G only applies to the processing of 707 charges by the General Counsel.

Minor errors in § 1601.13(c)(2) and (d)(2) have been corrected as well as changes to correct the designations of 706 Agencies in § 1601.74.

NOTE.—It is hereby certified that the revised regulation has been assessed for the need of an Inflationary Impact Statement. Because of the nature of the changes this revision does not require an Inflationary Impact Statement.

Dated: October 11, 1977.

ELEANOR HOLMES NORTON,
Chairman, Equal Employment
Opportunity Commission.

Accordingly, the procedural regulations of the Equal Employment Opportunity Commission, 29 CFR Part 1601, are amended to read as follows:

Sec.
1601.1 Purpose.

Subpart A—Definitions

1601.2 Terms defined in Title VII of the Civil Rights Act of 1964, as amended.

1601.3 Other definitions.
1601.4 Vice Chairman's functions.
1601.5 Region; district; supervisory authority.

Subpart B—Procedure for the Prevention of Unlawful Employment Practices

1601.6 Submission of information.
1601.7 Charges by or on behalf of persons claiming to be aggrieved.

1601.8 Where to make a charge.

1601.9 Form of charge.

1601.10 Withdrawal of a charge by a person claiming to be aggrieved.

1601.11 Charges by members of the Commission.

1601.12 Contents of charge; amendment of charge.

1601.13 Filing; deferrals to State and local agencies.

1601.14 Service of charge or notice of charge.

INVESTIGATION OF A CHARGE

1601.15 Investigative authority.

1601.16 Access to and production of evidence; testimony of witnesses; procedure and authority.

1601.17 Witnesses for public hearings.

1601.18 Right to inspect or copy data.

PROCEDURE FOLLOWING FILING OF A CHARGE

1601.19 Dismissal: Procedure and authority.

1601.20 Negotiated settlement.

1601.21 Reasonable cause determination: Procedure and authority.

1601.22 Confidentiality.

PROCEDURE TO RECTIFY UNLAWFUL EMPLOYMENT PRACTICES

1601.23 Preliminary or temporary relief.

1601.24 Conciliation: Procedure and authority.

1601.25 Failure of conciliation; notice.

1601.26 Confidentiality of endeavors.

PROCEDURE CONCERNING THE INSTITUTION OF CIVIL ACTIONS

1601.27 Civil Actions by the Commission.

1601.28 Notice of right to sue: Procedure and authority.

1601.29 Referral to the Attorney General.

Subpart C—Notices to Employees, Applicants for Employment and Union Members

Sec.
1601.30 Notices to be posted.

Subpart D—Interpretations and Opinions by the Commission

1601.31 Request for interpretation or opinion.

1601.32 Contents of request; where to file.

1601.33 Issuance of interpretation or opinion.

Subpart E—Construction of Rules

1601.34 Rules to be liberally construed.

Subpart F—Issuance, Amendment or Repeal of Rules

1601.35 Petitions.

1601.36 Action on petition.

Subpart G—Case Processing by the General Counsel Under Section 707 of Title VII

1601.50 Scope.

1601.51 Delegation of authority.

1601.52 Initiation of section 707 charge.

1601.53 Service of notice of charge.

1601.54 Deferral.

1601.55 Investigation.

1601.56 Issuance of subpoenas; petitions to revoke subpoenas; enforcement of subpoenas.

1601.57 Commission reasonable cause finding.

1601.58 Voluntary compliance; settlements; Commission authority to file suit.

1601.59 Notice to persons claiming to be aggrieved.

Subpart H—706 Agency Designation Procedures

1601.70 706 Agency designation.

1601.71 Commission determinations on 706 Agency applications.

1601.72 706 Agency performance standards.

1601.73 706 Agency conference.

1601.74 Designated 706 and Notice Agencies.

AUTHORITY: Sec. 713(a), Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-12(a).

§ 1601.1 Purpose.

The regulations set forth in this part 1601 contain the procedures established by the Equal Employment Opportunity Commission for carrying out its responsibilities in the administration and enforcement of Title VII of the Civil Rights Act of 1964, as amended. Based upon its experience in the administration of the Act and upon its evaluation of suggestions and petitions for amendments submitted by interested persons in accordance with § 1601.35, the Commission may from time to time amend and revise these procedures.

Subpart A—Definitions

§ 1601.2 Terms defined in Title VII of the Civil Rights Act of 1964, as amended.

The terms "person," "employer," "employment agency," "labor organization," "employee," "commerce," "industry affecting commerce," "State" and "region" as used herein shall have the meanings set forth in section 701 of Title VII of the Civil Rights Act of 1964, as amended.

§ 1601.3 Other definitions.

For the purposes of this Part, the term "Title VII" or "the Act" shall mean Title VII of the Civil Rights Act of 1964 as

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amended by the Equal Employment Opportunity Act of 1972; the term "Commission" shall mean the Equal Employment Opportunity Commission or any of its designated representatives; the term "706 Agency" shall mean a state or local agency which the Commission has determined satisfies the criteria stated in section 706(c) of Title VII; and the term "verified" shall mean sworn to or affirmed before a notary public, designated representative of the Commission, or other person duly authorized by law to administer oaths and take acknowledgments, or supported by an unsworn declaration in writing under penalty of perjury.

(b) The delegations of authority in subpart B of this part are applicable to charges filed pursuant to either section 706 or section 707 of Title VII.

§ 1601.4 Vice Chairman's functions.

The member of the Commission designated by the President to serve as Vice Chairman shall act as Chairman in the absence or disability of the Chairman or in the event of a vacancy in that office.

§ 1601.5 Region; district; supervisory authority.

The term "region" as used herein shall mean that part of the United States or any territory thereof fixed by the Commission as a particular region. The term "regional director" shall refer to that person designated as the Commission's chief officer in each region. The term "district" shall mean that area within a region fixed by the Commission as a particular sub-unit of a region. The term "district director" shall refer to that person designated as the Commission's chief officer in each district. The term "model office" shall refer to a district office which, although located within a region, has been designated by the Commission to operate under the supervision of the Executive Director, through the Director of the Office of Field Services, and the General Counsel; a model office does not operate under the supervision of a regional director. The regional director is hereby delegated all of the authority granted in this part to district directors to be exercised within the scope of his or her supervisory authority over each district director in his or her region, except with regard to model offices. The Director of the Office of Field Services is hereby delegated all of the authority granted in this part to regional directors and to directors of model offices to be exercised within the scope of his or her supervisory authority over such directors. The regional offices of the General Counsel are under direct control of the Commission's General Counsel.

Subpart B—Procedure for the Prevention of Unlawful Employment Practices

§ 1601.6 Submission of information.

The Commission shall receive information concerning alleged violations of Title VII from any person. Where the information discloses that a person is entitled to file a charge with the Commission, the

appropriate office shall render assistance in the filing of a charge. Any person or organization may request the issuance of a Commissioner charge for an inquiry into individual or systematic discrimination. Such request, with any pertinent information, should be submitted to the nearest District Office.

§ 1601.7 Charges by or on behalf of persons claiming to be aggrieved.

(a) A charge that any person has engaged in or is engaging in an unlawful employment practice within the meaning of Title VII may be made by or on behalf of any person claiming to be aggrieved. A charge on behalf of a person claiming to be aggrieved may be made by any person, agency, or organization. The written charge need not identify by name the person on whose behalf it is made. The person making the charge, however, must provide the Commission with the name, address and telephone number of the person on whose behalf the charge is made. During the Commission investigation, Commission personnel shall verify the authorization of such charge by the person on whose behalf the charge is made. Any such person may request that the Commission shall keep his or her identity confidential. However, such request for confidentiality shall not prevent the Commission from disclosing the identity to federal, state or local agencies that have agreed to keep such information confidential. If this condition is violated by a recipient agency, the Commission may decline to honor subsequent requests for such information.

(b) The person claiming to be aggrieved has the responsibility to provide the Commission with notice of any change in address and with notice of any prolonged absence from that current address so that he or she can be located when necessary during the Commission's consideration of the charge.

§ 1601.8 Where to make a charge.

A charge may be made in person or by mail at the offices of the Commission in Washington, D.C., or any of its district or regional offices or with any designated representative of the Commission. The addresses of the Commission's district offices appear in § 1610.4.

§ 1601.9 Form of charge.

A charge shall be in writing and signed and shall be verified.

§ 1601.10 Withdrawal of a charge by a person claiming to be aggrieved.

A charge filed by or on behalf of a person claiming to be aggrieved may be withdrawn only by the person claiming to be aggrieved and only with the consent of the Commission. The Commission hereby delegates authority to District Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or their designees, to grant consent to a request to withdraw a charge, other than a Commissioner charge, where the withdrawal of the charge will not defeat the purposes of Title VII.

§ 1601.11 Charges by members of the Commission.

Any member of the Commission may file a charge with the Commission. Such charge shall be in writing and signed and shall be verified.

§ 1601.12 Contents of charge; amendment of charge.

(a) Each charge should contain the following: (1) The full name, address and telephone number of the person making the charge except as provided in § 1601.7;

(2) The full name and address of the person against whom the charge is made, if known (hereinafter referred to as the respondent);

(3) A clear and concise statement of the facts, including pertinent dates, constituting the alleged unlawful employment practices: See § 1601.15(b);

(4) If known, the approximate number of employees of the respondent employer or the approximate number of members of the respondent labor organization, as the case may be; and

(5) A statement disclosing whether proceedings involving the alleged unlawful employment practice have been commenced before a State or local agency charged with the enforcement of fair employment practice laws and, if so, the date of such commencement and the name of the agency.

(b) Notwithstanding the provisions of paragraph (a) of this section, a charge is sufficient when the Commission receives from the person making the charge a written statement sufficiently precise to identify the parties, and to describe generally the action or practices complained of. A charge may be amended to cure technical defects or omissions, including failure to verify the charge, or to clarify and amplify allegations made therein. Such amendments and amendments alleging additional acts which constitute unlawful employment practices related to or growing out of the subject matter of the original charge will relate back to the date the charge was first received. A charge that has been so amended shall not be required to be redeferred.

§ 1601.13 Filing; deferrals to State and local agencies.

(a) The timeliness of a charge shall be measured for purposes of satisfying the filing requirements of section 706(e) of Title VII by the date on which the charge is received by the Commission.

(b) The Commission shall assume jurisdiction over charges not subject to the jurisdiction of a 706 agency upon receipt.

(c) Deferral policy. (1) In order to give full weight to the policy of section 706(c) of the Act, which affords State and local fair employment practice agencies that come within the provisions of that section an opportunity to remedy alleged discrimination concurrently regulated by Title VII and State or local law, the Commission adopts the following procedures with respect to allegations of discrimination filed with the Commission where there is no evidence

that such allegations were earlier presented to an appropriate 706 Agency. It is the intent of the Commission to thereby encourage the maximum degree of effectiveness in the State and local agencies. The Commission shall endeavor to maintain close communication with the State and local agencies with respect to all matters forwarded to such agencies and shall provide such assistance to State and local agencies as is permitted by law and as is practicable.

(2) Section 706(c) of Title VII grants States and their political subdivisions the exclusive right to process allegations of discrimination filed by a person other than a Commissioner for a period of sixty days or 120 days during the first year after the effective date of the qualifying State or local law. This right exists where pursuant to Subpart H of this part it has been demonstrated to the Commission that a State or local law prohibits the employment practice alleged to be unlawful and a State or local agency has been authorized to enforce and does enforce that law through civil or criminal proceedings. After the expiration of the exclusive processing period, the Commission may commence processing the allegation of discrimination.

(3) A 706 Agency may waive its right to the period of exclusive processing of charges provided under section 706(c) of Title VII with respect to any charge or category of charges. Where a 706 Agency has waived its right to the exclusive processing period with respect to any category of charges, the Commission will assume jurisdiction over charges within that category upon receipt. Copies of such charges shall be forwarded to the appropriate 706 Agency.

(d) The following procedures shall be followed with respect to cases arising in the jurisdiction of "706 Agencies."

(1) Where any document, whether or not verified, is received by the Commission as provided in § 1601.8 which may constitute a charge cognizable under Title VII, and where the 706 Agency has not waived its right to the period of exclusive processing with respect to that document, that document shall be deferred to the appropriate 706 Agency as provided in the procedures set forth below:

(i) All such documents shall be dated and time stamped upon receipt.

(ii) A copy of the original document shall be transmitted by registered mail, return receipt requested, to the appropriate State or local agency, or, where the State or local agency has consented thereto, by certified mail, by regular mail or by hand delivery. State or local proceedings are deemed to have commenced on the date such document is mailed or hand delivered.

(iii) The person claiming to be aggrieved and any person filing a charge on behalf of such person shall be notified, in writing, that the document which he or she sent to the Commission has been forwarded to the State or local agency pursuant to the provisions of section 706(c).

(2) For purposes of satisfying the filing requirement of section 706(c) of

Title VII, the Commission shall assume jurisdiction over a document described in paragraph (d)(1) of this section as follows:

(i) Where the document on its face constitutes a charge within a category of charges over which the 706 Agency has waived its right to the period of exclusive processing referred to in paragraph (b)(3) of this section, the Commission will assume jurisdiction over the charge upon receipt of the document;

(ii) Where the document is submitted to the Commission within 180 days from the date of the alleged violation but beyond the period of limitation of the appropriate 706 Agency, the Commission shall assume jurisdiction over the charge upon receipt of the document;

(iii) Where the proceedings of a 706 Agency have been commenced pursuant to paragraph (d)(1) of this section, the Commission shall assume jurisdiction sixty (or where appropriate 120) days after the 706 Agency proceedings have been commenced, except where the Commission is earlier notified of the termination of State proceedings. It shall immediately assume jurisdiction upon receipt of such notice.

(iv) Where the proceedings of a 706 Agency have been commenced less than sixty (or, where appropriate, 120) days prior to the time the Commission receives the document and those proceedings have not previously been terminated, the Commission shall assume jurisdiction 60 (or, where appropriate, 120) days after the 706 Agency proceedings have been commenced, except where the Commission is earlier notified of the termination of state proceedings. It shall immediately assume jurisdiction upon receipt of such notice.

(e) In addition to the provisions in paragraphs (a), (b), and (c) of this section and pursuant to section 705(g)(1) and section 709(b) of Title VII, the Commission shall endeavor to enter into agreements with 706 Agencies and other fair employment practice agencies to establish effective and integrated resolution procedures. Such agreements may include, but need not be limited to, cooperative arrangements to provide for processing of certain charges by the Commission, rather than by the 706 Agency during the period specified in section 706(c) and section 706(d) of Title VII.

(f) Notwithstanding the deferral provisions of this section, the Commission may make a preliminary investigation and commence judicial action for immediate, temporary or preliminary relief pursuant to section 706(f)(2) of Title VII.

(g) A charge made by a member of the Commission shall be deemed filed upon receipt by the Commission office responsible for investigating the charge. The Commission will notify a 706 Agency when an allegation of discrimination is made by a member of the Commission concerning an employment practice occurring within the jurisdiction of the 706 Agency. The 706 Agency will be entitled to process the charge exclusively for a period of not less than

sixty days if the 706 Agency makes a written request to the Commission within ten days of receiving notice that the allegation has been filed. The sixty day period shall be extended to one-hundred and twenty days during the first year after the effective date of the qualifying State or local law.

§ 1601.14 Service of charge or notice of charge.

(a) Within ten days after the filing of a charge in the appropriate Commission office, the Commission shall serve respondent a copy of the charge, by mail or in person, except when it is determined that providing a copy of the charge would impede the law enforcement functions of the Commission. Where a copy of the charge is not provided, the respondent will be served with a notice of the charge within ten days after the filing of the charge (including the date, place, circumstances and identity of the person filing the charge, or, in the case of a charge filed on behalf of any individual, the identity of the person or organization so filing).

(b) The District Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or their designees, are hereby delegated the authority to issue the notice described in paragraph (a) of this section.

INVESTIGATION OF A CHARGE

§ 1601.15 Investigative authority.

(a) The investigation of a charge shall be made by the Commission, its investigators, or any other representative designated by the Commission. During the course of such investigation, the Commission may utilize the services of State and local agencies which are charged with the administration of fair employment practice laws or appropriate Federal agencies, and may utilize the information gathered by such authorities or agencies. As part of each investigation, the Commission will accept any statement of position or evidence with respect to the allegations of the charge which the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, or the respondent wishes to submit.

(b) As part of the Commission's investigation, the Commission may require the person claiming to be aggrieved to provide a statement which includes:

(1) a statement of each specific harm that the person has suffered and the date on which each harm occurred;

(2) for each harm, a statement specifying the act, policy or practice which is alleged to be unlawful;

(3) for each act, policy, or practice alleged to have harmed the person claiming to be aggrieved, a statement of the facts which lead the person claiming to be aggrieved to believe that the act, policy or practice is discriminatory.

(c) The Commission may require a fact-finding conference with the parties prior to a determination on a charge of discrimination. The conference is primarily an investigative forum intended to define the issues, to determine which

elements are undisputed, to resolve those issues that can be resolved and to ascertain whether there is a basis for negotiated settlement of the charge.

(d) The Commission's authority to investigate a charge is not limited to the procedures outlined in paragraphs (a), (b) and (c) of this section.

§ 1601.16 Access to and production of evidence; testimony of witnesses; procedure and authority.

(a) To effectuate the purposes of Title VII, any member of the Commission shall have the authority to sign and issue a subpoena requiring:

(i) the attendance and testimony of witnesses;

(ii) the production of evidence including, but not limited to, books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and

(iii) access to evidence for the purposes of examination and the right to copy.

Any District Director, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or any representatives designated by the Commission, may sign and issue a subpoena on behalf of the Commission. The subpoena shall state the name and address of its issuer, identify the person or evidence subpoenaed, the person to whom and the place, date, and the time at which it is returnable or the nature of the evidence to be examined or copied, and the date and time when access is requested. A subpoena shall be returnable to a duly authorized investigator or other representative of the Commission. Neither the person claiming to be aggrieved, the person filing a charge on behalf of such person nor the respondent shall have the right to demand that a subpoena be issued.

(b) Any person served with a subpoena who intends not to comply therewith shall within five days (excluding Saturdays, Sundays and Federal legal holidays) after the date of service of the subpoena upon him or her, petition the General Counsel by mail to revoke or modify the subpoena. Such petition shall be mailed to 2401 E Street NW., Washington, D.C. 20506, and a copy thereof shall be served on the person who issued the subpoena. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each such portion, the grounds upon which the petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A." Within eight days after receipt thereof or as soon thereafter as practicable, the General Counsel shall make a determination upon the petition, stating reasons, and shall submit the petition and determination to the Commission for its review. The Commission shall review the petition and make a final determination. A commissioner who has issued a subpoena shall abstain from reviewing any petition to modify or revoke the subpoena. The Commission shall

serve a copy of the final determination of the petition upon the petitioner. For purposes of this section, service shall be made and proof thereof established pursuant to section 11(4) of the National Labor Relations Act, as amended, 29 U.S.C. 161(4), as made applicable to Commission hearings and investigations by section 710 of Title VII: *Provided, however*, That whenever the subpoena was issued by the Director of a Model Office, the petition to revoke or modify the subpoena shall be mailed to that Director, within the 5-day period specified above, who will make a determination on the petition. Any petitioner who wishes to appeal the determination of the Director shall do so by following the standard procedures specified above. Such appeal shall, in addition, be clearly labeled as "Appeal of Petition to Revoke or Modify Subpoena," and shall attach the initial petition and determination, designated as "Attachments B and C." No argument not presented to the Director of the Model Office will be considered by the Commission.

(c) Upon the failure of any person to comply with a subpoena issued under this section, the Commission may utilize the procedures of section 11(2) of the National Labor Relations Act, as amended, 29 U.S.C. 161(2), to compel enforcement of the subpoena.

(d) Witnesses who are subpoenaed pursuant to § 1601.16(a) shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

§ 1601.17 Witnesses for public hearings.

(a) To effectuate the purposes of Title VII, any Commissioner, upon approval of the Commission, may demand in writing that a person appear at a stated time and place within the State in which such person resides, transacts business, or is served with the demand, for the purpose of testifying under oath before the Commission or its representative. If there be noncompliance with any such demand, the Commission may utilize the procedures of section 710 of Title VII to compel such person to testify. A transcript of testimony may be made a part of the record of each investigation.

(b) Witnesses who testify as provided in paragraph (a) of this section shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

§ 1601.18 Right to inspect or copy data.

A person who submits data or evidence to the Commission may retain or, on payment of lawfully prescribed costs, procure a copy of transcript thereof, except that a witness may for good cause be limited to inspection of the official transcript of his or her testimony.

PROCEDURE FOLLOWING FILING OF A CHARGE

§ 1601.19 Dismissal: Procedure and authority.

(a) Where a charge on its face, or as amplified by the statements of the person claiming to be aggrieved discloses,

or where after investigation the Commission determines, that the charge and every portion thereof is not timely filed, or otherwise fails to state a claim under Title VII, the Commission shall dismiss the charge. A charge which raises a claim exclusively under section 717 of Title VII shall not be taken and persons seeking to raise such claims shall be referred to the appropriate federal agency.

(b) Where the Commission determines after investigation that there is not reasonable cause to believe that Title VII has been violated, the Commission shall dismiss the charge.

(c) Where the person claiming to be aggrieved fails to provide requested necessary information, fails or refuses to appear or to be available for interviews or conferences as necessary, fails or refuses to provide information requested by the Commission pursuant to § 1601.15 (b), or otherwise refuses to cooperate to the extent that the Commission is unable to resolve the charge, and after due notice, the charging party has had thirty days in which to respond, the Commission may dismiss the charge.

(d) Where the person claiming to be aggrieved cannot be located, the Commission may dismiss the charge: *Provided*, That reasonable efforts have been made to locate the charging party and the charging party has not responded within 30 days to a notice sent by the Commission to the person's last known address.

(e) Where a respondent has made a settlement offer described in § 1601.20 which is in writing and specific in its terms, the Commission may dismiss the charge if the person claiming to be aggrieved refuses to accept the offer: *Provided*, That the offer would afford full relief for the harm alleged by the person claiming to be aggrieved and the person claiming to be aggrieved fails to accept such an offer within 30 days after actual notice of the offer.

(f) Written notice of disposition, pursuant to paragraphs (a), (b), (c), (d), or (e) of this section, shall be issued to the person claiming to be aggrieved and to the person making the charge on behalf of such person, where applicable; in the case of a Commissioner charge, to all persons specified in § 1601.28(b)(2); and to the respondent. Appropriate notices of right to sue shall be issued pursuant to § 1601.28.

(g) The Commission hereby delegates authority to District Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, as appropriate, to dismiss charges, as limited by § 1601.21(d). The authority of the Commission to reconsider decisions and determinations as set forth in § 1601.21 (b) and (d) shall be applicable to this section.

§ 1601.20 Negotiated settlement.

(a) Prior to the issuance of a determination as to reasonable cause, the Commission will encourage the parties to settle the charge on terms that are mutually agreeable. District Directors, the Director of the Office of Field Services and the Director of the Office of Sys-

temic Programs, or their designees, shall have the authority to sign any settlement agreement which is agreeable to both parties. The Commission shall limit its undertaking in such settlements to an agreement not to process that charge further. Such settlements shall note that the Commission has made no judgment on the merits of the charge. Such an agreement shall not affect the processing of any other charge, including, but not limited to, a Commissioner charge or a charge, the allegations of which are like or related to the individual allegations settled.

(b) In the alternative, the Commission may facilitate a settlement between the person claiming to be aggrieved and the respondent by permitting withdrawal of the charge pursuant to § 1601.10.

§ 1601.21 Reasonable cause determination: Procedure and authority.

(a) Where a charge has not been settled or dismissed, the Commission shall, after making investigative efforts, determine whether reasonable cause exists to believe that Title VII has been violated. A determination as to reasonable cause is based on, and limited to, evidence obtained by the Commission and does not reflect any judgment on the merits of allegations not addressed in the determination.

(b) The Commission shall provide prompt notification of its determination under paragraph (a) of this section to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commissioner in the third-party certificate, if any, and the respondent. The Commission's determination is final when issued. The Commission may, however, on its own initiative reconsider its decision or the determination of any of its designated officers who have authority to issue Letters of Determination. When it does reconsider, the Commission shall provide prompt notification of its decision to amend, alter or revoke such decision or Letter of Determination to the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commissioner in the third-party certificate, if any, and the respondent.

(c) Where a member of the Commission has filed a Commissioner charge, he or she shall abstain from making a determination in that case.

(d) The Commission hereby delegates to District Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs the authority, in those cases in which previously issued Commission Decisions serve as precedent for the determination and in those cases in which the Commission's Guidelines provides a statement of policy which serves as authority for the determination, upon completion of an investigation, to dismiss a charge, make a determination, issue a Letter of Determination

and serve a copy thereof upon the parties. Such determination is final when the Letter of Determination is issued. However, the Director of the Office of Field Services, the Director of the Office of Systemic Programs and each District Director for determinations issued by his or her office may on his or her own initiative reconsider determinations. When he or she has done so, the issuing Director shall promptly notify the person claiming to be aggrieved, the person making the charge on behalf of such person, if any, and the respondent, or in the case of a Commissioner charge, the person named in the charge or identified by the Commissioner in the third-party certificate, if any, and the respondent of his or her decision to amend, alter or revoke such Letter of Determination.

(e) In making a determination as to whether reasonable cause exists, substantial weight shall be accorded final findings and orders made by designated 706 Agencies to which the Commission defers charges pursuant to § 1601.13. For the purposes of this section, the following definitions shall apply:

(1) "Final findings and orders" shall mean: (i) The findings of fact and order incident thereto issued by a 706 Agency on the merits of a charge; or

(ii) The consent order or consent decree entered into by the 706 Agency on the merits of a charge.

Provided, however, That no findings and order of a 706 Agency shall be considered final for purposes of this section unless the 706 Agency shall have served a copy of such findings and order upon the Commission and upon the person claiming to be aggrieved and shall have informed such person of his or her rights of appeal or to request reconsideration, or rehearing or similar rights; and the time for such appeal, reconsideration, or rehearing request shall have expired or the issues of such appeal, reconsideration or rehearing shall have been determined.

(2) "Substantial weight" shall mean that such full and careful consideration shall be accorded to final findings and orders, as defined above, as is appropriate in light of the facts supporting them when they meet all of the prerequisites set forth below:

(i) The proceedings were fair and regular; and

(ii) The practices prohibited by the State or local law are comparable in scope to the practices prohibited by Federal law; and

(iii) The final findings and order serve the interest of the effective enforcement of Title VII: *Provided,* That giving substantial weight to final findings and orders of a 706 Agency does not include according weight, for purposes of applying Federal law, to such Agency's conclusions of law.

§ 1601.22 Confidentiality.

Neither a charge, nor information obtained pursuant to section 709(a) of Title VII, nor information obtained from records required to be kept or reports required to be filed pursuant to section 709 (c) and (d) of Title VII, shall

be made matters of public information by the Commission prior to the institution of any proceedings under this Title involving such charge or information. This provision does not apply to such earlier disclosures to charging parties, or their attorneys, respondents or their attorneys, or witnesses where disclosure is deemed necessary for securing appropriate relief. This provision also does not apply to such earlier disclosures to representatives of interested Federal, State, and local authorities as may be appropriate or necessary to the carrying out of the Commission's function under Title VII, nor to the publication of data derived from such information in a form which does not reveal the identity of charging parties, respondents, or persons supplying the information.

PROCEDURE TO RECTIFY UNLAWFUL EMPLOYMENT PRACTICES

§ 1601.23 Preliminary or temporary relief.

(a) In the interest of the expeditious procedure required by section 706(f) (2) of Title VII, the Commission hereby delegates to the Director of the Office of Field Services, the Director of the Office of Systemic Programs and each District Director the authority, upon the basis of a preliminary investigation, to make the initial determination on its behalf that prompt judicial action is necessary to carry out the purposes of the Act and recommend such action to the General Counsel. The Commission authorizes the General Counsel to institute an appropriate action on behalf of the Commission in such a case not involving a government, governmental agency, or political subdivision.

(b) In a case involving a government, governmental agency, or political subdivision, any recommendation for preliminary or temporary relief shall be transmitted directly to the Attorney General by the Director of the Office of Field Services, the Director of the Office of Systemic Programs or the District Director.

(c) Nothing in this section shall be construed to prohibit private individuals from exercising their rights to seek temporary or preliminary relief on their own motion.

§ 1601.24 Conciliation: Procedure and authority.

(a) Where the Commission determines that there is reasonable cause to believe that an unlawful employment practice has occurred or is occurring, it shall endeavor to eliminate such practice by informal methods of conference, conciliation, and persuasion. In conciliating a case in which a determination of reasonable cause has been made, the Commission shall attempt to achieve a just resolution of all violations found and to obtain agreement that the respondent will eliminate the unlawful employment practice and provide appropriate affirmative relief. Where such conciliation attempts are successful, the terms of the conciliation agreement shall be reduced to writing and shall be signed

by the Commission's designated representative and the parties. A copy of the signed agreement shall be sent to the respondent and the person claiming to be aggrieved who are signatories thereto.

(b) District Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or their designees, are hereby delegated authority to enter into informal conciliation efforts. District Directors, the Director of the Office of Field Service and the Director of the Office of Systemic Programs are hereby delegated the authority to sign conciliation agreements. When a suit brought by the Commission is in litigation, the General Counsel is hereby delegated the authority to negotiate and sign conciliation agreements where, pursuant to section 706(f) (1) of Title VII, a court has stayed proceedings in the case pending further efforts of the Commission to obtain voluntary compliance.

(c) Proof of compliance with Title VII in accordance with the terms of the agreement shall be obtained by the Commission before the case is closed. In those instances in which a person claiming to be aggrieved or a member of the class claimed to be aggrieved by the practices alleged in the charge is not a party to such an agreement, the agreement shall not extinguish or in any way prejudice the rights of such person to proceed in court under section 706(f) (1) of Title VII.

§ 1601.25 Failure of conciliation; notice.

Where the Commission is unable to obtain voluntary compliance as provided by Title VII and it determines that further efforts to do so would be futile or nonproductive, it shall, through the appropriate District Director, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or their designees, so notify the respondent in writing.

§ 1601.26 Confidentiality of endeavors.

(a) Nothing that is said or done during and as part of the informal endeavors of the Commission to eliminate unlawful employment practices by informal methods of conference, conciliation, and persuasion may be made a matter of public information by the Commission, its officers or employees, or used as evidence in a subsequent proceeding without the written consent of the persons concerned. This provision does not apply to such disclosures to the representatives of Federal, State or local agencies as may be appropriate or necessary to the carrying out of the Commission's functions under Title VII: *Provided, however,* That the Commission may refuse to make disclosures to any such agency which does not maintain the confidentiality of such endeavors in accord with this section or in any circumstances where the disclosures will not serve the purposes of the effective enforcement of Title VII.

(b) Factual information obtained by the Commission during such informal

endeavors, if such information is otherwise obtainable by the Commission under section 709 of Title VII, for disclosure purposes will be considered by the Commission as obtained during the investigatory process.

PROCEDURE CONCERNING THE INSTITUTION OF CIVIL ACTIONS

§ 1601.27 Civil actions by the Commission.

The Commission may bring a civil action against any respondent named in a charge not a government, governmental agency or political subdivision, after thirty (30) days from the date of the filing of a charge with the Commission unless a conciliation agreement acceptable to the Commission has been secured: *Provided, however,* That the Commission may seek preliminary or temporary relief pursuant to section 706(f) (2) of Title VII, according to the procedures set forth in § 1601.23 hereof, at any time.

§ 1601.28 Notice of right to sue: Procedure and authority.

(a) Issuance of notice of right to sue upon request. (1) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission shall promptly issue such notice as described in § 1601.28(e) to all parties, at any time after the expiration of one hundred eighty (180) days from the date of filing of the charge with the Commission, or in the case of a Commissioner charge 180 days after the filing of the charge or 180 days after the expiration of any period of reference under section 706(d) of Title VII as appropriate.

(2) When a person claiming to be aggrieved requests, in writing, that a notice of right to sue be issued, and the charge to which the request relates is filed against a respondent other than a government, governmental agency or political subdivision, the Commission may issue such notice as described in § 1601.28(e) with copies to all parties, at any time prior to the expiration of 180 days from the date of filing the charge with the Commission; *Provided,* that the District Director, the Director of the Office of Field Services or the Director of the Office of Systemic Programs has determined that it is probable that the Commission will be unable to complete its administrative processing of the charge within 180 days from the filing of the charge and has attached a written certificate to that effect.

(3) Issuance of a notice of right to sue shall terminate further processing of any charge not a Commissioner charge unless the Director of the Office of Field Services, the Director of the Office of Systemic Programs, the appropriate District Director, or the General Counsel, determines at that time or at a later time that it would effectuate the purposes of Title VII to further process the charge. Issuance of a notice of right to sue shall

not terminate the processing of a Commissioner charge.

(4) The issuance of a notice of right to sue does not preclude the Commission from offering such assistance to a person issued such notice as the Commission deems necessary or appropriate.

(b) Issuance of notice of right to sue following Commission disposition of a charge.

(1) Where the Commission has found reasonable cause to believe that the Act has been violated, has been unable to obtain voluntary compliance with Title VII, and where the Commission has decided not to bring a civil action against the respondent, it will issue a notice of right to sue on the charge as described in § 1601.28(e) to:

(i) The person claiming to be aggrieved, or

(ii) In the case of a Commissioner charge, to any member of the class who is named in the charge, identified by the Commissioner in a third-party certificate, or otherwise identified by the Commission as a member of the class,

and provide a copy thereof to all parties.

(2) Where the Commission has entered into a conciliation agreement to which the person claiming to be aggrieved is not a party, the Commission shall issue a notice of right to sue on the charge to the person claiming to be aggrieved.

(3) Where the Commission has dismissed a charge pursuant to § 1601.19, it shall issue a notice of right to sue as described in § 1601.28(e) to:

(i) The person claiming to be aggrieved, or

(ii) In the case of a Commissioner charge, to any member of the class who is named in the charge, identified by the Commissioner in a third-party certificate, or otherwise identified by the Commission as a member of the class,

and provide a copy thereof to all parties.

(4) The issuance of a notice of right to sue does not preclude the Commission from offering such assistance to a person issued such notice as the Commission deems necessary or appropriate.

(c) The Commission hereby delegates authority to District Directors, the Director of the Office of Field Services and the Director of the Office of Systemic Programs, or their designees, to issue notices of right to sue, in accordance with this section, on behalf of the Commission.¹

(d) Notices of right to sue for charges against Governmental respondents. Notices of right to sue in cases where the respondent is a government, governmental agency, or a political subdivision thereof, shall be issued by the Attorney

¹ *Formal Ratification*—Notice is hereby given that the EEOC at a Commission meeting on March 12, 1974, formally ratified the acts of the District Directors of EEOC District Offices in issuing notices of right to sue pursuant to Commission practice instituted on October 15, 1969, and continued through March 18, 1974, 39 FR 10178 (March 18, 1974).

General, who has the authority to issue such notices.

(e) Content of notice of right to sue. The notice of right to sue shall include:

- (1) Authorization to the aggrieved person to bring a civil action pursuant to section 706(f)(1) of the Act within 90 days from receipt of such authorization;
- (2) Advice concerning the institution of such civil action by the person claiming to be aggrieved, where appropriate;
- (3) A copy of the charge;
- (4) The Commission's decision, determination, or dismissal, as appropriate.

§ 1601.29 Referral to the Attorney General.

If the Commission is unable to obtain voluntary compliance in a charge involving a government, governmental agency or political subdivision, it shall inform the Attorney General of the appropriate facts in the case with recommendations for the institution of a civil action by him or her against such respondent or for intervention by him or her in a civil action previously instituted by the person claiming to be aggrieved.

Subpart C—Notices to Employees, Applicants for Employment and Union Members

§ 1601.30 Notices to be posted.

(a) Every employer, employment agency, labor organization, and joint labor-management committee controlling an apprenticeship or other training program, as the case may be, shall post and keep posted in conspicuous places upon its premises where notices to employees, applicants for employment, members, and trainees, are customarily posted the following notice:

EQUAL EMPLOYMENT OPPORTUNITY IS THE LAW
DISCRIMINATION IS PROHIBITED

By the Civil Rights Act of 1964, as amended, and by Executive Order Numbers 11246 and 11375.

Title VII of the Civil Rights Act of 1964, as amended, administered by the Equal Employment Opportunity Commission prohibits discrimination because of Race, Color, Religion, Sex, or National Origin by employers with 15 or more employees, by Labor Organizations having a hiring hall or 15 or more members, by Employment Agencies, and by Joint Labor-Management Committees for Apprenticeship or Training.

Any person who believes he or she has been discriminated against should contact:

The Equal Employment Opportunity Commission, 2401 E Street N.W., Washington, D.C. 20506 or any of its district offices.

Executive Order Numbers 11246 and 11375 administered by the Office of Federal Contract Compliance Programs prohibits discrimination because of Race, Color, Religion, Sex or National Origin, and requires affirmative action to ensure equality of opportunity in all aspects of employment by all Federal Government Contractors and Subcontractors, and by contractors and subcontractors performing work under a Federally assisted construction contract regardless of the number of employees in either case.

Any person who believes he or she has been discriminated against should contact: The Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210.

Any person who believes he or she has been discriminated against should contact: The Office of Federal Contract Compliance Programs, U.S. Department of Labor, Washington, D.C. 20210.

(b) Copies of such notice may be obtained on request from the Commission.

(c) Section 711(b) of Title VII makes failure to comply with this section punishable by a fine of not more than \$100 for each separate offense.

Subpart D—Interpretations and Opinions by the Commission

§ 1601.31 Request for interpretation or opinion.

Any interested person desiring a written interpretation or opinion from the Commission may make a request therefor. However, issuance of such interpretations or opinions is discretionary.

§ 1601.32 Contents of request; where to file.

A request for an "opinion letter" shall be in writing, signed by the person making the request, addressed to the Chairman, Equal Employment Opportunity Commission, 2401 E Street N.W., Washington, D.C. 20506, and shall contain:

- (a) The names and addresses of the person making the request and of other interested persons.
- (b) A statement of all known relevant facts.
- (c) A statement of reasons why the interpretation or opinion should be issued.

§ 1601.33 Issuance of interpretation or opinion.

Only (a) a letter entitled "opinion letter" and signed by the General Counsel on behalf of the Commission or (b) matter published and specifically designated as such in the FEDERAL REGISTER may be relied upon as "written interpretation or opinion of the Commission" within the meaning of section 713 of Title VII.

Subpart E—Construction of Rules

§ 1601.34 Rules to be literally construed.

These rules and regulations shall be literally construed to effectuate the purpose and provisions of Title VII.

Subpart F—Issuance, Amendment, or Repeal of Rules

§ 1601.35 Petitions.

Any interested person may petition the Commission, in writing, for the issuance, amendment, or repeal of a rule or regulation. Such petition shall be filed with the Equal Employment Opportunity Commission, 2401 E Street N.W., Washington, D.C. 20506, and shall state the rule or regulation proposed to be issued, amended, or repealed, together with a statement of grounds in support of such petition.

§ 1601.36 Action on petition.

Upon the filing of such petition, the Commission shall consider the same and may thereupon either grant or deny the petition in whole or in part, conduct an appropriate proceeding thereon, or make other disposition of the petition. Should the petition be denied in whole or in part, prompt notice shall be given of the denial, accompanied by a simple statement of the grounds unless the denial be self-explanatory.

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Subpart G—Case Processing by the General Counsel Under Section 707 of Title VII

§ 1601.50 Scope.

When the General Counsel processes charges under the Commission's authority as set forth in section 707 of the Act, the General Counsel shall process such charges in accordance with this subpart. When the General Counsel does not process such charges, the provisions of this subpart shall not apply and such charges shall be processed under Subpart B of part.

§ 1601.51 Delegation of authority.

The General Counsel is hereby delegated authority to give notice of and to defer charges to State and local 706 Agencies as defined in § 1601.3, to give notice of charges to respondents, to investigate charges, to sign and issue subpoenas, and to conciliate charges of employment discrimination.

§ 1601.52 Initiation of Section 707 charge.

Any member of the Commission may designate a charge for section 707 processing under this subpart. Any related charge shall be processed under this subpart if the General Counsel determines that it should be consolidated with the charge designated for section 707 processing by a member of the Commission.

§ 1601.53 Service of notice of charge.

Within 10 days of the filing of a charge, the General Counsel shall furnish the respondent with a notice of the charge (including the date, place and circumstances of the alleged unlawful employment practice) by mail or in person. The General Counsel need not furnish such notice if, prior to the designation of the charge for section 707 processing, the notice has been furnished pursuant to § 1601.14.

§ 1601.54 Deferral.

(a) Where the alleged unlawful employment practice occurs in a State or political subdivision of a State which has a State or local law prohibiting the practice alleged and establishing or authorizing a State or local agency to grant or seek relief from such practice (or to institute criminal proceedings), the General Counsel shall notify, on behalf of the Commission, the appropriate State or local 706 Agency, as defined in § 1601.3, before taking any action with respect to a Commissioner charge.

(b) The General Counsel, on behalf of the Commission, shall not defer such Commissioner charge unless the State or political subdivision notified in paragraph (a) of this section within 10 days of receipt of such notice requests submission of the charge to its jurisdiction.

(c) Where deferral is made by the General Counsel in paragraph (b) of this section, the deferral shall be for no less than 60 days, unless a shorter period is requested.

(d) Charges filed by individuals shall be deferred pursuant to the provisions

of § 1601.13, except that they shall be deferred by the General Counsel.

§ 1601.55 Investigation.

The General Counsel shall investigate any charge designated for Section 707 processing or any charges consolidated with that charge pursuant to § 1601.52.

§ 1601.56 Issuance of subpoenas; petitions to revoke subpoenas; enforcement of subpoenas.

(a) To effectuate the purposes of Title VII the General Counsel of the Commission shall have the authority to sign and issue a subpoena requiring:

- (1) The attendance and testimony of witnesses;
- (2) The production of evidence including, but not limited to, books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and
- (3) Access to evidence for the purposes of examination and the right to copy.

The subpoena shall state the name and address of the issuer; and identify the person or evidence subpoenaed, and the person to whom and the place, date, and time at which it is returnable or the nature of the evidence to be examined or copied, and the date and time when access is requested. A subpoena may be returnable to any attorney designated in the subpoena. The General Counsel shall not issue a subpoena upon the request of a person filing a charge, a person on whose behalf a charge was filed or a respondent.

(b) Any person served with a subpoena who intends not to comply with the subpoena shall, within five days (excluding Saturdays, Sundays and Federal legal holidays) of the service of the subpoena, petition the Commission in writing to revoke or modify the subpoena. The petition shall be served on the General Counsel by mail at the Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, and a copy shall be served on the Commission attorney to whom the subpoena is returnable. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each portion, the grounds upon which petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A." Within eight days of receipt, or as soon thereafter as practicable, the Commission shall pass on the petition and shall serve a copy of its determination on the petitioner. For the purposes of this section, service shall be made and proof thereof established pursuant to Section 11(4) of the National Labor Relations Act, as amended, 29 U.S.C. Section 161(4), as made applicable to the proceeding hereunder by Section 710 of Title VII, 42 U.S.C. (Supp. II) 2000e9.

(c) If any person fails to comply with a subpoena, the General Counsel may institute enforcement proceedings in the appropriate district court pursuant to

of § 1601.13, except that they shall be deferred by the General Counsel.

§ 1601.55 Investigation.

The General Counsel shall investigate any charge designated for Section 707 processing or any charges consolidated with that charge pursuant to § 1601.52.

§ 1601.56 Issuance of subpoenas; petitions to revoke subpoenas; enforcement of subpoenas.

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- (1) The attendance and testimony of witnesses;
- (2) The production of evidence including, but not limited to, books, records, correspondence, or documents, in the possession or under the control of the person subpoenaed; and
- (3) Access to evidence for the purposes of examination and the right to copy.

The subpoena shall state the name and address of the issuer; and identify the person or evidence subpoenaed, and the person to whom and the place, date, and time at which it is returnable or the nature of the evidence to be examined or copied, and the date and time when access is requested. A subpoena may be returnable to any attorney designated in the subpoena. The General Counsel shall not issue a subpoena upon the request of a person filing a charge, a person on whose behalf a charge was filed or a respondent.

(b) Any person served with a subpoena who intends not to comply with the subpoena shall, within five days (excluding Saturdays, Sundays and Federal legal holidays) of the service of the subpoena, petition the Commission in writing to revoke or modify the subpoena. The petition shall be served on the General Counsel by mail at the Equal Employment Opportunity Commission, 2401 E Street, N.W., Washington, D.C. 20506, and a copy shall be served on the Commission attorney to whom the subpoena is returnable. The petition shall separately identify each portion of the subpoena with which the petitioner does not intend to comply and shall state, with respect to each portion, the grounds upon which petitioner relies. A copy of the subpoena shall be attached to the petition and shall be designated "Attachment A." Within eight days of receipt, or as soon thereafter as practicable, the Commission shall pass on the petition and shall serve a copy of its determination on the petitioner. For the purposes of this section, service shall be made and proof thereof established pursuant to Section 11(4) of the National Labor Relations Act, as amended, 29 U.S.C. Section 161(4), as made applicable to the proceeding hereunder by Section 710 of Title VII, 42 U.S.C. (Supp. II) 2000e9.

(c) If any person fails to comply with a subpoena, the General Counsel may institute enforcement proceedings in the appropriate district court pursuant to

Section 11(2) of the National Labor Relations Act, as amended, 29 U.S.C. 161(2).

(d) Witnesses who are subpoenaed pursuant to § 1601.56(a) shall be entitled to the same fees and mileage that are paid witnesses in the courts of the United States.

§ 1601.57 Commission reasonable cause finding.

Upon completion of the investigation, the Commission shall determine whether there exists reasonable cause to believe that the respondent is engaged in a pattern or practice of unlawful discrimination within the meaning of section 707 (a) of Title VII. A finding of no reasonable cause shall constitute dismissal of the charge.

§ 1601.58 Voluntary compliance; settlements; Commission authority to file suit.

A finding of reasonable cause by the Commission shall be deemed to authorize the General Counsel to endeavor to eliminate the alleged unlawful employment practices by informal methods of conference, conciliation and persuasion. Should such endeavors fail to produce a conciliation agreement satisfactory to the General Counsel, the General Counsel may commence litigation upon approval by the Commission.

§ 1601.59 Notice to persons claiming to be aggrieved.

In any charge designated for processing under this subpart, the General Council shall issue the notice as required by § 1601.28.

Subpart H—706 Agency Designation Procedures

§ 1601.70 706 Agency Designation.

(a) Because of the large number of State and local fair employment practice agencies, only those agencies which notify the Commission of their qualifications under section 706(c) of Title VII and this section and request designation as "706 Agencies" or "Notice Agencies" or both will be eligible for such designation. Such notification must be submitted by written request to the Director of the Office of Field Services. The request shall include the following materials and information:

- (1) A copy of the agency's fair employment practices law and any rules, regulations and guidelines of general interpretation issued pursuant thereto.
- (2) A chart of the organization of the agency responsible for administering and enforcing said law.
- (3) The amount of funds made available to or allocated by the agency for fair employment purposes.
- (4) The identity and telephone number of the agency attorney whom the Commission may contact in reference to any legal questions that may arise in the process of its review of the agency's application.
- (5) A statement certifying the following:

(i) That the State or political subdivision has a fair employment practice law;

(ii) That such law authorizes the applicant agency to grant or seek relief from employment practices found to be illegal under such law or that it authorizes the agency to institute criminal proceedings; and

(iii) That such agency has been established and is operational and processing charges filed under such law.

(b) Where both State and local 706 Agencies exist, the Commission reserves the right to defer to the State 706 Agency only. However, if the Commission determines that it would best serve the purposes of the Act, it may defer to either or both State and local 706 Agencies.

(c) The continued designation of a 706 Agency for certain bases of discrimination will be dependent upon the 706 Agency's continuing operation and ability to grant or seek relief or to institute criminal proceedings with respect to those bases of discrimination.

§ 1601.71 Commission determinations on 706 Agency applications.

The Commission, after examining the materials and application required in § 1601.70(a) and after applying criteria outlined in section 706(c) of Title VII, shall make a determination.

(1) If the Commission determines that an agency shall be designated as a 706 Agency, it shall notify the agency that it proposes to issue such designation. Such proposed designation shall be published in the FEDERAL REGISTER and shall provide any person or organization not less than 15 days in which to file written comments with the Commission. If after evaluating any comments so received, the Commission is still of the opinion that issuance of the proposed designation as published in the FEDERAL REGISTER is appropriate, it shall effect such designation by issuance and publication of an amendment to § 1601.74. Thereafter, the procedure in § 1601.13(c) and § 1601.13(f) shall be followed for charges in the jurisdiction of the 706 Agency, except as modified by agreement pursuant to § 1601.13(d).

(2) If the Commission determines that any agency shall not be designated as a 706 Agency, it shall notify the applicant agency of its decision and such notice shall provide the reason(s) why it proposes not to designate the agency and shall grant it not less than 15 days to request a conference concerning the matter in accordance with § 1601.73.

(3) Where the Commission determines that a State or local agency does not come within the definition of a 706 Agency for purposes of a particular basis of discrimination or where the agency applies for designation as a Notice Agency, the Commission shall notify that agency of the filing of charges for which the agency is not a 706 Agency. For such purposes that State or local agency will be deemed a Notice Agency.

§ 1601.72 706 Agency performance standards.

(a) The continued designation of a 706 Agency will be dependent upon the 706 Agency's willingness and ability to

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administer its law in such a manner that, in fact, the practices prohibited are comparable in scope to those practices prohibited under Federal law and satisfy the performance standards set forth below:

(1) In all cases where the 706 Agency finds cause to credit the allegations of a charge, it shall effectively eliminate the discrimination and provide for full compensatory and prospective relief consistent with applicable Federal law, except where State or local law authorizes no relief except to allow the agency to institute criminal proceedings. Where State or local law does no more than authorize the agency to institute criminal proceedings, the agency must utilize its authority effectively to eliminate the discrimination.

(2) In all cases where the 706 Agency enters into a conciliation agreement, consent order, or order after public hearing, it shall include in any such agreement or order mechanisms for monitoring compliance with the terms thereof and mechanisms for enforcing compliance in the event any terms thereof are not implemented.

(b) The Commission may upon its own motion, withdraw the designation as a 706 Agency previously issued to any agency based upon:

(1) Reconsideration of the request and materials and the information referenced in § 1601.70; or,

(2) Consideration of the agency's performance as set forth in paragraph (a) of this section.

Whenever the Commission has reason to believe that such designation as a 706 Agency no longer serves the interest of effective enforcement of Title VII, it may, after following the procedures below, including the opportunity for a conference provided for in § 1601.73, withdraw such designation. Before taking such action it shall notify the 706 Agency of its proposed withdrawal of such designation. Such notification shall set forth the reasons for the proposed withdrawal and provide the agency not less than 15 days to submit data, views, and arguments in opposition and to request a conference in accordance with § 1601.73. Such proposed withdrawal of designation shall also be published in the FEDERAL REGISTER and shall provide any persons or organizations who take an interest at least 15 days in which to file written comments on the proposal with the Commission and to request a conference. If a request for a conference in accordance with § 1601.73 is not received within the time period provided, the Commission shall evaluate any arguments or comments it has received from the agency and from any persons and organizations who take an interest. If, after such evaluation, the Commission still is of the opinion that designation should be withdrawn because it has determined that such designation no longer serves the interest of effective enforcement of Title VII, the Commission shall so notify the Agency. The withdrawal shall be effected by the issuance and publication of an amendment to § 1601.74.

§ 1601.73 706 Agency Conference.

In order to provide a State or local agency full opportunity to present its views whenever, pursuant to § 1601.71 or § 1601.72(b), a conference is requested within the time allowed by said section for making such request, the Director of the Office of Field Services or his or her designee shall hold such a conference. Said conference official shall issue a pre-conference order. The order shall indicate the issues to be resolved and any initial procedural instructions which might be appropriate for the particular conference. It shall fix the date, time, and place of the conference. The date shall not be less than 20 days after the date of the order. The date and place shall be subject to change for good cause.

(1) A copy of such pre-conference order shall be served on the State or local agency. After service of the order or of a notice designating a conference officer, and until such officer submits his or her recommended determination, all communications relating to the subject matter of the conference shall be addressed to him or her. The conference officer shall have authority to regulate the course and conduct of the conference. A transcript shall be made of the proceedings at the conference. The transcript and all comments and petitions relating to the proceedings shall be made available for inspection by interested persons.

(2) The conference officer shall prepare his or her proposed findings and recommended determination, a copy of which shall be served on the agency. Within 20 days after such service the agency may file written exceptions. After the expiration of the period for filing exceptions, the conference officer shall certify the entire record, including his or her proposed findings, and recommended determination and exceptions thereto to the Commission, which shall review the record and issue a final determination.

(3) Such determination shall become effective by the issuance and publication of an amendment to § 1601.74.

§ 1601.74 Designated 706 and notice agencies.

(a) The designated 706 Agencies are:

Alaska Commission for Human Rights.
Alexandria Human Rights Office.
Allentown Human Relations Commission.
Arizona Civil Rights Division.
Baltimore Community Relations Commission.
Bloomington Human Rights Commission.
California Fair Employment Practices Commission.
Charleston Human Rights Commission.
Colorado Civil Rights Commission.
Connecticut Commission on Human Rights and Opportunities.
Dade County Fair Housing and Employment Commission.
Delaware Department of Labor.
District of Columbia Office of Human Rights.
East Chicago Human Relations Commission.
Evansville (Indiana) Human Relations Commission.
Fairfax County Human Rights Commission.
Fort Wayne (Indiana) Metropolitan Human Relations Commission.
Fort Worth (Texas) Human Relations Commission.
Gary Human Relations Commission.
Howard County (Maryland) Human Rights Commission.

Hawaii Department of Labor and Industrial Relations.
Idaho Commission on Human Rights.
Illinois Fair Employment Practices Commission.
Indiana Civil Rights Commission.
Iowa Commission on Civil Rights.
Kansas Commission on Civil Rights.
Kentucky Commission on Human Rights.
Lexington-Fayette Urban County Human Rights Commission.
Madison (Wisconsin) Equal Opportunities Commission.
Maine Human Relations Commission.
Maryland Commission on Human Relations.
Massachusetts Commission Against Discrimination.
Michigan Civil Rights Commission.
Minneapolis Department of Civil Rights.
Minnesota Department of Human Rights.
Missouri Commission on Human Rights.
Montana Commission for Human Rights.
Montgomery County Human Relations Commission.
Nebraska Equal Opportunity Commission.
Nevada Commission on Equal Rights of Citizens.
New Hampshire Commission for Human Rights.
New Jersey Division on Civil Rights, Department of Law and Public Safety.
New York City Commission on Human Rights.
New York State Division of Human Rights.
Ohio Civil Rights Commission.
Oklahoma Human Rights Commission.
Omaha Human Relations Department.
Oregon Bureau of Labor.
Orlando (Florida) Human Relations Department.
Pennsylvania Human Relations Commission.
Philadelphia Commission on Human Relations.
Pittsburgh Commission on Human Relations.
Prince Georges County (Maryland) Human Relations Commission.
Rhode Island Commission for Human Rights.
Rockville (Maryland) Human Rights Commission.
St. Paul Department of Human Rights.
Seattle Human Rights Commission.
Sioux Falls (South Dakota) Human Relations Commission.
South Bend (Indiana) Human Rights Commission.
South Carolina Human Affairs Commission.
South Dakota Division of Human Rights.
Springfield (Ohio) Human Relations Department.
Tacoma Human Rights Commission.
Utah Industrial Commission.
Vermont Attorney General's Office, Civil Rights Division.
Virgin Island Department of Labor.
Washington State Human Rights Commission.
West Virginia Human Rights Commission.
Wheeling Human Rights Commission.
Wichita Commission on Civil Rights.
Wisconsin Equal Rights Division, Department of Industry, Labor and Human Relations.
Wyoming Fair Employment Practices Commission.

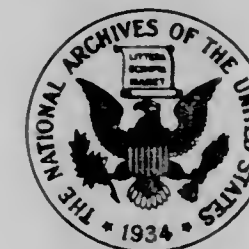
(b) The designated Notice Agencies are:

Arkansas Governor's Committee on Human Resources.
Florida Commission on Human Relations.
Georgia Office of Human Affairs.
Montana Department of Labor and Industry.
North Dakota Commission on Labor.
Ohio Director of Industrial Relations.
Raleigh (North Carolina) Human Resources Department, Civil Rights Unit.

[FR Doc. 77-30108 Filed 10-13-77; 11:09 am]

FRIDAY, OCTOBER 14, 1977

PART V

DEPARTMENT OF
LABOREmployment Standards
AdministrationMINIMUM WAGES FOR
FEDERAL AND FEDERALLY
ASSISTED CONSTRUCTION

General Wage Determination Decisions

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DEPARTMENT OF LABOR

Employment Standards Administration
MINIMUM WAGES FOR FEDERAL AND
FEDERALLY ASSISTED CONSTRUCTION
General Wage Determination Decisions

General Wage Determination Decisions of the Secretary of Labor specify, in accordance with applicable law and on the basis of information available to the Department of Labor from its study of local wage conditions and from other sources, the basic hourly wage rates and fringe benefit payments which are determined to be prevailing for the described classes of laborers and mechanics employed in construction activity of the character and in the localities specified therein.

The determinations in these decisions of such prevailing rates and fringe benefits have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in effective date as prescribed in that section, because the necessity to issue construction industry wage determination frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General Wage Determination Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision together with any modifications issued subsequent to its publication date shall be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR, Part 5. The wage rates contained therein shall be the minimum paid under such contract by contractors and subcontractors on the work.

NOTICES

MODIFICATIONS AND SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

Modifications and Supersedes Decisions to General Wage Determination Decisions are based upon information obtained concerning changes in prevailing hourly wage rates and fringe benefit payments since the decisions were issued.

The determinations of prevailing rates and fringe benefits made in the Modifications and Supersedes Decisions have been made by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR 1.1 (including the statutes listed at 36 FR 306 following Secretary of Labor's Order No. 24-70) containing provisions for the payment of wages which are dependent upon determination by the Secretary of Labor under the Davis-Bacon Act; and pursuant to the provisions of Part 1 of Subtitle A of Title 29 of Code of Federal Regulations, Procedure for Predetermination of Wage Rates, (37 FR 21138) and of Secretary of Labor's Orders 12-71 and 15-71 (36 FR 8755, 8756). The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged in contract work of the character and in the localities described therein.

Modifications and Supersedes Decisions are effective from their date of publication in the FEDERAL REGISTER without limitation as to time and are to be used in accordance with the provisions of 29 CFR Parts 1 and 5.

Any person, organization, or governmental agency having an interest in the wages determined as prevailing is encouraged to submit wage rate information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Office of Special Wage Standards, Division of Wage Determinations, Washington, D.C. 20210. The cause for not utilizing the rule-making procedures prescribed in 5 U.S.C. 553 has been set forth in the original General Wage Determination Decision.

MODIFICATIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being modified and their dates of publication in the FEDERAL REGISTER are listed with each State.

Arkansas:
AR77-4285; AR77-4287.... Sept. 30, 1977.
Arizona:
AZ77-5058; AZ77-5059.... June 17, 1977.

California:
CA77-5090; CA77-5091; CA77-5092; CA77-5093; CA77-5094; CA77-5095. Sept. 30, 1977
Iowa:
IA77-4223; IA77-4226; IA77-4229; IA77-4230; IA77-4268. Do
Kansas:
MO77-4266; MO77-4267.... Do
Louisiana:
LA77-4219; LA77-4220.... Sept. 23, 1977
Maryland:
MD77-3080 June 24, 1977
Missouri:
MO77-4266; MO77-4267.... Sept. 30, 1977
Minnesota:
MN77-2048 May 20, 1977
Nebraska:
NE77-4281 Sept. 30, 1977
Oklahoma:
OK77-4275 Do
Pennsylvania:
PA77-3043 Apr. 8, 1977
South Carolina:
SC76-1008 Jan. 9, 1976
SC76-1053 May 14, 1976
SC77-1008 Jan. 21, 1977
SC77-1019 Feb. 11, 1977
SC77-1070 May 20, 1977
Texas:
TX76-4039 Feb. 13, 1976
TX77-4193; TX77-4197; TX77-4201. Aug. 19, 1977
TX77-4221; TX77-4222.... Sept. 23, 1977
TX77-4252; TX77-4253; TX77-4254; TX77-4255; TX77-4256; TX77-4257; TX77-4258; TX77-4259; TX77-4260; TX77-4261; TX77-4262; TX77-4264; TX77-4265; TX77-4280. Sept. 30, 1977

SUPERSEDES DECISIONS TO GENERAL WAGE DETERMINATION DECISIONS

The numbers of the decisions being superseded and their dates of publication in the FEDERAL REGISTER are listed with each State.

Supersedes Decision numbers are in parentheses following the numbers of the decisions being superseded.

Alabama:
AL77-1086 (AL77-1112).... July 1, 1977.
Connecticut:
CT77-5001 (CT77-3135).... Jan. 4, 1977.
Delaware:
DE77-5001 (CT77-3135).... Do
Maine:
CT77-5001 (CT77-3135).... Do
Maryland:
CT77-5001 (CT77-3135).... Do
Massachusetts:
CT77-5001 (CT77-3135).... Do
New Hampshire:
CT77-5001 (CT77-3135).... Do
New Jersey:
CT77-5001 (CT77-3135).... Do
New York:
CT77-5001 (CT77-3135).... Do
Pennsylvania:
CT77-5001 (CT77-3135).... Do
Rhode Island:
CT77-5001 (CT77-3135).... Do
Tennessee:
CT77-5001 (CT77-3135).... Do
TN77-1051 (TN77-1131).... May 6, 1977.
Washington:
WA77-5076 (WA77-5096).... Aug. 19, 1977.

Signed at Washington, D.C., this 7th day of October 1977.

RAY J. DOLAN,
Assistant Administrator,
Wage and Hour Division.

NOTICES

MODIFICATIONS P. 2

DECISION NO. AZ77-5058 - Mod. #4 (42 FR 31056 - June 17, 1977) Statewide, Arizona	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Change: Asbestos Workers Bricklayers; Stonemasons (Phoenix Area):	\$11.94	.50	\$1.20		.02
Zone A	10.65	.65	.90		.09
Zone B	11.50	.65	.90		.09
Zone C	12.04	.65	.90		.09
Zone D	12.57	.65	.90		.09
Zone E	12.99	.65	.90		.09
Zone F	13.85	.65	.90		.09
Drywall Tapers (Phoenix, Mesa, Luke and Williams Air Force Bases)					
Zone A	10.21	.59	.50		.07
Zone B	11.21	.59	.50		.07
Zone C	12.46	.59	.50		.07
Electricians (Yuma Area):					
Zone A	11.88	5.25%	3748.35%		17
Zone B	12.13	5.25%	3748.35%		17
Zone C	12.58	5.25%	3748.35%		17
Zone D	12.83	5.25%	3748.35%		17
Zone E	13.18	5.25%	3748.35%		17
Zone F	13.43	5.25%	3748.35%		17
Electricians	13.88	5.25%	3748.35%		17
Cable Splicers	14.13	5.25%	3748.35%		17
DECISION NO. AZ77-5059 - Mod. #3 (42 FR 31065 - June 17, 1977) Maricopa County, Arizona					
Change: Asbestos Workers Bricklayers; Stonemasons:	\$11.94	.50	\$1.20		.02
Zone A	10.65	.65	.90		.09
Zone B	11.50	.65	.90		.09
Zone C	12.04	.65	.90		.09
Zone D	12.57	.65	.90		.09
Zone E	12.99	.65	.90		.09
Zone F	13.85	.65	.90		.09
Drywall Tapers (Phoenix, Mesa, Luke and Williams Air Force Bases)					
Zone A	10.21	.59	.50		.07
Zone B	11.21	.59	.50		.07
Zone C	12.46	.59	.50		.07

MODIFICATIONS P. 1

DECISION NO. AR77-4285 - Mod. #1 (42 FR 52898 - September 30, 1977) Garland, Hot Springs and Clark Counties, Arkansas	Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
		H & W	Pensions	Vacation	
Change: LINE CONSTRUCTION: Linemen Cable splicers	\$10.50 10.625		3% 3%		1/47 1/47
DECISION NO. AR77-4287 - Mod. #1 (42 FR 52903 - September 30, 1977) Pulaski County, Arkansas					
Change: BRICKLAYERS-STONEMASONS ELECTRICIANS: Electricians Cable splicers PLUMBERS & PIPEFITTERS: Within 10 mile radius of Pulaski County Courthouse Over 10 miles from Pulaski County Courthouse	\$8.85 10.45 10.575 10.20 10.50	.40 .40 .40 .60 .60	.35 3% 3% .55 .55		.04 1/47 1/47 .05 .05

DECISION NO. CA77-5090 - Mod. #1
(42 FR 52905-September 30, 1977)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Alameda, Alpine, Amador, Butte, Calaveras, Colusa, Contra Costa, Del Norte, El Dorado, Fresno, Glenn, Humboldt, Kings, Lake, Lassen, Madera, Marin, Mariposa, Mendocino, Merced, Modoc, Monterey, Napa, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, Santa Clara, Santa Cruz, Shasta, Sierra, Siskiyou, Solano, Solano, Stanislaus, Sutter, Tehama, Trinity, Tulare, Tuolumne, Yolo and Yuba Counties, California	\$11.70	\$1.30	\$1.00	.25
Changes: Bricklayers; Stonemasons; Alpine, Amador, Calaveras, San Joaquin, Stanislaus and Tuolumne Counties	12.55	1.25		
Alameda and Contra Costa Counties	12.55	1.25		
Butte, Colusa, El Dorado, Glenn, Lassen, Modoc, Nevada, Placer, Plumas, Sacramento, Shasta, Sierra, Sutter, Tehama, Yolo and Yuba Counties	12.50	1.03	1.21	.25
San Benito and Santa Clara Counties	12.55	1.35	1.25	.25
Electricians: Mariposa, Merced, Stanislaus and Tuolumne Counties	12.73	.94	38+1.50	1/48
Electricians: Cable Splicers	14.00	.94	38+1.50	1/48
Lathers: Amador, El Dorado, Sacramento and Yolo Counties	11.72	.67	1.75	.02
Painters: Alpine, Amador, Calaveras and San Joaquin Counties	9.92	.70	2.34	1.11
Brush: Spray; Sheetrock Tapers; Sandblaster; Scaffold; Steel; Paperhangers	10.32	.70	2.34	1.11

DECISION NO. CA77-5090 (Cont'd)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Parking Lot Striping Work and/or Highway Markers: Fresno, Kings and Tulare Counties	\$9.37	.40	b	
Traffic Delineating Device Applicator	.55			
Wheel Stop Installer; Traffic Surface Sandblaster; Striper Helper (wheel stop installer, traffic surface sandblaster; striper)	8.98	.40	b	
Slurry Seal Operator; Mixer Operator	7.08	.40	b	
Squeegie Man	8.98	.40	b	
Applicator Operator	7.08	.40	b	
Shuttlman	6.90	.40	b	
Top Man	6.08	.40	b	
Remaining Counties				
Traffic Delineating Device Applicator; Wheel Stop Installer; Traffic Surface Sandblaster; Striper Helper (traffic delineating device applicator, wheel stop installer, traffic surface sandblaster)	9.37	.40	b	
Striper (striper)	7.97	.40	b	
Slurry Seal Operations: Mixer Operator	8.47	.40	b	
Squeegie Man	9.37	.40	b	
Applicator Operator	8.87	.40	b	
Shuttlman	7.97	.40	b	
Top Man	6.90	.40	b	
Plumbers:	6.47	.40	b	
Contra Costa County	14.37	2.29		.26
Roofers:				
Amador, Sacramento and Yolo Counties (slate, tile and composition)	11.15	1.04	1.00	.10
Enameler and Pitch	12.65	1.04	1.00	.10

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DECISION NO. CA77-5090 (Cont'd)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Fresno, Kings, Madera and Tulare Counties	\$11.65	.60	.90	
Sheet Metal Workers: Alameda, Contra Costa, Napa and Solano Counties	11.94	.73	2.11	.04
San Mateo County	13.54	.73	1.84	.10
Tile Setters: Alpine, Amador, Calaveras, San Joaquin, Stanislaus and Tuolumne Counties	9.17	1.00	.70	2.00
Add: Plumbers; Steamfitters: San Benito and Santa Clara Counties	15.15	1.08	1.77	.14
San Mateo County	14.41	1.14	2.30	.25
DECISION NO. CA77-5091 - Mod. #1 (42 FR 52927-September 30, 1977)				
Alameda, Alpine, Amador, Calaveras, Contra Costa, Del Norte, El Dorado, Fresno, Humboldt, Marin, Mariposa, Mendocino, Merced, Nevada, Placer, Plumas, Sacramento, San Benito, San Francisco, San Joaquin, San Mateo, Santa Clara, Santa Cruz, Solano, Sonoma, Sutter, Tehama, Tuolumne, Yolo and Yuba Counties, California	11.70	1.00	1.30	1.00
Changes: Bricklayers; Stonemasons; Alpine, Amador, Calaveras, San Joaquin and Tuolumne Counties	12.55	1.35	1.25	.25
Alameda and Contra Costa Counties	12.55	1.35	1.25	.25
Eldorado, Nevada, Placer, Sacramento, Sutter, Tehama, Yolo and Yuba Counties	12.50	1.03	1.21	.25
San Benito and Santa Clara Counties	14.55	1.35	1.25	.25

DECISION NO. CA77-5091 (Cont'd)

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Electricians: Mariposa, Merced and Tuolumne Counties	\$12.73	.94	38+1.50	1/48
Electricians: Cable Splicers	14.00	.94	38+1.50	1/48
Lathers: Amador, El Dorado, Sacramento and Yolo Counties	11.72	.67	1.75	.02
Painters: Alpine, Amador, Calaveras and San Joaquin Counties	9.92	.70	2.34	1.11
Brush: Spray; Sheetrock Tapers; Swing Stage; Scaffold; Sandblaster; Structural Steel; Paperhangers	10.32	.70	2.34	1.11
Plumbers: Contra Costa County	14.37	1.25	2.29	.26
Plumbers; Steamfitters: San Mateo County	14.41	1.14	2.30	.25
DECISION NO. CA77-5092 - Mod. #1 (42 FR 52941-September 30, 1977)				
Imperial, Inyo, Kern, Los Angeles, Mono, Orange, Riverside, San Bernardino, San Luis Obispo, Santa Barbara and Ventura Counties, California	11.40	1.49	1.95	.90
Changes: Citywell Installers				
Painters; Lot Striping Work and/or Highway Markers: Inyo and Mono Counties	10.47	.55	.40	b
Striper Helper	8.47	.55	.40	b
Traffic Delineating Device Applicator; Wheel Stop Installer; Traffic Surface Sandblaster	9.37	.55	.40	b

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POWER EQUIPMENT OPERATORS CLASSIFICATION DEFINITIONS * ZONE 1

GROUP I - Asphalt paver & spreader, asphalt plant mixer, asphalt plant, backfills, batch-green loader & spreader, slip bucket type, blade-power, boats-power, boilers (2), boring mach., cableways, cherry pickers, chip spreader, concrete ready-mix plant (portable), concrete mixer paver, crane-overhead type, crawler-mounted derricks & derrick cars, c.t.dishing mach., dozers, power dredges any type, grail-scraper type, hoists, endless chain power op. w./power travel, loaders, mechanic & welder, mucking mach., range peels, material pumps, push cats, scoops, self-propelled rotary drill, power shovel, side boom skimmer scoop, tusheloe mach., throttle man.

GROUP II - Boilers (1). Broom-powr, chip spreader front pan, clef plane, compressor (1) 105' or over net more than 20' apart, compressors-tandem, single compressors truck mounted, concrete saws, crab power , curb finishing mach., elevator, finishing mach., firemen on r-fgs, flex plane, floating mach., form grader, greaser, endless chain-power operated holst, power operated hopper, hydra hammer, lad-a-vator or similar type, rollers, siphons, jets & jennies, sub-grader, tractor over 50 H.P.

GROUP III - Oiler
GROUP IV - Fork lift

GROUP V - "A" frame trucks, forklifts except masonry mixers w/side loaders minus w/well

points, dewatering system, tractors hauling Mat., less than 50 H.P.

GROUP VI - clamshells 30' of boom or over, crane or rigs 30' of boom or over, draglines 30' of boom or over piledrivers 30' of boom or over

GROUP VII - Crane or rigs over 200' of boom.

GROUP VIII - Hoists each additional drum over 1 drum

GROUP IX - Master mechanic
GROUP X - Tower or climbing crane

GROUP XI - Ready mix concrete plants: (a) crane op. (b) loader op. (c) plant man

(d) conveyor op.

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MODIFICATIONS P. 15			
DECISION #X77-4193 - Mod. #1	(42 FR 42121 - August 19, 1977) Bexar Co., Tx.		
DECISION #X77-4197 - Mod. #1	(42 FR 42127 - August 19, 1977) Collin, Dallas, Denton, Ellis, Grayson, Hood, Hunt, Johnson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Tx.		
DECISION #X77-4221 - Mod. #1	(42 FR 48723 - September 23, 1977) Travis Co., Tx.		
DECISION #X77-4222 - Mod. #2	(42 FR 48725 - September 23, 1977) Bell, Bexar, Comanche, Dallas, Denton, Ellis, Grayson, Kaufman, Palo Pinto, Rockwall, Tarrant & Wise Cos., Tx.		
DECISION #X77-4251 - Mod. #1	(42 FR 53147 - September 30, 1977) Armstrong, Carson, Castro, Childress, Collingsworth, Dallam, Deaf Smith, Daley, Gray, Hansford, Hartley, Lampkin, Hill, Hutchinson, Lipscomb, Moore, Ochiltree, Oldham, Potter, Randall, Roberts, Sherman, Sotaher & Wheeler Cos., Tx.		
DECISION #X77-4254 - Mod. #1	(42 FR 53148 - September 30, 1977) Bee, Kleberg & Nueces Cos., Tx.		
DECISION #X77-4255 - Mod. #1	(42 FR 53152 - September 30, 1977) Bowie Co., Tx.		
DECISION #X77-4256 - Mod. #1	(42 FR 53154 - September 30, 1977) Brazos Co., Tx.		
DECISION #X77-4257 - Mod. #1	(42 FR 53156 - September 30, 1977) El Paso Co., Tx.		
DECISION #X77-4258 - Mod. #1	(42 FR 53158 - September 30, 1977) Galveston & Harris Cos., Tx.		
DECISION #X77-4259 - Mod. #1	(42 FR 53161 - September 30, 1977) Gregg Co., Tx.		
DECISION #X77-4261 - Mod. #1	(42 FR 53165 - September 30, 1977) Lubbock Co., Tx.		
DECISION #X77-4262 - Mod. #1	(42 FR 53167 - September 30, 1977) Smith Cos., Tx.		
DECISION #X77-4263 - Mod. #1	(42 FR 53167 - September 30, 1977) Taylor Co., Tx.		
DECISION #X77-4264 - Mod. #1	(42 FR 53168 - September 30, 1977) Tom Green Co., Tx.		
DECISION #X77-4265 - Mod. #1	(42 FR 53169 - September 30, 1977) Wichita Co., Tx.		
DECISION #X77-4266 - Mod. #1	(42 FR 53171 - September 30, 1977) Cameron, Hidalgo, Starr & Wilacy Cos., Tx.		
Change Description of Work to Read as Follows:			
Building Construction (does not include single family houses & garden type apartments up to & including 4 stories). Building Construction includes construction of sheltered enclosures, with walk-in access for the purpose of housing persons, machinery, equipment or supplies; includes in all construction of such structures, the installation inside the building of utilities & equipment, both above & below ground level, as well as excavation & foundation; includes site preparation & incidental paving & utilities outside the building.			
DECISION #X78-4039 - Mod. #1	(41 FR 7014 - February 13, 1976) Diamic, Jim Hugg, LaSalle, Maverick, Webb, Zapata & Zavala Cos., Tx.		
DECISION #X77-4260 - Mod. #2	(42 FR 42136 - August 19, 1977) Howard Co., Tx.		
DECISION #X77-4261 - Mod. #1	(42 FR 53162 - September 30, 1977) Jefferson & Orange Cos., Tx.		
Change Description of Work to Read as Follows:			
Building (including Residential) Construction. Building Construction includes construction of sheltered enclosures, with walk-in access for the purpose of housing persons, machinery, equipment or supplies; includes in all construction of such structures the installation inside the building of utilities & equipment both above & below ground level, as well as excavation & foundation; includes site preparation & incidental paving & utilities outside the building.			
DECISION #X77-4221 - Mod. #1 (CONT'D.)	Heavy Rates	Fringe Benefits, Payments	Education and/or Appr. Tr.
Change:			
Marble setters' finishers	\$ 5.87		
Terrazzo workers' finishers	5.87		
Floor machine operators	6.07		
Base machine operators	6.22		
Tile setters' finishers	5.87		

DECISION #TX77-4257-Mod. #1(CONT'D)		Fringe Benefits Payments				Education and/or Appr. Tr.
		Basic Hourly Rates	H & W	Pensions	Vacation	
Ironworkers	Group 1	\$ 8.55	.55	1.00		.10
Laborers	Group 2	6.42	.42	.45		
	Group 3	6.17	.42	.45		
	Group 4	5.92	.42	.45		
	Group 5	5.80	.42	.45		
	Group 6	5.67	.42	.45		
	Group 7	5.52	.42	.45		.01
Lathers	Group 1	8.98	.30			.02
Painters	Group 2	7.48	.30			.02
	Group 3	7.89	.30			.02
	Group 4	8.185	.30			.02
	Group 5	7.70	.30			.02
	Group 6	8.84	.30			.01
Plasterers	Group 1	8.31	.67			
Roofers: Waterproofers; Pipe-wrapppers		7.00				.02
Soft floor layers		7.23	.30	.10		
Terrazzo workers' helpers		5.13	.57	.20		.10
Title setters' helpers		7.14	.60	.60		.10
Power Equipment Ops. - Group 1		7.72	.60	.60		.10
Group 2		7.81	.60	.60		.10
Group 3		7.86	.60	.60		.10
Group 4		7.86	.60	.60		.10
Group 5		7.95	.60	.60		.10
Group 6		8.18	.60	.60		.10
Group 7		8.34	.60	.60		.10
Group 8		7.81	.60	.60		.10
Group 9		8.04	.60	.60		.10
Group 10		8.34	.60	.60		.10
DECISION #TX77-4258-Mod. #1(CONT'D)						
Change:		10.60	.80	.80		.06
Asbestos workers		11.17	.65	.70		.12
Plumbers - Harris County		9.11	.20	.35	.25	.03
Roofers						
Omit:						
Pipefitters - That part of Galveston Co. east of the Trinity River:						.03
Commercial work up to \$50,000		10.55	.445	.50		.03
Co. arcial work \$50,000 & over		11.005	.445	.50		.03
Plumbers - Galveston County:						.03
Commercial work up to \$50,000		10.55	.445	.50		.03
Commercial work \$50,000 & over		11.005	.445	.50		.03
Add:						
Pipefitters - That part of Galveston Co. east of the Trinity River:		11.345	.545	.60		.10
Plumbers - Galveston County		11.345	.545	.60		.10

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SUPERSEDES DECISION

STATE: Alabama
 DECISION NUMBER: AL77-1112
 COURTESY: Jefferson & Shelby
 DATE: Date of publication
 SUPERSEDES DECISION No.: AL77-1086 dated July 1, 1977 in 42 34153
 DESCRIPTION OF WORK: Building Construction, (does not include residential construction consisting of single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Asbestos workers	10.51	.45	.40			.05
Boilermakers	9.50	.75	1.00			.02
Bricklayers:						
stonemasons	9.60	.35	.40			.12
Carpenters:	8.50	.35	.40			.12
Carpenters, soft floor layers	8.95	.55	.30			.07
Millwrights	10.55	.55	.30			.07
Piledrivers	9.15	.55	.30			.07
Cement masons	7.33	.50				
Electricians:						
Electricians	10.65	.55	34+.40			.14
Cable splicers	10.90	.55	34+.40			.14
Elevator constructors	9.14	.495	.32	44+44b		.02
Elevator constructors' helpers	6.40	.495	.32	44+44b		.02
Elevator constructors' helpers (prob.)	4.905					
Glaziers	8.58	.50	.50			.01
Ironworkers	9.25	.60	.815			.06
Linenmen:						
Groundmen under one year	8.88	.35	.18			.14
Groundmen one year and over	4.21	.35	.18			.14
Bole and ditch digging equip-	4.57	.35	.18			.14
ment, tractor with winch and derrick, truck with winch and derrick		.35	.18			.14
Tractor with towing machine	7.55		.18			
Tractor with winch only	6.22	.35	.18			.14
Truck without winch	5.33	.35	.18			.14
Marble setters	8.20		.40			
Painters:						
Brush (Commercial)	8.65		.60			
Spray, Structural steel	9.15		.60			
Paperhangers	8.80		.60			
Plasterers	7.47	.50				
Plumbers and Pipefitters	11.10	.58	.65			.09
Roofers	8.35	.20				.10
Sheet metal workers	9.90	.65	.70			.09
Sprinkler fitters	10.35	.65	.70			.08
Terrazzo workers, Tile setters	8.20		.40			
Tile, Marble terrazzo helpers	6.30					

AL77-1112 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Truck Drivers:						
Up to but not including 14 tons	6.50		.35			
14 to but not including 3 tons	6.80		.35			
3 tons but not including 5 tons	7.05		.35			
5 tons and over including special equipment	7.20		.35			
Heavy Duty - off the road trucks	7.30		.35			
Welders, riggers, riveters - receive rate prescribed for craft performing operation to which welders, riggers, and riveters are incidental.						

PAID HOLIDAYS:
 A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day;
 E-Thanksgiving Day, F-Christmas Day.

FOOTNOTES:
 a. 6 paid holidays: A through F.

b. Employer contributes 1/4% of regular hourly rate to Vacation Pay Credit for employee who has worked in business more than 5 years. Employer contributes 2% of regular hourly rate to Vacation Pay Credit for employee who has worked in business less than 5 years.

NOTICES

FEDERAL REGISTER, VOL. 42, NO. 199—FRIDAY, OCTOBER 14, 1977

AL77-1112 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
GROUP A	6.40	.30	.35			.03
GROUP B	6.35	.30	.35			.03
GROUP C	6.30	.30	.35			.03
GROUP D	6.25	.30	.35			.03
GROUP E	6.65	.30	.35			.03
GROUP F	7.10	.30	.35			.03
GROUP G	7.00	.30	.35			.03
GROUP H	7.05	.30	.35			.03
GROUP I	6.95	.30	.35			.03
GROUP J	6.80	.30	.35			.03
GROUP K	7.75	.30	.35			.03

GROUP A
 Air or electric tool operators and asphalt rakers

GROUP B
 Vibrator operators, chain saw ops. of mechanical equipment which replaces (wheelbarrows or buggies), power mowers, mortar mixers, pipe layers, conc. & clay and muckers

GROUP C
 Plasterers' tenders and hod carriers

GROUP D
 Mason tenders, building laborers and wagon drill operators' helpers

GROUP E
 Burners on demolition, wagon drill operators and tunnel laborers

GROUP F
 Powderman

GROUP G
 Calisson-driller (10' Dia)

GROUP H
 Tunnel miner

GROUP I
 Pneumatic concrete gun operator and nozzleman

GROUP J
 Chuck tender

GROUP K
 Wagon operator

AL77-1112 - (Cont'd)

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
GROUP A	9.34	.40	.30			.10
GROUP B	8.91	.40	.30			.10
GROUP C	7.94	.40	.30			.10
GROUP D	10.04	.40	.30			.10
GROUP E	9.43	.40	.30			.10
GROUP F	8.07	.40	.30			.10

GROUP A
 Asphalt plant, boom tractor, bulldozer, cableways, core driller, compressors (2 or more), crane-derrick-dragline, dinky locomotive, dredges, fork lift, front end loader, gradall, heavy duty mechanic, hoist (1 drum or more), muckers, push tractor, scrapers, shovels, trenching machine (and all similar equipment), winch trucks, motor graders, concrete pump, piledriver, rotary drill

GROUP B
 Air compressor (over 125), asphalt spreaders, blade graders (full type), boat operator, conveyor (2 or more up to 4), crawler tractor, distributors, (bituminous surface), farm tractors, finishing machine, pumps over 4 inches, rollers, welding machine (4 or more)

GROUP C
 Air compressor (125 & under), oilers-firmen, conveyor (1) tended by oiler, pumps (under 4 inches), welding machines (3 or under), mechanic helpers

GROUP D
 ON SITE ERECTION: Crane, dragline, derrick, hoist, piledriver, winch truck, fork lift, tower cranes, climbing cranes, cherry picker, mechanics, locomotives, tug boat

GROUP E
 Tractors, welding machine, gas or diesel driven welding machine (4 or more), air compressors over 125 (2 or less), power generating units (gas or diesel)

GROUP F
 Gas or diesel driven welding machine (3 or less), mechanic helper, air compressor 125 and under (2 or less), oiler, fireman, small boat

NOTICES

FEDERAL REGISTER, VOL. 42, NO. 199—FRIDAY, OCTOBER 14, 1977

SUPERSIDESAS DECISION

STATE: Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania and Rhode Island
DECISION NUMBER: CT77-3135
DATE: Date of Publication
Supersidesas Decision No. CT77-5001 dated January 4, 1977, 42 FR 999.
DESCRIPTION OF WORK: All dredging on the Atlantic Coast from the Canadian Border to the southern border of the State of Maryland and tributary waters emptying into the Atlantic Ocean, the Chesapeake and Delaware Canal, Baltimore City and Baltimore County, Maryland.

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Dipper and clamshell Dredges:						
Operator	9.80	.63	.50	78%a		
Engineer	9.71	.63	.50	78%a		
Craneman	9.48	.63	.50	78%a		
Maintenance engineer	9.31	.63	.50	78%a		
Welder	9.15	.63	.50	78%a		
Mate	8.60	.63	.50	78%a		
Fireman and oiler	7.77	.63	.50	78%a		
Deckhand, handyman and tug deckhand	7.53	.63	.50	78%a		
Scowman	7.42	.63	.50	78%a		
Hydraulic Dredges:						
Leverman	9.60	.63	.50	78%a		
Engineer and derrick operator	9.48	.63	.50	78%a		
Maintenance engineer	9.31	.63	.50	78%a		
Boilermaker, draughtsman and blacksmith electricians and welders	9.15	.63	.50	78%a		
Spider barge operator	9.04	.63	.50	78%a		
Mate	8.60	.63	.50	78%a		
Fireman and oiler	7.77	.63	.50	78%a		
Tug deckhand	7.53	.63	.50	78%a		
Deckhand, handyman and shoreman	7.42	.63	.50	78%a		
Tug boats over 400 H. P. (with master or captain having license endorsed for 200 miles off shore)	9.10	.63	.50	78%a		
Tug boats over 400 H. P. (without master or captain having license endorsed for 200 miles off shore)	7.58	.63	.50	78%a		
Tug deckhand	8.67	.63	.50	78%a		
Drill Boats:	7.53	.63	.50	78%a		
Engineers	10.57	.63	.50	b		
Blasters	10.71	.63	.50	b		
Firemen	10.17	.63	.50	b		
Drillers, welders or machinists	10.58	.63	.50	b		
Oilers	9.96	.63	.50	b		

DECISION NO. CT77-3135

FOOTNOTES:

a. Holidays: A through F, plus Washington's Birthday and Veterans' Day.
b. Holidays: A through F, plus Washington's Birthday and Veterans' Day.
6 1/2 days vacation with pay for 84 days of service, one additional day of vacation with pay for each additional 21 2/3 days of service, all in one calendar year. Employees not qualifying for vacation as set forth above will receive one day's vacation with pay for each full 20 days of service in one calendar year.

PAID HOLIDAYS:

A-New Year's Day; B-Memorial Day; C-Independence Day; D-Labor Day; E-Thanksgiving Day and F-Christmas Day.

NOTICES

SUPERSIDESAS DECISION

STATE: Tennessee
DECISION NO.: TN77-1131
DATE: Date of Publication
Supersidesas Decision No.: TN77-1051 dated May 6, 1977 in 42 FR 23426.
DESCRIPTION OF WORK: Building construction (does not include single family homes and garden type apartments up to and including 4 stories).

	Basic Hourly Rates	Fringe Benefits Payments				Education and/or Appr. Tr.
		H & W	Pensions	Vacation		
Bricklayers	7.25	.30				
Carpenters	7.35					
Cement masons	7.00					
Electricians	6.50		.40			
Glaziers	9.00	.75				
Ironworkers, structural and ornamental	7.49					
Laborers	4.00					
Mason tenders	4.75					
Painters, brush	6.20					
Plumbers	8.70		.50			.03
Roofers/waterproofers	9.40	.25				.03
Sheet metal workers	6.43					
Tile setters	6.15	.30				
Power Equipment Operators:						
Backhoe	5.00					
Cranes	5.00					
Front end loader	4.86					

NOTICES

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STATE: Washington
 DECISION NO. WA77-5096
 SUPERSEDES DECISION NO. WA77-5076 dated August 19, 1977, in 42 PH 42145
 DESCRIPTION OF WORK: Building Construction (does not include single family homes and garden type apartments, up to and including 4 stories), heavy and highway construction and dredging.

COUNTIES: Statewide
 DATE: Date of Publication
 DATE: 1977, in 42 PH 42145

ASBESTOS WORKERS:
 Chelan, Clallam, Douglas, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason, Okanogan, Pacific (Northern portion), Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties
 Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties
 Remaining Counties

BOTTLERMAKERS:
 Adams (except City of Othello), Asotin, Columbia, Ferry, Garfield, Lincoln, Pend Oreille, Spokane, Grand Coulee Dam area in Okanogan County
 Benton, Franklin and Walla Walla Counties
 Chelan, Douglas and Okanogan (except area of Grand Coulee Dam)
 Clallam, Island, Jefferson, King, Kitsap, Snohomish and Skagit (south of the Cities of Burlington, Sedro-Woolley and Concrete) Counties
 Clark, Cowlitz, Pacific (Southern portion), Skamania, Wahkiakum Counties and ten mile strip bordering the Columbia River in Klickitat County
 Grant County and that portion of Adams County including the City of Othello
 Kittitas, Yakima and Klickitat (except a ten mile strip bordering the Columbia River) Counties
 Grays Harbor, Lewis, Mason, Thurston and northern portion of Pacific County
 Pierce County

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 12.95	.51	\$ 1.20		.06
13.16	.57	1.20		.12
11.75	.51	.95		.02
11.60	.75	1.00	.50	.02
11.01	.65	.70		.04
11.06	.55	.50		
9.50	.55	.50		
11.22	.65	.65		.11
\$ 11.83	.75	.85		.15
10.50	.40			
10.95	.65	.75		
11.35	.65	.50		.06
11.03	.65	.75		

DECISION NO. WA77-5096 Page 2

BRICKLAYERS: (Cont'd)
 the Cities of Burlington, Sedro-Woolley, Concrete and north thereof), and Whatcom Counties
 Cowlitz, Pacific (Southern portion), Skamania and Wahkiakum Counties
 All Counties and parts of Counties east of the 120th Meridian except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties
 Carpenters and Drywall Applicators
 Carpenters on Crooked material
 Sawfilers; Stationary power saw; Floor Finisher; Floor Layer; Shingles; Floor Sander and other stationary power woodworking tools
 Millwrights and Machine Erectors
 Piledrivers; Bridge, dock and wharf builders
 Acoustical Workers
 Boommen
 Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties
 Carpenters; Form Strippers; Manhole Builders; Acoustical Applicators, Drywall
 Piledrivers, bridge, dock and wharf builders
 Floor Layers; Floor Finishers; Stationary Power Saw Operator
 Boommen
 Millwrights; Machine Erectors

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
10.87	.65	.95		.055
10.84	.60	.55		.055
10.99	.60	.55		.055
11.04	.60	.55		.055
11.09	.60	.55		.055
11.24	.60	.55		.055
11.34	.60	.55		.055
\$ 11.00	.50	.70		.02
11.10	.50	.70		.02
11.13	.50	.70		.02
11.50	.50	.70		.02
11.15	.50	.70		.02
11.16	.50	.70		.02
11.20	.50	.70		.02
10.65	.55	.85	.50	.03
10.75	.55	.85	.50	.03
10.80	.55	.85	.50	.03
10.85	.55	.85	.50	.03
10.90	.55	.85	.50	.03

CEMENT MASONS

Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas (except for western portion lying one mile west of City of Easton), Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman, Yakima Counties

	Zone A	Zone B	Zone C	Zone D	Zone E
Cement Masons	\$10.28	\$10.48	\$11.13	\$11.58	\$11.98
Power Troweling Machine Gunnite Operator	10.43	11.03	11.28	11.73	12.13
Power Tool Operator (grinding, bushing of toxic material)	10.73	11.33	11.58	12.03	12.43
FRINGE BENEFITS: Health & Welfare	\$.70	Pensions	\$.85	App. Tr.	\$.05
*SEE Page following TRUCK DRIVERS for ZONE DEFINITIONS					

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
Clallam, Grays Harbor, Jefferson, King, (except City of Auburn), Kitsap, Kittitas, (western portion lying one mile west of the City of Easton), Mason, Pacific (Northern portion)				
Cement Masons	10.50	.55	1.00	.02
Composition, Color, Mastic, Trowel Machine; Grinder, Power Tool Gunnite Nozzleman	10.75	.55	1.00	.02
Island, Skagit, Snohomish and Whatcom Counties	10.92	.94	.70	.09
Cement Masons	11.17	.94	.70	.09
Composition, Color, Mastic, Trowel Machine, Grinder, Power Tools, Gunnite Nozzleman				
Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties	\$ 10.37	.75	.70	.60
Cement Masons	10.52	.75	.70	.60
Composition materials and power machinery	10.50	.55	1.00	.50
Lewis, Pierce, Thurston and the City of Auburn in King County				.02

ELECTRICIANS

Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens and Whitman Counties
 Cable Splicers
 Asotin, Benton, Columbia, Franklin, Garfield, Kittitas, Walla Walla and Yakima Counties
 Electricians
 Cable Splicers
 Chelan, Douglas, Grant and Okanogan Counties
 Electricians
 Clallam, Jefferson, King and Kitsap Counties
 Electricians
 Cable Splicers
 Clark, Klickitat and Skamania Counties
 Electricians
 Cable Splicers
 Cowlitz and Wahkiakum Counties
 Electricians
 Cable Splicers
 Grays Harbor, Lewis, Mason, Pierce, Pacific and Thurston Counties
 Electricians
 Cable Splicers
 Island, San Juan, Skagit, Snohomish and Whatcom Counties
 Electricians
 Cable Splicers
 (Installation and repair of low-voltage communication and alarm systems, excluding any work under the jurisdiction of a journeyman wireman)
 Adams, Ferry, Lincoln, Pend Oreille, Spokane, Stevens, and Whitman Cos.
 Journeyman Installer
 ELEVATOR CONSTRUCTORS:
 Adams, Asotin, Benton, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla and Whitman Counties
 Elevator Constructors

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
\$ 13.13	.57	38+.40		.02
13.53	.57	38+.40		.02
12.58	.57	38+.40		.02
13.21	.57	38+.40		.02
13.03	.57	38+.40		.02
14.33	.57	38+.40		.02
13.20	.70	38+.65		.03
14.52	.70	38+.65		.03
12.80	.65	38+.1.00		.05
13.55	.65	38+.1.00		.05
12.80	.65	38	5%	.02
14.08	.65	38	5%	.02
12.04	.65	38+.55	8%	.07
13.24	.65	38+.55	8%	.07
13.52	.65	38+.40		.04
14.87	.65	38+.40		.04
\$ 7.30	.43			.02
11.95	.545	.35	48%	.02

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
ELEVATOR CONSTRUCTORS: (Cont'd) Chelan, Clallam, Grays Harbor, Island, Jefferson, King, Kitsap, Kittitas, Lewis, Mason Pacific, Pierce, San Juan, Skagit, Snohomish, Thurston, Whatcom and Yakima Counties Elevator Constructors Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties Elevator Constructors Adams (northeastern portion), Lincoln (eastern half), Pend Oreille, Spokane and Stevens Counties Adams (southeastern portion), Benton, Columbia, Franklin and Walla Walla Counties Adams (southwestern corner), Chelan, Douglas, Grant, Lincoln, (western half) and Okanogan Counties Asotin, Garfield and Whitman Counties Clallam, Island, Jefferson, King, Kitsap, Lewis, Mason, Pacific, (Northern portion), Pierce, San Juan, Snohomish and Thurston Counties Yakima and Kittitas Counties Clark, Cowlitz, Klickitat, Pacific, (Southern portion), Skamania and Wahkiakum Cos. IRONWORKERS: Statewide except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties Reinforcing: Structural; Fence Erectors; Ornamental; Riggers and Signalmen Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Cos. Reinforcing: Structural; Fence Erectors; Ornamental; Riggers; Signalmen	12.445 12.205 10.49 9.83 8.25 8.03 \$10.40 9.46 10.03 11.85 11.85	.545 .745 .35 .40 .40 .31 .34 .35 .51 .93 .93	.38a .38a b+.43 .45 .70 .25 b .65 1.00 1.00	.02 .02 .64 .57 b+.28 .10 .10

Basic Hourly Rates	Fringe Benefits Payments			Education and/or Appr. Tr.
	H & W	Pensions	Vacation	
MARBLE, TILE AND TERRAZZO WORKERS: RELIEFS: All Counties west of the Cascade Mountain Range (except Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Cos.) MASON TENDERS: Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Counties (Including tenders to plasterers, bricklayers, tile setters, marble setters and terrazzo workers; topping for cement finishers and mortar mixers) PAINTERS: Adams, Asotin, Benton, Chelan, Columbia, Douglas, Ferry, Franklin, Garfield, Grant, Kittitas, Lincoln, Okanogan, Pend Oreille, Spokane, Stevens, Walla Walla, Whitman and Yakima Counties Brush Steel, Spray; Steam Cleaning; Roller over 9" or 10" handle; Drywall Taper Siding Stage work or high rate (over 30') Bitumastic; Sandblasting; Bridge; Tanks on legs; Tower; Stacks; Steeples Clark, Cowlitz, Klickitat, Pacific (Southern portion), Skamania and Wahkiakum Cos. Brush Spray Bridges, High work over 50' (brush) Bridges, High work over 50' (spray) Drywall Finishers	9.52 10.52 10.77 10.87 10.92 9.53 9.93 10.28 10.68 10.65	.65 .40 .40 .40 .40 .55 .55 .55 .55 .65	.30 .80 .80 .80 .80 .60 .60 .60 .60 .60	.02 .02 .02 .02 .10 .10 .10 .10 .06

POWER EQUIPMENT OPERATORS (Area 1) (Cont'd)

All Counties and portions of Counties East of the 120th Meridian

Group 3: A-Frame Truck (2 or more drums); Assistant Refrigeration Plant and Chiller Operator (over 1,000 tons); Backhoes (under 3 yards); Batch and Met Mix Operator - multiple units (2 and including yards); Batch and Met Mix Operator (under 3 yards); Batch and Met Mix Operator (with crane); Clamshell Operator (under 3 yards); Concrete Slip Form Paver; Cranes all (under 3 yards); Drilling Equipment (8" bit and over); Robbins' reverse circulation and similar; Loader Operator (front end and overhead 4 yards to 8 yards); Rubber-tired driving Engineer; Paver (dual drum); Quad-track or similar equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired scrapers, multi-engine, power with one scraper (Euclid TS-24 and similar); Push Pull or Help Mate in use; Rubber-tired scrapers, multiple engines with tow scrapers; Shovels (under 3 yards); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whirlies, Highline Hammerheads or similar); Trenching Machines (7 feet depth and over); Multiple Dozer units with single blade

Group 6: Backhoes (3 yards and over); Batch Plant (over 4 units); Cableway Controller - Dispatcher; Cableway Operator; Clamshell Operator (3 yards and over); Cranes, over 11 - 65 gons and over; Derrick and Stifflegs (65 tons and over); Draglines (3 yards and over); Elevating Belt (Holland type); Loader 360 degrees revolving Koehring Scooper or similar; Loaders (overhead and front-end over 8 to 12 yards); Rubber-tired scrapers (multiple engine with three or more scrapers); Shovels (3 yards and over); Tower Crane; Whirlies and Hammerheads (all).

Group 7: Helicopter Pilot; Loaders (Overhead and Front-end - over 12 yards)

POWER EQUIPMENT OPERATORS (Area 1) (Cont'd)

All Counties and portions of Counties East of the 120th Meridian

Group 5: Automatic subgrader (ditches and trimmers) (Autograde, ABC, R.A. Hansen and similar on grade wire); Backhoes (under 3 yards); Batch and Met Mix Operator - multiple units (2 and including yards); Batch and Met Mix Operator (under 3 yards); Batch and Met Mix Operator (with crane); Clamshell Operator (under 3 yards); Concrete Slip Form Paver; Cranes all (under 3 yards); Drilling Equipment (8" bit and over); Robbins' reverse circulation and similar; Loader Operator (front end and overhead 4 yards to 8 yards); Rubber-tired driving Engineer; Paver (dual drum); Quad-track or similar equipment; Railroad Track Liner Operator (self-propelled); Rubber-tired scrapers, multi-engine, power with one scraper (Euclid TS-24 and similar); Push Pull or Help Mate in use; Rubber-tired scrapers, multiple engines with tow scrapers; Shovels (under 3 yards); Refrigeration Plant Engineer (1,000 tons and over); Signalmen (Whirlies, Highline Hammerheads or similar); Trenching Machines (7 feet depth and over); Multiple Dozer units with single blade

Group 6: Backhoes (3 yards and over); Batch Plant (over 4 units); Cableway Controller - Dispatcher; Cableway Operator; Clamshell Operator (3 yards and over); Cranes, over 11 - 65 gons and over; Derrick and Stifflegs (65 tons and over); Draglines (3 yards and over); Elevating Belt (Holland type); Loader 360 degrees revolving Koehring Scooper or similar; Loaders (overhead and front-end over 8 to 12 yards); Rubber-tired scrapers (multiple engine with three or more scrapers); Shovels (3 yards and over); Tower Crane; Whirlies and Hammerheads (all).

Group 7: Helicopter Pilot; Loaders (Overhead and Front-end - over 12 yards)

POWER EQUIPMENT OPERATORS (Area 2)

All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3)

Basic Hourly Rates	H & W	Pensions	Vacation	Education and Appr. Tr.
Group 1	\$11.02	.75	1.00	.11
Group 2	11.12	.75	1.00	.11
Group 3	11.23	.75	1.00	.11
Group 4	11.28	.75	1.00	.11
Group 5	11.30	.75	1.00	.11
Group 6	11.35	.75	1.00	.11
Group 7	11.36	.75	1.00	.11
Group 8	11.40	.75	1.00	.11
Group 9	11.42	.75	1.00	.11
Group 10	11.55	.75	1.00	.11
Group 11	11.58	.75	1.00	.11
Group 12	11.61	.75	1.00	.11
Group 13	11.71	.75	1.00	.11
Group 14	11.68	.75	1.00	.11
Group 15	11.70	.75	1.00	.11
Group 16	11.73	.75	1.00	.11
Group 17	11.76	.75	1.00	.11
Group 18	11.80	.75	1.00	.11
Group 19	11.87	.75	1.00	.11
Group 20	11.88	.75	1.00	.11
Group 21	11.93	.75	1.00	.11
Group 22	11.98	.75	1.00	.11
Group 23	12.20	.75	1.00	.11
Group 24	12.24	.75	1.00	.11
Group 25	12.29	.75	1.00	.11
Group 26	12.37	.75	1.00	.11
Group 27	12.59	.75	1.00	.11
Group 28	12.79	.75	1.00	.11
Group 29	12.90	.75	1.00	.11
Group 30	12.92	.75	1.00	.11
Group 31	13.20	.75	1.00	.11

POWER EQUIPMENT OPERATORS (Area 2)

All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern Portion of Pacific County

Group 1: Mechanics' Helpers (heavy duty)
Group 2: Oilers, Grade Checkers and Stakemen and/or Brakemen
Group 3: Firemen; Firemen (drier and hot plant)
Group 4: Rollers, Tampers and Vibrators (other than plant, road mix or multi-lift materials); Tractor (farmall type, 60 h.p. and under); Compressor (excavating and general purposes)
Group 5: Oilier Driver on Truck Cranes (over 45 tons up to 100) Distributors
Group 6: Blower Distributors and Mulch Seeding Operator; Oil Distributors
Group 7: Locomotive (Dinkey-air, diesel, electric, gas, steam)
Group 8: Equipment Service Oilier; Oilier Driver on Truck Cranes (100 tons and over)
Group 9: Pump (water); Tractors (Farmall type, over 60 h.p.)
Group 10: Post Hole Diggers (mechanical)
Group 11: Brooms (power, Wayne, Saginaw and similar types); Bulldozers (under D9 or similar); Loaders (Fork Lifts or Lumber Stackers - on construction job site - Drott Travel Lift); Rollers, Tampers and Vibrators (twin engine); Saw (concrete); Scrapers (carry-all type, single)
Group 12: Batch Plant (batch and mixer, 200 yards per hour and under); Cranes ("A" Frame Trucks, single power drum); Conveyors; Crusher (rock); Washing and Screening Plants; Finishing Machine Operator, Concrete Paving; Hoists, Air Tuggers, Strato Tower Bucket, Elevators and Deck Winches (power); Loaders (Elevating-Athey, Barber Greene and similar types, and Overhead and Front-end, under 24 yards); Mixers (asphalt up to 4 tons per batch, and concrete mixer and batch - 200 yards per hour and under); Power Plant Operators; Pumps (Fuller Kenyon and Concrete and Pumpcrete); Rollers, Tampers and Vibrators (on plant, road mix or multi-lift materials); Sced Man; Spreaders (Blaw Knox, Cedarapids, Jaeger, Flarety or similar types); Trenching Machine (under 16 inches)

POWER EQUIPMENT OPERATORS (Areas 1 and 2)
(DREDGING)

- Group 1: Assistant Mate (deckhand)
Group 2: Fireman; Oiler
Group 3: Assistant Engineer (Electric, Diesel, Steam or Booster pump);
Mates and Bosmen
Group 4: Engineer Welder; Craneman
Group 5: Assistant Engineer (Electric Generator Operator for primary
pump, power barge or dredge)
Group 6: Leverman, Hydraulic
Group 7: Leverman, Dipper:
(a) 5 yards and under
(b) Over 5 yards

POWER EQUIPMENT OPERATORS (Area 3)
(DREDGING)

- Group 1: Leverman, Hydraulic
Group 1A: Leverman, Dipper
Group 2: Assistant Engineer (Including Hatch Engineer, Welder, Mechanic,
and Machinist) and Mate
Group 3: Tenderman (Boatman, Attending Dredge Plant); Fireman
Group 4: Assistant Mate (Deckhand), Oiler

NOTICES

Group 1: Escort Driver or Pilot Car; Flat Bed Truck, single rear axle,
fork lift, 3000 lbs. and under; Helper and Swamper; Leverperson loading
trucks at bunkers; Pickup hauling employees or material; Seeds and
Mulcher; Stationary Fuel Operator; Team Driver; Water Tank Truck; up to
1800 gallons; Tractor (small, rubber-tired, pulling trailer or similar
equipment)

Group 2: Bus Driver or Employeehaul; Flatbed Truck, dual rear axle; Power
boat hauling employees or material; Tireperson No. 1
Group 3: Buggy Mobile and similar; Bulk Cement Tanker; Straddle Carrier
(Rosa, Hyster and similar); Oil Tank Driver; Power Operated Sweeper;
Transite Mixers and Trucks hauling concrete; 3 yards and under; Trucks,
side, end and bottom dump: under 6 yards; Water Tank Truck: 1801-4000
gallons

Group 4: Auto Crane; 2000 lb. capacity; Bulk Cement Spreader; Dumptrior;
6 yards and under; Flat Bed Truck, using power takeoff; Flaherty Spreader;
Box Driver; Fork Lift: 3001-16,000 lbs.; Fuel Truck Driver (steam cleaner
and washer); Rubber-tired Tunnel Jumbo; Scissors Truck; Slurry Truck Driver;
Transite Mixers and Trucks hauling concrete: over 3 yards to and including
6 yards; Warehouseperson; Water Tank Truck: 4001-6000 gallons; Wrecker
and Tow Truck

FRINGE BENEFITS: Health & welfare \$1.07 Pension \$.75
NOTE: See zone definitions following Truck Drivers Classifications

TRUCK DRIVERS (Area 1)
All Counties and portions of Counties East of the 120th Meridian

Group No.	Zone A	Zone B	Zone C	Zone D	Zone E
1	\$10.18	\$10.78	\$11.03	\$11.48	\$11.88
2	10.22	10.82	11.07	11.52	11.92
3	10.28	10.88	11.13	11.58	11.98
4	10.37	10.97	11.22	11.67	12.07
5	10.58	11.18	11.43	11.88	12.28
6	10.62	11.22	11.47	11.92	12.32
7	10.68	11.28	11.53	11.98	12.38
8	10.72	11.32	11.57	12.02	12.42
9	10.83	11.43	11.68	12.13	12.53
10	10.87	11.47	11.72	12.17	12.57
11	11.18	11.78	12.03	12.48	12.88
12	11.32	11.92	12.17	12.62	13.02
13	11.48	12.08	12.33	12.78	13.18
14	11.62	12.22	12.47	12.92	13.32

TRUCK DRIVERS (Area 1) (Cont'd)
All Counties and portions of Counties East of the 120th Meridian

Group 5: Burner Cutter and Welder; Oil Distributor Driver (road, bootperson,
Leverperson, helper); Service Greaser; Tireperson No. 2; Trucks, side, end
and bottom dump: over 6 yards to and including 12 yards

Group 6: A-Frame (Swedish Crane, Iowa 3000, Hydrolift); Water Tank Truck:
6001-8000 gallons

Group 7: Dumptrior, over 6 yards; Semi-truck and Trailer, 50 ton and under
Lowboy; Transit Mixers and Trucks hauling concrete: over 6 yards to and
including 10 yards; Trucks, side, end and bottom dump: over 12 yards to
and including 20 yards

Group 8: Lowboy, over 50 ton; Tractor with Steer Trailer; Water Tank Truck:
8001-10,000 gallons

Group 9: Fork Lift, 16,000 lbs. and over; Transit Mixers and Trucks hauling
Concrete: over 10 yards to and including 15 yards; Trucks, side, end and
bottom dump: over 20 yards to and including 30 yards; Water Tank Truck:
10,001-12,000 gallons

Group 10: Mechanic, Field

Group 11: Tournarocket, D's and similar, with 2 or 4 wheel-power tractor;
with trailer, gullbowl or yardage scale, whichever is greater; Transite
Mixers and Trucks hauling concrete: over 15 yards to and including 20
yards; Trucks, side, end and bottom dump: over 30 yards to and including
40 yards; Water Tank Truck: 12,001-14,000 gallons

Group 12: Transit Mixers and Trucks hauling concrete: over 20 yards;
Truck, side, end and bottom dump: over 40 yards to and including 50 yards
100 yards

Group 13: Trucks, side, end and bottom dump: over 50 yards to and including
100 yards

Group 14: Trucks, side, end and bottom dump over 100 yards; Helicopter Pilot
hauling employees or material

NOTICES

Basic Hourly Rates	Fringe Benefits Payment			Education and/or Appr. Tr.
	H & W	Pensions	Vocaton	
TRUCK DRIVERS (Area 2) (All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County and all of Kittitas and Yakima Counties)				
Group 1	.94	.70		.09
Group 2	.94	.70		.09
Group 3	.94	.70		.09
Group 4	.94	.70		.09
Group 5	.94	.70		.09
Group 6	.94	.70		.09
Group 7	.94	.70		.09
Group 8	.94	.70		.09
Group 9	.94	.70		.09
Group 10	.94	.70		.09
Group 11	.94	.70		.09
Group 12	.94	.70		.09
Group 13	.94	.70		.09
Group 14	.94	.70		.09
Group 15	.94	.70		.09
Group 16	.94	.70		.09
Group 17	.94	.70		.09
Group 18	.94	.70		.09
Group 19	.94	.70		.09
Group 20	.94	.70		.09
Group 21	.94	.70		.09

TRUCK DRIVERS (Area 2)

All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County and including all of Kittitas and Yakima Counties

Group 1: Leverman and Loaders at Bunkers and batch plants; Pickup Truck, Escort or Pilot Car; Warehouseman and Checkers

Group 2: Team Drivers

Group 3: Bull Lifts and similar equipment used in loading and unloading trucks, transporting materials on job site, warehousing; Dumpsters, and similar equipment (including Tournarockers, Tournawagon, Turn-trailer, Cat DW series, Terra Cobra, Letourneau, Westinghouse, Athey Wagon, Euclid, two and four-wheeled power tractor with trailer and similar top-loaded equipment transporting material; Dump Trucks - side, end and bottom dump, including Semi-trucks and Trains or combinations thereof) - up to and including 5 yards; Flatbed, single rear axle; Fuel Truck; Grease Truck; Greaser, Battery Service Man and/or Tire Service Man; Scissor Truck; Spreader, Flaherty; Tractor (small, rubber-tired); Vacuum Truck; Water Wagon and Tank Truck (up to 1,600 gallons); Winch Truck, single rear axle; Wrecker, tow truck and similar equipment

Group 4: Flatbed, dual rear axle

Group 5: Buggymobile, Hyster Operator, Straddle Carrier (Ross), Hyater, and similar equipment; Water Wagon and Tank Truck, 1,600 gallons to 3,000 gallons

Group 6: Transit-mix, 0 to and including 41 yards

Group 7: Dumpsters and similar equipment (as listed in Group 3) - over 5 yards to and including 12 yards; Explosive Truck (field use), and similar equipment; Loaded and Heavy Duty Trailer, under 50 tons gross; Road Oil Distributor Driver; Slurry Truck; Shor-go and similar equipment; Winch Truck, dual rear axle

Group 8: Dumpster and similar equipment (as listed in Group 3) - over 12 yards to and including 16 yards

Group 9: Bulk Cement Tanker; Dumpsters and similar equipment (as listed in Group 3) - over 16 yards to and including 20 yards; Water Wagon and Tank Truck, over 3,000 gallons

TRUCK DRIVERS (Area 2) (Cont'd)

All Counties and portions of Counties West of the 120th Meridian (except those enumerated in Area 3) and including the Northern portion of Pacific County and including all of Kittitas and Yakima Counties

Group 10: Bull Lifts and similar equipment used in loading or unloading trucks transporting materials on job site, other than warehousing

Group 11: Transit-mix, over 41 yards to and including 6 yards

Group 12: "A" Frame of Hydraulic Trucks or similar equipment

Group 13: Dumpsters and similar equipment (as listed in Group 3) - over 20 yards to and including 30 yards; Loaded and Heavy Duty Trailer, over 20 tons gross to and including 100 tons gross

Group 14: Transit-mix, over 6 yards, to and including 8 yards

Group 15: Dumpsters and similar equipment (as listed in Group 3) - over 30 yards to and including 40 yards; Loaded and Heavy Duty Trailer, over 100 tons gross

Group 16: Transit-mix, over 8 yards to and including 10 yards

Group 17: Dumpsters and similar equipment (as listed in Group 3) - over 40 yards to and including 55 yards

Group 18: Transit-mix, over 10 yards to and including 12 yards

Group 19: Transit-mix, over 12 yards to and including 16 yards

Group 20: Transit-mix, over 16 yards to and including 20 yards

Group 21: Transit-mix, over 20 yards

TRUCK DRIVERS (Area 3)

Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group No.	ZONE A	ZONE B	ZONE C	ZONE D	ZONE E	ZONE F
1	\$9.81	\$10.21	\$10.56	\$10.81	\$11.06	\$11.31
2	9.86	10.26	10.61	10.86	11.11	11.36
3	9.91	10.31	10.66	10.91	11.16	11.41
4	9.96	10.36	10.71	10.96	11.21	11.46
5	10.01	10.41	10.76	11.01	11.26	11.51
6	10.11	10.51	10.86	11.11	11.36	11.61
7	10.21	10.61	10.96	11.21	11.46	11.71
8	10.31	10.71	11.06	11.31	11.56	11.81
9	10.41	10.81	11.16	11.41	11.66	11.91
10	10.48	11.08	11.33	11.58	11.83	12.08
11	10.53	11.18	11.43	11.68	11.93	12.18
12	10.58	11.28	11.53	11.78	12.03	12.28
13	10.63	11.38	11.63	11.88	12.13	12.38
14	10.98	11.38	11.73	11.98	12.23	12.48

FRANCE BENEFITS:

Health	\$.68
Welfare	.70
Pension	.60
Vacation	.60
Apprenticeship Training	.05

TRUCK DRIVERS (Area 3)

Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 1: Battery Rebuilders; Bus or Manhaul Driver; Concrete Buggies (power operated); Dump Trucks, side, end and bottom dumps, including Semi-trucks and Trains or combinations thereof; 6 cu. yds. and under, lift jittneys, Fork Lifts (all sizes in loading, unloading and transporting material on job site); Loader and/or Leverman on concrete dry batch plant (manually operated); Pilot Car; Solo Flat Bed and misc. body trucks, 0-10 tons; Truck Helper; Truck Mechanic Helper; Warehouseman (warehouse parts, tool men and parts chaser, checkers and receivers); Water Wagons (rated capacity) - up to 1,600 gallons

Group 2: "A" Frame of Hydraulic Truck with load bearing surface; Lubrication Man, Fuel Truck Driver, Fireman, Wash Rack, Steam Cleaner or combinations; Team Drivers

Group 3: Dump Trucks, side, end and bottom dumps, including Semi-trucks and Trains or combinations thereof; over 6 cu. yds. and including 10 cu. yds.; Slurry Truck Driver or Leverman; Transit Mix, and wet or dry mix trucks; 5 cu. yds. and under; Tiresman (full-time basis); Water Wagons (rated capacity) - 1,600 to 3,000 gallons

Group 4: Flaherty Spreader Driver or Leverman; Loaded Equipment, Flat Bed Semi-trailer, Truck and Trailers of doubles transporting equipment or wet or dry materials; Lumber Carrier Driver - Straddle Carrier (used in loading, unloading and transporting of materials on job site); Oil Distributor Driver or Leverman; Water Wagons (rated capacity) - 3,000 to 5,000 gallons

Group 5: Dumpsters of similar equipment, all sizes; Transit Mix and wet or dry trucks, over 5 cu. yds. and including 7 cu. yds.

Group 6: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains of combinations thereof; over 10 cu. yds. and including 20 cu. yds.; Transit Mix and wet or dry mix truck, over 7 cu. yds. and including 9 cu. yds.; Truck Mechanic-Welder - Body Repairman; Water Wagons (rated capacity 5000 to 7000 gallons

TRUCK DRIVERS (Area 3) (Cont'd)

Clark, Cowlitz, Klickitat, Skamania, Wahkiakum and the Southern portion of Pacific, Counties

Group 7: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 20 cu. yds. and including 30 cu. yds.; Transit Mix and wet or dry mix trucks, over 9 cu. yds. and including 11 cu. yds.; Water Wagons (rated capacity), over 7000 gallons to 10,000 gallons

Group 8: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 30 cu. yds. and including 40 cu. yds.; Transit Mix and wet or dry mix trucks, over 11 cu. yds. and including 15 cu. yds.; Water Wagons (rated capacity), over 10,000 gallons to 15,000 gallons

Group 9: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 40 cu. yds. and including 50 cu. yds.; Transit Mix and wet or dry mix trucks, over 13 cu. yds. and including 15 cu. yds.

Group 10: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 50 cu. yds. and including 60 cu. yds.

Group 11: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 60 cu. yds. and including 70 cu. yds.

Group 12: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 70 cu. yds. and including 80 cu. yds.

Group 13: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 80 cu. yds. and including 90 cu. yds.

Group 14: Dump Trucks, side, end and bottom dumps, including Semi Trucks and Trains or combinations thereof; over 90 cu. yds. and including 100 cu. yds.

Drivers and Helpers (handling sacked cement - add \$.15 per hour)

Winch Truck - takes classification of Truck on which Winch is mounted.

DECISION NO. WAT7-5096

ZONE WAGE SCALE (AREA 1)

Crescent Masons

Travel Zone Centers:
 Moses Lake Wenatchee Pasco Yakima Spokane
 *Coeur d'Alene *Walla Walla Lewiston

Laborers (Heavy and Highway)
 Power Equipment Operators
 Truck Drivers

Travel Zone Centers:
 Moses Lake Pasco Spokane Lewiston
 *Coeur d'Alene *Walla Walla

*15 mile free zone

Zone A - Within a 15 mile radius from the center of the above named cities
 Zone B - 15-30 miles radius from the center of the above named cities
 Zone C - 30-45 miles radius from the center of the above named cities
 Zone D - 45-90 miles radius from the center of the above named cities
 Zone E - Over 90 miles radius from the center of the above named cities

ZONE WAGE SCALE (AREA 3) ONLY

LABORERS

Goldendale, Longview and Vancouver

POWER EQUIPMENT OPERATORS

Astoria, Goldendale, Hood River, Longview
The Dalles and VancouverTRUCK DRIVERS
Astoria, Goldendale, Longview, the Dalles and VancouverZONE A: All jobs or projects located within
10 miles of the respective City HallZONE B: More than 10 miles but less than 25
miles from the City HallZONE C: More than 25 miles but less than 35
miles from the respective City HallZONE D: More than 35 miles but less than 45
miles from the City HallZONE E: More than 45 miles but less than 75
miles from the respective City HallZONE F: More than 75 miles from the respective
City Hall

[FR Doc. 77-29917 Filed 10-13-77; 8:45 am]

federal register

FRIDAY, OCTOBER 14, 1977

PART VI

PRIVACY ACT ISSUANCES,
ANNUAL PUBLICATIONDepartment/
Agency

FR Page Numbers

Systems of Records

Interstate Commerce
Commission

55434

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[7035-01]

INTERSTATE COMMERCE COMMISSION PRIVACY ACT OF 1974

System of Records; Annual Publication

Pursuant to 5 U.S.C. 552a(e)(4), as added by section 3 of the Privacy Act of 1974, the Interstate Commerce Commission hereby publishes the System of Records as currently maintained by this agency. The Systems of Records identified in the notice published in the Federal Register, at 41 FR 40430, continue in effect and are republished in their entirety without change.

JOHN P. KRATZKE,
Privacy Officer

ICC—I

System name: Operating personnel files (Nonpermanent records), ICC

System location: ICC Headquarters Bureaus and Offices Washington, D.C., and Regional Detached Offices (49 CFR 1001)

Categories of individuals covered by the system: ICC employees

Categories of records in the system: Working papers and documents developed during the course of an individual's employment which are not permanently retained. These will include the Standard Form 7B (OF 4B), Employee Record Card, and nonofficial records generally limited to information on experience, education, training, special qualifications and skills, position descriptions, performance appraisals and conduct. The Regional Managers' files may contain duplicate copies of official documents (SF 171, SF 50, etc.)

Authority for maintenance of the system: Federal Personnel Manual Supplement 293-31

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: For the use of operating officials as a source of data to initiate requests for personnel actions, to plan and schedule employee training, to counsel employees on their performance, to establish a basis for proposing commendations or disciplinary actions, and to carry out their personnel management responsibilities in general. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders.

Retrievability: Indexed by name.

Safeguards: Kept in locked file cabinets under direct control of responsible official.

Retention and disposal: Retained until employee leaves the agency through transfer or other separation and then forward to the Personnel Office where it is screened to insure that it contains no documents that should be permanently filed in the Official Personnel Folder, and then is destroyed.

System manager(s) and address:

Administrative Officer (Assistant), ICC
Headquarters Bureaus and Offices, Washington, D.C.
Regional Managers and Officer-in-charge—Detached Offices

Notification procedure: Same as above

Record access procedures: Same as above
Contesting record procedures: Same as above
Record source categories: Employees and their supervisors
Systems exempted from certain provisions of the act: None

ICC—II

System name: National Defense Executive Reserve files, ICC

System location: Recruitment and assignment files Bureau of Operations, Interstate Commerce Commission, 12th and Constitution Avenue, Northwest, Washington, D.C. 20423 Appointment files Personnel Office, Interstate Commerce Commission, 12th and Constitution Avenue, Northwest, Washington, D.C. 20423

Categories of individuals covered by the system: Letters and/or memorandums addressed to members of the Commission's National Defense Executive Reserve or to staff involving recruitment of reservists.

Categories of records in the system: Letters, Memorandum or NDER Forms 1, 2, and 3, or Form BOP D11 concerning reservists' assignments or responsibilities in connection with the National Defense Executive Reserve program, letters of appointment and statement of understanding.

Authority for maintenance of the system: EO 11179 and EO 11490

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintaining management control system of the Commission's membership and staff responsibilities in connection therewith and of individuals selected to participate in the National Defense Executive Reserve program. The information in this system of records will be exchanged as a matter of routine use with the Federal Preparedness Agency, General Services Administration, in connection with both agencies' responsibilities for administering the National Defense Executive Reserve and Emergency Preparedness programs, assigned by Executive Orders Nos. 11179, dated September 22, 1964, and 11490, dated October 30, 1969. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulations, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File folders and card file, 3 inch x 5 inch cards, basic control of quarterly computer printouts, membership listing of National Defense Executive Reserves, listing names; addresses and employment information about each reservist.

Retrievability: Files maintained by individual name.

Safeguards: Kept in locked file cabinets under control of responsible official.

Retention and disposal: Permanent for card file; correspondence and rosters, etc., three-year active file and then destroyed.

System manager(s) and address:

Recruitment and assignment files
Bureau of Operations
Assistant to the Director
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423
Appointment files
Director of Personnel
Interstate Commerce Commission
12th and Constitution Avenue, Northwest Washington, D.C. 20423

Notification procedure: Same as above
Record access procedures: Same as above

Record access procedures: Same as above
Contesting record procedures: Same as above
Record source categories: Employee
Systems exempted from certain provisions of the act: None

ICC—III

System name: Health Unit Medical Records, ICC

System location: Occupational Health Unit, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423

Categories of individuals covered by the system: ICC employees

Categories of records in the system: Contains employee's Name, date of birth, address, telephone number, Bureau or Office where employed, name of person to contact in case of emergency, name of employee's personal physician, Nurse's Notes visits and treatment in the Health Unit, records pertaining to blood donations and individual records of physical examinations, laboratory test results, x-rays and other individual health records with pertinent medical opinions.

Authority for maintenance of the system: Federal Personnel Manual Supplement 792-1

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Maintained expressly for the well-being of employees in relation to work assignments. For use of Director of Personnel providing counseling services to employees and agency officials. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders.

Retrievability: Indexed by name.

Safeguards: Kept in locked file, with access only by the Occupational Health Nurse and/or Physician.

Retention and disposal: Retained until one year after the employee leaves the agency, and then destroyed. Upon separation, will be given to employee at his request or to his personal physician, if so desired.

System manager(s) and address:

Occupational Health Nurse
Room 1414
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Employee

Systems exempted from certain provisions of the act: None

ICC—IV

System name: Automated Personnel and Payroll System, ICC

System location: Section of Systems Development, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423

Categories of individuals covered by the system: ICC employees

Categories of records in the system: Contains the name, social security number, employee number, date of birth, employment status, leave status, pay status, tax status, insurance status, saving bond and charity deductions, time and attendance data, and the organization of each ICC employee.

Authority for maintenance of the system: 49 U.S.C. 12

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: File is used for the: Transfer of information to the Internal Revenue Service for wage, levy and tax requirements—transfer of information to the Treasury Department for completion of payroll processing—transfer of information to the American Federation of Government Employees, Graphic Arts International Union, and the Professional Association of the ICC for the processing of union dues—transfer of information to state and city revenue offices for tax unemployment processing—transfer of information to the Civil Service Commission for personnel requirements—employee separation and retirement processing—employee time attendance accounting—employee salary payment and deduction control—employee bond, charity and health benefits processing—employee leave control—employee parking assignment control—employee telephone directory—employee personnel action processing and control—Commission budget planning, monitoring and control—creation of internal management reports, summaries and work files which are located throughout the agency.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on magnetic tape.

Retrievability: Indexed by social security number.

Safeguards: Stored in secure computer facility under the supervision of the tape librarian.

Retention and disposal: Fifty-two week retention for files. A five-year retention period for year-end files. At the end of each of these periods, files are destroyed.

System manager(s) and address:

Chief Section of Systems Development
Room B-411
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C.

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Employee

Systems exempted from certain provisions of the act: None

ICC—V

System name: Case Status System (Formal Case Control), ICC

System location: Section of Systems Development, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423

Categories of individuals covered by the system: Administrative Law Judges and Attorney-Advisers who have been assigned to work on cases before the Commission—parties of record and parties to be advised of all proceedings.

Categories of records in the system: Contains the various processing stages that a case passes through as it is reviewed by the Commission—contains Administrative Law Judge and Attorney-Adviser names who are responsible for various processing stages of the case—contains the names of parties of record and parties to be advised of all proceedings—contains hearing locations, when applicable—contains carrier identity.

Authority for maintenance of the system: Commission directive
Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Provides identification of

all pending cases before the Commission—identifies older cases to expedite processing—identifies cases which normal time allowances—provides an are being processed within inventory of pending cases by stage of processing—identifies the responsible Administrative Law Judge or Attorney-Adviser and organizational unit responsible for various stages of case processing—identifies parties of record and parties to be advised of all proceedings for a given case—used to produce management reports located throughout the agency. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on magnetic tape and computer disk files.

Retrievability: Indexed by case and carrier identity and Administrative Law Judge or Attorney-Adviser name.

Safeguards: Stored in secure computer facility. Data base access is under the supervision of a data base administrator.

Retention and disposal: Records are maintained on each case until it has been decided. The record is then transferred to an inactive history file for permanent retention.

System manager(s) and address:

Chief, Section of System Development
Room B-411
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Carrier(s) involved, and commission staff.

Systems exempted from certain provisions of the act: None

ICC—VI

System name: Correspondence and Management Control, ICC

System location: ICC Headquarters Bureaus and Offices Washington, D.C., and Regional Detached Offices (49 CFR 1001)

Categories of individuals covered by the system: Names of assignments with a control slip, including due dates for either individuals or sections within various organizational elements of the Commission covering letters, memoranda, or other inquiries for which responsibility to reply exists, normal business production transactions, time frames on special projects, and all aspects of overall correspondence and work load control, as well as individual signed records for government property accountability.

Categories of records in the system: The overall Commission performance monitoring system incorporates a series of subsystems which identify the various measurements of productivity which are implicit in the operation of the Commission. Maintenance of records on the performance and the production of Branches, Sections, Offices and individual employees is necessary to enable the Commission to effectively manage its work load. These records include the names of individuals assigned to specific activities, the dates of assignments, dates products received, name of signer for correspondence which is going out, and general evaluation criteria of the individual performance of the element being monitored.

Authority for maintenance of the system: 49 U.S.C. 12, 18

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Control of the production of the total employee force of the Interstate Commerce Commission and assurance that productivity is achieved by the em-

ployees assigned individual organizational elements. Additionally, to maintain a suspense on specific actions being levied upon an individual to assure that the response is timely, as well as qualitative. Used for control of government property assuring individual accountability.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Both card, suspense special forms, and computer-related assignment records are maintained to control the overall system. Maintained in sequence by the organizational element and/or the individual assigned to a specific task, as well as cross-referenced by the number of the task involved.

Safeguards: Maintained at supervisory levels on an informal basis with access prohibited outside of the Commission.

Retention and disposal: One-year active operation and subsequently destroyed.

System manager(s) and address:

Managing Director
Interstate Commerce Commission
Room 2118
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Employee

Systems exempted from certain provisions of the act: None

ICC—VII

System name: Consumer Complaint System, ICC

System location: Public Information and Consumer Affairs Office, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423 Headquarters ICC Bureau and Offices and Regional Detached Offices (49 CFR 1001)

Categories of individuals covered by the system: Letters received from consumers and/or shippers regarding the operation of the ICC or carriers subject to its regulations.

Categories of records in the system: These records include letters on virtually every subject.

Categories of records in the system: These records include letters on virtually every subject. They are concentrated in three areas: complaints from individual consumers on household goods shipments, complaints from travelers on rail passenger facilities, and complaints from passenger on motor passenger facilities. Additionally, information on general subjects of the operation of the Interstate Commerce Commission and, specifically, shipper complaints against carrier practices and/or tariffs are included in overall complaint files. Files generally are accessed by name of individual complaining or subject of the complaint or name of the carrier against which the complaint is tendered. Notice is given that when complaints generate an investigative file portions of this overall file are extracted and exempted under the provisions and notice provided in the publication of ICC VIII, Preliminary Investigative Files, and ICC IX, Enforcement Files.

Authority for maintenance of the system: 49 U.S.C. 12, 18

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: To respond to complaints from individuals, to correlate information received from individuals to assure policies are developed supporting the overall

public interest in the regulatory process, to provide information to carries relative to shortcomings they are experiencing, and take informal compliance action, as well as to transfer the files to formal investigative or enforcement action, when justified. This is a public file available for public review under the terms of the Freedom of Information Act. Individuals submitting special complaint correspondence to the Commission, unless identifying their desire to remain anonymous, will not be protected from disclosure of the information contained within the complaint letter. In the event that a system of records maintained by this agency to carry its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: In conventional file cabinets, alphabetically, by sender, and potentially by subject of complaint, dispersed for filing to office having primary operational use.

Retrievability: Maintained in alphabetical order, by complainant, with potential cross-index for identification of entity against which the complaint has been made, and further cross-reference by subject of complaint.

Safeguards: Minimal, since the files are public in nature.

Retention and disposal: Maintained for approximately two years and then destroyed.

System manager(s) and address:

Public Information Officer, ICC
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Consumers and/or shippers

Systems exempted from certain provisions of the act: None

ICC—VIII

System name: Preliminary Investigative Files, ICC

System location: Bureau of Operations Interstate Commerce Commission 12th and Constitution Avenue, Northwest Washington, D.C. 20423, and Regional Detached Offices (49 CFR 1001)

Categories of individuals covered by the system: Suspected violators of the Interstate Commerce Act or ICC orders or regulations.

Categories of records in the system: These files contain information indicating or alleging that an individual or entity could be in violation of the Interstate Commerce Act. Such records could be arrest records from the various states received pursuant to Public Law 89-170, which allows cooperative agreements between the states and this Commission in the provision of information. For example, these files could contain warning letters involving alleged violations, miscellaneous correspondence, newspaper clippings, records of contacts with entities or individuals by Commission personnel, copies of preliminary investigation reports, and prior enforcement actions taken by the Interstate Commerce Commission or the courts because of violations of the Interstate Commerce Act.

Authority for maintenance of the system: 49 U.S.C. 12

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used employees of the Interstate Commerce Commission to administer the Act, increase compliance with orders, regulations and statutes for the regulation of surface transportation, and initiate appropriate enforcement action.

In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders.

Retrievability: Indexed by name of entity of individual.

Safeguards: Kept in locked file cabinets under direct control of responsible official

Retention and disposal: Maintained for a minimum of five years and then destroyed.

System manager(s) and address:

Washington, D.C.:
Director, Bureau of Operations
Room 7115
Interstate Commerce Commission
12th and Constitution Ave. N. W.
Washington, D.C. 20423

Regional Detached Offices:

Regional Managers (49 CFR 1001)

Field Offices:

Officers in Charge (49 CFR 1001)

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Author of letters

Systems exempted from certain provisions of the act: Under the provisions of Section (j)(2), this file is exempted from any part of Section 5 U.S.C. 552(a), except Subsections (b), (c)(1) and (2), (c)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (1). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7). Under the provisions of Section (k)(2), this file is exempted from Subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in U.S.C. 552(b)(7).

ICC—IX

System name: Investigative and Enforcement Records, cross-indexed, ICC

System location: Bureau of Enforcement (cross-indexed and central file) Interstate Commerce Commission 12th and Constitution Avenue, Northwest Washington, D.C. 20423, and ICC Regional Offices (investigative files with assigned geographical jurisdiction)

Categories of individuals covered by the system: Individual, corporation, partnership or sole proprietorship, subject to enforcement actions being taken by the Interstate Commerce Commission as a result of preliminary investigations.

Categories of records in the system: The central cross-index contains the name and address of individual, partnership, corporation, or sole proprietorship, and includes a cross-reference to the enforcement file containing the investigative reports, as well as other information gathered as part of the criminal prosecution and/or civil forfeiture action. The basic cross reference file does not contain significant information other than the name and address of the entity involved, but the cross-reference to the investigative file, which is maintained by case number, does provide access based upon individual name. Individual investigative and enforcement files are

maintained by Enforcement file number, both at Headquarters and Regions.

Authority for maintenance of the system: 49 U.S.C. 12.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Used to monitor and control the progress of enforcement actions, both within the Commission for civil forfeitures and in relationship with the Department of Justice on those actions that are going through the courts. The central cross index is the only practical method for access to the appropriate file based upon any individual identifier. Actual file information is used for prosecution of civil and criminal actions. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, or regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on folding 5 inch by 8 inch index cards.

Retrievability: Indexed by individual, partnership, corporation, or sole proprietorship (index). Actual files retrieved by enforcement file number.

Safeguards: Stored in a special room of the Bureau of Enforcement with Commission employees present during all duty hours (index).

Retention and disposal: Cards are maintained in the active cross-reference and indexing file while the file is open and transferred to the closed card section after the file is concluded.

System manager(s) and address:

Assistant Director
Bureau of Enforcement
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Preliminary investigative files (ICC VII)

Systems exempted from certain provisions of the act: Under the provisions of Section (j)(2), this file is exempted from any part of Section 5 U.S.C. 552(a) except Subsections (b), (c) (1) and (2), (e)(4)(A) through (f), (e)(6), (7), (9), (10) and (11), and (i). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7). Under the provisions of Section (k)(2) this file is exempted from Subsections (3), (d), (e)(4)(G), and (1) and (f). This material is collected in the process of investigating all potential violations of the Interstate Commerce Act, whether civil or criminal, and is exempted for the reasons expressed in 5 U.S.C. 552(b)(7).

ICC-X

System name: ICC employee parking permit applications for carpools, ICC

System location: Section of Administrative Services, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423

Categories of individuals covered by the system: All individuals applying for, or assigned, parking facilities

Categories of records in the system: ICC Form MD-21; Revised 3/75, Interstate Commerce Commission Application for Parking Space, Contents: Carpool member names, home address, office telephone number, bureau or office, service computation date,

vehicle license number, distance between residence and ICC and the name of the employer.

Authority for maintenance of the system: FDMR Temporary Regulation D-47, May 22, 1974.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Use is to maintain control of assigned parking spaces. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained on 5 inch by 8 inch cards.

Retrievability: Indexed by location of parking space, number of carpool members and order of parking permit number.

Safeguards: Secured in locked metal, lateral file cabinet under the supervision of the space and services unit.

Retention and disposal: Cards are maintained for a three-year period and then discarded.

System manager(s) and address:

Chief, Building Services and Space Management Branch
Room 1315
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Individuals seeking parking facilities

Systems exempted from certain provisions of the act: None

ICC-XI

System name: ICC Identification System File

System location: Interstate Commerce Commission, Section of Administrative Services, 12th and Constitution Avenue, Northwest, Washington, D.C. 20423

Categories of individuals covered by the system: A. All ICC Headquarters employees

B. All nongovernment employees requiring access to office space occupied in the ICC Headquarters Building in Washington, D.C.

C. All ICC employees issued investigative credentials

Categories of records in the system: A. Name, date of birth, social security number

B. Name organization (firm), social security number

C. Name, title, Bureau or Office, credential number

Authority for maintenance of the system: 49 CFR 1000.5

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: Control of ICC Identification System. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, to relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: A. 8 inch by 10 inch log book B. 5 inch by 8 inch sheets C. 5 inch by 8 inch sheets

Retrievability: A. Indexed by date issued. B. Indexed by organization and date issued. C. Indexed by Bureau or Office and credential number.

Safeguards: All three segments of the identification system are stored in the Section of Administrative Services under the supervision of the Space and Services Unit.

Retention and disposal: A. Maintained two years after completion of log book, then destroyed. B. Maintained for two years after which cards are destroyed. C. Maintained until credential is returned and destroyed or marked retired upon separation of employee. Inactive records are stored two years and discarded.

System manager(s) and address:

Chief, Building Services Space Management Branch
Section of Administrative Services
Interstate Commerce Commission
12th and Constitution Avenue, N.W.
Washington, D.C. 20423

Notification procedure: Same as above.

Record access procedures: Same as above.

Contesting record procedures: Same as above.

Record source categories: Employee.

Systems exempted from certain provisions of the act: None

ICC-XII

System name: Employee Travel Records, ICC

System location: Budget and Fiscal Office, ICC 12th and Constitution Avenue, Northwest Washington, D.C. 20423

Categories of individuals covered by the system: ICC employees

Categories of records in the system: The record consists primarily of a series of Standard And Commission forms and index file cards designed to record pertinent travel information. The information usually includes the employee's name address and organization, the mode, purpose, dates and places of travel, the method and amount of reimbursement and the amount of travel advance outstanding.

Authority for maintenance of the system: 49 U.S.C. 18

Routine uses of records maintained in the system, including categories of users and the purposes of such uses: The records are available

for any use by any person. The Commission uses these records to establish approval for travel on official business, the reimbursement of the employee for approved expenses, control of annual budget estimates, input to the Commission's internal accounting system and periodic and special report required by agencies outside the Commission, and the compilation of information for internal management purposes. Portions of the file are made available to Commission management personnel for monitoring assigned functional and geographical areas of responsibility. In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use to the appropriate agency, whether Federal, state local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto. The information contained in this system of records will be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Maintained in individual file folders.

Retrievability: Indexed by employee name.

Safeguards: Kept in locked file cabinet under supervision of Budget and Fiscal Officer.

Retention and disposal: Records are destroyed in accordance with GSA retention schedules.

System manager(s) and address:

Chief, Budget and Fiscal Office
Room 1330
Interstate Commerce Commission
12th and Constitution Avenue, Northwest
Washington, D.C. 20423

Notification procedure: Same as above

Record access procedures: Same as above

Contesting record procedures: Same as above

Record source categories: Employee

Systems exempted from certain provisions of the act: —None

Title 49—Transportation
CHAPTER X—INTERSTATE COMMERCE COMMISSION

PART 1007—RECORDS CONTAINING INFORMATION ABOUT INDIVIDUALS

Sec.	
1007.1	Purpose and scope.
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1007.4	Procedures for identifying the individual making the request.
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1007.7	Content of systems or records.
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1007.10	Information supplied by the Commission when collecting information from an individual.
1007.11	Public notice of record systems.
1007.12	Exemptions.

AUTHORITY: Secs. 552, 553, and 559, Administrative Procedure Act (5 U.S.C. 552, 553, and 559).

§ 1007.1 Purpose and scope.

(a) This part contains the rules of the Interstate Commerce Commission implementing the Privacy Act of 1974 (5 U.S.C. 552a). These rules apply to all records maintained by this Commission which are not excepted or exempted as provided for in § 1007.12, insofar as they contain personal information concerning an individual, identify that individual by name or other symbol and are contained in a system of records from which information is retrieved by the individual's name or identifying symbol. Among the primary purposes of these rules are to permit individuals to determine whether information about them is contained in Commission files and, if so, to obtain access to that information; to establish procedures whereby individuals may have inaccurate and incomplete information corrected; and, to restrict access by unauthorized persons to that information.

(b) In this part the Commission is also exempting certain Commission systems of records from some of the provisions of the Privacy Act of 1974 that would otherwise be applicable to those systems.

§ 1007.2 Definitions.

As used in this part: "Commission" means the Interstate Commerce Commission.

"Chairman" means the Presidentially appointed Commissioner who is the administrative head of the Interstate Commerce Commission.

"Privacy Officer" refers to the individual designated to process requests and handle various other matters relating to the Commission's implementation of the Privacy Act of 1974.

"Individual" means a citizen of the United States or an alien lawfully admitted for permanent residence.

"Maintain" means the maintenance, collection, use, or dissemination (of records).

"Record" means any item, collection or grouping of information about an individual that is maintained by an agency, including, but not limited to, his educa-

tion, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph.

"Statistical Record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of Title 13 of the United States Code.

"System of records" means a group of any records under the control of the Commission retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual.

"Routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose of which the record was compiled.

"Agency" means any executive department, military department, Government corporation, Government-controlled corporation or other establishment in the Executive Branch of the Government or any independent regulatory agency.

§ 1007.3 Requests by an individual for information or access.

(a) Any individual may request information on whether a system of records maintained by the Commission contains any information pertaining to him or her, or may request access to his or her record or to any information pertaining to him or her which is contained in a system of records. All requests shall be directed to the Privacy Officer, Office of the Managing Director, Interstate Commerce Commission, Twelfth Street and Constitution Avenue NW, Washington, D.C. 20423.

(b) A request for information or for access to records under this part may be made by mail or in person. The request shall: (1) Be in writing and signed by the individual making the request; and, (2) Include the full name of the individual seeking the information or record, along with his or her home and business addresses and telephone numbers.

(c) For each system of records from which information is sought, the request shall: (1) Specify the title and identifying number as it appears in the system notice published by the Commission; (2) provide such additional identifying information, if any, as may be required by the system notice; (3) describe the specific information or kind of information sought within that system of records; and, (4) set forth any unusual arrangements sought concerning the time, place, or form of access.

(d) The Commission will respond in writing to a request made under this section within ten days (excluding Saturdays, Sundays and legal public holidays) after receipt of the request. If a definitive reply cannot be given within ten days, the request will be acknowledged and an explanation will be given of the status of the request.

(e) The individual either will be noti-

fied in writing of where and when he or she may obtain access to the records requested or will be given the name, address and telephone number of the member of the Commission staff with whom he or she should communicate to make further arrangements for access.

§ 1007.4 Procedures for identifying the individual making the request.

When a request for information or for access to records has been made pursuant to § 1007.3, before information is given or access is granted pursuant to § 1007.5 of these rules, the Commission shall require reasonable identification of the person making the request to insure that information is given and records are disclosed only to the proper person.

(a) An individual may establish his identity by:

(1) Submitting with his written request for information or for access to photocopy, two pieces of identification bearing his or her name and signature, one of which shall bear his or her current home or business address; or

(2) Appearing at any office of the Commission during the regular working hours for that office and presenting either:

(i) One piece of identification containing a photograph and signature, such as a driver's license or passport, or, in the case of a Commission employee, his or her ICC identification card; or

(ii) Two pieces of identification bearing the individual's name and signature, one of which shows the individual's current home or business address; and

(3) Providing such other proof of identity as the Commission deems satisfactory in the circumstances of a particular request.

(b) Nothing in this section shall preclude the Commission from requiring additional identification before granting access to the records if there is reason to believe that the person making the request may not be the individual to whom the record pertains, or where the sensitivity of the data may warrant.

(c) The requirements of this subsection shall not apply if the records involved would be available to any person under the Freedom of Information Act.

§ 1007.5 Disclosure of requested information to individuals; fees for copies of records.

(a) Any individual who has requested access to his or her record or to any information pertaining to that individual in the manner prescribed in § 1007.3 and has identified himself or herself as prescribed in § 1007.4 shall be permitted to review the record and have a copy made of all or any portion thereof in a form comprehensible to the individual, subject to fees for copying services set forth in paragraph (f) of this section. Upon request, persons of the individual's own choosing may accompany the individual, provided that the individual has furnished a written statement authorizing discussion of his or her record in the accompanying person's presence.

(b) Access will generally be granted in the office of the Commission where the records are maintained during normal business hours, but for good cause shown

the Commission may grant access at another office of the Commission or at different times for the convenience of the individual making the request. When a request for access is from a Commission employee, this request may be granted by forwarding the information desired through registered mail, return receipt requested.

(c) Where a document containing information about an individual also contains information not pertaining to him or her, the portion not pertaining to the individual shall not be disclosed except to the extent the information is available to any person under the Freedom of Information Act. If the records sought cannot be provided for review and copying in a meaningful form, the Commission shall provide to the individual a summary of the information concerning the individual contained in the record or records which shall be complete and accurate in all material aspects.

(d) Where the disclosure involves medical records, the Privacy Officer may determine that such information will be provided only to a physician designated by the individual.

(e) Requests for copies of documents may be directed to the Privacy Officer or to the member of the Commission's staff through whom arrangements for access were made.

(f) Fees for copies of records shall be charged at the rate of 10 cents per letter-size or legal-size exposure duplicated electrostatically. Fees for requests requiring the use of a computer shall be charged at the actual cost for machine time. Payment should be made by check or money order payable to the Treasury of the United States. When it is determined to be in the best interest of the public, the Privacy Officer may waive the fee provision.

(g) Nothing in this subsection or in § 1007.3 shall:

(1) Require the disclosure of records exempted under § 1007.12 of these rules including the exemption relating to investigative records;

(2) Allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding or a criminal proceeding; or

(3) Require the furnishing of information or records which in the regular course of business cannot be retrieved by the name or other identifier of the individual making the request.

§ 1007.6 Disclosure to third parties.

(a) The Commission shall not disclose to any agency or to any person by any means of communication a record pertaining to an individual which is contained in a system of records, except under the following circumstances:

(1) The individual to whom the record pertains has given his written consent to the disclosure;

(2) The disclosure is to officers and employees of the Commission who need it in the performance of their duties;

(3) Disclosure is required under the Freedom of Information Act (5 U.S.C. 552);

(4) Disclosure is for a routine use as defined in § 1007.2 of these rules and described in the system notice for that system of records;

(5) The disclosure is made to the Bureau of the Census for the purposes of planning or carrying out a census or survey or related activity;

(6) The disclosure is made to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(7) The disclosure is made to another agency or to an instrumentality of any Governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law and if the head of the agency or instrumentality has made a written request to the Commission specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) The disclosure is made to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value.

(9) The disclosure is made to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(10) The disclosure is made to either House of Congress, or, to the extent of matter(s) within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(11) The disclosure is made to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or,

(12) Pursuant to the order of a court of competent jurisdiction.

(b) The Commission, with respect to each system of records under its control, shall keep for at least five years an accurate accounting of certain disclosures:

(1) A record shall be kept of all disclosures made under paragraph (a) of this section, except disclosures made with the consent of the individual to whom the record pertains (paragraph (a)(1) of this section), disclosures to authorize employees (paragraph (a)(2) of this section), and disclosures required under the Freedom of Information Act (paragraph (a)(3) of this section).

(2) The record shall include:

(i) The date, nature, and purpose of each disclosure of a record made to any person or to another agency;

(ii) The name and address of the person or agency to whom the disclosure was made.

(c) The accounting described in paragraph (b) of this section will be made available to the individual named in the record upon his written request, directed to the Privacy Officer, Interstate Commerce Commission, Twelfth Street and Constitution Avenue NW, Washington, D.C. 20423, except that the accounting

will not be revealed with respect to disclosures made under paragraph (a)(7) of this § 1007.6 pertaining to law enforcement activity, and will not be maintained as to disclosures involving systems of records exempted under § 1007.12.

(d) Whenever an amendment or correction of a record or a notation of dispute concerning the accuracy of records is made by the Commission in accordance with §§ 1007.8 and 1007.9, the Commission will inform any person or other agency to whom the record was previously disclosed, if an accounting of the disclosure was made pursuant to the requirements of paragraph (b) of this section.

§ 1007.7 Content of systems or records.

(a) The Commission will maintain in its records only such information about an individual as is relevant and necessary to accomplish the purposes of the Interstate Commerce Act and other purposes required to be accomplished by statute or by Executive Order of the President.

(b) The Commission will maintain no record describing how any individual exercises rights guaranteed by the First Amendment of the United States Constitution unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity.

(c) The Commission will collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs.

(d) The Commission will maintain all records which are used by the Commission in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination.

§ 1007.8 Amendment of a record.

(a) Any individual may request amendment of information pertaining to him which is contained in a system of records maintained by the Commission and which is filed under his name or other individual identifier if he believes the information is not accurate, relevant, timely or complete. A request for amendment shall be directed to the Privacy Officer.

(b) A request for amendment may be made by mail or in person and shall: (1) Be in writing and signed by the person making the request; (2) describe the particular record to be amended with sufficient specificity to permit the record to be located among those maintained by the Commission; and (3) specify the nature of the amendment sought and the justification for the requested change. The person making the request may be required to provide the information specified in §§ 1007.3 and 1007.4 in order to simplify identification of the record and permit verification of the identity of the person making the request for amendment.

(c) Receipt of a request for amendment will be acknowledged in writing within ten days (excluding Saturdays,

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Sundays and legal public holidays); except that if the individual is given notice within the ten-day period that his or her request will or will not be complied with, no acknowledgement is required.

(d) Assistance in preparing a request to amend a record may be obtained from the Privacy Officer, Office of the Managing Director, Interstate Commerce Commission, Twelfth Street and Constitution Avenue NW., Washington, D.C. 20423.

(e) Upon receipt of a request for amendment the Privacy Officer or a person designated by him shall promptly determine whether the record is materially inaccurate, incomplete, misleading, or is irrelevant or not timely, as claimed by the individual, and, if so, shall cause the record to be amended in accordance with the individual's request.

(f) If the Privacy Officer or designee grants the request to amend the record, the individual shall promptly be advised of the decision and of the action taken, and notice shall be given of the correction and its substance to each person or agency to whom the record had previously been disclosed, as shown on the record of disclosures maintained in accordance with § 1007.6(b).

(g) If the Privacy Officer or designee disagrees in whole or in part with a request for amendment of a record, the individual shall promptly be notified of the complete or partial denial of his request and the reasons for the refusal. The individual shall also be notified of the procedures for administrative review by the Chairman of any complete or partial denial of a request for amendment, which are set forth in § 1007.9.

(h) If a request is received for amendment of a record prepared by another agency which is in the possession or control of the Commission, the request for amendment will be forwarded to that agency. If that agency determines that the correction should be made, the Commission will amend its records accordingly and notify the individual making the request for amendment of the change. If the other agency declines to make the amendment, the Privacy Officer or designee will independently determine whether the amendment will be made to the record in the Commission's possession or control, considering any explanation given by the other agency for its decision.

§ 1007.9 Appeals to the Chairman.

(a) Any individual may petition the Chairman:

(1) To review a refusal to comply with an individual request for access to records pursuant to the Privacy Act (5 U.S.C. 552a(d)(1)), and §§ 1007.3 and 1007.5 in this part;

(2) To review denial of a request for amendment made pursuant to § 1007.8;

(3) To correct any determination that may have been made adverse to the individual based in whole or in part upon inaccurate, irrelevant, untimely or incomplete information; and,

(4) To correct a failure to comply with any other provision of the Privacy Act and the rules of this Part 1007, which has had an adverse effect on the individual.

(b) The petition to the Chairman shall be in writing and shall: (1) State in what manner it is claimed the Com-

mission or any Commission employee has failed or refused to comply with provisions of the Privacy Act or of the rules contained in this Part 1007, and (2) set forth the corrective action the petitioner wishes the Commission to take. The petitioner may, if he or she wishes, state such facts and cite such legal or other authorities as are considered appropriate.

(c) The Chairman will make a determination of any petition filed pursuant to this subsection within thirty days (excluding Saturdays, Sundays, and legal public holidays) after receipt of the petition, unless for good cause shown, the Chairman extends the 30-day period. If a petition is denied, the petitioner will be notified in writing of the reasons for such denial, and the provisions for judicial review of that determination which are set forth in section 552a(g)(1)(A) and (2)(A), of Title 5 of the United States Code and the provisions for disputed records set forth in paragraph (d) of this section.

(d) If, after review, the Chairman declines to amend the records as the individual has requested, the individual may file with the Privacy Officer a concise statement setting forth why he or she disagrees with the Chairman's denial of the request. Any subsequent disclosure containing information about which a statement of disagreement has been filed shall clearly note the portion which is disputed and include a copy of a concise statement explaining its reasons for not making the amendments requested. Prior recipients of the disputed record will be provided a copy of any statement of dispute to the extent that an accounting of disclosures was maintained.

§ 1007.10 Information supplied by the Commission when collecting information from an individual.

The Commission will inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual, of:

(a) The authority which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(b) The principal purpose or purposes for which the information is intended to be used;

(c) The routine uses which may be made of the information, as published in the FEDERAL REGISTER; and,

(d) The effects on the individual of not providing all or any part of the requested information.

§ 1007.11 Public notice of records systems.

(a) The Commission will publish in the FEDERAL REGISTER, at least annually, a notice of the existence and character of each of its system of records, which notice shall include:

(1) The name and location of the system;

(2) The categories of individuals on whom records are maintained in the system;

(3) The categories of records maintained in the system;

(4) Each routine use of the records contained in the system, including the categories of users and purpose of such use;

(5) The policies and practices of the Commission regarding storage, retrieval, access controls, retention, and disposal of the records;

(6) The title and business address of the Commission official who is responsible for the system of records;

(7) The procedures whereby an individual can be notified at his or her request if the system of records contains a record pertaining to that individual;

(8) The procedures whereby an individual can be notified at his or her request how he or she can gain access to any record pertaining to that individual contained in the system of records, and how the content of the record can be contested; and,

(9) The categories of sources of records in the system.

(b) Copies of the notices as printed in the FEDERAL REGISTER will be available in each office of the Commission. Mail requests should be directed to the Privacy Officer, Office of the Managing Director, Interstate Commerce Commission, Twelfth Street and Constitution Avenue NW., Washington, D.C. 20423. The first copy will be provided free of charge; additional copies are subject to charge provided for in paragraph (c) of this § 1007.5.

§ 1007.12 Exemptions.

(a) Investigatory materials compiled for law enforcement purposes are exempt from portions of the Privacy Act of 1974 and of these rules on the basis and to the extent that individual access to these files could impair the effectiveness and orderly conduct of the Commission's enforcement program. Provided, however, that if any individual is denied any right, privilege, or benefit to which he or she would otherwise be entitled by Federal law, or for which he or she would otherwise be eligible, as a result of the maintenance of such material, such materials shall be provided to the individual; except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

(b) Investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for employment with or contracts with the Commission are exempt from portions of the Privacy Act of 1974 and of these rules to the extent that it identifies a confidential source. This is done in order to encourage persons from whom information is sought to provide information to the Commission which, absent assurances of confidentiality, they might otherwise be unwilling to give. However, if practicable, material identifying a confidential source shall be extracted or summarized in a manner which protects the source, and the summary or extract shall be provided to the requesting individual.

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Department	Billing Code
Legal Services Corporation.....	6820-35
Libraries and Information Science, National Commission.....	7527-01
Library of Congress/Copyright Office.....	1410-03
Management and Budget Office.....	3110-01
Marine Mammal Commission.....	6820-31
National Aeronautics and Space Administration.....	7510-01
National Capital Planning Commission.....	7520-01
National Credit Union Administration.....	7535-01
National Endowment for the Humanities.....	7538-01
National Institute of Education.....	4110-39
National Mediation Board.....	7550-01
National Labor Relations Board.....	7545-01
National Science Foundation.....	7555-01
Navy Department:	
DCPA U S.....	3810-01
Defense, Office of Secretary SD-0859.....	3810-70
Navy: Judge Advocate General.....	3810-71
Nuclear Regulatory Commission.....	7590-01
Occupational Safety and Health Review Commission.....	7600-01
Overseas Private Investment Corporation.....	3210-01
Panama Canal Company.....	3640-01
Pennsylvania Avenue Development Corporation.....	7630-01
Pension Benefit Guaranty Corporation.....	7703-01
Postal Rate Commission.....	7715-01
Postal Service.....	7710-12
Railroad Retirement Board.....	7905-01
Renegotiation Board.....	7910-01
Science and Technology Policy, Office of.....	7555-02
Securities and Exchange Commission.....	8010-01
Selective Service System.....	8015-01
Small Business Administration.....	8025-01
Smithsonian Institution.....	8030-01
State Department.....	4710-01

Department	Billing Code
Susquehanna River Basin Commission.....	7040-01
Technology Assessment, Office of.....	1630-01
Telecommunications Policy Office.....	3160-01
Tennessee Valley Authority.....	8120-01
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Transportation Department:	
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Comptroller of the Currency.....	4810-33
Engraving and Printing.....	4810-34
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Secret Service.....	4810-42
Internal Revenue Service.....	4830-01
U.S. Information Agency.....	8230-01
Veterans Administration.....	8320-01
Water Resources Council.....	8410-01
White House Office.....	3195-01

If your agency's name does not appear above, GPO may not have received your printing and binding requisition (Standard Form 1). Your documents can not be printed in the FEDERAL REGISTER without a billing code.

INFORMATION AND ASSISTANCE: Mr. William Rose, 202-275-2867.

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NEW BILLING PROCEDURES FOR AGENCIES

As part of the new billing procedures announced in the FEDERAL REGISTER of August 24, 1977, and to insure that each agency is correctly billed for only its own documents, the Office of the Federal Register requests agencies to insert the proper billing code on all of their documents. The six-digit billing code should be typed or handwritten in ink at the top of the first page on all three copies of documents submitted to the Office of the Federal Register for publication, as follows:

BILLING CODE: 0000-00

The list of agency billing codes assigned by the Government Printing Office follows:

Department	Billing Code	Department	Billing Code
Action	6050-01	Federal Maritime Commission.....	6730-01
Administrative Conference of the United States.....	6110-01	Federal Mediation and Conciliation Service.....	6732-01
Agency for International Development.....	4710-02	Federal Power Commission.....	6740-02
Agriculture Department:		Federal Reserve System/Board of Governors.....	6210-01
Agricultural Marketing Service.....	3410-02	Federal Trade Commission.....	6750-01
Agricultural Research Service.....	3410-03	Fine Arts Commission.....	6330-01
Agricultural Stabilization and Conservation Service.....	3410-05	Foreign Claims Settlement Commission.....	6770-01
Farmer Cooperative Service.....	3410-06	General Accounting Office.....	1610-01
Farmer's Home Administration.....	3410-07	General Services Administration:	
Federal Crop Insurance Corporation.....	3410-08	OAD	6820-34
Extension Service.....	3410-09	Administrative Management Division, Public Buildings	
Forest Service.....	3410-11	Service	6820-22
National Agricultural Library.....	3410-12	Public Buildings Service.....	6820-23
Rural Electrification Administration.....	3410-15	Federal Supply Service.....	6820-24
Soil Conservation Service.....	3410-16	Automated Data and Telecommunications Service.....	6820-25
Economic Research Service.....	3410-18	NAA	6820-26
Statistical Reporting Service.....	3410-20	NARS	6820-27
Cooperative State Research Service.....	3410-22	Office of Stockpile Disposal, Federal Preparedness	
Food and Nutrition Service.....	3410-30	Agency	6820-28
Rural Development Service.....	3410-32	Executive Director, Federal Preparedness Agency.....	6820-29
Animal and Plant Health Inspection Service.....	3410-34	Office of Personnel.....	6820-30
Economic Management Support Center.....	3410-35	Government Printing Office.....	1505-01
Food Safety and Quality Service.....	3410-37	Health, Education and Welfare Department:	
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